

BACKGROUND AND REQUESTED ACTION

Great Salt Lake Minerals (GSLM) filed a mineral lease nomination for 52,200 acres in Gunnison Bay as part of their plans to expand production for their potash operations in June 2008. As part of the management direction in the Mineral Leasing Plan, the Division of Forestry, Fire and State Lands (DFFSL) evaluated a non-competitive bid for relinquishment of undeveloped leases acreage adjacent to Promontory Point and west of Ogden Waterfowl Management Area with acres in Gunnison Bay to Great Salt Lake Minerals in exchange for the nominated lands.

In November 2008, DFFSL, Division of Wildlife Resources (DWR) and Great Salt Lake Minerals agreed upon the exchange of leased lands to further the management goals on Great Salt Lake, benefit all parties, and explore possible good faith of cooperation to accommodate both mineral extraction and wildlife values on the lake. The two management directions that were outlined in the June 1996 Mineral Leasing Plan that are pertinent with the lease exchange were: withdraw lands within existing wildlife management areas and areas with more important wildlife, recreational and scenic values from new mineral leasing; and evaluate opportunities for trading existing leases with significant resource conflicts for the right to lease in areas with less conflict.

DWR expressed interest in such an exchange because the undiked areas of west of Ogden Waterfowl Management Area have tremendous value to wildlife, specifically birds. Some of the

values include: molting/brood rearing areas for Canada geese and ducks; a foraging area for fish eating birds such as pelicans, cormorants, western grebes, great blue herons; horned grebe nesting colony. In contrast, the acres proposed for lease in Gunnison Bay have relatively less wildlife value compared to those in Bear River Bay west of Ogden Waterfowl Management Area. DFFSL and DWR identified 30,181.26 acres of high habitat value sovereign lands leased by Great Salt Lake Minerals, willing and suitable for exchange in conformance to the Mineral Leasing Plan.

Furthermore in November 2008, Great Salt Lake Minerals amended their original 52,200 acre nomination to 37,083 acres. It was also agreed upon that the relinquishment of certain mineral leases would be in exchange for 1) the nominated acreage; 2) a non-bid basis; 3) an easement that is three times the width of the existing brine canal around the tip of Promontory Point. Those were the stipulations presented to the DFFSL in a letter from GSLM, dated August 7, 2008.

The Behren's Trench is currently under an easement that ends at the Northwest corner of ML 23023. An amendment to the easement will need to be approved to realign and extend the existing easement to include areas currently under ML 23023 which will be relinquished. The existing Behren's Trench serves to deliver brine from the solar evaporation ponds on the west side of the Great Salt Lake to the Great Salt Lake Minerals ponds on the eastern shore.

Great Salt Lake Minerals is a long time lessee with leases in the north arm of Great Salt Lake as well as leases in Bear River Bay. The proposed action would utilize the existing Behren's Trench and brine canals to move concentrated brines from the evaporation ponds in the Clyman Bay and Gunnison Bay areas to the processing plant near Little Mountain in Weber County. Great Salt Lake Minerals is the largest producer of Sulfate of Potash (SOP) in North America and they also produce sodium chloride and magnesium chloride. The minerals extracted from the expansion would be used mostly for SOP.

To produce SOP, water from the north arm of Great Salt Lake is pumped to the solar evaporation ponds where the potassium concentration is increased as the water evaporates. The amount of concentration depends on the acreage of evaporation ponds available, weather, and other factors. Generally speaking, there is a concentration of one to three percent in the evaporation ponds on the west side of the lake before pumping the concentrated brine to the east side via the Behren's Trench and Great Salt Lake Minerals canal system. Transport by this system takes a week to make the twenty-one mile journey. In the east ponds, the brine further concentrates by flowing through a series of ponds that are evaporated by solar energy from May through September.

The potassium concentration of the potassium salts is accomplished by complex phase chemistry, a combination of water addition, heating and cooling, to accomplish this conversion. The SOP plant does not consume or produce any hazardous chemicals and is unique among other SOP facilities worldwide.

1. NEW MINERAL LEASE

On April 6, 2009, the applicant submitted a Mineral Lease of Sovereign Land Application 20000115 (Exhibit B), to lease sovereign lands in the bed of Great Salt Lake for an expansion project located on the west side of the northwest quadrant (locally referred to as the north arm) which is similar in nature, but larger in scope to the existing improvements on nearby leases.

The proposed use would involve the development of the property to include construction of evaporation ponds, dikes, canals and pump stations for the extraction of mineral salts from Great Salt Lake.

The applicant proposes to obtain a 30-year commercial renewable lease for lands below the meander line. The applicant is currently in the process of obtaining the Army Corps of Engineers permit for the subject site in conjunction with lands in Bear River Bay already under lease and other leased lands in Gunnison Bay. The Army Corps of Engineers permitting process includes an Environmental Impact Statement, which will assess impacts to the environment and evaluate alternatives.

2. RELINQUISHMENT OF/ AMENDMENT TO EXISTING MINERAL LEASES

On April 6, 2009, the applicant submitted documentation including legal descriptions for the undeveloped acreage on existing mineral leases that is being relinquished in an effort to expand current operations in Gunnison Bay. These mineral lease amendments complete the arrangement

made with Forestry, Fire and State Lands to exchange leases on the west shore of the Great Salt Lake for acreage on the eastern shore.

3. EASEMENT AMENDMENT

On April 6, 2009, the applicant submitted an Easement Application (Exhibit B) to amend Easement 95 referred to as the Behren's Trench. The existing Behren's Trench serves to deliver brine from the solar evaporation ponds on the west side of the Great Salt Lake to the Great Salt Lake Minerals ponds on the eastern shore. The applicant has agreed to relinquish mineral lease ML-23023, which includes a portion of the Behren's Trench. This amendment would extend the existing easement # 95 to include the area covered by the relinquished minerals lease. This action is necessary to cure existing rights.

4. NEW EASEMENT

On April 6, 2009, the applicant submitted an Easement Application 400 00203 (Exhibit B). The existing Promontory Canal transports brine from the Behren's Trench to the Great Salt Lake Minerals solar ponds on the east shore of the Great Salt Lake. The applicant has agreed to relinquish mineral lease ML-23023, which includes portions of the Promontory Canal, below the meander line. This is a new easement for an existing canal. This action is necessary to cure existing rights.

LEGAL DESCRIPTION OF LANDS DIRECTLY AFFECTED

NEW MINERAL LEASE NO. 200 00115

Township 8 North, Range 10 West SLBM

Sections 3-6

Township 8 North, Range 11 West, SLBM

Section 1, bed of Great Salt Lake below meander

Township 9 North, Range 10 West, SLBM

Sections 3-6; 7-10; 15-18; 19-22; 27-30; 31-34

Township 9 North, Range 11 West, SLBM

Sections 3, 4, 10, 15, 22, 23, 26, 35 & 36, bed of Great Salt Lake below meander
Sections 1, 2, 11-14, 24 & 25

Township 9 North, Range 10 West, SLBM

Sections 13 & 14, southern half of the southern half

Township 10 North, Range 10 West, SLBM

Sections 27-30; 31-34

Township 10 North, Range 11 West, SLBM

Sections 28 & 33, bed of Great Salt Lake below meander
Sections 25-27; 34-36

Bed of Great Salt Lake adjacent to Clyman Bay, 37,083.18 acres more or less in Box Elder County. (See Exhibit A-1, A-2)

NEW EASEMENT NO. 400 00203

A part of the South half of Section 26, 25 and the North half of Section 36, Township 6 North, Range 6 West, Salt Lake Base & Meridian, U.S. Survey:

Beginning at a point which is 2135.1 feet West along the Section line from the Southeast corner of said Section 25; and running thence two (2) courses along South Meander line of Section 25 follows: South 72°03'52" East 677.87 feet and South 62°30'00" East 76.96 feet to the intersection of said Meander line and Southerly toe of the Brine canal; thence five (5) courses along said Southerly toe of the Brine canal as follows: North 72°52'46" West 1549.30 feet; North 62°14'05" West 679.26 feet; North 83°59'17" West 6050.21 feet; North 38°49'22" West 62.08 feet and

North 58°15'17" East 213.32 feet to the South right of way line of the Central Pacific Rail Road; thence three (3) courses along said South right of way as follows: South 87°50'42" East 3925.02 feet; Southeasterly along the arc of a 5688.33 foot radius curve to the right a distance of 2003.47 feet (Central angle equals 20°10'48" and Long chord bears South 78°06'35" East 1993.13 feet); and South 67°56'01" East 993.05 feet to said Meander line; thence South 49°00'00" East 596.30 feet along said Meander line to the point of beginning.

Note:

The total length of the Brine Canal Easement, as described above is 7106.29 feet or 430.68 rods or 1.346 miles in length and contains 2,343,392 sq. ft. or 53.797 acres, more or less.

A part of the Northeast quarter of Section 36, Township 6 North, Range 6 West, Salt Lake Base & Meridian, U.S. Survey:

Beginning at the intersection of North boundary line of a Brine canal easement and the South Meander line of Section 36, which is 873.94 feet South along the Section line and 25.29 feet West from the Northeast corner of said Section 36; and running thence two (2) courses along said North boundary line as follows: North 76°10'42" West 187.26 feet and North 63°50'51" West 615.77 feet to the intersection of North boundary line of a Brine canal easement and the South Meander line of Section 36; thence two (2) courses along said South Meander line as follows: South 73°00'00" East 508.50 feet and South 56°00'00" East 299.49 feet to the point of beginning.

A part of the North half of Section 31 and a part of Section 32, Township 5 North, Range 6 West and a part of the Northeast quarter of Section 36, Township 6 North, Range 6 West Salt Lake Base & Meridian, U.S. Survey:

Beginning at the intersection of North boundary line of a Brine canal easement and the South Meander line of Section 36, which is 873.94 feet South along the Section line and 25.29 feet West from the Northeast corner of said Section 36; and running thence two (2) courses along said North boundary line as follows: South 80°00'00" East 847.97 feet and South 82°30'00" East 1565.28 feet to the intersection of said North boundary line of a Brine canal easement and the South Meander line of Section 31; thence ten (10) courses along said North boundary line as follows: South 79°44'42" East 1692.43 feet; Southeasterly along the arc of a 234.00 foot radius curve to the left a distance of 17.59 feet (Central angle equals 4°18'24" and Long chord bears South 81°50'56" East 17.58 feet); South 84°00'08" East 1647.53 feet; Southeasterly along the arc of a 366.00 foot radius curve to the right a distance of 20.81 feet (Central angle equals 3°15'30" and Long chord bears South 82°22'23" East 20.81 feet); South 80°44'38" East 1471.75 feet; Southeasterly along the arc of a 366.00 foot radius curve to the right a distance of 38.32 feet (Central angle equals 5°59'55" and Long chord bears South 77°44'41" East 38.30 feet); South 74°44'43" East 980.69 feet; Southeasterly along the arc of a 366.00 foot radius curve to the right a distance of 24.19 feet (Central

angle equals $3^{\circ}47'13''$ and Long chord bears South $72^{\circ}51'07''$ East 24.19 feet); South $70^{\circ}57'30''$ East 813.20 feet and Southeasterly along the arc of a 234.00 foot radius curve to the left a distance of 134.51 feet (Central angle equals $32^{\circ}56'07''$ and Long chord bears South $87^{\circ}25'33''$ East 132.67 feet) to the South Meander line of Section 32; thence South $43^{\circ}15'23''$ East 143.61 feet along said South Meander line to the South boundary line of said Brine canal easement; thence eleven (11) courses along said South boundary line as follows: Northwesterly along the arc of a 366.00 foot radius curve to the right a distance of 281.25 feet (Central angle equals $44^{\circ}01'41''$ and Long chord bears North $87^{\circ}01'39''$ West 274.38 feet); North $70^{\circ}57'30''$ West 813.20 feet; Northwesterly along the arc of a 234.00 foot radius curve to the left a distance of 15.47 feet (Central angle equals $3^{\circ}47'13''$ and Long chord bears North $72^{\circ}51'07''$ West 15.46 feet); North $74^{\circ}44'43''$ West 980.69 feet; Northwesterly along the arc of a 234.00 foot radius curve to the left a distance of 24.50 feet (Central angle equals $5^{\circ}59'55''$ and Long chord bears North $77^{\circ}44'41''$ West 24.49 feet); North $80^{\circ}44'38''$ West 1471.75 feet; Southeasterly along the arc of a 234.00 foot radius curve to the left a distance of 13.31 feet (Central angle equals $3^{\circ}15'30''$ and Long chord bears North $82^{\circ}22'23''$ West 13.31 feet); North $84^{\circ}00'08''$ West 1647.53 feet; Northwesterly along the arc of a 366.00 foot radius curve to the right a distance of 27.51 feet (Central angle equals $4^{\circ}18'24''$ and Long chord bears North $81^{\circ}50'56''$ West 27.50 feet); North $79^{\circ}44'42''$ West 3311.02 feet and North $76^{\circ}10'42''$ West 901.57 feet to the point of beginning.

A part of the of Section 28 and 33, Township 5 North, Range 6 West, Salt Lake Base & Meridian, U.S. Survey:

Beginning at the intersection of North boundary line of a Brine canal easement and the South Meander line of Section 33, which is 2015.15 feet South $008^{\circ}33''$ West along the Section line and 115.42 feet East from the Northwest corner of said Section 33; and running thence two (2) courses along said South Meander line as follows: North $0^{\circ}26'06''$ East 96.07 feet and North $48^{\circ}19'57''$ East 215.70 feet to the intersection of said North boundary line of a Brine canal easement and the South Meander line of Section 33; thence thirteen (13) courses along said North boundary line as follows: North $61^{\circ}13'44''$ East 304.67 feet; Northeasterly along the arc of a 234.00 foot radius curve to the left a distance of 61.91 feet (Central angle equals $15^{\circ}09'30''$ and Long chord bears North $53^{\circ}38'59''$ East 61.73 feet); North $46^{\circ}04'14''$ East 113.33 feet; Northeasterly along the arc of a 234.00 foot radius curve to the left a distance of 279.37 feet (Central angle equals $68^{\circ}24'15''$ and Long chord bears North $11^{\circ}52'06''$ East 263.07 feet); North $22^{\circ}20'01''$ West 417.61 feet; Northeasterly along the arc of a 366.00 foot radius curve to the right a distance of 378.54 feet (Central angle equals $59^{\circ}15'31''$ and Long chord bears North $7^{\circ}17'44''$ East 361.89 feet); North $36^{\circ}55'30''$ East 2974.75 feet; Northeasterly along the arc of a 366.00 foot radius curve to the right a distance of 11.29 feet (Central angle equals $1^{\circ}46'03''$ and Long chord bears North $37^{\circ}48'31''$ East 11.29 feet); North $38^{\circ}41'33''$ East 551.10 feet; Northeasterly along the arc of a 366.00 foot radius curve to the right a distance of 53.23 feet (Central angle equals $8^{\circ}19'57''$ and Long chord bears North $42^{\circ}51'32''$ East 53.18 feet); North $47^{\circ}01'30''$ East 214.59 feet;

Northeasterly along the arc of a 366.00 foot radius curve to the right a distance of 104.05 feet (Central angle equals $16^{\circ}17'20''$ and Long chord bears North $55^{\circ}10'10''$ East 103.70 feet) and North $63^{\circ}18'50''$ East 275.01 feet to the South Meander line of Section 33; thence North $75^{\circ}35'00''$ East 96.57 feet and North $44^{\circ}16'22''$ East 62.90 feet along said South Meander line to the North boundary line of said Brine canal easement; thence two (2) courses along said North boundary line as follows: North $63^{\circ}18'50''$ East 1205.14 feet and Northeasterly along the arc of a 134.00 foot radius curve to the left a distance of 77.30 feet (Central angle equals $33^{\circ}03'00''$ and Long chord bears North $46^{\circ}47'20''$ East 76.23 feet) to the South Meander line of Section 33; thence North $65^{\circ}42'22''$ East 164.86 feet to the South boundary line of said Brine canal easement; thence fourteen (14) courses along said South boundary line as follows: Southwesterly along the arc of a 266.00 foot radius curve to the right a distance of 294.23 feet (Central angle equals $63^{\circ}22'37''$ and Long chord bears South $31^{\circ}37'31''$ West 279.46 feet); South $63^{\circ}18'50''$ West 1633.97 feet; Southwesterly along the arc of a 234.00 foot radius curve to the left a distance of 66.52 feet (Central angle equals $16^{\circ}17'20''$ and Long chord bears South $55^{\circ}10'10''$ West 66.30 feet); South $47^{\circ}01'30''$ West 214.59 feet; Southwesterly along the arc of a 234.00 foot radius curve to the left a distance of 34.03 feet (Central angle equals $8^{\circ}19'57''$ and Long chord bears South $42^{\circ}51'32''$ West 34.00 feet); South $38^{\circ}41'33''$ West 551.10 feet; Southwesterly along the arc of a 234.00 foot radius curve to the left a distance of 7.22 feet (Central angle equals $1^{\circ}46'03''$ and Long chord bears South $37^{\circ}48'31''$ West 7.22 feet); South $36^{\circ}55'30''$ West 2974.75 feet; Southwesterly along the arc of a 234.00 foot radius curve to the left a distance of 242.02 feet (Central angle equals $59^{\circ}15'31''$ and Long chord bears South $7^{\circ}17'44''$ West 231.37 feet); South $22^{\circ}20'01''$ East 417.61 feet; Southwesterly along the arc of a 366.00 foot radius curve to the right a distance of 436.96 feet (Central angle equals $68^{\circ}24'15''$ and Long chord bears South $11^{\circ}52'06''$ West 411.47 feet); South $46^{\circ}04'14''$ West 113.33 feet; Southwesterly along the arc of a 366.00 foot radius curve to the right a distance of 96.83 feet (Central angle equals $15^{\circ}09'30''$ and Long chord bears South $53^{\circ}38'59''$ West 96.55 feet) and South $61^{\circ}13'44''$ West 561.81 feet to the point of beginning.

EASEMENT NO. 95 AMENDMENT

Description of Lake Channel: From the SW corner of Section 27, Township 6 North, Range 6 West SLB&M in the North Arm of Great Salt Lake, N $0^{\circ} 50' 44.56''$ W 3046.38 feet to Point of Beginning, which point is on the west boundary of existing ML 43388 SV, thence N $80^{\circ} 16' 59.5''$ W 95,718.83 feet, to a point 318.15 feet more or less north of the SE corner Section 4, Township 6 North, Range 9 West, SLB&M which point is on the east boundary of existing mineral lease ML 44607 SV being the centerline of a 500 foot wide easement for the underwater channel commonly known as the Behren's Trench.

Contains 2.5 acres more or less.

MINERAL LEASE ML-19024 AMENDMENT

A part of Sections 7, 17, 18, 20, and the West half Section 8, Township 6 North, Range 4 West, and a part of Sections 1, 2, 10, 11, 12, 13, and 15, and all of Section 14, Township 6 North, Range 5 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point where the meander line of Great Salt Lake joins or intersects the South boundary line of Section 15, Township 6 North, Range 5 West, Salt Lake Base and Meridian; running thence Northerly 11,880 feet, more or less, to the South half, of the South half, of the Northeast corner of the Southeast quarter of said Section 2; thence East 5,280 feet, more or less, to the center line of said Section 1; thence North 1,320 feet, more or less, to the Center of said Section 1; thence East 2,360 feet, more or less, to the West boundary of Township 6 North, Range 4 West, Salt Lake Base and Meridian; thence North 160 feet, more or less, to the Northwest corner of said Section 7; thence East 7,920 feet, more or less, to the center line of said Section 8; thence South 10,560 feet, more or less, along said center line of Section 8 and 17 to the North line of said section 20; thence East 2,640 feet, more or less, to the East line of said Section 20; thence South 4,532 feet, more or less, to the South right of way line of Southern Pacific Company Railroad; thence South 78° West 1,905 feet, more or less, along said South right of way line to a point 15 feet West of the existing dike; thence two (2) courses along a line 15' West and parallel to and 15 feet perpendicularly distant from said West toe of the existing dike as follows: North 20°45' West 12,870 feet, more or less, and North 63°05' West 1,034 feet, more or less, to a point 15 feet South of the South toe of the existing dike; thence South 88°53' West 5,573 feet, more or less, to a point 15 feet East of the East toe of the existing dike; thence South 10,296 feet, more or less, along a line parallel and 15 feet perpendicularly distant from said East toe of the existing dike to the South line of said Section 13; thence East 11,880 feet, more or less, along South line of said Sections 13, 14 and 15 to the point of beginning.

Contains 4,427 Acres, More or Less

MINERAL LEASE ML-19024 RELINQUISHMENT

A part of Sections 7, 17, 18, 20, and all of Section 19, Township 6 North, Range 4 West, and a part of Sections 12 and 13, Township 6 North, Range 5 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at the Southeast corner of said Section 20, and running thence West 10,560 feet, more or less, to the Southwest corner of said Section 19, thence North 2480 feet, more or less, along the Township line to the Southeast corner of said Section 13; thence West 2,646 feet, more or less, along the Section line to a point 15 feet East of the East toe of the existing dike; thence North 10,296 feet, more or less, along a line parallel and 15 feet perpendicularly distant from said East toe of the existing dike to a point 15 feet South of the South toe of the existing dike; thence North 88°53' East 5,573 feet, more or less, to a point 15 feet West of the existing dike; thence two (2) courses along a line 15' West and

parallel to and 15 feet perpendicularly distant from said West toe of the existing dike as follows: South 63°05' East 1,034 feet, more or less, and South 20°45'' East 12,870 feet, more or less, to the South right of way line of Southern Pacific Company Railroad; thence North 78° East 1,905 feet, more or less, along said South right of way line to the East line of said Section 20; thence South 749 feet along the Section line to the point of beginning.

Contains 2,501 Acres, More or Less

MINERAL LEASE ML-19059 AMENDMENT

A part of Sections 22, 23, 24, 26, 27, and 28, Township 6 North, Range 5 West, Salt Lake Base and Meridian, U. S. Survey:

Beginning at a point where the meander line of Great Salt Lake joins or intersects the North boundary of said Section 22; running thence East 11,880 feet, more or less, to a point 15' East of the East toe of the existing dike; thence South 4,380 feet, more or less, along a line parallel to and 15' East perpendicularly distant from said East toe of the existing dike to a point on the South right of way line of Southern Pacific Company Railroad; thence South 78° West 13,625 feet, more or less, along said South right of way line to the Meander Line Survey of the Great Salt Lake; thence Northerly 9,540 feet, more or less, to the point of beginning.

Contains 1,449 Acres, More or Less

MINERAL LEASE ML-19059 RELINQUISHMENT

A part of Sections 22, 26, 27, 28 and all of Sections 23 and 24, Township 6 North, Range 5 West, Salt Lake Base and Meridian, U. S. Survey:

Beginning at the Northeast corner of said Section 24; thence South 5,280 feet, more or less, along the Range line to the Southeast corner of said Section 24; thence West 5,280 feet, more or less, along the Section line to the Southwest corner of said Section 24; thence South 1,320 feet, more or less, along the Section line; thence West 5,280 feet, more or less, to the East Section line of Section 27; thence South 2,640 feet, more or less, along said Section line; thence West 5,280 feet, more or less, to the West Section line of Section 27; thence South 1,320 feet, more or less, along said Section line to the Southeast corner of Section 28; thence West 4620 feet, more or less, along the Section line to the Meander Line Survey of the Great Salt Lake; thence Northerly and Northeasterly along said Meander Line to a point on the South right of way line of Southern Pacific Company Railroad; said point is 16,123 feet, more or less, West and 7,033 feet South from the Northeast corner of said Section 24; thence North 78°00'00" East 13,625 feet, more or less, along said South right of way line to a point 15' East of the East toe of the existing dike; thence North 4,380 feet, more or less, along a line parallel to and 15' East perpendicularly distant from said East toe of the existing dike to the North Section line of

said Section 24; thence East 2,646 feet, more or less, along said North Section line to the point of beginning.

Contains 1,135 Acres, More or Less

MINERAL LEASE ML-21708 AMENDMENT

A part of all of Sections 1 thru 6, the East half of Section 8, all of Sections 9 thru 12, 15 and 16, the East half of Section 17 and the North half of Sections 21 and 22 Township 6 North, Range 4 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point where the survey meander line of Great Salt Lake joins or intersects the East line of said Section 1; running thence North along said East line of said Township 2,640 feet, more or less, to the Northeast corner of said Township and said Section 1; thence West along the North line of said Township 31,680 feet, more or less, to the Northwest corner of said Township and said Section 6; thence South along the West line of said Township 5,280 feet, more or less, to the North line of the area in said Township presently within Lease No. 19024; thence four (4) courses along said Northerly line of Lease No. 19024 as follows; East 7,920 feet; South 10,560 feet; East 2,640 feet; and South 4,532 feet, more or less, to a point South right of way line of the Southern Pacific Company Railroad; thence North 78° East 10,560, more or less, along said Southerly right of way line to the East line of said Section 22; thence North 7,920 feet, more or less, along East line of said Section 22 and 15 to the Northwest corner of said Section 15; thence East 8,052 feet, more or less, to the point on the meander line of Great Salt Lake common to Sections 12 and 13 of said Township; thence Northeasterly 7,920 feet, more or less, along said meander line through Section 12 and 1 to the point of beginning.

Contains 8,907 Acres, More or Less

MINERAL LEASE ML-21708 RELINQUISHMENT

A part of the South Half of Section 21, and all of Sections 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, Township 6 North, Range 4 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at the Southeast corner of said Section 35; and running thence West along the Township Line 26,400 feet more or less, to the Southwest corner of said Section 31, thence North 10,560 feet, more or less, along the Township line to the Northwest corner of said Section 30; thence East 10,560 feet, more or less, along the North line of the Section to the Northeast corner of said Section 29; thence North 748 feet, more or less, to the South right of way line of the Southern Pacific Company Railroad; thence North 78° East 10,560 feet, more or less, along said Southerly right of way line to the West line of said Section 23; thence Southwesterly 5,380 feet along said Southerly right of way line to the East line of said Section 23; thence South 13,570 feet, more or less, along the East

line of said Sections 23, 26, and 35 to the Southeast corner of said Section 35 and the point of beginning.

Contains 7,212 Acres, More or Less

A part of Sections 26, 27 and the presently unsurveyed portion of Sections 31 through 33 and all of Sections 25, 34 through 36, Township 6 North, Range 4 West, Salt Lake Base and Meridian, U.S. Survey:

Also beginning at a point in Section 31. Township 6 North, Range 5 West, where the meander line of the Great Salt Lake intersects the West line of said boundary; running thence South along said West line of said Township 4389 feet, more or less, to the Southwest corner of said Township; thence East along the South line of said Township 31,680 feet, more or less, to the Southeast corner of said Township; thence North along the East line of said Township 10,560 feet; thence West 5,280 feet; thence South 1,320 feet; thence West 5,280 feet; thence South 2,640 feet; thence West 5,280 feet; thence South 1,320 feet; thence West 4,933.5 feet to the point on the meander line of Great Salt Lake common to Sections 28 and 33 of said Township; thence along said meander line through Sections 33, 32 and 31 to the point of beginning which, when surveyed, will probably embrace:

- Section 25: All
- Section 26: S 1/2, S 1/2 N 1/2
- Section 27: S 1/2 S 1/2
- Section 31: Presently unsurveyed portion
- Section 32: Presently unsurveyed portion
- Section 33: Presently unsurveyed portion
- Section 34: All
- Section 35: All
- Section 36: All

Contains 4,687.09 Acres, more or less

MINERAL LEASE ML-23023 RELINQUISHMENT

Commencing at a point where the meander line of Great Salt Lake intersects or meets the east line of Section 36, T 6 N., R 6W., SLM, running thence S. $\frac{3}{4}$ mi. m/l to the proposed southeast corner of Section 36, being a township corner, thence W. 5 mi. m/l, N. 1-1/4 mi. m/l, W. 1 mi. m/l, N. $\frac{3}{4}$ mi. m/l, E. 1 mi. m/l, N. 4 mi. m/l, E. 2-7/8 mi. m/l to a point where the meander line of Great Salt Lake intersects the north line of Section 3, T. 6 N., R. 6 W., SLM, thence southerly along said meander line 3-1/2 mi. m/l to the north boundary of the north segment of Lake Crystal Salt Company lease ML 1623, thence westerly along the north boundary to the northwest corner of said lease, thence south along the west boundary to the southwest corner of said lease, thence south 2376' m/l to the north boundary of the south segment of Mineral Lease 1623, thence west 7245' m/l to the proposed west boundary of Section 27, T. 6 N., R. 6 W., SLM, thence south along said west boundary 1526' m/l to the north property line of the Southern Pacific

Company, thence easterly along said property line 2-1/2 miles m/l to the meander line of Great Salt Lake, thence southeasterly along said meander line to point of beginning, which when surveyed will probably be described as:

Township 6 North, Range 6 West, SLM

Sec. 3 – Part, Unsur.	Sec. 16 – All	Sec. 28 – All
Sec. 4 – All	Sec. 17 – All	Sec. 29 – All
Sec. 5 – All	Sec. 20 – All	Sec. 30 – N1/2, N1/2S1/2
Sec. 8 – All	Sec. 21 – All	Sec. 32 – All
Sec. 9 – All	Sec. 22 – All	Sec. 33 – All
Sec. 10 – Part, Unsur.	Sec. 23 – Part	Sec. 34 – All
Sec. 11 – Part, Unsur.	Sec. 25 – Part	Sec. 35 – All
Sec. 14 – Part, Unsur.	Sec. 26 – Part	Sec. 36 – Part, Unsur.
Sec. 15 – All	Sec. 27 – Part	

Contains 14, 380.56 Acres More or Less

CONTROLLING STATUTES, RULES AND POLICIES

Utah State Constitution

Article XX, Section 1. [Land grants accepted on terms of trust.]

All lands of the State that have been, or may hereafter be granted to the State by Congress, and all lands acquired by gift, grant or devise, from any person or corporation, or that may otherwise be acquired, are hereby accepted, and, except as provided in Section 2 of this Article, are declared to be the public lands of the State; and shall be held in trust for the people, to be disposed of as may be provided by law, for the respective purposes for which they have been or may be granted, donated, devised or otherwise acquired.

Utah Code Annotated

§65A-6-2. Mineral leases -- Division to prescribe rules.

The division shall by rule prescribe:

- (1) the term of the lease;
- (2) the annual rental;
- (3) the amount of royalty in addition to or in lieu of rental; and
- (4) the basis upon which the royalty shall be computed.

Amended by Chapter 294, 1994 General Session.

§65A-2-2. State land management planning procedures for natural and cultural resources --
Assistance from other state agencies -- Division action.

The division:

- (1) shall develop planning procedures for natural and cultural resources on state lands; and
- (2) may request other state agencies to generate technical data or other management support services for the development and implementation of state land management plans.

Amended by Chapter 294, 1994 General Session.

§65A-10-1. Authority of division to manage sovereign lands.

- (1) The division is the management authority for sovereign lands, and may exchange, sell, or lease sovereign lands but only in the quantities and for the purposes as serve the public interest and do not interfere with the public trust.

(2) Nothing in this section shall be construed as asserting state ownership of the beds of nonnavigable lakes, bays, rivers, or streams.

Amended by Chapter 294, 1994 General Session.

Rules Governing the Management of State Lands and Forestry, & Fire Control

R652-2-200. Sovereign Land Management Objectives

The State of Utah recognizes and declares that the beds of navigable waters within the state are owned by the state and are among this basic resources of the state, and that there exists, and has existed since statehood, a public trust over and upon the beds of these waters. It is also recognized that the public health, interest, safety, and welfare require that all uses on, beneath, or above the beds of navigable lakes and streams of the state be regulated, so that the protection of navigation, fish and wildlife habitat, aquatic beauty, public recreation, and water quality will be given due consideration and balanced against the navigational or economic necessity or justification for, or benefit to be derived from, any proposed use.

R652-3-200. Applicant Qualifications.

Any person qualified to do business in the state of Utah, and is not in default under the laws of the state of Utah, relative to qualification to do business within the state, or not in default on any previous obligation with the division, shall be a qualified applicant for lease or permit.

R652-3-300. Application Forms.

Application for the purchase, exchange, or use of sovereign lands or resources, shall be on forms provided by the division or exact copies of division forms.

R652-3-400. Application Processing.

Until a division executed instrument of conveyance, lease, permit or right is delivered or mailed to the successful applicant, applications for the purchase, exchange, or use of sovereign lands or resources shall not convey or vest the applicant with any rights. All applications for lease, sale, or exchange shall be subject to cancellation by the division prior to execution if in the best interest of the beneficiaries of that land. Applications shall be processed in accordance with the applicable rules in effect at the time the application was accepted except that the division may apply rule changes that become effective during the processing of an application if the application of the rule change is in the best interest of the beneficiary of the land. If the applicant objects to compliance with changes in the rules, then the applicant may elect to withdraw the application. For applications which are withdrawn or cancelled under this section 400, all fees shall be refunded to the applicant without penalty.

R652-20-2200(5). Lease Provisions.

5. Lease Amendments--When the division approves the amendment of existing mineral leases by substituting a new lease form for the existing form(s), the amended lease will retain the effective date of the original lease.

R652-20-2300. Lessee Rights.

Mineral exploration, oil and gas drilling, or other operations which disturb the surface of lands contained within or above state mineral lease lands require surface rehabilitation of the disturbed area as approved by the division, and as required by the laws administered by the Utah Division of Oil, Gas and Mining.

R652-20-3100. Great Salt Lake – Salt and Other Mineral Resources.

1. Salts and other minerals in the waters of Great Salt Lake are reserved to the state and shall be sold only upon a royalty basis and under the terms and provisions as specified in the royalty agreement as herein provided for in this rule and all other terms and conditions as the division deems necessary in the best interest of the state.
2. The term "salts and other minerals" as used in this rule shall include all salts and other minerals contained in solution or suspension in the waters of Great Salt Lake, and shall not include salts or other minerals that have precipitated out or have settled on the bottom of the lake.
3. Royalty agreement applications shall be made upon forms provided by the division and shall be in accordance with the laws and rules governing applicant qualifications, application and lease form.
4. Royalty agreements for salts and other minerals contained in waters of Great Salt Lake, shall require the following advance royalty payment which may be applied against royalties

which may thereafter accrue during the same calendar year for which the advance royalty is paid.

- a. \$10,000 per annum for all royalty agreements in which the lessee therein also obtains a lease of land within Great Salt Lake.
 - b. \$5,000 per annum for all royalty agreements in which the lessee therein does not obtain a surface or mineral lease of state lands within Great Salt Lake.
 - c. Royalty agreements for sodium chloride salts shall require on or before January 1st of each year, an advance royalty of not less than \$1,000, which sum may be applied against royalties which may thereafter accrue during the same calendar year for which the advance royalty is paid.
5. Royalties shall be paid upon a calendar year basis. The minimum royalty for the balance of the calendar-year in which the agreement is executed shall be prorated in proportion to the time remaining.
 6. The gross market value of the products shipped, upon which the royalty payments are to be paid, shall not include amounts expended for bags, boxes, receptacles, or other costs directly related to or necessary in the shipping of any product.
 7. Royalty agreements shall contain provisions necessary to effect the purpose of this rule, including: the rights of the vendee; the term of the royalty agreement; annual rental and royalties; rights reserved to the vendor; bonds; reporting of technical data; operation requirements; vendees consent to suit in any dispute arising under the terms of the royalty agreement or as a result of operations carried on under the royalty agreement; procedures for

notification; transfers of interest by vendee; establishment of water rights and water usage; discovery of other minerals; terms and conditions of royalty agreement forfeiture; protection of the state from liability from all actions of the vendee; and all other provisions that the division deems necessary to protect the interest of the state and to fulfill the purpose of this rule.

R652-20-3200. Mineral Salts Leases Within Great Salt Lake.

1. Mineral leases for mineral salts on land within Great Salt Lake, shall be issued pursuant to the provisions of this rule, and other applicable laws and rules governing the issuance of mineral leases on state owned lands or mineral resources.
2. Definitions: The term "state land within Great Salt Lake", as used in this section, shall include all state lands lying within the exterior boundary lines of the meander-line around the lake as surveyed by the United States. The term "salts", as used in this section, shall mean, chlorides, sulphates, carbonates, boratex, silicates, oxides, nitrates and associated minerals existing at the surface and to the extent of their continuous depth, but shall not include the salts and other minerals contained in solution or suspension in the waters of Great Salt Lake as defined in R652-20-3100.
3. All mineral lessees granted a mineral salts lease under this section must have a royalty agreement as provided under R640-20-3100. This royalty agreement shall be a minimum royalty of \$10,000.

4. Leases issued pursuant to this rule shall grant the lessee the right to mine, extract, or remove salts from the surface of the lands covered thereby, together with the right to use so much of the surface as is necessary for all purposes incident to the extraction of salts and other minerals from brines of Great Salt Lake or the surface of the lands covered by the lease.

R652-70-100. Authority.

This rule provides for the management and classification of the surface of sovereign lands in Utah, which include but are not limited to, the beds of Bear Lake, the Great Salt Lake, Utah Lake, the Jordan River, and the summer channel of the Bear River, and portions of the beds of the Green and Colorado Rivers. Should any other lakes or streams be declared navigable by the courts, the beds of such lakes or streams would fall under the authority of these rules. It also provides for the issuance of special use leases, general permits and easements on sovereign lands and the procedures and fees necessary to obtain these rights of use. This rule implements Article XX of the Utah Constitution, and Section 65A-10-1.

R652-90-200. Scope.

This rule sets forth the planning procedures for natural and cultural resources on sovereign land as required by law. These procedures establish comprehensive land-management policies using multiple-use, sustained-yield principles in order to make the interest of the beneficiary paramount. Management plans shall guide the implementation of stated management objectives, and provide direction for land-use decisions and activities on sovereign lands. One or

more of the following plans, as defined in R652-1-200, shall be implemented pursuant to 65A-2-2:

- (1) Comprehensive management plans;
- (2) Site-specific plans;
- (3) Resource plans.

R652-90-1000. Amendments to Management Plans.

1. The division shall follow the management direction, policies and land use proposals presented in comprehensive management plans. When unforeseen circumstances arise which may require a change in plans, the division shall adhere to the following procedure for amendments to comprehensive management plans:

- (a) notify affected lessees, beneficiaries, local and other affected government entities;
- (b) submit the proposed amendment to the RDCC for review and comment; and
- (c) conduct a public meeting in the affected area to provide an opportunity for comment, after giving two weeks' notice in a local newspaper. The division shall acknowledge all written comments.

2. Resource plans may be amended by the division without public notice.

3. Site-specific plans may be amended by the director at any time following issuance provided that the amendment:

- (a) does not materially affect any person's rights or obligations, and
- (b) is consistent with existing policy or rule.

R652-90-1200. Environmental Assessments.

1. The RDCC process provides an environmental assessment for purposes of sovereign land management. The public may comment on proposed sovereign land uses through the RDCC and other public notification processes.

2. Any additional environmental impact analysis shall be at the director's discretion based on a written determination that additional evaluation is consistent with division duties.

Great Salt Comprehensive Management Plan¹

Record of Decision Issue 7.1

The zones and policies of the 1996 Mineral Leasing Plan (MLP) address the concerns expressed in public comment. Action taken by the Wildlife Board under alternative A in issues 5.1 and 6.1, and site-specific planning may lead to revisions of the MLP.

Record of Decision Issue 7.2

The zones and policies of the MLP address the concerns expressed in public comments.

Great Salt Lake Mineral Leasing Plan²

Management Direction: Guide the orderly allocation of resources on Great Salt Lake

¹ 2000. Great Salt Lake Comprehensive Management Plan and Decision Document. Great Salt Lake Planning Team, Utah Department of Natural Resources. Record of Decision, Page 7.

² 1996. Great Salt Lake Mineral Leasing Plan. Division of Sovereign Lands and Forestry. Page 47.

- Withdraw lands within existing wildlife management areas and areas with the more important wildlife, recreational and scenic values from new mineral leasing. These areas are shown on Maps XII and XIII as Category 4 – No New Leasing. This Category 4 designation is intended to protect offshore and onshore scenic vistas along the Wasatch Front and avoid conflicts with recreational boating, the majority of which occurs within five miles of state park marinas.

Management Direction: Review and update rules and policies to manage existing mineral leases for the benefit of all resources on Great Salt Lake

- Evaluate opportunities for trading existing leases with significant resource conflicts for the right to lease in areas with less conflict.

Management Direction: Establish mineral leasing procedures for areas with high mineral potential

- Establish a leasing process for mineral salts from brines or evaporation pond sites as follows:

1. All lands on Great Salt Lake will remain withdrawn from mineral salt leasing until nominated for lease.

2. Lands in mineral salt leasing categories 1, 2, and 3 as identified in Map XII (See Exhibit A) will be offered for competitive lease following nomination by interested parties. [Division of Forestry, Fire and State Lands] can adjust or specify minimum acreage to efficiently lease the resource.

3. At the time of nomination, lands will be evaluated for conformance with the mineral leasing plan. Evaluation will include appropriate tract size, appropriate royalty, leasing instrument, minimum bid, and consultation with appropriate agencies to work out restrictions or stipulations as necessary. Nominated tracts will be offered on simultaneous listing after a three week notification period on the last Monday of the month. Any lease stipulations will be advertised in the competitive bid process. Primary term will be for five to ten years depending on location of lands and proximity to existing evaporation ponds. Benchmarks defining due diligence for holding the lease beyond the primary term will be defined by specific actions in the lease terms offered during the competitive process. [Division of Forestry, Fire and State Lands] may reject an application if the [Division of Forestry, Fire and State Lands] considers the royalty rate under the applicant's existing royalty agreement to be out-of-date and contrary to the public interest.

ANALYSIS AND COMMENTS

The Utah Legislature has assigned responsibility for management of sovereign lands, including Great Salt Lake, to the Division of Forestry, Fire and State Lands. See Utah Code Ann. § 65A-10-1. The Utah Legislature has also given the Division specific authority and directions for the management of Great Salt Lake. See Utah Code Ann. § 65A-10-8. The Division must strive for an appropriate balance among compatible and competing uses specified in statute while ensuring that uses protected under the Public Trust Doctrine have primacy. The Public Trust Doctrine has been, and will continue to be, flexible to accommodate changing demands for Public Trust resources. When there are competing public benefits, the Division gives higher priority to certain benefits after reviewing and determining which of these best serve the public interest. It remains desirable to provide the option of adjusting the allocation of Public Trust resources in response to changes in demand and changes in administrative and legislative policy.³

R652-2-200 requires the division to 1) regulate uses on the lake so that navigation, fish and wildlife habitat, aquatic beauty, public recreation, and water quality are given due consideration, and 2) balance the economic necessity or justification for, or benefit derived from any proposed use with the protection of navigation, fish and wildlife habitat, aquatic beauty, public recreation and water quality as part of its Public Trust responsibilities. The Public Trust

³ 1996. Great Salt Lake Comprehensive Management Plan. Page 11.

corpus includes all the navigable waters, the land beneath these waters, and the living resources (the fish and aquatic plant and animal life) inhabiting these lands and waters. The beneficiaries of the Public Trust include the public as a whole.

Protection of navigation, fish and wildlife habitat, aquatic beauty, public recreation and water quality has been given due consideration through the preparation of the Great Salt Lake Mineral Leasing Plan, the Great Salt Lake Comprehensive Management Plan, the Resource Development Coordination Committee (RDCC) process and through the Record of Decision process.

By rule [R652-90-200], multiple-use, sustained-yield principles policies guide the management of sovereign lands. Management plans provide direction for land-use decisions and activities on sovereign lands. The Division has implemented two planning efforts although only one is required by rule. The resource plan, titled the Great Salt Lake Mineral Leasing Plan, was approved in 1996. The Great Salt Lake Comprehensive Management Plan was approved in 2000. Both planning efforts involved the public input as part of the process. An integral part of the comprehensive management plan process was to revisit the Great Salt Lake Mineral Leasing Plan to ensure that its objectives remained consistent with the Great Salt Lake Comprehensive Management Plan. Currently, the RDCC process allows agencies and the public opportunities to provide information for proposals on sovereign lands.

The Great Salt Lake Comprehensive Management Plan and Great Salt Lake Mineral Leasing Plan provide a rationale for designating areas open for oil exploration and ponding. These areas also include the extraction for minerals and oil. The Division recognizes concern over diking. This was mentioned in the Record of Decision of the Great Salt Lake Comprehensive Management Plan, as well as in the Great Salt Lake Mineral Leasing Plan. The diking policy requires that a specific assessment of each diking proposal be completed.⁴ Some areas of the Lake are specifically designated for diking. For areas without a designation, the Division has the discretion to allow dikes on a case-by-case basis after the completion of a diking analysis. The Division conducted and completed a diking analysis of the proposed area. This analysis includes assessing the value of leasing and the importance of recreation, wildlife, and other Public Trust values in the areas nominated. This practice allows for both the protection of identified resources and the use of appropriate areas for extraction of brine, minerals, chemicals and petrochemicals as encouraged by legislative policy.⁵

As part of this Record of Decision process and to better appreciate the components of the Public Trust Doctrine, Division personnel toured the site on January 22, 2009. Additionally, observations were made on site in the context of potential impacts of the development on the protected components of the Public Trust.

⁴ 2000. Great Salt Lake Comprehensive Management Plan and Decision Document. Page 79, 32-33.

⁵ *Ibid.*, page 19.

As part of the Division's analysis and review, the Division proposed the relinquishment of certain existing leases in higher wildlife value areas for the granting of new leases in undeveloped areas of lesser wildlife value. The Division believes this consideration is appropriate and beneficial to the Public Trust and the Lake as a whole. As such, the Division followed rules and policy established through resource planning which encourage such considerations and found that more wildlife habitat and resources would be protected by allowing the relinquishment of certain leases and the granting of others. Furthermore, the exchange would reduce the overall footprint of Great Salt Lake Minerals in the Lake from the original proposal made, and the exchange provides an opportunity for the state, public, and the company to benefit.

Because Great Salt Lake Minerals is extinguishing certain leases adjacent to the Ogden Bay Waterfowl Management Area in exchange for the granting of leased areas in the northwest area of the Lake, it is necessary to consider amending one current easement and providing a new easement. The Division also considers other uses of the lands from which the leases are being extinguished. The Division finds that the exchange and continued use of certain portions of land is appropriate to consider and allow in order for the company to continue its operations.

The Division considered whether new information necessitated additional planning or amendment of existing plans. The Division found that nothing presented throughout the Division's analysis and conformity review, which included the opportunity for agency and public

input, suggested that measures protecting wildlife, aesthetic, recreational, and other values were insufficiently addressed in the Great Salt Lake Mineral Leasing Plan or the Great Salt Lake Comprehensive Management Plan. Therefore, the Division determined there was no need to engage in any planning or amendment process, and no further planning or plan amendment process was undertaken.

The information received through this adjudication of the leasing application and gathered by the Division in its analysis and conformity review, coupled with observations made when touring the proposed site are contained in the following Findings of Fact and Conclusions of Law made part of this Record of Decision:

FINDINGS OF FACT

1. The applicant is qualified to do business in the State of Utah, and is not in default under the laws of the State of Utah relative to qualifications to do business within the state pursuant to R652-3-200.

2. Great Salt Lake Minerals is a for-profit corporation in good standing with the State of Utah (Business Entity # 601787-0143, Utah Department of Commerce See Exhibit B).

3. Some public comments received suggest an inextricable link in Great Salt Lake Mineral's overall plan to expand evaporative ponds and install new dikes in the Bear River Bay area of the Great Salt Lake Minerals operations.

4. Other public comment suggests there is no inextricable link between the two areas; one project could go forward without the other and neither is dependent on the other.

5. Great Salt Lake Mineral's leases with the State of Utah adjacent to the Ogden Bay Waterfowl Management Area have been in place for nearly thirty years, duly executed, and recorded for the purposes of mineral salt extraction.

6. This project still need to clear environmental analysis required by the United States Army Corps of Engineers before any permits are issued for activities that affect the waters of the United States.

7. Travel to the proposed area was long, rough, and restricted.

8. The area is in a remote part of the state.

9. Boating access is restricted; the only boat launch facility in the north arm requires access through a locked gate located on private property. Canoes, kayaks and other small craft were not observed in the impacted area.

10. Members of the public have not approached the Division for recreational access or use.

11. The area adjacent to existing ponds is flat and devoid of water and vegetation, making it conducive for the proposed diking and shallow ponds.

12. Public usage of the north arm of the lake is minimal, sporadic, restricted, and limited. Particularly, the west side of the north arm is isolated, shallow and difficult to reach, further limiting the public's access.

13. Royalties from Great Salt Lake Mineral's proposal are estimated to generate at least \$2 million annually to the state with an associated economic multiplier affecting local economies in the form of jobs, and services required for those jobs, such as medical, retail and housing.

14. The purpose of the proposed diking is to impound water in an evaporative pond.

15. The proposed pond will have a surface area of approximately 37,000 acres.

15. Fill material approved for dikes will come from a private quarry at Strong's Knob.

17. The surface disturbance of sediments on the bed of Great Salt Lake will be minimized because of the fill material's source as opposed to using on-site material to create the dikes.

18. The Division engaged in a diking analysis for the proposed location which included the completion of a specific assessment for the proposed diking project through the preparation of this Record of Decision process and supported by responses to public comments.

19. During low water years, including the 1980's and the early 2000's many millions of tons of salt have been precipitated onto the floor of the north arm. The accumulation of these salts is a natural occurrence under very low water conditions.

20. The sheer tonnages deposited in this manner will not substantially affect the changes that will occur by the operation of current and/or future solar pond operations.⁶

21. During high water years, the water levels will be higher than the dike and the Lake and the ponds will become one body of water.

⁶ Gwynn, J. Wallace, PhD. Utah Geological Survey. Personal communication. June 2007.

22. The proposed diking system will not remove any shoreline from the west side of the lake.

23. The current seven miles of interface between land and water will still exist regardless of whether or not there are dikes. If anything, there will be a more consistent water level at this interface.

24. The Division utilized the Resource Development Coordinating Committee (RDCC) to notify agencies and the public of the proposed action in order to solicit comments and suggestions for proposed leasing or other projects on the nominated sovereign lands.

25. The RDCC process was part of the Division's conformity review in determining whether the nomination is consistent with the rules, plans, and statutes of the Division and whether any restrictions or stipulations should be placed on leases if leasing is allowed.

26. After receiving input from agencies of government and the public, the Division analyzed the information to determine the relevance and applicability of the current plans and rules.

27. The lands in the bed of Great Salt Lake have been withdrawn from new leasing until interest is expressed in potential development for mineral leasing.⁷

⁷ 1996. Great Salt Lake Mineral Leasing Plan. Page 47.

28. The interest in mineral development was expressed by Great Salt Lake Minerals Corporation a subsidiary of Compass Minerals Company which nominated the lands on November 19, 2008 by letter (See Exhibit C - Correspondence).

29. The purpose stated in the nomination was to expand their solar evaporation operations and subsequent mineral extraction, which is consistent with their current operations.

30. Investigations into whether the nomination and proposed development conforms to the Great Salt Lake Comprehensive Management Plan were then made.

31. The Record of Decision for the Great Salt Lake Comprehensive Management Plan tiered the policies for mineral leasing in Great Salt Lake to the Great Salt Lake Mineral Leasing Plan.

32. The Great Salt Lake Mineral Leasing Plan outlines management locations and direction for mineral leasing within the plan.

33. The Great Salt Lake Mineral Leasing Plan and the Great Salt Lake Comprehensive Management Plan designate areas which are open for leasing and describe other lands that have sensitivities and use conflicts which need addressing.

34. The management and resource plans map and designate areas into categories describing the leasing potential, conflicts, and stipulations associated with these mapped areas.

35. Using Map XII in the Great Salt Lake Mineral Leasing Plan (see Exhibit A-3), the nominated lands fall within the category: Category 1- Open, which is described as areas with “no significant resource conflicts identified. Open to hydrocarbon or mineral salt leasing with standard lease stipulations for Great Salt Lake environments.”

36. The Great Salt Lake Comprehensive Management and Great Salt Lake Mineral Leasing Plans for the Great Salt Lake encourage exchanges of leases over higher value lands for leases in lesser value lands.

37. Division rules only require one, but may include more than one plan for areas under its management authority.

38. The Division considered additional management criteria including the size of the tract, appropriate royalty, leasing instrument, minimum bid, and consultation with appropriate agencies to work out restrictions or stipulations as necessary.⁸

⁸ Ibid. Page 47.

39. Because mineral extraction from the waters of the Great Salt Lake requires a large acreage for the removal of brines, an exemption from the 2560-acre maximum was made in rule to allow for the larger acreage for mineral salt leases within Great Salt Lake [R652-20-3100].

40. Division policy allows for single or multiple royalty agreements to cover multiple leases.⁹

41. The applicant has an existing royalty agreement with the Division for salt extraction (ML 19024).

42. The nomination was submitted to the Resource Development Coordinating Committee (RDCC) on December 8, 2008.

43. The proposed project was posted on the RDCC Project Management System.

44. Comments were received from the Utah Waterfowl Association, The Nature Conservancy, the U.S. Fish and Wildlife Service, and Western Resource Advocates (representing FRIENDS of Great Salt Lake, et. al). See Exhibit D for comments received. Exhibit E contains responses to the comments.

⁹ Ibid. Page 37.

CONCLUSIONS OF LAW

1. Section 65A-10-1, Utah Code Annotated, authorizes the Division of Forestry, Fire and State Lands to be the management authority for sovereign lands.

2. The Division shall manage lands within the State of Utah pursuant to R652-70-100 [Utah Administrative Code as amended, enacted 1991], which identifies Great Salt Lake as one of the sovereign land areas to be managed.

3. By statute, the division may lease sovereign lands for the purpose of serving the public interest as long as the leasing does not interfere with the Public Trust.¹⁰

4. The nomination and application processes used followed procedural guidelines as outlined in statute, rule, policy, the Great Salt Lake Comprehensive Management Plan, and the Great Salt Lake Mineral Leasing Plan.

5. The Division exceeded minimum requirements in the planning, analysis, notification of the public, public comments, and response to public comments.

¹⁰Utah Code Annotated, §65A-10-1.

6. The economic benefit of the proposed use, weighed against the public uses, as analyzed in this Record of Decision process, substantiates and supports the conclusion that the applicant's proposal provides a higher and better use with no substantial impairment to the Public Trust.

7. Additional environmental analysis of the nominated area will occur as part of the Army Corps of Engineer's National Environmental Policy Act (NEPA) analysis.

8. The state has complied with the diking policy and concludes that the policy acknowledges the general effects of diking on lake dynamics and precludes blanket denial of diking proposals.

9. The proposed diking does not substantially impair any component of the Public Trust.

10. The Division of Forestry, Fire and State Lands has the authority by statute to prescribe rules and develop plans for the lands that it manages (including minerals) under Article XX of the Utah State Constitution.

11. Rules have been promulgated for the leasing of minerals including salts from Great Salt Lake.

12. Planning efforts establishing the management direction have been written and implemented in the Great Salt Lake Comprehensive Management Plan (March 2000) and the Great Salt Lake Mineral Leasing Plan (June 1996).

13. The Record of Decision of the Great Salt Lake Comprehensive Management Plan reaffirmed the policies, procedures, and management direction contained in the Great Salt Lake Mineral Leasing Plan.⁴

14. The Division exceeded the requirement of the rule by implementing both a resource plan and a comprehensive management plan.

15. The Division is not required to undertake additional planning or amendments to existing management and resource plans prior to make the decision on this adjudication. The plans are relevant and applicable.

16. Through the execution of a mineral lease allowing the extraction of brines, the Division retains ownership of the lands in keeping with its Public Trust obligations¹¹ as well as

¹¹ 2000. Great Salt Lake Comprehensive Management Plan and Decision Document. Great Salt Lake Planning Team, Utah Department of Natural Resources. Page 11.

regulatory authority over sovereign lands [R652-2-200].¹² This protects the state's mineral estate, and grants the lessee permission (with stipulations) to extract minerals from sovereign lands. [§65A-6-2, UCA]

17. Under R652-90-1200 the Resource Development Coordination Committee (RDCC) process served as an environmental assessment for purposes of sovereign land management and an organization where agencies and individuals could provide input for the Division to consider in its decision to grant the request or amend existing plans.

18. Even though the existing Great Salt Lake Comprehensive Management Plan and the Great Salt Lake Mineral Leasing Plan do not specifically designate the nominated area for diking, the plans do not prohibit diking if determined by the Division to be appropriate.

19. Diking is appropriate and consistent with the Great Salt Lake Comprehensive Management and Great Salt Lake Mineral Leasing plans and should be allowed with certain restrictions.

¹² Utah Administrative Code. R652-2-200. Rules Governing the Management of State Lands and Forestry, & Fire Control Activities. Enacted 1991.

20. The granting of a mineral lease on the nominated lands with the allowance of diking for evaporation ponds is consistent with Utah Law and the controlling plans for the Great Salt Lake.

21. The Division has the authority to extend the existing Royalty Agreement to new leases or require a new Royalty Agreement for new leases.

22. The cancellation of Mineral Lease Number 23023, amendments for the relinquishment of acres included in Mineral Lease Number ML 19024, ML 19059 and ML 21708 in exchange for the granting of Great Salt Lake Mineral's proposal is appropriate and consistent with law.

23. The granting and amending of existing easement (ESMT 95) to accommodate the cancellation of existing leases and the granting of a new easement (400 00203) is consistent with the plans governing the Great Salt Lake and is consistent with rule and law.

DECISION AND ORDER

Therefore, based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that Mineral Lease of Sovereign Land Application number 2000115 is granted and becomes the final decision of the Division as follows:

1. A mineral lease (200 00115) will be issued to Great Salt Lake Minerals Corporation, for a period of 10 years beginning August 1, 2009 with an annual rental charge of \$1.10 per acre per year or \$40,791.50 and which will increase to \$2.20 per acre per year following the term of the lease if renewed.
2. Stipulations in the lease agreement will be made for discovery of a site or specimen in accordance with Utah Code Annotated §9-8-304.
3. Other standard stipulations will be in place for the leasing period including due diligence, bonding, insurance and other language included in the Division standard leases.
4. The lease will expire on August 31, 2019 unless renewed according to the terms and conditions in the lease.

5. The new lease being granted by this decision is not covered by any existing royalty agreement but may be added to an existing royalty agreement. A royalty agreement will be executed before construction and operations begin so that royalties from the new lease will be provided to the state.

6. Easement Number 400 00203 will be issued to Great Salt Lake Mineral Corporation, for a period of 30 years beginning August 1, 2009.

7. Easement Number 400 00203 will expire on August 31, 2039 unless renewed according to the terms and conditions in the easement agreement.

8. Easement Number 400 00203 is for the purpose of curing any legal deficiencies in the existence of the canal under the relinquished lands.

9. Easement No. 95 will be amended on behalf of Great Salt Lake Minerals Corporation to reflect and incorporate a section of the developed Behren's Trench, which previously was approved under Mineral Lease 23023.

10. Mineral leases (ML 19024, ML 19059, ML 21708) will have an amended legal description to document the undeveloped areas which have been relinquished in exchange for the approved new mineral lease 200 00115.

11. Mineral lease ML 23023 will be relinquished in its entirety.

12. This application will remain in application status until an executed lease instrument is delivered or mailed to the applicant [R652-3-400].

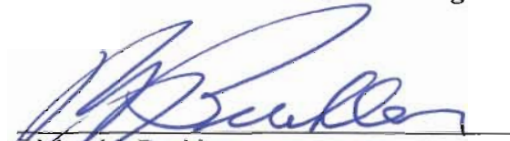
13. The lakeward side of the dike will roughly follow the 4195 foot elevation, meaning the dike construction will take place in a maximum of one foot of water. The height of the dikes shall not exceed five feet at its deepest encroachment of the lake.

14. This Order affects no other leases or areas of Great Salt Lake but is limited to the lease application adjudicated by this Order.

15. The rental rate for mineral leases is established by the Division's fee schedule at one dollar and ten cents per acre (\$1.10/acre), and will rise to two dollars and twenty cents per acre (\$2.20/acre) following the term of the lease, if renewed [R652-20-3200 (5)].

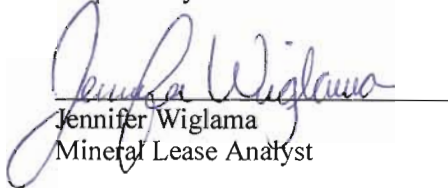
16. The mineral lease, the new easement, and amendments to the easement and mineral leases are granted as outlined herein.

DATED this 4th day of August 2009.



Richard J. Buehler,
Director/State Forester
Division of Forestry, Fire and State Lands

Prepared By:



Jennifer Wiglama
Mineral Lease Analyst

Reviewed By:



David Grierson
Sovereign Lands Coordinator

MAILING CERTIFICATE

Certified Mail Receipt #
7005 1820 0003 7189 1112

Bureau of Land Management
Attention: Jeanette Matovich
440 West 200 South, Suite 500
Salt Lake City, UT 84401

H U Grazing Partnership
Attention: Myrna Beth Shipp
2402 West 4700 South
Roy, Utah 84607

Young Resources Limited Partnership
4990 North Highway 38
Brigham City, Utah 84302

Herald Selman, Inc.
11400 North 4130 West
Tremonton, Utah 84337
Roy, Utah 84607

ADMINISTRATIVE APPEALS

Parties having an interest in this action may file a petition for administrative review of the Division pursuant to R652-9-300 and R652-9-400. Said petition must be in writing and shall contain:

1. The statute, rule, or policy with which the division action is alleged to be inconsistent;
2. The nature of the inconsistency of the division action with the statute, rule, or policy;
3. The action petitioner feels would be consistent under the circumstances with statute, rule, or policy; and ;
4. The injury realized by the party that is specific to the party arising from the division action. If the injury identified by the petition is not peculiar to the petitioner as a result of the division action, the director will decline to undertake consistency review.

Said petition must be received by the division by 5:00 p.m. on August 24, 2009