



THE APPRAISAL FOUNDATION

*Authorized by Congress as the Source of Appraisal
Standards and Appraiser Qualifications*

November 15, 2003

Honorable George Radanovich
Chairman

Subcommittee on National Parks, Recreation & Public Lands
1333 Longworth House Office Building
Washington, DC 20515-6207

Dear Congressman Radanovich:

Thank you for your October 29, 2002 letter inquiring about The Appraisal Foundation's recent report of its evaluation of the Bureau of Land Management's (BLM) appraisal organization. We are pleased for this opportunity to respond to your questions. Before doing so, however, let me reference the attached letter of transmittal that accompanied the final published version of our report. From your letter we believe it is possible that you did not receive a copy of that correspondence.

As our transmittal letter states in part, "Our goal was to evaluate and recommend, not to investigate and accuse." We will address this theme later in this response, but will turn more immediately to your questions about our handling of the difference between a FLPMA administrative land exchange and one that is brought before Congress strictly under its legislative authority.

At no time during the period of our studies or the preparation of our report was there any suggestion by the BLM or its staff that the proposed San Rafael exchange information we reviewed was anything other than a FLPMA land exchange. The first time we heard that a legislative exchange "was being considered as an alternative" was on September 6, 2002 during our meeting with BLM, Department of the Interior, and Office of the Inspector General personnel in Washington. Our report was completed and delivered to the BLM on August 29, 2002. It was intended for use by the BLM, not as a recommendation to Congress, and certainly not as a report having to do with legislative exchanges.

Our report was subsequently leaked from sources outside The Appraisal Foundation to an organization with an interest in the San Rafael legislative exchange. That organization then posted our evaluation report of the BLM on its Web site and issued a press release to coincide with Congressional consideration of the legislation in early October.

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As additional background for your consideration, the San Rafael administrative exchange proposal was brought to our attention by BLM's Washington staff in late July. Our interviews with staff indicated that various appraisers and other land specialists from the BLM's Utah offices were requested by management to perform appraisals, mineral assessments, and reviews of appraisals performed by others, and pursuant thereto had rendered oral appraisal reports to management.

We also learned that subsequent to these oral reports, and in some instances the submission of memoranda to management expressing professional concern about the lack of equal value in the proposed administrative exchange, at least some of the BLM's Utah staff were told not to put any of their work in writing so the results of their studies would not be "auditable." We also learned that some work, particularly involving mineral assessments, was incomplete. Information available to us further indicated that there were potentially many tens of millions of dollars of difference between the federal and state lands involved in the exchange. Under *Uniform Standards of Professional Appraisal Practice* (USPAP), the oral reports were "appraisals" and the appraisers were required to memorialize their oral reports, and the support for their conclusions, in writing. A request that no written record be established is considered improper and would place an appraiser in a position of noncompliance with standards. USPAP serves as the foundation for the United States' *Uniform Appraisal Standards for Federal Land Acquisitions* (UASFLA), the latter constituting what are termed "supplemental standards" to USPAP.

Although our role was not that of "investigators," we believed that it would have been irresponsible for us to fail to bring these matters to the attention of the BLM, to demonstrate that they were a continuation of the processes we had determined from our research that frequently brought BLM management to bypass its own appraisers or to place them in positions in which their independence was jeopardized or destroyed. This was particularly necessary because a prior problem had occurred in Utah, the site of the new proposed administrative exchange. The San Rafael administrative land exchange matters reinforced our concern that a U.S. government agency with investigative authority should follow us to determine why these BLM processes continued to occur and whether there were legal implications for the BLM or any of those involved.

We are concerned that an effort has been made to mischaracterize our report and its intent. In our September 6 meeting referenced above it was made clear to Mr. Jim Hughes, Deputy Director of the BLM, and Ray Brady, at that time the BLM's Chief, Lands and Realty, that the report dated August 29, 2002 was our final report. Despite there being no provision in our

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contract for anything further, we agreed with the BLM that they could prepare a response and that we would bind it into the final publication of our report along with our transmittal letter and/or reply. For security purposes only, the word "Draft" was placed on the printed version at the September 6 meeting, but that was to prevent unauthorized release of the report, not to signify that it was factually a draft. Our transmittal letter was written only days after the completion of our report and was included with the BLM's response in the final publication.

Following the September 6 meeting we were told privately by Mr. Brady that there was a mistake somewhere because no one in the BLM had ever requested any appraisals of its own staff. We told him that this information differed from the materials we had received and interviews we had conducted which clearly indicated an administrative FLPMA exchange. He said, "We didn't intend for anyone to appraise these properties. It was a mistake. That is our official position at this time." Other than Mr. Brady's reference to a possible legislative exchange during our meeting, we received no word from the BLM to contradict our understanding that it had processed the proposal as an administrative FLPMA exchange regardless of its potential outcome.

We concur that there is no reason for appraisers operating in their professional capacity to become involved in whether a given exchange should occur or not. We can assure you that The Appraisal Foundation had no such intent in its report or the report's conclusions and recommendations.

We did not interview any advocacy groups in our studies, but are aware of at least some of their views because our contract required us to interview persons who have been associated with such groups. These interviews were insisted upon by the BLM Chief, Lands and Realty, and the BLM's Senior Specialist-Appraisal. Newspaper accounts were largely ignored. Interviews conducted with BLM management and realty specialists, and with its appraisers, were prime sources for information we considered. It was from these bases, and others described in our report, that we draw our conclusions and rendered our recommendations.

The Appraisal Foundation's position is one of what's right and wrong in the performance and administration of appraisals and appraisal reviews, including as you mentioned the proper application of appraisal ethics and standards, not one of bias or advocacy for a particular matter that may come before Congress.

Simply put, BLM's management was a key source in summarizing the principal causes of problems we observed in our studies, including those involved with its administrative land exchanges. They told us that there is no appraisal organization within the BLM per se, because

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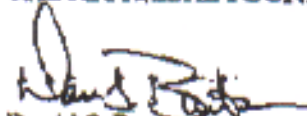
appraisers and their activities are largely under the control of management and not a part of a cohesive appraisal organization. They told us that there is no career path for an appraiser in the BLM and that appraisers' performance is regularly evaluated by management or realty specialists who are charged with closing particular exchanges or transactions, not individuals trained in appraising. They also explained that certain exchanges are controlled from Washington, D.C., not through the normal Delegation of Authority processes that characterize the BLM. They expressed concern about management's bypassing of BLM staff appraisers or other staff specialists, who in the main they consider highly qualified, to superimpose "alternative approaches" that avoid appraisal standards. They cited the BLM's own internal recognition of its "Material Weakness" problems. This is the message we hope to convey in our report.

Our letter of transmittal that accompanies the study of the BLM's appraisal function reminds that, "The BLM bears a solemn responsibility to uphold our nation's laws and to protect the public interest in its management of federal lands within its jurisdiction." That awareness led us to recommend that corrective actions for the problems observed include agencies outside the BLM. This was to overcome a history of lack of corrective action within the BLM. We recognized that investigations were warranted, but that our role was only to evaluate and recommend. We did not want to compound the record for any such inquiries.

We appreciate having the opportunity to clarify this issue. We are ready to serve any time we may be of further assistance.

Respectfully submitted,

THE APPRAISAL FOUNDATION



David S. Buntati

Executive Vice President

Attachment

cc: Honorable James V. Hansen, Chair, Committee on Resources
Honorable Chris Cannon, U.S. House of Representatives
Jim Hughes, Deputy Director, Bureau of Land Management