LAND EXCHANGES

EXCHANGES INVOLVING STATE TRUST LANDS IN THE WEST

We have drafted a very brief outline of issues and proposals related to state/federal land exchanges.

WHY ARE LAND EXCHANGES IMPORTANT TO WSLCA?

The creation of state trust land holdings in the Western United States resulted in patterns of intermingled or "checkerboard" federal and state land ownership. This pattern creates a certain amount of management inefficiency for both parties. Further, when the federal government creates a special, or limited, use area (e.g., military reservation, wilderness) where state land is caught within, the inefficiency evolves into conflict. Either continued state leasing will prevent the federal special use, or the federal special use will prevent the state from obtaining any revenue from the land.

For decades, federal and state agencies have conducted land exchanges to consolidate ownership and avoid management conflicts. The results have been positive but there remains a great need for further exchanges. In recent decades, land exchanges have become more difficult. Federal agencies now must comply with significant environmental and other statutes before taking action. Urbanization and economic development have greatly increased some western land values and made valuations more contentious. Public concern with the impacts of changing ownership and use has increased.

Goal of meetings with federal agencies: To develop a better working relationship with federal agencies that places strong emphasis on initiating and completing land exchanges, that works to streamline the exchange process, and that encourages experiments and pilot projects.

WHAT ARE ISSUES RELATED TO LAND EXCHANGES?

Priority

In general, WSLCA wants the federal government to place a higher priority on processing state land exchanges, and increase the quantity and quality of federal lands available for exchange. With agency resource limits and the assumption that the state lands will always be there, these potential exchanges are often given a lesser priority by the federal government. Further, a commitment by an agency at one level will often not be honored by other agencies or at different levels of the same agency.

Process

Procedural requirements for federal land exchanges consume resources and time, and result in fewer, slower and costlier exchanges. States question whether the same level of process is necessary for a federal/state exchange as for a federal/private exchange, and therefore whether greater flexibility can be built into state exchanges. Some examples of process issues are:

Lands available for trade. The process of choosing federal land for exchange is hampered when the choices are limited. Lands slated for "disposal" are a small portion of federal holdings and often include few areas that are attractive (e.g., lands with commercial potential) to state land offices. Another difficulty occurs when the federal agency seeking state land (e.g., Park Service) has little or no land to offer and must rely on another federal agency (e.g., BLM) to provide land for exchange.

Environmental compliance: The process of complying with environmental statutes such as the National Environmental Policy Act and the Endangered Species Act prior to an exchange can absorb significant amounts of time and resources. Of particular concern to some states is the process involved in complying with cultural resources laws such as the National Historic Preservation Act and related executive orders.

Valuation. Exchanges are often slowed or stopped completely by differences in methodology, criteria and valuation between state and federal appraisers. There are questions about the impact of federal designations on value. States also perceive a lack of flexibility among the federal agencies. Appraisal of mineral estates presents a separate difficult issue.

WHAT PROPOSALS DO WE OFFER?

Priority/commitment

We recommend a combination of top down and bottom up approaches from the federal agencies: the commitment and resources coming from the top and the ideas coming from the bottom. Commitment involves both policy direction and the commitment of resources to complete the exchanges. Experimentation and pilot projects should be encouraged; authority should be delegated to local federal officials to achieve more flexibility.

Follow through: An important goal would be to establish a systematic approach combined with an annual review of the exchange process. (This could occur in association with the WSLCA summer meeting). The system would involve the listing of potential projects for each state and agency. Then each year there would be a review of the project list along with a discussion of any experiments. If experiments succeed in one state with one agency, other states and other agencies should be encouraged to follow.

Coordination: We want to encourage BLM to assume a coordinating role where appropriate in three-way exchanges with other federal agencies (National Park Service, Bureau of Reclamation, Defense, etc.), and with entities other than state and federal government (e.g., tribal governments, local governments, private trusts).

Process improvements

Another goal would be to establish a technical working group that identifies the process problems and seeks solutions. These solutions can then be implemented either through broad agreements, or through pilot projects in specific states. Some states and agencies already have MOUs that streamline certain process issues. (e.g., CA: minerals valuation; NM: cultural resources). The results of these experiments should be monitored along with the possibility of expanding them.

SOME PROCESS IMPROVEMENTS TO BE CONSIDERED

Lands available: Increasing the amount and quality of land available for state land exchanges. Perhaps lands available for state exchanges should go beyond the "disposal" category in management plans. At the time when areas are reclassified for a more limited federal use (e.g., parks, wilderness), other federal lands should be identified for exchange of any state lands within the area.

Environmental review: Agreements between states and agencies for ongoing exchange programs could allow for streamlined environmental and cultural resource review procedures.

Valuation: Disputes over values can be minimized through agreements on how to perform appraisals, how to resolve disputes or through the use of independent appraisers.

For more information about any of the issues discussed here, please contact the Western States Land Commissioners Association. Additional information, including a directory of WSLCA members and addresses, is available on the WSLCA Web Site.

WSLCA Web Site Address: www.wslca.org