

111TH CONGRESS
1ST SESSION

S. 563

To direct the exchange of certain land in Grand, San Juan, and Uintah Counties, Utah, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2009

Mr. BENNETT (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To direct the exchange of certain land in Grand, San Juan, and Uintah Counties, Utah, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Utah Recreational
5 Land Exchange Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) FEDERAL LAND.—The term “Federal land”
9 means the land located in Grand, San Juan, and

1 Uintah Counties, Utah, that is identified on the
2 maps as—

3 (A) “BLM Subsurface only Proposed for
4 Transfer to State Trust Lands”;

5 (B) “BLM Surface only Proposed for
6 Transfer to State Trust Lands”; and

7 (C) “BLM Lands Proposed for Transfer to
8 State Trust Lands”.

9 (2) GRAND COUNTY MAP.—The term “Grand
10 County Map” means the map prepared by the Bu-
11 reau of Land Management entitled “Utah Rec-
12 reational Land Exchange Act Grand County”, dated
13 November 13, 2008, and relating to the exchange of
14 Federal land and non-Federal land in Grand and
15 San Juan Counties, Utah.

16 (3) MAPS.—The term “maps” means the Grand
17 County Map and the Uintah County Map.

18 (4) NON-FEDERAL LAND.—The term “non-Fed-
19 eral land” means the land in Grand, San Juan, and
20 Uintah Counties, Utah, that is identified on the
21 maps as—

22 (A) “State Trust Land Proposed for
23 Transfer to BLM”; and

24 (B) “State Trust Minerals Proposed for
25 Transfer to BLM”.

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 (6) STATE.—The term “State” means the State
4 of Utah, as trustee under the Utah State School and
5 Institutional Trust Lands Management Act (Utah
6 Code Ann. 53C-1-101 et seq.).

7 (7) UINTAH COUNTY MAP.—The term “Uintah
8 County Map” means the map prepared by the Bu-
9 reau of Land Management entitled “Utah Rec-
10 reational Land Exchange Act Uintah County”,
11 dated November 13, 2008, and relating to the ex-
12 change of Federal land and non-Federal land in
13 Uintah County, Utah.

14 **SEC. 3. EXCHANGE OF LAND.**

15 (a) IN GENERAL.—If the State offers to convey to
16 the United States title to the non-Federal land, the Sec-
17 retary shall—

18 (1) accept the offer; and

19 (2) on receipt of all right, title, and interest of
20 the State in and to the non-Federal land, convey to
21 the State all right, title, and interest of the United
22 States in and to the Federal land.

23 (b) CONDITIONS.—The exchange authorized under
24 subsection (a) shall be subject to—

25 (1) valid existing rights;

1 (2) except as otherwise provided by this sec-
2 tion—

3 (A) section 206 of the Federal Land Policy
4 and Management Act of 1976 (43 U.S.C.
5 1716); and

6 (B) any other applicable laws; and

7 (3) any additional terms and conditions that
8 the Secretary and the State mutually determine to
9 be appropriate.

10 (c) TITLE APPROVAL.—Title to the Federal land and
11 non-Federal land to be exchanged under this section shall
12 be in a format acceptable to the Secretary and the State.

13 (d) APPRAISALS.—

14 (1) IN GENERAL.—The value of the Federal
15 land and the non-Federal land shall be determined
16 by appraisals conducted by 1 or more independent
17 appraisers selected jointly by the Secretary and the
18 State.

19 (2) APPLICABLE LAW.—The appraisals con-
20 ducted under paragraph (1) shall be conducted in
21 accordance with section 206 of the Federal Land
22 Policy and Management Act of 1976 (43 U.S.C.
23 1716).

1 (3) APPROVAL.—The appraisals conducted
2 under paragraph (1) shall be submitted to the Sec-
3 retary and the State for approval.

4 (4) ADJUSTMENT.—

5 (A) IN GENERAL.—If value is attributed to
6 any parcel of Federal land because of the pres-
7 ence of minerals subject to leasing under the
8 Mineral Leasing Act (30 U.S.C. 181 et seq.),
9 the value of the parcel (as otherwise established
10 under this subsection) shall be reduced by the
11 percentage of the Federal revenue sharing with
12 a State under section 35(a) of the Mineral
13 Leasing Act (30 U.S.C. 191(a)).

14 (B) LIMITATION.—An adjustment under
15 subparagraph (A) shall not be considered as a
16 property right of the State.

17 (5) AVAILABILITY OF APPRAISALS.—

18 (A) IN GENERAL.—All final appraisals, ap-
19 praisal reviews, and determinations of value for
20 land to be exchanged under this section shall be
21 available for public review at the Utah State
22 Office of the Bureau of Land Management at
23 least 30 days before the conveyance of the ap-
24 plicable parcels.

1 (B) PUBLICATION.—The Secretary or the
 2 State, as applicable, shall publish in a news-
 3 paper of general circulation in Salt Lake Coun-
 4 ty, Utah, a notice that the appraisals are avail-
 5 able for public inspection.

6 (e) CONVEYANCE OF PARCELS IN PHASES.—

7 (1) IN GENERAL.—Notwithstanding that ap-
 8 praisals for all of the parcels of Federal land and
 9 non-Federal land may not have been approved under
 10 subsection (d)(3), parcels of the Federal land and
 11 non-Federal land may be exchanged under sub-
 12 section (a) in 3 phases beginning on the date on
 13 which the appraised values of the parcels included in
 14 the applicable phase are approved under this sub-
 15 section.

16 (2) PHASES.—The 3 phases referred to in para-
 17 graph (1) are—

18 (A) phase 1, consisting of the non-Federal
 19 land identified as “phase one” land on the
 20 Grand County Map;

21 (B) phase 2, consisting of the non-Federal
 22 land identified as “phase two” land on the
 23 Grand County Map and the Uintah County
 24 Map; and

1 (C) phase 3, consisting of any remaining
2 non-Federal land that is not identified as
3 “phase one” land or “phase two” land on the
4 Grand County Map or the Uintah County Map.

5 (3) NO AGREEMENT ON EXCHANGE.—If agree-
6 ment has not been reached with respect to the ex-
7 change of an individual parcel of Federal land or
8 non-Federal land, the Secretary and the State may
9 agree to set aside the individual parcel to allow the
10 exchange of the other parcels of Federal land and
11 non-Federal land to proceed.

12 (4) TIMING.—It is the intent of Congress that
13 at least the first phase of the exchange of land au-
14 thorized by subsection (a) be completed not later
15 than 360 days after the date on which the State
16 makes the Secretary an offer to convey the non-Fed-
17 eral land under that subsection.

18 (f) RESERVATION OF INTEREST IN OIL SHALE.—

19 (1) IN GENERAL.—With respect to Federal land
20 that contains oil shale resources, the Secretary shall
21 reserve an interest in the portion of the mineral es-
22 tate that contains the oil shale resources.

23 (2) EXTENT OF INTEREST.—The interest re-
24 served by the United States under paragraph (1)
25 shall consist of—

1 (A) 50 percent of any bonus bid or other
2 payment received by the State as consideration
3 for securing any lease or authorization to de-
4 velop oil shale resources;

5 (B) the amount that would have been re-
6 ceived by the Federal Government under the
7 applicable royalty rate if the oil shale resources
8 had been retained in Federal ownership; and

9 (C) 50 percent of any other payment re-
10 ceived by the State pursuant to any lease or au-
11 thorization to develop the oil shale resources.

12 (3) PAYMENT.—Any amounts due under para-
13 graph (2) shall be paid by the State to the United
14 States not less than quarterly.

15 (4) NO OBLIGATION TO LEASE.—The State
16 shall not be obligated to lease or otherwise develop
17 oil shale resources in which the United States re-
18 tains an interest under this subsection.

19 (5) VALUATION.—Federal land in which the
20 Secretary reserves an interest under this subsection
21 shall be appraised—

22 (A) without regard to the presence of oil
23 shale; and

24 (B) in accordance with subsection (d).

1 (g) WITHDRAWAL OF FEDERAL LAND PRIOR TO EX-
2 CHANGE.—Subject to valid existing rights, during the pe-
3 riod beginning on the date of enactment of this Act and
4 ending on the earlier of the date that the Federal land
5 is removed from the exchange or the date on which the
6 Federal land is conveyed under this Act, the Federal land
7 is withdrawn from—

8 (1) disposition (other than disposition under
9 section 4) under the public land laws;

10 (2) location, entry, and patent under the mining
11 laws; and

12 (3) the operation of—

13 (A) the mineral leasing laws;

14 (B) the Geothermal Steam Act of 1970
15 (30 U.S.C. 1001 et seq.); and

16 (C) the first section of the Act of July 31,
17 1947 (commonly known as the “Materials Act
18 of 1947”) (30 U.S.C. 601).

19 (h) APPURTENANT WATER RIGHTS.—Any convey-
20 ance of a parcel of Federal land or non-Federal land under
21 this Act shall include the conveyance of water rights ap-
22 purtenant to the parcel conveyed.

23 (i) EQUAL VALUE EXCHANGE.—

1 (1) IN GENERAL.—The value of the Federal
2 land and non-Federal land to be exchanged under
3 this Act—

4 (A) shall be equal; or

5 (B) shall be made equal in accordance with
6 paragraph (2).

7 (2) EQUALIZATION.—

8 (A) SURPLUS OF FEDERAL LAND.—If the
9 value of the Federal land exceeds the value of
10 the non-Federal land, the value of the Federal
11 land and non-Federal land shall be equalized,
12 as determined to be appropriate and acceptable
13 by the Secretary and the State—

14 (i) by reducing the acreage of the
15 Federal land to be conveyed; or

16 (ii) by adding additional State land to
17 the non-Federal land to be conveyed.

18 (B) SURPLUS OF NON-FEDERAL LAND.—If
19 the value of the non-Federal land exceeds the
20 value of the Federal land, the value of the Fed-
21 eral land and non-Federal land shall be equal-
22 ized by reducing the acreage of the non-Federal
23 land to be conveyed, as determined to be appro-
24 priate and acceptable by the Secretary and the
25 State.

1 (3) NOTICE AND PUBLIC INSPECTION.—

2 (A) IN GENERAL.—If the Secretary and
3 the State determine to add or remove land from
4 the exchange, the Secretary or the State shall—

5 (i) publish in a newspaper of general
6 circulation in Salt Lake County, Utah, a
7 notice that identifies when and where a re-
8 vised exchange map will be available for
9 public inspection; and

10 (ii) transmit to the Committee on
11 Natural Resources of the House of Rep-
12 resentatives and the Committee on Energy
13 and Natural Resources of the Senate a
14 copy of the revised exchange map.

15 (B) LIMITATION.—The Secretary and the
16 State shall not add or remove land from the ex-
17 change until at least 30 days after the date on
18 which the notice is published under subpara-
19 graph (A)(i) and the map is transmitted under
20 subparagraph (A)(ii).

21 **SEC. 4. STATUS AND MANAGEMENT OF LAND AFTER EX-**
22 **CHANGE.**

23 (a) ADMINISTRATION OF NON-FEDERAL LAND.—

24 (1) IN GENERAL.—Subject to paragraph (2)
25 and in accordance with section 206(c) of the Federal

1 Land Policy and Management Act of 1976 (43
2 U.S.C. 1716(c)), the non-Federal land acquired by
3 the United States under this Act shall become part
4 of, and be managed as part of, the Federal adminis-
5 trative unit or area in which the land is located.

6 (2) MINERAL LEASING AND OCCUPANCY.—

7 (A) IN GENERAL.—Subject to valid exist-
8 ing rights, the non-Federal land acquired by the
9 United States under this Act shall be with-
10 drawn from the operation of the mineral leasing
11 laws until the later of—

12 (i) the date that is 2 years after the
13 date of enactment of this Act; or

14 (ii) the date on which the Record of
15 Decision authorizing the implementation of
16 the applicable resource management plans
17 under section 202 of the Federal Land
18 Policy and Management Act of 1976 (43
19 U.S.C. 1712) is signed.

20 (B) EXCEPTION.—Any land identified on
21 the maps as “Withdrawal Parcels” is with-
22 drawn from the operation of the mineral leasing
23 and mineral material disposal laws.

24 (3) RECEIPTS.—

1 (A) IN GENERAL.—Any mineral receipts
2 derived from the non-Federal land acquired
3 under this Act shall be paid into the general
4 fund of the Treasury.

5 (B) APPLICABLE LAW.—Mineral receipts
6 from the non-Federal land acquired under this
7 Act shall not be subject to section 35 of the
8 Mineral Leasing Act (30 U.S.C. 191).

9 (b) GRAZING PERMITS.—

10 (1) IN GENERAL.—If land conveyed under this
11 Act is subject to a lease, permit, or contract for the
12 grazing of domestic livestock in effect on the date of
13 acquisition, the Secretary and the State shall allow
14 the grazing to continue for the remainder of the
15 term of the lease, permit, or contract, subject to the
16 related terms and conditions of user agreements, in-
17 cluding permitted stocking rates, grazing fee levels,
18 access rights, and ownership and use of range im-
19 provements.

20 (2) RENEWAL.—To the extent allowed by Fed-
21 eral or State law, on expiration of any grazing lease,
22 permit, or contract described in paragraph (1), the
23 holder of the lease, permit, or contract shall be enti-
24 tled to a preference right to renew the lease, permit,
25 or contract.

1 (3) CANCELLATION.—

2 (A) IN GENERAL.—Nothing in this Act
3 prevents the Secretary or the State from can-
4 celing or modifying a grazing permit, lease, or
5 contract if the land subject to the permit, lease,
6 or contract is sold, conveyed, transferred, or
7 leased for nongrazing purposes by the Secretary
8 or the State.

9 (B) LIMITATION.—Except to the extent
10 reasonably necessary to accommodate surface
11 operations in support of mineral development,
12 the Secretary or the State shall not cancel or
13 modify a grazing permit, lease, or contract be-
14 cause the land subject to the permit, lease, or
15 contract has been leased for mineral develop-
16 ment.

17 (4) BASE PROPERTIES.—If land conveyed by
18 the State under this Act is used by a grazing per-
19 mittee or lessee to meet the base property require-
20 ments for a Federal grazing permit or lease, the
21 land shall continue to qualify as a base property for
22 the remaining term of the lease or permit and the
23 term of any renewal or extension of the lease or per-
24 mit.

25 (c) HAZARDOUS MATERIALS.—

1 (1) IN GENERAL.—The Secretary and, as a con-
2 dition of the exchange, the State shall make avail-
3 able for review and inspection any record relating to
4 hazardous materials on the land to be exchanged
5 under this Act.

6 (2) COSTS.—The costs of remedial actions re-
7 lating to hazardous materials on land acquired
8 under this Act shall be paid by those entities respon-
9 sible for the costs under applicable law.

10 (d) EASEMENT.—The conveyance of Federal land in
11 sec. 33, T. 4 S., R. 24 E., and sec. 4, T. 5 S., R. 24
12 E., of the Salt Lake Meridian, shall be subject to a 1,000
13 foot wide scenic easement and a 200 foot wide road right-
14 of-way previously granted to the National Park Service for
15 the Dinosaur National Monument, as described in Land
16 Withdrawal No. U-0141143, pursuant to the Act of Sep-
17 tember 8, 1960 (74 Stat. 857,861).

18 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated such sums
20 as are necessary to carry out this Act.

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