

Land Swap Probe Ordered

Whistle-blower agency faults how San Rafael deal came about; Land Swap Backers Insist It's No Rip-Off

BY DAN HARRIE and GREG BURTON THE SALT LAKE TRIBUNE

An independent agency charged with protecting whistle-blowers has found a "substantial likelihood" that federal negotiators abused their authority in negotiating a proposed \$36 million land exchange between the Bureau of Land Management and the state of Utah -- a deal critics say would shortchange national taxpayers.

The U.S. Office of Special Counsel on Monday referred allegations of irregularities in how the San Rafael Swell land exchange was negotiated to the Interior Department for formal investigation, which is supposed to be completed within 60 days.

In turning over the matter for a department probe, the Office of Special Counsel (OSC) found "a substantial likelihood that what the [whistle-blower] employee is telling us could have, indeed, taken place," said agency spokeswoman Jane McFarland, director of congressional and public affairs.

"It was a fairly thorough review. We've had this case for weeks," McFarland said. "We look at firsthand knowledge and firsthand documentation" rather than hearsay or unsubstantiated allegations.

Critics have charged that the negotiated land swap would cheat the federal government of as much as \$117 million. The OSC action, combined with an internal investigation at Interior, could derail or significantly delay the land exchange bill now in Congress.

On Thursday, two investigators for the Interior Department's Office of Inspector General confiscated a laptop computer from Terry Catlin, the BLM's chief negotiator on the San Rafael deal and target of allegations of abuse of authority. The investigators also scanned the hard drive of an office computer used by Catlin in Salt Lake City.

"Yes, it's true," Catlin confirmed. "What they wanted to do is look at my e-mail records. . . . I'm not sure what else the [inspector general] may or may not be doing, [but] as I understand it they told me they are looking at the San Rafael exchange."

Catlin denied any wrongdoing, saying, "The document I helped prepare, I stand by it absolutely. The \$100 million rip-off claim, it's a little wild as far as I'm concerned."

For more than a year, investigators with the Office of Inspector General have audited the BLM for its appraisals, including work done on the desert tortoise land exchange in southern Utah, a deal Catlin also helped negotiate.

Critical of both deals is Kent Wilkinson, a 25-year veteran BLM appraiser who helped analyze the San Rafael exchange and later requested whistle-blower status from the OSC under fire from U.S. Rep. Chris Cannon, R-Utah, who is sponsoring the San Rafael bill in the House.

"One of these appraisers lied about the project," Cannon told The Salt Lake Tribune last week. "That appraiser is going to be asked some very tough questions."

Wilkinson's complaint to the OSC charged "gross mismanagement" within the agency related to the proposed San Rafael land swap.

Part of the problem, he said Monday, is the tremendous influence Utahns wield at the BLM, from House Resources Committee Chairman Jim Hansen, R-Utah, to BLM Director Kathleen Clarke, a former Hansen aide and Utah natural resources director under Gov. Mike Leavitt.

"I don't think Terry Catlin and the others are putting money in their pockets, but you can get benefits in government in other ways," Wilkinson said Monday.

The proposed deal calls for the state to deed to the federal government 108,000 acres of state lands in exchange for 135,000 acres of federal lands. It is named for the 1 million-acre San Rafael Swell, where most of the state lands proposed in the trade are.

The exchange is intended to clear the way for the swell to become a national monument and to make state-owned lands more likely to produce revenue for Utah schools.

Opening of the Interior investigation appears to give ammunition to critics of the land deal, who have said the proposed exchange is a too-good-to-be true deal for Utah, but a "rip-off" for the federal government.

In oil shale deposits alone, critics say, Utah would receive as much as \$64 million on property ignored for mineral value by negotiators for the BLM and Utah's School and Institutional Trust Lands Administration (SITLA).

John Harja, a Leavitt appointee who negotiated the land swap for SITLA, stood by the land valuations and downplayed the significance of Monday's action by the OSC.

"It sounds like they believe there is enough that [Interior] should look at it," Harja said. "The department has already looked at it, seen this information, and made their determination that the deal is fair. I'm not sure that's new information."

Public Employees for Environmental Responsibility filed Wilkinson's whistle-blower disclosure with the OSC on his behalf.

Dan Meyer, general counsel for the group, said Monday that "this is not a case of one midlevel manager freelancing."

"Terry Catlin was acting under orders," he said. "Secretary Norton should answer the critical question: What did top Interior officials know and when did they know it?"

Rep. Jim Matheson, D-Utah, says the OSC's finding makes it extremely unlikely that the land-exchange bill will pass this year.

"This puts the status of the exchange into doubt," said Matheson, a co-sponsor of the bill. "Any time legislation has controversy associated with it, it's more difficult to move legislation."

But Cannon says the bill represents a fair deal for both sides and insisted it is too quick to write off its chances.

Cannon noted that the OSC's finding of a "substantial likelihood" that allegations are true is a "relatively low standard" of proof, far below that required in a criminal or civil trial.

But he said claimed flaws in the proposed exchange should be scrutinized.

"If there's a problem, whatever side it's on, we want to identify it and turn it around," Cannon said.

In addition to their allegations of undervalued properties, BLM appraisers say the trade could jeopardize endangered species, big-game habitat, historical and archaeological sites and paleontological resources in the Book Cliffs of eastern Utah.

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Removing 122,000 acres of lands from federal ownership in Uintah County also could "significantly impact" a herd of wild mustangs.

Those opinions were expressed in a series of internal memorandums issued by the BLM's Vernal field as "feedback" to the proposed land exchange.

The Vernal memorandums, copies of which were obtained by The Tribune, appear to contradict language in the trade bill, indicating the deal does not involve lands with significant endangered species habitat, archaeological resources, areas of critical environmental concern or "other lands known to raise significant environmental concerns of any kind."