

Effective 5/1/2024

65A-17-303 Multiple mineral development area -- Cooperative agreements -- Correlative right protection -- Withdrawn from or incapable of mineral development.

- (1)
 - (a) The division shall manage the Great Salt Lake below the Great Salt Lake meander line as a multiple mineral development area to:
 - (i) prevent waste;
 - (ii) ensure the greatest ultimate recovery of minerals or elements;
 - (iii) protect correlative rights of owners having rights to a common source of supply and the division's duty to manage public trust assets; and
 - (iv) encourage new and emergent technologies to protect the Great Salt Lake's overall ecological integrity while ensuring the greatest possible recovery for operators and the state.
 - (b) The division may make rules, in accordance with Title 63G, Chapter 3, Administrative Rulemaking Act, to implement Subsection (1)(a) and any related defined terms in Section 65A-17-101.
 - (c) An operator shall conduct operations to comply with the rules made under Subsection (1)(b) and other rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (i) governing individual operations; and
 - (ii) made for the multiple mineral development area.
- (2)
 - (a) As a condition of the division issuing a lease or royalty agreement on or after May 1, 2024, and of continued operations, the division shall require an operator to enter into and maintain a cooperative agreement with the persons with correlative rights in a common source of supply for a mineral or element in the Great Salt Lake.
 - (b) After submitting an application with the division to obtain a lease or royalty agreement, a person shall:
 - (i) obtain a list from the division of all operators existing at the time of application; and
 - (ii) notify each operator on the list of the person's intention to enter into a cooperative agreement.
 - (c) A cooperative agreement shall meet the requirements of Subsection 65A-17-304(1), shall provide that the rights and obligations contained in the cooperative agreement are subject to the division's duty to manage public trust assets, and shall address:
 - (i) how the operators may conduct concurrent or simultaneous operations without unreasonably interfering with existing and separate operations while also preventing undue waste;
 - (ii) recognition of other operator's vested mineral or element interests so that operations may be conducted in a manner that will result in the maximum recovery of minerals or elements with the minimum adverse effect on the ultimate maximum recovery of other minerals or elements;
 - (iii) terms and conditions for establishing a mitigation plan for when one operator, either intentionally or unintentionally, interferes with or damages the mineral or element rights or mineral or element interests of another operator;
 - (iv) terms and conditions for establishing a mitigation plan with the division that would limit unreasonable mineral estate interference, waste, or negative impacts to natural resources of the Great Salt Lake;
 - (v) the protection of natural resources of the Great Salt Lake without unnecessary cost to the operations of another operator, unless there is compensation for increased operational costs;

- (vi) the coordination and locations of access to operations;
- (vii) any assessment of costs resulting from concurrent operations within the Great Salt Lake;
- (viii) the mitigation of surface impacts, including:
 - (A) the location of a mineral or element extraction intake or discharge facility;
 - (B) phased or coordinated surface occupancy to each operator to access and develop the operator's respective mineral or element estate or mineral or element interest with the least disruption of operations and damage to Great Salt Lake elements or minerals, as defined in Section 65A-6-4, or natural resources directly, indirectly, or through waste; and
 - (C) limitations of mineral or element operations in areas where impacts to correlative rights or to natural resources of the Great Salt Lake are significant or most acute, as determined by the operators or the division;
- (ix) the scope and extent of how geological, engineering, product, and water use data is disclosed or exchanged;
- (x) how any joint reclamation obligation or plan is to be achieved or coordinated;
- (xi) how bonding will be obtained and coordinated on any lands impacted, disturbed, or developed in relation to mineral or element extraction and processing activities;
- (xii) terms and conditions indemnifying the state, the division, and any of the state's or division's directors, officers, agents, or employees from any and all damage or liability of any kind resulting from any stage or mineral or element extraction operations or any stage of mineral or element processing;
- (xiii) terms and conditions for the full compliance with a royalty rate reduction to which an operator is entitled;
- (xiv) a schedule of how the operators plan to collectively curtail production if the emergency trigger is reached and a curtailment of production is required; and
- (xv) any other term or condition outlining cooperative efforts consistent with the multiple mineral development area and plans or rules of the division, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (d) The parties to a cooperative agreement described in Subsection (2)(a) shall present the cooperative agreement to the division and the director may approve the agreement if the cooperative agreement:
 - (i) is in the public interest;
 - (ii) prevents waste of minerals or elements;
 - (iii) protects the correlative rights of each owner; and
 - (iv) meets the requirements of Subsection 65A-17-304(1).
- (e) On the director's approval of the cooperative agreement, the division becomes a signator to the cooperative agreement.
- (f) A cooperative agreement described in this Subsection (2) may not be held or construed to violate a statute relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the director.
- (g) The failure to submit an agreement to the division for approval may not for that reason imply or constitute evidence that the agreement or operations conducted pursuant to the agreement are in violation of laws relating to trusts, monopolies, or restraint of trade.
- (h)
 - (i) An operator may not unreasonably delay, condition, or decline to enter into a cooperative agreement.
 - (ii) A negotiation period of 60 days from the date notice is given under Subsection (2)(b)(ii) is presumed to be reasonable.

- (i) A mitigation plan with the division shall be implemented in conjunction with the Division of Water Rights.
- (3) The division may at any time determine that certain areas within the multiple mineral development area are withdrawn from mineral development or incapable of mineral development.

Enacted by Chapter 25, 2024 General Session