Data Submitted (UTC 11): 10/25/2021 11:00:00 AM
First name: Redge
Last name: Johnson
Organization: Office of the Governor, Public Lands Policy Coordinating Office
Title: Executive Director
Comments: Subject: Manti-La Sal National Forest Land Management Plan and Draft EIS

The state of Utah (State) has reviewed the Manti-La Sal National Forest Land Management Plan and Draft Environmental Impact Statement (DEIS) and appreciates the opportunity to provide comments. The State provided pre-scoping comments March 10, 2021 and July 28, 2021 and incorporates those comments by reference. In collaboration with the Utah Division of Wildlife Resources (DWR), the State offers the following general and technical comments for your consideration.

Management of the Moab Geographic Area

What started as an effort to protect the aquifer has now morphed into managing these lands as a livestock free wilderness area. The management approach fully fails to put in place protections for grazing, motorized travel, and other uses. The Forest Service surely understands that every grazing authorization decision is challenged. Every challenge claims that grazing is detrimental to water quality in the area. As written, if a court could be convinced of the most minimal negative effect of livestock grazing on water quality, it would determine that authorization of livestock grazing is inconsistent with the forest land management plan. The Forest Service should exercise some foresight and plan for this conflict instead of setting up an avenue to eliminate grazing; that is what this management approach does. The goal of the Forest Service should be to protect the aquifer while authorizing grazing, both can be done. The plan should recognize that some uses can at times negatively affect the water quality, but it is not the Forest Service's intention to eliminate those uses, but to work to mitigate and eliminate the negative effects of those uses on water quality. If this is stated in the land management plan, future decisions authorizing grazing will be consistent with the plan. The way it is written now, future decisions authorizing grazing will be argued to be inconsistent with the forest land management plan and will likely be overturned. Additionally, because the Forest Service has decided to manage the land in way that restricts creative solutions to conflicts, i.e. not allow chaining or water development, protecting scenery above all else, it exacerbates the issue by limiting solutions. The state supports protecting watersheds and aquifers, but this management approach is short sighted. It will eliminate grazing from the area and has the potential to eliminate other uses as well. Those results will have negative cultural, political, and economic consequence in an already divided atmosphere.

The State commends the Forest Service for demonstrating great collaboration and communication throughout this forest land management plan revision process. The State looks forward to continually working with the Forest Service to further improve public lands in Utah. Please direct any written correspondence to the Public Lands Policy Coordinating Office at the address below or call to discuss any questions or concerns.

Technical Comments

The State provides points of clarification and/or concerns regarding four sections of

the Land Management Plan (LMP).

Section 2.6: Vegetation Communities and Resources

The State appreciates watershed restoration partnerships with the Forest Service and wants to continue planning and implementing projects in the future.

Under woodland community type, increasing the minimum treatment of pinyon juniper to 6,500 acres, and Gambel oak to 4,000 acres, would comprise 2 percent of the existing vegetation communities on the Forest. This change would be more consistent with treatment types in other forest vegetation cover types.

For FW-Alpine-DC-01 to be more consistent with desired conditions in other vegetation communities, the State suggests the following language: "Native plant species, including at-risk plants, maintain steady population levels." References to trampling, treading, wallowing, and browsing are included under current Objective 01, by monitoring wildlife impacts on alpine soil and vegetation.

Section 2.7: Wildlife

The State recommends revising FW-Wildlife-DC-07 to read, "Work with DWR to ensure that all wildlife species are present where they can be supported by healthy, functioning ecosystems." Additionally, under Section 2.7 Management Approaches, the Forest Service should remove the last bullet, "[hellip]when assessing retention or elimination of [wildlife] species." These recommendations are supported by the following:

The Code of Federal Regulations 43 CFR [sect] 24.3 outlines State management authority over wildlife. (a), "In general the States possess broad trustee and police powers over fish and wildlife within their borders, including fish and wildlife found on Federal lands within a state." 36 CFR [sect] 241.2 further emphasizes State management authority by identifying cooperative management requirements for the Forest Service.

Additionally, Utah Code Title 23, Chapters 13-30, wildlife is declared the property of the State of Utah and DWR has authority and responsibility to manage protected wildlife, including indigenous and nonindigenous wildlife.

The State recommends FW-Wildlife-GD-06 be clarified. Introduction of wildlife species is the authority of the State of Utah, specifically the DWR. The DWR will follow Utah Code Title 23, Chapter 14, Section 21 when transplants are considered

Section 3.1.3: Research Natural Areas

Standard DA-RNA-ST-10, although consent is not required from the Forest Service for the State to manage wildlife, the DWR will continue working in partnership with the Forest on future wildlife introductions. However, the State requests this point be clarified that the Forest Service, feasibly, cannot prohibit the natural movement of wildlife onto and across Research Natural Areas, in the same sense the Forest Service cannot require the State "to apply for a special-use permit every time state-managed wildlife enters federal land[hellip]." Utah Native Plant Society v. United States Forest Service.

Section 3.4.4: Moab Geographic Area

GA-Moab-ST-05 prohibits chaining within the geographic area boundary. The State supports the use of Best Management Practices, including mechanical treatments like chaining, to improve watershed health. The standard should be removed. Chaining has been shown to be a benefit to watershed health and a productive tool. It should not be restricted in the GA.

GA-Moab-ST-01 usurps state authority to authorize water diversions and should be removed. All water in the state, whether above ground or under, is state public property.1 And the State Water Engineer is responsible for the administration of the water within the state.2 While the standard may be good practice, it is within the purview of the State to regulate the use of both surface and ground water.

GA-Moab-ST-06 prohibits the development of legally recognized water rights within the GA area unless specifically done to benefit the aquifer. The State believes this is bad policy and lacks legal grounds. Many water

developments done for other purposes still benefit the soul source aquifer. The forest should only require that a water development have a beneficial component to it, not that it be the specific purpose of the development. Such a restriction is an undue burden/restriction on legally held water rights.

1 Utah Code 73-1-1(1)

2 Utah Code 73-2-1