



# STATEWIDE WATER MARKETING DEVELOPMENT STRATEGY

Exploring the development of market tools favorable to local water users by piloting the Utah Water Banking Act.

**Colorado River Water Users Association**

**December 15, 2021**

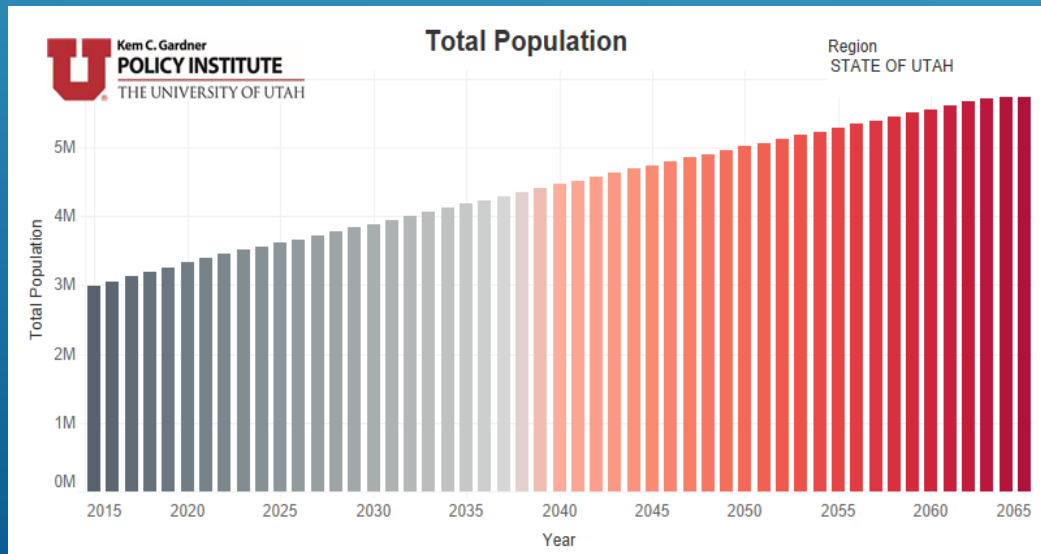


# LOOKING AHEAD: SO MUCH NEED, NEED FOR CONTROL

- Increased population
- Development
- Recreation
- Environment and Water Quality
- Agricultural production and efficiency
- Drought and climate
- ??? New Demand/Pressures

To address these challenges, **activities to buy and sell or lease water are increasing** across the West.

With high demand for water, **local communities are concerned about maintaining control** over the terms and conditions of market activities.



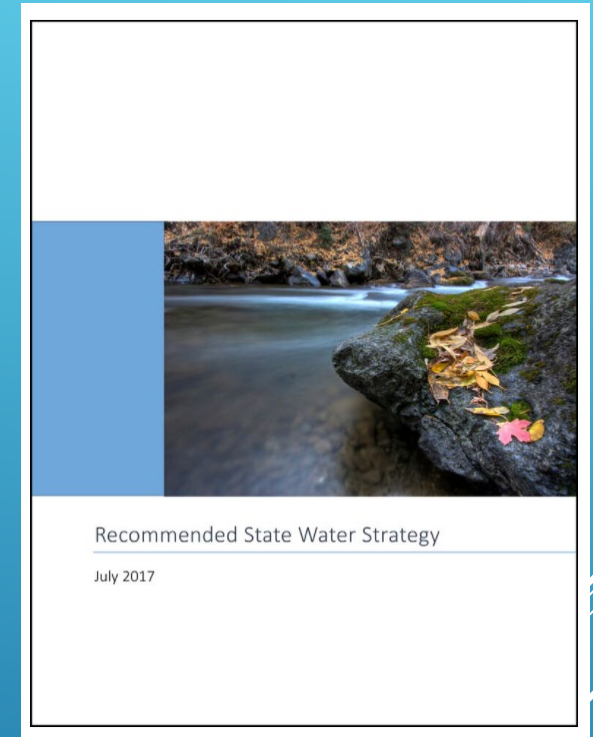
# BRIEF BACKGROUND

**2017 – 2020: By Water Users for Water Users**

A gargantuan Stakeholder effort to design a process that promotes market activities favorable to water users.

# ALL ROADS LEAD TO “WATER BANKING”

- 2017
  - Ag. Optimization Working Group
  - Sen. Iwamoto Municipal Instream Flow Bill
  - Central Utah Water Conservancy District Bonneville Bank efforts
  - 2017 Governors Water Strategy Report



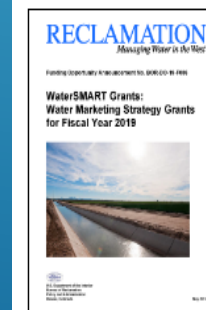
UTAH FACES A DAUNTING CHALLENGE: HOW DO WE PROVIDE WATER FOR A RAPIDLY GROWING POPULATION WHILE MAINTAINING STRONG FARMS AND A HEALTHY ENVIRONMENT?

# STAKEHOLDER MEETINGS AND “ROAD SHOW”

- 2018-2019
  - Water Banking Working Group Meetings
    - **Statewide Scoping and regional interviews**
    - **70 Participants**
  - Senate Joint Resolution 1 (2019)
  - \$400,000 Water Banking Appropriation
  - 2019 BOR WaterSMART Water Marketing Grant (\$400,000)
  - DRAFT Consensus Legislation
  - Statewide Roadshow – **60+ speaking events**
- 2020
  - SB 26 – Water Banking Amendments (2020)
  - Statewide Water Marketing Development Strategy Project

S.J.R. 1	<b>Bill Sponsor:</b>	<b>Floor Sponsor:</b>
	 Sen. Iwamoto, Jani	 Rep. Barlow, Stewart E.

## Reclamation makes up to \$3 million available for 2019 Water Marketing Strategy Grants funding opportunity



The 2019 Water Marketing Strategy Grants funding opportunity is now available from the Bureau of Reclamation. This funding opportunity is available to water entities to establish or expand water markets or water marketing activities. Reclamation will make available up to \$200,000 for simple projects that can be completed within two years and up to \$400,000 for more complex projects that can be completed in three years. Up to \$3 million is available for this funding opportunity. [Read More →](#)

# WHAT DID WE SAY WAS IMPORTANT?

## **VOLUNTARY – TEMPORARY – LOCAL**

To better support Utah's growing water demands, water banking could facilitate local, voluntary, and temporary transfers of water that generate income for water right owners and increase access to water.

(Working Group thesis)

# THE WATER BANKING ACT

UTAH CODE TITLE 73 CHAPTER 31

WHAT ARE WE DOING IN NUTSHELL?

PROMOTING THE DEVELOPMENT OF  
MARKET TOOLS FAVORABLE TO LOCAL  
WATER USERS

Ground up!!!!!!

# THE WATER BANKING ACT

## UTAH CODE TITLE 73 CHAPTER 31

- ▶ Provides water users **ultimate flexibility to design a leasing arrangement** that meets local conditions
  - ▶ size and scale of a bank's service area, participants
  - ▶ lease prices and terms
  - ▶ distribution of proceeds, etc..
- ▶ **Addresses barriers to** more flexible water use and **extends benefits** requested by water users.
- ▶ Interested water users can **apply to the Utah Board of Water Resources** to have qualifying leasing arrangements be approved as a "Water Bank."
- ▶ **Exploratory** - initial 10 year window to test the Act before an initial sunset date of 2030.



# BENEFITS OF WATER BANKING ACT

## Why use the Act opposed to other options?

### LOCAL CONTROL:

- local water users in the driver seat: without local interest there is no water bank.

### Streamlined Administrative Process:

- One time Change Application
- Quicker and cheaper movement of water on a temporary basis.

### Forfeiture Protections:

- Water rights deposited in a bank are exempt from forfeiture
- Irrigation company Service Areas – land use change

### Environmental Flows :

- Banked water can be leased for any purpose authorized by the Act, - including flows for environmental or water quality needs.

### Condemnation Protections:

- Banked water protected from condemnation while in the bank and for a period of time afterwards.

### Flexibility "On/Off" Switch:

- if allowed by bank policy, can use either as banked water or opt to use under original parameters

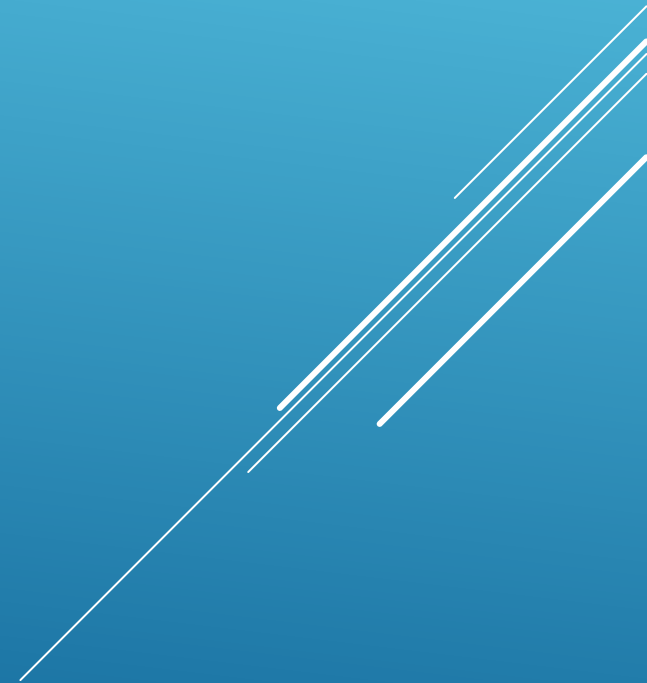
# UNWRAPPING THE ACT:

## ▶ Contract Water Bank:

- ▶ Many water users already use contracts to lease water.
- ▶ Voluntary arrangements setting terms and conditions for the use of water between a discrete set of parties.
- ▶ Contracts that meet the criteria of the Act are eligible to apply to be a water bank.
- ▶ Submit general information about the contract and a copy of the contract.
- ▶ To prevent private speculation of water, the applicant for a contract water bank must be a **non-federal public entity**; other parties to the contract do not need to be public entities.

Working Thoughts: Most banks will **start out as contract banks**

# CONTRACT WATER BANK APPLICATION FORM AND QUESTIONS



# UNWRAPPING THE ACT:

## ▶ Statutory Water Bank:

- ▶ A statutory bank is a legal entity organized for the purpose of administering leasing activity between parties in a defined area.
- ▶ Statutory water banks are modeled after private irrigation companies and run on private governance documents such as Articles, Bylaws, and policy documents.
- ▶ A statutory water bank application demonstrates bank has addressed a number issues needed for prudent management and leasing of water.
- ▶ The applicant of a statutory bank must be the owner of a perfected water right.
- ▶ Participation in a statutory bank, either by depositing water rights into or leasing water out of, must be **open to all interested water users**.

Working Thoughts: **more complicated to begin with**; lots of statutory criteria, phase 2 or 3 banks.

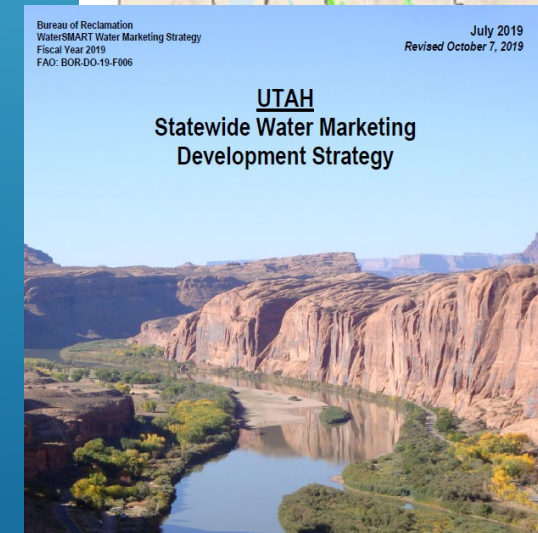
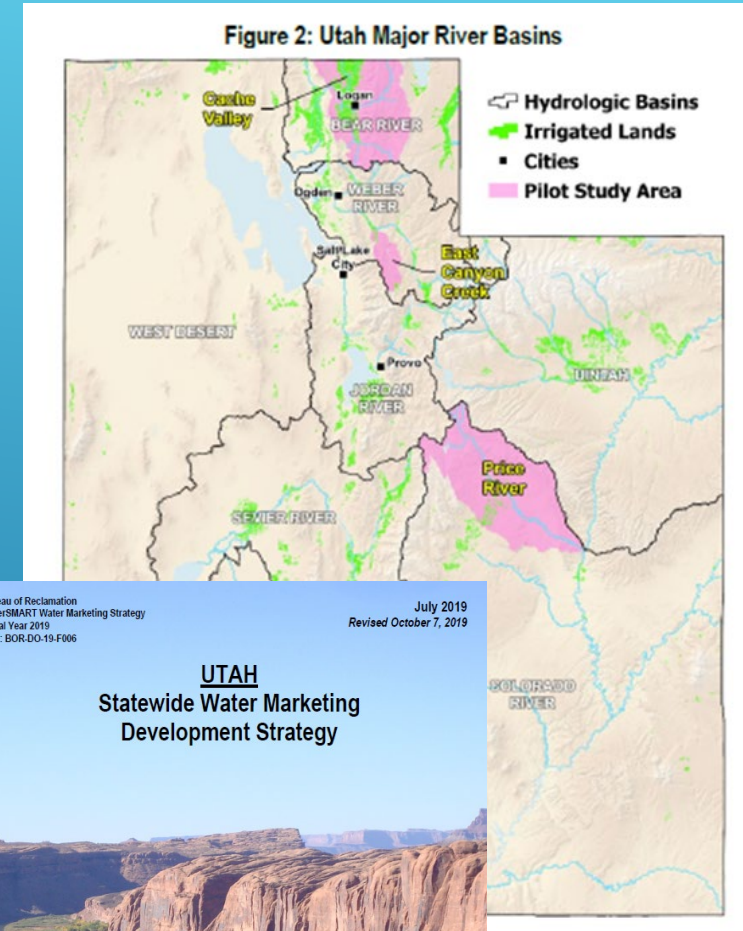
# UNWRAPPING THE ACT:

## ► Change Application:

- To place a water right into a water bank still need to comply with the Utah Code Ann. 73-3-8 Change Application
- Conduct an Impairment Analysis
- Public ability to protest
- Work through shepherding and distribution matters
- Set coordination of use with Utah State Engineer

# STATEWIDE WATER MARKETING STRATEGIES PROJECT

- ▶ The Utah Division of Water Resources received a total of nearly **\$800,000** in state appropriations and grant funds to pilot the concepts of the Act and produce a Statewide Water Marketing Strategies Report.
- ▶ Exploring the **development of market tools favorable to local water users by piloting the Utah Water Banking Act.**
- ▶ The effort is a **three year project** to work with interested water users in three pilot areas.
  - ▶ Price River Area, Snyderville Basin and Cache Valley.
- ▶ **Statewide Water Marketing Strategies Report** - guidance to other water users interested in developing water banks and recommendations for future water banking activity.



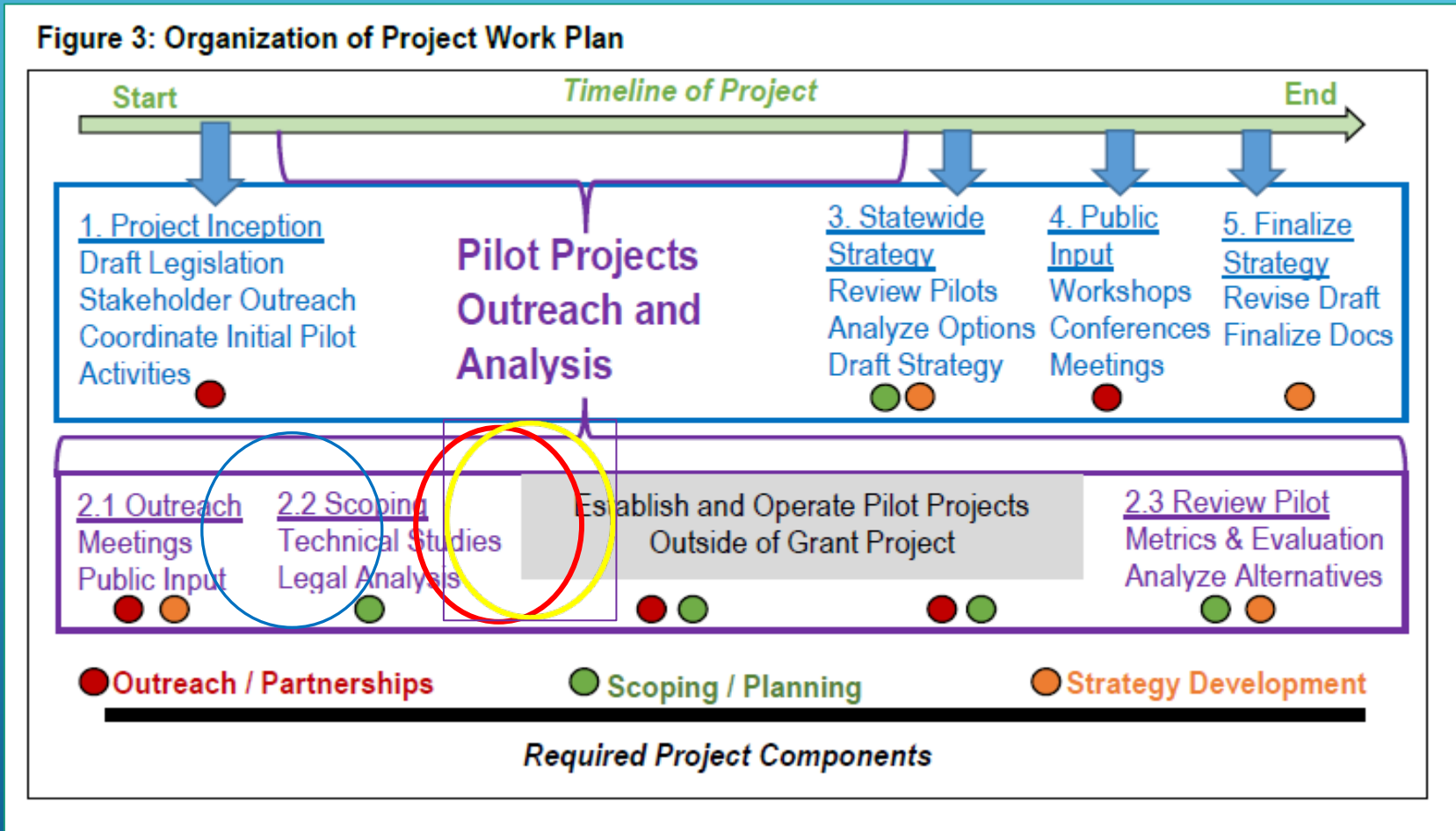
# PROJECT PROGRESS



\*Not the Olympics but it is a test of strength and teamwork

(<https://www.pinterest.com/pin/416794140491609296/>)

# PROJECT TIMELINE (3 YEARS STARTING 7/1/2020)



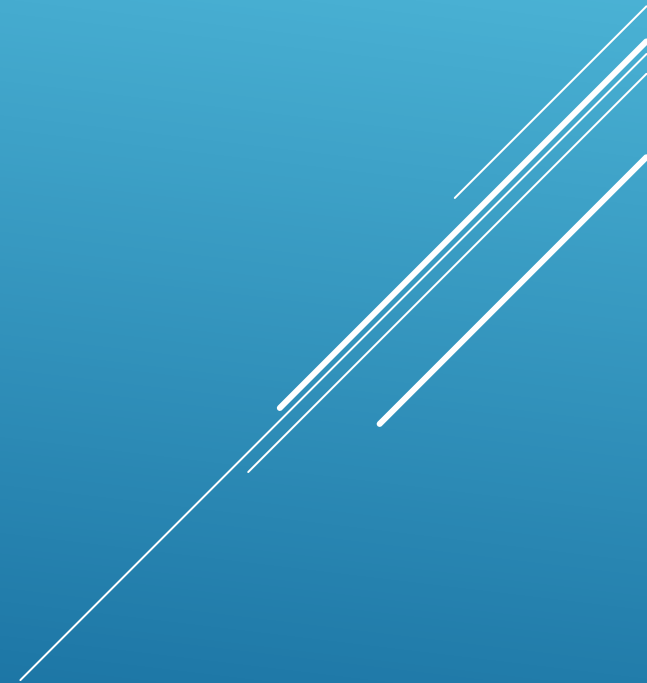
Blue =  
Snyderville  
Basin

Red = Price  
River

Yellow =  
Cache  
County



# PILOT PROJECT UPDATE: LOTS OF ACTIVITY, STEADY ACTION



**SNYDERVILLE BASIN PILOT STUDY AREA**  
**EXPLORATORY DISCUSSIONS**  
**ADDITIONAL DIALOGUE NEEDED**  
**NO COMMITMENTS**

- ▶ Working Concept:
  - ▶ A water bank organized to facilitate the running of sufficient flows in East Canyon Creek to:
    - ▶ 1) maintain water levels above critical conditions where native fish species are not irreparably stressed; and
    - ▶ 2) improve water quality.
- ▶ Issues:
  - ▶ Establishing a lessor for the water
  - ▶ Water source: new “tranche” of water or distribution?
  - ▶ Distribution - lack of measurement/security
- ▶ Status:
  - ▶ Subgroup to discuss incentive structure for leasing and demand
  - ▶ HDR State Engineer working on distribution and instrumentation baseline
- ▶ Timeline:
  - ▶ Winter 2021-2022 – stakeholder discussions and scoping
  - ▶ Spring 2022 Water Banking Application
  - ▶ Summer 2022 – run water?



# HYRUM RESERVOIR LEASING POOL

## EXPLORATORY DISCUSSIONS - ADDITIONAL DIALOGUE NEEDED - NO COMMITMENTS

### ▶ Working Concept:

- ▶ A Leasing arrangement between Hyrum Irrigation Company and Wellsville Mendon Conservation District
- ▶ Lease available water in HIC's South Cache Water User storage allotment to WMCD

### ▶ Issues:

- ▶ Need to be a Water Bank under the Act?
- ▶ Role of Federal Facilities and discussions with BOR
- ▶ How to interact with Board of Water Resources

### Status:

- ▶ Parties re finalizing leasing agreement

### ▶ Timeline:

- ▶ **September 1 Final Contract Complete**
- ▶ **January 1 Contract Signed**
- ▶ **Run water summer 2022**



**PRICE RIVER PILOT STUDY AREA**  
**EXPLORATORY DISCUSSIONS**  
**ADDITIONAL DIALOGUE NEEDED**  
**NO COMMITMENTS**

▶ Working Concept:

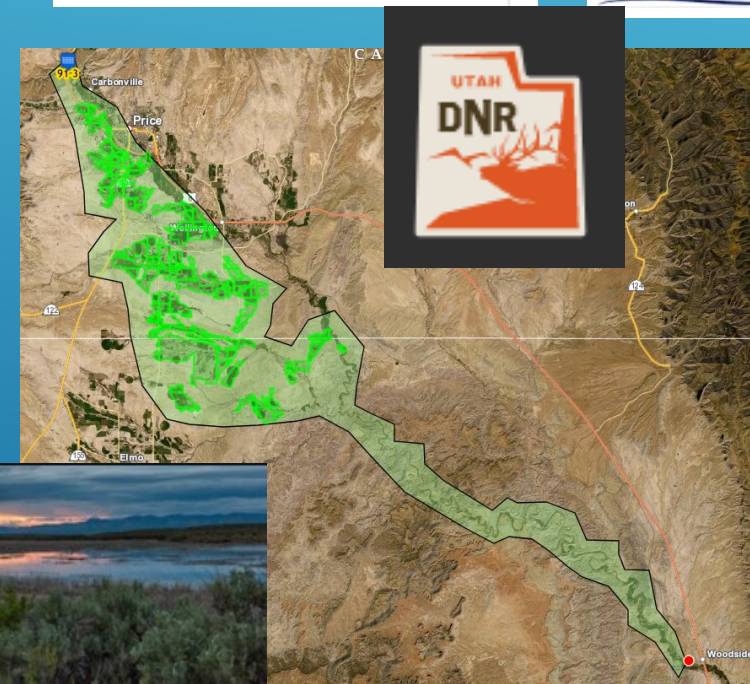
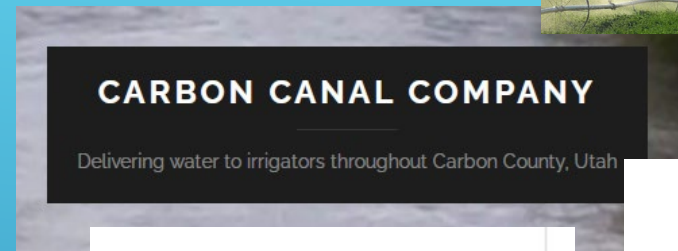
- ▶ A contract bank designed to allow Carbon Canal Company Shareholders to follow land and lease the consumptive portion of their Company Shares.

▶ Participating Parties:

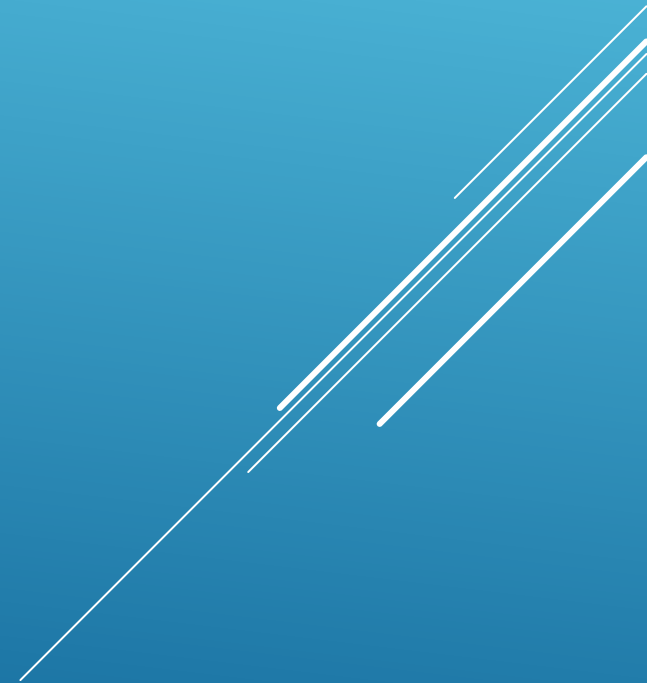
- ▶ Carbon Canal Company
- ▶ The Nature Conservancy
- ▶ Trout Unlimited
- ▶ Division of Wildlife Resources

▶ Bank Applicant:

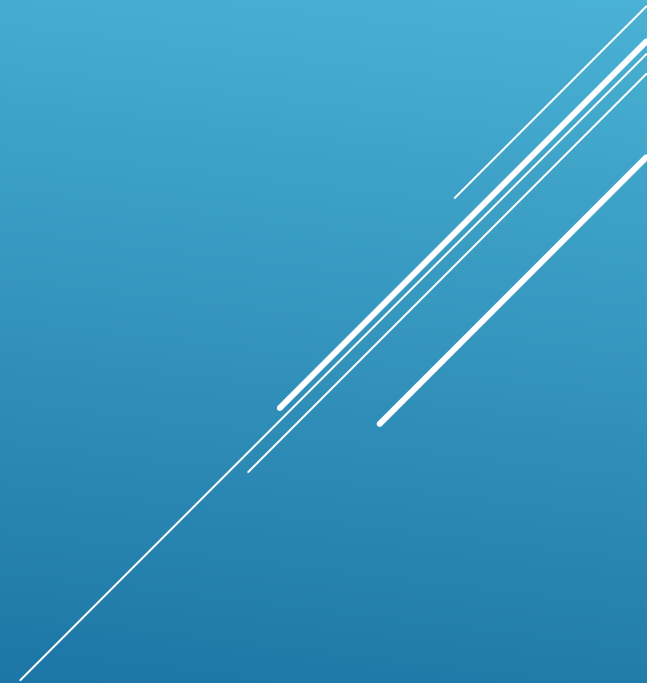
- ▶ Price River Watershed Conservation District




# PRICE RIVER WATER BANK- KEY CONTRACT PROVISIONS



# PRICE RIVER WATER BANK – LEASE PROCESS



# WHAT ARE WE LEARNING?

- ▶ Start with Demand
  - ▶ Devil is in the Details (surplus v. opt in/Company v. Shareholder)
  - ▶ Shepherding/Distribution
  - ▶ Attention/bandwidth is hard in drought
  - ▶ Everyone seems excited
  - ▶ Keep It Simple Stupid
  - ▶ Lack of Data/Instrumentation
- 

# OPEN FORUM

So . . . . What are we thinking?

