

# Beaver Canyon Board Tour Itinerary June 19-20, 2024



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ADMINISTRATION



## Beaver Canyon Board Tour Itinerary June 19-20, 2024

Interested parties, including members of the public or representatives of county governments or Utah Tribes, may attend the tour in person. **Members of the public** attending the tour must provide their own transportation and lunch and must **register in advance** with Lisa Stamps Jones at [lstampsjones@utah.gov](mailto:lstampsjones@utah.gov) no later than 5:00 pm on **Friday, June 14, 2024** for planning and logistical purposes.

### Wednesday, June 19

7:15 to 7:30 am Load vehicles and depart from SLC office (102 S 200 E, SLC, UT)

9:30 to 9:45 am **Rest Stop - Fillmore Conoco (Costa Vida location)**  
I-15 Exit #163, pick up attendee(s)

10:30 to 10:45 am **Crazy Cow Cafe in Beaver**  
314 W 1425 N – I-15 Exit #112 - Northern Beaver Exit  
Consolidate vehicles and pick-up attendee(s)

**Stop #1 Canyonside Lodge, Eagle Point Resort (Lower Lodge) - 11:30 am**

- Welcome - Tammy Pearson, Beaver County Commissioner
- Lunch (provided for Board members, staff, and invited guests)
- History of surrounding area - Leo Kanell, Elk Meadows SSD
- Eagle Point presentation - Shane Gadbaugh, Owner of Resort
- Development of surrounding area - Dee Draney, Elk Meadows SSD

**Stop #2 Eagle Point Parcel**

- Timber treatment discussion
  - Adam Robison, Forest Resources Manager, TLA
  - Staff from Division of Forestry, Fire and State Lands
- Development plans - Development Team, TLA
- Collaboration efforts - Tammy Pearson, Beaver County Commissioner

**Stop #3 Puffer Lake Parcels**

- Future timber treatment discussion
  - Adam Robison, Forest Resources Manager, TLA
  - Staff from Forestry, Fire, and State Lands

**Stop #4 Elk Meadows SSD Fire Station (restroom break)**

- Stop #5      Former BSA Camp Shooting Range**
- Shooting range environmental cleanup presentation
    - Bryan Torgerson and Ron Torgerson, TLA
  - Drinks and snacks
- Stop #6      Right Fork Three Creeks**
- Previous/future timber treatments on former BSA camp parcel
    - Adam Robison, Forest Resources Manager, TLA
  - Potential future uses and/or disposal of property, water rights
    - Ron Torgerson and Kyle Pasley, TLA
  - Tour wrap-up and questions
- ~5:00 pm      **Arrive at Hotel in Beaver - Best Western Paradise - 1451 N 300 W**
- 6:20 pm      Load vehicles at hotel for dinner at Timberline Restaurant
- 620 W 1800 S (South Beaver Exit)
  - Provided for Board members, staff, and invited guests

#### **Thursday, June 20**

- Breakfast at Crazy Cow Cafe (voucher provided by hotel)
- Breakfast hours are 6:30 am to 9:30 am
- 9:30 am      Load vehicles and luggage for transport to board meeting
- 9:45 am      **Arrive at Beaver County Administrative Offices - Board Meeting**
- 105 East Center Street - 2nd Floor - Commission Chambers
- 10:00 am      Board Meeting Begins (see separate agenda)
- ~11:30 am      Box lunches upon conclusion of meeting
- Provided for Board members, staff, and invited guests
- ~12:00 pm      Vehicles depart for SLC
- Rest stop at Santaquin Maverik (Exit 244)
- ~3:00 pm      **Arrive at SLC office**



# Board Meeting Agenda

Beaver County

Administrative Offices

June 20, 2024



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## Board of Trustees Meeting Agenda

Note Location:

BEAVER COUNTY COMMISSION BUILDING

105 East Center Street

Beaver, UT 84713

Thursday, June 20, 2024

10:00 a.m.

1. Welcome

2. Approval of Minutes

May 16, 2024

3. Confirmation of Upcoming Meeting Dates

July 11, 2024 – NO MEETING (New board member orientation)

August 15, 2024 – Regular Meeting (New board chair)

September 19, 2024 – Regular Meeting

4. Trust Lands Funds in Action by Marla Kennedy, Director of Communications and Governmental Affairs for the Trust Lands Administration

5. Public Comments

*Trust Lands welcomes comments from the county advisory committee, the public, and other interested parties. The board sets aside 15 minutes at each board meeting to hear from anyone wishing to speak. Each presenter is allowed one opportunity and has up to three (3) minutes for remarks. Any member of the public participating electronically who desires to comment shall use the “raise hand” feature during the Zoom meeting. The public comment segment of the board meeting is not the time for a question-and-answer discussion. Trust Lands staff is available for dialogue outside of board meetings.*

6. Chair Report by Dave Donegan, Chair of the Board for the Trust Lands Administration

7. **Director Report** by Michelle McConkie, Executive Director of the Trust Lands Administration

- a. Energy & Mineral Development in the Beaver County Area by Troy Herold, Chanse Rinderknecht, and Andy Bedingfield from the Energy & Minerals Group of the Trust Lands Administration
- b. Non-Material Amendment to ML 90032-OBA by Stephanie Barber-Renteria, Managing Director (SLC) of Energy & Minerals

8. **Action Items**

- a. Proposed Bitter Creek Rd. Oil, Gas, and Hydrocarbons Lease OBA (ML 54433) with International Petroleum (Bro Energy), Uintah County (640 +/- acres) by Chanse Rinderknecht, Geologist/Lease Manager (Vernal) for Energy & Minerals
- b. Proposed Cove Fort Geothermal Lease OBA (RNBL 2009) with Ormat Nevada, Inc., Millard & Beaver Counties (636.81 +/- acres) by Chanse Rinderknecht, Geologist/Lease Manager (Vernal) for Energy & Minerals
- c. Proposed East Henry Mountains Metalliferous Minerals, fissionable and non-fissionable, Lease OBA (ML 900400) with Voyager Energy LLC, Garfield County (1,289 acres) by Tyler Wiseman, Geoscientist/Lease Manager (SLC) for Energy & Minerals
- d. Proposed Repeal of Board Policies by Chris Fausett, Managing Director (SLC) of Surface Resources
  - 1. Board Policy 2015-03 (Stewardship Expenditures)
  - 2. Board Policy 2005-08 (Lease Reviews), and 2007-03 (Special Use Lease Policy)
  - 3. Board Policy 1995-15 (Public Sale of Land), and 2007-04 (Sales Policy)
  - 4. Board Policy 2013-02 (Grazing Fees/Permits Acquired from Federal Exchanges), and 2015-04 (Notice of Expiring Grazing Permits, Reimbursement of Value of Range Improvements, and Term Length of Permits)
  - 5. Board Policy 2005-02 (Hunting and Recreational Access to Trust Lands)
  - 6. Board Policy 2005-01 (Joint Planning) Resources
  - 7. Board Policy 1996-04 (Communication Site Sublease Fees)
- e. Appointment of Louis Cononelos to the Land Trusts Protection & Advocacy Committee representing the TLA Board of Trustees

9. **Notification Items**

- a. Big Water Minor Development Transaction with The Hilldale Group LLC, Kane County (8.1 acres) by Aaron Langston, Assistant Managing Director of Real Estate Development (Washington)
- b. Green Springs Minor Development Transaction with Black Acre Holdings, Washington County (19.18 acres) by Aaron Langston, Assistant Managing Director of Real Estate Development (Washington)

- c. Update: Kanab Development Sale with Canyon Global Partners, Kane County (480 acres) by Aaron Langston, Assistant Managing Director of Real Estate Development (Washington)
- d. Jensen Agricultural Lease Trespass (C-27184) Negotiated Sale with Scott & Rayma McCarrel, Uintah County (7.08 acres) by Chris Fausett, Managing Director (SLC) of Surface Resources

## 10. Adjourn

Interested parties, including members of the public or representatives of county governments or Utah Tribes, may attend the meeting in person or through the

registration link: [https://utah-gov.zoom.us/webinar/register/WN\\_GPcpwB6XRgSVoGNUbOxwAw](https://utah-gov.zoom.us/webinar/register/WN_GPcpwB6XRgSVoGNUbOxwAw).

Those wishing to provide public comment electronically will be asked at the beginning of the period designated for such comment to use the "raise hand" feature at the bottom of the screen within the Zoom meeting so they may be called upon to provide comment.

Please call Lisa Stamps Jones at 801-891-7489 or email [lstampsjones@utah.gov](mailto:lstampsjones@utah.gov) any time before 4:30 p.m. on June 18, 2024, with questions.

Items may be heard in any order, at any time, at the Board's discretion.

Please be aware that the public portions of this meeting may be broadcast live over the Internet. Also, please note that an audio recording of the public portions of this meeting, along with any materials presented or distributed in the public portions of this meeting, will be posted on Utah's public notice website. Witnesses with questions, concerns, or handouts should contact staff.

In accordance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact Lisa Stamps Jones at 801-891-7489, or by email at [lstampsjones@utah.gov](mailto:lstampsjones@utah.gov), at least three (3) days in advance.

I, Lisa Stamps Jones, Trust Lands Administration Board of Trustees Executive Assistant, hereby certify the foregoing agenda was posted:

- on the Utah State Public Notice website (with newspaper notifications) at <https://www.utah.gov/pmn/index.html>,
- at the Trust Lands Administration Bldg, 102 S 200 E #600, SLC, UT 84111,
- on the Trust Lands Administration website at [trustlands.utah.gov](http://trustlands.utah.gov), and
- at the Beaver County Commission Bldg, 105 East Center Street, Beaver, UT 84713.

Dated: Monday, June 10, 2024



# 8a Energy & Minerals

## Bitter Creek Rd Oil, Gas & Hydrocarbons OBA:

ML 54433

with International  
Petroleum (Bro Energy)



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## BOARD MEMORANDUM

**Date:** June 5, 2024

**To:** Board of Trustees, School and Institutional Trust Lands Administration

**From:** Chanse Rinderknecht, Geologist/Lease Manager

**Re:** Bitter Creek Rd ML 54433 Other Business Arrangement (OBA)  
Oil Gas & Associated Hydrocarbons

**Applicant:** International Petroleum LLC (Bro Energy)  
4834 South Highland Drive Suite 200,  
Salt Lake City, UT USA 84117

**Lands:** **ML 54433 OBA**  
11S-22E, Section 16: ALL – approximately 640  
  
Uintah County

**Total Acreage:** 640 acres, more or less

**Fund:** Schools

### Summary

The Energy & Minerals Team recommends that the Board approve the Bitter Creek Rd. OBA and issue one new Oil Gas & Associated Hydrocarbons Lease on 640 acres of trust lands located in Uintah County. Pursuant to Utah Code § 53C-2-401(1)(d)(ii), the agency may enter an OBA with Board approval. This action requires Board approval because the proposed lands are not being offered for lease via the competitive lease process.

### Key Information and Background

This parcel is located near a recent discovery that has sparked significant interest in the area. Specifically, Anschutz Exploration Corporation (Anschutz) recently drilled two successful wells to the Mancos formation, the Torreys Fed 1124-32-24-4x MCH Well, located in Section 16 of Township 11 South, Range 23 East, and the Bierstadt Fed 1123-16-28-14 MCH Well, located in Section 32 of Township 11 South, Range 24 East.

Based on production from these wells, Anschutz is forming four new federal exploratory units, and the Board has recently approved two other oil and gas OBAs, one to Anschutz and one to Bro Energy, in the area. This OBA covers lands just outside one of the federal units and the E&M group obtained OBA offers from multiple interested operators.

The Resource: Oil Gas & Associated Hydrocarbons

The Applicant: Bro Energy has many leases with TLA, has always paid a generous bonus payment and is not in breach of any of its existing agreements.

## Material Terms of the Transaction

Term: The lease will be issued with a five-year primary term

- If Bro Energy does not have a well commenced within 36 months of the fully executed lease, and/or has not participated in a well to be drilled or pooled into a DSU, then Lessee will pay an additional \$77,000.00 penalty.
- After Bro Energy reaches project payout (by receiving all of its investment back) plus 10% profit, it will pay TLA another \$77,000.00 bonus.
- For a period of 18 months, if Bro Energy sells its interest in the lease, then the agency will receive 25% of any cash net proceeds in that divestiture above its costs. During the 18-month period, if Lessee initiates drilling through either its own operations or participating as a non-operating partner, or is pooled into a DSU, then the agency will no longer be entitled to any proceeds from a divestiture.

Payments to Trust Lands Administration:

- The royalty rate for the Leases will be 16.67%.
- Bro Energy will pay TLA a bonus payment of \$288,800.00 (\$451.25/acre)

Work/Expenditure Requirements:

As noted above, Bro Energy will be required to drill a well, participate in drilling a well as a non-op partner, cause the lease to be pooled within 36 months, or pay an additional \$77,000.00 penalty.

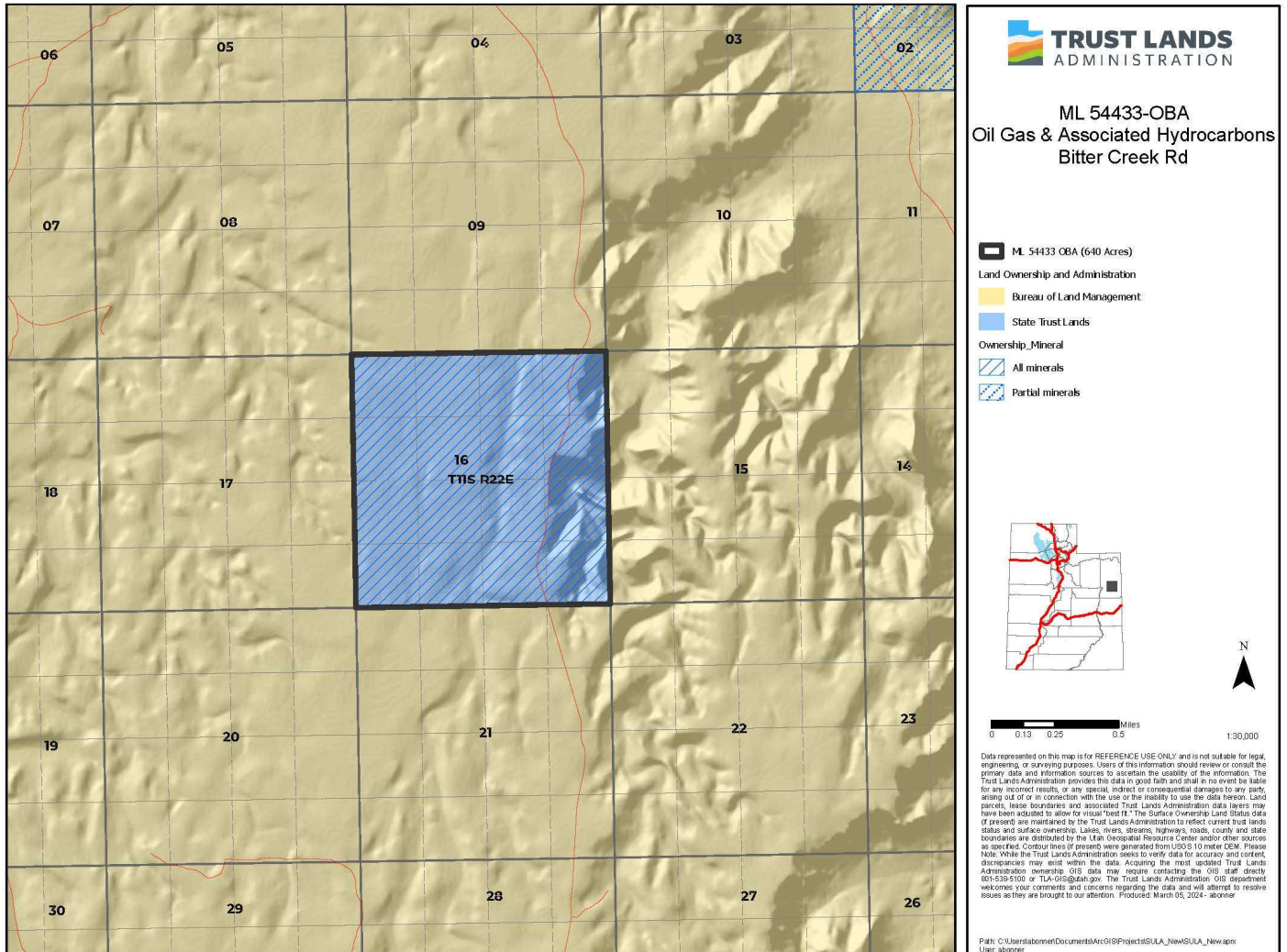
Data Reporting Requirements: The agency will require all geologic data from wells drilled.

## Requested Agency Action

The agency requests that the Board approve the OBA and offers the following proposed motion:

*"I Move to approve the Bitter Creek Rd. OBA on the terms set forth in the Board Memorandum and to have the agency take all further actions necessary to finalize the transaction."*

## Appendix A Map:





# 8b Energy & Minerals

## Cove Fort Geothermal

OBA: RNBL 2009

with Ormat Nevada, Inc



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## BOARD MEMORANDUM

**Date:** June 5, 2024

**To:** Board of Trustees, School and Institutional Trust Lands Administration

**From:** Chanse Rinderknecht, Geologist/Lease Manager

**Re:** Cove Fort OBA

**Applicant:** Ormat Nevada, Inc.  
6140 Plumas Street,  
Reno, NV USA 89519

**Lands:** The Property is in Millard and Beaver Counties, Utah, and described as follows:

T25S, R6W, SLB&M  
SEC. 31: LOTS 3(40.00), 4(40.00), S2NE4, SE4NW4 [LOTS AKA W2SW4]

T26S, R7W, SLB&M  
SEC. 1: S2NE4, N2SE4, PART OF SW4SE4(15.83)

T26S, R7W, SLB&M  
SEC. 14: LOT 2(37.21), SW4NE4 [LOT AKA NW4NE4]

T26S, R7W, SLB&M  
SEC. 2: PART OF 15 [LOT AKA PART OF S2SESE4]

T26S, R7W, SLB&M  
SEC. 2: LOT 1(40.27), PART OF LOT 15(18.00), SE4NE4 [LOTS AKA NE4NE4, PART OF N2SE4SE4]

T26S, R7W, SLB&M  
SEC. 11: NE4NE4

T26S, R7W, SLB&M  
SEC. 1: PART OF SW4SE4(24.17)

See Appendix A Map

**Acreage:** 636.81 acres, more or less

**Fund:** Schools

### Summary

The Energy & Minerals Team recommends that the Board approve the Cove Fort OBA and issue a new lease for geothermal resources on 636.81 acres of trust lands located in Millard and Beaver Counties. Pursuant to Utah Code § 53C-2-401(1)(d)(ii), the agency may enter an OBA with Board

approval. This action requires Board approval because the proposed lands are not being offered for lease via the competitive lease process.

### **Key Information and Background**

The proposed lands are located near the Cove Fort geothermal power plant, which was recently purchased from ENEL Green Power North America. The applicant, Ormat Nevada, Inc., is seeking a geothermal lease, under the agency's form agreement which has been typically used in connection with exploration agreements with option to lease.

### **The Resource:** Geothermal

**The Applicant:** Ormat Nevada, Inc., (Ormat) who recently acquired the Cove Fort geothermal power plant. Ormat is an international renewable energy company that has built over 190 power plants, including the power generation unit currently being used by Cyrq Energy at its Thermo power plant located on trust lands.

### **Material Terms of the Transaction**

**Term:** The lease will be issued beginning July 1, 2024. The initial primary term will be ten years from the effective date. The lease will require the submission of a plan of development and will be subject to extension if Ormat is commercially producing geothermal resources at the end of the primary term. The lease will also include a provision providing that, following the expiration of the primary term, the agency may terminate the lease as to any acreage that is not producing or is not part of a producing area.

**Payments to Trust Lands Administration:** Ormat will pay a bonus payment of \$5,000.00 (\$7.85/acre)

Ormat will pay an annual rental of \$5/acre.

Ormat will pay SITLA production royalties (including 4.5% from power generation, 10% direct sale and use, and 5% of any sale of byproduct).

**Data Reporting Requirements:** The agency will require all geologic data from wells drilled.

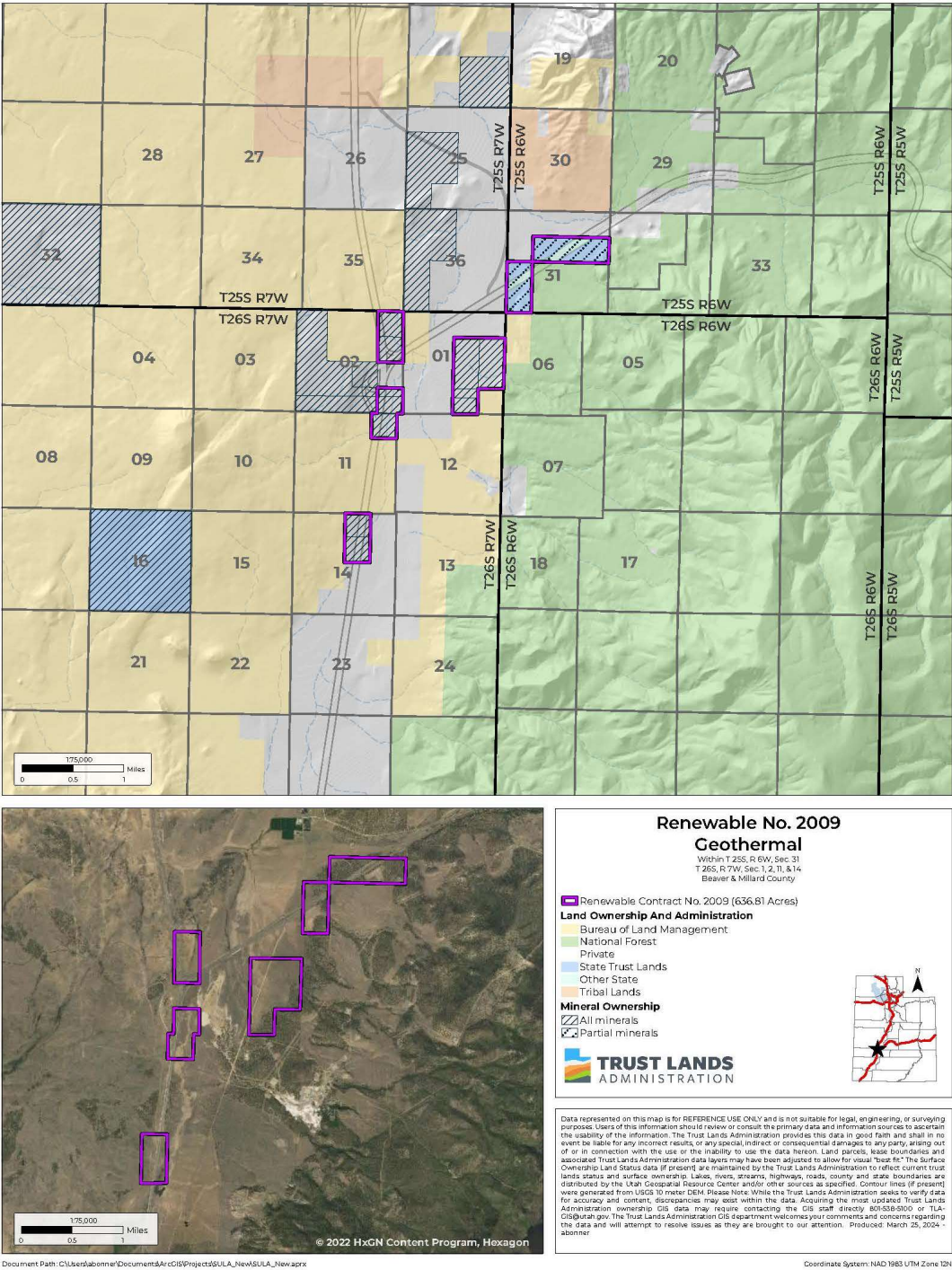
### **Requested Agency Action**

The agency requests that the Board approve the OBA and offers the following proposed motion:

*"I Move to approve the Cove Fort OBA on the terms set forth in the Board Memorandum and to have the agency take all further actions necessary to finalize the transaction."*



Appendix A:





# 8c Energy & Minerals

East Henry Mountains

Metalliferous Minerals

OBA: ML 90040

with Voyager Energy LLC



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## **BOARD MEMORANDUM**

**Date:** June 5, 2024

**To:** Board of Trustees, School and Institutional Trust Lands Administration (TLA)

**From:** Tyler Wiseman, Geoscientist/Lease Manager

**Re:** ML 90040-OBA – East Henry Mountains Other Business Arrangement (OBA) for Metalliferous Minerals; fissionable, and non-fissionable

**Applicant:** Voyager Energy LLC  
1130 Major Avenue  
Riverton, WY 82501

**Lands:** ML 90040 OBA  
31S-11E, Section 36: ALL – approximately 640 acres  
32S-11E, Section 2: ALL – approximately 649 acres

**Total Acreage:** 1,289 acres, more or less

**Fund:** Schools (100%)

### **Summary**

The Energy & Minerals Team recommends that the Board approve the East Henry Mountains OBA and issue one new Metalliferous Minerals Lease on 1,289 acres of trust lands located in Garfield County. Pursuant to Utah Code § 53C-2-401(1)(d)(ii), the agency may enter an OBA with Board approval. This action requires Board approval because the proposed lands are not being offered for lease via the competitive lease process.

### **Key Information and Background**

These parcels are in the historic East Henry Mountains (U, V) mining district, which has produced both fissionable and non-fissionable material in the past. The Energy & Minerals Team solicited other OBA offers from multiple uranium companies operating in the area with no further interest.

### **The Resource: Metalliferous Minerals; fissionable, and non-fissionable**

**The Applicant:** Voyager Energy LLC (Voyager) is a wholly owned subsidiary of GTI Energy Ltd. (GTI), which has projects in Utah and Wyoming and is headquartered in Perth, Australia. Voyager previously held leases on these two sections with TLA in the past and completed approximately \$250,000 in exploration expenditures for uranium, specifically in Section 36. The applicant would like to regain their leasehold on this ground and advance further exploration in 2024. Voyager currently holds an active exploration permit (E/017/0066) in good standing with the Utah Division of Oil, Gas and Mining. Voyager is registered to do business in Utah.

## Material Terms of the Transaction

Term: The lease will be issued with a three-year primary term

- The lease can be renewed for an additional seven (7) years if Voyager, or other controlling entity, completes and files a compliant technical report (JORC, NI 43-101, S-K 1300, or equivalent) prior to the end of the third year of the primary term.
- Renewal of the lease after the secondary seven (7) year term is per TLA lease language relating to production, or readjustment through minimum annual royalty payment and contingent on diligent operations approved by TLA.
- Annual lease rental payments will be \$4.00 per acre per annum.

## Payments to Trust Lands Administration:

- Production royalty of the Gross Value for fissionable metalliferous minerals will be 8%, and 4% of the Gross Value for non-fissionable metalliferous minerals.
- Voyager will pay TLA a bonus payment of \$12,887.60 (\$10.00 per acre), which includes first year's rentals.

## Work/Expenditure Requirements:

As noted above, Voyager will be required to complete and file a compliant technical report (JORC, NI 43-101, S-K 1300, or equivalent) prior to the end of the third year of the primary term.

Data Reporting Requirements: The agency will require all geologic data from exploration activities conducted on the subject lands.

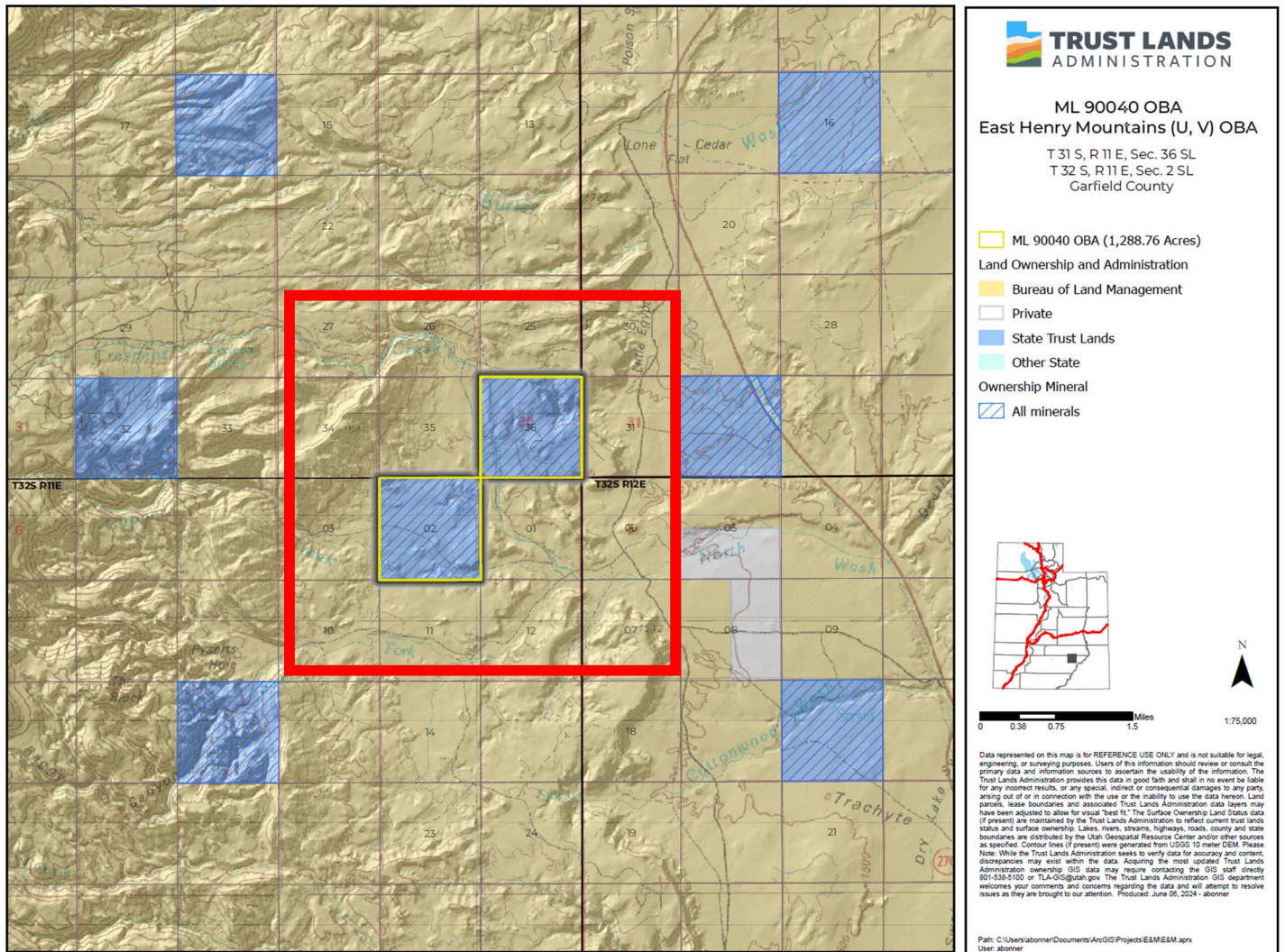
## Requested Agency Action

The agency requests that the Board approve ML 90040-OBA and offers the following proposed motion:

*"I move to approve ML 90040-OBA on the terms set forth in the Board Memorandum and to have the agency take all further actions necessary to finalize the transaction."*



## Appendix A Map:







# 8d Surface

## Repeal of Board Policies:

2015-03

2005-08 & 2007-03

1995-15 & 2007-04

2013-02 & 2015-04

2005-02

2005-01

1996-04



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## BOARD MEMORANDUM

To: Board of Trustees (*Board*)  
School and Institutional Trust Lands Administration (*TLA*)

From: Chris Fausett, Managing Director, Surface Resources

Re: Repeal of Board Policy 2015-03 – Stewardship Expenditures

Date: June 5, 2024

### **Summary**

Staff recommends that the Board repeal Board Policy 2015-03, Stewardship Expenditures. A copy of the policy is attached to this memo.

### **Key Information and Background**

**Background:** The agency's budget consists of three line items: operations, capital, and land stewardship and restoration. Proposed agency budgets are reviewed and approved by the Board annually and then submitted to the governor for consideration and ultimate approval by the legislature.

The land stewardship and restoration line item ("Stewardship Fund") was instituted as the "block management" budget line beginning in FY 2006 with an annual appropriation of \$500,000. The block management line item was replaced by the land stewardship and restoration line item in the 2012 legislative session, with the annual appropriation remaining at \$500,000. The appropriation was increased to \$2.113 million for FY 2016 and \$2.186 million for FY 2017 before being reduced to \$900,000 in FY 2018 and ultimately \$852,400 in FY 2020, where it has remained since.

The agency utilizes the Stewardship Fund to rehabilitate, restore, and protect the value of the Trust's land assets. Often the Stewardship Fund is used as matching funds or contributions towards landscape scale projects with the involvement of multiple partners/landowners, therefore putting a much larger amount of state and federal funding to work on trust lands. Some examples of how the Stewardship Fund is typically used are listed below:

- Wildfire rehabilitation
- Wildfire prevention through fuels reduction treatments and aspen regeneration projects
- Habitat enhancement to prevent the listing of potential threatened & endangered species
- Cleanup of illegal dump sites
- Protection of important archaeological/historical sites
- Cleanup of problematic legacy lease sites (e.g. BSA camp shooting range)
- Payment of outside law enforcement (UDWR, State Parks, AGs office) to patrol trust lands

**Existing Policy:** In 2015, the Board instituted Board Policy 2015-03, requiring that expenditures from the Stewardship Fund exceeding \$100,000 for any given project be approved by the Board (see attached policy).

Discussion: Since the implementation of this policy, Stewardship Fund expenditures meeting the threshold for Board approval have been large wildfire rehabilitation projects, sage grouse habitat enhancement projects, and one large environmental remediation project on a former BSA camp shooting range.

After a wildfire occurs, timing is critical to the success of rehabilitation efforts. Most wildfires occur in late summer to early fall. After a wildfire is out, it is a race against the clock to assess fire damage, plan rehabilitation efforts, complete cultural resource surveys, and get equipment on the ground to reseed and stabilize burned areas before winter weather sets in. Reseeding is most successful if implemented in late fall/early winter directly after a wildfire event.

Solid funding commitments from partners are needed to ensure the success of rehabilitation projects. Under the current board policy, it can take several weeks for the agency to commit funding to large rehabilitation projects while we go through the process of reviewing proposed expenditures through the surface subcommittee and then presenting them to the Board for approval. The delay has been a source of frustration for our partner agencies as the timelines for putting together successful wildfire rehabilitation projects are already very tight.

Another challenge created by the current policy lies in securing contractors for large projects, especially in areas with seasonal access constraints. One recent example is the lead remediation project on the former BSA camp property in Beaver County. Due to the high elevation of the project area, the property is typically accessible only between late May through late October/early November. The prospective lead removal contractor for the project first visited the property when it became accessible in late May 2022 and provided a bid for their services shortly thereafter. After obtaining the bid, the first available opportunity to present the project for Board approval would have been over 12 weeks later at the August 18, 2022 meeting. At that point, it was too late in the season to get on the contractor's schedule for the year, causing the project to be delayed until the following summer.

Each year the Board reviews and approves the amount of funding allocated to the Stewardship Fund during the budgeting process. The agency then establishes performance metrics for the Stewardship Fund with the legislative fiscal analyst's office and reports to the legislature on the previous year's metrics. The agency desires to be transparent with the Board and beneficiary institutions regarding expenditures from the Stewardship Fund and periodically reports on projects and expenditures. The annual budget review process with the Board presents an excellent opportunity for the agency to report on major projects and expenditures during the previous year.

Subcommittee Review: The Surface Committee has reviewed this board policy and recommended that the Board consider repealing it.

#### **Requested Action**

The agency recommends that the Board repeal Board Policy 2015-03 – Stewardship Expenditures and offers the following proposed motion:

*“Move to repeal Board Policy 2015-03, Stewardship Expenditures.”*

*The Board of Trustees  
Of the  
School and Institutional Trust Lands Administration*

***New Policy***

*Policy Statement No. 2015-03*

*Subject: Stewardship Expenditures*

*The Board of Trustees of the School and Institutional Trust Lands Administration (the "Board") met in open, public session on May 28, 2015, and by majority vote declares the following to be an official policy of the Board concerning the approval of stewardship expenditures.*

- From time to time, SITLA makes expenditures from its stewardship account to improve, repair, or rehabilitate the status of the lands under its management.
- Expenditures from the stewardship account exceeding \$100,000 for any given project require approval by the Board. This approval may be given by majority vote or through the Board's consent calendar. Expenditures totaling less than \$100,000 for a particular project will be left to the best judgment of the Director.
- Stewardship expenditures specifically approved during the budget-review process will be deemed to have been approved for the purposes of this policy.
- Requests for Board approval of stewardship expenditures must detail the amount of the request and provide an explanation for how the funds will be used.
- Board review and approval of stewardship expenditures will normally occur during a regularly-scheduled Board meeting, but, in exigent circumstances, under the direction of the Chair of the Board and with formal notification to the impacted beneficiary at the time the Board is notified of the request, the approval may be given using electronic means.
- The Director shall provide an accounting of all stewardship expenditures on any project(s) upon request.

  
\_\_\_\_\_  
David Ure, Chairman

## BOARD MEMORANDUM

To: Board of Trustees (*Board*)  
School and Institutional Trust Lands Administration (*TLA*)

From: Chris Fausett, Managing Director, Surface Resources

Re: Repeal of Board Policy No's 2005-08 – Lease Reviews, and 2007-03 – Special Use Lease Policy

Date: June 5, 2024

### **Summary**

Staff recommends that the Board repeal the following board policy statements dealing with surface special use leases as they have been sufficiently codified into the agency's administrative rules.

- 2005-08 – Lease Reviews
- 2007-03 – Special Use Lease Policy

These policies and the relevant section of the agency's administrative rules governing special use lease leases (R850-40) are attached for your reference.

### **Key Information and Background**

#### **2005-08 – Lease Reviews**

Policy Statement No. 2005-08 was instituted by the Board on December 8, 2005. It states:

*Lease reviews conducted by the Administration will be timely and follow the requirements of R850-30-400 – Lease Rates. Documentation of the Administration's determination of "Fair-Market Value" will be placed in the file and referenced in the Director's Minutes approving the lease review.*

*The Administration will normally base rental adjustments on increases in land value as ascertained through appraisals, unless using an index will result in greater revenue after considering administrative costs. All leases with terms longer than 10 years will be reviewed at least once in each subsequent 10-year period using an appraisal, unless it can be demonstrated that the administrative cost would be prohibitive.*

*The Administration may, under certain circumstances, allow for annual rentals which are less than the amount which would be charged based on the current fair-market value of the leased property. In order for this situation to be allowed, the lessee would be required to amend the lease to allow for a "Termination Clause" which could be used by the Administration to terminate the lease prior to its expiration date if an opportunity to use the leased premises for the highest-and best use should arise.*

Further direction regarding special use leasing was provided by the Board in Policy Statement 2007-03, discussed in more detail below. These two policies informed the development of new special use

leasing administrative rules, which were approved by the Board in late 2007. On May 19, 2022, the Board approved additional revisions and updates to the administrative rules governing special use leases. These amended and restated rules became effective on August 8, 2022. These are the current rules under which the agency operates the special use leasing program.

The amended and restated rules address lease review procedures in R850-30-400(3), Lease Review and Adjustment Procedures. The rules address the issuance of leases for less than fair market value lease rates in R850-30-400(2).

#### 2007-03 – Special Use Lease Policy

Policy Statement 2007-03 was instituted by the Board on June 27, 2007. As mentioned above, this policy provided direction to the agency as it was revising its special use leasing administrative rules at the time. The policy direction was codified into the revised rules, which were later approved by the Board and became effective on October 9, 2007.

On May 19, 2022, the Board approved additional revisions and updates to the administrative rules governing special use leases. These amended and restated rules became effective on August 8, 2022.

The policy is stated in its entirety below. Bolded references listed within the policy indicate the section of the current administrative rules codifying the policy.

*Pursuant to §53C-4-101 and §53C-4-201 of the School and Institutional Trust Lands Management Act (“Act”), the Board of Trustees (“Board”) believes it is desirable and prudent to establish a policy governing the procedures used by the School and Institutional Trust Lands Administration (“Administration”) to enter into special use leases for the surface estate of trust land.*

*The Director has the authority to establish criteria by rule for leasing trust lands under §53C-4-101(1)(a). In order to assist the Director in fulfilling his/her obligation under the foregoing, the Board adopts the following policy regarding the procedures and criteria used by the Administration to lease trust land.*

- 1. As a general rule, leasing trust land provides more economic benefits to the beneficiaries than does selling and is, therefore, the favored alternative where feasible and prudent.*
- 2. The Administration shall evaluate comments and concerns raised by outside interests prior to leasing trust lands. **(addressed in R850-30-150, Planning)***
- 3. Leases issued by the Administration will be for terms appropriate for the use and consistent with land-management objectives adopted by the Board. **(addressed in R850-30-200, Terms of Leases)***
- 4. The Administration may solicit requests for proposals to lease trust lands using such advertising as the Director deems appropriate. **(addressed in R850-30-310, Requests for Proposals)***
- 5. Lease rates will be based on the value and income-producing capability of the subject property and may include percentage rent, where appropriate. The Administration may*

*establish a minimum annual rental for leases based on the costs incurred in administering leases and a desired minimum rate of return. (addressed in R850-30-400, Lease Rates)*

*6. Leases will contain provisions for review to ensure compliance with the terms and conditions of the lease and adjustments of rentals to account for any appreciation of the leased premises and changing market conditions. (addressed in R850-30-400(3), Lease Review and Adjustment Procedures)*

*7. Leases will contain provisions necessary to ensure responsible surface management of trust lands. (addressed in R850-30-600, Special Use Lease Provisions)*

*8. Leases will be subject to advertising for competitive applications unless the use is exempt or unless the Director finds that the waiver of such is in the best interest of the beneficiaries. (addressed in R850-30-500, Solicitation of Competing Applications)*

*9. Generally, lands should not be leased if:*

*a. a lease would create obstacles to future mineral development or*

*b. a lease would foreclose future development or management options which would likely result in greater long-term economic benefit. (addressed in R850-30-550, Lease Determination Procedures)*

*10. The Administration may lease land that would otherwise remain vacant for less than full-market value, provided that the lease contains a clause whereby the Administration may terminate the lease prior to the end of the term. (addressed in R850-30-400(2), Lease Rates)*

Subcommittee Review: The Surface Committee has reviewed these board policies and recommended that the Board consider repealing them.

### **Requested Action**

The amended and restated administrative rules adopted by the Board in 2022 represent the most recent direction from the Board concerning processes and procedures for special use leasing on trust lands, and sufficiently address the various issues outlined in Board Policy Statements 2005-08 and 2007-03. Therefore, the agency requests that the Board repeal these policies and offers the following proposed motion:

*“Move to repeal Board Policy Statement 2005-08, Lease Reviews, and Board Policy Statement 2007-03, Special Use Lease Policy.”*



*The Board of Trustees*  
*of the*  
*School and Institutional Trust Lands Administration*

*X New Policy      ☐ Amends Policy No.      ☐ Repeals Policy No.*

*Policy Statement No. 2005-08      Subject: Lease Reviews*

*The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on December 8, 2005, and by majority vote declares the following to be an official policy of the Board:*

Lease reviews conducted by the Administration will be timely and follow the requirements of R850-30-400 - Lease Rates. Documentation of the Administration's determination of "Fair-Market Value" will be placed in the file and referenced in the Director's Minutes approving the lease review.

The Administration will normally base rental adjustments on increases in land value as ascertained through appraisals, unless using an index will result in greater revenue after considering administrative costs. All leases with terms longer than 10 years will be reviewed at least once in each subsequent 10-year period using an appraisal, unless it can be demonstrated that the administrative cost would be prohibitive.

The Administration may, under certain circumstances, allow for annual rentals which are less than the amount which would be charged based on the current fair-market value of the leased property. In order for this situation to be allowed, the lessee would be required to amend the lease to allow for a "Termination Clause" which could be used by the Administration to terminate the lease prior to its expiration date if an opportunity to use the leased premises for the highest-and-best use should arise.

*The Board of Trustees  
of the  
School and Institutional Trust Lands Administration*

☒ *New Policy*      \_\_\_\_\_ *Amends Policy No.* \_\_\_\_\_      \_\_\_\_\_ *Repeals Policy No.* \_\_\_\_\_

*Policy Statement No. 2007-03*

*Subject: Special Use Lease Policy*

*The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on June 27, 2007, and by majority vote declares the following to be an official policy of the Board:*

Pursuant to §53-C-4-101 and § 53C-4-201 of the School and Institutional Trust Lands Management Act ("Act"), the Board of Trustees ("Board") believes it is desirable and prudent to establish a policy governing the procedures used by the School and Institutional Trust Lands Administration ("Administration") to enter into special use leases for the surface estate of trust land.

The Director has the authority to establish criteria by rule for leasing trust lands under § 53C-4-101(1)(a). In order to assist the Director in fulfilling his/her obligation under the foregoing, the Board adopts the following policy regarding the procedures and criteria used by the Administration to lease trust land.

1. As a general rule, leasing trust land provides more economic benefits to the beneficiaries than does selling and is, therefore, the favored alternative where feasible and prudent.
2. The Administration shall evaluate comments and concerns raised by outside interests prior to leasing trust lands.
3. Leases issued by the Administration will be for terms appropriate for the use and consistent with land-management objectives adopted by the Board.
4. The Administration may solicit requests for proposals to lease trust lands using such advertising as the Director deems appropriate.
5. Lease rates will be based on the value and income-producing capability of the subject property and may include percentage rent, where appropriate. The Administration may establish a minimum annual rental for leases based on the costs incurred in administering leases and a desired minimum rate of return.
6. Leases will contain provisions for review to ensure compliance with the terms and conditions of the lease and adjustments of rentals to account for any appreciation of the leased premises and changing market conditions.
7. Leases will contain provisions necessary to ensure responsible surface management of trust lands.
8. Leases will be subject to advertising for competitive applications unless the use is exempt or unless the Director finds that the waiver of such is in the best interest of the beneficiaries.

9. Generally, lands should not be leased if:
  - a. a lease would create obstacles to future mineral development or
  - b. a lease would foreclose future development or management options which would likely result in greater long-term economic benefit.
10. The Administration may lease land that would otherwise remain vacant for less than full-market value, provided that the lease contains a clause whereby the Administration may terminate the lease prior to the end of the term.

**R850. School and Institutional Trust Lands, Administration.****R850-30. Special Use Leases.****R850-30-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) which authorize the director to establish criteria for the leasing of trust lands.

**R850-30-150. Planning.**

In addition to those other planning responsibilities described in this Rule R850-30, the agency shall:

1. Submit proposals to lease trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;
2. Evaluate comments received through the RDCC process; and
3. Evaluate comments received through the request for proposal process pursuant to Section R850-30-310 or the solicitation process pursuant to Section R850-30-500, as applicable.

**R850-30-200. Terms of Leases.**

Lease terms should not normally be for longer than 30 years, except that telecommunication and agricultural leases should not normally be for longer than 20 years. Extensions to a lease term should not normally be for longer than 20 years. The agency may issue leases for a term longer than 30 years or extend a term for longer than 20 years if a longer term is consistent with the land management objectives found in Rule R850-2.

**R850-30-300. Categories of Special Use Leases.**

Special use leases are categorized as follows:

1. Commercial;
2. Industrial;
3. Agricultural;
4. Telecommunications;
5. Residential; and
6. Governmental.

**R850-30-305. Other Business Arrangements.**

1. The agency may enter into other business arrangements (OBAs), such as joint venture and lease to sell agreements, that are consistent with the purposes of the Act.
2. OBAs are exempt from these R850-30 rules.
3. OBAs and any amendments to OBAs must be approved by the Board of Trustees.

**R850-30-310. Requests for Proposals.**

1. The agency may issue a request for proposals (RFP) for surface uses of trust lands.
2. The agency shall give notice of the RFP to lessees or permittees of record on the subject property and shall advertise the RFP by methods determined by the agency to increase exposure of the subject property to qualified applicants.
3. In response to the RFP, an applicant may propose a sale, lease, joint development, exchange, or other business arrangement.
4. The agency shall evaluate proposals using the following criteria:
  - (a) income potential;
  - (b) potential enhancement of trust lands;
  - (c) development timeline;
  - (d) applicant qualifications;
  - (e) desirability of proposed use; and
  - (f) any other criterion deemed appropriate by the agency.
5. The agency may charge non-refundable application and review fees, as specified in the RFP.
6. Applicants selected in the RFP process are exempt from the application process in Section R850-30-500.

**R850-30-400. Lease Rates.**

1. The agency shall base lease rates on the market value or income producing capability of the subject property and may require any commercially reasonable type of consideration, including rent, percentage rent, use payments, impact charges, escalating charges, balloon payments, and in-lieu payments. The agency may base lease rates on any of the following criteria, in combination or otherwise:
  - (a) the market value of the subject property multiplied by the current agency-determined interest rate;
  - (b) comparable lease data;
  - (c) market value of the proposed use of the subject property;
  - (d) rates schedules approved by the director;
  - (e) the administrative costs of leasing the subject property and a desired minimum rate of return; and

(f) a fixed rate per acre or a crop-share formula for agricultural leases providing that the lease rate is customary and reasonable.

2. The agency may base lease rates on a value other than the market value of the subject property if the director determines it is in the best interest of the beneficiaries and the agency has the right to terminate the lease before the end of the term.

3. Lease Review and Adjustment Procedures.

(a) The agency shall review special use leases periodically as specified in the lease agreement and may adjust lease rates, the amount of financial guaranty, the amount of required insurance, and other similar lease provisions to ensure the agency receives no less than fair market value for the subject property and is adequately protected against a lessee's breach. Periodic lease reviews should normally be no longer than every five years.

(b) The agency may base lease rate adjustments on changes in market value including appreciation of the subject property, changes in established indices, or other methods that are appropriate and in the best interest of the trust beneficiaries.

(c) If the lease does not specify the rate of adjustment, the rate of adjustment will be based on the Consumer Price Index, published by the U.S. Bureau of Labor Statistics, All Urban Consumers, Western Region Average, All Items (1982-84 = 100), or if the Consumer Price Index is no longer published, a substitute index published by a governmental agency and comparable to the Consumer Price Index. The adjusted lease rate cannot be less than the lease rate for the immediately preceding review period.

(d) The director may suspend, defer, or waive lease adjustments in specific instances, based on a written finding that the suspension, deferral, or waiver is in the best interest of the trust beneficiaries.

**R850-30-500. Solicitation of Competing Applications.**

1. On acceptance by the agency of a completed special use lease application, the agency shall solicit competing interest in the subject parcel. The director may waive this requirement if it is in the best interest of the trust beneficiaries.

2. The following classes of leases are exempt from the requirements of Subsection R850-30-500(1):

(a) Telecommunications; and

(b) Mineral and oil and gas extraction facilities to extract the mineral estate of the subject property when the mineral estate is not a trust asset.

3. The agency shall solicit competing interest in the subject parcel by giving at least 30 days' notice by certified mail to:

(a) the legislative body of the county in which the subject parcel is located;

(b) lessees or permittees of record on the subject property; and

(c) adjoining landowners as shown on readily accessible county records or other credible records.

4. In addition to the notices required under Subsection R850-30-500(3), the agency may solicit competing interest in the subject parcel by methods determined by the agency to increase exposure of the subject property to qualified applicants.

5. The notice of solicitation of competing interest must include:

(a) a general description of the subject parcel and a brief description of its location, including township, range, and section;

(b) the contact information of the agency office where interested parties can obtain more information; and

(c) any other information that may create interest in the subject parcel that does not violate the confidentiality of the initial application. The successful applicant is responsible for the cost of the advertising.

6. The agency may solicit competing interests on trust lands when no application has been received by advertising a parcel pursuant to the process described in this Section R850-30-500 or any other means, when in the best interest of the trust beneficiaries.

7. In response to a solicitation, an applicant may propose a sale, lease, joint development, exchange, or other business arrangement.

**R850-30-510. Competing Proposals.**

1. If the agency receives credible competing proposals in response to the solicitation process conducted pursuant to Section R850-30-500, the agency may select a proposal using the following methods:

(a) Sealed Bid Process.

(i) The agency shall give the competing applicants notice setting forth the date on which the applicants must submit a final sealed proposal to the agency.

(ii) The agency may reject proposals received after the established due date.

(iii) The agency may require proposals for a lease to include the first year's rental, proposals for a sale to include a down payment on the proposed purchase price, and payments to cover the agency's costs of advertising and application fees.

(iv) The agency shall evaluate proposals using the following criteria:

(A) income potential;

(B) potential enhancement of trust lands;

(C) development timeline;

(D) applicant qualifications;

(E) desirability of proposed use; and

(F) any other criterion deemed appropriate by the agency.

(b) The agency may negotiate with the applicants or interested persons to create a proposal that best satisfies the objectives of Rule R850-2.

2. The agency may terminate the application process at any time in its sole discretion.

**R850-30-550. Lease Determination Procedures.**

The agency may not lease trust lands when leasing:

1. would be inconsistent with board policy or would not be in the best interest of the trust beneficiaries;
2. would create significant obstacles to future mineral development; or
3. would foreclose future development or management options that would likely result in greater long term economic benefit.

**R850-30-600. Special Use Lease Provisions.**

Each lease must contain provisions necessary to ensure responsible surface management, including those provisions enumerated under Section 53C-4-202, and the following provisions:

1. the term of the lease;
2. the lease rate and other payments due to the agency;
3. reporting of technical and financial data;
4. reservation for mineral exploration and development and other compatible uses, unless waived by the director;
5. operation requirements;
6. lessee's consent to suit in any dispute arising under the terms of the lease or as a result of operations carried on under the lease;
7. procedures of notification;
8. transfers of lease interest by lessee;
9. terms and conditions of lease forfeiture; and
10. protection of the state from liability associated with the actions of the lessee on the subject property.

**R850-30-800. Financial Guaranties.**

1. The agency may require a lessee to provide a financial guaranty to the agency to ensure compliance with lease terms including performance, payment, and reclamation. The financial guaranty must be in a form and in an amount acceptable to the agency.

2. If a lessee assigns a lease, the agency is not obligated to release the financial guaranty of the assignor until the assignee submits an equivalent replacement financial guaranty or any lease obligations, including reclamation, have been satisfied.

3. The agency may increase the amount of the financial guaranty in reasonable amounts at any time by giving lessee 30 days' written notice stating the increase and the reasons for the increase.

**R850-30-900. Lease Assignments and Subleases.**

1. Assignments.

(a) A lessee may only assign a lease if the agency consents to the assignment. Any assignment made without such approval is voidable in the agency's discretion.

(b) On the effective date of the assignment, the assignee is bound by the terms of the lease to the same extent as if the assignee were the original lessee, any conditions in the assignment to the contrary notwithstanding.

(c) An assignee must provide the agency with a copy of the assignment document, which must be a sufficient legal instrument, properly executed, with the lease number, the land involved, the name and address of the assignee, and the interest transferred clearly indicated.

(d) As a condition of the approval of an assignment, the agency shall require:

(i) the assignee to accept the most current applicable lease form unless continuation of the existing form is clearly in the best interests of the trust beneficiaries; and

(ii) the assignee be satisfactory to the agency.

2. Subleases.

(a) A lessee may only sublease a lease if the agency consents to the sublease. A sublease made without such approval is voidable in the agency's discretion.

(b) The lessee must indemnify the agency for actions or inactions of the sublessee and the agency may look to either the lessee or the sublessee for compliance with the lease.

(c) A lessee must provide the agency with a copy of the sublease document, which must be a sufficient legal instrument, properly executed, with the lease number, the land involved, the name and address of the sublessee, the interest subleased, and the financial benefit to lessee clearly indicated.

(d) The agency may require lessee and sublessee to provide annual financial documentation that clearly identifies the revenue generated on the property by sublessee and the revenue paid by sublessee to lessee.

(e) The agency may charge the lessee sublease rates based on the then current market rental value of the subject property, the revenue paid by sublessee to lessee, and such other factors as the agency deems reasonable.

**R850-30-1000. Lease Amendments.**

1. The agency may amend a lease if the amendment would be consistent with Rule R850-2. Unless waived by the director, the agency shall solicit competing interest pursuant to Section R850-30-500 if:

- (a) the total amended acreage exceeds 150% of the original acreage;
- (b) the lease term, including any extensions is longer than 50 years; or
- (c) the proposed amended purpose of the lease is substantially different from the original purpose.

2. The agency may condition approval of an amendment on the lessee accepting the current lease form.

**KEY: administrative procedures, leases, trust land management, request for proposals**

**Date of Last Change: August 8, 2022**

**Notice of Continuation: May 26, 2022**

**Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a); 53C-4-101(1); 53C-4-202**

## BOARD MEMORANDUM

To: Board of Trustees (*Board*)  
School and Institutional Trust Lands Administration (*TLA*)

From: Chris Fausett, Managing Director, Surface Resources

Re: Repeal of Board Policy No's 95-15 – Public Sale of Land, and 2007-04 – Sales Policy

Date: June 5, 2024

### **Summary**

Staff recommends that the Board repeal the following board policy statements dealing with land sales as they have been sufficiently codified into the agency's administrative rules.

- 95-15 – Public Sale of Land/Processing Charge
- 2007-04 – Sales Policy

These policies and the relevant section of the agency's administrative rules governing land sales (R850-80 are attached for reference.

### **Key Information and Background**

#### **95-15 – Public Sale of Land/Processing Charge:**

Policy Statement No. 95-15 was instituted by the Board on July 7, 1995 and August 29, 1995. It states:

*The processing charge for public sales of lands should be sufficient to cover the cost incurred by the agency in processing the sale. The charge for processing may be reduced from the amount required above where the agency has sufficient basis to show that the interests of the trust, as a whole, would materially benefit from such reduction.*

On March 18, 2021, the Board approved amended and restated administrative rules governing the sale of trust lands. These administrative rules were codified as Utah Administrative Code R-850-80 effective June 8, 2021. These rules represent the most recent direction from the Board concerning processes and procedures for the sale of trust lands. The amended and restated rules address processing charges for land sales in R850-80-400(1), Deposits on Nominated Parcels, R850-80-610(4), Public Auction Rules and Procedures, and R850-80-610(6), Public Auction Rules and Procedures.

#### **2007-04 – Sales Policy**

Policy Statement No. 2007-04 was instituted by the Board on June 27, 2007. This policy was intended to provide direction to the agency as it was revising its administrative rules governing land sales at the time. This policy direction was codified into the revised rules, which were later approved by the Board and became effective on October 9, 2007.

As mentioned above, the Board approved additional revisions and updates to the administrative rules governing land sales on March 18, 2021. These amended and restated rules became effective on June 8, 2021. These are the current rules under which the agency administers the surface land sales program.



The policy is stated in its entirety below. Bolded references listed within the policy indicate the section of the current administrative rules codifying the policy.

*Pursuant to §53C-4-101 and §53C-4-102 of the School and Institutional Trust Lands Management Act (“Act”), the Board of Trustees (“Board”) believes it is desirable and prudent to establish a policy governing the procedures used by the School and Institutional Trust Lands Administration (“Administration”) to identify, prepare, market, and sell trust lands.*

*The Director has the authority to establish criteria by rule for the sale of trust lands under §53C-4-101(1)(a). In order to assist the Director in fulfilling his/her obligations under the foregoing, the Board adopts the following policy regarding the procedures and criteria used by the Administration to sell trust land.*

1. *The Administration shall accept comments and make a reasonable effort to resolve concerns raised by such comments prior to selling trust lands. **(addressed in R850-80-150, Planning)***
2. *The Administration will evaluate and determine the presence and impact of valid existing rights on lands prior to sale and take appropriate steps to mitigate adverse impacts resulting from those rights. **(addressed in R850-80-250, Evaluation of Temporary Easements, Rights-of-Entry, and Other Existing Rights of Record)***
3. *Generally, lands should not be sold if:*
  - a. *they are appreciating in value at a rate in excess of the anticipated return from the investment of the principal;*
  - b. *there is no evidence of competitive market interest, unless the purpose of the sale is to test the market in a particular area;*
  - c. *the sale would create obstacles to future mineral development;*
  - d. *the sale would foreclose future development or management options which would likely result in greater long-term economic benefit. **(addressed in R850-80-200, Determination to Sell Trust Lands)***
4. *Prudent and cost-effective actions should be taken which have the potential to increase the value of land prior to disposal. **(addressed in R850-80-300(2), Determination of Fair Market Value)***
5. *Lands not administered under the Development rules should be marketed using competitive processes, with terms of sale and finance charges established in a manner to best attract market participation. **(addressed in R850-80-605, Advertisement of Public Auction; R850-80-610, Public Auction Rules and Procedures; R850-80-615, Advertisement of Negotiated Sale; R850-80-620, Negotiated Sale Procedures; and R850-80-500, Agency Financing)***

Subcommittee Review: The Surface Committee has reviewed these board policies and recommended that the Board consider repealing them.

#### **Requested Action**

The amended and restated administrative rules adopted by the Board in 2021 represent the most recent direction from the Board concerning processes and procedures for land sales, and sufficiently address

the various issues outlined in Board Policy Statements 95-15 and 2007-04. Therefore, the agency requests that the Board repeal these policies and offers the following proposed motion:

*“Move to repeal Board Policy Statement 95-15, Public Sale of Land/Processing Charge, and Board Policy Statement 2007-04, Sales Policy.”*

**The Board of Trustees  
of the  
School and Institutional Trust Lands Administration**

☒ New Policy   ☐ Amends Policy No. \_\_\_\_\_   ☐ Repeals Policy No. \_\_\_\_\_

**Policy Statement No. 95-15**

Cause No. 1

**Subject: Public Sale of Land /**

**Processing Charge**

**The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on July 7, 1995 and August 29, 1995 and by majority vote declares the following to be an official policy of the Board:**

The processing charge for public sales of lands should be sufficient to cover the cost incurred by the agency in processing the sale. The charge for processing may be reduced from the amount required above where the agency has sufficient basis to show that the interests of the trust, as a whole, would materially benefit from such reduction.

*The Board of Trustees  
of the  
School and Institutional Trust Lands Administration*

☒ *New Policy*      \_\_\_\_\_ *Amends Policy No.* \_\_\_\_\_      \_\_\_\_\_ *Repeals Policy No.* \_\_\_\_\_

*Policy Statement No. 2007-04*

*Subject: Sales Policy*

*The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on June 27, 2007, and by majority vote declares the following to be an official policy of the Board:*

Pursuant to §53C-4-101 and § 53C-4-102 of the School and Institutional Trust Lands Management Act (“Act”), the Board of Trustees (“Board”) believes it is desirable and prudent to establish a policy governing the procedures used by the School and Institutional Trust Lands Administration (“Administration”) to identify, prepare, market, and sell trust lands.

The Director has the authority to establish criteria by rule for the sale of trust lands under § 53C-4-101(1)(a). In order to assist the Director in fulfilling his/her obligations under the foregoing, the Board adopts the following policy regarding the procedures and criteria used by the Administration to sell trust land.

1. The Administration shall accept comments and make a reasonable effort to resolve concerns raised by such comments prior to selling trust lands.
2. The Administration will evaluate and determine the presence and impact of valid existing rights on lands prior to sale and take appropriate steps to mitigate adverse impacts resulting from those rights.
3. Generally, lands should not be sold if:
  - a. they are appreciating in value at a rate in excess of the anticipated return from the investment of the principal;
  - b. there is no evidence of competitive market interest, unless the purpose of the sale is to test the market in a particular area;
  - c. the sale would create obstacles to future mineral development; or
  - d. the sale would foreclose future development or management options which would likely result in greater long-term economic benefit.
4. Prudent and cost-effective actions should be taken which have the potential to increase the value of land prior to disposal.
5. Lands not administered under the Development rules should be marketed using competitive processes, with terms of sale and finance charges established in a manner to best attract market participation.

**R850. School and Institutional Trust Lands, Administration.****R850-80. Sale of Trust Lands.****R850-80-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1), which authorize the director to prescribe the terms and conditions for the sale of trust lands.

**R850-80-150. Planning.**

In addition to those other planning responsibilities described herein, the agency shall:

- (1) Submit proposals for the sale of trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;
- (2) Evaluate comments received through the RDCC process; and
- (3) Evaluate any comments received through the notice and advertising processes conducted pursuant to R850-80-605 and R850-80-615.

**R850-80-200. Determination to Sell Trust Lands.**

(1) The director may sell trust lands if the director determines that the sale would be in the best interest of the trust beneficiaries. The director may take into account any factor and circumstances deemed relevant in determining whether to sell trust lands.

(2) In determining whether the sale of trust lands is in the best interest of the trust beneficiaries, the director may consider the following factors:

- (a) whether the subject parcel is appreciating in value at a higher rate than the anticipated rate of return on the purchase price;
  - (b) whether there is evidence of competitive market interest, unless the purpose of the sale is to test the market in a particular area;
  - (c) whether the sale would create obstacles to future mineral development on trust lands; or
  - (d) whether, in the director's sole discretion, the sale would foreclose future development or management options that would likely result in greater long-term economic benefits.
- (3) The director may not sell trust lands for less than fair market value.

**R850-80-250. Evaluation of Temporary Easements, Rights-of-Entry, and Other Existing Rights of Record.**

Prior to the sale of trust lands, the agency shall determine, pursuant to R850-40-250(2), whether temporary easements or rights-of-entry exist on the subject parcel. The agency shall also evaluate the presence and impact of other valid existing rights of record on the subject parcel prior to sale.

**R850-80-300. Determination of Fair Market.**

(1) If the director determines that the sale of a parcel of trust lands is in the best interest of the beneficiaries, the agency shall determine the fair market value of the parcel. In determining the fair market value of a parcel, the agency may consider:

- (a) an appraisal;
  - (b) a market analysis, including evaluation of real estate trends, market demand, opportunity costs of the sale, and the management costs of retention; and/or
  - (c) other information that the agency considers relevant.
- (2) The agency shall evaluate whether taking prudent and cost-effective actions would increase the fair market value of the parcel.

**R850-80-400. Deposits on Nominated Parcels.**

(1) If the director evaluates a parcel of trust lands for sale due to a nomination by an interested party, the agency may require the nominator to deposit funds to offset the costs incurred by the agency to prepare the parcel for sale.

(2) If the nominator purchases the parcel, the agency shall credit the deposit against those costs and fees charged by the agency pursuant to R850-80-610(4) and R850-80-620(4).

(3) If the agency does not offer the subject parcel for sale or if the nominator submits a credible bid on the subject parcel but is not the successful bidder, the agency shall refund the deposit to the nominator. A bid less than a disclosed minimum acceptable purchase price is not a credible bid.

**R850-80-500. Agency Financing.**

(1) The agency may offer financing at a variable interest rate on any unpaid portion of the purchase price or other costs owed by the purchaser.

(2) Unless otherwise determined by the director, the interest rate shall be equal to the greater of:

- (a) the prime rate plus 2.5%, or
- (b) 7.5%.

(3) The agency shall establish the interest rate for each payment due by determining the prime rate as of the date of billing, except for interest due pursuant to R850-80-610(6) and R850-80-620(4).

(4) Interest is calculated on a 365-day basis, except for interest due pursuant to R850-80-610(6) and R850-80-620(4).

(5) The agency shall use the prime rate established as of a date determined by the director prior to the sale to determine the interest due pursuant to R850-80-610(6) and R850-80-620(4).

(6) A purchaser that finances through the agency shall make annual payments on the debt for no longer than 20 years. The agency may establish a shorter financing period.

(7) The purchaser shall make the first payment on or before one year from the first day of the month following the date of sale. The purchaser shall make all subsequent payments on or before the first day of the same month of each year thereafter until the balance is paid in full. The agency may require more frequent payments.

(8) The agency shall apply amounts paid in excess of the current obligation to principal. The purchaser may pre-pay the unpaid balance and accrued interest at any time without penalty.

(9) If the purchaser fails to pay an annual payment or accrued interest when due, the agency shall send the purchaser notice of default and allow the purchaser to cure the default, including paying any late fees, within 30 days of the notice. If the purchaser fails to cure the default within the 30-day cure period, the agency may accelerate the debt, forfeit the purchaser's interest in the subject parcel, and pursue all other available contractual, legal, or equitable remedies, including specific performance.

(10) A purchaser that finances through the agency shall execute and acknowledge a quitclaim deed in favor of the agency for the subject parcel. The agency may not record the quitclaim deed unless the agency forfeits the purchaser's interest in the subject parcel pursuant to R850-80-500(5).

#### **R850-80-600. Methods of Sale.**

The director may sell trust lands using one of the methods described below:

- (1) A public auction pursuant to R850-80-610, or
- (2) A negotiated sale pursuant to R850-80-620.

#### **R850-80-605. Advertisement of Public Auction.**

(1) At least 45 days prior to a public auction, the agency shall give notice by certified mail to:

- (a) the legislative body of the county in which the subject parcel is located;
- (b) lessees/permittees of record on the subject parcel; and
- (c) adjoining landowners as shown on county records.

(2) The notice of sale must include:

- (a) the date and time of the auction;
- (b) whether the auction will be held in person or by electronic means;
- (c) if the auction is held in person, the location of the auction;
- (d) if the auction is held electronically, the ways in which a potential bidder may participate;
- (e) a general description of the subject parcel and a brief description of its location, including township, range, and section;

and

(f) the contact information of the agency office where interested parties can obtain more information.

(3) The agency may advertise public auctions using other methods determined by the agency to increase competition at the auction.

#### **R850-80-610. Public Auction Rules and Procedures.**

(1) The agency may conduct a public auction in person or electronically.

(2) The agency shall publish the bidding procedures at the agency's website, which procedures must include:

(a) information required to register for the auction, if applicable;

(b) payments required to be paid at the auction by the successful bidder, including the down payment and costs and fees assessed by the agency pursuant to R850-80-610(4); and

(c) whether the agency is willing to finance the unpaid portion of the purchase price.

(3) The agency may disclose the minimum acceptable purchase price for the subject parcel.

(4) The agency may require that the successful bidder reimburse the agency for costs incurred by the agency in preparing the parcel for sale, including the costs of advertising, appraisal, cultural resource investigations, and environmental assessments. The agency may also charge a sale processing fee.

(5) A bid constitutes a valid offer to purchase.

(6) At the conclusion of the auction, the successful bidder shall pay the agency the down payment, the costs and fees published pursuant to R850-80-610(4), and if the successful bidder elects to finance through the agency, the interest on the unpaid balance as calculated from the date of sale to the first day of the following month.

(7) If the successful bidder does not finance the remainder of the purchase price through the agency, the successful bidder shall pay the remainder of the purchase price at the conclusion of the auction. If the successful bidder fails to pay the purchase price at the auction, the agency is not required to finalize the transaction and may retain all amounts paid by the successful bidder at the auction.

(8) If the successful bidder fails to pay the amounts required under R850-80-610(6) or fails to execute the certificate of sale within 30 days, pursuant to R850-80-700(2), the director may offer the subject parcel for sale to the person whose bid was second highest at the auction. The purchase price paid by the second highest bidder must meet or exceed the minimum acceptable purchase price. To accept the agency's offer, the second highest bidder shall submit all amounts owing under R850-80-610(6) or R850-80-610(7) and execute the certificate of sale within 30 days after the agency's offer.

(9) If a third party owns improvements on a parcel of trust lands sold at auction that were installed pursuant to a valid permit or other right granted by the agency and such valid right does not survive the sale of the parcel, the purchaser shall permit the owner of the improvements to remove them within 90 days after the date of the auction.

**R850-80-615. Advertisement of Negotiated Sale.**

- (1) The agency shall give notice of a negotiated sale by certified mail to:
    - (a) the legislative body of the county in which the subject parcel is located;
    - (b) lessees/permittees of record on the subject parcel; and
    - (c) adjoining landowners as shown on county records.
  - (2) The notice of sale must include:
    - (a) a general description of the subject parcel and a brief description of its location, including township, range, and section;
- and
- (b) the contact information of the agency office where interested parties can obtain more information.
  - (3) Negotiated sales must be advertised using methods determined by the agency to be in the best interest of the beneficiaries.

**R850-80-620. Negotiated Sale Procedures.**

- (1) If the agency receives an expression of competitive interest within the notice period, the agency shall evaluate the offer and determine what action is in the best interest of the beneficiaries.
- (2) The agency shall give the board and affected beneficiary prior notice of the proposed negotiated sale, which notice must describe the terms, reasons, and other pertinent facts of the proposed negotiated sale.
- (3) Board approval of a negotiated sale is required if:
  - (a) the fair market value of the subject parcel exceeds \$250,000.00;
  - (b) the subject property exceeds 320 acres; or
  - (c) the agency receives a competitive offer on the subject parcel.
- (4) The agency may require the purchaser to pay a down payment and the costs and fees described in R850-80-610(4)

**R850-80-700. Certificates of Sale.**

- (1) Following a public auction or on concurrence of the parties in a negotiated sale, the agency shall prepare and deliver a certificate of sale to the purchaser. The certificate must contain:
  - (a) a legal description of the subject parcel;
  - (b) the purchase price and any pre-paid amounts;
  - (c) costs assessed by the agency;
  - (d) financing terms, if applicable;
  - (e) the dates on which obligations must be met;
  - (f) the beneficiary of the subject parcel;
  - (g) remedies available to the agency on default by the purchaser, including forfeiture; and
  - (h) any other terms, covenants, deed restrictions, or conditions that the agency considers appropriate.
- (2) For trust lands purchased at an auction, the successful bidder must execute the certificate of sale within 30 days of receipt from the agency. If the successful bidder fails to execute the certificate of sale within the 30-day period, the agency is not required to finalize the transaction and may retain the down payment and costs paid by the successful bidder at the auction.
- (3) The agency may terminate a negotiated sale for any reason prior to finalization of the certificate of sale. If a negotiated sale is terminated by the proposed purchaser, the agency may retain the costs and fees paid pursuant to R850-80-620(4).
- (4) A certificate of sale is not final until the purchaser and the director or other authorized agency representative executes the certificate.
- (5) The purchaser under a certificate of sale may assign the certificate of sale to any person qualified to purchase trust lands. If the purchaser desires to assign the certificate prior to payment in full of the purchase price and all accrued interest, the purchaser must have the agency's prior written consent to the assignment. The agency may require the assignee to execute a quitclaim deed, as required under R850-80-500(6), as a condition to consent to the assignment. An assignment of a certificate of sale must clearly identify the subject parcel, the certificate of sale number, the name and address of the assignee, and be executed by both the assignor and assignee.
- (6) Assignment of a certificate of sale does not relieve the assignor from any obligations arising prior to the date of assignment.
- (7) Within a reasonable time after payment in full of the amounts owing under a certificate of sale, the agency shall seek issuance of a patent from the governor or the governor's designee to the purchaser of the property.

**R850-80-750. Partial Releases.**

- (1) The director may authorize a partial release of trust lands sold under a certificate of sale if in the director's sole determination it is in the best interest of the trust beneficiaries. In considering whether a partial release is in the best interest of the trust beneficiaries, the director may consider the following:
  - (a) whether access to the remainder of the parcel is preserved without restriction;
  - (b) whether utilities and infrastructure, including water, sewer and storm drains, electric power, and natural gas, installed on trust lands covered by the certificate have the capacity and capability to service the whole of the parcel;
  - (c) whether the value of the remaining portion of the parcel is less than the remaining principal balance of the certificate; and
  - (d) any other factor the director deems reasonable to preserve the value of the remainder of the parcel.

**KEY: administrative procedures, sales**

**Date of Last Change: June 8, 2021**

**Notice of Continuation: May 26, 2022**

**Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-4-101(1); 53C-4-102; 53C-4-202(6); 63G-2-305; 72-5-203(1)(a)(i); 72-5-203(2)(a)**



## BOARD MEMORANDUM

To: Board of Trustees (*Board*)  
School and Institutional Trust Lands Administration (*TLA*)

From: Chris Fausett, Managing Director, Surface Resources

Re: Repeal of Board Policy Statement 2013-02 – Grazing Fees/Permits Acquired From Federal Exchanges, and 2015-04 – Notice of Expiring Grazing Permits, Reimbursement of Value of Range Improvements, and Term Length of Permits

Date: June 5, 2024

### Summary

Staff recommends that the Board repeal the following board policy statements dealing with livestock grazing and range management as they have been sufficiently codified into the agency's administrative rules.

- 2013-02 – Grazing Fees/Permits Acquired From Federal Exchanges
- 2015-04 – Notice of Expiring Grazing Permits, Reimbursement for Value of Range Improvement Projects, and Term Length of Permits

These policies and the relevant section of the agency's administrative rules governing range management (R850-50) are attached for your reference.

### Key Information and Background

#### 2013-02 – Grazing Fees/Permits Acquired From Federal Exchanges

Policy Statement No. 2013-02 was instituted by the Board on March 28, 2013. This policy direction was incorporated into revised administrative rules governing range management which were approved by the Board on May 28, 2015, and became effective on August 11, 2015. The policy is stated in its entirety below. Bolded references listed within the policy indicate the section of the current administrative rules codifying the policy.

*Grazing fees on trust lands shall be established by the Board and reviewed annually. The Administration shall recommend changes in grazing fees based on a Board approved formula. (addressed in R850-50-500(1), AUM Assessments and Annual Adjustments)*

*Grazing fees for lands designated as "High Value Grazing Lands" will be assessed at a higher rate than trust lands not so designated. High Value Grazing Lands are typically, but not necessarily, contained in a named land block. The lands so designated through this policy are: (addressed in R850-50-500(2), AUM Assessments and Annual Adjustments)*

1. *The Book Cliffs Block (all three allotments)*
2. *The Tabby Mountain Block*
3. *The St. John Block*
4. *The Cinnamon Creek Block*

5. *The La Sal Mountain North Block*
6. *The La Sal Mountain South Block*
7. *The Parker Mountain Block – the Parker Mountain and Cedar Grove Allotments*
8. *The Big Water Block*
9. *The Bluff Bench Block*
10. *The Spanish Valley Block*
11. *The John's Valley Block*
12. *The Sand Ledges Block – the Sand Ledges Pasture of the North Cove Mountain Allotment*

*Additional blocked or scattered lands may be designated as High Value Grazing Lands through a Director's Finding. (addressed in R850-50-500(2), AUM Assessments and Annual Adjustments)*

*In the event that the Administration acquires High Value Grazing Lands through an exchange with the Federal Government, the application of the Administration's grazing fees to the holders of grazing privileges on the acquired land shall be phased in over a five-year period in equal increments after the term of the Federal Permit has expired. (addressed in R850-50-500(3), AUM Assessments and Annual Adjustments)*

*The application of the Administration's grazing fees on lands acquired through an exchange with the Federal Government, and not designated as High Value Grazing Lands, shall be phased-in over a three-year period in equal increments after the term of the Federal Permit has expired. (addressed in R850-50-500(4), AUM Assessments and Annual Adjustments) Grazing Permits issued on trust lands acquired through an exchange with the Federal Government (after the expiration of the Federal Permit) shall not be subject to the provisions of R850-50-400(2) for two (2) successive 15-year terms unless the permit has been sold or otherwise terminated. (addressed in R850-50-400(2)(b), Permit Approval Process)*

#### 2015-04 – Notice of Expiring Grazing Permits, Reimbursement for Value of Range Improvement Projects, and Term Length of Permits

Policy Statement No. 2015-04 was instituted by the Board on May 28, 2015. This policy direction was incorporated into revised administrative rules governing range management which were approved by the Board on May 28, 2015, and became effective on August 11, 2015. The policy is stated in its entirety below. Bolded references listed within the policy indicate the section of the current administrative rules codifying the policy.

*1. Applications for grazing permits on trust lands which are not subject to an existing grazing permit may be solicited through any other method the agency determines is appropriate. (Addressed in R850-50-400(1), Permit Approval Process) All expiring grazing permits shall be posted on the agency's website by January 1 of the year in which the permit expires. Notice of expiring grazing permits found on the agency's website may also be published. (addressed in R850-50-400(2)(a), Permit Approval Process)*

*2. An Applicant submitting a competing bid for trust land subject to an expiring grazing permit, where a range improvement project has been authorized by the agency and constructed at the expense of the existing permittee, must, in addition to the amount submitted for the competing*

*bid, submit an amount determined by the agency to reimburse the holder of the authorized range improvement project. (addressed in R850-50-400(4)(c), Permit Approval Process)*

*3. Authorized range improvement projects will be valued using methods deemed appropriate by the agency. (addressed in R850-50-1100(7)(a), Range Improvement Projects) In the event that trust land encumbered by an authorized range improvement project is sold, exchanged, withdrawn from use, or is otherwise made unavailable, the permittee will be reimbursed for the value of the range improvement project through means determined by the agency. (addressed in R850-50-1100(8), Range Improvement Projects)*

*4. The maximum term of a grazing permit will be 15 years. No extensions will be allowed. (addressed in R850-50-600(1), Grazing Permit Terms)*

Subcommittee Review: The Surface Committee has reviewed these board policies and recommended that the Board consider repealing them.

#### **Requested Action**

The policy direction provided by the Board in Policy Statements 2013-02 and 2015-04 has been codified into the agency's administrative rules as discussed herein. Therefore, the agency requests that the Board repeal these policies and offers the following proposed motion:

*"Move to repeal Board Policy Statement 2013-02, Grazing Fees/Permits Acquired From Federal Exchange, and Board Policy Statement 2015-04, Notice of Expiring Grazing Permits, Reimbursement for Value of Range Improvement Projects, and Term Length of Permits."*

*The Board of Trustees  
of the  
School and Institutional Trust Lands Administration*

X New Policy      Amends Policy No. \_\_\_\_\_      Repeals Policy No. \_\_\_\_\_

*Policy Statement No. 2013-02      Subject: Grazing Fees/Permits Acquired From Federal Exchanges*

*The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on March 28, 2013, and by majority vote declares the following to be an official policy of the Board:*

Grazing fees on trust lands shall be established by the Board and reviewed annually. The Administration shall recommend changes in grazing fees based on a Board approved formula.

Grazing fees for lands designated as "High Value Grazing Lands" will be assessed at a higher rate than trust lands not so designated. High Value Grazing Lands are typically, but not necessarily, contained in a named land block. The lands so designated through this policy are:

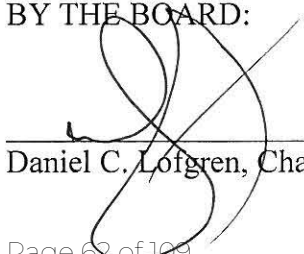
1. The Book Cliffs Block (all three allotments)
2. The Tabby Mountain Block
3. The St. John Block
4. The Cinnamon Creek Block
5. The La Sal Mountain North Block
6. The La Sal Mountain South Block
7. The Parker Mountain Block - the Parker Mountain and Cedar Grove Allotments
8. The Big Water Block
9. The Bluff Bench Block
10. The Spanish Valley Block
11. The John's Valley Block
12. The Sand Ledges Block - the Sand Ledges Pasture of the North Cove Mountain Allotment

Additional blocked or scattered lands may be designated as High Value Grazing Land through a Director's Finding.

In the event that the Administration acquires High Value Grazing Lands through an exchange with the Federal Government, the application of the Administration's grazing fees to the holders of grazing privileges on the acquired land shall be phased in over a five-year period in equal increments after the term of the Federal Permit has expired.

The application of the Administration's grazing fees on lands acquired through an exchange with the Federal Government, and not designated as High Value Grazing Lands, shall be phased-in over a three-year period in equal increments after the term of the Federal Permit has expired. Grazing permits issued on trust lands acquired through an exchange with the Federal Government (after the expiration of the Federal Permit) shall not be subject to the provisions of R850-50-400(2) for two (2) successive 15-year terms unless the permit has been sold or otherwise terminated.

BY THE BOARD:

  
\_\_\_\_\_  
Daniel C. Loigren, Chairman

*The Board of Trustees  
of the  
School and Institutional Trust Lands Administration*

☐ *New Policy*

☐ *Amends Policy No.*

☐ *Repeals Policy No.*

*Policy Statement No. 2015-04      Subject: Notice of Expiring Grazing Permits,  
Reimbursement for Value of Range Improvement  
Projects, and Term Length of Permits*

*The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on May 28, 2015, and by majority vote declares the following to be an official policy of the Board:*

1. Applications for grazing permits on trust lands which are not subject to an existing grazing permit may be solicited through any other method the agency determines is appropriate. All expiring grazing permits shall be posted on the agency's website by January 1 of the year in which the permit expires. Notice of expiring grazing permits may be found on the agency's website may also be published.
2. An Applicant submitting a competing bid for trust land subject to an expiring grazing permit, where a range improvement project has been authorized by the agency and constructed at the expense of the existing permittee, must, in addition to the amount submitted for the competing bid, submit an amount determined by the agency to reimburse the holder of the authorized range improvement project.
3. Authorized range improvement projects will be valued using methods deemed appropriate by the agency. In the event that trust land encumbered by an authorized range improvement project is sold, exchanged, withdrawn from use, or is otherwise made unavailable, the permittee will be reimbursed for the value of the range improvement project through means determined by the agency.
4. The maximum term of a grazing permit will be 15 years. No extensions will be allowed.

By the Board:

  
\_\_\_\_\_  
R. David Ure  
Chairman

**R850. School and Institutional Trust Lands, Administration.****R850-50. Range Management.****R850-50-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsection 53C-1-302(1)(a)(ii) and Section 53C-5-102 which authorize the Director of the School and Institutional Trust Lands Administration to establish rules prescribing standards and conditions for the utilization of forage, the qualifications of a grazing permittee, and related improvement of range resources on trust lands.

**R850-50-150. Planning.**

1. Pursuant to Subsection 53C-2-201(1)(a), the issuance of grazing permits carries no planning obligations by the agency beyond existing rule-based analysis and approval processes.

2. Range improvement projects authorized pursuant to this section carry the following planning obligations beyond existing rule-based analysis and approval processes:

(a) to the extent required by the Memorandum of Understanding with the State Planning Coordinator, the agency shall submit the proposal for review by the Resource Development Coordinating Committee (RDCC); and

(b) evaluate and respond to comments received through the RDCC process.

3. Applications for modified grazing permits which do not involve surface disturbing activities are governed by Subsection R850-150(1). Applications for modified grazing permits which involve surface disturbing activities are subject to the planning obligations set forth in Subsection R850-150(2).

**R850-50-200. Grazing Management.**

1. Management of trust lands used for grazing purposes is based upon carrying capacity which permits optimum forage utilization and seeks to maintain or improve range conditions.

2. Carrying capacity shall be established after consideration of historical stocking rates, forage utilization, range condition, trend, and climatic conditions.

3. To fulfill its constitutional mandate to its beneficiaries, the agency may set, and change, at its discretion, season of use, duration or time of use, and intensity of use, as well as numbers, distribution, and kind of livestock which are allowed by a grazing permit.

**R850-50-300. Applications.**

1. Grazing permit applications may be accepted on any trust lands not otherwise subject to a grazing permit unless the land has been withdrawn from grazing or has been determined to be unsuitable for grazing.

2. Trust lands may be deemed unsuitable for grazing if it is determined that:

(a) range conditions make it incapable of supporting economic grazing practices;

(b) grazing would substantially interfere with another use that is better able to provide for the support of the beneficiaries; or

(c) the agency's management costs would be excessive.

3. The determination to accept grazing permit applications is at the sole discretion of the director.

**R850-50-400. Permit Approval Process.**

1. On trust lands that are unpermitted and which are available for grazing, applications may be solicited through any method the agency determines appropriate, including notification of adjacent landowners and other permittees in an allotment.

2. On trust lands subject to an expiring grazing permit, competing applications shall be accepted from April 1 to April 30, or the next working day if either of these days is a weekend or holiday, of the year in which the permit terminates.

(a) Any expiring and terminated grazing permits shall be posted on the agency's website by January 1 of the year in which the permit expires or the year after the permit was terminated, provided that the permitted property has been determined to be available for grazing by the agency. The website notice shall include any reimbursable investment made by an existing permittee on a range improvement. Notice that expiring grazing permits may be found on the agency's website may also be published.

(b) Grazing permits issued on trust lands acquired through an exchange with the federal government after the expiration of the federal permit, shall not be subject to this rule for two successive 15-year terms unless the permit has been sold or otherwise terminated.

3. A person holding an expiring grazing permit shall have the right to renew the permit, provided that no competing applications are received, by submitting a completed application along with the first year's rent and other applicable fees.

4. Persons desiring to submit a competing application must do so on forms acceptable to the agency. Forms are available at the offices listed in Subsection R850-6-200(2)(b) or from the agency's website. Applications must include:

(a) a non-refundable application fee;

(b) a one-time bonus bid; and

(c) an amount determined by the agency pursuant to Subsection R850-50-1100(7), which will be required to reimburse the holder of an authorized range improvement project should the competing application be accepted.

5. Bonus bids and range improvement reimbursements shall be refunded to unsuccessful applicants. Upon establishment of the yearly rental rate, the successful applicant shall be required to submit the first year's rental and other required fees.

6. Applications shall be evaluated by the agency and may be accepted only if the agency determines that the applicant's grazing activity will not create unmanageable problems of trespass, range and resource management, or access.

(a) For purposes of this evaluation, adjoining permittees and lessees, adjoining property owners, and adjoining federal permittees may be considered acceptable as competing applicants unless specific problems are demonstrated.

(b) Applicants not meeting the requirements in Subsection R850-50-400(6)(a), whose uses would not unreasonably conflict with the uses of other permittees in the area, may nevertheless be accepted if the size of the grazing area, the access to the grazing area, and other factors demonstrate that the applicant can utilize the area without adverse impact on the range resources, adjoining lands, or beneficiaries of affected trust lands.

(c) To evaluate an applicant's acceptability as a grazing permittee, the agency may consider:

(i) the applicant's ability to maintain any water rights appurtenant to the lands described in the application;

(ii) the applicant's ownership of private land in the area;

(iii) the applicant's ownership of grazing privileges in the BLM or Forest Service allotment where the trust land is located;

(iv) the type and number of livestock owned by the applicant; and

(v) management costs to the agency should the application be approved.

7. The holder of a permit which is expiring, on which a competing application has been received, shall have a preference right to permit the property provided the permit holder agrees to pay an amount equal to the highest bonus bid submitted by a competing applicant.

(a) If the existing permittee fails to match the highest bonus bid, the permittee may be refunded the value of the amount the permittee contributed to the cost of any approved range improvement project at the expense of the successful bonus bid applicant.

(b) If all, or a portion of, the property on which a bonus bid was submitted is sold, exchanged, or otherwise made unavailable, the permittee shall receive the refund of a prorated amount of the bonus bid based on the AUMs lost to the use of the permittee.

#### **R850-50-500. AUM Assessments and Annual Adjustments.**

1. An annual assessment shall be charged for each AUM authorized by the agency. This assessment shall be established by the board and shall be reviewed annually and adjusted if appropriate.

2. The annual assessment for lands designated as "High Value Grazing Lands" will be at a higher amount than trust lands not so designated. High Value Grazing Lands are typically, but not necessarily, contained in a named land block. Blocked or scattered lands may be designated as High Value Grazing Land through a Director's Finding.

3. If the agency acquires High Value Grazing Lands through an exchange with the federal government, the application of the agency's annual assessment to the holders of grazing privileges on the acquired land shall be phased in over a five-year period in equal increments after the term of the federal permit has expired.

4. The application of the agency's annual assessment on lands acquired through an exchange with the federal government, and not designated as High Value Grazing Lands, shall be phased in over a three-year period in equal increments after the term of the federal permit has expired.

5. Failure to pay the annual assessment within the time prescribed shall automatically work a forfeiture and termination of the permit and all rights thereunder.

#### **R850-50-600. Grazing Permit Terms.**

1. Grazing permits shall be issued for a maximum of 15 years and shall contain the following:

(a) terms, conditions, and provisions that shall protect the interests of the trust beneficiaries for securing the payment to the agency of any amounts owed;

(b) terms, conditions, and provisions that shall protect the range resources from improper and unauthorized grazing uses; and

(c) other terms, conditions, and provisions that may be deemed necessary by the agency or board in effecting the purpose of this rule and not inconsistent with any of its provisions.

2. The agency may terminate or suspend grazing permits, in whole or in part, after 30 days' notice by certified mail to the permittee when:

(a) a violation of the terms of the permit, or of this rule, including trespass as defined in Section R850-50-1400, has occurred;

(b) the agency, in its sole discretion, has identified a higher and better use for the permitted property;

(c) the agency intends to dispose of the permitted property; or

(d) any management problems arise as determined at the sole discretion of the agency.

#### **R850-50-700. Reinstatements.**

Trust land on which a grazing permit has been terminated and which is ineligible for reinstatement pursuant to Subsection R850-5-500(1)(c) may be advertised as available pursuant to Subsection R850-50-400(2). If the agency does not

advertise the property, the person previously holding the permit may apply for a new permit by submitting an application and any applicable fees.

**R850-50-800. Grazing Permits--Legal Effect.**

1. A grazing permit transfers neither right, title, or interest in any lands or resources, nor any exclusive right of possession and grants only the authorized utilization of forage.
2. Locked gates on trust land, without written approval, are prohibited. If such approval is granted, keys shall be supplied to the agency and other appropriate parties requiring access to the area as approved by the agency, including those with fire and regulatory responsibilities.

**R850-50-900. Non-Use Provisions.**

1. The granting of non-use shall be at the discretion of the agency.
2. Applications for non-use must be submitted in advance or, if the trust land is within a federal grazing allotment, as soon as notification of non-use is received from the applicable federal agency.
3. Applications for non-use must be accompanied by the application fee and by any documentation which is the basis for the request. If the non-use application is approved, any annual assessment paid for the year shall be applied to the permittee's next year's annual assessment.
4. Non-use shall not be approved for periods of time exceeding one year except when the director finds that a longer period would be in the best interests of the beneficiaries.
5. Non-use for personal convenience with no payment of the annual assessment shall not be approved.

**R850-50-1000. Assignment and Subleasing of Grazing Permits.**

1. Permittee shall not assign, or sublease, in whole or in part, or otherwise transfer, dispose of, or encumber any interest in a permit without the written consent of the agency. To do so shall automatically, and without notice, work the forfeiture and termination of the permit.
2. The approval of a sublease shall be subject to the following restrictions:
  - (a) An annual assessment equal to 50% of the difference between the base AUM assessment established under Section R850-50-500, and the AUM payment received by the permittee through the sublease, multiplied by the number of AUMs subleased, or a \$1 per AUM minimum assessment, whichever is greater, shall be charged for the approval of any sublease.
  - (b) Applications to sublease a grazing permit shall only be approved after a determination that the sub-lessee meets the requirements of Subsection R850-50-400(6).
  - (c) Sublease approvals are valid for a maximum period of five years.
3. The approval of an assignment shall be subject to the following restrictions:
  - (a) A determination that the assignee meets the requirements of Subsection R850-50-400(6).
  - (b) A payment, based on the number of AUMs transferred multiplied by \$10, shall be paid to the agency before the approval of any assignment or partial assignment. Assignments made for no consideration in money, services, or goods, to include inter vivos or testamentary assignments made to immediate family members such as parents, spouse, children, grandchildren, and full siblings, and assignments from and to business entities wholly owned by an immediate family member or members, may be exempt from this additional payment. In such cases, a minimum assignment fee as listed on the Master Fee Schedule shall be assessed.
  - (c) For purposes of this rule, a shareholder or member of a grazing association or cooperative shall be deemed a permittee and subject to the requirements of Subsection R850-50-1000(3)(a). To facilitate the enforcement of this rule, each grazing association or cooperative shall submit a list of all members to the agency annually before June 30. This list shall include each member's contact information and the number of AUMs allowed.
4. The agency's consent to allow a mortgage agreement or collateral assignment is for the convenience of the permittee.
5. The mortgage agreement or collateral assignment shall:
  - (a) not exceed the remaining term of the permit; and
  - (b) contain an acknowledgment by the lender that the grazing permit is terminable pursuant to Subsections R850-50-600(2) and R850-50-1000(1) and that the agency assumes no liability in providing such consent.

**R850-50-1100. Range Improvement Projects.**

1. Applications for range improvement projects shall be submitted for approval on appropriate forms and shall be approved or denied by the agency based on a written finding.
2. A range improvement project must be approved by the agency in writing before construction begins. Line cabins and similar structures will not be authorized as range improvement projects. They may, however, be authorized by a special use lease pursuant to Rule R850-30.
3. Agency authorization for range improvement projects shall be valid for periods of time not to exceed two years from the date the applicant is notified of the authorization. Extensions of time may be granted only when the director finds that an extension of time would be in the best interests of the beneficiaries.
4. Range improvements constructed or placed upon trust land become the property of the agency.
5. Range improvements shall not be authorized if they would be:



(a) located on a parcel that the agency has determined has potential for sale, lease, or exchange and the possibility exists that improvements may encumber these actions;

(b) located on a parcel designated for disposal;

(c) unnecessary or uneconomical as determined by the agency; or

(d) determined by the agency to be ordinary maintenance.

6. Range improvements which are necessary to rehabilitate lands whose forage production has been diminished by poor grazing practices or poor stewardship of the permittee shall not be considered a reimbursable improvement but rather a requirement to keep the grazing permit in effect.

7. Authorized Range Improvement Projects:

(a) shall be depreciated using schedules consistent with typical schedules published by the USDA Natural Resources Conservation Service or any other depreciation schedules approved by the board; and

(b) do not grant any vested property interest to the permittee.

8. If the property, on which an approved range improvement is located is sold, exchanged, or withdrawn from use, the permittee shall receive no more than the amount the permittee contributed toward the original cost of the range improvement project, minus the indicated depreciation amount; or in the alternative, may be allowed 90 days to remove improvements pursuant to Subsection 53C-4-202(6).

9. If the range improvement project is designed to increase carrying capacity, the permittee shall agree to pay for the increase in AUMs annually starting no later than two years after project completion. The agency may allow any increase in fees to be phased in at 20% per year.

10. The agency may participate in the cost of designated range improvement projects, or maintenance of existing range improvement projects, by providing funding in amounts and at rates determined by the agency.

11. The agency's cost or share portion of the project may be in the form of project materials. In these instances, the permittee shall be required to provide any necessary equipment and manpower to complete the project to specifications required by the agency.

#### **R850-50-1200. Additional Leases.**

If the agency determines that there is unused forage available on a parcel of trust land resulting from temporary conditions, it may issue an additional permit or permits. These permits shall be issued in accordance to Section R850-50-400. Existing permittees shall have a first right of refusal to unused forage.

#### **R850-50-1300. Rights Reserved to the Agency.**

In any grazing permits, the agency shall expressly reserve the right to:

1. issue mineral leases, special use leases, timber sales, materials permits, easements, rights-of-entry, renewable energy leases, and any other interest in the trust land;

2. issue permits for the harvesting of seed from plants on the trust land. If loss of use occurs from harvesting activities, a credit for the amount of loss shall be made to the following year's assessment;

3. enter upon and inspect the trust land or to allow scientific studies upon trust land at any reasonable time;

4. allow the public the right to use the trust land for purposes and periods of time permitted by policy and rules.

However, nothing in this rule purports to authorize trespass on private land to reach trust land;

5. require that all water rights on trust land be filed in the name of the agency and to require express written approval before the conveyance of water off trust land;

6. require a permittee, when an agency-owned water right is associated with the grazing permit, to ensure that the water right, to the extent allowed under the permit, is maintained in compliance with state law;

7. close roads for range or road protection, or other administrative purposes;

8. dispose of the property without compensation to the permittee, subject to Subsection R850-50-1100(7); and

9. terminate the grazing permit pursuant to Subsection R850-50-600(2).

#### **R850-50-1400. Trespass.**

1. Unauthorized activities which occur on trust land shall be considered trespass and damages shall be assessed pursuant to Section 53C-2-301. These activities include:

(a) the use of forage at times and at places not authorized by the permit;

(b) the use of forage in excess of that authorized by the permit;

(c) grazing or trailing livestock on or across trust land without a valid permit or right-of-entry;

(d) the dumping of garbage or any other material on the trust land; and

(e) allowing another person to graze or trail livestock on the permitted property without the express written consent of the agency.

2. The permittee shall cooperate with the agency in taking civil action against the owners of trespass livestock to recover damages for lost forage and other damages.

#### **R850-50-1500. Trailing Livestock Across Trust Land.**

1. The trailing of livestock across trust land by a person not holding a grazing permit may be authorized if no other reasonable means of access is available.

2. Written approval in the form of a right-of-entry shall be obtained in advance from the agency.
3. The authorization to trail livestock across trust land shall restrict and limit the route, the number and type of animals, and the time and duration, which shall not exceed two consecutive days, of the trailing.

**R850-50-1600. Modified Grazing Permit.**

1. At the discretion of the director, the agency may issue modified grazing permits in instances where the proposed use is grazing related but is more intensive than livestock grazing alone and when improvements, if any, are primarily temporary in nature. Such uses may include camps, corrals, feed yards, irrigated livestock pastures, or other related uses.

2. Modified grazing permits shall be subject to the following terms and conditions:

(a) The term of a modified grazing permit shall be no longer than 15 years and contain terms, conditions, and provisions the agency, in its discretion, deems necessary to protect the interest of the trust beneficiaries.

(b) A modified grazing permit is subject to termination pursuant to Subsection R850-50-600(2).

(c) The annual rental for a modified grazing permit shall be based on the fair market value of the permitted property. Fair market value of the permitted property and annual rental rates shall be determined by the agency pursuant to Section R850-30-400. Periodic rental reviews may be completed pursuant to Section R850-30-400.

(d) Upon termination of the modified grazing permit, the permittee shall be allowed 90 days to remove any personal property.

(e) Before the issuance of a modified grazing permit, or for good cause shown at any time during the term of the modified grazing permit, the applicant or permittee may be required to post a bond with the agency in the form and amount as may be determined by the agency to assure compliance with all terms and conditions of the permit. Any bond posted pursuant to this rule is subject to Section R850-30-800.

**R850-50-1700. Supplemental Feeding.**

1. Supplemental livestock feeding may be permitted subject to:

(a) written authorization by the agency;

(b) the designation of a specific area, length of time, number, and class of livestock; and

(c) a determination that this shall not inflict long term damage upon the property.

2. The agency may assess an additional fee for authorized supplemental feeding or may require the permittee to obtain a modified grazing permit.

3. Emergency supplemental feeding shall be allowed for ten days before notification.

4. The forage used for supplemental feeding shall be certified weed free.

**KEY: administrative procedures, range management**

**Date of Last Change: October 11, 2022**

**Notice of Continuation: May 26, 2022**

**Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-5-102**

## BOARD MEMORANDUM

To: Board of Trustees Surface Committee (*Committee*)  
School and Institutional Trust Lands Administration (*TLA*)

From: Chris Fausett, Managing Director, Surface Resources

Re: Repeal of Board Policy 2005-02 – Hunting and Recreational Access to Trust Lands

Date: June 5, 2024

### **Summary**

Staff recommends that the Board repeal Board Policy 2005-02, Hunting and Recreational Access to Trust Lands. This policy expresses support for the terms of a hunter access agreement with the Utah Division of Wildlife Resources (UDWR) that expired in 2007. A copy of the policy is attached for reference.

### **Key Information and Background**

Policy Statement 2005-02 was instituted by the Board on February 10, 2005. The policy affirms the Board's support of the terms of an agreement between the agency and the UDWR providing for hunting and fishing access to trust lands. The agreement was for a term of 10 years, beginning in 1997 and expiring in 2007.

The agency has since entered two subsequent agreements with UDWR regarding access to trust lands for hunting and fishing. The first began in 2007 and ran for a term of 10 years, expiring in 2017. The current agreement began in 2017 and will expire in 2032.

Subcommittee Review: The Surface Committee has reviewed this board policy and recommended that the Board consider repealing it.

### **Requested Action**

Board Policy Statement 2005-02 expresses Board support for a long-since expired agreement. The policy is outdated and the agency requests that it be repealed. The following proposed motion is offered:

*"Move to repeal Board Policy Statement 2005-02, Hunting and Recreational Access to Trust Lands."*

*The Board of Trustees  
of the  
School and Institutional Trust Lands Administration*

☐ *New Policy*      ☐ *Amends Policy No.*      ☐ *Repeals Policy No. 96-05*

*Policy Statement No. 2005-02*

*Subject: Hunting and Recreational  
Access to Trust Lands*

*The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on February 10, 2005, and by majority vote declares the following to be an official policy of the Board:*

The Board of Trustees supports the agreement between the Division of Wildlife Resources (DWR) and the School and Institutional Trust Lands Administration (Administration) dated September 25, 1997, concerning access by hunting and fishing licensees to school and institutional trust lands. The Board of Trustees recognizes that DWR does not represent all public recreational users of trust lands, but believes that this agreement represents a large step forward in the resolution of the access issue. The negotiated agreement is based upon the following principles:

1. The agreement shall only grant access for hunting, trapping, fishing, and wildlife viewing on school and institutional trust lands, except those specifically closed for other surface or mineral uses (as determined by the Director) for all hunting, fishing, and habitat licensees licensed by DWR during the appropriate season in accordance with applicable laws.
2. DWR shall pay the Administration a base amount of \$200,000 per year, plus CPI increases, for the access rights granted by the agreement, on or before the end of the first fiscal quarter each year. The Administration may, but is not obligated to, accept full or partial payment of the annual fee in the form of services by DWR.
3. The parties shall cooperate in seeking an additional general fund appropriation from the legislature for access to trust lands by the general public.
4. The agreement is for an initial term of 10 years, subject to possible early termination pursuant to Paragraph 9 below.
5. The agreement shall preclude the creation of Cooperative Wildlife Management Units (CWMU's) on school and institutional trust lands for its term.

6. The Administration shall continue to pursue revenue generation from the development of recreational and other uses on trust lands, pursuant to management needs and direction, other than that proscribed in Paragraph 5 above.
7. The agreement shall not, in any way, diminish or affect the Administration's ability to seek other temporary or permanent uses of the surface or mineral estate nor otherwise affect or diminish the authority and jurisdiction of the Administration over any of the school and institutional trust lands, except as stated in Paragraph 5 above.
8. The agreement shall not transfer any management or decision-making authority.
9. The Administration may terminate the agreement for nonpayment of the agreed-upon sum upon thirty (30) days' written notice or at any time during the term of the agreement by providing notice prior to the annual payment.

## BOARD MEMORANDUM

To: Board of Trustees (*Board*)  
School and Institutional Trust Lands Administration (*TLA*)

From: Chris Fausett, Managing Director, Surface Resources

Re: Repeal of Board Policy 2005-01 – Joint Planning

Date: June 5, 2024

### **Summary**

Staff recommends that the Board repeal Board Policy 2005-01 – Joint Planning, as it has been sufficiently incorporated in the agency's administrative rules.

### **Key Information and Background**

Policy Statement No. 2005-01 was instituted by the Board on February 10, 2005. It states:

*Trust lands are often intermingled with lands managed by other federal and state agencies. Actions taken by those agencies can often impact the ability to manage trust lands for their highest and best use. Many land-management agencies and local governments have obligations to develop plans to direct the management of lands. Involvement in those planning processes may prevent adoption of plans that have the potential to negatively affect trust lands.*

*The Administration is hereby authorized and encouraged to be involved in any joint planning efforts conducted by local, state, or federal entities, with the degree of involvement to be set by the Director.*

Agency administrative rule R850-100-300 was updated effective December 22, 2010 and addresses joint planning efforts as follows:

*R850-100-300. Joint Planning.*

*The agency may participate in joint planning with other land management agencies when the director determines that the commitment of agency resources is justified, and trust management obligations will be facilitated.*

**Subcommittee Review:** The Surface Committee has reviewed this board policy and recommended that the Board consider repealing it.

### **Requested Action**

Administrative Rule R850-100-300 sufficiently addresses the authority of the agency to be involved in joint planning efforts as outlined in Board Policy 2005-01. Therefore, the agency requests that the Board repeal this policy and offers the following proposed motion:

*"Move to repeal Board Policy Statement 2005-01, Joint Planning."*

*The Board of Trustees  
of the  
School and Institutional Trust Lands Administration*

☐ *New Policy*      ☐ *Amends Policy No.* ☐ *Repeals Policy No. 94-04.2*

*Policy Statement No. 2005-01*

*Subject:      Joint Planning*

*The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on February 10, 2005, and by majority vote declares the following to be an official policy of the Board:*

Trust lands are often intermingled with lands managed by other federal and state agencies. Actions taken by those agencies can often impact the ability to manage trust lands for their highest and best use. Many land-management agencies and local governments have obligations to develop plans to direct the management of lands. Involvement in those planning processes may prevent adoption of plans that have the potential to negatively affect trust lands.

The Administration is hereby authorized and encouraged to be involved in any joint planning efforts conducted by local, state, or federal entities, with the degree of involvement to be set by the Director.

**R850. School and Institutional Trust Lands, Administration.****R850-100. Trust Land Management Planning.****R850-100-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii) and 53C-2-201(3) which require that planning procedures be developed for trust lands, and for the opportunity for interested parties to participate in the planning process.

**R850-100-150. Scope.**

Nothing in this rule is intended to supersede or replace the provisions of R850-21-150, R850-22-150, R850-23-150, R850-24-125, R850-30-150, R850-40-150, R850-50-150, R850-70-150, R850-80-150, R850-90-150, R850-120-150, or R850-140-350.

**R850-100-175. Definitions.**

The general definitions provided in R850-1-200 apply to this section. In addition, the words and terms used in Section R850-100-500 shall have the following-described meanings, unless otherwise indicated:

1. Public Lands: Lands and resources administered by the federal Bureau of Land Management or USDA Forest Service.
2. Interested Parties:
  - (a) The beneficiaries of the lands involved in any planning effort;
  - (b) local government officials.
3. Land Management, Tenure Adjustment, and Access Plans: A plan to evaluate and direct the management, disposal, and acquisition of lands in a specific area, and to provide for the establishment, maintenance, or both, of access to retained or acquired lands.
4. Local Government Officials: Elected county or municipal officials with jurisdiction over areas included in a planning effort.

**R850-100-200. Simultaneous Use of Trust Land Assets.**

The agency shall encourage the simultaneous use of compatible, revenue generating activities on trust lands.

**R850-100-300. Joint Planning.**

The agency may participate in joint planning with other land management agencies when the director determines that the commitment of agency resources is justified, and trust management obligations will be facilitated.

**R850-100-400. Assessments of Natural and Cultural Resources.**

1. The Resource Development Coordinating Committee (RDCC) process provides a natural resource assessment for purposes of trust land management. No other natural resource analysis is required beyond consultation with the RDCC. The public may comment on proposed trust land plans and uses through the RDCC process.
2. Cultural resource analysis on specific actions shall be conducted pursuant to R850-60.

**R850-100-500. Land Management, Tenure, and Access Plans.**

1. The agency may develop land management, tenure adjustment, and access plans for selected geographical regions of the state.
2. The planning criteria, regions, and boundaries shall be established by the director.
3. Plans developed under this section may:
  - (a) Designate areas where particular uses will be permitted or denied;
  - (b) identify trust lands designated for disposal to the federal government or other entities;
  - (c) identify public lands desired for acquisition;
  - (d) identify other lands and assets for acquisition that are not located on public lands; and
  - (e) identify access routes across public lands necessary for the economic development of trust lands within the planning boundaries.
4. Before adopting a plan developed under this section, the agency shall submit the plan for approval by the board of trustees.
  - (a) Prior to presenting a plan to the board for approval, the agency shall solicit input from interested parties; and,
  - (b) submit the plan for review by the RDCC.

**KEY:** management, natural resource assessment, land use

**Date of Last Change:** December 22, 2010

**Notice of Continuation:** August 8, 2022

**Authorizing, and Implemented or Interpreted Law:** 53C-1-302(1)(a)(ii); 53C-2-201(3)



## BOARD MEMORANDUM

To: Board of Trustees (*Board*)  
School and Institutional Trust Lands Administration (*TLA*)

From: Chris Fausett, Managing Director, Surface Resources

Re: Repeal of Board Policy 96-04 – Communication Site Sublease Fees

Date: June 5, 2024

### **Summary**

Staff recommends that the Board repeal Board Policy 96-04, Communication Site Sublease Fees. This policy is based on board policy and administrative rules that were repealed and replaced many years ago.

### **Key Information and Background**

Policy Statement No. 96-04 was instituted by the Board on March 15-16, 1996. It states:

*In accordance with Policy Statement No. 96-01 regarding minimum requirements for consultation, the Administration will consult with the Board on an annual basis, or more often as deemed necessary by the Director, on communication site fees and the market mechanisms behind the fees.*

Policy Statement 96-01, referenced in 96-04, states:

*Consultation between the Board and the Administration under Rule 850-30-500 shall:*

- 1. Occur within a time frame which gives the Board meaningful opportunity to understand and fully discuss the project; and*
- 2. Include full disclosure of each and every material basis for, and provision of, the transaction including each and every person materially involved in the process; and*
- 3. Occur in an open and public meeting to the extent appropriate; and*
- 4. Include a statement of the business reasons for the proposed transaction.*

Since the time these policies were instituted, Policy 96-01 has been repealed and the administrative rules governing special use leases have been amended and restated several times, most recently in 2022. It has not been the agency's practice to consult with the Board on communication site fees during the current staff's collective memories. It appears that Policy 96-04 is a holdover from the early days of the Trust Lands Administration that was neglected as other board policies, agency practices, and administrative rules continued to evolve.

On May 19, 2022, the Board approved amended and restated administrative rules governing special use leases. The administrative rules were codified as Utah Administrative Code R-850-30 effective August 8, 2022. These rules represent the agency's current practices regarding special use lease rates, including those for telecommunications sites. The relevant section of the rule is listed below:

*R850-30-400. Lease Rates.*

*1. The agency shall base lease rates on the market value or income producing capability of the subject property and may require any commercially reasonable type of consideration, including rent, percentage rent, use payments, impact charges, escalating charges, balloon payments, and in-lieu payments. The agency may base lease rates on any of the following criteria, in combination or otherwise:*

- (a) the market value of the subject property multiplied by the current agency-determined interest rate;*
- (b) comparable lease data;*
- (c) market value of the proposed use of the subject property;*
- (d) rates schedules approved by the director;*
- (e) the administrative costs of leasing the subject property and a desired minimum rate of return; and*
- (f) a fixed rate per acre or crop-share formula for agricultural leases provided that the lease rate is customary and reasonable.*

**Subcommittee Review:** The Surface Committee has reviewed this board policy and recommended that the Board consider repealing it.

**Requested Action**

The amended and restated administrative rules adopted by the Board in 2022 represent the most recent direction from the Board concerning rates for special use leases. Board Policy Statement 96-04 appears to be an outdated relic from the early days of the agency that has been replaced and superseded by current agency policy and practices. Therefore, the agency requests that the Board repeal this policy and offers the following proposed motion:

*“Move to repeal Board Policy Statement 96-04, Communication Site Sublease Fees.”*

**The Board of Trustees  
of the  
School and Institutional Trust Lands Administration**

☒ New Policy   ☐ Amends Policy No. \_\_\_\_\_   ☐ Repeals Policy No. \_\_\_\_\_

**Policy Statement No. 96-04**

**Subject: Communication Site**

**Cause No. 1**

**Sublease Fees - R850-30-900**

The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public sessions on March 15 and 16, 1996 and by majority vote declares the following to be an official policy of the Board:

In accordance with Policy Statement No. 96-01 regarding minimum requirements for consultation, the Administration will consult with the Board on an annual basis, or more often as deemed necessary by the Director, on communication site fees and the market mechanisms behind the fees.

**R850. School and Institutional Trust Lands, Administration.****R850-30. Special Use Leases.****R850-30-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1) which authorize the director to establish criteria for the leasing of trust lands.

**R850-30-150. Planning.**

In addition to those other planning responsibilities described in this Rule R850-30, the agency shall:

1. Submit proposals to lease trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;
2. Evaluate comments received through the RDCC process; and
3. Evaluate comments received through the request for proposal process pursuant to Section R850-30-310 or the solicitation process pursuant to Section R850-30-500, as applicable.

**R850-30-200. Terms of Leases.**

Lease terms should not normally be for longer than 30 years, except that telecommunication and agricultural leases should not normally be for longer than 20 years. Extensions to a lease term should not normally be for longer than 20 years. The agency may issue leases for a term longer than 30 years or extend a term for longer than 20 years if a longer term is consistent with the land management objectives found in Rule R850-2.

**R850-30-300. Categories of Special Use Leases.**

Special use leases are categorized as follows:

1. Commercial;
2. Industrial;
3. Agricultural;
4. Telecommunications;
5. Residential; and
6. Governmental.

**R850-30-305. Other Business Arrangements.**

1. The agency may enter into other business arrangements (OBAs), such as joint venture and lease to sell agreements, that are consistent with the purposes of the Act.
2. OBAs are exempt from these R850-30 rules.
3. OBAs and any amendments to OBAs must be approved by the Board of Trustees.

**R850-30-310. Requests for Proposals.**

1. The agency may issue a request for proposals (RFP) for surface uses of trust lands.
2. The agency shall give notice of the RFP to lessees or permittees of record on the subject property and shall advertise the RFP by methods determined by the agency to increase exposure of the subject property to qualified applicants.
3. In response to the RFP, an applicant may propose a sale, lease, joint development, exchange, or other business arrangement.
4. The agency shall evaluate proposals using the following criteria:
  - (a) income potential;
  - (b) potential enhancement of trust lands;
  - (c) development timeline;
  - (d) applicant qualifications;
  - (e) desirability of proposed use; and
  - (f) any other criterion deemed appropriate by the agency.
5. The agency may charge non-refundable application and review fees, as specified in the RFP.
6. Applicants selected in the RFP process are exempt from the application process in Section R850-30-500.

**R850-30-400. Lease Rates.**

1. The agency shall base lease rates on the market value or income producing capability of the subject property and may require any commercially reasonable type of consideration, including rent, percentage rent, use payments, impact charges, escalating charges, balloon payments, and in-lieu payments. The agency may base lease rates on any of the following criteria, in combination or otherwise:

- (a) the market value of the subject property multiplied by the current agency-determined interest rate;
- (b) comparable lease data;
- (c) market value of the proposed use of the subject property;
- (d) rates schedules approved by the director;
- (e) the administrative costs of leasing the subject property and a desired minimum rate of return; and

(f) a fixed rate per acre or a crop-share formula for agricultural leases providing that the lease rate is customary and reasonable.

2. The agency may base lease rates on a value other than the market value of the subject property if the director determines it is in the best interest of the beneficiaries and the agency has the right to terminate the lease before the end of the term.

3. Lease Review and Adjustment Procedures.

(a) The agency shall review special use leases periodically as specified in the lease agreement and may adjust lease rates, the amount of financial guaranty, the amount of required insurance, and other similar lease provisions to ensure the agency receives no less than fair market value for the subject property and is adequately protected against a lessee's breach. Periodic lease reviews should normally be no longer than every five years.

(b) The agency may base lease rate adjustments on changes in market value including appreciation of the subject property, changes in established indices, or other methods that are appropriate and in the best interest of the trust beneficiaries.

(c) If the lease does not specify the rate of adjustment, the rate of adjustment will be based on the Consumer Price Index, published by the U.S. Bureau of Labor Statistics, All Urban Consumers, Western Region Average, All Items (1982-84 = 100), or if the Consumer Price Index is no longer published, a substitute index published by a governmental agency and comparable to the Consumer Price Index. The adjusted lease rate cannot be less than the lease rate for the immediately preceding review period.

(d) The director may suspend, defer, or waive lease adjustments in specific instances, based on a written finding that the suspension, deferral, or waiver is in the best interest of the trust beneficiaries.

**R850-30-500. Solicitation of Competing Applications.**

1. On acceptance by the agency of a completed special use lease application, the agency shall solicit competing interest in the subject parcel. The director may waive this requirement if it is in the best interest of the trust beneficiaries.

2. The following classes of leases are exempt from the requirements of Subsection R850-30-500(1):

(a) Telecommunications; and

(b) Mineral and oil and gas extraction facilities to extract the mineral estate of the subject property when the mineral estate is not a trust asset.

3. The agency shall solicit competing interest in the subject parcel by giving at least 30 days' notice by certified mail to:

(a) the legislative body of the county in which the subject parcel is located;

(b) lessees or permittees of record on the subject property; and

(c) adjoining landowners as shown on readily accessible county records or other credible records.

4. In addition to the notices required under Subsection R850-30-500(3), the agency may solicit competing interest in the subject parcel by methods determined by the agency to increase exposure of the subject property to qualified applicants.

5. The notice of solicitation of competing interest must include:

(a) a general description of the subject parcel and a brief description of its location, including township, range, and section;

(b) the contact information of the agency office where interested parties can obtain more information; and

(c) any other information that may create interest in the subject parcel that does not violate the confidentiality of the initial application. The successful applicant is responsible for the cost of the advertising.

6. The agency may solicit competing interests on trust lands when no application has been received by advertising a parcel pursuant to the process described in this Section R850-30-500 or any other means, when in the best interest of the trust beneficiaries.

7. In response to a solicitation, an applicant may propose a sale, lease, joint development, exchange, or other business arrangement.

**R850-30-510. Competing Proposals.**

1. If the agency receives credible competing proposals in response to the solicitation process conducted pursuant to Section R850-30-500, the agency may select a proposal using the following methods:

(a) Sealed Bid Process.

(i) The agency shall give the competing applicants notice setting forth the date on which the applicants must submit a final sealed proposal to the agency.

(ii) The agency may reject proposals received after the established due date.

(iii) The agency may require proposals for a lease to include the first year's rental, proposals for a sale to include a down payment on the proposed purchase price, and payments to cover the agency's costs of advertising and application fees.

(iv) The agency shall evaluate proposals using the following criteria:

(A) income potential;

(B) potential enhancement of trust lands;

(C) development timeline;

(D) applicant qualifications;

(E) desirability of proposed use; and

(F) any other criterion deemed appropriate by the agency.

(b) The agency may negotiate with the applicants or interested persons to create a proposal that best satisfies the objectives of Rule R850-2.

2. The agency may terminate the application process at any time in its sole discretion.

**R850-30-550. Lease Determination Procedures.**

The agency may not lease trust lands when leasing:

1. would be inconsistent with board policy or would not be in the best interest of the trust beneficiaries;
2. would create significant obstacles to future mineral development; or
3. would foreclose future development or management options that would likely result in greater long term economic benefit.

**R850-30-600. Special Use Lease Provisions.**

Each lease must contain provisions necessary to ensure responsible surface management, including those provisions enumerated under Section 53C-4-202, and the following provisions:

1. the term of the lease;
2. the lease rate and other payments due to the agency;
3. reporting of technical and financial data;
4. reservation for mineral exploration and development and other compatible uses, unless waived by the director;
5. operation requirements;
6. lessee's consent to suit in any dispute arising under the terms of the lease or as a result of operations carried on under the lease;
7. procedures of notification;
8. transfers of lease interest by lessee;
9. terms and conditions of lease forfeiture; and
10. protection of the state from liability associated with the actions of the lessee on the subject property.

**R850-30-800. Financial Guaranties.**

1. The agency may require a lessee to provide a financial guaranty to the agency to ensure compliance with lease terms including performance, payment, and reclamation. The financial guaranty must be in a form and in an amount acceptable to the agency.

2. If a lessee assigns a lease, the agency is not obligated to release the financial guaranty of the assignor until the assignee submits an equivalent replacement financial guaranty or any lease obligations, including reclamation, have been satisfied.

3. The agency may increase the amount of the financial guaranty in reasonable amounts at any time by giving lessee 30 days' written notice stating the increase and the reasons for the increase.

**R850-30-900. Lease Assignments and Subleases.**

1. Assignments.

(a) A lessee may only assign a lease if the agency consents to the assignment. Any assignment made without such approval is voidable in the agency's discretion.

(b) On the effective date of the assignment, the assignee is bound by the terms of the lease to the same extent as if the assignee were the original lessee, any conditions in the assignment to the contrary notwithstanding.

(c) An assignee must provide the agency with a copy of the assignment document, which must be a sufficient legal instrument, properly executed, with the lease number, the land involved, the name and address of the assignee, and the interest transferred clearly indicated.

(d) As a condition of the approval of an assignment, the agency shall require:

(i) the assignee to accept the most current applicable lease form unless continuation of the existing form is clearly in the best interests of the trust beneficiaries; and

(ii) the assignee be satisfactory to the agency.

2. Subleases.

(a) A lessee may only sublease a lease if the agency consents to the sublease. A sublease made without such approval is voidable in the agency's discretion.

(b) The lessee must indemnify the agency for actions or inactions of the sublessee and the agency may look to either the lessee or the sublessee for compliance with the lease.

(c) A lessee must provide the agency with a copy of the sublease document, which must be a sufficient legal instrument, properly executed, with the lease number, the land involved, the name and address of the sublessee, the interest subleased, and the financial benefit to lessee clearly indicated.

(d) The agency may require lessee and sublessee to provide annual financial documentation that clearly identifies the revenue generated on the property by sublessee and the revenue paid by sublessee to lessee.

(e) The agency may charge the lessee sublease rates based on the then current market rental value of the subject property, the revenue paid by sublessee to lessee, and such other factors as the agency deems reasonable.

**R850-30-1000. Lease Amendments.**

1. The agency may amend a lease if the amendment would be consistent with Rule R850-2. Unless waived by the director, the agency shall solicit competing interest pursuant to Section R850-30-500 if:

- (a) the total amended acreage exceeds 150% of the original acreage;
- (b) the lease term, including any extensions is longer than 50 years; or
- (c) the proposed amended purpose of the lease is substantially different from the original purpose.

2. The agency may condition approval of an amendment on the lessee accepting the current lease form.

**KEY: administrative procedures, leases, trust land management, request for proposals**

**Date of Last Change: August 8, 2022**

**Notice of Continuation: May 26, 2022**

**Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a); 53C-4-101(1); 53C-4-202**





# 9a Real Estate Development

Big Water Minor  
Development Transaction  
(8.1 acres)

with The Hildale Group



**TRUST  
LANDS**  
ADMINISTRATION



## BOARD MEMORANDUM

To: Board of Trustees (*Board*)  
School and Institutional Trust Lands Administration (*TLA*)

From: Aaron Langston  
Assistant Managing Director, Real Estate Development

Re: Proposed Minor Development Transaction; proposed sale of  
approximately 8.1 acres in Big Water, Utah.

Developer: The Hilldale Group LLC (“Hilldale”)

Property: Township 43 S Range 2 E Within Section 13, SLB&M, in Kane  
County  
Containing approximately 8.1 acres (*See Exhibit A*)

Date: June 20, 2024

Bene: Schools

### Summary

The purpose of this memorandum is to give the Board notice of a proposed minor development transaction on approximately 8.1 acres of trust lands located within the municipal boundary of Big Water, Kane County, near Cannon Ball Road. Before entering into a minor development transaction, the agency must give the Board notice of the transaction, including information about the proposed transaction, the process followed by the agency in selecting the developer, and an economic analysis of the project, pursuant to Rule R850-140-500.

### Key Information and Background—Minor Development Transaction

Background: Staff received an offer on property accessed off Cannon Ball Road lots 19 - 26, and 30 in Big Water, Utah. The subject nine lots totaled about 24.87 acres. The lot configuration was inherited by the Trust when it received those lands from the federal government through the Grand Staircase Exchange in the 90s (see Exhibit C). The lot lines do not allow for access or roads so private property owners have had to grant easements to allow access to neighboring lots. If the Trust were to sell the lots as requested in the original offer, the non-platted land behind the subject lots would be completely landlocked and a future sale would be difficult. As such, Staff suggested that the buyer ignore the old lot lines and acquire a

similar amount of acreage that would not landlock any parcels. The buyer was okay with the concept and resubmitted the offer as requested.

The March 2024 appraisal valued the property at \$22,500 per acre. The appraised value was significantly higher than the buyers anticipated, so they revised their offer to just 15 -16 acres (a legal description for the non-platted land had not yet been written). This offer came before the Board in April and was approved under Certificate of Sale C27195. It included lot 30 and the non-platted land behind that lot. A legal description was later written, describing an area of 17.0 acres.

After receiving approval from the Board, the group decided to move forward with purchasing additional land. The new offer included lots 25 and 26 and the non-platted land behind those lots (see Exhibit B). This layout borders the land under certificate of sale 27195 and takes in the rest of the disturbed land that can be seen from aerial imagery (see Exhibit A). They agreed to pay the appraised value of \$22,500 per acre. Based on discussions surrounding certificate of sale 27195, staff did not feel TLA would support this sale at appraised value. After some deliberation and negotiation, the buyers countered, indicating they would increase their offer above appraised value on the additional lands to \$27,500 per acre.

Key Terms of Transaction: Buyer has agreed to pay above appraised value at \$27,500 per acre. A legal description was drafted, which described the property at 8.10 acres, so their revised offer is for \$222,750.

Economic Analysis: No other competing offers were received, but the sales price represents a 15% annual growth from one of the most relevant comparables in the appraisal and is 122% of appraised value.

Competitive Process: Staff solicited competing offers in the local newspaper and posted the information on our website. No additional offers were received. Staff also engaged a local agent to list the property on the MLS. This ran through the month of May as a test to see if casting the net wider might solicit additional responses. The MLS listing similarly yielded no additional offers.

Subordination of Trust Assets: None.

Other Relevant Information: This proposed transaction was reviewed by the Real Estate Committee during their May 28, 2024 meeting.

Staff Conflicts of Interest: None.

Requested Action Sell the subject 8.1-acre parcel for \$27,500 per acre, or \$222,750.

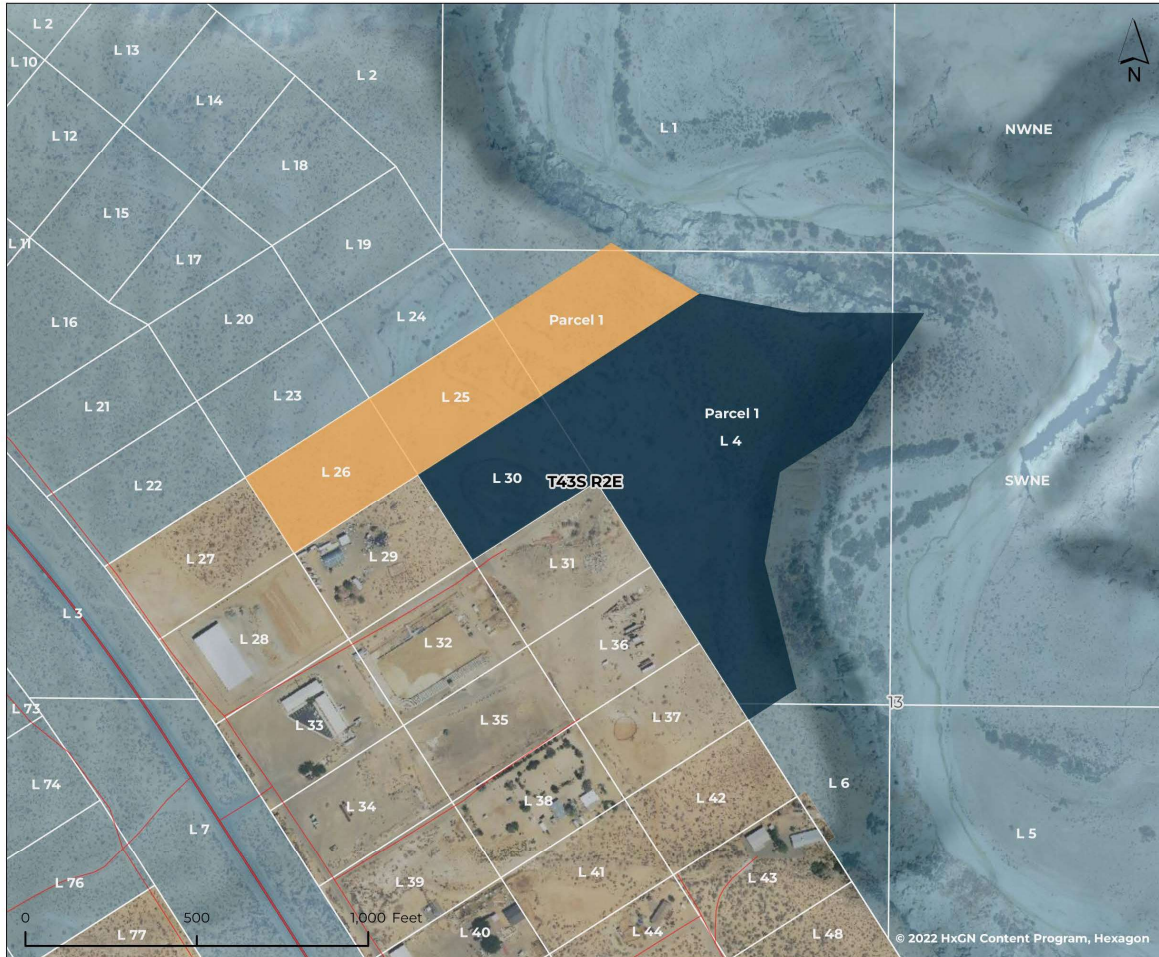
# Exhibit A

## Subject disposal parcel (in orange) next to the parcel they are under contract with (blue)




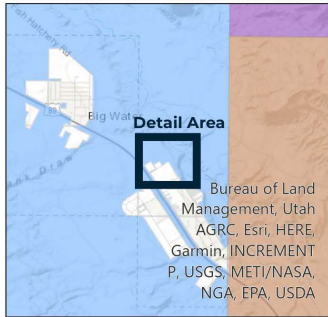
**TRUST LANDS**  
 ADMINISTRATION

**Big Water Development Sales**  
 Township 43 South, Range 2 East, SLB&M;  
 Within Section 13;  
 Kane County



**Big Water Development Sales**  
 C 27195 - Lot 30 & Parcel 1 -17.00 Acres  
 C 27195-A - Lot 25, 26 & Parcel 1 - 8.10 Acres

**Land Ownership and Administration**  
 Private  
 State Trust Lands

Bureau of Land Management, Utah  
 AGRC, Esri, HERE,  
 Garmin, INCREMENT  
 P, USGS, METI/NASA,  
 NGA, EPA, USDA

Data represented on this map is for REFERENCE USE ONLY and is not suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. The Trust Lands Administration provides this data in good faith and shall in no event be liable for any incorrect results, or any special, indirect or consequential damages to any party, arising out of or in connection with the use or the inability to use the data herein. Land parcels, lease boundaries and associated Trust Lands Administration data layers may have been adjusted to allow for visual "best fit." The Surface Ownership Land Status data (if present) are maintained by the Trust Lands Administration to reflect current trust lands status and surface ownership. Lakes, rivers, streams, highways, roads, county and state boundaries are distributed by the Utah Geospatial Resource Center and/or other sources as specified. Contour lines (if present) were generated from USGS 10 meter DEM. Please Note: While the Trust Lands Administration seeks to verify data for accuracy and content, discrepancies may exist within the data. Acquiring the most updated Trust Lands Administration ownership GIS data may require contacting the GIS staff directly 801-538-5100 or TLA-GIS@utah.gov. The Trust Lands Administration GIS department welcomes your comments and concerns regarding the data and will attempt to resolve issues as they are brought to our attention.  
 Produced: May 20, 2024 - katestaley

Document Path: V:\GIS-Share\GIS\GIS\_Group\Kane\Templates\LeaseMaps\_NEW\Development\_Group\_PRO\_Bx1.aprx

Coordinate System: NAD 83 UTM Zone 12N



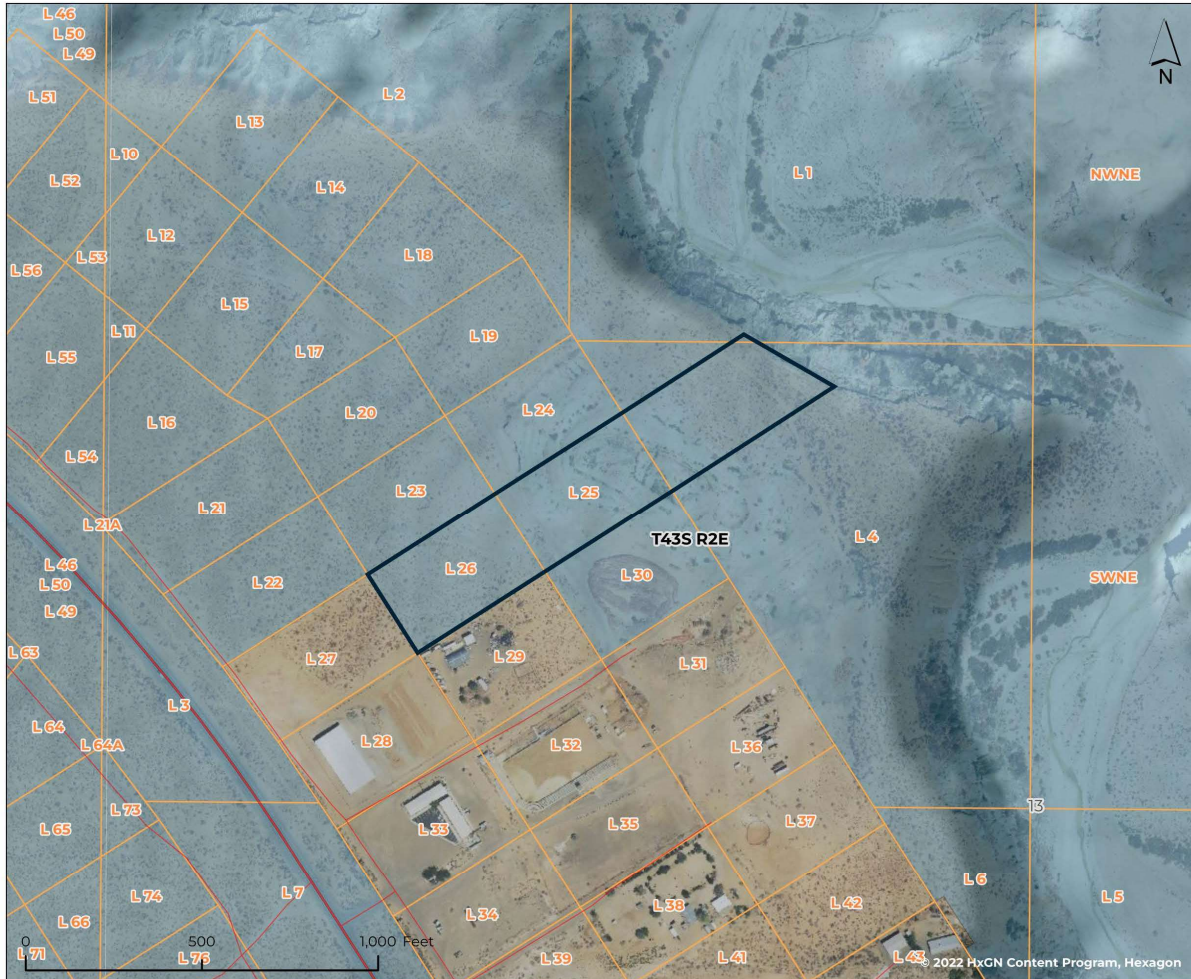
# Exhibit B

## Subject disposal parcel (lots 25, 26, and the land behind)




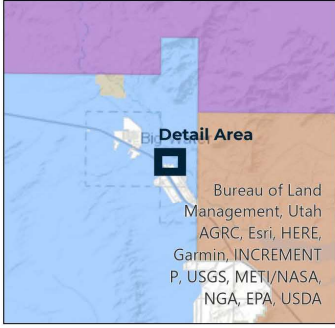
**TRUST LANDS**  
ADMINISTRATION

**Certificate of Sale No. 27195-A - Big Water Lots 25 & 26 and Parcel 1**  
 Township 43 South, Range 2 East, SLB&M;  
 Within Section 13;  
 Kane County



Big Water Lots  
 Certificate of Sale No. 27195-A - 8.10 Acres  
**Land Ownership and Administration**  
 Private  
 State Trust Lands

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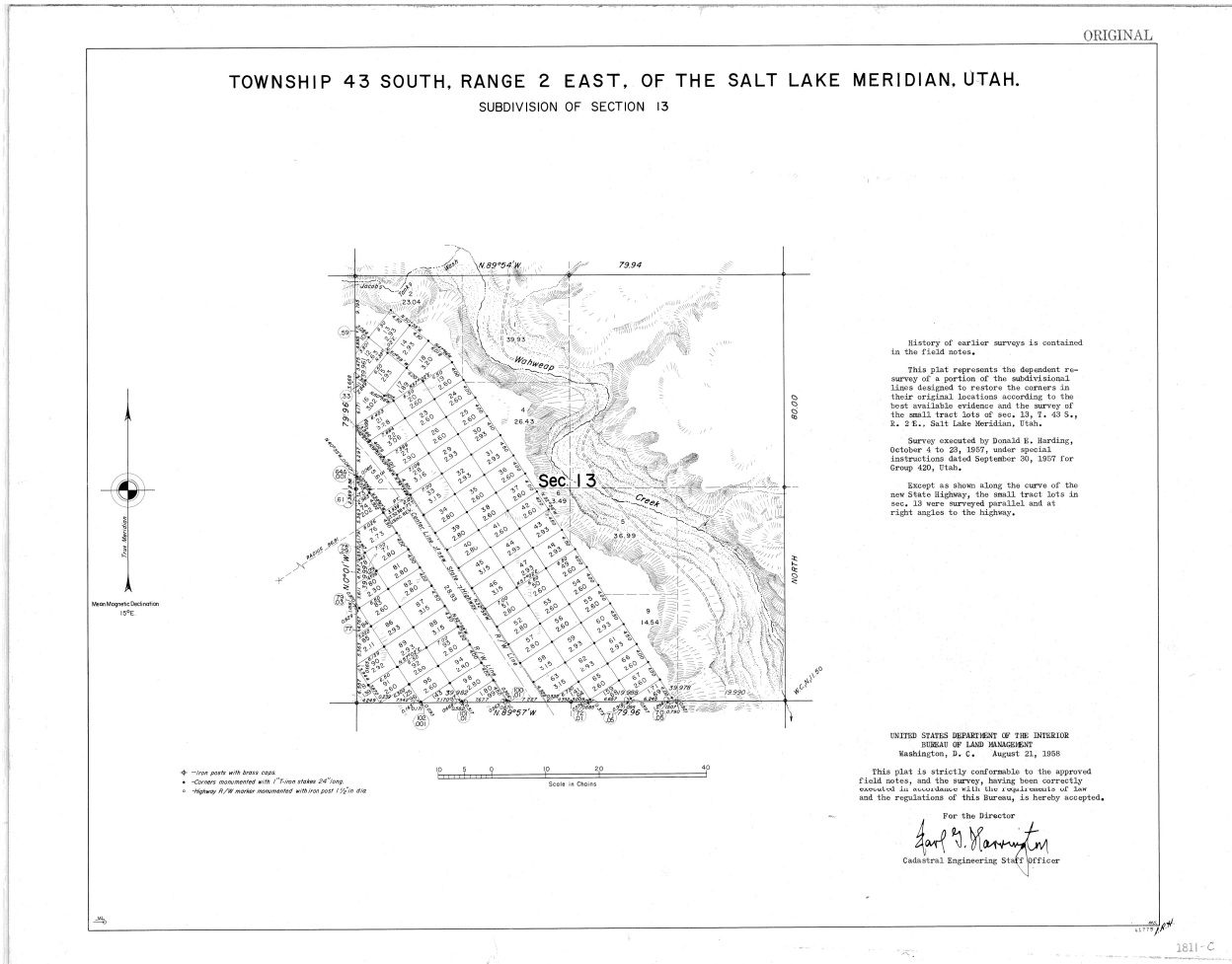



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Coordinate System: NAD 83 UTM Zone 12N

# Exhibit C

## Lot configuration per the August 21, 1958 layout by the federal government





# 9b Real Estate Development

Green Springs Minor  
Development Transaction  
(19.18 acres)

with Black Acre Holdings



**TRUST  
LANDS**  
ADMINISTRATION



## Memorandum

TO: Board of Trustees, School and Institutional Trust Lands Administration (Board)

FROM: Aaron Langston, Assistant Managing Director, Real Estate Development Group, Utah South

DATE: June 20, 2024

RE: Notice of minor development transaction sale of 19.18 acres in Green Springs, Washington City, Utah. Update from a 2022 transaction.

PROPERTY: T42s R15w Section 1 – Green Springs CEM1 block

*DEVELOPER:* Black Acre Holdings

BENEFICIARY: Schools

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### Summary

The purpose of this memorandum is to give the Board an update on a minor development transaction in Green Springs. The Real Estate Committee first heard this proposed transaction in January 2022, and then the full Board of Trustees was notified of the proposed sale in February 2022. The proposed sale is still moving forward, and a closing date has been set; however, since the sale did not happen by February of 2023, Staff wishes to notify the Board of Trustees.

### Key Information and Background--Minor Development Transaction

Background: The subject sales parcel consists of two adjacent parcels, the first an 8.61-acre parcel zoned as Administrative and Professional (AP) and the second a 10.57-acre parcel of open space (OS). The parcels are situated south of Washington Parkway near Main Street in Washington City.

The parcel zoned AP is labeled CEM1 parcel on our Green Springs master plan map (see Exhibit B). It was so labeled because the City identified that location as an ideal site for a future cemetery. The same master plan identified the lands directly south and east as OS because those lands are in

a known floodplain and drainage area. The cost to reclaim those lands would likely exceed any revenue that could be obtained through land development and keeping that portion native would go toward the open space requirements.

There is also a known fault zone in the immediate area. The fault engineer provided three designations within the CEM1 parcel: “buildable,” “restricted,” and “additional study recommended.” (see Exhibit C). Staff opted not to do any additional research on the fault study.

An unsolicited offer from Black Acre Holdings was received by the Trust in November 2021. The offer was to purchase the 8.61-acre CEM1 parcel for appraised value and the surrounding open space for \$3,000 an acre. The buyer was not aware of the fault zone.

Following the offer, Staff had an appraisal ordered on the CEM1 parcel. The 2022 appraisal did not contemplate the fault zone because it was not a concern for the intended use (a cemetery) and valued the parcel at \$1,720,000, or \$199,767.72 per acre.

Staff felt the values for the surrounding OS lands (which would have fault zone issues and drainage issues) for \$3,000 was probably at or above market value. A \$50,000 deduction for the CEM1 parcel was to be credited to the buyer for any and all risk associated with the fault zone was included:

Zoning	Acreage	Price	
AP	8.61	1,720,000	
OS	10.57	31,710	
		(50,000)	(fault zone discount)
		1,701,710	

This proposed transaction went before the Board of Trustees in February of 2022, but the buyer was unable to change the zoning from AP to commercial, nor was he able to secure the required ingress/regress off Washington Parkway, so did not move forward with the purchase. Nevertheless, the buyer continues to work with the City on the project and anticipates obtaining the necessary approvals.

Key Terms of Transaction: Black Acre Holdings wishes to close on the property in 2024 at the previously approved sales price.

Economic Analysis: Because there were no additional offers on the CEM1 parcel (and no inquiries of any sort outside of this one interested party), a comprehensive economic analysis was not performed, but allowing the parcel to be sold as outlined allows the revenue to be invested with SITFO. If the necessary zone change is obtained by the buyer, the proposed development (manicaves) will enhance the development currently under construction on the north side of Washington Parkway.

Competitive Process: The letter of intent from Black Acre Holdings in 2021 triggered a Request for Proposal (RFP) where the lands were advertised on our website and in the local newspaper. In addition, many local developers were contacted. However, because of the known fault zone, the drainage issues, and potential access issues, no additional offers were received.

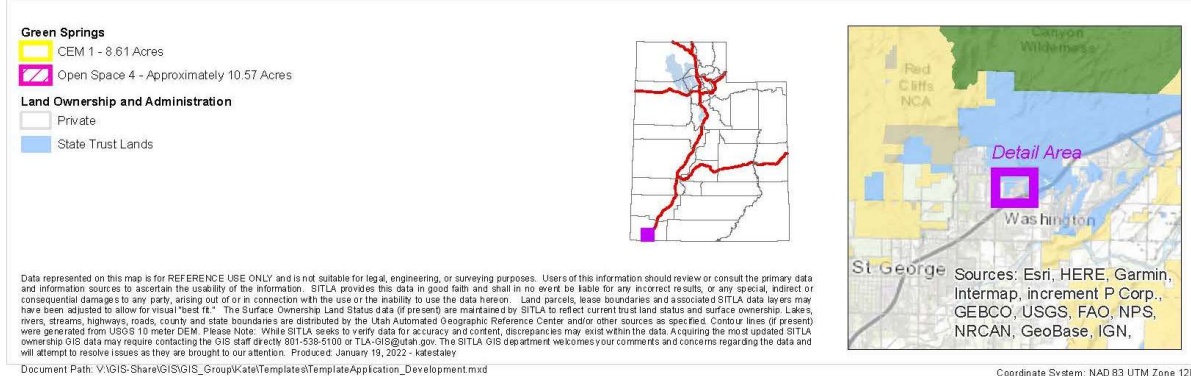
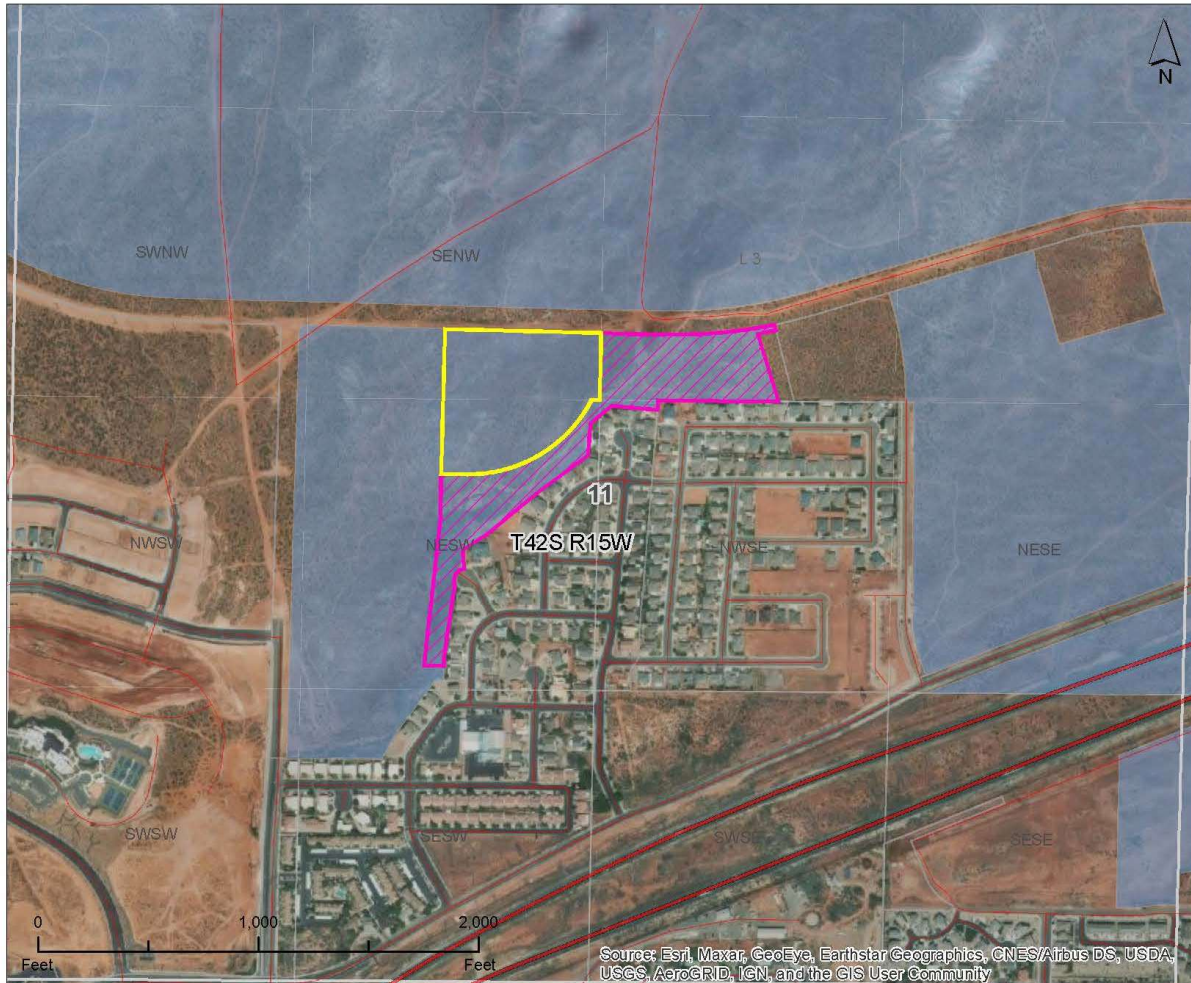
Staff Conflicts of Interest: None.

Legal Risks: None.

Subordination of Trust Assets: None.

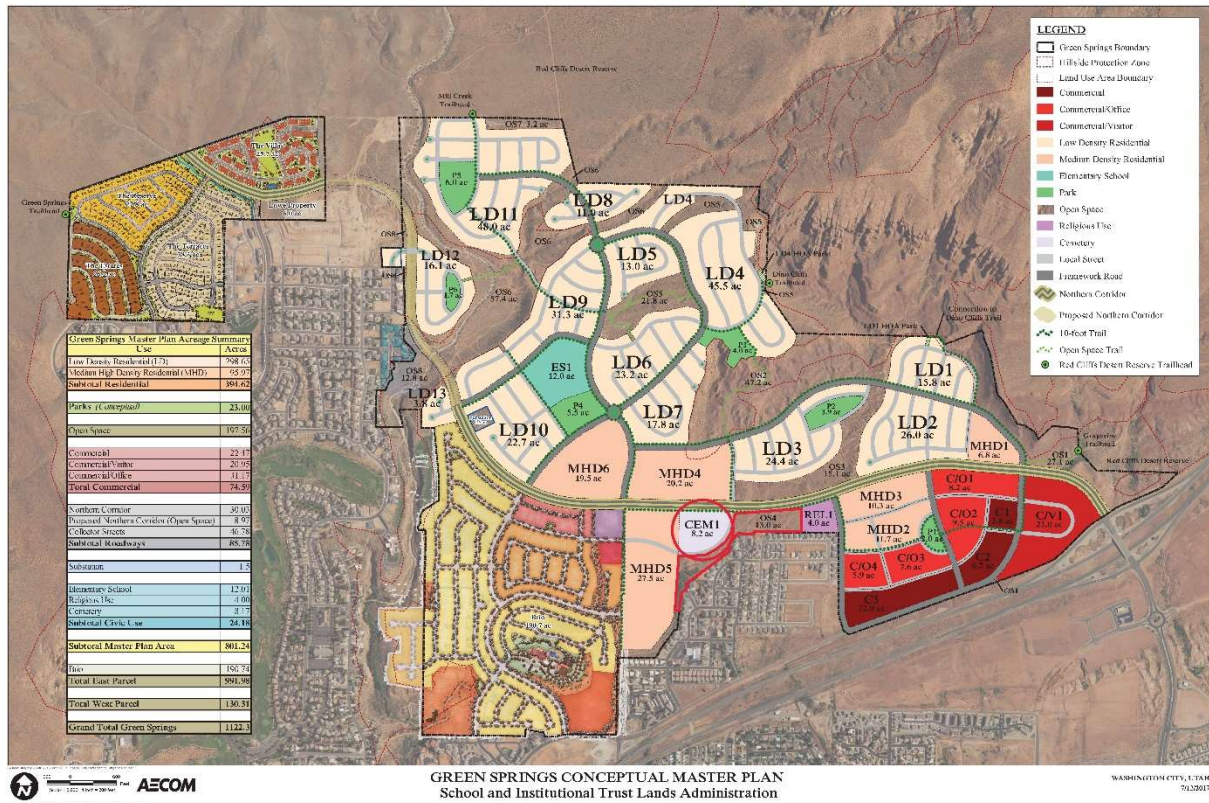
Other Relevant Information: None.

## Exhibit A SUBJECT PROPERTY

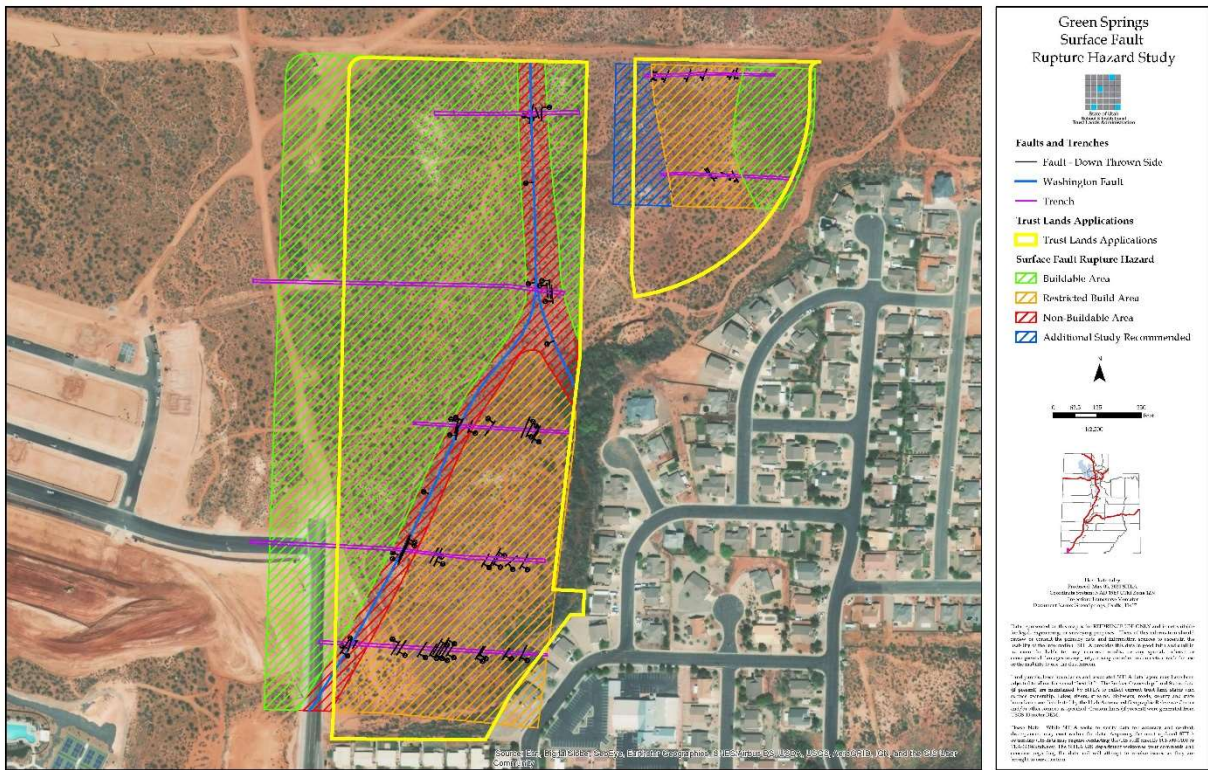




# Exhibit B Original Green Springs master plan. Note the CEM1 parcel and the open space areas outlined in red.



# Exhibit C Fault Study showing the MHD5 parcel (larger parcel) and the CEM1 parcel (smaller one).





# 9c Real Estate Development

Update:

Kanab Development Sale  
(480 acres)

with  
Canyon Global Partners



**TRUST  
LANDS**  
ADMINISTRATION



## Memorandum

TO: Board of Trustees, School and Institutional Trust Lands Administration (Board)

FROM: Aaron Langston, Assistant Managing Director, Real Estate Development Group, Utah South

DATE: June 20, 2024

RE: Development Update Sale of 480 acres in Kanab, Utah

PROPERTY: T44s R5w Section 2 – Kanab 480 block

*DEVELOPER:* Canyon Global Partners

BENEFICIARY: Schools

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### Summary

The purpose of this memorandum is to give the Board an update of a minor development transaction that has been to the Real Estate Committee and the full Board of Trustees several times on approximately 480 acres of trust lands located in Kane County, a few miles east of Kanab, south of Highway 89 near the Arizona State border.

This project went to the Real Estate Committee on February 22, 2022 and again on March 22, 2022, and then to the full Board of Trustees on April 21, 2022 to move forward with an Option Agreement allowing the developer to pay a sum of money to tie the subject lands up, allowing them to move forward with feasibility and soil studies to learn whether a luxury resort community in this location would be profitable. It further contemplated that TLA would have the option of either selling the subject lands at 120% of the appraised value, or entering a Joint Venture with the developer, where the Trust's equity position in the Company would be 125% of the appraised value of the subject lands. Once the feasibility studies were completed, the item went back to the Real Estate Committee on April 25, 2023 and then back to the full Board of Trustees on May 18, 2023 to finalize the negotiations. Staff now wishes to provide an update to the Board of Trustees regarding the negotiations that have taken place since the May 18, 2023 Board meeting.

## Key Information and Background--Minor Development Transaction

Background: Since May 2023, TLA and the developer (the “Parties”) have been working towards finalizing documents forming a company for a joint venture where TLAs land contribution was valued at 125% of appraised value. However, the Parties could not determine what TLAs equity position in the proposed company would be, in part because actual costs to develop the project were based on estimates, not tied to actual costs. Thus, if actual costs were higher than anticipated, the developer’s contribution would be higher and thus TLAs equity position would be less. Conversely, if actual construction costs were lower than anticipated, the developer’s contribution would be lower and thus TLAs equity position would be higher. In addition, TLA had, at the request of the Real Estate Committee, also negotiated an increase beyond the 125% of appraised land value because the developer believed that once the Company was able to entitle the lands, announce the project, and begin working on execution of the project, the land would become worth substantially more.

TLA was to receive a portion of that uptick in value. However, defining that potential increase in an Agreement became difficult to describe numerically, in part because the project hasn’t been announced formally. Another layer of complication was because of the financing plan that the developer wished to pursue, which at some point was to have the original company (the one involving the Parties with TLAs land contribution) partner with an equity partner, which would further dilute the Parties’ respective equity positions. Thus, it became impossible to define and guarantee an equity position that the Trust could maintain in the partnership. In absence of agreeing to an equity position, the Parties recommend that TLA sell the subject lands to the developer, as permitted in the Board approved Option Agreement (DEVL 1262).

Key Terms of Transaction: Sell the property at 120% of appraised value.

Economic Analysis: This was explored in previous Board of Trustees meetings when other offers that were received through the competitive advertising process took place. It was determined that selling the lands at 120% of appraised value to the subject developer, or partnering with them where the Trust’s equity position at 125% of appraised value was in the best interest of the Trust.

Staff had the parcel reappraised in April. The April 30, 2024 appraisal increased the land values to \$3,120,000, so the sales price at 120% of appraisal has increased to \$3,744,000.00.

Competitive Process: The original offer was received in 2021. The lands were advertised through our website and the local newspaper. All competing offers were reviewed, vetted and taken to the Board of Trustees for consideration. The subject offer was superior to the other offers.

Staff Conflicts of Interest: none.

Legal Risks: none.

Subordination of Trust Assets: none.

Other Relevant Information: This offer was discussed and reviewed again by the Real Estate Committee during their April 23, 2024 and May 28, 2024 meetings.

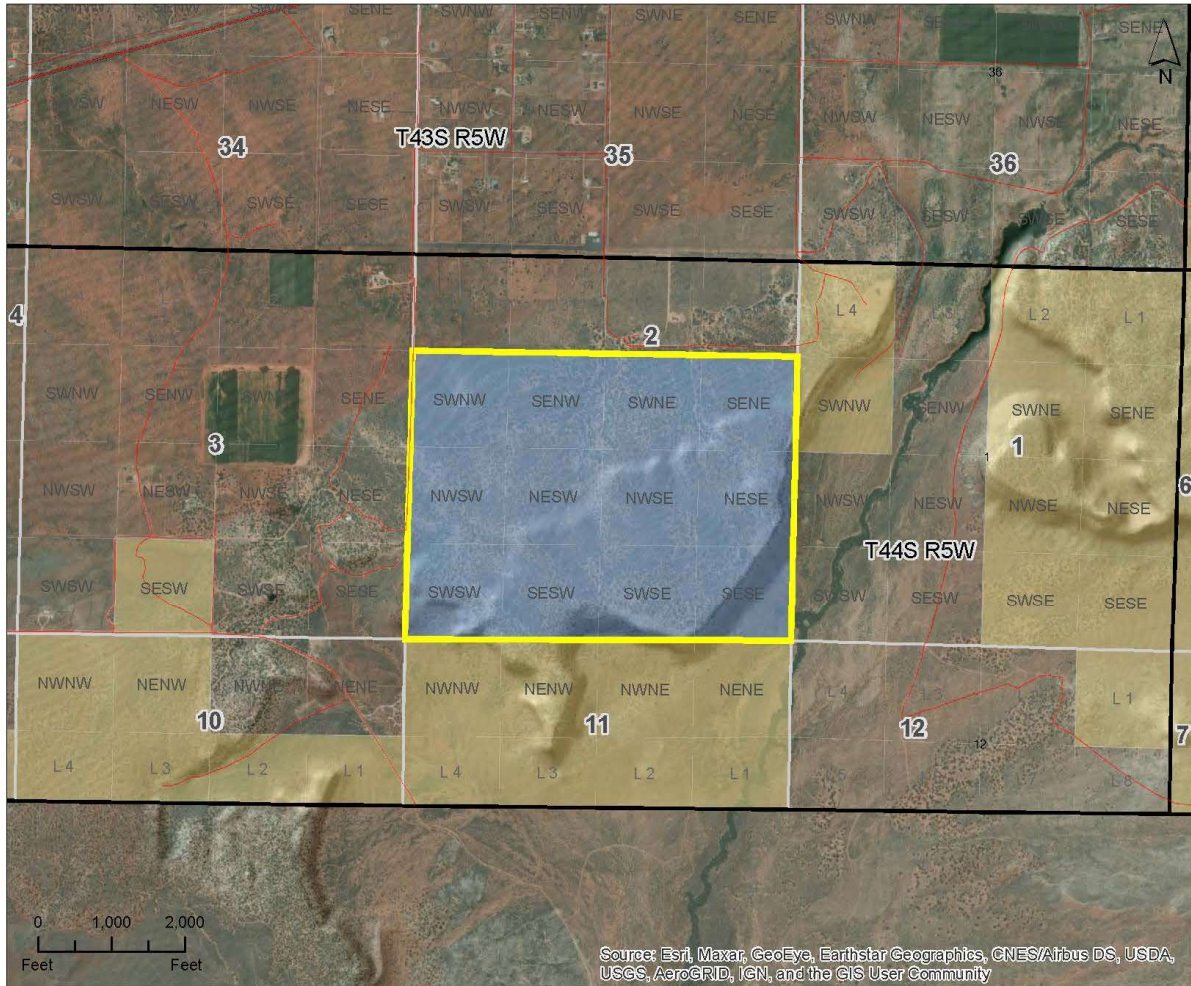
Notice Item Sell the subject lands for 120% of appraised value as defined in DEVL 1262.


# Exhibit A SUBJECT PROPERTY



Development Lease No. 1262 - Kanab 480 Acres

Kane County


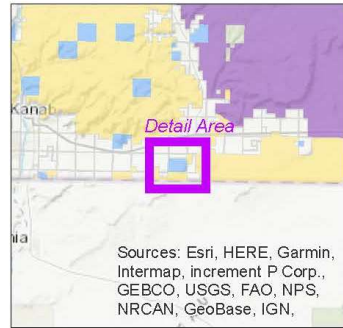




Development Lease No. DEVL 1262 - 480.00 Acres

**Land Ownership and Administration**

- Bureau of Land Management
- Private
- State Trust Lands

Data represented on this map is for REFERENCE USE ONLY and is not suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. SITLA provides this data in good faith and shall in no event be liable for any incorrect results, or any special, indirect or consequential damages to any party, arising out of or in connection with the use or the inability to use the data hereon. Land parcels, lease boundaries and associated SITLA data layers may have been adjusted to allow for visual "best fit". The Surface Ownership Land Status data (if present) are maintained by SITLA to reflect current trust land status and surface ownership. Lakes, rivers, streams, highways, roads, county and state boundaries are distributed by the Utah Automated Geographic Reference Center and/or other sources as specified. Contour lines (if present) were generated from USGS 10 meter DEM. Please Note: While SITLA seeks to verify data for accuracy and content, discrepancies may exist within the data. Acquiring the most updated SITLA ownership GIS data may require contacting the GIS staff directly 801-538-9100 or TLA-GIS@utah.gov. The SITLA GIS department welcomes your comments and concerns regarding the data and will attempt to resolve issues as they are brought to our attention. Produced: January 12, 2022 - katealexy

Document Path: V:\GIS\Share\GIS\GIS\_Group\Kane\Templates\TemplateApplication\_Development.mxd

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN,

Coordinate System: NAD 83 UTM Zone 12N

# 9d Real Estate Development

Jensen Agricultural Lease  
Trespass Negotiated Sale  
(7.08 acres)

with

Scott & Rayma McCarrel



**TRUST  
LANDS**  
ADMINISTRATION





## BOARD MEMORANDUM

To: Board of Trustees (*Board*)  
School and Institutional Trust Lands Administration (*TLA*)

From: Chris Fausett, Managing Director - Surface  
Bonnie McCallister, Lease Manager - Easements

Re: Notice of Negotiated Sale of Trust Lands  
Jensen Agricultural Trespass (C-27184)

Purchaser: Scott and Rayma McCarrel

Property: T6S, R22E, SLB&M  
Section 2: Lot 1  
Containing 7.08 acres (map attached)  
Uintah County

Date: June 5, 2024

Fund: School

### **Summary**

The purpose of this memorandum is to give the Board notice of a negotiated sale of approximately 7.08 acres of trust lands located approximately four miles southwest of Jensen in Uintah County. Pursuant to Utah Administrative Code R850-80-620, the agency must give the Board notice (rather than seeking Board approval) of a negotiated sale of trust lands if: (a) the property has a fair market value of \$250,000 or less, (b) the property is 320 acres or less, and (c) the agency does not receive a competitive offer after advertising.

### **Key Information and Background**

Background: The purpose of this negotiated sale is to resolve an agricultural trespass located on trust lands. Based on aerial imagery, the land under trespass has been under pivot and in agricultural use for a minimum of 40 years. The adjacent landowner, the McCarrels, have agreed to purchase the land under trespass, which is approximately 2.58 acres, as well as an additional 4.50 acres of steep hillside to avoid leaving the Trust with an uneconomical remnant parcel.

Fair Market Value Determination: An appraisal was secured for the property, and the negotiated purchase price will be the fair market value as determined by the appraiser. TLA conducted a lease/sale/hold analysis and selling the property for the negotiated purchase price exceeds the returns that could be generated by an agricultural lease for the trespass lands or holding the property for future appreciation.

Purchase Price: The purchase price is \$46,000. The purchaser will also be required to pay the appraisal costs, cultural resource clearance costs, and applicable fees at closing for a total of \$49,900. This will be a cash sale with payment due within 30 days of executing the purchase agreement.

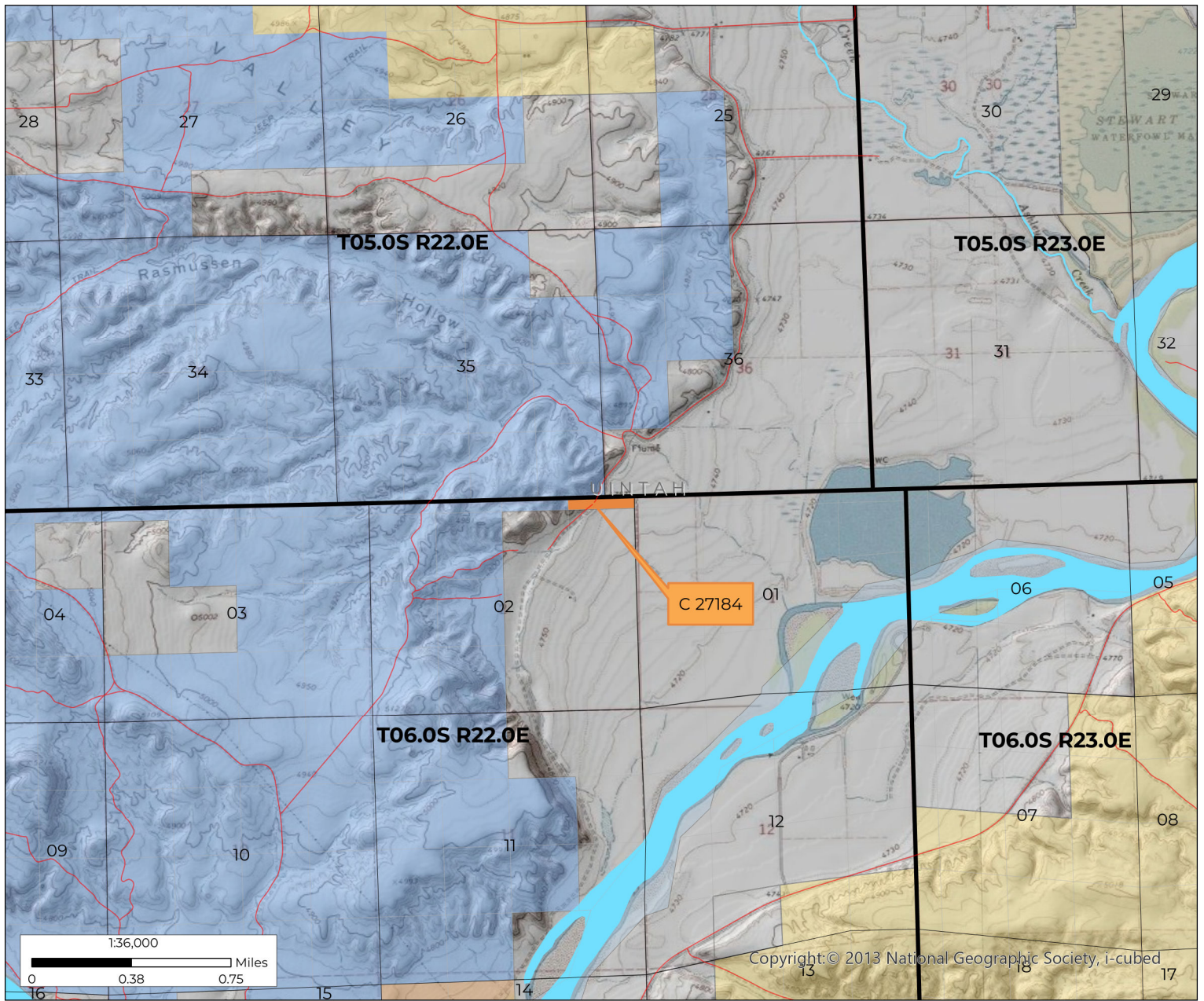
Timeliness: Selling this property is timely and in the best interest of the trust beneficiaries because the subject property has limited revenue producing utility for the Trust. The proposed transaction will allow the trust to monetize the land under trespass, as well as the adjacent steep hillside with no other revenue generating utility.

Transaction Structure: The purchaser will execute a certificate of sale and upon payment of the purchase price in full, SITLA will issue a patent for the property. SITLA is reserving: (i) the mineral estate, including geothermal resources, (ii) void and pore spaces, (iii) a utility and access easement for SITLA to access adjacent trust lands, if applicable, (iv) a preservation easement for historic artifacts, if applicable, and (v) a 10% gross revenues royalty on sand and gravel removed from the property.

Competitive Process: Staff sent out all required notices to adjacent landowners, permittees, RDCC, and local governments. No competing offers were received.

Subcommittee Review: The Board's surface subcommittee has reviewed the transaction.

Requested Action: This item is for notification purposes only and requires no formal Board action.



### Certificate of Sale No. 27184

Township 6 South, Range 22 East, SLB&M;  
Lot 1, Section 2;  
Uintah County

Certificate of Sale No. 27184

#### Land Ownership and Administration

- Bureau of Land Management
- Private
- State Trust Lands
- State Sovereign Land
- State Wildlife Reserve/Management Area
- Tribal Lands



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