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First name: Reed

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Organization: USDOl, Central Utah Project Completion Act

Title: Program Director

Comments: Ms. Susan Eickhoff

Forest Supervisor, Ashley National Forest

Attn: Forest Plan

355 North Vernal Avenue

Vernal, Utah 84078

Subject: Draft Environmental Impact Statement for the Ashely National Forest Plan

Revision [ndash] Section 201(a) [ndash] Central Utah Project Completion Act

Dear Ms. Eickhoff:

We recently received an email message informing us that the Draft Environmental Impact Statement (DEIS) for the Ashely National Forest Plan Revision is available for review and comment. The Department of the Interior, Central Utah Project Completion Act (CUPCA) Office requests that we be made aware of any future meetings, input requests, or process deadlines associated with this revision process. We have previously provided four letters to the Forest Service regarding associated efforts sent October 18, 2006; July 3, 2007; December 5, 2007; and September 20, 2016. Copies of these letters are enclosed.

Currently the DEIS does not adequately address Central Utah Project (CUP) withdrawn lands issues. We believe the following information and concerns should be addressed fully in the DEIS. This will improve both public and agency understanding regarding withdrawn lands and could serve as a basis of understanding during future negotiations, especially as staff changes occur.

History

The CUPCA, Public Law 102-575, authorized the development of features to complete the CUP. This Act also established the CUPCA Office and developed a partnership arrangement with the Central Utah Water Conservancy District and the Utah Reclamation Mitigation and Conservation Commission for the purpose of implementing CUPCA.

The CUP is a large, Federal water resources development project that moves water via a system of reservoirs, tunnels, aqueducts, and other control features from the Colorado River Basin to the Bonneville basin in Utah. There are many parcels of land within the area of evaluation that have been withdrawn or acquired by fee for the purpose of developing the CUP or other Projects. Access to and future development of these lands and existing facilities are critical to the completion of the CUP. These facilities and withdrawn lands are not available for wilderness, wild and scenic river, or any other status consideration. Lands withdrawn from the public domain for CUP are exclusively for the development, operation, maintenance, and protection of the CUP unless the express approval of the Secretary of the Interior is given for other purposes or projects.

Withdrawn Lands Law

Land withdrawals are issued by the Bureau of Land Management and transfer administrative jurisdiction over a parcel of land from one federal agency to another. For our purposes, from the Department of Agriculture Forest Service to the Department of the Interior (Interior). A withdrawal creates a title encumbrance on the land restricting the Forest Service's ability to manage withdrawn lands under their multiple use management principles. Withdrawn lands remain Federal property under the ultimate administration of the Bureau of Land Management, however jurisdiction for managing these lands is granted to the agency withdrawing the lands. No title to the land is granted to the agency withdrawing the land.

As defined in the Federal Land Policy and Management Act of 1976, PL 94-579, (43 USC 1714)(FLPMA) withdrawal means withholding an area of Federal land from settlement, sale, location, or entry under some or all

of the federal land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land from one department, bureau, or agency to another department, bureau, or agency.

Lands are withdrawn for purposes of specific federally authorized projects such as development, construction, maintenance, operation, and protection of federal projects. The Secretary of the Interior (Secretary) is authorized to make, modify, extend, or revoke withdrawals under FLPMA. Withdrawals are made for reserving public land only in cases where it is necessary to assume complete management jurisdiction over an area of public land. Congress has passed several acts that address issues associated with the Bureau of Reclamation withdrawn lands. These acts are discussed below.

The Reclamation Act of 1902, 43 USC 391:

Section 3 of the Reclamation Act directs that the Secretary shall withdraw from public entry the lands required for any irrigation works contemplated under the provisions of this act. Under the Act's opinions on this section, it is noted that Reclamation withdrawn lands are reserved lands, and that withdrawals made by the Secretary have the force of legislative withdrawals. It is also stated that withdrawals within the national forest are dominant. Any leases granted on withdrawn lands by the Secretary of Agriculture should be subject to the prior approval of the Secretary of the Interior.

Sundry Civil Expenses Appropriations Act for 1920:

This act states that proceeds received from the lease of any lands reserved or withdrawn under the Reclamation law or from the sale of the products therefrom shall be recovered into the Reclamation fund; and such lands shall be and remain under the jurisdiction of the Secretary of the Interior.

Under opinions of this act, it is stated that the act serves two purposes: first, to clearly establish the authority of the Secretary of the Interior to lease, etc., lands withdrawn under the Reclamation law; and second, where conflicting authorities exist, to establish the paramount authority of the Secretary to so deal with such lands in all cases where they are needed for the protection or operation of any reservoir or other works constructed under the Reclamation Law. The opinion regarding national forests states that Reclamation withdrawals within the national forests are dominant, and that all leases should be subject to the prior approval of the Secretary of the Interior. Lease includes any authorized use or occupancy.

We appreciate your tremendous efforts to revise the Ashely National Forest Plan, and your invitation to contribute to its completion. If you have any questions, please contact Mr. W. Russ Findlay at (801) 379-1084 or by e-mail to wfindlay@usbr.gov.

Sincerely,
Reed R. Murray
Program Director