Report No. 2024-03

A Performance Audit of

Mineral Royalty Agreements

An Examination of Mineral Production on the Great Salt Lake

Office of the Legislative Auditor General

Report to the **UTAH LEGISLATURE**

LEGISLATIVE AUDITOR GENERAL

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June 18, 2024

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report:

"A Performance Audit of Mineral Royalty Agreements: An Examination of Mineral Production on the Great Salt Lake" [Report #2024-03].

An audit summary is found at the front of the report. The scope and objectives of the audit are included in the audit summary. In addition, each chapter has a corresponding chapter summary found at its beginning.

This audit was requested by Representative Casey Snider.

Utah Code 13-12-15.3(2) requires the Office of the Legislative Auditor General to designate an audited entity's chief executive officer (CEO). Therefore, the designated CEO for the Department of Natural Resources is Joel Ferry. Joel Ferry has been notified that he must comply with the audit response and reporting requirements as outlined in this section of ***Utah Code***.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

Kade Minchey

Kade R. Minchey, CIA, CFE

Auditor General

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LEGISLATIVE AUDITOR GENERAL

AUDIT SUMMARY

REPORT 2024-03 | JUNE 2024

Office of the Legislative Auditor General | Kade R. Minchey, Auditor General

PERFORMANCE AUDIT

AUDIT REQUEST

The Legislative Audit Subcommittee requested this audit to review the state's oversight of mineral extraction activities on the Great Salt Lake. This included a review of all existing mineral royalty agreements, an assessment of the state's revenue from mineral royalties, how these monies are being used, and an evaluation of the state's oversight of extraction activities on the lake.

BACKGROUND

The Utah State Legislature has designated the Division of Forestry, Fire and State Lands (Division or FFSL) as the executive authority for managing sovereign lands. More specifically, FFSL is tasked with overseeing mineral extraction operations on the Great Salt Lake. Currently, seven mineral extraction operators make royalty payments on five minerals, including sodium chloride, magnesium (pure and alloy), magnesium chloride, potassium sulfate, and lithium carbonate.

MINERAL ROYALTY AGREEMENTS

KEY FINDINGS

- **1.1** Mineral extraction operators are paying different rates for the same commodity.
- **1.6** The Division did not track and verify royalty reports or royalty payments resulting in incorrect payments and missing documentation.
- **1.7** Enforcement tools such as provisions in individual royalty agreements and *Administrative Rule* exist; however, there is minimal evidence indicating that Division management exercised their authority to ensure compliance.
- **2.1** The Division should make changes to further improve management of Great Salt Lake mineral leases.
- **2.2** The Division should track the percentage of appropriations allocated to the Great Salt Lake.

RECOMMENDATIONS

- **1.1** The Division should verify royalty calculations to ensure that they are receiving the full value of royalties on mineral commodities as specified in *Administrative Rule*.
- **1.7** The Division should develop robust policies and procedures for the validation of Great Salt Lake mineral extraction operators' self-reported production totals, calculations (ensuring correct royalty rates are used), deductions, and associated royalty payments.
- **1.8** The Division should review the use of its regulatory authority and document its strategy for ensuring compliance with statute, *Administrative Rule*, and mineral royalty agreements.
- **2.1** The Division should conduct a thorough review of statute, *Administrative Rule*, and mineral lease agreements for the purpose of creating written internal controls. The Division should regularly monitor these controls to demonstrate improved oversight.

Summary continues on back >>

REPORT SUMMARY

Management of Great Salt Lake Mineral Royalty Agreements Needs to Improve

To determine parity and equal treatment of mineral extraction operators by the Division, we conducted an analysis of all mineral royalty agreements. We identified five factors that collectively demonstrate areas of improvement that, when corrected, can strengthen the sovereign lands program. Areas of improvement include:

- Verifying royalty rate calculations
- Defining allowable deductions
- Specifying the point of valuation
- Ensuring compliance
- Tracking documentation

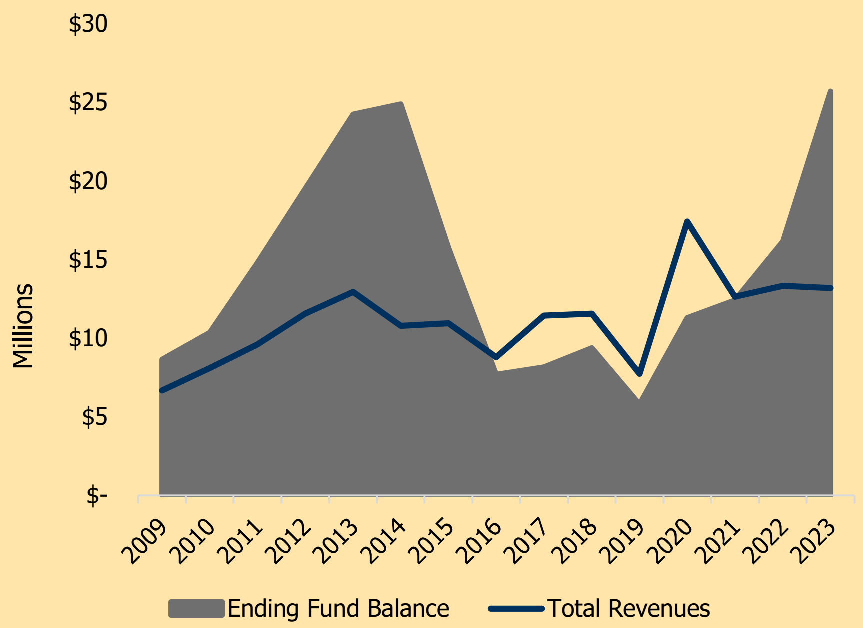
The Division Can Improve Its Oversight and Contract Management

We identified areas of improvement with the Division's oversight and contract management of its mineral extraction leases. The Division's execution of its responsibilities will benefit from the implementation of policies and procedures dictating oversight activities and compliance monitoring of mineral operator activity on leased sovereign lands.

The implementation of internal controls will reasonably assure the achievement of management objectives, as well as Division and operator compliance with statute, *Administrative Rule*, and the terms of mineral lease agreements. Resources are available to improve the oversight and contract management of mineral leases on the Great Salt Lake.

The Division Should Track the Percentage of Appropriations Allocated to the Great Salt Lake

The Division should annually demonstrate whether Great Salt Lake mineral extraction revenues are appropriated and spent according to statutory preference. In fiscal year 2023, roughly one-third of Division expenditures (33.5 percent) were spent on items related to the Great Salt Lake. By tracking the apportionment of appropriations dedicated to the Great Salt Lake, the Division will be able to inform the Legislature regarding future appropriations.



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Introduction

The Great Salt Lake is an important asset of the state of Utah and its citizens. The Great Salt Lake is the largest of the state's eight sovereign land areas.[1] The Division of Forestry, Fire and State Lands (Division or FFSL) has a statutory charge to oversee the sovereign lands of the state.

Audits are designed for continual improvement and this report focuses on areas that can be further improved. It is important to acknowledge recent improvements that the state has undertaken to bolster and strengthen the oversight of this resource.

Division leadership has shown a commitment to improve by supporting this audit and prioritizing the management of sovereign lands. The following text boxes represent the joint efforts of the Legislature and the Division to improve the oversight and management of the Great Salt Lake.

Promotion of Public Awareness

In 2022, legislative leadership hosted multiple Great Salt Lake Summits to promote public awareness of the challenges facing the Great Salt Lake.

Funding Support

Revenues generated from Great Salt Lake mineral operations should be used for the direct benefit of the Great Salt Lake, as designated by the Legislature.

Creation of a Great Salt Lake Commissioner

The Legislature appointed a Great Salt Lake Commissioner during the 2023 General Session to plan for the long-term health of the Great Salt Lake and to facilitate the coordination of policy related to the lake.

[1] ***Utah Code*** 65A1-1(6): "Sovereign lands" means those lands lying below the ordinary high-water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.

Prioritization of Sovereign Lands Management

FFSL reports the elevation of the Sovereign Lands Program Manager to a Deputy Director position that prioritizes issues related to these lands.

Staff Support

The Division requested and the Legislature funded a Minerals Landman position that will specialize in mineral development and the economics of mineral leasing. Additionally, this position will ensure that mineral extraction operators are compliant with the terms of their royalty and lease agreements.

BACKGROUND

The Division of Forestry, Fire and State Lands is tasked with overseeing mineral extraction operations on the Great Salt Lake, which includes collecting royalties on minerals that have been mined from the brines of the lake. We found that some mineral extraction operators have not been making correct royalty payments and that Division oversight can improve.

FINDING 1.1
Mineral extraction operators do not always follow *Administrative Rule* or royalty rate calculations as outlined in mineral royalty agreements, resulting in operators paying different rates for the same commodity.

RECOMMENDATION 1.1
The Division of Forestry, Fire and State Lands should verify royalty calculations to ensure that the Division is receiving the full value of royalties on mineral commodities as specified in *Administrative Rule*.

FINDING 1.2
The most recent DNR internal audit was completed seven years ago. As such, our audit team conducted a financial analysis of all royalty agreements. After thirteen years, our findings largely match what was previously found in DNR's internal audit reports. Additionally, internal audit reports addressed items that we did not examine.

RECOMMENDATION 1.2
The Division of Forestry, Fire and State Lands should review and implement recommendations from previous internal audit reports.

RECOMMENDATION 1.3
The Legislature should consider inviting the Division of Forestry, Fire and State Lands to report back to the Natural Resources, Agriculture, and Environment Interim Committee on the progress of the audit findings in May 2025.

FINDING 1.3
The Division has not adequately defined or regulated allowable deductions, creating inconsistencies in the timing, type, and number of deductions applied.

RECOMMENDATION 1.4
The Division of Forestry, Fire and State Lands should clearly define and validate allowable deductions.

FINDING 1.4
The Division has not specified the point of valuation for royalty calculations. Consequently, mineral extraction operators are applying royalty calculations at various points throughout the mineral development process.

RECOMMENDATION 1.5
The Division of Forestry, Fire and State Lands should clearly define the point of valuation for royalty calculations.

FINDING 1.5
The Division should have followed *Administrative Rule* while renegotiating a recent royalty agreement for sodium chloride.

RECOMMENDATION 1.6
The Division of Forestry, Fire and State Lands should follow existing *Administrative Rule* or update *Administrative Rule* to better align with Division actions and practices.

FINDING 1.6
The Division did not track and verify royalty reports or royalty payments, resulting in incorrect payments and missing documentation.

RECOMMENDATION 1.7
The Division of Forestry, Fire and State Lands should develop robust policies and procedures for the validation of Great Salt Lake mineral extraction operators' self-reported production totals, calculations (ensuring correct royalty rates are used), deductions, and associated royalty payments.

FINDING 1.7
Enforcement tools such as provisions in individual royalty agreements and *Administrative Rule* exist; however, there is minimal evidence indicating that Division management exercised their authority to ensure compliance.

RECOMMENDATION 1.8
The Division of Forestry, Fire and State Lands should review the use of its regulatory authority and document its strategy for ensuring compliance with statute, *Administrative Rule*, and mineral royalty agreements.

CONCLUSION

We found that mineral extraction operators have not complied with royalty calculations as outlined in *Administrative Rule* and corresponding mineral royalty agreements. Furthermore, we found the need for improved oversight and enforcement by the Division.

Chapter 1
Management of Great Salt Lake Mineral Royalty Agreements Needs to Improve

The Utah State Legislature has designated the Division of Forestry, Fire and State Lands (Division or FFSL) as the executive authority for managing sovereign lands. More specifically, FFSL is tasked with overseeing mineral extraction operations on the Great Salt Lake, which include collecting royalties on minerals mined from the brines of the lake. Currently, seven mineral extraction operators make royalty payments on five minerals, including sodium chloride, magnesium (pure and alloy), magnesium chloride, potassium sulfate, and lithium carbonate. We found that some mineral extraction operators have not been making correct royalty payments and that Division oversight can improve.

1.1 Additional Guidance Could Address Inequity Among Mineral Extraction Operators

To determine parity and equal treatment of mineral extraction operators by the state, we conducted an analysis of all royalty agreements. In this section, we focus on inequities among mineral extraction operators that resulted in improper compensation for the use of the resource. The following text boxes summarize our findings; each identifies a problem area directly tied to millions of dollars in royalties that will be discussed in more detail later in this section.

Royalty Rate Calculations

Mineral extraction operators do not always follow *Administrative Rule* or royalty rate calculations as outlined in mineral royalty agreements, resulting in operators paying different rates for the same commodity.

Allowable Deductions

The Division has not adequately defined or regulated allowable deductions, creating inconsistencies in the timing, type, and number of deductions applied.

Point of Valuation

The Division has not specified the point of valuation for royalty calculations. Consequently, mineral extraction operators are applying royalty calculations at various points throughout the mineral development process.

Administrative Rule

The Division should have followed *Administrative Rule* when renegotiating the terms of a recent royalty agreement.

Record Keeping

The Division did not track and verify royalty reports or royalty payments, resulting in incorrect payments and missing documentation.

When reviewed together, these factors collectively demonstrate areas of improvement that, when corrected, can strengthen the sovereign lands program. The remainder of this section discusses the detailed impacts of each of these problem areas and gives recommendations to better assist the Division in identifying and addressing specific weaknesses.

Internal DNR Audits Have Identified Weaknesses Associated with Royalty Payments for Many Years

The Department of Natural Resources' (DNR's) internal audit function conducted six internal audits of mineral extraction operators over a ten-year period between 2007 and 2017. Collectively, these audit reports set forth sixty-one recommendations, thirty-two of which specifically address problems with royalty calculations and the ensuring of correct royalty payments. For more than a decade, the Division has been made aware of specific concerns with mineral royalty calculations and correct royalty payments regarding minerals that have been mined from the brines of the Great Salt Lake. In recent years, the Legislature and the Division have sought to be more involved in the oversight of the Great Salt Lake. As an example, this audit was prioritized by the Legislature and supported by the Division in a joint effort to improve the oversight and accountability of mineral extraction operations on the lake.

In recent years, the Legislature and the Division have sought to be more involved in the oversight of the Great Salt Lake.

Mineral Extraction Operators Have a Shared Responsibility for Compliance. Mineral extraction operators need to be held accountable to statute, *Administrative Rule*, and the provisions of their royalty and/or lease agreements. While the Division is tasked with oversight and management of the minerals program, the responsibility of compliance also falls to individual operators. For example, operators are expected to operate in good faith and to "…perform the terms and provisions required to be performed… including payment of royalties within the times [and amounts] required herein."

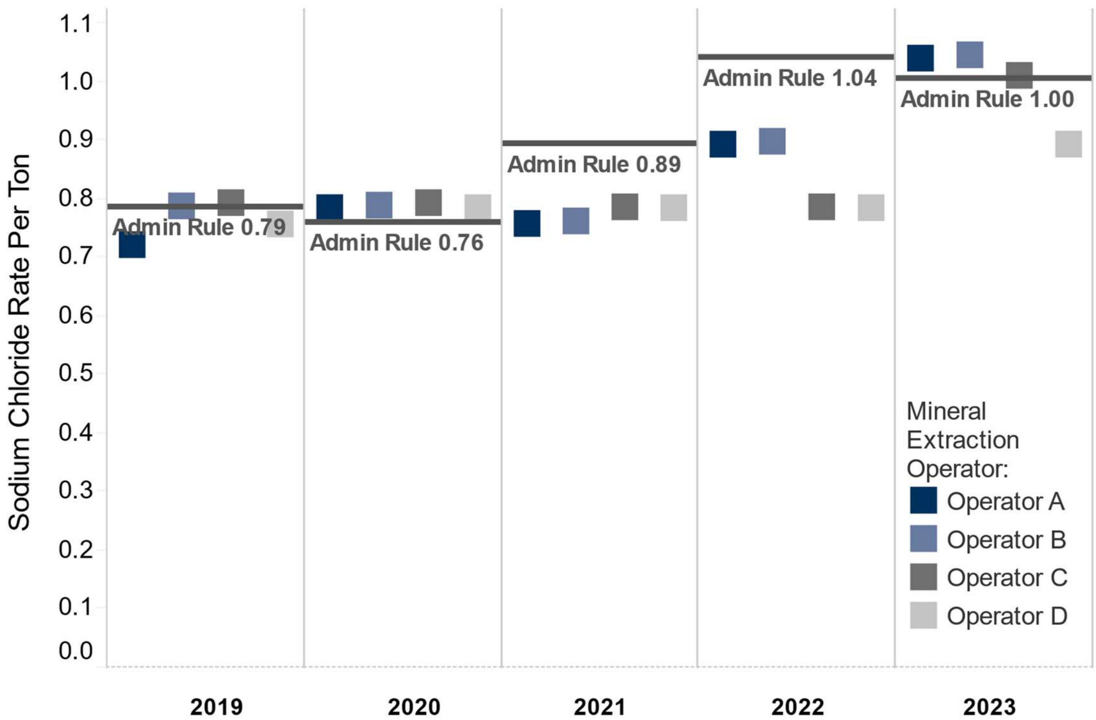
Mineral extraction operators are responsible to follow statute, *Administrative Rule*, and all provisions contained within their royalty agreements. Paying an incorrect royalty should be considered a violation of the supporting statute, rule, or agreement. Similarly, the Division has statutory authority to examine records and inspect premises for the purpose of determining compliance with any rule, performance, or payment obligation under a lease, permit, or contract. When applied correctly, this shared responsibility model should properly balance economic activity with regulatory duty. We recognize the responsibility and due diligence of operators to abide by certain standards in conjunction with the Division's responsibility of regulating compliance.

When applied correctly, this shared responsibility model should properly balance economic activity with regulatory duty.

Current Division Leadership Is Open to Improvement. Opportunities for Additional Programmatic Improvements Remain. For example, in *Administrative Rule*,[2] the sodium chloride (salt) royalty rate is based on the producer price index for industrial commodities allowing the rate to adjust with the market when calculated correctly. Figure 1.1 shows that operators are paying different royalty rates for the same commodity, demonstrating the need for further improvement.

[2] *Administrative Rule* R652-20-1000(2)(e).

Figure 1.1 Mineral Extraction Operators Are Paying Varying Royalty Rates on Sodium Chloride, Resulting in Significant Deficits to the State. Increased Division oversight combined with operator compliance would result in a more consistent application of the sodium chloride calculation, as outlined in *Administrative Rule*. Over the past five years, there has been nearly $832,000 in deficits to the state.



Source: Auditor generated using data from mineral extraction operators' royalty reports.
**Two royalty agreements define the sodium chloride calculation differently than what is set forth in Administrative Rule; however, there are also errors within these calculations that leave the state at a collective five-year deficit of about $625,000.*

This figure shows that mineral extraction operators are paying varying rates for the same commodity. *Administrative Rule*[3] states that "The Division is obligated to receive full value for the resources leased to persons of profit." The varying sodium chloride rates in Figure 1.1 represent an annual deficit of about $170,000 to the state.[4] While these revenue losses may not have immediate short-term impacts, they may have long-term cumulative impacts. For instance, the budget for the Sovereign Lands Management Program in fiscal year 2023 was $1.3

[3] *Administrative Rule* R652-20-1000(1).

[4] Depending on how the calculation is structured, market inflation may result in higher sodium chloride royalty rates causing the deficit to shrink over time. However, the primary issue of compliance remains since we found operators that were not adjusting the royalty rate according to market trends and operators that were not following required calculation parameters.

million. If royalties were accurately paid (from two commodities[5]) additional funding could have been available pending the approval of the Legislature.

RECOMMENDATION 1.1

The Division of Forestry, Fire and State Lands should verify royalty calculations to ensure that the Division is receiving the full value of royalties on mineral commodities as specified in *Administrative Rule*.

Previous Internal Audit Recommendations Have Not Been Fully Implemented. Because the most recent internal audit of mineral extraction operators was completed seven years ago in March 2017, our audit team conducted a financial analysis of all royalty payments for the past five years. Our findings largely match what was previously found in DNR's internal audit reports: problems with royalty rate calculations, royalty payments, data documentation/submission, and Division oversight. Not only was prior Division management made aware of previous internal audit recommendations, but they wrote formal responses that directly addressed how implementation would occur. Unfortunately, implementation did not fully occur. Lastly, previous internal audit reports also addressed additional items that we did not examine. For this reason, we recommend that Division management review and implement the recommendations made in previous internal audit reports.

Prior Division management wrote formal responses directly addressing how previous internal audit recommendations would be implemented.

We are encouraged that current Division management support this audit and welcome our findings and associated recommendations. Division management has expressed their commitment to improve and bolster oversight. For example, current Division management have started implementing previous internal audit recommendations. As a control to ensure that the audit recommendations in this report are implemented, we recommend that the Legislature consider inviting the Division to report back to the Natural Resources, Agriculture, and Environment Interim Committee on the progress of the audit findings in May of 2025.

Current Division management has expressed their commitment to improve and bolster oversight.

[5] We found another example of a mineral extraction operator that has not been using the correct spot price for magnesium in the royalty rate calculation for magnesium chloride.

RECOMMENDATION 1.2

The Division of Forestry, Fire and State Lands should review and implement recommendations from previous internal audit reports.

RECOMMENDATION 1.3

The Legislature should consider inviting the Division of Forestry, Fire and State Lands to report back to the Natural Resources, Agriculture, and Environment Interim Committee on the progress of the audit findings in May 2025.

The Division Should Clarify Rules That Have Led To Inequity Among Mineral Extraction Operators

Administrative Rule[6] allows mineral extraction operators to deduct "amounts expended for bags, boxes, receptacles, or other costs directly related to or necessary in the shipping of any product." However, the Division has historically not provided clear guidance or consistent oversight, thereby contributing to inequity among mineral extraction operators in the timing, type, and number of deductions applied.

Clear guidance and consistent oversight could contribute to increased equity among mineral extraction operators.

An internal audit conducted in 2011 raised the question of whether storage and/or duty expense deductions (import tax) qualified as allowable deductions. Although the audit subjectively concluded that these two deductions could be counted as allowable deductions, neither are defined in *Administrative Rule*. After the audit, prior Division leadership did not provide adequate guidance or amend *Administrative Rule* to define allowable deductions more clearly. Consequently, we found that the mineral extraction operator in this example has continued to deduct storage costs from royalties owed to the state even after discontinuing production. Annual storage deductions averaged $560,000 for a cumulative five-year total of $2.8 million. No other mineral extraction operators apply storage deductions to their royalty rate calculations. Therefore, not defining and providing clarity for qualifying deductions has further contributed to inequity and inconsistencies among mineral extraction operators.

Combined freight deductions for the two largest mineral extraction operators on the Great Salt Lake have averaged $19.9 million annually over the last five years.

[6] *Administrative Rule* R652-20-3100(6).

Over the same five-year period, handling deductions have averaged $1.4 million, and fuel deductions have averaged $475,000. Even though royalties represent a fraction of these amounts, self-reported deductions over the past five years are approaching a five-year total of $112 million[7] and remain absent of Division guidance or validation.

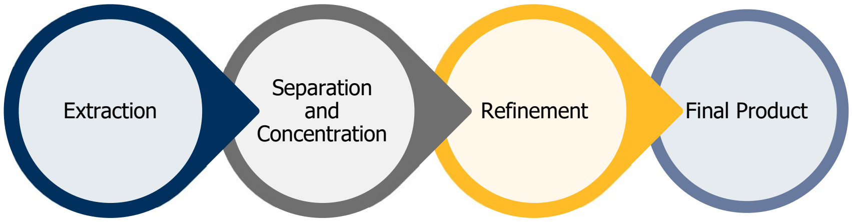
RECOMMENDATION 1.4

The Division of Forestry, Fire and State Lands should clearly define and validate allowable deductions.

The Division Should Clearly Define the Point of Valuation to Mitigate Inconsistencies in the Application of Royalty Calculations

Existing royalty agreements define the point of valuation differently. This presents a problem if the Division's intent is equity because commodity and product values consistently change and evolve throughout various phases of the mineral development process. For example, the mineral development process includes many steps such as exploration, extraction, separation and concentration, purification, and refinement. Typically, minerals increase in value the further along they are in the development process. Therefore, operators that pay royalties at the point of sale on a final product will likely pay different royalties than operators that pay royalties at the point of extraction, the point of shipment, or on partially developed/refined products.

Commodity and product values consistently change and evolve throughout various phases of the mineral development process.



If the Division's goal is to treat all mineral extraction operators equally, the point of valuation for mineral royalty calculations must be consistent. However, if the

[7] The five-year $112 million deduction total represents $5.3 million in supplemental royalties.

Division desires the flexibility of negotiation with the intent to maximize taxpayer revenue, then the point of valuation for mineral royalty calculations should be clearly defined in corresponding royalty agreements. We found one instance where the definition of "the point of shipment," as mentioned in a royalty agreement was the source of a dispute between the Division and a mineral extraction operator. A subsequent legal settlement (negotiated thirty years after the date of the original royalty agreement) clarified the definition to the satisfaction of both parties.

Furthermore, we found an example of a small operator paying royalties on partially developed magnesium chloride products (brines). Likewise, a second small operator was found to be paying royalties on fully developed magnesium chloride products at the point of sale. Although it appears that the second operator in this example would be paying a higher percentage of royalties than the first operator, it is impossible to determine the level of disparity without a more in-depth analysis.[8]

Administrative Rule is silent on the matter and the Division has no policies or best practices in place to define the point of valuation for royalty calculations. When contemplating the point of valuation, the Division should consider the various stages of product development with clearly defined goals and objectives; specifically, whether they intend to promote equity and fairness, or maximize revenue to the state. That said, both approaches require the Division to clearly define and establish a point of valuation for royalty calculations. This definition should be thorough, complete, and demonstrate how FFSL will achieve its related goals and objectives.

When contemplating the point of valuation, the Division should consider the various stages of product development with clearly defined goals and objectives.

RECOMMENDATION 1.5

The Division of Forestry, Fire and State Lands should clearly define the point of valuation for royalty calculations.

The Division Did Not Follow Administrative Rule When Renegotiating the Terms of a Recent Mineral Royalty Agreement

A royalty agreement from September 1962 was renegotiated in March 2020. During the renegotiation process, the Division did not follow *Administrative Rule*

[8] The operators in this example represent nearly one percent ($43,000) of the five-year magnesium chloride royalty total.

when considering royalty rates for sodium chloride. The royalty rate calculation for sodium chloride is clearly set out in *Administrative Rule*[9] and was in place at the time of this renegotiation. However, the Division negotiated a variation of the calculation that did not use current market rates as set forth in rule. If the Division believed a different royalty rate calculation should be used, they should have gone through the process to update *Administrative Rule*. The effect of using a different royalty rate calculation than what is defined in *Administrative Rule* (for this renegotiated royalty agreement) results in a shortfall of $59,000[10] annually.

Additionally, the Division should negotiate a provision for the state to recapture funds in the event of royalty agreement termination. This is important because the renegotiated royalty payments are based on calculations that use market data from the prior year, not the current year. Therefore, if the renegotiated royalty agreement is terminated for any reason, royalty rates for sodium chloride would be lagging by one year. Even if the methodology of this calculation was allowed in *Administrative Rule*, best practice would suggest having a process in place to reconcile royalty payments to the current year. However, no such process currently exists.

Best practice suggests having a process in place to reconcile royalty payments to the current year.

The Division Should Ensure that All Royalty Agreements Are Signed and Approved. *Administrative Rule*[11] states, "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." In 2019, a memorandum of understanding (MOU) was negotiated. This MOU was designated to serve as an "interim royalty agreement" allowing the mining, extraction, and production of a novel commodity from the Great Salt Lake. Even though this MOU remains unsigned (unapproved) by the Division, the state continues to collect over $100,000 annually in royalties.

[9] *Administrative Rule* R652-20-1000(2)(e).

[10] The four-year $236,000 deficit makes up 28.4 percent of the total sodium chloride deficit. Refer to Figure 1.1 on page 6 for more information.

[11] *Administrative Rule* R652-3-400.

RECOMMENDATION 1.6

The Division of Forestry, Fire and State Lands should follow existing *Administrative Rule* or update *Administrative Rule* to better align with Division actions and practices.

Better Records Management Will Improve Accuracy and Compliance

Administrative Rule[12] requires mineral extraction operators to submit a certified royalty report on a form specified by the Division. However, we found multiple examples of where records management can improve. Some of the examples we identified include:

- FFSL stated that an operator had not turned in royalty reports for two consecutive quarters in two different years (2019 and 2021). The missing documentation is linked to an operator that failed to adjust the royalty rate for sodium chloride for three consecutive years, contributing nearly $308,000[13] to the sodium chloride deficit. Increased oversight and validation efforts could have provided the internal controls necessary to detect and further prevent this problem from occurring.
- For three consecutive years (2015-2018), the Division had not reviewed financial documentation for a mineral extraction operator.
- A mineral extraction operator had an outstanding balance of about $5,000 linked to a royalty payment that was due in 2020. The Division was unaware of the outstanding balance until it was pointed it out as part of this audit.

[12] *Administrative Rule* R652-5-300(1)(a).

[13] Over the past five years, there has been nearly $832,000 in total sodium chloride deficits to the state. The $308,000 deficit mentioned here makes up 37 percent of that total deficit. Refer to Figure 1.1 on page 6 for more information.

The Division reports that they have not had sufficient databases for tracking payments, invoices, correct reporting, nor housing documentation, record keeping, and other notifiers. In 2023, the Division began implementing a better way to house data and keep on top of data management. We recommend the Division continue its efforts to track data and ensure mineral extraction operators are accurately reporting and paying royalties.

In 2023, the Division began implementing a better way to house data and keep on top of data management.

RECOMMENDATION 1.7

The Division of Forestry, Fire and State Lands should develop robust policies and procedures for the validation of Great Salt Lake mineral extraction operators' self-reported production totals, calculations (ensuring correct royalty rates are used), deductions, and associated royalty payments.

1.2 Division Management Should Review Its Use of Regulatory Authority to Ensure Compliance with Administrative Rule and Mineral Royalty Agreements

We found enforcement tools in royalty agreements, statute, and *Administrative Rule.*

After learning about the minerals program oversight issues outlined in the first section of this chapter, we wanted to better understand the Division's enforcement authority to ensure compliance. We found enforcement tools in mineral royalty agreements, statute, and *Administrative Rule* authorizing the Division to exercise their authority to ensure proper performance and compliance.

Royalty agreements among the seven mineral extraction operators date as far back as March 1961, and as recently as December 2021. The provisions of older agreements remain in effect today because they are "production based." In other words, royalty agreements "… shall continue so long thereafter as salts in commercial quantities are processed or produced." While we recognize the Division's position and obligation to adhere to the antiquated provisions in these royalty and/or lease agreements, there are still regulatory actions that FFSL could have taken to ensure compliance. For example, a royalty agreement from September 1962 states:

Mineral Royalty Agreement Provision:

"In the event that the lessees fail to pay the state all monies due and payable to the state under the terms and provisions of this agreement…[a] written notice shall [be] given by the state to lessees demanding payment of monies due or payable… the state may terminate this agreement by giving written notice thereof to lessees…"

Despite a lengthy history of royalty agreement violations with this operator, we found evidence of only one written notice requiring payment of monies due or payable.

Administrative Rule[14] authorizes penalties and fines to be given as it relates to late royalty payments; however, penalties and fines have been applied inconsistently. *Administrative Rule* is further supported by House Bill 453 that was passed during the 2024 General Legislative Session. This bill allows the Division to statutorily issue violation orders and take enforcement action against operators that are incorrectly compensating the state for extracted minerals. Other enforcement tools such as provisions in individual royalty agreements and statute also exist, but there is minimal evidence indicating that Division management has been exercising their authority to ensure compliance. Regulatory agencies such as FFSL understandably seek to balance enforcement with economic activity. Nevertheless, the Division should review its regulatory efforts to ensure that taxpayers are receiving all anticipated revenues for extracted minerals while promoting parity and equity among mineral extraction operators.

Administrative Rule **authorizes penalties and fines to be given as it relates to late royalty payments.**

Current management has sought to remedy many of the issues identified in this chapter by requesting a position that will specialize in mineral development and the economics of mineral leasing. Funding for this position was approved during the 2024 General Legislative Session. It is expected that the newly created Minerals Landman position will evaluate royalty reports, process new mineral and royalty nominations, track and report revenue and mineral depletions, review mineral leases for compliance, work with mineral extraction operators, and evaluate compliance according to statute and *Administrative Rule*. Until recently, the Division has never had a dedicated position for contract

[14] *Administrative Rule* R652-5-300(2).

management. The level of support from this newly created position is expected to provide the knowledge and capacity needed to properly run the minerals program.

RECOMMENDATION 1.8

The Division of Forestry, Fire and State Lands should review the use of its regulatory authority and document its strategy for ensuring compliance with statute, *Administrative Rule,* and mineral royalty agreements.

BACKGROUND

The Division of Forestry, Fire and State Lands (Division or FFSL) is the state agency given the statutory responsibility to manage mineral extraction contracts on the Great Salt Lake. Seven mineral extraction operators maintain contracts with the Division, which is responsible for ensuring compliance with contract requirements and laws protecting Great Salt Lake sovereign lands.

FINDING 2.1
The Division Can Make Changes to Further Improve Management of Great Salt Lake Mineral Leases.

RECOMMENDATION 2.1
The Division of Forestry, Fire and State Lands should conduct a thorough review of statute, *Administrative Rule*, and mineral lease agreements for the purpose of creating written internal controls. The Division should regularly monitor these controls to demonstrate improved oversight and contract management.

RECOMMENDATION 2.2
The Division of Forestry, Fire and State Lands should prioritize updating the Great Salt Lake Comprehensive Management Plan (CMP) including establishing a timetable for its completion to effectively monitor and track progress.

RECOMMENDATION 2.3
The Division of Forestry, Fire and State Lands should review the efficacy of current coordination plans and establish functional frameworks to coordinate with other state agencies whose activities may overlap with FFSL.

FINDING 2.2
The Division Should Track the Percentage of Appropriations Allocated to the Great Salt Lake.

RECOMMENDATION 2.4
The Division of Forestry, Fire and State Lands should annually demonstrate the percentage of funds apportioned to the Great Salt Lake and inform the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee of these amounts to guide future appropriations according to statutory preference.

CONCLUSION

In recent years, improvements to Great Salt Lake management have occurred. This chapter details additional ways that oversight of the lake and management of its mineral contracts can improve. For example, FFSL can create written internal controls that will assist the Division to reasonably assure compliance with mineral lease contracts and achieve its management objectives. Resources are available to improve oversight and contract management of mineral leases on the Great Salt Lake.

Chapter 2
The Division of Forestry, Fire and State Lands Can Improve Its Oversight and Contract Management

2.1 The Division Can Make Changes to Further Improve Management of Great Salt Lake Mineral Leases

The Division of Forestry, Fire and State Lands (Division or FFSL) can improve its oversight of mineral leases on the Great Salt Lake by developing sufficient policies and procedures for contract management. These policies and procedures should reasonably ensure mineral extraction operators' compliance with established requirements and the Division's own achievement of identified management objectives.

While actions taken by the Legislature and the Division show a commitment toward lake management and oversight, we found areas of improvement where FFSL can further strengthen its management of mineral leases on the Great Salt Lake.

House Bill 453, passed in the 2024 General Session, requires FFSL to create procedures that enable the Division to enforce applicable statutes and *Administrative Rules.* Additionally, the bill explicitly provides the Division with the authority to issue notices of violation and cessation orders. Even before these statutory changes, the Division exercised enforcement authority for disallowed recreational activities on the Great Salt Lake. While actions taken by the Legislature and the Division show a commitment toward lake management and oversight, we found areas of improvement where FFSL can further strengthen its management of mineral leases on the Great Salt Lake.

FFSL Should Improve Internal Controls for Proper Mineral Lease Management on the Great Salt Lake

FFSL should improve its internal controls to reasonably ensure that the Division achieves its identified objectives. These objectives are identified in statute, *Administrative Rule*, and management plans previously developed by the Division. For example, one of the Division's overarching management objectives includes:

Overarching Management Objective of FFSL:

"…protect and sustain [sovereign land] resources and to provide for reasonable beneficial uses of those resources, consistent with their long-term protection and conservation."

The establishment of written policies dictating the performance of specific procedures will reasonably assure compliance with established lease requirements.

Internal controls are the plans, methods, policies, and procedures whereby management reasonably assures that an entity can achieve its objectives. The establishment of written policies dictating the performance of specific procedures will reasonably assure compliance with established mineral lease requirements.

The Division regulates "all uses on, beneath or above the beds of navigable lakes and streams.[15]" This mandate demonstrates the Division's responsibility to ensure compliance of mineral extraction activities on the Great Salt Lake. Some of these compliance requirements include the following:

- The Division shall review and make an environmental assessment for activities which disturb the surface of land within a mineral lease footprint.
- The Division should ensure that mineral extraction operators submit plans for any activity which disturbs the surface of lands associated with a mineral lease.
- The Division should not allow a lessee to commence operations on leased land without an approved plan of operation.[16]

To bolster the requirements set forth in *Administrative Rule*, the Division should improve its policies and procedures to provide a reasonable assurance of compliance.

A Great Salt Lake Mineral Lease Development Project Would Have Benefited from Clearer Policies and Procedures by FFSL. In 2021, a mineral extraction operator commenced construction of a development project that was permitted by another state agency. While other federal and state environmental agencies conducted reviews and issued permits, the coordination between these agencies

[15] *Administrative Rule* R652-2-200.

[16] *Administrative Rule* R652-20-2400.

and FFSL could have been stronger. Mineral extraction operators are subject to *Administrative Rule* and should have proactively requested review by FFSL. Although FFSL was informed of the project and its permitting through a meeting and emails, it appears that the Division did not receive official notice of permit issuance. The permitting sister agency may have been able to do more to ensure communication was received. That said, FFSL is the designated executive authority over sovereign land mineral leases and ultimately responsible for asserting its authority to enforce compliance with its requirements. Clear, established protocols can improve internal controls and assist FFSL in meeting its objectives.

As the designated executive authority over sovereign land mineral leases, FFSL is ultimately responsible for asserting its authority and enforcing compliance with its requirements.

In addition, current FFSL administration believes that there is a need to be more engaged in lease management to ensure compliance. This sentiment is supported by internal audit recommendations that were given to FFSL in 2011. Internal audit suggested the following to improve contract management:

- FFSL personnel need to be familiar with the terms of leases, basic structures, and point people.
- FFSL personnel should make regular contact (annually or semi-annually) with mineral extraction operators to maintain open lines of communication and understand current issues.

While the Division has reportedly taken actions consistent with these recommendations in recent years, policies for such oversight functions should be written to support consistency in management activities over time. As such, we recommend that the Division implement policies and procedures for active and regular lease oversight. Furthermore, the Division should monitor these policies to demonstrate improved oversight and effective contract management.

The Update of the Comprehensive Management Plan (CMP) Is a Good Opportunity to Ensure Audit Recommendations Are Embedded in Division Operations. The Great Salt Lake CMP's primary purpose is to guide government resource management and appropriate use of the lake.[17] In fiscal year 2023, the Legislature approved the Division's funding request for $400,000 to update its CMP. In April 2024, the Division signed a contract with an environmental

[17] The Division's implementation of comprehensive management plans is a legislative requirement. (see ***Utah Code*** 65A-2-2 and 65A-2-4).

The new management plan should include actionable strategies that will be useful in guiding monitoring and compliance activities that help the Division fulfill its management objectives.

planning consultant to update its Great Salt Lake CMP. Although the update is underway, the Division should prioritize completion and track progress. The new plan should include actionable strategies that will be useful in guiding monitoring and compliance activities that help the Division fulfill its management objectives.

The Division's current policies do not address management activities for the oversight and compliance monitoring of lessee activities on state sovereign lands. To reasonably assure compliance with statute, *Administrative Rule*, and mineral lease provisions, we recommend that the Division implement internal controls and develop written policies and procedures to better monitor and manage Great Salt Lake mineral leases. We believe that these steps will provide better oversight and further demonstrate the responsible management of lessee activity on leased sovereign lands.

RECOMMENDATION 2.1

The Division of Forestry, Fire and State Lands should conduct a thorough review of statute, *Administrative Rule*, and mineral lease agreements for the purpose of creating written internal controls. The Division should regularly monitor these controls to demonstrate improved oversight and contract management.

RECOMMENDATION 2.2

The Division of Forestry, Fire and State Lands should prioritize updating the Great Salt Lake Comprehensive Management Plan (CMP) including establishing a timetable for its completion to effectively monitor and track progress.

The Division Can Improve Oversight by Developing Robust Interagency Coordination Strategies

FFSL can strengthen coordination with other sister agencies that share the responsibility of oversight of the Great Salt Lake. The Division's 2013 Great Salt Lake Mineral Leasing Plan (MLP) identified a key management objective regarding coordination:

Coordination Management Objective:

"Coordinate Management, Permitting, and Research Activities between Applicable Local, State, and Federal Agencies Surrounding Great Salt Lake."

The Division's Comprehensive Management Plan (CMP) cites a need for a communication mechanism to coordinate when an agency's management actions impact another agency tasked with Great Salt Lake oversight. The CMP states that "permitting agencies of GSL [the Great Salt Lake] are typically operating in separate silos," and that "communication between agency staff that is responsible for permitting is minimal." Furthermore, the CMP observes that the lack of coordination has led to permitting conflicts between state agencies. These CMP findings reflect our observations of insufficient coordination between agencies for a recent development project on leased lands.

To the Division's credit, it developed a policy for interaction with a state resource (development database) where projects impacting physical resources are listed. However, participation is voluntary for other agencies; therefore, coordination on critical permitting using this method could not be reasonably assured.

The Division should review the efficacy of current coordination plans and establish functional frameworks to coordinate with other state agencies whose activities may overlap with FFSL's responsibilities on the Great Salt Lake. Any proposed coordination framework should be updated and tested to ensure functionality.

The Division should review the efficacy of current coordination plans and establish functional frameworks to coordinate with other state agencies.

The Division of Water Quality Is a Good Example of An Agency with which Coordination Should Be a Top Priority. The Division of Water Quality (DWQ) issues water quality permits to mineral extraction operators that hold leases managed by FFSL. Statute recognizes this overlap by requiring the Division to maintain a management plan that promotes water quality management. Furthermore, the Division has established management objectives in *Administrative Rule* explicitly stating:

"water quality will be given due consideration."

Because of the emphasis on water quality in statute and *Administrative Rule*, DWQ represents a prime example of an overlapping agency with which FFSL should develop a functional coordinating relationship. FFSL is ultimately responsible for ensuring that impacts to mineral leases on the Great Salt Lake are in accordance with statutory mandates. Therefore, in addition to developing coordination mechanisms, the Division should create internal policies for maintaining independent awareness of other agency actions.

RECOMMENDATION 2.3

The Division of Forestry, Fire and State Lands should review the efficacy of current coordination plans and establish functional frameworks to coordinate with other state agencies whose activities may overlap with FFSL.

2.2 The Division Should Track the Percentage of Appropriations Allocated to the Great Salt Lake

Funds from the Sovereign Lands Management Account (account) are statutorily required to be used "…only for the direct benefit of sovereign lands," including the Great Salt Lake.[18] The Division of Forestry, Fire and State Lands (FFSL or Division) should track appropriations associated with the Great Salt Lake. When the Division receives an appropriation, funds are generally spent according to the Legislature's intent; however, funding from appropriations may be allocated to multiple sovereign lands, including the Great Salt Lake. For example, an appropriation authorized to treat invasive species may be used on any or all sovereign lands. By tracking the amount of funding apportioned to the Great Salt Lake, the Division will be able to demonstrate the percentage of funds spent directly on the lake.

House Bill 157, passed in the 2022 General Session, requires that money in the account be used only for the direct benefit of sovereign lands. Legislative changes also include a requirement for the Legislature to prefer appropriations that benefit the sovereign land from which the revenue was generated (in the absence of compelling circumstances). For example, this means that mineral extraction revenues derived from Great Salt Lake mineral operations should generally be appropriated to the Great Salt Lake.[19]

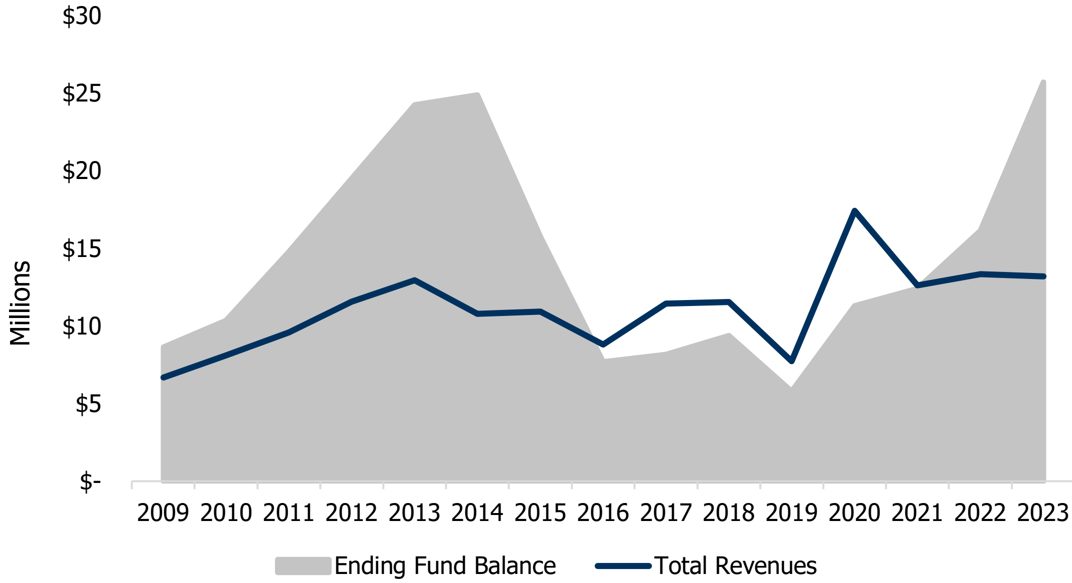
Funds Are Available to Address Sovereign Lands Management Needs. The account is a restricted account within the General Fund. Account revenues come from sovereign land activities such as royalties, mineral leases, and fees. Figure

[18] ***Utah Code*** 65A-5-1(3)(b).

[19] Great Salt Lake mineral extraction revenues make up roughly 90 percent of the total revenue credited to the account annually. The law requires the Legislature to prefer appropriations of the same proportion of funds (90 percent) to be spent on the Great Salt Lake.

2.1 details the ending fund balances for the account year after year, which is illustrated by the gray area.

Figure 2.1 Historical Ending Fund Balances (Gray Area) and Revenues (Blue Line) for the Sovereign Lands Management Account. The average ending balance from 2009-2023 is about $14.3 million, with the lowest balance of $5.8 million recorded at the end of fiscal year 2019.



Source: Auditor generated using date from the Division of Forestry, Fire and State Lands.

The Division can spend these monies only after the approval of a formal request for legislative appropriation. Because of this restriction, revenues remain intact and account balances grow until expenditures are approved. FFSL should regularly review the funds in this account to determine whether there are opportunities to use available resources to address deficiencies in sovereign land management and mineral lease oversight.

The Legislature has Supported Previous Funding Requests. Current management at FFSL report that the Division has historically not had the support to properly fund the staffing needs of the minerals program. However, documentation shows that the Legislature has funded all requests from the Division over the past five years. During the 2024 General Legislative Session, the Division requested funding for a position that will specialize in mineral development and the economics of mineral leasing. The Legislature funded this position. Because the minerals program is the primary source of revenue for managing Great Salt Lake resources, the Division should continue to determine where funds can be used to improve management and oversight on the Great Salt Lake.

Because the minerals program is the primary source of revenue for managing Great Salt Lake resources, the Division should continue to determine where funds can be used to improve oversight of the Great Salt Lake.

The Division Should Annually Demonstrate Whether Great Salt Lake Mineral Extraction Revenues Are Appropriated and Spent According to Statutory Preference. In fiscal year 2023, roughly one-third of Division expenditures (33.5 percent) were spent on items related to the Great Salt Lake. By tracking the percentage of appropriations dedicated to the Great Salt Lake, the Division will be able to inform the Legislature regarding future appropriations. We believe that this practice will serve as a tool for the Division to illustrate whether legislative appropriations are generally aligned with statutory preference.

RECOMMENDATION 2.4

The Division of Forestry, Fire and State Lands should annually demonstrate the percentage of funds apportioned to the Great Salt Lake and inform the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee of these amounts to guide future appropriations according to statutory preference.

Complete List of Audit Recommendations

Complete List of Audit Recommendations

This report made the following twelve recommendations. The numbering convention assigned to each recommendation consists of its chapter followed by a period and recommendation number within that chapter.

Recommendation 1.1

We recommend that the Division of Forestry, Fire and State Lands verify royalty calculations to ensure that the Division is receiving the full value of royalties on mineral commodities as specified in *Administrative Rule*.

Recommendation 1.2

We recommend that the Division of Forestry, Fire and State Lands review and implement recommendations from previous internal audit reports.

Recommendation 1.3

We recommend that the Legislature consider inviting the Division of Forestry, Fire and State Lands to report back to the Natural Resources, Agriculture, and Environment Interim Committee on the progress of the audit findings in May 2025.

Recommendation 1.4

We recommend that the Division of Forestry, Fire and State Lands clearly define and validate allowable deductions.

Recommendation 1.5

We recommend that the Division of Forestry, Fire and State Lands clearly define the point of valuation for royalty calculations.

Recommendation 1.6

We recommend that the Division of Forestry, Fire and State Lands follow existing *Administrative Rule* or update *Administrative Rule* to better align with Division actions and practices.

Recommendation 1.7

We recommend that the Division of Forestry, Fire and State Lands develop robust policies and procedures for the validation of Great Salt Lake mineral extraction operators' self-reported production totals, calculations (ensuring correct royalty rates are used), deductions, and associated royalty payments.

Recommendation 1.8

We recommend that the Division of Forestry, Fire and State Lands review the use of its regulatory authority and document its strategy for ensuring compliance with statute, *Administrative Rule,* and mineral royalty agreements.

Recommendation 2.1

We recommend that the Division of Forestry, Fire and State Lands conduct a thorough review of statute, *Administrative Rule*, and mineral lease agreements for the purpose of creating written internal controls. The Division should regularly monitor these controls to demonstrate improved oversight and contract management.

Recommendation 2.2

We recommend that the Division of Forestry, Fire and State Lands prioritize updating the Great Salt Lake Comprehensive Management Plan (CMP) including establishing a timetable for its completion to effectively monitor and track progress.

Recommendation 2.3

We recommend that the Division of Forestry, Fire and State Lands review the efficacy of current coordination plans and establish functional frameworks to coordinate with other state agencies whose activities may overlap with FFSL.

Recommendation 2.4

We recommend that the Division of Forestry, Fire and State Lands annually demonstrate the percentage of funds apportioned to the Great Salt Lake and inform the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee of these amounts to guide future appropriations according to statutory preference.

Agency Response Plan

State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Department of Natural Resources
Division of Forestry, Fire & State Lands

JOEL FERRY
Executive Director

JAMIE BARNES
Director/State Forester

June 5, 2024

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RE: Forestry, Fire and State Lands Mineral Royalty Agreement Audit

Dear Mr. Minchey,

Thank you for the opportunity to respond to the audit recommendations. We appreciate the professionalism and collaboration as we worked through this process. We concur with the recommendations made in the audit and herewith provide a formal response to each recommendation. We are committed to improved oversight and accountability of mineral extraction operations on Great Salt Lake, along with efficient contract management processes. We value the information provided in the audit and look forward to making improvements in the processes that will benefit the State of Utah.

Sincerely,

Joel Ferry (Jun 7, 2024 10:49 MDT)
Joel Ferry
Executive Director
Department of Natural Resources

Jamie Barnes (Jun 7, 2024 10:18 MDT)
Jamie Barnes
Director
Forestry, Fire and State Lands

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Chapter 1

Recommendation 1.1 The Division of Forestry, Fire and State Lands should verify royalty calculations to ensure that the Division is receiving the full value of royalties on mineral commodities as specified in Administrative Rule.

Division Response: The Division supports this recommendation and has begun to implement the findings.

What: The Division will verify royalty calculations to ensure that the Division is receiving the full value of royalties on mineral commodities, as specified in the contract.

How: The Division has begun developing internal control processes and policies, which will verify and track the royalty calculations to ensure that the Division is receiving the full value of the royalties. The current Division leadership has begun reviewing previous audits to determine which recommendations still need to be implemented and are relevant. The Division is also reviewing contracts for compliance with Administrative Rule. In addition, the Division will be hiring a specialized position that focuses solely on minerals, royalties and contract management for the minerals section. This position will have specialized knowledge in mineral valuation, royalty calculation and be knowledgeable in royalty reporting requirements within the industry.

Documentation: Leases, contracts and Administrative Rule

Timetable: The Division has begun to review the leases subject to this recommendation. The review of previous internal audits will be complete by October 2024.

When: The Division will determine which recommendations out of previous audits remain and the relevancy of those today as it relates to further success. Implementations of these recommendations will be carried out no later than December 2024.

Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

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Recommendation 1.2 The Division of Forestry, Fire and State Lands should review and implement recommendations from previous internal audit reports.

Division Response: The Division agrees with the recommendation and has begun reviewing previous internal audits and determining relevancy of the previous unimplemented recommendations which may prove successful for current day processes.

What: The Division will verify previous audits and determine if previous recommendations will prove helpful in achieving success.

How: The Division will review the previous audit reports and become informed of the reason for the audits, the findings in the audits and how the findings may be helpful to achieve success. To further assist, the Division will be hiring a specialized position that focuses solely on minerals, royalties and contract management for the minerals section. This position will have specialized knowledge in mineral valuation, royalty calculation and be knowledgeable in royalty reporting requirements within the industry.

Documentation: Administrative Rule, policy or development of standard operating procedures

Timetable: Agency has begun review. The review of previous internal audits will be complete by October 2024.

When: The Division will determine which recommendations out of previous audits remain and the validity of the recommendations today to achieve success. Implementations of those recommendations will be carried out no later than December 2024.

Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

Recommendation 1.3 The Legislature should consider inviting the Division of Forestry, Fire and State Lands to report back to the Natural Resources, Agriculture, and Environment Interim Committee on the progress of the audit findings in May 2025.

Division Response: The Division agrees with this recommendation and looks forward to reporting to the Committee on the progress made.

What: The Division will be prepared to report back to the Natural Resource, Agriculture and Environment Interim Committee on the Progress of the audit findings in May 2025 or on the date requested to appear before the committee.

Documentation: The Division will be prepared with any documentation to validate their progress and success on implementing the recommendations.

Recommendation 1.4 The Division of Forestry, Fire and State Lands should clearly define and validate allowable deductions.

Division Response: The Division agrees with this response and has begun working to implement the recommendation.

What: The Division will clearly define and validate allowable deductions on current mineral contracts as well as future contracts.

How: The Division has begun an internal review on all mineral lease contracts to determine the allowable deductions within the terms and stipulations in the contract. In addition, the Division is analyzing Administrative Rule with contracts to determine where Administrative Rule may need amendments to conform with processes and recommendations from the audit, along with potential shortfalls in revenue. To further assist, the Division will be hiring a specialized position that focuses solely on minerals, royalties and contract management for the minerals section. This position will have specialized knowledge in mineral valuation, royalty calculation and be knowledgeable in royalty reporting requirements within the industry.

Documentation: Leases and contracts, Administrative Rule, and royalty reports.

Timetable: The Division has begun the internal review process. The Division anticipates the review process being completed by December 2024. After the review process, the Division will then take the steps necessary to amend Administrative Rule or amend any agreements, if possible. The anticipated timeline for these amendments is March 2025. However, this is a complex process and the implementation for existing contracts may be difficult.

When: This recommendation should be implemented by May 2025.

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Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

Recommendation 1.5 The Division of Forestry, Fire and State Lands should clearly define the point of valuation for royalty calculations.

Division Response: The Division agrees that point of valuation for royalty calculations should be clearly defined for current and future leases.

What: The Division will act to clearly define the point of valuation for royalty calculations on current and future leases.

How: The Division has begun an internal review of all mineral lease contracts to determine the point of valuation, as defined within the terms and stipulations in the contract. In addition, the Division has begun to review Administrative Rule with contracts and determine where Administrative Rule may need to be amended to conform with processes and recommendations from the audit to clearly define the point of valuation. Further, the Division will be recruiting a specialized position that focuses solely on minerals, royalties and contract management to manage minerals contracts. This position will have specialized knowledge in mineral valuation and royalty calculation and be knowledgeable in royalty reporting requirements within the industry.

Documentation: Leases and contracts, royalty reports, and Administrative Rule.

Timetable: The Division has begun the review process. The Division anticipates the review process being completed by December 2024. The Division will then take the steps necessary to amend Administrative Rule or amend any existing agreements if possible. The anticipated timeline for these amendments is March 2025. However, this is a complex process and the implementation for existing contracts may be difficult.

When: This recommendation should be implemented by May 2025.

Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

Recommendation 1.6 The Division of Forestry, Fire and State Lands should follow existing Administrative Rule or update Administrative Rule to better align with Division actions and practices.

Division Response: The Division agrees that it needs to better align Administrative Rule with Division actions and practices.

What: The Division will take the steps necessary to create alignment between actions, practices, rules, statutes and policies.

How: The Division has begun the process of forming a rule and policy review committee wherein current policy and rule are reviewed for compliance with Division actions and practices. The Division formed an in-house committee that is actively suggesting amendments to align with current day practices. These amendments will be reviewed and implemented accordingly to achieve alignment and a higher standard of success in the Division. The Division has recently implemented a new data/contract management database wherein all contracts and supporting documents are centrally housed to better inform staff on existing lease requirements and actions and to create uniformity throughout the areas. Lastly, the Division is engaging in a process of creating standard operating procedures to standardize processes and create alignment within the program.

Documentation: Administrative Rule and Division policy.

Timetable: The Division has formed the in-house committee and is well into the rule and policy review process. The Division anticipates the review process being completed by December 2024. The Division will then take the steps necessary to amend Administrative Rule and/or develop policy. The anticipated timeline for these amendments is March 2025.

When: Full policy and rule review will be complete by June 2025.

Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

Recommendation 1.7 The Division of Forestry, Fire and State Lands should develop robust policies and procedures for the validation of Great Salt Lake mineral extraction operators'

self-reported production totals, calculations (ensuring correct royalty rates are used), deductions, and associated royalty payments.

Division Response: The Division agrees that it should develop robust policies and procedures for the validation of Great Salt Lake mineral extraction operators.

What: The Division will take the steps necessary to develop robust policies and procedures for the validation of Great Salt Lake mineral extraction operators' self-reported production totals, calculations (ensuring correct royalty rates are used), deductions, and associated royalty payments on current and future leases.

How: The Division is currently in the process of reviewing the allowable deductions, required calculations and reporting requirements of all Great Salt Lake mineral extraction operators. The Division participated in recent legislation to begin to address issues as they relate to existing agreements and production rate discrepancies. A succinct review of the contract's terms and stipulations weighted against current policy and industry practices will bring great improvement and alignment. Again, the above-mentioned mineral position will have specialized knowledge in mineral valuation, royalty calculation and be knowledgeable in royalty reporting requirements within the industry, which will provide better contract management and support to the program moving forward. This position will be able to spot issues on a proactive rather than reactive basis, preventing issues such as the ones identified in this audit. In addition, the Division has implemented a new data/contract management database wherein all contracts and supporting documents are centrally housed to better inform staff on existing lease requirements, actions and documentation. Standardization of royalty reporting forms is one area the Division plans to work with operators on immediately.

Documentation: Administrative Rule, policy, contracts and leases.

Timetable: The steps necessary for implementing these recommendations fit within the Division review of policy and Administrative Rule which is currently underway. The Division anticipates the review process being completed by December 2024. The Division will then take the steps necessary to amend Administrative Rule and/or develop policy. The anticipated timeline for these amendments is March 2025.

When: The recommendation should be fully implemented by June 2025.

Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

Recommendation 1.8 The Division of Forestry, Fire and State Lands should review the use of its regulatory authority and document its strategy for ensuring compliance with statute, Administrative Rule, and mineral royalty agreements.

Division Response: The Division agrees with the recommendation to review its use of its regulatory authority and document standardization related to compliance with statute, rule, and contract.

What: The Division will develop standard operating procedures to address non-compliance and royalty discrepancies.

How: The Division is hiring a specialized position that focuses solely on minerals, royalties and contract management for the minerals section. This position will have specialized knowledge regarding rules, policy and standard operating procedures related to compliance and contract management. This individual will work with Division leadership to identify areas where a standard operating procedure or policy would provide clarity in use of regulatory authority or standardization of processes related to compliance with statutory requirements. Said position will be trained to identify issues of non-compliance and act within the scope of the contract, rules and policies and develop standardized guidance to inform the process. This position will also maintain documentation related to the lease files keeping solid documentation of when and how the Division has used its regulatory authority. The newly established database will also help in achieving success on this recommendation, as it will serve as a central location for housing all documentation creating more robust access to lease information.

Documentation: Leases and contracts, Administrative Rule and policy

Timetable: The Division receives funding for this position in July 2024 and plans to recruit immediately. The policy end of this recommendation falls into the internal review that the Division is already engaged in and should be complete by no later than May 2025.

When: This recommendation should be fully implemented by June 2025.

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Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

Chapter 2

Recommendation 2.1 The Division of Forestry, Fire and State Lands should conduct a thorough review of statute, Administrative Rule, and mineral lease agreements for the purpose of creating written internal controls. The Division should regularly monitor these controls to demonstrate improved oversight and contract management.

Division Response: The Division agrees with this recommendation of creating internal controls and regularly monitoring these controls.

What: The Division will create standardized operating procedures that enable staff to effectively and efficiently manage the contracts and actions of the Division pursuant to the terms and stipulations of said contracts and the regulatory authority of the Division.

How: Upon a thorough review of statute and rules, the Division will determine where implementing standard operating procedures and/or policies could improve management, oversight and coordination.

Documentation: Administrative Rule and policy

Timetable: The Division will begin the review of current rule, law and policy immediately. However, the development of the MOUs will coincide with the completion of Comprehensive Management Plan (CMP) and Mineral Leasing Plan (MLP).

When: December 2026

Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

Recommendation 2.2 The Division of Forestry, Fire and State Lands should prioritize updating the Great Salt Lake Comprehensive Management Plan (CMP) including establishing a timetable for its completion to effectively monitor and track progress.

Division Response: The Division agrees with this recommendation.

What: The Division is currently contracted with a contractor to update the Comprehensive Management Plan and is prioritizing this plan.

How: Division personnel and the contractor are in the process of updating the Comprehensive Management Plan through a collaborative process with stakeholders.

Documentation: CMP, MLP

Timetable: This is typically an 18-24 month process that takes a phased approach for pre-engagement, plan development, draft plan release and concludes with a final plan. Throughout the phases the Division will be reviewing existing information, developing the CMP and MLP, engaging stakeholders, hosting information sessions and accepting public comment. The timeframe of these phases varies, but each quarter a variety of tasks are accomplished which contribute to the final plan development.

When: 2026

Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

Recommendation 2.3 The Division of Forestry, Fire and State Lands should review the efficacy of current coordination plans, establish functional frameworks to coordinate with other state agencies whose activities may overlap with FFSL.

Division Response: The Division agrees with this recommendation.

What: The Division will work to develop MOUs with other agencies regarding notification procedures.

How: Through the comprehensive management plan planning process, the Division will identify other regulatory agencies where an MOU may prove beneficial.

Documentation: MOU, CMP

Timetable: This is typically an 18-24 month process that takes a phased approach for pre-engagement, plan development, draft plan release and concludes with a final plan. Throughout the phases the Division will be reviewing existing information, developing the CMP and MLP, engaging stakeholders, hosting information sessions and accepting public comment. The timeframe of these phases varies, but each quarter a variety of tasks are accomplished which contribute to the final plan development.

When: 2026

Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

Recommendation 2.4 The Division of Forestry, Fire, and State Lands should annually demonstrate the percentage of funds apportioned to the Great Salt Lake and inform the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee of these amounts to guide future appropriations according to statutory preference.

Division Response: The Division agrees with this recommendation.

What: The Division agrees that HB 157 established preference for appropriations that benefit the resource from which it was derived.

How: The Division will distinguish revenue generated from each resource to provide the legislature with the information to prefer appropriations that benefit the resource from which it was derived.

Documentation: Financial documentation

Timetable: The implementation of this recommendation will begin in FY 2025 and continue as a regular practice.

When: By end of FY 2025 the Division will have an entire year of financial data that will distinguish revenue and expenditures from the resource which it was derived from. This will continue as a regular practice.

Who: Jamie Barnes, Director and Ben Stireman, Deputy Director will be responsible for ensuring that this recommendation is carried out.

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