

**WATER APPROPRIATION REQUESTS FROM  
GREAT SALT LAKE AND ITS TRIBUTARIES  
AND EFFECTS ON THE SYSTEM**

2010 Great Salt Lake Issues Forum  
KEEPING THE LAKE WET: A WATER  
APPROPRIATION FOR GREAT SALT LAKE

# OBJECTIVES

- **ORIGIN OF UTAH WATER LAW**
- **BASIC CONCEPTS**
- **PROCESS AS IT EXISTS TODAY**
- **AN ASSESSMENT OF WATER RIGHTS ON THE GREAT SALT LAKE**
- **POTENTIAL IMPACTS TO THE LAKE**

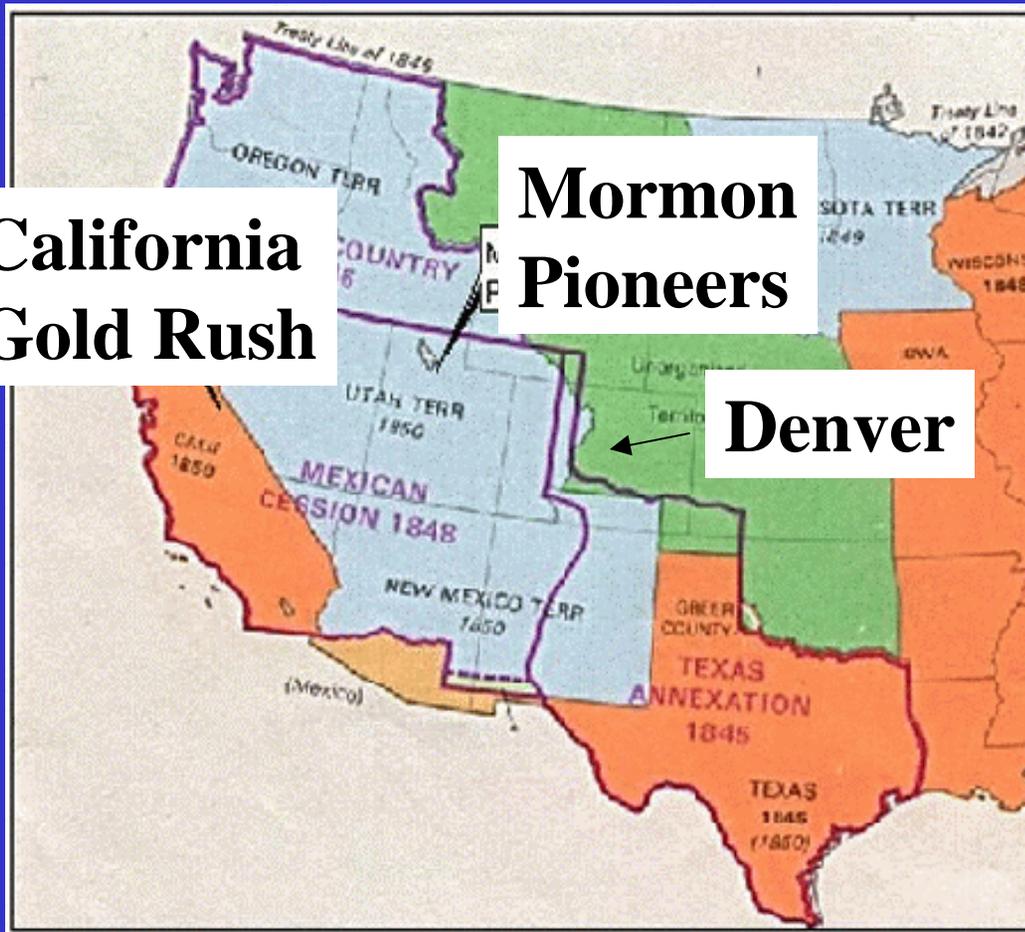


# Origin of the Doctrine of Prior Appropriation

**California  
Gold Rush**

**Mormon  
Pioneers**

**Denver**



- Calif. Gold Rush
- Mormon Pioneers
- Denver

# Prior Appropriation Doctrine

## Main Features

- **Divert water to beneficial use.**
- **Priority date.**
- **First in time, first in right.**
- **Loss of right.**
- **Right acquired by application.**



*Furrow Flooding*

**“The future of irrigation in Utah looks bright. The spirit of compromise, which has been characteristic of the history of the State, is manifest in the plans mentioned by the State Engineer, while the law just enacted provides for the settlement of all old controversies, the definition and protection of existing rights, and the orderly acquirement of rights in the future. The law may not do all that is expected of it, but its enactment shows that the people of the State are alive to their needs, and if this law falls short, the spirit which brought about its passage will bring about its modification in such a way as to make it effective.”**

**Elwood Mead, Report of Irrigation Investigations in Utah, 1903**

# Specific to Utah

- **1850 The Territorial legislature adopted the earliest water statute**
- **This allocated the waters of City Creek Canyon to Brigham Young**
- **1880 Territorial legislature gave a basic means for recording a claimed water right, but it was not mandatory.**
- **1903 Comprehensive permit system was adopted.**
- **1935 Permit system was extended to underground waters.**

# **Selected Principles of Utah Water Law**

- **Utah is a prior appropriation state**
- **All water owned by the public**
- **Water rights – the right to make beneficial use of water**
- **Beneficial use – measure & limit**
- **Abandonment – intent**
- **Forfeiture – statutory time**



# Basic Definitions

- **All water in the state is property of the public (73-1-1).**
- **Beneficial use shall be the basis, the measure, and the limit of all rights to the use of water in the state (73-1-3).**

# Major Elements of a Water Right

- Priority date.
- Quantity of water.
  - Flow rate.
  - Volume.
- Source of supply.
- Point(s) of diversion.
- Uses.
  - **Irrigation, domestic, stock water, mining, municipal, etc.**
- Period of use.
- Place of use.

# **Establishing a Water Right**

- **Diligence Claim.**
  - **Surface water uses prior to 1903.**
- **Underground Water Claim.**
  - **Ground-water uses prior to 1935.**
- **Court Decreed.**
- **Applications filed with State Engineer.**

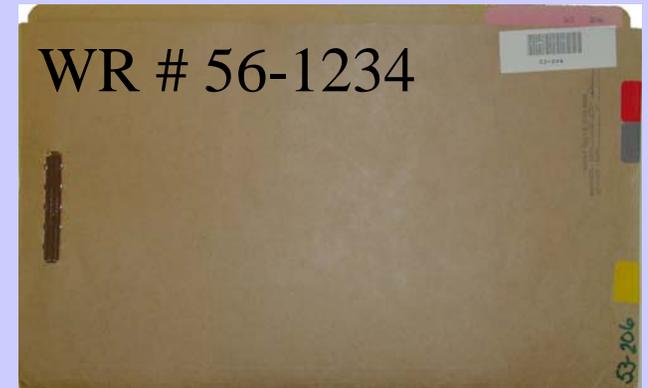
# Filing a Water Right Application

- **File application in proper form.**
- **Advertise for 2 consecutive weeks in local newspaper.**
- **20 day protest period.**
- **Protested?**
  - **Hearing.**
- **Approval or rejection.**
  - **If approved, proof due date given, proof of beneficial use, certificate.**
- **Judicial Review.**

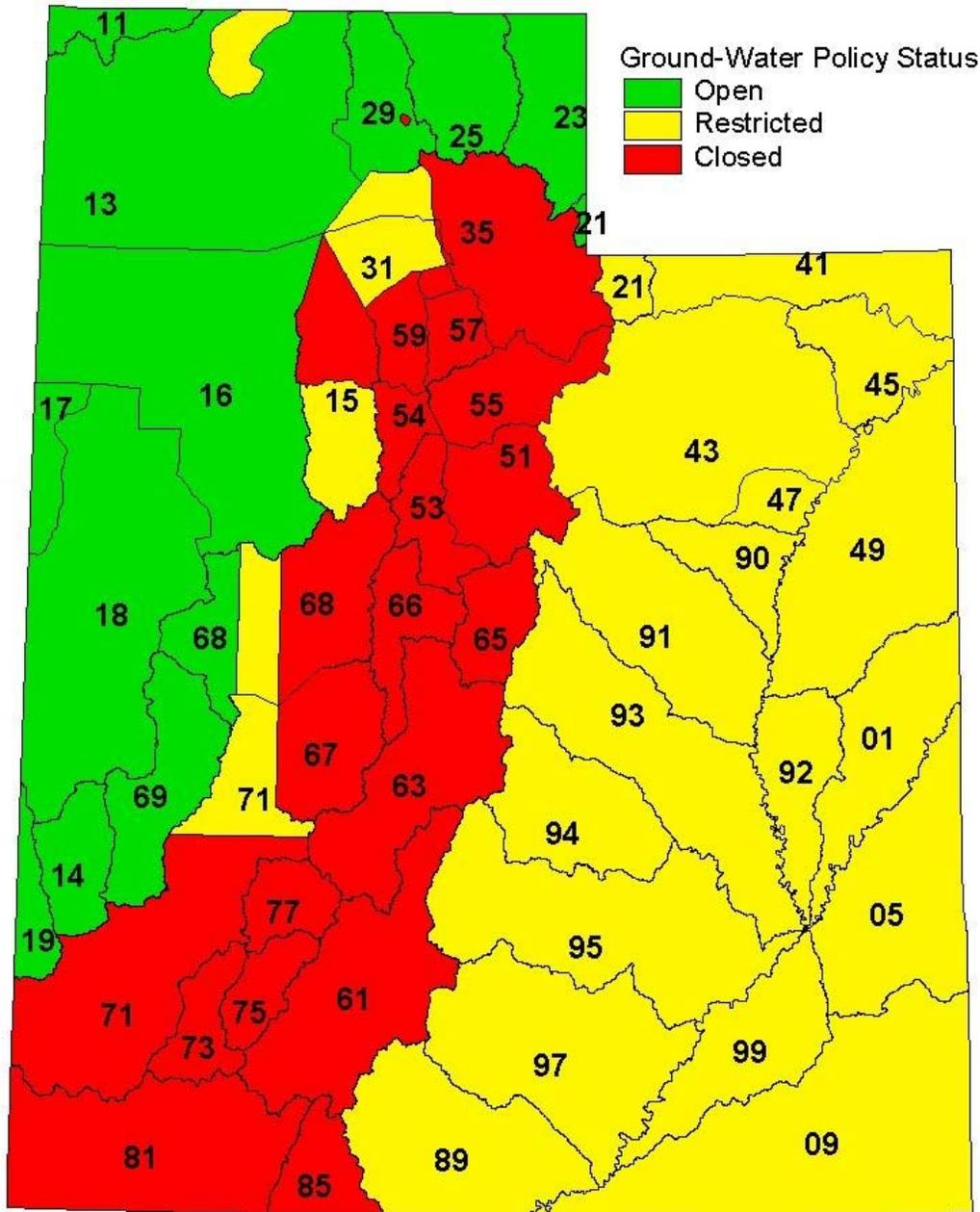
## Approval Criteria (73-3-8)

- **Unappropriated water in source.**
- **Will not impair existing rights.**
- **Physically and economically feasible.**
- **Not monopolistic / speculation.**
- **In the public interest / welfare.**
- **Won't effect the natural stream environment or public recreation.**

# The Administrative Process...



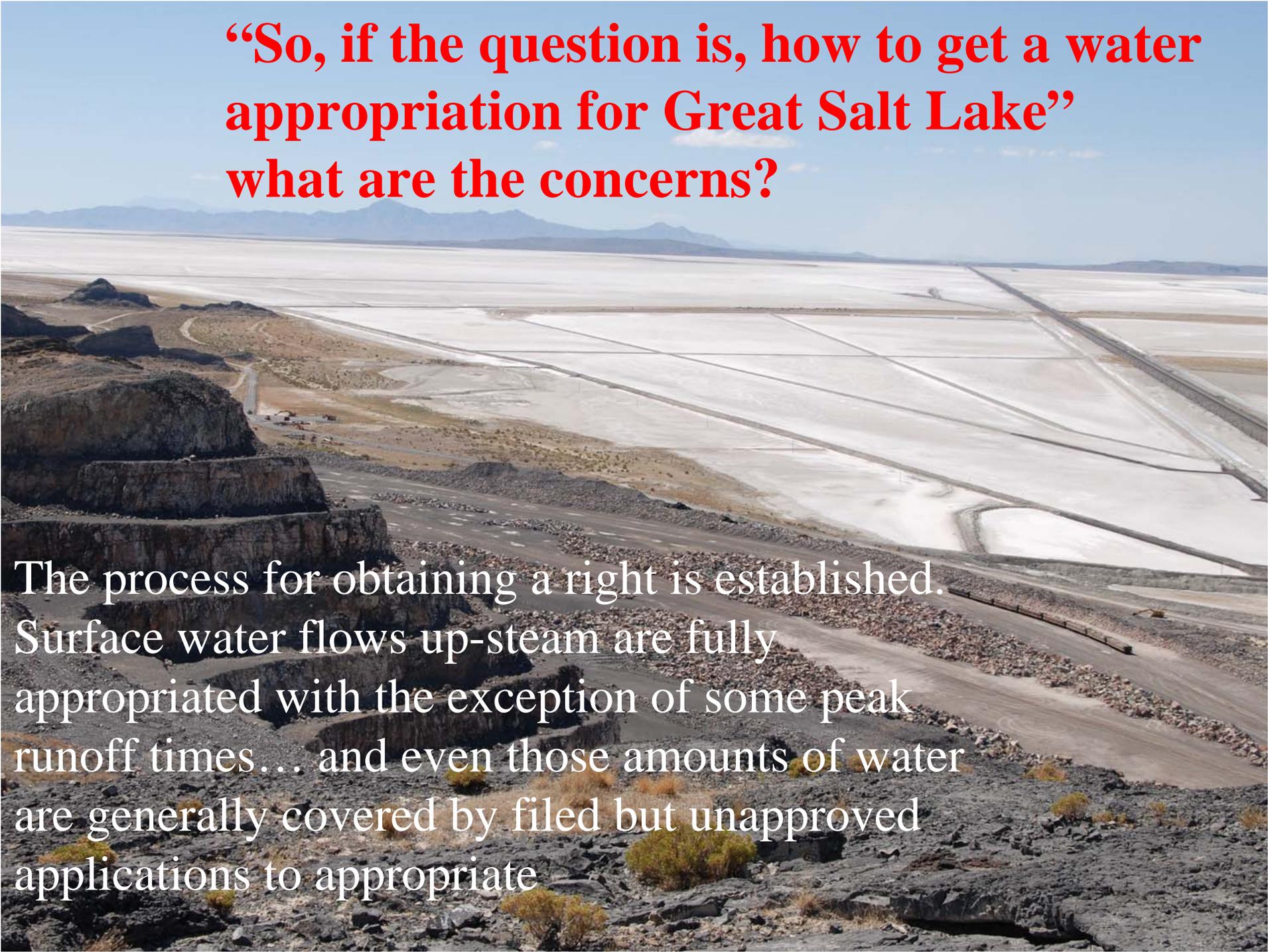
- **The practice before the State Engineer is an informal administrative process**
- **Various types of applications**
- **Applications are advertised**
- **Protests**
- **Informal hearing**
- **Order of the State Engineer**
- **Completion of the project – filing proof**



# Water Appropriation Policy

# Recent Legislation

- HB51 – Eliminates non-use considerations for public water suppliers.
- HB18 – Grants public water suppliers options to get extensions of time beyond the 50-year time frame if the 73-1-4, 40-year plan requirements are met.



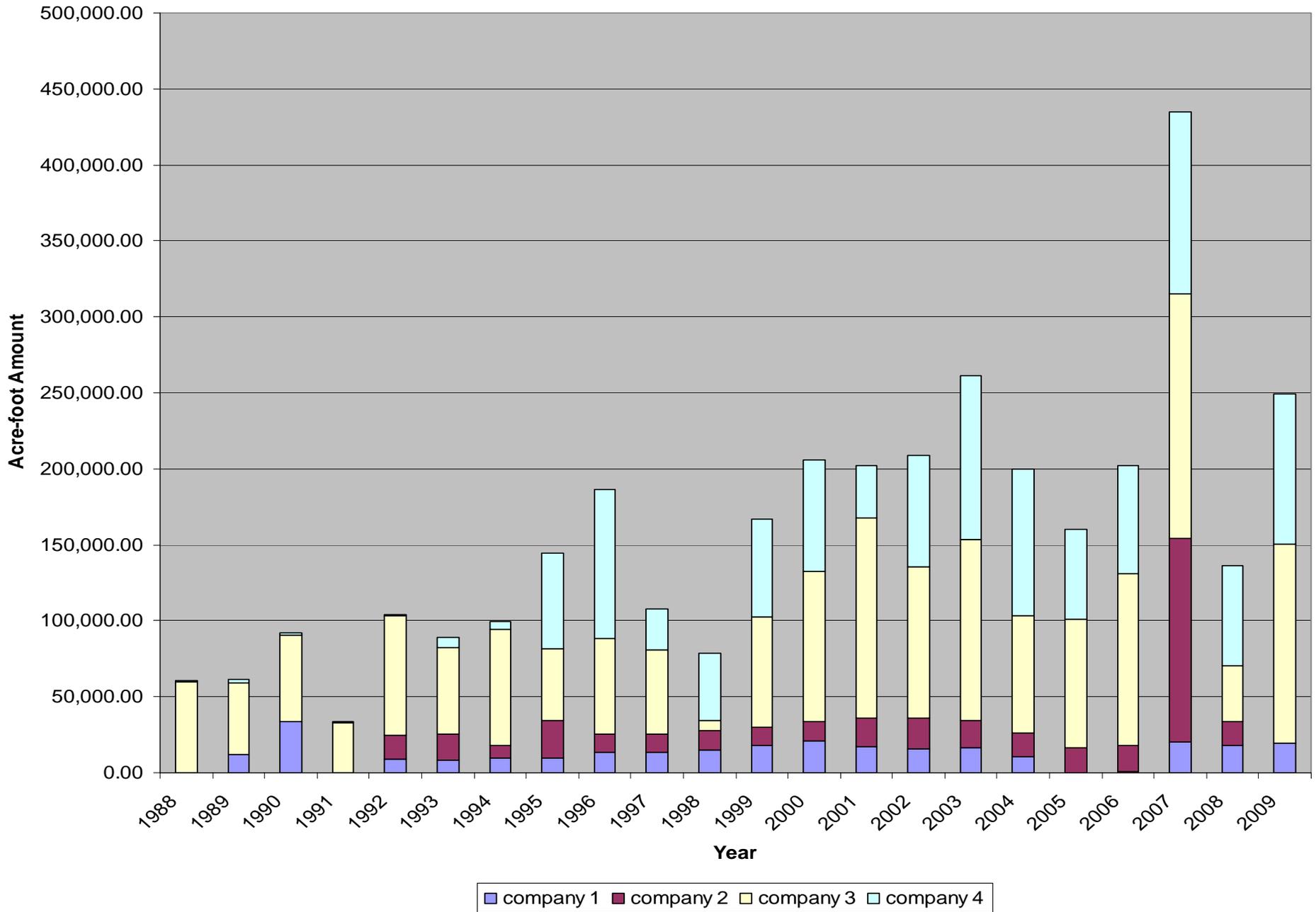
**“So, if the question is, how to get a water appropriation for Great Salt Lake”  
what are the concerns?**

The process for obtaining a right is established. Surface water flows up-stream are fully appropriated with the exception of some peak runoff times... and even those amounts of water are generally covered by filed but unapproved applications to appropriate

# Perfected and Approved Water Rights in the Great Salt Lake

- Rights based on cfs flow and acre-foot amounts estimated at: 1,036,000 acre-feet plus an additional potential of 5,781,600 acre-feet for GSL Minerals for Wildlife purposes.

### Water Pumped from the Great Salt Lake



# Unapproved Applications

- 974,600 acre-feet which includes:
- A Division of Wildlife Resources for 638 cfs and an estimated 461,000 acre-feet for wildlife purposes and the irrigation of 55,000 acres of land; and
- A GSL Minerals application for 353,000 acre-feet to be used for mineral extraction.

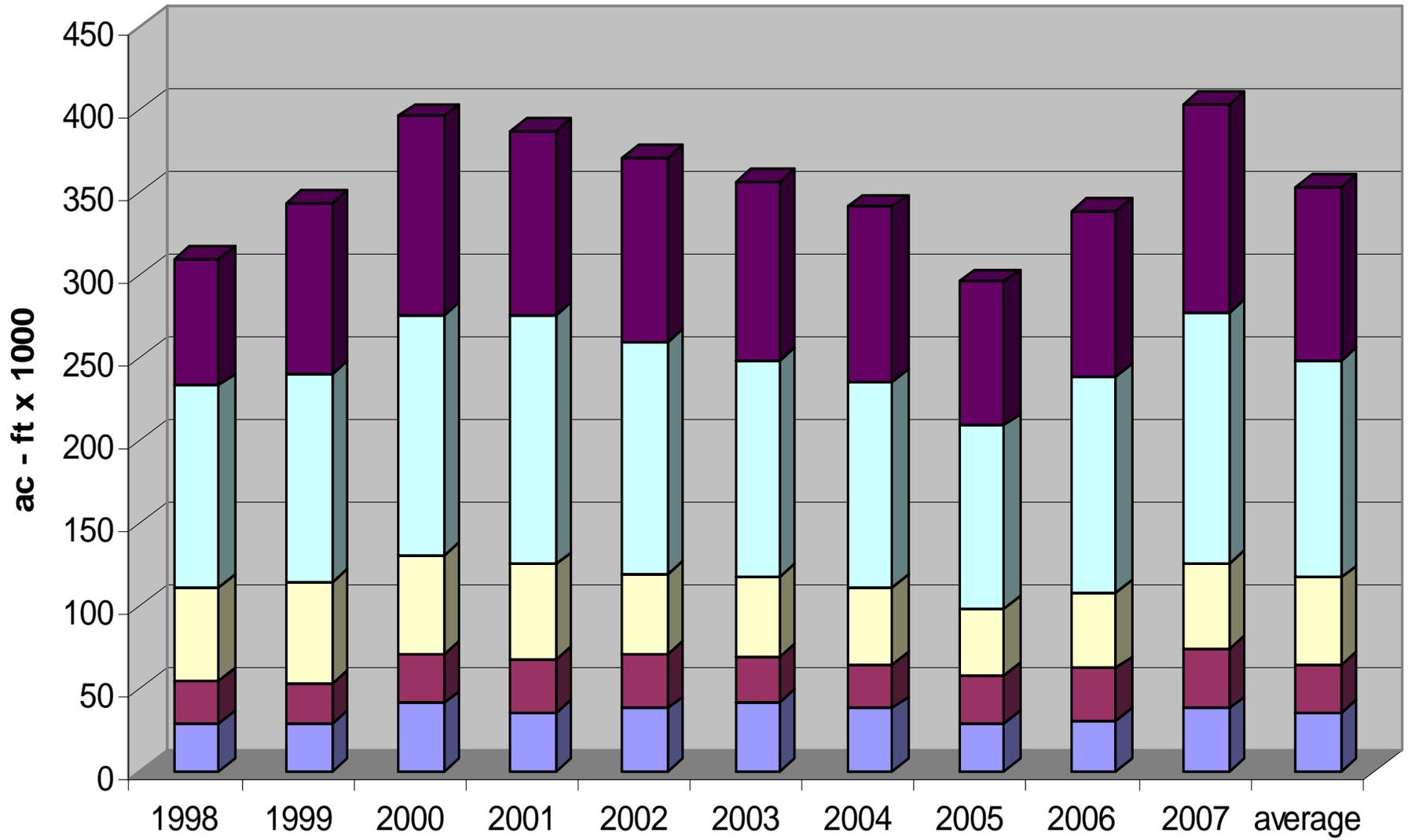
# Other Significant Basin Applications

- Board of Water Resources Bear River Project .... 300 cfs and 150,000 acre-feet-pending, unapproved.
- Weber Basin project rights approved but not fully developed.
- Bureau of Reclamation rights not fully developed.

# Other Considerations

- Import water: return flows going to the hydrologic system. Importers are entitled to identify and use the return flow component of their water rights.
- Effluent reuse water: 1995 statute allows municipalities to reuse sewage effluent and an increase in these types of applications are being filed in the basin.

# well withdrawals - salt lake areas



curlew valley cache valley east shore area salt lake valley utah/goshen valley

# Great Salt Lake Advisory Council

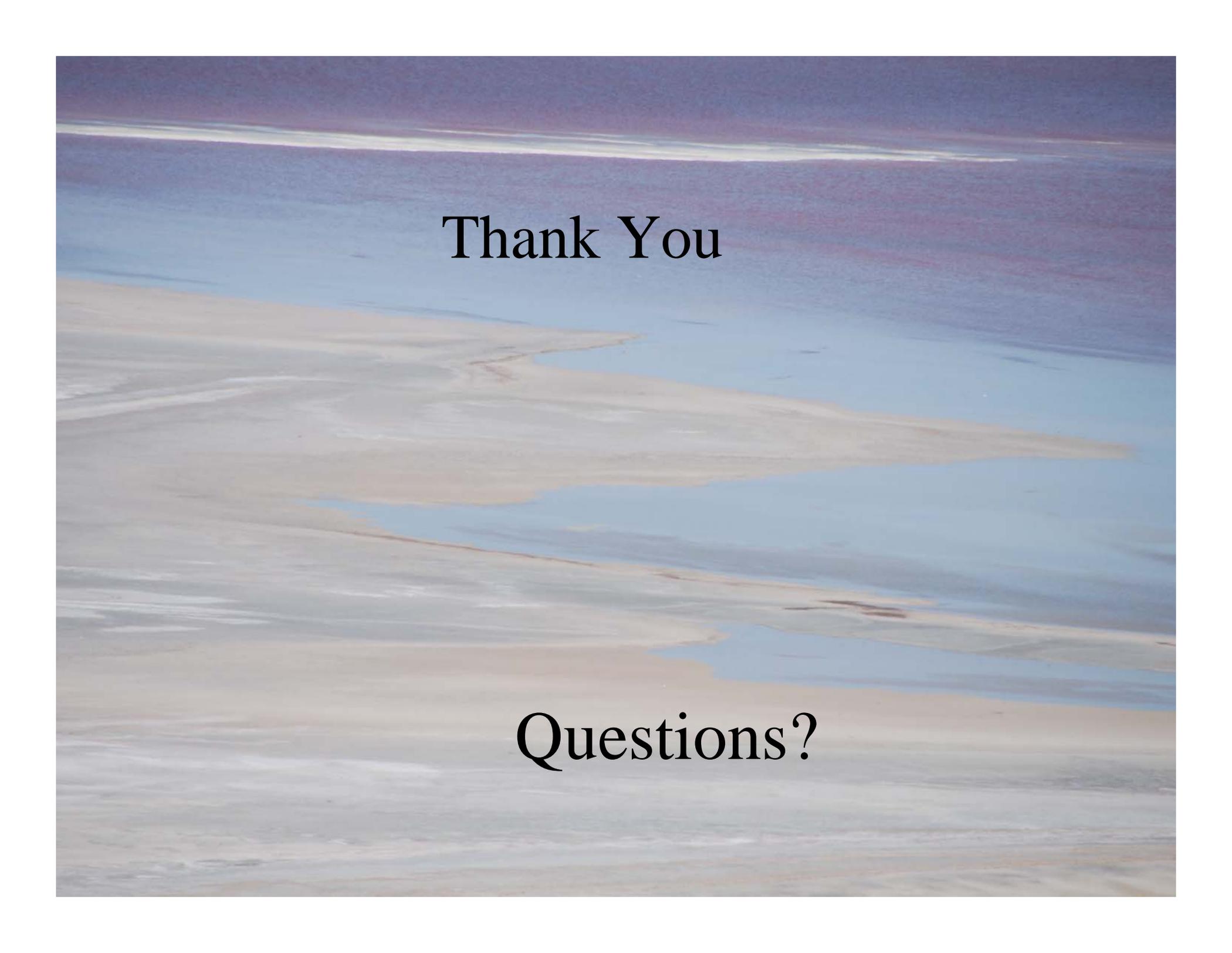
- HB343 Creation of the GSL Advisory Council in 2010.
- The Council shall advise the Governor, the Department of Natural Resources, and the Department of Environmental Quality of:
  - Sustainable Use
  - Environmental Health, and
  - Reasonable access for existing and future development



# The State Engineer shall be responsible for:

- The general administrative supervision of the waters of the state, and
- May secure the equitable apportionment and distribution of the waters according to the respective rights of the appropriators.



An aerial photograph of a coastal landscape. The image shows a wide expanse of blue water in the upper half, transitioning into a sandy beach area in the lower half. The water has a slightly rippled texture, and the sand is a light tan color. The overall scene is serene and natural.

Thank You

Questions?