

**State of Utah Department of Natural Resources
Division of Forestry, Fire and State Lands**

**Record of Decision
Moab Sovereign Lands Comprehensive Management Plan**

Record Number: 15-0316

Date of Execution: March 16, 2015

Introduction

Pursuant to UTAH CODE §§ 65A-2-2 and 65A-2-4 and the implementing regulations of Utah Administrative Code (UTAH ADMIN. CODE) R652-90, the Division of Forestry, Fire and State Lands (DFFSL) is empowered to prepare, adopt and amend comprehensive management plans for sovereign lands and resources. Given this direction, DFFSL initiated the Moab Exchange Lands Comprehensive Management Plan (CMP) with interagency cooperation and collaboration, and open public participation.

The purpose of the Moab CMP is to provide guidance to DFFSL in the management for Moab Sovereign Exchange Lands and define the long-term management goals and objectives of these sovereign lands.

In compliance with policy, procedures, rules, and statutes for comprehensive management planning, DFFSL has completed the Moab CMP. Therefore, DFFSL issues this Record of Decision (ROD) finalizing the Moab CMP process.

Description of Lands Directly Affected

The area in the planning unit incorporates two sovereign lands units, the 829-acre Prairie Dog Haven Unit (PDH) and the 4,350-acre Dalton Wells Unit (DWU), totaling 5,179 acres in Grand County, Utah. The Moab Exchange Lands were acquired by the State of Utah in 1965 in an exchange for sovereign lands within the newly-designated Canyonlands National Park. In 1994 when the State Lands and Forestry was divided into the School Trust Lands Administration (SITLA) and DFFSL the Prairie Dog Haven and Dalton Wells Units were to be managed by DFFSL for the public trust due to their paleontological and wildlife habitat values.

The 829-acre Prairie Dog Haven Unit is located near Crescent Junction, where Highway 191 and Interstate 70 intersect. Primary uses on the PDH Unit are livestock grazing, oil, gas and hydrocarbon exploration.

The 4,350-acre DWU is located 17 miles north of Moab along Highway 19. Two Grand County maintained roads, portions of Highway 191 and railroad tracks run through this parcel of sovereign lands. DWU contains a quarry that contains prehistoric fossils known to be nowhere else in North America. This area has potential to become nationally recognized with National Natural Landmark status. In addition to its important paleontological value, the DWU also

possesses aesthetic and recreation values. The DWU borders Arches National Park to the east and is part of a rapidly-developing mountain biking and off-highway vehicle (OHV) recreation area.

Proposed Action

The Proposed Action Associated with this Record of Decision is the adoption and implementation of the Moab CMP.

Relevant Factual Background

The Moab CMP planning process began in 2011. DFFSL initiated the process in order to provide management guidance for the Moab Sovereign Exchange Lands and to define the long-term management and goals and objectives for these sovereign lands.

The DFFSL staff began the planning process with the presentation to the Grand County Council on May 3, 2011. As per DFFSL rule (R652-90-300), initiation of the comprehensive management planning process was submitted to the Resource Development Coordinating Committee on May 15, 2011. The first public meeting was held on June 23, 2011 in the Grand County Council Chambers in Moab, Utah. Adjacent landowners and interested parties were notified via mail of the planning process and the first public meeting. The public comment period 45-day comment period ran from June 5 – July 21, 2011. The scoping meeting and public comment period were intended to help DFFSL identify what the management issues and concerns are present on the PDH and DWU. The Scoping Public Comment Summary can be found in Appendix B of the CMP.

The DFFSL Sovereign Lands staff from the Moab and Salt Lake offices, along with resources specialists from the Department of Natural Resources, compiled a draft management plan for public review between 2011 and 2014. Upon the completion of the Draft Final CMP, a second public comment period began. Notice of the Draft Final CMP was submitted to RDCC on October 29, 2014. A public meeting was held at the Grand Center in Moab, UT on Thursday, November 13, 2014. The meeting provided an opportunity for public comment regarding the issues to be addressed in the plan. Public notice of the meeting and the 45-day comment period (November 3 – December 18, 2014) was provided via mail to adjacent landowners and interested parties. Pursuant to R652-90-500, notice was also provided in the Moab Times from October 30th through November 13th and in the Sun Times from October 29th through November 12th.

DFFSL received eight comment letters during the draft final comment period. Each letter was acknowledged and reviewed for substantive comments. The comments and response to comments can be found in Appendix B of the CMP.

Public Trust

DFFSL acknowledges its responsibility to the Public Trust and its obligation to multiple-use, sustained yield management. As trustee, DFFSL strives for an appropriate balance among compatible and competing uses specified in statute and policy, while ensuring that uses protected under the Public Trust Doctrine have primacy. It is desirable to maintain the flexibility to adjust the allocation of public trust resources in response to changes in demand as well as in administrative and legislative policy.” This means that DFFSL will manage the exchange lands and their resources under multiple-use, sustained yield principles (UTAH CODE § 65A-2-1) by implementing legislative policies (UTAH CODE § 65A-10-8) and accommodating public and private uses to the extent that those policies and uses do not substantially impair Public Trust resources. Any beneficial use of Public Trust resources is subsidiary to long-term conservation of resources.

DFFSL was prompted to develop the CMP based upon the statutory responsibility to establish planning procedures and management policies regarding multiple-use and sustained-yield principles, as well as an increase in use of the Moab Sovereign Exchange Lands. The 2015 CMP was designed to facilitate the management of the Moab Sovereign Lands under multiple-use, sustained-yield principles, as stated in UTAH CODE § 65A-2-1 while ensuring that the Public Trust resources are not substantially impaired.

Public Involvement

UTAH ADMIN. CODE R652-90-1000 requires DFFSL to provide an opportunity for stakeholders to be involved in the planning process. A notice to develop the CMP was submitted to RDCC on May 15, 2011. During the CMP planning process several opportunities for public comment were provided. A presentation was made to the Grand County Council on May 3, 2011 to inform local officials and the public of the commencement of the planning process. On July 21, 2011, a kick-off meeting was held in Grand County preceded by a notification of the public meeting via mail to adjacent landowners and leasees. Written public comments were accepted during the 45-day comment period via mail, an online comment form and at the public meeting. Comments regarding the sovereign land management issues were acknowledged by DFFSL and helped to shape the Draft Final CMP.

The Draft Final CMP was submitted to the RDCC on October 29, 2014. A second public meeting was held on November 13, 2014 in Grand County to present the Draft Final CMP to the public and allow for questions and comments on the document. Public notice of the meeting and 45-day comment period were sent to adjacent landowners and leasees and published in the Moab Times from October 30th through November 13th and in the Sun Times from October 29th through November 12.th Upon completion of the public comment period, DFFSL acknowledged and utilized the public comments to complete the Final CMP. As required by rule and statute R652-90-6000 and Utah Code 65-A-2-4, comment responses were provided in the final CMP (Appendix B).

Controlling Statutes, Rules and Policies

Utah Constitution Article XX, Section 1

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

UTAH CODE § 65A-2-1. Administration of state lands - Multiple-use sustained yield management.

The division shall administer state lands under comprehensive land management programs using multiple-use sustained yield principles.

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

The division:

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

UTAH CODE § 65A-2-4. State land management plans -- Division to adopt rules for notifying and consulting with interested parties.

- (1) The division shall adopt rules for notifying and consulting with interested parties including the general public, resources users, and federal, state, and local agencies on state land management plans.
- (2) Division rules shall provide:
 - (a) for reasonable notice and comment periods; and
 - (b) that the division respond to all commenting parties and give the rationale for the acceptance or nonacceptance of the comments.

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

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

UTAH ADMIN. CODE R652-90-800. Multiple-Use Framework.

Comprehensive management plans shall consider the following multiple-use factors to achieve sovereign land-management objectives:

1. The highest and best use(s) for the sovereign land resources in the planning unit.
2. Present and future use(s) for the sovereign land resources in the planning unit;
3. Suitability of the sovereign lands in the planning unit for the proposed uses;
4. The impact of proposed use(s) on other sovereign land resources in the planning unit;
5. The compatibility of possible use(s) as proposed by general public comments, application from prospective users or division analysis; and
6. The uniqueness, special attributes and availability of resources in the planning unit.

Findings of Fact

1. As described herein, DFFSL notified the public, affected lessees as well as local, federal, and state agencies, including the RDCC, of the division's intent to amend the Bear Lake CMP.
2. As described herein, DFFSL conducted two public meetings within Grand County pertaining to the CMP. The first meeting was a scoping meeting where DFFSL gathered information regarding public attitudes towards management of the exchange lands. The second public meeting was held on November 13, 2014 upon release of the Draft Final Moab CMP. The draft final public meeting was advertised in the Moab Times from October 30th through November 13th and in the Sun Times from October 29th through November 12th two weeks prior to the meeting date as required by UTAH ADMIN. CODE R652-90-1000.
3. As described herein, DFFSL notified landowners, lessees, local governments and the RDCC throughout the planning process. DFFSL mailed written correspondences notifying affected parties of the initiation of the CMP and announcement of the draft final amendment for review. DFFSL published the draft final CMP amendment on the project website and RDCC for review and comment.
4. As described herein, DFFSL acknowledged the public comment received during the planning process. Comments on the draft final were encouraged during the 45-day comment period. All eight letters were acknowledged by DFFSL and have been included as Appendix B of the Moab Sovereign Exchange Lands CMP.

Conclusions of Law

1. DFFSL properly initiated the comprehensive management planning process.
2. DFFSL fulfilled its notification requirements to the landowners, leases, to local governments, and to the RDCC when the project was initiated. DFFSL went beyond its required notification by also conducting a scoping meeting.
3. The notification requirements for the public meetings have been met or exceeded.
4. The public review requirements have been met or exceeded.
5. All comments from the public, lessees, local and other government entities were properly acknowledged and addressed through Division responses fulfilling the public comment

requirements in rule and statute [UTAH ADMIN. CODE R652-90-1000(1)(c) and Utah Code § 65A-2-4].

6. The Moab CMP amendment fulfills the requirements of applicable statutes, rules, policies, and legal doctrines.
7. The planning process for the Moab CMP complies with the legal requirements for a comprehensive management plan and specifically complies with the requirements for the Moab CMP.

Decision and Order

Based on the foregoing, DFFSL hereby adopts the Moab CMP and all associated appendices, which satisfies the requirements of applicable statutes, rules, and policies. The newly created Moab CMP becomes the comprehensive management plan that guides decision-making on sovereign lands within the planning unit.

DATED this 16 day of March, 2015.

ADMINISTRATIVE APPEALS

Parties having an interest in this action may file a petition for administrative review by the division pursuant to R652-90. Said petition must be in writing and shall contain

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

Said petition must be received by the division by 5:00 p.m. on April 13, 2015.

APPROVED BY:



BRIAN L. COTTAM, DIRECTOR

DATE: 3-16-15

PREPARED BY:



LAURA VERNON, SOVEREIGN LANDS PLANNER

DATE: 3/12/15

REVIEWED BY:



LAURA AULT, SOVEREIGN LANDS PROGRAM MANAGER

DATE: 3/16/15

REVIEWED BY:



FREDRIC J. DONALDSON, ASSISTANT ATTORNEY GENERAL

DATE: 3/12/2015