

Critics of Land Deal Protecting Their Turf

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BY JOHN ANDREWS

In recent days, several current and retired Bureau of Land Management appraisers have criticized the recent agreement between Utah Gov. Mike Leavitt and Interior Secretary Gale Norton to exchange Utah school trust lands out of the San Rafael Swell and out of Washington County's Red Cliffs Desert Reserve. As they did with other large state-federal land exchanges in recent years, the appraisers argue that the value of the lands being given up by the federal government is much greater than the value of the lands that Utah's school trust will transfer to it. Yet a look at these critics' own track record shows that their criticism may be as much bureaucratic turf protection as any desire to keep the federal government from making a bad deal.

Some background is useful. School trust lands were originally given to the people of Utah by Congress at statehood for the express purpose of providing financial support for public schools in a state where, because the vast majority of land is still owned by the federal government, property taxation provides inadequate support for schools. These trust lands -- typically located in 1-square-mile sections scattered in checkerboard fashion among federal lands -- were intended to be sold or leased to provide revenue for Utah's Permanent School Fund, a perpetual endowment for our public schools. When the lands are surrounded by federal monuments, parks or wilderness study areas, however, state trust lands administrators are placed in a dilemma -- their legal obligation to sell or develop the lands to raise revenue for schools directly conflicts with the public's interest in seeing lands with high natural, scenic and wilderness values protected.

Exchanging school trust lands within proposed wilderness for other, less sensitive federal lands is an obvious solution. The proposed San Rafael Swell exchange follows the model of the 1998 law that exchanged hundreds of thousands of acres of state school trust lands out of national parks and forests around the state, as well as the newly created Grand Staircase-Escalante National Monument, and the similar exchange in 2000 involving wilderness lands in the West Desert area. With the sole exception of the same people who are now criticizing the San Rafael exchange, these transactions are now justifiably viewed as having solved decades-old land management disputes, protecting sensitive lands while fairly compensating Utah's public schools through giving the school trust more useful land.

The fact that the critics of the current exchange are current and former BLM in-house appraisers is not coincidental. The final results of the San Rafael exchange negotiations were reviewed by nationally recognized independent real estate consultants, after a negotiation process that

included use of independent appraisals, a large database of comparable sales, and the judgment of seasoned professional land managers -- but not BLM in-house appraisers. Why not? Because their involvement in the past has led to failed transactions, enormous expense, and no greater insight into value than can be produced from the give and take of negotiation.

A perfect case in point is what happened when Utah first attempted to exchange school trust lands out of Arches and Capitol Reef National Parks, Dinosaur National Monument and various national forests around the state. The federal group led by critics Jack McDonald and Kent Wilkinson insisted that unrealistically low values be placed upon school lands within the parks -- \$25 to \$100 per acre for land inside Arches National Park, when virtually identical recreational land nearby was selling for thousands of dollars per acre. Their obstructionism on this point caused the entire negotiation process to grind to a halt, with litigation being the only avenue left for the state to protect the interests of the school trust. Both the state and the federal government spent millions in legal and appraisal fees, and would have spent millions more fighting to a legal judgment on value had Gov. Leavitt and then Secretary of the Interior Bruce Babbitt not reached their 1998 exchange agreement.

Or take Mr. McDonald's history of valuing lands in the Red Cliffs Desert Reserve in Washington County. In the early 1990s, the Department of the Interior declared that thousands of acres of private and state land right on the edge of St. George -- largely within the city limits and already zoned and master-planned for development -- was critical habitat for the desert tortoise, a threatened species, and could not be developed. Private landowners and Utah's school trust lost tens of millions of dollars in future development revenue overnight. Mr. McDonald's approach? To tell the landowners that because his department had unilaterally decreed that their land was unuseable for development, the BLM would pay them only grazing value for the land -- pennies on the dollar of its actual value. This grossly unfair approach derailed all land acquisitions for what is now the Red Cliffs Desert Reserve, until Congress enacted legislation in 1996 requiring BLM to act fairly in appraising non-federal lands in the reserve.

What these situations have in common is that the involvement of the very people who are now criticizing the San Rafael exchange led to gridlock rather than agreement, to the detriment not only of Utah's school fund but of the environmental values that the United States legitimately was trying to protect. (In that regard, former Secretary Babbitt was fond of saying that his first step when trying to complete land transactions was to kick the appraisers out of the room. He had a point).

It is easy to pick at small aspects of an enormous transaction such as this one, as the critics have shown. Instead, reasonable people can look at the bigger picture. Professional land managers for both sides, using their years of experience in the state and a large database of comparable sales, negotiated the exchange at arms-length, and came up with a transaction that both sides believe is fair financially. More than half of the value of state trust lands in the exchange was supported by full independent

appraisals, and the entire exchange package was reviewed and approved by nationally recognized independent valuation consultants. The critics are certainly entitled to their own opinions about the value of the lands involved, but given their track records of nitpicking bureaucratic obstructionism, it was and is entirely appropriate to disregard their complaints.

The San Rafael Swell is a spectacular natural resource for the people of Utah and the United States, and it deserves protection. At the same time, the exchange will have a direct impact on Utah pupils in this time of tight education budgets, since recent state legislation distributes income from the permanent State School Fund directly to each public school in the state on a per pupil basis, without administrative deduction. Allowing self-interested critics to derail the San Rafael exchange would be a loss to Utah and the United States alike.

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