



Wyoming Water Association

# Wyoming Water Flow

*Water Is Wyoming's Gold!*

Volume LXVII, Issue I

May 2004

## WWA's 2004 Summer Board Meeting Upcoming in Sheridan on July 8th *Educational Tour To Be Held on July 9th*

The Wyoming Water Association's 2004 Summer Board Meeting will be held on Thursday, July 8 at the Holiday Inn in Sheridan, Wyoming, beginning at 6:30 p.m. The **Summer Educational Tour** will follow on **Friday, July 9**. The tour will include visits to facilities in the Sheridan and Buffalo area of Wyoming, including Tie Hack Dam and Reservoir and Lake DeSmet. Please make plans to attend what will be an interesting tour addressing both water quality and water quantity issues.

**The tour will leave from the Holiday Inn, 1809 Sugarland Drive in Sheridan at 9:00 a.m.** A block of rooms have been reserved at the Holiday Inn at the rate of \$55.00 for lodging the night preceding the tour. Please call toll free (877) 672-4011 or (307) 672-8931 and be sure to mention you are attending the WWA event in order to receive our special room rate.

A separate mailing with additional information concerning the tour and a registration form will be soon forthcoming to WWA members.

## 2004 WWA Scholarship Winners Announced

The Wyoming Water Association is pleased to announce the results of the 2004-2005 Academic Year Scholarship Competition. Eight highly-qualified applicants competed in this year's event. Receiving \$1000 scholarships will be Chelsa Harrison and Nicholas Smith.



*Chelsa Harrison*

Chelsa is the daughter of Rick and Karlene Harrison of Powell, Wyoming. A McNair Scholar (preparing for doctoral graduate school programs), Chelsa is attending the University of Wyoming where she is earning a Bachelor of Arts degree in Political Science with a minor in

Public Relations. During the summer of 2003, Ms. Harrison was a Council for Opportunity in Education intern in Washington, D.C., where she was a spokesperson for the Wyoming Congressional

Delegation on the importance of higher education. She is a member of the National Society for Collegiate Scholars, Honors Society, President of the Political Science Club, past Student Senate Representative and involved with Agricultural Communicators of Tomorrow.



*Nick Smith*

Nick is the son of Loren and Teri Smith of Riverton, Wyoming. A 2001 graduate of Big Piney High School, Nick is earning a Bachelor of Science degree in Electrical Engineering at the University of Wyoming. In addition, Nick is working to earn either a minor or second major in Mathematics. An All-State cross country and track team member in high school, Nick competed at the collegiate level as a member of the University of Wyoming's cross country team in prior years and still finds time for intermural athletics.

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### **2004 Officers of the Wyoming Water Association**

President . . . . .	Alan Dugan
1st Vice President . . .	Ron Cunningham
2nd Vice President . . .	Nick Wambeke
Treasurer . . . . .	Bill Stafford
Executive Secretary . . . . .	John Shields



## **Wyoming Water Flow**

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## **Guest Editorial No. 1:**

### **WYOMING NEEDS MORE FLEXIBILITY IN ITS WATER LAWS**

**Rose Skinner, Mayor  
Pinedale, Wyoming**

Wyoming's 100 year old water laws were originally crafted to make sure our precious resource is used to the fullest benefit of our state and people. A lot has changed since statehood regarding the uses of water in Wyoming -- economies, technologies and social values -- all which make it necessary for people to keep up or be left behind. Some of Wyoming's water laws have not kept up with today's realities. A case in point is the town of Pinedale.

The people of Pinedale decided that it was in our best interest to use some of our stored water in Fremont Lake to increase flows in Pine Creek, which runs through the heart of our community. Using part of our stored water this way would allow us to meet our changes and benefit the trout fishery in and around Pinedale and improve the livability of our town -- both important for any small town that wants to be more attractive and increase its economic activities.

In 2000, the Pinedale City Council voted unanimously to use 27% of our stored water in Fremont Lake for instream flow and continue to provide another 28% of what we own to area ranchers for irrigation. One way to keep up with change in Wyoming is to let people use their stored water as they see fit. That's the benefit of having a dam in your back yard! So we attempted to follow Wyoming's 1986 Instream Flow Law to legally provide the supplemental flows. We first established a two year renewable lease with the State for this portion of our stored water, (through the Wyoming Game and Fish Department (WGFD), thereby giving the state control of this water. Then, pursuant to law, WGFD presented our proposal to the Wyoming Water Development Commission and they finally submitted a formal request to the State Engineer. We felt that a two year renewable lease with the State was in the best, long-term interest of our community.

After two years of studies, reports and very favorable public input for the temporary in-stream flow use, the State Engineer came back recently and told us that we could not do what we want to do with our water. While he took steps to protect slightly increased flows in Pine Creek during certain times of the year, he did not grant our request to put up to 4800 acre/feet from our storage right in Pine Creek for in-channel use which would make Pine Creek a healthy, vibrantly flowing fishery.

The irony of the decision is that it was not based on negatively affecting any one else's water right -- we would not. It wasn't even based on the feasibility of this project. Rather, it was denied simply because the State Engineer interpreted Wyoming water law to not allow a private entity the option to leave their water in a stream, even through a lease agreement with the State. He said only the State -- in perpetuity -- can do that.

There's an old saying that you should never try to fix something that's not broken. That's not the case here. This part of Wyoming's water law is clearly broken and it needs to be fixed. It needs to be updated so that people and communities can use their water in ways that will best suit the evolving interests of citizens as long as these changes do not injure any other water right holder. Doing that will return us to the intent of Wyoming's 100 year old body of water law -- that our state's water is to be used to improve Wyoming and make the state the best that it can be through the beneficial use of its water.

## Guest Editorial No. 2:

### WYOMING'S WATER LAWS AND THE PINEDALE APPLICATIONS

*Wyoming's Public Interest Is Served By  
Administering Our Water Law With Discipline*

**Patrick T. Tyrrell, Wyoming State Engineer  
Cheyenne, Wyoming**

A comment I routinely hear is that a water right owner ought to be able to do whatever they want with “their” water. Mayor Rose Skinner of Pinedale and I have had this discussion numerous times. Historically, nobody possessing a Wyoming water right in good standing has enjoyed that broad of a right. A water right is a usufructuary right in that it allows the use of something (water) owned by another (in this case, the state). A permit holder has the right to use water under the terms of their permit – period. It is not “their” water and it never has been. Without this discipline in our laws, anybody could use “their” (permitted) water right anywhere, anytime, for anything, and chaos would reign.

While not perhaps going as far as some would have liked, Pine Creek now has a “direct flow” instream flow permit for most months of the year (when unappropriated water is available), and an instream flow permit tied to storage held in fee by the Wyoming Game and Fish Department. This latter permit is the first instream flow permit in Wyoming to be attached to storage (under our Title 41 statutes), and is a historic event for that reason.

My decision of December 10, 2003 resulted in two of the three instream flow sources on Pine Creek being approved. The third, not approved, concept was the use of stored water for instream flow where that stored water was not owned by the State, but instead was transferred to the State by a lease agreement. Relative to the denial, a number of people have pointed to the fact that I found that “no injury” would result on account of the Fremont Lake storage-related applications. While the “no injury” test is one of the tests set forth in Wyoming’s instream flow statute, it is incumbent to recognize and consider each of the other tests found therein. These additional statutory tests include completion of the Wyoming Water Development Commission (WWDC) study, finding a lack of effect on our

interstate use apportionments, and ascertaining ownership of the water right in the name of the state. While the applications succeeded in many respects, I could not overlook the ownership test specified in the statute as it presently is written.

Pinedale can release water, unprotected, and it becomes part of the “free river.” If others take it, and put it to beneficial use under the terms of their permit, it is an entirely legal act on their part. Were it the case that there were no other users downstream of Pinedale, the city could release its storage and create an instream flow without need for any instream flow permit at all. But where uses collide, our permit system, and in this case the statutory rules for obtaining an instream flow right, govern.

I know this is an issue of great interest to many in Pinedale and around the State of Wyoming. My decision, characterized as “to avoid a precedent,” may in part have been exactly that. The precedent would have been one of having the word “own” mean whatever public opinion or the State Engineer want it to be at any given time. Throughout my tenure in the Constitutional office of State Engineer I have consistently tried to administer Wyoming’s water law and our regulations and policies with discipline and to hold fast to the tenets that keep Wyoming’s outstanding and enviable system working well after all these years. Sometimes that means making decisions unpopular to some.

Pinedale has options in finding practicable and effective ways to enhance the flows in Pine Creek. These range from informal arrangements with other local users to leave water in the stream to seeking and obtaining statutory modifications of Wyoming’s instream flow law. Wyoming Water Association members can be assured that if changes are made to the statute, the staff of the Wyoming State Engineer’s Office and I as Wyoming’s chief water official will implement the resulting language in an impartial manner – and with the discipline to ensure that the language of the statutes mean what they say.

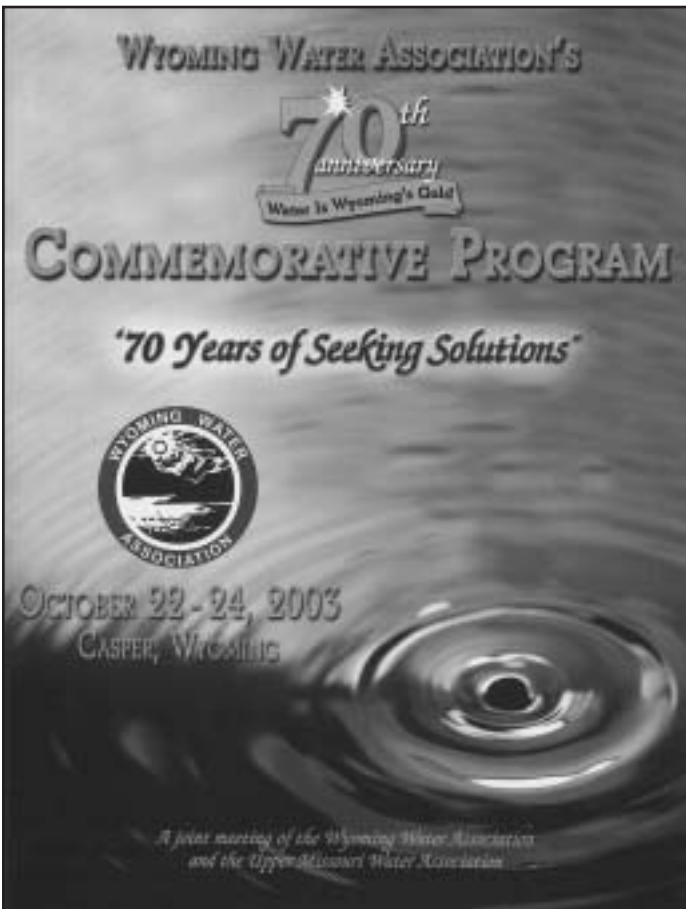
### **A Thought to Ponder:**

Tomorrow is the most important thing in life. It comes to us at midnight very clean. It is perfect when it arrives and puts itself in our hands. It hopes we have learned something from yesterday.

*John Wayne*

## Seventieth Anniversary Commemorative Program Proves Popular

Distributed to those in attendance at the WWA's Annual Meeting and Educational Seminar in Casper last October, our 70th Anniversary Commemorative Program remains popular as a source of water information. Developed as a reference, the 28-page booklet describes the WWA and its objectives and a bit about our 70 years of history. The booklet contains much useful information about Wyoming water law and our water resources, including our state's seven interstate river compacts and two U.S. Supreme Court decrees and other information concerning water and Wyoming's water resources. Copies of the booklet can be downloaded from the Association's website: [www.wyomingwater.org](http://www.wyomingwater.org). A reproduction of the cover is provided below. Check it out; better yet, print out and share a copy with a friend along with your invitation to join Wyoming's only state-wide water resources association. Membership is the life-blood of the WWA.



## 2004 Membership Dues Renewal Notices Sent

In late March, membership dues renewal statements and invoices were sent out to prior year WWA members who had not yet sent in their dues. Those who attended the 2003 Annual Meeting and/or Educational Seminar paid their 2004 dues as part of their registration fee payment. The response to our invoice mailing has been great(thanks!); however, if you received an invoice and have not yet responded, please respond today and send in your renewal.

### 2004 WWA Officers and Board Members

**President** . . . . . Alan Dugan  
**1st Vice-President** . . . . . Ron Cunningham  
**2nd Vice-President** . . . . . Nick Wambeke  
**Treasurer** . . . . . Bill Stafford  
**Secretary** . . . . . John Shields

### **Board Members**

**Agriculture** . . . . . Neal Payne  
 Klodette Stroh  
 Bryant Startin  
 Dennis Schroeder

**Industry, Business  
& Education** . . . . . Wendy Hutchinson  
 Robert Johnson  
 Evan Simpson  
 Don Brosz

**Recreation, & Conservation** . . . . Kathy Buchner  
 Laurie Goodman  
 Tom Annear  
 Barry Lawrence

**Labor & Civic** . . . . . Harriet Hageman  
 Jane West  
 Robert Taylor  
 Frank Grimes

**Local Government** . . . . . Tim Wilson  
 Bruce Barnard  
 John Pallasen  
 Scott Schmidt

## 2004 Budget Session of the Wyoming Legislature

*By George Bartholomew*

The Legislature convened on February 9th and adjourned after 20 legislative days on March 5th. They passed 136 bills and placed about \$254 million of the \$1.22 billion budget surplus in savings. Therefore, water funds were given some protection from the potential for raids if there should be a shortfall in general fund revenue.

The members of the Wyoming Water Association need to take whatever opportunity they have to express their appreciation to the Governor and the Wyoming Legislature for removing General Fund budget items from the Water Development Accounts and placing them back in the General Fund. This action means that \$10,000,000 plus more dollars can annually be budgeted for the benefit of Wyoming's water resources.

The positions taken by the Wyoming Water Association's Board of Directors, at their February 11, 2004 meeting, supporting the above-mentioned budget changes; the Omnibus Water Bill-Planning; the Omnibus Water Bill-Construction and the Water Development Commissioners' salary increase were distributed in a member on the floor of the Wyoming House and Senate. The distribution of the memorandum in support of the legislation was accomplished with the assistance of the Chairmen of the Agriculture, Public Lands and Water Resources Committee; Senator Gerald Geis and Representative James Hageman.

The House and Senate passed each of the above mentioned legislation with minimal changes.

The actions taken by the Association's Board were in accordance with the "Statement in Support of Objectives and Resolutions" for 2004 adopted by the WWA Membership at the October 2003 meeting. This is an excellent example of the need for the resolutions and their effective use.

The Wyoming Water Association can be proud of their efforts over the years and the growing recognition that "Water is Wyoming's Gold."



## Our 2004 Annual Meeting's Focus Will Be: Water Conservation

### *Program and Educational Seminar to Explore Multiple Realms of Water Conservation*

On February 11, 2004, your WWA Board gathered in Cheyenne at the Wyoming Water Development Commission offices for a lengthy and productive meeting. Among the decisions made on that date was a determination to make the topic of water conservation and its various aspects the primary theme for the October 27-29th Annual Meeting and Educational Seminar. The agendas for both will focus on water conservation issues, including its relationships to water management, administration and perceptions followed with a conservation roundtable discussion. These presentations will be followed with facilitated break-out group discussions, possibly by the sector representation of the WWA Board, to identify priorities. The activity would wrap up with an evaluation session to develop an opinion survey of the membership to provide direction to the Association and our conservation committee.

Your Association's Board believes that WWA can and should have a prominent role in water conservation discussions and all of the subject's ramifications. Feel free to contact Conservation Committee Chairman, Ron Vore, at 307-777-7626 or [rvore@state.wy.us](mailto:rvore@state.wy.us) with your ideas and input.

## 2004 Resolutions Available

During the Wyoming Water Association's October 23, 2003 Annual Membership Business Meeting, the general membership adopted the Association's 2004 Objectives and Resolutions. You may find this document to provide definitive information to share with others to describe what the Wyoming Water Association stands for and to detail our water resource positions. Additional copies of the resolutions can be obtained by calling 307-631-0898, sending an e-mail to [wwa@wyoming.com](mailto:wwa@wyoming.com), or by downloading them from the WWA's website: [www.wyomingwater.org](http://www.wyomingwater.org).

## 2004 Legislature Approves Development Projects

### *Omnibus Water Bills Provide For New Studies and Construction to Get Underway*

Important appropriations were made by the 2004 Legislature to provide needed funding for water project construction and existing project rehabilitation and modernization across the State of Wyoming. A brief summary recap of the contents of the Omnibus Water Bill-Construction bill enacted by the Legislature is provided below. For more info, readers may wish to visit the WWDC's website at [wwdc.state.wy.us/legreport/2004/approvals.html](http://wwdc.state.wy.us/legreport/2004/approvals.html) or contact the Wyoming Water Development Commission at 307-777-7626.

#### Account I/Level III Projects: \$4,313,000

Bedford Water Tank: \$500,000  
Casper Raw Water System: \$452,500  
Dayton Well Purchase: \$3,000  
Dubois SCADA: \$45,000  
Grieve/Cottonwood Creek Dams: \$2,900,000  
Sleepy Hollow: \$200,000  
Sunset Pipeline Project: \$212,500

#### Account I/Amendments: \$14,378,500

Washakie Rural Water

Bairoil

Newcastle

Big Horn Regional: \$13,628,500

Small Water Projects: \$750,000

#### Account II/Level III: \$8,634,713

Albin Pipe & Well Rehabilitation: \$215,000  
Casper Alcova Rehabilitation: \$595,000  
Gillette Madison/Pine Ridge Tanks: \$550,000  
Glenrock Sunup Ridge Tank Rehab: \$132,750  
Guernsey Tanks & Pipelines: \$615,000  
Heart Mountain Pipe Conversion: \$602,110  
Hidden Valley Pipelines/Midvale: \$1,474,103  
Lake Hattie Dam Rehabilitation: \$163,000  
Saratoga Standpipe Rehabilitation: \$200,000  
Turnerville Water Supply: \$587,750  
Wind River Irrigation: \$3,500,000

#### Account II/Amendments: \$3,203,500

Goshen Irrigation Rehabilitation: \$500,000  
Powell Water Supply: \$200,000  
Riverton Raw Water: \$1,001,500  
Byron Raw Water: \$752,000  
Small Water Projects: \$750,000

## The Water Planner: Water-Related Upcoming Events and Activities of Interest

To inform our membership of upcoming meetings on Wyoming's water resources, the Water Planner is included in newsletters and can be viewed on our website ([www.wyomingwater.org](http://www.wyomingwater.org)).

- **June 2-3, 2004** - Wyoming is hosting the spring meeting of the Colorado River Basin Salinity Control Forum at the Holiday Inn in Rock Springs. A tour of the Big Sandy Salinity Project, Fontenelle Reservoir and the Seedskaadee N.W.R. on June 2nd. For more information, contact John Shields at 777-6151.
- **June 8** - Platte River Basin Advisory Group Meeting, Albany County Library, Laramie. More info, call 777-7626.
- **July 6** - Wind/Bighorn Basin Advisory Group Meeting, Thermopolis. More info, call 777-7626.
- **July 7** - Powder/Tongue Basin Advisory Group Meeting, Sheridan. More info, call 777-7626.
- **July 8** - Northeast Wyoming Basin Advisory Group, Moorcroft. More info, call 777-7626.
- **July 8** - **Wyoming Water Association** Board Meeting, Holiday Inn, Sheridan. The meeting will get underway at 6:30 p.m.
- **July 9** - **Wyoming Water Association Summer Educational Tour**, Departing at 10:00 a.m. from the Sheridan Holiday Inn.
- **July 19** - Bear River Basin Advisory Group, Location TBD, Evanston. 6:00 - 9:00 p.m. More info, call 777-7626.
- **July 20** - Green River Basin Advisory Group, Location TBD, Savery. 10:00 - 4:00 p.m. More info, call 777-7626.
- **July 21** - Snake/Salt River Basin Advisory Group, Location TBD, Jackson. 6:00 - 9:00 p.m. More info, call 777-7626.
- **July 28-31** - National Water Resources Association Summer National Meeting, Tamaya Resort and Spa, Santa Ana Pueblo, New Mexico. More info at [www.nwra.org](http://www.nwra.org) or by calling (703) 524-1544.
- **October 27** - **Wyoming Water Association's Educational Seminar**, Radisson Hotel, Casper.
- **October 28-29** - **Wyoming Water Association's Annual Meeting**, Radisson Hotel, Casper.
- **December 15-17** - Colorado River Water Users Association, Caesar's Palace, Las Vegas, Nevada.



# Wyoming Water Association

## 2004 Membership Form

*Water is Wyoming's Gold*

The WWA Board has established the following dues schedule for calendar year 2004.

Membership Class:	Annual Membership Dues:
Individual	\$35.00 to \$100.00
Small Businesses	\$50.00 to \$100.00
Medium Businesses	\$100.00 to \$250.00
Large Businesses	\$250.00 to \$5,000.00
Associations	\$50.00
Irrigation Districts	\$0.01 per acre ... Minimum of \$50.00
Conservation Districts	\$25.00
Drainage Districts	\$50.00
Special Districts (Including water and sewer, improvement and sanitation)	\$50.00
Municipalities of 100 to 1,000 population	\$100.00
Municipalities of 1,001 to 5,000 population	\$200.00
Municipalities of 5,001 and over population	\$300.00
County Governments	\$250.00
Joint Powers Boards	\$300.00

Please fill out the short form below and return it, along with your dues payment, to the WWA today.

Yes, please renew my Wyoming Water Association membership for the 2004 Calendar Year. I have enclosed \$ \_\_\_\_\_ as my/our dues payment for the coming year.

**IMPORTANT NOTE:** *If you attended the 2003 Annual Meeting and/or Educational Seminar in Casper, your registration fees included your membership dues for 2004 - and you do not need to submit this renewal form. Membership dues invoices were sent out in late March - if you haven't returned yours, please do so today.*

NAME \_\_\_\_\_

ORGANIZATION \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_ E-MAIL \_\_\_\_\_

*Please mail this form and your dues payment to:*

**Wyoming Water Association, P.O. Box 21701, Cheyenne, WY 82003-7032.**

Should you have questions, please call the WWA at 307-631-0898 or e-mail to [wwa@wyoming.com](mailto:wwa@wyoming.com).

**THANK YOU FOR YOUR SUPPORT!**



## Wyoming Water Association

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*Water Is Wyoming's Gold!*

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PERMIT NO. 51

*Won't you join us for the:*  
**Wyoming Water Association's  
2004 Summer Educational Tour**

to be held on July 9, 2004

**Tour Departing From the Sheridan Holiday Inn  
1809 Sugarland Drive • Sheridan, Wyoming**

*This promises to be a great tour of water project facilities  
and exploration of water issues in the Sheridan and Buffalo areas.*