



## DIVISION OF WATER RIGHTS, BUDGET REVIEW

NATURAL RESOURCES, AGRICULTURE, & ENVIRONMENTAL QUALITY APPROPRIATIONS SUBCOMMITTEE  
STAFF: IVAN DJAMBOV

## ISSUE BRIEF

This brief is intended to provide an overview of the Division of Water Rights' purpose, results, funding, and spending.

### Purpose

#### *What was the Division of Water Rights created to do?*

Directed by the State Engineer, the Division of Water Rights is responsible for the administration and management of Utah's water resources. The division's mission is "to provide order and certainty in the beneficial use of Utah's water."

The division's primary workload is the processing of water right applications while managing the existing water rights' records, regulating the diversion and use of water, and preparing proposed determinations for water right adjudications. It also oversees dam safety, stream channel alterations and water well drilling. The main responsibilities of the division are outlined in statute, primarily in [UCA 73](#) (see [Appendix A](#) on page 11 for a list of specific responsibilities and statute references).

#### *What is the organizational structure?*

The table below lists the division's current programs, with the actual expenditures and FTE counts for FY 2016. Click on the name of each program to go to [COBI](#) (Compendium of Budget Information) for additional information.

Program Name, FY 2016	Expenditures	FTE
<a href="#">Applications and Records</a>	4,200,100	40
<a href="#">Technical Services</a>	1,814,000	7
<a href="#">Field Services</a>	1,217,000	11
<a href="#">Dam Safety</a>	1,036,000	9
<a href="#">Adjudication</a>	1,030,200	8
<a href="#">Administration</a>	766,600	5
<a href="#">Canal Safety</a>	238,600	2
<b>Grand Total</b>	<b>10,302,500</b>	<b>81</b>

The division has made several adjustments to its programs over the years. To see all the programs between FY 2007 and FY 2016, with the actual expenditures for each program, please refer to [Appendix B](#) on page 21.

**What will happen if the division no longer exists?**

The Division of Water Rights has regulatory and enforcement responsibilities identified in statute. If the division were to no longer exist, these responsibilities will either have to be re-assigned to another organization or the statute will have to be changed and the orderly distribution of water will likely be disrupted.

**Results**

**What are the results of the division's efforts?**

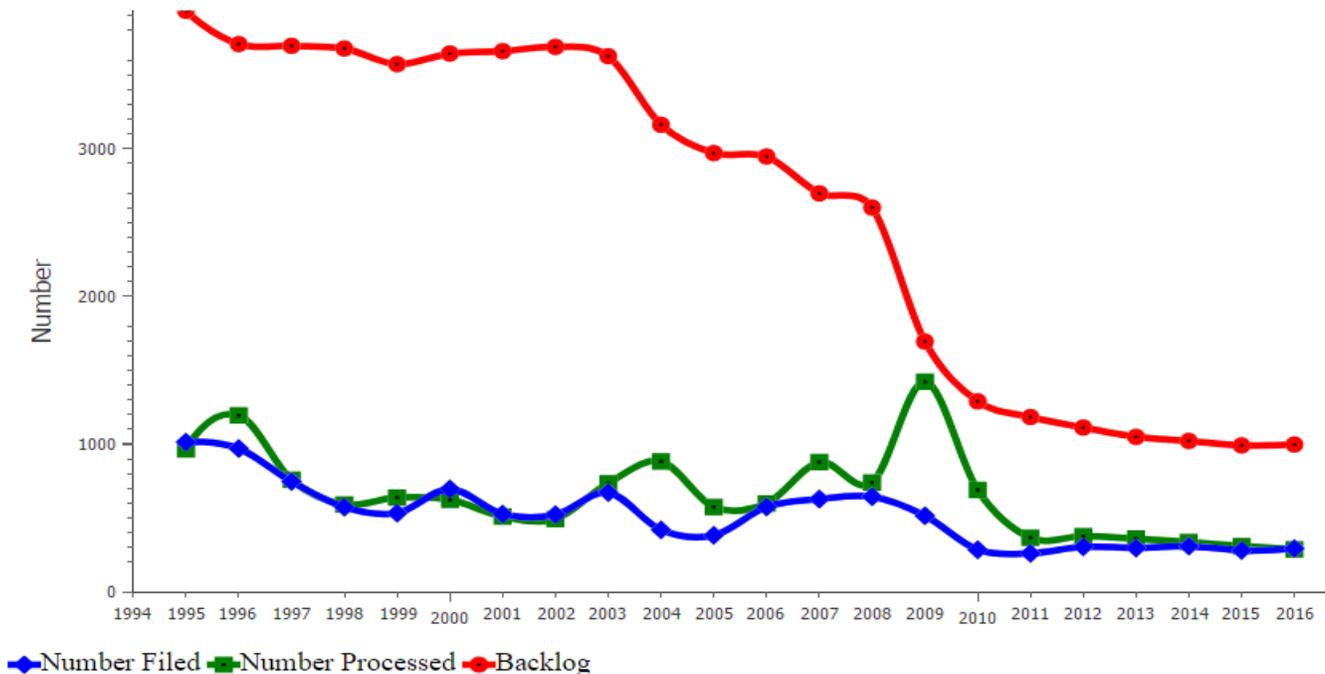
The division has published on their website performance statistics related to their applications and adjudication efforts (<http://waterrights.utah.gov/techinfo/stats.html>).

*Applications Statistics*

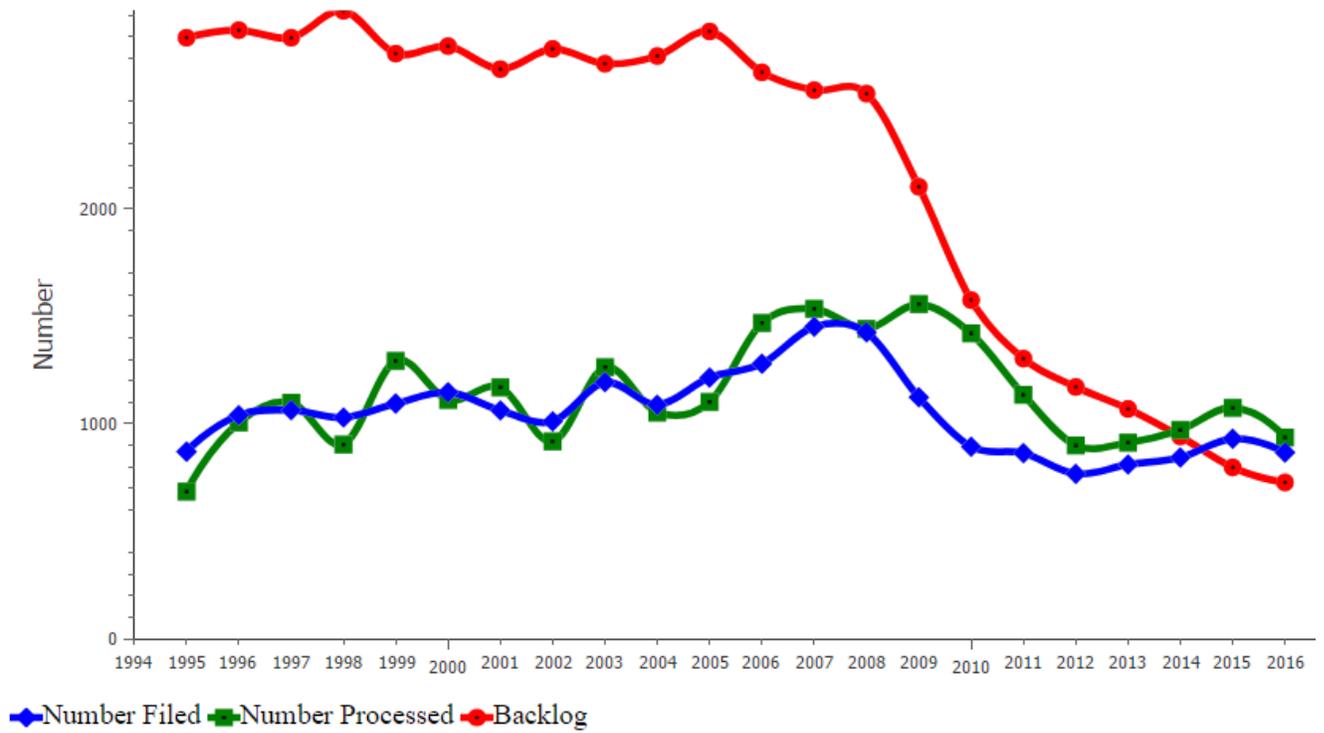
Nine of the 10 reported measures track the following: number of applications filed, number of applications processed, and the backlog for each type of application over time (<http://www.waterrights.utah.gov/techinfo/AppStats.asp>). Based on the published data, it appears that the division has been very successful in reducing the applications backlog in the last few years for most application types tracked.

There is one measure tracking how long staff takes per application type. The data reveals that in FY 2016 the processing time has increased significantly (see 10. Processing Time on page 7).

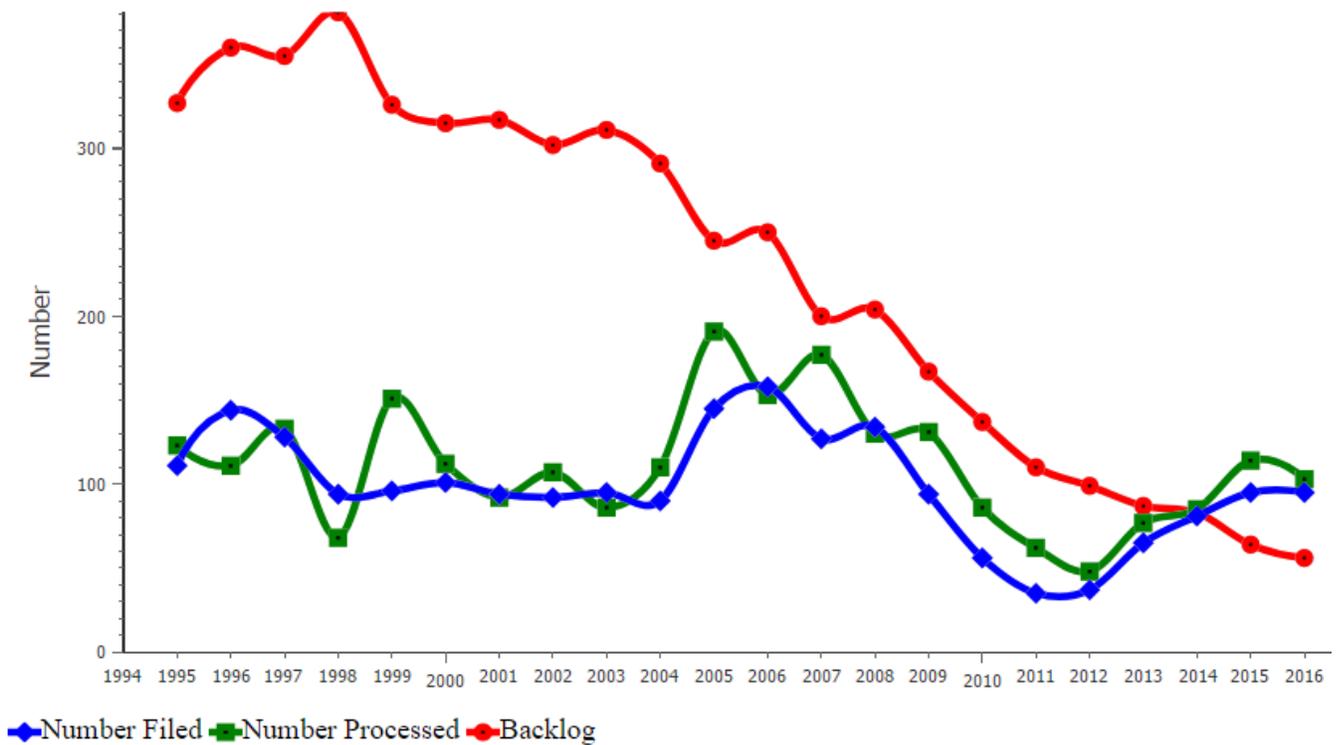
1. Application to Appropriate



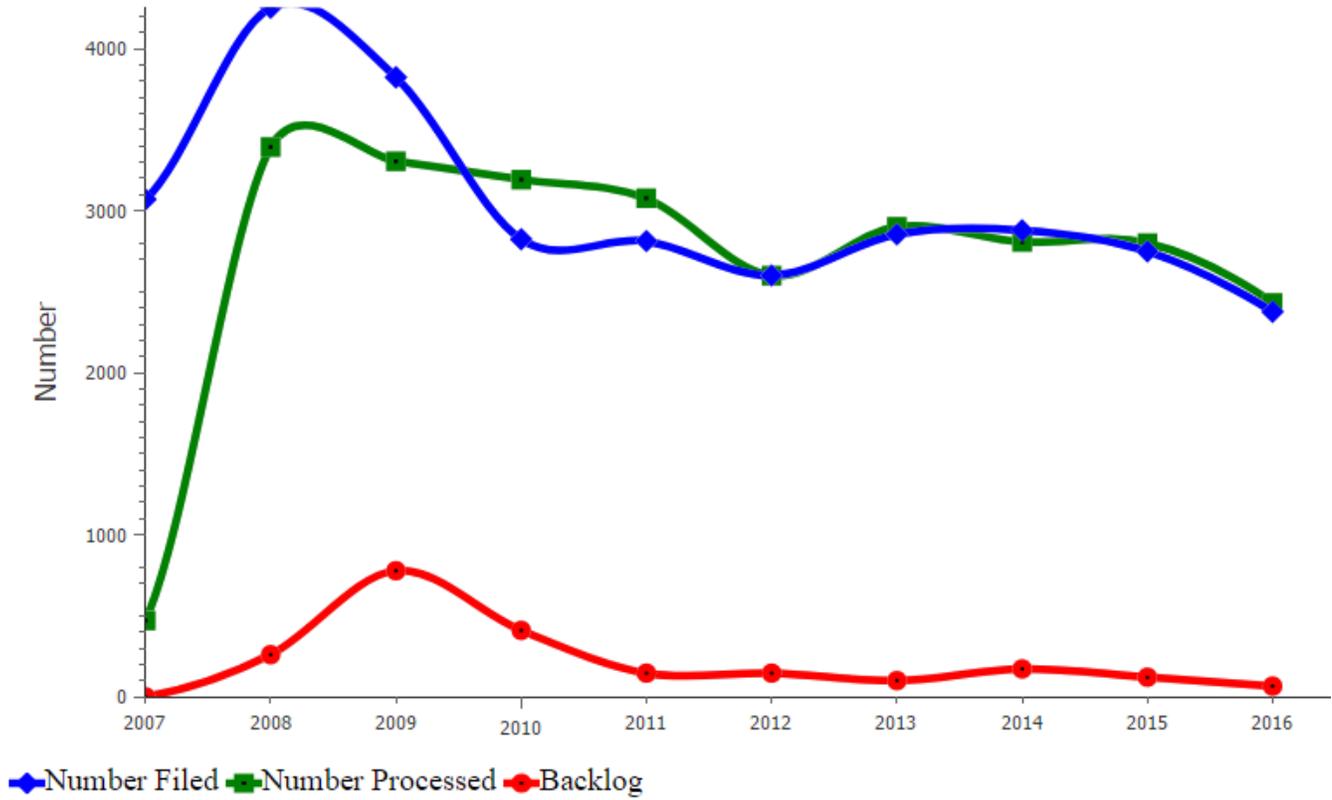
2. Change Applications



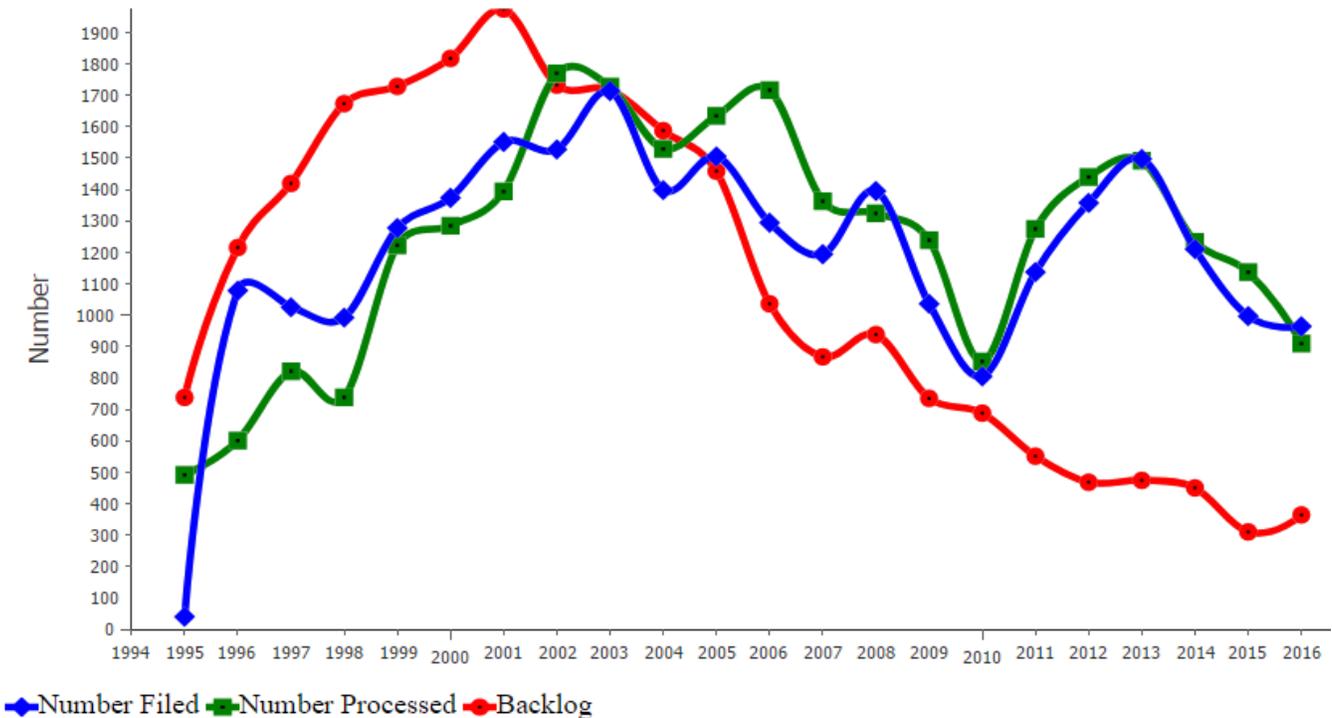
3. Exchange Applications



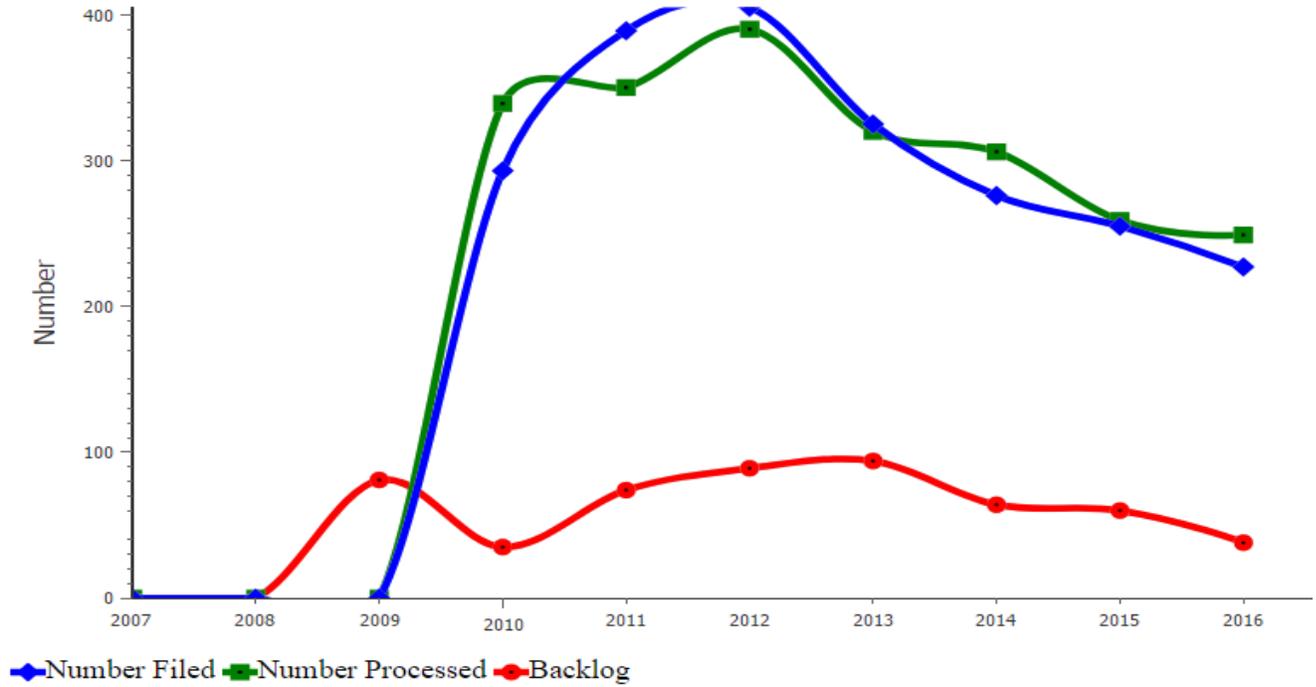
4. Report of Conveyance



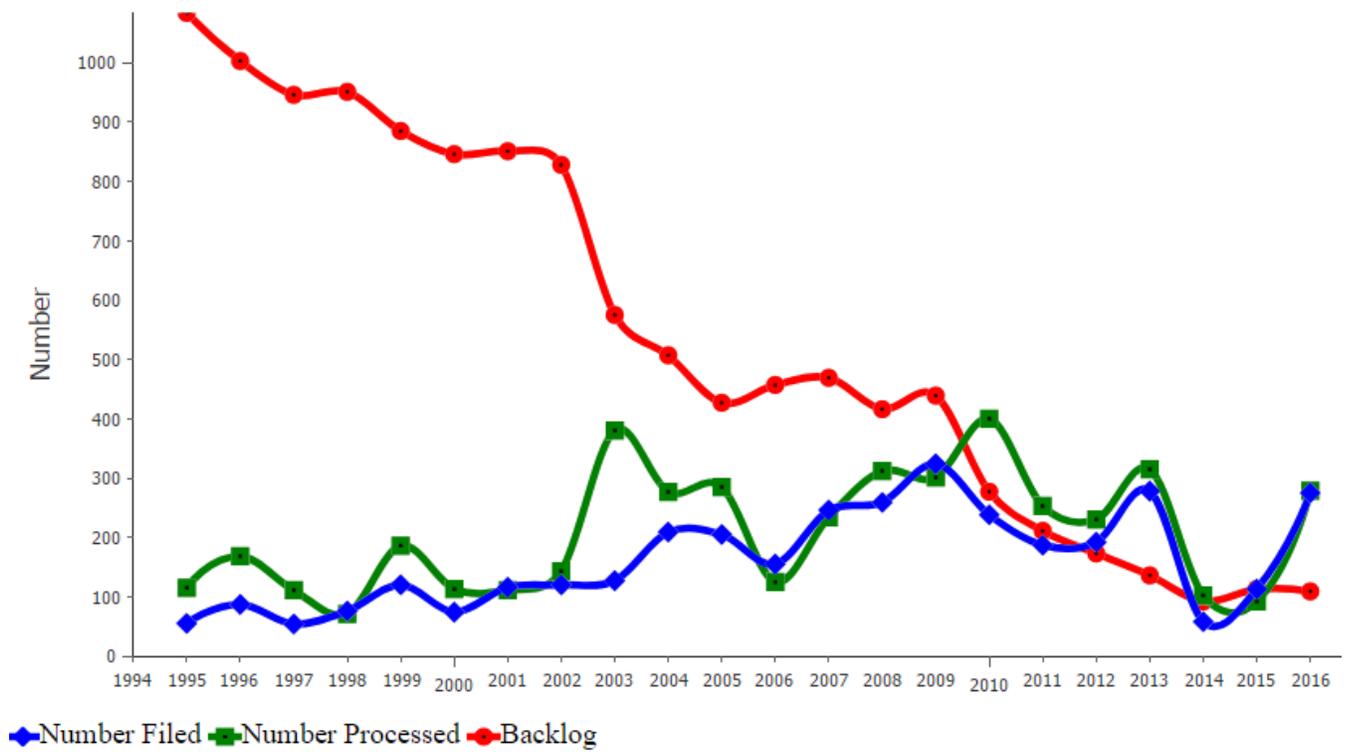
5. Extensions



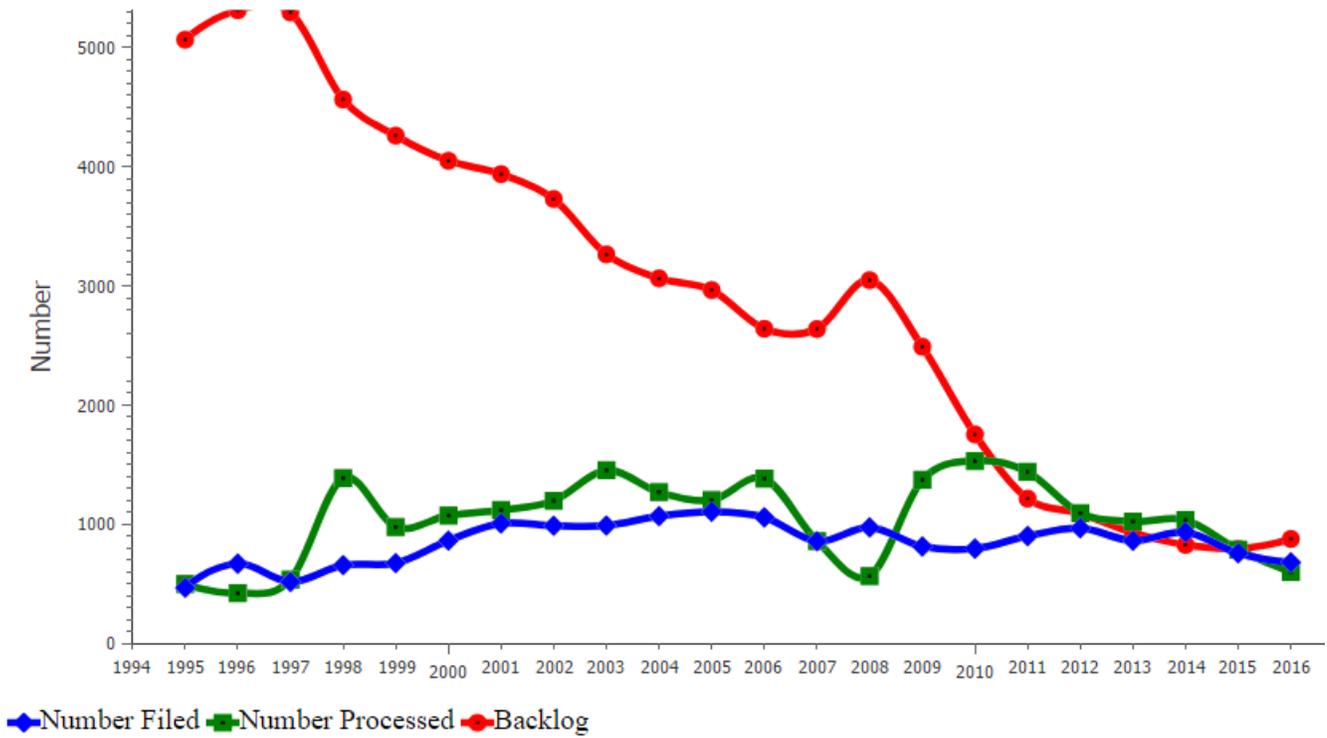
6. Stream Alterations



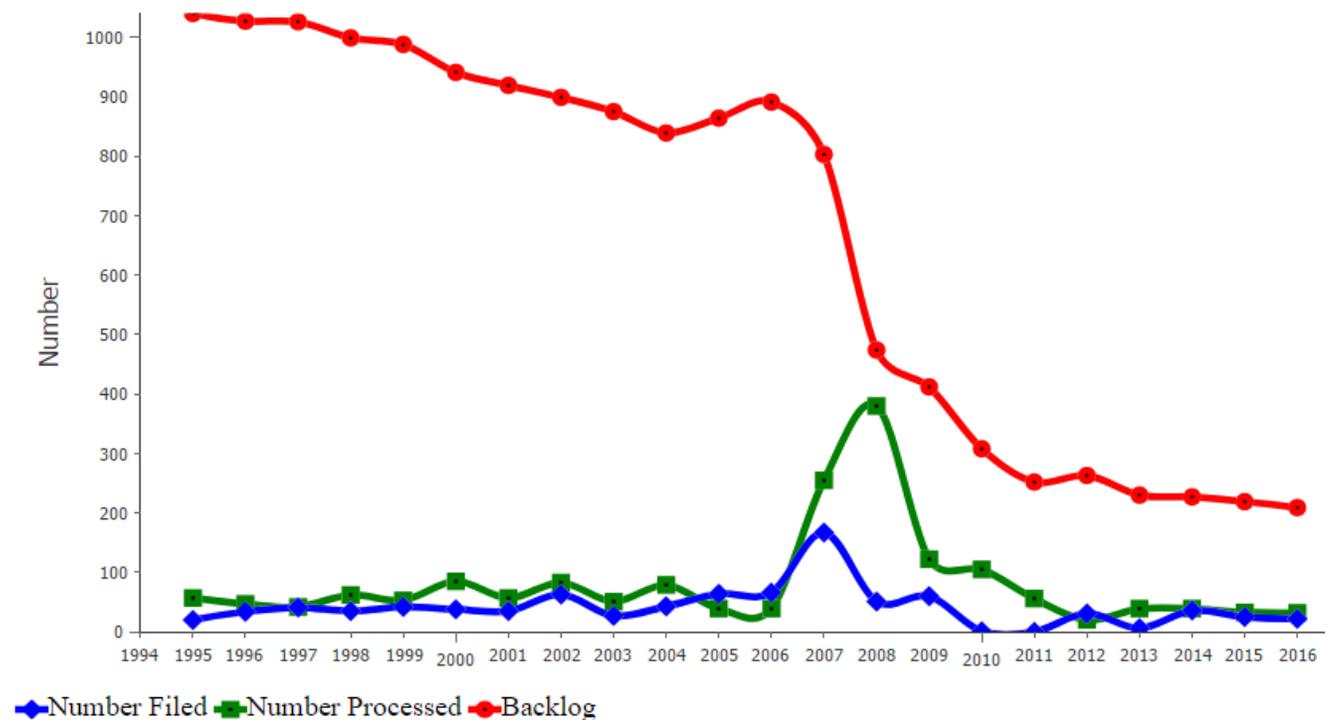
7. Nonuse



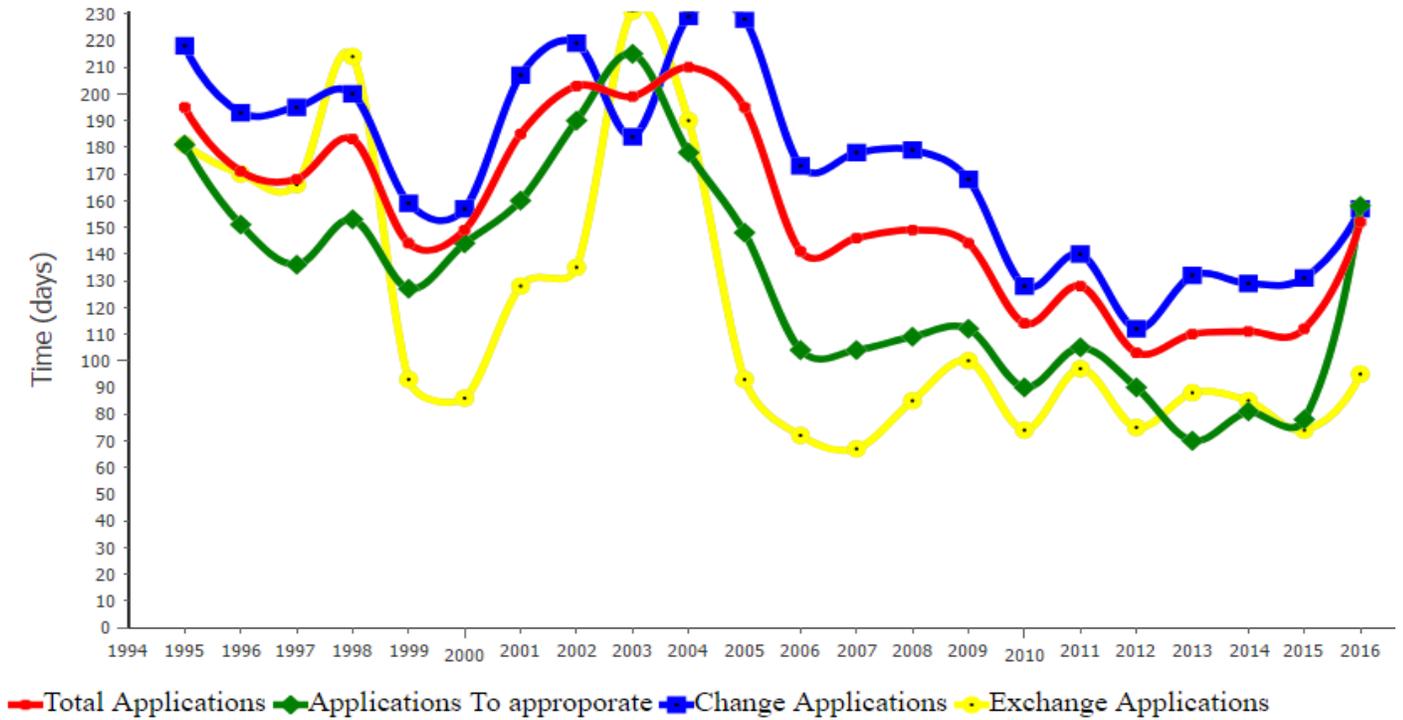
8. Proofs



9. Elections



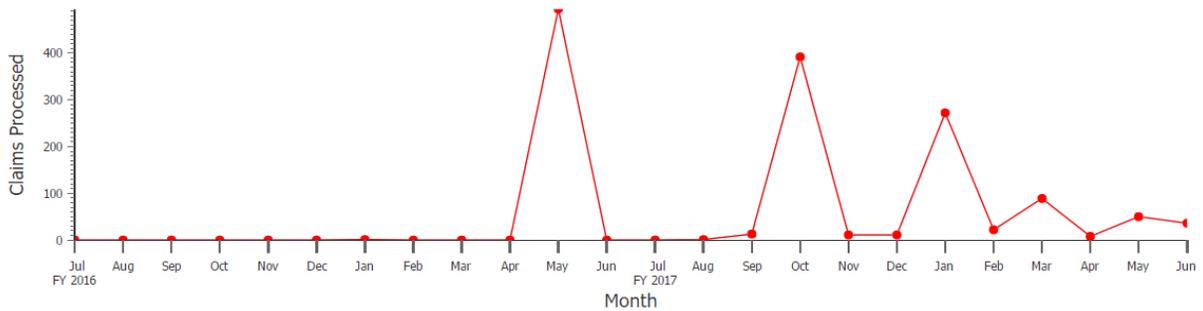
10. Processing Time



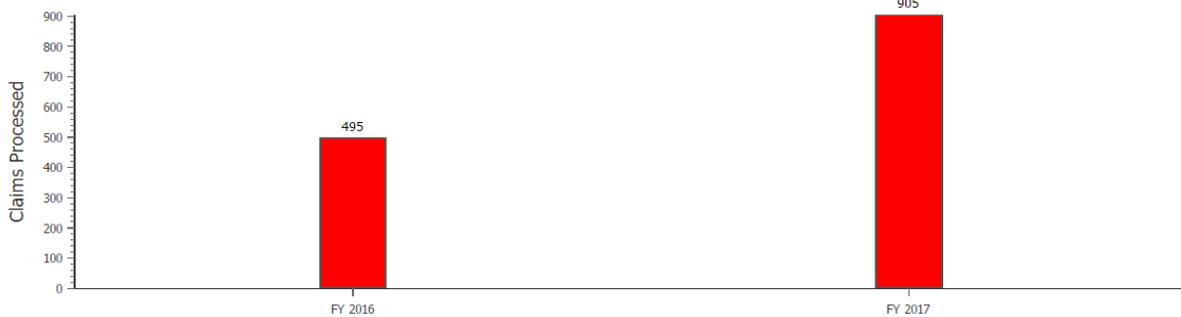
Adjudication Statistics

The division has posted the following figures about its adjudication efforts:

Claims Processed by Month



Claims Processed by Fiscal Year



*Performance Measures in Statute*

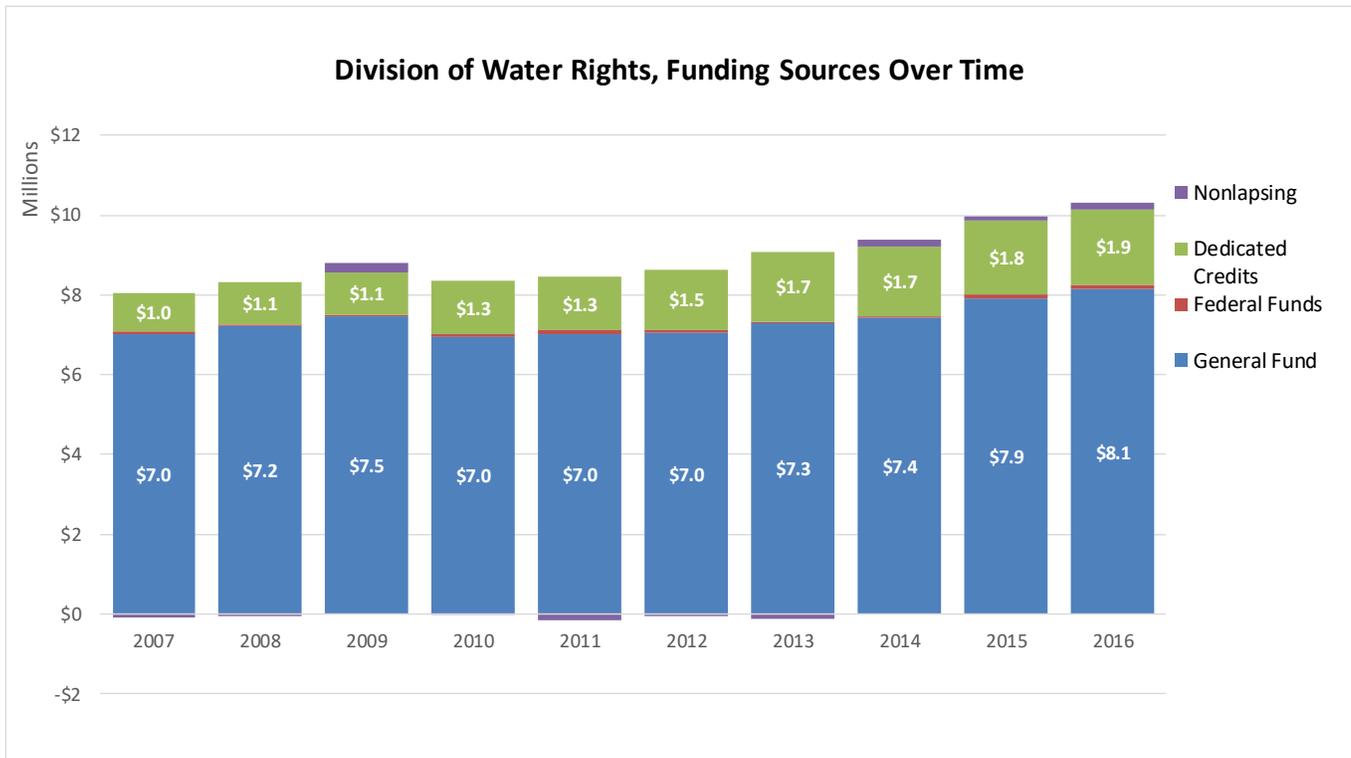
The 2017 Legislature included in [S.B. 5, Natural Resources, Agriculture, and Environmental Quality Base Budget](#) the following intent language regarding performance measures for the division:

*The Legislature intends that the Division of Water Rights report on the following performance measures for the Division of Water Rights line item, whose mission is "to promote order and certainty in the beneficial use of public water": (1) Timely Application processing (Target = 80 days for uncontested applications), (2) Use of technology to provide information (Target = 1000 unique web users per month), and (3) (complete comprehensive adjudications) (Target = 2000 parties who's claims have been addressed) by October 15, 2018 to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.*

**Funding**

***What is the current funding structure?***

The main funding for the division comes from the General Fund (Sales Tax), approximately 80%, and Dedicated Credits (Sales Tax and fees), approximately 20%. Between FY 2007 and FY 2016, the appropriation from the General Fund has increased by 16% and from Dedicated Credits by 96%, mainly due to increase of funding from the Sales Tax.



The Dedicated Credits for the division come from two sources, Sales Tax (60%) and fees (40%):

- Sales Tax: [UCA 59-12-103\(5\) \(f\),\(g\)](#) transfers to the Division of Water Rights funding from the 1/16% of the Sales Tax (see [Appendix C](#) on page 22, Distribution of 1/16% Sales Tax for Water), which in FY 2016 was \$1.1 million. The funding is for employing additional technical staff for the administration of water rights. If the division does not expend the full appropriation, it may retain up to \$150,000 as a nonlapsing balance, and the remainder is transferred to the Water Resources C&D Fund.

- Fee Revenues: statute allows the State Engineer to charge fees and to use fees collected from water right applications ([UCA 73-2-14](#)). In FY 2016, the fee revenues were \$759,200, which represents 7% of the total funding for the division.

Over the years, the Legislature has appropriated additional funding for specific purposes and tasks for the division to accomplish. [Appendix D](#) on page 24 shows a list with the major funded items since FY 2013.

The division also has the responsibility to administer the Water Commissioners Fund (expendable special revenue fund, [73-5-S1.5](#)). The funding comes from water users and is used primarily for water commissioners' compensation. The division manages the fund as collection agent and processes payments. This fund and the commissioners are not included in the appropriations acts nor in any of the figures in this report. This fund, along with all other expendable special revenue funds, is subject to annual review by the appropriate legislative subcommittee ([UCA 51-5-4\(4\)\(c\)\(iii\)](#)).

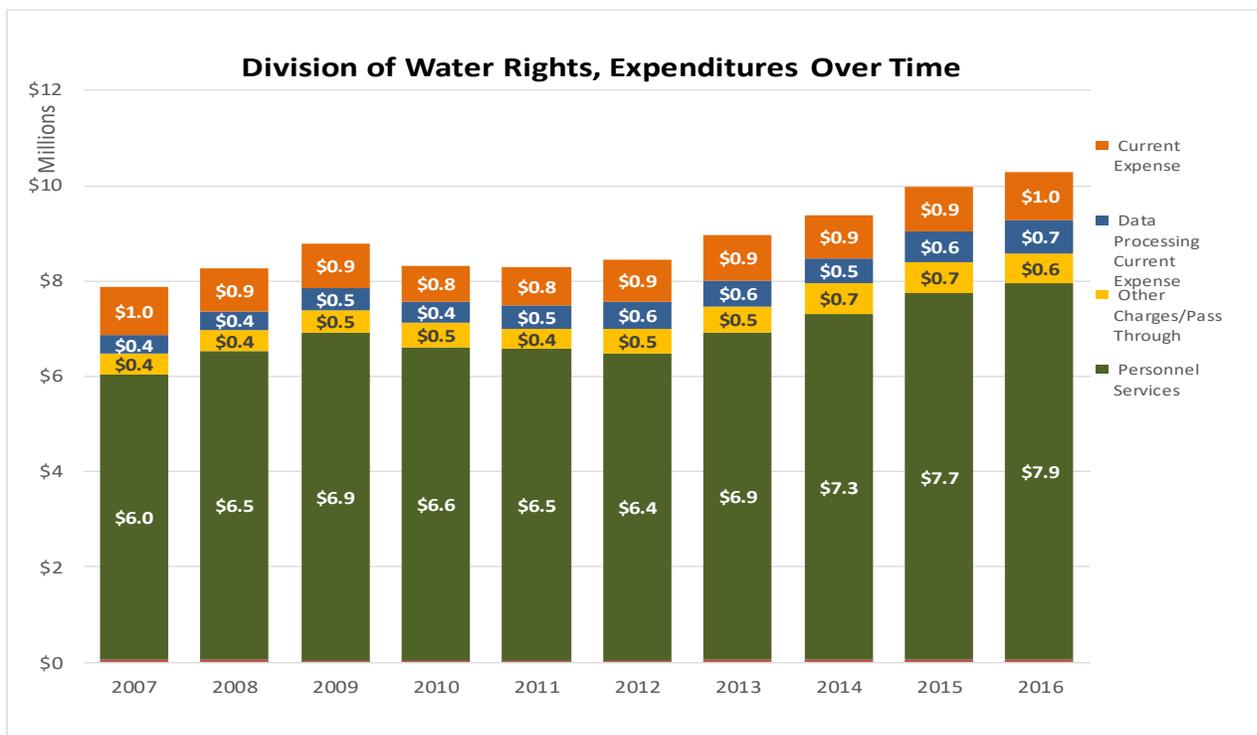
**Are the users paying for it?**

The division charges fees for various applications. During the 2016 interim, as part of an [in-depth review of fees](#), division staff estimated that the fees collected by the division cover approximately 10% of the cost to provide the services. Division leaders have stated that since everybody in Utah uses water, it is appropriated to have the bulk of the funding for the division come from general tax dollars.

**Spending**

**How is the division spending its appropriations to achieve the mission?**

Three-fourths (\$8 million in FY 2016) of the expenditures of the division are for salaries and benefits for the division staff (Personnel Services). These costs have increased by 32% between FY 2007 and FY 2016, mainly due to cost-of-living increases and increased medical and retirement costs.



The FTE (Full-Time Equivalent) count for the division has been about 85, and it has remained virtually unchanged since 2007.

***How can the taxpayers' costs be reduced?***

Since most of the division's funding comes from the Sales Tax (General Fund and Dedicated Credits), any reduction in the division's expenses will be a reduction in costs covered by the general tax payers. The following are some options for consideration:

- Utilize technology to further streamline and automate the application processes, which could result in less staff time and overall reduction in costs.
- Identify non-essential requirements for staff that could be reduced or eliminated.
- Consider filling vacancies for engineering positions with trained technical professionals and/or interns, which tend to be less costly.
- Contract for some of the services with qualified private providers that in the long run could be more cost effective for the division.
- Consider requiring the applicants to use the services of certified professionals for certain aspects of the application process with the intent to reduce division staff time.

## Appendix A, Statute References

Source: [http://www.waterrights.utah.gov/code\\_index.asp](http://www.waterrights.utah.gov/code_index.asp)

The following is a list of Water Rights' responsibilities, organized by area, with the statute reference for each responsibility.

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  - Geothermal fluids [73-22-8](#)
  - Livestock on public land [73-3-31](#)
  - Processing [73-3-5](#), [73-3-8](#), [73-3-10](#)
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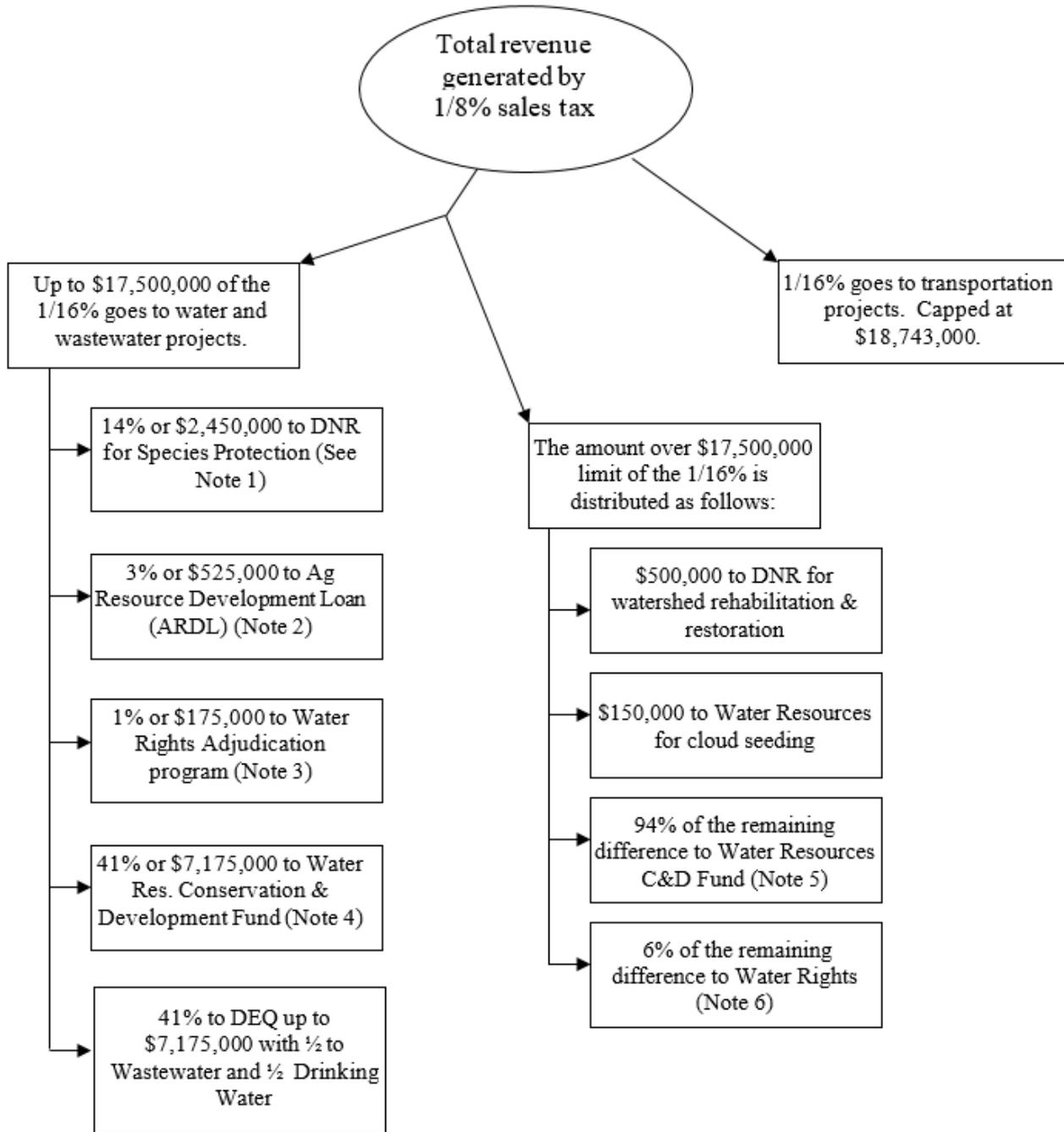
**Appendix B, Historic Funding by Program**

The following table shows the actual expenditures by program between FY 2007 and FY 2016.

Program Name	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>Applications &amp; Records</b>	926,198	987,021	1,215,326	1,084,742	1,125,460	1,180,115	1,217,540	1,265,896	1,230,859	4,200,115
<b>Technical Services</b>	853,740	940,990	843,860	785,688	886,925	824,021	1,579,123	1,699,893	1,915,027	1,814,004
<b>Field Services</b>			1,482,850	1,323,271	1,271,825	1,258,077	1,342,665	1,392,646	1,491,110	1,217,059
<b>Dam Safety</b>	699,026	671,573	734,262	746,615	804,122	822,663	794,967	828,045	920,604	1,036,086
<b>Adjudication</b>	1,382,349	1,393,745								1,030,200
<b>Water Rights Administration</b>	914,549	879,871	1,047,379	952,755	841,560	1,013,407	1,048,164	1,105,569	1,134,056	766,519
<b>RWI DNR WRTS Canal Safety</b>										238,551
<b>Advertising</b>	173,436	182,563	163,061	76,207	-					
<b>Regional Offices</b>	2,506,296	2,736,387	2,833,969	2,862,367	2,939,378	2,924,701	2,970,250	3,091,061	3,289,260	-
<b>Cooperative Studies</b>	508,381	473,408	478,160	513,358	417,830	503,448	-			
<b>Grand Total</b>	<b>7,963,974</b>	<b>8,265,560</b>	<b>8,798,866</b>	<b>8,344,999</b>	<b>8,287,099</b>	<b>8,526,433</b>	<b>8,952,710</b>	<b>9,383,111</b>	<b>9,980,917</b>	<b>10,302,534</b>

**Appendix C, Distribution of 1/16% Sales Tax for Water**

[UCA 59-12-103\(4\)](#) designates funding for water projects in Utah by using the following distribution of 1/16% of the Sales Tax:



**Note 1: Species Protection Program**

Prior to [H.B. 6004](#) (2002 6<sup>th</sup> Special Session), H.B. 275 (2000 General Session) authorized \$2.3 million to be distributed to DNR’s Species Protection program. Prior to H.B.275, \$3 million of the funding distributed to Water Resources was passed through to the federal government for Central Utah Project (CUP) mitigation. The final CUP payment was made in FY 2001; the new payment for Species Protection began in FY 2002. H.B. 6004 changed the program’s dedicated funding to \$2,450,000.

**Note 2: Agriculture Resource Development Loan (ARDL) Fund**

The ARDL was established as a revolving loan fund. House Bill 393, which passed during the 1996 legislative session, authorized \$500,000 to be added annually from the 1/16% sales tax revenue. This provides an automatic growth mechanism to the fund. Other funding sources include loan repayments and interest. Low interest loans may be made to farmers and ranchers for rangeland improvement, watershed protection, flood prevention, soil and water conservation, and energy efficient farming projects. Senate Bill 200 (2002 General Session) reduced the FY 2003 distribution by \$310,000 (one-time). H.B. 6004 (2002 6<sup>th</sup> Special Session) changed the program's dedicated funding to \$525,000.

**Note 3: Division of Water Rights' Adjudication Program**

\$175,000 to be transferred as dedicated credits to the Division of Water Rights to cover legal costs of water rights adjudication. In addition, the Adjudication program has been receiving an annual appropriation of approximately \$1.3 from the General Fund.

The Division of Water Rights oversees the Dam Safety program, which regulates the construction, repair, and long-term maintenance of dams. Some 350 dams are inspected annually. When the State Engineer requires a safety improvement, sales tax revenue may be used by the Board of Water Resources to finance the improvement. Approximately \$3.8 million of the sales tax revenue that goes to the Water Resources C&D Fund each year is granted for this purpose.

**Note 4: Water Resources Conservation and Development Fund**

Forty-one percent of the sales tax revenue goes to the Conservation and Development (C&D) Fund administered by the Board of Water Resources. The C&D Fund helps finance large multipurpose dams and water systems. The Board of Water Resources also administers two other loan funds: the Revolving Construction Fund (which includes dam safety) and the Cities Water Loan Fund.

Aside from construction, other statutory uses of the sales tax money include:

- Dam safety improvements. \$3.8 million has been transferred annually to the Revolving Construction Fund for grants to finance state-mandated dam safety improvements.
- Operating costs. Approximately \$2.2 million per year is transferred to the Water Resources operating budget to investigate applications and manage construction.

**Note 5: 94% of the Remaining Difference to Water Resources C&D Fund**

After transferring the \$500,000 to DNR watershed and \$150,000 to Water Resources for Cloudseeding, 94% of the remaining funds will be deposited in the Water Resources' Conservation and Development Fund for preconstruction costs for projects defined in the Bear River Development Act (UCA 73-26) and the Lake Powell Pipeline Development Act (UCA 73-28), the cost of a civil engineer to oversee the Bear River Development Project and the Lake Powell Pipeline Project (UCA 59-12-103 (5)). Any unexpended monies are to be nonlapsing.

**Note 6: 6% of the Remaining Difference to Water Rights**

After transferring the \$500,000 to DNR watershed and \$150,000 to Water Resources for Cloudseeding, 6% of the remaining funds will be transferred each year as dedicated credits to Water Rights to cover the costs of additional technical staff for the administration of water rights. The unexpended funds over \$150,000 will lapse to the Water Resources C&D Fund.

**Appendix D, Major Funded Items Over Time**

The following table provides a list with the major items funded since FY 2013.

Item Name	Fund	FY 2013	FY 2015	FY 2016	FY 2017	FY 2018
<a href="#">S.B. 113, Natural Resources Modifications</a>	Ded. Credit Ongoing					1,895,600
<a href="#">S.B. 113, Natural Resources Modifications</a>	Ded. Credit 1x					(168,100)
Canal Safety Mapping	Gen. Fund 1x					100,000
Water Rights Adjudication - Growth in Earmark	Ded. Credit 1x					100,000
<a href="#">H.B. 305, Water Rights and Res. Amendments</a>	Gen. Fund 1x				100,000	
<a href="#">H.B. 305, Water Rights and Res. Amendments</a>	Gen. Fund Ongoing				70,000	
Adjudication Special Master	Gen. Fund Ongoing			438,000		
Adjudication Special Master	Gen. Fund 1x			(438,000)		
<a href="#">H.B. 370, Canal Safety Amendments</a>	Gen. Fund Ongoing		139,000			
<a href="#">H.B. 370, Canal Safety Amendments</a>	Gen. Fund 1x		130,000	130,000	130,000	
<a href="#">S.B. 274, Water Jurisdiction Amendments</a>	Gen. Fund 1x		36,000			
<a href="#">S.B. 274, Water Jurisdiction Amendments</a>	Gen. Fund Ongoing		16,300			
Executive Water Task Force	Gen. Fund Ongoing		(42,800)			
Engineer Position, Reallocation from DEQ	Gen. Fund Ongoing	96,000				
<b>Total</b>		<b>96,000</b>	<b>278,500</b>	<b>130,000</b>	<b>300,000</b>	<b>1,927,500</b>