

Bear Lake Comprehensive Management Plan Amendment

Appendix F
November, 2017

Purpose and Background

The Bear Lake Comprehensive Management Plan (CMP) was approved in June of 2009. As identified in the CMP, Bear Lake has continually drawn an increasing number of visitors to the area. Increasing use of sovereign land at Bear Lake has the potential to adversely impact both natural resources and public safety. In order to develop specific guidance regarding land management at Bear Lake, the Division of Forestry, Fire and State Lands (FFSL) began the process to amend the Bear Lake CMP in May 2013. Initially, the amendment was intended to focus on three modifications to sovereign land management strategies: boat ramps, beach launching and motor vehicle use.

Beach launching activities and motor vehicle use were addressed during the 2013 Legislative Session with the passage of House Bill 333. FFSL implemented these legislative modifications by amending division rules and the Bear Lake CMP. Boat launching and motor vehicle use was again addressed in the 2014 legislative session and, as a result of House Bill 140, the previous CMP amendment will be removed by this CMP amendment in order to bring the plan up to date.

Since motorized vehicle use and beach launching have already been addressed through legislation, plan amendments, and changes to Division rules, the primary purpose of this amendment is to provide guidance regarding boat ramps on sovereign land, which was not addressed in detail by the 2009 CMP or legislation from the 2013 or 2014 Legislative Sessions.

During recent years, numerous ramp structures have been constructed on sovereign land at Bear Lake in order to facilitate motorized access onto sovereign lands from privately owned, adjacent parcels. FFSL conducted an inventory of private recreational uses of sovereign land at Bear Lake in August 2012. The inventory found 64 permanent ramp structures on sovereign land, but FFSL records indicate very few of these structures had a valid permit from FFSL. In addition to permanent structures, there are many cases where adjacent landowners have used more temporary materials such as wooden pallets, old tire treads, plastic sheeting, and metal grates to provide access across soft soil or sand substrates and marshy areas.

A withdrawal of sovereign lands from the permitting of private, non-commercial concrete boat ramps and similar structures on sovereign land at Bear Lake was implemented throughout the amendment process beginning November 1, 2012 and remained in effect until FFSL issued a final Record of Decision regarding the ramp issue and selected management strategy.

Structures on sovereign land can pose a threat to public safety when construction or maintenance is inadequate. Additionally, both permanent and temporary structures can have adverse impacts to natural resources if constructed in sensitive shoreline areas or with inappropriate materials. To minimize potential risks to public safety and negative impacts to sensitive resources, FFSL sought to develop clear policy guidance regarding permitting, construction, siting and maintenance of both permanent and temporary ramp structures on sovereign land at Bear Lake. Public comments regarding the authorization of ramp structures were sought in during a scoping period in the spring of 2016 and during a draft review period in the spring of 2017. Public comments, as well as input from agency partners and local government, submitted throughout the process have been used in the qualitative analysis discussed below.

FFSL conducted an extensive comparative analysis (see Appendix F Supplemental) of alternatives regarding the placement and use of ramp structures at Bear Lake. The analysis examined the following four (4) alternatives:

1. *Unregulated Ramps* – This would be a largely unregulated scenario in which adjacent landowners could place nearly any type of permanent or seasonal ramp structure they deemed appropriate to provide access to the shoreline. Application and permit fees would still be required in accordance with state code and administrative rules.
2. *Regulated Individual Ramps* – Each adjacent landowner could place and use permanent or seasonal structures to facilitate access to sovereign lands, but they would be required to apply and receive authorization from FFSL as well as adhere to established standards and regulations regarding construction, siting, and maintenance.
3. *Community Ramps* – Community ramps would concentrate ramp structures in order to reduce overall impact to natural resources and other recreational activities along the shoreline. Multiple adjacent landowners (do not need to be contiguous to one another) would form a community boat ramp association and apply jointly for authorization to construct a permanent ramp. However, individual landowners unwilling or unable to participate in a community ramp association could still apply for authorization to place and use approved, seasonal ramp systems on sovereign lands.
4. *Public Ramps* – Under this alternative, no adjacent landowners would be authorized to construct permanent ramp structures on sovereign lands. However, each owner could still apply for authorization to utilize approved, seasonal ramp systems or materials. Adjacent landowners unable to gain sufficient access using a seasonal ramp structure would have to trailer watercraft to a public launch facility. This alternative would likely create a significant demand for the expansion of existing public ramp facilities as well as construction of additional facilities.

To evaluate and provide a comparison of the identified alternatives, FFSL developed eight criteria based on input from the public as well as other regulatory agencies. The criteria, in no particular order, include:

1. Navigation and Public Safety
2. Shoreline Habitat, Wetlands and Vegetation
3. Water Quality
4. Local Economy
5. Recreation

6. Cultural Resources
7. Administrative Costs and Burden to Regulatory Agencies
8. Ease of Adjacent Landowner Access

Results of the comparative analysis indicated Alternative 3, Community Ramps, to be the preferred management strategy for ramp structures at Bear Lake. Community ramps have many benefits. Compared to other alternatives, potential impacts to shoreline habitat, vegetation, wildlife, water quality and cultural resources are greatly reduced. Community ramps may also benefit adjacent landowners by allowing them to pool resources and construct higher quality ramps than may otherwise be feasible to construct individually.

However, establishment of community ramp associations and use of shared ramps by multiple adjacent landowners is not feasible in some areas due to pattern or layout of past development. For example, many HOAs or developments do not have any shared access points to the lake. In such cases, members of a ramp association would have to be provided access through a private parcel with a sufficient driving lane and turn around area to safely use the shared ramp structure.

Consequently, the Division has decided to employ a combination of the identified management strategies, based on both management classifications provided in the Bear Lake Comprehensive Management Plan and the ability of adjacent landowners to create community ramp associations with shared access and a permanent ramp structure.

FFSL still considers community ramps to be the preferred management strategy for all areas. However, in cases where there is no shared access within an existing development and the area is classified by the CMP as either a Class 1 or Class 2 area for recreational development, individual ramps may be authorized according to restrictions and stipulations described in Alternative 2: Regulated Individual Ramps.

Adjacent landowners wishing to install a permanent ramp should first consider the community ramp approach. If this approach is determined to be infeasible due a lack of interest from other nearby landowners or the pattern or layout of existing development does not allow for the establishment of a community ramp, the landowner can then submit an application for authorization of a permanent, individual ramp. Applications should include a plat map of the HOA or development demonstrating the lack of shared access to the shoreline or a letter explaining the lack of interest from nearby landowners in order to justify the consideration of a permanent, individual ramp.

New shoreline developments should include shared access points to facilitate a community ramp for landowners if there is need or desire to access the shoreline using permanent ramp structures. While FFSL has no jurisdiction or management authority for lands above the ordinary high water mark at Bear Lake, the Division will work with county and municipal planning officials to encourage such provisions in new shoreline developments.

Individual, permanent ramp structures will not be authorized in areas classified by the CMP as Class 5 or Class 6 areas for resource preservation due to the presence of sensitive wildlife habitat and other identified resources that could be adversely impacted by such structures. However, community ramps may be evaluated and authorized in these areas as well as Class 3 or Class 4 areas on a case-by-case basis if it is determined that installation of a single community ramp would have a lower impact to sensitive resources than use of multiple seasonal ramps or multiple points of access without a hardened ramp structure.

In addition to permanent ramps, FFSL may permit the use of approved seasonal ramps for adjacent landowners who have no desire or ability to assume the financial and legal liability associated with construction and maintenance of a permanent ramp. Permitting of approved seasonal structures facilitates access to sovereign lands without the need for permanent structures. By regulating seasonal structures, FFSL hopes to eliminate use of materials such as wood, tires and other unauthorized materials that may become navigational, recreational or environmental hazards.

FFSL believes this combination of management strategies is consistent with rule, statute, the Bear Lake CMP and the mandate to manage sovereign land under multiple-use, sustained-yield principles. By implementing a community ramp strategy with added flexibility to allow carefully regulated, individual ramps in areas designated by the CMP for recreational development, FFSL has concluded access to sovereign land at Bear Lake can be accommodated while preserving essential components and values protected under the Public Trust Doctrine.

FFSL intends to use an adaptive management approach in its implementation of the combined management strategy. The adaptive management approach allows FFSL flexibility to adjust requirements, stipulations and other factors as needed to implement the strategy. Since this is a new management strategy for FFSL, it is expected that adaptations will be required as experience is gained. FFSL will continue to work with other regulatory agencies, stakeholders, and the general public to ensure that the management strategy is implemented effectively.

The comparative analysis of alternative management strategies along with more specific guidelines and requirements for both permanent and temporary/seasonal ramps is attached to this amendment as “Appendix F Supplemental”.

Comprehensive Management Plan Text Revisions

The following sections in this amendment indicate changes to the 2009 Bear Lake CMP. The sections below are numbered according to the affected sections in the CMP. Text deletions will be noted with call-out locations from the existing plan (i.e. Section 3.4.3 pg. 3-15 paragraph 3 will be deleted). New text will be added below that corresponds to Sections 3.0 and 4.0 in the existing plan.

3.0 Current Conditions

3.5 Sovereign Land Management

3.5.5 Approvals

(Section 3.5.5.4, page 3-23, entire section will be deleted)

The following text will replace the deleted text in Section 3.5.5.4

Docks, Piers, Ramps, and Similar Structures

All docks, piers, ramps and similar structures shall be constructed to protrude as nearly as possible at right angles to the shoreline and to not interfere with other structures existing or likely to be installed to serve adjacent facilities. Docks and piers may extend to a length that will provide access to a water depth that affords sufficient draft for watercraft customarily in use on Bear Lake during the normal low-water period.

Activities required for the construction of ramps may not exceed 50 cubic yards of concrete, rock, crushed stone, gravel, pre-cast concrete planks or slabs and may not exceed 20 feet in width. Permanent ramp structures serving only a single, adjacent landowner will only be authorized in Class 1 and Class 2 areas when community ramp structures are infeasible. Permanent, community ramp structures serving multiple adjacent landowners may be allowed within any management class on a case-by-case basis. For more information and details regarding installation of permanent or temporary/seasonal ramps, refer to Appendix F and the Appendix F Supplemental.

4.0 Goal and Objectives

The following goals and objectives will be added to each corresponding section. No text will be deleted.

- C.1.9** Encourage a community-oriented strategy for the permitting, construction, and maintenance of ramp structures to reduce adverse impacts to natural resources as well as public safety, access and recreation.
- E.1.7** Ensure safe, responsible access for adjacent landowners by encouraging shared, community ramp structures, but also potentially authorizing individual ramps where community ramps are deemed infeasible and permitting the placement and use of approved seasonal ramps or materials as a low cost, low impact alternative to permanent structures.

- E.2.8** Encourage the community/shared permitting strategy where practical and appropriate when issuing special use permits, general permits, and leases on sovereign lands.
- E.3.3** Promote adjudication of boundaries with upland landowners by specifying that issuance of leases and permits be contingent upon successful completion of a boundary settlement or, as deemed appropriate by the Division, the initiation of the boundary settlement process.