

AMENDED MEMORANDUM

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

FROM: Michelle McConkie - Assistant Director

DATE: January 13, 2021

SUBJECT: Promulgation of New Rules on Prohibited and Restricted Uses of Trust Lands (R850-12)

BACKGROUND INFORMATION

The majority of Utah trust lands are interspersed with open and public federal lands and lack visual markers of their exact locations. The general public often uses these trust lands as if they are part of the public domain, knowingly or unknowingly. In some circumstances, this public use of trust lands can be detrimental to the lands and can result in serious resource degradation.

Statutes and Administrative Rules affecting trust lands provide some parameters as to what activities are prohibited or restricted on trust lands, but they do not address many common uses of these lands.

The following are illegal activities on trust lands under Utah Code §53C-2-301, which may result in criminal and civil penalties: (a) removing natural resources without written authorization; (b) grazing livestock without written authorization; (c) using, occupying or constructing improvements without written authorization; (d) using trust lands for more than 30 days after cancellation of written authorization; (e) using trust lands for commercial gain without written authorization; (f) destroying any cultural resources on trust lands; (g) dumping or trespassing on trust lands; or (h) interfering with the activities of a SITLA employee or lessee on trust lands. In addition, Utah Administrative Rules 850-110 and 850-160 provide parameters for the use of trust lands by motorized vehicles and for the withdrawal of trust lands from public target shooting, respectively.

These statutes and rules allow the Trust to protect trust lands from certain uses, but many other common recreational activities as well as other inherently damaging activities are not addressed. For example, there is currently no express prohibition on lighting fireworks on trust lands or any requirement that target shooters remove debris from their activities on trust lands. This results in a situation where staff and the general public are uncertain as to whether certain activities are permitted on trust lands. This is particularly difficult for law enforcement officials, who may be hesitant to cite users of trust lands for their damaging behavior due to the lack of defined prohibited or restricted uses. In contrast, most federal and other state lands surrounding trust lands have rules regarding prohibited and restricted uses on their lands. For these reasons, the promulgation of new administrative rules regarding prohibited and restricted use of trust lands is requested.

AUTHORITY

Utah Code §53C-1-302(1)(a)(ii) provides that the director of the School and Institutional Trust Lands Administration has the authority to establish rules consistent with general policies prescribed by the Board of Trustees. In addition, Utah Code §53C-1-302(3) provides that “the director shall maintain the integrity

of the trust and prevent, through prudent management, the misapplication of its lands and revenues.” The promulgation of these new rules which will prohibit and restrict the public’s use of trust lands to help prevent resource degradation of the lands is in accordance with statute.

RULES

The proposed Prohibited and Restricted Uses of Trust Lands rules (R850-12) are attached to this Amended Memorandum as Exhibit A. **Please note that the attached rules have been updated since the prior Memorandum was distributed to include suggestions provided by a Board member. The changes from the prior version have been tracked in red.** An accompanying proposed Board Policy is attached as Exhibit B. The proposed rules expressly prohibit activities such as using fireworks or explosives on trust lands, metal detecting on trust lands, leaving human or animal fecal matter on trust lands and defacing rock formations on trust land, among other damaging uses. The rules also restrict activities associated with camping on trust lands, bringing animals onto trust lands, lighting fires or burning materials on trust lands and target shooting on trust lands, as well as other uses.

RECOMMENDATION AND NEXT STEPS

Staff recommends the Board of Trustees approve the promulgation of these new administrative rules on Prohibited and Restricted Uses of Trust Lands (R850-12).

If the Board approves these rules, they will be filed with the Utah Office of Administrative Rules. The Office of Administrative Rules will publish them and there would be a mandatory 30-day public comment period prior to codification.

Exhibit A
(Draft Prohibited and Restricted Use Rules)

R850. School and Institutional Trust Lands, Administration.

R850-12. Prohibited and Restricted Uses of Trust Lands.

R850-12-100. Authorities.

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, Section 53C-1-302(1)(a)(ii) of the Utah Code, and Board Policy #. The purpose of this rule is to prohibit certain activities and to permit with limitations other activities on trust lands.

R850-12-200. Definitions.

In addition to the terms defined in R850-1, the terms below, when used in Section R850-12 are defined as follows:

1. "Authorized Route" means a route:
 - (a) designated as open to the public for motor vehicle use under Subsection R850-110-200;
 - (b) established by grant or dedication to a governmental entity for public use; or
 - (c) as otherwise established by law for public use.
2. "Low-impact activities" means activities that have minimal or negligible impact to trust lands.

R850-12-300. Prohibited Activities.

In addition to Section 53C-2-301(1), except as authorized in writing by the agency, the following activities are prohibited on trust lands:

1. posting or distributing printed materials;
2. managing or controlling trust lands, including prohibiting, preventing, or obstructing public entry on trust lands or blocking access to an Authorized Route;
3. activities authorized under this Section R850-12 that continue for more than 15 consecutive days or more than 15 days within any 30-day period;
4. parking a motorized or recreational vehicle more than 100 feet from an Authorized Route;
5. leaving unattended personal property on trust lands for longer than 72 hours;
6. using or possessing explosives, fireworks, or firecrackers;
7. using poisons, herbicide, insecticides, or pesticides;

8. using or possessing any noxious weeds or noxious weed seeds, as designated in Sections R68-8-2 and R68-9-2, and/or feeds, supplements or forages containing any, in whole or in part, of the weeds designated as noxious weeds in Section R68-9-2;

9. metal detecting;

10. searching for treasure, artifacts, or other natural or man-made items;

11. leaving or disposing of human or animal fecal matter unless:

(a) the fecal matter is buried at least 8 inches deep and at least 200 feet from any campsite or water source; and

(b) all toilet paper and hygiene products are removed from trust lands;

12. installing new technical rock climbing or slack lining equipment or hardware;

13. ~~permanently~~ affixing devices including trail cameras to structures, trees, or any other natural or made-made fixture;

14. using or possessing glass containers outside of enclosed vehicles, tents, trailers, or recreational vehicles, except that removing glass discarded by others on trust lands is permitted;

15. constructing, using, moving, occupying, or destroying any structures on trust lands including fences, water control devices, roads, surveys and section markers, or signs;

16. destructing, marking, or defacing trust lands, including without limitation, cross-country travel using human-powered, mechanized or motorized vehicles (other than approved mobility devices for the impaired or over-snow travel authorized pursuant to R850-110-400), creating new routes, human-powered, mechanized or motorized vehicle travel on routes other than Authorized Routes;

17. carving tree trunks, marking/defacing rocks, graffiti, destruction of natural formations on trust lands (e.g. knocking over sandstone pillars), tossing, throwing, or rolling of rocks or other materials into valleys or canyons or down hills and mountains;

18. any activity prohibited under any other local, state, or federal statute, ordinance, rule, or regulation;

19. any activity that requires authorization from the agency or any other local, state, or federal authority under any local, state, or federal statute, ordinance, rule, or regulation.

R850-12-400. Non-Commercial Low-Impact Activities.

Non-commercial low-impact activities are permitted on trust lands without written authorization from the agency, subject to

the prohibitions and restrictions in this Section R850-12, unless written authorization is required for such activity by the agency's statutes, rules, director's findings, handbook, or other publication available to the public.

R850-12-500. Non-Commercial Camping.

1. A person may maintain a non-commercial low-impact campsite on trust lands without written authorization from the agency, subject to the prohibitions and restrictions in this Section R850-12.

2. A person may not maintain a campsite in the same location for more than 15 consecutive days or relocate a campsite to any trust lands within a 5-mile radius of the original campsite for at least 15 consecutive days following the end of the camping period.

3. A person may not maintain a campsite within 100 feet from any water source.

R850-12-600. Animals on Trust Lands.

1. A person may bring an animal onto trust lands without written authorization, subject to the prohibitions and restrictions in this Section R850-12. ~~These prohibitions and restrictions do not apply to those activities permitted under a valid grazing permit or other written authorization issued by the agency.~~

2. A person may not leave an animal unattended on trust lands unless the animal is restrained.

3. A person may not bring more than 16 animals at a time onto trust lands.

4. A person may not bring onto trust lands any animal reasonably likely to cause physical harm to people, other animals, or property.

5. A person may not engage in commercial dog training on trust lands.

6. A person may not board any animal within 100 feet from any water source, riparian area, or culinary system on trust lands.

R850-12-700. Fires and Burning Material.

1. Campfires on trust lands are permitted without written authorization, subject to the prohibitions and restrictions in this Section R850-12, if:

(a) the campfire is within an established fire ring.

(b) the fire is not left unattended;

(c) all adequate provisions are taken to prevent the fire from spreading, including ~~having a keeping a shovel and an~~

~~adequate supply of water~~ readily accessible means to extinguish a fire available;

(d) all ashes, unburned fuel, and trash are removed from trust lands; and

(e) the fire is completely extinguished when not in use and prior to being left unattended.

2. A person may not construct a new fire ring on trust lands without written authorization from the agency.

3. A person may only burn clean, dry, cord-type firewood or charcoal on trust lands. Burning or discarding materials containing nails, screws, or other metal hardware (such as from wood pallets and construction debris) is prohibited.

4. A person may collect downed wood or woody vegetation for fires on trust lands but may not cut standing vegetation (living or dead). A person may not remove firewood from trust lands without written authorization from the agency.

5. A person may not throw or drop a lighted cigarette or other burning material onto trust lands.

R850-12-800. Target Shooting.

1. A person may engage in target shooting on trust lands without authorization, subject to the prohibitions and restrictions in this Section R850-12.

2. A person engaged in target shooting on trust lands may only use shooting targets manufactured or assembled for that purpose and that do not explode, ignite, shatter, or pose a hazard to people, animals, or property, except that clay pigeons are permitted.

3. A person may not shoot at any target that is on, over, or within 50 feet of a water source. A person may not engage in target shooting from or within 50 feet of a water source.

4. A person that brings shooting targets or ammunition onto trust lands shall remove the shooting targets and ammunition, including spent shells, from trust lands.

R850-12-900. Agency may Limit or Prohibit Activities.

1. The agency may limit or prohibit any activities authorized by this Section R850-12 for the reasons and time periods deemed necessary by the agency to protect trust lands from damage, preserve trust lands, protect people or animals from harm, or for any other reason that the agency determines is in the best interest of its beneficiaries.

2. To further limit or prohibit an activity on trust lands, the agency may:

(a) post notice at the area, trailhead, or campsite to which the limitation or prohibition applies; or

(b) post notice of the limitation or prohibition on its website.

3. The agency may reduce the limitations or prohibitions in this Section R850-12 by complying with Subsection R850-12-900(2).

Exhibit B
(Draft Board Policy)

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

Policy Statement No. _____

Subject: New Rule—Prohibited and Restricted Uses of Trust Lands

The Board of Trustees (the “Board”) of the School and Institutional Trust Lands Administration (the “Administration”), by majority vote in open, public meeting on _____ 2021, declares the following to be an official policy of the Board.

Pursuant to Utah Code § 53-2-301, a person may be liable for civil damages and guilty of a criminal offense for entering, using, or causing damage to Trust Lands without written authorization from the Administration. The Administration issues written authorizations by lease, permit, or other form of authorization pursuant to statute and rules. However, the Board acknowledges that certain limited uses of Trust Lands would not cause damage and requiring permits for such use would be cost prohibitive for the Administration to manage.

The Board authorizes the Administration to adopt rules permitting the public to access those Trust Lands designated by the Administration subject to restrictions as determined by the Administration.