GRAND COUNTY COUNCIL
JOINT EMERGENCY MEETING
WITH
MOAB CITY COUNCIL
AND
CASTLE VALLEY TOWN COUNCIL

Grand County Council Chambers
125 East Center Street, Moab, Utah

AGENDA
Tuesday, October 15, 2019

1:00 p.m.

☐ Call to Order
☐ Introductions
☐ General Business- Action Items- Discussion and Consideration of:
  A. Approving proposed joint resolution opposing National Park Service directive dated September 24, 2019 allowing off-road vehicles (ATV/UTV/OHVs) in national parks in the Southeast Utah Group
☐ Future Considerations
☐ Adjournment

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS. In compliance with the Americans with Disabilities Act, individuals with special needs requests wishing to attend County Council meetings are encouraged to contact the County two (2) business days in advance of these events. Specific accommodations necessary to allow participation of disabled persons will be provided to the maximum extent possible. T.D.D. (Telecommunication Device for the Deaf) calls can be answered at: (435) 259-1346. Individuals with speech and/or hearing impairments may also call the Relay Utah by dialing 711. Spanish Relay Utah: 1 (888) 346-3162

It is hereby the policy of Grand County that elected and appointed representatives, staff and members of Grand County Council may participate in meetings through electronic means. Any form of telecommunication may be used, as long as it allows for real time interaction in the way of discussions, questions and answers, and voting.

At the Grand County Council meetings/hearings any citizen, property owner, or public official may be heard on any agenda subject. The number of persons heard and the time allowed for each individual may be limited at the sole discretion of the Chair. On matters set for public hearings there is a three-minute time limit per person to allow maximum public participation. Upon being recognized by the Chair, please advance to the microphone, state your full name and address, whom you represent, and the subject matter. No person shall interrupt legislative proceedings.

Requests for inclusion on an agenda and supporting documentation must be received by 5:00 PM on the Wednesday prior to a regular Council Meeting and forty-eight (48) hours prior to any Special Council Meeting. Information relative to these meetings/hearings may be obtained at the Grand County Council's Office, 125 East Center Street, Moab, Utah; (435) 259-1346.

A Council agenda packet is available at the local Library, 257 East Center St, Moab, Utah, (435) 259-1111 at least 24 hours in advance of the meeting.
To: Utah Superintendents
From: Acting Regional Director /s/ Kate H. Hammond (for)
Subject: Utah OHV/ORV Road Closure Guidance
Memo Type: Action Required, No Reply Needed
Due Date(s): November 1, 2019
Contact: Mike Archer, Regional Chief Ranger, 303-969-2652, mike_archer@nps.gov

Action Requested
As of 2015, Utah State Law allows for the use of street-legal, registered ORVs under state law 41-6a-1509 which adjusted a previous Utah law that allowed these vehicles only on designated “OHV”/ ORV routes. Given this change in state law, the park closures in place make an activity that is generally legal in the state of Utah, illegal on NPS park roads within Utah. Recent solicitor advice indicates that this alone may make such closures “highly controversial in nature.” As such, these closures would then be subject to the rulemaking process as opposed to utilizing a local closure determination.

Based on advice from the Office of the Solicitor, and to implement a consistent legally defensible approach to street-legal ORV policy across parks in Utah, we are considering the closure of park roads in the state of Utah to ORVs to be highly controversial. In support of this decision, all Utah park superintendents will remove such closures from their superintendents’ compendiums and make the required public notifications pursuant to 36 CFR 1.7 by November 1, 2019. A small team in the regional office will be established to provide the Superintendents with the necessary assistance, including guidance on messaging, to meet this directive.

Reason for Request
Many National Park Service units in the state of Utah have standing closures to Off Road Vehicles (ORV) on park roads pursuant to park superintendents' discretionary authority to impose restrictions found in 36 CFR Section 1.5. Given the 2015 change in state law, the park closures in place make an activity that is generally legal in the state of Utah, illegal on NPS park roads within Utah. Recent solicitor advice indicates that this alone may make such closures “highly controversial in nature.” As such, these closures would then be subject to the rulemaking process as opposed to utilizing a local closure determination.

Negative Replies
Action Required, No Reply Needed

Next Steps
Park Superintendents are encouraged to monitor activity and focus on strategies to prevent off road driving and other resource impacts from all types of vehicles including continuing to enforce the prohibition of using any vehicle off road on park land (36 CFR4.10). If a park feels they need to pursue specific closures of park roads to OHV/ORV this should occur through the rulemaking process.

Background Information
Many National Park Service units in the state of Utah have standing closures to Off Road Vehicles (ORV) on park roads pursuant to park superintendents' discretionary authority to impose restrictions found in 36 CFR Section 1.5. As of 2015, Utah State Law allows for the use of street-legal, registered ORVs under state law 41-6a-1509 which adjusted a previous Utah law that allowed these vehicles only on designated “OHV”/ORV routes. Given this change in state law, the park closures in place make an activity that is generally legal in the state of Utah, illegal on NPS park roads within Utah. Recent solicitor advice indicates that this alone may make such closures “highly controversial in nature.” As such, these closures would then be subject to the rulemaking process as opposed to utilizing a local closure determination.

Concerns exist regarding the legal foundation and enforceability of these compendium closures, especially given the AUSA’s stated refusal to prosecute cases brought under these park regulations. This puts law enforcement Rangers in a precarious position, as any citation they write for an ORV closure on a park road could be easily challenged. It is also challenging to differentiate between an “OHV/ORV” and another vehicle such as a modified Jeep, modified pickup truck or motorcycle that is equally capable of driving off road.

After several deliberations on this topic, many Utah NPS units have requested direction from the regional office on how to proceed on this issue and the concerns regarding the legal foundation and enforceability of these compendium closures.

Based on advice from the Office of the Solicitor, and to implement a consistent legally defensible approach to street legal ORV policy across parks in Utah, we are considering the closure of park roads in the state of Utah to ORVs to be highly controversial. In support of this decision, all Utah park superintendents will remove such closures from their superintendents’ compendiums and make the required public notifications pursuant to 36 CFR 1.7. By November 1, 2019. A small team in the regional office will be established to provide the Superintendent’s with the necessary assistance, including guidance on messaging, to meet this directive.

Park Superintendents are encouraged to monitor activity and focus on strategies to prevent off road driving and other resource impacts from all types of vehicles including continuing to enforce the prohibition of using any vehicle off road on park land (36 CFR4.10). If a park feels they need to pursue specific closures of park roads to OHV/ORV, this should occur through the rulemaking process.
JOINT RESOLUTION OF
TOWN OF CASTLE VALLEY, UTAH
CITY OF MOAB
GRAND COUNTY, UTAH

Resolution No. ___

A JOINT RESOLUTION OPPOSING NPS DIRECTIVE DATED SEPTEMBER 24, 2019 ALLOWING OFF-ROAD VEHICLES (ATV/UTV/OHVs) IN NATIONAL PARKS AND MONUMENTS IN THE SOUTHEAST UTAH GROUP

WHEREAS, the 1916 Park Service Organic Act (Act) requires the National Park Service (NPS) to “conserve the scenery, natural and historic objects, and wild life in the System units” and to provide for their “enjoyment in such manner and by such means as will leave them unimpaired for the enjoyment of future generations,” 54 U.S.C. §100101(a);

WHEREAS, the “fundamental purpose of the national park system” is a “mandate to conserve park resources and values,” Section 1.4.3, NPS Mgmt. Policies (2006);

WHEREAS, NPS Management Policies mandate special management of the National Parks to prioritize resource protection and acknowledge that “[n]ot all uses are appropriate or allowable in units of the national park system,” Section 1.5, NPS Mgmt. Policies (2006);

WHEREAS, Executive Order 11644 prohibits use of off-road vehicles in National Parks unless “the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values, which determination requires “adequate opportunity for public participation,” Section 3(a)(4), Executive Order 11644 (1972);

WHEREAS, NPS Management Policies require the Superintendents to prohibit new vehicle uses until a determination has been made to ensure there will be no adverse impacts to park resources and visitor experiences, and clearly outline applicable laws that define impairment to National Park resources and visitor experiences, including noise and soundscapes, air quality, soil erosion, visitor experience, and visitor safety; and the introduction of ATV/UTV/OHVs is considered a new use in National Parks; Section 8, NPS Mgmt. Policies (2006);

WHEREAS, NPS Management Policies mandate “cooperative conservation” and require Superintendents to “actively participate in the planning and regulatory processes of other federal agencies, tribal, state, and local governments having jurisdiction over property affecting, or affected by, the park,” Section 1.6, NPS Mgmt. Policies (2006);

WHEREAS, the National Environmental Policy Act (NEPA) requires federal agencies to study environmental impacts of any new action prior to official action, 42 U.S.C §4332(C);

WHEREAS, federal regulations require an environmental impact study (EIS) where adverse effects of federal action may be significant and are potentially subject to federal control and responsibility, 40 C.F.R. §1508.18;

WHEREAS, prior to all other new action, federal regulations require an environment assessment (EA), 40 C.F.R. §1501.4(b);
WHEREAS, on September 24, 2019, without study, consultation with local government, or public comment, the NPS Intermountain Regional Director directed Superintendents of Utah National Parks to adjust their Superintendent Compendium to allow off-road vehicles, including OHV/ATV/UTVs, in all Utah National Park Units, including National Parks and Monuments, by November 1, 2019;

WHEREAS, the Town of Castle Valley (Town), the City of Moab (City) and Grand County, Utah (County) have a vested interest in the National Parks and Monuments of the Southeast Utah Group, particularly Arches and Canyonlands National Parks;

WHEREAS, the Town, City and County are gateway communities to the National Parks and Monuments of the Southeast Utah Group that includes Arches and Canyonlands National Parks and Hovenweep and Natural Bridges National Monuments;

WHEREAS, annual visitation at Arches National Park (Arches) has increased by 80 percent since 2008 to over 1.6 million visits in 2018;

WHEREAS, annual visitation at Canyonlands National Park (Canyonlands) has increased by at least 58.9 percent since 2010 to over 730,000 visits in 2018;

WHEREAS, during the peak season the number of vehicles and visitors at Arches cause long wait times for park entry; congested roads, parking lots, and trails; and entrance closures for hours at a time, all of which diminish the very experience visitors come to National Parks to enjoy;

WHEREAS, the NPS has engaged in planning processes for Arches and Canyonlands that considered multiple strategies and analyzed visitor use and experience in detail, and has proposed management solutions which include a reservation system for entry, enhanced communications and outreach, and improved partnership and collaboration with stakeholders;

WHEREAS, long-term solutions to overcrowding may require resources or technology not yet available, or public/private partnerships that require years to develop, and further that these require funding neither presently available nor reasonably expected to be available in the next few years;

WHEREAS, the Town, City and County are working to convene stakeholders and experts to develop greater community agreement about phased solutions to Arches congestion, visitor experience, and capacity;

WHEREAS, motorized recreation is a critical component of the economy of Southeast Utah, and it is essential that the experiences provided on our public lands meet the expectations of our motorized and non-motorized visitors;

WHEREAS, the Moab Field Office of the Bureau of Land Management (BLM) encompasses 1.8 million acres of canyon country with nearly 4,000 linear miles of roads and trails open to off-road vehicles, including ATV/UTV/OHVs, which roads and trails provide high quality experiences for motorized recreation of all types;
WHEREAS, since 2011, annual visitation within the Moab Field Office increased 70.6 percent to over 3 million visits in 2019;

WHEREAS, hundreds of thousands of additional acres of public land owned and managed by the U.S. Forest Service and the Utah State Institutional Trust Lands Administration are open to ATV/UTV/OHV use in Southeast Utah and Grand County;

WHEREAS, various user groups have met over many years and have successfully implemented a user group management plan that works for all recreational uses, including OHV/ATV/UTVs, which planning efforts support the region’s tourism economy and tax base;

WHEREAS, there has been no demand for additional off-road vehicle uses in the National Parks and Monuments located in the Southeast Utah Group;

WHEREAS, NPS, in directing Superintendents to allow this new use in the Southeast Utah Group without the proper compliance and environmental review including public input, has violated its own policies, undermined this important and successful process, and created controversy where there is currently no controversy;

WHEREAS, the Town, City and County believe that the negative impacts and impairments of ATV/UTV/OHVs in the National Parks and Monuments of the Southeast Utah Group will also have negative impacts to the tourist economy that provides jobs and is the basis of the Town, City and County’s tax base; and

WHEREAS, the Town, City and County support the Superintendent’s determination to continue the current prohibition of any ATV/UTV/OHVs on roads in the National Parks and Monuments located in the Southeast Utah Group for the protection of the resource and scenic values, natural and cultural resources, and the continued enhancement of visitor experience and safety for current and future generations;

NOW THEREFORE, IT IS RESOLVED, that the Town of Castle Valley, City of Moab and Grand County, Utah oppose allowing ATV/UTV/OHVs to travel roads in the National Parks and Monuments located in the Southeast Utah Group without environmental study and public comment as required by the Act, NEPA, and NPS Management Policies;

IT IS FURTHER RESOLVED that the Town of Castle Valley, City of Moab and Grand County, Utah also oppose allowing ATV/UTV/OHVs to travel roads in the National Parks and Monuments located in the Southeast Utah Group until existing congestion and visitor experience degradations are addressed; and

IT IS FURTHER RESOLVED that the Town of Castle Valley, City of Moab and Grand County, Utah also oppose allowing ATV/UTV/OHVs to travel roads in the National Parks and Monuments located in the Southeast Utah Group because such use is incompatible with resource and wildlife protection.
APPROVED by the Town of Castle Valley, the City of Moab, and Grand County, Utah in duly-noticed public meetings of each legislative body on October 15, 2019.

This Resolution shall take effect on October 15, 2019.

TOWN OF CASTLE VALLEY, UTAH

_________________________    ________________________
Jazmine Duncan, Mayor     Jocelyn Buck, Town Clerk

CITY OF MOAB

_________________________    ________________________
Emily S. Niehaus, Mayor     Sommar Johnson, City Recorder

GRAND COUNTY, UTAH

_________________________    ________________________
Evan Clapper, Chair     Chris Baird, Clerk/Auditor
JOINT RESOLUTION OF
TOWN OF CASTLE VALLEY, UTAH
CITY OF MOAB
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WHEREAS, the 1916 Park Service Organic Act (Act) requires the National Park Service (NPS) to “conserve the scenery, natural and historic objects, and wild life in the System units” and to provide for their “enjoyment in such manner and by such means as will leave them unimpaired for the enjoyment of future generations,” 54 U.S.C. §100101(a);

WHEREAS, the “fundamental purpose of the national park system” is a “mandate to conserve park resources and values,” Section 1.4.3, NPS Mgmt. Policies (2006);

WHEREAS, NPS Management Policies mandate special management of the National Parks to prioritize resource protection and acknowledge that “[n]ot all uses are appropriate or allowable in units of the national park system,” Section 1.5, NPS Mgmt. Policies (2006);

WHEREAS, Executive Order 11644 prohibits use of off-road vehicles in National Parks unless “the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values, which determination requires “adequate opportunity for public participation,” Section 3(a)(4), Executive Order 11644 (1972);

WHEREAS, NPS Management Policies require the Superintendents to prohibit new vehicle uses until a determination has been made to ensure there will be no adverse impacts to park resources and visitor experiences, and clearly outline applicable laws that define impairment to National Park resources and visitor experiences, including noise and soundscapes, air quality, soil erosion, visitor experience, and visitor safety; and the introduction of ATV/UTV/OHVs is considered a new use in National Parks; Section 8, NPS Mgmt. Policies (2006);

WHEREAS, NPS Management Policies mandate “cooperative conservation” and require Superintendents to “actively participate in the planning and regulatory processes of other federal agencies, tribal, state, and local governments having jurisdiction over property affecting, or affected by, the park,” Section 1.6, NPS Mgmt. Policies (2006);

WHEREAS, the National Environmental Policy Act (NEPA) requires federal agencies to study environmental impacts of any new action prior to official action, 42 U.S.C §4332(C);

WHEREAS, federal regulations require an environmental impact study (EIS) where adverse effects of federal action may be significant and are potentially subject to federal control and responsibility, 40 C.F.R. §1508.18;

WHEREAS, prior to all other new action, federal regulations require an environment assessment (EA), 40 C.F.R. §1501.4(b);
WHEREAS, on September 24, 2019, without study, consultation with local government, or public comment, the NPS Intermountain Regional Director directed Superintendents of Utah National Parks to adjust their Superintendent Compendium to allow off-road vehicles, including OHV/ATV/UTVs, in all Utah National Park Units, including National Parks and Monuments, by November 1, 2019;

WHEREAS, the Town of Castle Valley (Town), the City of Moab (City) and Grand County, Utah (County) have a vested interest in the National Parks and Monuments of the Southeast Utah Group, particularly Arches and Canyonlands National Parks;

WHEREAS, the Town, City and County are gateway communities to the National Parks and Monuments of the Southeast Utah Group that includes Arches and Canyonlands National Parks and Hovenweep and Natural Bridges National Monuments;

WHEREAS, annual visitation at Arches National Park (Arches) has increased by 80 percent since 2008 to over 1.6 million visits in 2018;

WHEREAS, annual visitation at Canyonlands National Park (Canyonlands) has increased by at least 58.9 percent since 2010 to over 730,000 visits in 2018;

WHEREAS, during the peak season the number of vehicles and visitors at Arches cause long wait times for park entry; congested roads, parking lots, and trails; and entrance closures for hours at a time, all of which diminish the very experience visitors come to National Parks to enjoy;

WHEREAS, the NPS has engaged in planning processes for Arches and Canyonlands that considered multiple strategies and analyzed visitor use and experience in detail, and has proposed management solutions which include a reservation system for entry, enhanced communications and outreach, and improved partnership and collaboration with stakeholders;

WHEREAS, long-term solutions to overcrowding may require resources or technology not yet available, or public/private partnerships that require years to develop, and further that these require funding neither presently available nor reasonably expected to be available in the next few years;

WHEREAS, the Town, City and County are working to convene stakeholders and experts to develop greater community agreement about phased solutions to Arches congestion, visitor experience, and capacity;

WHEREAS, the Moab Field Office of the Bureau of Land Management (BLM) encompasses 1.8 million acres of canyon country with nearly 4,000 linear miles of trails open to off-road vehicles, including ATV/UTV/OHVs;

WHEREAS, since 2011, annual visitation within the Moab Field Office increased 70.6 percent to over 3 million visits in 2019;
WHEREAS, hundreds of thousands of additional acres of public land owned and managed by the U.S. Forest Service and the Utah State Institutional Trust Lands Administration are open to ATV/UTV/OHVs in Southeast Utah and Grand County;

WHEREAS, various user groups have met over many years and have successfully implemented a user group management plan that works for all recreational uses, including OHV/ATV/UTVs, in specific areas to the benefit of all recreational users;

WHEREAS, there has been no demand for additional off-road vehicle uses in the National Parks and Monuments located in the Southeast Utah Group;

WHEREAS, NPS, in directing Superintendents to allow this new use in the Southeast Utah Group without the proper compliance and environmental review including public input, has violated its own policies, undermined this important and successful process, and created controversy where there is currently no controversy;

WHEREAS, the Town, City and County believe that the negative impacts and impairments of ATV/UTV/OHVs in the National Parks and Monuments of the Southeast Utah Group will also have negative impacts to the tourist economy that provides jobs and is the basis of the Town, City and County’s tax base; and

WHEREAS, the Town, City and County support the Superintendent’s determination to continue the current prohibition of any ATV/UTV/OHVs on roads in the National Parks and Monuments located in the Southeast Utah Group for the protection of the resource and scenic values, natural and cultural resources, and the continued enhancement of visitor experience and safety for current and future generations;

NOW THEREFORE, IT IS RESOLVED, that the Town of Castle Valley, City of Moab and Grand County, Utah oppose allowing ATV/UTV/OHVs to travel roads in the National Parks and Monuments located in the Southeast Utah Group without environmental study and public comment as required by the Act, NEPA, and NPS Management Policies;

IT IS FURTHER RESOLVED that the Town of Castle Valley, City of Moab and Grand County, Utah also oppose allowing ATV/UTV/OHVs to travel roads in the National Parks and Monuments located in the Southeast Utah Group until existing congestion and visitor experience degradations are addressed; and

IT IS FURTHER RESOLVED that the Town of Castle Valley, City of Moab and Grand County, Utah also oppose allowing ATV/UTV/OHVs to travel roads in the National Parks and Monuments located in the Southeast Utah Group because such use is incompatible with resource and wild life protection.
APPROVED by the Town of Castle Valley, the City of Moab, and Grand County, Utah in
duly-noticed public meetings of each legislative body on October 15, 2019.

This Resolution shall take effect on October 15, 2019.

TOWN OF CASTLE VALLEY, UTAH

Jazmine Duncan, Mayor

ATTEST:

Jocelyn Buck, Town Clerk

CITY OF MOAB

Emily S. Nichaus, Mayor

ATTEST:

Sommar Johnson, City Recorder

GRAND COUNTY, UTAH

Evan Clapper, Chair

ATTEST:

Chris Baird, Clerk/Auditor