

**BEFORE THE DIVISION OF FORESTRY, FIRE AND STATE LANDS
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

**In The Matter Of The Approval Utah
Lake Comprehensive Management Plan,
known as the Utah Lake Master Plan.**

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**RECORD OF DECISION

09-0615-95000002**

Pursuant to *Utah Administrative Code* R652-90 the Division of Forestry, Fire and State Lands designated a planning unit in conjunction to the Utah Lake Commission's Interlocal agreement appendix. By this designation, a comprehensive management planning effort was initiated with interagency cooperation and collaboration, and open public participation. For the duration of the planning process, a withdrawal was ordered on the lake bed from new leasing and permitting until the completion of the comprehensive management plan. The withdrawal did not apply to uses associated with boundary settlements, trails or lake access improvements, or activities associated with the protection and enhancement of endangered species. Existing leases and permits were allowed to be renewed or extended in accordance with Utah Administrative Code R652-90-700.

In compliance with policy, procedures, rules and statutes for comprehensive management planning, the Division has completed the comprehensive management plan for the subject site.

THEREFORE, the Division issues this RECORD OF DECISION for the Utah Lake Master Plan.

DESCRIPTION OF LANDS DIRECTLY AFFECTED

The area included in the planning unit includes those sovereign lands lying within the bed of Utah Lake, located in Utah County, as defined through settlements, court actions and negotiations with upland landowners, and represented as owned by the State of Utah. Some of the sovereign land boundaries have not been settled, but the visions,

goals,

policies, objectives and tasks in the Utah Lake Master Plan will apply to those lands that are judged to be sovereign when settlement occurs. Also included in the planning unit is about 1.08 miles of the Jordan River from the bed of the lake downstream (to the north).

BACKGROUND AND REQUESTED ACTION

The Utah Lake Commission, with input from the Division of Forestry, Fire and State Lands, established in 2007 a planning unit, which included all the sovereign lands in the bed of Utah Lake, and included some sovereign lands from the bed of the Jordan River near Utah Lake plus some non-sovereign lands up to 4495 feet above sea level.

Ultimately, the boundary of the planning unit was stretched or otherwise moved to the nearest road or section line for simplicity and ease of administration.

In 2007 the Utah Lake Commission assembled a steering committee to:

- Develop a Request For Proposals for consulting services aimed at initiating planning efforts in the planning unit,
- Develop criteria for evaluating and selecting a consultant, and
- Develop a plan of work, and establish criteria for the planning effort (including FFSL rules and policies for planning procedures)

Early in 2008 a consultant was hired through a rigorous competitive process. URS, Inc, which provides a full range of engineering and environmental services to Fortune 500 companies as well as to state and local governments, was selected to facilitate the development of the Utah Lake Master Plan (MASTER PLAN).

In order to achieve objectives identified by the Commission members in the Interlocal Agreement, the Commission initiated the development of the MASTER PLAN in February 2008 whose purposes are:

1. To assemble all available relevant information and analysis to provide decision-makers with the tools needed to make informed decisions, and evaluate project proposals that could affect the lake and its shore lands,
2. To develop implementation strategies to achieve the Commission's

- objectives,
3. To provide a solid policy framework that will guide future decision-making for Utah Lake and its resources.
 4. To establish a process for plan implementation, monitoring, evaluation and amendment.

The Planning Process was designed to achieve a cumulative and linear development of visions, goals, objectives and tasks, and to facilitate public participation throughout the process.

The first step was to identify and gather information that was relevant to the current conditions and trends, including maps, reports and plans.

The second step was to conduct a visioning workshop to discuss ideas on the ideal future for Utah Lake and its associated natural resources.

Identifying opportunities and constraints was accomplished in a planning workshop was the third step and specific goals and objectives were formed from there.

Preparing the Draft Master Plan was the fourth step in the process in developing objectives and tasks, which were derived from the goals and visioning workshop. Additionally, policy statements were developed to help guide future decisions.

Gathering final comments and responding to those comments is the fifth step after the Draft Master Plan goes out to review to the public, the commission, stakeholders, lessees, and others.

The last step is to finalize and adopt the MASTER PLAN. This includes making any changes to the MASTER PLAN, a joint signing of the board members of the Utah Lake Commission and the Division of Forestry, Fire and State Lands, adopting the Utah Lake Master Plan as its comprehensive management plan for the sovereign lands at Utah Lake.

Public Involvement

Throughout 2008 and early 2009 a public-driven planning process unfolded that included a series of three public meetings, each held at two locations, spaced throughout the planning process plus a public hearing was held to receive comments. In addition to the scheduled public involvement events, interested citizens and groups were invited to complete on-line surveys and hard-copy questionnaires, to provide written and emailed comments, and to attend both the visioning and the opportunities and constraints workshops conducted by the Commission. Opportunities were available to comment on the draft plan following the distribution of the Draft Master Plan. The following table summarizes the public's participation.

Participation Type	Time & Date Held	Total Participation
Public Meeting (Scoping)	April 2,3, 2008	150
Public Meeting	July 30, 31, 2008	45
Public Meeting	Dec 3,4, 2008	66
Public Hearing	February 26, 2009	22
Visioning Workshop	April 24, 2008	70
Opportunities and Constraints Workshop	July 9, 2008	45

CONTROLLING STATUTES, RULES AND POLICIES

Article XX, Section 1 of the Constitution of Utah affirms the public trust over state lands: "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 or may be granted, devised or otherwise acquired"

Statute (*Utah Code Annotated* § 65A-2) and rule (*Utah Administrative Code* R652-90) combine to establish the management framework and planning requirements for the Division of Forestry, Fire and State Lands.

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.

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.

R652-90-500. Notification and Public Comment.

1. Once a planning unit is designated for a comprehensive management plan, notice shall be sent to the Office of Planning and Budget for inclusion on the RDCC agenda and, if

appropriate, the weekly status report.

2. The Division shall conduct at least one public meeting in the vicinity of a planning unit that has been designated for a comprehensive management plan.

(a) The meeting shall provide an opportunity for public comment regarding the issues to be addressed in the plan

(b) The public meeting(s) shall be held at least two weeks after notice in a local newspaper.

(c) Notice of public meeting(s) shall be sent directly to lessees of record, local government official and the Office of Planning and Budget for inclusion in the RDCC agenda packet and weekly status report. A mailing list shall be maintained by the division.

(d) Additional public meetings may be held.

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.

R652-90-600. Public Review.

1. Comprehensive management plans shall be published in draft form and sent to persons on the mailing list established under R652-90-400, the Office of a Planning and Budget, and other persons upon request.

(a) A public comment period of at least 45 days shall commence upon receipt of the

draft in the Office of Planning and Budget.

(b) All public comment shall be acknowledged pursuant to 65A-2-4(2).

(c) The Division's response to the public comment shall be summarized in the final comprehensive management plan.

(d) Comments received after the public comment period shall be acknowledged but need not be summarized in the final plan.

ANALYSIS

Public Trust

The Division of Forestry, Fire and State Lands (DFFSL) acknowledges its public trust responsibility. The MASTER PLAN includes the following text:

“FFSL has been given authority by the Utah Sate Legislature for the management of sovereign lands including Utah Lake. As trustee, FFSL 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 FFSL will manage Utah Lake and its resources under multiple-use sustained yield principles (Section 65A-2-1), accommodating public and private uses to the extent that those policies and uses do not compromise public trust obligations and sustainability is maintained.

Resource Analysis

There are five major elements addressed in the MASTER PLAN:

1. Land Use and Shoreline Protection
2. Transportation (including trails)
3. Natural Resources

4. Recreation
5. Public Facilities

The MASTER PLAN provides the analysis on natural and cultural resources on the sovereign lands and uplands within the planning unit. As a result of the analysis of current conditions and trends, and the visions and goals developed through workshops, policies were created that will guide decision-making, which addresses each of the major elements found in the MASTER PLAN with additional general policies that overlaps the major elements. On the sovereign lands, allowable land uses are summarized in the Management Classification map (Figure 2.4) with the accompanying descriptive text.

Public Involvement

A key element in developing public policy is the involvement of the public. Public involvement was a hallmark in the development of the MASTER PLAN. There were numerous ways for the public to become involved: including attending the six public meetings and one public hearing, perusing the web site for information on meetings, maps, and interim products developed during the process and providing written comments at the meetings, through the web site or through the mail. Draft MASTER PLAN comments were received through the website, through the mail, through RDCC and through a public hearing held on February 26, 2009. All comments were posted on the website regardless of source. There were a total of 13 comments received and the comments with their responses can be found in Appendix A. Eleven of the 13 responses were generally supportive although some criticisms or suggestions were peppered throughout. One of the comment letters did not like the overall approach in the draft and felt the public participation was not adequate. Another comment letter felt the interpretation of the Public Trust Doctrine was not correct throughout the MASTER PLAN and the planning process and thus the MASTER PLAN was improper.

FINDINGS OF FACT

1. The Division did establish through the Utah Lake Commission the study area of the lake which initiated the comprehensive planning process at the June 22, 2008 Commission meeting with the recommendation of the Technical Committee. Roads or section lines were used to determine the boundary.
2. The Governor's Office of Planning and Budget - Resource Development Coordinating Committee (RDCC) was notified at the beginning of the project with a state action proposal and accompanying map on March 10, 2008 and posted under on the Project Management System website for 30 days under Project #9072.
3. Simultaneous to the notification to the RDCC the 43 lessees and over 200 upland landowners were notified by post card that a planning effort for Utah Lake was being undertaken.
4. Simultaneous to the notification to the RDCC, Darrell Cook of the Mountainland Association of Governments was notified by email.
5. The Utah Lake Commission, established a Steering Committee with representation from the Division, to develop a Request For Proposal, for consultant services to facilitate the development of a master plan.
6. The Steering Committee, selected URS, Inc as the consultant after rigorous competitive bidding and follow-up oral presentations by the finalists. The committee also developed a contract, and scope of work and approved the schedule for the contract.
7. The Steering Committee of the Utah Lake Commission, with Division representation, guided the development of the draft MASTER PLAN to assure that the rules and statutory requirements necessary by the Division for a comprehensive plan were fulfilled in the development of the MASTER PLAN and the planning process.

8. The Utah Lake Commission developed a web site with relevant information represented during the planning process including maps, and draft documents. The Division also maintained a web site with the ability for readers to make comments regarding issues, concerns, the process, and the draft MASTER PLAN.
9. The consultant, with help from the Division, the Utah Lake Commission, and others, identified and gathered existing information relevant to current conditions and trends affecting Utah Lake. The results of this effort is located in Appendix B.
10. Two workshops were held for the Utah Lake Commission, its technical committee, the steering committee, and any public to develop visions and goals for the MASTER PLAN and also to identify opportunities and constraints to those opportunities based on the visions and goals.
11. The Utah Lake Commission, in conjunction with the Division and the consultant hired to facilitate the MASTER PLAN (URS, Inc), conducted a total of six public meetings in the vicinity of the planning unit.
12. Two of the six public meetings (held on April 2nd and 3rd, 2008) were scoping meetings to ascertain the issues and concerns of the attendants to be addressed in the MASTER PLAN. There was also opportunity through the Division's web site, the consultant's survey questionnaire, and the consultant's request for written comments for the public to comment on issues and concerns.
13. Another pair of public meetings were held to keep the public apprised of the progress, and to keep information flowing between the public and the planning group. Also included in these public meetings were the results of workshops held to develop vision statements for the lake and to identify opportunities and constraints on those opportunities. These meetings were held on July 30th and 31st, 2008.
14. A third set of public participation events were open-houses in Lehi and the state park in Provo on December 3rd and 4th, 2008 respectively. The unofficial draft of the Utah Lake Master Plan was presented where the public was able to offer

initial responses and suggestions of the draft in advance of the formal MASTER PLAN review.

15. The Draft Master Plan was approved by the Commission and the Division on February 26, 2009.
16. Notification of the publication of the draft MASTER PLAN was given to RDCC (Project # 10338), Mountainland Association of Governments, lessees of record, and upland landowners. News releases were also developed and published in local papers. In conjunction with the notification, invitation was given to give comment on the draft MASTER PLAN. The draft MASTER PLAN was published on the Utah Lake Commission web site, plus there were some paper copies published for those who requested.
17. Ten paper copies were distributed to individuals at their request, and one CD version was distributed. There is no traffic counter on the Utah Lake Commission web site so there is no estimate on the number of people who have accessed the site. A draft copy was also published and distributed to each member of the Utah Lake Commission.
18. No comments were received from the RDCC in response to the draft MASTER PLAN.
19. The Division received thirteen letters in response to the draft MASTER PLAN. some were received electronically through the web site and two through the mail and some personally delivered.
20. The Division acknowledged the letters received by publication to the web site and also in the final MASTER PLAN.

CONCLUSIONS OF LAW

1. The Division properly initiated the planning process for a comprehensive plan by

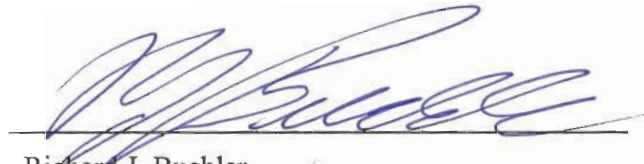
designating the planning unit and planning priorities established by the Division through the Utah Lake Commission [R652-90-300(1)].

2. The Division has fulfilled its notification requirements to the lessees, to local governments and to the Resource Development Coordinating Committee (RDCC) when the project was initiated. The Division went beyond its required notification by also notification upland landowners [R652-90-500(1)].
3. The notification requirements for the scoping meetings, [R652-90-500(2)(b)], have been exceeded.
4. The public review requirements have been complied with or exceeded [R652-90-600 (1) and (1)(a)].
5. Comments were properly acknowledged and addressed through Division responses fulfilling the public comment requirements in rule and statute [R652-90-600(1)(b-d) and §65A-2-4.
6. The planning process and subsequent MASTER PLAN document fulfilled the Division's Public Trust responsibilities.
7. The planning process complies with legal requirements for a comprehensive planning process.
8. The MASTER PLAN complies with legal requirements for a comprehensive management plan.

DECISION AND ORDER

Based on the foregoing, the Division adopts the Utah Lake Master Plan along with Appendix A, which satisfies the requirements of the comprehensive management efforts required by statute, rule and policy. The Utah Lake Master Plan along with Appendix A becomes the comprehensive management plan that guides decision-making on the sovereign lands within the planning unit. The Utah Lake Master Plan supercedes any and all previous management plans, adopted, draft or otherwise and represents the official position of the Division.

DATED this 6/24 day of June, 2009.



Richard J. Buehler
Director/State Forester
Division of Forestry, Fire and State Lands

ADMINISTRATIVE APPEALS

Parties having an interest in this action may file a petition for administrative review of the Division pursuant to R652-9-300 and R652-9-400. 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 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 the 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 July 20, 2009.

MAILING CERTIFICATE

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