RESOLUTION #15-09

A RESOLUTION OF THE DUCHESNE COUNTY, UTAH COMMISSIONERS CALLING ON THE CONGRESS OF THE UNITED STATES TO PASS UTAH CONGRESSMAN ROB BISHOP'S BILL COMMONLY KNOWN AS THE UTAH PUBLIC LANDS INITIATIVE, CONSISTENT WITH THE TERMS LISTED HEREIN

WHEREAS, Duchesne County has been invited by Utah Congressman Rob Bishop to participate in the "Public Lands Initiative" and make recommendations regarding the designation of federal lands within Duchesne County; and

WHEREAS, the Duchesne County Commissioners believe that amending the designation of certain federal lands will be beneficial to the citizens of Duchesne County as it will protect cultural and natural resources, protect private property rights and benefit citizens, businesses and visitors who use federal lands for agricultural, commercial, educational, industrial and recreational purposes; and

WHEREAS, Duchesne County recognizes that its citizens and public officials, as well as business interests operating in the County, are uniquely qualified to identify and analyze the potential effects of federal land use designations within Duchesne County and therefore requests that Congress give substantial deference to the recommendations made by Duchesne County over those of special interest groups with no connection to or standing with the County; and

WHEREAS, Duchesne County has coordinated with surrounding Counties and recognizes that federal land management for similar landscapes extending across County boundaries should be consistent and that such consistency will lessen confusion and conflicts for federal land managers and federal land users in the future;

WHEREAS, Duchesne County has established a Public Land Use Committee, consisting of citizens with backgrounds in Agriculture, Cultural and Historic Resources, Economic Development, Energy & Minerals, Natural Resources, Timber Resources and Water Resources; and

WHEREAS, the Duchesne County Public Land Use Committee has conducted a public meeting on April 22, 2015 to review the County's response to Congressman Bishop's invitation to participate in the Public Land Initiative and prepared a recommendation to the Duchesne County Commissioners which it believes will best protect sensitive areas, including areas that would benefit from designation as wilderness or national conservation areas, while balancing the historic and ongoing use of lands for agricultural, commercial, educational, industrial and recreational purposes and promoting to the greatest extent possible, multiple use of federal lands consistent with the underlying purposes of the Federal Lands Policy & Management Act; and

WHEREAS, public comments received at the April 22, 2015 Public Lands Committee meeting were unanimous in opposition to the creation of new wilderness designations in Duchesne County; and

WHEREAS, Duchesne County contains 289,311 acres of the High Uintas Wilderness, which was established in 1984 and constitutes 13.8 percent of the total land area in Duchesne County. Duchesne County's previous disproportionate contribution to the national wilderness system should be recognized in the Public Lands Initiative; and

WHEREAS, Duchesne County contains 2,093,615 acres of land, of which 34 percent is managed by the US Forest Service, 10 percent is managed by the Bureau of Land Management, nearly 20 percent is Indian land and about 8 percent by State agencies, the Bureau of Reclamation and the Utah Mitigation and Conservation Commission; leaving only 28 percent of Duchesne County as private land; and

WHEREAS, the scarcity of private lands in Duchesne County decreases the County's ability to generate revenue to fund local services and leads to a dependence on multiple use of federal lands to achieve the economic base to support local families.

NOW, THEREFORE, BE IT RESOLVED by the Duchesne County Commission, that the following recommendations are made to Congress as Duchesne County's conditional participation in the Public Lands Initiative:

SECTION 1. A portion of the proposed Desolation Canyon Wilderness Area, connecting to like designations in Uintah and Carbon Counties, shall be established in Duchesne County as shown on the Map identified as **Exhibit A**, attached hereto and incorporated herein by reference. Management of this wilderness area by the Bureau of Land Management shall be consistent across the county lines.

SECTION 2. An extension of the High Uintas Wilderness Area, connecting to a like designation in Uintah County, shall be established in Duchesne County as shown on the Map identified as **Exhibit B**, attached hereto and incorporated herein by reference. Management of this wilderness area by the U.S. Forest Service shall be consistent across the county lines.

SECTION 3. A Nine Mile Canyon National Conservation Area, replacing the Nine Mile Canyon Area of Critical Environmental Concern, and connecting to a like designation in Carbon County, Utah, shall be established in Duchesne County as shown on the Map identified as **Exhibit C**, attached hereto and incorporated herein by reference. Management of this area shall be consistent across the county lines and shall be as set forth in Exhibit C of Carbon County Resolution #2015-01.

SECTION 4. In exchange for the establishment of the wilderness and conservation areas listed in Sections 1-3 above, and in recognition of Duchesne County's 1984 contribution of 289,311 acres of land to the national wilderness system, Duchesne County's participation in the Public Lands Initiative is conditioned upon all of the following:

A. Vernal RMP. The environmental groups that filed suit against the Vernal Resource Management Plan of 2008 shall withdraw this lawsuit and refrain from filing future lawsuits challenging the Vernal RMP. This agreement does not preclude challenge of future Vernal BLM RMPs.

B. Special Designation Areas. All land conservation designations under the Public Lands Initiative in Duchesne County or management agreements executed as part thereof, excepting existing or new wilderness areas, are hereby referred to as "special designation areas" and are, without qualification, subject to and controlled by the terms below.

C. Hard Release and no Future Consideration of Special Designation Areas. If any land is designated as a special designation area as part of the Duchesne County Public Lands Initiative, all other lands in the County, excluding lands already designated by Congress as wilderness pursuant to the Wilderness Act of 1964, shall be released in perpetuity from any further consideration as wilderness, wilderness study areas, roadless areas, national monuments, national parks, national wildlife refuges, national conservation areas, areas of critical environmental concern, federal Antiquities Act designations or other protective management classification as stated in the Utah Public Lands Management Act of 1995 unless the express written consent of the Duchesne County Commission is obtained. No portion of Duchesne County shall be part of the so-called "Red Rocks Wilderness." Such lands shall not be managed for the purpose of protecting their suitability for wilderness designation or their wilderness character and shall remain available for non-wilderness multiple uses, subject to the requirements of other federal laws.

   The parties expressly acknowledge that no further consideration for wilderness or wilderness character of the lands in the County is necessary and all other lands classified as having wilderness characteristics or being roadless are to be released. Congress shall find that the lands to be released do possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values which should be available for non-special designation and for land management consistent with the Multiple Use – Sustained Yield Act of 1960.

Special designation areas do not include, and all parties expressly disclaim designation or creation of any protective perimeter or buffer zone around any special designation area, including wilderness. The fact that activities or uses can be seen or heard from within special designation areas shall not preclude such activities or uses up to the boundary of the special designation area.

D. Active Management of Special Designation Areas. Special designation areas shall be actively managed by local, state and federal agencies to preserve valid existing rights and all grazing rights. Grazing permit holders and other affected parties may employ a full range of management techniques, including, but not limited to, mechanical, chemical, agricultural, natural or other methods as deemed necessary. Permittees, local, state and federal agencies, as stewards of special designation areas, shall fully cooperate and coordinate management efforts to ensure that water, soil, vegetation, timber, mineral, recreation, wildlife and other resources are properly managed in a cohesive and collaborative multiple use stewardship effort. This authority shall include fuel reduction and salvage harvest projects necessary to establish and maintain healthy forests.

E. Grazing. The grazing of livestock in special designation areas shall continue to be regulated by rules, regulations, manuals and handbooks or other guidance that might apply to national forest or public domain lands. Livestock grazing shall be entitled to continue as a valid existing right and shall be entitled to renewal consistent with the following:

1. Grazing levels and season of use shall remain at the same level per permittee when the affected allotment is designated as a special designation area. Grazing levels may increase upon monitoring data developed for a minimum of five (5) years showing that there is additional forage and the increased grazing will not adversely affect vegetation resources.

2. There shall be no reductions in grazing numbers of both active and suspended AUM's or in the season of use in special designation areas simply because an area is, or has been designated as such, nor should any special designation be used by administrators to slowly phase out grazing. Any changes in grazing use shall only be temporary AUM reductions due to drought or other natural occurrences and shall be based on monitoring data of at least five (5) years duration from studies designed to measure change over time and which document a causal link between livestock grazing and resource deterioration. No permanent grazing reductions shall occur if the data fails to show that livestock grazing is a causal factor and does not distinguish livestock impacts from those of wildlife or natural forces, such as drought, wildfire or flood, or other activities, such as recreation. All monitoring shall be conducted in close cooperation, consultation and coordination with the permittees in any affected allotment.

3. The administration of grazing permits shall include the right to access the allotments and private lands using motorized vehicles, if applicable, and to apply the same full range of active management techniques on all range improvements including roads and trails as in any non-special designation area. The term "administration" is not limited to the grazing season and includes access to check on the status of range projects and range resource conditions, research and monitoring, maintenance, repair, construction, reconstruction, and installation of range improvements, trailing and moving livestock according to existing allotment management plans or established grazing practices. Special designation areas, in no way, limit administration of grazing permits.

4. Grazing permits shall be fully transferrable under the same Acts, rules and policies that apply to transfers of grazing permits located in non-special designation areas.

5. Special designation areas within the National Forest System shall not be managed to give priority or preference to wildlife populations or wildlife habitat over livestock grazing. Livestock grazing permits shall not be reduced, discontinued, or suspended due to big horn sheep populations, existing or re-introduced elk, moose, mule deer, mountain goats, wild horses, buffalo or any other wildlife species in special designation areas.

6. Livestock permits shall be renewed for a term of ten (10) years according to existing terms and permits consistent with the above or incorporation of new regulation changes that lengthen the term of the renewal.

F. Vegetation Management. In special designation areas, permittees, local, state and federal entities shall cooperate, consult and coordinate in order to actively manage vegetation with a full range of management tools and techniques including, but not limited to, mechanical, chemical, agricultural, natural, or other methods as deemed necessary by the permittee or entity.

The parties expressly acknowledge the unhealthy state of the forest and timber resources in the County and agree that proper management of that resource, as well as the myriad of resources that will be adversely affected by catastrophic wildfire requires logging, motorized access, mechanical and chemical treatments, as well as monitoring, thinning, reclamation and seeding.

Vegetation management shall also include methods to control non-native, noxious and invasive plant species.

G. Wildlife and Fish Habitat and Population Management. Notwithstanding creation of a special designation area and in accord with the active management principles noted above, Permittees, local, state and federal entities shall be entitled to engage in a full range of active habitat management practices, including those vegetation treatments discussed in Section F above, as well as installation of physical water guzzlers or troughs, gates, fences or other improvements for the purpose of benefitting fish or wildlife habitat.

Motorized vehicle access and the use of mechanical equipment shall be permitted in the establishment of improvements for the purpose of benefitting fish or wildlife habitat.

Habitat improvement and vegetation management shall include reduction in fuel loads, removal or control or invasive or non-native species and removal of decadent or undesirable vegetation to improve habitat or biological diversity.

Wild horses, if any, shall be kept within their Herd Management Area (HMA) and shall be removed from any private, state or federal land outside of the HMA immediately upon notice by any Permittee, local, state or federal entity that wild horses have strayed from their HMA. The parties recognize that responsible management of wild horses is necessary to mitigate negative environmental effects on the range, wildlife habitat, riparian areas and other resources.

Special designation area management will not impair or impede predator control and a full range of methods shall be used to protect and actively manage wildlife and livestock in this effort. Areas established in County plans for habitat management, such as for the Greater Sage Grouse, will be counted as conservation areas for special designation mitigation.

Prior to listing any species as threatened or endangered pursuant to the Endangered Species Act, the U.S. Fish and Wildlife Service and the parties to the Duchesne County Public Lands Initiative agree to exhaust all potential conservation efforts to prevent listing of the species. Conservation efforts may include, but are not limited to, Conservation Plans or Conservation Agreements between federal agencies, the state and private landowners and permittees. All Conservation Plans and Agreements

must be granted a minimum term of ten (10) years to show improvements in habitat or population numbers. Demonstrable improvement will automatically extend the agreement for an additional five (5) year period until the species is stable. The MOU with the Animal and Plant Health Inspection Service (APHIS) will be acknowledged and used for predator control. The U.S. Fish and Wildlife Service will acknowledge this authority and accept state management of wildlife under its sovereign rights.

H. Water Rights. No special designation areas shall include any water rights or the presumption of a water right, whether reserved, unreserved, absolute, conditional or otherwise for any purpose relating to said special designations.

Nothing in the Public Lands Initiative legislation shall have any impact on the certification, development, use, change, maintenance or expansion of water rights to any existing or future use or permit as allowed by Utah State Code within a special designation area, whether such rights are held by a person or other entity.

No special designation area shall impair or impede construction of facilities to develop, divert, change, store, apply or otherwise use water.

Canals, ditches, springs and all other water structures must be accessible to motorized vehicles and equipment for maintenance and protection purposes. Administrative motor vehicle access shall be established for repair and maintenance of the Atwood Lake water impoundment facilities in the High Uintas Wilderness **(See Exhibit D).**

All canals, ditches and water structures shall be protected by an adequate buffer of at least one-half mile on either side of the center of the canal, ditch or structure. Management prescriptions associated with special designation areas shall not conflict with such protection areas.

Stock ponds, watering holes, fencing or the placement of troughs on springs shall be considered improvements.

Any in-stream water right created by the designation of Wild and Scenic Rivers is junior to all absolute and conditional water rights existing before the Duchesne County Public Land Initiative is finalized.

Nothing in the Public Land Initiative legislation shall be construed to take or reduce the State of Utah's sovereign authority over all waters within the State and to make and enforce all laws, rules or regulations or Utah's rights and authority pursuant to the Colorado River Compact of 1922.

I. Watershed Protection. Notwithstanding creation of a special designation area, and in accordance with the conservation principles set forth above, a permittee or local, state or federal agency shall actively manage and employ a full range of management techniques to protect water development, including domestic and agricultural water resources, in a watershed area and to promote watershed health. Watershed protection areas shall be counted as a conservation use.

Vegetation management projects in watershed areas shall include restoration and removal or timber to limit wildfire impacts, protect riparian areas, ensure appropriate water flows and enhance water flows.

Local, state and federal agencies responding to wildfire shall be allowed to use motorized vehicles, mechanical equipment and any other means necessary to protect watersheds. Special designation areas shall be a priority for fire suppression and control to protect water quality and water quantity.

J. Transportation. All roads, two-tracks and historic trails in the County, located within, bordering or reaching a special designation area will continue to be open and accessible by all methods of travel, including motorized vehicles and shall not be closed, obliterated, gated or blocked without the prior approval of the Duchesne

County Commission. This provision is consistent with the active management policies of the special designation areas within the Duchesne County Public Lands Initiative and is necessary to facilitate use of the full range of land management tools.

Pursuant to the Act of July 26, 1866, Chapter 262, Section 8, Stat. 251, 253 codified at 43 USC Section 932, all public trails, roads, livestock byways and other rights of way shall remain open and accessible to historic uses and shall not be closed, obliterated, gated or blocked without the prior approval of the Duchesne County Commission.

Congress shall recognize all Duchesne County RS 2477 claims on public roads crossing federal lands, outside of special designation areas, in the County.

Congress shall allow for motorized travel in all existing or new wilderness in Duchesne County for the purpose of search and rescue in the event of an emergency.

K. Recreation Uses. All existing recreation uses, including hunting, fishing, off-road vehicle travel, snowmobiling and cycling shall continue to the same degree and in the same manner. Such continued right of use shall include the use of motorized vehicles and mechanical equipment along all existing roads and trails.

Dispersed camping shall be allowed within 300 feet of roads to provide an adequate buffer between campsites and roads and ensure a safe and healthy environment for camping and associated recreational activities.

Existing campgrounds shall be preserved and current recreation uses shall be allowed to continue in the same manner and degree.

L. Energy and Minerals. Congress shall formally recognize the Uintah Basin Energy Zone, as codified in Utah Law, on all lands administered by the Bureau of Land Management, outside of the proposed Desolation Canyon wilderness, in Township 8 South, Ranges 15, 16 and 17 East, Township 9 South, Ranges 15, 16 and 17 East, Township 10 South, Ranges 14, 15, 16 and 17 East, and Township 11 South, Ranges 14, 15, 16 and 17 East; together with the South Unit of the Ashley National Forest **(see Exhibit E)**.

Master Leasing Plans shall not be required for energy and mineral development within the recognized Uintah Basin Energy Zone.

The BLM Record of Decision dated June 18, 2012 for the Gasco Energy Inc. Uinta Basin Natural Gas Development Project, shall not be challenged and the proposed development set forth in Alternative F of the Final EIS shall be allowed to proceed regardless of any special designation areas.

The Bureau of Land Management shall be directed to issue a Record of Decision allowing the Newfield Production Company to proceed with development of the Monument Butte Area Oil & Gas Development Project.

Congress shall direct the Bureau of Land Management and U.S. Forest Service to facilitate the creation of a pipeline corridor or corridors between Duchesne County and Carbon County that will allow the transport of Uintah Basin crude oil or syncrude to rail facilities in Carbon County **(see Exhibit F)**.

M. Mediation. Any decision made by the Bureau of Land Management, the U.S. Forest Service, or other federal agency with regards to agricultural or grazing lands within Duchesne County shall be subject to mediation before the Utah Department of Agriculture. Upon a determination by the Utah Department of Agriculture, the involved federal agency shall accept such determination as a final determination of the issue.

N. Amendment of Legislation before passage. The provisions of the Public Lands Initiative bill are part of an historic agreement between several counties, environmental groups and the State of Utah. If any provision is omitted or amended without the agreement of Duchesne County, the County reserves the right to withdraw its support and participation.

PASSED this 27th day of April, 2015 by the Duchesne County Commissioners.

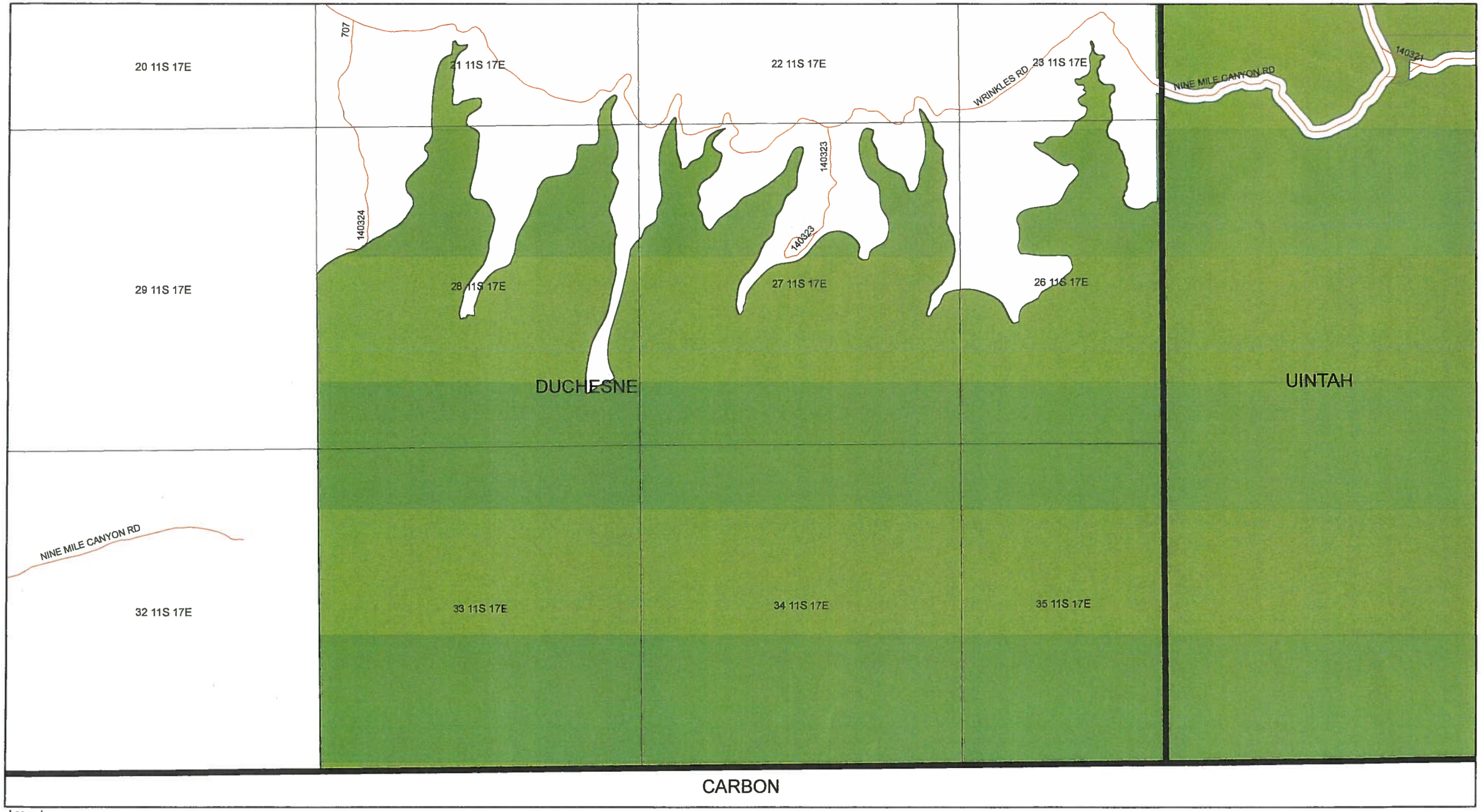
Ronald Winterton, Chairman

Ken Burdick, Commissioner

Gregory Todd, Commissioner

Attest:

JoAnn Evans
County Clerk/Auditor



Legend

- Section/TR
- Duchesne Co. Wilderness Proposed 2940 Acres

Uintah PLI

- DESOLATION, Wilderness
- DESOLATION/GREEN RIVER, Wilderness

Exhibit A
Proposed Desolation Canyon Wilderness (2940 Acres)

N

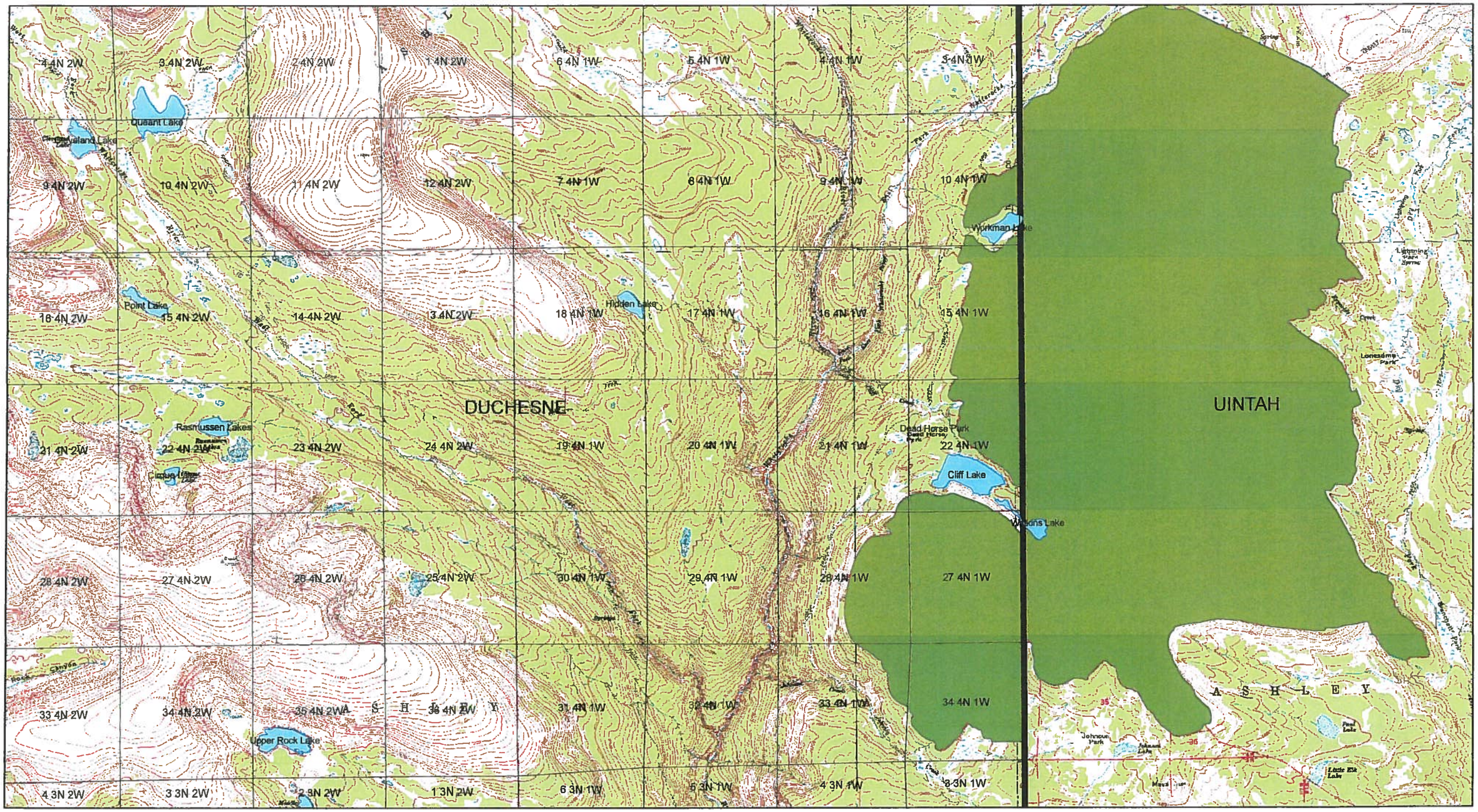


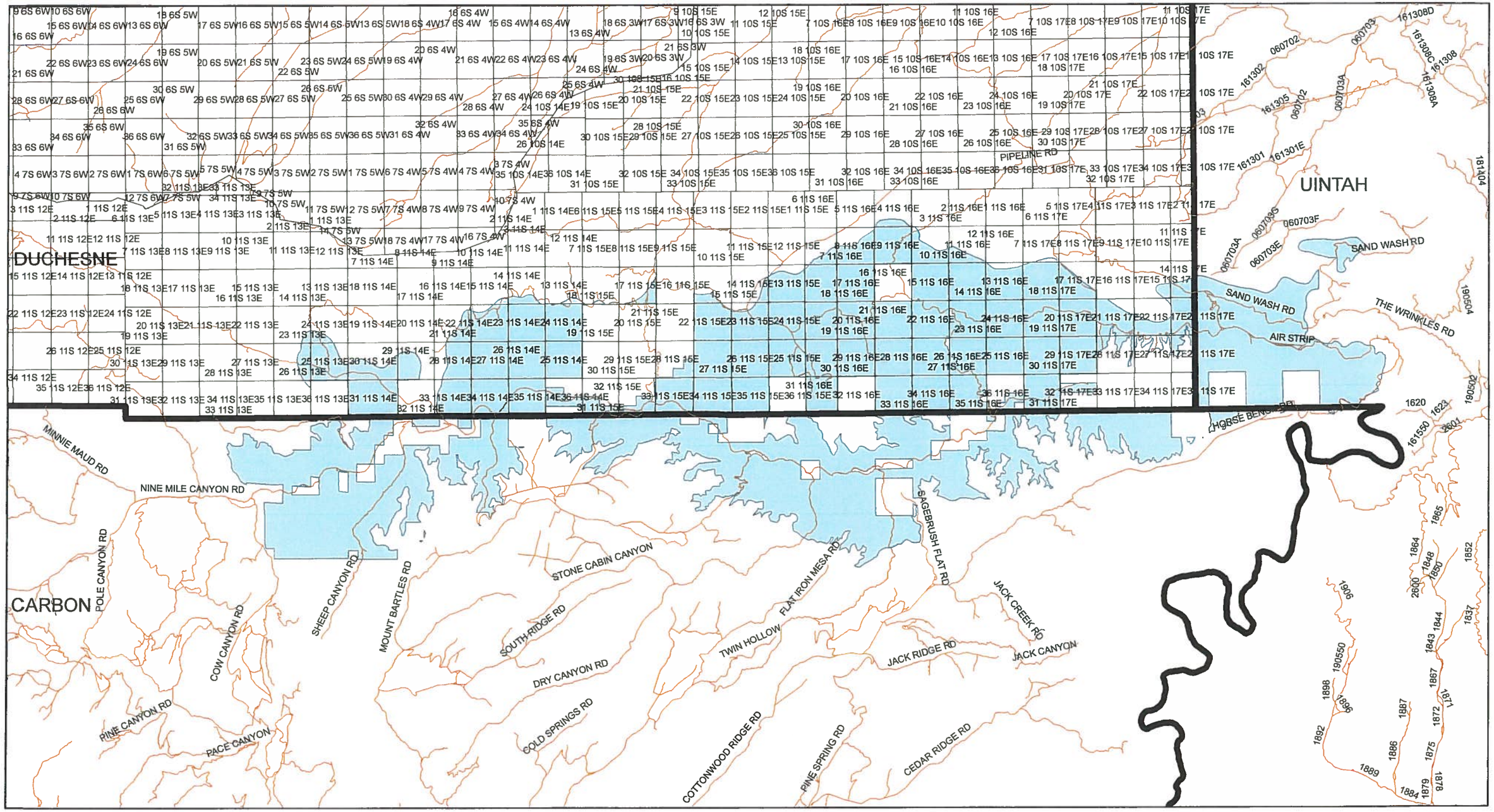
Exhibit B
Proposed Addition To
Duchesne County High Uinta Wilderness (1,846 Acres)

Legend

Proposed High Uintah Wilderness

* Wilderness Boundary is at least 300' away from lakes and trails

N



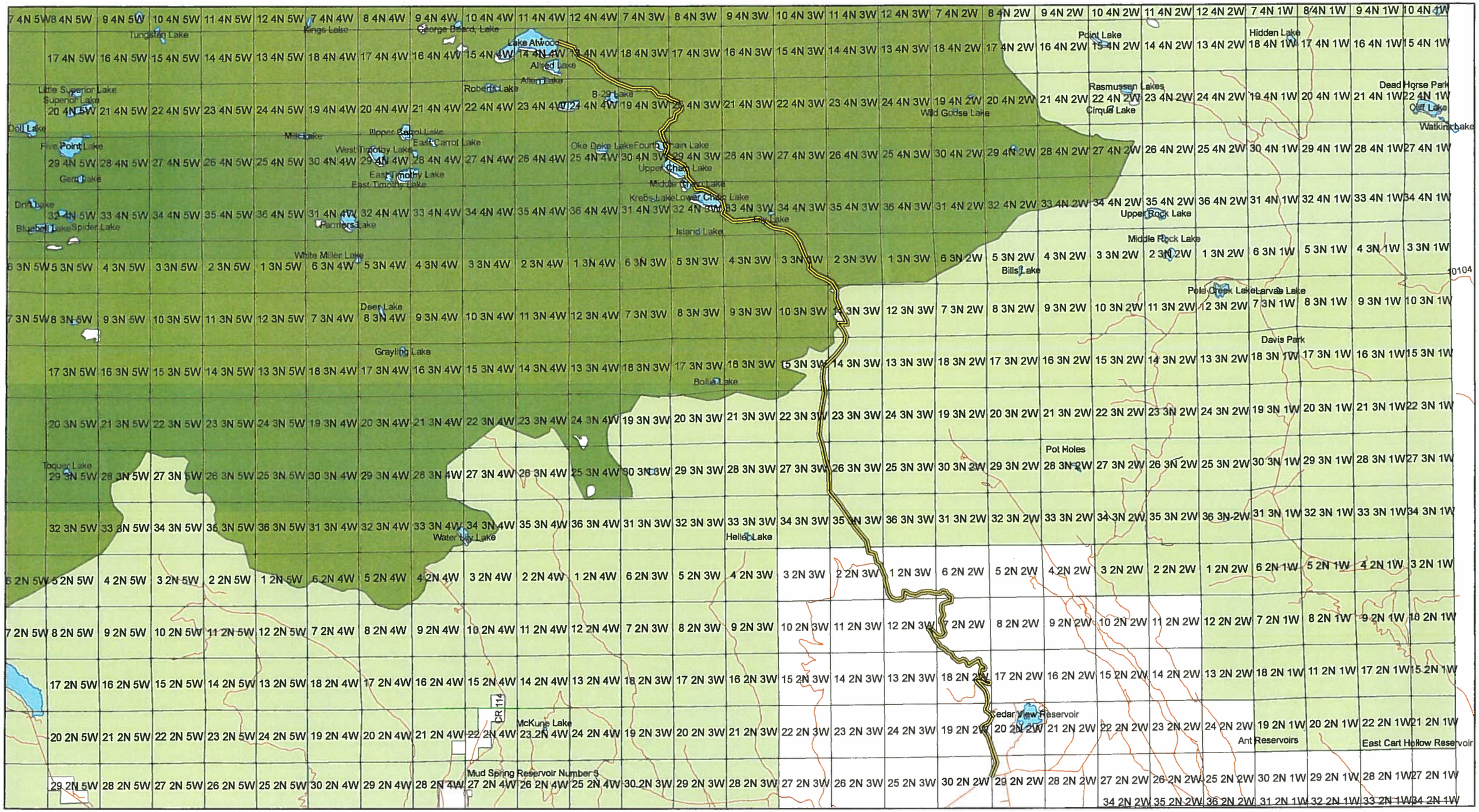
Legend

Proposed Nine Mile National Conservation Area

Exhibit C

Proposed Nine Mile National Conservation Area (45,160 Acres)

N

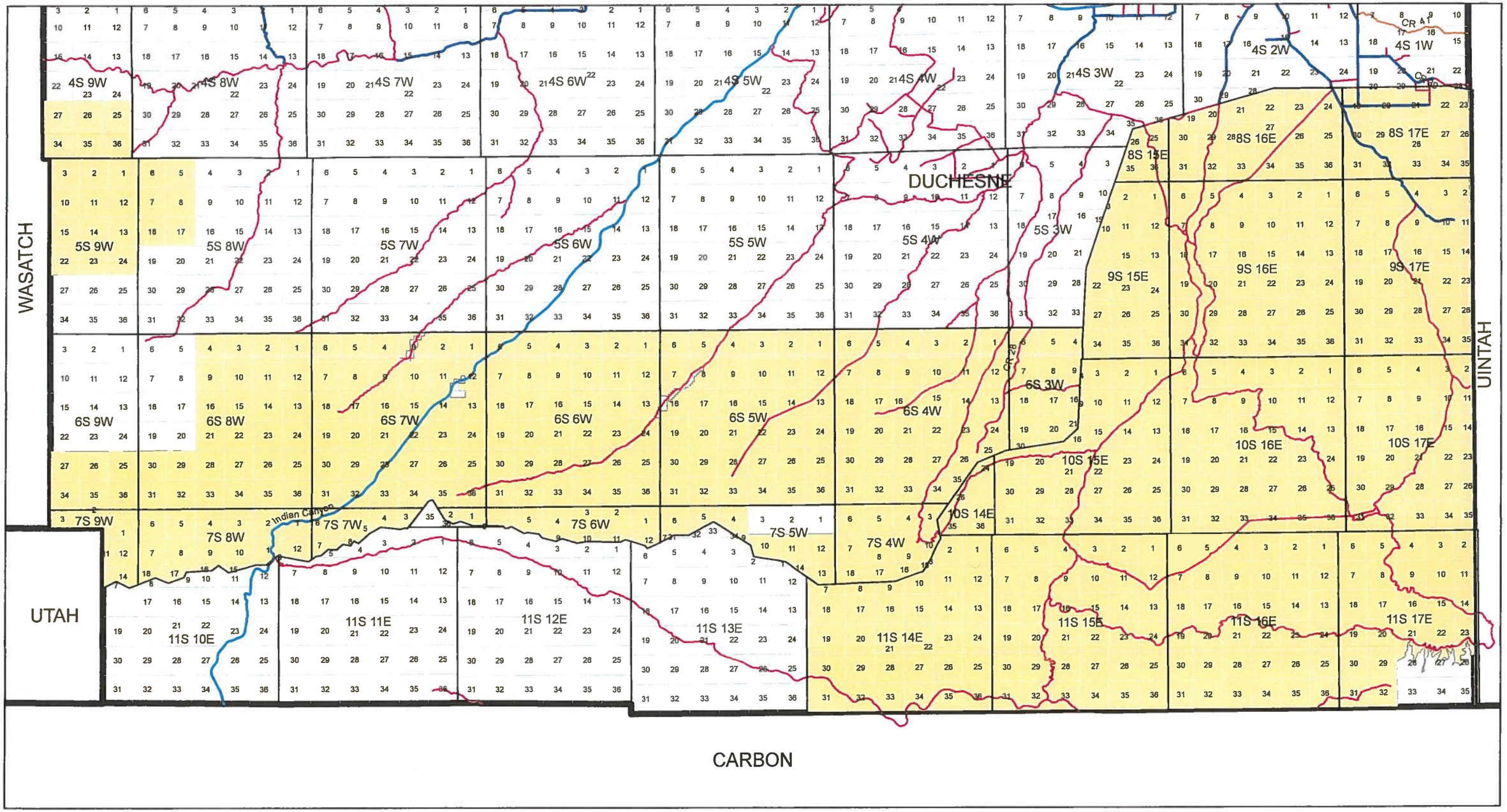


Legend

- Administrative_Access_corridor
- Section/TR
- Duchesne Co. WILDERNESS AREA
- FOREST SERVICE

Exhibit D
Administrative Access Corridor (General Area)

N



Legend

- Duchesne Co. Energy Zone
- Section
- Township

Exhibit E
Proposed Energy Zone

N

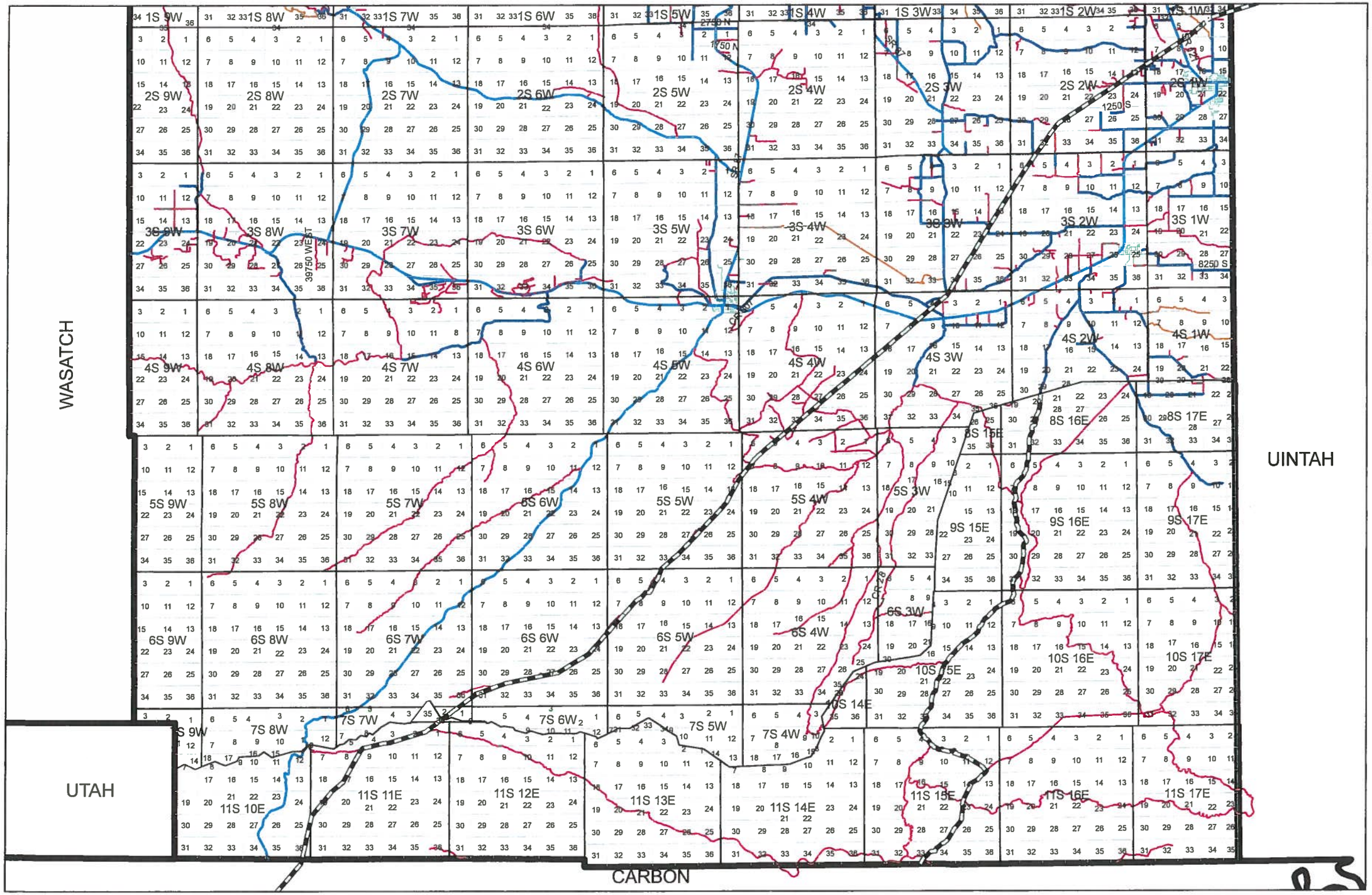


Exhibit F
Proposed Pipeline Corridors