



State of Utah

SPENCER J. COX
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DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
John K. Mackey, P.E.
Director

Water Quality Board
Steven K. Earley, Chair
James Webb, Vice Chair
Carly Castle
Michela Harris
Joseph Havasi
Trevor Heaton
Michael D. Luers
Kimberly D. Shelley
John K. Mackey
Executive Secretary

Utah Water Quality Board Meeting
MASOB
195 North 1950 West
Via [Zoom](#)

Anchor Location - Wasatch Room 4124
Salt Lake City, UT 84116

February 22, 2023
Board Meeting Begins at 8:30 am

AGENDA

Water Quality Board Meeting – Roll Call

A. Minutes:

Approval of Minutes - January 25, 2023 Water Quality Board Meeting Steven Earley

B. Executive Secretary’s Report

John Mackey

1. Introduction of New Water Quality Staff John Mackey

C. Funding

1. Sewer Overflow & Stormwater Reuse Municipal Grants Program – Match Authorization.....
..... Andrew Pompeo & Beth Wondimu

D. Other

1. Introduction to Grand County *E.coli* Total Maximum Daily Load Study Lucy Parham

E. Public Comment Period

F. Meeting Adjournment

Next Meeting
March 22, 2023 at 8:30 am

DEQ Board Room 1015 & Via [Zoom](#)
195 North 1950 West
Salt Lake City, UT 84116

Revised 2/17/2023
DWQ-2023-002089

In compliance with the American Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Larene Wyss, Office of Human resources, at (801) 536-4281, TDD (801) 536-4284, or by email at lwys@utah.gov at least five working days prior to the scheduled meeting.

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MINUTES

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD
MASOB
and
Via Zoom**

January 25, 2023
8:30 am Meeting

UTAH WATER QUALITY BOARD MEMBERS PRESENT

Carly Castle	Trevor Heaton
Steve Earley	Mike Luers
Michela Harris	Kim Shelley
Joe Havasi	James Webb

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

Jennifer Berjikian	Leanna Littler-Woolf
Paul Burnett	John Mackey
Harry Campbell	Justine Marshall
Emily Cantón	George Meados
Julian Carroll	Baylie Nusink
Eric Castrejon	Alan Ochoa
Krysta Church	Dave Pierson
Skyler Davies	Andrew Pompeo
Judy Etherington	Jen Robinson
Jodi Gardberg	Danny Ryan
Dan Griffin	Linsey Shafer
Porter Henze	Lonnie Shull
Alex Hepner	David Smith
Samantha Heusser	Jeff Studenka
Ken Hoffman	Jake Vander Laan
Ben Holcomb	Sandy Wingert
Glen Lischeske	Beth Wondimu

OTHERS PRESENT

Soren Simonson	Jordan River Commission
Brenda Johnson	DEQ – Executive Director’s Office
Haley Sousa	AG’s Office
Juliana Slurzberg	AG’s Office
Marian Rice	SLC Dept of Public Utilities
Stephanie Russell	Weber Co Economic Dev
Sean Wilkinson	Weber Co Economic Dev
Brad Rasmussen	Aqua Engineering
Craig Jackson	
Ren Lambert	Limo Tech
Austin Storey	
Kent Bradford	Little Mountain Service Area
Eddie Edmunds	
Bren Edwards	

Mr. Earley called the Meeting to order at 8:30 AM.

ROLL CALL

Mr. Earley took roll call for the members of the Board and audience.

APPROVAL OF MINUTES

Motion: Mr. Webb moved to approve the minutes of the December 14, 2022 Board meeting.

Mr. Luers seconded the motion. The motion passed unanimously.

EXECUTIVE SECRETARY REPORT

Mr. Mackey addressed the Board regarding the following.

Water Quality Board

- Public Meeting Comments from December 14, 2022
 - Ms. Susan Klinker’s comments regarding US Magnesium will be sent to Board members as proposed by Mr. Luers.

National

- Fiscal Year 2023 Omnibus Appropriations Bill
 - \$5 million to United States Geological Survey (USGS)
 - \$10 million to Army Corps of Engineers
 - \$3.1 million to Department of Natural Resources (DNR)
- Waters of the United States (WOTUS) Definition Update

Water Quality Division

- 2022 Integrated Report Approved by EPA
- Great Salt Lake Emergency Assessment Petition
- Friends of Great Salt Lake Petition

- Utah Lake Water Quality Study
- Water Quality Division Budget
- Staff Introductions
 - Leanna Littler-Woolf
 - Linsey Shafer
 - David Smith
 - Alan Ochoa

Legislative Session

- Several Water Quality Bills (Not yet numbered)

FUNDING

ARPA – West Weber Site Sewer Infrastructure: Mr. Hoffman presented a request for authorization of ARPA funding for the West Weber Mega Site, Phase 1 from the Water Quality Board in the amount of \$5,000,000 for new construction and upgrades associated with expansion and planned growth in West Weber County.

Motion: Mr. Webb moved that the Water Quality Board authorize funding for construction of Phase 1 in the amount of \$5,000,000 with the following special conditions:

1. The body politic must agree to participate annually in the Municipal Wastewater Planning Program (MWPP).
2. The body politic must develop, commit to adopt, and implement a capital asset management plan that is consistent with EPA’s Fiscal Sustainability Plan Guidance.
3. An interlocal agreement must be completed for treatment of the wastewater before the funding will be released.
4. Funding must be demonstrated for the remaining costs of the 14” force main from the Black Pine Lift Station and the 30” gravity line to the Central Weber connection point before the funding will be released.
5. The lagoon upgrades and Black Pine Lift Station will be fully funded with the remaining funds directed to the 30” gravity line.

Mr. Luers seconded the motion. The motion passed with a majority vote from Mr. Earley, Mr. Webb, Ms. Castle, Mr. Heaton, and Mr. Luers. Ms. Harris and Mr. Havasi abstained from the vote due a conflict of interest.

RULEMAKING

Request to Initiate Rulemaking: Asset Management Implementation R317-101-3: Mr. Campbell presented the Board with a request to initiate rulemaking to rescind and replace UAC R317-101-3 to comply with Utah Code 19-5-202(2).

Motion: Mr. Luers moved that the Water Quality Board authorize the request to initiate rulemaking to rescind and replace UAC R317-101-3 to comply with Utah Code 19-5-202(2).

Mr. Webb seconded the motion. The motioned passed unanimously.

Request to Adopt Water Quality Standards R317-2: Mr. Vander Laan presented the Board with a request to adopt rule amendments as proposed in the November 1, 2022 Bulletin as a Board Order effective immediately.

Motion: Mr. Webb moved that the Water Quality Board authorize the request to adopt Water Quality Standards R317-2 rule amendments as proposed.

Mr. Havasi seconded the motion. The motion passed unanimously.

OTHER

Request to Appoint Wastewater Operator Certification Council Members: Ms. Etherington presented the Board with recommendations of Dr. Ben Willardson and Mr. Phil Harold for appointment to the Utah Wastewater Operator Certification Council for February 1, 2023 through January 31, 2026.

Motion: Ms. Harris moved that the Water Quality Board authorize the approval of Dr. Willardson and Mr. Harold to the Wastewater Operator Certification Council for February 1, 2023 through January 31, 2026.

Mr. Heaton seconded the motion. The motion passed unanimously.

Request to Assess Penalties in Excess of \$25,000: Ms. Heusser presented the Board with a request for approval of Stipulated Compliance Order IHC Health Services Docket No. I20-15.

Motion: Mr. Havasi moved that the Water Quality Board authorize the approval of Stipulated Compliance Order IHC Health Services Docket No. I20-15.

Ms. Harris seconded the motion. The motion passed unanimously.

PUBLIC COMMENTS

Mr. Craig Jackson and Mr. Kent Bradford made comments regarding the West Weber Site Sewer Infrastructure packet item.

MEETING ADJOURNMENT

Motion: Ms. Harris moved to adjourn the meeting.

Mr. Webb seconded the motion. The motion passed unanimously.

To view the full recording of the Water Quality Board meeting.
<https://deq.utah.gov/boards/utah-water-quality-board-meetings>

**Next Meeting – February 22, 2023
Water Quality Board Meeting
Meeting begins at 8:30 am**

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January 25, 2023
Water Quality Board
Minutes

In-Person
MASOB
195 North 1950 West, 4th Floor
Wasatch Room 4124
Salt Lake City, UT 84116

Via Zoom
<https://us02web.zoom.us/j/7074990271>

Steven Earley, Chair
Utah Water Quality Board

DWQ-2023-001863



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MEMORANDUM

TO: Water Quality Board

THROUGH: John K. Mackey, P.E.

THROUGH: Leanna Littler-Wolf

FROM: Andrew Pompeo & Beth Wondimu, P.E.

DATE: February 22, 2023

SUBJECT: Sewer Overflow & Stormwater Municipal Grant (OSG) Program - Authorization

During the August 25, 2021, Water Quality Board (Board) meeting Division of Water Quality (Division) staff presented the Sewer Overflow & Stormwater Reuse Municipal Grants (OSG) Program and the Board approved of the OSG Program. The OSG is a federal program designed to provide funds for infrastructure needs to address combined sewer overflows, sanitary sewer overflows (SSO), and stormwater management. The OSG will be authorized as grants for the design and construction of green infrastructure stormwater projects. The 2021 OSG program prioritized rural and distressed communities and required communities to bring 0-40% of local funds to projects to meet the 20% "non-Federal" cost-share for funding match required by the Environmental Protection Agency (EPA).

Following Board approval of the program the Infrastructure Investment and Jobs Act (IIJA) requirements were changed such that that rural and distressed communities could not be required to bring a cost-share. EPA has interpreted this policy to mean the project need not be funded 100% by grant funds but rather the community cannot be required to bring cost share in order to receive grant funds. In addition, 15% of the funds are required to go to rural communities and 10% of the funds must go to distressed communities.

For the OSG program, rural is defined as communities under 10,000 in population and distressed is defined as a community with sewer rates exceeding 1.4% of the modified median adjusted gross household income (MAGI). Division staff worked with EPA to adjust the 2021 OSG Program to comply with the IIJA requirements. In fall 2022, the Division was awarded \$336,600 in grant (\$138,600 from the FFY2020 and \$198,000 from the FFY2021) funding by EPA for the OSG Program. Additional details on eligibility, requirements, and project scoring for the OSG Program are included in Attachment I.

Grant Program Solicitation

The Director believed the adjustment to the matching requirements was minor enough to proceed with a grant solicitation. Applications were accepted from November 1, 2022 to January 10, 2023 via Google Forms at the Division website: <https://deq.utah.gov/financial-assistance/sewer-overflow-and-stormwater-reuse-municipal-grants-osg-program#anticipated-schedule>. Applications included the required application forms, work plan, estimated project costs, and construction schedule to receive the allocated funds. Applications were received for eight projects from four communities or MS4s. Applications totaled \$3 million in project work and \$2.46 million in stormwater construction work. The projects are listed below sorted by community and project.

Table 1: Applications

	Total Project Budget	Stormwater Construction
Herriman City - Autumn Detention Pond Retrofit	\$99,100	\$91,600
Herriman City - Butterfield Detention Pond Retrofit	\$21,300	\$19,400
Herriman City - Butterfield Park and Public Works Yard Storm Drain Retrofit	\$173,500	\$158,700
Herriman City - City Hall Parking Lot Stormwater Retrofit	\$348,700	\$314,500
Herriman City - Main St Park Parking Lot Retrofit	\$27,200	\$24,900
Ogden City - 3300 South 1325 West Storm Retention	\$460,000	\$350,000
Washington Terrace - Bioswale at Rohmer Park	\$517,006	\$103,230
Weber State University MS4 - Lindquist Retention Pond Renovation	\$1,400,000	\$1,400,000

Of these communities/institutions, Ogden City qualifies as distressed and Washington Terrace qualifies as rural.

Project Selection

On January 25, 2023, the Division OSG Selection Committee allocated the funds based on the selection scoring criteria which evaluated how the project would affect water quality, how the project would affect the community, and how much public and financial support the project had. Five projects of the eight applicants were selected to allocate the OSG grant funds.

Table 2: Funded Projects

	Stormwater Construction	Required Local Cost Share	Non-Federal Cost Share	OSG Funds
Herriman City - Autumn Detention Pond Retrofit	\$91,600	\$36,640	\$0	\$54,960
Herriman City - Butterfield Detention Pond Retrofit	\$19,400	\$7,760	\$0	\$11,640
Herriman City - City Hall Parking Lot Stormwater Retrofit	\$314,500	\$19,508	\$0	\$47,770
Ogden City - 3300 South 1325 West Storm Retention	\$350,000	\$0	\$35,000	\$140,000
Washington Terrace - Bioswale at Rohmer Park	\$103,230	\$0	\$21,000	\$82,230
Totals	\$878,730	\$63,908	\$56,000	\$336,600

Non-Federal Cost Share

As discussed previously, the IJA made it a requirement that rural and/or distressed communities could not be required to bring the 20% cost share to receive funding. Table 2 identifies \$222,230 in OSG funds to rural and distressed communities which will require a \$55,558 in non-federal cost share. Staff identified three options to fund the non-Federal cost share: Option 1) Cost share made up by urban and non-distressed communities; Option 2) Authorize Principal Forgiveness from second round balances (considered non-federal funds) of the CWSRF program, or Option 3. Authorize Hardship Grant Funds.

Staff Comments

Staff believes Option 1 could put the program at risk. If the urban & non-distressed community projects were to lag behind in construction, cost share requirements would not be being met, or worse, EPA might require the cost share projects be constructed first. Conceptually, Option 1 is attractive, however, practically it is not a secure option and could lead to a number of complications in administration of the program and meeting EPA requirements. Option 2 is a good option; however, staff finds it to be a complex concept and process. Staff has confirmed with EPA this is acceptable but because federal requirements would still apply to these non-federal funds, management of the option is at best messy. As the shortfall in funding for the rural and distressed projects is relatively small at \$56,000, staff believes Option 3, to use Hardship Grant Funds, is the best choice. This option is straightforward and enables important stormwater projects to advance in the simplest manner possible.

OSG will support the design and construction of green infrastructure stormwater projects. Division staff strongly believes that the chosen projects will have an impact on water quality.

Staff Recommendations

Staff recommends that the Water Quality Board authorize the Executive Secretary to award up to **\$56,000 in Hardship Grant Funds to meet the non-federal match requirements of the OSG Program.**

ATTACHMENT 1

EPA Grant Requirements

Projects must meet federal funding requirements including the following:

- All projects must comply with federal crosscutter requirements such as federal laws, executive orders, and State Utah policies. Division is responsible for ensuring that assistance recipients comply with the requirements of crosscutters.
- All projects are subject to federal anti-discrimination laws: Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102.
- Projects must meet the federal requirements for the Treatment Works that is listed in the [UAC R317-1-1](#) which require the following:
 - American Iron & Steel (AIS). This requires iron and steel products used to be produced in the United States, unless a waiver is granted. <https://www.epa.gov/sites/default/files/2015-09/documents/ais-final-guidance-3-20-14.pdf>
 - Davis-Bacon act must meet the prevailing wage provision. <http://www.wdol.gov/wdol/scafiles/davisbacon/ut.html>
 - Build America, Buy America (BABA) Act Requirements or any applicable waivers.
 - Environmental Review. An Environmental Assessment must be completed for the project and submitted to DIVISION for a NEPA-like review
- Awards over \$250,000 must comply with EPA's Disadvantaged Business Enterprises (DBE) program. <https://www.epa.gov/grants/disadvantaged-business-enterprise-program-under-epa-assistance-agreements-dbe-program> or <http://www.udot.utah.gov/main/f?p=100:pg:0:::::T,V:2252>.
- All federal procurement processes must be followed as contractor provisions. <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D#200.323>
- Funds may be used for up to 80% of the total project cost. You must provide non-federal cost share for at least 20% of the project.
- Rural community - The term "rural community" means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

Grant Eligibility

Municipalities are eligible for this grant. For example:

- Projects must start within 18 months of being awarded and be substantially completed within 3 years.
- Must use green infrastructure to manage, reduce, treat, or recapture stormwater or subsurface drainage and a substantial portion of the project must meet Green Project Reserve requirements: <https://www.epa.gov/cwsrf/green-project-reserve-guidance-clean-water-state-revolving-fund-cwsrf>.
- The community must be financially distressed. To qualify, the estimated annual cost of sewer service for the average residential user must exceed 1.4% of the modified median

adjusted gross income (Modified MAGI) as reported on Division of Drinking Water's website: <https://deq.utah.gov/drinking-water/magi-by-city> or <https://deq.utah.gov/drinking-water/magi-zip-code> . (R317-101-4).

- Awards over \$150,000 will need to be reviewed and approved by the Utah Water Quality Board.

EPA Green Infrastructure Eligible Project Examples

The following are some of the eligible projects:

- Green roofs, blue roofs, green streets, and green walls
- Rainwater harvesting collection, storage, management, and distribution systems
- Real-time control systems for harvested rainwater
- Infiltration basins except the extended detention basins
- Constructed wetlands, including surface flow and subsurface flow (e.g., gravel) wetlands
- Bioretention/bioswales (e.g., rain gardens, tree boxes)
- Permeable pavement
- Wetland/riparian/shoreline creation, protection, and restoration
- Establishment/restoration of urban tree canopy
- Replacement of gray infrastructure with green infrastructure including purchase demolition costs
- Design activity related to an eligible capital project
- Other capital projects for the purposes of mitigating or preventing the impact of stormwater on wastewater collection or treatment

Scoring Criteria

OSG Selection Committee allocated the funds based on the following criteria:

1. How rural is the community?
2. Is the community financially distressed?
3. Is the project listed in the state's Intended Use Plan?
4. How close is the project to construction?
5. Is there a need for the proposed project?
6. Will this project result in a water quality improvement?
7. Will this benefit the community?
8. How feasible is the project?
9. Cost versus % Nutrient Removal
10. Cost versus % removal of other pollutants
11. Local support/endorsement/cooperation
12. Is the project part of a Stormwater Master Plan/Capital Improvement Plan?



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MEMORANDUM

TO: Water Quality Board

THROUGH: John Mackey, Director

THROUGH: Jodi Gardberg, Watershed Protection Section

FROM: Lucy Parham, Watershed Protection Section

DATE: February 22, 2023

SUBJECT: Preliminary Briefing of the Grand and San Juan Counties *E. coli* Total Maximum Daily Load Study

The Utah Division of Water Quality (DWQ) is developing a Total Maximum Daily Load (TMDL) Study to address impairments of the drinking water and recreational beneficial uses due to exceedances of the *E. coli* water quality criteria in three watersheds in Grand County and San Juan County, Utah. This study addresses *E. coli* exceedances that resulted in Clean Water Act (CWA) Section 303(d) impairment listings of three waterbodies, Mill Creek, Pack Creek, and Castle Creek in the 2016 through 2022 Integrated Reports. Staff will present an overview of the TMDL development strategy, analyses completed to date, and a timeline for completion to the Water Quality Board during the meeting scheduled for February 22, 2023.

Watershed Description

The three waterbodies of interest – Mill Creek, Pack Creek, and Castle Creek - are located in two distinct watersheds in eastern-central Utah, both of which feed into the Colorado River near Moab City. The Castle Creek Watershed is located in Grand County and is 34,154 acres in size whereas the Mill Creek Watershed is located in both Grand County (approximately 60%) and San Juan County (approximately 40%) and is 92,352 acres. Pack Creek is a tributary to Mill Creek and enters into the creek a few miles upstream of Mill Creek's discharge into the Colorado River.

The topographies of the Mill Creek and Castle Creek watersheds are similar. Both streams originate in the La Sal Mountains, a laccolithic intrusion located in the southeastern part of the

watersheds with elevations of over 12,000 feet. The streams then travel downslope across the desert and canyons below, eventually discharging into the Colorado River at an elevation of approximately 4,000 feet. Mesas, buttes and sandstone fins with dramatically vertical rims create natural watershed boundaries for both creeks and their tributaries.

Land ownership in both watersheds is a mix of U.S. National Forest Service lands, Bureau of Land Management, SITLA, and private property. Castle Creek runs through the Town of Castle Valley (pop. 319) before discharging into the Colorado River just upstream of Moab. The lower portions of both Pack Creek and Mill Creek run through the somewhat urbanized landscape of Moab (pop. 5,317) before discharging into the Colorado river.

Impaired Waterbodies

Three assessment units in the watersheds described above are listed on Utah's 2022 Section 303(d) list of impaired waters for elevated *E. coli* concentrations as not being protective of designated uses for drinking water (1C) and frequent primary contact recreation (2A) (see Table 1, Figure 1). These assessment units were prioritized for TMDL development because the local watershed group (Moab Area Watershed Partnership [MAWP]) expressed concern with the high recreational use that these waterbodies receive.

Approach

The Federal Clean Water Act (CWA) requires that states assess water quality and identify impaired waters. The purpose of developing TMDLs for impaired waters is to restore, protect, and maintain the quality of waters of the state for their designated beneficial uses. It is the Division's goal to develop plans and strategies through a locally led, collaborative process in coordination with watershed stakeholders.

TMDLs include an assessment of beneficial uses in relation to their associated water quality standards, a determination of pollutant load capacity and excess pollutant loads, identification of all significant sources of the pollutant, and an allocation of the pollutant load among sources. The pollutant loading evaluation includes both point and nonpoint sources in addition to defining a margin of safety due to the uncertainty associated with analytical and environmental variability. There is only one permitted discharger in the Mill Creek watershed, but *E. coli* loading from this facility is highly unlikely. Therefore, it is anticipated that all load reductions will be allocated to nonpoint sources.

A project implementation plan will be prepared to meet the TMDL endpoint. The project implementation plan will outline a strategy to decrease bacteria loading to the river where feasible to attain water quality standards. The implementation plan, in conjunction with portions of the TMDL, will include the 9 key elements required by EPA to be eligible to obtain 319 cost-share grant funds. These elements will help provide reasonable assurance that the non-point source load allocations identified in the TMDL will be achieved.

Schedule

Data collection for the TMDL began in 2014 by our local watershed coordinator, sampling at several locations throughout the two watersheds on a monthly basis for *E. coli*. DWQ met with the MAWP in November of 2022 to discuss the upcoming TMDLs and gain local knowledge on watershed characteristics and irrigation diversion practices. Data collection and organization is currently in progress and will be completed by spring of 2023. Water quality data are currently being analyzed to determine the extent of the impairment along with watershed characterization and source assessment work. A draft TMDL Report and Implementation Plan will be ready for review by the Water Quality Board in January 2024 with a final EPA approval by July of 2024.

Table 1. Assessment unit descriptions.

Assessment Unit Name	Assessment Unit Number	Impaired Beneficial Use	Year First Listed
Mill Creek1 - Moab	UT14030005-005_00	1C, 2A	2016
Pack Creek	UT14030005-011_00	1C, 2A	2016
Castle Creek-1	UT14030005-009_00	1C, 2A	2020

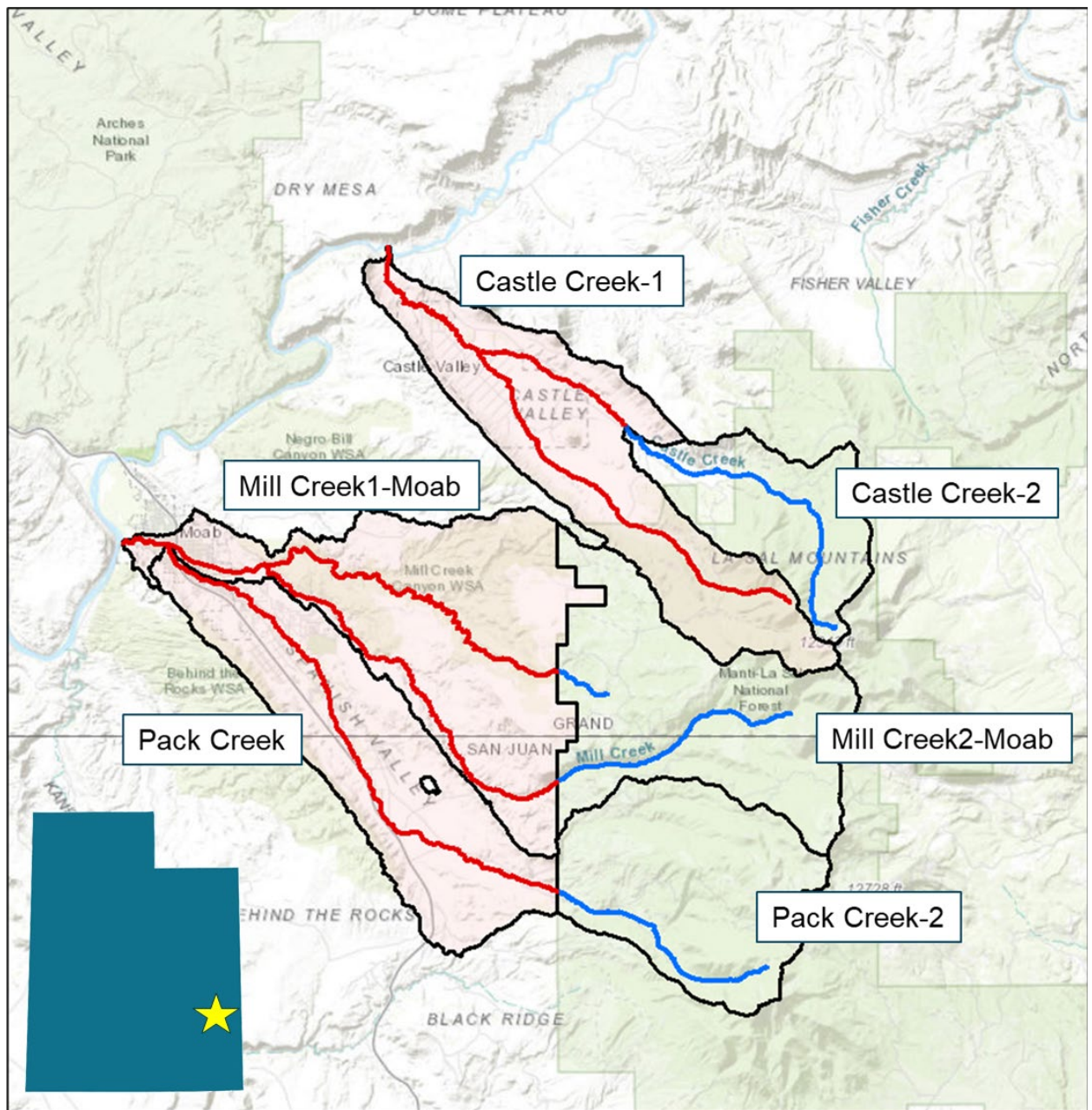


Figure 1. Watersheds of interest with impaired assessment units denoted in red. Unimpaired upper watersheds are shown for context.