BLUE RIBBON FISHERIES
ADVISORY COUNCIL HANDBOOK

March 31, 2009
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I. Council background:

The Blue Ribbon Fisheries Advisory Council (BRFAC), created by Governor Mike Leavitt in 2001, was formally established in 2005 under Executive Order signed by Governor John Huntsman (Appendix A). According to this Executive Order, the BRFAC was created to (1) identify fisheries throughout Utah for designation as Blue Ribbon Fisheries (BRF), (2) make recommendations to Utah Division of Wildlife Resources (UDWR) regarding the enhancement of habitats and recreational settings associated with BRF, (3) make recommendations to UDWR regarding the protection of BRF through collaboration with government agencies and private entities, and (4) make recommendations to UDWR regarding the promotion of BRF among resident and nonresident anglers.

II. Mission statement:

To identify, enhance, and protect those Utah waters and their watersheds that provide, or have the potential to provide, Blue Ribbon quality public angling experiences for the purpose of preserving and enhancing these economically valuable natural resources.

III. Council purpose:

The BRFAC is a Utah State Advisory Board, an Executive Branch organization, created by Executive Order. In accordance with the Governor’s Handbook for Members of Utah State Boards and Commissions (Handbook for Members [Appendix B]), the BRFAC shall serve as an advisory board to the UDWR according to the following definition:

"an advisory board provides advice and makes recommendations to another person or entity who makes policy for the benefit of the general public. It is created by statute or executive order. It performs its duties only under the supervision of another person, as provided in statute”.

Specifically, the BRFAC will act:

A. to work with UDWR to regularly review criteria used to identify BRF or potential BRF,
B. to, based on defined criteria and cooperation with Utah anglers, regularly advise UDWR on the selection of specific waters for BRF status
C. to work with UDWR to coordinate that acquisition of angler access to BRF and potential BRF through development of agreements with private landowners,
D. to work with UDWR to provide legal protection to BRF and potential BRF through involvement of Utah Division of Water Quality and other agencies,
E. to work with UDWR to regularly review the status of designated BRF; determining if these waters still meet defined criteria,
F. to work with UDWR to regularly review proposed projects related to BRF or potential BRF,
G. to provide recommendations to UDWR regarding the funding of proposed projects related to BRF or potential BRF, and
H. to review management strategies and regulations implemented by UDWR on BRF or potential BRF.

IV. Council membership:

A. Council members - Council membership shall consist of 13 individuals appointed by the Governor to a term of three years. The Council (Table 1) will consist of positions representing coldwater anglers, warmwater anglers, and commercial interests related to angling. Five additional positions will represent each of the UDWR Management Regions. Three at-large members will also be appointed based upon their interests as they relate to the Council’s purpose. In addition to the 13 voting appointees, an ex-officio, non-voting, representative from the UDWR will serve as the Executive Secretary to the Council.

B. Council Chair - A Council Chairperson (Chair) will be selected from voting representatives by a two-thirds majority vote of the Council. Chair selection shall be conducted as needed. A Council member may not serve as chair for more than three years. The Chair shall preside at all meetings of the Council Board and assume general management and control of the business and affairs of the Council.

C. Vice Chair – A Council Vice Chairperson (Vice Chair) will be selected from voting representatives by a two-thirds majority vote of the Council. Vice Chair selection shall be conducted as needed. A Council member may not serve as Vice Chair for more than three years. The Vice-chair shall, in the absence or disability of the Chair, exercise the powers and perform the duties of the Chair. He shall also generally assist the Chair and exercise such other powers and perform such other duties as shall be prescribed by the Council.
Table 1. — A list of Council positions appointed to the BRFAC and a description of represented interests for each.

<table>
<thead>
<tr>
<th>Position</th>
<th>Number of representatives</th>
<th>Representing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coldwater</td>
<td>2</td>
<td>Organized coldwater fishing interests</td>
</tr>
<tr>
<td>Warmwater</td>
<td>2</td>
<td>Organized warmwater fishing interests</td>
</tr>
<tr>
<td>Commercial</td>
<td>1</td>
<td>Commercial interests related to angling (e.g., retail business)</td>
</tr>
<tr>
<td>Regional representation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Central</td>
<td>1</td>
<td>Interests of anglers and biologists in Central Region</td>
</tr>
<tr>
<td>Northern</td>
<td>1</td>
<td>Interests of anglers and biologists in Northern Region</td>
</tr>
<tr>
<td>Northeastern</td>
<td>1</td>
<td>Interests of anglers and biologists in Northeastern Region</td>
</tr>
<tr>
<td>Southern</td>
<td>1</td>
<td>Interests of anglers and biologists in Southern Region</td>
</tr>
<tr>
<td>Southeastern</td>
<td>1</td>
<td>Interests of anglers and biologists in Southeastern Region</td>
</tr>
<tr>
<td>At-large</td>
<td>3</td>
<td>Various interests related to the Council’s purpose</td>
</tr>
<tr>
<td>Executive Secretary</td>
<td>1</td>
<td>UDWR</td>
</tr>
</tbody>
</table>

D. Regional representatives — Council members designated as regional representatives have the responsibility of communicating with UDWR personnel in their respective region prior to each scheduled meeting. Discussions with regional personnel should address old and new business items planned for discussion. Additional discussion points should involve solicitation of regional project proposals and tracking of ongoing project progress. Regional representatives should also notify regional personnel of upcoming meeting dates no later than one week prior to the meeting.

E. Member selection - The process by which Council members are replaced/chosen (Figure 1) has been outlined by the Governor’s office. Suggested nominations can be made by Council members or from UDWR personnel. All nominations must, initially, be presented at a Council meeting and voted on by Council Members. Nominees receiving two-thirds majority approval are then required to submit a resume in electronic format to the Executive Secretary. An approved application (resume) format has been developed for nominees (Appendix C) and is available on the Director of Boards and Commissions web page. The Executive Secretary will then present resumes for approved nominees to the UDWR
Director. Upon Director approval and return to the Executive Secretary, applications will be submitted, on-line, to the Director of Boards and Commissions for consideration and appointment by the Governor. Appointees will, according to the Handbook for Members (Appendix B), receive an appointment letter and an oath of office form. This form must be notarized and returned prior to service on the Council.

1. **Number of nominees** - It should be noted that 2 – 3 nominees are required prior to review by the Council. Positions without at least two nominees will remain vacant until multiple nominees can be presented to the Council.

2. **Reappointment** - Existing Council members can be nominated for reappointment to a second term. However, according to the Handbook for Members (Appendix B), nominees for reappointment must go through the above selection process.

3. **Member terms** – Each term of Council membership will not exceed three years. Term appointments will begin on January 1 of the year following nomination. In the event that a member resigns during their term, their position will remain vacant until the following year (January 1).

F. **Resignations** – A signed resignation letter must be submitted in the event that a Council member resigns. This letter should be submitted to the Chair at least one week prior to resignation. Additionally, courtesy copies of the letter should be delivered to the Executive Secretary and the UDWR Director.
Figure 1. — Decision flow chart describing process of nomination and appointment of new Council members.
V. Council meetings:

A. Public notification – As stipulated in Section 52-4-202 of the Utah Open and Public Meetings Act (Appendix D), the BRFAC shall not give less than 24 hours of public notice of each meeting. Notification shall consist of an agenda, and information regarding meeting date, time, and location. The Council Chair should provide this information to the Executive Secretary no later than 10 days prior to the meeting date. The Executive Secretary will then post the meeting announcement on the Utah Public Meeting Notice website.

B. Council notification – The Chair shall provide Council members with a meeting agenda as well as information regarding meeting date, time, and location, no later than ten days prior to the meeting date.

C. Attendance requirements – As stipulated in the Handbook for Members (Appendix B), a quorum must be present for business to be conducted. A quorum consists of a simple majority (seven) of voting members. Attendance is, therefore, critical. Council members unable to attend meetings should notify the Chair prior at least one day prior to the meeting date.

D. Meeting Format – As stipulated in the Handbook for Members (Appendix B), Council meetings must be conducted using parliamentary procedure; ensuring equal rights for all Council members. Meeting agendas must include (1) a Chair report, (2) a list of old business (viz., action items from previous meeting) for discussion, (3) a list of new business for discussion, (3) a budget report, (4) a website report, (5) assignment of action items for the next meeting, and (6) scheduling of the next two meeting dates.

E. Meeting minutes – Written minutes and an audio recording shall be kept for all Council meetings. Specific items for inclusion in written minutes are identified in Section 52-4-203 of the Utah Open and Public Meetings Act. During closed meetings audio recordings must remain complete and unedited. Written minutes must follow the same standards for those of open meetings except in those instances where inclusion of information would negate the original purpose of closing the meeting.

F. Closed meetings – Closed meetings can be held with the approval of a two-third majority of Council members when a quorum is present. Justifications for a meeting closure are specified under Section 52-4-205 of the Utah Open and Public Meetings Act.

VI. Project funding:

A. Use of funds – Council funds are restricted to use on projects designed to enhance, protect, or secure access to Blue Ribbon or potential Blue Ribbon waters. Additionally, the Council may also fund projects having a managerial relationship to such waters.
B. Annual budget – The Council is currently allotted a total of $450,000.00 annually for allocation to approved projects. Of this amount, $200,000.00 and $250,000.00 represent restricted and federal aid funds, respectively. Restricted dollars are State dollars that automatically carry over to a future budget when unexpended (q.v., Section VI.C). Federal aid dollars are funds allotted to Utah from the U.S. Fish and Wildlife Service (FWS) through the collection of excise taxes on fishing-related equipment. It should be noted that a 25% match of non-federal funds must be provided in order to secure federal aid dollars. It should also be noted that federal aid funds can only be secured by filing a project-specific proposal (q.v., Section VII.B) to FWS for review. Projects funded with federal aid dollars are, therefore funded at a ratio of 25% non-federal dollars and 75% federal aid dollars.

C. Carry over – Carry over (unexpended) funds from completed projects are a valuable source of funding for BR projects during each State Fiscal Year (SFY). However, given that projects from the previous SFY are ongoing during the funding allocation and project review processes, carry over funds are not available until projects have been completed.

D. Discretionary funds – During each SFY funding cycle, a portion of the overall Council budget shall be reserved for use on emergency projects (q.v., Section VII.A) or to augment funding of projects approved for that SFY. This amount shall not exceed 7.5% of the restricted funds allotted for that SFY excluding carry over dollars.

E. Budget updates – Budget updates will include a breakdown of funding allocations and balances for projects funded during the current SFY. Allocations and balances for the current SFY should be in tabular format, according to region, and by funding source (e.g., Blue Ribbon Federal Aid, Blue Ribbon Restricted, Habitat Council, and other dollars) (Appendix E).

F. Funding allocation – Allocation of funds will be based on (1) availability of BR federal aid, BR restricted, and Habitat Council dollars as well as monies from other funding sources and (2) match requirements associated with funds provided. Although allocation will be up to the discretion of the Executive Secretary, all allocations must be reviewed and approved by a two-third majority of the Council.

G. Approved budget – After proposal review, Aquatic Section review, Council ranking, and allocation review, a list of projects recommended for approval should be provided to UDWR Fiscal Section personnel for further processing no later than April 30 of each year (Table 2). The list of allocated amounts for approved projects should be presented in tabular format (Appendix F) by region and funding source. The projects Habitat Council proposal number and the BRFAC prioritization should also be presented on this table, along with signature boxes for both the UDWR Director and a Fiscal Section representative. Once both signatures have been obtained, projects are considered fully approved and should be entered into the budget for that SFY.

H. Other funding sources – Funds provided by other state agencies (e.g., the Utah Division of Water Resources and the Utah Department of
Environmental Quality), federal agencies (e.g., the Natural Resources Conservation Service, Environmental Protection Agency, U.S. Forest Service, and the Bureau of Land Management), and non-governmental organizations (e.g., Utah Open Lands, Nature Conservancy, Trout Unlimited) have developed several programs designed to fund projects designed to conserve and protect open spaces and habitats, and improve water quality. Funds available through these programs should be used in combination with traditional funding sources (viz., Blue Ribbon restricted, federal aid, and Habitat Council dollars), when possible, to fund larger projects. Additionally, these funds can be used to fund lower priority projects or projects not approved for funding by either the Blue Ribbon Advisory or Habitat councils. It should be noted that all federal funding programs require the use of non-federal match dollars.
Table 2. – Annual proposal and funding timeline for Blue Ribbon Fisheries Advisory Council (BRFAC) and Habitat Council (HC) projects. Note that state fiscal year (SFY) designations are provided to show relationship between SFYs only. SLO = Utah Division of Wildlife Resources (UDWR) Salt Lake Office personnel and WMA = UDWR Wildlife Management Area.

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<tr>
<th>Date</th>
<th>BRFAC requirement</th>
<th>HC requirement</th>
</tr>
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<tr>
<td>November</td>
<td>Proposals for upcoming SFY projects due, in electronic format, to Executive Secretary by November 30 of the current SFY.</td>
<td>Project proposals (excluding WMA) will be entered into the Habitat Section project database by December 31.</td>
</tr>
<tr>
<td>December</td>
<td>All proposals received will be entered into the Habitat Section project database by December 31.</td>
<td>-Proposal review by SLO -Proposal presentation to HC -WMA proposals due by February 15</td>
</tr>
<tr>
<td>January</td>
<td>Proposal review by BRFAC</td>
<td>-Proposal presentation to HC -Ranking of projects by Aquatic Section</td>
</tr>
<tr>
<td>February</td>
<td>Proposal presentation to BRFAC</td>
<td>-Proposal presentation to HC -WMA proposals due by February 15</td>
</tr>
<tr>
<td>March</td>
<td>-Proposal presentation to BRFAC -Ranking of projects by Aquatic Section</td>
<td>-Proposal presentation to HC -Ranking of projects by Aquatic and Wildlife sections</td>
</tr>
<tr>
<td>April</td>
<td>-Recommended project list provided to UDWR Fiscal Section and Director for approval by April 30. -Carry forward projects identified by April 30.</td>
<td>-Budget meeting and final funding decisions</td>
</tr>
<tr>
<td>May</td>
<td>-Receipt of approved list from Fiscal Section -Budget incorporation via change form submission to Fiscal Section by June 10.</td>
<td>Recommended project list provided to UDWR Fiscal Section and Director for approval</td>
</tr>
<tr>
<td>June</td>
<td>Budget incorporation via change form submission to Fiscal Section by June 10.</td>
<td>Budget incorporation via change form submission to Fiscal Section by June 10.</td>
</tr>
<tr>
<td>July</td>
<td>Program numbers created and distributed to project proponents by July 1.</td>
<td>Program numbers created and distributed to project proponents by July 1.</td>
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VII. Proposals:

A. Submission – Electronic copies of new project proposals shall be submitted to the Executive Secretary for dissemination to the Council prior to November 30 of each year (Table 2). These proposals should be for projects scheduled for implementation during the upcoming SFY. For example, proposals submitted prior to November 30, 2008 will outline projects scheduled for implementation after June 30, 2009. Proposals received after November 30 will not be reviewed or approved unless classified as an emergency priority. Carry forward projects will require the submission of a new proposal.

1. Emergency priorities – Emergency classification will require two-third majority approval and an availability of residual or discretionary funds.

2. Carry forward projects – Projects funded during a previous SFY may remain incomplete after the conclusion of that SFY. In that event, a project’s remaining funding will need to be included in the budget for the new SFY (carried forward). Project proponents must notify the Executive Secretary and Chair no later than April 30 (Table 2) to request that a project's funding be carried forward into the new SFY. If a “carry forward” request is not received prior to the deadline, that project will be considered complete and omitted from the new SFY budget. In the event that contractual obligations preclude omission from the new SFY budget, projects will be carried forward automatically.

B. Format – Given the need for many approved BRF projects to be funded using federal aid dollars, proposals submitted to the Council should contain sufficient information to meet FWS review standards. Project proponents should follow the FWS guidelines (Appendix G) and the example format provided by the Council (Appendix H). Such a comprehensive proposal format will contain all information necessary for submission into the Habitat Database. Large projects (i.e., projects having budgets greater than $50,000.00) should be phased to allow for partial funding by the Council.

C. Database entry – All proposals submitted to the Council will be entered into the Habitat Section project database by the Executive Secretary prior to December 31 of each year (Table 2).

D. Review and approval – Project review will take place during February and March meetings each year (Table 2). Review will consist of a presentation by the project proponent followed by a short question and answer session conducted by Council members. At the end of this question and answer period, the Chair will request a motion from the Council for project support or opposition. The Chair will mediate discussion and final funding decisions. After all proposals have been presented and reviewed, the Council should prioritize projects.
1. **Presentation format** – Presentations using multimedia projectors are welcomed but not required. All Council members should receive hard copy handouts of each proposal from the project proponent. Electronic copies of multimedia presentations should be provided to the Executive Secretary prior to the onset of the meeting as an archival copy and to ensure proper projection. Presentation length should not exceed 10 minutes.

2. **Question and answer period** – The question and answer period should not exceed ten minutes. Questions posed during this time should be limited to the proposal under consideration.

3. **Prioritization** – All projects presented and recommended for funding should be ranked separately by each of the Council members. Average rankings will then be calculated for each of the projects based on the combination of all Council member rankings. These averages will be used to prioritize (e.g., highest average will receive the highest priority) projects. Project prioritizations developed in this manner will be included on the list of recommended projects submitted to UDWR Fiscal Section and the Director. Funds will be allocated (q.v., Section VI.F).

E. **Equipment purchases** – Equipment purchases by UDWR regional personnel should receive regional and SLO review prior to submission to the BRFAC for funding. Only those pieces of equipment not approved for purchase using existing regional or SLO funds will be eligible for use of BRFAC funding (Figure 2).
Figure 2. — Decision flow chart describing review of equipment purchase proposal funding by Utah Division of Wildlife Resources (UDWR) regional and Salt Lake Office (SLO) personnel, and by the Blue Ribbon Fisheries Advisory Council (BRFAC).
F. **Funding and review process** – The submission and funding of BRFAC projects relies upon decisions made at several levels of management. Personnel from UDWR regions, UDWR Section Chiefs, and the UDWR Director are required to review most or all of the projects during the proposal and review process (Figure 3).

Figure 3. — Decision flow chart describing review and funding of proposed projects by personnel from Utah Division of Wildlife (UDWR) regions, UDWR Section Chiefs, and the UDWR Director.
VIII. Blue Ribbon designation:

A. Biannual review – Designation of proposed and current BR waters shall be undertaken during a biannual review. The biannual review will be conducted during the July meeting and will be based upon designation criteria. Decisions related to approval of new designations, maintenance of current designation, or removal of BR designation will be made only with a two-thirds majority decision among Council members.

1. New waters – A list of new waters proposed for BR designation will be provided to the Regional Council Representative at least 10 days prior to the July meeting. This list shall be developed by the UDWR regional biologist(s) for waters within the corresponding region. Regional Council Representatives will then present new proposed designations for review by the Council at the July meeting.

2. Designated waters – The status of all waters currently designated as BRF will be reviewed by regional biologists. Biologist in the corresponding region should identify regional waters in need of removal from the regional list of BRF. Justification must be provided for suggested removal. The list of suggested removals should be presented to the Regional Council Representative no later than 10 days prior to the July meeting. The list of BR waters in their region. Regional Council Representatives will then present proposed removals for review by the Council at the July meeting.

B. Criteria – Criteria used for the designation of a water as a BRF include items related to water quality, water quantity, angler access, sustainability, management intensity, level of use, unique setting, unique regulation, and unique species or fish assemblage. Specifically:

*Water quality and quantity:* A body of water, warm or cold, flowing or flat, will be considered for Blue Ribbon status if it has sufficient water quality and quantity to sustain a viable fishery.

*Water accessibility:* The water must be accessible to the public.

*Natural reproduction capacity:* The body of water should possess a natural capacity to produce and maintain a sustainable recreational fishery. There must be management strategies that will consistently produce fish of significant size and/or numbers to provide a quality angling experience.

*Angling pressure:* The water must be able to withstand angling pressure.

*Specific species:* Selection may be based on a specific species.
IX. Management of BRF:

A. Follow standardized guidelines – Management of BRF will follow the standardized Aquatics Section management guidelines. These guidelines are based on the best scientific principles available as published by the American Fisheries Society. Although creation of this document is pending at this time, completion is anticipated by December 2009.

B. Involvement in management decisions – Management decisions are the responsibility of UDWR. Although BRF represent a unique category of fishery in UT, management decisions (e.g., regulation changes) related to these waters will be based on adherence to standardized guidelines. The Council will be notified of all management decisions on BR waters prior to their implementation. Although the Council can review of management decisions on BR waters by request prior to implementation, BRFAC approval is not required for implementation.

X. Website:

A. Maintenance: Information presented on the BR website must be up-to-date, accurate, and consistent. Review of website material will be undertaken prior to all scheduled Council meetings and a report will be presented by the Executive Secretary or designee during each Council meeting.

B. Modification: Modification of the BR website will be conducted by approved regional UDWR personnel in cooperation with Regional Council Representatives or by the Executive Secretary or their designee. Regional modification of the website will be conducted annually. Modification may also be conducted by the Executive secretary as needed for maintenance purposes. Modification will follow guidelines developed by UDWR Outreach personnel.

1. Approved representatives – All approved personnel will be provided with a password; allowing access to the administrative site.

2. Announcement of modification – All suggested modifications to the administrative site must be announced to the Council during a regularly scheduled meeting. Announcements should be made by Regional Council Representatives prior to modification.

3. Approval – All suggested modifications will be made only with a two-thirds majority decision among Council members.
XI. Subcommittees:

A. **Purpose:** Ad hoc subcommittees will be created by the Council to provide recommendations on specific issues deemed worthy of additional attention.

B. **Formation:** Subcommittees will be formed when majority Council opinion dictates. Subcommittee members will be made up of at least two Council members voluntarily agreeing to participate. However, subcommittee membership shall not be limited to Council members. Participation of all subcommittee members shall be approved by Council majority prior to involvement. A subcommittee chair will be determined by Council majority decision.

C. **Updates:** Updates on subcommittee progress will be provided at regularly scheduled Council meetings.

D. **Recommendations:** Subcommittee recommendations will be presented to the Council during meeting updates. All subcommittee actions must be approved by Council majority vote prior to onset.

E. **Member tenure:** Subcommittee members will serve for a term of one year. Terms will be renewed as needed or desired according to majority Council vote.

F. **Deactivation:** Subcommittees will be deactivated upon task completion and with a Council majority vote.

G. **Number of active subcommittees:** No more than two subcommittees can be active within one SFY.

XII. Handbook:

A. **Review:** The Council handbook will be reviewed biannually or as needed to ensure functionality, completeness, and adherence to guidelines.

B. **Modification:** Modification of the Council handbook will be conducted by the Executive Secretary or their designee.
   1. **Request for modification** – All suggested modifications to the handbook must be announced to the Council during a regularly scheduled meeting. Any Council member may make suggested modifications.
   2. **Approval** – All suggested modifications will be made only with a two-thirds majority decision among Council members.

C. **Dissemination:** A bound copy of the Council handbook will be provided to all current Council members. Electronic copies of the handbook will be available on the Council website.
EXECUTIVE ORDER

CREATING THE BLUE RIBBON FISHERIES ADVISORY COUNCIL

WHEREAS, Utah is home to a wide array of pristine fisheries located throughout the State;

WHEREAS, these fisheries attract tourists from outside Utah as well as within;

WHEREAS, the resultant tourism dollars represent a significant factor in rural and urban economies;

WHEREAS, the states surrounding Utah are also home to a variety of pristine fisheries with which Utah competes to attract tourists;

WHEREAS, pristine fisheries contribute to our quality of life; and

WHEREAS, it is necessary to enhance, protect and promote the fisheries of our State for economic as well as recreational benefit;

NOW, THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the authority vested in me by the laws and Constitution of the State of Utah, hereby order the following:

1. There is created the Blue Ribbon Fisheries Advisory Council.

2. The Council shall have no more than 13 members, appointed by the Governor for a term of three years, and shall be comprised of two members representing organized cold-water fishing interests, two members representing organized warm-water fishing interests, one member representing the commercial fishing industry, one member representing each of the five regions of the Division of Wildlife Resources, and three at-large members.
representing general fishing interests. An ex-officio non-voting representative from the Division of Wildlife Resources shall serve as executive secretary to the Council.

3. The Council shall:

   a. Identify fisheries throughout the State to be designated as “Blue Ribbon Fisheries.”

   b. Make recommendations as to the enhancement of the fishing ecosystems and aesthetic values of such “Blue Ribbon Fisheries.”

   c. Make recommendations as to the protection of “Blue Ribbon Fisheries” through collaboration with government agencies and private groups.

   d. Make recommendations as to the promotion of “Blue Ribbon Fisheries” to attract tourists from within and outside the State.

4. The Council shall meet as often as necessary to perform its duties, and shall meet at least quarterly.

5. Council members shall serve without per diem or expenses.

6. A majority of the Council constitutes a quorum for meeting and voting purposes.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah this 19th day of May, 2005.

[Signature]
Jon M. Huntsman, Jr.
Governor

[Signature]
Gary R. Herbert
Lieutenant Governor

ATTEST:

2005/0008
Appendix B

HANDBOOK FOR MEMBERS
OF UTAH STATE BOARDS AND
COMMISSIONS

Jon M. Huntsman, Jr.
Governor
Dear Board Member,

I would like to thank you for your willingness to serve the State of Utah as a member of a board or commission. Upon your appointment to this capacity, you joined a select group of Utah citizens who are committed to represent their community and peers as they influence the policies and programs that will play an instrumental role in guiding our State into the future.

My Administration's policy priorities focus on four common-sense fundamentals: economic revitalization, education, quality of life and governance. Each one of these priorities has purpose in helping shape our tomorrow; each is a reminder of our common destiny.

As I welcome you to your new position, allow me to share with you a few points of public service, points which guide my own service and that of my team:

- We are temporary custodians of our positions of responsibility, and with this service will come a strong sense of duty, obligation and integrity.
- We recognize that the taxpayers of this State are the customers and pay the bills.
- Public service is a privilege, not a right.
- Although we might not always agree on how we get there, the interests of our people always will be put first.

Please keep these points in mind as you embark on this new journey. Yours is a significant responsibility to promote the best interest of our State. I encourage you to attend your meetings, actively participate and stay informed about current issues. I applaud you for your commitment to the well-being of the greatest State in America, and thank you again for your service.

Sincerely,

Jon M. Huntsman, Jr.
Governor
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INTRODUCTION

Welcome to public service! This handbook is a compilation of information and suggestions to help you effectively serve in a position in state government. Some of the information summarizes laws that may affect your service. This handbook is not intended to have the force of law or rule, nor is it necessarily a complete or accurate interpretation of the law. If you have specific questions, please address them to your board staff.

EXECUTIVE BOARDS

Utah Code Annotated § 67-1-2.5 defines an executive board as “any executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body with a defined limited membership that is created to operate for more than six months by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division or other administrative subunit of the executive branch of state government.” Throughout this handbook, the term “board” will be used uniformly to refer to any executive board.

TYPES OF BOARDS AND COMMISSIONS

As a board member, you are responsible to learn about your specific assignment. There are three major categories of boards: policy, advisory and nominating. Please be sure you know what type of board you are assigned to and become familiar with its scope of authority and duties, which are outlined in the statute or provision that creates the board.

POLICY BOARD: A policy board possesses a portion of the sovereign power of the state to enable it to make policy for the benefit of the general public. It is created by the constitution or by statute and performs its duties in accordance with statute and department policies. It is permanent and continuous and not temporary or occasional.

ADVISORY BOARD: An advisory board provides advice and makes recommendations to another person or entity who makes policy for the benefit of the general public. It is created by statute or executive order. It performs its duties only under the supervision of another person, as provided in statute.

NOMINATING COMMITTEE: A nominating committee recruits, evaluates and recommends qualified individuals to the appointing authority for vacancies in various positions in state government. It is created by the constitution or by statute.
ROLE AND RESPONSIBILITIES OF A BOARD MEMBER

All members of state boards and commissions are expected to:

- Understand that executive boards are a part of the executive branch of government and are accountable to the governor through the executive director of the department or government entity.
- Remember that boards are responsible for policy direction or advice regarding policies. They should not be concerned with the day-to-day administration of the department.
- Agree to make your board a priority and devote an appropriate amount of time and energy to the assignment.
- Prepare for, attend and actively participate in all board meetings.
- Learn about your board and the specific role you play as a member. Be sure you know if you are appointed to represent a particular constituent group.
- Represent your constituency by communicating with them and listening to them.
- Know about the authority your board has in shaping public policy. Respect that authority and work within the framework established in statute.
- Maintain a good working relationship with fellow board members, board staff, department administration and the Governor’s Office.
- Research issues and form reasonable opinions based on facts.
- Maintaining a state-wide perspective. Your decisions affect all citizens in Utah and you are responsible to keep the best interest of the public in mind.

CHARACTERISTICS OF AN EFFECTIVE BOARD MEMBER

An effective state of Utah board member is committed to the public and to the mission of the board. The board member has experience dealing with the values, vision, and long-term interests of Utah’s citizens. The board member possesses well-developed civic, interpersonal, and professional sensitivities and skills. The board member has the ability to assemble and evaluate information and to communicate his or her own views with honesty, directness, and integrity. The board member is willing to share power and negotiate fairly, to affirmatively participate in board discussions and decision-making, to delegate or allow others to make decisions as needed, and to acknowledge staff’s expertise in implementation of policy. The board member has the ability to think in terms of systems and contexts and is willing to do all required “homework” to develop a sound understanding of board subject matter. As a board member, he or she performs with independent judgment and courage, and in good faith.
MEDIA GUIDELINES

The public has a right to know how we conduct ourselves while in public service. To ensure that our work is correctly represented, we must set and meet high standards of professionalism when working with the media. Board members can meet these standards by working closely with the department’s Public Information Officer (PIO) to respond to media requests. Media requests should be addressed with the following guidelines in mind:

- **Orderly**: Boards and commissions work with diverse, complex agencies that require orderly interaction with the media to meet needs appropriately. An orderly interaction means requests are funneled through department protocols.

- **Spokespersons**: The department public information officer generally serves as the department spokesperson. There may be occasions when it is appropriate for a board or commission member to give comment to the media. A good working relationship between board members and the department communications team will help facilitate the needs of both the media and the department.

- **Timely**: We respond to media inquiries promptly - usually within two hours. If a board or commission member receives a request, the member should contact the department public information officer, and ensure that pertinent information is shared prior to the interview.

- **Role**: The media may contact board members because of their position on the board. If board members respond to a media request, they must recognize that they are doing so as an appointed representative.

Agency public information officers are available for more detailed training on working with the media.
OATH OF OFFICE

The Utah State Constitution, Article IV, Section 10 requires that “all officers made elective or appointive by this Constitution or by the laws made in pursuance thereof, before entering upon the duties of their respective offices, shall take and subscribe” to an oath of office. An oath of office form is enclosed with your appointment letter. Please appear before a notary or member of the judiciary and have the oath administered. Return the oath to: Office of the Governor, attn: Oath of Office, State Capitol Complex, East Building, Suite 220, SLC, UT 84114. Most departments have a notary on staff. The staff assigned to your board can assist you with the oath of office, if needed.

ATTENDANCE REQUIREMENTS

In order to conduct business, a quorum must be present. A quorum is a simple majority of voting members. Therefore, meeting attendance is crucial. Within their specific bylaws, most boards have strict attendance policies. Governor Huntsman expects his appointees to adhere to those policies and make board meetings a priority.

TERM EXPIRATION AND REAPPOINTMENT POLICY

Generally, board members serve four-year terms. When a mid-term vacancy occurs, the replacement fills the remainder of the unexpired term. Board members are often allowed to serve two terms. However, a review is conducted before a reappointment is extended. The Governor makes the final decision on all appointments and reappointments. Please note the term expiration date in your appointment letter. As that date nears, be prepared to notify the board staff and the Governor’s Office if you would like to continue your board service. A reappointed member must fill out a new oath of office form and may be asked to complete a new per diem form, conflict of interest form, or other disclosure statements.
COMPENSATION AND REIMBURSEMENT

Members of boards and commissions created by statute, who are not employed by state or local government, higher education, or the Legislature, receive no regular compensation. However, board members are allowed meeting per diem and mileage reimbursement. Reimbursement is based on current state rates and dependent upon the agency budget. This allowance does not apply to boards and commissions not created by statute. As a public service to the state, the board or commission member may opt to decline the allowed per diem or reimbursement. Boards and commissions may set reimbursement rates lower than the state-allowed rates by submitting their proposal in writing to their agency accounting office.

MEETING PER DIEM

Each member may receive $60 per diem for each official meeting attended that lasts up to four hours and $90 per diem for each official meeting that is longer than four hours. Travel expenses may also be paid to members in accordance with travel rules and agency approval. Members may decline to receive per diem and expenses for their services. If necessary, a per diem form is enclosed with your appointment letter. Please complete the form and return to the department at your first board meeting.

TRAVEL AND MEAL REIMBURSEMENT

All travel arrangements, both in-state and out-of-state, and all expenditures must be arranged and approved by the agency in advance. The traveler must submit the appropriate travel reimbursement forms and receipts.

TRAVEL RATES — IN-STATE

Non-Overnight Trips. A board or commission member may be authorized to receive meal per diem if the destination is at least 100 miles from “home-base.” The allowance is not considered an absolute right of the traveler and must be arranged and approved in advance by the agency.

Meals. The basic meal allowance for a 24 hour period of travel is a total of $30, to be computed as follows: $6 per breakfast, $9 per lunch, $15 per dinner. Meals may also be provided to the board by the agency.

Mileage. Mileage reimbursement will be for the lesser of mileage or airfare unless approved by the executive director of the department. Mileage is calculated at 36½ cents per mile. This rate includes toll fees, parking, etc.
TRAVEL RATES — OUT-OF-STATE

Out of state travel must be approved in advance by the executive director of the department. Travel arrangements must be made by the state-contracted travel agency in accordance with state rules.

Meals. The basic meal allowance for a 24 hour period of travel is a total of $38, to be computed as follows: $9 per breakfast, $11 per lunch and $18 per dinner.

For premium cities (New York, Chicago, Washington D.C., Atlanta, Los Angeles, San Francisco, and Boston) the traveler may choose to accept the per diem rate or be reimbursed at the actual meal cost, with original meal receipts, up to $50 per day. Alcohol is not reimbursable. To qualify for premium rates for a given day, the traveler must be entitled to all meals for that day. A combination of per diem and actual may be used; however, one method or the other must be used for each full day. Receipts must be submitted for the premium cities.


PURCHASING

Purchases must be approved and processed in advance by the agency. If the board or commission purchase is under $500, no bid process is necessary. However, all purchases must be authorized in advance by the executive director of the department. If the purchase is between $500 and $1,999, the agency must get three telephone bids and choose the least expensive or justify, in writing, selecting a bid other than the least expensive. If the purchase is $2,000 or higher, the agency must contact the Utah Division of Purchasing to conduct a formal bid process. All bids, including telephone bids, must be documented in writing and submitted to the department. Board members may not be reimbursed for any purchase without prior authorization from the executive director of the department.
PUBLIC ACCESS TO GOVERNMENT RECORDS

Utah law espouses the view that the people’s business is done in public and government records should generally be available to the public. Exceptions to this rule exist to protect against invasion of privacy and against unreasonable hindrance of the deliberative process.

The Utah law dealing with records is the Utah Government Records Access and Management Act (Title 63, Chapter 2, Utah Code Annotated), known as “GRAMA” for short. GRAMA is a complicated law, but it requires in essence two things. First, it requires a government agency to retain government records in accordance with the agency’s approved retention schedule. Second, it requires the government agency to provide copies of, or permit access to public government records in its possession upon written request.

The requirements of GRAMA apply to government agencies, not to individuals. In nearly every case a request for records under GRAMA is directed to an agency, and it is the agency that is responsible for responding to the request. However, you have obligations under GRAMA as you serve in an official capacity on a board. This section of the handbook outlines general rules for you to follow to keep you safely within the law. It also elaborates on further aspects of GRAMA to enhance your background knowledge of the subject.

GENERAL RULE

As a board member, you can most easily satisfy the requirement to retain records by making a practice of promptly providing the board staff with a copy of (1) any record you create as part of your official service and (2) any record you receive from outside the agency in the course of your official service. This latter category could be letters, graphs, handouts or anything given to you by constituents, advocates or others that deal with board business or official duties. You do not have to provide the staff with copies of items passed out in board meetings, since the staff will already have these. If you follow this suggestion, the staff will be responsible for following the record retention requirements.

You can satisfy your obligation to disclose public records by simply forwarding any request you receive under GRAMA to agency staff. Please do so immediately, because GRAMA imposes a short deadline on responding. The staff will analyze the request and write a response. Depending on the nature of the request, the staff may contact you to ask for documents in your possession that may need to be included in the response. Please continue to retain (or turn over to the staff) any documents you think may be subject to the request until all appeals on the request have expired.
EXCEPTIONS

Records that board members create or receive in the course of their work as board members are government records and are subject to GRAMA, but there are some legal and practical exceptions to this rule.

- Records a board member receives from staff supporting the board. Staff will be responsible for complying with GRAMA requirements for these records.

- Records a board member receives from sources outside of the agency, copies of which are also given to staff supporting the board. Again, staff will be responsible for complying with GRAMA requirements for these records.

- Board member’s notes or memoranda made in connection with an adjudicative hearing. These are not records under GRAMA § 63-2-103(18)(b)(ix).

- Board member’s notes and daily calendars, prepared by them for own personal use. These are not records under GRAMA § 63-2-103(18)(b)(vii).

- Junk mail or commercial publications received by a board member in the course of their work. These are not records under GRAMA § 63-2-103(18)(b)(v).

The last three categories of records are not subject to GRAMA, so they need not be reviewed or described in response to a GRAMA request.

If you routinely provide staff with copies of records you create or receive, it is unlikely that you will have records that do not fit into one of the exceptions described above. If all records in your possession fit within one of the exceptions described above, you have no additional obligations under GRAMA. If you leave the board, please provide any records that remain in your possession to department staff.
OTHER ASPECTS

There are two other GRAMA provisions with which a board member should be familiar:

GRAMA § 63-2-201(8)(a) states: “A governmental entity is not required to create a record in response to a request.”

Often requests labeled as requests for records are really requests for information that would require an agency to create a record in response. If there are no existing records responsive to a GRAMA request, that is a sufficient response.

GRAMA § 63-2-205(3) states: “Unless otherwise required by a court or agency of competent jurisdiction, a governmental entity may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process, including judicial appeal.”

This means that, once a GRAMA request is received, board members and other agency personnel may not destroy a record, or even return it to the person who provided it, until the matter has been resolved.

PRIVACY

A board member with records that are private, controlled, or protected should manage and dispose of those records in a manner that protects their confidentiality. GRAMA § 63-2-801 specifies criminal penalties for intentional disclosure of these records. In addition, although the law is undeveloped in this area, it is possible that governmental entities and employees may be found liable for damages for wrongful release of records that contain private information.
OPEN MEETING LAW

Under the Utah Open and Public Meetings Act (Utah Code Annotated 52-4-1 to -10), boards are required to hold open meetings, but in appropriate circumstances, boards may close part of an open meeting to discuss certain statutorily-designated topics.

Initial Open Meeting with Quorum Present. Boards may not close a meeting or go into an “executive session” without first convening an open meeting at which a quorum is present. (A “meeting” of a board includes any meeting, other than a chance meeting, in which a quorum of the board convenes to discuss or act upon a subject over which the board has jurisdiction.)

Two-Thirds Vote Required. If the board wishes to conduct a closed session, it must first vote on whether a closed session is permissible under the Utah Open Meetings Act. A two-thirds affirmative vote is required.

Minutes Must Reflect the Votes and Reasons for Closed Meeting. The board minutes must indicate the statutory reason(s) for the closed session and must show how each member voted on the proposed closing.

Topics Which May Be Discussed in Closed Meetings. Section 52-4-5 of the Open Meetings Act (attached) identifies the topics that may be discussed in a closed meeting. Section 52-4-4 of the Open Meetings Act states that only these topics may be discussed at a closed meeting. The topics which are appropriate matter for a closed meeting are:

- **Discussions About Individuals.** Section 52-4-5(1)(a)(i) allows the board to go into executive session to discuss “the character, professional competence, or physical or mental health of an individual.”

- **Discussions Related to Collective Bargaining.** Section 52-4-4(1)(a)(ii) allows for “strategy sessions to discuss collective bargaining” to be closed.

- **Strategy Sessions About Pending Litigation.** Section 52-4-5(1)(a)(iii) allows the board to close a meeting for “strategy sessions to discuss pending or reasonably imminent litigation”. If the board were sued, for example, this exception would allow the Board to meet with its attorneys to plan its strategy or settlement response in a particular piece of litigation. This exception would not, however, allow a closed meeting for non-strategy sessions, such as simple reports about the status of a pending lawsuit. Nor would this exception allow the Board to exclude the public from the Board’s discussions about a controversial topic that could conceivably result in some future litigation. Unless the threatened litigation is “reasonably imminent” and the Board needs to discuss its litigation strategy,
this statutory exception does not apply.

**Discussions Regarding Acquiring Real Property.** Section 52-4-5(1)(a)(iv) provides for closure of meetings for “strategy sessions to discuss the purchase, exchange, or lease of real property when public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction on the best possible terms”.

**Discussions Regarding Sale of Real Property.** Section 53-4-5(1)(a)(v) provides for closure of meeting for “strategy sessions to discuss the sale of real property” under certain circumstances.

**Board Must Verify That the Closed Meeting Discussed Only Permissible Topics.** The Board may close a meeting only to discuss a topic listed in Utah Code Annotated 52-4-5 (attached). If the Board closes a meeting to discuss “the character, professional competence, or physical or mental health of an individual” or “the deployment of security personnel, devices or systems,” the Board chair must sign a sworn affidavit to that effect. If the purpose of the closed meeting is to discuss any other statutorily-permissible topic, the Board must either tape-record the closed session or keep detailed written minutes of the closed session. If a judge later decides that the closed meeting was unlawful, the judge must release the tape or the minutes.

**Closed Meetings Are Never Required.** The Open Meetings Act allows the Board to close a meeting to discuss certain statutorily-designated topics, but the Act does not require any meeting to be closed. Generally speaking, even if the Open Meetings Act allows the Board to close a meeting, the Board should consider whether it is in the public interest to conduct the discussion in secret. For example, the statute allows a closed meeting to discuss the character or professional competence of an individual. This provision protects that individual’s privacy interests. If the individual actually prefers to have the discussion conducted openly, however, the Board may not be justified in relying on this statutory basis for a closed meeting.
No Final Decisions or Actions in a Closed Meeting. Although Board members may discuss certain topics in a closed meeting, any actual votes or decisions must be made in an open meeting. Section 52-4-4 states that "no ... resolution, rule, regulation, contract or appointment shall be approved at a closed meeting."

Procedures for Electronic Meetings. The Open Meetings Act allows the Board to conduct meetings by "telephone, telecommunications or computer conference," as long as the Board complies with certain statutory requirements for giving public notice and providing each Board member an opportunity to participate in the electronic meeting.

Penalties for Violating the Open Meetings Act. If a court finds that a public body has violated the Open Meetings Act, the court may declare that any final action taken at the meeting is void, and may order the public body to comply with the statute. The court may also order the public body to pay the opposing party's attorney's fees, and may order the public body to release the tape or minutes about the closed meeting.
UTAH ADMINISTRATIVE RULE MAKING PROCESS:  
A SUMMARY OF THE PATH A RULE TAKES

This section only applies to policy boards which are given rule making authority by statute. The basic rule making process is formally outlined in Utah Code Annotated, 63-46a-4. The requirements for special types of rule making actions such as 120-Day Emergency Rules and Five Year Review and Extensions will vary somewhat from this basic process. Additional information on rule making is available at http://www.rules.utah.gov.

General Background

The rule making process includes five major phases: (1) pre-proposal phase; (2) proposal phase; (3) comment period; (4) adoption of the rule; and (5) enforcement of the rule. A rule is published twice – once when it is proposed, and again, when it is made effective – and both publications are significant milestones in the rule making process. The basic sequence of the rule making process is outlined below.

Pre-Proposal Phase

An agency may not propose a rule unless:

- The agency is authorized by the Utah Constitution, state statute, federal law, or a court order to make rules.
- The agency identifies a need for a new rule or a change to an existing rule. (The need for a rule may come from public comments, new legislation, court decisions, etc.)

An agency must engage in rule making when any of its action:

- Authorizes, requires, or prohibits an action;
- Provides or prohibits a material benefit;
- Applies to a class of persons or another agency; and
- Is explicitly or implicitly authorized by statute.

The term “agency” refers to state boards, commissions, departments, divisions and other state entities that are “authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law.” The term “agency” does not include the legislative or judicial branches of state political subdivisions. See UCA 63-46a-2(2).
Ideally, the agency works in partnership with interested parties when it prepares a proposed rule. The agency must also complete a rule analysis as required by UCA 63-46a-4(5). This statute requires the agency to identify the rationale for the rule, the fiscal impact on the agency and others, and the procedures for allowing public comment on the proposed rule.

The executive director of each department must review rules prepared and submitted by entities under its jurisdiction and must comment on the fiscal impact the rule may have on businesses. The agency may also pre-file the rule with the Governor’s Office of Planning and Budget.

Interested persons may request that their name be placed on a mailing list for advanced notice of rule making. (The term “person” refers to individuals, corporations, organizations, and governmental entities other than the agency. See UCA 63-46a-2(12).)

**Proposal Phase**

The agency files the proposed rule with the Division of Administrative Rules, which reviews the rule for completeness and compliance with the Utah Administrative Rulemaking Act and related rules. The Division of Administrative Rules also sends a copy of the rule to the Governor’s Office of Planning and Budget for executive branch review.

The agency notifies interested persons who: (1) have requested notice; (2) are legally entitled to receive such notice; and (3) in the judgment of the agency, should be notified. At a minimum, the notice must include a copy of the rule analysis.

The Division of Administrative Rules publishes the proposed rule in the Utah State Bulletin. The Division of Administrative Rules also publishes a summary of the rule in the Utah State Digest.

**Comment Period**

During the comment period, any person may submit public comments about a proposed rule directly to the agency. The rule analysis will have specified how to submit such comments to the agency’s contact person.

The agency must accept public comment during the period it designates on the rule analysis. The comment period must be no fewer than 30 days and no more than 119 days after publication of the proposed rule.

The agency then considers the public comment it received. The Legislative Administrative Rules Review Committee may also ask the agency to appear before the committee to discuss the proposed rule.

Any person may request that the agency hold a public hearing about a specific proposed rule. The agency must hold a hearing when other law requires a hearing, or
when requested by: (1) another state agency; (2) ten interested persons; or (3) an interested association having not fewer than ten members. Even if these factors are not involved, the agency may hold a hearing if it so wishes. The request for a hearing must be made within 15 days of publication of the rule in the Bulletin, must be held before the rule is made effective, and must be no fewer than seven nor more than 30 days after the agency received the request.

**Adoption Phase**

The agency notifies the Division of Administrative Rules of the rule’s effective date. The effective date must be no fewer than 31 days and no more than 120 days after publication of the rule in the Bulletin. The Division of Administrative Rules then codifies and publishes the effective rule in the Utah Administrative Code. If the Division of Administrative Rules does not receive a Notice of Effective Date on or before the 120th day, the rule lapses and to enact the rule, the agency must start the rule making process over again.

**Enforcement Phase**

During this phase, the agency enforces the final rule. The final rule is still subject to review, however. For example, the Legislative Administrative Rules Review Committee may ask the agency to appear before the committee to discuss the rule. In addition, Section 63-46a-12 of the Utah Code allows any person to petition the agency to change or repeal an existing rule, or enact a new rule. The agency must respond within 30 days by either making the requested change or by stating its reasons for denying the person’s petition.
ETHICS ACT AND CONFLICTS OF INTEREST

This section provides information on ethics requirements and potential or actual conflicts of interest of members of boards. In addition to this information, many agencies and boards have specific policies and forms regarding these matters.

As you are aware, pursuant to Utah Code Annotated (UCA), Title 19, the boards are comprised of members who by statute are representatives of various interests and groups. These statutorily-established criteria for membership on the boards make conflicts of interest inevitable.

Applicable Law

By amendments in 1989 to the Utah Public Officers’ and Employees’ Ethics Act (Ethics Act), board members are now covered by its various provisions. The definition of “public officer” means “all elected or appointed officers of the state . . . who occupy policy-making posts.” Board members are appointed and determine state policy under their respective statutory powers. Prior to 1989, board members were considered specifically by statute as “special employees” who were excluded from the requirements of the Ethics Act. The 1989 amendments deleted the exclusion.

In 1998, the Legislature amended the Ethics Act by clarifying that the offenses covered by this act do not encompass actions taken under circumstances amounting to a violation of UCA § 63-56-72 or § 76-8-105. UCA § 63-56-72 makes it a felony for any person who in any official capacity participates in the procurement of any supplies, services, construction, real property, or insurance for the state of Utah or any subdivision thereof if that person asks, receives, or offers to receive, from any person interested in the sale of these items or services, any emolument, gratuity, contribution, loan, reward, or any promise thereof, either for himself or for another person or organization.

In the 2000 General Session, the Utah State Legislature added provisions making it an offense to donate or to demand donations of property, money or services on a condition of granting a permit, approval, or other authorization. UCA § 67-16-5.3 and 5.6.

Under UCA § 76-8-105, a public servant is guilty of receiving or soliciting a bribe if that person asks for, solicits, accepts, or receives, directly or indirectly, any benefit with the understanding that the purpose is to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion. It is not a defense that the public servant was not qualified to act in the desired way, did not act in the desired way, or the benefit is not asked for, conferred, solicited, or accepted until after the public servant has performed the desired action or ceases to be a public servant.

Requirements of the Ethics Act

A. Disclosure
Under § 67-16-7 of the Ethics Act, every public officer who is an officer, director, agent, employee, or the owner of a substantial interest in any business entity which is subject to the regulation of the agency is required to disclose:

31. the position held; and
32. the precise nature and value of interest. (Does not apply where total value does not exceed $2,000. Life insurance policies and annuities are not considered in determining value.)

If the position changes or value is significantly increased, it must be reported.

Under § 67-16-6, a public officer may not receive or agree to receive compensation for assisting any person or business in any transaction involving any agency unless the public officer discloses the name and address of the public officer and the agencies involved, and provides a brief description of the transaction.

Under § 67-16-8, a public officer may not participate or receive compensation in respect to any transaction between the state and any business entity to which the public officer is also an officer, director or employee or owns a substantial interest, unless disclosure is made as indicated below.

B. Method of Disclosure

A sworn, written statement by the public officer giving the information listed above is to be filed with the head of the agencies involved and the Utah Attorney General's Office. Many boards have a specific form or format for the written statement.

C. Prohibitions

Restrictions outlined in the Ethics Act include:

No public officer shall:

1. accept employment or engage in any business or professional activity that he may reasonably expect would require or induce him to improperly disclose controlled information;
2. improperly disclose or use controlled, private or protected information acquired by reason of his position or in the course of official duties to further substantially his personal economic interest or obtain special privileges or exemptions for himself or others;
3. use or attempt to use his position to further substantially his personal economic interest or to secure special privileges or exemptions for himself or others;
4. accept employment that would impair his independence of judgment or interfere with the ethical performance of his public duties;
5. receive, take, seek, or solicit, directly or indirectly, for himself or another a gift
of substantial value or a substantial economic benefit tantamount to a gift,\(^1\)

a. that would tend to improperly influence him in the discharge of his duties,

b. that the person knows or a reasonable person in that position should know under the circumstances is primarily to reward the person for official action taken,

c. if he recently has been or is or will be involved in a government action affecting the donor or lender unless a disclosure of the gift, compensation, or loan has been made in the manner described above;

6. have personal investments in any business entity which will create a substantial conflict between his private interests and his public duties; or

7. donate or to demand donations of property, money or services on a condition of granting a permit, approval or other authorization.

**Conflicts of Interest**

A. **Discussion - Procedure**

In the past, different approaches have been taken by various members of boards when they have had conflicts of interest. These approaches have included:

1. oral disclosure of the conflict before discussion and then participating in the discussion but not the vote;

2. oral disclosure of the conflict at the beginning of the discussion with no participation in discussion or the vote; or

3. oral disclosure of the conflict and physically withdrawing from the meeting.

\(^1\) _Economic benefit tantamount to a gift_ includes:

(1) a loan at an interest rate that is substantially lower than the commercial rate for similar loans; and

(2) substantially higher compensation received for private services than the fair market value of those services.

Excluded from this definition is an occasional non-pecuniary gift of a value less than $50.00, an award publicly presented in recognition of public service, any bona fide loan made in the ordinary course of business, or a political campaign contribution.
when an action is being discussed and voted upon.

The approach taken by the Board member with a conflict of interest is an individual decision. While no specific law exists mandating how conflicts of interest should be resolved, the Board could establish a policy recommending how conflicts of interest should be handled. While that policy may not be binding on a Board member, it would reflect the Board's attitude as to the best way to handle action items where there is a potential conflict of interest. Some Boards have established policies on handling conflicts of interest.

B. What is a Conflict of Interest?

One question which often arises is what constitutes a potential conflict of interest. It is generally considered that a potential conflict of interest is any direct and immediate interest or relationship, including financial interest, with persons or businesses regulated by or directly affected by decisions of the Board, or persons or organizations which may present requests or issues before the Board. The interest of a spouse or other members of the immediate family/household or the interest of any other person which is constructively controlled by the member is included.

It is recognized that some relationships and interests have more "potential" for being a conflict of interest than others. There are some interests and relationships which because of their nature are insignificant. The financial interest may be so small or the relationship so remote that it does not present an actual conflict.

Types of interests to be considered as potential conflicts of interest include relationships or interests with persons, business enterprises, or nonprofit, professional, charitable, religious, social, educational, recreational, environmental, public service, or civic organizations,

1. with which you are connected as a member, employee, officer, owner, director, trustee, partner, advisor, or consultant;
2. in which you have any continuing financial interest as a creditor or through ownership of stocks, bonds, or other securities, ownership of real property or rights in lands, or through a pension or retirement plan, shared income or otherwise; or
3. to which you are indebted financially.
PARLIAMENTARY PROCEDURE

RULES OF ORDER

Boards are encouraged to develop a consistent protocol for their meetings. Robert's Rules of Order is perhaps the most widely known set of rules for the conduct of meetings, though it is not the only one.

The rules of parliamentary procedure are meant to help, not hinder. Applied with common sense, they should not frustrate the meeting or entangle it in red tape. The chair should retain control, give clear explanations, and keep things as simple as possible. Adhering to protocol and agendas keeps meetings organized. A chair who maintains parliamentary rules at normal times may welcome the general recognition of rules during a stressful meeting.

When in doubt, the underlying rule is:
- Respect the wishes of the majority;
- Protect the minority;
- Do what seems fair and equitable.

RESPONSIBILITIES OF THE CHAIR
1. Recognize board members entitled to speak or propose motions. Note: some motions may be made while another member has the floor. Speaker must state the purpose of the interruption so the chair can rule on its validity.
2. Restate motions after they have been seconded, then open discussion.
3. Close discussion and put motions to vote. Votes on motions that are not debatable should be called immediately. Restate the motion exactly as it was made or amended before calling for a vote.
4. Announce the result of a vote immediately. A tie vote defeats a motion requiring a majority of those voting. The chair may vote to make or break a tie.
5. Avoid entering any controversy or interfering with legitimate motions.
6. Maintain order and proper procedure, making necessary rulings promptly and clearly.
7. Expedite board business in every way compatible with the rights of board members. You can allow brief remarks on motions that are not debatable, advise board members how to take action (proper motion or form of motion), or order proposed routine action without a formal vote (for example, “If there is no objection, the minutes will stand approved as read. Hearing no objection so ordered”).

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PRINCIPLES OF PARLIAMENTARY LAW
1. Parliamentary procedure requires that all board members have equal right; there must be mutual respect among board members; and the rights of the minority to initiate motions, debate, and have their votes counted be protected, while at the same time the will of the majority governs.
2. Only one item may be under consideration at a time.
3. The majority vote decides the questions.
4. Any matter once decided cannot be brought up again at the same meeting, except by a motion to reconsider.
5. The simplest, clearest and most expeditious way is considered proper, as long as it does not violate the rights of board members.

PROPOSING AND DISPOSING OF A MOTION
1. Gain floor by being recognized by chair.
2. State motion. ("I move that...")
3. Motion can be seconded by any member without gaining floor.
4. Chair states motion (if proper) and opens it for discussion (if debatable).
5. During discussion, the motion may be amended or disposed of by postponement (to a time certain or indefinitely), referral to a committee, or tabling.
6. The chair puts the motion to a vote when there is no further discussion.
7. The chair announces the outcome of the vote.

MOTIONS
1. **Motion to take from table** - requires second, not debatable, not amendable.
   - **Purpose:** To bring up for consideration an issue that has been laid on the table.
   - **Effect of adoption:** Puts motion before board again in exactly the same condition as when laid on table.

2. **Motion to reconsider** - requires second, debatable, not amendable.
   - **Purpose:** To set aside a previous vote and reconsider the question for adoption or rejection.
   - **Restrictions:** Used only if vote cannot be reversed with more simple procedures. Motion must be made by member who voted on the prevailing side. May not be made later than the next meeting after the vote to which it applies. If action has already been implemented, vote cannot be reversed. Motion may be made when another member has the floor, but its consideration is the same for a main motion.
   - **Effect of motion:** Stops any action authorized by the original vote.
   - **Effect of adoption:** Sets aside original vote, puts matter back to where it was just before the vote was taken.

3. **Main Motion** - requires second, debatable, amendable.
   - **Purpose:** To bring an issue up for consideration or action.
   - **Effect of adoption:** Action authorized.
4. **Motion to postpone indefinitely** - req. second, debatable, not amendable
   **Purpose:** To kill main motion without a formal vote; trial vote to test strength.

5. **Motion to amend a motion** - requires second, debatable*, amendable.
   *not debatable if motion to which it applies is not debatable.
   **Purpose:** To put motion in most acceptable form before voting on it, by striking out or inserting words or substituting one paragraph or motion for another.
   **Restrictions:** An amendment to a pending amendment may be proposed, but not an amendment to the third degree. Any germane amendment is in order as long as it is not identical in effect to a no vote on the main motion.
   **Effect of adoption:** Changes the wording of the pending motion.

6. **Motion to refer to a committee** - requires second, debatable, amendable.
   **Purpose:** To have a matter studied by a committee.
   **Form:** Motion may include membership of committee and instructions to it, and may be amended with respect to these matters.
   **Effect of adoption:** Disposes of motion until committee reports back or is discharged by the board.

7. **Motion to limit debate or extend limits** - requires second, not debatable, amendable.
   **Purpose:** To regulate length of time a question may be discussed or length of time allotted to each speaker.
   **Form:** Motion state limits and may be amended in this regard.

8. **Motion on previous question** - requires second, not debatable, not amendable.
   **Purpose:** To have discussion ended immediately and a vote taken.
   **Form:** May specify only the immediately pending question, of all pending questions.
   **Effect of adoption:** Chair must immediately put question to a vote and allow no further discussion.
   **NOTE:** This motion should not be confused with the call for the “question” which is only a suggestion that the board members are ready to vote, and may not be used to deprive any board member of the right to continue the discussion if desired.

9. **Motion to table** - requires second, not debatable, not amendable.
   **Purpose:** To set a matter aside temporarily. May be moved even after the previous question has been ordered.
   **Effect of adoption:** Matter on table may be brought up again, but not later than the next meeting, by adoption of a main motion to take it off the table.

10. **Question of order** - no second required, decision of chair, not debatable, not amendable.
Purpose: To ask that a rule that is being violated be observed.
Form: Floor is gained, even while another is talking, by stating, "Chairperson, I rise to a point of order." Chair asks member to state point, then rules whether point is well taken. If point is accepted, Chair makes ruling. If point is not accepted, Chair overrules point of order.

11. Division of board - no second required, no vote necessary, not debatable, not amendable.
Purpose: To secure a recount of a vote by a more accurate method than originally used.
Form: Board member, without recognition, says, "I call for a division."

12. Appeal Chair's decision - requires second, debatable*, not amendable.
Purpose: To overrule a decision made by the chair.
Form: Board member says, "Chairperson, I appeal from the decision of the chair."
Restrictions: Motion must be made as soon as the decision is announced.
*Debatable if pending question is debatable. Can be laid on the table, which takes the pending with it.
Effect of adoption: If less than majority sustain chair decision is reversed.
<table>
<thead>
<tr>
<th>To do this...</th>
<th>You say this...</th>
<th>May you interrupt?</th>
<th>Is a second required?</th>
<th>Is the motion debatable?</th>
<th>Required vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Adjourn meeting</td>
<td>“I move the meeting be adjourned”</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Majority</td>
</tr>
<tr>
<td>Reconvene meeting</td>
<td>“I move the meeting be adjourned until...”</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Majority</td>
</tr>
<tr>
<td>*Make a personal request</td>
<td>“Point of privilege”</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No vote</td>
</tr>
<tr>
<td>*Suspend further consideration</td>
<td>“I move to table the motion”</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Majority</td>
</tr>
<tr>
<td>End debate</td>
<td>“I move the previous question”</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>2/3 vote</td>
</tr>
<tr>
<td>Postpone consideration</td>
<td>“I move this matter be postponed until...”</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
</tr>
<tr>
<td>Have something studied further</td>
<td>“I move this matter be referred to a committee”</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
</tr>
<tr>
<td>Amend a motion</td>
<td>“I move that this motion be amended by”</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
</tr>
<tr>
<td>Introduce new business</td>
<td>“I move that...”</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
</tr>
<tr>
<td>*Object to something</td>
<td>“Point of order”</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No vote Chair only</td>
</tr>
<tr>
<td>Request information</td>
<td>“Point of information”</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No vote</td>
</tr>
<tr>
<td>*Ask for a vote by actual count to verify a vote</td>
<td>“I call for a division of the house (or board)”</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No vote</td>
</tr>
<tr>
<td>*Object to discuss a matter</td>
<td>“I object to consideration of this matter”</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>2/3 vote</td>
</tr>
<tr>
<td>*Take up a matter previously tabbed</td>
<td>“I move to take from the table”</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>Majority</td>
</tr>
<tr>
<td>*Reconsider a previous action</td>
<td>“I move to reconsider the action relative to...”</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
</tr>
<tr>
<td>*Consider out of order</td>
<td>“I move to suspend the rules and consider...”</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>2/3 vote</td>
</tr>
<tr>
<td>*Vote on a ruling by the chair</td>
<td>“I appeal the chair’s decision”</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Majority</td>
</tr>
</tbody>
</table>
"Motion cannot be amended"
DUE PROCESS IN ADMINISTRATIVE HEARINGS

A. Rights of Parties
1) A fair trial before a fair tribunal.
2) An unbiased, impartial judge.
3) Both actual bias and any appearance of unfairness must be avoided.
4) These principles apply to both administrative proceedings as well as judicial trials.
5) See Anderson v. Industrial Commission, 696 P.2d 1219 (Utah 1985)

B. Fact Finder's Duty to Elicit Evidence
1) The opportunity to question witnesses aids the fact finder's role in any case.
2) The opportunity for respondent to examine and cross-examine each witness.
3) Do not intimidate the witnesses by attitude or demeanor.

C. Suggestions for Examining Witnesses
1) The methods of examination involve two aspects:
   a) The substance and nature of questions.
   b) The attitude and demeanor of the questioner.
2) The purposes of examination depend on the role of the questioner:
   a) Parties and their attorneys question witnesses to present a case.
   b) Fact finders question witnesses to ascertain the truth.
3) The "Single Fact" Rule
   a) Each question should involve only a single fact.
   b) When a question raises multiple facts, the witness can avoid acknowledging a critical fact.
4) The demeanor of the questioner
   a) Generally, the questioner should be controlled and polite to the witnesses.
   b) An arrogant or hostile attitude can signal possible bias or partiality.
   c) Questioners should avoid:
      i) Tactics that are devious or deceitful.
      ii) Badgering, brow-beating or humiliating a witness.
      iii) Sanctimonious attitude.
      iv) Loss of temper (usually accompanied by a loss of concentration and control of the witness).
      v) Body language or countenance that conveys derision, confusion, disbelief, etc.
D. Conduct of Hearings

1) The Nature of Disciplinary Proceedings

"It is well settled that administrative hearings need not possess the formality of judicial proceedings. The degree of formality depends on the nature of the administrative proceedings . . . . The strict rules of evidence and procedure that apply in a courtroom . . . need not apply in an administrative hearing . . . . Hearsay and other forms of evidence that might be inadmissible in a court of law may be considered during an administrative hearing.

Despite the flexibility of administrative hearings, there remains the necessity of preserving fundamental requirements of procedural fairness in administrative hearings. It is a clear abuse of discretion for an administrative body to exercise its discretion over the manner in which it conducts its proceedings such that it denies due process to a party appearing before it."


2) Due Process Safeguards

". . . . All parties must be fully apprised of the evidence submitted or to be considered, and must be given opportunity to cross-examine witnesses, to inspect documents and to offer evidence in explanation or rebuttal. In no other way can a party maintain its rights or make its defense. In no other way can it test the sufficiency of the facts to support the finding . . . ."


3) Right to Fair Hearing

"One of the fundamental principles of due process is that all parties to a case are entitled to an unbiased, impartial judge. A fair trial in a fair tribunal is a basic requirement of due process. Fairness requires not only an absence of actual bias, but endeavors to present even the possibility of unfairness."

4) **Conduct and Demeanor of the Fact Finder**

"... due process demands a new trial when the appearance of unfairness is so plain that we are left with the abiding impression that a reasonable person would find the hearing unfair."


E. **Ex Parte Communications in Agency Adjudicative Proceedings**

a) Ex parte communications are communications with the finder of fact made out of the presence of the other parties to the matter.

"Ex parte communications essentially consist of evidence, arguments, or other information relevant to a disputed issue that are transmitted to a judging-type of decision maker in a way that renders the information insufficiently open to challenge and testing by an adversely affected party. Typically, an investigative or advocacy functionary in a decisional system or an interested party transmits such information to a decision maker. A somewhat similar situation occurs when a judicial-type decision maker takes the initiative to seek out extra-record information." 1993 Utah L. Rev. 1135, 1139.

b) Examples of ex parte communications include being contacted by a friend or relative vouching for the good character of the respondent, being contacted directly by the respondent to explain the circumstances, or being contacted by a friend or relative of the respondent calling in a favor for the respondent.

c) **Disclosure of Ex Parte Communication**

If you as a board or commission member receive an ex parte communication, it must be disclosed to all interested parties, including your government agency.
d) Purposes for the Prohibition of Ex Parte Communications

When an administrative adjudicator uses "evidence" outside the record there is a denial of a fair hearing because, as to that "evidence," there has been no hearing at all, for the disadvantaged party has not been heard. If a trial-type hearing is required by due process of law, its deprivation a fortiori violates the due process precept.

The prohibitions against improper ex parte communications are measures imposed to avert this kind of due process violation. They also aid in preserving the due process requirement of an unbiased tribunal and the related public interest in avoiding the appearance of bias on the part of public decision makers." Mathew Zaheri Corporation v. New Motor Vehicle Board, 55 Cal. at 4th 1305 (1997).
GOVERNMENTAL IMMUNITY

As a member of a statutorily created board or commission, you are entitled to the protections of the Governmental Immunity Act found in Title 63, Chapter 30 of the Utah Code.

Board and commission members are included within the definition of "employee" for purposes of the Governmental Immunity Act (§ 63-30-2, Utah Code).

In pertinent part, the Governmental Immunity Act provides "... no employee may be held personally liable for acts or omissions occurring during the performance of the employee's duties, within the scope of employment, or under color of authority, unless it is established that the employee acted or failed to act due to fraud or malice." (§ 63-30-4(4), Utah Code).

In other words, performing the duties and functions of a board or commission member within the scope of your appointment will not expose you to personal liability for those actions unless you act or fail to act due to fraud or malice.

Note: Advisory groups or panels created by boards and commissions may or may not be covered by the Governmental Immunity Act. Please consult with the agency for further information.
## Appendix C

Application for: Blue Ribbon Fisheries Advisory Council

<table>
<thead>
<tr>
<th>First Name</th>
<th>Middle Name</th>
<th>Last Name</th>
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<th>Address</th>
<th>Home Phone</th>
<th>Office Phone</th>
<th>Cell Phone</th>
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<table>
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<tr>
<th>City</th>
<th>UT</th>
<th>Zip</th>
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<tr>
<th>County</th>
<th>Beaver</th>
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<tr>
<th>Email</th>
<th>Profession</th>
<th>Title</th>
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<th>Organization</th>
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<table>
<thead>
<tr>
<th>Political Affiliation</th>
<th>(Optional) Ethnic Background</th>
<th>Education</th>
<th>Graduate Degree</th>
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</table>

If the board for which you are applying includes several different positions (e.g. general public, licensed nurse, member of the Utah State Bar, etc.), please indicate the specific position for which you are applying

Describe any possible conflict of interest should you be appointed to this board (1000 character limit)

Describe any formal charges of professional misconduct, criminal misdemeanor or felony ever filed against you in any jurisdiction. (1000 character limit)

What qualifications and/or expertise would you bring to this position. (2,000 character limit)

In the box below, please use the copy/paste function to paste your resume (5,000 Character Limit)

```plaintext

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Appendix D

52-4-101. Title.
This chapter is known as the "Open and Public Meetings Act."

52-4-102. Declaration of public policy.
(1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
(2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
(a) take their actions openly; and
(b) conduct their deliberations openly.

52-4-103. Definitions.
As used in this chapter:
(1) "Anchor location" means the physical location from which:
(a) an electronic meeting originates; or
(b) the participants are connected.
(2) "Convening" means the calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.
(3) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.
(4) (a) "Meeting" means the convening of a public body, with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power.
(b) "Meeting" does not mean:
(i) a chance meeting;
(ii) a social meeting; or
(iii) the convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened and:
(A) the public body is convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or
(B) the public body is convened solely for the discussion or implementation of administrative or operational matters that would not come before the public body for discussion or action.
(5) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.
(6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.
(7) (a) "Public body" means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:
(i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
(ii) consists of two or more persons;
(iii) expends, disburses, or is supported in whole or in part by tax revenue; and
(iv) is vested with the authority to make decisions regarding the public's business.
(b) "Public body" does not include a:
(i) political party, political group, or political caucus; or
(ii) conference committee, rules committee, or sifting committee of the Legislature.
(8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.
(9) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.
(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.
(10) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

52-4-104. Training.
The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

52-4-201. Meetings open to the public -- Exceptions.
(1) A meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.
(2) (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.
(b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:
(i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at a different location;
(ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;
(iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or
(iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.
52-4-202. Public notice of meetings -- Emergency meetings.

(1) A public body shall give not less than 24 hours public notice of each meeting including the meeting:
(a) agenda;
(b) date;
(c) time; and
(d) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.
(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) Public notice shall be satisfied by:
(i) posting written notice:
(A) at the principal office of the public body, or if no principal office exists, at the building where the meeting is to be held; and
(B) beginning October 1, 2008 and except as provided in Subsection (3)(b), on the Utah Public Notice Website created under Section 63F-1-701; and
(ii) providing notice to:
(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or
(B) a local media correspondent.
(b) A public body of a municipality under Title 10, Utah Municipal Code, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, is encouraged, but not required, to post written notice on the Utah Public Notice Website, if the municipality or district has a current annual budget of less than $1 million.
(c) A public body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection 63F-1-701(4)(d).

(4) A public body is encouraged to develop and use additional electronic means to provide notice of its meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:
(i) because of unforeseen circumstances it is necessary for a public body to hold an emergency meeting to consider matters of an emergency or urgent nature; and
(ii) the public body gives the best notice practicable of:
(A) the time and place of the emergency meeting; and
(B) the topics to be considered at the emergency meeting.
(b) An emergency meeting of a public body may not be held unless:
(i) an attempt has been made to notify all the members of the public body; and
(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be
considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:
   (i) listed under an agenda item as required by Subsection (6)(a); and
   (ii) included with the advance public notice required by this section.

52-4-203. Minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (8), written minutes and a recording shall be kept of all open meetings.

(2) Written minutes of an open meeting shall include:
   (a) the date, time, and place of the meeting;
   (b) the names of members present and absent;
   (c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
   (d) a record, by individual member, of each vote taken by the public body;
   (e) the name of each person who is not a member of the public body, and upon recognition by the presiding member of the public body, provided testimony or comments to the public body;
   (f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and
   (g) any other information that any member requests be entered in the minutes or recording.

(3) A recording of an open meeting shall:
   (a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
   (b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) The minutes and recordings of an open meeting are public records and shall be available within a reasonable time after the meeting.
   (b) An open meeting record kept only by a recording must be converted to written minutes within a reasonable time upon request.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) Minutes or recordings of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Written minutes and recordings of open meetings are public records under Title 63G, Chapter 2, Government Records Access and Management Act, but written minutes shall be the official record of action taken at the meeting.

(8) Either written minutes or a recording shall be kept of:
(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; and
(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are $50,000 or less.

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.
   (1) A closed meeting may be held:
   (a) if a quorum is present; and
   (b) if two-thirds of the members of the public body present at an open meeting for which notice is given under Section 52-4-202 vote to approve closing the meeting.
   (2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.
   (3) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.
   (4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:
      (a) the reason or reasons for holding the closed meeting;
      (b) the location where the closed meeting will be held; and
      (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.
   (5) Nothing in this chapter shall be construed to require any meeting to be closed to the public.

52-4-205. Purposes of closed meetings.
   (1) A closed meeting described under Section 52-4-204 may only be held for:
      (a) discussion of the character, professional competence, or physical or mental health of an individual;
      (b) strategy sessions to discuss collective bargaining;
      (c) strategy sessions to discuss pending or reasonably imminent litigation;
      (d) strategy sessions to discuss the purchase, exchange, or lease of real property if public discussion of the transaction would:
         (i) disclose the appraisal or estimated value of the property under consideration; or
         (ii) prevent the public body from completing the transaction on the best possible terms;
      (e) strategy sessions to discuss the sale of real property if:
         (i) public discussion of the transaction would:
            (A) disclose the appraisal or estimated value of the property under consideration; or
            (B) prevent the public body from completing the transaction on the best possible terms;
         (ii) the public body previously gave public notice that the property would be offered for sale; and
(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct; and

(h) discussion by a county legislative body of commercial information as defined in Section 59-1-404.

(2) A public body may not interview a person applying to fill an elected position in a closed meeting.

52-4-206. Record of closed meetings.

(1) Except as provided under Subsection (6), if a public body closes a meeting under Subsection 52-4-205(1), the public body:

(a) shall make a recording of the closed portion of the meeting; and

(b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.

(2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.

(3) The recording and any minutes of a closed meeting shall include:

(a) the date, time, and place of the meeting;

(b) the names of members present and absent; and

(c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

(4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(5) Both a recording and written minutes of closed meetings are protected records under Title 63G, Chapter 2, Government Records Access and Management Act, except that the records may be disclosed under a court order only as provided under Section 52-4-304.

(6) If a public body closes a meeting exclusively for the purposes described under Subsection 52-4-205(1)(a) or Subsection 52-4-205(1)(f):

(a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a) or Subsection 52-4-205(1)(f); and

(b) the provisions of Subsection (1) of this section do not apply.

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) A public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) The resolution, rule, or ordinance may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and
(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or

(v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes or conducts an electronic meeting shall:

(a) give public notice of the meeting:

(i) in accordance with Section 52-4-202; and

(ii) post written notice at the anchor location;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the electronic meeting;

(c) establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;

(d) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; and

(e) if comments from the public will be accepted during the electronic meeting, provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(4) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

52-4-208. Chance or social meetings.

(1) This chapter does not apply to any chance meeting or a social meeting.

(2) A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.

52-4-301. Disruption of meetings.

This chapter does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

52-4-302. Suit to void final action -- Limitation -- Exceptions.

(1) (a) Any final action taken in violation of Section 52-4-201, 52-4-202, or 52-4-207 is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:
(i) the posting is made for a meeting that is held before April 1, 2009; or
(ii) (A) the public body otherwise complies with the provisions of Section 52-4-202; and
   (B) the failure was a result of unforeseen Internet hosting or communication technology failure.

(2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

(3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

52-4-303. Enforcement of chapter -- Suit to compel compliance.
   (1) The attorney general and county attorneys of the state shall enforce this chapter.
   (2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.
   (3) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to:
      (a) compel compliance with or enjoin violations of this chapter; or
      (b) determine the chapter's applicability to discussions or decisions of a public body.
   (4) The court may award reasonable attorney fees and court costs to a successful plaintiff.

52-4-304. Action challenging closed meeting.
   (1) Notwithstanding the procedure established under Subsection 63G-2-202(7), in any action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:
      (a) review the recording or written minutes of the closed meeting in camera; and
      (b) decide the legality of the closed meeting.
   (2) (a) If the judge determines that the public body did not violate Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.
      (b) If the judge determines that the public body violated Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.

52-4-305. Criminal penalty for closed meeting violation.
   In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.
### Appendix E

<table>
<thead>
<tr>
<th>Region</th>
<th>Project</th>
<th>BR restr</th>
<th>BR fed</th>
<th>HC</th>
<th>other</th>
<th>BR restr</th>
<th>BR fed</th>
<th>HC</th>
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| Totals | $491,000 | $249,625 | $81,147 | $1,020,960 | $468,178 | $60,808 | $47,502 | $994,710 |
## Appendix F

**Requested FY 2009 funding for Blue Ribbon Fisheries Advisory Council projects receiving preliminary approval**

<table>
<thead>
<tr>
<th>Region</th>
<th>Name</th>
<th>Proposal number</th>
<th>Blue Ribbon restricted</th>
<th>Blue Ribbon federal aid</th>
<th>Habitat Council</th>
<th>Prioritization</th>
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<td>CRO</td>
<td>Angler access maintenance</td>
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<td>SLO</td>
<td>Strategies to advance the science and practice of</td>
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**Total request**

| Blue Ribbon FY 2009 restricted estimated budget | 200,000.00 |
| Blue Ribbon FY 2009 federal aid estimated budget | 250,000.00 |

**Total estimated FY 2009 available**

| 450,000.00 |

Remaining FY 2009 Blue Ribbon restricted dollars | 10,473.75 |
Remaining FY 2009 Blue Ribbon federal aid dollars | 100.25 |

Final UDWR approval of budget as described is provided by the following parties on the date specified:

---

**James F. Karpowitz, Director**

**Date**

---

**Linda Braithwaite, Financial Manager**

**Date**
<table>
<thead>
<tr>
<th>Information Required*</th>
<th>Completed (Y/N)</th>
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<tbody>
<tr>
<td>1 Project title</td>
<td></td>
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<tr>
<td>2 Project partners (e.g., UDWR, Parks, Emery County)</td>
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<tr>
<td>3 Overall anticipated project cost and breakdown of expected sources of funding (e.g., the approximate cost of this project is $300,000.00 with anticipated contributions as follows: UDWR $200,000 vs. Parks $75,000 vs. Carbon County $25,000).</td>
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<tr>
<td>4 County name, legal location, and UTM (NAD 83) coordinates of project area</td>
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<tr>
<td>5 Location maps (one for Utah and one for waterbody)</td>
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</tr>
<tr>
<td>6 Land ownership (Provide ownership and contact information for both the project area as well as adjacent parcels)</td>
<td></td>
</tr>
<tr>
<td>7 Have landowners on project area or adjacent parcels been consulted about project? (e.g., are we poised to avoid later discrepancies regarding installation of facilities or equipment as experienced at Sand Hollow with regard to the fish cleaning station).</td>
<td></td>
</tr>
<tr>
<td>8 Description of existing facility (e.g., currently the boat ramp at this water provides boaters with a two-lane ramp [150 ft. X 70 ft.], two 12-site campgrounds, and a 0.5-acre parking area able to accommodate 40 vehicles with trailers).</td>
<td></td>
</tr>
<tr>
<td>9 Estimated annual use at existing facility/location (e.g., How many visitors frequent this water? What portion of these are anglers? What portion are boaters? What portion of the anglers at this water are fishing from a boat?)</td>
<td></td>
</tr>
<tr>
<td>10 Need (Why is project being undertaken? Emphasis should be placed on enhancement of access, enhancement of sport fishery, or existing conservation activities.)</td>
<td></td>
</tr>
<tr>
<td>11 Objective (What is to be accomplished during the project and how will address the need? This should (a) include detailed descriptions of what is to be accomplished with the time, money, and staffing allocated; (b) specify a recognizable endpoint [e.g., the boat ramp project will be considered complete once disturbed areas have been revegetated and the installed ramp is opened for use]; and (c) be quantifiable and verifiable [i.e., provide a description that that is detailed enough to allow USFWS and UDWR to discern whether the project was completed as described]).</td>
<td></td>
</tr>
<tr>
<td>12 Expected results or benefits of completed project (How will the project benefit existing fish and wildlife resources and the public? This should include quantified resource or public use benefits [e.g., given current use patterns, it is anticipated that the number of angler days at this water will increase by nearly 30% over the next five years. Based upon a one-hour average processing time for each angler day, the increased fish cleaning capacity of the proposed station will be able to accommodate a 40% increase in angler days; preventing crowding and improper disposal of entrails over the next five years.])</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>NEPA compliance documentation (e.g., this action is categorically excluded from documentation in an EA or EIS as it meets criteria identified in FSH 1909.15 Chapter 30 Section 31.12 [repair and maintenance of existing recreation sites and facilities].) If NEPA compliance must be met by completion of EA or EIS, submit copy of the finalized document.</td>
</tr>
<tr>
<td>14</td>
<td>Letter indicating that USACE have been consulted regarding necessary wetland disturbance (e.g., 404) permits and that no permit is required for the outlined action. If a permit is required, construction can not take place until it has been secured.</td>
</tr>
<tr>
<td>15</td>
<td>Provide dimensions and descriptions for proposed installed or constructed components needed for project completion (e.g., How large is the boat ramp? How many yards of concrete will be required? What are the dimensions of the kiosk or shelter?) (include under &quot;Approach&quot; section)</td>
</tr>
<tr>
<td>16</td>
<td>Plan drawings of proposed installed or constructed components.</td>
</tr>
<tr>
<td>17</td>
<td>What equipment will be needed to install or construct project components (e.g., grader will be used to grade areas prior to installation of concrete forms and pouring of concrete) (include under &quot;Approach&quot; section)</td>
</tr>
<tr>
<td>18</td>
<td>Who will be conducting tasks (e.g., county construction crews will conduct all heavy equipment operation. USFS personnel will provide on-site engineering oversight and quality assurance) (include under &quot;Approach&quot; section)</td>
</tr>
<tr>
<td>19</td>
<td>How much earth work will be conducted (Provide the volume of cut material and whether this material will be used as fill in other areas of project). If material will be moved off site, identify the disposal location. (include under &quot;Approach&quot; section)</td>
</tr>
<tr>
<td>20</td>
<td>Detailed budget (Provide a cost estimate for each of the constructed or installed items with a breakdown of personnel, equipment, and material costs associated with each of these. See sheet 2 in this workbook for example.)</td>
</tr>
<tr>
<td>21</td>
<td>Timeline of project. At the very least provide the anticipated number of days required for project completion and the anticipated completion date for overall project.</td>
</tr>
<tr>
<td>22</td>
<td>Letter indicating clearance by Utah State Historic Preservation Office (SHPO)</td>
</tr>
</tbody>
</table>

*Gold indicates that this information should be included in the proposal prior to review by BRFAC and UDWR staff. Blue indicates that this information should be provided to the Council Executive Secretary for projects receiving approval after review. All items (1 - 19) will be needed for creation of USFWS Federal Aid grant proposal to secure Sportfish Restoration Program dollars.*
STATE: Utah  

GRANT NUMBER:_______  

AMENDMENT:_____  

GRANT TITLE: Quail Creek Reservoir Handicap Accessible Fishing Pier  

SEGMENT NUMBER: 1  

SEGMENT PERIOD: July 1, 2008 thru December 31, 2010  

NEED:  

Quail Creek Reservoir is a 590-surface acre reservoir located in Washington County, Utah. The reservoir and Quail Creek State Park are heavily used by recreationists from the nearby cities of Hurricane, Washington, and St. George. The park currently contains 23 camping units, 2 covered groups sites, 2 ramps and restrooms. There were over 100,000 visitors to the park during 2007. A significant portion of the visitors are anglers. The reservoir is managed as a two-story fishery with largemouth bass and rainbow trout and receives substantial fishing pressure during all seasons of the year. As use has increased, the demand for increased access and handicap accessible amenities has grown. Anglers are currently allowed to fish from docks at the primary launch ramp only during the “off-season” for recreational boating (November-February). During a survey between 18 January and 17 February 2008, 14 percent of the visitors to Quail Creek State Park utilized the launch ramp docks for fishing. Increased use by boaters in the future may make the use of the docks for fishing problematic, even during the off-season.  

Users initiated a petition drive in 2006, requesting a handicap accessible fishing pier. A petition containing over 200 signatures was subsequently submitted to management personnel at the Park.  

Fishing waters with handicap accessible amenities are limited in southern Utah. Handicap accessible fishing piers and/or walkways currently are present at only a handful of small ponds in the area.  

PROJECT OBJECTIVES:  

A handicap accessible fishing pier and associated pathway will be constructed within Quail Creek State Park to provide increased fishing opportunities, particularly for handicapped individuals. Parking areas will be increased and designated for handicapped users.  

EXPECTED RESULTS AND BENEFITS:
Access for anglers will be improved and fishing opportunities will increase, particularly for handicapped users.

**APPROACH:**

The Southwest Region of Utah Division of Parks and Recreation (UDPR) and Southern Region Utah Division of Wildlife Resources (UDWR) commissioned a team to identify ways increase or improve access for shore anglers at Quail Creek Reservoir, especially for handicapped users. The team developed a plan to install a fishing pier and associated pathway and parking. Preliminary design and cost estimates were provided by a local engineering firm and a proposal for funding was approved by the UDWR Habitat Council and Blue Ribbon Council. Funding approved by the Blue Ribbon Council includes monies obtained through Federal Aid Grant XXXX.

The fishing pier will consist of 10x20-ft and 10x30-ft floating docks in a T-configuration with a 5x 25-ft gangway (Figure 1). The ramp and landing to the fishing pier will be 508 ft long with a width of 10 ft (Figure 2). It will be constructed of 5 ½” thick concrete over a 6” gravel base. The ramp and pier will include railing as needed to comply with ADA standards. Associated construction will include a retaining wall and landscaping.

The fishing pier and material for the pathway, railing and landscaping will be purchased through standard state purchasing procedures. Material and labor to prepare the area, install the pier, complete landscaping and parking will be provided by State Parks personnel and by donations by local private contractors. UDPR will provide maintenance for the pier and associated facilities.

Purchase of materials and implementation will begin as soon as possible following approval of the grant proposal, tentatively in fall of 2008. Projected completion date: Spring 2009.

**LOCATION:**

Quail Creek Reservoir and Quail Creek State Park are located in Washington County, Utah – Sec 25, T41S, R14W. (Figure 3).

**ESTIMATED COSTS:**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering/ Design</td>
<td>$13,200.00</td>
</tr>
<tr>
<td>Materials for ramp, parking</td>
<td>$37,200.00</td>
</tr>
<tr>
<td>Fishing pier</td>
<td>$45,000.00</td>
</tr>
<tr>
<td>Heavy Equipment/Labor</td>
<td>$88,500.00</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$183,900.00</td>
</tr>
</tbody>
</table>

Total Project Cost: $183,900.00
Federal Aid Share: $41,100.00
EXTERNAL COMPLIANCE ISSUES:

NEPA - In accordance with NEPA compliance this proposed project is considered a "Categorical Exclusion (CX)" according to Department of the Interior Departmental Manual, 516 DM 2, Appendix I - 1.7 and / or Departmental Manual 516 DM 8.5, 1.4B(2), effective May 27, 2004. This is the operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements, which result in no or only minor changes in the use, and have non or negligible environmental effects on-site or in the vicinity of the site.

404 PERMIT - Not needed.

FLOODPLAINS/WETLANDS - The activities described in this proposal will not have any significant effect on any floodplains or wetlands. By repairing the dams the existing wetlands will continue to be maintained.

PRIME AND/OR UNIQUE FARMLAND - The activities described in this proposal are within the boundaries of Quail Creek State Park which contain no prime or unique farmland.

HISTORIC AND CULTURAL PRESERVATION – A survey of the area was conducted in the original NEPA work for construction of the parking area. It concluded the project will have “No Adverse Effect” on historical and cultural resources. The nearest known cultural resources are some petroglyphs located on the other side of the reservoir. On May 22, 2008, a random walk of the beach area, and an informal 15m transect survey of the field found no cultural resources (Appendix A.)

HUMAN HEALTH - The proposed activities will not have disproportionately high and adverse human health or environmental effects on low-income populations, minority populations or Indian tribes.

ENDANGERED SPECIES - The federally listed threatened and/or endangered species for Utah; Washington County (Appendix B) have been consulted concerning impacts from the proposed project. The proposed actions in this grant proposal are not likely to adversely affect any listed species.

Threatened and Endangered Species

The UDWR Washington County Field Office has completed extensive surveys for threatened and endangered species most likely to occur in the project area (desert tortoise, Virgin River chub, and woundfin). None of these species are present near the immediate project area; the proposed project is outside of the geographic distribution of these species and would have no
potential impact on these species. The closest desert tortoise populations occur west of the project area (and west of I-15) in the Red Cliffs Recreation area within Zone 3 of the Red Cliffs Desert Reserve (RCDR) and east of Quail Creek State Park in Zone 4 of the RCDR. Zone 4 of the RCDR is used for translocation of displaced desert tortoises in association of with the Washington County Habitat Conservation Plan. Many tortoises have been released over the last ten years into Zone 4, however Quail Creek Reservoir, the Virgin River, and other topographical features prohibit these tortoises from moving to the west side of Quail Creek Reservoir. Virgin River chub and woundfin are found near Quail Creek State Park in the Virgin River, however these species are restricted to the mainstem river, and there are no current or historic records of these species in Quail Creek or Quail Creek Reservoir.

UDWR Sensitive / Conservation Species

Virgin spinedace occur upstream of Quail Creek Reservoir, west of I-15, in Quail Creek. They also are present downstream of Quail Creek in the mainstem Virgin River, however they do not occur in the reservoir and the project has no potential to adversely impact spinedace.

Gila monsters are found on both the east and west sides of Quail Creek State Park. They inhabit the rocky slopes on the ridges surrounding the reservoir, however they are very seldom found outside of these rocky areas. Over the last 15 years, three gila monsters have been recorded in the main portion of Quail Creek State Park near the project area. This portion of Quail Creek State Park does not contain suitable year round habitat, and all gila monster were found during their peak activity period in April and May when they are most likely to wander from occupied home ranges.
Figure 1. Dimensions of proposed fishing pier.
Figure 2. Location and design of proposed ramp and handicap fishing pier at Quail Creek State Park.
Figure 3. Map showing location of Quail Creek Reservoir and Quail Creek State Park, Washington Co., Utah.
CULTURAL RESOURCES WORKSHEET
PROJECT PLANNING

PARK: Quail Creek State Park

SUBMITTED BY: Kari Carlisle (Fremont Indian State Park and Museum) for Jon Wikan

DATE: 5/28/08

PROJECT NAME: Fishing Platform and Parking Lot

Project Description:

A fishing platform is scheduled to be constructed just south of an existing boat ramp on the shoreline of the reservoir. Between the platform and the existing parking area will be walkways and a wheelchair access ramp. Construction is scheduled to begin August or September 2008. On the opposite side of the parking area from the boat ramp and proposed fishing platform is the area from which fill dirt will be removed from the construction of the project. Later the area will be converted in additional parking, though that phase is not yet scheduled.
Project Location:

The area is located in the SW corner of the SE corner of Section 26, T. 41S, R. 14W. The area is on both sides of an existing parking lot and driveway. The entire area has been disturbed and contains a large amount of fill dirt.

Environmental Setting & Conditions:

The area of the proposed fishing platform and adjacent walkways is rocky beach and fill dirt from the parking lot. The fill dirt for the project is coming from a field/road embankment with creosote, mormon tea, and native grasses and is surrounded on all sides by the main road and a parking lot. Both areas were disturbed or consist of road fill from the construction of the main road and parking lot.

Known Cultural Resources:

A survey conducted when the reservoir and park were established found no cultural resources in the area affected. The nearest known cultural resources are some petroglyphs located on the other side of the reservoir. On May 22, 2008, a random walk of the beach area, and an informal 15m transect survey of the field found no cultural resources.
**Determination Statement:**

A determination of no effect is recommended for this project. The lack of known cultural resources and knowing the areas affected are already disturbed suggests there will be no need for concern.

**Attachments:**

- Project Area Map: USGS, blueprint, and/or sketch map
- Project Photos (hard copy or attach digital)
- Project Work Plan

Send copies to the following:
Matt Seddon, Compliance Coordinator  
Heritage Resources Coordinator  
Division of State History  
300 Rio Grande  
Salt Lake City, UT 84101  
(801) 533-3555  
FAX (801) 533-3503
Appendix B

Utah’s Federally (US F&WS) Listed Threatened (T), Endangered (E) Plant Species in Washington County

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Siler Pincushion Cactus</td>
<td><em>Pediocactus sileri</em></td>
<td>T</td>
</tr>
<tr>
<td>Family Cactaceae</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shivwits or Shem Milkvetch</td>
<td><em>Astragalus ampullarioides</em></td>
<td>E</td>
</tr>
<tr>
<td>Holmgren Milkvetch</td>
<td><em>Astragalus holmgreniorum</em></td>
<td>E</td>
</tr>
<tr>
<td>Family Fabaceae</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwarf Beard-poppies</td>
<td><em>Arctomecon humilis</em></td>
<td>E</td>
</tr>
</tbody>
</table>

Utah’s Federally Listed Threatened (T), Endangered (E) Vertebrate Species in Washington County

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fishes:</td>
<td></td>
</tr>
<tr>
<td>Virgin Chub</td>
<td><em>Gila seminuda</em></td>
</tr>
<tr>
<td>Woundfin</td>
<td><em>Plagopterus argentissimus</em></td>
</tr>
<tr>
<td>Reptiles:</td>
<td></td>
</tr>
<tr>
<td>Desert Tortoise</td>
<td><em>Gopherus agassizii</em></td>
</tr>
<tr>
<td>Birds:</td>
<td></td>
</tr>
<tr>
<td>California Condor</td>
<td><em>Gymnogyps californianus</em></td>
</tr>
<tr>
<td>Mexican Spotted Owl</td>
<td><em>Strix occidentalis lucida</em></td>
</tr>
<tr>
<td>Gray Wolf</td>
<td><em>Canis lupus</em></td>
</tr>
<tr>
<td>Brown (Grizzly)</td>
<td><em>Ursus arctos</em></td>
</tr>
</tbody>
</table>

DEFINITIONS

E A taxon that is listed by the U.S. Fish and Wildlife Service as “endangered” with the possibility of worldwide extinction.

E Experimental An “endangered” taxon that is considered by the U.S. Fish and Wildlife Service to be “experimental and non-essential” in its designated use areas in Utah.

E or T Extirpated An “endangered,” “threatened,” or “candidate” taxon that is “extirpated” and considered by the U.S. Fish and Wildlife Service to no longer occur in Utah.

E or T Proposed A taxon “proposed” to be listed as “endangered” or “threatened” by the U.S. Fish and Wildlife Service.

T A taxon that is listed by the U.S. Fish and Wildlife Service as “threatened” with becoming endangered.