

Statement of Jim Hughes**Deputy Director****Bureau of Land Management****House Resources Committee****Subcommittee on National Parks, Recreation & Public Lands****H.R. 5318, Colorado-Utah Land Exchange****September 5, 2002**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear here today to discuss H.R. 5318, a bill "to provide for an exchange of certain private property in Colorado and certain Federal property in Utah." The Bureau of Land Management (BLM) has some concerns about the exchange, which are discussed more fully below. Based upon those concerns the Department does not support the legislation at this time.

Overview

H.R. 5318 provides for an exchange of approximately 2,048 acres of private property in Colorado and approximately 3,888 acres of Federal property in Utah and in Colorado. The bill requires appraisals of both the Federal and private lands sought to be exchanged, and provides the appraisal costs be shared equally between the private property owner and the Federal Government. H.R. 5318 also requires that any difference in the value of the properties to be exchanged be equalized through a monetary payment or a reduction in the amount of land conveyed. Finally, the bill mandates the conveyance of a conservation easement to the State of Utah on the Federal lands to be exchanged within two years of the date of conveyance in order to protect the cultural and natural resources located on the land to be transferred under the bill.

Private Land to be Exchanged

The private lands proposed for exchange represent an aggregation of five parcels which originated as homestead lands that were settled in the 1920s and 1930s. This land has not been evaluated for its livestock grazing, habitat or recreation potential and it has not been identified as necessary or desirable for Federal acquisition in the existing BLM land use management plan for the area. The land abuts the BLM's Diamond Breaks Wilderness Study Area (WSA), but it does not exhibit wilderness characteristics nor would its acquisition by the Federal Government significantly improve physical or legal access to the Diamond Breaks WSA because other private lands would continue to block access routes to public lands in the general area.

There are other elements that should be considered by Congress in directing the BLM to implement such an exchange. First, there have been no assessments to determine whether hazardous materials or noxious weed infestations might exist on the property. Such review would help us to avoid potential liability for the public. Second, the private lands encompass the Miles Reservoir and other small reservoirs. Acquiring these will obligate the government to conduct inspections and if necessary, to bring such dams into compliance with dam safety regulations. This can be a significant expense. Third, existing improvements on the private land (such as old buildings and fences) may create liability for the Federal Government and might need to be removed prior to conveyance. Fourth, an inventory of archaeological, paleontological, and historical resources should be conducted and boundary surveys will need to be completed in order to determine the location and accuracy of the boundaries with other adjacent private lands.

Federal Land to be Exchanged

The Federal land identified in H.R. 5318 consists of two parcels located within a large, consolidated block of public lands located to the northwest of the Dinosaur National Monument in Colorado and Utah. The land has not been identified for transfer from Federal ownership in the BLM land use management plan for this area. The BLM manages these lands for multiple resource uses that include grazing and outdoor recreation. They are within the Ruple Cabin Grazing Allotment permitted to the Uintah Basin Grazing Association, and we understand that the Uintah Basin Grazing Association has entered into a grazing lease with the land exchange proponent. Four-wheel drive trails also cross these public lands and provide access to the mountain top for hunting and general outdoor recreation. The area is considered crucial summer range for deer and elk as well as habitat for sage grouse. Finally, the public lands do include archaeological and paleontological sites, one of which is called the Hatch Cove Site.

Other Issues

The bill requires immediate conveyance, without limitation, of the public land involved in the exchange, if the owners of the private land convey title to the private land to the United States. This would not apparently be conditioned on whether or not the landowner can convey acceptable title to the United States, nor does the legislation make provision for title insurance to protect against defects in the title. These are important elements to protect the public interest.

Additionally, the bill requires that appraisal costs be shared equally between the government and the private landowner. No provision is made, however, for sharing any of the other costs associated with this land exchange, which should include compliance with the National Environmental Policy Act (NEPA), cultural resource assessments, hazardous material clearances, and administrative and title transfer costs. As written, the legislation would impose a disproportionate share of the costs for implementing this exchange on the Federal taxpayers, with no demonstrated proportionate benefits.

Finally, it is important to note that conservation easements can represent a significant portion of a property's appraised value. The proposed legislation requires the transfer of a conservation easement as part of the land exchange, but it does not specify whether the conservation easement must be considered in establishing the appraised value of the public land. Typically, the conveyances of a conservation easement are a condition precedent to completion of the exchange, rather than being included as a reversionary requirement, as is currently provided by the bill. To be properly considered, the conservation easement must be executed, recorded, and placed in escrow before titles are transferred in the land exchange.

Conclusion

As stated above, H.R. 5318 presents a number of issues that would need to be worked out before the Department could view this exchange to be in the public interest and offer support for it. The Department is prepared to work with the Committee and the bill's sponsor in a cooperative manner to determine if we can reach that point.

Thank you for the opportunity to testify before you today. I would be pleased to answer any questions that you or the other members of the Subcommittee may have.

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