

Statement of
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Bureau of Land Management
Department of the Interior
House Natural Resources Committee
Subcommittee on Public Lands & Environmental Regulation
H.R. 5074, Land Agency Notification and Disclosure (LAND) Act
September 9, 2014

Thank you for the opportunity to testify on behalf of the Department of the Interior (DOI) on H.R. 5074, which requires notification of the public of Federal land acquisitions and conveyances and disclosure of third-party facilitator information. The Administration supports the intention of H.R. 5074 and notes that many of the provisions of H.R. 5074 are included in the current regulation, policy and standard procedures of the Bureau of Land Management (BLM).

Background

Within the Department of the Interior, the BLM manages approximately 245 million acres of public land, primarily in the 11 western states. In 1976, with the passage of the Federal Land Policy and Management Act (FLPMA), Congress mandated that the BLM retain most public lands, while allowing the BLM the authority to sell (Sec. 203), acquire (Sec. 205), and exchange lands (Sec. 206) or convey Federal mineral interests (Sec. 209), in certain circumstances. The BLM completes ownership transactions involving land and interests in land when such transactions are in the public interest and consistent with publicly-approved land use plans. The BLM's land tenure program is designed to improve management of natural resources through consolidation of Federal, Tribal, State and private lands; secure access to public lands; preserve open space and traditional landscapes; and allow for expansion of communities and consolidation of non-Federal land ownership.

The BLM conducts the majority of acquisitions and disposals under the authority of the FLPMA and complies with the National Environmental Policy Act (NEPA) in doing so, to ensure that actions are in the public interest and consistent with approved land use plans. The land use planning process is a key step in providing the public an opportunity to be engaged in and informed about land tenure actions, especially concerning acquisitions. BLM regulations and policy focus on an open, transparent and comprehensive approach, detailed in 43 CFR part 2000, the BLM Land Acquisition Manual Handbook (H-2100-1) and BLM Land Exchange Manual Handbook (H-2200-1). Public notice and involvement is an integral part of the analysis for each land exchange, sale, or acquisition.

In advance of land exchanges, the BLM publishes a Notice of Exchange Proposal (NOEP) in newspapers of general circulation in the counties of the Federal and non-Federal lands or interests proposed for exchange, pursuant to 43 CFR 2201.2. The BLM notifies authorized users, state and local governments, the Congressional delegation, and other parties, as appropriate. The BLM Land Exchange Manual Handbook (Chapter 5) further requires distribution of the NOEP to all authorized users of the Federal and non-Federal lands, owners of any interests in the Federal and non-Federal lands, Resource Advisory Councils, local governments, adjoining landowners, special interest groups, and other interested parties.

Pursuant to 43 CFR 2201.7-1, the BLM publishes a notice of availability of the decision to approve or disapprove an exchange in newspapers of general circulation. The BLM Land Exchange Manual Handbook (Chapter 9) further requires distribution of the notice of availability identical to that conducted with publication of the NOEP.

For land sales, the BLM publishes a notice of realty action in the Federal Register offering tract or tracts of public lands, identified for disposal in the land use plan, for sale not less than 60 days prior to the sale, pursuant to 43 CFR 2711.1-2. The BLM sends the notice to the Member of the U.S. House of Representatives and the U.S. Senators for the State in which the public lands proposed for sale are located, the Governor, county, municipalities, and known interested parties of record including adjoining landowners and current land users.

Often, the BLM utilizes third-party facilitators to assist in land tenure adjustment actions. As defined in the BLM Acquisition and Land Exchange handbooks, a facilitator is “an entity involved in a Federal land tenure adjustment action that 1) is not the current owner of the non-Federal land and/or will not be the "end owner" of the Federal land, 2) is involved in the lands included in the action and/or involved in the processing of the action in a project management/coordination role, and 3) is not a Federal contractor retained to perform services for processing the action. A facilitator may be either a non-profit or for-profit entity.”

BLM policy provides guidance on developing proposals with facilitators for sales and exchanges. In any sale or exchange in which a facilitator is involved, the administrative record would identify the name, address, and telephone number of the facilitator, and describe the role(s) of the facilitator. In addition, agreements for transactions involving a facilitator would include a full disclosure provision. If a verbal or written contract exists between the facilitator and a third party for some or all of the non-Federal land, documents would reference that the land is currently owned by a third party, identify the current owner, and reference the type of contract between the facilitator or non-Federal party and the current owner. If a verbal or written contract exists with a third party (end owner) for the Federal land in a land exchange, the documents would reference the type of contract between the facilitator or non-Federal party and the end owner.

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H.R. 5074 would amend FLMPA to require written notice to adjacent landowners as part of an acquisition, sale, or exchange. H.R. 5074 would also amend FLPMA to require, as a condition of the approval of the acquisition or conveyance involving third-party facilitators, disclosure of information, including submission of all purchase contracts and related agreements held by the facilitator related to the parcel to be acquired or conveyed, supervisor review of such purchase contracts and related agreements, and for conveyances, submission to appraisers of contact information for prospective end owners of the parcel to be conveyed.

The Department of the Interior is committed to an open and transparent approach to land tenure actions involving public lands, consistent with FLPMA and NEPA. As discussed above, the BLM achieves this through our land use planning process and adherence to regulation and policy for sales and exchanges, which include notification of affected parties and adjacent landowners as well as disclosure and review of third-party facilitator information. While the Department supports the intentions of H.R. 5074, this bill is unnecessary as the provisions in H.R. 5074 are included in the BLM's policy and standard practices related to land exchanges and conveyances. If the Congress proceeds with the legislation, we would like to work with the sponsor and Committee on amendments to clarify the direction in H.R. 5074 to be consistent with these existing standard practices, so that BLM may most efficiently implement Congressional intent.

Conclusion

Thank you for this opportunity to present testimony on H.R. 5074. We look forward to working with the Committee to ensure public land acquisitions and conveyances are completed in a transparent and timely process.