
Testimony of Michelle McConkie
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Senate Committee on Energy and Natural Resources’
Subcommittee on Public Lands, Forests, and Mining

Hearing on S. 1405
Utah School and Institutional Trust Lands
Administration Exchange Act of 2023
July 12, 2023

Chairwoman Cortez Masto, and members of the Subcommittee, thank you for the opportunity to testify today. I would also like to thank Ranking Member Lee, Representative Curtis, and their colleagues in the Utah Congressional delegation, for their work and assistance in connection with the legislation now before the Subcommittee.

My name is Michelle McConkie, and I am the Director of the Utah School and Institutional Trust Lands Administration (“SITLA”), an independent state agency that manages state trust lands granted by Congress at statehood for the financial support of public education and other state institutions. In addition to public schools, beneficiaries of Utah's trust lands grants include the University of Utah, Utah State University, a hospital that provides healthcare to disabled miners, and the state schools for the blind and deaf. SITLA manages approximately 3.3 million acres of state trust lands, along with an additional million acres of severed mineral estate. Revenue from school trust lands – derived from oil and gas, mining, real estate development, and other activities, is deposited in the Utah Permanent School Fund, a perpetual endowment supporting public schools. The Utah Permanent School Fund has a balance of approximately \$3.2 billion. Proceeds from the fund are distributed annually to every public school in the state to help with each school’s most pressing academic needs.

I encourage the Subcommittee, and Congress, to act favorably on S. 1405, the Utah School and Institutional Trust Lands Administration Exchange Act of 2023. This legislation would ratify, and provide authority to implement, a March 17, 2023 land exchange agreement between SITLA, Utah Governor Spencer Cox, and Secretary of the Interior Deb Haaland. That agreement is the product of over a year and a half of discussions between the State, federal land managers, local governments, and other interested stakeholders. The proposed exchange is supported by rural county governments, various stakeholder groups, Governor Cox and the Utah legislature. We have worked hard to put together an exchange that will be fair and transparent

financially, workable in implementation, and conducive to more effective land management by both the state and federal governments. We believe this legislation meets all these goals.

Management Conflicts Created by Federal Designations Surrounding State Land Inholdings

The fundamental problem addressed by this legislation is the issue of scattered state land inholdings embedded within federal conservation areas such as national monuments and other designations, and associated land management conflicts. The designation of the Bears Ears National Monument captured more than 200 scattered tracts of state trust land within its outer boundaries, totaling over 126,000 acres. The State has been charged by Congress and the Utah legislature with managing these school trust lands for the financial benefit of Utah's public education system. This is accomplished through mineral and real estate development and other revenue-generation activities. But restrictions on the use of surrounding federal lands, through establishment of the Monument, will limit the utility of the inheld state trust lands for economic development. And development of school trust lands within national monuments and other designations is directly at odds with the conservation purposes for which the surrounding federal lands were set aside. These conflicting mandates, and the checkerboard pattern of state trust lands inholdings, will make effective management of both state trust lands and the Monument itself very difficult if not impossible.

While the declaration of the Monument, and its large geographic scope, are matters of significant controversy, and litigation, between the State of Utah and United States, both governments agree that trading out state land inholdings is in everyone's best interest.

The History of Land Exchanges as an Effective Solution

Land exchanges are an effective solution to the management conflicts associated with inholdings. Exchanges can allow each government to manage consolidated lands as each party's land managers deem most advisable, without interference. In the last twenty-five years the State of Utah and the United States have worked successfully to complete a series of large congressionally-authorized land exchanges. These have included congressionally-mandated exchanges in 1998 concerning the Grand Staircase Escalante National Monument, in 2000 concerning federal wilderness in Utah's scenic West Desert, in 2009 concerning sensitive recreational lands within river corridors, in 2016 concerning the Utah Test and Training military range, and in 2019 concerning federal wilderness designations in the San Rafael Swell area of central Utah.

The hallmark of each of these exchanges was their "win-win" nature. School trust lands with significant environmental values were placed into federal ownership, while federal lands with lesser environmental values but greater potential for revenue generation were exchanged to the State, thus fulfilling the purpose of the school land grants – providing financial support for public education.

The Proposed Land Exchange

S. 1405 authorizes the conveyance to the United States of approximately 162,510.81 acres of Utah state school trust lands and minerals within and near the Bears Ears National Monument, as well as additional lands near the Bonneville Salt Flats of the Great Salt Lake and other areas of the state where management conflicts exist. In return, the State of Utah will receive approximately 167,012.69 acres of federal lands located in 20 counties throughout the state with lesser environmental sensitivity but greater potential for generating revenue for Utah's public education system – again, the purpose for which Congress originally granted trust lands to Utah and the other western states. These lands have been targeted for oil and gas development, mining, renewable energy projects, real estate development and land sales. The proposed land exchange will allow our agency to do what it does best—make money for our public schools—while allowing the Department of Interior to implement unified management of the Monument consistent with conservation goals.

A few specific features of the proposed exchange legislation about which members of the Subcommittee may have questions warrant mention:

Timing of conveyances

Conveyances of the exchange lands by both governments are to be made within 45 days of enactment of the legislation. This will consolidate federal ownership within the Monument expeditiously to protect sensitive lands, avoid management conflicts, and permit both governments to achieve their goals.

Selection of Lands

Lands to be acquired by the State of Utah were selected by SITLA for their revenue-generation potential with recognition of potential environmental concerns and the values that may be placed on them by Tribal Nations. The agency's internal experts combined their own knowledge and decades of experience with that of local governments and industry partners to select lands that will not only provide millions of dollars in revenue to Utah's school trust but will also provide economic development opportunities for rural communities. The selection targets have been reviewed by BLM staff and other stakeholders to assure that they avoid significant wildlife resources, endangered species habitat, significant archaeological, cultural, and historic resources, areas that are sacred or are traditionally, spiritually, or religiously significant to Tribal Nations, areas of critical environmental concern, coal resources requiring surface mining, wilderness study areas, and significant recreation areas.

Land Valuation

Preliminary estimates indicate that the State and Federal exchange lands are of approximately equal value. The MOU and ratifying legislation, however, provide that all

exchange lands will be subject to independent appraisals using uniform appraisal standards and the existing standards contained in the Federal Land Policy and Management Act and its implementing regulations following conveyance. The independent appraisals will be subject to review by each party (including the Appraisal and Valuation Services Office (AVSO) for the Department of the Interior). This will confirm that lands are conveyed on an equal value basis.

If any disparity in the total value of lands to be exchanged is found, an inventory of high-value state land, and federal land, has been identified in southwestern Utah to be added to one side of the exchange as necessary to achieve equalized values. The federal equalization land the State would receive, if necessary, comprises real estate development land of low environmental sensitivity in Warner Valley, near St. George, Utah. The state equalization land the United States would receive is important habitat for the threatened desert tortoise in the area of the Red Cliffs NCA in southwestern Utah.

Protection of Rights Held Under Outstanding Leases, Permits, and Other Grants

The MOU and legislation protect existing grazing permits, associated preference and renewal opportunities, access, the use of range improvements, and related rights on both the State and Federal land to be exchanged.

Existing mineral leases, rights of way, and surface use agreements on the State and Federal lands are also protected, as are any rights found to be valid existing rights as of the date of conveyance.

Post-Exchange Land Management

The majority of the state trust lands to be acquired by the United States are located within the exterior boundaries of the Bears Ears National Monument, while other parcels lie within designated areas of critical environmental concern, special recreation management areas, a wilderness study area, and other environmentally sensitive areas. The MOU and legislation provide that exchange lands acquired by the United States that lie within the Monument will be managed for Monument purposes. Similarly, any lands lying within federal wilderness areas, or wilderness study areas, shall be managed consistent with those designations.

All land acquired by the State in the exchange shall be managed as state trust land pursuant to governing state law.

Conclusion

As President Biden stated in his October 8, 2021 Proclamation, an agreement between the State of Utah and United States for the exchange of trust land inholdings for development lands located elsewhere is in the public interest. The March 17, 2023 MOU, as authorized and implemented by S. 1405, fulfills that purpose in a manner that is fair to both governments. It is the product of over a year and a half of discussions between State and Federal land managers, with input from local governments and other interested stakeholders, and has the support of Utah

Governor Spencer Cox and the Utah Legislature. I respectfully urge the Subcommittee to approve it expeditiously.

Thank you again for the opportunity to testify today.

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