

**UTAH DIVISION OF WATER QUALITY
UTAH LAKE WATER QUALITY STUDY SCIENCE PANEL**

OPERATING PRINCIPLES

(September 6, 2018; updated November 12, 2018; updated March 13, 2020)

The Stakeholder Process (or Charter) [<https://documents.deq.utah.gov/water-quality/watershed-protection/utah-lake/DWQ-2017-004494.pdf>] approved on May 12, 2017 provides the foundation for the Utah Lake Water Study Steering Committee and Science Panel and describes the “the purpose, objectives, duties, and composition of each group and the mechanisms by which the groups will interact.”

For any collaborative process to operate smoothly, it is helpful for those involved to agree at the outset on the procedures by which the group will govern its discussions, deliberations, and decision-making. This document captures additional process agreements that will assist the Science Panel in achieving its purpose.

I. Purpose of the Utah Lake Water Quality Study Steering Committee and Science Panel

The Steering Committee is charged with guiding development of site-specific nutrient criteria to protect the designated uses of Utah Lake including numeric criteria for both nitrogen and phosphorus, and specific elements for the magnitude (concentration of pollutants), duration (period of exposure to pollutants), and frequency (recurrence of the exposure to pollutants) necessary to protect defined uses. The Steering Committee will recommend nitrogen and phosphorus criteria to the Commission and the Utah Water Quality Board. Criteria recommended by the Steering Committee will be considered by the Utah Water Quality Board for adoption following review and input from the Commission.

The purpose of the Utah Lake Science Panel (Science Panel) is to assist in development of site-specific nutrient criteria on Utah Lake by overseeing targeted scientific studies.

Recognizing the advisory role of the Science Panel and time limitations of its members, DWQ will provide technical support to help the Panel accomplish the objectives and member duties presented in the Charter. This support will be provided either through available DWQ staff resources or through contractual assistance.

The Charter describes the significant number of tasks the Science Panel will undertake to achieve its purpose:

1. Guide development of a scientifically defensible approach for developing site-specific nutrient criteria with support of a technical contractor.
2. Recommend scientific studies, based on scope outlined by the Steering Committee (i.e., High-level questions), to support site-specific nutrient criteria development:
 - a. Define additional questions to be addressed (i.e., sub-questions) in order to answer each High-level question;
 - b. Determine if sub-questions can be answered with existing data, literature, and information;
 - c. Identify gaps that exist for answering sub-questions; and

- d. Guide development of a prioritized set of studies to address the gaps (i.e., research plan) and specifically:
 - i. Define study objectives and provide direction in development of the RFPs; and
 - ii. Review the proposals and make recommendations (as part of DWQ Decision Team) on preferred option(s):
 1. Assess proposed study methods for appropriateness;
 2. Assess proposed work plans on how/whether they follow standard scientific practices;
 3. Evaluate the studies' expected ability to address high-level questions; and
 4. Review proposed data collection efforts.
 - e. Guide development of a process to characterize scientific uncertainty including confidence of scientific findings and quantified measures of uncertainty.
3. Guide study efforts during implementation by providing advice to principal investigators and study contractors on an as needed (but coordinated/focused) basis including, but not limited to, data collection efforts and issues that arise during implementation.
4. Review, interpret, and provide comments on the study results.
5. Provide independent scientific peer review on relevant Utah Lake studies and other relevant research reports (no more than 3 reports as approved by the Steering Committee).
6. Recommend science-based site-specific nutrient criteria to ensure long-term protection of Utah Lake's designated uses to the Steering Committee.

II. Participation

Membership. The Science Panel consists of five independent scientists who have responsibility to provide independent and objective recommendations to the Steering Committee; and five Ex Officio members who participate in the Science Panel conversations, provide local context, share professional experience and expertise, and advise on relevant experience with Utah and Utah Lake.

The Panel is a discipline-focused group composed of members with specialized scientific expertise relevant to the unique characteristics and processes present in Utah Lake. All members of the Science Panel are scientists with demonstrated expertise in their respective field of study and are currently active within their areas of expertise. No member on the Science Panel may be a member of the Steering Committee. All members are bound by these Operating Principles.

If, in the course of undertaking the tasks described above, the Science Panel identifies the need for additional expertise they can raise that with the Steering Committee and request that an additional member be added for a specific set of discussions or period of time as appropriate.

Procurement. The DWQ Administrative Services Manager will preside over all procurement related initiatives to ensure the requirements of the State of Utah procurement code # 63G-6a are met. The DWQ Administrative Services Manager will ensure that matters related to proposal evaluation, confidentiality, conflicts of interest, favoritism, independence, and bias meet the requirements of 63G-6a, R33-7-703, and R33-24-105 or 106.

Independent members of the Science Panel may not compete for research projects that are managed and funded by the ULWQS. Independent science panel members will recuse themselves from review of

all proposals associated with a solicitation if a conflict of interest is identified as defined in R33-24-105 or 106 or if any of the proposals include individuals from the same university or organization as the independent science panel member.

Ex Officio members of the Science Panel may participate in preliminary scope development for studies, provided they do not intend to bid on the related work. However, they are not able to participate in final decisions on the scope of studies.

Ex Officio members of the Science Panel intending to bid on the work must recuse themselves from any related scoping efforts. If they do not recuse themselves before related scoping efforts occur, they will be disqualified to bid for the work.

Please note one exception to the condition of recusal; if a science panel member works for the same university that is anticipating to bid for work, they may participate in preliminary scope development, provided they themselves are not bidding for or plan on being part of the team who ultimately is engaging in the work.

In addition, Ex Officio members of the Science Panel are not allowed to participate in proposal review and development of recommendations regarding contractors to perform scientific studies.

Finally, all members of the Science Panel are able to participate in evaluation of study products unless they were involved in completing the work. If studies are contracted to an individual with a conflict of interest with a science panel member or from the same university or organization as a science panel member, the science panel member must establish a professional fire-wall regarding Utah Lake studies. No communication between such individuals should occur except through official Science Panel channels.

Please note the ultimate decision on Water Quality Board funded research work will be made by the DWQ, considering recommendations from the Science Panel, per procurement rules through an open bidding process.

Objective. In developing guidelines for selection of members of the Science Panel, the Steering Committee agreed that members of the Science Panel should be independent and objective scientists. In taking an “objective” approach to the ULWQS, members of the Science Panel are to approach all data and findings with an open mind and to eliminate personal biases, *a priori* commitments and emotional involvement. If the objectivity of any of the member of the Science Panel is in question, they will be reminded of these Operating Principles and the criteria of objectivity.

Should a Panel member be found to not meet the objectivity standard the facilitator will be asked to talk with the individual(s) about the situation. A variety of approaches will be explored, accordingly, to redress the concerns. The authority to replace and/or remove a member from the Panel rests with DWQ and the Commission.

Independent. In this context “independent” means that these scientists are not financially connected to any of the individuals or organizations represented on the Steering Committee and they will not bid on the work under the ULWQS.

Should a Panel member be found to not meet the independence standard the facilitator will be asked to talk with the individual(s) about the situation. A variety of approaches will be explored, accordingly, to redress the concerns. The authority to replace and/or remove a member from the Panel rests with DWQ and the Commission.

Ex Officio. Ex Officio members are individuals who either have a relationship with organizations represented on the Steering Committee or intend to bid on research projects that would be managed and funded by the ULWQS. Ex Officio members have expertise and institutional knowledge about Utah Lake and prior research and management activities. It is anticipated that this expertise will be valuable to familiarize the independent Science Panel membership, and to expedite their understanding of Utah Lake and water quality issues.

Attendance at Meetings. Each member is expected to attend all regularly scheduled meetings. If a member cannot attend in person, he or she is expected to participate by phone/webinar.

Withdrawal from the Committee. Any member may withdraw from the Science Panel at any time without prejudice. Communication about the reasons for withdrawing, if related to the Science Panel process, would be appreciated. Good faith provisions apply to those who withdraw.

If a Science Panel member withdraws, the Steering Committee will consider a replacement with input from the remaining Science Panel members. In turn, Steering Committee recommendations will be provided to the Co-Chairs who retain authority for replacing Science Panel members.

Termination from the Committee. As stated above, if a Science Panel member is found to not meet the standard of objectivity or the standard of independence, a variety of approaches will be explored, accordingly, to redress the concerns. The authority to replace and/or remove a member from the Panel rests with DWQ and the Commission.

III. Organizational Structure

Science Panel Members. All Science Panel members agree to attend meetings and follow through on commitments; bring up concerns and opportunities for discussion at the earliest point in the process; and share all relevant information that will assist the group in achieving its goals.

Science Panel Chair. The Science Panel members will nominate and select one of its independent members to serve as the Panel Chair to work with the facilitation team to develop meeting agendas and address issues with the coordination issues.

DWQ Staff. A DWQ staff member will serve as a non-voting participant in the Science Panel deliberations to ensure the study's goals are met in accordance with the Utah Water Quality Act, related state rules, and Clean Water Act requirements. The staff member will work with the Panel Chair and the Facilitator on meeting agenda development and addressing related logistical issues. Other DWQ staff will assist as necessary. Legal questions that need to be addressed will be forwarded through DWQ to the Attorney General's office for their opinion.

Utah Lake Commission. The Commission will also provide administrative support for Science Panel members as necessary.

Steering Committee. The Steering Committee will charge the Science Panel with relevant scientific questions, approve research work plans from the Science Panel; advise the Science Panel on activities, progress, and significant findings of the study; consider feedback, comments, and recommendations from the Science Panel; and review recommendations from the Science Panel as they develop recommendations for Utah Lake water quality criteria. The Steering Committee will provide the Science Panel “key questions” to fill gaps in knowledge for the study. Recommendations for criteria will be provided to the Commission and the Utah Water Quality Board and include policy aspects not addressed by the Science Panel.

Facilitator. Science Panel meetings will be facilitated by RESOLVE with support from SWCA. The facilitation team will not take positions on the issues before the Panel. The facilitator will work to ensure that the process runs smoothly. The facilitator’s role includes developing draft agendas, distributing meeting materials, facilitating meetings, working to resolve any impasse that may arise, and preparing meeting summaries. The facilitator will keep all confidential information in confidence.

IV. Meetings

Open to the Public. All Science Panel meetings will be open to the public. A public comment opportunity, limited to a 5 to 15-minute period at the end of each Science Panel meeting, will be provided.

Agendas. Proposed meeting agendas will be drafted by the facilitator in consultation with the Science Panel Chair and DWQ Ex Officio member and then circulated in advance of meetings to all members for comment. Science Panel agendas will be informed by Steering Committee deliberations as well.

Action Item Memos/Meeting Summaries. In order to assist the Science Panel in documenting its progress and activities, within five days of each meeting the facilitation team will prepare and distribute an action items memo. These memos will convey major decisions, summarize the action items from the meeting, convey timelines for completing agreed upon actions, and briefly summarize the deliberations of each meeting. These will be distributed to all members for review prior to public distribution.

Breaks and Caucuses. Meetings may be suspended at any time at the request of any member to allow consultation among Science Panel members. Requests should be respectful of all members’ time. If the use of caucuses becomes disruptive, the Panel will revisit the process.

V. Decision Making and Commitments

Quorum. The charter defines a quorum as “two thirds of the members of the Science Panel.” A quorum is necessary for meetings to proceed. As such, for meetings where all independent and ex officio members are involved (10 members), a quorum is defined as 7 members. For meetings where only independent members (5 members) are involved (e.g., proposal review), a quorum is defined as 4 members.

Decision Criteria. As described in the Charter:

The goal of the Science Panel is to work toward a consensus recommendation for water quality criteria necessary to ensure long-term protection of Utah Lake’s designated uses. A majority of all Science Panel members is required to forward a final recommendation to the Steering Committee. Minority opinion(s) will also be forwarded if there is not consensus. If a majority is not possible, then

alternative position papers from Science Panel member(s) will be forwarded for consideration by the Steering Committee.

Decision Making. Decisions will be made by those Science Panel members present at a meeting (either in person or on the phone) and will be based on a simple majority. Science Panel members with conflicts of interest on a specific deliverable must recuse themselves from any vote related to that particular work product.

If the members present at a meeting reach agreement on a recommendation to the Steering Committee, the facilitator will convey the results to any absent members to assess their ability to agree. As necessary, if individuals do not support the recommendations and wish to develop minority opinions, they can be forwarded in a package with the recommendation and an explanatory note from the Chair.

NOTE: Recognizing the majority approach is a useful one to help expedite the process, the Science Panel members also understand that developing recommendations with the support of all members (i.e., each member can at least live with the recommendation) would likely provide a stronger message to the Steering Committee. As time permits and the discussions unfold, the Science Panel will strive to achieve the full support of recommendations where possible.

The Charter indicates: “Procedural issues require the support of two thirds of the members present at a meeting.”

Absence of Consensus. If a majority cannot be reached, the Science Panel may choose to articulate areas of agreement and disagreement and the reasons why differences continue to exist, or the individuals or sub-groups may decide to develop and share separate sets of opinion papers.

If the group chooses to articulate areas of agreement and disagreement, members representing the different perspectives on specific issues will be asked to prepare language reflecting their views. The language should clearly identify the issues and information needs and uncertainties. In addition, those members that support each perspective will be identified.

If separate sets of opinion papers are conveyed to the Steering Committee, members representing the different perspectives will be asked to prepare a communication reflecting their views.

Recommendation Package. Regardless of how many opinion papers are developed, they will be packaged together and shared with the Steering Committee with an explanatory note from the Chair. The Science Panel Chair, DWQ staff, and facilitation team will compile all recommendations, minority opinions, and position papers into a single recommendation package.

VI. Sharing Information with the Science Panel Members

In the course of undertaking the tasks described above, the Science Panel anticipates sharing a significant amount of information (e.g., data, reports, published papers). Generally, this information will be shared via a Dropbox site which will be managed by the Facilitation Team. Members of the Steering Committee are able to review this material if they are interested.

In some instances, the Science Panel may choose to share information considered confidential (e.g., papers that are not published yet; data that has not been made public yet) and, as such, is not to be shared with anyone in any form outside the Science Panel. This information will be shared via a separate folder on Dropbox for the exclusive use of other Science Panel members – these draft documents, preliminary data, and presentations are not to be shared with anyone, in any form, beyond the Science Panel.

If a Science Panel member(s) has an interest in sharing something they see in this folder beyond the Science Panel, the individuals should reach out to the originator of the information posted (or to one of the facilitation team and we can help figure out where the document came from) to see if they would be willing to have it shared further.

All of the ten Science Panel members, along with the UDWQ staff person assigned to the Science Panel (currently Scott Daly), and the Facilitation Team, will have access to these materials. This group should be considered the “Science Panel team” for the time being.

To ensure there is a common awareness of the materials being included in the folder, it is requested that all information either be: 1) sent through the Facilitation Team (to upload); or 2) if it is easier for a Panelist to upload the material themselves, an email with an explanation of information uploaded be sent to the full Science Panel team directly (or the Facilitation Team if preferable). Either way, the Facilitation Team will maintain an active inventory of information in the folder and inform the rest of the Science Panel of the contents on an as needed basis.

Sharing Information with the Science Panel. If Science Panel members receive information directly from members of the public they will contact the facilitation team to ensure that all Science Panel members receive the information in a timely and coordinated fashion and that the facilitation team can maintain a formal record of the information being shared. If members of the public do communicate directly with the Science Panel, either the facilitation team or a Steering Committee member will reach out to them to explain the process (as described in the Steering Committee Operating Principles) of requesting that communications go through the formal public comment process or through a Steering Committee member and the facilitation team.

VII. Safeguards for the Members

Good Faith. All members agree to act in good faith in all aspects of the collaborative effort. As such, members will consider the input and viewpoint of other participants and conduct themselves in a manner that promotes joint problem solving and collaboration.

Acting in good faith also requires that specific proposals made in open and frank problem solving conversations not be used against any other member in the future; personal attacks and prejudiced statements are not acceptable; negative generalizations are not productive and have the potential to

impede the ability of the group to develop recommendations; individuals do not represent their personal or organization's views as views of the Panel; and that they express consistent views and opinions in the Panel and in other forums, including in press contacts.

Should a Panel member be found to be acting in bad faith the facilitator will be asked to talk with the individual(s) about the situation. A variety of approaches will be explored, accordingly, to redress the concerns. The authority to replace and/or remove a member from the Panel rests with DWQ and the Commission.

Rights in Other Forums. Participation in the Science Panel process does not limit the rights of any member. Members will make a good faith effort to notify one another in advance, if another action outside the process will be initiated or pursued, which will affect the terms of proposals, recommendations, or agreements being discussed.

Press. All Panel members agree to refrain from making negative comments about or characterizing the views of other Panel members in contacts with the press. They also agree not to knowingly mischaracterize the positions and views of any other party, nor their own, in public forums.

VIII. Process Suggestions/Ground rules

Panel members agree to consider and apply the following process suggestions:

- Seek to learn and understand each other's perspective.
- Encourage respectful, candid, and constructive discussions.
- Seek to resolve differences and reach consensus.
- As appropriate, discuss topics together rather than in isolation.
- Make every effort to avoid surprises.

Panel members agree to apply the following ground rules:

- Focus on the task at hand
- Have one person speaking at a time
- Allow for a balance of speaking time by providing succinct statements and questions.
- Listen with respect
- Be civil
- Keep side conversations to a minimum.
- Turn off cell phones or put them in the non-ring mode during formal meeting sessions.

IX. Travel Arrangements, Reimbursement, and Honorarium

Also as noted in the Charter (Science Panel Composition):

Science Panel [Independent] members will be eligible for reimbursement of out of state travel expenses incurred for participation in Science Panel meetings. Non-public employees are also eligible for a modest honorarium.

Independent Science Panel members are eligible for reimbursement of pre-approved travel costs to include airfare, ground transportation, hotel, per diem, and other approvable expenses. Coordination of travel reimbursement will be managed by DWQ staff and the facilitation team.

Independent Science Panel members are also eligible for a modest honorarium. The honorarium will be determined by the DWQ Director and managed by DWQ staff and the facilitation team.

Ex Officio members are not eligible for an honorarium or reimbursement of travel expenses.

X. Schedule

At present, the Panel is envisioned to meet approximately four to six times per year for the next three years. Initially meetings may be more frequent as the research program is developed. The length and frequency of meetings over time will be driven by the work as defined by the Steering Committee.