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**Testimony of Kevin S. Carter  
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Utah School and Institutional Trust Lands Administration**

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**House Committee on Natural Resources  
Subcommittee on National Parks, Forests, and Public Lands**

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**Hearing on H.R. 1275  
Utah Recreational Land Exchange Act of 2009  
March 24, 2009**

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Mr. Chairman, and members of the Subcommittee, thank you for the opportunity to testify today. My name is Kevin S. Carter, 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. 1275, the Utah Recreational Land Exchange Act of 2009. This legislation is the product of over five years of discussions between the State, local governments, the environmental community, Congressional committee staff of both parties, and local federal land managers. At a time when most issues relating to Utah's public lands are accompanied by controversy and dispute, the proposed exchange is supported by rural county governments, various environmental groups, representatives of the outdoor recreation industry in Utah, and the Utah legislature. We have worked hard to put together an exchange that will be fair and transparent financially, workable in implementation, and conducive to more effective land management by both state and federal governments. We believe that the Utah Recreational Land Exchange Act meets all of these goals.

In short, H.R. 1275 authorizes the conveyance to the United States of approximately 46,000 acres of Utah state school trust lands within and near Utah's Colorado River corridor. In return, the State of Utah will receive approximately 36,000 acres of federal lands in eastern Utah 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.

The Colorado River corridor is a uniquely scenic area in a state known for its scenic beauty. Huge redrock features such as the Corona and Morning Glory arches are

found in proximity to the deep canyons carved by the Colorado River as it winds downstream from the Colorado border to Canyonlands National Park. The area supports thriving recreational activities, including whitewater rafting in the Westwater wilderness study area and downstream, mountain biking on the famous Kokopelli and Slickrock bike trails, and myriad other activities. The importance of outdoor recreation in the area to local economies and the state as a whole has led the Utah Governor's task force on outdoor recreation to designate the area as one of Utah's critical focus areas for promotion and protection of recreation opportunities.

The majority of land in the Colorado River corridor is federal land managed by the Department of the Interior's Bureau of Land Management ("BLM"). Notable exceptions are the Utah school trust lands scattered in checkerboard fashion throughout the area. As the Subcommittee is aware, state school trust lands are required by law to be managed to produce revenue for public schools. Revenue from Utah school trust lands – whether from grazing, surface leasing, mineral development or sale – 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.

In contrast to state trust lands, BLM lands are managed for multiple use, with an emphasis, in this area, on recreation and conservation use. Limitations on the use of surrounding federal lands, through establishment of wilderness study areas, areas of critical environmental concern, or mineral withdrawals can limit the usefulness of the inheld state trust lands for economic uses such as mineral development. 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 management of the surrounding federal lands. Over the years, disputes over access to and use of state school trust lands within federally-owned areas have generated significant public controversy, and often led to expensive and time-consuming litigation between the State of Utah and the United States.

Land exchanges are an obvious solution to the problem of checkerboarded state land ownership patterns. Exchanges can allow each sovereign – the State and the United States – to manage consolidated lands as each party's land managers deem most advisable, without interference from the other. In the last ten years, the State of Utah and the United States worked successfully to complete a series of large legislated land exchanges. In 1998, Congress passed the Utah Schools and Land Exchange Act, Public Law 105-335, providing for 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.

At this point, it is appropriate to address several features of the proposed exchange legislation about which members of the Subcommittee may have questions:

### Lands Involved

The state trust lands involved in the exchange are largely located in and adjacent to the Colorado River canyon in Grand County, Utah. Notable parcels include lands in the Westwater Wilderness Study Area, a 4,000 acre parcel of prime wildlife habitat in the upper Castle Valley area, a parcel containing a portion of the Slickrock bike trail and the Morning Glory natural arch, and a parcel containing the Corona Arch natural arch. State trust lands in Uintah County are also in the exchange proposal; these include lands adjacent to Dinosaur National Monument, lands in lower Nine Mile Canyon at the mouth of Desolation Canyon, and lands containing wildlife habitat in the Book Cliffs area of southern Uintah County.

The BLM lands that would be exchanged to the State of Utah include lands that may have potential for agricultural or industrial development adjacent to the Moab airport and the Town of Green River, and a large block of BLM lands adjacent to the Hill Creek extension of the Uintah & Ouray Indian Reservation in Uintah County. None of the BLM lands are recognized by BLM or the environmental community as having significant conservation values.

### Valuation

The legislation contemplates that all lands included in the exchange will be subject to a full and independent appraisal using recognized appraisal standards prior to conveyance, and that the lands to be exchanged will be conveyed on an equal value basis. The independent appraisal will be subject to review by each party (including the ASD for the Department of the Interior), and any disputes over valuation will then be subject to resolution through established dispute resolution mechanisms.

One provision with respect to valuation requires explanation. Certain of the federal lands that would be acquired by the State of Utah are prospective for oil and gas development, and most of these lands are currently under federal mineral lease. Under section 35 of the federal Mineral Leasing Act (30 U.S.C. § 191), the federal government is required to pay 50 per cent of all bonus, rental and royalty revenue from federal lands to the state in which the lands are located. Valuation of such federal mineral lands would be therefore adjusted proportionately to reflect the United States' existing statutory obligation to pay 50% of the revenue from the lands to the State for distribution to the counties. The proposed legislative language would be revenue-neutral to the United States, because the United States currently retains only 50% of mineral revenue from the subject lands.

There is specific precedent for adjustment of mineral land valuation to take into account the preexisting obligation of the United States to share revenue with the states under the Mineral Leasing Act. For example, section 8(c) of the Utah Schools and Lands Improvement Act of 1993, Pub. L. 103-93, provides that if the State shared revenue from selected federal properties, the value of the federal properties would be adjusted downward by the percentage of state revenue sharing. The Utah Schools and Lands Exchange Act of 1998, Pub. L. 105-335, ratified an agreement between the State of Utah and the Department of the Interior containing similar provisions. State revenue sharing payments have also been recognized and protected in land exchange legislation involving states other than Utah. *See e.g.* 16 U.S.C. 4601l-3(b)(3)(Montana's right to receive cash payment for coal tracts used as exchange consideration protected).

### Post-Exchange Land Management and Wilderness

Substantial portions of the state trust lands to be exchanged to BLM are located in wilderness study areas created under Section 603 of FLPMA, or areas proposed for wilderness in pending federal legislation. Other portions are not within proposed wilderness. The legislation provides that exchanged lands that lie within existing WSAs or other formally-designated federal areas will automatically become part of those areas upon conveyance. For other state lands exchanged to BLM, management of such lands will be left to the BLM's resource management planning process. The proposed exchange is not intended as an endorsement of any particular configuration of wilderness, which is a matter that is for Congress to decide at some future time. Rather, the intent of the exchange is to allow BLM land managers to determine, on a landscape scale, how best to manage the lands without having to deal with inheld state trust lands.

### Oil Shale

Some portions of the BLM lands to be conveyed to the State contain oil shale resources, although the location and extent of the oil shale resources is speculative at this time. Rather than appraising these resources, which would likely lead to low valuations for the United States, the lands will be conveyed to the State of Utah, with the United States receiving 50% of future bonus bids and rentals, and a production royalty equal to that which the United States would have received if it had retained the lands. This will preserve the value of oil shale to the United States in the event that these resources are ultimately developed.

### Conclusion

H.R. 1275 represents a significant step toward simplifying land management in Utah, protecting Utah's natural heritage, supporting local economies through increased opportunities for outdoor recreation, and adequately funding public education. I respectfully urge the Subcommittee to approve it expeditiously.

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