

RECORD OF DECISION

for the Fox and Crescent Reservoirs Repair and Maintenance Project

USDA Forest Service, Intermountain Region



**Vernal and Duchesne/Roosevelt Ranger Districts
Ashley National Forest
Duchesne and Uintah Counties, Utah**

Introduction

This document includes my decision on a proposal submitted by the Dry Gulch Irrigation Company (DGIC) of Roosevelt, Utah to repair and maintain the Fox and Crescent Dams and Reservoirs. These two reservoirs are located in the Shale Creek tributary of the Uinta River, approximately 36 air miles north of Roosevelt, Utah. Shale Creek originates in the upper Uinta River drainage within the High Uintas Wilderness on the Ashley National Forest. Crescent Reservoir water drains into Fox Reservoir and all stored water is then released through the Fox Reservoir outlet works into a small tributary. The water eventually flows into the main Uinta River for diversion and use downstream on private property.

Both of the dams and reservoirs were constructed under Forest Service authorization between 1923 and 1927. The most recent Forest Service authorizations are dated February 15, 1996 and have an expiration date of December 31, 2005.

The analysis of the proposal and alternatives is documented in the Final Environmental Impact Statement (FEIS), entitled "Fox and Crescent Reservoirs Repair and Maintenance Project -- Vernal and Duchesne/Roosevelt Ranger Districts, Ashley National Forest." Copies of the FEIS can be obtained from the Forest Supervisor's Office, 355 North Vernal Avenue, Vernal, Utah 84078.

Purpose and Need

The two dams are more than seventy years old and in need of repair to ensure safe and continued use. Recent safety inspections of the dams by personnel from the Utah State Engineer's Office and Forest Service indicate that there are serious defects with the outlet works at both reservoirs, and additional problems with the dikes, interior pipes, existing wet well, and spillway at Fox Reservoir (*FEIS Ch. 1, p. 1*). The Division of Water Rights of the Utah Department of Natural Resources, the State of Utah Engineering Office and the Forest Service require that dams be maintained to a standard to ensure their safe operation and to protect adjacent and downstream resources, as well as private and public property and other values.

The reservoirs are presently permitted by Forest Service authorizations, but DGIC has applied for easements under the authority of Federal Land Policy and Management Act as amended by Public Law 99-545, commonly known as the "Colorado Ditch Bill." Easements under the law are considered valid existing rights under the Wilderness Act and must be treated as such. It is the Forest Service's responsibility to identify the terms and conditions for maintenance and repair that are to be included in the easements.

Decision and Supporting Rationale

My decision is based on the analysis of the proposed action and alternatives, current law and regulation, as well as the public comments I received throughout the process. My decision incorporates by reference the analysis and management direction disclosed in the FEIS and the planning record in their entirety. All references and citations used in this Record of Decision are found in the FEIS or in the project record.

After careful review of the analysis and public comments, I am making two decisions:

1. I am issuing permanent easements to DGIC under the Ditch Bill. The easements will contain certain terms and conditions.

The Forest Service is required to issue permanent easements for qualifying water diversion and impoundment facilities outside and inside wilderness areas. In accordance with United States Department of Agriculture (USDA) - Forest Service policy, I have determined that DGIC is qualified for permanent easements under the Colorado Ditch Bill. DGIC's applications meet all criteria of the Ditch Bill (*R. Klarich, 2002; FEIS Ch.1, p. 4-5*). Under the Ditch Bill, these easements are valid existing rights that are recognized by the Wilderness Act (*Jack Ward Thomas, Chief USDA-FS, Memo to Forest Supervisors, February 23, 1996*). Prior to the 1996 Thomas letter, the Wilderness portion of water diversion and impoundment facilities was authorized under the Organic Act, while the portion outside the Wilderness was authorized under the Ditch Bill (*Ibid; James C. Overbay, Deputy Chief, Letter to Regional Foresters, July 3, 1990; John T. Drake, Director of Recreation, Wilderness and Lands, letter, October 27, 1986*). The change in direction in 1996 shifted the decision for the Forest Service from authorizing these uses by permit to determining the terms and conditions of the easements that must be issued under the Ditch Bill. It is my decision that all the terms and conditions in Table 2a of the FEIS will be part of the easements (*FEIS Ch.2, p. 22-23*) as explained in Section 2.5 of the FEIS.

The easements will replace the current Forest Service authorizations for the two reservoirs presently authorized under the Organic Act of June 4, 1897.

2. I am selecting Alternative Two (Modified Proposed Action) with one modification:

In selecting this alternative, I am authorizing the following repairs:

Fox Dam and Reservoir

The existing outlet pipe will be repaired by slip lining the existing pipe with a new pipe. A new head gate and frame assembly will be installed, and a new concrete inlet structure constructed. The outlet structure will be replaced or repaired. The southwest and north levees of the reservoir will be raised three and nine inches respectively to

match the elevation of the dam. Leaks in the spillway and levees will also be repaired. Approximately 200 cubic yards of borrow material will be needed and will come from the reservoirs' bottoms, rather than from the old, existing borrow pits adjacent to the reservoir. A temporary cofferdam will be constructed to control flows out of the reservoir during repair work, and will be removed upon completion of the project work.

Crescent Dam and Reservoir

A new head gate and frame assembly will be installed and repairs made to the existing outlet pipe. Cracks in the masonry dam will be repaired using grout and glue facing materials.

The repair work for the reservoirs will require the use of portable gas and electric equipment, such as generators, welders, compactors, pumps and cement mixers, as well as wheelbarrows and other hand tools. A skid loader will be needed to remove, sort and place borrow materials, and to move heavy materials, equipment, and tools within the reservoir sites.

A helicopter would be required to transport the heavy equipment and tools to the reservoir sites, with an estimated 18 to 20 round trip helicopter flights. Saddle and packhorses would transport work crews and the lighter weight tools, supplies and materials to the reservoir sites, with approximately 20 round trips with up to nine horses in each pack string. This would equate to 180 pack loads.

Dry Gulch Irrigation Company estimates that the above project work would take 30 to 35 days to complete, with crews varying in size from six to fourteen personnel.

Alternative Two in the FEIS identified the meadows at Reader Creek as the helicopter staging area for this project. Instead of selecting this portion of Alternative Two, the staging area for both helicopter and saddle and pack horse operations will be at the Chepeta Trailhead area located along Forest Road #110 approximately one-half mile south of Chepeta Lake. Helicopter flights between this staging area and the reservoir sites will be over North Pole Pass or Fox/Queant Pass. Saddle and packhorse travel will be along the Uinta Highline Trail #025d and Uinta Highline Trail #025 across North Pole Pass.

I chose this alternative staging area after assessing the anticipated environmental effects to the staging areas disclosed in the FEIS. Fewer impacts to vegetative and hydrologic resources and recreation uses at the Chepeta Trailhead and along Uinta Highline Trails #025d and #025 across North Pole Pass are expected when compared to those expected at Reader Creek Meadows, Reader Basin Trail #113, Queant Lake Jeep Trail, Queant Lake Trail #048, and West Fork Whiterocks Trail #047. Use of the Chepeta Trailhead will not require clearing of vegetation; clearing of vegetation would be necessary at Reader Creek Meadows or the Queant Lake Jeep Trail. There will be fewer stream and meadow crossings outside and within the High Uintas Wilderness along the Uinta Highline Trails #025d and #025, with fewer impacts to hydrologic and

riparian conditions. In addition, we expect there will be fewer encounters with recreation users at the Chepeta Trailhead and along Uinta Highline Trails #025d and #025 outside and within the High Uintas Wilderness (*FEIS Ch. 2, p. 27-32*).

I have determined that the environmental effects of using this staging area are within the scope of those displayed in the FEIS.

As an integral part of this decision, I adopt all the mitigation measures listed in Chapter 2, Section 2.2.1 of the FEIS. These measures are attached as Appendix A. The mitigation measures include intensive monitoring requirements to assure implementation and acceptable site rehabilitation and restoration. All mitigation measures and monitoring guidelines will be required as part of project implementation.

Other Considerations

Water Rights - My decision does not change any existing water rights. The Utah Department of Natural Resources, Division of Water Rights has sole authority for water rights and water rights management in Utah (*FEIS Ch.3, p.17*). The FEIS only discloses the effects of alternatives to a proposal to repair the reservoirs. It is recognized that DGIC holds the existing water rights and that the reservoirs are legally authorized.

Hazard/Risk Reduction/Public Safety - The Utah State Department of Natural Resources, Division of Water Rights, The State of Utah Engineer's Office, and the Forest Service have agreed that the repair work must be undertaken if the reservoirs are to continue to be used as in the past (*FEIS Ch.1, p.1*). The agencies have classified the dams as "moderate hazard" structures (*Ibid*). Failure to repair the reservoirs to the accepted standard would eventually result in storage restrictions being put into place on each reservoir. If the repairs are not made, storage restrictions would be needed to protect soil and vegetation resources below the reservoirs in the Uinta Canyon drainage and to safeguard against loss of life and property on National Forest System lands (U-Bar Ranch Resort, campgrounds, bridges, trails, water diversions) and on Uintah and Ouray Indian Reservation Tribal Lands (Big Springs Recreation Area, water diversions).

Concerns related to the effects to Wilderness and Wilderness resources - I selected Alternative Two because it is both the environmentally preferred alternative and the minimum requirements alternative.

Wilderness designation poses several constraints to completing repairs or maintenance of the reservoirs. The 1964 Wilderness Act (16 U.S.C. 1131) contains a general prohibition against motorized tools and equipment and mechanical access. However, it does provide for exceptions for "...the minimum requirements for the administration of the area for the purposes of this Act..." (Wilderness Act, Section 4c 1964). The reservoirs are legally authorized, are in the Wilderness, and must be properly administered to protect Wilderness values, downstream resources, and to ensure public

safety. The FEIS contains a complete minimum requirements analysis. The minimum requirement is not necessarily a traditional tool such as horse drawn or human powered equipment and tools used by early settlers and pioneers prior to the advent of today's motorized equipment. The Wilderness Act states we must use what is minimally required to administer the area as "Wilderness." Therefore, to use a motorized tool or piece of equipment in a Wilderness, we must show that these kinds of tools are the minimum tools necessary.

Use of the helicopter, the skid loader and the other motorized/mechanical tools and equipment in the selected alternative constitutes the minimum tool. The evaluation of what is the minimum tool must consider not only impacts to the Wilderness setting, but impacts to the forage base, trails, the number of people, and the impacts to campsites, sanitation, etc. All of these factors are considered in Chapters 2 and 4 of the FEIS and were used to determine the minimum tool requirement.

It is important that the public and project managers understand that the minimum requirements concept for Wilderness will be adhered to in implementing this project. This means that while this decision will authorize an estimated 20 round trip flights with a helicopter and authorize the other estimated motorized uses described in the FEIS for this alternative, every effort will be made to minimize these motorized intrusions in the Wilderness environment. Helicopter flights will only be approved for transporting those items that cannot be successfully or safely packed into the area such as the skid loader, backhoe attachments, pumps, generators, welders. Pack animals will be used for those items that can be safely packed, such as food items, campsite materials, personnel, and other project tools and equipment. Although there could potentially be approximately eight more helicopter flights with the selected alternative (Alternative Two) than with the Maximize Traditional Tools Alternative (Alternative Three), this alternative represents the minimum requirement for this project because it carefully balances the Wilderness setting with impacts to the physical environment of the Wilderness. My decision will result in approximately 275 fewer horse trips and approximately 30 fewer workdays than those estimated for Alternative Three. The effects of this will be:

- Fewer encounters with recreation users at Chepeta Trailhead, along trails, and at the reservoir sites.
- Reduced erosion of trail tread and fewer disturbances to streams and meadows at trail crossings.
- Ninety-two fewer acres for grazing of packhorses, and therefore less effect to vegetation at the reservoir sites.
- Six fewer project workers, and therefore fewer impacts to soils and vegetation at the reservoir sites from project work crews. (*FEIS Ch. 2, p. 28 and 33*).

Decision Authority

The authority for this decision lies with the Regional Forester under Forest Service Manual (FSM) 2326.04b and 2326.1. Under this section of the manual the Regional

Forester is delegated authority to allow use of motorized tools and equipment or mechanical access to units of the National Wilderness Preservation System for access to valid occupancies and when necessary to meet minimum needs for protection and administration of the area as Wilderness. Title 36 CFR 293.13 discusses access requirements to persons with valid occupancies in designated Wilderness areas. The authority for the easement under the Ditch Bill has been delegated to Regional Foresters with additional delegation for signing authority given to the Director of Lands within that region.

Tribal Trust Responsibilities

The USDA Forest Service, Ashley National Forest initiated consultation as required by Executive Order 13084 during initial scoping on March 19, 2001 and follow up scoping on January 9, 2002. The Forest sent scoping letters to the Northern Ute Tribal Offices, with invitation to respond. We also provided a copy of the Draft Environmental Impact Statement to the Tribal Offices on December 20, 2002, with a request for review and comment. On February 6, 2003, we hand delivered another copy of the Draft Environmental Impact Statement and copies of our Prehistoric Recording Forms to Clifford Duncan of the Tribe's Cultural Rights and Protection Office.

The Forest Service met with the Northern Ute Tribal Business Committee in response to the Tribe's concerns over lack of consultation about further maintenance and further use of the Fox and Crescent Reservoirs, and continued with consultation through preparation of the FEIS and accompanying Record of Decision (*Tucker, letter, Feb. 3, 2004*).

The FEIS describes the actions and activities of the Central Utah Water Conservancy District (CUWCD) to stabilize the five reservoirs in the Uinta Unit as included in the 203(a) Uinta Basin Replacement Project, and transfer water rights to a proposed new Lower Uinta Canyon reservoir located on tribal trust lands. These five reservoirs included Fox and Crescent Reservoirs. The CUWCD worked through the early 1990s with the Tribe and other affected parties to accomplish the actions described above. For various reasons, the parties associated with these actions could not come to agreement and the above actions were never completed (*FEIS Ch.1, p.3, Section 1.1 History and Background*).

Public Involvement

Scoping began for this project with the mailing of the initial scoping letter on March 19, 2001. A Notice of Intent to prepare an Environmental Impact Statement was published in the Federal Register on May 9, 2001, with the comment period closing on May 29, 2001. The initial scoping letter was mailed to 83 parties representing private individuals, government agencies at the federal, state, and local level, tribes, environmental organizations, congressional offices, and other interested parties.

The proponents modified their proposal in May 2001, and on June 1, 2001, a revised scoping letter was sent to all parties on the initial list, as well as all those who had commented on the original scoping effort. The comment period for the second scoping effort ended on June 20, 2001.

A third scoping letter was sent on February 4, 2002, to the same parties. This letter addressed the status of the EIS, and the intent of the Forest Service to include an EIS section on the “framework and content of an annual and long-term operation and maintenance plan.” The letter requested comments on the proposed O&M plan.

The three scoping letters resulted in 92 comments being received and evaluated. From these comments, the Ashley National Forest Interdisciplinary Team (Forest IDT) identified ten key public issues and management concerns for environmental analysis. The ten issues and concerns dealt with the potential effects of the proposed action and alternatives on the following resources:

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|---|--|
| a) Wilderness Values, including O&M Plans | e) Water Quality and Stream Conditions |
| b) Recreation Experiences | f) Water Storage Rights |
| c) Threatened, Endangered, and Proposed Plant Species | g) Water Rights for the Reservoirs |
| d) Terrestrial and Aquatic Wildlife Resources, including Threatened, Endangered, and Candidate Species, Sensitive Species, and Management Indicator Species | h) Soils at Borrow Areas |
| | i) Historic and Cultural Sites |
| | j) Inventoried Roadless Areas |

The Draft Environmental Impact Statement (DEIS) for the Proposed Action and Alternatives was published October 29, 2002, and included a detailed analysis and evaluation of the ten issues and concerns identified in the three scoping efforts described above. The DEIS also included mitigation measures and monitoring guidelines for eliminating or reducing environmental effects to natural and physical resources, and social economic values.

Thirty-two comment letters were received at the end of the public review period of the DEIS. Of these, nine letters were received from local government offices, companies or organizations, three letters from federal or state offices, and 20 letters from individuals. Forest Service personnel reviewed each letter and identified specific issues, concerns, and recommendations. This content analysis, including Forest Service responses to each comment is found in the Appendix D of the FEIS.

Public comments were carefully considered when preparing the DEIS, and comments received during the DEIS public review period were carefully considered in preparing the FEIS and in reaching a decision. The comments resulted in several changes to the FEIS including clarifications (e.g., in the wildlife section), corrections where inaccurate information was presented (e.g., in the water rights and wildlife sections), and in some cases information and data were added (e.g., in the socio-economics section). Public comments were very helpful in making the analysis better, more clear, and in some cases more accurate.

The comments varied widely in preference among the alternatives, the adequacy of analysis, the application of current laws and regulations to the project, and the appropriateness of the use of motorized tools and equipment and mechanical access to complete the work. My decision considered the different points of view as well the legal framework under which we must operate. The impacts to the social and natural environment, both short and long-term, are carefully balanced in this decision.

Proposed Action and Alternatives

The Ashley National Forest interdisciplinary team analyzed and evaluated DGIC's proposed action and three Forest Service alternatives in accordance with the laws, regulations, and policies associated with the National Environmental Policy Act. The proposed action and alternatives are described in detail in Sections 2.0 through 2.4 of the FEIS, along with corresponding mitigation measures and monitoring guidelines pertinent to environmental concerns. Summaries of the Proposed Action and Alternatives are as follows:

Alternative One (Proposed Action)

Dry Gulch Irrigation Company proposes the following repairs at Fox and Crescent Dams and Reservoirs:

Fox Dam and Reservoir

The existing outlet pipe would be repaired by slip lining the existing pipe with a new pipe. A new head gate and frame assembly would be installed, and a new concrete inlet structure constructed. The outlet structure would be replaced or repaired. The southwest and north levees of the reservoir would be raised 3 and 9 inches, respectively to match the elevation of the dam. Leaks in the spillway and levees would also be repaired. Approximately 200 cubic yards of borrow material would be needed and would come from existing borrow pits adjacent to the reservoir. A temporary cofferdam would be constructed to control flows out of the reservoir during repair work, and would be removed upon completion of the project work.

Crescent Dam and Reservoir

A new head gate and frame assembly would be installed, and repairs would be made to the existing outlet pipe. Cracks in the masonry dam would be repaired using grout and glue facing materials.

The repair work for the reservoirs would require the use of portable gas and electric equipment, such as generators, welders, compactors, pumps and cement mixers, as well as wheelbarrows and other hand tools. A skid loader would be needed to remove, sort and place borrow materials, and to move heavy materials, equipment, and tools within the reservoir sites.

A helicopter would be required to transport the heavy equipment and tools to the reservoir sites, with an estimated 18 to 20 round trip helicopter flights. Saddle and packhorses would transport work crews and the lighter weight tools, supplies and materials to the reservoir sites, with approximately 20 round trips with up to nine horses in each pack string. This would equate to 180 pack loads.

The staging area for both helicopter and saddle and pack horse operations would be at Reader Creek meadows, located approximately two miles south of Chepeta Lake along Forest Road #110, or the Chepeta Trailhead area also located along Forest Road #110 approximately one-half mile south of Chepeta Lake. Helicopter flights between these staging areas and the reservoir sites would be over North Pole Pass or Fox/Queant Pass. Saddle and packhorse travel would be along Uinta Highline Trail #025 across North Pole Pass.

Dry Gulch Irrigation Company estimates that the above project work would take 30 to 35 days to complete, with crews varying in size from six to fourteen personnel.

In addition, the Proposed Action would include the development and implementation of an annual and long-term operation and maintenance (O&M) plan that contained terms and conditions for managing future activities associated with Fox and Crescent Reservoirs. If repairs were authorized as described, this would imply that the reservoirs would be retained for the foreseeable future to provide irrigation water. The development and implementation of an O&M plan would be made part of the decision that authorized the repair work.

Alternative Two (Selected Alternative/Environmentally Preferred Alternative)

This alternative, the modified proposed action is described in the decision section earlier in this document. The staging area *originally included in this alternative* and that was changed by my decision is:

... a site located immediately north and west of the junction of Chepeta Lake Road #110 and the Queant Lake Jeep Trail as an alternative staging site for helicopter operations and saddle and pack horse trips. Helicopter flights from this alternative staging area to the reservoir areas would be over North Pole Pass or Fox/Queant Pass. Saddle and pack horse trips from this site to the reservoirs would use Queant Lake Jeep Trail, Queant Lake Trail #048, and West Fork Whiterocks River Trail #047 via Fox/Queant Pass; or Queant Lake Jeep Trail, Queant Lake Trail #048, and Uinta Highline Trail #025, via North Pole Pass.

Alternative Two is the environmentally preferred alternative. Of the three action alternatives, Alternative Two “causes the least damage to the biological and physical environments and best protects, preserves, and enhances, historical, cultural, and natural resources”. (*Section 05, Forest Service Handbook 1009.15 – National Environmental Policy Act Policies and Procedures*). Although the No Action Alternative (Alternative Four) does not involve the use of motorized equipment or mechanical tools

and equipment, and helicopter access in the High Uintas Wilderness (as do the three Action Alternatives), actions will still be needed to ensure that the dams, outlets, reservoirs and spillway are fully functional under the existing special use permits. This will require numerous trips by saddle and packhorses and the use of hand tools over several years to ensure that the dams and reservoirs are operated and maintained as specified by Utah State Division of Water Rights, State of Utah Engineer's Office, and the existing Forest Service special use permits. This repeated entry for repair over several years would result in recurring impacts to soil stability, vegetative cover, wildlife habitat, water quality, and recreation user experiences along access routes and at the reservoir locations. This repeated entry and recurring environmental impacts over several years are considered less environmentally preferable to a limited entry period of 30 to 35 days, as would be the case with Alternative Two.

Alternative Three (Maximize Traditional Tools)

A third alternative to DGIC's Proposed Action was developed and analyzed by the Forest Interdisciplinary Team.

The work items in this alternative would be the same as described in Alternatives One and Two.

Under this alternative, DGIC would be required to remove the estimated 200 cubic yards of borrow material from within the reservoirs (reservoir bottoms) and not from the existing borrow sites.

This alternative would also include the use of the staging area and saddle and packhorse routes described for Alternative Two.

This alternative would maximize the use of traditional tools and equipment to complete the work items. *Traditional tools and equipment are defined as horse drawn or human powered tools and equipment used by early settlers and pioneers prior to the advent of today's motorized equipment.* The project could not be entirely accomplished by traditional means due to the need to meet dam construction standards and the weight and bulk of some of the project materials and supplies. This alternative would not eliminate the need for helicopter transport and the need for motorized/mechanical equipment on site. Personnel involved in this alternative would, however, make every attempt to carry in all materials and supplies that could be safely packed by horses to the project site. This alternative would reduce the number of helicopter flights and increase the number of saddle and horse pack trips from those applicable to Alternatives One and Two. It would reduce the motorized/mechanical equipment at the site, the number of helicopter flights, and increase the time required to complete the project.

It is estimated that this alternative would require approximately ten to twelve round trip helicopter flights. There would be 50 round trip packhorse trips. This would be an increase in the number of pack trips over Alternatives One and Two by 220 pack loads

or 30 to 35 pack trips. Total horse pack loads would be approximately 450, with up to nine horses in each string.

This alternative would replace the work done by the Case 1838 skid loader with four to six draft horses. The work would take a minimum of 21 working days to accomplish with draft horses. The number of stock days would nearly triple under this alternative. The corresponding impacts to grazing areas would also increase as compared to Alternatives One and Two.

Personnel needed to complete the project would be expected to increase from a maximum of 14 persons under Alternatives One and Two to nearly 20 persons onsite. This would require at least two campsites in use at one time as opposed to one under Alternatives One and Two.

This alternative would nearly double the time it would take to complete the work – from approximately 35 days to approximately 65 days.

This alternative would also require the development and implementation of an annual and long-term O&M plan with terms and conditions for managing future activities associated with Fox and Crescent Reservoirs.

Alternative Four (No Action)

The No Action Alternative means that the proposed repair and maintenance activities would not take place. If repairs were not authorized as described in Alternatives One, Two, and Three, a storage restriction would eventually be placed on both reservoirs. A Reservoir and Dam Restoration Plan would then be developed to restore the reservoir sites to a safe condition over time.

At a minimum, the outlet works would need to be secured to ensure that the reservoir did not fill if restrictions were put in place, and the spillway would need to be fully functional. These activities could be done with minimal impact and would not require any use of motorized or mechanical tools, equipment, or access. Future actions that might be needed to secure the reservoirs would require a separate analysis and are beyond the scope of this project proposal.

Findings Required by Other Laws

Consistency with the Ashley National Forest Plan. My decision is consistent with the management direction, standards, and guidelines included in the Ashley National Forest Land and Resource Management Plan as amended.

Wilderness Act. The 1964 Wilderness Act has a general prohibition against motorized tools and equipment and mechanical access, but it does provide for exceptions if necessary for "...the minimum requirements for the administration of the area for the

purpose of the Act...” The FEIS analysis determined the minimum requirements necessary to properly administer the use and my decision meets these requirements.

Environmental Justice. Environmental Justice is discussed in Chapter 4 of the FEIS. All provisions of Executive Order 12898 have been complied with in terms of compliance with the NEPA process. The analysis confirms that this decision will not discriminate on the basis of race, color, or national origin (*FEIS Ch.4, p. 77-78*).

Endangered Species Act. This decision complies with the provisions of the Endangered Species Act. Formal consultation on the effects of this project on threatened and endangered species with the U.S. Fish and Wildlife Service was undertaken and a Biological Opinion was given concurring with the findings in the Biological Assessment (*Biological Assessment, Christensen, March 4, 2003; Biological Opinion, Maddux, May 13, 2003*).

National Historic Preservation Act. This decision complies with the National Historic Preservation Act. Fox Lake is considered eligible for the National Register of Historic Places. The Forest Service has consulted with the Utah Division of State History (SHPO) to develop a course of mitigation for the project. Repair of Fox Reservoir will require mitigation in the form of interpretation of the historic significance of the reservoir at a local office or visitor center (*James L. Dykmann, letter Feb. 12, 2002; Clark Tucker, letter, March 3, 2003*).

Invasive Species (Executive Order 13112). This Executive Order directs that federal agencies should not authorize any activities that would increase the spread of invasive species. Based on the analysis, no increase in invasive species is expected as a result of this decision (*FEIS Ch.4, p.16*). All existing special orders will be adhered to, including the weed-free hay provisions. As stated in the FEIS, the Forest Service will monitor post-project activities for invasive species and take appropriate action if necessary.

Prime Farmland, Rangeland, and Forest Land. The project is within a designated Wilderness. There is no designated prime farmland, rangeland, or forest land within the Wilderness.

Equal Employment Opportunity, Effects on Minorities, Women. The FEIS describes the social and economic factors in Chapter 4. This decision will have no disproportionate impact on any minority or low-income communities, nor will it differentially affect the Civil Rights of any citizens, including women and minorities. (*FEIS Ch.4, p.78*)

Wetlands and Floodplains. Impacts to wetlands and riparian systems are described in Chapter 4. Adverse impacts are mitigated. There are no floodplains in the project area (*FEIS Ch.4, p. 47-57*).

Other Policies. The existing body of national direction for managing National Forests remains in effect.

Appeal and Review Rights

This decision is subject to appeal. Holders of a special use authorization who are affected by this action may appeal the decision under either 36 CFR 215 or 36 CFR 251. Other parties may appeal only under 36 CFR Part 215.

Appeals under 36 CFR 251 must meet the content requirements of 36 CFR 251.90. The appeal must be postmarked or received by the Appeal Reviewing Officer within 45 days of this decision, at the addresses, fax number or email address listed below. A copy of the appeal must be filed simultaneously with: Regional Forester, 324 25th Street, Ogden, UT 84401; or fax to 801-625-5277.

Appeals under 36 CFR 215 must meet the content requirements of 36 CFR 215.14, as published in the Federal Register on November 4, 1993. Any written appeal must be postmarked or received by the Appeal Deciding Officer within 45 days of the publication of this notice in the Salt Lake Tribune. The Appeal Deciding Officer is: Chief, USDA Forest Service, EMC-Appeals, 1400 Independence Ave. SW, Mailstop 1104, Washington DC 20250-003. Appeals may also be faxed to 202-205-1012 or emailed to www.appeals-chief@fs.fed.us. Delivery services should be directed to: USDA Forest Service, EMC Staff, 3rd Floor Central Wing, 210 14th St. SW, Washington, DC, 20024 (phone number 202-205-0895). Office hours for delivery are 8:00 a.m. to 4:30 p.m. Monday through Friday, excluding holidays.

Implementation

If no appeal is received, implementation of this decision may occur no sooner than five business days after the close of the appeal period.

If an appeal is received, implementation may take place 15 days after a final decision is made on the appeal.

Contact Information

For further information on this decision or the Forest Service appeal process, contact George Weldon, Forest Supervisor, Ashley National Forest, USDA Forest Service, 355 North Vernal Avenue, Vernal, Utah, Telephone 435-789-1181; or Clark Tucker, District Ranger, Duchesne/Roosevelt Ranger District, 85 West Main Street, Duchesne, UT 84021, Telephone 435-738-2482.

/s/Jack Troyer
Jack G. Troyer, Regional Forester
USDA Forest Service, Intermountain Region

April 9, 2004
Date

APPENDIX A

Mitigation Measures and Monitoring Guidelines

The following table discloses Mitigation Measures and Monitoring Guidelines for Alternative Two, the chosen alternative. These mitigation measures and monitoring guidelines were developed for environmental concerns, and are found in Chapter 2 of the FEIS in sections 2.1.1 and 2.2.1.

Resource	Monitoring Guidelines	Mitigation Measures
<u>Wilderness</u>	<p>*Conduct trail condition surveys to assess the impacts of the project on the trails used to help set Forest maintenance priorities.</p> <p>*Monitor campsites to assess changes from the baseline Site Impact Index.</p> <p>*Monitor grazing areas to ensure established utilization standards are being met.</p>	<p>*Use signs to inform the wilderness visitor of the project activities. Suggest alternative areas to visit. Develop a visitor information plan with information on staging areas and helicopter flight routes.</p> <p>*Require project personnel to manage grazing (by livestock associated with the project) to ensure that animals are properly distributed over the suitable grazing areas and ensure the established utilization standards are not exceeded.</p> <p>*DGIC will prepare a safety plan that addresses procedures for evacuation of personnel from work sites in the case of life threatening situations. This plan will meet OSHA requirements.</p>
<u>Recreation</u>	<p>*Conduct inspection trips during and after project work to ensure the Dry Gulch Irrigation Company complies with special use permit terms and conditions.</p>	<p>*Under the direction of the Forest Service, DGIC will be required to repair and rehabilitate trails and dispersed recreation areas damaged by their operations and activities.</p> <p>*Under the direction of the Forest Service, DGIC will prepare, post and distribute flyers and other media notices that describe the purpose and need for the project work, location of the helicopter and pack string staging areas, the timeframes for all operation activities. Publish notices in local and regional newspapers as needed, recommending wilderness visitors limit their stay or avoid the area during the project work period.</p>
<u>Vegetation</u>	<p>*Use already established long-term trend studies and establish two to three new studies to monitor condition and trend of the impacted forage areas prior to and immediately following repair and maintenance horse forage use.</p> <p>*Monitor noxious weeds in disturbed areas for a minimum of 3 years.</p> <p><u>Threatened, Endangered, Proposed and Sensitive Plant Species</u></p> <p>*The project does not affect any threatened, endangered, proposed, or sensitive plant species;</p>	<p>*No mitigation measures are proposed for the borrow sites.</p> <p>*As needed in disturbed areas, DGIC will use Forest Service authorized treatment for a minimum of three years or until potential weed infestations are eradicated. Weed free hay will be used in accordance with Forest Service requirements.</p> <p>*During the maintenance work on the reservoirs, the Forest Service will monitor utilization and move horses if utilization</p>

Resource	Monitoring Guidelines	Mitigation Measures
	therefore, no mitigation measures or monitoring guidelines are necessary.	surpasses the 40% standard.
Terrestrial Wildlife	<p><u>Threatened and Endangered Terrestrial Wildlife Species</u> *<u>Canada lynx</u> - No additional monitoring is required. *<u>Bald eagle</u> - No additional monitoring is required.</p> <p><u>Sensitive Species (northern goshawk, boreal owl, great gray owl, three-toed woodpecker)</u> *<u>Northern Goshawk</u> - The Ashley National Forest will continue annually monitoring and surveying known goshawk territories on the Forest. *Complete goshawk surveys during the nesting and/or post fledgling period, and conduct surveys no longer than one year prior to implementation of management actions. *<u>Boreal owl, great gray owl, and three-toed woodpecker</u> - Owl surveys and three-toed woodpecker surveys have been conducted within and near the project area. These surveys detected boreal owls, great gray owls, and three-toed woodpeckers. [Point counts within the project area also detected three-toed woodpeckers.] The Ashley National Forest will continue to monitor these species on the Forest.</p> <p><u>Management Indicator Species (Mule deer, elk, Lincoln's sparrow, song sparrow, and northern goshawk)</u> *<u>Northern goshawk</u> - The Ashley National Forest will continue annually monitoring and surveying known goshawk territories on the Forest. *<u>Lincoln's and song sparrows</u> - Generally the North American Breeding Bird Survey (Sauer et al. 2003) and Partners in Flight (Parrish et al. 2002) monitor bird populations, including Lincoln's and song sparrows. These bird surveys, Ashley National Forest Point Counts, and general Ashley NF observations have detected Lincoln's sparrows on the Forest. These surveys will continue. <u>Deer, elk, and white-tailed ptarmigan</u> - The Utah Division of Wildlife Resources generally monitors deer, elk, and white-tailed ptarmigan populations, sex ratios, and recruitment. This monitoring will continue.</p>	<p><u>Threatened and Endangered Terrestrial Wildlife Species</u> *<u>Canada lynx</u> - No mitigation is required. *<u>Bald eagle</u> - No mitigation is required.</p> <p><u>Sensitive Species</u> *The helicopter will maintain an altitude of at least 1,000 feet above potential habitat and a minimum speed of at least 30 mph. This will not only allow additional protection to goshawks, but to most bird species (including the boreal owl, great gray owl, and three-toed woodpecker) that may occur in the project area. *Implement the project after August 1st to reduce impacts from the proposed project, to possible goshawk nesting and post fledgling areas and to late nesting three-toed woodpeckers. This mitigation will eliminate disturbances to boreal owls and great gray owls during the nesting period for these species. *Conduct goshawk surveys during the nesting season near the staging areas and along the helicopter flight path prior to implementation of the project (June or July of the same season of project implementation). If a goshawk is detected and an active nest is found, a helicopter flight path will be selected that does not occur within ½ mile of any goshawk nest.</p> <p><u>Management Indicator Species</u> *The helicopter will maintain an altitude of at least 1,000 feet (above potential habitat) and a minimum speed of at least 30 mph. This will not only allow additional protection to goshawks but to most bird species (including Lincoln's sparrow, song sparrow, and white-tailed ptarmigan) as well as deer and elk, which may occur in the project area. *Implement the project after August 1st to reduce impacts to late nesting Lincoln's sparrows and song sparrows. This mitigation will eliminate disturbances to white-tailed ptarmigan during the nesting period, and elk and deer during the fawning and calving season. *Complete goshawk surveys during the nesting and/or post fledgling period, and conduct surveys no longer than one year prior to implementation of management actions.</p>

Resource	Monitoring Guidelines	Mitigation Measures
	<p><u>Birds of Conservation Concern (Migratory Birds) and Utah Partners in Flight Priority Species</u></p> <p>*The North American Breeding Bird Survey and Partners in Flight generally monitor bird populations, including the Williamson's sapsucker, black rosy-finch and broad-tailed hummingbird. These bird surveys, Ashley National Forest Point Counts, and general Ashley NF observations have detected these species on the Forest. These surveys will continue.</p>	<p>Conduct goshawk surveys during the nesting season near the staging areas and along the helicopter flight path prior to implementation of the project (June or July of the same season of project implementation). If a goshawk is detected and an active nest is found, a helicopter flight path will be selected that does not occur within ½ mile of any goshawk nest.</p> <p><u>Birds of Conservation Concern (Migratory Birds) and Utah Partners in Flight Priority Species</u></p> <p>*The helicopter will maintain an altitude of at least 1,000 feet (above potential habitat) and a minimum speed of at least 30 mph. Although not raptors, this will allow additional protection to the Williamson's sapsucker, black rosy-finch, and broad-tailed hummingbird.</p> <p>*Implement the project after August 1st to reduce impacts to late nesting black rosy-finches and broad-tailed hummingbirds. This mitigation would eliminate impacts to the Williamson's sapsucker during the nesting period.</p>
<p><u>Aquatic Wildlife</u></p>	<p><u>Sensitive Species (Colorado River cutthroat trout)</u></p> <p>*Colorado River cutthroat trout (CRCT) - The Forest Service will continue to coordinate with the Utah Division of Wildlife Resources (UDWR) to ensure that the regularly scheduled CRCT monitoring effort continues as scheduled.</p> <p><u>Management Indicator Species (Colorado River cutthroat trout)</u></p> <p>*Colorado River cutthroat trout - The Forest Service will continue to coordinate with UDWR to ensure that the regularly scheduled CRCT monitoring effort continues as scheduled.</p> <p><u>Aquatic macroinvertebrates</u></p> <p>The Forest Service will ensure that pre and post reconstruction aquatic macroinvertebrate samples are collected and analyzed.</p>	<p><u>Sensitive Species (Colorado River cutthroat trout)</u></p> <p>*Colorado River cutthroat trout - No specific mitigation measures are required.</p> <p><u>Management Indicator Species (Colorado River cutthroat trout)</u></p> <p>*Colorado River cutthroat trout - No specific mitigation measures are required.</p> <p><u>Aquatic macroinvertebrates</u></p> <p>No specific mitigation is needed for aquatic macroinvertebrates</p>

Resource	Monitoring Guidelines	Mitigation Measures
<u>Hydrology</u>	<p>*Implementation monitoring by a Forest Service representative documenting concentrated activities or hazardous material loading/unloading within 200 feet of a wetland stream bank or lake high water line.</p> <p>*Implementation monitoring by a Forest Service representative documenting heavy equipment impacts to water quality or soil resources.</p>	<p>*Conduct all staging, camping, concentrated stock, helicopter, and other activities with concentrated use at least 200 feet from a wetland, stream bank or lake high water line and locate on soils with low erosion potential (excluding helicopter areas associated with Fox and Crescent Reservoirs and their outlet channels).</p> <p>*The skid loader will be confined to designated locations to protect water quality and soil resources.</p> <p>*Loading/unloading of oil, fuel or other hazardous materials from horses will occur outside of riparian/wet meadow areas and at least 200 feet from live water of any kind where practicable.</p>
<u>Soils and Landform</u>	<p>*Continue with already established long-term trend studies as well as two to three new study sites to monitor soil condition, along with vegetation, immediately following repair work. Use monitoring to determine actual use in the impacted campsite and horse use areas.</p> <p>*Conduct a trail condition inventory prior to the beginning of the project. Establish monitoring sites at key locations tied to riparian and poor condition segments.</p>	<p>*Locations of latrine pits are to be specified or approved by the Forest Service so as to minimize the risk of ground or surface water contamination. A minimum of one latrine unit at the work area and one at each campsite is required. Portable toilet facilities may be required to reduce the human waste in the area.</p> <p>*There are no proposed mitigation measures for the borrow areas, since all borrow material would be extracted within the reservoirs.</p>
<u>Cultural Resources</u>	<p>*Forest personnel will visit the site after the project to monitor impacts to cultural resources.</p>	<p>*Off site interpretation of the high lakes dams or a publication detailing the history of Uinta Mountain reservoirs.</p> <p>*A Forest Archeologist will visit staging areas and campsites to verify locations and move their position if necessary to prevent placement on National Register Eligible sites.</p> <p>*Hold a discussion with project personnel explaining cultural resource laws and the need to leave cultural resources alone.</p>
<u>Inventoried Roadless Areas</u>		<p>*Prepare, post, and distribute flyers and other media notices that describe the purpose and need for the project work, location of helicopter and pack string staging areas, and the time frames for all operation activities.</p> <p>*Publish notices in local and regional newspapers as needed, and recommend that visitors limit their stay or otherwise avoid the inventoried roadless area during the project work period.</p>