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United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240



00 23 2000

Memorandum

To: Regional and Field Solicitors

From: Solicitor *Dale Pontius*

Subject: Assistance Related to Improving Guidance and Oversight of the Land Exchange Program of the Bureau of Land Management (BLM or Bureau)

On July 11, 2000, the General Accounting Office (GAO) released a report entitled "BLM and the Forest Service, Land Exchanges Need to Reflect Appropriate Value and Serve the Public Interest." Attached is a copy of the GAO report, which includes as an appendix a complete copy of the Department's response to the concerns expressed by GAO in its draft report. That response outlines certain corrective actions and new procedures. This Report is critical of the BLM's land exchange program and suggests that, because of the problems GAO finds with land exchanges, Congress may wish to repeal the authority for most land exchanges.

We disagree with this conclusion/recommendation and believe, for reasons explained in the attached exchange of correspondence between the Secretary and Cong. George Miller, that the land exchange program provides a valuable land management tool. We also believe, however, that the program can and should be improved. I have made a commitment to the Assistant Secretary and the Director to provide additional Solicitor Office assistance to BLM for this purpose. This memorandum sets forth how we can do that. If any of you have additional ideas, please share them with me, Dale Pontius and Vonnie Larvie.

Your attorneys who deal with BLM land management should review the GAO Report and the Department's response. The Bureau's new procedures and corrective actions outlined in the Department's response make some significant changes in the way exchanges will be processed and reviewed.

The Bureau's National Land Exchange Team (NET) is taking a more active oversight role in assuring that land exchanges meet statutory, regulatory and policy requirements. The Bureau is also revising and updating its Land Exchange Handbook to include clarification in a number of areas. It will include a discussion of the preparation of an appraisal and its use. (Much of the GAO and Office of Inspector General's (OIG) criticisms have focused on the Bureau's appraisal and bargaining practices.) A copy of the revised Land Exchange Handbook will be forwarded to each regional and field office as soon as it is available (probably next month). BLM field staff will be preparing a feasibility report on virtually all proposed exchanges for submission to the

NET (the specific requirements are outlined in the Exchange Handbook).

An attorney in the appropriate field or regional office should review each feasibility report for adequacy before it is submitted to the NET. Further, our attorneys should work with the Bureau to see that each land exchange meets the requirements set out in the Handbook, and should review the administrative record to make sure there is adequate documentation supporting the exchange.

I am mindful that this request for additional oversight of land exchanges will add to your already demanding workload. However, this effort is critical to assuring that the intended improvements to the land exchange program are implemented. I have asked Vonnie Larvie of the Public Lands Branch of the Division of Land & Water to be the liaison with the NET, and also available to regional and field offices for consultation. I appreciate your cooperation in these important efforts.

Finally, let me also alert you to a recent development that may have some effect on the Bureau's land exchange program. As you may know, the President has signed P.L. 106-248 (the Baca Ranch Bill), Title II of which is the "Federal Land Transaction Facilitation Act." This legislation (copy attached) allows BLM to sell public lands that meet certain criteria, and to keep the proceeds of the sales for use (without further appropriation by Congress) in acquiring inholdings and other land or interests in land with important natural resources values. The National Park Service, U.S. Fish and Wildlife Service and the U.S. Forest Service will also have access to these funds. While this legislation should prove useful in resolving some longstanding land management challenges, it will not mean the elimination of the land exchange program.

John D. Leshy

Attachments

cc: Sylvia Baca
Tom Fry
Ray Brady
Dale Pontius
Paul Smyth
Vonnice Larvie