

110TH CONGRESS
1ST SESSION

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

A BILL

To authorize 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 2007”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

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

1 County, Utah, contains nationally recognized scenic
2 vistas, significant archaeological and historic re-
3 sources, valuable wildlife habitat, and outstanding
4 opportunities for public recreation that are enjoyed
5 by hundreds of thousands of people annually;

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

12 (3) the parcels of State trust land are largely
13 scattered in checkerboard fashion amid the Federal
14 land comprising the area of the Colorado River cor-
15 ridor, the Dinosaur National Monument, and the
16 Book Cliffs;

17 (4) the State trust land in the area of the Colo-
18 rado River corridor, Dinosaur National Monument,
19 and the Book Cliffs includes significant natural and
20 recreational features, including—

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

23 (B) the nationally recognized Kokopelli
24 and Slickrock trails;

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

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

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

7 (5) the large presence of State trust land lo-
8 cated in the Colorado River corridor, Dinosaur Na-
9 tional Monument, and the Book Cliffs area makes
10 land and resource management in the area more dif-
11 ficult, costly, and controversial for the United States
12 and the State of Utah;

13 (6) although the State trust land was granted
14 to the State to generate financial support for public
15 schools in the State through the sale or development
16 of natural resources, development of those resources
17 in the Colorado River corridor, Dinosaur National
18 Monument, and the Book Cliffs area may be incom-
19 patible with managing the area for recreational, nat-
20 ural, and scenic resources;

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

1 (8) it is in the public interest to exchange feder-
2 ally owned land in the State for the Utah State trust
3 land located in the Colorado River Corridor, Dino-
4 saur National Monument, and the Book Cliffs area,
5 on terms that are fair to the United States and the
6 State of Utah.

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

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

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

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

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

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

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

1 (C) “BLM Lands Proposed for Transfer to
2 State Trust Lands”.

3 (2) GRAND COUNTY MAP.—The term “Grand
4 County Map” means the map prepared by the Bu-
5 reau of Land Management entitled “Utah Rec-
6 reational Land Exchange Act Grand County”, dated
7 September 22, 2006, and relating to the exchange of
8 Federal land and non-Federal land in Grand and
9 San Juan Counties, Utah.

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

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

16 (A) “State Trust Land Proposed for
17 Transfer to BLM”; and

18 (B) “State Trust Minerals Proposed for
19 Transfer to BLM”.

20 (5) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior.

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

1 (7) UINTAH COUNTY MAP.—The term “Uintah
2 County Map” means the map prepared by the Bu-
3 reau of Land Management entitled “Utah Rec-
4 reational Land Exchange Act Uintah County”,
5 dated September 22, 2006, and relating to the ex-
6 change of Federal land and non-Federal land in
7 Uintah County, Utah.

8 **SEC. 4. EXCHANGE OF LAND.**

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

13 (1) accept the offer; and

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

18 (b) CONVEYANCE OF PARCELS IN PHASES.—

19 (1) IN GENERAL.—Notwithstanding that ap-
20 praisals for all of the parcels of Federal land and
21 non-Federal land may not have been completed
22 under section 5, parcels of the Federal land and
23 non-Federal land may be exchanged under sub-
24 section (a) in 3 phases beginning on the date on
25 which the appraised values of the parcels included in

1 the applicable phase are approved under section
2 5(b)(5).

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

5 (A) phase 1, consisting of the non-Federal
6 land identified as “phase one” land on the
7 Grand County Map;

8 (B) phase 2, consisting of the non-Federal
9 land identified as “phase two” land on the
10 Grand County Map and the Uintah County
11 Map; and

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

16 (3) NO AGREEMENT ON EXCHANGE.—If agree-
17 ment has not been reached with respect to the ex-
18 change of an individual parcel of Federal land or
19 non-Federal land, the Secretary and the State may
20 agree to set aside the individual parcel to allow the
21 exchange of the other parcels of Federal land and
22 non-Federal land to proceed.

23 (c) APPURTENANT WATER RIGHTS.—Any convey-
24 ance of a parcel of Federal land or non-Federal land under

1 this Act shall include the conveyance of water rights ap-
2 purtenant to the parcel conveyed.

3 (d) TIMING.—

4 (1) IN GENERAL.—Except as provided in para-
5 graphs (2) and (3), the exchange of land authorized
6 by subsection (a) shall be completed not later than
7 330 days after the date on which the State makes
8 the Secretary an offer to convey the non-Federal
9 land under that subsection.

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

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

17 (e) COMPLIANCE.—Except as otherwise provided in
18 this Act, the exchange of land shall be carried out in com-
19 pliance with all laws and regulations applicable to the ex-
20 change of Federal land for non-Federal land.

21 **SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALI-**
22 **ZATION.**

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

1 (1) shall be equal; or

2 (2) shall be made equal in accordance with sub-
3 section (c).

4 (b) APPRAISALS.—

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

8 (A) section 206(d) of the Federal Land
9 Policy and Management Act of 1976 (43 U.S.C.
10 1716(d)); and

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

13 (2) SELECTION OF APPRAISER.—The appraisals
14 of the Federal land and non-Federal land shall be
15 conducted by 1 or more independent third-party ap-
16 praisers selected jointly by the Secretary and the
17 State.

18 (3) COSTS.—

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

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

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

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

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

13 (i) 50 percent of any bonus or rental
14 payments (in the form of money or other
15 consideration) that the State receives for
16 the disposition of any interest in the min-
17 erals after the date of conveyance; and

18 (ii) an amount equal to—

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

1 (aa) retained by the United
2 States; and

3 (bb) leased under the provi-
4 sions of that Act in effect on the
5 date of this Act; minus

6 (II) the portion of production
7 royalties that would otherwise be pay-
8 able to the State under section 35 of
9 the Mineral Leasing Act (30 U.S.C.
10 191).

11 (B) OBLIGATION AS COVENANT.—The obli-
12 gation of the State to pay bonus, rental, and
13 royalty revenues to the United States under
14 subparagraph (A) shall be a permanent cov-
15 enant running with the applicable parcel of
16 Federal land conveyed to the State.

17 (C) SPECIAL ACCOUNT.—All revenues re-
18 ceived by the United States under this para-
19 graph shall be deposited in a special account in
20 the Treasury of the United States and shall be
21 available without further appropriation to the
22 Secretary until expended for—

23 (i) the equalization of values as pro-
24 vided in subsection (c)(1);

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

6 (iii) the purchase of lands or interests
7 therein owned by the State of Utah as
8 trustee under the Utah State School and
9 Institutional Trust Lands Management
10 Act that are determined by the Secretary
11 to have outstanding characteristics for out-
12 door recreation, wildlife habitat, wilder-
13 ness, or other natural resources.

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

16 (i) from a willing seller;

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

20 (iii) at a price not to exceed fair mar-
21 ket value consistent with applicable provi-
22 sions of the Uniform Appraisal Standards
23 for Federal Land Acquisitions; and

24 (iv) managed as part of the unit with-
25 in which it is contained.

1 (5) REVIEW AND APPROVAL.—

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

7 (B) APPROVAL OR DISAPPROVAL.—Not
8 later than 90 days after the date of receipt of
9 an appraisal under subparagraph (A), the Sec-
10 retary and the State shall independently ap-
11 prove or disapprove the appraisal.

12 (6) DETERMINATION OF VALUE.—

13 (A) DETERMINATION BY SECRETARY AND
14 STATE.—If the Secretary and the State are un-
15 able to agree on the value of a parcel of land,
16 the value of the parcel may be determined by
17 the Secretary and the State in accordance with
18 paragraphs (2) and (4) of section 206(d) of the
19 Federal Land Policy and Management Act of
20 1976 (43 U.S.C. 1716(d)).

21 (B) VALUATION OF LEASED FEDERAL
22 LAND.—

23 (i) IN GENERAL.—If value is attrib-
24 uted to any parcel of Federal land because
25 of the presence of minerals subject to leas-

1 ing under the Mineral Leasing Act (30
2 U.S.C. 191 et seq.), and the parcel is sub-
3 ject to an existing lease under that Act,
4 the value of the parcel shall be equal to the
5 value of the parcel as determined under
6 this section, as adjusted under clause (ii).

7 (ii) ADJUSTMENT.—

8 (I) IN GENERAL.—The value of
9 the parcel subject to a lease under
10 clause (i) shall be reduced by the per-
11 centage of the Federal revenue shar-
12 ing obligation under section 35(a) of
13 the Mineral Leasing Act (30 U.S.C.
14 191(a)).

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

19 (C) DETERMINATION BY COURT.—

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

1 States District Court for the District of
2 Utah, Central Division) shall have jurisdic-
3 tion to determine the value of the parcel.

4 (ii) LIMITATION.—An action to deter-
5 mine the value of a parcel under clause (i)
6 shall be brought not earlier than 1 year,
7 but not more than 3 years, after the date
8 of enactment of this Act.

9 (D) AVAILABILITY OF APPRAISALS.—

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

17 (ii) PUBLICATION.—The Secretary
18 shall publish in a newspaper of general cir-
19 culation in Salt Lake County, Utah, a no-
20 tice that the appraisals are available for
21 public inspection.

22 (c) EQUALIZATION OF VALUES.—

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

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

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

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

21 (B) the Secretary and the State adding ad-
22 ditional State trust land to the non-Federal
23 land, if—

24 (i) the additional land has been ap-
25 praised in accordance with an ongoing

1 Federal acquisition process or program;
2 and

3 (ii) the appraised value (as deter-
4 mined under clause (i)) has been accepted
5 by the Secretary.

6 (3) NOTICE AND PUBLIC INSPECTION.—

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

10 (i) publish in a newspaper of general
11 circulation in Salt Lake County, Utah, a
12 notice that identifies when and where a re-
13 vised exchange map will be available for
14 public inspection; and

15 (ii) transmit to the Committee on En-
16 ergy and Natural Resources of the Senate
17 and the Committee on Natural Resources
18 of the House of Representatives a copy of
19 the revised exchange map.

20 (B) LIMITATION.—The Secretary and the
21 State shall not add or remove land from the ex-
22 change until at least 20 days after the date on
23 which the notice is published under subpara-
24 graph (A)(i) and the map is transmitted under
25 subparagraph (A)(ii).

1 (d) RESOURCE REPORT.—

2 (1) IN GENERAL.—With respect to each parcel
3 of Federal land to be conveyed to the State, the Sec-
4 retary shall prepare a report, based on land manage-
5 ment plans, resource inventories, and surveys exist-
6 ing on the date on which the report is prepared, that
7 identifies any significant resource values, issues, or
8 management concerns associated with the parcel.

9 (2) NOTICE AND INSPECTION.—A report shall
10 be subject to the public notice and inspection in ac-
11 cordance with subsection (b)(6)(D).

12 **SEC. 6. STATUS AND MANAGEMENT OF LAND AFTER EX-**
13 **CHANGE.**

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

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

22 (2) MINERAL LEASING AND OCCUPANCY.—

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

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

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

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

12 (B) EXCEPTION.—Any land identified on
13 the maps as “Withdrawal Parcels” is with-
14 drawn from the operation of the mineral leasing
15 and mineral material disposal laws.

16 (3) RECEIPTS.—

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

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

1 (b) 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 is 3 years after the
5 date of enactment of this Act 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 (c) GRAZING PERMITS.—

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

1 to the related terms and conditions of user agree-
2 ments, including permitted stocking rates, grazing
3 fee levels, access rights, and ownership and use of
4 range improvements.

5 (2) RENEWAL.—To the extent allowed by Fed-
6 eral or State law, on expiration of any grazing lease,
7 permit, or contract described in paragraph (1), the
8 holder of the lease, permit, or contract shall be enti-
9 tled to a preference right to renew the lease, permit,
10 or contract.

11 (3) CANCELLATION.—

12 (A) IN GENERAL.—Nothing in this Act
13 prevents the Secretary or the State from can-
14 celing or modifying a grazing permit, lease, or
15 contract if the land subject to the permit, lease,
16 or contract is sold, conveyed, transferred, or
17 leased for nongrazing purposes by the party.

18 (B) LIMITATION.—Except to the extent
19 reasonably necessary to accommodate surface
20 operations in support of mineral development,
21 the Secretary or the State shall not cancel or
22 modify a grazing permit, lease, or contract be-
23 cause the land subject to the permit, lease, or
24 contract has been leased for mineral develop-
25 ment.

1 (4) **BASE PROPERTIES.**—If land conveyed by
2 the State under this Act is used by a grazing per-
3 mittee or lessee to meet the base property require-
4 ments for a Federal grazing permit or lease, the
5 land shall continue to qualify as a base property for
6 the remaining term of the lease or permit and the
7 term of any renewal or extension of the lease or per-
8 mit.

9 (d) **HAZARDOUS MATERIALS.**—

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

15 (2) **COSTS.**—The costs of remedial actions re-
16 lating to hazardous materials on land acquired
17 under this Act shall be paid by those entities respon-
18 sible for the costs under applicable law.

19 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

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

○