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H.R. 4968, TO PROVIDE FOR THE EXCHANGE OF CERTAIN LANDS IN UTAH

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, RECREATION, AND PUBLIC LANDS

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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LEGISLATIVE HEARING ON H.R. 4968, TO PROVIDE FOR THE EXCHANGE OF CERTAIN LANDS IN UTAH

Thursday, June 27, 2002

U.S. House of Representatives

Subcommittee on National Parks, Recreation, and Public Lands

Committee on Resources

Washington, DC

The Subcommittee met, pursuant to call, at 2:17 p.m., in room 1334, Longworth House Office Building, Hon. George Radanovich [Chairman of the Subcommittee] presiding.

STATEMENT OF THE HON. GEORGE P.. RADANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. RADANOVICH. Good afternoon. Thank you for your patience. As I know we had votes on the floor, so this Committee is coming to order now, a little bit late. Today, the Subcommittee on National Parks, Recreation and Public Lands will hear testimony on one bill, H.R. 4968, the Federal Utah State Trust Lands Consolidation Act, introduced by my Subcommittee colleague, Congressman Chris Cannon from Utah.

Mr. RADANOVICH. I would like to begin by welcoming the witnesses here today. I know many of them have traveled a long way to be able to testify on this legislation and that you have to catch planes. So, we are going to get going with this pretty quickly.

H.R. 4968, which would ratify a land exchange agreement reached between the Department of Interior and Agriculture and the State of Utah would provide for the exchange of 243,000 acres of State and Federal lands in Utah. The agreement would facilitate the Federal acquisition of State trust lands located within the scenic San Rafael Swell provided for completion for the remaining trust lands within the Red Cliffs Desert Reserve and eliminate State inholdings within the Manti-LaSal National Forest.

Before turning the time over the Mrs. Christensen, who is not here, for the opening statement, I would like to ask unanimous consent that Mr. Matheson be permitted to sit on the dais following the remarks.

Without objection, it is so ordered.

I have been informed that the Ranking Member is not able to be here for this, and so I would turn my time and attention over to Mr. Cannon who has an opening statement.

[The prepared statement of Mr. Radanovich follows:]

Statement of The Honorable George P. Radanovich, Chairman, Subcommittee on National Parks, Recreation, and Public Lands

Good afternoon. The hearing will come to order.

Today the Subcommittee on National Parks, Recreation, and Public Lands will hear testimony on one bill, H.R. 4968, the Federal–Utah State Trust Lands Consolidation Act, introduced by my Subcommittee colleague Congressman Cannon of Utah. I would like to begin by welcoming the witnesses here today. I know many of them have traveled a long way to be able to testify on this legislation.

H.R. 4968, which would ratify a land exchange agreement reached between the Departments of Interior and Agriculture and the State of Utah, would provide for the exchange of 243,000 acres of state and Federal lands in Utah. The agreement would facilitate the Federal acquisition of state trust lands located within the scenic San Rafael (Ra-fell) Swell, provide for completion of the remaining trust lands within the Red Cliffs Desert Reserve, and eliminate state inholdings in the Manti–La Sal National Forest.

Before turning the time over to Mrs. Christensen for her opening statement, I would ask unanimous consent that Mr. Matheson be permitted to sit on the dais following his remarks.

I now turn to the Ranking Member, Mrs. Christensen, for any opening statement she may have.

Mr. CANNON. Thank you, Mr. Chairman. In light of the fact that I think some of our witnesses have planes to catch and the lateness of the start here, if I could submit that statement for the record, I would appreciate that.

Mr. RADANOVICH. That is not a problem.

[The prepared statement of Mr. Cannon follows:]

Statement of The Honorable Chris Cannon, a Representative in Congress from the State of Utah

Mr. Chairman, thank you for conducting this hearing on H.R. 4968, authored by myself and co-sponsored by Chairman Hansen and our colleague Congressman Matheson. Mr. Chairman, this land exchange represents the third major effort by the School and Institutional Trust Lands Administration, Governor Leavitt and the Department of Interior to block up the checkerboard ownership of these lands which are dedicated to the benefit of Utah's school children.

H.R. 4968 will ratify an agreement signed by the Secretary of Interior, the Secretary of Agriculture and the Governor of Utah that agrees to exchange over 100,000 acres of land within Emery, Uintah, Utah, Washington and Sevier Counties. The Federal Government will gain ownership of spectacular lands located within the San Rafael Swell area, critical species habitat in the Red Cliffs Desert Reserve in Washington County and in holdings within the Manti- La Sal National Forest. In return, the school children of Utah will receive developable lands that may contain oil, gas, coal or other resources. This exchange has been certified by an outside, third party expert who has fully analyzed these lands and minerals and submitted a report stating that this is an equal-value exchange.

Mr. Chairman, there has been much talk in my District about a proposed National Monument in the San Rafael area in Emery County, Utah. I have been opposed to use of the Antiquities Act to make this designation. However, this legislation does not prejudge that decision. The fact is that the San Rafael Swell is the subject of numerous wilderness proposals, a National Conservation Area proposal, a National Monument proposal and the list goes on. It is clear that this area will someday be protected in some fashion. It is the mandate of the Trust Lands Administration to generate income from their lands. The two are not compatible. Thus, this exchange will remove approximately 102,000 acres of State lands from the San Rafael Swell which will enable this Congress or future Congresses to fully deal with how we protect this incredible area.

The second major feature of this exchange will finally remove over 2,400 acres of State lands out of the Red Cliffs Desert Reserve. Washington County, the State and private landowners agreed to this HCP several years ago to insure the protection of the desert tortoise and other species in this rapidly growing area. Although we have been successful in acquiring most other private lands, the State has been unable to trade out of the Reserve. Over time, the State will be compensated for these valuable lands through the sale of coal from the Walker Flat tract.

Lastly, Mr. Chairman, this bill involves nearly 3,000 acres of lands that will be transferred to the Manti–La Sal National Forest. Near Moab, Utah the State currently owns tracts of land that are vital to the view shed of both the forest and BLM lands. The State has agreed to exchange these lands to protect these areas from future development.

Mr. Chairman, this is a fair exchange that continues our efforts to protect those lands in Utah that should not be developed and allows the school children of Utah to fully appreciate the assets they own. We have wide spread support for this effort throughout the State, among the delegation, the Administration and the environmental community. I once again thank the Chairman and look forward to the testimony.

Mr. RADANOVICH. With that, I notice that the Honorable James Matheson is not here. What I would like to do is to begin the hearing by calling up Mr. Tom Fulton, who is the Deputy Assistant Secretary of Land and Minerals of the Department here in Washington. Mr. Fulton, if you will begin your testimony, then we will allow Mr. Matheson to begin his as soon as he finishes voting and comes back here.

So, welcome to the Subcommittee. I am going to hereby turn the gavel over to Mr. Cannon and he will be conducting the rest of the hearing.

You have 5 minutes to give your testimony, Mr. Fulton. We hope you will be available for questions afterwards. Thank you very much. You may begin.

STATEMENT OF TOM FULTON, DEPUTY ASSISTANT SECRETARY OF LAND AND MINERALS, DEPARTMENT OF INTERIOR, WASHINGTON, D.C.

Mr. FULTON. Yes, Mr. Chairman, thank you. I will certainly interrupt my comments if Congressman Matheson arrives. Thank you very much for the opportunity to testify on behalf of the Departments of Interior and Agriculture in support of H.R. 4968, the Federal-Utah State Trust Lands Consolidation Act.

This legislation would ratify the agreement recently signed by the Department of Interior and the Department of Agriculture with Governor Leavitt of Utah. The agreement proposes to exchange approximately 108,000 acres of land currently administered by the Utah School and Institutional Trust Land Administration, known as SITLA for approximately 133,000 acres of Federal lands.

In this agreement, deferred land purchases by the Federal Government of SITLA lands in Washington County will add additional protection over time for sensitive and threatened resources in the Red Cliffs Desert Reserve.

The agreement, which we urge the Congress to ratify, serves important needs for both the Federal Government and its land managing capacity and those of SITLA. SITLA has management responsibility for 3.5 million acres within the State of Utah and it is mandated to manage those lands for the benefit of its trustees, primarily the school children of Utah.

I know you will hear later from individuals who represent those.

This legislation follows in the footsteps of the Utah Schools and Lands Exchange Act of 1998 and the Utah West Desert Land Exchange Act of 2000, which have benefited the Federal Government through the acquisition of environmental significant land and have benefited the people of Utah through long-term revenue potential.

Earlier this month, on June 20th, the agreement was signed. Let me briefly describe the major components of that agreement. We do have a copy of that agreement. We could have it entered into the record, if it is so desired.

Mr. CANNON. Please.

Mr. FULTON. Thank you.

[The agreement referred to follows:]

********** SUBCOMMITTEE INSERT **********

Mr. FULTON. Under the agreement, the Federal Government would receive 108,000 acres of land from SITLA, the largest portion, approximately 102,870 acres in the San Rafael Swell of central Utah, would be administered by the Bureau of Land Management. The BLM currently manages the vast majority of this area, but like so many areas in Utah, it is interspersed with State trust lands.

While the Utah Enabling Act of 1894 was well intentioned in designating four sections from each township to finance public education, within Utah the result is a complicated land management scheme.

The San Rafael Swell is widely recognized and one worthy of special protection. This agreement places the overwhelming majority of those lands in Federal protection with some minor private inholdings remaining. All lands conveyed are subject to valid existing rights, including grazing and other permits.

In addition the San Rafael acreage, other smaller transfers to the Federal Government management include 1700 acres within the Manti-LaSal National Forest, 1700 acres in Grand County and 6,452 acres in Washington County.

The SITLA lands within the national Forest allow for the consolidation of additional lands that are difficult for the State currently to manage, while providing alternatives for SITLA in other parts of Utah.

Parcels conveyed in Washington County in the Red Cliffs Desert Reserve are important habitat areas for species such as threatened desert tortoise and will provide for further Federal protections of significant natural resources, while allowing State and private entities to develop lands elsewhere in Washington County.

Another aspect of the agreement would be the transfer of 133,000 acres of Federal lands to SITLA. These lands, primarily in Uintah County and Emery County, comprise lands with revenue-generating potential for SITLA. The transfers to SITLA include both surface and mineral interests, with two notable exceptions.

In the case of the UaUb Oil Shale Tract, the Federal Government will continue to receive a share of future oil shale revenues and in the case of the Walker Flat Coat Tract, the coal interest in those lands will revert to the Federal Government after approximately

$46 million has been generated from coal production for SITLA. These provisions help ensure that the Federal interest is protected.

This carefully crafted agreement provides a win-win for Federal agencies managing diverse lands in Utah, as well as the State of Utah and its schools and will generate much needed revenue while protecting sensitive resources.

Legislation before this Committee represents an opportunity to place high resource value lands into public ownership and management while allowing the State of Utah to enhance the return to its schoolchildren. This agreement accomplishes this in a responsible way with long-term positive benefits for both.

Thank you for the opportunity to testify. I would be glad to answer any questions the Committee might have.

[The prepared statement of Mr. Fulton follows:]

Statement of Tom Fulton, Deputy Assistant Secretary, Land and Minerals Management. U.S. Department of the Interior

Thank you for the opportunity to testify on behalf of the Department of the Interior in strong support of H.R. 4968, the Federal–Utah State Trust Lands Consolidation Act. This legislation would ratify the agreement recently signed by the Department of the Interior and Department of Agriculture with Governor Michael O. Leavitt of Utah. The agreement proposes to exchange approximately 108,284 acres of land currently administered by the Utah School and Institutional Trust Land Administration (SITLA) for approximately 133,283 acres of Federal lands. A set of the deferred land purchases by the Federal Government of SITLA lands in Washington County, Utah will add additional protection over time for sensitive and threatened resources in the Red Cliffs Desert Reserve.

The agreement, which we urge the Congress to ratify swiftly, serves important needs of both the Federal Government in its land managing capacity, and of SITLA. SITLA has management responsibility for 3.5 million acres within the State of Utah, and is mandated to manage those lands for the benefit of its trustees, primarily the schoolchildren of Utah. This legislation follows in the footsteps of the "Utah Schools and Lands Exchange Act of 1998" (P.L. 105–335) and the "Utah West Desert Land Exchange Act of 2000" (P.L. 106–301) which have benefitted the Federal Government through acquisition of environmentally significant lands and have benefitted the people of Utah through long-term revenue potential.

The Agreement

The Department signed the "2002 Federal–Utah State Trust Lands Consolidation" agreement on June 20, 2002. Let me briefly describe the major components of that agreement.

Lands to be Conveyed to the Federal Government

Under the agreement, the Federal Government would receive 108,284 acres of land from SITLA. The largest portion of these lands, approximately 102,871 acres in the San Rafael Swell area of central Utah, would be administered by the BLM. The San Rafael Swell area is an exquisite landscape of high mesas, deep canyons, spectacular arches and soaring spires. The terrain varies from sheer cliffs and dazzling canyons to more gently eroded badlands broken by shallow washes. The BLM currently manages the vast majority of this area, but like so many areas in Utah, it is dotted with state trust lands. While the Utah Enabling Act of 1894 was well intentioned in designating four sections from each township to finance public education within the new state of Utah, the proven result has been complicated land management.

The San Rafael Swell region is widely recognized as one worthy of special protection. This agreement places the overwhelming majority of the lands in Federal protection with some minor private inholdings remaining. All lands conveyed are subject to valid existing rights including grazing leases or permits.

In addition to the San Rafael acreage, other smaller transfers to Federal Government management include 1,773 acres within the Manti–LaSal National Forest, 1,760 acres in Grand County and 6,452 acres in Washington County. The SITLA lands within the National Forest allow for the consolidation of additional lands that are difficult for the state to manage while providing productive alternatives for SITLA in other parts of Utah. Parcels conveyed in Washington County in the Red

Cliffs Desert Reserve are important habitat areas for species such as the threatened desert tortoise and will provide for further Federal protection of significant natural resources and allow other state or privately owned lands elsewhere in Washington County to be developed.

Lands to be Conveyed to SITLA

Another aspect of this agreement would transfer about 133,000 acres of Federal lands to SITLA. These lands, primarily in Uintah County and Emery County, with lesser acreage in Utah, Washington and Sevier counties, comprise lands with revenue generating potential for SITLA. The transfers to SITLA include both surface and mineral interests, with two notable exceptions. In the case of the "UaUb Oil Shale Tract", the Federal Government will receive a share of future oil shale revenues and in the case of "Walker Flat Coal Tract" the coal interest in those lands will revert to the Federal Government after approximately $46.5 million has been generated from coal production for SITLA's benefit. These provisions help to ensure that the Federal interest is protected.

Protection of the Federal interest has been a top priority for both the Department of the Interior and the Department of Agriculture throughout negotiations over this exchange. This carefully crafted agreement provides a win for Federal agencies managing their diverse lands in Utah, as well as the State of Utah and its schools who will generate much needed revenue while protecting sensitive resources.

Conclusion

The legislation before this Committee represents an opportunity to place high resource value lands into public ownership and management while allowing the State of Utah to enhance the return for its schoolchildren. This agreement accomplishes this in a responsible way with long term positive benefits for both the Federal Government and the people of Utah.

Thank you for the opportunity to present the Department's views on H.R. 4968. I would be happy to answer any questions the Committee may have.

Mr. CANNON. Thank you, Mr. Fulton.

I would like to apologize to those of you who are here either to testify or as guests. We had a series of votes on the floor and so we started a little bit late.

I would like to recognize the fact that the Chairman of the full Committee, Mr. Hansen, is here. Did you have an opening statement?

Mr. HANSEN. Thank you, Mr. Chairman. I don't have an opening statement. I am sure that everyone in this room knows an awful lot about this particular legislation. I thank you for introducing this bill.

As many of you folks know, years ago we were always trying to get a little more financing out of the public lands of Utah. One of our past Governors, Governor Scott Matheson, introduced an idea called Project Bold. It really was a very bold idea, to block up all of the lands.

I don't think people realize how the west is checker boarded. As you look around our western States, it just looks like a checkerboard. Who knows what? You almost have to have a surveyor with you wherever you go because you don't know what is private, what is State and what is Federal. It becomes very, very difficult.

New Mexico was way ahead of the rest of us. They started blocking up years ago. Out of that the State of New Mexico realized a lot more for the school kids than others. We should have gone along with Governor Matheson, but it was like eating the whole elephant. It was just one big bite. I don't know if we could swallow it.

What we are doing now is these small pieces like this one and those that we have done before. A lot of this inures to the benefit

of our school children. It is a very smart way to do it. It is too bad, in a way, that we lost out on the Kaparwitz Plateau which has literally probably more clean coal than any other place that know of, maybe in the world, but at least in America.

That, I understand, costs the school kids of America about $5 billion, but maybe some day we can resurrect that. I don't have too much argument with the Grand Staircase Escalante, only about 90 percent of it. The other 10 percent, I probably would agree with President Clinton that he maybe did a half vast, vast v-a-s-t, job on it, in case there is any question with the recorder.

Any way we get down to it, I would hope the day would come that we could look into the Kaparwitz Plateau because there is a lot of energy there. As one of the conferees on the Energy Committee, I am fully aware of the importance that is going to be to us, terribly important. We are trying to do our very best to think of ways to pull this together.

Mr. Cannon, I know that you feel very strongly about getting this bill through and you are ready to predicate your eternal life on this happening. If that is all true, we will move it in full Committee if you can get it through this Subcommittee.

With that, I would like to submit my statement for the record and just forget what I said otherwise, all right?

Mr. CANNON. With that context, I think we had better get this bill passed.

[The prepared statement of Mr. Hansen follows:]

Statement of The Honorable James V. Hansen, a Representative in Congress from the State of Utah

I thank my friend Mr. Cannon for introduction of this bill. He has worked to bring this thing together, and I am sure that this legislation will result in a win-win situation for the State of Utah and the Federal Government.

I would also like to thank all of the people that have been involved in this trade that will benefit all parties involved. I look forward to your testimony today.

Mr. Cannon explained what this legislation does, and I am sure that Mr. Boyden will elaborate more on its specific points, so I won't go into that. But I would like to comment on a few important things that I believe this legislation will accomplish by ratifying the agreement reached by the State of Utah and the Departments of the Interior and Agriculture.

When you look at a map of Utah, you see that a large portion of the state looks like a checkerboard. These are the school trust lands that we are talking about today. They were created by the Utah Enabling Act to provide revenue to the State School Fund. But people that are in charge of producing revenue from these lands, like Mr. Boyden, have the problem that in most parts of the state, the trust lands are scattered out all across the map.

Sometimes they get stuck in Federal designations or withdrawals, such as the Grand Staircase–Escalante National Monument, where there were more than 175,000 acres of school trust lands. We did a land exchange in the 105th Congress that swapped those lands that were locked up inside the monument with lands that would be of more potential benefit to Utah's school children. This got rid of the state inholdings within the monument and blocked some of these trust lands up together so the state could make some progress with their revenue. It was a win-win situation from everyone's standpoint. We did the same thing in the 106th Congress with over 100,000 acres in Utah's West Desert.

This legislation accomplishes much of what that legislation did, along with a few more things. The land exchange in the San Rafael Swell area eliminates many problems that were similar in the Grand Staircase–Escalante National Monument before the exchange. This is sorely needed, especially since some of these trust lands lie within designated Wilderness Study Areas. This legislation eliminates all inholdings in the Manti–La Sal National Forest. It also requires the Bureau of Land Management to acquire most of the remaining trust lands within the Red Cliffs Desert Re-

serve in Washington County, Utah. Of course, the lands exchanged will all be of approximately equal value.

I thank my colleagues for this opportunity to resolve some of the resource conflicts in Utah with this common-sense legislation. I look forward to working on this in the future, and urge all of my colleagues to support H.R. 4968.

Mr. CANNON. We would like to recognize the presence of the gentleman from Idaho, Mr. Simpson, who I will recognize in just a moment.

Let me also point out that Congressman Matheson, my colleague and friend, is here with us. We have gone ahead because we have some flights to make. But Mr. Matheson will speak to us next.

With that, the gentleman is recognized for 5 minutes.

STATEMENT OF THE HON. JIM MATHESON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. MATHESON. Well, Mr. Chairman, I don't have an opening statement. I just want you to know that any time I see on the schedule something to exchange certain lands in Utah, we in Idaho get very nervous, so I wanted to be here to make sure that part of it didn't include Idaho.

We are actually doing our best to give Utah land away to Nevada and otherwise. You shouldn't worry so much.

Mr. CANNON. I had a couple of questions, Mr. Fulton. First of all, once again for the record, does the Administration consider this to be a fair and equal trade?

Mr. FULTON. Yes, Mr. Chairman, it does. In fact, both the Bureau of Land Management which represented the Administration in the negotiations and the State have an arms' length white paper independently verifying the equity of this exchange.

Mr. CANNON. Thanks. In what ways would the Federal Government benefit from the exchange?

Mr. FULTON. Well, it is able to better manage the public lands it will have. It gained significant environmental resources that it can apply some management practices to. It has a strong desire to work with State and local governments. So, something that benefits the Utah school children is important to the Administration.

Mr. CANNON. Could you just follow up a little bit on the environment? Will this benefit the environment?

Mr. FULTON. Yes, significantly. In particular, the Desert Tortoise in the south, north of St. George is southwestern Utah, that is a land acquisition component of this agreement that will result in an enhanced protection value for that threatened species.

Mr. CANNON. Thank you. That is all I had by the way of questions. Thank you, Mr. Fulton. We appreciate that clear and direct testimony and appreciate your service to the Committee.

Mr. FULTON. Thank you very much.

Mr. CANNON. Now, Mr. Matheson, if you would join us. Without objection, we would like to invite Mr. Matheson to join us on the dais if he is interested in doing that after his testimony.

Mr. MATHESON. I appreciate that.

Mr. CANNON. You are recognized for 5 minutes.

Mr. MATHESON. I have a written statement. I am going to be brief because I know there are folks who are trying to catch a plane

and I know we got a little late start. So, I will submit my written statement.

I just want to assistant myself with just about everything Mr. Hansen said. I am not sure about the "half past" stuff. But most of what he said I think I am in agreement with.

I think this is a great day because public lands discussions in Utah are so often characterized by people just sort of throwing grenades at each other. Today we have an example where the State School Trust Land Administration did it the right way. They reached out. They talked with all the relevant parties. They had a collaborative process. It just goes to show that when we work together we can actually come up with a common sense solution. I really applaud them on that effort to work in a collaborative way.

I hope that this is a signal of things to come in terms of how we address a lot of public lands issues in Utah. I hope the State School Trust Land Administration continues to move forward in trying to consolidate this checkerboard pattern that we all know makes no sense. For the sake of the school kids and for the sake of better land management, we ought to move forward on this consolidation throughout our State.

So, I commend them. I think that is really the biggest story out of this legislation, their good work.

I commend the Chairman for introducing this bill and I wholeheartedly support his in his efforts.

I yield back the balance of my time.

[The prepared statement of Mr. Matheson follows:]

Statement of The Honorable Jim Matheson, a Representative in Congress from the State of Utah

Mr. Chairman, Ranking Member Christiansen, I want to thank you for providing me with the opportunity to testify on this important piece of legislation.

This legislation seeks to remedy, through a common sense, collaborative approach, a very difficult challenge that we have in Utah.

For generations, the map of Utah has been divided and sub-divided then sub-divided again into a checkerboard pattern of ownership upon which all land use decisions have been made. Within this checkerboard are scattered 3.5 million acres of Utah's school trust lands.

The checkerboard separates different parcels of trust land, and while these lands provide Utah schools with valuable royalties, they also limit development and planning for Utah lands and the surrounding communities.

Twenty years ago, Governor Scott Matheson, my father, proposed a new way to manage these lands. Project Bold, as he termed it, would consolidate many of the lands. It would partner the state, local communities, and the Federal Government in a collaborative effort to better manage Utah resources.

Project Bold was successful in many areas. It helped create more manageable lands while giving the state a better way to harness the wealth of its resources.

This legislation proposes to exchange approximately 108,000 acres of land currently administered by the Utah School and Institutional Land Administration for approximately 133,000 acres of Federal land.

Mr. Chairman, the importance of this agreement for the people of Utah cannot be understated. I believe that when considering its value we need to keep in mind three points.

First, this agreement is an exchange of equal value. Often times when we are charged with legislating land exchanges, we find it challenging to take care of affected parties while keeping our trust with the American taxpayer.

This is one instance where we do not face that problem. The vast majority of the land in this exchange is from the San Rafeal Swell area of central Utah. For those of you who have not been there, the Swell is a geological, botanical, and biological wonder that is a national treasure. Its an area about the size of Delaware made up of high mesas, deep slot canyons, untouched forests, pure rivers, and endangered animals.

Conveying the SITLA lands within the Swell to the Federal Government is one of the first steps we must take in preserving this treasure for future generations of Americans. SITLA will also be transferring lands to protect the endangered desert tortoise as well as the Manti–Lasal National Forest. Protecting these resources is one of the basic tasks of our Federal lands policies.

Secondly, I hope this Committee keeps in mind the cooperation that gave way to this legislation. Too often in Utah, the debate about how we manage our public lands comes down to butting heads rather cool-headed dialogue.

That was not the case for this agreement. SITLA sat down and talked through this deal with the Utah environmental community. Objections were raised and worked through. Agreements were found, and the values of all parties were respected. It is my hope that the existing concerns can be eased through continued communication.

I believe that this collaborative process signals a possible new era in the debate on our public lands. I hope that the lesson learned from this process is that all Utahns value and treasure our lands, and maybe we can begin to deal with the issues that have kept us apart for too long.

Finally, we should keep in mind why the School Trust Land program was created in the first place, and that is for the benefit and welfare of the children of Utah.

Utah has the fastest growing population in the country. We have the highest student to teacher ratio in the nation, and like many other states across this nation we are increasingly challenged to find resources for our growing school population.

This legislation provides us with some of the resources that Utah schools will need to successfully educate our children. The interest provided to the fund is what helps to supplement school budgets, the more royalties there are the more resources we can provide our children.

I want to thank the Committee for inviting me here. I look forward to the swift passage of H.R. 4968.

Mr. CANNON. Thank you. You are welcome to come up on the dais. I just want to make a couple of points. First of all, welcome to the debate on this issue. In the new districting plan, this will probably be in Congressman Matheson's district.

Second, having had a lot of experience in the public lands of Utah, Mr. Matheson is going to add greatly to this debate. We appreciate you joining the debate. I will point out that as a young man this was his father's project. So, this, I suspect is sort of seeing some good things come out of what has been a good idea on a bipartisan basis for a very long time.

If you would like to join us, you are welcome to.

I guess we are now dealing with the third panel of witnesses, if you would come up, please. We have Mr. Stephen Boyden, Director, State of Utah, School and Institutional Trust Lands Administration, Salt Lake City, Utah. Welcome, Mr. Boyden.

We have Ms. Karen Rupp, Trust Lands Specialist, Utah PTA, from American Fork, Utah. Thanks for being with us today.

Also, Ms. Paula Plant, School Trust Lands Specialist, Utah State Office of Education, Salt Lake City, Utah. I personally appreciate all the time that you individually have spent on this issue and for the leadership you have given not only in Utah, but to the western States on the issue.

With that, Mr. Boyden, you are recognized for 5 minutes.

STATEMENT OF STEPHEN G. BOYDEN, DIRECTOR, STATE OF UTAH, SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION, SALT LAKE CITY, UTAH

Mr. BOYDEN. Thank you, Mr. Chairman. It is an honor for us to be here and have an opportunity to address ourselves to

H.R. 4968. We are here to urge support for and swift passage of that bill.

I would like to give special thanks to some people who have been deeply involved in this: Steve Griles, the Deputy Secretary of Interior; Tom Fulton, who has just testified; to Terry Catlin and to Sally Wiseley, the State Director of the State of Utah who have been involved on the Federal side. Then to John Harja who has been representing this State in the negotiations along with the staff of the State School Institutional and Trust Lands Administration.

All the effort culminated in the agreement signed June 18th. That agreement is in the record at this time. I would like to point out that the agreement covers three things. The first is a land exchange of equal values. Those values are set out in a report that was prepared by those negotiators. I would ask that this report, called "A White Paper in Support of the 2002 Federal-Utah State Trust Lands Consolidation Agreement," prepared by John Harja and Terry Catlin, be submitted to the record at this time.

Mr. CANNON. Without objection.

Mr. BOYDEN. That was the first part of the agreement. The second part deals with the deferred purchase of the Desert Tortoise habitat that was referred to earlier. There are some lands located near St. George, Utah, in Washington County that have an appraised value of approximately $32 million. These lands will be purchased from revenues from a coal field known as Walker Flat as part of the agreement.

Much of the agreement deals with how this money will be dispersed. It will pay for the Desert Tortoise habitat parcel by parcel. Those will be released to the Federal Government as the money is obtained.

The third item in the agreement deals with the restructuring of a debt that is owed to the State of Utah by the Federal Government in the last exchange. It is worth about $15.5 million now, which includes principal and interest. Again, the Walker Flat Coal tract will provide the cash to pay off that debt. The white paper that I referred to just a moment ago is very helpful in understanding how the equal value was arrived.

I would like to address myself very quickly to two issues. One is the equal value question and the second one is the environmental consequences of this agreement. The paper on Page 22 says, "The aggregate total values summarized in the table below amount to rounded totals of $35,500,000 for the State lands and $35,700,000 for the BLM and Forest Service lands."

So, that is about as close as you can get when you are talking about equal value. It is less than one-half of 1 percent. So, I would like to commend those people who worked on it to come up with the values.

I would also refer you to Page 5 of the report, the first paragraph at the very top. It says, "The final report of the independent qualified appraisers," and these were hired jointly by the State and the Federal Government, "did find that the exchange was approximately equal in value and that the value determined was a reasonable facsimile of probably market value." I think that's critical.

Then I would refer you to a paper that comes from Hendricks, Vella, Weber and Williams. These were the real estate consultants hired by both of us. Their conclusion reads this way after reviewing how the exchange was taking place and the process that was used in making the valuation, they conclude as follows:

"Based on the foregoing, we therefore find that the exchange referred to as the Federal-Utah State Trust Lands Consolidation Exchange is an exchange of properties approximately equal in value."

So, I think that really addresses that question. We are happy at this point to say that the teams have worked that out and then that has been reviewed by independent real estate people, one of whom is an MAI appraiser, and they have concluded as I have just read.

The next item that I would like to address is the environmental impact of this exchange. We tried early on to avoid any kind of conflict that may compromise the environment. So, we scrupulously avoided all WSA's, all Section 202 lands, which had been inventoried in the State. Also, we avoided the existing citizens' proposals that were proposed for wilderness.

In so doing, we have reduced much of the conflict which might otherwise exist.

There are several features which are important in our agreement. There will be continued consultation and protection under the Endangered Species Act. Cultural resources are protected under the State laws, which are equivalent to Federal law. We are going to work internally with Utah's Division of Wildlife Resources for protection of the habitat for all animals that would not necessarily be on the Endangered Species List.

It is also important to understand that the Clean Air and Clean Water Acts apply to the land acquired by the State under this exchange. The purpose has been, I think, very well met. We have tried from the very beginning to make Federal management over very sensitive areas available in the San Rafael Swell area.

In return, the State has acquired lands which it can manage for potential development. In all, it has been an exchange which has been beneficial both to the United States and to the State of Utah.

Thank you very much.

[The prepared statement of Mr. Boyden follows:]

Statement of Stephen G. Boyden, Director. Utah School and Institutional Trust Lands Administration

Mr. Chairman, and members of the Subcommittee, thank you for the opportunity to testify today. My name is Stephen G. Boyden, and I am the Director of the Utah School and Institutional Trust Lands Administration, an independent state agency that manages more than 3.5 million acres of state school trust lands within Utah that are dedicated to the financial support of public education.

I encourage the Subcommittee, and Congress, to act favorably on H.R. 4968, the Federal - Utah State Trust Lands Consolidation Act of 2002. This legislation ratifies the recent agreement between the State of Utah and the Departments of the Interior and Agriculture for the exchange of approximately 243,000 acres of state and Federal lands in Utah. The Agreement, when ratified, will place over 102,000 acres of state trust lands located within Utah's remarkably scenic San Rafael Swell region into Federal ownership, will permit completion of Federal acquisition of state trust lands within the Red Cliffs Desert Reserve in Washington County, Utah, and will eliminate state inholdings in the Manti - La Sal National Forest. In return, the State of Utah will receive Federal lands with lesser environmental sensitivity but greater potential for generating revenue for Utah's public education system—the

purpose for which Congress originally granted trust lands to Utah and the other western states.

Revenue from Utah school trust lands—whether from grazing, forestry, surface leasing or mineral development—is placed in the State School Fund, a permanent income-producing endowment created by Congress in the Utah Enabling Act for the support of the state's public education system. Historically, revenue from these lands has been limited, in large part because the school trust lands are largely scattered in checkerboard pattern throughout surrounding Federal lands. When the United States withdraws the surrounding Federal lands from multiple use status, for national parks, monuments, or wilderness study areas, the usefulness of the inheld state trust lands for economic uses such as mineral development is effectively destroyed. Likewise, state efforts to generate revenues from its lands through sale of the lands for recreational development and homesites have been viewed by Federal land managers as conflicting with conservation-oriented management of the surrounding Federal lands. Over the years, disputes over state school trust lands within Federal conservation areas have generated significant public controversy, and often led to expensive and time-consuming litigation between the State of Utah and the United States.

In the last several years, the State of Utah and the United States have made great strides in resolving this problem through a series of legislated land exchanges. In 1998, Congress passed the Utah Schools and Land Exchange Act, Public Law 105–335. This legislation ratified a state-federal agreement that provided an exchange of hundreds of thousands of acres of school trust lands out of various national parks, monuments, forests and Indian reservations into areas that could produce revenue for Utah's schools. Then, in 2000, Congress enacted the Utah West Desert Land Exchange Act, Public Law 106–301, which exchanged over 100,000 acres of state trust land out of proposed Federal wilderness in Utah's scenic West Desert for Federal lands elsewhere in the region.

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. Members of this Subcommittee and your staff provided great support for these exchanges, and we thank you again for all your efforts.

H.R. 4968 is the next step in this process of redrawing the land ownership map in Utah to eliminate conflicts between state and Federal land management. The legislation before you would ratify the June 18, 2002 Agreement between the State of Utah and the Departments of the Interior and Agriculture. Enactment of H.R. 4968 will:

1. Eliminate State Inholdings Within BLM Lands in the San Rafael Swell Region.

The San Rafael Swell is one of Utah's scenic wonders. A 900 square mile area of uplifted cliffs and deep canyons, it provides spectacular recreational opportunities for the public, contains significant cultural, historic and paleontological resources, and includes valuable wildlife habitat. Local government and conservation groups have variously proposed the San Rafael Swell for national monument status, a national conservation area, a heritage area, and Federal wilderness. All agree that it is a spectacular natural resource that merits special status.

Under the Agreement, the Utah School and Institutional Trust Lands Administration (the "Trust Lands Administration") would convey approximately 102,871 acres of school trust lands within the San Rafael Swell to the Bureau of Land Management. Many of these lands are within BLM wilderness study areas (WSAs), and other lands are within areas proposed by the environmental community for wilderness designation. Conveyance of these trust lands to the United States would eliminate state-federal land management conflicts in the area, and remove the possibility that sale or development of state lands in the area could conflict with protection of the Swell's significant scenic resources.

2. Provide for Federal Acquisition of Remaining State Trust Lands in the Red Cliffs Desert Reserve.

The Red Cliffs Desert Reserve in Washington County, Utah, was established in 1995 to implement a multiple-species habitat conservation plan approved by the Fish and Wildlife Service under Section 10(a) of the Endangered Species Act. The Reserve contains the highest density of critical habitat for the Mojave desert tortoise, a threatened species, in the United States, as well as providing a valuable recreational resource in what is one of the nation's fastest growing counties. Approximately 11,000 acres of Utah school trust lands were originally included within the

Reserve. Prior to creation of the Reserve, most state school trust lands in the Reserve were planned for commercial and residential development to accommodate rapid urban growth occurring in the area. In the 1995 intergovernmental agreement creating the Reserve, the Department of the Interior agreed to acquire the Utah school trust lands in the Reserve by purchase or by administrative land exchanges conducted pursuant to Section 206 of the Federal Lands Policy & Management Act of 1976. Since 1995, however, BLM has acquired only 939 acres of school trust lands in the Reserve by administrative land exchange under FLPMA. BLM's delay in acquiring school trust lands in the Reserve has caused significant financial loss to Utah's public schools, which are entitled by law to the proceeds from the lands.

The Agreement provides for the conveyance of over 6,000 acres of trust lands within the Reserve to the BLM. Certain of these lands will be conveyed to the BLM immediately, while others will be conveyed as the State receives revenues from coal lands that it is receiving in the exchange. By fixing a mechanism for the conveyance of the lands, the Agreement will eliminate the significant expenditures of staff and resources that BLM and the Trust Lands Administration are currently incurring in an effort to complete administrative land exchanges of state lands out of the Reserve. More importantly, Federal acquisition of the state trust lands in the Reserve will fulfill the United States' 1995 commitment to compensate Utah's school trust for lands effectively taken by the Federal designation of critical habitat for the desert tortoise.

3. Eliminate State Inholdings in the Manti - La Sal National Forest.

The Trust Lands Administration will also convey approximately 2892.56 acres of trust lands located within or adjacent to the Manti - La Sal National Forest to the Department of Agriculture for inclusion in the National Forest System. Certain of these lands are located in the Wasatch Plateau area of the forest, and contain wildlife habitat, timber resources, and roadless areas. Other state lands being conveyed to USDA are located above the scenic Castle Valley area in Grand County, Utah, and were identified by local conservation groups for Federal acquisition to protect forest resources and scenic vistas from the possibility of commercial development.

4. Provide For An Equal Value Exchange And Protect the Public Interest.

In negotiating the Agreement, the State and the United States expended substantial effort to ensure that the lands being conveyed by the State to the United States and the Federal lands being conveyed to the State were of approximately equal value. This process included careful analysis of sales of land comparable to those being conveyed, and, in the case of state lands within the Red Cliffs Desert Reserve, use of full narrative appraisals by a licensed Utah appraiser approved by the Bureau of Land Management.

Recognizing that valuation of lands associated with Federal land exchanges has been of concern to members of the Subcommittee and the public, the parties also engaged a nationally-recognized independent real estate consultant to evaluate the methodologies used by the parties in valuing the lands and minerals involved in the exchange and the parties' conclusion that the lands on both sides of the exchange are of approximately equal value. The independent consultants concluded that the parties' process for determining value and their conclusion that the exchange was on an equal value basis was reasonable and supportable.

The Subcommittee should also note that the Agreement contains various provisions protecting the interests of parties that may be affected by the exchange. Valid existing rights, including the rights of existing grazing permittees, mineral lessees, and other land users will be honored by the parties to the exchange. In negotiating the exchange, the State of Utah also took care to avoid selecting Federal lands containing significant environmental values that might be impacted by state acquisition, such as wilderness study area or proposed wilderness status, although some minor overlaps do exist. The Agreement also contains specific provisions for the protection of any candidate, threatened or endangered plant or animal species that may be found on lands being acquired by the State, and contemplates the execution of a detailed Memorandum of Understanding between the Trust Lands Administration and the U.S. Fish and Wildlife Service, with consultation under Section 7 of the Endangered Species Act at that time.

5. Benefit School Revenues and Local Economies.

The Federal lands being acquired by Utah's school trust have been carefully chosen for their potential to permit economic development at the local level, as well as providing revenue to the permanent State School Fund. As these lands are developed, they have the potential to create new jobs and property tax revenue, which will also benefit schools both locally and statewide

In conclusion, H.R. 4968 represents another great step toward simplifying land ownership in Utah, protecting Utah's natural heritage, and adequately funding public education. I respectfully urge the Subcommittee to approve it expeditiously and without amendment.

Thank you for the opportunity to testify today.

NOTE: "A White Paper in Support of the 2002 Federal–Utah State Trust Lands Consolidation Agreement" submitted for the record by Mr. Boyden has been retained in the Committee's official files.

Mr. CANNON. Thank you very much for your testimony. You will note that there are lights on the panel. Green means you can talk. Yellow means sum up. Red means if you care about your airplane you might want to shorten.

I didn't cut you off, by the way, Mr. Boyden. That was very helpful testimony. We appreciate that. Certainly we are not going to cut people off, but if you are just aware of that timing light, we would appreciate it.

Ms. Rupp, if you would like to take 5 minutes.

STATEMENT OF KAREN RUPP, TRUST LANDS SPECIALIST, UTAH PTA, AMERICAN FORK, UTAH

Ms. RUPP. Mr. Chairman and members of the Subcommittee, my name is Karen Rupp. I am here today representing the Utah Congress of Parents and Teachers or the Utah PTA.

Susan Dayton has submitted a letter—she is the President of the Utah PTA—showing great support for this is exchange that is about to take place.

We urge Congress to enact this legislation promptly and especially without amendment. Education is really important to Utahans. We tax ourselves as one of the highest States and yet we have the lowest per-student expenditure of all 51 States.

So, the school trust lands are extremely important to us in being able to fund education and enhance it.

In the 1980's Utah PTA found and was exposed to what school trust lands are. A resolution was passed with Utah PTA working with the other education communities to explain what trust lands could possibly do in the funding, because we honestly were very ignorant of what these lands were granted for at the beginning of Statehood.

We found in the western United States the other education communities are in practically the same boat. So, we have found that that has been very beneficial for us to do it. Currently, every year we have about 2500 parents watching a video that was produced by SITLA and the State office of Education, explaining what trust lands are and how they can benefit Utah schools.

So, if you were to ask currently today about school trust lands, you would be surprised how many recognize what they are and what the intended use was for them as opposed to back in the 1980's where no one knew what they were.

One of the programs that has come out from this is the way we had wanted to do it so that people could recognize what school trust lands are. We have taken a program called the School LAND Trust Program and this is money that is spent from the dividends and interest off the permanent account. It goes directly to the schools and they make plans with parents, teachers and adminis-

trators sitting on the committees. They will make plans of how to spend this money that will best improve and enhance education on the local level. It is totally site-based decisionmaking from the schools and it is approved by local school boards.

Just to give you two examples of what is happening in Utah, I would like to tell you about two of the schools. One of them is Whitehorse High School, which is on the Navajo tribal lands. It is 99 percent Navajo. They are really concerned as parents and the administrators that the students don't lose their cultural identify, but at the same time, they are really concerned about their future.

So, what they decided to do is to take their trust lands money and use it to help a heritage cultural program. They have been able to purchase textbooks and supplies and things to be able to enhance their learning of their proficiency in English. They do a summer program that will be able to do their reading and writing and mathematics and social studies, the areas that they are weakest in.

Parents are involved in this. They sit down and they will go over the data with the parents to find out where they are really failing and what they can do to help them. It is equally important that they do, along with this, their native culture with their Navajo arts and crafts. This program is ongoing and it is all being funded through the trust lands. It is really exciting to parents.

The second I would like to tell you about is Bacchus Elementary, which is in Kearns, Utah. This is a school that has 15 different primary languages going on. If you can imagine a teacher in elementary school trying to help the children learn to read and write and do mathematics all at the same time that they truly do not understand the English language.

What they have done is they have taken their money and helped to fund an aide to work with the children who are struggling so much in the proficiency of English and enable the teacher to be able to continue teaching the other children in the classrooms, keeping in mind that our classroom rates have been very, very high.

This has been significant as they have gone through and done their testing, to be able to know that they have been able to help these children and especially that they have been able to keep the other children on track.

Just finally, we would like to thank you as Utah PTA and the education community on the exchanges that have taken place prior to this time and look forward to the ones that are going to happen this time. So, we want you to know that when we say that this money directly affects the children, we really have a program in place to be able to do that.

Thank you for allowing me to be here.

[The prepared statement of Ms. Rupp follows:]

Statement of Karen A. Rupp, Utah Congress of Parents and Teachers

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify today. My name is Karen Rupp. I am here today representing the Utah Congress of Parents and Teachers—the Utah PTA.

Attached you will find a letter of support for the 2002 Federal—Utah State Trust Lands Consolidation from Susan Dayton, President of Utah PTA. Utah PTA strongly supports the Federal - Utah State Trust Lands Consolidation Act of 2002 H.R. 4968. We urge Congress to enact this legislation promptly and without amendment.

Education is important to Utahns. Taxpayers in Utah spend more of their tax dollar on education than any other state. Two-thirds of Utah is Federal land, which pays no taxes. Utah has a young population with the highest number of school students per taxpayer. The untaxed Federal land combined with the high student-taxpayer ratio results in the state with the highest tax commitment to education providing the lowest per pupil funding of all fifty-one states. Consequently, school trust lands are significant because the endowment fund created by these lands generates an increasing revenue stream of interest and dividends to each Utah school.

Congress granted school trust lands to Utah at statehood for the express purpose of providing funding for Utah's public schools. Utah has not always been exemplary in managing the lands and revenues as a trust. It was the PTA in the late 1980's that recognized how school trust lands could become an important revenue source for education in Utah, if they were managed as a trust as was intended at statehood. Utah PTA passed a resolution, you will find attached with the written testimony that began the movement to reform the way school lands in Utah were managed. At that time there was just $34 million in the permanent State School Fund where revenues from the land are deposited. Utah PTA, with the other education groups in the state, became unified in their resolve to ensure that school trust lands be managed for schools. After significant study, the legislature created the School and Institutional Trust Lands Administration, an independent state agency, to manage the school trust lands in 1994. Now just eight years later, the fund has grown to $351 million.

Legislation such as H.R. 4968 will have a direct impact on Utah students. In 1999, the legislature established the School LAND Trust Program that distributes the annual interest and dividends from the permanent State School Fund directly to each public school on a per pupil basis. Committees consisting of the principal, teachers and parents determine the school's greatest academic need. They prepare a plan to address the identified need with their portion of the annual trust land dividend. Local school boards approve the plans and exercise oversight of plan implementation and spending. It is a model program for local control and site-based decision making that works. As a result, this exchange will make a difference for every child in Utah.

Schools implement plans that are unique to the needs of students at each school. The following are examples of how two different schools used their trust land funds to make a difference:

Whitehorse High School is located on the Navajo Tribal Lands and is 99 percent Navajo. Parents, students, and faculty determined that the Heritage Language Program is a pivotal component of the Whitehorse High School curriculum; therefore, they developed a Cultural Center on site at Whitehorse High School. The purpose of the Cultural Center is to provide resources to teach about the Navajo culture and traditions. It provides informational resources such as books, tapes, and educational curricula. The center utilizes real life cultural experiences. Hands-on authentic instruction, integrated into the mainstream curriculum, provides students with meaningful relevant content. The center tests for English proficiency, enabling the school to determine if instruction is having a positive impact on learning. Parents are notified of the test's results. Parents who serve on the School Improvement Team actively analyze the data with teachers, and administrators. In addition, a summer school to remediate weak academic areas is provided for a month. The teachers integrate writing, math, science, social studies, reading and traditional Navajo arts and crafts. This plan will be ongoing to provide educational opportunities for the students at Whitehorse High School.

The second school is Bacchus Elementary located in Kearns, Utah. This school has 15 different primary languages spoken as well as a mobility rate of 39.5 percent, which has increased 4 percent over the last few years. The committee used the school's dividends to hire an aide to help students with limited English proficiency and reading difficulty. Their testing showed improvement in scores, especially among those who are considered English Language Learners (ELL).

As parents, teachers, principals, and school boards become involved in deciding how to make the greatest difference for their students with the school trust land dividends, they also become aware how important it is that trust lands be managed to produce revenue. School children should not go without basic education needs such as textbooks, technology and professional development while the public enjoys scenic wonders, restores the habitat of endangered species, hunts and recreates at the children's expense. Different interest groups of the state of Utah are beginning to understand that there can be solutions to competing land management practices. One solution that Utah and the United States Congress have found that works is land exchanges. Utah PTA supports fair compensation to the schools of Utah when the Federal Government captures the children's land for preservation or public uses.

We thank Governor Leavitt, former Secretary Babbitt, Congressman Hansen and Cannon, Senators Bennett and Hatch as well as all who sit on this Committee and their staffs who made the Utah Schools and Land Exchange of 1998 and the Utah West Desert Land Exchange of 2000 successful. These two prior exchanges have resulted in the protection of over a half million acres for national parks, monuments, Native American reservations, national forests and wilderness. The exchanges will increase revenues to the permanent trust fund that in turn will increase the annual dividend to schools this year and for decades to come.

H.R. 4968 Federal–Utah State Trust Lands Consolidation Act of 2002 solves the conflict in land management for over 100,000 acres of school trust lands in the state of Utah. It will directly benefit the schoolchildren of Utah. It will directly benefit the American public by preserving the beautiful San Rafael Swell and the species that live within the Red Cliffs Conservation Area. We strongly encourage your support of the legislation.

Thank you for inviting me to testify here today.

[Attachments to Ms. Rupp's statement follow:]

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Marian Gardner
Education Commissioner

Camille Elkins
Family Life Commissioner

Tim Cosgrove
Health Commissioner

Margaret Wahlstrom
Individual Development Commissioner

Cheryl Shiflet
Safety and Welfare Commissioner

Patsy Chandler
Student Involvement Commissioner

June 18, 2002

To: Utah State Legislature
United States Congress

From: Susan Dayton, President
Utah PTA

Subject: AGREEMENT FOR EXCHANGE OF LANDS
2002 FEDERAL-UTAH STATE TRUST LANDS CONSOLIDATION

Utah PTA supports the 2002 land exchange between the Federal Government and the State of Utah and requests your support of the exchange.

The proposed land exchange will exchange low revenue producing school trust land sections in the State of Utah for consolidated parcels with surface and mineral development potential within Uintah, Emery, Utah and Washington Counties.

Much of the land to be exchanged has historically produced little revenue for schools, not because the resource does not have value, but because it has been held in Wilderness Study Areas, National Forests and Habitat Conservation Preserves. If the exchange is successful, the school children of Utah will begin to benefit from the trust granted to them at statehood, previously held captive by other competing interests.

In addition, once development begins on acquired parcels, schools will benefit again, through local property tax generation and income taxes that flow to the Uniform School Fund. In a state that funds schools at the lowest per-pupil expenditure in the nation while committing a larger percentage of its resources to public schools than any other state, the potential revenues are a promise for improvement.

As directed by the legislature, the annual distribution from the Permanent State School Fund is implementing meaningful site-based decision making in schools across the state through the School LAND Trust Program. School committees, including parents, decide how to best address the unique academic needs of their students with their share of the annual trust land dividend. Schools are held accountable for implementation of approved plans and expenditure by locally elected school boards. School plans are as unique as each individual school. As revenues from school lands increase the permanent fund, so will the annual dividend improve academic excellence in every Utah school.

We request the support of the Utah State Legislature and the United States Congress.

Susan Dayton
President

Utah PTA 1990
RESOLUTION

STATE LAND USE

WHEREAS, The Federal Government determined at statehood that it would be retaining well over 80% of the land in the new State of Utah;

WHEREAS, Federal landholdings could not be made subject to the property tax; and

WHEREAS, Primary support for the schools at that time came through the property tax; and

WHEREAS, The Federal Government then granting the fledgling state four square mile sections in each thirty-six square mile township, to be held in trust for the support of the public schools; and

WHEREAS, The School Land Trust retains some 3.6 million acres of land; and

WHEREAS, The Trust lands have not been managed for the benefit of the Trust during most of the time Since Statehood, resulting in an economic loss of millions of dollars to the school children and taxpayers of Utah, contrary to the original intent of the land grant; and

WHEREAS, much of the loss has been due to actions of the Federal Government, which has prevented marketing, development of use of Trust Lands contrary to its obligations under the Bilateral Trust Compact at Statehood; therefore be it

Resolved, That the Utah PTA encourage the Governor, Legislature, and other State officials to take all necessary steps to manage the School Trust Lands in accordance with Trust duties and principles, thereby obtaining much-needed revenue for Utah's schools and relieving, in part, the disproportionate burden of taxation on Utah's taxpayers which has resulted from failure to manage the lands for revenue generation as was originally intended; and be it further

Resolved, That the Utah PTAs work to encourage Federal and State officials to fulfill their responsibilities under the Trust Compact by assisting the State in proper management of Trust lands for their intended purpose, and in cases where management for Trust purposes would conflict with other important purposes, such as; protection of archaeological, aesthetic, or other environmental or cultural resources, that the Federal Government purchase the affected lands or trade those lands for other lands where trades can be made for the benefit of the Trust; and be it further

Resolved, That any such trade or purchase be for not less than the fair market value of the Trust lands, with an appropriate additional amount to compensate the School Trust for losses incurred due to failure by the Federal Government to permit fair revenue generation on the Trust Lands in Question; and be it further

Resolved, That the leadership of the Utah PTA be directed to inform appropriate State and Federal officials of this resolution and work to accomplish its objects.

Utah PTA 1998
RESOLUTION

SCHOOL TRUST LANDS

WHEREAS, At statehood the Federal Government owned well over 80% of the land in the new State of Utah; and

WHEREAS, The State agreed not to tax Federal land; and

WHEREAS, Primary support for the schools at the time came through the property tax; and

WHEREAS, The Federal Government then granted four, one square mile sections in every thirty-six square mile township, to be held in trust for the support of the public schools; and

WHEREAS, The School Land Trust retains some 3.6 million acres of surface land and 4.4 million acres of underground mineral rights; and

WHEREAS, The Utah Legislature has created the School and Institutional Trust Land Administration, an independent agency, to manage these school lands for the sole benefit of Utah public schools, with strict adherence to their trust obligations; and

WHEREAS, Utah PTA and its constituent organizations have been involved in educating elected officials in Utah and nationally about school trust lands and their fiduciary responsibility to the trust; and

WHEREAS, Utah PTA and its constituent organizations have advocated for recent changes in the management and operation of the trust which has resulted in increased revenues. They continue to be an important voice in ensuring that the school children of Utah are fairly dealt with in relation to the trust; therefore be it

Resolved, That the Utah PTA encourage the Governor, Legislature, the State Treasurer, the Attorney General, the School and Institutional Trust Land Administration and the other State officials to take all necessary steps to manage the School Trust Lands in accordance with trust duties and principles, including undivided loyalty to the beneficiaries, a duty to make Trust property productive, a duty to keep and render accounts, and a duty to exercise prudence and skill in administering the Trust, thereby obtaining much-needed revenue for Utah's schools; and be it further

Resolved, That the Utah PTA work to encourage Federal and State officials to fulfill their responsibilities under the Enabling Act by assisting the State in proper management of School Trust Lands for their intended purpose, to support schools; and in cases where management for Trust purposes would conflict with other important purposes, such as protection of archaeological, aesthetic, or other environmental or cultural resources, that the Federal Government purchase, or trade the affected lands for other lands of comparable value and be it further

Resolved, That any such trade or purchase be for the full value of the Trust Lands, with an appropriate additional amount to compensate the School Trust for losses incurred due to failure of the Federal Government to permit reasonable development of the Trust Lands in question; and be it further

Resolved, That the leadership of the Utah PTA be directed to inform appropriate State and Federal officials of this resolution and work to accomplish its objectives.

Mr. CANNON. Thank you, Ms. Rupp. If you would give my best to Margaret, I would appreciate that. She is a wonderful leader in this area.

I would like to point out for the record that we are joined by our colleague from New Jersey, Mr. Rush Holt. He has been very active in the legislation we have been working on for the San Rafael Swell. He had to leave to go to another engagement.

But thank you again, Ms. Rupp, for your testimony.

Ms. Plant, if you would like to speak for 5 minutes, we would appreciate hearing from you.

STATEMENT OF PAULA PLANT, SCHOOL TRUST LANDS SPECIALIST, UTAH STATE OFFICE OF EDUCATION, SALT LAKE CITY, UTAH

Ms. PLANT. Thank you, Mr. Chairman and Committee members for the invitation to be here today. We appreciate the opportunity of talking to you about this land exchange and are here to request your support of the bill.

I am here representing the State Office of Education and you will find attached to my written testimony also letters in support from the Elementary and Secondary Principals Association, the Utah Education Association, the Superintendents Association and the School Boards Association.

Just as a reminder, at Statehood Utah and the Federal Government entered into a bilateral compact. In the Enabling Act, the Federal Government granted four sections in each township specifically for the purpose of supporting public education.

In the Constitution Utah agreed to the terms of the compact including a provision that they would not tax the Federal lands within the State. The money that is generated from those lands by State and Federal law, if the lands are to generate money, that money goes into a permanent fund. The money is not spent, but is invested. The interest and dividends are then distributed annually to the School LAND Trust that Karen has just explained to you.

We have a funding problem in the State of Utah that Representative Hansen just explained to you. Our legislature commits a larger percentage of its resources to support education in the State of Utah and at the same time, we never seem to be able to move out of dead last in per pupil funding.

We look to school trust lands as a means to help deal with that situation because two-thirds of the land in the State of Utah cannot be taxed for education. The problem is these lands are sprinkled across other Federal designations that are not managed to produce revenue.

For the most part, the schools in the State of Utah have not been compensated for those other land uses. Adding to this grim picture, our legislature is in special session right now trying to deal with deficits.

In the State of Utah, the children are going to feel cuts, additional cuts. We are going to lose teachers and programs in every school in the State. It leads us to a situation where we can't continue to tolerate uncompensated use of the school children's land.

So, we are very pleased to be here and for the support that we have had in the past on two previous land exchanges where people

are coming together and saying, "How can we solve the management conflict in the State of Utah?"

Those of you who have helped make those possible, we want to say thank you because we know that these kinds of land exchanges are not easy. We know that they take a great deal of time and resources, a lot of patience and tenacity. We appreciate those who have been involved in this potential land exchange to this point in time.

We thank our Congressional delegation, Mr. Cannon for carrying the legislation, to Mr. Fulton who testified to you, the School Trust LANDS Administration, to all those who have been involved. We believe it will be important to the school children and want you to know that education in Utah supports this kind of a land exchange that can be positive for the environment, protecting lands that probably ought to be protected, and recognizing that this will simplify the land management in the State, which seems to be the big problem.

Trust lands and the Federal Government will be able to manage their consolidated blocks for a single purpose. We think that's important.

We also believe that it is important that we are able to stimulate some economic situations in the counties where these lands will be located. As those lands become productive, not only will the permanent funding increase from the revenues, but also property and income taxes will increase that also helps schools.

Now, we know that there are those who may be questioning the values in the exchange. Based on what Mr. Boyden has explained to you, we believe the land exchange is fair and would like you to consider, if there are those who still have questions, that it is our school children's land that has been captivated in these Federal designations.

They have not been producing revenue in the past for many, many years. We have not only lost those revenues, but also the interest and dividends that would have compounded over time.

We thank you for the opportunity to be here today and request your support of this piece of legislation.

Thank you very much.

[The prepared statement of Ms. Plant follows:]

Statement of Paula Plant, Utah State Office of Education

Mr. Chairman, and distinguished Committee members, thank you for the invitation to testify this afternoon in support of H.R. 4968 Federal—Utah State Trust Lands Consolidation Act of 2002. I am here to strongly urge your support for the land exchange that has been signed by Governor Leavitt, the Secretary of Interior and Secretary of Agriculture.

At statehood, the state of Utah and the Federal Government entered into a bilateral compact that established a trust for the public schools of Utah. In the Utah Enabling Act, the Federal Government granted four sections in each township to support the common schools. In the Utah Constitution the state agreed to the terms of the compact including a provision that the state would not tax the Federal lands in the new state in return for the land grant to schools. School trust lands are an important component in the present and future funding of education in the state.

Both Federal and state law require that the lands be managed to generate income for the schools. Revenue from trust lands—whether from grazing, forestry, surface leasing or mineral development—is placed in the State School Fund, a permanent income-producing endowment for public schools. The fund is invested and the annual interest and dividends are distributed to each school through the School LAND Trust Program.

The state is heavily impacted by Federal ownership. Two thirds of the land in the state cannot be taxed for education. In addition many of the school trust lands that were granted to provide revenue for schools are sprinkled across various Federal designations that are not managed to be revenue producing. Because the school lands are inside land managed for purposes such as wilderness and habitat conservation, they have not been revenue producing and for the most part, schools have not been compensated. The schools of Utah have consistently been funded at the lowest per pupil expenditure in the nation while the state commits a greater percentage of the annual budget to education. Adding to the grim picture, current budget deficits in Utah are requiring that schools reduce expenditures across the state, programs and personnel are being eliminated. The schools of Utah cannot continue to tolerate uncompensated use of the school lands in the face of such desperately needed revenues.

The education community of Utah is pleased that steps have been enacted in recent years to correct the errors of the past and to actively seek resolution to the conflict in land management missions. I wish to thank all who made two prior Utah land exchanges a reality. Sincere thanks goes to Governor Leavitt, the School and Institutional Trust Lands Administration, former Secretary Babbitt, Congressmen Hansen and Cannon, Senators Bennett and Hatch as well as members of this Committee and their staffs. We recognize exchanges of this magnitude require significant dedication of time and resources as well as tenacity and patience. We are appreciative of those efforts. The Utah Schools and Land Exchange of 1998 and the Utah Schools and Utah West Desert Land Exchange Act of 2000 have resolved some large prior management conflicts. Utah schools are beginning to receive revenues from acquired lands, the American public is able to enjoy beautiful scenic and recreational areas of Utah, and lands that have been identified for their significant environmental and scientific value have been preserved.

The proposed land exchange before you today will resolve another piece of the land use conflict in the state. The education groups of Utah including the Utah State Board of Education, the State Superintendent, Utah PTA, the Utah Education Association, the Utah School Boards Association and the Utah School Superintendents' Association strongly urge your support of H.R. 4968. The education organizations of Utah support exchanges for the school children that accomplish the purposes explained here.

1. The exchange is positive for the environment. Over 112,000 acres of trust lands will be conveyed to the American public. These lands are in areas that have been identified by the BLM and the environmental community as having significant natural, scenic, recreational, and scientific values. The San Rafael Swell is one of America's scenic treasures. In the absence of an exchange, trust lands in this area will be used for mineral development or will be sold for purposes such as cabin sites. The Red Cliffs Desert Reserve in Washington County, in addition to its status as critical habitat for the desert tortoise and other species, is an exceptional public recreation area in one of the most rapidly growing urban areas in the county.
2. The exchange will greatly simplify land management. While the school trust lands to be exchanged have both surface and mineral value, the lands cannot be managed to produce significant income without major disruption of the wilderness or scenic characteristics of surrounding areas. In the past, management conflicts of this type between the State and the United States have led to lengthy and expensive litigation. Elimination of scattered school trust sections throughout these areas will permit unified Federal management of the lands. On the other side of the exchange, the school trust will also receive consolidated tracts that can be managed far more efficiently and productively than the scattered lands being given up.
3. The exchange will benefit school revenues and local economies. The Federal lands being acquired by Utah's school trust have been carefully chosen for their potential to permit economic development at the local level, as well as providing revenue to the permanent State School Fund while avoiding acquisitions in areas of critical environmental concern. We support the opportunity for increased development with the associated increase of jobs, property taxes that support local schools and income taxes that support education through the state budget.

We understand that there are those who may question the values attributed to various lands in the exchange. We believe the exchange is fair, and have watched closely as tracts have been added and dropped from the proposal to address the concerns of various affected parties, with values then carefully brought back into balance. A nationally-recognized independent real estate consulting firm was engaged by the parties to evaluate the methodologies used in valuing the lands and minerals

involved in the exchange and the parties' conclusions that the lands on both sides of the exchange are of approximately equal value. The independent consultants have concluded that the parties' processes for determining value and their conclusions that the exchange was on an equal value basis are reasonable and supportable.

For those who continue to question, we ask that they remember that the majority of trust lands being proposed for trade have been captured within Federal Wilderness Study Areas for two decades. In the case of the Red Cliffs Desert Reserve lands, highly valuable development lands in one of the most rapidly growing urban areas in the nation have been effectively taken through Federal designation of critical habitat for the desert tortoise, depriving the school trust of millions in real estate development revenue. Utah has taken the high road, and chosen not to litigate over these takings, nor has it chosen to sell the lands or take other action that would significantly diminish the conservation values of the surrounding Federal lands. The Federal Government's creation of these designations has denied Utah's schoolchildren the use of lands granted by Congress for the express purpose of generating revenue for their education, not to mention the interest on lost revenues that would have compounded on those revenues over time.

We request that the Subcommittee recognize H.R. 4968 as another important step in resolving the conflict between conservation and education in the state of Utah, and urge your support of the bill.

Thank you for the opportunity of testifying in the Committee today.

[Attachments to Ms. Plant's statement follow:]

THE UTAH ASSOCIATIONS OF ELEMENTARY AND SECONDARY SCHOOL PRINCIPALS

250 EAST 500 SOUTH
SALT LAKE CITY, UTAH 84111

June 24, 2002

To: Utah State Legislature
United States Congress

From: Luana Searle, Executive Director,
Utah Association of Elementary School Principals
Carl Boyington, Executive Director
Utah Association of Secondary School Principals

Subject: SUPPORT FOR THE AGREEMENT FOR EXCHANGE OF LANDS 2002 FEDERAL - UTAH STATE TRUST LANDS CONSOLIDATION, UTAH STATE LEGISLATIVE RESOLUTION, AND H.R. 4968

The Utah Association of Elementary School Principals Association and the Utah Association of Secondary School Principals urge your support of the exchange as described in the Agreement for Exchange of Lands 2002 Federal - Utah State Trust Lands Consolidation and the associated Utah State Legislative Resolution, and the House of Representatives bill (H.R. 4968).

The agreement that has been negotiated and signed by Governor Leavitt, the Secretary of Agriculture and the Secretary of the Interior offers a positive solution to the conflicting land management mission on school trust lands and Bureau of Land Management (BLM) lands in the state of Utah. The lands to be relinquished were granted at statehood for the benefit of Utah schools. It has been difficult to produce revenue from these school lands because of restrictions placed on the surrounding BLM lands for wilderness and threatened and endangered species habitat.

The schools will acquire land to be managed to provide revenues to the permanent State School Fund, as was intended by our forefathers at statehood. The revenues from the permanent fund are now distributed annually to schools throughout the state, where school committees decide how to address an academic need with their portion of the annual trust land dividend. This discretionary revenue is essential to schools in accomplishing their mission of providing the best education possible to our school children. As the permanent fund increases over time from investment and from revenue from the lands, it will produce much larger dividends. The School LAND Trust Program will become a more significant revenue stream to local schools, encouraging innovation in education, grass roots support for school trust lands, and site-based decision making to improve academic performance of students. This land exchange is an important step toward making school lands generate revenue to offset the burden of untaxed federal lands.

We also support the opportunity for increased economic development in the counties of Utah where school trust lands acquired in this exchange will be located. As the land goes into production, it will bring jobs to the communities, along with income taxes and property taxes that support schools.

We request your support of the proposed exchange.

Utah School Boards Association

860 East 9085 South • Sandy, Utah 84094
(801) 566-1207 • FAX (801)561-4579
Email: j.sherratt@m.usba.k12.ut.us

Winston T. Gleave
Executive Director

Support Utah Schools...
...where learning comes first!

June 18, 2002

To: Utah State Legislature
United States Congress

From: Steve Peterson,
Utah Superintendents Association
Utah School Boards Association

SUBJECT: AGREEMENT FOR EXCHANGE OF LANDS
2002 FEDERAL-UTAH STATE TRUST LANDS CONSOLIDATION

The Utah Superintendents Association and the Utah School Boards Association request your support of the 2002 Federal-Utah State Trust Lands Consolidation. The negotiated agreement between the Federal Government and the State of Utah to be ratified by the Utah State Legislature and the United States Congress presents an important opportunity for the schools of Utah to benefit from the lands granted to them at statehood. The lands to be exchanged have not, prior to this time, been managed for production or had the ability to produce revenue for schools due to the conflicting land management practices of the federal government on surrounding lands. The lands to be acquired will be located in areas less encumbered by management practices in conflict with production. In addition many parcels are consolidated sections much more conducive to development while other smaller parcels are situated among other already private lands.

The promise that school trust lands could make a difference for the schools of Utah is now finally being realized. Every public school in the state now receives an annual dividend from the interest and dividends in the permanent trust fund. Local school communities decide how to improve academic achievement with the annual dividend and local school boards hold the schools accountable for implementation of approved plans and expenditure of the money. Opportunities for increased revenues to the fund such as this land exchange will in turn increase the annual dividend distributed to Utah schools through the School LAND Trust Program.

In addition, we support the opportunity for increased development in the affected counties with the associated increase of jobs, property taxes that support local schools and income taxes that support education at the state level.

We urge your support of the exchange.

JUN-24-2002 MON 04:10 PM UEA FAX NO. 8012652249 P. 01

U T A H
EDUCATION
ASSOCIATION

Utah Education Association
"Preparing Utah's Children for the Future"

Phyllis Sorensen, President
Pat Rusk, Vice President
Susan M. Kuziak, Executive Director
Kalyn Denny, NEA State Director

June 24, 2002

RE: Support for H.R. 4968 and the agreement for the Exchange of Lands 2002 Federal – Utah State Trust Lands Consolidation

Dear House Subcommittee on National Parks, Recreation and Public Lands:

The Utah Education Association respectfully requests your support of the 2002 Federal-Utah State Trust Lands Consolidation. This exchange will provide protection for lands within the San Rafael Swell and for habitat within the Red Cliffs Conservation area for threatened and endangered species. In exchange, schools will be given lands in areas more appropriate for development. Both the federal government and the state will acquire more consolidated blocks that will be easier for each to manage.

The founding fathers granted these lands in trust for the support of the schools. The state has the responsibility to utilize these lands to produce revenue for the schools, and the federal government, as grantor, has the responsibility to ensure that the purpose of the grant is accomplished. All revenue from the school lands is placed in the State School Fund, a permanent endowment for public schools in Utah. The fund is invested and the interest and dividends are distributed to each school to implement a plan to improve academic performance. Teachers are an integral part of the school committee that develops the plan for academic performance. The Utah Education Association represents 19,000 teachers who are vitally interested in increasing the revenue from the school lands while respecting that some lands are scenic, unique treasures for all generations to enjoy. Opportunities for increased revenues to the fund such as this land exchange will in turn increase the annual dividend distributed to Utah schools. We support the opportunity for increased development of acquired lands with the associated increase of jobs, property taxes that support local schools and income taxes that support education at the state level.

We seek your support of this exchange for the people of the United States and for the teachers and students of our state. Thank you for your kind consideration on this matter.

Sincerely,

Phyllis Sorensen

Phyllis Sorensen
President

875 East 5180 South • Murray, Utah 84107-5299 • 801-266-4461 • FAX 801-265-2249 • www.utea.org
An Affiliate of the National Education Association

Mr. CANNON. Thank you, Mrs. Plant. As Ms. Ruff pointed out, we have among the highest tax rates in the country and the lowest per capita per student expenditure. I don't have the numbers officially yet, but right now we do household taxation. If you would just tackle households in Utah so you bring back kids that are off to college that aren't married yet, that don't have their own families. If you were to do a per-family taxation, we are about the seventh highest, in Utah, per household taxed State.

But if you adjust by families, we may well be the highest per family tax State in the country with the lowest expenditure. That is, of course, because we have a huge number of kids.

I think that there is no question but that I have the youngest population of any district in the country by a significant margin and the only district that comes close to that is my colleague, Mr. Simpson, from Southeast Idaho, or the eastern part of Idaho, which has much the same demographics.

We ought to check, Mike, and see who has the youngest and the most kids. I think we are probably ahead of you still, but I suspect it is fairly close.

Mr. SIMPSON. You might have the youngest. Ours are the best looking.

No, I'm just kidding. I was just doing a quick inventory of all the beautiful women I know in Utah. It is pretty good.

Mr. CANNON. On the other hand, it's wonderful in Idaho as well.

Do you have any questions?

Mr. SIMPSON. Not any questions. But I do want to say I appreciate what you are doing here. As Congressman Cannon mentioned, we have much the same problem you do in Idaho. We have 64 percent Federal land. When you throw in the State lands on top of that, we have close to 68 percent of the land which is non-revenue producing, which consequently, 32 percent of the land is producing the taxes which support public schools.

We face that same situation now and the same deficit situation that you are in with the State legislature and the Governor looking for funds to try to fund public schools. So, I both sympathize and agree with we had to you are trying to do.

Consolidation of these lands, I think, is a good idea so that A, you can manage them better and you can get more revenue out of them. We done some of that particularly with BLM areas and we are trying to do more of it with the Forest Service areas within the State of Idaho.

But, to me it makes for actually better management of the lands also, not just in revenue, but in better management. When there were originally laid out, if you look at it, it was just kind of a checkerboard pattern around there. We really didn't think about management and who was managing and all that kind of stuff. It is amazing when you look at some of the maps how every pink section is the State of Idaho's here and they are trying to manage that.

So, I appreciate what you are trying to do here. I applaud you for it. Hopefully we will get this through before too long.

Mr. CANNON. Thank you.

Let me just point out that I am enormously proud of the way we in Utah have managed the State trust lands and have moved these

issues forward and have provided some leadership in other States, as well.

I am thrilled to have been involved in the two prior recent land exchanges that we have done for school trust lands and hope that this one will move expeditiously this year as well, which I think it will.

I do have a couple of questions. Mr. Boyden, you talked about avoiding areas of conflict, lands where they were either in wilderness study areas or other areas. Are there any lands that you are taking in this trade which are environmental sensitive?

Mr. BOYDEN. I believe that we have some lands which may have good elk and deer habitat that we have heard some people say need to be protected. So, we have entered into a MOU with the Department of Wildlife Resources for the management of those lands so that whatever kind of development we do will be done in such a way as to ensure that that habitat not be compromised unduly.

Mr. CANNON. Thank you. Are there any other environmental sensitive things that come to mind?

Mr. BOYDEN. There has been some talk by the North Horn mind who are getting some access routes. But we have gone down there and looked at the plant species which some people have complained about. At this point we have found nothing. We will do whatever is necessary to avoid any damage to those species.

Mr. CANNON. How about the lands you are moving out of? Are there environmentally sensitive areas there?

Mr. BOYDEN. Absolutely. We have the tortoise habitat, the Desert Tortoise habitat. The original Red Cliffs Reserve is about 10,000 acres. Involved in this we have several thousand acres involved in the land exchange and then we have the rest. The balance will be bought out by the payments that we receive from the Walker Flat area.

So all of this right now is managed under a reserve and will continue to be preserved into the future.

Mr. CANNON. All right, thank you. There has been some talk about a monument in the center of San Rafael Swell. Of course that is where the bulk of these lands are being exchanged. What is the relationship of this land exchange to the monument proposal?

Mr. BOYDEN. The land exchange and the monument creation have nothing to do with each other. But if a monument were to be created, we would have to then deal with how do you manage trust lands inside a national monument.

So, what this does is make it possible for us to exchange into other areas where we are not involved in that kind of management issue. We remove ourselves from that. I think this is a great advantage to the Federal Government in its planning effort.

Certainly, we don't have any income potential when we are going to protect lands which are in WSAs. A good portion of this San Rafael Swell area is already in designated wilderness study areas.

We had a big land exchange when our former President named a monument in southern Utah. Now the Governor talked about a monument in this area and we have a fairly substantial land exchange. We will have to think about what the next step is to encourage a focus on an area so we can do more exchanges.

Mr. CANNON. This is just in reverse. What happened is we were caught unawares with the Grand Staircase and then it created all kinds of issues for the management of the School Trust Funds.That is why it precipitated a large exchange. In this one we were a little more visionary. We knew that there would be and area that would be a future conflict if we remained.

So, we tried to take ourselves out of the equation and not get in anybody's way, even when it comes to the development of either a national conservatism area, a national monument or a national park, whatever the result is, or the status quo, we are not going to be a player in that and start having difficulties between the purpose of the School Institutional Trust Lands mission and that of preservation of the Bureau of Land Management in those very sensitive areas.

I saw "Minority Report," the new Tom Cruise movie, the other day. Maybe we need an oracle to help us see what the next President is going to do so that we can be prepared.

Thank you, Mr. Boyden.

Ms. Rupp, could you speak for just a couple of minutes on how important this bill is for education in the State of Utah and what it will do for school kids?

Ms. RUPP. Well, if you go back to the 1980's when we first started becoming involved in this, there was $34 million in the permanent account, which again we got the dividends and interest off of, which is very minimal.

Just in the length of time that these exchanges have taken place and through the innovative things that have happened in Utah, our permanent account now is currently at $351 million and hopefully the stock market will do better. But with those types of things, we can't continue to have children in the school system and not provide books and supplies and things for them to be able to learn with.

Utah is in such a unique position because of the amount of children we have, we really do have the work force there. We have to have an educated work force. These lands will make a difference, a huge difference, if we can be able to get them producing the way that I know our forefathers intended them to be.So, it will make a tremendous difference.

Mr. CANNON. You know, we lost, over the last year of this recession almost two million jobs to people who didn't have college educations. We picked up about 400,000 jobs for people who had college educations. So education is the key to a decent future in America.

Ms. Plant, are there any educational organizations in the State of Utah that are not supportive of this exchange that you know of?

Ms. PLANT. Not that I know of. I think there are letters attached from everyone except for the State's school board who simply do not have time to have it on their agenda, but told me that I could tell you that they have supported land exchanges in the past that do the things that this one does and that they would be supportive of this one as well.

Mr. CANNON. For the record, and from my experience, I think you know all of the education groups in the State. So, that is probably a fair statement that everybody supports it; is that not?

Ms. PLANT. I would say that they do, yes.

Mr. CANNON. Would you like to speak about the benefits of this exchange in addition to what you have said already?

Ms. PLANT. Well, yes, maybe I can just share an experience of my own. I sit on one of the School Land Trust Committees in one of my children's schools. The first year I did we had to spend a little bit of money coming and we met with the teachers.

I think this is a very unique and interesting thing that is happening, is that parents and teachers and administrators are sitting down and saying, "What are the problems in these schools and how can we address them?"

We have very high Reading scores and learned that we were not doing that well in Social Studies and Science. Well, this didn't quite add up for me because I'd always been told if you read well you would do everything else well.

So, I looked at the teachers and said, "What's going on?"

They said, "Well, if we had geography maps in or rooms, the kids might know where the countries were."

We found that there were only two classrooms in the school that had accurate geography maps for that age group. So, we used a portion of the money to purchase the maps.

Then we said, "Well, what's the deal with the Science scores?"

They said, "Well, we don't have up-to-date classroom sets of Science books and there is no place to conduct the kinds of experiments that interest children in Science."

So, there was a classroom that we cleaned out and we turned it into a Science lab. The money now is going over the course of the year to buy Science lab equipment and textbooks so that we can teach Science in our school. I think that is very important.

In addition, I think it is important with this land exchange that we begin to create conversations with communities that have different ideas about how the land ought to be used, so that instead of constantly being in conflict, we can sometimes be partners and say there are solutions.

I think that is very important. I think that the economic benefits this is going to contribute to the counties that are going to receive the lands over time will be very important to those communities.

Mr. CANNON. Thank you very much.

Are there any other comments you would like to make on the subject, any of you?

Mr. BOYDEN. We would like to thank you very much for your time, Mr. Chairman.

Mr. CANNON. Thank you. You helped us develop a very complete record. We appreciate your comments and your input on this matter.

The Subcommittee stands adjourned.

[Whereupon, at 3:10 p.m., the Subcommittee was adjourned.]

[A statement submitted for the record by Larry Young, Executive Director, The Southern Utah Wilderness Alliance, and Pam Eaton, Four Corners Regional Representative, The Wilderness Society, follows:]

Statement of Larry Young, Executive Director, The Southern Utah Wilderness Alliance and Pam Eaton, Four Corners Regional Representative, The Wilderness Society

Mr. Chairman and Members of the Subcommittee, the Southern Utah Wilderness Alliance and The Wilderness Society appreciate the opportunity to submit our views and concerns regarding H.R. 4968, legislation that proposes the exchange of lands between the State of Utah on the one hand and the Bureau of Land Management and Forest Service on the other. As proposed, this exchange would involve the transfer of approximately 108,000 acres of state lands to the Federal Government in exchange for approximately 133,000 acres of Federal lands.

The Southern Utah Wilderness Alliance and its 14,000 members in Utah and across the nation have been committed for the past 17 years to ensuring that future generations of Americans will have the opportunity to use and enjoy, without diminishment, the spectacular array of landscapes bestowed upon the State of Utah. The Wilderness Society, with nearly 190,000 members from across the country, has been committed to protecting America's wilderness and wildlife since 1935. We have been deeply involved in discussions centered on designation of certain public lands in Utah as part of the National Wilderness Preservation System and we are dedicated to protecting the integrity of this superlative natural heritage and the biological processes supporting it.

The initial impetus for this proposal was to resolve state land issues within the San Rafael Swell—a spectacular region that we are dedicated to protecting. We could support a proposal that focuses on exchanging state lands out of Swell provided that: (1) resource values are protected; and (2) the exchange is of equal value. However, in its current form, H.R. 4968 fails both of our tests for an appropriate exchange. Though initially focused on lands in the San Rafael Swell, the proposed exchange includes lands far outside the Swell region near St. George, Utah, the value of which is highly controversial. Our hope is that through a cooperative effort, this legislation will evolve in a way that we and others who share our concerns can ultimately support the bill. We believe that it is possible to find equivalent lands in exchange for state lands in the San Rafael Swell without losing sensitive lands in the Bookcliffs, Molen Reef, and other special areas that should remain in Federal public ownership

Toward that end, we believe that a number of issues must first be addressed and resolved as the bill receives further consideration:

Environmental Concerns Have Not Been Adequately Addressed Through The Process

In late May 2002, SITLA invited us to meet with them to discuss the proposed exchange, and on May 28 we provided SITLA with a letter raising our initial concerns. On June 17, 2002 SITLA responded by letter addressing some of these concerns, but leaving many issues unresolved. Unfortunately, the bill was introduced just two days later on June 19, and we did not have the opportunity to resolve these remaining issues. We believe, however, that together we can find a solution that will protect the most sensitive environmental resources while moving the legislation closer to an exchange of equal value.

BLM Should Retain Ownership of Ecologically Sensitive Lands

The exchange proposal in its current form includes certain lands with important wildlife and other values that we believe would be undermined or harmed if transferred to SITLA. Under BLM management, public lands are now subject to the protections offered by Federal laws like the National Environmental Policy Act, the Clean Water Act, the Federal Land Policy and Management Act, and others. None of these laws would apply to public lands transferred to SITLA, whose primary interest in the lands is economic development.

In the short time between this bill's introduction and the hearing before this Subcommittee, we have struggled to find opportunities to reduce the environmental conflicts inherent in the proposed exchange. After extensive review and discussion, we have narrowed our concerns to the most environmentally sensitive parcels within the Molen Reef and Bookcliff areas. These lands, described below and totaling approximately 33,500 acres, should be removed from the exchange:

A. In the Molen Reef area of the San Rafael Swell, approximately 800 acres of BLM lands, that have been proposed for Wilderness designation and are included within America's Redrock Wilderness Act H.R. 1613, are proposed to be traded to SITLA. These should be removed from the exchange. These parcels encompass portions of Muddy Creek, and include important winter habitat for hundreds of elk. SITLA acquisition of these and adjacent parcels would preclude Wilderness designation, and could result in a negative impact to this important elk habitat. It is our understanding that the lands would be utilized

as an elk ranch and private hunting area, which in turn could lead to the transfer of Chronic Wasting Disease from domestic to wild elk, and the loss of a public wildlife resource.

The area is also potential critical habitat for the Federally and State endangered blackfooted ferret, the State threatened yellow-billed cuckoo, as well as the sage grouse, western red bat, ring-tailed cat and birds of prey such as the bald eagle. According to the Utah Natural Heritage data, these lands also comprise valuable habitat for a number of sensitive and rare plant species. Lastly, these parcels are within approximately 2,500 feet of the Rochester petroglyph panel, an important public cultural resource. Transfer of these BLM lands could affect management and protection of this well-known rock art.

B. The proposal in the Bookcliffs area contains two areas known as Monument Ridge and Wolf Point, both of which contain some of the most biologically rich and important wildlife habitat in Utah. Of the proposal's approximately 92,000 total acres in the Bookcliffs, we are concerned mainly with about 32,700 acres within these two particularly important areas.

Both Monument Ridge and Wolf Point overlap extremely sensitive lands, and miles of riparian corridors that are important to nesting raptors, native fish and other wildlife. In addition to their primitive character, these areas are critical mule deer fawning and elk calving habitat, and crucial mule deer and elk summer and winter range. Monument Ridge is an important wildlife migration corridor, as well as a location for sage grouse leks and nesting habitat. The area also contains habitat for the Federally and State threatened Mexican spotted owl, and the northern goshawk. Monument Ridge also happens to be the home of the oldest bear identified in recent Bringham Young University studies of the area—Hillary, a 24-year-old female.

The above parcels should be removed from the proposed exchange, and are identified on maps attached as an exhibit hereto. While removing these parcels from the legislation does not resolve all of our environmental and valuation concerns, it represents our bottom-line toward protecting the outstanding environmental resources of these areas and moves the bill closer toward an equal-value exchange.

The Exchange Proposal Should Safeguard Utah's Unique and Valuable Archeological and Cultural Sites; Tribes Should be Involved

In addition to removing the above parcels, the legislation should ensure that archeological resources are protected. Under normal circumstances, actions impacting Federal lands require the Federal agencies to consult with Native American tribes, and to inventory cultural, archeological and historic sites to minimize harmful impacts. See e.g. National Historic Preservation Act, 16 U.S.C. Sec. 470e [Section 106] (before approving projects of approving funding, Federal agencies shall "take into account the effect of the undertaking on any district, site, building, structure or object that is included in or eligible for inclusion in the National Register").

The regulations further confirm that the "[t]ransfer, lease or sale of property out of Federal ownership and control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance" results in an "adverse effect" on historic properties." NHPA regulations, 36 C.F.R. section 800.5(a)(2)(vii).

As far as we can determine, the NHPA's provisions have not been observed in connection with this exchange. As you know, Utah is blessed with a wealth of such archeological and culturally-important sites, which should not be given away without consultation and some measure of protection.

The Lands Exchanged Should Be of Equal Value

The state and Federal lands subject to the exchange must be carefully evaluated to ensure fairness to both Federal and state taxpayers, i.e., that the lands are of equal value. As it stands, serious questions remain regarding the comparable value of the properties subject to the proposed exchange, and the net gain of nearly 30,000 acres to the State of Utah. We encourage you to examine carefully this aspect of the legislation, including an investigation into the statements and conclusions presented in A White Paper in Support of the 2002 Federal–Utah State Trust Lands Consolidation Agreement. Testimony submitted by The Western Land Exchange Project, a public interest organization with expertise in this area, also raises significant questions regarding the fairness of this exchange.

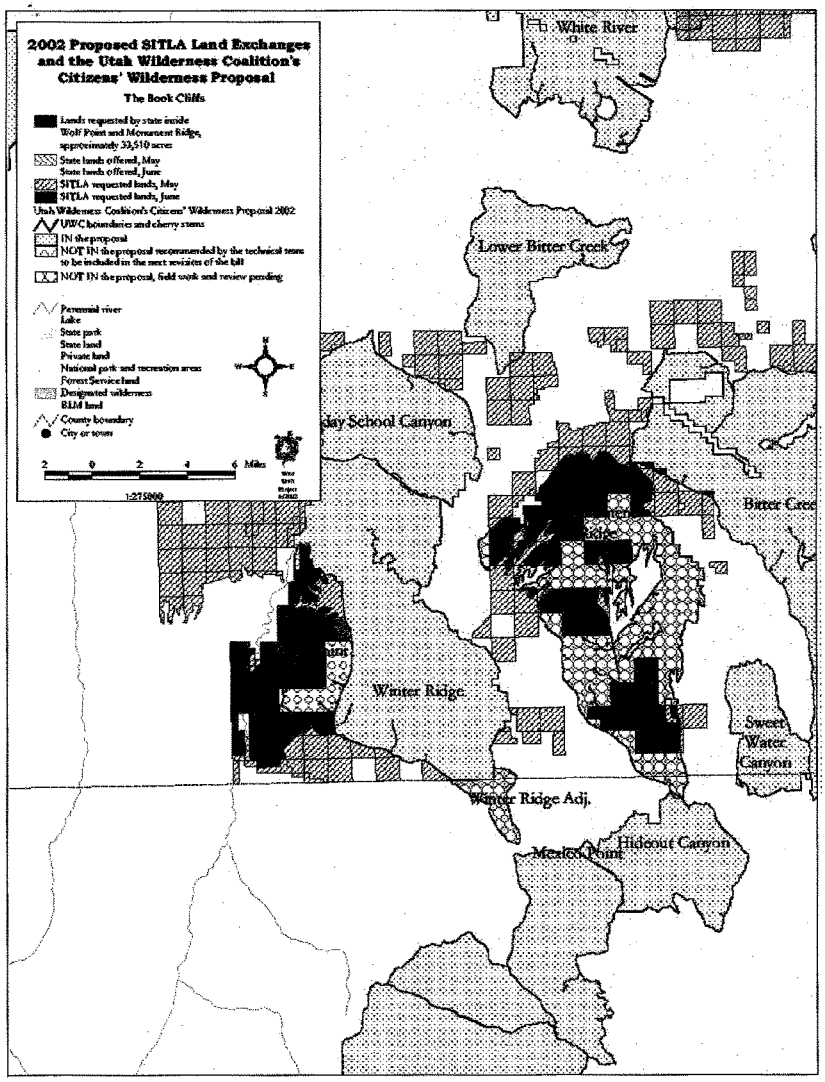
Finally, we reiterate that the primary motivating factor for this proposal is the desire to trade state lands out of the scenic San Rafael Swell. A trade involving state lands outside of the San Rafael is extraneous to this objective. Restricting the exchange to state lands in the San Rafael would help limit the proposal in the Bookcliffs and other areas to less environmentally-sensitive lands.

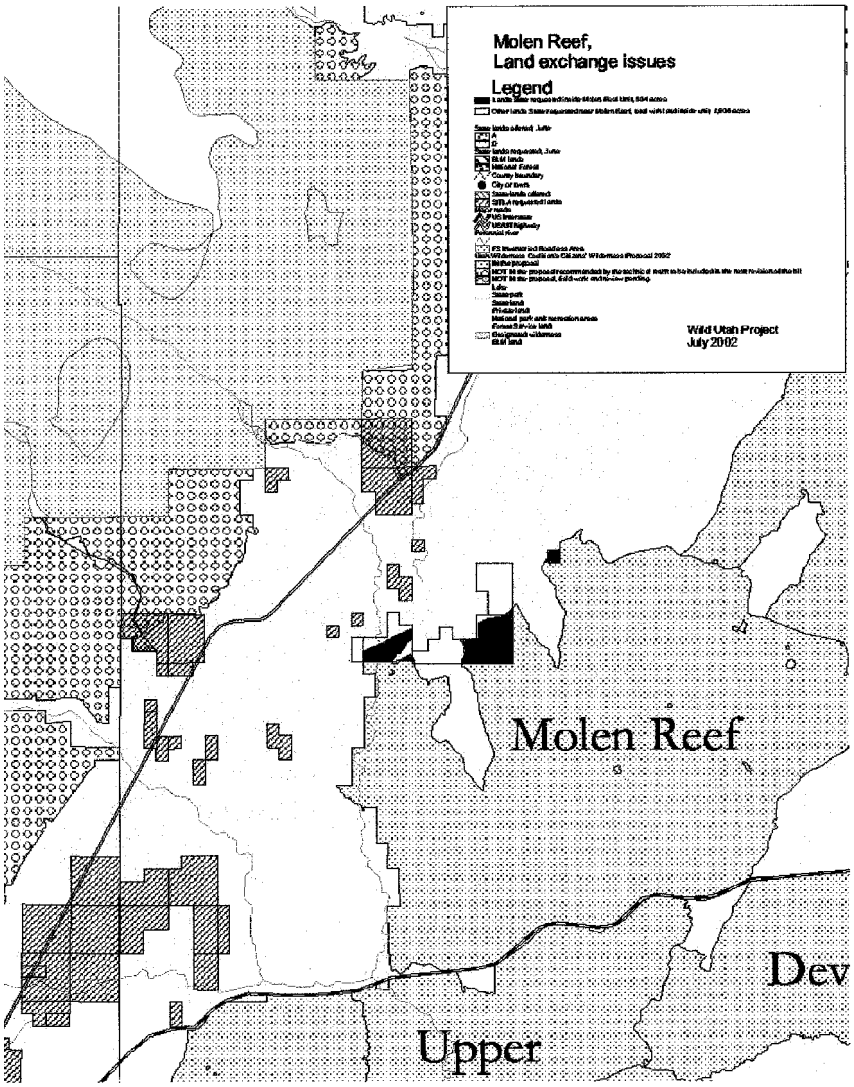
Conclusion

The lands with important wilderness and wildlife values described above should be removed from the exchange. Removal of the areas would promote the protection of important public, cultural, archeological and wildlife values for present and future generations, and would move the legislation closer to an exchange of equal value. The importance of these areas weighs strongly in favor of their retention, management and protection by the Federal Government for the benefit of all Americans.

Thank you for the opportunity to provide our perspective on this important issue. We would be pleased to provide you with further information as the legislative process proceeds, and look forward to working with the Committee to improve this legislation so that it may receive broad support.

[Maps attached to Mr. Young's statement follow:]

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