

Meeting Agenda

June 19, 2025



**TRUST
LANDS**
ADMINISTRATION



Board of Trustees Meeting Agenda

102 Tower – 6th Floor Boardroom

102 South 200 East

Salt Lake City, Utah 84111

Thursday, June 19, 2025

10:00 a.m.

1. Welcome

2. Approval of Minutes

April 16, 2025, Board Tour

May 15, 2025, Board of Trustees Meeting

3. Confirmation of Upcoming Meeting Dates

July - No Board Meeting

August 21, 2025 – Regular meeting (new leadership elected)

September 18, 2025 – Regular meeting

October 16, 2025 – Regular meeting

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

5. Social Media Minute by Joelette Organista, Communications Specialist, Trust Lands Administration

6. 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 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.

7. **Chair's Report** by Warren Peterson, Chair of the Board of the Trust Lands Administration
 - a. Appointment of new board member, Brian Tarbet
 - b. Water Technical Proficiency Work Group
 - c. Recent news coverage on mineral lease agreements
 - d. Trust Lands mandate
 - e. Trust Lands Administration planning for the future
8. **Director's Report** by Michelle McConkie, Executive Director of the Trust Lands Administration
 - a. Recent outreach efforts to rural counties
 - b. Spring Surface Auction Results by Diane Lund, Assistant Managing Director, Surface Resources, Trust Lands Administration
9. **Advocate's Report** by Kim Christy, Director of the Land Trusts Protection & Advocacy Office
10. **Action Items**
 - a. Petition for Appeal and Adjudicative Proceedings, re: Wesco Operating, Inc., by Michael Johnson, Chief Legal Counsel for the Board of Trustees
 - b. Proposed Limestone Exploration Agreement with Option to Lease OBA (ML 54597) with TSJ Construction in Emery County by Andy Bedingfield, Assistant Managing Director, Energy & Minerals, Trust Lands Administration
 - c. Proposed Administrative Rule Revisions to R850-30, Special Use Lease Agreements by Michael Johnson, Chief Legal Counsel
 - d. Proposed Administrative Rule Revisions to R850-80, Sale of Trust Lands by Michael Johnson, Chief Legal Counsel
 - e. Consideration and Possible Action on New Board Policy Regarding Board Committee Procedures, by Michael Johnson, Chief Legal Counsel
 - f. Proposed Administrative Rule Revisions to U.A.C. R850-170 Renewable Energy Lease Agreements (RNBL) by Troy Herold, Assistant Managing Director, Energy & Minerals, Trust Lands Administration
 - g. Proposal to Enter Negotiations for Major Development Transaction in Ticaboo/Bullfrog Corridor, Garfield/Kane County, DEVL 1369 by Alexa Wilson, Project Manager for Real Estate Development, Trust Lands Administration

11. Adjourn

Note: Board members may participate in this meeting electronically but may be seen and heard via electronic means at the anchor location (6th-floor Boardroom) specified above.

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

https://utah-gov.zoom.us/webinar/register/WN_GPcpwB6XRgSVoGNUbOxwAw. Those wishing to provide public comments electronically will be asked at the beginning of the period designated for such comments to use the "raise hand" feature at the bottom of the screen during the Zoom meeting so they may be called upon to provide comments.

Please call the front desk (801) 538-5100 or email mjohnson@utah.gov with questions any time before 4:30 p.m. on June 18, 2025.

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.

Per the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the front desk (801) 538-5100 at least three (3) days in advance. I, Naudia Gregerson, acting Trust Lands Administration Board of Trustees Executive Assistant, hereby certify the foregoing agenda was posted on the Utah State Public Notice website, <https://www.utah.gov/pmn/index.html>. **Dated: Monday, June 9, 2025.**

Meeting Minutes

April 16th, 2025

11:00 AM



**TRUST
LANDS**
ADMINISTRATION



Board of Trustees Tour Minutes

Wednesday, April 16, 2025

The tour attendees assembled at the Helper Maverik (5685 US-6, Helper, UT 84526) at 10:00 a.m. Agency staff confirmed that no members of the public were present who wished to join the tour. The group then departed for the first site visit.

Stop 1 – Urban Oil and Gas Field Office, 11:00 a.m.

Attendees:

Tiffany James

Mike Nelson

Mike Mower

Scott Bartlett

Keli Beard

Diane Lund

Naudia Gregerson

Kim Christy

Andy Bedingfield

Joelette Organista

Stephanie Barber-Renteria

Shawn Shipley

Chris Fausett

Marcus Chen

Kira Bennett

Liz Mumford

Nancy Kennedy

Troy Herold

Jim Davis

Bryan Togerson

Michelle McConkie

Al Egbert

Commissioner Dennis Worwood

Marla Kennedy

Rachel Boyack

Ms. Boyack introduced the Drunkards Wash Land Block, a trust lands parcel obtained in the 1990s through the Grand Staircase-Escalante National Monument land exchange. The block includes a coalbed methane gas play that has been in continuous operation since the late 1980s and currently generates approximately \$2M annually in royalties.

Mr. Davis introduced Urban Oil & Gas Group, LLC (Urban), and welcomed President Matt Kirby. Mr. Kirby provided an overview of the company, which has operated for 15 years and employs approximately 200 people, with 25% of its operations based in Utah. He noted their ongoing work in carbon sequestration.

Mr. Kirby introduced Field Foreman Kirt Rasmussen, who described the operations at Drunkards Wash. Urban currently manages 895 coalbed methane wells between Helper and Orangeville.

Of these, approximately 50% are located on trust lands, 16% are located on private mineral lands, and the remainder are located on public lands. Mr. Rasmussen also discussed Urban's 502 miles of pipeline infrastructure and explained the process by which methane is extracted from the Ferron Sandstone formation. He stated that the field is in a plateau production phase with an estimated 30 years of remaining life.

Mr. Rasmussen then introduced Michael Schneider, Urban's Director Subsurface. Mr. Schneider gave a presentation on the company's CO₂ sequestration project, which proposes the disposal of CO₂ in the Navajo Sandstone formation. The formation has favorable porosity and sealing characteristics. The project has received a CarbonSAFE Department of Energy grant and is pursuing additional funding. If realized, the sequestration effort could generate \$4–5M annually for the trust beneficiaries. He emphasized that the project requires significant capital investment and a streamlined Environmental Protection Agency (EPA) permitting process to be economically viable.

The group discussed regulatory challenges around EPA Class VI well permitting and the importance of Utah obtaining primacy. Commissioner Worwood emphasized that Emery County's economic development, including carbon sequestration and oil production, rely on regulatory progress. Mr. Mower asked about permitting delays; Mr. Kirby explained that federal inaction has slowed progress despite industry engagement.

Mr. Rasmussen then led a tour of a nearby well site and provided details on well operation and maintenance. He noted that each maintenance route includes 40–50 wells and that well performance is monitored via automated systems. While traveling back to the highway, Mr. Bedingfield pointed out a reclaimed gravel pit, noting that the site had been successfully restored and was no longer distinguishable as a former mining area.

Stop 2 – Hornshadow Solar, 12:20 p.m.

Attendees:

Tiffany James
Mike Nelson
Mike Mower
Scott Bartlett
Keli Beard
Diane Lund
Naudia Gregerson
Kim Christy
Andy Bedingfield
Joelette Organista
Stephanie Barber-Renteria
Chris Fausett
Shawn Shipley

Marcus Chen
Kira Bennett
Liz Mumford
Nancy Kennedy
Troy Herold
Jim Davis
Bryan Togerson
Michelle McConkie
Al Egbert
Commissioner Dennis Worwood
Marla Kennedy
Rachel Boyack
Doug Cox

Mr. Herold provided an overview of the Trust Lands Administration's renewable energy leasing portfolio, which includes approximately 40,000 acres under lease for solar energy, and 60,000 acres leased for geothermal. He introduced Liz Peyton, Head of Project Development at D.E. Shaw Renewable Investments (DESRI).

Ms. Peyton and other DESRI and Enyo representatives discussed the Hornshadow Solar Project, which encompasses 2,500 acres, approximately 600 of which are trust lands. The project contributes 300 megawatts to the power grid. Its design takes into consideration terrain and soil quality, with the goal of preserving high-value agricultural lands. Ms. Peyton highlighted the project's economic impact: 670,000 labor hours, \$105M invested in the local economy, and up to 450 workers on-site during peak construction. The facility will require three or four permanent staff, with additional support shared regionally. Battery storage will be installed in 2027 or 2028.

The group toured the facility with Ms. Peyton, who responded to questions about solar panel recycling. She acknowledged that recycling is currently expensive, but efforts are underway to reduce costs as demand increases.

Stop 3 – Emery Deep Mine Office, 2:00 p.m.

Attendees:

Tiffany James

Mike Nelson

Mike Mower

Scott Bartlett

Keli Beard

Diane Lund

Naudia Gregerson

Kim Christy

Andy Bedingfield

Joelette Organista

Stephanie Barber-Renteria

Shawn Shipley

Chris Fausett

Byan Harris

Marcus Chen

Kira Bennett

Liz Mumford

Nancy Kennedy

Troy Herold

Jim Davis

Bryan Togerson

Michelle McConkie

Al Egbert

Commissioner Dennis Worwood

Commissioner Jordan Leonard

Marla Kennedy

Rachel Boyack

Doug Cox

Mr. Bedingfield introduced Bronco Utah Operations, the operator of the Emery Deep Mine. He commended Bronco for their successful partnership with the Trust Lands Administration and introduced CEO Jon Hale.

Mr. Hale provided a presentation on the mine's operations. The facility supplies 90% of its coal to the Hunter Power Plant and 10% to Graymont Western US, Inc. The mine originally operated from 1968 to the 1990s and resumed operations intermittently thereafter. Recent trust land acquisitions through the Dingell Act added approximately 20 million recoverable tons of coal, extending the mine's life by 15–20 years, potentially generating \$132M in royalties. The mine employs over 200 individuals and 30 contractors. Coal is shipped without processing due to its low sulfur and ash content. Mr. Hale also noted the mine's water resources—approximately 1.3 million gallons are pumped daily—and the potential for data center development nearby, given proximity to water and fiber infrastructure.

The tour concluded at 4:20 pm.

DRAFT

Meeting Minutes

May 15th, 2025

10:00 AM



**TRUST
LANDS**
ADMINISTRATION



TRUST LANDS ADMINISTRATION

SUPPORTING SCHOOLS AND INSTITUTIONS

Board of Trustees Meeting Minutes

102 South 200 East, #600, Salt Lake City, Utah
84111 Thursday, May 15, 2025

10:00 a.m.

Board Members

Present at Anchor location

Warren Petersen, Chair
Tiffany James, Co-vice Chair
Mike Mower [initial part of meeting]
Dan Simons
John Baza
Mike Nelson

Remote/Online

Bryan Harris, Co-vice Chair

Attending Staff & Public

Michelle McConkie, Executive Director
Stephanie Barber-Renteria, Managing Director, Energy & Minerals
Chris Fausett, Managing Director, Surface Resources
Tyler Wiseman, Geoscientist & Lease Manager for Energy and Minerals
Andy Bedingfield, Assistant Director for Energy and Minerals
Mike Johnson, Chief Legal Counsel
Chris Shiraldi, Legal Counsel
Keli Beard, Legal Counsel
Tonya Mortensen, Legal Secretary
Brent Kasza, TLA Special Agent, Attorney General's Office
Marcos Santana, IT Support
Vince Wayodi, IT Support
Marla Kennedy, Director of Communications & Governmental Affairs
Joelette Organista, Communications Specialist
Kim Christy, Land Trusts Protection & Advocacy Office (LTPAO)
Liz Mumford, Land Trusts Protection & Advocacy Office (LTPAO)
Sheri Mattle, Utah PTA, TLA Specialist

Paula Plant, Utah State Board of Education (USBE)

Attending Staff & Public (continued)

Kira Bennett, Utah State Board of Education (USBE)

Margaret Bird

John Andrews, Snell & Wilmer

WELCOME

At 10:03 a.m., Chair Peterson welcomed the Board, staff, and visitors; and opened the meeting.

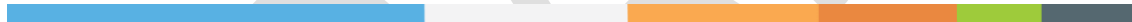
MINUTES

Chair Peterson accepted Mr. Mower's motion that the board approve the minutes of the April 17, 2025, board meeting. Ms. James seconded the motion. The vote was unanimous in the affirmative.

Yea

Nay

Absent



Chair Peterson

Mr. Simons

Vice-Chair Harris

Vice-Chair James

Mr. Baza

Dr. Nelson

Mr. Mower

Confirmation of Upcoming Meeting Dates

June 19, 2025 – Regular Meeting *[Ms. James will be excused; Mr. Mower will be excused]*

July 17, 2025 – New Board Member Orientation (no regular meeting)

August 21, 2025 – Regular Meeting (new leadership elected)

September 18, 2025 – Regular Meeting *[Mr. Mower may have a scheduling conflict]*

TRUST LAND FUNDS IN ACTION

Ms. Kennedy explained that today's presenter, Principal Weaver from Granite School District, was not available due to the busy graduation schedule, but will be able to attend a future Board meeting. In lieu of a presentation, Ms. Kennedy informed the

Board of the receipt of personal letters to each of the board members from several principals, along with the superintendent, who all expressed gratitude about the good work that TLA is doing for the benefit of their schools. Those letters were emailed to the Board today. Ms. Kennedy plans to post the letters/testimonials on the TLA website.

SOCIAL MEDIA MINUTE

Ms. Organista shared two videos she created for TLA's social media page.

- First video about the Board Tour received 2.1k Views; 26 Likes; 22 Shares; 1 Follow.
- Second video about Desert Color development in Washington County received 2k Views; 55 Likes; 1 Share, 1 Follow.

Ms. Organista explained to the Board how she uses music and video styles coupled with information to increase engagement with those on social media. Desert Color partnered with TLA on the second video, so it also shows up in their feed as well.

PUBLIC COMMENTS

Chair Peterson read the agenda item on public comments and asked if anyone was present in person or online to offer comment. There were no public comments from within the boardroom or online.

CHAIR'S REPORT

Chair Peterson highlighted the 'extraordinary' level of activity on trust lands this past year, and congratulated TLA staff for their accomplishments. He commended Director McConkie for her excellent leadership and the good work the Agency is doing.

He spoke about an evaluation under legislative leadership regarding the Land Trust Protection and Advocacy Office as an example of the constantly changing landscape in which Trust Lands Administration must operate.

Chair Peterson mentioned that the Board has received feedback from legislators who are planning for the next legislative session and are interested in the work TLA does. He said that for a number of reasons TLA should continue with an eye to the future to be prepared to keep pace with business and technological changes.

DIRECTOR'S REPORT

Director McConkie shared information about recently attending the following events:

- Governor's Nuclear Energy Summit in Salt Lake City
- Utah Association of Counties conference in St. George – attended by Director McConkie, Mr. Fausett, Ms. Barber Renteria, Mr. Johnson, Mr. Pasley, and Ms. Kennedy. The agency representatives were on a panel reporting on the Dingell Exchange. Mr. Johnson gave a presentation about the Land Exchange Distribution Account (LEDA). Though the panel received some difficult questions; good conversations were had as well. Networking was a success.
- Box Elder School Board Meeting, highlighting Garland Elementary which won TLA's video contest to show how their school is using Trust Lands funds. Because that meeting was well attended, TLS received a lot of positive exposure. Director McConkie was delighted to present Garland Elementary with a "big check" for winning the contest. The winning video was then shown.
- PTA Convention – Director McConkie also confirmed that TLA had a booth at the 2025 PTA convention. This was also deemed a success due to meeting, conversing, and networking with teachers, administrators, and school Community Council members.

Director McConkie turned the time over to Ms. Kennedy and Ms. Organista to present TLA's new Rural Outreach Campaign. The presentation can be found at <https://www.utah.gov/pmn/files/1273197.pdf>. Ms. Kennedy described the plan to integrate TV, streaming, radio, podcast, social media, print, and in-app banner ads to foster a broader and more comprehensive understanding of TLA's positive contributions to rural Utah schools and rural economies.

She said the target audiences for the campaign are primarily 30-55-year-olds, and secondarily 56+ year-old residents in 14 rural counties off the Wasatch Front throughout the state of Utah. She also said the plan is to run this campaign from the first full week of May 2025 to the end of September 2025. The campaign integrates with meetings between Trust Lands and other organizations active in rural Utah. Ms. Kennedy noted that all individuals in the ads are TLA lessees, not paid actors, and the ads were created on Trust lands, with the assistance of Rumor Advertising. The TV ads will have one 30-second spot and three 15-second spots. The area-specific print ads will be featured in 11 rural news publications, billboards placed along strategic routes in Southern Utah, and

three different social media ads. All ads were shown by Ms. Organista during the presentation.

Ms. Kennedy explained that the overall success of this strategic outreach campaign can be measured by the response of those who are in the less populated portions of our state as they learn and understand how trust lands impact local populations and economies, and the degree to which they engage with the Administration. Ms. Kennedy and Ms. Organista described the types of media used in the campaign and shared the video and print media materials.

Chair Peterson thanked everyone who worked on the campaign for their time and effort in bringing something to fruition that will provide value to the Trust Land beneficiaries. He also mentioned that those in the various communities are grateful that they have some control of how the Trust Lands funds are spent in their areas and this campaign will clarify how these funds help in their areas. He also suggested there might be more sectors of the rural population that could be represented in the ads. Ms. Kennedy replied that the campaign is evolving and will take the suggestion into account.

Mr. Mower commented on the importance of this advertising campaign, and how he is excited about area specificity. Just as important, he said, sharing this information is great for Utah's opinion leaders such as the Governor, Lt. Governor, legislators, etc.

Chair Peterson allowed Ms. Margaret Bird, a member of the public, to approach the board to inquire how TLA intends to measure the impact of this campaign and if a survey for baseline information was done prior to the launch. She also asked how much the outreach campaign will cost. Ms. Kennedy reassured her that TLA has partnered with a research firm and has done the requisite and extensive market research, due diligence, and appropriate tracking analytics, which are ongoing. Regarding the actual cost of the campaign, Ms. Kennedy stated the Rural Outreach Campaign is very thorough and a well-thought-out plan with a budget. She said she can circle back with information on the actual cost as the invoices are received.

Ms. James commented, with congratulations, on the importance of advertising analytics, the impact of advertising in many arenas, how the state-wide awareness of the Trust Lands Administration has increased significantly in just a few years' time, and agreed that it is money well spent.

Chair Peterson added that there is a knowledge gap in rural Utah regarding Trust purposes and awareness can help guide those local communities on how best to apply their Trust Lands funds.

Ms. Kennedy gave assurance that the measurable analytics can be reviewed after 3- and 6-month periods to assess the success of this campaign.

ADVOCATE'S REPORT

Mr. Christy acknowledged the presence of Sheri Mattle from the Utah PTA, who will be a liaison to TLA as a Trust Lands Specialist for the Utah PTA. He also said the Advocacy Office (LTPAO) had a successful booth at the recent PTA Convention, in partnership with Kira Bennett and Marcus Chen from the Utah Office of Education. He also mentioned that the PTA recognized Paula Plant, of the Utah State Board of Education, by awarding her the well-deserved "Friend of Children Award" for her work as director of the School LAND Trust Program.

Mr. Christy reported that the legislative study group that is evaluating whether to continue the Land Trust Protection and Advocacy Office has met three times and will meet three more times until September in response to the legislative audit of the LTPAO. The group is currently focusing on creating specific statutory language for legislative consideration on whether to preserve the independent advocacy office and its governing body. He was appreciative of the expertise of Chair Peterson and Mr. Michael Johnson, who are both serving on the legal subcommittee of the study group.

Mr. Christy addressed the issue of potential reduction in legislative funds for the College of Mines and Earth Science at the University of Utah due to dwindling enrollment numbers. He expressed concern that there is not sufficient understanding of the importance of mineral development and the potential for higher salaries in the industry received by graduates from the program. Mr. Christy mentioned a meeting with the interim Dean of the college, Pearl Sandik, to discuss and possibly dissect future opportunities with LTPAO to increase advocacy with the College and, by extension, the legislature.

Mr. Christy cited HB 262 passed two legislative sessions ago, which allowed TLA to execute large land block transactions of 5000 acres or greater with the State of Utah, without utilizing a competitive bid process. Administrative rules concerning implementation of this bill are currently being drafted, he said, and he is appreciative of the opportunity to provide input to Director McConkie and staff.

Finally, Mr. Christy raised the issue of outstanding credits for quantity grants and in lieu selections for certain beneficiaries and outstanding credits that remain to be applied on behalf of these beneficiaries. He presented the question of how the matter should be addressed for the sake of the affected beneficiaries' portfolios. He said he raised the question to be sure knowledge of these pending selections is part of the organizational memory.

Dr. Nelson reported a conversation with a representative of the College of Mines on the amount of funds received. Mr. Christy reported the amount of funding provided to the College of Mining. He also said discussion about how the beneficiaries outside of public education receive and account for use of their trust lands funds has recently been a topic of concern for the Advocacy Office.

Mr. Simon asked a question about a recent news report about a congressional bill sponsored by Congresswoman Maloy, proposing transfer of certain federal lands to Utah counties. Director McConkie responded to Mr. Simon's question and gave assurance that TLA is monitoring the bill and its potential impact on the affected trust beneficiaries.

ACTION ITEMS

Ms. Barber-Renteria spoke generally regarding the Energy & Mineral Action Items being presented in this meeting. She said the E&M Group has recently had reason to look broadly at leases rates on mineral resources and has engaged in extensive research and review of industry and market conditions. She said proposed actions being presented represent a change in TLA philosophy. She said there is a change in TLA's market philosophy and way of doing business, because some of the practices previously applied may have been driving some business away due to initially high royalty rates. She said there are sound business reasons to look at such leases in a broader context. Dr. Nelson commented that he was given opportunity to review the staff reports and could confidently affirm the high quality of Mr. Wiseman's research on this issue. Dr. Nelson said, "If I were still teaching, I would be using his report."

Action Item 10a. Mr. Wiseman presented a proposed amendment to Uranium Lease, ML 49703 OBA, with IsoEnergy, Ltd. on land in Garfield County (640 acres). The beneficiary is Schools. The presentation can be found at

<https://www.utah.gov/pmn/files/1273199.pdf>. This is an older OBA approved by the

Board in 2005 that was tied with an effort by the Board to examine the potential of making Trust Lands property as “a kind of energy hub.” Later, the Tony M uranium mine was founded under that concept. This long-term OBA with Energy Fuels was acquired by the current tenant, ISO Energy, in 2021. The current operator, IsoEnergy, is hoping to get the mine back into operation in the near term. Mr. Wiseman explained that two (2) mine portals, one (1) active, the other non-active, are on Trust Lands property on the southern edge of Section 16, T35S R11E, that this lease has fulfilled its primary term, has had a readjustment under the terms of the agreement, and this would be the second readjustment. He said it is important to note that only a fraction of the mineral deposits in this area are on trust lands; the majority are found on land subject to federal mining claims.

Mr. Wiseman clarified that after some research and careful consideration regarding the economics of the uranium deposit and the grade of the ore, the staff is proposing that the Board adjust ML 49703 OBA by reducing the royalty rate from the original 8% to 3% on the gross value of fissionable metalliferous minerals, f.o.b. the mine, sold under an arm’s length transaction. This proposal was brought before the Mineral committee in April 2025 and was reported to be consistent with other western states’ royalty rates. IsoEnergy also requested a change to the structure for minimum royalties paid to be creditable against future production royalties. Then, from years four (4) to 10 the royalty will be as stated in the memorandum. Iso Energy is a good operator, well-funded, and active in other areas in the eastern U.S. and internationally.

Dr. Nelson commented that this lease with this operator who has the setup ready to go, sends a signal to the industry at large that uranium can be mined and processed in Utah and the business infrastructure is in place to support the industry.

Chair Peterson posed a question about transport/wheeling fees being a common thing in Trust Land lease agreements. Mr. Wiseman stated it is not common on TLA agreements since TLA does not usually have underground mining for metalliferous minerals. Mr. Bedingfield clarified that the language for such is included in all TLA leases, but in practice it is rare. Dr. Nelson described historical conditions which led to use of this provision in the mining industry.

Dr. Nelson moved that the board approve the adjustment to Uranium Lease ML 49703 OBA for royalty reduction as set out in the Board memorandum. Mr. Harris seconded the motion. The vote was unanimous in the affirmative.

Chair Peterson
Acting Chair Harris
Vice-Chair James
Mr. Baza
Dr. Nelson
Mr. Simons
Mr. Mower

Action Item 10b. Mr. Wiseman presented a Proposed Modification to Exploration Agreement and Option to Lease, ML 54558 OBA, with Kinross Gold on land in Beaver County (17,375.88 acres) in the Blawn Mountain area at the southern edge of Milford Block. The beneficiary is Schools. Mr. Wiseman's presentation can be found at <https://www.utah.gov/pmn/files/1273201.pdf>. Mr. Wiseman's memorandum to the Board was distributed with the meeting agenda. This proposed OBA was brought before the Board for approval in October 2024.

Mr. Wiseman explained that Kinross Gold, among other things, is interested in the area as a large known resource of alionite lies on the surface, which is often at the top of a mineral system and therefore 'feeding it'. Underneath is typically copper and gold, which is Kinross's goal, as such deposits can be lucrative for mining operators. This OBA lease was previously approved as a four-year agreement with a required \$1.5 million work commitment in the four years and any unused exploration capital at the end of that timeframe would be paid to TLA.

Mr. Wiseman requests the Board amend its approval of the OBA to include a production royalty modification. The Board previously approved a 'standard' 4% gross royalty with Kinross Gold. Kinross, after further negotiation countered with a 3% NSR (net smelter return) royalty. A counteroffer of 2% gross royalty was brought before the Mineral Committee in March 2025 who advised to renegotiate a better deal per Mr. Baza. Then TLA offer is now: 3% gross royalty with the option to buydown 0.5 for \$500K; and another 0.5% for \$500K (total 1% buydown for \$1 million) if they find metalliferous minerals. A 10-year readjustment was included as well.

Mr. Wiseman stated that Kinross is a good operator that has a proven track record globally, is well-funded, and has proposed a detailed work agreement. TLA feels they are a great operator to have on Trust Lands.

Mr. Simon questioned why Kinross came back with 3% royalty after they offered 2%. Mr. Wiseman and Ms. Barber Renteria answered by stating that a 2% royalty did not include an NSR and that TLA does not have the ability to audit all the deductions that would come with that plan. All parties realized the 3% NSR royalty was the best deal in the long run. Mr. Baza further explained the directions from

Mr. Harris asked for clarification about the 1% buydown provision and how that could translate into royalty payments and if there is an estimate of what those royalties could be. Mr. Wiseman answered that at this point there is not a pre-feasibility study to assess or estimate the actual resources in place. Ms. Barber-Rentieria reassured Mr. Harris that provision of the 10-year readjustment period in TLA mining leases can be helpful if a lease does not produce. The board members discussed the proposed terms at length.

Dr. Nelson commented that Kinross is a major company taking serious interest in the property and seem committed to the project and discussed the indicators supporting this conclusion

Chair Peterson noted that TLA is not anticipating this resource is fissionable. Mr. Wiseman clarified by stating the Blawn Wash mining district has small potential for volcanogenic uranium but that likely would have been found earlier. In the event of finding fissionable resources, the lease states the production rate for that would remain at 8% Gross.

Dr. Nelson moved that the board approve the royalty reduction for ML 54558 OBA with Kinross Gold as set out in the board memorandum. Mr. Baza seconded the motion. The vote was unanimous in the affirmative, with Mr. Mower excused.

Yea		Nay		Excused	
Chair Peterson				Mr. Mower	
Acting Chair Harris					
Vice-Chair James					
Mr. Baza					
Dr. Nelson					
Mr. Simons					

Action Item 10c. Mr. Bedingfield presented a Proposed Modification to Brine Lease (ML 54440 OBA) testing well with A1 Lithium in Emery County (6,504.61 acres) known as the Green River Lithium Project. The presentation is found at <https://www.utah.gov/pmn/files/1273203.pdf>. A memorandum setting out the staff recommendations was previously distributed to the board. ML 54440 OBA was lithium lease approved by the Board in fall of 2024. It is an area near the town Green River where TLA has several parcels and most of the area included in the proposed lease is a split estate where TLA owns the mineral estate but does not own the surface estate. When the Board previously approved this lease there was no surface occupancy clause included.

Mr. Bedingfield said that some terms of the lease are often negotiated after Board approval. The royalty rate is one of those terms. The royalty rate was originally approved at 5%, now TLA proposes to amend the OBA to include royalty rate changes based on Average Sale Price. This is in part because the Direct Lithium Extraction technology that will be used on this resource is still an emerging technology in North America with no current operations at commercial levels. Mr. Bedingfield also noted that a representative from A1 Lithium, Mr. John Andrews, was present at the meeting.

The renegotiation created a tiered royalty structure based on the salability of the product as described in the board memorandum.

Mr. Bedingfield's presentation contained a graph showing the expected changes to market price of lithium. He also said that the 0% royalty rate federal lands affects royalty rates on TLA land. He said the proposed royalty structure is designed to encourage development of lithium extraction on TLA land while still obtaining a suitable return for the Trust Land beneficiaries.

Ms. James expressed appreciation for the proposed royalty rate structures as they are more friendly to prospective and future business.

Mr. Baza moved that the board approve the royalty rate modification for ML 54440 OBA with A1 Lithium in Emery County as set out in the memorandum. Dr. Nelson seconded the motion. The vote was unanimous in the affirmative, with Mr. Mower excused.

Yea

Nay

Excused

Chair Peterson

Mr. Mower

Vice-Chair Harris

Vice-Chair James

Mr. Baza

Dr. Nelson

Mr. Simons

Action Item 10d. Ms. Barber-Renteria informed the Board regarding the Proposed Limestone Exploration Agreement with Option to Lease, ML 54597 OBA, with TSJ Construction in Emery County, that after some internal discussions, E&M Group would like to conduct stakeholder outreach in this matter and request this Action Item be presented to the Board at the June 2025 meeting.

Action Item 10e. Mr. Johnson noted that by prior agreement the parties to the Petition for Appeal and Adjudicative Proceedings before the Board of Trustees RE: Wesco Operating, Inc. concerning the dispute about oil and gas leases in San Juan County are not present at this meeting. An “Interim Order Concerning Threshold Legal Issues” was issued and both parties are reviewing it. The order can be found at <https://www.utah.gov/pmn/files/1274013.pdf>. He said the parties now plan, as arranged with the Board, to have the parties address the Board at the June 2025 meeting.

Action Item 10f. Chair Peterson recommended to postpone the *Legal Policy Statement No. 2025-1 – Consideration for Possible Action on New Board Policy Regarding Board Committee Procedures* matter to the next meeting in June 2025. (This can be located at <https://www.utah.gov/pmn/files/1274011.pdf>.) He explained it was due to three (3) factors: the aforementioned interaction with legislators (see Chair’s Report), the need for drafting language in the statement defining the role of the Advocacy Office in board committee meetings, and recent input from Director McConkie. Mr. Johnson will review the new draft, which includes Chair Peterson’s changes and new information that should be available to the Board members during the next week.

ADJOURN

At 12:06 p.m., Ms. James moved to adjourn the meeting. Mr. Simon seconded the motion. The vote was unanimous in the affirmative with Mr. Mower excused.

Yea

Nay

Excused

Chair Peterson

Mr. Mower

Vice-Chair Harris

Vice-Chair James

Mr. Baza

Dr. Nelson

Mr. Simons

DRAFT

Respectfully Submitted,

Tonya Mortensen

Legal Secretary

May 20, 2025

Audio of this meeting can be found at

<https://www.utah.gov/pmn/files/1273207.m4a>

10a Legal Petition

Appeal and Adjudicative Proceedings

with Wesco Operating Inc.



**TRUST
LANDS**
ADMINISTRATION

**BEFORE THE
UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION
BOARD OF TRUSTEES**

WESCO OPERATING, INC.,

Petitioner,

v.

UTAH SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION,

Respondent.

INTERIM ORDER CONCERNING
THRESHOLD LEGAL ISSUES

This matter was initiated when Wesco’s Petition of Appeal and For Adjudicative Proceedings (“Petition”) was filed on January 13, 2025. TLA’s Initial Response to Petitioner’s Appeal (“TLA’s Response”) was filed on February 27, 2025, and Wesco’s Reply in Support of Petition of Appeal and For Adjudicative Proceedings (“Wesco’s Reply”) was filed on March 13, 2025. Following these filings, counsel for the Board held a telephonic conference with counsel for the parties regarding next procedural steps. The parties indicated they desired that the Board first address two threshold questions, presented as Points I and II in TLA’s Response and Wesco’s Reply, concerning whether the Board has jurisdiction to consider the Unit Agreement and whether TLA’s termination of the Certification-Determination (“CD”) is a “final agency action” affecting Wesco’s rights that is subject to appeal.

Although posing questions of jurisdiction, these issues, particularly the dispute regarding the degree to which Wesco’s rights are affected by termination of the CD, also touch upon the ultimate merits of the parties’ contract-interpretation dispute. At this stage of the matter, the Board has construed these points narrowly in terms of whether the Board should proceed to hear

the parties' dispute regarding the meaning of the CD (and Unit Agreement to the extent it is incorporated by reference), as opposed to proceeding too deeply into resolving the merits of that dispute. This approach was influenced by what the Board understands to be the parties' desire regarding which issues the Board should decide solely on the briefs without any opportunity for oral argument.

The Board has jurisdiction to consider the Unit Agreement
to the extent its terms are incorporated by reference in the CD.

TLA has argued that the Board must analyze only the CD without interpreting the terms of the Unit Agreement. It argues that the Board lacks jurisdiction to consider the Unit Agreement because TLA itself is not a party to that contract, having signed only the CD. TLA Brief at 12-13. As Wesco notes, however, the CD itself (which TLA did sign) refers to, and incorporates by reference, terms of the Unit Agreement. The CD states that TLA “hereby approves the said Unit Agreement” and “certifies that the lands of the State of Utah . . . shall remain subject to said agreement” until the Unit is terminated. CD (attached as Exhibit 4 to the Petition) at 1. TLA therefore voluntarily adopted terms of the Unit Agreement and made those terms part of the CD itself. As TLA notes, the Board has authority to “ensure that the administration is complying with its legal obligations.” TLA Brief at 13. Because TLA voluntarily bound itself through the CD to at least certain terms of the Unit Agreement, the Board has jurisdiction to consider those terms.¹

The Unit Agreement, however, was adopted with conditions, as TLA notes. As discussed more fully below, how these conditions should be interpreted is disputed. Because the CD

¹ Of course, no decision of the Board interpreting terms of the Unit Agreement will be binding on the federal government or other parties to that agreement. It will only be binding on the parties to the CD who agreed to adopt certain Unit Agreement terms.

adopts the Unit Agreement terms at least to some degree, however, it is proper and necessary for the Board to review both documents. The present situation is analogous to the recent EOG audit appeal in which the Board extensively interpreted the *federal* oil and gas royalty valuation regulations. The Board did so not because those regulations directly apply to non-federal lands, but because TLA's oil and gas lease adopted the federal regulations by reference. Although the Board would otherwise not have any reason or jurisdiction to interpret federal regulations, they were considered because they had been adopted by contract by TLA and its lessee.

TLA's termination of the CD is a final, appealable agency action.

TLA's rules define a "final agency action" as "a written determination by [TLA] of the legal rights, duties, or other legal interests of one or more identifiable persons." Utah Administrative Code R850-8-300(4). TLA's written termination of the CD and resulting termination of the joinder of these leases in the Unit purported to be final. It is also clear that such termination affected the rights and obligations of Wesco (and the lessees it represents) insofar as they are now obligated to commit millions of dollars to drilling wells on each lease in the next two years where they otherwise would have enjoyed the benefits of the Unit and may not have been required to drill. The fact that the lessees' rights are affected by unitization decisions is also reflected in the requirements of the lease contracts. Although those leases state that TLA has reserved authority to decide whether to commit leases to units, the leases also make clear that such power is to be exercised jointly with the lessees, who must sign off on any decision to unitize. See Exhibit P to TLA's Response at ¶5(c). Based on these realities, the

Board concludes that TLA's decision to terminate the CD, altering both entitlements and obligations of lessees, is an appealable "final agency action" affecting the lessees' rights.²

The Board desires further input on the merits of the dispute
concerning the interpretation of Paragraph 4(b) of the CD

TLA correctly notes that its decision to commit the leases to the Unit (and the decision of its lessees who consented to such action) was conditional. Under paragraph 4 of the CD, a 5-year time limit was placed on such joinder subject to exceptions which would allow that joinder to continue beyond 5 years. One exception not applicable here is the achieving of production. Another exception set forth in paragraph 4(b) is where, despite the absence of production, there has been an "extension" of "said initial term" of "the agreement." The parties' briefs reflect disagreement about the meaning of that sentence. TLA appears to argue that this provision references an extension of the 5-year limit set forth in paragraph 4 of the CD, which would be granted (or not granted) by TLA itself. Wesco appears to argue that this provision refers to an extension of time limits for drilling and production set forth in the Unit Agreement as granted by the Authorized Officer of the Unit (i.e., the BLM). If TLA's reading is accepted then the conditional joinder in the Unit (a decision in which both TLA and the lessees participated) would appear to be at an end, given the running of the 5-year limit on such joinder. If Wesco's interpretation is accepted, however, then the conditions for joinder may still apply, and the 5-year limit may not have run, because there has been an "extension" of the "initial term" by the Authorized Officer in the face of delays.

² The fact that TLA's action affected lessee rights for "final agency action" purposes of course does not mean that such action was not proper and sustainable under the applicable agreements. The latter question relates more to the merits of the parties' contract interpretation dispute as discussed below.

This disagreement is one of the main, if not the main, disputed issues on the merits in this proceeding. Based upon the Board's understanding of the scope of what the parties have agreed can be decided on the briefs without the opportunity for oral argument, and based on the Board's preference and desire for additional input, the Board has not attempted at this stage to resolve this dispute. Paragraph 4(b) (and paragraph 4 in general) is not a model of clarity. The Board would like to hear from the parties concerning any further interpretive arguments they would like to make, whether those relate to: 1) how the language of the CD and the Unit Agreement it references are to be read together, 2) requirements of TLA's rules that form the backdrop against which the CD must be read, 3) the course of dealings between the parties following execution of the CD, or 4) other applicable rules of contract interpretation. The Board's counsel will contact counsel for the parties following the issuance of this order to discuss the timing and form of further proceedings.

The Board would like further input regarding the practical consequences of a ruling in either party's favor.

Both parties in their briefs raised arguments regarding the practical impacts of a decision in this matter. The Board is interested to hear what each of the parties' plans and expectations are going forward should they prevail or not prevail in this case. For example, if Wesco's position is upheld, what does it anticipate happening in the next 5 or even 10 years with the Hatch Point Unit and the subject leases given three decades of failure drill and ongoing delays? If TLA's position is upheld, is Wesco able to develop the subject leases independently of the Unit within the next two years? What does TLA, should it prevail, anticipate it will do with the subject acreage should it be eliminated from the Unit and the leases terminate upon expiration of the 2-year extensions, particularly in light of the area where the leases are located and the level of oil and gas development activity there? These questions are less relevant to resolving the

dispute concerning interpretation of the CD, but the parties have in their filings to date touched on the consequences of potential rulings in this matter and the precedent that might be set. The Board would like to better understand what is at stake and may inquire about these questions at a future Board meeting. The Board's counsel will contact counsel for the parties following the issuance of this order to discuss this issue as well.

The Chairman's signature on a facsimile copy of this Interim Order shall be deemed the equivalent of a signed original for all purposes.

Issued this 12th day of May, 2025.

**UTAH SCHOOL AND INSTITUTIONAL TRUST
LANDS ADMINISTRATION BOARD OF TRUSTEES**



Warren H. Peterson, Chairman

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on May 12th, 2025 I caused a copy of the foregoing INTERIM ORDER CONCERNING THRESHOLD LEGAL ISSUES to be served via email upon:

Keli Beard (10628)
Christopher Shiraldi (13355)
Special Assistant Attorneys General
kbeard@utah.gov
cshiraldi@utah.gov

Ginger Utley
LEAR & LEAR, PLLC
Ginger.utley@learlaw.com

/s/ Michael Johnson

10b Energy & Minerals

Proposed Limestone Exploration Agreement with Option to Lease OBA: ML 54597

with TSJ Construction



**TRUST
LANDS**
ADMINISTRATION

BOARD MEMORANDUM

Date: May 15, 2025

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

From: Andy Bedingfield, Assistant Managing Director, Energy & Minerals

Re: Other Business Arrangement (OBA) ML 54597
Limestone Exploration Agreement with Option to Lease

Applicant: TSJ Construction
PO Box 453
Cleveland UT 84518

Lands: See Map
Emery County

Acreage: Containing in all 1,507.0 acres

Fund: SCH – School Fund

Summary

The Energy & Minerals Team recommends that the Board approve this Limestone Exploration Agreement with Option to Lease OBA for lands in Emery 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 on the standard lease form via the—competitive lease process.

Key Information and Background

These lands are located within various parts of Emery County. The proposed agreement includes 1,507.0 acres of surface and mineral estate over four separate sections of land. The lands were acquired via the Enabling Act of 1896 on Patents 43-65-0059, 0070 and 0155. The lands are currently managed largely for grazing. The Cedar Mountain Block has had previous solar leases on the eastern portion of the block.

The applicant is seeking a three-year exploration agreement with an option to lease, which will allow them to explore each area for suitable limestone. The limestone would be used in the construction aggregate market in the local area, and if chemically suitable, into the concrete mix design. The applicant is a contractor and aggregate producer within the Carbon and Emery county areas.

Mineral potential is generally low on the scattered sections and varies somewhat. There is low potential for uranium in the southeast section and tar sands within the Cedar Mountain Block area.

The Resource: Limestone, comprised primarily of CaCO_3 or Mg-CaCO_3 used in construction aggregates

The Applicant: TSJ Construction, a local contractor and aggregate producer.

Material Terms of the Transaction

Term: The applicant will receive a three-year exploration agreement wherein the applicant may explore for minerals and have the option to enter into a lease on any of the optioned areas following the exploration period.

Payments to Trust Lands Administration:

- 1) Bonus Payment of \$10,000 to execute the lease
- 2) Production Rate \$0.55 per short ton
- 3) Annual Rental of \$5/acre

Work/Expenditure Requirements: TSJ Construction will conduct exploration activities as it deems necessary. A report summarizing the drilling and testing data is required prior to executing a lease. If they exercise the option to lease, the standard diligent operations requirements to extend a limestone lease will be applicable.

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

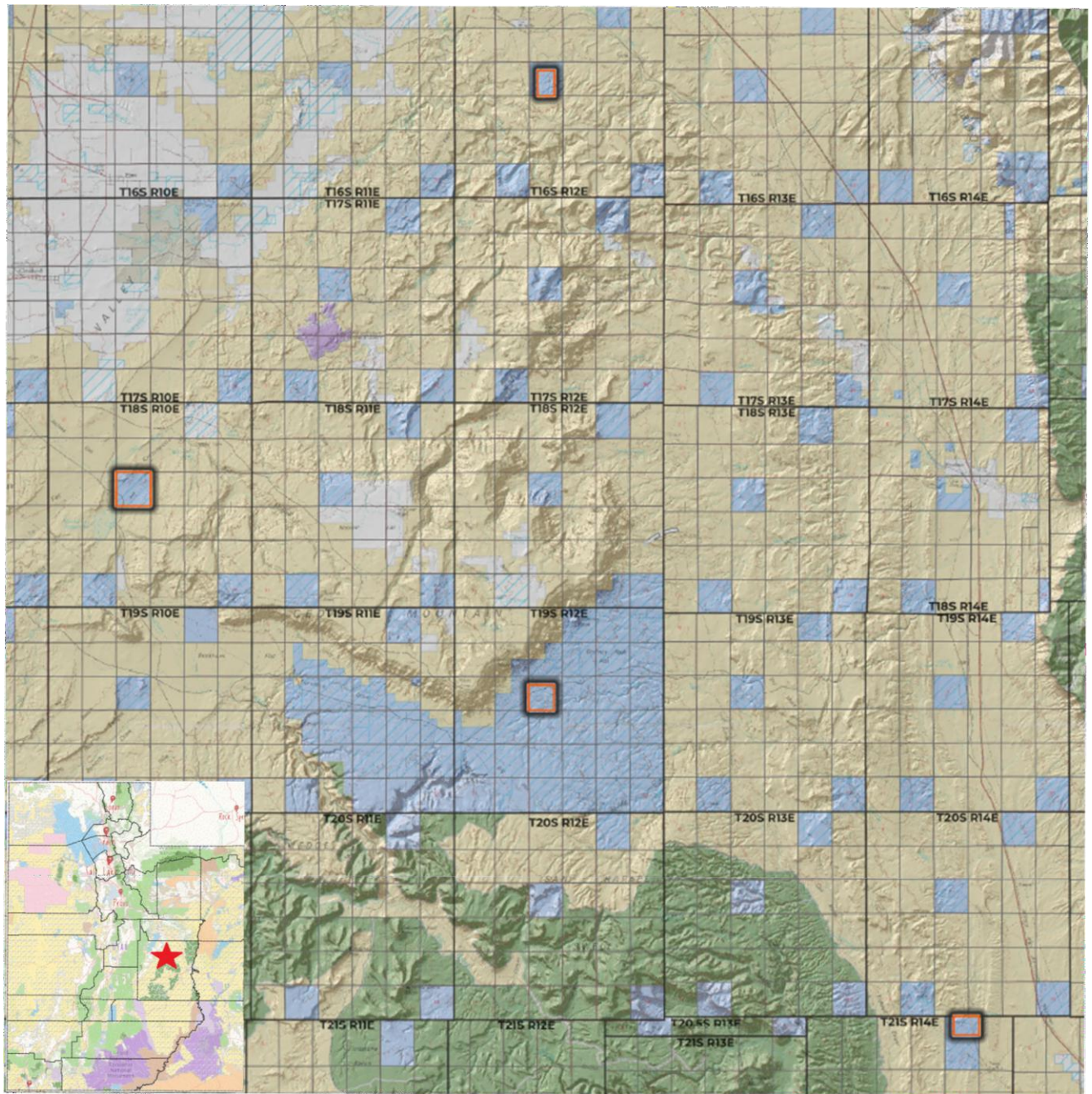
Committee Discussion

A question was posed regarding the data from the exploration work. The exploration data will be required to be submitted to Trust Lands whether the lease is ultimately executed or not. Also, TSJ Construction is an independently and locally owned business in Emery County and is not owned by one of the large international aggregate companies.

Requested Agency Action

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

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



10c Administrative Rule Revisions

R850-30 Special Use Lease Agreements



**TRUST
LANDS**
ADMINISTRATION

BOARD MEMORANDUM

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

From: Michael Johnson, Chief Legal Counsel

Re: Proposed Revisions to Administrative Rules for Surface Special Use Lease Agreements (R850-30)

Date: June 11, 2025

Summary

Staff proposes to amend Section R850-30 of the agency administrative rules governing surface special use leases to account for recent changes to the agency's code (Title 53C) regarding leases of large land blocks to the Department of Natural Resources. The proposed rule revisions are being made in response to legislation (H.B. 262 S1) enacted during the 2024 session.

Key Information and Background

Background: On March 12, 2024, the Governor signed H.B. 262 S1 into law (a copy of the bill is attached as Exhibit A). The bill provides, among other things, that the TLA Director may lease to the Utah Department of Natural Resources blocks (or closely-associated aggregations) of trust land of 5,000 acres or more for no less than fair market value. Under this authority, such leases may be executed without advertising if the Director finds that doing so is in the best interests of the affected beneficiaries, notifies those beneficiaries, and if the terms of the lease are presented and approved in an open Board meeting. Importantly, the bill directs TLA to adopt rules for determining fair market value for purposes of such leases. The bill states that the rules shall establish the procedures for such determinations of value and shall further require that TLA obtain at least one third-party appraisal as part of that process.

Proposed Rule Revisions: The agency established an informal working group composed of management (led by Chris Fausett) and legal staff to draft proposed rule revisions as required by the newly-enacted code. The proposed rule revisions are attached as Exhibit B. The rules establish a definition of "Eligible Properties" (i.e., of 5,000 acres or greater) that are subject to the new leasing authority, and set forth requirements for the Director's finding and Board vote required under the statute. They require that the Director, in making her finding, consider: (a) whether the lease would create obstacles to mineral development, (b) whether the lease would foreclose future development or management options that would likely result in greater long-term economic benefits, (c) whether selling (as opposed to leasing) the property to DNR is in the best interest of the beneficiaries, and (d) whether waiving the advertising requirements is in the best interest of the beneficiaries. The rules also address appraisal standards and appraiser qualifications. I direct your attention to the attached draft rule for further specifics.

Rulemaking Process: If the proposed rule revisions are approved by the Board, the agency will file the proposed rule changes with the Office of Administrative Rules (OAR). OAR will then submit the rules to the Governor's Office of Management and Budget and the Legislature's Administrative Rules Review Committee for review. The proposed rules would also be published in the Utah Bulletin for a 30-day comment period. Once filed with the OAR, it generally takes between 3-5 months for rules to become effective.

Legal Committee Review: The Legal Committee reviewed the draft rules and edits were made based on the committee members' input. The Legal Committee has reviewed the updated (attached) draft and has made no further suggestions, indicating they are ready for presentation to the Board.

Requested Action

The agency recommends that the Board approve the proposed revised administrative rules for surface special use leases and offers the following proposed motion:

“Move that the Board approve the revised administrative rules for surface special use leases in the form presented and direct the agency to proceed with the administrative rulemaking process.”

SCHOOL AND INSTITUTIONAL TRUST LANDS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill makes changes relating to the School and Institutional Trust Lands Management Act.

Highlighted Provisions:

This bill:

- exempts the sale or lease of certain large aggregations of trust lands from advertising requirements;
- excludes certain lands from sale or lease under the large aggregation exemption;
- requires rulemaking for determining the fair market value of trust lands; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-1-102, as repealed and reenacted by Laws of Utah 1994, Chapter 294

ENACTS:

53C-4-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53C-1-102** is amended to read:

53C-1-102 . Purpose.

(1) (a) The purpose of this title is to establish an administration and board to manage

lands that Congress granted to the state for the support of common schools and other beneficiary institutions, under the Utah Enabling Act.

(b) This grant was expressly accepted in the Utah Constitution, thereby creating a compact between the federal and state governments which imposes upon the state a perpetual trust obligation to which standard trust principles are applied.

(c) Title to these trust lands is vested in the state as trustee to be administered for the financial support of the trust beneficiaries.

(2) (a) The trust principles referred to in Subsection (1) impose fiduciary duties upon the state, including a duty of undivided loyalty to, and a strict requirement to administer the trust corpus for the exclusive benefit of, the trust beneficiaries.

(b) As trustee, the state ~~[must]~~ shall manage the lands and revenues generated from the lands in the most prudent and profitable manner possible, and not for any purpose inconsistent with the best interests of the trust beneficiaries.

(c) The trustee ~~[must]~~ shall be concerned with both income for the current beneficiaries and the preservation of trust assets for future beneficiaries, which requires a balancing of short and long-term interests so that long-term benefits are not lost in an effort to maximize short-term gains.

(d) The beneficiaries do not include other governmental institutions or agencies, the public at large, or the general welfare of this state.

(3) This title shall be liberally construed to enable the board of trustees, the director, and the administration to faithfully fulfill the state's obligations to the trust beneficiaries.

Section 2. Section **53C-4-104** is enacted to read:

53C-4-104 . Sale or lease of trust lands to state entities -- Requirements --

Excluded lands -- Fair market value.

(1) (a) The director may sell or lease to the Utah Department of Natural Resources an aggregation of more than 5,000 acres of trust lands, if the Utah Department of Natural Resources pays at least fair market value for the sale or lease.

(b) The director may make an aggregation of more than 5,000 acres of trust lands described in this section by selecting a single, contiguous parcel or combining multiple parcels, with individual parcels no farther apart than two miles.

(c) The director may complete a sale or lease described in this section without complying with the advertising requirements described in Subsection 53C-4-102(3), if the director and the board of trustees:

(i) provide written notice of a proposed sale or lease under this section to an affected

- 62 beneficiary; and
- 63 (ii) present at an open meeting of the board of trustees and take public comment on:
- 64 (A) the terms of a proposed sale or lease; and
- 65 (B) the director's findings that waiving the advertising provision is in the best
- 66 interest of the beneficiaries.
- 67 (2) The director may not include the following lands in a sale or lease described in this
- 68 section:
- 69 (a) Township 1 South, Range 8 West, USM;
- 70 (b) Township 1 South, Range 9 West, USM; or
- 71 (c) Township 1 South, Range 10 West, USM.
- 72 (3) (a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah
- 73 Administrative Rulemaking Act, for determining the fair market value of trust lands
- 74 for a sale or lease described in this section.
- 75 (b) The rules adopted by the director:
- 76 (i) shall establish the procedure for determining the fair market value of the trust
- 77 lands;
- 78 (ii) may provide that an appraisal, as that term is defined in Section 61-2g-102,
- 79 demonstrates the fair market value of the trust lands;
- 80 (iii) shall require the director to obtain at least one third-party appraisal in the
- 81 procedure established in this Subsection (3); and
- 82 (iv) may require that additional appraisals be completed by a state-certified general
- 83 appraiser, as that term is defined in Section 61-2g-102.
- 84 **Section 3. Effective date.**
- 85 This bill takes effect on May 1, 2024.

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), and 53C-4-104(3)~~ which authorize the director to establish criteria for the leasing of trust lands.

R850-30-120. Definitions.

~~The terms below, when used in this Section~~Rule R850-830 are defined as follows:

~~(1) "Eligible Property" means trust lands eligible for lease to the Utah Department of Natural Resources pursuant to Section 53C-4-104.~~

R850-30-150. Planning.

~~(1).~~ In addition to those other planning responsibilities described in ~~Section~~this Rule R850-30, the agency shall:

~~1(a).~~ Submit proposals to lease trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;

~~2(b).~~ Evaluate comments received through the RDCC process; and

~~3(c).~~ 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.

~~(2).~~ The director~~agency~~ is not required to submit proposals to the RDCC for the lease of trust lands to the Utah Department of Natural Resources made pursuant to Section R850-30-700.

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 ~~director~~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 ~~director~~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 ~~Rule~~these R850-30-~~rules~~.

~~(3).~~ OBAs and any amendments to OBAs must be approved by the ~~board~~Board of Trustees.

R850-30-310. Requests for Proposals.

~~(1).~~ The ~~director~~agency may issue a request for proposals (RFP) for surface uses of trust lands.

~~(2).~~ The ~~director~~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 ~~director~~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 ~~director~~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 ~~director~~agency.

(5)- The ~~director~~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 ~~director~~agency may not lease trust lands for less than the fair market value of the leasehold. The ~~director~~agency shall base the fair market lease rates on either 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 ~~director~~agency may base lease rates on any of the following criteria, in combination or otherwise:

- (a) the estimated value of the subject property, as informed by an appraisal, market analysis, or other relevant data, multiplied by the current agency-determined interest rate;
- (b) responses to RFPs, pursuant to Section R850-30-310, or solicitations for competing applications, pursuant to Section R850-30-500;
- (c) comparable lease data;
- (d) market value of the proposed use of the subject property;
- (e) rates schedules approved by the director;
- (f) the administrative costs of leasing the subject property and a desired minimum rate of return;

and

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

(2)- If a lease rate is lower than the value calculated pursuant to Subsection R850-30-400(1)(a), the ~~director~~agency shall reserve the right to terminate the lease before the end of the term.

(3)- Lease Review and Adjustment Procedures.

(a) The ~~director~~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 less frequent than every five years.

(b) The ~~director~~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 director of a completed special use lease application, the director 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 director 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 director may solicit competing interest in the subject parcel by methods determined by the director 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 director 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 director may select a proposal using the following methods:

- (a) Sealed Bid Process.
 - (i) The director 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 director may reject proposals received after the established due date.
 - (iii) The director 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 director 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 ~~director~~agency may terminate the application process at any time in its sole discretion.

R850-30-550. Lease Determination Procedures.

The ~~director~~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.

R850-30-700. Lease of an Eligible Property to the Utah Department of Natural Resources.

(1)- When evaluating the~~The agency may~~ lease of an Eligible Property to the Utah Department of Natural Resources pursuant to Section 53C-4-104, the director shall consider the following factors:-

(a) whether selling the Eligible Property to the Utah Department of Natural Resources pursuant to Section R850-80-630 is in the best interest of the affected beneficiaries; and

(b) whether waiving the advertising requirements described in Subsection 53C-4-102(3) and Title R850 pursuant to Subsection 53C-4-104(1)(c) is in the best interest of the affected beneficiaries.

3(2)- The determination of the fair market value of the leasehold pursuant to Section R850-30-400 shall be informed by at least one valuation appraisal, as that term is defined in Section 61-2g-102(1)(a)(ii)(C).

4(3)- An appraisal conducted under this Section must comply with the current Uniform Standards of Professional Appraisal Practice and be conducted by a qualified independent third-party appraiser. The agency may require that appraisals comply with the Uniform Standards for Federal Land Acquisitions.

5(4)- A qualified appraiser under this Section must:

(a) be a state-certified general appraiser, as that term is defined in Section 61-2g-102, and

(eb) have demonstrated experience in appraising large rural properties.

(5) The director shall make a written finding that upon consideration of the factors listed in Section R850-30-550 and Subsection R850-30-700(1) the lease of an Eligible Property to the Utah Department of Natural Resources is in the best interest of the affected beneficiaries. The director shall provide the written finding to the board.

(6)- The board~~Board of Trustees~~ must consider the lease of an Eligible Property at an open meeting and take public comment on:

(a) the terms of the proposed lease, and

(b) the director's finding that waiving the advertising requirements pursuant to Subsection 53C-4-104(1)(c) is in the best interest of the beneficiaries.

(7)- At least 30 days prior to the board's~~Board of Trustees'~~ consideration of the lease at an open meeting, the director~~agency~~ shall give notice of the proposed lease to:

(a) the legislative body of each county in which a portion of the Eligible Property is located,

(b) lessees/permittees of record on the Eligible Property~~lease parcel~~,

(c) adjoining landowners as shown on county records, and

(~~b~~d) the affected beneficiary institution, and

(e) the Land Trusts Protection and Advocacy Office.

(8)- The notice of lease must include:

(a) a general description of the Eligible Property and a brief description of its location, including township, range, and section, and

(a) the date, time, and location of the meeting ~~of the Board of Trustees~~ where the board will consider the lease.

(9)- The lease of an Eligible Property under Section 53C-4-104 must be approved by the ~~board~~Board of Trustees before the director may execute the lease.

(10)- The director~~agency~~ may require the Utah Department of Natural Resources to deposit funds in advance to offset the anticipated costs to prepare the parcel for lease.

(a) If the director terminates the lease application prior to finalization of a lease agreement, the director shall refund the deposit to the department.

(b) If the department withdraws the lease application prior to finalization of a lease agreement, the agency may retain the deposit.

R850-30-800. Financial Guaranties.

(1)- The ~~director~~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 ~~director~~agency.

(2)- If a lessee assigns a lease, the ~~director~~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 ~~director~~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 ~~director~~agency consents to the assignment. Any assignment made without such approval is voidable in the ~~director's~~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 ~~director~~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 ~~director~~agency.

(2)- Subleases.

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

(b) The lessee must indemnify the agency for actions or inactions of the sublessee and the directoragency 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 directoragency 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 directoragency 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 directoragency deems reasonable.

(f) Rather than approve the sublease, the directoragency may require that the proposed sublessee enter into a new lease with the agency for the subleased portion of the property.

(3)- The Utah Department of Natural Resources may not assign or sublease a lease of an Eligible Property made pursuant to Section R850-30-700.

R850-30-1000. Lease Amendments.

(1)- The directoragency may amend a lease if the amendment would be consistent with Rule R850-2. Unless waived by the director, the directoragency 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 directoragency 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-4-104; 53C-4-202

10d Administrative Rule Revisions

R850-80 Sale of Trust Lands



**TRUST
LANDS**
ADMINISTRATION

BOARD MEMORANDUM

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

From: Michael Johnson, Chief Legal Counsel

Re: Proposed Revisions to Administrative Rules for Sales of Trust Lands (R850-80)

Date: June 11, 2025

Summary

Staff proposes to amend Section R850-80 of the agency administrative rules governing sales of trust lands to account for recent changes to the agency's code (Title 53C) regarding both sales of large land blocks to the Department of Natural Resources, as well as a preferential purchase right granted to incumbent lessees and permittees under certain circumstances. The proposed rule revisions are being made in response to legislation (H.B. 262 S1) enacted during the 2024 session, as well as legislation (H.B. 483 S5) enacted during the 2025 session.

Key Information and Background

Background: On March 12, 2024, the Governor signed H.B. 262 S1 into law (a copy of the bill is attached as Exhibit A). The bill provided, among other things, that the TLA Director may sell to the Utah Department of Natural Resources blocks (or closely-associated aggregations) of trust land of 5,000 acres or more for no less than fair market value. Under this authority, such sales may be completed without advertising if the Director finds that doing so is in the best interests of the affected beneficiaries, notifies the affected beneficiaries, and if the terms of the sale are presented and approved in an open Board meeting. Importantly, the bill directs TLA to adopt rules for determining fair market value for purposes of such sales. The bill requires that the rules establish procedures for such determinations of value and that TLA obtain at least one third-party appraisal as part of that process.

On March 27, 2025, the Governor signed into law H.B. 483 S5 (a copy of the bill is attached as Exhibit B). The bill provides, among other things, that when TLA proposes to sell parcels of land of 640 acres or less, TLA shall offer to sell the land to any incumbent lessee or permittee for fair market value. TLA's obligation to make this offer applies only where the incumbent has held the lease or permit for at least 25 consecutive years and the land does not have an authorized point of public access at the time of the sale.

Proposed Rule Revisions: The agency established an informal working group composed of management (led by Chris Fausett) and legal staff to draft proposed rule revisions as required by the newly-enacted code provisions discussed above. The proposed rule revisions are attached as Exhibit C. The rules establish a definition of "Eligible Properties" (i.e., of 5,000 acres or greater) that are subject to the new sales authority under H.B. 262, and set forth requirements for the Director's finding and Board hearing and vote required under that bill. They require that the

Director, in making her finding, consider: (a) whether the property is appreciating in value at a higher rate than the anticipated return on the purchase price, (b) whether the sale would create obstacles to future mineral development, (c) whether the sale would foreclose future development or management options that would likely result in greater long-term economic benefits, (d) whether leasing (as opposed to selling) the property to DNR is in the best interest of the beneficiaries, and (e) whether waiving the advertising requirements is in the best interest of the beneficiaries.

Concerning fair market value for sales of large blocks to DNR, the proposed rule requires that the agency obtain two separate appraisals (R850-80-635). The rules then specify how fair market value will be determined under scenarios where there is less than a 10% divergence between the two appraisals (the average of the two is used), as well as if there is greater than a 10% divergence (a third appraisal is obtained and the average of the two closest appraisals is used). The rules also address appraisal standards and appraiser qualifications. I direct your attention to the attached rule for further specifics.

The proposed rule revisions also implement the preferential right of certain incumbent lessees and permittees to purchase trust lands (defined in the rule as a “Statutory Purchase Right”) under H.B. 483. They establish requirements for the agency to give notice to the holders of such rights (R850-80-350), for the determination of fair market value for such parcels (R850-80-300), and for the holders of such rights to exercise them in the context of both auction sales (R850-80-610) and negotiated sales (R850-80-620).

Rulemaking Process: If the proposed rule revisions are approved by the Board, the agency will file the proposed rule changes with the Office of Administrative Rules (OAR). OAR will then submit the rules to the Governor’s Office of Management and Budget and the Legislature’s Administrative Rules Review Committee for review. The proposed rules would also be published in the Utah Bulletin for a 30-day comment period. Once filed with the OAR, it generally takes between 3-5 months for rules to become effective.

Legal Committee Review: The Legal Committee reviewed the draft rules and edits were made based on the committee members’ input. The Legal Committee has reviewed the updated (attached) draft and has made no further suggestions, indicating they are ready for presentation to the Board.

Requested Action

The agency recommends that the Board approve the proposed revised administrative rules for sales of trust lands and offers the following proposed motion:

“Move that the Board approve the revised administrative rules for sales of trust lands in the form presented and direct the agency to proceed with the administrative rulemaking process.”

SCHOOL AND INSTITUTIONAL TRUST LANDS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill makes changes relating to the School and Institutional Trust Lands Management Act.

Highlighted Provisions:

This bill:

- exempts the sale or lease of certain large aggregations of trust lands from advertising requirements;
- excludes certain lands from sale or lease under the large aggregation exemption;
- requires rulemaking for determining the fair market value of trust lands; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-1-102, as repealed and reenacted by Laws of Utah 1994, Chapter 294

ENACTS:

53C-4-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53C-1-102** is amended to read:

53C-1-102 . Purpose.

(1) (a) The purpose of this title is to establish an administration and board to manage

lands that Congress granted to the state for the support of common schools and other beneficiary institutions, under the Utah Enabling Act.

(b) This grant was expressly accepted in the Utah Constitution, thereby creating a compact between the federal and state governments which imposes upon the state a perpetual trust obligation to which standard trust principles are applied.

(c) Title to these trust lands is vested in the state as trustee to be administered for the financial support of the trust beneficiaries.

(2) (a) The trust principles referred to in Subsection (1) impose fiduciary duties upon the state, including a duty of undivided loyalty to, and a strict requirement to administer the trust corpus for the exclusive benefit of, the trust beneficiaries.

(b) As trustee, the state ~~[must]~~ shall manage the lands and revenues generated from the lands in the most prudent and profitable manner possible, and not for any purpose inconsistent with the best interests of the trust beneficiaries.

(c) The trustee ~~[must]~~ shall be concerned with both income for the current beneficiaries and the preservation of trust assets for future beneficiaries, which requires a balancing of short and long-term interests so that long-term benefits are not lost in an effort to maximize short-term gains.

(d) The beneficiaries do not include other governmental institutions or agencies, the public at large, or the general welfare of this state.

(3) This title shall be liberally construed to enable the board of trustees, the director, and the administration to faithfully fulfill the state's obligations to the trust beneficiaries.

Section 2. Section **53C-4-104** is enacted to read:

53C-4-104 . Sale or lease of trust lands to state entities -- Requirements --

Excluded lands -- Fair market value.

(1) (a) The director may sell or lease to the Utah Department of Natural Resources an aggregation of more than 5,000 acres of trust lands, if the Utah Department of Natural Resources pays at least fair market value for the sale or lease.

(b) The director may make an aggregation of more than 5,000 acres of trust lands described in this section by selecting a single, contiguous parcel or combining multiple parcels, with individual parcels no farther apart than two miles.

(c) The director may complete a sale or lease described in this section without complying with the advertising requirements described in Subsection 53C-4-102(3), if the director and the board of trustees:

(i) provide written notice of a proposed sale or lease under this section to an affected

- 62 beneficiary; and
- 63 (ii) present at an open meeting of the board of trustees and take public comment on:
- 64 (A) the terms of a proposed sale or lease; and
- 65 (B) the director's findings that waiving the advertising provision is in the best
- 66 interest of the beneficiaries.
- 67 (2) The director may not include the following lands in a sale or lease described in this
- 68 section:
- 69 (a) Township 1 South, Range 8 West, USM;
- 70 (b) Township 1 South, Range 9 West, USM; or
- 71 (c) Township 1 South, Range 10 West, USM.
- 72 (3) (a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah
- 73 Administrative Rulemaking Act, for determining the fair market value of trust lands
- 74 for a sale or lease described in this section.
- 75 (b) The rules adopted by the director:
- 76 (i) shall establish the procedure for determining the fair market value of the trust
- 77 lands;
- 78 (ii) may provide that an appraisal, as that term is defined in Section 61-2g-102,
- 79 demonstrates the fair market value of the trust lands;
- 80 (iii) shall require the director to obtain at least one third-party appraisal in the
- 81 procedure established in this Subsection (3); and
- 82 (iv) may require that additional appraisals be completed by a state-certified general
- 83 appraiser, as that term is defined in Section 61-2g-102.
- 84 **Section 3. Effective date.**
- 85 This bill takes effect on May 1, 2024.

School and Institutional Trust Lands Administration Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Neil Walter

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses provisions related to school and institutional trust lands.

Highlighted Provisions:

This bill:

- requires the director of the School and Institutional Trust Lands Administration (administration) to complete a valuation of the administration's land portfolio every five years;
- requires the director to report annually to the Legislature:
 - the activities of the administration;
 - an approximate valuation of the administration's land portfolio;
 - an audited financial statement of the administration; and
 - an account of the total amount of funds distributed by the administration;
- modifies the list of activities and penalties for illegal activities on trust lands;
- provides the circumstances under which the state shall offer for sale trust lands subject to a lease or permit; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53C-1-303, as last amended by Laws of Utah 2012, Chapter 224

53C-2-301, as last amended by Laws of Utah 2020, Chapter 123

53C-4-102, as last amended by Laws of Utah 2018, Chapter 13

ENACTS:

53C-1-307, Utah Code Annotated 1953

REPEALS:

53D-1-101, as last amended by Laws of Utah 2018, Chapter 448

53D-2-101, as enacted by Laws of Utah 2018, Chapter 448

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53C-1-303 is amended to read:

**53C-1-303 . Responsibilities of director -- Budget review -- Legal counsel --
Contract for services.**

(1) In carrying out the policies of the board of trustees and in establishing procedures and rules, the director shall:

- (a) take an oath of office before assuming any duties as the director;
- (b) adopt procedures and rules necessary for the proper administration of matters entrusted to the director by state law and board policy;
- (c) submit to the board for its review and concurrence on any rules necessary for the proper management of matters entrusted to the administration;
- (d) faithfully manage the administration under the policies established by the board;
- (e) submit to the board for public inspection an annual management budget and financial plan for operations of the administration and, after approval by the board, submit the budget to the governor;
- (f) direct and control the budget expenditures as finally authorized and appropriated;
- (g) establish job descriptions and employ, within the limitation of the budget, staff necessary to accomplish the purposes of the office subject to Section 53C-1-201;
- (h) establish, in accordance with generally accepted principles of fund accounting, a system to identify and account for the assets and vested interests of each beneficiary;
- (i) complete an approximate valuation of the administration's entire land portfolio every five years by estimating the value of no less than 10% of the administration's land portfolio each year;
- ~~[(i)]~~ (j) notify the primary beneficiary representative's designee regarding the trusts listed in Subsection 53C-1-103(7) on major items that the director knows may be useful to the primary beneficiary representative's designee in protecting beneficiary rights;
- ~~[(j)]~~ (k) permit the primary beneficiary representative's designee regarding a trust listed

in Subsection 53C-1-103(7) reasonable access to inspect records, documents, and other trust property pertaining to that trust, provided that the primary beneficiary representative's designee shall maintain confidentiality if confidentiality is required of the director;

~~[(k)]~~ (l) maintain appropriate records of trust activities to enable auditors appointed by appropriate state agencies or the board to conduct periodic audits of trust activities;

~~[(H)]~~ (m) provide that all leases, contracts, and agreements be submitted to legal counsel for review of compliance with applicable law and fiduciary duties prior to execution and utilize the services of the attorney general as provided in Section 53C-1-305;

~~[(m)]~~ (n) keep the board, beneficiaries, governor, Legislature, and the public informed about the work of the director and administration by:

(i) submitting an annual report described in Section 53C-1-307; and

(ii) reporting to the board in a public meeting at least once during each calendar quarter; and

~~[(n)]~~ (o) respond in writing within a reasonable time to a request by the board or the primary beneficiary representative's designee regarding a trust listed in Subsection 53C-1-103(7) for responses to questions on policies and practices affecting the management of the trust.

(2) The administration shall be the named party in substitution of the Division of State Lands and Forestry or its predecessor agencies, with respect to all documents affecting trust lands from the effective date of this act.

(3) The director may:

(a) with the consent of the state risk manager and the board, manage lands or interests in lands held by any other public or private party pursuant to policies established by the board and may make rules to implement these board policies;

(b) sue or be sued as the director of school and institutional trust lands;

(c) contract with other public agencies for personnel management services;

(d) contract with any public or private entity to make improvements to or upon trust lands and to carry out any of the responsibilities of the office, so long as the contract requires strict adherence to trust management principles, applicable law and regulation, and is subject to immediate suspension or termination for cause; and

(e) with the approval of the board enter into joint ventures and other business arrangements consistent with the purposes of the trust.

(4) Any application or bid required for the lease, permitting, or sale of lands in a

competitive process or any request for review pursuant to Section 53C-1-304 shall be considered filed or made on the date received by the appropriate administrative office, whether transmitted by United States mail or in any other manner.

Section 2. Section 53C-1-307 is enacted to read:

53C-1-307 . Annual report.

- (1) At the end of each fiscal year, the director shall publish an annual report of the administration's activities for the preceding fiscal year.
- (2) The report described in Subsection (1) shall contain:
 - (a) an account of the administration's activities for the preceding fiscal year;
 - (b) financial statements of the administration that are audited by the state auditor or an independent auditor engaged by the state auditor in accordance with Subsection 67-3-1(3);
 - (c) by no later than June 30, 2029, and annually thereafter, the most recent approximate valuation of the administration's land portfolio as required in Subsection 53C-1-303(1)(i); and
 - (d) an account of the total amount of funds distributed by the administration to the School and Institutional Trust Fund Office in accordance with Subsection 53C-3-102(1).

Section 3. Section 53C-2-301 is amended to read:

53C-2-301 . Illegal activities on trust lands -- Penalties.

- (1) A person is liable for the civil damages prescribed in Subsection (2) and is guilty of a criminal offense specified in Subsection (4) if the person intentionally, knowingly, or recklessly, and without written authorization from the director:
 - ~~[(a) removes, extracts, uses, consumes, or destroys a mineral resource, gravel, sand, soil, vegetation, water resource, or improvement on trust lands;]~~
 - ~~[(b) grazes livestock on trust lands;]~~
 - ~~[(c) uses, occupies, or constructs improvements or structures on trust lands;]~~
 - ~~[(d) uses or occupies trust lands for more than 30 days after the cancellation or expiration of written authorization;]~~
 - ~~[(e) knowingly and willfully uses trust lands for commercial gain;]~~
 - ~~[(f) appropriates, alters, injures, or destroys an improvement or historical, prehistorical, archaeological, or paleontological resource on trust lands;]~~
 - ~~[(g)]~~ (a) [trespasses upon,]uses, commits waste, dumps refuse on, or occupies trust land;
 - ~~[(h)]~~ (b) interferes with the activities of an employee or agent of the administration on

trust lands; or

[(i)] (c) interferes with activities of a lessee or other person that have been authorized by the administration, whether or not the trust land has been withdrawn from occupancy or use pursuant to Subsection 53C-2-105(1)(b).

(2) A person who commits an act described in Subsection (1) is liable for damages in the amount of whichever of the following is greatest:

- (a) three times the value at the point of sale of the mineral or other resource removed, destroyed, or extracted;
- (b) three times the amount of damage committed;
- (c) three times the cost to cure the damage;
- (d) three times the value of any losses suffered as a result of interference with authorized activities; or
- (e) three times the consideration which would have been charged by the director for use of the land during the period of trespass.

(3) In addition to the damages described in Subsection (2), a person found guilty of a criminal act under Subsection (1) is subject to the penalties provided in Title 76, Chapter 3, Punishments, as specified in Subsection (4).

(4) A violation of this section is a:

- (a) second degree felony if the actor's conduct causes property injury or damage, or pecuniary loss equal to or in excess of \$5,000 in value;
- (b) third degree felony if the actor's conduct causes property injury or damage, or pecuniary loss equal to or in excess of \$1,500 but is less than \$5,000 in value;
- (c) class A misdemeanor if the actor's conduct causes property injury or damage, or pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value;[~~and~~]
- (d) class B misdemeanor if the actor's conduct causes property injury or damage, or pecuniary loss less than \$500 in value[~~;~~] ; and
- (e) an infraction if the actor's conduct causes no property injury, damage, or pecuniary loss.

(5) The director shall deposit money collected under this section in the fund in which like revenues from that land would be deposited.

(6) The director may award a portion of any of the damages collected under this section in excess of actual damages to the general fund of the county in which the trespass occurred as a reward for county assistance in the apprehension and prosecution of the trespassing party.

Section 4. Section 53C-4-102 is amended to read:

53C-4-102 . Sale of trust lands -- Fair market value -- Determination of sale --

Advertising proposed sales -- Sale procedures -- Defaults.

- (1) Trust lands may not be sold for less than the fair market value.
- (2)(a) The director shall determine whether disposal or retention of all or a portion of a property interest in trust lands is in the best interest of the trust.
- (b) When it is determined that the disposal of an interest in trust lands is in the best interest of the applicable trust, the transaction shall be accomplished in an orderly and timely manner.
- (3) The director shall advertise any proposed sale, lease, or exchange of an interest in trust lands in a reasonable manner consistent with the director's fiduciary responsibilities.
- (4)(a) Any tract of trust land may be subdivided and sold, leased, or exchanged in accordance with a plan, contract, or other action designating the land to be subdivided that is approved by the director.
- (b) The director may survey the tract and direct its subdivision.
- (c) A plat of the survey shall be filed with the county recorder of the county in which the land is located and with the administration.
- (5) Sale conditions, including qualification of prospective purchasers, shall be in accordance with accepted mortgage lending and real estate practices.
- (6) Upon the sale of land, the director shall issue to the purchaser a certificate of sale which describes the land purchased and states the amount paid, the amount due, and the time when the principal and interest will become due.
- (7) Upon payment in full of principal and interest, payment in full of any amounts required to be paid for the partial release of property, or acceptance of appropriate conveyance documents in satisfaction of a land exchange, the governor, or the governor's designee, shall issue a patent to the purchaser, heir, assignee, successor in interest, or other grantee as determined by the director.
- (8)(a) If a purchaser of trust lands defaults in the payment of any installment of principal or interest due under the terms of the contract of sale, the director shall notify the purchaser that if the default is not corrected within 30 days after issuance of the notice the director shall proceed with any remedy which the administration may pursue under law or the contract of sale.
- (b) The notice shall be sent by registered or certified mail to the purchaser at the latest address as shown by the records of the administration.

(c) If the default is not corrected by compliance with the requirements of the notice of default within the time provided by the notice, the director may pursue any available remedy under the contract of sale, including forfeiture.

(d) If forfeited lands are sold again to the same purchaser, the sale may be made by a new and independent contract without regard to the forfeited agreement.

(9) The director shall offer for sale any trust lands subject to a valid surface lease agreement or permit to the owner of the lease or permit if:

(a) the director approves the sale of the trust lands;

(b) the owner of the lease or permit agrees to pay fair market value, which may not exceed an amount equal to the highest credible offer received for the trust lands;

(c) the owner of the lease or permit has held the lease or permit for at least 25 consecutive years;

(d) the trust lands offered for sale are not greater than 640 acres; and

(e) the trust lands do not have an authorized point of public access at the time of sale.

Section 5. **Repealer.**

This bill repeals:

Section 53D-1-101, Title.

Section 53D-2-101, Title.

Section 6. **Effective Date.**

This bill takes effect on July 1, 2025.

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), and 53C-4-104(3)~~, which authorize the director to prescribe the terms and conditions for the sale of trust lands.

R850-80-120. Definitions.

The terms below, when used in Rule R850-80 are defined as follows:

(1) "Eligible Property" means trust lands eligible for sale to the Utah Department of Natural Resources pursuant to Section 53C-4-104.

(2) "Statutory Purchase Right" means the right of purchase granted to certain lessees or permittees pursuant to Subsection ~~Section~~ 53C-4-102(9).

R850-80-150. Planning.

(1) In addition to those other planning responsibilities described herein, the ~~director~~agency shall:

(~~1a~~) Submit proposals for the sale of trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;

(~~2b~~) Evaluate comments received through the RDCC process; and

(~~3c~~) Evaluate any comments received through the notice and advertising processes conducted pursuant to Sections R850-80-605 and R850-80-615.

(2) The director is not required to submit proposals to the RDCC for the sale of trust lands to the Utah Department of Natural Resources made pursuant to Section R850-80-630.

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 ~~director~~agency shall determine, pursuant to Subsection R850-40-250(2), whether temporary easements or rights-of-entry exist on the subject parcel. The ~~director~~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 Value.

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

(a) ~~an~~ valuation appraisal, as that term is defined in Section 61-2g-102(1)(a)(ii)(C);

- (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 directoragency shall evaluate whether taking prudent and cost-effective actions would increase the fair market value of the parcel.

R850-80-350. Statutory Purchase Right

- (1) Prior to initiating the advertising process for a public auction as directed by Section R850-80-605, or for a negotiated sale as directed by Section R850-80-615, the agency shall determine whether a Statutory Purchase Right exists on the trust lands intended for sale.
- (2) At least 30 days prior to the sale of trust lands upon which a Statutory Purchase Right exists, the director shall give notice via certified mail to the holder of the right providing information on how the holder may exercise the right.

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 directoragency may require the nominator to deposit funds to offset the costs incurred by the agency to prepare the subject parcel for sale.
- (2) If the nominator purchases the subject parcel, the directoragency shall credit the deposit against those costs and fees charged by the agency pursuant to Subsections R850-80-610(45) and R850-80-620(46).
- (3) If the directoragency does not offer the subject parcel for sale or if a party other than the nominator submits a credible bid on the subject parcel but is not the successful purchaser bidder, the directoragency mayshall refund the deposit to the nominator. If the subject parcel is offered for sale but no credible bids are received by the agency, the agency may retain the deposit. A bid less than a disclosed minimum acceptable purchase price is not a credible bid.

R850-80-500. Agency Financing.

- (1) The directoragency 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 directoragency 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 Subsections R850-80-610(68) and R850-80-620(46).
- (4) Interest is calculated on a 365-day basis, except for interest due pursuant to Subsections R850-80-610(68) and R850-80-620(46).
- (5) The directoragency 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 Subsections R850-80-610(68) and R850-80-620(46).
- (6) A purchaser that finances through the agency shall make annual payments on the debt for no longer than 20 years. The directoragency 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 directoragency may require more frequent payments.
- (8) The directoragency 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 directoragency 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 director 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 director may not record the quitclaim deed unless the director forfeits the purchaser's interest in the subject parcel pursuant to Subsection R850-80-500(59).

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 Section R850-80-610, ~~or~~
- (2) A negotiated sale pursuant to Section R850-80-620, ~~or~~
- (3) A sale of an Eligible Property to the Utah Department of Natural Resources pursuant to Section R850-80-630.

R850-80-605. Advertisement of Public Auction.

(1) At least 45 days prior to a public auction, the director 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) disclosure of a Statutory Purchase Right if applicable; and
 - ~~(g)~~ the contact information of the agency office where interested parties can obtain more information.

(3) The director 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 director may conduct a public auction in person or electronically.
- (2) The director 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 director pursuant to Subsection R850-80-610(45); ~~and~~
 - (c) whether the agency is willing to finance the unpaid portion of the purchase price; ~~and~~
 - (d) disclosure of a Statutory Purchase Right if applicable.
- (3) The director may disclose the minimum acceptable purchase price for the subject parcel.
- (4) The holder of a Statutory Purchase Right must be registered for the auction to exercise the right.
- (45) The director may require that the successful bidder reimburse the agency for costs incurred by the agency in preparing the subject parcel for sale, including the costs of advertising, appraisal, cultural resource investigations, and environmental assessments. The director may also charge a sale processing fee.
- ~~(56)~~ A bid constitutes a valid offer to purchase.
- (7) The holder of a Statutory Purchase Right may exercise the right by matching the highest bid within 24 hours of the conclusion of the auction. If the holder exercises its Statutory Purchase Right, it will be deemed the successful bidder. If the holder does not exercise its Statutory Purchase Right, the holder

waives the right with respect to the particular sale. To exercise a Statutory Purchase Right, the holder must give the agency written notice and pay all amounts required for a bidder to acquire the subject parcel property within the 24-hour period.

(68) At the conclusion of the auction, the successful bidder shall pay the agency the down payment, the costs and fees published pursuant to Subsection R850-80-610(45), 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.

(79) 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 directoragency is not required to finalize the transaction and the agency may retain all amounts paid by the successful bidder at the auction.

(810) If the successful bidder fails to pay the amounts required under Subsection R850-80-610(68) or fails to execute the certificate of sale within 30 days, pursuant to Subsection 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 director'sagency's offer, the second highest bidder shall submit all amounts owing under Subsection R850-80-610(68) or R850-80-610(79) and execute the certificate of sale within 30 days after the director'sagency's offer.

(911) 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 directoragency 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 directoragency 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) disclosure of a Statutory Purchase Right if applicable; 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 directoragency 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 directoragency shall evaluate the offer and determine what action is in the best interest of the beneficiaries.

(2) The directoragency shall provide the holder of a Statutory Purchase Right an opportunity to exercise the right within a time period determined by the director. To exercise a Statutory Purchase Right, the holder must give the agency written notice within the allotted time period and pay the higher of:

- (a) the fair market value of the subject parcel as determined pursuant to Section R850-80-300; or
- (b) the highest credible offer and associated terms of sale received for the subject parcel.

(3) If the holder of a Statutory Purchase Right does not exercise the right within the allotted time period, the holder waives the right with respect to the particular sale.

(24) The directoragency 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.

(35) 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 ~~parcel~~~~property~~ exceeds 320 acres; or
 - (c) the agency receives a competitive offer on the subject parcel.
- (46) The ~~director~~~~agency~~ may require the purchaser to pay a down payment and the costs and fees described in Subsection R850-80-610(45)

R850-80-630. Sale of an Eligible Property to the Utah Department of Natural Resources.

(1) When evaluating the sale of an Eligible Property to the Utah Department of Natural Resources pursuant to Section 53C-4-104, the director shall consider the following factors:-

(a) whether leasing the Eligible Property to the Utah Department of Natural Resources pursuant to Section R850-30-700 is in the best interest of the affected beneficiaries; and

(b) whether waiving the advertising requirements described in Subsection 53C-4-102(3) and Title R850 pursuant to Subsection 53C-4-104(1)(c) is in the best interest of the affected beneficiaries.

(32) The director shall require payment of ~~free~~~~ive~~ at least fair market value as determined pursuant to Section R850-80-635 for the sale of an Eligible Property to the Utah Department of Natural Resources.

(3) The director shall make a written finding that upon consideration of the factors listed in Subsections R850-80-200(2)(a), R850-80-200(2)(c), R850-80-200(2)(d), and R850-80-630(1) the sale of an Eligible Property to the Utah Department of Natural Resources is in the best interest of the affected beneficiaries. The director shall provide the written finding to the board.

(4) The board must consider the sale of an Eligible Property at an open meeting and take public comment on:

(a) the terms of the proposed sale, and

(b) the director's finding that waiving the advertising requirements pursuant to Subsection 53C-4-104(1)(c) is in the best interest of the beneficiaries.

(5) At least 30 days prior to the board's consideration of the sale at an open meeting, the director shall give notice of the proposed sale to:

(a) the legislative body of each county in which a portion of the Eligible Property is located,

(b) lessees/permittees of record on the Eligible Property~~sale parcel~~,

(c) adjoining landowners as shown on county records, and

(bd) the affected beneficiary institution, and,

(e) the Lands Trusts Protection and Advocacy Office.

(6) The notice of sale must include:

(a) a general description of the Eligible Property and a brief description of its location, including township, range, and section, and

(b) the date, time, and location of the meeting where the board will consider the sale.

(7) The sale of an Eligible Property under Section 53C-4-104 must be approved by the board before the director may execute the transaction.

(8) The ~~director~~~~agency~~ may require the Utah Department of Natural Resources to deposit funds in advance to offset the anticipated costs to prepare the Eligible Property for sale.

(a) If the director terminates the sale prior to finalization of a certificate of sale, the director shall refund the deposit to the department.

(b) If the department terminates the sale prior to finalization of a certificate of sale, the agency may retain the deposit.

(9) The director may offer financing to the Utah Department of Natural Resources pursuant to Section R850-80-500. If the department finances through the agency, the ~~director~~~~agency~~ may require the department to pay a down payment in an amount determined by the director.

(10) A Statutory Purchase Right does not apply to any portion of an Eligible Property offered for sale to the Utah Department of Natural Resources.

R850-80-635. Determination of Fair Market Value for an Eligible Property.

(1) The ~~director~~agency shall obtain two valuation appraisals for the Eligible Property with the same date of value.

(a) If the difference between the two appraisal valuations is less than or equal to 10% of the higher valuation, the fair market value is the average of the two appraisal valuations.

(b) If the difference between the two appraisal valuations is greater than 10% of the higher valuation, the director shall obtain a third appraisal having the same date of value as the initial appraisals. The fair market value of the Eligible Property is the average of the two closest appraisal valuations, provided that if the middle appraisal valuation is the average of the highest and lowest appraisal valuations, the fair market value is the middle appraisal valuation.

(2) Appraisals conducted under this Section must comply with the current Uniform Standards of Professional Appraisal Practice and be conducted by a qualified independent third-party appraiser. The agency may require that appraisals comply with the Uniform Standards for Federal Land Acquisitions.

(3) A qualified appraiser under this Section must:

(a) be a state-certified general appraiser, as that term is defined in Section 61-2G-102, and

(eb) have demonstrated experience in appraising large rural properties.

R850-80-700. Certificates of Sale.

(1) Following a public auction, ~~or~~ on concurrence of the parties in a negotiated sale, or after the board approves sale of an Eligible Property to the Utah Department of Natural Resources, the ~~director~~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 ~~director~~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 ~~director~~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 ~~director~~agency. If the successful bidder fails to execute the certificate of sale within the 30-day period, the ~~director~~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 ~~director~~agency may terminate a negotiated sale or sale of an Eligible Property to the Utah Department of Natural Resources 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 Subsection R850-80-620(46).

(4) A certificate of sale is not final until the purchaser and the director or other authorized agency representative executes the certificate.

(5) Except for sales to the Utah Department of Natural Resources made under Section R850-80-630, ~~T~~he 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 ~~director's~~agency's prior written consent to the assignment. The ~~director~~agency may require the assignee to execute a quitclaim deed, as required under Subsection R850-80-500(610), 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 ~~director~~~~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-4-104; 53C-4-202(6); 63G-2-305; 72-5-203(1)(a)(i); 72-5-203(2)(a)

10e Legal Policy

Statement No. 2025-1

Consideration and Possible Action on New Board Policy Regarding Board Committee Procedures

With Board of Trustees



**TRUST
LANDS**
ADMINISTRATION

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

Policy Statement No. 2025-01

Subject: Board Committees

The Board of Trustees (the “Board”) of the School and Institutional Trust Lands Administration (the “Administration”), by majority vote in open, public meeting on June 19, 2025, declares the following to be an official policy of the Board regarding Board committees.

1. The Board shall utilize committees comprised of three or fewer Board members to evaluate and screen matters prior to presentation to the full Board.
2. The Board Chairman shall establish separate committees, comprised of Board members the Board Chairman shall select based upon their expertise, to review categories of transactions by subject matter. The Board Chair may establish an Oil, Gas, Minerals, and Renewable Energy Committee, a Real Estate Committee, and a Surface Committee, and may establish such further committees as the Board Chair deems appropriate, subject to review and modification by the Board of Trustees.
3. For each Board committee, the Board Chair, or the Director acting at the request of the Board Chair, shall also designate one or more staff members to identify matters for committee review, coordinate the scheduling of committee meetings, oversee staff presentations to the committee, and keep minutes or other suitable records of the meetings.
4. One purpose of Board committee review is to identify further preparatory work administration staff should perform prior to bringing a proposed transaction to the Board, to identify issues staff should address in presenting transactions to the Board, and to otherwise ensure a proposed transaction is ripe for Board consideration.
5. The purpose of Board committee involvement is not to resolve any questions of substance on behalf of the Board, to curtail Board consideration of substantive matters identified in committee meetings, or to act in the place of the full Board.
6. To ensure that any substantive factors identified in committee meetings are raised in the Board meeting at which a matter is addressed, minutes shall be kept of all committee meetings in which potential actions affecting trust assets are considered. The staff member identified by the Board Chair to coordinate committee meetings, or their designee, shall be responsible to assure the keeping of minutes, or other suitable record.
7. The minutes or other form of record shall report the date and time of the committee meeting and those in attendance. The minutes shall also identify substantive discussion

regarding each matter, whether related to: the terms of a proposed lease, sale, joint venture or other proposed transaction affecting trust land; alternative uses of such land; the qualifications or ability to perform of a prospective purchaser, lessee, or other party to a transaction; considerations of timing or market conditions; or other factors that may affect the full Board's action on the matter when presented.

8. The minutes or similar record of each committee meeting shall be made available to all Board members prior to Board consideration of any item submitted for Board action after discussion in committee. Administration staff will also address in memos to the Board, or during presentations at the Board meeting, a summary of any substantive discussions in the committee meetings on matters submitted for Board action.
9. Representatives of the Land Trust Protection and Advocacy Office may attend any committee meeting at which a transaction to exchange, sell, lease, or encumber trust property is discussed, or committee meetings in which other topics implicating beneficiary interests are addressed, unless the relevant committee determines that the topic under consideration is one for which excluding representatives of the Land Trusts Protection and Advocacy Office is appropriate and that such exclusion will not be detrimental to trust beneficiaries.

By the Board:

Warren H. Peterson
Chairman

10f Energy & Minerals

Proposed Administrative Rule
Revisions to U.A.C. R850-170
Renewal Energy Lease
Agreements (RNBL)



**TRUST
LANDS**
ADMINISTRATION

BOARD MEMORANDUM

Date: June 19, 2025

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

From: Troy Herold, Assistant Managing Director, Energy & Minerals

Re: Proposed Revisions to Administrative Rules for Renewable Energy Lease Agreements (R850-170)

Summary

Staff proposes to amend Section R850-170 of the agency's administrative rules governing renewable energy lease agreements. The revisions clarify that Trust Lands may not be leased for less than the fair market value of the leasehold and are being made in response to a recommendation from the 2024 performance audit of the Trust Lands Administration by the Office of the Legislative Auditor General ("OLAG").

Staff originally proposed changes to Section R850-170 during the Board of Trustees (Board) meeting held on March 20, 2025. During the meeting, Vice Chair Harris questioned whether one of the changes could negatively impact financing for long-term energy projects. The Board voted to postpone action on the proposed rule amendments and appointed an ad hoc committee composed of Vice Chair Harris and Mr. Simons to work with staff to further evaluate the matter.

Based on guidance from the ad hoc committee and discussion during the Board meeting, staff revised the proposed amendments to the rules governing renewable energy lease agreements in R850-170 as presented in Appendix B.

Key Information and Background

Background: On August 20, 2024, the OLAG released "A Performance Audit of the School and Institutional Trust Lands Administration: Improving Controls, Accountability, and Proactive Management" (the "Audit"). Section 1.2 of the Audit concluded that the administrative rules for surface special use lease agreements and renewable energy lease agreements are unclear as currently written and could be misinterpreted as allowing for the receipt of less than fair market value for the lease of trust lands. Receiving less than fair market value for the lease of Trust Lands would be a violation of Utah Code. The relevant pages from the Audit are attached as Appendix A. The OLAG offered the following recommendation in the Audit to address their concerns:

Recommendation 1.4

The School and Institutional Trust Lands Administration should revise the Administrative Rules for Special Use Lease Agreements and Renewable Energy Lease Agreements to ensure that the criteria for

setting lease rates are clear and consistent with Utah Code pertaining to the receipt of no less than fair market value for the lease of trust lands.

Proposed Rule Revisions: To address the audit recommendation, the agency established an internal working group composed of management, lease managers, and legal staff to draft proposed revisions to the administrative rules for special use leases and renewable energy lease agreements.

The Board approved revised rules for surface special use leases (R850-30) during its meeting held February 20, 2025. Nearly identical revisions to the rules governing renewable energy leases agreements were initially brought before the Board on May 20, 2025. Following the concerns raised during the meeting, the proposed amendments have been updated, and a redlined version of the current proposed rule revisions is attached as Appendix B.

Board Discussion and Ad Hoc Committee: During the Board meeting, a question was raised about the proposed changes in R850-170-700 Lease Rates; Subsection 2; which was modeled after the surface leasing rules and stated “If a lease rate is lower than the value calculated pursuant to Subsection R850-170-700(1)(a), the agency shall reserve the right to terminate the lease before the end of the term.”

The concern with respect to this provision was that it may impact the ability of lessees to obtain financing for long-term energy projects. The ad hoc committee and staff have reviewed the issue and recommend that the language of concern in subsection 2 be eliminated from the revised renewable energy leasing rules.

The ad hoc committee and staff also reviewed the comparable subsection in the surface leasing rules and recommend that the language should remain in the rules as previously approved by the Board on February 20, 2025. Requiring a termination clause for lower-rent leases such as agricultural leases can help the agency avoid long-term entanglements that may preclude the agency from taking advantage of a higher and better use.

Rulemaking Process: If the proposed rule revisions are approved by the Board, the agency will file the proposed rule revisions with the Utah Office of Administrative Rules. The Office of Administrative Rules then submits the rules to the Governor’s Office of Management and Budget and the Legislature’s Administrative Rules Review Committee for review. The proposed rules are also published for a 30-day public comment period. Once filed with the Office of Administrative Rules, it generally takes 3-5 months for the rules to become effective.

Requested Agency Action

The agency recommends that the Board approve the revised administrative rules for renewable energy leases and offers the following proposed motion:

"I Move to approve the revised administrative rules for renewable energy leases as presented and direct the agency to proceed with the administrative rulemaking process."

Appendix A

EXHIBIT A



Administrative Rules Governing the Establishment of Certain Lease Rates Are Unclear, and Could Result in Less Than Fair Market Value

*Utah Code*¹² requires that SITLA receive fair market value for its land, a mandate that is reiterated in SITLA's *Administrative Rules*. However, *Administrative Rules* for Special Use Lease Agreements and Renewable Energy Leases Agreements are unclear. These *Administrative Rules* should be clarified to assure that the agency received fair market value for the lease of trust lands. SITLA reports that these types of leases generated about \$7.3 million in Fiscal Year 2023 (5% of SITLA's total revenue).

Administrative Rules state that the agency may base lease rates on a value other than the market value of the fee title to the subject property if the director determines that it is in the best interest of the beneficiaries and the agency has the right to terminate the lease before the end of its term. SITLA explained that the market value of the fee title to the subject property is separate and distinct from the market value of the leasehold (lease rate) that is being granted. The lease rate can be informed using various criteria outlined in *Administrative Rules*.

One of the criteria that may be used to inform the market value of the lease rate is to consider the market value of the fee title to the subject property (i.e. the appraised value as if it were being sold) and multiply it by an agency-determined interest rate. In some cases, SITLA runs this calculation and determines that if the lease rate were based solely upon this criteria that it would exceed the rate that has been negotiated with a prospective lessee. *Administrative Rules* allow for such negotiations for specific lease rate between a willing lessee and lessor after reasonable exposure in a competitive market, with the director's approval. SITLA explained the intent of the *Administrative Rules* is to prevent the issuance of long-term leases without an exit clause in these cases so that they can be terminated early if a better opportunity presents itself.



As written, *Administrative Rules* for some leases could be misinterpreted for the receiving of less than fair market value.

These sections of *Administrative Rules* are unclear as written and run the risk of being misinterpreted, potentially resulting in SITLA receiving less than fair market value for the lease of trust lands. SITLA should clarify the distinction between the market value of the leasehold and the market value of the subject property in *Administrative Rules* and ensure that they are in alignment with *Utah Code*.

¹² 53C-1-204(b)(iii): Policies established by SITLA's board shall "require the return of not less than fair market value for the use, sale, or exchange of school and institutional trust assets..."



In contrast, *Administrative Rules* for establishing the fair market value of surface group sale parcels are clear. We reviewed all of SITLA's land sales for its surface group dating back to 2013 and did not find a single case where SITLA received less than fair market value on those sales. Additionally, the Office of the State Auditor samples surface and development land sales each year to check whether they were sold for fair market value. Their tests for Fiscal Years 2021 to 2023 did not identify any instances where less than fair market value was received on those sampled transactions.



Reviews from our office and the Office of the State Auditor have not identified any land sales that went for less than fair market value.

RECOMMENDATION 1.4

The School and Institutional Trust Lands Administration should revise the *Administrative Rules* for Special Use Lease Agreements and Renewable Energy Lease Agreements to ensure that the criteria for setting lease rates are clear and consistent with *Utah Code* pertaining to the receipt of no less than fair market value for the lease of trust lands.

1.3 Controls over SITLA's Financial Operations Could Be Improved

Similar to its operational controls, SITLA's financial controls should also be improved. SITLA's internal control memo states that both the Division of Finance and the Office of the State Auditor audit SITLA and play a role in monitoring SITLA's internal controls. Monitoring from the Division of Finance has not been happening due to resource constraints and changing programs. This has left a gap in SITLA's controls that the board was not aware of.

SITLA's board is ultimately responsible for ensuring that the agency is managed according to law, including having sound internal controls. The board was unaware that some of SITLA's internal controls were incomplete. SITLA's internal control memo states that they ensure proper internal controls by



Discontinuation of some Division of Finance programs have left SITLA's internal control monitoring limited.

following the Division of Finance's Internal Control Program. This program requires agencies to establish the five elements of internal control: 1) the control environment, 2) risk assessment, 3) control activities, 4) information and communication, and 5) monitoring. Section 1.1 of this chapter addressed

Appendix B

R850. School and Institutional Trust Lands, Administration.

R850-170. Renewable Energy Lease Agreements.

R850-170-100. 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 rules for leasing trust lands.

R850-170-150. Planning.

1. In addition to those other planning responsibilities described in this Rule R850-170, the agency shall:

- (a) Submit proposals to lease trust lands for renewable energy projects to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;
- (b) Evaluate comments received through the RDCC process; and
- (c) Evaluate comments received through the request for proposal process pursuant to Section R850-170-600 or the solicitation process pursuant to Section R850-170-800.

R850-170-200. Exemption from Development Transaction Rules.

The director may exempt renewable energy leases issued on Development Property as defined in Subsection R850-140-250(1) from Rule R850-140 if the renewable energy leases are issued according to this Rule R850-170 and if the exemption is consistent with the land management objectives found in Rule R850-2.

R850-170-300. Terms of Leases.

Lease terms, including extensions, should not normally be for longer than 51 years. The agency may issue leases for a term longer than 51 years if a longer term is consistent with the land management objectives found in Rule R850-2.

R850-170-400. Categories of Renewable Energy Leases.

1. Renewable energy leases are categorized as follows:
 - (a) solar;
 - (b) wind;
 - (c) energy storage; and
 - (d) geothermal.
2. The agency may grant exploration and options to lease the renewable resources on a parcel according to the requirements of this Rule R850-170 if doing so would encourage exploration of undefined resources.

R850-170-500. Other Business Arrangements.

1. The agency may enter into other business arrangements (OBAs), such as joint venture agreements, that are consistent with the purposes of the Act.
2. OBAs are exempt from these R850-170 rules.
3. OBAs and any amendments to OBAs must be approved by the Board of Trustees.

R850-170-600. Requests for Proposals.

1. The agency may issue a request for proposals (RFP) for renewable energy projects on 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 R850-170-800.

R850-170-700. Lease Rates.

1. The agency may not lease trust lands for less than the fair market value of the leasehold. The agency shall base the fair market lease rates on either 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) responses to RFPs, pursuant to Section R850-170-600, or solicitations for competing applications, pursuant to Section R850-170-800
- (c) comparable lease data;
- (d) market value of the proposed use of the subject property;
- (e) rates schedules approved by the director; and
- (f) the administrative costs of leasing the subject property and a desired minimum rate of return.

~~2. If a lease rate is lower than the value calculated pursuant to Subsection R850-170-700(1)(a), the agency shall reserve the right to terminate the lease before the end of the term.~~

3. Lease Review and Adjustment Procedures.

(a) The agency shall review renewable energy 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.

R850-170-800. Solicitation of Competing Applications.

1. On acceptance by the agency of a completed 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. Renewable energy facilities to support extraction of the mineral estate of the subject property when the mineral estate is not a trust asset is exempt from the requirements of Section R850-170-800.

3. The agency shall solicit competing interest in the subject parcel in a manner designed to increase exposure of the subject property to qualified applicants. The agency may implement the solicitation through print media, internet, signage, direct mail, or other appropriate marketing methods. The agency shall also give at least 30 days' notice by certified mail to:

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

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

4. 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.

5. 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 R850-170-600 or any other means, when in the best interest of the trust beneficiaries.

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

R850-170-900. Competing Proposals.

1. If the agency receives credible competing proposals in response to the solicitation process conducted pursuant to Section R850-170-800, 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.

R850-170-1000. Lease Determination Procedures.

The agency may not lease trust lands when a lease:

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.

R850-170-1100. Renewable Energy Lease Provisions.

Each lease must contain provisions necessary to ensure responsible management of trust lands, 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.

R850-170-1200. 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.

R850-170-1300. Lease Assignments and Subleases.

1. Assignments.

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

(b) On the effective date of an 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 assignor 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 renewable energy 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) 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.

(d) 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, and the interest subleased clearly indicated.

(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.

(f) Rather than approve the sublease, the agency may require that the sublessee enter into a new lease with the agency for the subleased portion of the property.

R850-170-1400. 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 R850-170-800 if:

- (a) the total amended acreage exceeds 150% of the original acreage;
- (b) the lease term, including any extensions, is longer than 51 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

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

10g Real Estate Development

Negotiations for Major
Development Transaction in
Ticaboo/Bullfrog Corridor,
Garfield/Kane County,
DEVL 1369



**TRUST
LANDS**
ADMINISTRATION

BOARD MEMORANDUM

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

From: Alexa Wilson, Project Manager
Kyle Pasley, Managing Director, Real Estate

Re: Proposal to Enter Negotiations for Major Development Transaction
Ticaboo Bullfrog Corridor, DEVL 1369 (Garfield County)

Developer: North Lake Powell Enterprises, LLC

Property: Township 34 South, Range 12 East, SLB&M
Section 32: All except acres in Right of Way of Hwy 276 and SULA 949 (Gnat Ranch)
Township 35 South, Range 11 East, SLB&M
Section 36: All (Ticaboo North)
Township 36 South, Range 11 East, SLB&M
Section 2: All except acres in Right of Way of Hwy 276 and SULA 1927 (Ticaboo North)
Section 32: All except acres in Right of Way of Hwy 276 and SULAs 1167 and 993 (Offshore Marina)
Township 37 South, Range 11 East, SLB&M
Section 8: All
Section 17: All except the portion in DEVL 1107

Containing 2932.03 acres (map attached)

Date: June 19, 2025

Beneficiary: Public School 100%

Summary

Staff propose a major development transaction on approximately **2,932 acres of Trust Lands located in Eastern Garfield County, near Ticaboo Utah**, north of Bullfrog marina at Lake Powell. Prior to negotiating a major development transaction, the Board must approve the process, goals, and timeliness of that transaction, pursuant to Rule R850-140-600. If the Board approves moving forward, the agency will negotiate a development agreement with the selected developer, obtain input from the Real Estate Committee, and bring the terms to the Board for final approval.

Key Information and Background—Major Development Transaction

Background: The proponents of the lease have been active in the area since 2012, when they bought the Ticaboo hotel and ancillary businesses as well as the development lease, on the surrounding residential areas in the section. They expanded in 2015 by buying another existing TLA lease (SULA 1167) for a

parcel two miles south of Ticaboo, with a boat storage facility, convenience store, restaurant, and a gas station. In 2017, TLA entered into a development agreement for the southern parcels of the Bullfrog Block with the proponents for the development of a resort. It has proven difficult to secure financing for the projects. After several false starts, it has become apparent that this project needs to be initiated at scale to attract major developers and investors and address the power issue in the area.

The proponents represent that they are now talking to several large developers/investors as well as providers of a power solution (and datacenter) to transform the Ticaboo Bullfrog corridor into an upscale resort community with a focus on preservation, sustainability, and wellness. It will include housing, hotels, and retail spaces, educational facilities, and other essential services, and include a string of TLA parcels along 18 miles of Highway 276 from e Starr Springs Road to the National Recreation Area boundary. An entrance facility is planned on a parcel in Hanksville, which is not owned by Trust Lands.

The proponents have requested an option to lease the parcel for a period of 180 days in order to finalize the agreements with the developers/investors.

Property Value: Based on market data, staff estimates the raw land value of the parcels involved at approximately \$1,000 per acre. All parcels together are worth about \$3,000,000. The parcels have not been formally appraised at this time.

Financial Goals: The option to lease is intended to facilitate discussions with the developers/investors. The proponents will have 180 days to show proof of available financing and a path to provide power to the area at a sustainable cost. The option expires in 180 days if there is no proof of financing and a power plan. The presented proforma shows net revenue to TLA of \$18,500,000 over the next 25 years. The NPV at a 7.5% discount rate is \$6,000,000. The current revenue from grazing is under \$1,000 per year. The two immediately adjacent 20-acre TLA Special Use Lease Agreements bring in \$2,720 (residential-expiration 2044) and \$650 (agricultural-expiration 2040) and will most likely be included in the project upon expiration.

Timeliness: There is an opportunity to capitalize on the work that the proponents have done in planning the development and securing financing. If it comes to fruition this year, it will increase the value of the land. There is significant pressure on tourism venues in the state. Additional areas to explore for the ever-increasing tourist crowd would financially benefit to TLA and the state.

Transaction Structure: The transaction consists of an initial option to lease (option payment \$10,000) for 180 days. The option can be exercised if a credible plan for the power provision for the project and financing for the improvements is in place. Otherwise, the option expires in 180 days.

Proposed terms for the lease: Annual rent \$5,000, expiration in 2047, percentage rent on commercial uses of 2.25% and sales of residential lots for 20% of the improved lot price or 5% of the finished units as applicable.

Competitive Process: After receiving a proposal from the proponents, TLA published a RFP in the last week of December 2024, with proposals due by March 17, 2025. It was advertised in the Salt Lake Tribune, Deseret News, and in local newspapers. TLA received no alternative proposals for the parcels.

Other Relevant Information: It is challenging to estimate the likelihood that this development plan will come to fruition.. The proponents have spent a lot of money, energy, and time to get the proposal to this point, and there is reason to believe that there is a chance of success. The success of this plan could

greatly improve the value of this land. Strict adherence to the proposed timelines would be required to ensure progress is being made.

Requested Action

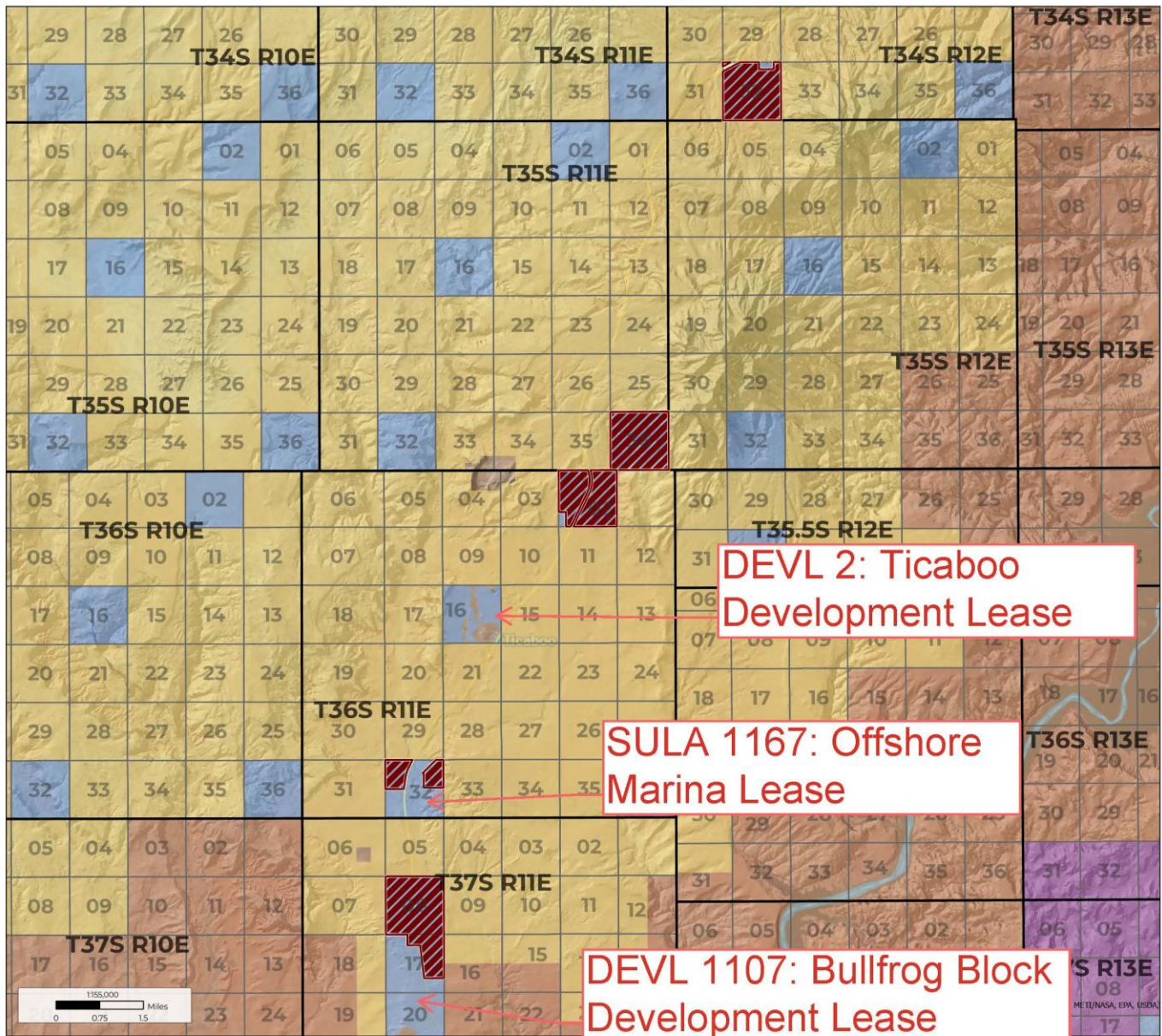
The agency requests that the Board approve the agency negotiating a development agreement with the selected developer and offers the following proposed motion:

“Move for staff to proceed with negotiations with North Lake Powell Enterprises, LLC on a development agreement for Ticaboo Bullfrog Corridor, which will be brought before the Board for final approval at a future date.”



Bullfrog Ticaboo Corridor RFP

Within T34S R12E & T35/36/37S R11E SLB&M
Garfield County



RFP Subject Parcels

Land Ownership And Administration

- Bureau of Land Management
- National Recreation Area
- National Monument

Private

- State Trust Lands
- State Sovereign Land
- Other State

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 hereon. 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: December 26, 2024 - nicholaswilcox



Document Path: V:\GIS\GIS_Group\Nic\Pro Projects\2024_Edit_Land_Projects\2024_Development_Edit.aprx

Coordinate System: NAD 83 UTM Zone 12N