

DRAFT

This document is not a proposal, nor is it intended to represent a finished product. It is a working document and includes language from the Washington County Land Use Bill (black text), and ideas and issues that have been identified in public meetings, subcommittee meetings and field trips conducted by the Emery County Public Lands Council (red and blue text).

EMERY COUNTY GREAT OUTDOORS MANAGEMENT ACT Of 2010

An act to designate certain Bureau of Land Management (BLM) system lands in Emery County, State of Utah for inclusion in the National Wilderness Preservation System, and to release other BLM system lands for multiple use management, and for other purposes.

SEC. XXXX (a) Congress finds that-

- (1) many areas of undeveloped BLM system lands in Emery County, State of Utah possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;
- (2) review and evaluation of Wilderness Study Areas (WSAs) and undeveloped lands in the BLM system in Emery County, Utah have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the BLM's share of a quality National Wilderness Preservation System; and
- (3) review and evaluation of WSAs and undeveloped lands in the BLM system in Emery County, State of Utah have also identified those areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, trail based motorized, mountain bike recreation, or other values and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land

management planning process, other applicable laws and the provisions of this Act.

(b) The purposes of this Act are to-

(1) designate certain BLM system lands in Emery County, Utah as components of the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people; and

(2) insure that certain other BLM system lands in Emery County, State of Utah be available for nonwilderness multiple uses. 1

SEC. xxxx. DEFINITIONS.

In this subtitle:

SEC. XXXX. WILDERNESS AREAS.

(a) Additions to National Wilderness Preservation System-

(1) ADDITIONS- Subject to valid existing rights, the following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(A) CRACK CANYON- Certain Federal land managed by the Bureau of Land Management, comprising approximately xxx acres, as generally depicted on the Crack Canyon Wilderness Map, which shall be known as the `Crack Canyon Wilderness'.

Consider boundary realignments along EM 1013, 1014.

(B) DESOLATION CANYON- Certain Federal land managed by the Bureau of Land Management, comprising approximately XXX acres, as generally depicted on the Desolation Canyon Wilderness Map, which shall be known as the `Desolation Canyon Wilderness'.

(C) HORSESHOE CANYON (NORTH)- Certain Federal land managed by the Bureau of Land Management, comprising

approximately XXX acres, as generally depicted on the Horseshoe Canyon (North) Map, which shall be known as the `Horseshoe Canyon (North) Wilderness'.

(D) MEXICAN MOUNTAIN- Certain Federal land managed by the Bureau of Land Management, comprising approximately XXX acres, as generally depicted on the Mexican Mountain Map, which shall be known as the `Mexican Mountain Wilderness'.

Need to determine realignment of NW boundary.

(E) MUDDY CREEK- Certain Federal land managed by the Bureau of Land Management, comprising approximately XXX acres, as generally depicted on the Muddy Creek Wilderness Map, which shall be known as the `Muddy Creek Wilderness'.

(F) SAN RAFAEL REEF- Certain Federal land managed by the Bureau of Land Management, comprising approximately XXX acres, as generally depicted on the San Rafael Reef Wilderness Map, which shall be known as the `San Rafael Reef Wilderness'.

(G) SID'S MOUNTAIN- Certain Federal land managed by the Bureau of Land Management, comprising approximately XXX acres, as generally depicted on the Sid's Mountain Wilderness Map, which shall be known as the `Sid's Mountain Wilderness'.

(H) TURTLE CANYON- Certain Federal land managed by the Bureau of Land Management, comprising approximately XXX acres, as generally depicted on the Turtle Canyon Wilderness Map, which shall be known as the `Turtle Canyon Wilderness'.

(Consider addition of the following)

(I) WILD HORSE MESA - Certain Federal land managed by the Bureau of Land Management, comprising approximately XXX acres, as generally depicted on the Wild Horse Mesa Wilderness Map, which shall be known as the `Wild Horse Mesa Wilderness'.

Boundary alignment along eastern boundary, using geographic feature.

(2) MAPS AND LEGAL DESCRIPTIONS-

(A) IN GENERAL- As soon as practicable after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a map and legal description of each wilderness area designated by paragraph (1).

(B) FORCE AND EFFECT- Each map and legal description submitted under subparagraph (A) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any clerical or typographical errors in the map or legal description.

(C) AVAILABILITY- Each map and legal description submitted under subparagraph (A) shall be available in the appropriate offices of--

(i) the Bureau of Land Management; and

(ii) the Forest Service.

(b) Administration of Wilderness Areas-

(1) MANAGEMENT- Subject to valid existing rights, each area designated as wilderness by subsection (a)(1) shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that--

(A) any reference in the Wilderness Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act; and

(B) any reference in the Wilderness Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary that has jurisdiction over the land.

(2) LIVESTOCK- The grazing of livestock in each area designated as wilderness by subsection (a)(1), where established before the date of enactment of this Act, shall be permitted to continue--

(A) subject to such reasonable regulations, policies, and practices that the Secretary considers necessary; and

(B) in accordance with--

(i) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)); and **section 108 of Public Law 96-560. "16 USC and note" 2 and**

(ii) the guidelines set forth in Appendix A of the report of the Committee on Interior and Insular Affairs of the House of Representatives accompanying H.R. 2570 of the 101st Congress (H.Rep. 101-405) and H.R. 5487 of the 96th Congress (H. Rept. 96-617).

(C) the secretary is directed to review all policies, practices, and regulations or the Department of the Interior regarding livestock grazing in BLM system wilderness areas in Utah in order to insure that such policies, practices, and regulations fully conform with and

implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Act.

(D) not later than a year after the date of the enactment of this Act, and at least every five years thereafter, the Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs of the United States Senate a report detailing the progress made by the Forest Service in carrying out the provisions of the preceding paragraphs of this section pertaining to livestock grazing. 3

Manage grazing consistent with Taylor Grazing Act protocol.

Management of grazing will be consistent with BLM RMP of 2008.

Retain ability to utilize motorized access to maintain fences, ponds, troughs, springs etc.

Retain ability to utilize motorized vehicle to retrieve wounded, crippled, sick or restricted animal.

(3) WILDFIRE, INSECT, AND DISEASE MANAGEMENT- In accordance with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), the Secretary may take such measures in each area designated as wilderness by subsection (a)(1) as the Secretary determines to be necessary for the control of fire, insects, and diseases (including, as the Secretary determines to be appropriate, the coordination of those activities with a State or local agency). [Include veg treatment within WA.](#)

(4) BUFFER ZONES-

(A) IN GENERAL- Nothing in this section creates a protective perimeter or buffer zone around any area designated as wilderness by subsection (a)(1).

(B) ACTIVITIES OUTSIDE WILDERNESS- The fact that an activity or use on land outside any area designated as wilderness by subsection (a)(1) can be seen or heard within the wilderness shall not preclude the activity or use outside the boundary of the wilderness.

(5) MILITARY OVERFLIGHTS- Nothing in this section restricts or precludes--

(A) low-level overflights of military aircraft over any area designated as wilderness by subsection (a)(1), including military overflights that can be seen or heard within any wilderness area;

(B) flight testing and evaluation; or

(C) the designation or creation of new units of special use airspace, or the establishment of military flight training routes over any wilderness area.

(6) ACQUISITION AND INCORPORATION OF LAND AND INTERESTS IN LAND-

(A) ACQUISITION AUTHORITY- In accordance with applicable laws (including regulations), the Secretary may acquire any land or interest in land within the boundaries of the wilderness areas designated by subsection (a)(1) by purchase from willing sellers, donation, or exchange.

(B) INCORPORATION- Any land or interest in land acquired by the Secretary under subparagraph (A) shall be incorporated into, and administered as a part of, the wilderness area in which the land or interest in land is located.

(7) NATIVE AMERICAN CULTURAL AND RELIGIOUS USES-

Nothing in this section diminishes--

(A) the rights of any Indian tribe; or

(B) any tribal rights regarding access to Federal land for tribal activities, including spiritual, cultural, and traditional food-gathering activities.

(8) CLIMATOLOGICAL DATA COLLECTION- In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and subject to such terms and conditions as the Secretary may prescribe, the Secretary may authorize the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by subsection (a)(1) if the Secretary determines that the facilities and access to the facilities are essential to flood warning, flood control, or water reservoir operation activities.

(9) WATER RIGHTS-

(A) STATUTORY CONSTRUCTION- Nothing in this section-

-

(i) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by subsection (a)(1);

(ii) shall affect any water rights in the State existing on the date of enactment of this Act, including any water rights held by the United States;

(iii) shall be construed as establishing a precedent with regard to any future wilderness designations;

(iv) shall affect the interpretation of, or any designation made pursuant to, any other Act; or
(v) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(B) STATE WATER LAW- The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness areas designated by subsection (a)(1).

(Alternative language from Utah Wilderness Act of 1984:

As provided in section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to the exemption from Utah water laws.)

(10) FISH AND WILDLIFE-

(A) JURISDICTION OF STATE- Nothing in this section affects the jurisdiction of the State with respect to fish and wildlife on public land located in the State.

(B) AUTHORITY OF SECRETARY- In furtherance of the purposes and principles of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may carry out management activities to maintain or restore fish and wildlife populations (including activities to maintain and restore fish and wildlife habitats to support the populations) in any wilderness area designated by subsection (a)(1) if the activities are--

(i) consistent with applicable wilderness management plans; and

(ii) carried out in accordance with--

(I) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(II) applicable guidelines and policies, including applicable policies described in Appendix B of House Report 101-405.

The Utah Division of Wildlife Resources (UDWR) have the ability and legal right to utilize aircraft for wildlife enhancement, including aerial surveys of populations, transplants of individual animals including being allowed to land in Wilderness areas to capture, test for disease, and otherwise manage wild species.

Predator control is allowed in Wilderness areas for wildlife management purposes.

Control burns are permitted to improve range conditions for wildlife and livestock.

Grant the UDWR the final determination of what wildlife species are in the Wilderness areas.

(11) WILDLIFE WATER DEVELOPMENT PROJECTS- Subject to paragraph (12), the Secretary may authorize structures and facilities, including existing structures and facilities, for wildlife and livestock water development projects, including guzzlers, in the wilderness areas designated by subsection (a)(1) if--

(A) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and

(B) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

(12) COOPERATIVE AGREEMENT- Not later than 1 year after the date of enactment of this Act, the Secretary shall enter into a cooperative agreement with the State that specifies the terms and conditions under which wildlife management activities in the wilderness areas designated by subsection (a)(1) may be carried out.

(c) Release of Wilderness Study Areas-

(1) FINDING- Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the public land in the County administered by the Bureau of Land Management has been adequately studied for wilderness designation.

(2) RELEASE- Any public land described in paragraph (1) that is not designated as wilderness by subsection (a)(1)--

(A) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(B) shall be managed in accordance with applicable law and the land management plans adopted under section 202 of that Act (43 U.S.C. 1712).

Search and Rescue- maintain ability to utilize motorized and mechanized apparatus, including fixed wing and rotary aircraft in incidents threatening life or limb.

Communication Sites- create ability to develop communication sites, especially along I-70 corridor.

Utility Corridors- add utility corridor following eastern end of EM 401.

SEC. XXXX. XYZ ALTERNATIVE MANAGEMENT AREA(S).

Create a National Conservation Area(s) (or other alternative management) to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources of the [San Rafael Swell Historic Mining National Conservation Area](#).

Create a National Conservation Area(s) (or other alternative management) to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources of [The Spur National Conservation \(or Recreation?\) Area](#).

- Iron Wash NCA?

SEC. XXXX. DISPERSED RECREATION MANAGEMENT

SEC. XXXX. EMERY COUNTY COMPREHENSIVE TRAVEL AND TRANSPORTATION PLAN.

The Emery County Transportation system shall consist of: [Consistent with the attached map](#).

- Federal Interstate System Freeways.
- Utah Department of Transportation Highways.
- Bureau of Land Management (BLM) system roads.
- BLM designated motorized routes as identified in the Price Field Office Resource Management Plan (RMP) of 2008.
- BLM non-motorized trails.
- Manti-LaSal National Forest (MLNF) system roads.
- MLNF motorized and non-motorized trails.
- City and County Class A,B and D roads.
- Emery County motorized and non-motorized trails.

- Unauthorized roads and routes which provide access to dispersed camp sites.
- Huntington Airport, Cedar Mountain Backcountry Airstrip, Hidden Splendor Backcountry Airstrip, Mexican Mountain Backcountry Airstrip.
- All Existing Routes east of SR-6 and east of SR-24.
- Future OHV Route From Carbon County Line to Quitchumpah, West of Communities.
- June's Bottom Road
- Seasonal OHV Route From Hidden Splendor Mine Airstrip Along Muddy Creek to EM 1013.
- Mexican Mountain Road to the river.
- Sid's Leap Road to its termination at overlook
- The Green River

SEC. XXXX. Road Setbacks

Setbacks. Setbacks of wilderness boundaries from roads will be measured from the center line of the road.

Setbacks along federal and state highways will be at the boundary of the right-of-way (ROW) or the property boundary or a minimum of 300 feet from center line, whichever is greater.

Setbacks from other paved roads or high standard dirt or gravel road will be at the ROW boundary, property boundary or 100 feet from center line, whichever is greater.

Setbacks from low standard dirt roads and designated routes will be at the ROW boundary, property boundary or 40 feet from center line.

SEC. XXXX. LAND DISPOSAL AND ACQUISITION.

Identify land desired by cities for open OHV areas and other uses here?

(a) In General- Consistent with applicable law, the Secretary of the Interior may sell public land located within Emery County, Utah, that, as of mm/dd/yyyy, has been identified for disposal in appropriate resource management plans.

(b) Use of Proceeds-

(1) IN GENERAL- Notwithstanding any other provision of law (other than a law that specifically provides for a portion of the proceeds of a land sale to be distributed to any trust fund of the State), proceeds from the sale of public land under subsection

(a) shall be deposited in a separate account in the Treasury to be known as the 'Emery County, Utah Land Acquisition Account'.

(2) AVAILABILITY-

(A) IN GENERAL- Amounts in the account shall be available to the Secretary, without further appropriation, to purchase from willing sellers lands or interests in land within the wilderness areas and National Conservation Areas established by this subtitle.

(B) APPLICABILITY- Any purchase of land or interest in land under subparagraph (A) shall be in accordance with applicable law.

SEC. XXXX. PUBLIC PURPOSE CONVEYANCES.

Identify areas near cities for open OHV areas here?

(a) In General- Notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), upon the request of the appropriate local governmental entity, as described below, the Secretary shall convey the following parcels of public land without consideration, subject to the provisions of this section:

- (1)
- (2)
- (3)
- (4)
- (5)

(b) Map and Legal Descriptions- As soon as practicable after the date of enactment of this Act, the Secretary shall finalize legal descriptions of the parcels to be conveyed under this section. The Secretary may correct any minor errors in the map referenced in subsection (a) or in the applicable legal descriptions. The map and legal descriptions shall be on file and available for public inspection in the Price Field Office of the Bureau of Land Management.

(c) Reversion-

(1) IN GENERAL- If any parcel conveyed under this section ceases to be used for the public purpose for which the parcel was conveyed, as described in subsection (a), the land shall, at the discretion of the Secretary based on his determination of the best interests of the United States, revert to the United States.

(2) RESPONSIBILITY OF LOCAL GOVERNMENTAL ENTITY- If the Secretary determines pursuant to paragraph (1) that the land should revert to the United States, and if the Secretary determines that the land is contaminated with hazardous waste, the local governmental entity to which the land was conveyed shall be responsible for remediation of the contamination.

SEC. XXXX. SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION LANDS WITHIN DESIGNATED WILDERNESS

SITLA lands within designated wilderness areas will be traded out for determined federal areas, in agreement federal agencies. The land trade will be accomplished in a tandem piece of legislation.

SEC. XXXX. WILD AND SCENIC RIVER DESIGNATION.

- (a) Designation- Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as amended by section 1852) is amended by adding the following **as determined by the Price Field Office Resource Management Plan, 2008, those river segments within the boundary of Emery County.**

Protective management will apply to BLM lands along suitable river segments with XX miles tentatively classified as Wild, 60 miles as Scenic, and 8 miles as Recreational (Map XXX).

Specific management prescriptions for each suitable segment are identified below:

Any portion of a suitable segment (Wild, Scenic, or Recreational) that is overlain by a WSA will be managed in accordance with the IMP, where the IMP is more restrictive than the prescriptions below.

- The prescriptions below reflect the least restrictive level of management that is applied to the *Price Approved RMP – Special Designations: Wild and Scenic Rivers* entire segment, although more restrictive management may apply to portions of the segment due to overlap from other management prescriptions.

[Need release language for W&SR process.](#)

Green River:

Chandler Creek to Florence Creek (Desolation Canyon)

Scenic

- Oil and gas leasing: Unavailable
- OHV category: Closed
- VRM designation: Class I

Florence Creek to Nefertiti boat ramp (Desolation and Gray Canyons)

Wild

- Oil and gas leasing: Unavailable
- OHV category: Closed
- VRM designation: Class I

Nefertiti boat ramp to Swasey's Beach boat ramp

Recreational

- Oil and gas leasing: Unavailable
- OHV category: Closed
- VRM designation: Class I

Confluence with San Rafael River to Canyonlands National Park Suitable—
Scenic

- Oil and gas leasing: NSO
- OHV category: Limited to designated routes
- VRM designation: Class II

FOOTNOTES

1. Utah Wilderness Act of 1984
2. Ibid
3. Ibid