

# Digest of A Performance Audit of the Public Lands Policy Coordinating Office

## Chapter I: Introduction

The Public Lands Policy Coordinating Office (PLPCO) has been given the responsibility of ensuring that the federal government considers state and local interests in its management of public lands. PLPCO also helps state and local agencies develop a unified response to such important issues as the protection of state and local roads on federal lands (known as R.S. 2477 rights-of-way), the use of off-road recreational vehicles in areas being considered for wilderness designation, and the allocation of grazing rights between wildlife and ranching interests.

Some legislators are concerned that insufficient progress is being made on several of these public lands issues. They also feel they have not been receiving information needed to identify the cost of addressing specific public lands issues. Therefore, legislators asked for a review of PLPCO's management controls and level of accountability.

## Chapter II: PLPCO's Management Controls Need Improvement

**Planning, Policy Development, and Organizational Structure Can Improve.** PLPCO needs to work on planning, policies, and organizational clarity. First, the office needs to improve two plans mandated by *Utah Code* as well as develop an overall strategic plan. Second, management has not developed policies and procedures to implement the statutory mandates for the office but has relied on the more general *Utah Code* provisions for direction. Third, it appears that some organizational structure issues, such as reporting relationships and lines of authority in PLPCO, need to be clarified. By strengthening these management controls, PLPCO should be able to operate more efficiently and effectively as well as increase the level of accountability to the Legislature and other stakeholders.

**PLPCO Can Improve Its Performance Measures.** A good performance measurement system is another important management control that could be of benefit to PLPCO. Staff are currently working on a Balanced Scorecard (BSC), a performance measurement tool being implemented in executive branch agencies. We are concerned that the office's draft BSC focuses on measuring process and output rather than measuring outcomes or end results. In our opinion, the lack of a strategic plan has impeded PLPCO's efforts to develop good performance measures.

**Chapter III:  
Clear Goals and  
Effective Oversight  
Are Essential for  
Accountability**

**PLPCO's Responsibilities Are Not Clearly Defined in Statute.** Some of the activities in which PLPCO is involved do not match those mandated in statute. The original purpose for creating PLPCO was to help the State of Utah develop a unified set of public lands policies and plans. However, the office has also assumed responsibility for the state's effort to protect R.S. 2477 roads, a task which was not included in its enabling legislation. Although legislators may have intended that PLPCO administer this project, it does not fit within the scope of the office's statutory duties.

**PLPCO Lacks a Clearly Defined Governance Structure.** Currently, many different state officials, councils, and committees provide PLPCO with policy direction and oversight. However, their responsibilities are not well defined and, as a result, it is unclear to whom PLPCO is accountable. By providing a clearly defined governance structure, the Legislature can increase the likelihood that PLPCO will be able to meet its goals and objectives. We recommend that the Legislature considers the following options:

- Create a new public lands policy council that combines the benefits of the various existing councils and committees.
- Use the Constitutional Defense Council as prescribed in statute, but clarify its role and designate it as the oversight entity for PLPCO.

Regardless of which option is selected, the Legislature should formally establish the R.S. 2477 Client Committee in statute and define its responsibilities.

**Chapter IV:  
Oversight of  
PLPCO Finances  
Can Be Improved**

**PLPCO Finances Can Be More Closely Monitored.** One responsibility of an outside oversight body should be to regularly review and approve expenditures for the agency it oversees. In fact, the statute requires that expenditures in at least one area, the R.S. 2477 project, be monitored by an outside oversight body. However, if this outside oversight body is to be effective, that body needs to be provided with a better set of financial reports than are currently being produced by the office.

**Travel Expenses Have Declined with New Director.** PLPCO's travel-related expenses declined significantly during the past year. In fiscal year 2008, PLPCO spent about \$43,000 for in-state travel, \$19,000 less than in 2007. The main cause for the decline is that PLPCO is no longer covering travel expenses of its former director who resided in San Juan County but worked in Salt Lake City. We question whether the former director's travel-related expenses were properly authorized and suggest the Legislature define in statute the travel benefits of agency directors who work in Salt Lake City while residing at a distant location.

REPORT TO THE  
UTAH LEGISLATURE

Number 2009-01

**A Performance Audit**  
**of THE**  
**Public Lands Policy Coordinating Office**

January 2009

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# Chapter I

## Introduction

The Public Lands Policy Coordination Office (PLPCO) has been given the responsibility of helping state and local agencies develop a unified set of public lands policies and plans. In addition, PLPCO helps coordinate the state's response to such issues as the protection of state and local rights-of-way on federal lands, the use of off-road recreational vehicles in areas being considered for wilderness designation, and the allocation of grazing rights between wildlife and ranching interests. Finally, PLPCO has been given the responsibility to encourage the federal government to consider the state's multiple-use and sustained-yield policies in its management of public lands.

PLPCO is a relatively new organization, created in May 2005. As a separate state agency, it is not part of any department. Its director, the public lands policy coordinator, answers directly to the state planning coordinator and the Governor. The office is staffed by a small group of policy analysts who are supported by several assistant attorneys general. When the audit began, the public lands policy coordinator and the state planning coordinator had each been in their positions for about six months. Their brief tenure may be one reason that the office has not yet developed the kinds of management controls that state agencies typically use to further their work.

### PLPCO Helps the State of Utah Speak With One Voice on Public Lands Issues

The reason PLPCO was created as a separate state office was to help state government “speak with one voice” on public lands issues. That is, the office coordinates state public lands policies so all state agencies can align themselves behind a common vision established by the Legislature and the Governor. That vision is largely guided by *Utah Code* 63J-4-401(6)(a)(I), which states that “the citizens of the state are best served by applying multiple-use and sustained-yield principles in public land use planning and management.” In other words, public lands in Utah should be used simultaneously for a wide range of purposes such as outdoor recreation, livestock grazing, timber harvesting, watershed

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**The Public Lands Policy Coordination Office was created in 2005.**

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**The Utah Legislature supports multiple-use and sustained-yield principles in public land use planning and management.**

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**PLPCO's function is to coordinate the state's interests on public lands issues.**

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protection, and fish and wildlife management. It is PLPCO's challenge to help promote Utah's multiple-use policy while some federal agencies and private interests want to place limits on the use of Utah's public lands.

### **PLPCO Is Charged with Coordinating the State's Public Lands Policies**

The state website indicates that PLPCO's mission is to "coordinate the state's interests on public lands issues and act to ensure that state and local interests are considered in the management of public lands." Its mission also includes the need to "ensure that surveys and excavations of the state's archaeological and anthropological resources are undertaken in a coordinated, professional, and organized manner."

This mission translates into the following activities:

- Coordinating the permitting of archaeological digs
- Commenting on environmental impact statements and Bureau of Land Management (BLM) resource management plans
- Responding to federal protections of threatened species such as sage grouse and prairie dogs
- Working with the Resource Development Coordinating Committee (RDCC)
- Working to preserve public rights-of-way

With a variety of duties, the PLPCO staff are sometimes faced with the challenge of working on several complex projects at the same time.

### **Utah's Multi-Use Land Policy Guides PLPCO's Goals**

The *Utah Code* directs PLPCO to work toward a wide range of goals as it attempts to carry out the state's multi-use land use policy. The specific goals, contained in *Utah Code 63J-4-401*, are listed in Figure 1.1.

**Figure 1.1 Utah Code Requires Promotion of Multiple Land Uses on Public Lands.** 63J-4-401(6)(a)(ii) lists 11 land use principles that are to be promoted.

- (A) Achieve and maintain a high-level output of mineral and renewable resources.
- (B) Support existing transportation, mineral, and grazing privileges.
- (C) Support plans and policies of state agencies and local governments.
- (D) Produce desired vegetation for watersheds, timber, food, fiber, livestock forage, wildlife forage, and minerals.
- (E) Meet recreational and transportation needs by providing access.
- (F) Meet the recreational needs of state citizens.
- (G) Meet the needs of wildlife.
- (H) Provide for the preservation of cultural resources.
- (I) Meet the needs of economic development.
- (J) Meet the needs of community development.
- (K) Provide for the protection of water rights.

Although the statute gives PLPCO a clear set of goals, attempting to meet these competing interests may be difficult. Often, the needs of livestock grazing and wildlife or mineral extraction and tourism conflict, and one of PLPCO's goals is to work with state, federal, and local agencies to balance the competing interests.

**Public Lands Are a Valuable Revenue Source to Utah.** Considering the economic and cultural value of Utah's public lands, the importance of the work assigned to PLPCO is widely recognized. The public lands provide the state with tremendous economic benefits through the development of natural resources, the grazing of cattle and sheep herds, the opportunities for travel and tourism, and other recreational opportunities. The state's public lands are also endowed with a wealth of cultural resources and unique geological features. The state's ability to benefit from these natural resources depends on the preservation of access to public lands and the continuation of the state's multi-use policies. In Figure 1.2 we identify some of the economic benefits the state receives from its public lands.

**Utah's economy benefits from the state's multiple use policies.**



**Figure 1.2 Public Lands Provide Revenue for the State of Utah.** Based on estimates from SITLA and the Department of Agriculture, Utah’s mineral extraction and livestock industries brought over \$14 billion in revenue to the state economy during fiscal year 2006.

Revenue Source	Benefits to the State of Utah
Mineral Rights	The fiscal year 2007 gross production values of all energy commodities was \$7.7 billion, down from the 2006 all-time high of \$8.1 billion.
Tourism	Traveler spending in fiscal year 2007 infused \$6 billion into Utah’s economy. It is estimated that \$617 million was generated in state and local taxes. These numbers are all up from 2006, when \$5.9 billion was spent in Utah and \$568 million was generated in taxes.
Grazing and Ranching	Utah’s ranching industry relies heavily on grazing rights acquired on public lands to maintain production. In 2007 cattle and sheep production was valued at \$310 million.

Sources: *Economic Report to the Governor, Utah Department of Agriculture, Utah Office of Tourism*

*Utah Code* 63J-4-401(6) recognizes that if Utah is to continue to realize the benefits of its natural resources, grazing, and tourism, the state needs to preserve its multi-use land management policies. PLPCO plays an important role in promoting these policies in an environment in which some stakeholders wish to increase emphasis on just one attribute, such as the preservation of wildlife, wilderness, and historic resources.

**Protecting R.S. 2477 Rights-of-Way Is One of PLPCO’s Top Priorities**

Utah’s public lands policies are based on the belief that the state will not realize the full economic and cultural benefit of its public lands unless it preserves public access. Utah is one of two states (the other is Alaska) actively trying to establish ownership of historic rights-of-way under federal *Revised Statute* 2477 (R.S. 2477). PLPCO has assumed responsibility for coordinating and spearheading Utah’s efforts.

R.S. 2477 is part of the U.S. Mining Act of 1866, which established that “the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.” This law allowed roads on public lands without them being formally registered or recorded in any way. In 1976, Congress passed the Federal Land Policy and Management Act, which repealed R.S. 2477 but preserved any rights-of-way that had

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**U.S. Revised Statute 2477 preserves rights-of-way created before 1976.**

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already been established. Because there are no records to document the creation of many roads, there is uncertainty over which public rights-of-way have been legally established.

Utah's effort to claim R.S. 2477 roads has been a difficult undertaking because many groups have an interest in either the preservation or elimination of some rights-of-way. The R.S. 2477 project started in 1999 and still continues. The R.S. 2477 team consists of staff from PLPCO and the Attorney General's Office. The team's main focus has been to document state and local ownership of roads classified by the Utah Department of Transportation as B or D roads. Class B roads are county roads that are eligible for state-funded maintenance. Some Class B roads are paved, while others are graded dirt roads that provide access to the state's less-populated areas. Class D roads are county roads that are not Class B roads. Typically, they require four-wheel-drive vehicles and extend into some of the least accessible locations in the state. Although the R.S. 2477 project presents challenges, there seems to be great value in preserving access to public lands.

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**The considerable value of R.S. 2477 rights-of-way justifies the state's expense to protect its claims to those roads.**

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**The Value of Preserving Utah's Rights-of-Way Is High but Difficult to Quantify.** In addition to estimating the economic benefits of providing access to Utah's public lands, we also tried to estimate the actual value of the state's Class B and D roads. Although precise figures are not available, we found that the replacement cost of all of the state's Class B and D roads could be as high as \$1.1 billion. Based on economic benefits gained by providing access to the state's public lands and on the value of the roads themselves, it seems reasonable for PLPCO to devote the \$1.1 million that is spent each year to protect R.S. 2477 rights-of-way.

### **Constitutional Defense Restricted Account Is the Primary Source of PLPCO Funding**

The funding for PLPCO's operations comes from two basic sources: (1) the Constitutional Defense Restricted Account, and (2) the state's General Fund. While the office has broad discretion in how its General Fund monies are used, it is somewhat more restricted in its use of funds from the Constitutional Defense Restricted Account. Figure 1.3 shows the sources of funding for PLPCO since its creation in 2005.

**Figure 1.3 PLPCO Receives the Majority of Its Funding from the Constitutional Defense Restricted Account.** Other funding sources include the General Fund and \$1.48 million in non-lapsing funds that were previously used by the Governor’s Office to defend R.S. 2477 rights-of-way.

Source	Funds Appropriated for Fiscal Year			
	2005	2006	2007	2008*
General Fund		\$ 677,700	\$ 703,900	\$ 714,000
General Fund One-Time	\$ 52,500	(230,000)	99,000	50,000
Constitutional Defense Restricted Account	251,100	2,013,700	2,030,500	2,037,100
Non-Lapsing Funds		1,479,000	1,179,300	371,600
<b>Total</b>	<b>\$ 303,600</b>	<b>\$3,940,400</b>	<b>\$ 4,012,700</b>	<b>\$ 3,172,700</b>

\* These are appropriated funds, not the actual amount spent.

**64% of PLPCO’s fiscal year 2008 funding came from the Constitutional Defense Restricted Account.**

In fiscal year 2008, 64 percent of PLPCO’s funding came from the Constitutional Defense Restricted Account, with 22 percent from the General Fund and 12 percent from funds carried forward from the prior year’s budget. The remaining two percent was a one-time General Fund appropriation for grazing rights issues. A large part of the office’s budget is used to protect R.S. 2477 rights-of-way.

The \$2 million that is allocated to the Constitutional Defense Restricted Account each year comes from School and Institutional Trust Lands Administration (SITLA) land transactions which include sales and lease agreements, as well as mineral, oil and gas royalties. These monies can be used for any purpose, as determined by the Legislature, to defend the *Utah State Constitution*. Figure 1.4 describes how Constitutional Defense Restricted Account monies may be used.

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**Figure 1.4 Constitutional Defense Restricted Account Uses Are Prescribed.** Constitutional Defense Restricted Account monies may be used only for the purposes listed in statute.

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The Legislature may annually appropriate monies from the Constitutional Defense Restricted Account to one or more of the following:

- Challenge “the constitutionality of unfunded federal mandates.”
- Protect “state and local government rights under R.S. 2477.”
- Protect “the rights of the School and Institutional Trust Lands Administration and its beneficiaries.”
- Challenge “federal intervention that would damage the state's mining, timber, and ranching industries.”
- Challenge federal mandates for “local air quality standards and penalties.”
- Challenge certain federal court rulings, regulations and laws.
- Coordinate public lands policy.

Note: See **Utah Code** sections 63C-4-102, 63J-4-603; 63J-4-605.

Although the statute identifies several uses for the Constitutional Defense Restricted Account, the majority of the funds are currently allocated to PLPCO to coordinate state public lands policies and to protect R.S. 2477 rights-of-way.

## **Effective Management Is Vital to PLPCO’s Success**

Legislators asked us to examine PLPCO’s management controls and level of accountability. Some legislators are concerned that insufficient progress is being made on several important public lands issues. For example, they question whether the state has been making adequate progress in resolving conflicts over R.S. 2477 rights-of-way, grazing rights, land use, and other public lands issues facing the state. Furthermore, some legislators feel they have not been receiving information they need to identify the cost of addressing specific public lands issues. The apparent lack of progress has led them to question the effectiveness of PLPCO’s management controls.

As a new office, PLPCO should have already developed a set of management controls to address legislators’ concerns. In fact, the Legislature requires the Office of the Legislative Auditor General (LAG) to provide all new agencies with information regarding the development of management controls. Specifically, the law requires LAG to “provide each new program and agency created with a list of best practices in

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**Some legislators are concerned with PLPCO’s management controls and accountability.**

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setting up their program or agency” (*Utah Code* 36-12-15). In the interest of providing this list, LAG created a booklet titled *Best Practices for Good Management*. LAG uses this publication to inform new agencies of basic management tools that should be used by managers in each state agency. These tools include:

- Planning
- Policies and procedures
- Data management
- Human resource management
- Performance measures
- Evaluation

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**In 2005, PLPCO’s first director was encouraged to adopt the best practices in management controls but did not.**

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PLPCO’s first director received a best practices booklet soon after the office was created in 2005, but it appears little action was taken at that time to adopt the management controls recommended in that document. Although PLPCO is no longer a new office (having been in operation for over three years), the current management had only been in place for about six months when this audit started. For this reason, our focus was to review the adequacy of PLPCO’s management controls.

## **Audit Scope and Objective**

We chose to address legislator’s concerns by examining the following three areas:

- Management controls and accountability issues
- Development of appropriate performance measures
- Expenditures for travel and vehicle use

In Chapter II, we discuss planning, policies and procedures, organizational structure, human resource management, and performance measures. Chapter III discusses the need for improved governance of PLPCO but only after the Legislature has clarified the office’s roles and responsibilities. Chapter IV covers the need to improve controls over PLPCO’s finances and also addresses the specific questions raised about travel and vehicle expenses.

## Chapter II

# PLPCO's Management Controls Need Improvement

Several important management controls are either not in place at the Public Lands Policy Coordination Office (PLPCO), or they are not being used effectively. Management controls are tools that managers use to ensure that the agency's work proceeds as expected. Specifically, PLPCO can improve its planning, policy and procedures, organizational clarity, and performance measures, all of which are discussed in this chapter. By strengthening these management controls, PLPCO should be able to operate more efficiently and effectively as well as increase the level of accountability to the Legislature and other stakeholders.

### Planning, Policy Development, and Organizational Structure Can Improve

PLPCO needs to work on planning, policies, and organizational clarity. We compared PLPCO's management approach to the best practices and management controls recommended in the Legislative Auditor General's (LAG) previously mentioned handbook, *Best Practices for Good Management*. First, the office needs to improve two plans mandated by *Utah Code* as well as develop an overall strategic plan. Second, management has not developed policies and procedures to implement the statutory mandates for the office but has relied on the more general *Utah Code* provisions for direction. Third, it appears that some organizational structure issues, such as reporting relationships and lines of authority in PLPCO, need to be clarified. This clarification is particularly needed since one of PLPCO's major programs is staffed by a full-time team from the Attorney General's Office.

#### Broad Strategic Planning, Project-Level Planning Both Needed

PLPCO should improve its planning processes. Plans for achieving both project-level and office-wide objectives are in need of attention. Specifically, we identified three major areas of planning needing improvement, as follows:

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Plans, policies, and clear reporting relationships are management controls in need of improvement.

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- The plan for asserting and defending R.S. 2477 rights-of-way should be updated and better circulated among stakeholders.
- The statewide land use plan has not been developed by PLPCO; however, GOPB staff have recently compiled most county land use plans, so a statewide plan now appears to be under development.
- The overall strategic planning for PLPCO has not been done.

The first two plans are statutorily required, while strategic planning is highly recommended as an essential management tool. PLPCO should engage in or make improvements to these plans for statutory compliance as well as improvement in overall effectiveness, as will now be discussed.

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**The five-year-old R.S. 2477 plan should be updated and provide more detail on the present approach to defending R.S. 2477 rights-of-way.**

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**Existing Plan for R.S. 2477 Rights-of-Way Project Should Be Updated.** *Utah Code* 63C-4-104 requires developing a plan that presents “the broad framework of a proposed working relationship between the state and participating counties collectively for the purpose of asserting, defending, or litigating state and local government rights under R.S. 2477.” According to PLPCO’s director, present efforts to protect R.S. 2477 rights-of-way are guided by an *Amended Plan for R.S. 2477 Rights*. However, our work indicates the plan is outdated and does not reflect the changes that have occurred in the state’s litigation strategy.

One concern is that the plan’s content is not up to date. According to Constitutional Defense Council (CDC) meeting minutes, the plan was drawn up eight years ago in 2000 and amended three years later in 2003. (The CDC is the body with authority to approve an R.S. 2477 plan that meets requirements laid out in *Utah Code* 63C-4-104.) However, PLPCO’s litigation strategy has changed during the past five years.

The introduction to the plan states that the “central aim of this project is to file a large-scale, statewide quiet title action” to “seek to establish the state and counties as holding title to R.S. 2477 highways in Utah.” A statewide quiet title action is no longer the main focus of PLPCO’s efforts to defend disputed public rights-of-way, though this approach may still be used with some roads. Rather, staff have been gathering documentation, mapping and photographing the roads, and obtaining affidavits from individuals with knowledge of roads which existed prior to 1976 (one of the federal requirements for the rights-of-way). The goal of this effort is to file the documentation on the roads with each county’s recorder’s

office. Another, related concern is that a 2006 federal court decision states that only the courts can make a determination of a valid R.S. 2477 right-of-way. In other words, filing documentation in county recorder's offices does not guarantee that the recordation effort will resolve the issues.

We also heard from some interested legislators and county officials that they do not know enough about the project or the reasons for an apparent lack of progress in establishing R.S. 2477 rights-of-way. In fact, concerns about the progress and direction of the R.S. 2477 project were partly responsible in generating a request for this audit. The statute requires, among other things, that the plan be developed to keep the counties and the state in agreement with the direction the project's efforts should take. By updating and obtaining local approval for the new plan, PLPCO might be able to address the concerns of the stakeholders whose support is needed for the plan to succeed.

An additional concern is that the 2003 plan does not specify deadlines for accomplishing major objectives. The CDC's May 2006 minutes record that a PLPCO deputy director predicted "in a year or so, we will have all the roads being claimed recorded [documentation filed at county recorders' offices]. 'B' roads are being recorded first, and then the 'D' roads." Two full years passed, however, before all the Class B roads were recorded, and PLPCO is now just beginning to work on Class D roads. Furthermore, county commissioners feel that the only reason the recordation of the Class B roads was completed at all was that they, as county commissioners, pressed for a deadline of June 30, 2008.

PLPCO faces some challenges in its attempt to preserve the state's claims to thousands of disputed R.S. 2477 rights-of-way. Considering that the policies of federal land management agencies and private wilderness and conservation groups are sometimes contrary to those of the State of Utah, success may continue to be difficult regardless of the strategy pursued. In addition, Utah is almost alone among the states in its R.S. 2477 efforts, and so cannot draw on others' experience. One other state, Alaska, is working actively on R.S. 2477 rights-of-way claims, but its strategies are very different from Utah's. Nonetheless, in our opinion, insufficient planning has had negative effects on the project's momentum.

**Required State Land Use Plan, Though Not Yet in Place, Seems To Be Under Development.** As noted above, *Utah Code* requires

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**The R.S. 2477 project has taken longer than many expected; a clear plan of action might have helped keep the work on track.**

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**GOPB has begun gathering county-level plans, but PLPCO has not yet put together a statewide land use plan as required in statute.**

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PLPCO to develop a statewide plan dealing with the use of Utah's lands. Specifically, *Utah Code* 63J-4-603(1)(a)(iv)(D) requires PLPCO to "develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions" and also requires that PLPCO involve the counties in that planning process. This plan, then, gets at the heart of PLPCO's mission of coordination, or "speaking with one voice" to represent the perspectives of various state and local entities on public lands issues.

PLPCO has not yet put together such a cooperative plan with the counties. However, during our audit work, we found that GOPB planning staff had begun gathering county-level land use plans for those counties with plans in place. Thus, it appears that GOPB has made a start in gathering a lot of the material needed for PLPCO to develop a statewide plan as required in statute.

The section of the statute that calls for the statewide land use plan assigns PLPCO other responsibilities (all focused on the development of public lands policy) that culminate with the directive to develop the statewide land use plan. For example, PLPCO is required to develop "cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policy" and to prepare comments ensuring that the state's and political subdivisions' positions are considered in the development of such policy at the federal level. It seems to us that the prioritization and organization of these and other listed responsibilities within a statewide plan would assist PLPCO in focusing on fulfilling its mission. In our view, both this statewide plan and an updated R.S. 2477 plan should be aligned with the priorities laid out during the development of an office strategic plan.

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**PLPCO needs to engage in strategic planning that includes all of its major projects.**

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**Broader Strategic Planning Is Also Needed.** A strategic plan can be described as the result of a systematic process by which an organization formulates achievable, action-based objectives based on its mission and goals for the long term, encompassing multiple years. This is a broader focus than what is found in year-to-year project plans. Essentially, the strategic plan lays out the entity's overall strategy or direction to be taken with a major goal of mission accomplishment. Yearly plans focus on short-term steps that can be completed within one year.

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**A strategic plan has benefits that include informing oversight entities of program goals and objectives to achieve buy-in.**

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Thus, we believe PLPCO would do well to prepare a strategic plan that includes all of its major responsibilities, from R.S. 2477 roads to preservation of archaeological artifacts to the variety of public lands issues under its purview. Examples of the latter include work on issues like grazing rights, the endangered status of prairie dogs, the designation of wild and scenic rivers, and the state's response to the Bureau of Land Management's (BLM) initial draft of its resource management plans. However, PLPCO's director told us they have prepared plans for only two areas: air quality and the protected status of the sage grouse.

In addition to providing structure and prioritization of responsibilities, a written plan facilitates the agreement and approval of oversight entities and other stakeholders for the work to be done, provides direction to staff, and includes long-term time frames and deadlines for accomplishing objectives. Strategic planning can also serve as a helpful starting point for a performance measurement system. PLPCO's lack of a strategic plan complicates developing good performance measures, as will be discussed later in this chapter. We now turn to another important best practice, the development of policies and procedures.

### **Policies and Procedures Needed to Guide Staff's Work**

We found that PLPCO has relatively few policies and procedures in place to guide staff's work. According to the director, if needed, staff refer to the *Utah Code* instead of to written policies. However, policies and procedures take the broad direction given in statute and provide more detailed direction for staff use in day-to-day operations.

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**Policies and procedures help staff take actions that are consistent with organizational goals.**

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By preparing a set of policies and procedures, managers can give staff the direction they need to work toward the goals and objectives in the office's strategic plan. Policies and procedures, once written and formally approved by management, could also help improve information flow to stakeholders and oversight entities. In other words, the written guidance found in policies and procedures can help educate interested outside entities about how PLPCO is achieving its goals, thus addressing some legislative concern about the lack of accountability. One example is described below.

**Policies and Procedures Provide Guidance for Everyday Decision Making.** Policies help maintain a proper level of organizational control

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**By having a set of policies/procedures for the comment process on BLM plans, PLPCO could have avoided questions raised by some county commissioners.**

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and keep staff focused on the office's goals and priorities. They also provide standards to which staff performance can be compared to hold them accountable for their work.

The following example illustrates one area where program-level policies could have been helpful. One of PLPCO's responsibilities is to prepare a formal state response to the BLM's drafts of resource management plans for its five regions in the state. PLPCO is required to obtain comments from counties and state agencies affected by each BLM regional plan and then compile and submit a state-level response. However, some county commissioners we interviewed expressed concern about PLPCO's process for gathering and submitting their comments to the BLM.

The commissioners raised questions that, in our opinion, indicate that this process needs to be more clearly described to those interested in submitting comments on proposed federal plans. Questions included the following:

- Were their comments being submitted to PLPCO in a timely manner?
- Can comments be submitted verbally, over the phone, or do the comments need to be written?
- Is PLPCO required to incorporate all of a county's comments in the state response?
- Can counties receive a copy of the final comment letter that is sent to the BLM?

In our view, PLPCO could have lessened the commissioners' concerns if it would have had policies and procedures to guide the process of receiving input from the counties and drafting a statewide response.

Similarly, we believe there are other areas in which PLPCO's efforts to unify groups around a single state lands policy could benefit from a clear set of policies and procedures. While at least one staff person has developed some informal policies and procedures for the specific responsibilities of her position, we found other operational areas were lacking formal, written policies and procedures.

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Attention to organizational issues is especially important when staff from two different agencies work together on a day-to-day basis.

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## Some Organizational Issues Need to Be Resolved

Organizational structure and reporting relationships should be more clearly delineated because of the unusual composition of the staff working on the R.S. 2477 project and on other projects. PLPCO's activities are staffed by a combined group of Attorney General (AG) staff and PLPCO staff. The AG staff are housed at PLPCO on a full-time basis to work on the R.S. 2477 rights-of-way project. As we met and interviewed some of the staff, we observed some uncertainty regarding their respective roles and responsibilities in this essentially hybrid office. The perceived lack of well-defined roles and responsibilities is of particular concern with regard to the R.S. 2477 team.

Clear organizational structure and reporting relationships are considered to be best management practices. The U.S. Office of Management and Budget has prepared a list of recommended management controls which includes, among other items, several principles of organizational structure and human resource management. PLPCO management would do well to apply these principles to the R.S. 2477 project specifically and to the office in general. These best practices include:

- **Delegation of Authority and Organization** — Managers should ensure that appropriate authority, responsibility, and accountability are defined and delegated to accomplish the mission of the organization.
- **Supervision** — Managers should communicate to staff their key duties and responsibilities and how their jobs relate to the overall mission of the organization. Managers should exercise appropriate oversight to ensure that individuals do not exceed or abuse their assigned authorities.

With these maxims in mind, the roles and responsibilities of R.S. 2477 team members should be clearly defined. The combination of staff from two agencies, with the team leader from the Attorney General's Office and PLPCO's director both having supervisory authority, calls for clearly defined lines of authority, reporting relationships, and staff responsibilities.

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It is particularly important to ensure that roles, responsibilities, and reporting relationships are communicated clearly to all staff.

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For example, some R.S. 2477 team members told us that they had not received adequate direction regarding their specific work roles and responsibilities. On the other hand, PLPCO's director perceives that his direction to the team's attorneys is questioned at times because staff are unclear whether they report to him or to the assistant attorney general leading the R.S. 2477 team.

In our opinion, both the rate of progress on the R.S. 2477 project and staff morale in general could be affected by the lack of clearly defined responsibilities and reporting relationships. Interestingly, some team members commented about times when they themselves were not as productive as they should be, indicating they were unsure what was expected of them or that they did not get sufficient direction from their supervisors. To illustrate, one staff person, when first hired, stated he was not given any duties or direction for over a month before being oriented to the new position. Another reported that he did not meet with his supervisor for two weeks after being hired. At times, it seems to be unclear who is responsible to whom and who is ultimately in charge of the project.

### **PLPCO Can Improve Its Performance Measures**

A good performance measurement system is another important management control tool that could be of benefit to PLPCO. Staff are currently working on a Balanced Scorecard (BSC), a performance measurement tool being implemented in executive branch agencies. Ideally, PLPCO should have developed its performance measures when the office was first created. Three years later, however, the office is working on performance measures but has not yet implemented performance measurement in general or the BSC specifically. We are also concerned that the office's recent draft BSC focuses on measuring process and output rather than on measuring outcomes or end results. In our opinion, the lack of a strategic plan has impeded PLPCO's efforts to develop good performance measures.

Performance measurement uses specific terminology that may be unfamiliar to a reader. These are some of the terms that are commonly used when discussing performance measures.

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**PLPCO should actively work on implementing a Balanced Scorecard to give program performance data to management.**

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- **Input**—resources used to produce services, including human, financial, facility, or material resources
- **Output**—goods and services produced by an agency
- **Outcome measures**—indicators that assess the actual impact of an agency’s actions, allowing comparison between actual and intended results
- **Efficiency measures**—indicators that measure cost, unit cost, or productivity associated with a given output or outcome

### **PLPCO Should Have Developed Performance Measures When First Created**

Shortly after PLPCO was created, management should have developed a process for setting goals and monitoring performance. In fact, in June 2005, legislative audit staff advised PLPCO’s new director to do just that. Developing performance measures is one of the best practices found in the Legislative Auditor’s *Best Practices for Good Management* that was given to the director. Similarly, in 2006 the Governor’s Office of Planning and Budget (GOPB) encouraged PLPCO to begin work on a BSC at the same time that other state agencies were getting started on theirs. However, during the 24 months of the first director’s tenure, PLPCO did not adopt formal performance measures.

In February 2008, during our first audit meeting with the current director and the state planner, we were told that PLPCO did not have a functioning set of performance measures in place. Shortly after our meeting with them, however, PLPCO provided us with a draft of their BSC. In our opinion, this draft needs additional work before the office will be able to generate meaningful performance data for management and accountability purposes. The GOPB staff in charge of the BSC project agreed that additional work was still needed before PLPCO’s BSC could be put into use.

Although PLPCO staff are currently working on revisions to their draft performance measures, several factors have slowed progress on the implementation of a BSC. GOPB staff coordinating the BSC project understandably gave priority to large-budget agencies before smaller operations, such as PLPCO. As a result, PLPCO initially had less guidance from the GOPB staff than large agencies received. In addition, the project coordinating staff told us that PLPCO’s former director

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**PLPCO’s previous director was encouraged to develop performance measures by both the Legislative Auditor’s Office and GOPB when PLPCO first began to operate.**

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resisted the development of a BSC. PLPCO began work on a BSC after the current director took over in May 2007.

We recognize that PLPCO has made an effort to reactivate the BSC development process. Next, the office staff should evaluate their draft performance measures (with the assistance of GOPB's Strategic Management Section) to ensure that the BSC becomes focused on measuring outcomes rather than process and output, as will now be discussed.

### **PLPCO's Balanced Scorecard Still Needs Significant Work**

With PLPCO's BSC being revised, much of the material in this section offers suggestions for improvement to an evolving document. For example, PLPCO's currently proposed performance measures are not clearly directed at identifying progress toward the office's key goals. Many of the draft performance measures focus on measuring tasks, such as the number of meetings attended, or processes, such as the number of archaeological permit applications completed. Instead, PLPCO should place primary emphasis on outcome measures and efficiency measures that show progress toward goals rather than a raw count of processes completed and output produced.

**PLPCO's BSC Should Focus on Key Goals and Performance Measures that Show Progress Toward Those Goals.** The draft we reviewed does not meet requirements listed in GOPB's brochure *Guidance on Performance Measure Management*. The GOPB's instructions to agencies indicate that a BSC should present four or five key agency goals, along with the most important indicators (performance measures) that show most clearly the progress—or lack of it—toward each goal. The BSC is clearly intended to be structured around major goals that may involve more than one program.

However, PLPCO's draft BSC lists its three main program areas by name: coordination, cultural compliance and coordination, and public rights-of-way, instead of laying out high-level goals. For example, to what end is the coordination program directed? What does cultural compliance mean and what is its goal? What is the purpose of PLPCO's public rights-of-way program? In addition, the measures for each area focus on compliance (for example, whether responses were submitted

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**PLPCO's measures  
need to focus on  
progress toward  
meeting key goals.**

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**The current director has taken steps to start working on a BSC and develop performance measures.**

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within the time frame) instead of measuring activities that move toward program goals.

Numerous sources of information on performance measurement are available to PLPCO to assist the office with developing good performance measures. GOPB's website presents guidance gathered from outside sources and developed in-house, providing a good place to turn for help. For example, the link on the website for planning information offers definitions, useful questions to aid in developing measures, and examples for each topic discussed. Questions to consider when developing outcome measures include the following:

- Will the outcome measure enable a decision to be made or lead to a valid conclusion about the agency's action?
- Is the outcome measure directly related to the agency's goals?
- Is the outcome reliably measurable? That is, will it measure the same thing over a period of time?
- Is the outcome measure clear? Are the terms generally accepted, defined, and easily understood by someone unfamiliar with the subject?

To illustrate some other agencies' measures, the Department of Health's BSC lists "Prevent Disease and Disability" as a major goal, while an example from the Tax Commission's BSC is "Do It Right the First Time—Quality Customer Service." These BSCs then list specific measures related to the particular goal, many of which apply to multiple divisions or programs in the agency. Examples include "Estimated % of Utah Children in Immunization Registry" and "Minimize Office Wait Times in Motor Vehicle Offices."

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**Key performance measures should have clear ties to the accomplishment of the agency's mission.**

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PLPCO staff and various stakeholders have told us that PLPCO's purpose is to ensure that Utah speaks "with one voice" on public lands policy issues. We believe that the BSC development process needs to start with this higher-level goal. By working its way through mission to strategy, goals, and objectives (all of which are part of the strategic planning process), PLPCO should be able to identify the key goals to include on the BSC. The current draft BSC, however, emphasizes measuring specific tasks because such activities can easily be counted.

Once a BSC measurement system is operational, program managers and staff could use the data to compare their actual performance to goals



and objectives and then make changes as needed to improve program operation. To illustrate, changes might include adjustments in program activity, staff focus, or budget. BSC feedback data might even reveal that some measures need to be modified to make them more useful.

**In Summary, Effective Performance Measures Have Specific Characteristics.** Whether part of the BSC or another performance measurement system, good measures embody certain qualities. The Legislative Auditor's *Best Practices for Good Management* and GOPB have identified important descriptors of an effective performance measurement system, including the following:

- **Results-oriented**—focuses on outputs and especially outcomes
- **Selective**—concentrates on most significant performance indicators
- **Reliable**—produces data that are accurate and consistent over time
- **Useful**—produces information valuable to the agency and decision makers
- **Accessible**—provides periodic information about results of agency efforts

As noted earlier, a strategic plan helps in developing performance measures because goals, objectives, and timelines have already been identified. Working from a strategic plan and developing measures that meet the descriptors above should help ensure that PLPCO prepares an effective BSC. We encourage PLPCO to seek the assistance of GOPB staff when either working on a strategic plan or reworking its performance measures.

## **Recommendations**

1. We recommend that PLPCO update the 2003 amended plan for the R.S. 2477 project and seek formalized stakeholder concurrence with the current and planned efforts.
2. We recommend that PLPCO prepare a statewide land use plan as required by the *Utah Code* 63J-4-603(1)(a)(iv)(D).
3. We recommend that PLPCO develop a strategic plan that covers each of the office's major areas of responsibility.

4. We recommend that PLPCO develop policies and procedures to guide staff work.
5. We recommend that PLPCO clarify reporting relationships in the organizational hierarchy.
6. We recommend that PLPCO revise its Balanced Scorecard by:
  - improving performance measures,
  - identifying and focusing on critical goals, and
  - using strategic planning to help identify these goals.

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## **Chapter III**

# **Clear Goals and Effective Oversight Are Essential for Accountability**

The Legislature can do two things to help the Public Lands Policy Coordinating Office (PLPCO) become more accountable for its performance: (1) clearly define its powers and duties, and (2) designate some person or group to whom it answers. We found that PLPCO has been performing tasks, such as overseeing the R.S. 2477 project, without statutory authority. Either the scope of its powers and duties needs to be expanded, or the office should limit its activities to those defined in statute. Furthermore, PLPCO receives guidance from a number of different administrators, councils, and committees. It is unclear to which group the Legislature intended that PLPCO be accountable. This chapter explores several options the Legislature should consider in order to clarify PLPCO's goals and objectives and to provide a unified governance structure.

### **PLPCO's Statutory Authority Should Be Reviewed**

Some of the activities in which PLPCO is involved do not match those described in statute. The original purpose for creating PLPCO was to help the State of Utah develop a unified set of public lands policies and plans. However, the office has also been administering the R.S. 2477 project and spending \$2 million of its budget on the project without statutory authority to do so. Although some legislators and other state officials may have intended that PLPCO administer the R.S. 2477 project, that intent was never expressed in statute. Furthermore, as mentioned in Chapter II, PLPCO has not carried out its responsibility to draft a statewide land use plan. Instead, this task is being carried out by the Governor's Office of Planning and Budget (GOPB).

### **PLPCO's Purpose Is to Unify Public Lands Policies and Plans**

As mentioned in Chapter I, the purpose for creating PLPCO was to help the state speak with one voice on public lands policy and planning

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**PLPCO's primary purpose has been to create a unified set of public lands policies and plans.**

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issues. In 2005, many state officials, including legislators, were concerned that different state agencies were taking conflicting policy positions with regard to the management of public lands in Utah. These concerns led to the passage of S.B. 239, which created PLPCO. The bill’s sponsor described the purpose of his legislation this way:

Something that has been very frustrating to those of us who have dealt with public land issues is any time there is any federal planning effort . . . we will have the state commenting from different departments and different agencies. Often times those comments are 180 degrees apart. And so you have the federal land management agencies holding up two letters, both on state letterhead, saying “Who really speaks for the State of Utah?” This [bill] is an effort to bring unification and to speak with one voice on public land matters.

With the passage of S.B. 239, staff from several different agencies were combined to form a single office called the Public Lands Policy Coordinating Office to be headed by the public lands policy coordinator. The legislation directed the new office to work with other state agencies to create a unified set of state policies and plans regarding public lands matters. The full text of PLPCO’s statutory powers and duties is included in the appendix.

The statute assigns PLPCO such tasks as “developing cooperative contracts and agreements . . . producing research, documents, maps . . . and preparing comments.” In addition, PLPCO is to “develop and maintain a statewide land use plan . . . and . . . facilitate and coordinate the exchange of information . . . .” These statements indicate that the office’s main tasks have to do with planning and policy development. The legislation did not authorize the office to actually administer programs affecting public lands.

### **PLPCO Has No Clear Authority To Direct the R.S. 2477 Project**

Since it was first created, PLPCO has played a major role in the administration of the state’s R.S. 2477 project. Although legislators seem to be aware of the office’s involvement and approve of the leadership role it plays, it is unclear why the R.S. 2477 project was not listed among PLPCO’s statutory responsibilities. Instead, the statute assigns responsibility for the R.S. 2477 project to other entities.

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**Although it has no statutory authority to do so, PLPCO oversees the R.S. 2477 project.**

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Many legislators and state officials seem to be aware of PLPCO's role in overseeing the R.S. 2477 project.

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### **PLPCO's Work on the R.S. 2477 Project Is Widely Known.**

During the same legislative session in which PLPCO was created, the Legislature approved a budget transferring the funding for R.S. 2477 from the Governor's Office to PLPCO. The 2005 Appropriations Act specified that the \$1.9 million from the Constitutional Defense Restricted Account should be used to "implement the provisions of Public Lands Policy Coordination (S.B. 239)." So it appears that legislators were made aware of the transfer of R.S. 2477 funding to PLPCO. However, as mentioned, nothing in that enabling legislation gave PLPCO specific authority over the R.S. 2477 project.

Since that time, legislators seem to have been aware that PLPCO has played a major role in overseeing the R.S. 2477 project. The budget documents presented to legislators by the Legislative Fiscal Analyst have described PLPCO's role in administering the R.S. 2477 project. In addition, based on the legislative meetings we attended and meeting recordings we reviewed, and from our discussions with legislators, it is apparent that many legislators are aware that the public lands policy coordinator is directing the work of the R.S. 2477 project team and that his staff perform major responsibilities in moving the project forward.

**PLPCO Has Assumed the Authority Granted to Other Entities for the R.S. 2477 Project.** We find no support in statute allowing PLPCO to perform a role in administering the R.S. 2477 project. PLPCO may only participate in the R.S. 2477 project to the extent authorized by *Utah Code* 63J-4-603; the office may assist the state planning coordinator by performing his responsibilities with regard to the project and by coordinating information between other entities that also have a statutory responsibility toward R.S. 2477. The statute does not grant PLPCO authority to oversee the R.S. 2477 project, a responsibility that has been granted to the Constitutional Defense Council and the R.S. 2477 Plan Committee by *Utah Code* 63C-4-102 and by the plan approved under *Utah Code* 63C-4-104. According to the statute, PLPCO may only help coordinate information between those two entities.

Furthermore, if the current statute is followed precisely, none of the nearly \$2 million PLPCO receives from the Constitutional Defense Restricted Account should be spent on the R.S. 2477 project. Instead, PLPCO should devote those resources to performing the statutory responsibilities outlined in *Utah Code* 63J-4-603. As mentioned previously, the statute directs PLPCO to focus on such activities as

drafting state land use plans, preparing comments on federal agency plans, and coordinating state land use policies. However, to follow the statute precisely would essentially cut off all funding for the state's efforts to protect R.S. 2477 rights-of-way. It is unclear whether that was the legislature's intent when PLPCO was created. If the Legislature intends that PLPCO carry out other responsibilities, such as overseeing the R.S. 2477 project, then the Legislature needs to more broadly define the scope of the office's mission in statute.

### **PLPCO's Planning Responsibility Handled by Another Agency**

While PLPCO has assumed others entities' responsibility to oversee the R.S. 2477 project, PLPCO's responsibility to draft a statewide land use plan is being performed by another agency. *Utah Code* 63J-4-603 states that "the office shall . . . develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions." The public lands policy coordinator reports that PLPCO has done some planning. For example, he points out that his office has developed specific plans dealing with such matters as air quality and the sage grouse. However, PLPCO has not developed a statewide land use plan. As mentioned in Chapter II, that responsibility has been assumed by GOPB. According to the state planning coordinator, his staff are in the process of consolidating county land use plans into a single statewide plan. Because PLPCO, not GOPB, has a statutory mandate to develop the statewide land use plan, PLPCO should be responsible for drafting that plan.

### **Legislators Should Re-Examine PLPCO's Responsibilities**

PLPCO's authority to perform any task is ultimately derived from the powers and duties given to the agency in statute. The Legislature established the agency as a clearinghouse for public lands policies and plans in Utah. The statute does not grant PLPCO authority to directly administer public lands projects and programs—except for the administration of archaeology permits. It is unclear whether or not this was the Legislature's intent. In any case, if the agency is to succeed in meeting the performance expectations established by the Legislature, the scope of the office's responsibilities needs to be clearly defined in statute. We believe the Legislature has two options:

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**Although it is PLPCO's responsibility, the Governor's Office has been developing the statewide land use plan.**

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- Expand the office’s statutory authority by clearly defining its responsibility to administer specific programs, such as the state’s R.S. 2477 project.
- Take no action, effectively limiting PLPCO to the coordination role currently described in statute, leaving the administration of R.S. 2477 to the CDC and the Client Committee.

As it reconsiders the scope of PLPCO’s responsibilities, the Legislature should also review the roles and responsibilities of the multiple public councils and committees involved in public lands policy issues. This matter is described in the following section.

### **PLPCO Lacks a Clearly Defined Governance Structure**

Currently, many different state officials, councils, and committees have a role in providing PLPCO with policy direction and oversight. We found that the responsibilities of these individuals and groups are not well defined and, as a result, it is unclear to whom PLPCO is accountable. By providing the agency with a clearly defined governance structure, the Legislature will increase the likelihood that PLPCO will be able to meet its goals and objectives. Figure 3.1 below describes the relationships that we observed between PLPCO and those groups and individuals who provide the agency with oversight and advice.

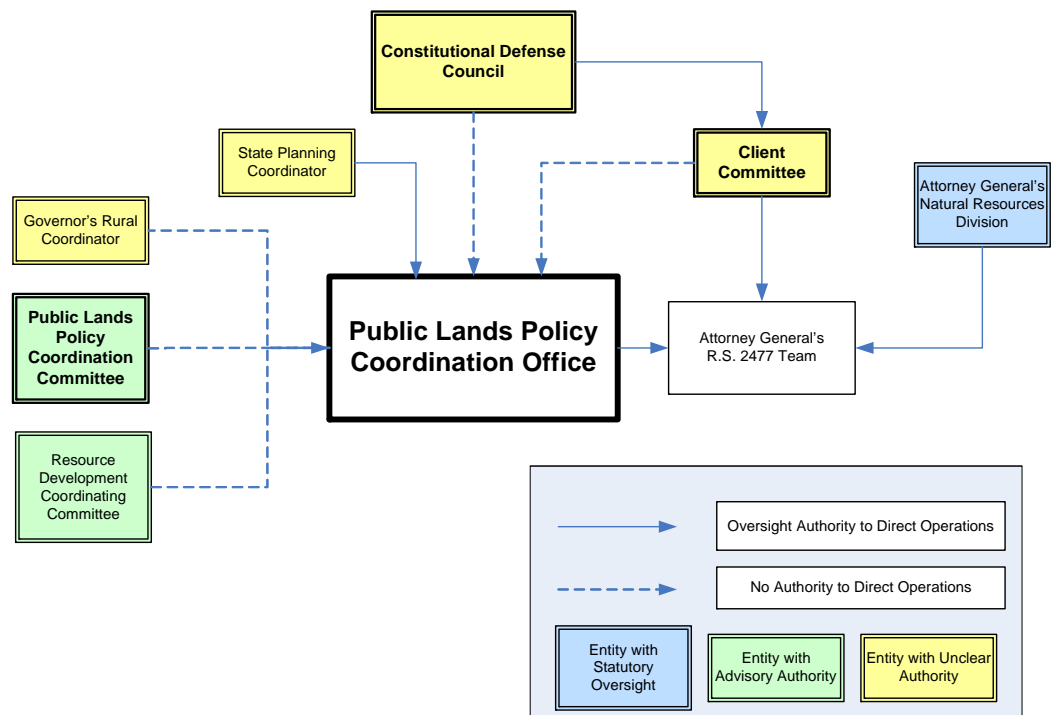
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**Several councils and committees provide advice and oversight of public lands matters, but their roles are not clearly defined.**

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**Figure 3.1 Multiple Bodies Provide Oversight or Advice to PLPCO.** The exact reporting structure between some of the oversight entities is unclear.



**PLPCO receives guidance from several different individuals and committees.**

Based on the number of different groups that provide oversight and advice on various public lands issues, the state is clearly committed to providing PLPCO with outside policy guidance and direction. However, in order to create a unified and effective governance structure, the Legislature will need to clarify the roles and responsibilities of the various groups and individuals involved. The following describes each entity and its relationship to PLPCO.

**Constitutional Defense Council Oversees Efforts to Protect State Rights**

It is the responsibility of the Constitutional Defense Council (CDC) to defend the state from federal actions that may affect the sovereignty of the State of Utah and the well-being of its citizens. The Legislature appropriates \$2 million each year to the Constitutional Defense Restricted Account to further the CDC's work. In recent years, all of these funds have been appropriated to PLPCO.

**The Constitutional Defense Council, which oversees a major portion of PLPCO's funding, has not met since May 2007.**

The CDC is comprised of the Governor, the Attorney General, the President of the Senate, the Speaker of the House, minority leaders from both the House and Senate, five county commissioners, and one citizen member appointed by the Governor. The single largest source of funding for PLPCO is the Constitutional Defense Restricted Account. For this reason, the CDC should be regularly reviewing PLPCO's expenditures. However, due to the creation of two other committees, the Public Lands Policy Coordinating Council and the R.S. 2477 Client Committee, some CDC members have been led to believe these other entities have assumed the CDC's responsibilities and that the CDC is no longer needed. This appears to be one reason the CDC has not met since May 2007.

### **Public Lands Policy Coordinating Council Is an Advisory Body**

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**PLPCO is required to consider the recommendations of the Public Lands Policy Coordinating Council.**

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The Public Lands Policy Coordinating Council (or Coordinating Council) is an advisory panel with seven members: one Governor's appointee, two members representing the House and Senate, two representatives from the Utah Association of Counties, and the directors of the Department of Natural Resources and the School and Institutional Trust Lands Administration. This group is not charged with holding PLPCO accountable for achieving their performance and spending goals. Rather, the Coordinating Council provides a forum where stakeholders can discuss Utah's public lands policies and craft solutions to problems.

In the past, the Coordinating Council has successfully addressed a number of public lands policy issues facing the state. For example, it has considered the issues surrounding wild and scenic river designation, the allocation of grazing allotments between livestock and wildlife, and the designation of wilderness areas. By bringing together various contending parties to discuss the issues, the Coordinating Council has helped the opposing parties clarify their positions and find the common ground necessary to resolve their differences.

Despite its valuable advisory function, the Coordinating Council does not have statutory authority to review the use of funds PLPCO receives from the Constitutional Defense Restricted Account. *Utah Code* 63J-4-605 details the duties of the Coordinating Council: "The council shall provide advice and recommendations on the development of public lands policies to the: Public Lands Policy Coordinating office; state planning coordinator; and governor." This statement indicates that the committee

is limited to providing advice rather than providing policy direction and financial oversight as some have suggested that it should.

### **The Authority of R.S. 2477 Client Committee Is Unclear**

The R.S. 2477 Client Committee was created to oversee the R.S. 2477 project, PLPCO's largest single expense. *Utah Code 63C-4-104* allows the CDC to create a "plan committee" to oversee the litigation strategy used to preserve R.S. 2477 roads. Since renamed the "Client Committee," its members include five county commissioners who represent the Utah Association of Counties and five representatives from the Governor's Office, including the Lieutenant Governor, who chairs the committee, and the Governor's rural affairs coordinator.

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**The R.S. 2477 Client Committee has more authority to direct the R.S. 2477 project than it has used.**

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While it carries out an advisory role, the Client Committee appears to have authority to act as a governing body that can review and approve R.S. 2477 project budgets, expenditures, and litigation strategies. The *Amended Plan for R.S. 2477 Rights*, which was approved by the CDC, gives the Client Committee broad power to oversee the R.S. 2477 project. It states: "The R.S. 2477 [Client] Committee's will and decisions regarding the pursuit of all related R.S. 2477 objectives of the project . . . shall be binding on the participating state and counties."

Furthermore, *Utah Code 63C-4-104(3)(a)* allows the CDC to authorize the Client Committee to review certain types of expenditures, although it is unclear whether this authority has been granted. As shown in Figure 3.2 on page 34, the statute requires the R.S. 2477 plan to identify which types of expenditures must be approved by the Client Committee. The current R.S. 2477 plan does not contain language granting the Client Committee authority to approve expenditures. Further, two of the current Client Committee members told us that they do not review budgets or approve expenditures. However, in 2004 it was reported that the Client Committee did review budgets and approve expenditures. Perhaps the CDC should reaffirm the Client Committee's authority to review expenditures by the R.S. 2477 project team.

## **Other Individuals and Councils Provide PLPCO with Oversight and Advice**

PLPCO is also supported by several individuals and advisory councils that offer administrative oversight and advice. Their roles and relationships to PLPCO are also not clearly defined in statute.

**PLPCO Answers to the State Planning Coordinator.** Currently, the public lands policy coordinator reports directly to the state planning coordinator, although this supervisory relationship is not defined in statute. *Utah Code* 63J-4-603(1)(a) directs the Public Lands Policy Coordinating Office to “assist the state planning coordinator in fulfilling the duties outlined in Section 63J-4-401 as those duties relate to the development of public lands policies.” The statute implies there should be a formal link between PLPCO and the state planning coordinator because most of the state policies regarding public lands are contained in the section of the code listing the state planning coordinator’s duties. However, the statute neglects to specify any direct supervision of the public lands policy coordinator by the state planning coordinator, stating only that the two must assist and cooperate with each other.

**Governor’s Rural Affairs Coordinator Role Unclear.** The Governor’s rural affairs coordinator is affiliated with the Governor’s Office of Economic Development and clearly plays a major role in the state’s public lands issues. However, his relationship to PLPCO and his authority to influence public lands policy decisions is not clearly defined in statute.

**Resource Development Coordinating Committee Belongs to GOPB but Is Staffed by PLPCO.** The Resource Development Coordinating Committee (RDCC) performs a similar function as the Public Lands Policy Coordinating Council but on a broader scale. The RDCC is responsible for helping with the planning and policy development of all of the state’s physical resources, not just public lands. How the two groups differentiate their overlapping responsibilities is unclear. The RDCC is comprised of representatives of several state agencies with an interest in public lands policies. Although the RDCC assists the state planning coordinator in fulfilling his duties and is located in GOPB, it is staffed by PLPCO. While the RDCC addresses issues that may affect the state’s public lands policies, it is unclear why PLPCO

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**The statute needs to more clearly define the relationship between the public lands policy coordinator and the State Planning Coordinator.**

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should be providing support staff for an agency located in the Governor's Office.

**Oversight of R.S. 2477 Team Is Not Clearly Defined.** While the unit is overseen by the Attorney General's Natural Resources Division and falls within the Attorney General's line of command, the CDC, the public lands policy coordinator, and the Client Committee also appear to have some responsibility to oversee the R.S. 2477 project. In addition, some PLPCO staff participate as members of the R.S. 2477 team and the state public lands policy coordinator indicates that he is ultimately in charge of the project. With so many individuals and groups involved in supervising the R.S. 2477 project team, it is difficult to know who is ultimately responsible for the project's success.

**Legislature Needs to Clarify the Roles and Responsibilities of Those Who Oversee Public Lands Issues.** One reason this audit was requested is that some legislators have concerns about the use of the Constitutional Defense Restricted Account and the apparent lack of progress being made on a number of public lands disputes with federal agencies. The request letter prompting this audit states, "We have a growing concern with the office's apparent lack of accountability that is visible in questionable expenditures and undefined authority." In our view, a confusing governance structure has contributed to the apparent lack of accountability. The remainder of this chapter is devoted to three strategies the Legislature could pursue in order to provide PLPCO the governance structure it needs.

### **Strategies for Improving Oversight Should Be Considered**

There are several strategies the Legislature could consider in order to provide PLPCO with a unified governance structure. Much will depend on whether the Legislature decides to expand the powers and duties of the office. If PLPCO is required to perform administrative tasks, such as administering the R.S. 2477 project and staffing the RDCC, then it would be appropriate to provide the office with oversight from an outside oversight body. On the other hand, if the Legislature limits the office's scope of responsibilities to those listed in statute and relieves it of any responsibility for the R.S. 2477 project, then answering to a single administrator, such as the state planning coordinator, could provide adequate oversight.

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**If PLPCO is to continue overseeing the R.S. 2477 project, it would benefit from having its own governing body.**

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**The Constitutional Defense Council once considered creating a Public Lands Policy Council but never acted on that proposal.**

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If the Legislature opts for an expanded role for PLPCO, we recommend they consider one of the following two options:

- Create a new public lands policy council which combines the benefits of the various existing councils and committees.
- Use the CDC as prescribed in statute, but clarify its role and designate it as the oversight entity for PLPCO.

Finally, regardless as to other action that may be taken, the Legislature should consider formally defining the role and responsibilities of the Client Committee in statute.

**Create a Public Lands Policy Council.** The first option, that of creating a public lands policy council, was proposed by a past member of the CDC as a means of combining the benefits of all the involved committees into one statutorily authorized body. The minutes of the CDC's last meeting in May 2007 indicate that the council members considered a proposal "to eliminate the CDC as a body but merge CDC responsibilities pertaining to public lands issues into the Coordinating Council." It was suggested that the new oversight body could be named the "Public Lands Policy Council." However, no action was ever taken by the CDC or the Legislature on this proposal.

Taking that proposal a step further, a new oversight body could also be given responsibility to review and approve the budget and monthly expenditures, receive PLPCO's annual report, review and approve the R.S. 2477 plan, and provide the guidance necessary for PLPCO to achieve its organizational goals. In addition, the new council could oversee implementation of the management tools and controls discussed in Chapter II and PLPCO finances to be discussed in Chapter IV.

**Reconvene the Constitutional Defense Council.** In some ways, the existing statute already provides PLPCO with adequate oversight through the CDC. In fact, many of the problems which led to this audit could likely have been avoided if the CDC had been carrying out the specific duties that are mandated in statute. These duties are described in Figure 3.2.

**Figure 3.2 CDC Is Charged with Several Specific Duties That Are Not Being Performed.** Statute requires litigation reports, financial reports, reports to the Legislature, and a process for resolving disputes over the litigation strategy.

<p>CDC Creation Statute (63C-4)</p>	<p>“The Constitutional Defense Council shall require that any entity that receives monies from the Constitutional Defense Restricted Account provide financial reports and litigation reports to the Council” <b>Utah Code</b> 63C-4-103(6)(a).</p> <p>“The council shall submit a report on December 1 of each year to the speaker of the House of Representatives and the president of the Senate that summarizes the council’s activities” <b>Utah Code</b> 63C-4-102(8).</p> <p>[The CDC must prepare a R.S. 2477 plan which contains]</p> <p>“a process for resolving any disagreement between the state and a participating county about litigation strategy or resource expenditure. . . . If the county and the state continue to disagree, [they] shall present their recommendations to the Constitutional Defense Council for a final decision. . . .” <b>Utah Code</b> 63C-4-104(2)(d).</p> <p>“provisions identifying which expenditure types require approval of the plan committee and which expenditure types may be made without plan committee approval; provisions requiring the financial statements be provided to members of the plan committee and members of the Constitutional Defense Council, and the frequency with which those financial statements must be provided” <b>Utah Code</b> 63C-4-104(3)(a) and (b).</p>
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**Because the CDC is not meeting, its statutory responsibilities are not being carried out.**

The tasks described in Figure 3.2 are important to the success of resolving state and local disputes over public lands issues, including R.S. 2477 disputes. However, these tasks are not being carried out because the CDC is not meeting. The CDC is not monitoring expenditures for the R.S. 2477 project and is not submitting an annual report of its activities to the Legislature. In addition, the CDC has not been available to resolve disputes between the counties and the state regarding the R.S. 2477 project. Finally, no plan has been prepared identifying which expenditures should be reviewed by the CDC and which should be reviewed by a plan committee. If the CDC had been performing these functions, then PLPCO would have had the level of oversight it needs to be accountable.

On the other hand, it may not be practical for the highest elected officials in state government to devote the time needed to carry out the council’s responsibilities. In order to make this option effective, one

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**The powers and  
duties of the R.S.  
2477 Client  
Committee should  
be defined in statute.**

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possibility could be for the CDC to limit itself to an advisory role while delegating the authority to oversee the R.S. 2477 project to the Client Committee; this alternative, if chosen, should be formalized in statute. It may also be advisable to revisit the number of meetings required of the CDC. Currently, the statute requires a meeting every month or more frequently, unless a poll of the members determines that it is not necessary. If its responsibility for the R.S. 2477 project is delegated to the Client Committee, the CDC may not need to convene more than a few times each year.

#### **Establish in Statute the Client Committee as an Oversight Body.**

Whether the Legislature opts for a Public Lands Policy Council or a rejuvenated Constitutional Defense Council, they should also consider defining the duties of the R.S. 2477 Client Committee in statute. As mentioned previously, although the Client Committee already appears to have been granted authority by the CDC to exercise oversight of the R.S. 2477 project directly and of PLPCO indirectly, its members seem to act only in an advisory capacity. Unlike the Coordinating Council, which is formally established in state law, the R.S. 2477 Client Committee has no real statutory authority other than that which has been assigned by the CDC in the R.S. 2477 plan.

By clarifying the role of the Client Committee, the Legislature could improve the oversight and accountability for the \$1.1 million that PLPCO spends on the R.S. 2477 project each year. For this reason, we recommend that the Legislature establish the Client Committee in statute and define its responsibilities.

### **Recommendations**

1. We recommend that the Legislature consider one of the following options as it clarifies the scope of PLPCO's statutory powers and duties:
  - Expand the office's statutory authority by clearly defining its responsibility to administer specific programs such as the state's R.S. 2477 project.



- Take no action, effectively limiting PLPCO to the coordination role currently described in statute, leaving the administration of R.S. 2477 to the CDC and Client Committee.
2. We recommend that the Legislature consider the following options to ensure that PLPCO has adequate oversight in reviewing and approving its R.S. 2477 litigation plans, proposed budget, periodic expenditure reports, and general policy direction:
- Create a Public Lands Policy Council.
  - Reconvene the Constitutional Defense Council.
  - Establish in statute the Client Committee as an oversight body.

## **Chapter IV Oversight of PLPCO Finances Can Be Improved**

We identified two ways to improve the financial management of the Public Lands Policy Coordination Office (PLPCO). First, the office could benefit from having an outside oversight council or committee that reviews and approves expenditures on a regular basis. Second, the office can improve its accounting system so it is more useful to the managers and oversight committees. Although much work still needs to be done, we are encouraged that PLPCO's director has already taken steps to improve the way office expenditures are tracked.

One specific area of concern for legislators is PLPCO's expenditures for in-state travel. We found that travel expenditures have declined significantly during the past year. The reason is that the office no longer pays the costs of a former director to commute to Salt Lake City from Blanding on a weekly basis. It appears that the former director's vehicle and travel expenses may have been improperly classified as state-related travel when in fact they should have been classified as personal travel.

### **PLPCO Finances Can Be More Closely Monitored**

As mentioned in Chapter III, one responsibility of an outside oversight body should be to regularly review and approve expenditures for the agency it oversees. In fact, the statute requires expenditures in at least one area, the R.S. 2477 project, to be monitored by an outside oversight body. However, if this outside oversight body is to be effective, it needs to be provided with a better set of financial reports than is currently being produced by the office—reports that explain how much has been spent for the activities of greatest concern to board members and legislators.

One might ask why the Legislature chose to require such close scrutiny of the funds allocated from the Constitutional Defense Restricted Account and the main recipient of those funds, PLPCO. The reason, perhaps, is that the funds come from mineral lease revenues, which are largely generated in Utah's rural counties. There is an expectation, particularly among elected officials from rural counties, that those funds will be used

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**Statute requires a high level of financial accountability for the Constitutional Defense Restricted Account.**

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to promote the state's multiple-use and sustained-yield policies, particularly with respect to the public lands where the funds are earned. Many are concerned that if these state land use policies are not protected, the state may not realize the full economic and cultural benefits of its public lands. For that reason, a majority of the Constitutional Defense Restricted Account funds are used for the R.S. 2477 project. Further, to ensure that the funds are used in a manner consistent with the goals and objectives of the state, the statute requires that outside oversight of expenditures from the fund be provided either by the Constitutional Defense Council (CDC) or some group designated by the CDC.

### **Better Financial Oversight Needed of Funds Used for R.S. 2477 Project**

As noted, statute requires that the CDC or some other outside body should be reviewing and approving expenditures for the R.S. 2477 project on a regular basis. Further, the CDC should be reviewing all PLPCO expenditures because a majority of that office's funding comes from the Constitutional Defense Restricted Account. However, there is currently no outside oversight body that reviews the spending for the R.S. 2477 project specifically or for PLPCO's other projects.

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**The CDC or the plan committee should be given responsibility to review expenditures for the R.S. 2477 Project.**

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*Utah Code Provides for Financial Oversight Through Either the CDC or a Plan Committee.* *Utah Code* 63C-4-104(3) requires that the CDC provide broad financial oversight of the R.S. 2477 project and allows for a "plan committee" to approve certain types of expenditures. In addition to approving the expenditures, the statute also requires the CDC to periodically review the office's financial statements, stating that "financial statements be provided to members of the plan committee and members of the Constitutional Defense Council" on a periodic basis.

**Constitutional Defense Council Believed that Others Were Reviewing PLPCO's Expenditures.** Since the CDC stopped meeting, no outside oversight body or council has been monitoring PLPCO's finances. As mentioned in Chapter III, shortly before the CDC stopped holding its meetings, its members were told that other groups were reviewing and approving PLPCO's expenditures. Apparently, CDC members were led to believe that other groups had assumed many of the CDC's oversight responsibilities. However, we determined that none of the oversight bodies and committees that interact with PLPCO are approving expenditures or monitoring the office's financial statements.

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One of the responsibilities of a governing board is to review the spending of the organization it oversees.

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As mentioned in Chapter III, the Client Committee is one of several councils and committees that provide some level of oversight, or at least advice, to PLPCO. It appears that the Client Committee fulfills the role of the plan committee described in statute. It therefore appears to have authority to monitor PLPCO's expenditures, if the CDC were to assign that responsibility to the Client Committee. However, according to the county commissioner who serves as a co-chair of the Client Committee, his committee is not presented with monthly financial statements and is not asked to approve the expenditures for the R.S. 2477 project. Clearly, the CDC is not reviewing the financial statements because it is no longer meeting. Finally, the Public Lands Policy Coordinating Council is not being asked to review and approve the office's expenditures for the R.S. 2477 project. Even if the Coordinating Council were to review PLPCO's expenditures, as an advisory body it has no authority to approve expenditures.

**An Outside Group Needs to Monitor PLPCO Spending.** In addition to it being a statutory requirement, it is also a widely accepted best practice that a governing body should regularly review the expenditures made by the organization it oversees. This best practice is expressed in the following statement in the *State of Utah Uniform Accounting Manual*:—

As a matter of policy, the governing body of all governmental units should review the financial status and condition of that unity on a monthly basis. This is necessary for the governing board to (1) meet their fiduciary responsibilities, (2) to ensure that problems such as revenue shortfalls will be identified on a timely basis, and (3) to demonstrate that employees of the governmental unit are recording and accounting for all fiscal transactions on a timely basis.

If not the CDC, we recommend that the Legislature designate another body to oversee PLPCO's spending of Constitutional Defense Restricted Account monies.

### **Current Account Categories Not Useful For Monitoring Expenditures**

Another best practice in the area of financial management is that agencies must establish and use a good cost-accounting system. We determined that the manner in which PLPCO accounts for expenditures is

not useful for monitoring its use of funds. PLPCO has three expense accounts with unclear titles that do not accurately describe their actual use. As a result, some outside observers have been confused about how the office uses its funds.

**Three Expense Accounts Are Used to Track PLPCO Expenses.**

PLPCO expenses are charged to three accounts: (1) an administrative account, (2) an R.S. 2477 account, and (3) a CDC account. Figure 4.1 identifies the amount charged to each account during the past three years.

**Figure 4.1 PLPCO Expends Funds from Three Basic Categories.** Funds are tracked from the categories of administration, R.S. 2477 roads, and CDC expenditures.

Fund Category	2006	2007	2008
8110 - Administration	\$ 784,511	\$ 1,026,895	\$ 1,177,944
8120 - R.S. 2477 Roads	1,225,186	1,574,988	1,181,180
8130 - Constitutional Defense Council	0	39,212	18,481
<b>Total</b>	<b>\$ 2,009,697</b>	<b>\$ 2,641,095</b>	<b>\$ 2,377,605</b>

**PLPCO financial statements suggest that half of its funds are spent on administration.**

PLPCO’s financial accounts suggest that roughly half of the office’s expenditures during fiscal year 2008 were for administration and half were for protecting Utah’s R.S. 2477 claims. As shown in Figure 1.3 of Chapter I, the bulk of PLPCO’s funding comes from the Constitutional Defense Restricted Account, which is mainly generated from the state’s mineral lease revenues. Some rural county officials and state legislators have expressed concern that so much of PLPCO’s funding is used for administrative costs. With so much money apparently spent on administration, some rural counties have suggested that those funds could be more effectively used by the counties themselves in order to protect local interests from unwarranted federal mandates and regulations.

**Account Categories Are Misleading.** While it suggests that half the budget is spent on administration, the title of the account is misleading. Account 8110—Administration actually includes all of PLPCO’s internal expenses. All staff salaries, whether they be for administrative support or the direct line staff who work on various public lands projects, are charged to this account. Therefore, the office’s direct cost of responding to a wide

range of public lands issues, such as BLM’s land management plans, wildlife grazing, wild and scenic rivers, and some expenses for R.S. 2477, are charged to the administration account.

Account 8120 is also somewhat misleading because it does not contain all of the costs associated with defending the state’s R.S. 2477 rights-of-way. The account is used to track the cost of the Attorney General staff who support PLPCO activities. While most of the attorneys are part of the R.S. 2477 team, some attorneys and some expenses not associated with the R.S. 2477 project are also charged to that account. Furthermore, the account does not capture some R.S. 2477 expenses that are charged to the administration account.

**Indirect costs, such as administration, actually amount to only 14 percent of PLPCO’s spending.**

**PLPCO’s Administrative Costs Are Lower than Reported.** We prepared an estimate of what is actually expended on administrative costs, various projects, and other cost categories. Based on our revised categorization, Figure 4.2 shows that PLPCO actually spent less on administration than the amount reported and that most of the office’s resources were devoted to the work of addressing various public lands issues.

**Figure 4.2 We Estimated the Breakdown of Fiscal Year 2008 Expenditures.** PLPCO does not currently track expenditures by the projects, but these are project estimates from PLPCO’s general ledger.

Cost Category	Estimated Expense	Percent
<b>Indirect Costs</b>		
Administration	\$ 147,342	6%
Information Technology	146,274	6
Travel	49,707	2
<b>Subtotal:</b>	<b>343,323</b>	<b>14%</b>
<b>Direct Costs</b>		
Public Lands Projects	927,768	39%
R.S. 2477	1,086,985	46
CDC	18,481	1
<b>Subtotal:</b>	<b>2,033,234</b>	<b>86%</b>
<b>Total</b>	<b>\$2,376,557</b>	<b>100%</b>

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Direct costs are expenses directly tied to an agency's basic activities.

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Figure 4.2 categorizes PLPCO's annual expenditures in a way that might be useful to its managers and oversight board. Typically, a cost-accounting system will distinguish administrative *indirect costs*, which support the entire organization, from the *direct costs*, which are the costs associated with performing the organization's primary business.

In Figure 4.1, the indirect costs are represented by the administrative account, which amounted to six percent of expenditures, and the information technology expense, which is another indirect cost amounting to six percent of expenditures. Information technology (IT) could have been included in the administrative account but was shown separately because of the large expenses incurred. Travel is another indirect cost that could have been reported as an administrative expense. However, because of the interest that legislators have expressed about the travel-related expenses, we lists it as a separate cost category.

#### **Majority of Funds Have Been Spent for Direct Program Costs.**

The cost accounts in Figure 4.2 demonstrate one way PLPCO can provide a useful description of its expenses by distinguishing direct and indirect costs. The direct costs represent 86 percent of PLPCO's expenditures: 39 percent for Public Lands Projects, 46 percent for the R.S. 2477 project, and one percent for an outstanding CDC legal contract. Depending on the concerns of the office's management team and its oversight board, the accounting should be organized in a fashion that best answers the needs of those who will use the information. This report provided PLPCO's expenses in direct and indirect cost areas because legislators have expressed concern about the level of administrative costs.

#### **Accounting System Can Be a More Useful Tool For Planning and Controlling Costs**

PLPCO is not taking full advantage of the state's accounting system to manage and control costs. Utah's FINET accounting system offers agencies the ability to monitor spending using a wide range of object codes. The accounting should be organized in a fashion that is most useful to managers and oversight board members. By tracking the cost of projects of greatest concern to legislators, such as the R.S. 2477 project, PLPCO could provide its stakeholders with information that is more useful than the current system of accounts.

**Budget and Financial Reports Could Describe Project-Level Spending.** Except when the requirements are spelled out in statute, an

agency's managers are ultimately responsible for choosing the best approach for organizing the agency's finances. State law requires that PLPCO provide the CDC with periodic reports on their spending on the R.S. 2477 project. In our opinion, this implies that a separate accounting be made of R.S. 2477 expenses. Although there is a special R.S. 2477 expense account, it is not used to capture all of the expenses associated with that project.

In addition to the statutory requirements for project-level accounting, a best practice of good management calls for clear accounting of key operational areas. For this reason, PLPCO management would be well advised to track its expenditures in key operational areas in addition to the R.S. 2477 project.

The *State of Utah Uniform Accounting Manual* offers the following guidance:

To establish and account for revenue and expense on a program level, the government must first establish and use a good cost-accounting system. Utilizing cost-accounting procedures to produce program costs and to generate performance measurements provides an effective and useful tool for projecting and establishing future budgets.

The recommended chart of accounts for each type of governmental unit can be added to in order to provide sub-accounts which can be used to identify specific project, departmental subfunctions, operating cost centers, or administrative areas of responsibility.

The above statements promote the use of subaccounts to plan for and monitor the cost of those activities of greatest importance to management. While we do not wish to prescribe the detail needed in PLPCO's accounting system, it is apparent that some legislators and other outside stakeholders are confused by the current organization of the accounting system. We believe interested legislators would find it helpful if the accounting system were organized by major projects and cost categories similar to those shown in Figure 4.2.

**PLPCO May Want to Track Expenses in Areas of Greatest Concern to Legislators.** As PLPCO's managers consider what costs they would like to track, they may want to consider monitoring the amounts

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**PLPCO could ease legislators' concerns by tracking the cost of those projects and activities which legislators have asked the office to perform.**

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expended in those areas of greatest concern to the Legislature. In 2007, for example, the Legislature appropriated \$150,000 with the intent that it be used as follows:

to defend, through litigation or other means, the statewide policies established . . . to maximize the protection of grazing rights and privileges on public lands . . . It is also the intent of the Legislature that this \$150,000 be expended from that portion of the Constitutional Defense Restricted Account.”

Without specific project tracking, PLPCO has no way to show legislators that this amount was actually spent for the protection of grazing rights.

Legislators and county commissioners have also expressed concern that PLPCO has not spent sufficient funds on certain other public lands issues. Therefore, it may be prudent for PLPCO to document the amount spent on such activities as grazing rights litigation to prove that they have expended the amount specified by the Legislature. The office might gain greater support from legislators and other stakeholders if it were able to provide them with better information regarding how it is using its financial resources.

**Improvements in Financial Tracking Are Being Made.** During our audit, PLPCO’s director was quite responsive to our suggestion that he improve his ability to monitor the organization’s expenditures. In June 2008, he asked PLPCO employees to begin tracking their time by project. The director believes the tracking system will be completely operational and useful in about six months. This system will allow employees to better know how to appropriate their time and track it more clearly. In fact, after only one month of tracking, the director said he has identified an area where more time was being spent than necessary.

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**PLPCO’s director has already begun to track the staff time allocated to specific projects.**

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## **Travel Expenses Have Declined With New Director**

We were specifically asked to review PLPCO’s travel-related expenses. We found that the office’s travel costs declined significantly during the past year. In fiscal year 2008, PLPCO spent approximately \$43,000 for in-state travel, which was about \$19,000 less than the prior year—a 32 percent decrease. The main reason for the decline in travel expense is that

PLPCO is no longer covering the travel costs for a former director who resided in San Juan County but worked in Salt Lake City.

PLPCO staff are required to do a fair amount of in-state travel in order to coordinate with state, local, and federal agencies on various public lands issues. For example, occasionally PLPCO staff must travel to the regional offices of the Bureau of Land Management in order to discuss the drafts of the agency's regional plans. In addition, PLPCO's work to preserve the R.S. 2477 rights-of-way required that staff travel to several counties in order to help local officials record the location and history of the roads that are protected under federal law.

### **Travel Expense Declined in Fiscal Year 2008**

The primary cause for the decline in PLPCO's travel expense in fiscal year 2008 is that the office was no longer paying the cost of having its director commute from San Juan County each week. During his two-year tenure, the former director resided in Blanding and used a state vehicle to drive to Salt Lake City on a weekly basis to oversee PLPCO. Records also show that he traveled to various locations around the state in the course of his duties. However, the data indicate that the majority of trips were for travel expenses between Blanding and Salt Lake City.

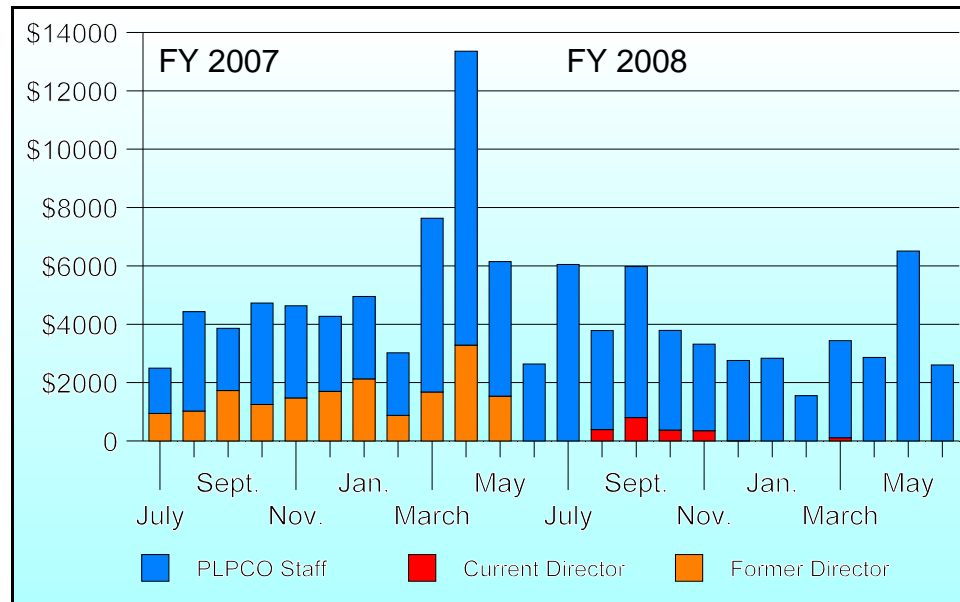
When the former director was appointed, the Governor's Office agreed to (1) allow him to continue his service as a San Juan County Commissioner, and (2) reimburse his travel, lodging, and per diem costs while traveling from his home in Blanding to his office in Salt Lake City. As a result, the former director's vehicle expense, lodging, and meal expenses were charged to PLPCO for two years. In June 2007, the former director left PLPCO. The new director resides locally and does not require the same travel benefits of his predecessor. As a result, the cost of in-state travel declined somewhat, as shown in Figure 4.3.

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**A former director of PLPCO incurred a large amount of travel expense due to his travel between Salt Lake City and his home in Blanding.**

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**Figure 4.3 Travel Expenses Declined in FY 2008.** In fiscal year 2008, the amount of travel-related expense went down because PLPCO was no longer paying travel costs for a director who resided in San Juan County.



**During an average month, PLPCO spent about \$1,700 for the former director's state vehicle, lodging, and meal expenses.**

Figure 4.3 shows PLPCO's monthly travel expenses for fiscal years 2007 and 2008. The portion of each bar shown in orange represents the travel expenses attributed to the office's first director, who resigned in May 2007. The data show that the in-state travel expense was generally higher when the former director was there, mainly due to the weekly cost of his travel. During an average month, the office spent about \$1,700 for the director's state vehicle, his lodging in Salt Lake City, and his meal expenses.

The red portion of Figure 4.3 represents the cost of in-state travel by PLPCO's current director. The current director's vehicle costs were estimated because he shares a motor pool vehicle with other PLPCO staff. We estimate that his cost of travel-related expenses has been \$230 a month.

The blue portion of Figure 4.3 represents the cost of in-state travel for the PLPCO staff. The current staff spend almost \$400 less than the staff under the prior director. Overall, the office's travel expense has declined by almost \$1,800 a month since the current director took office.

## **Fiscal Year 2008 Travel-Related Expenses Appear to Have Been Properly Authorized**

We examined PLPCO's in-state travel expenses for fiscal year 2008, and the travel appears to have been made for necessary office activities. For example, in recent months, office staff have made trips to counties throughout the state to help local officials document Class B roads that may be the subject of the state's R.S. 2477 right-of-way claims. These trips appear to have been necessary to advance the state's ability to claim ownership of these roads. We examined all of the travel expenses posted in the general ledger and asked staff to describe the purposes of some of the trips. During fiscal year 2008, we found nothing unusual to report about either the type of trips taken or the cost of travel expense.

## **Former Director's Vehicle Not Properly Authorized**

We found no evidence that the former director's travel expense was properly authorized. In fact, the former director's vehicle appears to have been improperly classified as a vehicle assigned for state use when it was actually used mainly for commuting purposes. State motor pool records and PLPCO's financial reports indicate that the former director was assigned a vehicle for state business travel purposes only. Although he was not authorized to use the vehicle for personal use, 92 percent of his travel expense was for weekly trips between his home in Blanding and Salt Lake City, suggesting that the primary use of the vehicle was for commuting.

Further evidence that the director's weekly travel between Salt Lake and Blanding was considered a state business trip is that the director was compensated for his travel time to and from Blanding and for his lodging expense and per diem expense while staying in Salt Lake. Based on how the travel expense was classified in PLPCO's expense accounts, it is evident that the director's travel from home to his office was being treated as state business travel when it should have been considered a personal expense.

The treatment of a director's commute as a state business expense is highly unusual in state government. There are other state officials, similar to PLPCO's former director, who come from rural communities and serve as agency directors in Salt Lake City. Although they still maintain their original homes and frequently commute to and from their offices in Salt Lake City, their travel expenses are not considered state business. They

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**It is unclear how the former director's travel-related expense was authorized.**

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**The Legislature should consider developing a policy that outlines the travel benefits of agency directors who reside in distant communities.**

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are not provided with lodging and meal expenses while in Salt Lake City. Instead they pay for their own living expenses while residing in Salt Lake City.

Furthermore, the former director's travel-related expenses were not properly authorized. The Legislature reserves the right to determine which executive directors in state government are given vehicles for personal use. The PLPCO director is not included on that list. Also, state administrative rules limit the personal use of state vehicles and the conditions in which vehicles may be taken home. In PLPCO's case, these rules do not appear to have been followed.

In any event, the former director is no longer employed by the state. We remain concerned that the administrative controls that should limit the personal use of state vehicles were not effective at preventing the unauthorized use of this former director's vehicle. Although we believe the policies and rules administered by the Division of Fleet Operations are adequate, apparently they were not followed. The Legislature should consider whether to adopt a formal policy in statute that outlines the travel benefits executive directors may receive if they work in Salt Lake City while residing at a distant location.

## **Recommendations**

1. We recommend that the Legislature address the governance issues described in Chapter III by designating an entity to be responsible for regularly monitoring PLPCO's expenditures.
2. We recommend that PLPCO make changes to its accounting system to allow management and outside stakeholders to better plan and track expenditures.
3. We recommend that PLPCO track the amount expended for specific projects such as the R.S. 2477 rights-of-way and other areas of special concern to legislators.
4. We recommend that the Legislature adopt statutory language that outlines the travel benefits executive directors may receive if they work in Salt Lake City while residing at a distant location.

**Appendix**

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*Utah Code* 63J-4-603

Powers and Duties of Coordinator and Office

- (1) The coordinator and the office shall:
  - (a) assist the state planning coordinator in fulfilling the duties outlined in Section 63J-4-401 as those duties relate to the development of public lands policies by:
    - (I) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policies;
    - (ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;
    - (iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy;
    - (iv) partnering with state agencies and political subdivisions in an effort to:
      - (A) prepare coordinated public lands policies;
      - (B) develop consistency reviews and responses to public lands policies;
      - (C) develop management plans that relate to public lands policies; and
      - (D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions; and
    - (v) providing other information or services related to public lands policies as requested by the state planning coordinator; and
  - (b) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:
    - (I) state agencies;
    - (ii) political subdivisions;
    - (iii) the Office of Rural Development created under Section 63M-1-1602;
    - (iv) the Resource Development Coordinating Committee created under Section 63J-4-501;
    - (v) School and Institutional Trust Lands Administration created under Section 53C-1-201;



- (vi) the committee created under Section 63F-1-508 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and
  - (vii) the Constitutional Defense Council created under Section 63C-4-101;
  - (c) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9, Chapter 8, Part 4, Historic Sites; and
  - (d) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources.
- (2) In providing assistance to the state planning coordinator under Subsection (1)(a), the coordinator and office shall take into consideration the:
- (a) findings provided under Subsections 63J-4-401(6) and (7); and
  - (b) recommendations of the council.

**Agency Response**



## State of Utah

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

## Office of the Governor PUBLIC LANDS POLICY COORDINATION

JOHN HARJA  
*Director*

January 8, 2009

Jon M. Schaff, CIA  
Legislative Auditor General  
W315 Utah State Capitol Complex  
PO Box 145315  
Salt Lake City, Utah 84114-5315

Dear Mr. Schaff:

Thank you for the opportunity to review the draft report "A Performance Audit of the Public Lands Coordination Office." We appreciate the professionalism of your staff - Darin Underwood, James Behunin, Leslie Marks and Leah Blevins - in the conduct of this audit, and offer this response to the points contained in the audit.

In general, we are pleased by the findings of the audit which indicate the value of the work performed by the Public Lands Policy Coordination Office. We have discussed the shifting nature of the work load many times with your staff, and sincerely appreciate the positive manner in which they offered suggestions on improvement in the management and performance of PLPCO<sup>1</sup>.

Chapter II offers suggestions designed to improve management controls within PLPCO and with the members of the Attorney General's Office working with PLPCO on the roads effort. These suggestions include clarifying lines of authority, developing a strategic plan for PLPCO, developing policies and procedures, and developing performance measures designed to meet the criteria indicated on page 19 of the Audit. We believe these suggestions have merit, and are working to implement them. A draft of the Office Goals and Objectives is attached.

Chapter IV offers suggestions concerning the financial reporting of PLPCO, such as identification of direct and indirect costs, and tracking costs related to programs. We believe there is merit to these suggestions as well, and are working to implement them through identification of relevant work effort and time allocation studies. In the past few

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<sup>1</sup> We note that the statutory name of the Office is the "Public Lands Policy Coordinating Office," but that we normally refer to it as the Public Lands Policy Coordination Office (U.C. §63J-4-601.)

months, for various unrelated reasons, the PLPCO has had 5 of 8 experienced employees move on to other opportunities, to be replaced by only 3 experienced employees. This presents an opportune moment for realignment of work effort, programs and responsibilities.

We do question the need for another separate outside group to "approve" expenditures of the Office, as suggested on page 37 of the Audit. We note that the agency is subject to all of the normal expenditure controls of an Executive Branch agency, and that expenditures for the roads effort are included in these controls. In addition, with respect to the roads effort, the Client Committee is consulted concerning budgetary matters to the level of detail it may desire, and was, for example, specifically asked about suggested expenditures, such as necessary equipment and personnel, prior to the expenditure.

Chapter III concerns the activities of the Office, and its relationships with other agencies and persons within the Executive Branch. We believe portions of the discussion do not correctly reflect operating mechanisms authorized by law. We agree that PLPCO has not been given direct statutory authority to direct the roads effort, but disagree that this authority is necessary to keep the effort funded and moving forward.

The roads effort (R.S. 2477 rights-of-way) is governed by the statutorily-authorized plan approved by the Constitutional Defense Council. (See U.C. §63C-4-104) This plan creates a Client Committee, which advises the Attorney General's Office concerning the general direction of the effort. The Director of the Public Lands Policy Coordination Office is co-chair of the Client Committee, along with a co-chair from the county members. In addition, the Director is the person designated to issue a "notice of acknowledgement" if the facts surrounding the existence of any particular right-of-way indicate the R.S. 2477 grant was accepted. (Utah Code § 72-5-309(1) and (2); the Director is the "governor's designee.")

Under these authorities, the Director coordinates the activities of PLPCO employees, employees of the Attorney General's Office, and employees housed within the Automated Geographic Reference Center (AGRC). To ensure that the effort is coordinated, operates efficiently, and focuses the work effort in the areas the Client Committee suggests, the Director authorizes the expenditure of funds appropriated to PLPCO. These funds are expended directly by PLPCO under its authority to "produce research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy (U.C. §63J-4-603.). As such, some of the funds are transferred to the Attorney General's Office to provide the necessary legal advice and documents, and some are transferred under a specific agreement with the AGRC under the AGRC's ability to "provide geographic information services to state agencies." (U.C. §63F-1-506). In addition, the Office expends (transfers) funds to the Attorney General's Office to support the coordinated effort to prosecute several lawsuits underway, and for support services related to those lawsuits.

As a final matter, the Audit suggests that PLPCO has neglected duties authorized by statute, (see page 24 of the Audit) while assuming others it does not have direct authority to perform. The question of authority for the roads effort is discussed above. We would note that the focus of the workload of PLPCO can vary greatly depending upon the efforts of various federal and state agencies, as discussed with the audit staff. PLPCO works with the State Planning Coordinator located within the Governor's Office of Planning and Budget. (See U.C. §§ 63J-4-603(1), 63J-4-401(2)(a), (3) and (5).) In the past year, the Bureau of Land Management finalized six major Resource Management Plans, plus several major environmental impact statements for oil and gas development projects. In certain circumstances, we believe it is appropriate to utilize the personnel of both offices to address the short-term workload presented by the federal agencies, and we will continue to adjust those efforts in response to all agency inputs.

Again, thank you for the cooperative effort you and your staff have shown, and we look forward to addressing these issues with executive or legislative responses.

Sincerely,



John Harja  
Director  
Public Lands Policy  
Coordination Office



Mike Mower  
State Planning Coordinator  
Governor's Office of  
Planning and Budget



## **Public Lands Policy Coordination Office**

### **A. Public Lands Policy Coordination Office Mission Statement**

Protect the interests of Utah and its citizens by providing an aggressive presence in the decisions regarding public land use in Utah.

### **B. Major Office Goals and Objectives**

1. Provide a single voice representing the interests of Utah in discussions with federal land management agencies.
  - a. Develop and maintain statewide land use planning policies based on cooperation and in conjunction with local governments and state agencies.
  - b. Represent the State as a cooperating agency with BLM, Forest Service, National Park Service and other federal land management agencies.
2. Preserve access to public lands.
  - a. Assist the counties in identifying the public roads within each county.
  - b. Seek rights of way recognition by the BLM
  - c. Prepare litigation on the disputed roads.
3. Protect archaeological resources
  - a. Provide for responsible use and preservation of archeological resources.
  - b. Oversee the issuance and management of archaeological survey and excavation permits.

### **C. Recent Major Accomplishments**

1. Worked closely with the counties and the BLM field offices in the preparation of six Resource Management Plans and numerous environmental impact studies in order to provide continuity and to avoid revisions that would otherwise occur later in the process.
2. Contracted for nine original studies related to the social and economic effects of public lands policies within the State.
3. Provided guidance and information to the counties assisting them in identifying and recording public roads in their counties. Over two thousand roads recorded, submitted to the BLM, archived and made available to the public via website (Initiated process for maximum efficiency and time management.)

4. Directed the mapping (GPS) and other road inventory work by AGRC involving tens of thousands of miles of roads.
5. Issuance of archaeological survey and excavation permits, and mediation assistance resulting in the resolution of differences of opinion regarding research.

## **D. Office Divisions**

### **Public Lands Planning**

It is critical that Utah develop a unified voice to respond to land and resource management planning and use initiatives developed for federal lands. Only through coordination and collaboration with state agencies and political subdivisions can Utah provide a concise strategy to maximize the state's influence on public land decisions that impact Utah and the quality of life for its citizens and visitors.

Utah Code section 63J-4-602 created the Public Lands Policy Coordinating Office and charged that office with the duties to partner with State agencies and political subdivisions. Statute dictates the office: coordinate public lands policies, develop consistency reviews and responses to public lands policies, develop management plans that relate to public lands policies, develop and maintain a statewide land use plan based on cooperation, in conjunction with political subdivisions, facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies, communicate between integral state agencies, political subdivisions, the State Planning Coordinator and the Office of Rural Development, the Governor's Rural Affairs Coordinator, the Resource Development Coordinating Committee and the School and Institutional Trust Lands Administration.

The Public Lands Planning section works to establish the state as a cooperating agency in the preparation of environmental impact statements with the federal land management agencies in Utah.

The Public Lands Policy Coordination Office is allowed imperative and timely information, which affords the ability to comment on issues concerning environmental documentation for land use planning and development proposals. This is a significant opportunity and responsibility to represent the public interests of Utah.

#### **Goals and Objectives**

*\*Provide a single voice representing the interest of Utah in discussions with federal land management agencies.*



A. Develop statewide land use planning policies based on cooperation and in conjunction with local governments.

1. Partner with state agencies and political subdivisions through the RDCC in an effort to prepare coordinated public lands policies.

B. Represent the State as a cooperating agency with BLM, Forest Service, National Park Service, Bureau of Reclamation and other federal land management agencies.

1. Review, comment, and negotiate responses to public lands policies and proposals.

C. Represent the State in other environmental studies for proposals on public lands.

1. Review and comment on proposed public land use projects.

D. Produce original research, documents, maps, studies, analysis, and other information in support of the State's participation for the development of public lands policy.

1. Facilitate and coordinate the exchange of information, comments and recommendations on public lands policies.

## **Measurement**

### **Purpose**

Evaluate the effectiveness of RDCC in bringing issues forward for consideration in the development of state policies.

### **Outcome indicator**

- Percentage of required agencies participating.
- Percentage of projects reviewed under RDCC.

### **Purpose**

Evaluate the opportunities for providing input to federal land management agencies such as the BLM and Forest Service, as a cooperating agency (CA). PLPCO believes there is a greater potential to influence decision making through this preferred process.

### **Outcome indicator**

- Percentage of projects reviewed under CA.

## **Public Roads**

Access to public and private lands by way of public roads has been a major area of concern in Utah for many years. The dispute over the definition and ownership of rural roads has hampered local activities and economic opportunities.

The resources needed to decisively resolve the issues are beyond the scope of most local governments. Under the authority of Utah Code Sections 63C-4-104, the Constitutional Defense Council approved a plan that was jointly devised and adopted by the state of Utah and the Utah Association of Counties. The plan

allows asserting, defending, and litigating State and County rights of way to roads that vested in the state and counties prior to October 21, 1976, pursuant to federal Revised Statute 2477 (The Public Roads Plan). Under the Public Roads Plan, the Public Lands Policy Coordination Office oversees the process by which the information is distilled, documentation prepared, and results defended. The process involves the collective efforts of the Attorney General and the Automated Geographic Reference Center (AGRC). The AGRC identifies and maps the roads and the Attorney General's Office pursues legally sufficient information to identify and defend title to such roads.

## **Goals and Objectives**

*\*Preserve access to public lands*

- A. Assist the counties in identifying the roads within each county.
  1. With the assistance of ARGC, identify, and map all roads in each county.
  2. With the Attorney General's office, evaluate the history of the road.
  3. Determine whether grant was accepted (RS2477).
  4. Record acknowledgment.
- B. Seek rights-of-way recognition by BLM
  1. Employ administrative actions.
- C. Prepare litigation on disputed roads.
  1. Pursue legal efforts to defend the acceptance of the grant if necessary.

## **Measurement**

### **Purpose**

Document the progress of having B and D roads fully acknowledged by the BLM.

### **Outcome indicator**

- Percentage of completed data collection, recordation and submission for all counties.
- Development of process with the BLM for acknowledgement of ROW.

### **Purpose**

Evaluate effectiveness of legal strategies (i.e. litigation and administrative action).

### **Outcome indicator**

- Number of rights-of-way requiring litigation.
- Percentage of rights-of-way acknowledged.

## **Archaeological Permitting**

Utah is home to exceptional archaeological resources. The need to carefully monitor activities occurring throughout the state, to prevent irreparable harm and

assure appropriate and qualified individuals are allowed access, is essential to the long term protection and preservation of these valuable resources.

Utah Code Section 63j-4-603 charges the Public Lands Policy Coordination Office to issue and manage archaeological survey and excavation permits, consult with State History on effects to historic properties and, when necessary, oversee joint analysis when the State Historical Preservation Officer does not concur with an agency's determination of effects to historic properties.

The Public Lands Policy Coordination Office also encourages agencies to responsibly preserve archaeological resources in a manner that is consistent with other statutory duties. The office has developed administrative rules (r694-1-1 et seq.) that guide implementation of this statute.

PLPCO receives applications for Principal Investigator and Data Recovery Permits from parties interested in conducting archaeological work on state Lands. Each application is reviewed for consistency with rules and compliance with statute and a decision is made to grant or deny the requested permit. Issuance or denial of a permit requires concurrence of two PLPCO staff.

### **Goals and Objectives:**

*\*Protect archaeological resources*

- A. Provide for responsible use and preservation of archeological resources.
  1. Coordinate with State Historical Preservation Officer.
  2. Work with State agencies to encourage responsible preservation of archeological resources.
- B. Oversee the issuance and management of archeological survey and excavation permits.
  1. Receive and process applications from parties interested in conducting archaeological work on state lands.

### **Measurement**

#### **Purpose**

Evaluate the effectiveness of assisting relevant agencies in developing operating procedures to comply with Utah Code 9-8-404.

#### **Outcome indicator**

- Percentage of agencies with procedures in place.

#### **Purpose**

Evaluate the ability to reduce the conflict between state agencies, and state and federal agencies.

#### **Outcome indicator**

- Frequency and duration of conflicts.