

109TH CONGRESS
2D SESSION

S. 2788

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

MAY 11, 2006

Mr. BENNETT (for himself and Mr. HATCH) introduced the following bill;
which was read twice and referred to the Committee on Energy and Nat-
ural 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 2006”.

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” and
7 dated **【_____】**.

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

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

14 (A) “State Trust Land Proposed for
15 Transfer to BLM”; and

16 (B) “State Trust Minerals Proposed for
17 Transfer to BLM”.

18 (5) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

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

24 (7) UINTAH COUNTY MAP.—The term “Uintah
25 County Map” means the map prepared by the Bu-

1 reau of Land Management entitled “Utah Rec-
 2 reational Land Exchange Act Uintah County” and
 3 dated [_____].

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

5 (a) IN GENERAL.—Notwithstanding any other provi-
 6 sion of law, if, not later than 30 days after the date of
 7 enactment of this Act, the State offers to convey to the
 8 United States title to the non-Federal land, the Secretary
 9 shall—

10 (1) accept the offer; and

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

15 (b) CONVEYANCE OF PARCELS IN PHASES.—

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

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

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

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

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

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

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

25 (d) TIMING.—

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

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

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

14 **SEC. 5. EXCHANGE VALUATION, APPRAISALS, AND EQUALI-**
 15 **ZATION.**

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

19 (1) shall be equal; or

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

22 (b) APPRAISALS.—

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

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

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

6 (2) SELECTION OF APPRAISER.—The appraisals
 7 of the Federal land and non-Federal land shall be
 8 conducted by 1 or more independent third-party ap-
 9 praisers selected jointly by the Secretary and the
 10 State.

11 (3) COSTS.—

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

15 (B) ADJUSTMENT.—The Secretary and the
 16 State may agree to adjust the relative value of
 17 the Federal land and non-Federal land to be ex-
 18 changed under this Act if the Secretary or the
 19 State has paid a disproportionate share of the
 20 third-party appraisal costs.

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

23 (A) IN GENERAL.—Any parcel of Federal
 24 land that, as of the date of appraisal, is not
 25 leased under the Mineral Leasing Act (30

1 U.S.C. 181 et seq.), shall be appraised without
2 regard to the presence of minerals subject to
3 lease under that Act, if, after conveyance of the
4 applicable parcel to the State, the State agrees
5 to pay to the United States—

6 (i) 50 percent of any bonus or rental
7 payments (in the form of money or other
8 consideration) that the State receives for
9 the disposition of any interest in the min-
10 erals after the date of conveyance; and

11 (ii) an amount equal to—

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

18 (aa) retained by the United
19 States; and

20 (bb) leased under the provi-
21 sions of that Act in effect on the
22 date of this Act; minus

23 (II) the portion of production
24 royalties that would otherwise be pay-
25 able to the State under section 35 of

1 the Mineral Leasing Act (30 U.S.C.
2 191).

3 (B) OBLIGATION AS COVENANT.—The obli-
4 gation of the State to pay bonus, rental, and
5 royalty revenues to the United States under
6 subparagraph (A) shall be a permanent cov-
7 enant running with the applicable parcel of
8 Federal land conveyed to the State.

9 (5) REVIEW AND APPROVAL.—

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

15 (B) APPROVAL OR DISAPPROVAL.—Not
16 later than 90 days after the date of receipt of
17 an appraisal under subparagraph (A), the Sec-
18 retary and the State shall independently ap-
19 prove or disapprove the appraisal.

20 (6) DETERMINATION OF VALUE.—

21 (A) DETERMINATION BY SECRETARY AND
22 STATE.—If the Secretary and the State are un-
23 able to agree on the value of a parcel of land,
24 the value of the parcel may be determined by
25 the Secretary and the State in accordance with

1 paragraphs (2) and (4) of section 206(d) of the
2 Federal Land Policy and Management Act of
3 1976 (43 U.S.C. 1716(d)).

4 (B) VALUATION OF LEASED FEDERAL
5 LAND.—

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

15 (ii) ADJUSTMENT.—

16 (I) IN GENERAL.—The value of
17 the parcel subject to a lease under
18 clause (i) shall be reduced by the per-
19 centage of the Federal revenue shar-
20 ing obligation under section 35(a) of
21 the Mineral Leasing Act (30 U.S.C.
22 191(a)).

23 (II) NO PROPERTY RIGHT.—An
24 adjustment under subclause (I) shall

1 not be considered to be a property
2 right of the State.

3 (C) DETERMINATION BY COURT.—

4 (i) IN GENERAL.—Notwithstanding
5 any other provision of law, if the Secretary
6 and the State have not agreed on the value
7 of a parcel by the date that is 1 year after
8 the date of enactment of this Act, a Fed-
9 eral district court (including the United
10 States District Court for the District of
11 Utah, Central Division) shall have jurisdic-
12 tion to determine the value of the parcel.

13 (ii) LIMITATION.—An action to deter-
14 mine the value of a parcel under clause (i)
15 shall be brought not earlier than 1 year,
16 but not more than 3 years, after the date
17 of enactment of this Act.

18 (D) AVAILABILITY OF APPRAISALS.—

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

1 (ii) PUBLICATION.—The Secretary
 2 shall publish in a newspaper of general cir-
 3 culation in Salt Lake County, Utah, a no-
 4 tice that the appraisals are available for
 5 public inspection.

6 (c) EQUALIZATION OF VALUES.—

7 (1) SURPLUS OF NON-FEDERAL LAND.—If after
 8 completion of the appraisal and dispute resolution
 9 process under subsection (b), the value of the non-
 10 Federal land exceeds the value of the Federal land—

11 (A) the Secretary may, to the extent con-
 12 sistent with other applicable laws (including
 13 regulations), offer to convey to the State, in
 14 partial exchange for the non-Federal land, any
 15 Federal land in the State that—

16 (i) is mutually selected by the Sec-
 17 retary and the State;

18 (ii) the Secretary has identified as
 19 suitable for disposal in a resource manage-
 20 ment plan prepared under the Federal
 21 Land Policy and Management Act of 1976
 22 (43 U.S.C. 1701 et seq.); or

23 (B) the State, after consultation with the
 24 Secretary, may remove parcels of non-Federal

1 land from the exchange until the value of the
 2 Federal land and non-Federal land is equal.

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

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

12 (B) the Secretary and the State adding ad-
 13 ditional State trust land to the non-Federal
 14 land, if—

15 (i) the additional land has been ap-
 16 praised in accordance with an ongoing
 17 Federal acquisition process or program;
 18 and

19 (ii) the appraised value (as deter-
 20 mined under clause (i)) has been accepted
 21 by the Secretary.

22 (3) NOTICE AND PUBLIC INSPECTION.—

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

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

6 (ii) transmit to the Committee on En-
 7 ergy and Natural Resources of the Senate
 8 and the Committee on Resources of the
 9 House of Representatives a copy of the re-
 10 vised exchange map.

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

17 (d) RESOURCE REPORT.—

18 (1) IN GENERAL.—With respect to each parcel
 19 of Federal land to be conveyed to the State, the Sec-
 20 retary shall prepare a report, based on resource in-
 21 ventories and information in existence on the date
 22 on which the report is prepared, that identifies any
 23 significant resource values, issues, or management
 24 concerns associated with the parcel.

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

4 **SEC. 6. STATUS AND MANAGEMENT OF LAND AFTER EX-**
 5 **CHANGE.**

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

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

14 (2) MINERAL LEASING AND OCCUPANCY.—

15 (A) IN GENERAL.—Subject to valid exist-
 16 ing rights, the non-Federal land acquired by the
 17 United States under this Act shall be with-
 18 drawn from the operation of the mineral leasing
 19 and mineral material disposal laws until the
 20 later of—

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

23 (ii) the date on which the Record of
 24 Decision authorizing the implementation of
 25 the applicable resource management plans

1 under section 202 of the Federal Land
2 Policy and Management Act of 1976 (43
3 U.S.C. 1712) is signed.

4 (B) EXCEPTION.—Any land identified on
5 the maps as “Withdrawal Parcels” is with-
6 drawn from the operation of the mineral leasing
7 and mineral material disposal laws.

8 (3) RECEIPTS.—

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

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

17 (b) WITHDRAWAL OF FEDERAL LAND PRIOR TO EX-
18 CHANGE.—Subject to valid existing rights, during the pe-
19 riod beginning on the date of enactment of this Act and
20 ending on the earlier of the date that is 3 years after the
21 date of enactment of this Act or the date on which the
22 Federal land is conveyed under this Act, the Federal land
23 is withdrawn from—

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

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

3 (3) the operation of—

4 (A) the mineral leasing laws;

5 (B) the Geothermal Steam Act of 1970
6 (30 U.S.C. 1001 et seq.); and

7 (C) the first section of the Act of July 31,
8 1947 (commonly known as the “Materials Act
9 of 1947”) (30 U.S.C. 601).

10 (c) GRAZING PERMITS.—

11 (1) IN GENERAL.—If land acquired under this
12 Act is subject to a lease, permit, or contract for the
13 grazing of domestic livestock in effect on the date of
14 acquisition, the person or entity acquiring the land
15 shall allow the grazing to continue for the remainder
16 of the term of the lease, permit, or contract, subject
17 to the related terms and conditions of user agree-
18 ments, including permitted stocking rates, grazing
19 fee levels, access rights, and ownership and use of
20 range improvements.

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

1 tled to a preference right to renew the lease, permit,
2 or contract.

3 (3) CANCELLATION.—

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

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

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

1 (d) HAZARDOUS MATERIALS.—

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

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

11 (e) PROVISIONS RELATING TO FEDERAL LAND.—
12 The exchange of land under this Act shall be considered
13 to be in the public interest under section 206(a) of the
14 Federal Land Policy and Management Act of 1976 (43
15 U.S.C. 1716(a)).

16 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

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

○