
**Testimony of Michelle McConkie
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**House Committee on Natural Resources
Subcommittee on Federal Lands**

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Congressional Oversight of the Antiquities Act
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Chairman Tiffany, Ranking Member Neguse and members of the Subcommittee, thank you for the opportunity to testify today.

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

State trust lands are largely distributed in a checkerboard pattern throughout their respective states and these scattered sections are often surrounded by federal lands. Due to this ownership pattern, large national monument designations under the Antiquities Act can have far-reaching effects on school trust lands and can create serious management conflicts when they become trapped inholdings within monument boundaries.

Restrictive Use Designation on Federal Lands Affect Activities on State Trust Lands

When scattered state trust land inholdings are embedded within federal conservation areas such as national monuments and other designations, land management conflicts arise. State trust lands

were granted by Congress at statehood with a directive to utilize them for the financial benefit of public schools and other beneficiaries. But when restrictive uses are designated on surrounding federal lands, the utility of these lands and ability to meet this Congressional directive are severely limited.

For example, oil, gas and other mineral development activities nearly always require development areas larger than scattered 640-acre (1 square mile) trust lands sections to be economically viable. For this reason, if the surrounding federal lands do not allow for compatible development activities, these trust lands are unlikely to be developed for such purposes. Even if industry is able to economically develop an isolated section of trust lands, there is the added difficulty of gaining access to the state lands over surrounding federal lands with restrictive use designations.

Land Exchanges as a Solution to Management Conflicts

One way to mitigate these management conflicts is to undertake state/federal land exchanges, where state inholdings within the boundaries of restrictively-managed federal lands are traded for federal lands with greater revenue-producing potential. Unfortunately, land exchanges are a lengthy and expensive process with many political hurdles. These political difficulties are often magnified when the restrictive uses are due to a national monument designation that did not include Congressional oversight or seek state and local input.

Uncertainties due to Changing Monument Boundaries

A recent example of these types of difficulties is the ongoing political wranglings associated with the designation of the Bears Ears National Monument in southeastern Utah. This monument was established by Presidential Proclamation near the end of the term of President Obama. President Trump subsequently reduced the footprint of the Monument during his administration. The Monument boundaries were then once again expanded by President Biden.

This back-and-forth over the past eight years has brought tremendous uncertainty for state trust land inholdings within the Bears Ears National Monument boundaries. An exchange was contemplated shortly after President Obama's designation of the Monument but was postponed once it became clear the footprint would likely be changing once President Trump took office. Discussions on an exchange resumed once the boundaries were expanded by President Biden in 2021. The current designation of the Bears Ears National Monument captures more than 200 scattered tracts of state trust land within its outer boundaries, totaling over 126,000 acres. We have spent the last 2 ½ years working on an exchange effort for these lands, which has unfortunately recently been paused by continued political tensions between the state and federal governments over management of the Monument.

It is difficult for SITLA to commit resources toward working on an exchange when there is uncertainty as to the number of acres that will be impacted or whether the footprint will continue to change with every new administration. In addition, industry wants certainty before committing capital to a project and does not want to operate on trust lands that are in the middle of an ongoing battle over monument boundaries. The unfortunate result is that these trust lands often

lie stagnant for years and we are unable to generate much-needed funding for Utah's public education system and other beneficiary institutions.

For example, in 2019 an oil and gas company expressed interest in leasing some state trust lands in the Bears Ears Monument area that had been included in the Obama-era Monument boundary but were outside the then current Trump-era Monument boundary. Given the uncertainties surrounding these lands as to whether they would remain outside the Monument or be re-incorporated into the Monument in the next administration, SITLA had to determine whether to hold the lands for potential exchange or encumber them with leases that may never be able to be explored or developed. Ultimately, SITLA held off on leasing those lands and less than two years later they were back inside the Monument once President Biden re-expanded the boundary.

Collaborative Processes Bring More Certainty and Stability in the Long Run

Though they are also not quick or easy, more collaborative processes on federal land management that include meaningful involvement from state and local stakeholders, along with some Congressional oversight, can yield more long-term stability.

SITLA's experience in managing and trying to trade out of school trust lands in the Bears Ears National Monument can be contrasted to the process associated with trading out of school trust lands in the San Rafael Swell area of central Utah. The San Rafael Swell is a unique area of Utah that is important to many different stakeholders including local communities, recreational users, energy and mineral interests, livestock operators, and environmental protection advocates. These diverse interests came together and over several years of discussions and consensus building between various executive administrations, state and local officials, and Congress, they put together the Emery County Public Lands Management Act. This comprehensive, grass roots legislation, later incorporated into the 2019 John Dingell Act, included the establishment of recreation areas, wilderness areas, wild and scenic river designations, and provisions for the exchange of state trust lands out of these new federal designations.

Though it was a difficult process, the end result has been a federal land exchange that has been significantly less controversial than the proposed Bears Ears National Monument exchange. It has brought greater finality and certainty to the uses of federal land for wilderness purposes in the San Rafael Swell area and has allowed SITLA to move forward with acquiring federal land that can better help achieve its mandate to make money for Utah's public school children.

Conclusion

Given the impacts that restrictive monument designations on federal lands have on surrounding land owners, including state trust lands, it may be helpful to allow for more public discussion about the purpose and need for a monument and to also have some Congressional oversight on this process.

Thank you again for the opportunity to testify today. I am happy to answer any questions that members of the committee may have.

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