

1 **UTAH WILDERNESS ACT**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen G. Handy**

5 Senate Sponsor: Ralph Okerlund

7 **LONG TITLE**

8 **General Description:**

9 This bill enacts the Utah Wilderness Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ recognizes the importance of securing the benefits of protected wilderness areas;
- 13 ▶ defines terms;
- 14 ▶ establishes the process for mapping and evaluating potential wilderness areas;
- 15 ▶ establishes the process for designating a protected wilderness area;
- 16 ▶ describes the acceptable uses of a protected wilderness area; and
- 17 ▶ requires the director of the Public Lands Policy Coordination Office to make annual

18 reports to the:

- 19 • governor, for transmission to the Legislature; and
- 20 • Natural Resources, Agriculture, and Environment Interim Committee by

21 November 30 of each year.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 ENACTS:

28 **63L-7-101**, Utah Code Annotated 1953

29 **63L-7-102**, Utah Code Annotated 1953

- 30 **63L-7-103**, Utah Code Annotated 1953
- 31 **63L-7-104**, Utah Code Annotated 1953
- 32 **63L-7-105**, Utah Code Annotated 1953
- 33 **63L-7-106**, Utah Code Annotated 1953
- 34 **63L-7-107**, Utah Code Annotated 1953
- 35 **63L-7-108**, Utah Code Annotated 1953
- 36 **63L-7-109**, Utah Code Annotated 1953

37

38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **63L-7-101** is enacted to read:

40 **CHAPTER 7. UTAH WILDERNESS ACT**

41 **63L-7-101. Title.**

42 This chapter is known as the "Utah Wilderness Act."

43 Section 2. Section **63L-7-102** is enacted to read:

44 **63L-7-102. Purpose.**

45 (1) The purpose of this chapter is to:

46 (a) secure for the people of Utah, present and future generations, as well as for visitors
47 to Utah, the benefits of an enduring resource of wilderness on designated state-owned lands;

48 (b) provide a window into the natural world, into which our pioneer forebears ventured
49 and formed our collective story and character;

50 (c) recognize that the preservation of wilderness shall be part of a balanced pattern of
51 multiple land uses;

52 (d) demonstrate the proper stewardship of certain primitive lands by providing the
53 protection to allow natural forces to operate; and

54 (e) create a Utah wilderness preservation system.

55 (2) No state-owned lands may be designated as a protected wilderness area except as
56 provided in this chapter.

57 (3) This chapter does not apply to lands owned or acquired by the School and

58 Institutional Trust Lands Administration.

59 Section 3. Section **63L-7-103** is enacted to read:

60 **63L-7-103. Definitions.**

61 As used in this chapter:

62 (1) "Acquisition date" means the day on which the state received title to land.

63 (2) "Conservation area" means an area that potentially has wilderness characteristics.

64 (3) "DNR" means the Department of Natural Resources.

65 (4) "PLPCO" means the Public Lands Policy Coordination Office.

66 (5) "Protected wilderness area" means an area of wilderness that has been designated
67 under this chapter as part of the Utah wilderness preservation system.

68 (6) "Road" means a road classified as either a class B road, as described in Section
69 72-3-103, or a class D road, as described in Section 72-3-105.

70 (7) "Roadless area" means an area without a road, as defined in Subsection (6).

71 (8) "Wilderness" means a roadless area of undeveloped state-owned land, other than
72 land owned by the School and Institutional Trust Lands Administration, that:

73 (a) is acquired by the state from the federal government through purchase, exchange,
74 grant, or any other means of conveyance of title after May 13, 2014;

75 (b) retains its primeval character and influence, without permanent improvements or
76 human habitation;

77 (c) generally appears to have been affected primarily by the forces of nature, with
78 minimal human impact;

79 (d) has at least 5,000 contiguous acres of land, or is of sufficient size as to make
80 practicable its preservation and use in an unimpaired condition;

81 (e) has outstanding opportunities for solitude, or a primitive and unconfined type of
82 recreation; and

83 (f) may contain ecological, geological, or other features of scientific, educational,
84 scenic, or historical value.

85 Section 4. Section **63L-7-104** is enacted to read:

86 **63L-7-104. Identification of a potential wilderness area.**

87 (1) (a) Subject to Subsection (1)(b), the director of PLPCO, within one year of the
88 acquisition date, shall identify within a parcel of acquired land any conservation areas.

89 (b) Before identifying a parcel of land as a conservation area, the director of PLPCO
90 shall:

91 (i) inform the School and Institutional Trust Lands Administration that a parcel is
92 being considered for designation as a conservation area; and

93 (ii) provide the School and Institutional Trust Lands Administration with the
94 opportunity to trade out land owned by the School and Institutional Trust Lands Administration
95 for the parcel in question subject to reaching an exchange agreement with the agency that
96 manages the parcel.

97 (2) The director of PLPCO shall:

98 (a) file a map and legal description of each identified conservation area with the
99 governor, the Senate, and the House of Representatives;

100 (b) maintain, and make available to the public, records pertaining to identified
101 conservation areas, including:

102 (i) maps;

103 (ii) legal descriptions;

104 (iii) copies of proposed regulations governing the conservation area; and

105 (iv) copies of public notices of, and reports submitted to the Legislature, regarding
106 pending additions, eliminations, or modifications to a conservation area; and

107 (c) within five years of the date of acquisition:

108 (i) review each identified conservation area for its suitability to be classified as a
109 protected wilderness area; and

110 (ii) report the findings under Subsection (2)(c)(i) to the governor.

111 (3) The records described in Subsection (2)(b) shall be available for inspection at:

112 (a) the PLPCO office;

113 (b) the main office of DNR;

114 (c) a regional office of the Division of Forestry, Fire, and State Lands for any record
115 that deals with an identified conservation area in that region; and

116 (d) the Division of Parks and Recreation.

117 (4) A conservation area may be designated as a protected wilderness area as described
118 in Section [63L-7-105](#).

119 (5) A conservation area identified under Subsection (1) shall be managed by DNR, in
120 coordination with the county government having jurisdiction over the area, without the
121 conservation area being designated as a protected wilderness area unless otherwise provided by
122 the Legislature.

123 Section 5. Section **63L-7-105** is enacted to read:

124 **63L-7-105. Report to the governor -- Governor's report to the Legislature --**
125 **Designation of a protected wilderness area -- Modification of a protected wilderness area**
126 **-- Rulemaking authority.**

127 (1) Within five years of the acquisition date of a parcel of land, the director of PLPCO
128 shall:

129 (a) review all areas identified as conservation areas under Section [63L-7-104](#); and

130 (b) subject to Subsection (3), submit a report and recommendation to the governor on
131 the suitability of a conservation area for designation as a protected wilderness area.

132 (2) Before making a recommendation, the director of PLPCO shall:

133 (a) give notice of the proposed recommendation in a newspaper having general
134 circulation in the vicinity of the affected land;

135 (b) hold a public hearing at a location convenient to citizens who live in the affected
136 area; and

137 (c) at least 30 days before the date of the hearing described in Subsection (2)(b), invite
138 local authorities to submit their opinions on the proposed action:

139 (i) at the hearing; or

140 (ii) to the director of PLPCO, in writing, no later than 30 days after the day on which
141 the hearing is held.

142 (3) Any opinions submitted to the director of PLPCO shall be included with any
143 recommendations to the governor under Subsection (2) and the Legislature under Subsection
144 (5).

145 (4) The governor shall, after receiving the reports described in Subsection (1)(b):
146 (a) formulate a recommendation on which conservation areas to designate as protected
147 wilderness areas; and
148 (b) advise the speaker of the House of Representatives and the president of the Senate
149 of the governor's recommendation.

150 (5) An area shall be designated as a protected wilderness area upon a concurrent
151 resolution of the Legislature, the governor concurring therein, including:

152 (a) the legal description of the proposed protected wilderness area; and
153 (b) any special conditions that shall be placed upon the protected wilderness area.

154 (6) Any modification or adjustment to the boundaries of a protected wilderness area
155 shall be:

156 (a) recommended by the director of PLPCO after public notice of, and hearing on, the
157 proposal, as described in Subsections (1) and (2); and

158 (b) made official as described in Subsections (4) and (5).

159 (7) DNR shall make rules governing the protection of a protected wilderness area.

160 Section 6. Section **63L-7-106** is enacted to read:

161 **63L-7-106. Use of protected wilderness areas.**

162 (1) Except as otherwise provided in this chapter, each agency administering any area
163 designated as a protected wilderness area shall be responsible for preserving the wilderness
164 character of the area and shall administer such area for the purposes for which it may have been
165 established to preserve its wilderness character.

166 (2) Except as specifically provided in this chapter, and subject to valid existing rights,
167 there shall be:

168 (a) no commercial enterprise and no permanent road within any protected wilderness
169 area designated by this chapter; and

170 (b) no temporary road, no use of motor vehicles, motorized equipment or motorboats,
171 no landing of aircraft, no other form of mechanical transport, and no structure or installation
172 with any such area except as necessary to meet minimum requirements for the administration
173 of the area for the purpose of this chapter, including measures required in emergencies
174 involving the health and safety of persons within the area.

175 (3) Except as otherwise provided in this chapter, a protected wilderness area shall be
176 devoted to the public purposes of:

177 (a) recreation, including hunting, trapping, and fishing;

178 (b) conservation; and

179 (c) scenic, scientific, educational, and historical use.

180 (4) Commercial services may be performed within a protected wilderness area to the
181 extent necessary to support the activities described in Subsection (3).

182 (5) Within an area designated as a protected wilderness area by this chapter:

183 (a) subject to the rules established by DNR, the use of a motor vehicle, aircraft, or
184 motorboat is authorized where:

185 (i) the use of a motor vehicle, aircraft, or motorboat is already established;

186 (ii) the motor vehicle, aircraft, or motorboat is used by the Division of Wildlife
187 Resources in furtherance of its wildlife management responsibilities, as described in Title 23,
188 Wildlife Resources Code of Utah; or

189 (iii) the use of a motor vehicle, aircraft, or motorboat is necessary for emergency
190 services or law enforcement purposes; and

191 (b) measures may be taken, under the direction of the director of the Division of
192 Forestry, Fire, and State Lands, as necessary to manage fire, insects, habitat, and diseases.

193 (6) Nothing in this chapter shall prevent, within a designated protected wilderness area,
194 any activity, including prospecting, if the activity is conducted in a manner compatible with the
195 preservation of the wilderness environment, subject to such conditions as the executive director
196 of DNR considers desirable.

197 (7) The executive director of DNR shall develop and conduct surveys of wilderness

198 areas:

199 (a) on a planned, recurring basis;

200 (b) in a manner consistent with wildlife management and preservation principles;

201 (c) in order to determine the mineral values, if any, that may be present in wilderness

202 areas; and

203 (d) make a completed survey available to the public, the governor, and the Legislature.

204 (8) Notwithstanding any other provision of this chapter, until midnight December 31,

205 2034:

206 (a) state laws pertaining to mining and mineral leasing shall, to the extent applicable

207 before May 13, 2014, extend to wilderness areas designated under this chapter, subject to

208 reasonable regulation governing ingress and egress as may be prescribed by the executive

209 director of DNR, consistent with the use of the land for:

210 (i) mineral location and development;

211 (ii) exploration, drilling, and production; and

212 (iii) use of land for transmission lines, waterlines, telephone lines, or facilities

213 necessary in exploring, drilling, producing, mining, and processing operations, including the

214 use of mechanized ground or air equipment when necessary, if restoration of the disturbed land

215 is practicable and performed as soon as the land has served its purpose; and

216 (b) mining locations lying within the boundaries of a protected wilderness area that

217 existed as of the date of acquisition shall be held and used solely for mining or processing

218 operations, and uses that are reasonably related to an underlying mining or processing

219 operation.

220 (9) Any newly issued mineral lease, permit, or license for land within a wilderness area

221 shall contain stipulations, as may be determined by the executive director of DNR in

222 consultation with the director of the Division of Oil, Gas, and Mining, for the protection of the

223 wilderness character of the land, consistent with the use of the land for the purpose for which it

224 is leased, permitted, or licensed.

225 (10) Subject to valid rights then existing, effective January 1, 2015, the minerals in all

226 lands designated by this chapter as wilderness areas are withdrawn from disposition under all
227 laws pertaining to mineral leasing.

228 (11) Mineral leases shall not be permitted within protected wilderness areas.

229 (12) The governor may, within protected wilderness areas, authorize:

230 (a) prospecting for water resources;

231 (b) the establishment and maintenance of reservoirs, water-conservation works, power
232 projects, transmission lines, and other facilities needed in developing water resources,
233 including road construction and essential maintenance; and

234 (c) subject to Subsection (13), the grazing of livestock, if the practice of grazing
235 livestock was established as of the effective date of this chapter.

236 (13) The commissioner of the Department of Agriculture and Food may make
237 regulations as necessary to govern the grazing of livestock on a protected wilderness area.

238 Section 7. Section **63L-7-107** is enacted to read:

239 **63L-7-107. Private lands within wilderness areas.**

240 (1) In any case where privately owned land is completely surrounded by lands within
241 areas designated by this chapter as protected wilderness:

242 (a) the private landowner shall be given rights as may be necessary to ensure adequate
243 access to the privately owned land by the private owner and any successors in interest; or

244 (b) the privately owned land shall be exchanged for state-owned land of approximately
245 equal value.

246 (2) If the School Institutional Trust Lands Administration owns land that is completely
247 surrounded by lands within areas designated by this chapter as protected wilderness:

248 (a) the School Institutional Trust Lands Administration shall be given rights as may be
249 necessary to ensure adequate access to the land owned by the School Institutional Trust Lands
250 Administration and any successors in interest; or

251 (b) the land owned by the School Institutional Trust Lands Administration may be
252 exchanged for state-owned land of approximately equal value.

253 (3) If a valid mining claim or other valid occupancy is located wholly within a

254 protected wilderness area, the executive director of DNR shall, by reasonable regulations
255 consistent with the preservation of the area as wilderness, permit ingress and egress to such
256 surrounded areas by means which have been, or are being, customarily enjoyed with respect to
257 other similarly situated areas.

258 (4) Subject to available funds, PLPCO is authorized to acquire land, or interest in land,
259 through purchase from a private landowner.

260 Section 8. Section **63L-7-108** is enacted to read:

261 **63L-7-108. Gifts, bequests, and contributions.**

262 (1) The executive director of DNR may accept gifts or bequests of land:

263 (a) within protected wilderness areas designated pursuant to this chapter for
264 preservation as wilderness; and

265 (b) adjacent to designated protected wilderness areas, if the executive director of DNR
266 gives 60 days advance notice to the governor.

267 (2) Land accepted by the executive director of DNR under this section:

268 (a) shall become part of the protected wilderness area involved; and

269 (b) is subject to:

270 (i) the same regulations made under this chapter; and

271 (ii) any conditions that were made at the time the gift or bequest was made that are
272 consistent with the regulations made under this chapter.

273 Section 9. Section **63L-7-109** is enacted to read:

274 **63L-7-109. Annual reports.**

275 (1) The director of PLPCO shall report to the governor, for transmission to the
276 Legislature, on:

277 (a) the status of the Utah wilderness preservation system;

278 (b) regulations in effect; and

279 (c) other pertinent information.

280 (2) The director of PLPCO shall report any recommendations for future action to the

281 Natural Resources, Agriculture, and Environment Interim Committee by November 30 of each

282 year.