

**Effective 5/4/2022**

**11-65-205 Project for the improvement of Utah Lake -- Role of the Division of Forestry, Fire, and State Lands -- Allowing the use of Utah Lake in exchange for the implementation of an improvement project.**

- (1) As used in this section:
  - (a) "Division" means the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.
  - (b) "Improvement project" means a project for the improvement of Utah Lake as determined by the board.
  - (c) "Improvement project agreement" means an agreement under which an improvement project contractor agrees to undertake an improvement project.
  - (d) "Improvement project contractor" means a person who executes a legally binding improvement project agreement with the lake authority.
- (2)
  - (a) Subject to Subsection (2)(b), the lake authority is substituted in the place of the division with respect to the management of Utah Lake.
  - (b) Subsection (2)(a) does not affect the division's role and responsibility relating to:
    - (i) the administration and issuance of permits, leases, rights of entry, or easements; or
    - (ii) the disposal of lake authority land.
- (3) The lake authority may enter into an improvement project agreement if:
  - (a) the lake authority finds that the improvement project will fulfill the purposes listed in Section 11-65-203;
  - (b) the proposed improvement project is consistent with the public trust doctrine and the provisions of this chapter;
  - (c) the improvement project contractor obtains necessary permitting authorization from the division to construct or implement the improvement project on lake authority land; and
  - (d) at least 30 days before entering into the improvement project agreement, the lake authority provides notice of the lake authority's intention to enter into the improvement project agreement to each person that has requested notice under Subsection 11-65-402(2)(c) of the lake authority's intention to enter into the improvement project agreement.
- (4)
  - (a) An improvement project agreement may include a provision allowing the division to permit a use of Utah Lake, consistent with the public trust doctrine, in exchange for the implementation of the improvement project agreement, as provided in this Subsection (4).
  - (b)
    - (i) If provided for in an improvement project agreement, the lake authority may recommend that the division allow the use of Utah Lake in exchange for the implementation of the improvement project agreement.
    - (ii) In making a recommendation under Subsection (4)(b)(i), the lake authority shall consider:
      - (A) the potential benefit to the citizens of the state from execution of an improvement project, the desirability of the proposed use of Utah Lake and the surrounding areas as a result of the improvement project, and the enhancement of the usability and enjoyment of Utah Lake and lake authority land that will accrue to the public because of the improvement project;
      - (B) the potential detriment to appropriated water rights in Utah Lake, in upstream tributaries, and downstream of Utah Lake;
      - (C) the potential that the improvement project presents for additional revenue to state and local government entities;

- (D) the enhancement to state property resulting from the proposed use of Utah Lake allowed to be used in exchange for the execution of the improvement project;
  - (E) the proposed timetable for completion of the improvement project;
  - (F) the ability of the improvement project contractor to execute and complete the improvement project satisfactorily; and
  - (G) the effects of the improvement project on lake ecology, including the ability to avoid or mitigate negative impacts to wetlands and to migratory birds, fish species, and other wildlife.
- (c) The division shall issue a permit for the use of Utah Lake in accordance with a recommendation under Subsection (4)(b)(i) if:
- (i) the authority makes a recommendation under Subsection (4)(b)(i); and
  - (ii) the division finds the proposed use to be consistent with:
    - (A) management plans applicable to Utah Lake; and
    - (B) the public trust doctrine.
- (d) Nothing in this Subsection (4) may be construed to allow the disposition of title to any land within the lake authority boundary in exchange for the implementation of an improvement project.

Enacted by Chapter 59, 2022 General Session