



# 2016 DRINKING WATER STATE REVOLVING FUND INTENDED USE PLAN

## Safe Drinking Water Act - Protecting America's Public Health





## **2016 DWSRF INTENDED USE PLAN**

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## **SECTION A: Drinking Water State Revolving Fund (DWSRF)**

### A-1 Plan Introduction:

The national Drinking Water State Revolving Fund (DWSRF) program established by the Safe Drinking Water Act (SDWA) Amendments of 1996, authorizes the U.S. Environmental Protection Agency (EPA) to award capitalization grants to states, which in turn may provide low-cost loans and other types of assistance to eligible public water systems to finance the costs of infrastructure projects needed to achieve or maintain compliance with SDWA requirements. States are also authorized to set-aside a portion of their capitalization grants to fund a range of activities including administration, technical assistance, source water protection, capacity development, and operator certification.

The Utah Legislature enacted Utah Code Annotated (UCA) 19-4-101 et seq. establishing the Utah Safe Drinking Water Board (Board). UCA 19-4-104 empowers the Board with rule making authority to meet the requirements of federal law governing drinking water. UCA 19-1-105 establishes the Division of Drinking Water (DDW) which is tasked with the responsibility to administer UCA 19-4-101 et seq. The Board has promulgated rules for making loans incorporating the requirements of the Federal Safe Drinking Water Act at Utah Administrative Code (UAC) R309-705. Additionally, the Board is authorized by UCA 19-4-104(1)(a)(v) and 19-4-104(2) to promulgate rules for certification of operators and governing capacity development in compliance with Section 1419 and 1420 of the Federal Safe Drinking Water Act.

In the 2012 Legislative Session, the Utah Legislature changed the Board make-up by enacting various changes in UCA 19-4-103. The primary change was a reduction of board members from eleven to nine, primarily to be more efficient. A new or revised Board is in place and seems to be running well. The Board's purpose did not change. The responsibility of the Board is to develop policies and procedures for program implementation and to authorize loans in the DWSRF program. The Utah Department of Environmental Quality (DEQ) through DDW directly administers the DWSRF program. The DDW's primary DWSRF activities include administering loans and managing and coordinating the fund.

DDW receives assistance and support from the DEQ's Office of Support Services, the State Division of Finance, the State Attorney General's Office and the State Treasurer's Office. The salaries and benefits of the employees, as well as indirect costs based on direct salary costs, are charged to the DWSRF program. Employees charging time to the DWSRF program are covered by the State of Utah personnel benefits plan. The DWSRF program is charged a loan administration fee by the Division of Finance.

The DWSRF program requires the states to deposit to the loan fund an amount equal to at least 20 percent of the capitalization grant. Loan repayments made by assistance recipients return to the loan fund and provide a continuing source of financing. The following table summarizes awards received by DDW, the allocation between loan and set-aside funds and the required state 20% match.

Table 1								
Summary of DWSRF Grants								
June 30, 2015								
Federal Fiscal Year	Award Dated	Award Allocation						State 20% Match
		Total		Loan Fund		Set-Aside Funds		
		Amount	%	Amount	%	Amount	%	
1997	February 9, 1998	\$ 12,558,800	100%	\$ 9,755,575	77.679%	\$ 2,803,225	22.321%	\$ 2,511,760
1998	September 20, 1999	\$ 7,121,300	100%	5,633,563	79.109%	1,487,737	20.891%	1,424,260
1999	May 1, 2000	\$ 7,463,800	100%	6,019,720	80.652%	1,444,080	19.348%	1,492,760
2000	August 21, 2000	\$ 7,732,000	100%	6,515,880	84.272%	1,216,120	15.728%	1,551,400
2001	September 7, 2001	\$ 7,789,100	100%	6,542,844	84.000%	1,246,256	16.000%	1,557,820
2002	July 30, 2002	\$ 8,052,500	100%	6,384,100	79.281%	1,668,400	20.719%	1,610,500
2003	August 1, 2003	\$ 8,004,100	100%	6,473,444	80.877%	1,530,656	19.123%	1,600,820
2004	July 1, 2004	\$ 8,303,100	100%	6,724,604	80.989%	1,578,496	19.011%	1,660,620
2005	June 23, 2005	\$ 8,285,500	100%	6,709,820	80.983%	1,575,680	19.017%	1,657,100
2006	June 29, 2006	\$ 8,228,900	100%	6,583,120	80.000%	1,645,780	20.000%	1,645,780
2007	June 27, 2007	\$ 8,229,400	100%	6,562,696	79.747%	1,666,704	20.253%	1,645,880
2008	July 31, 2008	\$ 8,146,000	100%	6,516,800	80.000%	1,629,200	20.000%	1,629,200
2009	May 19, 2009	\$ 19,500,000	100%	18,915,000	97.000%	585,000	3.000%	0
2009	June 28, 2009	\$ 8,146,000	100%	6,822,275	83.750%	1,323,725	16.250%	1,629,200
2010	June 16, 2010	\$ 13,573,000	100%	11,401,320	84.000%	2,171,680	16.000%	2,714,600
2011	July 1, 2011	\$ 9,418,000	100%	7,440,220	79.000%	1,977,780	21.000%	1,883,600
2012	June 12, 2012	\$ 8,975,000	100%	6,590,250	73.429%	2,384,750	26.571%	1,795,000
2013	June 26, 2013	\$ 8,421,000	100%	6,224,890	73.921%	2,196,110	26.079%	1,684,200
2014	June 9, 2014	\$ 9,229,000	100%	6,779,460	73.458%	2,449,540	26.542%	1,845,800
2015	June 8, 2015	\$ 9,169,000	100%	6,645,060	72.473%	2,523,940	27.527%	1,833,800
	<b>Total</b>	<b>\$ 186,345,500</b>	<b>100%</b>	<b>\$ 151,240,641</b>	<b>81.161%</b>	<b>\$ 35,104,859</b>	<b>18.839%</b>	<b>\$ 33,374,100</b>

Utah's DWSRF program produced the following results through SFY15:

Utah's DWSRF fund utilization rate at the end of SFY15 was 83%. From the beginning of the program thru FY 2015 the DWSRF fund has provided drinking water assistance to communities of approximately \$216.2 million, \$261.9 million was available.

In SFY15, Utah entered into seven binding commitments for a total of \$22,426,227. As of January 31, 2016, DWSRF has seven projects authorized by the Drinking Water Board totaling \$9,978,892, with two more loans which already closed in the first half of FY 2016 totaling \$2,032,000. The calculation of the utilization rate as of December 31, 2015 has been maintained at an 83% utilization rate. We anticipate closing the authorized loans at a rate similar to the historic rate, thereby maintaining an 83% utilization rate.

The allotment between states is based on state needs surveys. DDW was allocated one and four hundredth percent for the federal fiscal years 2014 through 2017. The needs survey process is currently underway for the years 2018 through 2021.

DDW will continue to contract with Rural Water Association of Utah (RWAU) to assist small public water systems. They anticipate assisting approximately 200-300 water systems with capacity development or technical assistance.

The State Auditor, in compliance with the provisions of the Single Audit Act, audits the DWSRF accounts. DWSRF accounts are also subject to review and audit by USEPA, the Office of the Inspector General. DWSRF Funds are included in Utah's Comprehensive Annual Financial Report (CAFR), which uses the modified accrual bases of accounting. Because funds are combined the DWSRF assets, liabilities, and net assets are not identifiable in Utah's CAFR.

The State is required to submit an annual Intended Use Plan (IUP) to EPA as long as the Fund or set-aside accounts remain in operation.

DDW under the direction of the Board administers the loan and set-aside programs.

The DWSRF program and procedures are expected to primarily continue similarly as is described in the Operating Agreement.

## A-2 DWSRF Loan Program:

The loan program funds low-cost loans and other types of financial assistance to publicly owned and privately owned community water systems and non-profit non-transient water systems to finance the costs of infrastructure projects. States are responsible for developing a priority system that identifies how projects will be ranked for funding and a list of projects, in priority order, that are eligible for funding. A description of the criteria and the method used for distribution of loan funds is outlined in Utah Administrative Code R309-705.

### Loans Program Eligibility Requirements

1. Repayment must begin no later than one year after completion of the project.
2. Loan repayment must be complete no later than 20 years after the completion of the project. A disadvantaged community loan may have up to 30 years as long as the period of the loan does not exceed the expected design life of the project.
3. A minimum of 15% of all dollars credited to the loan fund must provide loans to small systems, those that serve fewer than 10,000 persons.
4. Funding can be used for principal forgiveness for communities meeting the State's "Disadvantaged" criteria. The Board has defined disadvantaged communities as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission from federal individual income tax returns excluding zero exemption returns or where the established annual cost of drinking water service to the average residential user exceeds 1.75% of the median adjusted gross income.
5. The 2016 DWSRF capitalization grant requires exactly 20% of the federal funds to be used for additional subsidization in the form of principal forgiveness, negative interest loans, or grants, or any combination of these. This will be defined in the programmatic conditions of the award and will be followed as defined.
6. The American Iron and Steel provision was included in the federal FY16 appropriation bill for

the 2016 DWSRF capitalization grant. It requires iron and steel products used during the construction of drinking water projects be produced in the United States. DDW intends to follow this requirement and request a waiver for an exception when necessary.

7. The 2016 capitalization grant does not require any “Green Infrastructure Projects”.
8. Construction bids are required to use Davis-Bacon Act wage rules.

#### Interest and Fees:

1. Federal rules section 1452 allows the state to assess interest and/or fees. Fees are calculated and paid in the same manner as interest. Fees have fewer restrictions than interest. The Board has authorized by Rule the establishment of a fund (or account) into which the proceeds of annual fees are placed.
2. Interest payments are deposited to the same loan fund as principal payments and have the same restrictions.
3. Hardship fees are deposited to a separate fund authorized for providing grants to water systems through a state revolving fund (SRF) loan program.
4. Technical Assistance fees are to finance technical assistance for eligible water systems or other purposes as allowed by section 1452. This fee is part of the “effective rate” calculated using Table 2, R309-705-6. UAC R309-705-3 defines a SRF Technical Assistance Fund which means a fund (or account) that will be established for the express purpose of providing “Technical Assistance” to eligible drinking water systems. These fees are deposited into the hardship fee fund and are tracked separately. The Technical Assistance Fund will also provide low interest loans for technical assistance, and any other eligible purpose as defined by Section 1452 of the SDWA Amendments of 1996, to water systems that are eligible for Federal SRF loans. Repayment of these loans may be waived in whole or in part (grant funds) by the Board whether or not the borrower is disadvantaged.
5. Origination Fee: The Utah State Legislature established an origination fee to be charged to all new loans to fund the administration of the DWSRF program in accordance with UCA 73-10c-10. The set fee of 1% continues to be the rate charged by the Board. It is reviewed annually and may change based on the needs of the program. The origination fee amount is assessed to the loan recipient as a percentage of the principal balance of the loan. It is generally paid at closing as a one-time fee, but the loan recipient may choose to pay separately or with their first pay request from the loan proceeds. All proceeds are deposited into a separate fund. Since fees will be deposited into an account outside of the Fund, they will only be used for program administration or other purposes for which capitalization grants can be awarded under section 1452. Currently, these fees will not be used for any state match requirements. In addition, this fee will not be charged to any disadvantaged community which receives a loan subsidy provided from DWSRF funding.

#### State fund Drinking Water Loan Program:

The Division of Drinking Water also operates a State funded Drinking Water Assistance Program. The state program provides Utah the flexibility to put together loan packages without the restrictions that accompany the DWSRF program. The DWSRF program requires a 20% state match which is generated from the state SRF loan program.

### A-3 Set-Asides:

In addition to loan assistance to eligible public water systems, the DWSRF program also emphasizes the prevention of drinking water contamination by allowing states to reserve a portion of their grant to fund activities that encourage enhanced water system management and source water protection. The funded activities are referred to as set-aside funds. Set-aside activities include:

- 1) Up to four percent of the allotment to administer the DWSRF and provide technical assistance to public water systems;
- 2) Up to ten percent of the allotment for state program management activities, including administration of the state public water system supervision program, administration of the source water protection program, development and implementation of the capacity development and operator certification programs. This set-aside requires a dollar-for-dollar match. However, 40 CFR 35.3535 (d) (2) allows a credit of up to half of the state match from the 1993 state match credit of \$855,668. Other sources of state match have been reviewed for optional additional match including:
  - a. Operation Certification fees (which would require an exemption from program income).
  - b. Hardship grant funds (which may require a Legislative appropriation).
  - c. Loan Origination Fees (these may only be used if the fees are being paid from the water system and not deducted from the loan being issued).

Currently there is sufficient state match available with general funds and funds from the state water development security fund to cover the 1:1 state match.

- 3) Up to two percent of the allotment to provide technical assistance to small public water systems;
- 4) Up to 15 percent of the capitalization grants to assist in the development and implementation of local drinking water protection initiatives, including capacity development, wellhead protection and other state programs.

## **SECTION B - Intended Use Plan:**

### **B-1 Summary, Financial Status and Goals:**

An Intended Use Plan (IUP) explains how the state will use all funds available from the capitalization grant, including funds that will be allocated to the set-asides. Specifically, the IUP describes how DDW plans to use available funds. Funds are received from the federal capitalization grants, the state match, loan repayments including interest and fee payments, and investment earnings.

The state is applying for the 2016 DWSRF appropriation in the amount of \$8,674,000. DDW is requesting \$5,903,760 to be added to the loan fund and \$2,770,240 to the set-aside program. The federally mandated 20% state match of \$1,734,800 will be funded from the Drinking Water State loan program and will be available to transfer into the DWSRF fund within 90 days of the award date.

#### **The Intended Use Plan (IUP) is for the 2016 DWSRF appropriations and will include:**

- 1) Specifics on how the Board proposes to use the appropriations;
- 2) A description of the goals of the DWSRF program;
- 3) A list of projects eligible to receive DWSRF funding, which identifies those serving less than 10,000 people;
- 4) Cost estimates for listed projects;
- 5) An estimate of funds anticipated to be available for financial assistance;
- 6) Criteria for selecting projects to receive financial assistance;
- 7) Criteria for determining which communities qualify for hardship status;
- 8) The project scoring and ranking system;
- 9) Projects authorized for funding and those anticipated to be closed in FFY2016 and the 1<sup>st</sup> or 2<sup>nd</sup> quarter of FFY2017.

#### **Short and Long-Term DWSRF Goals:**

The DWSRF program will help ensure Utah's drinking water supplies remain safe and affordable, and drinking water systems are properly operated and maintained. The objectives of the DWSRF program include ensuring the public health, achieving compliance with SDWA, and assisting systems to provide affordable drinking water.

#### **Short-Term Loan Program Goals**

1. Seek the award of the FFY 2016 Capitalization Grant to secure federal funding for the DWSRF program and follow all the grant requirements.
2. To identify water systems in need of capital improvements, willing and able to meet DWSRF requirements.



3. Work diligently with borrowers to secure authorization of funding from the Board and closing loans in a timely and efficient manner to DWSRF loan applicants in greatest need.
4. To provide a permanent and solvent source of funding to assist communities with financing water systems' capital improvements to maintain compliance with USEPA standards and promote public health.
5. Migrate SDWIS data due to the SDWIS upgrades and redevelop the DDW databases that interrelate with SDWIS. Create a section for SRF tracking in Waterlink.

#### Long-Term Goals and the Set-Aside Goals

1. To help public water suppliers achieve and maintain compliance with Federal and State drinking water standards.
2. Continue outreach activities to ensure systems understand DWSRF assistance options and the need to develop managerial, technically and financially sound water systems.
3. Continue to educate and support water suppliers with their water protection (counter-terrorism) efforts.
4. Continue to improve communication with Local Health Departments (LHD) and develop sanitary survey cost models to base funding allocation to LHD's work activities.
5. Continue to expand and automate the Operator Certification program.
6. Continue to improve the reporting of analytical data to DDW.
7. Maintain and improve the SDWIS/WATERLINK database system. Assist migration to SDWIS PRIME.
8. Continue identifying noncompliant water systems using the ETT (Enforcement Target Tool) to assist them to provide safe drinking water to the public.
9. Continue to develop an electronic management system providing easier access to and storage of essential documents.
10. Provide web access to a predetermined list of standard reports such as: monitoring schedules, IPS reports, inventory reports, and Operator CEU's.
11. Improve the reporting of analytical data to DDW by enabling the electronic transfer of laboratory analytical data from LHD labs.

**Transfer and Cross-Collateralization of Funds between the DWSRF and CWSRF:**

Section 302 of the SDWA authorizes the transfer up to 33 percent of the amount of a fiscal year's DWSRF program capitalization grant to the CWSRF program or an equivalent amount from the CWSRF program to the DWSRF program. There has been no transfer of funds and no transfers are anticipated.

**Withholding of Funds:**

EPA has the ability to withhold funds under certain provisions, but the DWB/DDW has complied with the following:

1. The State has authority to ensure all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each drinking water regulation in effect. Utah Code Annotated 19-4-104 empowers DDW with rule making authority to meet the requirements of Federal law governing drinking water.
2. The State has developed and is implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.
3. The State has adopted and is implementing a program for certifying operators of community and nontransient, noncommunity public water systems.

EPA has approved the State's capacity development and operator certification programs.

**Public Review of the IUP:**

A draft IUP was published on the Drinking Water web site, [www.drinkingwater.utah.gov](http://www.drinkingwater.utah.gov) in February 2016. Notice of the posting and request for public comment will be included in the Board's March 3rd, 2016 meeting. Minutes were e-mailed to approximately 200 interested individuals and agencies asking for review and comments. Comments may be made in writing addressed to the Board at 195 North 1950 West, PO Box 144830, Salt Lake City, Utah 84114-4830 or in person at a regular scheduled Board meeting.

Comments will be accepted for approximately one month and incorporated into the set-aside work plan (due to EPA 90 days from grant award date); however no comments are anticipated to be received.

**Financial status:**

Initial capitalization for the Utah DWSRF program was provided from the 1997 Federal Capitalization Grant and state matching dollars. For the 18 years, 1997 through 2015, DWSRF capitalization grants totaled \$186,345,500. \$151,240,641 was the total loan program portion and \$35,104,859 was used in the set-aside programs. The State 20% match for the same period was \$33,374,100 was added to the loan program. Through January 31, 2016 the Board has authorized about 156 projects totaling approximately \$254,000,000. 127 projects totaling \$218,175,728 have been closed (committed) and six additional projects totaling \$9,565,600 have been authorized by the Board but have not been closed (not committed). DDW anticipates two projects totaling of over \$23,000,000 to be authorized in the next Board meeting. Revenue, disbursements and balances are shown in the financial statements thru June 30<sup>th</sup>, 2015.

DDW is applying for \$8,674,000 using the 1.04% allocation and based on allocations by

USEPA. \$5,903,760 will be provided to the loan fund and \$2,770,240 to set-asides. The state 20% match of \$1,734,800 will be transferred to the loan fund within 90 days of the award date. It is anticipated adequate state match will be available to meet the 1:1 match of \$1,267,400 and it will be expensed during the year from state appropriations or other state funding. However if state funding is not fully available to meet the entire 1:1 match, the balance will be met by the PWSS credit of 1993 totaling \$855,688, not to exceed more than 1/2 of the state match.

In fiscal year 2015, the Utah State Legislature appropriated \$800,000 from the State SRF. It was however, only a one-time appropriation and did not continue in 2016. It appears the appropriation will be reinstated as on-going funding in fiscal year 2017, but it has been necessary to spend down the 10% set-aside to continue to operate. Therefore, some of the reserve funds from previous capitalization grant years will be requested to cover the 2016 gap and to maintain a small cushion in the 10% set-aside. The 10% reserve amount of \$1,255,000 will be reduced \$400,000 leaving a balance of \$855,000. An additional \$100,000 will be used from the 4% set-aside leaving a balance of \$1,048,760. Table 2 identifies the maximum set-asides which could be requested if every possible set-aside percentage and all reserves were applied for in the 2016 capitalization grant.

TABLE 2 MAXIMUM AVAILABLE SET-ASIDE AWARDS W/STATE MATCH IF ALL RESERVES WERE USED THIS YEAR				
ACTIVITY	PROG. ELEM.	RESERVE BALANCE	2017 Maximum w/20% state match	
Loan Fund	16DA		3,580,000	1,734,800
4% Administrative Set-Aside			346,960	4%
4% reserve amt		1,148,760	1,148,760	
Maximum 4% w/ max reserves	16DD		1,495,720	
2% Small Sys.Tech. Asst. max =	16DE	no reserve	173,480	2%
10% State Program Set-Aside max =	867,400			
10% reserve amt		1,255,000	1,255,000	16.21%
PWS Supervision			867,400	10.0%
Capacity Development Oversight			0	0.0%
Source Water Protection			0	0.0%
Operator Certification			0	0.0%
TOTAL State Program Set-Aside	16DF		2,122,400	10%
15% Local Assistance Set-Aside max=		no reserve		
Local Assistance			0	0%
Capacity Development Outreach			867,400	10.0%
Source Water Assessment			0	0%
Wellhead Protection			435,000	5.0%
TOTAL Local Assistance Set-Aside	16DG		1,302,400	15.0%
No more than 10% in one category				
TOTALS	15.0%	2,403,760	7,525,240	1,734,800
TOTAL CAPITALIZATION GRANT =		<u>8,674,000</u>		
TOTAL AMOUNT FOR LOAN FUND including state match		5,314,800		

<b>SOURCES AND USES TABLE 3</b>				
<b>SOURCES:</b>	Cumulative Total through 6/30/15		7/1/15-6/30/16	Cumulative Total through 6/30/16
Federal Capitalization Grants	\$86,345,500	a	\$8,674,000	\$195,019,500
State Match				
20% Capitalization Grant Match	33,374,100	b	1,734,800	35,108,900
10% Set-Aside 1:1 Match	16,774,230		1,267,400	18,041,630
Principal Repayments on Assistance Provided	63,194,756		6,242,245	69,437,001
Interest Repayments on Assistance Provided	10,262,492		1,342,848	11,605,340
Investment Earnings	3,667,958		300,000	3,967,958
Fees Deposited into the DWSRF	0	c	0	0
Funds Transferred from (to) CWSRF	0		0	0
<b>SOURCES TOTAL</b>	<b>\$313,619,036</b>		<b>\$19,561,293</b>	<b>\$333,180,329</b>
<b>USES:</b>				
Loan/Grant Agreements Entered:				
Large Systems (>10,000 population)	\$56,463,595		\$ 0	\$56,463,595
Small Systems (>10,000 population)	159,680,006		2,032,000	161,712,006
<i>Additional Subsidy</i>	<i>34,177,150</i>		<i>1,906,600</i>	<i>36,086,750</i>
Auth projects with loans pending	0		9,565,600	9,565,600
Projects submitted not yet authorized	0		23,200,000	23,200,000
Projects not yet submitted (2 <sup>nd</sup> round)	0		25,860,624	25,903,699
<b>SET-ASIDES:</b>				
<b>4% Administration</b>	6,305,954		446,960	6,752,914
<b>2% Small System Technical Assistance</b>	3,727,307		173,480	3,900,787
<b>10% State Program Management- 1:1 mat</b>	16,774,230		1,267,400	18,041,630
<i>PWSS Program Augmentation</i>	<i>14,057,764</i>		<i>1,097,400</i>	<i>15,155,164</i>
<i>Source Water Administration</i>	<i>1,257,825</i>		<i>105,000</i>	<i>1,362,825</i>
<i>Operator Certification</i>	<i>882,395</i>		<i>50,000</i>	<i>932,395</i>
<i>Capacity Development Program Oversight</i>	<i>330,778</i>		<i>15,000</i>	<i>345,778</i>
<i>PD Database</i>	<i>620,000</i>		<i>0</i>	<i>620,000</i>
<b>State Program Management Subtotal</b>	<b>33,922,992</b>		<b>2,534,800</b>	<b>36,457,792</b>
<b>15% Local Assistance/Other State Programs</b>				
<i>Local Assistance &amp; Capacity Development Outreach</i>	<i>6,123,606</i>		<i>867,400</i>	<i>6,991,006</i>
<i>Capacity Development Project in 1998</i>	<i>997,537</i>		<i>0</i>	<i>997,537</i>
<i>Source Water Assessments</i>	<i>352,978</i>		<i>0</i>	<i>352,978</i>
<i>Wellhead and GIS tracking</i>	<i>448,715</i>		<i>15,000</i>	<i>463,715</i>
	0		0	0
<b>LA/Other State Program Subtotal</b>	<b>7,922,836</b>		<b>1,301,100</b>	<b>8,805,236</b>
<b>USES TOTAL</b>	<b>\$268,022,690</b>		<b>\$65,157,639</b>	<b>\$333,180,329</b>

- a. Total federal appropriation thru FFY 2016 Capitalization Grant. DDW uses a fifo methodology for Unliquidated Obligations which can be found in Table 6 "2016 and 2017 Cash Flows and Cash Draw Proportionality" Page 16
- b. State General Fund Match thru FY 2016
- c. DDW does not leverage any of their SRF funds.
- d. 20% State match for 2016 Capitalization Grant will be deposited to fund prior to June 30th, 2016
- e. 10% 1:1 State Match is the award amount and may include a 1993 PWSS credit of not more than \$855,668 for some years
- f. 2016 repayments are estimated

## B-2 LOAN PROGRAM:

UAC R309-705 establishes criteria for financial assistance to public drinking water systems in accordance with the Federal SDWA. A copy of UAC R309-705 can be found at <http://www.rules.utah.gov/publicat/code/r309/r309-705.htm>. The 2015 DWSRF capitalization grant along with carry forward funds, repayments, interest and fee payments, and investment earnings provides the funds the Division has available to help public water systems finance needed drinking water projects.

For the last few years Utah has experienced lower than normal interest from drinking water systems in applying for financial assistance through the DWSRF program. DDW staff routinely promotes the program and encourages water systems to apply for financial assistance at conferences, in presentations and training sessions, and through letters written to both water system administrative contacts and consulting engineers. Although DDW is aware of the need for drinking water system infrastructure improvement projects at systems throughout the state, to date these efforts have produced limited results. DDW will continue to explore ways to better communicate with drinking water systems, advertise the DWSRF program, and encourage decision-makers that now is a good time to improve system infrastructure to maintain compliance with regulations.

A list of authorized and proposed projects requiring funding is listed next in Table 4.

<b>TABLE 4</b>						
<b>AUTHORIZED FUNDING</b> as of 1/31/2015						
Community	Loan #	Green Amt	Type	Loan Amt	Forgiveness	Total
White Hills Wtr Co	3F226			519,000	518,000	1,037,000
West Erda Improvement District	3F233			883,000	739,600	1,622,600
Liberty Pipeline	3F236			669,000		669,600
Fillmore City	3F239			2,152,000		2,152,000
Fairfield Culinary Water System	3F252			580,000	580,000	1,160,000
Eagle Mountain City	3F254			2,895,000		2,895,000
Woodenshoe Water Company	3F247				413,292	413,292
<b>PROPOSED PROJECTS</b>						
Community	Loan #	Green Amt	Type	Loan Amt	Forgiveness	Total
Juab Co General				21,000,000		21,000,000
North Fork SSD				2,200,000		2,200,000
				<b>\$30,928,000</b>	<b>\$2,250,892</b>	<b>\$33,178,892</b>

Green Legend Type	
G = Green Infrastructure	E = Energy Efficiency
W = Water Efficiency	O = Other Environmentally Innovative Activities
* = If identified as a green project it will note categorical exclusion (c) or business case (b).	

This list will be used for the 2016 DWSRF capitalization grant and any other funds used for loans. Projects authorized by the Board but which have not been closed are entered in the section titled “Funds Authorized”. Staff is working with these systems to meet EPA requirements to close the loans.

The following identifies and explains systems which submitted applications and were scored and placed in the project priority list or were previously included in the 2015 Intended Use Plan, but have not been funded with federal DWSRF funds:

1. Dutch John: Daggett Co - Dutch John’s authorization was funded from the state revolving loan fund. They required substantial subsidization and the 2015 capitalization grant program had already met its subsidization requirement.
2. Plymouth Town: Plymouth Town was scored on the priority project list as is most projects submitted to DDW. After further review of the project, DDW decided to fund Plymouth Town’s project from the state revolving loan fund.
3. Ticaboo Utility Imp Dist: Ticaboo was funded from the state revolving loan fund and closed in July 2015. They required substantial subsidization and the 2015 capitalization grant program had already met its subsidization requirement.
4. West Erda Improvement District: The scope of work has changed since funding was authorized. DDW anticipates closing sometime this summer.
5. White Hills Water Co: The White Hills Water Company (WHWC) service area was annexed into Eagle Mountain City. The current project will make improvements to the water system which will facilitate the conveyance of WHWC to the city. The legal criteria for executing a transfer agreement between the two water systems resulted in delays. DDW anticipates a loan closing for the 2016 construction season.

### **Green Infrastructure:**

The 2016 capitalization grant does **not** require projects to meet a minimum percentage to be used for water efficiency, energy efficiency, green infrastructure, or other environmentally innovative activities. However, DDW is always pursuing green projects including technological innovations to enhance green development.

## Utah Federal SRF Program – Table 5

			Priority Points	Project Priority List						Authorize	
				Total Unmet Needs = \$238,631,042			Total Needs, incl. recently funded = \$248,609,934			\$9,978,892	
		Green		System Name	County	Pop.	Project Title	Project Total	Request DWB	Funds Authorized	
<b>N</b>			<b>90.5</b>	North Fork SSD	Utah	1,500	New tank and well	\$2,408,354	\$2,210,350		
<b>N</b>			<b>22.8</b>	Old Meadows	Iron	41	Replace Distribution System	\$338,747	\$413,292		
<b>N</b>			<b>18.3</b>	Greenwich Wtr Assn	Piute	67	Chlorination bldg., solar service & a totalizing meter	\$131,300	\$131,300		
<b>N</b>			<b>1.0</b>	Juab Co	Juab	??	Regionalization supply line	\$27,000,000	\$21,000,000		
<b>A</b>			<b>82.6</b>	West Erda	Tooele	158	Connect West Erda and Tooele Airport to Erda Acres	\$1,801,331	\$1,801,331	\$1,622,600	
<b>A</b>			<b>32.2</b>	Fairfield Culinary Wtr System	Utah	35	New well, pump station, tank	\$1,130,000	\$565,000	\$1,160,000	
<b>A</b>			<b>25.5</b>	Fillmore City	Millard	2,260	Waterline replacement	\$2,255,556	\$2,555,556	\$2,152,000	
<b>A</b>			<b>22.5</b>	White Hills Water	Utah	419	Waterline replacement, tank rehad, new PRV	\$1,047,168	\$1,047,168	\$1,037,000	
<b>A</b>			<b>21.5</b>	Wooden Shoe Wtr	Summit	47	Replace distribution system	\$413,292	\$413,292	\$413,292	
<b>A</b>			<b>11.4</b>	Eagle Mountain	Utah	25,593	New waterline and pump station	\$3,395,763	\$2,895,763	\$2,895,000	
<b>A</b>			<b>4.8</b>	Liberty Pipeline Company	Weber	2,504	New well	\$743,954	\$698,647	\$699,000	

	<p><b>N = New Application</b></p> <p><b>A = Authorized</b></p> <p><b>P = Potential Project- no application</b></p>	<p><b>E= Energy Efficiency</b></p> <p><b>W= Water Efficiency</b></p> <p><b>G= Green Infrastructure</b></p> <p><b>I= Environmentally Innovative</b></p>	
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**TABLE 6 – 2016 and 2017 CASH FLOWS AND CASH DRAW PROPORTIONALITY**

SUBRECIENT	LOAN NO	BINDING CLOSED DATE (EST)	CONSTR START DATE (EST)	TOTAL ULO's and new loan amounts	FFY 2016 Ending 9/30/16				SFY 2017 Ending 6/30/17		
					QTR 1 (O-D 15)	QTR 2 (J-M 16)	QTR 3 (A-J 16)	QTR 4 (J-S 16)	QTR 1 (O-D 16)	QTR 2 (J-M 17)	QTR 3 (A-J 17)
<b>2015 closed loans not fully disbursed as of 1/1/2016</b>											
Boulder Farmstead Wtr Co	3F225	Oct-15		\$150,000		\$ 150,000	\$	\$	\$	\$	\$
Cedarview Montwell	3F188	Dec-13	Apr-13	350,000			350,000				
Herriman	3F194	Mar-15	Apr-15	800,000		500,000	300,000				
Taylor-West Weber Water	3F234	Jul-15	Apr-15	3,845,060		1,500,000	1,500,060	845,000			
<b>Est 2016 &amp; 2017 closed loans</b>											
White Hills Wtr Co	3F226	Mar-16	Apr-16	\$1,037,000		537,000	250,000	250,000			
Fairfield Cul Wtr Sys	3F252	Mar-16	Apr-16	1,160,000		540,000	420,000	200,000			
Eagle Mountain City	3F254	Mar-16	Apr-16	2,895,000		463,000	800,000	500,000		532,000	600,000
Fillmore City	3F239	Apr-16	Apr-16	2,552,000			500,000	800,000	752,000	500,000	
West Erda Imp Dist	3F233	Jul-16	Aug-16	1,622,600				500,000	250,000	250,000	622,600
Liberty Pipeline	3F236	??		699,000							699,000
<b>TOTALS</b>				\$15,110,660		\$3,690,000	\$ 4,120,060	\$ 3,095,000	\$ 1,002,000	\$ 1,282,000	\$ 1,921,600
2015 SRF AWARD #FS 99878415					\$ 9,169,000	Fed Share	\$2,150,000	\$2,995,060	\$ =		
Federal Share					6,645,060	State Share	\$ -	\$ -	\$ -		
State Match calculated w/proportionality ratio of 21.6% (fully trnsfrd into projects by 4/15)					1,833,800	Fed Share	100%	100%	100%		
						State Share	0%	0%	0%		
2016 SRF AWARD #FS 99878416					\$ 8,674,000	Fed Share	\$ -	\$ 930,200	\$ 3,095,000	\$ 1,002,000	\$ 876,560
						State Share	\$1,540,000	\$ 194,800	\$ -	\$ -	\$ -
						2 <sup>nd</sup> Round				\$ 405,440	\$ 1,921,600
Federal Share					\$ 5,903,760	Fed Share	0%	82.7%	100%	100%	68%
State Match proportionality ratio of 22.711%					\$ 1,734,800	State Share	100%	17.3%			
All State match will be deposited into projects escrow accounts prior to transferring any federal portion						2 <sup>nd</sup> Round				32%	100%

Additional information: 1. The 20% state match is transferred 100% into the DWSRF fund when the DWSRF grant is awarded (within 90 days).  
 2. All federal funds are disbursed using a fifo method (first in first out).



## **Description of Criteria and Method Used for Distribution of Loan Funds:**

The complete description of the criteria and method used for distribution of funds is outlined in Utah Administrative Code (UAC) R309-705-6. As described in R309-705-6, the priority system assigns points to systems showing a deficiency in source, storage, treatment, and/or the distribution system. Points are assigned based on the relative risk of each deficiency, and are divided as applicable between health risk and compliance with SDWA. The applicant's priority points are modified by a financial factor, known as the Rate Factor, and the AGI Factor. Their calculation is shown below:

Priority rating = (Average number of points received) X (Rate Factor) X (AGI Factor)

Where: Rate Factor = (Average System Water Bill / Average State Water Bill)

AGI Factor = (State Median AGI/ System Median AGI)

The priority points for demonstrated deficiencies are multiplied by the Rate Factor and AGI Factor to arrive at a final priority rating. This method addresses financial hardships present in less affluent communities and in those already experiencing higher water rates.

Upon arriving at a final priority rating for each applicant, each application is rated and added to the priority list. The Board may, at its option, modify a project's priority rating based on the conditions described in R309-705. The Board sets the effective interest, hardship fee and/or technical assistance fee rate and decides the amounts allowed for principal forgiveness or grants. The most current Revenue Bond Buyer Index (RBBI) is used as the base rate. Table 2 in UAC R309-705-6 is used to determine the reduction of the interest rate (or other rate) which potentially may be reduced to zero percent.

## **Project Priority List:**

DDW operates with a continuous project priority list. When applications are received throughout the year, they are reviewed to ensure compliance with federal and state drinking water regulations and scored based on the rating factors indicated in the previous paragraph. Currently, all applications meeting requirements are prepared to be taken to the Board for authorization. (The Board is required by Utah law to meet at least quarterly.) Since the applications are submitted throughout the year and may be scored and closed quickly, on occasion a water system project may not have been included in any intended use plan. However, the continually updated PPL is posted on the division website and additions or changes are approved by the Board.

## **Green Infrastructure:**

The 2015 capitalization grant does **not** require projects to meet a minimum percentage to be used for water efficiency, energy efficiency, green infrastructure, or other environmentally innovative activities. However, DDW is always pursuing green projects including technological innovations to enhance green development.

### **Assistance for Disadvantaged Communities:**

Section 1452 (d) changed in the 2009 session to require states to provide a minimum of 20 percent additional loan subsidies in the form of negative interest, grants or principal forgiveness to benefit communities meeting the State's definition of "disadvantaged". The 2012 session maintained the minimum requirement to 20 percent, but reinstated the previous maximum amount of no more than 30 percent of the federal award to be provided for loan subsidization. 2012 – 2015 had a minimum of 20 percent and a maximum of 30 percent. 2016 requires an exact 20% subsidization. DDW will comply with the programmatic conditions of the grant award.

The Board defines disadvantaged communities as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax Commission (USTC) from federal individual income tax returns excluding zero exemption returns, or where the estimated annual cost, including loan repayment costs of drinking water service for the average residential user exceeds 1.75% of the median adjusted gross income. If, in the judgment of the Board, the USTC data is insufficient, the Board may accept other measurements of the water users income (i.e. local income survey or questionnaire when there is significant difference between the number of service connections for a system and the number of tax filing for a given zip code or city, or when the water system claims that the MAGI (incomes) of its users is lower than the MAGI (incomes) of the larger community covered by the USTC data).

The amount and type of financial assistance offered by the Board will be based upon the criteria shown in UAC R309-705-6 (2). Disadvantaged communities may receive zero-percent loans, negative interest rate loans, principal-forgiveness loans or grants. Terms for each method of financial assistance shall be determined by a Board resolution.

The Board has not set any pre-determined amount of DWSRF funds that may be used for principal forgiveness to disadvantaged communities. It is the Board's intention to authorize additional subsidization only to communities that meet the "disadvantage criteria".

### **Costs Incurred After Application and Prior to Execution of the Loan Agreement:**

Eligible project costs incurred after application to the Board and prior to execution of the loan agreement are eligible for reimbursement. Reimbursement will only be made after the loan closing.

### **Municipal Bond Legal Fees:**

The Board may purchase bonds of the applicant only if the bonds are accompanied by a legal opinion of a recognized municipal bond counsel selected by the Board UAC (R309-705-8 (2)). The loan recipient is responsible for the legal costs. Legal costs may be paid from the loan proceeds.

## **Capacity Development Requirements:**

Eligible Systems: The SDWA allows DWSRF assistance to publicly and privately owned community water systems and nonprofit, non-community water systems other than systems owned by Federal agencies. Federal Regulations also set forth certain circumstances under which systems that will become community water systems upon completion of a project may be eligible for assistance. UAC R309-705 Financial Assistance: Federal Drinking Water Project Revolving Loan Program (Effective July 1, 2011) establishes criteria for financial assistance to public drinking water systems in accordance with a federal grant 42 U.S.C. 300j et seq., Federal Safe Drinking Water Act. The SDWA requires that loan recipients must demonstrate the technical, managerial, and financial capacity (TMF) to comply with the SDWA and not be in significant noncompliance with any requirement of a national primary drinking water standard or variance. The State will assess TMF and compliance in accordance with UAC R309-800 Capacity Development Program after loan applications have been received. Those systems lacking in TMF or compliance may still be eligible for a loan if the loan will address the non-compliance or the system agrees to undertake feasible and appropriate changes in operations.

## **Environmental Reviews and Categorical Exclusions:**

The State Environmental Review Process (SERP) is described in the Operating Agreement. The Grantee, the State of Utah, may elect to partition an environmental review or Categorical Exclusion (Cat Ex) from environmental review. The procedures listed below will be followed by the State in order to evaluate if partitioning a project from environmental review is appropriate.

### **A. Authority:**

The authority for including these procedures in the Division's Intended Use Plan (IUP) and State Environmental Review Process (SERP) is contained in the SDWA Amendments of 1996 (Pub. L. 104-182) and the guidance provided by the EPA DWSRF Program Guidelines, document # 816-R-97-005 (February 1997). In particular, see Section IV. STATE/PROJECT LEVEL AUTHORITIES, Subsection B. Environmental Reviews.

### **B. Procedures for Making Determination Cat Ex:**

1. If the Division has reason to believe that the project falls within one of the categories listed under paragraph "C" and thereby may qualify for a Cat Ex from environmental review, the State will make a preliminary survey of the proposed project site(s).
2. During this survey the State will evaluate whether or not the project meets the criteria for a Cat Ex from environmental review.
3. If the State determines the site qualifies for Cat Ex from environmental review, it will document the justification of this determination, including a listing of the dates of activities, which led to this determination, and a statement of relevant findings.
4. Even if the project qualifies for Cat Ex from environmental review according to the criteria listed under paragraph "C", the State may require an environmental review if the State determines that an environmental review is warranted or appropriate because of conditions found at the site or because the project is controversial.

C. Criteria for Categorical Exclusion From Environmental Review:

In order for a project to qualify for an environmental determination of Cat Ex from environmental review, the general location of the project should have been previously disturbed. Site conditions which will be evaluated in making this determination include a) how urbanized the location is, b) whether wildlife has previously been displaced, and c) whether the wildlife habitat has been previously destroyed or replaced. The project site shall meet at least one of the following criteria:

1. A proposed water line will be placed in a roadway(s) and/or rights-of-ways where existing pipes, telephone wires, cables, or other facilities have previously been installed.
2. A proposed tank site will be located on a site with other previously constructed utility facilities on a previously disturbed site.
3. The proposed facilities will be located at a site with other existing community infrastructure; e.g. a booster station, pump house, water treatment plant, or similar facility within a previously disturbed area and which will not extend into sensitive areas in the ground or adjacent to the previously disturbed area.

D. Public Notice and Participation:

The State will provide public notice when a Cat Ex is issued or rescinded. However, no formal public comment period need be provided prior to the Cat Ex becoming effective.

### **B-3 SET-ASIDES:**

The State Program Management set-aside requires a dollar for dollar match. The other set-asides do not have a match requirement. Up to 10% may be allocated to State Program Management set-aside. At least half of the State Program Management match must be additional to the amount expended by the State for public water supervision in fiscal year 1993. The State is authorized to use the amount of State funds it expended on its PWSS program in fiscal year 1993 as a credit toward meeting its match requirement. The value of this credit can be up to but not greater than 50 percent of the amount of the match that is required. The amount spent in 1993 in the PWSS program was \$855,668. DDW does not anticipate the need to use the 1993 credit in state fiscal year 2017. DDW requested ongoing funding from the current Utah Legislative Session ending in March 2016, from the state SRF fund sufficient to meet the 1:1 state match.

Set-aside funding is used to:

Fund established programs

Fund continuing growth

Fund increasing operating costs

And to the extent set-aside funds are available, assist in funding the additional staff needed to implement new Federal rules regarding regulation of drinking water contaminants

The state will not use set-aside funds for those projects or project-related costs that are eligible or explicitly ineligible for assistance from the DWSRF except DDW may use set-

aside funds for: 1) project planning on design costs for small systems, and 2) for costs associated with restructuring a system as part of a capacity development strategy.

Set-aside funds have been used on first in first out (fifo) basis and will continue to be so. Usage is accounted for by set-aside. Unused funds are carried forward to the next fiscal year. Final reports have been submitted to USEPA for DWSRF capitalization grants through 2011. 2012 is fully spent with the final report being prepared. DDW is currently spending 2013 and 2014 grant years. The loan funds have also been treated on the fifo basis with one exception.

The intended use of set-aside funds:

Maintain the staff (FTEs) hired with set-aside funds including benefits, costs allocated as a percent of personal services, and other related costs. DDW is pursuing various funding sources to provide additional funding to hire new staff or contractors to meet the ever increasing demands for DDW to maintain primacy.

Continue to develop a new web based application to replace two obsolete databases (SARA and CASPER), to make DDW's online reports more interactive and useful with SDWIS Prime.

Continue our contract with the Rural Water Association of Utah (RWAU) to implement portions of the expanded operator certification, wellhead protection and capacity development programs. RWAU has also been assisting the DWSRF program with capacity development outreach activities.

Continue our contracts with the twelve local health departments to conduct sanitary surveys.

Table 7					
Set-Aside and State Match Requests					
ACTIVITY		AVAILABLE	2016 DWSRF		Total Request
Loan Fund	16DA	\$ 5,985,060	\$ 5,903,760	100%	\$ 5,903,760
4% Administrative Set-Aside Plus reserves from prior grants	16DD	346,960	346,960 100,000	4% 1%	446,960
2% Small Sys.Tech. Asst.	16DE	173,480	173,480	2%	173,480
10% State Program		867,400			
PWS Supervision			697,400	8.04%	697,400
Plus reserves from prior grants			400,000	4.61%	400,000
Capacity Development			15,000	0.17%	15,000
Source Water Protection			105,000	1.21%	105,000
Operator Certification			50,000	0.58%	50,000
TOTAL State Program Set-Aside	16DF		1,267,400	14.6%	1,267,400
15% Local Assistance (Up to 15%)		1,301,100			
Local Assistance & Capacity Development Outreach & Water Use Study			867,400	10.00%	867,400
Source Water Assessment				0.00%	-
Wellhead Protection			15,000	0.17%	15,000
TOTAL Local Assistance Set-Aside	16DG		882,400	10.17%	882,400
TOTALS			\$ 2,770,240	31.94%	\$ 2,770,240
TOTAL CAPITALIZATION GRANT =		\$ 8,674,000	\$ 8,674,000		
State 20% Match		1,734,800	1,734,800		1,734,800
State Program Management 1 for 1		1,267,400	1,267,400		1,267,400

**Set-aside requests and intended use:**

Administration set-aside:

We are requesting the full 4% of \$8,674,000 of the DWSRF 2016 grant in the amount \$348,000. DDW is requesting \$100,000 additional funding from the 4% reserve account accumulated from previous grant years. The total reserve account will have a balance of \$1,048,760 in the account for future use (beginning account balance of \$1,148,760 less \$100,000). The total 4% set-aside request will total \$448,000.

An estimate of carry-forward to SFY 2016 is \$50,000 plus 2016 award of \$448,000 to equal \$498,000. The administration set-aside will fund five to six full-time equivalents (FTEs) positions to operate the program in SFY 2017, including one employee specifically dealing with Davis-Bacon issues directly with the water systems. The budget estimate will fund salary, benefits, office space, equipment, travel, training, supplies, and the indirect allocation for SFY 2017 to total \$464,000. The administration set-aside does not require a state dollar for dollar match.

#### State Programs set-aside:

The state programs set-aside total amount request is \$1,267,400. DDW is requesting the maximum amount (10% x \$8,674,000) divided into the sub-categories as listed in Table 7 (above). The sub-categories include PWS Supervision, Capacity Development, Operator Certification, and Source Protection. Budgeting, disbursements, and draws are also accounted for by sub-categories. DDW is requesting an additional \$400,000 from the 10% reserve account accumulated from previous grant years. The total reserve account will have a balance of \$855,000 left in the account for future use (beginning account balance was \$1,255,000 less \$400,000).

The State Program set-aside requires a dollar for dollar state match. The dollar for dollar match requirement is separate and in addition to the 20 percent match added to the loan program. We anticipate being able to fully meet of the required dollar for dollar match without using the PWSS credit allowed by section 1452 (g) (2) for fiscal year 1993 PWSS expenses. A request has been submitted to the 2016 Utah State Legislative Session for funding from the State Revolving Fund which may be able to provide a substantial portion of the required state match; the remaining portion is available from general funds or funds from the state SRF fund. However, if the requested funding from the legislative session is not provided, the required 1:1 state match balance will be covered from the 1993 PWSS credit. With either scenario, there will be sufficient state funds to meet the required 1:1 state match for the amount of 10% set-aside requested. Approved additional state match sources include hardship grant fees and technical assistance fees (which have been deposited into a separate fund, loan origination fees paid to DDW directly by a loan recipient (but which has not been included as principal in a loan), and operator certification fees (if operator certification fees are given an exemption in the capitalization grant award). But as stated previously, DDW should have sufficient state funds to meet the 1:1 state match.

Currently RWAU activities are paid from this set-aside to pay for three positions performing clerical duties, and may include assisting water systems in preparing forms during the application stage of applying for new loans, advising solutions to keep the systems technically and financially sound, or assisting communities with ordinances to improve their laws. It is anticipated expenses charged from RWAU for SFY Year 2017 will be approximately \$101,600 for this set-aside.

#### PWS Supervision (augmentation) set-aside:

We are requesting \$1,097,400 from the 2016 award; we estimate a carry-forward to SFY 2017 of \$60,000. Expenditures for SFY 2017 are estimated at \$876,200 not including the dollar for dollar match this set-aside requires. The budget for SFY 2017 including the match equals \$1,676,000.

The PWS Supervision set-aside provides the necessary resources for DDW to continue performing basic core functions such as sanitary surveys, plan reviews, compliance monitoring, groundwater source protection, and many other facets of public health protection. Growth impacts in the state combined with the stricter EPA standard levels SDWA amendments and associated State and Federal regulations create a tremendous workload. The PWS Supervision set-aside funds are used primarily to fund our engineering section and other employees totaling approximately sixteen (16) FTE to support DDW activities. The

following items are also provided from the PWS Supervision set-aside funds:

1. We continue to contract with RWAU to provide three FTEs to do data input, and secretary type work to free-up scientist and engineers from filing, data input, and other non-professional duties. Funds from the PWS Supervision set-aside are used to fund a portion of the contract employees cost.

2. The State of Utah contracts with the twelve local health departments (LHD) to conduct sanitary surveys. Based on the kaizen study of 2013 DDW will continue to pay LHD's a fixed amount of \$377,220 annually. The PWS Supervision set-aside will fund \$200,000 of the total and the balance will come from the PWSS grant, both matched with state funds.

3. The cost of a Data Processing programmer has been funded by the PWS Supervision set-aside to assist with the preparation and development of implementing SDWIS PRIME. A web based reporting tool called WaterLink was created which essentially replaces two old databases, SARA and CASPER. WaterLink allows for the creation of customized reports and real time data. It should improve staff efficiency with house reporting, IPS tracking, engineering reviews, and source protection.

#### Capacity Development Program:

DDW is requesting \$15,000 from the 2016 grant for oversight of the capacity development program. The estimated carry-forward to SFY 2017 is \$2,600. The amount budgeted for SFY 2017 is \$15,000. If expenses exceed the grant funds available in SFY 2017, a request to move funds from the PWS Supervision sub-category will be requested. This set-aside requires a dollar for dollar match.

The State of Utah has statutory authority for a capacity development program (Section 19-4-104 of the Utah SDWA). Time of one FTE, as needed, will oversee and maintain the program. The Division is current with all reports due to the Governor and USEPA.

#### Operator Certification Program:

The State has an Operator Certification program that has been mandatory since 1985. Prior to 1997 the program required community water systems serving more than 800 population and any public water systems treating surface water to have a certified operator. The statutory authority to reduce the threshold population from 800 to 25 was enacted by the 1997 Legislature. The Safe Drinking Water Act requires all community and non-transient, non-community water systems and all public water systems that treat surface water to have a certified operator.

USEPA published final Guidance (EPA-816-R-98-006) in July 1998 establishing national policy regarding the implementation of the operator certification related provisions of the SDWA including how EPA would assess State operator certification program for purposes of making withholding decisions.

Funding for the Operator Certification program comes from two sources:

- 1) Fees
- 2) DWSRF Operator Certification set-aside

DDW is requesting \$50,000 from the 2016 grant for the operator certification program. An



estimated carry forward balance to FY 2017 is approximately \$30,000. Expenditures budgeted for this category is \$54,000. The time of one FTE is dedicated to coordinating and administering this program. The division contracts with the Rural Water Association annually to assist with operator certification training. The contract also funds staff training time and training supplies.

This set-aside requires a dollar for dollar match. The operator certification program requires an operator to pay a fee. Currently DDW fees collected are approximately \$100,000 per year.

#### Source Protection Administration:

The SDWA Amendments of 1996 require each state to maintain a source water quality assessment program for all public water systems. The time of one FTE is dedicated to developing, implementing, and coordinating this program.

We are requesting \$105,000 from the 2016 grant for the source water program. An estimated carry forward balance to FY 2017 will be approximately \$15,000, to make a combined total of \$120,000 available. Estimate expenditures for FY 2017 were budgeted at \$118,300. This set-aside requires a dollar for dollar match.

#### Small Systems Technical Assistance:

DDW is requesting \$173,480 the maximum allowed (2% x \$8,674,000), plus a carry forward of approximately \$160,000. Expenses for 2016 are estimated at \$170,000. This set-aside is only used to fund our contract with the Rural Water Association which is primarily assisting public water systems serving 10,000 people or fewer (section 1452(g) (2)) to maintain viable water systems.

DDW is in the process of implementing an energy efficiency initiative aimed at drinking water systems throughout the state. A number of water systems have identified energy efficiency improvement opportunities in both operations and infrastructure. Annual savings resulting from these improvements have ranged from \$42,000 to over \$300,000. DDW is encouraging all drinking water systems to investigate energy efficiency options to identify is cost savings are possible. The small and very small water systems are often unable to take full advantage of such initiatives due to lack of knowledge, lack of money, and/or lack of proper equipment.

DDW and RWAU entered an agreement of up to \$50,000 to purchase special equipment to assist small and very small water systems. The equipment helps RWAU identify areas in need of repair or potential improvement. This will ultimately save energy and its associated costs and improve system efficiency. A portion of the equipment has already been purchased and the remaining equipment should be purchased by the end of state fiscal year 2016. Approximately \$35,000 remains available to complete the purchases.

RWAU is a critical partner assisting DDW in responding to water system inquiries and taking action to assist water systems to be technically, managerially, and financially sound.

Such assistance includes, but not limited to:

- a. Water rates & fees analysis
- b. Applying for and obtaining funding for projects
- c. Locating and securing consulting engineering services
- d. Developing ordinances, resolutions and by-laws
- e. System security
- f. Preparing management, conservation, financial, capital improvement, sampling, and cross connection control plans
- g. Train system boards and or councils in subjects related to capacity development
- h. Perform Financial/Management audits with water systems as requested by the system or DDW
- i. Encouraging and assisting public water systems listed on the ETT (enforcement targeting tool) with application for financial assistance where such assistance would help the water system return to compliance with drinking water rules
- j. Assisting water systems which have borrowed funds from the Drinking Water Board during the construction and start-up phases of the project

The Small Systems Technical Assistance set-aside does not require a state dollar for dollar match.

Local Assistance, Capacity Development, Source Water Assessment, Wellhead Protection and Other State Programs:

We are requesting \$882,400 which is approximately 10.2% of the grant total. ( $10.2\% \times \$8,674,000$ ). A carry forward balance of approximately \$145,000 is anticipated for FY 2016, making a total estimated balance available of \$1,027,400 for this set-aside. The FY 2017 budget was estimated at \$958,000. It is divided into two sub-categories, local assistance/capacity development outreach and wellhead protection. Budgeting, disbursements, and draws are accounted for by two sub-categories.

Capacity Development Out-reach/Local Assistance with Public Water Systems Sub-Category:

We are requesting \$867,400 from the 2016 grant for capacity development, out-reach, local assistance and a water use study. The estimated carry-forward to FY 2017 will be about \$130,000, for a combined amount available of \$997,400. The amount budgeted for FY 2017 is \$910,000.

Some of the activities DDW employees will provide and charge to this set-aside include the following:

1. Math calculations to determine dosing, volumes, flows and horsepower, etc.
2. Minor repairs on pumps, as well as, knowledge of pump curves, monitory well levels, troubleshooting, hydraulics, motor maintenance and metering, etc.
3. Teach proper techniques for unidirectional flushing of fire hydrants, pipeline maintenance, pressure zones, valve maintenance (exercising and annual

- maintenance, instrumentation, tank inspections, distribution system and treatment plants.
4. Proper disinfection techniques, and correct handling and use of various disinfection chemicals, properties of chemicals, emergency disinfection techniques, and monitoring of residuals.
  5. Safety- proper use of equipment and how to follow proper procedures, MSDS.
  6. Security- proper procedures to interact with law enforcement and mitigation.
  7. Provide technical training on existing and new rules, proper sampling techniques, proper monitoring, and an understanding of sample results, reporting procedures.
  8. Emergency Response- training on the Incident Command System (ICS) and how they would fit into that system. Train systems with the National Incident Management System (NIMS), response protocols, mitigation, setting-up table top exercises, maintaining a plan, flushing and disinfection.
  9. Cross Connection Control assistance to help the water system properly assemble, avoid hazards, resolve physical deficiencies during the sanitary survey and follow State guidelines on managing a program.

DDW understands all charges by employees need to have direct interaction with the water systems with some form of training or technical assistance. Rural Water Association of Utah also has some tasks relating to direct interaction with the water systems and has been allocated \$20,000 in the contract for this specific purpose.

Water Use Study: The DDW estimates a total cost of \$13.5 million will be needed to complete a water use study that may span over three years. The Governor's Office recommended the Legislature approve a \$5.5 million budget request for the study for FY 2017. The \$5.5 million included \$4.0 million from the State's General Fund and \$1.5 million from the Drinking Water SRF program. The Legislature only approved funding from the DWSRF program. DDW proposed to use a combination of set-aside and construction fund money to make up the \$1.5 million. Any expenses incurred in behalf of the water use study will be included with this set-aside.

The following paragraphs explain how the water use study came about:

DDW regulates over 1,000 public water systems in the State. DDW's mission is to work cooperatively with these water systems to assure that the public has access to a safe and reliable supply of drinking water. As part of that mission DDW has set minimum source capacity requirements to ensure each water system has enough water to meet customer demands. Up to date water use data is essential in order to have valid minimum source capacity requirements.

DDW's current requirements, in place for more than 30 years, were called into question and the Utah Legislature commissioned an audit of those requirements in 2014. Audit findings and recommendations are provided in the Legislative Auditor General's December 2014 Report to the Utah Legislature, *A Review of the Division of Drinking Water's Source Sizing Requirements* (Report Number 2014-13).

The report recommended the following actions, among others:

1. “We recommend that DDW re-evaluate its indoor source sizing regulations and issue a set of revised standards that are based on actual indoor use data provided by Utah water systems.”
2. “We recommend that DDW review its outdoor source sizing requirements and establish new requirements, based on current research, that are consistent with actual outdoor water use data.”

These audit recommendations deal with both indoor and outdoor water use and since most water systems in the State provide water for both uses, separating indoor use from outdoor use is needed. DDW’s plan to comply with these recommendations involves installing automated metering equipment at both source locations and at individual residential connections. The equipment proposed for residential installations is capable of recording water use data at five minute intervals.

DDW worked with statisticians from the Department of Health (DOH) to determine the number of water systems as well as the number of individual residences within each system necessary to provide a statistically valid representation of water use throughout the State. Information from the DOH statisticians indicated that collecting water use data from 46 water systems and 30 residents within each selected water system would provide data at a 95% confidence level. Water systems of various sizes and from various regions within the State have been selected and if funding for the study is authorized by the legislature DDW will begin to implement the study.

Collecting data over a minimum three year period should smooth the data and account for some variance in weather patterns. By analyzing the five-minute interval water use data on a per resident basis over this three year period DDW should be able to identify periods of high water use associated with outdoor watering needs. This level of data will provide the necessary information to comply with the Legislative Auditor General’s report and allow the Division to set reasonable minimum source capacity requirements.

#### Wellhead Protection Sub-Category:

DDW requested \$15,000 in funding for this category from the 2016 grant. DDW anticipates a carry-forward of about \$15,000 for this sub-category. Total available funds beginning FY 2017 should be about \$30,000. This amount should be sufficient funding to cover the budgeted expenses of \$20,000. Less than one person to oversee the implementation and maintenance of GIS activities was all that was originally budgeted. This this sub-category budget will continue to cover expenses to address a backlog of wellheads that need to be entered and/or updated. Maintenance of the source protection zone geodatabase is an on-going project as new water sources are developed and existing source protection zones are modified.

The Local Assistance and Other State Programs set-aside does not require a state dollar for dollar match.

**C - ATTACHMENTS**

Attorney General Enabling Legislation Opinion Letter for FY2016 base program  
Organization Chart

**D - UTAH ADMINISTRATIVE CODE RULE R309-705**

The Rule for Projects Receiving Assistance from the Federal DWSRF can be found at the website <http://www.rules.utah.gov/publicat/code/r309/r309-705.htm>  
Construction Loan Program information is available at the website [http://www.deq.utah.gov/FeesGrants/funds/drinkingwater/federal\\_srf.htm#loans](http://www.deq.utah.gov/FeesGrants/funds/drinkingwater/federal_srf.htm#loans)

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OAG-070-15

December 8, 2015

Kenneth Bousfield, Director  
Division of Drinking Water  
P.O. Box 144830  
Salt Lake City, Utah 84114-4830

Re: **Adequacy of State Law Enabling Utah to be Eligible for Federal  
Safe Drinking Water Act, 42 U.S.C. 300f et seq., Capitalization Grants**

Dear Mr. Bousfield:

This letter is in response to your request dated December 1, 2015, for an updated opinion concerning State authority to establish and operate a Drinking Water State Revolving Fund program, as prescribed under the Federal Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.* There have been no changes which affect the opinion previously issued on January 21, 2015.

The Utah Legislature has enacted Utah Code Ann. § 19-4-101 *et seq.* which established the Division of Drinking Water and the Utah Safe Drinking Water Board. Utah Code Ann. § 19-4-104 and 105 empower the Board with rulemaking authority to meet the requirements of Federal law governing drinking water.

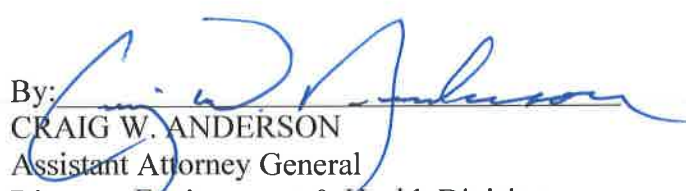
In 1983, the Utah Legislature established a restricted account within the General Fund, known as the Water Development Security Account. Utah Code Ann. § 73-10c-5. The Fund was created for the purpose of supporting drinking water projects and wastewater projects in accordance with the terms of credit enhancement agreements. In 1985, the Legislature amended the Water Development Security Account to provide for the use of monies in the account to make loans for drinking water and wastewater projects. Laws of Utah 1985, ch. 123. Therefore, pursuant to that amendment, two accounts exist within the Security Account: one for wastewater projects and one for drinking water projects. In 1997, Senate Bill 75 established a State Revolving Fund for Drinking Water Projects Subaccount, as a subaccount in the Drinking Water Security Account, which consists of money appropriated to the subaccount by the Legislature, money received to meet match requirements, money received from the repayment of loans made from the State Revolving Fund subaccount, money received under the Federal Safe Drinking Water Act, investment income derived from money in the State Revolving Fund Account, and money deposited under any other law. Utah Code Ann. § 73-10c-5(3). The money received under the Federal Safe Drinking Water Act is subject to the restriction of that Act and is eligible for use in state revolving loan funds which meet the requirements of the

Act. Id. § 73-10c-5. In 2001, the Legislature substituted the language “an enterprise fund” for “a restricted account within the General Fund” and substituted “security fund” for “security account” throughout the statute. In 2007, section 73-10c-5 was amended to add the Drinking Water Origination Fee Subaccount, consisting of loan origination fees, to be used in administering the loan program in section 73-10c-10. In 2010, section 73-10c-10 was amended to allow the Board to establish an origination fee for a federally funded loan. No changes were made to the conditions or restriction established for the security fund.

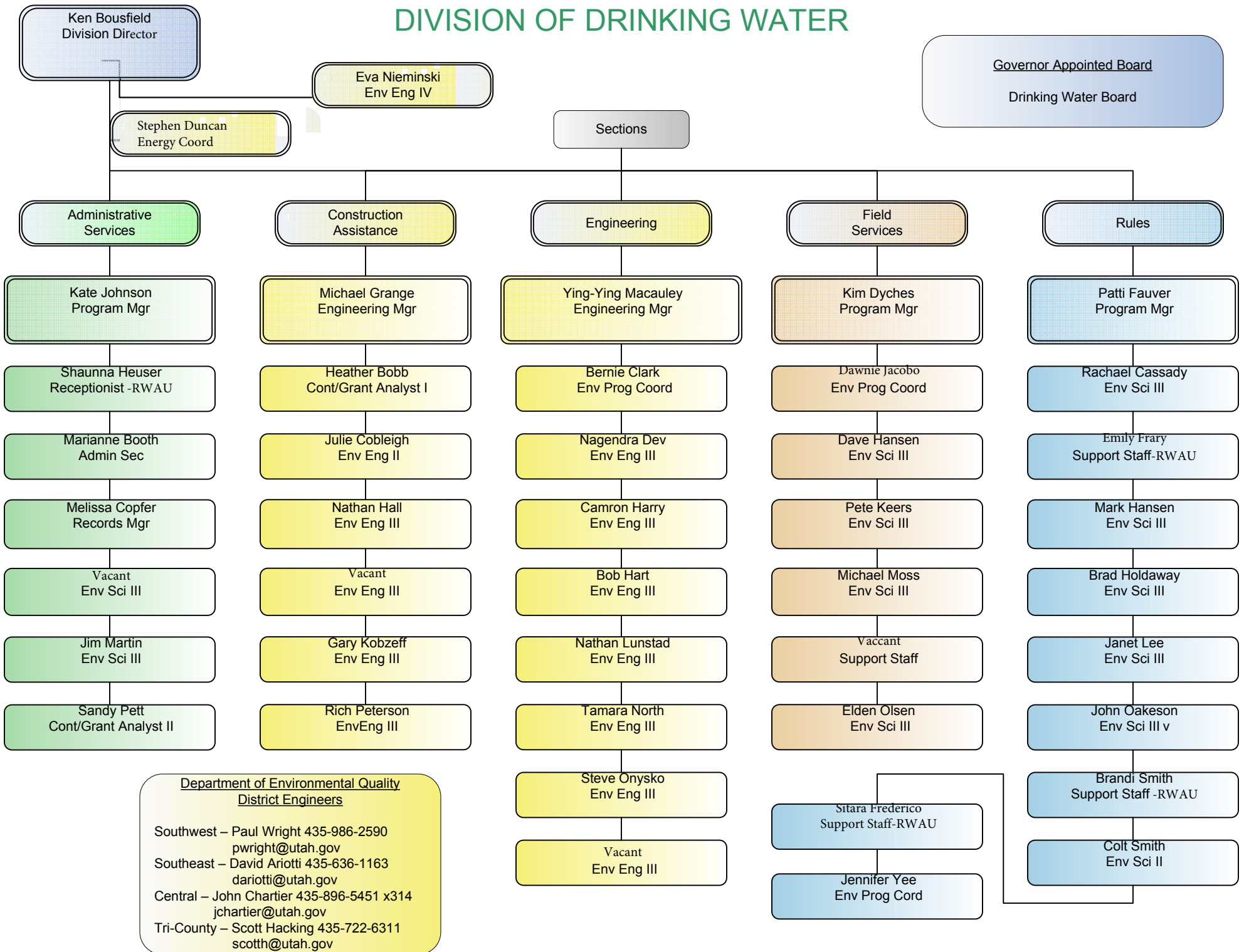
The Utah Drinking Water Board has promulgated rules for making loans incorporating the requirements of the Federal Safe Drinking Water Act at Utah Admin. Code R309-705. Additionally, the Board is authorized by Utah Code Ann. § 19-4-104(1)(a)(v) and (2)(b) to promulgate rules for certification of operators and governing capacity development in compliance with Section 1419 and 1420 of the Federal Safe Drinking Water Act.

This office certifies that the capitalization grant application and operating agreement submitted to the Federal Environment Protection Agency for Drinking Water State Revolving Fund capitalization grants are consistent with state law and that the Utah Drinking Water Board and the Division of Drinking Water are authorized to being themselves to the terms of the capitalization grant agreement. As described above, the Utah Drinking Water Board and the Division of Drinking Water are instrumentalities of the State of Utah that are authorized to: (1) enter into capitalization grant agreements with the Federal Environmental Protection Agency, (2) accept capitalization grant awards made under Section 1452(a)(1)(A) of the Federal Safe Drinking Water Act, and (3) otherwise manage the fund in accordance with the requirements and the objectives of the Safe Drinking Water Act.

Sincerely,  
SEAN D. REYES  
Attorney General

By:   
CRAIG W. ANDERSON  
Assistant Attorney General  
Director, Environment & Health Division  
Counsel to the Utah Drinking Water Board  
and the Division of Drinking Water

# DIVISION OF DRINKING WATER



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