

Land Exchange Update

Western Land Exchange Project
Seattle, Washington

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Research, Advocacy, & Outreach for Land Exchange Policy Reform

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WLXP sues over Mormons' de facto control of public site

WESTERN LAND EXCHANGE PROJECT and four individual plaintiffs—including two descendants of Mormon pioneers—have sued the Department of Interior and BLM for abdicating their management responsibilities at Martin's Cove, a national historic site in Wyoming. At the instruction of Congress, Interior has entered into a 25-year lease that effectively cedes management of the site, which is federal land, to the Church of Jesus Christ of Latter-day Saints (LDS). Plaintiffs believe this violates the First Amendment's prohibition on government establishment of any religion. The national office of the ACLU is representing the plaintiffs. The complaint can be read at <http://www.aclu.org/ReligiousLiberty/ReligiousLiberty.cfm?ID=17685&c=29>.

Martin's Cove, near the Sweetwater River about 55 miles southwest of Casper, is situated along the four major historic westward migration routes: the Oregon, California, Mormon Pioneer, and Pony Express Trails. It has been listed on the National Register of Historic Places since 1977. The site is significant to the LDS Church because in 1856 Mormon pioneers traveling west with handcarts were trapped by a severe early winter storm near the Cove, and several perished.

The Church initially tried to acquire Martin's Cove outright. A land exchange proposal fell through when the Church failed to offer the BLM lands of equivalent significance. In 2002, then-Congressman Jim Hansen (R-UT) introduced

a bill to sell Martin's Cove and surrounding public land to the Church. Opposition from Wyoming's congressional delegation and many citizens scuttled



All visitors to Martin's Cove must enter through Church property at the Mormon Handcart Visitors Center. PHOTO: WLXP

"Plaintiffs maintain that the Church cannot act as gatekeeper or storyteller for property that everyone agrees has historic value beyond its significance to the LDS Church."

Complaint filed by ACLU in Western Land Exchange Project v. Norton.

that bill. However, before retiring at the close of the 107th Congress, Hansen was successful in getting a bill passed that codified the 25-year lease.

While this case differs from our past litigation, WLXP's interest in the Martin's Cove issue is consistent with our mission to keep public lands in public ownership and control. The BLM is ostensibly still the manager of Martin's Cove, but the agency has allowed a religious organization to monitor activities at and manage interpretation of a unique historic site. We believe LDS members have every right to visit Martin's Cove to experience an important part of their religious history, but we object to the pervasive Church-authorized message, presented to the exclusion of other messages or interpretations of American history. All people should be able to visit public lands without the imposition of any religious message.

Past issues of our newsletter, Land Exchange Update, are available in the Reading Room of our website, www.westlx.org

*“The Bonanza is BACK.”
—Government brochure for Lincoln County land auction*

Mining company seeks congressional land deal in Arizona

Resolution Copper, a joint venture of Rio Tinto and Broken Hill Properties, two of the world’s largest mining companies, has prepared draft legislation to seize ownership of 3,025 acres of federal land known as Oak Flat, with plans for a future copper mine. The company would offer in trade scattered parcels near public lands. Resolution Copper is lobbying the Arizona congressional delegation to sponsor legislation the company itself has drafted.

The draft legislation is loaded with gifts for Resolution. Most notable is the revocation of a 1955 Executive Order that expressly prohibited mining at Oak Flat, a popular recreation area about an hour’s drive from Phoenix. The bill cagily avoids any mention of the executive order.

The draft bill sidesteps the environmental analysis normally required under the National Environmental Policy Act (NEPA). Environmental consequences could be substantial, given that the bill expedites a mining operation, but Resolution has little interest in studying (or revealing) the impacts of de-watering, mine tailings, and soil subsidence. The bill would also let Resolution select and pay the appraiser who would put a value to both the private and federal lands.

Nevada lands sold without court-ordered analysis

On February 9, the Bureau of Land Management auctioned off 13,300 acres of federal land in Lincoln County, Nevada for more than \$47 million. The land, which had been appraised at \$12.4 million, is just north of Mesquite, Nevada. In 2002, the Western Land Exchange Project successfully sued BLM for trying to sell the land without sufficiently analyzing the environmental impact of privatization and development. (*Land Exchange Update*, Spring 2004, Summer 2004). Congress later intervened by passing the Lincoln County Development, Recreation, and Conservation Act of 2004, which ordered the sale within 75 days of the Act’s passage. BLM relied on the Act to evade the analysis the court had ordered as a result of our lawsuit. The agency claims analysis will nonetheless be completed as part of an EIS for other federal projects in the area. We’ll see.

Federal land in Lincoln County, Nevada was recently auctioned off after Congress expedited its sale and swept aside a WLXP lawsuit. Photo: WLXP



Everybody has plans for Las Vegas land sale money

Since the late 1980s, the Las Vegas Valley has been the fastest-growing metropolitan area in the country. But developers seeking more land for subdivisions have been faced with a thorny problem: most of the Valley (and 83 percent of Nevada overall) consists of federal land. In the eighties and nineties, developers engaged in land exchanges with the federal government in order to obtain land in Las Vegas—often by purchasing and then trading land along Lake Tahoe, where the federal government was actively acquiring land to protect the Lake.

But the booming Las Vegas market and corrupt practices within the Bureau of Land Management (BLM) resulted in a host of terrible land deals that richly rewarded the developers and ripped off the public, with federal acreage going for prices far below its actual market value. The Interior Department Inspector General conducted several audits of land trades in the Valley in the 1990s, and the problems the IG discovered were so severe that the BLM was ordered to halt all exchanges there.

In 1998, Congress passed the Southern Nevada Public Land Management Act (SNPLMA), as a direct response to the land exchange scandals—and a new way to open up federal land for development. In the hope of dealing with the volatility of

land values and address the previous taxpayer ripoffs, the bill created a 27,000-acre land “disposal” area within which BLM-managed lands would be put up for auction and sold to the highest bidders. The law allocates the proceeds of the land sales as follows:

- 85 percent goes to a Special Account managed by the BLM in Nevada for the acquisition of environmentally sensitive land, “capital improvements” at federal areas such as Lake Mead and the Desert Wildlife Refuge, and park-and endangered species habitat-related projects.
- 10 percent goes to the Southern Nevada Water Authority.
- 5 percent goes to the State for education.

Proceeds from federal land sales normally go to the federal Treasury, and this was the first time such a deal had been made to keep the money in state.

Revenues were originally projected to equal about \$70 million a year, but the high bids that Las Vegas land ultimately won vastly exceeded the minimum bids established through appraisal. As of the last sale, the program has generated **\$2 billion**.

Even before it was evident that the land sales were a phenomenal cash cow, Nevada



*The SNPLMA has greatly accelerated the Mojave Desert's conversion to golf courses and subdivisions.
Photo: Janice Naragon*

Rep. Jim Gibbons began scheming to redirect the Special Account money away from any purchase of new federal land and toward local use, such as allocating 30 percent or more to the State for education. As it is, there has been plenty of local benefit—Clark County and its cities have received *half a billion dollars* for “capital improvements” in the form of recreation developments in Clark County and its cities.

The remaining funds have drawn more insidious attention from Washington, D.C. Early this year, the Bush Administration declared its intention to capture 70 percent of the land sale funds and dump the money into the Treasury as an offset against the huge federal deficit.

Nevada politicians went ballistic at this notion and have vowed to keep the money in Nevada, where they have plenty of plans for it. Rep. Jim Gibbons (R-NV) wants the State’s allocation to rise to 35 percent. Senator Ensign (R-NV) proposed last year that \$200 million from the fund be re-directed toward replacing grass at local parks with xeriscaping. (A fine idea, but with federal money?). And in the latest round of sales, the top nominee for Special Account purchase by the federal government was a casino near Lake Mead in which Ensign’s father and siblings own a large share.

Congressional staffers say it is unlikely that the SNPLMA money will be re-directed, but the controversy serves as a reminder that to some politicians, federal land is just another form of currency—and just as capable of provoking unbridled greed.

Our two books, “Commons or Commodity: the Dilemma of Federal Land Exchanges” and “The Citizens’ Guide to Federal Land Exchanges” have been a boon to besieged public lands devotees. Both are available on our website, www.westlx.org.

Congratulations to Mayor-elect and WLXP member Tony Gioia!



Mayor Tony Gioia of Camp Verde.

Our long-time friend and colleague Tony Gioia has just been elected mayor of Camp Verde, Arizona. Since 1999, Tony and WLXP have worked together to keep the Yavapai Ranch Land Exchange from getting through Congress, and the bill failed for five years in a row. This year, it

appears that it may pass in both chambers—but not for lack of dedication on the part of Tony and many other Verde Valley citizens. The land exchange, which would privatize national forest land in Camp Verde, was a defining issue in the mayoral election; Tony’s opponent was a strong supporter of the trade and the development it would facilitate. Through his work on water, economic, and public land issues in his hometown, Tony exemplifies the true grassroots citizen activist.

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Our year-end fundraising letter was a great success, bringing in almost \$7,000, with many donating at a higher level than in the past. With members who are that responsive, we know you value our work. Thank you so much!

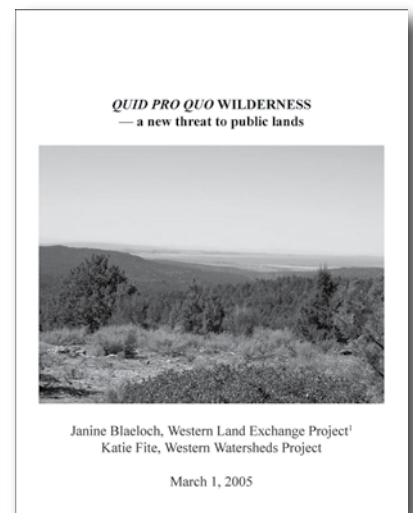
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New WLXP publication available on website at www.westlx.org

In past editions of our newsletter, we've talked about the new trend in wilderness advocacy in which federal land trades and giveaways grease the skids for wilderness protection. The Western Land Exchange Project has been actively spreading the word on this harmful trend. WLXP director Janine Blaeloch and Western Watersheds Biodiversity Director Katie Fite have co-authored a paper called "*Quid pro quo wilderness—a new threat to public lands.*" We have posted the 17-page, illustrated, and footnoted paper on our website at <http://www.westlx.org/assets/quid-pro-quo.pdf>. We hope you'll take a look—and please pass it on to others who care about public lands.

For several months, Janine has been working to educate the public and environmental advocates about the perils of quid pro quo wilderness. In January, Janine, Katie Fite of Western Watersheds and Russell Heughins of Idaho Wildlife Federation went to Phoenix to address a national policy committee of the Sierra Club on this issue. The Club recently opposed two bad bills in Nevada and Idaho, but has voted to stay involved in a third bill. In May, Janine will participate in a panel on this issue as part of a spring colloquium at rescott College in Prescott, Arizona.





Western Land Exchange Project

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