

# FINAL GREEN AND COLORADO RIVERS MINERAL LEASING PLAN AND RECORD OF DECISION



**Prepared for Utah Department of Natural Resources, Division of Forestry, Fire & State Lands**

**Prepared by SWCA Environmental Consultants**

**JANUARY 2020**



# **FINAL GREEN AND COLORADO RIVERS MINERAL LEASING PLAN AND RECORD OF DECISION**

Prepared for

**Utah Department of Natural Resources  
Utah Division of Forestry, Fire & State Lands**  
1594 West North Temple, Suite 3520  
Salt Lake City, Utah 84114-5703

Prepared by

**SWCA Environmental Consultants**  
257 East 200 South, Suite 200  
Salt Lake City, Utah 84111  
(801) 322-4307  
[www.swca.com](http://www.swca.com)

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**FINAL GREEN AND COLORADO RIVERS  
MINERAL LEASING PLAN RECORD OF DECISION**



## **GREEN AND COLORADO RIVERS MINERAL LEASING PLAN RECORD OF DECISION**

**Record Number: 20-01060-03**

**Date of Execution: January 6, 2020**

### **Introduction**

Pursuant to Utah Code 65A-2-2 and 65A-2-4 and the implementing regulations of Utah Administrative Code R652-90, the Utah Division of Forestry, Fire & State Lands (FFSL or the division) is empowered to prepare and adopt management plans for sovereign lands and resources. Given this direction, FFSL initiated the *Green and Colorado Rivers Mineral Leasing Plan* (MLP) revision process with interagency cooperation and collaboration and with open public participation. For the duration of the planning process, FFSL temporarily withdrew permitting for mineral leasing. Existing leases, permits, and easements were allowed to be renewed, extended, or amended in accordance with Utah Administrative Code R652-90-700.

The primary purpose of the MLP is to guide FFSL, along with adjacent landowners and other local, state, and federal partners, in managing, allocating, and appropriately using the mineral resources of the Green and Colorado Rivers. The MLP sets forth guidance and direction for future mineral resource management activities on both rivers.

In compliance with policy, procedures, rules, and statutes for resource management planning, FFSL has completed the mineral resource management plan for the planning area. Therefore, FFSL issues this record of decision for the MLP.

### **Description of Lands Directly Affected**

The Utah State Legislature defines sovereign land as “those lands lying below the ordinary high water mark [OHWM] of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty” (Utah Code 65A-1-1). As noted in this definition, the state’s ownership extends to the OHWM; however, knowing exactly where the OHWM was located at statehood is challenging for the Green and Colorado Rivers. For this reason, and because the OHWM has not been mapped continuously along either river, the planning unit area (or “planning area”) for the MLP extends laterally from top of bank to top of bank. As part of an authorization process, a case-by-case demarcation of the OHWM may be required. The planning area consists of the length of the Green River from the border of Dinosaur National Monument to Sand Wash, and from Swasey’s rapid to the border of Canyonlands National Park. In addition, the planning area consists of the length of the Colorado River from the Utah-Colorado state line to the border of Canyonlands National Park, and the separate, submerged river segment beneath Lake Powell. In cases where sovereign land boundaries associated with the Green or Colorado Rivers have not been settled, the visions, goals, policies, and objectives in the MLP will apply to those lands that are judged to be sovereign lands.

## **Proposed Action**

The proposed action associated with this record of decision is the adoption and implementation of the 2020 MLP.

## **Relevant Factual Background**

FFSL initiated the MLP revision to update, consolidate, and replace the 1998 MLP and all associated amendments. The MLP planning process began in December 2017 and was conducted concurrently with the planning processes for the *Green River Comprehensive Management Plan* (GRCMP)<sup>1</sup> and *Colorado River Comprehensive Management Plan* (CRCMP).<sup>2</sup> Through a rigorous competitive process, SWCA Environmental Consultants (SWCA) was hired to facilitate the development of the comprehensive management plans and the MLP.

FFSL was interested in improving cooperative management, planning, and research activities within the Utah Department of Natural Resources and incorporated these agencies into the GRCMP, CRCMP, and MLP planning team. Representatives from the Utah Department of Environmental Quality, State of Utah School and Institutional Trust Lands Administration, Utah Department of Agriculture and Food, Utah Department of Transportation, and the Utah State Historic Preservation Office were also included on the planning team.

As part of the planning process, the planning team members provided input and technical support relevant to their area of expertise throughout the process. The purposes of the planning team were to

- provide resource-specific guidance throughout the planning process;
- provide the most recent, relevant research and data pertaining to river resources and associated uses;
- provide timely review and comment on the documents throughout the planning process; and
- offer project updates and opportunities for comment to State of Utah agencies and the general public.

## **Public Outreach**

The development of the MLP involved a 17-month public outreach process from March 2018 to July 2019. FFSL initiated the MLP planning with a press release distributed on March 12, 2018.

Notification of the planning process was made to the Resource Development Coordinating Committee (RDCC) on March 26, 2018. A presentation was also made to the RDCC on February 7, 2019.

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<sup>1</sup> SWCA Environmental Consultants, CRSA Architecture, River Science Institute, Inc., J. Schmidt, and A. Walker. 2020. *Green River Comprehensive Management Plan*. Salt Lake City, Utah: SWCA Environmental Consultants.

<sup>2</sup> SWCA Environmental Consultants, CRSA Architecture, River Science Institute, Inc., J. Schmidt, and A. Walker. 2020. *Colorado River Comprehensive Management Plan*. Salt Lake City, Utah: SWCA Environmental Consultants.



FFSL, SWCA, and CRSA conducted two series of public open house meetings. The first series focused on kicking off the project and gathering information, and the second series focused on reviewing the draft MLP. In addition, meetings were held with stakeholder groups, county commissioners, federal agencies, and tribes as described below.

## **General Public**

Open house format meetings were held in each of the counties through which the rivers flow and in Salt Lake City to kick off the public engagement process. Dates, times, and locations for these meetings are provided in Tables 1 and 2.

**Table 1. Green River Planning Area Public Open House Series #1: Project Kickoff**

<b>Date</b>	<b>Time</b>	<b>City, County, and State</b>	<b>Location and Address</b>
March 27, 2018	6:00–8:00 p.m.	Vernal, Uintah County, Utah	Uintah County Library 204 East 100 North
April 12, 2018	6:00–8:00 p.m.	Hanksville, Wayne County, Utah	Hanksville EMS Building 575 South Park Town Loop
April 18, 2018	6:00–8:00 p.m.	Moab, Grand County, Utah	Grand County High School 608 South 400 East
April 19, 2018	6:00–8:00 p.m.	Green River, Emery County, Utah	John Wesley Powell River History Museum 1765 East Main Street
May 22, 2018	5:00–7:00 p.m.	Salt Lake City, Salt Lake County, Utah	Department of Natural Resources 1594 West North Temple

**Table 2. Colorado River Planning Area Public Open House Series #1: Project Kickoff**

<b>Date</b>	<b>Time</b>	<b>City, County, and State</b>	<b>Location and Address</b>
April 10, 2018	6:00–8:00 p.m.	Kanab, Kane County, Utah	Kanab City Library 374 North Main Street
April 11, 2018	6:00–8:00 p.m.	Escalante, Garfield County, Utah	Escalante Senior Center 89 North 100 West
April 17, 2018	6:00–8:00 p.m.	Monticello, San Juan County, Utah	San Juan County Administration Building 117 South Main Street
April 18, 2018	6:00–8:00 p.m.	Moab, Grand County, Utah	Grand County High School 608 South 400 East
May 22, 2018	5:00–7:00 p.m.	Salt Lake City, Salt Lake County, Utah	Department of Natural Resources 1594 West North Temple

Open house format meetings were also used in the same counties to present the draft MLP and to initiate the public comment process. Dates, times, and locations for these meetings are provided in Tables 3 and 4.

**Table 3. Green River Planning Area Public Open House Series #2: Draft Plan Review**

Date	Time	City, County, and State	Location and Address
June 10, 2019	5:00–7:00 p.m.	Vernal, Uintah County, Utah	Uintah County Library 204 East 100 North
June 10, 2019	5:00–7:00 p.m.	Hanksville, Wayne County, Utah	Hanksville EMS Building 575 South Park Town Loop
June 25, 2019	5:00–7:00 p.m.	Moab, Grand County, Utah	Grand Center 182 North 500 West
June 26, 2019	5:00–7:00 p.m.	Green River, Emery County, Utah	John Wesley Powell River History Museum 1765 East Main Street

**Table 4. Colorado River Planning Area Public Open House Series #2: Draft Plan Review**

Date	Time	City, County, and State	Location and Address
June 18, 2019	5:00–7:00 p.m.	Escalante, Garfield County, Utah	Escalante Senior Center 89 North 100 West
June 19, 2019	5:00–7:00 p.m.	Kanab, Kane County, Utah	Kanab City Library 374 North Main Street
June 24, 2019	5:00–7:00 p.m.	Monticello, San Juan County, Utah	San Juan County Administration Building 117 South Main Street
June 25, 2019	5:00–7:00 p.m.	Moab, Grand County, Utah	Grand Center 182 North 500 West

## Stakeholders

All stakeholders interested in the rivers were invited to attend the public open houses in each county. In addition, stakeholder workshops were convened for the following groups: recreation, agriculture/irrigation, environmental, and mineral/energy. The first series of stakeholder workshops was held to obtain detailed information on river management concerns and potential goals and objectives. The second series of stakeholder meetings was held after the publication of the draft plan in 2019 to solicit feedback. Dates, times, and locations for these workshops are provided in Tables 5 and 6.

**Table 5. Green River Planning Area Stakeholder Workshops**

Date	Time	City, County, and State	Location and Address
June 13, 2018	5:00–7:00 p.m.	Vernal, Uintah County, Utah	Uintah County Library 204 East 100 North
June 27, 2018	5:00–7:00 p.m.	Moab, Grand County, Utah	Grand County Public Library 257 East Center Street
June 28, 2018	11:00 a.m.–1:00 p.m.	Green River, Emery County, Utah	John Wesley Powell River History Museum 1765 East Main Street
June 10, 2019	7:00–8:00 p.m.	Vernal, Uintah County, Utah	Uintah County Library 204 East 100 North
June 25, 2019	7:00–8:00 p.m.	Moab, Grand County, Utah	Grand Center 182 North 500 West

**Table 6. Colorado River Planning Area Stakeholder Workshops**

Date	Time	City, County, and State	Location and Address
June 27, 2018	5:00–7:00 p.m.	Moab, Grand County, Utah	Grand County Public Library 257 East Center Street
June 25, 2019	7:00–8:00 p.m.	Moab, Grand County, Utah	Grand Center 182 North 500 West

## Counties

To reach out to county governments whose management authority often extends to the boundary of sovereign lands, FFSL made direct contact with county-elected officials and planning staff by email and telephone to present the rationale for the MLP and answer any questions about the process. Commissioners were invited to the public open houses previously described. In addition, a meeting was scheduled with the commissioners in each county to discuss county-specific issues and concerns (Tables 7 and 8).

**Table 7. Green River Planning Area County Meetings**

Date	Time	City, County, and State	Location and Address
March 27, 2018	4:00–5:00 p.m.	Vernal, Uintah County, Utah	Uintah County Offices 152 East 100 North
April 12, 2018	12:00–1:00 p.m.	Loa, Wayne County, Utah	Wayne County Courthouse 18 South Main Street
April 17, 2018	10:00–11:00 a.m.	Castle Dale, Emery County, Utah	Emery County Offices 75 E. Main Street
April 18, 2018	4:00–5:00 p.m.	Moab, Grand County, Utah	Grand County Offices 125 E. Center Street

**Table 8. Colorado River Planning Area County Meetings**

Date	Time	City, County, and State	Location and Address
April 10, 2018	4:00–5:00 p.m.	Kanab, Kane County, Utah	Kane County Courthouse 76 North Main Street
April 11, 2018	12:00–1:00 p.m.	Panguitch, Garfield County, Utah	Garfield County Courthouse 55 South Main Street
April 17, 2018	4:00–5:00 p.m.	Monticello, San Juan County, Utah	San Juan County Administration Building 117 South Main Street
April 18, 2018	4:00–5:00 p.m.	Moab, Grand County, Utah	Grand County Offices 125 E. Center Street

## Federal Agencies

Federal agencies manage property adjacent to the boundary of Green and Colorado River sovereign lands and may have overlapping jurisdiction with FFSL. FFSL made direct contact with federal agencies such as the U.S. Bureau of Land Management, U.S. National Park Service, Natural Resources

Conservation Service, U.S. Fish and Wildlife Service, U.S. Department of Energy, and the Office of Senator Mike Lee through email to present an overview of the MLP process and invite staff to all of the public open houses. In addition, working meetings were scheduled with federal agencies to allow for one-on-one discussions of agency-specific issues and concerns. A second set of meetings was scheduled after the publication of the draft plan in 2019 to collect feedback (Tables 9 and 10).

**Table 9. Green River Planning Area Federal Meetings**

Date	Time	City, County, and State	Location and Address
June 13, 2018	1:00–3:00 p.m.	Vernal, Uintah County, Utah	Uintah County Library 204 East 100 North
June 27, 2018	1:00–3:00 p.m.	Moab, Grand County, Utah	Grand County Public Library 257 East Center Street
June 10, 2019	3:00–4:00 p.m.	Vernal, Uintah County, Utah	Uintah County Library 204 East 100 North
June 25, 2019	3:00–4:00 p.m.	Moab, Grand County, Utah	Grand Center 182 North 500 West

**Table 10. Colorado River Planning Area Federal Meetings**

Date	Time	City, County, and State	Location and Address
June 27, 2018	1:00–3:00 p.m.	Moab, Grand County, Utah	Grand County Public Library 257 East Center Street
June 25, 2019	3:00–4:00 p.m.	Moab, Grand County, Utah	Grand Center 182 North 500 West

## **Tribes**

Because the Ute Indian Tribe of the Uintah and Ouray Indian Reservation, Navajo Nation, and Ute Mountain Ute Tribe are considered adjacent landowners or stakeholders in the MLP process, FFSL reached out to tribal officials through email and by telephone to explain the MLP process and invite tribal members to attend any of the public open houses. In addition, FFSL presented a slideshow that provided an overview of the MLP planning process and expected outcome on August 10, 2018, at the Utah Tribal Leaders meeting in Salt Lake City. After publication of the draft MLP, FFSL presented an overview of the draft plan and information on how to submit comments at a Utah Tribal Leaders meeting in Cedar City, Utah, on June 6, 2019.

## **Meeting Design**

The open houses combined formal presentation and open house formats. At each meeting, the FFSL sovereign lands planner or sovereign lands program manager provided a project overview presentation. Following this overview, FFSL and SWCA staff answered questions and facilitated information-gathering activities in an open house format, as applicable. Attendees were greeted, asked to sign in, provided information about the meeting format, and given the option of taking a brochure and/or business card with project details, the MLP website (<http://bit.ly/GreenColoradoRiversPlans>), and contact information. Attendees were informed about ways to follow the planning process, provide information, and submit comments. They were encouraged to ask questions of the facilitators.

During open house series #1, display boards were arranged around the meeting room to allow attendees to make comments on river resources, including minerals and energy. During open house series #2, a different set of display boards was used to provide information from the draft plan such as river use classes and sovereign lands mineral leasing classification.

Stakeholder workshops were held in an open house format. At times, attendees were broken into smaller groups representing their stakeholder interests. For the first set of stakeholder workshops, directed questions were prepared to use in small groups for guided discussion; however, attendees preferred a more free-flowing conversation. County and federal meetings were also held in an open house format with a free-flowing exchange of ideas and information.

## ***Meeting Advertising***

Pursuant to FFSL requirements, public open house meetings were advertised in a variety of formats before their scheduled dates. In each format, the advertisements provided logistics, explained the purpose of the meetings, gave the public comment period schedule if applicable, outlined additional methods to comment, and provided ways to obtain more information. Methods of communicating with the public, stakeholders, counties, federal agencies, and tribes included media outlets, direct emails, direct mail postcards, the project website, the FFSL website, and FFSL press releases.

## **Advertising for Public Open Houses**

Meeting information for the MLP project kickoff open houses was posted on the project website and emails were sent on March 21, 2018, and May 9, 2018 (for the Salt Lake City open house). Media releases for the project kickoff open houses were emailed on March 12, 2018, to FFSL's Public Information Officer's statewide media contact list.

Meeting information for the draft MLP review open houses was posted on the project website and emails were sent on May 31, 2019, and June 13, 2019. Media releases for the draft MLP review open houses were emailed on June 3, 2019, to FFSL's Public Information Officer's statewide media contact list.

Formal newspaper legal notices for the MLP project kickoff open houses were submitted and requested to be posted on the following dates in 2018:

- *Southern Utah News* (Kane County): March 29, 2018, and April 5, 2018
- *Uintah Basin Standard* (Uintah County): March 13, 2018, and April 20, 2018
- *Vernal Express* (Uintah County): March 13, 2018, and April 20, 2018
- *The Insider* (Garfield and Wayne Counties): March 30, 2018; April 6, 2018; and June 12, 2018
- *ETV Emery County* (Emery County): April 4, 2018, and April 11, 2018
- *Moab Times Independent* (Grand County): April 5, 2018, and April 12, 2018
- *Moab Sun News* (Grand County): April 5, 2018, and April 12, 2018

- *San Juan Record* (San Juan County): April 3, 2018, and April 10, 2018
- *Salt Lake Tribune*, *Deseret News*, and *Utahlegals.com* (Salt Lake County): March 13, 2018 and March 20, 2018 (Uintah County); March 27, 2018 (Garfield, Kane, and Wayne Counties); April 3, 2018 (Emery, San Juan, and Grand Counties); May 7, 2018 (Salt Lake County)

Formal newspaper legal notices for the draft MLP review open houses were posted as follows in 2019:

- *Southern Utah News* (Kane County): May 30, 2019, and June 6, 2019
- *Uintah Basin Standard* (Uintah County): May 28, 2019, and June 4, 2019
- *Vernal Express* (Uintah County): May 28, 2019, and June 4, 2019
- *The Insider* (Garfield and Wayne Counties): May 30, 2019, and June 6, 2019
- *ETV Emery County* (Emery County): June 12, 2019, and June 19, 2019
- *Moab Times Independent* (Grand County): June 13, 2019, and June 20, 2019
- *Moab Sun News* (Grand County): June 13, 2019, and June 20, 2019
- *San Juan Record* (San Juan County): June 12, 2019, and June 19, 2019
- *Salt Lake Tribune*, *Deseret News*, and *Utah Legals.com* (Salt Lake County): May 24, 2019, May 31, 2019, and June 7, 2019 (Garfield, Kane, Uintah, and Wayne Counties); June 8, 2019, June 15, 2019, and June 22, 2019 (Emery, San Juan, and Grand Counties)

A list of planning process participants was developed from the following sources:

- Individuals or organizations (land-use applicants) holding an FFSL authorization
- All landowners adjacent to Green and Colorado River sovereign lands within the affected counties
- Green and Colorado River stakeholders including agricultural and irrigation interests, environmental organizations, mineral/energy groups, and members of the recreation community
- Green and Colorado River stakeholders identified by the planning team
- Tribes identified by SWCA cultural resource specialists
- Local, state, and federal agencies identified as having jurisdictional authority in the project

The following invitations were sent to inform interested participants of the open houses, stakeholder workshops, and county and federal meetings:

- Emails sent in March 2018 and May 2018 (Salt Lake City open house) for open houses series #1
- Postcards sent to current lessees and adjacent landowner in March 2018 for open house series #1
- Emails sent to stakeholders in May and June 2018 for the first stakeholder workshop
- Emails sent to county commissioners in March and April 2018 for the county meetings
- Emails sent to federal agencies in May and June 2018 for the federal agencies' working meeting

- Emails sent in May and June 2019 for open house series #2
- Postcards sent to current lessees and adjacent landowners in May and June 2019 for open house series #2
- Emails sent to stakeholders in May 2019 for the second stakeholder workshop
- Emails sent to federal agencies in May and June 2019 for the draft MLP review meeting

The formal comment period began on May 31, 2019. The last day of the public comment period was July 19, 2019, allowing more than 30 days from the first draft review open house on June 10, 2019. The final MLP and record of decision were posted to the FFSL website on January 8, 2020. FFSL sent final postcards and emails of the issued record of decision on January 8, 2020. Petitions for consistency review were to be received by January 28, 2020.

## **Public Trust**

Primary management responsibility for the river's resources lies with FFSL pursuant to Utah Code 65A, which governs management of all state lands within the jurisdiction of FFSL. Utah Code 65A-2-1 states that FFSL "shall administer state lands under comprehensive land management programs using multiple-use, sustained-yield principles." FFSL acknowledges its obligation to multiple-use sustained yield management, as well as its responsibility to the Public Trust (described in Utah Administrative Code R652-2).

FFSL will manage the Green and Colorado Rivers and their resources under multiple-use, sustained yield principles, while accommodating public and private uses to the extent that they do not substantially impair Public Trust resources (navigation, fish and wildlife habitat, aquatic beauty, public recreation, and water quality) or the river's sustainability.

The overarching management objectives of FFSL are to protect and sustain the Public Trust resources and to provide for reasonable beneficial uses of those resources, consistent with their long-term protection and conservation. The 2020 MLP was designed to facilitate FFSL's management of the Green and Colorado Rivers and their mineral resources under these principles.

## **Interagency Coordination**

Interagency coordination and communication are essential because Green and Colorado River management is complex and because multiple government agencies are involved with various resources and uses. During the MLP planning process, FFSL understood the importance of maintaining communication with the planning team. As outlined in Utah Code 65A-2-2, FFSL may request support for implementation of state land management plans and to this end seeks to maintain support across state agencies as it implements the 2020 GRCMP, CRCMP, and MLP. The management direction of the MLP encourages collaboration with adjacent landowners and agencies that have jurisdiction or authority on the river to improve overall river management and decision making. A complete discussion of agencies with intersecting jurisdictions and regulatory authorities can be found in the GRCMP and CRCMP. In addition, FFSL's strategy for communication between agencies can be found in the Coordination Framework chapters of these documents.

## **Public Outreach: Notification, Comment, and Review**

As outlined earlier in this decision document, the public had numerous opportunities to contribute to the MLP. As required by Utah Administrative Code R652-90-500, FFSL notified RDCC about the planning process and the draft MLP on March 26, 2018, and June 3, 2019, respectively. The project was made available for public comment on the Project Management System website (Exhibit A). However, no comments were received via RDCC during the planning process. Stakeholders and state, federal, and local governments were notified numerous times throughout the planning process, requesting their attendance at public meetings and requesting their comments. Notification for the first public open house series was sent by postcard to approximately 343 addresses and 177 email addresses. For the second series, notification was sent by postcard to approximately 379 addresses and 252 email addresses. Stakeholders were notified by email before the stakeholder workshops. The final announcement of this record of decision was sent by postcard to approximately 379 addresses (Exhibit B) and 252 email addresses. The formal 50-day public comment period for the draft MLP began on May 31, 2019, and ended on July 19, 2019. The public comment period followed the release of the draft MLP and coincided with the second round of public outreach meetings. Comments were accepted by comment response forms at public meetings, on the project website, by email, and by postal mail.

FFSL received three written submissions commenting on the draft MLP. Comments pertained to classification, impacts from proposed lease sales, and management philosophy. From the written submissions, four individual comments were extracted for review of acceptance or non-acceptance. Comments on the draft MLP were acknowledged and addressed, as appropriate, by FFSL (Exhibit C).

## **Constitutional Provisions, Statutes, and Administrative Rules**

### ***Utah Constitution Article XX, Section 1***

The Utah Constitution Article XX, Section 1 states the following:

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 lands 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.

### ***Utah Code 65A-2-1. Administration of State Lands - Multiple-Use Sustained-Yield Management***

Utah Code 65A-2-1 states the following:

The division shall administer state lands under comprehensive land management programs using multiple-use sustained-yield principles.



***Utah Code 65A-2-2. State Land Management Planning Procedures for Natural and Cultural Resources, Assistance from other State Agencies, Division Action***

Utah Code 65A-2-2 states the following:

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.

***Utah Code 65A-2-4. State Land Management Plans, Division to Adopt Rules for Notifying and Consulting with Interested Parties***

Utah Code 65A-2-4 states the following:

- (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 non-acceptance of the comments.

***Utah Code 65A-10-1. Authority of Division to Manage Sovereign Lands***

Utah Code 65A-10-1 states the following:

- (1) The division is the management authority for sovereign lands, and may exchange, sell, or lease sovereign lands but only in the quantities and for the purposes as serve the public interest and do not interfere with the public trust.

***Utah Administrative Code R652-2-200. Sovereign Land Management Objectives***

Utah Administrative Code R652-2-200 states the following:

The state of Utah recognizes and declares that the beds of navigable waters within the state are owned by the state and are among the basic resources of the state, and that there exists, and has existed since statehood, a public trust over and upon the beds of these waters. It is also recognized that the public health, interest, safety, and welfare

require that all uses on, beneath or above the beds of navigable lakes and streams of the state be regulated, so that the protection of navigation, fish and wildlife habitat, aquatic beauty, public recreation, and water quality will be given due consideration and balanced against the navigational or economic necessity or justification for, or benefit to be derived from, any proposed use.

### ***Utah Administrative Code R652-70-200. Classifications of Sovereign Lands***

Utah Administrative Code R652-70-200 states the following:

Sovereign lands may be classified based upon their current and planned uses. A synopsis of some possible classes and an example of each class follows. For more detailed information, consult the management plan for the area in question.

1. Class 1: Manage to protect existing resource development uses. The Utah State Park Marinas on Bear Lake and on Great Salt Lake are areas where the current use emphasizes development.
2. Class 2: Manage to protect potential resource development options. For example, areas adjacent to Class 1 areas which have the potential to be developed.
3. Class 3: Manage as open for consideration of any use. This might include areas which do not currently show development potential but which are not now, or in the foreseeable future, needed to protect or preserve the resources.
4. Class 4: Manage for resource inventory and analysis. This is a temporary classification which allows the division to gather the necessary resource information to make a responsible classification decision.
5. Class 5: Manage to protect potential resource preservation options. Sensitive areas of wildlife habitat may fall into this class.
6. Class 6: Manage to protect existing resource preservation uses. Cisco Beach on Bear Lake is an example of an area where the resource is currently being protected.

### ***Utah Administrative Code R652-90-300. Initiation of Planning Process***

Utah Administrative Code R652-90-300 states the following:

2. Resource Management planning is initiated by the division's identification and determination that there is a need for such a plan.

## ***Utah Administrative Code R652-90-500. Notification and Public Comment***

Utah Administrative Code R652-90-500 states the following:

3. Notice that a site-specific or resource planning effort is under way shall be given to:
  - (a) Affected parties as required by rule for exchange, or lease;
  - (b) The Governor's Office of Planning and Budget for inclusion in the RDCC Project Management System for public and agency notification and comment.

## ***Utah Administrative Code R652-90-600. Public Review***

Utah Administrative Code R652-90-600 states the following:

2. Resource plans shall be published and made available upon request.
  - (a) Persons wishing to comment on these plans may do so at any time.
  - (b) The division shall acknowledge all written comments.

## **Findings of Fact**

1. As described herein, FFSL notified the public and local, federal, and state agencies, including the RDCC, of the MLP planning effort.
2. As described herein, FFSL conducted public meetings in conjunction with the MLP planning effort.
3. As described herein, FFSL published a draft of the MLP and accepted comments from the public and other government entities and responded to all comments properly submitted.
4. FFSL considered and implemented legislative directives concerning the content of the MLP.

## **Conclusions of Law**

1. FFSL properly initiated the planning process for a resource management plan by designating the planning unit and planning priorities established by FFSL.
2. FFSL fulfilled its notification requirements to lessees, to local governments, and to the RDCC when the project was initiated. FFSL went beyond its required notification by also notifying adjacent landowners and stakeholders.
3. The notification requirements for the public meetings have been met or exceeded.
4. The public review requirements have been met or exceeded.
5. FFSL properly responded to comments received in compliance with the applicable law.
6. The MLP fulfills the requirements of applicable statutes, rules, policies, and legal doctrines.
7. The planning process and subsequent MLP comply with the legal requirements for a resource management plan.

## **Decision and Order**

Based on the foregoing, FFSL hereby adopts the MLP, which satisfies the requirements of applicable statutes, rules, and policies. The MLP becomes the resource management plan that guides mineral leasing on the sovereign lands within the planning area. The MLP supersedes any and all previous management plans—adopted, draft, or otherwise—and represents the official position of FFSL.

Dated this 6th day of January 2020.

## **Administrative Appeals**

Parties having an interest in this action may file a petition for administrative review by the division pursuant to Utah Administrative Code R652-9. 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 the 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 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 January 28, 2020.

**APPROVED BY:**



BRIAN COTTAM  
STATE FORESTER/DIRECTOR

DATE: 12-27-19

**PREPARED BY:**



LAURA VERNON  
SOVEREIGN LANDS PLANNER

DATE: 12/26/19

**REVIEWED BY:**



JAMES BARNES  
SOVEREIGN LANDS PROGRAM MANAGER

DATE: 1-6-2020

**REVIEWED BY:**



FREDRIC J. DONALDSON  
ASSISTANT ATTORNEY GENERAL

DATE: 1/6/2020

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## **EXHIBIT A. RESOURCE DEVELOPMENT COORDINATING COMMITTEE DOCUMENTATION**

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## Project Information

Close

Project #69363 Saved. Submitted projects are subject to review by PLPCO staff prior to official project creation.

Project Id: 69363

\* Stream Alt:

\* Sponsor: DNR/Division of Forestry, Fire & State Lands

\* Comments Due to Sponsor: 07/19/2019 (MM/DD/YYYY)

Anticipated Project Start Date: 01/15/2018 (MM/DD/YYYY)

\* Title of Proposed Action: Green and Colorado River Draft Comprehensive Management Plan and Up

\* Project Abstract: The Utah Department of Natural Resources Division of Forestry, Fire and State Lands (FFSL) is seeking public comment on the draft Comprehensive Management Plans (CMPs) and draft Mineral Leasing Plan (MLP) for the Green and Colorado Rivers. Multiple open houses will be held to host the public and receive comments about the draft plans.

Project URL: <http://bit.ly/goromp>  
i.e. <http://www.epa.gov/fedrgstr/EPA-PROJ1/2009/August/Day-12/e19998.htm>

\* Counties: ☐ select all ☐ unselect all

- |   |  |  |   |
|---|--|--|---|
| <input type="checkbox"/> Beaver           | <input checked="" type="checkbox"/> Garfield | <input type="checkbox"/> Rich                | <input type="checkbox"/> Utah             |
| <input type="checkbox"/> Box Elder        | <input checked="" type="checkbox"/> Grand    | <input type="checkbox"/> Salt Lake           | <input type="checkbox"/> Wasatch          |
| <input type="checkbox"/> Cache            | <input type="checkbox"/> Iron                | <input checked="" type="checkbox"/> San Juan | <input type="checkbox"/> Washington       |
| <input type="checkbox"/> Carbon           | <input type="checkbox"/> Juab                | <input type="checkbox"/> Sanpete             | <input checked="" type="checkbox"/> Wayne |
| <input type="checkbox"/> Daggett          | <input checked="" type="checkbox"/> Kane     | <input type="checkbox"/> Sevier              | <input type="checkbox"/> Weber            |
| <input type="checkbox"/> Davis            | <input type="checkbox"/> Millard             | <input type="checkbox"/> Summit              |   |
| <input type="checkbox"/> Duchesne         | <input type="checkbox"/> Morgan              | <input type="checkbox"/> Tooele              |   |
| <input checked="" type="checkbox"/> Emery | <input type="checkbox"/> Piute               | <input checked="" type="checkbox"/> Uintah   |   |

\* Location: Lat/Lon (Decimal) 38.28557,-110.0119  
Lat/Lon Decimal ex. 40.7653,-111.8933

### Location or Supplemental Attachment

Attach a location or supplemental file to the project. Office type documents will be converted to the PDF format. [Upload](#)

Allowed file formats: .doc, .docx, .xls, .xlsx, .bit, .rtf, .csv, .pdf, .tif, .gif, .jpg, .bmp, .png, .oda

Location Attachment: GRCMP Press Release\_R2 05-21-2019.pdf [\[remove\]](#)

\* Has local government been contacted? ☒ Yes ☐ No

\* Date local government was contacted: 05/31/2019 (MM/DD/YYYY)

What was the local government's response? Invitations sent to county officials to review and meeting to discuss the draft plans.

\* How is the local government(s) likely to be impacted? Consistent river management guidance from FFSL on Green and Colorado Rivers.

\* Possible significant impacts likely to occur: None anticipated

Admin Notes:

(255 characters remaining)

### Project Contact Information

\* Name: Laura Vernon

\* Phone Number: (801) 673-0227

\* Email: lauravernon@utah.gov

Submitter: Laura Vernon (lauravernon@utah.gov)

Save



**EXHIBIT B. NOTICE TO INTERESTED PARTIES (MLP  
CURRENT LESSEES AND ADJACENT LANDOWNER  
MAILING LIST)**

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ADAMS,BILL L CO-TRUSTEE PO BOX 293 Green River UT 84525	Adesta Communications Inc 70 West 500 South Provo UT 84601	Adventure Bound Inc 2392 H Road Grand Junction CO 81505
Adventure Bound, Inc. River Expeditions 2392 H Road Grand Junction CO 81505	AGAINST THE WIND PROPERTIES LLC 4898 S 4625 E VERNAL UT 84078	ALLEIN,JOHN MICHEAL 2556 E VALLEY VIEW AVE HOLLIDAY UT 84117
American Adventure Productions, Inc. 314 South Second St Aspen CO 81611	AMERICAN GILSONITE COMPANY P O BOX 7611 SAN FRANCISCO CA 94120-7611	American River Touring Association, Inc. 24000 Casa Loma Rd Groveland CA 95321
Andover Partners 1001 Fannin Suite 2000 Houston TX 77002	ANTLES RANDY AND JILL 3000 S 5000 E VERNAL UT 84078	Armstrong Resources, LLC 1421 Blake Street Denver CO 80202
ARNOLD COLLETT P O BOX 311 JENSEN UT 84035	Aurora Gathering, LLC. 1401 -- 17Th St, Suite 700 Denver CO 80202	'BANASKY JAMES RANCHES LLC' 'PO BOX 728' 'PRICE' 'UT' 84501
Banasky, James 2080 Spring Oaks Drive Springdale UT 84663	Banson, Bonnie 12601 Darlene Lane Hot Springs SD 57747	BARDON BENJAMIN 337 E HORSESHOE BEND RD VERNAL UT 84078
Base Camp P.O. Box 37 Moab UT 84532	BBJC INVESTMENT COMPANY LTD 2690 TELEMAR DR PARK CITY UT 84060	BEASLEY JAMES R 4941 S 2525 E VERNAL UT 84078
BEEZ INC 1120 E 1500 S VERNAL UT 84078	Belco Development Corp PO Box 1188 Houston TX 77251	BIG DOG PROPERTIES LLC ETAL 2550 E 1500 S VERNAL UT 84078
'BINGHAM MARC C' 'PO BOX 185' 'OREM' 'UT' 84059	BLM (MOAB FIELD OFFICE) 82 E DOGWOOD MOAB 'UT' 84532	BLM (Monticello Field Office) 365 North Main Monticello UT 84535
BLM (PRICE FIELD OFFICE) 125 S 600 W PRICE UT 84501	BLM (VERNAL FIELD OFFICE) 170 S 500 E VERNAL UT 84079	Blue Heron Outfitters, Inc. PO Box 1520 Moab UT 84532

BOWDEN ROBERT PO BOX 165 JENSEN UT 84035	Bowden, Randal PO Box 692 Moab UT 84532	BRAD HASLEM INVESTMENTS LLC 826 S 1500 E VERNAL UT 84078
BREWER,KESHA B PO BOX 304 Green River UT 84525	Bureau of Land Management, Grand Resource Area PO Box 970 Moab UT 84532	BURROLA JOSEANGEL AND MARIBEL 3029 S 670 E VERNAL UT 84078
Cabot Oil & Gas Production Cor PO Box 4544 Houston TX 77210-4544	CADY,MAE 24438 CREAMERY LN WEED CA 96094	Calais Resources Inc 202 Spring St PO Box 310 Morrison CO 84065
Calais Resources Inc PO Box 310 Morrison CO 80465	Canyon River Company 1914 South Cross Hollow Dr Cedar City UT 84720	Canyon Voyages PO Box 416 Moab UT 84532
Canyonlands by Night P.O Box 328 Moab UT 84532	Canyonlands Field Institute Ft Duchesne Moab UT 84532	CARROLL DON J & JEAN R 12457 S DRAPER GROVE CT DRAPER UT 84020
'CARROLL DRILLING LLC' '11850 S HWY 191 STE A-10' 'MOAB' 'UT' 84532	'CARTER JUSTIN E' 'P O BOX 101' 'GREEN RIVER' 'UT' 84525	Carter, Dorothy 3480 E 3000 S Roosevelt UT 84066
CARTER,DOROTHY A PO BOX 436 ALTAMONT UT 84001	Centennial Canoe Outfitters 1623 Juniper Ct. Grand Junction CO 81505	CHAFFIN,STEPHEN FAUN 1919 9 RD MACK CO 81525
'CHANDLER JAMES M' PO BOX 372 'GREEN RIVER' 'UT' 84525	CHAPMAN NILE AND ROGER PO BOX 818 ROOSEVELT UT 84066	Chapoose Canyon Adventures PO Box 766 Ft Duchesne UT 84026
Chevron USA Inc PO Box 1635 Houston TX 77251	Chevron USA Inc PO Box 36366 Houston TX 77236	CHEW RANCH LLC ETAL PO BOX 126 JENSEN UT 84035-0126263
Chris Sammartano Productions 68 Jeffreys Neck Rd Ipswich MA 1938	CJC Properties 1111 Horizon Dr. Unit 807 Grand Junction CO 81506	COLLINS RANDY V AND JESSICA 616 S 2150 W VERNAL UT 84078

Colorado Outward Bound 16 Ranch Road Moab UT 84532	COLORADO RIVER & TRAIL EXPED 5058 COMMERCE DR SALT LAKE CITY UT 84107	Colorado River & Trail Expeditions 5058 South 300 West Salt Lake City UT 84107-4708
Colorado River And Trail Exped 5058 South 300 West Salt Lake City UT 84107-4708	Compass Minerals Ogden Inc 765 North 10500 West Ogden UT 84404	'CONRAD PATRICK N' 'PO BOX 10263' 'FORT SMITH' 'AR' 72917
Construction Company, Inc 166 East 14000 South Suite 200 Draper UT 84020	Corporate Helicopters PO Box 296 Moab UT 84532	'CRUEGER ROBERT KYLE' '2918 61ST AVE NORTHEAST' 'TACOMA' 'WA' 98422
CUMMINGS LORENZO JOHN AND LAJEAN R TRUSTEES CUMMINGS ASSET PROTECTION TRUST 1050 E BRIGHAM RD #72	CV AGRICULTURE LLC PO BOX 70 Green River UT 84525	CV AGRICULTURE LLC PO BOX 623 Green River UT 84525
DALBO INC 2180 S 1300 E STE # 310 SALT LAKE CITY UT 84106	DAVIS VICTOR AND AMANDA 490 E HORSESHOE BEND RD VERNAL UT 84078	Deer Hill Expeditions PO Box 180 Mancos CO 81328
DESERET GENERATION & TRANSMISSION COOPERATIVE 10714 SOUTH JORDAN GATEWAY SOUTH JORDAN UT 84095	Desert Highlights PO Box 1342 Moab UT 84532	Div of Parks And Recreation 1594 West North Temple Ste 116 Salt Lake City UT 84114-6001
Dominion Exploration & Product 1450 Poydras Street New Orleans LA 70112-6000	Don Hatch River Expeditions, Inc. PO Box 67 Angels Camp UT 95222	DUCHESNE COUNTY WATER CONSERVANCY DISTRICT 275 W 800 S ROOSEVELT UT 84066
'DUNHAM CHRIS C' 'PO BOX 193' 'GREEN RIVER' 'UT' 84525	'DUNHAM KELLY' 'PO BOX 451' 'GREEN RIVER' UT 84525	Dunham Land & Livestock PO Box F Green River UT 84525
'DUNHAM NANCY JEAN TRUSTEE' 'PO BOX 540' 'GREEN RIVER' 'UT' 84525	DUNHAM,CHRIS C PO BOX 193 Green River UT 84525	DUNHAM,KELLY PO BOX 451 Green River UT 84525
DUNHAM,NANCY JEAN TRUSTEE PO BOX 451 Green River UT 84525	El Paso Production Oil& Gas Co 1099 - 18Th St Suite 1900 Denver CO 80202	Encana Oil & Gas (USA) Inc 950 17th Street Suite 2600 Denver CO 80202

ENEFIT AMERICAN OIL CO 307 W 200 S SUITE 4005 SLC UT 84101	Enron Oil & Gas Company 1625 Broadway Suite 1300 Denver CO 80202	Enterprise Products PO Box 4324 Houston TX 77210-4324
EOG Resources Inc PO Box 4362 Houston TX 72210-4362	EP Operating Company Ltd PO Box 2649 Dallas TX 75221-2649	Epstien, William 4391 S. Parkview Drive Salt Lake City UT 84124
ERWIN,JACK R & CHARLOTTE PO BOX 142 Green River UT 84525	ERWIN,KIRK RANDALL PO BOX 638 Green River UT 84525	ERWIN,KIRK RANDALL PO BOX 640 Green River UT 84525
FARRER,E S MRS 1731 HARTS MILL RD NE ATLANTA GA 30341	FINLEY PRODUCTION CO LP ETAL 1308 LAKE STREET FT WORTH TX 76102	Finley Resources PO Box 2200 Fort Worth TX 76113
FREEMAN LINDSAY MORGAN ETAL PO BOX 340 RIVERTON UT 84065	Fryer, Colin 11147 East SR128 Moab UT 84532	G & H STORAGE LLC 331 N VERNAL AVE VERNAL UT 84078
Gasco Production Comkpany 8 Inverness Dr East Ste 100 Englewood CO 80112-5625	GEE KIMBERLY 15505 N 4400 W GARLAND UT 84312	'GERBER JEFFREY MARK TRUSTEE' 'PO BOX 776009' 'STEAMBOAT SPRINGS' 'CO' 80477
GILROY GREG L AND JOLYNN 704 W 2500 S VERNAL UT 84078	GKM PROPERTIES LLC 85 S 200 E VERNAL UT 84078	Grand County 125 East Center Street Moab UT 84532
Gravity Play Sports Marketing 11536 Cr250 Durango CO 81301	Gray, Gordon PO Box 232 Snyder TX 76550	Great Iguana Filmworks 17623 Bullock St Encino CA 91316
GREEN PASTURE INTERNATIONAL INC P O BOX 160 JENSEN UT 84035	GREEN RIVER CANAL COMPANY PO BOX 84 Green River UT 84525	Green River Companies 124 South 400 East Salt Lake City UT 84111
GREEN RIVER COMPANIES LLC 9911 S 78TH AVE HICKORY HILLS IL 60457	GREEN RIVER COMPANIES, LLC' '9911 S 78TH AVE' 'HICKORY HILLS' 'IL' 60457	Green River Development Associates, Inc. PO Box 570 Green River UT 84525



Green River Diversion Dam Cooperation 460 East Main Green River UT 84525	GREEN RIVER PROPERTIES LLC' '1648 FEDERAL HEIGHTS DR' 'SALT LAKE CITY' 'UT' 84103	Green River Properties, LLC 755 E. Turtle Point Drive Ivins UT 84738
GREEN RIVER REAL ESTATE INVEST 5911 FASHION BLVD STE 200 SALT LAKE CITY UT 84107	Green River Valley Investments, LLC PO Box 1501 Clifton CO 81520	Griffith, Sheri 2740 Old City Park Road Moab UT 84532
Group Publishing, Inc. 1515 Cascasde Avenue Loveland CO 80538	GW&E LC 580 West 1261 North Orem UT 84058	Hansen, Bart PO Box 653 Mona UT 84645
HANSEN,RICHEY E PO BOX 113 Green River UT 84525	HARLOW LYLE W AND LINDA TRUSTEES OF THE LYLE AND LINDA HARLOW FAMILY TRUST 751 S 2050 W	HARMSTON GREGG AND MELODY L PO BOX 1548 ROOSEVELT UT 84066
Harris, Dale 1258 S 860 W Cedar City UT 84720	HARRIS,BALLARD 1259 S 860 W CEDAR CITY UT 84720	HASLEM RICHARD M TRUSTEE OF THE RICHARD M HASLEM TRUST DATED 11/3/2000 ETAL PO BOX 1265
'HASTINGS H L ET AL' '400 36TH AVENUE' 'SANTA CRUZ' 'CA' 95062	HATCH KENT DEE ETAL 141 W 500 S HEBER CITY UT 84032	HATT,BETSY R TRUSTEE PO BOX 420 Green River UT 84525
HEATH,HAROLD TRUSTEE 40 N 425 E SMITHFIELD UT 84335	Hiko Bell Mining & Oil Co PO Box 1845 Vernal UT 84078	HISKEY MICHAEL K AND MARY ANN P. O. BOX 315 EUREKA UT 84628
Holiday River Expeditions 544 East 3900 South Salt Lake City UT 84107	HOLMES BAR NE RANCH LLC 4751 S 500 E VERNAL UT 84078	HOLYOAK LAND AND LIVESTOCK LLC PO BOX 82 Green River UT 84525
HORROCKS DIXIE L TRUSTEE OF THE DIXIE L HORROCKS FAMILY TRUST 1785 S 1500 E VERNAL UT 84078	HORROCKS JOSHUA G AND ERIN L 2209 S 2000 E VERNAL UT 84078	HOWLAND,ANNALEE PO BOX 272 Green River UT 84525
HOWLAND,GARY L & KOIE L TRUST 1829 N LABYRINTH DR ST GEORGE UT 84770	Hunt Petroleum (Aec), Inc PO Box 1350 Houston TX 77251-1350	Hunt Petroleum (Aec), Inc PO Box 1350 Houston TX 77251-1350

HUNT,CHET D PO BOX 501 Green River UT 84525	HUNT,COBY PO BOX 502 Green River UT 84525	HUNTING LARRIS A 2906 E 2500 S VERNAL UT 84078
HUNTING ROBERT T 2575 S 2400 E VERNAL UT 84078	HUNTING STEVEN C 2442 E 2500 S VERNAL UT 84078	Impossible Pictures 12 Great Portland Street London England
INABNIT HENRY LES AND ZENaida D TRUSTEES OF THE HENRY LES INABNIT TRUST ETAL PO BOX 993	INDIAN RESERVATION (UINTAH & OURAY TRIBAL LANDS)  FORT DUCHESNE UT 84026	INDIAN TRAIL RANCH LLC 621 VISTA VIEW CT NORTH SALT LAKE UT 84054
INTERMOUNTAIN CONCRETE CO 625 E MAIN ST VERNAL UT 84078-2703254	International Adventure Tours 420 Kane Cr Blvd Moab UT 84532	'INTERNATIONAL PETROLEUM LLC' '8083 BARNWOOD WAY' 'SANDY' 'UT' 84092
International Petroleum, LLC. 4834 So Highland Dr #200 Salt Lake City UT 84117	Intrepid Oil & Gas, LLC. 700 17Th Street Suite 1700 Denver CO 80202	Intrepid Potash - Moab, LLC PO Box 1208 Moab UT 84532
J N TRUCKING INC 4091 W 3000 S ROOSEVELT UT 84066	JENSEN,JEAN WILCOX PO BOX 1736 PRICE UT 84501	Jet Enterprises 2429 E 73rd Place Tulsa OK 74136
JHCRPN, LLC 5910 Emigration Canyon Salt Lake City UT 84108	JOHNS WILLIAM J PO BOX 496 NETTIE WV 26681-0496	Johnston, Terill 3595 Spanish Valley Dr Moab UT 84532
JONES TIMOTHY C ETAL PO BOX 222 JENSEN UT 84035	Jones, George 10770 Fred Lane Missoula MT 59808	'JOUFLAS CHRIS P' '1111 HORIZON DR UNIT 801' 'GRAND JUNCTION' 'CO' 81506
K BAR RANCH LLC PO BOX 757 MOAB UT 84532	Kerr-Mcgee Oil & Gas Onshore L PO Box 4995 The Woodlands TX 77387-4995	'KING DEAN LEE' PO BOX 326 'GREEN RIVER' 'UT' 84525
King Land & Livestock PO Box 326 Green River UT 84525	KING,DEAN LEE TRUSTEE PO BOX 326 Green River UT 84525	Lakeside School 14050 First Avenue Ne Seattle WA 98125

Lakeside School Outdoor Program 14050 First Avenue Ne Seattle WA 98125	LAMB KARL AND DONNA PO BOX 216 MYTON UT 84052	Lance H&D Properties PO Box 526 Midway UT 84049
Land Rover G'4s Challenge 1 Farnham Road Guildford Surrey GU2-4RG	LAZY 3X SWEETWATER RANCH LLC 561 S ROAD MACK CO 81525	'LECHLEITER CRAIG' PO BOX 474 'GREEN RIVER' 'UT' 84525-0474
LEGRAND JOHNSON CONSTRUCT PO BOX 248 LOGAN UT 84323	Letlow, Rusell 1626 W. 3rd Street Pecos TX 79722	LINDGREN,BONNIE B CO-TRUSTEE 826 TEN LETTER CT KUNA ID 83634
Livestock, Taylor 280 W. Center Street Moab UT 84532	Lomax Exploration Co 475 Seventeenth St Suite 1500 Denver CO 80202	LUTHER CHARLES AND YOLANDA D P.O. BOX 492 DUCHESNE UT 84021
MACKAY,DAVID J TRUSTEE 5058 COMMERCE DR SALT LAKE CITY UT 84107	MARTIN JAMES W 12730 HORSESHOE BEND RD VERNAL UT 84078	MASSEY SHON AND TAMRA 7770 E 7260 S JENSEN UT 84035
MATTINGLY,JAMES 1945 SPANISH VALLEY DR MOAB UT 84532	MAYHEW LON W AND AMY L PO BOX 9 JENSEN UT 84035	MCCARREL SCOTT & RAYMA 4556 E HIGHWAY 40 VERNAL UT 84078-9271563
MCCARTNEY,SALLY DIANE 1155 HAYES AVE SALT LAKE CITY UT 84104	MCFARLANE,KIM T PO BOX 356 Green River UT 84525	MECHAM,GERALD D PO BOX 383 CLEVELAND UT 84518
'MEENS LAURENCE K' '3162 SADDLEGATE CT' 'GRAND JUNCTION' 'CO' 81504-4050	MERKLEY EDWARD H AND GERALDINE F TRUSTEES OF MERKLEY FAMILY TRUST 12/15/16 990 N 1270 W	MERKLEY LORIN T AND BEVERLY - CO- TRUSTEES ETAL 1357 N 3500 W VERNAL UT 84078
MERRELL DALE J AND JOANN R. TEES OF THE DALE J. MERRELL REVOC TRUST ET AL 400 S BELLA VISTA DR	MIGLIACCIO,MARIOLIVER PO BOX 229 Green River UT 84525	'MITCHELL DENNIS' '125 WOLFE ST' 'ALEXANDRIA' 'VA' 22314-3831
Moab BLM 2370 South 2300 West Salt Lake City UT 84119	Moab City 217 E. Center Street Moab UT 84532	Moab Gas Pipeline LLC 1801 Broadway, Suite 800 Denver CO 80202

Moab Salt Inc PO Box 1208 Moab UT 84532	Morelli, Ralph 5127 E. Woodland Ave Salt Lake City UT 84106	MORGAN JASEN M 240 E HORSESHOE BEND RD VERNAL UT 84078
MORRISON MICHAEL 1030 E 500 S VERNAL UT 84078	MOST JOEL AND DANIELLE 508 E HORSESHOE BEND RD VERNAL UT 84078	Mountain Island Ranch PO Box 57 Glade Park CO 81523
'MOUNTAIN ISLAND RANCH LLC' '5350 LITTLE DOLORES RD' 'GLADE PARK' 'CO' 81523	Myke Hughes, Inc 378 N Main Moab UT 84532	NASH ANN HUNTING P O BOX 7953 NIKISKI AK 99635
National Ability Center 1000 Ability Way Park City UT 84060	National Outdoor Leadership Schools PO Box 1304 Vernal UT 84078	National Park Service (Glen Canyon National Recreation Area) PO Box 1507 Page AZ 86040
'NATURE CONSERVANCY THE' '559 EAST SOUTH TEMPLE' 'SALT LAKE CITY' UT 84102	Navtec Expeditions PO Box 1267 Moab UT 84532-1267	'NELSON BRUCE EARL TRUSTEE' 'BOX 537' 'GREEN RIVER' 'UT' 84525
'NELSON CHARLES W TRUSTEE' 'PO BOX 940' 'MOAB' UT 84532	Nelson, Robert PO Box 393 Green River UT 84525	Newfield Production 1001 17Th Street Suite 2000 Denver CO 80202
Newland, William PO Box 313 Green River UT 84525	Nichol's Expeditions 497 North Main St Moab UT 84532	NICKEY, WILLIAM M JR TRUSTEE 1700 WIGGINS AVE SPRINGFIELD IL 62704
NIELSEN NATHAN THOMAS HC 69 BOX 192 RANDLETT UT 84063	North American River Expeditions PO Box 68 Angels Camp CA 95222	Northwest Pipeline Corp PO Box 58900 Salt Lake City UT 84158-0900
NTCH- Colorado, Inc 1600 Ute Avenue Ste 10 Grand Junction CO 81501	Oars Canyonlands Inc PO Box 67 Angels Camp CA 95222	Onshore Offshore Explorations PO Box 178 Durango CO 81302-0178
Ouray National Wildlife Refuge 1680 W Hwy 40 #112C Vernal UT 84078	OZAETA ADOLFO AND LORRIE ANN 1318 W 2500 S VERNAL UT 84078	PacifiCorp 825 Ne Multnomah Suite 1000 Portland OR 97232

'PALLADIUM FOUNDATION'	PALMER TERRY	Pan Oklahoma Corporation
'867 E SIMPSON AVE'	4880 S 4380 W	PO Box 371
'SALT LAKE CITY' UT 84106	KEARNS UT 84118	Riverton UT 84065
'PAPPAS STEVEN L'	Parallel Petroleum Corp	PELTIER HENRY T AND TAMERA
'424 K STREET'	PO Drawer 10587	TRUSTEES OF HENRY T JR AND TAMERA
'SALT LAKE CITY' 'UT' 84103	Midland TX 79700	C PELTIER TRUST
		PO BOX 80
PETERSON COLE A ETAL	PETERSON KEITH B	PICKUP KENNETH D AND JOAN
PO BOX 37	PO BOX 13	HC 69 BOX 101
JENSEN UT 84035	JENSEN UT 84035	RANDLETT UT 84063
'PINNEO CHADWICK JIM'	'PINNEO FRANK JIM'	'PLEVELL JILL'
PO BOX 432	PO BOX 233	'7440 N BOGERT PL'
'GREEN RIVER' 'UT' 84525	'GREEN RIVER' 'UT' 84525-0233	'TUCSON' 'AZ' 85741
POELZL LILO	POWELL KELLY DUANE AND JAN	POWELL ROBERT R & NORMA
5583 N DRYFORK CANYON ROAD	PO BOX 195	1960 E 1500 N
VERNAL UT 84078	JENSEN UT 84035	VERNAL UT 84078
Provo Canyon School	PURDY, FORREST TRUSTEE	QEP Energy Company
4501 North University Ave	PO BOX 11	1050 17Th Street, Suite 500
Provo UT 84604	WIKIEUP AZ 85360	Denver CO 80265
QEP Field Services Company	QEP Uintah Basin, Inc	Questar Explor & Prod Co
160 East 100 South / Pob 45433	1050 17Th Street Suite 500	1050 17Th Street, Suite 500
Salt Lake City UT 84145-0433	Denver CO 80265	Denver CO 80265
Rahme, Richard	RAIM KENT WESLEY	RASMUSSEN SMOKEY TRUSTEE OF THE
PO Box 9286	17247 WARD CREEK RD	SMOKEY RASMUSSEN 2014 TRUST
Jackson WY 83002	CEDAREDGE CO 81413	PO BOX 141
		JENSEN UT 84035-0141419
Red Cliffs Adventure Lodge	Red Moon Ranch	RED MOUNTAIN CORPORATION
550 South Main	7722 Keswick Rd	PO BOX 818
Moab UT 84532	Sandy UT 84093	ROOSEVELT UT 84066
REDIPIANO ENTERPRISES LIMITED	'REDIPIANO ENTERPRISES LLC'	Rees, Steve
3688 FAIRWAY DRIVE	'1527 E WOODLAND AVE'	520 Main, Box 546
CAMERON PARK CA 95682	'SALT LAKE CITY' 'UT' 84106	Ashton ID 83420

Renegade 83 121 W Lexington Dr Bldg 413 Glendale CA 91203-2203	RGBM, Inc. 3926 S. Lake Lane Moab UT 84532	RGMB, LLC 3926 S Lake Ln Moab UT 84532
Richard Tangren 6775 Quinella Dr Las Vegas NV 89103	RICHES,DUANE PO BOX 278 Green River UT 84525	Rim to Rim Restoration PO Box 297 Moab UT 84532
RJM INVESTMENT CO 160 N 100 E MOAB UT 84532	ROACH RICHARD 10741 E BRAINERD RD APISON TN 37302	Robert L. Bayless, Producer, LLC. 621 17Th Street, Suite 2300 Denver CO 80293-2023
Rocky Mountain Power 710 North Main Street Richfield UT 84701	Rosen, Timothy PO Box 1825 Avon CO 81620	Rozman, Curtis PO Box 757 Moab UT 84532
RSA-USA, Inc. 634 North Lapeer Dr West Hollywood CA 90069	'RTA MOAB VALLEY LLC' '433 E. LAS COLINAS BLVD STE 300' 'IRVING' 'TX' 75039	RYAN,RANDY PO BOX 324 Green River UT 84525
S & H RANCHES INC PO BOX 150432 EAST ELY NV 89315	S. Douglas McLaughlin P.O. Box 758 Moab UT 84532	'SALINAS J DANIEL' 'PO BOX 129' 'GREEN RIVER' 'UT' 84525
SALINAS,J DANIEL PO BOX 129 Green River UT 84525	'SALT LAKE ACCOMDATION NO 338 LLC' '168 E CENTER ST' 'MOAB' UT 84532	Salt Lake Pipeline Co 2875 So Decker Lake Dr, # 150 Salt Lake City UT 84119
SCHMIDT DEBRA K ETAL 6236 W 5100 S HOOPER UT 84315-9717	SCHWARZANO ENTERPRISES LLC 13586 MCNALLY RD VALLEY CENTER CA 92082	SEAGER,JAMES D PO BOX 205 Green River UT 84525
SEARSON,MICHAEL L 553 SUN VALLEY ST GRAND JUNCTION CO 81504	SEARSON,MICHAEL L & MARY A 552 SUN VALLEY ST GRAND JUNCTION CO 81504	'SEQUOIADENDRON LLC' '9911 S 78TH AVENUE' 'HICKORY HILLS' 'IL' 60457
SHAY MICHAEL TODD AND RHONDA LAVON P O BOX 458 JENSEN UT 84035	SHEFFER BRENT D AND KALYNN TRUSTEES OF BRENT AND KALYNN SHEFFER FAMILY TRUST 7656 S REDWASH RD	Sheri Griffith Expeditions 2231 South Hwy 191 Moab UT 84532

Shoshone Environmental Nomination  
770 E South Temple  
Salt Lake City UT 84102

Sierra South  
11300 Kernville Rd PO Box 1909  
Kernville CA 93238

SILLIMAN,KAREN LOUISE  
PO BOX 880  
CORTEZ CO 81321

SILLIMAN,KAREN LOUISE  
PO BOX 881  
CORTEZ CO 81321

SILLIMAN,KENNETH BLAINE TRUSTE  
PO BOX 480  
Green River UT 84525

SIMONSON,E ROGER TRUSTEE  
2825 FLORIBUNDA DR  
SALT LAKE CITY UT 84117

SLAUGH BURNELL & CARMALITA, LEE &  
ROXANNE  
4815 S 2500 E  
VERNAL UT 84078

SLAUGH BURNELL K AND CARMALETA  
TRUSTEES BURNELL K SLAUGH TRUST  
ET AL  
10973 CIRCLE S RANCH RD

SLAUGH JOSEPH R AND TARI C  
9425 W HORSESHOE BEND  
VERNAL UT 84078

SLAUGH MURRAY DOUGLAS TRUST-  
SLAUGH MURRAY DOUGLAS & PHYLLIS  
IRENE-TRUSTEES ETAL  
3329 S 4000 E

'SMITH KAREN L'  
'PO BOX 153'  
'GREEN RIVER' 'UT' 84525

Smoot, Richard  
847 E 400 S  
Salt Lake City UT 84102

SMUIN FARRELL AND GLENDA  
PO BOX 209  
JENSEN UT 84035

SNOW DALE A  
PO BOX 15  
JENSEN UT 84035

SNYDER JON R AND JULIE A  
PO BOX 650  
JENSEN UT 84035

SOCO 1979 Acreage Program  
1801 California St #3500  
Denver CO 80202

SOCO 1979 Acreage Program  
1801 California St #3500  
Denver CO 80202

Solacium New Haven LLC  
2096 East 7200 South  
Spanish Fork UT 84660

Spears, Jennifer  
867 E. Simpson Avenue  
Salt Lake City UT 85106

'SPENCER MICHAEL D TRUSTEE'  
'11575 RD 42'  
'MANCOS' 'CO' 81328

SPOON JIMMY SAM  
P O BOX 1473  
VERNAL UT 84078

SPOONER MARGRET S  
PO BOX 496  
NETTIE WV 26681-0496

SRR Properties, LLC  
HC 64 Box 4002  
Castle Valley UT 84532

STANDARD ENERGY CORPORATION  
PO BOX 27156  
SALT LAKE CITY UT 84127

STATE & INSTITUTIONAL TRUST LANDS  
675 E 500 S STE. 500  
SALT LAKE CITY UT 84102

State Road Commission  
State Capitol Building  
Salt Lake City UT

STUNTZ VALLEY RANCH LC  
PO BOX 246  
JENSEN UT 84035

SULLIVAN RUSSELL J-TRUSTEE OF THE  
RUSSELL J SULLIVAN TRUST  
201 ROSSMORE DRIVE  
OXNARD CA 93035

SUMMIT PROPERTY VENTURES LLC  
1985 E CHENANGO COURT  
ENGLEWOOD CO 80113

Tex's Riverways  
PO Box 67  
Moab UT 84532

THACKER R TODD AND SUSAN F  
PO BOX 281  
JENSEN UT 84035

'THOMPSON HARRY E'  
PO BOX 640'  
'GREEN RIVER' 'UT' 84525

Trachyte Oil Company  
PO Box 11206  
Salt Lake City UT 84147

TWO BAR X RANCH LLC  
P O BOX 2  
VERNAL UT 84078

Uintah Water Conservancy District  
78 West 3325 North  
Vernal UT 84078

US Department of Energy  
200 Grand Ave  
Grand Junction CO 81501

Utah Colorado River Ranch, LLC  
PO Box 2738  
Grand Junction CO 81502

Utah National Guard  
PO Box 1776  
Draper UT 84020

VACHER,DAN E TRUSTEE  
PO BOX 94  
Green River UT 84525

'VETERE TIMOTHY'  
'PO BOX 404'  
'GREEN RIVER' 'UT' 84525

THAYN,LEE R  
PO BOX 447  
Green River UT 84525

THOMSON,CECILIA  
1525 KENSINGTON AVE  
SALT LAKE CITY UT 84105

Trust, Wade  
8976 Sutton Way  
Sandy UT 84903

U.S. Department of the Interior Bureau  
of Land Management, Moab Field  
Office  
82 East Dogwood Ave

'UMETCO MINERALS CORPORATION'  
'332 SH 332 EAST'  
'LAKE JACKSON' 'TX' 77566

US FISH & WILDLIFE (OURAY NATIONAL  
WILDLIFE REFUGE)  
HC69 BOX 232  
RANDLETT UT 84063

Utah Department of Transportation  
4501 South 2700 West  
Salt Lake City UT 84119

Utah Power & Light  
825 Ne Multnomah Suite 1000  
Portland OR 97232

Vastar Resources Inc  
15375 Memorial Drive  
Houston TX 77079

VETERE,JAY  
PO BOX 175  
Green River UT 84525

The Standard Oil Company  
200 Public Square  
Cleveland OH 44144

Tour West  
PO Box 333  
Orem UT 84059-0333

'TULLOCH DAVID H'  
'PO BOX 711'  
'TYRONE' 'NM' 88065

UFFORD DONALD B AND M DARLINE  
TRUSTEES ETAL  
45 E 2500 S  
VERNAL UT 84078

UPL Three River Holdings  
304 Inverness Way South Suite 295  
Englewood CO 80112

US Fish & Wildlife Service  
2155 West Forest St  
Brigham City UT 84302

Utah Geological Survey  
1594 W North Temple  
Salt Lake City UT 84114-6100

Utah State University  
505 Wakana Way Suite 210  
Salt Lake City UT 84108

Vetere John C  
PO Box 515  
Green River UT 84525

VETERE,JOHN CORY  
PO BOX 515  
Green River UT 84525



VETERE,TIMOTHY J  
PO BOX 404  
Green River UT 84525

WEILER,GEORGE P TRUSTEE  
731 THREE FOUNTAINS DR # 84  
SALT LAKE CITY UT 84107

'WESTWATER RANCH TRUST 6/8/96'  
'1626 W 3RD STREET'  
'PECOS' 'TX' 79772

WILCOX,IRENE  
PO BOX 122  
Green River UT 84525

'WILLIAMS MARK W'  
'705 E ELM ST'  
'COTTONWOOD' 'AZ' 86326

Wyoming Interstate Company Ltd.  
PO Box 1087  
Colorado Springs CO 80944

YOUNG SLADE MAX AND SUSANNE  
GOOCH  
2370 E 2500 S  
VERNAL UT 84078

WALL SCOTT D AND KRISTY ANN ETAL  
PO BOX 188  
JENSEN UT 84035

Western River Expeditions  
7258 Racquet Club Drive Ste A  
Salt Lake City UT 84121-4599

Wilcox Trust  
PO Box 28  
Farson WY 82932

WILCOX,PEARL M  
1186 OLSEN AVE  
GRAND JUNCTION CO 80503

WOODBURY DOUGLAS C AND LARUE H  
TRUSTEES OF DUGLAS C AND LARUE H  
WOODBURY FAMILY  
3003 CRAIG DRIVE

XTO Energy Inc  
810 Houston Street  
Fort Worth TX 76102-6298

WEILER,GEORGE P TRUSTEE  
730 THREE FOUNTAINS DR # 84  
SALT LAKE CITY UT 84107

'WESTWATER RANCH LLC'  
'149 N LIMESTONE'  
'LEXINGTON' 'KY' 40507

WILCOX,DWENDLE A  
PO BOX 640  
Green River UT 84525

Wilderness Inquiry  
808 14Th Avenue Se  
Minneapolis MN 55414

World Wide River Expeditions  
625 Riversands Rd  
Moab UT 84532

YOUNG SLADE MAX  
114313 S HORSESHOE BEND RD  
VERNAL UT 84078



## **EXHIBIT C. GREEN AND COLORADO RIVERS MINERAL LEASING PLAN PUBLIC COMMENTS**

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Table C-1. Green and Colorado Rivers Mineral Leasing Plan Public Comments

Submission Number	Comment Location	Commenter	Topic	Comment Number	Comment	Disposition/Response to Comment
1	Email, paragraph 15	American Whitewater	Mineral leasing impacts	1.1	As recreation advocates, American Whitewater is concerned that FFSL may disregard potential impacts from proposed lease sales to river recreation and other important values. Because the direct, indirect, and cumulative effects that would result from implementation of potential mineral leases on sovereign lands would be detrimental to recreation experiences and local communities that have invested in recreation assets, FFSL should include the evaluation of these effects of potential leases on the region's recreation economy and how it would affect future growth opportunities in the local business community and socioeconomics regionally. Effects of oil and gas leasing are likely to have a direct effect on the physical setting for recreational activities, resulting in impacts to the tourist industry and economy.	FFSL recognizes that protection of navigation, fish and wildlife habitat, aquatic beauty, public recreation, and water quality must be given due consideration and balanced against the need for, justification of, or benefit from any proposed use (including mineral leasing) (Utah Administrative Code R652-2-200). By statute, FFSL is required to manage for these five Public Trust values. Mineral leasing may not be allowed in a certain area if a site-specific analysis indicates that it is inconsistent with the protection of the Public Trust.
1	Email, paragraph 16	American Whitewater	NSO classification	1.2	American Whitewater supports the NSO classification of all sovereign lands on the Green and Colorado Rivers. While we understand the leasing of adjacent lands does not fall under the purview of the FFSL, we encourage any NSO stipulation developed for leases proposed on sovereign lands of the Green or Colorado Rivers acknowledge foreseeable impacts to how these leases might cumulatively affect recreation assets and related socioeconomics, and propose mitigating measures to address such negative impacts.	<p>FFSL recognizes that protection of navigation, fish and wildlife habitat, aquatic beauty, public recreation, and water quality must be given due consideration and balanced against the need for, justification of, or benefit from any proposed use (including mineral leasing) (Utah Administrative Code R652-2-200). By statute, FFSL is required to manage for these five Public Trust values. Mineral leasing may not be allowed in a certain area if a site-specific analysis indicates that it is inconsistent with the protection of the Public Trust.</p> <p>In addition, Utah Administrative Code R652-20 provides rules for the leasing of mineral resources on sovereign lands. One of the rules states that FFSL may require lessees to provide a cultural, paleontological, or biological survey on lands under mineral lease and to be responsible for reasonable mitigative actions as specified by FFSL.</p>

Submission Number	Comment Location	Commenter	Topic	Comment Number	Comment	Disposition/Response to Comment
2	Email, paragraph 11	Sarah Stock	NSO classification	2.1	Another issue of crucial importance is that of leasing for oil and gas resources under the Green and Colorado Rivers. The Colorado River Basin system provides culinary and agricultural water to nearly 40 million people. It is of utmost importance that we preserve the quality of this water by protecting it from oil and gas operations under the rivers. The designation of “no surface occupancy” does not cut it in this regard, as contamination is still possible. There should be no oil or gas leasing allowed under the rivers or other important water ways.	<p>In addition to managing for the Public Trust values of navigation, fish and wildlife habitat, aquatic beauty, public recreation, and water quality, FFSL administers state lands by using multiple-use, sustained-yield principles as required by Utah Code 65A-2-1 and Utah Administrative Code R652-90-800. If mineral extraction from horizontal drilling includes sovereign lands within any legally approved drilling or spacing unit, FFSL is “obligated to receive full value for the public trust resources leased to persons for profit” (Utah Administrative Code R652-20-1000.2(d)(i)). FFSL cannot divest itself from the mineral estate located under Public Trust waters without compensation. Therefore, leases must be issued in such cases. These leases will be issued with a no surface occupancy stipulation.</p> <p>In addition to requiring minimal surface damage in any mineral development activities on sovereign lands, FFSL requires the planned development to not cause pollution or salinity in any navigable lake or stream in excess of the acceptable limits established by applicable ordinance, law, or inter-governmental treaty (Utah Administrative Code R652-20-3000.2).</p>
3	Email, paragraph 1	San Juan County Commission	Consistency, philosophy, planning process	3.1	We have reviewed the Draft Comprehensive Management Plan and Mineral Leasing Plan for State sovereign lands of the Colorado River and find them to be consistent with the goals and policies of the San Juan County General Plan. We concur with the plans’ overall management philosophy of multiple use, sustained yield and coordination with other land owners and agencies. We appreciate your efforts at public outreach during this planning process that including public meetings in San Juan County. We are appreciative of this opportunity to comment.	Thank you for you for taking the time to review the plans and for your comments.

# **FINAL GREEN AND COLORADO RIVERS MINERAL LEASING PLAN**





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## INTRODUCTION AND BACKGROUND

### Introduction

The Utah Department of Natural Resources Division of Forestry, Fire & State Lands (FFSL) first developed a mineral leasing plan (MLP) for sovereign lands on the Green and Colorado Rivers in 1998. The 1998 MLP provided a brief history of mineral ownership and leasing, inventoried mineral resources, examined existing resource conflicts on the rivers, and outlined management direction (FFSL 1998). The 1998 MLP has been amended six times since the date of final approval. This 2020 Green and Colorado Rivers MLP has been developed to update, consolidate, and replace the 1998 plan and all associated amendments. This plan is not intended to assert State of Utah ownership or adjudicate or resolve any ownership or title issues. It is intended to be used as a management tool only for lands owned by the State of Utah. Issues related to ownership and title may be resolved formally or informally in separate proceedings.

### Sovereign Land Boundaries

The Utah State Legislature defines sovereign land as “those lands lying below the ordinary high water mark [OHWM] of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty” (Utah Code 65A-1-1). FFSL rules define the OHWM as follows: “The high water elevation in a lake or stream at the time of statehood, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes or other tests as may be applied by the courts. This 'ordinary high water mark' may not have been adjudicated by the courts” (Utah Administrative Code R652-1-200[17]). Navigable bodies of water in the State of Utah that are presently considered sovereign lands include the beds of Great Salt Lake, Utah Lake, and the Jordan River, along with portions of Bear Lake, Bear River, Colorado River, and Green River.

The OHWM along the navigable portions of the Green and Colorado Rivers is what defines FFSL’s ownership. The boundary of sovereign land in a river corridor is intrinsically more difficult to define than that of a lake because rivers are more susceptible to substantial geographic movement and shifts in location over time. A thorough examination of the laws of water boundaries, particularly as they pertain to rivers, is complex and beyond the scope of this MLP. However, there are a few basic concepts that are important in understanding the management of rivers as sovereign lands.

Most rivers meander over time unless human-made or natural barriers exist to prevent such movement. As the course of the river changes, natural and artificial processes of erosion, reliction, avulsion, and accretion<sup>1</sup> may affect landownership. Generally, the gradual processes of accretion, reliction, and erosion change the property boundaries between private and public ownership. An adjacent, upland landowner may obtain title to any dry land added by accretion or reliction and/or

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<sup>1</sup> *Reliction* = gradual recession of water, leaving land permanently uncovered; *avulsion* = rapid abandonment of a river channel and the formation of a new river channel; *accretion* = the gradual deposition of sediment along the edge of a channel.

may lose title to dry land eroded and now covered by water. For the purposes of sovereign land management, state ownership of the riverbed generally follows the movement of the river over time as it naturally meanders because of erosion, reliction, and accretion processes. However, landownership remains fixed regardless of sudden avulsive events. Avulsive events can result from natural occurrences such as flash floods or from human-made causes such as channel straightening or artificial channel relocation.

The Utah State Legislature has designated FFSL as the executive authority for the management of sovereign lands in Utah, including the Green River and Colorado River. Since the precise location of the OHWM at the time of statehood has not been determined for the entire Green and Colorado Rivers, FFSL generally manages the rivers from the top of the bank to the top of the opposite bank. Because knowing where the OHWM was located at statehood is challenging and because the OHWM has not been mapped continuously along the Green and Colorado Rivers, a case-by-case demarcation of the OHWM may be undertaken as part of a permit authorization process. Sovereign lands of the Green and Colorado Rivers are shown on Figure 1.

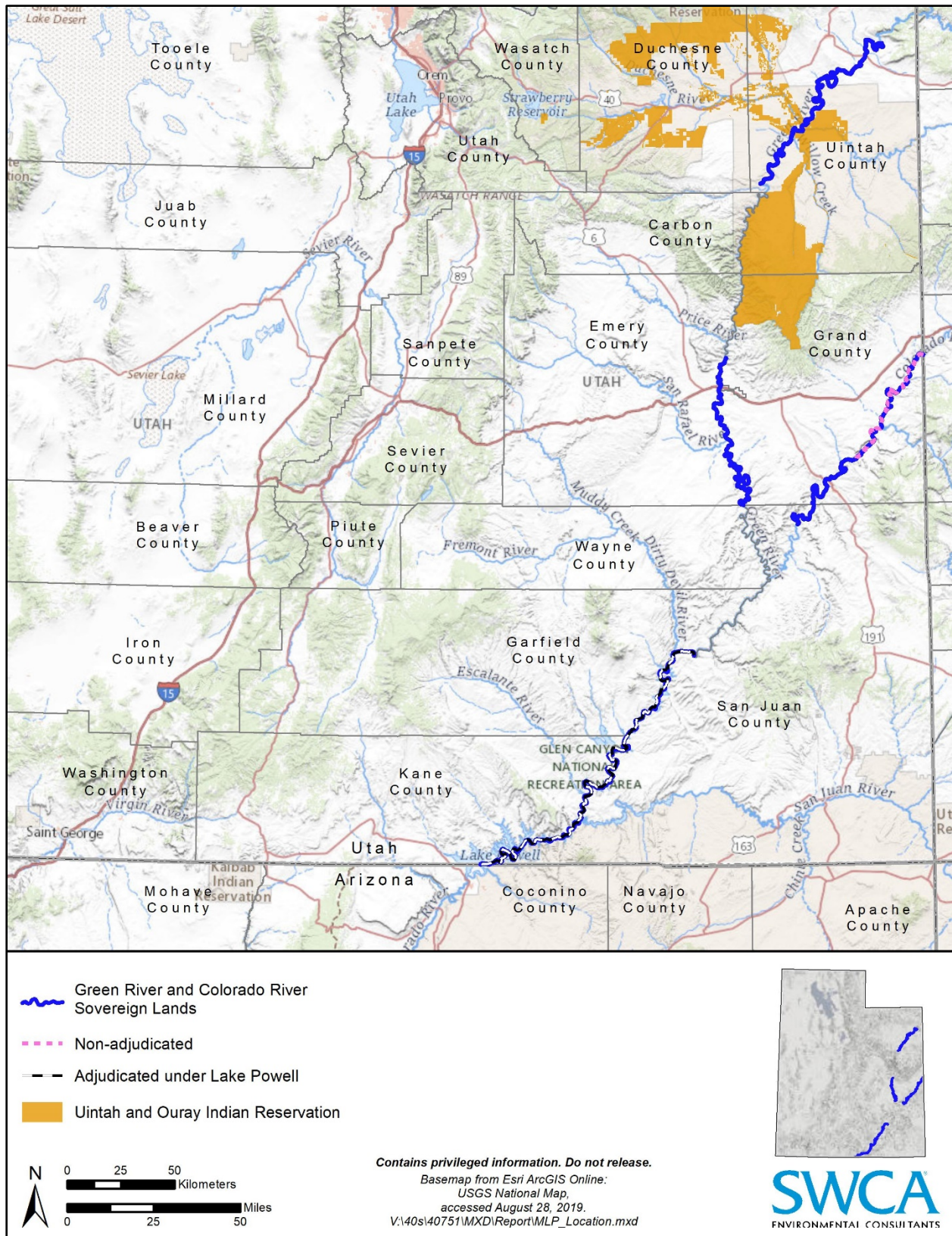


Figure 1. Sovereign Lands of the Green and Colorado Rivers.

## **The Public Trust and Multiple-Use, Sustained-Yield Principles**

The Public Trust Doctrine is a legal principle derived from English common law. It provides that Public Trust lands, waters, and living resources in a state are held by the state in trust for the benefit of all people (Slade et al. 1997). The doctrine establishes the right of the public to use Public Trust resources, and it also establishes the responsibilities of the states when managing Public Trust assets (Slade et al. 1997). In general, Public Trust waters consist of the navigable waters in a state, whereas Public Trust lands are the lands beneath those waters up to the OHWM. The living resources (e.g., fish, aquatic plants, and aquatic wildlife) inhabiting these lands and water are also subject to the Public Trust Doctrine (Slade et al. 1997).

The State of Utah has recognized and declared that the bed and banks of navigable waters within the state are owned by the state and are among the basic resources of the state, and that there exists, and has existed since statehood, a Public Trust over and upon these waters (Utah Administrative Code R652-2-200). Segments of the Colorado and Green Rivers owned by the state are included in this category of navigable waters and are managed by FFSL for public benefit consistent with the Public Trust Doctrine.

Historically, the common law rights in Public Trust lands and waters were directly related to navigation, fishing, and commerce. As society has changed and evolved, the public's use of trust lands and waters has changed. The Public Trust Doctrine has evolved from preserving the public's right to use trust lands and waters for navigation, fishing, and commerce to include recreation, environmental protection, and the preservation of scenic beauty (Slade et al. 1997). Recognition of this evolution in the Public Trust Doctrine is found in the following management objective text from Utah Administrative Code R652-2: "It is also recognized that the public health, interest, safety, and welfare require that all uses on, beneath or above the beds of navigable lakes and streams of the state be regulated, so that the protection of navigation, fish and wildlife habitat, aquatic beauty, public recreation, and water quality will be given due consideration."

In addition to managing for the Public Trust, FFSL administers state lands by using multiple-use, sustained-yield principles as required by Utah Code 65A-2-1 and Utah Administrative Code R652-90-800. As a trustee, FFSL must also strive for an appropriate balance among compatible and competing uses on the Green and Colorado Rivers. Fulfilling this obligation is particularly challenging when balancing recreational and aesthetic uses with compatible mineral development. The general rule consistently applied throughout the western states is "ownership of mineral rights in land is dominant over the rights of the owner of the fee to the extent reasonably necessary to extract the minerals therefrom" (*Flying Diamond v. Rust*, 551 P.2d 509 [Utah 1976]). Under this established legal principle, the surface owner cannot prevent mineral extraction if the proposed mineral development is reasonable, practical, and implemented to minimize surface damages.

While FFSL can establish management objectives preventing the surface occupancy of any planned mineral extraction on sovereign lands, a challenge is posed when an authorized lease on adjacent upland property contemplates horizontal drilling and mineral development. Under this scenario, FFSL, under the fiduciary obligation imposed by the Public Trust Doctrine, is precluded from

divesting itself from the mineral estate located under Public Trust waters without compensation. See generally *Illinois Central R.Co. v. State of Illinois et. al.*, 146 U.S. 387 (1892). Instead, if mineral extraction from horizontal drilling includes sovereign lands within any legally approved drilling or spacing unit, FFSL is “obligated to receive full value for the public trust resources leased to persons for profit” (Utah Administrative Code R652-20-1000.2(d)(i)). However, in addition to requiring minimal surface damage in any mineral development activities on sovereign lands, FFSL requires the planned development to not cause pollution or salinity in any navigable lake or stream in excess of the acceptable limits established by applicable ordinance, law, or inter-governmental treaty (Utah Administrative Code R652-20-3000.2).

## River Mile System and River Segments

One method of identifying features along rivers is by using river miles (RMs) as reference points. The RMs used in this MLP are based on the *Guide to the Colorado & Green Rivers in the Canyonlands of Utah & Colorado* (Martin and Whitis 2016). The starting point (RM 0) on the Colorado River is the gauging station at Lee’s Ferry, located approximately 9 miles south of the Utah-Arizona border (outside of sovereign lands). RM numbers increase in the upstream direction on the Colorado River to the confluence of the Colorado and Green Rivers within Canyonlands National Park (hereafter referred to as The Confluence). At The Confluence, the RM numbering restarts at 0 and again increases in the upstream direction on both the Colorado River and the Green River. Commonly used river segment names, associated with RMs, are listed in Tables 1 and 2. RMs in this plan may be slightly edited from Martin and Whitis (2016) for continuity between river segments.

**Table 1. Green River Mineral Leasing Plan River Segments and Associated River Miles**

River Segment	River Miles	Segment Identification	Description (length)
Uinta Basin	317.7 to 215.8	G-1-UB	Border of Dinosaur National Monument to Sand Wash (101.9 miles)
Green River Valley	132.2 to 120.1	G-2-GRV	Swasey’s rapid to Green River State Park (12.1 miles)
Labyrinth Canyon	120.1 to 46.7	G-3-LC	Green River State Park to the border of Canyonlands National Park (73.4 miles)

Note: River mile references are for management purposes only and may not represent precisely the ownership interests and/or fee title claimed by the State of Utah.

**Table 2. Colorado River Mineral Leasing Plan River Segments and Associated River Miles**

River Segment	River Miles	Segment Identification	Description (length)
Above Westwater	131.7 to 127.6	C-1-AW	Utah-Colorado border to the Westwater Ranger Station (4.1 miles)
Westwater Canyon Wilderness Study Area	127.6 to 113	C-2-WSA	River segment in the Westwater Canyon Wilderness Study Area (14.6 miles)
The Moab Daily	113 to 47.3	C-3-TMD	Bald Eagle Campground to the Potash boater access point (65.7 miles)

River Segment	River Miles	Segment Identification	Description (length)
Meander Canyon	47.3 to 31	C-4-MC	Potash boater access point to the border of Canyonlands National Park (16.3 miles)
Glen Canyon	176 to the Utah-Arizona border	C-5-GC	River segment beneath Lake Powell. This segment is below The Confluence; therefore, RM numbering for this segment is calculated from RM 0 at Lee's Ferry.

Note: River mile references are for management purposes only and may not represent precisely the ownership interests and/or fee title claimed by the State of Utah.

## Management Authority of State and Federal Agencies Affecting Sovereign Lands

FFSL's management of sovereign lands is often affected by decisions made by adjacent or nearby landowners, especially other state and federal agencies. FFSL supports collaboration with adjacent landowners and agencies that have jurisdiction or management authority on the Green and Colorado Rivers to improve overall river management and decision making. A complete discussion of agencies with intersecting jurisdictions and regulatory authorities can be found in the *Final Green River Comprehensive Management Plan* (Green River CMP) (SWCA Environmental Consultants [SWCA] et al. 2020a) and in the *Colorado River Comprehensive Management Plan* (Colorado River CMP) (SWCA et al. 2020b). The following paragraphs briefly discuss several of the agencies and regulations that particularly affect FFSL's management of mineral leasing. In the event there is a change in any of the management practices specified below or implemented by any applicable agency, any mineral leasing or management practice described herein will be subject to review and revision.

### *U.S. Bureau of Land Management*

Approximately 29% of the landownership within 50 feet of the Green River's banks and approximately 13% of the landownership within 50 feet of the Colorado River's banks is administered by the Bureau of Land Management (BLM). The BLM is responsible for the management of mineral resources on federal lands. The minerals on federal lands are divided into the following three categories, each subject to different laws and regulations (BLM 2019):

- Locatable minerals, subject to the Mining Law of 1872, as amended, which include gold, silver, copper, and other hard rock minerals
- Leasable minerals, subject to various Mineral Leasing Acts, which include coal and other commodities
- Saleable minerals, subject to the Materials Act of 1947, as amended, which include sand and gravel that are essential to construction and road building

The BLM also implements land management plans to guide resource decisions in the area. In the Uinta Basin, the BLM has completed the *Vernal Field Office Record of Decision and Approved Resource Management Plan* (Vernal FO RMP), published in 2008 (BLM 2008a). In the other areas of Green and Colorado River sovereign lands, the BLM has completed the *Price Field Office Record of Decision and*



*Approved Resource Management Plan* (BLM 2008b), the *Moab Field Office Record of Decision and Approved Resource Management Plan* (BLM 2008c), and the *Monticello Field Office Record of Decision and Approved Resource Management Plan* (BLM 2008d).

According to these management plans, all federal lands adjacent to the Green River from Canyonlands National Park north to the Uintah and Ouray Indian Reservation are withdrawn from mineral entry. Federal lands adjacent to the Green River in Dinosaur National Monument are also withdrawn from mineral entry. The federal lands adjacent to the Green River between the Uintah and Ouray Indian Reservation and Horseshoe Bend are managed as open to mineral entry but subject to either no surface occupancy or timing and controlled surface use stipulations. All other federal lands adjacent to the Green River in the Uinta Basin are managed as open subject to standard stipulations.

Nearly all of the federal lands adjacent to the Colorado River from Moab north to the Utah-Colorado border are withdrawn from mineral entry. Additionally, nearly all federal lands adjacent to the Colorado River from Moab and south to the Utah-Arizona border are also withdrawn from mineral entry, primarily because they fall within either Canyonlands National Park or the Glen Canyon National Recreation Area.

## ***U.S. Fish and Wildlife Service***

The U.S. Fish and Wildlife Service (USFWS) manages the Ouray National Wildlife Refuge, which includes a portion of Green River sovereign lands. In addition, the USFWS is responsible for protecting flora and fauna, including fish and migratory birds; complying with the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act of 1918; and protecting threatened, endangered, and candidate species found in and near the Colorado River as required by the Endangered Species Act of 1973 (ESA).

The USFWS is responsible for overseeing implementation of the ESA for four endangered fish: Colorado pikeminnow (*Ptychocheilus lucius*), bonytail (*Gila elegans*), razorback sucker (*Xyrauchen texanus*), and humpback chub (*Gila cypha*). In 1994, portions of the Green and Colorado Rivers in Utah were designated as critical habitat for Colorado pikeminnow, bonytail, razorback sucker, and humpback chub (USFWS 1994). Areas of critical habitat on sovereign lands are described in detail in the Green River CMP (SWCA et al. 2020a) and in the Colorado River CMP (SWCA et al. 2020b). Recovery plans have been approved for all four species.

The Upper Colorado River Endangered Fish Recovery Program is a partnership of local, state (including Utah), and federal agencies; water and power interests; and environmental groups working to recover the four species of endangered fish while allowing for water use and development. The recovery program involves restoring and managing stream flows and habitat; boosting wild, endangered fish populations with hatchery-raised fish; and reducing negative interactions with some species of nonnative fish. The recovery program sets goals to provide objective, measurable criteria for downlisting (change in status from endangered to threatened) and delisting (removal from ESA protection) the endangered fish.

## ***U.S. Army Corps of Engineers***

Under Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers (USACE) is responsible for regulating placement of fill material in the nation's waters, including the Green and Colorado Rivers. USACE's management responsibilities under the Clean Water Act are to protect the nation's aquatic resources from unnecessary adverse impacts.

## ***Other Federal Agencies***

Other federal agencies with some regulatory or management responsibility for resources in or adjacent to sovereign lands include the U.S. Bureau of Reclamation (USBR), the National Park Service (NPS), and the Bureau of Indian Affairs (BIA). The USBR manages, develops, and protects water and water-related resources. It operates 338 reservoirs and is the nation's largest wholesale water supplier (USBR 2018). The USBR operates Glen Canyon Dam on the Colorado River.

The NPS has management authority for minerals on lands adjacent to sovereign lands along the Green and Colorado Rivers, such as Dinosaur National Monument, Arches National Park, Canyonlands National Park, and Glen Canyon National Recreation Area.

The BIA has management authority for minerals on behalf of the Ute Indian Tribe, which occupies the Uintah and Ouray Indian Reservation. The Uintah and Ouray Indian Reservation boundaries include approximately 13 miles of sovereign lands on the Green River.

## ***State Agencies***

Several state agencies, most of them in the Department of Natural Resources, have management authority for resources associated with the Green and Colorado Rivers. These state agencies include the Utah Division of Wildlife Resources, Utah Division of Water Rights, Utah Division of Water Resources, Utah Division of Oil, Gas and Mining (DOGM), and Utah Division of State Parks and Recreation (DSPR). In addition, the State of Utah School and Institutional Trust Lands Administration (SITLA) manages tracts adjacent to sovereign lands in eastern Utah. The responsibilities of these state agencies are described in more detail in the Green River CMP (SWCA et al. 2020a) and in the Colorado River CMP (SWCA et al. 2020b).

## ***Wild and Scenic Rivers Act***

The Wild and Scenic Rivers Act (WSRA) was passed by Congress in 1968. The WSRA's purpose was to set aside "certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations" (16 United States Code 1271 et seq.). Rivers must be both eligible ("free-flowing" with one or more "outstandingly remarkable values") and suitable (whether designation is the best way to manage or

protect the eligible river corridor). Depending on the type and degree of human development associated with the river and adjacent lands (e.g., impoundments, shoreline development), eligible rivers are preliminarily classified as wild, scenic, or recreational.

After the eligibility and suitability determinations are complete, federal agencies can formally recommend designation to the Wild and Scenic River System. Congress must approve any rivers recommended by federal agencies for designation. A river authorized for study by Congress receives statutory protection under Public Law 90-542 Section 7(b), water resources projects; Section 8(b), land disposition; and Section 9(b), mining and mineral leasing. A river identified for study through a federal agency is not protected under the WSRA. Rather, protection of its outstanding remarkable values and other characteristics occurs through other agency decisions.

In March 2019, the President signed Senate Bill 47, the John D. Dingell, Jr. Conservation, Management, and Recreation Act into law. The Emery County Public Land Management Act of 2018 (the Emery County Act) was incorporated into this law. The Emery County Act amends the WSRA to include the following portions of the Green River: the 5.3-mile segment from the boundary of the Uintah and Ouray Indian Reservation south to the Nefertiti boater access point, as a wild river; the 8.5-mile segment from the Nefertiti boater access point south to the Swasey's Landing boater access point, as a recreational river; and the 49.2-mile segment from Bull Bottom south to the county line between Emery and Wayne Counties, as a scenic river. Of these three segments, a small portion (less than 0.5 RM) of the Green River north of the Swasey's Landing boater access point (the Green River Valley segment near RM 132) and the segment from Bull Bottom south to the county line (the Labyrinth Canyon segment from approximately RM 47 to RM 93) are sovereign lands that have been adjudicated and were determined by the United States Supreme Court to be owned by the State of Utah.

The 2019 federal National Wild and Scenic River designations create implications for FFSL management of the sovereign lands lying below the Green River, especially in the Labyrinth Canyon segment. However, FFSL intends to work with the BLM, Grand County, and Emery County to define management roles, the sovereign land boundary along the river, and any other boundaries associated with the scenic designation. It is FFSL's position that the State retains complete ownership and managerial control over the bed of the Green River in the scenic Labyrinth Canyon segment.

None of the Colorado River is designated under the WSRA.

In addition, the BLM has identified portions of the Green and Colorado Rivers as suitable for recommendation into the National Wild and Scenic Rivers system and as eligible for designation (the initial step in the river assessment process prior to the determination of suitability). These suitable and eligible segments are described in the Green River CMP (SWCA et al. 2020a) and in the Colorado River CMP (SWCA et al. 2020b).

## ***The Wilderness Act***

The Wilderness Act was passed by Congress in 1964 and established the National Wilderness Preservation System. The Wilderness Act's purpose was to

assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition (16 United States Code 1131 et seq.).

*Wilderness* is defined by the Wilderness Act as “an area where the earth and its community of life are untrammelled by man” and as “an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation” (16 United States Code 1131 et seq.). Under the Wilderness Act, wilderness characteristics include having outstanding opportunities for solitude or a primitive and unconfined type of recreation; having at least 5,000 acres of land or sufficient size to make practicable its preservation and use in an unimpaired condition; and having ecological, geological, or other features of scientific, educational, scenic or historical value.

The Wilderness Act initially immediately placed 54 areas into the National Wilderness Preservation System. The process for adding new lands to the National Wilderness Preservation System involves the Secretary of the Interior's classification of new lands and review of suitability before these findings are reported to the President. The President must then advise Congress of his/her recommendations with respect to the designation of new wilderness. Each recommendation of the President for designation as wilderness becomes effective by an act of Congress.

The Emery County Act, discussed in the previous section, designated 54,643 acres of land adjacent to the Labyrinth Canyon segment as wilderness and added it to the National Wilderness Preservation System. The new Labyrinth Canyon Wilderness will be managed by the BLM. The Desolation Canyon Wilderness was also added to the National Wilderness Preservation System under the Emery County Act. This designation includes 142,996 acres adjacent to the Green River, also to be managed by the BLM. Both wilderness areas are now withdrawn from all forms of appropriation under mining laws and are now closed to future mineral development.

## ***Three Rivers Withdrawal***

In September 2004, then-Secretary of the Interior, Gale Norton, signed the Three Rivers Withdrawal, which became effective on October 6, 2004 (Wait 2004). The Three Rivers Withdrawal withdrew nearly 200 miles of public lands river corridor along portions of the Colorado, Dolores, and Green Rivers, including the Colorado River Special Recreation Management Area, from the locating of any new hard rock mining claims.

## **Brief History of Exploration and Mineral Development on the Green and Colorado Rivers**

The Green and Colorado Rivers have played a prominent role in Utah's history beginning with early explorers. The earliest Spanish explorers named the Green River “Rio de San Buenaventura” and mapped it as flowing west to the Pacific from northern Utah, a mistake that was corrected by John C. Fremont's explorations from 1843 to 1844. The Green River was used by early American fur trappers who referred to it as the Spanish River, Colorado River of the West, and Seeds-Kee-Dee Agie. William Ashley established the name as the Green River, using the name given it (Rio Verde) by a party of New Mexican fur trappers he met in 1825 (Webb 1994).

The Green River was navigated by William Ashley from southern Wyoming to the Uinta Basin in 1825, followed by numerous trips by other fur trappers before the famous exploration of the Green and Colorado Rivers by John Wesley Powell in 1869 and 1871 (Webb 1994). Powell explored the Green and Colorado Rivers from Green River, Wyoming, to the mouth of the Virgin River in 1869 and 1871 (Webb 1994). During the second expedition in 1871, Powell and his crew provided the scientific and descriptive observations that outlined the importance of the rivers for the western region—remoteness and inaccessibility in many reaches of the rivers; the geology, natural history, archaeological sites; and water resources for irrigation and settlement.

Robert Brewster Stanton led the next exploration expedition along the Colorado River in 1889. In contrast to Powell's explorations, Stanton was interested in the economic potential of the rivers. Stanton's party embarked from Green River, Utah, with the intent of surveying the Colorado River for a railroad route through the canyons of the Colorado. Stanton was also interested in the mineral potential along the Colorado River and staked several mining claims during his two expeditions (Webb 1994).

In his account of the 1869 Powell expedition, Jack Sumner had noted the presence of "flour" gold in the gravel bars of the Colorado River from the mouth of the Dirty Devil River to Lee's Ferry (Stanton 1982). Several others prospected for this gold, with the largest operation set up by Hoskaninni Mining Company from 1901 to 1902. Stanton was the engineer for this project, which was a considerable financial failure (Webb 1994). From these earliest mining developments came the "giant sluice" theory—that the rivers drained large areas rich in mineral resources, washing down in particular flour gold.

The first oil well in Utah was drilled close to the town of Green River and adjacent to the Green River in 1891 (Gurgel et al. 1983). This initial well proved unproductive and was soon plugged and abandoned. Oil seeps were noted along the San Juan River in 1883 by E. L. Goodridge, and he drilled a "gusher" well in 1908. This was the discovery well for the Mexican Hat field, adjacent to and within the meander area of the San Juan River (Utah Geological Association 1993). Intense prospecting for oil along the Colorado River below Moab and the San Juan River began in the 1920s (Webb 1994).

## **MINERAL RESOURCES ON GREEN AND COLORADO RIVER SOVEREIGN LANDS**

### **Mineral Resources Definitions**

According to Utah Administrative Code R652-20-200, mineral substances are classified as follows:

- Clay minerals: kaolin, bentonite, ball clay, fire clay, fuller earth, common clay, and shale.
- Metalliferous minerals: aluminum, antimony, arsenic, beryllium, bismuth, chromium, cadmium, cerium, columbium, cobalt, copper, fluor spar, gallium, gold, germanium, hafnium, iron, indium, lead, mercury, manganese, molybdenum, nickel, platinum, group metals, radium, silver, selenium, scandium, rare earth metals, rhenium, tantalum, tin, thorium, tungsten, thallium, tellurium, vanadium, uranium, ytterbium, and zinc.
- Coal: black or brownish-black solid fossil fuel that has been subjected to the natural processes of coalification and which falls in the classification of coal by rank: I anthracite, II bituminous, III sub-bituminous, IV lignitic.
- Oil, gas, and hydrocarbon: oil, natural gas, elaterite, ozocerite, and other hydrocarbons (whether found in solid, semi-solid, liquid, vaporous, or any other form) including tar, bitumen, asphaltum, maltha, and other gases. Does not include coal, oil shale, or gilsonite.
- Oil shale: any sedimentary rock containing kerogen.
- Potash: chlorides, sulfates, carbonates, borates, silicates, and nitrates of potassium.
- Phosphate: any phosphate rock containing one or more phosphate minerals such as calcium phosphate, including all phosphatized limestones, sandstones, shales, and igneous rocks.
- Gypsum: alabaster, anhydrite, gypsite, satin spar, and selenite.
- Gilsonite.
- Building stone and limestone: flagstone, granite, quartzite, sandstone, slate, marble, travertine, dolostone, and limestone whether dimensioned crushed, or calcined.
- Industrial sands: abrasive sands, filler sands, foundry sands, frac sands, glass sands, lime sands, magnetic sands, silica sands, and other uncommon sands used in industrial applications.
- Gemstone and fossil: agate, amber, beryl, calcite, chert, coral, corundum, diamond, feldspar, garnet, geodes, jade, jasper, olivine, opal, pearl, quartz, septarian nodules, spinel, spodumene, topaz, tourmaline, turquoise, and zircon; and coquina, petrified wood, trilobites, and other fossilized flora and fauna.
- Volcanic material: lava rock; volcanic pyroclastic material including ash, blocks, bombs, and tuff; volcanic glass material including perlite, pitchstone, pumice, scoria, and vitrophyre.

## **Oil and Gas Resources**

Currently, all producing oil and gas fields that overlap or are adjacent to sovereign lands on the Green River are in the Uinta Basin and include the following geologic formations: Uinta Formation, Green River Formation, Wasatch Formation, Mesaverde Group, Dakota Sandstone, and Frontier Formation (Wood and Chidsey 2015). Oil and gas fields adjacent to or overlapping sovereign lands on the Green River in the Uinta Basin include Horseshoe Bend, Brennan Bottom, Three Rivers, Natural Buttes, West Willow Creek, Pariette Bench, and Uteland Butte. There is also an area adjacent to the Green River near the border of Carbon and Grand counties that is likely underlain in part by scattered, lean oil-impregnated rock (Gurgel et al. 1983).

The Colorado River overlays part of the Paradox Basin, which contains areas of high occurrence potential for oil and gas. However, there are two locations with oil and gas fields (Kane Creek and Moab) adjacent to sovereign lands on the Colorado River (Wood and Chidsey 2015). Both areas are between Arches National Park and Canyonlands National Park, and both overlay the Pennsylvanian Paradox Formation. These fields occur along The Moab Daily and Meander Canyon river segments. The Moab field is not currently being developed but is actively used as a gas storage structure where gas is either injected or extracted depending on economic conditions. There are nine Kane Creek oil fields (five currently producing, one shut-in, and three abandoned) and one abandoned Leadville field within 10 miles of the Colorado River. There are also several dry wells along the Colorado River southeast of Dead Horse Point State Park that were plugged and abandoned in 1967 after minimal production (DOGM 2018).

## **Other Mineral Resources**

Other mineral resources that underlay or are adjacent to sovereign lands on the Green River include the following:

- Uranium occurrences south of the town of Green River (along the Labyrinth Canyon river segment), as well as a uranium operation and occurrences near Ouray (along the Uinta Basin river segment) (Gloyn et al. 2005; Utah Geological Survey 2018a)
- Deeply buried Cretaceous strata, possibly coal-bearing, stretching northeast from the Book Cliffs across the Uinta Basin (along the Uinta Basin river segment) (Gurgel et al. 1983)
- Cretaceous outcrops with thin coal seams that overlap a section of the Labyrinth Canyon river segment south of the town of Green River (Gurgel et al. 1983)
- A gold mining operation southeast of the town of Green River (along the Labyrinth Canyon river segment), as well as two small, inactive placer gold operations along the Uinta Basin river segment (Bon and Heuscher 2008)
- Several small, inactive sand and gravel operations along the Uinta Basin river segment (Bon and Heuscher 2008; Utah Geological Survey 2018b)

- Four small tar sands mining operations along the Uinta Basin river segment near the town of Vernal (Bon and Heuscher 2008)
- A landscape rock mining operation along the Uinta Basin river segment near the town of Vernal (Bon and Heuscher 2008)
- Precious and base metal occurrences in the northern portion of the Uinta Basin along the Uinta Basin river segment, northeast of Castle Peak (Doelling and Tooker 1983)
- Phosphate north and east of Vernal, Utah (Uinta Basin river segment)
- Bitumen deposits within Uintah and Ouray Indian Reservation and near Pariette Draw (Uinta Basin river segment)
- Gilsonite veins that trend north to southeast across the Uinta Basin (Uinta Basin river segment)

There is a moderate potential for the occurrence of economically valuable coal deposits within the Uinta Basin, but it is unlikely that coal exploration or development will occur in the foreseeable future because of the lack of demand and the generally low-grade quality of the coal (BLM 2008a).

Other mineral resources that underlay or are adjacent to sovereign lands on the Colorado River include the following:

- Uranium mining operations and occurrences between Arches National Park and Canyonlands National Park, as well as northeast of Lake Powell near the Glen Canyon segment (Gloyn et al. 2005; Utah Geological Survey 2018a)
- A large potash mining operation southwest of Moab in a known potash leasing area (Bon and Wakefield 2008)
- Several small, active and inactive sand and gravel operations (Utah Geological Survey 2018b)
- Precious and base metal occurrences northeast and southwest of Moab, as well as occurrences under most of Lake Powell that include three small, inactive placer gold operations (Doelling and Tooker 1983; Utah Geological Survey 2018b)

## **Recreational Mining**

Recreational mining includes gold panning, dredging, and sluicing activities. Gold placers have been found on the Green River from Flaming Gorge down to Horseshoe Bend (Utah Geological Survey 2018b). Gold placers have also been found from the mouth of the Dolores River south to the Amasa Back bend of the Colorado River west of Moab. Most placers on the Colorado River were located from the Dirty Devil River south to the Utah-Arizona border and are now under Lake Powell (Utah Geological Survey 2018b).



*Recreational panning* is defined as using non-mechanized equipment such as a pan, sluice box, or pick and shovel that does not disturb the earth above the water line or outside a dry streambed.

*Recreational dredging* is defined as using a vacuum or suction dredge with an intake diameter of up to 4 inches and having a rating of up to 12 horsepower, or using hand-operated sluice equipment and related tools. The Green River and Colorado River are withdrawn from all recreational mining including recreational dredging, sluicing activities, and recreational panning because portions of both rivers have been declared critical habitat for federally listed endangered fish species.

## **MINERALS LEASING ON GREEN AND COLORADO RIVER SOVEREIGN LANDS**

### **Terms and Definitions**

FFSL uses the following terms and definitions in the mineral leasing process:

- **Occupancy:** Any temporary or permanent fluid, mineral, or hydrocarbon resource activity planned or conducted on both surface and/or surface estate of designated state and sovereign lands.
- **No surface occupancy (NSO):** Any use or occupancy of either the surface area or surface estate (whether temporary or permanent) is prohibited within specifically described lands for fluid, mineral, or hydrocarbon exploration and/or development. An NSO designation can also mean natural resource commercial exploration and/or development is prohibited to protect separately identified natural resource values.
- **Stipulation:** A provision that modifies standard mineral exploratory and development lease rights and is attached and incorporated into any mineral lease issued that involves, encumbers, and is appurtenant to state and sovereign lands. For example, if lands are designated as NSO, a mineral lease for those lands must contain an NSO stipulation.
- **NSO stipulation:** NSO stipulations prohibit surface occupation for development and exploration of mineral resources but allow the subsurface resources to be legally available so that they can be accessed by means other than occupying the surface. Leasing an area with an NSO designation, rather than declaring it “unavailable” or “not administratively available” for leasing, may allow development through directional drilling, if adjacent lands are suitable for surface occupancy. While directional drilling and any resulting production are cost prohibitive and often limited to shale plays, leasing with an NSO stipulation offers some exploration and development opportunities on lands where surface occupancy is prohibited. Leasing with an NSO stipulation can meet Utah’s mineral policy directive by encouraging development of mineral resources while also protecting recreational resource values.

## **General Leasing Rules**

Utah Administrative Code R652-20 provides rules for the leasing of mineral resources on sovereign lands. Some of the key rules are summarized below:

- Mineral leases on Green and Colorado River sovereign lands are limited to no more than 2,560 acres or four sections. In general, no mineral lease will be issued for a tract less than a quarter-quarter section or surveyed lot.
- FFSL may require lessees to provide a cultural, paleontological, or biological survey on lands under mineral lease and to be responsible for reasonable mitigative actions as specified by FFSL.
- The lessee or operator shall keep a log of accumulated geologic data for the land area described in the lease. This log should show the formations encountered and any other geologic information reasonably required by lessor and shall be available to FFSL upon request. A copy of the log, as well as any data related to exploration drill holes, shall be deposited with FFSL upon termination of the lease.
- The primary term for a lease is generally 10 years.
- The term of all mineral leases included in any cooperative or unit plan of oil and gas development or operation in which FFSL has joined shall be extended automatically for the term of the unit or cooperative agreement.
- If drilling operations are being diligently pursued on the leased premises at the end of the term, including any valid extension of any oil and gas lease, the lessee can request continuation of the lease based on due diligence. Upon written application by lessee and satisfactory showing of due diligence in execution of drilling operations, an extension rider will be issued by FFSL. Application for the extension rider shall be filed by the lessee within 30 days prior to expiration of the fixed term of any valid extension of the lease.
- Prior to commencement of any operations on a state mineral lease, the lessee or designated operator shall comply with all DOGM requirements.

## **Sovereign Land Leasing Classification**

All sovereign lands on the Green and Colorado Rivers are classified as NSO (Figures 2, 3, and 4). All mineral leases issued on sovereign land will contain an NSO stipulation.

As a result of the NSO stipulation, development of oil and gas resources can only take place if adjacent lands are leased and the resources are legally developed through directional drilling. This development is contingent on applicable land management agency decisions (e.g., DOGM, BLM, SITLA) or the initiative of private landowners.

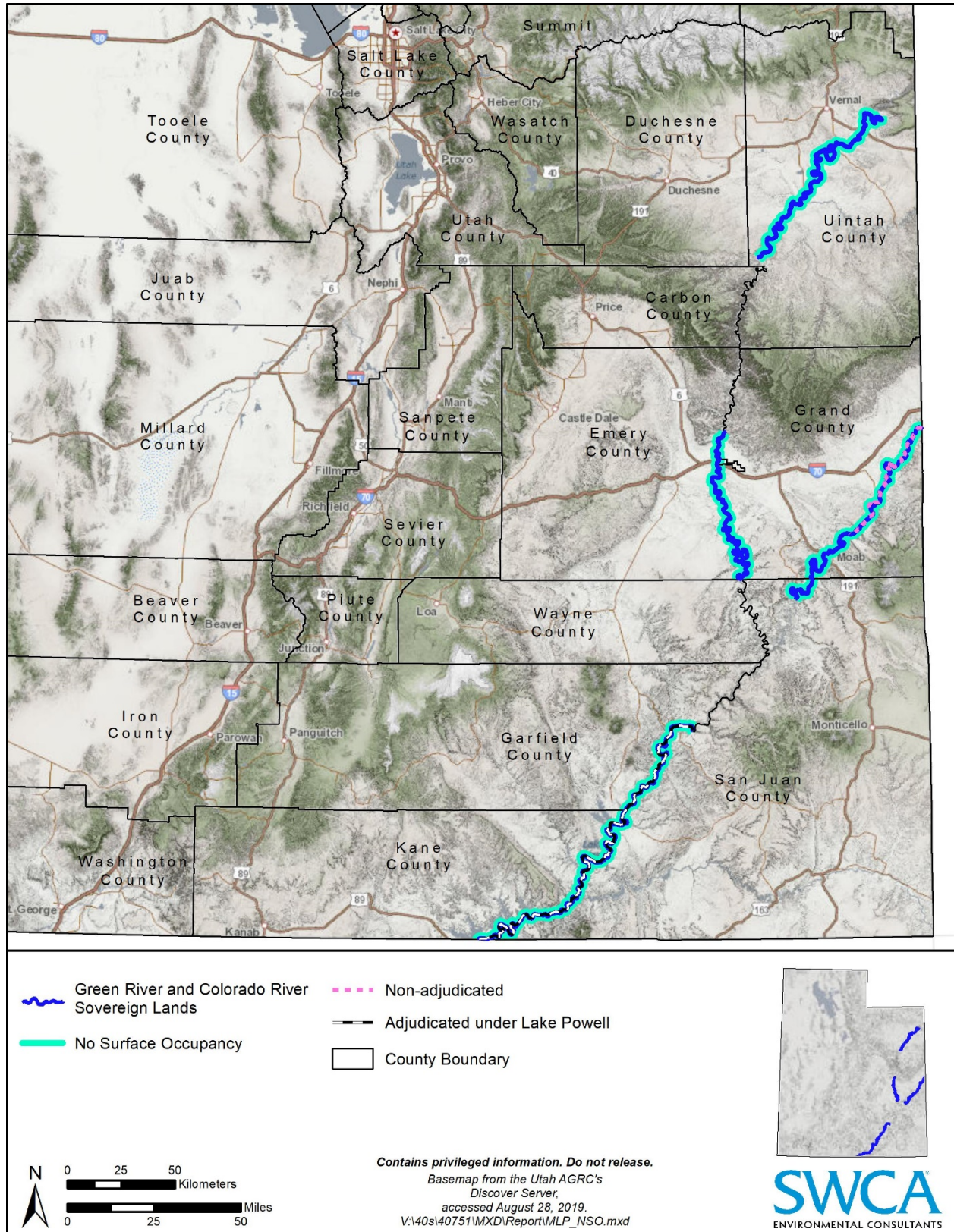
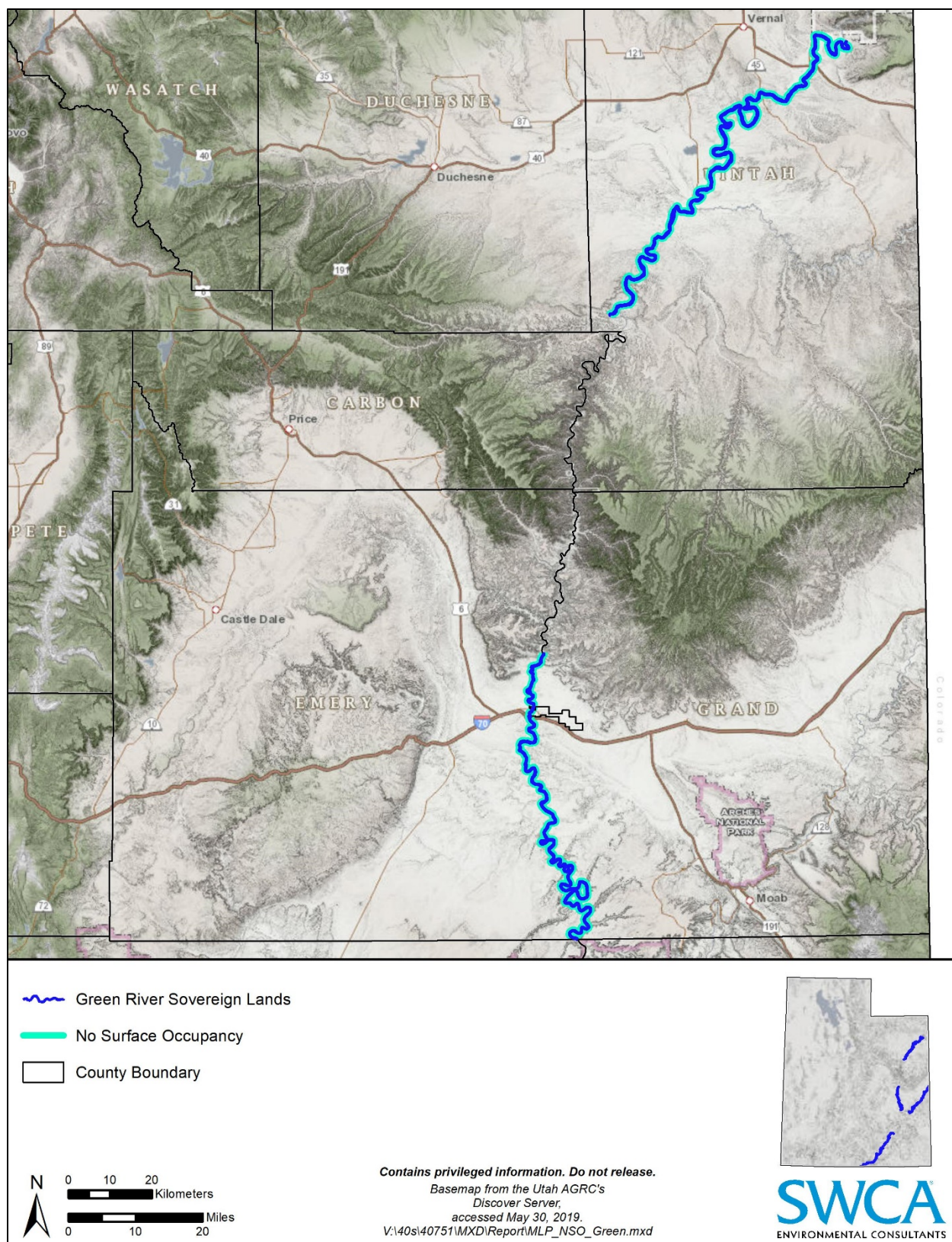


Figure 2. Sovereign lands mineral leasing classification.





**Figure 3. Green River sovereign lands mineral leasing classification.**



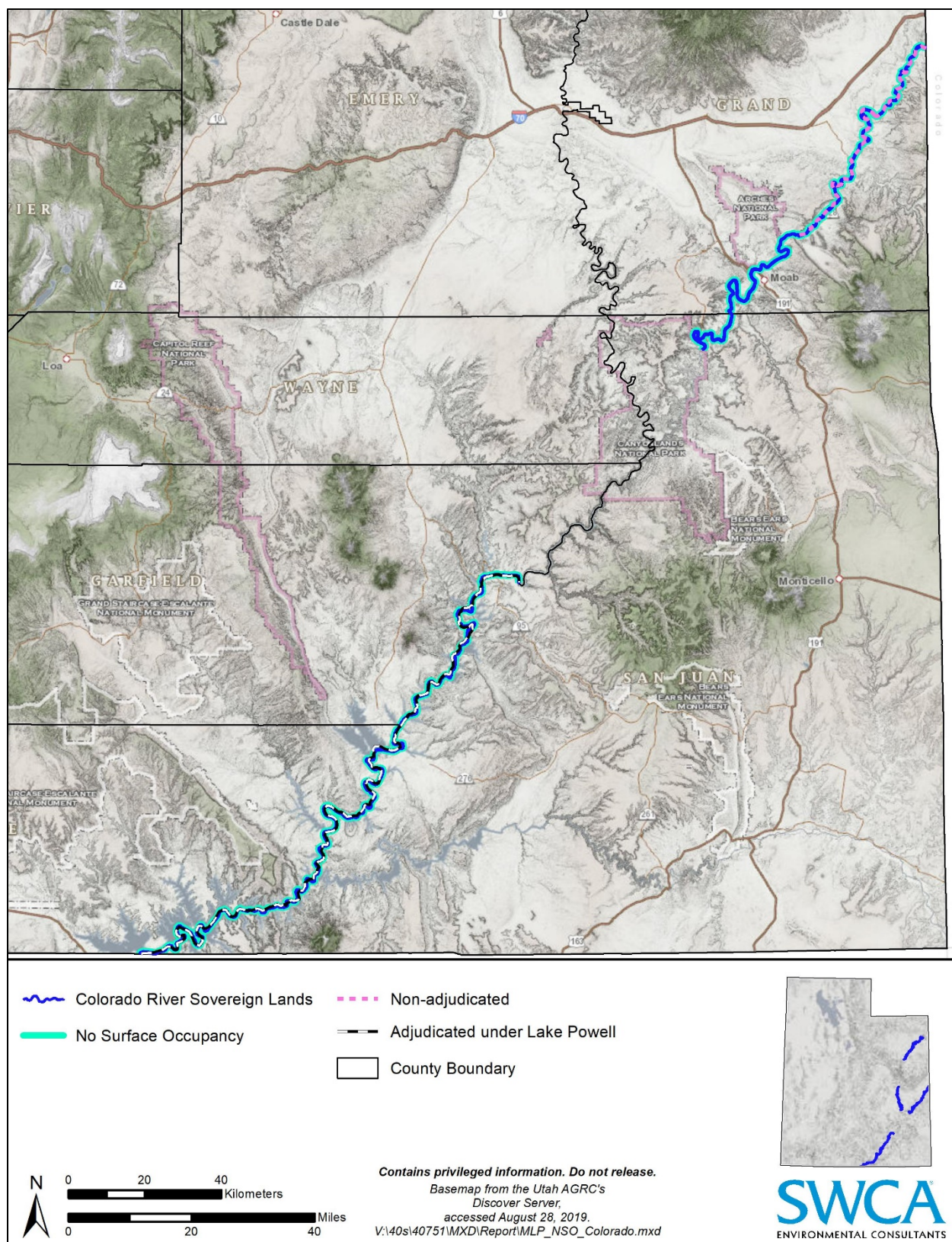


Figure 4. Colorado River sovereign lands mineral leasing classification.

## Ownership Issues

Ownership issues that arise with adjacent, private, and public landowners can be settled and/or adjudicated on a case-by-case basis as boundary issues arise or as management decisions dictate or warrant.

### *Green River*

The longitudinal scope and extent of Utah's ownership of the bed of the Green River were formally adjudicated in decisions issued by the United States Supreme Court in 1931<sup>2</sup> and in 1965.<sup>3</sup> The 1931 decision decreed the Labyrinth Canyon segment of the Green River to be navigable

where the river crosses the township line between townships 23 and 24 south, range 17 east, Salt Lake Base and Meridian, to the confluence of the Grand (Colorado) River, is now and at all times on and after January 4, 1896, has been, a navigable river, and the title to the bed thereof vested in the State of Utah upon its admission to the Union. (283 U.S. 801 [1931]).

The complicated history surrounding the expanding and retracting boundaries of the Uintah and Ouray Indian Reservation along the Green River prompted more litigation, and the 1965 decision provided certainty regarding tribal and state ownership of the upper Green River. The 1965 decision adjudicated the remaining longitudinal length of the Green River on a segment-by-segment basis. The District Court determined the segments of the Green River located in Dinosaur National Monument and in Desolation and Gray Canyons to be non-navigable. However, the Green River was determined to be navigable as it flowed out of Dinosaur National Monument (RM 312 above The Confluence) and across the Uinta Basin to Sand Wash (RM 212.7 above The Confluence), and as it emerged from Gray Canyon (RM 129 above The Confluence) across the San Rafael Desert to RM 95.

For purposes of mineral leasing, the relevant river segment is the Green River section flowing across the Uinta Basin (from RM 312 to the mouth of Sand Wash) because the shale formations in the basin are experiencing increased oil and gas development prompted by advances in directional drilling and hydraulic fracturing techniques. Along this segment of the Green River, the State of Utah, through FFSL, has been properly issuing mineral leases for the state lands and corresponding mineral estate under the riverbed of the Green River.<sup>4</sup> FFSL intends on continuing to issue no surface occupancy leases along the navigable Uinta Basin segment of the Green River while consulting and cooperating with the Ute Indian Tribe on any subsequent mineral leases involving state lands.

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<sup>2</sup> *United States v. State of Utah*, 283 U.S. 801 (1931).

<sup>3</sup> Civil No. C-201-62 (D. Ut. 1965) (unpublished decision).

<sup>4</sup> In addition to the 1965 decision adjudicating title to the State of Utah on the navigable stretches of the Green River, Utah's ownership of those sections flowing over the Uintah and Ouray Indian Reservation is further supported by the United States Supreme Court decision in *Montana v. United States*, 450 U.S. 544 (1981), which held that creation of the Crow Indian Reservation pre-statehood did not trump the strong presumption against title to the Big Horn River vesting with the state upon admission to the Union.

## Colorado River

Portions of the Colorado River have been adjudicated in terms of ownership of the submerged lands constituting the bed of the river, but a significant stretch of the Colorado River remains unadjudicated in terms of title. Specifically, the section of the Colorado River from the Colorado border south to Castle Creek (referred to in this section as the Upper Colorado) has not been adjudicated in terms of ownership, whereas “the Colorado river from the mouth of Castle creek (about 14 miles above the town of Moab) to the boundary line between Utah and Arizona, 296 miles (including the portion of the Colorado river above the mouth of the Green river which had formerly been known as the Grand river)” was adjudicated and held navigable for title purposes by the United States Supreme Court in 1931 in *United States v. Utah* (283 U.S. 64). In other words, the Court determined the State of Utah has title to the bed of the Colorado River in this section. The southern portion of this adjudicated section of the Colorado River is now submerged under Lake Powell. Because the State of Utah retains title to the bed of the river submerged under Lake Powell, it is anticipated the State of Utah and the United States will have to negotiate alternate resolution for this submerged segment of the Colorado River.

The United States is the owner of most of the upland property adjacent to the Upper Colorado.<sup>5</sup> To date, neither the United States nor a private landowner has initiated litigation to determine riverbed ownership within this unadjudicated section. Several reports issued by the BLM contain findings of navigability along the Upper Colorado.<sup>6</sup>

The State of Utah, through FFSL, has not, to date, initiated any proceedings to adjudicate title to the Upper Colorado riverbed, primarily due to title adjudication priorities on other sovereign lands. FFSL believes recent precedent issued by the United States Supreme Court in 2012 in *PPL v. Montana* (565 U.S. 576) and an analysis of historical data and geomorphology present solid legal and factual grounds to claim ownership of the Upper Colorado riverbed. FFSL is currently exploring procedural options to formally adjudicate ownership.

Because this section of the Colorado River has not yet been adjudicated, interim management of the riverbed will be accomplished through cooperation with the federal government. FFSL is working to complete a temporary memorandum of understanding (MOU) with the BLM, the agency responsible for managing the federal land adjacent to the river. The MOU will govern cooperative management of the Upper Colorado section of the river from bank to bank during the pendency of adjudication. Until the MOU is in place, FFSL will manage the Upper Colorado section of the river in a way that does not conflict with current BLM management of adjacent land. Management goals and objectives in the Colorado River CMP (SWCA 2020b) will be used to guide joint management and will ensure consistent management along all five river segments. In the event an MOU is negotiated and executed, FFSL will amend the Colorado River CMP to include the terms of the MOU.

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<sup>5</sup> In addition to the United States, there are approximately 23 private owners of land parcels adjacent to the Upper Colorado.

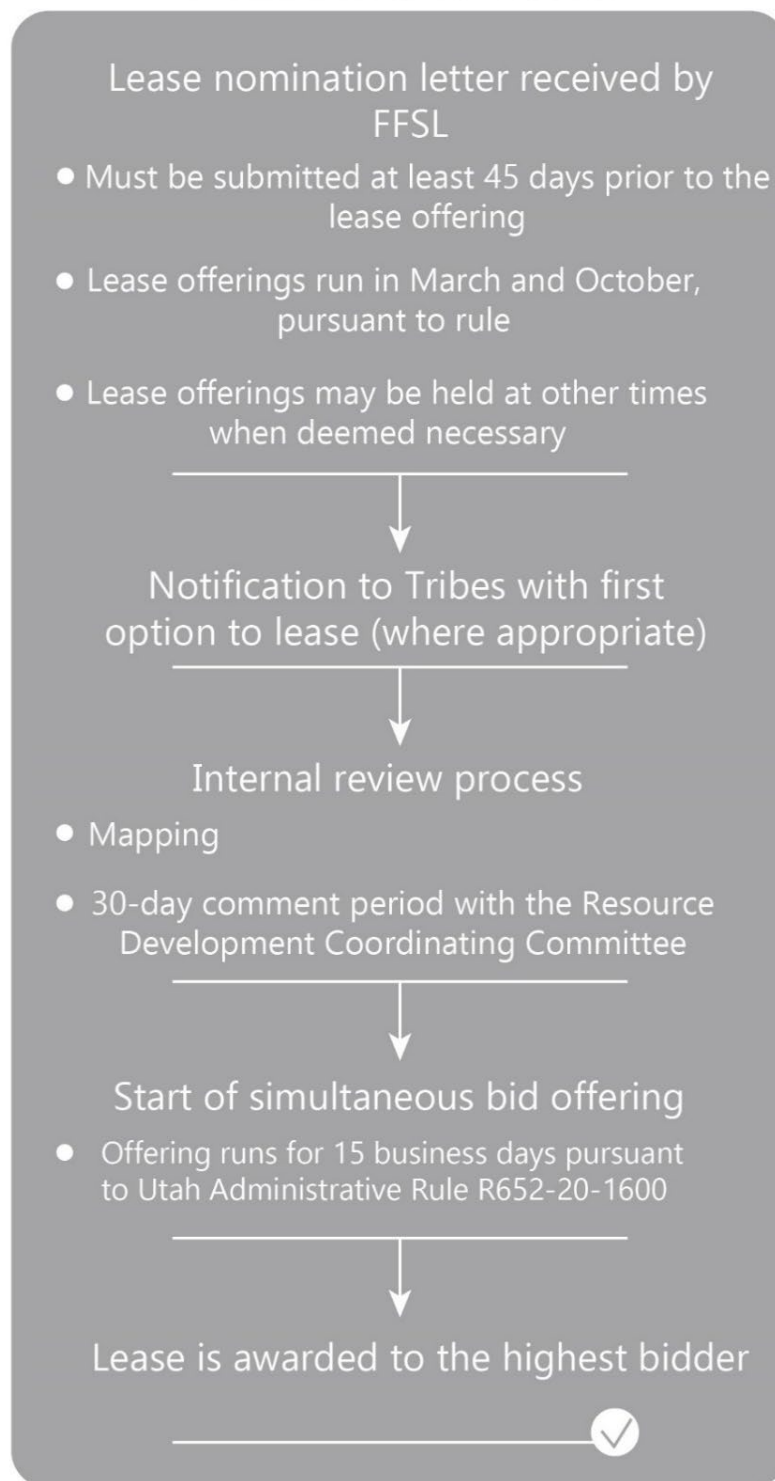
<sup>6</sup> Compare the conclusion of Mary G. von Koch on page 19 of the *Navigability Report of the Upper Colorado and Lower Dolores Rivers Within Utah* (von Koch 1987) that the Upper Colorado River was navigable except for the “section of the Colorado River known as Westwater Canyon and starting at Westwater Creek and ending 12.8 miles downstream at Cottonwood Creek” with the conclusion on page 21 in the *Navigability Report of the Upper Colorado and Lower Dolores Rivers* (Anonymous n.d. [1983]) that “in review of the history of the subject rivers and reports pre-taining [sic] to waterflow, topography, and general characteristics and in review of precedent court cases there appears no basis for a finding of navigability of the Upper Colorado and the Lower Dolores Rivers” (for purposes of issuing hydrocarbon and metalliferous leases).

If and when ownership is formally adjudicated and it is determined the State of Utah holds title to the unadjudicated section or a portion of this section, FFSL will amend the Colorado River CMP to reflect its ownership and management of the riverbed.

## **Mineral Leasing Application Process**

FFSL is the executive authority for the management of sovereign lands and is required to prescribe standards and conditions for the authorization and development of surface resources on sovereign lands. Mineral leases issued by FFSL must be in compliance with state law, administrative rules, and the Public Trust Doctrine and must adhere to multiple-use, sustained-yield principles. Each mineral lease must also comply with this MLP. Figure 5 demonstrates FFSL's mineral leasing process.





**Figure 5. FFSL's mineral leasing process.<sup>7</sup>**

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<sup>7</sup> This diagram is for illustrative purposes only. FFSL follows all applicable legal doctrines, statutes, and regulations for mineral leasing.

## Royalty Rates and Revenues

Currently, and until royalty rates are adjusted pursuant to rulemaking, revenues generated by mineral leases on sovereign lands in the Green and Colorado Rivers are modest compared to mineral leases on other sovereign lands in Utah, such as Great Salt Lake. The minimum annual rental on any mineral leases on sovereign lands is \$20 (Utah Administrative Code R652-20-1000[1][C]). Annual royalties vary for oil and gas, other hydrocarbon substances, and mineral commodities on sovereign lands. Table 3 lists the royalty rates for oil and gas, coal, and other mineral commodities on sovereign lands in Utah.

**Table 3. Royalty Rates for Oil and Gas and Mineral Commodities**

Commodity	Royalty Rate
Oil	12.5%*
Gas	12.5%*
Sulfur	12.5%*
Other hydrocarbon substances	6.25%*
Coal	8%
Oil shale	5% <sup>†</sup>
Asphaltic/bituminous sands	7% <sup>‡</sup>
Gilsonite	10%
Fissionable metallic minerals	8%
Non-fissionable metallic minerals	4%
Gemstone/fossil	10% <sup>§</sup>
Magnesium	1.5%
Salt	\$0.50/dry ton
Phosphate	5%
Potash and associated minerals	5%
Gypsum	5%
Clay	5%
Geothermal resources	10%
Building stone/limestone	5% (except 2% for calcined lime)
Volcanic materials	5%
Industrial sands	5%

Source: Utah Administrative Code R652-20-1000.

Note: Royalty rates are published for reference purposes and are subject to change. Current royalty rates may be found in the applicable regulations.

\* During the first 10 years of production and increasing annually thereafter at the rate of 1% to a maximum of 16.7%.

<sup>†</sup> 5% during the first 5 years of production and increasing annually thereafter at the rate of 1% to a maximum of 12.5%.

<sup>‡</sup> May be escalated after the first 5 years of production at the rate of 1% per year to a maximum of 12.5%.

<sup>§</sup> On January 1, 2001, the royalty rate per ton started being adjusted annually by the Producer Price Index for Industrial Commodities as provided under R652-20-1000(e) using 1997 as the base year.

## Areas of Potential Resource Conflicts

Reasonably foreseeable resource conflicts along the Green and Colorado Rivers may affect the potential for mineral leasing. Table 4 lists the some of the potential resource conflicts by river segment.

**Table 4. Potential Resource Conflicts and Upland Ownership Patterns by River Segment**

River Segment	Potential Resource Conflicts	Upland Ownership Patterns
<b>Green River</b>		
Uinta Basin	Dinosaur National Monument Stewart Lake Wildlife Management Area Ouray National Wildlife Refuge BLM areas of critical environmental concern Potential wild and scenic river segments Boater access points Cultural resources Wetland and riparian areas Agricultural areas ESA-listed fish and plant species	Federal lands managed by NPS, BLM, and USFWS Private ownership Individual Ute allotments Tribal lands managed by the Ute Indian Tribe and BIA State lands
Green River Valley	Potential wild and scenic river segments Wild and scenic river (recreational) Wilderness area National scenic and historic trails LR Thayn walk-in-access area Boater access points Cultural resources Wetland and riparian areas Agricultural areas Tusher Diversion Dam ESA-listed species City of Green River's plan to develop a river walk trail system	Federal lands managed by BLM Significant private ownership City of Green River
Labyrinth Canyon	Canyonlands National Park BLM areas of critical environmental concern Potential wild and scenic river segments Wild and scenic river segment (scenic) Adjacent wilderness study area Wilderness area Lower San Rafael River Wildlife Management Area Boater access points Cultural resources Wetland and riparian areas ESA-listed species Recreation values Scenic values	Federal lands managed by BLM and NPS State lands Private ownership

River Segment	Potential Resource Conflicts	Upland Ownership Patterns
<b>Colorado River</b>		
Above Westwater	Potential wild and scenic river segments Boater access point Wetland and riparian areas ESA-listed species Recreation values Scenic values Unadjudicated ownership	Federal lands managed by BLM Significant private ownership
Westwater Canyon Wilderness Study Area	Adjacent wilderness study area Potential wild and scenic river segments Boater access point Cultural resources Wetland and riparian areas ESA-listed species Recreation values Scenic values Unadjudicated ownership	Federal lands managed by BLM Private ownership
The Moab Daily	Arches National Park Scott M. Matheson Wetlands Preserve Cottonwood Bench Ranch Conservation Easement BLM areas of critical environmental concern Potential wild and scenic river segments Adjacent wilderness study areas National scenic and historic trails Boater access points Cultural resources Wetland and riparian areas Agricultural areas ESA-listed plant and wildlife species ESA-listed species Recreation values Scenic values	Federal lands managed by NPS and BLM Private ownership State lands Nature Conservancy and state wildlife management areas City of Moab
Meander Canyon	Canyonlands National Park BLM areas of critical environmental concern Important bird area Potential wild and scenic river Boater access point Cultural resources Wetland and riparian areas ESA-listed species Recreation values Scenic values	Federal lands managed by BLM and NPS State lands

River Segment	Potential Resource Conflicts	Upland Ownership Patterns
Glen Canyon	Glen Canyon National Recreation Area Important bird area Boater access points Cultural resources Wetland and riparian areas ESA-listed species Recreation values Scenic values Stranded and/or submerged title	Federal lands managed by the NPS Navajo Nation lands

## MANAGEMENT DIRECTION

The goals and objectives below reflect the intention of FFSL to protect and sustain the Pubic Trust resources while providing for their use. Each goal is supported by objectives that can be used to achieve the goal. Table 5 presents management goals and objectives for the leasing of oil and gas resources on sovereign lands. Table 6 presents management goals and objectives for the leasing of mineral resources on sovereign lands.

**Table 5. Oil and Gas Resources Goals and Objectives**

<b>Oil and Gas Resources Goal 1:</b> Balance oil and gas resource development on sovereign lands while minimizing negative impacts, protecting Public Trust resources, and protecting the natural environment.
<b>Objective:</b> Foster coordination and cooperation in the management of all resources on the Green and Colorado Rivers with oil and gas applicants, and with local, state, federal, and tribal agencies with management authority adjacent to or on the Green and Colorado Rivers.
<b>Objective:</b> Enforce all applicable regulations, mitigation, and best management practices during oil and gas operations and appropriate reclamation after developments cease.
<b>Objective:</b> Coordinate closely with DOGM for leases adjacent to Class 6 areas.
<b>Objective:</b> Adhere to the goals and objectives in the Green River CMP (SWCA et al. 2020a) and in the Colorado River CMP (SWCA et al. 2020b) when evaluating lease applications.

**Table 6. Mineral Goals and Objectives Common to All Classes**

<b>Mineral Resources Goal 1:</b> Balance mineral resource development on sovereign lands while minimizing negative impacts, protecting Public Trust resources, and protecting the natural environment.
<b>Objective:</b> Foster coordination and cooperation in the management of all resources on the Green and Colorado Rivers with mineral applicants, and with local, state, federal, and tribal agencies with management authority adjacent to or on the Green and Colorado Rivers.
<b>Objective:</b> Enforce all applicable regulations, mitigation, and best management practices during mineral resource development and extraction operations and appropriate reclamation after projects cease.
<b>Objective:</b> Coordinate closely with permitting agencies for leases adjacent to Class 6 areas.
<b>Objective:</b> Adhere to the goals and objectives in the Green River CMP (SWCA et al. 2020a) and in the Colorado River CMP (SWCA et al. 2020b) when evaluating lease applications.

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