

109TH CONGRESS
2D SESSION

H. R. 2069

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2006

Received

NOVEMBER 13, 2006

Read twice and referred to the Committee on Energy and Natural Resources

AN ACT

To authorize the exchange of certain land in Grand 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Utah Recreational
3 Land Exchange Act of 2006”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the area surrounding the Colorado River in
7 Grand and San Juan Counties, Utah, and Dinosaur
8 National Monument and the Book Cliffs in Uintah
9 County, Utah, contains nationally recognized scenic
10 vistas, significant archaeological and historic re-
11 sources, valuable wildlife habitat, and outstanding
12 opportunities for public recreation that are enjoyed
13 by hundreds of thousands of people annually;

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

20 (3) the parcels of State trust land are largely
21 scattered in checkerboard fashion amid the Federal
22 land comprising the area of the Colorado River cor-
23 ridor, the Dinosaur National Monument, and the
24 Book Cliffs;

25 (4) the State trust land in the area of the Colo-
26 rado River corridor, Dinosaur National Monument,

1 and the Book Cliffs includes significant natural and
2 recreational features, including—

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

5 (B) the nationally recognized Kokopelli
6 and Slickrock trails;

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

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

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

13 (5) the large presence of State trust land lo-
14 cated in the Colorado River corridor, Dinosaur Na-
15 tional Monument, and the Book Cliffs area makes
16 land and resource management in the area more dif-
17 ficult, costly, and controversial for the United States
18 and the State of Utah;

19 (6) although the State trust land was granted
20 to the State to generate financial support for public
21 schools in the State through the sale or development
22 of natural resources, development of those resources
23 in the Colorado River corridor, Dinosaur National
24 Monument, and the Book Cliffs area may be incom-

1 patible with managing the area for recreational, nat-
2 ural, and scenic resources;

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

8 (8) it is in the public interest to exchange feder-
9 ally owned land in the State for the Utah State trust
10 land located in the Colorado River Corridor, Dino-
11 saur National Monument, and the Book Cliffs area,
12 on terms that are fair to the United States and the
13 State of Utah.

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

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

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

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

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

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

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

9 (C) “BLM Lands Proposed for Transfer to
10 State Trust Lands”.

11 (2) GRAND COUNTY MAP.—The term “Grand
12 County Map” means the map prepared by the Bu-
13 reau of Land Management entitled “Utah Rec-
14 reational Land Exchange Act Grand County” and
15 dated September 22, 2006.

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” and
11 dated September 22, 2006.

12 **SEC. 4. EXCHANGE OF LAND.**

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

17 (1) accept the offer; and

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

22 (b) CONVEYANCE OF PARCELS IN PHASES.—

23 (1) IN GENERAL.—Notwithstanding that ap-
24 praisals for all of the parcels of Federal land and
25 non-Federal land may not have been completed

1 under section 5, parcels of the Federal land and
2 non-Federal land may be exchanged under sub-
3 section (a) in 3 phases beginning on the date on
4 which the appraised values of the parcels included in
5 the applicable phase are approved under section
6 5(b)(5).

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

9 (A) phase 1, consisting of the non-Federal
10 land identified as “phase one” land on the
11 Grand County Map;

12 (B) phase 2, consisting of the non-Federal
13 land identified as “phase two” land on the
14 Grand County Map and the Uintah County
15 Map; and

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

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

1 exchange of the other parcels of Federal land and
2 non-Federal land to proceed.

3 (c) APPURTENANT WATER RIGHTS.—Any convey-
4 ance of a parcel of Federal land or non-Federal land under
5 this Act shall include the conveyance of water rights ap-
6 purtenant to the parcel conveyed.

7 (d) TIMING.—

8 (1) IN GENERAL.—Except as provided in para-
9 graphs (2) and (3), the exchange of land authorized
10 by subsection (a) shall be completed not later than
11 330 days after the date on which the State makes
12 the Secretary an offer to convey the non-Federal
13 land under that subsection.

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

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

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

1 **SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALI-**
2 **ZATION.**

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

6 (1) shall be equal; or

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

9 (b) APPRAISALS.—

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

13 (A) section 206(d) of the Federal Land
14 Policy and Management Act of 1976 (43 U.S.C.
15 1716(d)); and

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

18 (2) SELECTION OF APPRAISER.—The appraisals
19 of the Federal land and non-Federal land shall be
20 conducted by 1 or more independent third-party ap-
21 praisers selected jointly by the Secretary and the
22 State.

23 (3) COSTS.—

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

1 (B) ADJUSTMENT.—The Secretary and the
2 State may agree to adjust the relative value of
3 the Federal land and non-Federal land to be ex-
4 changed under this Act if the Secretary or the
5 State has paid a disproportionate share of the
6 third-party appraisal costs.

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

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

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

22 (ii) an amount equal to—

23 (I) the fraction of gross proceeds
24 from mineral production (in the form
25 of money or other consideration) to

1 which the United States would have
2 been entitled as a production royalty
3 if the land had been—

4 (aa) retained by the United
5 States; and

6 (bb) leased under the provi-
7 sions of that Act in effect on the
8 date of this Act; minus

9 (II) the portion of production
10 royalties that would otherwise be pay-
11 able to the State under section 35 of
12 the Mineral Leasing Act (30 U.S.C.
13 191).

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

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

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

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

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

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

18 (i) from a willing seller;

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

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

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

3 (5) REVIEW AND APPROVAL.—

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

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

14 (6) DETERMINATION OF VALUE.—

15 (A) DETERMINATION BY SECRETARY AND
16 STATE.—If the Secretary and the State are un-
17 able to agree on the value of a parcel of land,
18 the value of the parcel may be determined by
19 the Secretary and the State in accordance with
20 paragraphs (2) and (4) of section 206(d) of the
21 Federal Land Policy and Management Act of
22 1976 (43 U.S.C. 1716(d)).

23 (B) VALUATION OF LEASED FEDERAL
24 LAND.—

1 (i) IN GENERAL.—If value is attrib-
2 uted to any parcel of Federal land because
3 of the presence of minerals subject to leas-
4 ing under the Mineral Leasing Act (30
5 U.S.C. 191 et seq.), and the parcel is sub-
6 ject to an existing lease under that Act,
7 the value of the parcel shall be equal to the
8 value of the parcel as determined under
9 this section, as adjusted under clause (ii).

10 (ii) ADJUSTMENT.—

11 (I) IN GENERAL.—The value of
12 the parcel subject to a lease under
13 clause (i) shall be reduced by the per-
14 centage of the Federal revenue shar-
15 ing obligation under section 35(a) of
16 the Mineral Leasing Act (30 U.S.C.
17 191(a)).

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

22 (C) DETERMINATION BY COURT.—

23 (i) IN GENERAL.—Notwithstanding
24 any other provision of law, if the Secretary
25 and the State have not agreed on the value

1 of a parcel by the date that is 1 year after
2 the date of enactment of this Act, a Fed-
3 eral district court (including the United
4 States District Court for the District of
5 Utah, Central Division) shall have jurisdic-
6 tion to determine the value of the parcel.

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

12 (D) AVAILABILITY OF APPRAISALS.—

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

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

25 (c) EQUALIZATION OF VALUES.—

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

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

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

1 (B) the Secretary and the State adding ad-
2 ditional State trust land to the non-Federal
3 land, if—

4 (i) the additional land has been ap-
5 praised in accordance with an ongoing
6 Federal acquisition process or program;
7 and

8 (ii) the appraised value (as deter-
9 mined under clause (i)) has been accepted
10 by the Secretary.

11 (3) NOTICE AND PUBLIC INSPECTION.—

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

15 (i) publish in a newspaper of general
16 circulation in Salt Lake County, Utah, a
17 notice that identifies when and where a re-
18 vised exchange map will be available for
19 public inspection; and

20 (ii) transmit to the Committee on En-
21 ergy and Natural Resources of the Senate
22 and the Committee on Resources of the
23 House of Representatives a copy of the re-
24 vised exchange map.

1 (B) LIMITATION.—The Secretary and the
 2 State shall not add or remove land from the ex-
 3 change until at least 20 days after the date on
 4 which the notice is published under subpara-
 5 graph (A)(i) and the map is transmitted under
 6 subparagraph (A)(ii).

7 (d) RESOURCE REPORT.—

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

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

18 **SEC. 6. STATUS AND MANAGEMENT OF LAND AFTER EX-**
 19 **CHANGE.**

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

21 (1) IN GENERAL.—Subject to paragraph (2)
 22 and in accordance with section 206(c) of the Federal
 23 Land Policy and Management Act of 1976 (43
 24 U.S.C. 1716(c)), the non-Federal land acquired by
 25 the United States under this Act shall become part

1 of, and be managed as part of, the Federal adminis-
2 trative unit or area in which the land is located.

3 (2) MINERAL LEASING AND OCCUPANCY.—

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

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

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

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

22 (3) RECEIPTS.—

23 (A) IN GENERAL.—Any receipts derived
24 from the non-Federal land acquired under this

1 Act shall be paid into the general fund of the
2 Treasury.

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

7 (b) WITHDRAWAL OF FEDERAL LAND PRIOR TO EX-
8 CHANGE.—Subject to valid existing rights, during the pe-
9 riod beginning on the date of enactment of this Act and
10 ending on the earlier of the date that is 3 years after the
11 date of enactment of this Act or the date on which the
12 Federal land is conveyed under this Act, the Federal land
13 is withdrawn from—

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

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

18 (3) the operation of—

19 (A) the mineral leasing laws;

20 (B) the Geothermal Steam Act of 1970
21 (30 U.S.C. 1001 et seq.); and

22 (C) the first section of the Act of July 31,
23 1947 (commonly known as the “Materials Act
24 of 1947”) (30 U.S.C. 601).

25 (c) GRAZING PERMITS.—

1 (1) IN GENERAL.—If land acquired under this
2 Act is subject to a lease, permit, or contract for the
3 grazing of domestic livestock in effect on the date of
4 acquisition, the person or entity acquiring the land
5 shall allow the grazing to continue for the remainder
6 of the term of the lease, permit, or contract, subject
7 to the related terms and conditions of user agree-
8 ments, including permitted stocking rates, grazing
9 fee levels, access rights, and ownership and use of
10 range improvements.

11 (2) RENEWAL.—To the extent allowed by Fed-
12 eral or State law, on expiration of any grazing lease,
13 permit, or contract described in paragraph (1), the
14 holder of the lease, permit, or contract shall be enti-
15 tled to a preference right to renew the lease, permit,
16 or contract.

17 (3) CANCELLATION.—

18 (A) IN GENERAL.—Nothing in this Act
19 prevents the Secretary or the State from can-
20 celing or modifying a grazing permit, lease, or
21 contract if the land subject to the permit, lease,
22 or contract is sold, conveyed, transferred, or
23 leased for nongrazing purposes by the party.

24 (B) LIMITATION.—Except to the extent
25 reasonably necessary to accommodate surface

1 operations in support of mineral development,
2 the Secretary or the State shall not cancel or
3 modify a grazing permit, lease, or contract be-
4 cause the land subject to the permit, lease, or
5 contract has been leased for mineral develop-
6 ment.

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

15 (d) HAZARDOUS MATERIALS.—

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

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

1 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

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

 Passed the House of Representatives September 27,
2006.

Attest:

KAREN L. HAAS,
Clerk.