

Draft

Land Access

Introduction

Approximately 71 percent of Utah consists of public lands managed by federal or state agencies. These lands and their resources cannot be separated from the cultural fabric, quality of life, historic uses, and economic well-being of the state of Utah. The many industries operating in Utah, including, but not limited to, recreation and tourism, oil and gas, renewable energy, agriculture, mining, and timber industries are vital to the State and each requires access to public lands. Roads, trails, and other access opportunities are also used by law enforcement and emergency medical services in the protection of residents and visitors.

R.S. 2477 roads are roads created prior to October 21, 1976, across non-reserved federal lands. The rights-of-way for these roads were granted in accordance with the Mining Act of 1866. Roads are a vital part of the infrastructure of the state, providing access to public lands for towns, mines, ranches, natural resources, grazing allotments, water systems, lands held in trust for the benefit of Utah's schoolchildren, hunting, fishing, camping and picnic areas, and sightseeing. Some roads provide access for school buses, emergency vehicles, mail delivery, search and rescue, vegetation management, and other administrative uses. Land access contributes to the preservation of the state's culture and heritage. R.S. 2477 rights-of-way and other access opportunities may include, but are not limited to, horse paths, cattle trails, maintenance routes for waterways, pipelines or other means of water transmission and their attendant access for maintenance, wagon roads, jeep trails, logging roads, homestead roads, mine to market roads, and all other ways established and held consistent with the law.

Findings

The State has undertaken efforts over the past several years to identify and plot the location of all Class B and Class D roads crossing Bureau of Land Management (BLM) land that are legitimately part of the state's transportation system.

There are approximately 12,500 roads covering over 35,700 miles in the state that have been identified, reviewed, documented, and inventoried for inclusion in the state road system as qualifying for R.S. 2477 right-of-way claim status. Many additional and important roads exist in the state road system that may, or may not qualify, pursuant to further review and evaluation.

The Public Lands Policy Coordinating Office has prepared an interactive map that can be viewed at www.roads.utah.gov to highlight the current transportation system in areas within the stewardship of the BLM, setting forth all roads claimed by the state and counties as part of their transportation system. The map includes, but is not limited to, all roads claimed by the state and counties pursuant to R.S. 2477. It is expected that the Bureau of Land Management (BLM) will conform to the transportation provisions of resource management plans to be consistent with this map, as required by FLPMA Section 1712(c)(9).

Thousands of miles of roads and other access opportunities also exist on land managed by the U.S. Forest Service (USFS). These roads also provide critical access for recreation, hunting and fishing, livestock ranching, timber harvesting, and other activities. Roads within National Forests have largely not been identified or documented as qualifying for R.S. 2477 right-of-way claims due to the early establishment of Utah's National Forests and the resulting federal withdrawal from claims under R.S. 2477. Nevertheless, roads within the National Forests continue to provide much needed access to public

lands and private lands within the boundaries of the state's national forests and the State will work to ensure access for current and future generations of Utahns.

Economic Consideration

Land access is critical to the health, safety and economic viability of the State. The State defends the current and historic right to access both federal and state lands in the pursuit of recreational activities, mining, energy development, ranching, farming, logging, motorized vehicle use, hunting, fishing, and other historic uses.

Utah's recreation industry contributes 83,365 jobs, 3.2 billion dollars in wages and salaries, \$6.4 billion dollars in total outdoor recreation value added to the state economy, and accounts for 3.3% of the State's gross domestic product (GDP).¹ Likewise, as of 2017, the mining and energy industry directly and indirectly supported 3.8 percent of the state's employment, 4.2 percent of earnings, and 5.7 percent of the state's GDP.² In 2019, Utah generated approximately 1.8 billion dollars in cash receipts primarily from cattle, dairy products, and hay, and accounted for 2.3 percent of the GDP when combined with the agricultural processing industry.³ These economic contributions are particularly important and impactful in rural communities around the state. It is important to note that all of these industries, and countless others, are supported by access to public lands and resources.

Goals, Objectives, and Policies

Goals

- 1) Protect current and future access to, and use of lands managed by the Bureau of Land Management, the U.S. Forest Service, the National Park Service, the U.S. Fish and Wildlife Service, and all other publicly owned areas of the State of Utah.
- 2) Work to have federal agencies recognize the state's legal access rights to and across federal lands.

Objectives

- Protect traditional and cultural access to public lands.
- Maintain access to all R.S. 2477, Class B, and Class D roads and pursue judicial recognition of vested interests and rights through the Quiet Title Act and other legal means.
- Strategically expand access to State, School & Institutional Trust Lands Administration (SITLA), and federal lands to increase the value and enjoyment of parcels.
- Promote the transfer of SILTA properties within national monument boundaries for properties with greater access and economic opportunities.
- Encourage regular review of existing roadway infrastructure, planning documents, and policies to address future needs.

¹ <https://outdoorindustry.org/state/utah/>

² <https://gardner.utah.edu/wp-content/uploads/EnergyReport-Feb2020.pdf?x71849>

³ <https://economic-impact-of-ag.uada.edu/utah/>

- Maintain road systems for safe, convenient, and equitable access for citizens of all ages and physical conditions.
- Provide and protect access for utility and communication providers.
- Oppose new roadless areas and similar designations that limit access.
- Dedicated easements need to be identified by each county and locally protected to maintain access.
- Traditional access roads and trails serving mines and other historical uses, in current and future national monuments, should be preserved and incorporated into travel management plans and land use plans.
- Educate the public about the importance of public land access for multiple-use and sustainable yield purposes and activities.
- Encourage the provision of additional road infrastructure to accommodate safe and enjoyable outdoor recreation practices on public lands.
- Expedite the National Environmental Policy Act (NEPA) and policy process in order to avoid, minimize, or mitigate access limitations on public lands.
- Ensure access to emergency responders for fires, medical incidents, search and rescue and similar efforts.
- Ensure access to forestry, mineral, energy, and other needed resources for state and national security and for economic prosperity.
- Ensure access for forest management and stewardship projects.

Policies

- The State supports the protection of traditional and cultural access to public lands.
- Public rights-of-way established under R.S. 2477 are not negotiable and cannot be subjugated or taken by any state or federal agency. They are vested property rights, held jointly by the state and counties, duly recognized in federal and state law.
- Title V grants to local county governments or the state are in perpetuity. Nothing in Title V gives the Secretary of the Interior, or any other decision maker, the authority to arbitrarily close a road or a corridor once it is granted except by cooperation and coordination with the government entity holding the grant. In applying for a right-of-way, or other use of lands under Title V of the Federal Land Policy and Management Act of 1976, consistent with Utah Code § 72-3-108, the state or counties do not relinquish their rights to the land, its use or property ownership under R.S. 2477 or any other law, regulation, or act.
- Transportation and access routes to and across federal lands, including all rights-of-way vested under R.S. 2477, are vital to the economy and to the quality of life in the state and must provide, at a minimum, a network of roads, trails, and other necessary infrastructure that provides for:
 - Movement of people, goods, and services across public lands;
 - Reasonable access to a broad range of resources and opportunities throughout the resource planning area, including:
 - Livestock operations, trailing, and range improvements;
 - Solid, fluid, and gaseous mineral operations including critical minerals, renewable energy locations, and fuels minerals;

- Recreational opportunities and operations, including motorized and non-motorized recreation;
 - Including the infrastructure needed to meet visitors' current and future needs (such as trailheads, parking areas, restrooms, information centers, and signage).
 - Public safety needs (including law enforcement, firefighting, search and rescue, and EMS);
 - Access for transportation of wood products to market;
 - Safe and comfortable access for people with disabilities and the elderly; and
 - Access to state lands and school and institutional trust lands to accomplish the purposes of those lands.
- The State supports expanding access to State and SITLA lands to increase the economic value of parcels.
- The State encourages regular review of existing access infrastructure and future needs in an effort to maintain transportation systems for safe and convenient access.
- Roads shall remain open for utility and communications companies to ensure reliable delivery of services to citizens of the state of Utah and allow for the maintenance of current and future infrastructure, including but not limited to transmission and distribution lines, pipelines, and communications towers.
- The State opposes any additional evaluation of U.S Forest Service, or other federally managed lands, as "roadless" or "un-roaded" beyond the forest service's second roadless area review evaluation and opposes efforts by agencies to specially manage those areas in a way that:
 - Closes or declassifies existing roads without the coordination and consent of the local government;
 - Permanently bars travel on existing roads;
 - Excludes or diminishes traditional multiple-use activities, including grazing, proper forest harvesting, hunting, fishing, and vegetation management;
 - Interferes with the enjoyment and use of valid, existing rights, including water rights, local transportation plan rights, R.S. 2477 rights-of-way, grazing allotment rights, and mineral leasing rights; or,
 - Prohibits development of additional roads reasonably necessary to pursue traditional multiple-use activities.
- The State encourages the U.S. Forest Service to review and amend the roadless rule to allow for additional access, to reduce fuel loads and to improve water quality and quantity, wildlife habitat, species diversity, and forest ecosystem health.
- Access to and across public lands, including R.S. 2477 rights-of-way shall remain open. The right of the public to have unrestricted access to all roads granted under R.S. 2477, or FLPMA Title V, shall be held inviolate.
- Roads that provide access to and across public lands managed by any land management agency shall remain open unless concurrence on the closure of unnecessary or unsafe roads can be met through cooperation and coordination with the state and the counties within which the roads are located.
- Access to lands managed by the State shall remain open and new roads established where access to state lands is currently not available.

- The State supports the recognition by the federal government of the public use of R.S. 2477 rights-of-way and urges the federal government to administratively and formally recognize the rights-of-way and their use by the public as expeditiously as possible.
- All necessary action will be taken to protect access. It is the policy of the State to use reasonable administrative and legal measures to protect and preserve valid existing rights-of-way granted by Congress under R.S. 2477 and to support and work in conjunction with counties to redress cases where R.S. 2477 rights-of-way, and other access options, are not recognized or are impaired.
- The State will assist in identifying and inventorying roads and participate with federal land management agencies in the land use planning process including travel and transportation management.
- Access and transportation needs shall be considered, evaluated, and analyzed in the land use planning process. No roads, trails, rights-of-way, easements, or other traditional access for the transportation of people, products, recreation, energy, or livestock may be closed, abandoned, withdrawn, or have a change of use without full public disclosure, analysis, and coordination with state and county plans and personnel.
- Access to all water related facilities such as dams, reservoirs, delivery systems, monitoring facilities, livestock water, handling facilities, etc., must be maintained. This access must be economically feasible with respect to the method and timing of such access.
- Utah code 72-5-104 dedicates public rights-of-way on certain roads on private land. Each county should determine on which roads they have a rights-of-way. The state encourages counties to inventory roads that have been traditionally used for public access to public lands and make needed amendments to local plans to establish authority and enforcement protocols. Federal agencies should abide by state code and shall respect county decisions regarding dedicated easements.
- Access provided by Utah code 72-5-104 is essential in many instances for landowners to access private property and for the public to access and use public lands.
- The State supports and protects private property rights within the confines of Utah law.
- State and federal lands and amenities should be accessible by multiple modes of transportation, be inclusive to all persons with disabilities, and follow relevant accessibility guidelines to the maximum extent possible.
- The State reserves the ability to maintain and protect access to approved roads, trails, mines, historic uses, etc., within national monuments, and to add or reroute any access network if needed for the safety, health, economy, and welfare of state citizens.
- The State supports educational campaigns and marketing strategies that educate the public about access to and multiple-use and sustainable yield practices on public lands.
- The State supports and will assist in obtaining and maintaining access to public lands to facilitate vegetation management and wildlife habitat projects being implemented by the Shared Stewardship, Watershed Restoration Initiative, or other similar programs.
- The State will identify individual roads of significant importance and will address associated concerns regarding those roads with federal and county stakeholders during the management planning process rather than deferring conversations to later dates.
- The State supports administrative access for all valid permit holders.
- The State supports increasing access to, and providing infrastructure for, outdoor recreational activities on public lands.

- The State opposes pauses or moratoriums that limit access to public lands for multiple-use, sustainable yield, historic, cultural, or traditional practices.
- The State supports and encourages an expedited NEPA process and policy decisions.
- The State supports allowing the use of Class 1 and Class 2 electric assist bicycles wherever mountain bike use is permitted in an effort to provide equity in access to federal lands for citizens of all age groups and physical abilities.