

NATIONAL FOREST ROAD OBSTRUCTIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions relating to obstructions on roads in the Dixie National Forest.

Highlighted Provisions:

This bill:

► provides that certain provisions of the Local Jurisdiction Related to Federally Managed Land Act apply under certain circumstances when an obstruction occurs on a road identified as part of the Utah transportation plan for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest in Garfield, Iron, Kane, and Wayne counties.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-8-105.1, as enacted by Laws of Utah 2014, Chapter 361

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63J-8-105.1** is amended to read:



28 **63J-8-105.1. State of Utah transportation plan for the Cedar City, Powell,**
29 **Escalante, and Fremont ranger districts of the Dixie National Forest.**

30 (1) (a) The state designates this state of Utah transportation plan for the Cedar City,
31 Powell, Escalante, and Fremont ranger districts of the Dixie National Forest.

32 (b) The plan was established pursuant to:

33 (i) the requirement in the United States Forest Service's Multiple-Use Sustained-Yield
34 Act of 1960, 16 U.S.C. Sec. 528, that lands within the national forests be managed according to
35 the principles of multiple use; and

36 (ii) the right which FLPMA, the National Environmental Policy Act, 42 U.S.C. Sec.
37 4321 et seq., and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, give to state and
38 local governments to participate in all BLM and United States Forest Service efforts to plan for
39 the responsible use of BLM and United States Forest Service lands and the requirement that
40 BLM and the United States Forest Service coordinate planning efforts with those of state and
41 local governments.

42 (c) This section is a statement of the state of Utah's policy and plan for a desired
43 transportation system for the Cedar City, Powell, Escalante, and Fremont ranger districts of the
44 Dixie National Forest.

45 (d) This section does not mandate compliance with this policy by the United States
46 Forest Service nor does it override or usurp the United States Forest Service's authority within
47 this area.

48 (e) This section is a statement of state policy for use by the United States Forest
49 Service and other interested stakeholders as required by federal law in making planning
50 decisions and project management decisions within the Cedar City, Powell, Escalante, and
51 Fremont ranger districts of the Dixie National Forest.

52 (2) There is established and designated a state of Utah transportation plan for the Cedar
53 City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest in Garfield,
54 Iron, Kane, and Wayne counties, Utah for the purpose of:

55 (a) preserving and protecting against threats to the longstanding transportation
56 networks that have served the public for decades within these ranger districts;

57 (b) preserving and protecting against threats to the longstanding traditional recreation
58 resource values that have served the public for decades within these ranger districts;

59 (c) preserving and protecting against threats to the longstanding public road access that
60 is vital to the agricultural livestock and forest products industries within these ranger districts;

61 (d) preserving and protecting against threats to the significant history, culture, customs,
62 and economic values in these ranger districts, and in the various communities situated near
63 these ranger districts;

64 (e) preserving and protecting against threats to the civil rights of the disabled, the
65 elderly, and the economically disadvantaged to have access to the great outdoor resource and
66 values existing in these ranger districts;

67 (f) preserving and protecting against threats to road networks vital to restoring,
68 reclaiming, preserving, protecting, enhancing, and developing the state's water resources on the
69 watersheds existing within these ranger districts;

70 (g) protecting, preserving, and enhancing affected natural, historical, and cultural
71 activities within these ranger districts from ongoing threats; and

72 (h) preserving and protecting the longstanding network of publicly accessible roads
73 within these ranger districts, in order to protect:

74 (i) the health, safety, and welfare of citizens who live near these ranger districts, and
75 persons who visit and recreate therein, from the threat of catastrophic fire and its resulting
76 problems of watershed and habitat destruction, erosion, silt load, and flooding, which can only
77 be managed, prevented, combatted, and mitigated through a proper transportation network
78 throughout these ranger districts;

79 (ii) hunter access to manage wildlife populations; and

80 (iii) forage conditions for livestock grazing and wildlife habitat.

81 (3) The state of Utah transportation plan for the Cedar City, Powell, Escalante, and
82 Fremont ranger districts of the Dixie National Forest consists of all roads shown in the map
83 jointly prepared by the Garfield, Iron, Kane, and Wayne County GIS departments in February
84 2014, entitled "State of Utah Transportation Plan for Dixie National Forest," printed copies of
85 which will be maintained by the Utah Association of Counties and made available to the public
86 upon request.

87 (4) (a) (i) The map described in Subsection (3) also documents the move by Dixie
88 National Forest to close and otherwise deny the public's longstanding access to many of the
89 roads shown on the map in the Cedar City, Powell, Escalante, and Fremont ranger districts, by

90 reason of the United States Forest Service's implementing a recent motorized travel plan for the
91 Dixie National Forest.

92 (ii) These closures and other denials of public road access through the motorized travel
93 plan of the Dixie National Forest constitute an ongoing direct threat to the resources and values
94 referenced in Subsection (2).

95 (b) The state of Utah's transportation plan for these ranger districts conflicts with the
96 United States Forest Service's recent motorized travel plan for the Dixie National Forest.

97 (c) The state of Utah's transportation plan for these ranger districts recognizes that all
98 roads shown on the map referenced in Subsection (3) should be kept open to the public.

99 (5) The state finds that keeping open to the public all roads shown on the map
100 referenced in Subsection (3) is necessary and vital to preserve and protect the values cited in
101 Subsection (2).

102 (6) The state requests that the federal agencies that administer lands within the Cedar
103 City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest:

104 (a) fully cooperate and coordinate with the state of Utah and the respective counties in
105 which these ranger districts lie, to develop, amend, and implement United States Forest Service
106 land and resource management plans and transportation plans, and implement management
107 decisions pursuant to those plans, that are consistent with the purposes, goals, and policies
108 described in this section to the maximum extent allowed under federal law;

109 (b) enter into agreements regarding the maintenance, upkeep, and improvement of
110 roads in these ranger districts;

111 (c) refrain from any planning decisions and management actions that will undermine,
112 restrict, or diminish the goals, purposes, and policies as stated in this section; and

113 (d) refrain from implementing a policy that is contrary to the goals and purposes
114 described within this section.

115 (7) (a) The state recognizes the importance of longstanding road networks in all
116 national forests in the state but establishes this transportation plan to provide special protection
117 and preservation against the identified threats found to exist in the Cedar City, Powell,
118 Escalante, and Fremont ranger districts of the Dixie National Forest.

119 (b) It is the intent of the state to designate additional forest transportation plans in
120 future years as circumstances warrant their special protection and preservation.

121 (8) The state calls upon applicable federal, state, and local agencies to coordinate with
122 each other and establish applicable intergovernmental standing commissions, with membership
123 consisting of representatives from the United States government, the state of Utah, and local
124 governments, to coordinate and achieve consistency in planning decisions and management
125 actions consistent with the goals and policies of this section for the Cedar City, Powell,
126 Escalante, and Fremont ranger districts of the Dixie National Forest.

127 (9) Subsections 11-51-103(1)(a) and (b) shall govern and apply to the county sheriff in
128 relation to an obstruction, and Subsection 11-51-103(1)(b) shall govern and apply to the
129 attorney general in relation to an obstruction, if:

130 (a) the obstruction occurs on a road identified as part of the Utah transportation plan
131 for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest
132 in Garfield, Iron, Kane, and Wayne counties; and

133 (b) the county sheriff finds that the obstruction adversely affects the public health,
134 safety, and welfare of the people of the political subdivision by obstructing travel that is
135 necessary for:

136 (i) the maintenance of natural resources; or

137 (ii) another public purpose.

138 (10) Subsections 11-51-103(2) and (3) shall govern and apply to the county sheriff in
139 relation to any action to remove an obstruction, and Subsection 11-51-103(3) and Section
140 11-51-104 shall govern and apply to the attorney general in relation to removal by the county
141 sheriff of an obstruction, if:

142 (a) the obstruction occurs on a road identified as part of the Utah transportation plan
143 for the Cedar City, Powell, Escalante, and Fremont ranger districts of the Dixie National Forest
144 in Garfield, Iron, Kane, and Wayne counties; and

145 (b) the county sheriff finds that the obstruction constitutes an imminent threat to the
146 public health, safety, and welfare of the people of the political subdivision by obstructing travel
147 that is necessary for:

148 (i) a potential emergency medical response;

149 (ii) a potential wildfire response; or

150 (iii) another potential law enforcement response.

**Legislative Review Note
Office of Legislative Research and General Counsel**