Land Exchanges – Final Exercise

“Mad William White Land Exchange”

**BACKGROUND:**

The BLM Redding Field Office is working to complete the Mad William White Land Exchange in Shasta, Siskiyou and Tehema Counties California.

Land Use Planning (LUP): The Redding Resource Management Plan (RMP) and Record of Decision (ROD) approved in July 2002.

Notice: The Notice of Exchange Proposal (NOEP) was published on May 7, 2016.

National Environmental Policy Act (NEPA): The Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) was approved on September 24, 2016.

Decision: The Notice of Decision (NOD) was approved on September 24, 2016 and published in the local newspaper on September 27 and 28, 2016.

**DESCRIPTION OF THE LAND EXCHANGE:**

The land exchange proposal involves approximately 15,880 acres of Federal and non-Federal lands in Shasta, Siskiyou and Tehema Counties, California. The exchange includes 13,540 acres of Federal land located in Shasta and Siskiyou Counties and 2,340 acres of non-Federal lands located in Tehema County.

The non-Federal lands were identified for acquisition in the RMP. They contain high recreational, cultural, and wildlife values, and have 360 acre-feet of water in a pre-1914 water right on Battle Creek. When acquired, the non-Federal lands would be managed consistent with the RMP. The non-Federal lands contain approximately 250 acres of prime farmland, but no unique farmland. The non-Federal lands have 48 acres of wetland areas along Battle Creek and floodplain along the Sacramento River. A 160-acre parcel of non-Federal land is located within the boundary of the Klamath National Forest.

The Federal lands were identified for disposal in the RMP. The Federal lands consist of 45 separate parcels of various shapes and sizes. Most of the lands are surrounded by private land, with approximately 4,500 acres having legal public access. The largest contiguous block of Federal land contains 1,920 acres, of which 50 acres are wetlands lying along the Sacramento River. Recreational uses of the Federal lands include hunting, hiking, and off-highway vehicle use. Using Recreational Opportunity Survey projections, the Federal lands probably have 20,250 recreation visitor use days annually. Several parcels have been identified by Siskiyou County sportsman’s groups as containing excellent snow-free hunting opportunities.

The exchange will have an effect on the annual County tax bases as follows:

Shasta County gain of $4,350.00

Siskiyou County gain of $36,156.00

Tehema County loss of $6,280.00

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**Problems and Issues**

1. Cultural Resources

An archaeological site has been found on a parcel of the Federal lands. This site has been mapped by the archaeologist and determined to contain significant cultural resources. What are your options or solutions?

1. Wetlands

In conducting land exchanges, the BLM and Forest Service must comply with Executive Order 11990 concerning the protection of wetlands. A qualified hydrologist must evaluate both the Federal and non-Federal lands. Exchanges must preserve wetland functions with no net loss to the Federal estate. Assuming that the quantity of wetlands is equal; will the proposal be consistent with the Executive Order? What options do you have in order to comply with the Executive Order?

1. Water Rights and Projects

BLM will acquire a 106-acre parcel of land with 640 acre-feet of water rights currently approved for irrigation use. This water right contributes $20,000 to the appraised value of the land. State law provides that water rights may be transferred with the land or separately, but must be put to beneficial use within 5 years or they are considered to be abandoned and may be terminated. Would you recommend that BLM acquire this parcel of land? If so, what issues must be addressed?

1. Notification

An adjacent landowner demands that a parcel of Federal land be dropped from the exchange because they did not receive notification advising them of the proposed exchange. What are your options or solutions? Do your options change if the adjacent landowner also has a road right-of-way across the Federal land?

1. No Legal Description

All of the remaining Federal lands in T. 33 N., R. 2 W., were identified for disposal in the RMP, but they cannot be described in accordance with BLM standards. The parcels consist of various irregular shapes and sizes, which are slivers of unpatented Federal land resulting from patented mining claims. Since they currently cannot be described, BLM is not able to conveying them. What are your options or solutions?

1. Native American Traditional Issues

A Native American group protests the Notice of Decision because there is a traditional camas-gathering site located on one of the Federal parcels to be exchanged. A field trip with the Native American representative and the BLM botanists does not locate edible camas, instead finding only death camas (a poisonous plant). What are your options or solutions?

1. HAZMAT Issues

On December 5, 2016, after the appeal to the exchange had been resolved, and just prior to closing, BLM was notified that a dumpsite, which may potentially contain hazardous substances, has been found on a parcel of the non-Federal land. A binding exchange agreement has already been signed. Do you continue the exchange? What are your options?

1. Competing Uses

An adjacent landowner wants to acquire the Federal lands adjacent to their ranch because it is where they have traditionally grazed their cattle. However, a timber company has an option to purchase with the exchange proponent to buy a valuable stand of timber on the parcel. What are your options or solutions?

1. Notice of Exchange Proposal, Comments Received

Several Federal parcels are landlocked with 10 individual adjoining property owners, and are included in the Notice of Exchange Proposal (NOEP). One of the landowners submits a comment against completing the exchange because it would be a burden on the surrounding property owners if the land were conveyed to someone else. What are your options or solutions?

Land Exchanges – Final Exercise

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**Problems and Issues**

1. Cultural Resources

An archaeological site has been found on a parcel of the Federal lands. This site has been mapped by the archaeologist and determined to contain significant cultural resources. What are your options or solutions?

 OPTION 1 – The parcel could be dropped from the exchange.

 OPTION 2 – After mapping and testing the site, the data can be collected and recovered and the exchange completed. This action will satisfy the requirements of the Historic Preservation Act. The exchange proponent may pay the cost of collection and recovery.

 OPTION 3 – If development of the parcel is not critical to the proponent, have them enter into a conservation easement with a local land trust protection easement.

1. Wetlands

In conducting land exchanges, the BLM and Forest Service must comply with Executive Order 11990 concerning the protection of wetlands. A qualified hydrologist must evaluate both the Federal and non-Federal lands. Exchanges must preserve wetland functions with no net loss to the Federal estate. Assuming that the quantity of wetlands is equal; will the proposal be consistent with the Executive Order? What options do you have in order to comply with the Executive Order?

As currently proposed, the exchange does not meet the requirements of the Executive Order. There are three options you could use to bring the exchange into compliance.

OPTION 1 – The exchange can be balanced by dropping a portion of the Federal land containing wetlands. If 48 acres containing wetlands are acquired, two or more acres of Federal lands containing wetlands needs to be dropped so the balance will favor the Federal lands.

OPTION 2 – It is possible that the exchange proponent could add additional lands to the proposal to increase the acreage of non-Federal lands with wetland values in the exchange. There may also be some opportunity to work with a conservation group or land bank to preserve additional wetlands areas and mitigate the 2-acre loss of wetlands to Federal ownership.

1. Water Rights and Projects

BLM will acquire a 106-acre parcel of land with 640 acre-feet of water rights currently approved for irrigation use. This water right contributes $20,000 to the appraised value of the land. State law provides that water rights may be transferred with the land or separately, but must be put to beneficial use within 5 years or they are considered to be abandoned and may be terminated. Would you recommend that BLM acquire this parcel of land? If so, what issues must be addressed?

BLM can acquire land with valuable water rights only if beneficially used by the United States.

OPTION 1 – If the land is acquired with the water right, you must insure that the water right can be put to beneficial use. BLM will probably not be using the water right to irrigate the land, but under State law, the right may be used for another use such as “in stream flow”.

OPTION 2 – The land can be acquired but the exchange proponent can reserve the water right and can be used by them or sold to another party. You need to be sure that the appraisal is adjusted to not include the value of the water right.

1. Notification

An adjacent landowner demands that a parcel of Federal land be dropped from the exchange because they did not receive notification advising them of the proposed exchange. What are your options or solutions? Do your options change if the adjacent landowner also has a road right-of-way across the Federal land?

It is not a requirement that adjacent landowners be notified of a proposed exchange. You do not need to drop the parcel from the exchange. As a “good neighbor” it is probably wise to notify adjacent landowners, or in the case of subdivisions, homeowner associations or water user groups or other entities common to all property owners.

If the landowner is the holder of a right-of-way across the Federal lands, they would also be an authorized user of the land and in accordance with the regulations, should have been notified at the time the NOEP was issued. The patent or deed issued for the exchange may be issued subject to the right-of-way or may convert the right-of-way to an easement.

1. No Legal Description

All of the remaining Federal lands in T. 33 N., R. 2 W., were identified for disposal in the RMP, but they cannot be described in accordance with BLM standards. The parcels consist of various irregular shapes and sizes, which are slivers of unpatented Federal land resulting from patented mining claims. Since they currently cannot be described, BLM is not able to conveying them. What are your options or solutions?

Problems with legal descriptions should be noted in the feasibility analysis and ATI so the timeframes and costs can be addressed with the exchange proponent, as well as the Cadastral surveyors.

OPTION 1 – You should request that the Branch of Cadastral Survey to review the boundaries and descriptions of the parcels. Sometimes Cadastral can make a supplemental survey plat based upon existing survey data, in this case, mineral surveys. No field survey should be required.

OPTION 2 – If there is not enough data to complete a supplemental survey plat, a field survey may be required.

OPTION 3 – If a supplemental survey plat or field survey cannot be accomplished, the parcels would need to be dropped from the exchange.

1. Native American Traditional Issues

A Native American group protests the Notice of Decision because there is a traditional camas-gathering site located on one of the Federal parcels to be exchanged. A field trip with the Native American representative and the BLM botanists does not locate edible camas, instead finding only death camas (a poisonous plant). What are your options or solutions?

OPTION 1 – You need consult with the tribal council. Even after consultation, you still may need to drop the property from the exchange.

1. HAZMAT Issues

On December 5, 2016, after the appeal to the exchange had been resolved, and just prior to closing, BLM was notified that a dumpsite, which may potentially contain hazardous substances, has been found on a parcel of the non-Federal land. A binding exchange agreement has already been signed. Do you continue the exchange? What are your options?

Even if the binding exchange agreement has been signed, an exchange cannot be completed if the non-Federal lands contain hazardous substances.

OPTION 1 – If the dumpsite can be cleaned up and any hazardous substances removed, the exchange can be completed.

OPTION 2 – If the site cannot be cleaned up, the parcel must be dropped from the exchange.

1. Competing Uses

An adjacent landowner wants to acquire the Federal lands adjacent to their ranch because it is where they have traditionally grazed their cattle. However, a timber company has an option to purchase with the exchange proponent to buy a valuable stand of timber on the parcel. What are your options or solutions?

OPTION 1 – The exchange proponent can enter into an agreement for continued grazing once the ownership has transferred to them and they can sell the timber provided it was included in the exchange.

OPTION 2 – The existing grazing permit can be cancelled after the 2-year notification has been given to the permittee. The 2-year notification period may be waived by the permittee.

1. Notice of Exchange Proposal, Comments Received

Several Federal parcels are landlocked with 10 individual adjoining property owners, and are included in the Notice of Exchange Proposal (NOEP). One of the landowners submits a comment against completing the exchange because it would be a burden on the surrounding property owners if the land were conveyed to someone else. What are your options or solutions?

All comments received after publication of the NOEP, within the allowed timeframe, must be analyzed in the NEPA process.

OPTION 1 –If the analysis shows that completing the exchange will be a burden to the surrounding owners, the authorized officer may decide that the exchange is not in the public interest and drop the parcels.

OPTION 2 – If the analysis shows that the exchange will not be a burden on the surrounding landowners, the authorized officer may decide the exchange is in the public interest and issue a decision to complete the exchange. The decision may be protested or appealed.

OPTION 3 – The exchange proponent may be willing to convey some of the parcels to the adjacent landowners. The parcels may be part of the exchange for balancing purposes only, and are not critical to the exchange proponent’s needs.