

1 **OBSTRUCTIONS ON ROADS IN DIXIE NATIONAL**
2 **FOREST**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael E. Noel**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

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

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **63J-8-105.1**, as enacted by Laws of Utah 2014, Chapter 361

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



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

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

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

33 (b) The plan was established pursuant to:

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

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

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

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

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

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

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

58 (b) preserving and protecting against threats to the longstanding traditional recreation

59 resource values that have served the public for decades within these ranger districts;

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

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

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

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

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

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

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

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

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

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

88 (4) (a) (i) The map described in Subsection (3) also documents the move by Dixie
89 National Forest to close and otherwise deny the public's longstanding access to many of the

90 roads shown on the map in the Cedar City, Powell, Escalante, and Fremont ranger districts, by
91 reason of the United States Forest Service's implementing a recent motorized travel plan for the
92 Dixie National Forest.

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

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

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

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

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

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

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

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

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

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

120 (b) It is the intent of the state to designate additional forest transportation plans in

121 future years as circumstances warrant their special protection and preservation.

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

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

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

134 (b) ~~Ĥ→ [the county sheriff finds that the obstruction adversely affects]~~ **after the**
 134a **consultation required under Subsections 11-51-103(1)(a) and (b), the obstruction is found**
 134b **to adversely affect** ~~←Ĥ~~ the public health,
 135 safety, and welfare of the people of the political subdivision by obstructing ~~Ĥ→~~ **necessary** ~~←Ĥ~~
 135a travel ~~Ĥ→~~ **[that is**
 136 **necessary for:]** .

137 ~~[(i) the maintenance of natural resources; or~~

138 ~~—(ii) another public purpose.]~~ ~~←Ĥ~~

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

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

146 (b) ~~Ĥ→ [the county sheriff finds that the obstruction constitutes]~~ **after the consultation**
 146a **described in Subsections 11-51-103(2) and (3) and Section 11-51-104, the obstruction is found**
 146b **to constitute** ~~←Ĥ~~ an imminent threat to the
 147 public health, safety, and welfare of the people of the political subdivision by obstructing travel
 148 that is necessary for:

149 (i) a potential emergency medical response;

150 (ii) a potential wildfire response; or

151 (iii) ~~Ĥ→~~ **[another potential]** **any other necessary** ~~←Ĥ~~ law enforcement response.

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Office of Legislative Research and General Counsel