

## Wilderness Fact Sheet Pershing County Lands Bill

The Pershing County Economic Development and Conservation Act (draft version dated 4/14/2016) would:

- Designate six areas as wilderness totaling about 161,000 acres. These wilderness areas would be managed under the provisions in the 1964 Wilderness Act.
- Release about 120,000 acres of BLM wilderness study areas for uses other than wilderness. This would include all of the Selenite Mountains WSA, much of the Mt. Limbo, Tobin Range and Augusta Mountains WSAs and some of the China Peak WSA.
- The wilderness language in the draft bill is the same that has been used in all of the other Nevada public land legislative efforts.

Mount Limbo Wilderness	11,900 acres
Bluewing Wilderness	25,500 acres
North Sahwave Wilderness	13,900 acres
Tobin Crest Wilderness	38,700 acres
Fencemaker Wilderness	45,600 acres
Augusta Mtns Wilderness	26,514 acres

(these acres may change as boundary discussions continue with local stakeholders)



- Without legislation all 169,000 acres of five WSAs largely in Pershing County will remain and be managed as wilderness study areas until such time as Congress passes legislation in the future to either designate or release these WSA acres.
- This legislative opportunity will allow ranchers and other stakeholders to adjust boundaries of WSAs to resolve longstanding management concerns and conflicts.
- This legislative effort allows Pershing County to settle the issues of WSAs once and for all.
- The BLM can NOT change the boundaries of WSAs nor can they “release” any portion of a WSA. ONLY Congress can do that.
- Once the 120,000 acres of wilderness study areas have been released as a result of this legislation, they would be available for mineral exploration to the same degree as the surrounding BLM lands.

## Questions and Answers

### ***How will these areas be managed for grazing?***

Under the Bill, grazing within designated Wilderness Areas where established prior to the passage of the Pershing County bill shall continue to be permitted. Further, Congress has given direction to the land management agencies on how grazing will be managed. These are called the Congressional Grazing Guidelines and they are cited in the legislation as House Report No. 101-405. They are reprinted in their entirety at the end of this sheet.

### ***Can changes still be made to the Wilderness boundaries?***

Yes, there is still an opportunity for ranchers and other stakeholders to help adjust boundaries to ensure access to grazing facilities, etc., even after the bill has been introduced. Other boundary adjustments can also be made to resolve other resource conflicts.

### ***What about wildfire and invasive weeds in Wilderness?***

The legislation says: “Wildfire, Insect, and Disease Management.—In accordance with section 4(d)(1) of the Wilderness Act, the Secretary may take such measures in the wilderness areas as are necessary for the control of fire, insects, and diseases (including, as the Secretary determines to be appropriate, the coordination of the activities with a State or local agency).”

### ***Will I still be able to hunt in Wilderness?***

The legislation says: “In accordance with section 4(d)(7) of the Wilderness Act, nothing in this Act affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas. In furtherance of the purposes and principles of the Wilderness Act, the Secretary may conduct any management activities in the wilderness areas that are necessary to maintain or restore fish and wildlife populations and the habitats to support the populations...”. Many hunters believe that their highest quality hunting experiences take place in wilderness.

### ***What if I have a mining claim or lease in an area that is designated for Wilderness?***

Once areas are designated as wilderness, they are subject to valid existing rights (such as valid mining claims and leases) but the remainder of the area will be withdrawn from mineral leasing laws.

***Why are there areas being considered that are not wilderness study areas?***

During the Checkerboard Lands Committee process sponsored by Pershing County Commission over the period of time from 2004-2006, wilderness was one of the topics addressed. After a series of meetings and field trips, the Checkerboard Committee recommended to the Pershing County Commission that Bluewing, North Sahwave, Fencemaker, and Tobin Crest areas be considered for wilderness. The compromises made at that time were agreements to completely release the Selenite WSA and well as large portions of Mt. Limbo WSA and the Tobin Range WSA. This proposal was then adopted by the Pershing County Commission on March 1, 2006.

When the Winnemucca BLM began working on identifying resource inventory information as a part of the Resource Management Plan, they included the four non-WSA areas identified by the Checkerboard Lands Committee as having wilderness values. When the Winnemucca BLM resource management plan was finalized, these four areas were included as part of the final decision.

When the Pershing County lands bill process started up again in 2014, these recommendations were brought forward again with some revisions. Additional acres were proposed as wilderness in the Augusta Mountains and Tobin Range because of those areas having Greater Sage-Grouse habitat. The additional habitat protection that wilderness afforded counted positively towards state efforts to protect Sage-Grouse habitat.

***Can areas that aren't wilderness study areas be designated as Wilderness?***

Yes, there are several examples of this in Nevada including in Clark County (Wee Thump Joshua Tree Wilderness), Lincoln County (Big Rocks Wilderness), White Pine County (Becky Peak and Bristlecone Wilderness) and Lyon County (Wovoka Wilderness). Congress makes the qualitative and factual determination of what should and shouldn't be designated as Wilderness by law. No federal land management agency has that authority.

***Some of the areas proposed for Wilderness were recommended "non-suitable" by the BLM. Why are they being considered for Wilderness?***

The Winnemucca BLM made their wilderness suitability recommendations in 1987 as part of the Winnemucca Wilderness Recommendations Final Environmental Impact Statement (EIS). These recommendations are over 30 years old and many things have changed since they were made. The current Pershing County legislative process gives everyone a chance to re-look at the issues and the original WSA boundaries. When BLM made their recommendations it was a onetime shot and those recommendations cannot be changed by the BLM. Only Congress can designate or release areas from wilderness study area status.

There is often confusion on “non-suitable” recommendations. As a part of the EIS effort in the mid-1980’s BLM looked at all the wilderness study areas (WSAs) and weighed their wilderness values against other resource values and made recommendations on which WSAs or portions of WSAs should be recommended to Congress as “suitable or non-suitable” for Wilderness. Every WSA has Wilderness values, it’s just that the BLM may have felt at the time that the other values outweighed wilderness values. Because so much time has gone by, those 30 year old recommendations have been given limited weight by Congress.

***How will activities outside of wilderness be affected by wilderness designation?***

The language in the legislation is very clear about this and is reflected below:

Adjacent Management (1) IN GENERAL.—Congress does not intend for the designation of the wilderness areas to create protective perimeters or buffer zones around the wilderness areas.

(2) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

***Are Wilderness Areas managed as Class I Air Quality Areas?***

The only Wilderness areas mandated as Class I Air Quality Areas were those areas over 5,000 acres in existence on August 7, 1977. All other BLM wilderness areas are managed as Class II areas. Class II classification allows moderate deterioration of air quality associated with well-managed growth.

## CONGRESSIONAL GRAZING GUIDELINES [House Report No. 101-405]

Section 4(d)(4)(2) of the Wilderness Act states: "the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture". The legislative history of this language is very clear in its intent that livestock grazing, and activities and the necessary facilities to support a livestock grazing program, will be permitted to continue in National Forest wilderness areas, when such grazing was established prior to classification of an area as wilderness.

Including those areas designated in 1964 by the Wilderness Act, Congress has designated a large number of wilderness areas, including areas which are managed the Forest Service, Fish and Wildlife Service, and Bureau of Land Management. A number of these areas contain active grazing program, which are conducted pursuant to existing authorities. In all such cases, when enacting legislation classifying an area as wilderness, it has been the intent of the Congress that the cited language of the Wilderness Act would apply to grazing within wilderness areas administered by all Federal agencies. To avoid any possible confusion, however, the Committee believes it would appropriate to reiterate the guidelines and policies (which have been set out previously in the Committee's Report on H.R. 5487 of the 96th Congress, House Report N. 96-617) that are to be utilized by BLM in implementing the relevant provisions of the Wilderness Act with respect to livestock grazing in the wilderness areas designated by this bill. It is the intention of the Committee that these guidelines and policies be considered in the overall context of the purposes and direction of the Wilderness Act of 1964 and this bill, and that they be promptly, fully, and diligently implemented and made available to Bureau of Land Management personnel at all levels and to all holders of permits for grazing in the wilderness areas designated by this bill.

### **The guidelines and policies are as follows:**

**1. There shall be no curtailments of grazing in wilderness areas simply because an area is, or has been designated as wilderness, nor should wilderness designations be used an excuse by administrators to slowly "phase out" grazing.** Any adjustments in the numbers of livestock permitted to graze in wilderness areas should be made as a result of revisions in the normal grazing and land management planning and policy setting process, giving consideration to legal mandates, range condition, and the protection of the range resource from deterioration.

It is anticipated that the number of livestock permitted to graze in wilderness would remain at the approximate levels at the time an area enters the wilderness system. If land management plans reveal conclusively that increased livestock numbers or animal unit months (AUMs) could be made available with no adverse impact on wilderness values such as plant communities, primitive recreation, and wildlife populations or habitat, some increases in AUMs may be permissible. This is not to imply, however, that wilderness lends itself to AUM or livestock increases and construction of

substantial new facilities that might be appropriate for intensive grazing management in non-wilderness areas.

**2. The maintenance of supporting facilities, existing in an area prior to its classification as wilderness (including fences, line cabins, water wells and lines, stock tanks, etc.), is permissible in wilderness.** Where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment. This may include, for example, the use of backhoes to maintain stock ponds, pickup trucks for major fence repairs, or specialized equipment to repair stock watering facilities. Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness. For example, motorized equipment need not be allowed for the placement of small quantities of salt or other activities where such activities can reasonably and practically be accomplished on horseback or foot. On the other hand, it may be appropriate to permit the occasional use of motorized equipment to haul large quantities of salt to distribution points. Moreover, under the rule of reasonableness, occasional use of motorized equipment should be permitted where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment. Such motorized equipment uses will normally only be permitted in those portions of a wilderness area where they had occurred prior to the area's designation as wilderness or are established by prior agreement.

**3. The replacement or reconstruction of deteriorated facilities or improvements should not be required to be accomplished using "natural materials", unless the material and labor costs of using natural materials are such that their use would not impose unreasonable additional costs on grazing permittees.**

**4. The construction or new improvements or replacement of deteriorated facilities in wilderness is permissible if in accordance with these guidelines and management plans governing the area involved.** However, the construction of new improvements should be primarily for the purpose of resource protection and the more effective management of these resources rather than to accommodate increased numbers of livestock.

**5. The use of motorized equipment for emergency purposes such as rescuing sick animals or the placement of feed in emergency situations is also permissible.** This privilege is to be exercised only in true emergencies, and should not be abused by permittees.

In summary, subject to the conditions and policies outlined in this report, the general rule of thumb on grazing management in wilderness should be that activities or facilities established prior to the date of an area's designation as wilderness should be allowed to remain in place and may be replaced when necessary for the permittee to properly administer the grazing program. Thus, if livestock grazing activities and facilities were established in an area at the time Congress determined that the area was suitable for wilderness and placed the specific area in the wilderness system, they should be allowed to continue. With respect to areas designated as wilderness prior to the date of this Act, these guidelines shall not be considered as a direction to reestablish uses where such uses have been discontinued.