Table 1 - Recommended Proposed Rule Changes for Adoption and Approval by Water Quality Board
January 23, 2010 Utah Water Quality Board Meeting

No.	Rule Affected and Page	Change Description	Comments Summary	DWQ Response and Recommendations
1	R317-1-1 p. 1	Added definitions for "Great Salt Lake Impounded Wetland" to support concurrent changes in R317-2.	Recommendation to clarify the definition to better define the relationship with other Great Salt Lake delineations such as the 4,208 elevation.	DWQ recommends adoption of the definition as proposed. We believe the definition adequately defines the wetlands of interest. GIS mapping is also under development that ultimately will serve as the best tool to address these concerns and will facilitate edits without the need for rulemaking.
2	R317-2-3.5(b)(5) p. 16	Deleted section that defines losses of assimilative capacity considered *de minimis* and not requiring a Level II antidegradation review. This section was disapproved by USEPA.	Most comments supportive of the deletion. One recommendation suggested that the egg triggers for selenium also be deleted since antidegradation provisions were not approved by USEPA.	DWQ recommends adoption into rule. DWQ does not recommend any actions on the selenium triggers until USEPA finalizes their decision.
3	R317-2-3.5(f) p. 20	Requires the Executive Secretary to develop Implementation Guidance for Antidegradation Reviews.	Recommendation that guidance not be cited in rule and the existing language is confusing and may be legally unsound	DWQ recommends adoption into rule. The inclusion of the requirement for the Executive Secretary to develop guidance is important to other stakeholders and the potential conflicts are hypothetical.

No.	Rule Affected and Page	Change Description	Comments Summary	DWQ Response and Recommendations
4	R317-2-6.5(a) p. 22	Changed Union Pacific Causeway to Antelope Island Causeway to correctly define Farmington Bay	No negative comments received.	DWQ recommends adoption of the proposed language.
5	R317-2-12 pp. 24 & 26	Moved list of specific Category 2 Waters from R317-2-12.1 to referenced location in R317-2-12.2 Category 2 Waters.	No negative comments received.	DWQ recommends adoption into rule.
6	R317-13.2(a) p. 33	Added "…Virgin River <u>except as listed below</u>" as originally intended to assign beneficial use classes to the whole Virgin River followed by beneficial use classes for specific reaches of the Virgin River.	No negative comments received.	DWQ recommends adoption into rule.
7	R317-13.2(a) p. 34	Corrected the beneficial use class to 2A (primary contact) from 2B (secondary contact) for the North Fork of the Virgin River as originally intended.	No negative comments received.	DWQ recommends adoption into rule.
8	R317-2-14 Table 2.14.1 Numeric Criteria for Domestic, Recreation, and Agricultural Uses, Footnote	Corrected geographic reference from Quitchupah to Ivie Creek because Quitchupah flows into the Ivie and Ivie flows into the Muddy River.	No negative comments received	DWQ recommends adoption into rule.

No.	Rule Affected and Page	Change Description	Comments Summary	DWQ Response and Recommendations
	4 p. 67			
9	R317-2-14 Table 2.14.1 Numeric Criteria for Domestic, Recreation, and Agricultural Uses, Footnote 4 p. 67	Deleted redundant reference to Price River	No negative comments received.	DWQ recommends adoption into rule.
10	R317-2.14.2 Footnote 9a p. 73	Added parentheses to correct typographical error in formula for ammonia	No negative comments received.	DWQ recommends adoption into rule.
11	R317-2.14.3a and R317-2.14.3b p. 77	Corrected log function typographical error in formulas from “In” to “ln”	No negative comments received.	DWQ recommends adoption into rule.

Table 2 - Recommended Proposed Rule Changes for Additional Revisions and Board Approval to Request Public Comment
January 23, 2010 Utah Water Quality Board Meeting

No.	Rule Affected and Page	Change Description 2	Comments Summary	DWQ Response and Recommendations
12	R317-1-1 p. 1	Added definition for "Assimilative Capacity", to support concurrent changes in R317-2.	Recommendation to adopt a more-specific definition.	DWQ concurs and additional language is proposed for the definition. Additional descriptive language will also be added to the antidegradation guidance that is under development by staff in collaboration with stakeholders associated with the water quality standards workgroup.
13	R317-1-1 p. 1	Added definition for "Existing Use" to support concurrent changes in R317-2	Recommendations to change definition to match federal definition	DWQ concurs and "obtained" was revised to "attained". We recommend the Board proceed with rulemaking on the revision.
14	R317-2-3.5 p. 14	This section refers to antidegradation offramps in R317-2-5 that may no longer apply pending WQB action. [~~In addition, a Level I review evaluates the criteria in Section 3.5b to determine if any degradation is de minimis in nature and therefore does not require a Level II review. A Level II review as described in Section 3.5c is needed when~~	Comments were supportive of removing the referenced section 3.5b.	DWQ recommends the Board proceed with rulemaking for this revision.

No.	Rule Affected and Page	Change Description 2	Comments Summary	DWQ Response and Recommendations
		~~the impacts are not de minimus.~~		
15	R317-2-3.5b(1) p. 15	This section specifies conditions that do not require antidegradation reviews: "Water quality will not be lowered by the proposed activity. [(e.g.,]For example, a UPDES permit is being renewed and the proposed effluent concentration value and pollutant loading is equal to or less than the existing [effluent concentrations value and pollutant loading).]permitted concentrations and corresponding pollutant loading. If waste loads are not defined in an existing permit, the design capacity of the facility, of both concentrations and loads, will be used to determine whether a proposed project lowers water quality."	The language in this section was controversial. Several comments were supportive of the existing language but USEPA Region 8 and other comments identified situations where they believe that an antidegradation review should be conducted but would not be required based on the current rule language.	DWQ is proposing revised language to address the stakeholder's concerns. We recommend that the Board proceed with rulemaking for these revisions.
16	R317-2.14.1 p. 21	Added "dissolved" for inorganics analyses for clarification which is consistent with the analytical methods used for the inorganic analytes.	USEPA Region 8 commented that adequate supporting data and rationale was not provided.	Valid concerns were raised in comments and DWQ does not want to pursue the change at this time. No action is required by the Board.

No.	Rule Affected and Page	Change Description 2	Comments Summary	DWQ Response and Recommendations
17	R317-2-14 Table 2.14.1 Numeric Criteria for Domestic, Recreation, and Agricultural Uses, Footnote 4 pp. 66-67	Site-specific standard for Quitchupah and Ivie Creeks for total dissolved solids (TDS) (2,800 mg/l) that includes a sulfate limit (2,000 mg/l).	Comment requested a site-specific total dissolved solids standard for Quitchupah Creek.	The TDS constituents were reviewed and only sulfate was identified as potentially toxic to wildlife and domestic animals. Based on comments received, DWQ is proposing a site-specific TDS standard with a sulfate limit to protect the agricultural beneficial use in accordance with Footnote 4: "(b) a less stringent, site-specific criterion and/or date-specified criterion is protective of existing and attainable agricultural uses;" We recommend that the Board proceed with rulemaking for this revision.
18	R317-2.14.1 p. 67	For site-specific total dissolved solids (TDS) standards on the Price River, changed the geographic reference from Soldier Creek to Coal Creek. As previously identified, the river reach between Soldier Creek and Coal Creek would have defaulted to the state-wide TDS standard between two reaches with 1,700 and 3, 000 mg/L site-specific standards.	Region 8 USEPA did not support because of the change currently lacks sufficient supporting information and data.	DWQ will investigate the availability of data to support the proposed change. We recommend that Board proceed with rulemaking. Staff will continue to compile supporting information and data during the comment period for the proposed change of rule. If we cannot generate sufficient justification for EPA to approve the change over the next 6 weeks, then we

No.	Rule Affected and Page	Change Description 2	Comments Summary	DWQ Response and Recommendations
				will temporarily withdraw the request.
19	R317-2.14.2 Footnote 2a pp. 68 & 72	A new footnote was added: "These criteria are not applicable to Great Salt Lake impounded wetlands. Surface water in these wetlands shall be protected from changes in pH and dissolved oxygen that create significant adverse impacts to the existing beneficial uses." The criteria referenced are numerical standards for pH and dissolved oxygen.	Comments were generally supportive of the multi-metric index approach that ultimately will be used to support aquatic life beneficial uses. Some comments object to the removal of the pH and dissolved oxygen numerical standards before these methods are finalized.	DWQ has revised the footnote by adding: "To ensure protection of uses, the Executive Secretary shall develop reasonable protocols and guidelines that quantify the physical, chemical, and biological integrity of these waters. These protocols and guidelines will include input from local governments, the regulated community, and the general public" to address stakeholder concerns. We recommend that Board proceed with rulemaking.

Table 1 - Recommended Proposed Rule Changes for Adoption by Water Quality Board
March 31, 2010 Utah Water Quality Board Meeting

No.	Rule Affected and Page	Change Description 2	Comments Summary	DWQ Response and Recommendations
1	R317-1-1 p. 1	Added definition for "Assimilative Capacity", to support concurrent changes in R317-2.	No adverse comments received.	Staff recommends the Board adopt the change.
2	R317-1-1 p. 1	Added definition for "Existing Use" to support concurrent changes in R317-2	No adverse comments received.	Staff recommends the Board adopt the change.
3	R317-2-3.5.a.1.	The rule was clarified that the Executive Secretary can request an antidegradation review for any (instead of all) project that has the potential to have a major impact on water quality.	No adverse comments received.	Staff recommends the Board adopt the change.
4	R317-2-3.5 p. 14	This section refers to antidegradation offramps in R317-2-5 that may no longer apply pending WQB action. [~~In addition, a Level I review evaluates the criteria in Section 3.5b to determine if any degradation is de minimis in nature and therefore does not require a Level II review. A Level II review as described in Section 3.5c is needed when~~	No adverse comments received.	Staff recommends the Board adopt the change.

No.	Rule Affected and Page	Change Description 2	Comments Summary	DWQ Response and Recommendations
		~~the impacts are not de minimus.~~		
5	R317-2-3.5.b.1. p. 15	This provision specifies conditions that do not require antidegradation reviews: "Water quality will not be lowered by the proposed activity or for existing permitted facilities, water quality will not be further lowered by the proposed activity, examples include situations where:."	No adverse comments received.	Staff recommends the Board adopt the change.
6	R317-2-3.5.b.1.(a)	"the proposed concentration-based effluent limit is less than or equal to the ambient concentration in the receiving water during critical conditions; or"	USEPA Region 8 is supportive of the change. Friends of Great Salt Lake commented that an exception should be added for toxic and bioaccumulative compounds, i.e., these compounds should be considered in the antidegradation review even if they are at concentrations less than the receiving waters.	Staff recommends the Board adopt the change. Staff is investigating methods to address bioaccumulative compounds that are consistent with State and Federal law. The provision recommended by Friends of Great Salt Lake may be stricter than Federal regulations.
7	R317-2-3.5.b.1.(b)	"a UPDES permit is being renewed and the proposed effluent and loading limits are equal to or less than the concentration and loading limits in the previous permit; or"	No adverse comments received.	Staff recommends the Board adopt the change.

No.	Rule Affected and Page	Change Description 2	Comments Summary	DWQ Response and Recommendations
8	R317-2-3.5.b.1.(c)	"a UPDES permit is being renewed and new effluent limits are to be added to the permit, but the new effluent limits are based on maintaining or improving upon effluent concentrations and loads that have been observed, including variability; or"		Staff recommends the Board adopt the change.
9	R317-2-3.5.b.1.(d)	"a new or renewed UPDES permit is being issued, and water quality-based effluent limits are not required for a specific pollutant because it has been determined that the discharge will not cause, have reasonable potential to cause, or contribute to an exceedance of a State water quality standard for the pollutant."	USEPA Region 8 and Friends of Great Salt Lake commented that this provision may not be consistent with federal antidegradation rules by potentially allowing degradation without a review.	Staff recommends the Board adopt the change. The situations suggested by the commenters will only apply to pollutants that are present at concentrations in the effluent that they don't warrant a limit in the permit. DWQ's proposed language was adopted from USEPA permitting guidance on what pollutants should have permit limits. Between now and when the formal rule change is submitted to USEPA for approval, staff will work to address USEPA's concerns which are similar to Friends of Great Salt Lake. If no resolution is reached, staff proposes to submit the change to USEPA for approval. If USEPA disapproves, staff will return to the Board with

No.	Rule Affected and Page	Change Description 2	Comments Summary	DWQ Response and Recommendations
				recommendations.
10	R317-2.14.1 p. 21	Struck the word “dissolved” for inorganics analyses that was proposed in the initial proposed rule change	No adverse comments received.	Staff recommends the Board adopt the change.
11	R317-2-14 Table 2.14.1 Numeric Criteria for Domestic, Recreation, and Agricultural Uses, Footnote 4 pp. 66-67	Site-specific standard for Quitchupah and Ivie Creeks for total dissolved solids (TDS) (2,800 mg/l) that includes a sulfate limit (2,000 mg/l).	USEPA Region 8 supports the change and recommends additional issues to be considered. No other comments received.	Staff recommends the Board adopt the change.
12	R317-2.14.1 p. 67	For site-specific total dissolved solids (TDS) standards on the Price River, changed the geographic reference from Soldier Creek to Coal Creek. As previously identified, the river reach between Soldier Creek and Coal Creek would have defaulted to the state-wide TDS criterion	No adverse comments received.	Staff recommends the Board adopt the change.

No.	Rule Affected and Page	Change Description 2	Comments Summary	DWQ Response and Recommendations
		(1,200 mg/L) between two reaches with 1,700 and 3, 000 mg/L site-specific standards. The reach was changed to 1,700 mg/L.		
13	R317-2.14.2 Footnote 2a pp. 68 & 72	The footnote was revised in response to public and Board comments. "These criteria are not applicable to Great Salt Lake impounded wetlands. Surface water in these wetlands shall be protected from changes in pH and dissolved oxygen that create significant adverse impacts to the existing beneficial uses. The Executive Secretary will inform the Water Quality Board of protocols or guidelines that are developed." The criteria referenced are numerical standards for pH and dissolved oxygen.	No adverse comments received. We met with stakeholders during the public notice period. Stakeholders were generally supportive of our proposed approach for assessing the beneficial uses of the affected wetlands. However, some are concerned with the delay required while we develop and validate the methods.	Staff recommends the Board adopt the change.

State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

M E M O R A N D U M

TO: Water Quality Board

THROUGH: Walter L. Baker
Executive Secretary

FROM: Chris Bittner
Environmental Scientist IV

DATE: August 11, 2010

SUBJECT: Petition for Rulemaking Utah Administrative Code R317-2-12 or R317-2-13

Division of Water Quality staff recommends that the Board not approve the June 10, 2010 petition submitted by the Utah Waterfowl Association and others (Petitioner). The petition is included in **Attachment 1.**

After conducting a time-limited investigation of the area under petition, staff agrees with the Petitioner that these waters appear to be of high ecological value. However, Petitioner's request for reclassification of Willard Bay as Category 1 water and its designation as an Outstanding National Resources Water and its beneficial use reclassification is not appropriate at this time. These changes would have long term and far reaching impacts for water quality management and the Petitioner does not provide data or adequate rationale to support these changes.

This memo is organized to discuss: (1) Petitioner's request; (2) Outstanding National Resource Waters; (3) Categories assigned to Utah's waters; (4) Beneficial Use Classes; and (5) Next steps to insure the subject waters of the petition are protected. Supporting materials are provided as attachments. Also, in this memo the term "Willard Spur" is used in place of Petitioner's "Willard Bay" to avoid confusion with the freshwater Willard Bay impoundment **(Map 1)**.

Petitioner's Request. The Petitioner outlines three actions they want the Board to take:

1. Proceed with rulemaking to change Willard Spur or a portion thereof from a Category 3 water to Category 1 water.
2. Nominate Willard Spur as Outstanding National Resource Water.
3. Proceed with rulemaking to reclassify Willard Spur or a portion thereof from Classes 5C, and 5E to Classes 2B, 3B, and 3D, if request # 1 is denied.

Categories. Utah waters are assigned to either Category 1, 2, or 3. No new discharges or increases to existing discharges are allowed in Category 1 waters. In Category 2 waters, discharges of pollutants are allowed but the effluent concentrations must be equal to, or less than, the existing pollutant concentrations in the receiving waters. Waters are Category 3 unless they have been designated Category 1 or 2. In Category 3 waters, effluent concentrations greater than ambient are allowed if the use of assimilative capacity is justified by an antidegradation review and all other water quality standards are met. Willard Spur is currently designated as Category 3.

Petitioner is requesting a change to Category 1. **Attachment 2** is a copy of the rule language regarding Category designations. In Utah's draft Antidegradation Implementation Guidance, the Water Quality Standards Workgroup developed guidance for suggested data to support a change in Category (**Attachment 3**). USEPA Region 8's (1993) guidance (**Attachment 4)** also has recommendations for criteria to be considered. Specific data needs include:

- water quality data
- biological data
- hydrological data
- an evaluation of current impacts of Category change
- an evaluation of future impacts of a Category change

Category 1 designation is the most restrictive and provides the highest degree of protection for a water. Wildlife refuges are a specific example given in USEPA guidance for waters that are candidates for Category 1. Changing Willard Spur to Category 1 will have long term and far reaching impacts to discharges to Willard Spur. Additionally, the Petitioner did not supply any of the data outlined to justify this change, therefore, staff recommends that this part of the petition be denied.

Outstanding National Resource Water. Utah Water Quality Standards do not have the Outstanding National Resource Water designation, which is a tier in Environmental Protection Agency Antidegradation rules. However, Utah's Category 1 waters designation provides equivalent protections. Therefore the Board must deny request 2 listed above.

Beneficial Use Classifications. Utah's waters are assigned one or more use classifications (UAC R317-2-6 and UAC R317-2-12). Beneficial Use Classifications are part of the water quality standards and include uses such as drinking water, aquatic life, and agriculture. Appropriate use classes are important because a misclassification can result in incomplete protection or inappropriate standards. For instance, saline GSL cannot support fish, so Class 3B for fish is inappropriate. Currently, Willard Spur waters are Classes 2B, 3B, and 3D (in the Bear River Migratory Bird Refuge) or, Class 5E, and/or Class 5C for the Spur (**Map 2 and Table 1**). Petitioner's alternate request is for all of Willard Spur to be reclassified to Classes 2B, 3B, and 3D (**Map 3**), if the Board declines to change Willard Spur from a Category 3 water to Category 1 water.

As can be seen in Table 1, most uses are similar between Classes 2B and 3D compared to Class 5C and 5E. The primary difference if Petitioner's proposal is adopted is that all Willard Spur, instead of just the Bear River Migratory Bird Refuge, will be Class 3B, protected for warm,

freshwater fish which aren't present in saline waters. The other practical difference is that Classes 3B and 3D have numeric standards whereas Great Salt Lake Class 5C and 5E do not have numeric standards at this time. Numeric standards for the Class 5 waters need to be developed that account for effects of salinity.

Table 1
Beneficial Use Classes for Willard Spur

Class	Use
2B	Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing.
3B	Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.
3D	Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.
5C	Bear River Bay. Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.
5E	Transitional waters on Great Salt Lake Shoreline. Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

The Board adopted the Class 5C and 5E classifications in 2008 and staff does not recommend changing the use classifications because the existing beneficial uses are appropriate for Willard Spur. While staff observed fish in the brackish Class 5C waters just south of the Bear River Migratory Bird Refuge boundary during a site reconnaissance, we do not have the data to determine to what extent these waters normally support fish. We do not have adequate data to understand the hydrology in Willard Spur, especially as it relates to salinity and other parameters that control what beneficial uses a water will support. Therefore staff recommends the Board deny this part of the petition.

In addition to being appropriate, the current use designations are adequately protective because the most sensitive use is considered for permitting. For instance, Willard and Perry have constructed a wastewater treatment plant that proposes to discharge into the Class 5E waters east of the Bear River Migratory Bird Refuge. We have assumed that the discharge will commingle with the Bear River Migratory Bird Refuge waters and have set the permit limits to meet Class 2B, 3B, and 3D. These permit limits would be identical if this area of Willard Spur were reclassified to 2B, 3B, and 3D.

Next Steps. Though we recommend that the Board deny this petition, we appreciate that these issues were brought to our attention. We agree these waters should be appropriately protected but we simply do not have enough data at this time to evaluate whether changes to either the category of water or the use classifications are the optimal way to accomplish this protection. However, we are taking interim actions relative to the impact from the proposed discharge from the Perry/Willard wastewater treatment plant. We have completed an Antidegradation Review and amended the draft discharge permit to include numeric criteria for Class 2B, 3B, and 3D without the reclassification of the waters.

We have collected water quality and macroinvertebrate data from the proposed discharge site as well as other data to compare to wetlands we have studied for several years. We will then model the proposed discharge from Willard/Perry and determine the potential vulnerability of these wetlands to eutrophication. If we determine that the treatment plant effluent does not pose a risk to the wetlands, we intend to reissue the permit for public comment. If we determine that the effluent poses an unacceptable risk to the wetlands, further investigation and discussion will be necessary to determine a course of action. This may include investigating alternative discharge locations and/or consideration of enhancing the treatment capabilities of the wastewater treatment plant. Lastly, we recommend that reclassification issues should be evaluated by the Water Quality Standards Workgroup prior to making recommendations to the Board to proceed with rulemaking.

Attachments:
1: Petition for Rule Change
2: Utah Rule Language regarding Category Designations
3: DWQ Draft Antidegradation Implementation Guidance
4: USEPA Region 8's (1993) guidance

Maps:
1: Willard Spur General Location
2: Map of Existing Beneficial Use Classifications for Willard Spur
3: Map of Proposed Beneficial Use Classifications for Willard Spur

Attachment 1
Petition for Rule Change

WESTERN RESOURCE
ADVOCATES

June 10, 2010

Director Walt Baker
Executive Secretary
Water Quality Board
P.O. Box 144870
Salt Lake City, Utah 84114-4870

Re: Petition for Amendment to either Utah Admin. Code r. 317-2-12 or r. 317-2-13.

Walt:

In accordance with Utah Code Ann. § 63G-3-601 and Utah Admin. Code r. 15-2-3, Utah Waterfowl Association, FRIENDS of Great Salt Lake, Western Wildlife Conservancy, League of Women Voters of Utah, League of Women Voters of Salt Lake, National Audubon Society, Bridgerland Audubon Society, Utah Airboat Association, Utah Mud Motor Association, the Utah Chapter of the Sierra Club, the Great Salt Lake Yacht Club, and the Utah Physicians for a Healthy Environment (Collectively Utah Waterfowl Association) respectfully submits the enclosed Petition for Rule Change to amend either Utah Admin. Code r. 317-2-12 or, in the alternative, Utah Admin. Code r. 317-2 -13.

Enclosed with this letter is a Petition for Rule Change and accompanying memorandum in support of the proposed rule change. Utah Waterfowl Association respectfully requests that the Water Quality Board exercise its rulemaking power and either (1) provide notice of its intent to exercise its rulemaking power to amend either Utah Admin. Code r. 317-12 or -13 in a manner consistent with this request; or (2) adopt and publish the proposed rule as permitted under Utah Admin. Code R15-2-5.

Additionally, Utah Waterfowl Association respectfully requests a hearing to explicate the intended purpose of the proposed changes to either Utah Admin. Code r. 317-12 or -13. If the Water Quality Board needs any further information in processing this Petition, please do not hesitate to contact me. Thank you for your consideration of this important matter.

Yours,

ROB DUBUC
JORO WALKER
Attorneys for Utah Waterfowl Association

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Petition for Rule Change

Jurisdiction:

Utah Waterfowl Association, FRIENDS of Great Salt Lake, Western Wildlife Conservancy, League of Women Voters of Utah, League of Women Voters of Salt Lake, National Audubon Society, Bridgerland Audubon Society, Utah Airboat Association, Utah Mud Motor Association, the Utah Chapter of the Sierra Club, the Great Salt Lake Yacht Club, and the Utah Physicians for a Healthy Environment (Collectively Utah Waterfowl Association), pursuant to Utah Code Ann. § 63G-3-601 and Utah Admin. Code r. 15-2-3, hereby petition the Water Quality Board (Board) to exercise its rulemaking power and amend Utah Admin. Code r. 317-2-12 to add Willard Bay[1] as a Category 1 water. Separately, and in conjunction with this rule change, Utah Waterfowl Association requests that the Board nominate Willard Bay as an Outstanding National Resource Water. Alternatively, Friends requests that the Board amend Utah Admin. Code r. 317-2-13 to designate the open waters of Willard Bay (to include Willard Spur) above 4,200 feet as class 2B, 3B and 3D.

The proposed rule change-amendment to Utah Admin. Code r. 317-2-12 is set forth below (proposed amendment language emboldened and italicized):

R317. Division of Water Quality
R317-2. Standards of Quality for Waters of the State.
R317-2-12. Category 1 and Category 2 Waters.
R317-2-12.1 Category 1 Waters

12.1 Category 1 Waters.
In addition to assigned use classes, the following surface waters of the State are hereby designated as Category 1 Waters:
a. All surface waters geographically located within the outer boundaries of U.S. National Forests whether on public or private lands with the following exceptions:
Category 2 Waters as listed in R317-2-12.2.
Weber River, a tributary to the Great Salt Lake, in the Weber River Drainage from Uintah to Mountain Green.
b. Other surface waters, which may include segments within U.S. National Forests as follows:
1. Colorado River Drainage…
12. Farmington Bay Drainage
Holmes Creek and tributaries, from Highway US-89 to headwaters (Davis County).
Shepard Creek and tributaries, from Height Bench diversion to headwaters (Davis County).

[1] For the purposes of these petitions, references to Willard Bay refer to the unimpounded water body north of the Great Salt Lake Minerals, Harold Crane and Willard Reservoir impounds, south of the Bear River Refuge impounds, and including the Willard Spur down to elevation 4200.

Farmington Creek and tributaries, from Height Bench Canal diversion to headwaters (Davis County).
Steed Creek and tributaries, from Highway US-89 to headwaters (Davis County).
13. Willard Bay (including Willard Spur), open water above approximately 4,200 feet.

Alternatively, should the Board decline to amend r. 317-2-12 to add Willard Bay as a Category 1 water, Utah Waterfowl Association requests that the Board amend r. 317-2-13 as set forth below (proposed amendment language emboldened and italicized):

R317. Division of Water Quality
R317-2. Standards of Quality for Waters of the State
R317-2-13. Classifications of Waters of the State
R317-2-13.11. National Wildlife, and Other Areas Associated with Great Salt Lake

	TABLE			
Bear River National Wildlife Refuge, Box Elder County	2B	3B	3D	
Bear River Bay				
Open Water below approximately 4,208 ft.				5C
Transitional Waters approximately 4,208 ft. to Open Water				5E
Open Water above approximately 4,208 ft.	2B	3B	3D	
Willard Bay (Including Willard Spur)				
Open Water above approximately 4,200 ft.	***2B***	***3B***	***3D***	

Reason for the Proposed Rule Change:

The Utah Waterfowl Association has a direct stake in the Board's consideration of the proposed amendment and will be substantially affected by the amendment inasmuch as the present rule currently fails to adequately protect Willard Bay and its pristine water quality, as well as the aquatic wildlife in and around the Bear River Migratory Bird Refuge. *See* Utah Admin. Code r.317-2-8 ("All actions to control waste discharges under these regulations shall be modified as necessary to protect downstream designated uses..."). The proposed amendments have substantial value to the citizens of this State because they would provide the necessary protection of wildlife resources that thrive in the Great Salt Lake ecosystems, which are enjoyed by Utah Waterfowl Association and other recreational users of the Lake. Likewise, the proposed amendments have national significance as they provide greater protection for migratory birds, which utilize the Willard Bay area, Bear River Migratory Bird Refuge and surrounding wetlands for nesting and feeding. The legal basis for this proposed rule change is set forth in the accompanying Memorandum in Support of Petition for a Rule Change.

Address and Daytime Telephone Number of Petitioner:

Utah Waterfowl Association
c/o Rob Dubuc
Western Resource Advocates
150 South 600 East, Suite 2A
Salt Lake City, Utah 84102
Phone: 801.487.9911

Request for copies of all correspondence, memoranda, or notices:

Pursuant to Utah Code Ann. § 63G-3-301(10), I hereby request that the Board provide me, as counsel for Utah Waterfowl Association, with complete copies of any correspondence resulting from this Petition, including any rule analysis performed by the Board, advance notice of any rulemaking proceedings, or any other correspondence, memoranda, or notice. Such copies may be sent to me at the above address.

DATED this 10th day of June, 2010.

ROB DUBUC
JORO WALKER
Attorneys for Utah Waterfowl Association

MEMORANDUM IN SUPPORT OF PETITION FOR A RULE CHANGE

INTRODUCTION

Utah Waterfowl Association, FRIENDS of Great Salt Lake, Western Wildlife Conservancy, League of Women Voters of Utah, League of Women Voters of Salt Lake, National Audubon Society, Bridgerland Audubon Society, Utah Airboat Association, Utah Mud Motor Association, the Utah Chapter of the Sierra Club, the Great Salt Lake Yacht Club, and the Utah Physicians for a Healthy Environment (Collectively Utah Waterfowl Association) hereby petition the Utah Water Quality Board (Board) to exercise its rulemaking power pursuant to Utah Code Ann. §65A-2-2 and Admin. Code r. 15-2-3 to amend either Utah Admin. Code r. 317-2-12 or r. 317-2-13. The amendments are described below. Utah Waterfowl Association is directly affected by the amendment since the current rule unnecessarily limits the protection of the designated uses of Willard Bay. Utah Waterfowl Association is dedicated to the protection of the natural resources and recreational opportunities of State water bodies, to include Great Salt Lake. We have participated extensively in processes relating to State and Federal decision making that affect Great Salt Lake, including its ecosystems and Public Trust resources. The amendments would be beneficial to citizens of the State because they would protect critical Public Trust resources.

PROPOSED AMENDMENTS

The Executive Secretary of the Utah Water Quality Board (Executive Secretary) is authorized by statute to "advise, consult, and cooperate with . . . affected groups in furtherance of the purposes of [the Water Quality Act], Utah Code Ann. § 19-5-106(2), to cooperate with any person in studies and research related to preventing water pollution, § 19-5-106(11), and to exercise all incidental powers necessary to carry out the Water Quality Act. § 19-5-106(10). The Utah Water Quality Board (Board) is authorized by statute to "make rules in accordance with [the] Utah Administrative Rulemaking Act . . . to: (iii) set effluent limitations and standards . . . " Utah Code Ann. § 19-5-104(1)(f)(iii).

Utah Admin. Rule r. 317-2 delineates the Standards for Quality of Waters of the State. Utah Admin. Rule r. 317-2-12 outlines the Category 1 and Category 2 Waters of the State. A Category 1 water is a water body which has been determined by the Board to be of exceptional recreational or ecological significance requiring protection and which shall be maintained at existing high quality by the Board. Utah Admin. Rule r. 317-2-3.2. New point source discharges of wastewater are prohibited in Category 1 waters. *Id.* A Category 2 water is a water body which is treated as a Category 1 water but allows for a point source discharge if that discharge does not degrade existing water quality. *Id.* Utah Waterfowl Association proposes that the Board amend Utah Admin Rule r. 317-2-12 to include Willard Bay as a Category 1 water. Specifically, we request that the rule be changed to read (proposed amendment language emboldened and italicized):

R317. Division of Water Quality
R317-2. Standards of Quality for Waters of the State.
R317-2-12. Category 1 and Category 2 Waters.
R317-2-12.1 Category 1 Waters

12.1 Category 1 Waters.
In addition to assigned use classes, the following surface waters of the State are hereby designated as Category 1 Waters:
a. All surface waters geographically located within the outer boundaries of U.S. National Forests whether on public or private lands with the following exceptions:
Category 2 Waters as listed in R317-2-12.2.
Weber River, a tributary to the Great Salt Lake, in the Weber River Drainage from Uintah to Mountain Green.
b. Other surface waters, which may include segments within U.S. National Forests as follows:
1. Colorado River Drainage…
12. Farmington Bay Drainage
Holmes Creek and tributaries, from Highway US-89 to headwaters (Davis County).
Shepard Creek and tributaries, from Height Bench diversion to headwaters (Davis County).
Farmington Creek and tributaries, from Height Bench Canal diversion to headwaters (Davis County).
Steed Creek and tributaries, from Highway US-89 to headwaters (Davis County).
13. Willard Bay (including Willard Spur), open water above approximately 4,200 feet.

Rule 317-2-13 delineates the Classification of Waters of the State. The Board is required to group the waters of the state into classes in order to protect the beneficial uses of those waters. Utah Admin. Code r. 317-2-6. Specifically, we request that the rule be changed to read (proposed amendment language emboldened and italicized):

R317. Division of Water Quality
R317-2. Standards of Quality for Waters of the State
R317-2-13. Classifications of Waters of the State
R317-2-13.11. National Wildlife, and Other Areas Associated with Great Salt Lake

TABLE

Bear River National Wildlife Refuge, Box Elder County	2B	3B	3D	
Bear River Bay				
Open Water below approximately 4,208 ft.				5C
Transitional Waters approximately 4,208 ft. to Open Water				5E

Open Water above approximately 4,208 ft.	2B 3B 3D
Willard Bay (Including Willard Spur)	
Open Water above approximately 4,200 ft.	***2B 3B 3D***

ANALYSIS

I. Willard Bay is an Unimpaired Water Body Deserving Both Nomination as a an Outstanding National Resource Water (ONRW) and a Re-categorization as a Category 1 Water Under Utah Law.

The Federal antidegradation policy states that "where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected." 40 C.F.R. § 131.12(a)(3). The EPA qualification criteria for ONRWs include: (1) location such as federally protected land; (2) previous special designation such as wild and scenic river; (3) existing pristine or naturally-occurring water quality; (4) ecological value such as the presence of threatened or endangered species during one or more life stages; (5) recreational or aesthetic value; and (6) other factors that indicate outstanding ecological or recreational resource value such as rare or valuable wildlife habitat. *Water Quality Standards Handbook,* Chs. 2, 9. (EPA Antidegradation Guidance Region VIII).

While Utah does not have a procedure for designating waters as ONRWs, the State's "High Quality Waters" classification echoes most of the federal guidelines for ONRWs. Specifically, DWQ regulations state:

> Waters of high quality which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or Nation resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as high Quality Waters – Category 1.

Utah Admin. Code r. 317-2-3.2.

The protections provided to an ONRW under Utah law include:

> New point source discharges of wastewater, treated or otherwise, are prohibited in such segments after the effective date of designation. … Other diffuse sources of wastes shall be controlled to the extent feasible through implementation of BMPs or regulatory programs.

Id.

EPA guidance notes that "Outstanding water quality is not a prerequisite for ONRW designation. The only requirement is that the segment have outstanding value as an aquatic resource, which may derive from the presence of exceptional scenic or recreational attributes, or from the presence of unique or sensitive ecosystems that have naturally low water quality (i.e., as measured by conventional parameters)." *Water Quality Standards Handbook* at 9-10. According to the *Water Quality Standards Handbook*, "[t]he public may nominate any state water for ONRW protection at any time by sending a written request . . . [which] should explain why an ONRW designation is warranted" based on one or more of the factors identified above. *Water Quality Standards Handbook* at 10.

Through this Petition for Agency Rulemaking, Utah Waterfowl Association requests that the Board nominate Willard Bay as an ONRW under EPA guidelines, and re-categorize and protect the Bay as a Category 1 water body under Utah law. Willard Bay is a fresh water body that we believe meets the necessary qualifications for designation as an ONRW, and we encourage the Board to move forward with the nomination process. Additionally, we believe that the Bay should be re-categorized as a Category 1 water under Utah law. Willard Bay and its waters intermix with Refuge waters, and these waters are of crucial ecological significance in supporting the Refuge's migratory bird population and the freshwater fish that inhabit the freshwaters of Bear River Bay and Willard Bay. This designation provides the best method for ensuring that these waters do not become impaired and that the aquatic wildlife that rely on these waters are not jeopardized by discharges of polluted water. As such, we request that the Board direct the Executive Secretary to undertake any studies necessary to determine whether it is appropriate to nominate Willard Bay as an ONRW and re-categorize the Bay as a Category 1 water. Until such a determination can be made, we request that any approval of UPDES permits that would result in a discharge into Willard Bay be stayed.

II. The Board Should Reclassify Willard Bay as a Class 2B, 3B, 3D Water

Should the Board deny Utah Waterfowl Association's request to nominate Willard Bay as an ONRW and re-categorize the Bay as a Category 1 water, the Association requests that the Board reclassify Willard Bay be as a Class 2B, 3B, and 3D water. As justification for its request for reclassification Utah Waterfowl Association asks the Board to consider, *inter alia*, the article entitled *Avian Ecology of Great Salt Lake*, which describes Bear River Bay and Willard Bay as the freshest region of the Lake that receives the largest volume of riverine inflow. Tom Aldrich & Don Paul, *Avian Ecology of Great Salt Lake*, in GREAT SALT LAKE: AN OVERVIEW OF CHANGE, at 344 (Utah Department of Natural Resources, 2002). The article goes on to describe the waters of that portion of the lake fresh enough to support a community of submergent hydrophytes including sago pondweed (*Potamogeton pectinatus*) and widgeon grass (*Ruppia maritima*), and notes that there are significant islands of emergent wetlands in that part of the Lake, especially in the east part of the bay in the Willard Spur. Further evidence that Willard Bay is a freshwater body can be found in the Great Salt Lake Waterbird Survey (Survey) published by the U.S. Fish and Wildlife Service. *See*

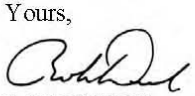
www.wildlife.utah.fov/gsl/waterbirdsurvey. The survey describes the primary habitat of Willard Bay as Fresh Water, Freshwater Shorelines and Freshwater Wetlands. Survey at p. 121.

Due to the freshwater nature and hydrology of Willard Bay, the Board should, at a minimum, reclassify Willard Bay to ensure the same water class protections as the Refuge. The evidence shows that Willard Bay is a freshwater body of water, and plays host to migratory birds and freshwater fish. Reclassifying Willard Bay as a 2B, 3B, and 3D water is the first step necessary to ensure that the designated uses for both Willard Bay and the Refuge are being met.

CONCLUSION

The Utah Waterfowl Association respectfully requests that the Board, through its Executive Secretary, exercise its rulemaking power and either (1) provide notice of its intent to exercise its rulemaking power to amend either Utah Admin. Code r. 317-2-12 or -13 in a manner consistent with this request; or (2) adopt and publish the proposed rule as permitted under Utah Admin. Code R15-2-5.

Yours,



ROB DUBUC
JORO WALKER
Attorneys for Utah Waterfowl Association

Attachment 2
Utah Rule Language regarding Category Designations (R317-2-3)

3.2 Category 1 Waters

Waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters. New point source discharges of wastewater, treated or otherwise, are prohibited in such segments after the effective date of designation. Protection of such segments from pathogens in diffuse, underground sources is covered in R317-5 and R317-7 and the Regulations for Individual Wastewater Disposal Systems (R317-501 through R317-515). Other diffuse sources (nonpoint sources) of wastes shall be controlled to the extent feasible through implementation of best management practices or regulatory programs.

Projects such as, but not limited to, construction of dams or roads will be considered where pollution will result only during the actual construction activity, and where best management practices will be employed to minimize pollution effects.

Waters of the state designated as Category 1 Waters are listed in R317-2-12.1.

3.3 Category 2 Waters

Category 2 Waters are designated surface water segments which are treated as Category 1 Waters except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality. Waters of the state designated as Category 2 Waters are listed in R317-2-12.2.

3.4 Category 3 Waters

For all other waters of the state, point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined in Section 3.5.

Attachment 3
Excerpt from DWQ May 13, 2010 Draft Antidegradation Implementation Guidance

2.1 Assigning Protection Categories

Utah's surface waters are assigned to one of three protection categories that prescribe generally permissible water quality actions. These levels of protection are determined by their existing biological, chemical and physical integrity, and by the interest of stakeholders in protecting current conditions. Antidegradation procedures are differentially applied to each of these protection categories on a parameter-by-parameter basis.

2.1.1 Category 1 Waters

Category 1 waters (as listed in R317-2-12.1) are afforded the highest level of protection from activities that are likely to degrade water quality. This category is reserved for waters of exceptional recreation or ecological significance, or that have other qualities that warrant exceptional protection. Once a waterbody is assigned Category 1 protection, future discharges of wastewater into these waters are not permitted. However, permits may be granted for other activities (e.g., road construction, dam maintenance) if it can be shown that water quality effects will be temporary and that all appropriate Best Management Practices (BMPs) have been implemented to minimize degradation of these waters.

2.1.2 Category 2 Waters

Category 2 waters (as listed in R317-2-12.2) are also afforded a high level of protection, but discharges to these waters are permissible, provided no degradation of water quality will occur. In practice, this means that all wastewater parameters should be at or below background concentrations of the receiving water. As a result of this stipulation, the Level I and Level II ADR provisions discussed in these implementation procedures are not required for Category 2 waters.

2.1.3 Category 3 Waters

All surface waters of the State are Category 3 waters unless otherwise designated as Category 1 or 2 in UAC R317-2-12. Discharges that degrade water quality for social and economically are permitted for Category 3 waters provided that 1) existing uses are protected, 2) the degradation is necessary, 3) the activity supports important social or economic development in the area where the waters are located, and 4) all statutory and regulatory requirements are met in the area of the discharge. Antidegradation rules also apply for any proposed new or expanded discharge that is likely to degrade water quality. ADRs require that these proposed actions demonstrate that such proposed projects are necessary to accommodate social and economic development, and that all reasonable alternatives to minimize degradation of water quality have been explored. These implementation procedures provide details about how ADRs are implemented to meet these requirements.

2.2 Procedures for Assigning Protection Categories

The intent of Category 1 and Category 2 protection classes is to protect high quality waters. Any person or DWQ may nominate a surface water to be afforded Category 1 or 2 protections by submitting a request to the Executive Secretary of the Water Quality Board. DWQ generally considers nominations during the triennial review of surface water quality standards. The

nominating party has the burden of establishing the basis for reclassification of surface waters, although DWQ may assist, where feasible, with data collection and compilation activities.

2.2.1 Material to Include with a Nomination

The nomination may include a map and description of the surface water; a statement in support of the nomination, including specific reference to the applicable criteria for unique water classification, and available, relevant and recent water quality or biological data. All data should meet the minimum quality assurance requirements used by DWQ for assessing waters of the State. A description of these requirements can be found in the most recent *Integrated Report Part 1 Water Quality Assessment*.

2.2.2 Considerations for Appropriate Data and Information to Include with Nominations to Increase Protection of Surface Waters

The Water Quality Board may reclassify a waterbody to a more protected category, following appropriate public comment. Evidence provided to substantiate any of the following justifications that a waterbody warrants greater protection may be used to evaluate the request:

- The location of the surface water with respect to protections already afforded to waters (e.g. on federal lands such as national parks or national wildlife refuges).
- The ecological value of the surface water (e.g., biological diversity, or the presence of threatened, endangered, or endemic species)
- Water quality superior to other similar waters in surrounding locales.
- The surface water is of exceptional recreational or ecological significance because of its unique attributes (e.g., Blue Ribbon Fishery)
- The surface water is highly aesthetic or important for recreation and tourism.
- The surface water has significant archeological, cultural, or scientific importance.
- The surface water provides a special educational opportunity.
- Any other factors the Executive Secretary considers relevant as demonstrating the surface water's value as a resource.

The final reclassification decision will be based on all relevant information submitted to or developed by DWQ.

2.2.3 Considerations for Appropriate Data and Information for Consideration to Decrease Protection of Surface Waters

The intent of Category 1 and Category 2 protections is to prevent future degradation of water quality. As a result, downgrades to surface water protection categories are rare. However, exceptional circumstances may exist where downgrades may be permitted to accommodate a particular project. For instance, in Utah most surface waters in the upper portions of National Forests are afforded Category 1 protection, which may not be appropriate in specific circumstances. Project proponents may request a classification with lower protection; however, it is their responsibility to provide sufficient justification. Examples of situations where a reclassification with less stringent protections might be appropriate follow:

- Failure to complete the project will result in significant and widespread economic harm.

- Situations where the surface water was improperly classified as Category 1 or Category 2 water because the surface water is not high quality water (as defined by the criteria outlined in 2.2.3).
- Water quality is more threatened by not permitting a discharge (e.g., septic systems vs. centralized water treatment).

Requests for downgrades to protection should provide the most complete and comprehensive rationale that is feasible. The request for a reduction in protection may also be considered in concert with the alternatives evaluated through an accompanying Level II ADR. Proposed projects affecting high quality waters may require more comprehensive analysis than projects affecting lower quality waters.

2.2.4 Public Comment Process for Proposed Reclassifications

All data and information submitted in support of reclassification will be made part of the public record. In addition to public comment, the DWQ will hold at least one public meeting in the area near the nominated water. If the issues related to reclassification are regional or statewide in nature or of broader public interest, the Division will consider requests for public meetings in other locations. Comments received during this meeting will be compiled and considered along with the information submitted with the nomination will be submitted to appropriate local planning agencies.

2.2.5 Reclassification Decision Making Process

The final reclassification decision will be based on all relevant information submitted to or developed by the DWQ. All data will be presented and discussed with the Water Quality Standards Workgroup. DWQ then submits its recommendations regarding reclassifications to the Water Quality Board who makes a formal decision about whether to proceed with rulemaking to reclassify the waterbody. The proposed reclassification is a rule change, and as such will trigger normal public notice and comment procedures.

Attachment 4: Excerpt from USEPA Region 8 Guidance: Antidegradation Implementation

with state antidegradation requirements. The major conclusions of the Division's review are documented using an antidegradation review worksheet, a copy of which is attached to this implementation procedure. Based upon the review findings, a preliminary decision is made by the Division and subjected to intergovernmental coordination and public participation. Public participation occurs regardless of the outcome of the preliminary decision (i.e., whether the proposed activity would be authorized or denied).

The Division then considers public comments and reaches a final decision regarding whether to authorize the proposed activity pursuant to the state antidegradation requirements. The substance and basis of the final decision by the Division are documented in the administrative record. Below, the procedures to be followed by the Division in reaching a preliminary decision under each tier of antidegradation are described in detail.

PART IV. TIER 3 PROCEDURES

A. Waters Qualifying for ONRW Protection

(1) Qualification Criteria

Segments will be subject to tier 3 protection requirements only where an ONRW designation has been assigned by the Board through the state rulemaking procedures. The factors to be considered in determining whether to assign an ONRW designation may include the following: (a) location (e.g., on federal lands such as national parks, national wilderness areas, or national wildlife refuges), (b) previous special designations (e.g., wild and scenic river), (c) existing water quality (e.g., pristine or naturally-occurring), (d) ecological value[1] (e.g., presence of threatened or endangered species during one or more life stages), (e) recreational or aesthetic value (e.g., presence of an outstanding recreational fishery), and (f) other factors that indicate outstanding ecological or recreational resource value (e.g., rare or valuable wildlife habitat). Where determined appropriate, the ONRW designation may be applied to an entire category of waters (e.g., a wilderness area or areas).

(2) Water Quality Requirements

Outstanding water quality is not a prerequisite for ONRW designation. The only requirement is that the segment have outstanding value as an aquatic resource, which may derive from the presence of exceptional scenic or recreational attributes, or from the presence of

[1] States should consider ONRW or OSRW designations for segments selected as reference sites (e.g., to define biological/ecological integrity for a particular ecoregion).

unique or sensitive ecosystems that have naturally low water quality (i.e., as measured by conventional parameters).

(3). Public Nomination
The public may nominate any state water for ONRW protection at any time by sending a written request to the following address: [insert appropriate address]. The written request should explain why an ONRW designation is warranted based on one or more of the factors identified above.

B. Direct Sources to ONRWs

Any proposed activity that would result in a permanent new or expanded direct source of pollutants to any segment which has been designated as an ONRW is prohibited.

(1) Prohibition on New or Expanded Sources
Any proposed activity that would result in a permanent new or expanded direct source of pollutants to any segment which has been designated as an ONRW is prohibited. This prohibition applies to new sources, expansion of existing sources in which treatment levels are maintained, and expansion of existing sources in which treatment levels are increased to maintain existing pollutant loading levels. Regardless of effluent quality, any new or expanded direct source is prohibited.

C. Sources Upstream from ONRWs

(1) No Change in Water Quality Allowed
Any proposed activity that would result in a permanent new or expanded indirect source of pollutants (i.e., an upstream source) to an ONRW segment is prohibited except where such source would have no effect on the existing quality of the downstream ONRW segment. Effects on ONRW water quality resulting from upstream sources will be determined based on appropriate techniques and best professional judgment. Factors that may be considered in judging whether ONRW quality would be affected include: (a) percent change in ambient concentrations predicted at the appropriate critical condition(s), (b) percent change in loadings (i.e., the new or expanded loadings compared to total existing loadings to the segment), (c) percent reduction in available assimilative capacity, (d) nature, persistence, and potential effects of the parameter, (e) potential for cumulative effects, and (f) degree of confidence in the various components of any modeling technique utilized (e.g., degree of confidence associated with the predicted effluent variability).

(2) Trading
A proposed activity that will result in a new or expanded upstream source may be allowed where the applicant agrees to implement or

finance upstream controls of point or nonpoint sources sufficient to offset the water quality effects of the proposed activity. Where such trading occurs upstream of an ONRW segment, tier 3 requirements will be considered satisfied where the applicant can show that water quality at all points within the study area will be either maintained or improved. The Division will document the basis for the trade through a Total Maximum Daily Load (TMDL) pursuant to CWA § 303(d) requirements. Such TMDLs will include an appropriate margin of safety. Such a margin of safety will address, in particular, the uncertainties associated with any proposed nonpoint source controls, as well as variability in effluent quality for point sources. See definition of trading in Part II.

(3) Information Requirements
The applicant may be required to provide information sufficient to evaluate the potential effects of the proposed activity on downstream ONRWs. The information that will be required in a given situation will be identified on a case-by-case basis by the Division.

D. Temporary and Limited Effects

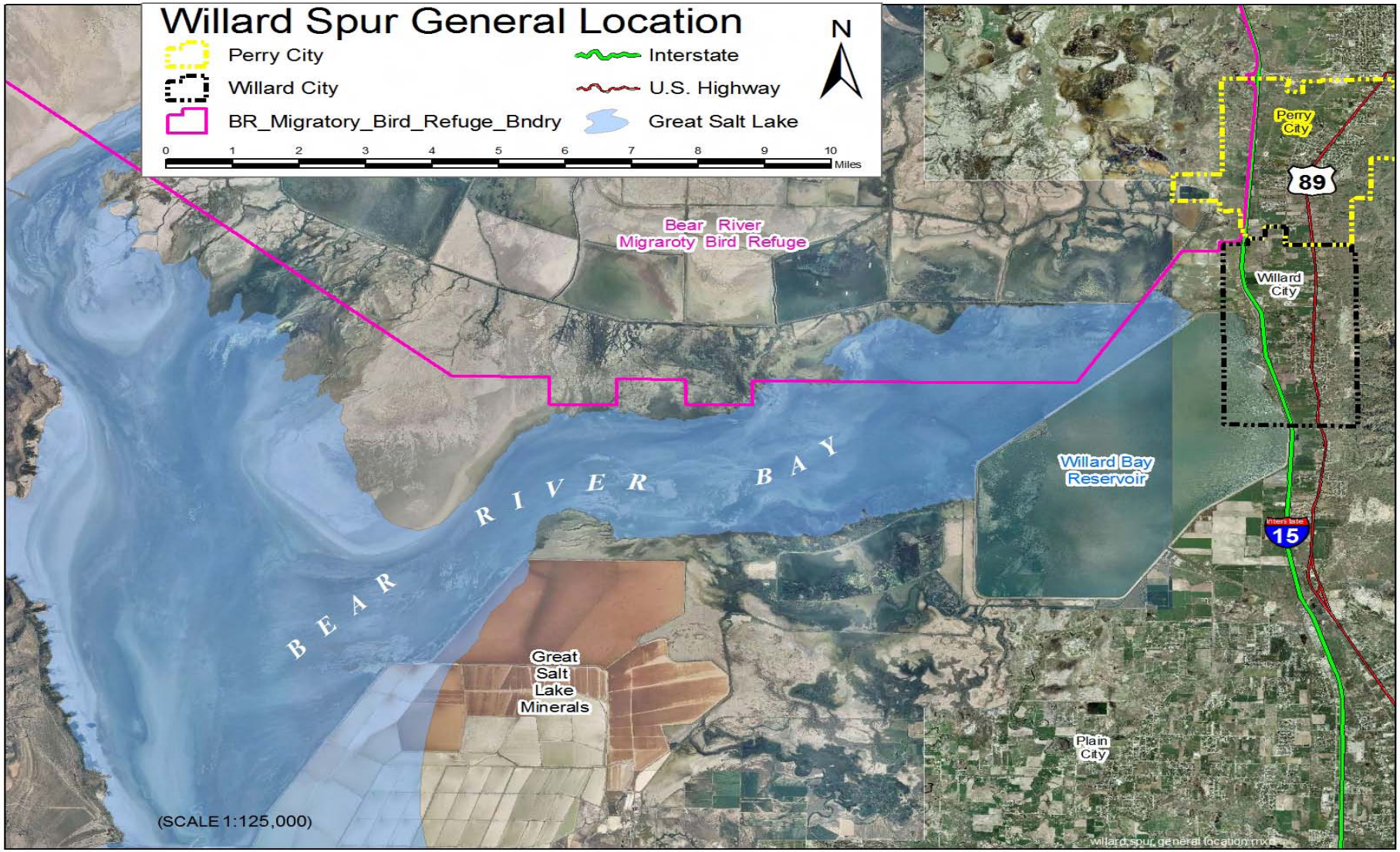
(1) Guidelines
A direct or upstream source that would result in a temporary *and* limited effect on ONRW water quality may be authorized. The decision regarding whether effects will be temporary and limited will be handled on a case-by-case basis. As a *non-binding* rule of thumb, activities with durations less than one month *and* resulting in less than a 5% change in ambient concentration will be deemed to have temporary and limited effects. Decisions on individual proposed activities may be based on the following factors: (a) length of time during which water quality will be lowered, (b) percent change in ambient concentrations, (c) parameters affected, (d) likelihood for long-term water quality benefits to the segment (e.g., as may result from dredging of contaminated sediments), (e) degree to which achieving applicable water quality standards during the proposed activity may be at risk, and (f) potential for any residual long-term influences on existing uses.

PART V. TIER 2.5 PROCEDURES

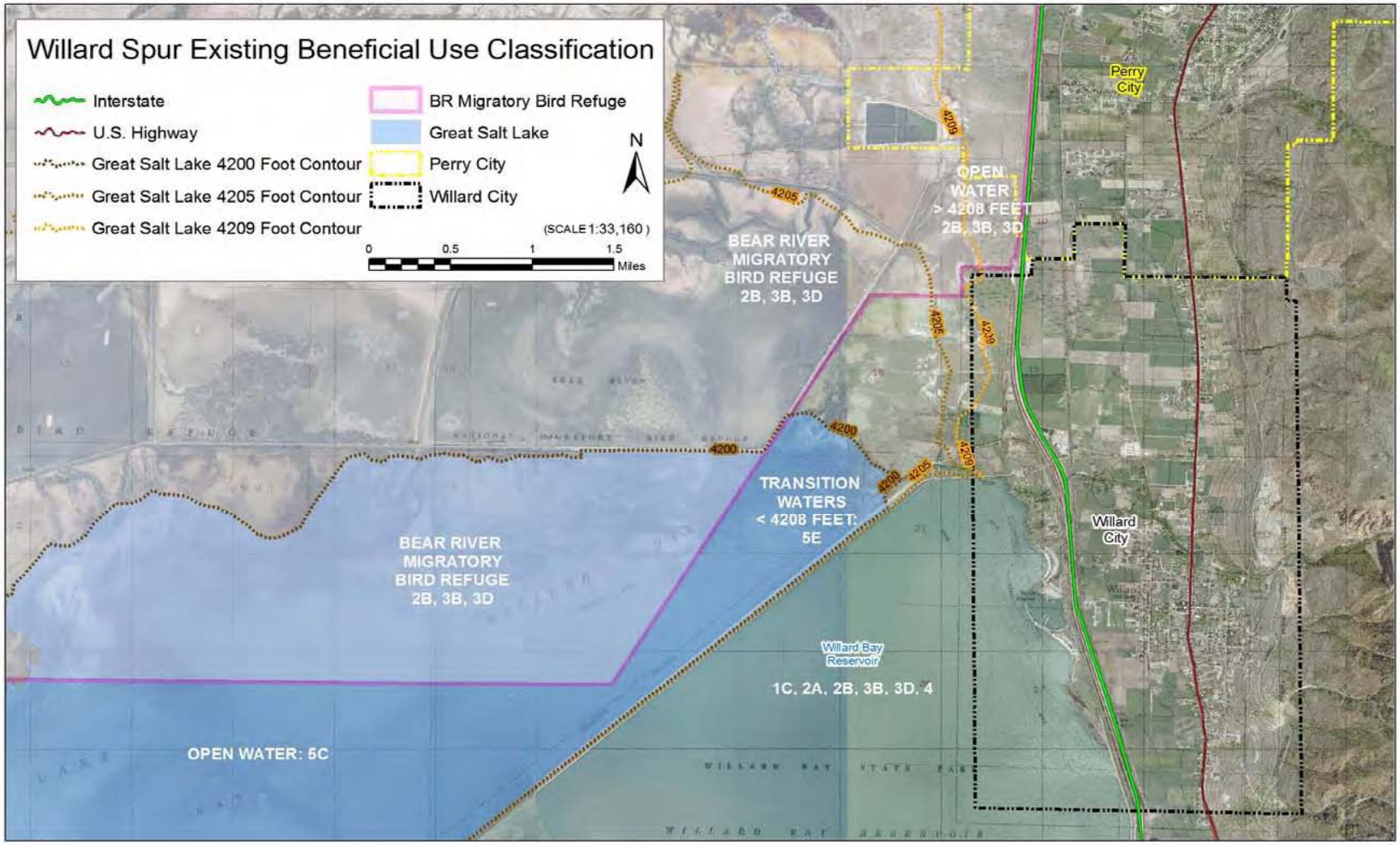
A. Waters Qualifying for OSRW Protection

(1) Qualification Criteria
Segments will be subject to tier 2.5 protection requirements only where an OSRW designation has been assigned by the Board through the state rulemaking procedures. The factors to be consid-

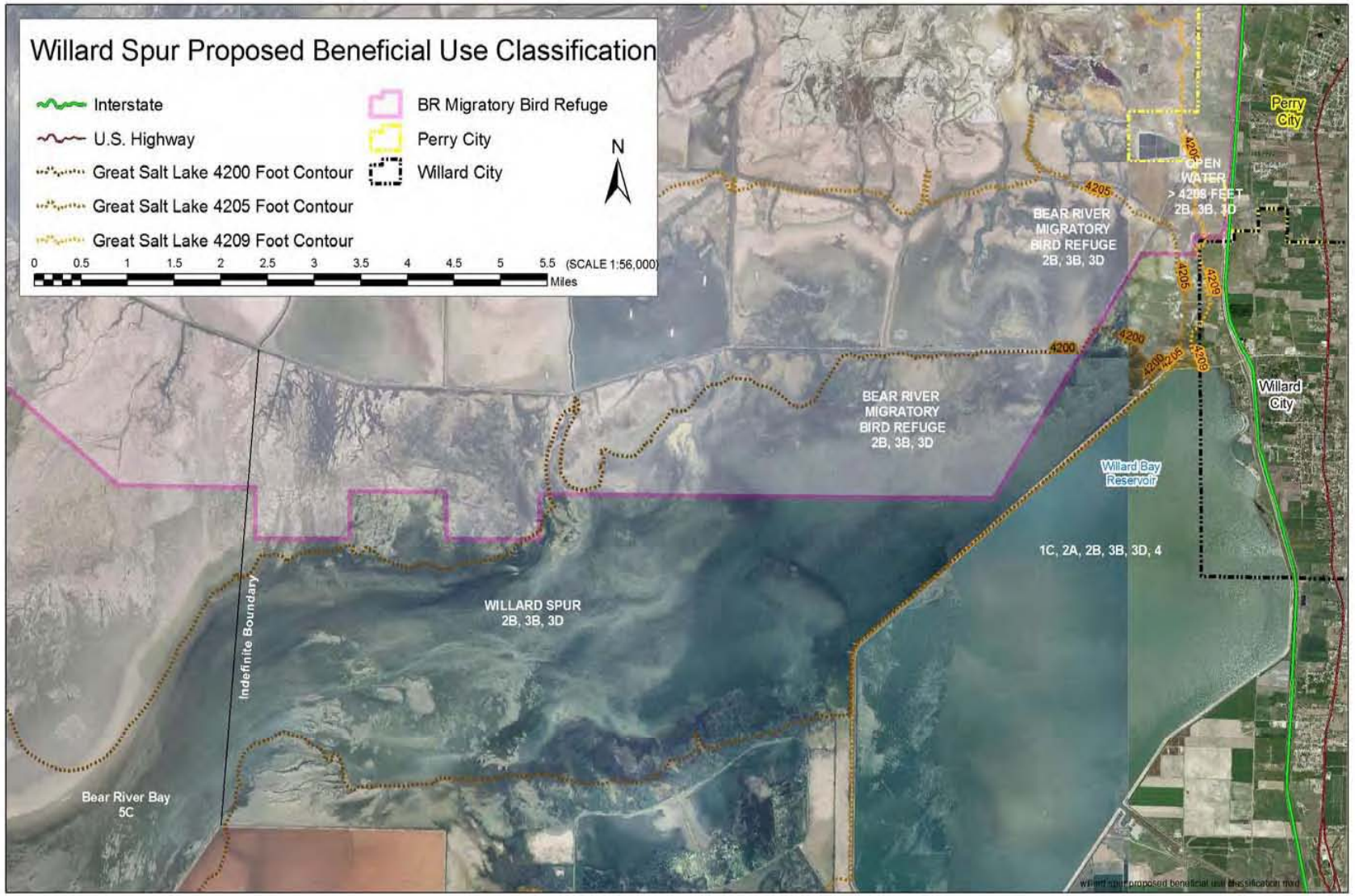
Map 1: Willard Spur General Location



Map 2: Map of Existing Beneficial Use Classifications for Willard Spur



Map 3: Map of Proposed Beneficial Use Classifications for Willard Spur



State of Utah
GARY R. HERBET
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

MEMORANDUM

TO: Water Quality Board Members

THROUGH: Walt Baker

FROM: Chris Bittner

DATE: April 20, 2011

SUBJECT: Update of Triennial Review

As discussed at the January 2011 Board meeting, staff initiated the 2011 Triennial Review of Utah's Standards of Quality for Waters of the State (R317-2). A preliminary list of proposed changes was presented to the Board. The public comment period for the Triennial Review ended February 18, 2011. Table 1 presents all of the comments received and staff's responses. Responses fit into one of the two categories: the change to Standards would be considered or would not be considered. The topics that will receive further consideration are shown in Table 2. These topics are prioritized to be considered during the 2011 Triennial Review or in the future.

This list shown as Table 2 is intended to be a "living" document and will be revised as issues, priorities, and resource availability changes. The Water Quality Standards Workgroup is meeting once per month to discuss the proposed changes for 2011.

Staff proposes that once a change has been vetted with the workgroup and their concerns have been resolved to the extent possible, that the associated rule changes be brought before the Board. Staff will ultimately return to the Board with a formal request for rulemaking at the end of the triennial review. However, interim discussions with the Board will expedite this process by providing staff sufficient time to address Board questions or concerns.

Attachment 1: Table 1, Division of Water Quality (DWQ) Actions for Comments on Water Quality Standards Revisions for the 2011 Triennial Review
Attachment 2: Table 2, Utah Water Quality Standards Review Topics Under Consideration April, 2011

2.1

288 North 1460 West • Salt Lake City, UT
Mailing Address: P.O. Box 144870 • Salt Lake City, UT 84114-4870
Telephone (801) 538-6146 • Fax (801) 538-6016 • T.D.D. (801) 536-4414
www.deq.utah.gov

Table 1 Division of Water Quality (DWQ) Actions for Comments on Water Quality Standards Revisions for the 2011 Triennial Review			
No.	**Commenter**	**Comment**	**DWQ Action**
1.	EPA, RN, WRA	Resolve USEPA disapproval for antidegradation R317-2-3.5(b)(1)(d)	Added to revision list for 2011
2.	EPA	Resolve USEPA disapproval for Price River site-specific TDS standard	Added to revision list for 2011
3.	EPA	Adopt updated human health water quality criteria for phenol, acrolein, and tributyl tin	Added to revision list for 2011
4.	EPA	Adopt updated aquatic life water quality criteria for acrolein, chloride, chlorpyrifos, and tributyl tin	Added to revision list for 2011
5.	EPA	Review iron criterion, specifically whether dissolved or total iron is appropriate	Added to revision list for 2011
6.	EPA, WRA, RN	Review Narrative Standard and revise to be consistent with assessment methods such as the stream macroinvertebrate assessments	Added to revision list for 2011
7.	EPA	Review use designations for potential revisions, e.g., tiered aquatic life criteria, frequent or infrequent contact recreation	Added to revision list 2011
8.	EPA	Make supporting information and rationale available to the public	DWQ agrees but not a standards revision
9.	EPA	Revise the reference to R317-2-3.5(c) in Table 2.14.2 Footnote 14 to be consistent with the March 2010 revisions to the antidegradation policy	DWQ may evaluate revising the selenium triggers in Footnote 14 after the USEPA takes action on the selenium standard.
10.	EPA, RN, WRA	Adopt human health criteria for methyl mercury	Added to revision list
11.	EPA, RN, WRA	Develop an implementation plan for methyl mercury criteria	Added to revision list
12.	EPA	Delete acute mercury criteria	Added to revision list for 2011
13.	EPA, RN, WRA	Develop statewide nutrient criteria	Added to revision list
14.	CDA	Update copper aquatic life water quality standards to include biotic ligand model (BLM)	Added to revision list
15.	IZA	Update zinc aquatic life water quality standards to include biotic ligand model (BLM)	Added to revision list
16.	RN, WRA	Supportive of proposed changes from Class 2B to 2A and recommend additional reaches to be classified	Added to revision list for 2011
17.	RN, WRA,	Develop a translator to estimate bird egg selenium concentration from water concentration	Added to revision list
18.	RN	Review Class 3C aquatic life use criteria	Added to revision list
19.	RN	Establish process for site-specific standards and use attainability analyses	Not a Standards revision but DWQ agrees that compiling relevant USEPA documentation would be helpful to stakeholders.
20.	RN, WRA	Develop numeric standards for Great Salt Lake	Added to revision list
21.	RN	Develop variance policy	Added to revision list
22.	RN, WRA	Develop sediment criteria	Added to revision list

Table 1 Division of Water Quality (DWQ) Actions for Comments on Water Quality Standards Revisions for the 2011 Triennial Review			
No.	**Commenter**	**Comment**	**DWQ Action**
23.	TU	Change from Category 3 to Category 2 the Provo River between Jordanelle Reservoir and Olmsted Diversion, excluding Deer Creek Reservoir	Added to revision list for 2011
24.	WRA	Adopt water quality criteria for elemental mercury	R317-2 has freshwater standards for mercury that would include elemental mercury. These standards were based on direct toxicity and may not be protective for bioaccumulation. As criteria or indicators are developed for GSL, all relevant chemical forms of mercury will be considered.
25.	WRA	Develop nutrient criteria for Willard Spur	Added to revision list
26.	WRA	Develop nutrient criteria for Great Salt Lake	Added to revision list
27.	WRA	Revise selenium standard to a more protective value	No action because the existing standard is protective and scientifically defensible and the selenium standard is being reviewed by USEPA
28.	WRA, RN	Classify all waters as 2A, frequent primary and secondary contact recreation	No action because the recreational subcategories, frequent and infrequent, are appropriate and provide DWQ flexibility in achieving the swimmable goals of Clean Water Act.
29.	WRA	Delete road construction exemption for Category 1 waters	Add to revision list 2011. DWQ recommends that the road construction example be deleted but retain the concept of allowing activities that have temporary and limited impacts on water quality. This concept is consistent with USEPA policy (July 13, 1991 memorandum Antidegradation Policy: ONRW).
30.	WRA	Evaluate temperature standards and revise if appropriate	Added to revision list
31.	WRA	Delete examples from antidegradation review requirements	Added to revision list for 2011
32.	WRA	Develop sediment criteria for GSL	Added to revision list
33.	WRA, LM	Finish development of assessment methods for Farmington Bay wetlands	Added to revision list
34.	LM	Change the Water Quality Standard for all of Willard Spur to match the standard for the Bear River Bay Bird Refuge. The change would for all the area north of GSL Minerals.	Appropriate beneficial uses for Willard Spur will be best determined when data from the ongoing studies are available. Add to revision list.
35.	LM	Drop TDS standards for all GSL wetlands	The agricultural beneficial use class has a numeric TDS standard but this beneficial use is not assigned to GSL transitional waters or wildlife management areas. GSL wetlands do not have TDS standards.

Table 1 Division of Water Quality (DWQ) Actions for Comments on Water Quality Standards Revisions for the 2011 Triennial Review			
No.	**Commenter**	**Comment**	**DWQ Action**
36.	LM	Develop an action planning process when an MMI Analysis does not show a wetland meets an acceptable quality level as compared to the reference wetland. This would include the an analysis of beneficial use protection and would be in conformance with recommendations from the National Academy of Sciences TMDL Report (see page 49).	Added to revision list
37.	LM	Develop a mixing policy for Wetland discharges. This would include an allowance for effluent dominated wetlands.	Added to revision list
38.	WWP	Add criteria to effectively evaluate habitat degradation	The Narrative Standard will be revised during this Triennial Review. Habitat assessment methods can then be developed. Currently, some data that measures habitat integrity but objectives methods for assessing these data are still under development.
EPA: Environmental Protection Agency RN: River Network LM: Leland Myers TU: Trout Unlimited WRA: Western Resource Advocates WWP: Western Water Project			

Table 2 Utah Water Quality Standards Review Topics Under Consideration
April, 2011

No.	Standards Topic	DWQ Level of Effort	Priority	When	Notes
1	Antidegradation Policy Revisions: Rule Changes Implementation Guidance Complete Category Section Complete 401, 402, and General Permits Program Resolve temporary and limited for Category 1	High	High	2011	Revise rule to address EPA 2010 disapproval; Reconsider examples of temporary and limited and add same exemption to Category 2
2	Revisions to narrative standard - expand to address biological condition	Med/Low	High	2011	Revisions will better align standards with assessments based on biology
3	Recategorize the following waters from Category 3 to Category 2: Provo from Jordanelle to Olmsted Diversion excluding Deer Creek Reservoir	Medium	Low	2011	Trout Unlimited request: review existing 208 restrictions on discharges
4	Assign beneficial uses	Low	High	2011	Sand Hollow Reservoir; Big East Reservoir
5	Change Recreation Beneficial Use	Low	Medium	2011	Restored Ogden River from 2B to 2A; Fremont River Capitol Reef from 2B to 2A; Hyrum Reservoir from 2B to 2A
6	Reclassify Pineview Reservoir from 3A to 3B	Low	Medium	2011	Recommendation of the 2002 TMDL
7	Adopt updated human health water quality criteria for phenol, acrolein, and tributyl tin	Low	Medium	2011	USEPA updated AWQC

2.57

Table 2 Utah Water Quality Standards Review Topics Under Consideration
April, 2011

No.	Standards Topic	DWQ Level of Effort	Priority	When	Notes
8	Adopt updated aquatic life water quality criteria for acrolein, chloride, chlorpyrifos, and tributyl tin	Low	Medium	2011	USEPA updated AWQC
9	Modify standards to allow the use of the biotic-ligand model or water effects ratio for site-specific standards	Low	Low	2011	EPA approved procedures
10	Delete acute criteria for mercury	Low	Medium	2011	Acute standard no longer supported by USEPA because standard not protective of bioaccumulation
11	Revise "a less stringent criterion is appropriate because of natural or un-alterable conditions" to apply to any parameter, not just TDS and temperature	Low	Medium	2011	Rule needs to be revised in anticipation of conducting UAAs
12	Revise upstream boundary for Spring Creek (Bear River WMU) site-specific TDS standar	High	Low	2011	Existing boundary is US 89 which is downstream of the facility that instigated the investigation for a site-specific standard
13	Review iron criteria for dissolved and total	Medium	Medium	2011	Iron criteria may have been erroneously changed to dissolved when other metals were changed to dissolved
14	Site-specific TDS Standards	Medium	High	2011	Price River between Soldier and Coal Creeks; Antelope Creek (Uinta) TMDL; Blue Creek

Table 2 Utah Water Quality Standards Review Topics Under Consideration
April, 2011

No.	Standards Topic	DWQ Level of Effort	Priority	When	Notes
15	Change Categories 1, 2, and 3 to Tier 1, 2, and 3 to be consistent with Federal program and other States	Low	Low	2011	Eliminate confusion regarding the nexus of Federal and State Rules
16	Revise Category 1 descriptions for Oakley and Coalville WWTPs	Low	Medium	2011	Category 1 boundary is defined as US 189 which subsequently was moved with road construction. US189 is no longer a valid geographical residence. Reestablish Category 1 boundary in the same location with a new reference. Nonsubstantive change and no rulemaking required
17	In R317-2-12.2 Revise Category 2 Fountain Green To Uintah, should be Category 3	Low	Medium	2011	This exception was inadvertently moved from R317-2-12.1 during the last rulemaking resulting in this reach being changed to Category 2 as opposed to being excluded from Category 1 (and by default, Category 3)
18	Identify Table 13.2 in the standards	Low	Low	2011	No reference in standards for table
19	Remove or define asterisks in lake beneficial uses	Low	Low	2011	No reference in standards
20	State-wide nutrient criteria: numeric nutrient criteria for casual and response variables for streams/rivers and lakes/reservoirs	High	High	2014	Time needed to complete analyses- will be addressed in 2012
21	Variance policy - will be addressed with nutrient standards	High	High	2014	Time needed to complete analyses- will be addressed in 2012 w/ nutrient criteria

2.2

Table 2 Utah Water Quality Standards Review Topics Under Consideration
April, 2011

No.	Standards Topic	DWQ Level of Effort	Priority	When	Notes
22	GSL wetlands - validation of assessment methodology	High/Med	High	2014	proceeding
23	GSL wetlands - standards revisions for different wetland types	High/Med	High	2014	MMI being validated
24	GSL indicator values/criteria	High	High	2014	Development of indicator values/criteria will streamline permitting inefficiencies and assist assessment of the GSL
25	Translator for GSL selenium standard (egg to water translator)	High/Med	High	2014	CH2MHill collating data for model refinement
26	Willard Spur nutrient criteria and beneficial uses	High	High	2014	Pending outcome of ongoing studies
27	Change the Beneficial Uses for Willard Spur north of approximately Great Salt Lake Minerals to match Bear River Migratory Bird Refuge Beneficial Uses	Med/High	High	2014	Pending outcome of ongoing studies
28	Jordan River temperature/beneficial uses	High	High	2014	post TMDL
29	Jordan River site-specific TDS	High	High	2014	post TMDL
30	Change beneficial uses of Saleratus Creek from 3A to 3D	Low	Low	2014	DWQ no longer assesses Salteratus Creek, TMDL has most of work done.
31	Change beneficial use of Recapture Reservoir from 3A to 3B	Low	Medium	2014	Recommendation of TMDL
32	Develop a mixing policy for wetlands including effluent-dominated wetlands	High	High	2014	Current EPA Region 8 policy is no mixing zones for wetlands

2.8

Table 2 Utah Water Quality Standards Review Topics Under Consideration
April, 2011

No.	Standards Topic	DWQ Level of Effort	Priority	When	Notes
33	Delete pH and DO standards for all wetlands. Replace with a multi-metric index type approach.	Med/High	High	2014	Pending validation and applicability of MMI
34	Develop an action planning process when an MMI Analysis does not show a wetland meets an acceptable quality level as compared to the reference wetland. This would include the an analysis of beneficial use protection and would be in conformance with recommendations from the National Academy of Sciences TMDL Report (see page 49).	Med	High	2014	Pending validation and applicability of MMI
35	Update the hardness-based zinc criteria	Medium	Low	2014	
36	Assess Biotic ligand model for inclusion into copper aquatic life standards	Medium	Low	2014	
37	Assess Biotic ligand model for inclusion into zinc aquatic life standards	Medium	Low	2014	
38	Methylmercury criterion	Medium	High	2014	Multiple implementation considerations, implementation methods should be developed prior to adopting tissue-based std
39	Methylmercury criterion Implementation	High	High	2014	Need implementation methods prior to promulgating methyl mercury standard

2.9

Table 2 Utah Water Quality Standards Review Topics Under Consideration
April, 2011

No.	Standards Topic	DWQ Level of Effort	Priority	When	Notes
40	Revised temperature criteria and assessment methodology	High/Med	Medium	2014	New temperature listings could have a low priority (unless waterbody is receiving a thermal discharge), and potentially be delisted once standards are revised. May be able to build on approaches used by other states. Should include an allowance for excursions due to unusual weather. Can work with TMDL group to develop rationale for site-specific standards proposals until a state-wide approach can be developed
41	TDS - explore dividing the agricultural use into livestock and irrigation and the necessary criteria to adopt those uses (e.g. adoption of EC/SAR criteria for irrigation, criteria for livestock)	High	Medium	2014	Can work with TMDL group to develop rationale for site-specific standards proposals until a state-wide approach can be developed; Montana rules being challenged in court 2010.
42	Sediment (Quantity) Criteria	High	Medium	2014	
43	Implement identification numbers to provide consistency between standards, assessment, and TMDLs (e.g., NHD)	Medium	High	2014	Need to decide on best identifier. Small LOE from WQS Workgroup, large effort DWQ to implement
44	Develop tiered aquatic life beneficial uses	High	Medium	2014	
45	Review Beneficial Use Class 3C	Medium	Low	2014	Review the distinction between game and nongame fish
46	Sediment quantity criteria for GSL	High	Low	2014	

Attachment 2 - Supporting rationale for changes to Utah's Standards of Water Quality R317-2 2011 Triennial Review
September 2011 Water Quality Board Meeting

Rule	Change	Page
R317-2-3.2, R317-2-3.3, R317-2-3.5.a.2., R317-2-3.5.a.3., R317-2-12, R317-2-12.1., R317-2-12.1.a., R317-2-12.2	Change the numbering of Antidegradation Review Categories, e.g., Category 1 changes to Category 3.5.	3
R317-2-3.2 and 3.3	Revise the description of temporary and limited for (new) Category 3.5 and add to exclusion to (new) Category 3	4
R317-2-3.5.b.1.(d)	Delete antidegradation example disapproved by USEPA	5
R317-2-4	Update the Colorado Salinity Forum because public review period for 2011 ended in August	6
R317-2-7.1, Tables 2.14.1 and 2.14.2	Revise and broaden description for developing site-specific standards	7
R317-2-12.1.a. and R317-2-12.2.a	Correct error in previous rulemaking where antidegradation category of the Weber River was the unintentionally changed	8-11
R317-2-12.2.b.6.	Reassign the antidegradation category boundary for Chalk Creek and Weber (Coalville and Oakley) from previous boundary because of highway name changes.	12-20
R317-2-13.1	Change beneficial use for Fremont River to frequent recreation from infrequent recreation	21-23
R317-2-13.4.a.	Change beneficial use for Ogden River to frequent recreation from infrequent recreation	24
R317-2-13.5.a.	Assign beneficial uses to a previously unclassified reach of Red Butte Creek	25-26
R317-2-13.5.a.	Assign beneficial uses to a previously unclassified reach of Emigration Creek	27
R317-2-13.2.a. and R317-13.2.bb.	Delete ** where no site-specific temperature standard was promulgated	28
R317-2-13.2.x.	Assign beneficial uses to Big East Lake	29
R317-2-13.2.	Assign beneficial uses to Sand Hollow Reservoir	30
R317-2-13.2	Delete infrequent recreation beneficial use when frequent recreation is specified	31
Table 2.14.1 Site-Specific TDS Standards, Price River	Revise boundary for Price River site-specific TDS standards to resolve USEPA disapproval	32
Table 2.14.2	Delete acute criteria for mercury	33
Table 2.14.2	Add numeric criteria for tributyl tin	34
Tables 2.14.2, 2.14.6	Add numeric criteria for acrolein	35

Rule	Change	Page
Tables 2.14.2	Add numeric criteria for chlorpyrifos	36
Table 2.14.6	Add numeric criteria for phenol	37

No.[1]	Rule Number	Change Summary
15	R317-2-3.2, R317-2-3.3, R317-2-3.5.a.2., R317-2-3.5.a.3., R317-2-12, R317-2-12.1., R317-2-12.1.a., R317-2-12.2.,	The Clean Water Act (40 CFR § 131.12) requires that at least three levels of protection be adopted for Waters of the State. R317-2-3.5 identifies these levels as Category 1 through 3 with Category 1 having the most protection. USEPA identified the levels as Tiers 1 through 3 with Tier 3 have the most protections. This discrepancy between the Utah Water Quality Standards and USEPA guidance has created confusion. This change is intended to eliminate confusion by reordering Utah's Categories so that Category 3 has the most protections analogous to USEPA's Tier 3. Categories 1 and 2 were changed to Categories 3.5 and 3 respectively. Previous Categories 2 and 3 meet USEPA requirements for Tier 3 waters. Category 3 was changed to Category 2 to reflect waters where water quality is better than required by the Standards and degradation is allowed for important social and economic reasons. This change does not change the protection status of any waters.

[1] Refers to the UT WQS workplan 04202011

No.[1]	Rule Number	Change Summary
1	R317-2-3.2 and 3.3	Federal rules allow degradation in Tier 3 waters for discharges that are temporary and limited. Utah included this exemption for existing Category 1 waters with roads being listed as a specific example. The road example was deleted and a reference to the criteria to be considered for making a temporary and limited determination was added. Road construction and other activities that meets the criteria for temporary and limited will continue to be allowed. In addition, this same exemption was added to the less stringent, existing Category 2 waters (proposed Category 3).

[1] Refers to the UT WQS workplan 04202011

No.[1]	Rule Number	Change Summary
1	R317-2-3.5.b.1.(d)	This example for when an antidegradation review is not required was deleted to resolve a USEPA disapproval in 2010.

[1] Refers to the UT WQS workplan 04202011

No.[1]	Rule Number	Change Summary
	R317-2-4	The 2011 review is complete and the agreement is updated in Utah's Standards as shown below In addition to quality protection afforded by these regulations to waters of the Colorado River and its tributaries, such waters shall be protected also by requirements of "Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975" and a supplement dated August 26, 1975, entitled "Supplement, including Modifications to Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975", as approved by the seven Colorado River Basin States and the U.S. Environmental Protection Agency, as updated by the 1978 Revision and the 1981, 1984, 1987, 1990, 1993, 1996, 1999, 2002, 2005, ~~and~~2008, and 2011 ~~R~~reviews of the above documents.

No.[1]	Rule Number	Change Summary
11	R317-2-7.1, Tables 2.14.1 and 2.14.2	This section regarding numeric standards was revised to acknowledge that numeric standards can be modified based on certain site-specific conditions. The previous version of the standards listed changes based on bioassays or other methods, and site-specific temperature and total dissolved solids standards based on natural conditions. This change consolidates and broadens the reasons for allowing site-specific standards consistent with USEPA policies and the Clean Water Act. Footnote (4) from Table 2.14.1 was moved to R37-2-7.1 and Footnote (3) from Table 2.14.2 was deleted but site-specific temperature can be developed per the revised R317-2-7.1. The Water Quality Board must approve any change to the Standards thereby preserving their approval role.

[1] Refers to the UT WQS workplan 04202011

No.[1]	Rule Number	Change Summary
17	R317-2-12.1.a. and R317-2-12.2.a	This reach of the Weber River was mistakenly moved to R317-2-12,2 during the Standards changes in 2010 (see Utah Bulletin below 33233 on pp. 50-51). This change inadvertently changed the Category of this reach from existing Category 3 to existing Category 2 and this correction restores the original classifications.

[1] Refers to the UT WQS workplan 04202011

UTAH STATE BULLETIN

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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63G-3-402.

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The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit http://www.rules.utah.gov/publicat/digest.htm for additional information.

treatment requirements. Protocols and guidelines will consider federal guidance and will include input from local governments, the regulated community, and the general public. The Executive Secretary will inform the Water Quality Board of any protocols or guidelines that are developed.

R317-2-6. Use Designations.

The Board as required by Section 19-5-110, shall group the waters of the state into classes so as to protect against controllable pollution the beneficial uses designated within each class as set forth below. Surface waters of the state are hereby classified as shown in R317-2-13.

6.1 Class 1 -- Protected for use as a raw water source for domestic water systems.

a. Class 1A -- Reserved.

b. Class 1B -- Reserved.

c. Class 1C -- Protected for domestic purposes with prior treatment by treatment processes as required by the Utah Division of Drinking Water

6.2 Class 2 -- Protected for recreational use and aesthetics.

a. Class 2A -- Protected for frequent primary contact recreation where there is a high likelihood of ingestion of water or a high degree of bodily contact with the water. Examples include, but are not limited to, swimming, rafting, kayaking, diving, and water skiing.

b. Class 2B -- Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing.

6.3 Class 3 -- Protected for use by aquatic wildlife.

a. Class 3A -- Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain.

b. Class 3B -- Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.

c. Class 3C -- Protected for nongame fish and other aquatic life, including the necessary aquatic organisms in their food chain.

d. Class 3D -- Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.

e. Class 3E -- Severely habitat-limited waters. Narrative standards will be applied to protect these waters for aquatic wildlife.

6.4 Class 4 -- Protected for agricultural uses including irrigation of crops and stock watering.

6.5 Class 5 -- The Great Salt Lake.

a. Class 5A Gilbert Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation south of the Union Pacific Causeway, excluding all of the Farmington Bay south of the Antelope Island Causeway and salt evaporation ponds.

Beneficial Uses -- Protected for frequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

b. Class 5B Gunnison Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation north of the Union Pacific Causeway and west of the Promontory Mountains, excluding salt evaporation ponds.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

c. Class 5C Bear River Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation north of the Union Pacific Causeway and east of the Promontory Mountains, excluding salt evaporation ponds.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

d. Class 5D Farmington Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation east of Antelope Island and south of the [~~Union Pacific~~]Antelope Island Causeway, excluding salt evaporation ponds.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

e. Class 5E Transitional Waters along the Shoreline of the Great Salt Lake Geographical Boundary -- All waters below approximately 4,208-foot elevation to the current lake elevation of the open water of the Great Salt Lake receiving their source water from naturally occurring springs and streams, impounded wetlands, or facilities requiring a UPDES permit. The geographical areas of these transitional waters change corresponding to the fluctuation of open water elevation.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

R317-2-12. Category 1 and Category 2 Waters.

12.1 Category 1 Waters.

In addition to assigned use classes, the following surface waters of the State are hereby designated as Category 1 Waters:

a. All surface waters geographically located within the outer boundaries of U.S. National Forests whether on public or private lands with the following exceptions:

Category 2 Waters as listed in R317-2-12.2.

[~~Weber River, a tributary to the Great Salt Lake, in the Weber River Drainage from Uintah to Mountain Green.~~

————]b. Other surface waters, which may include segments within U.S. National Forests as follows:

1. Colorado River Drainage

Calf Creek and tributaries, from confluence with Escalante River to headwaters.

Sand Creek and tributaries, from confluence with Escalante River to headwaters.

Mamie Creek and tributaries, from confluence with Escalante River to headwaters.

Deer Creek and tributaries, from confluence with Boulder Creek to headwaters (Garfield County).

Indian Creek and tributaries, through Newspaper Rock State Park to headwaters.

2. Green River Drainage

Price River (Lower Fish Creek from confluence with White River to Scofield Dam.

Range Creek and tributaries, from confluence with Green River to headwaters.

Strawberry River and tributaries, from confluence with Red Creek to headwaters.

Ashley Creek and tributaries, from Steinaker diversion to headwaters.

Jones Hole Creek and tributaries, from confluence with Green River to headwaters.

Green River, from state line to Flaming Gorge Dam.

Tollivers Creek, from confluence with Green River to headwaters.

Allen Creek, from confluence with Green River to headwaters.

3. Virgin River Drainage

North Fork Virgin River and tributaries, from confluence with East Fork Virgin River to headwaters.

East Fork Virgin River and tributaries from confluence with North Fork Virgin River to headwaters.

4. Kanab Creek Drainage

Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters.

5. Bear River Drainage

Swan Creek and tributaries, from Bear Lake to headwaters.

North Eden Creek, from Upper North Eden Reservoir to headwaters.

Big Creek and tributaries, from Big Ditch diversion to headwaters.

Woodruff Creek and tributaries, from Woodruff diversion to headwaters.

6. Weber River Drainage

Burch Creek and tributaries, from Harrison Boulevard in Ogden to headwaters.

Hardscrabble Creek and tributaries, from confluence with East Canyon Creek to headwaters.

Chalk Creek and tributaries, from U.S. Highway 189 to headwaters.

Weber River and tributaries, from U.S. Highway 189 near Oakley to headwaters.

7. Jordan River Drainage

City Creek and tributaries, from City Creek Water Treatment Plant to headwaters (Salt Lake County).

Emigration Creek and tributaries, from Hogle Zoo to headwaters (Salt Lake County).

Red Butte Creek and tributaries, from Foothill Boulevard in Salt Lake City to headwaters.

Parley's Creek and tributaries, from 13th East in Salt Lake City to headwaters.

Mill Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Big Cottonwood Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Little Willow Creek and tributaries, from diversion to headwaters (Salt Lake County.)

Bell Canyon Creek and tributaries, from Lower Bells Canyon Reservoir to headwaters (Salt Lake County).

South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters (Salt Lake County).

8. Provo River Drainage

Upper Falls drainage above Provo City diversion (Utah County).

Bridal Veil Falls drainage above Provo City diversion (Utah County).

Lost Creek and tributaries, above Provo City diversion (Utah County).

9. Sevier River Drainage

Chicken Creek and tributaries, from diversion at canyon mouth to headwaters.

Pigeon Creek and tributaries, from diversion to headwaters.

East Fork of Sevier River and tributaries, from Kingston diversion to headwaters.

Parowan Creek and tributaries, from Parowan City to headwaters.

Summit Creek and tributaries, from Summit City to headwaters.

Braffits Creek and tributaries, from canyon mouth to headwaters.

Right Hand Creek and tributaries, from confluence with Coal Creek to headwaters.

10. Raft River Drainage

Clear Creek and tributaries, from state line to headwaters (Box Elder County).

Birch Creek (Box Elder County), from state line to headwaters.

Cotton Thomas Creek from confluence with South Junction Creek to headwaters.

11. Western Great Salt Lake Drainage

All streams on the south slope of the Raft River Mountains above 7000' mean sea level.

Donner Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Bettridge Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Clover Creek, from diversion to headwaters.

All surface waters on public land on the Deep Creek Mountains.

12. Farmington Bay Drainage

Holmes Creek and tributaries, from Highway US-89 to headwaters (Davis County).

Shepard Creek and tributaries, from Height Bench diversion to headwaters (Davis County).

Farmington Creek and tributaries, from Height Bench Canal diversion to headwaters (Davis County).

Steed Creek and tributaries, from Highway US-89 to headwaters (Davis County).

12.2 Category 2 Waters.

In addition to assigned use classes, the following surface waters of the State are hereby designated as Category 2 Waters:

a. Green River Drainage

Deer Creek, a tributary of Huntington Creek, from the forest boundary to 4800 feet upstream.

Electric Lake.

b. Weber River Drainage

Weber River from Uintah to Mountain Green.

No.[1]	Rule Number	Change Summary
16	R317-2-12.2.b.6.	US 189 was the previous boundary for existing Category 1 waters Chalk Creek and the Weber River. With the construction of Jordanelle Reservoir, US 189 was rerouted and is no longer a valid boundary. The boundary for the existing Category 1 waters was updated to reflect the previous geographic boundary with existing roads. The protection status of Chalk Creek and the Weber river are unchanged. See the discussion below for documentation of the road boundaries.

[1] Refers to the UT WQS workplan 04202011

Change in Alignment and Jurisdiction of US Highway 189, Summit County, Utah

Category 1 high quality waters include all waters within U.S. Forest Service outer boundaries (Section R317-2-12 *in* R317-2 Standards of Quality for Waters of the State). In addition, other waters are specifically named, such as Chalk Creek and the Weber River:

> Weber River and tributaries, from U.S. Highway 189 near Oakley to headwaters.
>
> Chalk Creek and tributaries, from U.S. Highway 189 to headwaters.

Due to the construction of Interstate 80 (I-80) and Jordanelle Reservoir in Summit County, the alignment of U.S. Highway 189 (US-189) changed so that now US-189 and the Weber River near Oakley no longer intersect. Similarly, U.S. Highway 189 and Chalk Creek no longer intersect in Coalville.

Prior to 1967, US-189 ran from Provo, Utah, up Provo Canyon to Heber City where it joined U.S. Highway 40 (US-40). From Heber City, US-189 followed on top of, or coincident with, US-40 north to Hailstone Junction. At Hailstone Junction, now inundated by Jordanelle Reservoir, US-189 diverted from US-40 and traveled east to Francis, north to Oakley (fig. 1), and northwest around Rockport Reservoir to Wanship. From Wanship, US-189 was aligned on top of State Route 2 (which name replaced SR4) to Coalville, crossed Chalk Creek as Coalville's Main Street (fig. 2), ran north to Echo Canyon, and east to Evanston, Wyoming. State Route 2 was a forerunner to I-80 which followed the same general route except I-80 bypassed small towns along the way.

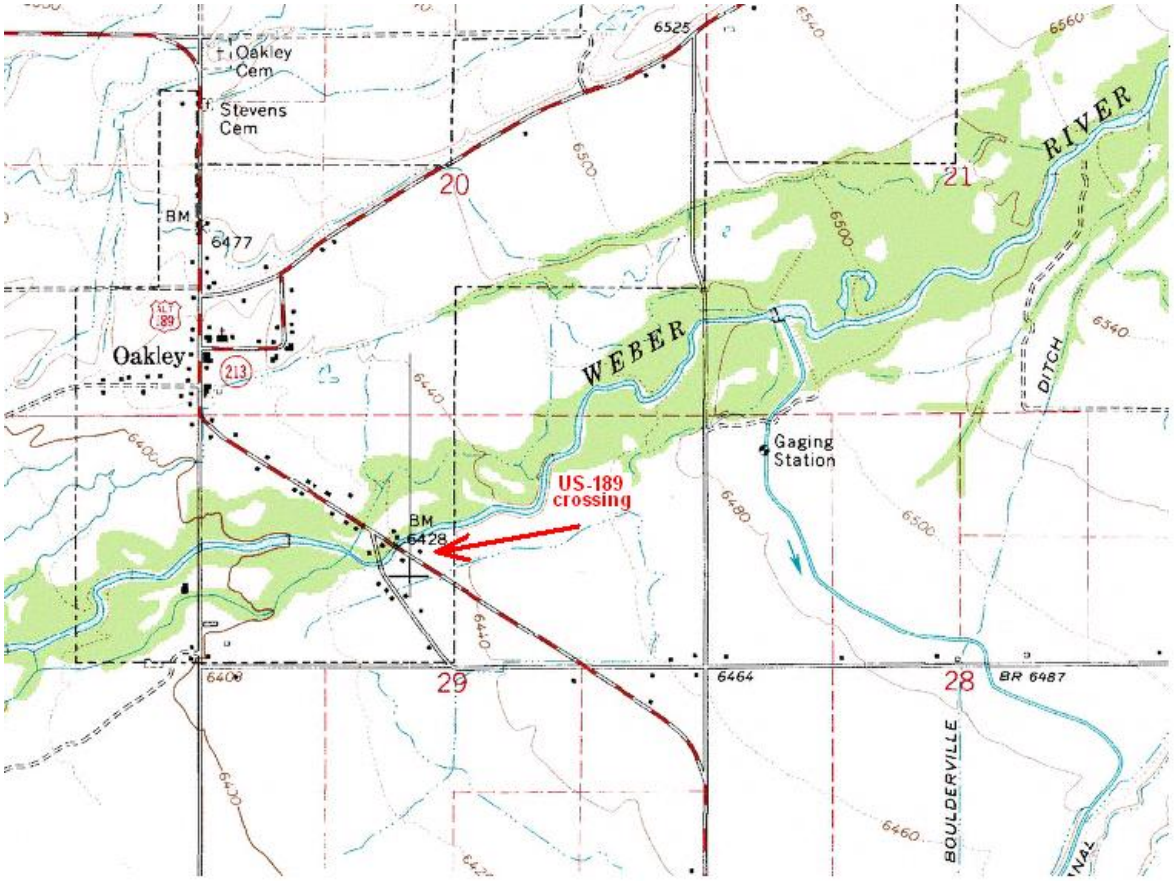


Figure 1. US-189 and Weber River crossing located southeast of Oakley, Summit County, Utah prior to the construction of I-80 and Jordanelle Reservoir (U.S. Geological Survey, *Kamas* 1:24,000 scale map).

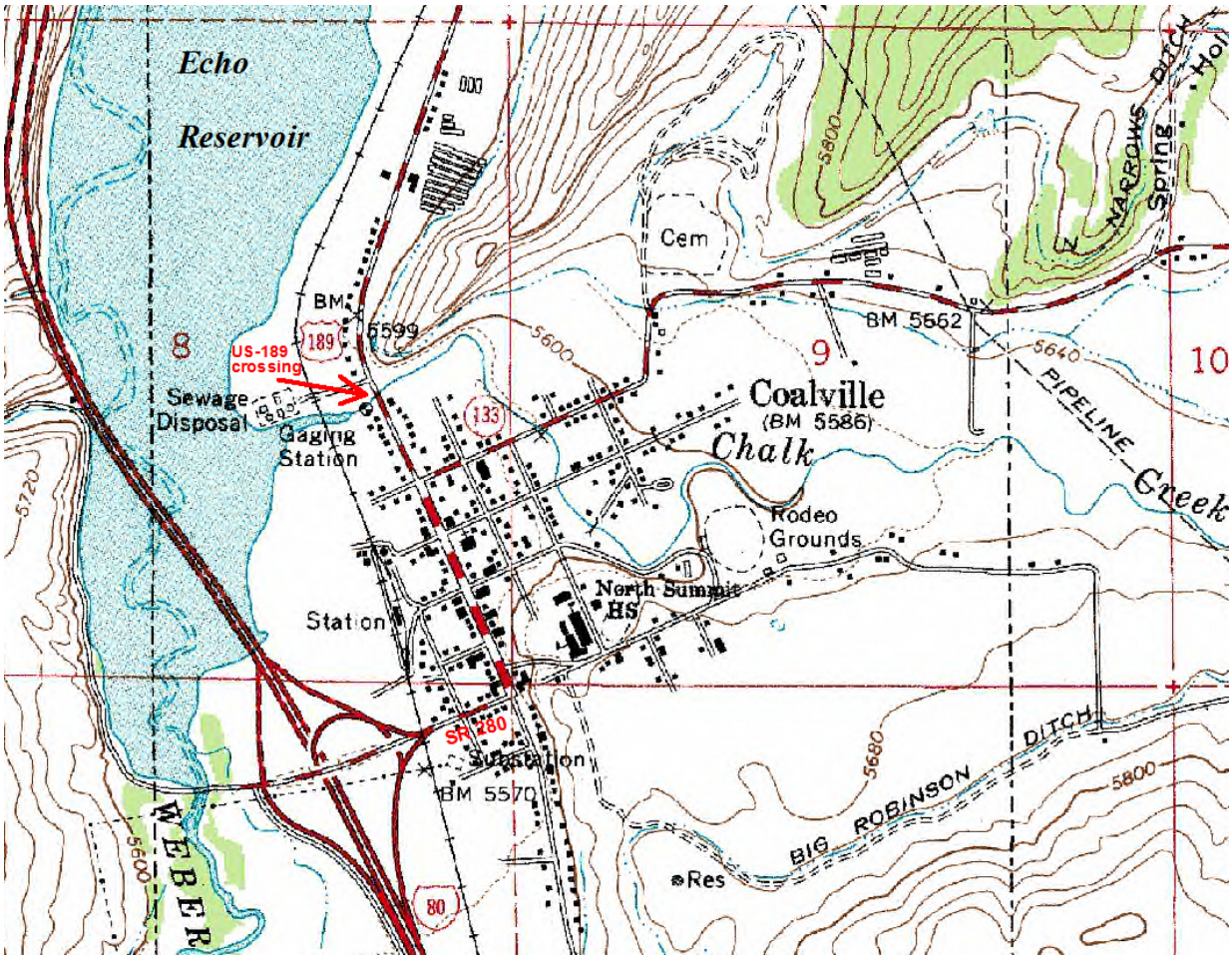


Fig. 2. Location of US189 crossing of Chalk Creek in Coalville, Summit County, Utah prior to the construction of I-80 and Jordanelle Reservoir (U.S. Geological Survey, *Coalville* 1:24,000 scale map).

To organize public highways for state tracking purposes, the Utah Transportation Commission instituted a road numbering system that changed the names of all interstates and U.S. highways to state route numbers. US-189 became known as State Route 189 (SR189) and I-80 became State Route 80.

Summary of Changes to US-189 Alignment Through Oakley, Summit County, Utah

The completion of I-80 in the 1960s and the construction of Jordanelle Reservoir Dam in the early 1980s changed the alignment and maintenance jurisdiction of US-189 (SR189). The junction where SR189 diverted from US-40 was inundated by Jordanelle Reservoir. Route designation for US-189Alt from Francis to Kamas to Oakley and beyond was deleted in late 1975. Later, US-189 (SR189) routing changed to follow, or "piggy-back," US-40 from Heber City past newly completed Jordanelle Reservoir to the Park City interchange, then on to Kamas and through Oakley but bypassing Francis.

The water quality standards description for the Weber River above Oakley as category 1 waters became inaccurate through changes in the late 1980s. By 1990, the existing route alignment was approved for US-189 (SR189) which now is coincident with US-40 from Heber to Silver Creek Junction at I-80, then coincident on I-80 to Wanship, past Coalville on the west side of Echo

Reservoir, and on to Evanston (fig.3 and fig. 4). The road through Francis, Kamas, and Oakley is now called SR32.

RESOLUTION

Relocation of U.S. Route 189

WHEREAS, AASHTO has established policy number 8-B to provide guidance in determining U.S. Route designations and,

WHEREAS, construction of the Jordanelle Dam Project has created improvements along with shortening the length of U.S. 40, also eliminating Hailstone Junction as well as other sections of roadway that U.S. Route 189 traversed and,

WHEREAS, policy calls for following the newest, shortest, and best route and,

WHEREAS, the new alignment of U.S. Route 40 has created a situation where the present alignment of U.S. 189 from Wanship to Hailstone junction no longer warrants a U.S. Route designation.

NOW THEREFORE, be it resolved as follows:

1. That application be made to the American Association of State Highway and Transportation Officials, U.S. Numbering Committee, requesting that U.S. Route 189 should run concurrently with Interstate Route 80 and U.S.Route 40, and the description for U.S. Route 189 within the State of Utah should read in the following manner.

UTAH	State Line	0	0	
	Echo Jct.	30	30	I-84 begins and leaves
	Silver Creek Jct.	21	51	Leaves I-80, Joins U.S. 40
	Heber	19	70	Leaves U.S. 40
	Provo	28	98	Crosses U.S. 89
	Provo	2	100	Route ends, Jct. I-15

2. The accompanying map, and AASHTO application be made part of this resolution.

Dated this 21st day of September, 1990.

Utah Transportation Commission

Chairman

Commissioner

Commissioner

Commissioner

Commissioner

Attest:

Secretary to Commission

Figure 3. Description of US-189 alignment with I-80 and US-40 to Heber City, bypassing the Oakley area, as approved in 1990 by American Association of State Highway and Transportation Officials.

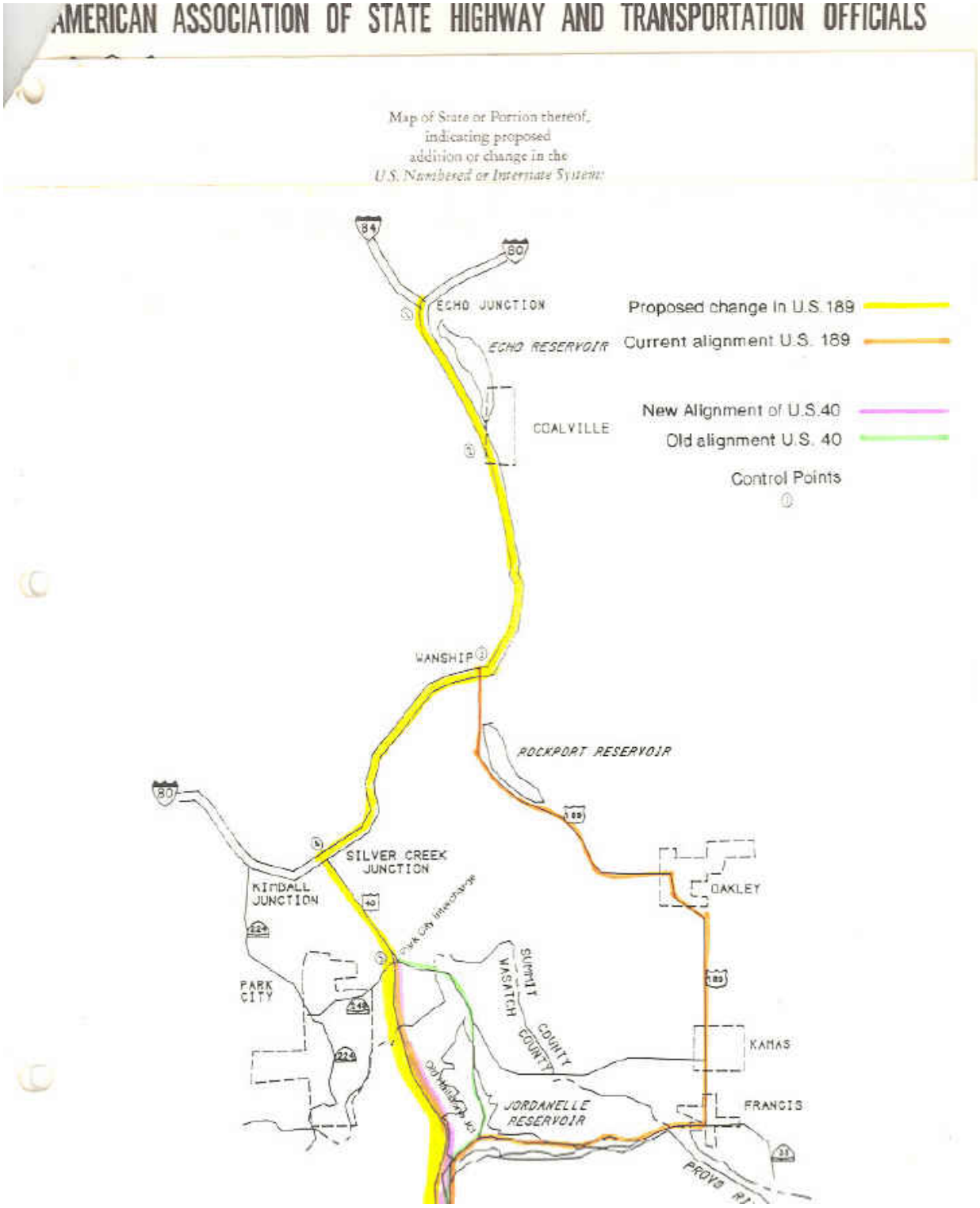


Figure 4. Map of current US-189 alignment coincident with I-80 and US-40 as approved in September of 1990 by the American Association of State Highway and Transportation Officials.

Summary of Changes to US-189 Alignment in the Coalville, Summit County, Utah, Area

Written correspondences between the State of Utah Department of Transportation, Summit County, and Coalville City in late 1967 and early 1968 indicate that US-189 used to pass through Coalville. Upon completion of I-80, Coalville City and Summit County officials agreed to take over control and maintenance of SR189 (US-189) from the State. At this time US-189 went through Coalville as its Main Street. After road damage caused by heavy trucks hauling material for I-80 construction was repaired, the jurisdiction and maintenance of SR189 (US-189), running from Wanship on through Hoytsville and on to Coalville, was transferred from the State of Utah to Coalville City and Summit County (fig. 5)

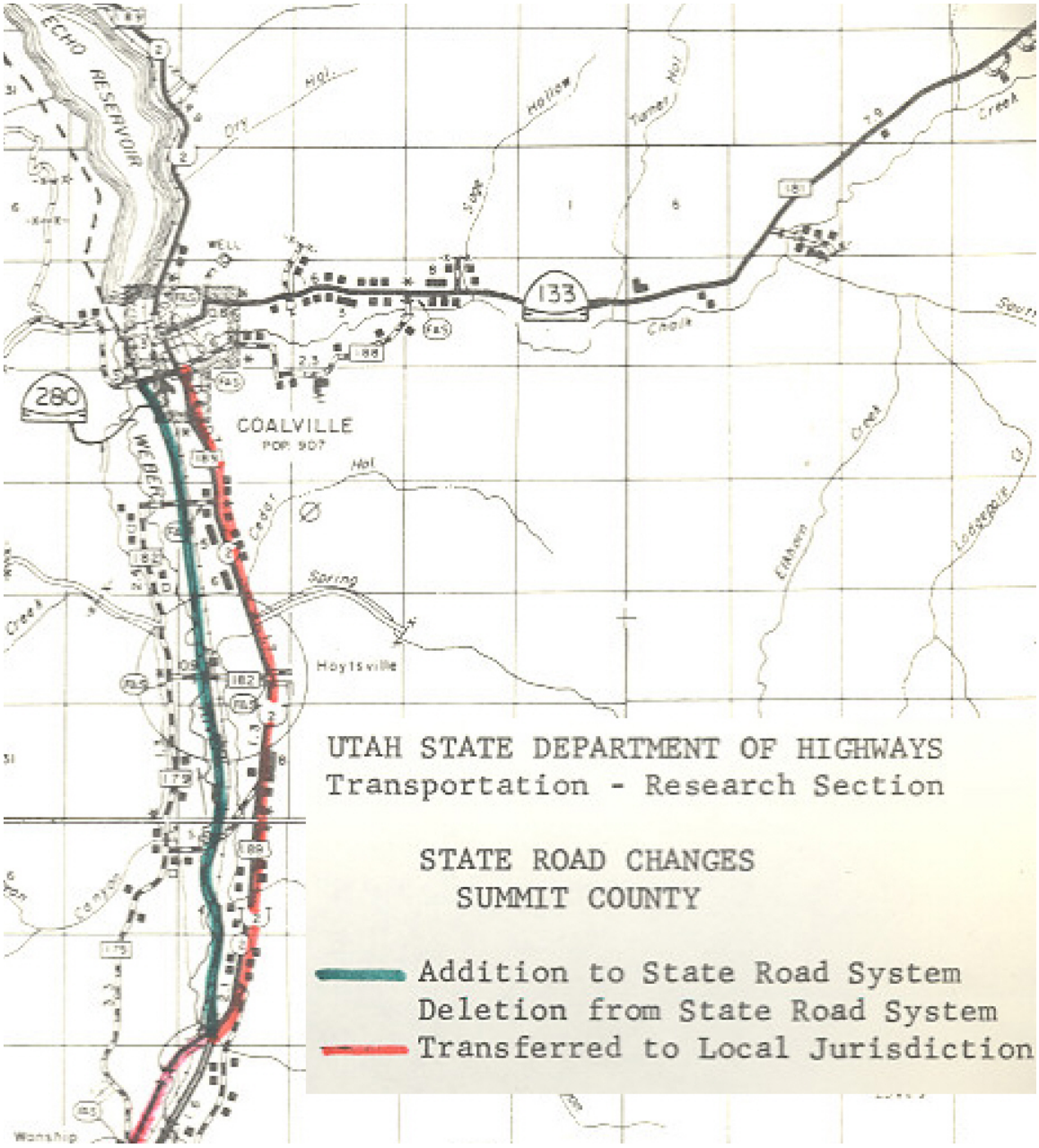
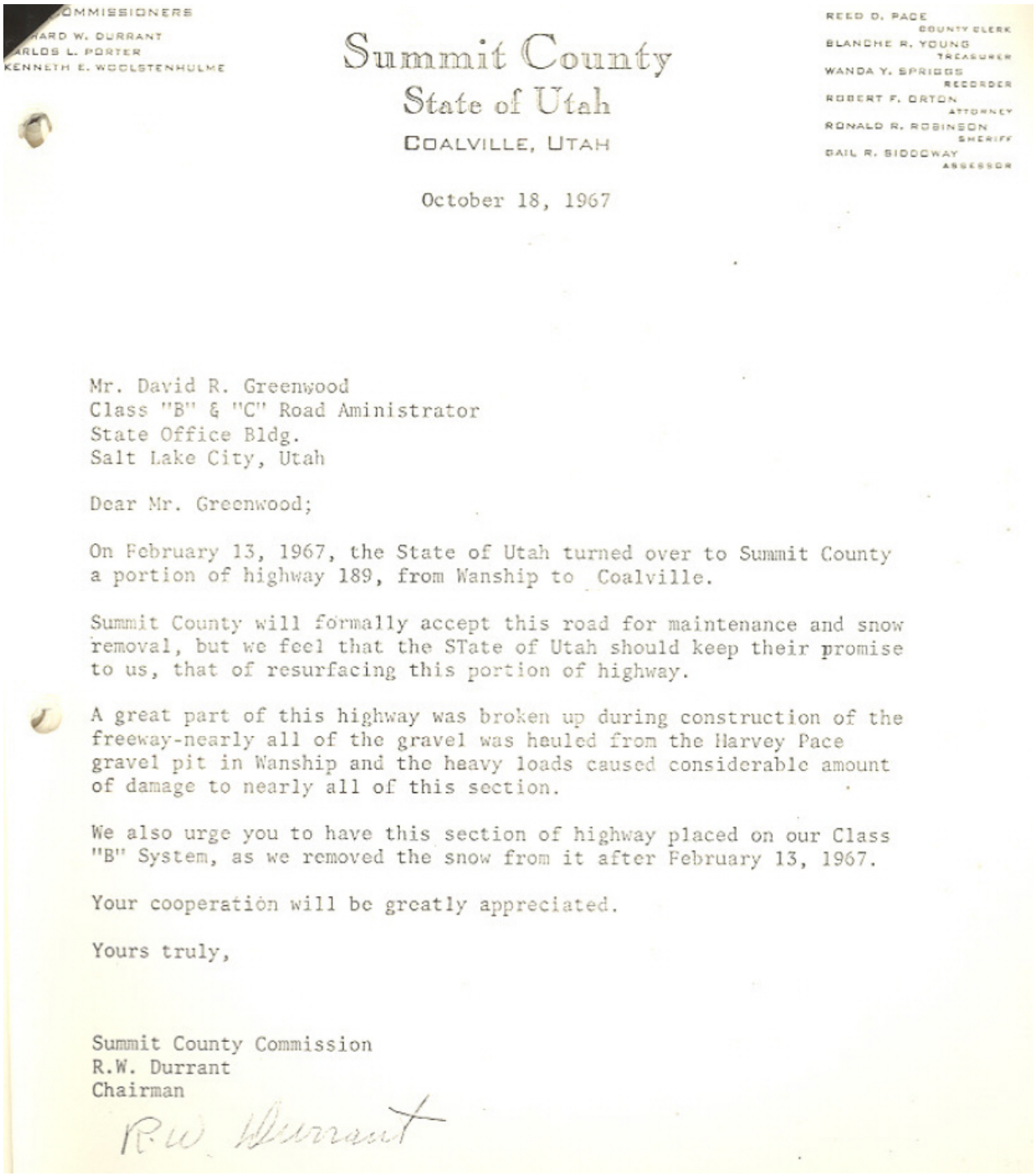


Figure 5. Location of State Route 2 and US-189 from Wanship to Coalville, Summit County, Utah prior to 1967 changes in alignment and jurisdiction.

After gaining control of SR189, Summit County officials requested that the State repair the damage done to it during the construction of I-80. The damage was repaired and the transfer was later completed. Scanned maps (fig. 5) and letters shown in Figure 6 and 7 indicate that I-80 and US-189 were not the same route at that time.



COMMISSIONERS
RD W. DURRANT
ARLOS L. PORTER
KENNETH E. WOOLSTENHULME

Summit County
State of Utah
COALVILLE, UTAH

REED D. PACE
COUNTY CLERK
BLANCHE R. YOUNG
TREASURER
WANDA Y. SPRIGGS
RECORDER
ROBERT F. ORTON
ATTORNEY
RONALD R. ROBINSON
SHERIFF
GAIL R. SIDDOWAY
ASSESSOR

October 18, 1967

Mr. David R. Greenwood
Class "B" & "C" Road Aministrator
State Office Bldg.
Salt Lake City, Utah

Dear Mr. Greenwood;

On February 13, 1967, the State of Utah turned over to Summit County a portion of highway 189, from Wanship to Coalville.

Summit County will formally accept this road for maintenance and snow removal, but we feel that the STate of Utah should keep their promise to us, that of resurfacing this portion of highway.

A great part of this highway was broken up during construction of the freeway-nearly all of the gravel was hauled from the Harvey Pace gravel pit in Wanship and the heavy loads caused considerable amount of damage to nearly all of this section.

We also urge you to have this section of highway placed on our Class "B" System, as we removed the snow from it after February 13, 1967.

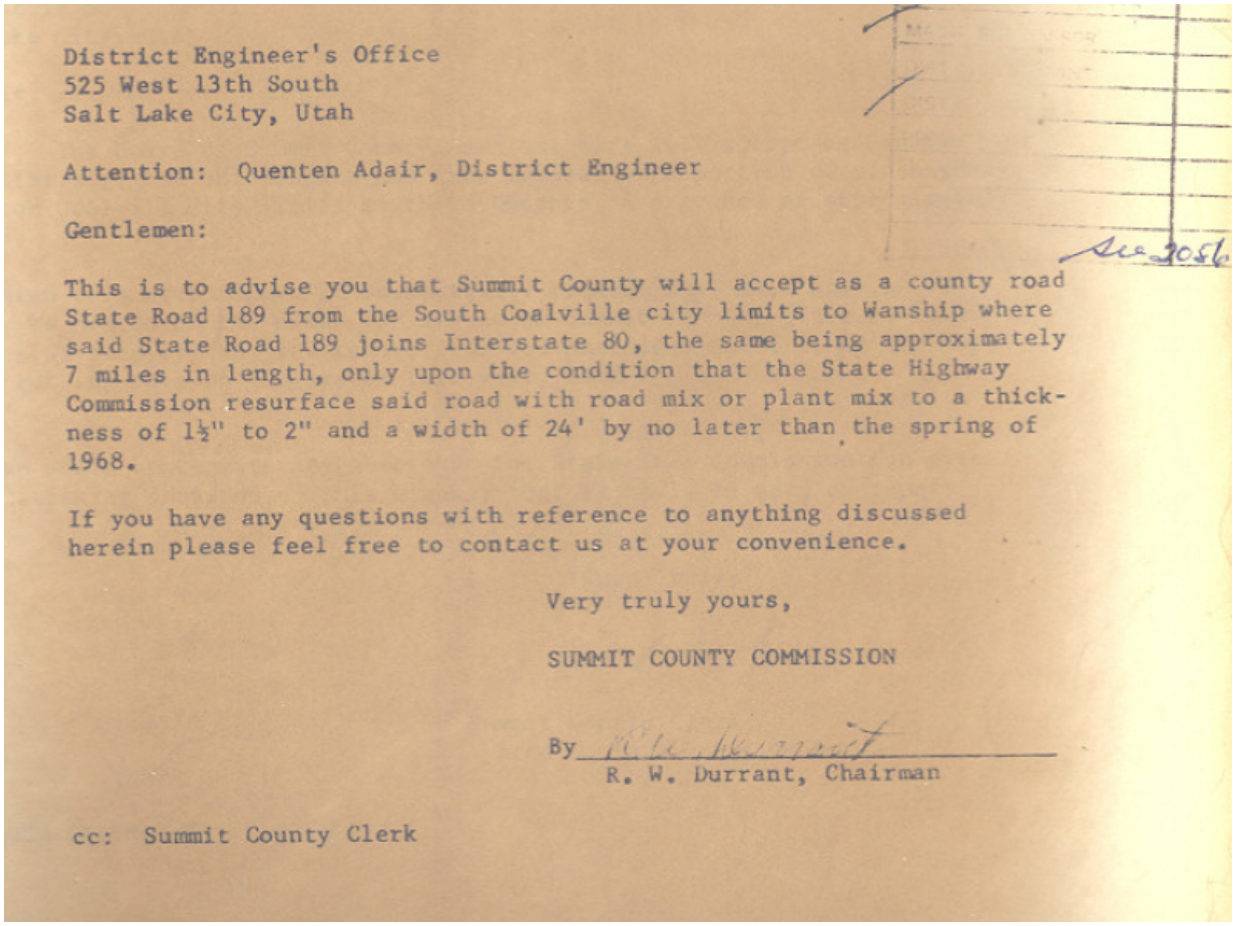
Your cooperation will be greatly appreciated.

Yours truly,

Summit County Commission
R.W. Durrant
Chairman

R.W. Durrant

Figure 6. Conditional acceptance of State Road 189 (US-189) by Summit County officials. US-189 alignment has since been moved to coincide with I-80 through the Wanship and Coalville area.



District Engineer's Office
525 West 13th South
Salt Lake City, Utah

Attention: Quenten Adair, District Engineer

Gentlemen:

This is to advise you that Summit County will accept as a county road State Road 189 from the South Coalville city limits to Wanship where said State Road 189 joins Interstate 80, the same being approximately 7 miles in length, only upon the condition that the State Highway Commission resurface said road with road mix or plant mix to a thickness of 1½" to 2" and a width of 24' by no later than the spring of 1968.

If you have any questions with reference to anything discussed herein please feel free to contact us at your convenience.

Very truly yours,

SUMMIT COUNTY COMMISSION

By _____
R. W. Durrant, Chairman

cc: Summit County Clerk

Figure 7. Summit County officials indicate they will accept SR189 (US-189) as a county road after repairs from Coalville City limits to Wanship are made.

US-189, re-named SR189, piggy-backed on the old SR2 prior to I-80 and was also Main Street through Coalville. Now US-189 piggy-backs on US-40 and on I-80 and never passes though Coalville nor crosses Chalk Creek.

Internet references:
State Roads resolutions (route history) list: http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:1348,

Specific highway resolutions:

Route 2 (SR2): http://www.udot.utah.gov/main/uconowner.gf?n=200609121731373
Route 189 (US 189): http://www.udot.utah.gov/main/uconowner.gf?n=200609121729253

Route summaries:

Summary of U.S. Route 189: http://en.wikipedia.org/wiki/U.S._Route_189
State Route 280: http://en.wikipedia.org/wiki/Utah_State_Route_280 (names east junction with US-189 as Main Street in Coalville).

No.[1]	Rule Number	Change Summary
5	R317-2-13.1	Fremont River and tributaries, through Capitol Reef National Park to headwaters were changed from Class 2B (infrequent primary and secondary contact recreation) to Class 2A (frequent primary and secondary contact recreation) based on information and the pictures below provided by the U.S. Park Service. Frequent primary recreation has more stringent numeric standards than infrequent primary recreation.

[1] Refers to the UT WQS workplan 04202011

Swimmers in Fremont River, September 2010

Swimmers in Fremont River, September 2010

Swimmers in Fremont River, September 2010

No.[1]	Rule Number	Change Summary
5	R317-2-13.4.a.	Ogden River and tributaries, from confluence with Weber River to Pineview Dam, except as listed below to Class 2A (frequent primary and secondary contact recreation) from Class 2B (infrequent primary and secondary contact recreation). Frequent primary recreation has more stringent numeric standards than infrequent primary recreation and one of the goals of the Ogden River restoration is to encourage recreation. Ms. Kari Lundeen, DWQ Watershed Coordinator, reported that people regularly swim in this reach of the Ogden River.

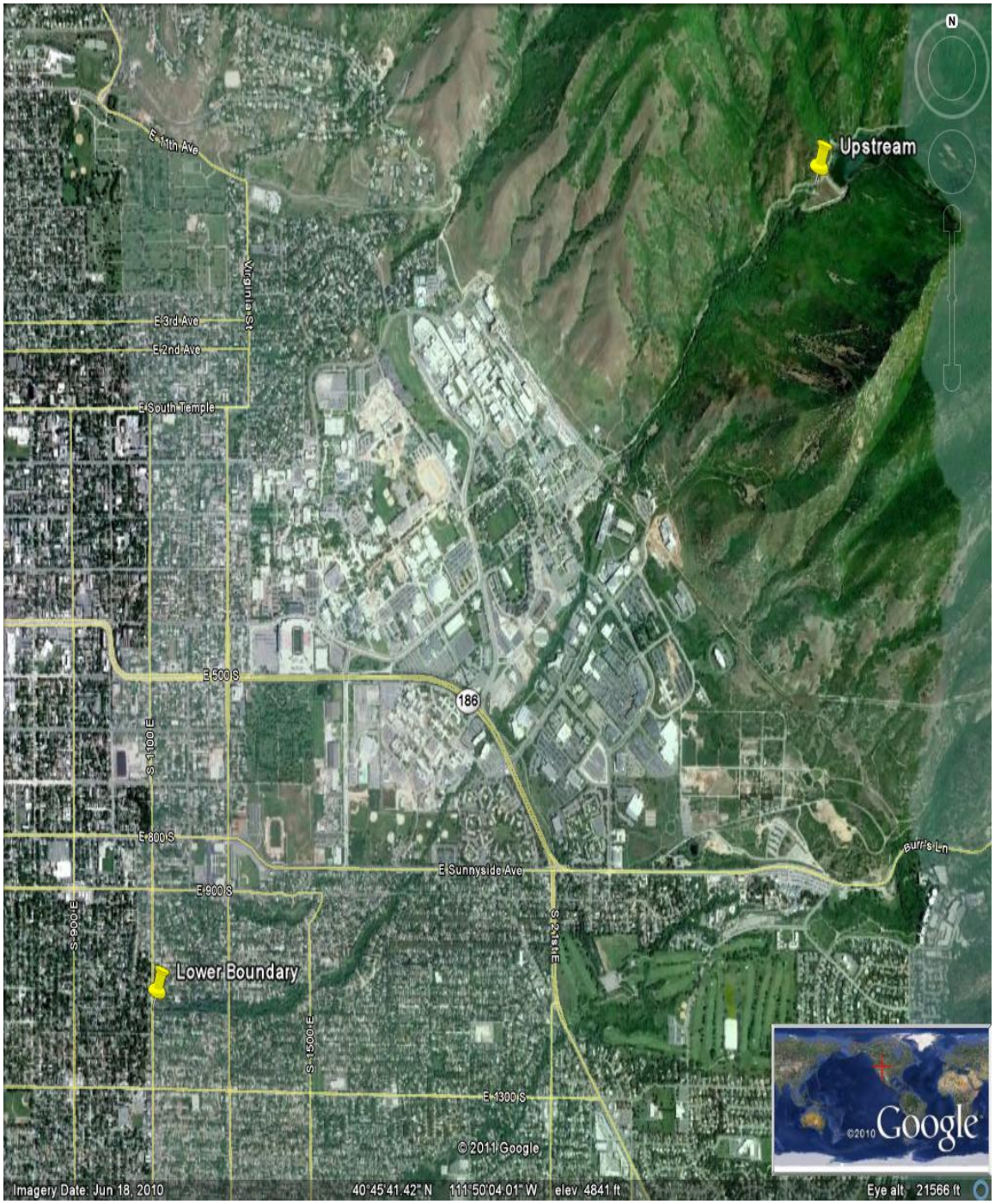
[1] Refers to the UT WQS workplan 04202011

No.[1]	Rule Number	Change Summary
4	R317-2-13.5.a.	Assign beneficial uses of 2B, 3A, and 4 to Red Butte Creek and tributaries from Liberty Park pond inlet to Red Butte Reservoir.

[1] Refers to the UT WQS workplan 04202011

In the absence of designated beneficial uses, the defaults are class 2B and 3D (waterfowl) for the urbanized portion of Red Butte Creek (see map below). At 1100 East, Red Butte Creek is channelized and buried in a subterranean culvert until discharging to the Jordan River. The beneficial uses of Red Butte Creek from Red Butte Reservoir to headwaters are Classes 1C (drinking water), 2B (infrequent primary and secondary contact recreation), 3A (cold water aquatic life), and 4 (agriculture).

This reach between 1100 East and Red Butte Reservoir is not regularly monitored through DWQ programs. Unlike the reach above Red Butte Reservoir, drinking water is not a beneficial use for Red Butte as it flows through the urbanized area. Recreation contact is anticipated to be infrequent primary and secondary contact based on the small size of Red Butte Creek (e.g., 0.05 m^3/s during low water). Trout have been observed and are planned to be restocked as part of the restoration from the Chevron Oil Pipeline spill in 2010. The presence of trout supports the cold water aquatic life designation which is the most stringent aquatic life use. e Class 4 beneficial use for agriculture is intended to protect water quality to support irrigation such as Mt. Olivet cemetery.

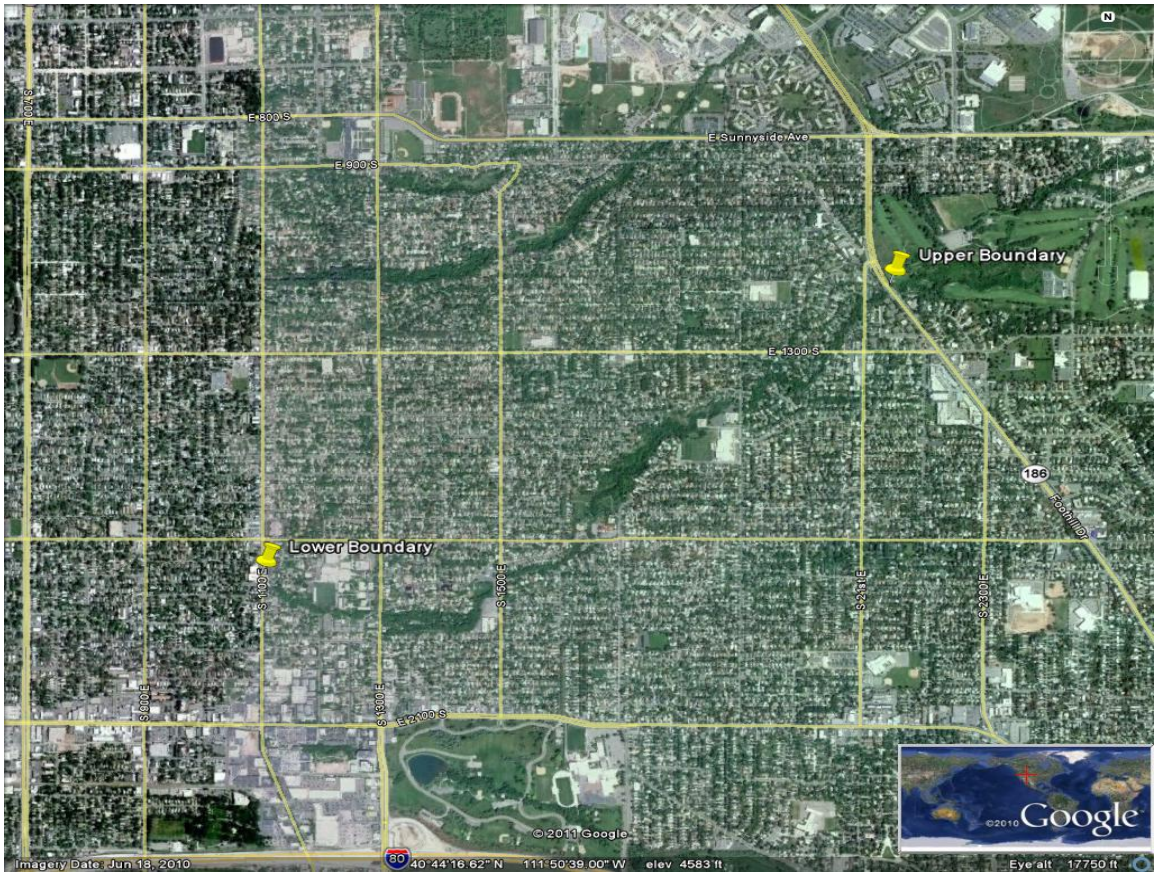


Red Butte Creek between 1100 East and Red Butte Reservoir

No.[1]	Rule Number	Change Summary
4	R317-2-13.5.a.	Assign beneficial uses of 2B, 3A, to Emigration Creek Emigration Creek and tributaries, from 1100 East in Salt Lake City to headwaters. This changes the boundary from Foothill Blvd. to 1100 East. In addition, add the beneficial use of Class 4 (agriculture) to protect the water rights for irrigation. .

[1] Refers to the UT WQS workplan 04202011

The reach between 1100 East and Foothill Blvd. was previously unclassified and would default to Classes 2B (infrequent primary and secondary contact) and 3D (waterfowl). Based on the small size of the creek and location, infrequent primary and secondary contact recreation is appropriate. Cold water aquatic life (Class 3A) is the most stringent aquatic life use and is appropriate for the cold water species known to reside in Emigration Creek. Emigration Creek has water rights in this reach for irrigation and Class 4 is being added.



Emigration Creek between 1100 East and Foothill Blvd.

No.[1]	Rule Number	Change Summary
19	R317-2-13.2.a. and R317-13.2.bb.	Delete "**" that referred to a site-specific temperature standard. No site-specific temperature standard has been was promulgated for Hyrum or Pineview Reservoirs

[1] Refers to the UT WQS workplan 04202011

No.[1]	Rule Number	Change Summary
4	R317-2-13.2.x.	Add beneficial uses of 2B (infrequent primary and secondary contact recreation, 3A (cold water aquatic life), and 4 (agriculture) to Big East Lake

[1] Refers to the UT WQS workplan 04202011

In the absence of specifically designated beneficial uses, Big East Lake is assigned the default uses of 2B and 3D. As shown on the first page of the Lake Report for Big East Lake (http://www.waterquality.utah.gov/watersheds/lakes/BIGEAST.pdf) below, the beneficial use classes of 3A and 4 are appropriate. Class 2B is recommended because the cold waters (average temperature June-July 62° F, maximum 62° F) and cool air temperatures due to elevation will limit contact recreation.

No.[1]	Rule Number	Change Summary
4	R317-2-13.2.	Assign beneficial uses of 1C (drinking water), 2A (frequent primary and secondary recreation contact), 3B (warm water aquatic life), and 4 (agriculture).

[1] Refers to the UT WQS workplan 04202011

The water source for Sand Hollow is Quail Creek which has the beneficial uses of 1C, 2B, 3A, and 4. Nearby Quail Creek Reservoir has the beneficial uses of 1C, 2A, 2B, 3B, and 4 and water can be transferred between Quail Creek and Sand Hollow Reservoirs. Sand Hollow is a State Park (http://stateparks.utah.gov/parks/sand-hollow) that includes beaches and boat ramps to facilitate recreation. Fish in Sand Hollow include bass, bluegill, and crappie supporting the warm water aquatic life designation.

No.[1]	Rule Number	Change Summary
	R317-2-13.2	Delete Class 2B (infrequent primary recreation) where water is also Class 2A (frequent primary recreation because the numeric standards for 2A are more stringent than 2B. Class 2B was deleted from: Bear Lake, Deer Creek, East Canyon, Echo, Flaming Gorge, Gunlock, Huntington Lake North, Hyrum, Lyman, Joe's Valley, Millsite, Moon, Palisades, Pineview, Powell, Pyramid, Quail Creek, Redfleet, Rockport, Scout, Starvation, Steinaker, and Yuba. This change does not affect the level of protection for these waters.

[1] Refers to the UT WQS workplan 04202011

No.[1]	Rule Number	Change Summary
14	Table 2.14.1 Site-Specific TDS Standards, Price River	Change the boundary of the 3,000/1,700 mg/l site-specific TDS standard from Coal Creek to Soldier Creek

[1] Refers to the UT WQS workplan 04202011

The image below shows the confluences of Coal and Soldier Creeks with the Price River. A total maximum daily load (TMDL) study was conducted for TDS on the Price River (http://www.waterquality.utah.gov/TMDL/West_Colorado_TMDL.pdf) resulting in a recommendation for a site-specific standard. This short reach of the Price River was omitted when the upstream and downstream site-specific total dissolved solids standards were originally promulgated. In 2011, this reach was included with the site-specific TDS standard for the lower Price River (3,000 mg/l). USEPA disapproved this change. No data specific to this reach is available that has no UPDES discharges or significant nonpoint sources. The site-specific TDS standard is proposed to be the more conservative upstream standard of 1,700 mg/l.

No.[1]	Rule Number	Change Summary
10	Table 2.14.2	Delete acute criteria for **mercury**

[1] Refers to the UT WQS workplan 04202011

USEPA recommended that the acute criteria for mercury be deleted because USEPA's data indicates that the criteria are not adequately protective. This change is expected to have little effect on DWQ's programs because permits that have a mercury limit are based on the chronic criteria.

No.[1]	Rule Number	Change Summary
8	Table 2.14.2	Add numeric criteria for **tributyl tin**

[1] Refers to the UT WQS workplan 04202011

USEPA requested that Utah adopt numeric criteria for tributyl tin, a Clean Water Act nonpriority pollutant. DWQ proposes to adopt USEPA's criteria in lieu of developing Utah-specific criteria. Tributyl tin (TBT) is commonly used in antifouling coatings for watercraft, a chemical intermediary, and an antimicrobial in cooling systems (http://www.cdpr.ca.gov/docs/emon/pubs/ehapreps/eh9507.pdf). When used in cooling systems, TBT has been detected in treatment plant effluents. The impacts of adopting these criteria are not precisely known. No UPDES permits have TBT limits. Waters with boat marinas may be affected if TBT-based antifouling coatings were used but this is currently unknown because DWQ does not routinely monitor for TBT.

Tributyltin Numeric Criteria for Aquatic Wildlife (µg/l)				
Class	3A	3B	3C	3D
4 Day Average	0.072	0.072	0.072	0.072
1 Hour Average	0.46	0.46	0.46	0.46
Source: AWQC For Tributyl Tin Final EPA 822-R-03-031 December 2003				

No.[1]	Rule Number	Change Summary
7, 8	Table 2.14.2 and 2.14.7	Add numeric criteria for **acrolein**

[1] Refers to the UT WQS workplan 04202011

Acrolein is a CWA priority pollutant and is toxic to aquatic life. In 1997, USEPA withdrew the drinking water health advisory. In 2003, a reference dose was derived and the aquatic criteria was recalculated using the new reference dose. Acrolein is a biocide currently registered as an herbicide to control aquatic weeds in irrigation canals, as a burrow fumigant to control rodents, and as a microbiocide to eliminate slime-forming microbes in oil drilling operations, pulp and paper mills, and in industrial cooling towers. It has activity as a molluscicide, but is not currently registered for use against mollusks. Acrolein has not been detected in Utah waters and is not a UPDES parameter.

Acrolein Numeric Criteria for Aquatic Wildlife (µg/l)				
Class	3A	3B	3C	3D
4 Day Average	3.0	3.0	3.0	3.0
1 Hour Average	3.0	3.0	3.0	3.0

Acrolein List of Human Health Criteria (µg/l)		
Class	1C	3A, 3B, 3C, 3D
	6.0	9.0
Source: FR Vol. 73, No. 179 / Monday, September 15, 2008 pp. 53246-53248		

No.[1]	Rule Number	Change Summary
8	Table 2.14.2	Add numeric criteria for **chlorpyrifos**

[1] Refers to the UT WQS workplan 04202011

Chloropyrifos is a CWA priority pollutant. Chlorpyrifos is an organophosphate insecticide, acaricide, and miticide used to control foliage and soil-borne insect pests on a variety of food and feed crops. It controls Coleoptera, Diptera, Homoptera, and Lepidoptera in soil or on foliage in over 100 crops. Also used for control of household pests, mosquitoes (larvae and adults) and in animal houses. It is one of the most widely used pesticides in the United States and has been one of the top five insecticides used in residential settings. Chlorpyrifos has not been detected in Utah water's and is not a permitted parameter for UPDES permits.

Chlorpyrifos Numeric Criteria for Aquatic Wildlife (µg/l)				
Class	3A	3B	3C	3D
4 Day Average	0.041	0.041	0.041	0.041
1 Hour Average	0.083	0.083	0.083	0.083

No.[1]	Rule Number	Change Summary
7	Table 2.14.6	Add numeric criteria for **phenol**

[1] Refers to the UT WQS workplan 04202011

Phenol is a CWA priority pollutant and a SWDA organoleptic pollutant. Phenol is infrequently detected in waters of the State and these detections are well below the standards. Some of the Utah refineries have permit limits for phenolic compounds. Phenol is used a general disinfectant, either in solution or mixed with slaked lime, etc., for toilets, stables, cesspools, floors, drains, etc. Phenol is also a chemical intermediate for phenolic resins, bisphenol A, and other chemicals.

Phenol List of Human Health Criteria (µg/l)		
Class	1C	3A, 3B, 3C, 3D
	10,400	860,000
Source: FR Vol. 73, No. 179 / Monday, September 15, 2008 pp. 53246-53248		

State of Utah

GARY R. HERBET
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

MEMORANDUM

TO: Water Quality Board

THROUGH: Walt Baker

FROM: Chris Bittner

DATE: January 8, 2012

SUBJECT: Proposed Change in Rule to Utah Administrative Code R317-2 *Standards of Quality for Waters of the State*.

Action Item

- Request Board adopt Utah's Water Quality Standards (R317-2) with changes and an effective date of April 1, 2012

The Board has three options:

1. Adopt the proposed change in rule with the additional revisions to be effective April 1, 2012 (staff's preferred option).
2. Adopt some of the changes and direct staff to prepare a Proposed Change in Rule for the additional revisions. Staff would return to the Board at a future meeting with recommendations.
3. Take no action or vote not to accept the proposed rule change. The proposed changes would not go into effect and staff would revise the rule to address the Board's concerns.

Background

As approved by the Board at the September meeting, staff proceeded with rulemaking for revisions to R317-2. The public comment period ended began on November 1, 2011 and ended December 15, 2011. A public hearing was held December 5, 2011. USEPA Region 8 provided the only written comments and nobody attended the public hearing. USEPA's comment letter is provided as Attachment 1. USEPA is supportive of the proposed changes but made two suggestions (see Other Comments, p. 4 Attachment 1). These comments were addressed by making minor revisions to the proposed rule (Attachment 2). Attachment 2 shows both the initially proposed changes and the new changes.

If the Board adopts the rule with the changes, staff will file the Change in Proposed Rule with the Division of Administrative Rules and the rule can be effective after a 30-day notice period. Staff proposes an effective date of April 1, 2012 which will provide adequate time to file and complete the 30-day notice period.

USEPA's first comment noted that one of the changes to the Antidegradation Categories appeared incorrect. R317-2-12.1.a. was revised in 2010 by listing Weber River from Uintah to Mountain Green as a Category 2 water in R317-2-12.2 (see p. 13 Attachment 2). Staff subsequently realized that this reach of the Weber River was listed as an exception to Category 1 because of existing treatment facilities and is in fact a Category 3 water. The intent of this rulemaking was to correct this error by reverting to the previous (pre-2010) rule language.

The revisions presented to the Board in September 2011 made this correction but introduced another error by changing the reference to R317-2-12.2 to Category 3 instead of Category 2. R317-2-12.2 is a listing of Category 2 waters. This section of the rules has previously been misinterpreted. Therefore, staff is proposing to add numbers to the exceptions as shown in Attachment 2 in addition to correcting the Category 3 back to Category 2.

The other USEPA comment was a suggestion to change the spelling of tributyl tin to tributlytin. Staff concurs with this recommendation and made the change in the proposed rule revisions.

Staff recommends that the Board adopt the proposed rules with the changes. Attachment 3 is an example of the Board order to be signed by the Board Chair if adopted.

Supporting Documents

Attachment 1: USEPA 12/14/2011 Comment Letter

Attachment 2: Markup of Change in Proposed Rule

Attachment 3: Example of Board Order to be signed if Board adopts the change