



State of Utah

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**MAR 02 2015**

Department of  
Environmental Quality

Amanda Smith  
Executive Director

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

Dear Commenter:

RE: Response to Comments related to the Permanent Closure of the East Culvert of the Great Salt Lake Causeway, 401 Water Quality Certification No.: SPK-2011-00755, March 2, 2015 (Certification).

The purpose of this letter is to acknowledge and respond to all public comments received on the *Permanent East Culvert Closure and Bridge Construction, Great Salt Lake Railroad Causeway Project* (Project). Specifically, public comments were received to the issuance of the Project 401 Water Quality Certification (Certification), the associated Level I Anti-degradation Review (ADR), and the related Proposed Compensatory Mitigation and Monitoring Plan (CMMP). The Utah Division of Water Quality (DWQ) would like to also acknowledge and respond to public comments regarding the Level II ADR to Temporarily Close the East Culvert of the Union Pacific Railroad Causeway across the Great Salt Lake. The Public Notice and Comment Period for these items and action began on Wednesday, January 11, 2015 through Friday, February 21, 2015. We received comments from: Compass Minerals Ogden, Incorporated (CMO), Western Resources Advocates representing Friends of Great Salt Lake; U.S. EPA Region 8; and Union Pacific Railroad. For ease of organization, the comments have been grouped into one document with a combined response. I hope this information will aid in your understanding on how our program is configured and how the UPRR plans to proceed with this Project.

The Division would like to thank you all for the time and effort you made in compiling and submitting comments for this project.

Sincerely,

 Walter L. Baker P.E.  
Director

WLB:BD:mc

Enclosures: Responsive Summary

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Utah Department of Environmental Quality, Division  
of Water Quality Response to Public Comments  
related to the  
***Permanent Closure of the East Culvert and Bridge  
Construction, Great Salt Lake Railroad Causeway,***  
401 Water Quality Certification No. SPK-2011-  
00755.

March 2, 2015

The text of the comments are restated verbatim in italics. Some of the comments are broken into subparts for purposes of the Division of Water Quality's (DWQ) response. To view each respondent's complete comment letter on-line visit: <http://www.deq.utah.gov/locations/G/greatsaltlake/railroadcauseway/index.htm>. For the purpose of abbreviating DWQ's response to public comment the term Certification refers to the Water Quality Certification No.: SPK 2011-00755 March 2, 2015.

### **Compass Minerals**

#### **UPRR Coompensatory Mitigation and Monitoring Plan and Anti-degradation Review**

##### Comment 1 (1.1)

*The initial concept of a 180' bridge contemplated in 2012 was associated to a simple model developed to best match pre-culvert closure water and salinity transfer between the North and South Arms of the Great Salt Lake. Subsequent modelling has revealed that the 180' bridge did not meet that objective to replace arm-to-arm transfers water and salt transfers function that was previously provided by the free-flowing east and west culverts; the 180' design created numerous imbalances, all skewed towards higher transfers of salt and water, and therefore did not meet objectives. UPRR subsequently modified its bridge design to a 150' span to meet original project objectives. Nonetheless, the project has evolved, and taken on a hybrid design of including a 180' bridge, with a 150' opening, that will be realized by filling the bridge opening (narrowing the opening) with rock fill. Under Adaptive Management though, the rock fill may be modified to either increase or decrease the span opening, based on assessment of conditions relative to the overall mitigation objectives. It would appear based on modelling, however, that increasing the opening will create imbalances relative to the objective. To that end, based on current modelling, Compass Minerals would not support future modifications that would increase the width of the opening beyond 150 feet.*

##### 1.0 DWQ Response

DWQ recognizes that Compass Minerals is concerned about increasing the opening beyond 150 feet. As stated, the project objective is to duplicate, as closely as possible, the aquatic function (water and salt transfer) lost due to the closure of the East and West Culverts by constructing a new adaptable causeway opening. Any modifications or berm openings would require UPRR to submit a remediation plan that could have a public comment period associated with it and we would welcome input from Compass Minerals at that time. No changes were made in response to this comment.

##### Comment 2 (1.2)

*CMO has concerns that the proposed rock fill would have a higher hydraulic conductivity than current compacted embankment materials, and therefore, a rock fill used to constrict the opening would have a higher transmissivity than the modelled 150' bridge opening (which would be positioned between in-situ embankment fill). Therefore, it is possible that the effective opening, if the rock fill has a higher transmissivity than in-situ embankment fill, would enable flow volumes higher than modelled volumes of a 150-*

*foot bridge, increasing water and salinity transfers beyond the predicted model. If the rock fill does have a higher transmissivity, the width of the rock fill should be narrowed accordingly to account for this difference so the effective water and salt transfer is that same as the modelled 150 bridge with in-situ embankment fills on either side.*

#### 1.2 DWQ Response

South Arm Water Quality (Salinity) Performance Standards have been established to confirm that the project is duplicating the water and salt transfer that was previously provided by the free-flowing culverts. If this function is not duplicated, UPRR must undertake an adjustment to the causeway opening as outlined in the January 2015 CMMP. No changes were made in response to this comment.

#### Comment 3 (1.3)

*The proposed period of monitoring of 5 years seems inadequate as changes over the large GSL system may take years to develop, and recognizable, significant trends even longer.*

#### 1.3 DWQ Response

Condition No. 3.D. of the Certification describes the process by which DWQ will determine whether and when monitoring will cease. The minimum monitoring period is 5 years but this could be extended if the Director determines it is needed to ensure compliance with agreed performance standards. If the Director approves the completion report after the 60 day public notice, the monitoring program and adaptive management may cease. However, prior to UPRR receiving the Director's approval of the completion report a Long-Term Management Memorandum of Understanding must be signed with UPRR and the Utah Department of Natural Resources that defines each party's legal, financial and regulatory role relating to, in part, the control berm and causeway opening modifications in the long-term. No changes were made in response to this comment.

#### Comment 4 (1.4)

*Key ions specific to lake mineral extraction operations, including potassium, sodium, magnesium and sulfate should be sampled and monitored during all sampling events.*

#### 1.4 DWQ Response

To meet the project objective of duplicating the function (water and salt transfer) of the culverts DWQ has accepted salinity measured as Total Dissolved Solids and converted to percent salinity as a surrogate for water quality which is comprised of the key ions mentioned in the comment. The key ions are regularly sampled by the Utah Geological Survey and could be considered as part of long-term adaptive management of the causeway opening. No changes were made in response to this comment.

#### Comment 5 (1.5)

*The as-built causeway Opening Geometry Performance Standard with an error range of 10% may create flow conditions that are significantly above or below objectives. The allowable performance standard error factor should be reduced.*

### 1.5 DWQ Response

DWQ accepted the error range of 10% for the opening geometry performance standard because the project must also meet the salinity performance standards ranges to ensure the transfer of salt and water as defined by the project objectives. South Arm Water Quality (Salinity) Performance Standards have been established to confirm that the project is duplicating the water and salt transfer that was previously provided by the free-flowing culverts. If this function is not duplicated, UPRR must undertake an adjustment to the causeway opening as outlined in the January 2015 CMMP. No changes were made in response to this comment.

### Comment 6 (1.6)

*Prior to issuance of any permit, UPRR should respond to Utah State University modelling efforts that found much different water salinity transfers than what had been modelled by the UPRR team. Responses should be made public and subject to additional comment and inquiry.*

### 1.6 DWQ Response

Although the comment specifically requests a response from UPRR, DWQ will also provide a response since a deficiency in the UPRR modeling effort is implied. DWQ assumes that the comment refers to the causeway modeling effort and report Modeled changes to Great Salt Lake salinity from railroad causeway alteration (White et al. 2014) prepared by Utah State University under a grant from Utah Division of Forestry, Fire and State Lands. DWQ was aware of and has reviewed this study. Both the USU and UPRR modeling efforts relied upon modifications to the same original USGS Great Salt Lake Water and Salt Balance Model. There were differences in the methodology and approach between the two studies that make comparison of results difficult; however, the results and conclusions from the USU study do not contradict the appropriateness of the UPRR model, which was peer-reviewed by DWQ and USGS, and the design methodology used by UPRR to size the geometry of the bridge opening. In addition, the proposed bridge includes a control berm that allows for adaptive management of the opening, which helps address the uncertainty associated with the modeling effort. DWQ notes that the comment does not provide any specificity about how the UPRR model might be considered to be inadequate. UPRR's full response to all public comments, including this comment, are available on-line at:

<http://www.deq.utah.gov/locations/G/greatsaltlake/railroadcauseway/index.htm>.

No changes were made in response to this comment.

### Comment 7 (1.7)

*Quarterly reports generated by UPRR should be made public.*

### 1.7 DWQ Response

All documents submitted to DWQ by UPRR will be made available on the Division of Water Quality's website. No changes were made in response to this comment.

## U.S EPA Region 8

**Draft Clean Water Act (CWA) Section 401 Water Quality Certification (WQC)  
for the permanent closure of the East Culvert  
Compensatory Mitigation and Monitoring Plan**

Comment 8 (2:1)

*The proposed bridge design includes a control berm that could be adjusted with relatively minimal effort or disruption to operations; therefore, the CMMP should provide for berm adjustments without undue assessment or delay if the salinity performance standard is not achieved and a rapid response is deemed necessary.*

2.1 DWQ Response

Currently as proposed under the January 2015 CMMP it would take 14 months from the first quarter that exceeds the Salinity Performance Standard ranges to complete a berm adjustment, accounting for a 1 month time period to receive USACE and DWQ permission to implement the remediation plan. One full hydrologic year is required to account for seasonal variability and DWQ is therefore in acceptance of the timeframe to achieve the Salinity Performance Standard Ranges outlined in January 2015 CMMP. In addition, the DWQ Director has the general authority and discretion under the Utah Water Quality Act, including 19-5-109 that “allows for change in a condition that requires either a temporary or permanent reduction or elimination of the permitted discharge”. No changes were made in response to this comment.

Comment 9 (2.2)

*We recommend the State also consider a condition that acknowledges the UDWQ Director's discretion to require adaptive management whenever performance standards are not met or the salinity values are adversely affecting aquatic life uses of the lake, particularly if UDWQ determines that more timely action would be needed to maintain water quality and aquatic life uses of the lake.*

2.2 DWQ Response

This requested change was considered at length. The DWQ Director has the general authority and discretion under the Utah Water Quality Act, including 19-5-109 that “allows for change in a condition that requires either a temporary or permanent reduction or elimination of the permitted discharge”. This authority does not need to be restated in the Certification. No changes were made in response to this comment.

Comment 10 (2.3)

*We recommend the CMMP be revised to more clearly describe and limit the purpose of the proposed model update and calibration. Specifically, we recommend the purpose be revised to state that the sole purposes of the model update are to determine what contributed the salinity to be outside established range (e.g., abnormal precipitation event vs. the berm) and to determine the appropriate berm modifications for adaptive management.*

2.3 DWQ Response

In response to this comment and others, additional tasks were added to Certification No. 3.C. to clarify what a UPRR/USGS Model update would consist of and will be included in the revised CMMP per Certification No.3.H. Condition 3 also clarifies that UPRR will be responsible for adaptive management unless it is demonstrated that the deviation from the Salinity Performance Standard Ranges is not project caused.

#### Comment 11 (2.4)

*We recommend that the WQC condition clarify that results of this impact assessment will be provided in the subsequent quarterly and annual reports in order to provide timely information to the UDWQ and the USACE on the potential effects to the aquatic resources of the lake for informing adaptive management decisions.*

#### 2.4 DWQ Response

UPRR is responsible to initiate the Impact Assessment to the aquatic resources after the 2nd quarter monitoring results that exceed the Salinity Performance Standard Ranges. This information will be provided with the Annual Report submitted by UPRR to DWQ and made available to the public on DWQ's website.

#### Comment 12 (2.5)

*We acknowledge that development of additional performance standards will be necessary when water surface elevations (WSE) fall below or rise above the WSE identified in the Historic and Modeled ranges in the CMMP. We recommend the State consider a WQC condition that directs the UPRR to coordinate with the UDWQ and resource agencies in developing these performance standards to ensure that proposed performance standards support the ecological resources of the lake. Particularly for low lake levels, extrapolated salinity values may be too high to support aquatic life uses, thus a simple extrapolation of historic/modeled values may not be the most appropriate way to develop additional performance standards.*

#### 2.5 DWQ Response

Noted in the Certification, Condition No. 3.A.1., UPRR shall update and extend the UPRR model using the same methodology used to derive the original Salinity Performance Standard Ranges at the new elevation. The condition also acknowledges that UPRR may submit an alternative methodology for DWQ consideration to determine the appropriate salinity ranges such as extrapolation of the Salinity Performance Standards Ranges. This alternative would only be implemented if the Director concurs.

#### Comment 13 (2.6)

*We recommend that the State provide additional information on the State's goals and intentions for the long-term management of the lake, as well as information on how this long-term management will be financed. We also recommend the State consider how this MOU could be used to develop a long-term management plan.*

#### 2.6 DWQ Response

The long-term management of the Great Salt Lake remains a high priority for DWQ. To demonstrate this, Certification Condition No. 3.E., the Long-Term Memorandum of Understanding (MOU), will have to be signed by DWQ, UPRR, and the Utah Department

of Natural Resources, prior to the Director granting cessation of monitoring and mitigation responsibilities by UPRR. The purpose of this MOU is to document a commitment on the part of the signatories to continue monitoring and to engage in long-term management of the bridge structure, control berm and causeway opening. DWQ envisions a Salinity Management Advisory Council that would periodically evaluate the salinity of Gilbert Bay and Gunnison Bay and associated effects of resources and make recommendations to state agencies for adaptive management.

### **Union Pacific Railroad**

### **Draft Clean Water Act (CWA) Section 401 Water Quality Certification (WQC) for the permanent closure of the East Culvert Compensatory Mitigation and Monitoring Plan**

#### Comment 14 (3.1)

*~~UPRR must acquire all necessary easements, access authorizations and permits to ensure they are able to build the bridge. Meeting this requirement will fulfill the easement requirement stated in condition #4 of 401 Water Quality Certification SPK 2011-00755 dated December 16, 2013.~~*

*Proposed Condition 1 should be removed from the 401 Certification.*

#### 3.1 DWQ Response

It is reasonable and appropriate for DWQ to require that property ownership questions be settled. UPRR has proposed to build a mitigation structure critical to the success of its mitigation proposal on property about which DWQ is aware of a significant ownership dispute. No changes were made in response to this comment.

#### Comment 15 (3.2)

*Proposed Condition 2 should be modified as follows:*

*The installation of the Bridge and Control Berm will be completed in substantial conformance with the description as outlined in Section 3.7.1 and Appendix A of the Proposed CMMP by December 31, 2016, unless this action is prevented by an Act of God or by a delay in agency approval. In the event that the bridge and control berm construction is delayed due to UPRR's failure to comply, or the Director may take appropriate action to ensure completion.*

#### 3.2 DWQ Response

Certification No. 1 has been revised to reflect these comments. The phrase "in substantial conformance with the description" was not incorporated into the Certification because the final design plans have not been received by DWQ. Rather than "Act of God", DWQ chose the following language, "unless the action is prevented or delayed by a force majeure or by a delay in approval." The rest of the suggested language was incorporated into the condition.

Comment 16 (3.3)

*Proposed Condition 3 Should Be Modified as Follows:*

*During the period the Certification is in effect, UPRR shall allow the Director, or authorized representatives, upon the presentation of credentials and other documents as may be required by law, and in compliance with all UPRR and legal safety requirements, to:*

- a. *enter upon UPRR Causeway where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the Certification;*
- b. *have access to and copy, at reasonable times, any records that must be kept under the conditions of this Certification;*
- c. *inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operation regulated or required under this Certification; and*
- d. *sample or monitor at reasonable times, for the purpose of assuring Certification compliance or as otherwise authorized by the CWA, any substances or parameters at any location in the project area associated with this Certification.*
- e. *DWQ Inspections during the bridge implementation phase will be at Director's discretion in coordination with UPRR.*

3.3 DWQ Response

Certification No. 2 reflects some of the changes suggested in this comment. The language "During the period the Certification is in effect" was not included because DWQ is "authorized to enter upon any property, premise, or places at a reasonable time for official purposes to determine compliance with Utah laws and regulations." The Certification cannot limit this authority. The language "in the project area associated with the Certification" because DWQ considers the project area to be the entire Great Salt Lake. The rest of the suggested language was incorporated into the condition.

Comment 17 (3.4)

*Proposed Condition 4 Should Be Modified as Follows:*

*UPRR must adhere to all elements defined in the CMMP, unless otherwise approved by the Director, including these clarifications and modifications:*

- a. *Adherence to the outlined mitigation objectives, maintenance, performance standards, schedule and reporting time-frames, monitoring and adaptive management elements.*
- b. *A Long Term Management Memorandum of Understanding (MOU) will be drafted and proposed that defines each party's (including UPRRs) legal, financial and regulatory role relating to control berm access and modifications after the UPRR monitoring period ends. The relevant parties and their roles must be proposed by UPRR in the draft MOU defined and the MOU signed no later*

*than 6 months prior to proposing the Director granting cessation of the monitoring period and the relinquishing of adaptive management responsibility as defined in the Approved CMMP. The proposed MOU must be public noticed for a minimum of 30 days.*

#### 3.4 DWQ Response

Certification No. 3.E reflects some of the changes suggested in this comment. The suggested language "proposed by UPRR in the draft MOU defined and the MOU signed no later than 6 months prior to proposing the Director granting" was not incorporated into the Certification because DWQ requires that the MOU be developed cooperative and signed by all parties to ensure long-term adaptive management. The rest of the suggested language was incorporated into the condition.

#### Comment 18 (3.5)

*Condition 4.c. should be removed from the certification:*

*e. — An assessment of effects to aquatic life uses will be conducted after two consecutive quarters when the ambient monitoring results are outside Modeled and Historic salinity ranges identified in Table 3-7, of the Proposed CMMP or after two consecutive quarters when the ambient monitoring results are outside the Historic but inside the Modeled salinity range*

#### 3.5 DWQ Response

DWQ has removed this condition from the Certification. DWQ agrees that the timeline described in the CMMP is sufficient to ensure compliance with the Salinity Performance Standards and the condition as drafted was not reflective of DWQ's intent. UPRR is responsible to initiate the Impact Assessment to the aquatic resources after the 2nd quarter monitoring results that exceed the Salinity Performance Standard Ranges. This information will be provided with the Annual Report submitted by UPRR to DWQ and made available to the public on DWQ's website.

#### Comment 19 (3.6)

We have added an additional condition to set the date for the annual report submittal (underlined).

*Water quality monitoring results will be reported to DWQ within 45 days of monitoring or as otherwise approved by the Director. The annual report shall be submitted by February 1 of each year following the reporting period.*

#### 3.6 DWQ Response

Certification No. 3.G. has been amended to reflect this change.

#### Comment 20 (3.7)

*The provision to hold a public notice and comment period on any remediation plans associated with the project (as described in Proposed CMMP Section 3.12.1) is at the Director's discretion.*

**UPRR Comment:** *The adaptive management provisions are already subject to public comment. Given UDWQ's concern about delays in implementing adaptive management, it may not be necessary to hold another public comment period on a specific adaptive management measure that is already described in 3.12.1.*

### 3.7 DWQ Response

DWQ agrees that unnecessary delays to implement adaptive management are a concern. However, the provision to be able to consider public comment as described in Certification No. 3.B. is important because DWQ values stakeholder input in lake management decisions. No changes were made in response to this comment.

### Comment 21 (3.8)

*Submittal of a revised Quality Assurance Project Plan (QAPP) and Sampling and Analysis Plan (SAP) will be within ~~90~~ 120 days of receiving Director approval of the Final CMMP. The QAPP must meet all EPA Requirements for Quality Assurance Project Plans (EPA/240/B-0011003).*

### 3.8 DWQ Response

Certification No.3.I. reflects the recommended changes. DWQ agrees that 120 days is a reasonable timeframe for submission of the QAPP and SAP.

### Comment 22 (3.9)

*A request for cessation of monitoring will include a report that will document the results of the monitoring during the ~~first~~ five year monitoring period after bridge and berm completion and describe any long-term changes in flow and salt transfer associated with the project in relation to the lake salinity and beneficial uses of the Great Salt Lake, anti- degradation policy, numeric criteria and narrative standards. The Director will notify UPRR in writing if the report is approved. If the report is not approved, the Director will provide UPRR with a detailed description of the deficiencies. UPRR will submit a revised report addressing these deficiencies within 60 days of receiving notification, unless an alternative time period is approved by the Director. Cessation of monitoring and termination of the certification will be approved with report approval when five years of monitoring demonstrates consistency with the salinity performance standard as described in CMMP Section 3.10. If the Director disapproves the request, UPRR and DWQ shall meet and consider which aspects of the monitoring program should continue and any additional terms of monitoring. The Director's disapproval shall be appealable as a "permit order" pursuant to Utah Code Section 19-1-301.5.*

### 3.9 DWQ Response

Certification No. 3.D. reflects some of the changes suggested in this comment. Approval or disapproval of deliverables specified under this Certification is subject to agency review under Utah Code Ann. Section 19-1-301.5. Therefore, it does not need to be restated in the Certification. Although the language suggested for cessation of monitoring was not adopted verbatim, the revised Certification is consistent with the suggested text and is detailed in the CMMP. The rest of the suggested language was incorporated into the condition.

Comment 23 (3.10)

*Condition 5 should be modified as follows:*

*As further provided in Condition 8, during construction of the bridge and earthen berms, Best Management Practices (BMPs) are required to minimize the erosion- sediment load to adjacent waters during project construction activities. Sediment retention efforts will be put in place at all drainage areas along the construction corridor to minimize movement of sediment into the water courses. ~~Depending on location these could range from silt fencing to sediment retention basins or deeper storm drain vaults.~~ Failure to implement appropriate BMPs may result in a Notice of Violation of the Utah Water Quality Act.*

3.10 DWQ Response

Certification No. 4 reflects the recommended changes suggested in this comment. UPRR is responsible for implementing appropriate BMPs during construction and must obtain appropriate permits as detailed in Certification No. 6.

Comment 24 (3.11)

*The Project name should be corrected. UPRR requests that UDWQ revise the project name to be "Permanent East Culvert Closure and Bridge Construction, Union Pacific Causeway, Great Salt Lake Utah."*

3.11 DWQ Response

Refer to the Certification Project Name for indicated changes in response to this comment.

Comment 25 (3.12)

*Project Location: The description of the location of the new causeway opening should be revised.*

3.12 DWQ Response

Refer to Certification Project Location for indicated changes in response to this comment.

**Western Resource Advocates on behalf of Friends of the Great Salt Lake.**  
**Draft Clean Water Act (CWA) Section 401 Water Quality Certification (WQC)**  
**for the permanent closure of the East Culvert**  
**Compensatory Mitigation and Monitoring Plan.**

Comment 26 (4.1)

*Five Years is Too Short a Mitigation and Monitoring Period.*

4.1 DWQ Response

Condition No. 3.D. of the Certification describes the process by which DWQ will determine whether and when monitoring will cease. The minimum monitoring period is 5 years but this could be extended if the Director determines it is needed to ensure compliance with agreed performance standards. If the Director approves the completion report after the 60 day public notice, the monitoring program and adaptive management may cease. However, prior to UPRR receiving the Director's approval of the completion report a Long-Term Management Memorandum of Understanding must be signed with UPRR and the Utah Department of Natural Resources that defines each party's legal, financial and regulatory role relating to, in part, the control berm and causeway opening modifications in the long-term. No changes were made in response to this comment.

Comment 27 (4.2)

*State Agencies Should Not be Responsible for Long-Term Management of the Control Berm.*

4.2 DWQ Response

The issues surrounding the long-term management of the control berm have not been completely resolved. However, please refer to Certification Condition No. 3.E. and Response Comment No.: 2.6, and 1.3 in response to this comment. The objective of UPRR's project is relatively narrow, to duplicate the function of free flowing culverts that were closed. The adaptive management tools provided by the project will benefit the State of Utah should lake managers and stakeholders determine that the lake would benefit from an altered salinity regime in the future.

Comment 28 (4.3)

*Adaptive Management Decisions Should Not be Limited to DWQ and the U.S. Army Corps of Engineers.*

4.3 DWQ Response

In the short-term, any adaptive management decisions associated with this permit will be made in consultation with partnering agencies and will incorporate comments from the public and stakeholders. Adaptive management decisions in the long-term will be made through a process to be defined in a Memorandum of Understanding described in Condition No. 3.E. DWQ envisions a Salinity Management Advisory Council that would periodically evaluate the salinity of Gilbert Bay and Gunnison Bay and associated effects of resources and make recommendations to state agencies for adaptive management.