



**Public Employees for Environmental
Responsibility
2001 S Street NW Suite 570
Washington, D.C. 20009
202-265-PEER**



**Western Land Exchange Project
PO Box 95545
Seattle, WA 98145
206-325-3503**

Carson "Pete" Culp
Assistant Director, Minerals, Realty, and Resource Protection
Bureau of Land Management
1849 C Street NW
Washington, DC 20240

November 29, 2001

**SUBJECT: Request for immediate removal of Mr. Dave Cavanaugh as BLM
Senior Specialist for Appraisals**

Dear Mr. Culp:

We are writing on behalf of two organizations:

- The Western Land Exchange Project, a non-profit, public interest-oriented organization that monitors and evaluates federal land exchanges throughout the eleven western states; and
- Public Employees for Environmental Responsibility (PEER), a national non-profit alliance of federal, state and local employees working within land management, wildlife protection and pollution control agencies.

In the past five years, government watchdog agencies have released one report after another on the BLM's land exchange program. The latest audit was published in July 2001.¹ Individually and cumulatively, these audits have cited millions of dollars in lost public monies and a litany of reckless decisions on the part of the BLM. The reports have made it clear that the BLM is unwilling to take responsibility for the problems with land trades, is not ensuring that qualified and accountable staff are managing the program, and has no real intention of reforming its procedures to protect public lands and taxpayers.

Whatever you may have been told, whatever ostensible improvements the land exchange program managers may be trotting out in their periodic reports, the actions they have taken in response to the audits amount to nothing more than window

¹ Land Exchanges and Acquisitions, Bureau of Land Management, Utah State Office, Report No. 2001-I-413

dressings. In fact, the more intense the level of outside concern grows, the more entrenched the program managers become.

A case in point—and the subject of this letter—is the BLM’s Senior Specialist for Appraisals in the Washington, D.C. office, Mr. Dave Cavanaugh. Despite repeated findings that Cavanaugh has violated the law, lost millions of dollars in public money, and generally acted counter to the public interest, he remains in a position that oversees the appraisal function for the entire agency.

We are writing to urge you to immediately relieve Cavanaugh of his current duties and from any further participation in the land exchange program.

In audit reports spanning 1996 to 2001, both the Interior Inspector General (IG) and the General Accounting Office (GAO) have outlined specific defects in the BLM’s procedures. The IG identified the entire land exchange program as a “material weakness” and provided detailed recommendations to improve the program and bring procedures into compliance with the law. The GAO went so far as to recommend that Congress consider removing the BLM’s (and Forest Service’s) authority to conduct land exchanges.²

As you know, the appraisal process is the area of land exchange procedure that has caused the most concern. Statutes and regulations require that land valuations for federal exchanges follow strict federal standards, but staff members too often violate them, and non-compliant appraisals conducted under Cavanaugh’s oversight have resulted in multimillion-dollar taxpayer losses.

The latest IG audit report covered land exchanges in St. George, Utah. The audit studied eight land exchanges in which Cavanaugh (whom the report identifies by title) oversaw the appraisals. The IG found that Cavanaugh had repeatedly sidestepped the proper appraisal procedures and in effect created his own.

Rather than adhere to the proper methodology to arrive at a fair market value for exchange lands, Cavanaugh would negotiate with the private parties as part of the appraisal process, and when the parties complained that their lands were being undervalued, would simply increase the value accordingly.

According to the IG audit, this action was based on his personal opinion that “the current approach is outmoded and...[private] property owners should have an opportunity to be more involved in the appraisal...process.” The IG report stated:

To overcome landowners’ lack of confidence in BLM’s appraisal process and to help accomplish BLM’s land exchange and acquisition objectives, [Cavanaugh] used his [appraisal] reviews to assist in **negotiating land values acceptable to landowners...**When agreement was reached **on an appraised value satisfactory to the landowner**, the Senior Specialist finalized a...report and recommended a value...[our emphasis].

Cavanaugh willfully disregarded the necessary separation between the interests of the public and private parties to a land exchange. One of Cavanaugh’s fundamental duties

² BLM and the Forest Service: Land Exchanges Need to Reflect Appropriate Value and Serve the Public Interest, GAO/RCED-00-73, June 2000.

is to protect the public interest, and certainly not to acquiesce to the non-federal parties whenever land values are in dispute.

On the sole basis of the most recent audit, Cavanaugh should not be allowed to continue in his capacity as the Senior Specialist for Appraisals.

Unfortunately, this conduct is not a recent phenomenon. Since at least 1996, Cavanaugh has been systematically circumventing the very appraisal procedures it is his job to uphold.³

In a series of audits of Nevada land exchanges in the 1990s, the IG pointed to errors in appraisal procedures that resulted in huge taxpayer losses.⁴ There, too, Cavanaugh was one of the culprits—manipulating appraisal procedures, circumventing safeguards, and misdirecting the Nevada State office in its conduct of the land valuations.

His “creativity” with the appraisal methodology resulted in a \$12.3 million loss in two exchanges, and would have led to a \$9 million loss in a third had not the agency been pressured into re-appraising the lands involved.

In 1997, Cavanaugh conducted an Alternative Management Control Review (AMCR)—essentially an internal audit—of appraisal procedures in Nevada and Utah. In a strikingly cynical move, Cavanaugh “investigated” the very problems he himself had caused, with the obvious purpose of obfuscating his own responsibility.

St. George, Utah emerged as a problem area in the early 1990s, when would-be private land traders raised a huge controversy over exchanges with the federal government. St. George landowners trading with the BLM wanted special appraisal rules applied to the valuation of their land, and when Utah’s then-Chief Appraiser refused to abandon the required federal standards, the Washington office took him off the cases for being “uncooperative.”⁵ Cavanaugh subsequently took over the St. George exchanges himself, eventually creating the problems identified in the July 2001 IG audit report.

In the 1997 AMCR, Cavanaugh said that the Utah office’s appraisal process “has been subject to criticism” and that “disagreements [about] professional standards...contributed to an atmosphere of distrust.”

He implied in the AMCR that the pitfalls in the land exchange programs were the responsibility of the Chief Appraisers for the Nevada and Utah state offices. Of course,

³Cavanaugh has held his current position since 1983 or 1984, but he did not receive certification as an appraiser until November 2000.

⁴ (1) Nevada Land Exchange Activities, Bureau of Land Management, Report No. 96-I-1025, July 1996; (2) Advisory Report, The Del Webb Land Exchange in Nevada, Bureau of Land Management, Report No. 98-I-363, March 1998; (3) Followup of Nevada Land Exchange Activities, Bureau of Land Management, report No. 98-I-689, September 1998.

⁵ The Utah office’s Chief Appraiser, Jack MacDonald, had explained to St. George landowners that under long-standing federal and industry appraisal standards, their land values would have to take into account the presence of a federally-listed threatened species, the desert tortoise. MacDonald was upholding the law, but the BLM’s Washington office was determined to sidestep these legal requirements and mollify St. George landowners.

Cavanaugh himself was the root of the problem; having taken both appraisers off land exchange cases where they had defied his pressure to violate appraisal standards.

Despite this stunning record of misconduct, Cavanaugh continues to fill the highest appraisal-related position in the BLM.

To make matters worse, he has been given responsibility to implement reforms in BLM land exchange procedures that are necessitated by his own actions. In an April 2001 status report on improvements in its land exchange program, the BLM states it has assigned Cavanaugh to a variety of tasks having to do with the reform of the appraisal process, including policy development, quality assurance, and workforce training. It stretches credibility for the BLM's land exchange program managers to claim improvement in appraisal procedures when the very individual responsible for faulty appraisals has been put in charge of their reform.

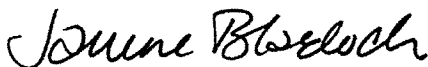
A government agency can only become accountable for its actions when every employee of the agency is held accountable. This includes not only Cavanaugh, but fellow program managers who presumably supported him in flouting federal appraisal standards.

Cavanaugh's continuing status exemplifies the BLM's entrenchment on the issue of land exchanges and its cavalier attitude toward the public interest. We strongly urge you to relieve him of his current duties and bar him from further participation in any aspect of the land exchange program.

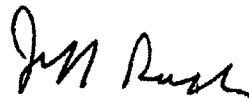
Removing Cavanaugh from a position where he can continue to harm the public will be an important first step in solving the grave problems in the BLM's land exchange program.

Please keep us informed about your actions on this matter, and do not hesitate to contact us if you have any questions.

Sincerely,



Janine Blaeloch
Director
Western Land Exchange Project



Jeffrey Ruch
Executive Director
Public Employees for Environmental
Responsibility

Cc: William G. Myers, DOI Solicitor
Piet deWitt, Assistant Secretary, Land and Minerals Management
DOI Associate Solicitor, Administrative Services Branch
DOI Ethics Office
Nina Rose Hatfield, BLM Acting Director
Deputy Assistant Attorney General for Env. and Natural Res.(ENRD)
Virginia Butler, Chief of Land Acquisition, ENRD
David M. Walker, Comptroller General of the United States
Earl Devaney, DOI Inspector General
Chair & Members, Senate Energy & Natural Resources Committee
Chair & Members, House Resources Committee