



**WESTERN RESOURCE**  
**ADVOCATES**

Protecting the Interior West's Land, Air, and Water

April 16, 2010

Members of the Resource Development  
Coordinating Committee  
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Re: Comments on Scoping Process for Revision of Great Salt Lake Comprehensive  
Management Plan

Dear RDCC Members, Mr. Styler, Mr. Buehler and Mr. Grierson:

FRIENDS of Great Salt Lake, Utah Wetlands Foundation League of Women Voters of Salt Lake, League of Women Voters of Utah, the Utah Chapter of the Sierra Club, and Utah Waterfowl Association (collectively FRIENDS) provide the following comments on the planning process to review and revise the Great Salt Lake Comprehensive Management Plan (CMP).

- **Protection of Public Trust Resources:** The CMP must clearly define how the Division's management of the Lake will conserve the Lake's Public Trust resources and prevent uses of the Lake from interfering with these trust values. The CMP must make clear that protection of trust resources takes priority over all other uses of the Lake, including development. Ultimately, the goal of the CMP must be to establish guidance for management of the Lake in keeping with the Public Trust obligations of, not only the Division, but every agency and arm of the State of Utah.
  - All indications are that the extensive development of Great Salt Lake sovereign lands that currently exists – including the North Arm, Bear River Bay and

Stansbury Bay mineral extraction reservoirs, as well as the causeways and the development that the Division has already approved but has not been constructed – is not sustainable and is having a cumulative, detrimental effect on Great Salt Lake trust resources. Unless and until the Division can establish with credible evidence that trust resources are not being interfered with by existing development, the CMP must close all areas of the Lake to future development. Moreover, unless and until the Division can establish that any new development will not interfere with – either individually or cumulatively – public trust resources, the CMP should recommend precluding any additional development on the Lake.

- **Public Involvement:** Because the State of Utah holds the Public Trust resources of Great Salt Lake in trust for the citizens of Utah, the public must be allowed to meaningfully participate in all decisions that have the potential to impact these resources. This meaningful participation includes the opportunity to comment on and receive adequate notice of these actions. Any meaningful participation must also include the right to seek administrative and judicial review of Division actions. The CMP must allow for this public participation. If the CMP adopts an approach to Lake management that curtails public involvement in Division decision making, including site-specific actions and decisions on leasing applications, the CMP must explain how this approach comports with the Public Trust Doctrine, Utah statutory and constitutional law, Utah regulations, as well as good governance and democratic principles of accountability.
- **Mineral Leasing Plan (MLP):** Because the CMP will incorporate the MLP, it is imperative that the Division of Forestry, Fire & State Lands (Division) review and revise the MLP in conjunction with this effort to revise the CMP. This is especially important given that the Division committed to FRIENDS that it would undertake a revision of the MLP, something the Division has yet to accomplish.
  - As part of the MLP, the Division should account for and analyze the impacts of all known, proposed and reasonably foreseeable mineral leasing projects on Public Trust resources. For instance, Great Salt Lake Minerals proposed expansion must clearly be factored into the MLP. Additionally, other proposals, such as oil and gas mining in the North Arm, should also be considered, since it is reasonably foreseeable that such proposals may occur.
- **Scope of CMP:** The CMP should make clear how the Division will use the document in the Division’s efforts to fulfill its sovereign land management responsibilities. The document should clearly state what the uses designated in the CMP are, how these designations relate to future sovereign land use proposals, and what the limits are of the use of the CMP. General statements of the role of the CMP are not useful in providing guidance to either the Division or the public in how best to apply the CMP in future sovereign land management decisions.
  - Specifically, if the Division purports to use the CMP to make decisions approving future development projects on the Lake and in lieu of site-specific planning for specific sovereign land use projects, the CMP must account for all possible future uses of the Lake. Additionally, the CMP must analyze the impact of those possible future uses on Public Trust resources and must ensure that such uses will not interfere with the Public Trust. If the Division is unable to accurately predict those future uses and is unable to analyze the individual and cumulative impacts

related to those uses, the CMP may not purport to approve unknown and unpredictable sovereign land use projects.

- Water Quantity
  - Water Rights: The CMP must consider all unapproved, approved, and perfected water rights. This analysis must account for the impact that this water use is likely to have on the Public Trust resources of the Lake.
  - Conservation Pool: Additionally, the CMP should define the minimum Lake level that is sufficient to maintain Public Trust resources. The CMP should then develop strategies, including restricting the use of Lake water and other sources of water, to maintain this water level.
  - Climate Change: The CMP must consider the impact of climate change, including the cumulative impacts of climate change, on the water levels and the Public Trust resources of the Lake. The CMP should then develop strategies to avoid or mitigate any adverse impacts.
  - Bear River: The Division must consider the plan to withdraw significant additional water from the Bear River. The Division should determine the impact that this withdrawal will have on Public Trust resources and should then develop strategies to avoid or mitigate any adverse impacts.
- Water Quality:
  - Discharges: The CMP must consider the impact of all permitted and unpermitted discharges, including point source and non-point source discharges, into the Lake. It should also take into account the water quality of Lake inflows, to include nutrient loading from agricultural runoff and POTWs. The CMP should then develop strategies to avoid or mitigate any adverse impacts to water quality from these discharges and inflows.
  - Standards: The CMP must address the almost complete lack of numeric standards for the Lake and set goals for developing numeric standards in the near future. The CMP should then develop strategies to avoid or mitigate any adverse impacts to water quality from the lack of numeric water quality standards. To the degree that narrative standards are being used, the CMP should address how these standards are applied to protect water quality in the Lake.
- Mercury Contamination: The CMP should take a hard look at the high concentration of mercury in the Lake and determine the impact of this concentration on Public Trust resources, including birds and the organisms and plants on which they feed. The CMP should determine the source of the mercury in the Lake and should determine if the presence of the causeway and evaporation reservoirs in contributing to or causing the methylation of mercury in the Lake. The CMP should then develop strategies to avoid or mitigate any adverse impacts to water quality and Public Trust resources from mercury.
- Watershed: The CMP should look at water quantity and water quality impacts on the Lake from a Great Salt Lake watershed perspective. It is not sufficient to confine the focus of the CMP to the meander line of the Lake when occurrences outside of Lake boundaries have a profound impact on water quantity and quality of the Lake. The CMP should then develop watershed-level strategies to avoid or mitigate any adverse impacts to water quality and water quantity in the Lake.
- Ecosystem: As with the watershed, the CMP must take the perspective that the Great Salt Lake ecosystem is an integrated whole that must be considered in its entirety. This is

especially important when considering the cumulative impacts that may possibly result from industrial activities on the Lake. The CMP should then develop watershed-level strategies to avoid or mitigate any resulting adverse impacts.

- Diking: A realistic assessment must be made of the impact of all current and reasonably foreseeable man-made diking projects on the Public Trust resources, including the biology, chemistry and water circulation of the Lake. This assessment must be done using modeling of those impacts that takes into account the various Lake levels over time.
- Causeways: Additionally, the CMP must analyze the real, rather than the ideal condition and maintenance of the Lucin Cutoff causeway openings and determine the impact of the causeway on the Lake and its trust values. The CMP must determine whether it is necessary or desirable to restructure or remove the causeway for the overall health of the Lake and its Public Trust resources. The CMP should also consider whether the Antelope Island causeway should be restructured in order to promote ecosystem health and the conservation of Public Trust resources. The CMP should then develop strategies for implementing its findings.
- Birds: The CMP should quantify and assess bird use of the Lake, as well as the recreation associated with these birds. The CMP should then develop strategies to protect and enhance bird use and bird habitat. The CMP may not allow any non-trust activity that individually or cumulatively interferes with these resources.
- Wetlands: The CMP should also consider the health of the wetlands along the perimeter of the Lake, including both natural and impounded wetlands. The CMP should then develop strategies to protect and enhance these wetlands.
- Salt Removal: Because annual mineral extraction has begun to exceed the amount of mineral deposits flowing into the Lake each year, the short, medium and long-term impacts of mineral mining must be considered. Additionally, the impact of mineral extraction ponds on the salt balance on the Lake must be analyzed. Such an analysis must take into account the impact of the evaporative ponds throughout the Lake, including the transfer of North Arm salts to Bear River Bay and whether the Clyman Bay ponds effectively return residual salts back into the Lake.
  - This analysis must also consider the effect of salt removal on the salt balance throughout the Lake, including its impact on the Lake's brine shrimp population.
  - The 2000 USGS salt and water balance model must be redone to reflect the current low water levels of the Lake.<sup>1</sup>
- Air Quality: The CMP must address the impact that the drawdown of the Lake, from both natural and human activities, has on the air quality of surrounding communities. This assessment should focus on particulate matter pollution, as increased areas of exposed mudflats around the Lake contribute to airsheds designated as not meeting National Ambient Air Quality Standards for PM<sub>2.5</sub> and as failing to meet State Implementation Plan requirements for PM<sub>10</sub>. Impacts to ground-level ozone formation should also be analyzed.
- Land Use: The use of land surrounding the Lake has changed significantly since the 2000 CMP, especially along the eastern shores. Because development pressures on the

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<sup>1</sup> Attached is a report authored by Kidd Waddell entitled "Review of the Potential Effects of the Proposed Great Salt Lake Minerals Project on the Water and Salt Balance of Great Salt Lake, Utah, 2010" which should be included when updating the salt balance of the Lake.

Lake will continue to climb as population along the Wasatch Front increases, the revised CMP must account for the impacts of this growth on Public Trust resources. This accounting must also include the proposed development of the Salt Lake City northwest quadrant.

- Recreation: The CMP must address all reasonably foreseeable recreational uses of the Lake and how proposals within the CMP might impact these uses. The CMP may not allow any non-trust activities that individually or cumulatively interfere with these resources.
- Phragmitis and Other Invasive Species: The CMP must address the extensive expanse of invasive phragmitis along the eastern and southern shore of the Lake, the impact of this plant and the possible future impact of this invasion. The CMP should then develop strategies to mitigate this invasion and the impact it has on ecosystem resources along the shores of Great Salt Lake.
- Cultural Resources: The CMP must address how cultural resources on lands surrounding the Lake will be inventoried and protected.
- Fremont Island: The CMP should explore whether it is in the best interests of the State for Fremont Island to remain in private hands or whether the State should begin negotiations for purchasing the Island and converting it into a preserve.
- Antelope Island: The CMP should examine the impact of increased tourist trade at Antelope Island on the Lake. The CMP should also discuss issues such as whether access to the Island via a southern causeway should be allowed.
- Industrial Use: The CMP must account for all industrial and commercial use of the Lake, to include all existing, proposed, and reasonably foreseeable development. The CMP must examine this development in light of the Lake ecosystem as a whole and must account for the cumulative impact of the development.
- Resource Economics: The CMP should include the economic value of the various Public Trust resources of the Lake. Such an analysis is especially important in informing the Division's deliberations related to competing demands for limited Lake resources. We caution, however, that the Public Trust Doctrine requires the conservation of trust resources and prohibits Lake uses from interfering with Trust resources regardless of monetary value of other uses.
- Aquatic Beauty: The CMP should quantify and analyze the visual and aesthetic resources of the Lake and determine existing impacts on these resources. The CMP may not allow any non-trust activities that individually or cumulatively interfere with these resources.
- Navigation: The CMP should quantify and analyze the navigational resources of the Lake and determine existing impacts on these resources. The CMP may not allow any non-Trust activities that individually or cumulatively interfere with these resources.
- Spiral Jetty: The Spiral Jetty is a nationally recognized art installation. The CMP should ensure access to and protection of this work.
- Cumulative Impacts: It is of critical importance that the CMP take into consideration the cumulative impacts of Lake development, impaired water quality, varying water levels, obstructions in the Lake and habitat destruction on Public Trust resources. The CMP must determine whether Trust resources are being harmed by the cumulative impacts of these activities and, if so, what steps must be taken to restore and protect Trust resources.

Such analysis is essential to the fulfillment of the Division's Public Trust obligations to the citizens of Utah and the Trust values of the Lake.

These comments are not intended to be comprehensive and all-inclusive. Rather, they represent the areas that FRIENDS feels should be highlighted during the CMP process. Additionally, FRIENDS strongly suggests that time for additional scoping comments be provided for this Comprehensive Management Plan in addition to the RDCC process. We appreciate this opportunity to participate in the Great Salt Lake Comprehensive Management Plan revision process.

**\*\*\*\*\* We specifically request that you include us on your mailing list for all Division actions related to any sovereign lands, including Great Salt Lake, but especially those related to sovereign land use decisions, and all documents related to revisions of the Great Salt Lake CMP and MLP. \*\*\*\*\***

Yours,



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