



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

APR 30 2014

IN REPLY REFER TO:
2200(300)
UTU-87577FD/PT

DECISION

James McGillis : Protest to the Utah Recreational
50 Emery St. #1-C : Land Exchange
Pahrump, Nevada 89048 :

Protest Dismissed

On February 7, 2014, the Bureau of Land Management (BLM) issued the Decision Record for the Utah Recreational Land Exchange, authorized by the Utah Recreational Land Exchange Act of 2009 (URLEA), Public Law 111-53. The Decision Record approves the completion of an exchange of land between the State of Utah, School and Institutional Trust Lands Administration (SITLA) and the BLM, involving 35,515.99 acres of Federal land and 25,034.06 acres of non-Federal land. On March 14, 2014, the BLM received a protest to the Decision Record filed by James McGillis (protestor). The protest is in the form of a March 9, 2014, printout of a web page entitled "*Utah Recreational Land Exchange Defies Spirit of the Law*", upon which a handwritten note states, "*Written protest to the URLEA land exchange.*" The specific issues of the protest are not readily discernable; therefore, this response will address three items that appear to be the focus of the protest. On March 21, 2014, the protestor filed a second letter of protest identifying two additional issues specific to three Federal parcels located in Grand County.

Issue 1: "*The BLM's Finding of No Significant Impact statement ignores the potential impact [of oil, gas and tar sands development] by saying that mineral extraction on over 35,000 acres in Uintah County will not significantly affect the quality of the human environment.*"

Response to Issue 1: Nearly all of the Federal parcels the United States would convey to the SITLA are available for mineral leasing, mineral material disposal, and mineral entry under the BLM approved Resource Management Plans (RMP), and would remain so if the BLM did not complete the exchange with the SITLA. The BLM does not expect conveyance of title to the SITLA to substantially alter the degree of future mineral development activity on the lands. Environmental Assessment No. DOI-BLM-UT-9100-2013-0001-EA (EA), completed in March 2013 in support of the exchange action, disclosed mineral leasing and development activity as the projected future use on many of the parcels the SITLA would acquire. The EA, made available for public review and comment via BLM's Electronic Bulletin Board in April 2013,

addressed the potential impacts to resources associated with mineral development, and did not disclose any significant impacts associated with the proposed exchange.

Issue 2: *“BLM and Grand County will receive several natural arches and other sensitive sites, plus the potential for more new sand, gravel and potash mining.” “Other than a brief mention on Page Seven of the URLEA Decision Record, there is no indication of where in Grand County these resources lay. If the sand, gravel and potash deposits mentioned in the URLEA are in areas designated as “Open”, we can expect to see a boon in BLM permits issued for their immediate exploration and extraction.” “Each parcel conveyed from the SITLA to the BLM should contain stipulations that include no future mineral development. Only then shall we see an actual increase in protection for Greater Canyonlands.”*

Response to Issue 2: The EA identified those parcels with potential mineral value, including potash, and sand and gravel resources. The URLEA directs the automatic withdrawal of most of these parcels (over 70 percent) from mineral leasing and mineral material disposal, thereby precluding future development of the potash, sand and gravel, and other leasable and saleable mineral resources on these lands. For the parcels not automatically withdrawn under the URLEA, the terms, conditions and restrictions contained in the approved RMP would guide future mineral development activities.

Issue 3: *“Despite its “Open” status for oil and gas leasing, by identifying it as grazing land, Cushman & Wakefield erroneously appraised Parcel 32 as being worth only \$780,000.” “Had Cushman & Wakefield appraised Parcel 32 for its potential as an oil and gas production site, or as a railroad and highway terminal or transfer-station for two of the largest oil and gas producers in Grand County, its value could have gone as high as \$10 million.” “If the SITLA refuses a fair appraisal for Parcel 32, BLM could void the URLEA and produce the Environmental Impact Study that it should have conducted in the first place.”*

Response to Issue 3: The BLM supports the valuation of Parcel 32 established by Cushman & Wakefield as a thorough and fair assessment of the parcel’s potential highest and best use given the parcel’s current and historic use, encumbrances on the parcel, current zoning for grazing, sales of comparable properties in the project vicinity, and potential for mineral development based on the conclusions of the Mineral Evaluation Report. The Department of the Interior, Office of Valuation Services (OVS), reviewed both the mineral evaluation and appraisal report, and approved the value of \$780,000 for Parcel 32 for use by the BLM for purposes of the exchange. The BLM relies on the expertise of the OVS for establishing appraised values to assist in carrying out Federal land tenure adjustments. In this case, the BLM has no evidence conflicting with the valuation of Parcel 32, nor did any substantive information accompany the protest that would support a dispute of the appraised value.

Issue 4 (March 21, 2014 Letter): The protestor questions why the United States will convey any Federal land in Grand and San Juan Counties to the SITLA, stating *“The core concept of the URLEA was to convey recreational land in Grand and San Juan Counties from SITLA to BLM control. In return, the SITLA was to receive Uintah County land with a high potential for mineral extraction.”* The protestor further notes that Parcels 33 and 34 include open grazing land and questions what the SITLA may have planned for these remote pastures.

Response to Issue 4: The URLEA defined the Federal and non-Federal land as land located in Grand, San Juan, and Uintah County, Utah. The URLEA did not limit Federal lands to Uintah County. The EA outlined the purpose of the URLEA as follows:

- 1) Place valuable conservation and recreation lands into public ownership, including lands within and contiguous to Wilderness Study Areas (WSA), Areas of Critical Environmental Concern (ACEC), and land and mineral interest near the Utah's Colorado River Corridor, Book Cliffs, and Dinosaur National Monument;
- 2) Consolidate land ownership for both the State and the U.S.; and
- 3) Place lands with high development potential into State ownership for the benefit of the public schools in the State of Utah.

The URLEA did not limit the term "high development potential" to mineral extraction, but would include other forms of development that would benefit the public schools. Senate Report 111-67 reinforced this and noted the Federal lands are primarily parcels with high energy potential in the Uintah Basin, but other parcels would improve the manageability and encourage local development in the state. The report specifically cites the 80 acres adjacent to the municipal airport (Parcel 32) as an example. The EA disclosed the current and future anticipated use of the Federal lands by the SITLA. The uses identified for the three parcels of concern include:

Parcel 32: Current/grazing and wildlife habitat; Future/continued grazing use for intermediate term; possible light industrial use in future.

Parcel 33: Current/open space; Future/possible residential development.

Parcel 34: Current/grazing; Future/continued grazing and hold for long term appreciation.

Issue 5 (March 21, 2014 Letter): The protestor restates concern with the valuation of Parcel 32, noting that Cushman & Wakefield erroneously assessed the "highest and best use" of this parcel as grazing land rather than mineral rights.

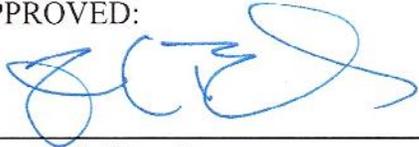
Response to Issue 5: Gustavson & Associates evaluated the oil, gas, and potash resources associated with Parcels 32, 33, and 34. The BLM provided the resulting mineral evaluation report Cushman & Wakefield for consideration in the overall valuation of these parcels. The BLM also informed Cushman and Wakefield of the future anticipated use of each these parcels as proposed by the SITLA and outlined in the EA. The BLM made both the mineral evaluation and appraisal reports available for public inspection by notices published in Salt Lake, Uintah, Grand and San Juan Counties in February 2014. To date, no parties provided information to refute the appraised values approved by the OVS.

Conclusion: A protestor bears the burden of establishing that the BLM premised a decision on a clear error of law, error of material fact, or failure to consider a substantial environmental question of material significance. The protestor has not met this burden in this instance. I reviewed the EA and Decision Record in light of the issues raised in the protest, and determined that the protest has not shown by preponderance of evidence that the BLM's decision to approve the land exchange was unreasonable or failed to consider any substantial environmental question

of material significance or otherwise comply with NEPA. The Decision Record approved by the BLM on February 7, 2014, is in accordance with the regulations found in Title 43 Code of Federal Regulations 2200. Based on the foregoing and the administrative record, I conclude that completion of the exchange will well serve the public interest. I hereby dismiss the protest submitted by James McGillis.

This decision constitutes the final administrative determination of the Department of the Interior.

APPROVED:



Tommy P. Beaudreau
Principal Deputy Assistant Secretary
Land and Minerals Management

April 30, 2014

Date