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Public-land swaps reveal firm's clout Some question fees, fairness

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Caption: GRAPHIC:

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Trading open spaces

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PHOTO: The Denver Post/Brian Brainerd

Jerry Shalrus raises cattle southwest of Steamboat Springs. He would like to buy land as part of a possible swap to save Emerald Mountain from development, but some of the proposal's details concern him.

PHOTO: The Denver Post/Brian Brainerd

Rancher Dan Craig and his wife, Karen, question the fees charged by **Western Land Group** for its work in the proposed Emerald Mountain land swap. 'Every time these guys breathe, you get billed,' he says.

GRAPHIC: The Denver Post

Trading open spaces (map)

John Husband, the Bureau of Land Management's northwest Colorado field director, was looking at a map on his office wall showing dozens of isolated federal parcels when he had what he thought was a great idea.

He knew the scattered BLM parcels are hard to manage or inaccessible to the public because many are surrounded by private land. He had also heard about a Steamboat Springs group trying to save Emerald Mountain from development.

Husband reasoned: Why not sell those parcels to neighboring landowners and use the money to buy the mountain? But he figured the deal needed the help of a group of well-connected former state and federal officials, and he knew just the people: the Denver-based **Western Land Group**.

With more than 100 swaps under its belt and tens of thousands of acres in exchanges, **Western Land Group** is no stranger to controversy. But despite working for such clients as designer Ralph Lauren, former Gov. Roy Romer and major ski resorts, it has kept a low profile.

Now, with Routt County residents questioning its role in the proposed Emerald Mountain land exchange, the spotlight is on the private consulting company, which arguably has had unprecedented power in shaping the ownership of public lands in Colorado and much of the West.

The company, whose employees have written laws and worked in government jobs, knows the process and the people who can make the often time-consuming and frustrating land exchanges happen. When a person interested in federal land hires them, they are a one-stop shop.

Western Land Group helps determine the land the federal government is interested in obtaining, negotiates to purchase those parcels for its client, offers the swap, organizes appraisals, arranges for environmental studies and other investigations, and follows it through closing. Individuals in the firm, who have handed out thousands of dollars in political contributions, know the politicians who can help the process or slow it with inquiries. At times, **Western Land Group** approaches lawmakers to write the swap into bills when the bureaucratic process stalls or is too slow.

Those tactics result in a 95 percent success rate for the firm's clients and tens of thousands of acres changing hands, according to the company.

Nearly every year the federal government swaps thousands of acres of government land for other property. But land swaps, especially near ski resorts and in other prime locations, are often mired in controversy. Critics charge that the government is getting land worth less than what it is giving up and that the arcane land-exchange process is susceptible to meddling by lawmakers sympathetic to developers who want to profit off of government lands.

The Emerald Mountain/Steamboat deal is similarly controversial, but

opponents have also raised questions over **Western Land Group's** role and the roughly \$1 million the company stands to make from the deal.

"Every time these guys breathe, you get billed," said bull breeder Dan Craig, Routt County's farm bureau president who was called this summer by **Western Land Group's** Tim Wohlgenant for advice on how to quell the Emerald Mountain controversy and then was billed, with other potential buyers, \$125 an hour for the call. "This is a no-risk operation for these guys. It goes against the grain for people like me who roll the dice every year."

Wohlgenant says no one is being forced to participate in the swap and contends that opponents fear losing access to public land they have used on the cheap.

Western Land Group was formed in 1981 by former state Sen. Tom Glass, D-Crested Butte, and then-Nature Conservancy regional director Dan Pike.

"It seemed like a fairly decent business opportunity," recalled Pike, who now heads Colorado Open Lands.

The group started out small, helping the Lodge at Vail trade 385 acres in the Eagles Nest Wilderness Area for about 2 acres at the mountain base to expand its operation. The Town of Vail and others sued, saying the value of the ski base land was low and the deal was not in the best interests of the public, but the Lodge prevailed after years of court battles.

From there, **Western Land Group** increased its size and the size of its projects.

Company president Adam Poe, with experience in state agencies overseeing reviews of energy projects and highways, joined the company in 1987. About five years later, Andy Wiessner, who served as counsel to the U.S. House subcommittee on public lands and national parks, went to work as **Western Land Group's** lobbyist.

Poe and Wiessner said their previous government work helps their business by allowing them to understand and maneuver through the complex bureaucracy and legislative process. But land swaps, they say, are approved by federal and state officials on the merits of the project and not through personal connections.

"It's the project that's fundamental," said Poe, sitting in a small Washington Park house that serves as the company's headquarters.

Janine Blaeloch, director of Seattle-based Western Land Exchange Project, an opponent of the land- swap process who has fought many exchanges, disagreed.

"The ones that go through are the ones that people are able to convince ... someone in power that it is in the public interest," she said. "They're the ones profiting from it. They're the ones making a living off of trading public lands."

And **Western Land Group**, with its former government officials, their positions on state boards and land trusts, and their friendships with politicians, knows the fastest ways through the halls of power.

So much so that firm employees have written laws designed to speed up exchanges. Wiessner, as a private attorney a few years before joining **Western Land Group**, said he drafted the Federal Land Exchange Facilitation Act of 1988. The act, designed to streamline the process, sets up arbitration when landowners and the federal government disagree on land values.

"They played right into the hands of people who could set up facilitation groups," said Charles Hancock, a retired BLM appraiser who testified against the bill. "It's big business."

Wiessner also lobbied for a controversial swap that gave a Utah resort owner federal land to expand his ski area in exchange for staging part of the 2002 Winter Olympics. **Western Land Group** went the legislative route on the Snowbasin exchange, a controversial method of enacting a land swap in which a congressman or senator directs the exchange by passing a bill. Critics say the legislative swaps circumvent the long bureaucratic process and citizen input.

The legislative exchange gave the resort owner more than 1,000 acres that he can develop into condos in exchange for hosting Olympic ski events. Critics say a much smaller piece of that land was needed for the games, and the pristine property should not have been given away for development.

Even **Western Land Group** officials had trouble defending the Olympic exchange. "People do a lot of things to make sure the Olympics happen," Poe said.

Despite downplaying the role of political contacts, the group has tried to influence who gets key government jobs that may help them down the road.

In February 1993, **Western Land Group** co-founder Glass wrote a letter to newly appointed Interior Secretary Bruce Babbitt offering to help him interview candidates for the position of BLM director - a position key to approving land trades. A computerized summary of the letter was obtained under the Freedom of Information Act.

Babbitt, reached at the Washington lobbying firm where he works, declined to comment. Glass said he does not remember the letter.

"It could have been construed a conflict at the time, and maybe that's why he never replied," said Glass, who in his years as the mayor of Crested Butte was known for driving a Jaguar while living in a tepee. "I was probably thinking about the talented people in the field that worked for them in California who could have really brought some great experience."

Poe said the firm's goal is to preserve untouched land for public use while allowing building near developed areas and most of their swaps are not controversial.

But an exchange five years ago near Crested Butte did have a lot of opposition. **Western Land Group** coordinated an exchange in which the Crested Butte Mountain Resort traded land worth \$7 million for land that critics say could be worth as much as \$40 million.

Swap opponents say appraisals are difficult to do because the land is unique and the private landowners often outwit government officials.

"There's no real marketplace when dealing with land exchanges, and there's no effective way of valuing a market analysis," said Andy Stahl, head of Forest Service Employees for Environmental Ethics. "These third parties rarely lose money in these exchanges."

Crested Butte resort president Edward Callaway acknowledged that the land near Crested Butte is worth about three times what the company paid. He said that is because resort officials received favorable zoning in exchange for reducing building density on another resort parcel.

Federal officials, for their part, deny that there are systematic problems with the appraisal process.

"We do not exchange land of not- equal value," said Jim Dunn, a U.S. forester in western Colorado. "We look at what's best for the public."

Several current and former federal officials call **Western Land Group** a professional company that increases the chances of getting swaps done by knowing the procedures and helping complete the bureaucratic steps.

For example, in the Steamboat Springs/Emerald Mountain case, they have worked with adjacent landowners to convince them to buy the land, organized appraisals and environmental studies, and called politicians to make sure they do not try to block the trade when deluged with calls from opponents.

But the swap has the potential to become one of the company's thorniest. Proponents want to sell about 15,000 BLM acres for at least \$15 million to buy the 6,300-

acre, state-owned mountain southwest of Steamboat Springs.

Western Land Group got involved in the deal after BLM official Husband directed Emerald Mountain Partnership chairman Ben Beall to the company.

"Nobody brought any other alternatives to the table," Beall said, adding his belief that the swap is the most important conservation effort in Routt County.

Husband said he suggested **Western Land Group** because it had done a similar exchange in Kremmling that worked well. And while there are several other companies that facilitate exchanges, BLM officials say there is no policy preventing the agency's employees from suggesting a specific company to help facilitate the swaps.

Opponents of the swap, who claim to have gathered more than 600 signatures opposing the deal, said they have been misled, told to keep quiet and charged large sums that might never result in them getting any land.

Carl Herold, a co-owner of 3,500 acres north of Yampa, said he is participating in the deal because the 200 acres of BLM land, if sold to someone else, would damage his operation. "If I was to lose the land, it cuts me in half," said the thin, soft-spoken rancher who has worked the land for nearly 40 years. "My water is on both sides of it."

The 56 potential buyers have to split nonrefundable bills each month that have ranged between \$10,000 and \$18,000 to pay for **Western Land Group's** work, environmental and other studies and Wohlgenant's meals and mileage to Steamboat Springs. The hourly rate is deducted from the company's commission if the swap goes through.

Other participants support the deal because it assures them land that will preserve their ranches. Jay Fetcher is afraid that someone else will buy the 120-acre parcel adjacent to his 700-acre ranch near Steamboat Lake.

"Obviously, it's not cheap for a rancher to buy it, but I do have a choice of opting out of the deal and taking my chances," said Fetcher, whose family has worked the ranch for 50 years. "The bigger danger is the new owner and how he or she might disrupt" the ranch.

Wohlgenant concedes that deciding whether to participate in the swap is risky for ranchers operating on thin profit margins, but he said the company has not employed any heavy-handed persuasion.

"They're sort of shooting themselves in the foot," by speaking out against it, said Wohlgenant, who justified his billing by saying that the company is putting in hundreds of hours and that no one else could do

the project.

Opponents are also concerned about **Western Land Group's** political power to get the deal through. Glass, whom Gov. Bill Owens appointed to the state parks board, used U.S. Rep. Scott McInnis, R-Colo., as a reference on his parks board application. Billing records show several hours of calls Wohlgenant made to a McInnis aide, and **Western Land Group** memos talk about updating the Colorado delegation and other political leaders.

"One thing that has been brought up are these political ties," said Rebecca Rolando, who organized Citizens to Save Public Lands. "There's something going on with this land exchange."

Glass, Poe and Wiessner have combined to give thousands of dollars in the past decade to McInnis; U.S. Rep. Mark Udall, D-Colo.; U.S. Sen. Ben Nighthorse Campbell, R-Colo.; and state candidates and issue committees, campaign records show. For example, Wiessner gave \$3,000 to McInnis since 1999 and \$5,000 to Udall since 1998, Federal Election Commission records show.

McInnis spokesman Blair Jones said the congressman is only interested in a fair process where the BLM listens to all participants. And Wohlgenant said he calls politicians to counteract the opponents' misinformation.

Glass maintains that land is a controversial issue: "As much as you try, you can't make all of the people happy all of the time."

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