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**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Part 8360**

**[17XL 1109AF LLUTY0100 L12200000.EA0000 24-1A]**

**Notice of Final Supplementary Rule for Public Lands in the Moab Field Office in Grand County, Utah**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notification of final supplementary rule.

**SUMMARY:** The Bureau of Land Management (BLM) is finalizing a supplementary rule addressing recreation on public lands in the vicinity of Corona Arch and Gemini Bridges in Grand County, Utah. The supplementary rule prohibits roped activities around Corona Arch and Gemini Bridges. Such activities involve the use of ropes or other climbing aids, and include, but are not limited to, zip-lining, high-lining, slacklining, traditional rock climbing, sport rock climbing, rappelling, and swinging.

**DATES:** The supplementary rule is in effect [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may direct inquiries by letter to Christina Price, Field Office Manager, Bureau of Land Management, Moab Field Office, 82 East Dogwood Avenue, Moab, UT 84532, or by email to [blm\\_ut\\_mb\\_mail@blm.gov](mailto:blm_ut_mb_mail@blm.gov). The final supplementary rule is available for inspection at the Moab Field Office and on the web site:

<https://www.blm.gov/media/federal-register>.

**FOR FURTHER INFORMATION CONTACT:** Christina Price, Field Manager, 82

East Dogwood Avenue, Moab, UT 84532, 435-259-2100, or [blm ut mb mail@blm.gov](mailto:blm_ut_mb_mail@blm.gov).

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to leave a message or question with the above individual. The service is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The BLM is establishing a final supplementary rule under the authority of 43 CFR 8365.1-6, which allows State Directors to establish supplementary rules for the protection of persons, property, and the public lands and resources. This provision allows the BLM to issue rules of less than national effect without codifying the rules in the Code of Federal Regulations. This final supplementary rule applies to 37 acres of public lands managed by the Moab Field Office. Maps of the management area and boundaries can be obtained by contacting the Moab Field Office or by accessing the BLM's ePlanning project page (<http://go.usa.gov/xkHY8>). The final supplementary rule will be available for review at the Moab Field Office.

In 2015, the BLM published a temporary restriction on rope swinging at Corona Arch and Gemini Bridges. In 2016, the BLM sought a permanent restriction on rope swinging at the same two locations. Through the National Environmental Policy Act (NEPA) process, the BLM identified the need to establish a supplementary rule to provide for visitor enjoyment and protect public land resources at these two locations.

Corona Arch and Gemini Bridges are two of the most popular recreational destinations in the Moab Field Office. Corona Arch is a partly freestanding arch with a 110-foot by 110-

foot opening. Gemini Bridges are two large arches standing side-by-side.

Approximately 40,000 visitors per year come to the Corona Arch, and the Gemini

Bridges receives approximately 50,000 visitors per year. The BLM has received many complaints that roped activities, including swinging from the arches, conflict with other visitors' use and enjoyment of the arches. The BLM finds merit in these complaints.

People setting up and using swings and rappels from the arches endanger both themselves and those viewing from below. In addition, the rock arches may be damaged by ropes “sawing” on the rock spans. The supplementary rule currently in effect in the Moab Field Office (81 FR 9498, Feb. 25, 2016) does not address roped activities on the affected arches, although the temporary restriction (80 FR 27703, May 14, 2015) is in effect until May 2017.

The legal descriptions of the affected public lands are:

**Salt Lake Meridian**

T. 25 S., R. 20 E., sec. 34, NW1/4 SW1/4, that part surrounding Gemini Bridges.

T. 25 S., R. 21 E., sec. 32, SE1/4 SE1/4, that part surrounding Corona Arch.

T. 26 S., R. 21 E., sec. 5, NE1/4, that part surrounding Corona Arch.

The areas described aggregate to 37.3 acres.

This final supplementary rule allows for enforcement as a tool to minimize the adverse effects of roped activities within the affected areas. After the final supplementary rule goes into effect, it will be available for review in the Moab Field Office, and will be announced broadly through the news media and direct mail to the constituents included on the Moab Field Office mailing list. The rule will also be posted on signs at main entry

points to the affected areas.

## II. Discussion of Public Comments

The BLM published the proposed supplementary rule on October 31, 2016 (81 FR 75366). Thirty comment letters were received during the 90-day public comment period. Twenty-four of the commenters expressed support for the supplementary rule; six commenters opposed the supplementary rule. No changes to the final rule were made as a result of the comments received.

Support for the final supplementary rule banning roped activities near Corona Arch and Gemini Bridges focused upon allowing hikers to enjoy the arches unfettered by swinging activities. Commenters in favor of the rule noted the temporary restriction had allowed them to once again enjoy these hikes; they favored making the temporary restriction permanent. Commenters in favor also noted the vast majority of users of the arches (approximately 99.8%) visit the arches for their serenity and beauty.

The six commenters expressing opposition to the rule cited a need for less regulation of recreational activities. These commenters noted that hikers could go elsewhere. The BLM has not revised the rule in response to these comments. A permanent prohibition against roped activities is in conformance with the 2008 Moab Resource Management Plan (RMP). See <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage&currentPageId=94940>.

The Corona Arch area is within the Goldbar Hiking Focus Area, which is specifically managed to enhance hiking opportunities. Decision REC-39 (page 90) states: “Manage the Corona Arch Trail for hiking only.” Gemini Bridges is within the Gemini Bridges/Poison Spider Mesa Focus area. Decision REC-39 states: “close the spur route to

Gemini Bridges to facilitate public use and help restore damaged lands along the spur route.” The RMP further authorized the creation of a hiking route to Gemini Bridges to facilitate public use. In an effort to eliminate recreational use conflicts on these iconic and high use hiking trails, the BLM has chosen to finalize the supplementary rule.

### III. Procedural Matters

#### Executive Order 12866, Regulatory Planning and Review

This supplementary rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866. This supplementary rule would not have an annual effect of \$100 million or more on the economy. It is not intended to affect commercial activity, but imposes a rule of conduct on recreational visitors for public safety and resource protection reasons in a limited area of public lands. This supplementary rule would not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This supplementary rule would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This supplementary rule does not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients, nor does it raise novel legal or policy issues; it merely strives to protect public safety and the environment.

#### National Environmental Policy Act

A temporary restriction on roped activities was analyzed in Environmental Assessment (EA) DOI-BLM-UT-2014-0170-EA, *Temporary Restriction of Roped Activities at Corona Arch and Gemini Bridges*. This document was subject to a 30-day public comment period, and the Finding of No Significant Impact (FONSI) and Decision Record

were signed on January 6, 2015. The permanent restriction on roped activities was analyzed in EA DOI-BLM-UT-2015-0227, *Permanent Restriction of Corona Arch and Gemini Bridges to Roped Activities*. This document was subject to a 30-day scoping period and a 30-day public comment period. The Decision Record providing for the permanent restriction was signed on May 5, 2016. Based on the EA which analyzed the permanent restriction, the BLM found that this supplementary rule would not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). This supplementary rule merely regulates conduct on the BLM public lands administered by the Moab Field Office within a 31-acre area around Corona Arch and 6.3-acre area around Gemini Bridges. This rule is designed to protect the environment and public safety. A detailed impact statement under NEPA is not required. The BLM has placed the EAs, the Decision Records, and the Findings of No Significant Impact on file in the BLM Administrative Record at the address specified in the ADDRESSES section.

#### Regulatory Flexibility Act

This final supplementary rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Congress enacted the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The supplementary rule does not pertain specifically to commercial or

governmental entities of any size, but to public recreational use of specific public lands.

#### Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises

#### Unfunded Mandates Reform Act

This supplementary rule does not impose an unfunded mandate on State, local, or tribal governments of more than \$100 million per year; nor does it have a significant or unique effect on State, local, or tribal governments or the private sector. This supplementary rule does not require anything of State, local, or tribal governments. A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 et seq., is not required.

#### Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. This supplementary rule is not a government action capable of interfering with constitutionally protected property rights. This supplementary rule does not address property rights in any form, and does not cause the

impairment of anybody's property rights. A takings implication assessment is not required.

Executive Order 13132, Federalism

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This supplementary rule will not have a substantial direct effect on the states, on the relationship between the Federal government and the states, or on the distribution of power and responsibilities among the various levels of government. A federalism summary impact statement is not required.

Executive Order 12988, Civil Justice Reform

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal

consultation policy is not required.

#### Paperwork Reduction Act

This supplementary rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

#### Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

### **FINAL SUPPLEMENTARY RULE**

#### Author

The principal author of this supplementary rule is Christina Price, Field Manager for the Moab Field Office, Utah. For the reasons stated in the preamble, and under the authority for supplementary rules at 43 U.S.C. 1740 and 43 CFR 8365.1-6, the Utah State Director, BLM, establishes a supplementary rule for public lands managed by the BLM in Utah, to read as follows:

#### Definitions

Roped activities means activities that involve the use of ropes, cables, climbing aids, webbing, or anchors, and includes, but is not limited to, zip-lining, high-lining, slack-lining, traditional rock climbing, sport rock climbing, rappelling, and swinging.

#### Prohibited Acts

You must not participate in any roped activities on public lands in the vicinity of Corona Arch or Gemini Bridges. This prohibition includes, but is not limited to, the use of ropes, cables, climbing aids, webbing, anchors, and similar devices.

### Exemptions

The following persons are exempt from this supplementary rule: Any Federal, State, or local government officer or employee in the scope of their duties; members of any organized law enforcement, rescue, or firefighting force in performance of an official duty; and any persons, agencies, municipalities or companies whose activities are authorized in writing by the BLM.

### Penalties

Any person who violates this supplementary rule may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Utah law.

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Edwin L. Roberson  
State Director

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