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106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-463

UTAH WEST DESERT LAND EXCHANGE ACT OF 2000

OCTOBER 2 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 4579]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 4579) to provide for the exchange of certain lands within the State of Utah, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 4579 is to ratify an agreement between the State of Utah and the Department of the Interior under which the State would transfer approximately 102,842 acres of State lands in Utah's West Desert area in exchange for approximately 106,058 acres of Federal lands.

BACKGROUND AND NEED

The Utah Enabling Act of 1894 granted four sections in each township to the State. These lands were granted for the support of the public schools and are referred to as school trust lands. The lands are not contiguous to each other and, therefore, management of the school trust lands by the State is often very difficult. In addition, since the school trust lands are interspersed with Federal lands, the management of the Federal lands is complicated as well.

The Utah West Desert Land Exchange Act of 2000 seeks to resolve these problems by ratifying a land exchange agreement between the State of Utah and the Department of the Interior. The lands that will be exchanged are located within the West Desert region of Utah. The Federal Government will receive State lands located within several wilderness study areas in the Bureau of Land Management's Utah Wilderness Inventory, and lands identified for

acquisition in the Washington County Habitat Conservation Plan. The State will receive Federal lands that are more appropriate to carry out its mandate to generate revenue for Utah's public schools.

Both the Secretary of the Interior and the Governor of Utah agree that there is tremendous benefit to both parties to consolidate the land holdings of the Federal Government and the State within Utah. Both agree the exchange would provide the State with lands more efficiently managed to generate revenue for schools and the Federal Government with lands more efficiently managed for wilderness and other natural values. The Secretary of the Interior and the Governor of Utah reached an agreement to complete this exchange on May 30, 2000.

The legislation is needed because the proposed exchange does not comply with the appraisal process and other procedural requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). Specifically, questions were raised about the valuation method to be used. Traditional appraisal approaches would make it very difficult and expensive to complete the land exchange given the vast acreage and scattered nature of the parcels involved and the detailed processing and documentation requirements of standard appraisal techniques. The bill contains provisions intended to provide a reasonable process for assessing the value of the lands involved in the exchange and to ensure the lands transferred are of approximately equal value.

The land exchange would not be possible without the legislation, resulting in continued inefficiencies in management of both Federal and State lands and creating unnecessary complexities for the management of Wilderness Study Areas and other areas with wilderness and important natural qualities.

LEGISLATIVE HISTORY

H.R. 4579 passed the House of Representatives by voice vote on July 11, 2000 and was referred to the Committee on Energy on Natural Resources on July 12, 2000. Companion legislation, S. 2754 was introduced by Senators Bennett and Hatch on June 20, 2000. The Subcommittee on Forests and Public Lands Management held a hearing on both bills on July 20, 2000. At the business meeting on September 20, 2000, the Committee on Energy and Natural Resources ordered H.R. 4579 favorably reported without amendment.

COMMITTEE RECOMMENDATIONS

The Senate Committee on Energy and Natural Resources, in open business session on September 20, 2000, by a voice vote of a quorum present, recommends that the Senate pass H.R. 4579.

SECTION-BY-SECTION ANALYSIS

Section 1 cites the short title as the "Utah West Desert Land Exchange Act of 2000."

Section 2 provides the findings and purposes of the Act.

Section 3 defines key terms used in the Act.

Section 4 ratifies terms and conditions described in the Agreement for Exchange of Lands—West Desert State-Federal Land Consolidation, entered into between the United States and the

State of Utah, dated May 30, 2000. The Agreement is reprinted in Appendix A.

Section 5(a) requires completion of all conveyances under sections 2 and 3 of the Agreement within 70 days of the enactment of this Act.

Subsection 5(b) describes the maps depicting the land conveyances, and provides that the maps shall be available for public inspection and in case of any conflict between the maps and legal descriptions, the legal descriptions shall control.

Section 6 requires the United States and the State of Utah to each bear its own cost in carrying out this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 25, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4579, the Utah West Desert Land Exchange Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4579—Utah West Desert Land Exchange Act of 2000

H.R. 4579 would ratify an agreement between the Department of the Interior (DOI) and the state of Utah to exchange certain lands and mineral interests in the west desert region of that state. CBO estimates that enacting this legislation would have no significant impact on the federal budget. Because the act could increase offsetting receipts (a form of direct spending), pay-as-you-go procedures would apply, but we expect that any such impacts would be insignificant in each year.

Under, H.R. 4579, the Secretary of the Interior would convey to the state of Utah about 106,000 acres of federal lands and mineral interests in exchange for about 106,000 acres of state-owned lands and mineral interests. Pursuant to the agreement ratified by the legislation, the properties to be exchanged would be of approximately equal value. Under H.R. 4579, prior to any conveyance, both parties would select independent appraisers to review the value of the properties. If differences in value are found, the Secretary and the state would have to adjust the exchange accordingly.

Based on information from DOI, we expect that the land exchange would occur during fiscal year 2001. CBO estimates that federal costs to complete the exchange would be less than \$100,000 in that year. According to DOI, the lands to be conveyed by the

Federal government currently generate no significant receipts, and they are not expected to do so over the next 10 years. According to DOI, the state lands that would be conveyed to the federal government under H.R. 4579 would be more valuable for grazing than the federal lands to be exchanged. Hence, we expect that enacting this legislation could result in a small increase in offsetting receipts from grazing permits and a subsequent increase in payments to Utah for its share of those receipts. Based on Information from DOI, however, we estimate that the net impact of any such changes would total only a few thousand dollars a year.

H.R. 4579 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The agreement that would be ratified by this legislation was entered into voluntarily by the state of Utah. All costs and benefits accruing to the state would be the result of that agreement.

The CBO staff contact is Megan Carroll. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 4579.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 4579, as ordered reported.

EXECUTIVE COMMUNICATIONS

On September 20, 2000, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on the bill. These reports had not been received at the time the report on H.R. 4579 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

The testimony provided by the Department of Interior at the Subcommittee hearing follows:

STATEMENT OF SYLVIA BACA, ASSISTANT SECRETARY LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR

Good morning, Mr. Chairman. Thank you for this opportunity to testify in support of S. 2754, the Utah West Desert Land Exchange Act of 2000. This bill ratifies a recently negotiated land exchange agreement between the Department of the Interior and the State of Utah that addresses long-standing issues of State-owned inholdings within sensitive areas of public land ownership in the west desert of Utah, including critical habitats and areas being

considered for wilderness designation. The Administration supports this legislation, and it is our hope that we can work together to see S. 2754 quickly passed into law.

The Administration has been working over the past few years with Governor Leavitt's office in the long-overdue process of addressing Utah's inholding problems. One has only to look at a land-ownership map for the State of Utah to appreciate the immense challenge before the State and the Federal governments. The Utah Enabling Act of 1894 designated four sections from each township, one-ninth of the total land in the state, to finance public education. The scattered nature of these lands has complicated their management ever since, both for the State of Utah and the Federal government. Realignment of Utah's school trust lands took a dramatic step forward with legislation passed in the 105th Congress (P.L. 105-335), the Utah Schools and Lands Exchange Act of 1998, the largest state-federal land exchange ever in the lower forty-eight states. This exchange consolidated federal ownership in the National Parks, National Forests, Indian reservations, and the Grand Staircase-Escalante National Monument. However, most of the state remains with the checkerboard ownership pattern.

At the time of the negotiations that led to P.L. 105-335, Governor Leavitt and Secretary Babbitt discussed whether they should also seek agreement on some of the lands within the boundaries of wilderness study areas. They decided that while this goal was worthy, it was too much to consider at that time. They agreed, however, to begin tackling that problem next. S. 2754 represents a step in that process by transferring public lands in Utah's western desert managed by the Bureau of Land Management (BLM) which contain wilderness characteristics or critical habitat for desert tortoise to the Federal government.

As was the case with the Utah Schools and Lands Exchange Act of 1998 (P.L. 105-335), the exchanges proposed in S. 2754 were designed with environmental integrity in mind. Trust lands chosen for transfer to BLM were properties located within existing Wilderness Study Areas, or within lands identified by BLM's Utah Wilderness Inventory as having wilderness characteristics or lands identified for acquisition in the Washington County Habitat Conservation Plan. Consolidation of these lands with surrounding public lands managed by BLM is in keeping with planning recommendations for maintaining them in a wild state.

Public lands the State of Utah will be receiving were selected with the goal of equalizing values, while limiting environmental impacts and providing the State some long-term revenue potential. Recommended areas for transfer avoided endangered species habitats, other significant wildlife resources, archaeological resources, areas of critical environmental concern, wilderness study areas, or any other lands known to raise significant environmental concerns. Properties to be acquired by Utah in this exchange

are generally more amenable to economic development than lands BLM would acquire, with one notable exception.

It took almost twelve months of deliberations for the State of Utah and BLM negotiators to arrive at what is now considered by both to be a fair agreement. Both parties initially established rough estimates of value for the properties in question independently. Those estimates varied from each other by less than twenty-five percent. The estimates were refined by evaluations of comparable sales that identified a range of values acceptable to both parties. The proposal was adjusted by adding or subtracting parcels until both parties felt comfortable that the exchange was approximately equal and fair.

The majority of the lands on each side of the exchange are of comparatively low market value. The lands the State of Utah is receiving are generally higher value because they have better road access and closer proximity to utilities and other improvements that would allow for future development. The State of Utah would also receive title to several producing mineral areas, which are currently operating under unpatented mining claims subject to the Mining Law of 1872. These lands are currently earning no revenue for the Federal government but are of higher value in state ownership because the state would receive a revenue stream from the producing mines. To offset these higher value State-selected lands, while keeping the overall package approximately equal in acreage and value, the State offered additional state-owned lands within the boundaries of the Washington County Habitat Conservation Plan area for the protection of desert tortoise habitat. The Conservation-Plan lands had high development potential within the city limits of St. George and thus offset the higher value BLM lands the state is receiving elsewhere. These lands had been the subject of a recent appraisal because they are BLM's highest priority for acquisition from the State, and they were valued at their appraised value.

The parties to the agreement are comfortable that this exchange has taken all relevant considerations into account. The State of Utah will be receiving approximately 106,000 acres of public land from BLM in exchange for approximately 106,000 acres of land that BLM would like to acquire. Complete titles will be exchanged. In the majority of cases, this means entire estates will be conveyed, but where BLM or the State only control the mineral estate, only the mineral estate would be conveyed. While Congress will be the ultimate judge of value, the condition for ratification that was incorporated into the House passed version (H.R. 4579, Sec. 3, (c)) could be added to this bill to provide extra assurance that the proposed trade is approximately equal value.

The Secretary and the Administration strongly support this legislation as it is written. We believe it would be a serious mistake to fail to seize the opportunity presented

to us now to resolve the long standing issues and potential management problems raised by these inholdings. I want to thank Governor Leavitt, Brad Barber, John Harja and Utah's School and Institutional Trust Lands Administration for their hard work and commitment to completing this exchange. As we see it, the school children of Utah, Federal land users, taxpayers, and the environment will all be winners when this bill is passed. I would be pleased to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 4579, as ordered reported.

A P P E N D I X A

AGREEMENT FOR EXCHANGE OF LANDS WEST DESERT STATE-FEDERAL LAND CONSOLIDATION

THIS AGREEMENT FOR EXCHANGE OF LANDS is entered this 30th day of May, 2000 by and between the State of Utah and the United States of America, Department of the Interior.

Purpose: The purpose of this instrument is to document an agreement, subject to ratification by the Congress of the United States, to exchange federal and state lands and interests therein, of approximately equal value, located in the West Desert area of the State of Utah.

SECTION 1. DEFINITIONS.

As used in this Agreement:

(A) *BLM* means the Bureau of Land Management of the Department of the Interior.

(B) *Department* means the Department of the Interior and its subsidiary agencies, including the BLM.

(C) *FLPMA* means the Federal Land Policy and Management Act, Act of October 21, 1976, Pub. L. 94-579, 90 Stat. 2743, as amended.

(D) *Mineral Interest* means all right, title and interest in the mineral estate, including but not limited to metals, ores, oil and gas, carbon dioxide, helium, coal, lignite, peat, gas contained in or taken from coal seams (coalbed methane), geothermal steam and heat, rock, stone, gravel, sand and quartz, subject to valid existing rights in third parties as of the date of this Agreement.

(E) *State* means the State of Utah and its subsidiary agencies, including the Utah School and Institutional Trust Lands Administration.

(F) *Secretary* means the Secretary of the Interior.

(G) *Trust Lands* means all right, title and interest of the State on the date this Agreement is executed in lands granted by the United States pursuant to sections 6, 7, 8 and 12 of the Utah Enabling Act, ch. 138, 28 Stat. 107 (1894) to the State in trust, and in other lands owned by the State on the date of this Agreement which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act.

(H) *Trust Lands Administration* means the Utah School and Institutional Trust Lands Administration.

(I) *Wilderness Act* means the Wilderness Act of 1964, 16 U.S.C. § 1131 *et seq.*

SECTION 2. STATE LANDS AND MINERAL INTERESTS TO BE CONVEYED TO THE UNITED STATES.

Subject to the terms and conditions of this Agreement, the State shall convey to the United States all right, title and interest of the State in the Trust Lands and Mineral interests generally depicted on the map entitled "West Desert Exchange—Utah Trust Lands" dated May 19, 2000, and more specifically described in Exhibit "A" to this Agreement, which lands include the following Trust Lands and Mineral Interests:

(A) Approximately 5760.84 acres of Trust Lands in the Silver Island Mountains area in Box Elder and Tooele Counties, Utah.

(B) Approximately 7827.60 acres of Mineral Interests in the Cedar Mountains area in Tooele County, Utah.

(C) Approximately 12,325.46 acres of Trust Lands and 2560 acres of additional Mineral Interests in the Deep Creek Mountains in Tooele and Juab Counties, Utah.

(D) Approximately 7680.80 acres of Trust Lands in the Fish Springs Mountains in Juab County, Utah.

(E) Approximately 3879.92 acres of Trust Lands in the Pilot Peak Range in Box Elder County, Utah.

(F) Approximately 11,612.74 acres of Trust Lands in the Swasey Mountain area in Juab and Millard Counties, Utah.

(G) Approximately 8241.07 acres of Trust Lands in the Notch Peak area in Millard County, Utah.

(H) Approximately 3839.28 acres of Trust Lands in the Howell Peak area in Millard County, Utah.

(I) Approximately 9906.64 acres of Trust Lands in the King Top area in Millard County, Utah.

(J) Approximately 7959.04 acres of Trust Lands in the North Wah Wah Mountains in Millard and Beaver Counties, Utah.

(K) Approximately 6910.61 acres of Trust Lands in the Central Wah Wah Mountains in Beaver County, Utah.

(L) Approximately 3933.16 acres of Trust Lands in the Granite Peak area in Beaver County, Utah.

(M) Approximately 2162.64 acres of Trust Lands in the Red Mountain area in Washington County, Utah.

(N) Approximately 80 acres of Trust Lands and an additional 240 acres of Mineral Interests in the Deep Creek area in Washington County, Utah.

(O) Approximately 1920 acres of Trust Lands in the Black Ridge area in Washington County, Utah.

(P) Approximately 5608.50 acres of Trust Lands and an additional 560 acres of Mineral Interests in the Canaan Mountain area in Kane and Washington Counties, Utah.

(Q) Approximately 960 acres of Trust Lands in the Cottonwood Canyon area in Washington County, Utah.

(R) Approximately 640 acres of Trust Lands in the Red Butte area in Washington County, Utah.

(S) Approximately 483.28 acres of Trust Lands within the Red Cliffs Desert Reserve in Washington County, Utah.

(T) Approximately 1191.21 acres of Trust Lands wholly or partially within the exterior boundary of the Beaver Dam Wash Wilderness, in Washington County, Utah.

SECTION 3. FEDERAL LANDS AND MINERAL INTERESTS TO BE CONVEYED TO THE STATE.

Subject to the terms and conditions of this Agreement, the Department shall convey to the State or its nominee all right, title and interest of the United States in the BLM lands and Mineral Lands generally depicted on the map entitled "West Desert Exchange—BLM Lands" dated May 19, 2000, and more specifically described in Exhibit "B" to this Agreement, which lands include the following BLM lands and Mineral Interests:

(A) I-80 Corridor tracts, comprising approximately 11,854.53 Acres of BLM land in Tooele County, Utah.

(B) St. John tract, comprising approximately 8678.14 acres of BLM land in Tooele County, Utah.

(C) Tooele Army Depot No. 1 tract, comprising approximately 6880.63 acres of BLM land in Tooele County, Utah.

(D) Tintic Valley tracts, comprising approximately 14,253.51 acres of BLM land Juab County, Utah.

(E) Brush Wellman tracts, comprising approximately 6173.70 acres of BLM land in Juab County, Utah.

(F) Intermountain Power Plant tract, comprising approximately 17,625.97 acres of BLM land and an additional 940.61 acres of BLM Mineral Interests in Millard County, Utah.

(G) Continental Lime tract, comprising approximately 1849.21 acres of BLM land in Millard County, Utah.

(H) Oak City tracts, comprising approximately 13,625.36 acres of BLM land in Millard County, Utah.

(I) Milford tract, comprising approximately 22,123.32 acres of BLM land in Beaver County, Utah.

(J) Beaver tract, comprising approximately 720 acres of BLM land in Beaver County, Utah.

(K) Cedar City GC tract, comprising approximately 137.12 acres of BLM land in Iron County, Utah.

(L) Cross Hollow Hills tract, comprising approximately 357.50 acres of BLM land in Iron County, Utah.

(M) Quichapa Creek tract, comprising approximately 743.76 acres of BLM land in Iron County, Utah.

(N) La Verkin tract, comprising approximately 315 acres of BLM land in Washington County, Utah.

(O) Warner Valley tract, comprising approximately 600 acres of BLM land in Washington County, Utah.

(P) Anderson Junction tract, comprising approximately 80 acres of BLM land in Washington County, Utah.

(Q) Ivins tract, comprising approximately 40 acres of BLM land in Washington County, Utah.

SECTION 4. LEGISLATION.

This agreement shall not be terminated before January 1, 2001. Beginning on January 1, 2001, either party may, but is not obligated to, terminate this Agreement unless legislation shall have been enacted by the United States authorizing and ratifying this Agreement.

SECTION 5. CLOSING AND TRANSFER OF TITLE.

The following provisions shall govern conveyances of lands to be exchanged pursuant to this Agreement:

(A) All conveyances by the United States and the State shall be subject to valid existing rights and interests outstanding in third parties; provided, however, that all conveyances by the State to the United States shall be subject only to those valid existing surface and mineral leases, grazing permits and leases, easements, rights of way, and other interests outstanding in third parties found acceptable under the Attorney General's title regulations.

(B) All conveyances by the State shall be in a form acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

SECTION 6. MANAGEMENT OF LANDS ACQUIRED BY THE UNITED STATES.

All lands or interests therein acquired by the United States pursuant to section 2 of this Agreement shall be administered by the BLM and shall be subject to all applicable laws and regulations, subject to valid existing rights. Notwithstanding the foregoing, if any portion of the transferred lands are wholly or partially encompassed within a wilderness study area created pursuant to Section 603 of FLPMA or other authority if applicable, or within a wilderness area created by Congress under authority of the Wilderness Act, then those lands shall be administered, subject to valid existing rights, pursuant to applicable statutes and regulations governing wilderness study areas or wilderness areas, respectively.

SECTION 7. MANAGEMENT OF LANDS ACQUIRED BY THE STATE.

All lands or interests therein acquired by the State pursuant to section 3 of this Agreement shall be managed by the Trust Lands Administration as Trust Lands pursuant to Title 53C of the Utah Code.

SECTION 8. WATER RIGHTS.

All water rights, if any, held by the transferor that are appurtenant to the lands exchanged pursuant to this Agreement shall be conveyed with the land. Nothing contained in this Agreement shall impair valid existing water rights owned by private parties. Nothing in this Agreement shall expand or diminish Federal or State jurisdiction, responsibilities, interests, or rights, in water resource adjudication, allocation, development, or control.

SECTION 9. GRAZING PERMITS.

(A) On all lands acquired by the United States under section 2, the Secretary shall honor, for the remainder of the applicable term, all leases, permits and contracts for the grazing of domestic livestock, and the related terms and conditions of user agreements on Trust Lands, including permitted stocking rates, grazing fee levels, access rights, and ownership and use of range improvements. Upon expiration of any lease or permit, the holder shall be entitled to a preference right to renew such lease or permit to the extent provided by Federal law.

(B) In any instance where lands conveyed by the State under section 2 are used by a grazing permittee or lessee to meet the base property requirements for a federal grazing permit or lease, such lands shall continue to qualify as base properties for the remaining term of the lease or permit and any renewal or extensions thereof.

(C) Title to, or any interest in, any range improvement held by the United States or the State on any lands exchanges under this

Agreement shall be transferred with such lands. Nothing in this Agreement shall operate to divest title to, or any interest in, any range improvement held by any person on such lands.

(D) On all lands acquired by the State under section 3, the State shall continue, for the remainder of the applicable term, all leases, permits and contracts for the grazing of domestic livestock, and the related terms and conditions of user agreements on Federal lands, including permitted stocking rates, grazing fee levels, access rights, and ownership and use of range improvements. Such leases, permits and contracts shall be subject to compliance with terms and conditions of the leases, permits or contracts, together with such reasonable regulations as the State may prescribe concerning range conditions. Upon expiration of any lease or permit, the holder shall be entitled to a right of first refusal for the renewal of such lease or permit under state law. Nothing in this Agreement shall prevent the State from canceling any grazing permit when the underlying land is sold or leased for non-grazing purposes by the State.

SECTION 10. SURFACE AGREEMENTS AND PERMITS.

(A) The United States shall assume all rights and duties of the State under all State rights-of-way and special use agreements on lands conveyed to the United States pursuant to this Agreement. All such rights-of-way and agreements shall remain in effect for the remainder of the applicable term after conveyance, except that such rights-of-way and agreements shall be managed and enforced by the United States. The rents, fees and other payments formerly due to the State under the terms of such rights-of-way and agreements shall be payable to the holder to the United States.

(B) The State shall assume all rights and duties to the United States under all Federal rights-of-way, surface use permits and agreements on lands conveyed to the State pursuant to this Agreement. All such rights-of-way and agreements shall remain in effect for the remainder of the applicable term after conveyance, except that such rights-of-way, permits and agreements shall be managed and enforced by the State. The rents, fees, and other payments formerly due to the United States under the terms of such rights-of-way, permits and agreements shall be payable by the holder to the State.

(C) Nothing in this Act shall expand or diminish the rights of any person or entity in any pre-existing rights-of-way established under State or Federal law, and the conveyances to be made under this Agreement shall be subject to such pre-existing rights-of-way, if any, as valid existing rights.

SECTION 11. MINERAL LEASES AND LANDS.

In connection with mineral lands and interests conveyed pursuant to this Agreement:

(A) The State shall succeed the United States as lessor of all federal mineral leases on lands conveyed to the State pursuant to this Agreement. All rights, terms, and agreements under such leases (including authorizations for easements, facilities, operations, on other appurtenances on such lands) shall remain in effect after such conveyance except that such rights, terms, and agreements shall be managed and enforced by the State. The rents, royalties, fees and other payments formerly due the United States under

such terms shall be payable by the Lessee to the State. The Leaseholder shall be entitled to Lease extension and renewal to the extent provided under Federal law, regulations, and the Lease Agreement.

(B) The Secretary shall succeed the State as lessor of all State mineral leases on lands conveyed to the Secretary pursuant to this Agreement. All rights, terms and agreements under such Lease (including authorizations for easements, facilities, operations, or other appurtenances on such lands) shall remain in effect after such conveyance, except that such rights, terms and agreements shall be managed and enforced by the Secretary. The rents, royalties, fees, and other payments formerly due to the State under such terms shall be payable by the Lessee to the United States.

(C) If any of the lands conveyed to the State under this Agreement are encumbered by mining claims, mill sites or tunnel sites located under the Mining Law of 1872, 30 U.S.C. § 22 *et seq.*, the State will recognize the mining claimants' and siteholders' interests in all valid mining claims and site locations and allow them to develop those minerals or use the sites so long as they comply with applicable laws and regulations, including without limitation applicable state filing and claim maintenance requirements; provided, however, that nothing herein shall preclude the State and any claimant or siteholder from agreeing to the relinquishment of any claim or site on mutually acceptable terms. The State shall further adjudicate any mining claim or site validity issues in the appropriate state or Federal court according to the Mining Law of 1872, as amended, and case law and administrative guidance interpreting that law. The BLM will provide notice to each mining claimant and site holder that its mining claims or site locations: (1) will be administered by the Trust Lands Administration and that compliance with state filing and claim maintenance requirements contained in *Utah Code Ann.* § 53C-2-104 will be required to avoid abandonment of such claim under state law; (2) will no longer be administered by the United States; (3) will no longer be subject to Federal filing or fee requirements or BLM surface management requirements; and (4) that the Secretary no longer has jurisdiction to adjudicate the validity of any mining claim or site.

SECTION 12. HAZARDOUS WASTE.

(A) Notwithstanding the transfer to the United States of the lands and interests therein described in section 2, the State shall continue to be responsible to the extent it is responsible on the date of transfer of title for all environmental remediation, waste management and environmental compliance activities arising from ownership and control of lands and interests therein pursuant to applicable Federal and State laws with respect to conditions existing on the lands at the time of the transfer.

(B) Notwithstanding the transfer to the State of the lands and interests therein described in section 3, the United States shall continue to be responsible to the extent it is responsible on the date of transfer of title for all environmental remediation, waste management and environmental compliance activities arising from the ownership and control of lands and interests therein pursuant to applicable Federal and State laws with respect to conditions existing on the lands at the time of the transfer.

SECTION 13. GENERAL PROVISIONS.

In addition to the foregoing, the Department and the State agree as follows:

(A) Nothing in this Agreement shall prevent the parties from mutually agreeing to the correction of technical errors and omissions in maps and legal descriptions contained or incorporated herein.

(B) The parties agree to use reasonable diligence and efforts to fulfill their respective obligations under this Agreement, at all times that this Agreement is in effect.

IN TESTIMONY WHEREOF, we have hereunto set our hands and caused to be affixed the Great Seal of the State of Utah on the date first above written.

BRUCE BABBITT,
Secretary of the Interior,
Department of the Interior.
 MICHAEL O. LEAVITT,
Governor, State of Utah.

○