

Senator Ralph Okerlund proposes the following substitute bill:

**STATE OF UTAH RESOURCE MANAGEMENT PLAN FOR
FEDERAL LANDS**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Michael E. Noel

Cosponsors:
David P. Hinkins

Dennis E. Stowell

Kevin T. Van Tassell

LONG TITLE

General Description:

This bill establishes a state land use planning and management program.

Highlighted Provisions:

This bill:

- ▶ provides definitions, including the lands subject to the state land use planning and management program; and
- ▶ adopts a multiple use policy for the specified lands, including:
 - opposing the federal designation, management, or treatment of specified lands in a manner that resembles wilderness or wilderness study areas, including the use of the non-impairment standard applicable to wilderness study areas;
 - achieving and maintaining at the highest reasonably sustainable levels a continuing yield of energy, hard rock, and natural resources in specified lands;
 - achieving and maintaining livestock grazing in the specified lands at the highest reasonably sustainable levels;
 - managing the watershed in the specified lands to achieve and maintain water



26 resources at the highest reasonably sustainable levels;

27 • achieving and maintaining traditional access to outdoor recreational

28 opportunities in the specified lands;

29 • managing the specified lands so as to protect prehistoric rock art, artifacts, and

30 other culturally important items found on the specified lands;

31 • managing the specified lands so as not to interfere with the property rights of

32 adjacent property owners;

33 • managing the specified lands so as not to interfere with school trust lands; and

34 • discouraging a federal classification of specified lands as areas of critical

35 environmental concern or areas with visual resource management class I or II

36 rating.

37 **Money Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 This bill provides an immediate effective date.

41 **Utah Code Sections Affected:**

42 ENACTS:

43 **63J-8-101**, Utah Code Annotated 1953

44 **63J-8-102**, Utah Code Annotated 1953

45 **63J-8-103**, Utah Code Annotated 1953

46 **63J-8-104**, Utah Code Annotated 1953

47 **63J-8-105**, Utah Code Annotated 1953

48 **63J-8-106**, Utah Code Annotated 1953



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

51 Section 1. Section **63J-8-101** is enacted to read:

52 **CHAPTER 8. STATE OF UTAH RESOURCE MANAGEMENT PLAN FOR**
53 **FEDERAL LANDS**

54 **63J-8-101. Title.**

55 This chapter is known as "State of Utah Resource Management Plan for Federal
56 Lands."

57 Section 2. Section **63J-8-102** is enacted to read:

58 **63J-8-102. Definitions.**

59 As used in this chapter:

60 (1) "ACEC" means an area of critical environmental concern.

61 (2) "AUM" means animal unit months, a unit of grazing forage.

62 (3) "BLM" means the United States Bureau of Land Management.

63 (4) "FLPMA" means the Federal Land Policy Management Act of 1976, 43 U.S.C. Sec.
64 1701 et seq.

65 (5) "Forest service" means the United States Forest Service within the United States
66 Department of Agriculture.

67 (6) "Multiple use" means proper stewardship of the subject lands pursuant to Section
68 1031(C) of FLPMA, 43 U.S.C. Sec. 170(C).

69 (7) "OHV" means off-highway vehicle as defined in Section 41-22-2.

70 (8) "Settlement Agreement" means the written agreement between the state and the
71 Department of the Interior in 2003 (revised in 2005) that resolved the case of State of Utah v.
72 Gale Norton, Secretary of Interior (United States District Court, D. Utah, Case No.
73 2:96cv0870).

74 (9) "SITLA" means the School and Institutional Trust Lands Administration as created
75 in Section 53C-1-201.

76 (10) (a) "Subject lands" means the following non-WSA BLM lands:

77 (i) in Beaver County:

78 (A) Mountain Home Range South, Jackson Wash, The Toad, North Wah Wah
79 Mountains, Central Wah Wah Mountains, and San Francisco Mountains according to the
80 region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal
81 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
82 existed on February 17, 2011; and

83 (B) White Rock Range, South Wah Wah Mountains, and Granite Peak according to the
84 region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for
85 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
86 existed on February 17, 2011;

87 (ii) in Box Elder County: Little Goose Creek, Grouse Creek Mountains North, Grouse

88 Creek Mountains South, Bald Eagle Mountain, Central Pilot Range, Pilot Peak, Crater Island
89 West, Crater Island East, Newfoundland Mountains, and Grassy Mountains North according to
90 the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's Proposal
91 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
92 existed on February 17, 2011;

93 (iii) in Carbon County: Desbrough Canyon and Turtle Canyon according to the region
94 map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in
95 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
96 February 17, 2011;

97 (iv) in Daggett County: Goslin Mountain, Home Mountain, Red Creek Badlands,
98 O-wi-yu-kuts, Lower Flaming Gorge, Crouse Canyon, and Diamond Breaks according to the
99 region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for
100 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
101 existed on February 17, 2011;

102 (v) in Duchesne County: Desbrough Canyon according to the region map entitled
103 "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
104 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
105 2011;

106 (vi) in Emery County:

107 (A) San Rafael River and Sweetwater Reef, according to the region map entitled
108 "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in
109 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
110 February 17, 2011;

111 (B) Flat Tops according to the region map entitled "Glen Canyon", which is available
112 by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for
113 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
114 existed on February 17, 2011; and

115 (C) Price River, Lost Spring Wash, Eagle Canyon, Upper Muddy Creek, Molen Reef,
116 Rock Canyon, Mussentuchit Badland, and Muddy Creek, according to the region map entitled
117 "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah"
118 at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,

119 2011;

120 (vii) in Garfield County:

121 (A) Pole Canyon, according to the region map entitled "Great Basin South" linked in
122 the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
123 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
124 2011;

125 (B) Dirty Devil, Fiddler Butte, Little Rockies, Cane Spring Desert, and Cane Spring
126 Desert Adjacents, according to the region map entitled "Glen Canyon", which is available by
127 clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for
128 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
129 existed on February 17, 2011;

130 (C) Lampstand, Wide Hollow, Steep Creek, Brinkerhof Flats, Little Valley Canyon,
131 Death Hollow, Studhorse Peaks, Box Canyon, Heaps Canyon, North Escalante Canyon, Colt
132 Mesa, East of Bryce, Slopes of Canaan Peak, Horse Spring Canyon, Muley Twist Flank,
133 Pioneer Mesa, Slopes of Bryce, Blue Hills, Mud Springs Canyon, Carcass Canyon, Willis
134 Creek North, Kodachrome Basin, and Kodachrome Headlands, according to the region map
135 entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for
136 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
137 existed on February 17, 2011; and

138 (D) Notom Bench, Mount Ellen, Bull Mountain, Dogwater Creek, Ragged Mountain,
139 Mount Pennell, Mount Hillers, Bullfrog Creek, and Long Canyon, according to the region map
140 entitled "Henry Mountains" linked at the webpage entitled "Citizen's Proposal for Wilderness
141 in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
142 February 17, 2011;

143 (viii) in Iron County: Needle Mountains, Steamboat Mountain, Broken Ridge, Paradise
144 Mountains, Crook Canyon, Hamlin, North Peaks, Mount Escalante, and Antelope Ridge,
145 according to the region map entitled "Great Basin South" linked in the webpage entitled
146 "Citizen's Proposal for Wilderness in Utah" at
147 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
148 2011;

149 (ix) in Juab County: Deep Creek Mountains, Essex Canyon, Kern Mountains, Wild

150 Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Fish
151 Springs Ridge, Thomas Range, Drum Mountains, Dugway Mountains, Keg Mountains West,
152 Keg Mountains East, Lion Peak, and Rockwell Little Sahara, according to the region map
153 entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for
154 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
155 existed on February 17, 2011;

156 (x) in Kane County:

157 (A) Willis Creek North, Willis Creek, Kodachrome Badlands, Mud Springs Canyon,
158 Carcass Canyon, Scorpion, Bryce Boot, Paria-Hackberry Canyons, Fiftymile Canyon,
159 Hurricane Wash, Upper Kanab Creek, Timber Mountain, Nephi Point, Paradise Canyon,
160 Wahweap Burning Hills, Fiftymile Bench, Forty Mile Gulch, Sooner Bench 1, 2, & 3, Rock
161 Cove, Warm Bench, Andalex Not, Vermillion Cliffs, Ladder Canyon, The Cockscomb, Nipple
162 Bench, Moquith Mountain, Bunting Point, Glass Eye Canyon, and Pine Hollow, according to
163 the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's
164 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
165 webpage existed on February 17, 2011; and

166 (B) Orderville Canyon, Jolley Gulch, and Parunuweap Canyon, according to the region
167 map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness
168 in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
169 February 17, 2011;

170 (xi) in Millard County: Kern Mountains, Wild Horse Pass, Disappointment Hills,
171 Granite Mountain, Middle Mountains, Tule Valley, Swasey Mountain, Little Drum Mountains
172 North, Little Drum Mountains South, Drum Mountains, Snake Valley, Coyote Knoll, Howell
173 Peak, Tule Valley South, Ledger Canyon, Chalk Knolls, Orr Ridge, Notch View, Bullgrass
174 Knoll, Notch Peak, Barn Hills, Cricket Mountains, Burbank Pass, Middle Burbank Hills, King
175 Top, Barn Hills, Red Tops, Middle Burbank Hills, Juniper, Painted Rock Mountain, Black
176 Hills, Tunnel Springs, Red Canyon, Sand Ridge, Little Sage Valley, Cat Canyon, Headlight
177 Mountain, Black Hills, Mountain Range Home North, Tweedy Wash, North Wah Wah
178 Mountains, Jackson Wash, and San Francisco Mountains, according to the region map entitled
179 "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in
180 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on

181 February 17, 2011;

182 (xii) in Piute County: Kingston Ridge, Rocky Ford, and Phonolite Hill, according to
183 the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal
184 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
185 existed on February 17, 2011;

186 (xiii) in San Juan County:

187 (A) Horseshoe Point, Deadhorse Cliffs, Gooseneck, Demon's Playground, Hatch
188 Canyon, Lockhart Basin, Indian Creek, Hart's Point, Butler Wash, Bridger Jack Mesa, and Shay
189 Mountain, according to the region map entitled "Canyonlands Basin" linked in the webpage
190 entitled "Citizen's Proposal for Wilderness in Utah" at
191 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
192 2011;

193 (B) Dark Canyon, Copper Point, Fortknocker Canyon, White Canyon, The Needle, Red
194 Rock Plateau, Upper Red Canyon, and Tuwa Canyon, according to the region map entitled
195 "Glen Canyon", which is available by clicking the link entitled "Dirty Devil" at the webpage
196 entitled "Citizen's Proposal for Wilderness in Utah" at
197 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
198 2011;

199 (C) Hunters Canyon, Behind the Rocks, Mill Creek, and Coyote Wash, according to
200 the region map entitled "Moab/La Sal" linked at the webpage entitled "Citizen's Proposal for
201 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
202 existed on February 17, 2011; and

203 (D) Hammond Canyon, Allen Canyon, Mancos Jim Butte, Arch Canyon, Monument
204 Canyon, Tin Cup Mesa, Cross Canyon, Nokai Dome, Grand Gulch, Fish and Owl Creek
205 Canyons, Comb Ridge, Road Canyon, The Tabernacle, Lime Creek, San Juan River, and
206 Valley of the Gods, according to the region map entitled "San Juan" linked at the webpage
207 entitled "Citizen's Proposal for Wilderness in Utah" at
208 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
209 2011;

210 (xiv) in Sevier County: Rock Canyon, Mussentuchit Badland, Limestone Cliffs, and
211 Jones' Bench, according to the region map entitled "San Rafael Swell" linked at the webpage

212 entitled "Citizen's Proposal for Wilderness in Utah" at
213 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
214 2011;

215 (xv) in Tooele County:

216 (A) Silver Island Mountains, Crater Island East, Grassy Mountains North, Grassy
217 Mountains South, Stansbury Island, Cedar Mountains North, Cedar Mountains Central, Cedar
218 Mountains South, North Stansbury Mountains, Quirrh Mountains, and Big Hollow, according
219 to the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's
220 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
221 webpage existed on February 17, 2011, excluding the areas that Congress designated as
222 wilderness under the National Defense Authorization Act for Fiscal Year 2006; and

223 (B) Ochre Mountain, Deep Creek Mountains, Dugway Mountains, Indian Peaks, and
224 Lion Peak, according to the region map entitled "Great Basin Central" linked in the webpage
225 entitled "Citizen's Proposal for Wilderness in Utah" at
226 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
227 2011;

228 (xvi) in Uintah County:

229 (A) White River, Lower Bitter Creek, Sunday School Canyon, Dragon Canyon, Wolf
230 Point, Winter Ridge, Seep Canyon, Bitter Creek, Hideout Canyon, Sweetwater Canyon, and
231 Hell's Hole, according to the region map entitled "Book Cliffs" linked in the webpage entitled
232 "Citizen's Proposal for Wilderness in Utah" at
233 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
234 2011; and

235 (B) Lower Flaming Gorge, Crouse Canyon Stone Bridge Draw, Diamond Mountain,
236 Wild Mountain, Split Mountain Benches, Vivas Cake Hill, Split Mountain Benches South,
237 Beach Draw, Stuntz Draw, Moonshine Draw, Bourdette Draw, and Bull Canyon, according to
238 the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for
239 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
240 existed on February 17, 2011;

241 (xvii) in Washington County: Cougar Canyon, Docs Pass, Slaughter Creek, Butcher
242 Knife Canyon, Square Top, Scarecrow Creek, Beaver Dam Wash, Beaver Dam Mountains

243 North, Beaver Dam Mountains South, Joshua Tree, Beaver Dam Wilderness Expansion, Red
244 Mountain, Cottonwood Canyon, Taylor Canyon, LaVerkin Creek, Beartrap Canyon, Deep
245 Creek, Black Ridge, Red Butte, Kolob Creek, Goose Creek, Dry Creek, Zion National Park
246 Adjacents, Crater Hill, The Watchman, and Canaan Mountain, according to the region map
247 entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in
248 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
249 February 17, 2011, excluding the areas that Congress designated as wilderness and
250 conservation areas under the Omnibus Public Lands Management Act of 2009; and

251 (xviii) in Wayne County:

252 (A) Sweetwater Reef, Upper Horseshoe Canyon, and Labyrinth Canyon, according to
253 the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal
254 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
255 existed on February 17, 2011;

256 (B) Flat Tops and Dirty Devil, according to the region map entitled "Glen Canyon",
257 which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's
258 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
259 webpage existed on February 17, 2011;

260 (C) Fremont Gorge, Pleasant Creek Bench, Notom Bench, Mount Ellen, and Bull
261 Mountain, according to the region map entitled "Henry Mountains" linked at the webpage
262 entitled "Citizen's Proposal for Wilderness in Utah" at
263 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
264 2011; and

265 (D) Capital Reef Adjacents, Muddy Creek, Wild Horse Mesa, North Blue Flats, Red
266 Desert, and Factory Butte, according to the region map entitled "San Rafael Swell" linked at
267 the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
268 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
269 2011.

270 (b) "Subject lands" also includes all BLM and Forest Service lands in the state that are
271 not Wilderness Area or Wilderness Study Areas;

272 (c) "Subject lands" does not include the following lands that are the subject of
273 consideration for a possible federal lands bill and should be managed according to the 2008

274 Price BLM Field Office Resource Management Plan until a federal lands bill provides
275 otherwise:

276 (i) Turtle Canyon and Desolation Canyon according to the region map entitled "Book
277 Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
278 <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

279 (ii) Labyrinth Canyon, Duma Point, and Horseshoe Point, according to the region map
280 entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness
281 in Utah" at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February
282 17, 2011; and

283 (iii) Devil's Canyon, Sid's Mountain, Mexican Mountain, San Rafael Reef, Hondu
284 Country, Cedar Mountain, and Wild Horse, according to the region map entitled "San Rafael
285 Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
286 <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

287 (11) "Wilderness area" means those BLM and Forest Service lands added to the
288 National Wilderness Preservation System by an act of Congress.

289 (12) "WSA" and "Wilderness Study Area" mean the BLM lands in Utah that were
290 identified as having the necessary wilderness character and were classified as wilderness study
291 areas during the BLM wilderness review conducted between 1976 and 1993 by authority of
292 Section 603 of FLPMA and labeled as Wilderness Study Areas within the final report of the
293 President of the United States to the United States Congress in 1993.

294 Section 3. Section **63J-8-103** is enacted to read:

295 **63J-8-103. State participation in managing public lands.**

296 In view of the requirement in FLPMA, 43 U.S.C. Sec. 1712, that BLM must work
297 through a planning process that is coordinated with other federal, state, and local planning
298 efforts before making decisions about the present and future uses of public lands, the
299 requirement in FLPMA, 43 U.S.C. Sec.1714 that BLM may not withdraw or otherwise
300 designate BLM lands for specific purposes without congressional approval, and the
301 requirement in the Forest Service Multiple-Use Sustained Yield Act of 1960, 16 U.S.C.
302 Sec.528, that lands within the national forests be managed according to the principles of
303 multiple use, and in view of the right which FLPMA, the National Environmental Policy Act,
304 42 U.S.C. Sec. 4321 et seq. and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2,

305 give to state and local governments to participate in all BLM and Forest Service efforts to plan
306 for the responsible use of BLM and Forest Service lands and the requirement that BLM and the
307 Forest Service coordinate planning efforts with those of state and local government, the state
308 adopts the following policy for the management of the subject lands:

309 (1) Pursuant to the proper allocation of governmental authority between the several
310 states and the federal government, the implementation of congressional acts concerning the
311 subject lands must recognize the concurrent jurisdiction of the states and accord full
312 recognition to state interpretation of congressional acts, as reflected in state law, plans,
313 programs, and policies, insofar as the interpretation does not violate the Supremacy Clause,
314 U.S. Constitution, Article VI, Clause 2.

315 (2) Differences of opinion between the state's plans and policies on use of the subject
316 lands and any proposed decision concerning the subject lands pursuant to federal planning or
317 other federal decision making processes should be mutually resolved between the authorized
318 federal official, including federal officials from other federal agencies advising the authorized
319 federal official in any capacity, and the governor of Utah.

320 (3) The subject lands managed by the BLM are to be managed to the basic standard of
321 the prevention of undue and unnecessary degradation of the lands, as required by FLPMA. A
322 more restrictive management standard should not apply except through duly adopted statutory
323 or regulatory processes wherein each specific area is evaluated pursuant to the provisions of the
324 BLM's planning process and those of the National Environmental Policy Act.

325 (4) The subject lands should not be segregated into separate geographical areas for
326 management that resembles the management of wilderness, wilderness study areas, wildlands,
327 lands with wilderness characteristics, or the like.

328 (5) The BLM and the Forest Service should make plans for the use of the subject lands
329 and resources subject to their management pursuant to statutorily authorized processes, with
330 due regard for the provisions of the National Environmental Policy Act, by:

331 (a) recognizing that the duly adopted Resource Management Plan or Forest Service
332 equivalent is the fundamental planning document, which may be revised or amended from time
333 to time;

334 (b) avoiding and eliminating any form of guidance or policy that has the effect of
335 prescreening, segregating, or imposing any form of management requirements upon any of the

336 subject lands and resources prior to any of the planning processes subject to Subsection (5)(a);
337 and

338 (c) avoiding and eliminating all forms of planning that parallel or duplicate the
339 planning processes subject to Subsection (5)(a).

340 Section 4. Section **63J-8-104** is enacted to read:

341 **63J-8-104. State land use planning and management program.**

342 The BLM and Forest Service land use plans should produce planning documents
343 consistent with state and local land use plans to the maximum extent consistent with federal
344 law and FLPMA's purposes, by incorporating the state's land use planning and management
345 program for the subject lands that is as follows:

346 (1) preserve traditional multiple use and sustained yield management on the subject
347 lands to:

348 (a) achieve and maintain in perpetuity a high-level annual or regular periodic output of
349 agricultural, mineral, and various other resources from the subject lands;

350 (b) support valid existing transportation, mineral, and grazing privileges in the subject
351 lands at the highest reasonably sustainable levels;

352 (c) produce and maintain the desired vegetation for watersheds, timber, food, fiber,
353 livestock forage, wildlife forage, and minerals that are necessary to meet present needs and
354 future economic growth and community expansion in each county where the subject lands are
355 situated without permanent impairment of the productivity of the land;

356 (d) meet the recreational needs and the personal and business-related transportation
357 needs of the citizens of each county where the subject lands are situated by providing access
358 throughout each such county;

359 (e) meet the needs of wildlife, provided that the respective forage needs of wildlife and
360 livestock are balanced according to the provisions of Subsection 63J-4-401(6)(m);

361 (f) protect against adverse effects to historic properties, as defined by 36 C.F.R. 800;

362 (g) meet the needs of community economic growth and development;

363 (h) provide for the protection of existing water rights and the reasonable development
364 of additional water rights; and

365 (i) provide for reasonable and responsible development of electrical transmission and
366 energy pipeline infrastructure on the subject lands;

367 (2) (a) do not designate, establish, manage, or treat any of the subject lands as an area
368 with management prescriptions that parallel, duplicate, or resemble the management
369 prescriptions established for wilderness areas or wilderness study areas, including the
370 non-impairment standard applicable to WSAs or anything that parallels, duplicates, or
371 resembles that nonimpairment standard; and

372 (b) recognize, follow, and apply the agreement between the state and the Department of
373 the Interior in the settlement agreement;

374 (3) call upon the BLM to revoke and revise BLM Manuals H 6301, H 6302, and H
375 6303, issued on or about February 25, 2011, in light of the settlement agreement and the
376 following principles of this state plan:

377 (a) BLM lacks congressional authority to manage subject lands, other than WSAs, as if
378 they are or may become wilderness;

379 (b) BLM lacks authority to designate geographic areas as lands with wilderness
380 characteristics or designate management prescriptions for such areas other than to use specific
381 geographic-based tools and prescriptions expressly identified in FLPMA;

382 (c) BLM lacks authority to manage the subject lands in any manner other than to
383 prevent unnecessary or undue degradation, unless the BLM uses geographic tools expressly
384 identified in FLPMA and does so pursuant to a duly adopted provision of a resource
385 management plan adopted under FLPMA, 43 U.S.C. Sec. 1712;

386 (d) BLM inventories for the presence of wilderness characteristics must be closely
387 coordinated with inventories for those characteristics conducted by state and local
388 governments, and should reflect a consensus among those governmental agencies about the
389 existence of wilderness characteristics, as follows:

390 (i) any inventory of wilderness characteristics should reflect all of the criteria identified
391 in the Wilderness Act of 1964, including:

392 (A) a size of 5,000 acres or more, containing no visible roads; and

393 (B) the presence of naturalness, the opportunity for primitive and unconfined
394 recreation, and the opportunity for solitude;

395 (ii) geographic areas found to contain the presence of naturalness must appear pristine
396 to the average viewer, and not contain any of the implements, artifacts, or effects of human
397 presence, including:

398 (A) visible roads, whether maintained or not; and

399 (B) human-made features such as vehicle bridges, fire breaks, fisheries, enhancement
400 facilities, fire rings, historic mining and other properties, including tailings piles, commercial
401 radio and communication repeater sites, fencing, spring developments, linear disturbances,
402 stock ponds, visible drill pads, pipeline and transmission line rights-of-way, and other similar
403 features;

404 (iii) factors, such as the following, though not necessarily conclusive, should weigh
405 against a determination that a land area has the presence of naturalness:

406 (A) the area is or once was the subject of mining and drilling activities;

407 (B) mineral and hard rock mining leases exist in the area; and

408 (C) the area is in a grazing district with active grazing allotments and visible range
409 improvements;

410 (iv) geographic areas found to contain the presence of solitude should convey the sense
411 of solitude within the entire geographic area identified, otherwise boundary adjustments should
412 be performed in accordance with Subsection (3)(d)(vii);

413 (v) geographic areas found to contain the presence of an opportunity for primitive and
414 unconfined recreation must find these features within the entire area and provide analysis about
415 the effect of the number of visitors to the geographic area upon the presence of primitive or
416 unconfined recreation, otherwise boundary adjustments should be performed in accordance
417 with Subsection (3)(d)(vii);

418 (vi) in addition to the actions required by the review for roads pursuant to the
419 definitions of roads contained in BLM Manual H-6301, or any similar authority, the BLM
420 should, pursuant to its authority to inventory, identify and list all roads or routes identified as
421 part of a local or state governmental transportation system, and consider those routes or roads
422 as qualifying as roads within the definition of the Wilderness Act of 1964; and

423 (vii) BLM should adjust the boundaries for a geographic area to exclude areas that do
424 not meet the criteria of lacking roads, lacking solitude, and lacking primitive and unconfined
425 recreation and the boundaries should be redrawn to reflect an area that clearly meets the criteria
426 above, and which does not employ minor adjustments to simply exclude small areas with
427 human intrusions, specifically:

428 (A) the boundaries of a proposed geographic area containing lands with wilderness

429 characteristics should not be drawn around roads, rights-of-way, and intrusions;

430 (B) lands located between individual human impacts that do not meet the requirements
431 for lands with wilderness characteristics should be excluded;

432 (e) BLM should consider the responses of the United States Department of the Interior
433 under cover of the letter dated May 20, 2009, clearly stating that BLM does not have the
434 authority to apply the non-impairment management standard to the subject lands, or to manage
435 the subject lands in any manner to preserve their suitability for designation as wilderness, when
436 considering the proper management principles for areas that meet the full definition of lands
437 with wilderness characteristics; and

438 (f) even if the BLM were to properly inventory an area for the presence of wilderness
439 characteristics, the BLM still lacks authority to make or alter project level decisions to
440 automatically avoid impairment of any wilderness characteristics without express
441 congressional authority to do so;

442 (4) achieve and maintain at the highest reasonably sustainable levels a continuing yield
443 of energy, hard rock, and nuclear resources in those subject lands with economically
444 recoverable amounts of such resources as follows:

445 (a) the development of the solid, fluid, and gaseous mineral resources in portions of the
446 subject lands is an important part of the state's economy and the economies of the respective
447 counties, and should be recognized that it is technically feasible to access mineral and energy
448 resources in portions of the subject lands while preserving or, as necessary, restoring
449 non-mineral and non-energy resources;

450 (b) all available, recoverable solid, fluid, gaseous, and nuclear mineral resources in the
451 subject lands should be seriously considered for contribution or potential contribution to the
452 state's economy and the economies of the respective counties;

453 (c) those portions of the subject lands shown to have reasonable mineral, energy, and
454 nuclear potential should be open to leasing, drilling, and other access with reasonable
455 stipulations and conditions, including mitigation, reclamation, and bonding measures where
456 necessary, that will protect the lands against unnecessary and undue damage to other significant
457 resource values;

458 (d) federal oil and gas existing lease conditions and restrictions should not be modified,
459 waived, or removed unless the lease conditions or restrictions are no longer necessary or

460 effective;

461 (e) any prior existing lease restrictions in the subject lands that are no longer necessary
462 or effective should be modified, waived, or removed;

463 (f) restrictions against surface occupancy should be eliminated, modified, or waived,
464 where reasonable;

465 (g) in the case of surface occupancy restrictions that cannot be reasonably eliminated,
466 modified, or waived, directional drilling should be considered where the mineral and energy
467 resources beneath the area can be reached employing available directional drilling technology;

468 (h) applications for permission to drill in the subject lands that meet standard
469 qualifications, including reasonable and effective mitigation and reclamation requirements,
470 should be expeditiously processed and granted; and

471 (i) any moratorium that may exist against the issuance of qualified mining patents and
472 oil and gas leases in the subject lands, and any barriers that may exist against developing
473 unpatented mining claims and filing for new claims, should be carefully evaluated for removal;

474 (5) achieve and maintain livestock grazing in the subject lands at the highest
475 reasonably sustainable levels by adhering to the policies, goals, and management practices set
476 forth in Subsection 63J-4-401(6)(m);

477 (6) manage the watershed in the subject lands to achieve and maintain water resources
478 at the highest reasonably sustainable levels as follows:

479 (a) adhere to the policies, goals, and management practices set forth in Subsection
480 63J-4-401(6)(m);

481 (b) deter unauthorized cross-country OHV use in the subject lands by establishing a
482 reasonable system of roads and trails in the subject lands for the use of an OHV, as closing the
483 subject lands to all OHV use will only spur increased and unauthorized use; and

484 (c) keep open any road or trail in the subject lands that historically has been open to
485 OHV use, as identified on respective county road maps;

486 (7) achieve and maintain traditional access to outdoor recreational opportunities
487 available in the subject lands as follows:

488 (a) hunting, trapping, fishing, hiking, family and group parties, family and group
489 campouts and campfires, rock hounding, OHV travel, geological exploring, pioneering,
490 recreational vehicle parking, or just touring in personal vehicles are activities that are important

491 to the traditions, customs, and character of the state and individual counties where the subject
492 lands are located and should continue;

493 (b) wildlife hunting, trapping, and fishing should continue at levels determined by the
494 Wildlife Board and the Division of Wildlife Resources and traditional levels of group camping,
495 group day use, and other traditional forms of outdoor recreation, both motorized and
496 nonmotorized, should continue; and

497 (c) the broad spectrum of outdoor recreational activities available on the subject lands
498 should be available to citizens for whom a primitive, nonmotorized, outdoor experience is not
499 preferred, affordable, or physically achievable;

500 (8) (a) keep open to motorized travel, any road in the subject lands that is part of the
501 respective counties' duly adopted transportation plan;

502 (b) provide that R.S. 2477 rights-of-way should be recognized by the BLM;

503 (c) provide that a county road may be temporarily closed or permanently abandoned
504 only by statutorily authorized action of the county or state;

505 (d) provide that the BLM and the Forest Service must recognize and not unduly
506 interfere with a county's ability to maintain and repair roads and, where reasonably necessary,
507 make improvements to the roads; and

508 (e) recognize that additional roads and trails may be needed in the subject lands from
509 time to time to facilitate reasonable access to a broad range of resources and opportunities
510 throughout the subject lands, including livestock operations and improvements, solid, fluid,
511 and gaseous mineral operations, recreational opportunities and operations, search and rescue
512 needs, other public safety needs, access to public lands for people with disabilities and the
513 elderly, and access to Utah school and institutional trust lands for the accomplishment of the
514 purposes of those lands;

515 (9) manage the subject lands so as to protect prehistoric rock art, three dimensional
516 structures, and other artifacts and sites recognized as culturally important and significant by the
517 state historic preservation officer or each respective county by imposing reasonable and
518 effective stipulations and conditions reached by agreement between the federal agency and the
519 state authorized officer pursuant to the authority granted by the National Historic Preservation
520 Act, 16 U.S.C. Sec. 470 et seq.;

521 (10) manage the subject lands so as to not interfere with the property rights of private

522 landowners as follows:

523 (a) the state recognizes that there are parcels of private fee land throughout the subject
524 lands;

525 (b) land management policies and standards in the subject lands should not interfere
526 with the property rights of any private landowner to enjoy and engage in uses and activities on
527 an individual's private property consistent with controlling county zoning and land use laws;
528 and

529 (c) a private landowner or a guest or client of a private landowner should not be denied
530 the right of motorized access to the private landowner's property consistent with past uses of
531 the private property;

532 (11) manage the subject lands in a manner that supports the fiduciary agreement made
533 between the state and the federal government concerning the school and institutional trust
534 lands, as managed according to state law, by:

535 (a) formally recognizing, by duly authorized federal proclamation, the duty of the
536 federal government to support the purposes of the school and institutional trust lands owned by
537 the state and administered by SITLA in trust for the benefit of public schools and other
538 institutions as mandated in the Utah Constitution and the Utah Enabling Act of 1894, 28, Stat.
539 107;

540 (b) actively seeking to support SITLA's fiduciary responsibility to manage the school
541 trust lands to optimize revenue by making the school trust lands available for sale and private
542 development and for other multiple and consumptive use activities such as mineral
543 development, grazing, recreation, timber, and agriculture;

544 (c) not interfering with SITLA's ability to carry out its fiduciary responsibilities by the
545 creation of geographical areas burdened with management restrictions that prohibit or
546 discourage the optimization of revenue, without just compensation;

547 (d) recognizing SITLA's right of economic access to the school trust lands to enable
548 SITLA to put those sections to use in its fiduciary responsibilities; and

549 (e) recognizing any management plan enacted by SITLA pursuant to Section
550 53C-2-201;

551 (12) oppose the designation of BLM lands as areas of critical environmental concern
552 (ACEC), as the BLM lands are generally not compatible with the state's plan and policy for

553 managing the subject lands, but special cases may exist where such a designation is appropriate
554 if compliance with FLPMA, 43 U.S.C. Sec. 1702(a) is clearly demonstrated and where the
555 proposed designation and protection:

556 (a) is limited to the geographic size to the minimum necessary to meet the standards
557 required by Section 63J-4-401;

558 (b) is necessary to protect not just a temporary change in ground conditions or visual
559 resources that can be reclaimed or reversed naturally, but is clearly shown as necessary to
560 protect against visible damage on the ground that will persist on a time scale beyond that which
561 would effectively disqualify the land for a later inventory of wilderness characteristics;

562 (c) will not be applied in a geographic area already protected by other protective
563 designations available pursuant to law; and

564 (d) is not a substitute for the non-impairment management requirements of wilderness
565 study areas; and

566 (13) recognize that a BLM visual resource management class I or II rating is generally
567 not compatible with the state's plan and policy for managing the subject lands, but special cases
568 may exist where such a rating is appropriate if jointly considered and created by state, local,
569 and federal authorities as part of an economic development plan for a region of the state, with
570 due regard for school trust lands and private lands within the area.

571 (14) All BLM and Forest Service decision documents should be accompanied with an
572 analysis of the social and economic impact of the decision. Such analysis should:

573 (a) consider all facets of the decision in light of valuation techniques for the potential
574 costs and benefits of the decision;

575 (b) clarify whether the costs and benefits employ monetized or non-monetized
576 techniques;

577 (c) compare the accuracy, completeness and viability of monetized and non-monetized
578 valuation techniques used as part of the analysis, including all caveats on use of the techniques;
579 and

580 (d) compare the valuation techniques employed in the analysis to the federal standards
581 for valuation employed by the U.S. Department of Justice in court actions.

582 Section 5. Section **63J-8-105** is enacted to read:

583 **63J-8-105. Maps available for public review.**

584 A printed copy of the maps referenced in Subsection 63J-8-102(9) shall be available for
585 inspection by the public at the offices of the Utah Association of Counties.

586 Section 6. Section **63J-8-106** is enacted to read:

587 **63J-8-106. Miscellaneous provisions.**

588 (1) Notwithstanding the provisions in the previous sections of this chapter, the state
589 believes that some WSAs and other BLM or Forest Service lands may be considered for
590 permanent inclusion in the National Wilderness Preservation System as part of county specific
591 proposals for Congress to consider if driven by a local process that includes all interested
592 stakeholders.

593 (2) Nothing in the chapter shall be interpreted to alter, affect, or diminish the authority
594 of the governor.

595 Section 7. **Effective date.**

596 If approved by two-thirds of all the members elected to each house, this bill takes effect
597 upon approval by the governor, or the day following the constitutional time limit of Utah
598 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
599 the date of veto override.

FISCAL NOTE

S.B. 221 2nd Sub. (Salmon)

SHORT TITLE: State of Utah Resource Management Plan for Federal Lands

SPONSOR: Okerlund, R.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.