



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Washington, DC 20240

<http://www.blm.gov>


SEP 19 2013



In Reply Refer To:  
OR-65927 FD/PT  
2200 (300)

## Memorandum

To: State Director, Oregon/Washington

From:  Neil Kornze  
Principal Deputy Director



Subject: Approval to Proceed with the Administrative Processing of the McGreer Land Exchange, OR-65927

On July 22, 2013, you submitted a request for approval to proceed with the administrative processing and issuance of the Notice of Exchange Proposal (NOEP) for the land exchange proposal between the Bureau of Land Management (BLM) and Hugh Kelly and Rosemary McGreer. The Office of the Regional Solicitor, Pacific Northwest Region, provided legal sufficiency review and concurrence, subject to suggested edits on April 10, 2012. The Oregon State Office incorporated all suggested edits into the documents included in the feasibility package.

This land exchange is legislatively directed as part of the Omnibus Public Lands Management Act of 2009 (Public Law 111-011, Subtitle E, Section 1403) to resolve an inadvertent agricultural trespass. This exchange would convey 344.31 acres of Federal land valued at \$95,000 for 15.43 acres of non-Federal land along the John Day Wild and Scenic River Corridor valued at \$80,000. The McGreers will make a \$15,000 case equalization payment and pay an equal share of exchange processing costs.

Reviews of the feasibility report, feasibility summary, draft NOEP, and draft Agreement to Initiate a Land Exchange (ATI) indicate that the land exchange is in the public interest. Consummation of the exchange would result in the resolution of an inadvertent trespass on public land, acquisition by the United States of valuable non-Federal lands along the John Day Wild and Scenic River, and improved public access to the river.

The feasibility report, the ATI, and the NOEP prepared for this land exchange are consistent with regulatory requirements and current exchange policies. The BLM has considered the issues that it must address in processing the land exchange and the timeframes for completion.

Given the potential public benefits in making the exchange, you have my approval to begin the administrative processing of the McGreer land exchange and publish the required NOEP in conformance with the attached Feasibility Review Statement.

Please refer any questions to Michael D. Nedd, Assistant Director, Minerals and Realty Management, at 202-208-4201; Kim Berns, Division Chief, Lands, Realty, and Cadastral Survey (WO-350), at 202-912-7350; Don Buhler, Branch Chief, Lands, Realty, and Cadastral Survey (WO-350), at 202-912-7353; or Diane Simpson, Land Exchange Program Lead (WO-350), at 202-912-7337.

Attachment

**WASHINGTON OFFICE  
FEASIBILITY REVIEW STATEMENT**

**State:** Oregon      **Serial Number:** OR-65927      **Exchange Name:** McGreer

**Field Offices and Counties Involved:** Prineville District Office,  
Wheeler and Wasco Counties, Oregon

**Parties to the Exchange:** Bureau of Land Management (BLM) and Hugh Kelly and Rosemary McGreer

**Federal acreage proposed for conveyance:** Approximately 344.31 acres consisting of one parcel of surface and subsurface (mineral rights) in Wasco County.

**Non-Federal acreage proposed for conveyance:** Approximately 15.43 acres consisting of one parcel of surface and subsurface (mineral rights) in Wheeler County.

**Proposal:** A single-transaction land exchange authorized and directed by legislation (Public Law 111-011, Subtitle E, Section 1403). Completion of the exchange will result in the resolution of an inadvertent trespass, and acquisition of a parcel of land within the John Day Wild and Scenic River (WSR) corridor and partially within the Spring Basin Wilderness Area (SBWA).

**Land Use Plan Consistency:** The Prineville District is in the final stages of completing the John Day Basin Resource Management Plan (RMP). The BLM expects to publish the proposed RMP/Final Environmental Impact Statement in 2013. The Two Rivers RMP, dated June 1986, is currently in effect. The BLM amended this plan with the John Day River Management Plan, and the Two Rivers, John Day, and Baker RMP Amendments, dated February 2001. The plan classified the Federal land in the Two Rivers RMP as Zone 2 (Z-2), which provides an option for land exchange.

Land tenure zoning in the proposed John Day Basin RMP identifies the Federal parcel as Z-2 and allows for conveyance by exchange if the United States receives equal or greater resource values in exchange. The non-Federal lands have been determined to have a greater benefit to the public than the Federal land.

Acquiring the non-Federal lands is consistent with the intent of the Two Rivers RMP; the John Day River Management Plan; and the Two Rivers, John Day, and Baker RMP Amendments. The actions are also consistent with the management direction of the Proposed John Day Basin Resource Management Plan (PRMP) that seeks to “consolidate public land ownership patterns by purchase or exchange, acquisition of easements, and through partnership agreements with willing landowners, to resolve public access issues and provide access to high value recreation opportunities” (see PRMP Objective: WSR 1, Chapter 2, page 90).

**Public Interest Factors:**

In accordance with 43 CFR 2200.0-6(b)(1), the resource values and public objectives of the Federal lands to be conveyed are not more than the resource values and the public objectives that the non-Federal lands could serve if acquired. If retained in Federal ownership, the subject public lands would remain as an edge-holding that is difficult and uneconomic to manage. The exchange would consolidate public land ownership within the John Day WSR corridor to enhance recreational management opportunities.

In accordance with 43 CFR 2200.0-6(b) (2), the intended use of the conveyed Federal land will not significantly conflict with Federal land management and programs. The Federal land is primarily rangeland in character with 15.7 irrigated acres that are cultivated. The McGreer family will manage these Federal lands without affecting the adjacent Federal land ownership that remains.

The exchange would expand and consolidate public land ownership in the SBWA and the John Day WSR corridor, provide for better Federal land management, and be consistent with the public interest determination under Section 206(a) of the Federal Land Policy and Management Act. Upon completion of the transactions, the BLM would manage the acquired lands in accordance with the provisions of the SBWA Management Plan, the John Day River Management Plan, and the John Day Basin Resource Management Plan.

The public benefits of the land exchange include the following:

- Acquisition of 15.43 acres and about 1,320 feet of river frontage within the John Day WSR corridor.
- Acquisition of a public access point to the John Day River from a county road.
- Disposal of Federal land that is difficult and uneconomic to manage with no legal access.
- Resolution of an inadvertent, 15.7-acre agricultural trespass.

**Appraisal-Value Consultation**

The Prineville District Office discussed this exchange proposal with the Department of the Interior, Office of Valuation Services, in order to develop an appraisal strategy. The strategy developed the best possible configuration and sizes for the exchange parcels to minimize the difference in values and the amount of potential land equalization payment.

**Congressional Notification**

Washington Office Instruction Memorandum No. 2008-197 (September 25, 2008) requires congressional notification for a proposed land exchanges in which the value of the Federal lands is greater than \$500,000. The appraised values are less than \$500,000. Therefore, this exchange does not require congressional notification.

**Mineral Issues**

The Federal and non-Federal lands include the mineral estate. There are no valid mining claims identified on the Federal parcels.

**Land Exchange Issues**

The BLM anticipates minimal public controversy concerning this exchange. The BLM is completing this exchange as authorized and directed by legislation to resolve an inadvertent trespass and to acquire land with high resource values and public benefits. The Wheeler County government and local community generally favor the economic vitality that public recreation and Federal resources attract to the area. The BLM anticipates general public support due to the enhanced recreational opportunities associated with acquisition of the lands along the John Day River and increased public access.

The proponents will pay an equal share of the exchange processing costs, including appraisals, analyses, clearances, and approvals as indicated in the schedule shown below. Initial cost estimates indicate that total processing costs will be approximately \$39,000.

The BLM Oregon/Washington State Office is using strategic funds for this exchange. Public Law 111-011 authorized this land exchange. The BLM Prineville District and the Oregon/Washington State Office consider it a high priority project.

**Solicitor's Office Feedback**

The Office of the Regional Solicitor conducted an initial review of the Act and provided legal advice regarding the land exchanges and the legal authorities the BLM must comply with in processing the cases. The Office of the Regional Solicitor conducted a subsequent review of the feasibility package for this exchange, which provided detailed comments on all of the documents. Upon capturing the recommended changes, the Office of the Regional Solicitor determined the package to be legally sufficient.

## **INFORMATION MEMORANDUM FOR THE DIRECTOR**

**FROM:** Jerome E. Perez, State Director, Oregon/Washington, Bureau of Land Management

**SUBJECT:** Legislated Land Exchange with the Hugh Kelly and Rosemary McGreer, Wheeler and Wasco Counties, Oregon (OR-65927)

**DATE:** September 18, 2013

### **I. INTRODUCTION**

This is a legislatively directed land exchange proposal pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and the Omnibus Public Land Management Act (the Act), also known as Public Law 111-011 (123 Stat. 1049). The Act contains a number of provisions, including the designation of the Spring Basin Wilderness Area (SBWA) in Wheeler County, Oregon. The Act provides for land exchanges with various adjacent property owners, including the McGreer family.

### **II. EXCHANGE PROPOSAL / BACKGROUND**

Hugh Kelly and Rosemary McGreer submitted a land exchange proposal to the Prineville District Office on October 29, 2009. The initial proposal offered 26.47 acres of non-Federal land for 344.31 acres of Federal land as provided by the Omnibus Act. The non-Federal land was comprised of two separate Wheeler County tax lots: Tax Lot 700, 11.04 acres, owned by Hugh Kelly and Rosemary McGreer and Tax Lot 902, 15.43 acres, owned by Erin McGreer and William Cole. Subsequently, Hugh Kelly and Rosemary McGreer acquired Tax Lot 902 from their daughter and son-in-law by land exchange and are now offering the property to the BLM in this land exchange proposal.

The BLM coordinated with the Office of Valuation Services (OVS) to contract for a market value appraisal of the subject Federal and non-Federal land with an independent fee appraiser. The OVS administered the contract, prepared an Appraisal Review Report, and approved the values for agency use. The OVS received the appraiser's final reports for both the Federal and non-Federal lands on January 11, 2012. The approved market value opinion for the Federal land was \$95,000. The approved market value opinion for the non-Federal land was \$120,000 and included an individual value of \$40,000 for tax Lot 700 and \$80,000 for Tax Lot 902. A recent consultation with OVS indicates that these values are current and will remain valid through the 2013 calendar year.

Based on the approved values, it was immediately apparent that the exchange, as proposed, did not meet the requirements of FLPMA Section 206(b), which limits cash equalization payments to 25 percent of the value of the Federal land. The Prineville District Office consulted with the Washington Office to develop an equalization strategy that would meet both the requirements of FLPMA Section 206(b) and the intent of Subtitle J, Section 1754(b), of the Omnibus Act.

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**FROM:** Jerome E. Perez, State Director, Oregon/Washington, Bureau of Land Management

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**DATE:** September 6, 2013

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Based on the approved values, it was immediately apparent that the exchange, as proposed, did not meet the requirements of FLPMA Section 206(b), which limits cash equalization payments to 25 percent of the value of the Federal land. The Prineville District Office consulted with the Washington Office to develop an equalization strategy that would meet both the requirements of FLPMA Section 206(b) and the intent of Subtitle J, Section 1754(b), of the Omnibus Act.

The BLM and the McGreer family considered many alternative exchange configurations and agreed upon an equalization strategy that divided the transaction into two separate components, a land purchase and a land exchange. The intent was to allow for the equalization of values within regulatory limits. To support this approach, Hugh Kelly and Rosemary McGreer offered to sell all right, title, and interest in Tax Lot 700 to the United States. On June 4, 2013, the United States accepted title of Tax Lot 700 by purchase with funding from the emergency account of the Land and Water Conservation Fund (LWCF). The purchase price offer was \$40,000, the approved market value. The acquisition case is serialized OR-67600 and was processed separately from the exchange.

In this exchange transaction, the BLM will convey the Federal land valued at \$95,000 for the non-Federal land (McGreer Tax Lot 902) valued at \$80,000. This would include a cash equalization payment of \$15,000 to the United States. This cash equalization payment is 15.79 percent of the value of the Federal land and within the 25 percent maximum difference established by regulation.

Through these transactions, the United States would acquire two riverfront lots located within the John Day National Wild and Scenic River (WSR) corridor that also border the west boundary of the SBWA. This property provides public access to the river from a county road.

The John Day River was designated under the National Wild and Scenic Rivers Act in Public Law 100-557 on October 28, 1988. The John Day River system is also designated under the Oregon Scenic Waterways Act to emphasize the protection of scenic, historic, natural, and recreational qualities of the river.

### **III. POSITION OF INTERESTED PARTIES**

Generally, the BLM has received widespread support for the SBWA in response to the initial press release announcing the Act and the related exchanges. There has been overall support by the congressional delegation; Federal, State, and local government entities; interest groups; and the general public.

### **IV. LEGAL STATUS**

The Office of the Regional Solicitor conducted an initial review of the Act and provided legal advice regarding the land exchanges and the legal authorities the BLM must comply with in processing the cases. A subsequent review of the feasibility package for the proposed McGreer land exchange was conducted by the Office of the Regional Solicitor. The Regional Solicitors response provided detailed comments on all of the documents, and, upon capturing the recommended changes; the package has been determined to be legally sufficient.