

KANE COUNTY, UTAH GENERAL PLAN

for the Physical Development of the
Unincorporated Area

Pursuant to Section 17-27-301 of the Utah Code

Adopted June 22, 1998

This document was prepared by the Division of Community and Economic Development of the Five County Association of Governments under the guidance and direction of the Kane County General Plan Advisory Committee, Planning Commission and Board of County Commissioners. Mapping services were provided by Bush & Guggell Engineering, St. George, UT and the Association of Governments. A number of consultants employed by Kane County also provided baseline information upon which this document is based. Funding used to prepare this document came from Kane County contributions, a grant from the Utah Local Government Planning Process Steering Committee administered by the Utah Governor's Office of Planning and Budget, a Cooperative Agreement between Kane County and the U.S. Department of the Interior for the development of a County Land Use and General Plan update, and a Planning and Technical Assistance Grant from the U. S. Department of Commerce, Economic Development Administration.

Ordinance No. _____
Adopting the Kane County, Utah
General Plan

*AN ORDINANCE OF THE KANE COUNTY, UTAH BOARD OF COUNTY COMMISSIONERS
ADOPTING THE KANE COUNTY, UTAH GENERAL PLAN FOR THE PHYSICAL
DEVELOPMENT OF THE UNINCORPORATED PORTIONS OF THE COUNTY.*

Preamble

In order to provide for the health, safety and general welfare of both residents and visitors to Kane County, Utah, the Kane County Board of Commissioners hereby adopts the following General Plan which outlines goals and policies for unincorporated land use; transportation and access management; conservation of natural resources; protection against natural and human-caused hazards; provision of public services; preservation of historic resources; development of the economic base; accommodation of affordable housing; and partnering with federal and state land management agencies.

WHEREAS, Kane County, Utah has a long history of active involvement in developing formal plans and policies for the use and development of lands; and

WHEREAS, recent political and economic events have altered anticipated development patterns in the county; and

WHEREAS, the County Commission has acquired technical assistance and expertise to assist in coping with the recent political and economic events in the form of funding from the Utah State Local Government Planning Process Committee and the U.S. Department of Interior; and

WHEREAS, a locally-appointed General Plan advisory committee, a group of consultants, and the county planning commission have forwarded a series of recommendations for revisions to existing county plans and policies; and

WHEREAS, the county planning commission has reviewed and recommended the adoption of the General Plan;

NOW THEREFORE BE IT ORDAINED that the attached General Plan dated the 22nd day of June 1998 be adopted as the official Kane County General Plan pursuant to the provisions of Section 17-27-303 of the Utah Code. All previous editions of Kane County General or Master Plans are hereby superseded by this document.

Signed this 22nd day of June 1998

KANE COUNTY COMMISSION

/s/

/s/

ATTEST: Kane County Clerk

/s/

/s/

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Acknowledgments

Every effective planning process includes a multitude of individuals if it is to be successful. This effort is no different. Many individuals have had an impact upon the preparation and adoption of this Plan. However, most important are the residents of Kane County, who over the past three years have responded to numerous surveys, interviews, and have attended many public meetings and hearings. All who did so should be commended for their desire to be a participant in determining the future of Kane County. Some specific individuals and groups have had intensive involvement in the Kane County planning process, and are acknowledged below:

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Vision Statement

Kane County, Utah is a land of contrasts. Its 4100 square miles of territory extend from the sandstone deserts of Glen Canyon and Lake Powell to the 10,000 foot high alpine meadows of the Pansugant Plateau. The lack of precipitation and difficulty of access has resulted in a land use pattern which is dominated by public lands surrounding a small base of private lands located primarily along perennial water courses. Original villages were established to take advantage of arable lands along streams. Many homesteads were established in the late 19th century, and have become the bases of extensive ranching operations using both private and public lands. The construction of Glen Canyon Dam resulted in settlements originally designed to house construction workers which have evolved into permanent communities. A substantial amount of lands in the higher elevation forest lands have been developed for recreation homes and cabins, some of which are being used year-round. Extensive deposits of coal and other natural resources have been the subject of numerous explorations and feasibility studies. Each of these land uses presents different challenges and opportunities to county officials.

It is the responsibility of the Kane County Commission to facilitate a land use pattern which allows private unincorporated land owners to make reasonable use of their lands within the constraints presented by the land itself, as well as traditional uses, customs, culture and available public services. A basic premise of this Plan is that land uses in unincorporated areas cannot be as intensive as uses inside municipalities, where necessary services are available.

Federal land managers have recognized that to be most effective, federal land planning must include state and local governments as full partners in the public lands planning process. Congressional policy requires that federal planners consult with state and local governments, and that federal plans are consistent with plans of adjacent jurisdictions within the constraints of federal law. The Kane County Commission intends to become a proactive partner in all public lands planning processes which impact the county land base.

Given these basic premises, the Kane County Commission will use this Plan to guide land use decision-making for the unincorporated county. This plan will assure that present and future residents and visitors to the unincorporated areas of Kane County will be housed in safe, sanitary, and attractive conditions. Land uses in the unincorporated county will reflect the intent of the Commission to direct intensive, urban-scale uses to municipalities where basic services can be accommodated. The Commission will be an active partner with other governments to foster a sustainable, broad-based economy which allows traditional economic uses to remain vibrant, while fostering new economic activities which expand economic opportunity and protect important scenic and social qualities. Federal land management planning processes will include Kane County as an active, on-going partner and will be consistent with county goals and policies when not constrained by federal law.

Summary of Major Goals

Land Use

Unincorporated land uses will remain at densities which can be adequately serviced and which retain the qualities of a rural, open setting with uses not typically found in a town or city. Intensive, urban-scale uses will be directed to municipalities where basic services can be accommodated.

Transportation and Circulation

Kane County will take the lead in providing a safe, efficient and functional transportation system which emphasizes the circulation of residents and visitors between communities, as well as to the scenic wonders found in the county. The system will stress a wide range of transportation methods, and will be founded upon the ability of the county to utilize rights of way on public lands asserted under the authority of Revised Statute 2477.

Environment

Land use policies and regulations will recognize and respect the constraints which natural hazards present to human use. The presence of sensitive lands such as important watersheds and habitat for wildlife and livestock will also be reflected. Most importantly, the county will recognize that humans have been an integral part of natural systems in the region for over 10,000 years, and must continue to play an active role in the functioning of natural systems.

Public Services and Facilities

Kane County does not intend to become the provider of municipal-scale services or facilities. The county will play the role of facilitating the transmission and distribution of necessary services by entities created and financed by those using such services. Direct county services will continue to be limited to those which have a county-wide scope.

Rehabilitation and Conservation

The preservation of historic resources in Kane County has been the focus of many local and regional organizations. Kane County will continue to partner with such organizations in historic preservation projects, but does not intend to become a lead agency in historic preservation.

Conservation efforts will focus on the rehabilitation of the land base in order to improve the functioning of natural systems for the benefit of residents and visitors.

Economic Development

Kane County will be an active partner with other governments to foster a sustainable, broad-based economy which allows traditional economic uses to remain vibrant, while fostering new economic activities which expand economic opportunity, utilize available natural resources, and protect important scenic and social qualities.

Housing

Present and future residents and visitors to the unincorporated areas of Kane County will be housed in safe, sanitary, and attractive conditions. Housing types will reflect the rural, open nature of unincorporated land uses, and will enable residents of a wide range of income levels to reside in Kane County.

Public Lands

Federal land management planning processes will include Kane County as an active, on-going partner and will be consistent with county goals and policies when not constrained by federal law. The county will insist that State Institutional and Trust Lands uses conform to county land use policies and regulations.

Implementation

This document will be reviewed on an annual basis in a joint work meeting of the Planning Commission, Resource Development Committee and County Commission. The meeting will be centered around the validity of policies laid out in the Plan, and a discussion of any adjustments which should be made. In addition, the Plan will undergo a comprehensive revision on a 3 to 5 year cycle.

Introduction

“Planning” is a word which describes *an orderly combination of procedures designed to preempt problems with purposeful regularity*. This process of thinking ahead before engaging in an activity is a characteristic unique to human endeavors. The process of planning happens in many settings. Consider family budgeting, the construction of a home, or the development of a successful business. All require careful forethought and strategic actions to accomplish desired outcomes. Successful operation of local governments is no different. Those governmental entities which have established effective planning processes are typically those with the most sound financial base and satisfied constituents.

Kane County has a long history of active planning processes which have shaped the patterns of human activities on the land. This history began with the American Indian inhabitants who adapted their lifestyles to reflect the resources available to support their existence. Early Mormon settlers were devoted to the establishment of orderly, beautiful settlements characterized by wide streets on a grid system, and well-kept homes and businesses. For much of the late 19th and early 20th centuries, community development in Kane County was heavily influenced by local and general church authorities.

The complexity of life in Kane County began to change in the early 20th century, when a number of forces began to bring the area to the attention of outside interests. This process began with the discovery of the region as an excellent location for the filming of Hollywood westerns, which earned Kanab the title of “Little Hollywood”; continued with the growing popularity of the National Parks literally surrounding Kane County; and changed forever when the federal Bureau of Reclamation undertook the construction of Glen Canyon Dam on the Colorado River. More recent challenges include the unsuccessful proposal of the 1970's to develop a large coal-fired electrical generating plant and a new town on the Kaiparowits Plateau, the 1990's Anadalex coal mine proposal, and finally, the creation of the Grand Staircase - Escalante National Monument in 1996.

Such events spurred county leaders to undertake formal county planning processes. Some publications which document past planning in Kane County include *Kane County Master Plans (1970)*, *Planning for Growth in Kane County (1976)*, the *Kane County, Utah Master Plan (1980)* and *Kane County Amended Master Plan (1982)*, as well as the *Kane County, Utah General Plan (1993)*. Each of these past processes produced a set of policies and procedures which have directed the development of unincorporated lands. A key weakness in each process has been the lack of adequate staff resources to implement the plans, combined with rapid turnover in elected

and appointed officials, resulting in the loss of connection to the established processes. The Kane County Commission recognized this deficiency in 1995, and undertook another General Plan revision. A General Plan Advisory Committee was formed, and began to meet on a regular basis. Its charge was to review the 1993 General Plan and 1982 Zoning Ordinance in order to develop a Plan which better reflected current policies and directions from the County Commission. Another major purpose of the revision was to strengthen the public lands element of the Plan in order to give Kane County a stronger negotiating stance during the development of federal land management plans.

This process was interrupted in 1996 when Grand Staircase - Escalante National Monument was created. The creation of the Monument precipitated a Cooperative Agreement between Kane County and the U.S. Department of Interior, which included funding to update the county's General Plan.

The General Plan Advisory Committee proceeded to finalize directions for managing the private land base. The public lands planning was delayed to coincide with the National Monument planning process.

This document is the compilation of both planning processes, and is designed to provide an up-to-date set of strategies which Kane County officials can use to negotiate with federal land management agencies, direct the development and use of the private lands in the unincorporated areas of the county, and meet the directives of the Utah State County Land Use Development and Management Act.

Purpose and Scope

The Utah County Land Use Development and Management Act of 1992 is the enabling legislation adopted by the State Legislature authorizing county governments to undertake land use planning and management. The Act allows counties to:

- 1) Provide for the present and future needs of the county;
- 2) Plan for the growth and development of land;
- 3) Provide for health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, recreation, education and cultural opportunities;
- 4) Reduce the waste of physical, financial, or human resources;
- 5) Provide for the efficient and economical use, conservation and production of natural resources;
- 6) Encourage the conservation of energy and use of renewable energy resources; and
- 7) Protect urban development.

Each county is given the latitude to determine the comprehensiveness, extent and format of the General Plan. The legislation also includes suggestions for a number of elements which should be included in a General Plan. They include:

- 1) A **Land Use** element showing: 1) the general distribution of land; and 2) standards of population density and building intensity of lands used for:
 - a) Housing;
 - b) Business;
 - c) Industry;
 - d) Agriculture;
 - e) Recreation;
 - f) Public Buildings and Grounds;
 - g) Open Space; and
 - h) Other appropriate categories.
- 2) A **Transportation and Circulation** element showing the general location and extent of:
 - a) Arterial, Collector and Local Streets;
 - b) Mass Transit; and
 - c) Other modes of transportation.
- 3) An **Environmental** element that addresses:
 - a) The protection, conservation, development and use of natural resources; and
 - b) Environmentally sensitive area protection and reclamation.

- 4) A **Public Services and Facilities** element showing plans for:
 - a) Sewage Disposal;
 - b) Waste Disposal;
 - c) Drainage;
 - d) Local Utilities;
 - e) Rights of Way and Easements;
 - f) Public Safety; and
 - g) Other public services.
- 5) A **Rehabilitation and Conservation** element providing for:
 - a) Historic preservation; and
 - b) Redevelopment potential.
- 6) An **Economic** element composed of:
 - a) Revenue and expenditure reports;
 - b) Revenue sources;
 - c) Base industries;
 - d) Market area;
 - e) Employment; and
 - f) Retail sales.
- 7) An **Affordable Housing** element which provides a reasonable opportunity for a variety of housing to meet the needs of present and future residents, and considers the following:
 - a) The existing supply of moderate income housing;
 - b) An estimate of the need for moderate income housing for a five year period, revised annually;
 - c) A survey of total residential zoning;
 - d) An evaluation of how existing zoning densities affect opportunities for moderate income housing; and
 - e) A description of the county's program to encourage an adequate supply of moderate income housing.
- 8) **Other** elements deemed appropriate.
- 9) Recommendations for **Implementation**.

These elements provide the formally adopted policy guidance which should be consulted as land use development proposals are considered. This Plan serves as the stable basis for land use decision-making in Kane County.

This plan will also serve as the formal basis for the programs developed under the Governor's 21st Century Community programs and activities.

History shows that the base assumptions upon which land use policy is developed are continually shifting. A General Plan cannot remain static in an ever-changing environment. For this reason, the General Plan can be amended to reflect changing priorities. The amendment process requires careful consideration by both the County Planning Commission and County Commission, including a series of public hearings.

This document should be reviewed on an annual basis in a joint work meeting of the Planning Commission and County Commission. The meeting should be centered around the validity of policies laid out in the Plan, and a discussion of any adjustments which should be made. In addition, the Plan should undergo a comprehensive revision on a 3 to 5 year cycle.

The Kane County Zoning and Subdivision Ordinances are the officially-adopted methods by which the provisions of the General Plan are implemented. These ordinances have undergone a comprehensive review and revision as part of this planning process. The provisions of this Plan coincide with the purposes of the zoning and subdivision ordinances.

The State Legislature has also given county commissions the authority to appoint a Resource Development Committee pursuant to the authority of 17-25-267 of the Utah Code. The Committee is charged to promote the development of the county's mineral, water, manpower, industrial, historical, cultural and other resources and make recommendations to the County Commission. This document lays out a series of resource development goals and objectives which will guide the efforts to the Resource Development Committee in coordination with the Planning Commission. Both will advise the County Commission regarding planning and development issues in a coordinated fashion.

Kane County General Plan Land Use

A Land Use element showing: 1) the general distribution of land; and 2) standards of population density and building intensity of lands used for:

- a) Housing;*
- b) Business;*
- c) Industry;*
- d) Agriculture; h) Other appropriate categories.*
- e) Recreation;*
- f) Public Buildings and Grounds;*
- g) Open Space; and*

Introduction

Kane County, Utah encompasses approximately 3 million acres of some of the most remote and rugged lands in the continental United States. Much of the county was among the last lands systematically explored and surveyed by federal government authorities. The county is a land of extremes in elevation, vegetation, precipitation and landscapes.

The area encompassed by the present Kane County boundaries originally became part of the United States in 1848 as part of the Treaty of Guadalupe Hildago, which ended the Mexican-American War. The area was first designated as Indian territory, and remained in that classification until 1868. The lands became then became subject to the mid-19th century land tenure laws, including the Homestead Act. Mormon settlers came to Utah prior to the land becoming part of the U.S., and established many communities without legal title to the lands. Legal title to land in most Kane County settlements was granted through filings with county and federal lands offices sometimes years after occupation.

Climate, elevation, and the presence of adequate water have determined the present-day land ownership and use patterns of Kane County. Almost 90 percent of the county land base remains in federal ownership. This is due to the lack of sufficient water, arable soils, and forage; all which made it difficult for early settlers to maintain a homestead. The land base which is privately owned is located along perennial water courses and at the base of high elevation forests where precipitation allows enough vegetation growth to support stock-raising, but is not isolated by heavy snowpack found at higher elevations.

An additional 8 percent of the land base is controlled by the Utah State Institutional and Trust Lands Administration. These lands were granted to Utah at the time of statehood for the purpose of generating revenue for schools and other public institutions. The state received four

sections in each township, which has created a "checkerboard" of state lands scattered throughout the county. These lands are reserved for the purpose of providing the maximum amount of revenue possible for the purposes of the trust. They are not a public lands base reserved for general public interests such as recreation or wildlife habitat. They must be considered as part of the developable land base of the county, with more similarity to private lands than other public lands.

Agricultural Land Use

While agriculture has been an important base of economic activity in Kane County, the total amount of land devoted to agricultural pursuits is relatively minor. According to the 1992 Census of Agriculture, Kane County contained 136 farms encompassing 210,000 acres, or eight percent of the land base. Of those 210,000 acres, 12,000 acres was cropland, and less than 5,000 acres was irrigated. Most of the cropland was devoted to hay production (2,800 acres), with wheat (156 acres) and oats (64 acres) being the other common crops produced. About 60 acres were devoted to orchard production.

However, the majority of BLM and National Forest public lands have been included in livestock grazing allotments. In 1992, Kane County contained 106 cow/calf operations running over 9,500 head of cattle. There were also 18 sheep operations running about 6,000 head of sheep. While many of these operations are not the sole source of income for the operators, they are a vital tie to the traditional lifestyles valued by county residents and visitors. Much of the vegetation manipulation on both public and private rangelands is tied directly to overcoming impacts caused by past grazing practices, wildland fire suppression, or to improve the forage value for current livestock and wildlife use.

Residential Land Use

Less than one percent of the county land base is located inside incorporated communities. In 1990, the incorporated communities housed 85 percent of the population base, but contained only 54 percent of the total housing units in the county. This documents the large presence of seasonal dwelling units in the county, found primarily on Cedar Mountain and in the Deer Springs region below Bryce Canyon National Park. These areas are especially vulnerable to wildland fire. Other important unincorporated communities include Church Wells/Paria in eastern Kane County, and the housing complexes near Bullfrog Marina on Lake Powell.

Table 1
Estimated Land Ownership
Kane County, Utah

Jurisdiction	Acres	Percentage
Total Land Base	2,629,767	100
Bureau of Land Management	1,568,996	59.7
Grand Staircase-Escalante National Monument	1,148,520	43.7
Kanab Resource Area (Non-Monument)	420,476	16.0
Bureau of Reclamation (Lake Powell)	141,172	5.4
National Park Service	465,606	17.7
Bryce Canyon National Park	14,825	0.6
Glen Canyon National Recreation Area	441,418	16.8
Zion National Park	9,363	0.4
U.S. Forest Service (Dixie National Forest)	124,283	4.7
Total Federal Land Base	2,300,057	87.5
State Parks	5,970	0.2
Coral Pink Sand Dunes	3,730	0.1
Kodachrome	2,240	0.1
State Institutional and Trust Lands	??	??
Total State Land Base	213,219	8.1
Alton Town (1990)	256	0.01
Big Water Town (1990)	3,904	0.1
Glendale Town (1990)	4,992	0.2
Kanab City (1990)	8,832	0.3
Orderville Town (1990)	1,024	0.04
Unincorporated	97,483	3.7
Total Private Land Base	116,491	4.4

Source: Utah State Data Center Data Brief, Jan 95-3; BLM Facts & Figures for Utah, 1996; U.S. Census, 1990; adjusted by AOG staff to approximate map base.

Industrial and Commercial Land Use

Industrial and commercial land uses have been located at major highway intersections, and near established communities. Much of the existing commercial and industrial activity has been annexed into adjacent communities. Exceptions to this trend include the Kanab City airport and some adjacent land which remains unincorporated, and the lands in the vicinity of the Johnson Canyon intersection, which house the county's largest private employer.

Public Facilities/Developed Recreation Land Use

Most Kane County administrative and maintenance facilities have been located inside incorporated communities, mainly in the county seat, Kanab. The county commission is in the process of negotiating with public and private landowners to establish a large public complex to be called the Kaneplex at the southeastern edge of Kanab. This facility is envisioned as a major regional recreation center, location of a new law enforcement/jail structure, and the location of an interagency visitor facility.

Public Lands

With over 90 percent of the county land base in public ownership, the land use and management decisions of state and federal land managers weighs heavily on the use of the small private land base. Kane County officials must coordinate with the National Park Service, U.S. Forest Service, Bureau of Land Management, the Utah State School and Institutional Trust Lands Administration, and the Utah State Department of Natural Resources.

Land Use Key Issues

Diversity of Land Forms and the Vast Extent of the Land Base

The land base in Kane County stretches over 130 miles of terrain ranging from the high-elevation forest lands around Navajo Lake, where deep snows cover the land from November through May, downward to the Colorado River canyons and Lake Powell, where annual precipitation is less than 10 inches. It is impossible to develop land use policies which can be uniformly applied to such a varied landscape. What may be applicable to recreation homes on Cedar Mountain, does not apply to ranching lands held inside Grand Staircase - Escalante National Monument. The private lands surrounding Kanab have different characteristics than the lands surrounding Big Water or Glendale.

Because of this wide diversity, previous county plans have recommended the division of the county into districts which reflect the diversity of land uses and ownership. The creation of the Grand Staircase - Escalante National Monument has also resulted in the division of the Monument into three major landscapes. This plan recognizes the need to continue the development of land use policies based upon such districts. These districts will allow the county to develop policies which correspond to major public lands management units, as well as reflecting the varied conditions of private lands in the various districts. Recommended districts include (from east to west, See Map 4):

- 1) *The Glen Canyon District* - Including all lands inside the Glen Canyon National Recreation Area (NRA);
- 2) *The Escalante Canyons District* - Including those lands which lay between the Straight Cliffs and the Glen Canyon NRA boundary, traversed by the Hole-in-the-Rock Road;
- 3) *The Kaiparowits District* - Including those lands between the Cockscomb and Straight Cliffs inside the Grand Staircase - Escalante National Monument boundaries.
- 4) *The Grand Staircase District* - Including those lands between Johnson Canyon and the Cockscomb inside the Grand Staircase - Escalante National Monument boundaries.

- 5) *The Church Wells/Paria District* - Including those lands between the Paria River and Glen Canyon NRA outside of the Grand Staircase - Escalante National Monument boundaries.
- 6) *The Johnson Canyon District* - Including those lands in the Johnson Canyon drainage outside of the Grand Staircase - Escalante National Monument boundaries, as well as the lands around US 89.
- 7) *The Deer Springs District* - Including those lands between the national forest boundary and the Skutumpah Road outside of the Grand Staircase - Escalante National Monument boundaries.
- 8) *The Bryce Canyon District* - Including those lands inside the national forest or Bryce Canyon National Park east of the private lands surrounding Alton.
- 9) *The Kanab District* - Including those lands in the Kanab Creek and tributary drainage.
- 10) *The Long Valley District* - Including the East Fork of the Virgin drainage to Mt. Carmel Junction.
- 11) *The Alton District* - Including those private lands surrounding Alton from the county boundary on the north to the public lands on the south.
- 12) *The Moquith Mountain/Parunuweap District* - Including the lands south of State Highway 9 and west of the Cottonwood Canyon drainage.
- 13) *The North Fork District* - Including those lands north of State Highway 9 outside of the national forest.
- 14) *The Duck Creek/Navajo Lake District* - Including those lands inside the national forest boundary west of the private lands surrounding Alton.

These districts will serve as a means to focus more directly on the specific needs and challenges presented in the districts. They can also serve as the focus of any future formal district organizations which might be pursued under the provisions of state law.

Avoiding the Extension of Municipal-Scale Services in the Unincorporated Area

A guiding principle which has been present in every Kane County plan from 1970 onward has been the recognition that the unincorporated areas of the county cannot be expected to accommodate municipal-scale land uses. Residential or commercial land uses which require large investments in infrastructure such as roads, water, waste disposal, schools, and so on, cannot occur on a land base where such services are not available. The State Legislature has recognized the distinction between counties and municipalities, and has directed that urban-scale uses should occur inside of municipalities. Numerous public groups throughout past Kane County processes have noted that they do not wish to see development in Kane County follow the sprawled patterns seen in Salt Lake County or Los Angeles, California.

The Kane County Commission has supported efforts of the Southwest Utah Public Health Department to tighten the regulations allowing the installation of septic tank systems. The Commission has also implemented or supported the establishment of wellhead protection zones. The presence of the vast Navajo Sandstone aquifer is also recognized as an important resource. Each of these concerns has led to a desire to keep unincorporated land use densities low.

Location of Commercial Uses at Major Intersections

In an effort to avoid the proliferation of commercial uses sprawled along the major highways of the county, a long-standing policy of Kane County plans has been the restriction of commercial activities in unincorporated areas to "natural points". This policy has further defined "natural points" as major road intersections and roadside areas that are suitable for access. The best example of such a policy are the commercial uses at the intersection of Johnson Canyon Road and US 89, as well as Mt. Carmel Junction (now incorporated into Orderville). The designation of the Grand Staircase - Escalante National Monument will increase interests in lands along major highways and roads.

Recognize the Difference between Agricultural Uses and Low Density Residential Uses

Past land use designations and zoning districts have equated the term "agriculture" with almost all unincorporated private lands. A major controversy which has arisen in recent applications of zoning regulations is the division of land designated as "agricultural" for primarily low density residential uses.

The County Commission desires to recognize and protect important agricultural lands, especially irrigated cropland, for its agricultural production value and contribution to the preservation of

open space.

Lands which do not contribute significantly to the agricultural base will be recognized as potential low density residential areas.

The recreational uses of the high forests must also be recognized and treated as a separate land use with a different set of constraints, including wildland fire and levels of required services.

Acknowledge the Distinction between Forest/Recreation Uses and Multiple Use Range Uses

The 1980's versions of Kane County plans lumped the forest areas of the county with the rangelands of the county, and designated all as "multiple use". This has been a major concern to the owners of forest lands, as well as to ranchers. Many feel that the "multiple use" designation was meant to apply only to public lands. Recent discussions have lead to the conclusion that a distinction must be made between public and private forest lands, public and private rangelands, and irrigated croplands.

Protect the Limited Irrigated Cropland Base

The 1992 Census of Agriculture notes that only 12,296 acres of land (one-half of one percent) in Kane County is in farms. Only 5,000 acres (0.2%) are irrigated. This limited, valuable land base is threatened by conversion to other uses.

Recognize the Constraints to Development Caused by the Natural Environment

Just as the lack of financial resources constrains the development of land, so does the physical layout of the land present limitations on land uses. The presence of flood plains, steep slopes, unstable soils, faults, and similar physical constraints must be recognized as legitimate reasons for the restrictions of allowable land uses.

Develop a Systematic Wildland Fire Protection System

The remote nature of many structures in the unincorporated area, combined with the presence of significant vegetation, creates a serious wildland fire interface. As such development continues, the need to protect private investments and residents is vital.

Land Use Goals and Strategies

Unincorporated land uses will remain at densities which can be adequately serviced and which retain the qualities of a rural, open setting with uses not typically found in a town or city. Intensive, urban-scale uses will be directed to municipalities where basic services can be accommodated.

Residential Land Uses

Goal Statement

Intensive, urban-scale uses will be directed to municipalities where basic services can be accommodated.

Strategy : Keep minimum allowable densities in unincorporated zoning districts at one unit per 10 acres.

Activity : The Zoning Ordinances will determine the standards for subdivisions with densities of greater than one unit per 10 acre minimum density.

Strategy : To provide appropriate locations where residential neighborhoods may be established, maintained and protected. Also, permit the establishment of, with proper controls, the public and semi-public uses such as churches, schools, libraries, parks and recreation sites which serve the requirements of the residents. The intent is to prohibit those uses that would be harmful to residential estate neighborhoods.

Commercial Land Uses

Goal Statement

Encourage the location of commercial uses at major intersections and provide for retail and service activities in locations convenient to serve the public.

Strategy : Identify the following major intersections as appropriate future commercial sites:
Hwy 89 and Johnson Canyon Road; Hwy 89 and Church Wells Road; Hwy 89 and

Kanab Creek Road; Hwy 89 and Hwy 14(Tod's Jct); Hwy 14 at east entrance to Zion N.P.

Activity : The Zoning Ordinances will determine the standards for commercial uses.

Agricultural Land Uses

Goal Statement:

Ensure the retention of a viable and vibrant agricultural base by preserving appropriate areas for permanent and temporary agricultural and open space uses. Do not allow uses adverse to the continuance of agricultural activities.

Strategy: Encourage the establishment of Agriculture Protection Areas as authorized by state law.

Transportation and Circulation

A Transportation and Circulation element showing the general location and extent of:

- a) Arterial, Collector and Local Streets;*
- b) Mass Transit; and*
- c) Other modes of transportation.*

Introduction

One defining feature of Kane County is its remote character. The unincorporated county contains less than 200 liner miles of paved roads. Much of this system is included in the major state highways (89, 89A, 9, 14, and the Bryce Canyon road). Johnson Canyon, the Coral Pink Sand Dunes road, the road to Alton, and the access road to Navajo Lake are the only paved county roads. The Kanab municipal airport is the only paved airstrip in the county. Most of the county transportation system is comprised of narrow, graded roads which serve very specific uses such as rangeland and utility access.

However, millions of visitors use the few major roadways to make their way to attractions such as Zion National Park, Lake Powell, the North Rim of the Grand Canyon, and Grand Staircase - Escalante National Monument. This visitation pattern has continued to grow for the past two decades, and will be projected to continue to grow into the foreseeable future.

Much of the transportation system developed in Kane County traverses public lands. Until 1976, the development of roads across public lands was authorized by a blanket right of way defined in Revised Statute (RS) 2477. Most such roads were never formally platted or surveyed. The adoption of the Federal Lands Policy and Management Act in 1976 did away with RS 2477, and instituted a right of way authorization system. Kane County has filed maps showing all roads asserted under the provisions of RS 2477.

Kane County will take the lead in providing a safe, efficient and functional transportation system which emphasizes the circulation of residents and visitors between communities, as well as to the scenic wonders found in the county. The system will stress a wide range of transportation methods, and will be founded upon the ability of the county to utilize rights of way on public lands asserted under the authority of Revised Statute 2477.

Transportation and Circulation Key Issues

Validate the R.S. 2477 Rights of Way identified by Kane County

The set of assertions regarding the RS 2477 rights of way in Kane County have been filed with appropriate federal authorities. The RS 2477 issue is under deliberation at the highest levels of the Department of the Interior. It is also under litigation as of April 1998. The resolution of this controversy is a key to the ability of the county to manage transportation.

Establish Common County Road Improvement Standards

The implementation of a common set of road design and engineering standards will allow the county to anticipate road improvement costs, and will allow federal land managers to anticipate county right of way and maintenance needs.

Support Initiatives for Interstate Highway Route Planning and Development

Kane County has been involved with a nation-wide effort to study the feasibility and to locate a corridor for the construction of a new interstate originating in St. Louis, MO, and terminating at I-15. The existing bridge crossing the Colorado River at Marble Canyon is the only feasible crossing for the route. One possible alignment from that point would follow the current US 89 through Kane County.

Promote "Scenic Route", All Weather Road Connections to Major Highways

Past tourism promotion efforts have emphasized a "windshield tourist" pattern, where visitors quickly drove through the county on their way to other destinations. Very few visitors made use of the narrow, unsurfaced backcountry roads for scenic drives. A key part of current efforts to increase destination tourism is to provide a series of backcountry drives on roads which are upgraded to a safe, all weather condition. The circulation map designates such routes.

Initiate a Memorandum of Understanding with the BLM and Forest Service which will

Establish a Cooperative Roads Maintenance Process

Past county officials have executed formal Memorandums of Understanding with the BLM and Forest Service regarding the maintenance of county roads across public lands. A series of disagreements and litigation has invalidated those MOU's. Every effort should be made to reinstate such agreements, in order to codify a cooperative road maintenance process.

Cooperate with UDOT and the Federal Highway Administration in Changing Access Requirements on U.S. 89

Much of US Highway 89 is a limited access highway, which restricts the number of access points to the highway. This is important to allow the highway to retain the capability to carry traffic at safe, relatively high speeds. While the county understands this need, it is also evident that some locations along the Highway are in need of additional access points. These can be allowed, while retaining the arterial nature of the Highway.

Develop Design Standards which Incorporate Alternative Transportation Methods such as Bicycle Paths, Trails, etc.

Past standard highway engineering has paid little attention to the needs of other transportation modes. The number of residents and visitors now are demanding the ability to walk, ride or bicycle is increasing dramatically. These modes of transportation must be considered in future right of way and highway design.

Work toward Re-establishing Scheduled Bus Service along U.S. 89

The loss of scheduled bus service along US 89 resulted in the loss of the only alternative to private automobiles in the county. The county must work with major scheduled bus service providers to work toward reestablishing scheduled service.

Restrictions Due to Wilderness Study Area Boundaries

Many Wilderness Study Area (WSA) boundaries in Kane County have been located "at the edge of the disturbance" of the road. This means that improvements or expansion of the roads is very difficult. Past effort to improve such roads has resulted in trespass actions against the county. Virtually all final wilderness recommendations in other areas have included a reasonable corridor along public roads, in order to allow prudent and necessary improvements.

Maintenance of existing Airstrips

While the Kanab airport contains the only paved airstrip in the county, a number of unpaved airstrips with little or no improvements have been established at various locations in the county.

These airstrips include:

- a) Swains Creek
- b) Bryce Woodlands
- c) Strawberry
- d) Clear Creek (Flying LD)
- e) Johnson Canyon (Smith)

The Big Water area is also considering the potential of locating an airstrip in that vicinity.

Transportation and Circulation Goals and Policies

Kane County will take the lead in providing a safe, efficient and functional transportation system which emphasizes the circulation of residents and visitors between communities, as well as to the scenic wonders found in the county. The system will stress a wide range of transportation methods, and will be founded upon the ability of the county to utilize rights of way on public lands asserted under the authority of Revised Statute 2477.

Establish the following criteria to evaluate capacities of roadways

- Roadways will receive nine to 12 percent of the Annual Average Daily Traffic (AADT) generally between 4:00 and 6:00pm.
- An adequately constructed two-lane paved roadway will handle 1,600 to 2,000 vehicles per hour per direction when there are not traffic signals present.
- The maximum traffic occurs during the month of July and is approximately 35 percent higher than the AADT. Holidays and some weekends can experience traffic volumes 200 to 300 percent higher than the AADT.
- A well-graded unpaved road with proper drainage and sight distance is adequate for vehicle traffic less than 50 AADT.
- Traffic ranging from 50 to 200 AADT warrants the construction of a gravel road base with improved drainage.
- Traffic ranging from 200 to 400 AADT warrants minimal hard surfacing, normally not less than 24 feet of hard surface with gravel shoulders to prevent pavement deterioration.
- Traffic volumes exceeding 400 AADT warrant compliance with minimum Utah Department of Transportation standards, which include 4 to 8 foot paved shoulders and passing lanes where steep grades warrant.

Kane County will pursue a Memorandum of Understanding with all affected

federal land managers which allows for joint administration of a one mile wide corridor along all arterial and scenic routes.

Kane County will establish a standard which allows for the closure of county roads to the general public, but allows for controlled access by authorized persons.

The attached Circulation Map demonstrates the Functional Classification of roads in Kane County.

The county will cooperate in the retention of the airstrips listed above, to include filing of necessary authorizations, and the preparation of a prioritized airstrip improvement strategy.

Environment

An Environmental element that addresses:

- a) The protection, conservation, development and use of natural resources; and*
- b) Environmentally sensitive area protection and reclamation.*

Introduction

Kane County encompasses over 2.6 million acres of the western side of the Colorado Plateau. Regionally, the county is divided into four broad landscapes known from northwest to southeast as the High Southern Plateaus, the Grand Staircase, the Kaiparowits Plateau, and the Colorado River Canyons. These landscapes lie across four broad watersheds, all part of the Colorado River system. The Escalante River system flows from the Aquarius Plateau and Boulder Mountain into the upper portions of Lake Powell. Last Chance Creek and Wahweap Creek are the principal tributaries off the Kaiparowits Plateau, flowing into the main body of Lake Powell. The Paria River-Kitchen Corral Wash system extends from the Bryce Canyon-Bryce Valley area, terminating below Glen Canyon Dam near Lee's Ferry. Johnson Wash flows southward into Kanab Creek and eventually into the Grand Canyon. Less than ten percent of these are perennial streams and primarily include Kanab Creek, the Paria River, and Last Chance Creek.

Precipitation within the county varies from 7 to 18 inches annually. Winter-time precipitation varies from 4 to 12 inches and is the primary source of recharge of ground-water systems. Winter precipitation is the greatest along the northwest border of county in the higher elevations of the Pansugant Plateau.

The county provides habitat for over 400 species of vertebrates and invertebrates. Some animals are migratory through the county and others are year around residents, and still others use the county as seasonal habitat.

Many species of birds use the county as breeding and nesting areas and populations of elk move onto the county for winter use. Deer and Big Horn sheep are year long residents. The main riparian systems allow fish to move in and out of the county depending on water flows and seasons. These water systems are the main habitat for most of the identified species of birds.

Environment Key Issues

The Protection of Watersheds is Critical to the Continued Development of Kane County

Past land use practices in this arid region have caused impacts which are still affecting soil and water quality a century later. One major affect is the decrease in water flows and water quality. Much work has been done to improve watershed conditions and to protect water quality.

The Past Trends of Invasion of Trees and Woody Plants has Displaced Grasses and Forbes

In order to reverse past disturbances, it is vital to participate in efforts to reintroduce grasses and forbes as the dominant vegetation type across the county.

The Presence of Extensive Mineral Deposits Must Be Recognized

While the designation of the Grand Staircase - Escalante National Monument has precluded any future lease of federal mineral interests on the Kaiparowits Plateau, the presence of the vast mineral resources must be recognized as a potential resource for future generations.

Multiple Use Managment of Public Lands

Federal land managment agencies must comply with the multiple use goals and objectives of the Congress as stated in the following statutory law: Taylor Grazing Act, Federal Lands Policy & Management Act, Public Rangelands Improvement Act, National Environmental Protection Act, Mining Laws of 1866 and 1872, Mining & Mineral Policy Act of 1970, National Materials and Minerals Policy, Research & Development Act of 1980, and other related federal and state laws concerning recreational and other multiple use of natural resources which impact the watershed. The Utah State Code requires that all State lands be administered "in such manner as will secure the maximum long term financial return to the institution to which granted or to the state...." ". The National

Environmental Policy Act requires consideration of all environmental actions on the culture, heritage and custom of local government (16 U.S.C. sec. 4331 (a)(4).

Environment Goals and Policies

Land use policies and regulations will recognize and respect the constraints which natural hazards present to human use. The presence of sensitive lands such as important watersheds and habitat for wildlife and livestock will also be reflected. Most importantly, the county will recognize that humans have been an integral part of natural systems in the region for over 12,000 years, and must continue to play an active role in the functioning of natural systems.

Appoint a County Resource Development Committee pursuant to the authority of 17-25-267 of the Utah Code. The Committee will promote the development of the county's mineral, water, manpower, industrial, historical, cultural and other resources and make recommendations to the County Commission. Ex-Officio membership should be offered to representatives of the Bureau of Land Management, National Forest Service, and National Park Service.

Kane County will be a proactive participant in commenting on and developing federal environmental regulations which affect the county's land base.

Priorities for water development are:

i) Reservoir sites inventoried by the Kane County Water Conservancy District should be located on the General Plan Map..

ii) The Water Conservancy District will be the primary agency involved with water resource development in the county.

iii) Kane County will become involved and comment on any actions taken by the Washington County Water Conservancy District which impact lands in Kane County. Kane County will work with Washington County in responding to out-of-state efforts to develop water resources in the area.

iv) Water right application procedures and development potentials should

be explored with the State Water Engineer's Office.

The county will continue current efforts to develop a landfill in eastern Kane County.

Kane County has no intent to accept any hazardous wastes generated outside of the county.

The county will address erosion control, salinity control, water quality impacts, and associated concerns when land use proposals are reviewed.

Large expanses of the land base in Kane County is covered by a Pinyon-Juniper plant community which inhibits the growth of necessary forbes and grasses. This plant community must be managed so as to allow a more diverse vegetative resource.

Maintain or improve the primary landscape soil, vegetation and watershed resources in a manner that perpetuates and sustains a diversity of uses while fully supporting the custom, culture, economic stability and viability of Kane County and our individual citizens. Essentially all rangeland use and value is dependent upon maintenance and enhancement of the primary landscape soil and vegetation resource. The following issues together with their specific goals and objectives, are in addition to and inclusive of~ the goal and objectives stated for the primary landscape soil, vegetation and watershed resources.

Strategies:

- 1) Develop a systematic procedure to coordinate all BLM land use inventory, planning, and management activities with Kane County, to assure that consideration is given to County Land Use Plans, and to assure that agency land use plans are consistent with the Kane County Land Use Plan to the maximum extent consistent with Federal law.
- 2) Develop & implement Allotment Management Plans (AMP's) as follows: Within five (5) years on all "I" category high priority allotments that do not already have current AMPs; within eight (8) years on all "I" category medium priority allotments; within ten (10) years on all other allotments.
- 3) Review and adjust grazing stocking levels only in accordance with developed

AMPs and/or trend monitoring data based on rangeland studies in accordance with trend monitoring completed at five (5) year intervals following implementation of AMPs.

- 4) Assure that adjudicated grazing preference held by permittees is authorized according to the governing Federal statutes and that Temporary Non Renewable use is authorized in a manner that allows for use of excess forage when available.
- 5) Develop prescribed fire and wildfire management plans to re-establish historic fire frequencies for appropriate vegetation types and include in such plans livestock grazing techniques as a tool for fire fuel management related to both wildfires and prescribed fires.
- 6) Include within, fire line and site rehabilitation plans, native or exotic vegetation capable of supporting watershed function and habitat for wildlife and livestock.
- 7) Develop grazing management plans following wild or prescribed fire through careful and considered consultation, coordination and cooperation with all affected permittees and affected landowners to provide for use of grazing animal management to enhance recovery.
- 8) Develop and implement an aggressive juniper and shrub abatement and control plan for all sites where invasion is adversely affecting desirable vegetation and or wildlife.
- 9) Develop surface disturbance mitigation plans on soils with a high or very high erosion hazard rating within plans for multiple recreation use, road building, timber harvest, mechanical range treatments, prescribed fires, range improvements and vegetation manipulation.
- 10) Develop and implement a Management Plan for wildlife through consultation with appropriate wildlife control agencies to prevent and minimize vegetation deterioration and soil erosion caused by wildlife.
- 11) Apply State of Utah approved noxious weed control methods through integration into all planning efforts to prevent the invasion of noxious weeds and to improve the ecological status of sites which have been invaded by weeds in coordination with the Kane County Weed Control Program. (Includes burning,

mechanical, manual, biological, and chemical control methods).

12) Integrate multiple recreation uses into all planning efforts to assure they can continue to occur compatibly with vegetation development and soil stability. Manage wildlife population levels to prevent adverse vegetation and soil impacts until monitoring studies and allotment evaluations demonstrate that population adjustments are warranted by changing resource conditions.

Actions:

- 1) Document vegetation trend data obtained through rangeland studies supplemented with actual use, utilization, and climatic data in accordance with the monitoring section of the Kane County Plan.
- 2) Document the development and implementation of shrub/juniper abatement and control plan(s)
- 3) Document the development and implementation of Management Plan(s) for control of weed and other invading species.
- 4) Inspect mining activities and other significant surface disturbing activities for compliance with statutory law and relevant reclamation plan.
- 5) Annually conduct and document wild horse herd population inventories including reports of wild horse movement, grazing habits, numbers and other data provided by permittees, lessees and landowners.
- 6) Determine whether documentation shows that AMP's and other activity plans are being developed and implemented as necessary to achieve objectives. Make adjustments in priorities as required.
- 7) Determine the degree to which trend data indicates that high seral plant communities are remaining stable and lower seral communities are improving. Review and modify appropriate management plans as necessary.
- 8) Determine the degree to which surface disturbing activities are occurring and their response to reclamation actions.

- 9) Determine the degree to which wild horse use and movement as well as wildlife activity is impacting soil and vegetation resources and modify management plans accordingly.

Public Services and Facilities

A Public Services and Facilities element showing plans for:

- | | |
|----------------------------|--|
| <i>a) Sewage Disposal;</i> | <i>e) Rights of Way and Easements;</i> |
| <i>b) Waste Disposal;</i> | <i>f) Public Safety; and</i> |
| <i>c) Drainage;</i> | <i>g) Other public services.</i> |
| <i>d) Local Utilities;</i> | |

Introduction

Kane County provides an array of basic services to county residents, including: Road Maintenance; Assessing and Collection of Taxes; Recording Land Transactions; Law Enforcement; Public Buildings and Unincorporated Land Use Management. The county does not provide other "municipal-type" services. Such services are provided by municipalities or special service districts.

Special Service Districts in Kane County include:

- 1) Glen Canyon Special Service District
- 2) Church Wells Special Service District
- 3) Mt. Carmel Special Service District
- 4) Western Kane County Special Service District
- 5) Kanab Creek Ranchos Special Service District
- 6) Kane County Water Conservancy District
- 7) Kane County Human Resources Special Service District
- 8) Long Valley Sewer Improvement District
- 9) Kane County Recreation Special Service District

Kane County will discourage development which by its nature will require municipal type services unless such development is serviced by a special district established for that purpose.

Public Services and Facilities Key Issues

Kane County will NOT become a provider of Municipal-Scale Services

Eastern Kane County is in need of Additional Landfill Sites

Kane County will cooperate with major utility providers, including but not limited to power, natural gas, water, telephone, fiber optics, to establish necessary utility corridors.

Locate existing and proposed corridors for water and other utility transmission.

Kane County will require all major developers to analyze the impacts of proposed development on the county's budget.

Public Services and Facilities Goals and Policies

Kane County does not intend to become the provider of municipal-scale services or facilities. The county will play the role of facilitating the transmission and distribution of necessary services by entities created and financed by those using such services. Direct county services will continue to be limited to those which have a county-wide scope.

Establish a Public Safety Coordinating Council to guide planning and implementation of all law enforcement and public safety issues.

Evaluate potential landfill sites; focus on eastern Kane County needs.

Continue to support hospital operations.

Those developments causing impacts to Kane County expenditures should be required to pay for such impacts. An impact fee schedule should be developed and implemented. Examples of possible impact fees include, but are not limited to, a fee for additional road maintenance costs caused by a development or a fee to offset additional school bus costs.

Support the Kane County School District in efforts to improve school facilities.

Identify needed utility and transportation corridors. Utilize existing BLM and USFS corridor plans. Include corridors for water development, as identified by the Water Conservancy District.

Coordinate utility development with all appropriate agencies.

Support the development of welcome centers in the Kanab, Mt. Carmel/Glendale and Big Water areas.

Continue to monitor plans for a proposed bypass road through "The Gap" to Fredonia.

Rehabilitation and Conservation

A Rehabilitation and Conservation element providing for:

- a) Historic preservation; and*
- b) Redevelopment potential.*

Introduction

The preservation of historic resources in Kane County has been the focus of many local and regional organizations. Kane County will continue to partner with such organizations in historic preservation projects, but does not intend to become a lead agency in historic preservation. Conservation efforts will focus on the rehabilitation of the land base in order to improve the functioning of natural systems for the benefit of residents and visitors.

Economic Development

An Economic element composed of:

- a) Revenue and expenditure reports;*
- b) Revenue sources;*
- c) Base industries;*
- d) Market area;*
- e) Employment; and*
- f) Retail sales.*

Introduction

The economy of Kane County has traditionally been based upon the natural resources found in the county. The first European settlers founded villages based upon agricultural pursuits, along with associated support services. Soil and climate conditions quickly lead the settlers to livestock grazing and timber harvesting as major economic bases. Overgrazing during the late 19th century lead to dramatic changes in vegetation and erosion patterns. Most young people left the area to pursue education and careers. This pattern remained essentially unchanged through most of the 20th century, with two "booms": the western film and television industry and the construction of Glen Canyon Dam. Tourism and retirement living are generating faster-paced economic growth, and the county is experiencing some moderate growth in small manufacturing activities. All indications are that the county is poised to experience rapid employment growth as the 21st century arrives. Two major factors have hindered economic development in Kane County. These are the relatively low wage rates for existing jobs and the small private land base. The establishment of the Grand Staircase Escalante National Monument will provide additional tourism based economic development; particularly if destination tourism and centering Kane County as the area's "Park Central" is adopted as policy under this general plan.

The county is still struggling to retain the 20 to 35 year old population base. Low earnings and a relatively small base of employment opportunities have precipitated this loss. One result is the need for families who do stay in the county to send sometimes three or four family members into the work force to make ends meet. Available jobs have focused on seasonal work during the busy tourist season.

The county has recognized these concerns, and has been a major player in the development of an economic development strategic plan. The basic issues and goals found in that plan are the basis of the following sections.

Economic Development Key Issues

Local Area Leadership

The county must foster an environment for effective formal and informal leadership that focuses on vision, communication, effectiveness and respect. Leaders must champion responsible economic development which enhances the quality of life and preserves unique scenic and natural beauty.

Recreation

Instead of relying on seasonal recreation activities, the county must capitalize on year-round events.

Arts and Cultural Opportunities

Local events which attract outside talents and provide opportunities for local talents to be exported must be encouraged.

Education

Kane County residents desire an educational environment which allows life-long learning opportunities for all.

Crime

As the county continues to grow and develop, residents want to see a proactive partnership between law enforcement and the communities. The partnership must be built upon respect, trust and confidence.

Environment

Kane County is home to many astounding scenic qualities and clean and tidy communities. This sense of personal and community pride as stewards of the land must be fostered.

Tourist Base

Officials will encourage development of activities, entertainment, and events which will influence tourists to spend more time and money in Kane County. Tourism program development to date is unbalanced and needs to be rounded out with a concentrated effort to make Kane County a major destination hub under the banner of "Utah's Park Central" for all classes of travelers to the area, particularly with the untapped development potential of the Grand Staircase Escalante National Monument

Access to Capital

Start-up and expanding businesses must be able to access sufficient capital, without undue reliance upon equity or collateral.

Technology

Access to rapidly changing technology must be made available through training and infrastructure development.

Business and Industrial Base

Business growth and development must key upon jobs which are high-quality, household-sustaining, and which provide high quality goods and services.

Infrastructure

Investments in public infrastructure will key upon improvements which increase jobs and incomes. Quality maintenance of existing infrastructure will be a higher priority than new, non-job-related infrastructure.

Human Resources

Quality education and training will increase earning potential and foster a richness of cultural experiences.

Natural Resource Base

The ability to utilize the natural resources of the county in a responsible manner without undue political interference. This utilization can occur without impairing the scenic quality treasured by both residents and visitors. Access to scenic lands should be made available to those who will treat the lands with respect and honor.

Quality of Life

Quality of life in Kane County is based upon the following traditional values: neighborliness, kindness, respect, honest, and helpfulness. A vibrant mix of young, middle-aged, and seniors will help maintain this quality of life.

Economic Development Goals and Policies

Kane County will be an active partner with other governments to foster a sustainable, broad-based economy which allows traditional economic uses to remain vibrant, while fostering new economic activities which expand economic opportunity, utilize available natural resources, and protect important scenic and social qualities.

Retain, Expand and/or Diversify Existing Businesses

Strategy: Create household sustaining jobs which maintain or improve the quality of life for both residents and visitors.

Actions: Participate in pro-consumer education programs.

Assist in providing quality cultural and entertainment programs.

Encourage local banks to develop outreach programs for local businesses.

Adopt a policy of promoting all facets of destination tourism in Kane County. The policy will direct its major promotional efforts to those facets of tourism that benefit the maximum number of businesses in the county.

Improve customer relations in county departments and services.

Participate in a county clearinghouse for business services.

Recognize the tie between affordable and quality housing and business growth

Develop a "value-added" campaign which helps local businesses gain additional value from their existing products.

Explore the feasibility of air shuttle services.

Encourage the establishment of rental car services.

Attract or Develop Self-Sustaining New Business which provide Quality Jobs

Actions: Foster businesses related to the Grand Staircase Escalante National Monument by establishing an entrepreneurial center, micro lending agency and a central travel planning and reservation program. These programs to be coordinated between Economic Development and Travel Council organizations under the direction of the Kane County Board of Commissioners.

Actively secure administrative and other servicing offices and for the national monument be located in Kanab.

Develop a stock of commercial buildings.

Explore the feasibility of scheduled airline services.

Explore the feasibility of natural gas service.

Identify industries which have the best fit for Kane County.

Build a local venture capital base.

Develop a network of business contacts who can assist in business recruitment.

Encourage the establishment of small-scale forest product and mineral based businesses

Investigate solar energy options.

Develop and Maintain an Infrastructure that can Support a Robust Economy

Actions: Assist in developing a regional industrial park in Kanab.

Direct business to locations with sufficient public services.

Develop and promote a multiple use recreation and other public service

facility at the Kaneplex site.

Encourage the development of four-lane access through the county.

Participate in the building of a swimming pool in Kanab.

Enhance Educational Opportunities

Actions: Encourage high behavioral and academic standards.

Advocate a modified school year with work release options.

Participate in training activities for service sector owners and employees.

Partner in developing improved library services.

Support more community involvement in secondary schools.

Strengthen Effective Communications

Actions: Increase interaction with federal and state agencies to enhance economic development.

Increase communications between public officials and citizens.

Partner in the development of a regular public issues forum.

Foster the creation of a formal citizen's network.

Establish a Kane County Economic Development Coordinating Council.

Publicize public meeting agendas on local TV and radio outlets.

Kane County General Plan
Final For Adoption
June 22, 1998

Support the preparation of a Tourism Development Plan which includes a Vision Statement and written goals and objectives.

Affordable Housing

An Affordable Housing element which provides a reasonable opportunity for a variety of housing to meet the needs of present and future residents, and considers the following:

- a) *The existing supply of moderate income housing;*
- b) *An estimate of the need for moderate income housing for a period of five years annually;*
- c) *A survey of total residential zoning;*
- d) *An evaluation of how existing zoning densities affect opportunities for;* and
- e) *A description of the county's program to encourage moderate income housing.*

Introduction

The Kane County General Plan focuses on the unincorporated areas of the county. With the basic premise that the county will not provide municipal-scale services, it is difficult for the unincorporated area to be expected to provide for an extensive array of affordable housing alternatives.

Existing Housing Supply

The Five County Association of Governments has estimated that over 1400 housing units will be required to accommodate the needs of projected populations in the year 2020. It is estimated that the unincorporated area will include about 15 percent, or 210 units.

Need for Moderate Income Housing

The 1995-96 Consolidated Plan Kane County Housing Profile notes that vacancy rates are very low, that multiple housing units are scarce, and that the primary need is for 3+ bedroom rental units, both single family detached and multiple-family units. Again, the greatest demand is found inside incorporated communities.

Evaluation of Zoning Densities

Due to the need to meet new septic tank density regulations, and the desire to protect county watersheds, the unincorporated densities recommended in this plan are very low. However, the zoning regulations permit affordable housing options such as manufactured housing.

County Program for Moderate income Housing

Kane County will continue to recommend that urban scale uses locate inside incorporated communities where services can be provided. Unincorporated residents will be permitted to utilize most types of housing which meets health and safety codes. The county will not deny housing units based upon value, but rather upon safety and health considerations.

Affordable Housing Goals and Policies

Present and future residents and visitors to the unincorporated areas of Kane County will be housed in safe, sanitary, and attractive conditions. Housing types will reflect the rural, open nature of unincorporated land uses, and will enable residents of a wide range of income levels to reside in Kane County.

Public Lands

Other elements deemed appropriate.

Introduction

Historically, federal and state trust lands management has taken place with little regard to Kane County land use plans. County officials have asked to become a part of developing federal land management plans. The County Commission has encouraged federal land managers to solicit local government involvement in their planning processes.

FINDINGS

- A) The historic cooperative efforts of the Western livestock industry, local governments, Federal land management agencies and State land management agencies has resulted in notable progress in sustainability of rangeland productivity. Bureau of Land Management records show a 100% increase in good condition rangeland and a 50% reduction of poor condition rangeland in the past 50 years.
- B) As a result of significant management effort and cooperation, populations of big game and wildlife are increasing throughout the county. Continuation of these cooperative efforts is in the best interest of the rangelands, and the economic activity and wildlife dependent upon them.
- C) As new knowledge of riparian area management has been available and applied, significant changes have occurred in riparian areas that benefit wildlife as well as livestock grazing and recreational use. The latest available technology must be used to support innovative application to continue the improvement in riparian habitat.
- D) In order to promote the economic, cultural, and social well being of Kane County and our rural communities, grazing preferences must continue to be adequately safeguarded.
- E) Maintaining the economic viability of Kane County livestock industry is essential for maintaining the open space and habitat for big game, wildlife and fish. The alternative is to sell off of land for developments that would preclude big game, wildlife and fish.
- F) Incentives for increased public input into management planning for public lands and in

private investment in rangeland development will support continued cooperative management efforts.

G) In spite of statutory requirements, Federal land use plans have not been developed in a management efforts.

PURPOSES

- 1) Promote healthy sustainable rangeland supporting a viable livestock industry upon which Kane County, our small communities and our citizens depend for their custom, culture, economic viability, and social stability.
- 2) Providing for orderly multiple use and development of rangelands to facilitate recreational uses, wildlife, mineral extraction, wood product supply and rights-of- way.
- 3) Provide for sustainable productive watersheds for a continued supply of waters for Kane County's irrigated agriculture sector which is dependent on both stream flows and water storage.
- 4) Provide for the protection of all property rights and interests related to water, livestock grazing, rights-of-way, mineral extraction, and use of State land leases.
- 5) Provide for statutory requirements for coordination and consistency between Federal land use plans and the Kane County Land Use Plan for Federal and State Lands.
- 6) Assure that both State and Federal statutes are followed in the administration of the public lands in Kane County.

Public Lands Key Issues

Kane County will be a partner in developing public land restoration standards.

Kane County will ask all federal land managers to consider the adoption of land use standards which conform to county standards, and which comply with federal law.

Stress the differences between National Recreation Area management and National Park management. The NRA is to foster recreation use. This implies the need to allow access into NRA lands.

Allow surface access to Llwellen Bench.

Develop three surfaced road accesses from Highway 89 into the Monument.

Construct well-marked trails and provide restrooms at trailheads or viewpoints found at the end of the paved road accesses.

Provide less-developed camping facilities at other locations.

Place the Monument Headquarters in Kanab, to be incorporated into an interagency visitor and research campus on the Kaneplex site.

Place visitor contact stations in Big Water and Glendale.

Allow mechanical access along the established system of RS2477 assertions.

Establish a Memorandum of Understanding which allows joint Kane County/BLM management and maintenance of Class B county roads. This will include a one mile wide corridor along the Class B roads.

Manage Off Highway Vehicles with a "limited access" strategy which closes some accesses to general use, but allows permit holders to utilize accesses within the constraints of permits or other authorizations.

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Use the Monument Management Plan as a vehicle to resolve the issue of wilderness designation inside the monument.
Establish a SITLA "receiving area" in the vicinity of Big Water.

Public Lands Goals and Policies

Federal land management planning processes will include Kane County as an active, on-going partner and will be consistent with county goals and policies when not constrained by federal law. The county will insist that State Institutional and Trust Lands uses conform to county land use policies and regulations.

Continue to insist that federal land management plans which regulate public lands in Kane County promote the multiple use / sustained yield concept of public lands use.

Work with the National Park Service to develop further facilities, including boat access, at Lake Powell in the Llewellyn Gulch area.

Support the development of additional facilities at the North Rim of the Grand Canyon and encourage a longer season.

Work closely with federal land managers in the preparation of federal Resource Management Plans.

Reject federal attempts to impose integral vistas, Class I air attainment areas, buffer zones, critical habitat designation, and other means to further restrict uses of the small private land base in Kane County.

Implement a public awareness program designed to inform local citizens of the impact of federal regulations on the county.

The county will identify BLM parcels of land needed for community development purposes. These parcels will be noted in the Kanab/Escalante RMP.

The BLM will continue to allow the use of federal lands for Recreation and Public Purposes, to include access roads and parking areas in locations receiving tourist visitation.

Key scenic areas where tourist and local resident access is essential will be identified with the area BLM office and included on the General Plan Map.

The county will not accept any form of "ecosystem" management of federal lands if such planning impacts the use and enjoyment of the few private land holdings found in the county.

Visual Resource management on federal lands cannot be allowed to impede the legal uses of private lands.

Any acquisition of or easements across private lands by a federal land management agency should be reviewed by the County Commission. The concerns of the Commission will be addressed in the NEPA documentation prepared for such acquisition.

The county will continue to oppose any listing of a threatened or endangered species which does not include an analysis of the impacts to the county's economic base.

All federal land management agencies in Kane County should include a full assessment of the social and economic impacts of management actions.

There will be "No Net Increase" of federal lands in Kane County.

Provide for landscape vegetation maintenance and improvement which will support restoration of suspended AUM's, allocation of continuously available temporary non-renewable use as active preference, and will support continued use and or increased use of State school endowment trust lands.

Strategies:

- 1) The Taylor Grazing Act mandates stabilization of the livestock industry by providing for the orderly use, improvement, and development of the range in a manner which adequately safeguards vested grazing and water rights, and in a manner that will not impair the value of the grazing unit of the permittee when such unit is pledged as debt security by the permittee. Public Rangeland Improvement Act (PRIA) provides that the Bureau of Land Management administered lands be managed in accordance with the Taylor Grazing Act. PRIA further provides that the range should be made "as productive as feasible" in

accordance with the Congressional objective of preventing "economic disruption and harm to the western livestock industry". The Act (PRIA) mandates improvement of the rangelands in order to expand the forage resource and increase the resulting benefits to livestock and wildlife production. In the Federal Land Policy & Management Act (FLPMA) the Congress directs that the BLM administered lands be managed in a manner which "recognizes the Nations need for domestic sources of minerals, food, timber, and fiber from the public lands". The National Environmental Policy Act requires consideration of all environmental actions on the culture, heritage and custom of local government (16 U.S.C. sec. 4331 (a)(4). Current active preference and continuously available supplemental use is considered the established allowable use for livestock grazing.

- 2) Implement rangeland improvement programs, including but not limited to; water developments, rangeland restoration, juniper/shrub control, and weed control to achieve forage and livestock grazing as well as other multiple use resource goals.
- 3) Identify and develop off-stream water sources where such opportunities exist, in all allotments pastures with sensitive riparian areas and in all allotments where improved livestock distribution will result from such development.
- 4) Identify and implement all possible livestock distribution, forage production enhancement, and weed control programs before seeking changes in livestock use levels.
- 5) Identify and initiate reductions in stocking levels, only when monitoring data demonstrates that grazing management supported by range improvements and specialized grazing systems, are not supporting basic soils, vegetation and watershed goals.
- 6) Assure that all grazing management actions and strategies fully consider impact on property rights of inholders, adjacent private land owners and state land lessees, and the potential impacts of such actions on grazing animal production.
- 7) Where monitoring history, actual use or authorization of TNR demonstrates that supplemental use is continuously available, and can or should be used to improve or protect rangelands (e.g. reduction of fuel loads to prevent recurring wildfire), initiate a process to allocate such use to permittees as active grazing

preference.

8) Authorize use of supplemental forage during those years when climatic conditions result in such availability.

Actions:

- 1) Document the amount of livestock use through review of actual use, authorized active use, suspended use and temporary nonrenewable use.
- 2) Document all rangeland and livestock management improvement programs as to acres affected by vegetation manipulation, water development, specialized grazing systems and weed control.
- 3) Document grazing use in each allotment through use pattern mapping.
- 4) Document the direction of rangeland trend and seral class acreage changes that support changes in the amount of use being authorized or denied.
- 5) Document all decisions or agreements resulting in changes in active preference and approvals or denial of applications for supplemental use.
- 6) Determine from monitoring data, trend studies and seral class rangeland studies, the amount of authorized use that can be sustained.
- 7) Determine the degree to which, data supported requests for increases in active preference or applications for supplemental use are approved and authorized.
- 8) Determine the degree to which identified vegetation manipulation projects, range improvement practices, specialized grazing systems, and weed control projects are being authorized and implemented.

Meet the requirements for water quality contained in the State of Utah water quality plan to the extent they can be met while complying with Utah constitutional and statutory law as to vested water rights and control of in-stream flow, and to maintain or improve riparian areas and aquatic habitat that

represents a range of variability for functioning condition.

Strategies:

1) The Utah Code requires that all State lands be administered "in such manner as will secure the maximum long term financial return to the institution to which granted or to the state....". Article XVII of the Utah Constitution, and Title 73 of the Utah Code, establish the nature of water rights as rights of realty, define the process by which such rights are acquired, protect such vested rights. Utah Code guarantees the right to water livestock from in-stream flow. The Utah Code addresses water quality issues through designation of beneficial uses, specific water quality standards to meet beneficial uses, and the processes to follow in achieving the standards where they are deficient. The BLM must comply with Utah water quality law including the processes set forth for achieving water quality standards. Title 19 of the Utah Code also states "It is the intent of the state of Utah fully meet the goals and requirements of the Federal Clean Water Act and that the rules promulgated under this act not impose requirements beyond those of the Federal Clean Water Act."

Actions:

- 1) Develop site specific Best Management Practices (BMP's) through allotment management plans for those waters which have been specifically identified and documented as not meeting beneficial use. BMPs include but are not limited to:
- 2) Prescribed grazing systems, Off site water development, Shrub and juniper control, Livestock salting plans. Establishment of riparian pastures, Herding.
- 3) Develop and utilize standardized forms and procedures for all monitoring data related to riparian and aquatic, habitat, condition and trend.
- 4) Develop management plans for multiple recreation uses in high erosion hazard watersheds, or watersheds where accelerated erosion is occurring, which assure that planning documents and/or other agreements which alter multiple recreation use are formulated through coordination with the Kane County Resource Development Committee which includes Off Highway Motorized Vehicle recreationist representative groups.

- 5) Develop and implement a management plan for wildlife to minimize surface disturbance erosion adversely affecting riparian areas.
- 6) Complete annual reviews and provide documentation and data to Utah Department of Wildlife Resources regarding in-stream flow impact on fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality in light of Utah Code which prohibits impairment, diminution, control or divestiture of "existing or vested water rights".
- 7) Provide for the development and maintenance of water conveyance systems.
- 8) Document progress in the development of AMP's including site specific BMP's and their implementation.
- 9) Document the development and implementation of multiple recreational use plans for specific high erosion areas.
- 10) Document impacts of wildlife and multiple recreation use on riparian and aquatic habitat.
- 11) Document and review all IDWR decisions regarding state water plan(s) and minimum in-stream flow.
- 12) Document the status of water rights in renewal of permits and developing AMPs.
- 13) Track the development of AMP's and implementation of BMP's to determine their impact on improvement of riparian areas and identify the need to re-evaluate design and effectiveness of BMP's..
- 14) Review the degree of use and effectiveness of standardized procedures to obtain and record data to determine the condition and trend of riparian and aquatic habitat in areas identified as being adversely affected by wildlife, and multiple recreational use.
- 15) Evaluate both the records of grazing permit renewal and UDNR decisions to establish minimum stream flows for their impact on private property rights, including water rights.

Maintain, improve or mitigate habitat in order to sustain viable and harvestable populations of big game and upland game species as well as wetland/riparian habitat for waterfowl, fur bearers and a diversity of other game and non-game species.

Strategies:

The Federal Land Policy & Management Act provides that it is the policy of the United States that BLM administered lands be managed in a manner that will protect the quality of multiple resources, will provide food and habitat for fish and wildlife and domestic animals, and will provide for outdoor recreation and human occupancy and use. The Public Rangeland Improvement Act directs improvement of rangeland conditions and provides for rangeland improvements which include habitat for wildlife. The Utah Code requires that all State lands be administered "in such manner as will secure the maximum long term financial return to the institution to which granted or to the state...." The authority for management of wildlife rests solely with the State of Utah by virtue of the equal footing doctrine stated in the Admissions Act, article one and adoption of the US Constitution (10th amendment).

Actions:

- 1) Consult with the Utah Department of Wildlife Resources, all affected land owners, lessees and permittees to develop specific wildlife population targets, harvest guidelines, depredation mitigation and guidelines for future site specific management plans affecting upland, water fowl and big game habitat.
- 2) Conduct rangeland studies, pellet group plots, breeding bird transects and other appropriate studies to monitor wildlife relationships to available habitat as well as impacts of vegetation manipulation projects on wildlife.
- 3) Accelerate the planning, approval and completion of additional water developments, rangeland treatment projects and prescribed burns with objectives for enhancement of big game and other wildlife habitat.
- 4) Include considerations of wildlife habitat requirements in the design and reclamation of mineral development projects through approved Plan(s) of

Operations:

- 5) Assure that management agencies provide all necessary maintenance of enclosure fences not specifically placed for improved management of livestock.
- 6) Initiate cooperative studies with willing private land owners, of wildlife depredation and related concerns regarding wildlife habitat on private land.
- 7) Document the participation of affected parties in the development and establishment of population targets and management guidelines for upland game, water fowl, and big game species.
- 8) Document the inclusion of wildlife habitat objectives in activity plans and BLM approved Reclamation Plans.
- 9) Document the frequency, and extent of water developments and vegetation manipulation projects and prescribed fires for wildlife habitat improvement.
- 10) Periodically monitor range improvement projects, rights-of-way, woodcuts, mining activities, multiple recreation uses, and materials leases, to document habitat improvement or disturbance.
- 11) Document the incidents of wildlife depredation and extent of game animal harvest in designated management areas of both land and wildlife management agencies.
- 12) Track the participation of agencies, landowners and sportsmen and their progress in development of designated management area plans.
- 13) Reconcile wildlife population fluctuation related to both habitat condition and non habitat impacts on reproduction and survival.
- 14) Track the numbers and time required for the initiation and completion of water developments, prescribed burns and range treatment projects for wildlife habitat improvement.
- 15) Track the incidents and disposition of wildlife depredation on private lands and property.

Utilize, to the greatest extent possible, agricultural or mining entry, land exchange, and or land sale for disposal of all public lands which by virtue of their size or location render them difficult and expensive to manage and do not serve a significant public need or where disposal will serve important public objectives. Authorize as needed the use of those lands, not currently authorized, for rights-of-way, leases and permits.

Strategies:

Federal Land Policy & Management Act provides for effective use of the BLM administered lands by providing continuity of uses for roads, power, water, and natural gas. The Federal Land Policy & Management Act mandates multiple use of the BLM administered lands, provides for continuing inventory and classification reviews of the BLM administered land, authorizes the Director to acquire lands when necessary to provide more efficient management through consolidation, and authorizes disposal of certain BLM administered lands. Lands currently under the jurisdiction of other agencies or lands currently withdrawn need a management plan to assure multiple use development when that existing withdrawal is revoked. The BLM is required to comply with federal, state and local government laws relating to hazardous materials.

Actions:

- 1) Identify and give priority consideration to requests for exchanges or purchases from private land owners with fenced federal range, isolated tracts, or irregular boundary lines.
- 2) Develop an inventory of those BLM administered lands which should be disposed of in the public good and make available for further application for agricultural or mining purposes those lands currently under application or patent application that are relinquished or rejected.
- 3) Seek legal administrative access only through purchase or exchange where significant administrative need exists, construct new roads around private lands where easement acquisition is not feasible, and consider significant public access needs in all land tenure adjustment transactions.
- 4) Manage newly acquired lands and lands that have been returned to BLM

management through revocation of withdrawals in accordance with existing land use plans for adjacent land.

- 5) In coordination with federal agencies and state and local government planning agencies and in cooperation with interested members of the public through the NEPA process, develop and implement an Action Plan for management of hazardous materials on state and public lands.
- 6) Document the review procedures and acres of land classified for priority disposal.
- 7) Document all applications for rights-of-way, leases and permits and the actions taken on each.
- 8) Document access needs and procedures and methods utilized to achieve such access.
- 9) Determine annually the degree of progress in achieving disposal of lands classified for priority disposal.
- 10) Evaluate the degree to which access needs are being met.

Facilitate environmentally responsible exploration and development based on a preponderance of scientific evidence for locatable mineral, oil, gas and geothermal, and common variety mineral resources on BLM administered lands opened to location under mining and other appropriate statutes.

Strategy:

The Mineral Leasing Act of 1920 as amended, the Mining and Mineral Policy Act of 1970, all declare that it is the continuing policy of the federal government to foster and encourage private enterprise in the development of domestic mineral resources. The 1872 Mining Law along with the Mining and Mineral Policy Act of 1970 declares that it is the continuing policy of the United States to foster and encourage private enterprise in the development of domestic mineral resources. The Federal Land Policy & Management Act, reiterates that the Mining and Minerals Policy Act of 1970 is to be implemented and directs that the BLM administered lands are to be managed in a manner which recognizes the nation's

need for domestic sources of minerals and other resources. The National Materials and Minerals Policy, Research and Development Act of 1980 restates the need to implement the 1970 Act and requires the Secretary of the Interior to improve the quality of minerals data in land use decision making. The Mining Law of 1866 guaranteed certain rights which allow for orderly and efficient use of the public lands for commerce.

Actions:

- 1) In coordination with federal agencies and state and local government planning agencies and in cooperation with interested members of the public, develop a land management mineral classification plan to evaluate, classify and inventory the potential, for locatable mineral, oil, gas and geothermal, and material mineral exploration or development, in Kane County to insure that lands shall remain open and available unless withdrawn through the NEPA process. Active areas, such as the Carson Mining District, will continue to be managed for their high mineral values.
- 2) Develop an evaluation program which relies upon and uses all available data retrieval and interpretation methods, including, but not limited to: Reviewing existing data, geochemical and geophysical testing, geological mapping and sampling, and, where appropriate, drilling testing.
- 3) Provide for mineral material needs through negotiated sales, free use permits and community pits.
- 4) Document all exploration activity and requests for and the issuance of patents through a system of tracking paper work associated with such activity
- 5) Determine the degree to which mineral exploration and development are occurring as compared to needs and potential for the County.
- 6) Determine whether the time required to obtain necessary permits and approvals is excessive.

In coordination with state and local government planning agencies, and in cooperation with interested members of the public, and the Kane County Resource Development Committee, develop and implement a Management Action Plan by

which to determine the significance of cultural-resource sites according to condition, content and relevance and increase the opportunity for educational, recreational, socio-cultural, and scientific uses of cultural and paleontological resources.

Strategy:

The Federal Land Policy and Management Act directs that the BLM administered lands be managed so as to protect archeological values. The Antiquities Act of 1906 and the Archeological Resources Protection Act of 1979 require protection of paleontological resources and require permits for excavation or appropriation of such resources. The National Environmental Protection Act directs preservation of important natural aspects of the national heritage. The National Historic Preservation Act of 1966 describes federal agencies responsibility to preserve prehistoric and historic cultural resources.

Actions:

- 1) Select at least three (3) cultural resource and paleontological sites for evaluation annually track any changes in site characteristics such as deterioration or vandalism.
- 2) Where sufficient data indicates adverse impacts of multiple uses occurring on a site, establish mitigation measures to reduce impacts and protect and conserve unique cultural and paleontological resources .
- 3) Protect the integrity of those portions of the Spanish Trail and associated cultural resource sites on BLM administered lands.
- 4) Manage the existing historic district designations in accordance with Section 1 10 of the National Historic Preservation Act of 1966.
- 5) Nominate appropriate site/areas to the national register of historic places only in accordance with the policies and procedures outlined in NEPA.
- 6) Document, record and make available to the Kane County Historical Museum Committee, all data that details conditions found at specific cultural and paleontological sites during all site visits.

- 7) Maintain, review and make available to the public for analysis the data collected during annual monitoring site visits.
- 8) Periodically review changes in historical, cultural and paleontological site designations.
- 9) Analyze the site visit data to determine the degree of impact of multiple uses occurring on the site and develop mitigation measures.
- 10) Track the progress of recommendations for additions to the National Register of Historic Places.
- 11) Analyze the degree to which cultural resource management restrictions are affecting or limiting multiple uses of the public lands in Kane County.
- 12) Review the data provided to and on file with Kane County Resource Committee.

Maintain or improve conifer tree health, vegetation diversity, wildlife and watershed values through active management of conifer forests in Kane County and prevent encroachment of Pinyon- Juniper into these communities.

Strategy:

The Public Rangelands Improvement Act directs that the condition of the BLM administered rangelands be improved so that they become as productive as feasible for all rangeland values. The Federal Land Policy Management Act mandates that BLM administered lands be managed in a manner that will protect the quality of ecological and other resource values and provide food and habitat for fish and wildlife and domestic animals and recognizes the nation's need for domestic sources of minerals, food, timber, and fiber from the BLM administered lands.

Actions:

- 1) Plan and implement selective timber and firewood harvesting programs where dead and/or decadent trees need to be removed to improve forest health.

- 2) Plan and implement reclamation of disturbed forest sites.
- 3) Document all timber harvest activities on Forest Service, BLM administered lands and State lands to assure safety compliance and conformity to Kane County standards.
- 4) Plan and implement grazing management strategies designed to enhance conifer forest goals.
- 5) Document the presence of forest diseases, pests and other parasites.
- 6) Identify and document old and decadent stands of timber and the management actions applied in each individual case.
- 7) Identify and document the acres and severity of juniper encroachment into coniferous forest stands.
- 8) Evaluate monitoring documentation to determine the degree to which coniferous forests are continuing to be affected by insect damage and displaced by juniper.

Provide for multiple recreation uses in Kane County including federally administered lands located within its boundaries, including high quality recreational opportunities and experiences at developed and undeveloped recreation sites by allowing historic uses and access while maintaining existing amenities and by providing new recreation sites for the public's enjoyment. Pursue increased public access opportunities in both motorized and nonmotorized settings through the acquisition of rights-of-way or easements, both public and private. Recognize that multiple recreation uses are mandated by the multiple use concept and that adequate outdoor recreation resources must be provided on the BLM administered lands and waterways.

Strategy:

The Federal Land Policy & Management Act declares it to be the policy of the United States that BLM administered lands be managed on the basis of multiple use in a manner which provides for outdoor recreation and human occupancy and use, while at the same time protecting scenic, ecological, environmental, water, and

archaeological values. The Act also mandates that outdoor recreation be considered one of the principle uses in the multiple use concept for the BLM administered lands. In 1963, Congress enacted the Outdoor Recreation Coordination Act declaring it "desirable that all American people of present and future generations be assured adequate outdoor recreation resources". See 16 U.S.C. ' 460L. The Secretary of Interior was authorized to prepare and maintain "a continuing inventory and evaluation of outdoor recreation needs and resources". 16 U.S.C. ' 460L-1. This Act also requires consideration of the plans of federal agencies, states, and the political subdivisions of states, and required the BLM to cooperate with states, political subdivisions of states and private interests with respect to outdoor recreation. ' 460L-1(c)(d). The Intermodel Surface Transportation Efficiency Act 16 U.S.C. ' 1302; National Recreational Trails Fund, 26 U.S.C. ' 9511; and National Trails System Act, 16 U.S.C. ' 1241 provide for the preservation, development and funding of roads and trails for recreation use.. These statutes mandate that trails for multiple recreation uses be made available for a diversity of motorized and non-motorized uses. Multiple recreation uses must also be provided for the elderly, physically challenged and very young in order to provide diversity of recreation opportunities. See, Americans with Disabilities Act, 42 U.S.C. ' 12111 et seq. All areas historically accessed by off-road recreational vehicles, mechanized vehicles, horses and boats should continue to be available for their historical uses. These historically accessed areas include roads, trails, sandwashes, and waterways identified to the Kane County Clerk as Revised Statute 2477 rights-of-ways, including those areas where wild horses may be located.

Actions:

- 1) Provide for continued multiple recreation uses in special and extensive recreation management areas, including those areas where state, federal and/or private funds and materials were or are considered to be used to provide for recreational facilities.
- 2) In compliance with applicable local, state and federal laws, identify specific areas for: national wild and scenic river system potential, additional trailhead facilities for both motorized and non- motorized access, development and/or maintenance of roads, trails, and waterways for both motorized and non-motorized access, restoration of those areas formerly available for historical recreational uses, e.g. motorized and equestrian access for recreational and

competitive events, hunting and boating.

- 3) Provide for adequate outdoor recreation resources by revising the designated areas to decrease or eliminate limitations and restrictions where the review and evaluation shows that the limitations and restrictions are no longer appropriate and necessary.
- 4) Plan and establish designated equestrian, foot, and off-road vehicle trail systems and waterways for compatible recreation, commercial, and other multiple uses so that such uses can continue unabated.
- 5) Maintain existing facilities at developed recreational sites and upgrade, reconstruct and/or increase recreation facilities, when needs are indicated by monitoring data, at currently undeveloped sites.
- 6) Describe methods of minimizing or mitigating documented use conflicts or damage and define the manner in which each method is expected to accomplish minimization or mitigation.
- 7) Collect review and analyze data relating to the demand for recreation use, the impact of the various recreation uses on land values, and any actual conflict or damage caused by each of the multiple recreation uses.
- 8) In coordination with federal agencies and state and local planning agencies, review all data to determine whether temporary climatic conditions, wildlife activities, or range conditions which may require temporary or seasonal restrictions or limitations on historic and present recreation uses, and review data to determine the earliest point at which temporary restrictions or limitations can be removed.
- 9) Collect and maintain data obtained during meetings and discussions with recreation users held at least twice annually.
- 10) Collect and maintain records of all management actions taken specifically to meet requirements of the ADA and maintain records of use and requests for use from ADA eligible individuals.
- 11) Investigate, validate and document all user conflicts reported to Kane County

and or Federal lands management agencies.

12) Meet annually with interested hunters, fishermen and other recreation users and review the data regarding recreation demands, outdoor recreation resources, and multiple recreation uses and their impact.

13) Coordinate with federal agencies and state and local government planning agencies, to annually review and analyze recreational inventory, classification and designation information to validate the relevance and importance criteria, the impact on land values and on recreation uses, historic and present.

14) Analyze data on multiple recreational use in areas with special use designations or which are under study for such designation to identify any adverse impacts on multiple recreational use.

15) Review data regarding implementation of the Americans with Disabilities Act and whether ADA implementation actions are adequate.

Seek immediate Congressional designation action on all WSA's and Wild and Scenic Rivers recommendations in Kane County to release these areas for multiple use management and in the interim prevent, minimize or mitigate impairment or degradation of such areas to the extent that Congressional actions are not pre-empted.

Strategy:

The Federal Land Policy and Management Act provides that the Secretary shall review BLM administered lands and recommend those which he finds to meet wilderness characteristics. Between submission of the Secretary's recommendations and final Congressional action, the Act provides that the lands be managed in such manner so as not to impair their wilderness characteristics, "subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on" October 21, 1976. The Act directs prevention of "unnecessary or undue degradation of the lands and their resources" and implementation of environmental protection. Enabling legislation will identify specific management direction for each Wilderness Area or specify that these lands be placed under multiple use management. The Federal Lands Policy & Management Act declares as the policy

of the United States that BLM administered lands will be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource and archaeological values, that will provide food and habitat for fish and wildlife and domestic animals that will provide for outdoor recreation and human occupancy and use, and, where appropriate, will preserve and protect certain BLM administered lands in their natural condition.

Actions:

- 1) Within one year develop a comprehensive recommendation to Congress seeking immediate release of all WSA's and Wild and Scenic Rivers recommendations to multiple use management.
- 2) Provide for optimum scenic value in Kane County through achievement of vegetation and soils watershed objectives and implementation of nondegrading nonimpairing range improvement activities, construction, use and maintenance of livestock management facilities, and facilities for public enjoyment of the land.
- 3) Upon Congressional release, return management policies for the affected area to those consistent with land use plans and the non-wilderness full multiple use concept mandated by the Federal Land Policy & Management Act and Public Rangelands Improvement Act.
- 4) Develop and establish objective scientific classifications based upon vegetation condition and trend criteria which comply with the Federal Land Policy & Management Act.
- 5) Track the development of Congressional recommendations and Congressional action on WSA's and WSR recommendations.
- 6) Track the data obtained from rangeland studies and document the location, pace, and extent, of improving trends in rangeland vegetation and soil stability.
- 7) Document the implementation of multiple use management on lands released through Congressional action.
- 8) Collect data regarding the multiple recreation uses occurring in areas

designated or being subjected to potentiality study for special designees such as a wild and scenic river, or wilderness.

9) In coordination with federal agencies and state and local government planning agencies, and in cooperation with interested members of the public, re-evaluate current VRM classifications within 3 years and every 10 years thereafter.

10) Compare current WSA acres and Wild and Scenic River mile recommendations with those remaining at the end of each decade.

11) Determine the extent of change in condition class and trends for watershed uplands and riparian habitat.

14) Compare management of released land and river miles for compliance with multiple use guidance provided in land use plans for adjacent land and the Federal Land Policy and Management Act.

In order to promote multiple use and release management agencies and affected land owners from the burden of an added layer of management, conduct an evaluation of all existing ACEC designations and release those that reflect changes from conditions existing at the time of designation and/or newly acquired information and data indicate they no longer qualify. Conduct NEPA and FLPMA statutory review individually on each new area proposed for designation as Areas of Critical Environmental concern.

Strategy:

The Federal Land Policy & Management Act, in 43 U.S.C. §1711 requires the BLM to prepare and maintain on a continuing basis an inventory of BLM administered lands and their resource and other values, giving priority to areas of critical environmental concern. The Act further requires that the inventory must be kept current in order to reflect changes in conditions and to identify new and emerging resource and other values. The Act also mandates that neither the preparation and maintenance of the inventory or the identification of Areas of Critical Environmental Concern shall in and of itself change management or use of the lands. The Federal Land Policy & Management Act also requires, in 43 U.S.C. §1712, that the BLM coordinate the land use inventory, as well as the planning and management activities for land uses with other federal departments and

agencies of the states and local governments within which the land lies. The Federal Land Policy & Management Act also requires, in 43 U.S.C. §1712, that the BLM give priority in the planning process to designation and protection of areas of critical environmental concern. Such areas are defined as areas where special management attention is required to protect and prevent damage to important historic, cultural or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards. The inventory and planning process mandated by the Federal Land Policy & Management Act was re-emphasized in the Public Rangelands Improvement Act. The National Environmental Policy Act requires the BLM to use a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences in planning and decision making "which may have an impact on man's environment". 42 U.S.C. §4332. The National Environmental Policy Act further requires that the BLM decision making process give appropriate consideration to presently un-quantified environmental amenities and values, and to economic and technical considerations. The Act also requires an EIS prepared in accordance with 42 U.S.C. §4332 prior to any major federal action significantly affecting the quality of the human environment.

Actions:

- 1) In compliance with the planning process set forth in the Federal Land Policy & Management Act, inventory the lands in the Kane County, identify specific areas of critical environmental concern by describing the statutory criteria present in the areas, and develop and implement a Management Plan for providing the specific management protection required.
- 2) In coordination with federal agencies, and state and local government planning agencies, develop and implement an ACEC classification plan utilizing the NEPA, EIS process, to inventory, evaluate and classify and re-classify ACECs in the Kane County, including within the Plan the following:
- 3) Describe the important uniqueness (one of a kind), historic, cultural or scenic value, the fish and wildlife resource, or other natural systems or processes in any proposed ACEC, and describe and document the damage which will occur to such value unless special management attention is given to the area, or describe and document the natural hazards of the area which will endanger life or safety unless special management attention is given.

4) Describe and document the special management attention which is necessary to protect the proposed area from imminent damage to the statutory unique (one of a kind), relevance and importance values, or to protect life and safety from natural hazards, and quantify the manner in which such special management attention is expected to provide the needed protection.

5) In developing and implementing the ACEC Management Plan, and in conducting the ongoing evaluation of existing and proposed ACECs, take the following actions:

Use a systematic interdisciplinary approach in order to achieve integrated consideration of physical, biological, economic, and other scientific data.

Use and observe the principles of multiple use and sustained yield set forth in federal statutory law.

Consider present and potential uses of the land and the impacts of special management on private inholdings, adjacent private lands and state leased lands.

Consider the relative scarcity of the values involved and the availability of alternative means and sites for realization of those values.

Weigh long term benefits to the public against short term benefits of the existing or proposed action regarding ACEC status.

6) Annually evaluate the status of the ACECs, the impact on multiple use by continuing the ACEC designation, and the adverse impact of such designation on the multiple use concept mandated by the Federal Land & Policy Management Act.

7) Where the NEPA process was not followed or changing conditions or new evidence indicates an area may no longer qualify as an ACEC, change the status from "existing" to "proposed" and follow the Objectives set forth above. If the determination is made that the existing ACEC no longer qualifies as an ACEC in accordance with federal statutes, then show the area as being returned to non-ACEC multiple use status.

8) Document the NEPA process which was followed in evaluating existing ACECs

and establishing new ACEC's.

9) Document, physical, biological, economic and other scientific data relating to the existing and proposed ACECs.

10) Meet annually with other federal agencies, state and local government planning agencies, affected land owners, and interested public users to review data regarding existing and proposed ACECs.

11) Annually review the inventory and classifications established in the Kane County by analyzing data as to the relevance and importance criteria, the special management actions, the effectiveness of such management actions, and the adverse impact created by such management actions on the multiple use concept mandated by the Federal Land Policy & Management Act.

Comply with the National Ambient Air Quality Act and State of Utah regulations and their standards to prevent significant deterioration of the high air quality found in Kane County.

Strategy:

The Federal Clean Air Act and State of Utah regulations, establish standards and provide guidance to management agencies regarding parameters affecting air quality. Smoke management is one element (both prevention of significant deterioration (PSD) and total suspended particulate (TSP)) of several elements in the National Ambient Air Quality Standards established in the Clean Air Act (1967) and amendments to the Act (1 972, 1 977).

Actions:

1) Obtain a determination from appropriate agencies of the maximum tonnage per burning event allowable under air quality standards.

2) Manage smoke from prescribed burn through techniques of smoke avoidance, dilution and emission reduction and limit unnecessary emissions from existing and new point and nonpoint sources through development and implementation of Best Management Practices.

3) Develop an annual plan for prescribed burns for restoration of appropriate site

specific vegetation which includes air quality considerations.

- 4) Conduct prescribed burning at maximum allowed by Clean Air Act and State regulations.
- 5) Maintain records of both acreage and tonnage burned and compare to allowable values.
- 6) Review compliance with best management practices for point source emissions.
- 7) Review burn calculations and plans to assure that maximums are observed.
- 8) Evaluate conformance of prescribed burning plans with requirements and guidelines for air quality and smoke management being developed by the State of Utah.
- 9) Review Best Management Practices as necessary to assure applicability and compliance.
- 10) Review annually the backlog of prescribed burns and applications and requests for additional prescribed burns to incorporate them into the following year annual plan.

Appendix A Location and Setting

Geology

Kane County has a geologic history reaching back over a billion years. Approximately 270 million years of this history is revealed in the rocks, paleontology, and scenery of the county. The oldest rocks found in the county record a time when the equator angled northeast from southern California past the southeastern corner of Utah. Kane County was then a marginal marine lowland of streams, flood plains, and tidal flats. The sea lay to the west, but occasionally spread east across the area leaving beds of limestone with sea shells, sponges, and other fossils between red beds of sandstone and mudstone. The Hermit, Toroweap, Kaibab and Moenkopi Formations record these events covering the first 35 million years (middle of the Permian through early Triassic) of geological history. Periods of erosion are recorded between the Kaibab and Moenkopi Formations and between the Moenkopi and Chinle Formations. Reptile tracks are found in beds of the Moenkopi Formation. These Permian through Triassic formations are seen in the Buckskin Mountain areas of the county.

During the late Triassic, this region was again subjected to a period of erosion before being covered by great sand dunes in early Jurassic time (208 to 187 million years ago). The depositional environment changed from windblown sand dunes to stream laid sand beds and back to windblown sand dunes. Early Jurassic rocks form the Vermillion (Wingate/Moenave and Kayenta Formations) and White cliffs (Navajo Sandstone) of the Grand Staircase. Though generally void of fossils, these rocks occasionally exhibit the fossilized tracks of reptiles including small to medium sized dinosaurs. The middle Jurassic is represented by the Carmel Formation. It is composed of color banded layers of sandstone, limestone, calcareous shale, siltstone, gypsum, and mudstone deposited in and near the southern edge of a shallow sea that advanced into the area from the north. Limestones contain marine fossils of mollusks, brachiopods, crinoids, coral and algae. Desert sand dunes of the Entrada Formation formed on top of the Carmel Formation as the sea retreated to the north. Another period of erosion occurred before the Late Jurassic Morrison Formation (famous for its dinosaur fossils) was deposited by in lakes and east flowing streams. The Morrison is found on the east side of the county at the foot of the Straight Cliff and southeast of the Kaiparowits Plateau. Middle and Late Jurassic sedimentary formations along with erosional periods span time from about 180 to 144 million years ago. Early Cretaceous erosion and nondeposition represent a period

of 45 million years.

During Late Cretaceous time mountains rose to the west and provided sediments for streams flowing east into a great continental sea. This sea cover most of the interior continental United States from Alaska to the Gulf of Mexico. As sediments accumulated, the area along the shore sagged. The shoreline moved back and forth from east to west creating a series of alternating terrestrial-marine deposits covering over 30 million years at the end of the Cretaceous Period. The Dakota Formation was deposited on remnants of either Morrison (east) or Entrada (west) and is a mix of stream sediments and near-shore marine deposits. The Dakota was covered by marine clays of the Tropic Shale. Deposition continued, becoming more terrestrial through time, resulting in the Straight Cliffs Formation, the Wahweap Formation, and the Kaiparowits Formation. These formations are seen on and around the Kaiparowits Plateau and form the Gray Cliffs of the Grand Staircase.

The thickness, continuity and broad temporal distribution of the Kaiparowits Plateau's stratigraphy provide opportunities to study the paleontology of the late Cretaceous Era. Extremely significant fossils, including marine and brackish water mollusks, turtles, crocodilians, lizards, dinosaurs, fishes, and mammals, have been recovered from the Dakota, Tropic Shale and Wahweap Formations, and the Tibbet Canyon, Smoky Hollow and John Henry members of the Straight Cliffs Formation. Within the county, these formations have produced the only evidence in our hemisphere of terrestrial vertebrate fauna, including mammals, of the Cenomanian-Santonian ages. This sequence of rocks, including the overlying Wahweap and Kaiparowits Formations, contains one of the best and most continuous records of Late Cretaceous terrestrial life in the world.

The Canaan Peak Formation straddles the boundary between the Cretaceous and Tertiary Periods. The beginning of the Tertiary Period marked the end of marine environments in or near the monument. The dinosaurs had become extinct and radical changes began to occur in the geology of the county. Several large lakes occupied an area from southwestern Wyoming to southwestern Utah. The Claron Formation, seen as the Pink Cliffs at Bryce Canyon, was deposited at this time. The Tertiary Period lasted about 64 million years during which time Utah experienced uplifts, folding, faulting, and volcanism. Uplift of the Colorado Plateau and Utah in general over the last 15 million years, activated the erosional cycle which uncovered geologic formations dating back 270 million years and created the topography and scenery we now see in the county. Quaternary sediments (younger than 1.6 million years) also occur in the county and have a potential for Pleistocene fossils.

Watersheds

The county lies across four broad watersheds, all part of the Colorado River system. The Escalante River system flows from the Aquarius Plateau and Boulder Mountain into the upper portions of Lake Powell. Last Chance Creek and Wahweap Creek are the principal tributaries off the Kaiparowits Plateau, flowing into the main body of Lake Powell. The Paria River-Kitchen Corral Wash system extends from the Bryce Canyon-Bryce Valley area, terminating below Glen Canyon Dam near Lee's Ferry. Johnson Wash flows southward into Kanab Creek and eventually into the Grand Canyon. Less than ten percent of these are perennial streams and primarily include Kanab Creek, the Paria River, and Last Chance Creek.

Precipitation within the county varies from 7 to 18 inches annually. Winter-time precipitation varies from 4 to 12 inches and is the primary source of recharge of ground-water systems. Winter precipitation is the greatest along the northwest border of county in the higher elevations of the Pansugant Plateau.

Soils

Soils within the county form the base on which ecosystems develop. Understanding the condition of soils is important to the management of many resources. Resource data on soils varies in level of detail across the county. Presently, there are two levels of data available for the monument. These data-sets are as follows:

Kane County Soil Survey - this unpublished report is presently only in a file format and was conducted at a scale of 1:63,360 (1 inch per mile). Due to a lack of interpretive value for this survey the GSENM is remapping and updating the survey to a scale of 1:24,000.

STATSGO - The State Soil Geographic Database is generalized soil survey information for the entire state of Utah. This data was collected at a scale of 1:250,000 and can be used at a county or regional level.

The GSENM soil survey, presently underway, is a 3rd order soil survey. A 3rd order survey is made for land uses not requiring precise knowledge of small areas or detailed soil information. This type of survey is conducted on all national forest lands and the majority of private and public rangelands.

There are three climatic zones in the county, summarized below, in which soils information can be generalized.

Climate Zones				
Climatic Zones	Precipitation (in)	Temp. (degrees F)	Freeze Free Period (Days)	Elevation (Feet)
Desert	6 to 8	50 to 57	170 to 200	4000 to 4800
Semidesert	8 to 12	47 to 55	125 to 170	4800 to 6500
Upland	12 to 16	43 to 50	100 to 125	6200 to 7500

The Desert climate zone is found in two general areas of the county:

The Sooner Bench area of the Hole In the Rock Road is typified by soils of very minimal soil development. Soils typically only have developed a horizon of calcium carbonate (lime) accumulation or no other noticeable subsoil development. Structural benches and dunes on Navajo and Entrada Sandstone, the Carmel Formation and quaternary alluvial deposits characterize this area. Important vegetation for this area includes blackbrush, Cutler Mormon-tea, broom snakeweed, Indian ricegrass and galleta.

The Big Water area is typified by soils of very minimal soil development, with no noticeable subsurface horizon development. Hill slopes and badlands on Tropic Shale, Dakota Formation and lower members of the Straight Cliffs Formation characterize this area. Important vegetation for this area includes mat saltbush, shadscale, galleta, bottlebrush squirreltail and Indian pipeweed.

The Semidesert climate zone is found in two general areas of the county.

The Western area of the Hole in the Rock Road is typified by very deep (>60 inches) soils with developed horizons of clay and calcium carbonate (lime) accumulation. Structural

benches and dunes on Entrada Sandstone, the Carmel Formation and quaternary alluvial deposits characterize this area. Important vegetation for this area includes Indian ricegrass, needleandthread grass, globemallow, fourwing saltbush, Mormon-tea and winterfat.

The Highway 89 area between Johnson Canyon and the Cockscomb is typified by very deep soils (>60 inches deep) with development of calcium carbonate (lime) and clay accumulation subsurface horizons. The Moenkopi Formation and quaternary alluvial deposits dominate as the parent material of this area. Important vegetation for this area includes Indian ricegrass, galleta, winterfat and big sagebrush.

The Semidesert to upland transition climate zone is found in two general areas of the county.

The Death Ridge, Carcass Canyon and Burning Hills areas is typified by shallow soils (10 to 20 inches deep) with minimal development of calcium carbonate (lime) horizons or no subsurface diagnostic horizons present. The Straight Cliffs Formation dominates as the parent material of this area. Typical landforms consist of structural benches with highly dissected sideslope canyons and badland areas of exposed geologic materials. Important vegetation for this area includes galleta, blackbrush, Mormon-tea and Utah juniper.

The Forty Mile area (Wahweap WSA) is typified by shallow to moderately deep soils (10 to 40 inches deep) over the John Henry member of the Straight Cliffs Formation. Soil development consists dominantly of a horizon of calcium carbonate (lime) accumulation or little to no subsurface soil horizon development. Typical landforms consist of structural benches with highly dissected sideslope canyons. Important vegetation for this area includes Utah juniper, pinyon, galleta, Mormon-tea and Bigelow sagebrush.

The Upland climate zone is found in three general areas of the county.

The Fifty Mile Mountain area is typified by shallow to moderately deep soils (10 to 40 inches deep) over the John Henry member of the Straight Cliffs Formation. Soil development consists dominantly of a horizon of clay accumulation or little to no subsurface soil horizon development. Typical landforms consist of structural benches with highly dissected sideslope canyons. Important vegetation for this area includes Indian ricegrass, galleta, rock goldenrod, Bigelow sagebrush, green Mormon-tea, pinyon and Utah juniper.

The Kodachrome basin and Skutumpah Road area is typified by diverse soil properties that are found on the Carmel Formation and quaternary alluvial deposits. Landforms consist of

dissected sideslopes and alluvial fans and flats. Important vegetation for this area includes Indian ricegrass, galleta, big sagebrush, bitterbrush, pinyon and Utah juniper.

The Paria-Hackberry WSA area consists dominantly of Navajo Sandstone geology with varying depths (20 to >60 inches deep) of sand. Landforms consist of vegetated dunes and outcroppings of sandstone. Important vegetation for this area includes sand dropseed, Indian ricegrass, blue grama, green Mormon-tea, pinyon and Utah juniper.

Soils and soil condition affect the degree of water infiltration. This in turn affects basin storage and availability for a range of resource uses. When management activities result in compaction of soils, runoff from precipitation is accelerated and less water is stored in the soil. This results in higher erosion rates and less available water for plants, animals, and ground water recharge.

Riparian Areas

Riparian is simply defined as vegetation and habitats that are dependent upon or associated with the presence of water. Riparian areas comprise the transition zone between permanently saturated soils and upland areas. These areas exhibit vegetation or physical characteristics reflective of permanent surface or subsurface water. Excluded are such sites as ephemeral streams or washes that do not support vegetation dependent upon free and unbound water in the rooting zone of the soil. Examples of riparian areas would include lands along perennially and intermittently flowing rivers and streams and the shores of lakes and reservoirs with stable water levels. Wetlands are represented by marshes and wet meadows. Riparian areas, though they total less than 1 percent of the total lands in the county, are some of the most productive, ecologically valuable, and utilized resources.

Riparian ecosystems in the western states are some of the rarest and most significant in the Western Hemisphere. They are also some of the most affected by the activities of man. As a consequence of western expansion and growth, an estimated 95 percent of riparian habitats have been altered or greatly impacted by such activities as water diversion, channelization, livestock use, clearing, impoundments, and invasion by non-native vegetation. Riparian areas also exhibit a high degree of resiliency when changes in management occur. A large number of plant and animal species depend on riparian areas. In the physiographic region covered by the county, up to 80 percent of vertebrates use riparian habitats at some stage in their life. Over 50 percent of the nesting bird species in this region use riparian habitats as the primary habitat for breeding purposes. This species richness is made possible by the plant diversity, availability of water, prey species, and the proximity to upland communities with their

separate flora and faunal diversity.

A base flow of water is mandatory for the health and functioning of riparian areas. Factors which interfere with these processes include water diversions, ground water pumping, and changes in vegetation type and cover. Human activities can also result in degraded water quality and levels of seasonal flow. Resulting changes may be seen in the type and structure of vegetation communities, increased water temperatures, unsatisfactory physical functioning of hydrologic processes, aesthetics, and wildlife habitat.

As the density of woodlands increases there is a complementary decrease in the amount of grasses and shrubs present. This in turn decreases the rate and amount of water infiltration following precipitation since runoff rates are accelerated.

Availability and location of water is a key component to proper livestock management. The access to reliable water largely determines the timing and intensity of livestock use in an area. By controlling the availability and access to water, resource managers are better able to manage the rangeland resources. Wildlife are also depend upon developed livestock water sources.

Vegetation

The county is located on the Western edge of the Colorado Plateau just to the east of the Great Basin region. Steep canyons, limited water, seasonal flood events, unique and isolated geologic substrates, and large fluctuations in climatic conditions have all influenced the composition, structure, and diversity of vegetation associations of this region. These same factors have also made access into these areas difficult, leaving much undiscovered.

Many systems for classifying vegetation have been produced for this area of the country. Few of these systems have been checked for accuracy as they relate to the county. Coarse scale vegetation mapping exists through the Utah GAP program, but again this information has not been field checked as it relates to the county. Levels of precipitation (elevation), geology, and soil type are the primary factors influencing the distribution of vegetation associations in the area. Some areas don't fit into these vegetation categories. These included: areas traditionally low in diversity (barren areas), treated areas (seedings, chaining), flooded areas, lava flows, and rock outcrops. A Multi-scale vegetation sampling project begun in 1997 will determine species composition and distribution of selected areas in the national monument.

Relict plant communities refer to areas that have persisted despite the pronounced warming and drying of the interior west over the last few thousand years and/or have not been influenced by settlement and post-settlement activities, chiefly domestic stock grazing. This isolation, over time and/or from disturbance, have created unique areas that can be used as baseline for gauging impacts occurring elsewhere in the monument and on the Colorado Plateau. Surveys for relict areas conducted in surrounding National Park Service Units, and the factors contributing to the location of these relict areas, suggest the high potential for relict areas within the national monument. The locations of some of these relict areas are known, but little if any information has been collected on the composition and structure of the vegetation associations or other physical and biological components. The same factors that have created and protected these areas over time have also contributed to preventing study of these unique and potentially informative associations.

The geologic and geographic conditions for the presence of hanging gardens exist in Southern Utah, including Grand Staircase- Escalante National Monument. Inventory work was conducted in conjunction with the Kaiparowits Study (1971-1974) which determined the location and species composition of several hanging gardens. The potential for more hanging gardens is also high. Due to the conditions of isolation produced in hanging gardens there is a potential for unique species in these areas. Further study is needed to determine the location of hanging gardens and the species diversity and distribution present in these hanging gardens.

Mosses, liverworts and lichens are vegetative life forms that have historically been overlooked due to their inconspicuous nature. This large group of organisms have been studied to some degree in other areas of Southern Utah, but little information about these organisms exists for the monument area specifically. Besides the individual study of these organisms there is another association to which they belong. This association, referred to as microbotic, cryptogamic or crypto biotic crusts, has been found to perform a vital function in dryland ecosystems for infiltration, stabilization, nutrient cycling and seedling establishment. These crusts are also very sensitive to ground disturbance, and specifically compression. Although information on the effects of activities on microbotic crusts do exist, this information is based on a limited amount of research. Much study is needed on the role of these organisms on in the ecosystem.

Wildlife

The county provides habitat for nearly 400 species of vertebrates and _____ species of invertebrates. Some animals are migratory through the county and others are year around

residents, and still others use the county as seasonal habitat.

Many species of birds use the county as breeding and nesting areas and populations of elk move onto the county for winter use. Deer and Big Horn sheep are year long residents. The main riparian systems allow fish to move in and out of the county depending on water flows and seasons. These water systems are the main habitat for most of the identified species of birds.

There are several species of wildlife listed as threatened or endangered found within the county. Some are listed under the Federal Endangered Species Act and some are identified under the Utah Sensitive Species List. Those species listed as Federally protected are:

Endangered

American Peregrine Falcon (*Falco peregrinus anatum*)
Southwestern Willow Flycatcher (*Empidonax traillii extimus*)

Threatened

Bald Eagle (*Haliaeetus leucocephalus*)
Mexican Spotted Owl (*Strix occidentalis lucida*)
California Condor (*Gymnogyps californicus*) experimental population

Those species listed on the Utah **Sensitive** Species List (UDWR Policy Number W2aq-4 March 1997) include:

Long-billed Curlew (*Numenius americanus*) SP/SD
Northern Goshawk (*Accipter gentilis*) SP
Blue Grosbeak (*Guiraca caerulea*) SP/SD
Ferruginous Hawk (*Buteo regalis*) ST
Swainson's Hawk (*Buteo swainsoni*) SP
Osprey (*Pandion haliaetus*) SD
Burrowing Owl (*Speotytao cucicularia*) SP
Short-eared Owl (*Asio flammeus*) SP
American White Pelican (*Pelecaus erythrorhynchos*) SD
Willaimson's Sapsucker (*Sphyrpicus thyroideus*) SD
Black Tern (*Chlidonias niger*) SP
Lewis' Woodpecker (*Melanerpes lewis*) SP/SD

Common Yellowthroat (*Geothlypis trichas*) SP

Roundtail Chub (*Gila robusta*) ST

Bluehead Sucker (*Catostomus discobolus*) SP

Flannelmouth Sucker (*Catostomus latipinnis*) SP

Allen's Big-eared Bat (*Idionycteris phyllotis*) SD

Big Free-tailed Bat (*Nyctinomops macrotis*) SP/SD

Brazilian Free-tailed Bat (*Tadarida brasiliensis*) SP/SD

Spotted Bat (*Euderm maculatum*) SP

Townsend's Big-eared Bat (*Corynorhinus townsendii*) SP/SD

Western Red Bat (*Lasuraus blossevilli*) SP/SD Fringed Myotis (*Myotis thysanodes*) SD

Montane Vole (*Micraotus montanus*) SP/SD

Glen Canyon Chuckwalla (*Sauromalus obesus muliforaminatu*) SP/SD

California Kingsnake (*Lampropeltis getulus californiae*) SD

Utah Mountain Kingsnake (*Lampropeltis pyromelana infralabali*) SP

Utah Night Lizard (*Xantusia vigilis utahensis*) SD

Southwestern Black-headed Snake (*Tantilla utahensis*) SD

Painted Desert Glossy Snake (*Arizona elegans philipi*) SD

Habitat manipulation has been a customary practice for improving the vegetation for wildlife for many years and should continue until the desired vegetation mix is achieved.

Water in this desert environment is essential to maintain the wide variety of wildlife species in the county. This includes the riparian systems of the Kanab Creek and Paria rivers for fish, amphibians and other associated wildlife species that depend on minimum stream flows. Wildlife populations have grown to depend upon water catchment devices constructed over the years.

Appendix B Historical Background

Native American tribes inhabited present day Kane County for thousands of years prior to European contact. Nomadic hunter-gatherers passed through the area as they traveled to the nearby plateaus to hunt. The first semi-permanent settlement of the area was undertaken by the Anasazi or Basket Makers around the time of Christ. About the same time the Fremont culture established semipermanent settlements in the Long Valley area. These groups left the area in approximately 1300 A.D. Most researchers believe the movement was caused by a combination of drought and raids by Navajo tribes. Paiute, Navajo, and Hopi tribes used the area as hunting grounds, but permanent settlement was scarce. European explorers and settlers found mainly nomadic Southern Paiutes inhabiting the area during the late 18th and early 19th centuries.

The barrier created by the Grand Canyon and Colorado River kept early Spanish explorers from reaching present day Kane County for hundreds of years. The Escalante/Dominguez party was the first European group to enter the region. After exploring much of Utah and Northern Arizona searching for a route from Santa Fe to California in 1776, they crossed the Colorado River at the "Crossing of the Fathers". A spur of the Old Spanish Trail is said to have crossed through Kane County near the Utah/Arizona border. This trade route carried considerable traffic during the early 19th century. However, no permanent settlement was attempted. The area became part of the United States in 1848 as a result of the Treaty of Guadalupe Hildago.

The first European settlement of Kane County was undertaken in the mid-19th century by Mormon ranchers and settlers. These members of the newly-formed Church of Jesus Christ of Latter-day Saints had arrived in the Great Basin in 1847 after having been driven from their homes in Illinois and Missouri. They established many small agrarian villages throughout the Great Basin and extended their colonization into California, Nevada, Arizona, and Mexico.

The desert highlands south of Kanab were found to be excellent winter range for livestock. A number of Mormon ranchers established grazing operations in the area in the early 1860's. The Long Valley area north of the desert was the first area to be settled permanently. Small settlements were established in the mid-1860's at Glendale and Alton. Indian hostilities forced these early settlers to leave.

Mormon settlers returning from the Nevada area re-established the communities in Long

Valley and established Kanab in 1870. These settlers farmed the bottom lands near streams and grazed livestock on the high plateaus in the summer and desert highlands in the winter. The small towns prospered during the 1870's. The residents established orchards, field crops, and livestock grazing operations. Unfortunately, a drought from 1879-1882 caused a severe shortage in irrigation water, resulting in great hardships to the settlers. The drought was followed by three years of floods which deepened the channel of Kanab Creek almost 60 feet. Most of the farm land was washed away.

Most of the early settlers were experienced desert colonizers and survived the trying times. They continued to expand the agricultural base upon which their livelihood was dependent. Population levels remained fairly constant during the late 19th century. One of the most successful communal organizations in the history of the United States was established by Mormons in Orderville.

The economy of the area remained based upon livestock grazing into the 1930's. The establishment of Grand Canyon National Park and the Kaibab Game Reserve began a demand for tourist services. The first economic "boom" occurred during the 1930's-1950's as the area became a famous location for shooting western films and television episodes. Over 50 feature length westerns have been filmed in Kane County.

The canyon country of eastern Kane County remained a sparsely settled area until the construction of Glen Canyon Dam on the Colorado River in the late 1950's. The resulting reservoir, Lake Powell, created the impetus for the establishment of Page, Arizona, Big Water, Utah and Bullfrog Marina in northeastern Kane County. Lake Powell is a world class attraction which draws millions of visitors each year. Most travel through Kane County to reach the Lake.

The small timber harvesting operations which supplied building materials to local residents expanded in the 1940's and began to provide timber to larger markets. The Kaibab Forest Products sawmill in Fredonia, Arizona became a major year round employer. Recent concerns with wildlife habitat and other environmental issues has caused a major reduction in timber harvests from the nearby plateaus.

Presently, Kane County is experiencing moderate growth by attracting additional trade and service sector activity to support growing tourist activity. In addition, more and more people are coming to Kane County for retirement living.

Appendix C Demographic Profile

1990 Census of Population and Housing Report for Kane County, Utah

I. General Population Characteristics

A. URBAN AND RURAL RESIDENCE

Total population	5,169
Urban population.....	3,148
Percent of total population.....	60.9
Rural population.....	2,021
Percent of total population.....	39.1
Farm population.....	62
Kanab Division.....	4166
Big Water Town.....	315
Kanab City.....	3289
Unincorporated Areas.....	562
Orderville Division.....	1003
Alton Town.....	100
Glendale Town.....	282
Orderville Town.....	443
Unincorporated Areas.....	178

B. RESIDENCE IN 1985

Persons 5 years and over.....	4,714
Same house in	

1985.....	2,345
Lived in different house in U.S.....	2,336
Same State.....	1,419
Same county.....	1,096
Different county.....	323
Different state.....	917
Northeast.....	10
Midwest.....	70
South.....	18
West.....	819
Lived abroad.....	33

C. CHILDREN EVER BORN PER 1,000 WOMEN

Women 15 to 24 years.....	407
Women 25 to 34 years.....	2,216
Women 35 to 44 years.....	3,499

D. NATIVITY AND PLACE OF BIRTH

Native

population.....
 5,100
 Percent born in state of residence.... 59.6
 Foreign-born
 population..... 69
 Entered the U.S. 1980 to
 1990..... 23

E. LANGUAGE SPOKEN AT HOME

Persons 5 years and
 over..... 4,714
 Speak a language other than
 English..... 200
 Do not speak English 'very
 well'..... 56
 Speak
 Spanish..... 76
 Do not speak English 'very
 well'..... 19
 Speak Asian or Pacific Island
 language.... 32
 Do not speak English 'very well'..... 3

F. ANCESTRY

Total ancestries
 reported..... 6,394
 Austrian..... 20
 Czech..... 8
 Danish..... 299
 Dutch..... 164
 English..... 2,615
 French (except
 Basque)..... 168
 French
 Canadian..... 31
 German..... 779
 Greek..... 17
 Hungarian..... 19
 Irish..... 565
 Italian..... 84

Lithuanian..... 5
 Norwegian..... 100
 Polish..... 57
 Portuguese..... 15
 Russian..... 3
 Scotch-Irish..... 190
 Scottish..... 194
 Slovak..... 6
 Swedish..... 239
 Swiss..... 54
 United States or American..... 220
 Welsh..... 34
 Other
 ancestries..... 508

II. Income and Poverty Status

A. INCOME IN 1989

Households..... 1,728
 Less than \$5,000..... 136
 \$5,000 to
 \$9,999..... 71
 \$10,000 to
 \$14,999..... 189
 \$15,000 to \$24,999..... 319
 \$25,000 or
 more..... 11,437
 Per capita
 income(dollars)..... 8,721

B. INCOME TYPE IN 1989

Households..... 1,728
 With wage and salary
 income..... 1,206

Mean wage and salary income
 (dollars)..... 24,174
 With nonfarm self-employment income..... 310
 Mean nonfarm self-employment income
 (dollars)..... 14,294
 With farm self-employment
 income..... 55 Mean farm
 self-employment income
 (dollars)..... 4,004
 With Social Security
 income..... 557
 Mean Social Security income 360

C. OTHER SELECTED HOUSING
 CHARACTERISTICS

Lacking complete plumbing
 facilities..... 85
 Lacking complete kitchen
 facilities..... 41
 Condominium housing units..... 0

D. SOURCE OF WATER

Public system or private
 company..... 2,442
 Individual drilled
 well..... 86
 Individual dug well..... 6
 Some other
 source..... 703

E. SEWAGE DISPOSAL

Public sewer..... 1,578
 Septic tank or
 cesspool..... 1,469
 Other
 means..... 190

F. HOUSE HEATING FUEL

Utility gas..... 0
 Bottled, tank, or LP

gas..... 295
 Electricity..... 428
 Fuel oil, kerosene,
 etc..... 128
 Coal or
 coke..... 44
 Wood..... 812
 Solar energy..... 7
 Other
 fuel..... 60

G. TELEPHONE

No telephone in
 unit..... 172

H. VEHICLES AVAILABLE

Occupied housing
 units..... 1,724
 None..... 65
 1..... 512
 2..... 671
 3 or more..... 476

IV. Educational Information

A. EDUCATIONAL ATTAINMENT

Universe: Persons 25 years
 and over

Less than 9th grade.....	126
9th to 12th grade, no diploma.....	388
High school graduate (includes equivalency).....	1,048
Some college, no degree.....	784
Associate degree.....	242
Bachelor's degree.....	236
Graduate or professional degree.....	111

Percent high school graduate or higher.....	82.5
Percent bachelor's degree or higher.....	11.8

B. SCHOOL ENROLLMENT

Persons 3 years and over enrolled in school.....	1,602
Preprimary school.....	82
Elementary or high school.....	1,362
Percent in private school.....	1.4
College.....	158

V. OCCUPATION

Employed persons 16 years and over.....	1,961
Executive, administrative, and managerial..	163
Professional specialty occupations.....	248
Technicians and related support.....	

15

Sales occupations.....	162
Administrative support, including clerical..	190
Protective service occupations.....	35
Service occupations, except protective and household.....	363
Farming, forestry, and fishing occupations	80
Precision production, craft, and repair	283
Machine operators, assemblers, and inspectors.....	121
Transportation and material moving.....	181
Entertainment and recreation services.....	68

Professional and related services:	
Health services.....	83
Educational services.....	194
Other professional and related services	64
Public administration	123

B. OCCUPATION

Employed persons 16 years and over.....	1,961
Executive, administrative, and managerial..	163
Professional specialty occupations.....	248
Technicians and related support.....	15

Sales occupations.....	162
Administrative support, including clerical..	190
Protective service occupations.....	35

Service occupations, except protective and household.....	363
Farming, forestry, and fishing occupations	80
Precision production, craft, and repair	283
Machine operators, assemblers, and inspectors.....	121
Transportation and material moving.	164
Handlers, equipment cleaners, and laborers.....	137

C. CLASS OF WORKER

Employed persons 16 years and over.....	1,961
Private wage and salary workers.....	1,261
Government workers.....	425
Local government workers.....	216
State government workers.....	134
Federal government workers.....	75
Self-employed workers.....	244
Unpaid family workers.....	31

D. LABOR FORCE STATUS

Persons 16 years and over.....	3,457
In labor force.....	2,106
Percent in labor force.....	60.9
Employed.....	1,961
Unemployed.....	145
Percent unemployed.....	6.9

Not in labor force.....	1,351
Males 16 years and over.....	1,703
In labor force.....	1,196
Percent in labor force.....	70.2
Employed.....	1,087
Unemployed.....	109
Percent unemployed.....	9.1
Not in labor force.....	507
Females 16 years and over.....	1,754
In labor force.....	910
Percent in labor force.....	51.9
Employed.....	874
Unemployed.....	36
Percent unemployed.....	4.0
Not in labor force.....	844
Females 16 years and over.....	1,754
With own children under 6 years.....	357
Percent in labor force.....	63.3
With own children 6 to 17 years only.	352
Percent in labor force.....	79.0
Persons 16 to 19 years.....	307
Not enrolled in school and not high school graduate.....	19
Unemployed.....	6
Not in labor force.....	13

E. COMMUTING TO WORK

Workers 16 years and over.....	1939
Percent drove alone.....	72.0
Percent in car pools.....	13.0
Percent using public transportation..	1.2
Percent using other means.....	2.1
Percent walked or worked at home.....	11.1
Mean travel time to work (minutes)...	15.8

F. PLACE OF WORK---STATE AND COUNTY LEVEL

Universe: Workers 16 years and over	
Worked in State of residence:	
Worked in county of residence.....	1,311

Worked outside county of residence..203
Worked outside State of residence.....425

Appendix D Economic Base Profile

Kane County is heavily influenced by three major sectors: Trade, Services and Government. Interestingly, all three sectors are growing proportionately as the labor force increases. For the most part, the labor force is increasing at a more rapid pace than the total population. It should be noted that virtually all of the growth in the government sector is occurring at the local government level, mainly in the school district. Full time agricultural employment is declining and is not a major factor in the total labor force dynamics in the county.

Kane County exhibits a very open economy. For example, the 1990 Census shows that over 21 percent of the county's workers commuted out of state. An additional 10 percent commuted out of the county, but remained in the state. This is the second highest rate of out-of-county commuting in Utah. While total employment and population in Kane County continues to grow, income is not keeping pace. This condition is directly attributable to the major sectors of the economy. The trade, service and government sectors are not known for high wage rates.

CONCLUSIONS

1. The Kane County, Utah economy is heavily reliant upon three primary sectors: Trade, Service and Government.
2. The growth of the labor force is being uniformly allocated between the various sectors.
3. The county economy is very open, with many goods and services being obtained from St. George, Cedar City, Salt Lake City, and Las Vegas.
4. Wage levels are lower than state and national averages, but are somewhat misleading if government and manufacturing jobs are considered.
5. The county continues to grow in spite of cutbacks in the sawmill and mining jobs. This growth is coming in the service and trade sectors. It is probable that many laid off manufacturing workers have entered the labor market in the service sector.

6. While the impacts to the overall regional economy are slight, the manufacturing base of the local economy has decreased substantially.

Selected Statistics
 for Kane County, Utah
 Taken from the Regional Economic Information System 1969-1995
 Compact Disk

	1970	1975	%	1980	%	1985	%	1990	%	1995	%
Total Population	2436	3437	41.1	4038	17.5	4692	16.2	5169	10.2	5858	13.3
Total Employment	1073	1278	19.1	1556	21.8	1811	16.4	2407	32.9	3000	24.6
Farm Employment	193	144	(25.4)	161	11.8	172	6.8	161	(6.4)	151	(6.2)
Mining	(D)	(D)	n/a	(D)	n/a	10	n/a	(D)	n/a	(D)	n/a
Construction	30	45	50.0	98	117.8	69	(29.6)	79	14.5	217	174.7
Manufacturing	92	66	(28.3)	80	21.2	78	(2.5)	103	32.1	76	(26.2)
Transportation and Public Utilities	(L)	70	n/a	160	128.6	35	(78.1)	89	154.3	61	(31.5)
Retail Trade	231	311	34.6	366	17.7	424	15.8	603	42.2	791	31.2
Finance, Insurance and Real Estate	17	65	282.4	69	6.2	63	(8.7)	(D)	n/a	135	n/a
Services	196	219	11.7	338	54.3	566	67.5	670	18.4	891	33.0
Federal Government	42	46	9.5	18	(60.9)	53	194.4	55	3.8	64	16.4
Military	26	28	7.7	24	(14.3)	37	54.2	42	13.5	34	(19.0)
State Government	n/a	n/a	n/a	48	n/a	56	16.7	57	1.8	58	1.8
Local Government	n/a	n/a	n/a	147	n/a	196	33.3	342	74.5	394	15.2
% of Retail Trade Personal Income from:											
General Merchandising	(L)	7.4	n/a	2.5	n/a	(D)	n/a	1.2	n/a	(D)	n/a
Food Stores	(D)	(D)	n/a	(D)	n/a	7.0	n/a	(D)	n/a	13.4	n/a
Service Stations	44.4	37.0	n/a	32.4	n/a	29.2	n/a	22.3	n/a	19.9	n/a
Eating & Drinking Places	33.2	32.1	n/a	33.8	n/a	39.6	n/a	39.7	n/a	37.4	n/a
Miscellaneous Retail	7.0	9.4	n/a	8.7	n/a	10.7	N/a	12.1	n/a	19.1	n/a
% of Services Personal Income from:											
Lodging	(D)	(D)	n/a	(D)	n/a	8.1	n/a	11.1	n/a	(D)	n/a
Business Services	(L)	(L)	n/a	(L)	n/a	(L)	n/a	0	n/a	0	n/a
Health Services	20.0	17.0	n/a	29.7	n/a	18.9	n/a	12.8	n/a	12.3	n/a
Membership Organizations	(L)	(L)	n/a	7.7	n/a	12.3	n/a	14.8	n/a	13.1	n/a
Miscellaneous Services	(L)	6.2	n/a	6.2	n/a	4.2	n/a	2.6	n/a	9.4	n/a

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Appendix E
Summary of Public Participation in the Kane County,
Utah
Planning Process.

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Appendix F

Traffic Counts and Description of Functional Classifications

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Appendix G

RS 2477 Rights of Way Assertions

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Appendix H
Utah County Land Use Development and Management
Act
Part 3 - General Plan

Appendix I

Purpose and Intent Public Lands Policies

A. THE CUSTOM AND CULTURE OF KANE COUNTY

Kane County is a huge natural resource oriented county. Its history is steeped in the tales of Mormon settlement and cattle ranching. From the first pioneering efforts in the early 1860's to the present day, ranching has been important to the people who settled and now live in this County. Today, many individuals still actively work ranches and other agricultural pursuits and is an important part of Kane County's economy.

Access rights of way and water rights have historically been critical to the early pioneers in this County, and they remain critical today. The federal government controls 87.5% of the 2.6 million acres of land in Kane County. The state of Utah owns 8.1% of the land, leaving only 4.4% in private ownership. As a result, a map of the County shows a checkerboard of federal-state-private land. Access across the federal land is necessary for all private land owners to access their property and their water rights, as well as to exercise their adjudicated grazing preference rights.

In 1866 the Congress enacted law to provide and protect access across federal lands for people reliant upon water to earn their livelihood. That act, Revised Statute 2477, provided simply that "The right-of-way for the construction of highways over public land, not reserved for public uses, is hereby granted." Kane County ranchers developed such rights of ways in the forms of roads and trails which continue to be used today. The Utah legislature passed a statute establishing a procedure by which counties could provide for recording of such rights of way established under the 1866 law. Kane County's Board of Commissioners established such procedure and Kane County residents have recorded their rights of way.

Early ranchers established water rights through the doctrine of prior appropriation. The earliest adjudicated rights in Kane County date to 18___. Today, holders of water rights are still struggling to preserve their rights against encroachment.

The custom and culture of Kane County has never altered from its historic beginnings. Mining, ranching, and farming activities provide the heritage of the County's residents, and they continue those activities today. The custom and culture of the County also includes the determination of its people. Life was never easy for the pioneers of this County. This is a land in which nature plays the upper hand. Water is scarce and access is difficult. The

settling developers of this land worked hard to establish their livelihood, and today's residents work hard to maintain their livelihood. The settling developers were diligent in pursuing legal protection of their property rights. Today's residents continue with that diligence.

Through the past decade, recreation use of the lands in Kane County has rapidly increased as pressures from Nevada, California and the Wasatch front in Utah, has rapidly grown. Kane County lies within easy reach of these metropolitan areas. Utahans seeking recreation through motor cycling, trail biking, snow snowmobiling and other motorized and non-motorized vehicle use, horseback riding, hiking, fishing and hunting have flocked to the open spaces of the County. The potential for conflicts between these users and those residents who make their living here was huge. But cooperative efforts on both sides have kept the conflicts to a minimum, and recreation use has become part of the regular and daily custom and culture of this County.

Kane County people are independent and strong-willed. They have to be to survive the rigorous life in this country. Private property rights and interests are important to the residents of Kane County. Private ownership and the incentives provided by that ownership are a driving force behind the innovativeness which has allowed the continuation of the custom, culture and lifestyle of the County. It is not a flight of fantasy to say that this independence of its people is part of the custom and culture of Kane County.

As a result of the importance of property rights to its citizens, Kane County's government is developing land management plans. By the time the legislature enacted the Utah County Land Use Development And Management Act of 1992, Kane County's people had commenced their planning process designed to continue the lifestyle which assures quiet enjoyment of property rights and interests and the highest possible degree of protection of those rights. This history is set forth in a revised Kane County, Utah General Plan to be issued by the Board of Commissioners in 1998.

During most of the twenty-five years of the planning activities in Kane County, attention was placed on development of private lands. But, as federal policies began to change toward a direction of reducing livestock grazing, reducing recreation use, seizing ownership of private property, water rights and rights-of-way, it became clear that Kane County would have to extend its planning efforts to an area of concern for the federal lands. The Board of Commissioners set about to revise and update the General Plan issued in 1993.

The Commission has continued its work and has assisted in developing the comprehensive General Plan which is designed to serve as the standard for land use planning coordination with the federal and state management agencies---planning coordination which will sustain the custom and culture of the County.

The great majority of land which produces the natural resources critical to the economy of Kane County is controlled by federal or state government. Of the 2.6 million acres in the County, the United States controls 87.5%, the state controls 8.1%, leaving only 4.4% privately owned. The economy of the county is dependent upon commercial and business activities which are operated on the federal and state lands. Those activities include timber cutting, mining, livestock grazing, and commercial and recreational activities. Only 3.7% of the land mass of the unincorporated County is privately owned, it is obvious that viable and effective use of that private land is totally dependent upon a management style and technique for the federal and state lands which is compatible with the commercial and business activities which provide the base for economic stability of Kane County.

Privately owned land is adjacent to federal and state lands. Management decisions for the federal and state lands directly impact use of, and the economic value of, private land. Restrictions on, and reductions of, grazing on federal lands, for example, will require the rancher to greatly increase grazing on his private ground, to reduce the size of his herd, to find alternative grazing land, or seek relief through a combination of these measures. If he must graze the herd solely on his private ground, he will lose the source of winter forage for his herd. His forage costs will dramatically increase because he will have to buy feed for the herd. There is no alternative land available in Kane County, so even if alternative forage is found outside the County, the transport costs would be extremely high. Either reduction in herd size, or much higher feed costs, or severely increased transport costs would result in a critically adverse outcome. Economists hold that for every dollar loss to the rancher, there will be a four-fold loss to business income in the surrounding areas of the County.

Adequate supply of water is essential to the farming and ranching activities in the County, particularly those in the western portions of the County. Restrictions on use of irrigation water by federal management agencies throughout the guise of protecting wilderness, a species and Wild and Scenic Rivers will severely impact the economy of the County. Failure to manage uplands in a manner that maintains productive watersheds will likewise decrease irrigation water supplies and also adversely impact the economy of the County.

Reductions in recreation use by federal management agencies will also result in adverse economic impact on the businesses which serve the users. Most recreation users of the

federal lands journey into Kane County from the surrounding metropolitan areas. They make convenience purchases on a regular basis. Such purchases aid the business income throughout the County.

The economic stability of Kane County rests upon continued multiple use of the federal lands. Tax revenue is available to the County mainly through the ad valorem property tax. Secondly is the County's share of sales tax receipts. The limited amount of private property greatly restricts the tax revenue of the County. That limited tax base must be protected, and the continued vitality of that tax base is dependent upon continued multiple use of the federal lands. If multiple use is restricted, business income will suffer and sales tax will be reduced. If grazing is restricted, financial pressure will be placed on the rancher which may even result in his going out of business. When that happens, the tax base of the County suffers, and the business income is also reduced.

In such a slightly populated County as Kane, all sources of economic support must be maintained at their highest possible level. In order to sustain the economic stability of the County, the Board of Commissioners and the Planning Commission have dedicated themselves to a coordinated land use planning effort which can hold the federal management agencies to standards set by Congress regarding continuation of multiple use of the federal lands.

B. MULTIPLE USE AND COORDINATION WITH FEDERAL AND STATE AGENCIES

This Plan provides a positive guide for the Kane County Resource Development Committee and the Board to coordinate their efforts with federal and state land management agencies in the development and implementation of land use plans and management actions which are compatible with the best interests of Kane County and its citizens. The Plan is designed to facilitate continued and revitalized multiple use of federally and state managed lands in the County.

The Board of Commissioners, and the citizens of Kane County recognize that federal law mandates multiple use of federally managed lands and they positively support multiple use. Maintenance of such multiple use necessarily includes continued maintenance of the historic and traditional economic uses which have been made of federally managed and state managed lands in the County. It is therefore the policy of Kane County that the Board of Commissioners and the Resource Development Committee work constantly to assure that federal and state agencies shall inform the Board of Commissioners and the Resource

Development Committee of all pending or proposed actions affecting local communities and citizens and coordinate with the Board of Commissioners and the Resource Development Committee in the planning and implementation of those actions.

Such coordination of planning is mandated by federal laws. The Federal Land Policy and Management Act, 43 U.S. § 1701, declared the National Policy to be that "the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other federal and state planning efforts." See 43 USC § 1701 (a) (2).

43 U.S.C. § 1712 (c) sets forth the "criteria for development and revision of land use plans." Section 1712 (c) (9) refers to the coordinate status of a county which is engaging in land use planning, and requires that the "Secretary [of Interior] shall" "coordinate the land use inventory, planning, and management activities... with the land use planning and management programs of other federal departments and agencies and of the State and local governments within which the lands are located." This provision gives preference to those counties which are engaging in a land use planning program over the general public, special interest groups of citizens, and even counties not engaging in a land use planning program.

Section 1712 also provides that the "Secretary shall" "assist in resolving, to the extent practical, inconsistencies between federal and nonfederal government plans." This provision also gives preference to those counties which are engaging in the planning process over the general public, special interest groups of citizens, and even counties not engaging in a land use planning program. In view of the requirement that the Secretary [of Interior] "coordinate" land use inventory, planning and management activities with local governments, it is reasonable to read the requirement of assisting in resolving inconsistencies to mean that the resolution process takes place during the planning cycle instead of at the end of the planning cycle when the draft federal plan is released for public review.

The section further requires that the "Secretary [of Interior] shall" "provide for meaningful public involvement of state and local government officials... in the development of land use programs, land use regulations, and land use decisions for public lands." When read in light of the "coordinate" requirement of the section, it is reasonable to read "meaningful involvement" as referring to ongoing consultations and involvement throughout the planning cycle not merely at the end of the planning cycle. This latter provision of the statute also distinguishes local government officials from members of the general public or special interest groups of citizens.

Section 1712 (c) (9) further provides that the Secretary of Interior must assure that the BLM's land use plan be "consistent with State and local plans" to the maximum extent possible under federal law and the purposes of the Federal Land Policy and Management Act. It is reasonable to read this statutory provision in association with the requirement of coordinated involvement in the planning process.

The provisions of Section 1712 (c) (9) set forth the nature of the coordination required by the Bureau with planning efforts by the Indian tribes, other federal agencies, and state and local government officials. Subsection (f) of Section 1712 sets forth an additional requirement that the Secretary of Interior "shall allow an opportunity for public involvement" which again includes Federal, State and local governments. The "public involvement" provisions of Subsection (f) do not limit the coordination language of Section 1712 (c) (9) or allow the Bureau to simply lump local government officials in with special interest groups of citizens or members of the public in general. The coordination requirements of Section 1712 (c) (9) set apart for public involvement those government officials who are engaged in the land use planning process as is Kane County. The statutory language distinguishing the County because it is engaged in the land use planning process makes sense because of the Board's obligation to plan for future land uses which will serve the welfare of all the people of the County and promote continued operation of the government in the best interests of the people of Kane County.

In *American Motorcyclist Association v. Watt*, 534 F. Supp. 923 (U.S.C.D. Cal. 1981), the Court held that a County could challenge the implementation of Conservation Plan issued by the BLM on the basis of these coordinated planning provisions of FLPMA. The Court pointed out that FLPMA requires the Secretary of Interior to provide for meaningful involvement of local government in developing plans and regulations, and pointedly referred to FLPMA's "mandate" that federal land use plans be consistent with local plans.

The National Environmental Policy Act requires that all federal agencies consider the impacts of their actions on the environment and on the preservation of the culture, heritage and custom of local government. In 16 U.S.C. § 4331 (a) (4) the law provides as follows:

"It is the continuing responsibility of the federal government to use all practicable means, consistent with other essential considerations of national policy, to: (4) Preserve important historic, culture, and natural aspects of our national heritage."

The term "culture" is defined as "customary beliefs, social forms, and material traits of a group; the integrated pattern of human behavior passed to succeeding generations." See

Webster's New Collegiate Dictionary at 277 (1975). Thus, by definition, the National Environmental Policy Act requires federal agencies to consider the impact of their actions on the custom of the people as shown by their beliefs, social forms, and "material traits." It is reasonable to read this provision of the National Environmental Protection Act as requiring that federal agencies consider the impact of their actions on rural, range-oriented, agricultural counties such as Kane County where, for generations, families have depended upon the "material traits" of ranching, farming, mining, timber production, wood products, and other agricultural lines of work for their economic livelihoods.

The Endangered Species Act requires that the Secretary of Interior and the management agencies under his supervision cooperate with local government to resolve water resource issues. The Act also requires that the Secretary can make a listing decision only after "taking into account" the efforts being made by local government to protect species. The Outdoor Recreation Coordination Act of 1963 requires that the Secretary of Interior consider local government plans and provide cooperation to local governments with regard to recreation uses of the federal lands. See 16 U.S.C. Section 460L-1(c) (d).

Historically, the Congress, the Bureau of Land Management, and the Federal Courts have recognized that community economic stability is an important consideration in the management of federally managed lands. In interpreting the Taylor Grazing Act, 43 U.S.C. § 315 et. seq. (the Act which created the agency to become known as the Bureau of Land Management) the Courts have recognized that the purpose of the Act "is to stabilize the livestock industry and to permit the use of public range according to needs and qualifications of livestock operators with base holdings." See *Chournos v. United States*,

1193 Fd.2d 321 (10th Cir. Utah 1951), Cert. den. 343 U.S. 977 (1952). In *Red Canyon Sheep Co. v. Ickes*, 98 Fd.2d 308 (1938), the Court stated that the purpose of the Taylor Grazing Act is to provide the "most beneficial use possible of public range because the livestock industry of the West is an important source of food supply for the people of the nation." *Red Canyon* also pointed out that "in the interest of the stock growers themselves" the Act was intended to define "their grazing rights and to protect those rights by regulation against interference."

Even more recently, a United States District Court has re-affirmed the message that the Taylor Grazing Act was intended to provide economic security to the rancher who grazed those western federal lands which the Congress determined to be suitable for grazing when the Act was passed. In *Public Lands Council v. Babbitt*, 929 F.Supp.1436 (U.S.D. Wyoming 1996), Judge Grimmer issued an injunction restraining the Secretary of Interior from

eliminating a grazing preference by use of the term "permitted use" in his infamous Rangeland Reform regulations.

Judge grimmer stated that the term "grazing preference" represents "an adjudicated right to place livestock on public lands" which provided predictability and security to livestock operators. He pointed out that the Taylor Grazing Act imposes on Secretary "an affirmative duty to protect" this preference. In issuing the injunction, the judge found that the Secretary had violated this "affirmative duty":

"With a mere stroke of his pen, the Secretary has boldly and blithely wrested away from Western ranchers the very certainty, the definiteness of range rights, and the necessary security of preference rights that their livestock operations require. Congress gave Western ranchers these rights by enacting the Taylor Grazing Act, and many decades of satisfactory operations and the course of case by case adjudications have confirmed these rights." - 929 F. Supp. at 1441

Kane County has previously developed its comprehensive General Plan related to privately owned lands in the County. This Land Use Plan is now directed toward management of federally and state managed lands. With adoption of this Plan the County puts in place a "Comprehensive Plan" which includes "all land within the jurisdiction of the governing Board" as directed by the legislature. Utah Code §17-27-102, provides that: "To accomplish the purpose of this chapter (The Utah Land Use Development and Management Act of 1992), and in order to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the county and its present and future inhabitants and businesses, to protect the tax base, secure economy in governmental expenditures, foster the state's agricultural and other industries, protect both urban and non-urban development, and to protect property values, counties may enact all ordinances, resolutions, and rules that they consider necessary for the use and development of land within the county, including ordinances, resolutions, and rules governing uses, density, open spaces, structures, buildings, energy-efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, public facilities, vegetation, and trees and landscaping, unless those ordinances, resolutions, or rules are expressly prohibited by law. These statements of purpose adopted under the Development Act contemplate coordination by state agencies of their planning efforts with the local planning efforts of Kane County.

The Board of Commissioners now call upon the federal and state management agencies to coordinate in advance with the Board any proposed actions which will impact either the federally and state managed lands in Kane County, the private property rights and private

property interests including investment backed expectations of citizens of the County, the economic stability and historically developed custom and culture of the County, or provisions of this Land Use Plan. Such management agencies are requested to so coordinate their actions by providing to the Board in a timely manner, prior to taking official action, a report on the proposed action, the purposes, objectives and estimated impacts of such action, and the economic impact.

In exchange for compliance with federal law by the federal management agencies, the Resource Development Committee and the Board of Commissioners commit to a positive planning process through which the County will maintain its commitment to true multiple use of the federally managed lands. In exchange for participation by the state management agencies, the Board of Commissioners commit to a positive planning process through which the County will equitably consider the best interest of all the people of the state of Utah in the use of the state managed lands. The County commits to an effort to develop Memoranda of Understanding with these agencies through which coordinated planning can be better implemented.

Through the land use planning process Kane County commits itself to attempting to assure that all natural resource decisions affecting the County shall be guided by the principles of maintaining and revitalizing multiple use of federally managed and state managed lands, protection of private property rights and private property interests including investment backed expectations, protection of local historical custom and culture, protection of the traditional economic structures in the County which form the base for economic stability for the County, the opening of new economic opportunities through reliance on free markets, and protection of the right of the enjoyment of the natural resources of the County by all citizens of the County and those communities utilizing those natural resources within the County. Kane County is convinced that resource and land use management decisions made in a coordinated manner by federal management agencies, state management agencies and county officials will not only firmly maintain and revitalize multiple use of federally and state managed lands in Kane County but will enhance environmental quality throughout the County.

Moving onward with the planning process, the Board of Commissioners set forth in this Land Use Plan those positive general concepts which they believe are necessary and desirable for the maintenance and revitalization of multiple use as well as economic stability and custom and culture of the County. This Land Use Plan will guide the continuing land use planning process in Kane County. The General Planning Guidelines set out in Part VII of this Plan present the standards of law, fact, and planning by which the Board will be guided in its

official capacity as the executive authority of the County. The Guidelines include standards for land management set forth by statute, by which the Land Use Committee and the Board will be guided.

A "plan" is variously defined as "a detailed and systematic formulation of a large scale program," "a proposed undertaking or goal," and "an orderly arrangement of parts in terms of an overall design or objective." Webster's Third New International Dictionary 1729 (1986). This Plan fits those definitions. It includes the description of the process by which the land use program began, the guidelines which provide the general standards by which the Management Actions set forth in Part III of this Plan will contain, where appropriate, management alternatives designed to achieve maintenance and improvement of multiple use. They will also contain statements of actions which may be taken by the Board to implement objectives set by the Land Use Committee and the Board.

The planning process is on-going, and will require the Board of Commissioners to become involved with analysis and evaluation of all stages of the planning cycles followed by federal and state management agencies, including plan development as well as implementation which includes monitoring and evaluation of plan implementation.

Part II Primary Planning Guidance

A. GENERAL GUIDANCE AND STANDARDS

The federal lands which form the bulk of the land mass in Kane County are under management direction from the Congress of the United States. Article IV, Section 3(2) of the United States Constitution provides that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States..."

The Congress has passed many statutes in exercise of this Constitutional power and authority. Most of those statutes authorize the Secretary who heads an executive management agency to issue rules and regulations to implement the statutes. But the management power and authority never leaves the Congress. The management agencies simply manage the land for the Congress. Their regulations must be consistent with the statutes and must not exceed the authority granted by the statutes.

Kane County has adopted the planning concept that the statutes passed by Congress provide

the standards by which federal land must be managed. The County has encountered instances of agency resistance to this concept, with agency personnel putting more emphasis on policy manuals than on the statutes themselves. But, the County has remained firm in its commitment to use all its means to assure that the statutes do provide the standards by which the federal lands will be managed.

The Kane County Board of Commissioners have developed this plan to serve as a means of coordination of planning activities with federal and state management agencies. That is the County's obligation to its citizens and to the Congress under those provisions of the Federal Land Policy And Management Act which requires coordination of planning by the federal agencies.

Through coordinated planning, the federal lands can be managed so as to sustain productivity for this and future generations, to maintain the quality of the resources, to protect and preserve private property rights and interests, to maintain full multiple use, and to preserve and maintain the custom, culture and economic stability of the County.

There are several general areas of management in which issues are raised which must be resolved through coordinated planning. This portion of the Plan discusses the principles involved in those general areas of management which give general guidance toward resolution of specific issues of management. Guided by the standards set by the statutes and the general principles set forth in Part II, the plan then proceeds in Part III to identify those specific management techniques and actions needed to meet the objectives identified. From time to time, the Committee and the Board will request preparation of reports regarding these principles and the specific management techniques and actions. Those reports will become part of the on-going planning process and when adopted will become, by amendment, part of this Plan.

1. PRIVATE PROPERTY

Long before the establishment of the United States Constitution, the theory of the natural rights of man was established in the common law of England. As pointed out by Professor Richard A. Epstein in "Takings, Private Property and the Power of Eminent Domain" (Harvard University Press, 1985):

"All theories of natural rights reject the idea that private property and personal liberty are solely creations of the state, which itself is only other people given extraordinary powers. Quite the opposite, a natural rights theory asserts that

the end of the state is to protect liberty and property, as these conceptions are understood independent of and prior to the formation of the state. No rights are justified in a normative way simply because the state refuses to protect them, as a matter of grace. To use a common example of personal liberty: The state should prohibit murder because it is wrong; murder is not wrong simply because the state prohibits it. The same applies to property: trespass is not wrong because the state prohibits it; it is wrong because individuals own private property. At each critical juncture, therefore, independent rules, typically the rules of acquisition, protection, and disposition, specify how property is acquired and what rights its acquisition entails. None of these rules rest entitlement [to property] on the state, which only enforces the rights and obligations generated by theories of private entitlement." Takings, Pgs 5-6.

The concept of natural rights to property were long debated by political philosophers prior to establishment of the United States Constitution. Thomas Hobbes reached a solution about property and mankind which leaned toward government control in order to protect against human greed and self interest. Hobbes felt that the price for order was "the surrender of liberty in property to an absolute sovereign." See Takings, supra, page 7. The framers of the United States Constitution rejected this concept, turning toward the theories of John Locke whose writings were known to, and cited often by, the framers of the Constitution. Locke believed emphatically that individual natural rights, including the rights to obtain and hold property, were not derived from the sovereign or the government but were in fact natural rights in the nature of "the common gift of mankind." See Takings, page 10; citing John Locke, "Of Civil Government" Chapter 5 (1690). Locke's position was based upon a simple method of individual acquisition of property rights or property interests: "individuals are allowed to keep that which they first reduce to their own possession." See Takings, page 10.

Locke's political philosophy set forth the view that the organization of a government does not require the surrender of all natural rights including property rights and interests to the sovereign. In accordance with that view if the government takes a property right or a property interest then it must pay for it. As summarized by Professor Epstein:

"By Locke's view, the State itself does not furnish new or independent rights, qua sovereign, against the person subject to its control. There is no divine right of kings which suspends the ordinary rules of right and obligation between individuals and the state of nature. The sovereign has no absolute power to

generate rights. The state can acquire nothing by simple declaration of its will that must justify its claims in terms of the rights of the individuals whom it protects: 'A State by Ipse Dixit, [which means by the state's own bare assertion of power and authority] may not transform private property into public property without compensation...' See Takings, page 12 citing Webb's Fabulous Pharmacies, Inc. vs Beckwith, 449 U.S. 155 (1980).

The framers of the United States Constitution accepted the Locke theories and, as a result, the Fifth Amendment to the United States Constitution prohibits the taking of private property for public use without just compensation.

The Board of commissioners will carefully evaluate all federal or state actions relating to private property and private property interests including investment backed expectations in light of the mandate of the Fifth Amendment to the United States Constitution. In so evaluating federal and state actions the Land Use Committee and the Board will apply also the principle established by former President Ronald Reagan in issuing Executive Order 12630 which required any and all federal agencies to prepare a Takings Implication Assessment prior to taking any action, issuing any rule, or making any decision which would constitute a taking of private property or private property interest including investment backed expectation. The Board of Commissioners will also continue to recommend to the Congress that the impact of that Executive Order be enacted into law by enactment of appropriate private property legislation.

The Board of Commissioners has carefully followed the progress of Hage vs. United States, Civil No. 91-1470 L in which a Nevada rancher claims a taking of his property by restrictive actions taken by federal regulatory agencies and seeks compensation in the United States Court of Claims. In entering an order denying summary judgment to the Government and ordering a trial on the merits, the Chief Judge of the Court of Claims made it clear that the Constitution prevents "government from doing through general regulation what it is prevented from doing through direct specific action--taking private property for public use without just compensation." Decision of March 8, 1996, page 25.

The Board of Commissioners will also evaluate the standards set by United States Supreme Court decisions in First English Evangelical Lutheran Church of Glendale vs. County of Los Angeles, California, 107 S. Ct. 2378 (1987); Nollan vs. California Coastal Commission, 107 S.Ct. 3141 (1987); Preseault vs. Interstate Commerce Commission, 110 S.Ct. 914 (1990); Lucas vs. South Carolina Coastal Council, 112 S.Ct. 2886 (1992); Penn Central

Transportation Co. vs. City of New York, 438 U.S. 104, 98 S.Ct. 2646 (1978), and other decisions relating to consideration of reasonable investment backed expectations as a compensable property interest. The Board of Commissioners will also review cases decided in the United States Court of Claims including Loveladies Harbor Inc., et. al. vs. the United States, 21 C.L.C.T. 153 (1990) which have awarded compensation for partial takings where the takings have frustrated reasonable investment backed expectations and deprived the individual of the economically viable use of his land and property rights and interests.

The Board of Commissioners will also evaluate actions by federal and state regulatory agencies impacting water rights constitutionally guaranteed by the Utah Constitution as compensable rights. The standards by which regulatory actions will be reviewed regarding water rights are set forth in the "water rights" section.

The Board of Commissioners will also evaluate actions by federal and state regulatory agencies taken in the name of protecting threatened or endangered species which adversely impact private property rights, private property interests, and investment backed expectations. The standards by which such regulatory actions will be reviewed regarding such species are those established by decisions of the United States Supreme Court. The County will continue to urge Congress to enact specific private property protection from species listings.

The Board of Commissioners will evaluate the issues regarding "takings" of private property in view of the nature of a ranch operation which is set forth in this plan and which is known to everyone involved in the operations and financing of livestock grazing or any other agriculturally oriented activity in Kane County. The "economically viable use" of the base operation is completely dependent upon reasonable expected use of the federally and state managed lands. That reasonably expected use is often evidenced by a grazing permit. The existence of such permit causes County Assessors to appraise the taxable value of the private property which serves as the base operation at a higher rate than it would be appraised if no permit existed. Thus, for taxation purposes the grazing permit is considered a part of the realty upon which an individual must be taxed. The Internal Revenue Service also considers the permit as a taxable property interest. Financing institutions, whose support is critical to continued livestock grazing and agricultural operations in Kane County, consider the existence of the permit, and the reasonable expectation of land-use which emanates therefrom, as an indispensable factor in determining to extend and continue financial support. Grazing permits are capitalized into the value of a ranch, so that when a buyer purchases a ranch, he actually pays for both the private and federally managed lands contained in the ranch unit. See Phillip Foss, Politics and Grass, (1960) at page 197.

The grazing permit recognized as having the character of a property right, interest or investment backed expectation by the Congress when it enacted that portion of the Taylor Grazing Act which is found in 43 U.S.C § 315 (b) guaranteeing renewal of permits if denial of the permit would "impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bonafide loan."

The Congress also recognized the importance of the permit to the ranch operator when it enacted 43 U.S.C. § 1752 © [a portion of the Federal Land Policy Management Act] which afforded to the "holder of the expiring permit or lease" the "first priority for receipt of the new permit or lease." Such priority renewal recognizes the investment of time, energy and money by the ranch owner in reliance upon the land use of the federally managed lands which becomes an integral part of the ranch operation. Rancher-lawyer, Marc Valens has succinctly analyzed the importance of the priority renewal both to the ranch operator and to all members of the American public who collectively own the federally managed lands. In Federal Grazing Lands: Old History, New Directions (1978), (an unpublished manuscript), cited at page 707 of Coggins Wilkinson Leshy, Federal Public Land and Resources Law (3rd Edition 1993), Valens states:

"Priority renewal does have advantages. A permittee becomes intimately familiar with the range. * * * [H]igh turnover of federal grazers does not permit them to get to know the range nearly as well. Only long use can teach an operator where the thicket is that hides the stubborn bull late in the fall. The seasonal pattern of drying up of the range and water holes must be known to fully utilize the range resource. If the first areas to dry are not used early in the season, they will be wasted. The rancher who expects to use the same range for many years in the future will be careful not to hurt the resource. The range cattle themselves get to learn the range. An old range cow can find hidden water holes and meadows that a new cow would not. And with the first snows of fall, the old cows will lead the herd back to the home ranch."

The ranchers of Kane County who graze livestock on the federal lands have a preference right to graze there. That "right" is a property interest created long before the Taylor Grazing Act was passed. The nature of the right demonstrates the split estate concept developed in the western lands by the United States. The interest created in and owned by the Kane county ranchers' predecessors in interest in allotments of grazing lands or forage lands is the "surface estate" of the split estate. The ranchers have the right to graze on the surface of the land, a right which they developed through settlement and development. A long series of decisions by the United States Supreme Court set forth the position that when a validating or confirming

statute is passed, the legal title to the possessory right passes as completely as though a patent had been issued. Title to allotments of federal land for grazing have been validated or confirmed for over a century, and the boundaries of those allotments have been adjudicated. The Stock Raising Homestead Act of 1916 culminated development of the settlement acts regarding the lands "chiefly valuable for grazing and raising forage crops" when it completely split the surface estate from the mineral estate in order to allow for the disposal of legal surface title to ranchers, while retaining undiscovered mineral wealth to the United States. The grazing right owned by Kane County ranchers was acknowledged and secured by passage of the Taylor Grazing Act in 1934. Every subsequent Act regarding management of the federal lands has protected and preserved all "existing rights" such as the grazing right.

Property rights related to the federal lands are split between a number of parties and users, private and governmental. The rights possessed by the various parties include water rights, grazing rights, mineral rights, wildlife rights, petroleum exploration rights and timber harvest rights. Each of the rights has been validated and secured by statute or court decisions.

In *Public Lands Council v. Babbitt*, supra, the United States District Court acknowledged the "right" of a permittee to his adjudicated grazing preference, and held that such "right" could not be removed by a regulation issued by the Secretary of Interior. Such recognition of a "right" forms the base for a "taking" when that "right" is taken by regulation. It is the goal of this Plan that management activities be instituted which prevent such "taking" and which foster effective implementation of the "right" to adjudicated grazing preferences.

The split estate is further demonstrated by the stock watering right possessed by each Rancher to water existing on federal land. Each rancher who grazes livestock on federal lands has the right to use water existing on the federal lands even though he or she is not the title holder to the lands themselves. The effective date of the right to water the livestock grazing on those lands is the date of first appropriation by the rancher or any predecessor in title who conveyed the stockwater right.

The Board of Commissioners will plan for, and take positive action to assure, that private property rights and private property interests including investment backed expectations are protected in light of the standards set forth.

2. LIVESTOCK GRAZING

There are in excess of __, __ AUMs (federally managed lands) of livestock use currently in Kane County. These AUMs represent __% of the total grazing livestock production in the

County. It is clear that the livestock industry is vital to the economy of Kane County. Ninety- Three percent (93%) of the land in the County is rangeland, but only % of that rangeland is privately owned. Reduction of AUMs will have disastrous economic impact on individual ranches, and collectively on the County itself. Continued grazing use of federally managed land is vital if the livestock industry is to survive. The expectation for continuation of the livestock industry in the County is essential to support economic stability and to preserve the custom and culture of the citizens.

The Taylor Grazing Act of 1934, 43 U.S.C. § 315, was passed primarily to provide for stabilization of the western livestock industry; and that Act is still sound law. The Act authorized the Secretary of Interior to establish grazing districts in those federally managed lands which were "chiefly valuable for grazing and raising forage crops." The Secretary was authorized to act in a way that would "promote the highest use of the public lands." 43 U.S.C. § 315. The Act authorized the Secretary to issue grazing permits on a preferential basis with preference to be given to those "land owners engaged in the livestock business," "bonafide occupants or settlers," or "owners of water or water rights." 43 U.S.C. § 315 (b). The Secretary was authorized to take action to stabilize the livestock industry which was recognized as necessary to the national well being.

The Act also recognized the property interests of a permittee in the form of an investment backed expectation in § 315 (b). That Section provided that no preference would be given to any person whose rights were acquired during the year 1934 except that the Secretary could not deny the renewal of any such permit "if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bonafide loan."

The Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1701 et seq., did not limit, restrict or amend the purposes and provisions stated in the Taylor Grazing Act. Section 1701 stated the policy of the Congress as follows:

"The Congress declares that it is the policy of the United States that --- . . .

(2) "The national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other federal and state planning efforts; . . .

(8) The public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric,

water resource and archaeological values; that, where appropriate, will preserve and protect certain public lands in their natural conditions; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use; . . .

(12) The public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands. The Public Rangelands Improvement Act of 1978, 43 U.S.C. § 1901-1908, once again revitalized the purposes of the Taylor Grazing Act, providing that the Secretary of Interior "shall manage the public rangelands in accordance with the Taylor Grazing Act, the Federal Land Policy and Management Act of 1976 and other applicable law consistent with the public rangelands improvement program pursuant to this Act." See 43 U.S.C. § 1903, which also provides that:

"the goal of such management shall be to improve the range conditions of the public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives established through the land use planning process, and consistent with the values and objectives listed in [Section 1901]."

The values and objectives listed in Section 1901 by which the Secretary was to be guided include a finding and declaration by the Congress that: "to prevent economic disruption and harm to the western livestock industry, it is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula reflecting annual changes in the costs of production." 43 U.S.C. § 1901 (a) (5)."

The Congress further found and declared that one of the reasons the Public Rangelands Improvement Act was necessary is that segments of the public rangelands were producing less "than their potential for livestock" and that unsatisfactory conditions on some public rangelands prevented "expansion of the forage resource and resulting benefits to livestock and wildlife production." 43 U.S.C. § 1901 (a) (3). The Act mandates improvement of the rangelands in order to increase the potential for livestock development and to prevent economic harm to the "western livestock industry."

In accordance with these Federal Acts - - - The Taylor Grazing Act, The Federal Land Policy and Management Act and The Public Rangelands Improvement Act - - - the Bureau of Land

Management is required to preserve the stability of the western livestock industry and to provide for multiple use management including necessary range improvements for the benefit of livestock production, wildlife habitat, watershed protection, and recreation. These federal mandates can be met only by management of all federally managed lands within Kane County in such a way as to provide for continued use of allocated forage by permitted livestock and to work toward the restoration of forages to recover suspended AUMs. The Act requires management practices designed to improve the range so that it will support "expansion of the forage resource" to the benefit of livestock production. The mandate of the Act is not furthered by management practices designed to reduce grazing in order to improve the range. Such practices reverse the Congressional mandate set forth in the statute.

Range improvements necessary to maintain current levels of livestock production, wildlife habitat, watershed protection, and recreation opportunity must be identified by the Bureau of Land Management and will be identified by Kane County. The Secretary of Interior, and therefore the Bureau of Land Management, is committed by statute to preserving the stability of the livestock industry. The stability of that industry as a whole is directly related to the stability of the individual ranches that make up the industry, including those in Kane County. The stability of the livestock industry in the County requires that the statutory mandates be followed.

The quality of economic life of Kane County as well as the scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values which are part of life in the County protected by the Federal Land Policy and Management Act require that the statutory mandates for stabilizing the livestock industry be followed.

3. IRRIGATED AND OTHER INTENSIVE AGRICULTURE

Irrigated and Intensive agriculture provide a major contribution to the economic base of the County and is of critical importance to the economic stability of the County. Productive watersheds must be maintained within the county as essential factors to preservation of irrigated agriculture.

The largest portion of crops (___%) produced in Kane County are alfalfa, grass, and other hay and silage and feed grains which are an integral part of the livestock industry. Row crops, including but not limited to, potatoes, onions, and sugar beets, also form an important base of the agricultural economy of the County. Thus, even in a comprehensive planning and zoning statute which permits re-classification and re-zoning of all lands, the legislature recognized that established agricultural uses must continue unabated.

4. VEGETATION MANAGEMENT

Very clearly both the Taylor Grazing Act and the Federal Land Policy and Management Act ordered maintenance and improvement of the vegetation on the federally managed lands to provide forage for livestock and wildlife and habitat for wildlife. Even more pointed however were the instructions given to federal managers by the Public Rangelands Improvement Act of 1978. In 43 U.S.C. § 1901, the Congress found that the federally managed lands were-producing "less than their potential for livestock, wildlife habitat, recreation, forage, and water and soil conservation benefits." The Congress further found in § 1901 that unsatisfactory vegetation conditions on public rangelands "prevent expansion of the forage resource and resulting benefits to livestock and wildlife production." The Congress also found that such conditions preventing an expansion of the forage resource and other unsatisfactory conditions on the public rangelands "may ultimately lead to unpredictable and undesirable long-term local and regional climatic and economic changes." In order to eliminate such conditions the Congress called for intensive planning and improvement of the condition of the federally managed rangelands so that "they become as productive as feasible for all rangeland values."

Under the federal statutes setting forth the planning and management responsibilities for the federally managed lands, then, it is clear that planning and management efforts must be directed toward increased and expanded forage resources. Kane County considers itself bound by good planning principles as well as the requirements of the federal statutes to plan for and seek federal approval for methods of improving and expanding forage development on the federally managed lands in the County. Increased and expanded forage can result not only from proper grazing management improvements, water development, and reseeding, but also from control of invading vegetation which threatens true multiple use value of the federally managed lands. In planning for vegetation management the Committee and the Board will be guided by the following general considerations:

A. LIVESTOCK GRAZING

Planned livestock grazing will be managed so as to maintain and enhance desired plant communities for the benefit of watersheds, wildlife, water quality, recreation and livestock grazing as required by the Public Rangelands Improvement Act through effective principles of planning and management. Such management will be developed specifically for each allotment in order to achieve the desired result throughout the County. All necessary grazing management improvements, including water development, juniper/sagebrush control, reseeding, fencing, salting plans, herding plans, and grazing systems will be included in

Allotment Management Plans. All decisions as to such improvements should be made on an allotment basis since they are integral with use of State leases, private leases, private lands, other allotments, and in overall operation of each ranch enterprise.

In order to comply with the multiple use concept mandated by the Statutes, no individual resource value will be given priority in vegetation management decisions. Congress has directed that the federally managed rangelands be managed, maintained and improved "so that they become as productive as feasible for all rangeland values." 43 U.S.C. § 1901 (b) (2). In order to carry out the Congressional intent it will be necessary that the Bureau of Land Management "inventory and identify current public rangelands conditions and trends." 43 U.S.C. § 1901 (b) (1). All planning effort will adhere to the careful and considered consultation, coordination and cooperation requirements established by Federal statutes. See 43 U.S.C. § 1701 (a) (2); § 1712(c)(9); § 1752 (d).

B. JUNIPER AND SAGEBRUSH CONTROL

The encroachment of Juniper and expansion of sagebrush over many thousands of acres of Sagebrush/Grassland in Kane County threatens destruction of nearly all multiple use value on these lands. Without initiation of significant effort to control this invasion and expansion, watersheds, wildlife, water quality, recreation, and grazing resource will be destroyed on these lands. All applicable means for reversal of the invasion and expansion will be reviewed and included in plans developed to save these resources and their value to the citizens.

In the Public Rangelands Improvement Act, the Congress found that "vast segments" of the federally managed rangelands "are producing less than their potential for livestock, wildlife habitat, recreation, forage, water, and soil conservation benefits," and thus are "in an unsatisfactory condition." 43 U.S.C. § 1901 (a) (1). That description applies to the areas of uncontrolled juniper encroachment and sagebrush expansion in Kane County.

C. FIRE MANAGEMENT

Fire suppression will be guided by the need to achieve the highest level possible for protection of human safety and private property. The blanket fire suppression policy of the past has contributed to extensive juniper encroachment and sagebrush expansion to the detriment of watersheds, wildlife, and plant communities. New approaches will be evaluated to allow for fire suppression primarily in areas where fire would damage vegetation which will support and expand multiple use or would endanger human safety or private property. A "let burn" policy will be considered for areas where invading and expanding shrubs and trees are reducing

the multiple use values of the rangeland. Controlled burns will be evaluated as a means of encouraging revitalization of rangeland vegetation which will support and expand multiple use.

Grazing rest prescriptions related to either wildfires or prescribed burns will be determined on a site specific basis. Where rest prescriptions are appropriate, they may include the year of the burn, light late season use in the year following the burn, and/or moderate late season use in the second year following the burn. Post fire grazing will not be limited when unbiased post fire monitoring and evaluation produces relevant, accurate data which demonstrates that grazing will not unduly harm the range.

D. NOXIOUS WEED CONTROL

The Board of Commissioners is the weed control authority for Kane County. Ongoing programs to identify locations of all noxious weeds, and to initiate management and/or eradication efforts will continue. The Federal Public Rangelands Improvement Act virtually mandates such cooperation in order to improve "unsatisfactory condition" of the federally managed rangelands. Cooperative agreements and, if necessary, legal actions will be utilized to assure protection of vital land resources from noxious weed occupation or invasion.

5. WATER QUALITY, RIPARIAN AREAS AND WETLANDS

The State of Utah maintains jurisdiction over water quality enhancement and protection for point and non-point water quality impacts. This plan will address non-point impacts through development of site specific BMPs (Best Management Practice) only for those waters which have been specifically identified and documented as not meeting beneficial use(s). Where water quality issues (not supporting beneficial use) have been documented to exist, a priority will be given to development and implementation of allotment management plans in these areas. Such areas will be evaluated and considered within the context of a watershed management approach rather than a specific site management approach. Extensive variation exists in riparian types, current condition, potential for change, disturbance factors, and opportunity for intensive management. Therefore, general application of BMPs is not possible.

Special consideration will be given to natural occurrences and natural recovery systems. A natural state on a county wide basis would contain some areas in all condition classes and in various states of recovery which may not at all times support all beneficial uses. There will be no expectation that all areas will achieve and remain in a high condition class but that all areas will achieve a natural state in relation to time. The primary expectation shall be that systems achieve or maintain Proper Functioning Condition.

The development of BMPs for riparian management will be based on the best available science and will be balanced with the needs of the total ranch operations involved. The custom, culture, and economic stability of the County and private property rights and private property interests including investment backed expectations shall be protected in the application of all riparian area management plans.

There is a vast diversity of riparian areas in terms of stream or impoundment types, climatic factors, up and down stream watershed impacts, condition, trend, potential for improvement, and opportunity for management changes. With this in mind, all riparian management decisions will be resolved on a site specific basis.

Best Management Practices are "a practice or combination of practices determined to be the most effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources." In the absence of state- approved BMPs (adopted into the WQS), non-point source activities are to be "conducted in a manner that demonstrates a knowledgeable and reasonable effort to minimize resulting adverse water quality impacts." "Knowledgeable" is herein interpreted to mean "based upon the best available science" and "reasonable" is interpreted to mean "economically feasible for the ranch operation(s) involved."

Monitoring data which indicate an upward trend will be sufficient evidence to indicate that site specific BMPs are adequate to meet objectives for areas identified for improvement. Kane County will take a similar approach to all riparian management programs. The application of Best Management Practice(s) (BMPs) which are knowledgeable (have reasonable expectations for success) and reasonable (are physically and economically feasible) will be employed for riparian management plans and actions. These will be monitored and deemed adequate when monitoring shows an upward trend leading to support of appropriate beneficial uses. Monitoring may indicate that modifications are needed for site specific BMPs in order to achieve an upward trend.

Where off site impacts within a watershed affect riparian areas, the management plans shall recognize and consider any limitations to management, to improvement potential, and to potential end point condition.

Stubble height, utilization, and time of use shall not be used as management objectives or use standards. These factors may be addressed through Specialized Grazing Systems or other BMPs such as off site water development, shrub and juniper control, salting plans, fencing to establish riparian pastures, and herding.

The Board of Commissioners will carefully evaluate implementation of the wetlands provisions of the Clean Water Act of 1988, 33 U.S.C. § 1344 by federal regulatory agencies, in order to assure that any person deprived of a property right, property interest including investment backed expectations by such implementation is compensated as directed by the 5th Amendment to the United States Constitution. The cost of a determination by a federal agency that land is a "wetland" should not be borne by the individual whose right or interest is adversely impacted. Such cost should be borne by society, as a whole in whose interest the agency purportedly acts to protect the "wetland."

6. RECREATIONAL USE

In 1963 the Congress enacted the Outdoor Recreation Coordination Act which declared it "desirable that all American people of present and future generations be assured adequate outdoor recreation needs and resources." 16 U.S.C. Section 4601. The Congress authorized the Secretary of Interior to prepare and maintain "a continuing inventory and evaluation of outdoor recreation needs and resources." 16 U.S.C. 460L-1. The same Act requires the Secretary to consider the plans of federal agencies, states and local government and to cooperate with such planning units with respect to outdoor recreation. 16 U.S.C. 46011 (c)(d).

Outdoor recreation is one of the multiple uses mandated for the federal lands by the provisions of the Federal Land Policy and Management Act. Over the past decade the recreation use of the federal lands in Kane County has dramatically increased. The openness of Kane County provides many recreational opportunities for residents and visitors---winter and summer. Conflicts between recreation users and other users of the lands are minimal, and can be kept to a minimum by coordinated planning efforts by the County, federal and state agencies, recreational organizations and associations and members of the public. Such coordinated efforts should include development and implementation of a management plan which will include:

- 1) A review and evaluation of all existing open, limited and closed area designations imposed by the BLM in order to determine whether the existing designations are needed and appropriate;
- 2) Collection and analysis of data relating to the demand for recreation use now and in the future as Kane County grows;

- 3) Collection and analysis of data relating to the impact of the various recreation uses on land values as identified by FLPMA;
- 4) Continual review of the inventory of area designations and recreation needs;
- 5) Identification of any adverse impact of recreation uses and development of mitigation plans rather than simply issuance of restrictions on use; and
- 6) Continuing to gather public input as to designations of recreation areas.

By developing such a plan, the mandate of Congress that the federal lands should be available for recreation use can be met.

7. WILDERNESS

The Wilderness Act of 1964, 16 U.S.C. § 1131-1136, created a National Wilderness Preservation System to be composed of federally managed lands designated by Congress as "wilderness areas." The Act defined a wilderness as "an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain." The definition stated that a wilderness thus was in "contrast with those areas where man and his own works dominate the landscape." See 16 U.S.C. § 1131 (c).

The Act provided that all suitable wilderness areas should be inventoried by the federal agency charged with management responsibility for the particular area. This inventory as well as recommendations by the agency as to whether the areas should be established as wilderness areas were to be completed within ten (10) years of passage. Then, in the Federal Land Policy Management Act of 1976, the Congress established a clear directive that by 1991, the Secretary of the Interior must review all roadless areas of 5,000 acres or more on the federally managed lands (identified as having wilderness characteristics as described in the wilderness Act) and give to the President a recommendation as to the suitability or non-suitability of each such area for preservation as wilderness. See 43 U.S.C. § 1782.

The wilderness Act itself provided that even in designated areas livestock grazing "where established prior to September 3, 1964, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary . . ." 16 U.S.C. § 1133 (d) (4). The Federal Land Policy and Management Act provided in 43 U.S.C. § 1782 (c), that, during

the period of review of prospective wilderness areas any existing "mining and grazing uses and mineral leasing" could continue "in the manner and the degree in which the same was being conducted on October 21, 1976." In *State of Utah vs. Andrus*, 486 Fed.Supp. 995 (U.S.D.C., Utah, 1979) the Chief Judge of the Utah Federal District Court ruled that under these statutory terms, the Bureau of Land Management has the authority to manage lands so as to prevent impairment of wilderness characteristics, unless the lands are subject to an existing use. If the lands are subject to an existing use such as grazing, or mining, the Bureau of Land Management may then regulate only so as to prevent unnecessary or undue degradation of the environment. Nearly a decade later in *Sierra Club vs. Hodel*, 848 F.2d 1068 (Tenth Circuit 1988) the Court of Appeals for the Tenth Circuit held that valid existing use- rights in wilderness designated areas are exempt from the non impairment standard. The Court approved the Bureau of Land Management's modification of its Interim Management Policy to provide that even if the exercise of existing rights did impair wilderness suitability, the exercise of the existing rights would be allowed to continue. See 848 F.2d at 1086-1088.

The wilderness Act allows for recommendations for modification or adjustment of boundaries only after designation as wilderness. Current wilderness recommendations made by the Bureau of Land Management will be reviewed in relation to the impacts on natural resource based industries, on the economic stability of the County, and on the custom and culture of the citizens of Kane County. A recommendation from the County will be forwarded to Congress based on this evaluation. Interim Management Policy will be followed with emphasis on protection of the total resource and grazing rights as recognized by federal statutes.

A recommendation from the County will also be forwarded to Congress that any prospective wilderness area which the Congress decides not to designate as wilderness, should be released from further wilderness consideration in land use plans for federally managed lands and National Environmental Policy Act decision making. This will eliminate the spectra of multiple land use being hampered or choked off indefinitely in "study areas" even though the land has not been determined to meet the wilderness requirements and qualifications set by the wilderness Act.

8. NATIONAL WILD AND SCENIC RIVER SYSTEMS

Previously completed inventory data and recommendations on potential wild and scenic river segments within Kane County should be carried forward to the Congress. The National Wild and Scenic Rivers Act, 16 U.S.C. §§ 1271-1287, provides the guidance for identification and designation of individual river segments for study and for recommendation for inclusion in the

system in order to provide balance with Dams (development) and to provide unique representation within the national system.

Section 1271 called for protection of "certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values." Among those "certain selected rivers" there are now in Kane County some 325 miles of rivers which have either been included in the system or proposed for inclusion as "outstandingly remarkable" rivers. These rivers and their immediate environments will be reevaluated to determine whether they meet the intent of the Wild and Scenic Rivers Act to protect "outstandingly remarkable" rivers and provide a balance between development and preservation of true uniqueness in the National River System. Based upon this reevaluation the County will make a recommendation to Congress. The Land Use Committee and the Board are satisfied that many of the 325 miles of rivers now included or proposed for inclusion do not meet the uniqueness standard established in Section 1271. The Land Use Committee and the Board are satisfied that there is no further need for including any other segments of rivers within Kane County in the national system and that there are no others which meet the standards set by Section 1271. Because of the vast diversity between areas in which the 325 miles of river designated in Kane County, and because the Act is focused on individuality and uniqueness, an Environmental Impact Statement is necessary for each separate designation. One general Environmental Impact Statement for the entire 325 miles of designation will not suffice and will not satisfy requirements of the National Environmental Policy Act or the Wild and Scenic Rivers Act.

Inaction by Congress as to current recommendations will be interpreted as a negative response if no action is taken within five years of the recommendation. Either in that event, or in the event Congress acts within five years and denies designation into the Wild and Scenic River System, Kane County will seek release of the area which will allow full multiple use management of those river areas which the Congress fails to designate as included in the national system. As with wilderness study areas, such release will eliminate the spectra of multiple land use being hampered or choked off indefinitely even though the area is not designated as part of the national system.

Under 16 U.S.C. § 1283, any federally managed lands which include, border on, or are adjacent to any river included in or under consideration for inclusion in, the national system must be managed by the Secretary of Interior so as to protect such rivers in accordance with the purposes of the act. However, 16U.S.C. § 1283 (b) provides that the section shall not be "construed to abrogate any existing rights, privileges, or contracts affecting Federal lands held by any private party without the consent of said party." (Emphasis added).

9. THREATENED AND ENDANGERED SPECIES

The Resource Development Committee and the Board will pay particular attention to any species designated in any category or classification for protection or consideration of protection under the Endangered Species Act and will act to require the agencies to comply with full procedural provisions of federal statutes. The Resource Development Committee and the Board has developed an endangered and threatened species review process which is set forth in Part IV of the Plan.

10. WILDLIFE / WILDLIFE HABITAT

Wildlife Management should maintain the balanced wildlife populations which our citizens have grown accustomed to enjoying in consumptive and non-consumptive manner. Big game populations have taxed available habitat in recent years as the populations of Deer, Antelope and Elk, have steadily increased. These increased populations have severely strained the habitat balance. As a result, big game impacts on private property and property interests have increased proportionally. The eventual result of limiting populations strictly by available habitat is starvation and disease. This is not a socially acceptable alternative. The Utah Department of wildlife Resources needs to be aware of big game impacts not only on private land forage supplies but on the property and property interest of permittee in their allotments. Hunting activity, allowable harvests and Departmental feeding programs must be coordinated with Kane County to achieve a balanced multiple use.

Currently Elk populations are not being managed. Numbers are increasing in many areas and no target population has been identified. The Bureau of Land Management and other outside experts have confirmed that bighorn populations are high enough to be at risk of a population crash. Much better coordination of deer hunting seasons with private property use and livestock management must be achieved. The planning effort will be directed at maintaining healthy balanced populations of wildlife and at establishing management plans including depredation hunts which respect private property rights and interests including investment backed expectations of the people of Kane County.

11. AREAS OF CRITICAL ENVIRONMENTAL CONCERN(ACEC)

An ACEC by definition is an area with special resource values that must be designated as an ACEC in order to receive special management. No such designations will be recommended where other designations or ordinarily prescribed management provides for special resource values. Stream segments of concern are designated as such specifically to bring to bear all

necessary management. By definition, any area designated for specific management concerns including stream segments of concern is not eligible for ACEC status.

12. WATER RIGHTS

Water rights established historically by the citizens of Kane County to support private enterprise in the pursuit of mining, livestock raising, and irrigated agriculture as well as for domestic use are recognized to have the same status as "real property", i.e. real estate, and shall be protected as such.

The right to the use of water is guaranteed by Article __ of the Utah Constitution, which guarantees continued water use once such use has been diverted and appropriated. The Resource Development Committee and the Board will plan for and positively urge better development of water supply consistent with these statutory and constitutional standards, and will work to protect established water rights in accordance with such standards.

13. LAND TENURE

Only 4.8% of the land in Kane County is private and that is the land which comprises the County tax base which must support all County services. Land tenure adjustments for any government agency must provide for no net loss of private land, private property rights and interests including investment backed expectations or loss of property tax revenue to Kane County. Exchanges of government lands with private land owners to adjust property lines for improvement of management of either or both will be sought. Isolated tracts of federally managed lands which could be better and more efficiently managed by the private sector will be identified and recommended for sale.

The advantage of private ownership to the economy as well to maintaining and revitalizing the productive value of the federally managed lands is summarized by Gary Libecap in Locking Up the Range (1981) at Page 102 as follows:

"Well-defined private rights capture individual incentive and initiative for using rangeland efficiently. Further, they insure response by profit-maximizing land owners to changing to changing market demands for range use. Finally, they allow the U.S. To avoid socially costly scientific management programs advocated by the BLM. Private property rights are the necessary conditions for restoring and maintaining the productive value of a land area larger than New England and the Mid-Atlantic states combined which has been much maligned and fought over for one hundred years."

14. ENERGY AND MINERAL RESOURCES

Energy and mineral resources provide the base for an important contribution to the economy of Kane County. All lands not currently withdrawn from energy and mineral exploration will remain available for such use.

Proposed revisions to the General Mining Law of 1872 will be carefully evaluated as to any undue adverse impact on the mining industry in the County. Recommendations regarding such proposed amendments will be sent to Congress. The mining industry makes up an important part of the property tax base of the County, and its payroll and expenditures for supplies are important to the economic stability of the County. Mining is one of the historic multiple uses on federally managed land and maintenance of the use is compatible with the multiple use principle.

As Management Action is considered regarding mining interests in the County, the restraints upon free market development imposed by statute or by agency rule will be evaluated. Any unjust or unreasonable restraints which are not specifically based upon statutory authority may be challenged. As to any such unjust or unreasonable restraints which appear to be based upon statutory authority, a recommendation may be made to Congress.

15. CULTURAL, GEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Kane County contains many special features which by their remote and rugged nature are largely self protected. Where an imminent threat to these special features is specifically identified, mitigation efforts necessary to protect significant scientific, educational, and recreational value will be identified.

Many other special features are not self protected and are susceptible to damage by recreation seekers. Among such features are Pictographs which are located in many areas of the County.

Any permits granted for recreational use of any type in the areas in which these ancient Pictographs are located should be issued only after careful consideration of the adverse impact which might result from the recreational event and shall be issued only with conditions designed to prevent damage to the Pictographs and other cultural and historical characteristics of the County.

16. RIGHTS OF WAY

Utility corridors have historically been very important in Kane County. All planning efforts will provide for continuation of such opportunities. Historically the development of mining, livestock grazing, ranching, and farming has required establishment of numerous rights of way over the federally managed lands. Continued use of these rights of way is essential to continuation of the associated commerce. All planning efforts will seek to maintain historic rights to travel over federally managed lands wherever necessary in pursuit of mining, livestock raising, and other historic uses. Along with right to travel over these rights of way, any maintenance necessary to continue the historic use will be allowed.

Kane County had enacted Ordinance No. _____ which provides for recording of claimed rights of way. Activities pursuant to the state statute and the County Ordinance will be evaluated to assure that rights of way are being properly honored. A recommendation will be made to the Congress that no federal action be taken which would attempt to repudiate or rescind established rights of way.

17. AIR QUALITY

Kane County will monitor the available data to identify any potential conflict with federal law regarding the protection of air quality.

18. LAW ENFORCEMENT / SEARCH AND RESCUE

The County will continue positive planning for law enforcement in Kane County, urging consultation, cooperation and coordination between the Bureau of Land Management, other federal and state agencies and local law enforcement personnel. The County will provide to protect all Kane County citizens, private property rights, and natural resources located within the county while complying with Utah laws, the Utah Constitution, county ordinances, Federal laws and The United States Constitution.

Increasingly, the Bureau of Land Management and other Federal agencies have become involved in law enforcement activities in Kane County, acting as peace officers and enforcing Federal laws and regulations in addition to state and local laws. These activities have become of increasing concern to the citizens of Kane County, who feel that federal agencies have become increasingly difficult and dangerous to work with. The Kane County Land Use Committee, the Board of Kane County Commissioners, the Kane County Sheriff and the Kane County Prosecuting Attorney have felt pressure from their constituents to protect the public and to address the problem in a positive manner. The Kane County Land Use

Committee; the Board, the Prosecutor, and the Sheriff will continue working with the BLM and other federal agencies to guarantee that both the Constitutions of Utah and the United States, and all statutes and laws are followed in relation to federal law enforcement activities in Kane County. As Kane County has been involved in land use planning for more than five years, the Kane County Prosecuting Attorney, in conjunction with the Kane County Sheriff will begin planning for law enforcement activities in the county on state and federal land.

The Federal Land Policy and Management Act of 1976 requires the Bureau of Land Management and other agencies under the authority of the Secretary of Interior to coordinate ALL land management activities with county and state governments involved with land use planning USC 1712(c)(9). The Kane County Sheriff is authorized as the primary law enforcement agent in the county under Utah Code 31-2227, and the Kane County Land use Planning Committee will assist the County Sheriff in his attempts to secure coordination by federal agencies. While the state of Utah and Kane County have been enforcing law on public lands in Kane County since 1865, increasing Federal laws and regulations in reference to federal lands prompted Congress in 1976 to pass legislation to make sure their new laws would be enforced. Federal laws that simply duplicate existing state and local laws are still within the primary law enforcement jurisdiction of the state, a field Congress did not intend to usurp, but Congress did intend that any new laws it passed should be enforceable.

The Federal Land Policy and Management Act of 1976 in USC 1733(c)(2) addressed the issue by mandating that the Secretary of the Interior "authorize Federal personnel or appropriate local officials to carry out his law enforcement with respect to the public lands and their resources." The Act gives the AUTHORIZING discretion to the Secretary of the Interior not so he can preempt police powers of the state, but so that he can authorize local officials to enforce Federal laws and regulations on public lands. The law becomes even more detailed on the issue when it provides in section 1733(c)(1) that:

"When the Secretary determines that assistance is necessary in enforcing Federal laws and regulation relating to the public lands or their resources, he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximize feasible reliance upon local law enforcement officials..."

Although Congress did direct the Secretary of the Interior to authorize the enforcement of federal laws on federal lands, Congress did not attempt to preempt states' police powers. Specifically, in 43 USC 1701 of the Federal Land Policy and Management Act, Congress mandates that "Nothing in this Act shall be construed as...a limitation upon the police power of the respective States, or as derogating the authority of a local police officer in the

performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands." The County will seek full consultation, coordination, and cooperation with the Bureau of Land Management and other agencies, and will also work with the Kane County Sheriff to provide for the safety of Kane County citizens and the protection of the land and resources located on federally-managed land in Kane County.

In 1996, the Kane County Sheriff had the largest operating budget he has ever had in the history of the county--\$_____. With that budget the sheriff put nine patrol officers on the road to enforce all laws within the county, not only on private land, but state and federal as well. It cost the Kane County sheriff \$_____ per year to put a single patrol officer on the road. In comparison with figures provided by the United States General Accounting Office, show that it costs the BLM \$90,000 per year for each officer they employ.

Congress has also authorized the Secretary of the Interior to help with and pay for search and rescue operations on federal lands within Kane County. The statute says that "The Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperating in the protection and rescue of, persons or animals endangered by an act of God, and © in transporting deceased persons or persons seriously ill or injured to the nearest place where interested parties or local authorities are located." The statute thus declares that the BLM shall accept some responsibility on the federal lands. This would help Kane County defray the costs of search and rescue operations that it has incurred for over a century while policing federal land. In the future, Kane County expects the BLM to take an active role in financing searches and rescues on federal lands in Kane County, cooperatively financing not only actual searches and rescues, but contributing towards purchases of necessary equipment and the transportation of dead and seriously ill persons from the federal lands.

19. THE CONTINUING PROCESS

The Kane County Resource Development Committee and the Board recognize that the coordinated planning process is an on-going process. Progress does not come easy. Some federal personnel are far easier to work with than others. Some still resist the "coordinated" planning which is mandated by Congress. As long as progress in maintaining quality of resources can be made, the multiple uses of the federal lands can be maintained, the economic stability, custom and culture of the County can be preserved, and private property rights and interests can be protected, the County will continue to urge federal personnel to "coordinate".

Should hesitance on their part interfere with the stated goals, then action may have to be taken to secure judicial orders that the agencies comply with the coordination mandate of the Congress.

This Plan has been developed from a new base after the designation of the Grand staircase Escalante National Monument in 1996. This new Plan and its appendices should be considered in order to understand the depth of commitment of Kane County to a coordinated planning process.

As the Planning process continues, scientific studies and reports, team evaluations, and other planning reports and studies will be added to the documents which contain the Kane County Land Use Plan. Such documents, when approved by the Board of Commissioners, will be attached to this Plan and utilized in making planning decisions.

Part III Threatened and Endangered Species process

A. LOCAL PLANNING UNDER THE ENDANGERED SPECIES ACT

In the Endangered Species Act of 1973 (as amended) the United States Congress has established it to be the national policy to maintain a balance in the ecological systems upon which human and all life depend which prevents the unnatural, unnecessary extinction of a species of fish, economic and social hardship which would lead to extinction of human activities on the other.

In 16 U.S.C. Section 1533 the Congress has specifically required the Secretary of Interior to consider "economic impact" before designating a critical habitat, all governmental agencies--local, state and federal--are called upon to cooperate with each other and with other interested parties to conserve the ecological systems upon which all species depend.

The specifically expressed purpose stated in 16 U.S.C., Section 1531 is to provide a legislative and financial means through which conservation of ecological systems could be maintained with such balance. The Congress declared the national purpose to be to encourage states "though Federal financial assistance and a system of incentives" to develop and maintain "conservation programs." Such programs were defined to include scientific resource management activities such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation and other activities designed to bring about the balance in the ecological system which make protective actions under the Endangered Species Act no longer necessary.

Local planning must play a critical role in the development of programs which will work toward that balance in the ecological system which will protect all species of life, including human. In 16 U.S.C., Section 1533 (b)(1)(A) the Congress mandated that the Secretary of Interior must make his determinations to protect species "on the basis of the best scientific and commercial data available to him" and only AFTER TAKING INTO ACCOUNT THOSE EFFORTS, IF ANY, BEING MADE BY ANY STATE...OR ANY POLITICAL SUBDIVISION OF A STATE...TO PROTECT SUCH SPECIES". So, the Congress declared it to be the national policy that local conservation programs, research programs and habitat maintenance programs be looked to initially as the means to achieve the balance desired in ecological systems upon which all life depends. Of particular importance in the arid lands of the western counties is the requirement stated in 16 U.S.C. Section 1531(c)(2) that "Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species."

The County will expect all federal agencies to follow the mandate of the federal statutes and to consult and cooperate with the County as it implements its local responsibility in accordance with the Endangered Species Act.

Moreover, such agencies as the Bureau of Land Management are advised that the County expects the BLM, in planning for the protection of any species in Kane County, to coordinate its efforts with the County in light of the specific statutory mandate of coordination set forth in 43 U.S.C. Section 1712 (c)(9).

B. RESEARCH AND REVIEW PROCESS

- a) An Ecological Balance Subcommittee will oversee the implementation of the research and review process. A Chairman of the Subcommittee will be named by the Chairman of the Kane County Board of Commissioners, and the members of the Subcommittee will be named by the Chairman of the Kane County Board of Commissioners.
- b) When an agency, citizen or group of citizens believes that a condition has caused or threatens to cause disruption to the balance of the ecological systems upon which human and all life depends in Kane County, a request should be made to the Ecological System Balance Subcommittee to initiate the research and review process with regard to such condition. If an agency, citizen or group of citizens believes that a species is declining, even though the cause for the decline is unknown, a request should be made to the Ecological Balance Subcommittee to initiate the process identified in this Part of the County Land Use Plan. Any member of the

Subcommittee or of the County Resource Development Committee may request that the process be initiated, whether or not a request has been made by an agency or other citizen.

c) The subcommittee will review the request, and may invite the requesting agency, person or group to meet with the subcommittee to discuss the request. During this initial review, the subcommittee shall request information from state and federal agencies and interested citizens as to the species identified in the request. Thus, the subcommittee can take advantage of existing data and analysis regarding the species identified in the request. The subcommittee shall coordinate its review with state and federal agencies and interested citizens and citizen organizations.

d) When the subcommittee determines the nature of the condition, the potential impact on the ecological system which is or may become imminent, the courses of research necessary to fully study the condition, and the resources necessary to implement research and review, a report shall be submitted to the County Resource Development Committee. The Committee shall coordinate its review of the subcommittee report with state and federal agencies and with interested citizens and citizen organizations. After coordination, the Committee will then decide whether further research and review is necessary or desirable, and either direct the Subcommittee to implement full research and review or to close its file.

e) If the Committee directs further action, the subcommittee will notify, in writing, all federal agencies exercising land management activities in Kane County, all federal agencies with responsibility under the Endangered Species Act, all federal agencies exercising land management planning activities in Utah, all state agencies exercising land or water management activities in Kane County, all conservation groups and groups of citizens interested in the multiple uses of the federally managed lands in Kane County of the County's initiation of the research and review process. An initial informational meeting will be included in the written notice.

f) The subcommittee will then conduct meetings, coordinate research efforts and review the condition, the problems presented to the ecological system, the necessity of corrective action or actions, the alternative corrective action or actions which are possible, the impact of each of such alternatives on the balance in the ecological system, means of financing the alternatives and expected results of the alternatives.

g) If at any time during this process, the subcommittee believes that a Memorandum of Understanding to Establish a Working Group is desirable, it shall make such recommendation to the Committee, and if it concurs, the Committee shall make such recommendation to the

Board of Commissioners. If the Board of Commissioners concurs, a Memorandum of Understanding shall be prepared to establish citizens groups can work cooperatively and coordinately in planning for the maintenance of or re-establishment of the balance in the ecological system. The pattern for such Memorandum of Understanding shall be that which was developed for the Implementation agreement for the California Condor release in northern Arizona and southern Utah.

h) The subcommittee shall advise the Committee, and the Committee shall advise the Board of Commissioners of progress in the research and review process on a regular basis. No later than 180 days after the filing of the initial request for research and review a report shall be submitted to the Board of Commissioners regarding the status of the process, with attention being directed to all elements of study set forth above in subparagraphs f and g. If more research and review time is needed, the 180 day report shall be submitted to the Board of Commissioners regarding the reported condition and all elements of study set forth above in subparagraphs f and g.

i) Within 60 days of receipt of the final report, the Board of Commissioners will issue a report and decision based upon the research and review process. That further work is necessary or may continue implementation of the process under stated guidelines for future implementation.

j) All meetings of the subcommittee, Committee, and Board regarding the research and review process shall be open to the public. The subcommittee and Committee may hold public hearings and/or meetings during the process, and the Board of Commissioners shall conduct a public hearing prior to issuing its final report and decision.

k) Throughout the process identified in subsections a through j, the County will coordinate activities with state & federal agencies, interested citizens & citizen groups.

C. IMPLEMENTATION OF LOCAL PLANNING

1. LOCAL WORKING GROUPS WORKING THROUGH MOU's

During the research and review process or after the issuance of the Board's report and decision, local working groups will be established through Memoranda of Understanding for implementation of local planning to maintain or reestablish the balance in ecological systems in Kane County.

- a) Disclosure in good faith of information regarding the particular purpose of the specific working group established by the MOU;
- b) Efforts by the working group to secure funding from public or private sources to aid in pursuing the purpose of the MOU;
- c) Regular meetings of the working group;
- d) Continuing effort to identify and attempt to include all parties with a possible interest in the purpose of the MOU;
- e) Establish and continue, to the extent possible, a comprehensive survey of the conditions of the ecological system and the species under study;
- f) Develop and formulate an action plan to guide and coordinate the efforts of the working group;
- g) Work cooperatively and coordinately to create and implement a management plan for the ecological system under study.

The County will seek the participation of all governmental agencies involved in the management of lands, water, and other natural resources in Kane County or in any such management activities which will impact Kane County, other adjoining counties which are impacted by events and actions in Kane County, citizens and groups of citizens who use the federally and state managed lands in Kane County, and citizens and groups of citizens who are interested in the natural resources of Kane County and their use.

When specific MOUs are executed, they will be attached to the Kane County Land Use Plan for the Federally and State Managed Lands, and will be considered part of this Plan.

2. CONSERVATION AGREEMENTS

The County may also study and support the development of Conservation Agreements through the program of the United States Fish and Wildlife Service, and/or conservation programs and/or agreements offered by other state and federal agencies and interested citizens and citizen organizations.

3. SPECIFIC ACTION PLANS

The Kane County Resource Development Committee will recommend to the Board of Commissioners; specific actions regarding a particular species, a particular condition objective for and ecological system within the County; or the use of plans for the federally and state managed lands within the County when the Committee believes such plan is necessary or desirable to meet the planning standards established for such lands by federal and state statutes. This recommendation process will be coordinated with state and federal agencies and interested citizens and citizen organizations.

When such specific action plan is recommended, the Board of Commissioners shall conduct a public hearing regarding adoption of the plan. Public notice of the hearing will be published, and written notice will be mailed to all governmental agencies involved in the management of land, water and natural resources in Kane County. Written notice will also be mailed to members of any working group involved with the particular subject of the proposed action plan.

After the hearing, the Board may adopt, reject, or modify the action plan. If the plan is adopted as presented or as modified, it shall be attached to this Plan and become a part of this Plan as fully as if set forth herein. The Board will then notify all governmental agencies involved in the management of land, water and natural resources in Kane County of the adoption of the action plan.

4. LOCAL ORDINANCES

When the Board of Commissioners deems it necessary, County planning standards for management of the federally and state managed lands in Kane County will be established by County ordinance pursuant to Utah law.

Part IV Rangeland Monitoring

A. PURPOSE

Management of rangelands requires reliable and objective information about the resources in question. Monitoring of rangeland attributes provides information for planning and for evaluating the outcome of management decisions. Typically, management actions are directed by planned goals or objectives for the various resource values within a management unit. Rangeland inventory and monitoring data plays a key role in the selection of management objectives. Site potential, ecological status and current trend must be evaluated in order to

identify realistic, attainable objectives and the management strategies necessary to meet those objectives. Objective, reliable, and repeatable monitoring provides a measure of whether management goals and objectives are or will be met. Such data is also used to update vegetation inventory data which will be used for future planning.

B. GUIDELINES

Monitoring information on a single use, rangeland attribute or management action is of limited value; however, when combined with other information related to the resources in a management unit, it becomes useful. The situation to which monitoring will be applied, must be fully described in order to properly interpret the results of monitoring effort. Other pertinent information includes:

- ' climate, soil type, vegetation type and ecological status,
- ' historic and current recreational, wildlife and livestock use,
- ' weather records, water sources, natural barriers,
- ' cultural features such as fences, buildings, roads, water developments, power lines.

- ' legal jurisdictions such as private land, private water rights, rights of way, grazing preference rights, mining claims and state lands
- ' management designations for recreation, wildlife, wilderness study etc

C. PROCEDURES

Monitoring involves three levels of measurement, with each level providing significant input to the interpretation of results. In most cases all three levels are necessary for proper interpretation of results.

- ' use data indicating kinds of use, numbers of users and timing and frequency of use is needed, whether it be for recreational, wildlife or livestock use or a combination of these.

- ' situation data including natural disturbance factors such as climatic conditions during the year, floods, wildfire, off site water diversion, etc. along with data indicating any possible legal or jurisdictional conflicts, are needed for accurate interpretation.

- ' objective physical measurements of or photographic recordings of rangeland attributes are the final level and are necessary in order to provide consistency over

time.

Monitoring data related to a specific goal or objective should consist of all pertinent documentation or records on one or more of the following parameters:

- actual measurements of rangeland parameters obtained through rangeland studies.
- use data including type, timing and extent of use.
- projected data which includes numbers of projects and area or distance affected.
- coordination given to legal and jurisdictional effects of management actions or projects.
- coordination efforts on actions or projects related to big game and wildlife management.
- application for use, change of use, land exchange or land disposal, including number of applications, actions taken and timing of actions taken.
- survey data related to actual change in cultural and paleontological sites.
- survey data related to forest health.
- changes in multiple use, including the kind of use, amount or timing of use being of applications, actions taken and timing of actions taken.
- actions which will initiate, avoid or combine NEPA procedures related to management actions on the public lands.
- incidents of conflicts among uses or users.
- climatic data including natural disturbances such as drought, flood, wildfire insect invasion, etc..
- jurisdiction or legal implications for projects or actions affecting private land, private water rights, rights of way, adjudicated grazing preference rights, mining claims, public access and use, state lands, and other federal uses.

D. MONITORING PLANS

Planning for a monitoring program needs to be completed in cooperation and coordination with the users who have a direct interest in the goal or objective to be monitored. When the affected user is satisfied that the data collected, sites selected, procedures used and evaluation of data is suitable for the goal of objective being considered with the results be publicly acceptable. Monitoring plans should consider the goal or objective and the relevance of the proposed data collection to those goals or objectives. They should specify the procedures that will be used for data collection, initially and in future assessments. They should specify the procedures for selecting monitoring sites and indicate the relevance of these sites to the goals

and objectives. Plans should set forth the responsibilities for obtaining monitoring data, the timing for collection of the data, and those who will receive copies of the data. Most importantly the plan should indicate how the collected data will be used or interpreted in assessing change toward or away from objectives.

Allotment Management Plans should have a monitoring section which sets forth the management objectives and the monitoring procedures for sampling techniques, site identification, shared responsibilities, time frame for completion and procedures for interpretation.

Records of visual observation that do not require actual measurement or photographic record are dependent on individual values held by the observer. As such values changes over time or observations are made by a different individual the results are of no value in assessing change toward or away from goals or objectives. Monitoring information must be based on objective measurement or hard data which can be adequately compared to previous or subsequent records. This is the only way in which true progress toward or achievement of management goals and objectives can be measured.

Seldom is it possible to measure completely, a single parameter such as production. Instead, estimates of production are based on statistical inference derived from specific sampling procedures. Sampling procedures are designed to provide information applicable only to a given method of statistical analysis. For this reason it is essential that the procedures be followed closely and that procedures not be changed from one sampling period to the next.

Management goals or objectives related to specific rangeland attributes influence the location of monitoring sites and the selection of rangeland or ecological attributes that should be measured. Classification of land into homogeneous units is necessary for accurate collection and interpretation of monitoring data. Unless the monitoring site relates directly to goals or objectives it will not provide usable information. Stratification of climatic soils and vegetation types allows the selection of monitoring sites which can more accurately reflect impact on management objectives. It is extremely important to select monitoring sites which reflect not only the management objective but the soils and vegetation types which apply to the management objective. Monitoring data can not be used to evaluate goals and objectives unless the site is located in a strata that is capable of accurately reflecting progress toward goals and objectives. Rangeland attributes to be monitored are dictated by management objectives. A goal to reduce erosion is not likely to be assessed by lengthy expensive attempts to measure soil loss. However, measures of ground cover or species frequency trend can indicate whether management actions are likely to produce a stable soil condition. Goals to achieve a given

plant community can be monitored with rangeland studies of plant frequency trend.

Management goals and objectives not related to site specific rangeland attributes, will require different or additional documentation. Objectives for increasing recreational opportunity will require accumulation of data on amount, timing and frequency of uses for recreational purposes. Big game population objectives will require census data as well as hunting pressures and success ratios. Fish population objectives will also require extensive census data as well as fishing use data. These kinds of information along with objective habitat assessment data will yield useful information in assessment of such goals and objectives.

E. MONITORING RANGELAND ATTRIBUTES

Trend, indicates the direction of change toward or away from healthy productive rangeland. It is generally used to indicate whether change is toward or away from established management objectives. The parameters most reflective of trend are frequency, ground cover and canopy cover. These parameters are generally applicable to wildlife, fisheries, soils, and watershed management objectives. The Nested Frequency Plot study method will yield information on all three of the parameters most valuable in estimating trend. Since this procedure has been used extensively by the Bureau of Land Management and many such sites are already established it is the preferred study method. Sites for the existing studies have generally not been guided by allotment management plans and therefore many the sites are of limited value in assessing management objectives that are extremely broad in nature. However, the data is available and can be of some value in assessing trend over a broad area. There is a need for more sites which are placed specifically to assess management objectives derived through allotment management plans. This will allow for selection of sites which will be of greater value in assessing progress toward more specific management objectives.

Animal Use monitoring, including livestock, wildlife and wild horses and burrows is of greatest value in planning for animal management, rangeland improvement projects, and in evaluating the causes of change identified by trend studies. The monitoring data of greatest value in assessment of use, is the actual use report and use mapping. Actual use reports show the numbers and timing of use by livestock in a given allotment. Use mapping, shows the levels of use obtained at various sites on the allotment and the distribution of the users such as cattle, sheep, wild horses, or other wildlife. Use mapping provides guidance as to potential changes in management which will result in more uniform distribution of use. Where management objectives may require more detailed use data such as for critical big game winter ranges, the Key Forage Plant Utilization and utilization portion of the Extensive Browse Transect methods can be used.

Ecological Status (climax, high seal, mid seal, low seal) indicated the degree to which a site resembles undisturbed rangeland. It is of limited value unless the assessment is conducted over large area. It is normally not used as a short term measure of change toward or away from goals of objectives due to the time and expense required for an accurate assessment. Often a goal or objective may set a high seal stage as the target in order to maintain a high level of diversity of both plants and wildlife. Acres of change toward a higher level is often used as a target for goals of objectives in specific area plans. However, the 20 year or longer intervals between such assessments do not allow for assessment of change in the short term. Most often, trend studies are used to indicate direction of change toward such goals or objectives.

Weather data is extremely important for the interpretation of other range monitoring studies and data. Long term drought can shift a plant population toward more drought tolerant species or the opposite may occur with long periods of above normal precipitation. Short term studies for use mapping may be influenced by specific year and or specific area precipitation data. Water availability can affect use patterns by livestock as well as wild horses and wildlife. Variation in use patterns or perceived conflicts of use by these species may in fact be a result of short term weather patterns. Unless adequate data is available for both short and long term weather patterns, the interpretation of results from rangeland studies may not be accurate. Accurate assessments of management action impacts on wildlife, cannot be accomplished without having significant weather data available. Wildlife populations are dynamic in that they react to weather patterns that favor or hinder reproduction as well as winter survival.

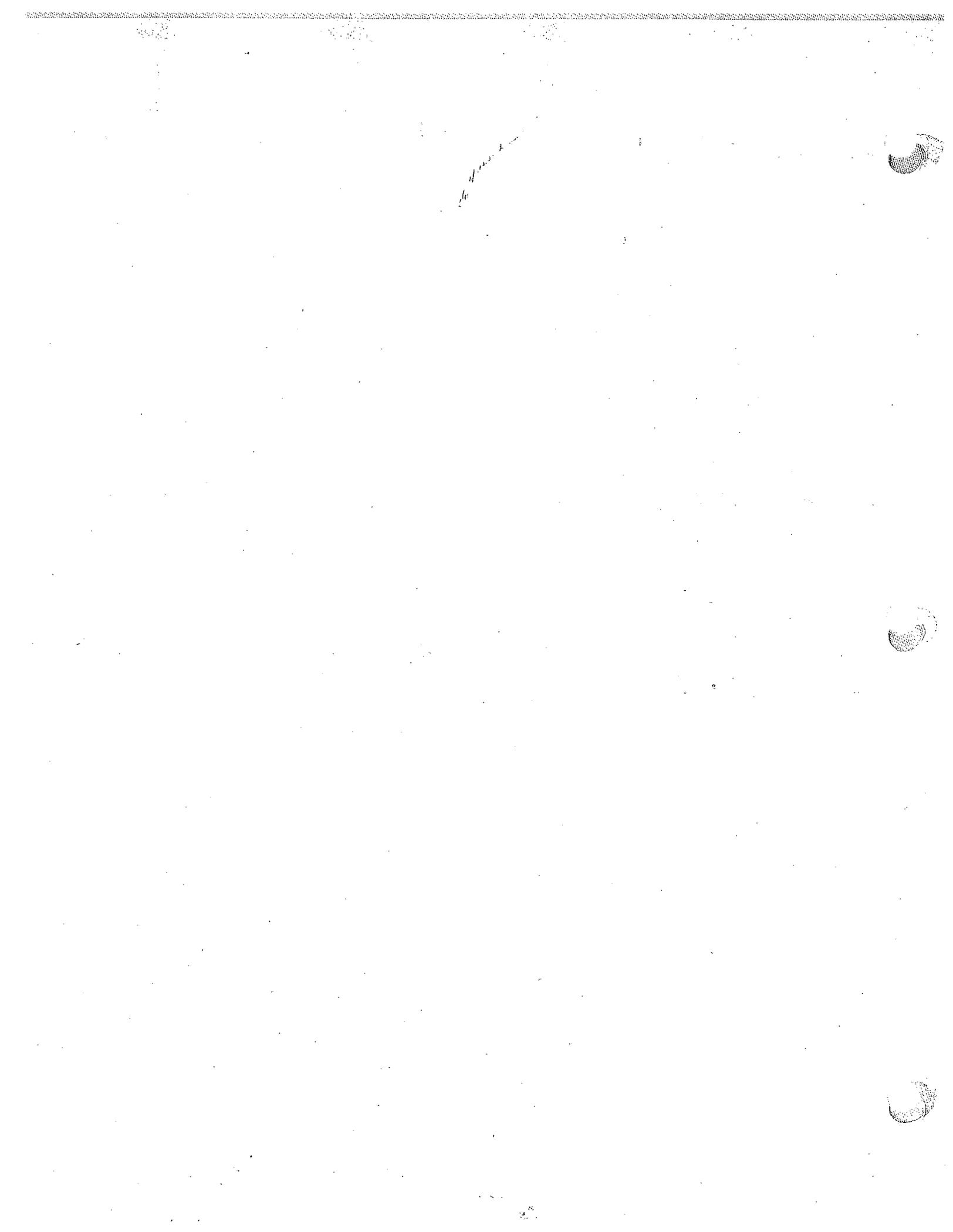
Recreational uses also need to have weather data available in order to gain proper and accurate interpretation. Heavy snow years usually lead to increased snowmobile use. A single year record of such use may not indicate the continuous degree of use but merely the degree that was provided for by the weather. Similarly, hunting, fishing, hiking, rock hounding, sightseeing and other recreational uses are affected by access that may be enhanced or reduced due to weather patterns. River rafting is heavily impacted by weather patterns that control the water levels in rivers. In order to adequately assess recreational use goals and objectives, data must be available over a period of years, with weather conditions taken into account.

Kane County General Plan
Final For Adoption
June 22, 1998

Appendix J
Minutes of Public Meetings and Hearings regarding the
Kane County, Utah General Plan

Appendix K Maps

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List of Tables

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Appendix I (i)

Part 5 Site Specific Areas

- A. Canaan Mountain Region
- B. Moquith Mountain
- C. Orderville Canyon/Orderville Gulch
- D. Vermillion Cliffs Region
- E. Parunuweap Canyon
- F. Upper Kanab Creek

Acknowledgments

Every effective planning process includes a multitude of individuals if it is to be successful. This effort is no different. Many individuals have had an impact upon the preparation and adoption of this Plan. However, most important are the residents of Kane County, who over the past three years have responded to numerous surveys, interviews, and have attended many public meetings and hearings. All who did so should be commended for their desire to be a participant in determining the future of Kane County. Some specific individuals and groups have had intensive involvement in the Kane County planning process, and are acknowledged below:

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Stephen R. Crosby
Joe C. Judd

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Kane County Water Conservancy District

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Upper Kanab Creek

**AMENDMENT TO THE KANE COUNTY GENERAL PLAN TO
CLARIFY LONGSTANDING POLICIES FOR THAT GEOGRAPHIC
REGION OF KANE COUNTY DESCRIBED BELOW AND
HEREINAFTER REFERRED TO AS THE**

“UPPER KANAB CREEK REGION.”

WHEREAS, Kane County has a general plan adopted pursuant to Utah Code containing policies for the appropriate use of private and public land within the county; and

WHEREAS, Kane County desires to supplement its general plan to clarify long-standing policies specific to certain geographic regions of the county as the need arises; and

WHEREAS, certain amendments have been recommended associated with lands in the Upper Kanab Creek region of the county;

NOW, THEREFORE, IT IS PROPOSED THAT THE KANE COUNTY GENERAL PLAN BE AMENDED BY INSERTING THE FOLLOWING IN THAT PORTION OF THE PLAN THAT DEALS WITH PUBLIC LANDS:

**CLARIFICATION OF KANE COUNTY’S ONGOING PLAN FOR
MANAGING CERTAIN LANDS IN THE UPPER KANAB CREEK
REGION OF THE COUNTY**

SECTION 1. Subject Lands.

This plan clarification applies to all areas of land situated in part or all of the following-referenced Township and Range which the United States Bureau of Land Management (“BLM”) has purported to identify and evaluate for so-called alleged wilderness characteristics, including all lands which BLM purportedly determined to have wilderness characteristics and all lands which BLM purportedly determined to not have wilderness characteristics, all as set forth in relevant maps which are part of the most recent draft of the BLM Kanab Resource Management Plan.

Upper Kanab Creek, located in parts of:

T40S R7W
T40S R6W
T41S R7W
T41S R6W
T41S R5W
T42S R8W

T42S R7W
T42S R6W
T42S R5W

For purposes of this plan clarification, all of the above-described lands are collectively referred to herein as the “Upper Kanab Creek Region,” and are illustrated more fully in the official map attached hereto. Any reference hereafter to the term “Upper Kanab Creek Region” shall refer to any and all of the above-described land areas.

SECTION 2. Clarification of Ongoing Plan

1 Achieve and Maintain A Continuing Yield of Mineral and Energy Resources In The Upper Kanab Creek Region At The Highest Reasonably Sustainable Levels

- Kane County recognizes that it is technically feasible to access mineral and energy resources while preserving nonmineral and nonenergy resources.
- All solid, fluid and gaseous mineral resources in the Upper Kanab Creek Region, including uranium, oil and gas, coal and other hardrock and/or energy resources that exist in economic quantities and are recoverable with existing or foreseeable technology should be available for development.
- Physical and administrative access to mineral and energy resources in the Upper Kanab Creek Region must be maintained. These lands should be open to minerals and energy leasing with economically and technically viable stipulations and conditions that will protect the lands against unreasonable and irreparable damage to other significant resource values. This should include reasonable and effective mitigation and reclamation measures and bonding for such where necessary.
- Fluid and gaseous minerals within developed areas should be protected from waste and drainage.
- Any previous lease restrictions in the Upper Kanab Creek Region that are no longer necessary or effective should be modified, waived or removed.
- Restrictions against surface occupancy should be modified, waived or if necessary removed where it is shown that directional drilling is not ecologically necessary, where directional drilling is not feasible from an economic or engineering standpoint, or where it is shown that directional drilling will in effect sterilize the mineral and energy resources beneath the area.

- Applications for permission to drill that meet standard qualifications, including where appropriate reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted.
- Any moratorium or withdrawals that may exist against the issuance of additional mining patents and oil and gas leases in the Upper Kanab Creek Region should be carefully evaluated for removal.

2. Achieve and Maintain Livestock Grazing In The Upper Kanab Creek Region At The Highest Reasonably Sustainable Levels

- Domestic livestock forage in the Upper Kanab Creek Region as expressed in animal unit months and allocated for permitted active use in the RMP, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the Upper Kanab Creek Region, based on an on-the-ground and scientific analysis.
- Where once-available grazing forage in the Upper Kanab Creek Region has succeeded to pinion, juniper and other woody vegetation and associated biomass, or to cheat grass and other invasive grasses and vegetation, or where rangeland health in the Upper Kanab Creek Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, burning and other mechanical treatments should be applied to remove this woody vegetation and biomass, and/or invasive weeds, and stimulate the return of the native grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the Upper Kanab Creek Region.
- Kane County regards the land which comprises the grazing districts and allotments in the Upper Kanab Creek Region as still more valuable for grazing than for any other use which excludes livestock grazing, such as conversion of AUM's to wildlife, wild horses, watersheds or wilderness values. Accordingly, it is Kane County's plan that animal unit months in the Upper Kanab Creek Region not be relinquished or retired in favor of conservation, wildlife and other uses.
- Kane County recognizes that from time to time a bona fide livestock permittee in the Upper Kanab Creek 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 Upper Kanab Creek Region should be temporary and scientifically based on rangeland conditions.

- The transfer of grazing animal unit months ("AUMs") to wildlife for supposed reasons of rangeland health is opposed by Kane County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.
- Any grazing animal unit months that may have been reduced in the Upper Kanab Creek Region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

3. Manage the Watershed in The Upper Kanab Creek Region To Achieve and Maintain Water Resources At The Highest Reasonably Sustainable Levels

- All water resources that derive in the Upper Kanab Creek Region are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.
- As a political subdivision of the State, Kane County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and where reasonable develop those water resources.
- With increased demands on water resources brought on by population increases in the local drainage area, and with recent drier precipitation trends which call into question in the minds of some whether the climate of the local drainage area is changing, it is important now more than ever that management practices be employed in the Upper Kanab Creek Region to restore, maintain and maximize water resources there.
- This includes restoration, maintenance and enhancement of the watershed in the Upper Kanab Creek Region.
- Where water resources in the Upper Kanab Creek Region 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.
- Kane County's strategy and plan for protecting the Upper Kanab Creek Region watershed is to deter unauthorized cross-country OHV use in the Upper Kanab Creek Region. The best way to achieve this is to give OHV users a reasonable system of trails in the Upper Kanab Creek Region on which to legitimately operate their OHVs. Closing the Upper Kanab Creek Region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Upper Kanab Creek Region

watershed.

- Accordingly, all trails in the Upper Kanab Creek Region which historically have been open to OHV use should remain open.
- Kane County's watershed protection strategy also calls for reducing the risk of wildfires caused by cheat grass and other invasive species. Such wildfires diminish the watershed through such causes as erosion and dust storms that follow the fire. One of the most inexpensive and effective ways to combat cheat grass and thus protect and enhance the watershed is to allow livestock permittees in the Upper Kanab Creek Region to let their cattle graze off the cheat grass and other invasive weeds during the Spring before those plants mature and cause a fire hazard in the Summer. Accordingly, all restrictions against the spring grazing of cheat grass should be removed.

4. Achieve and Maintain Traditional Access To Outdoor Recreational Opportunities Available in The Upper Kanab Creek Region

- Traditionally, citizens of Kane County and visitors have enjoyed many forms of outdoor recreation in the Upper Kanab Creek Region, 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 touring in their personal vehicles.
- All trails in the Upper Kanab Creek Region which historically have been open to OHV use should remain open.
- Public land outdoor recreational access in the Upper Kanab Creek Region should not discriminate in favor of one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational opportunities in the Upper Kanab Creek Region have been open and accessible to working class families, to families with small children, to the ill and persons with disabilities, to the middle aged and elderly, to persons of different cultures for whom a primitive or back country experience may not be the preferred form of recreating. Current use, demographics and area growth support a need for more dispersed and varied recreation opportunities in the Kane County WIA and UWC lands, as opposed to primitive or back country experiences there. All of society should not be forced to participate in a solitude experience or a primitive experience as the one and only mode of outdoor recreation in the Kane County WIA and UWC Lands. 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, should not be eliminated from pursuing other forms of recreational opportunities in the Upper Kanab

Creek Region.

- Any segment of society, for that matter, who wants to recreate in the Upper Kanab Creek Region are entitled to motorized access to traditional recreation uses and additional access where needed.
- Hence Kane County's plan calls for continued public motorized access to all traditional outdoor recreational destinations in all areas of the Upper Kanab Creek Region for all such segments of the public. Kane County specifically opposes restricting outdoor recreation in the Upper Kanab Creek Region to just one form - available for those who have enough time, money and athletic ability to hike into the destinations of the Upper Kanab Creek Region for a so-called "solitude wilderness experience" or the like.
- Accordingly, all roads in the Upper Kanab Creek Region that are part of Kane County's duly adopted transportation plan should remain open to motorized travel. None of them should be closed, and Kane County should have the continued ability to maintain and repair those roads, and where reasonably necessary make improvements thereon. All trails in the Upper Kanab Creek Region that have been open to OHV use should continue to remain open. Traditional levels of wildlife hunting and fishing should continue. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation -motorized and non-motorized - should continue. In addition, all roads and trails administered by the BLM, in addition to those maintained by Kane County, should remain open to public use, and any attempt to close any road or trail should be subject to the NEPA process.

5. Maintain and Keep Open All Roads in the Upper Kanab Creek Region That Appear on Kane County's Most Recent Transportation Map, and Provide For Such Additional Roads and Trails As May Be Necessary From Time to Time

- Kane County's transportation plan includes an official county-wide transportation map, available to the public for viewing and copying, showing all public roads and trails maintained by the County.
- That portion of Kane County's official transportation map which shows all public roads and trails in the Upper Kanab Creek Region is considered to be part of Kane County's plan specifically applicable to the Upper Kanab Creek Region. Those roads should remain open to public travel. In addition, all roads administered by the BLM should remain open to public use, and any attempt to close those roads should be subject to the NEPA process.
- Kane County plans to keep all such roads in the Upper Kanab Creek Region open and reasonably maintained and in good repair. Kane 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 Kane County and BLM cannot reach an agreement on such proposed improvements after reasonable efforts at consultation.

- Additional roads trails and transportation corridors may be needed in the Upper Kanab Creek Region from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Upper Kanab Creek Region, including livestock operations and improvements, solid, fluid and gaseous mineral operations, energy transportation, 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 in the Upper Kanab Creek Region to accomplish the purposes of those lands. Additional access should be provided where a need is demonstrated and can be accomplished while providing required protection to other resources and uses.

6. Manage the Upper Kanab Creek Region So As to Not Interfere With The Property Rights of Private Landowners Located in That Region.

- There are parcels of private fee land located in or around the Upper Kanab Creek Region.
- Land management policies and standards on BLM land in the Upper Kanab Creek Region should not interfere with the property rights of private landowners in the region to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.
- Nor should those landowners and their guests be denied the right of motorized access to their private property consistent with past uses of those private land parcels.

7. Manage the Upper Kanab Creek Region 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 That Region.

- Located within or nearby the Upper Kanab Creek Region are sections of school and institutional trust lands 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 by Utah's Enabling Act and State Constitution.
- As trustee, SITLA has a fiduciary responsibility to manage those school

trust lands to generate maximum revenue therefrom, by making them available for sale and private development, and for other multiple use consumptive 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.

- Land management policies and standards in the Upper Kanab Creek Region should not interfere with SITLA's ability to carry out its fiduciary responsibilities.
- 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 SITLA's fiduciary responsibilities.

8. Managing Part or All of The Upper Kanab Creek Region For So-Called Wilderness Characteristics Would Violate FLPMA, Contradict The State's Public Land Policy and Contradict The Foregoing Plans of Kane County For Managing The Upper Kanab Creek Region

- As Utah Code § 63-38d-401(6)(b) indicates, managing the Upper Kanab Creek Region 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 Kane County's. A so-called "wilderness characteristics" management standard for the Upper Kanab Creek Region is de facto wilderness management by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Upper Kanab Creek Region. Kane County has formally taken a position that no BLM lands in Kane County should be designated as wilderness.
- A so-called "wilderness characteristics" management standard for the Upper Kanab Creek Region also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.
 - Managing Post-603 Lands¹ pursuant to the Interim Management Policy of 1979 ("IMP") is inconsistent with BLM authority. Agreement p. 6 & 13.a;
 - Managing 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;

¹ As that term is defined in the *Utah v. Norton* settlement agreement of April 11, 2003.

- 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;
- DOI/BLM will not establish, manage “*or otherwise treat*” Post-603 Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;
- DOI/BLM will remove from the proposed revised resource management plans in the Vernal, Price, Richfield, Kanab, Monticello and Moab Districts any and all references or plans to classify or manage Post-603 BLM lands “*as if*” they are or may become WSAs. Agreement p. 14 & 7.

9. Imposing An Area of Critical Environmental Concern (“ACEC”) Designation, Including Any ACEC Alternatives Currently Under Consideration in the Kanab Resource Management Plan Revision Process, Would Contradict Kane County’s Plan For Managing The Upper Kanab Creek Region

- It is Kane County’s policy that no part of the Upper Kanab Creek Region 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).
 - 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.
 - The proposed ACEC is limited only to areas that are already developed or used or to areas where no development is required.
 - The proposed ACEC designation and protection are necessary to protect not just a change in ground conditions or visual resources that can be reclaimed or reversed eventually (like reclaiming a natural gas well site after pumping operations are complete). Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.
 - The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA multiple use sustained yield management, the Wilderness Act,

threatened and endangered species designations or any other special designation or law..

- The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a non WSA for so-called wilderness characteristics.
 - The foregoing summarizes the ACEC criteria of the State of Utah as well as Kane County. See Utah Code § 63-38d-401(8)(c). And the foregoing summarizes the criteria of FLPMA.
 - As of December 12, 2007, none of the ACEC alternatives being considered in the Kane County portion of the current Kanab Resource Management Plan ("RMP") revision process (including the so-called White Cliffs proposed ACEC and the proposed Vermilion Cliffs ACEC being considered in Alternative C), other than the ACEC's that exist currently, meets Kane County's above-stated ACEC planning criteria. Adopting any of these ACEC's under any of the proposed alternatives would be incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Upper Kanab Creek Region.
10. Including Any River Segment in or Near the Upper Kanab Creek Region in the National Wild and Scenic River System Would Violate the National Wild and Scenic Rivers Act and Related Regulations, Contradict the State's Public Land Policy, and Contradict the Foregoing Plans of Kane County For Managing The Upper Kanab Creek Region

- It is Kane County's policy that no river segment should be included in the National Wild and Scenic River System unless
 - Water is present and flowing at all times.
 - The water-related value is considered outstandingly remarkable within a region of comparison consisting of one of three physiographic provinces of the state, and that the rationale and justification for the conclusion are disclosed.
 - BLM fully disclaims in writing any interest in water rights with respect to the subject segment.
 - It is clearly demonstrated that including the segment in the NWSR system will not prevent, reduce, impair, or otherwise interfere with the state and its citizen's enjoyment of complete and exclusive water rights in and to rivers of the state as determined by the laws of the state, nor interfere with or impair local, state, regional, or

interstate water compacts to which the State or Kane County is a party.

- The rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed.
- It is clearly demonstrated that BLM does not intend to use such a designation to improperly impose Class I or II Visual Resource Management prescriptions.
- It is clearly demonstrated that the proposed addition will not adversely impact the local economy agricultural and industrial operations, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment.
- The foregoing also summarizes the wild and scenic river criteria of the State of Utah, Utah Code § 63-38d-401(8)(a), as well as the criteria of Kane County.
- No river segment in or in or near the Upper Kanab Creek Region meets the above criteria. Hence, no river segment in or near the Upper Kanab Creek Region should be included in the National Wild and Scenic River system.
- As of December 12, 2007, the terms prescribed in any of the alternatives being considered in the proposed revised Kanab RMP for managing proposed wild and scenic river segments in or near the Upper Kanab Creek Region constitute de facto wilderness management by another name. They are incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Upper Kanab Creek Region.

11. A Visual Resource Management Class I or II Rating for Any Part of the Upper Kanab Creek Region Would Contradict the State's Public Land Policy and Contradict Kane County's Plan For Managing the Upper Kanab Creek Region

- The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Upper Kanab Creek Region.
- The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with,

Kane County's foregoing plan clarification for the Upper Kanab Creek Region.

- Kane County's foregoing plan clarification for the Upper Kanab Creek Region is generally consistent with either Class III or Class IV, depending on the precise area.

12. Restrictions and Unreasonably Burdensome Limitations on Surface Disturbing Activities In Areas of Medium to High Resource Potential in the Upper Kanab Creek Region, Would Contradict the State's Public Land Policy and Contradict Kane County's Plan for Managing the Upper Kanab Creek Region

- BLM restrictions and unreasonably burdensome seasonal limitations on surface disturbing activities are not compatible with, and would therefore frustrate and interfere with Kane County's foregoing plan clarification for the Upper Kanab Creek Region.

Parunuweap Canyon

**AMENDMENT TO THE KANE COUNTY GENERAL PLAN TO
CLARIFY LONGSTANDING POLICIES FOR THAT GEOGRAPHIC
REGION OF KANE COUNTY DESCRIBED BELOW AND
HEREINAFTER REFERRED TO AS THE**

“PARUNUWEAP CANYON REGION.”

WHEREAS, Kane County has a general plan adopted pursuant to Utah Code containing policies for the appropriate use of private and public land within the county; and

WHEREAS, Kane County desires to supplement its general plan to clarify long-standing policies specific to certain geographic regions of the county as the need arises; and

WHEREAS, certain amendments have been recommended associated with lands in the Parunuweap Canyon region of the county;

NOW, THEREFORE, IT IS PROPOSED THAT THE KANE COUNTY GENERAL PLAN BE AMENDED BY INSERTING THE FOLLOWING IN THAT PORTION OF THE PLAN THAT DEALS WITH PUBLIC LANDS:

**CLARIFICATION OF KANE COUNTY’S ONGOING PLAN FOR
MANAGING CERTAIN LANDS IN THE PARUNUWEAP CANYON
REGION OF THE COUNTY**

SECTION 1. Subject Lands.

This plan clarification applies to all areas of land situated in part or all of the following-referenced Township and Range which the United States Bureau of Land Management (“BLM”) has purported to identify and evaluate for so-called alleged wilderness characteristics, including all lands which BLM purportedly determined to have wilderness characteristics and all lands which BLM purportedly determined to not have wilderness characteristics, all as set forth in relevant maps which are part of the most recent draft of the BLM Kanab Resource Management Plan.

Parunuweap Canyon, located in parts of:

T41S R9W
T41S R8W
T41S R7W
T42S R9W
T42S R8W
T42S R7W

T43S R9W
T43S R8W¹

For purposes of this plan clarification, all of the above-described lands are collectively referred to herein as the “Parunuweap Canyon Region,” and are illustrated more fully in the official map attached hereto. Any reference hereafter to the term “Parunuweap Canyon Region” shall refer to any and all of the above-described land areas.

SECTION 2. Clarification of Ongoing Plan

1 Achieve and Maintain A Continuing Yield of Mineral and Energy Resources In The Parunuweap Canyon Region At The Highest Reasonably Sustainable Levels

- Kane County recognizes that it is technically feasible to access mineral and energy resources while preserving nonmineral and nonenergy resources.
- All solid, fluid and gaseous mineral resources in the Parunuweap Canyon Region, including uranium, oil and gas, coal and other hardrock and/or energy resources that exist in economic quantities and are recoverable with existing or foreseeable technology should be available for development.
- Physical and administrative access to mineral and energy resources in the Parunuweap Canyon Region must be maintained. These lands should be open to minerals and energy leasing with economically and technically viable stipulations and conditions that will protect the lands against unreasonable and irreparable damage to other significant resource values. This should include reasonable and effective mitigation and reclamation measures and bonding for such where necessary.
- Fluid and gaseous minerals within developed areas should be protected from waste and drainage.
- Any previous lease restrictions in the Parunuweap Canyon Region that are no longer necessary or effective should be modified, waived or removed.

¹ Part or all of the following FLPMA Section 603 Wilderness Study Area (“WSA”) is located in the above-referenced townships and ranges within the borders of Kane County: Parunuweap WSA. The fact that this planning document addresses only areas outside Parunuweap WSA does not imply that Kane County necessarily concedes that Parunuweap WSA is suitable for wilderness designation or de facto wilderness management restrictions. In any event, Parunuweap WSA is outside the scope of this particular section of Kane County’s Plan.

- Restrictions against surface occupancy should be modified, waived or if necessary removed where it is shown that directional drilling is not ecologically necessary, where directional drilling is not feasible from an economic or engineering standpoint, or where it is shown that directional drilling will in effect sterilize the mineral and energy resources beneath the area.
- Applications for permission to drill that meet standard qualifications, including where appropriate reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted.
- Any moratorium or withdrawals that may exist against the issuance of additional mining patents and oil and gas leases in the Parunuweap Canyon Region should be carefully evaluated for removal.

2. Achieve and Maintain Livestock Grazing In The Parunuweap Canyon Region At The Highest Reasonably Sustainable Levels

- Domestic livestock forage in the Parunuweap Canyon Region as expressed in animal unit months and allocated for permitted active use in the RMP, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the Parunuweap Canyon Region, based on an on-the-ground and scientific analysis.
- Where once-available grazing forage in the Parunuweap Canyon Region has succeeded to pinion, juniper and other woody vegetation and associated biomass, or to cheat grass and other invasive grasses and vegetation, or where rangeland health in the Parunuweap Canyon Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, burning and other mechanical treatments should be applied to remove this woody vegetation and biomass, and/or invasive weeds, and stimulate the return of the native grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the Parunuweap Canyon Region.
- Kane County regards the land which comprises the grazing districts and allotments in the Parunuweap Canyon Region as still more valuable for grazing than for any other use which excludes livestock grazing, such as conversion of AUM's to wildlife, wild horses, watersheds or wilderness values. Accordingly, it is Kane County's plan that animal unit months in the Parunuweap Canyon Region not be relinquished or retired in favor of conservation, wildlife and other uses.
- Kane County recognizes that from time to time a bona fide livestock

permittee in the Parunuweap Canyon 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 Parunuweap Canyon Region should be temporary and scientifically based on rangeland conditions.

- The transfer of grazing animal unit months ("AUMs") to wildlife for supposed reasons of rangeland health is opposed by Kane County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.
- Any grazing animal unit months that may have been reduced in the Parunuweap Canyon Region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

3. Manage the Watershed in The Parunuweap Canyon Region To Achieve and Maintain Water Resources At The Highest Reasonably Sustainable Levels

- All water resources that derive in the Parunuweap Canyon Region are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.
- As a political subdivision of the State, Kane County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and where reasonable develop those water resources.
- With increased demands on water resources brought on by population increases in the local drainage area, and with recent drier precipitation trends which call into question in the minds of some whether the climate of the local drainage area is changing, it is important now more than ever that management practices be employed in the Parunuweap Canyon Region to restore, maintain and maximize water resources there.
- This includes restoration, maintenance and enhancement of the watershed in the Parunuweap Canyon Region.
- Where water resources in the Parunuweap Canyon Region 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.

- Kane County's strategy and plan for protecting the Parunuweap Canyon Region watershed is to deter unauthorized cross-country OHV use in the Parunuweap Canyon Region. The best way to achieve this is to give OHV users a reasonable system of trails in the Parunuweap Canyon Region on which to legitimately operate their OHVs. Closing the Parunuweap Canyon Region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Parunuweap Canyon Region watershed.
- Accordingly, all trails in the Parunuweap Canyon Region which historically have been open to OHV use should remain open.
- Kane County's watershed protection strategy also calls for reducing the risk of wildfires caused by cheat grass and other invasive species. Such wildfires diminish the watershed through such causes as erosion and dust storms that follow the fire. One of the most inexpensive and effective ways to combat cheat grass and thus protect and enhance the watershed is to allow livestock permittees in the Parunuweap Canyon Region to let their cattle graze off the cheat grass and other invasive weeds during the Spring before those plants mature and cause a fire hazard in the Summer. Accordingly, all restrictions against the spring grazing of cheat grass should be removed.

4. Achieve and Maintain Traditional Access To Outdoor Recreational Opportunities Available in The Parunuweap Canyon Region

- Traditionally, citizens of Kane County and visitors have enjoyed many forms of outdoor recreation in the Parunuweap Canyon Region, 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 touring in their personal vehicles.
- All trails in the Parunuweap Canyon Region which historically have been open to OHV use should remain open.
- Public land outdoor recreational access in the Parunuweap Canyon Region should not discriminate in favor of one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational opportunities in the Parunuweap Canyon Region have been open and accessible to working class families, to families with small children, to the ill and persons with disabilities, to the middle aged and elderly, to persons of different cultures for whom a primitive or back country experience may not be the preferred form of recreating. Current use, demographics and area growth support a need for more dispersed and varied recreation

opportunities in the Kane County WIA and UWC lands, as opposed to primitive or back country experiences there. All of society should not be forced to participate in a solitude experience or a primitive experience as the one and only mode of outdoor recreation in the Kane County WIA and UWC Lands. 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, should not be eliminated from pursuing other forms of recreational opportunities in the Parunuweap Canyon Region.

- Any segment of society, for that matter, who wants to recreate in the Parunuweap Canyon Region are entitled to motorized access to traditional recreation uses and additional access where needed.
- Hence Kane County's plan calls for continued public motorized access to all traditional outdoor recreational destinations in all areas of the Parunuweap Canyon Region for all such segments of the public. Kane County specifically opposes restricting outdoor recreation in the Parunuweap Canyon Region to just one form - available for those who have enough time, money and athletic ability to hike into the destinations of the Parunuweap Canyon Region for a so-called "solitude wilderness experience" or the like.
- Accordingly, all roads in the Parunuweap Canyon Region that are part of Kane County's duly adopted transportation plan should remain open to motorized travel. None of them should be closed, and Kane County should have the continued ability to maintain and repair those roads, and where reasonably necessary make improvements thereon. All trails in the Parunuweap Canyon Region that have been open to OHV use should continue to remain open. Traditional levels of wildlife hunting and fishing should continue. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation -motorized and non-motorized - should continue. In addition, all roads and trails administered by the BLM, in addition to those maintained by Kane County, should remain open to public use, and any attempt to close any road or trail should be subject to the NEPA process.

5. Maintain and Keep Open All Roads in the Parunuweap Canyon Region That Appear on Kane County's Most Recent Transportation Map, and Provide For Such Additional Roads and Trails As May Be Necessary From Time to Time

- Kane County's transportation plan includes an official county-wide transportation map, available to the public for viewing and copying, showing all public roads and trails maintained by the County.
- That portion of Kane County's official transportation map which shows all

public roads and trails in the Parunuweap Canyon Region is considered to be part of Kane County's plan specifically applicable to the Parunuweap Canyon Region. Those roads should remain open to public travel. In addition, all roads administered by the BLM should remain open to public use, and any attempt to close those roads should be subject to the NEPA process.

- Kane County plans to keep all such roads in the Parunuweap Canyon Region open and reasonably maintained and in good repair. Kane 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 Kane County and BLM cannot reach an agreement on such proposed improvements after reasonable efforts at consultation.
- Additional roads trails and transportation corridors may be needed in the Parunuweap Canyon Region from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Parunuweap Canyon Region, including livestock operations and improvements, solid, fluid and gaseous mineral operations, energy transportation, 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 in the Parunuweap Canyon Region to accomplish the purposes of those lands. Additional access should be provided where a need is demonstrated and can be accomplished while providing required protection to other resources and uses.

6. Manage the Parunuweap Canyon Region So As to Not Interfere With The Property Rights of Private Landowners Located in That Region.

- There are parcels of private fee land located in or around the Parunuweap Canyon Region.
- Land management policies and standards on BLM land in the Parunuweap Canyon Region should not interfere with the property rights of private landowners in the region to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.
- Nor should those landowners and their guests be denied the right of motorized access to their private property consistent with past uses of those private land parcels.

7. Manage the Parunuweap Canyon Region 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 That Region.

- Located within or nearby the Parunuweap Canyon Region are sections of school and institutional trust lands 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 by Utah's Enabling Act and State Constitution.
- As trustee, SITLA has a fiduciary responsibility to manage those school trust lands to generate maximum revenue therefrom, by making them available for sale and private development, and for other multiple use consumptive 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.
- Land management policies and standards in the Parunuweap Canyon Region should not interfere with SITLA's ability to carry out its fiduciary responsibilities.
- 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 SITLA's fiduciary responsibilities.

8. Managing Part or All of The Parunuweap Canyon Region For So-Called Wilderness Characteristics Would Violate FLPMA, Contradict The State's Public Land Policy and Contradict The Foregoing Plans of Kane County For Managing The Parunuweap Canyon Region

- As Utah Code § 63-38d-401(6)(b) indicates, managing the Parunuweap Canyon Region 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 Kane County's. A so-called "wilderness characteristics" management standard for the Parunuweap Canyon Region is de facto wilderness management by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Parunuweap Canyon Region. Kane County has formally taken a position that no BLM lands in Kane County should be designated as wilderness.
- A so-called "wilderness characteristics" management standard for the Parunuweap Canyon Region also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.

- Managing Post-603 Lands² pursuant to the Interim Management Policy of 1979 ("IMP") is inconsistent with BLM authority. Agreement p. 6 & 13.a;
- Managing 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;
- 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;
- DOI/BLM will not establish, manage "*or otherwise treat*" Post-603 Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;
- DOI/BLM will remove from the proposed revised resource management plans in the Vernal, Price, Richfield, Kanab, Monticello and Moab Districts any and all references or plans to classify or manage Post-603 BLM lands "*as if*" they are or may become WSAs. Agreement p. 14 & 7.

9. Imposing An Area of Critical Environmental Concern ("ACEC") Designation, Including Any ACEC Alternatives Currently Under Consideration in the Kanab Resource Management Plan Revision Process, Would Contradict Kane County's Plan For Managing The Parunuweap Canyon Region

- It is Kane County's policy that no part of the Parunuweap Canyon Region 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).
 - 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.
 - The proposed ACEC is limited only to areas that are already developed or used or to areas where no development is required.

² As that term is defined in the *Utah v. Norton* settlement agreement of April 11, 2003.

- The proposed ACEC designation and protection are necessary to protect not just a change in ground conditions or visual resources that can be reclaimed or reversed eventually (like reclaiming a natural gas well site after pumping operations are complete). Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.
- The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA multiple use sustained yield management, the Wilderness Act, threatened and endangered species designations or any other special designation or law..
- The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a non WSA for so-called wilderness characteristics.
- The foregoing summarizes the ACEC criteria of the State of Utah as well as Kane County. See Utah Code § 63-38d-401(8)(c). And the foregoing summarizes the criteria of FLPMA.
- As of December 12, 2007, none of the ACEC alternatives being considered in the Kane County portion of the current Kanab Resource Management Plan ("RMP") revision process (including the so-called Parunuweap Canyon proposed ACEC being considered in Alternative C), other than the ACECs that exist currently, meets Kane County's above-stated ACEC planning criteria. Adopting any of these ACECs under any of the proposed alternatives would be incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Parunuweap Canyon Region.

10. Including Any River Segment in or Near the Parunuweap Canyon Region in the National Wild and Scenic River System Would Violate the National Wild and Scenic Rivers Act and Related Regulations, Contradict the State's Public Land Policy, and Contradict the Foregoing Plans of Kane County For Managing The Parunuweap Canyon Region

- It is Kane County's policy that no river segment should be included in the National Wild and Scenic River System unless
 - Water is present and flowing at all times.
 - The water-related value is considered outstandingly remarkable within a region of comparison consisting of one of three physiographic provinces of the state, and that the rationale and

justification for the conclusion are disclosed.

- BLM fully disclaims in writing any interest in water rights with respect to the subject segment.
- It is clearly demonstrated that including the segment in the NWSR system will not prevent, reduce, impair, or otherwise interfere with the state and its citizen's enjoyment of complete and exclusive water rights in and to rivers of the state as determined by the laws of the state, nor interfere with or impair local, state, regional, or interstate water compacts to which the State or Kane County is a party.
- The rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed.
- It is clearly demonstrated that BLM does not intend to use such a designation to improperly impose Class I or II Visual Resource Management prescriptions.
- It is clearly demonstrated that the proposed addition will not adversely impact the local economy agricultural and industrial operations, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment.
- The foregoing also summarizes the wild and scenic river criteria of the State of Utah, Utah Code § 63-38d-401(8)(a), as well as the criteria of Kane County.
- Neither the so-called Meadow Creek/Mineral Gulch segment, the so-called East Fork Virgin River segment, nor any other river segment in or in or near the Parunuweap Canyon Region meets the above criteria. Hence, no river segment in or near the Parunuweap Canyon Region, including the so-called Meadow Creek/Mineral Gulch segment and the so-called East Fork Virgin River segment, should be included in the National Wild and Scenic River system.
- As of December 12, 2007, the terms prescribed in any of the alternatives being considered in the proposed revised Kanab RMP for managing proposed wild and scenic river segments in or near the Parunuweap Canyon Region, including the so-called Meadow Creek/Mineral Gulch segment and the so-called East Fork Virgin River segment, constitute de

facto wilderness management by another name. They are incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Parunuweap Canyon Region.

11. A Visual Resource Management Class I or II Rating for Any Part of the Parunuweap Canyon Region Would Contradict the State's Public Land Policy and Contradict Kane County's Plan For Managing the Parunuweap Canyon Region

- The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Parunuweap Canyon Region.
- The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Parunuweap Canyon Region.
- Kane County's foregoing plan clarification for the Parunuweap Canyon Region is generally consistent with either Class III or Class IV, depending on the precise area.

12. Restrictions and Unreasonably Burdensome Limitations on Surface Disturbing Activities In Areas of Medium to High Resource Potential in the Parunuweap Canyon Region, Would Contradict the State's Public Land Policy and Contradict Kane County's Plan for Managing the Parunuweap Canyon Region

- BLM restrictions and unreasonably burdensome seasonal limitations on surface disturbing activities are not compatible with, and would therefore frustrate and interfere with Kane County's foregoing plan clarification for the Parunuweap Canyon Region.

Vermilion Cliffs

**AMENDMENT TO THE KANE
COUNTY GENERAL PLAN TO CLARIFY LONGSTANDING
POLICIES FOR THAT GEOGRAPHIC REGION OF KANE
COUNTY DESCRIBED BELOW AND HEREINAFTER REFERRED
TO AS THE**

“VERMILION CLIFFS REGION.”

WHEREAS, Kane County has a general plan adopted pursuant to Utah Code containing policies for the appropriate use of private and public land within the county; and

WHEREAS, Kane County desires to supplement its general plan to clarify long-standing policies specific to certain geographic regions of the county as the need arises; and

WHEREAS, certain amendments have been recommended associated with lands in the Vermilion Cliffs region of the county;

NOW, THEREFORE, IT IS PROPOSED THAT THE KANE COUNTY GENERAL PLAN BE AMENDED BY INSERTING THE FOLLOWING IN THAT PORTION OF THE PLAN THAT DEALS WITH PUBLIC LANDS:

**CLARIFICATION OF KANE COUNTY’S ONGOING PLAN FOR
MANAGING CERTAIN LANDS IN THE VERMILION CLIFFS
REGION OF THE COUNTY**

SECTION 1. Subject Lands.

This plan clarification applies to all areas of land situated in part or all of the following-referenced Township and Range which the United States Bureau of Land Management (“BLM”) has purported to identify and evaluate for so-called alleged wilderness characteristics, including all lands which BLM purportedly determined to have wilderness characteristics and all lands which BLM purportedly determined to not have wilderness characteristics, all as set forth in relevant maps which are part of the most recent draft of the BLM Kanab Resource Management Plan.

Vermilion Cliffs, located in parts of:

T42S R6W
T42S R5W
T43S R6W
T43S R5W

For purposes of this plan clarification, all of the above-described lands are collectively referred to herein as the “Vermilion Cliffs Region,” and are illustrated more fully in the official map attached hereto. Any reference hereafter to the term “Vermilion Cliffs Region” shall refer to any and all of the above-described land areas.

SECTION 2. Clarification of Ongoing Plan

1 Achieve and Maintain A Continuing Yield of Mineral and Energy Resources In The Vermilion Cliffs Region At The Highest Reasonably Sustainable Levels

- Kane County recognizes that it is technically feasible to access mineral and energy resources while preserving nonmineral and nonenergy resources.
- All solid, fluid and gaseous mineral resources in the Vermilion Cliffs Region, including uranium, oil and gas, coal and other hardrock and/or energy resources that exist in economic quantities and are recoverable with existing or foreseeable technology should be available for development.
- Physical and administrative access to mineral and energy resources in the Vermilion Cliffs Region must be maintained. These lands should be open to minerals and energy leasing with economically and technically viable stipulations and conditions that will protect the lands against unreasonable and irreparable damage to other significant resource values. This should include reasonable and effective mitigation and reclamation measures and bonding for such where necessary.
- Fluid and gaseous minerals within developed areas should be protected from waste and drainage.
- Any previous lease restrictions in the Vermilion Cliffs Region that are no longer necessary or effective should be modified, waived or removed.
- Restrictions against surface occupancy should be modified, waived or if necessary removed where it is shown that directional drilling is not ecologically necessary, where directional drilling is not feasible from an economic or engineering standpoint, or where it is shown that directional drilling will in effect sterilize the mineral and energy resources beneath the area.
- Applications for permission to drill that meet standard qualifications, including where appropriate reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted.

- Any moratorium or withdrawals that may exist against the issuance of additional mining patents and oil and gas leases in the Vermilion Cliffs Region should be carefully evaluated for removal.

2. Achieve and Maintain Livestock Grazing In The Vermilion Cliffs Region At The Highest Reasonably Sustainable Levels

- Domestic livestock forage in the Vermilion Cliffs Region as expressed in animal unit months and allocated for permitted active use in the RMP, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the Vermilion Cliffs Region, based on an on-the-ground and scientific analysis.
- Where once-available grazing forage in the Vermilion Cliffs Region has succeeded to pinion, juniper and other woody vegetation and associated biomass, or to cheat grass and other invasive grasses and vegetation, or where rangeland health in the Vermilion Cliffs Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, burning and other mechanical treatments should be applied to remove this woody vegetation and biomass, and/or invasive weeds, and stimulate the return of the native grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the Vermilion Cliffs Region.
- Kane County regards the land which comprises the grazing districts and allotments in the Vermilion Cliffs Region as still more valuable for grazing than for any other use which excludes livestock grazing, such as conversion of AUM's to wildlife, wild horses, watersheds or wilderness values. Accordingly, it is Kane County's plan that animal unit months in the Vermilion Cliffs Region not be relinquished or retired in favor of conservation, wildlife and other uses.
- Kane County recognizes that from time to time a bona fide livestock permittee in the Vermilion Cliffs 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 Vermilion Cliffs Region should be temporary and scientifically based on rangeland conditions.
- The transfer of grazing animal unit months ("AUMs") to wildlife for supposed reasons of rangeland health is opposed by Kane County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.

- Any grazing animal unit months that may have been reduced in the Vermilion Cliffs Region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

3. Manage the Watershed in The Vermilion Cliffs Region To Achieve and Maintain Water Resources At The Highest Reasonably Sustainable Levels

- All water resources that derive in the Vermilion Cliffs Region are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.
- As a political subdivision of the State, Kane County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and where reasonable develop those water resources.
- With increased demands on water resources brought on by population increases in the local drainage area, and with recent drier precipitation trends which call into question in the minds of some whether the climate of the local drainage area is changing, it is important now more than ever that management practices be employed in the Vermilion Cliffs Region to restore, maintain and maximize water resources there.
- This includes restoration, maintenance and enhancement of the watershed in the Vermilion Cliffs Region.
- Where water resources in the Vermilion Cliffs Region 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.
- Kane County's strategy and plan for protecting the Vermilion Cliffs Region watershed is to deter unauthorized cross-country OHV use in the Vermilion Cliffs Region. The best way to achieve this is to give OHV users a reasonable system of trails in the Vermilion Cliffs Region on which to legitimately operate their OHVs. Closing the Vermilion Cliffs Region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Vermilion Cliffs Region watershed.
- Accordingly, all trails in the Vermilion Cliffs Region which historically have been open to OHV use should remain open.

- Kane County's watershed protection strategy also calls for reducing the risk of wildfires caused by cheat grass and other invasive species. Such wildfires diminish the watershed through such causes as erosion and dust storms that follow the fire. One of the most inexpensive and effective ways to combat cheat grass and thus protect and enhance the watershed is to allow livestock permittees in the Vermilion Cliffs Region to let their cattle graze off the cheat grass and other invasive weeds during the Spring before those plants mature and cause a fire hazard in the Summer. Accordingly, all restrictions against the spring grazing of cheat grass should be removed.

4. Achieve and Maintain Traditional Access To Outdoor Recreational Opportunities Available in The Vermilion Cliffs Region

- Traditionally, citizens of Kane County and visitors have enjoyed many forms of outdoor recreation in the Vermilion Cliffs Region, 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 touring in their personal vehicles.
- All trails in the Vermilion Cliffs Region which historically have been open to OHV use should remain open.
- Public land outdoor recreational access in the Vermilion Cliffs Region should not discriminate in favor of one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational opportunities in the Vermilion Cliffs Region have been open and accessible to working class families, to families with small children, to the ill and persons with disabilities, to the middle aged and elderly, to persons of different cultures for whom a primitive or back country experience may not be the preferred form of recreating. Current use, demographics and area growth support a need for more dispersed and varied recreation opportunities in the Kane County WIA and UWC lands, as opposed to primitive or back country experiences there. All of society should not be forced to participate in a solitude experience or a primitive experience as the one and only mode of outdoor recreation in the Kane County WIA and UWC Lands. 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, should not be eliminated from pursuing other forms of recreational opportunities in the Vermilion Cliffs Region.
- Any segment of society, for that matter, who wants to recreate in the Vermilion Cliffs Region are entitled to motorized access to traditional recreation uses and additional access where needed.

- Hence Kane County's plan calls for continued public motorized access to all traditional outdoor recreational destinations in all areas of the Vermilion Cliffs Region for all such segments of the public. Kane County specifically opposes restricting outdoor recreation in the Vermilion Cliffs Region to just one form - available for those who have enough time, money and athletic ability to hike into the destinations of the Vermilion Cliffs Region for a so-called "solitude wilderness experience" or the like.
 - Accordingly, all roads in the Vermilion Cliffs Region that are part of Kane County's duly adopted transportation plan should remain open to motorized travel. None of them should be closed, and Kane County should have the continued ability to maintain and repair those roads, and where reasonably necessary make improvements thereon. All trails in the Vermilion Cliffs Region that have been open to OHV use should continue to remain open. Traditional levels of wildlife hunting and fishing should continue. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation -motorized and non-motorized - should continue. In addition, all roads and trails administered by the BLM, in addition to those maintained by Kane County, should remain open to public use, and any attempt to close any road or trail should be subject to the NEPA process.
5. Maintain and Keep Open All Roads in the Vermilion Cliffs Region That Appear on Kane County's Most Recent Transportation Map, and Provide For Such Additional Roads and Trails As May Be Necessary From Time to Time
- Kane County's transportation plan includes an official county-wide transportation map, available to the public for viewing and copying, showing all public roads and trails maintained by the County.
 - That portion of Kane County's official transportation map which shows all public roads and trails in the Vermilion Cliffs Region is considered to be part of Kane County's plan specifically applicable to the Vermilion Cliffs Region. Those roads should remain open to public travel. In addition, all roads administered by the BLM should remain open to public use, and any attempt to close those roads should be subject to the NEPA process.
 - Kane County plans to keep all such roads in the Vermilion Cliffs Region open and reasonably maintained and in good repair. Kane 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 Kane County and BLM cannot reach an agreement on such proposed improvements after reasonable efforts at consultation.
 - Additional roads trails and transportation corridors may be needed in the

Vermilion Cliffs Region from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Vermilion Cliffs Region, including livestock operations and improvements, solid, fluid and gaseous mineral operations, energy transportation, 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 in the Vermilion Cliffs Region to accomplish the purposes of those lands. Additional access should be provided where a need is demonstrated and can be accomplished while providing required protection to other resources and uses.

6. Manage the Vermilion Cliffs Region So As to Not Interfere With The Property Rights of Private Landowners Located in That Region.

- There are parcels of private fee land located in or around the Vermilion Cliffs Region.
- Land management policies and standards on BLM land in the Vermilion Cliffs Region should not interfere with the property rights of private landowners in the region to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.
- Nor should those landowners and their guests be denied the right of motorized access to their private property consistent with past uses of those private land parcels.

7. Manage the Vermilion Cliffs Region 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 That Region.

- Located within or nearby the Vermilion Cliffs Region are sections of school and institutional trust lands 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 by Utah's Enabling Act and State Constitution.
- As trustee, SITLA has a fiduciary responsibility to manage those school trust lands to generate maximum revenue therefrom, by making them available for sale and private development, and for other multiple use consumptive 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.

- Land management policies and standards in the Vermilion Cliffs Region should not interfere with SITLA's ability to carry out its fiduciary responsibilities.
 - 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 SITLA's fiduciary responsibilities.
8. Managing Part or All of The Vermilion Cliffs Region For So-Called Wilderness Characteristics Would Violate FLPMA, Contradict The State's Public Land Policy and Contradict The Foregoing Plans of Kane County For Managing The Vermilion Cliffs Region
- As Utah Code § 63-38d-401(6)(b) indicates, managing the Vermilion Cliffs Region 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 Kane County's. A so-called "wilderness characteristics" management standard for the Vermilion Cliffs Region is de facto wilderness management by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Vermilion Cliffs Region. Kane County has formally taken a position that no BLM lands in Kane County should be designated as wilderness.
 - A so-called "wilderness characteristics" management standard for the Vermilion Cliffs Region also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.
 - Managing Post-603 Lands¹ pursuant to the Interim Management Policy of 1979 ("IMP") is inconsistent with BLM authority. Agreement p. 6 & 13.a;
 - Managing 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;
 - 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;
 - DOI/BLM will not establish, manage "*or otherwise treat*" Post-603

¹ As that term is defined in the *Utah v. Norton* settlement agreement of April 11, 2003.

Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;

- DOI/BLM will remove from the proposed revised resource management plans in the Vernal, Price, Richfield, Kanab, Monticello and Moab Districts any and all references or plans to classify or manage Post-603 BLM lands "*as if*" they are or may become WSAs. Agreement p. 14 & 7.

9. Imposing An Area of Critical Environmental Concern ("ACEC") Designation, Including Any ACEC Alternatives Currently Under Consideration in the Kanab Resource Management Plan Revision Process, Would Contradict Kane County's Plan For Managing The Vermilion Cliffs Region

- It is Kane County's policy that no part of the Vermilion Cliffs Region 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).
 - 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.
 - The proposed ACEC is limited only to areas that are already developed or used or to areas where no development is required.
 - The proposed ACEC designation and protection are necessary to protect not just a change in ground conditions or visual resources that can be reclaimed or reversed eventually (like reclaiming a natural gas well site after pumping operations are complete). Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.
 - The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA multiple use sustained yield management, the Wilderness Act, threatened and endangered species designations or any other special designation or law..
 - The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a non WSA for so-called wilderness characteristics.

- The foregoing summarizes the ACEC criteria of the State of Utah as well as Kane County. See Utah Code § 63-38d-401(8)(c). And the foregoing summarizes the criteria of FLPMA.
 - As of December 12, 2007, none of the ACEC alternatives being considered in the Kane County portion of the current Kanab Resource Management Plan (“RMP”) revision process (including the so-called Vermilion Cliffs proposed ACEC being considered in Alternative C), other than the ACECs that exist currently, meets Kane County’s above-stated ACEC planning criteria. Adopting any of these ACECs under any of the proposed alternatives would be incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Vermilion Cliffs Region.
10. Including Any River Segment in or Near the Vermilion Cliffs Region in the National Wild and Scenic River System Would Violate the National Wild and Scenic Rivers Act and Related Regulations, Contradict the State’s Public Land Policy, and Contradict the Foregoing Plans of Kane County For Managing The Vermilion Cliffs Region
- It is Kane County’s policy that no river segment should be included in the National Wild and Scenic River System unless
 - Water is present and flowing at all times.
 - The water-related value is considered outstandingly remarkable within a region of comparison consisting of one of three physiographic provinces of the state, and that the rationale and justification for the conclusion are disclosed.
 - BLM fully disclaims in writing any interest in water rights with respect to the subject segment.
 - It is clearly demonstrated that including the segment in the NWSR system will not prevent, reduce, impair, or otherwise interfere with the state and its citizen’s enjoyment of complete and exclusive water rights in and to rivers of the state as determined by the laws of the state, nor interfere with or impair local, state, regional, or interstate water compacts to which the State or Kane County is a party.
 - The rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed.

- It is clearly demonstrated that BLM does not intend to use such a designation to improperly impose Class I or II Visual Resource Management prescriptions.
- It is clearly demonstrated that the proposed addition will not adversely impact the local economy agricultural and industrial operations, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment.
- The foregoing also summarizes the wild and scenic river criteria of the State of Utah, Utah Code § 63-38d-401(8)(a), as well as the criteria of Kane County.
- No river segment in or in or near the Vermilion Cliffs Region meets the above criteria. Hence, no river segment in or near the Vermilion Cliffs Region should be included in the National Wild and Scenic River system.
- As of December 12, 2007, the terms prescribed in any of the alternatives being considered in the proposed revised Kanab RMP for managing proposed wild and scenic river segments in or near the Vermilion Cliffs Region constitute de facto wilderness management by another name. They are incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Vermilion Cliffs Region.

11. A Visual Resource Management Class I or II Rating for Any Part of the Vermilion Cliffs Region Would Contradict the State's Public Land Policy and Contradict Kane County's Plan For Managing the Vermilion Cliffs Region

- The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Vermilion Cliffs Region.
- The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Vermilion Cliffs Region.
- Kane County's foregoing plan clarification for the Vermilion Cliffs Region is generally consistent with either Class III or Class IV, depending on the precise area.

12. Restrictions and Unreasonably Burdensome Limitations on Surface Disturbing Activities In Areas of Medium to High Resource Potential in the Vermilion Cliffs Region, Would Contradict the State's Public Land Policy and Contradict Kane County's Plan for Managing the Vermilion Cliffs Region

- BLM restrictions and unreasonably burdensome seasonable limitations on surface disturbing activities are not compatible with, and would therefore frustrate and interfere with Kane County's foregoing plan clarification for the Vermilion Cliffs Region.

Orderville Canyon/Orderville Gulch

**AMENDMENT TO THE KANE COUNTY GENERAL PLAN TO
CLARIFY LONGSTANDING POLICIES FOR THAT GEOGRAPHIC
REGION OF KANE COUNTY DESCRIBED BELOW AND
HEREINAFTER REFERRED TO AS THE**

“ORDERVILLE CANYON/ORDERVILLE GULCH REGION.”

WHEREAS, Kane County has a general plan adopted pursuant to Utah Code containing policies for the appropriate use of private and public land within the county; and

WHEREAS, Kane County desires to supplement its general plan to clarify long-standing policies specific to certain geographic regions of the county as the need arises; and

WHEREAS, certain amendments have been recommended associated with lands in the Orderville Canyon/Orderville Gulch region of the county;

NOW, THEREFORE, IT IS PROPOSED THAT THE KANE COUNTY GENERAL PLAN BE AMENDED BY INSERTING THE FOLLOWING IN THAT PORTION OF THE PLAN THAT DEALS WITH PUBLIC LANDS:

**CLARIFICATION OF KANE COUNTY’S ONGOING PLAN FOR
MANAGING CERTAIN LANDS IN THE ORDERVILLE
CANYON/ORDERVILLE GULCH REGION OF THE COUNTY**

SECTION 1. Subject Lands.

This plan clarification applies to all areas of land situated in part or all of the following-referenced Township and Range which the United States Bureau of Land Management (“BLM”) has purported to identify and evaluate for so-called alleged wilderness characteristics, including all lands which BLM purportedly determined to have wilderness characteristics and all lands which BLM purportedly determined to not have wilderness characteristics, all as set forth in relevant maps which are part of the most recent draft of the BLM Kanab Resource Management Plan.

Orderville Canyon/Orderville Gulch, located in parts of:

T39S R9W
T40S R9W¹

¹ Portions of the following FLPMA Section 603 Wilderness Study Areas (“WSAs”) are located in the above-referenced townships and ranges within the borders of Kane County: North Fork Virgin River WSA and Orderville Canyon WSA. The fact that this planning document addresses only areas outside those WSAs does not imply that

For purposes of this plan clarification, all of the above-described lands are collectively referred to herein as the “Orderville Canyon/Orderville Gulch Region,” and are illustrated more fully in the official map attached hereto. Any reference hereafter to the term “Orderville Canyon/Orderville Gulch Region” shall refer to any and all of the above-described land areas.

SECTION 2. Clarification of Ongoing Plan

1 Achieve and Maintain A Continuing Yield of Mineral and Energy Resources In The Orderville Canyon/Orderville Gulch Region At The Highest Reasonably Sustainable Levels

- Kane County recognizes that it is technically feasible to access mineral and energy resources while preserving nonmineral and nonenergy resources.
- All solid, fluid and gaseous mineral resources in the Orderville Canyon/Orderville Gulch Region, including uranium, oil and gas, coal and other hardrock and/or energy resources that exist in economic quantities and are recoverable with existing or foreseeable technology should be available for development.
- Physical and administrative access to mineral and energy resources in the Orderville Canyon/Orderville Gulch Region must be maintained. These lands should be open to minerals and energy leasing with economically and technically viable stipulations and conditions that will protect the lands against unreasonable and irreparable damage to other significant resource values. This should include reasonable and effective mitigation and reclamation measures and bonding for such where necessary.
- Fluid and gaseous minerals within developed areas should be protected from waste and drainage.
- Any previous lease restrictions in the Orderville Canyon/Orderville Gulch Region that are no longer necessary or effective should be modified, waived or removed.
- Restrictions against surface occupancy should be modified, waived or if necessary removed where it is shown that directional drilling is not ecologically necessary, where directional drilling is not feasible from an

Kane County necessarily concedes that those WSAs are suitable for wilderness designation or de facto wilderness management restrictions. In any event, those WSAs are outside the scope of this particular section of Kane County's Plan.

economic or engineering standpoint, or where it is shown that directional drilling will in effect sterilize the mineral and energy resources beneath the area.

- Applications for permission to drill that meet standard qualifications, including where appropriate reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted.
- Any moratorium or withdrawals that may exist against the issuance of additional mining patents and oil and gas leases in the Orderville Canyon/Orderville Gulch Region should be carefully evaluated for removal.

2. Achieve and Maintain Livestock Grazing In The Orderville Canyon/Orderville Gulch Region At The Highest Reasonably Sustainable Levels

- Domestic livestock forage in the Orderville Canyon/Orderville Gulch Region as expressed in animal unit months and allocated for permitted active use in the RMP, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the Orderville Canyon/Orderville Gulch Region, based on an on-the-ground and scientific analysis.
- Where once-available grazing forage in the Orderville Canyon/Orderville Gulch Region has succeeded to pinion, juniper and other woody vegetation and associated biomass, or to cheat grass and other invasive grasses and vegetation, or where rangeland health in the Orderville Canyon/Orderville Gulch Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, burning and other mechanical treatments should be applied to remove this woody vegetation and biomass, and/or invasive weeds, and stimulate the return of the native grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the Orderville Canyon/Orderville Gulch Region.
- Kane County regards the land which comprises the grazing districts and allotments in the Orderville Canyon/Orderville Gulch Region as still more valuable for grazing than for any other use which excludes livestock grazing, such as conversion of AUM's to wildlife, wild horses, watersheds or wilderness values. Accordingly, it is Kane County's plan that animal unit months in the Orderville Canyon/Orderville Gulch Region not be relinquished or retired in favor of conservation, wildlife and other uses.
- Kane County recognizes that from time to time a bona fide livestock permittee in the Orderville Canyon/Orderville Gulch 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 Orderville Canyon/Orderville Gulch Region should be temporary and scientifically based on rangeland conditions.

- The transfer of grazing animal unit months ("AUMs") to wildlife for supposed reasons of rangeland health is opposed by Kane County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.
- Any grazing animal unit months that may have been reduced in the Orderville Canyon/Orderville Gulch Region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

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- All water resources that derive in the Orderville Canyon/Orderville Gulch Region are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.
- As a political subdivision of the State, Kane County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and where reasonable develop those water resources.
- With increased demands on water resources brought on by population increases in the local drainage area, and with recent drier precipitation trends which call into question in the minds of some whether the climate of the local drainage area is changing, it is important now more than ever that management practices be employed in the Orderville Canyon/Orderville Gulch Region to restore, maintain and maximize water resources there.
- This includes restoration, maintenance and enhancement of the watershed in the Orderville Canyon/Orderville Gulch Region.
- Where water resources in the Orderville Canyon/Orderville Gulch Region 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.

- Kane County's strategy and plan for protecting the Orderville Canyon/Orderville Gulch Region watershed is to deter unauthorized cross-country OHV use in the Orderville Canyon/Orderville Gulch Region. The best way to achieve this is to give OHV users a reasonable system of trails in the Orderville Canyon/Orderville Gulch Region on which to legitimately operate their OHVs. Closing the Orderville Canyon/Orderville Gulch Region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Orderville Canyon/Orderville Gulch Region watershed.
- Accordingly, all trails in the Orderville Canyon/Orderville Gulch Region which historically have been open to OHV use should remain open.
- Kane County's watershed protection strategy also calls for reducing the risk of wildfires caused by cheat grass and other invasive species. Such wildfires diminish the watershed through such causes as erosion and dust storms that follow the fire. One of the most inexpensive and effective ways to combat cheat grass and thus protect and enhance the watershed is to allow livestock permittees in the Orderville Canyon/Orderville Gulch Region to let their cattle graze off the cheat grass and other invasive weeds during the Spring before those plants mature and cause a fire hazard in the Summer. Accordingly, all restrictions against the spring grazing of cheat grass should be removed.

4. Achieve and Maintain Traditional Access To Outdoor Recreational Opportunities Available in The Orderville Canyon/Orderville Gulch Region

- Traditionally, citizens of Kane County and visitors have enjoyed many forms of outdoor recreation in the Orderville Canyon/Orderville Gulch Region, 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 touring in their personal vehicles.
- All trails in the Orderville Canyon/Orderville Gulch Region which historically have been open to OHV use should remain open.
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- Any segment of society, for that matter, who wants to recreate in the Orderville Canyon/Orderville Gulch Region are entitled to motorized access to traditional recreation uses and additional access where needed.
 - Hence Kane County's plan calls for continued public motorized access to all traditional outdoor recreational destinations in all areas of the Orderville Canyon/Orderville Gulch Region for all such segments of the public. Kane County specifically opposes restricting outdoor recreation in the Orderville Canyon/Orderville Gulch Region to just one form - available for those who have enough time, money and athletic ability to hike into the destinations of the Orderville Canyon/Orderville Gulch Region for a so-called "solitude wilderness experience" or the like.
 - Accordingly, all roads in the Orderville Canyon/Orderville Gulch Region that are part of Kane County's duly adopted transportation plan should remain open to motorized travel. None of them should be closed, and Kane County should have the continued ability to maintain and repair those roads, and where reasonably necessary make improvements thereon. All trails in the Orderville Canyon/Orderville Gulch Region that have been open to OHV use should continue to remain open. Traditional levels of wildlife hunting and fishing should continue. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation -motorized and non-motorized - should continue. In addition, all roads and trails administered by the BLM, in addition to those maintained by Kane County, should remain open to public use, and any attempt to close any road or trail should be subject to the NEPA process.
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 - Additional roads trails and transportation corridors may be needed in the Orderville Canyon/Orderville Gulch Region from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Orderville Canyon/Orderville Gulch Region, including livestock operations and improvements, solid, fluid and gaseous mineral operations, energy transportation, 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 in the Orderville Canyon/Orderville Gulch Region to accomplish the purposes of those lands. Additional access should be provided where a need is demonstrated and can be accomplished while providing required protection to other resources and uses.
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- There are parcels of private fee land located in or around the Orderville Canyon/Orderville Gulch Region.
 - Land management policies and standards on BLM land in the Orderville Canyon/Orderville Gulch Region should not interfere with the property rights of private landowners in the region to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.
 - Nor should those landowners and their guests be denied the right of motorized access to their private property consistent with past uses of those private land parcels.

7. Manage the Orderville Canyon/Orderville Gulch Region 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 That Region.

- Located within or nearby the Orderville Canyon/Orderville Gulch Region are sections of school and institutional trust lands 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 by Utah's Enabling Act and State Constitution.
- As trustee, SITLA has a fiduciary responsibility to manage those school trust lands to generate maximum revenue therefrom, by making them available for sale and private development, and for other multiple use consumptive 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.
- Land management policies and standards in the Orderville Canyon/Orderville Gulch Region should not interfere with SITLA's ability to carry out its fiduciary responsibilities.
- 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 SITLA's fiduciary responsibilities.

8. Managing Part or All of The Orderville Canyon/Orderville Gulch Region For So-Called Wilderness Characteristics Would Violate FLPMA, Contradict The State's Public Land Policy and Contradict The Foregoing Plans of Kane County For Managing The Orderville Canyon/Orderville Gulch Region

- As Utah Code § 63-38d-401(6)(b) indicates, managing the Orderville Canyon/Orderville Gulch Region 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 Kane County's. A so-called "wilderness characteristics" management standard for the Orderville Canyon/Orderville Gulch Region is de facto wilderness management by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region. Kane County has formally taken a position that no BLM lands in Kane County should be designated as wilderness.
- A so-called "wilderness characteristics" management standard for the

Orderville Canyon/Orderville Gulch Region also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.

- Managing Post-603 Lands² pursuant to the Interim Management Policy of 1979 ("IMP") is inconsistent with BLM authority. Agreement p. 6 & 13.a;
- Managing 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;
- 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;
- DOI/BLM will not establish, manage "or otherwise treat" Post-603 Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;
- DOI/BLM will remove from the proposed revised resource management plans in the Vernal, Price, Richfield, Kanab, Monticello and Moab Districts any and all references or plans to classify or manage Post-603 BLM lands "as if" they are or may become WSAs. Agreement p. 14 & 7.

9. Imposing An Area of Critical Environmental Concern ("ACEC") Designation, Including Any ACEC Alternatives Currently Under Consideration in the Kanab Resource Management Plan Revision Process, Would Contradict Kane County's Plan For Managing The Orderville Canyon/Orderville Gulch Region

- It is Kane County's policy that no part of the Orderville Canyon/Orderville Gulch Region 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).
 - 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

² As that term is defined in the *Utah v. Norton* settlement agreement of April 11, 2003.

important or to protect human life or safety from natural hazards.

- The proposed ACEC is limited only to areas that are already developed or used or to areas where no development is required.
- The proposed ACEC designation and protection are necessary to protect not just a change in ground conditions or visual resources that can be reclaimed or reversed eventually (like reclaiming a natural gas well site after pumping operations are complete). Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.
- The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA multiple use sustained yield management, the Wilderness Act, threatened and endangered species designations or any other special designation or law..
- The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a non WSA for so-called wilderness characteristics.
- The foregoing summarizes the ACEC criteria of the State of Utah as well as Kane County. See Utah Code § 63-38d-401(8)(c). And the foregoing summarizes the criteria of FLPMA.
- As of December 12, 2007 none of the ACEC alternatives being considered in the Kane County portion of the current Kanab Resource Management Plan ("RMP") revision process, other than the ACEC's that exist currently, meets Kane County's above-stated ACEC planning criteria. Adopting any of these ACEC's under any of the proposed alternatives would be incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region.

10. Including Any River Segment in or Near the Orderville Canyon/Orderville Gulch Region in the National Wild and Scenic River System Would Violate the National Wild and Scenic Rivers Act and Related Regulations, Contradict the State's Public Land Policy, and Contradict the Foregoing Plans of Kane County For Managing The Orderville Canyon/Orderville Gulch Region

- It is Kane County's policy that no river segment should be included in the National Wild and Scenic River System unless
 - Water is present and flowing at all times.

- The water-related value is considered outstandingly remarkable within a region of comparison consisting of one of three physiographic provinces of the state, and that the rationale and justification for the conclusion are disclosed.
- BLM fully disclaims in writing any interest in water rights with respect to the subject segment.
- It is clearly demonstrated that including the segment in the NWSR system will not prevent, reduce, impair, or otherwise interfere with the state and its citizen's enjoyment of complete and exclusive water rights in and to rivers of the state as determined by the laws of the state, nor interfere with or impair local, state, regional, or interstate water compacts to which the State or Kane County is a party.
- The rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed.
- It is clearly demonstrated that BLM does not intend to use such a designation to improperly impose Class I or II Visual Resource Management prescriptions.
- It is clearly demonstrated that the proposed addition will not adversely impact the local economy agricultural and industrial operations, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment.
- The foregoing also summarizes the wild and scenic river criteria of the State of Utah, Utah Code § 63-38d-401(8)(a), as well as the criteria of Kane County.
- Neither the so-called Deep Creek segment, the so-called North Fork Virgin River segment, the so-called Order/Esplin Gulch segment, nor any other river segment in or in or near the Orderville Canyon/Orderville Gulch Region meets the above criteria. Hence, no river segment in or near the Orderville Canyon/Orderville Gulch Region, including the so-called Deep Creek segment, the so-called North Fork Virgin River segment, and the so-called Order/Esplin Gulch segment, should be included in the National Wild and Scenic River system.
- As of December 12, 2007, the terms prescribed in any of the alternatives

being considered in the proposed revised Kanab RMP for managing proposed wild and scenic river segments in or near the Orderville Canyon/Orderville Gulch Region, including the so-called Deep Creek segment, the so-called North Fork Virgin River segment, and the so-called Order/Esplin Gulch segment, constitute de facto wilderness management by another name. They are incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region.

11. A Visual Resource Management Class I or II Rating for Any Part of the Orderville Canyon/Orderville Gulch Region Would Contradict the State's Public Land Policy and Contradict Kane County's Plan For Managing the Orderville Canyon/Orderville Gulch Region

- The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.
- The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.
- Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region is generally consistent with either Class III or Class IV, depending on the precise area.

12. Restrictions and Unreasonably Burdensome Limitations on Surface Disturbing Activities In Areas of Medium to High Resource Potential in the Orderville Canyon/Orderville Gulch Region, Would Contradict the State's Public Land Policy and Contradict Kane County's Plan for Managing the Orderville Canyon/Orderville Gulch Region

- BLM restrictions and unreasonably burdensome seasonable limitations on surface disturbing activities are not compatible with, and would therefore frustrate and interfere with Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.

Moquith Mountain

**AMENDMENT TO THE KANE COUNTY GENERAL PLAN TO
CLARIFY LONGSTANDING POLICIES FOR THAT GEOGRAPHIC
REGION OF KANE COUNTY DESCRIBED BELOW AND
HEREINAFTER REFERRED TO AS THE**

“MOQUITH MOUNTAIN REGION.”

WHEREAS, Kane County has a general plan adopted pursuant to Utah Code containing policies for the appropriate use of private and public land within the county; and

WHEREAS, Kane County desires to supplement its general plan to clarify long-standing policies specific to certain geographic regions of the county as the need arises; and

WHEREAS, certain amendments have been recommended associated with lands in the Moquith Mountain region of the county;

NOW, THEREFORE, IT IS PROPOSED THAT THE KANE COUNTY GENERAL PLAN BE AMENDED BY INSERTING THE FOLLOWING IN THAT PORTION OF THE PLAN THAT DEALS WITH PUBLIC LANDS:

**CLARIFICATION OF KANE COUNTY’S ONGOING PLAN FOR
MANAGING CERTAIN LANDS IN THE MOQUITH MOUNTAIN
REGION OF THE COUNTY**

SECTION 1. Subject Lands.

This plan clarification applies to all areas of land situated in part or all of the following-referenced Township and Range which the United States Bureau of Land Management (“BLM”) has purported to identify and evaluate for so-called alleged wilderness characteristics, including all lands which BLM purportedly determined to have wilderness characteristics and all lands which BLM purportedly determined to not have wilderness characteristics, all as set forth in relevant maps which are part of the most recent draft of the BLM Kanab Resource Management Plan.

Moquith Mountain, located in parts of:

T42S R7W
T43S R7W
T43S R6W
T44S R7W

T44S R6W¹

For purposes of this plan clarification, all of the above-described lands are collectively referred to herein as the “Moquith Mountain Region,” and are illustrated more fully in the official map attached hereto. Any reference hereafter to the term “Moquith Mountain Region” shall refer to any and all of the above-described land areas.

SECTION 2. Clarification of Ongoing Plan

1 Achieve and Maintain A Continuing Yield of Mineral and Energy Resources In The Moquith Mountain Region At The Highest Reasonably Sustainable Levels

- Kane County recognizes that it is technically feasible to access mineral and energy resources while preserving nonmineral and nonenergy resources.
- All solid, fluid and gaseous mineral resources in the Moquith Mountain Region, including uranium, oil and gas, coal and other hardrock and/or energy resources that exist in economic quantities and are recoverable with existing or foreseeable technology should be available for development.
- Physical and administrative access to mineral and energy resources in the Moquith Mountain Region must be maintained. These lands should be open to minerals and energy leasing with economically and technically viable stipulations and conditions that will protect the lands against unreasonable and irreparable damage to other significant resource values. This should include reasonable and effective mitigation and reclamation measures and bonding for such where necessary.
- Fluid and gaseous minerals within developed areas should be protected from waste and drainage.
- Any previous lease restrictions in the Moquith Mountain Region that are no longer necessary or effective should be modified, waived or removed.
- Restrictions against surface occupancy should be modified, waived or if

¹ Part or all of the following FLPMA Section 603 Wilderness Study Area (“WSA”) is located in the above-referenced townships and ranges within the borders of Kane County: Moquith Mountain WSA. The fact that this planning document addresses only areas outside Moquith Mountain WSA does not imply that Kane County necessarily concedes that Moquith Mountain WSA is suitable for wilderness designation or de facto wilderness management restrictions. In any event, Moquith Mountain WSA is outside the scope of this particular section of Kane County’s Plan.

necessary removed where it is shown that directional drilling is not ecologically necessary, where directional drilling is not feasible from an economic or engineering standpoint, or where it is shown that directional drilling will in effect sterilize the mineral and energy resources beneath the area.

- Applications for permission to drill that meet standard qualifications, including where appropriate reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted.
- Any moratorium or withdrawals that may exist against the issuance of additional mining patents and oil and gas leases in the Moquith Mountain Region should be carefully evaluated for removal.

2. Achieve and Maintain Livestock Grazing In The Moquith Mountain Region At The Highest Reasonably Sustainable Levels

- Domestic livestock forage in the Moquith Mountain Region as expressed in animal unit months and allocated for permitted active use in the RMP, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the Moquith Mountain Region, based on an on-the-ground and scientific analysis.
- Where once-available grazing forage in the Moquith Mountain Region has succeeded to pinion, juniper and other woody vegetation and associated biomass, or to cheat grass and other invasive grasses and vegetation, or where rangeland health in the Moquith Mountain Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, burning and other mechanical treatments should be applied to remove this woody vegetation and biomass, and/or invasive weeds, and stimulate the return of the native grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the Moquith Mountain Region.
- Kane County regards the land which comprises the grazing districts and allotments in the Moquith Mountain Region as still more valuable for grazing than for any other use which excludes livestock grazing, such as conversion of AUM's to wildlife, wild horses, watersheds or wilderness values. Accordingly, it is Kane County's plan that animal unit months in the Moquith Mountain Region not be relinquished or retired in favor of conservation, wildlife and other uses.
- Kane County recognizes that from time to time a bona fide livestock permittee in the Moquith Mountain 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 Moquith Mountain Region should be temporary and scientifically based on rangeland conditions.

- The transfer of grazing animal unit months ("AUMs") to wildlife for supposed reasons of rangeland health is opposed by Kane County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.
- Any grazing animal unit months that may have been reduced in the Moquith Mountain Region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

3. Manage the Watershed in The Moquith Mountain Region To Achieve and Maintain Water Resources At The Highest Reasonably Sustainable Levels

- All water resources that derive in the Moquith Mountain Region are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.
- As a political subdivision of the State, Kane County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and where reasonable develop those water resources.
- With increased demands on water resources brought on by population increases in the local drainage area, and with recent drier precipitation trends which call into question in the minds of some whether the climate of the local drainage area is changing, it is important now more than ever that management practices be employed in the Moquith Mountain Region to restore, maintain and maximize water resources there.
- This includes restoration, maintenance and enhancement of the watershed in the Moquith Mountain Region.
- Where water resources in the Moquith Mountain Region 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.
- Kane County's strategy and plan for protecting the Moquith Mountain

Region watershed is to deter unauthorized cross-country OHV use in the Moquith Mountain Region. The best way to achieve this is to give OHV users a reasonable system of trails in the Moquith Mountain Region on which to legitimately operate their OHVs. Closing the Moquith Mountain Region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Moquith Mountain Region watershed.

- Accordingly, all trails in the Moquith Mountain Region which historically have been open to OHV use should remain open.
- Kane County's watershed protection strategy also calls for reducing the risk of wildfires caused by cheat grass and other invasive species. Such wildfires diminish the watershed through such causes as erosion and dust storms that follow the fire. One of the most inexpensive and effective ways to combat cheat grass and thus protect and enhance the watershed is to allow livestock permittees in the Moquith Mountain Region to let their cattle graze off the cheat grass and other invasive weeds during the Spring before those plants mature and cause a fire hazard in the Summer. Accordingly, all restrictions against the spring grazing of cheat grass should be removed.

4. Achieve and Maintain Traditional Access To Outdoor Recreational Opportunities Available in The Moquith Mountain Region

- Traditionally, citizens of Kane County and visitors have enjoyed many forms of outdoor recreation in the Moquith Mountain Region, 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 touring in their personal vehicles.
- All trails in the Moquith Mountain Region which historically have been open to OHV use should remain open.
- Public land outdoor recreational access in the Moquith Mountain Region should not discriminate in favor of one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational opportunities in the Moquith Mountain Region have been open and accessible to working class families, to families with small children, to the ill and persons with disabilities, to the middle aged and elderly, to persons of different cultures for whom a primitive or back country experience may not be the preferred form of recreating. Current use, demographics and area growth support a need for more dispersed and varied recreation opportunities in the Kane County WIA and UWC lands, as opposed to primitive or back country experiences there. All of society should not be

forced to participate in a solitude experience or a primitive experience as the one and only mode of outdoor recreation in the Kane County WIA and UWC Lands. 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, should not be eliminated from pursuing other forms of recreational opportunities in the Moquith Mountain Region.

- Any segment of society, for that matter, who wants to recreate in the Moquith Mountain Region are entitled to motorized access to traditional recreation uses and additional access where needed.
 - Hence Kane County's plan calls for continued public motorized access to all traditional outdoor recreational destinations in all areas of the Moquith Mountain Region for all such segments of the public. Kane County specifically opposes restricting outdoor recreation in the Moquith Mountain Region to just one form - available for those who have enough time, money and athletic ability to hike into the destinations of the Moquith Mountain Region for a so-called "solitude wilderness experience" or the like.
 - Accordingly, all roads in the Moquith Mountain Region that are part of Kane County's duly adopted transportation plan should remain open to motorized travel. None of them should be closed, and Kane County should have the continued ability to maintain and repair those roads, and where reasonably necessary make improvements thereon. All trails in the Moquith Mountain Region that have been open to OHV use should continue to remain open. Traditional levels of wildlife hunting and fishing should continue. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation -motorized and non-motorized - should continue. In addition, all roads and trails administered by the BLM, in addition to those maintained by Kane County, should remain open to public use, and any attempt to close any road or trail should be subject to the NEPA process.
5. Maintain and Keep Open All Roads in the Moquith Mountain Region That Appear on Kane County's Most Recent Transportation Map, and Provide For Such Additional Roads and Trails As May Be Necessary From Time to Time
- Kane County's transportation plan includes an official county-wide transportation map, available to the public for viewing and copying, showing all public roads and trails maintained by the County.
 - That portion of Kane County's official transportation map which shows all public roads and trails in the Moquith Mountain Region is considered to be part of Kane County's plan specifically applicable to the Moquith

Mountain Region. Those roads should remain open to public travel. In addition, all roads administered by the BLM should remain open to public use, and any attempt to close those roads should be subject to the NEPA process.

- Kane County plans to keep all such roads in the Moquith Mountain Region open and reasonably maintained and in good repair. Kane 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 Kane County and BLM cannot reach an agreement on such proposed improvements after reasonable efforts at consultation.
- Additional roads trails and transportation corridors may be needed in the Moquith Mountain Region from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Moquith Mountain Region, including livestock operations and improvements, solid, fluid and gaseous mineral operations, energy transportation, 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 in the Moquith Mountain Region to accomplish the purposes of those lands. Additional access should be provided where a need is demonstrated and can be accomplished while providing required protection to other resources and uses.

6. Manage the Moquith Mountain Region So As to Not Interfere With The Property Rights of Private Landowners Located in That Region.

- There are parcels of private fee land located in or around the Moquith Mountain Region.
- Land management policies and standards on BLM land in the Moquith Mountain Region should not interfere with the property rights of private landowners in the region to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.
- Nor should those landowners and their guests be denied the right of motorized access to their private property consistent with past uses of those private land parcels.

7. Manage the Moquith Mountain Region 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 That Region.

- Located within or nearby the Moquith Mountain Region are sections of

school and institutional trust lands 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 by Utah’s Enabling Act and State Constitution.

- As trustee, SITLA has a fiduciary responsibility to manage those school trust lands to generate maximum revenue therefrom, by making them available for sale and private development, and for other multiple use consumptive 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.
- Land management policies and standards in the Moquith Mountain Region should not interfere with SITLA’s ability to carry out its fiduciary responsibilities.
- 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 SITLA’s fiduciary responsibilities.

8. Managing Part or All of The Moquith Mountain Region For So-Called Wilderness Characteristics Would Violate FLPMA, Contradict The State’s Public Land Policy and Contradict The Foregoing Plans of Kane County For Managing The Moquith Mountain Region

- As Utah Code § 63-38d-401(6)(b) indicates, managing the Moquith Mountain Region 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 Kane County’s. A so-called “wilderness characteristics” management standard for the Moquith Mountain Region is de facto wilderness management by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Moquith Mountain Region. Kane County has formally taken a position that no BLM lands in Kane County should be designated as wilderness.
- A so-called “wilderness characteristics” management standard for the Moquith Mountain Region also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.
 - Managing Post-603 Lands² pursuant to the Interim Management Policy of 1979 (“IMP”) is inconsistent with BLM authority.

² As that term is defined in the *Utah v. Norton* settlement agreement of April 11, 2003.

Agreement p. 6 & 13.a;

- Managing 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;
- 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;
- DOI/BLM will not establish, manage “*or otherwise treat*” Post-603 Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;
- DOI/BLM will remove from the proposed revised resource management plans in the Vernal, Price, Richfield, Kanab, Monticello and Moab Districts any and all references or plans to classify or manage Post-603 BLM lands “*as if*” they are or may become WSAs. Agreement p. 14 & 7.

9. Imposing An Area of Critical Environmental Concern (“ACEC”) Designation, Including Any ACEC Alternatives Currently Under Consideration in the Kanab Resource Management Plan Revision Process, Would Contradict Kane County’s Plan For Managing The Moquith Mountain Region

- It is Kane County’s policy that no part of the Moquith Mountain Region 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).
 - 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.
 - The proposed ACEC is limited only to areas that are already developed or used or to areas where no development is required.
 - The proposed ACEC designation and protection are necessary to protect not just a change in ground conditions or visual resources that can be reclaimed or reversed eventually (like reclaiming a natural gas well site after pumping operations are complete).

Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.

- The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA multiple use sustained yield management, the Wilderness Act, threatened and endangered species designations or any other special designation or law..
- The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a non WSA for so-called wilderness characteristics.
- The foregoing summarizes the ACEC criteria of the State of Utah as well as Kane County. See Utah Code § 63-38d-401(8)(c). And the foregoing summarizes the criteria of FLPMA.
- As of December 12, 2007, none of the ACEC alternatives being considered in the Kane County portion of the current Kanab Resource Management Plan ("RMP") revision process (including the so-called Cottonwood Canyon proposed ACEC being considered in Alternatives B and C and the so-called Welsh's Milkweed proposed ACEC being considered in Alternative C), other than the ACECs that exist currently, meets Kane County's above-stated ACEC planning criteria. Adopting any of those ACECs under any of the proposed alternatives would be incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Moquith Mountain Region.

10. Including Any River Segment in or Near the Moquith Mountain Region in the National Wild and Scenic River System Would Violate the National Wild and Scenic Rivers Act and Related Regulations, Contradict the State's Public Land Policy, and Contradict the Foregoing Plans of Kane County For Managing The Moquith Mountain Region

- It is Kane County's policy that no river segment should be included in the National Wild and Scenic River System unless
 - Water is present and flowing at all times.
 - The water-related value is considered outstandingly remarkable within a region of comparison consisting of one of three physiographic provinces of the state, and that the rationale and justification for the conclusion are disclosed.
 - BLM fully disclaims in writing any interest in water rights with respect to the subject segment.

- It is clearly demonstrated that including the segment in the NWSR system will not prevent, reduce, impair, or otherwise interfere with the state and its citizen's enjoyment of complete and exclusive water rights in and to rivers of the state as determined by the laws of the state, nor interfere with or impair local, state, regional, or interstate water compacts to which the State or Kane County is a party.
- The rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed.
- It is clearly demonstrated that BLM does not intend to use such a designation to improperly impose Class I or II Visual Resource Management prescriptions.
- It is clearly demonstrated that the proposed addition will not adversely impact the local economy agricultural and industrial operations, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment.
- The foregoing also summarizes the wild and scenic river criteria of the State of Utah, Utah Code § 63-38d-401(8)(a), as well as the criteria of Kane County.
- Neither the so-called Indian Canyon segment, the so-called Cottonwood Canyon segment, the so-called Hell Dive Canyon segment, the so-called Water Canyon segment, the so-called South Fork of Indian Canyon segment, nor any other river segment in or in or near the Moquith Mountain Region meets the above criteria. Hence, no river segment in or near the Moquith Mountain Region, including the so-called Indian Canyon segment, the so-called Cottonwood Canyon segment, the so-called Hell Dive Canyon segment, the so-called Water Canyon segment and the so-called South Fork of Indian Canyon segment, should be included in the National Wild and Scenic River system.
- As of December 12, 2007, the terms prescribed in any of the alternatives being considered in the proposed revised Kanab RMP for managing proposed wild and scenic river segments in or near the Moquith Mountain Region, including the so-called the so-called Indian Canyon segment, the so-called Cottonwood Canyon segment, the so-called Hell Dive Canyon segment, the so-called Water Canyon segment and the so-called South

Fork of Indian Canyon segment, constitute de facto wilderness management by another name. They are incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Moquith Mountain Region.

11. A Visual Resource Management Class I or II Rating for Any Part of the Moquith Mountain Region Would Contradict the State's Public Land Policy and Contradict Kane County's Plan For Managing the Moquith Mountain Region

- The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Moquith Mountain Region.
- The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Moquith Mountain Region.
- Kane County's foregoing plan clarification for the Moquith Mountain Region is generally consistent with either Class III or Class IV, depending on the precise area.

12. Restrictions and Unreasonably Burdensome Limitations on Surface Disturbing Activities In Areas of Medium to High Resource Potential in the Moquith Mountain Region, Would Contradict the State's Public Land Policy and Contradict Kane County's Plan for Managing the Moquith Mountain Region

- BLM restrictions and unreasonably burdensome seasonable limitations on surface disturbing activities are not compatible with, and would therefore frustrate and interfere with Kane County's foregoing plan clarification for the Moquith Mountain Region.

Canaan Mountain

**AMENDMENT TO THE KANE COUNTY GENERAL PLAN TO
CLARIFY LONGSTANDING POLICIES FOR THAT GEOGRAPHIC
REGION OF KANE COUNTY DESCRIBED BELOW AND
HEREINAFTER REFERRED TO AS THE**

“CANAAN MOUNTAIN REGION.”

WHEREAS, Kane County has a general plan adopted pursuant to Utah Code containing policies for the appropriate use of private and public land within the county; and

WHEREAS, Kane County desires to supplement its general plan to clarify long-standing policies specific to certain geographic regions of the county as the need arises; and

WHEREAS, certain amendments have been recommended associated with lands in the Canaan Mountain region of the county;

NOW, THEREFORE, IT IS PROPOSED THAT THE KANE COUNTY GENERAL PLAN BE AMENDED BY INSERTING THE FOLLOWING IN THAT PORTION OF THE PLAN THAT DEALS WITH PUBLIC LANDS:

**CLARIFICATION OF KANE COUNTY’S ONGOING PLAN FOR
MANAGING CERTAIN LANDS IN THE CANAAN MOUNTAIN
REGION OF THE COUNTY**

SECTION 1. Subject Lands.

This plan clarification applies to all areas of land situated in part or all of the following-referenced Township and Range which the United States Bureau of Land Management (“BLM”) has purported to identify and evaluate for so-called alleged wilderness characteristics, including all lands which BLM purportedly determined to have wilderness characteristics and all lands which BLM purportedly determined to not have wilderness characteristics, all as set forth in relevant maps which are part of the most recent draft of the BLM Kanab Resource Management Plan.

Canaan Mountain, located in parts of:

T42S R9W
T43S R9W
T44S R9W¹

¹ Part or all of the following FLPMA Section 603 Wilderness Study Areas (“WSAs”) are located in the above-referenced townships and ranges within the borders of Kane County: Parunuweap WSA and Canaan Mountain WSA. The fact that this

For purposes of this plan clarification, all of the above-described lands are collectively referred to herein as the “Canaan Mountain Region,” and are illustrated more fully in the official map attached hereto. Any reference hereafter to the term “Canaan Mountain Region” shall refer to any and all of the above-described land areas.

SECTION 2. Clarification of Ongoing Plan

1 Achieve and Maintain A Continuing Yield of Mineral and Energy Resources In The Canaan Mountain Region At The Highest Reasonably Sustainable Levels

- Kane County recognizes that it is technically feasible to access mineral and energy resources while preserving nonmineral and nonenergy resources.
- All solid, fluid and gaseous mineral resources in the Canaan Mountain Region, including uranium, oil and gas, coal and other hardrock and/or energy resources that exist in economic quantities and are recoverable with existing or foreseeable technology should be available for development.
- Physical and administrative access to mineral and energy resources in the Canaan Mountain Region must be maintained. These lands should be open to minerals and energy leasing with economically and technically viable stipulations and conditions that will protect the lands against unreasonable and irreparable damage to other significant resource values. This should include reasonable and effective mitigation and reclamation measures and bonding for such where necessary.
- Fluid and gaseous minerals within developed areas should be protected from waste and drainage.
- Any previous lease restrictions in the Canaan Mountain Region that are no longer necessary or effective should be modified, waived or removed.
- Restrictions against surface occupancy should be modified, waived or if necessary removed where it is shown that directional drilling is not ecologically necessary, where directional drilling is not feasible from an economic or engineering standpoint, or where it is shown that directional

planning document addresses only areas outside those WSAs does not imply that Kane County necessarily concedes that Parunuweap WSA and Canaan Mountain WSA are suitable for wilderness designation or de facto wilderness management restrictions. In any event, Parunuweap WSA and Canaan Mountain WSA are outside the scope of this particular section of Kane County's Plan.

drilling will in effect sterilize the mineral and energy resources beneath the area.

- Applications for permission to drill that meet standard qualifications, including where appropriate reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted.
- Any moratorium or withdrawals that may exist against the issuance of additional mining patents and oil and gas leases in the Canaan Mountain Region should be carefully evaluated for removal.

2. Achieve and Maintain Livestock Grazing In The Canaan Mountain Region At The Highest Reasonably Sustainable Levels

- Domestic livestock forage in the Canaan Mountain Region as expressed in animal unit months and allocated for permitted active use in the RMP, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the Canaan Mountain Region, based on an on-the-ground and scientific analysis.
- Where once-available grazing forage in the Canaan Mountain Region has succeeded to pinion, juniper and other woody vegetation and associated biomass, or to cheat grass and other invasive grasses and vegetation, or where rangeland health in the Canaan Mountain Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, burning and other mechanical treatments should be applied to remove this woody vegetation and biomass, and/or invasive weeds, and stimulate the return of the native grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the Canaan Mountain Region.
- Kane County regards the land which comprises the grazing districts and allotments in the Canaan Mountain Region as still more valuable for grazing than for any other use which excludes livestock grazing, such as conversion of AUM's to wildlife, wild horses, watersheds or wilderness values. Accordingly, it is Kane County's plan that animal unit months in the Canaan Mountain Region not be relinquished or retired in favor of conservation, wildlife and other uses.
- Kane County recognizes that from time to time a bona fide livestock permittee in the Canaan Mountain 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 Canaan Mountain Region

should be temporary and scientifically based on rangeland conditions.

- The transfer of grazing animal unit months (“AUMs”) to wildlife for supposed reasons of rangeland health is opposed by Kane County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.
- Any grazing animal unit months that may have been reduced in the Canaan Mountain Region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

3. Manage the Watershed in The Canaan Mountain Region To Achieve and Maintain Water Resources At The Highest Reasonably Sustainable Levels

- All water resources that derive in the Canaan Mountain Region are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.
- As a political subdivision of the State, Kane County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and where reasonable develop those water resources.
- With increased demands on water resources brought on by population increases in the local drainage area, and with recent drier precipitation trends which call into question in the minds of some whether the climate of the local drainage area is changing, it is important now more than ever that management practices be employed in the Canaan Mountain Region to restore, maintain and maximize water resources there.
- This includes restoration, maintenance and enhancement of the watershed in the Canaan Mountain Region.
- Where water resources in the Canaan Mountain Region 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.
- Kane County's strategy and plan for protecting the Canaan Mountain Region watershed is to deter unauthorized cross-country OHV use in the Canaan Mountain Region. The best way to achieve this is to give OHV users a reasonable system of trails in the Canaan Mountain Region on which to legitimately operate their OHVs. Closing the Canaan Mountain

Region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Canaan Mountain Region watershed.

- Accordingly, all trails in the Canaan Mountain Region which historically have been open to OHV use should remain open.
- Kane County's watershed protection strategy also calls for reducing the risk of wildfires caused by cheat grass and other invasive species. Such wildfires diminish the watershed through such causes as erosion and dust storms that follow the fire. One of the most inexpensive and effective ways to combat cheat grass and thus protect and enhance the watershed is to allow livestock permittees in the Canaan Mountain Region to let their cattle graze off the cheat grass and other invasive weeds during the Spring before those plants mature and cause a fire hazard in the Summer. Accordingly, all restrictions against the spring grazing of cheat grass should be removed.

4. Achieve and Maintain Traditional Access To Outdoor Recreational Opportunities Available in The Canaan Mountain Region

- Traditionally, citizens of Kane County and visitors have enjoyed many forms of outdoor recreation in the Canaan Mountain Region, 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 touring in their personal vehicles.
- All trails in the Canaan Mountain Region which historically have been open to OHV use should remain open.
- Public land outdoor recreational access in the Canaan Mountain Region should not discriminate in favor of one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational opportunities in the Canaan Mountain Region have been open and accessible to working class families, to families with small children, to the ill and persons with disabilities, to the middle aged and elderly, to persons of different cultures for whom a primitive or back country experience may not be the preferred form of recreating. Current use, demographics and area growth support a need for more dispersed and varied recreation opportunities in the Kane County WIA and UWC lands, as opposed to primitive or back country experiences there. All of society should not be forced to participate in a solitude experience or a primitive experience as the one and only mode of outdoor recreation in the Kane County WIA and UWC Lands. 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, should not be eliminated from pursuing other forms of recreational opportunities in the Canaan Mountain Region.

- Any segment of society, for that matter, who wants to recreate in the Canaan Mountain Region are entitled to motorized access to traditional recreation uses and additional access where needed.
- Hence Kane County's plan calls for continued public motorized access to all traditional outdoor recreational destinations in all areas of the Canaan Mountain Region for all such segments of the public. Kane County specifically opposes restricting outdoor recreation in the Canaan Mountain Region to just one form - available for those who have enough time, money and athletic ability to hike into the destinations of the Canaan Mountain Region for a so-called "solitude wilderness experience" or the like.
- Accordingly, all roads in the Canaan Mountain Region that are part of Kane County's duly adopted transportation plan should remain open to motorized travel. None of them should be closed, and Kane County should have the continued ability to maintain and repair those roads, and where reasonably necessary make improvements thereon. All trails in the Canaan Mountain Region that have been open to OHV use should continue to remain open. Traditional levels of wildlife hunting and fishing should continue. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation -motorized and non-motorized - should continue. In addition, all roads and trails administered by the BLM, in addition to those maintained by Kane County, should remain open to public use, and any attempt to close any road or trail should be subject to the NEPA process.

5. Maintain and Keep Open All Roads in the Canaan Mountain Region That Appear on Kane County's Most Recent Transportation Map, and Provide For Such Additional Roads and Trails As May Be Necessary From Time to Time

- Kane County's transportation plan includes an official county-wide transportation map, available to the public for viewing and copying, showing all public roads and trails maintained by the County.
- That portion of Kane County's official transportation map which shows all public roads and trails in the Canaan Mountain Region is considered to be part of Kane County's plan specifically applicable to the Canaan Mountain Region. Those roads should remain open to public travel. In addition, all roads administered by the BLM should remain open to public use, and any attempt to close those roads should be subject to the NEPA process.
- Kane County plans to keep all such roads in the Canaan Mountain Region

open and reasonably maintained and in good repair. Kane 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 Kane County and BLM cannot reach an agreement on such proposed improvements after reasonable efforts at consultation.

- Additional roads trails and transportation corridors may be needed in the Canaan Mountain Region from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Canaan Mountain Region, including livestock operations and improvements, solid, fluid and gaseous mineral operations, energy transportation, 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 in the Canaan Mountain Region to accomplish the purposes of those lands. Additional access should be provided where a need is demonstrated and can be accomplished while providing required protection to other resources and uses.

6. Manage the Canaan Mountain Region So As to Not Interfere With The Property Rights of Private Landowners Located in That Region.

- There are parcels of private fee land located in or around the Canaan Mountain Region.
- Land management policies and standards on BLM land in the Canaan Mountain Region should not interfere with the property rights of private landowners in the region to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.
- Nor should those landowners and their guests be denied the right of motorized access to their private property consistent with past uses of those private land parcels.

7. Manage the Canaan Mountain Region 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 That Region.

- Located within or nearby the Canaan Mountain Region are sections of school and institutional trust lands 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 by Utah's Enabling Act and State Constitution.

- As trustee, SITLA has a fiduciary responsibility to manage those school trust lands to generate maximum revenue therefrom, by making them available for sale and private development, and for other multiple use consumptive 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.
- Land management policies and standards in the Canaan Mountain Region should not interfere with SITLA's ability to carry out its fiduciary responsibilities.
- 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 SITLA's fiduciary responsibilities.

8. Managing Part or All of The Canaan Mountain Region For So-Called Wilderness Characteristics Would Violate FLPMA, Contradict The State's Public Land Policy and Contradict The Foregoing Plans of Kane County For Managing The Canaan Mountain Region

- As Utah Code § 63-38d-401(6)(b) indicates, managing the Canaan Mountain Region 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 Kane County's. A so-called "wilderness characteristics" management standard for the Canaan Mountain Region is de facto wilderness management by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Canaan Mountain Region. Kane County has formally taken a position that no BLM lands in Kane County should be designated as wilderness.
- A so-called "wilderness characteristics" management standard for the Canaan Mountain Region also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.
 - Managing Post-603 Lands² pursuant to the Interim Management Policy of 1979 ("IMP") is inconsistent with BLM authority. Agreement p. 6 & 13.a;
 - Managing 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

² As that term is defined in the *Utah v. Norton* settlement agreement of April 11, 2003.

authority. Agreement p. 9 & 17;

- 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;
- DOI/BLM will not establish, manage “*or otherwise treat*” Post-603 Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;
- DOI/BLM will remove from the proposed revised resource management plans in the Vernal, Price, Richfield, Kanab, Monticello and Moab Districts any and all references or plans to classify or manage Post-603 BLM lands “*as if*” they are or may become WSAs. Agreement p. 14 & 7.

9. Imposing An Area of Critical Environmental Concern (“ACEC”) Designation, Including Any ACEC Alternatives Currently Under Consideration in the Kanab Resource Management Plan Revision Process, Would Contradict Kane County’s Plan For Managing The Canaan Mountain Region

- It is Kane County’s policy that no part of the Canaan Mountain Region 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).
 - 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.
 - The proposed ACEC is limited only to areas that are already developed or used or to areas where no development is required.
 - The proposed ACEC designation and protection are necessary to protect not just a change in ground conditions or visual resources that can be reclaimed or reversed eventually (like reclaiming a natural gas well site after pumping operations are complete). Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.
 - The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA

multiple use sustained yield management, the Wilderness Act, threatened and endangered species designations or any other special designation or law..

- The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a non WSA for so-called wilderness characteristics.
 - The foregoing summarizes the ACEC criteria of the State of Utah as well as Kane County. See Utah Code § 63-38d-401(8)(c). And the foregoing summarizes the criteria of FLPMA.
 - As of December 12, 2007, none of the ACEC alternatives being considered in the Kane County portion of the current Kanab Resource Management Plan ("RMP") revision process (including the so-called Parunuweap Canyon proposed ACEC being considered in Alternative C), other than the ACECs that exist currently, meets Kane County's above-stated ACEC planning criteria. Adopting any of these ACECs under any of the proposed alternatives would be incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Canaan Mountain Region.
10. Including Any River Segment in or Near the Canaan Mountain Region in the National Wild and Scenic River System Would Violate the National Wild and Scenic Rivers Act and Related Regulations, Contradict the State's Public Land Policy, and Contradict the Foregoing Plans of Kane County For Managing The Canaan Mountain Region
- It is Kane County's policy that no river segment should be included in the National Wild and Scenic River System unless
 - Water is present and flowing at all times.
 - The water-related value is considered outstandingly remarkable within a region of comparison consisting of one of three physiographic provinces of the state, and that the rationale and justification for the conclusion are disclosed.
 - BLM fully disclaims in writing any interest in water rights with respect to the subject segment.
 - It is clearly demonstrated that including the segment in the NWSR system will not prevent, reduce, impair, or otherwise interfere with the state and its citizen's enjoyment of complete and exclusive water rights in and to rivers of the state as determined by the laws of the state, nor interfere with or impair local, state, regional, or

interstate water compacts to which the State or Kane County is a party.

- The rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed.
- It is clearly demonstrated that BLM does not intend to use such a designation to improperly impose Class I or II Visual Resource Management prescriptions.
- It is clearly demonstrated that the proposed addition will not adversely impact the local economy agricultural and industrial operations, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment.
- The foregoing also summarizes the wild and scenic river criteria of the State of Utah, Utah Code § 63-38d-401(8)(a), as well as the criteria of Kane County.
- Neither the so-called Meadow Creek/Mineral Gulch segment, the so-called East Fork Virgin River segment, nor any other river segment in or in or near the Canaan Mountain Region meets the above criteria. Hence, no river segment in or near the Canaan Mountain Region, including the so-called Meadow Creek/Mineral Gulch segment and the so-called East Fork Virgin River segment, should be included in the National Wild and Scenic River system.
- As of December 12, 2007, the terms prescribed in any of the alternatives being considered in the proposed revised Kanab RMP for managing proposed wild and scenic river segments in or near the Canaan Mountain Region, including the so-called Meadow Creek/Mineral Gulch segment and the so-called East Fork Virgin River segment, constitute de facto wilderness management by another name. They are incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Canaan Mountain Region.

11. A Visual Resource Management Class I or II Rating for Any Part of the Canaan Mountain Region Would Contradict the State's Public Land Policy and Contradict Kane County's Plan For Managing the Canaan Mountain Region

- The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with, Kane

County's foregoing plan clarification for the Canaan Mountain Region.

- The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Canaan Mountain Region.
- Kane County's foregoing plan clarification for the Canaan Mountain Region is generally consistent with either Class III or Class IV, depending on the precise area.

12. Restrictions and Unreasonably Burdensome Limitations on Surface Disturbing Activities In Areas of Medium to High Resource Potential in the Canaan Mountain Region, Would Contradict the State's Public Land Policy and Contradict Kane County's Plan for Managing the Canaan Mountain Region

- BLM restrictions and unreasonably burdensome seasonable limitations on surface disturbing activities are not compatible with, and would therefore frustrate and interfere with Kane County's foregoing plan clarification for the Canaan Mountain Region.

Orderville Canyon/Orderville Gulch

AMENDMENT TO THE KANE COUNTY GENERAL PLAN TO CLARIFY LONGSTANDING POLICIES FOR THAT GEOGRAPHIC REGION OF KANE COUNTY DESCRIBED BELOW AND HEREINAFTER REFERRED TO AS THE

“ORDERVILLE CANYON/ORDERVILLE GULCH REGION.”

WHEREAS, Kane County has a general plan adopted pursuant to Utah Code containing policies for the appropriate use of private and public land within the county; and

WHEREAS, Kane County desires to supplement its general plan to clarify long-standing policies specific to certain geographic regions of the county as the need arises; and

WHEREAS, certain amendments have been recommended associated with lands in the Orderville Canyon/Orderville Gulch region of the county;

NOW, THEREFORE, IT IS PROPOSED THAT THE KANE COUNTY GENERAL PLAN BE AMENDED BY INSERTING THE FOLLOWING IN THAT PORTION OF THE PLAN THAT DEALS WITH PUBLIC LANDS:

CLARIFICATION OF KANE COUNTY’S ONOING PLAN FOR MANAGING CERTAIN LANDS IN THE ORDERVILLE CANYON/ORDERVILLE GULCH REGION OF THE COUNTY

SECTION 1. Subject Lands.

This plan clarification applies to all areas of land situated in part or all of the following-referenced Township and Range which the United States Bureau of Land Management (“BLM”) has purported to identify and evaluate for so-called alleged wilderness characteristics, including all lands which BLM purportedly determined to have wilderness characteristics and all lands which BLM purportedly determined to not have wilderness characteristics, all as set forth in relevant maps which are part of the most recent draft of the BLM Kanab Resource Management Plan.

Orderville Canyon/Orderville Gulch, located in parts of:

T39S R9W
T40S R9W¹

¹ Portions of the following FLPMA Section 603 Wilderness Study Areas (“WSAs”) are located in the above-referenced townships and ranges within the borders of Kane County: North Fork Virgin River WSA and Orderville Canyon WSA. The fact that this planning document addresses only areas outside those WSAs does not imply that

For purposes of this plan clarification, all of the above-described lands are collectively referred to herein as the “Orderville Canyon/Orderville Gulch Region,” and are illustrated more fully in the official map attached hereto. Any reference hereafter to the term “Orderville Canyon/Orderville Gulch Region” shall refer to any and all of the above-described land areas.

SECTION 2. Clarification of Ongoing Plan

1 Achieve and Maintain A Continuing Yield of Mineral and Energy Resources In The Orderville Canyon/Orderville Gulch Region At The Highest Reasonably Sustainable Levels

- Kane County recognizes that it is technically feasible to access mineral and energy resources while preserving nonmineral and nonenergy resources.
- All solid, fluid and gaseous mineral resources in the Orderville Canyon/Orderville Gulch Region, including uranium, oil and gas, coal and other hardrock and/or energy resources that exist in economic quantities and are recoverable with existing or foreseeable technology should be available for development.
- Physical and administrative access to mineral and energy resources in the Orderville Canyon/Orderville Gulch Region must be maintained. These lands should be open to minerals and energy leasing with economically and technically viable stipulations and conditions that will protect the lands against unreasonable and irreparable damage to other significant resource values. This should include reasonable and effective mitigation and reclamation measures and bonding for such where necessary.
- Fluid and gaseous minerals within developed areas should be protected from waste and drainage.
- Any previous lease restrictions in the Orderville Canyon/Orderville Gulch Region that are no longer necessary or effective should be modified, waived or removed.
- Restrictions against surface occupancy should be modified, waived or if necessary removed where it is shown that directional drilling is not

that this planning document addresses only areas outside those WSAs does not imply that Kane County necessarily concedes that those WSAs are suitable for wilderness designation or de facto wilderness management restrictions. In any event, those WSAs are outside the scope of this particular section of Kane County’s Plan.

ecologically necessary, where directional drilling is not feasible from an economic or engineering standpoint, or where it is shown that directional drilling will in effect sterilize the mineral and energy resources beneath the area.

- Applications for permission to drill that meet standard qualifications, including where appropriate reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted.
- Any moratorium or withdrawals that may exist against the issuance of additional mining patents and oil and gas leases in the Orderville Canyon/Orderville Gulch Region should be carefully evaluated for removal.

2. Achieve and Maintain Livestock Grazing In The Orderville Canyon/Orderville Gulch Region At The Highest Reasonably Sustainable Levels

- Domestic livestock forage in the Orderville Canyon/Orderville Gulch Region as expressed in animal unit months and allocated for permitted active use in the RMP, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the Orderville Canyon/Orderville Gulch Region, based on an on-the-ground and scientific analysis.
- Where once-available grazing forage in the Orderville Canyon/Orderville Gulch Region has succeeded to pinion, juniper and other woody vegetation and associated biomass, or to cheat grass and other invasive grasses and vegetation, or where rangeland health in the Orderville Canyon/Orderville Gulch Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, burning and other mechanical treatments should be applied to remove this woody vegetation and biomass, and/or invasive weeds, and stimulate the return of the native grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the Orderville Canyon/Orderville Gulch Region.
- Kane County regards the land which comprises the grazing districts and allotments in the Orderville Canyon/Orderville Gulch Region as still more valuable for grazing than for any other use which excludes livestock grazing, such as conversion of AUM's to wildlife, wild horses, watersheds or wilderness values. Accordingly, it is Kane County's plan that animal unit months in the Orderville Canyon/Orderville Gulch Region not be relinquished or retired in favor of conservation, wildlife and other uses.
- Kane County recognizes that from time to time a bona fide livestock permittee in the Orderville Canyon/Orderville Gulch 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 Orderville Canyon/Orderville Gulch Region should be temporary and scientifically based on rangeland conditions.

- The transfer of grazing animal unit months ("AUMs") to wildlife for supposed reasons of rangeland health is opposed by Kane County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.
- Any grazing animal unit months that may have been reduced in the Orderville Canyon/Orderville Gulch Region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

3. Manage the Watershed in The Orderville Canyon/Orderville Gulch Region To Achieve and Maintain Water Resources At The Highest Reasonably Sustainable Levels

- All water resources that derive in the Orderville Canyon/Orderville Gulch Region are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.
- As a political subdivision of the State, Kane County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and where reasonable develop those water resources.
- With increased demands on water resources brought on by population increases in the local drainage area, and with recent drier precipitation trends which call into question in the minds of some whether the climate of the local drainage area is changing, it is important now more than ever that management practices be employed in the Orderville Canyon/Orderville Gulch Region to restore, maintain and maximize water resources there.
- This includes restoration, maintenance and enhancement of the watershed in the Orderville Canyon/Orderville Gulch Region.
- Where water resources in the Orderville Canyon/Orderville Gulch Region 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.

- Kane County's strategy and plan for protecting the Orderville Canyon/Orderville Gulch Region watershed is to deter unauthorized cross-country OHV use in the Orderville Canyon/Orderville Gulch Region. The best way to achieve this is to give OHV users a reasonable system of trails in the Orderville Canyon/Orderville Gulch Region on which to legitimately operate their OHVs. Closing the Orderville Canyon/Orderville Gulch Region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Orderville Canyon/Orderville Gulch Region watershed.
- Accordingly, all trails in the Orderville Canyon/Orderville Gulch Region which historically have been open to OHV use should remain open.
- Kane County's watershed protection strategy also calls for reducing the risk of wildfires caused by cheat grass and other invasive species. Such wildfires diminish the watershed through such causes as erosion and dust storms that follow the fire. One of the most inexpensive and effective ways to combat cheat grass and thus protect and enhance the watershed is to allow livestock permittees in the Orderville Canyon/Orderville Gulch Region to let their cattle graze off the cheat grass and other invasive weeds during the Spring before those plants mature and cause a fire hazard in the Summer. Accordingly, all restrictions against the spring grazing of cheat grass should be removed.

4. Achieve and Maintain Traditional Access To Outdoor Recreational Opportunities Available in The Orderville Canyon/Orderville Gulch Region

- Traditionally, citizens of Kane County and visitors have enjoyed many forms of outdoor recreation in the Orderville Canyon/Orderville Gulch Region, 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 touring in their personal vehicles.
- All trails in the Orderville Canyon/Orderville Gulch Region which historically have been open to OHV use should remain open.
- Public land outdoor recreational access in the Orderville Canyon/Orderville Gulch Region should not discriminate in favor of one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational opportunities in the Orderville Canyon/Orderville Gulch Region have been open and accessible to working class families, to families with small children, to the ill and persons with disabilities, to the middle aged and elderly, to persons of different cultures for whom a

primitive or back country experience may not be the preferred form of recreating. Current use, demographics and area growth support a need for more dispersed and varied recreation opportunities in the Kane County WIA and UWC lands, as opposed to primitive or back country experiences there. All of society should not be forced to participate in a solitude experience or a primitive experience as the one and only mode of outdoor recreation in the Kane County WIA and UWC Lands. 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, should not be eliminated from pursuing other forms of recreational opportunities in the Orderville Canyon/Orderville Gulch Region.

- Any segment of society, for that matter, who wants to recreate in the Orderville Canyon/Orderville Gulch Region are entitled to motorized access to traditional recreation uses and additional access where needed.
- Hence Kane County's plan calls for continued public motorized access to all traditional outdoor recreational destinations in all areas of the Orderville Canyon/Orderville Gulch Region for all such segments of the public. Kane County specifically opposes restricting outdoor recreation in the Orderville Canyon/Orderville Gulch Region to just one form - available for those who have enough time, money and athletic ability to hike into the destinations of the Orderville Canyon/Orderville Gulch Region for a so-called "solitude wilderness experience" or the like.
- Accordingly, all roads in the Orderville Canyon/Orderville Gulch Region that are part of Kane County's duly adopted transportation plan should remain open to motorized travel. None of them should be closed, and Kane County should have the continued ability to maintain and repair those roads, and where reasonably necessary make improvements thereon. All trails in the Orderville Canyon/Orderville Gulch Region that have been open to OHV use should continue to remain open. Traditional levels of wildlife hunting and fishing should continue. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation -motorized and non-motorized - should continue. In addition, all roads and trails administered by the BLM, in addition to those maintained by Kane County, should remain open to public use, and any attempt to close any road or trail should be subject to the NEPA process.

5. Maintain and Keep Open All Roads in the Orderville Canyon/Orderville Gulch Region That Appear on Kane County's Most Recent Transportation Map, and Provide For Such Additional Roads and Trails As May Be Necessary From Time to Time

- Kane County's transportation plan includes an official county-wide

transportation map, available to the public for viewing and copying, showing all public roads and trails maintained by the County.

- That portion of Kane County's official transportation map which shows all public roads and trails in the Orderville Canyon/Orderville Gulch Region is considered to be part of Kane County's plan specifically applicable to the Orderville Canyon/Orderville Gulch Region. Those roads should remain open to public travel. In addition, all roads administered by the BLM should remain open to public use, and any attempt to close those roads should be subject to the NEPA process.
- Kane County plans to keep all such roads in the Orderville Canyon/Orderville Gulch Region open and reasonably maintained and in good repair. Kane 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 Kane County and BLM cannot reach an agreement on such proposed improvements after reasonable efforts at consultation.
- Additional roads trails and transportation corridors may be needed in the Orderville Canyon/Orderville Gulch Region from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Orderville Canyon/Orderville Gulch Region, including livestock operations and improvements, solid, fluid and gaseous mineral operations, energy transportation, 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 in the Orderville Canyon/Orderville Gulch Region to accomplish the purposes of those lands. Additional access should be provided where a need is demonstrated and can be accomplished while providing required protection to other resources and uses.

6. Manage the Orderville Canyon/Orderville Gulch Region So As to Not Interfere With The Property Rights of Private Landowners Located in That Region.

- There are parcels of private fee land located in or around the Orderville Canyon/Orderville Gulch Region.
- Land management policies and standards on BLM land in the Orderville Canyon/Orderville Gulch Region should not interfere with the property rights of private landowners in the region to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.

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

7. Manage the Orderville Canyon/Orderville Gulch Region 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 That Region.

- Located within or nearby the Orderville Canyon/Orderville Gulch Region are sections of school and institutional trust lands 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 by Utah's Enabling Act and State Constitution.
- As trustee, SITLA has a fiduciary responsibility to manage those school trust lands to generate maximum revenue therefrom, by making them available for sale and private development, and for other multiple use consumptive 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.
- Land management policies and standards in the Orderville Canyon/Orderville Gulch Region should not interfere with SITLA's ability to carry out its fiduciary responsibilities.
- 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 SITLA's fiduciary responsibilities.

8. Managing Part or All of The Orderville Canyon/Orderville Gulch Region For So-Called Wilderness Characteristics Would Violate FLPMA, Contradict The State's Public Land Policy and Contradict The Foregoing Plans of Kane County For Managing The Orderville Canyon/Orderville Gulch Region

- As Utah Code § 63-38d-401(6)(b) indicates, managing the Orderville Canyon/Orderville Gulch Region 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 Kane County's. A so-called "wilderness characteristics" management standard for the Orderville Canyon/Orderville Gulch Region is de facto wilderness management by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region. Kane County has formally taken a position that no BLM lands in Kane County should be designated as

wilderness.

- A so-called “wilderness characteristics” management standard for the Orderville Canyon/Orderville Gulch Region also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.
 - Managing Post-603 Lands² pursuant to the Interim Management Policy of 1979 (“IMP”) is inconsistent with BLM authority. Agreement p. 6 & 13.a;
 - Managing 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;
 - 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;
 - DOI/BLM will not establish, manage “*or otherwise treat*” Post-603 Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;
 - DOI/BLM will remove from the proposed revised resource management plans in the Vernal, Price, Richfield, Kanab, Monticello and Moab Districts any and all references or plans to classify or manage Post-603 BLM lands “*as if*” they are or may become WSAs. Agreement p. 14 & 7.
9. Imposing An Area of Critical Environmental Concern (“ACEC”) Designation, Including Any ACEC Alternatives Currently Under Consideration in the Kanab Resource Management Plan Revision Process, Would Contradict Kane County’s Plan For Managing The Orderville Canyon/Orderville Gulch Region
- It is Kane County’s policy that no part of the Orderville Canyon/Orderville Gulch Region 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).
 - The proposed ACEC is limited in geographic size and that the

² As that term is defined in the *Utah v. Norton* settlement agreement of April 11, 2003.

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.

- The proposed ACEC is limited only to areas that are already developed or used or to areas where no development is required.
- The proposed ACEC designation and protection are necessary to protect not just a change in ground conditions or visual resources that can be reclaimed or reversed eventually (like reclaiming a natural gas well site after pumping operations are complete). Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.
- The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA multiple use sustained yield management, the Wilderness Act, threatened and endangered species designations or any other special designation or law..
- The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a non WSA for so-called wilderness characteristics.
- The foregoing summarizes the ACEC criteria of the State of Utah as well as Kane County. See Utah Code § 63-38d-401(8)(c). And the foregoing summarizes the criteria of FLPMA.
- As of December 12, 2007 none of the ACEC alternatives being considered in the Kane County portion of the current Kanab Resource Management Plan ("RMP") revision process, other than the ACEC's that exist currently, meets Kane County's above-stated ACEC planning criteria. Adopting any of these ACEC's under any of the proposed alternatives would be incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region.

10. Including Any River Segment in or Near the Orderville Canyon/Orderville Gulch Region in the National Wild and Scenic River System Would Violate the National Wild and Scenic Rivers Act and Related Regulations, Contradict the State's Public Land Policy, and Contradict the Foregoing Plans of Kane County For Managing The Orderville Canyon/Orderville Gulch Region

- It is Kane County's policy that no river segment should be included in the National Wild and Scenic River System unless

- Water is present and flowing at all times.
- The water-related value is considered outstandingly remarkable within a region of comparison consisting of one of three physiographic provinces of the state, and that the rationale and justification for the conclusion are disclosed.
- BLM fully disclaims in writing any interest in water rights with respect to the subject segment.
- It is clearly demonstrated that including the segment in the NWSR system will not prevent, reduce, impair, or otherwise interfere with the state and its citizen's enjoyment of complete and exclusive water rights in and to rivers of the state as determined by the laws of the state, nor interfere with or impair local, state, regional, or interstate water compacts to which the State or Kane County is a party.
- The rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed.
- It is clearly demonstrated that BLM does not intend to use such a designation to improperly impose Class I or II Visual Resource Management prescriptions.
- It is clearly demonstrated that the proposed addition will not adversely impact the local economy agricultural and industrial operations, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment.
- The foregoing also summarizes the wild and scenic river criteria of the State of Utah, Utah Code § 63-38d-401(8)(a), as well as the criteria of Kane County.
- Neither the so-called Deep Creek segment, the so-called North Fork Virgin River segment, the so-called Order/Esplin Gulch segment, nor any other river segment in or in or near the Orderville Canyon/Orderville Gulch Region meets the above criteria. Hence, no river segment in or near the Orderville Canyon/Orderville Gulch Region, including the so-called Deep Creek segment, the so-called North Fork Virgin River segment, and the so-called Order/Esplin Gulch segment, should be

included in the National Wild and Scenic River system.

- As of December 12, 2007, the terms prescribed in any of the alternatives being considered in the proposed revised Kanab RMP for managing proposed wild and scenic river segments in or near the Orderville Canyon/Orderville Gulch Region, including the so-called Deep Creek segment, the so-called North Fork Virgin River segment, and the so-called Order/Esplin Gulch segment, constitute de facto wilderness management by another name. They are incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region.

11. A Visual Resource Management Class I or II Rating for Any Part of the Orderville Canyon/Orderville Gulch Region Would Contradict the State's Public Land Policy and Contradict Kane County's Plan For Managing the Orderville Canyon/Orderville Gulch Region

- The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.
- The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.
- Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region is generally consistent with either Class III or Class IV, depending on the precise area.

12. Restrictions and Unreasonably Burdensome Limitations on Surface Disturbing Activities In Areas of Medium to High Resource Potential in the Orderville Canyon/Orderville Gulch Region, Would Contradict the State's Public Land Policy and Contradict Kane County's Plan for Managing the Orderville Canyon/Orderville Gulch Region

- BLM restrictions and unreasonably burdensome seasonable limitations on surface disturbing activities are not compatible with, and would therefore frustrate and interfere with Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.

Orderville Canyon/Orderville Gulch

**AMENDMENT TO THE KANE COUNTY GENERAL PLAN TO
CLARIFY LONGSTANDING POLICIES FOR THAT GEOGRAPHIC
REGION OF KANE COUNTY DESCRIBED BELOW AND
HEREINAFTER REFERRED TO AS THE**

“ORDERVILLE CANYON/ORDERVILLE GULCH REGION.”

WHEREAS, Kane County has a general plan adopted pursuant to Utah Code containing policies for the appropriate use of private and public land within the county; and

WHEREAS, Kane County desires to supplement its general plan to clarify long-standing policies specific to certain geographic regions of the county as the need arises; and

WHEREAS, certain amendments have been recommended associated with lands in the Orderville Canyon/Orderville Gulch region of the county;

NOW, THEREFORE, IT IS PROPOSED THAT THE KANE COUNTY GENERAL PLAN BE AMENDED BY INSERTING THE FOLLOWING IN THAT PORTION OF THE PLAN THAT DEALS WITH PUBLIC LANDS:

**CLARIFICATION OF KANE COUNTY’S ONGOING PLAN FOR
MANAGING CERTAIN LANDS IN THE ORDERVILLE
CANYON/ORDERVILLE GULCH REGION OF THE COUNTY**

SECTION 1. Subject Lands.

This plan clarification applies to all areas of land situated in part or all of the following-referenced Township and Range which the United States Bureau of Land Management (“BLM”) has purported to identify and evaluate for so-called alleged wilderness characteristics, including all lands which BLM purportedly determined to have wilderness characteristics and all lands which BLM purportedly determined to not have wilderness characteristics, all as set forth in relevant maps which are part of the most recent draft of the BLM Kanab Resource Management Plan.

Orderville Canyon/Orderville Gulch, located in parts of:

T39S R9W
T40S R9W¹

¹ Portions of the following FLPMA Section 603 Wilderness Study Areas (“WSAs”) are located in the above-referenced townships and ranges within the borders of Kane County: North Fork Virgin River WSA and Orderville Canyon WSA. The fact that this planning document addresses only areas outside those WSAs does not imply that

For purposes of this plan clarification, all of the above-described lands are collectively referred to herein as the “Orderville Canyon/Orderville Gulch Region,” and are illustrated more fully in the official map attached hereto. Any reference hereafter to the term “Orderville Canyon/Orderville Gulch Region” shall refer to any and all of the above-described land areas.

SECTION 2. Clarification of Ongoing Plan

1. Achieve and Maintain A Continuing Yield of Mineral and Energy Resources In The Orderville Canyon/Orderville Gulch Region At The Highest Reasonably Sustainable Levels

- Kane County recognizes that it is technically feasible to access mineral and energy resources while preserving nonmineral and nonenergy resources.
- All solid, fluid and gaseous mineral resources in the Orderville Canyon/Orderville Gulch Region, including uranium, oil and gas, coal and other hardrock and/or energy resources that exist in economic quantities and are recoverable with existing or foreseeable technology should be available for development.
- Physical and administrative access to mineral and energy resources in the Orderville Canyon/Orderville Gulch Region must be maintained. These lands should be open to minerals and energy leasing with economically and technically viable stipulations and conditions that will protect the lands against unreasonable and irreparable damage to other significant resource values. This should include reasonable and effective mitigation and reclamation measures and bonding for such where necessary.
- Fluid and gaseous minerals within developed areas should be protected from waste and drainage.
- Any previous lease restrictions in the Orderville Canyon/Orderville Gulch Region that are no longer necessary or effective should be modified, waived or removed.
- Restrictions against surface occupancy should be modified, waived or if necessary removed where it is shown that directional drilling is not

that this planning document addresses only areas outside those WSAs does not imply that Kane County necessarily concedes that those WSAs are suitable for wilderness designation or de facto wilderness management restrictions. In any event, those WSAs are outside the scope of this particular section of Kane County's Plan.

ecologically necessary, where directional drilling is not feasible from an economic or engineering standpoint, or where it is shown that directional drilling will in effect sterilize the mineral and energy resources beneath the area.

- Applications for permission to drill that meet standard qualifications, including where appropriate reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted.
- Any moratorium or withdrawals that may exist against the issuance of additional mining patents and oil and gas leases in the Orderville Canyon/Orderville Gulch Region should be carefully evaluated for removal.

2. Achieve and Maintain Livestock Grazing In The Orderville Canyon/Orderville Gulch Region At The Highest Reasonably Sustainable Levels

- Domestic livestock forage in the Orderville Canyon/Orderville Gulch Region as expressed in animal unit months and allocated for permitted active use in the RMP, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the Orderville Canyon/Orderville Gulch Region, based on an on-the-ground and scientific analysis.
- Where once-available grazing forage in the Orderville Canyon/Orderville Gulch Region has succeeded to pinion, juniper and other woody vegetation and associated biomass, or to cheat grass and other invasive grasses and vegetation, or where rangeland health in the Orderville Canyon/Orderville Gulch Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, burning and other mechanical treatments should be applied to remove this woody vegetation and biomass, and/or invasive weeds, and stimulate the return of the native grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the Orderville Canyon/Orderville Gulch Region.
- Kane County regards the land which comprises the grazing districts and allotments in the Orderville Canyon/Orderville Gulch Region as still more valuable for grazing than for any other use which excludes livestock grazing, such as conversion of AUM's to wildlife, wild horses, watersheds or wilderness values. Accordingly, it is Kane County's plan that animal unit months in the Orderville Canyon/Orderville Gulch Region not be relinquished or retired in favor of conservation, wildlife and other uses.
- Kane County recognizes that from time to time a bona fide livestock permittee in the Orderville Canyon/Orderville Gulch 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 Orderville Canyon/Orderville Gulch Region should be temporary and scientifically based on rangeland conditions.

- The transfer of grazing animal unit months ("AUMs") to wildlife for supposed reasons of rangeland health is opposed by Kane County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.
- Any grazing animal unit months that may have been reduced in the Orderville Canyon/Orderville Gulch Region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

3. Manage the Watershed in The Orderville Canyon/Orderville Gulch Region To Achieve and Maintain Water Resources At The Highest Reasonably Sustainable Levels

- All water resources that derive in the Orderville Canyon/Orderville Gulch Region are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.
- As a political subdivision of the State, Kane County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and where reasonable develop those water resources.
- With increased demands on water resources brought on by population increases in the local drainage area, and with recent drier precipitation trends which call into question in the minds of some whether the climate of the local drainage area is changing, it is important now more than ever that management practices be employed in the Orderville Canyon/Orderville Gulch Region to restore, maintain and maximize water resources there.
- This includes restoration, maintenance and enhancement of the watershed in the Orderville Canyon/Orderville Gulch Region.
- Where water resources in the Orderville Canyon/Orderville Gulch Region 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.

- Kane County's strategy and plan for protecting the Orderville Canyon/Orderville Gulch Region watershed is to deter unauthorized cross-country OHV use in the Orderville Canyon/Orderville Gulch Region. The best way to achieve this is to give OHV users a reasonable system of trails in the Orderville Canyon/Orderville Gulch Region on which to legitimately operate their OHVs. Closing the Orderville Canyon/Orderville Gulch Region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Orderville Canyon/Orderville Gulch Region watershed.
- Accordingly, all trails in the Orderville Canyon/Orderville Gulch Region which historically have been open to OHV use should remain open.
- Kane County's watershed protection strategy also calls for reducing the risk of wildfires caused by cheat grass and other invasive species. Such wildfires diminish the watershed through such causes as erosion and dust storms that follow the fire. One of the most inexpensive and effective ways to combat cheat grass and thus protect and enhance the watershed is to allow livestock permittees in the Orderville Canyon/Orderville Gulch Region to let their cattle graze off the cheat grass and other invasive weeds during the Spring before those plants mature and cause a fire hazard in the Summer. Accordingly, all restrictions against the spring grazing of cheat grass should be removed.

4. Achieve and Maintain Traditional Access To Outdoor Recreational Opportunities Available in The Orderville Canyon/Orderville Gulch Region

- Traditionally, citizens of Kane County and visitors have enjoyed many forms of outdoor recreation in the Orderville Canyon/Orderville Gulch Region, 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 touring in their personal vehicles.
- All trails in the Orderville Canyon/Orderville Gulch Region which historically have been open to OHV use should remain open.
- Public land outdoor recreational access in the Orderville Canyon/Orderville Gulch Region should not discriminate in favor of one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational opportunities in the Orderville Canyon/Orderville Gulch Region have been open and accessible to working class families, to families with small children, to the ill and persons with disabilities, to the middle aged and elderly, to persons of different cultures for whom a

primitive or back country experience may not be the preferred form of recreating. Current use, demographics and area growth support a need for more dispersed and varied recreation opportunities in the Kane County WIA and UWC lands, as opposed to primitive or back country experiences there. All of society should not be forced to participate in a solitude experience or a primitive experience as the one and only mode of outdoor recreation in the Kane County WIA and UWC Lands. 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, should not be eliminated from pursuing other forms of recreational opportunities in the Orderville Canyon/Orderville Gulch Region.

- Any segment of society, for that matter, who wants to recreate in the Orderville Canyon/Orderville Gulch Region are entitled to motorized access to traditional recreation uses and additional access where needed.
- Hence Kane County's plan calls for continued public motorized access to all traditional outdoor recreational destinations in all areas of the Orderville Canyon/Orderville Gulch Region for all such segments of the public. Kane County specifically opposes restricting outdoor recreation in the Orderville Canyon/Orderville Gulch Region to just one form - available for those who have enough time, money and athletic ability to hike into the destinations of the Orderville Canyon/Orderville Gulch Region for a so-called "solitude wilderness experience" or the like.
- Accordingly, all roads in the Orderville Canyon/Orderville Gulch Region that are part of Kane County's duly adopted transportation plan should remain open to motorized travel. None of them should be closed, and Kane County should have the continued ability to maintain and repair those roads, and where reasonably necessary make improvements thereon. All trails in the Orderville Canyon/Orderville Gulch Region that have been open to OHV use should continue to remain open. Traditional levels of wildlife hunting and fishing should continue. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation -motorized and non-motorized - should continue. In addition, all roads and trails administered by the BLM, in addition to those maintained by Kane County, should remain open to public use, and any attempt to close any road or trail should be subject to the NEPA process.

5. Maintain and Keep Open All Roads in the Orderville Canyon/Orderville Gulch Region That Appear on Kane County's Most Recent Transportation Map, and Provide For Such Additional Roads and Trails As May Be Necessary From Time to Time

- Kane County's transportation plan includes an official county-wide

transportation map, available to the public for viewing and copying, showing all public roads and trails maintained by the County.

- That portion of Kane County's official transportation map which shows all public roads and trails in the Orderville Canyon/Orderville Gulch Region is considered to be part of Kane County's plan specifically applicable to the Orderville Canyon/Orderville Gulch Region. Those roads should remain open to public travel. In addition, all roads administered by the BLM should remain open to public use, and any attempt to close those roads should be subject to the NEPA process.
- Kane County plans to keep all such roads in the Orderville Canyon/Orderville Gulch Region open and reasonably maintained and in good repair. Kane 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 Kane County and BLM cannot reach an agreement on such proposed improvements after reasonable efforts at consultation.
- Additional roads trails and transportation corridors may be needed in the Orderville Canyon/Orderville Gulch Region from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Orderville Canyon/Orderville Gulch Region, including livestock operations and improvements, solid, fluid and gaseous mineral operations, energy transportation, 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 in the Orderville Canyon/Orderville Gulch Region to accomplish the purposes of those lands. Additional access should be provided where a need is demonstrated and can be accomplished while providing required protection to other resources and uses.

6. Manage the Orderville Canyon/Orderville Gulch Region So As to Not Interfere With The Property Rights of Private Landowners Located in That Region.

- There are parcels of private fee land located in or around the Orderville Canyon/Orderville Gulch Region.
- Land management policies and standards on BLM land in the Orderville Canyon/Orderville Gulch Region should not interfere with the property rights of private landowners in the region to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.

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

7. Manage the Orderville Canyon/Orderville Gulch Region 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 That Region.

- Located within or nearby the Orderville Canyon/Orderville Gulch Region are sections of school and institutional trust lands 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 by Utah's Enabling Act and State Constitution.
- As trustee, SITLA has a fiduciary responsibility to manage those school trust lands to generate maximum revenue therefrom, by making them available for sale and private development, and for other multiple use consumptive 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.
- Land management policies and standards in the Orderville Canyon/Orderville Gulch Region should not interfere with SITLA's ability to carry out its fiduciary responsibilities.
- 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 SITLA's fiduciary responsibilities.

8. Managing Part or All of The Orderville Canyon/Orderville Gulch Region For So-Called Wilderness Characteristics Would Violate FLPMA, Contradict The State's Public Land Policy and Contradict The Foregoing Plans of Kane County For Managing The Orderville Canyon/Orderville Gulch Region

- As Utah Code § 63-38d-401(6)(b) indicates, managing the Orderville Canyon/Orderville Gulch Region 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 Kane County's. A so-called "wilderness characteristics" management standard for the Orderville Canyon/Orderville Gulch Region is de facto wilderness management by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region. Kane County has formally taken a position that no BLM lands in Kane County should be designated as

wilderness.

- A so-called “wilderness characteristics” management standard for the Orderville Canyon/Orderville Gulch Region also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.
 - Managing Post-603 Lands² pursuant to the Interim Management Policy of 1979 (“IMP”) is inconsistent with BLM authority. Agreement p. 6 & 13.a;
 - Managing 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;
 - 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;
 - DOI/BLM will not establish, manage “*or otherwise treat*” Post-603 Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;
 - DOI/BLM will remove from the proposed revised resource management plans in the Vernal, Price, Richfield, Kanab, Monticello and Moab Districts any and all references or plans to classify or manage Post-603 BLM lands “*as if*” they are or may become WSAs. Agreement p. 14 & 7.
9. Imposing An Area of Critical Environmental Concern (“ACEC”) Designation, Including Any ACEC Alternatives Currently Under Consideration in the Kanab Resource Management Plan Revision Process, Would Contradict Kane County’s Plan For Managing The Orderville Canyon/Orderville Gulch Region
- It is Kane County’s policy that no part of the Orderville Canyon/Orderville Gulch Region 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).
 - The proposed ACEC is limited in geographic size and that the

² As that term is defined in the *Utah v. Norton* settlement agreement of April 11, 2003.

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.

- The proposed ACEC is limited only to areas that are already developed or used or to areas where no development is required.
- The proposed ACEC designation and protection are necessary to protect not just a change in ground conditions or visual resources that can be reclaimed or reversed eventually (like reclaiming a natural gas well site after pumping operations are complete). Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.
- The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA multiple use sustained yield management, the Wilderness Act, threatened and endangered species designations or any other special designation or law..
- The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a non WSA for so-called wilderness characteristics.
- The foregoing summarizes the ACEC criteria of the State of Utah as well as Kane County. See Utah Code § 63-38d-401(8)(c). And the foregoing summarizes the criteria of FLPMA.
- As of December 12, 2007 none of the ACEC alternatives being considered in the Kane County portion of the current Kanab Resource Management Plan ("RMP") revision process, other than the ACEC's that exist currently, meets Kane County's above-stated ACEC planning criteria. Adopting any of these ACEC's under any of the proposed alternatives would be incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region.

10. Including Any River Segment in or Near the Orderville Canyon/Orderville Gulch Region in the National Wild and Scenic River System Would Violate the National Wild and Scenic Rivers Act and Related Regulations, Contradict the State's Public Land Policy, and Contradict the Foregoing Plans of Kane County For Managing The Orderville Canyon/Orderville Gulch Region

- It is Kane County's policy that no river segment should be included in the National Wild and Scenic River System unless

- Water is present and flowing at all times.
- The water-related value is considered outstandingly remarkable within a region of comparison consisting of one of three physiographic provinces of the state, and that the rationale and justification for the conclusion are disclosed.
- BLM fully disclaims in writing any interest in water rights with respect to the subject segment.
- It is clearly demonstrated that including the segment in the NWSR system will not prevent, reduce, impair, or otherwise interfere with the state and its citizen's enjoyment of complete and exclusive water rights in and to rivers of the state as determined by the laws of the state, nor interfere with or impair local, state, regional, or interstate water compacts to which the State or Kane County is a party.
- The rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed.
- It is clearly demonstrated that BLM does not intend to use such a designation to improperly impose Class I or II Visual Resource Management prescriptions.
- It is clearly demonstrated that the proposed addition will not adversely impact the local economy agricultural and industrial operations, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment.
- The foregoing also summarizes the wild and scenic river criteria of the State of Utah, Utah Code § 63-38d-401(8)(a), as well as the criteria of Kane County.
- Neither the so-called Deep Creek segment, the so-called North Fork Virgin River segment, the so-called Order/Esplin Gulch segment, nor any other river segment in or in or near the Orderville Canyon/Orderville Gulch Region meets the above criteria. Hence, no river segment in or near the Orderville Canyon/Orderville Gulch Region, including the so-called Deep Creek segment, the so-called North Fork Virgin River segment, and the so-called Order/Esplin Gulch segment, should be

included in the National Wild and Scenic River system.

- As of December 12, 2007, the terms prescribed in any of the alternatives being considered in the proposed revised Kanab RMP for managing proposed wild and scenic river segments in or near the Orderville Canyon/Orderville Gulch Region, including the so-called Deep Creek segment, the so-called North Fork Virgin River segment, and the so-called Order/Esplin Gulch segment, constitute de facto wilderness management by another name. They are incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region.

11. A Visual Resource Management Class I or II Rating for Any Part of the Orderville Canyon/Orderville Gulch Region Would Contradict the State's Public Land Policy and Contradict Kane County's Plan For Managing the Orderville Canyon/Orderville Gulch Region

- The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.
- The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.
- Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region is generally consistent with either Class III or Class IV, depending on the precise area.

12. Restrictions and Unreasonably Burdensome Limitations on Surface Disturbing Activities In Areas of Medium to High Resource Potential in the Orderville Canyon/Orderville Gulch Region, Would Contradict the State's Public Land Policy and Contradict Kane County's Plan for Managing the Orderville Canyon/Orderville Gulch Region

- BLM restrictions and unreasonably burdensome seasonable limitations on surface disturbing activities are not compatible with, and would therefore frustrate and interfere with Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.

Orderville Canyon/Orderville Gulch

**AMENDMENT TO THE KANE COUNTY GENERAL PLAN TO
CLARIFY LONGSTANDING POLICIES FOR THAT GEOGRAPHIC
REGION OF KANE COUNTY DESCRIBED BELOW AND
HEREINAFTER REFERRED TO AS THE**

“ORDERVILLE CANYON/ORDERVILLE GULCH REGION.”

WHEREAS, Kane County has a general plan adopted pursuant to Utah Code containing policies for the appropriate use of private and public land within the county; and

WHEREAS, Kane County desires to supplement its general plan to clarify long-standing policies specific to certain geographic regions of the county as the need arises; and

WHEREAS, certain amendments have been recommended associated with lands in the Orderville Canyon/Orderville Gulch region of the county;

NOW, THEREFORE, IT IS PROPOSED THAT THE KANE COUNTY GENERAL PLAN BE AMENDED BY INSERTING THE FOLLOWING IN THAT PORTION OF THE PLAN THAT DEALS WITH PUBLIC LANDS:

**CLARIFICATION OF KANE COUNTY’S ONGOING PLAN FOR
MANAGING CERTAIN LANDS IN THE ORDERVILLE
CANYON/ORDERVILLE GULCH REGION OF THE COUNTY**

SECTION 1. Subject Lands.

This plan clarification applies to all areas of land situated in part or all of the following-referenced Township and Range which the United States Bureau of Land Management (“BLM”) has purported to identify and evaluate for so-called alleged wilderness characteristics, including all lands which BLM purportedly determined to have wilderness characteristics and all lands which BLM purportedly determined to not have wilderness characteristics, all as set forth in relevant maps which are part of the most recent draft of the BLM Kanab Resource Management Plan.

Orderville Canyon/Orderville Gulch, located in parts of:

T39S R9W
T40S R9W¹

¹ Portions of the following FLPMA Section 603 Wilderness Study Areas (“WSAs”) are located in the above-referenced townships and ranges within the borders of Kane County: North Fork Virgin River WSA and Orderville Canyon WSA. The fact that this planning document addresses only areas outside those WSAs does not imply that

For purposes of this plan clarification, all of the above-described lands are collectively referred to herein as the “Orderville Canyon/Orderville Gulch Region,” and are illustrated more fully in the official map attached hereto. Any reference hereafter to the term “Orderville Canyon/Orderville Gulch Region” shall refer to any and all of the above-described land areas.

SECTION 2. Clarification of Ongoing Plan

1 Achieve and Maintain A Continuing Yield of Mineral and Energy Resources In The Orderville Canyon/Orderville Gulch Region At The Highest Reasonably Sustainable Levels

- Kane County recognizes that it is technically feasible to access mineral and energy resources while preserving nonmineral and nonenergy resources.
- All solid, fluid and gaseous mineral resources in the Orderville Canyon/Orderville Gulch Region, including uranium, oil and gas, coal and other hardrock and/or energy resources that exist in economic quantities and are recoverable with existing or foreseeable technology should be available for development.
- Physical and administrative access to mineral and energy resources in the Orderville Canyon/Orderville Gulch Region must be maintained. These lands should be open to minerals and energy leasing with economically and technically viable stipulations and conditions that will protect the lands against unreasonable and irreparable damage to other significant resource values. This should include reasonable and effective mitigation and reclamation measures and bonding for such where necessary.
- Fluid and gaseous minerals within developed areas should be protected from waste and drainage.
- Any previous lease restrictions in the Orderville Canyon/Orderville Gulch Region that are no longer necessary or effective should be modified, waived or removed.
- Restrictions against surface occupancy should be modified, waived or if necessary removed where it is shown that directional drilling is not

that this planning document addresses only areas outside those WSAs does not imply that Kane County necessarily concedes that those WSAs are suitable for wilderness designation or de facto wilderness management restrictions. In any event, those WSAs are outside the scope of this particular section of Kane County's Plan.

ecologically necessary, where directional drilling is not feasible from an economic or engineering standpoint, or where it is shown that directional drilling will in effect sterilize the mineral and energy resources beneath the area.

- Applications for permission to drill that meet standard qualifications, including where appropriate reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted.
- Any moratorium or withdrawals that may exist against the issuance of additional mining patents and oil and gas leases in the Orderville Canyon/Orderville Gulch Region should be carefully evaluated for removal.

2. Achieve and Maintain Livestock Grazing In The Orderville Canyon/Orderville Gulch Region At The Highest Reasonably Sustainable Levels

- Domestic livestock forage in the Orderville Canyon/Orderville Gulch Region as expressed in animal unit months and allocated for permitted active use in the RMP, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the Orderville Canyon/Orderville Gulch Region, based on an on-the-ground and scientific analysis.
- Where once-available grazing forage in the Orderville Canyon/Orderville Gulch Region has succeeded to pinion, juniper and other woody vegetation and associated biomass, or to cheat grass and other invasive grasses and vegetation, or where rangeland health in the Orderville Canyon/Orderville Gulch Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, burning and other mechanical treatments should be applied to remove this woody vegetation and biomass, and/or invasive weeds, and stimulate the return of the native grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the Orderville Canyon/Orderville Gulch Region.
- Kane County regards the land which comprises the grazing districts and allotments in the Orderville Canyon/Orderville Gulch Region as still more valuable for grazing than for any other use which excludes livestock grazing, such as conversion of AUM's to wildlife, wild horses, watersheds or wilderness values. Accordingly, it is Kane County's plan that animal unit months in the Orderville Canyon/Orderville Gulch Region not be relinquished or retired in favor of conservation, wildlife and other uses.
- Kane County recognizes that from time to time a bona fide livestock permittee in the Orderville Canyon/Orderville Gulch 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 Orderville Canyon/Orderville Gulch Region should be temporary and scientifically based on rangeland conditions.

- The transfer of grazing animal unit months ("AUMs") to wildlife for supposed reasons of rangeland health is opposed by Kane County as illogical. There is already imputed in each AUM a reasonable amount of forage for the wildlife component.
- Any grazing animal unit months that may have been reduced in the Orderville Canyon/Orderville Gulch Region due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.

3. Manage the Watershed in The Orderville Canyon/Orderville Gulch Region To Achieve and Maintain Water Resources At The Highest Reasonably Sustainable Levels

- All water resources that derive in the Orderville Canyon/Orderville Gulch Region are the property of the State of Utah. They are owned exclusively by the State in trust for its citizens.
- As a political subdivision of the State, Kane County has a legitimate interest in seeing that all reasonable steps are taken to preserve, maintain and where reasonable develop those water resources.
- With increased demands on water resources brought on by population increases in the local drainage area, and with recent drier precipitation trends which call into question in the minds of some whether the climate of the local drainage area is changing, it is important now more than ever that management practices be employed in the Orderville Canyon/Orderville Gulch Region to restore, maintain and maximize water resources there.
- This includes restoration, maintenance and enhancement of the watershed in the Orderville Canyon/Orderville Gulch Region.
- Where water resources in the Orderville Canyon/Orderville Gulch Region 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.

- Kane County's strategy and plan for protecting the Orderville Canyon/Orderville Gulch Region watershed is to deter unauthorized cross-country OHV use in the Orderville Canyon/Orderville Gulch Region. The best way to achieve this is to give OHV users a reasonable system of trails in the Orderville Canyon/Orderville Gulch Region on which to legitimately operate their OHVs. Closing the Orderville Canyon/Orderville Gulch Region to all OHV use will only spur increased unauthorized cross-country OHV use to the detriment of the Orderville Canyon/Orderville Gulch Region watershed.
- Accordingly, all trails in the Orderville Canyon/Orderville Gulch Region which historically have been open to OHV use should remain open.
- Kane County's watershed protection strategy also calls for reducing the risk of wildfires caused by cheat grass and other invasive species. Such wildfires diminish the watershed through such causes as erosion and dust storms that follow the fire. One of the most inexpensive and effective ways to combat cheat grass and thus protect and enhance the watershed is to allow livestock permittees in the Orderville Canyon/Orderville Gulch Region to let their cattle graze off the cheat grass and other invasive weeds during the Spring before those plants mature and cause a fire hazard in the Summer. Accordingly, all restrictions against the spring grazing of cheat grass should be removed.

4. Achieve and Maintain Traditional Access To Outdoor Recreational Opportunities Available in The Orderville Canyon/Orderville Gulch Region

- Traditionally, citizens of Kane County and visitors have enjoyed many forms of outdoor recreation in the Orderville Canyon/Orderville Gulch Region, 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 touring in their personal vehicles.
- All trails in the Orderville Canyon/Orderville Gulch Region which historically have been open to OHV use should remain open.
- Public land outdoor recreational access in the Orderville Canyon/Orderville Gulch Region should not discriminate in favor of one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational opportunities in the Orderville Canyon/Orderville Gulch Region have been open and accessible to working class families, to families with small children, to the ill and persons with disabilities, to the middle aged and elderly, to persons of different cultures for whom a

primitive or back country experience may not be the preferred form of recreating. Current use, demographics and area growth support a need for more dispersed and varied recreation opportunities in the Kane County WIA and UWC lands, as opposed to primitive or back country experiences there. All of society should not be forced to participate in a solitude experience or a primitive experience as the one and only mode of outdoor recreation in the Kane County WIA and UWC Lands. 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, should not be eliminated from pursuing other forms of recreational opportunities in the Orderville Canyon/Orderville Gulch Region.

- Any segment of society, for that matter, who wants to recreate in the Orderville Canyon/Orderville Gulch Region are entitled to motorized access to traditional recreation uses and additional access where needed.
- Hence Kane County's plan calls for continued public motorized access to all traditional outdoor recreational destinations in all areas of the Orderville Canyon/Orderville Gulch Region for all such segments of the public. Kane County specifically opposes restricting outdoor recreation in the Orderville Canyon/Orderville Gulch Region to just one form - available for those who have enough time, money and athletic ability to hike into the destinations of the Orderville Canyon/Orderville Gulch Region for a so-called "solitude wilderness experience" or the like.
- Accordingly, all roads in the Orderville Canyon/Orderville Gulch Region that are part of Kane County's duly adopted transportation plan should remain open to motorized travel. None of them should be closed, and Kane County should have the continued ability to maintain and repair those roads, and where reasonably necessary make improvements thereon. All trails in the Orderville Canyon/Orderville Gulch Region that have been open to OHV use should continue to remain open. Traditional levels of wildlife hunting and fishing should continue. Traditional levels of group camping, group day use and all other traditional forms of outdoor recreation -motorized and non-motorized - should continue. In addition, all roads and trails administered by the BLM, in addition to those maintained by Kane County, should remain open to public use, and any attempt to close any road or trail should be subject to the NEPA process.

5. Maintain and Keep Open All Roads in the Orderville Canyon/Orderville Gulch Region That Appear on Kane County's Most Recent Transportation Map, and Provide For Such Additional Roads and Trails As May Be Necessary From Time to Time

- Kane County's transportation plan includes an official county-wide

transportation map, available to the public for viewing and copying, showing all public roads and trails maintained by the County.

- That portion of Kane County's official transportation map which shows all public roads and trails in the Orderville Canyon/Orderville Gulch Region is considered to be part of Kane County's plan specifically applicable to the Orderville Canyon/Orderville Gulch Region. Those roads should remain open to public travel. In addition, all roads administered by the BLM should remain open to public use, and any attempt to close those roads should be subject to the NEPA process.
- Kane County plans to keep all such roads in the Orderville Canyon/Orderville Gulch Region open and reasonably maintained and in good repair. Kane 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 Kane County and BLM cannot reach an agreement on such proposed improvements after reasonable efforts at consultation.
- Additional roads trails and transportation corridors may be needed in the Orderville Canyon/Orderville Gulch Region from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the Orderville Canyon/Orderville Gulch Region, including livestock operations and improvements, solid, fluid and gaseous mineral operations, energy transportation, 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 in the Orderville Canyon/Orderville Gulch Region to accomplish the purposes of those lands. Additional access should be provided where a need is demonstrated and can be accomplished while providing required protection to other resources and uses.

6. Manage the Orderville Canyon/Orderville Gulch Region So As to Not Interfere With The Property Rights of Private Landowners Located in That Region.

- There are parcels of private fee land located in or around the Orderville Canyon/Orderville Gulch Region.
- Land management policies and standards on BLM land in the Orderville Canyon/Orderville Gulch Region should not interfere with the property rights of private landowners in the region to enjoy and engage in traditional uses and activities on their private property, consistent with controlling County zoning and land use laws.

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

7. Manage the Orderville Canyon/Orderville Gulch Region 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 That Region.

- Located within or nearby the Orderville Canyon/Orderville Gulch Region are sections of school and institutional trust lands 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 by Utah's Enabling Act and State Constitution.
- As trustee, SITLA has a fiduciary responsibility to manage those school trust lands to generate maximum revenue therefrom, by making them available for sale and private development, and for other multiple use consumptive 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.
- Land management policies and standards in the Orderville Canyon/Orderville Gulch Region should not interfere with SITLA's ability to carry out its fiduciary responsibilities.
- 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 SITLA's fiduciary responsibilities.

8. Managing Part or All of The Orderville Canyon/Orderville Gulch Region For So-Called Wilderness Characteristics Would Violate FLPMA, Contradict The State's Public Land Policy and Contradict The Foregoing Plans of Kane County For Managing The Orderville Canyon/Orderville Gulch Region

- As Utah Code § 63-38d-401(6)(b) indicates, managing the Orderville Canyon/Orderville Gulch Region 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 Kane County's. A so-called "wilderness characteristics" management standard for the Orderville Canyon/Orderville Gulch Region is de facto wilderness management by another name. It is incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region. Kane County has formally taken a position that no BLM lands in Kane County should be designated as

wilderness.

- A so-called “wilderness characteristics” management standard for the Orderville Canyon/Orderville Gulch Region also violates FLPMA and the 2003 Settlement Agreement between Utah and Department of Interior.
 - Managing Post-603 Lands² pursuant to the Interim Management Policy of 1979 (“IMP”) is inconsistent with BLM authority. Agreement p. 6 & 13.a;
 - Managing 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;
 - 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;
 - DOI/BLM will not establish, manage “*or otherwise treat*” Post-603 Lands as WSAs or as wilderness pursuant to the Section 202 process absent congressional authorization. Agreement p. 14 & 7;
 - DOI/BLM will remove from the proposed revised resource management plans in the Vernal, Price, Richfield, Kanab, Monticello and Moab Districts any and all references or plans to classify or manage Post-603 BLM lands “*as if*” they are or may become WSAs. Agreement p. 14 & 7.

9. Imposing An Area of Critical Environmental Concern (“ACEC”) Designation, Including Any ACEC Alternatives Currently Under Consideration in the Kanab Resource Management Plan Revision Process, Would Contradict Kane County’s Plan For Managing The Orderville Canyon/Orderville Gulch Region

- It is Kane County’s policy that no part of the Orderville Canyon/Orderville Gulch Region 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).
 - The proposed ACEC is limited in geographic size and that the

² As that term is defined in the *Utah v. Norton* settlement agreement of April 11, 2003.

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.

- The proposed ACEC is limited only to areas that are already developed or used or to areas where no development is required.
- The proposed ACEC designation and protection are necessary to protect not just a change in ground conditions or visual resources that can be reclaimed or reversed eventually (like reclaiming a natural gas well site after pumping operations are complete). Rather, the damage must be shown in all respects to be truly *irreparable* and justified on short term and long term horizons.
- The proposed ACEC designation and protection will not be applied redundantly over existing protections available under FLPMA multiple use sustained yield management, the Wilderness Act, threatened and endangered species designations or any other special designation or law..
- The proposed ACEC designation is not a substitute for a wilderness suitability determination, nor is it offered as a means to manage a non WSA for so-called wilderness characteristics.
- The foregoing summarizes the ACEC criteria of the State of Utah as well as Kane County. See Utah Code § 63-38d-401(8)(c). And the foregoing summarizes the criteria of FLPMA.
- As of December 12, 2007 none of the ACEC alternatives being considered in the Kane County portion of the current Kanab Resource Management Plan ("RMP") revision process, other than the ACEC's that exist currently, meets Kane County's above-stated ACEC planning criteria. Adopting any of these ACEC's under any of the proposed alternatives would be incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region.

10. Including Any River Segment in or Near the Orderville Canyon/Orderville Gulch Region in the National Wild and Scenic River System Would Violate the National Wild and Scenic Rivers Act and Related Regulations, Contradict the State's Public Land Policy, and Contradict the Foregoing Plans of Kane County For Managing The Orderville Canyon/Orderville Gulch Region

- It is Kane County's policy that no river segment should be included in the National Wild and Scenic River System unless

- Water is present and flowing at all times.
- The water-related value is considered outstandingly remarkable within a region of comparison consisting of one of three physiographic provinces of the state, and that the rationale and justification for the conclusion are disclosed.
- BLM fully disclaims in writing any interest in water rights with respect to the subject segment.
- It is clearly demonstrated that including the segment in the NWSR system will not prevent, reduce, impair, or otherwise interfere with the state and its citizen's enjoyment of complete and exclusive water rights in and to rivers of the state as determined by the laws of the state, nor interfere with or impair local, state, regional, or interstate water compacts to which the State or Kane County is a party.
- The rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed.
- It is clearly demonstrated that BLM does not intend to use such a designation to improperly impose Class I or II Visual Resource Management prescriptions.
- It is clearly demonstrated that the proposed addition will not adversely impact the local economy agricultural and industrial operations, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment.
- The foregoing also summarizes the wild and scenic river criteria of the State of Utah, Utah Code § 63-38d-401(8)(a), as well as the criteria of Kane County.
- Neither the so-called Deep Creek segment, the so-called North Fork Virgin River segment, the so-called Order/Esplin Gulch segment, nor any other river segment in or in or near the Orderville Canyon/Orderville Gulch Region meets the above criteria. Hence, no river segment in or near the Orderville Canyon/Orderville Gulch Region, including the so-called Deep Creek segment, the so-called North Fork Virgin River segment, and the so-called Order/Esplin Gulch segment, should be

included in the National Wild and Scenic River system.

- As of December 12, 2007, the terms prescribed in any of the alternatives being considered in the proposed revised Kanab RMP for managing proposed wild and scenic river segments in or near the Orderville Canyon/Orderville Gulch Region, including the so-called Deep Creek segment, the so-called North Fork Virgin River segment, and the so-called Order/Esplin Gulch segment, constitute de facto wilderness management by another name. They are incompatible with and would therefore frustrate and defeat the foregoing plans of Kane County for managing the Orderville Canyon/Orderville Gulch Region.

11. A Visual Resource Management Class I or II Rating for Any Part of the Orderville Canyon/Orderville Gulch Region Would Contradict the State's Public Land Policy and Contradict Kane County's Plan For Managing the Orderville Canyon/Orderville Gulch Region

- The objective of BLM Class I Visual Resource Management is not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.
- The objective of BLM Class II Visual Resource Management is generally not compatible with, and would therefore frustrate and interfere with, Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.
- Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region is generally consistent with either Class III or Class IV, depending on the precise area.

12. Restrictions and Unreasonably Burdensome Limitations on Surface Disturbing Activities In Areas of Medium to High Resource Potential in the Orderville Canyon/Orderville Gulch Region. Would Contradict the State's Public Land Policy and Contradict Kane County's Plan for Managing the Orderville Canyon/Orderville Gulch Region

- BLM restrictions and unreasonably burdensome seasonable limitations on surface disturbing activities are not compatible with, and would therefore frustrate and interfere with Kane County's foregoing plan clarification for the Orderville Canyon/Orderville Gulch Region.