

**63A-5-222 Critical land near state prison -- Definitions -- Preservation as open land -- Management and use of land -- Restrictions on transfer -- Wetlands development -- Conservation easement.**

(1) For purposes of this section:

(a) "Corrections" means the Department of Corrections created under Section 64-13-2.

(b) "Critical land" means:

- (i) a parcel of approximately 250 acres of land owned by the division and located on the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake County, approximately the southern half of whose eastern boundary abuts the Denver and Rio Grande Western Railroad right-of-way; and
- (ii) any parcel acquired in a transaction authorized under Subsection (3)(c) as a replacement for a portion of the parcel described in Subsection (1)(b)(i) that is conveyed as part of the transaction.

(c)

(i) "Open land" means land that is:

(A) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(B) used for:

(I) wildlife habitat;

(II) cultural or recreational use;

(III) watershed protection; or

(IV) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(ii)

(A) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(B) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(I) enhance the natural, scenic, or aesthetic qualities of the land; or

(II) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(2)

(a)

(i) The critical land shall be preserved in perpetuity as open land.

(ii) The long-term ownership and management of the critical land should eventually be turned over to the Department of Natural Resources created under Section 79-2-201 or another agency or entity that is able to accomplish the purposes and intent of this section.

(b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions should be taken on or with respect to the critical land, including:

(i) the development and implementation of a program to eliminate noxious vegetation and restore and facilitate the return of natural vegetation on the critical land;

(ii) the development of a system of trails through the critical land that is compatible with the preservation of the critical land as open land;

(iii) the development and implementation of a program to restore the natural features of and improve the flows of the Jordan River as it crosses the critical land;

- (iv) the preservation of the archeological site discovered on the critical land and the development of an interpretive site in connection with the archeological discovery;
  - (v) in restoring features on the critical land, the adoption of methods and plans that will enhance the critical land's function as a wildlife habitat;
  - (vi) taking measures to reduce safety risks on the critical land; and
  - (vii) the elimination or rehabilitation of a prison dump site on the critical land.
- (3)
- (a) Except as provided in Subsections (3)(b) and (c), no interest in the critical land may be sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that the critical land that is transferred will be preserved as open land in perpetuity.
  - (b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to resolve boundary disputes with adjacent property owners and easements may be granted for trails and other purposes consistent with Subsection (2)(b) and with the preservation of the critical land as open land.
  - (c) The Department of Natural Resources may transfer title to a portion of the critical land described in Subsection (1)(b)(i) in exchange for a parcel of land if:
    - (i) the parcel being acquired is:
      - (A) open land; and
      - (B) located within one mile of the portion of critical land being transferred; and
    - (ii) the purpose of the exchange is to facilitate the development of a commuter rail transit station and associated transit oriented development.
- (4) The division shall use the funds remaining from the appropriation under Laws of Utah 1998, Chapter 399, for the purposes of:
- (a) determining the boundaries and legal description of the critical land;
  - (b) determining the boundaries and legal description of the adjacent property owned by the division;
  - (c) fencing the critical land and adjacent land owned by the division where appropriate and needed; and
  - (d) assisting to carry out the intent of this section.
- (5)
- (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the critical land may develop or allow a public agency or private entity to develop more wetlands on the critical land than exist naturally or existed previously.
  - (b)
    - (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title may transfer jurisdiction of all or a portion of the critical land to a public agency or private entity to provide for the development and management of wetlands and designated wetland buffer areas.
    - (ii) Before transferring jurisdiction of any part of the critical land under Subsection (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to obtain approval from the appropriate federal agency to allow mitigation credits in connection with the critical land to be used for impacts occurring anywhere along the Wasatch Front.
- (6) Notwithstanding any other provision of this section, corrections shall have access to the cooling pond located on the critical land as long as that access to and use of the cooling pond are not inconsistent with the preservation of the critical land as open land.
- (7) The Department of Corrections, the division, and all other state departments, divisions, or agencies shall cooperate together to carry out the intent of this section.
- (8) In order to ensure that the land referred to in this section is preserved as open land, the division shall, as soon as practicable, place the land under a perpetual conservation easement in favor

of an independent party such as a reputable land conservation organization or a state or local government agency with experience in conservation easements.

Amended by Chapter 53, 2009 General Session  
Amended by Chapter 344, 2009 General Session