

Data Submitted (UTC 11): 11/1/2019 6:37:57 PM

First name: Josiah

Last name: Wopsock

Organization:

Title:

Comments: The portion of Ashley National Forest that is within the Ute Tribe's original Reservation boundary is subject to the treaty rights and jurisdictional authority specified by the language of the treaty and multiple court cases and decisions.

It is essential for the Resource Management Plan and the Forest Service to recognize and acknowledge that the portion of the Ashley National Forest that is within the Uintah Valley Reservation should have a separate management emphasis that recognizes the Tribes jurisdictional authority over the resources affected by treaty rights of these lands, such as trees, plants, fish, animals, watersheds, air quality, water quality, cultural resources, ceremonial places, etc.

Even though the Forest Service manages these lands, the U.S. Supreme Court and the Tenth Circuit Court of Appeals have reaffirmed that the Uintah Reservation was not diminished by the withdrawal of the national forest lands. The lands within the Uintah Valley Reservation were withdrawn from homesteading claims but were not withdrawn from the reservation or existing tribal treaty rights.

It is now almost 2020 and it is time for the federal government to honor the rights of minority groups rather than shove them under the carpet in favor of the white majority. The Ute tribe has two levels of legal treaty rights. The broad treaty rights from the 1965 Spanish Fork Farms treaty authorizes the Tribe to take fish, hunt, and gather at "usual and accustomed grounds and stations" within their original territory (which includes the entire Colorado Plateau). This right allows the Ute Tribe to gather and use a variety of resources all across the forest for traditional and ceremonial purposes. The second Ute treaty right has much stronger jurisdictional rights over resources within the original reservation boundary on un-allotted and reserved lands within the Uintah Valley Reservation area. It is hard for many people to understand the concept that the Ute Tribe has rights over resources that are on Forest Service lands, so let me compare this concept to mineral rights or water rights. For example, if a person owns a piece of property, the mineral rights and the water rights may be owned by someone else. In the same way, the Ashley National Forest manages the lands within portions of the Uintah Valley Reservation, but the Ute Tribe still maintains the rights to gather and use the resources within those lands, because those rights were never diminished nor surrendered by the Tribe. So there is a sort of joint jurisdiction over the resources that are located on Forest Service lands that are also within the Uintah Valley Reservation. Because the Ute Tribe still has rights to those resources, then the Forest Service must work with the Ute Tribe to ensure that Forest Service actions, permits, project, activities, etc. don't affect the resources in a way that diminishes the rights of the Ute Tribe to gather and use those resources.

We propose that the Forest resource management plan specify that the area of the Forest within the Uintah Valley Reservation lands be managed differently from the rest of the Forest. I think the 2012 Planning Rule uses the terms "Management Area or Geographic Area." This management area would recognize the unique rights that the Tribe has over the resources of this area and the plan would describe how the Forest would work cooperatively with the tribe to manage the resources of this area.

The plan components for this management area should be developed in close cooperation with the Ute Tribal government, Ute Tribal Staff, and Ute Tribal Members. The Forest could even have a meeting or workshop with the Tribe in Fort Duchesne in the Tribal administration building to learn tribal member's thoughts, ideas, concerns, etc. The Forest also needs to recognize that there is a long history of bad blood and lack of trust between the federal government and the Ute people. The Forest can't show up for one hour with a façade of openness and then never talk to the Ute people again until the next Forest Plan revision. The Ute tribe deserves the same level of respect, recognition, and engagement that the Forest offers the State of Utah and the Counties.

Actually, the Ute Tribe deserves a higher level of respect, recognition, and engagement because of the jurisdictional treaty rights on Forest Lands, but the Tribe would like to start with at least the same level of respect given to the State and County governments.

It is time for the Forest Service to recognize that the Ute Tribe has more jurisdiction over the lands within the Uintah Valley Reservation than do County and State governments. The Forest Service should also recognize that state and local governments do not have general civil authorities over the Ashley National Forest lands that are within Indian Country (the original Uintah Valley Reservation).

We do appreciate the language under the Tribal Uses section of the report and recognize the attempt by the Forest to make up for the resounding lack of Tribal recognition in the 1986 Forest Plan, but I encourage the Forest to look more closely at the treaties, court cases, and legal language governing Ute Tribal rights and expand this section to recognize all of those rights.

Under the Cultural and Historic Resources Section of the proposed plan, include a plan component to regularly meet with and consult with Tribes regarding cultural resources on the Forest.

Also have a plan component to work with the Tribe to identify Traditional Cultural Properties, and Sacred Sites on the Forest.