

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[UT-020-1220-EB]

Interim Final Supplementary Rules on Public Lands Within the Simpson Springs Recreation Area Managed by the Salt Lake Field Office, Utah**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Interim Final Supplementary Rules with request for comments.

SUMMARY: The Bureau of Land Management (BLM), Salt Lake Field Office, is implementing interim final supplementary rules and requesting comments for the Simpson Springs Recreation Area. The BLM has determined these interim final supplementary rules are necessary to: Enhance the safety of visitors, protect public health, protect natural resources, and improve recreation experiences and opportunities.

DATES: These interim final supplementary rules are effective February 8, 2007. We invite comments until April 9, 2007.

ADDRESSES: Mail or hand deliver all comments concerning these interim final supplementary rules to the Bureau of Land Management, Salt Lake Field Office, 2370 S. 2300 W. Salt Lake City, Utah 84119, or e-mail comments to Mail_UT-Salt_Lake@blm.gov.

FOR FURTHER INFORMATION CONTACT: Ray Kelsey, Outdoor Recreation Planner, 2370 S. 2300 W. Salt Lake City, Utah 84119, 801-977-4300.

SUPPLEMENTARY INFORMATION:**I. Background**

The BLM is establishing these interim final supplementary rules under the authority of 43 CFR 8365.1-6, which allows BLM State Directors to establish such rules for the protection of persons, property, and public lands and resources. This regulatory provision allows the BLM to issue rules of less than national effect without codifying the rules in the Code of Federal Regulations. Upon completion, the rules will be available for inspection in the Salt Lake Field Office; they will be posted at the Simpson Springs Recreation Area; and they will be published in a newspaper of general circulation in the affected vicinity. The overall program authority for the operation of this recreation site is found in sections 302 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1740).

These interim final supplementary rules are necessary because of public

safety concerns and resource impacts from ongoing recreational use in the Simpson Springs Recreation Area. Specifically, monitoring by BLM personnel and incident reports have determined that unregulated dispersed camping and increased off-highway vehicle use continues to disturb water sources and other habitat elements vital to survival of desert species.

The public has been involved in planning for the management of the area through the Simpson Springs Recreation Area Management Plan (RAMP) process and review under National Environmental Policy Act (NEPA). The Simpson Springs RAMP includes supplementary rules that are to be published concerning rules of conduct for public use. The comment period for these interim final supplementary rules will allow the public an additional opportunity for input on proposed management changes at the Simpson Springs Recreation Area.

The Salt Lake Field Office has taken the following steps to involve the public in planning for the area and developing the policies contained in the interim final supplementary rules:

- As part of the NEPA process, public notification of the initiation of the Simpson Springs RAMP and the environmental review process was published on Feb. 26, 2005.
- A news release and solicitation of comments were published in local papers and posted at the Simpson Springs campground bulletin board in March 2006. Comments were accepted through mail, hand delivery, or by e-mail.
- The Draft Simpson Springs RAMP was available for review at the Field Office until August 2005. Copies were emailed to members of the public who had expressed an interest in the area.
- No comments on the Simpson Springs RAMP were received.

Under these circumstances, the BLM finds good cause to issue these interim final supplementary rules for the Simpson Springs Recreation Area. The public is now invited to provide additional comments on the interim final supplementary rules. See the **DATES** and **ADDRESSES** sections for information on submitting comments.

II. Interim Final Supplementary Rules for the Simpson Springs Recreation Area**Section 1 Definitions**

Simpson Springs Recreation Area (SSRA). The SSRA is a distinct administrative unit within the Pony Express Special Recreation Management Area and encompasses public lands located in:

Township 9 South Range 8 West
Section 7: Lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$
Section 17: W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 18: Lots 1 and 2, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$

Off-highway vehicle. Any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding: (1) Any nonamphibious registered motorboat; (2) Any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes; (3) Any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) Vehicles in official use; and (5) Any combat or combat support vehicle when used in times of national defense emergencies.

Primary vehicle: A street-legal vehicle used for transportation to the recreation site.

Dangerous weapon(s): Any item that in the manner of its use, or intended use, is capable of causing death or serious bodily injury.

Section 2 Prohibited Acts

- a. No person shall camp within the SSRA outside of designated sites. Persons or groups wishing to camp outside of the designated campground are required to first obtain a special recreation permit (SRP) from the Salt Lake Field Office.
- b. No person shall enter, camp, park, picnic, or stay longer than one half hour within the Simpson Springs Campground without properly paying posted permit fees. Permits must be purchased and visibly displayed in the windshield of all primary vehicles with the date side facing out.
- c. No person shall use or possess to use as firewood any materials containing nails, screws, or other metal hardware, including but not limited to wood pallets and/or construction debris. Only charcoal may be burned in campsite barbecue grills.
- d. No person shall use an accelerant for the purposes of igniting a campfire except with any commercially purchased charcoal igniters or other non-hazardous fuels.
- e. No person shall camp or use motorized vehicles within 200 feet of any perennial water source or impoundment.
- f. No person shall operate a motorized vehicle in excess of the posted speed limit on any maintained roadway within the SSRA.
- g. No person shall operate a motorized vehicle off of designated routes within the SSRA.
- h. No person shall operate or use any audio device, including, but not limited

to, a radio, television, musical instrument, other noise producing device, or motorized equipment between the hours of 10 p.m. and 6 a.m. in a manner that makes unreasonable noise that disturbs other visitors.

i. No person shall operate an off-highway vehicle without a properly installed spark arrestor.

j. No person shall use or possess any man-made ramp or jump, for the purposes of performing acrobatic or aerial stunts.

k. No person shall construct or use a hunting blind within the SSRA.

Section 3 Penalties

Violations of these interim final supplementary rules are punishable by a fine not to exceed \$100,000 and/or imprisonment not to exceed 12 months, as provided in Section 303 of the Federal Land Policy and Management Act (43 U.S.C. 1733), and may be subject to the enhanced penalties under the Sentencing Reform Act (18 U.S.C. 3571).

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These interim final supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These interim final supplementary rules will not have an effect of \$100 million or more on the economy. They are not intended to affect commercial activity, but contain rules of conduct for public use of a certain recreational area. They will not adversely affect, in a material way, the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These interim final supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The interim final supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues.

Clarity of the Interim Final Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these interim final supplementary rules easier to understand, including answers to questions such as the following:

(1) Are the requirements in the interim final supplementary rules clearly stated?

(2) Do the interim final supplementary rules contain technical language or jargon that interferes with their clarity?

(3) Does the format of the interim final supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

(4) Would the interim final supplementary rules be easier to understand if they were divided into more (but shorter) sections?

(5) Is the description of the interim final supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the interim final supplementary rules? How could this description be more helpful in making the interim final supplementary rules easier to understand?

Please send any comments you have on the clarity of the interim final supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act

The BLM has prepared an environmental assessment (EA) dated September 29, 2005, and has found that the interim final supplementary rules would not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The interim final supplementary rules merely contain rules of conduct for the Simpson Springs Recreation Area. These rules are designed to protect the environment and the public health and safety. A detailed statement under NEPA is not required. BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The interim final supplementary rules do not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific public lands. Therefore, BLM has determined under the RFA that these

interim final supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These interim final supplementary rules do not constitute a “major rule” as defined at 5 U.S.C. 804(2). The interim final supplementary rules merely contain rules of conduct for recreational use of certain public lands. The interim final supplementary rules have no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

These interim final supplementary rules do not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year; nor do these interim final supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. The interim final supplementary rules do not require anything of State, local, or tribal governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The interim final supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. The interim final supplementary rules do not address property rights in any form, and do not cause the impairment of anybody’s property rights. Therefore, the Department of the Interior has determined that these interim final supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The interim final supplementary rules will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The interim final supplementary rules affect land in only one State, Utah, and do not address jurisdictional issues involving the State government. Therefore, in accordance with Executive Order 13132, BLM has determined that these interim

final supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, we have determined that these interim final supplementary rules will not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Consultation and Coordination with Indian Tribal Governments (E.O. 13175)

In accordance with Executive Order 13175, we have found that these interim final supplementary rules do not include policies that have tribal implications. The interim final supplementary rules do not affect lands held for the benefit of Indians, Aleuts, or Eskimos.

Paperwork Reduction Act

These interim final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Dated: December 15, 2006.

Marcus Nielson,

Acting State Director.

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DEPARTMENT OF THE INTERIOR

National Park Service

**Notice of Inventory Completion:
Thomas Burke Memorial Washington
State Museum, University of
Washington, Seattle, WA and Central
Washington University, Department of
Anthropology and Museum,
Ellensburg, WA**

AGENCY: National Park Service, Interior.
ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA and Central Washington University, Department of Anthropology and Museum, Ellensburg, WA. The human remains and associated funerary objects were removed from Wenas Creek, Washington.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Burke Museum and Central Washington University professional staff in consultation with representatives of the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; and Confederated Tribes of the Warm Springs Reservation of Oregon.

In 1956, human remains representing a minimum of one individual were removed from Wenas Creek (45-YK-51), Yakima County, WA, by Claude Warren, University of Washington student, as a part of an excavation for the Pacific Northwest Pipeline Survey. In 1966, the collection was formally accessioned by the museum (Burke Accn. #1966-85). In February 1974, the Burke Museum legally transferred portions of the human remains from Burial #2 to Central Washington University. No known individual was identified. The 68 associated funerary objects are 13 mammal bone fragments, 2 fish bones, 28 dog bones, 1 rodent bone, 1 deer bone, 1 antler fragment, 10 charcoal fragments, 10 flakes, 1 hammer stone, and 1 unmodified stone.

The burial was discovered in a flexed position at the bottom of a talus slope and was covered with a stone cyst of basalt and river cobbles. There is evidence of burning on the right scapula, but no other indication of cremation. This burial pattern is consistent with Yakama burial practices (Schuster 1990: 338). According to Mr. Warren, a copper kettle was placed over the top of the human remains, indicating a historic burial. The whereabouts of the copper kettle are unknown and the Burke Museum has no record of this copper kettle in their collection.

Wenas Creek falls within the lands ceded to the Confederated Tribes and Bands of the Yakama Nation, Washington in the Yakima Treaty of 1855. Published ethnographic information confirms that the area surrounding Wenas Creek was culturally affiliated with the Yakama (Swanton 1952, Daugherty 1973, Schuster 1998, Mooney 1896, Ray 1936,

and Spier 1936). Furthermore, the Confederated Tribes and Bands of the Yakama Nation, Washington have identified site 45-YK-51 as part of their traditional occupation area from pre-contact times and within their aboriginal territory. The Si'la-hlama band of the Yakama people occupied the area along the Yakima River between Wenas Creek and Umtanum Creek (Swanton 1952). The Lower Yakima bands were also associated with the area (Schuster 1998). Descendants of the Si'la-hlama and Lower Yakima bands are members of the Confederated Tribes and Bands of the Yakama Nation, Washington.

Officials of the Burke Museum and Central Washington University have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Burke Museum and Central Washington University also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 68 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Burke Museum and Central Washington University have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Confederated Tribes and Bands of the Yakama Nation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195-3010, telephone (206) 685-2282 and Lourdes Henebry-DeLeon, NAGPRA Program Director, Central Washington University, Department of Anthropology and Museum, Mailstop 7544, Ellensburg, WA 98926, telephone (509) 963-2671 before March 12, 2007. Repatriation of the human remains and associated funerary objects to the Confederated Tribes and Bands of the Yakama Nation, Washington may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; and Confederated Tribes of the Warm Springs Reservation