

Good morning Chair and members of the Board. My name is Kent Singleton, a riverfront property owner in Taggart, Morgan County. Thank you for the opportunity to speak.

Mr. Randy Parker has kindly agreed to share his time because this issue affects not just one property, but the consistent application of land-use law across Utah.

My concern is the implementation and enforcement of the Public Waters Access Act — PWAA. Although PWAA has been law for over fifteen years, uncertainty remains about how it intersects with trespass law and private property rights. In my situation, the Morgan County Attorney has declined to enforce PWAA and ongoing trespass on my property, leaving landowners without meaningful recourse while public use continues.

Advisory Opinion 286 shows why complete statutory context matters. When key frameworks are not clearly addressed, interpretation and enforcement can become inconsistent.

I respectfully ask the Board to support training that ensures PWAA and related statutes are applied and enforced consistently statewide.

Thank you. I'll now yield my remaining time to Mr. Parker.

Re: Public Comment Materials – LUED Meeting (March 11, 2026)

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Good morning,

For today's Land Use Eminent Domain Advisory Board meeting, I am submitting concise materials to accompany my public comment.

Attached please find:

1. One-Minute Public Comment Statement (1 page)

A written copy of my spoken remarks to ensure the record accurately reflects my comments.

2. Attachment A — Documentation Summary: PWAA Implementation & Process Gaps (1 page)

A brief summary identifying:

- Ongoing PWAA enforcement concerns affecting private riverfront property
- A pattern of expired GRAMA requests without response
- Statutory appeals filed through the proper administrative process
- County GIS frontage and boundary classification questions affecting survey/title reliance
- The relevance of these issues to consistent statewide land-use training and statutory application

(Optional, if included)

3. GRAMA Request Status Sheet (1 page)

A one-page table summarizing request dates and current status for reference.

I am intentionally providing a concise packet suitable for the public comment record.

Complete documentation, filings, correspondence, and exhibits are available and can be provided electronically upon request.

Thank you for your time and service.

Respectfully,
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PWAA Implementation & Process Gaps (Policy & Training Relevance)

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To: KENT SINGLETON

☰ Wed, Mar 11 at 6:53 AM ☆

Attachment A — Documentation Summary

PWAA Implementation & Process Gaps (Policy & Training Relevance)

Property Context

Private riverfront property owner in Taggart, Morgan County, Utah.

1. PWAA Enforcement Concern

- Ongoing public use of private riverfront property.
- County officials have declined to enforce trespass protections as requested.
- Raises consistency questions regarding how the Public Waters Access Act (PWAA) interfaces with trespass law and private property rights.

Training Relevance:

Consistent statewide understanding of PWAA scope, limits, and enforcement responsibilities.

2. GRAMA Non-Response Pattern

Multiple public records requests submitted through official channels have expired without response, including:

- **FEMA Floodplain Fence Permit records**
- **Business License historical records**

Training Relevance:

Administrative process reliability and transparency are essential to land-use governance.

3. Statutory Escalations Filed

- Appeals submitted to the Chief Administrative Officer in accordance with GRAMA procedures.
- Process followed strictly within statutory framework.

Training Relevance:

Proper procedural pathways depend on consistent agency participation.

4. GIS / Boundary Classification Uncertainty

- County GIS frontage labeling and an unlabeled parcel segment require clarification.
- Impacts survey boundary interpretation and title reliance.

Training Relevance:

Accurate land classification and mapping standards are foundational to land-use decisions.

5. Why This Matters to LUED

These issues illustrate the need for:

- Clear integration of PWAA within land-use training
 - Consistent statutory interpretation across jurisdictions
 - Alignment between property rights, mapping standards, and enforcement practices
 - Reliable administrative procedures supporting land-use governance
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Full documentation, filings, correspondence, and exhibits are available electronically upon request.

Kent Singleton
Taggart, Morgan County, Utah

LAND USE AND EMINENT DOMAIN BOARD

March 11, 2026

Thanks for the opportunity to share some history and thoughts on the Public Waters Access Act and Navigability for Title. As CEO of the Utah Farm Bureau, I was honored to testify five times before the United States Congress on state's rights, water rights and property rights.

John Adams, Second President of the United States and a framer of the U.S. Constitution declared: "Property must be secured, or liberty cannot exist!"

Utah's Constitution Article 1, Section 22 states: "Private property shall not be taken **or damaged** for public use without just compensation."

A quarter century ago Kevin Conatser was arrested and found guilty of trespassing on the lower Weber River, a decision the Utah Supreme Court reversed. Not only did they reverse, the Court also decided to make public policy. They said because the Legislature had not acted, we "make own rule" granting public access to private streambeds. The so-called "Conatser Easement."

Representative Kay McIff, an attorney and Sixth District Court Judge, saw this as judicial overreach and an invitation to the Legislature. To address this obvious judicial overreach, McIff drafted the Public Waters Access Act which was passed into law in 2012. A roller coaster ride was officially underway!

Utah Code 73-29-201 specifically allows only "incidental touching" of privately owned streambeds. The Public Waters Access Act fully revoked the Conatser Easement!

In fact, in 2023 the Legislature and Governor further strengthened the Utah's commitment to property rights by adding private streambeds and banks to the Criminal Trespass Code 76-6-206.

Some county attorneys seem to conflate the facts and suggest trespassing on private streambeds is somehow "unsettled" related to navigability and refuse to enforce the law.

Not So!

It is in fact well settled by the courts. The US Supreme Court defined the process and legal standards for a state to claim a streambed under the historic Navigable for Title standard.

In 1931, the US Supreme Court in UNITED STATES vs UTAH said: “the stream must have been used for trade and travel, in its ordinary and natural condition at the time of statehood.”

In 2012, SCOTUS in PPL Montana vs Montana in a 9-0 decision said: “It is well settled law and is based on a segment-by-segment determination to establish navigability for title.”

Utah Farm Bureau submitted an amicus brief in the Montana case, and I had the honor of attending arguments in Washington, D.C.

To underscore that this issue is in fact settled in Utah, Fourth District Court Judge Derek Pullan’s statement when in 2021 he reversed his 2015 decision on the Provo River. He concluded: “The public has no right to walk on or touch the bottoms of streams crossing private property.”

In 2023, in Utah Stream Access Coalition vs Victory Ranch the Utah Supreme Court said there is “no Constitutional protection for the public right to touch privately owned streambeds underlying state waters.”

To close I’ll quote the Supreme Court from AMERICAN LAND COMPANY (1911):

“It is the responsibility of governments to ensure Certainty of Title because the general welfare of society is at stake.”

Randy Parker

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**UTAH NAVIGABILITY LEGAL DECISIONS AND
US SUPREME COURT DEFINING “NAVIGABLE FOR TITLE” AT STATEHOOD**

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UTAH CONSTITUTION: Article 1, Section 22: “Private Property Shall Not be Taken or Damaged for Public Use Without Just Compensation.”

CERTAINTY OF TITLE: AMERICAN LAND CO vs ZEISS (US Supreme Court 1911): It is the responsibility of governments to ensure certainty of title because “the general welfare of society is at stake”.

UTAH ROLLERCOASTER RIDE

2000: Morgan County Justice Court finds Kevin & Jodi Conatser guilty of criminal trespass on the lower Weber River.

2008: Utah Supreme Court reverses lower Court in Conatser, making “our own rule” stating: “There is a public easement on Utah streams since the water belongs to the public.” Including the right to walk on private streambeds. Rep. Kay Mccliff (Attorney & 6th District Court Judge) noted: “Policy is the responsibility of the elected legislature, not the Courts.”

2010: Utah Legislature passes HB 141 Recreational Use of Public Water on Private Land sponsored by Rep. Kay Mccliff. Utah Code 73-29-201 Public Waters Access Act (PWAA) recognizes the public’s right as defined in J.J.N.P (Utah Supreme Court – 1982): “A right to float on the state’s water regardless of who owns the land.” While privately owned stream beds and banks are protected from public access and trespass allowing only “incidental touching.”

2015: Fourth District Judge Derek Pullan (USAC vs Victory Ranch) said “the people of Utah are constitutionally entitled to have public lands, including the public’s easement in state waters flowing over private lands.”

2017: Utah Supreme Court (USAC vs Orange Street Development) finds on the upper Weber River, a one-mile stretch was used for floating railroad ties (commerce without travel) before statehood meeting the navigable for title standard. The High Court said: “We interpret the PWAA to incorporate the federal standard of navigability.”

2021: On remand the Utah Supreme Court asks Judge Pullan: “were there actual easements at statehood?” In his reversal, Pullan declares: “The public has no right to walk on or touch the bottoms of streams crossing private property.” Because there are no formal easements to non-navigable streams in Utah.

2023: Offenses Against Property Utah Code 76-6-206.6 includes as criminal trespass “the bed or bank” of privately owned non-navigable, freshwater streambeds.

2023: Utah Supreme Court (USAC vs Victory Ranch): The State High Court weighed 19th century pioneers’ use and a present-day easement, finding “no Constitutional protection for the public’s right to touch privately owned streambeds underlying state waters.” The Court concluded that further policy considerations “are better directed to the legislature.”

SUPREME COURT OF THE UNITED STATES

NAVIGABLE FOR TITLE:

DANIEL BALL (1870): Rivers “are navigable in fact when they are used, or susceptible of being used, in their ordinary condition, as highways of commerce, over which trade and travel are or may be conducted in customary modes of trade and travel over water.”

OKLAHOMA vs TEXAS (1922): To establish a public easement, “water must be used or susceptible of use in its natural and ordinary condition as a highway for commerce.” Use for transportation confined to irregular and short periods of temporary high water is not navigable. A greater capacity for practical and beneficial use is essential to establish navigability.

UNITED STATES VS HOLT STATE BANK (1926): Because “uniformity” is needed when federal, state and local interests are at stake, navigability is “necessarily a question of federal law.”

UNITED STATES VS UTAH (1931): Those Rivers must be regarded as public navigable rivers in law which are navigable in fact. The question of navigability “is one of fact as to the capacity of rivers in their ordinary condition to meet the needs of commerce.” Once the equal footing doctrine vested title in a riverbed at the time of statehood, the force of the doctrine was spent.

PPL MONTANA vs MONTANA (2012): The state claimed all the streambeds based on the Equal Footing Doctrine. “It is well settled law and is based on a segment-by-segment determination to establish navigability for title.” The 9-0 decision pointed out - In customary modes of travel at statehood, not present-day motorized craft as Montana claimed.

DEFINITIONS

EQUAL FOOTING DOCTRINE: US Constitution (Article IV, Section 3, Clause 1) New states may be admitted to the Union and shall enter on an equal footing with the original 13 states.

PUBLIC TRUST DOCTRINE: Ancient origin and Old English Law. The public is the beneficiary of certain resources, and the government has the responsibility to ensure they are used for public use, not personal use.