IWUA’S SUCCESSFUL LEGISLATIVE SESSION

The 2020 Legislative session is over—and what an interesting session it was. It began with a review of all Idaho agencies rules and ended with a world-wide virus pandemic.

Notwithstanding the unique nature of this session, one thing remained constant: Idaho’s legislature supports the water user community—as all bills supported by IWUA passed into law.

IWUA’s Legislative Committee, chaired by Randy Brown (Southwest Irrigation District), took a position on 15 bills. In addition, the committee set up 4 workgroups to collaboratively address concerns involving water districts, municipal water rights, forfeiture and the water disputes in the Lemhi Basin. Bills supported by IWUA include:

- **H-366**: This bill was the result of significant effort by the Department of Water Resources and an IWUA workgroup to review Chapter 6, title 42, Idaho Code. The amendment consolidated language, reduced duplication, clarified requirements and corrected errors;

- **H-615**: This bill codified 2 long-standing legal principles relating to water right forfeiture – both of which were recently reiterated by Idaho’s Supreme Court. Specifically, the bill provides (1) that the party asserting forfeiture bears the burden of proving by clear and convincing evidence that forfeiture has occurred, and (2) that a water user may avoid forfeiture by resuming use of a water right before a claim by a third party;

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- **S-1290**: This bill, which was carried by IWUA intern Lauren Markuson, authorizes small irrigation district (less than 15,000 acres) to combine polling places into 1 location; and

- **SCR-138**: This resolution honored the life of John A. Rosholt and renames the Water Law Collection at the Idaho State Law Library after him.

Visit [www.iwua.org](http://www.iwua.org) to see the final Legislative Report. Legislation will be discussed at the Summer Seminar on June 8-9, in Sun Valley, Idaho.

For small business and water resources pertaining to COVID-19 visit our website at: [http://www.iwua.org/covid-19-resources/](http://www.iwua.org/covid-19-resources/)
In October 2019, the Tri-State Irrigators, comprised of irrigation entities in Idaho, Oregon and Washington, hosted a tour of the U.S. Army Corps of Engineers’ (Corps) Engineering Research & Development Center (ERDC) in Vicksburg, Mississippi. Fifteen water user representatives from Idaho and Washington made the trek to learn more about the amazing research conducted at that facility and how it affects the Columbia River Basin.

ERDC was established to help solve our nation’s most challenging problems in civil and military engineering, geospatial sciences, water resources, and environmental sciences. It conducts research and development in support of the Corps’ civil works mission, and in conjunction with other federal, state, municipal and private entities. ERDC operates more than $1 billion in facilities at 7 labs located in four states with more than 2,100 employees and an annual research budget exceeding $1 billion. The included tours of the Coastal & Hydraulics Lab (CHL) and the Environmental Lab.

At the CHL, attendees toured scale models of the John Day, Lower Granite, Lower Monumental and other dams along the Columbia and Snake Rivers. They also examined scale models of turbines at Bonneville Dam. These models allow the Corps to test flow patterns, water quality and fish passage to inform operations throughout the region. In fact, tests at these models informed the analysis in the recent Columbia River Systems Operations Draft Environmental Impact Statement.

Attendees toured the Environmental Lab, where scientists study aquatic and wetland ecosystems, chemistry and other aspects of weed control. Of note, endothall was developed at this lab, in a partnership with the U.S. Department of Agriculture.

Finally, attendees toured the Vicksburg National Military Park – the location of the Siege at Vicksburg. This siege was a pivotal point in the civil war and ultimately led to the freeing of over 30,000 slaves. It was amazing to see the history of the area – including the largest civil war cemetery, with over 17,000 troops.

This trip was very educational! Tri-State Irrigators is planning another tour for early 2021. You are invited to attend. Watch your email and www.iwua.org for details as they become available.

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TRI-STATE WATER USERS VISIT CORPS LAB & HISTORICAL CIVIL WAR BATTLE SITE

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Make Your Plans Now!
IWUA Water Law & Resource Issues Seminar

Plans are underway for IWUA’s Water Law & Resource Issues Seminar, to be held June 8-9, 2020, at the Sun Valley Resort. We are putting together a fantastic program covering a broad range of topics including legislative updates, adjudication updates, cloud seeding and much more. Check out www.iwua.org for the latest information and to register. Please note, IWUA is making alternative plans in case the COVID-19 pandemic affects the Seminar.

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Planning to attend the Western Water Seminar?

Make plans now to attend NWRA’s Western Water Seminar at the Historic Davenport in Spokane, Washington on August 4-7, 2020. This year’s agenda will cover a broad range of issues including water infrastructure, the response to COVID-19 and other topics. Come mingle with water users from throughout the West. Go to www.nwra.org for more information about the agenda and registration.
Welcome to the first ever “Kibitzing with Kathryn”!

You should know, though, that this is the first time I have ever kibitzed with myself. In fact, I am so unfamiliar and uncomfortable in proceeding to kibitz, I had to look up the definition to see if Merriam could give me a hand in how to appropriately proceed. This is what Merriam told me:

Kibitz /ˈkɪbɪts/
1: to give unwanted advice
2: to make idle chatter

Though I aim to lean toward definition #2, if you write in to this column I may publicly respond using definition #1. Any correspondence may be sent to our office at 1010 W. Jefferson, Ste. 101. Don’t say I didn’t warn you.

We are well into 2020, and Karen has officially left the building. However, she returns at least twice a week, to check on me and make sure I haven’t gone to lunch and not come back. It’s always good to see her. She is settling into her retirement routine and waiting for spring so she can get out on the golf course.

April 1st will be the beginning of my 6th month as office and program manager, and man, my schedule has been action packed! On my first day, Paul loaded me up and we drove to Burley in a snowstorm, narrowly avoiding a multicar pileup. Annual convention in Boise was next, where I got to meet many of you for the first time. February held an Idaho roadshow with Ditchrider and Chemical Applicator workshops from Idaho Falls to Caldwell. And back. Now, we are locked up at home while the world around us goes crazy. Overall, my first few months here has been memorable.

Finally, let’s chat about my personal goals. Completion of the right-handed mitten to match the left-handed mitten I knit 5 years ago. Maybe during the COVID-19 quarantine it will get done.

Kibitz ya later --K

DROPLETS
QUICK UPDATES ON WATER NEWS

This year, Idaho’s legislature approved $800,000 for the Idaho Water Resource Board Flood Management Grant program. This program provides funds for projects that help prevent or reduce flood damage in Idaho’s streams and rivers.

To learn more about the program, including criteria, applications and deadlines, visit the Board’s website. https://idwr.idaho.gov/IWRB/programs/financial/forms.html

Are you looking for ways to fund efficiency or other water projects in your area? The Bureau of Reclamation’s WaterSMART program provides grants for water efficiencies, drought response, water conservation, basin studies and other opportunities.

Several IWUA members have used these programs over the years to improve water conditions in their local area. Your project may also be eligible for a grant.

To learn more about the WaterSMART program and about Idaho projects receiving funds, visit the WaterSMART webpage. https://www.usbr.gov/watersmart/index.html

The Idaho Governor’s Salmon Workgroup continues to meet and discuss Idaho-based solutions to salmon and steelhead issues. Workgroup meetings have been held in Boise, Salmon and Lewiston, Idaho. Members are working toward collaborative, consensus driven policy recommendations for Governor Little.

To learn more about the Workgroup, including viewing presentations from prior meetings and the schedule for upcoming meetings, visit the Workgroup’s website. https://species.idaho.gov/governors-salmon-workgroup/.

MARK YOUR CALENDARS

- June 8-9, 2020: IWUA Water Law & Resource Issues Seminar (Sun Valley Resort, Sun Valley, ID)
- August 4-7, 2020: NWRA Western Water Seminar (Historic Davenport, Spokane, WA)
- November 9-11, 2020: NWRA Annual Convention (Scottsdale Resort at McCormick Ranch, Scottsdale, AZ)
- January 18-21, 2021: IWUA 84th Annual Conference (The Riverside Hotel, Boise, ID)
STATE
On March 25, 2020, Governor Brad Little and the Idaho Department of Health & Welfare issued a state wide stay-at-home order—effective for 21-days. The order is intended to “flatten the curve” of the novel coronavirus, or COVID-19.

The stay-at-home order mandates that any “non-essential” businesses close their doors. Fortunately, agriculture and any industry supporting agriculture (i.e. water delivery) is considered an “essential” business.

IWUA reached out to its members to see how their operations are being impacted during this uncertain time. Here is a summary of some of the response we received:

- Generally, offices are closed to public traffic and there is limited staff in the office at any given time.
- As much as possible, outdoor crews are divided into small groups (usually between 1-3 people).
- Organizations have eliminated in-person gatherings. All meetings, including board meetings, are held over the phone or by webinar.
- Employees are carrying “Essential Business Papers” while they are conducting work business. Though, no work has been interrupted by local authorities relating to the stay-at-home order.

IWUA has set up a website with information on COVID-19—including links to many state and federal resources at the following link: [http://www.iwua.org/covid-19-resources/](http://www.iwua.org/covid-19-resources/).

In addition, Reclamation has prepared an “essential employee” letter. You can find that letter on IWUA’s COVID-19 resource page.

REGIONAL
On February 28, 2020, the Corps of Engineers, Bureau of Reclamation and Bonneville Power Administration (Agencies) released a Draft Environmental Impact Statement (DEIS) discussing operations of the Federal Columbia River Power System (FCRPS).

The DEIS, which was ordered by the District Court in Oregon, provides an extensive and thorough review of the environmental impacts of operating the region’s federal hydropower system.

The Agencies considered operational changes, including increased flows and structural modifications at the regional hydropower facilities.

In addition, the agencies considered the impacts that breaching the 4 dams on the lower Snake River would have on salmon, steelhead, hydropower supply and the region’s economy.

Ultimately, the agencies selected a Preferred Alternative (PA) that includes a suite of operational, maintenance and structural measures that will allow salmon and steelhead numbers to increase, while balancing the multiple uses along the river. The PA rejected breaching, instead including a flexible spill program aimed at reducing travel time for smolts through the river system to the ocean. It also includes other structural modifications aimed at improving passage for fish on their way to and from the ocean.

Public comments are being accepted until April 13 and the agencies anticipate releasing their final EIS during summer 2020.

To review the draft EIS, and other resources visit [www.crso.info](http://www.crso.info).

FEDERAL
Our nation’s water infrastructure is truly a marvel of the modern world—built with the foresight, grit and determination of prior generations. Yet, this infrastructure is ageing and in need of continued investment.

Today, 86% of Reclamation managed dams are over 50-years old—with many being more than a century old. In Reclamation’s Pacific Northwest Region, the average age of dams is 80-years. The average age of total general infrastructure, including dams, pipelines, canals, etc., is 78-years.

As infrastructure ages, the need for maintenance increases. Yet, available funds do not keep up with needs. Reclamation estimates that it has a maintenance backlog as high as $3.2 billion.

Idaho is not immune to these needs. For example, in the Upper Snake River Basin it is estimated that more than $30 million will be needed for identified maintenance needs in the coming years. This includes inevitable repairs to Ririe Reservoir, where an alkali aggregate reaction is causing the concrete to degrade more rapidly than anticipated. This repair is estimated at between $12-15 million.

Congress is working to address these maintenance issues. Several pieces of legislation have been introduced to help with the backlog. These include S.2044 (McSalley, R-AZ), which would fund an existing program to provide long-term low-interest loans for extraordinary maintenance needs. This is difficult legislation to enact, given Congressional rules about legislatively funding. However, Congress is working hard to find a solution.

IWUA continues to monitor legislation seeking to address water infrastructure needs.
Paul Arrington: Tell us a little bit about yourself, your background, education, family, hobbies etc.

Carl Hayes: I grew up in Agriculture, raising cows, chickens, pigs, alfalfa and raising and training horses between Caldwell and Greenleaf, ID. Growing up irrigating and in Ag, I promised that “I’d never deal with irrigation again.” Well, my mother always told me “never say never.” That being said, as a surprise to my teenage self, I actually enjoy my job... most of the time. In all reality, I think that’s the most we can ask for out of a job. My family and I thoroughly enjoy working outdoors. We raise a few cows and I am constantly looking for excuses to insert and familiarize my kids with all things agriculture.

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

CA: Black Canyon Irrigation District (BCID) started with a contract in 1919 for the Notus Canal, which delivers water to what is now called the First Unit. In the mid-1920’s the contract for the Second Unit was signed and began construction. It was largely completed in 1948. BCID has around 1,000 miles of Canals and Laterals that deliver water to approximately 65,200 acres. We deliver 5,200 acres as part of a cooperative agreement with Emmett Irrigation District. BCID is largely ag, however we certainly are feeling the pressures of urbanization in the Middleton and Emmett areas and are learning to deal with the challenges that can create.

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

CH: BCID’s Second Unit is comprised of a gravity side and a pump side. The pump side supplies water to approx. 22,000 acres via the C-Line Pumping Plant in Gem County. The pumping plant consists of four 1,500 hp electric motors and one 1,250 hp electric motor, which lifts the water from the main canal up 90 feet into the C-Line Canal that delivers water to Sand Hollow, Middleton, and Star.

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

CH: Irrigation Districts in Idaho are at a pivotal moment in time. There are several pending issues that will inevitably and permanently impact irrigation in Idaho. The Columbia River Treaty, salmon, aging infrastructure and urbanization are at the top of that list. Unfortunately, there is a lot of misinformation available regarding these issues. There are many assumptions made that are devoid of actual facts. They make a lot of good points and over simplify complicated issues into an easy emotional decision. For example, “Do you want to starve Orcas to death?” Obviously, “no” is the appropriate answer. However, if I asked, “Do you want to put your entire family out of work, watch them struggle and starve because the entire state’s economy has collapsed because of Dam removal?” Obviously, again, the answer is “no.” However, in these discussions the second question is never a result of your first answer.

I would like to encourage educated and factually supported conversations that ask all the questions. Issues should be less about what political party you affiliate with and more about exploring and finding viable options for all those involved.

PA: What do you see as the most exciting opportunities your organization will face in the future?

CH: The issues I listed above are also the most exciting. They are the most exciting because, depending upon how they are handled and what the fruits of those labors are, they will inevitably determine the future of irrigation.

I will quickly highlight aging infrastructure. BCID has a significant amount of concrete infrastructure, and the majority of it is at least 84 years old. While it is in relatively good condition for its age, and we do regular inspections, it will soon reach its intended life expectancy. The time is now, we must increase our efforts to repair and replace this infrastructure that is responsible for carrying the water that has turned this high desert into the Treasure Valley we know today. It was no small feat to build, and it will certainly take a tremendous collaborative effort to ensure it is ready to serve another 100 years.

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

CH: There have been so many people that are responsible
for pointing me in the right direction along the way. My dad encouraged me to start in irrigation, listened to me rant, and is certainly responsible for most of what I know. My Grandpa, was a gauge reader at Boise Project and taught me to read a gauge when I was 5 years old. My Uncle is the Manager at South Board of Control, where I learned that if work isn’t any fun you’re not doing it right. Of course my farmers, board members, and past bosses, who put up with all my dumb mistakes and regularly gave subtle hints hoping I would catch on without bruising my ego too much. Last, but not least, all of the patrons that I have dealt with that couldn’t care less about my ego and just told me right where to go.

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

CH: Write everything down. I wouldn’t say I have completely learned that lesson because I still say, “Man I wish I could remember what they said, dang, I should have written that down.”

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

CH: Write everything down. Spend as much time as you can with employees that held your position, going back as far as you can. There is always much to learn by listening to them talk about things that happened and their experiences. Don’t be scared to ask questions, the dumbest thing you can do is to let an opportunity slip by.

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

CH: I would probably put two quotes by two presidents. It would say, “Do not pray for easy lives, pray to be stronger men.” -John F. Kennedy. The second, “The future doesn’t belong to the fainthearted, it belongs to the brave.” - Ronald Regan. Under that it would say, “Who was Republican and who was Democrat? Who cares, they are both right, and were both proud Americans. Wake up America!”

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

CH: I can hear the scoff’s already, but, I think my first decree would resemble the FFA Creed written by E.M. Tiffany. The intent of the creed, even if you remove the agricultural aspect, is: less talking and more doing, being charitable without increasing the need for charity, being passionate about what we do without losing sight of the greater good, being honest in the pursuit of financial well being, and last but not least, being proud to be Americans, and strong, reliable leaders working to enhance our sense of community.

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**A NOTE FROM INTERN LAUREN MARKUSON**

Lauren was IWUA’s legislative intern for the 2020 Legislative Session. Once again IWUA was fortunate to have a remarkable intern with a passion for water.

I am currently a third-year law student at the University of Idaho in downtown Boise.

During my time as the IWUA Legislative Intern, I was able to work on a bill related to irrigation district election procedures and eventually present it to the Senate Resources and Environment Committee. I got to travel to Reno, Nevada for the Family Farm Alliance annual conference where I took notes and heard from President Trump’s Water Sub-Cabinet. I was also looking forward to visiting Washington, D.C. in April, but due to COVID-19 the trip had to be cancelled.

I graduate in May and plan to take the Bar Exam in July. I look forward to a career in natural resource law and policy.

Although school is a priority, my time as a legislative intern for IWUA allowed me to balance law school commitments and pursue my passion for water law. I am extremely grateful to Water District 63, Water District 01, and the Water Law Section of the Idaho State Bar for funding this internship and welcoming me into the Idaho water community. I met many amazing people! I will stay in touch and hope to visit DC with IWUA after COVID-19 has run its course.

Lastly, a big thank you to Paul, Kathryn, and Karen for this experience. Their kindness and willingness to include me in the IWUA family makes it tremendously difficult to leave.

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[Twitter](https://twitter.com/IWUA_H20)
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 November 24, 1986 Idaho Water News.

NON-POINT SOURCE REGULATIONS PROPOSED

The Idaho Department of Health and Welfare has recently published its regulations for implementation of the non-point source pollution control program for Idaho. The regulations will be the subject of hearings throughout the state on December 10. The regulations will govern how the State of Idaho treats non-point sources of pollution.

Agriculture is presently classed under the non-point source area and because of that has enjoyed less stringent regulation than industry, feedlots, or other sources which are considered point sources and therefore subject to permitting and site specific regulations. Idaho has for years, had a voluntary program for agriculture which has been rated one of the best in the nation and used as a model for many other states. However, because of increasing pressures to more stringently monitor the success of the program and assure that the program is successful in the areas of forestry and mining, pressure is mounting for tighter regulation and monitoring.

At the present time, farmers can implement site specific best management practices which are designed to prevent or reduce pollution generated by non-point sources after taking into consideration geology, land type, soil type, erosion hazard climate, and cumulative effects in the geographic area. In the past, compliance with BMP’s as they are known was sufficient to meet the requirements of Idaho’s water quality standards. The new regulations continue this practice recognizing that farmers are making a good faith effort to minimize sediment and contaminant runoff for irrigated lands. Not only have farmers throughout the State of Idaho been heavily involved in the program in an effort to minimize pollution but have contributed more than 40% of the out-of-pocket costs as well as many thousands of dollars in in-kind efforts such as tillage, equipment, and labor.

The new regulations continue to recognize that farmers implementing best management practices are doing all they can with the knowledge at hand to comply with the water quality standards and therefore even if the BMP’s do not work to eliminate pollution, the farmer is not charged with failure to comply with the water quality standards. While these regulations continue that policy, they do provide new authorities for the Department of Health and Welfare to review existing BMP’s and if they are not doing the job to direct the appropriate agencies to review and modify the BMP’s so as to meet water quality standards. Under the new regulations, if the appropriate agency fails to modify the BMP’s in a timely manner, the Department of Health and Welfare may then seek injunctive relief to prevent or stop, “eminent and substantial danger to the public health or environment”. An additional authority granted would allow the director DHW to seek injunctive relief if in any case it is determined that “eminent and substantial danger to the public health or environment” is occurring or many occur as a result of non-point source activity.

It is intended also through the regulations to establish a “feedback loop” which will allow evaluation of existing BMP’s and the success with which they prevent or minimize pollution and if it is found they are not successful to allow modification of the BMP’s and implementation through the voluntary program. This feedback loop concept is designed to provide maximum protection for Idaho’s water quality while minimizing the economic and other adverse impacts on the agricultural community.

Also in this edition:

- **3rd Annual Water Law Seminar**: IWUA was gearing up for the 3rd Annual Water Law & Resource Issues Seminar, to be held in Boise on December 12-13, 1986. Topics covered conjunctive management in Idaho, the need for ground water and geothermal legislation in Idaho, and an overview of the public trust doctrine.
- **New IWUA Members**: IWUA was excited to welcome the following new members: Jerry Eggleston, Decker & Hollifield, P.A., Priest Electric, Butte & Market Lake Canal Co. and Corbett Slough Ditch Co.
COMMITTEE UPDATES

EDUCATION COMMITTEE

Thank you for helping to make IWUA’s winter events such a great success. We had record attendance at the Annual Convention in January. It was a great opportunity to celebrate Karen and all she has done for our association. The ditchrider and applicator workshops were both well received.

CALL TO ACTION! Are you working on a project? Let us know so we can highlight your efforts. Here’s an example: Wilder Irrigation shares pictures of their 2.4 Meg Hydro project just east of Kuna.

WATER QUALITY COMMITTEE

Flowering Rush has been identified in several Idaho water systems. If you suspect you have seen this invasive species in your area, please call your local extension office for help managing its removal.

IWUA continues to follow the federal agencies’ new rules on Waters of the United States under the Clean Water Act (the WOTUS Rule). It is expected that a final rule will be out mid-2020.

LEGISLATIVE COMMITTEE

As discussed on the first page, IWUA had another successful legislative session—even if it was rushed to a close amid the COVID-19 pandemic. Even with the hurried end many of our bills were signed into law. To stay in tune with legislative issues, visit www.iwua.org. We update legislative information regularly throughout the sessions.

Be thinking about potential legislation for the 2021 session. We will begin preparing for that session in the early fall.

NOMINATING & AWARDS COMMITTEE

At IWUA’s Annual Convention, we were able to recognize 14 individuals for their contributions to Idaho’s water community. Thank you for nominating your employees, board members and others for an award. It was an honor to unveil the Karen Joy Edwards Hall of Fame.

As you go through the year, consider employees, board members, and others who may warrant recognition. You may view the awards criteria here: https://www.iwua.org/wp-content/uploads/2019/11/2020-Final-Award-Criteria.pdf.

RURAL & URBAN AFFAIRS COMMITTEE

Spring has arrived and water is turned on in irrigation canals. Watch and listen for our Ag Water Safety campaign—including radio ads throughout southern Idaho.

Keep an eye out on IWUA’s social media for two member profile videos coming soon! Here’s a hint: Black Canyon Irrigation District and Pioneer Irrigation District.

Kathryn has updated our media library of Ag Awareness videos on the webpage. They can be found here: http://www.iwua.org/iwua-media-library/