

Mineral Rights Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald M. Winterton

LONG TITLE**General Description:**

This bill modifies provisions relating to eminent domain used to take a mineral estate in land.

Highlighted Provisions:

This bill:

- prohibits the taking of a fee simple interest in land if an easement interest suffices; and
- requires for separate payment of just compensation for a mineral estate taken by eminent domain.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-501, as last amended by Laws of Utah 2024, Chapters 25, 350

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

Section 1. Section **78B-6-501** is amended to read:

78B-6-501 . Eminent domain -- Uses for which right may be exercised --

Limitations on eminent domain.

(1) As used in this section:

(a) "Century farm" means real property that is:

- (i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and
- (ii) owned or held by the same family for a continuous period of 100 years or more.

(b) "Mineral or element" means the same as that term is defined in Section 65A-17-101.

(c)(i) "Mining use" means:

- (A) the full range of permitted or active activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a

- 32 mineral deposit; and
- 33 (B) the use of the surface, subsurface, groundwater, and surface water of an area
- 34 in connection with the activities described in Subsection (1)(c)(i)(A) that have
- 35 been, are being, or will be conducted.
- 36 (ii) "Mining use" includes, whether conducted on-site or off-site:
- 37 (A) sampling, staking, surveying, exploration, or development activity;
- 38 (B) drilling, blasting, excavating, or tunneling;
- 39 (C) the removal, transport, treatment, deposition, and reclamation of overburden,
- 40 development rock, tailings, and other waste material;
- 41 (D) the recovery of sand and gravel;
- 42 (E) removal, transportation, extraction, beneficiation, or processing of ore;
- 43 (F) use of solar evaporation ponds and other facilities for the recovery of minerals
- 44 in solution;
- 45 (G) smelting, refining, autoclaving, or other primary or secondary processing
- 46 operation;
- 47 (H) the recovery of any mineral left in residue from a previous extraction or
- 48 processing operation;
- 49 (I) a mining activity that is identified in a work plan or permitting document;
- 50 (J) the use, operation, maintenance, repair, replacement, construction, or alteration
- 51 of a building, structure, facility, equipment, machine, tool, or other material or
- 52 property that results from or is used in a surface or subsurface mining operation
- 53 or activity;
- 54 (K) an accessory, incidental, or ancillary activity or use, both active and passive,
- 55 including a utility, private way or road, pipeline, land excavation, working,
- 56 embankment, pond, gravel excavation, mining waste, conveyor, power line,
- 57 trackage, storage, reserve, passive use area, buffer zone, and power production
- 58 facility;
- 59 (L) the construction of a storage, factory, processing, or maintenance facility; and
- 60 (M) an activity described in Subsection 40-8-4(17)(a).
- 61 (2) Except as provided in Subsections (3), (4), and (5) and subject to the provisions of this
- 62 part, the right of eminent domain may be exercised on behalf of the following public
- 63 uses:
- 64 (a) all public uses authorized by the federal government;
- 65 (b) public buildings and grounds for the use of the state, and all other public uses

- 66 authorized by the Legislature;
- 67 (c)(i) public buildings and grounds for the use of any county, city, town, or board of
68 education;
- 69 (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or
70 sewage, including to or from a development, for the use of the inhabitants of any
71 county, city, or town, or for the draining of any county, city, or town;
- 72 (iii) the raising of the banks of streams, removing obstructions from streams, and
73 widening, deepening, or straightening their channels;
- 74 (iv) bicycle paths and sidewalks adjacent to paved roads;
- 75 (v) roads, byroads, streets, and alleys for public vehicular use, including for access to
76 a development; and
- 77 (vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;
- 78 (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and
79 turnpike roads, roads for transportation by traction engines or road locomotives,
80 roads for logging or lumbering purposes, and railroads and street railways for public
81 transportation;
- 82 (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for
83 the supplying of persons, mines, mills, smelters or other works for the reduction of
84 ores, with water for domestic or other uses, or for irrigation purposes, or for the
85 draining and reclaiming of lands, or for solar evaporation ponds and other facilities
86 for the recovery of minerals or elements in solution;
- 87 (f)(i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places
88 to access or facilitate the milling, smelting, or other reduction of ores, or the
89 working of mines, quarries, coal mines, or mineral deposits including oil, gas, and
90 minerals or elements in solution;
- 91 (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water
92 from mills, smelters or other works for the reduction of ores, or from mines,
93 quarries, coal mines or mineral deposits including minerals or elements in solution;
- 94 (iii) mill dams;
- 95 (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or
96 formation in any land for the underground storage of natural gas, and in
97 connection with that, any other interests in property which may be required to
98 adequately examine, prepare, maintain, and operate underground natural gas
99 storage facilities;

- 100 (v) subject to Subsection (6), solar evaporation ponds and other facilities for the
101 recovery of minerals in solution; and
- 102 (vi) any occupancy in common by the owners or possessors of different mines,
103 quarries, coal mines, mineral deposits, mills, smelters, or other places for the
104 reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse
105 matter;
- 106 (g) byroads leading from a highway to:
- 107 (i) a residence; or
- 108 (ii) a farm;
- 109 (h) telecommunications, electric light and electric power lines, sites for electric light and
110 power plants, or sites for the transmission of broadcast signals from a station licensed
111 by the Federal Communications Commission in accordance with 47 C.F.R. Part 73
112 and that provides emergency broadcast services;
- 113 (i) sewage service for:
- 114 (i) a city, a town, or any settlement of not fewer than 10 families;
- 115 (ii) a public building belonging to the state; or
- 116 (iii) a college or university;
- 117 (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and
118 storing water for the operation of machinery for the purpose of generating and
119 transmitting electricity for power, light or heat;
- 120 (k) cemeteries and public parks; and
- 121 (l) sites for mills, smelters or other works for the reduction of ores and necessary to their
122 successful operation, including the right to take lands for the discharge and natural
123 distribution of smoke, fumes, and dust, produced by the operation of works, provided
124 that the powers granted by this section may not be exercised in any county where the
125 population exceeds 20,000, or within one mile of the limits of any city or
126 incorporated town nor unless the proposed condemner has the right to operate by
127 purchase, option to purchase or easement, at least 75% in value of land acreage
128 owned by persons or corporations situated within a radius of four miles from the mill,
129 smelter or other works for the reduction of ores; nor beyond the limits of the
130 four-mile radius; nor as to lands covered by contracts, easements, or agreements
131 existing between the condemner and the owner of land within the limit and providing
132 for the operation of such mill, smelter, or other works for the reduction of ores; nor
133 until an action shall have been commenced to restrain the operation of such mill,

- 134 smelter, or other works for the reduction of ores.
- 135 (3) The right of eminent domain may not be exercised on behalf of the following uses:
- 136 (a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking,
- 137 hiking, bicycling, equestrian use, or other recreational uses, or whose primary
- 138 purpose is as a foot path, equestrian trail, bicycle path, or walkway; or
- 139 (b)(i) a public park whose primary purpose is:
- 140 (A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use;
- 141 or
- 142 (B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or
- 143 equestrian use; or
- 144 (ii) a public park established on real property that is:
- 145 (A) a century farm; and
- 146 (B) located in a county of the first class.
- 147 (4)(a) The right of eminent domain may not be exercised within a migratory bird
- 148 production area created on or before December 31, 2020, under Title 23A, Chapter
- 149 13, Migratory Bird Production Area, except as follows:
- 150 (i) subject to Subsection (4)(b), an electric utility may condemn land within a
- 151 migratory bird production area located in a county of the first class only for the
- 152 purpose of installing buried power lines;
- 153 (ii) an electric utility may condemn land within a migratory bird production area in a
- 154 county other than a county of the first class to install:
- 155 (A) buried power lines; or
- 156 (B) a new overhead transmission line that is parallel to and abutting an existing
- 157 overhead transmission line or collocated within an existing overhead
- 158 transmission line right of way; or
- 159 (iii) the Department of Transportation may exercise eminent domain for the purpose
- 160 of the construction of the West Davis Highway.
- 161 (b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric
- 162 utility shall demonstrate that:
- 163 (i) the proposed condemnation would not have an unreasonable adverse effect on the
- 164 preservation, use, and enhancement of the migratory bird production area; and
- 165 (ii) there is no reasonable alternative to constructing the power line within the
- 166 boundaries of a migratory bird production area.
- 167 (5) If the intended public purpose is for a mining use, a private person may not exercise the

- 168 power of eminent domain over property, or an interest in property, that is already used
169 for a mining use within the boundary of:
- 170 (a) a permit area, as defined in Section 40-8-4;
 - 171 (b) an area for which a permit has been issued by the Division of Water Quality, as part
172 of the underground injection control program, under rules made by the Water Quality
173 Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - 174 (c) private property; or
 - 175 (d) an area under a state or federal lease.

176 (6)(a) For the purpose of solar evaporation ponds and other facilities for the recovery of
177 minerals in solution on or from the Great Salt Lake, a public use includes removal or
178 extinguishment, by a state entity, in whole or in part, on Great Salt Lake Sovereign
179 lands of:

- 180 (i) a solar evaporation pond;
 - 181 (ii) improvements, property, easements, or rights-of-way appurtenant to a solar
182 evaporation pond, including a lease hold; or
 - 183 (iii) other facilities for the recovery of minerals or elements in solution.
- 184 (b) The public use under this Subsection (6) is in the furtherance of the benefits to public
185 trust assets attributable to the Great Salt Lake under Section 65A-1-1.

186 (7)(a) Fee simple title to land may not be taken by eminent domain if taking an
187 easement on the land satisfies the purposes for which the taking is proposed.

188 (b) If fee simple title to land is taken by eminent domain:

- 189 (i) the mineral estate associated with the land shall be identified and valued
190 separately from the other estates and rights in the land; and
- 191 (ii) the owner of the mineral estate shall be paid just compensation separately for the
192 mineral estate associated with the land.

193 Section 2. **Effective Date.**

194 This bill takes effect on May 7, 2025.