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110TH CONGRESS
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H. R. 1210

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2007

Mr. MATHESON (for himself, Mr. CANNON, and Mr. BISHOP of Utah) introduced the following bill; which was referred to the Committee on Natural Resources

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Utah Recreational Land Exchange Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the area surrounding the Colorado River in Grand and San Juan Counties, Utah, and Dinosaur National Monument and the Book Cliffs in Uintah

County, Utah, contains nationally recognized scenic vistas, significant archaeological and historic resources, valuable wildlife habitat, and outstanding opportunities for public recreation that are enjoyed by hundreds of thousands of people annually;

(2) the State of Utah owns multiple parcels of land in the area that were granted to the State under the Act of July 16, 1894 (28 Stat. 107, chapter 138), to be held in trust for the benefit of the public school system and other public institutions of the State;

(3) the parcels of State trust land are largely scattered in checkerboard fashion amid the Federal land comprising the area of the Colorado River corridor, the Dinosaur National Monument, and the Book Cliffs;

(4) the State trust land in the area of the Colorado River corridor, Dinosaur National Monument, and the Book Cliffs includes significant natural and recreational features, including—

(A) portions of Westwater Canyon of the Colorado River;

(B) the nationally recognized Kokopelli and Slickrock trails;

(C) several of the largest natural rock arches in the United States;

(D) multiple wilderness study areas and proposed wilderness areas; and

(E) viewsheds for Arches National Park and Dinosaur National Monument;

(5) the large presence of State trust land located in the Colorado River corridor, Dinosaur National Monument, and the Book Cliffs area makes land and resource management in the area more difficult, costly, and controversial for the United States and the State of Utah;

(6) although the State trust land was granted to the State to generate financial support for public schools in the State through the sale or development of natural resources, development of those resources in the Colorado River corridor, Dinosaur National Monument, and the Book Cliffs area may be incompatible with managing the area for recreational, natural, and scenic resources;

(7) the United States owns land and interests in land in other parts of the State of Utah that can be transferred to the State in exchange for the State trust land without jeopardizing Federal management objectives or needs; and

(8) it is in the public interest to exchange federally owned land in the State for the Utah State trust land located in the Colorado River Corridor, Dinosaur National Monument, and the Book Cliffs area, on terms that are fair to the United States and the State of Utah.

(b) PURPOSE.—It is the purpose of this Act to direct, facilitate, and expedite the exchange of certain Federal land and non-Federal land in the State to further the public interest by—

(1) exchanging Federal land that has limited recreational and conservation resources; and

(2) acquiring State trust land with important recreational, scenic, and conservation resources for permanent public management and use.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEDERAL LAND.—The term ''Federal land'' means the land located in Grand, San Juan, and Uintah Counties, Utah, that is identified on the maps as—

(A) ''BLM Subsurface only Proposed for Transfer to State Trust Lands'';

(B) ''BLM Surface only Proposed for Transfer to State Trust Lands''; and

(C) ''BLM Lands Proposed for Transfer to State Trust Lands''.

(2) GRAND COUNTY MAP.—The term ''Grand County Map'' means the map prepared by the Bureau of Land Management entitled ''Utah Recreational Land Exchange Act Grand County'', dated September 22, 2006, and relating to the exchange of Federal land and non-Federal land in Grand and San Juan Counties, Utah.

(3) MAPS.—The term ''maps'' means the Grand County Map and the Uintah County Map.

(4) NON-FEDERAL LAND.—The term ''non-Federal land'' means the land in Grand, San Juan, and Uintah Counties, Utah, that is identified on the maps as—

(A) ''State Trust Land Proposed for Transfer to BLM''; and

(B) ''State Trust Minerals Proposed for Transfer to BLM''.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

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

(7) UINTAH COUNTY MAP.—The term ''Uintah County Map'' means the map prepared by the Bureau of Land Management entitled ''Utah Recreational Land Exchange Act Uintah County'', dated September 22, 2006, and relating to the exchange of Federal land and non-Federal land in Uintah County, Utah.

SEC. 4. EXCHANGE OF LAND.

(a) IN GENERAL.—If, not later than 30 days after the date of enactment of this Act, the State offers to convey to the United States title to the non-Federal land, the Secretary shall—

(1) accept the offer; and

(2) on receipt of acceptable title to the non-Federal land and subject to valid existing rights, convey to the State all right, title, and interest of the United States in and to the Federal land.

(b) CONVEYANCE OF PARCELS IN PHASES.—

(1) IN GENERAL.—Notwithstanding that appraisals for all of the parcels of Federal land and non-Federal land may not have been completed under section 5, parcels of the Federal land and non-Federal land may be exchanged under subsection (a) in 3 phases beginning on the date on which the appraised values of the parcels included in

the applicable phase are approved under section 5(b)(5).

(2) PHASES.—The 3 phases referred to in paragraph (1) are—

(A) phase 1, consisting of the non-Federal land identified as ''phase one'' land on the Grand County Map;

(B) phase 2, consisting of the non-Federal land identified as ''phase two'' land on the Grand County Map and the Uintah County Map; and

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

(3) NO AGREEMENT ON EXCHANGE.—If agreement has not been reached with respect to the exchange of an individual parcel of Federal land or non-Federal land, the Secretary and the State may agree to set aside the individual parcel to allow the exchange of the other parcels of Federal land and non-Federal land to proceed.

(c) APPURTENANT WATER RIGHTS.—Any conveyance of a parcel of Federal land or non-Federal land under

this Act shall include the conveyance of water rights appurtenant to the parcel conveyed.

(d) TIMING.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the exchange of land authorized by subsection (a) shall be completed not later than 330 days after the date on which the State makes the Secretary an offer to convey the non-Federal land under that subsection.

(2) EXCEPTION.—The deadline established under paragraph (1) shall not apply to a parcel of land, the value of which is being determined under section 5(b)(6)(C).

(3) EXTENSION.—The Secretary and the State may mutually agree to extend the deadline specified in paragraph (1).

(e) COMPLIANCE.—Except as otherwise provided in this Act, the exchange of land shall be carried out in compliance with all laws and regulations applicable to the exchange of Federal land for non-Federal land.

SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALIZATION.

(a) EQUAL VALUE EXCHANGE.—The value of the Federal land and non-Federal land to be exchanged under this Act—

(1) shall be equal; or

(2) shall be made equal in accordance with subsection (c).

(b) APPRAISALS.—

(1) IN GENERAL.—The value of the Federal land and the non-Federal land shall be determined by appraisals conducted in accordance with—

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

(B) section 2201.3 of title 43, Code of Federal Regulations (or successor regulations).

(2) SELECTION OF APPRAISER.—The appraisals of the Federal land and non-Federal land shall be conducted by 1 or more independent third-party appraisers selected jointly by the Secretary and the State.

(3) COSTS.—

(A) IN GENERAL.—The Secretary and the State shall share third-party appraisal costs equally.

(B) ADJUSTMENT.—The Secretary and the State may agree to adjust the relative value of the Federal land and non-Federal land to be exchanged under this Act if the Secretary or the

State has paid a disproportionate share of the third-party appraisal costs.

(4) VALUATION OF UNLEASED FEDERAL LAND; REVENUE SHARING.—

(A) IN GENERAL.—Any parcel of Federal land that, as of the date of appraisal, is not leased under the Mineral Leasing Act (30 U.S.C. 181 et seq.), shall be appraised without regard to the presence of minerals subject to lease under that Act, if, after conveyance of the applicable parcel to the State, the State agrees to pay to the United States—

(i) 50 percent of any bonus or rental payments (in the form of money or other consideration) that the State receives for the disposition of any interest in the minerals after the date of conveyance; and

(ii) an amount equal to—

(I) the fraction of gross proceeds from mineral production (in the form of money or other consideration) to which the United States would have been entitled as a production royalty if the land had been—

(aa) retained by the United States; and

(bb) leased under the provisions of that Act in effect on the date of this Act; minus

(II) the portion of production royalties that would otherwise be payable to the State under section 35 of the Mineral Leasing Act (30 U.S.C. 191).

(B) OBLIGATION AS COVENANT.—The obligation of the State to pay bonus, rental, and royalty revenues to the United States under subparagraph (A) shall be a permanent covenant running with the applicable parcel of Federal land conveyed to the State.

(C) SPECIAL ACCOUNT.—All revenues received by the United States under this paragraph shall be deposited in a special account in the Treasury of the United States and shall be available without further appropriation to the Secretary until expended for—

(i) the equalization of values as provided in subsection (c)(1);

(ii) the purchase of lands or interests therein within the State of Utah that are otherwise eligible for purchase under the Federal Lands Transaction Facilitation Act (43 U.S.C. 2301 et seq.); or

(iii) the purchase of lands or interests therein owned by the State of Utah as trustee under the Utah State School and Institutional Trust Lands Management Act that are determined by the Secretary to have outstanding characteristics for outdoor recreation, wildlife habitat, wilderness, or other natural resources.

(D) ACQUISITION.—Any land acquired under this section shall be—

(i) from a willing seller;

(ii) contingent on the conveyance of title acceptable to the Secretary, using title standards of the Attorney General;

(iii) at a price not to exceed fair market value consistent with applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions; and

(iv) managed as part of the unit within which it is contained.

(5) REVIEW AND APPROVAL.—

(A) IN GENERAL.—Not later than 120 days after the date on which the appraiser is selected under paragraph (2), the appraiser shall submit to the Secretary and the State a copy of the completed appraisals for review.

(B) APPROVAL OR DISAPPROVAL.—Not later than 90 days after the date of receipt of an appraisal under subparagraph (A), the Secretary and the State shall independently approve or disapprove the appraisal.

(6) DETERMINATION OF VALUE.—

(A) DETERMINATION BY SECRETARY AND STATE.—If the Secretary and the State are unable to agree on the value of a parcel of land, the value of the parcel may be determined by the Secretary and the State in accordance with paragraphs (2) and (4) of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(B) VALUATION OF LEASED FEDERAL LAND.—

(i) IN GENERAL.—If value is attributed to any parcel of Federal land because of the presence of minerals subject to leas-

ing under the Mineral Leasing Act (30 U.S.C. 191 et seq.), and the parcel is subject to an existing lease under that Act, the value of the parcel shall be equal to the value of the parcel as determined under this section, as adjusted under clause (ii).

(ii) ADJUSTMENT.—

(I) IN GENERAL.—The value of the parcel subject to a lease under clause (i) shall be reduced by the percentage of the Federal revenue sharing obligation under section 35(a) of the Mineral Leasing Act (30 U.S.C. 191(a)).

(II) NO PROPERTY RIGHT.—An adjustment under subclause (I) shall not be considered to be a property right of the State.

(C) DETERMINATION BY COURT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary and the State have not agreed on the value of a parcel by the date that is 1 year after the date of enactment of this Act, a Federal district court (including the United

States District Court for the District of Utah, Central Division) shall have jurisdiction to determine the value of the parcel.

(ii) LIMITATION.—An action to determine the value of a parcel under clause (i) shall be brought not earlier than 1 year, but not more than 3 years, after the date of enactment of this Act.

(D) AVAILABILITY OF APPRAISALS.—

(i) IN GENERAL.—All final appraisals, appraisal reviews, and determinations of value for land to be exchanged under this Act shall be available for public review at the Utah State Office of the Bureau of Land Management at least 30 days before the conveyance of the applicable parcels.

(ii) PUBLICATION.—The Secretary shall publish in a newspaper of general circulation in Salt Lake County, Utah, a notice that the appraisals are available for public inspection.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—If after completion of the appraisal and dispute resolution process under subsection (b), the value of the non-

Federal land exceeds the value of the Federal land the Secretary shall, in partial exchange for the non-Federal land, provide for payment to the State of the amount necessary to equalize values from funds made available under the special account established by subsection (b)(4)(C). The State shall be entitled to receive a reasonable rate of interest at a rate equivalent to a five-year Treasury note on the balance of the value owed by the United States from the effective date of the exchange until full value is received by the State.

(2) SURPLUS OF FEDERAL LAND.—If after completion of the appraisal and dispute resolution process under subsection (b), the value of the Federal land exceeds the value of the non-Federal land, the value of the Federal land and non-Federal land may be equalized by—

(A) the Secretary, after consultation with the State, removing parcels of Federal land from the exchange until the value is equal; or

(B) the Secretary and the State adding additional State trust land to the non-Federal land, if—

(i) the additional land has been appraised in accordance with an ongoing

Federal acquisition process or program; and

(ii) the appraised value (as determined under clause (i)) has been accepted by the Secretary.

(3) NOTICE AND PUBLIC INSPECTION.—

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

(i) publish in a newspaper of general circulation in Salt Lake County, Utah, a notice that identifies when and where a revised exchange map will be available for public inspection; and

(ii) transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a copy of the revised exchange map.

(B) LIMITATION.—The Secretary and the State shall not add or remove land from the exchange until at least 20 days after the date on which the notice is published under subparagraph (A)(i) and the map is transmitted under subparagraph (A)(ii).

(d) RESOURCE REPORT.—

(1) IN GENERAL.—With respect to each parcel of Federal land to be conveyed to the State, the Secretary shall prepare a report, based on land management plans, resource inventories, and surveys existing on the date on which the report is prepared, that identifies any significant resource values, issues, or management concerns associated with the parcel.

(2) NOTICE AND INSPECTION.—A report shall be subject to the public notice and inspection in accordance with subsection (b)(6)(D).

SEC. 6. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) ADMINISTRATION OF NON-FEDERAL LAND.—

(1) IN GENERAL.—Subject to paragraph (2) and in accordance with section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), the non-Federal land acquired by the United States under this Act shall become part of, and be managed as part of, the Federal administrative unit or area in which the land is located.

(2) MINERAL LEASING AND OCCUPANCY.—

(A) IN GENERAL.—Subject to valid existing rights, the non-Federal land acquired by the United States under this Act shall be with-

drawn from the operation of the mineral leasing and mineral material disposal laws until the later of—

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

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

(B) EXCEPTION.—Any land identified on the maps as ''Withdrawal Parcels'' is withdrawn from the operation of the mineral leasing and mineral material disposal laws.

(3) RECEIPTS.—

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

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

(b) WITHDRAWAL OF FEDERAL LAND PRIOR TO EXCHANGE.—Subject to valid existing rights, during the period beginning on the date of enactment of this Act and ending on the earlier of the date that is 3 years after the date of enactment of this Act or the date on which the Federal land is conveyed under this Act, the Federal land is withdrawn from—

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

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

(3) the operation of—

(A) the mineral leasing laws;

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

(C) the first section of the Act of July 31, 1947 (commonly known as the ''Materials Act of 1947'') (30 U.S.C. 601).

(c) GRAZING PERMITS.—

(1) IN GENERAL.—If land acquired under this Act is subject to a lease, permit, or contract for the grazing of domestic livestock in effect on the date of acquisition, the person or entity acquiring the land shall allow the grazing to continue for the remainder of the term of the lease, permit, or contract, subject

to the related terms and conditions of user agreements, including permitted stocking rates, grazing fee levels, access rights, and ownership and use of range improvements.

(2) RENEWAL.—To the extent allowed by Federal or State law, on expiration of any grazing lease, permit, or contract described in paragraph (1), the holder of the lease, permit, or contract shall be entitled to a preference right to renew the lease, permit, or contract.

(3) CANCELLATION.—

(A) IN GENERAL.—Nothing in this Act prevents the Secretary or the State from canceling or modifying a grazing permit, lease, or contract if the land subject to the permit, lease, or contract is sold, conveyed, transferred, or leased for nongrazing purposes by the party.

(B) LIMITATION.—Except to the extent reasonably necessary to accommodate surface operations in support of mineral development, the Secretary or the State shall not cancel or modify a grazing permit, lease, or contract because the land subject to the permit, lease, or contract has been leased for mineral development.

(4) BASE PROPERTIES.—If land conveyed by the State under this Act is used by a grazing permittee or lessee to meet the base property requirements for a Federal grazing permit or lease, the land shall continue to qualify as a base property for the remaining term of the lease or permit and the term of any renewal or extension of the lease or permit.

(d) HAZARDOUS MATERIALS.—

(1) IN GENERAL.—The Secretary and, as a condition of the exchange, the State shall make available for review and inspection any record relating to hazardous materials on the land to be exchanged under this Act.

(2) COSTS.—The costs of remedial actions relating to hazardous materials on land acquired under this Act shall be paid by those entities responsible for the costs under applicable law.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

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

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