

114TH CONGRESS
1ST SESSION

S. 14

To authorize the Secretary of the Interior to convey certain interests in Federal land acquired for the Scofield Project in Carbon County, Utah.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2015

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

A BILL

To authorize the Secretary of the Interior to convey certain interests in Federal land acquired for the Scofield Project in Carbon County, Utah.

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 “Scofield Land Transfer
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) CARBON COUNTY.—The term “Carbon
9 County” means Carbon County, Utah, within which
10 the Scofield Reservoir property is located.

1 (2) CLAIMANT.—The term “claimant” means
 2 any person or entity (or a successor in interest to a
 3 person or entity) that, according to the records in
 4 the office of the Recorder for Carbon County, as of
 5 the date of enactment of this Act, claims title to, or
 6 an interest in, the Federal land.

7 (3) FEDERAL LAND.—

8 (A) IN GENERAL.—The term “Federal
 9 land” means the land acquired by Price River
 10 Water Conservation District and transferred to
 11 the United States for use in the construction
 12 and operation of Scofield Dam and Reservoir
 13 located between the normal water surface ele-
 14 vation and the property boundary elevation in
 15 the Scofield Reservoir basin.

16 (B) EXCLUSIONS.—The term “Federal
 17 land” does not include—

18 (i) any mineral or subsurface rights to
 19 the land described in subparagraph (A); or
 20 (ii) the 205 acres of land adjoining
 21 the Scofield Reservoir, as adjudicated in
 22 the case styled United States v. Dunn (557
 23 F.3d 1165 (10th Cir. 2009)).

24 (4) FLOOD SURCHARGE ELEVATION.—The term
 25 “flood surcharge elevation” means the elevation of

1 7640.3 in the North American Vertical Datum of
2 1988, which corresponds to the elevation of the crest
3 of Scofield Dam.

4 (5) FUND.—The term “Fund” means the Sco-
5 field Reservoir Fund established by section
6 3(d)(9)(A).

7 (6) LIFE ESTATE.—The term “life estate”
8 means—

9 (A) if the claimant is a person, an interest
10 of the claimant in the Federal land that will re-
11 vert to the United States on the date of the
12 death of the claimant; and

13 (B) if the claimant is an entity, an interest
14 in the Federal land of a person designated by
15 the claimant that will revert to the United
16 States on the date of the death of the des-
17 ignated person.

18 (7) NORMAL WATER SURFACE ELEVATION.—
19 The term “normal water surface elevation” means
20 the contour elevation of 7621.8 in the North Amer-
21 ican Vertical Datum of 1988, which corresponds to
22 the elevation of the crest of the spillway of Scofield
23 Dam.

24 (8) PROPERTY BOUNDARY ELEVATION.—The
25 term “property boundary elevation” means the con-

1 tour elevation 7630, as surveyed by McGonagle and
 2 Ulrich, Land Surveyors, in 1926, which was trans-
 3 muted to the current elevation of 7638.9 in the
 4 North American Vertical Datum of 1988 and which
 5 corresponds to 1.4 vertical feet below the crest of
 6 Scofield Dam.

7 (9) ROADS.—The term “Roads” means the
 8 streets, improved and unimproved, as in existence on
 9 the date of enactment of this Act, that—

10 (A) are located on the Federal land;

11 (B) are intended for public access via mo-
 12 torized vehicle to the Federal land claims of the
 13 claimants; and

14 (C) extend to the shoreline of Scofield Res-
 15 ervoir.

16 (10) SECRETARY.—The term “Secretary”
 17 means the Secretary of the Interior.

18 (11) STRUCTURE.—

19 (A) IN GENERAL.—The term “structure”
 20 means any improvement located on the property
 21 of a claimant, as in existence on the date of en-
 22 actment of this Act, including—

23 (i) a residence;

24 (ii) a shed;

25 (iii) a workshop;

- 1 (iv) a garage;
- 2 (v) a carport;
- 3 (vi) a deck;
- 4 (vii) a boathouse; or
- 5 (viii) an incidental building.

6 (B) INCLUSION.—The term “structure” in-
7 cludes any infrastructure associated with a resi-
8 dence that is not owned by a public or private
9 utility, including water, power, sewer, and im-
10 provements to Roads.

11 **SEC. 3. CONVEYANCE OF SCOFIELD PROJECT LAND.**

12 (a) SURVEY.—

13 (1) IN GENERAL.—To facilitate the conveyance
14 of the Federal land under this Act, it shall be the
15 responsibility of Carbon County—

16 (A) to enter into an agreement with the
17 Secretary to pay the costs associated with a full
18 physical and title survey of the Federal land in
19 order to delineate the boundaries associated
20 with the Federal land, Federal easements, or
21 other Federal interests in land; and

22 (B) subject to paragraph (2), to initiate
23 and complete a full physical survey of the
24 Roads and the parcels located within the Fed-
25 eral land that are eligible to be conveyed to the

1 claimants, and, in any case in which a land de-
2 scription or record of ownership in any record
3 of Carbon County conflicts with a claim of a
4 claimant with regard to an existing physical
5 feature or facility, propose boundaries and land
6 descriptions to resolve the dispute.

7 (2) UNRESOLVED DISPUTES.—

8 (A) IN GENERAL.—If a claim to a parcel
9 or portion of a parcel of Federal land cannot be
10 resolved in accordance with the applicable land
11 description in the records of Carbon County by
12 the applicable deadline for an election under
13 subsection (d)(6), the claimant shall stipulate
14 to, accept, and submit to the Secretary the land
15 description developed by Carbon County to re-
16 solve the dispute in order to meet the election
17 requirement of subsection (d)(6) by not later
18 than 180 days after that deadline.

19 (B) FAILURE TO STIPULATE AND AC-
20 CEPT.—If a claimant fails to stipulate to and
21 accept the land description of Carbon County
22 by the date described in subparagraph (A), the
23 authority to convey the affected parcel or por-
24 tion of a parcel of Federal land pursuant to this

1 section shall be terminated with respect to the
2 disputed claim.

3 (b) APPRAISAL.—

4 (1) IN GENERAL.—As a condition of the con-
5 veyance under this section, Carbon County shall
6 enter into an agreement with the Secretary to pay
7 the costs associated with an appraisal of the fair
8 market value of each property interest requested by
9 a claimant relating to the conveyance by the Sec-
10 retary under this Act.

11 (2) DETERMINATION OF FAIR MARKET
12 VALUE.—The fair market value of a property inter-
13 est under paragraph (1) shall be determined by the
14 Secretary in accordance with the Uniform Appraisal
15 Standards for Federal Land Acquisitions and the
16 Uniform Standards of Professional Appraisal Prac-
17 tices.

18 (c) NOTIFICATION.—It shall be the responsibility of
19 Carbon County to notify each claimant of any trespass or
20 encroachment by the applicable claimant on the Federal
21 land, including the existence of any trespassing or en-
22 croaching structure of the claimant.

23 (d) AUTHORIZATION TO CONVEY FEDERAL LAND.—

24 (1) IN GENERAL.—To resolve the issues of tres-
25 pass and encroachment on the Federal land by the

1 claimants, the Secretary may, in accordance with
2 paragraphs (5) and (6)—

3 (A) on an election by a claimant—

4 (i) subject to paragraph (2), convey to
5 the claimant fee interest in the claimed
6 portion of the Federal land that is located
7 above the normal water surface elevation,
8 as determined by the results of the survey
9 required under subsection (a), subject to
10 all valid rights-of-way, licenses, and ease-
11 ments in existence on the date of enact-
12 ment of this Act; or

13 (ii) subject to paragraph (3), grant to
14 the claimant a life estate permitting the
15 continued occupation of the claimed por-
16 tion of the Federal land above the normal
17 water surface elevation, as determined by
18 the results of the survey required under
19 subsection (a), subject to all valid rights-
20 of-way, licenses, and easements in exist-
21 ence on the date of enactment of this Act;
22 or

23 (B) subject to paragraph (4), on an elec-
24 tion by Carbon County, convey to Carbon Coun-
25 ty fee interest in the Roads, as determined by

1 the survey required under subsection (a), sub-
2 ject to all valid rights-of-way, licenses, and
3 easements in existence on the date of enactment
4 of this Act.

5 (2) CONVEYANCE REQUIREMENTS.—A convey-
6 ance under paragraph (1)(A)(i) shall be subject to—

7 (A) the claimant paying to the Secretary
8 the fair market value of the fee interest in the
9 claimed portion of the Federal land, as deter-
10 mined by the Secretary under subsection (b),
11 exclusive of the value of any structures;

12 (B) provisions under which the claimant
13 shall agree to indemnify and hold harmless the
14 United States for all claims by the claimant or
15 others arising from—

16 (i) the design, construction, operation,
17 maintenance, or replacement of Scofield
18 Dam and Reservoir;

19 (ii) the survey of claims, description of
20 claims, delineation of boundaries, convey-
21 ance documents, conveyance process, and
22 recording of deeds associated with the con-
23 veyance; and

1 (iii) any damages associated with any
2 structure or chattel of the claimant that
3 may be displaced in a flood event;

4 (C) the United States retaining a flood
5 easement as well as an access easement for pur-
6 poses of monitoring and enforcing the require-
7 ments of subparagraph (D) with respect to the
8 entire portion of Federal land conveyed; and

9 (D) deed restrictions requiring that—

10 (i) to prevent any structure on the
11 portion of the Federal land conveyed from
12 being displaced during a flood event, the
13 claimant shall—

14 (I) secure or tie down all existing
15 structures; and

16 (II) if replacing or rebuilding
17 such a structure, limit the replace-
18 ment or rebuilding to the number and
19 type of structures in existence on the
20 date of enactment of this Act; and

21 (ii) all activities carried out by the
22 claimant under clause (i) with respect to a
23 structure be carried out in accordance with
24 applicable standards for structures that

1 may be submerged, flooded, or inundated,
2 as contained in—

3 (I) the International Building
4 Code (as adopted by Utah Adminis-
5 trative Code R156–56); or

6 (II) any other building code or
7 engineering standard that is—

8 (aa) similar to the Inter-
9 national Building Code;

10 (bb) widely used; and

11 (cc) nationally recognized.

12 (3) LIFE ESTATE REQUIREMENTS.—A life es-
13 tate granted under paragraph (1)(A)(ii) shall be
14 subject to—

15 (A) the claimant paying to the Secretary
16 the fair market value of the life estate on the
17 claimed portion of the Federal land, as deter-
18 mined by the Secretary under subsection (b),
19 but excluding the value of any structures;

20 (B) provisions under which the claimant
21 agrees to indemnify and hold harmless the
22 United States for all claims by the claimant or
23 others arising from—

1 (i) the design, construction, operation,
 2 maintenance, or replacement of Scofield
 3 Dam and Reservoir;

4 (ii) the survey of claims, description of
 5 claims, delineation of boundaries, convey-
 6 ance documents, conveyance process, and
 7 recording of deeds associated with the con-
 8 veyance; and

9 (iii) any damages associated with any
 10 structure or chattel of the claimant that
 11 may be displaced in a flood event; and

12 (C) restrictions equivalent to the deed re-
 13 strictions described in clauses (i) and (ii) of
 14 paragraph (2)(D), as applicable.

15 (4) CONVEYANCE OF ROADS REQUIREMENTS.—

16 A conveyance under paragraph (1)(B) shall be sub-
 17 ject to—

18 (A) Carbon County paying to the Secretary
 19 a sum determined to be acceptable by the Sec-
 20 retary;

21 (B) provisions under which Carbon County
 22 shall agree to indemnify and hold harmless the
 23 United States for all claims by Carbon County
 24 or others arising from—

1 (i) the design, construction, operation,
 2 maintenance, or replacement of Scofield
 3 Dam and Reservoir;

4 (ii) the survey of claims, description of
 5 claims, delineation of boundaries, convey-
 6 ance documents, conveyance process, and
 7 recording of deeds associated with the con-
 8 veyance; and

9 (iii) any damages associated with
 10 structures or chattel of Carbon County
 11 that may be displaced in a flood event;

12 (C) the United States retaining a flood
 13 easement as well as an access easement for pur-
 14 poses of monitoring and enforcing the require-
 15 ments of subparagraph (D) with respect to the
 16 entire portion of the Roads conveyed; and

17 (D) restrictions equivalent to the deed re-
 18 strictions described in clauses (i) and (ii) of
 19 paragraph (2)(D), as applicable.

20 (5) COMPLIANCE WITH ENVIRONMENTAL
 21 LAWS.—

22 (A) IN GENERAL.—Before conveying the
 23 Federal land under paragraph (1)(A)(i) or the
 24 Roads under paragraph (1)(B) or granting a
 25 life estate under paragraph (1)(A)(ii), the Sec-

1 retary shall comply with all applicable require-
2 ments under—

3 (i) the National Environmental Policy
4 Act of 1969 (42 U.S.C. 4321 et seq.);

5 (ii) the Endangered Species Act of
6 1973 (16 U.S.C. 1531 et seq.); and

7 (iii) any other applicable law.

8 (B) EFFECT.—Nothing in this Act modi-
9 fies or alters any obligations under—

10 (i) the National Environmental Policy
11 Act of 1969 (42 U.S.C. 4321 et seq.); or

12 (ii) the Endangered Species Act of
13 1973 (16 U.S.C. 1531 et seq.).

14 (C) COSTS.—Before the initiation of any
15 conveyance under this Act, Carbon County shall
16 pay to the Secretary an amount equal to the
17 costs associated with achieving environmental
18 compliance under this paragraph.

19 (6) DEADLINE FOR ELECTION.—

20 (A) CLAIMANTS.—Not later than 5 years
21 after the date of enactment of this Act, each
22 claimant shall notify the Secretary in writing
23 whether the claimant elects to receive—

(i) a fee interest in the claimed portion of the Federal land, in accordance with paragraph (1)(A)(i); or

(ii) a life estate in the claimed portion of the Federal land, in accordance with paragraph (1)(A)(ii).

(B) CARBON COUNTY.—Not later than 3 years after the date of enactment of this Act, Carbon County shall notify the Secretary in writing whether Carbon County elects to receive a fee interest in the Roads, in accordance with paragraph (1)(B).

(7) FAILURE TO NOTIFY SECRETARY OR COMPLETE TRANSFER.—

(A) NOTICE OF ELECTION.—If a claimant fails to submit to the Secretary a notice of an election in accordance with paragraph (6)(A), any future claim by the claimant with respect to the Federal land shall be terminated.

(B) TRANSFER.—

(i) CLAIMANTS.—If, due to a failure by the claimant to act in furtherance of the transfer of fee interest or life estate under this section, no transfer of the claimed Federal Land has been recorded

1 with the recorder of Carbon County by the
2 date that is 7 years after the date of enact-
3 ment of this Act, any claim by the claim-
4 ant with respect to the Federal land shall
5 be terminated.

6 (ii) CARBON COUNTY.—If, due to a
7 failure by Carbon County to act in further-
8 ance of the transfer of fee interest, no
9 transfer of the Roads has been recorded
10 with the recorder of Carbon County by the
11 date that is 5 years after the date of enact-
12 ment of this Act, the authority of the Sec-
13 retary to convey the interest in the Roads
14 shall be terminated.

15 (C) QUIET TITLE.—On extinguishment of
16 a claim under subparagraph (A) or (B), the
17 Secretary shall take such action as is necessary
18 to quiet title to the applicable portion of the
19 Federal land, including removal of persons, en-
20 tities, structures, and materials encumbering
21 the applicable portion of the Federal land.

22 (8) PAYMENTS IN LIEU OF TAXES.—Any Fed-
23 eral land transferred to a claimant in fee under
24 paragraph (1)(A)(i) or to Carbon County under
25 paragraph (1)(B) shall not be included or taken into

1 consideration in the allocation of any payment in
2 lieu of taxes under chapter 69 of title 31, United
3 States Code.

4 (9) TRUST FUND.—

5 (A) ESTABLISHMENT.—There is estab-
6 lished in the Treasury of the United States a
7 fund, to be known as the “Scofield Reservoir
8 Fund”, to be administered by the Secretary and
9 made available, without fiscal year limitation,
10 for—

11 (i) monitoring and enforcing the re-
12 quirements of paragraphs (2)(C), (3)(C),
13 and (4)(C) regarding maintaining access
14 to, and eliminating encroachment and pri-
15 vate exclusive use of, the Federal land sur-
16 rounding the Scofield Reservoir; and

17 (ii) providing enhanced public rec-
18 reational opportunities at Scofield Res-
19 ervoir.

20 (B) TRANSFERS TO FUND.—There shall be
21 deposited in the Fund any amounts received as
22 consideration for—

23 (i) a conveyance under subparagraph
24 (A)(i) or (B) of paragraph (1); or

- 1 (ii) the granting of a life estate under
- 2 paragraph (1)(A)(ii).

○