

## UTAH STATE ENVIRONMENTAL REVIEW PROCESS FOR THE DRINKING WATER STATE REVOLVING FUND PROGRAM

**To:** Drinking Water State Revolving Fund (DWSRF) Financial Assistance Recipients and their Engineers or other Consultants

**From:** Utah Department of Environmental Quality (DEQ)  
Division of Drinking Water (DDW)  
Drinking Water Board (DWB)  
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### **Purpose**

An environmental review is required for all construction projects that receive DWSRF financial assistance. This guidance document has been created to assist recipients and their engineers or other consultants with conducting the environmental review. Contact DDW regularly during the process to help ensure you comply with the various requirements.

The environmental review addresses various environmental authorities that apply to federal assistance projects. Federal environmental authorities applicable to DWSRF include laws such as the National Historic Preservation Act, Archeological and Historic Preservation Act, Endangered Species Act, Farmland Protection Policy Act, Wild and Scenic Rivers Act, Clean Air Act, Safe Drinking Water Act, and Executive Orders on the protection of wetlands and floodplain management. To ensure compliance with these environmental authorities, each DWSRF project must undergo a State Environmental Review Process (SERP) before loan closing. This is like a National Environmental Policy Act (NEPA) review performed by federal agencies.

### **Levels of Environmental Review**

There are three types of environmental reviews and corresponding determinations which apply to proposed drinking water projects constructed with DWSRF financial assistance. They are listed below in the order of complexity and time required to complete the review. In general, most DWSRF projects fall within the first or second type.

1. **Categorical Exclusion (CatEx)** – A proposed project may be “categorically excluded” from environmental review if it falls into a category of actions that do not individually or cumulatively have a significant effect on the human environment based on procedures adopted by the Environmental Protection Agency. CatEx apply to projects proposing only minor rehabilitation or functional replacement of existing facilities and must fit the criteria defined in [Attachment A: Environmental Review Checklist](#). Projects such as replacement of waterlines or modifications to treatment plants within the existing plant site are often eligible for a CatEx.
2. **Environmental Assessment (EA)/Finding of No Significant Impact (FONSI)** – If DDW determines that a proposed project does not qualify for a CatEx, the recipient must prepare an EA. Projects constructing new facilities on sites that did not previously have

them usually require an EA. The EA evaluates and discloses whether a proposed project has the potential to cause significant environmental effects. Based on the EA, DDW will determine one of two outcomes: 1) if the proposed project will not have significant environmental impacts, DDW will prepare a FONSI, or 2) if the proposed project will have significant environmental impacts, an EIS must be prepared.

3. **Environmental Impact Statement (EIS)/Record of Decision (ROD)** –When an EA indicates that a significant environmental impact may occur or significant adverse impacts cannot be mitigated by making changes in the project, a Notice of Intent (NOI) to prepare an EIS must be published, scoping will be undertaken in accordance with 40 CFR 1501.7, and a draft EIS will need to be prepared and distributed. After DDW considers and responds to public comment on the draft EIS, a final EIS and ROD will be issued.

DDW will provide guidance to applicants as to the appropriate level of environmental review required for their project. To facilitate this, **all financial assistance recipients must complete the [Environmental Review Checklist \(Attachment A\)](#) for any proposed construction project.**

### **Agency Consultation Requirements**

Notification must be sent to potentially affected Indian Tribes and applicable agencies listed in [Attachment B: Federal and State Agency Contacts](#). Notification can be provided via postal mail or email. All letters may have the same text body but should be addressed individually to each contact.

Notification must provide a description of the scope of the project, its justification and purpose, its location (including Section, Township & Range), and other important factors related to the community and project, etc. A location map and site plan showing the location of proposed facilities should be attached, along with any other information that will help the agency understand what is proposed. A contact name, address, and timeframe in which they may submit comments should be included. You should allow up to 30 days for comments. DDW will, upon request, review draft letters and maps before you send them to agencies. Email DDW electronic copies of all correspondence between you and the environmental agencies (everything you send and receive from them).

Provide the agencies with any additional information they request. If an agency makes 'recommendations' for surveys, studies, etc., you must treat those 'recommendations' as imperatives. You must conduct the surveys or studies and submit them to the agency for review.

Submit the surveys or studies directly to the agency, with a copy to DDW. Your correspondence with each of the various environmental agencies is not complete until each agency tells you they have no further concerns or issues with the project that you have not addressed. It may sometimes be hard to determine when you have achieved this. To help avoid delays, you should discuss the agencies' correspondence promptly with DDW to make sure that you are addressing all agencies' issues.

## **National Historic Preservation Act Requirements**

Section 106 of the National Historic Preservation Act requires agencies to consider the effects of their undertakings on historic properties. Any project, activity, or program carried out with Federal financial assistance is considered an ‘undertaking.’ Section 106 compliance applies to *all types* of environmental review: CatEx, EA/FONSI, and EIS/ROD.

### *Federal Financial Assistance*

Section 106 has a more rigorous consultation process compared to Utah Code Annotated 9-8-404 and consultation requirements must be completed for every undertaking. Per §36CFR800.2(c), the state historic preservation office (SHPO), Indian tribes, representatives of local governments, the public, and other consulting parties must be involved in the process. Furthermore, to meet the good faith identification standard in §36CFR800.4(b)(1), Utah SHPO recommends a Class III survey of a proposed project’s Area of Potential Effects (APE) for all Federal undertakings. Some projects may be exempt based on significant previous disturbance (the ground has already been disturbed in the areas it will be disturbed again) e.g., the project will remove and replace existing infrastructure in the same exact location. DDW can consult informally with SHPO to verify.

To assist DDW in complying with §36CFR800.3(g), the recipient or project engineer shall submit a report to DDW that demonstrates a reasonable and good faith effort was made to identify and gather information to determine if cultural resources are present in the APE, including a Class III Survey. The report format shall meet [State of Utah Archaeological Compliance Guidance](#) (refer to Appendix E). GIS data must be submitted, as well.

DDW is the legally responsible party to consult with the SHPO. Once DDW receives a completed cultural report and determines "no adverse effect" from the proposed undertaking, DDW will initiate consultation. If contractors need additional clarification or direction with Utah SHPO requirements, they should reach out directly to the listed SHPO contacts for help.

### *State Financial Assistance\**

The UCA 9-8-404 also requires state agencies to take into account the effect of the undertaking on any historic property and provide the SHPO with a written evaluation of the effect. At a minimum, consultants should expect to complete a Class I literature review and records search. Utah SHPO prefers a 1/2-mile buffer for all file searches, but that buffer may be inappropriate for the potential visual effects of various projects. Depending on the results of the records search, a Class III survey may not be needed. Sufficient justification for why a survey was not undertaken or is not necessary (e.g., previously disturbed area) should be included in the report.

## **Categorical Exclusion Requirements**

The following items must be submitted to DDW to support a CatEx (or state review\*):

1. Environmental Review Checklist
2. Copies of letters and responses to Indian tribes and required agencies
3. Cultural resource report\*
4. SHPO concurrence of “No Historic Properties Affected” or “No Adverse Effect” finding\*

After reviewing these items, if DDW determines the proposed project qualifies for a CatEx, DDW will prepare a Categorical Exclusion Determination public notice and send it to the recipient to be published once in a local paper of general circulation. The recipient shall provide DDW an affidavit of publication.

### **Environmental Assessment Requirements**

If DDW determines the project does not qualify for a CatEx, the recipient will need to prepare a draft EA for the proposed project and submit it to DDW for review. See [Attachment C: Example Environmental Assessment Outline](#). Other formats may also be acceptable, but please discuss with DDW first.

If there are no significant adverse environmental impacts, DDW will prepare a Finding of No Significant Impact (FONSI) public notice. The FONSI must be published once in a local paper of general circulation and the EA must be available for public review. The recipient shall provide DDW an affidavit of publication.

The FONSI public notice opens a 30-day formal public comment period, and the recipient will need to hold at least one public meeting during this comment period to accept comments. All public comments received by the recipient, oral and written, shall be recorded and provided to DDW for review and consideration. If there are no comments, expiration of the 30-day comment period ends the environmental review process.

### **Environmental Impact Statement Requirements (Reserved)**

### **Review Requirements for Adopting Other Environmental Documents**

DDW may adopt environmental reviews issued by other federal agencies whose determinations are no older than five years of the date of the DWSRF application and applicable under the review requirements of this guidance document. In so doing, DDW will ensure that all mitigation measures specified in the previous determinations are applied as conditions of the financial assistance agreement and that such adoption will be consistent with the requirements of the Utah SERP. The recipient or the DDW may combine environmental documents to reduce duplication and paperwork.

The DDW Responsible Official can adopt previous reviews by means of one of the following:

- a. A CatEx public notice published in a local paper of general circulation.
- b. A FONSI public notice which includes explanations of the modifications to the proposed project, potential environmental impacts identified during the environmental review, and any mitigation measures proposed in addition to those included in the federal environmental determination that are to be enacted.
- c. A ROD summarizing the findings in the EIS and the basis for the decision and summary of identified mitigation and monitoring procedures.

**ATTACHMENT A**

**ENVIRONMENTAL REVIEW CHECKLIST**

**AND**

**REQUEST FOR CATEGORICAL EXCLUSION**

## UTAH DWSRF ENVIRONMENTAL REVIEW CHECKLIST

The following checklist must be completed for DDW to determine the necessary environmental review requirements for the proposed project, or to determine if the project qualifies for a categorical exclusion. Please contact a DWSRF Project Manager with any questions.

### Section 1. General Information

Recipient Name:

Date:

Project Title:

Project Number:

Project Contact:

Phone Number:

Email:

**Project Description:** *Include the following elements- A brief, complete description of the proposed project; Geographical extent of planning area boundaries; Description of all proposed construction activities; Length, width, depth of ground disturbance.*

**Location:** *Legal address and Township(s), Range(s), and Section(s).*

**Map:** *Attach a map(s) of the proposed project showing the planning area boundaries, location of all ground disturbing areas, and any known environmentally sensitive areas.*

### Section 2. Categorical Exclusion Eligibility

A project for which the answer to any part of statement 1 is “yes” may be eligible for a Categorical Exclusion. However, if any of the statements from 2 through 6 is answered “yes,” then the project is not eligible. [40 CFR §6.204(a)(1)(ii)]

|   | Yes                      | No                       | Basis for Determination and Documentation* |
|---|--------------------------|--------------------------|--|
| 1. The project relates to existing infrastructure systems and involves minor upgrading, minor expansion of system capacity, rehabilitation (including functional replacement) of the existing system and system components, or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 2. The project involves new or relocated discharges to surface or groundwater.  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 3. The project will likely result in the substantial increase in the volume or the loading of pollutants to the receiving water.  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 4. The project will provide capacity to serve a population 30% greater than the existing population.  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 5. A state or other regional growth plan or strategy does not support this project.<br><i>Answering "yes" indicates that the project is not supported.</i>  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 6. The project directly or indirectly involves or relates to upgrading or extending infrastructure systems primarily for the purposes of future development.  | <input type="checkbox"/> | <input type="checkbox"/> |  |

### Section 3. Extraordinary Circumstances

If any of the following extraordinary circumstances apply to the project, it is not eligible for a Categorical Exclusion. [40 CFR §6.204(2)(1)-(10)]

|   | Yes                      | No                       | Basis for Determination and Documentation* |
|---|--------------------------|--------------------------|--|
| 1. The proposed action is known or expected to have potentially significant environmental impacts on the quality of the human environment either individually or cumulatively over time.  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 2. The proposed action is known or expected to have disproportionately high and adverse human health or environmental effects on any community, including minority communities, low-income communities, or federally recognized Indian tribal communities.  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 3. The proposed action is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 4. The proposed action is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value, including but not limited to, property listed on or eligible for the National Register of Historic Places.   | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 5. The proposed action is known or expected to significantly affect environmentally important natural resource areas such as:   |                          |                          |  |
| 5a. wetlands  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 5b. floodplains   | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 5c. significant agricultural lands  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 5d. aquifer recharge zones  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 5e. wild and scenic rivers  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 5f. significant fish or wildlife habitat  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 6. The proposed action is known or expected to cause significant adverse air quality effects.   | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 7. The proposed action is known or expected to have a significant effect on the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or growth and distribution of population including altering the character of existing residential areas, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use plans or federal land management plans. | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 8. The proposed action is known or expected to cause significant public controversy about a potential environmental impact of the proposed action.  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 9. The proposed action is known or expected to be associated with providing financial assistance to a federal agency through an interagency agreement for a project that is known or expected to have potentially significant environmental impacts.  | <input type="checkbox"/> | <input type="checkbox"/> |  |
| 10. The proposed action is known or expected to conflict with federal, state or local government, or federally recognized Indian tribe environmental, resource-protection, or land-use laws or regulations.   | <input type="checkbox"/> | <input type="checkbox"/> |  |

***\*Basis for Determination and Documentation***

The basis for determination and documentation information must be traceable and establish factual data to support the response to each item. Types of information may include field observations, maps, websites, published plans or studies. Cite the source.

**Section 4. Special Conditions**

|   | Yes                      | No                       | Comments/Documentation |
|---|--------------------------|--------------------------|------------------------|
| 1. The project is for planning purposes only and does not include construction.   | <input type="checkbox"/> | <input type="checkbox"/> |                        |
| 2. An EA/FONSI or EIS/ROD under NEPA has been conducted for this project or earlier phases of this project.<br><i>*If yes, provide a copy of the review document and decision</i> | <input type="checkbox"/> | <input type="checkbox"/> |                        |

**CERTIFICATION AND AUTHORIZATION**

*I certify that the information contained in this Environmental Review Checklist is, to the best of my knowledge, true, accurate, and correct.*

**I hereby affirm that I, \_\_\_\_\_ am the \_\_\_\_\_ and I am authorized by \_\_\_\_\_ to submit this Environmental Review Checklist on behalf of the organization for which I am acting.**



**ATTACHMENT B**

**FEDERAL AND STATE AGENCY CONTACTS**

## **UTAH DWSRF FEDERAL AND STATE AGENCY CONTACTS**

Consultation with environmental cross-cutting agencies and other stakeholders is required. An EA will not be considered complete without written responses from all applicable cross-cutting agencies. Per [the EPA memo issued November 5, 2013](#), if State SRF staff determine that a project has no potential impact on a related federal cross-cutting authority, then it is not necessary to consult with the agency responsible for that cross-cutter. Only the cross-cutters who will be directly affected are required to be notified.

The following list is provided as a starting point for the consultation and coordination process but should not be considered complete. Local officials and other interest groups should be identified and included in the project mailing list as appropriate.

### **ALL PROJECTS**

#### **Indian Tribes**

The National Historic Preservation Act requires notification of American Indian tribes that may have occupied or have historical ties to the project area: <https://egis.hud.gov/TDAT/>

The Utah Division of Indian Affairs maintains mailing addresses, emails, and contact names for the eight Federally-Recognized Sovereign Tribes of Utah: <https://indian.utah.gov/aboutus/utl/>

#### **Determine whether any listed or proposed species or designated or proposed critical habitat may be present in the project area**

Utah Field Office Supervisor  
U.S. Fish and Wildlife Service  
2369 West Orton Circle, Suite 50  
West Valley City, UT 84119  
801-975-3330  
[utahfieldoffice\\_esa@fws.gov](mailto:utahfieldoffice_esa@fws.gov)

### **ONLY IF ...**

#### **Project is located in or affects a wetland**

US Army Corps of Engineers  
Bountiful Field Office  
533 West 2600 South, Suite 150  
Bountiful, UT 84010-7744  
801-395-8842  
[cespk-regulatory-info@usace.army.mil](mailto:cespk-regulatory-info@usace.army.mil)

**Project is located in or affects a floodplain**

Contact the local Floodplain Administrator for the relevant county and ...

**A Floodplain Development Permit is required**

Federal Emergency Management Agency  
Denver Federal Center, Building 710  
P.O. Box 25267  
Denver, CO 80225-0267  
303-235-4812

**Project has potential adverse effects on important farmlands**

State Soil Scientist  
USDA Natural Resources Conservation Service  
125 South State Street, Room 4010  
Salt Lake City, UT 84138-1100  
801-524-4550

**Project is in the vicinity of a sole source aquifer**

Division of Drinking Water - Source Protection

**Project emissions will exceed de minimis thresholds for nonattainment pollutants**

Division of Air Quality

**Project will affect a designated or study Wild and Scenic River**

Appropriate agency with jurisdiction over the affected river(s):  
NPS, USFS, or BLM

**Project involves SITLA land - Utah School and Institutional Trust Lands Administration (EA/EIS only)**

Utah Public Lands Coordinating Office  
Resource Development Coordinating Committee  
350 North State Street, Suite 5110  
Salt Lake City, UT 84114-1107  
801-537-9801

[rdcc@utah.gov](mailto:rdcc@utah.gov)

Alternatively, post a notice directly in the RDCC Project Management System:

<http://rdcc.utah.gov>

**ATTACHMENT C**

**EXAMPLE ENVIRONMENTAL ASSESSMENT OUTLINE**

**UTAH DWSRF  
EXAMPLE ENVIRONMENTAL ASSESSMENT OUTLINE**

**1.0 PURPOSE AND NEED FOR PROJECT**

- 1.1 Project Description
  - 1.1.1 Project Map
- 1.2 Purpose and Need for Project

**2.0 ALTERNATIVES (include proposed action)**

- 2.1 Alternative A – No Action
- 2.2 Alternative B – Preferred Action
- 2.3 Alternative... (as needed)

**3.0 AFFECTED ENVIRONMENT / ENVIRONMENT CONSEQUENCES**

- 3.1 Environmental Setting
  - 3.1.1 Direct, Indirect, Cumulative Impact definitions
- 3.2 Land Use
  - 3.2.1 General Land Use
  - 3.2.2 Important Farmland
  - 3.2.3 Soils
  - 3.2.4 Formally Classified Lands
- 3.3 Floodplains
- 3.4 Wetlands
- 3.5 Water Resources
  - 3.5.1 Surface Water
  - 3.5.2 Ground Water
- 3.6 Air Quality
- 3.7 Biological Resources
  - 3.7.1 Vegetation
  - 3.7.2 Wildlife
  - 3.7.3 Threatened and Endangered Species
- 3.8 Archeological, Cultural, and Historic Resources
- 3.9 Socioeconomic/ Environmental Justice
- 3.10 Other Resources
  - 3.10.1 Public Health & Safety
  - 3.10.2 Energy
  - 3.10.3 Transportation
  - 3.10.4 Visual Impacts
  - 3.10.5 Noise

**4.0 SUMMARY OF MITIGATION MEASURES**

- 4.1 Physical Resources Measures
- 4.2 Biological Resource Measures
- 4.3 Threatened and Endangered Species Measures
- 4.4 Socioeconomic/Environmental Justice Measures
- 4.5 Archeological, Cultural, and Historic Resources Measures
- 4.6 Environmentally Sensitive Areas
- 4.7 Other Resources

#### 4.8 Cumulative Impact Measures

### 5.0 CONSULTATION, COORDINATION, AND PUBLIC INVOLVEMENT

#### 5.1 Agencies Consulted

#### 5.2 Public Involvement

#### 5.3 Comment Summary

### 6.0 REFERENCES