

## BLM EXCHANGE FACT SHEET

### AUTHORITY

Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended by the Federal Land Exchange Facilitation Act of 1988 (102 Stat. 1086).

Regulations implementing the above statutes are found at Title 43, Code of Federal Regulations, Part 2200.

### STATUTORY MANDATES

The above statutes have the following provisions:

- o Exchanges must be within the same State. Exchanges that would cross State boundaries require special legislation.
- o Exchanges may be made for land or interests in land. Interests in land may include minerals, easements, or structures; any interest that either party may possess other than just land.
- o Exchanges must be for equal value (the fair market value of the Federal lands must equal the fair market value of the nonfederal lands). Equal value may not necessarily equate to equal acreage. An equalization payment may be made by either side totalling up to 25 percent of the value of the Federal lands.
- o Values of both the Federal and nonfederal lands are determined by appraisal. All appraisals must conform with the Department of Justice "Uniform Appraisal Standards for Federal Land Acquisitions." Most appraisals are based on comparable sales and the demonstrated market value of the highest and best use of the lands.
- o The documentation supporting the exchange must show that the public interest will be well served. When considering the public interest, the authorized officer shall give full consideration to achieving better management of Federal lands, to meeting the needs of State and local residents, to evaluating the economics of the proposal, and to securing important public objectives, including public access.
- o Exchanges may be completed as one transaction or may be completed in one or more transactions over a period of time known as assembled exchanges.

In addition to the provisions of the above statutes, exchanges are subject to the provisions of the National Environmental Policy Act (NEPA), and all other statutes related to environmental review.

### REGULATORY MANDATES

- o Exchanges are discretionary, voluntary real estate transactions between the Federal and nonfederal parties.
- o Exchanges must be in conformance with BLM land use plans.

- o The BLM may reserve such rights or retain such interests as are needed to protect the public interest.
- o Normally, the BLM will not acquire lands that have potential for hazardous substances problems.
- o Prior to case processing, a nonbinding written Agreement to Initiate an Exchange will be executed by all prospective parties. This agreement spells out time frames, costs, which party will complete required functions, legal descriptions, parties to the case, citizenship certification, permission to enter each others' lands, title information and closing procedures, and any special language specific to the particular exchange.
- o One or more of the parties may assume all or part of the costs of the exchange. The exchange proponent must agree to pay at least some and preferably most of the BLM's processing costs. Land exchange proposals which do not provide some cost reimbursement will be considered as low priority. Costs that the nonfederal party may assume include contracting for archaeological or paleontological clearances, appraisals, environmental documents, threatened or endangered species studies, BLM workmonth costs, escrow costs, or the costs of newspaper publications.
- o Appraisal reports must be reviewed and approved by a qualified review appraiser. (Most appraisals are reviewed and approved by the BLM State Office review appraiser, but BLM policy allows for review by any qualified Federal review appraiser).
- o Following the signing of the Agreement to Initiate an Exchange, a Notice of Exchange Proposal will be published for 4 consecutive weeks in a newspaper of general circulation in the counties in which the Federal and nonfederal lands are located. This notice invites the public to submit comments or concerns about the exchange proposal.
- o Following completion of the appraisal and environmental analysis, a Notice of Decision is published once in a newspaper meeting the same requirements as for the Notice of Exchange Proposal. The public is allowed 45 days from the publication date in which to protest the decision.
- o If no protests are filed within the 45 day protest period, title may transfer. If there are protests which lead to an appeal, title transfer must wait until after the regulatory requirements covering appeals have been completed.

#### POLICY

- o BLM will prepare a Feasibility Report for the State Director's signature prior to beginning an exchange. This document outlines the public benefits, costs, time, staff needed, and responsibilities for completion of the exchange. This is an internal BLM tool that serves as communication and coordination between staffs at all levels of the organization.
- o BLM will coordinate as necessary with all levels of State and local Governments as well as Native American tribes.

- o The average exchange takes 1-2 years to complete.
- o Appraisals may be released as public documents after signature by the Federal review appraiser.
- o The environmental analysis will be available for public review during the 45 days following the Notice of Decision.