



Carbon Canal Company Water Bank

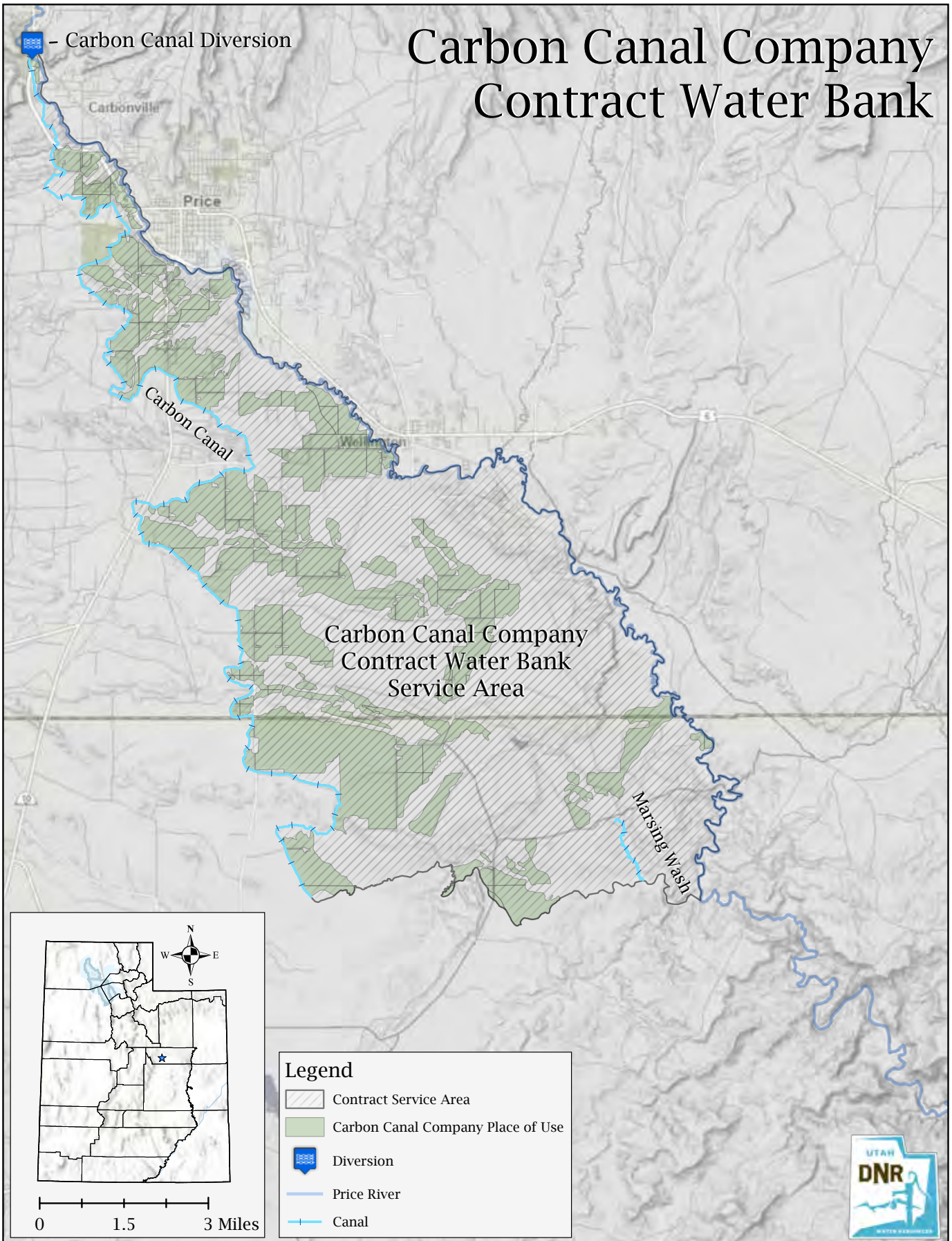
The Carbon Canal Company (CCC) Water Bank in the Price River area represents the state's first approved Contract Water Bank.

The Price Pilot Project was established to explore a voluntary and compensated fallowing program that would meet the dual goals of 1) improving stream flows in the lower Price River to support the recovery of threatened and endangered fish species and 2) providing local irrigators with an alternative source of revenue while protecting their water rights from forfeiture. Leased shareholder water is conveyed to the tail of the Carbon Canal for delivery to the Price River, where the consumptive use portion of fallowed shares is shepherded downstream to enhance instream flows.

The CCC Contract Water Bank was the first of its kind and presented novel challenges, particularly in terms of creating a new bank approval process and novel Change Application questions.



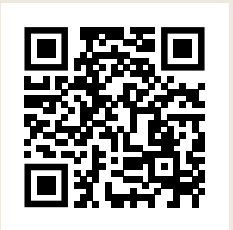
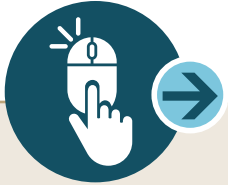
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Why Price Area: Prior Experience with Water Markets

The Price River area was chosen as a Pilot Project area because local water users had previous experience with water marketing activity. For example, the Price River Water Users Association (“PRWUA”) runs an annual water auction that makes water rights held by PacifiCorp and recently retired from a local coal plant available for lease. The Nature Conservancy (“TNC”) and Trout Unlimited (“TU”) have also funded several water conservation and enhancement projects in the area.. TNC operates a program to lease and distribute the tailwater from the CCC canal to a Marsing Wash, a nearby TNC wetland project. CCC also previously participated in the first iteration of the System Conservation Pilot Program (“SCPP”). SCPP was a 4-year pilot program (2015-2018) designed to explore interest in following programs to address declining water levels in Lake Mead and Lake Powell and long-term drought in the Upper Colorado River Basin.

With interest in a more permanent program, TNC and TU, along with the Utah Division of Wildlife Resources (“DWR”), sought new ways to secure water for environmental flows in the lower Price River. At the time, these entities could not legally or simply purchase and convert water rights to instream flow purposes. Meanwhile, shareholders of the CCC expressed interest in creating long-term water leasing arrangements to replace the SCPP and generate income. Local water users were interested in testing Utah’s new Water Banking Act to see if a water bank could become a more permanent water marketing tool.



These work products are available on the [Utah water marketing website](#).



Stakeholder Engagement, Outreach, and Communication

The establishment of the CCC Water Bank resulted from a two-year Stakeholder-driven process. Local participants in the water banking discussions included TU, TNC, DWR, PRWUA, (who did not ultimately participate), Price River Watershed Conservation District, and the CCC.

Initial scoping meetings were held among the participants and with the Project Team to conceptualize operations of the water bank. Meetings focused on understanding operations of the Carbon Canal, Price River environmental flow conditions, and the regulatory process for water bank formation. In total, the Project Team held over 20 meetings in 2020-2021 to establish the basic framework of the Price pilot water bank. Easing the initial scoping effort was that the CCC, TNC, and TU already had long-standing relationships and had a well-developed understanding of each other's objectives and operations.

Additional outreach occurred during the contracting and water bank application processes. Over 10 meetings were held among the parties during contract negotiations and to create and submit the Contract Water Bank Application form to the Utah Board of Water Resources.



Creating and Approving The Water Bank

Approval of the CCC Water Bank occurred in three primary steps: approval of a leasing contract with the CCC, approval of the water bank from Utah Board of Water Resources, and State Engineer approval of a water bank Change Application.

- **Leasing Contract**

A contract between water bank lessors and lessees stipulating the terms of water transfers is required to apply for a Contract Water Bank with the Utah Board of Water Resources.

Negotiations among the CCC, TNC, TU, and PRWUA focused on developing lease terms; operations, administration, and accounting; and governance of the water bank. Negotiations and approval required several meetings with the Boards for the CCC and the PRWUA. The PRWUA initially participated in scoping meetings and early contract negotiations but withdrew from the process while the contract was being developed.

Since CCC is a shareholder-owned mutual irrigation company, it was determined that the leasing arrangements would be made directly with the company and not individual shareholders. If individual shareholders wanted to participate, they needed to work through the company and could not individually lease to the interested lessees.

To facilitate the annual leasing, the contracting parties established a Water Bank Management Committee and Bank Manager, a process for administering the water bank, and delegated administrative duties between the parties. The parties organized the transaction by setting a series of dates by which the parties would exchange critical information. The price of water leased through the CCC Water Bank is set through a bid/ask process. First, CCC shareholders submit an asking price then the Leasing Entities review all asks and then set an Annual Lease Price which shareholders can elect to accept or decline.

A copy of the contract is included in the Pilot Project Summary Report.



- **Water Bank Application: First of Its Kind**

Once the parties completed their leasing contract, the Project Team worked with the parties and the Price River Watershed Conservation District, a local public entity that offered to act as the water bank applicant as required by statute, and the Division of Water Resources staff to create a Contract Water Bank Application form and approval process.

As this water bank approval process was new and novel, it was determined to model the process as closely as possible to the existing Board of Water Resources loan program processes with which water users and the Board of Water Resources are familiar. For example, the forms visually look similar, staff at the Division of Water Resources will first work with the applicants on the application and provide a recommendation to the Board, and the application can rely on an attorney letter certifying that the application meets the requirements of the statute lessening the burden on the Board to make legal determinations. This formal process and Contract Water Bank Application is approved and ready for public use.

The Utah Board of Water Resources approved the Carbon Canal Company Water Bank application in January 2022.



- **Change Application: Limited Data and Surprising Opposition**

The CCC Water Bank was the first water bank Change Application to be approved in the State of Utah. The Change Application process presented several new challenges. The CCC contract only provided that the consumptive portion of fallowed water right be leased. Determining how to distribute this water proved to be difficult as there was limited telemetry in the area and little existing flow data. This lack of data, process, and critical infrastructure slowed the approval process by almost a year.

Additionally, while the parties to the contract and the Project Team did significant outreach to the local community to explain the water bank application and process, the Change Application still received almost 80 protests. Most used a form letter opposing the water bank on general concerns that it would hurt the community and not citing the Change Application criteria under Utah Code Ann. 73-3-8. Ultimately, the parties were able to quell local fears and address the few substantive concerns. However, the process helped identify that the State Engineer and interested parties needed more information about the water bank approval process and where to express their concerns or ask questions. The Change Application for the Carbon Canal Company Contract Water Bank was approved in December 2022.

- **Operational Status**

The Carbon Canal Company Contract Water Bank is now Utah's first fully approved Contract Water Bank. However, water is yet to be run through the CCC Contract Water Bank as CCC chose to participate in the 2023 and 2024 iterations of the System Conservation Pilot Project funded by the Bipartisan Infrastructure Bill and administered by the Upper Colorado River Commission. These new SCPP programs are temporary and will exist as long as the Federal Funding persists. It is anticipated that once these programs sunset, parties will move leasing activities to the CCC Contract Water Bank.



Lessons Learned

As the first water bank to be approved in Utah, formation of the CCC Water Bank provided valuable knowledge that can be applied to future water marketing efforts in the state. A primary lesson learned through the process is the importance of early and regular Stakeholder engagement during project development. During the scoping phase, the specific water needs of local water users should be determined because local conditions will dictate the form of and participation in water markets. Despite the many efforts to engage Stakeholders in the Price Basin, the high number of Change Application protests reveals more engagement could have been done. In setting up a water bank, Stakeholder engagement should start early and be done often.



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The Price Pilot Project also showed that setting up a water bank can require significant time and resources. Grant funding, state agency input, and third-party technical and legal consultants may be needed to assist water bank formation, especially large-scale or complex banks. Involving state agencies early and often is recommended. For example, submitting a draft or working copy of the water bank application and the water rights Change Application for State Engineer review can speed the approval process.

Technical studies are important to understand water bank operations and useful when seeking regulatory approval. However, “analysis-paralysis” should be avoided - while the CCC Contract Water Bank benefited from technical studies generated from TU’s and TNC’s past conservation efforts, a detailed water balance study proved unnecessary in establishing the bank.

