

# UTAH WATER USERS ASSOCIATION

Newsletter - May 2009

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

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## MESSAGE FROM THE PRESIDENT

By Tage Flint

I would like to thank all who attended the Utah Water Users Annual Workshop in St. George in March. I believe all who were in attendance found it well worth the trip. While attending several of the available sessions, I couldn't help but think of how much variety we all experience day to day as water professionals. It is not uncommon for us to deal with customers and end users one moment, try to sort out water law the next, and then visit a construction project. I applaud the efforts of our water industry members for their resiliency and dedication. My congratulations once again to awardees Harley Gillman, Blaine Johnson, and Jerry Olds who were honored at this year's workshop. All three are men for whom I have a tremendous amount of respect. We will continue to manage our resource well as long as the caliber of these men are used as our standard.

2009 brings its own challenges to which we now turn our attention. Though the water year seems to be shaping up very well for most of the state, we all know that the demand for our resource is ever increasing. Citizens of our state will increasingly be talking about water conservation and how we will meet the needs of the inevitable population growth. Water agencies and critics alike will be broaching the topic. Conservation is important to all of us, so the discussions will originate from all types of people with differing levels of acceptance and ancillary agendas. But with all this interest, there is also common ground. For water purveyors, the price of conservation programs that ultimately avail a new deliverable water supply is now feasible. Our next generation of adults are far more conservation minded and will be able to envision the proceeds of an instilled conservation ethic. The environmental community is seeing that water conservation at the tap may result in better maintenance

of streams. It is the common ground that will turn

results and I'm sure we all look forward to that collaborative effort.

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## WATER OUTLOOK

By Randy Julander

April was a fantastic month for water supply in most areas of Utah - cool and wet. The combination of cool and wet does several things: 1) it adds to snowpacks and slows melt, 2) it keeps soils wet and loss rates to a minimum and 3) it delays and decreases water use. Cool, wet Aprils serve on balance to increase water supplies and we had a nice, cool, wet April. The Bear, Weber and Provo watersheds had melt rates near 70% of average due to the cooler, wetter conditions. The Uintas, SE and SW Utah had melt rates near average and the Sevier was slightly below normal. Currently snowpacks on the Bear, Weber and Provo watersheds are near average and below average on the Uintas, SE, SW Utah and the Sevier River areas. Snow stations in the Moab and Monticello area have melted out and streamflow there will rapidly decline. April precipitation was above to much above normal (122% - 160%) in all areas of Utah except the SW portion which had average accumulations. This brings the year to date precipitation to near normal in all areas of the State. Current soil moisture saturation levels in runoff producing areas are: Bear and Weber - 74%, Provo - 75%, Uintah Basin - 75%, SE Utah - 75%, Sevier 71% and SW Utah - 69%, up substantially from last month. Drier soils typically mean less runoff from snowmelt. Reservoir storage is currently at 70% of capacity statewide compared to 61% last year. General water supply conditions are near average in northern Utah and the Virgin and near to below average in central Utah. Streamflow forecasts for May - July range from 18% for South Creek above

Lloyd's Reservoir near Monticello to 125% of average on South Willow Creek near Grantsville. Surface Water Supply Indices range from 17% in the Moab area to 85% for the Weber River.

This isn't a rip roarin, dang tootin, hot dang splendiforous water running everywhere and all over kind of water year and it aint as dry as a bone, flesh dessicating, carcass bleaching drought kind of water year - more like the kind that really doesn't happen much in Utah, average. Take a picture so you can remember.

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**Water & the Law  
PAINTER'S LAWS  
By Jeffrey R. Gittins  
Smith Hartvigsen, PLLC**

The majority of the bills passed during the 2009 session of the Utah Legislature will take effect on May 12, 2009. Included in this list are several important bills relating to water rights. This article examines three water rights bills that were passed during the 2009 legislative session: House Bill 18, House Bill 85, and House Bill 389. All three of these bills were sponsored by Representative Patrick Painter, a friend and ally to the water community who continues to work to improve water rights law and administration.

**House Bill 18**

HB 18 is entitled "Water Rights Applications and Records." The bill revises the law on the proof process for applications to appropriate and change applications. Importantly, the bill provides that if a public water supplier is holding an approved application to meet the reasonable future water requirements of the public, it is deemed to be reasonable and due diligence in completing the appropriation or change. This essentially entitles the public water supplier to an extension of time to complete the appropriation or change.

HB 18 is also amends the law on requests for segregation . Currently, the law gives the State Engineer discretion to approve or deny a segregation request. Under HB 18, if a water rights owner requests that a water right be segregated into two or more parts, the State Engineer is required to segregate. The bill also provides that applications to appropriate and change applications may be segregated, and that after the State Engineer segregates an application, each segregated part becomes a separate application on the State Engineer's records. These changes will allow an applicant who has not completed the entire

appropriation or change to segregate off the portion that has been completed and prove up that portion. The uncompleted portion becomes a separate application, and the applicant can file for an extension on that

portion and prove it up in the future.

Finally, HB 18 permits a water right owner to consolidate water rights. Currently, the law allows water rights to be segregated, but there is nothing in the law that allows the water rights to be rejoined into a single water right. This provision of HB 18 permits the State Engineer to consolidate two or more water rights if the water rights are from the same source, have the same priority, and are sufficiently similar in definition.

**House Bill 85**

HB 85 is entitled "Mutual Benefit Corporation - Judicial Liens." The bill protects mutual water companies in lawsuits when cash damages are assessed against them in the form of a judicial lien. Under the bill, if a judicial lien is recorded against a mutual water company's water rights, water conveyance facilities, or other assets that are necessary to distribute water to the company's members, a court must wait 180 days before executing the lien or forcing the sale of the assets. This 180-day period allows the mutual company to make other arrangements to pay the judgment, such as by doing a special assessment or getting financing by using the assets as collateral. Allowing the mutual water company to pay the judgment without losing its water rights and other assets protects the company's members, whose livelihoods may depend on receiving water from the company.

**House Bill 389**

HB 389 is entitled "Applications for a Small Amount of Water." The bill changes the proof requirements for applications to appropriate and change applications for a small amount of water. A "small amount of water" is defined as the amount of water necessary to meet the requirements of one residence, 1/4 acre of irrigable land, and ten stock units. Rather than submitting a traditional proof prepared by an engineer, an applicant is permitted to submit an affidavit as proof. The affidavit must declare that a residence has been constructed and is occupied and must specify the amount of land being irrigated and the number of livestock being watered. If the affidavit is filed before that date on which proof is due, the State Engineer will issue a certificate.

If proof or an affidavit is not filed within the time limit set by the State Engineer, the application lapses. However, an applicant may request reinstatement of the application by demonstrating that a residence was

constructed and occupied within the original time limit and that the water has been beneficially used. If the applicant meets this burden, the State Engineer will issue a certificate, although the priority date becomes the date the request for reinstatement was filed.

All three bills unanimously passed both the House and the Senate, were signed by Governor Huntsman, and will become effective on May 12, 2009. A special thanks goes out to Representative Painter for sponsoring these bills and for his continuing efforts to work with the water community to develop and improve Utah water law. (The author may be reached at 801-413-1600 or [jgittins@smithlawonline.com](mailto:jgittins@smithlawonline.com).)

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

**Water Users Workshop**

In spite of the last week of Legislative session conflicting with the workshop this year, we still had a great turnout and attendance was only down slightly from the previous year. Special thanks goes out to Bob Hill for his efforts and a special thanks to his assistant Shelly Comendant for her hard work. As Tage pointed out in his article, each year we recognize those individuals who have given a lifetime of service to the water community and the Utah Water Users Association. Harley Gillman and Blaine Johnson were presented the Lifetime Achievement Award and Jerry Olds was presented the Distinguished Award. Congratulations to these very deserving individuals.

**New Association Member**

I am pleased to inform all of our members that True Point Solutions has joined the Association and is our newest member. I have included information on their software products for your review if you are interested in any of their software products and services.

**True Point Solutions**

Delivering Quality Products, Services & Solutions  
We at TruePoint Solutions are extremely proud to introduce ourselves as the newest member organization of the Utah Water Users Association. It is a genuine thrill to have the opportunity to aid the UWUA in their ongoing efforts to promote and assist in the development, conservation, and utilization of Utah's invaluable water resources.

TruePoint provides focused software solutions and services for water agencies, special districts, and local government agencies. Our commitment to hard work and integrity makes us the company you can trust to

deliver the solutions you need.

**Agricultural Irrigation Management—TrueAIM**

A solution which enables your field based canal staff to

more effectively take water orders, monitor consumption, and efficiently exchange data from the field back to the office.

**Agricultural Irrigation Billing—TrueBill**

Provides the TOOLS needed to efficiently and effectively deliver on your agency's water consumption bills, assessment billing, collect payments, invoicing and A/R functions.

**Customer Information Portal---TrueCIP**

Customer Information Portal is an online web application. Customers have the ability to place water orders online and view up-to-the-minute customer account status.

**RRA Forms Automation—TrueRRA**

RRA Forms automation software will significantly reduce tedious work by guiding your staff through the painstaking and lengthy process of reviewing submitted RRA forms.

**For solutions to your District's water operational and billing needs please contact us at:**

**3262 Penryn Road, Suite 100-B**

**Loomis, CA 95650**

**(916) 577-1470**

**[info@truepointsolutions.com](mailto:info@truepointsolutions.com)**

**[www.TruePointSolutions.com](http://www.TruePointSolutions.com)**