

U.S. Ignored Appraisers In Land Deal With Utah

BLM Experts Called Swap A \$100 Million Giveaway

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The Bush administration recently agreed to a massive land swap with Utah even though the federal government's own experts had warned that the deal amounted to a \$100 million giveaway by U.S. taxpayers, agency documents show.

The deal would exchange 135,000 acres of federal land for 108,000 acres of state parcels, many of them surrounded by federal areas. Utah would get commercially attractive land that would pump tax revenue into its school system. The federal government would get scenic red-rock bluffs for a possible national monument as well as prime habitat for the threatened desert tortoise.

But at least six officials at the federal Bureau of Land Management, including its chief real estate appraisers for Utah and the nation, have complained internally that the swap offers a windfall to the state. They said several parcels of mineral-rich federal land had been counted as having little or no mineral value, and they issued blistering critiques of "one-sided and inaccurate" information in an official "White Paper" justifying the deal.

BLM negotiators and their bosses in the Interior Department valued the state and federal lands at about \$35 million each. But the BLM's Utah office concluded that the federal land was worth \$97 million to \$117 million more. One of Utah's top officials bragged that the oil, gas, coal, tar sands and oil shale deposits his state would obtain through the deal "could bring in hundreds of millions of dollars."

"This is like Enron all over again," said Kent Wilkinson, a senior BLM appraiser in Utah who gave a host of documents and e-mail messages to The Washington Post. "They're cooking the books, and it's all to the detriment of the public."

Land -- and particularly federal control of land -- is a hot political issue in the West, and this is the third controversial state-federal land swap in Utah in the last four years. An Interior audit last year accused BLM of approving a lopsided land swap with private Utah landowners. Environmental groups such as the Western Land Exchange Project and the Southern Utah Wilderness Alliance have sharply criticized the agency's deal, while Western conservatives complained throughout the Clinton administration about federal efforts to lock up land as monuments and wilderness.

On Friday, Wilkinson and lawyers with the group Public Employees for Environmental Responsibility filed a formal whistle-blower complaint, which could hold up the latest trade. Still, the Utah Legislature ratified the deal last month, and Reps. Chris Cannon (R) and Jim Matheson (D) of Utah have co-sponsored a bill that would give congressional approval as well. The bill is pending before the House Resources Committee.

BLM Director Kathleen Clarke is a former top aide to Rep. James V. Hansen (R-Utah) -- who is chairman of that committee and strongly supports the deal -- and a former aide to Utah Gov. Mike O. Leavitt (R), whose aides negotiated the deal. Interior officials said Clarke has recused herself from Utah issues.

Tom Fulton, a deputy assistant Interior secretary, said Friday that Interior will reconsider one slice of the deal as a result of BLM's internal concerns, reevaluating a coal-rich 4,000-acre tract that was inaccurately designated as mineral-free. But he defended the overall exchange as a mutually beneficial transaction, giving the federal government aesthetically and ecologically attractive land in contiguous areas that will be easier to manage, while offering the state more commercially attractive land.

The deal could also clear the way for a 600,000-acre national monument among the red-rock bluffs of the San Rafael Swell, which even Leavitt -- a staunch opponent of Clinton-era monuments -- has endorsed.

"These exchanges are extraordinarily large and complex, and there can be honest differences of opinion about them," Fulton said. "We hope the individuals with concerns will work within BLM to make their concerns known."

Internal documents show that the BLM real estate and mineral analysts who studied the deal have made their concerns known in detailed memos.

James Kohler, BLM's mineral branch chief in Utah, identified a half-dozen federal tracts he believed were undervalued by the negotiators on July 25, describing the final deal as unreasonable and inappropriate. Richard Rawson, the chief appraiser in Utah, outlined nine areas of the White Paper that "appear to be inaccurate or convey misleading information" on July 9, noting that while he hoped his concerns "can be resolved internally and kept out of the political arena," he feared he could lose his appraiser's license if he kept quiet.

Wilkinson, acquisition specialist Bill Buge and geologist Doug Bauer aired concerns as well. BLM chief appraiser Dave Cavanaugh -- who was criticized by Interior's auditors for his role in previous land swaps, prompting environmental groups to demand his resignation -- wrote on July 15 that the deal "generously inflate[s]" the value of certain state lands "to the disadvantage of the BLM." Cavanaugh said the White Paper's implication that the deal had been independently appraised was "potentially misleading to the public."

The most comprehensive document dissecting the White Paper is a "matrix," compiled by BLM's Utah office, summarizing nine areas of concern and tallying losses to the agency. It argued that lands with major oil shale and coal deposits were described as having "no or nominal mineral values"; that the state received credit for mineral rights it did not own; that federal areas were valued in bulk while state areas were broken up into more valuable smaller parcels and more.

Wilkinson said his bosses later tried to retrieve all copies of the matrix, saying they wanted to fix typos. He said Terry Catlin, head of the BLM's national land exchange team, cautioned dissenters not to put complaints in writing. Catlin said she simply didn't want draft documents to become public without review.

Dan Meyer, general counsel for Public Employees for Environmental Responsibility, called the swap "one of the most one-sided land deals since the sale of Manhattan Island." Jack MacDonald, BLM's former chief appraiser in Utah, said his old agency has now completed a trifecta of Utah boondoggles, after rejecting his analyses of similar deals in 1998 and 2000.

"This is just another ripoff," MacDonald said. "What does it tell you when an agency suppresses its own professionals? The agency's got something to hide."

In normal land deals, Catlin said, BLM appraisers evaluate each parcel and have the last word. But in much larger deals, the process is not so clear-cut. Negotiators seek estimates and appraisals from state and federal officials, then try to hash out a deal acceptable to both sides. The result, Catlin said, saves time and expense.

"It's not an exact science," she said. "We just don't think that if we spent a couple of years appraising every property, we'd end up with something substantially different."

Hansen's committee was poised to approve the swap on July 24, just before lawmakers left town for summer recess. The National Education Association's lobbyist wrote to lawmakers that the revenue "will be particularly important to Utah schools in this time of economic downturn."

But Rep. Nick J. Rahall II (W.Va.), the committee's ranking Democrat, managed to halt action on the bill. An aide said Rahall wants to broker a compromise, and Matheson said he would be willing to make concessions if that would speed the bill's passage.

But Cannon, the House Republican, said he saw little room for compromise at this late stage, and suggested that Rahall was trying to assuage "extreme" environmental groups. Cannon also rejected the warnings of a \$100 million windfall as "silly," noting that half of the discrepancy comes from a dispute over the value of oil shale that may not be economically feasible to tap. Cannon even suggested that the Bush administration should discipline the BLM dissenters because one warned his aide that the dispute would go public if his bill passed; he interpreted that as a political threat.

"I want to make sure they get slapped hard because they're acting inappropriately," Cannon said.

But Steve Boyden, head of the well-funded agency overseeing Utah's school lands, told the Salt Lake Tribune in June that he expects "huge amounts of money" from this deal, perhaps "hundreds of millions of dollars" from land valued at \$35 million. Randy Johnson, a commissioner in the county that encompasses the San Rafael Swell, believes it's impossible to view this trade in purely fiscal terms, but he agrees that Utah will reap more money than the feds.

"It's a better deal for the schoolchildren," he said Friday.

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