



# Lawfully Recreating on Water in Utah

LAND OWNERSHIP AWARENESS AND COMMENSURATE RECREATIONIST RIGHTS AND RESPONSIBILITIES

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# Introduction, Background and Experience

# Disclaimer

# Goals of Presentation:

DISTINGUISH  
PUBLIC AND  
PRIVATE WATERS  
IN UTAH

RECREATIONIST  
RIGHTS AND  
RESPONSIBILITIES

General  
“ownership”  
principles to  
consider  
when  
recreating on  
Utah waters

Five main categories:

1. Water on Public Lands

2. Water over State “Sovereign Lands”

3. Waters accessible under the PWAA

4. Private Lands via “Walk in Access”

5. Private Lands

# Waters Located Entirely Within or on Public Lands

FEDERAL AND STATE PARKS



# Water Above State “Sovereign Lands”

# General Principles



Based on the “Equal Footing Doctrine” – Article IV, Section 3 of U.S. Constitution and the 1894 Enabling Act



“Navigability” for title has been adjudicated



Definition of “Sovereign Lands” – Utah Code § 65A-1-1(7)

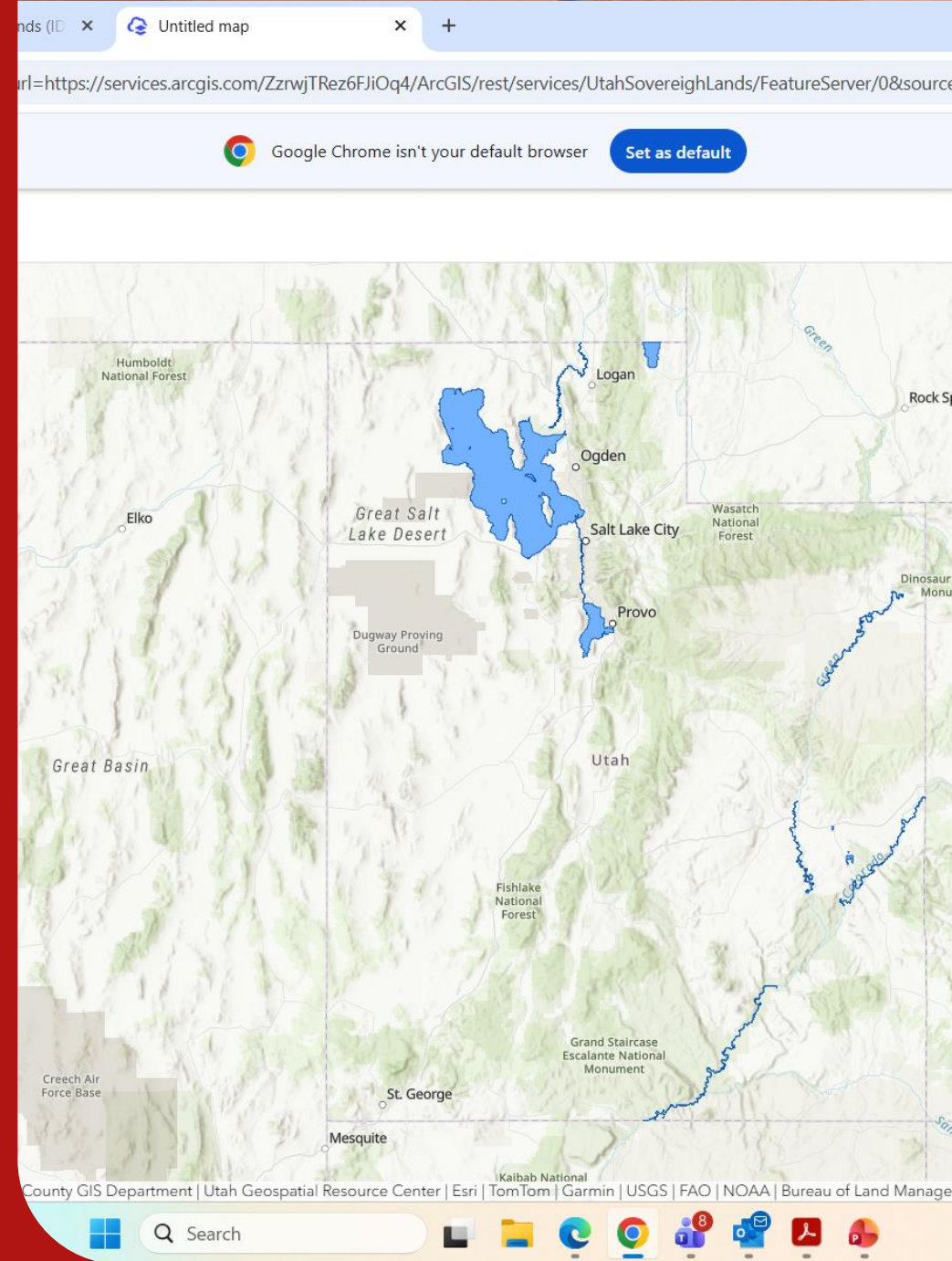


Those rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water.

THE DANIEL BALL, 77 U.S. 557 (1870)

# FFSL website

<https://ffsl.utah.gov/state-lands/sovereign-lands/>



# Public Waters Access Act

## UTAH CODE § 73-29-201. **GENERAL ACCESS PROVISIONS**

(1) THE PUBLIC MAY USE A PUBLIC WATER FOR RECREATIONAL ACTIVITY IF:

(A) THE PUBLIC WATER:

(I) IS A NAVIGABLE WATER; OR

(II) IS ON PUBLIC PROPERTY; AND

(B) THE RECREATIONAL ACTIVITY IS NOT OTHERWISE PROHIBITED BY LAW.

## UTAH CODE § 73-29-102(4). **DEFINITIONS**

(4) “NAVIGABLE WATER” MEANS A WATER COURSE THAT IN ITS NATURAL STATE WITHOUT THE AID OF ARTIFICIAL MEANS IS USEFUL FOR COMMERCE AND HAS A USEFUL CAPACITY AS A PUBLIC HIGHWAY OF TRANSPORTATION.

# Public Waters Access Act

## Utah Code § 73-29-102. **Definitions**

(9)(a) “Recreational access” means to use a public water and to touch a public access area incidental to the use of the public water for:

- (i) floating;
- (ii) fishing; or
- (iii) waterfowl hunting ...

(b) “Recreational access” does not include:

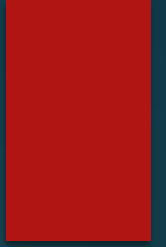
- (i) hunting, except as provided in Subsection (9)(a)(iii);
- (ii) wading without engaging in activity described in Subsection (9)(a); or
- (iii) any other activity.



# Private Land

1. “WALK IN” ACCESS – AFFORDED UNDER UTAH DIVISION OF WILDLIFE RESOURCES
2. LANDOWNER PERMISSION
3. RESPECT PRIVATE PROPERTY RIGHTS

# Division of Wildlife Resources Walk-In Access Program



## WHAT IS WALK-IN ACCESS?

WALK-IN ACCESS PROPERTIES ARE PRIVATE LANDS, WHICH THE LANDOWNER AND THE DIVISION OF WILDLIFE RESOURCES ENTER INTO A LEASE AGREEMENT.

IN THE AGREEMENT, THE PUBLIC GAINS FREE ACCESS TO THE PROPERTY FOR SPECIFIC HUNTING, TRAPPING OR FISHING PRIVILEGES.

THE LANDOWNER RETAINS ALL OTHER RIGHTS TO THE LAND AND IT'S USE, SO LONG AS THEY DON'T REASONABLY IMPEDE THE ABILITY OF THE PUBLIC TO USE THE LAND AS DETERMINED IN THE LEASE AGREEMENT.



# Responsible Use of Utah Waters – Legal Requirements

If “Sovereign  
Lands” – State  
owns the  
beds and  
banks

# Public Waters Access Act



## UTAH CODE § 73-29-202. **PUBLIC RIGHT TO FLOAT ON PUBLIC WATERS**

(1) THERE IS A PUBLIC RIGHT TO FLOAT ON PUBLIC WATER THAT HAS SUFFICIENT WIDTH, DEPTH, AND FLOW TO ALLOW FREE PASSAGE OF THE CHOSEN VESSEL AT THE TIME OF FLOATING.

(2) SUBSECTION (1) INCLUDES THE RIGHT TO:

(A) INCIDENTALLY TOUCH PRIVATE PROPERTY AS REQUIRED FOR SAFE PASSAGE AND CONTINUED MOVEMENT;

(B) PORTAGE AROUND A DANGEROUS OBSTRUCTION IN THE WATER, IF PORTAGE IS MADE IN A MANNER THAT IS:

(I) MOST DIRECT;

(II) LEAST INVASIVE; AND

(III) CLOSEST TO THE WATER; AND

(C) FISH WHILE FLOATING.

# Walk-In Access Program

The Division of Wildlife Resources' Walk-In Access Program properties are available to any person who has obtained the annual Walk-in Access authorization number and uses the property only according to the activities listed/leased for the property.



# Entering and Exiting Utah Waters

Lawful access is required including entering and exiting  
DWR access points and boat ramps  
Consult public and private resources



Consult and Confer with Appropriate  
Agencies

Review state and federal regulations for  
water being used recreationally

Have fun!