

## **U.S. Department of the Interior Office of Inspector General**

**Independent  
Review Will  
Help Protect  
Integrity of  
Appraisal  
Process**



*Virgin River, Red Cliffs Desert Reserve near St. George, Utah  
Office of Inspector General Photograph*

## **Land Exchanges and Acquisitions Bureau of Land Management Utah State Office**

**Report No. 2001-I-413  
July 2001**



# United States Department of the Interior


## Office of Inspector General Western Region

Federal Building  
2800 Cottage Way, Suite E-2712  
Sacramento, California 95825

July 31, 2001  
7430

### Memorandum

To: Piet deWitt  
Acting Assistant Secretary, Land and Minerals Management

From: Michael P. Colombo   
Regional Audit Manager

Subject: Final Report on Land Exchanges and Acquisitions, Utah State Office, Bureau of Land Management (Report No. 2001-I-413)

The attached report presents the results of our review of the Bureau of Land Management's (BLM) land exchanges and acquisitions in Washington County, Utah. We believe the report balances BLM's attempt to meet its mission objectives in Utah and our concerns on safeguarding the integrity of BLM's appraisal process and precluding any appearance of conflict of interest or wrongdoing. As agreed, the third-party peer review of BLM's appraisal process is a mutually acceptable resolution that will help ensure an appraisal process that, in your words, protects the integrity and objectivity of the appraisal process and ensures accountability of appraisers in conformance with professional and Federal appraisal standards. @

We appreciate the cooperative spirit shown by BLM staff in working with us to mediate the issues addressed in this report. Their professionalism and assistance enabled us to reach consensus on important issues and produce a report that we believe reflects a balance between our positions. We particularly wish to thank Mr. Carson (Pete) Culp, Assistant Director for BLM's Minerals, Realty, and Resource Protection, and Mr. Ray Brady, Lands and Realty Group Manager at BLM's headquarters office, for their important contributions.

Section 5(a) of the Inspector General Act requires us to list this report in our semiannual report to Congress. In addition, we provide audit reports to Congress. If you have any questions or comments regarding our report, please call me at (916) 978-5653.

### Attachment

cc: Director, Bureau of Land Management (MS 5660)  
Audit Liaison Officer, Bureau of Land Management (MS 1000 L St.)  
Audit Liaison Officer, Assistant Secretary for Land and Minerals Management  
(MS 6628)  
Focus Leader for Management Control and Audit Follow-up (MS 5412)

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# Executive Summary

## Bureau of Land Management

### Land Exchanges and Acquisitions, Utah State Office

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#### **Results In Brief**

#### **Integrity of BLM's Appraisal Process Should Be Protected**

The Bureau of Land Management (BLM) should obtain a thorough and objective review of its appraisal organization, policies, and procedures to identify changes to protect the integrity of the appraisal process. In trying to meet its land exchange and acquisition objectives in Washington County, Utah, BLM may have compromised the integrity of its appraisal process, a key control in ensuring the integrity of public land transactions and valuations and precluding the appearance of conflict of interest and wrongdoing. Appraisers performing appraisals and reviews for BLM must be objective and provide independent, unbiased, and professional analyses of market information. We concluded, however, that BLM did not sufficiently emphasize the independence and objectivity of the appraisal process or ensure that appraisal reviews complied with appraisal standards.

BLM's Utah State Office is acquiring land in Washington County near St. George through a combination of land exchanges and direct purchases to provide protected habitat for plant and animal species listed as "threatened" by the U.S. Fish and Wildlife Service under the Endangered Species Act. For the most part, the land being acquired is located within the boundaries of the 61,000-acre Red Cliffs Desert Reserve, a habitat conservation plan (HCP) area intended to help protect the Mojave desert tortoise. BLM's acquisition and protection of land within the HCP area will allow private development to continue elsewhere within Washington County. For the 3-year period ended June 1999, BLM had exchanged about 1,169 acres of public land valued at approximately \$3.2 million, acquired about 929 acres of land valued at approximately \$8.6 million, and was working to acquire an additional 18,000 acres.

Initially, controversy regarding establishment of the HCP area delayed the acquisition process. Affected landowners in Washington County strongly opposed any decrease in the value of their lands that could result from the listing of the desert tortoise and the creation of the HCP. They also strongly opposed the position taken by BLM's Utah appraisal staff that federal appraisal standards required appraisers to consider the effect of the tortoise when estimating the fair market value of land and were concerned that they would not be treated fairly in BLM's appraisal process.

To overcome landowners' lack of confidence in its appraisal process and to "jump start" the acquisition process, BLM transferred responsibility for administering and reviewing Washington County appraisals to its Senior Specialist for Appraisal in the Washington Office. The Senior Specialist developed and implemented an alternative approach, which opened up the appraisal process to involve landowners. According to the Senior Specialist, this approach increased the chances for acquiring the property, potentially reduced the costs of delays associated with disputes, and improved local landowner confidence in BLM's acquisition programs.

The Federal Land Exchange Facilitation Act of 1988 "envisioned a cooperative approach in completing land exchanges," and, according to the Senior Specialist, BLM's alternative approach attempted to balance the relationship between the agency and the landowner and improve the credibility of the appraisal report. We recognize that appraising is not an exact science and that differences in opinion on appraised values frequently occur, especially in situations where comparable sales are limited or the potential for development is speculative. We found, however, that the alternative approach did not separate the appraisal process from price negotiations. We concluded that it was inherently risky and could not be effectively controlled to protect the integrity of the appraisal process and preclude any appearance of wrongdoing, such as altering land appraisal values to negotiate a price with the landowner. Also, BLM's appraisal approach did not provide assurance that lands were properly appraised and valued.

We also noted that the Senior Specialist, in presenting his alternative approach in an article published in an industry magazine, discussed potential disadvantages, including the "substantial risks to opening up the valuation process for voluntary acquisitions." The Senior Specialist stated: "Others may feel that the appraisal review process has been compromised and that it has been merged into the negotiation process. Without adequate management controls, the wall preventing fraud, waste, and abuse will have been weakened." In our opinion, this "wall" was indeed weakened in BLM's Utah land exchanges and acquisitions.

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## **Opportunities to Improve the Land Valuation Process**

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To protect the integrity of its appraisal process and preclude the appearance of conflict of interest or wrongdoing and to address the results of our review in Utah and the findings of our prior audits of BLM land exchange activities in Nevada (see Appendix 2), we believe that BLM should obtain a thorough and objective review of its appraisal process. In that regard, we note that the U.S. Forest Service (USFS), to address problems in its appraisal process identified by the U.S. Department of Agriculture's Office of Inspector General, contracted with The Appraisal Foundation for an independent review of USFS's appraisal organization, policies, and procedures. USFS specifically asked The Appraisal Foundation to determine the steps needed to build a first-class appraisal system that protected the integrity of the appraisal process.

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## **Recommendations**

Accordingly, we recommended that the Director of BLM:

1. Obtain a peer review from The Appraisal Foundation of BLM's appraisal organization, policies, and procedures, including an evaluation of the alternative approach implemented in Washington County, Utah.
  2. Implement the changes recommended by the peer review to ensure that BLM has a first-class appraisal system that protects the integrity and independence of the appraisal process.
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## **Agency Response and Office of Inspector General Reply**

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In his June 6, 2001 response to the draft report (Appendix 3), the Acting Assistant Secretary concurred with the report's two recommendations. The Acting Assistant Secretary stated that BLM would involve The Appraisal Foundation in conducting a review of BLM's appraisal organization, policies, and procedures, including the appraisal review approach BLM used in Washington County, Utah. The review is to be initiated by contract with an anticipated delivery of The Appraisal Foundation's final report by June 2002.

BLM also would implement the changes recommended by The Appraisal Foundation that protect the integrity and objectivity of the appraisal process and ensure accountability with professional and federal appraisal standards. Appropriate changes are to be implemented by BLM Instruction Memorandum and updates of BLM's Appraisal Manual and Land Exchange Handbook by October 2002. Accordingly, the Acting Assistant Secretary's response is sufficient to consider the two recommendations

resolved, but not implemented. The two recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation (Appendix 4).

We appreciate BLM's cooperative spirit in working together to resolve issues and obtain a consensus so that recommended actions address the underlying issues and the report reflects a balance between differing positions. As BLM officials seek the services of The Appraisal Foundation, we extend our cooperation and assistance in ensuring that the scope of the work developed "protects the integrity and objectivity of the appraisal process and ensures accountability of appraisers in conformance with professional and Federal appraisal standards," as stated in the Acting Assistant Secretary's response.

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<b>Abbreviations</b>	
BLM	Bureau of Land Management
CFR	Code of Federal Regulations
GAO	General Accounting Office
HCP	Habitat Conservation Plan
OIG	Office of Inspector General
UASFLA	Uniform Appraisal Standards for Federal
	Land Acquisitions
USC	United States Code
USFS	U.S. Forest Service
USPAP	Uniform Standards of Professional Appraisal Practice



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## Background

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BLM manages and protects approximately 264 million acres of public land, including almost 23 million acres in the State of Utah. As part of its responsibilities, BLM is authorized to acquire additional land through fee purchase or land exchange; that is, trading public land for land owned by corporations, states, or individuals. Federal law requires that such acquisitions and exchanges serve the public interest by protecting critical wildlife habitat, enhancing recreational opportunities, consolidating or improving the management of public lands, or promoting some other BLM mission-related goals and objectives.

BLM's Utah State Office is attempting to acquire land in Washington County near St. George, Utah, through land exchanges and direct purchase. For the most part, the land being acquired is located within the boundaries of the 61,000-acre Red Cliffs Desert Reserve, an HCP area



intended to provide protected habitat for, and thereby assist in, the preservation of the Mojave desert tortoise, a species listed as

“threatened” by the U. S.

Fish and Wildlife Service.<sup>1</sup> BLM's acquisition and protection of land within the HCP area will allow private development to continue elsewhere within Washington County.



*Mojave Desert Tortoise*

*Photo courtesy of Kathie Meyer,  
U.S. Geological Survey*

Initially, controversy regarding establishment of the HCP area delayed the acquisition process.

Affected landowners

strongly opposed any decrease in the value of their lands that would result from the listing of the desert tortoise and the creation

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<sup>1</sup>The U.S. Fish and Wildlife Service maintains a list of species considered to be either threatened or endangered. Threatened species are those likely to become endangered, that is, in danger of extinction within the foreseeable future throughout all or most of the area in which they are found.

of the HCP area. They also strongly opposed the position taken by BLM's Utah appraisal staff that federal appraisal standards required appraisers to consider the effect of the tortoise when estimating fair market value. BLM then removed the Utah appraisal staff from responsibility for Washington County appraisals. Local landowners remained concerned, however, that they would not be treated fairly in BLM's appraisal process. To overcome the landowners' lack of confidence in the appraisal process and to allow land acquisitions to proceed, BLM's Utah State Director requested that BLM's Washington Office Senior Specialist for Appraisal assume responsibility for administering and reviewing Washington County appraisals. The Senior Specialist implemented an alternative approach that opened up the appraisal process to involve landowners.



*Red Cliffs Desert Reserve and Adjacent Residential Development  
Washington County, Utah  
Office of Inspector General Photograph*

## **Appraisal Process**

BLM conducts land exchanges under the authority of Section 206 of the Federal Land Policy and Management Act of 1976, including amendments pursuant to the Federal Land Exchange Facilitation Act of 1988.<sup>2</sup> In passing this legislation, Congress sought to facilitate and expedite land exchanges by directing BLM to ensure that public and private lands were uniformly appraised in conformance with nationally recognized appraisal standards and by giving BLM new authority to resolve disputed appraised values through arbitration or bargaining. Under this legislation, if the parties to an exchange cannot agree to accept the appraised values,

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<sup>2</sup>Public Laws 94-579 and 100-409 (43 U.S.C. ' 1716).

they can instead determine the value of the properties by submitting the appraisals to arbitration or by using a bargaining process.

BLM's land acquisition activities are authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970<sup>3</sup> and other laws. This Act and its implementing regulations also established standards for the appraisal of land for acquisitions by both purchase and condemnation.<sup>4</sup> These laws, together with implementing regulations and BLM's supplemental appraisal policy guidance,<sup>5</sup> require BLM to value the land it acquires and exchanges based on appraisals prepared by qualified appraisers in accordance with professional and federal appraisal standards.<sup>6</sup> The appraisal standards require that land be appraised at its fair market value, which is defined as the amount for which land would be sold, for cash or equivalent, by a willing and knowledgeable seller, who is not obligated to sell, to a willing and knowledgeable buyer, who is not obligated to buy.

Determining fair market value requires the appraiser to first identify the land's "highest and best use." According to federal appraisal standards, the highest and best use of land is ordinarily its current use, and the appraiser must demonstrate a reasonable probability that the land could and would be used for some other purpose before concluding there is a different highest and best use.

Professional and federal appraisal standards and federal regulations (49 CFR 24.103) also require that appraisers identify, verify, analyze, and reconcile all pertinent information to develop their appraised value opinion. They must then report their opinions and conclusions clearly and accurately in a manner that is not misleading and conveys sufficient information to facilitate understanding of the report.

Appraisal standards, regulations, and BLM's Manual also require that appraisal reports be reviewed by a qualified review appraiser

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<sup>3</sup>Public Law 91-646 (42 U.S.C. ' 4601 U.S.C. et seq).

<sup>4</sup>Code of Federal Regulations (49 CFR 24.103 and 24.104).

<sup>5</sup>Bureau Manual, Section 9310, "Real Property Appraisals."

<sup>6</sup>The applicable professional appraisal standards are The Uniform Standards of Professional Appraisal Practice (USPAP), published and revised annually by The Appraisal Foundation. The federal appraisal standards are the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), published by the Interagency Land Acquisition Conference, 1992.

to ensure that they meet applicable appraisal standards.<sup>7</sup> Review appraisers must provide an independent, unbiased, and professional analysis of the technical adequacy of the appraisal report and value estimate and document their review in a written report prepared in compliance with professional appraisal standards and supplemental requirements in the BLM Manual. If the reviewer does not accept the appraiser's opinion of value and substitutes a different value, the reviewer must, among other things, identify and state the additional data relied upon and the reasoning and basis for a different opinion of value.<sup>8</sup>

The entire appraisal process, including appraisal reviews, is a key control in protecting the integrity of BLM's land acquisition program. Unlike other transactions that depend on competitive sales procedures such as auctions or sealed bidding to establish a fair price, BLM's land exchanges and acquisitions are voluntary transactions that rely on appraisals to establish the fair market value of the land involved. The independence and objectivity of the appraiser and review appraiser, as well as sufficient documentation of their valuations, are therefore critical factors in ensuring the acquisition or exchange of land based on fair market value and in precluding the appearance of conflict of interest or wrongdoing.

We recognize that appraising land is not an exact science and that qualified appraisers, in applying their analytical skills and judgments, can reach markedly different opinions of value for the same land. This is especially true when unique or unusual land is involved or when similar sales are not available for comparison. In our opinion, the review appraiser is a key control in addressing differences, maintaining independence and objectivity, estimating fair market value, and protecting the integrity of the appraisal process and public confidence in an agency acquisition program.

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<sup>7</sup>Under federal appraisal standard C-8 "Appraisal Review," the review appraiser determines whether the appraisal is adequately supported; complies with recognized appraisal standards, principles, and practices; and conforms to governing legal premises as prescribed by legal counsel. Federal regulations (49 CFR 24.104) further require that a "qualified reviewing appraiser . . . examine all appraisals to assure that they meet applicable appraisal requirements and . . . prior to acceptance, seek necessary corrections or revisions."

<sup>8</sup>USPAP Standard Rule 3-1.

## **Scope and Methodology**

We reviewed 10 land exchange and acquisition case files administered by BLM's St. George Field Office involving the exchange of about 1,169 acres of public land valued at approximately \$3.2 million and the acquisition of about 929 acres of land valued at approximately \$8.6 million. Within these case files, we selected and analyzed eight appraisal review reports to determine whether they complied with professional and federal appraisal standards and supplemental BLM policies. The scope and methodology of our review are further detailed in Appendix 1. Prior audits of BLM land exchange activities are summarized in Appendix 2.

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## **Integrity of BLM's Appraisal Process Questioned**

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BLM may have compromised the independence and objectivity of its appraisal process by using an alternative approach that did not separate the appraisal process from price negotiations. BLM also did not ensure that its appraisal reviews complied with appraisal standards or that land was acquired and exchanged based on fair market value. Although BLM undertook the alternative approach to more effectively meet its land acquisition objectives in Washington County, we believe that use of this approach increased the appearance of conflict of interest and wrongdoing and brought the integrity of BLM's land acquisition program into question.

## **Appraisal Process Was Not Objective**

To overcome landowners' lack of confidence in BLM's appraisal process and to help accomplish BLM's land exchange and acquisition objectives, BLM's Senior Specialist for Appraisal, in effect, used his reviews<sup>9</sup> to assist in negotiating land values acceptable to landowners. Under this approach, the Senior Specialist reviewed appraisals but did not immediately prepare review reports documenting the results of his reviews or conclusions. Instead, he shared appraisal reports with the landowner and then met with the landowner, the appraiser, and BLM realty and field office management staff to identify and resolve any disagreements the landowner might have with the appraiser's techniques, facts, assumptions, and value conclusions. When agreement was reached on an appraised value satisfactory to the landowner, the Senior Specialist finalized a review report and recommended a value for the proposed acquisition or exchange to BLM's Utah State Director for approval.

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<sup>9</sup>BLM's Senior Specialist for Appraisal described his appraisal review approach in the article "A Successful Approach to Voluntary Land Acquisitions" in the May/June 1999 edition of *Right of Way Magazine*, an industry magazine published by the International Right of Way Association.

According to BLM, its goal was “to reach agreement on market value,” and to that end, appraisals reviewed and approved by the Senior Specialist “reflected the views of the affected property owners regarding the interpretation and usefulness of data relied on by the appraiser.” According to the Senior Specialist,<sup>10</sup> his appraisal review approach was specifically tailored to “enhance the development of trust between the property owner and the acquiring agency” and was “based on an assumption that the current approach is outmoded and that the property owners should have an opportunity to be more involved in the appraisal and acquisition” process. We found, however, that BLM’s intent to make the appraisal process a more cooperative one with the landowner diminished the objectivity of the process and appeared to adjust the appraised value to the landowner’s desired selling/exchange values, thereby ensuring that an exchange or acquisition would occur without the need for formal bargaining or arbitration. For example:

- , In one transaction, the Senior Specialist, in an appraisal review report to BLM’s Utah State Director, stated that the values recommended were “for purposes of reaching agreement with [the landowner].” For one of the parcels appraised, the Senior Specialist established a value less than the amounts estimated by any of the other appraisals because the landowner was “apprehensive in taking [the public land] at the appraised values.” The Senior Specialist also stated that he “met with [the landowner] . . . regarding the appraisal reports. Because of the disparity in the appraised values, we reached preliminary agreement . . . on the relative values of the properties involved in this land exchange.”
- , In another transaction, the Senior Specialist asked the appraiser to consider comparable sales that were not reflected in the original appraisal report so as “to reach agreement on values” of a parcel of public land with a landowner. The appraisal addendum provided by the appraiser and used by BLM to complete an exchange reduced the estimated value of the federal land by 27 percent. We found that the appraiser’s revised comparable sales analysis was not adequately supported. In addition, the appraisal addendum did not reconcile the new, lower value estimate to the significantly higher development approach value the appraiser estimated in his

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<sup>10</sup>“A Successful Approach to Voluntary Land Acquisitions,” *Right of Way Magazine*, May/June 1999.

original appraisal report and did not explain/reconcile the conflicting approaches.<sup>11</sup>

- , In another transaction, the Senior Specialist asked the appraiser to prepare a development approach analysis estimating the value of a parcel of private land. The appraiser provided the Senior Specialist with an appraisal addendum that increased the estimated value of the private land by 12 percent based exclusively on the development approach analysis. We found that the appraisal addendum did not reconcile the new, higher value estimate to the lower comparable sales approach value the appraiser estimated in his original appraisal report. Moreover, we found that the appraiser's development approach analysis for the property was not supported by site-specific engineering, marketing, and cost data, even though the appraiser's original report stated that it would be inappropriate to use the development approach without these data.
- , In one larger and more difficult transaction, the Senior Specialist recommended to BLM's Utah State Director the higher of two appraised values to help acquire a parcel of land. The value recommended was 30 percent higher than the value estimated by the landowner's own appraiser and was based on a questionable comparable sales analysis, which concluded that the highest and best use of the land was a mixture of commercial, business or industrial use, but which did not use any comparable sales with a similar highest and best use. Instead, the appraiser used residential properties as comparable sales and increased his estimate of value by 20 percent to compensate for the use of noncomparable sales.

The Senior Specialist's approach to the appraisal reviews was not consistent with professional and federal appraisal standards, which emphasize the necessity of independence and objectivity. We believe that by allowing the Senior Specialist to directly involve landowners in appraisal reviews, BLM compromised the independence and objectivity of the appraisal process as a

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<sup>11</sup>The development approach is a method of appraising undeveloped acreage having a highest and best use for subdivision into lots. The method consists of estimating a final sale price for the total number of lots into which the property could best be divided and then deducting for all costs of development, including the developer's desired profit. (UASFLA, page 25.)

meaningful quality control function to protect the integrity of the land acquisition process.

In commenting on a preliminary draft of this report, BLM stated that the Senior Specialist's appraisal review approach complied with the Federal Land Exchange Facilitation Act, which was enacted to facilitate and expedite land exchanges and which "envisioned a cooperative approach in completing land exchanges." In passing this legislation, however, Congress authorized and directed BLM to use a two-pronged approach which clearly identifies and separates the appraisal process from the process of resolving disputes over appraised values. First, BLM was directed to issue land exchange regulations ensuring that all lands were appraised in conformance with nationally recognized appraisal standards (USPAP and UASFLA). Second, BLM and the landowner can seek arbitration or some other mutually agreed on process, if they do not agree on the appraised value of the land.

We found, however, that despite disagreements over appraised values, none of the transactions that we reviewed involved arbitration or formal bargaining. We believe that the Senior Specialist, in seeking to encourage landowner participation in the appraisal process to help accomplish BLM's land acquisition objectives, combined valuation, negotiation, and arbitration of disputes under a single alternative approach. We note that in his article, the Senior Specialist, in describing his alternative approach, stated: "Others may feel that the appraisal review process has been compromised and that it has been merged into the negotiation process. Without adequate management controls, the wall preventing fraud, waste, and abuse will have been weakened." In our opinion, this "wall" was indeed weakened in BLM's Utah land exchanges.

### **Appraisal Reviews Did Not Meet Standards**

The appraisal reviews performed by the Senior Specialist did not provide assurance that appraisals met professional and federal appraisal standards or that BLM acquired and exchanged land based on fair market value. Professional standards<sup>12</sup> require that the review appraiser express opinions on the completeness and adequacy of the appraisal. Without these opinions, users of the review reports do not have assurance that (1) appraisals were complete; (2) appraisal data were adequate and relevant and adjustments appropriate; (3) appraisal methods and techniques were appropriate; and (4) analyses, opinions, and conclusions

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<sup>12</sup>USPAP Standard 3-1.

were appropriate. The standards<sup>13</sup> also require the review appraiser to certify that his or her review meets appraisal review standards and that the reviewer is independent and unbiased. We found that five of the eight reports we reviewed did not include one or more of the required opinions and four of the five did not include any of the required opinions. We also found that the appraisal review certification requirements were not met. For example:

- , In one transaction, the appraisal review report did not express any opinions or include the required certifications. As a result, there was no assurance that the appraised values represented fair market value or that the appraisal review complied with appraisal standards. In this case, we noted that the Senior Specialist recommended the use of unsupported values “to expedite the land exchange and eliminate the need for a second appraisal report.”
- , In another transaction, the appraisal review report did not express any opinions or include all of the required certifications. The Senior Specialist did not explain or support the values he established for four of the five parcels involved, despite the existence of three separate appraisals.

We noted that required certifications concerning the scope and quality of the appraisal reviews were omitted or were so significantly different from language suggested by the appraisal standards that we could not determine what assurance the Senior Specialist intended. The USPAP certification statements most often omitted or revised were those which would have assured users of the appraisal review report that the review appraiser (1) used and reported accurate facts and data, (2) expressed opinions and conclusions that were the result of unbiased professional analyses, and (3) developed analyses, opinions, and conclusions and prepared the review report in conformity with USPAP.

The lack of the opinion statements and certifications, by themselves, might be considered nothing more than a technical violation of appraisal standards. Our concern, however, is that these omissions occurred in cases where we also found that appraised values were not adequately supported and that the appraisal process had not been separate from price negotiations. The combination of these factors, in our opinion, undermined public confidence in the appraisal process and raised questions as

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<sup>13</sup>USPAP Standard 3-2.

to whether the appraisal process resulted in estimates of fair market value.

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## **Opportunities to Improve the Land Valuation Process**

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To protect the integrity of its appraisal process and preclude the appearance of conflict of interest or wrongdoing, we believe BLM should obtain a thorough and objective review of its appraisal organization, policies, and procedures, including the alternative approach implemented in Washington County. The appraisal process is the key control for ensuring that BLM exchanges and acquires land based on fair market value as required by laws and regulations. For this control to be effective, however, appraisers performing appraisals and reviews for BLM must be independent, objective, and free of agency influence. In this regard, we looked at problems in the USFS's Nevada land exchange program identified by the U.S. Department of Agriculture's Office of Inspector General.<sup>14</sup> Problems included overvaluing land by relying on appraised values that were not supported by credible evidence and appraisals that did not meet federal appraisal standards.

Among the corrective actions taken by USFS was the award of a contract to The Appraisal Foundation<sup>15</sup> to independently review USFS appraisal policies, procedures, staff, and organization and recommend the actions needed to constitute a first-class appraisal system, including procedures to (1) protect the integrity of the appraisal process; (2) hold appraisers accountable for conforming with federal and agency appraisal standards, (3) establish controls precluding management interference with the valuation system through inappropriate direction, (4) ensure the separation of negotiations and the appraisal process to reinforce the accountability provided to the public and management by the appraisal process, and (5) require full documentation of data considered in the appraisal process.

Appraisal Foundation's report concluded that USFS appraisal policies and procedures were generally sound, but included recommendations for additional safeguards in the appraisal review process, improving the efficiency of appraisal operations, and

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<sup>14</sup>*Forest Service, Humboldt-Toiyable National Forest Land Adjustment Program, Fiscal Years 1990 to 1997*, U.S. Department of Agriculture, Office of Inspector General (Report No. 08003-02-SF, August 1998).

<sup>15</sup>The Appraisal Foundation is an independent non-profit organization recognized by Congress as the source of appraisal standards and appraiser qualifications. The Foundation's report on the USFS, *Evaluation of the Appraisal Organization of the USDA Forest Service*, was issued March 2000.

ensuring appraiser independence. Appraisal Foundation particularly emphasized the critical importance of independence and objectivity in the appraiser's role. The report stated:

Without independence and objectivity the appraiser does not serve the client or society. In all phases of the appraisal profession the appraisal provides a test of the validity of the proposed transaction, or an objective opinion of the value of the transaction. In this role the appraiser protects the interest of the parties who have some interest in the transaction but are not directly involved.

The appraiser's role is not to assist the Forest [USFS] in acquiring, exchanging, transferring, or renting real estate, nor is it to obstruct these transactions. The appraiser's role is to ensure that appraisals used in the decision making process are reasonable, adequately supported and comply with the Forest Service Policy, the UASFLA and the USPAP. In order to accomplish this, the appraiser must remain independent.

To preclude attempts by parties with vested interests in transactions to influence appraisers, The Appraisal Foundation recommended that USFS institute a policy for all staff personnel against influencing or attempting to influence any staff or contract appraiser or reviewer. Appraisal Foundation also noted that the current organizational structure of USFS placed line officers in a position to influence or overrule an appraiser's professional opinion, a situation which could limit an appraiser's ability to independently fulfill his or her role. For this reason, Appraisal Foundation recommended that USFS establish an organizational structure in which all staff appraisers are directly supervised by Regional Appraisers, who in turn are directly supervised by the USFS Chief Appraiser. We noted that BLM's organization structure was similar to that of USFS in that BLM appraisal staff report directly to line managers.

The Appraisal Foundation also stated that when an agency targets a property for acquisition and the owner is aware that the agency wants to obtain that specific property, the owner may ask for a price higher than fair market value. The Appraisal Foundation further stated that if the agency is to pay more than fair market value for a property, the agency must document that "premium," based on the agency's need for the property and "not through alterations to the appraisal process. The appraiser should not

justify a purchase price based upon ‘public interest value’ disguised as ‘fair market value.’”

Additional recommendations made by The Appraisal Foundation to ensure the independence and objectivity of appraisers and reviewers and the preparation of unbiased appraisal reports included (1) ensuring that land was always appraised by either a qualified staff appraiser or an appraiser selected by and directly under contract to the agency; (2) retaining the current policy, as stated in UASFLA, requiring all appraisals for public land acquisitions to be prepared based on “fair market value,” and (3) preparing detailed documentation of the appraisal review process from the initial submission of an appraisal report to its approval, disapproval, or rejection.

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## **Recommendations**

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We recommend that the Director, BLM:

1. Obtain a peer review from The Appraisal Foundation of BLM’s appraisal organization, policies, and procedures, including an evaluation of the alternative approach implemented in Washington County, Utah. The review should recommend any changes needed to (a) protect the integrity of the appraisal process, (b) ensure the accountability of appraisers in conformance with professional and federal appraisal standards, (c) establish controls to prevent managers from interfering with the appraisal process through inappropriate direction, (d) separate negotiations from the appraisal process, (e) ensure that landowner involvement does not compromise the appraisal process, and (f) ensure the conduct of appraisals and appraisal reviews in conformance with data, documentation, and reporting standards of federal and professional appraisal standards.
2. Implement the changes recommended by the peer review to ensure that BLM has a first-class appraisal system that protects the integrity and independence of the appraisal process.

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**Agency Response  
and Office of  
Inspector  
General Reply**

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In the June 6, 2001, response to the draft report (Appendix 3), the Acting Assistant Secretary concurred with the report's two recommendations. The Acting Assistant Secretary stated that BLM would involve The Appraisal Foundation in conducting a review of BLM's appraisal organization, policies, and procedures, including the appraisal review approach BLM used in Washington County, Utah. The review is to be initiated by contract with an anticipated delivery of The Appraisal Foundation's final report by June 2002. BLM also would implement the changes recommended by The Appraisal Foundation that protect the integrity and objectivity of the appraisal process and ensure accountability with professional and federal appraisal standards. Changes are to be implemented by BLM Instruction Memorandum and updates of BLM's Appraisal Manual and Land Exchange Handbook by October 2002. The responsible official is the Bureau of Land Management's Assistant Director, Minerals, Realty and Resource Protection. The Acting Assistant Secretary also stated that BLM believes the Senior Specialist for Appraisal acted within his discretionary authority and that the appraisal process was appropriately used to facilitate agreements of value with property owners. BLM also has taken numerous steps to improve the appraisal function and will continue to emphasize compliance with applicable laws and regulations.

Accordingly, the Acting Assistant Secretary's response is sufficient to consider the two recommendations resolved, but not implemented. The two recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation (Appendix 4). The Acting Assistant Secretary's response also made specific comments on the draft report. These comments and our reply are as follows:

**BLM Comment.** In its response, the Acting Assistant Secretary believed that references to "fair market value" in the report were misleading, since BLM's land exchange regulations (43 CFR 2200) define and use the term "market value" and provide the context in which "market value" is considered by the appraiser and review appraiser. The Acting Assistant Secretary stated that the report should provide a clear distinction between BLM's responsibility to provide an appraisal that represents an estimate of "market value," and "fair market value," which is reflected in the amount BLM offers a property owner based on the appraisal and other information considered by the authorized official within the bargaining authority provided by 43 CFR 2201.4.

**OIG Reply.** The term “fair market value” is used in the report because it is defined by professional and federal appraisal standards as the criteria to be used by appraisers to value land. This terminology also has been used by both GAO and The Appraisal Foundation in their recent reports on BLM and USFS land exchanges and appraisals activities. In addition, the regulations cited by BLM (43 CFR 2200) relate only to land exchanges and would therefore not be applicable in cases where appropriated funds were used to purchase private land. We did not change the terminology in the report and believe that the issue of consistency in terminology and interpretation raised by BLM would be best addressed by The Appraisal Foundation in its review of BLM’s appraisal policies and procedures.

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## Appendix 1

### Scope and Methodology

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We concentrated our review on BLM's land exchanges and acquisitions in Washington County, where the most significant land exchanges and acquisitions in Utah were occurring and where BLM officials told us they were using a different approach to the appraisal review process. BLM officials identified 22 land exchange and acquisition case files administered by the St. George Field Office between June 1, 1996 and June 30, 1999. We reviewed 10 case files that resulted in BLM conveying about 1,169 acres of public land valued at approximately \$3.2 million and acquiring about 929 acres of land valued at approximately \$8.6 million.<sup>1</sup> Within these case files, we selected and analyzed eight appraisal review reports to determine whether they complied with professional and federal appraisal standards and supplemental BLM policies.

Our review was made in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. To accomplish our review, we visited BLM's headquarters office in Washington, D.C.; its Utah State Office in Salt Lake City, Utah; and its St. George Field Office in St. George, Utah. We reviewed case file documentation and discussed the exchanges and acquisitions with responsible BLM officials. We also visited the offices of two of BLM's contract appraisal firms to obtain explanations and documentation in support of the appraisal reports BLM used to complete exchanges or acquisitions. In addition, we interviewed representatives of the Utah School and Institutional Trust Lands Administration to obtain its perspectives on the history of appraisal and valuation issues in Washington County.<sup>2</sup>

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<sup>1</sup> An additional 368 acres of land appraised at approximately \$1,455,000 and included in our review had not been acquired as of June 30, 1999.

<sup>2</sup> The Administration is an agency of the State of Utah that manages more than 3.7 million acres of land dedicated to the financial support of public education. BLM is seeking to acquire almost 11,000 acres of Administration land within the Red Cliffs Desert Reserve.

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## Appendix 2

### Prior Audit Coverage

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BLM has not always appropriately valued the lands involved in exchanges. We and the General Accounting Office (GAO) have expressed serious concerns about the integrity of BLM's appraisal process in recent reports. Specifically, in 1996 and 1998, we reported that BLM's practices in administering land exchange activities in Nevada did not ensure that land was exchanged at fair market value. In a June 2000 report, GAO identified similar concerns about BLM's land exchange activities and concluded that BLM and USFS had not ensured that land being exchanged was appropriately valued and stated that Congress might wish to consider directing these agencies to discontinue their land exchange programs. Summaries of our audit reports are as follows.

- , In July 1996, we reported<sup>1</sup> that BLM's Nevada State Office did not consistently follow prescribed land exchange regulations or procedures or ensure that fair and equal value was received in completing three exchanges. In one exchange, for example, review appraisers inappropriately increased the appraised value of private land by \$1.2 million and decreased the value of public land by \$157,000. A BLM Chief Appraiser from another state office initially reviewed the contract appraisal and approved an appraised value of \$1.5 million. The land exchange proponent complained that the value was too low, however, and a second review was performed at the direction of the Nevada State Director, resulting in a significantly higher approved appraised value of \$2.7 million. BLM acquired the land at the higher value without reconciling the \$1.2 million difference. BLM could not support overriding the value approved by the first review appraiser, and we questioned the propriety of the second appraisal review and the use of its \$2.7 million approved value. We also found that BLM's Nevada Chief Appraiser approved an appraised value for BLM's land that inappropriately discounted the land's value by \$157,000.

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<sup>1</sup>*Nevada Land Exchange Activities, Bureau of Land Management, Report No. 96-I-1025, July 1996.*

- , In 1998, we performed a followup<sup>2</sup> review of BLM's corrective actions, including work done by a BLM technical review team, and identified significant continuing problems with BLM's appraisal and valuation process in Nevada. We found that BLM's Washington Office failed to detect or report these problems in its technical review report. In particular, BLM was still not adhering to applicable laws, regulations, and BLM policies and procedures and was not documenting significant deviations from procedural requirements that adversely affected land valuations. We found that in two separate exchanges, BLM accepted appraisals that were not performed in compliance with appraisal standards, resulting in a \$12.3 million loss because the land acquired by BLM was overvalued.
- , As part of our 1998 followup review, we evaluated BLM's processing of the Del Webb land exchange<sup>3</sup> and found that BLM's Washington Office overrode procedural safeguards ensuring the appraisal of public land in accordance with federal appraisal standards. We were particularly concerned that the Washington Office allowed the landowner to select both the appraiser and the review appraiser to estimate the value of public land, removed BLM's Nevada State Chief Appraiser to appease the landowner, and accepted the appraised value of \$43 million even though the appraisal did not comply with federal appraisal standards. After we announced plans to review the exchange, BLM contracted for a second appraisal, which complied with federal appraisal standards and valued the public land at \$52.1 million. Had BLM consummated the exchange using the appraisal initially accepted by BLM's Washington Office, the public land would have been undervalued by more than \$9 million.

As a result of our concerns, we recommended that BLM (1) identify its land exchange program as a material weakness at the Departmental level; (2) establish a land exchange review team that included non-BLM members and appraisal experts to provide independent and expert advice and oversight on all significant exchanges; and

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<sup>2</sup>*Followup of Nevada Land Exchange Activities, Bureau of Land Management*, Report No. 98-I-689, September 1998.

<sup>3</sup>*The Del Webb Land Exchange in Nevada, Bureau of Land Management*, Report No. 98-I-363, March 1998.

(3) place a moratorium on land exchanges in the State of Nevada pending establishing the independent land exchange review team. We also recommended that BLM ensure that its appraisals complied with federal appraisal standards and revise its land exchange handbook and other BLM guidance for consistency with established law and regulations.

, In June 2000, GAO reported<sup>4</sup> that BLM and USFS had given more than fair market value for land they acquired and received less than fair market value for public land they conveyed because the appraisals used to estimate land values did not always meet federal standards. GAO noted that BLM and USFS had taken steps to increase management oversight of land exchanges, which, if properly implemented, should improve how the exchange programs were conducted. GAO also noted, however, that while handbook revisions and enhanced training clarified land exchange policies and procedures, they did not ensure that revisions were appropriate or followed. On the basis of this and other fundamental issues, GAO referred the matter for Congressional consideration with a suggestion that Congress consider directing both agencies to discontinue their land exchange programs.

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<sup>4</sup>*BLM and the Forest Service: Land Exchanges Need to Reflect Appropriate Value and Serve the Public Interest*, Report No. RCED-00-73, June 2000.



## United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

JUN - 6 2001

In Reply Refer to:  
1245/2200 (350)

### Memorandum

To: Office of the Inspector General

From: Piet deWitt *Piet deWitt*  
**FOR** Acting Assistant Secretary, Land and Minerals Management

Subject: Review of Draft Audit Report, "Land Exchanges and Acquisitions, Utah State Office, Bureau of Land Management", May 2001

I appreciate the opportunity to review and comment on the Office of the Inspector General's Draft Audit Report entitled "Land Exchanges and Acquisitions, Utah State Office, Bureau of Land Management", May 2001. We appreciate the cooperative effort demonstrated by your office in responding to input to the Draft Audit Report and believe the changes made from earlier drafts represent a significant improvement in the objectivity of the report.

The Bureau of Land Management (BLM) concurs with the Draft Audit Report recommendations to involve The Appraisal Foundation in conducting a review of BLM's appraisal program and the appraisal review approach used in Washington County, Utah. The BLM has had preliminary discussions with The Appraisal Foundation and will request the services of The Appraisal Foundation to prepare a report that is similar to one recently prepared for the Forest Service. The BLM will implement those recommended changes that protect the integrity and objectivity of the appraisal process and ensure the accountability of appraisers in conformance with professional and Federal appraisal standards. Attached are the proposed actions, target dates and responsible officials for the recommendations included in the Draft Audit Report.

We believe references to "fair market value" in the Draft Audit Report are misleading. The Audit Report should provide a clear distinction between BLM's responsibility to provide an appraisal that represents an estimate of "market value" based on a wide range of factors found in the BLM land exchange regulations (43 CFR Sections 2201.3-1(a), 2201.3-2, and 2201.3-4(b) and (c)) and the offer that BLM provides to the property owner. These regulations specifically provide the context in which "market value" is considered by the appraiser and review appraiser. The BLM's offer to the property owner is an estimate of "fair market value" based on the authorized official's bargaining authority found in 43 CFR 2201.4. The offer, which should be well documented and supported by all relevant appraisal and other information, is reflective of "fair market value" for voluntary land exchange transactions.

It is generally accepted that the appraisal process is an integral part of the land acquisition process. The recommended appraised value is the basis for negotiations among the property owner, the BLM State Director and the field office realty staff. Agreement on value is only possible if the parties are confident that the appraisals are reasonably documented, supported, and conclude to a reasonable estimate of market value. The appraisals must address all legitimate concerns, be impartial and ensure property owners that they have been treated fair and equitably. We believe the Senior Specialist acted within his discretionary authority and that the appraisal process was appropriately used to facilitate agreements of value with the property owners.

As a result of previous audit reports, BLM has taken numerous steps to improve the appraisal function. The BLM has revised the appraisal manual, revised policies to require State certification of staff appraisers, provided guidance on conformity with the Uniform Standards of Professional Appraisal Practice, scheduled program reviews for Fiscal Year 2001 and 2002, and facilitated the development of appraisal training with the Appraisal Institute and required BLM appraisers to attend the course. We have and will continue to emphasize compliance with applicable laws and regulations.

I appreciate the opportunity to comment and request that these comments be considered in preparation of the Final Audit Report. If you have general questions concerning this response, please contact Jean Fend, BLM Audit Liaison Officer at (202) 452-5153. If you have any specific questions, please contact Ray Brady, Manager, BLM Lands and Realty Group at (202) 452-7773.

Attachment

**ACTION PLAN**  
**OIG Draft Audit Report**  
**“Land Exchanges and Acquisitions, Utah State Office, Bureau of Land Management”**  
**May 2001**

**Recommendation 1:**

Obtain a peer review from The Appraisal Foundation of BLM’s appraisal organization, policies, and procedures, including an evaluation of the alternative approach implemented in Washington County, Utah. The review should recommend any changes needed to (a) protect the integrity of the appraisal process, (b) ensure the accountability of appraisers in conformance with professional and federal appraisal standards, (c) establish controls to prevent managers from interfering with the appraisal process through inappropriate direction, (d) separate negotiations from the appraisal process, (e) ensure that landowners involvement does not compromise the appraisal process, and (f) ensure the conduct of appraisals and appraisal reviews in conformance with data, documentation and reporting standards of federal and professional appraisal standards.

**Response:**

The BLM concurs with the recommendation to involve The Appraisal Foundation in conducting a review of BLM’s appraisal organization, policies and procedures and recommend any needed changes. The review will be initiated by contract in early FY 2002, with an anticipated delivery of a final report by June 2002.

**Responsible Official:**

Assistant Director, Minerals, Realty and Resource Protection

**Recommendation 2:**

Implement the changes recommended by the peer review to ensure that BLM has a first-class appraisal system that protects the integrity and independence of the appraisal process.

**Response:**

The BLM concurs with the recommendation to implement changes that protect the integrity and objectivity of the appraisal process. Appropriate changes will be implemented by Instruction Memorandum and updates of the Appraisal Manual (Manual 9310) and the Land Exchange Handbook (Handbook 2200) by October 2002.

**Responsible Official:**

Assistant Director, Minerals, Realty and Resource Protection

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**Appendix 4****Status of Audit Recommendations**

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Recommendation	Status	Action Required
1	Resolved, Not Implemented	Contract with The Appraisal Foundation for a review of BLM's appraisal organization, policies, and procedures, including an evaluation of the alternative approach implemented in Washington County, Utah.
2	Resolved, Not Implemented	Implement the changes recommended by The Appraisal Foundation to ensure that BLM has a first-class appraisal system that protects the integrity and independence of the appraisal process.



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