



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

## **ADVISORY REPORT**

**THE DEL WEBB LAND EXCHANGE IN NEVADA,  
BUREAU OF LAND MANAGEMENT**

**REPORT NO. 98-I-363  
MARCH 1998**



# United States Department of the Interior

OFFICE OF INSPECTOR GENERAL  
Washington, D.C. 20240

MAR 23 1998

## MEMORANDUM

TO: The Secretary

FROM: Robert J. Williams,  
Acting Inspector General

SUBJECT SUMMARY: Final Advisory Report for Your Information - "The Del Webb Land Exchange in Nevada, Bureau of Land Management" (No. 98-I-363)

Attached for your information is a copy of the subject final advisory report, which is being issued as part of our followup review of our July 1996 audit report "Nevada Land Exchange Activities, Bureau of Land Management" (No. 96-I-1025). We will also issue a report focusing on the Bureau of Land Management's actions to implement the recommendations included in our July 1996 report. This advisory report is being issued because of our concerns regarding the Bureau's conformance with applicable standards, procedures, and controls relating to the appraisal and valuation of land for the Del Webb exchange (No. N-60167).

During its processing of the exchange, the Bureau of Land Management's Washington Office did not fully conform to established standards, procedures, and controls for appraisals and land valuations and did not justify or document the propriety of its actions. Specifically, the Bureau's Washington Office (1) allowed Del Webb to use an appraiser who was not preapproved by the Nevada State Office, which was not in accordance with established statewide procedures and practice; (2) allowed the Del Webb appraiser to perform a development-based appraisal of the selected Federal land, which was not in accordance with the Federal standards which state that comparable sales should be relied on when adequate sales data are available; and (3) relieved the Nevada State Chief Appraiser of his appraisal review responsibilities for this exchange, which was contrary to the statewide procedures and guidance in the Bureau Manual. In addition, the Bureau issued a contract for an appraisal review to a firm nominated by Del Webb. As a result, if external pressure had not caused the Bureau to obtain a second appraisal, the Government would have lost \$9.1 million on the Federal land selected for exchange because the development approach was used in the initial appraisal.

Although the report contained no recommendations, we stated that the Bureau should establish a moratorium on land exchanges in Nevada until new control processes are instituted, including having an external Departmental team review and provide advice on

exchanges. We will formally recommend that such processes and an external team be established in our followup report.

In response to the draft report, the Director, Bureau of Land Management, stated that he did not believe a moratorium was necessary because of its significant impact on relationships which the Bureau has with various local, county, and state governments. In addition, the Director stated that he had established procedures for a second-level review of land exchanges involving land valued in excess of \$500,000. Further, the Director stated that he was considering a Bureauwide land exchange team to assist in high priority exchanges.

If you have any questions concerning this matter, please contact me at (202) 208-5745 or Mr. Ronald K. Stith, Acting Assistant Inspector General for Audits, at (202) 208-4252.

Attachment



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OFFICE OF INSPECTOR GENERAL  
Washington, D.C. 20240

MAR 23 1998

## ADVISORY REPORT

### Memorandum

To: Director, Bureau of Land Management

From: Robert J. Williams *Robert J. Williams*  
Acting Inspector General

Subject: Advisory Report on the Del Webb Land Exchange in Nevada, Bureau of Land Management (No. 98-I-363)

## INTRODUCTION

This report provides, for your information, the results of our review of the Del Webb Corporation land exchange administered by the Bureau of Land Management. We are issuing this report as part of our followup review of our July 1996 audit report "Nevada Land Exchange Activities, Bureau of Land Management" (No. 96-I-1025). We will also issue a report focusing on the Bureau's actions to implement the recommendations included in our July 1996 report. We are issuing this advisory report because of our concerns regarding the Bureau's conformance with applicable standards, procedures, and controls relating to the appraisal and valuation of lands for the Del Webb exchange (No. N-60167).

## BACKGROUND

The Bureau of Land Management is responsible for managing and protecting over 260 million acres of Federal land, of which about 48 million acres are in the State of Nevada. The Congress has emphasized the use of land exchanges and fee purchases to acquire lands containing resource values of public significance and to improve the manageability of Federal land by consolidating its land ownership. The Bureau prefers to acquire land through exchanges, which may be initiated by the Bureau or other interested parties called proponents.<sup>1</sup> In recent years, the Bureau has identified about 70,000 acres of Federal land for disposal in the Las Vegas Valley of Nevada, which continues to be one of the fastest growing metropolitan areas in the United States. The potential for real estate development in the private market associated with this growth in the Valley has created significant interest in acquiring available Federal land.

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<sup>1</sup>The Bureau prefers to acquire lands through exchanges because of the relatively low impact that exchanges have on local government tax revenues.

The Bureau conducts land exchanges under the authority of Section 206 of the Federal Land Policy and Management Act of 1976 (Public Law 94-579), which authorizes the Secretary of the Interior to dispose of Federal land by exchange when the public interest will be well served. Under Section 206, the values of the lands exchanged must be equal or, if not equal, must be equalized by a cash payment by either party except in circumstances where the value of the Federal land transferred by the Government is not more than \$150,000 (the value of the Federal land transferred in the Del Webb exchange exceeded \$150,000). Section 206 specifically directs the Secretary to make the amount of such payments as small as possible but states that in no event may the value difference between the properties exceed 25 percent of the value of the Federal land exchanged. On August 20, 1988, the Congress enacted the Federal Land Exchange Facilitation Act of 1988 (Public Law 100-409), which granted the Secretary limited authority to approve adjustments in the values of lands exchanged as a means of compensating a party for incurring costs such as those for land surveys, mineral examinations, and title searches, which would ordinarily be borne by the other party. In December 1993, the Bureau finalized comprehensive regulations for land exchanges (43 CFR 2200) to implement the provisions of both Acts.

The values of the public and private lands exchanged are established by appraisals conducted in accordance with principles defined in the "Uniform Appraisal Standards for Federal Land Acquisitions," issued by the Interagency Land Acquisition Conference in 1992. The "Standards" stipulates that each appraisal be carefully reviewed by a qualified review appraiser and that the review be documented by a written report indicating the scope of the review and the actions recommended by the reviewer. The "Standards" also states that appraisals should rely on the comparable sales method to value Federal property when adequate sales information is available. Section 9310 of the Bureau Manual provides specific policies and procedures for management and administration of the Bureau's appraisal function, including the preparation of appraisal reports and the requirement that the State Chief Appraiser should review appraisal reports and approve the fair market value estimated in those reports in accordance with professional standards.

## **PRIOR REVIEW**

Our 1996 audit report "Nevada Land Exchange Activities, Bureau of Land Management" (No. 96-I-1025) concluded that while the Nevada State Office had acquired some high quality properties by exchanging lands with private entities, it did not consistently follow prescribed land exchange regulations or procedures or ensure that fair and equal value was received in completing three of the four exchanges we reviewed. As a result, we estimated that the Government may have lost revenues totaling about \$4.4 million in completing the three exchanges. In addition, we concluded that the State Office acquired about 2,500 acres of land, with an exchange value of \$2.7 million, that had no discernable mission-related purpose.

In our 1996 report, in regard to exchange processing, we recommended that the Director of the Nevada State Office (1) institute competitive procedures (sale or exchange) into the land disposal process to the maximum extent possible, (2) direct that all easements on Federal land proposed for disposal be reviewed to verify grantee needs and that actions be taken to remove any easements which are not needed before the Federal lands are exchanged or sold, and (3)

establish controls necessary to ensure that land exchanges are processed in full accordance with applicable laws and regulations and Bureau procedures. At a minimum, these controls should ensure that the land to be acquired is obtained in conformance with approved land-use plans or properly executed amendments; that land acquired and disposed of is properly valued; and that all significant decisions involving the exchange transactions, particularly those affecting land valuation, are fully justified and documented in the exchange files. Our report contained two other recommendations. However, these recommendations were related to Santini-Burton Act lands and were not specifically relevant to issues discussed in this report.

## **DISCUSSION**

During its processing of the Del Webb land exchange, the Bureau of Land Management's Washington Office did not fully conform to established standards, procedures, and controls for appraisals and land valuations and did not justify or document the propriety of its actions. Specifically, we concluded that the Bureau's Washington Office (1) allowed Del Webb to use an appraiser who was not preapproved by the State Office, which was not in accordance with established statewide procedures and practice; (2) allowed the Del Webb appraiser to perform a development-based appraisal of the selected Federal land, which was not in accordance with the Federal standards which state that comparable sales should be relied on when adequate sales data are available; and (3) relieved the Nevada State Chief Appraiser of his appraisal review responsibilities for this exchange, which was contrary to the statewide procedures and guidance in the Bureau Manual. In addition, the Bureau issued a contract for an appraisal review to a firm nominated by Del Webb. As a result, if the Bureau had not obtained a second appraisal, the Government would have lost \$9.1 million on the Federal land selected for exchange because the development approach was used in the initial appraisal.

The Del Webb Corporation is a publicly traded national real estate company and developer of planned communities, including its Sun Cities retirement developments in Phoenix, Arizona; Las Vegas, Nevada; Palm Desert and Roseville, California; Hilton Head, South Carolina; and Georgetown, Texas. On September 29, 1994, Del Webb submitted a proposal to acquire, through an exchange with the Bureau, about 4,975 acres of Federal land located southwest of the City of Henderson, Nevada.<sup>2</sup> According to the exchange proposal, Del Webb intended to develop the acquired Federal land as "a Master Planned Community incorporating a mixture of commercial, residential and recreational uses, with the residential uses to be primarily for an age-restricted community for residents [aged] 55 and over."

On September 29, 1995, the Bureau's Nevada State Office determined that the proposed exchange could be executed in multiple phases over a period of 3 to 7 years, with each phase including about 1,000 acres of Federal land. The initial exchange transaction, Phase IA,

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<sup>2</sup>This was the proponent's initial estimate of the total acreage desired at the time it proposed the exchange. The final acreage, for which the appraisal was approved (4,756 acres), was smaller because some of the original Federal lands selected were eliminated from the exchange because they were part of a Wilderness Study Area.

was finalized on July 29, 1997, when the Bureau acquired four properties<sup>3</sup> totaling 5,328 acres, valued at \$10,990,000, in exchange for 922 acres of Federal land in the Las Vegas Valley, valued at \$11,452,639.

## **Acceptance of Del Webb Appraiser**

The Bureau's Washington Office overrode the Nevada State Office's usual practice for appraising Federal land by allowing the Del Webb Corporation to use its own appraiser to value the Federal land selected for exchange. In order to ensure that the Bureau received fair market value for the Federal land exchanged, appraisal requests were to be processed through the State Office, and the appraisals were generally conducted by contract appraisers preapproved by the Bureau. Section 9310 ("Real Property Appraisals") of the Bureau Manual requires state directors to impartially administer an appraisal program in accordance with applicable laws and Departmental policies. Section 9310.04 of the Bureau Manual requires that state chief appraisers be responsible for "planning, organizing, and providing program leadership for the appraisal function . . . including procuring . . . qualified real estate appraisal expertise [and] . . . approve an amount which represents the Bureau's estimate of fair market values." In carrying out these delegated responsibilities, the Nevada State Chief Appraiser established procedures that included using appraisal firms under contract with the Bureau to perform the appraisals of the Federal land selected by proponents in land exchanges.

In a November 27, 1995, letter to a Del Webb representative, the Nevada State Director<sup>4</sup> stated, "We [the Bureau] will appraise both the offered [private] lands and selected [Federal] lands as we enter into each phase of the exchange." Additionally, the draft agreement to initiate the exchange stated:

The BLM [Bureau of Land Management] or other benefiting Federal agency will arrange with a contractor to prepare an appraisal of the selected lands for each phase within ninety days of the initiation of that phase of the exchange. The appraisal will be done in accordance with federal appraisal standards and will be subject to federal review and approval.

However, according to the exchange file chronology, the Del Webb Corporation disagreed with this appraisal arrangement and informed the Bureau, at a November 30, 1995, meeting between representatives of the Nevada State Office and the Del Webb Corporation, that it was having its own appraisal performed of the selected Federal land. Del Webb took issue with the Nevada State Director's position on the appraisal in its January 16, 1996, letter which stated:

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<sup>3</sup>The properties acquired by the Bureau in Phase 1A consisted of the Knox, Kent, and Weishaupt Ranches in Churchill County, Nevada, and the Kings Canyon property in Carson City, Nevada.

<sup>4</sup>Four officials, the Deputy Director, the Nevada State Director, the Nevada State Chief Appraiser, and the Associate District Manager, who were involved in this exchange either have been reassigned to positions within the Bureau or have left the Bureau for positions within the Department.

The proposed [appraisal] language in your draft is far more restrictive than the plain language of the Federal Regulations [43 CFR 2201.3 and 3-1] and we believe that the process will be aided immeasurably by adhering to federal regulations rather than by restricting those regulations with a localized policy not specifically designed to produce the best available appraiser.<sup>5</sup>

The letter from Del Webb did not, however, provide information on how Del Webb was providing the "best available appraiser." We noted that, in 1994, the Nevada State Office had implemented the Statewide practice of using Bureau contract appraisers to ensure that the Government received fair value for the lands it was exchanging. According to documents in the exchange file, the Del Webb Corporation contacted the Deputy Director regarding the initial appraisal and the use of its own appraiser. On February 2, 1996, the Nevada State Director signed an agreement that initiated the exchange and enabled Del Webb to provide an appraisal of the selected Federal land. This appraisal provision was contrary to the provision in the draft agreement submitted to Del Webb by the State Director to initiate the exchange and was contrary to the State Office's practice of using its preapproved contract appraisers.

We did not find any documentation that justified a change from the State Office's initial position as reflected in the November 27, 1995, letter to a Del Webb representative and the draft agreement to initiate the exchange. Our reviews of four land exchanges processed in the Las Vegas Field Office from June 1, 1995, through August 1, 1997, found that, with the exception of the Del Webb exchange, Bureau contract appraisers valued the Federal land selected. In our discussions with Bureau officials from the Nevada State Office, including the State Director and the Associate State Director, these officials stated that the Deputy Director had made the decision to allow Del Webb to hire its own appraiser and had directed the State Director to sign the agreement. The Bureau's Deputy Director stated that he had consulted with officials in the Nevada State Office but that the State Office had made the decision to allow Del Webb to use its own appraiser. However, a July 1, 1996, letter from the Chairman of the Board and Chief Executive Officer of Del Webb makes reference to the Deputy Director's "intervention on numerous occasions in order to get Nevada BLM [Bureau of Land Management] to comply with FLEFA [Federal Land Exchange Facilitation Act of 1988] and the Justice Department's Uniform Appraisal Guidelines." We noted that the Federal Land Exchange Facilitation Act allows either party to the exchange to obtain the appraisal of the selected Federal land by stating, "[T]he Secretary concerned and the other party or parties involved in the exchange shall arrange for appraisal of the lands or interests therein involved in the exchange." In addition, the Code of Federal Regulations (43 CFR 2201.3-1) states that the appraiser may be an employee or contractor to the Federal or non-Federal exchange parties. As such, the Nevada State Office's practice of using a Bureau contract appraiser to conduct the appraisal of the selected Federal land was also in compliance with the Act and implementing regulations.

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<sup>5</sup>The Code of Federal Regulations (43 CFR 2201.3-1) states: "A qualified appraiser(s) shall provide to the authorized officer appraisals estimating the market value of the Federal and non-Federal properties involved in an exchange. A qualified appraiser may be an employee or a contractor to the Federal or non-Federal exchange parties."



## **Use of Development Approach**

The initial appraisal, which was prepared by Del Webb's appraiser, valued the 4,776 acres of Federal land at \$43 million using the development approach. This approach reflects the highest price a proponent of a land exchange could afford to pay for the lands and still earn its desired profit. The "Uniform Appraisal Standards for Federal Land Acquisitions" states, "[W]hen comparable sales are available to determine the property's fair market value, the developer's residual approach [development approach] should not be employed, as the approach is highly speculative, prone to error, and reflects not so much value [of the lands being appraised] as the highest price a developer can afford to pay for the lands and still earn the desired profit." The Nevada State Chief Appraiser had informed Del Webb's appraiser of his concern regarding the use of this method on March 5, 1996. Subsequently, the Bureau ordered a second appraisal of the selected Federal land. The second appraisal relied on comparable sales and estimated the value of the selected Federal land at \$52.1 million (an increase of \$9.1 million over the initial appraisal). The appraisal report validated the Nevada State Chief Appraiser's position that the comparable sales approach should be relied on for estimating the value of the selected Federal land (see the section "Contract for Second Appraisal" in this report).

## **State Chief Appraiser Relieved of Responsibilities**

The Bureau's Deputy Director relieved the Nevada State Chief Appraiser of his responsibilities for reviewing the appraisal of the Federal land selected by Del Webb, and the Washington Office decided to contract with a non-Federal source for the appraisal review. Section 1203 of the Bureau Manual, which was in effect at the time, limited the responsibility for reviewing and approving exchange values to "the State Office Chief Appraiser only." According to a chronology of events on the Del Webb exchange prepared by the State Chief Appraiser, the State Chief Appraiser was relieved of his responsibilities because a Del Webb representative had stated to the Washington Office that the State Chief Appraiser had expressed a "preconceived opinion of value" during a meeting with Del Webb's appraiser and other Bureau and Del Webb officials on March 5, 1996. However, based on our review of the exchange files and interviews with Nevada State Office officials, we did not find any evidence of a "preconceived opinion of value" by the State Chief Appraiser. We confirmed with the Associate District Manager for the Las Vegas District, who was present at the meeting with Del Webb, that the State Chief Appraiser did not express a "preconceived opinion of value." In addition, our review of the files in the Nevada State Office found no information documenting or justifying the decision to relieve the State Chief Appraiser of his responsibilities or information supporting Del Webb's view that he had a "preconceived opinion of value" regarding the selected Federal land. Instead, according to the State Director and the Associate District Manager and the chronology prepared by the State Chief Appraiser, the State Chief Appraiser wanted to comply with the "Standards" regarding the valuation of property (comparable sales versus development approach).

During the March 5, 1996, meeting, Del Webb's appraiser informed the State Chief Appraiser that he was relying on the development approach as the method to estimate the value of the selected Federal land. The State Chief Appraiser stated that he informed the Del Webb representatives that the appraisal would not be in conformance with the "Uniform Standards for Federal Land Acquisitions" unless it relied substantially on comparable sales. The State Chief Appraiser stated that he was subsequently notified by his supervisor that he was relieved of his responsibilities regarding the Del Webb exchange.

## **Appraisal Review Contract**

After the State Chief Appraiser was relieved of his review responsibilities on this exchange, a Bureau contracting officer (from the Bureau's National Business Center in Denver, Colorado), relying on the recommendation of the Washington Office Chief Appraiser, awarded a contract on May 10, 1996, with limited competition for an appraisal review to a firm nominated by the Del Webb Corporation.<sup>6</sup> Before this contract was awarded, the Nevada State Director stated that the Nevada State Office had recommended that another state chief appraiser assume the responsibility for reviewing the appraisal. However, this recommendation was not accepted by the Deputy Director.

According to the Washington Office Chief Appraiser, competition for the contract award was limited "to avoid greater expense to the United States and weaken the integrity of the appraisal report." However, we did not find documentation such as estimated costs or other rationale concerning the extent and nature of the adverse impact on the Government or the appraisal if a fully competitive contract were to be awarded. In addition, the justification for the award noted that the contractor was selected because the firm was experienced "in appraising master planned communities" and is "familiar with the Las Vegas real estate market," but it did not document why the other appraisal firms solicited were not selected.

The appraisal review contractor approved an appraisal that was not performed in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions" (development approach versus comparable sales). The Del Webb appraiser had valued the 4,776 acres of Federal land at \$43 million by relying on the development approach. The December 5, 1996, appraisal review report, obtained by the Bureau under the contract, accepted the appraiser's value of the land without any adjustments. On December 9, 1996, the Bureau's Washington Office Chief Appraiser accepted the appraisal review report and the \$43 million valuation and recommended that this value be approved by the Bureau's Las Vegas District Manager.

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<sup>6</sup>The competition was limited because of an "unusual and compelling urgency." The contract was executed using the simplified acquisition procedures in the Federal Acquisition Regulation. The Washington Office Chief Appraiser interviewed five appraisal firms, including the firm nominated by Del Webb, to determine their qualifications for conducting the appraisal. The Washington Office Chief Appraiser ordinarily works on developing Bureau policy and guidance on appraisals.

## **Contract for Second Appraisal**

On December 12, 1996, we notified the Bureau of our intent to perform a followup audit of its Nevada land exchange activities. In a December 23, 1996, letter responding to a request from Senator Harry Reid from Nevada about the status of the Del Webb exchange, the Deputy Director stated:

Another factor which may potentially affect the timing of the Del Webb exchange is the investigation of land exchange activities in Nevada by the Office of Inspector General (IG). . . . We will meet with the IG's office during the week of January 6, 1997, to discuss this new audit.

On January 7, 1997, we held an entrance conference on our followup audit with Bureau officials and informed them that the Del Webb exchange would be included as part of the scope of our audit. On January 27, 1997, the Bureau contracted for a second appraisal on the Federal land selected by the Del Webb Corporation. This contract, which also did not use an appraisal firm preapproved by the Nevada State Office and which was reviewed by the Washington Office Chief Appraiser instead of the Nevada State Chief Appraiser, used the comparable sales method to value the selected Federal land.

According to the Bureau, a "large number of [Department] officials, including BLM [Bureau of Land Management] Washington and Field Officials, Solicitor's Office representatives, and a representative of the Assistant Secretary's Office . . . made a consensus decision to seek a second appraisal." The Bureau stated that it made this decision for the following reasons:

The concerns that led to this conclusion included: 1) the values recommended by the contract review may be too low; 2) the public had not had an opportunity to comment on the appraisal during the public comment period on the initial Notice of Decision; 3) the appraisal review contractors had identified 10 comparable sales, some of which had not been identified by Del Webb's appraiser; 4) BLM continued to have questions regarding the appraisal methodology (feasibility of the preferred approach based on comparables); 5) several protests questioned the initial appraisal; and 6) there was an unresolved issue concerning a power line right-of-way that potentially affected appraised value.

The Bureau received the second appraisal, dated March 21, 1997, which valued 4,756 acres of selected Federal land at \$52.1 million. In addition, the appraisal report validated the Nevada State Chief Appraiser's position by stating, "[O]nly the Sales Comparison Approach to value was directly applicable in this analysis." The appraisal increased the value of the Federal land selected by Del Webb from \$43 million for 4,776 acres (an average of about \$9,000 per acre) to \$52.1 million for 4,756 acres (an average of about \$11,000 per acre), or an increase of \$9.1 million for 20 fewer acres. The initial exchange transaction (Phase IA), which was subsequently finalized on July 29, 1997, provided 922 acres of selected Federal land valued at \$11,452,639 (an average of \$12,423 per acre for this land) to Del Webb using the higher appraisal value.

## Conclusion

As presented in our audit reports issued in 1991 and 1992 and, more recently, in July 1996,<sup>7</sup> the Bureau of Land Management had not administered land exchanges in accordance with established standards and procedural controls.

On June 20, 1996, three members of the U.S. House of Representatives (including the Chairman of the House of Representatives Resources Committee and the Chairman of the House of Representatives Subcommittee on National Parks, Forests and Lands) sent a letter to the Secretary requesting that a moratorium be placed on all land exchanges in Nevada. In his July 19, 1996, response to the request, the Bureau's Deputy Director stated that the Bureau had:

... instituted several procedural and policy changes to set priorities on exchange proposals, to streamline the paperwork process, to improve coordination with local governments, to improve management of the land exchange process and to assure that the public receives a fair value for land exchanges.

The Deputy Director informed the Congress that a partial moratorium had been imposed but that the Bureau was concentrating on six high priority exchange proposals (which included the Del Webb exchange).

On July 30, 1996, the Subcommittee on National Parks, Forests and Lands, Committee on Resources, House of Representatives, conducted hearings with the Inspector General regarding the Office of Inspector General's July 1996 audit report on Bureau land exchange activities in Nevada. At this hearing, in response to a question from a member of the Subcommittee as to whether a moratorium was necessary on all land exchanges in Nevada, the Inspector General stated:

I do not believe that the results indicated in our [July 1996] audit report require a moratorium on land exchanges. We did not come to that conclusion. We believe that there are problems with the process that need to be addressed and that should be addressed as promptly as possible, but I would not go so far as to say we have concluded that there is a need for a moratorium on land exchanges.

During the hearing, another member of the Committee asked the Inspector General if it was the Inspector General's "expectation that no future land exchanges would occur without the

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<sup>7</sup>These reports consist of the June 1991 audit report "Land Exchange Activities, Bureau of Land Management" (No. 91-I-968); the May 1992 audit report "Land Acquisitions Conducted With the Assistance of Nonprofit Organizations, Department of the Interior (No. 92-I-833); and the July 1996 audit report "Nevada Land Exchange Activities, Bureau of Land Management" (No. 96-I-1025).

implementation of those three recommendations . . . [in the July 1996 audit report]." In response, the Inspector General stated:

Obviously it would be our hope that any future exchanges incorporate the recommendations that we have made. . . . There are certain things like ensuring that appraisal values are approved by a chief appraiser. That is something that doesn't require any period of time to implement. . . . I think based on the Bureau's response [to the July 1996 audit report], they [the Bureau] are talking about reviewing all of their processes to ensure that, in fact, they are in compliance with the applicable rules and regulations [for land exchanges]. But it is certainly my hope that the particular items that we have pointed out in the audit report, to the extent that they arise again in another exchange, that they would be able to do it the right way. . .

In reviewing the Del Webb exchange, we found that the Bureau's Washington Office did not fully conform to established standards, procedures, or controls. The Bureau had assured the Congress, in response to several inquiries from its members about land exchanges, and our office, in response to our prior audit report on Nevada land exchanges, that it would comply with established land exchange procedures and controls. However, on December 9, 1996 (about 6 months after its response to the June 1996 House of Representatives letter and about 5 months after the Congressional hearing), the Washington Office Chief Appraiser accepted and recommended approval of the initial appraisal and appraisal review when the appraisal did not conform to the "Standards" preferred method of appraising Federal land and was not reviewed and approved by the Nevada State Chief Appraiser. As stated previously, a second appraisal was obtained that increased the value of the selected Federal land. The processing of the Del Webb exchange without the second appraisal would have resulted in a \$9.1 million loss to the Government.

Because the Bureau has not conformed to established procedures and controls, notwithstanding its assurances of such to the Congress and the Office of Inspector General, we believe that the Bureau should establish a moratorium on land exchanges in Nevada until new control processes are instituted, including having an external team review and provide advice on land exchanges. We will formally recommend that such processes and an external team be established in our followup report.

### **Bureau of Land Management Response and Office of Inspector General Reply**

In the February 25, 1998, response (Appendix 1), the Director, Bureau of Land Management, included, as Attachment 1, a chronology of Del Webb land exchange events. The excerpted narrative from this chronology and our comments and clarifications of the events are presented in Appendix 2. The Bureau's comments on the report and exchange actions are discussed in the following paragraphs.

In his response, the Director discussed the benefits of the land exchange program for acquiring land containing resource values of public significance and improving the

manageability of Federal land ownership. The Director stated that the Del Webb exchange was "one of the largest and most challenging exchanges ever undertaken" by the Bureau and that this exchange was given "unprecedented attention" in both the Nevada State Office and the Bureau's Washington Headquarters Office because of the "very speculative and volatile nature of the land values in the Las Vegas area, and the size of this exchange." The Director further stated that our draft advisory report "expresses concern about different/several decisions made early" in the exchange. Specifically, according to the Director, our report "does not question the consistency of these decisions with controlling law or regulations" but the "departure, . . . from established standards or procedures." The Director also stated that our report "only suggests that, had BLM [Bureau of Land Management] not undertaken a second appraisal, there could have been a \$9.1 million loss to the Federal government." The Director further stated that "[m]ore relevant to the ultimate question of whether the public interest was served in this matter, I believe there is no doubt that BLM [Bureau of Land Management] acted with appropriate caution before making any final decisions on this exchange" and that the decision to obtain the second appraisal "effectively eliminated concerns about the appropriateness of the final decision." The Director further stated that the Bureau "takes particular issue with" the draft report's "implied criticism that there is something inappropriate about elevating decisions on high priority, high visibility and/or sensitive issues from a field organization to Headquarters."

The Director agreed that the "exchange program [should] be maintained on a solid footing" and that procedures for a secondary review and concurrence by either the State Director or the Washington Headquarters Office of exchanges exceeding \$500,000 in value had been established. The Director also stated that he was "considering establishing a Bureauwide land exchange team to assist in the review of high priority exchanges, provide additional technical support to BLM [Bureau of Land Management] field offices, and address policy and procedural issues." Finally, the Director disagreed with the draft report's suggestion that the Bureau should establish a moratorium on land exchanges until new controls are instituted, stating that the moratorium would have an "adverse impact" on the Bureau's relationship with various local governments.

**Office of Inspector General Reply** In our July 1996 audit report of land exchanges (discussed in the Prior Review section of this report), we noted that the Bureau had "acquired some high quality properties by exchanging lands with private entities." However, we also identified deficiencies in the Bureau's administration of land exchanges, most notably in the valuation of lands through appraisals, which limited the program's benefits and resulted in the Bureau not obtaining fair value in its Nevada land exchanges. This advisory report discusses our newest concerns regarding the Del Webb land exchange.

Our criticism was not with the elevation of decisions to the Headquarters level but with the Washington Office's nonconformance with established standards and controls. Our particular concerns with this exchange were that (1) the Bureau did not comply with appraisal standards and established policies and procedures; (2) the proponent was significantly involved in the decision-making process; (3) the Nevada State Chief Appraiser was removed from his appraisal review responsibilities; and (4) the Washington Office Chief Appraiser decided to accept the first appraisal and appraisal review, concluded that the \$43 million value was

reasonable and adequately supported, and recommended (December 9, 1996) to the Las Vegas District Manager that the appraisal be approved. We are encouraged by the Director's reference to the additional procedures that were implemented or are under consideration to provide better control over the land exchange process. However, except for the decision of the Bureau's Washington Office to obtain a second independent appraisal, we do not agree that the Bureau's decisions on the Del Webb exchange were reasonable or appropriate or ensured that the public interest was served.

We do not believe that the Bureau's Washington Office was justified in its acceptance of the purported urgency of the appraisal or in its actions to facilitate completion and review of an appraisal of the entire Federal parcel. We found that Del Webb did not have sufficient property available to exchange for all the selected public land. For example, even after the Bureau approved an appraised value for the selected public land on April 8, 1997, almost 15 months after the date of Del Webb's letter to the Nevada State Director, the Bureau was able to accept only four properties valued at about \$11 million in the initial exchange transaction.

### **Additional Comments on Advisory Report**

In its response, the Bureau provided additional comments on our report. The comments and our replies to the comments are as follows:

**Bureau Response.** The Bureau stated: "The decision to allow Del Webb to furnish the initial appraisal for the proposed exchange was in compliance with the Federal Land Exchange Facilitation Act of 1988 (P.L. 100-409) and implementing regulations (43 CFR 2200). Section 2201.3-2 states 'A qualified appraiser may be an employee or a contractor to the Federal or non-Federal exchange parties.' To the extent that a decision to allow Del Webb to furnish the initial appraisal conflicted with a field policy or practice, the decision was fully within the discretion of BLM [Bureau of Land Management] Headquarters' Officials."

**Office of Inspector General Reply.** Our preliminary draft report did not state that the Bureau had not complied with authorizing land exchange legislation or its implementing regulations. However, we reported that the Bureau did not comply with established policies, standards, and controls for appraisals and land valuations. Our report also noted that the decisions of Headquarters officials to override the Nevada State Office's standard policy and practice of obtaining the appraisal of selected public land was not justified or documented to show the propriety of this action. Furthermore, the Bureau's response conflicts with the information provided to us during interviews with Headquarters officials concerning the Washington Office's involvement in the decision-making process for the Del Webb exchange. Specifically, the Deputy Director and the Washington Office Chief Appraiser both told us that they offered only advice to Nevada State officials who made the decision to allow Del Webb to furnish the appraisal and that the Washington Office did not make this decision.

**Bureau Response.** The Bureau stated: "The use of the 'cost development approach' is acceptable under the Department of Justice's 'Uniform Appraisal Standards for Federal Land Acquisitions', when the Appraiser, in his or her professional judgment, concludes there

are inadequate or no comparable sales. It is appropriate for reviewing appraisers to withhold judgment on an appraiser's reasoning and appropriate use of appraisal methods until the appraisal is reviewed. The Contracting Appraiser . . . appraisal supplied by Del Webb met Federal Standards although it was not accepted by BLM [Bureau of Land Management]. It should be noted that there was some market analysis included in the first appraisal. Lack of confidence in this market, however, was one of the primary reasons for deciding to do a second appraisal."

**Office of Inspector General Reply.** The "Uniform Appraisal Standards for Federal Land Acquisitions" states that the cost development approach is "highly speculative, prone to error, and reflects not so much value as the highest price a developer can afford to pay for the land and still earn the desired profit." The "Standards" also states that the use of this approach should be reserved for providing a check on the accuracy of value determined by the more reliable comparable sales method or in situations where "no comparable sales" are available.

We believe that the Nevada State Chief Appraiser correctly advised (March 5, 1996) Del Webb's appraiser of the "Standards" preference for the comparable sales approach and that adequate information was available to use this approach. Further, we noted that the Solicitor's Office suggested that the comparable sales approach be used by the appraisers who were preparing the second appraisal for the Bureau.

**Bureau Response.** The Bureau stated: "The decision to remove the BLM [Bureau of Land Management] Nevada Chief Appraiser . . . from the reviewing appraiser function was based on the perception that [the Nevada State Chief Appraiser] had a dispute with [Del Webb's appraiser] before the initial appraisal was performed in which he [the Nevada State Chief Appraiser] strongly expressed inappropriate preconceived notions of value or methodology. This disagreement between [the Nevada State Chief Appraiser and Del Webb's appraiser] could have potentially jeopardized the processing of the exchange. . . . Obtaining BLM in-house appraisal review expertise would have added additional delay in the land exchange processing."

**Office of Inspector General Reply** We noted that the second appraisal supported the Nevada State Chief Appraiser's position that only the comparable sales approach was appropriate for valuing the public land sought by Del Webb. In addition, the Solicitor's Office advised the Washington Office Chief Appraiser to advise the second appraisers of the requirement in the "Standards" that the comparable sales approach was the preferred method to be used when appraising Federal lands. As stated in the report (pages 6 and 7), we found no evidence to support the position that the State Chief Appraiser expressed a preconceived notion of value. To the contrary, we noted that the State Chief Appraiser was attempting to comply with the "Standards" preferred method of valuation.

The Bureau stated that obtaining an in-house appraisal review would have additionally delayed the exchange processing. However, we noted that there were extensive delays in processing this exchange that were caused in part by the concerns raised by Nevada State Office officials about the Del Webb appraisal and its contract review.



**Bureau Response.** The Bureau stated: "As the chronology shows, discussions within BLM [Bureau of Land Management] about securing a second appraisal began before the IG [Inspector General] announced a follow-up audit and well before the IG informed BLM that the following audit would include the Del Webb exchange. Ultimately, a large number of DOI [Department of the Interior] officials, including BLM Washington and Field Officials, Solicitor's Office representatives, and a representative of the Assistant Secretary's Office were involved in these discussions and made a consensus decision to seek a second appraisal. The concerns that led to this conclusion included: 1) the values recommended by the contract review may be too low; 2) the public had not had an opportunity to comment on the appraisal during the public comment period on the initial Notice of Decision; 3) the appraisal review contractors had identified 10 comparable sales, some of which had not been identified by Del Webb's appraiser; 4) BLM continued to have questions regarding the appraisal methodology (feasibility of the preferred approach based on comparables); 5) several protests questioned the initial appraisal; and 6) there was an unresolved issue concerning a power line right-of-way that potentially affected appraised value. (See December 9, 1996 and September 10, 1996 chronology.)"

**Office of Inspector General Reply.** We have incorporated the Bureau's reasons for acquiring the second appraisal into the report. However, notes prepared by the Washington Office Chief Appraiser of a December 18, 1996, meeting attended by the Deputy Director, the Washington Office Chief Appraiser, the Nevada State Director, the Las Vegas District Manager, and a representative of the Assistant Secretary for Land and Minerals Management stated that decisions on whether to use the first appraisal and on how to proceed would not be made until the Bureau could determine whether our audit would include the Del Webb exchange (see December 18, 1996, in Appendix 2 chronology).

**Bureau Response.** The Bureau stated: "The decision to seek a second appraisal and the subsequent decision to accept that appraisal led to BLM [the Bureau of Land Management] receiving greater value for its lands. These decisions support a conclusion that the safeguards to protect and serve the public interest in the exchange process worked in the case of the Del Webb exchange; they do not support the inferences in the IG [Inspector General] report that improper processes and procedures were followed."

**Office of Inspector General Reply.** We disagree that proper processes and procedures were followed and that safeguards to protect the public interest worked in the Del Webb exchange. The procedural safeguards established by the Nevada State Office, which were designed to ensure that a fair value was established and that the appraisal was conducted in accordance with Federal appraisal standards, were overridden by the Washington Office in February and March 1996. We firmly believe that the exchange would have been consummated using the initial appraisal had the Bureau not been subjected to external factors that exerted pressure on it to obtain a second appraisal.

Since this report does not contain any recommendations, a response is not required.

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

We appreciate the assistance of Bureau personnel in the conduct of our review.



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Washington, D.C. 20240

In Reply Refer To:  
1245/2200 (350)

FEB 24 1998

## Memorandum

To: Office of Inspector General

Through: *Stephen V. Brien* FEB 25 1998  
Assistant Secretary Land and Minerals Management

From: Director, Bureau of Land Management *Pat Shea*

Subject: Review of Preliminary Draft Advisory Report - Del Webb Land Exchange Assignment No. (W-IN-BLM-001-97A) (The Draft Advisory Report)

I appreciate the opportunity to review and comment on the Office of the Inspector General's Preliminary Draft Advisory Report on the Del Webb land exchange, which was delivered to our office on February 5, 1998.

As is stated in the draft report, Congress has emphasized the use of land exchanges and fee purchases to acquire land containing resource values of public significance and to improve the manageability of federal land by consolidating its land ownership. I support this program as an effective tool for managing the lands BLM administers. By working with the BLM State Directors, we have made significant progress in land adjustments between private and state ownerships where all entities benefit through more effective land management. We have gained thousands of acres of quality habitat areas for multiple use management, especially for the enhancement of plant and animal diversity.

The Del Webb land exchange covered by the Preliminary Draft Advisory Report is one of the largest and most challenging exchanges ever undertaken by the BLM. Because of the very speculative and volatile nature of the land values in the Las Vegas area, and the size of this exchange, BLM gave this exchange unprecedented attention in both the Nevada State Office and the Washington Headquarters Office.

The Preliminary Draft Advisory Report expresses concern about different/several decisions made early in the Del Webb exchange process. The Draft Advisory Report does not question the consistency of these decisions with controlling law or regulations, but rather questions the departure, in some instances without full explanation in the record, from established standards or procedures. In addition, the Draft Advisory Report does not question BLM's ultimate decision to proceed with the exchange, but only suggests that, had BLM not undertaken a second appraisal, there could have been a \$9.1 million loss to the Federal government.

I have attached a chronology of significant events on the Del Webb exchange. A second attachment is an explanation of the reasons for particular Del Webb decisions that represents the consensus of the major BLM participants in those decisions.

I would appreciate your examining this information thoroughly as you prepare the final report, so as to ensure a full and accurate description of events. Hindsight is always 20/20, but my review of the record here convinces me that what the Preliminary Draft Advisory Report reflects is basically a good faith disagreement by reasonable people over the wisdom of some decisions made in the early stage of this exchange proposal; not, however, the result.

More relevant to the ultimate question of whether the public interest was served in this matter, I believe there is no doubt that BLM acted with appropriate caution before making any final decisions on this exchange. Specifically, the decision to obtain a second appraisal and to provide additional procedural steps before completing its decisionmaking effectively eliminated concerns about the appropriateness of the final decision.

The BLM takes particular issue with the Preliminary Draft Advisory Report in its implied criticism that there is something inappropriate about elevating decisions on high priority, high visibility and/or sensitive issues from a field organization to Headquarters. Such actions are not unusual and of themselves cannot imply any impropriety.

As the new BLM Director, I share your concern that our exchange program be maintained on a solid footing. I have undertaken measures to continue our quest for excellence in this program. On December 29, 1997, I established procedures for a second level review by either the State Director or the Washington Headquarters Office, and concurrence in decisions involving exchanges in excess of \$500,000 in value. In addition, I am considering establishing a Bureau-wide land exchange team to assist in the review of high priority exchanges, provide additional technical support to BLM field offices, and address policy and procedural issues.

Although the Preliminary Draft Advisory Report ends with the observation that it does not contain any recommendation, the preceding paragraph recommends that the Bureau establish a moratorium on land exchanges until new control processes are instituted. I do not believe such a moratorium is wise because of its significant adverse impact on the ongoing relationships with the various local, county and state governments with which BLM works to effectuate appropriate land management and land exchange decisions. I am moving with dispatch to provide additional oversight on our exchange program.

I appreciate the opportunity to comment.

Attachments

## **CHRONOLOGY**

### **Del Webb Land Exchange**

- September 29, 1994 Initial exchange proposal made by Del Webb.
- November 27, 1995 The Nevada BLM State Director (Ann Morgan) forwards by letter a draft "Agreement to Initiate Exchange" to Del Webb, that provides that the Bureau will appraise the private and Federal lands involved in the proposed exchange.
- January 16, 1996 Del Webb responded by letter to the Nevada State Director (Ann Morgan) regarding the provisions of the draft exchange agreement between BLM and Del Webb. The letter stated: "the proposed appraisal language in your draft is far more restrictive than the plain language of the Federal Regulations [43 CFR, Part 2201.3 and 3-1] and we believe the process will be aided immeasurably by adhering to federal regulations rather than by restricting those regulations with a localized policy not specifically designed to produce the best available appraiser." The letter was expressing concern that the BLM would not promptly start the appraisal process and that Gregg Harris was better qualified than any appraiser on BLM Nevada's list of qualified appraisers. Del Webb anticipated having an appraisal completed by early March 1996; BLM's timing would have been later.
- February 2, 1996 Upon the advice of the Washington Office, Nevada State Director (Ann Morgan) signs revised "Agreement to Initiate Land Exchange" for Del Webb land exchange. Agreement provides for Del Webb to assist in the exchange by preparing several of the required documents and studies, including appraisal reports. Basically, BLM agreed with Del Webb that the regulations provide for the exchange proponent to appraise the lands, subject to BLM review. BLM felt that the contracting appraiser selected by Del Webb could do as good a job as a BLM appraiser.
- March 5, 1996 Associate District Manager and Project Lead (Gary Ryan), and BLM Nevada Chief Appraiser (Jerry Stoebig) and Shawn Redfield, BLM Arizona Chief Appraiser, meet in Phoenix, Arizona with the Contract Appraiser (Gregg Harris) and Don Moon and Virginia Turner representing Del Webb. The purpose of the meeting is to discuss instructions for completion of the appraisal report. Jerry Stoebig expresses concern with Gregg Harris and the Del Webb representatives over use of the "Cost Development Approach", a valuation method proposed to be used by Gregg Harris.

**Attachment 1**

- March 14, 1996 Contract Appraiser (Gregg Harris) completes appraisal, based upon a "Cost Development Approach", for Del Webb for 5,312.5 acres of selected lands in the proposed exchange.
- March 25, 1996 (Approximate date) A conference call was held involving Deputy Director (Mat Millenbach), Washington Office Chief Appraiser (David Cavanaugh), Deputy State Director-Resources (Saundra Allen) and Associate State Director (Jean Rivers-Council). The purpose of the call was to discuss options for reviewing the appraisal. During the course of the conversation, Jean Rivers-Council informed Mat Millenbach and David Cavanaugh that Nevada had decided to remove (BLM Nevada State Chief Appraiser) Jerry Stoebig from the appraisal review responsibilities because of his possible lack of objectivity to the appraisal process and perceived poor working relationships with Del Webb. Mat Millenbach and David Cavanaugh concurred with this decision. (Note: Mr. Stoebig was not removed from his job--just the Del Webb exchange process.) It was concluded that it would be very difficult to find another BLM appraiser with the expertise and time to conduct this review. BLM had recently lost appraisal staff in several states, existing workload in other states was perceived as heavy, and BLM did not have the level of expertise for the appraisal of these types of property. Additionally, appraisers from other state offices are generally uncomfortable in assisting another state to provide an impartial review of appraisals for another Chief Appraiser. Obtaining BLM in-house appraisal review expertise would have added additional delay in the land exchange processing. As a solution to this problem, David Cavanaugh pointed out that the regulations authorized the use of a contract review appraiser. Mat Millenbach approved the use of this approach since the Washington Office was unable to provide another appraiser from within the Bureau.
- March 27, 1996 Washington Office Chief Appraiser (David Cavanaugh) conducted telephone interviews with six prospective review appraisers. The IG's preliminary draft says five prospective contractors were contacted (footnote, page 14).
- April 25, 1996 On April 25, 1996, the former Associate District Manager for the Las Vegas District (Gary Ryan) and the Washington Office Chief Appraiser

(David Cavanaugh) met with the prospective contract reviewers (Cushman & Wakefield) in Phoenix, Arizona. Based on the interview and discussion of the statement of work, a contract was awarded to Cushman & Wakefield following appropriate procurement procedures through the BLM National Business Center (Denver) on May 10, 1996.

May 10, 1996

Award contract to Cushman & Wakefield (Steve Leach and Mike Miller) to review the Contract Appraiser's (Gregg Harris) appraisal report. The Contracting Officer complied with all requirements for simplified acquisitions in Federal Acquisition Regulations (FAR) Part 13.106-2(d)(3), which only required a notation to explain the absence of competition. The award in the amount of \$12,500 was for less than the simplified acquisition threshold regarding competition. The Preliminary Draft IG Report (p.14) says FAR was not complied with. BLM also prepared a Justification for Other than Full and Open Competition (JOFOC), in accordance with portions of the Part 6.303-2 regulations. The JOFOC authorized the Contracting Officer to proceed with a "Sole Source" acquisition.

July 16, 1996

Memorandum from Washington Office Chief Appraiser (David Cavanaugh) to Las Vegas District Manager (Mike Dwyer), providing a copy of the initial appraisal review report prepared by Cushman & Wakefield. David Cavanaugh advises Mike Dwyer that some additional sales transactions are being reviewed which may provide some comparable sales information, and that the appraisal review report may need to be updated and may have an impact upon the appraised value.

September 10, 1996

Letter from Acting Deputy Director (Gwen Mason) to Del Webb, advising Del Webb that appraisals may need to be revised if additional comparable sales information becomes available prior to final actions on the land exchange, to ensure that appraisals reflect current market value.

October 14, 1996

Contract Appraiser (Gregg Harris) completes update of earlier appraisal, including some comparison with comparable sales. Property appraised includes 4,776 acres and a separate value for Phase 1 only. Appraiser concludes \$43,000,000 for entire property, and \$20,285,000 for Phase 1 only.

November 4, 1996

Decision Record and Notice of Decision issued on the proposed land exchange, which provides for a 45 day public comment and protest period.

- November 21, 1996 E-Mail message from Washington Office Chief Appraiser (David Cavanaugh) to Washington Office Manager (Ray Brady) summarizing telephone conversations with Las Vegas District Manager (Mike Dwyer) and later with Don Moon and Virginia Turner. The District Manager expressed concern the values were too low and the report fails to use adequate comparable sales information. Cavanaugh expressed concern with earlier drafts prepared by the reviewers.
- November 27, 1996 Protest letter from Sierra Club raises concern regarding the appraisal of lands and indicates the lands may be under valued. Requests an opportunity to review the appraisals.
- December 5, 1996 Steve Leach and Mike Miller (Cushman & Wakefield) submit appraisal review report. Their review includes reference to 10 potential comparable sales. The reviewers concluded, however, that the additional market analysis supported the Contracting Appraiser's (Gregg Harris's) opinion of value.
- December 9, 1996 Washington Office Chief Appraiser (David Cavanaugh), contracting officer representative (COR), accepts the appraisal review report for purposes of authorizing payment under the contract only. The appraisal review prepared by Steve Leach and Mike Miller (Cushman & Wakefield) was forwarded to the authorized officer (Mike Dwyer) for approval. It was never approved by either the authorized officer or the State Director (Ann Morgan).
- Washington Office Chief Appraiser (David Cavanaugh), in his evaluation of the appraisal review report forwarded to Las Vegas District Manager (Mike Dwyer), raised four issues: 1) A perception that the appraised values are too low; 2) agreement by the reviewers that the value per acre for Phase 1 is lower than for the entire tract; 3) the review report assumes the sale of the entire property and does not consider any lapse in time between the first and final transactions; 4) the review report assumes the land is free and clear of all encumbrances including mining claims and that any costs to clear assumed by a prospective buyer would be a reduction in value. Also included in David Cavanaugh's evaluation is a discussion of an option to prepare an additional appraisal or appraisal reviews.
- December 10, 1996 Protest letter from Charles Hancock (private citizen) requesting an opportunity to review the appraisal reports and asserts that a competitive sale of the lands would increase values.
- December 12, 1996 OIG notifies the Bureau of intent to perform a follow up audit of its Nevada land exchanges. This notification gave no indication that the

ongoing Del Webb land exchange would be included in the follow up audit. The notification indicated only that "recently completed exchanges" would be reviewed. The Del Webb exchange was not completed at this time.

- December 16, 1996 Letter from Senator McCain (AZ) to Assistant Secretary, Land and Minerals Management requesting information on the status of the Del Webb land exchange.
- December 17, 1996 Cushman and Wakefield provide a presentation in the BLM Washington Office on the appraisal review. Attendees were Department, BLM Headquarters, and field managers and staff, including Las Vegas District Manager (Mike Dwyer) and Nevada State Director (Ann Morgan).
- December 18, 1996 Following the December 17 meeting, Las Vegas District Manager (Mike Dwyer) prepares handwritten comments critiquing the Harris appraisal report and review prepared by Cushman and Wakefield. Copies of these comments were given to Dave Cavanaugh and the contract review appraisers. The major issues raised by Mike Dwyer regarded the cost approach for the appraisal, unsupported adjustments to price, and poor justification for the discount rate applied to the appraisal.
- December 18, 1996 Letter from Senator Reid (NV) to Assistant Secretary, Land and Minerals Management requesting information on the status of the Del Webb land exchange.
- December 19, 1996 Protest letter from Howard Hughes Corporation expressed concern that the appraisal documents were unavailable for review, and that values of the exchange lands are unknown.
- December 19, 1996 Public comment period on the Notice of Decision ends. Seven protests are received on the land exchange. Three of these protests raise issues related to the appraisal of the lands involved in the exchange. (See the November 27, 1996, December 10, 1996, and December 19, 1996 entries above.)
- December 23, 1996 Washington Office Chief Appraiser (David Cavanaugh) sends an electronic message to Nevada State Director (Ann Morgan), Las Vegas District Manager (Mike Dwyer) and others as a follow up to Mike Dwyer's comments on the appraisal review. Mike Dwyer's comments were also forwarded to Cushman & Wakefield with a request for the contract review appraisers to respond to the comments. David Cavanaugh concludes in the electronic message that: "Therefore, I still think we need an appraisal that relies primarily on a market analysis, which to the extent may be appropriate, includes a reference to the appraisal and appraisal review."



- December 23, 1996 In response to the December 16, 1996, letter from Senator McCain (AZ) and December 18, 1996, letter from Senator Reid (NV), Deputy Director (Mat Millenbach) writes to Senator McCain and Senator Reid regarding BLM's progress in processing the Del Webb land exchange. The letter states that "we intend to follow all applicable statutes, regulations, and procedures in processing this exchange and to continue to involve the public, as appropriate, to ensure that any final exchange transaction serves the public interest." He also states: "Another factor which may potentially affect the timing of the Del Webb exchange is the investigation of land exchange activities in Nevada by the Office of Inspector General (IG)." The thought here is that if the IG discovered a serious deficiency, BLM would have taken the time to address and correct the problem.
- January 2, 1997 Phil Dion (Chairman of the Board and CEO, Del Webb Corporation) writes Senator McCain criticizing BLM's handling of the land exchange. The letter references an upcoming meeting on January 7.
- January 6, 1997 Cushman & Wakefield respond to Las Vegas District Manager's (Mike Dwyer) comments regarding the appraisal review report, including the concerns regarding the development cost approach for the appraisal. The review appraisers state: "This approach has current market acceptance, is very reliable given the depth of data available and provides subject specific value indicators which cannot be derived from the sales data."
- Jan. 7 and 8, 1997 Las Vegas District Manager (Mike Dwyer) and Nevada State Director (Ann Morgan) provide a briefing paper for discussions in meetings with BLM Washington Office, Solicitor's Office and the Assistant Secretary's Office of several issues concerning the appraisal report, the procedural error of not providing the public an opportunity to comment on the appraisal during the public comment period of the Notice of Decision, ledger imbalance, OIG audit, resolution of protests, and Nevada Power appeal. In a description of options, Mike Dwyer indicates BLM Chief Appraiser (David Cavanaugh) recommends ordering new appraisal. Justification is the appraiser would be independent from first effort, fresh set of eyes, and an opportunity to clarify instructions.
- January 7, 1997 OIG holds entrance conference on the followup audit with BLM officials and informs BLM that the Del Webb land exchange will be included within the scope of audit.

- January 14, 1997 Letter from Deputy Director (Mat Millenbach) to Phil Dion summarizing decisions made at a January 7-8 meeting of BLM and DOI officials. Officials discussed protests in response to the Notice of Decision (NOD) published on November 4, 1996. It was agreed a second appraisal would be ordered, a supplemental environmental assessment would be prepared, a new NOD would be issued, and property would be exchanged subject to Nevada Power right-of-way.
- January 21-22, 1997 Meetings with Del Webb in Washington, DC to address implementation of the January 14 letter.
- January 27, 1997 BLM contracts for a second appraisal. The existing BLM Nevada contract list had only one appraiser from the Las Vegas area and we were concerned regarding the quality of his previous work and reports. Because the BLM Nevada Chief Appraiser had previously been removed from the appraisal work for this exchange (March 25, 1996 decision), there was no consideration to bring him into the process again. The BLM decided to procure appraisal services from a reputable local firm not on the current contracting list. It was also decided by the State Director and Deputy Director that the Washington Office Chief Appraiser (David Cavanaugh) would review the appraisal report. The BLM contracted with a top Las Vegas accounting firm (Piercy, Bowler, Taylor & Kern) that had an excellent appraisal staff.
- January 30, 1997 Deputy Director (Mat Millenbach) sends a follow-up letter to Phil Dion summarizing meetings with his staff on January 21-22, 1997. The meetings put in place procedural steps implementing decisions made at the January 7-8, 1997 meeting. A timetable prepared by Las Vegas District Manager (Mike Dwyer) is attached to the letter.
- February 25, 1997 Meeting with Del Webb in Washington, DC to discuss progress with the exchange.
- March 21, 1997 BLM receives the second appraisal. The appraiser's conclusions were based on a comparable sale analysis and also evaluated and considered the Cost Development Approach from the earlier appraisal.
- March 31, 1997 Washington Office Chief Appraiser (David Cavanaugh) accepts the appraisal report prepared by the contract appraiser.
- April 8, 1997 Approval of appraised value by Authorized Officer (Mike Dwyer) and Nevada State Director (Ann Morgan). BLM letter to Del Webb providing copy of approved appraisal and offer of \$31.5 million for Phase I of the Del Webb exchange.

May 6, 1997	Del Webb acceptance of offer.
May 21, 1997	New Notice of Decision issued for Phase I of the Del Webb exchange. Notice of Decision provides for public review of the approved appraisal.
July 29, 1997	Title transfers and patents issued on the initial land transfers of Phase I-A of the Del Webb land exchange.

### BLM Comments on Del Webb Exchange Actions

1. The decision to allow Del Webb to furnish the initial appraisal for the proposed exchange was in compliance with the Federal Land Exchange Facilitation Act of 1988 (P.L. 100-409) and implementing regulations (43 CFR 2200). Section 2201.3-2 states "A qualified appraiser may be an employee or a contractor to the Federal or non-Federal exchange parties." To the extent that a decision to allow Del Webb to furnish the initial appraisal conflicted with a field policy or practice, the decision was fully within the discretion of BLM Headquarters' Officials.
2. The use of the "cost development approach" is acceptable under the Department of Justice's "Uniform Appraisal Standards for Federal Land Acquisitions", when the Appraiser, in his or her professional judgment, concludes there are inadequate or no comparable sales. It is appropriate for reviewing appraisers to withhold judgment on an appraiser's reasoning and appropriate use of appraisal methods until the appraisal is reviewed. The Contracting Appraiser (Gregg Harris) appraisal supplied by Del Webb met Federal Standards although it was not accepted by BLM. It should be noted that there was some market analysis included in the first appraisal. Lack of confidence in this market, however, was one of the primary reasons for deciding to do a second appraisal.
3. The decision to remove the BLM Nevada Chief Appraiser (Mr. Stoebig) from the reviewing appraiser function was based on the perception that Mr. Stoebig had a dispute with Mr. Harris before the initial appraisal was performed in which he (Mr. Stoebig) strongly expressed inappropriate preconceived notions of value or methodology. This disagreement between Mr. Stoebig and Mr. Harris could have potentially jeopardized the processing of the exchange. (Mr. Dwyer was not involved with this decision.) Obtaining BLM in-house appraisal review expertise would have added additional delay in the land exchange processing.
4. As the chronology shows, discussions within BLM about securing a second appraisal began before the IG announced a follow-up audit and well before the IG informed BLM that the following audit would include the Del Webb exchange. Ultimately, a large number of DOI officials, including BLM Washington and Field Officials, Solicitor's Office representatives, and a representative of the Assistant Secretary's Office were involved in these discussions and made a consensus decision to seek a second appraisal. The concerns that led to this conclusion included: 1) the values recommended by the contract review may be too low; 2) the public had not had an opportunity to comment on the appraisal during the public comment period on the initial Notice of Decision;

Attachment 2

3) the appraisal review contractors had identified 10 comparable sales, some of which had not been identified by Del Webb's appraiser; 4) BLM continued to have questions regarding the appraisal methodology (feasibility of the preferred approach based on comparables); 5) several protests questioned the initial appraisal; and 6) there was an unresolved issue concerning a power line right-of-way that potentially affected appraised value. (See December 9, 1996 and September 10, 1996 chronology .)

5. The decision to seek a second appraisal and the subsequent decision to accept that appraisal led to BLM receiving greater value for its lands. These decisions support a conclusion that the safeguards to protect and serve the public interest in the exchange process worked in the case of the Del Webb exchange; they do not support the inferences in the IG report that improper processes and procedures were followed.

**BUREAU OF LAND MANAGEMENT  
CHRONOLOGY OF  
DEL WEBB LAND EXCHANGE EVENTS  
AND OFFICE OF INSPECTOR GENERAL COMMENTS**

*In order to present the Office of Inspector General's comments to the Bureau of Land Management's "Chronology - Del Webb Land Exchange" (Attachment 1 to Appendix 1), we have replicated the Bureau's comments except that names of individuals have been replaced with their official titles or other designations. This appendix provides discussions of our disagreement or additional clarification of the facts in the Bureau's Attachment 1. If the information in Attachment 1 did not affect the facts and conclusions presented in our report, we did not comment accordingly.*

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**Bureau Chronology**

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**September 29, 1994**

Initial exchange proposal made by Del Webb.

**November 27, 1995**

The Nevada BLM State Director forwards by letter a draft "Agreement to Initiate Exchange" to Del Webb, that provides that the Bureau will appraise the private and Federal lands involved in the proposed exchange.

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**Office of Inspector General Comments  
and Supplemental Information**

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**September 29, 1994**

Del Webb's exchange proposal identified a solid block of Federal land in the Las Vegas Valley that Del Webb sought to acquire (approximately 5,000 acres), but the proposal did not identify any specific private lands offered in exchange.

**September 29, 1995**

The Associate District Manager approved a feasibility report for the exchange which stated that Del Webb had selected 4,975 acres of public land and that the exchange would be completed in phases, of which each phase would consist of about 1,000-acre parcels and would be exchanged over a period of 3 to 7 years.

**November 27, 1995**

The draft agreement also stated that the Bureau "or other benefitting Federal agency will arrange with a contractor to prepare an appraisal of the selected lands for each phase within 90 days of the initiation of that phase of the exchange."

**November 30, 1995**

Del Webb's representative advised the Las Vegas District Manager and the Associate District Manager that Del Webb was having an appraisal performed on the selected public land.

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**Bureau Chronology**

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**January 16, 1996**

Del Webb responded by letter to the Nevada State Director regarding the provisions of the draft exchange agreement between BLM and Del Webb. The letter stated: "the proposed appraisal language in your draft is far more restrictive than the plain language of the Federal Regulations [43 CFR, Part 2201.3 and 3-1] and we believe the process will be aided immeasurably by adhering to federal regulations rather than by restricting those regulations with a localized policy not specifically designed to produce the best available appraiser." The letter was expressing concern that the BLM would not promptly start the appraisal process and that Del Webb's appraiser was better qualified than any appraiser on BLM Nevada's list of qualified appraisers. Del Webb anticipated having an appraisal completed by early March 1996; BLM's timing would have been later.

**February 2, 1996**

Upon the advice of the Washington Office, Nevada State Director signs revised "Agreement to Initiate Land Exchange" for Del Webb land exchange. Agreement provides for Del Webb to assist in the exchange by preparing several of the required documents and studies, including appraisal reports. Basically, BLM agreed with Del Webb that the regulations provide for the exchange proponent to appraise the lands, subject to BLM review. BLM felt that the contracting appraiser selected by Del Webb could do as good a job as a BLM appraiser.

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**Office of Inspector General Comments  
and Supplemental Information**

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**January 16, 1996**

The Bureau's statement confirms that Del Webb had already selected an appraiser to estimate the value of the selected public land before the "Agreement to Initiate Land Exchange" was approved by the Bureau. Further, the Bureau did not provide information on when Del Webb retained the services of the appraiser, identify the Bureau official who approved the selection of this appraiser, or specify the date when the approval was given.

We believe that Del Webb's desire to expedite the appraisal in order to establish the price for all of the approximately 5,000 acres of public land it sought to acquire was understandable given the rapid increases in land prices in the Las Vegas area. However, we found that Del Webb did not have sufficient offered property available to exchange for all of the selected public land. For example, even after the Bureau approved an appraised value for the selected public land on April 8, 1997, almost 15 months after the date of Del Webb's letter to the Nevada State Director, the Bureau was able to accept only four properties valued at about \$11 million in the initial exchange transaction. Accordingly, we do not believe that the Bureau's Washington Office was justified in its acceptance of the purported urgency of the appraisal or in its actions to facilitate completion and review of an appraisal of the entire Federal parcel.

**February 2, 1996**

We agree that Bureau regulations authorize Bureau officials to allow exchange proponents to appraise exchange lands. The authorized officials for this exchange, the State Director and the State Chief Appraiser, acting in accordance with the authority delegated to them in Sections 1203 and 9310 of the Bureau Manual, had previously established and complied with a policy that the State Office would obtain its own appraisals of the public land. Their policy was also in compliance with the law. Given the significant interest in Nevada exchanges and the "very speculative and volatile nature of land values in the Las Vegas area" cited by the Director in his response to the draft report, we believe that the Nevada State Office's policy was a valid and reasonable method for providing the Bureau's authorized officers with an acceptable level of confidence in the appraised value of lands to be exchanged. However, we believe that the Washington Office's advice that Del Webb should be allowed to use the appraiser raised concerns that Del Webb was exerting undue influence over the exchange.

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**March 5, 1996**

Associate District Manager and Project Lead, and BLM Nevada Chief Appraiser and BLM Arizona Chief Appraiser, meet in Phoenix, Arizona with the Del Webb Appraiser and Del Webb representatives. The purpose of the meeting is to discuss instructions for completion of the appraisal report. The Nevada State Chief Appraiser expresses concern with Del Webb's appraiser and the Del Webb representatives over use of the "Cost Development Approach," a valuation method proposed to be used by the Del Webb appraiser.

**March 14, 1996**

Del Webb's Appraiser completes appraisal, based upon a "Cost Development Approach," for Del Webb for 5,312.5 acres of selected lands in the proposed exchange.

**March 25, 1996**

(Approximate date) A conference call was held involving Deputy Director, Washington Office Chief Appraiser, Deputy State Director-Resources and Associate State Director. The purpose of the call was to discuss options for reviewing the appraisal. During the course of the conversation, the Associate State Director informed the Deputy Director and the Washington Office Chief Appraiser that Nevada had decided to remove the BLM Nevada State Chief Appraiser from the appraisal review responsibilities because of his possible lack of objectivity to the appraisal process and perceived poor working relationships with Del Webb. The Deputy Director and the Washington Office Chief Appraiser concurred with this decision. (Note: The BLM Nevada State Chief Appraiser was not removed from his job--just the Del Webb exchange process.) It was concluded that it would be very difficult to find another BLM appraiser with the expertise and time to conduct this review. BLM had recently lost appraisal staff in several states, existing workload in other states was perceived as heavy, and BLM did not have the level of expertise for the appraisal of these types of property. Additionally appraiser from other state offices are

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**March 5, 1996**

When using a new appraiser on an appraisal assignment, the Bureau State Chief Appraiser meets with the appraiser before work begins to ensure that the appraiser has a thorough understanding of the scope of the work and of the "Uniform Appraisal Standards for Federal Land Acquisitions," which is required to be complied with in Federal land acquisitions and exchanges (private sector appraisers are not subject to these requirements). The Nevada State Chief Appraiser, the Arizona State Chief Appraiser, and the Associate District Manager stated that their impression after the meeting was that Del Webb's appraiser had completed most of his work and was not interested in expending additional effort to develop a substantive comparable sales analysis.

**March 14, 1996**

Del Webb's appraiser completed his appraisal using the more complex development approach in only 9 days after the appraisal meeting with the Nevada Chief Appraiser and other Bureau representatives. Although there are no established time frames for conducting appraisals, the second appraisal of the Bureau land required about 8 weeks to complete. Consequently, we believe that Del Webb's appraiser had substantially completed this assignment before the March 5, 1996, meeting with Bureau officials.

**March 25, 1996**

The information presented in the Bureau's chronology for March 25, 1996, conflicts with information we obtained during the audit and omits other relevant information about the meeting. The Nevada State Director, the Associate State Director, and the Deputy State Director-Resources told us that Nevada officials initiated this conference call just before a scheduled meeting between the Deputy Director and Del Webb's representative because Del Webb wanted to select and hire an appraiser to review the appraisal report prepared by Del Webb's appraiser. Further, the Deputy State Director - Resources said that she told the Deputy Director that there was no evidence to support Del Webb's assertions against the State Chief Appraiser but that if the Washington Office decided to remove the State Chief Appraiser from the Del Webb appraisal, there were other qualified Bureau State Chief Appraisers who should perform the review. The Deputy State Director - Resources also said that the Deputy Director stated that he would not make an immediate decision on the appraisal review.

The Bureau's chronology does not note that Del Webb's representative directly participated in the conference call. However, the Deputy State Director - Resources informed us that after the initial discussion between the Bureau's Nevada State Office and the Washington Office, Del Webb's representative, who was waiting to meet the Deputy Director, was brought into the meeting. Del Webb's representative stated that Del Webb did not



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**Bureau Chronology**

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**March 25, 1996 (continued)**

generally uncomfortable in assisting another state to provide an impartial review of appraisals for another Chief Appraiser. Obtaining BLM in-house appraisal review expertise would have added additional delay in the land exchange processing. As a solution to this problem, the Washington Office Chief Appraiser pointed out that the regulations authorized the use of a contract review appraiser. The Deputy Director approved the use of this approach since the Washington Office was unable to provide another appraiser from within the Bureau.

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**March 25, 1996 (continued)**

want the Nevada Chief Appraiser to perform the review because he was "biased" and did not want any other Bureau State Chief Appraisers to perform the review because Del Webb did not believe that they were qualified to evaluate a complex development approach appraisal. The Deputy Director said at the meeting that the Bureau would contract for an appraisal review.

The Nevada State Director told us that she remained adamant that a Bureau State Chief Appraiser was needed to review and approve the value of the selected Federal land. We believe that the concerns expressed by the Nevada State Director were valid because the use of a Bureau State Chief Appraiser to perform the appraisal review would have enabled the Bureau to maintain proper oversight of the exchange.

The Bureau's chronology states that the Nevada State Chief Appraiser was removed "because of his possible lack of objectivity to the appraisal process and perceived poor working relationships with Del Webb." However, as previously stated in our audit report, we found no evidence to support the allegations in the exchange file records; in the State Chief Appraiser's performance evaluations; or in our interviews with the Associate District Manager and Arizona Chief Appraiser, both of whom also attended the March 5, 1996, meeting with Del Webb's appraiser and representatives.

**March 26, 1996**

Del Webb's representative sent a memorandum to the Washington Office Chief Appraiser requesting specific language to be included in the scope of work for the Bureau's appraisal review contract which stated that any written or verbal communication between the Bureau's contract review appraiser and Bureau employees was precluded unless Del Webb's representatives also participated. In addition, according to Del Webb's language for the proposed scope of work, the Washington Office Chief Appraiser would have been the only Bureau official allowed to communicate with the contractor. The requested language was included in the draft scope of work prepared by the Washington Office Chief Appraiser.

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**Bureau Chronology**

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**March 27, 1996**

Washington Office Chief Appraiser conducted telephone interviews with six prospective review appraisers. The IG's preliminary draft says five prospective contractors were contacted (footnote, page 14).

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**March 27, 1996**

Records from the Washington Office Chief Appraiser indicated that the Chief Appraiser made telephone calls to seven different appraisal contractors but conducted telephone interviews with only five of these contractors. Therefore, we do not believe that our report needs to be corrected.

In addition, the Bureau's chronology did not identify all the parties involved in the telephone interviews. The Washington Office Chief Appraiser told us that Del Webb's representatives were allowed to "listen in" as the Chief Appraiser conducted these interviews.

**March 28, 1996**

The Washington Office Chief Appraiser tentatively selected the appraisal firm nominated by Del Webb to perform the appraisal review.

**March 29, 1996**

In a conference call with the Deputy Director, the Field Special Assistant to the Director, and the Group Manager, Lands and Realty Group, the Nevada State Director argued unsuccessfully "that a Bureau of Land Management person should review the report."

**April 3, 1996**

Records of the conference call held to discuss the statement of work for the appraisal review contract indicated that the State Director was concerned about the statement of work. The areas of concern were (1) the number of acres that could be legally conveyed at that time and (2) the involvement of Del Webb's representatives. The Washington Office Chief Appraiser stated that he "underestimated" the State Director's concern that Del Webb was trying to "unduly influence the valuation and exchange process."

**April 5, 1996**

The Washington Office Chief Appraiser changed the proposed statement of work to eliminate Del Webb's language regarding restrictions on communications (see March 26, 1996, entry).

**April 8, 1996**

The Washington Office Chief Appraiser discussed the changes in the statement of work with Del Webb's representatives. The records of the Washington Office Chief Appraiser stated that Del Webb's representative felt that the Bureau reneged on its earlier agreement with Del Webb regarding the statement of work.

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**Bureau Chronology**

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**April 25, 1996**

On April 25, 1996, the Associate District Manager for the Las Vegas District and the Washington Office Chief Appraiser met with the prospective contract reviewers in Phoenix, Arizona. Based on the interview and discussion of the statement of work, a contract was awarded to the contract review appraisers following appropriate procurement procedures through the BLM National Business Center (Denver) on May 10, 1996.

**May 10, 1996**

Award contract to contact review appraisers to review the Del Webb Appraiser's report. The Contracting Officer complied with all requirements for simplified acquisitions in Federal Acquisition Regulations (FAR) Part 13.106-2(d)(3), which only required a notation to explain the absence of competition. The award in the amount of \$12,500 was for less than the simplified acquisition threshold regarding competition. The Preliminary Draft IG Report (p. 14) says FAR was not complied with. BLM also prepared a Justification for Other than Full and Open Competition (JOFOC), in accordance with portions of the Part 6.303-2 regulations. The JOFOC authorized the Contracting Officer to proceed with a "Sole Source" acquisition.

**July 16, 1996**

Memorandum from Washington Office Chief Appraiser to Las Vegas District Manager, providing a copy of the initial appraisal review report prepared by the contract review appraisers. Washington Office Chief Appraiser advises the Las Vegas District Manager that some additional sales transactions are being reviewed which may provide some comparable sales information, and that the appraisal review report may need to be updated and may have an impact upon the appraised value.

**April 11, 1996**

Records of the Washington Office Chief Appraiser stated that Del Webb's representatives "requested a conference call to arbitrate their being taken out of the statement of work." The conference call included the Deputy Director, the Field Special Assistant to the Director, the Washington Office Chief Appraiser, the Deputy State Director-Resources, the Las Vegas District Manager, and Del Webb's representatives. The Washington Office Chief Appraiser's records stated that Del Webb's representative "was complaining" that because of earlier statements by the Nevada State Chief Appraiser and members of the State Office, it was essential that Del Webb's representatives be involved in observing discussions with the review appraiser to protect their client.

**April 25, 1996**

No comment.

**May 10, 1996**

We have modified our report to recognize that this action was executed using the simplified acquisition procedures in the Federal Acquisition Regulation. However, our concern is that the Bureau awarded this contract to a Del Webb-nominated appraiser on the basis of unusual and compelling urgency and cited as its justification the need "to avoid greater expense to the United States and weaken the integrity of the appraisal report." The Bureau did not substantiate the urgency of this contract during the audit or in its response and chronology.

**July 16, 1996**

The Washington Office Chief Appraiser resolved any outstanding value issues by accepting the appraisal review, agreeing that the appraisal report and analysis reasonably supported the appraiser's \$43 million value, and forwarding the appraisal and appraisal review to the District Manager for approval (see December 9, 1996, entry).

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**Bureau Chronology**

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**September 10, 1996**

Letter from Acting Deputy Director to Del Webb, advising Del Webb that appraisals may need to be revised if additional comparable sales information becomes available prior to final actions on the land exchange, to ensure that appraisals reflect current market value.

**October 14, 1996**

Del Webb's appraiser completes update of earlier appraisal, including some comparison with comparable sales. Property appraised includes 4,776 acres and a separate value for Phase I only. Appraiser concludes \$43,000,000 for entire property, and \$20,285,000 for Phase I only.

**November 4, 1996**

Decision Record and Notice of Decision issued on the proposed land exchange, which provides for a 45 day public comment and protest period.

**November 21, 1996**

E-Mail message from Washington Office Chief Appraiser to Washington Office Manager summarizing telephone conversations with Las Vegas District Manager and later with Del Webb's representatives. The District Manager expressed concern the values were too low and the report fails to use adequate comparable sales information. The Washington Office Chief Appraiser expressed concern with earlier drafts prepared by the reviewers.

**November 27, 1996**

Protest letter from Sierra Club raises concern regarding the appraisal of lands and indicates the lands may be under valued. Requests an opportunity to review the appraisals.

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**Office of Inspector General Comments  
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**September 10, 1996**

No comment.

**October 14, 1996**

As discussed in the report, this appraisal relied mainly on the development approach, which the "Uniform Appraisal Standards for Federal Land Acquisitions" states should be used only as a last resort or as a check on values derived by the more reliable comparable sales approach.

**October 31, 1996**

An attachment to a December 17, 1996, letter to Senator McCain from the Chairman of the Board and Chief Executive Officer of Del Webb states: "At an October 31 meeting, one of Del Webb's representatives asked directly whether 'we had agreement on the Phase I and Phase II land values' as agreed to by the four appraisers. Both the Authorized Officer and the [Washington Office] Chief Appraiser answered 'yes.' Webb was told [by these officials] that the contract reviewers would be providing further information on the comparable sales discussed in the appraisal, but that the numbers [\$43 million] were firm."

**November 4, 1996**

The Bureau stated in its decision that the exchange was in the public interest and should proceed immediately. This followed the above-noted October 31, 1996, meeting between the Bureau's authorized officer, Del Webb's representatives, and the appraisers. We believe this indicates that the Bureau was willing to use the \$43 million appraised value as the basis for proceeding with the exchange.

**November 21, 1996**

We believe that the Bureau's comments regarding the Washington Office Chief Appraiser's "expressed concern with earlier drafts" were not consistent with his actions, since he accepted the appraisal review, agreed with the reviewers that the appraisal report and analysis reasonably supported the \$43 million value, and forwarded the appraisal and appraisal review to the Las Vegas District Manager for approval (see December 9, 1996, entry).

**November 27, 1996**

No comment.

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**Bureau Chronology**

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**December 5, 1996**

Contract review appraisers submit appraisal review report. Their review includes reference to 10 potential comparable sales. The reviewers concluded, however, that the additional market analysis supported the Del Webb appraiser's opinion of value.

**December 9, 1996**

The Washington Office Chief Appraiser, who was the contracting officer representative (COR), accepts the appraisal review report for purposes of authorizing payment under the contract only. The appraisal review prepared by the contract review appraisers was forwarded to the Las Vegas District Manager for approval. It was never approved by either the Las Vegas District Manager or the State Director.

Washington Office Chief Appraiser, in his evaluation of the appraisal review report forwarded to Las Vegas District Manager, raised four issues: 1) A perception that the appraised values are too low; 2) agreement by the reviewers that the value per acre for Phase 1 is lower than for the entire tract; 3) the review report assumes the sale of the entire property and does not consider any lapse in time between the first and final transactions; 4) the review report assumes the land is free and clear of all encumbrances including mining claims and that any costs to clear assumed by a prospective buyer would be a reduction in value. Also included in the Washington Office Chief Appraiser's evaluation is a discussion of an option to prepare an additional appraisal or appraisal reviews.

**December 10, 1996**

Protest letter from private citizen requesting an opportunity to review the appraisal reports and asserts that a competitive sale of the lands would increase values.

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**December 5, 1996**

No comment.

**December 9, 1996**

In its chronology, the Bureau stated that the Washington Office Chief Appraiser "accepts the appraisal review report for purposes of authorizing payment under the contract only." When authorizing payment to contractors, contracting officer's representatives are required to ensure that the services and products provided to the government meet the requirements established in the purchase order. We believe that if the Washington Office Chief Appraiser accepted work that was not in full conformance with the "Standards," he did not fulfill his duties as the contracting officer's representative. In the evaluation report (page 4), the Washington Office Chief Appraiser states, "I agree with the reviewers that the appraisal report and the analysis reasonably supports the appraisers conclusion of value." In addition, we believe that the Chief Appraiser's statement that "the appraisal review is acceptable and is being forwarded to the authorized officer for their approval" indicates a recommendation to the authorized officer that the \$43 million value should be used for the exchange.

The four issues discussed by the Washington Office Chief Appraiser in his evaluation report involve significant deficiencies in the appraisal and appraisal review. As such, we believe the Washington Office Chief Appraiser should not have accepted the appraisal review and forwarded it to the authorized officer for his approval.

**December 10, 1996**

No comment.

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**Bureau Chronology**

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**December 12, 1996**

OIG notifies the Bureau of intent to perform a follow up audit of its Nevada land exchanges. This notification gave no indication that the ongoing Del Webb land exchange would be included in the follow up audit. The notification indicated only that "recently completed exchanges" would be reviewed. The Del Webb exchange was not completed at this time.

**December 16, 1996**

Letter from Senator McCain to Assistant Secretary, Land and Minerals Management requesting information on the status of the Del Webb land exchange.

**December 17, 1996**

Contract review appraisers provide a presentation in the BLM Washington Office on the appraisal review. Attendees were Department, BLM Headquarters, and field managers and staff, including Las Vegas District Manager and Nevada State Director .

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**Office of Inspector General Comments  
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**December 12, 1996**

The announcement memorandum for our audit stated that the objective of the audit would be "to determine whether the Nevada State Office, Bureau of Land Management, has complied with applicable laws and regulations during all phases of the land exchange process and whether the Bureau has received fair market value for the lands included in recently completed exchanges." (Emphasis added.)

**December 13, 1996**

The Deputy Director asked the Office of Inspector General whether our audit would include ongoing exchanges and, in particular, if we would include the Del Webb exchange. During a telephone conversation, the auditor-in-charge of the followup audit informed the Bureau's Audit Liaison Officer that we intended to review all exchanges completed since our last audit and all exchanges currently in process, including the Del Webb exchange.

**December 16, 1996**

No comment.

**December 17, 1996**

No comment.

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**Bureau Chronology**

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**December 18, 1996**

Following the December 17 meeting, Las Vegas District Manager prepares handwritten comments critiquing Del Webb appraiser's appraisal report and review prepared by contract review appraisers. Copies of these comments were given to Washington Office Chief Appraiser and the contract review appraisers. The major issues raised by the Las Vegas District Manager regarded the cost approach for the appraisal, unsupported adjustments to price, and poor justification for the discount rate applied to the appraisal.

**December 18, 1996**

Letter from Senator Reid to Assistant Secretary, Land and Minerals Management requesting information on the status of the Del Webb land exchange.

**December 19, 1996**

Protest letter from Howard Hughes Corporation expressed concern that the appraisal documents were unavailable for review, and that values of the exchange lands are unknown.

**December 19, 1996**

Public comment period on the Notice of Decision ends. Seven protests are received on the land exchange. Three of these protests raise issues related to the appraisal of the lands involved in the exchange. (See the November 27, 1996, December 10, 1996, and December 19, 1996 entries above.)

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**December 18, 1996**

A meeting was held on this date in the Bureau's Washington Office to discuss the status of the Del Webb exchange. Attendees consisted of the Deputy Director, the Nevada State Director, the Las Vegas District Manager, a representative of the Assistant Secretary for Lands and Minerals Management, and the Washington Office Chief Appraiser. According to the Chief Appraiser's notes of the meeting, discussions related to our followup audit included the following:

- "IG [Inspector General] Audit -- We have indications from the IG that this audit may focus on appraisals and perhaps specifically the appraisal associated with the Del Webb exchange. The Bureau of Land Management will work with the Inspector General to schedule a meeting for the week of January 6, 1997 to discuss the subject of the audit in order to determine how to proceed with the Del Webb exchange."

- "Appraisal -- The appraisal and the Review of the Appraisal were delivered to the State Director on December 10, 1996. These documents are under review and a decision by the authorized officer will be made following the meeting with the IG."

- "The analysis of the appraisal, analysis and resolution of the protests, and all other work associated with the Del Webb exchange will proceed. No decisions will be made until after the meeting with the IG."

**December 18, 1996**

No comment.

**December 19, 1996**

No comment.

**December 19, 1996**

No comment.

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**Bureau Chronology**

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**December 23, 1996**

Washington Office Chief Appraiser sends an electronic message to Nevada State Director, Las Vegas District Manager and others as a follow up to the Las Vegas District Manager's comments on the appraisal review. The Las Vegas District Manager's comments were also forwarded to contract review appraisers with a request for the contract review appraisers to respond to the comments. Washington Office Chief Appraiser concludes in the electronic message that: "Therefore, I still think we need an appraisal that relies primarily on a market analysis, which to the extent may be appropriate, includes a reference to the appraisal and appraisal review."

**December 23, 1996**

In response to the December 16, 1996, letter from Senator McCain and December 18, 1996, letter from Senator Reid, the Deputy Director writes to [the Senators] regarding BLM's progress in processing the Del Webb land exchange. The letter states that "we intend to follow all applicable statutes, regulations, and procedures in processing this exchange and to continue to involve the public, as appropriate, to ensure that any final exchange transaction serves the public interest." He also states: "Another factor which may potentially affect the timing of the Del Webb exchange is the investigation of land exchange activities in Nevada by the Office of Inspector General (IG)." The thought here is that if the IG discovered a serious deficiency, BLM would have taken the time to address and correct the problem.

**January 2, 1997**

The Chief Executive Officer, Del Webb Corporation writes Senator McCain criticizing BLM's handling of the land exchange. The letter references an upcoming meeting on January 7.

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**Office of Inspector General Comments  
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**December 23, 1996**

The Washington Office Chief Appraiser stated in his December 9, 1996, evaluation report that he identified significant problems with the appraisal and review that could warrant obtaining a new appraisal. However, he concurred with the reviewer's acceptance of the value and forwarded the appraisal and review to the authorized officer for approval. Then, in the December 23, 1996, electronic mail message cited by the Bureau, the Washington Office Chief Appraiser stated that the Bureau should obtain a new appraisal which relies primarily on a market analysis. However, in a subsequent message to the review appraisers, the Washington Office Chief Appraiser stated that he wanted to "resurrect the appraisal and appraisal review" and that he did "not want management to be displeased with our efforts and flirt with trashing the whole thing."

**December 23, 1996**

No comment.

**December 31, 1996**

The Washington Office Chief Appraiser provided the contract review appraisers with his suggested responses to a portion of the District Manager's December 18, 1996, comments on the appraisal and appraisal review.

**January 2, 1997**

No comment.



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**Bureau Chronology**

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**January 6, 1997**

The contract review appraiser respond to the Las Vegas District Manager's comments regarding the appraisal review report, including the concerns regarding the development cost approach for the appraisal. The review appraisers state: "This approach has current market acceptance, is very reliable given the depth of data available and provides subject specific value indicators which cannot be derived from the sales data."

**January 7 and 8, 1997**

The Las Vegas District Manager and Nevada State Director provide a briefing paper for discussions in meetings with BLM Washington Office, Solicitor's Office and the Assistant Secretary's Office of several issues concerning the appraisal report, the procedural error of not providing the public an opportunity to comment on the appraisal during the public comment period of the Notice of Decision, ledger imbalance, OIG audit, resolution of protests, and Nevada Power appeal. In a description of options, the Las Vegas District Manager indicates Washington Office Chief Appraiser recommends ordering new appraisal. Justification is the appraiser would be independent from first effort, fresh set of eyes, and an opportunity to clarify instructions.

**January 7, 1997**

OIG holds entrance conference on the followup audit with BLM officials and informs BLM that the Del Webb land exchange will be included within the scope of audit.

**January 14, 1997**

Letter from Deputy Director to Del Webb's Chief Executive Officer summarizing decisions made at a January 7-8 meeting of BLM and DOI officials. Officials discussed protests in response to the Notice of Decision (NOD) published on November 4, 1996. It was agreed a second appraisal would be ordered, a supplemental environmental assessment would be prepared, a new NOD would be issued, and property would be exchanged subject to Nevada Power right-of-way.

**January 21 and 22, 1997**

Meetings with Del Webb in Washington, DC to address implementation of the January 14 letter.

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**January 6, 1997**

No comment.

**January 7 and 8, 1997**

No comment.

**January 7, 1997**

No comment.

**January 14, 1997**

No comment.

**January 21 and 22, 1997**

No comment.

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**Bureau Chronology**

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**January 27, 1997**

BLM contracts for a second appraisal. The existing BLM Nevada contract list had only one appraiser from the Las Vegas area and we were concerned regarding the quality of his previous work and reports. Because the BLM Nevada Chief Appraiser had previously been removed from the appraisal work for this exchange (March 25, 1996 decision), there was no consideration to bring him into the process again. The BLM decided to procure appraisal services from a reputable local firm not on the current contracting list. It was also decided by the State Director and Deputy Director that the Washington Office Chief Appraiser would review the appraisal report. The BLM contracted with a top Las Vegas accounting firm (second appraisers) that had an excellent appraisal staff.

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**January 27, 1997**

The Bureau's contract for a second appraisal required the appraisers to consider the results of the previous appraisal and appraisal review. Specifically, we noted that the contract statement of work prepared by the Washington Office Chief Appraiser included a requirement that the new appraisal "shall consider information, assumptions, and conclusions reached by [Del Webb's appraiser] in an appraisal report dated October 14, 1996." The statement of work also required that the appraiser "consider information, assumptions, and conclusions reached by [contract review appraisers] in their December 5, 1996 review of the [Del Webb's appraiser's] appraisal report."

**January 27, 1997**

Solicitor's Office correspondence on this date stated that "specific concerns" remained relative to the purpose and scope of the second appraisal and appraisal review.

During meetings with Del Webb's representatives, the Washington Office Chief Appraiser had stated that "the second appraisers would not start with a clean slate, but would be instructed to 'consider' the first appraisal." In the January 27, 1997, correspondence, a Solicitor's Office attorney disagreed with this approach, stating that "the purpose of the second appraisal is to truly provide a 'second opinion' on the public land value, and to give decision makers information they are comfortable with. This should be clearly communicated to the second appraisers."

The Solicitor's Office attorney was also concerned about the possibility of receiving another development cost approach appraisal. In the correspondence, the attorney stated: "Many in the Department are uncomfortable with the development cost approach, and the regulations show a clear preference for the market approach or comparable sales. This regulatory preference ought to be communicated to the appraiser, who should be instructed that if another method is used, the appraiser should give a clear and thorough rationale for not using market information."

Finally, the Solicitor's Office attorney was concerned with how the second appraisal would be reviewed. According to the correspondence, the Washington Office Chief Appraiser had "expressed his belief that the same (outside) review appraisers should be used in the second as were used in the first." The Solicitor's Office attorney disagreed with this approach, stating that "an in-house review is called for to meet the goals outlined in paragraph one [to provide a second opinion of value and to give decision makers information they would be comfortable with]."

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**Bureau Chronology**

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**January 30, 1997**

Deputy Director sends a follow-up letter to the Del Webb Chief Executive Officer summarizing meetings with his staff on January 21-22, 1997. The meetings put in place procedural steps implementing decisions made at the January 7-8, 1997 meeting. A timetable prepared by Las Vegas District Manager is attached to the letter.

**February 25, 1997**

Meeting with Del Webb in Washington, DC to discuss progress with the exchange.

**March 21, 1997**

BLM receives the second appraisal. The appraiser's conclusions were based on a comparable sale analysis and also evaluated and considered the Cost Development Approach from the earlier appraisal.

**March 31, 1997**

Washington Office Chief Appraiser accepts the appraisal report prepared by the contract appraiser.

**April 8, 1997**

Approval of appraised value by the Las Vegas District Manager and Nevada State Director. BLM letter to Del Webb providing copy of approved appraisal and offer of \$31.5 million for Phase I of the Del Webb exchange.

**May 6, 1997**

Del Webb acceptance of offer.

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**January 30, 1997**

No comment.

**February 25, 1997**

No comment.

**March 4, 1997**

Based on a February 20, 1997, request by the Washington Office Chief Appraiser, the contracting officer issued a technical instruction which amended the contract by eliminating the requirement that the new appraisers should meet with the previous appraisers regarding their analyses and conclusions and instructing the new appraisers to state in their appraisal report that their conclusions reflected their own "independent judgement."

**March 21, 1997**

We agree that the appraisers based their conclusion of value on the sales comparison approach (\$52.1 million for the entire 4,756-acre parcel assuming the exchange was consummated in two installments before the end of 1998 and \$31.5 million for the 2,535.5-acre Phase I land only). However, we noted that the appraisers evaluated and considered the cost development approach from the earlier appraisal "at the request of the client" (see discussion of January 27, 1997, regarding contract language) and that they concluded that "only the Sales Comparison Approach to value was directly applicable in this analysis."

**March 31, 1997**

No comment.

**April 8, 1997**

No comment.

**May 6, 1997**

No comment.

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**Bureau Chronology**

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**May 21, 1997**

New Notice of Decision issued for Phase I of the Del Webb exchange. Notice of Decision provides for public review of the approved appraisal.

**May 21, 1997**

No comment.

**July 29, 1997**

Title transfers and patents issued on the initial land transfers of Phase I-A of the Del Webb land exchange.

**July 29, 1997**

No comment.

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Suite 807, PDN Building  
Agana, Guam 96910

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