

The Division of Water Rights

Administered by the State Engineer, the Utah Division of Water Rights (“Division”) is responsible for the measurement, appropriation, apportionment, and distribution of water in the state. The Division is divided into five functional sections: Administration, Applications and Records (also known as “Appropriations”), Field Services, Technical Services, and Dam Safety/Stream Alterations. The Division of Water Rights is one of seven Divisions within the Utah Department of Natural Resources—The Division of Water Rights is the designated regulatory agency for all water rights of the state.¹

The Role of the Division of Water Rights: 1847 - Present

Dating as far back as 1847, the first settlers of Utah were primarily members of The Church of Jesus Christ of Latter-Day Saints. Commonly referred to as the Mormons, these early settlers established the first institutions, laws, and social customs, that, in turn, regulated the development and use of the water resources of Utah so vital to their survival. Given Utah’s arid climate, early settlement was especially challenging and necessitated an administrative framework principally based on a common right to water, collective development of water resources, and wide distribution of water and its benefits.² Today, this common right to and collective development of Utah’s water resources is central to how the Division of Water Rights operates and is encapsulated in two of its primary concepts, “prior appropriation” and “beneficial use.” In common parlance, these principles are articulated, respectively, as “First in time, first in right,” and “Use it or lose it,” both of which are distinctive to western water law as practiced in many western states.¹

For Utah, with the creation of the Office of the State Engineer in 1897, the “long effort to improve and clarify the proper role of the state in the administration, allocation and development of water resources”³ began. Of course, changes in the legislative landscape have occurred over time, but the role of the State Engineer’s Office has remained central in Utah’s water resource development. In 1963, the Office of the State Engineer was renamed and came to be known as the government entity it is today: The Division of Water Rights.⁴

Utah statutes and legal practice define all waters in Utah as property of the public with the rights to the use of the water allocated under an exclusive appropriation process and with the condition that it will be put to beneficial use.⁵ By definition, beneficial use is the basis, the measure, and limit of a water right.⁶ The right to the use of water is granted with defining elements and limitations as defined by the statutes in: *Utah Water Rights Law, Title 73 Chapters 1-6, 22.*

¹ Note: John Harvey’s Master of Science Thesis (Utah State University, 1989) served as a valuable resource for understanding the historical context of the social institutions involved in the state of Utah’s water resource administration and management; Harvey’s work was funded through the Division of Water Resources and under the direction of Dr. Charles S. Peterson.

The Organizational Structure, Mission, and Values of the Division of Water Rights

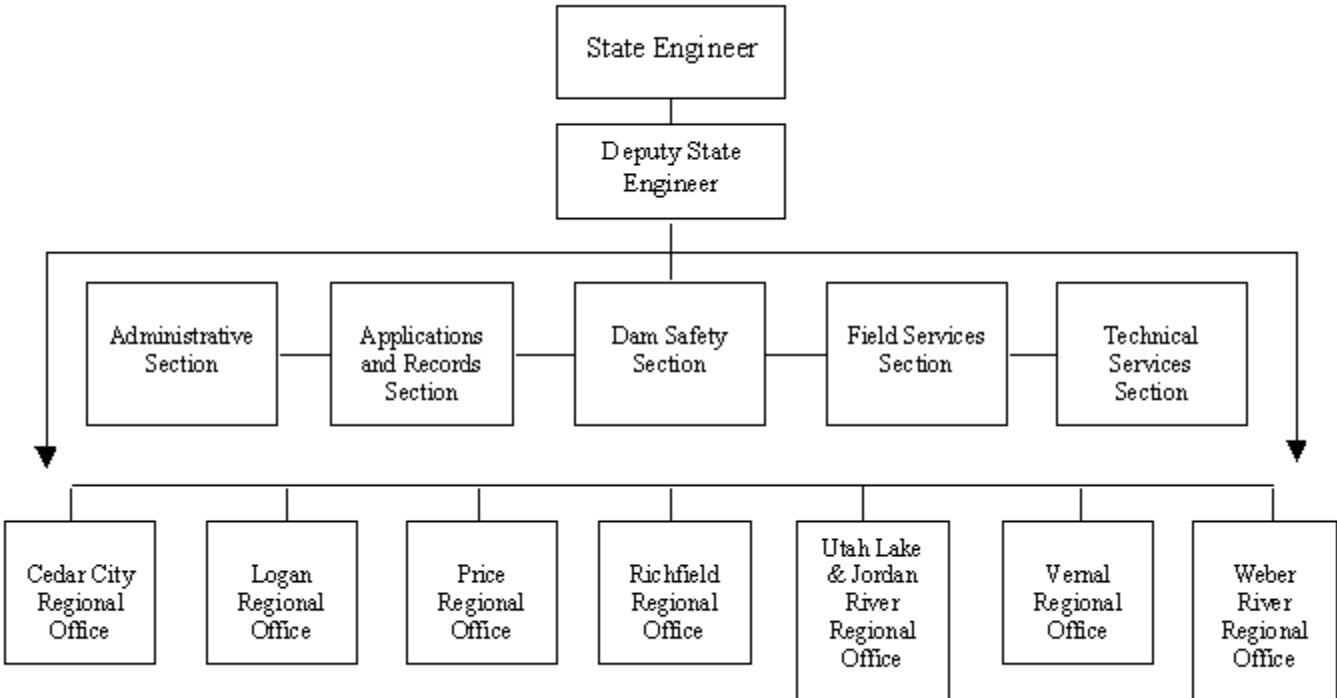
The Administration Section, under the direct supervision of the State Engineer, oversees and supports the activities of the entire Division. Directly assisting the State Engineer is the Deputy State Engineer, with the primary responsibility of supervising the seven Region Offices.⁷ The assignment of the Region Offices is to serve as a local source of administration and increase efficiency of daily operations by having an engineer assigned to oversee each region. The Region Offices provide Division service to the public through direct cooperation between the water users of the region and the Division's Salt Lake City main office.⁸

Other personnel located in Salt Lake City main office include four Assistant State Engineers who serve as heads of the four Division sections. In each section, several Program Managers operate out of the main office while engineering technicians and secretaries assist in the daily operations of the Division regionally and in the main office. In recent years, the Division has been comprised of about 70 employees in total.⁹

The Division is regularly assessing its organizational structure, mission, values, and operational plans to ensure continuing quality and efficiency. The stated mission of the Division of Water Rights is to *provide order and certainty in the beneficial use of Utah's water*. In achieving its mission, the Division values:

- Integrity—doing its best work, and by being honest, forthright, accountable, and helpful;
- Quality record keeping—providing a public repository of accurate, accessible Division records;
- A professional work atmosphere—that promotes innovation and the freedom to take constructive risks;
- A synergistic workforce that is qualified, motivated, and empowered;
- A positive work environment—that attracts, rewards, and retains loyal and competent employees;
- Positive relationships based on mutual respect, interests, teamwork, and ethical behavior;
- Competency—promoting, developing, and employing expertise;
- Communication that is effective and sharing of information with stakeholders;
- Public service—providing reliable, consistent, impartial service that instills confidence;
- Leadership—that provides expertise, support, and direction for the stakeholders.¹⁰

Figure 1.1 Utah Division of Water Rights Organizational Structure



The Office of the State Engineer

The State Engineer is appointed by the Governor with the consent of the Senate as the Director of the Division of Water Rights and, as such, is the chief water rights administrative officer of the state. As the Director of the Division of Water Rights, the State Engineer is responsible for the general administrative supervision of all waters of the state and responsible for the measurement, appropriation, apportionment, and distribution of these waters. The Division of Water Rights is the water rights authority of the state of Utah and is vested with the powers required to perform the duties set forth in Utah law.¹¹

Box 1.1: State Engineers Since Statehood¹²

Willard Young	1897 – 1898
Robert C. Gemmell	1898 – 1901
A.F. Doremus	1901 – 1905
Caleb Tanner	1905 – 1913
W.D. Beers	1913 – 1917
G.F. McGonagle	1917 – 1921
R.E. Caldwell	1921 – 1924
Lloyd Garrison	1924 – 1925
George M. Bacon	1925 – 1933
T.H. Humphreys	1933 – 1941
Ed H. Watson	1941 – 1949
Harold A. Linke	1949 – 1950
Joseph M. Tracy	1950 – 1957
Wayne D. Criddle	1957 – 1965
Hubert C. Lambert	1965 – 1973
Dee C. Hansen	1973 – 1985
Robert L. Morgan	1985 – 2002
Jerry D. Olds	2002 – 2008
Kent L. Jones	2009 – Present

The Deputy State Engineer

The State Engineer has historically employed a Deputy State Engineer (duties have varied). The statutes authorized it as a State Engineer appointment until 2007 when HB48 modified section 73-2-4 and provided the deputy be an employee like all others at the Division. Although this position has been vacant since the 1980's in part because of the appointive nature of the position made transitions difficult, in 2007 Boyd Clayton was employed as Deputy State Engineer. Currently the Deputy State Engineer works with the State Engineer overseeing all Division programs while acting as the direct supervisor of regional engineers.¹³

The Assistant State Engineer

The four Assistant State Engineers direct the sections of the Division. As of December 2008: the Applications and Records Section is directed by Kent Jones (designated nineteenth State Engineer, 2009-forward); the Field Services Section is under the direction of Lee Sim; the Technical Services Section is under the direction of Matt Lindon, and the Dam Safety/Stream Alteration Section is under the direction of Dave Marble. The Division sections carry out daily operations both independently and through collaborative effort utilizing Division programs, collaborative studies, coordination meetings, and so on to achieve its common mission.¹⁴

¹ Utah Division of Water Rights, Salt Lake City, Utah. *Water Rights Law Title 73, Chapters 1-6, 22*, July 2008; Title 73-2-1. Available Online: http://www.waterrights.utah.gov/code_index.htm

-
- ² Harvey, John, 1989. A Historical Overview of the Evolution of Institutions Dealing with Water Resource Use, and Water Resource Development in Utah – 1847 through 1947. Utah State University, Masters of Science Thesis, 2p.
- ³ Ibid.
- ⁴ Water Rights Information. Utah Division of Water Rights [updated 2005 July 14 , cited 2009 January 20]. Available from: <http://www.waterrights.utah.gov/wrinfo/default.asp>
- ⁵ Utah Division of Water Rights, Salt Lake City, Utah. *Water Rights Law Title 73, Chapters 1-6, 22*, July 2008; Title 73-1-1, 73-1-3, and 73-1-4.
- ⁶ Utah Division of Water Rights, Salt Lake City, Utah. *Dictionary of Water Words*, April 2000. Available Online: <http://www.waterrights.utah.gov/wrinfo/glossary.asp>
- ⁷ Utah Division of Water Rights, Salt Lake City, Utah. *Water Rights Law Title 73, Chapters 1-6, 22*, July 2008; Title 73-2-1 and 73-2-4.
- ⁸ Utah Division of Water Rights, Salt Lake City, Utah. *Mission and Values Statement*, November, 21, 2005. Available Online: <http://waterrights.utah.gov/cgi-bin/staffapp.exe?Path=staff/Mission.doc>
- ⁹ Utah Division of Water Rights, Salt Lake City, Utah. *Organizational Structure*, July 17, 2007. Available Online: <http://waterrights.utah.gov/cgi-bin/staffapp.exe?Path=staff/orgchart.ppt>
- ¹⁰ (See 6).
- ¹¹ (See 4).
- ¹² Gallery of Utah State Engineers. Utah Division of Water Rights [updated 2007 July 9 , cited 2009 January 14]. Available from: <http://www.waterrights.utah.gov/images/staff/engineers/index.htm>
- ¹³ (See 5)
- ¹⁴ (See 7).