

ORDINANCE 2011-06

AN ORDINANCE AMENDING CHAPTER 19, TOOELE COUNTY INTERIM RESOURCE MANAGEMENT PLAN, OF THE TOOELE COUNTY GENERAL PLAN, ADDING APPENDIX 1 REGARDING NON-WILDERNESS QUALITY LANDS PROPOSED FOR WILDERNESS MANAGEMENT OR DESIGNATION

WHEREAS, on December 22, 2010, the Secretary of the Interior, Ken Salazar, issued Order No. 3310 directing the BLM to designate appropriate areas with wilderness characteristics under its jurisdiction as "Wild Lands" and to manage them to protect their wilderness values. The Order's policy further requires the BLM to maintain a current inventory of land under its jurisdiction, identifying land with wilderness characteristics that are outside of the designated Wilderness Study Areas and to describe such inventoried lands as "Lands with Wilderness Characteristics." Implementation of the Order then requires that the BLM create policy guidance within 60 days that defines and clarifies how public lands with wilderness characteristics are to be inventoried, described, and managed; and

WHEREAS, this ordinance seeks to amend Chapter 19, Tooele County Resource Management Plan, of the Tooele County General Plan, by adding Appendix 1 to clarify and reaffirm Tooele County's planning authority and the requirement for state and federal plans to coordinate with local government plans to the maximum extent provided for by law; and

WHEREAS, pursuant to Utah Code Section 17-27a-404, the Tooele County Planning Commission held a public hearing on the proposed amendment to Chapter 19, Tooele County Resource Management Plan, of the Tooele County General Plan to add Appendix; and

WHEREAS, the planning commission provided notice as required by Utah Code Section 17-27a-204 and heard arguments both for and against the amendments at the public hearings; and

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WHEREAS, having heard public comment in the public hearing, the planning commission recommended approval of the general plan amendment and forwarded the matter to the county commission; and

WHEREAS, the Tooele County Commission finds good cause for amending the general plan as requested.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE BODY OF TOOELE COUNTY, UTAH AS FOLLOWS:

SECTION I - GENERAL PLAN AMENDED. Chapter 19 of the Tooele County General Plan is hereby amended by adding Appendix 1, Non-Wilderness Quality Lands Proposed for Wilderness Management of Designation, to read as attached hereto, which attachment is, by this reference, made a part hereof.

SECTION II - REPEALER. Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION III - EFFECTIVE DATE. This ordinance shall become effective 15 days after its passage provided it has been published, or at such publication date, if more than 15 days after passage.

IN WITNESS WHEREOF the Tooele County Commission, which is the legislative body of Tooele County, passed, approved and enacted this ordinance this 1st day of February 2011.

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ATTEST:

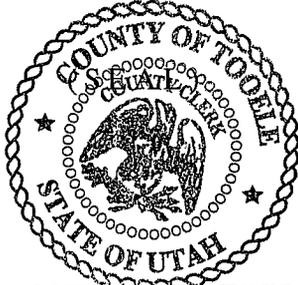


MARILYN K. GILLETTE, Clerk

TOOELE COUNTY COMMISSION:



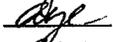
, Chairman



APPROVED AS TO FORM:



DOUG HOGAN
Tooele County Attorney

Commissioner Johnson voted 
Commissioner Clegg voted 
Commissioner Hurst voted 

Appendix 1

Chapter Nineteen, Tooele County Resource Management Plan: Non-Wilderness Quality Lands Proposed for Wilderness Management or Designation

I. Scope and Authority

Tooele County asserts planning authority over all lands and natural resources within its geographical boundaries even though the United State Government owns a substantial portion of those lands and resources. Like any other landowner in the County, the United States Government is subject to Tooele County's land and natural resource plans and policies to the maximum extent, provided such plans and policies of Tooele County are consistent with federal law. This is so for the following reasons:

1. The United States Constitution at Article I Section 8 Clause 17 grants Congress the power of exclusive legislation only over the District of Columbia and other places purchased by the consent of State Legislatures for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings. The Utah Legislature reinforced this principle at Utah Code 63L-1-201, by ceding jurisdiction to the United States only over those lands used for the purposes spelled out in the U.S. Constitution Article I Section 8 Clause 17. No such lands are located in Tooele County. Therefore, there is no constitutional basis for the Federal Government to assert exclusive jurisdiction over any federal land in Tooele County. As the Tenth Amendments to the United States Constitution states:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

2. Utah Code § 17-27a-401(4) allows Tooele County to “define the county's local customs, local culture, and the components necessary for the county's economic stability.” (Emphasis added.) Subsection (5) of that statute gives the County sole discretion, subject to certain restrictions not relevant here (see 17-27a-403(2)), to “determine the comprehensiveness, extent, and format of the general plan.” In other words, Tooele County has the legal right to make its General Plan broad and comprehensive to address all land use issues on federally owned ground in Tooele County. Under Utah Code § 17-27a-401(2), Tooele County's general plan may provide for:

- (A) the health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;
- (B) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;
- (C) the efficient and economical use, conservation, and production of the supply of:
 - (i) food and water; and
 - (ii) drainage, sanitary, and other facilities and resources;
- (D) the use of energy conservation and solar and renewable energy resources;
- (E) the protection of urban development;
- (F) the protection or promotion of moderate income housing;
- (G) the protection and promotion of air quality;
- (H) historic preservation;

- (I) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and
- (J) an official map.

3. County ordinance powers do carry the weight or force of law, but county ordinance making authority does not extend to federally owned lands. Utah Code 17-27a-304. County plans are advisory and do not of themselves carry the weight or force of law, like a county ordinance does. Utah Code § 17-27a-405. But County planning authority is broad enough to cover federally owned lands. See the code provisions in the foregoing section.

4. It is federal law that gives county plans their legal clout. Not only does the Constitution at Article I, Section 8 Cl. 17 and the Ninth and Tenth Amendments leave the federal government powerless to assert exclusive jurisdiction over federal lands in Tooele County, let alone own them in perpetuity, but federal statutes and regulations require that federal land use plans shall be consistent and done in coordination with state and local government plans for Forest and BLM lands. The following federal statutes and related regulations require federal agencies to honor, respect and give due consideration to Tooele County's *General Plan*:

National Environmental Policy Act, 42 U.S.C. §§ 4321, *et seq.*, and related regulations:

- 42 U.S.C. § 4331(a): Continuing policy of the Federal Government to work in cooperation with State and local governments to carry out policies of NEPA.
- 40 C.F.R. § 1501.2(d) (2) Federal agencies to consult early in the EIS process with state and local agencies.
- 40 C.F.R. § 1501.7(a) (1) Federal agencies to involve state and local agencies in the EIS scoping process.
- 40 C.F.R. § 1502.16(c) EIS to discuss possible conflicts between proposed action and state and local land use plans.
- 40 C.F.R. § 1503.1(a) (2) (i) Federal agencies developing EIS have duty to invite comments from state and local agencies authorized to develop and enforce environmental standards.
- 40 C.F.R. § 1504.4(a) Federal agencies must assess and consider such comments and respond thereto. Possible responses include modifying alternatives including the proposed action, developing alternatives not already considered, and improve and modify their analyses.

Federal Land Policy Management Act, 43 U.S.C. §§ 1701, *et seq.*, and related regulations:

- 43 U.S.C. § 1712(c)(9) BLM shall (1) coordinate land use planning and management activities with land use planning and management programs of state and local governments, (2) assure consideration is given to germane state and local plans, (3) assist in resolving, to the extent practical, any inconsistencies between federal plans and state and local plans, (4) provide for meaningful involvement of state and local governmental officials in developing land use programs and land use decisions, and (5) receive

advice from state and local governmental officials on the development and revision of land use plans and guidelines. (6) BLM's plans shall be consistent with state and local plans to the maximum extent consistent with federal law and FLPMA's purposes.

Similar regulatory requirements concerning the duty to coordinate with state and local governments and be consistent with state and local government land use plans are found in 40 C.F.R. §§ 1601.0-2, 1601-0-8, 1610.3-1, 1610.3-2, 1610.4-1, 1610-4-2, 1610.4-4, 1610.4-7, and 1610.4-9.

5. Tooele County is a political subdivision of a state whose policy it is "to claim and preserve by lawful means the rights of the state and its citizens to determine and affect the disposition and use of federal lands within the state as those rights are granted by the United States Constitution, the Utah Enabling Act, and other applicable law." Utah Code 63C-4-105(1).

6. Whenever the Governor's state planning coordinator gets involved in federal land use planning in Tooele County, he is required by law to incorporate the plans, policies, programs, processes, and desired outcomes of Tooele County, to the maximum extent consistent with state and federal law without infringing upon the authority of the governor. Utah Code 63J-4-401(3) (a).

II. Subject Lands

This resource management plan amendment and clarification applies to those certain areas of land in Tooele County owned and managed by the United States Bureau of Land Management ("BLM") including but not limited to sections which an organization by the name of the Utah Wilderness Coalition ("UWC") has purported to include in its so-called "Citizen's Proposal for Wilderness in Utah", for their so-called Great Basin, North Region and Great Basin Central Region, according to the map thereof set forth in the UWC internet web site, address <http://www.protectwildutah.org/proposal/index.html> as it existed on January 20, 2011, listing the following areas in Tooele County.

Crater Island East located in Tooele and Box Elder Counties:

Located in part or all of: T3N R18W Section 36, 82; T3N R17W Section 16, 81, 82

Silver Island Mountains located in Tooele County:

Located in part or all of: T2N R18W Section 2, 36, 82; T2N R17W Section 16, 32, 81, 82; T2N R16W Section 3-9; T3N R16W Section 32, 81, 82; T3N R17W Section 16, 32, 36, 81, 82; T3N R18W Section 36, 82

Grassy Mountains North located in Tooele and Box Elder Counties:

Located in part or all of: T3N R10W Section 17-20, 29-32; T3N R11W Section 13-36

Grassy Mountains South located in Tooele County:

Located in part or all of: T2N R10W Section 5-8, 17-20, 29-32; T2N R11W Section 1-24

Stansbury Island located in Tooele County:

Located in part or all of: T1N R6W Section 2-4, 9-11, 14-17, 21-23, 25-30, 32-34; T2N R6W Section 9, 16, 21, 22, 27, 28, 33, 34

Cedar Mountains North located in Tooele County:

Located in part or all of: T1N R10W Section 25, 36; T1N R9W Section 29-32; T1S R10W Section 1, 2, 11-14, 22-27, 34-36; T1S R9W Section 5-9, 16-20, 29-33

Cedar Mountains Central located in Tooele County:

Located in part or all of: T2S R10W Section 1-3, 9-16, 21-28, 33-36; T2S R9W Section 6, 7, 18; T3S R10W Sections 1-36; T4S R10W Sections 1-36; T4S R11W 23-26, 35, 36

Cedar Mountains South located in Tooele County:

Located in part or all of: T5S R10W Sections 1-36; T5S R9W Section 7, 18-20, 28-33

North Stansbury Mountains located in Tooele County:

Located in part or all of: T1S R7W Section 15, 16, 20-22, 27-29, 32-34; T2S R7W Sections 1-36

Oquirrh Mountains located in Tooele County:

Located in part or all of: T1S R4W Section 36; T1S R3W Section 19, 20, 29, 30-32; T2S R3W Section 5-8, 16-21, 28-34; T2S R4W Section 24, 25, 36; T3S R4W Section ; T3S R3W Section 3-9, 16-21, 28-33; T4S R3W Section 3-10

Big Hollow located in Tooele County:

Located in part or all of: T5S R6W Section 7, 17-21, 28-29

Ochre Mountain located in Tooele County:

Located in part or all of: T8S R18W Section 1-4, 9-15, 22-24

Deep Creek Mountains located in Tooele and Juab Counties:

Located in part or all of: T8S R18W Section 28-33; T9S R18W Section 1-36, 81; T10S R18W Section 1-36; T10S R19W Section 12-14, 23-26, 35, 36

Dugway Mountains located in Tooele and Juab Counties:

Located in part or all of: T9S R12W Section 16, 22, 25, 26, 35, 36, 81, 99; T9S R11W Section 30-32; T10S R12W Section 81; T10S R11W Section 81

Indian Peaks located in Tooele County:

Located in part or all of: T9S R8W Section 21-28, 33-35

Lion Peak located in Tooele and Juab Counties

Located in part or all of: T10S R8W Section 1-4, 9-16, 21-28

For purposes of this plan amendment and clarification, all of the above-described lands (WITH THE EXCEPTION OF BLM LANDS IN TOOELE COUNTY WHICH CONGRESS PRIOR TO THE DATE OF THIS PLAN AMENDMENT DESIGNATED AS WILDERNESS) are collectively referred to herein as Proposed Wilderness Regions, or "Regions", and are illustrated more fully in the map attached hereto.*Any reference hereafter to the term "Proposed Wilderness Regions" shall refer to any and all of the above-described land areas (WITH THE EXCEPTION OF BLM LANDS WHICH CONGRESS PRIOR TO THE DATE OF THIS PLAN AMENDMENT DESIGNATED AS WILDERNESS).

*See Attachment A

DISCLAIMER

With the exception of a portion of the Deep Creek Mountains unit, which portion is a FLPMA Section 603 Wilderness Study Areas (WSAs), all of these Proposed Wilderness Regions have always been managed for multiple use and have never been managed as de facto wilderness nor managed for any alleged wilderness characteristics (there are none) nor for so-called Wild Lands (they are not). The current BLM Resource Management Plan for the Salt Lake City Field Office Planning Area (Salt Lake

RMP) has never treated the non-WSA portion of these Proposed Wilderness Regions as anything other than regular multiple use areas, and nowhere in the current Salt Lake RMP is there any mention or recognition whatsoever of any proposal that these Regions be treated as wilderness or managed for alleged wilderness characteristics, much less that they possess any wilderness values.

Therefore, the fact that Tooele County is amending and clarifying its general plan to re-affirm its long-standing pro-multiple use and anti-wilderness policy and position with respect to any of these Proposed Wilderness Regions, does not imply that Tooele County recognizes any validity, seriousness or merit to any of the pro-wilderness proposals made by private groups for any of the subject areas; nor does Tooele County concede or imply in any way that any of these regions possess any wilderness quality lands or resources. They do not.

Accordingly, this plan clarification is a cautionary action by Tooele County to guard against any illegal attempt by the BLM to use the illegal December 22, 2010 Order 3310 of the Secretary of the Interior to assert de-facto wilderness management over the non-WSA portion of these Proposed Wilderness Regions. Tooele County expects full compliance by the BLM with the consistency requirements of FLPMA and that the BLM honor these policies of Tooele County when considering how to manage the Proposed Wilderness Regions.

III. Recognition of other Counties' Plans and Authority

Tooele County acknowledges that many of the features identified within the subject lands cross county boundaries in both Box Elder and Juab Counties. Tooele County further recognizes that these counties have planning authority over lands and natural resources within their geographical boundaries. Therefore, Tooele County recognizes Box Elder and Juab Counties adopted planning documents regarding these features. The County affirms that county residents will be best served when plans and management strategies for these areas are coordinated between the jurisdictions, affected entities and public land and resource management agencies.

IV. Utah Test and Training Range

The Utah Test and Training Range (UTTR) is a military testing and training area located in Utah's West Desert and is currently the largest overland contiguous block of supersonic authorized restricted airspace in the continental United States. The range has a footprint of 2,675 square miles of ground space and over 19,000 square miles of air space and covers much of the western portions of Box Elder, Tooele, Juab, Millard and Beaver counties.

The Mission Statement for the UTTR is to "Provide war fighters with a realistic training environment and conduct operational test and evaluation including tactical development and evaluation supporting large footprint weapon systems to enhance combat readiness, superiority, and sustainability."

The general mission is to provide responsive open-air training and test services that support day-to-day training, large force training exercises, and large footprint weapons testing, thus guaranteeing superiority for American's war fighters and their weapons systems. It provides key functions and capabilities required for range support of Air Force operational test and training programs. This includes range infrastructure systems, equipment, software, targets, facilities, data processing and display, land and airspace, security, and safety.

UTTR not only provides strategic training opportunities for the United States but for most of the free world. It is also an integral part of Hill Air Force Base which is a huge economic engine within the state of Utah.

PUBLIC LAW 106-65 SEC. 2815. Titled, "STUDY AND REPORT ON IMPACTS TO MILITARY READINESS OF PROPOSED LAND MANAGEMENT CHANGES ON PUBLIC LANDS IN UTAH", directs the Secretary of Defense, in cooperation with the Secretary of the Air Force and the Secretary of the Army to conduct a study to evaluate the impact upon military training, testing, and operational readiness of any proposed changes in land designation or management of the Utah national defense lands. It further states that until the Secretary of Defense submits to Congress a report containing the results of the study, the Secretary of the Interior may not proceed with the amendment of any individual resource management plan for Utah national defense lands, or any statewide environmental impact statement or statewide resource management plan amendment package for such lands, if the statewide environmental impact statement or statewide resource management plan amendment addresses wilderness characteristics or wilderness management issues affecting such lands.

Tooele County holds the following to be critical when addressing land use and land management policies in this area:

1. Insure that the provisions of Public Law 106-65 SEC. 2815 are met before changing plans for use of lands that would affect the UTTR.
2. Absolutely protect the irreplaceable opportunities for training and testing the UTTR provides.
 - (A) Maintain the current level of opportunity to provide the required training necessary to provide for the continued readiness of the United States Military.
 - (B) Maintain the current level of opportunity to provide the required training necessary to military partners of the United States.
 - (C) Guard that land management decisions carefully consider potential negative impacts or impairments to the UTTR
3. Protect economic benefit that the UTTR provides to all of the citizens of Utah.
 - (A) Consider the climate and culture of the citizens including economic considerations.

V. Clarification of Ongoing Plan

1. Multiple Use Management.

Multiple use and sustained-yield management principles shall be applied in public land use and natural resource planning and management in Tooele County, including throughout the Proposed Wilderness Regions. This is how the citizens of Tooele County are best served. Multiple-use and sustained-yield management means that land owners and land management agencies should develop and implement management plans and make other resource-use decisions that:

- (A) achieve and maintain in perpetuity a high-level annual or regular periodic output of agricultural, mineral and various other resources from public lands in Tooele County,
- (B) support valid existing transportation, mineral, and grazing privileges in Tooele County at the highest reasonably sustainable levels;
- (C) are designed to produce and provide the desired vegetation for the watersheds, timber, food, fiber, livestock forage, and wildlife forage, and minerals that are necessary to meet present needs and future economic growth and community expansion in Tooele County 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 Tooele County by providing access throughout the county;
- (E) meet the needs of wildlife, provided wildlife populations are kept at a reasonable minimum so as to not interfere with originally permitted AUM levels under the Taylor Grazing Act;
- (F) protect against direct and substantial impacts to nationally recognized cultural resources, both historical and archaeological;
- (G) meet the needs of economic development;
- (H) meet the needs of community development; and
- (I) provide for the protection of water rights and reasonable development of additional water rights;

2. "Wilderness Characteristics" Management.

(A) No public lands in Tooele County, including none of the Proposed Wilderness Regions should be managed for so-called "wilderness characteristics." No public lands in Tooele County, including none of the Proposed Wilderness Regions should be managed as if they are or may become wilderness. Such management of non wilderness and public lands, circumvents the statutory wilderness process and is inconsistent with the multiple-use and sustained-yield management standard that applies to all such lands.

3. Achieve and Maintain a Continuing Yield of Energy and Mineral Resources in the Proposed Wilderness Regions at the highest levels

- (A) Development of all mineral resources in the Regions is an important part of the economy of Tooele County.
- (B) Tooele County recognizes that it is technically feasible to access mineral and energy resources while preserving or, as necessary, restoring non-mineral and non-energy resources.
- (C) All available mineral resources in the Proposed Wilderness Regions should be seriously considered for their contribution or potential contribution to the Tooele County economy.

4. Achieve and Maintain Livestock Grazing in the Proposed Wilderness Regions at the highest reasonably sustainable levels

- (A) Tooele County regards the land which comprises the grazing districts and allotments in the region as still more valuable for grazing than for any other use which might exclude livestock grazing. Such other uses include but are not limited to conversion of AUM's to wildlife or wilderness uses. Accordingly, it is Tooele County's plan that animal unit months in the Region not be relinquished or retired in favor of conservation, wildlife or other uses.
- (B) Tooele County recognizes that from time to time a bona fide livestock permittee in the Region, acting in good faith and not to circumvent the intent of the BLM's grazing regulations, may temporarily cease grazing operations without losing his or her permitted AUM's. However, BLM-imposed suspensions of use or other reductions in domestic livestock animal unit months in the region should be temporary and scientifically based on rangeland conditions.
- (C) The transfer of grazing animal unit months ("AUMs") to wildlife for supposed reasons of rangeland health is opposed by Tooele County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.
- (D) Any grazing animal unit months that may have been reduced in the region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

5. Manage the Watershed in the Proposed Wilderness Regions to achieve and maintain Water Resources at the highest reasonably sustainable levels

(A) All water resources that derive in the Regions are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.

(B) As a political subdivision of the State, Tooele County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and, where reasonable, as determined by Tooele County, develop those water resources.

(C) Where water resources in the Regions have diminished because once-existing grasses have succeeded to pinion, juniper and other woody vegetation and associated biomass, a vigorous program of mechanical treatments should be applied to promptly remove this woody vegetation and biomass, stimulate the return of the grasses to historic levels, and thereby provide a watershed that maximizes water yield and water quality for livestock, wildlife, and human uses.

(D) Tooele County's strategy and plan for protecting the region watershed is to deter unauthorized cross-country OHV use in the Regions. The best way to achieve this is to give OHV users a reasonable system of roads and trails in the region on which to legitimately operate their OHVs. Closing the region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Regions watershed.

(E) Accordingly, all roads and trails in the Regions which historically have been open to OHV use, as identified on the County Road Map, should remain open.

6. Achieve and Maintain Traditional Motorized Access to Outdoor Recreational Opportunities available in the Proposed Wilderness Regions

(A) Traditionally, citizens of Tooele County and visitors have enjoyed many forms of outdoor recreation in the Regions, such as hunting, fishing, hiking, family and group parties, family and group campouts and campfires, rock hounding, OHV travel, geological exploring, pioneering, parking their RV, or just plain touring in their personal vehicles. Such activities are important to Tooele County's character.

(B) Public land outdoor recreational access in the Regions should not discriminate in favor of one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational opportunities in the region have been open and accessible to working class families, to families with small children, to the sick and persons with disabilities, to the middle aged and elderly, to persons of different cultures for whom a "primitive solitary hike" may not be the preferred form of recreating, and to the economically disadvantaged and underprivileged who lack the money and ability to take the time off work necessary to get outfitted for a multi-day "primitive hike" to reach those destinations. All of society should not be forced to participate in a "solitude experience" or a "primitive experience" as the one and only, or primary, mode of outdoor recreation in the Regions.

(C) Any segment of society, for that matter, that wants to recreate in the Regions, should have motorized access to that recreation if they desire it, as well as all other traditional forms of outdoor recreation they so desire, if such historical uses existed in the past. They should not have to hike into the outdoor recreational destinations in the region if they do not want to or are unable or cannot afford such an activity.

(D) Hence Tooele County's plan calls for continued historical public motorized or mechanized access to all traditional outdoor recreational destinations in all areas of the Regions for all such segments of the public. Tooele County specifically opposes restricting outdoor recreation in the Regions to just one form available for those who have enough time, money and athletic ability to hike into the destinations of the Regions for a so-called "solitude wilderness experience", or the like.

(E) Accordingly, all roads in the Regions that are part of Tooele County's duly adopted transportation plan and access plan shall remain open to motorized travel. None of them should be closed other than by action of Tooele County and the State of Utah. Tooele County

should have the continued ability to maintain and repair those roads, and where reasonably necessary, make improvements thereon. All trails in the Regions that have been open to OHV use shall continue to remain open. Traditional levels of wildlife hunting and fishing should continue, consistent with sustainability of the resource at verified historical levels. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation motorized and non-motorized should continue.

7. Maintain and keep open all Roads in the Proposed Wilderness Regions that appear on Tooele County's Official Transportation Map and are included as part of the Tooele County Access Plan, and provide for such additional roads and trails as may be necessary from time to time.

(A) In 2008 Tooele County adopted an Access Plan as a component of the Chapter 19, Tooele County Resource Management Plan of the General Plan. The Access Plan focuses on goals for maintaining and improving access to Public Lands within the County.

(B) Tooele County plans to keep all such roads in the Regions open and reasonably maintained and in good repair. Tooele County will consult with the BLM about any required improvements to such roads, reserving the right to request court intervention and relief in the event Tooele County and BLM cannot reach an agreement on such proposed improvements after reasonable efforts at consultation.

(C) Furthermore, additional roads and trails may be needed in the Regions from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Regions, including livestock operations and improvements, all 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. Manage the Proposed Wilderness Regions so as to not interfere with the Property Rights of Private Landowners located in the Wilderness Regions.

(A) There are parcels of private fee land, including School and Institutional Trust Land, located in the Regions.

(B) Land management policies and standards on BLM land in the Regions should not interfere with the property rights of private landowners in the Regions to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.

(C) Nor should those landowners and their guests or clients be denied the right of motorized access to their private property consistent with past uses of those private land parcels.

9. Manage the Proposed Wilderness Regions so as to not interfere with the Fiduciary Responsibility of the State School and Institutional Trust Lands Administration ("SITLA") with respect to Trust Lands Located in those Proposed Wilderness Regions.

(A) Scattered throughout the Regions are sections of school and institutional trust land owned by the State of Utah and administered by SITLA in trust for the benefit of public schools and other institutions ("school trust lands"), as mandated in Utah's Enabling Act and State Constitution.

(B) As trustee, SITLA has a fiduciary responsibility to manage those school trust lands to generate maximum revenue there from, by making them available for sale and private development, and for other multiple and consumptive use activities such as mineral development, grazing, recreation, timber, agriculture and the like, all for the financial benefit of Utah's public schools and other institutional beneficiaries.

(C) Land management policies and standards on BLM land in the region should not interfere with SITLA's ability to carry out its fiduciary responsibilities.

(D) Nor should SITLA be denied the right of motorized access to those school trust

sections to enable SITLA to put those sections to use in order to carry out its fiduciary responsibilities.

10. Managing Part or all of the non-WSA portion of the Proposed Wilderness Regions for "wilderness" characteristics would violate FLPMA, Contradict the State's Public Land Policy and Contradict the foregoing plans of Tooele.

(A) As Utah Code § 63-38d-401(6)(b) indicates, managing the non-WSA portion of the Proposed Wilderness Regions under a "wilderness characteristics" management standard is not the State of Utah's policy for multiple use-sustained yield management on public lands that are not wilderness or wilderness study areas. Nor is it Tooele County's. A so-called "wilderness characteristics" management standard for the non-WSA portion of the Proposed Wilderness Regions is de facto wilderness management, now just by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Tooele County for managing the non-WSA portion of the Proposed Wilderness Regions.

(B) A "wilderness characteristics" management standard for the non-WSA portion of the Proposed Wilderness Regions also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.

(C) Managing non-WSA or Post-603 Lands pursuant to the Interim Management Policy of 1979 ("IMP") is inconsistent with BLM authority. Agreement p. 6 & 13.a;

(D) Managing non-WSA or Post-603 Lands to preserve their alleged wilderness character strays from the multiple use mandate in a manner inconsistent with FLPMA § Section 603 limited delegation of authority. Agreement p. 9 & 17;

(E) The 1999 Utah Wilderness Reinventory shall not be used to manage public lands "as if" they are or may become WSAs. Agreement p. 13 & 4;

(F) DOI/BLM will not establish, manage "*or otherwise treat*" the non-WSA portion of the or Post-603 Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;

11. Imposing any of the area of Critical Environmental Concern ("ACEC") Designation alternatives in Tooele County Would Contradict Tooele County's Plan for Managing the Proposed Wilderness Regions

(A) It is Tooele County's policy that no part of the Proposed Wilderness Regions should be designated an ("ACEC") unless it is clearly demonstrated that the proposed ACEC satisfies all the definitional requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1702(a).

(B) The proposed ACEC is limited in geographic size and that the proposed management prescriptions are limited in scope to the minimum necessary to specifically protect and prevent *irreparable* damage to values that are objectively shown to be relevant and important, or to protect human life or safety from natural hazards.

(C) The proposed ACEC is limited only to areas that are already developed or used, or to areas where no development is required.

(D) The proposed ACEC designation and protection is necessary to protect not just a temporary change in ground conditions or visual resources that can be reclaimed or reversed eventually. Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.

(E) The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA directed multiple use sustained yield management.

(F) The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a for so-called "wilderness characteristics".

(G) The foregoing summarizes the ACEC criteria of the State of Utah as well as

Tooele County. See Utah Code § 63-38d-401(8) (c). And the foregoing summarizes the criteria of FLPMA.

12. A Visual Resource Management Class I or II Rating for Any Part of the Proposed Wilderness Regions Would Contradict the State's Public Land Policy and Contradict Tooele County's Plan for managing the Proposed Wilderness Regions

(A) The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with Tooele County's foregoing plan clarification for the SUWA Add-on Proposed Wilderness Regions.

(B) The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with Tooele County's foregoing plan clarification for the Proposed Wilderness Regions. There are certain limited exceptions where a Class II objective would be compatible with Tooele County's foregoing plan clarification. Such exceptions will be considered by Tooele County on a case-by-case basis.

(C) Tooele County's foregoing plan clarification for the Proposed Wilderness Regions is generally consistent with either Class III or Class IV, depending on the precise area.

13. The Nomination and or Designation of Public and Private Lands in the Proposed Wilderness Regions, selected for specific uses, may have permanent and unintended consequences on the Subject Lands and Surrounding Lands, and should be reviewed by the Board of Tooele County Commissioners.

(A) Lands within Tooele County considered for any special designation and the impacts of the National Historic Preservation Act are an issue of concern for Tooele County.

(B) Tooele County's plan for balanced multiple use also incorporates the need to focus special attention and concern toward any impacts that proposed designations could have on private property use, the financial impacts to our citizens, and the potential loss of historic and traditional uses and lifestyles by layering multiple designations upon the land.

14. Federal Acquisition of Private Lands is Contrary to Policies and Plans of Tooele County and the *Tooele County General Plan*

(A) Tooele County wishes to be fully involved as an affected entity in any process to consider the disposal of public lands or the acquisition of private lands to become public within the county's jurisdiction.

(B) The County recognizes that some tracts of public and private land are isolated, and since the County is the subject matter expert regarding the impacts to our economy, culture and customs from the transfer of ownership of these lands that are or may be identified for sale of purchase, County participation and local public input are essential.

Appendix 1, Attachment A

Chapter Nineteen, Tooele County Resource Management Plan:
Non-Wilderness Quality Lands
Proposed for Wilderness Management or Designation

