

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 3, 2022 9:03 am

Which best describes your position regarding the upland game and turkey recommendations for 2022? Strongly agree

Do you have any additional comments about these recommendations? Great outline and recommendations - thanks to all those who work diligently to ensure wildlife exist for the next generation. In respect to the air rifles, I fully support air rifles being allowed in the harvest of turkeys, rabbits, and hares.

Which best describes your position regarding the landowner rule amendments for 2022? Strongly agree

Do you have any additional comments about these amendments? I REALLY like the proposals. Yes, the wildlife belong to the public, but without private land - and the safety provided there, the herds will diminish! In my opinion, the CWMU program is an incredible gem the state of Utah has and I would love for similar programs (i.e. LOA) to be made available.

Which best describes your position regarding the landowner rule amendments for 2022?

Somewhat disagree

Do you have any additional comments about these amendments?

I Love the idea of losing preference points if you obtain a general season landowner tag or even Limited entry points if you obtain an LOA tag. I don't think it's a legal or right to require private land owners to give access to public. The LOA members are part of the association because these tags are used to financially mitigate damages caused by the wildlife that they support (water, fences, crops). Will the DWR be reimbursing landowners for damages, water, grazing by wildlife? Will the DWR be responsible for any damages and cleanup to private land? Will the DWR be responsible for gathering up cattle that are released from open gates? Will the DWR be paying for cattleguards at every access point on every piece of private land? If said Hunter is not in physical shape and has a heart attack or any type of accident is the DWR going to take liability and responsibility off of the landowner in civil court. Does the DWR have adequate staff in all LOA areas to respond to all needs or violations reported in a timely manner?

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 4, 2022 11:17 am

Which best describes your position regarding the upland game and turkey recommendations for 2022? Somewhat agree

Do you have any additional comments about these recommendations? I agree with the change to make 2 of the 3 fall turkey tags "hen only". If the goal of the division is to lower turkey population in those areas. no comment on any of the other changes.

Which best describes your position regarding the landowner rule amendments for 2022? Strongly disagree

Do you have any additional comments about these amendments?

You can not make a "one size fits all" for LOA's in the state of Utah. Some LOA's have more animals that reside on their properties so it only makes sense that they would receive more tags than that of a neighboring LOA. The Diamond Mountain LOA is the largest LOA in Utah. With a large amount of land owners some 10 acres and some well over 500 acres. These changes may not affect some of the smaller land owners in the LOA but it will be affect larger land owners with the majority of the public going onto their lands. You can not make change to how it is done now or a tag that allows people to access PRIVATE LANDS. This will only cause LOA's to break up. which would; 1. make it so they don't get tags but also completely eliminate any "public access" 2nd, The DWR and State of Utah are going to lose money by Depredation claims caused by the elk and deer. 3rd, Not all of the general public will respect private land. Look at what they do the the BLM land and Forest Service land. They don't stay on roads, they cut fences, and the litter. Who is going to compensate the private land owner for these damages?

Some of the smaller land owners actual use these tags and dont sell them so they have no way to pay for potential damages by the public.

I know for a fact that land owners in this LOA allow public hunters on their land. However, they allow people that ask them and people that they know will respect their land. Yes, some of them use an outfitter and sell their tags so public access is limited on some of those properties but they need that money to fix fence and pay to haul water the their ponds to water their cattle. (especially during these last few years of drought) Which by the way the elk and deer drink as well.

I don't know how other LOA's are but the Diamond Mountain LOA are great at "providing... quality habitat for public wildlife." they also "assist and support the division in managing big game populations" This is why you cant do an umbrella rule change for every LOA in Utah.

My family owns 50 acres that elk and deer pass through and we have never turned away people that have asked for permission to hunt.

You should have done a more in-depth survey. by asking questions like: Did you ask to hunt private lands, where you allowed access on private lands, what land owner did you ask? (so that they have to have prof)

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

I do not see this as a good solution. first is problem i see is access control. do you just had some random stranger keys to the whole place, and hope he dose not make copies and hand them out to all his friends? do the land owners have to change locks every year? if they loose the key and start cutting locks or fences who pays for the repairs. how about outfitters that make their living guiding hunts, now you throw a bunch of random strangers that do not know the area tramping threw and disrupting the hunts of people who pay to be their, then they get bad reviews loose recommendations and loose business and lively hood, who will pay for that? who about transport, someone that works/ guides / or runs cattle in an area. they will be familiar with the ways to safely get in and out and what vehicles or animals they can take and where, in the presentation they expect to allow the same access to these hunter, what happens when someone does something stupid and ends up dead, is there protection for the land owner so they do not get sued? another point one i feel is very important, they state that they respect the landowners rights, but then say but there should be more access to private land by the public for hunting, if they landowners what to allow access to hunters let the hunters call, ask permission and do it in a way that if the landowners desire they can allow it. but holding permits that help healthy management over their heads saying tit for tat, let random people on or no permits is just wrong.

also i would like to know where they went to get people for their survey, was it random or did they select hunters from city areas that don't know what its like to manage land or have to deal with trespassers leaving gate open or cutting fences and letting cows out, then fighting with the landowner saying they have permission to be there. i would hope hunters in our state would show greater respect then that but, i have seen it too much the other way to say that would never happen.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 5, 2022 11:08 am

Which best describes your position Strongly disagree
regarding the landowner rule
amendments for 2022?

Do you have any additional comments about these amendments?

To whom it may concern,
I appreciate you taking the time to address my concerns with rule change R657-43-5 Limited Entry Permits for landowner associations. I have several concerns about the proposed rule changes.

Not all landowner associations can be managed the same. The Diamond Mountain Landowner association is a totally different from the landowner associations in other regions in the state. So, to put together a ruling that lumps all landowner associations in the same group is not a fair system. Diamond Mountain is unique in the fact that a large portion of the mountain is private land. This private land is utilized for livestock, cabins, etc. by the private landowners.

I feel that Diamond Mountain Landowners association has had a great working relationship the division and to change this relationship at this point does not make sense. I suggest keeping the same agreement that the Diamond Mountain LOA has had and maintained with the division.

The Division has not addressed the liability issue of allowing public hunters on private land. How will the division insure the Diamond Mountain LOA for liability issues if a public hunter for example got hurt on private land?

How will the division pay reparation for damage and depredation caused by wildlife such as fence damage, lost livestock feed, water use, etc. The buck and bull voucher has been a trade for depredation claims by private landowners. The cost of a buck or bull voucher is much cheaper to the Division than the cost of say a fence repair or lost feed for livestock. Is the division prepared to financially pay for these losses? Which could add up to hundreds of thousands of dollars with the large acreage on Diamond Mountain.

Is the division prepared to repair roads and vegetation damage done on private lands by public hunters? The roads on Diamond Mountain get destroyed by public hunters after a rain or snowstorm. Public hunters drive trucks, atv's and OHV's wherever they want and do not stay on legal roads and trails. Is the Division prepared to have extra law enforcement to patrol for off road violations?

The Diamond Mountain LOA is the only LOA that has followed to the letter the rules and guidelines agreed upon with the Division for landowner buck and bull vouchers. To take away what has been working is unfair to and association that has done everything above board.

As a private landowner I have a very difficult time seeing how this system will work for Diamond Mountain. An analogy you will hear often in this process is "Would you open the front door of your house and allow anyone to come hang out on your couch and eat your food?" This is what you are asking the private landowners to do allow full access to our lands that we have worked so hard to own, maintain for our families and our livelihoods.

Thank you for your time, Tyler

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

I think there is a lot more to think about than just giving access to public hunters on private land. Is the state going to pay for road maintenance on private land? Is the state going to cover cost of insurance or help protect landowners if there is an injury or accident on said land? Will the state compensate landowners for cost of cleanup of trash? How can you ensure public hunters don't create new roads? And lastly we work hard to keep our private lands the way we enjoy them and don't want to grant public access for that to be ruined.

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

I own ground myself as an individual as well as being a part of a LOA. The amount of tags given by the DWR to landowners in a LE unit for them to sell, keep or whatever does NOT cover the amount of feed/damage that these animals do to the ground. Most land owners including myself don't mind having them on the property, and view the tags allotted as a way to help pay for the damages caused by these animals be it feed, fences, etc. The Diamond Mtn. LOA is unique in that most of the mountain where the animals hang out the majority of the year is on private property. Its actually created some very respectable animals that the public has opportunities to harvest on the forest and BLM. We run a cattle operation on the LOA that I'm a part of. We do not want public hunters accessing property without being accompanied by someone. We cannot take the chance of gates being left open, people traveling off-road in vehicles as well as ATV's destroying the feed that we desperately need (especially in this drought). We have paid to drill water wells, and do whatever we can to help develop forage that wildlife enjoy right alongside our cattle. If it weren't for these LOA's there wouldn't be nearly the amount of wildlife for the public to enjoy on the forest, BLM, and state properties.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 5, 2022 6:47 pm

Which best describes your position Strongly disagree
regarding the landowner rule
amendments for 2022?

Do you have any additional comments about these amendments?

To whom it may concern,
I appreciate you taking the time to address my concerns with rule change R657-43-5 Limited Entry Permits for landowner associations. I have several concerns about the proposed rule changes.

According to our attorney the rule changes are full of holes. The rule changes need a significant amount of work to hold legal weight in the courtroom. There are no clear definitions of what public access looks like. At this point the way R57-43-5 has been written a private landowner can create in their own terms what the proper public access looks like since the division has not clearly defined this. There is no clear definition of what the division will do in trade for vouchers to support the private landowners for allowing access. A \$60 elk voucher is not an equitable trade to allow dozens upon dozens of people onto your own private land. The compensation would have to be fair and equitable.

In all of the divisions rule and guide books it clearly states "The Division Cannot Guarantee Access To Private Land". Taken from page 19 in the Big Game Guidebook.

Utah State Statute 23-20-3.5 as referenced on page 5 in the Division application handbook clearly states that private property cannot be accessed without prior written permission from the landowner or landowner representative.

In multiple places throughout the divisions rules and guidebooks it clearly states that a person must obtain written prior permission before trespassing on private property. Yet R657-43-5 does not clearly define that a public hunter must get permission before trespassing on private property. This does not align with the divisions previous and present rules and guidelines. First not all landowner associations can be managed the same. The Diamond Mountain Landowner association is totally different from the landowner associations in other regions in the state. So, to put together a ruling that lumps all landowner associations in the same group is not a fair system. Diamond Mountain is unique in the fact that a large portion of the mountain is private land. This private land is utilized for livestock, cabins, etc. by the private landowners. I feel the division and the Diamond Mtn. LOA could come together for a feasible arrangement that matches or is very similar to the current arrangement for landowner buck and bull elk vouchers.

Under the current system some landowners have some of the best hunting on Diamond Mtn. Yet these landowners receive vouchers only every few years. Will these landowners who will have the majority of public lands hunters utilizing their land receive more vouchers to compensate for the dramatic increase in hunter traffic on their property? Will they receive multiple deer and elk vouchers each year as compensation?

Some landowners in the association own smaller acreages and only receive vouchers every 10 years or so. Will the division provide vouchers for all landowners in the association each year in trade for allowing public access? Our property is not a large 70 acres but it holds on a regular basis small elk herds because of its geographic location to cover and water. Yet in the time Diamond Mtn. has been limited entry we have not received a landowner bull elk voucher. I cannot see it being a fair trade to open the

gate and allow mass amounts of people into our property but not receive an annual voucher in trade for providing access.

I feel that the Diamond Mountain Landowners association has had a great working relationship with the division and to change this relationship at this point does not make sense. I suggest keeping the same agreement that the Diamond Mountain LOA has had and maintained with the division.

The Division has not addressed the liability issue of allowing public hunters on private land. How will the division insure the Diamond Mountain LOA for liability issues if a public hunter for example got hurt on private land?

The majority of high quality bull elk and buck deer hunting on Diamond Mountain has public access. It may require hiking or horses but the prepared hunter who has done their research in advance of applying for and drawing a Diamond Mountain permit knows this. Allowing the public to access private land has liabilities that a small business owner and private landowner knows is not affordable insurance for any of us. How will the division guarantee that as a private landowner for example I will not be sued when a drunk hunter rolls their OHV on my land and makes claims against me?

How will the division pay reparation for damage and depredation caused by wildlife such as fence damage, lost livestock feed, water use, etc. The buck and bull voucher has been a trade for depredation claims by private landowners. The cost of a buck or bull voucher is much cheaper to the Division than the cost of say a fence repair or lost feed for livestock. Is the division prepared to financially pay for these losses? Which could add up to hundreds of thousands of dollars with the large acreage on Diamond Mountain.

Currently a \$60 voucher every couple of years is a great deal for the public in trade for feeding 300 plus head of elk everyday. Allowing public access is not a fair trade for the private landowners if there is not some sort of compensation. The public perception is that the LOA is getting rich off of vouchers which is not the case. Most families use the vouchers for hunting on their property or on Diamond mtn and do not sell them to the highest bidder. Even if they do sell them, the value to the public for the landowner to water and feed deer and elk is higher than the cost of the permit.

Is the division prepared to repair roads and vegetation damage done on private lands by public hunters? The roads on Diamond Mountain get destroyed by public hunters after a rain or snowstorm. Public hunters drive trucks, atv's and OHV's wherever they want and do not stay on legal roads and trails. Is the Division prepared to have extra law enforcement to patrol for off road violations? Annually there are more and more roads and trails being illegally created on public lands across the state by disrespectful people.

Is the division prepared to clean up trash and camp messes left by the public hunters?

What will the division do to ensure that private landowners who are NOT part of the Diamond Mountain LOA are protected from trespassers? Will the division hire extra law enforcement sufficient to patrol Diamond during hunting hours each day of the limited entry hunts? I am sure that a public hunter who draws a tag will make the assumption that they can go

wherever they want without asking and without question.

The Diamond Mountain LOA is the only LOA that has followed to the letter the rules and guidelines agreed upon with the Division for landowner buck and bull vouchers. To take away what has been working is unfair to the Diamond Mountain association that has done everything above board. I can continue to ask difficult questions that from what I have read in the information provided by the division, the division is not prepared to answer in adequate fashion.

As a private landowner I have a very difficult time seeing how this system will work for Diamond Mountain. An analogy you will hear often in this process is "Would you open the front door of your house and allow anyone to come hang out on your couch and eat your food?" This is what you are asking the private landowners to do. Allow full access to our lands that we have worked so hard to own, maintain for our families and our livelihoods. There are some respectful people hunting in Utah's mountains but I have a hard time believing that all the public hunters, their friends and families will show our private property the same respect that we give to the land and wildlife.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 5, 2022 6:51 pm

Which best describes your position Strongly disagree
regarding the landowner rule
amendments for 2022?

Do you have any additional comments about these amendments?

To whom it may concern,
I appreciate you taking the time to address my concerns with rule change R657-43-5 Limited Entry Permits for landowner associations. I have several concerns about the proposed rule changes.

According to our attorney the rule changes are full of holes. The rule changes need a significant amount of work to hold legal weight in the courtroom. There are no clear definitions of what public access looks like. At this point the way R57-43-5 has been written a private landowner can create in their own terms what the proper public access looks like since the division has not clearly defined this. There is no clear definition of what the division will do in trade for vouchers to support the private landowners for allowing access. A \$60 elk voucher is not an equitable trade to allow dozens upon dozens of people onto your own private land. The compensation would have to be fair and equitable.

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As a private landowner I have a very difficult time seeing how this system will work for Diamond Mountain. An analogy you will hear often in this process is "Would you open the front door of your house and allow anyone to come hang out on your couch and eat your food?" This is what you are asking the private landowners to do. Allow full access to our lands that we have worked so hard to own, maintain for our families and our livelihoods. There are some respectful people hunting in Utah's mountains but I have a hard time believing that all the public hunters, their friends and families will show our private property the same respect that we give to the land and wildlife.

Which best describes your position regarding the upland game and turkey recommendations for 2022? Somewhat disagree

Do you have any additional comments about these recommendations? No

Which best describes your position regarding the landowner rule amendments for 2022? Strongly disagree

Do you have any additional comments about these amendments? The dwr should not have access to private land or any body else

Which best describes your position regarding the Gordon Creek WMA Habitat Management Plan? Neither agree nor disagree

Do you have any additional comments about the Gordon Creek WMA Habitat Management Plan? No

Which best describes your position regarding the Bicknell Bottoms WMA Habitat Management Plan? Neither agree nor disagree

Do you have any additional comments about the Bicknell Bottoms WMA Habitat Management Plan? In short manage wildlife not money
Your giving out to many tags for money
Get rid of spike hunts it has ruined some of utahs best units
Are youth dose not want hunt spike elk and 2 point deer
Manage wildlife before its all gone and not OPERTUNITY money

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 7, 2022 7:09 pm

Which best describes your position regarding the landowner rule amendments for 2022? Strongly agree

Do you have any additional comments about these amendments?

The Diamond Land Owner Association has got the best of both worlds for way to long. It says on the DWR website not to expect to hunt any private property if you draw a tag on the South Slope Diamond Unit, yet they can hunt both. This is not right. Not to mention all the public ground and class D roads that are posted private.

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

As a landowner in a limited entry unit and currently a member of an LOA I strongly disagree with the proposed changes. Over the years it has been hard enough to keep out trespassers and to continually have to repair ripped out or cut fences. Allowing the public to access our property would create a nightmare of problems, Damage to roads, ATV's going where there are no roads, disturbance of our cattle, fishing in our private ponds(which we legally stock for our kids and grandchildren), and possible damage and vandalism to our cabins which are not always occupied just to name a few. I personally would rather leave the LOA and not get any vouchers than to have to allow the public on my property that I have worked my whole life to acquire and maintain for my family.

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly agree

Do you have any additional comments about these amendments?

The majority of private land owners don't benefit from landowner tags. Only landowners with larger acres receive the tags. The rule change makes it so that the tags that land owners receive would be used on private lands reducing competition with private land owner guides. In some areas of the state public land access is blocked by private lands and a good majority of the tags are filled by private land owners tags on public lands, limiting opportunities to the wealthy. Private land owners have used landowner tags to make a profit. The benefits outweigh their expenses; maintaining fences and hauling water to their livestock. The rule change will provide more opportunities for the general public.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 8, 2022 10:29 pm

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

This sounds like a very one sided rule change in favor of the dwr. I don't see how this change helps the landowner in the slightest. Strong arming landowners into giving away there rights. Government overreach!

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 10, 2022 9:58 am

Which best describes your position Somewhat agree
regarding the landowner rule
amendments for 2022?

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

PRIVATE LAND There will be no compromising. The key word is PRIVATE. We have heavily invested in our right to purchase land because it is PRIVATE. Every bit of money that has been invested is because it is PRIVATE and I DO NOT WANT PEOPLE ON MY PRIVATE LAND. I will do what ever is required to insure my rights as a PRIVATE LAND OWNER ARE INSURED. Be it at the VOTING booth or COURTROOM. IT MUST STOP HERE.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 10, 2022 5:20 pm

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

this is a disaster for the loa in the state of Utah the public and the wildlife and the landowners are all going to loose something that has been a great thing for Utah I hope you study and find out all the facts about this before you vote

Which best describes your position regarding the landowner rule amendments for 2022? Strongly agree

Do you have any additional comments about these amendments?

I own land on the Diamond MOUNTAIN LIMITED ENTRY AREA, 12 acres but we have a herd of elk that lives on our cabin property. I have no chance of drawing a landowner permit and I am OK with that. My name goes in every year into the DWR bin and the Landowner bin. I'm OK not drawing but, I also know the value of landowners that do care about the wildlife. I do see the value of a grandchild seeing a big buck multiple times. I live in Spanish Fork. There are very few opportunities to see the flourishing wildlife on Diamond. Big elk and deer abound through cooperation of the landowners and DWR. So lets change it and have people you don't accessing private land anytime anywhere in a unit. Lets send them to your house. I was raised on a farm and we grew pheasant as part of the crops we had. Dad always let people hunt until the day the house was shot. Then no trespassing. If you are not equitable with the landowners no one will be allowed to hunt. Keep a good thing going. Keep giving tags to those who really take care of our wildlifeI say noy to your new rules. Keep it as is.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 10, 2022 7:49 pm

Which best describes your position Strongly disagree
regarding the landowner rule
amendments for 2022?

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 11, 2022 8:31 am

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 11, 2022 8:39 am

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

This is absolutely not ok. You want to force landowners to let people onto their land a.) free of charge, b.) take less landowner tags and c.) have no say as to who is entering their property. You should be ashamed of yourself for even proposing this. What right does the State have to tell landowners this. From what I read in the rules the landowners have ZERO benefit from this.

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

I appreciate this opportunity to give some feedback. I am a landowner on Diamond Mountain and have been for the last 15 years. I have also been closely tied to Diamond Mountain for the last 45+ years as my grandfather and father were and are also owners. I spent a significant amount of time every year moving cattle, building fence, installing water systems, and repairing damaged infrastructure. In my youth I enjoyed spending time on the mountain but looking back years later I realize just how significant an amount of time and money was spent. Diamond mountain was our "family vacations" and work was our fun. I have seen a lot of positive changes from it over the last 40 years that have benefited both cattle and wildlife. Water has been developed and distributed all over the mountain. Fences have been built to manage grazing and increase grass quality and quantity. Management plans implemented to control noxious and invasive plants and numerous additional projects that have been a benefit to all animals that live on the mountain. Funding for these projects primarily came out of our pocket. These were dollars that were hard for my dad, grandfather and now myself to come up with. A steep land payment was due every fall and included in this assessment was the costs accumulated throughout the year to build and repair damages to the mountain oftentimes from wildlife. Despite the stress and struggles the mountain has given it has been a blessing to invest and be part of a stewardship of Diamond Mountain for all these years.

When the current DWR agreement was implemented years ago my family was finally able to see a little financial return. It created revenue that helped pay for some of the significant investment already made, help pay for annual damages, and promote new projects that benefit all. The current relationship and agreement we have with the DWR to be able to keep our land private and receive deer and elk vouchers has worked well and has been a significant move in the right direction. This has helped us to control (often unintended) damage to roads, pipelines, grazing grounds, grasses, and fence.

My strong feedback would be to ask that no new changes be obligated upon the landowners of Diamond Mountain. We have a system and agreement that has worked for many years and has helped to create some balance. It is important that I am able to keep our private land.....private. I feed and help grow some incredible elk and deer populations that travel all over the mountain. Let's keep the relationship and policies we now have. Thank you for your consideration.

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

As a steward of running cattle on private and public lands, I am concerned about opening up more land, including private land, to the public for hunting. We have spent many years and personal resources repairing damaged roads and fences from those who disregard care of the public and private lands. I admire those that have the drive and the conservation mind to take care of the land and welcome them though the already established programs, but i fear that the changes may lead to a degradation of the work that we have done to preserve the area.

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

Landowners have no choice as to if and how many of the publics wildlife forage on their private property
They are responsible for economic loss to ranchers due to grazing feed needed for livestock tromping out springs and excessive damage to fences
Deer and elk may sleep on public lands but due to public pressure seek refuge on private land
The demand to access on private land feels wrong
Unconstitutional even
If these new proposals take affect what will be next ?

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 11, 2022 11:01 pm

Which best describes your position Strongly disagree
regarding the landowner rule
amendments for 2022?

Do you have any additional comments about these amendments?

May 11, 2022

Dear Mr. Wilson and Northeastern Regional Advisory Council Members,

Thank you for providing the information regarding the proposed change to Administrative Rule R657-43 and allowing us to provide our comments and concerns.

I am writing specifically to the Diamond Mountain Landowners Association concerning the Hank T. Peltier and Tamara C. Peltier Trust in which my mother is the Trustee. I am most concerned with the proposal to allow access to private property by any hunter with a voucher. The landowners have paid for the right to make decisions about who is allowed on our property and who is not and what legal activities can be done on our property. The landowners bought and paid for their private property, not unknown hunters. The landowners have for many years, faithfully by law, paid the taxes on their property, not the unknown hunters.

From experience, we know that not all hunters are respectful and do not follow our and expectations. We have experienced people who have cut our fences to get from one place to another, people have opened gates and not closed them, they have driven on wet roads and caused deep trenches, they drive off the roads and cause damage to vegetation and the landscape, people camp and leave their garbage behind, we have had our cabin and outbuildings broken into, and yes, we have even had our livestock hurt and killed. You must understand that this land is used to support our livelihood. We have to repair fences due to damage from wildlife, we have to bring livestock off the mountain early when the wildlife seeks the grass and water on our property, but we understand the wildlife and we adjust for that. We repair the fences and move the livestock off the mountain when the feed and water is gone. This causes us to have to purchase supplies to repair fences and have the labor hours to make the repairs. We also have to purchase hay to feed the livestock due to a shorten time on the mountain.

If we had no control over who we give permission to be on our land, we would have much more damage to our property. We would have to purchase supplies for repairs, endure the labor costs to include the time to make the repairs, and yes, suffer the loss of livestock. None of that will ever be compensated for. One other concern is safety when hunting and the liability to the landowners. Who is going to protect the landowners against lawsuits if a hunter gets hurt or an accidental death occurs? What if illegal activity occurs on the property, will the landowner be responsible? How will the landowner be protected? I work in law enforcement and the property owner is always subject to legal liability when illegal activity has occurred on their property. Of course, law enforcement would have to prove that the owner had reasonable knowledge to know illegal activity was occurring, but how would this change in rules protect the owners of the property when unknown "hunters" are able to legally access their property.

Who is going to ensure the identity of the hunter(s) and if legitimate activity is occurring during the "hunting"? Who will pay for the damage if the unknown hunter starts a fire that goes out of control? The fire burns not only one person's property, but others also and nobody knows what hunter(s) were there? Who is responsible and how is compensation made?

One further thought is the Fifth Amendment of the Constitution protects the right to private property in two ways. First, it states that a person may not be deprived of property by the government without "due process of law," or fair procedures. In addition, it sets limits on the traditional practice of eminent domain, such as when the government takes private property to build a public road. Under the Fifth Amendment, these types of takings must be for a "public use" and require "just compensation" at market value for the property seized. Although the proposed changes do not use the word "seizing" it would seem like taking the right of the landowner to say who can or cannot be on their property could be considered "seizing the owner's rights" to their property, as a violation of the Fifth Amendment.

Again, I respectfully thank you for allowing us to make comments.

Lynnette M. Wingert
(801) 656-9133
950 Harrington Ave NE S325
Renton, WA 98056

Home address in Utah is:
9443 South Sid Circle
South Jordan, Utah 84009

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 12, 2022 7:23 am

Which best describes your position regarding the landowner rule amendments for 2022? Strongly disagree

Do you have any additional comments about these amendments? I am strongly against allowing public access to land on Diamond Mountain. I feel it is a major security issue, and don't want to forced to allow access to property.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 12, 2022 10:08 am

Which best describes your position Strongly disagree
regarding the landowner rule
amendments for 2022?

Do you have any additional comments about these amendments?

Dear Mr. Wilson and Northeastern Regional Advisory Council Members,

Thank you to the Chair and RAC members for the work put forth investigating options concerning the LOA Voucher System and for listening to feedback on the proposed plan.

I am writing specifically in regards to the Diamond Mountain Landowners Association (DMLA) concerning private property owned by my family. Some of the proposed changes in R657-43 would be good. For example, the need for a more uniform and transparent way for the permits to be handled by LOA's is an excellent plan. I think this would be beneficial to everyone involved in making sure the process is fair and everyone understands the process.

However, allowing access to private property by any hunter with a voucher makes me uneasy. Landowners have paid for the right through the purchase of their property and taxes paid yearly to be able to control who is on their property. This is a very important right that needs to be protected. Allowing free access to the entire unit with a voucher takes away this right and creates problems for the landowner as well as the DWR. Some of these problems are:

- Though most hunters may be respectful of private property, you will have some that will:
 - o damage fences
 - o break into / vandalize cabins and other property
 - o leave garbage / litter
 - o drive off designated roads causing damage to the land
 - o forget to close gates
 - o kill or cause harm to livestock
 - o break the rules put in place

For most of these landowners, this land is an important part of their livelihood and is really a business. Would a normal business be told they must give "free access" into their establishment by anyone holding a voucher the government has given out? Also, I understand the DWR and public see the benefits a landowner has by selling the voucher, but are they taking into account the damage done to the property by the game in loss of fencing, feed, and water?

- Some hunters will be safer than others, but even the safest can have an accident or an incident that could be life threatening or deadly (shootings, falls, heart attacks and other medical emergencies, vehicle accidents, etc.).

Who will protect the landowner from lawsuits? What responsibility does the State have and will they also encounter lawsuits that will be costly to the taxpayer?

- The proposal really blurs the line between public and private property. There is already a lack for respect for private property and if the proposed changes go through, I believe this will become an even bigger issue and grey area. My parents have dealt with people cutting their fences and driving ATV's through their property, have had their cabin broke into and experience vandalism on the property by trespassers.

Another concern I had while watching the video and reading over the proposal, is the extra expense the LOA's will incur in managing the new

system. Travel for trainings once per year and administration of the rules will cost money and time almost creating a need for a paid position on the LOA. The DWR will more than likely incur extra expense as well for someone to oversee and ensure compliance with the new changes. With the exception of uniformity and transparency for each LOA, I believe the current system is better at protecting the landowner. With 65% of the unit still available to be hunted, private landowners should not have to have their rights disregarded just for helping maintain the game.

Thank you again for your time and consideration of this feedback. I know we are living in a time where more people are having a hard time getting access to wild, scenic lands and the government has a job to perform in maintaining public lands and game. However, the government should not muddy the waters between private and public lands. Private landowners have earned the right to have control over who is on their land and shouldn't have that taken away.

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

My children and I are multi-generational owners of our private property on Diamond Mountain. We have always done everything in our power to peacefully co-exist with the wildlife that frequents our private property, it is their home first and foremost. We have gone to great expense, time and effort to improve our private property for our family to gather at. We work hard at maintaining relationships with other landowners property we must cross to access our land.

My argument against proposed changes to Admin Rule R657-43 is this - PRIVATE PROPERTY IS JUST THAT. PRIVATE! The public should not in any way be allowed to cross over to our private property for the purpose of hunting, it is a violation of our constitutional rights under the Constitution of Utah. The argument that landowners would be able to dictate ATV's, camping, etc. is a joke. We would have to hire security just to monitor the entire hunting season. All the time, effort and money we have spent to improve our PRIVATE PROPERTY would be in jeopardy of trespassing and vandalism.

I strongly encourage the DWR to NOT make changes to R657-43.

Signed,
Kathleen Searle Hefley
Cherie Hefley Johnson
Natalie Hefley Edwards
Cody William Hefley

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 12, 2022 11:03 am

Which best describes your position Strongly disagree
regarding the landowner rule
amendments for 2022?

Do you have any additional comments about these amendments?

*The following comment contains the same text as a letter sent via email to all members of the Southern Regional Advisory Council members. The text is copied and pasted here to be certain that it's content is accepted into the public record.

Dear Northeastern Region Advisory Council members:

This law firm represents Diamond Mountain Landowners Association ("DMLA"). DMLA is an association of the owners of 154+ parcels of private property (hereinafter the "Landowners"), who collectively provide 35% of the property area-and a greater percentage of the prime wildlife habitat and access to food and water-within the limited entry big game hunting unit located on the South Slope of Diamond Mountain near Vernal, Utah (hereinafter, the "Diamond Mountain Limited Entry Unit" or "Unit"). We write this letter to explain why DMLA opposes the Proposed Amendments to the Landowner Permits Rule R657-43 (the Proposed Amendments) and urge you to reject the Proposed Amendments. [FN1]

BACKGROUND

I. The Existing Landowner Permits Program Is Essential to the Successful Management of the Diamond Mountain Limited Entry Unit.

DMLA has participated in the R657-43 Landowner Permits Program ("Landowner Permits Program") for nearly 30 years. This program is the foundation of a successful collaboration between the Division of Wildlife Resources (DWR) and DMLA to improve and expand big game habitat and access to food and water for deer and elk on both private and public lands in the Diamond Mountain Limited Entry Unit. As a result of this collaborative public-private investment in big game wildlife, the public lands within the Unit progressed from experiencing a crowded general hunting season on public lands that supported only small bucks and bulls to a hunting unit that supports a trophy population of elk and deer. It now provides a highly desired, uncrowded hunting experience that is dispersed throughout private and public lands within the Unit.

The Landowner Permits Program was designed as a free-market incentive to improve wildlife habitat on private lands.[FN2] Similar free-market incentive programs for private land conservation exist in other western states, including in New Mexico and Nevada.[FN3]

DWR's Landowner Permits Program provides DMLA a limited number of vouchers to purchase big game hunting permits in the Diamond Mountain Limited Entry Unit as compensation for providing food and water, for accepting and managing conflicts between the wildlife herds and private cattle ranching operations, and for repairing damages caused by wildlife to fences and water sources. DMLA divides the vouchers it receives among its member Landowners based on acreage owned. Most participating Landowners do not receive a voucher every year. [FN4]

When a Landowner receives a voucher, the Landowner may use the voucher to purchase a DWR permit to hunt on the Landowner's own land or may sell the voucher for compensation and allow the purchasing hunter to purchase a permit from DWR and hunt on the Landowner's land. Many Landowners who receive a voucher sell it and use funds received to keep the lands available for wildlife, pay increasing property taxes, and offset increased maintenance costs of prioritizing wildlife. Elk herds, in particular, frequently concentrate in areas of prime habitat on the Landowners' private lands, where they knock down fences, trample springs, and compete with cattle for food and water.

The existing Landowner Permits Program is an essential contributor to the success of the Diamond Mountain Limited Entry Unit. In addition to compensating landowners for impacts of increasing big game herds on their private lands, the incentives have also encouraged Landowners to proactively invest time, effort and private resources to collaborate with DWR to improve the ranges of deer and elk herds (on both public and private land) and improve public access to the herds. For example, DMLA Landowners have invested more than \$150,000, plus countless hours of volunteer labor, to improve the public range, including by developing springs and watering troughs on state owned lands and funding predator management initiatives. These contributions helped disperse big game populations onto the Unit's public lands for public enjoyment. Under the current rules, the Landowners also allow free walk-in access across their lands to public lands that are landlocked without requiring the state to purchase an access easement. [FN5] Finally, DMLA Landowners have allowed reasonable free landowner-controlled access to private lands by public hunters who draw permits for the Diamond Mountain Limited Entry Unit in DWR's lottery, even though there is no legal requirement for them to do so. [FN6] DMLA Landowners regularly provide free access to certain of the Unit's private lands in response to respectful requests from public hunters. However, allowing DMLA Landowners to control and manage public access to their lands ensures that the access is compatible with existing private uses and provides better assurance that the public hunter will act in a way that respects the Landowner's cattle, homes, cabins, personal property and the land itself. [FN7]

II. The Proposed Amendments Transform the Landowner Permits Program into a Coercive Program that Will Require Landowners to Hand Over Control of Hunting Access to Private Lands to DWR.

The Proposed Amendments will extensively rewrite key provisions of the Landowner Permits Rule that apply to landowner limited entry permits. Read together, the Proposed Amendments will transform the Landowner Permits Program from a well-functioning and successful free-market incentive program recognizing landowners' participation in wildlife management into a coercive program that requires landowners to hand over control of hunting access on their private lands to the government without fair-market compensation and without necessary landowner

protections that are in place now.

The Proposed Amendments expressly redefine the purpose of the Landowner Permits Program to focus on public access.[FN8] The Proposed Amendments then begin the transformation of the Program to a coercive public access program by making substantial cuts to the number of Landowner Permits available.[FN9] Specifically, the Proposed Amendment calculates the number of landowner permits awarded by applying the percentage of private land acreage in the hunting unit to the number of last year's public draw permits--instead of the existing calculation, which applies the percentage of either private land acreage in the hunting unit or of wildlife use to the total number of unit permits.[FN11] This change disregards the fact that deer and elk concentrate in higher numbers on private lands where there is better access to food and water. Together, these changes will cause a substantial decrease in landowner permits available, even assuming the same conditions exist on the Unit before and after the Proposed Amendments are adopted.[FN12]

Next, the Proposed Amendments add new requirements that all of the Landowners who participate in the Landowner Permits program through a landowners association must allow DWR to control public access to their private lands to allow public hunting--whether or not the impacted landowners receive a hunting permit.[FN13]

The Proposed Amendments do not provide impacted landowners either fair market compensation or necessary access limitation and landowner protections that would be provided if DWR purchased a hunting access easement to the each of the impacted Landowners' lands.[FN14]

For example, the Proposed Amendments do not clearly provide liability protection to landowners under Utah's Limitations on Landowner Liability Act, § 57-14-101 et seq.[FN15] And, the right of public access and limits on landowner control in the Proposed Amendments are very broad, requiring that Landowners "shall provide complete access to hunt all landowner property." [FN16] This rule stands in contrast with the rules applied to walk-in access ("WIA") easements, which preserves the private landowner's right to deny a member of the public access to the walk-in access property for the following causes: "(a) the member of the public being intoxicated; (b) causing property damage or vandalism; (c) violation of property use terms or conditions in the WIA lease agreement or in this rule; (d) failure to possess a WIA authorization; (e) committing any wildlife violation or crime on the WIA property; or (f) any situation reasonably deemed an emergency." [FN17]

Finally, in the event that individual landowners or the landowners association rejects DWR's invasive requirements that it control public access to private lands, and the landowners association landowners instead elect to end their participation in the Landowner Permits Program, the Proposed Amendments remove all other means of wildlife management

on non-participating Landowners' lands. [FN18] The Proposed Amendments are coercive as applied to the DMLA Landowners because they will force the Landowners to choose between (a) retaining their statutory and constitutional rights to control access to their private lands, and (b) proper management of wildlife and wildlife impacts on their lands.

EXPLANATION OF DMLA'S OPPOSITION

DMLA opposes the Proposed Amendments for two primary reasons: First, good wildlife management public policy strongly favors keeping the existing Landowner Permits Program. Second, the Proposed Amendments will unlawfully invade the Landowners' statutorily and constitutionally protected property rights.

I. GOOD PUBLIC POLICY SUPPORTS CONTINUING THE EXISTING LANDOWNER PERMITS PROGRAM

The establishment of the Diamond Mountain Limited Entry Area and also the associated Landowners Permit Program for DMLA Landowners has resulted in 30 years of demonstrated improvements to wildlife management and hunting opportunities in the Diamond Mountain Limited Entry Unit. The Unit now provides a highly desired big game hunting experience that benefits hunters on both public and private properties. The Unit's exceptional hunting experience also brings considerable economic development and tourism to Vernal, Utah. These are wildlife management outcomes that DMLA urges the Regional Advisory Councils and Wildlife Board to preserve.[FN19]

It is possible that the Landowner Permits Program has become a victim of its own success. The 30 years of benefits that Landowner collaboration with DWR have provided to the public, and the necessity of continued collaboration, were not adequately considered by the advisory committee that drafted the Proposed Amendments, which only included two landowners associations in their discussions and did not give much weight to the landowners associations' input. There is an apparent presumption by proponents for access to private lands that the landowners receiving landowner permits are unfairly profiting from a wildlife resource that "belongs to the state." This is an oversimplified view of a situation where the wildlife that is managed by the state in the public's interest is dependent upon food, water and habitat on private lands that Utah citizens have a constitutional right to hold and protect. In fact, it is reasonable and good policy for the state to compensate landowners for this support in some manner as a means to collaboratively increase opportunities for everyone to view and hunt wildlife. [FN20]

There are many benefits obtained by the state through the landowners' participation in the Landowners Permit Program that will not be available to support state wildlife management objectives if the program is made to be so burdensome that the landowners exit the program. The state wildlife

managers will lose the time, support, and private resources that have been provided by private landowners. Private landowners will not be incentivized to increase wildlife habitat or avoid conflicting uses of their properties. The State will find management of wildlife across private land boundaries more difficult. In an area with significant habitat on private lands, it is likely that elk and deer will retreat to private lands where they cannot be hunted during hunting seasons. Greater numbers of hunters will be concentrated on public lands and the value of the hunting experiences will decrease. In the event that DWR follows through with its threat to remove the limited entry designation if DMLA Landowners do not accept the Proposed Amendments, the trophy populations of elk and deer will soon be eliminated from public lands by open hunting. On private lands, where DWR prohibits landowners from private hunting, DWR will be asked to manage and compensate for damages caused by increasing concentrations of big game and public hunters who will inevitably be frustrated with sudden limitations on access to private lands.

Conversations between DMLA and members of the advisory committee also illuminated a misperception held by the advisory committee and DWR that DMLA Landowners benefit so much from the Landowner Permits Program and Diamond Mountain's Limited Entry designation that DMLA Landowners will ultimately give up their opposition to these rule changes continue participation in the Landowner Permits Program even if the rule changes are enacted. This is incorrect. As described in further detail below, DMLA Landowners have already unanimously determined that they will not hand the 'gate keys' to all of their private properties to the State in exchange for participating in the Landowner Permits Program. If the Proposed Amendments are adopted and also survive an inevitable legal challenge, DMLA Landowners will certainly end their participation in the Landowners Permit Program.

II. THE NEW REQUIREMENT THAT LANDOWNERS ALLOW DWR TO CONTROL PUBLIC HUNTING ACCESS TO PRIVATE LANDS VIOLATES THE WILDLIFE BOARD'S AUTHORIZING STATUTES AND UTAH'S CONSTITUTION

The coercive requirement in the Proposed Rules that the Landowners essentially hand over their gate keys to the State and allow it to control public access to their private lands for hunting purposes (without paying individual property owners fair market value for access rights) violates the state statute giving rulemaking authority to the Wildlife Board and also violates the Landowners' constitutional rights.

A. The Proposed Amendments Exceed the Rulemaking Authority of the Wildlife Board and Impermissibly Infringe on Legislative Policy Decisions Expressed in Governing Statutes

To begin, the Proposed Amendments exceed the authority granted to the Wildlife Board. Administrative agencies only "have the power to create

rules and regulations which conform to the authorizing statute and do not depart from it." [FN21] While the Wildlife Board has broad authority to provide for management of wildlife, there is no grant of authority for it to require private property owners to open private property for public use without entering into an easement agreement and providing fair compensation for the hunting easement. [FN22] Nor is there any grant of authority to the Wildlife Board to dictate who landowners must allow to access private property. [FN23] In fact, and to the contrary, there are express limitations in the Wildlife Board's authorizing statute, Utah Code Section 23-14-18, that prohibit the Wildlife Board from controlling access to lands belonging to private landowners. In relevant part, Section 23-14-18(2) provides as follows:

"The Wildlife Board shall, except as otherwise specified in this code: (i) prescribe rules and regulations as it may consider necessary to control the use and harvest of protected wildlife by private associations, clubs, partnerships, or corporations, provided the rules and regulations do not preclude the landowner from personally controlling trespass upon the owner's properties nor from charging a fee to trespass for purpose of hunting or fishing." [FN24]

The Proposed Amendments exceed the limits of the Wildlife Board's authorizing statute because they contain an improper requirement that each landowner participating in the DMLA association enter into a "written agreement" to "allow free public access onto participating private lands to the extent required by R657-5-5(a)(ii) . . ." [FN25], [FN26]

The Proposed Amendments provide two "voucher" options that may be selected by the entire landowners association. [FN27] If the Landowners Association selects Voucher Option 1, the Proposed Amendments additionally require that for each voucher provided to the landowners association, "[a]n equivalent number of public hunters . . . shall be provided complete access to hunt all landowner association property at no charge . . ." [FN28] In other words, DWR will select the identified number of public hunters through the permit draw, and require they "be given access to [all landowners association] lands." [FN29] This requirement does precisely what the express limitations on the Wildlife Board's authority contained in Section 23-14-18(2) prohibit: it regulates the private landowners' association in a manner that precludes the individual landowners "from personally controlling trespass upon the owner's properties" or from "charging a fee to trespass for purpose of hunting." [FN30] Similarly, if the Landowners Association selects Voucher Option 2, the Proposed Amendments reduce the available vouchers, but still require that for every voucher allocated to the landowner association, "an equivalent number of public hunters to the number of vouchers . . . shall be provided complete access to hunt all landowner association property at no charge" [FN31] Again, this violates the limitation on the Wildlife Board's authority in Section 23-14-18(2). It precludes the individual landowners in the Landowners Association from "personally controlling trespass upon the

owner's properties" and from "charging a fee to trespass for purpose of hunting." [FN32]

Because the Proposed Rules exceed any authorization for dealing with private property provided by the authorizing statutes and actually infringe on the legislature's express limitations on the Wildlife Board's authority to make rules that govern public hunting on private properties, the Proposed Amendments are unlawful and invalid.

To the extent that the DWR may argue that the Landowners Permit Program is a voluntary agreement to obtain a government benefit, and not a 'take it or leave it' legal mandate, that distinction will not support the Proposed Amendments in this case. The Proposed Rules do not offer a brand new benefit program that the regulated landowners may freely accept or reject without consequence. DWR regulates and manages wildlife on all of the private lands within the boundaries of the limited entry unit. DWR and the Wildlife Board have not only the right but also the obligation to properly manage wildlife and respect impacts on private lands. [FN33] Denying that reality, the Proposed Amendments are drafted to force landowners to choose whether to participate in a wildlife management and hunting access program that they have invested in for 30 years and be required to relinquish fundamental rights to limit and control access to their private properties or, alternatively, to have no identifiable method of wildlife management on the private properties (and suffer any wildlife damage that results from the lack of wildlife management). The variance to public access requirements that was previously granted to DMLA has been eliminated from the Proposed Amendments. [FN34]

B. The Coercive Proposed Amendments Violate Utah's Constitution.

Most importantly, the coercive Proposed Amendments violate fundamental constitutional rights under the Utah Constitution, including constitutional guarantees of the Landowners' rights to hold and protect private property and be free from government efforts to intrude into or take those rights without just compensation. First, Article I, Section 1 of the Utah Constitution identifies holding and protecting private property as an inherent inalienable right that must not be infringed by the State. It recognizes that "All persons have the inherent and inalienable right to . . . acquire, possess and protect property . . ." Utah Const Art. I, § 1. The Proposed Amendments infringe on the Landowners Rights to avoid the proposed coercive invasion of the Landowners' property rights. The Proposed Amendments improperly require the Landowners to choose between retaining the right to manage or deny public access to private lands on one hand and protecting their lands from damages from wildlife depredation and lack of wildlife management on the other hand. Article I, Section 1 of the Utah Constitution guarantees the Landowners the right to both possess and protect property from invasion and damage by the State. The same Article I, Section 1 is also unconstitutionally invaded by the State when, due to government regulation, "one is not at liberty to contract with others respecting the use to which he may subject his property . . . or the manner in which he may enjoy

it." [FN35] The Proposed Amendments also invade the landowners' ability to provide how and under what conditions their private property is accessed. The Proposed Amendments do not require hunters that access private lands to do so in a manner that is respectful of and protects private landowners' interests. The Proposed Amendments do not require a waiver of liability or clear expression of agreement that the hunters accept the risk of hunting on the landowners' lands. The Proposed Amendments also invade the Landowners' rights to obtain fair value for the access the landowners would be required to provide.

Second, Article I, Section 22 prohibits the State from taking or damaging private property for public use without "just compensation." This "takings" clause from the Utah Constitution will also be violated by the Proposed Amendments. Utah's takings clause is "broader than its federal counterpart" under the United States Constitution. The Utah Constitution's protection from takings by the State "[i]s triggered when there is any substantial interference with private property which destroys or materially lessens its value, or by which the owner's right to its use and enjoyment is to any substantial degree abridged or destroyed." [FN36] The Proposed Amendments violate the "takings" provision by coercing the Landowners to accept a wildlife management program that imposes unlimited private hunting easements of unknown but potentially unlimited scope on private lands without providing just compensation for the use. Despite substantially increasing the public access requirements and burdens on private lands, the Proposed Amendments make drastic decreases to the compensation that is provided to the Landowners by the Landowner Permits program vouchers.

Third, Article I, Section 24 of the Utah Constitution requires that "all laws of a general nature shall have uniform operation." This clause operates as "a state-law counterpart to the federal Equal Protection Clause." [FN37] This constitutional principle is likely to be violated by the DWR's policy that it will not provide for wildlife management on lands it is obligated to manage except by means of opening the private lands to public access. The purpose of imposing such a requirement is to coerce property owners to open access to lands desired for public hunting to public access, which infringes and discriminates against Landowners who exercise their fundamental rights to limit and control access to their private properties.

CONCLUSION

As we have described in this letter, and as you will hear in the meetings and public comments from multiple landowners and other interested landowners associations, the Proposed Amendments should be rejected as written because they implement a new and counterproductive public policy and also violate statutory and constitutional limitations that protect private lands from overreach by the State. The RACs and Board should recommend that any potential revisions to the Proposed Amendments be tabled and revisited by a broader advisory committee that receives input

from members of all interested landowners associations.

In the event that the Wildlife Board adopts the Proposed Amendments as written, DMLA is preparing to challenge the legality of Proposed Amendments and to take every legal action available and necessary to preserve and protect the landowners' rights to manage and control access to their private properties while also protecting their private property from harm that would be caused by unmanaged wildlife populations.

Sincerely,
RAY QUINNEY & NEBEKER, P.C.

Maria E. Windham
Whitney H. Krogue

Attorneys for Diamond Mountain Landowners Association, In.

cc: Dave Chivers, Chairman DMLA

FOOTNOTES:

[FN1: Alternatively, we request that you table the Proposed Amendments for further discussion and appoint an expanded advisory committee that includes representatives of each of the landowners associations that will be impacted by the Proposed Amendments. We understand that a substantial number of other landowners associations also oppose the Proposed Amendments for many of the same reasons identified by DMLA in this letter, although each landowners association has a unique history and perspective. We anticipate that DWR will receive many additional comments to the Proposed Amendments from other landowners associations.]

[FN2: The purpose of granting landowner permits is stated in Landowner Permits Rule R657-43-1(5) as follows:

"Allowing landowners a restricted number of permits: (a) encourages landowners to manage their land for wildlife; (b) compensates the landowner for providing private land as habitat for wildlife; and (c) allows the division to increase big game numbers on specific units."

Utah Administrative Code R657-43-1(5).]

[FN3: See, e.g., Catherine Semcer and Jack Smith, Conserving Wildlife Habitat with Landowner Hunting Permits: Lessons from western states to enhance voluntary conservation on private lands, PERC Policy Brief, September 2021, <https://www.perc.org/wp-content/uploads/2021/09/PERC-PolicyBrief-2PGS-UMMARY-HuntingPermits-200812-WEB.pdf>.]

[FN4: Because vouchers are allocated based on acreage in ownership, and vouchers cannot be fractionated, it is common for individual DMLA member landowners to be eligible for a single voucher in 10 years.]

[FN5: See Utah Admin Code R657-43-5(6)(e)]

[FN6: Since the time a public hunter access requirement was added to the Landowner Permit program, DWR has consistently been granted DMLA the variance described in R657-43-10(6)(a) ("Landowners receiving vouchers may deny public hunters access to the landowner association's private land for hunting by receiving, through the landowner association, a variance to Subsection (5)(b) from the Wildlife Board.").]

[FN7: DMLA has previously offered to send information to DWR to verify that DMLA Landowners are collectively providing reasonable landowner-controlled access to private lands in good faith. DWR has not formed a system for consistently collecting, recording or tracking this information and, in fact, told DMLA that they did not need to track that information.]

[FN8: The Proposed Amendments R657-43-1(3)(d)-(h) add the following new objectives to the original landowner compensation objectives: "(d) increase big game hunting opportunities; (e) increase and secure public hunting access on participating landowner's private lands; (f) reduce the division's obligations in responding to and compensating for depredation events occurring on participating private lands; (g) use of objective criteria to determine how hunting opportunities are allocated under the programs; and (h) allocate hunting opportunities in a manner that fluctuates in proportion to variations in public draw permit numbers."]

[FN9: See R657-43-2.]

[FN10: See Proposed Amendments R657-43-5(2)(d) ("applying [the percentage of the Unit's acreage represented by the landowner association] to the total number of available public draw permits to determine the number of landowner association permits available that year.")]

[FN11: See R657-43-10(2)-(3) (providing that permit numbers will be based either on the "percent of eligible property within the unit that is enrolled in a landowner association and serves as big game habitat"; or "the percentage of use by wildlife on eligible property enrolled in a landowner association.")]

[FN12: Under the new calculation in the Proposed Amendments, if last year a hypothetical landowners association received exactly 35% of the unit permits and 65% went to public draw permits, then this year the landowners association's 35% share is applied to the 65% that went to

public draw permits last year, not the total number of permits. The resulting percentage of permits available this year to the hypothetical landowners association will be 22.75% of the total permits. Moreover, if last year's percentage was based on AUMs and there is a lower percentage of private acreage, the 35% number applied last year might drop to 25% this year. The hypothetical landowners association's permits would then drop to 25% of the 65% that went to public draw permits last year, which would drop the landowner association's share of the permits to 16.25% of the unit's available permits.

[FN:13 Each landowner participating in a landowner association is required to enter into a "written agreement" to "allow free public access onto participating private lands. . ." Proposed Amendments R657-43-5. The landowners association must then select between two voucher programs, both of which require that the landowner association provide access "to hunt all landowner association property at no charge" to a certain number of public hunters who obtain permits in the public draw. See Proposed Amendments R657-43-5. Voucher Option 1 requires that the Landowners must accept specific public permit holders who have "the lowest draw numbers" onto their private lands where the public hunters "shall be provided complete access to all landowner association property at no charge". See Proposed Amendments R657-43-5(a)(iii). The number of these DWR-selected all-access public hunters will be equivalent to the number of landowner permits provided to the landowner association. This means that if 100 permits total are available for the hunting unit, and the landowner association gets 22.75% (21 permits), it must allow 21 of the 78 public draw permit holders to have "complete access to all landowner association property at no charge." See Proposed Amendments R657-43-5. Participating landowners cannot control where or on which Landowners association lands the 21 public hunters can hunt. Under this scenario a single landowner who has a small but desirable parcel of land could receive a hunting permit only once every 10 years under the Landowners Permit Program, but his lands could be burdened with a substantial number of the public hunters whose access is controlled by the DWR. Voucher Option 2 is not materially more favorable to landowners. If landowners select Option 2, the landowner's allocation of permits is reduced by another 20%. Continuing the scenario in which a landowners association gets 22.75% of 100 permits (or 21 permits, this option reduces the number of landowner permits to 16.8 (rounded up to 17). DMLA must then allow the same number (17) public hunters "complete access to hunt all landowner association property at no charge." Under this scenario a single landowner who has a small but desirable parcel of land could receive a hunting permit only once every 10 years under the revised Landowners Permit Program, but his lands could be burdened with a substantial number of the public hunters whose access is controlled by the DWR.]

[FN14: See, e.g., Utah Admin Code R657-56, Lease of private lands for free public walk-in access.

[FN15: Statutory liability protections are expressly provided in the Utah wildlife statutes that apply to Cooperative Wildlife Management Units (CWMUS), see Utah Code Ann. § 23-23-14 (Landowners who participate in cooperative wildlife management units shall have the full protection afforded under Title 57, Chapter 14, Limitations on Landowner Liability) and in the rules governing access easements that are properly purchased or leased by DWR in compliance with Utah's Walk-In Access Program, see Utah Admin. Code R657-56-10.]

[FN16: See Proposed Amendments R657-43-5.]

[FN17: Additionally, Rule R657-56-14(2) makes it "unlawful to refuse to leave a WIA property when requested by the private landowner, a division representative, or other peace officer."

[FN18: Representatives of the DWR have acknowledged in discussions with DMLA that, if the Proposed Amendments pass, nonparticipating landowners in the Diamond Mountain Limited Entry Unit will have no means of managing wildlife populations and impacts on their private lands within the limited entry unit other than to allow DWR to open their private lands to hunting access by members of the public. No hunting permits will be available to nonparticipating landowners. Alternatively, DWR has suggested that if DMLA refuses to participate in the revised Landowners Permit Program, it will remove the limited entry designation on the South Slope of Diamond Mountain. Doing so would destroy the trophy big game populations on Diamond Mountain that have been cultivated for nearly 30 years, harm local communities and DMLA landowners, and ultimately harm the public in whose interest DWR is obligated to manage Utah's wildlife.]

[FN19: These wildlife management outcomes are the types of outcomes the Wildlife Board is directed by Utah Code 23-17-3 to seek to accomplish and are consistent with DWR's existing herd management plans. DWR's "2016 Elk Herd Unit Management Plan for Elk Herd Unit #9, South Slope" is to "[M]anage for a population of healthy animals capable of providing a broad range of recreational opportunities, including hunting and viewing. Consider impacts of the elk herd on other wildlife and land uses including private property rights, agricultural crops and local economies. Maintain the population at a level that is within the long-term capacity of the available habitat. . . . Critical private property parcels need to be protected from development through conservation easements, acquisitions, etc." (emphases added). The same plan states that factors that impact the ability of this unit to support larger elk populations "include[e] agricultural depredation . . . [and] competition for forage with domestic & ferral livestock." Similarly, DWR's 2020 Deer Herd Management Plan for Deer Herd Unit #9, South Slope provides that "The Diamond Mountain subunit . . . will be managed as a Limited Entry hunting unit." It also identifies as a habitat management strategy: "Continue to improve, protect, and restore sagebrush steppe habitats critical to deer. Cooperate with federal land management agencies and private landowners in carrying out habitat

improvements such as pinion-juniper removal, reseeding, controlled burns, grazing management, water developments, etc. on public and private lands." (emphasis added).]

[FN20: For additional support and discussion of the wildlife management successes of Utah's Landowner Permits Program and similar free-market incentives to private landowners, see Catherine Semcer and Jack Smith, *Conserving Wildlife Habitat with Landowner Hunting Permits: Lessons from western states to enhance voluntary conservation on private lands*, PERC Policy Brief, September 2021, <https://www.perc.org/wp-content/uploads/2021/09/PERC-PolicyBrief-2PGS-UMMARY-HuntingPermits-200812-WEB.pdf>]

[FN21: *State v. Chindgren*, 777 P.2d 527, 529 (Utah Ct. App. 1989).]

[FN22: See Utah Code Ann. § 23-14-18.]

[FN23: *Id.*]

[FN24: Utah Code Ann. § 23-14-18.]

[FN25: Proposed Amendment R657-43-5(3)(xi).]

[FN26: The reference to R657-5-5(a)(ii) appears to be an error. It may refer to R657-43-5(a)(ii). In either case, the requirement violates Section 23-14-18.]

[FN27: See Proposed Amendments R657-4-43-5(5).]

[FN28: *Id.*]

[FN29: Proposed Amendment R657-43-5(5)(a).]

[FN30: See Utah Code Ann. § 23-14-18(2) (The term "trespass" in this provision clearly refers not to the crime of criminal trespass but to entry of persons onto the land into the land without specific express authorization by the landowner).]

[FN31: Proposed Amendment R657-43-5(b).]

[FN32: See Utah Code Ann § 23-14-18(2).]

[FN33: See Utah Code Ann. § 23-14-13(b)(i)-(v).]

[FN34: Compare R657-43-10(6) with Proposed Amendments R657-43.]

[FN35: *Jensen ex rel Jensen v. Cunningham*, 2011 UT 17, ¶ 62, 250 P.3d 465 (quoting *Golding v. Schuback Optical Co.*, 70 P.2d 871, 875 (Utah 1937)).]

[FN36: America West Bank Members, LC v. State, 2014 UT 49, ¶¶30-31, 342 P.3d 224,235-36.]

[FN37: Taylorville City v. Mitchell, 2020 UT 26, ¶ 36, 466 P.3d 148.]

Which best describes your position regarding the upland game and turkey recommendations for 2022?

Somewhat agree

Do you have any additional comments about these recommendations?

I LOVE this proposal. I have been meaning to bring up tom harvest during the fall hunt for years as it's a huge detriment to our spring hunt opportunity.

That said, what isn't included in the proposal from the division is the harvest statistics based on tag purchases.

I haven't yet received the full data from the division from my GRAMA request, but Heather can provide it for you for your region specifically.

In the northern region, 79% of the hunters that harvest birds only harvest one... (less than 20% harvest two, and 8% harvesting three birds)

That means that at least 79% (and probably closer to 100%) of the toms harvested are the hunter's first fall bird harvested.

If the goal here is to reduce the number of toms in the fall harvest, offering even one either sex tag WILL NOT achieve that goal.

Hunters have proven that they won't self regulate on this, so it's time we do it in rule.

If a landowner is having issues with toms, he can get control vouchers, and control permits from the division to address his specific issue, but a public hunter should not be able to purchase a bearded turkey permit for the fall hunt over the counter.

Thanks for taking the time to read my comment, and feel free to reach out to me if you need more clarification.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 12, 2022 1:40 pm

Which best describes your position regarding the landowner rule amendments for 2022?

Somewhat disagree

Do you have any additional comments about these amendments?

Strongly oppose the public access to private land provisions of the rule amendment.

I am a trustee of a family owned parcel on Diamond Mountain

Which best describes your position regarding the landowner rule amendments for 2022?

Somewhat disagree

Do you have any additional comments about these amendments?

I am not absolutely clear about how the new proposals will affect my family. We own almost 500 acres on Diamond Mountain. It has been in our family for 102 years. We have made improvements with cabins and a pavilion we use for family reunions. We have built reservoirs and provide good grazing and habitat for cattle and wildlife. I have seen first hand the improvement in the deer herds brought about by the present program. 30 years ago you hardly ever saw a buck in herd. Now people just come to the mountain to see the big bucks and take pictures. However, if we are being told we have to allow people on our property that we don't know I would strongly disagree.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 12, 2022 8:07 pm

Which best describes your position regarding the Bicknell Bottoms WMA Habitat Management Plan?

Strongly disagree

Do you have any additional comments about the Bicknell Bottoms WMA Habitat Management Plan?

I am a landowner on diamond man plus my family is a large landowner as well. Making me give access to the public that have done nothing but draw is crazy. I have as has my family have sacrificed money to maintain our lands. Even to the extent of adding a well with solar pumps filling watering bins for both livestock and wildlife. To say that making these contributions doesn't entitle us to something is crazy. But someone enters a drawing and is now allowed to access my land. Our families properties houses hundreds of animals most of the non winter months. Those animals take away from the feed we have for the cows we lease grazing too. Not mention the water assessment fees for the land or the hours spent driving back and forth irrigating those fields for both animals to benefit from. If this rule goes through all of our families properties will withdraw from the LOA.

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly agree

Do you have any additional comments about these amendments?

Initially I was opposed to the proposed changes as it seemed apparent that private land ownership was in jeopardy. While I do have problems associated with large ungulates impacting negatively my crops, I understand that the DWR is doing what they can within state code regulations to mitigate the negative impacts. I also understand that the depredation tags previously available, are in fact still available if these amendments are passed into statute. This doesn't solve all the problems we and my neighbors have with big game on our farms and ranches but they do help somewhat. I am looking to legislature to assist in mitigating the negative impacts big game has on my crops and will lobby them in this endeavor.

Considering this proposal however, I support this action as it seems to "level the playing field" so to speak with regards to the "average joe" obtaining licensure to be able to hunt in a high value area.

Another concern I have is the fact that if I choose not to form or join an LOA (which is not practical in my area due to Tribal ownership on immediately adjacent areas to my ranch) , I am not eligible for a buck tag under this program. I highly encourage DWR find a solution and allow me the opportunity to obtain a buck tag through a program such as this. After all, all wildlife on my ranch is likely the result of the crops I grow. I do not receive much compensation (occasionally, I receive a gift from a hunter or rarely a twenty dollar bill for me allowing them access to my place). I do enjoy limited numbers of wildlife but when the wildlife numbers dramatically exceed the population of my cattle, then I get concerned.

Thank you for reaching out to the landowners and allowing us to comment. I look forward to any questions or comments about my concerns.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 12, 2022 9:43 pm

Which best describes your position Strongly disagree
regarding the landowner rule
amendments for 2022?

Do you have any additional comments about these amendments?

As a one of the three Landowners in the Jackson Draw on Diamond Mountain that has continually maintained and spent thousands of hours working the draw to improve our grasslands and water sources for cattle production while grazing reduced cattle herd sizes to allow for the Public Wildlife to increase its Resident Herds of Deer and Elk at a great expense to my potential use of my private land I oppose these proposed changes. A letter is being submitted on behalf of the Diamond Mountain Landowners Association that outlines the current arrangement that compensates us for the Public Wildlife and reduces the Abusive Public from Trespassing. Any perceived equity offered from the DNR to Landowners via the Limited Entry program requires the Landowner to create a value added effort to offset the loss of cattle grazing in hopes of making a sum on wildlife. In my experience, landowners have failed to be fairly compensated at a Fair Market Rate for the grazing of Wildlife even through the existing program. I understand that creating the balance is a difficult procedure but a Public Survey would obviously have a skewed result that produces a desire for Public Access to Private Lands without any consideration for the opportunity losses suffered for the private property owner for allowing wildlife to reside.

I am Pro-Wildlife and want to see the health of the herds flourish. But, I spend countless hours each year politely (because most are armed with a Firearm) asking the public to exit my property. They pursue bears and mountain lions, shed horn hunt, bow hunt, operate ATV's that damage my grasslands and enter my property to kill a Trophy Elk or Deer that has cost me a lost opportunity to graze cattle and make an income. I am clearly opposed to allowing Public Access to my Private Property.

In 2021 I will receive a 1/2 Bull Elk Tag through the LOA so I under this proposed plan how will I police a 1/2 Public Tag Access if there is suppose to be a 1:1 ratio? My property in the Jackson Draw on Diamond has a resident Elk Herd population that is an attractive nuisance and creates legal liabilities. If the DNR is truly concerned about achieving a balance between the Landowners and Public, the State Biologists should be involved in a Habitat Compensation program with the specific landowners effected by the Publics Livestock and not a program that allows the Public to enter private property because the public land is too rugged to hunt.

Please spend another 3000-5000 man hours in meetings to determine a better proposal for a balanced program that benefits the landowners that provide for the Wildlife. The Public has access to the Public Lands and the technology exists that they can follow to stay on the Public Lands.

Form Name:
Submission Time:

May 2022 RAC Proposals Feedback
May 12, 2022 11:26 pm

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

They need to scrap this new rule and invite the people to the table that it affects. The landowners voucher program was designed to help mitigate depredation costs to the state. If the landowner took a tag, that's landowner could not come back on the state for additional costs.

Which best describes your position regarding the landowner rule amendments for 2022?

Strongly disagree

Do you have any additional comments about these amendments?

As a public land hunter and also a family member of a private land owner in an LOA I strongly disagree with these options. I feel as though the public greatly benefits from the revenue that my family receives through either the sale or harvest of big game permits. We always use the money for ranching operational expenses, specifically the LOA property that we own.

Not only do we find that fences have been trampled on by wildlife, but we find that hunters and curious people cut the wire and enter as they please already. This causes a major inconvenience for us as we have to track down cattle and dedicate time and money to bringing them back and fixing any damages.

I sincerely hope that we don't allow full access of hunters to all of the private land in our LOA. We already deal with theft, trespassing, loss of livestock, and vandalism. Allowing hunters access to private property without owner consent will cause these issues to grow exponentially. As I have received tags for animals within our LOA I have never been denied access to another landowners property unless they have already made arrangements with another hunter in advance. I feel like that is simply being a courteous and respectful sportsman anyways. Yearly I have landowners that are more than happy to allow me the opportunity to access the wildlife on their property and I always try to leave the place better than I found it.

As a public land hunter I get concerned when there is a large amount of orange vests walking the same mountains as I am. It is a safety concern and also spoils the hunt for everyone. If our LOA is forced to comply to this proposal, it is going to create similar issues because oftentimes the animals gather in concentrated areas and most hunters know where that is.

Please consider leaving the current system. I know our local landowners try really hard to help the hunters in every way they can. After all, the landowners benefit more if there are less elk and deer eating the grass and drinking the water that their cattle could use.

Thank you!
