

**Chapter III**

**Agreements  
And Initiatives**



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## Clean Utah!

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During the FY04 PPA period, EPA and UDEQ signed an MOA outlining their commitment to the Clean Utah! program, which encourages regulated entities to take steps beyond compliance to protect and improve the environment. This MOA is incorporated into this PPA by reference (see: [http://www.deq.utah.gov/cleanutah/docs/EPA-UT\\_AGREEMENT\\_3-3.pdf](http://www.deq.utah.gov/cleanutah/docs/EPA-UT_AGREEMENT_3-3.pdf)).

During FY 05, UDEQ will accept Clean Utah! applications on October 15, 2004 and April 15, 2005. It is anticipated that implementing Clean Utah! will take considerable leadership at both EPA and UDEQ. EPA and UDEQ agree that program managers within each Agency are responsible for ensuring the MOA is implemented and appropriately incorporated into planning and accountability processes. Furthermore, managers are responsible to enhance cross-program communication about Clean Utah! activities within each agency to insure the success of the program.

EPA and UDEQ also agree that any Clean Utah! modifications to the inspection schedules agreed to in this PPA will be negotiated jointly and incorporated into the PPA by reference. The Agencies will review the accomplishments and any outstanding issues associated with Clean Utah! and work toward resolutions and improvements as part of the PPA and End-of-Year Joint Evaluation processes.

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## Community-Based Environmental Partnerships (CBEP)

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UDEQ and EPA both recognize that community-based, cross media approaches to addressing environmental issues can be effective and provide for a comprehensive, localized, tailored approach to resolving environmental issues. UDEQ and EPA are committed to this partnership approach as a way of conducting day-to-day activities.

UDEQ, EPA, and the Local Health Departments have undertaken a community-based partnership initiative, utilizing information generated from the first phase of the Department's environmental comparative risk project. This partnership initiative is focused regionally through the State's 12 local health departments and was piloted in 1996 with the Southwestern Utah Public Health Department. The partnership process included discussions with local officials regarding their identification and prioritization of environmental problems. Solutions were then developed by the partners and implemented.

This partnership approach focuses on bringing the three levels of government (federal, state, local) together to solve place-based environmental issues. The approach is consistent with and follows the performance partnership guidance to build upon a strategic planning process, which reflects comparative risk results, public participation and engages local government jurisdictions in

community-based environmental protection activities. This “Partnership for the Environment” approach has been operational for eight years in the Southwest region and six years in the Uintah

Basin. During FY 2005, UDEQ and EPA agree to sustain the partnership efforts on-going in these regions.

UDEQ and EPA agree to work together to further refine measures to better determine the success of community-based protection activities undertaken as part of the partnership. In addition to the partnership with local health departments, UDEQ and EPA are, or will be, jointly supporting community-based environmental protection efforts in:

- ! Utah’s ten watershed management units  
Jordan River/Utah Lake, Bear River, Sevier River Weber River, Upper Green River, Beaver River Virgin River, Great Salt Lake Desert/Columbia River Southeast Colorado River, Western Colorado River
- ! Brownfields and voluntary clean up projects, as appropriate
- ! SL County’s continuing work on its Urban Planning Model
- ! Nonpoint Source Pollution (NPS) with the Department of Agriculture

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### **Compliance/Enforcement Process and EPA WatchList**

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The diagram on page III-3 outlines the general compliance/enforcement process agreed to by UDEQ and EPA. More detailed compliance/enforcement diagrams have been prepared for the Air, Drinking Water, Solid and Hazardous Waste, UPDES and UST programs to address their specific regulatory requirements. These additional process diagrams are contained in Appendix C.

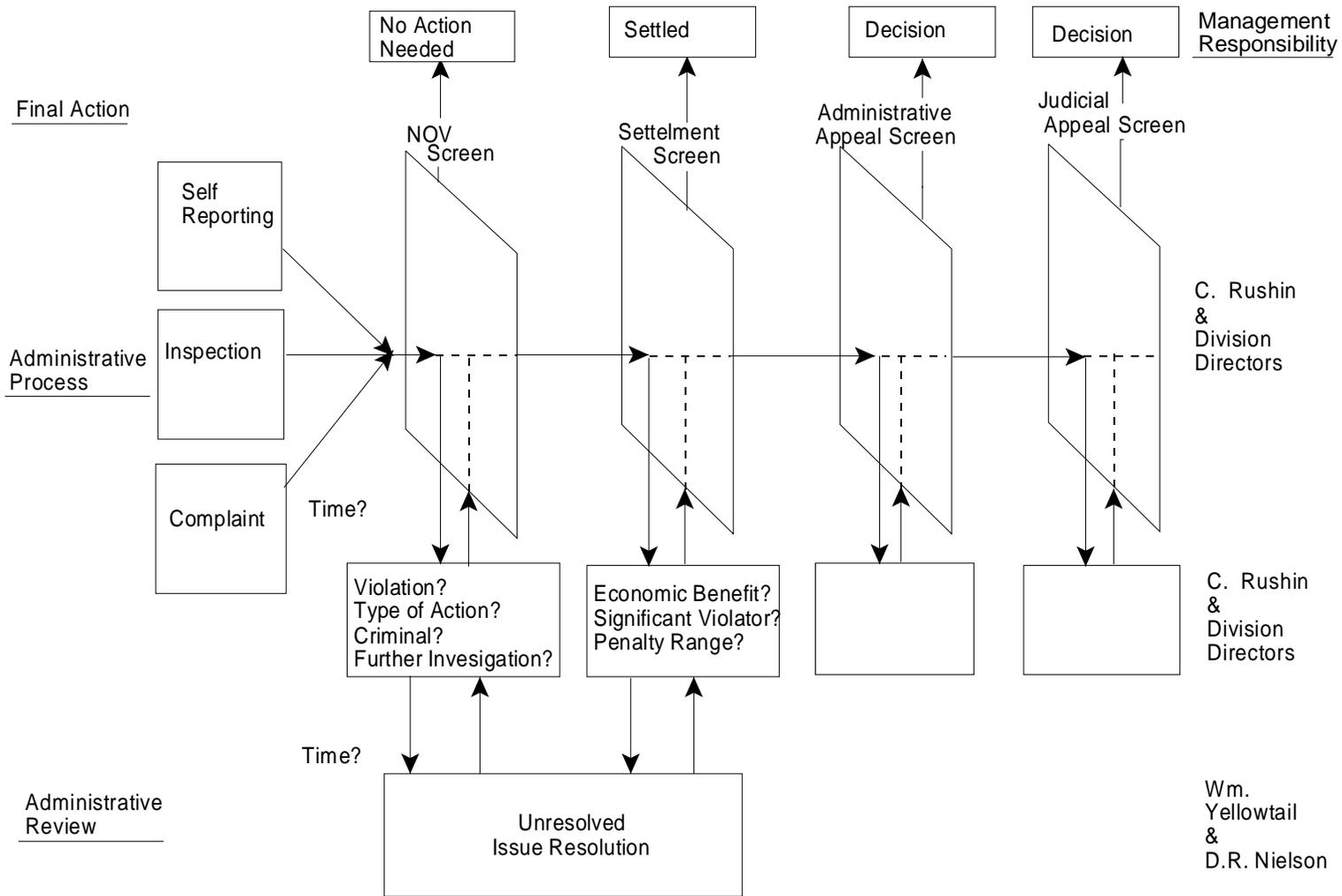
EPA Headquarters (OECA) is developing an enforcement “Watch List” which they describe as “a management tool that enhances the enforcement program’s ability to identify and track facilities with serious violations and no apparent formal enforcement response (has been taken) under the Clean Air Act, the Clean Water Act and the Resource Conservation and Recovery Act.” EPA will compile the list using data contained in their legacy systems, which is known to have errors and reporting gaps. Therefore, EPA and UDEQ agree that UDEQ will be provided an opportunity to:

1. Review and cleanup the data used to create the list;
2. Review and comment on the potential list of facilities for the Watch List;
3. Review and comment on the draft Watch List prior to internal EPA distribution; and
4. Work jointly with EPA to discuss any unaddressed facilities and to coordinate a plan to address them (which may include work-sharing).

UDEQ and EPA further agree to develop a process to insure these opportunities for data correction,

review, and comments are met.

# COMPLIANCE/ENFORCEMENT PROCESS



5/14/1999

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## **Results Based Management**

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This PPA includes the FY 2000 Core Performance Measures negotiated subsequent to the "Addendum To 1997 Joint Statement on Measuring Progress under the National Environmental Performance Partnership System: Clarifying the Use and Applicability of Core Performance Measures" signed by EPA and ECOS on April 22, 1999. CPM's are highlighted in the UDEQ Goals and Objectives section.

UDEQ and EPA will discuss improved measures of results during the period covered by this agreement. The intent is to identify measures that are mutually agreeable to UDEQ and EPA.

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## **Emerging Issues**

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If both parties agree, UDEQ and EPA will reopen the PPA and amend to address emerging issues not originally discussed during the PPA negotiations. This "reopener clause" is intended to address new issues that emerge during the PPA period. In addition, during the course of this agreement, UDEQ and EPA will examine how a "reopener clause" will operate for a future, multi-year, single definitive document.

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## **Environmental Information Management Initiative (EIMI)**

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The concept of the Environmental Information Management Initiative (EIMI) is that the Utah Department of Environmental Quality (DEQ) will "develop an understanding of Utah's environment and enhance environmental protection decision making by sharing quality information with anyone at anytime". One of our goals is to deliver accurate data to the public, businesses and other interested parties on a 24 x 7 basis through the Internet in a simple, integrated and seamless process.

The EPA Network Readiness Grant will assist our department to work toward this goal by allowing us to leverage our investment of resources and technology to meet the objectives of EIMI, improve data management and increase the efficiencies of data flow and data exchange. The work plans for the EPA grants secured to support EIMI are incorporated in this PPA by reference.

Using the EIMI business plan, we will have a template to guide DEQ through the transitions and development of new systems and tools to make data environmental information available, accessible and useful to support our business. This plan will help us focus on data integration, data quality and data integrity as well as redesign of DEQ data flows and business processes.

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### **Environmental Justice (EJ)**

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UDEQ and EPA agree that “Environmental Justice (EJ) means the fair treatment and meaningful involvement of people of all races, income, and cultures with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment implies that no person or group of people should shoulder a disproportionate share of negative environmental impacts resulting from the execution of environmental programs.” UDEQ and EPA agree to conduct all of their base regulatory programs within the framework and spirit of this EJ principle. UDEQ and EPA agree to communicate about EJ issues, grant outreach, and Grantee activities in Utah and continue to assist, upon request, EJ grant funded activities in the state. Lastly, UDEQ and EPA agree to exchange information, which, if appropriate, may give rise to opportunities for addressing additional EJ issues. EPA is prepared to offer EJ training to UDEQ for the purpose of increasing understanding and improving clarity about EJ concepts and application. UDEQ and EPA will discuss the applicability of this training to UDEQ programs.

EPA will provide the state access to its environmental justice Geographic Information System and other environmental justice tools and resources, as requested.

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### **Implementation of Goals and Measures**

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By entering into this agreement, UDEQ and EPA agree to implementation of the goals and measures

contained herein. The EPA commits to fund UDEQ in the amounts specified in the Performance Partnership Grant application. Should final appropriations be different (i.e. more or less) than these amounts, both parties may renegotiate the goals and measures outlined in this agreement.

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### **Quality Assurance Program/Quality Management Plan (QMP)**

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UDEQ continues to operate an EPA approved Quality Assurance Program that meets or exceeds federal requirements for all programs and provides input into the regional/national databases. The quality assurance plans developed by UDEQ for the RCRA, CWA, CAA, delegated programs are incorporated into this agreement by reference and will be reviewed annually by UDEQ and updated with the technical assistance of EPA as appropriate.

The aforementioned quality assurance language has been in Utah's PPA since FY 97. To meet the requirements of the latest EPA Order 5360.1 on Quality Management Plans, dated May 5, 2000, we are also providing the Internet link to our Quality Management documents. The UDEQ and EPA agree that this direct Internet link provides access to documentation that is "equivalent" to a QMP being prepared and submitted. The direct URL's for this site is:

[http://www.deq.utah.gov/references/planning/EPA\\_QMP.htm](http://www.deq.utah.gov/references/planning/EPA_QMP.htm)

<http://www.epa.gov/quality/qs-docs/5360-1.pdf>--EPA Order 5360.1

<http://www.epa.gov/quality/qs-docs/r2-final.pdf>--EPA Guidance on QMPs

<http://www.epa.gov/quality/qs-docs/r5-final.pdf>--EPA Guidance on QAPPs

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### **Supplemental Environmental Projects**

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EPA and UDEQ agree that Supplemental Environmental Projects (SEP's) can and should appropriately be used as a part of certain environmental compliance settlements.

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## **Training**

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UDEQ and EPA agree to jointly identify training opportunities to support the goals and objectives in this PPA. During FY05, EPA agrees to conduct training for UDEQ in support of UDEQ's leadership succession efforts. Specifically, EPA will provide the following course and facilitators during FY05: A Building Trust and Resolving Differences, schedule for November 16, 2004 at UDEQ.

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## **Utah Base Program**

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The Utah Department of Environmental Quality (UDEQ) certifies that it has, maintains, and implements adequate programs in conformance with federal and state law and regulations and conditions set forth in authorizing documents (delegation, MOA's, enforcement agreements) for the following federal laws: the Clean Water Act (CWA); the Safe Drinking Water Act; the Resource Conservation and Recovery Act (RCRA); the Clean Air Act (CAA); the Pollution Prevention Act; the Toxic Substances Control Act; and the National Environmental Policy Act. This agreement is not intended to and does not supersede authorization/delegation packages or enforcement agreements.

### **Currently Utah has the following delegated programs:**

#### CAA

- Air Toxics (Partial)
- NESHAPS
- New Source Review (SIP)
- NSPS
- PSD (SIP)
- Title V

#### CWA

- Construction Grants

- Non-Point Source (SIP)
- NPDES Water Quality Permits
- Pretreatment
- Sludge Management (Biosolids)
- State Revolving Fund (SRF)
- Water Quality Standards (SIP)

#### FIFRA

- Enforcement
- Groundwater Protection (SIP)
- Pesticides Certification
- Worker Protection Safety

#### RCRA

- Base Program
- Boilers & Industrial Furnaces (Interim)
- Corrective Action
- Land Disposal Restr. 1/3 Wastes
- Land Disposal Restr. 2/3 Wastes
- Land Disposal Restr. 3/3 Wastes
- Land Disposal Restr. California Waste
- Land Disposal Restr. Construction & Demo Wastes
- Mixed Waste
- Solid waste
- Toxicity Characterization
- UST

#### SDWA

- Drinking Water
- UIC Class V (General)
- UIC Class II (Petroleum Related)
- Wellhead Protection (SIP)

#### TSCA

- AHERA Waiver (Enf)
- Asbestos (MAP)

CERCLA (Non-Delegable)

EPCRA (Non-Delegable)