



State of Utah

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Department of Natural Resources

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Public Lands Policy Coordinating Office

REDGE B. JOHNSON
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February 2, 2024

Submitted electronically at: <https://cara.fs2c.usda.gov/Public//CommentInput?Project=65356>

Linda Walker
Director
Ecosystem Management Coordination
U.S. Department of Agriculture
Forest Service
201 14th Street SW
Washington, DC 20250-1124

RE: Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System
RDCC Project No. 85770

Dear Director Walker:

The state of Utah (State), through its Public Lands Policy Coordinating Office (“PLPCO”), has reviewed the Department of Agriculture, U.S. Forest Service (“USFS”) Notice of Intent (“NOI”) to prepare an environmental impact statement¹ published in the Federal Register December 20, 2023. The proposal is to amend management plans for 128 units of the National Forest System to “include consistent direction to conserve and steward existing, and recruit future, old-growth forest conditions and to monitor their condition across the planning area” (hereinafter the “Proposed Plan Amendments”). The State encourages the responsible and appropriate development/use of natural resources to promote economic development for the benefit of its citizenry² and to support the State’s Resource Management Plan.³ As such, the State appreciates the opportunity to comment on the Proposed Plan Amendments, and accordingly submits the following comments and recommendations for the USFS’s review and consideration.

¹ 88 FR 88042-88048.

² See Resource Development Act, Utah Code § 63M-5-102(1)(a), available at: <https://le.utah.gov/xcode/Title63M/Chapter5/63M-5-S102.html>.

³ See Utah State Resource Management Plan, pp. 70–71, available at: <https://rmp.utah.gov/state-of-utah-resource-management-plan/> (2018).

I. Utah's Public Lands Policy Coordinating Office

By way of introduction, this comment letter begins with a brief description of the commenter's mission and areas of expertise. Here, the commenter, PLPCO, is a State agency whose broad mission is "to coordinate, promote, and implement Utah's public land priorities."⁴ In addition to "develop[ing] and coordinat[ing] the State's public lands policy initiatives"⁵ PLPCO is also involved in many different facets of public land management policy, including overseeing the State's Resource Development Coordinating Committee ("RDCC") which is "responsible for commenting on development and conservation proposals on Utah's public lands"⁶ as well as assisting in resource management planning at the State and County levels.⁷

Because of PLPCO's broad mission and expertise, the agency is involved in various issues and projects that involve (among other things) agriculture, wildlife, grazing, forestry, energy development, and other multiple uses both on Bureau of Land Management ("BLM") and National Forest System Lands ("NFSL"). For example, while Utah's Division of Forestry, Fire and State Lands ("FFSL") is the lead agency in Utah's Shared Stewardship Agreement with the USFS, PLPCO remains an active participant in proactive forest management in the State through Shared Stewardship.⁸

II. Coordination / Consistency Requirements of Resource Management Planning

On a further introductory note, it is important to highlight the fact that under the Federal Land Policy and Management Act ("FLPMA"), when developing or creating Resource Management Plans, federal agencies, such as the Bureau of Land Management ("BLM"), are required to coordinate their plans with state and local government plans.⁹ This coordination process is a separate process from cooperation and must occur regardless of whether state or local governments were designated as Cooperating Agencies.¹⁰ Thus, even if the State is not a Cooperating Agency in any given planning process (which it often is), the agency would still be required to make efforts in drafting land use plans that are consistent with state and local plans.

In addition to the coordination requirement listed above, the BLM has the responsibility to ensure that in the development of land use plans, consideration is given to the applicable state, local, and tribal plans "and to resolve, to the extent practical, inconsistencies between Federal and

⁴ PLPCO, *About the Public Lands Office*, Utah's Public Lands Policy Coordinating Office, available at: <https://publiclands.utah.gov/about/> (2021).

⁵ *Id.*

⁶ *Id.*

⁷ PLPCO, *Resource Management Plans*, Utah's Public Lands Policy Coordinating Office, available at: <https://publiclands.utah.gov/current-projects/resource-management-plans/> (2021).

⁸ PLPCO, *Forest Service and State of Utah Invest in Shared Stewardship*, Utah's Public Lands Policy Coordinating Office, available at: <https://publiclands.utah.gov/uncategorized/forest-service-and-state-of-utah-invest-in-shared-stewardship/> (2019).

⁹ FLPMA 202(c)(9)

¹⁰ Utah State Resource Management Plan (Utah SRMP), pp. 9, available at: <https://rmp.utah.gov/state-of-utah-resource-management-plan/> (2018).

non-Federal Government plans.”¹¹ Specifically, FLPMA states that BLM Land Use Plans “shall be consistent with State and local plans to the maximum extent [the Agency] finds consistent with Federal law and the purposes of this Act.”¹² The National Forest Management Act (“NFMA”) contains a similar requirement, stating that USFS Forest Plans be “coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.”¹³

In the past, there were no state or local plans with which to ensure consistency. However, as of 2018, the State of Utah¹⁴ has adopted a State Resource Management Plan (“SRMP”) and all twenty-nine (29) counties in the State have adopted County Resource Management Plans (“CRMPs”)¹⁵. The effort to adopt the SRMP and CRMPs “was a first-of-its-kind effort not only in Utah but nationwide. The state and the counties frequently use their plans to coordinate management actions with the Bureau of Land Management and U.S. Forest Service.”¹⁶ All these plans include locally adopted objectives and policies for many aspects of not only federal land management but also include findings, provisions, and policies relating to natural resource development and environmental quality.

While not a direct response to the USFS’s Proposed Plan Amendments, the State now specifically requests that under the coordination and consistency requirements discussed above, that any and all land-use actions that occur on federally managed land as a result of, or in cooperation with, the USFS’s Proposed Plan Amendments be consistent with the Utah SRMP and the Utah CRMPs. Additionally, although not part of the USFS’s Proposed Plan components and plan content, the NOI fails to adequately recognize state sovereignty in the development of management plans. There is only minimal reference to “place-based” and state-specific collaboration. As discussed below, the Tenth Amendment requires that the federal government treat the state as a sovereign entity. Any proposed plan amendments and/or related documents must be more explicit in recognizing the State’s sovereignty and allowing for state-specific information to inform management actions within the State’s borders. Several related suggestions are outlined below.

III. The Proposed Plan Amendments

A. With this introductory information in mind, the State now turns to specific comments regarding the USFS’s Proposed Plan Amendments.

¹¹ *Id.* at 8.

¹² 43 U.S.C. §1712(c)(9).

¹³ 16 U.S.C. §1604(a).

¹⁴ Utah State Resource Management Plan (“Utah SRMP”), pp. 1, available at: <https://rmp.utah.gov/state-of-utah-resource-management-plan/> (2018).

¹⁵ PLPCO, *Resource Management Plans by County*, Utah’s Public Lands Policy Coordinating Office, available at: <https://rmp.utah.gov/county-resource-plans/> (2021).

¹⁶ PLPCO, *Resource Management Plans*, Utah’s Public Lands Policy Coordinating Office, available at: <https://publiclands.utah.gov/current-projects/resource-management-plans/> (2021).

The proposed plan *Goal* (page 88047) should be amended to enable co-stewardship opportunities and consultation with sovereign states; not just federally recognized tribes. Under the Tenth Amendment to the United States Constitution, the State retains its authority as a sovereign, except where specifically superseded by powers granted by the Constitution to the federal government. The Tenth Amendment requires that the federal government treat the State as a sovereign entity – a separate government with unique and distinct powers to be consulted regarding matters about lands within its borders and affecting its citizens.

The revised *Goal* should read as follows:

Interpretation and implementation is grounded in recognition and respect of state sovereignty, tribal sovereignty, treaties, Indigenous Knowledge, and the ethic of reciprocity and responsibility to future generations. Implementation should enable co-stewardship, including for cultural burning, prescribed fire, and other activities, and should occur in consultation with States, Tribes, and Alaska Native Corporations to recognize their sovereignty and fulfill treaty obligations and general trust responsibilities.

To achieve consistency with the amended *Goal* above, the first bullet point in Section 1. (a) of the *Management Approach* section should be amended to read:

Effectively braid place-based Indigenous Knowledge, state and local Traditional Ecological Knowledge, and Western science to inform and prioritize the conservation and recruitment of old-growth forest conditions through proactive stewardship.

B. Conservation vs. Management and Stewardship

Throughout the NOI, there is a reference to an “*Adaptive Strategy for Old-Growth Conservation.*” However, in the Plan Monitoring section, the NOI calls for an “*Adaptive Old-Growth Conservation and Management Strategy.*” The State suggests that the focus of this effort should be on forest management and stewardship; not forest conservation (as a “hands-off,” conservation approach will likely not produce the desired conditions). For this reason, the strategy should be re-named the “Adaptive Strategy for Old-Growth Management and Stewardship.” This terminology should be used in the *Management Approach*, *Objective*, *Guideline*, and *Plan Monitoring* plan amendment sections (Pages 88047 and 88048 of the NOI).

C. Standards for Management Actions

Section 3 of the *Standards for Management Actions Within Old-Growth Forest Conditions* plan component (Page 88047 of the NOI) states that:

“Vegetation management within old-growth forest conditions may not be for the primary purpose of growing, tending, harvesting, or regeneration of trees for

economic reasons. Ecologically appropriate harvest is permitted in accordance with standards 1 and 2.”

This standard strays from the direction of The Organic Administration Act of 1897, under which most national forests were established. The Act states: *"No national forest shall be established, except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States..."* This standard must be amended to allow for growing, tending, harvesting, or regeneration of trees for economic reasons where determined appropriate under the applicable forest plan.

An acceptable standard might read:

Vegetation management within old-growth forest conditions may be to grow, tend, harvest, or regenerate trees for economic reasons if such management is deemed ecologically appropriate by the Forest Supervisor, in accordance with standards 1 and 2.

At the very least, this standard should be amended to indicate that Forest Supervisors will determine what constitutes an “ecologically appropriate harvest” given their knowledge of local conditions.

Amending this standard is critical since timber harvest on Forest Service lands has decreased substantially over time. Forest Service harvest volumes in the 1940s were around 1 to 3 billion board feet per year. Annual harvest volumes rose from the 1950s through the 1980s, sometimes exceeding 10 billion board feet. Annual harvested volumes decreased in the early 1990s and have remained between 2 and 3 billion board feet since FY2010 (see: <https://crsreports.congress.gov/product/pdf/R/R45688>).

Our country imported approximately \$48.5 billion worth of forest products in 2018 (see: https://www.usitc.gov/research_and_analysis/tradeshifts/2020/forest.htm). After drops in forest products imports during the COVID pandemic, the amount of forest products being imported is expected to increase as our nation’s population increases and timber production from our forests continues to decrease.

The proposed rule should avoid exacerbating forest products supply issues in the U.S. since housing costs are increasing in many areas and high lumber prices are a critical component of building costs (see: <https://www.cnbc.com/2021/04/30/soaring-lumber-prices-add-36000-to-the-cost-of-a-new-home.html>).

D. Guidelines

Guideline 1 (a) (Page 88048 of the NOI) should be amended. It is currently proposed to read:

- (a) *To provide landscape-level redundancy and representation of old-growth conditions such that loss due to natural disturbance events does not result in a loss or isolation of the old-growth conditions at the landscape scale.*

Natural disturbance events such as uncharacteristic wildfires, if such occur within an old-growth forest, will certainly result in a net loss of old-growth conditions at a landscape scale. Indeed, the NOI expressly recognizes that “mortality from wildfires is currently the leading threat to mature and old-growth forest conditions.” To address this reality, an acceptable alternative guideline would be:

- (a) *To provide landscape-level redundancy and representation of old-growth conditions such that loss due to natural disturbance events ~~does not result in a loss or isolation of the~~ **can be mitigated by undisturbed old-growth conditions elsewhere**, at the landscape scale.*

IV. Conclusions

In summation, the citizens of the State of Utah, as well as the United States as a whole, will continue to benefit as the USFS fulfills its mission “to sustain the health, diversity, and productivity of the nation’s forests and grasslands to meet the needs of present and future generations.”¹⁷ As an overarching goal, “the State supports the wise use, conservation, and protection of public lands and their resources, including well-planned management prescriptions.”¹⁸

Thus, “it is the State’s position that public lands be managed for multiple uses, sustained yields, prevention of waste of natural resources, and to protect the health, safety, and welfare of the public. It is important to the State economy that public lands be properly managed for fish, wildlife, livestock production, timber harvest, recreation, energy production, mineral extraction, water resources, and the preservation of natural, scenic, scientific, and historical values.”¹⁹

Managing old-growth forests like a museum; the hands-off approach advocated by many “conservationists,” is not the answer. Instead, the State encourages the USFS to focus on active forest management, forest stewardship and vegetation treatments, to produce the desired old-growth forest conditions and achieve the required consistency with the State SRMP and county CRMPs.

The State has a significant amount of forest lands in various stages of maturity (see: <https://experience.arcgis.com/experience/37cb7e33db6949c79f1f87f87968e51a>). Mature and old-

¹⁷ USFS, *Meet the Forest Service*, Forest Service – U.S. Department of Agriculture, available at:

[https://www.fs.usda.gov/about-agency/meet-forest-](https://www.fs.usda.gov/about-agency/meet-forest-service#:~:text=The%20mission%20of%20the%20Forest,of%20present%20and%20future%20generations)

[service#:~:text=The%20mission%20of%20the%20Forest,of%20present%20and%20future%20generations](https://www.fs.usda.gov/about-agency/meet-forest-service#:~:text=The%20mission%20of%20the%20Forest,of%20present%20and%20future%20generations). (2023).

¹⁸ Utah SRMP at 8.

¹⁹ *Id.*

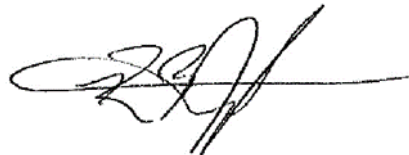
growth forests should be managed for tree characteristics instead of designating specific areas or boundaries for mature and old-growth forests. Mature and old-growth forest characteristics should be considered when actively managing forest ecosystems but should not impede the ability to actively manage and restore forest ecosystems. Ecosystem resiliency is in part dependent on having a range of various tree age classifications within a forested ecosystem.

The State opposes federal designations for mature and old-growth forests based on specific boundaries rather than forest characteristics.

In sum, the cornerstone of proper management of this state's resources is the coordination and cooperation between the State and Federal land management agencies. Accordingly, I thank you for your consideration of the State's comments. The State looks forward to working with the USDA and the USFS as this plan amendment process moves forward. The State accepts your invitation to participate in this effort as a Cooperating Agency. Please provide a draft Cooperating Agency MOU for our review promptly. The State also requests an opportunity to review and comment on an Administrative Draft of the EIS before it is released to the public for comment.

Please direct any written correspondence to the Public Lands Policy Coordinating Office at the address below or call to discuss any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Johnson', with a long horizontal flourish extending to the right.

Redge B. Johnson
Director