

UTAH WILDERNESS ACT

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill enacts the Utah Wilderness Act.

Highlighted Provisions:

This bill:

- ▶ recognizes the importance of securing the benefits of protected wilderness areas;
- ▶ defines terms;
- ▶ establishes the process for mapping and evaluating potential wilderness areas;
- ▶ establishes the process for designating a protected wilderness area;
- ▶ describes the acceptable uses of a protected wilderness area; and
- ▶ requires the director of the Public Lands Policy Coordination Office to make annual

reports to the:

- governor, for transmission to the Legislature; and
- Natural Resources, Agriculture, and Environment Interim Committee by

November 30 of each year.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



- 28 [63L-7-101](#), Utah Code Annotated 1953
- 29 [63L-7-102](#), Utah Code Annotated 1953
- 30 [63L-7-103](#), Utah Code Annotated 1953
- 31 [63L-7-104](#), Utah Code Annotated 1953
- 32 [63L-7-105](#), Utah Code Annotated 1953
- 33 [63L-7-106](#), Utah Code Annotated 1953
- 34 [63L-7-107](#), Utah Code Annotated 1953
- 35 [63L-7-108](#), Utah Code Annotated 1953
- 36 [63L-7-109](#), Utah Code Annotated 1953

37

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

39 Section 1. Section [63L-7-101](#) is enacted to read:

40 **CHAPTER 7. UTAH WILDERNESS ACT**

41 **[63L-7-101](#). Title.**

42 This chapter is known as the "Utah Wilderness Act."

43 Section 2. Section [63L-7-102](#) is enacted to read:

44 **[63L-7-102](#). Purpose.**

45 (1) The purpose of this chapter is to:

46 (a) secure for the people of Utah, present and future generations, as well as for visitors
47 to Utah, the benefits of an enduring resource of wilderness on designated state-owned lands;

48 ~~Ĥ→ [(b) recognize and protect in perpetuity areas where the earth and its community of life~~
49 ~~are untrammelled by humans and where humans are visitors that do not remain;~~

50 ~~——(e) [(b) ←Ĥ provide a window into the natural world, into which our pioneer forebears~~
50a ~~ventured~~

51 ~~and formed our collective story and character;~~

52 ~~Ĥ→ [(d) (c) ←Ĥ recognize that the preservation of wilderness shall be part of a balanced~~
52a ~~pattern of~~

53 ~~multiple land uses;~~

54 ~~Ĥ→ [(e) (d) ←Ĥ demonstrate the proper stewardship of certain primitive lands by~~
54a ~~providing the~~

55 ~~protection to allow natural forces to operate; and~~

56 ~~Ĥ→ [(f) (e) ←Ĥ create a Utah wilderness preservation system.~~

57 (2) No state-owned lands may be designated as a protected wilderness area except as
58 provided in this chapter.

59 (3) This chapter does not apply to lands owned or acquired by the School and
 60 Institutional Trust Lands Administration.

61 Section 3. Section **63L-7-103** is enacted to read:

62 **63L-7-103. Definitions.**

63 As used in this chapter:

64 (1) "Acquisition date" means the day on which the state received title to land.

65 (2) "Conservation area" means an area that potentially has wilderness characteristics.

66 (3) "DNR" means the Department of Natural Resources.

67 (4) "PLPCO" means the Public Lands Policy Coordination Office.

68 (5) "Protected wilderness area" means an area of wilderness that has been designated
 69 under this chapter as part of the Utah wilderness preservation system.

70 (6) "Road" means a road classified as either a class B road, as described in Section
 71 72-3-103, or a class D road, as described in Section 72-3-105.

72 (7) "Roadless area" means an area without a road, as defined in Subsection (6).

73 (8) "Wilderness" means a roadless area of undeveloped state-owned land, other than
 74 land owned by the School and Institutional Trust Lands Administration, that:

75 (a) is acquired by the state from the federal government through purchase, exchange,
 76 grant, or any other means of conveyance of title after May 13, 2014;

77 (b) retains its primeval character and influence, without permanent improvements or
 78 human habitation;

79 (c) generally appears to have been affected primarily by the forces of nature, with
 80 minimal human impact;

81 ~~Ĥ→ [(d) is an area where the earth and its community of life are untrammled by humans,~~
 82 ~~where humans are visitors who do not remain, and where the imprint of human work is~~
 83 ~~substantially unnoticeable;~~

84 ~~——(e)] (d) ←Ĥ~~ has at least 5,000 contiguous acres of land, or is of sufficient size as to make
 85 practicable its preservation and use in an unimpaired condition;

86 ~~Ĥ→ [(f)] (e) ←Ĥ~~ has outstanding opportunities for solitude, or a primitive and
 86a unconfined type of
 87 recreation; and

88 ~~Ĥ→ [(g)] (f) ←Ĥ~~ may contain ecological, geological, or other features of scientific,
 88a educational,
 89 scenic, or historical value.

90 Section 4. Section **63L-7-104** is enacted to read:

91 **63L-7-104. Identification of a potential wilderness area.**

92 (1) (a) Subject to Subsection (1)(b), the director of PLPCO, within one year of the
 93 acquisition date, shall identify within a parcel of acquired land any conservation areas.

94 (b) Before identifying a parcel of land as a conservation area, the director of PLPCO
 95 shall:

96 (i) inform ~~H~~→ ~~[the board of trustees of]~~ ←~~H~~ the School and Institutional Trust Lands
 97 Administration that a parcel is being considered for designation as a conservation area; and

98 (ii) provide ~~H~~→ ~~[the board of trustees of]~~ ←~~H~~ the School and Institutional Trust Lands
 99 Administration with the opportunity to trade out land owned by the School and Institutional
 100 Trust Lands Administration for the parcel in question ~~H~~→ , **subject to reaching an exchange**
 100a **agreement with the agency that manages the parcel** ←~~H~~ .

101 (2) The director of PLPCO shall:

102 (a) file a map and legal description of each identified conservation area with the
 103 governor, the Senate, and the House of Representatives;

104 (b) maintain, and make available to the public, records pertaining to identified
 105 conservation areas, including:

106 (i) maps;

107 (ii) legal descriptions;

108 (iii) copies of proposed regulations governing the conservation area; and

109 (iv) copies of public notices of, and reports submitted to the Legislature, regarding
 110 pending additions, eliminations, or modifications to a conservation area; and

111 (c) within five years of the date of acquisition:

112 (i) review each identified conservation area for its suitability to be classified as a
 113 protected wilderness area; and

114 (ii) report the findings under Subsection (2)(c)(i) to the governor.

115 (3) The records described in Subsection (2)(b) shall be available for inspection at:

116 (a) the PLPCO office;

117 (b) the main office of DNR;

118 (c) a regional office of the Division of Forestry, Fire, and State Lands for any record
 119 that deals with an identified conservation area in that region; and

120 (d) the Division of Parks and Recreation.

121 (4) A conservation area may be designated as a protected wilderness area as described
122 in Section 63L-7-105.

123 (5) A conservation area identified under Subsection (1) shall be managed by DNR, in
124 coordination with the county government having jurisdiction over the area, without the
125 conservation area being designated as a protected wilderness area unless otherwise provided by
126 the Legislature.

127 Section 5. Section 63L-7-105 is enacted to read:

128 **63L-7-105. Report to the governor -- Governor's report to the Legislature --**
129 **Designation of a protected wilderness area -- Modification of a protected wilderness area**
130 **-- Rulemaking authority.**

131 (1) Within five years of the acquisition date of a parcel of land, the director of PLPCO
132 shall:

133 (a) review all areas identified as conservation areas under Section 63L-7-104; and

134 (b) subject to Subsection (3), submit a report and recommendation to the governor on
135 the suitability of a conservation area for designation as a protected wilderness area.

136 (2) Before making a recommendation, the director of PLPCO shall:

137 (a) give notice of the proposed recommendation in a newspaper having general
138 circulation in the vicinity of the affected land;

139 (b) hold a public hearing at a location convenient to citizens who live in the affected
140 area; and

141 (c) at least 30 days before the date of the hearing described in Subsection (2)(b), invite
142 local authorities to submit their opinions on the proposed action:

143 (i) at the hearing; or

144 (ii) to the director of PLPCO, in writing, no later than 30 days after the day on which
145 the hearing is held.

146 (3) Any opinions submitted to the director of PLPCO shall be included with any
147 recommendations to the governor under Subsection (2) and the Legislature under Subsection
148 (5).

149 (4) The governor shall, after receiving the reports described in Subsection (1)(b):

150 (a) formulate a recommendation on which conservation areas to designate as protected
151 wilderness areas; and

152 (b) advise the speaker of the House of Representatives and the president of the Senate
153 of the governor's recommendation.

154 (5) An area shall be designated as a protected wilderness area upon a concurrent
155 resolution of the Legislature, the governor concurring therein, including:

156 (a) the legal description of the proposed protected wilderness area; and

157 (b) any special conditions that shall be placed upon the protected wilderness area.

158 (6) Any modification or adjustment to the boundaries of a protected wilderness area
159 shall be:

160 (a) recommended by the director of PLPCO after public notice of, and hearing on, the
161 proposal, as described in Subsections (1) and (2); and

162 (b) made official as described in Subsections (4) and (5).

163 (7) DNR shall make rules governing the protection of a protected wilderness area.

164 Section 6. Section **63L-7-106** is enacted to read:

165 **63L-7-106. Use of protected wilderness areas.**

166 (1) Except as otherwise provided in this chapter, each agency administering any area
167 designated as a protected wilderness area shall be responsible for preserving the wilderness
168 character of the area and shall administer such area for the purposes for which it may have been
169 established to preserve its wilderness character.

170 (2) Except as specifically provided in this chapter, and subject to valid existing rights,
171 there shall be:

172 (a) no commercial enterprise and no permanent road within any protected wilderness
173 area designated by this chapter; and

174 (b) no temporary road, no use of motor vehicles, motorized equipment or motorboats,
175 no landing of aircraft, no other form of mechanical transport, and no structure or installation
176 with any such area except as necessary to meet minimum requirements for the administration
177 of the area for the purpose of this chapter, including measures required in emergencies
178 involving the health and safety of persons within the area.

179 (3) Except as otherwise provided in this chapter, a protected wilderness area shall be
180 devoted to the public purposes of:

181 (a) recreation, including hunting, trapping, and fishing;

182 (b) conservation; and

183 (c) scenic, scientific, educational, and historical use.

184 (4) Commercial services may be performed within a protected wilderness area to the
 185 extent necessary to support the activities described in Subsection (3).

186 (5) Within an area designated as a protected wilderness area by this chapter:

187 (a) subject to the rules established by DNR, the use of a motor vehicle, aircraft, or
 188 motorboat is authorized where:

189 (i) the use of a motor vehicle, aircraft, or motorboat is already established;

190 (ii) the motor vehicle, aircraft, or motorboat is used by the Division of Wildlife
 191 Resources in furtherance of its wildlife management responsibilities, as described in Title 23,
 192 Wildlife Resources Code of Utah; or

193 (iii) the use of a motor vehicle, aircraft, or motorboat is necessary for emergency
 194 services or law enforcement purposes; and

195 (b) measures may be taken, under the direction of the director of the Division of
 196 Forestry, Fire, and State Lands, as necessary to ~~H→~~ [~~suppress and maintain~~] manage ~~←H~~ fire,
 196a insects, ~~H→~~ habitat, ~~←H~~ and
 197 diseases.

198 (6) Nothing in this chapter shall prevent, within a designated protected wilderness area,
 199 any activity, including prospecting, if the activity is conducted in a manner compatible with the
 200 preservation of the wilderness environment, subject to such conditions as the executive director
 201 of DNR considers desirable.

202 (7) The executive director of DNR shall develop and conduct surveys of wilderness
 203 areas:

204 (a) on a planned, recurring basis;

205 (b) in a manner consistent with wildlife management and preservation principles;

206 (c) in order to determine the mineral values, if any, that may be present in wilderness
 207 areas; and

208 (d) make a completed survey available to the public, the governor, and the Legislature.

209 (8) Notwithstanding any other provision of this chapter, until midnight December 31,
 210 2034:

211 (a) state laws pertaining to mining and mineral leasing shall, to the extent applicable
 212 before May 13, 2014, extend to wilderness areas designated under this chapter, subject to
 213 reasonable regulation governing ingress and egress as may be prescribed by the executive

214 director of DNR, consistent with the use of the land for:

215 (i) mineral location and development;

216 (ii) exploration, drilling, and production; and

217 (iii) use of land for transmission lines, waterlines, telephone lines, or facilities

218 necessary in exploring, drilling, producing, mining, and processing operations, including the

219 use of mechanized ground or air equipment when necessary, if restoration of the disturbed land

220 is practicable and performed as soon as the land has served its purpose; and

221 (b) mining locations lying within the boundaries of a protected wilderness area that

222 existed as of the date of acquisition shall be held and used solely for mining or processing

223 operations, and uses that are reasonably related to an underlying mining or processing

224 operation.

225 (9) Any newly issued mineral lease, permit, or license for land within a wilderness area

226 shall contain stipulations, as may be determined by the executive director of DNR in

227 consultation with the director of the Division of Oil, Gas, and Mining, for the protection of the

228 wilderness character of the land, consistent with the use of the land for the purpose for which it

229 is leased, permitted, or licensed.

230 (10) Subject to valid rights then existing, effective January 1, 2015, the minerals in all

231 lands designated by this chapter as wilderness areas are withdrawn from disposition under all

232 laws pertaining to mineral leasing.

233 (11) Mineral leases shall not be permitted within protected wilderness areas.

234 (12) The governor may, within protected wilderness areas, authorize:

235 (a) prospecting for water resources;

236 (b) the establishment and maintenance of reservoirs, water-conservation works, power

237 projects, transmission lines, and other facilities needed in developing water resources,

238 including road construction and essential maintenance; and

239 (c) subject to Subsection (13), the grazing of livestock, if the practice of grazing

240 livestock was established as of the effective date of this chapter.

241 (13) The commissioner of the Department of Agriculture and Food may make

242 regulations as necessary to govern the grazing of livestock on a protected wilderness area.

243 Section 7. Section **63L-7-107** is enacted to read:

244 **63L-7-107. Private lands within wilderness areas.**

245 (1) In any case where privately owned land is completely surrounded by lands within
 246 areas designated by this chapter as protected wilderness:

247 (a) the private landowner shall be given rights as may be necessary to ensure adequate
 248 access to the privately owned land by the private owner and any successors in interest; or

249 (b) the privately owned land shall be exchanged for state-owned land of approximately
 250 equal value.

250a Ĥ→ (2) If the School Institutional Trust Lands Administration owns land that is completely
 250b surrounded by lands within areas designated by this chapter as protected wilderness:

250c (a) the School Institutional Trust Lands Administration shall be given rights as may be
 250d necessary to ensure adequate access to the land owned by the School Institutional Trust Lands
 250e Administration and any successors in interest; or

250f (b) the land owned by the School Institutional Trust Lands Administration may be
 250g exchanged for state-owned land of approximately equal value.

251 [~~2~~] (3) ←Ĥ If a valid mining claim or other valid occupancy is located wholly within a
 252 protected wilderness area, the executive director of DNR shall, by reasonable regulations
 253 consistent with the preservation of the area as wilderness, permit ingress and egress to such
 254 surrounded areas by means which have been, or are being, customarily enjoyed with respect to
 255 other similarly situated areas.

256 Ĥ→ [~~3~~] (4) ←Ĥ Subject to available funds, PLPCO is authorized to acquire land, or
 256a interest in land,
 257 through purchase from a private landowner.

258 Section 8. Section **63L-7-108** is enacted to read:

259 **63L-7-108. Gifts, bequests, and contributions.**

260 (1) The executive director of DNR may accept gifts or bequests of land:

261 (a) within protected wilderness areas designated pursuant to this chapter for
 262 preservation as wilderness; and

263 (b) adjacent to designated protected wilderness areas, if the executive director of DNR
 264 gives 60 days advance notice to the governor.

265 (2) Land accepted by the executive director of DNR under this section:

266 (a) shall become part of the protected wilderness area involved; and

267 (b) is subject to:

268 (i) the same regulations made under this chapter; and

269 (ii) any conditions that were made at the time the gift or bequest was made that are
 270 consistent with the regulations made under this chapter.

271 Section 9. Section **63L-7-109** is enacted to read:

272 **63L-7-109. Annual reports.**

273 (1) The director of PLPCO shall report to the governor, for transmission to the
 274 Legislature, on:

275 (a) the status of the Utah wilderness preservation system;

276 (b) regulations in effect; and

277 (c) other pertinent information.

278 (2) The director of PLPCO shall report any recommendations for future action to the
279 Natural Resources, Agriculture, and Environment Interim Committee by November 30 of each
280 year.

Legislative Review Note
as of 2-20-14 2:20 PM

Office of Legislative Research and General Counsel