

APPROVED
October 19, 2009



TECHNICAL COMMITTEE
Monday, September 21, 2009, 8:30 A.M.
Historic Utah County Courthouse, Suite 319
51 South University Avenue, Provo, Utah

ATTENDEES

Greg Beckstrom, Provo City
Ben Bloodworth, FFSL
Bruce Chesnut, Orem City
Adam Cowie, Lindon City
Howard Denney, American Fork City
Deon Giles, Pleasant Grove City
David Grierson, Utah Division of Forestry, Fire,
and State Lands
Lee Hansen, Saratoga Springs City
Reed Harris, DNR/ JSRIP
Jim Hewitson, Lehi City
Ty J. Hunter, Utah Division of Parks and
Recreation
Chris Keleher, Department of Natural Resources
James Linford, Santaquin City
Nathan Lunstad, Highland City
Ann Merrill, State Division of Water Resources
LaVere Merritt, Emeritus Professor
Mike Mills, June Sucker Recovery
Richard Nielson, County Engineer
Reed Price, Utah Lake Commission

Jim Price, Mountainland Association of
Governments
Douglas Sakaguchi, Division of Wildlife
Resources
Sarah Sutherland, Central Utah Water
Conservancy District
Chris Tschirki, Orem City

VISITORS / INTERESTED PARTIES

Leon Harward, Utah Crossing
Dale Warburton, Utah Crossing
Michael Travis, Visitor
Rick Healey, Visitor
Paul Goodrich, Orem City
Jim McNulty, Saratoga Springs
Ken Leetham, Saratoga Springs
John Captain, Visitor
Barbara Gardner, FFSL
Robert Carter, Visitor
Craig Thompson, Visitor
Doyle Winterton, Retired BOR

ABSENT:

Springville, Genola, Vineyard, Mapleton, Woodland Hills, Division of Water Quality, Utah Lake Water Users,
U.S. Army Corps of Engineers, Lindon Boat Harbor.

1. Welcome and Introductions

The meeting was called to order by Chairman Bruce Chesnut at 8:32 A.M. He introduced Carin Green as the new Executive Assistant. He asked everyone present to introduce themselves and state whom they represent. Mr. Price added to also state whether they are from the technical committee or not so Carin could make notes while taking minutes.

2. Review and approve the Utah Lake Technical Committee minutes from August 24, 2009.

Mr. Chesnut asked for comments regarding the minutes at that meeting. Mr. Beckstrom corrected page five, paragraph six, second line that should read "hundreds of millions of dollars." He also stated on page 10, his comments should read, "that things done in and around Utah Lake are for the benefit of the users of the lake and that the Commission not encourage anything that would have an ecological negative impact on the lake. " On page six, when a comment relating to fish population is made, it states it was made by Mr. Doug "Wham." He corrected it saying that it should be Mr. Doug Sakaguchi. It was moved by Mr. Greg Beckstrom to approve the minutes with the stated corrections and seconded by Mr. Lee Hansen. The minutes were unanimously approved.

3. Report on carp removal efforts.

Mr. Mike Mills reported on the carp removal project. He stated that the removal for this year was just getting started with fishing the prior week. He said that they had already removed over 150,000 pounds and so were off to a good start. He reported that the fish harvested were all being composted or taken to a local feed farm to be used as fertilizer so there would be no waste.

Mr. Greg Beckstrom asked where on the lake they were focusing on the carp harvesting. Mr. Mills responded that harvesting was done in both Provo Bay and down in Goshen Bay and they had completed two hauls so far. Mr. Beckstrom then asked what the total goal was for this year was. Mr. Mills replied that they are still on the pilot effort which was started in the fall of 2008. He stated that once the environmental compliance and assessment were completed, he could focus on the set goals.

In a side note, Mr. Mills stated that the Committee should be releasing the final environmental assessment about the first part of October, and then will be releasing it for public comment.

He then invited everyone to the Utah Lake Symposium which will be held on October 14, 2009, from 9:00 a.m. to 3:00 p.m. at Utah Valley University, in the library auditorium. He stated that there would be a lot of information at this symposium and those who have attended in the past found it very beneficial.

4. Presentation from Mr. Dave Grierson, Strategic Planner, Utah Division of Forestry, Fire & State Lands on the review process of the Utah Lake crossing proposal.

Mr. Price reported that last month, Mr. Harward and the Utah Crossing engineers came and presented their proposal for a bridge across Utah Lake. He stated the Commission is being used as a resource by the Division of Forestry, Fire, & State Lands (FFSL). The FFSL appears will be the permitting authority which would allow such a structure, as the current design falls outside Army Corps Engineers jurisdiction. As such, the environmental assessment that would be required would be directed by the FFSL. Mr. Price announced that Mr. Grierson of Forest, Fire and State Lands would present the process for approving the proposal by Utah Crossing.

Mr. Dave Grierson introduced himself as the strategic planner for the Division of Forest, Fire, and State Lands as well as the coordinator for the sovereign lands.

He stated that the proposal for the sovereign lands involved was just the lake bed, but the proposed bridge goes beyond the lake bed. He stated that the portion of the bridge that goes beyond the sovereign land is under other authorities. The part needing approval from the sovereign land area requires a special process. Mr. Grierson was presenting in detail the sequence of the process with the rules of the FFSL and additions put in place because of the size and scope of this project. He reported on the history of Utah

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Lake and sovereign lands. The beds of Utah Lake, and the beds of most of the sovereign lakes that were lakes at Utah statehood, are not utilized for any purpose until the FFSL receives a nomination. He explained that FFSL or the state does not go out to solicit or advertise for various projects or even advocating certain uses on these sovereign lands. The FFSL policy is to have the lands withdrawn until nominated. He said that whoever requests use on this land for any purpose, begins an evaluation process. He said that this was true for the Utah Lake Master Plan, as well as the Great Salt Lake Master Plan, and the Bear Lake Master Plan -- all those sovereign lands are withdrawn until nominated.

He stated that FFSL received a nomination at the end of August from Utah Crossing. A nomination is a statement by a group that would like to use sovereign lands of the state of Utah for certain purposes. In this instance, it was for constructing, operating, and maintaining a bridge across Utah Lake. Included in that nomination was the purpose of the bridge and the legal description of where that crossing would be located. After receiving the nomination, FFSL, as a division, is obligated to do something with it. From this initial nomination, it goes into review. In the review process the division checks for compliance to the master plan or management plan, the complete legal description, and checks for acceptable use and if it is consistent with adjacent sovereign land uses. The acceptable use includes public trust doctrine, which is the overall doctrine that FFSL uses as far as management of sovereign lands, such as having an oil extraction project near a recreation area. The division then researches their files to make sure that there are no conflicts with existing leases or other ongoing uses. In this case, FFSL found that there were none. After the division does the research, FFSL prepares a proposal form that complies with the rules and statutes. He reported that others look at the proposal and can make comments, which is part of the RDCC process. He explained that RDCC stands for Resource Development Coordinating Committee which is made up of mostly state agencies, such as environmental quality, water quality, and air quality, UDOT, with contributing resource personnel from wildlife, cultural, state history and so forth. Each area has the obligation to look over the proposal and make comments that may affect their particular area of expertise. Then RDCC gets the expertise comments back from the various departments simultaneously by sending them to RDCC. FFSL is also sending this nomination to its advisory council, which is like the board, so they get a chance to look at it. The Advisory Council acts in the same capacity and direction to make their comments on the proposal.

While the proposal is at RDCC, the public has the opportunity to go on the FFSL website and make comments directly to RDCC or to the division, based about their concerns or issues that that they may have. Simultaneously, FFSL sends the nomination to the Utah Lake Commission (ULC). It was sent out to ULC the first part of September. He stated that this nomination was a deviation from the normal procedure. However, since the nomination involves the Utah Lake Master Plan, FFSL has involved the Commission and added this step to the normal process. FFSL also sends the proposal to Mountainland Association of Governments (MAG). If any of the stated groups or public has concerns, this is when they are brought up. Mr. Price interjected that the proposal was emailed to the technical committee and is available on the RDCC website for the general public to review and to obtain specific details of the proposal. The website can be found at Utah.gov, type in RDCC with the project number 10836. A link will be provided on the Utah Lake Commission website.

Mr. Jim Price asked what the comment period was. Mr. Grierson explained that the comment period is normally 30 days, but in this nomination, because of the magnitude, the deadline was extended to 60 days. The deadline is set for October 25, 2009, on the RDCC site, and the final day for comments would be October 31, 2009, to FFSL, which is about six weeks from today. Mr. Grierson explained further that if a comment is made through the RDCC, the FFSL Advisory Council, Utah Lake Commission, MAG, or FFSL, those comments would all be filed with the Division and responses to these comments would each be addressed. These comments would become part of the decision process. He stated this was new to the process, and, FFSL was learning through this new process. He believed that after the next meeting, the Governing Board and MAG will probably make a decision and can either endorse the nomination or reject

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it, which is normally done through a formal letter or email as to whether they oppose or support the project.

Mr. David Lifferth asked what the time frame for the endorsement or opposition resolution was. Mr. Price explained that it would be within the time frame for the comments on the nomination process, so by the end of October is what the Commission is hoping for. Mr. Grierson expressed a desire that since the comment period was extended; it would be good to have the Governing Board's decision before the application process begins which would be at a later date. He did state that the FFSL would take comments from the public up until the end of October or up until Mr. Dick Buehler is ready to sign the Record of Decision. Mr. Price stated that the Commission would play it by ear as the Commission or Governing Board did not want to be too hasty in either an endorsement or opposition for the project.

Mr. Grierson continued explaining the process stating that after the review period, the director, Dick Buehler, will make the decision of whether to go to a competitive lease situation or to a noncompetitive lease. With competitive leases, FFSL advertises in the paper for competing proposals. For instance, FFSL would ask if others had a different proposal for a bridge crossing Utah Lake, and then would advertise, asking if anyone else that wants to put something else on that same piece of property across the lake for that same piece of land and same purpose? This is part of our public trust responsibilities, which is the highest and best use for the land. After sending it out for competing proposals, if other bids come in, FFSL looks at the income potential, the ability to enhance adjacent state lands, feasibility to perform, and the desirability of the proposed use. This project is the biggest one that FFSL has had to address. If other bids are submitted, then we select the highest and best use for the sovereign lands.

The bids are open in what is called a simultaneous auction. FFSL has deadlines and the call for all the proposals are to be submitted within 30 days. At the end of 30 days, all the bids will be opened at the same time, which is where the simultaneous work comes in. The highest bid is the one that FFSL looks at first and each bid is evaluated against the criteria. If the highest bid does not meet the criteria, then FFSL goes to the second one and progresses from there.

Mr. Chris Keleher asked what is meant by the highest bid. Mr. Grierson explained that the minimum requirement for the sovereign land is \$1.00 per acre. Mr. Keleher asked for clarification if the highest bid is based on the lease information. Mr. Grierson stated that it was on the rental of the land as well as the revenue sharing portion of the project. An example would be, the bid proposing \$1.10 per acre and then 20 cents per toll. Mr. Grierson continued that the nomination decision is not taken very lightly. If advertising does not bring any in bids, it does not make sense to seek and bring in competing bids. This would be if the FFSL did not want a lot of divergent uses on the land. But FFSL still evaluates the proposed use on the criteria including desirable proposed use. After deciding whether or not to advertise, FFSL then has to advertise that they did not advertise for the competing use. It is all within the FFSL procedural rules that this is done. At this point, some sort of negotiation is done regarding the revenue sharing, what kind of use is valid, and the approval of applicants.

The next step is the application phase. Once FFSL gets an application, they must go through the Record of Decision process. . This is where FFSL can be legally sued. Up to this point the FFSL division can actually say it is not a good idea, and FFSL could actually be sued if either yes or no is decided. However, since no application has occurred there and no decision is made, there is no way to legally sue. . The first step of the Record of Decision is to check for completeness, acceptable use, and refer back to the public trust lands.

Mr. Grierson explained what a public trust was. There are several basic tenets documented for a public trust policy.

- First tenet is case law. Case law is court decisions that have come down through the years and have influenced the uses and legalities of how sovereign lands or the public trust lands are used.
- Second tenet is state law. These sovereign lands are under the sovereignty of the state and were given to the state ownership when the state became a state. The history of sovereign lands

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originated from the original 13 states and their rights, which came down from the Magna Carta and so there is a very long legal history as to what exactly sovereign lands are and what the governing entities can do. Under Utah State Law, three uses are actually enumerated for use of sovereign lands which is navigation, hunting, and trapping. However, fishing or recreation is not in there. People have challenged this in some court cases in other states that have applied to recreation, and there have been some court cases in other states which have implied protection and preservation of what this sovereign land use states. As a state agency their primary allegiance is the state law and then case law. FFSL is going through a couple of court cases which has to do mostly with public input, and this will be decided at a later time by the courts.

Mr. Grierson went further into the approval process stating that the Record of Decision is three-phases:

- The first part is the application and everything that has occurred all the way through the application. All the comments that come in from other agencies, all the public comments that have come in, the emails, and phone conversations – all of these become part of the compiled record in order to analyze the data before a decision is made.
- The second part of the record is the analysis. FFSL analyzes the interpretation of the public trust doctrine, analyzes the financial part, the natural resources, cultural resources, etc. This becomes an intensive and fairly lengthy analysis of some of the aspects of the proposal itself. This Record of Decision has changed a little recently under legal recommendations in order to have findings of facts and inclusions of law within the Record of Decision. This makes it easier for those reviewing it both legally, as well as others, to understand what the basis was for this Record of Decision.
- The third part is the review of execution. The Record of Decision is reviewed for policy, consistency, and such content. The legal department does a legal review, the Utah Lake Commission looks at the Record of Decision before it is final, and then it would be signed by the FFSL director. After, the Record of Decision is signed there is a 20-day appeal process by the parties.

The analysis becomes a permanent part of the Record of Decision. If there was litigation, the Record of Decision would have everything so that it would be evaluated as a whole. In the evaluation, the stipulations become part of the evaluation process. If there are stipulations, conditions or provisions on the lease itself, this is where it would appear in the decision. Included as part of the Record of Decision are what the lease rentals would be, what the revenue sharing was going to be, how the revenues would be distributed, the start date, and term of the lease.

The execution part of the Record of Decision would be the signatures and date signed. After the Record of Decision is signed and dated, the clock for time-zero begins. Time-zero starts the clock pertaining to the period appeals can occur. After the appeal period is over then appeals cannot occur after that 20-day appeals period. By rule, the FFSL director can amend a Record of Decision after he has signed it if needed, and it can be changed. Mr. Grierson stated that in his experience, it has only been changed once where it changed the length of the term of the lease, but basically it has not been changed.

Mr. Ken Leetham asked about the public comment portion of the process, if the comments are limited to the nomination piece or if RDCC takes comments on any issues that come up. He also wondered what the scope of the nomination or review was. Mr. Grierson stated that he did not know all that was involved, but that normally, the public comment is limited to the nomination itself. He stated that on a mineral lease of the Great Salt Lake, there was issues way beyond that lease and FFSL responded to those comments with the response was that it was beyond the scope of the nomination before them.

Mr. Grierson stated that he has been asked about the alignment and did not know how to respond. He stated that there was pressure to ask the proponent to change the alignment, and he was not sure that FFSL could legally do that under the rules or statutes of limitation at present, because FFSL is not involved until something is nominated. FFSL cannot tell the proponent where to conduct their business and so, the division is in a gray area on this issue.

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Mr. Leetham stated that there was a lot of concern over the alignment. He expressed that the alignment is probably one of the issues that might be on the fringe or outside of this nomination including environmental issues, and others. Mr. Grierson explained that all issues will be addressed, no matter where the bridge is set.

Mr. David Lifferth asked for further explanation of time-zero. Mr. Grierson stated that time-zero is a period of time when the Record of Decision could be rescinded and there was a 20-day appeal period for that decision. So, when the director signs the Record of Decision, and dates it, that starts that 20-day time clock for the appeal process. He stated that in courts, there is appeal periods which is 30 days or so and appeals in that case make them directly to the courts. However, anyone who is appealing the decision cannot just keep appealing and basically tie FFSL's hands in the nomination.

Mr. Lee Hansen asked where in the process the cities become part of the process since the bridge will involve two cities. Mr. Grierson stated this where MAG would become involved. However, he also stated that MAG does represent all of the cities. After RDCC gets all the comments, the comments will be sent back to the county and also local governments for further analysis, but they only have a week to evaluate and make a decision. That is the reason FFSL will end the comments by the end of October. The comments can go to RDCC and also to MAG. Cities have commented directly to RDCC rather than MAG, which is also possible. However, in order for a city to be considered a city comment, it has to come on official city letterhead and it needs to be understood that it be an official city response; not a citizen response.

Mr. Price asked if his interpretation of Mr. Leetham's question was if it was appropriate for a city to comment on issues beyond sovereign land to the RDCC or would they be ignored.

Mr. Leetham responded that there were lots of issues that are probably outside of this process that needed to be addressed, and he, as well as others, wanted to find out where these issues would be addressed. He stated that personally, he would argue concerning the financial feasibility or even the need for the bridge itself, and this should be a part of the review, but the FFSL response back would probably be that it was outside of the scope of the sovereign lands jurisdiction. He further stated that since the bridge was privately-funded, it is critical that these issues be addressed and reviewed somewhere in the process. He and others were trying to figure out where the appropriate comment on this should be made or what is an appropriate comment on how limited it is in the review.

Mr. Adam Cowie stated since the bridge proposal was dependent upon adjoining cities, they should be inter-related. He asked if one or either of the cities had problems approving the lease connecting the two, shouldn't those issues be addressed at some point, and asked if the state knew where in the process that would occur.

Mr. Grierson answered that when the nomination is evaluated, that part will be discussed, as well as the applicant's ability to perform, which would include the end points. As the proposal goes beyond sovereign lands, FFSL will evaluate if the bridge has permission for connectivity and cooperation from each city. Mr. Cowie asked for further clarification questioning if it would be done prior to the Record of Decision. Mr. Grierson stated that the proponent would have to show that the cities are on board.

Mr. Doyle Winterton stated that 12 years ago he retired as an engineer from the Bureau of Reclamation. He stated he was concerned with the aesthetics and other proposals of ways to cross Utah Lake. He voiced that the bridge was the least favorable way to cross Utah Lake. He asked if it was too late to discuss the other two known ways to cross Utah Lake. Mr. Grierson stated that it was not too late. Mr. Winterton then stated from his past experience, in his discussions and experience with the bureau, state, and with the county, that he had figured out three different ways to go across Utah Lake.

Mr. Grierson told him to go ahead and make comments as the division does look at what is the best use of the sovereign lands. He told Mr. Winterton to talk to the proponent about his ideas and Mr. Grierson directed him to Utah Crossing, represented by Mr. Harward and Mr. Dale Warburton. He also asked Mr. Winterton to make comments on the bridge so that his ideas are actually included as part of the public information and record. Mr. Winterton shared some of his ideas.

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Mr. Grierson continued to explain the process that once a Record of Decision was made, there were two things that would occur. If the Record of Decision is "No" or "No, with provisions," then it goes back to the application phase. The application is amended for the "No, with provisions" or, the application is outright rejected, if it the decision is a flat no. If it is a no with provisions, then the proponents are told that if they amend the application to meet the provisions, then it could change the director's mind in favor of a positive outcome.

The Record of Decision could be a straight yes. If it is a yes, then FFSL writes up and institutes the leases. The provisions are placed in the lease with the Record of Decision. All these leases would then become part of the lease and FFSL has its standard. These provisions could possibly include the royalties, revenue sharing, and other provisions to be included on the lease. The lease would then be signed by the director. Mr. Grierson explained some of the terms that were used in this process. The Public, as used in this process, means the public at large. The Public makes comments through the RDCC process, review process, or through the advisory council process, which at this time the public has its input. He noted that there were cases where comments were offered up until the period of Record of Decision. He was proposing that FFSL allow public comments in this case up until the period of Record of Decision. He stated that FFSL does not want to be accused of not giving the public opportunity to have input, they would like to allow extra time to make comments until the Record of Decision. At some point, however, there will be a cut-off, then explain to everyone that the Record of Decision would be in one week or so, and at that point FFSL not allow any more public comment. By rule, FFSL can actually accept public comment after the Record of Decision, but it will not be part of the permanent Record of Decision and FFSL does not have to respond to those comments. FFSL will respond to comments that come in up to the cut-off date.

With the public needing avenues for input, FFSL is looking at public hearings. He stated that the Utah Lake Commission is planning to host a public hearing on behalf of FFSL to obtain public comments during their next Governing Board meeting. He stated that FFSL is also trying to get coordinated with Utah Crossing, Inc. for an open house and public meetings, hopefully sometime in October. Those meetings will have presentations of the proposal and then have ways to accept comments back. FFSL is making a web site that should be live by Thursday where the public can go to make comments. There will also be a link through the Utah Lake Commission website so the public can actually go and write their comments on-line or in real time. . Also, an additional feature of the site is that the public can ask to be put on the mailing list and/or email list so they can get copies of any of the other upcoming hearings or information. He stated this will be a good way to have the public be part of the process.

Mr. Chris Tschirki wanted to know when Utah Lake Commission website would have the link. Mr. Tschirki was assured that once the FFSL website was live, there would be a link on ULC website. Mr. Price added that a public hearing was discussed at the executive committee meeting, and the Governing Board will determine a date and time for the public hearing at Thursday's Governing Board meeting. After the decision is made, the Commission will communicate in the normal fashion, letting the technical committee know of the time and place, and then advertise it through the newspapers as well as to reach out to the public. The executive committee talked about making the public hearing a lengthy meeting if needed and were willing to allow about three to four hours. The point of the public hearing is that the Commission recognizes the importance of this decision and the need to make sure that the Commission understands the public's desires. Mr. Grierson agreed stating it would be better to know the public's wishes concerning this.

Mr. Grierson then continued defining the terms used. He clarified the concept of the Interdisciplinary team (ID Team). He explained that the ID team was something that was above and beyond what FFSL was asked to do. The ID team had not been approved by Mr. Dick Buehler, who has seen the idea, but not yet endorsed it. Mr. Grierson felt that the ID team would solve some of the problems facing the process and would consist of several entities. I would like to propose that the interdisciplinary team actually take public

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comments and determine what is valid and which is not, and then define the validity of the comments. This team would be made up of several experts that would help FFSL come up with stipulations. For example, if there was going to be restrictions on construction, and/or the June suckers are spawning at a certain time of year, therefore, we would not want to have pile driving or anything like that during that time period. Other stipulations may be in operation and maintenance, how de-icing occurs, how sanding of the bridge occurs, how often or how public safety is going to be enforced during the operation of the bridge, etc. There may also be specific stipulations that need to be in place to protect those natural resources, but he did not foresee any cultural stipulations. The natural resources will be represented with the RDCC, but FFSL would invite a separate entity to look at boating, fishing, geology and all other impacts. The cities would be represented through MAG. FFSL and their legal team would be represented. Mr. Grierson suggested engineering expertise to evaluate the structural integrity of the bridge and if it would withstand the seismic codes or any other structural problems that may arise. Another area would include an economic expert that would take a look at the financials of the nomination and make sure that it is a financially sound company. He stated that FFSL specifically did not want to have a partially-built bridge and then the company runs out of money, takes out bankruptcy or something, and then the state is stuck with the bridge.

Mr. Lee Hansen asked when the ID team would be formulated. Mr. Grierson stated that he would like them on board, possibly as soon as possible – at the end of the comment period. But he was concerned for the costs to get people dedicated to this kind of project. He felt that if members from the technical team were part of the ID team, they would commit to a number of hours per month, and a time frame, would be established. If a member of the ID team were a specialized expert, such as a geo-tech engineer, or someone like that, FFSL may have to pay to have their expertise and input. Most of the other members would donate their time. In summary, the purpose of this ID team is to look at the issues and concerns of the public, agencies, the governments, and validate those issues and concerns, and how to address overcoming the valid concerns. Mitigation is one way to overcome some of those concerns, as well as avoidance or alternative ways, all are valid ways to overcome these issues and concerns. In this way, FFSL can accommodate some of those stipulations, conditions, provisions, etc., which are above and beyond our standard language.

The ID team would be involved in analyzing both the construction and operational level of this proposal. With this kind of approach the ID team will look at the public opinions that come in, evaluate the valid ones and define the ones that are important for the division to address. There will probably be some political ramifications of that, so accepting to serve may be a risk to those appointed and this ramification may have to be elevated to both the Governing Board and to our director.

After all of this information is gathered and completed, then FFSL would meet with the applicant to share these issues, and to keep the applicant informed and keep him on board throughout the whole process, see what is coming in from various areas, what the project and FFSL are dealing with and see how FFSL has to deal with this. Sharing issues with the applicant is really important at this time. FFSL needs to put together some directions, look at measures for mitigation, and see what would work for us and convert the basic provisions, conditions, and stipulations.

Mr. Price asked how the process would change if the Army Corps claimed jurisdiction. Mr. Grierson replied that he drop out the environmental aspect of the ID team as the Army Corps of Engineers would address the environmental issues. FFSL would have to continue with the economics portion of the team and the public trust analysis, which FFSL would do themselves.

Mr. Grierson then explained the meaning and his application of the word “Parties.” He explained that in FFSL’s jargon, the parties are those peoples who have a legal challenge to the Record of Decision. Under a noncompetitive lease, the parties are the applicant, our Division, and all the adjacent land owners. The adjacent land owners are what we call a lesser party. The adjacent land owners would not have any appeal to things like the term, economic stipulations, auditing, or other things that would be imposed on those

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who signed the lease. But, the adjacent land owners do have some rights as a land owner such as to the height or other concerns. They do have some rights as a party to this process.

If FFSL went with the competitive lease, then FFSL may have two or three other parties that would be applying for this same lease at the same time. They would also become parties. The parties would then have an appeals process to the Director of the Department of Natural Resources. There is a case before the State Supreme Court where the parties are the applicants, the division, and the adjacent land owners. This is the reason why we do not want to get to the application stage until we are sure that we are ready to move forward because the appeals can occur right there rather than in court.

Mr. Greg Beckstrom stated that a lot of the members were new to the whole process, particularly along the line between the nomination and application, and many were trying to understand some of the details. He asked if in a general case in the process if there were situations, circumstances, or criteria that would dictate if FFSL does not or would not need to proceed to the application stage. And, if so, how is the determination of that decision documented. Mr. Grierson replied FFSL has a right to not proceed to the application process. The documentation would be a letter from the director returning the nomination, stating the reasons for that decision. For instance, he explained that FFSL had a nomination come into the office that wanted to put in a causeway rail line from the airport to Promontory Point with a way to go east and west, and so they wanted to put in a causeway for the railroad. This proposal was not within the bounds of the Great Salt Lake Management Plan, and so FFSL returned it stating it that it did not fit within the criteria of the Great Salt Lake Management Plan.

Mr. Beckstrom continued his questions for clarification asking that at this point, if the entity submitting the nomination would have the option of conceivably responding to the information included in that rejection by either amending or revising or somehow modifying the nomination to address the concerns that may have been articulated in that rejection, or just simply dropping the plan or issue, but noted that within the context of the present process, he does not have any appeal rights at that point in time. Mr. Grierson explained that the proponent could appeal to Dick Buehler's boss, to Mr. Mike Styler. There would be a consistency review of the decision and after it is appealed, Mr. Styler can change the decision to one of three options:

1. Reject the proposal or nomination (as before);
2. Have a hearing, to listen to both sides in that hearing, and then make his decision; or
3. Go ahead and totally overturn the Record of Decision.

Mr. Beckstrom wondered if there was a formal application form that the applicant would fill out following the nomination process, whether it is designated a compete or non-compete process. He stated that by the state inviting that application and having gone through the nomination process, preliminarily there seems to be some presumption of general acceptability of the nomination. At that time in the nomination process, with the criteria FFSL indicated was evaluated, there would be a determination to accept the application. Once FFSL starts the application process, and it is heading towards the Record of Decision, Mr. Beckstrom asked if there were things in the application review process that were not initially considered in the nomination process. Mr. Grierson said those items would be determined by the ID team. He also said that if things came out in the nomination review process, the applicant would be well aware of them at this point in time because the information is public. He gave a hypothetical example pertaining to this nomination, stating that if in the evaluation process, someone shows that the piles need to be driven 250 feet instead of 150 feet, for instance, and then it becomes part of the Record of Decision as a stipulation. Then those piles would have to be driven much further than they were anticipated, driving the cost up and changing the basic project. He stated that would be one of the things the ID team would bring out. Mr. Beckstrom also asked for clarification of the parties of the nomination. He noted that there were two principal parties that would have an opportunity to appeal and those parties were the state and the applicant with other potential parties being the near-by land owners. He asked if the state issues a favorable Record of Decision, who or what entity of the state would be eligible for appealing that decision.

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Mr. Beckstrom commented that it seemed to be confusing to have an individual department appeal their own decision. Mr. Grierson agreed and stated that the attorneys were working on clearing this up and explaining the process better. He stated that at this point in time, is where an adjudication process would occur, where a request for an agency action is taken, and it would fall under UAPA (the Utah Administrators Procedures Act for adjudication). Mr. Beckstrom asked if outside third parties, such as some private interest groups, environmentally-related, or recreationally-related or nearby municipalities that may be impacted by the project, were not qualifying parties that would have a right to appeal the decision administratively. Mr. Grierson answered in the affirmative. The public should have appealed the Record of Decision of the Utah Lake Master Plan. That is why the appeal period was so important on the Master Plan Record of Decision, because the public actually had a right to speak on that Record of Decision. Mr. Leetham asked if the Master Plan needed to be amended as part of this. Mr. Grierson replied that it did not need to be as the bridge crossing was not inconsistent with the master plan. The Master Plan does not say that a crossing should not occur. Mr. Grierson stated he believed that the Master Plan was purposely set up to give the Utah Lake Commission opportunities to make sure that any kind of crossing is studied very, very carefully before they commit to supporting the project. FFSL and Utah Lake Commission did not want to approve a crossing such as a causeway or something else that may affect the entire lake which is what needs to be preserved.

Mr. Chris Tschirki asked if the legal description for the nomination would be the footprint of the bridge or if it would be the actual physical contact or the pilings towards the lake bottom. Mr. Grierson explained that it would be the center line plus the width of the bridge or the entire footprint of the bridge. If the bridge were to collapse on the ground, it would be where the bridge touches. In essence it would be the entire length of the bridge. Mr. Tschirki also asked if the pilings went outside of the structure or the footprint, what would be the description. Mr. Grierson explained that it would have to include the outside edges of the pylons. Mr. Jim McNulty asked if the legal description would include both bridges when completed as the width of both bridges, because there was one bridge at present with a second one proposed at a later date; and if not, would the second bridge include another process. Mr. Grierson did not have the answer but promised to look into it.

Mr. Chris Keleher commented that if it not the role of FFSL to dictate the location of something that is proposed, perhaps the Utah Lake Commission Transportation Subcommittee should be used to talk about the greater transportation issues. Mr. Grierson stated it was not the role of Forestry, Fire and State Lands to dictate the location of something that is proposed. He noted that possibly the Transportation Subcommittee should talk about the transportation issue to see if the proposed location is the best place for the bridge to occur across the lake and/or even if a bridge is necessary. At that point, it would be the role of the Commission to make comments and the recommendation to the FFSL. Mr. Price agreed and thought that the Transportation Subcommittee would be a possibility and could work with MAG. He stated that this would help determine the best location or if there was another location with an Origin and Destination Study. Mr. Paul Goodrich concurred with the idea of resurrecting the transportation committee.

Mr. Lee Hansen asked when the technicalities were resolved, how much input or influence would be weighted with what people are really needing around the lake and what they and their representatives want and do not want. Mr. Grierson stated it was important and the director does look at the all the comments that come in. He also stated that FFSL does not always get negative comments, but also gets a lot of positive comments and so the director would look at the totality of the comments. He said he felt that the comments will have an influence as the director wants to make the right decision but he also does not want to cause political upheaval around the lake. This proposition has become a balancing act for the director.

Mr. Price again reminded the members of the committee that on Thursday at 7:30 a.m. in the ballroom a presentation from Mr. Leon Harward, who is the proposer of this project, would be given. He stated that

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the Governing Board would also be hearing from Mr. Grierson. . He reiterated that Utah Lake Commission has about six weeks or so to get comments into RDCC, so any organization who had any comments, concerns, or are positive about the project that this was the time period for those comments. Mr. Price again said that at the present time the Commission is not an opponent or proponent of this project, but that the project should receive the adequate attention and study which such a large project deserves, as well as give the importance to allow the public an opportunity make comments.

Chairman Chesnut asked Mr. Price to regroup the transportation subcommittee of the Technical Committee as well as contact MAG. Mr. Price stated that it was a great suggestion and the subcommittee can help determine the concerns as well as the alignment issues. He will contact the members of the subcommittee.

Mr. Lee Hansen questioned how the public will learn of the pros and cons of the project. Mr. Price stated that nothing was in place except that the links could be posted from the RDCC website and Utah Lake Commission website.

Mr. Grierson added that all the comments when given would be posted within a couple of days. When a comment is made, the RDCC editor would make sure there is nothing offensive, and then she would post those comments back on line. He stated RDCC's plan is to keep communication on this project as open and transparent as possible, voicing both negative and positive comments. Mr. Price suggested that as the ID team identifies the concerns, that their responses should also be made available.

Mr. Hansen felt that all the information on the nomination or proposal was not on line. He said that as he read through the paperwork, he knew there was some information missing. He wanted to have the full knowledge of the nomination in order to comment. He said that somewhere along the process someone needs to be responsible for saying exactly what this process is, where it is going to be, and what the tolls are going to be. With that information people can look at it in totality and ask how it would affect them personally and so that they can make intelligent comments rather than just emotional responses. He asked if there was a mechanism to disseminate information to the public about the full document of the nomination. Mr. Grierson replied that there was some information that was sensitive such as engineering, some of which was proprietary and cannot be released. He stated that as far the toll amount, it would be market-driven. The toll amount would probably cover the bills that needed to be paid such as payroll, maintenance, etc. Mr. Hansen wanted this information to make an informed decision such as -- do I want to pay the toll or do I want to drive around? Mr. Grierson said that he understood the concern, but that the information is not really public at the present and that it depended on how much information Mr. Harward wanted to release, but Mr. Grierson had read that it might be a flat right. The toll would be for each way, per crossing. Mr. Harward stated that there was certain information that would not be public yet, and it cannot be public as all the hard costs were not available to him. He did not want to undermine the amount and have someone come back and said that it was quoted at a certain price. He was hoping that it would be the estimated cost would be that of a gallon of gas, which is the best amount that he could give at the present time. Mr. Lifferth stated that the decision to drive across the bridge would be a daily decision and would also be based on the marketing conditions, traffic conditions, and other kinds of things. Mr. Jim McNulty gave the example that when Trax first opened up there was a certain rate which has gone up each year. The toll may start at \$3.00 or \$5.00 and after a few years, it may go up. Mr. Harward said that the Utah Crossing has been very careful with the modeling and will be very careful about the rate. Mr. Beckstrom said that there were clearly some uncertainties and a lack of control from a governmental standpoint that is going to be associated with having this as a private facility. He said that from speaking with people at MAG, UDOT, and others, that a public facility is many years down the road. He questioned if the public was willing to trade off, assuming other issues can be addressed in the next half-decade, or would the public prefer to have the certainty of a bridge now rather than wait several decades before that facility is in place. Mr. Hansen carried it one step further and stated that looking beyond that time period, he wondered if the public even wanted the bridge. Mr. Beckstrom replied that this assumes the answer to

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the desirability of a bridge is yes, but, it did not have a lot to do with the tolls and of whether the bridge is public or private. He said there were other issues that needed to be addressed.

Mr. Ken Leetham said that he felt it was difficult for citizens in Saratoga Springs is to get their minds around the project because it was private and is not subject to the same kind of scrutiny and review as a public project. He said that he felt the biggest concern was to ask if this is the right project, and whether there should even be a bridge. The public needs to ask if the bridge is in the right location with beginning and ending point. He stated that this information was not presented in the process, and wanted to make sure that those decisions were made properly, since it is not a public project. He also said that he felt that there were some pieces that were missing in the process for this kind of decision. He stated that he would not be in favor of trading to have a bridge today if it is not the right bridge and that he would rather wait.

Mr. Tschirki asked if there had been any formal comment made by the town of Vineyard on this process.

Mr. Price and Mr. Grierson stated they each had not received any information. Mr. Tschirki felt that some of their citizens might have the same concerns as Saratoga Springs and questions about the bridge.

6. Other Business.

Mr. Price asked if there was further business or questions. As there was none, he proceeded to the next agenda item.

7. Confirm that the next Technical Committee meeting will be held on Monday, October 19, 2009.

Mr. Price announced that the next meeting was scheduled for Monday, October 19 at 8:30 a.m. and would probably be back in Room 211.

8. Adjourn.

The Technical Committee adjourned at 10:03 a.m.