

## SB0221S02 compared with SB0221S01

~~text~~ shows text that was in SB0221S01 but was deleted in SB0221S02.

inserted text shows text that was not in SB0221S01 but was inserted into SB0221S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

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: \_\_\_\_\_

Cosponsors:  
David P. Hinkins

Dennis E. Stowell

Kevin T. Van Tassell

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#### 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

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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 ~~{specific}~~ specified lands to achieve and maintain water resources at the highest reasonably sustainable levels;
- achieving and maintaining traditional access to outdoor recreational opportunities in the specified lands;
- managing the specified lands so as to protect prehistoric rock art, artifacts, and other culturally important items found on the specified lands;
- managing the specified lands so as not to interfere with the property rights of adjacent property owners;
- managing the specified lands so as not to interfere with school trust lands; and
- discouraging a federal classification of specified lands as areas of critical environmental concern or areas with visual resource management class I or II rating.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

This bill provides an immediate effective date.

### **Utah Code Sections Affected:**

ENACTS:

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

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

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

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

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

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

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

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

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

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

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

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

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

As used in this chapter:

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

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

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

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

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

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

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

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

(~~8~~9) "SITLA" means the School and Institutional Trust Lands Administration as created in Section 53C-1-201.

(~~9~~10) (a) "Subject lands" means the following non-WSA BLM lands:

(i) in Beaver County:

(A) Mountain Home Range South, Jackson Wash, The Toad, North Wah Wah Mountains, Central Wah Wah Mountains, and San Francisco Mountains according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal

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for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

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

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

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

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

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

(vi) in Emery County:

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

(B) Flat Tops according to the region map entitled "Glen Canyon", which is available

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by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(C) Price River, Lost Spring Wash, Eagle Canyon, Upper Muddy Creek, Molen Reef, Rock Canyon, Mussentuchit Badland, and Muddy Creek, according to the region map entitled "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(vii) in Garfield County:

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

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

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

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

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

(ix) in Juab County: Deep Creek Mountains, Essex Canyon, Kern Mountains, Wild Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Fish Springs Ridge, Thomas Range, Drum Mountains, Dugway Mountains, Keg Mountains West, Keg Mountains East, Lion Peak, and Rockwell Little Sahara, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(x) in Kane County:

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

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

(xi) in Millard County: Kern Mountains, Wild Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Swasey Mountain, Little Drum Mountains North, Little Drum Mountains South, Drum Mountains, Snake Valley, Coyote Knoll, Howell Peak, Tule Valley South, Ledger Canyon, Chalk Knolls, Orr Ridge, Notch View, Bullgrass

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Knoll, Notch Peak, Barn Hills, Cricket Mountains, Burbank Pass, Middle Burbank Hills, King Top, Barn Hills, Red Tops, Middle Burbank Hills, Juniper, Painted Rock Mountain, Black Hills, Tunnel Springs, Red Canyon, Sand Ridge, Little Sage Valley, Cat Canyon, Headlight Mountain, Black Hills, Mountain Range Home North, Tweedy Wash, North Wah Wah Mountains, Jackson Wash, and San Francisco Mountains, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

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

(xiii) in San Juan County:

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

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

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

(D) Hammond Canyon, Allen Canyon, Mancos Jim Butte, Arch Canyon, Monument Canyon, Tin Cup Mesa, Cross Canyon, Nokai Dome, Grand Gulch, Fish and Owl Creek

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Canyons, Comb Ridge, Road Canyon, The Tabernacle, Lime Creek, San Juan River, and Valley of the Gods, according to the region map entitled "San Juan" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at

<http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xiv) in Sevier County: Rock Canyon, Mussentuchit Badland, Limestone Cliffs, and Jones' Bench, according to the region map entitled "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at

<http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xv) in Tooele County:

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

(B) Ochre Mountain, Deep Creek Mountains, Dugway Mountains, Indian Peaks, and Lion Peak, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at

<http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xvi) in Uintah County:

(A) White River, Lower Bitter Creek, Sunday School Canyon, Dragon Canyon, Wolf Point, Winter Ridge, Seep Canyon, Bitter Creek, Hideout Canyon, Sweetwater Canyon, and Hell's Hole, according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at

<http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011; and

(B) Lower Flaming Gorge, Crouse Canyon Stone Bridge Draw, Diamond Mountain,

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Wild Mountain, Split Mountain Benches, Vivas Cake Hill, Split Mountain Benches South, Beach Draw, Stuntz Draw, Moonshine Draw, Bourdette Draw, and Bull Canyon, according to the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

(xvii) in Washington County: Cougar Canyon, Docs Pass, Slaughter Creek, Butcher Knife Canyon, Square Top, Scarecrow Creek, Beaver Dam Wash, Beaver Dam Mountains North, Beaver Dam Mountains South, Joshua Tree, Beaver Dam Wilderness Expansion, Red Mountain, Cottonwood Canyon, Taylor Canyon, LaVerkin Creek, Beartrap Canyon, Deep Creek, Black Ridge, Red Butte, Kolob Creek, Goose Creek, Dry Creek, Zion National Park † Adjacents, Crater Hill, The Watchman, and Canaan Mountain, according to the region map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011, excluding the areas that Congress designated as wilderness and conservation areas under the Omnibus Public Lands Management Act of 2009; and

(xviii) in Wayne County:

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

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

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

(D) Capital Reef Adjacents, Muddy Creek, Wild Horse Mesa, North Blue Flats, Red Desert, and Factory Butte, according to the region map entitled "San Rafael Swell" linked at

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

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

(c) "Subject lands" does not include the following lands that are the subject of consideration for a possible federal lands bill and should be managed according to ~~f~~Emery County's position; the 2008 Price BLM Field Office Resource Management Plan until a federal lands bill provides otherwise:

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

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

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

~~(f10)~~11) "Wilderness area" means those BLM and Forest Service lands added to the National Wilderness Preservation System by an act of Congress.

~~(f11)~~12) "WSA" and "Wilderness Study Area" mean the BLM lands in Utah that were identified as having the necessary wilderness character and were classified as wilderness study areas during the BLM wilderness review conducted between 1976 and 1993 by authority of Section 603 of FLPMA and labeled as Wilderness Study Areas within the final report of the President of the United States to the United States Congress in 1993.

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

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

In view of the requirement in FLPMA, 43 U.S.C. Sec. 1712, that BLM must work through a planning process that is coordinated with other federal, state, and local planning

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efforts before making decisions about the present and future uses of public lands, the requirement in FLPMA, 43 U.S.C. [Sec.](#) 1714 that BLM may not withdraw or otherwise designate BLM lands for specific purposes without congressional approval, and the requirement in the Forest Service Multiple-Use Sustained Yield Act of 1960, 16 U.S.C. [Sec.](#) 528, that lands within the national forests be managed according to the principles of multiple use, and in view of the right which FLPMA, the National Environmental Policy Act, 42 U.S.C. [Sec.](#) 4321 et seq. and the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, give to state and local governments to participate in all BLM and ~~the~~ Forest Service efforts to plan for the responsible use of BLM and Forest Service lands and the requirement that BLM and the Forest Service coordinate planning efforts with those of state and local government, the state adopts the following policy for the management of the subject lands:

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

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

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

(4) The subject lands should not be segregated into separate geographical areas for management ~~which~~ [that](#) resembles the management of wilderness, wilderness study areas, wildlands, lands with wilderness characteristics, or the like.

(5) The BLM and the Forest Service should make plans for the use of the subject lands

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and resources subject to their management pursuant to statutorily authorized processes, with due regard for the provisions of the National Environmental Policy Act, by:

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

(b) avoiding and eliminating any form of guidance or policy that has the effect of prescreening, segregating, or imposing any form of management requirements upon any of the subject lands and resources prior to any of the planning processes subject to Subsection (5)(a); and

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

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

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

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

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

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

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

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

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

(e) meet the needs of wildlife, provided that the respective forage needs of wildlife and

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livestock are balanced according to the provisions of Subsection 63J-4-401(6)(m):

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

(g) meet the needs of ~~community~~ economic ~~development~~;

~~(h) meet the needs of community;~~ growth and development;

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

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

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

(b) recognize, follow, and apply the agreement between the state and the Department of the Interior in the ~~2003~~ settlement agreement;

(3) call upon the BLM to revoke and revise BLM Manuals H 6301, H 6302, and H 6303, issued on or about February 25, 2011, in light of the settlement agreement ~~(revised in 2005)~~ in the case of State of Utah v. Gale Norton, Secretary of Interior (United States District Court, D. Utah, Case No. 2:96cv0870), which effectively prohibits the actions listed in Subsection (2)(a);

~~(3) and the following principles of this state plan:~~

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

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

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

~~(d) BLM inventories for the presence of wilderness characteristics must be closely~~

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coordinated with inventories for those characteristics conducted by state and local governments, and should reflect a consensus among those governmental agencies about the existence of wilderness characteristics, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the boundaries of a proposed geographic area containing lands with wilderness characteristics should not be drawn around roads, rights-of-way, and intrusions;

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

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

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

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

(a) the development of the solid, fluid, and gaseous mineral resources in portions of the subject lands is an important part of the state's economy and the economies of the respective counties, ~~recognizing~~ and should be recognized that it is technically feasible to access mineral and energy resources in portions of the subject lands while preserving or, as necessary,

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restoring non-mineral and non-energy resources:

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

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

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

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

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

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

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

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

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

~~(5)~~<sup>6</sup> manage the watershed in the subject lands to achieve and maintain water resources at the highest reasonably sustainable levels as follows:

(a) adhere to the policies, goals, and management practices set forth in Subsection

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63J-4-401(6)(m):

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

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

(~~6~~7) achieve and maintain traditional access to outdoor recreational opportunities available in the subject lands as follows:

(a) hunting, trapping, fishing, hiking, family and group parties, family and group campouts and campfires, rock hounding, OHV travel, geological exploring, pioneering, recreational vehicle parking, or just touring in personal vehicles are activities that are important to the traditions, customs, and character of the state and individual counties where the subject lands are located and should continue;

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

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

(~~7~~8) (a) keep open to motorized travel, any road in the subject lands that is part of the respective counties' duly adopted transportation plan;

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

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

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

(e) recognize that additional roads and trails may be needed in the subject lands from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the subject lands, including livestock operations and improvements, solid, fluid,

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and gaseous mineral operations, recreational opportunities and operations, search and rescue needs, other public safety needs, access to public lands for people with disabilities and the elderly, and access to Utah school and institutional trust lands for the accomplishment of the purposes of those lands:

~~(8)9~~ manage the subject lands so as to protect prehistoric rock art, three dimensional structures, and other artifacts and sites recognized as culturally important and significant by the state historic preservation officer or each respective county by imposing reasonable and effective stipulations and conditions reached by agreement between the federal agency and the state authorized officer pursuant to the authority granted by the National Historic Preservation Act, 16 U.S.C. Sec. 470 et seq.:

~~(9)10~~ manage the subject lands so as to not interfere with the property rights of private landowners as follows:

(a) the state ~~recognize~~ recognizes that there are parcels of private fee land throughout the subject lands:

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

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

~~(10)11~~ manage the subject lands in a manner ~~which~~ that supports the fiduciary agreement made between the state and the federal government concerning the school and institutional trust lands, as managed according to state law, by:

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

(b) actively seeking to support SITLA's fiduciary responsibility to manage the school trust lands to optimize revenue by making the school trust lands available for sale and private

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development and for other multiple and consumptive use activities such as mineral development, grazing, recreation, timber, and agriculture;

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

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

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

(~~11~~)<sup>12</sup> ~~designating subject~~ oppose the designation of BLM lands as areas of critical environmental concern (ACEC) ~~is~~, as the BLM lands are generally not compatible with the state's plan and policy for managing the subject lands, but special cases may exist where such a designation is appropriate if compliance with FLPMA, 43 U.S.C. Sec. 1702(a) is clearly demonstrated and where the proposed designation and protection:

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

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

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

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

(~~12~~)<sup>13</sup> recognize that a BLM visual resource management class I or II rating is generally not compatible with the state's plan and policy for managing the subject lands, but special cases may exist where such a rating is appropriate if jointly considered and created by state, local, and federal authorities as part of an economic development plan for a region of the state, with due regard for school trust lands and private lands within the area.

(14) All BLM and Forest Service decision documents should be accompanied with an

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analysis of the social and economic impact of the decision. Such analysis should:

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

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

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

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

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

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

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

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

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

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

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

Section 7. **Effective date.**

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