

115TH CONGRESS
1ST SESSION

S. 2140

To provide for an exchange of Federal land and non-Federal land in the State of Idaho, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2017

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

A BILL

To provide for an exchange of Federal land and non-Federal land in the State of Idaho, 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. FINDING.**

4 Congress finds that the exchange of Federal land and
5 non-Federal land under this Act furthers the public objec-
6 tives referred to in section 206 of the Federal Land Policy
7 and Management Act of 1976 (43 U.S.C. 1716) for the
8 following reasons:

9 (1) On December 21, 2007, the Bureau of
10 Land Management issued a Final Decision Record

1 and Finding of No Significant Impact approving the
2 Blackrock Land Exchange, IDI-35337, between the
3 United States and the J.R. Simplot Company, an
4 Idaho Corporation, involving Federal land in the Po-
5 catello Field Office in the State of Idaho.

6 (2) The Final Decision Record was issued as a
7 result of a multiyear review and public input process
8 under the National Environmental Policy Act of
9 1969 (42 U.S.C. 4321 et seq.), under which the Bu-
10 reau of Land Management found—

11 (A)(i) the 2 parcels of Federal land com-
12 prising 718.56 acres that are proposed for con-
13 veyance to the J.R. Simplot Company are man-
14 aged by the Bureau of Land Management in
15 the State of Idaho; and

16 (ii) the conveyance of the Federal land de-
17 scribed in clause (i) is consistent with—

18 (I) the multiple-use statutory mission
19 of the Bureau of Land Management; and

20 (II) the Pocatello Resource Manage-
21 ment Plan;

22 (B) the 3 parcels of non-Federal land com-
23 prising 666.92 acres that are proposed for con-
24 veyance to the United States—

1 (i) are owned by the J.R. Simplot
2 Company; and

3 (ii) provide greater resources and val-
4 ues to the United States than the re-
5 sources and values of the Federal land, in-
6 cluding through the United States—

7 (I) consolidating Federal land;

8 (II) gaining direct access to adja-
9 cent Federal land; and

10 (III) acquiring critical deer habi-
11 tat;

12 (C) the Federal land is adjacent to the
13 phosphate ore processing facility of the J.R.
14 Simplot Company;

15 (D) carrying out the land exchange under
16 this Act would provide a buffer and an expan-
17 sion area for a possible phosphate disposal facil-
18 ity;

19 (E) the land exchange under this Act
20 would not authorize any potential future siting
21 of a new phosphate disposal facility or related
22 facilities because other governmental entities,
23 primarily the State of Idaho and the Environ-
24 mental Protection Agency, would still have the
25 responsibility and authority to make decisions

1 relating to the approval of any future phosphate
2 disposal facilities; and

3 (F) after consultation with the Shoshone-
4 Bannock Tribes, a federally recognized Tribe
5 with Tribal headquarters at Fort Hall, Idaho,
6 the Bureau of Land Management determined
7 that—

8 (i) the land exchange authorized
9 under this Act would result in a net loss
10 of 52 acres of public land; but

11 (ii) the loss of public land acreage
12 would be outweighed by the superior nat-
13 ural resources acquired in the land ex-
14 change that would enhance and increase
15 opportunities for off-Reservation hunting
16 and gathering by members of the Tribes.

17 (3) On June 5, 2009, the Interior Board of
18 Land Appeals of the Department of the Interior
19 issued an order, numbered IBLA 2009–27, affirm-
20 ing the Final Decision Record of the Bureau of
21 Land Management.

22 (4) On May 3, 2011, the Federal District Court
23 for the District of Idaho issued a decision finding
24 that the Bureau of Land Management violated the
25 National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) by failing to prepare a full en-
2 vironmental impact statement on detailed future
3 uses, rather than an environmental assessment, with
4 respect to the proposed land exchange.

5 (5) The Bureau of Land Management and the
6 J.R. Simplot Company—

7 (A) disagreed with the decision described
8 in paragraph (4); and

9 (B) argued that the Final Decision Record
10 adequately analyzed the foreseeable environ-
11 mental effects of the land exchange authorized
12 under this Act.

13 (6) The fundamental disagreement over the
14 level of analysis needed to complete the land ex-
15 change authorized under this Act raises the possi-
16 bility of an endless cycle of Federal analysis and liti-
17 gation that has no certain outcome, not only for the
18 Federal land to be exchanged under this Act, but
19 also for other land owned by the United States that
20 is identified for disposal.

21 (7) The land exchange authorized under this
22 Act—

23 (A) would permanently resolve the conflict
24 relating to the Federal land and non-Federal
25 land; and

1 (B) is in the public interest.

2 **SEC. 2. DEFINITIONS.**

3 In this Act:

4 (1) **FEDERAL LAND.**—The term “Federal land”
5 means the 2 parcels of Federal land within the Po-
6 catello Field Office in the State, comprising a total
7 of approximately 718.56 acres, as identified in “Ex-
8 hibit A—Federal Land” in the Final Decision
9 Record.

10 (2) **FINAL DECISION RECORD.**—The term
11 “Final Decision Record” means the Final Decision
12 Record and Finding of No Significant Impact of the
13 Bureau of Land Management issued by the Bureau
14 of Land Management on December 21, 2007, ap-
15 proving the Blackrock Land Exchange, IDI-35337,
16 involving Federal land in the Pocatello Field Office
17 in the State.

18 (3) **J.R. SIMPLOT.**—The term “J.R. Simplot”
19 means the J.R. Simplot Company, a Corporation in
20 the State, with headquarters in Boise, Idaho.

21 (4) **NON-FEDERAL LAND.**—The term “non-Fed-
22 eral land” means the 3 parcels of land owned by
23 J.R. Simplot, comprising a total of approximately
24 666.92 acres, as identified in “Exhibit B—Non-Fed-
25 eral Land” in the Final Decision Record.

1 (5) ORDER.—The term “Order” means the
 2 order of the Interior Board of Land Appeals of the
 3 Department of the Interior numbered IBLA 2009–
 4 27 and issued on June 5, 2009.

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

7 (7) STATE.—The term “State” means the State
 8 of Idaho.

9 **SEC. 3. EXCHANGE OF FEDERAL LAND AND NON-FEDERAL**
 10 **LAND.**

11 (a) REQUIREMENT FOR LAND EXCHANGE.—

12 (1) IN GENERAL.—Subject to the provisions of
 13 this Act, if J.R. Simplot offers to convey to the Sec-
 14 retary all right, title, and interest of J.R. Simplot in
 15 and to the non-Federal land, the Secretary shall con-
 16 vey to J.R. Simplot all right, title, and interest of
 17 the United States in and to the Federal land.

18 (2) DEADLINE FOR COMPLETION.—The land
 19 exchange under this Act shall be completed by not
 20 later than 90 days after the date of enactment of
 21 this Act.

22 (b) FORM OF CONVEYANCE.—

23 (1) NON-FEDERAL LAND.—Title to the non-
 24 Federal land conveyed by J.R. Simplot to the Sec-
 25 retary shall—

1 (A) be by general warranty deed;
2 (B) be subject to existing rights of record;
3 and
4 (C) otherwise conform to the title approval
5 standards of the Attorney General applicable to
6 land acquisitions by the Federal Government.

7 (2) FEDERAL LAND.—The Federal land to be
8 conveyed under this Act shall be quitclaimed by the
9 Secretary to J.R. Simplot by an exchange deed.

10 (c) MAPS AND LEGAL DESCRIPTIONS.—

11 (1) IN GENERAL.—As soon as practicable after
12 the date of enactment of this Act, the Secretary
13 shall finalize a map and legal descriptions of each
14 parcel of Federal land and non-Federal land to be
15 conveyed under this Act.

16 (2) AVAILABILITY.—The maps and legal de-
17 scriptions finalized under paragraph (1) shall be on
18 file and available for public inspection in each appro-
19 priate office of the Secretary.

20 (3) CORRECTION OF ERRORS.—The Secretary
21 may correct any minor error in a map or legal de-
22 scription finalized under paragraph (1).

23 (d) COSTS OF EXCHANGE.—J.R. Simplot shall pay,
24 or reimburse the Secretary, for all land survey, land title,

1 deed preparation, and other costs incurred by the Sec-
2 retary in carrying out the land exchange under this Act.

3 **SEC. 4. VALUATION OF FEDERAL LAND AND NON-FEDERAL**
4 **LAND.**

5 (a) FINDINGS.—Congress finds that—

6 (1) appraisals for the Federal land and non-
7 Federal land to be exchanged under this Act have
8 been—

9 (A) completed under the direction and con-
10 trol of the Office of Valuation Services of the
11 Department of the Interior; and

12 (B) approved by the Secretary in conjunc-
13 tion with preparation of the Final Decision
14 Record;

15 (2) the appraisals described in paragraph (1)
16 determined that the value of the Federal land ex-
17 ceeded the value of the non-Federal land by approxi-
18 mately \$5,000; and

19 (3) based on the appraisals described in para-
20 graph (1), J.R. Simplot would make a \$5,000 cash
21 equalization payment to the Secretary to equalize
22 the values of the Federal land and non-Federal land
23 in accordance with section 206 of the Federal Land
24 Policy and Management Act of 1976 (43 U.S.C.
25 1706).

1 (b) APPRAISED VALUES OF FEDERAL LAND AND
 2 NON-FEDERAL.—

3 (1) IN GENERAL.—The appraised values of the
 4 Federal land and non-Federal land approved by the
 5 Secretary in the Final Decision Record shall be the
 6 values used for purposes of the land exchange under
 7 this Act.

8 (2) NO REAPPRAISAL.—The Federal land and
 9 non-Federal land shall not be subject to reappraisal
 10 for purposes of the land exchange under this Act.

11 **SEC. 5. EFFECT AND JUDICIAL REVIEW.**

12 (a) EFFECT.—The exchange of Federal land and
 13 non-Federal land under this Act shall not constitute a
 14 major Federal action for purposes of the National Envi-
 15 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

16 (b) JUDICIAL REVIEW.—The exchange of Federal
 17 land and non-Federal land under this Act—

18 (1) shall not be subject to judicial or adminis-
 19 trative review; and

20 (2) shall not abrogate, or otherwise have any ef-
 21 fect on, the Order.

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