



MAJOR ISSUES FOR GENERAL SESSION

NATURAL RESOURCES, AGRICULTURE, & ENVIRONMENTAL QUALITY APPROPRIATIONS SUBCOMMITTEE
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ISSUE BRIEF

This document lists the major issues as identified and submitted by the leaders of the governmental entities reporting to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Department of Natural Resources

Division of Forestry, Fire, and State Lands

1. Wildland Fire

- a. Finding a long-term solution for budgeting and paying for wildfire suppression and post-fire rehabilitation. FFSL will continue to work with GOMB, key legislators and the LFA to identify permanent, long-term options within the state budget for paying these annual costs. In the meantime, specific to fire suppression, we will use the existing Wildfire Suppression Account and make annual supplemental budget requests as necessary. However, regarding the more proactive notion of actually reducing wildfire risks and associated costs, please see the following item.
- b. Measurably reducing wildfire risk in Utah through successful implementation of the Governor's Catastrophic Wildfire Reduction Strategy (CatFire), the division's new wildland fire management system (2016's SB 122 and "fire policy"), and the National Cohesive Wildland Fire Management Strategy (NCS).

FFSL, along with our interagency fire management partners, have built and are implementing new systems, processes and initiatives that emphasize wildfire risk reduction—prevention, preparedness and mitigation—with a key objective of, over time, reducing the actual costs of wildfire suppression (or, at the very least, reducing the currently ever-increasing rate of fire suppression costs in the long-run). In partnership with local government, other state agencies and federal fire management partners, FFSL will continue to aggressively implement CatFire and NCS as well as our new fire management system, all of which are focused on risk reduction.

2. Forestry

Ensuring federal (i.e., Congressional) support for state forestry agencies through adequate funding of US Forest Service State & Private Forestry, passage of the 2018 Farm Bill with a robust Forestry Title, and finding a funding fix for federal fire suppression that will stop the harmful practice of "fire borrowing."

Congress annually appropriates funding that is intended to support state forestry agencies through cooperative forestry and fire programs with US Forest Service State & Private Forestry. As well, the Forestry Title of the federal Farm Bill provides tools (and funding if appropriated) for state forestry and other agencies to better, more actively manage private forestland. These tools and funds are critical to the work all state forestry agencies do.

FFSL is active with the Council of Western State Foresters, Western Forestry Leadership Council, National Association of State Foresters, our congressional delegation and others interested in these issues and working to maintain ongoing federal support for our cooperative forestry and fire programs. NASF is in the final stages of developing nation-wide performance measures for the states' cooperative forestry programs and FFSL is actively participating with this endeavor.

3. Sovereign Lands

- a. Continuing adequate revenue to the Sovereign Lands Management Restricted Account. FFSL works closely with our lessees and permittees to ensure excellent service. The financial operations of the Division are primarily funded by the Restricted Account, so it is imperative that that we are responsive to and supportive of the commercial users of sovereign lands, particularly the industries on Great Salt Lake, which fund the vast majority of the Restricted Account.
- b. Successfully navigating the increasing complexity and demand of sovereign lands management, including recent, near-record low water levels for Great Salt Lake and Utah Lake. FFSL works closely with the Great Salt Lake Advisory Council, Utah Lake Commission, Bear Lake Commission, Jordan River Commission and numerous other government, NGO and private entities to proactively and successfully manage the state's sovereign lands. We are in the final stages of completing individual resource management plans (RMPs) for all of our sovereign land water bodies. These plans provide clear and consistent guidance for the Division, our partners and the public for management priorities and actions. As well, our management efforts are guided by other resources, such as *the Sovereign Lands Invasive Species Guidance Document*, and close cooperation with our assistant attorneys general as much of what we do is guided by both federal and state law.

Division of Oil, Gas, and Mining

1. Continue to apply technology (i.e. information systems, GIS, social media) to improve our ability to collect, manage, evaluate, and disseminate information that can be used to accomplish the Division's mission.
2. Maximize the skills and expertise of our knowledge-based staff members who must apply judgment and reason to technical decisions related to permitting, inspection, and compliance with regulatory requirements.
3. Monitor and communicate on numerous issues arising for extractive industries, e.g. air quality in the Uintah Basin, state regulatory programs vs. federal intrusion, use and management of produced water.
4. Maintain responsible development in the state through efficient and effective regulatory programs, despite depressed and uncertain commodity prices.
5. Maintain readiness for a potential rebound of the oil and gas industry due to pro-fossil fuel presidential administration.
6. Fill vacancies that result from retirement and resignation with qualified professionals; increase retention/decrease turnover.

Division of Water Resources

1. **Dam Safety Funding:** The Division is requesting the Governor's Office recommend a building block of \$6,200,000 in ongoing general funds to increase the number of dam safety upgrades the Board of Water Resources is able to fund each year. There are currently 105 high hazard dams needing safety upgrades in the state. Dams are rated high hazard due to the potential to cause loss of life and significant property/infrastructure damage in the event of failure. Many of these dams provide critical flood control for downstream communities as well as providing valuable water storage for agricultural and municipal

uses. At the current funding rate of \$3,800,000 per year, it will take an estimated 66 years to complete the safety upgrades. The additional \$6,200,000 would increase the annual dam safety funding available to \$10,000,000 and allow the remaining upgrades to be completed over approximately 25 years. The state will continue to partner with the Natural Resource Conservation Service (NRCS) on the 10 additional dams for which we have already received funding.

2. **State Water Plan:** After some significant efforts in the last 5 years including the legislative audit on water use data, Your Utah Your Future, and the Recommended State Water Strategy, the Division of Water Resources is developing a new State Water Plan. The purpose of the State Water Plan is to provide:
- a comprehensive evaluation of Utah's water resources
 - a summary of the challenges and opportunities that affect our water future
 - recommend best management strategies

This involves quantifying our existing water supply, estimating current and future demands, a thorough conservation strategy as well as exploring potential sources of additional water. The main goal of this document is to help water managers, planners, legislators and other parties formulate effective management strategies and policies. This document should also be a valuable resource for those in the general public interested in contributing to water related decisions at all levels of government.

We want to build on previous planning efforts and utilize actionable items in the plan. These actions can be aimed at short and long-term goals.

3. **Water Conservation:** The Utah Division of Water Resources is working to make Utah a national leader in water conservation. We continue to work toward reducing water use with programs such as the Slow the Flow campaign, H2Oath: Utah's Water-Wise Pledge, the weekly lawn watering guide, water conservation research directed by Utah State University and others, community partnerships, the new water saving devices rebate funding provided by the 2017 legislature and our enhanced social media presence. The public has been responding very well to these efforts. We are engaged in a third party review of our current water conservation goal to help direct us in setting new water conservation goals that will focus more on regional water conservation targets, needs and issues. As we continue to work forward in water efficiency and conservation, we will need to have and provide the resources necessary to meet these new water conservation goals and standards.
4. **Secondary Water Metering:** The division and several other agencies have funds available for secondary water meter installation funding. Universal secondary water metering reduces the need to estimate this use, resulting in more accurate water use reporting. It also results in significant water conservation. We propose that:
- A deadline be set for universal secondary water metering.
 - Secondary water suppliers develop plans to install and retrofit their systems with secondary meters.
 - Significant funds be allocated to augment available resources for, and communities' ability to move forward with, these installations.
5. **Lake Powell Pipeline Project:** The Federal Energy Regulatory Commission (FERC) is currently receiving comments prior to preparing the draft Environmental Impact Statement (EIS) for the LPP. The project team is preparing to submit updated population projections and water use numbers to the FERC for incorporation into the EIS. The current water needs analysis indicates water deliveries could be needed from the LPP as soon as 2028. Considering design and construction could take 5-7 years, it is critical that the environmental review process moves forward in a timely manner.

The proposed LPP would deliver water from Lake Powell to Washington and Kane counties. This water, in addition to savings through water conservation and water converted from irrigated farmlands as those lands are developed will assist in meeting the needs of the rapidly growing population in Southwest Utah. The division is working with the Executive Water Finance Board and the Legislative Water Development Commission to review state financing of large water development projects including the LPP. The division is currently requesting proposals for a 3rd party analysis of financial and economic parameters for financing of large water infrastructure projects.

6. **Staff Funding:** The Division has just under 50 employees and currently has 9 employees (20% of staff) that are eligible to retire. Within 5 years that jumps approximately to 15 employees (33% of staff). As we look at that potential, we need to continue to make sure that we have the ability in both salary and benefits that will help us to continue to recruit and retain excellent and younger staff that will come in to replace our experienced staff. We conducted an informal salary survey for all engineering, engineering tech and GIS positions compared to those same positions at the local water conservancy districts and found that our state positions are approximately 25% less paid comparatively. It is imperative that we have the financial ability through new salary appropriations, market based adjustments, ASI's and COLA's to adequately compensate current staff and maintain the benefits to retain our workforce.
7. **Contract with US Bureau of Reclamation:** The Utah Board of Water Resources completed negotiations with the US Bureau of Reclamation to work on the details and cost per acre-foot for water exchange agreements on the Board's Flaming Gorge Water Right.

This water right was originally intended for the Ultimate Phase of the Central Utah Project. That phase was deauthorized in 1992. In 1996, Reclamation transferred part of the right to the Board with the condition that if it received benefit from the water it would need to make this agreement with Reclamation. The Board subsequently divided the right and granted about 72,000 acre-feet to water users in the Green and Colorado River drainages and kept about 86,000 acre-feet for the Lake Powell Pipeline Project. One agreement will be made for the Green River block and one for the Lake Powell Pipeline block. Direct flow allowed by the water right will be exchanged for water stored in Flaming Gorge reservoir. Increased water supply security and protecting this part of Utah's Colorado River allocation will be the principal benefit to the State and water users. Reclamation will benefit from increased flexibility in its operations. There is no financial obligation to the State other than to pass through fees from third-party contracts with those who hold portions of that water right to Reclamation.

Division of Water Rights

1. **Working towards and advocating for an expedited general adjudication of water rights in Utah.** Adjudications have been initiated by the District court in 13 drainage basins. Each is important to complete and will help resolve uncertainty in the administration of water rights. Each is at a different stage of completion and will take a different set of resources to complete. The Governor's office has directed that we prioritize use of adjudication resources and focus on completing the Utah Lake/Jordan River (ULJR) adjudication in a short timeframe as a first priority. The strategy for accomplishing this important goal is multipronged and includes the following:
 - a. Analysis of the adjudication process, removing unnecessary activities, modernizing activities where possible, focusing resources to address bottlenecks, and improving measurement and oversight to focus on maximum performance. The office has added an online adjudication status tool which displays adjudication subdivisions, their locations, and status of all claims within the subdivision. The Division has

also deployed a YouTube channel which allows attendance at adjudication public meetings through the internet.

- b. Propose legislative amendments with water community support to address uncertain processes, revise outdated practices, and introduce new methods which could streamline the process. Significant legislation has been enacted and additional legislation is proposed for the coming legislative session.
 - c. Secure and focus adjudication resources on the ULJR area. Staff divide the adjudication area into subdivisions and have been initiating a new subdivision each month in the ULJR adjudication. By January 2019 all subdivisions in Salt Lake County will have been noticed and claims requested. It is taking about 18 months from the date claims are filed until the subdivision proposed determination is published. During 2019 we anticipate initiating new subdivisions in Utah County at the rate of one each month. Office space is currently being created at DNR to facilitate the hiring of additional adjudication teams which will also be dedicated to completing the ULJR adjudication.
- 2. Improve timeliness and efficiency of water right application processing.** The Division has successfully reduced most of the water right application backlog and is now shifting its focus towards improving timeliness of issuing water right decisions. Legislation has been developed with the help of the Utah Water Task Force which will further clarify water right application processes and will be introduced in the 2019 general session. Extension request online tracking and fast track tool was implemented during the past year which is helping decrease manual effort and expediting completion of extension state engineer orders. A similar process is currently being implemented for proof due notices being sent out by the agency to significantly decrease manual labor. Deed Addendums are becoming a significant part of the water right title workload. Improved forwarding and automated processing will be explored to expedite owner updates from addendums. Policy meetings are underway in Rush Valley, Southern Utah Valley and Parowan to better define policies and groundwater management so applications can be expedited. Additional policy meetings are planned for the coming year. Recognizing there is legislative interest in fees and their connection to application processing costs the Division has implemented an online tool which presents all fees the Division has collected with supporting information so they can be aggregated and analyzed independently by those interested
- 3. Improve the transparency and timeliness of water distribution decisions.** One of the responsibilities of the state engineer is to see that water is distributed by priority by establishing distribution systems and appointed water commissioners to distribute the water. As competition for water has increased the complexity of distribution system plumbing and water right characteristics has also increased resulting in increasing manual effort and less confidence in distribution decisions. The Division is addressing this issue with a two prong approach. The Division is encouraging and supporting real time water diversion reporting systems which increase the transparency and availability of basic water right information. Additionally we are implementing water right accounting models which automate much of the water distribution accounting and decision making transparently online for all to see quickly and easily. Models are in operation for the Bear River, Weber River, Provo River, Price River, and Sevier River. We will continue to enhance both realtime reporting and water accounting models to maximize the effectiveness of these tools. Work is currently in progress to improve tracking of actual irrigated acreage electronically.
- 4. Improve the quality and quantity of water use data reported.** This issue was brought to light by a legislative audit and resources have been provided by the legislature to improve the water use data reported. We are using a four pronged approach to attack this issue: Increased water user accountability, education and assistance, automated tools to help detect defective data as it is submitted, and collaboration with agencies using the water use data. We have implemented regulatory controls over data submitted to

increase water user accountability. A new online data entry system aimed at helping water users timely provide data and detecting errors as the data is submitted has been deployed. We have also implemented an aggressive program of data auditing where our staff meet with each system and go over the data provided, provide assistance and education about water use reporting. We are currently working on additional online tools to help water users assess the quality of data they are submitting. Tools have been developed to assist in the automated sharing of water use data among involved agencies.

5. Implement more flexible mechanisms to allow definition and quantification of new water right uses.

Water rights are becoming more complex as pressure mounts for instream uses, flexibility to convert beyond standard seasonal uses, and allow for more option driven water right transactions. The Division is engaged in water user discussions on these topics and continues to look at its practices which are steeped in decades old standards to look for new ways to accomplish its work efficiently and also provides greater flexibility as new uses are contemplated without impairing existing rights. Workgroups are meeting to look at methods to implement water banks and accommodate short season leases for instream flow. The Division is educating about current institutional hurdles and providing suggestions to overcome the roadblocks. We believe the best path to flexibility is to have the Division participate in the water user discussions actively identifying and analyzing options as the brainstorming process brings them to light. Our goal is to work cooperatively towards mechanisms which continue to facilitate order and certainty but provide additional opportunity for flexibility.

Utah Geological Survey (UGS)

1. There is increasing demand for interactive databases on the web. The UGS has shifted resources to increase its data services, but it needs additional help to continue to maintain these important databases.
2. The sustainability of Federal contracts and Mineral Lease revenue to the UGS are increasingly uncertain. Decreases in these funding sources will impact necessary staffing levels and services.
3. Legislation to require geologic reports for development to be submitted to the UGS for archiving, similar to that for water well logs with the Utah Division of Water Rights, is needed for the UGS to continue creating detailed geologic (including shallow 3D mapping) and geologic hazard mapping in urban and urbanizing areas.
4. The UGS hosts the State Wetlands Program almost entirely on federal Environmental Protection Agency contract funding. Some state-appropriated funding is needed to sustain this important program.
5. The Utah Core Research Center, which contains a collection representing \$10 billion in investment, needs improved research space as well as additional storage to better meet the needs of industry and academia.

Division of Wildlife Resources

1. **Ongoing drought conditions and increasing potential for wildfires statewide.** Drought conditions across the state have created challenges for range conditions and habitat quality, which has negatively impacted fish and wildlife. In response to this year's drought severity and extreme risk of catastrophic wildfire, additional antlerless elk and bison permits were issued for some of the most drought stricken areas. This provided some proactive protection for the impacted rangelands and the wildlife and domestic livestock they support. Over the longer term, DWR is particularly concerned about the continued lack of water in the Great Salt Lake, and the impacts this will have on wildlife, Utah's brine shrimp industry, and the quality of life in our state.

- 2. Maintaining healthy wildlife populations and expanding wildlife populations where appropriate:** As Utah's economy and population continue to grow, it becomes increasingly difficult to meet the growing demand for hunting and fishing opportunities. DWR is continually developing new and innovative ways to provide hunting and fishing opportunities to meet this demand, while also supporting the growth of Utah's economy. Over the past ten years, DWR has focused on maintaining and expanding wildlife populations through activities including the Utah Watershed Restoration Initiative (almost 1.6 million acres of habitat have been restored), numerous wildlife transplants, disease monitoring, predator control, targeted research efforts, and countless other actions.
- 3. Maintaining and increasing interest in hunting and fishing participation:** The primary revenues that support wildlife management in Utah are generated by the sale of hunting and fishing licenses and permits, as well as federal excise taxes on hunting, shooting and fishing equipment and motorboat fuel. As hunters and anglers continue to support the conservation of Utah's wildlife by making these purchases, it is critical that DWR make strategic investments in developing long-term hunters and anglers. To that end, DWR is working with partners throughout the nation to Recruit, Retain and Reactivate (R3) hunters and anglers. DWR will continue to provide world class technology and systems and maintain high standards of customer service.
- 4. Facilitating public participation in wildlife management decisions:** Wildlife conservation is a complex process that requires rigorous scientific evaluation, while carefully considering the various social and economic values of the people of Utah. For these reasons, public participation in wildlife management decisions is critical to achieving a fair and desirable outcome for the public. Further complicating matters, the means, mechanisms and motivations for communicating in the 21st Century continue to evolve. DWR must continually adapt to those evolving trends, while strengthening traditional forums for structured public participation. DWR relies on five Regional Advisory Councils throughout the state, as well as Utah's Wildlife Board, to review day-to-day wildlife management decisions and gather robust public input. In addition, DWR coordinates numerous work groups that advise DWR in a proactive and collaborative manner, as well as a suite of cutting edge social and digital media tools, surveys and analytics to gather public input and key insights.
- 5. Maintaining state authority to manage wildlife:** DWR is the trustee and guardian of Utah's wildlife, and remains the primary authority in the conservation of all state managed species. But when management authority is transferred to the federal government, such as when a species is listed as "Threatened" or "Endangered" under the Endangered Species Act (ESA), local communities and economies are negatively affected. DWR is continually collecting key data and implementing critical conservation actions on the ground to forestall the need to list state managed species under ESA.

Division of Parks and Recreation

- 1. Aquatic invasive species:** Quagga mussels and other invasive species threaten lakes, reservoirs, and water systems across the State of Utah including our 22 water-based parks. State Parks staff inspect and decontaminate thousands of boats each year at park facilities. In 2017, our staff found just a handful of boats with quagga mussels on board. This year over 150 boats attempted to launch at a State Park that were encrusted with quagga mussels. The majority of infected boats are coming from Lake Powell, which is infested with quagga mussels. Aquatic invasive species could impact park operations to the point that parks may ultimately be closed to public access. In addition, the State's water managers are faced with

astronomical ongoing operating and maintenance costs, which will be passed on to the end users and consumers.

Unfortunately, there aren't obvious solutions to this problem, which makes taking immediate proactive measures crucial. The Division of Wildlife Resources (DWR) manages the Aquatic Invasive Species program. State Parks is working with DWR to determine where our combined resources are best focused.

2. **Access to non-governmental vendors:** Over the past several years the Division of Parks and Recreation (Division) has established a very successful business platform. Using proven business principles the Division has been able to operate the State's parks on the funding that is primarily generated at those same parks. There are many circumstances wherein the Division could better manage expenses and save critical dollars by using non-governmental vendors. Under current law, rule and practice, the Division is mandated to utilize governmental vendors, many of whom operate as Internal Service Funds (ISFs). In many cases, the cost of utilizing the ISFs exceed the cost of acquiring the same, or better, service from private vendors who may be better positioned to meet the Division's needs.

Legislation exempting the Division from using the services of non-competitive governmental service providers would be a tremendous boost to the ability of the Division to manage its business.

3. **Prudent Growth:** Every year, there are numerous proposals floated for additions to the state park system. While some of those are legitimate parks that have a place in the system, most are not. Increasingly, the Division's success seems to make it appear as a "cure all" for areas that are difficult or costly to manage. We believe that the addition of State Parks to the Division's portfolio that do not meet the Division's business model of being able to operate at a profit are detrimental to the entire system. Adding a park that will be a drain on resources is hazardous to the future of the system.

Unfortunately, we don't have a solution to this situation. We will continue to work with the Legislature to make sure they understand our concerns.

Department of Agriculture and Food

1. New Agriculture Building:

- a. The current Agriculture Building is well past its useful life and has half the strength that it would need in an earthquake event.
- b. The programming for the building is being revisited for the new build at the current UDAF location and has is estimated that \$36 million is needed to replace the building which would resolve growth issues for the department for the next 40 years.

2. Marijuana Legislation:

- a. Staffing will need to increase to conduct inspections of facilities and processors. It is currently anticipated that a minimum of 6 additional FTEs would be needed to handle this workload.
- b. Education on the issues surrounding marijuana will be a major focus. Cultivators, processors, as well as Department employees and the public will need to be educated to understand and work with these issues.

- c. Funding for this program is a concern. With the need to implement an electronic verification and inventory control system, as well as to monitor and enforce the program, it is unknown whether this program will support itself.
- d. The Department has enforcement concerns. Due to the nature of the product, enforcement will have to be a mine priority so as to avoid diversion. This will require careful writing of regulations to avoid loop holes and potential points of litigation. Additionally, it will require close scrutiny of those participating in the industry.

2. Core Computer System:

- a. The Department has about 25 in-house computer applications that were developed over the past 18 years utilizing Microsoft Access as the platform. These applications are old, are not secure, do not communicate amongst each other and are not available to staff out in the field.
- b. The department has purchased and is customizing an electronic administrative and regulatory information system to replace the outdated Access database systems that are currently in use.
- c. These Access database systems are experiencing significant issues and are constantly requiring maintenance efforts from DTS. Also, once information is archived in the current systems, it is nearly impossible to retrieve data to meet requests for information or for management analysis.
- d. The new system will also be designed to upgrade inspection processes from paper to electronic, resulting in more efficient use of inspectors' time and reduced costs associated with managing a paper process.
- e. Solution: This system being paid with dedicated credits that are already generated by the department.

School and Institutional Trust Lands Administration

1. **Sale of Tabby Mountain Block:** DNR has petitioned SITLA to purchase SITLA's 28,000 acre Tabby Mountain Block that straddles Wasatch and Duchesne Counties. The minimum acceptable price, based on appraisal, is \$41 mm. The Governor's budget contains a \$20 mm appropriation request to cover part of the purchase price. SITLA is in the process of performing its necessary due diligence of advertising and considering any competing interest.
2. **Emery County Lands Bill and Land Exchange:** While the Emery County Lands Bill failed final passage in the last Congress, it's anticipated it will pass within the next few months. SITLA is poised to trade-out of over 100,000 acres of its inholdings captured within potential conservation designations created in this legislation. The legislation calls for specific selected BLM targets throughout the state that will be acquired by SITLA to memorialize this exchange. Like other legislative federal land exchanges, this will set the stage for significant staff time and resources to coordinate with BLM to meet administrative protocol, including drafting a feasibility report, procuring appraisals, and conducting NEPA and Hazmat analyses. These expected expenditures will lean on both current FY 2019 and requested FY 2020 appropriations.
3. **UTTR Exchange:** SITLA will be incurring appraisal costs associated with the Utah Test and Training Range exchange with the federal government. It is anticipated that the majority of the expenses will be incurred in FY 2019 and will be funded through the one-time land tenure appropriation that exists in the current budget. Initial expenses associated with NEPA and Hazmat analyses will also be incurred in FY 2019 and funded through the one-time land tenure appropriation that exists in the current budget, but

will likely also spill into our requested FY 2020 appropriation. Staff is spending considerable time on implementing this exchange, however, personnel time will be absorbed by existing FTEs.

4. **Northwest Quadrant:** SITLA recently acquired 770 acres of land owned by The Church of Jesus Christ of Latter-day Saints, which was formerly used as a municipal landfill administered by Salt Lake City. This property will be key in the future creation and development of the Inland Port. Critical to Salt Lake City's ability to perform its necessary environmental mediation of the landfill as a precursor to the development of the property, will be securing the necessary funding through the tax increment that is now administered by the Inland Port Authority.
5. **BLM Revised Travel Management Plans:** Pursuant to a settlement of litigation between the Bureau of Land Management (BLM) and the Southern Utah Wilderness Association (SUWA), SITLA is actively involved in developing revised travel management plans with the BLM. The settlement gives BLM eight years to conduct public road access reviews through its Richfield, Vernal, Price, Moab, and Kanab Field Offices and develop new travel plans that will protect sensitive resources along routes. Given SITLA's scattered land ownership and the vast area these travel management plans will cover, the agency intends to be heavily involved in the process to preserve access to its parcels. We anticipate being able to use present staffing levels to engage in this process, but may need to turn to additional resources.
6. **Ticaboo Development:** SITLA recently negotiated a lease in Garfield County that will involve an investment of nearly \$200 mm by a private developer, with potential yields of up to \$26 mm to the Trust's beneficiaries. It is anticipated the economic impact to Garfield County and its residents will be substantial, which complements the Governor's economic development initiative calling for creation of 25,000 new jobs in rural Utah.
7. **Investment in Resolving Jurisdictional Disputes and Associated Access Issues in the Uintah Basin:** SITLA has invested \$150,000 in legal fees and research to assist the Attorney General's office in defending Utah's interest in four pending lawsuits filed by the Ute Tribe.

Department of Environmental Quality

Air Quality

1. **Growth:** Utah is one of the fastest growing states in the nation and 90% of Utah's population is clustered in the urban areas along the Wasatch Front. As the population in Utah grows, the population-associated air emissions that are tied to goods, services, transportation, and energy are increasing. Topography and planning have resulted in more development farther from employment centers. Vehicle miles traveled are growing at twice the rate of population growth. All planning efforts are complicated by the projected growth in potential sources of air pollution.

Solution: Planning and coordination has been underway for the past five years. In 2018 the legislature funded additional planning and compliance staff and ongoing appropriations for air quality research. Air quality research has led to a better understanding of the chemistry and emissions sources. Air quality computer models have been upgraded to work in the unique elevation, topography, and chemistry found in Utah. Efficiency, automation, elimination of unneeded and redundant activities has freed up resources, and vital new appropriations have been provided by the legislature.

2. **Implementing new and revised standards:** Federal air quality standards have become more protective and have required the development of new SIPs to improve air quality. Development of a new “serious” SIP to address the 2006 PM_{2.5} standard in areas along the Wasatch Front will take place in 2017 with an attainment target of 2019. Failure to attain the standard by the attainment target would result in an obligation to include more costly abatement measures in the State plan. Furthermore, EPA could once again revise the standards for PM_{2.5} as early as 2022. Planning for a new ozone standard and potential SIP development is ongoing. Increased federal regulation of air pollutants, and accommodation of economic and population growth, will require new plans and processes to attain and maintain the standards.

EPA has revised the program requirements for Regional Haze, an important program that improves visibility at Utah’s National Parks. The next planning period begins in 2021. The State, along with Rocky Mountain Power, contested a decision by EPA to reject a portion of the State’s plan for the first planning period and to impose a federal plan that would have cost Utah rate-payers hundreds of millions of dollars. EPA agreed to review their prior decision, and the Division of Air Quality (DAQ) and Rocky Mountain Power have supplemented the technical analysis and the DAQ is working to revise the State Implementation Plan in 2019 to submit to EPA for their reconsideration.

The EPA has made the final designations for the 2015 revision to the standard for ground-level ozone. Air monitors along the Wasatch Front and in the Uinta Basin have measured ambient concentrations of ozone that are over the new standard. Based on the monitored values, the emission sources and the impacted topography, the Governor recommended areas that EPA may include in new nonattainment designations for Utah. The final designations include new non-attainment areas in Utah County, a four county Salt Lake non-attainment area and a third non-attainment area that includes portions of Uintah and Duchesne Counties that lie below 6,250 feet in elevation. All areas were designated as “marginal” and would require a new State Implementation Plan if the area continues to exceed the standard over the next three years.

3. **Funding challenges from not funding full salary increases:** While DAQ appreciates the funding provided by one-time and ongoing appropriations; one consistent challenge is that when across-the-board cost of living salary increases are granted to state employees, the legislature funds only the general fund portion of the increase. Since the general fund portion of the agency budget is about one third of the budget, the agency must find other sources for the funding not covered. The biggest challenge is the portion of the budget funded by federal funds. EPA has received only continuing resolution budgets and has taken sequestration cuts each year. The federal funding is flat (other than competition for pass-through funding for emissions reduction projects) and there is no ability to cover the salary increase with new federal funds. Dedicated credits can be adjusted but lag by up to two years beyond the new salary implementation. In fiscal years 2016, 2017 and 18 the unfunded salary obligation equaled the funding for six full time equivalents (FTEs).

Solution: DAQ intends to work with stakeholders to review the funding structure with the intent to identify an ongoing funding source that is indexed to the workload of the agency. The anticipated solution will include a look at emissions fees and some way to capture the majority of the emissions that are from population-based area and transportation sources.

4. **Permitting timelines:** The time it takes to process and issue a New Source Review Approval Order (AO or permit) exceeds the 110-day goal established by a 2011 process improvement exercise about 70% of the time. Permitting branch management has identified process improvements through applying Theory of Constraints. The application development process is a bottleneck because the Best Available Control Technology (BACT) requirement for all emission units involves a technical and economic feasibility analysis. Customers have difficulty obtaining information specific to their operations, compared to similar operations. Another difficulty is the changing of rules and standards that are ongoing. Staff takes additional time to help sources understand the rules and the standards, so they can be properly reflected in the permit. Finally, the documentation needed to support permitting decisions is extensive, but is required to properly defend the permit, especially in the case of a legal challenge. When a permit is challenged, the time to issue an Approval Order (AO) increases significantly due to the need for an in-depth legal review.

The DAQ retains the improvement goal of 110 days to issue a permit. At the end of FY 2018, the average time to issue AO's was 199 days and only 31% of AO's were drafted within 90-days.

Solution: A survey was recently developed to provide permitting branch staff feedback on permit process issues. The feedback from this survey has led to a better understanding of bottlenecks and redundant activities. The survey also identified other process improvements, so the branch can fine tune the permitting process, from application receipt to permit issuance. A formal process improvement effort is underway to address the opportunities to decrease permitting timelines.

Additionally, in 2015, the legislature provided funding for an additional attorney general to assist with air quality approval order (AO) reviews and appeals. Historically, permitting engineers have been pulled away from permitting duties to work on SIPs (that should be complete by the end of 2018). A streamlined permit by rule has been developed to remove the need for an AO if the company agrees to install and operate equipment that is defined as Best Available Control Technology (BACT).

5. **FTE trends and anticipated FTE levels for FY2017 and a 5-year outlook:** FTEs have been adjusted over recent years in response to available funding. When budgets were cut in 2008-2011, the lower budgets were accommodated by reducing the number of FTEs and equipment replacement costs. Over the past four years, the legislature has funded FTE increases and staffing is back to the pre-2008 levels. No major staffing changes are anticipated over the next five years.

Drinking Water

1. Regulatory oversight issues

- a. **Sanitary Surveys:** The Division conducts an inspection of each public water system's infrastructure every 3 years. Due to increased requirements from EPA and outdated tracking software, this program has drifted into being less productive for the water systems. This is a critical program in determining the condition and sustainability of the state's drinking water supply and delivery.

Solution: The Division is looking for ways to improve this program, including a refresh of the tracking software to allow surveyors to focus more time on the survey itself rather than on documenting it and to make sure that deficiencies found are captured and tracked so we can ensure they are resolved and not just overlooked until the next survey. Our efforts will also

focus on updating the training program for surveyors to ensure consistent and thorough survey regardless of the particular surveyor. We will also look into procedural changes to ensure that critical items are addressed while not slowing down the implementation of the program.

- b. **Public Water System Terminus Clarification:** The Division is working to resolve a public health gap that was brought to our attention from municipalities that are also public water providers, such as a city. Historically, many developers have been allowed to build an entire community behind a single master meter. The city has then considered the meter to be the end of their responsibility and liability to maintain. However, residents of these communities are not aware that their drinking water is not being monitored for water quality nor are the residents prepared to repair the system if it breaks.

Solution: The Division is working with stakeholders to find a path forward that both protects the municipalities from having to take on liability that they aren't prepared for, and ensures that all residents receiving public water supply are equally protected.

2. Standardize enforcement and follow-up

- a. **Enforcement Escalation:** The Division has received feedback from EPA audits that our past enforcement procedures are not meeting all of EPA's expectations. Historically, Utah adopted a more passive approach where a water system was notified of a deficiency and then trusted to resolve it. In many instances this worked, however, several systems throughout the state were allowed to leave longstanding physical or sampling deficiencies unresolved.

Solution: The Division is implementing a formal enforcement program, identifying systems that require more than just encouragement and implementing a process of escalating enforcement actions if noncompliance continues.

- b. **Improvement Priority System (IPS) Update:** The Division is updating its Improvement Priority System that is used as a report card for drinking water systems. This system has been in place for several years but was inconsistent and became ineffective over time as items were added.

Solution: Drinking Water Division staff spent a considerable amount of effort in simplifying the points system and clarifying the program implementation to reflect the new enforcement escalation policy. Training on the new approach will be shared with drinking water systems through this coming year with an expected rule change and implementation in January 2020. The Division is committed to changing our outreach strategy to preemptive collaboration rather than just after-the-fact training.

3. Transparency and Accountability

- a. **National Performance Measures and Goals:** The previous, more passive, approach by the Division to enforce drinking water system deficiencies has allowed Utah's drinking water systems to not perform as well on the national performance measures. These deficiencies reflect a number of potential issues, including with testing and reporting, though not necessarily health risks. The Division is committed to helping drinking water systems achieve full compliance even as EPA increases the stringency of its standards.

Solution: As noted above the Division is implementing a formal enforcement program, identifying systems that require more than just encouragement, and implementing a process of escalating enforcement actions to accompany perpetual noncompliance. The Division continues to evaluate internal performance measures that will help us understand better where improvements can be made.

The Division is also working hard to have all of the information relating to drinking water quality and reliability available to both the water systems and the public.

4. Division Stability-The Division is facing three significant threats to its ongoing stability.

- a. **Increasing Demand for Services:** Public expectations, emerging contaminate concerns, population growth within Utah leading to more public water systems, aging infrastructure leading to more physical significant deficiencies in drinking water systems, and the reduction of existing water sources as well as more emergency needs from wild fires all lead to the need for additional resources to keep up with a very real and growing demand.
- b. **High Turnover Rate:** The Division is losing experienced personnel to retirement and to a stronger job market. This turnover rate is creating an additional resource drain on the Division and impeding our efforts to increase the value added by our regulatory activities. We are also struggling with attracting good candidate for the open positions due to the smaller compensation package we can offer. Employees are leaving for higher pay and our benefits package is no longer superior to those offered at other governmental agencies.
- c. **Unsustainable Funding Structure:** Since most of the Division's personnel costs are covered by federal appropriations, the annual cost of living increases provided through the general fund do not fund the increases for the Division of Drinking Water. Years of insufficient funding created the current situation where the Division can no longer afford the existing personnel costs or provide adequate salary adjustments to retain staff or meet the growing needs.

5. Implementation of new water use reporting and system sizing standard requirements:

Legislation passed in the 2018 legislative session required all public water systems serving a community to collect and report a variety of water use data. The new law also requires the Division to use that data to determine new system specific sizing standards for these water systems rather than using historical statewide standards. The Division is working to implement this significant project by providing guidance to staff and water systems on how to comply with the new requirement. This will require significant engineering review, electronic tool development, and extensive coordination with other state agencies. The Division will be focused on this implementation and fine-tuning the process during the next year.

Environmental Response and Remediation

1. **Emerging contaminants and/or changing standards of known contaminants** may affect characterization and cleanup decisions and may prove very costly to citizens, industry and environmental agencies. Examples of emerging contaminants include PFOAs and PFAS (Perfluorooctanoic acid and per- and polyfluoroalkyl substances). Known contaminants with cleanup or risk-based standards subject to being lowered include lead, which in the mining west could result in more costly cleanups.

Solution: DERR management and staff are involved in national organizations like ASTSWMO and ITRC in order to engage in dialogue related to emerging contaminants like PFAS and PFOAS and changing standards, such as for lead. Being involved in the discussion allows us to be current on the development of science and methodologies to better protect the citizens and environment of Utah through knowledge and best practices.

2. **Emerging fuels and different fuel blends:** The infrastructure of Underground Storage Tank (UST) systems are potentially affected by new fuels and fuel blends. The impacts of emerging fuels are unknown. Fuel blends of increased ethanol hasten corrosion and failure of parts of UST systems. Staying on top of and understanding emerging fuels and ahead of the impacts of fuel blends is critical to ensure protection of public health and the environment.

Solution: DERR regularly participates in National engagement opportunities at which the latest information on fuel blends and their impacts on UST infrastructure are discussed. A DERR UST manager participates on the ASTSWMO Emerging Fuels Task Force as the Region 8 States representative. Information collected and exchanged through such forums is disseminated and discussed with UST program stakeholders to ensure the best practices are being employed to protect from and deal with the impacts of such fuel blends and to prevent releases from USTs.

3. **Decreased Federal LUST Trust and LUST Prevention funding:** Prevention is a key part of our UST program as it is far more efficient and less expensive to prevent releases through outreach activities and compliance inspections than it is to cleanup releases. LUST Trust funding has also been significantly cut in recent years. Federal LUST Trust funding is used to assess and cleanup UST sites where the owner/operator is either unwilling, unable or unknown to take financial responsibility and necessary cleanup actions.

Solution: DERR discusses the disparity in the EPA funding equation with the Region and EPA HQ encouraging revision to a more equitable distribution. DERR applies for additional EPA LUST funding if and when it becomes available. DERR also carefully prioritizes allocated and appropriated funds for LUST cleanups to achieve final cleanup and site closure, and with the Attorney General's assistance, cost recovers expenses on investigation and cleanup to replenish funds used. Additionally, DERR continues to prioritize UST Compliance inspections to match frequency with risk so we can manage costs by targeting the most critical inspections to conduct as well as identifying cost effective methods for assisting facilities to stay on compliance (test reminder letters, tank tips, newsletters and one-on-one outreach).

4. **Potential decreased federal funding for Superfund site assessment (pre-remedial) activities:** Site assessment activities under Superfund leverages protection to public health and the environment through the implementation and use of EPA removal actions, use of Brownfields tools, cleanups under the state Voluntary Cleanup Program, or deferrals to other means such as state voluntary RCRA corrective actions. The current federal budget proposal severely cuts Pre-remedial funding. Unlike other states, Utah conducts all CERCLA site assessments. Cutting this funding would severely hamper our efforts to identify and cleanup sites.

Solution: DERR regularly sets target goals for pre-remedial accomplishments with EPA Region 8 and semi-annually discusses current priorities and status of efforts to complete the agreed to targets. Funding remains static while the federal government operates under continuing resolution and DERR continues to look for ways to streamline pre-remedial activities, such as developing standardized report formats, etc.

5. **Ensuring there is sufficient cost share monies available to meet our CERCLA obligations at fund-lead National Priorities List (NPL) sites:** The DERR has successfully managed available resources to meet the state's obligations for the required 10% cost share of CERCLA Remedial Action costs and 100% of post-construction Operation and Maintenance costs at fund-lead NPL sites. DERR wants to ensure that there are sufficient resources available for not only meeting current known and anticipated obligations, but potential future cost share obligations at fund-lead sites as yet unidentified, so that NPL listing remains a viable tool for cleaning up significantly contaminated sites where there are no identified responsible parties.

Solution: DERR manages the required cost share by negotiating favorable payment schedules as part of the agreements between EPA and DEQ for the required cost share. DERR also requests lead agency status to manage the actual cleanup costs in order to better control and manage remedial action costs.

6. **Division succession and development of a skilled work force:** The DERR work force is aging. Many were hired in the late 1980's and early 1990's as state environmental regulations and programs were developed and promulgated. There will be significant staff and manager turnover in the next 3-5 years.

Proposed solution: DERR evaluates every vacancy in terms of workload and opportunity to develop new talent for the future. As determined, recruitments target entry level talent to build future capacity.

Waste Management & Radiation Control

1. **Stringency.** US EPA Region 8 has notified the Department of Environmental Quality that the definition of "solid waste" in the Utah Code is less stringent than the corresponding definition in federal code. This deficiency would allow certain solid and hazardous wastes to escape regulation under the Division's regulatory waste management programs that would otherwise be regulated under federal law. As such, the state's primacy (the authorization to implement these programs in lieu of the federal government) would be jeopardized.

Solution: Resolution of this issue will require legislation bringing the state statute inline with federal definitions.

2. **Commercial Solid Waste Landfills.** Commercial solid waste landfills are operated by private sector companies for profit. State statute prohibits the siting of any new commercial solid waste or hazardous waste landfills unless the applicant can demonstrate the need for such a facility. Specifically, the applicant must demonstrate that there is insufficient capacity in the state and the needs of industry are not being met. Currently, there are a number of commercial solid waste landfills operating in the state. Based on current operations and future projections, these facilities collectively represent 1400 years of landfill capacity. Outside interests have expressed a desire to build their own commercial landfills in Utah and compete with existing companies. It is likely these outside interests will challenge the current statutory prohibition.

Solution: This issue will require a major policy discussion. Changes to the current prohibition could open up Utah to unlimited facilities and more out-of-state wastes.

3. **Low Level Radioactive Waste Management.** The pending decision on depleted uranium will continue to bring increased public scrutiny, controversy and opposition. Any decision will be challenged. Routine radioactive waste management issues continue to pose challenges to the agency, particularly as federal agencies that have stockpiles of legacy radioactive waste or routinely generate radioactive waste revise their policies and allow off-site shipment of such wastes to private commercial radioactive waste management facilities.

Water Quality

- 1. Growth:** Utah is one of the fastest growing states in the nation and 90% of Utah's population is clustered in the urban areas along the Wasatch Front. Wastewater infrastructure will be needed to accommodate growth; this means upgrades to and expansion of wastewater treatment plants. Our portion of the Water Development Security account is capped at the same amount since the fund was instituted. The growth in that account as sales tax revenues have increased due to Utah's growth over the years has not been available to the Division or its customers even though the amount of wastewater and storm water infrastructure systems has increased. There is significant demand on the Clean Water Fund that cannot be satisfied at current funding levels.

Solution: Consider alternate sources of funding for significant water infrastructure needs.

- 2. Water Quality Study:** Targeted water quality studies allow DWQ to make scientifically defensible regulatory decisions that may differ from national approaches. However, there is currently no sustainable source of funding to support such studies. DWQ seeks base level funding to establish a competitive Water Quality Study Grant Fund for projects to support key DWQ programs.

Solution: Identify a funding source to allow for Utah-specific research on topics including: microbial source tracking of bacteriological contamination in the state's waters, evaluation of appropriate septic densities threatening sensitive drinking water sources, and evaluation of the costs and benefits of wastewater reuse.

- 3. Great Salt Lake:** Great Salt Lake is a unique ecosystem that needs additional study to develop protective water quality standards.

Solution: The Division of Water Quality will continue to seek funding necessary to perform the necessary studies and research to establish water quality standards that protect Great Salt Lake and to sustain its beneficial uses and to understand and mitigate the impacts of reduced water flows to the lake.

- 4. Storm Water Pollution:** With increased urbanization comes increased levels of urban pollution, in the form of sediment, salts, herbicides, pesticides and hydrocarbons, which flow into our waterways. Increased efforts by our communities will be necessary to address this issue.

Solution: In FY19, DWQ will release a Low Impact Development manual to accompany the post-construction retention standard that will become efficacious in 2019.

- 5. Harmful Algal Blooms (HAB):** The Division of Water Quality is the public agency responsible for monitoring, assessing, and protecting Utah's water quality. Last year's one-time funding from the legislature led to significant improvements in proactively monitoring our most susceptible water bodies for harmful algal blooms. Unfortunately, the one-time funding was quickly used-up to address the many harmful algal blooms this year.

Solution: Based on the success, experience and efficiencies gained during the past fiscal year, DWQ has identified a HAB response budget to cover monitoring and analytical costs for future years. Additionally, one of the biggest sources of water pollution in Utah, directly related to Harmful Algal Blooms, is from the excessive levels of nutrients. DWQ will focus in FY19 on the Utah Lake Water Quality Study and development of a state-wide nutrient policy in collaboration with the Governor's office and the legislature to address this concern in the future.

Office of Energy Development

Our key issues will be driven by realizing the state's energy policy and delivering jobs and investment as our energy sector continues to evolve. While we are realizing success today through efficient implementation of policy, incentives and education, continued assessment of the energy and minerals economy and engagement on critical issues is required. OED has a strong technical team today, and keeping and building from this talent is fundamental to Utah's leadership and independence on energy policy as we navigate an evolving economic landscape and policy changes. Some specific matters include the following:

1. Increased regionalization of the power system
2. Shifting resource preferences impacting energy producing communities
3. Infrastructure limitations for market access to support export and trade
4. Access to resources on federally managed lands
5. Retaining and building talent in the face of strong labor market competition.

Public Lands Policy Coordinating Office (PLPCO)

1. **Petition to the U.S. Department of Agriculture for a Utah-specific Roadless Rule:** PLPCO is preparing a petition for a Utah-specific amendment to the 2001 Forest Service Roadless Rule that would give the Forest Service more flexibility to promote healthy, resilient forests. A dedicated team of PLPCO staff is working with all twenty-nine counties in Utah to develop recommendations for the future management of Roadless Areas within each county. PLPCO has also hosted meetings across the state to discuss this initiative with stakeholders and the public. Key state agencies are reviewing county recommendations for Roadless Areas. A final petition for a Utah-specific roadless rule amendment is anticipated to be sent to the U.S. Department of Agriculture in early 2019. If the State's petition is accepted, it will kick off the development of a full Environmental Impact Statement, led by the U.S. Forest Service to analyze the State's petition and, if successful, adopt a new Utah-specific federal rule.
2. **Revision of Federal and State Greater Sage-Grouse Management Plans:** During FY 2019, PLPCO will continue to be spending significant staff time working with State and Federal agencies to develop land-use plans that benefit sage-grouse while also benefiting the economic needs of Utah's citizens. Further, PLPCO will continue to implement Governor Herbert's executive order for sage-grouse and will continue to convene the Sage-grouse Plan Implementation Council. Finally, as legal challenges to the State or Federal Plans arise, PLPCO will work with the Attorney General's Office to fund any potential litigation related to sage-grouse plans.
3. **R.S. 2477 Bellwether Trial:** PLPCO and the Public Lands Section of the Utah Attorney General's Office are preparing for a two-week trial in the U.S. District Court for the District of Utah from February 4th through 15th, 2019, that will determine the ownership status of fifteen roads in Kane County crossing BLM land. Kane County and the State have asserted that each hold an undivided $\frac{1}{2}$ interest to the right-of-way on all fifteen roads under a federal law known as R.S. 2477. The resolution of the case will set precedent for determining the status of the remaining 12,000+ R.S. 2477 claims that the State and counties have made to roads on BLM land throughout Utah. Issues decided in this case will almost certainly be litigated in future appeals before the 10th Circuit as well.