

# GUIDE TO Central Wasatch National Conservation and Recreation Area Act August 19, 2019 Discussion Draft

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*The accompanying narrative and table describe changes to the October 26, 2018 working draft.*

## GUIDE TO REVIEW DRAFT LEGISLATION

There have been significant revisions made to H.R. 5718 – Central Wasatch National Conservation and Recreation Area (NCRA) Act introduced on July 11, 2016. H.R. 5718 sought to implement a central objective of Mountain Accord (*Mountain Accord Agreement, signed July 13, 2015, <https://cwc.utah.gov/theaccord/>*). Beginning in June 2018, the Central Wasatch Commission has undertaken a complete review of the legislation with several periods of public comment and responses. In November 2018, the Central Wasatch Commission unanimously adopted a version of the legislation to recommend for Congressional consideration, with proposed amendments to the 10/26/2018 draft (<https://cwc.utah.gov/legislation-and-federal-designation/>).

Our expectation is that this August 19, 2019 Discussion Draft will undergo another series of reviews by interested parties and jurisdictions, a public comment period, and revisions to address that input for Central Wasatch Commission consideration. Below is a narrative and table to help the draft legislation reviewer better understand some of the proposed changes for further consideration.

## TECHNICAL CHANGES

In order to “clean up” the legislative text and follow correct legislative language, technical changes have been made throughout the legislation. These changes include renumbering sections, re-organizing some sections in the legislation, changing text to existing statutory phrasing for consistency, and modifications recommended by congressional and legislative staff. The accompanying table identifies where sections have been moved and renumbered.

Some other changes reflect the Central Wasatch Commission’s direction in November 2018 and address a few issues that have come to the forefront in the last several months. These Bill changes are described in the following sections:

## LANDS MANAGED ACCORDING TO DESIGNATION

Multiple sections of the document have been restructured to ensure lands are managed according to their individual designation – NCRA lands, wilderness areas, and Watershed Protection Area – and to avoid confusion of where provisions will be applied within the NCRA boundary. For example, many provisions of Section 6 – General Provisions, have been moved to Section 3 – Central Wasatch NCRA because they apply only to NCRA lands and not wilderness areas. Other sections have been moved for consolidation and clarity, such as moving all ski area provisions to the same section.

## REMOVAL OF OUTSIDE BOUNDARY OF CENTRAL WASATCH NATIONAL CONSERVATION AND RECREATION AREA ON MAP

To reflect the different designations and reinforce the exclusion of private lands from consequences of new designations, the outside boundary in prior maps for the NCRA has been removed. The boundary coincided with the National Forest boundary, but it created some confusion for private property owners where private lands were within the National Forest boundary. In this version of the legislation, the outside boundary has been removed and NCRA lands are depicted as an overlay to the National Forest lands that would be designated. Private lands have no overlay of a new designation. In addition, and consistent with an expressed desire of the four ski areas in the Central Wasatch with public lands, the ski permit areas where resort skiing is permitted by the Forest Service are not within the NCRA overlay.

## WHITE PINE WATERSHED PROTECTION AREA

The White Pine area will be designated a Watershed Protection Area to better align with the goals of managing the area separate from the NCRA. The purposes of the Watershed Protection Area are to:

1. Ensure the protection and preservation of the natural values and characteristics of the Watershed Protection Area, including outstanding water quality, scenery, and fish and wildlife habitat;
2. Assure that existing rights for ongoing operations of the White Pine Dam are protected; and
3. Provide for the conservation of recreation, historic, scientific, and cultural resources within the Watershed Protection Area.

To clarify how the Watershed Protection Area will be managed, an administration section has been added. The “No Effect on Non-Federal Land” and “Access” provisions included in the NCRA section have been included in the Watershed Protection Area to make sure private lands and interests and associated access requirements are not affected by the designation.

## NON-FEDERAL (PRIVATE) LANDS FOR EXCHANGE

As directed by the Central Wasatch Commission, Section 7 – Land Exchanges now includes language that allows for the U.S. Forest Service to receive split estate lands from the ski areas to further clean up land ownership in the canyons. A provision has also been inserted allowing ski areas to add private lands to the exchange that are not be identified on the land exchange maps. This provides an opportunity for the ski areas to offer additional non-federal lands.

## TRANSPORTATION IMPROVEMENTS

The second central objective of Mountain Accord was to implement solutions to the increasing traffic congestion in the Central Wasatch Mountains, especially Little and Big Cottonwood Canyons. The Utah State Legislature appropriated \$66 million dollars in 2017 and additional \$13 million dollars in 2019 to help achieve that objective. The Utah Department of Transportation (UDOT) initiated an Environmental Impact Statement for Little Cottonwood Canyon. With the Central Wasatch Commission, UDOT has also begun the Cottonwood Canyons Transportation Action Plan (CCTAP) to provide an

analysis of and solicit public input to decide on the best solutions for a mountain transportation system that will address current traffic problems, build on past studies and plans, and establish a direction for future transportation investment in the Central Wasatch Mountains. These local actions are scheduled to lead to decision documents by early 2021. In the interim, measures are being pursued to improve traffic flow, provide better communication tools for Cottonwood Canyons transportation users, and introduce bus improvements.

Federal legislation directing a specific solution for the canyons would be inappropriate for the local area, but certain provisions can help facilitate and support the local decision making. To further clarify that the designation will accommodate and not impede transportation improvements and associated facilities in the canyons, these additions have been made:

- The Cottonwood Canyons Transportation Action Plan has been added to the list of plans that the NCRA management plan will incorporate as part of the long-term plan.
- The Transportation Section now states explicitly that the designation does not prohibit “transportation improvements and associated public amenities, including roadway improvements, public transportation, mountain transportation systems, transit stops, stations, trailheads, bike lanes, restrooms, and pedestrian infrastructure.”
- New facilities, including parking areas, trailheads, and restrooms, are expressly authorized within the designation.
- The provision in federal transportation law that might be interpreted as prohibiting any use of Forest Service lands for transportation improvements has been clarified to indicate that decisions relating to transportation improvements in the Central Wasatch NCRA would not constitute a violation of federal transportation law.

**Central Wasatch NCRA Act Discussion Draft Changes – Aug 19, 2019**

<b>10/26/2018 Draft</b>	<b>08/19/2019 Draft</b>	<b>Change</b>	<b>Notes</b>
Sec 2(a)	Sec 2(a)	Reordered, Added Text, Removed Text	Reordered definitions alphabetically; added definitions (Cottonwood Canyons Transportation Plan, Mountain Transportation System, Watershed Protection Area); modified definition for “ski area”.
Sec 3(a)	Sec 3(a)	Changed Text	Technical corrections.
Sec 3(b)(1)	Sec 3(b)(1)	Changed Text	Removed “wilderness (within wilderness areas)” because the NCRA no longer includes wilderness lands within the boundary.
Sec 3(c)	Sec 3(d)	Moved, Changed Text	Technical corrections.
Sec 3(c)(2)	Sec 3(d)(3)	Moved, Changed Text	Broadened definition of private interests to be consulted.
Sec 3(c)(3)	Sec 3(d)(4)	Moved, Added Text	Added the Cottonwood Canyons Transportation Action Plan.
Sec 3(c)(4)	Sec 3(d)(2)	Moved, Changed Text	Retitled section to “Requirements.” “such as Albion Basin Special Botanical Area” was removed from (B) and now reads “evaluate such areas for special administrative designations.” 3(c)(4)(C) was moved to 3(i)(1). 3(c)(4)(G) was moved to 3(i)(3). (H) was removed due to conflict of laws with existing access requirements.
Sec 3(c)(5)	Sec 3(d)(1)	Moved	
Sec 3(c)(6)		Removed	
Sec 3(d)	Sec 3(c)	Moved, Changed Text	Retitled to “Administration.” Removed (A). Made technical changes to (1) and (2) Uses.
Sec 3(d)(3)	Sec 3(o)	Moved, Changed Text	Clarified authorized activities and permitting language.
Sec 3(e)(1)		Removed	
Sec 3(e)(2)	Sec 3(i)(2)	Moved	Moved so all ski area related sections are in one place.
Sec 4	Sec 4	Changed Text	Made technical corrections to paragraph numbering and Administration of Land (e)/(c).
Sec 5	Sec 5	Changed Text	Changed designation from Special Management Area to Watershed Protection Area. Technical corrections.

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	Sec 5(b)	Added Text	Purposes of the Watershed Management Area added.
Sec 5(b)(1)	Sec	Added Text	Administration Section added to clarify management of the Watershed Protection Area. Made technical corrections.
Sec 5(b)(2)	Sec 5(c)(3)(A)	Moved, Changed Text	Made technical corrections.
Sec 5(b)(3)	Sec 5(c)(3)(B)	Moved, Changed Text	Made technical corrections.
Sec 5(b)(4)	Sec 5(c)(4)	Moved, Changed Text	Made technical corrections.
	Sec 5(c)(3)(C)	Added Text	Added prohibition on construction of new roads.
Sec 5(b)(5)	Sec 5(c)(3)(D)	Moved	
Sec 5(b)(6)		Removed	
	Sec 5(d)	Added Text	Added “No Effect On Non-Federal Land” Section.
	Sec 5(e)	Added Text	Added “Access” Section.
Sec 6(a)(1)	Sec 3(e)	Moved, Changed Text	Made technical corrections.
	Sec 6(a)	Added Text	Added “Conflict of Laws” provision.
Sec 6(a)(2)(A)	Sec 3(n)	Moved	
Sec 6(a)(2)(B)	Sec 3(n)	Moved, Changed Text, Added Text	Retitled “Effect on Private Property Rights”. Made technical corrections. Added private property owners do not have to allow public access to private lands.
Sec 6(a)(3)	Sec 3(c)(2)(B), (C)	Moved, Changed Text	Made technical corrections.
Sec 6(a)(4)	Sec 3(f)	Moved, Changed Text	Made technical corrections, deleted duplicative text.
Sec 6(a)(5)	Sec 3(g)	Moved, Changed Text	Made technical corrections.
Sec 6(a)(6)	Sec 3(k)	Moved, Changed Text	Made technical corrections.
Sec 6(a)(7)	Sec 3(j)	Moved	
Sec 6(a)(8)	Sec 3(l)	Moved	
Sec 6(a)(8)(A)	Sec 3(l)(1)	Changed Text	Changed text to state the NCRA does not prohibit transportation improvements and associated infrastructure within the NCRA. Added “mountain transportation systems” to the list of transportation improvements .
Sec 6(a)(8)(B)(ii)	Sec 3(l)(2)(B)	Changed Text	Made technical corrections to be consistent with existing law.

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Sec 6(a)(9)	Sec 3(h)	Moved	
Sec 6(a)(10)	Sec 3(i)	Moved, Changed Text	Retitled “Ski Area.” Made technical corrections.
Sec 6(a)(10)(A), (B), (C)		Removed	Removed language as the land within the ski area permit boundaries are no longer within the NCRA.
Sec 6(a)(11)	Sec 3(m)	Moved, Changed Text	Removed definition of facilities for consistency throughout document.
Sec 6(a)(11)(B)	Sec 3(m)(2)	Changed Text	Expressly authorize visitor facilities within the NCRA.
Sec 6(a)(11)(C)	Sec 3(m)(2)	Moved	
Sec 6(a)(12)(B),(C)	Sec 6(b)	Moved, Changed Text	Made technical corrections.
Sec 6(a)(12)(D)	Sec (3)(c)(2)(D)	Moved, Changed Text	Made technical corrections.
Sec 6(a)(13)	Sec 6(c)	Moved, Changed Text	Made technical corrections.
Sec 6(a)(14)	Sec 6(d)	Moved	
Sec 7(d)(4)(A)	Sec 7(b)(1)	Moved, Changed Text	Changed text to allow for non-Federal lands not identified on the map to be included in the exchange.
Sec 7(d)(4)(B)	Sec 7(a)(2)(A), (B), (C)	Moved, Changed Text	Added “or interests in land” to allow for split estate exchanges.
Sec 7(d)(5)	Sec 7(d)(4)	Moved	
Sec 7(d)(6)	Sec 7(e)	Moved, Changed Text	Made technical corrections.
Sec 7(d)(7)		Removed	
Sec 7(d)(8)	Sec 7(f)	Moved, Changed Text	Made technical corrections to simplify.
Sec 7(d)(9)	Sec 7(g)	Moved, Changed Text	Made technical corrections.
Sec 7(d)(10)	Sec 7(h)	Moved	
Sec 7(d)(11)	Sec 7(i)	Moved	
Sec 7(d)(12)	Sec 7(j)	Moved	
Sec 7(d)(13)	Sec 7(k)	Moved, Changed Text	Made technical corrections.
Sec 8	Sec 6(e)	Moved, Changed Text	Made technical corrections.
Sec 9	Sec 8	Moved	