

PRESIDENT'S NOTES

by Rodney Sakrison, President, AWRA Washington Section

Meeting Ecology's New Director

By now you may have heard that Ecology's new director is **Tom Fitzsimmons**. He comes to Ecology after 10 years as Thurston County manager, having worked for the King County Executive for the previous six years. His local government experience will be welcome. He has as one of his primary goals to improve how Ecology works with its clients, including local government.

He voiced a strong orientation to the protection of the environment and the quality of life, as he was introduced to the Ecology staff at the Northwest Regional Office. He put emphasis on his undergraduate degree in biological sciences from the University of Washington, and encouraged the staff to talk to him about scientific issues. I have heard some very positive statements about Tom around the office today. Obviously, he made a very good impression on the staff. He really worked the crowd as he challenged everyone to give him straight comments about what's good and what's bad at Ecology. His desire to engage people on a level of mutual respect was evident.

Tom talked about water policy and regulations as one of new Governor Gary Locke's top four policy areas that will get addressed in the current session and will be featured during his administration. This is good news for the State Section of the AWRA, since we have built an outstanding track record for bringing water policy issues to our members in a timely fashion. You might remember that Governor Locke was our guest speaker at the first "Growth and Water Conference" in 1991, when he was House Appropriation Committee Chairman. Gary was anxious to learn about water issues in preparing his speech and announced that day that he would sponsor support for a collaborative planning process model called the Chelan Agreement.

I hope we can keep close communications with Ecology's Water Programs and the new Director as 1997 unfolds. A number of significant policy-related issues will be addressed in upcoming editions of the Newsletter, including a special round-table discussion of Ecology's proposed rule-making for water rights administration.

Now, on to a brief mention of what's new with the State Section. This year's AWRA programs are getting off to a fast start with the help of our expanded Board of Directors and a newly chartered Student Chapter at the University of Washington. We encourage all of our members to attend dinner meetings and call Board members to discuss water issues or an interest in participating further in the organization. Now, for the first time, our section may also be able to create a successful mentorship/intern program with members from the Student Chapter. Please keep these things in mind as you continue reading this edition of the newsletter.

Upcoming Events

Wednesday, February 26
12:00 p.m. — 1:00 p.m.
**UW Student Chapter
General Meeting**
(Room 117, Gould Hall)

Thursday, February 27
4:30 p.m.
Board Meeting
at Shapiro & Associates

Thursday, March 6
5:30 p.m. — 8:30 p.m.
March Dinner Meeting
(see page 4 for details)



**WASHINGTON SECTION
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This newsletter is a publication of the Washington Section of the American Water Resources Association. It is published bi-monthly. This is a forum for members to share ideas and opinions; as such, opinions expressed in the AWRA Newsletter are those of the authors and do not necessarily represent the official position of the Washington Section of AWRA.

Announcements or articles are welcomed for March/April edition of the newsletter. The editor reserves the right to make changes for reasons of length, grammar, legality or clarity. The submittal due date is March 3, 1997. Contact Teresa Platin at (206)-453-5000, or send submittals directly via the following methods:

FAX: 206-462-5957
Internet Mail: tplatin@ch2m.com
(most document/graphic formats are acceptable)

NEW AWRA BOARD OF DIRECTORS

by Teresa J. Platin, CH2M HILL

On November 20, 1996, the Washington Section of the American Water Resources Association elected a new Board of Directors for 1997. Your board has already been hard at work, planning for events in the coming year, and setting up committees for the smooth operation of the organization. At the first meeting of the new Board, a proposal to host the 1999 AWRA National Conference here in Seattle was discussed!

The Board has been expanded to better serve the organization. One of the new director positions includes a representative from the newly instated Student Chapter at the University of Washington. To get to know more about your AWRA Board of Directors, read the short biographical sketches provided here. If you are interested in attending a Board meeting and seeing the group in action, keep your eye on the Upcoming Events announcement block in each newsletter.

President: Rod Sakrison

Rod is an environmental planner in the Water Quality Program at the Washington Department of Ecology's Northwest Regional Office in Bellevue. Born and raised in Seattle, he is a serious amateur musician who has also found time to recently complete his Ph.D. in Urban Design and Planning at the University of Washington. Rod and his family live in Seattle.

Vice President: Adam Gravley

Adam practices environmental and municipal law, with a concentration on water law, in the Seattle office of Preston Gates and Ellis. His key professional interests are in water reuse and water right permitting, and his personal interests include hiking, skiing and playing basketball. Adam lives in Seattle with his wife and two daughters.

Secretary: Teresa J. Platin

Teresa is a water resources engineer with CH2M HILL in Bellevue. Her primary interests in surface water hydrology, stormwater conveyance and treatment and wetland systems carry over to her volunteer efforts in environmental education and stream restoration. Living in Renton, Teresa, her husband and daughter enjoy hiking and traveling throughout the country.

Treasurer: Mike Wert

Mike is Vice President and Manager of the Water Resources Division at Shapiro and Associates, Inc. of Seattle. His water resources career has spanned the fields of water supply, stormwater, wastewater and hydroelectric power facilities. Mike and his family reside in Kirkland.

Director East: Stan Miller

Stan is Program Manager for Spokane's regional aquifer protection program, managed through the Spokane County Public Works Department, Utility Division. Stan enjoys canoeing, backpacking, running, and working on the restoration of a turn-of-the-century home.

Director West: Phil Beilin

Phil is a Senior GIS Analyst at the Snohomish County's Geographic Information Division. He coordinates and manages the development of GIS applications for County environmental/engineering projects. Phil enjoys outdoor activities such as tennis, fly fishing and hiking.

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NEW BOARD OF DIRECTORS (continued)

Director West: Steven Foster

Steve is the Chief of Planning for the Seattle District Army Corps of Engineers, where he is responsible for the planning and execution of the division's water resources civil works programs. His primary focus is the conduct of water resource studies and project management for navigation, flood control, hydropower, erosion control, water supply and environmental restoration. Steve and his wife have two children, and he enjoys biking, hiking, boating, fishing, and skiing.

Director West: Andy Lukas

Andy is an engineer with Brown and Caldwell. He prepares models for hydrologic and hydraulic analyses, as well as wastewater treatment plant and stormwater outfall mixing applications. He is also involved in GIS projects. Andy and his wife live in Kirkland, and they are excitedly awaiting the arrival of their first child.

Director West: Chris Pitre

Chris is a hydrogeologist with Pacific Groundwater Group. His primary work is in the management of municipal groundwater resources, including their characterization, development, and protection. He also advises municipalities in the processes of acquiring water rights and meeting regulatory requirements. In his spare time, Chris can be found working on community improvements and home projects.

Director West: Doug Pflugh

Doug is President of the UW Student Chapter of AWRA and is a second-year student in the Master of Urban Design and Planning program at the UW. His curriculum has focused on resource, natural hazards, and rural planning, and he is developing a thesis around the relationship between land use changes and flooding hazards. He also works as a planning intern for the consulting firm of Berryman & Henigar in Seattle. Doug has worked as a wilderness educator, teaching outdoor skills and leadership in mountain, desert, and cave environments throughout the Western U.S.

Director West: Fran Solomon

Fran is Senior Ecologist at the King County Department of Natural Resources, where she leads and participates on interdisciplinary teams that implement wetland and stream restoration and habitat enhancement projects. Fran and her husband live in Seattle and enjoy traveling, bicycling, backpacking, live theatre, and music.

Director West: Pete Sturtevant

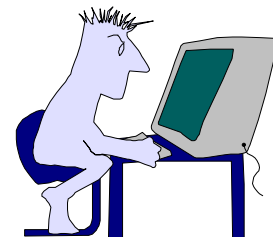
Pete heads the Municipal Group at Harding Lawson Associates-Infrastructure in Bellevue. Working primarily on drainage and stream restoration projects, his experience in the fields of water resources and environmental impact assessment has included water supply studies, point and nonpoint water quality assessments, flood control, wastewater and water reuse projects. A proud Husky Alumni, Pete enjoys hiking, canoeing, sailing, and other water related activities in the Great Northwest.

Director West: Karen F. Welch

Karen established a sole proprietorship in 1990 specializing in water resource analyses. Her work has focused on flood frequency analyses, low flow frequency analyses, and the calibration and use of hydrologic and hydraulic routing models. Karen, her husband, son, and daughter live in Bellingham.

Have you checked out the AWRA National Web Site? It contains information about National's activities, as well as State Section and Student Chapter news.

Ride the wave and surf the web at <http://www.awra.org/~awra>



MARCH DINNER MEETING TO FOCUS ON STORMWATER-INDUCED LANDSLIDES

The March dinner meeting promises to get this year's dinner series off to an exciting start. Please join us on March 6th at Latitude 47 in Seattle.

After the heavy rains this past November and December the news was full of reports of landslides around the Puget Sound area. The rash of hillside property damage culminated in several unusually destructive events, including damage to the Magnolia Bridge in Seattle and the derailment of a Burlington Northern freight train near the King-Snohomish county line. A home on Bainbridge Island was partially buried by a debris slide, tragically killing an entire family.

What causes these slides and what can be done to prevent them? Do they strike without warning or can they be reasonably predicted allowing for timely evacuation measures? What role can proper drainage and stormwater control play in preventing these conditions from developing? Our speaker, Brian Dorwart, is a Geologist with the Geotechnical Firm of Shannon and Wilson. He has carried out many studies of failing hillslopes, including the one that caused the Burlington Northern train derailment. Come and listen to this most timely slide presentation, as Brian shows conditions where soil and water

sometimes *don't* mix, and what property owners and municipalities can do in response.

AWRA's first dinner meeting of 1997 will be held on March 6 at 5:30 p.m. at the Latitude 47 Restaurant on Lake Union. Dinner will be served at approximately 6:15, with Brian Dorwart's presentation beginning shortly thereafter.

Cost : \$18.00 for Pre-Registering Members and First Time Guests or \$20.00 (at the door).

Send checks (payable to AWRA) by Friday, February 28, to Mike Wert, Shapiro and Associates, Inc., 1201 3rd Avenue, Suite 1700, Seattle, WA 98101. Indicate your entree choice of Pasta Primavera or Oven Roasted Chicken. Please call Steve Foster at (206) 764-3600 or Pete Sturtevant at (206) 453-5545 for further information.

Directions: Latitude 47 Restaurant is located on the west shore of Lake Union at 1232 Westlake Avenue North. Take the Mercer Street Exit from I-5. Turn right at the Westlake Avenue traffic light. The restaurant is located about one-half mile after the turn, on the right. Free parking can be found either in front of the restaurant or further along the waterfront.

UNIVERSITY OF WASHINGTON STUDENT CHAPTER

by Doug Pflugh, University of Washington Student Chapter President

It is with great pleasure that we that announce that the University of Washington Student Chapter of AWRA has received its Charter from the National Organization. This Chapter is the result of interest sparked by State Section President Rod Sakrison during a course he taught at the UW this past summer. A core group of students came together in October, approved by-laws, elected officers, and applied to the national organization. The Student Chapter's intent is to provide an interdisciplinary focus for UW academic and professional development activities related to water resources. The group will also serve as a bridge between the student community and working water resources professionals in the field. Rod and Dr. Earl Bell, Professor Emeritus in the Department of Urban Design and Planning at the UW, serve as advisors to the Chapter. At present, membership in the Chapter is open only to UW students; however, students at other schools are encouraged to participate in the chapter's activities.

The Chapter's first general meeting is scheduled for February 26 at noon in Room 117, Gould Hall (UW Campus). The current executive board is in the process of identifying a speaker for the meeting, identifying faculty with interests and students in water resources, and conducting a campus-wide outreach blitz. Goals for the remainder of the 1996-97 academic year include building a diverse and active membership base, holding a general meeting with a guest speaker or presentation at least once a quarter, and participating in a hands-on and water-related environmental project in the spring. ... **CONTINUED**

UW CHAPTER (continued)

Although an independent body, the UW Chapter anticipates maintaining a close relationship with the State Section. The State Section Board has approved enrollment of all Student Chapter members in the State Section and has been extremely supportive. The UW Chapter's officers provided logistical support at the 1995 Fall Conference, a tradition that can be expected to continue. Students and State Section member alike, please consider involvement in the following activities to help further the connection.

- Internships and cooperative work experiences (This program is "in the works" - more information will follow in the next newsletter)
- Professional mentorship to advise students with similar interests
- Outdoor, water resource-related work projects in the spring

Registration in the Student Chapter is open to all UW students. Annual dues are \$5.00. Any questions, suggestions, or support for the Student Chapter can be directed to Doug Pflugh at 781-8252 (home), 727-2220 (work), or dpflugh@u.washington.edu (e-mail).

NATIONAL AWRA SEEKS SEATTLE

by Jackie Hightower, The Hightower Group

The Board of Directors of AWRA (January 16-18) voted to pursue planning the 1999 Annual Conference in Seattle. In addition, they agreed to recommend changes in governance at the national level to the membership at large at the 1997 Annual Conference in Long Beach, California (October 19-23). "The Directors cooperatively strategized ways to energize AWRA at all levels," stated Pacific Northwest Regional Director, Jackie Hightower.

National AWRA plans conferences and symposiums about three years ahead. The Washington Section had submitted a letter expressing interest in hosting the group during the early autumn so that families could vacation and enjoy the weather. National Executive Director Ken Reid expressed concern that the best hotel rates are usually available for groups in October, but his staff will review Puget

Sound's burgeoning hotel market. The conferences typically attract approximately three hundred or more attendees.

A new governance structure will be presented for approval at the next National meeting. It will change the election of the Board of Directors from representation of eleven specific geographic regions to five generally geographic areas. It will also emphasize a variety of interests and skills necessary to the strategic planning role of a Board and the daily mission of providing a multidisciplinary forum for information exchange, professional development and education. The Committee Chairs could then be funded to do specific planning and become a more integral part of the daily mission. Dialogue on these proposed changes is welcome.

1996 FALL CONFERENCE

by Mike Wert, Shapiro and Associates, Inc.

And you thought our big snow of the year occurred on November 18, two days before our annual fall conference! Little did any of us know that late December's snows would prove differently. The beauty of the white blanket covering western Washington as the year approached its end would soon choke storm drains, flood our low lands, and cause numerous severe slope failures as warm rains rapidly melted away our childhood memories. Looking ahead, however, it should be a good water year if we can hold on

to the snowpack in the mountains. But let's get back to November!

Those 100 or so of you who ventured to the Seattle Art Museum on November 20, despite the potential prospects of more snow, were rewarded with an array of provocative presentations by some of the leading water resource professionals of our ...

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1996 FALL CONFERENCE (continued)

region. As mentioned to those who phoned me about a potential delay or cancellation the day before the conference, only the State Patrol's closure of our highways would have prevented us from proceeding on schedule.

On behalf of the entire conference planning committee, our gratitude goes out to conferees, and especially our speakers, who all played a key role in the success of the event. Despite your initial impulses, you stuck it out in the spirit of Lewis and Clark (I'm reading "Undaunted Courage") and ventured downtown to be greeted by bare streets, a wonderful conference facility, and the "Hammering Man" who never did freeze up!

Our conference theme, "The Water Crisis.... Myth, Reality, and Opportunities" focused on water supply management and technology, featuring three panels. Panel 1, consisting of **Jim Miller** (City of Everett), **Chuck Lean** (Bogle & Gates), **Dave Hilmoe** (Seattle Water - now Seattle Public Utilities), and **Gwenn Maxfield** (Woodinville Water Commission and Chair of the Interim Water Group), defined the causes and elements of the crisis.

Jim Miller confirmed the crisis is imminent and that it is, perhaps, not so much of a problem of available supply but of resolving impediments to the management and transfer of existing sources. Depending on where you live, some areas already are experiencing moratoriums in which case the crisis is now. Jim indicated that perfecting a water right has become an increasingly complex matter requiring an immense expenditure of time and resources. Considering the time required for bringing additional sources on line (10 to 20 years is not uncommon), and the budgetary constraints facing many municipalities, water districts, and other suppliers, future prospects for adequate supply will be challenging. These challenges are multi-faceted and need to be overcome to move forward in complying with growth under the Growth Management Act, in providing opportunity for economic development, and in assuring protection of instream resources. Effective strategies in local basin planning may provide an avenue to resolve some of these challenges.

Chuck Lean discussed several court cases and events in the legal arena that could dramatically affect the availability of our future of water supply. The issues are many, complex, and not easily resolved without affecting existing or future rights. He touched on legal issues related to hydraulic continuity, batch processing of water rights applications, basin assessments, perfecting water rights, and water transfers. Unfortunately, there is insufficient space to do justice in summarizing many of the insightful points Chuck made in his presentation. Some of the legal

issues related to the use and transfer of existing rights were of key significance in Chuck's talk and were most insightful to me personally.

Dave Hilmoe conveyed the message that the region should be prepared to pay more for water. Rates will double in 5 to 7 years and likely will continue to climb thereafter. Seattle has a 750 million dollar commitment to capital expenses over the next 10 years. Higher rates will result from costs required for rehabilitating an aging water infrastructure including repairs to Seattle's 1,800 mile distribution system. Costs also will reflect system improvement requirements resulting from new water quality standards; development of new supply sources; and lost revenues related to conservation. Emerging regulations will require new facility improvements to guard against threats to human health caused by *Cryptosporidium*, for example. To control costs, Seattle has undertaken strategic planning and delivery; has incorporated industry benchmarks and performance standards into their operations, has invested in technology, has become more streamlined by reorganizing several departments into Seattle Public Utilities, and has been innovative in new approaches to public-private partnerships in the contracting of the upcoming Tolt Water Treatment Facilities.

Gwenn Maxfield provided an overview of the history, background, and objectives of the Interim Water Group (IWG). This group is working toward the development of a new regional water entity in King County to address governance and financial issues of water utilities outside of Seattle. The IWG has negotiated with Seattle and reached agreement that contracts with Seattle's existing purveyors would expire and not be renewed after the year 2012. This will necessitate development of contracting mechanisms with Seattle, existing purveyors, and new customers for the future. It also will involve establishment of legal, financial, and institutional systems and the definition of an organizational structure for this "New Entity." At this time, there are 27 members, some of which are not currently Seattle purveyors. Once initial issues are resolved, the New Entity can move ahead to supply water, construct and finance new infrastructure, establish and administer region-wide operational policies, and plan and develop new supply sources. Gwenn also highlighted a few of the new supply sources the New Entity likely will pursue. I think we'll all be closely watching the progress of these efforts. We wish Gwenn and the entire IWG the best of success for the sake of the entire King County region to be served by the New Entity.

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1996 FALL CONFERENCE (continued)

Panel 2, consisting of **Dan Malarkey** (ECONorthwest), **Forrest Olson** (CH2M HILL), **Jim Carr** (AGI Technologies), and **Linton Wildrick** (Ecology), discussed technology's role in managing the crisis. **Dan Malarkey** discussed population and growth forecasts for the region and their implications for growth and regional water demand. Dan indicated the water "crisis" is essentially a myth and that the problem is a normal and predictable political battle over who pays for and who controls our water resources.

Forrest Olson gave us a short, short-course on the state-of-art Instream Flow Incremental Methodology (IFIM). I enjoyed Forrest's analogy indicating the technology exists to assess instream flow needs at the micrometer level, although decisions inevitably are made with a meat cleaver (or something reasonably close to this). Forrest stated the method is expensive, time consuming, and carries no guarantee of favorable results. Empirical evidence developed from this and other methods suggests summer baseflows are critical to a stream's salmon and trout production capacity. Water supply projects capable of storing winter and spring runoff for release during periods of low summer flows can provide important benefits to fish populations.

Such projects can thus provide important opportunities for innovative solutions involving water supply and instream resource management. Using water supply projects as a vehicle to address such broader watershed-level challenges as low summer flows can be instrumental to successfully implementing new projects.

Linton Wildrick and **Jim Carr** discussed the groundwater/surface water connection called hydraulic continuity. Concerns that streams derive most of their flow from groundwater discharge during Washington's dry seasons have been a key factor related to denials of numerous water right permit applications in various basins throughout the state in the past year. The extent of water that can be diverted from the ground without adversely affecting downstream rights, including instream resource values, depends on the quantity of the withdrawal, its timing and duration, the location (depth and horizontal distance from surface waters), and the location and characteristics of adjacent aquifers. Linton stated that development of predictive computer models will be of key importance in the future for assessing hydrologic systems for entire drainage basins. Construction, calibration, testing, and refinement are needed to make this a practical approach to determining allowable impacts on groundwater sources. Jim mentioned that establishing a comprehensive statewide water resource monitoring program to provide data for proactive management of the resource, and resetting minimum instream flow requirements by applying modern hydrological and biological models, would be important steps toward protecting instream flow, providing water to utilities and others,

and helping Ecology to manage water resources of the state.

The third panel, consisting of **Jim Miller** (GeoEngineers), **George Edwards** (King County Water Pollution Control), **Jeff Barry** (CH2M HILL), and **Geoff Clayton** (RH2 Resources), discussed approaches and progress toward averting the "crisis." **Jim Miller** discussed a water balance approach for creating opportunities to capture and infiltrate stormwater to potentially recharge groundwater above pre-development conditions. This would potentially provide groundwater opportunities assuming such withdrawals are properly balanced and monitored.

George Edwards discussed the limitations and opportunities of reuse of reclaimed wastewater treated to a sufficiently high level. Limitations are based on the modest demand for nonpotable water, the area's industrial and irrigation use characteristics, competition with water conservation, and generally unattractive costs relative to alternative new sources of potable supply. George stated that indirect potable reuse, where reclaimed water is discharged to groundwater or fresh surface water thus allowing use of new potable supply, may prove to be a promising alternative for the future. An example involves the potential release of reclaimed water to the Lake Washington system, allowing commensurate withdrawal for potable use from other locations in the lake.

Jeff Barry presented alternative approaches to groundwater recharge, including the technology of Aquifer Storage and Recovery (ASR). ASR has been shown to be a potential new approach for storing water underground to meet increasing drinking water demands at other seasons of the year. Jeff's discussion was based, in part, on his experience involving several ASR projects he has managed in Oregon that are in the initial feasibility and pilot testing phases. He indicated that while this technology can be quite successful, its application is site-sensitive and appropriate at limited sites and situations. Several important issues need to be closely considered and addressed before implementing ASR projects.

Geoff Clayton wrapped up the conference with his views on the nature of the water crisis, some priorities he feels need to be addressed, and the urgency at which the resolution of challenges must be reached. Geoff indicated that water must be made available consistent with planning under GMA. ...
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1996 FALL CONFERENCE (continued)

He also stressed the importance for developing profit incentives for a reclaimed water industry; emphasized the need for groundwater storage projects where appropriately sited; discussed the importance of local watershed planning efforts in areas of anticipated high growth; and promoted the need to provide private sector opportunities for water supply development.

Our featured presentation by **James Riley**, Professor of Mechanical Engineering at the University of Washington, followed lunch. Professor Riley made a wonderful presentation on Leonardo da Vinci's works involving water as exemplified in the Codex Leicester and several other documents. Leonardo's works on water were examined from the point of view of modern fluid mechanics, providing an interesting window

into the thought process of this true genius. Numerous slides of his original works were shown during the presentation. I think all of us were amazed by the insights Leonardo had during the early eras of science.

Well, that pretty much sums it up. We're delighted the response to the conference was so good and we look forward to seeing many of you again at our 1997 Fall Conference. Thanks again to Teresa Platin, Adam Gravley, Rod Sakrison, Andy Lukas, Fran Solomon, and others on the conference planning committee for the great team effort. Be prepared for an even more stimulating event this year. Who knows, it may even occur once again under the shadow of the Hammering Man.

[Editor's note: One of AWRA's goals this year is to achieve more interaction with other compatible organizations. To this end, we are considering co-sponsorship of an upcoming ASCE event, and are pleased to announce it and a symposium of interest to water resources professionals.]

WASTEWATER QUALITY MANAGEMENT AND TREATMENT CONFERENCE

The Seattle Section, American Society of Civil Engineers, Water Resources and Environmental Engineering Group, is sponsoring this conference to be held at the HUB Auditorium of the University of Washington on Monday, April 21, 1997. It is the second conference in a series called *Water Resources in Western Washington*. The conference will address current water treatment for the purposes of water utility, municipal wastewater treatment, stormwater and water reuse. The cost will be \$50.00 if received before March 31, 1997 (lunch included). Students will receive a discount. Please contact Ray Walton at 441-4212 for more information.

SECOND SYMPOSIUM ON THE HYDROGEOLOGY OF WASHINGTON STATE

This symposium will be held August 25-27, 1997 at the Evergreen State College. They will host 3 days of paper presentations, workshops, field trips, and poster sessions. In 1995, they had over 350 groundwater scientists in attendance at the first symposium. They are seeking field trip coordinators and volunteer help. Registration information will be available in March and the Abstract Deadline is April 1, 1997. Abstract Information will be available in February. For more information contact Nadine Romero at (360) 407-6116, but preferably through e-mail, nrom461@ecy.wa.gov. For web page and previous Symposium Abstracts see, <http://www.wa.gov/ecology>

[Editor's Note: On January 17, 1996, the "4th Annual Sinking Creek Water Law Symposium: Focus on Re-Allocation of Water Rights" was held at Seattle Center. The Symposium was co-sponsored by the Center for Environmental Law & Policy (CELP) and the King County Bar Association. Over 150 people attended the full-day event. To request a copy of the materials, contact the King County Bar Association, 600 Bank of California Center, 900 Fourth Ave., Seattle WA 98164-1060. Reprinted below is a synopsis of Adam Gravley's presentation on some practical aspects of water transfers.]

ISSUES & OPPORTUNITIES IN WATER TRANSFERS

by Adam W. Gravely, Preston, Gates & Ellis

Opportunities Perfected water rights are property interests that pass with a conveyance of the land receiving the beneficial use. Water rights can also be acquired separately from the underlying property and, with the approval of the Department of Ecology, amended to authorize a different point of diversion, place of use, and/or purpose of use. Because the availability of new water right permits is severely restricted in many areas of Washington, obtaining water supply will increasingly occur through acquisition of existing water rights. Several options exist for structuring transactions, including the following:

- Acquisition of real property together with perfected water right
- Acquisition of water right severed from real property
- Acquisition of an existing water right for mitigation purposes
 - relinquishment and dedication to instream use
 - trust water rights
- Dry-year lease arrangement

Issues A degree of legal uncertainty attends any property transaction, but the uncertainty is heightened with respect to water rights. Because only a fraction of the state's water rights have been adjudicated, questions about a water right's validity frequently arise. In addition, rapidly evolving water resources law and policy as to beneficial use requirements, potential restrictions on exercise of rights (e.g., instream flow requirements, Endangered Species Act), transfer requirements, and mitigation create risks of acquiring flawed or deficient rights.

A second issue concerns limited information regarding Washington water rights. For water rights established by permit, Ecology maintains an index, called the Water Rights Information System (WRIS), organized by Water Rights Inventory Area (WRIA). Although Ecology's index contains substantial information about permit terms and conditions, it does not reflect actual use, property transactions, or other changes that may affect the viability of a water right. More difficult, however, is investigation of water right claims, which are assertions to water rights established before the permit system was adopted in 1917 (surface water) or 1945 (ground water). Because a large portion of the state's water was appropriated before the permit system was adopted, information about water right claims is important to someone in search of a water right to acquire. Ecology keeps a list of recorded claims, but no useful database or index exists for claims.

Illegal water use and the availability of exempt wells also contribute to the information gap. Where the universe of water rights or uses is unknown and is subject to unpredictable change, information about permitted rights presents an incomplete picture and confidence in available information is compromised.

Practice Steps One can take some practical steps to lay the groundwork for a water right transfer. First, unless available water rights are known, research of Ecology's WRIS can identify rights that -- on paper -- correspond to the general location, quantity, and purpose needed for a project. Second, it is critical to perform a "due diligence" investigation of candidate water rights because only valid water rights may be transferred or have value for mitigation purposes. The provisions on the face of a water right should only be the starting point for analysis; relying solely on the "paper" water right is fraught with risk. For example, water rights can be lost by non-use under the relinquishment statute (five year rule) or the common law doctrine of abandonment (intent to abandon and actual relinquishment).

What due diligence steps are necessary or advisable will vary from case to case. At a minimum, the following steps are advisable: a) review of the Ecology file to confirm permitting and perfection documentation and to spot any red flags; b) confirm that the water right has been exercised consistent with the terms and conditions of use; and c) confirm that the water right has not been abandoned or relinquished due to non-use. In evaluating the appropriate level of due diligence, one should weigh the risks and benefits of performing or foregoing additional investigation. For water rights claims, it is particularly important to confirm when the water was first put to use and the quantity of water used at the time of perfection.

**AWRA WASHINGTON SECTION
1997 MEMBERSHIP APPLICATION**

NAME: _____
ORGANIZATION: _____
MAILING ADDRESS: _____
E-MAIL ADDRESS: _____

Check if you would like to be actively involved on a committee during 1997. You will be contacted to determine what committee involvement you would like.

1997 Membership Dues (through October 1997): \$25.00. Please make check payable to **AWRA Washington Section**.

Mail to: American Water Resources Association, Washington Section
c/o Mike Wert, Shapiro & Associates
1201 Third Avenue, Suite 1700
Seattle, WA 98101

The American Water Resources Association is a scientific and educational non-profit organization established to encourage and foster interdisciplinary communication among persons of diverse backgrounds working on any aspect of water resources disciplines. Individuals interested in water resources are encouraged to participate in the activities of the Washington Section.

Special thanks to CH2M HILL, Bellevue, for their word processing and graphics support on this newsletter.

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