

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Montana State Office

5001 Southgate Drive, P.O. Box 36800

Billings, Montana 59107-6800

<http://www.mt.blm.gov/>

In Reply To:

2200 (924.5) P

May 15, 2003

EMAIL TRANSMISSION - 5/15/03  
Instruction Memorandum No. MT-2003-042  
Expires: 9/30/04

To: State Management Team

From: State Director

Subject: Land Exchange Policy: Exchange Opportunity Review and Approval  
Process Clarification

The Montana/Dakotas BLM implemented a land exchange policy (IM No. MT-2002-050) in March 2002 to improve the process we follow to identify, evaluate, and process land exchange proposals. A key component of the process is the exchange opportunity review and approval at the initial screening stage. Although we are using the process on those opportunities that appear to have some merit and potential to pursue, we also should apply the process to those opportunities/situations where we decide not to pursue a land exchange, and/or, if upon brief analysis of resource values, it is questionable whether there is any benefit to pursue a land exchange. Further, we are encountering more situations where a proponent is contacting the State Director to discuss an exchange opportunity upon receiving an unfavorable decision from the Field Manager.

In accordance with our policy and the guidebook entitled, "State Director Guidance and Policy for Land Exchange Processing within the Montana/Dakotas BLM" transmitted under IM No. MT-2002-050, a field office submits a "Land Exchange Opportunity Briefing Document" to the State Office for consideration. A Land Exchange Opportunity Review Group is then assembled and a recommendation to pursue, modify, or reject the land exchange opportunity is provided and signed by both the Field Manager and the Chief, Branch of Land Resources. This recommendation is then submitted for concurrence to the Deputy State Director, Division of Resources and the State Director.

Field Offices should follow the exchange opportunity review and approval process for all land exchange opportunities including:

- 1) New exchange proposals, except as otherwise noted below.

2) Proposals that were initially informal or even general in nature (perhaps having lingered or even are somewhat questionable as to public benefit), but for which there is now a more formal pending proposal requiring action.

3) Where a proponent repeatedly returns with the same or similar proposal after being told previously that the Field Office is not interested.

4) Where you anticipate that if the BLM decides not to participate in the land exchange, the proponent might contact the State Director or Congressional representative to further pursue the exchange.

The land exchange opportunity review and approval process documents the support of the State Office for the final decision. The State Director and MSO staff are also kept "in the loop" should a proponent choose to contact the State Director personally to further pursue the land exchange.

At the Field Manager's discretion, saying "No" to those new opportunities that are clearly not in the public's interest, and are not supported by the land use plan decisions, may be done without going through the land exchange opportunity review and approval process. Clearly that discretion is appropriate in implementing this policy at the Field Managers level.

Lastly, the guidebook entitled "State Director Guidance and Policy for Land Exchange Processing within the Montana/Dakotas BLM" transmitted under IM No. MT-2002-050 has been converted to a word document (attached) since some people were having trouble converting the forms.

Please direct any questions to Craig Haynes at 406-896-5040, or Dee Baxter at 406-896-5044.

Signed by: A. Jerry Meredith, Acting State Director

Authenticated by: Kathy Iszler, Staff Assistant (MT-924)

1 Attachment

1-IM No. MT-2002-050 (47 pp in its entirety)

Distribution w/Attn.

Assistant Field Manager, Havre Field Station  
Assistant Field Manager, Glasgow Field Station

# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Montana State Office  
5001 Southgate Drive, P.O. Box 36800  
Billings, Montana 59107-6800  
<http://www.mt.blm.gov/>

2200 (924.5) P

March 26, 2002

EMAIL TRANSMISSION

Instruction Memorandum No. MT-2002-050

Expires: 9/30/2003

To: State Management Team

From: State Director

Subject: Land Exchange Policy

This Instruction Memorandum (IM) transmits a guidebook entitled, "STATE DIRECTOR GUIDANCE AND POLICY FOR LAND EXCHANGE PROCESSING WITHIN THE MONTANA/DAKOTAS" for immediate use and implementation of the process. This guidebook supercedes previously issued state guidance on land exchanges. It is intended to supplement (not replace) the national guidance provided in the Land Exchange Handbook H-2200-1.

A state land exchange policy is necessary to enable the Montana/Dakotas BLM to maintain a viable land exchange program capable of meeting priority objectives and goals. Land exchanges will remain our preferred method to accomplish land tenure adjustments where feasible. Given personnel and budget constraints, annual workloads, and recent reviews of the land exchange program, the Montana/Dakotas BLM must conduct the program with a proactive approach to achieve desired beneficial results (maximum public benefit) in accordance with applicable laws, regulations, policy, and guidance; but at the same time, we must manage the program carefully, conservatively, and consistently through consideration of issues up-front to keep us out of trouble. To this effect, we must ensure that:

- \* appropriate coordination and communication occurs throughout the process;

- \* there is commitment at all levels of the Montana/Dakotas BLM for staff involved with processing a proposal and with the proponent;

- \* we have assessed the entire land exchange process (from initiation to closing) at the preliminary stage of development so that we have well thought out and planned proposals;

- \* we have assessed the entire work effort associated with land exchange processing, not just the initiation of the process;

- \* we implement equitable cost-sharing arrangements, consolidate funding sources to maximize capabilities, and allocate funds and processing commitments to exchange opportunities and proposals with the highest potential for public benefit;

\* we have clearly documented our justification (thought process) and clearly defined our decisions in reports and in decision documents;

\* we have identified, to the extent possible, the long-term management needs once the land is acquired so that we do not unknowingly take on commitments beyond our organizational capabilities.

The guidebook lays out policy statements specific to the Montana/Dakotas BLM to guide our scoping and development of proposals; it outlines the approach we will take to the process; and reaffirms roles and responsibilities for staff and managers involved in processing an exchange proposal. Key to the Montana/Dakotas approach is to conduct a thorough scoping of a land exchange opportunity up-front, which can be accomplished by utilizing the "Land Exchange Opportunity Briefing Document" and the "Land Exchange Opportunity Review Group." This approach will enable us to use our most valuable resource (you) at the onset of considering a land exchange opportunity to effect the best possible proposal when committing our resources (land, people, and funds) or to say "no" to an opportunity.

I have identified ten (10) issues or RED FLAGS which I think we should pay particular attention to when processing land exchanges. These are issues in which the Bureau has been criticized by the Inspector General, the General Accounting Office, and members of the public, or issues which I think have a potential for criticism in the future. They are:

1. **Appraisals and the establishment of fair market value.** This is, by far, the element of the exchange program which has been subjected to the most criticism. The determination of fair market value has been, and remains, one of the most elusive areas to defend in the program. While our appraisals are done by qualified appraisers approved by the Bureau, they are often second guessed and attacked, frequently by people with no qualifications in the field. Nevertheless, criticism of the Bureau's fair market value determinations comes up over and over again, and is the major threat to successful continuation of the program. Appraisals and fair market value should be handled very conservatively - "creativity" and "thinking outside the box" should be discouraged.

2. **Consistency with planning.** Often our resource management plans generally describe areas or set out criteria for acquisition or disposal of land. The BLM has been criticized by the IG for lack of specificity. If our plans are not specific with regard to the parcels identified for acquisition or disposal, we should consider amending our plan utilizing an environmental assessment.

3. **Our ability to manage lands we acquire.** We should be asking ourselves hard questions about what we will do with lands we acquire, whether we are taking on responsibilities which go beyond our organizational capabilities, and whether we can afford to manage the lands we are acquiring. If there are shortcomings along these lines but it is in the national interest to acquire certain lands, we should be asking ourselves what we should do to deal with these shortcomings.

4. **Assembled exchanges.** The primary problem with these transactions has been the open ended nature of the way we have been handling some of them. Assembled exchanges should have a defined beginning and end which is described in the agreement to initiate the exchange.

5. **Excessive pressure.** A red light should go on whenever there are excessive political pressures or threats to complete an exchange. This is usually an indication that there is something amiss and should alert us to be extremely suspicious and careful.

6. **Cost sharing with proponents.** While provided for in our regulations and encouraged by many BLM employees, it should be remembered that the more an exchange proponent shares in the transaction costs, the greater his/her sense of entitlement becomes. Cost sharing should be used sparingly. Cost sharing is:

- \* usually all right with organizations in the land exchange business, particularly non-profit groups such as The Conservation Fund (they are used to conducting business this way and are staffed by people who thoroughly understand how these transactions are done),

- \* sometimes all right with large companies (they are business people who generally understand the concept of risk),

- \* usually not all right with small landowners.

7. **Use of public land to compensate proponents for assumption of costs.** While provided for in the law, this is an inefficient use of public land. In cases where cost sharing is done, costs assumed by the proponent are their responsibility, not ours.

8. **Restrictive covenants.** While restrictive covenants are not prohibited or even discouraged, if there are a lot of reasons to retain restrictive covenants in a disposal parcel, we need to ask ourselves why we are disposing of the property. Alternatively, we need to be careful about leaving behind in a disposal area, small, isolated parcels of public land which are going to be difficult to manage in the future.

9. **Documentation.** The BLM has been criticized frequently for a lack of documentation regarding financial transactions, agreements with proponents, and public notification documents. A complete and well-organized casefile must be maintained.

10. **Proponent acquisition of land.** In many of our exchanges, we ask proponents to acquire non-Federal lands which we would like to bring into public ownership. The understanding is that they would subsequently trade us for disposal tracts and then sell the tracts or use them for their own purposes. This assumes that the proponents are able and willing to undertake some risk; i.e., that the exchange would not be found to be in the public interest and the transaction would not be completed. This can leave the

Bureau in a difficult and embarrassing position. We should be certain that proponents understand the risks they are assuming and have an understanding of actions they can take, such as options to purchase, to minimize their risk. The same kinds of considerations listed under cost-sharing should be used in this case.

Please direct any questions to Craig Haynes, Lands and Realty Program Lead, (MT-924), or telephone at (406) 896-5070.

Signed by: Mat Millenbach

Authenticated by: Janie Fox (MT920)

1 Attachment

1-Land Exchange Policy Guidebook (46 pp in its entirety)

Distribution w/Attm.

Assistant Field Manager, Havre Field Station

Assistant Field Manager, Glasgow Field Station

**STATE DIRECTOR GUIDANCE AND POLICY  
FOR LAND EXCHANGE PROCESSING  
WITHIN THE MONTANA/DAKOTAS BLM**

March 11, 2002

# TABLE OF CONTENTS

	Page
I. Background .....	1
II. Purpose and Need for this Policy .....	2
III. Policy Statements.....	3
1. Goals .....	3
2. Land Use Planning.....	3
3. Determining the Public Interest/Benefit. ....	4
4. Sale versus Exchange.....	5
5. Grazing Operators and Adjoining Property Owners.....	5
6. Facilitated Land Exchanges .....	5
7. Mineral Estate .....	6
8. Removal of Encumbrances on Public Land.....	7
9. Use of Restrictive Covenants.....	7
10. Sharing Processing Costs With Proponents.....	8
11. Compensation and Assumption of Costs .....	9
12. Utilizing Land and Water Conservation Fund (LWCF) Appropriations for Land Exchanges .....	9
13. State Land Exchanges .....	10
14. Exchanges Involving Other Federal Agencies.....	10
IV. The Exchange Process .....	10
A. Proposal Scoping and Development Phase.....	11
1. Land Exchange Opportunity Briefing Document .....	11
2. Exchange Opportunity Review Group.....	11
3. Tracking Costs of Land Exchange Processing.....	12
4. Public Outreach.....	12
5. Cadastral Survey Support .....	12
6. Appraisal Services .....	13
B. Feasibility Phase.....	13
1. Feasibility Analysis Report Submission .....	13
2. Inter-disciplinary Review.....	14
3. Field Solicitor’s Assistance and Review.....	14
4. National Exchange Team Review/Concurrence .....	15
C. Processing Phase .....	15
1. Parcel Information Sheet.....	15
2. Cultural Resource Inventory and Reports.....	15
3. Hazardous Materials (Hazmat) Survey and Reports.....	16
4. Requesting Appraisal Services .....	17
D. Decision Phase .....	17
1. Decision Package Submission .....	18
2. Field Solicitor Review/Concurrence.....	18
3. National Exchange Team Review/Concurrence .....	18
E. Closing Phase .....	18
1. Ledger Accounts .....	18

F. Post-Exchange Activity .....	18
1. LR2000 .....	19
2. MIS Reporting .....	19
3. Records Notation .....	19
G. Prioritizing Proposals.....	19
V. Roles and Responsibilities .....	20
A. Field Office Level .....	20
1. In the Proposal Screening and Development Phase.....	20
2. In the Feasibility Phase .....	21
3. In the Processing Phase.....	22
4. In the Decision Phase.....	22
5. In the Closing Phase.....	23
B. State Office Level.....	23
1. State Director .....	23
2. State Office Program Leads & Support Staff Functions.....	23
3. State Office Lands & Realty Program Lead .....	24
4. State Office Adjudication Staff .....	24
5. Chief, Branch of Land Resources .....	25
6. Deputy State Director, Division of Resources.....	25
C. Managers Proactive Role .....	25
D. All.....	26

Appendices:

- A Land Exchange Flow Chart
- B Land Exchange Opportunity Briefing Document
- C Parcel Information Sheet
- D Environmental Site Assessment for Land Disposal Actions
- E Environmental Site Assessment for Land Acquisition Actions

STATE DIRECTOR GUIDANCE AND POLICY  
FOR LAND EXCHANGE PROCESSING  
WITHIN THE MONTANA/DAKOTAS BLM

## I. BACKGROUND

The Montana/Dakotas BLM has pursued land exchanges involving both surface and mineral estates since the early 1980s. Approximately 153,000 acres of non-Federal land and interests have been acquired in exchange for approximately 204,000 acres of Federal land and interests to date. Initially, exchange proposals were single actions with one proponent. They have since become more complex, multi-phased, assembled exchange proposals that utilize facilitators, and sometimes incorporate Land and Water Conservation Fund (LWCF) appropriations.

Our current land exchange activity includes a variety of actions in various stages of processing: a Congressionally-mandated action (Crow Boundary Settlement Act, multi-phased land exchange); several large-scale facilitated proposals (utilizing The Conservation Fund (TCF) or a proponent representing several interested parties to accomplish complex, assembled lands in single or multi phased proposals); several smaller-scale one-on-one proponent proposals; and an exchange supporting another federal agency (National Park Service). A court ordered exchange (Homestake) was just completed in South Dakota. Exchange opportunities remain abundant for the Montana/Dakotas BLM when considering land ownership patterns; the public lands in Montana/Dakotas do provide opportunities for scattered tracts to be “pooled” for disposal in exchange for a desired parcel of non-Federal land.

Some of the “Realities” that affect our ability to develop and process land exchange proposals include:

- \* The socioeconomic situation in Montana and the Dakotas - primarily rural population with income primarily associated with ranching/agriculture; this affects the ability/willingness of landowners to participate. Can a rancher/landowner acquire several public land parcels situated within his ranch at one time? Can they afford to cover 50 percent of the costs to process an exchange?
- \* Land Values - the lands BLM is interested in acquiring are usually “High” in value; the public lands are usually “low” in value.
- \* The success of past efforts has substantially reduced the disposable land base and the remaining disposal parcels will be even more challenging to include in exchange opportunities. We are also seeing parcels drop out of consideration in proposals due to the presence of cultural resources; and facilitators are experiencing a fluctuation (currently is about 50 percent successful rate) to secure third-party contracts or commitments with ranchers/landowners to acquire land through the exchange process.
- \* A substantial multi-year commitment of both funding and staffing is often required to develop and process land exchanges. The BLM budgets are flat-line; and BLM personnel have full workloads.

\* Consider the public perception and numerous interest groups “watching over us and what/why we are doing exchanges.” We could see more protests and appeals to actions; and we will continue to undergo audits of the land exchange program.

\* Rules and processing requirements have changed and/or are being fine-tuned for clarification; we are awaiting the approval of the draft National Land Exchange Handbook H-2200-1.

## II. PURPOSE AND NEED FOR THIS POLICY

This guidebook is intended to consolidate state issued guidance and to supplement the national guidance provided in the Land Exchange Handbook (H-2200). Unless specifically noted, this guidebook supercedes previously issued state guidance on exchanges.

The Montana/Dakotas BLM can improve focus in the following areas associated with land exchange development and processing:

1. Assessing the entire land exchange process (from initiation to closing) at the preliminary stage of proposal evaluation; and assess the entire work effort associated with the land exchange process, not just the initiation of the process. Our mind-set should be “here is a land exchange opportunity and this is how we proposed to process it” when a recommendation (and commitment) is made to pursue a land exchange opportunity. We must define up-front: the entire exchange project area and identify the federal and non-federal lands to be considered in the exchange; the planned number of closings/phases; the rights and interests being exchanged or reserved; who is responsible for each processing step; who will pay what costs; and, the target timeframes to process the proposal. Ensure that the public land base is being utilized to accomplish priority acquisition needs.
2. Identifying, to the extent possible, the long-term management needs on the land once acquired. Future costs that must be considered as part of this management include personnel needs, development and maintenance of facilities and infrastructure. Can we afford to manage it once we acquire it?
3. Ensuring that appropriate coordination and communication occurs between staffs and managers at all levels of the Montana/Dakotas BLM organization and with the proponent throughout the land exchange process. This communication is essential to the process of identifying the public benefits, and knowing what the commitments are in both processing an exchange and with management/development of the land. Ensure that the proponent understands the process and risks associated with land exchanges.
4. Ensuring commitment at all levels of the Montana/Dakotas BLM organization for staff involved with the processing of a proposal; and with the proponent. This is especially important to an expensive, multi-year land exchange process. We must stay within staff and funding capabilities, and understand the mutual impacts between land exchanges and other workloads.

5. Ensuring we have clearly documented our thought process, especially in feasibility analysis reports; and have clearly defined our decisions. A clear, defensible reasoning for proceeding or deciding not to proceed with a land exchange opportunity will: expedite reviews of the documents (Feasibility Analysis Reports, NEPA documents and Decision Records, Notice of Decision); withstand the scrutiny under audits: and, affirm our decisions in protest and appeal situations.

Given personnel and budget constraints, annual workloads, and recent reviews of the land exchange program, the Montana/Dakotas BLM must take a proactive approach in the development and processing of land exchange proposals. Toward this end, the BLM must reaffirm responsibilities; consistently develop well thought out and planned proposals; implement equitable cost-sharing arrangements; consolidate funding sources to maximize capabilities; and allocate funds and processing commitments to the exchange proposals with the highest potential for public benefit. This will enable the Montana/Dakotas BLM to maintain a viable land exchange program capable of meeting priority objectives.

### III. POLICY STATEMENTS

Land exchanges are a process of “swapping” or “trading” lands at equal value with willing parties; it is not a process of selling public land and using the proceeds to purchase other land. With the exception of those exchanges that are congressionally mandated or judicially required (court ordered), land exchanges are a voluntary and discretionary action that serves as a viable tool for BLM to accomplish its goals and mission.

The following statements provide a summary of the Montana/Dakotas BLM policy concerning the identified elements.

1. **Goals: Consistent with BLM’s mission and applicable land use planning documents, land exchanges will continue to be the preferred method used to: 1) bring lands and associated interests with high public resource values into public ownership; 2) consolidate land ownership and mineral estate patterns to achieve more efficient management of resource and bureau programs; 3) dispose of public land parcels identified through Resource Management Plans.**

2. **Land Use Planning: All land exchange proposals must be in conformance with land use plans or plan amendments.**

The BLM Resource Management Plans, in conjunction with the State Director’s guidance for land adjustments (“Land Pattern Review and Land Adjustment-Supplement to State Director Guidance for Resource Management Planning in Montana and the Dakotas (1984)),” as supplemented in 1992, will be utilized as the primary sources to guide the development of land exchange opportunities and to identify priority acquisitions that could be accomplished through the land exchange process. A land use plan amendment would be required if a proposal is silent or clearly not in conformance with the land use plan decisions.

When developing exchange proposals, the BLM’s preference is to offer disposal tracts and small, isolated parcels of public land without public access before separating acreage from larger blocks

of public land. Situations that would create smaller, isolated, and more difficult-to-administer parcels of public land should be discouraged.

Review of land ownership patterns should also identify potential project areas for land tenure adjustment actions, giving consideration to the potential for accomplishing BLM's goals within these identified areas through multiple actions (sale, exchange, acquisition). Although land exchanges are the preferred method to accomplish adjustments in land ownership, they do not apply to all situations or opportunities of land tenure adjustment. Program-specific guidance for developing land tenure adjustment (land disposal and acquisition) decisions in BLM land use plans is found in Appendix C, Land Use Planning Handbook (H-1601-1).

**3. Determining the Public Interest/Benefit: A positive public interest determination must be demonstrated that reflects the specific goals and objectives to be accomplished by the BLM pursuing a land exchange opportunity.**

The Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1716) requires: 1) full consideration to better Federal land management and the needs of state and local people, including needs for land for the economy, community expansion, recreation areas, food, fiber, minerals, fish and wildlife; and 2) a finding that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired. Although public interest, public access and land consolidation are primary goals when making resource management decisions on public lands, the importance of the resources themselves should also be considered on a national, regional, statewide, and local basis when considering objectives to manage, protect, develop, maintain, and use resources on public lands. Objectives including, but not limited to, implementing critical and priority land use decisions; implementing priority mission objectives and initiatives; eliminating/reducing administration costs; and/or resolving previously unsolvable management problems are a positive public benefit to be considered.

**4. Sale versus Exchange: Public lands having multiple entities interested in acquiring them, and/or where there is a known or suspected competitive market situation, would be considered for exchange only when there is a compelling reason to do so.**

Where there is a known or suspected competitive market situation and multiple entities are interested in tracts of Federal land, consideration will be given to dispose of these parcels through "sale" pursuant to the authority found in Section 203 of the FLPMA (43 U.S.C.1713) before including the parcels in a land exchange opportunity. Current BLM direction is to offer such parcels through sale and place the proceeds in the BACA Bill accounts to be used to purchase desired non-Federal land parcels. Consider the presence or absence of legal access to a parcel, the number of adjoining landowners, and other interested parties that have an interest in a parcel. The presence or absence of this opportunity must be documented in the Feasibility Analysis Report.

**5. Grazing Operators and Adjoining Property Owners: Prior to initiating an exchange proposal, consideration will be given to preventing the creation of a negative impact on an**

**existing agricultural enterprise which is dependent, at least in part, upon a Federal grazing lease or permit to maintain a viable livestock operation. The interests and capabilities of grazing operators and adjoining land owners will be considered when identifying lands for inclusion in a land exchange opportunity. Although a grazing operator may be the most likely one to acquire a public land parcel through an exchange, they do not have first right of refusal. IF a grazing operator is not willing to participate in an exchange opportunity, and the disposal of the public land is determined not to adversely impact a livestock operation, other adjoining landowners and viable interested parties will be considered to participate in the exchange.**

While surrounding landowners and grazing operators often depend on Federal grazing permits, the interests of the public must be balanced against the interests of individual parties when considering what land to include in an exchange proposal. Retaining a parcel of public land for the benefit of one or a few people is not considered to be in the Bureau's or public's best interest, especially if there is legal access to the parcel and there are other entities who would like to acquire the parcel through the exchange process. A decision to not include a public land parcel in an exchange opportunity cannot be solely based on reasoning that an adjoining landowner or grazing operator is not interested in, is not in a financial situation to, or does not want to pay the fair market value, especially if the disposal of a parcel is found not to adversely impact a livestock operation.

**6. Facilitated Land Exchanges: The BLM will consider facilitated land exchanges where parties without non-Federal lands to offer in exchange are interested in the acquisition of Federal lands, or in situations where the BLM wants to acquire non-Federal lands but the owners of those lands are not interested in acquiring Federal lands that may be available for exchange. The BLM will continue to partner with facilitators to accomplish these land exchange opportunities/proposals.**

Facilitated land exchange proposals must: further the accomplishment of BLM goals and objectives; be designed to expedite processing and reduce costs; effectively utilize a third-party facilitator to accomplish an exchange project; and, identify all the Federal and non-Federal lands to be considered. The exchange agreement should specify all the parcels (Federal and non-Federal) being considered and planned phases to accomplish closings. Although consideration should be given to minimize the number of patents to be issued, all preferred closing arrangements should be specified to the extent possible in the Feasibility Analysis Report and Agreement to Initiate for approval.

In these land exchanges, an exchange facilitator represents various interests in fashioning an exchange proposal that is similar to a more traditional direct land exchange. However, it is understood that the facilitator is not expected to be a long-term holder of title to either the Federal or non-Federal lands in the transaction; the facilitator's involvement is limited to developing a workable exchange arrangement for all entities. Facilitators can be for-profit entities or not-for-profit entities. The justification and arrangement for facilitated exchanges must be clearly documented in the Feasibility Analysis Report, Agreements to Initiate, Notice of Land Exchange Proposals, and other documents as necessary.

Facilitated exchanges involve a facilitator who acts as an intermediary in assembling the various non-Federal interests to be exchanged to the BLM and transferring the Federal interests in the

exchange to other parties. Even though the facilitator may not take legal title to any of the properties, all exchange processing documentation must identify that the exchange is strictly between the BLM and the facilitator. As a result, the BLM must not have any formal relationship, agreement or involvement with the parties represented by the facilitator including any contractual, financial arrangement or escrow agreement between the facilitator and the parties they represent. The facilitator should assess the level of interest of grazing operators, adjoining landowners and/or others in acquiring potential Federal parcels. If no interest in a particular parcel can be identified, the parcel should not be included in the exchange opportunity.

As stated in the Bureau exchange handbook, the BLM may not dictate requirements or preferences for how an exchange facilitator chooses to resolve conflicting interests in the Federal land that may occur if more than one adjacent landowner is interested in acquiring a Federal parcel. However, for the Bureau to accurately and efficiently address and analyze the impacts of the exchange during the NEPA process, the order of priority that the facilitator will use to resolve competing interests in Federal parcels must be identified in the feasibility report and ATI for the exchange. Facilitators must be made aware that, considering the custom and culture in rural Montana, any proposal that does not incorporate a provision giving the current grazing operator consideration in acquiring the Federal rangeland parcels they lease will be extremely controversial and may not survive the political scrutiny it will likely receive. It is important that coordination occurs between the BLM and a facilitator on how Federal lands are going to be dealt with so that the BLM can make an accurate analysis of the exchange and values can be accounted for.

**7. Mineral Estate: Mineral estates will be exchanged if practical, except that oil, gas, phosphate and coal will be retained in Federal ownership in areas of known mineral value and development potential, unless there is a compelling reason to exchange these minerals.**

Mineral rights proposed to be acquired, conveyed, or reserved in exchange proposals must be carefully considered at the early stages of feasibility analysis because the surface estate is subservient to the mineral estate, and unless the mineral rights attached to a property have been subordinated, mineral development will take precedence over surface uses and could cause significant conflicts. When minerals are proposed to be exchanged, consider the value of the mineral estate and any potential for surface acreage difference necessary to achieve a near equal value exchange proposal, and any impact on the overall appraisal of the lands.

Recommendations toward disposal or retention of the Federal minerals are based on an evaluation of mineral potential and surface use interference with potential development of the minerals. The minerals staff within the Branch of Solids (MT921) and Branch of Fluids (MT922) can provide assistance for mineral consideration in developing exchange proposals.

**8. Removal of Encumbrances on Public Land: To the extent possible, an encumbrance such as a third-party right-of-way (ROW) which has a limited term (not a perpetual grant) will be converted to an easement whereby the administration and ownership of the encumbrance would be transferred to the party acquiring the public land if at all possible when a review determines there is a continuing use of and need for the ROW.**

The land exchange proponent/facilitator will be encouraged to have a ROW holder and the party acquiring the public land negotiate a private easement to go into effect upon closing of the exchange. This may enable the BLM to cease administration responsibilities and close a portion of or all of the ROW file. Where a ROW has been issued in perpetuity, the patent can be issued subject to the encumbrance. Where a ROW (or Reservation) to Federal entity exists, the ROW would be reserved in the patent. Guidance for the management of ROWs when public lands are transferred is provided in Section 2801.6 of BLM Manual and in WO IM No. 97-08 (Removal of Encumbrances Prior to Public Land Sale or Exchange).

**9. Use of Restrictive Covenants: Conservation easements or restrictive covenants will not be placed on BLM-administered lands being considered for disposal by exchange, unless there is a compelling reason to do so.**

Often Federal lands considered for exchange proposals are usually disposal tracts that have been screened for resource values through the BLM's land use planning process. Federal lands which contain resources of sufficient value to justify covenants or easements should remain in public ownership. Restrictive covenants generally decrease land value and creates an encumbrance. Covenants also make the Federal government responsible for enforcing restrictions on private lands, a role which can exist in perpetuity and may contribute to negative public perception. Regardless of whether the public perceives this as being in its best interest, the role of a Federal government administrator could create friction between owners of overlapping interests. "Zoning type" restrictions which limit or control the use of privately-owned properties are issued by local government and should be addressed at that level in their land use plans or ordinances. BLM cannot resolve local governmental or residential issues through quasi-zoning restrictions on federal lands; this must be accomplished through county land use planning and recommendations for zoning.

Exception to this policy would be very rare, involve small acreage, and would require consultation with the Field Solicitor's office and State Director concurrence. Situations involving parcels containing wetland/floodplain resource values, that are required to be protected, might be considered for disposal by exchange subject to easements or covenant on a case-by-case basis where some resources would be acquired and it is determined to be in the public's best interest. This must be documented in the Feasibility Analysis Report.

**10. Sharing Processing Costs With Proponents: Although Bureau policy requires appropriate sharing in the total costs and responsibilities between parties for processing a land exchange because investing equally in processing an exchange helps maintain a level of ownership and commits all parties to resolving any issues that may arise, the Montana/Dakotas will approach cost sharing in a fair and equitable manner giving consideration to who the proponent is, their understanding of the process, their acceptance of the risk involved, and their financial capabilities.**

When the proponent is an organization in the land exchange business and is staffed by people who thoroughly understand how these transactions are done and understand the risks, cost sharing is appropriate. When the proponent is a large company that understands the process and risk, cost sharing is an option. When processing a small, one-on-one land exchange proposal with a small landowner/proponent, cost sharing may not be appropriate. The primary reason for this policy is that, should the land exchange proposal ultimately be unsuccessful, the proponent's

share of the costs to date could be very significant and extremely detrimental to such a small entity.

Advise the proponent up-front that he/she generally is expected to cover some costs of processing the exchange, unless there is a compelling need for the BLM to cover all the costs. When discussing the processing steps with the proponent, identify what costs the BLM can likely cover, ask what costs the proponent can cover (with understanding this is a voluntary action, they understand the risk and that there is no guarantee to complete the exchange), and lastly, if items remain, you may need to look at outside sources for funding. Depending on the complexity of the exchange proposal, the costs of large items such as appraisal, cultural clearance, and publication of required notices may be covered by BLM or the proponent, depending on the negotiated agreement.

Generally, the BLM should focus on costs that can be covered under labor (workmonth) and indirect costs, and to some extent non-labor (operations) funding where appropriate. A proponent should pay for title commitment, title insurance, and their closing costs. A proponent should be encouraged to fund costs that would otherwise fall short due to the BLM's limited operational dollars such as costs to publish required notices and possibly BLM's closing costs. On a case-by-case basis, a proponent may be able to fund the following costs through private-sector consultants: appraisal; biological assessments and cultural inventories/reports; and preparation of required reports including the mineral and environmental reports. The commitments for sharing responsibilities and costs should be summarized in the Feasibility Analysis Report and specified in the Agreement to Initiate a land exchange.

If it is in the public's best interest for the BLM to initiate the exchange and/or to cover a majority of the steps and costs, the Feasibility Analysis Report and Agreement to Initiate must document the justification and receive State Director's approval. This situation would only occur with full consideration of the following concerns: manpower and funding capabilities; proponent contributions; full exhaustion of other funding sources and partnership options; significance of the resources that may be acquired; the level of threat to those resources; how the land to be acquired compares to priority acquisition needs or areas; and what other priority workload will be dropped.

**11. Compensation and Assumption of Costs: Although regulations (43 CFR 2201.1-3) provide for assumption and/or compensation of costs, the Montana/Dakotas BLM will not generally adopt these provisions nor use public land to pay for exchange costs.**

Land exchange proposals are voluntary, non-binding agreements where each party shares appropriately in the costs and responsibilities. Feasibility Analysis Reports and Agreements to Initiate land exchanges should contain the agreement that there will be no adjustment of relative land values for compensation of costs unless there is a compelling reason to do so.

The State Director may consider assumption/compensation of costs or adjusting relative land values on a case-by-case basis where the regulatory requirements addressed in 43 CFR 2201.1-3 are met. Considerations listed above when the BLM assumes the majority of the costs will also apply to cost assumption, compensation, and adjustment. Appropriate analysis and documentation for assuming or compensating costs must be included in the Feasibility Analysis

Report and Agreement to Initiate (or amendments), or in a binding land exchange agreement; and receive approval by the State Director.

**12. Utilizing Land and Water Conservation Fund (LWCF) Appropriations for Land Exchanges: The Montana/Dakotas BLM will take a proactive approach in evaluating opportunities to utilize and incorporate LWCF line-item project (3110) appropriations where acquisition of project in-holdings and edge-holdings cannot be entirely accomplished by exchange.**

Appropriated “Title VIII” LWCF project funds (3210), received as a FY2001-2006 appropriation supplement, may be utilized in a manner identical to the use of 3110 funds. These funds will only be utilized to purchase property from willing sellers. Pursuing a purchase program will complement an exchange program, especially where multiple parcels exist within a LWCF project area, and some parcels may be acquired by exchange and some parcels may be acquired by purchase or donation. Acquisition management (3130) appropriations may be utilized to offset expenses associated with an exchange, if the acquired land will be within an LWCF-approved project area. Policy and guidance to be followed for utilizing LWCF appropriations in land exchange actions is set forth in WO IM No. 2000-092.

**13. State Land Exchanges: The BLM-administered lands in Montana and the Dakotas may be utilized in exchange opportunities with the states’ Board of Land Commissioners when it is clearly in the public interest to do so.**

Land exchange opportunities with the state’s Board in Montana will comply with the Memorandum of Understanding between BLM State Director and the Governor of Montana (May 1983). This document is reviewed every 5 years for coordination purposes and to determine exchange opportunities.

**14. Exchanges Involving Other Federal Agencies: The BLM-administered lands will only be made available to other agencies when it is clearly in the public interest, which includes public benefits gained from furthering the mission of that agency. If the BLM provides public land for the benefit of another agency, the BLM will require full reimbursement of time and expenses for its involvement in processing; and these land exchanges must conform to Bureau requirements and approval.**

The BLM may assist other Federal agencies such as the U.S. Forest Service, U.S. Fish and Wildlife Service, and National Park Service in the acquisition of non-Federal land supporting the mission of those agencies by disposing of public land through the land exchange process. The BLM will not serve as a “real estate supply agency” for other agencies, unless the exchange is Congressionally mandated or court ordered.

#### **IV. THE EXCHANGE PROCESS**

The “Land Exchange Handbook (H-2200),” as supplemented by WO IM, describes the basic steps in developing and processing a land exchange. The Montana/Dakotas BLM approach to the process places emphasis on an Inter-disciplinary group participation/review early in the process during scoping of opportunities to ensure for maximum public benefit determination and to ensure communication, coordination, consultation throughout the process between the staffs and managers at the field office and state office. A flowchart (see Appendix A) summarizes the process to be followed in the Montana/Dakotas BLM. The process entails several phases which can be identified as: proposal scoping and development, feasibility, processing, decision, and closing.

##### **A. Proposal Scoping and Development Phase**

This involves your informal discussions with the proponent and initial scoping of the opportunity, followed by the formal development of a land exchange proposal. Montana incorporates the “Land Exchange Opportunity Briefing Document,” and an “Exchange Opportunity Review Group” into this phase to focus up-front on how the entire exchange will be developed and processed. Other items are listed for clarification on the process where they are involved.

At this phase we will strive to accomplish a land exchange proposal that will be well planned and carefully considered from initiation to closing. Scoping and preliminary discussions will be conducted with the objective of developing a clear plan of action for processing the entire land exchange. Specifics (i.e., the “Who, What, When, Where, Why, and How” details) of the exchange proposal must be worked out at the beginning of the process. These specifics should identify the exchange project area; the lands involved, and the planned number of closings/phases; the rights and interests being exchanged or reserved; who is responsible for each processing step; who will pay what costs; and target timeframes to process the proposal. This information can then be reflected in the Feasibility Analysis Report and the Agreement to Initiate a land exchange. These documents will serve as the foundation for processing the land exchange proposal. We acknowledge the need for flexibility in developing proposals and recognize that adjustments and changes initially unforeseen may occur. As these situations arise, be sure to update applicable documents when necessary.

1. **Land Exchange Opportunity Briefing Document:** The purpose of this document is to get the process started (communication, coordination) and to begin thinking about what’s involved. A “Land Exchange Opportunity Briefing Document” (see Appendix B) should be completed by the Field Office following the initial scoping and consultation with the proponent when an exchange opportunity appears to have some merit and potential for pursuing. Submit a hard copy of this document with map under transmittal memo to the State Office Branch of Land Resources (MT924); and submit an electronic copy of this document to the State Office Lands and Realty Program Lead. Upon receipt, the State Office Lands and Realty Program Lead will: distribute this document to program leads and potential affected support staff, including the Field Solicitor, for information purposes; assemble an Exchange Opportunity Review Group; and contact the Field Manager to arrange a time (meeting or conference call) to discuss the exchange opportunity.

2. **Exchange Opportunity Review Group:** This group would vary in number and make-up, depending on the complexity of the exchange opportunity. Participating in the group would be the State Office Lands and Realty Program Lead; the Chief, Branch of Land Resources; and the Chief, State Appraiser; the Chief, Lands Adjudication Section; the Field Office Manager (or designee) and necessary staff from the office proposing the exchange; and as needed, applicable State Office Program Leads (resources) for the affected benefitting subactivities; and applicable support staff (Cadastral, Engineering, GIS, External Affairs). A State Director briefing/presentation may be scheduled depending on the complexity of the proposal and the issues identified during initial scoping. The Field Solicitor will be invited to attend this briefing. The group will function to provide collaborative support to assist the field office and manager with conducting screening of potential land exchange opportunities to: determine if further effort and processing is warranted; determine if the exchange makes sense from a resource, budget, and even an out-year management and funding commitment standpoint; identify potential issues/concerns, support and opposition; consider cumulative benefit/impact (i.e., how

much land or resource is enough given the level of interest on a local, statewide, or national basis?"); maximize a public benefit determination; and ensure that lands available for "pooling" are utilized for priority actions.

A written recommendation, signed by the Field Office Manager and Chief, Branch of Lands, to pursue, modify, or reject an opportunity will be made and submitted for the concurrence of the Deputy State Director, Division of Resources and the State Director.

Upon concurrence, the Field Manager can proceed to: finalize a formal land exchange proposal with proponent; serialize the case; segregate the public lands; and complete the Feasibility Analysis Report.

**3. Tracking Costs of Land Exchange Processing** Upon concurrence to pursue a land exchange opportunity, a project number will be assigned for budget tracking purposes. Regardless of the funding sources for a land exchange, all costs of each exchange will be tracked using a project code, assigned by the State Office Lands and Realty Program Lead, for each exchange. On a quarterly basis, the costs will be compiled by the State Office Lands and Realty Program Lead and that information will be provided to the SMT. In this manner, we will begin to see the true cost of the land exchange process over time, and determine the benefits and/or deficits to processing certain types of exchanges.

**4. Public Outreach:** Public outreach is a critical component of all land exchange activities. Consideration should be given to how much public outreach is needed and what form(s) should it take when planning a land exchange proposal. The Montana State Office External Affairs Staff (MT912) and zone field offices with public affairs specialists can provide assistance to determine the appropriate level of outreach commensurate with the degree of complexity surrounding an exchange opportunity that would be necessary to disseminate information about a proposal. Consultation would address the benefits of developing and effectively using an outreach or communication plan.

**5. Cadastral Survey Support:** Cadastral Survey staff can: provide information on corner locations; locate, establish and/or re-establish corner monuments; and re-describe parcels for potential disposal through exchange opportunities. When necessary, the BLM will complete a cadastral survey to describe public lands identified for disposal. To avoid delaying the exchange process, a written request for cadastral survey support should be made early to allow Cadastral to plan for and schedule the work. Written requests should be submitted to the Branch of Cadastral Survey (MT926) on the approved Form 9600-4, "Request for Cadastral Survey."

If necessary, the proponent should provide for the survey of non-Federal lands. This survey must be depicted on a "Certificate of Survey" or "Subdivision Plat" that has been properly recorded with the county. This survey must be reviewed by the BLM Chief Cadastral Surveyor (MT926) prior to accepting title to assure the lands to be acquired are properly described.

**6. Appraisal Services:** Involve the Montana Appraisal staff early in the process. Involvement during initial discussions when developing a proposal can help determine whether a proposal appears to be near equal value at the feasibility stage. When considering assembled exchange proposals, the appraisal staff can assist with defining the parcels to be appraised and address appropriate application of the general valuation principles (i.e., highest and best use determinations). The appraiser should be informed of requests for separate conveyance patents

or plans where the proponent will then reconvey the Federal land to individual property owners at completion of the land exchange. Communication and coordination with the appraisal staff should begin early and continue throughout the process. Additional appraisals and/or “re-dos” are costly in terms of money, time, and disruption to the exchange process.

One of the most challenging aspects of the land exchange process is packaging Federal and non-Federal lands that are of equal value and are within the 25 percent cash equalization range. The Appraisal Staff can provide a “Market Survey” to demonstrate the range of land values in the exchange area. This will aid the realty specialist in identifying enough land to develop an approximate equal value exchange proposal and to prepare the feasibility analysis report.

Formal appraisals can be provided by the BLM Appraisal staff or through a contract appraiser. The Chief State Appraiser will maintain a list of qualified (State Certified General Appraisers) appraisers to draw from upon a request for appraisal. In situations where a proponent is paying for the appraisal services and has identified an appraiser to use, the Chief State Appraiser must approve the proponent’s choice of appraiser. The Chief State Appraiser must be notified before work on an appraisal is started to ensure that: the selected appraiser is fully informed of the applicable appraisal standards, any specific instruction, and to establish an agreed upon completion date; the appropriate real estate interest is being appraised; the potential for unacceptable reports is reduced.

## **B. Feasibility Phase**

This phase expands on the project scoping and development to address and document the feasibility of the proposal. Specifically, this involves the preparation and review of required documents (Feasibility Analysis Report, Agreement to Initiate) in which our thought process and justification to pursue the exchange is made. It includes review of the documents by the Field Solicitor, the National Exchange Team (when required) and State Office Program Leads when securing approval of the State Director to proceed with processing the land exchange proposal.

**1. Feasibility Analysis Report Submission:** Field Offices must prepare a feasibility analysis report for every land exchange proposal considered for processing after the proposal has been screened by the Exchange Opportunity Review Group. A complete “Feasibility Package” will be submitted to the State Office Lands and Realty Program Lead (MT924) and include:

- Feasibility Analysis Report (signed hard copy and an electronic copy).
- A draft Agreement to Initiate a Land Exchange (hard copy and electronic copy).
- A draft Notice of Exchange Proposal (hard copy and electronic copy).
- Maps of suitable scale depicting the land exchange project area and the specific lands involved in the exchange proposal.
- Title evidence for private lands, including legible copies of all reservations and encumbrances listed in the document, if available.
- Memorandum to the State Director containing recommendation on acceptable/unacceptable encumbrances or reservations listed in Schedule B of the title evidence so it can be forwarded to the Field Solicitor, unless other arrangements have been made.
- Issue Paper (if needed).
- A request for segregation of the public land, if not already submitted.

The feasibility package will go through State Office inter-disciplinary review before being submitted to the State Director. A copy of the package will also be provided to the Solicitor's office for review and concurrence. Documents meeting requirements for the WO review will be forwarded in accordance with WO IM 2000-107.

**2. Inter-disciplinary Review:** Upon receipt at MT924, all Feasibility Analysis Reports recommending land exchange proposals for processing will undergo an inter-disciplinary review and evaluation by State Office Program Leads and designated staff/managers as part of the approval process. Review may be appropriate by (but not limited to) the following program and support staff: renewable resources (forestry, hydrology, wildlife, T&E, range); recreation; hazmat; cultural; socio-economic; wilderness; planning; appraisal; solid and fluid minerals; cadastral; GIS; engineering; and adjudication. This review facilitates comprehensive resource and issue recognition; increases awareness of the project for potential allocation of funding; helps coordinate necessary concurrent actions (e.g., land use plan amendments, withdrawals); and ensures that the maximum possible public interest determination has been made and documented.

Since most staff (if not all) should have had previous exposure to the proposal through receipt of the Land Exchange Opportunity Briefing Document and/or participation in the Exchange Opportunity Review Group, this review will be done expeditiously upon receipt of the feasibility analysis report. Any questions or comments raised during this review will be compiled at MT924 and forwarded to the Field Manager for resolution.

### **3. Field Solicitor's Assistance and Review**

In addition to providing preliminary and final Title Policy approval, the Field Solicitor can provide assistance with legal items related to land exchange processing. The Field Solicitor's office has also been directed by the Secretary to look at Feasibility Analysis Reports for review of the administrative record to ensure adequate documentation supporting the exchange exists. The Field Solicitor will receive a copy of the Land Exchange Opportunity Briefing Document and will be invited to attend/participate in any briefing.

MT924 will provide a copy of the Feasibility Package to the Field Solicitor under transmittal memo requesting review and concurrence as part of the approval process. To expedite the review, the Field Solicitor will be invited to attend any State Director and/or the State Management Team briefings pertaining to an exchange proposal and the Feasibility Analysis Report approval.

**4. National Exchange Team Review/Concurrence:** As Required.

### **C. Processing Phase**

This phase covers the actual processing of the proposal starting with execution of the Agreement to Initiate the Exchange with the proponent. Included here also is the publication of required notices; conducting required surveys; completing required NEPA documentation and appraisals; addressing any title problems; and resolving any issues. The Montana/Dakotas incorporates use of a "Parcel Information Sheet" and a form for an "Environmental Site Assessment Preliminary

Analysis for Land Disposal Actions” and one for “Land Acquisition Actions” for aspects of processing a proposal.

1. **Parcel Information Sheet:** A “Parcel Information Sheet” (see Appendix C) will be completed for each parcel (Federal and non-Federal) identified in the exchange proposal. This sheet will be used to consolidate information about a parcel into one location to be used for: providing a quick reference to parcel characteristics; provide information input into the NEPA document; a source to respond to inquiries concerning specific parcels; and most importantly, to provide the appraiser the applicable (primary source) information about each parcel needed to determine value of the property(s) and to write up the appraisal report.

2. **Cultural Resource Inventory and Reports:** Cultural and historic resource inventories can be conducted by either the BLM staff or by an approved contractor. If the proponent is covering the cost of a survey, the BLM will provide a list of individuals or companies currently permitted to do cultural inventory work on public land. The proponent may select from the list to obtain bids and contract the inventory. The BLM can prepare and provide to the proponent a statement of work to be done and requirements for the inventory report. Additional information on cultural resource investigation can be found in MSO Handbook H-8110 and H-8120 (release dates 2002).

Patent reservations will not be used to mitigate cultural resources on land exchange parcels as these reservations obligate the BLM to act as overseer to monitor sites in perpetuity on what would be private land. The only exception would be for short-term proposals where mitigation measures could be completed in less than 2 years.

The BLM has in place a programmatic agreement with the Montana Division of Natural Resources and Conservation (DNRC) to allow exchange of lands with the DNRC without inventory for cultural resources (BLM - Memorandum of Understanding MT923-9604). However, there are other requirements stated in the agreement that must be met before the BLM executes the exchange.

Lands containing sites requiring additional information or testing to determine eligibility to National Register of Historic Places can be grouped for subcontracted evaluative testing. This enables lands to remain in the exchange where sites have been determined “not eligible.” In this case, evaluative testing should be focused on sites likely to be unproductive and, therefore, not significant.

**3. Hazardous Materials (HAZMAT) Survey and Reports:** Both the Federal lands and the non-Federal lands proposed to be exchanged must be inventoried for contaminants and a report prepared disclosing the results of the inventory. Guidance for Hazmat contaminant surveys is provided in the “Pre-Acquisition Environmental Site Assessment (ESA) Handbook - (H2101-4, release 2-289, dated 8/17/00). This handbook describes an ESA process and details the standard (American Society for Testing Materials (ASTM)) for land acquisitions. The Montana/Dakotas BLM will apply the ASTM standards for disposal of BLM lands. This will establish a baseline condition to protect the BLM from future cleanup liability in case the lands become contaminated **after** transfer from the BLM and will comply with requirements to report hazardous substance activity when selling or transferring Federal real property (40 CFR Part 373).

The ESA process contains five levels of analysis. The Preliminary Analysis is the basic level of review that determines if further assessment is required. It is used when and where there is little likelihood that a property has been contaminated by hazardous substances and/or petroleum products, and where there is no apparent human intrusion that could have resulted in a Recognized Environmental Condition (REC). Most of the BLM-administered public land in Montana and the Dakotas would meet this criteria and a Preliminary Analysis would be appropriate. For an individual to qualify to complete the Preliminary Analysis, 8 hours of Hazmat training is needed. The BLM employees who are required to complete the Hazmat Awareness Course in order to do field work would be qualified to inventory and report on both the Federal and non-Federal lands identified in an exchange proposal. If “human intrusion” (examples include: airstrips, dumps of any kind, electric substations, missile silos, railroads, gas or oil pipelines, etc.) is found on any of the lands, more complete levels of analysis may be required and the Hazardous Materials Coordinator should be consulted during preparation of the ESA.

Modified versions of the “Environmental Preliminary Analysis Sample Format ( Illustration 1, 3 pages)” in the ESA Handbook will be used to prepare a report. For the non-Federal lands, use the form entitled “**Environmental Site Assessment Preliminary Analysis for Land Acquisition Actions**” shown in Appendix E; and for the Federal lands identified in an exchange proposal, use the form entitled “**Environmental Site Assessment Preliminary Analysis for Land Disposal Actions**” shown in Appendix D. Remember, multiple parcels can be documented in a single report. Questions may be directed to the State Office Hazardous Materials Coordinator (MT923).

4. **Requesting Appraisal Services.** Written requests for appraisals or appraisal-related services will be submitted to the Chief State Appraiser (MT924) on the approved Form 9300-8, “Request for Real Estate Appraisal.” Under item #8, provide a statement addressing: the purpose of the appraisal (e.g., estimate market value of property); what is the report going to be used for (e.g., acquisition, exchange, sale); who will be using it (e.g., BLM, proponent, landowner); the presence of potentially valuable resources (e.g., timber, minerals, water rights), and what rights to be appraised (e.g. surface only, easements, restrictions, etc.).

Prior to submitting a request for formal appraisal, the Montana/Dakotas BLM will strive to have the cultural inventory completed (not necessarily the report completed) on the public lands proposed for exchange, and the Hazmat inventory completed (not necessarily the report completed) on the Federal and non-Federal lands involved in the exchange to ensure lands will not drop out after an appraiser starts and/or completes an appraisal. This is important when we are contracting the appraisals since it affects the cost of changing a contract or re-doing an appraisal.

The following documents should accompany a request for formal appraisal:

- Copy of Feasibility Analysis Report and Agreement to Initiate
- Copy of title evidence and memorandum with recommendation of acceptable/unacceptable items
- Status of Cultural Inventory
- Status of Hazardous Materials Inventory
- Maps
- Completed Parcel Information Sheets on each Federal and non-Federal land parcel in the exchange.

#### **D. Decision Phase**

Based on the information gathered, appraisal, NEPA reports, preliminary title review, etc., this phase covers specifically what lands and interests will be exchanged. It includes obtaining review and concurrence of the “Decision Package” by the Field Solicitor and the National Exchange Team (as required) along with approval of the State Director prior to publishing the Notice of Decision and completing the exchange.

1. **Decision Package Submission:** A complete “Decision Package” will consist of:
  - NEPA document
  - Draft Decision Record
  - Draft Notice of Decision
  - Summary of Appraisal Work
  - Issue Paper (summarizing any changes for the initial project evaluation in the feasibility analysis report and amendments to the Agreement to Initiate).

Field offices should submit a hard copy and electronic copy of each document in the “decision package” to the State Office Land and Realty Program Lead (MT924). Upon receipt and review (barring no suggested corrections to the Draft Notice of Decision and Issue Paper), the Program Lead will distribute the package to the Field Solicitor and the National Exchange Team under transmittal memo requesting review and concurrence to publish the Notice of Decision.

2. **Field Solicitor Review/Concurrence:** The Field Solicitor is required to review the “decision package” and give concurrence as part of approval process before a notice is published to ensure that the decision is legally defensible if an appeal is filed.

3. **National Exchange Team Review/Concurrence:** as required. Upon receipt of above mentioned concurrences, the Field Office may proceed to publish the Notice of Decision and prepare for the closing phase, pending receipt of any appeals and resolution thereof.

#### **E. Closing Phase**

To be coordinated with the State Office Lands Adjudication Staff. This includes closing arrangements, escrow instructions and addressing ledger accounts if needed.

1. **Ledger Accounts:** The BLM will adhere to guidance provided in WO IM No. 2000-113 entitled “Revised Assembled Land Exchange Ledger Guidance and Documentation Requirements.” This WO IM provides clarification on establishing and using ledger accounts in association with assembled land exchange proposals. Ledger accounts will be established to track balances in land value conveyed in assembled transactions and will be maintained at the State Office (MT924), with a copy of the current ledger placed in the casefile. The State Director will determine if ledger imbalances need to be secured.

Any ledger imbalance will meet the 25 percent requirement for exchange equalization. The first transaction (land disposal and acquisition) establishes the ledger and it must be balanced within 3 years from that date. For the final transaction of an exchange, the value difference should be reduced to the smallest amount possible by the adjustment of land before being equalized by cash. The Montana/ Dakotas BLM will not hold any money in escrow accounts, and has no interest in or control of any funds held in escrow. Interest earned on Federal funds should not be considered part of, or applied to, ledger imbalances.

#### **F. Post-Exchange Activity:**

Processing responsibilities are not complete until the appropriate paperwork is finished. LR2000 must be kept current throughout the process as applicable, and MIS reporting must be kept current as these are sources of data for numerous inquiries and/or statistics.

1. **LR2000:** Insure data input is timely completed for required elements of case processing. Refer to the LR2000 data standards for applicable elements.

2. **MIS Reporting:** Upon completion of a land exchange (or phase), MT924 will complete the MIS accomplishment data entry with accomplishment credit to the Field Office.

3. **Records Notation.** Ensure records are accurately noted.

G. **Prioritizing Proposals:** At a minimum, land exchange opportunities/proposals will be prioritized on a statewide basis each year at PAWP/AWP time to establish and concentrate on the most important projects when allocating funds each year and making staff (such as adjudication, appraisal) commitments to processing proposals. This will take into consideration the ability and commitments by sub-activities that are directly or indirectly impacted by an exchange proposal for funding and workmonths, and corresponding timing will always be a key factor and primary considerations in prioritizing work on exchange proposals.

Upon concurrence given by the Exchange Opportunity Review Group to pursue a land exchange opportunity, the exchange will be noted to a list maintained by the State Office Lands and Realty Program Lead. Small, non-controversial, one-on-one proposals occurring within one Field Office most likely will not be affected by a priority ranking. However, larger proposals (such as assembled, facilitated, multi-phased, and those involving lands in multiple fields offices) will be identified on a priority basis as recommended (in consultation with the affected Field Offices) by the State Office Lands and Realty Program Lead, subject to concurrence of the Branch Chief, Division Chief, and the SMT.

The “Land Pattern Review and Land Adjustment-Supplement to State Director Guidance for Resource Management Planning in Montana and the Dakotas (1984),” as supplemented in 1992, provides the following key points that are applicable to prioritizing land exchange proposals:

- Priorities will be determined by the area directly impacted and the significance of the resources (in descending order) by National, regional, statewide and local importance. Consideration will be given to both economic and non-economic values in assessing the resource significance.
- Consideration for priority will be given to those proposals which will contribute significantly toward achieving long-term objectives of multiple-use management, achieve better overall public usability, and greater management efficiency.

- Consideration for priority will be given to the public values in proposals which are associated with solving chronic management problems which past efforts have failed to resolve and for which no other solutions are evident.
- Consideration for priority will be given to the significance of resource values that are adversely impacted over an area larger than the specific tract being acquired thru the exchange.

The above-mentioned key points will be used to guide the setting of priorities. Some trade-offs may be considered when exchange proposals contain multiple benefits, if a proponent is covering all of the costs, or the exchange proposal crosses multiple administrative boundaries.

## **V. ROLES AND RESPONSIBILITIES:**

Key roles and responsibilities for developing and processing land exchanges are identified in the Bureau Land Exchange Handbook (H-2201-1), as supplemented by WO IMs. This section addresses roles and responsibilities associated with the Montana/Dakotas BLM approach to the land exchange process and re-emphasizes some important roles and responsibilities that must occur at the Field Office and State Office levels, and by managers to ensure a proactive approach to developing and processing land exchanges.

Land exchange opportunities/proposals will be evaluated, developed, and processed consistent with: regulations applicable to processing land exchange proposals contained in 43 CFR Subpart 2200; the detailed procedures for processing land exchanges as described in Bureau Manual Handbook H-2200-1; the procedures for acquisitions as described in Bureau Manual Handbook H-2100-1 (where applicable); policy as set forth in WO IMs; and, the guidance provided herein.

**A. Field Office Level:** Within their areas of jurisdiction, Field Offices are responsible to develop and process (excluding patent issuance) land exchange projects. Give consideration to the following critical key items and/or actions:

### **1. In the Proposal Screening and Development Phase:**

\*Promote Landownership Adjustment Program Objectives. Sell the role of landownership adjustments; develop an external support base from key publics', local government, congressional delegations, adjacent landowners, partnerships, and BLM's Advisory Council.

\*Consider Key public and political positions. Contacting state and local government (County Commissioners) representatives early to brief them about an exchange opportunity gives you a reading on their position if we pursue it. Early agreement and support can reduce the risk of disagreement and potential for problems during processing and/or with post-acquisition management and development.

\*Consider the entire picture. How closely do the exchange opportunity, proposal and public benefit fit with BLM's mission and goals? Do a thorough job with identifying up-front any anticipated future management needs once the land is acquired. This includes staffing and budget to maintain existing structures and infrastructure on the land as well as for future construction.

\*Know your land use plan document and key decisions. Knowing what the key management objectives and needs in your land use plans enables you to focus on the important actions when an exchange opportunity is presented; also be familiar with the state land tenure adjustment plan and criteria so that your opportunities are in fact priority actions. Exchange proposals must conform to the land use plans and amendments to them.

\*Stress the importance of initial meetings and scoping. The initial meetings are an important forum to inform the parties of the laws and regulations guiding land exchanges, and to share information on expectations and constraints that need to be considered when developing a proposal. Complete a thorough scoping of issues. Check encumbrances on the non-Federal lands early; if possible, obtain copy of the existing title commitment or if the proponent is agreeable, have them provide a new preliminary title. Check land status (MT plats, mining claims) on the public land parcels. Make sure there are no fatal problems up-front.

\*Ensure understanding. Does the proponent (including parties they may represent) understand the exchange process, timeframes, and the risks (no guarantee it will be completed)? Does the proponent agree to the concept of exchanging land at market value, not acre-for-acre? Tell the proponent up-front that they are expected to share in the responsibilities and costs of processing an exchange.

\*Ensure the proposal is well planned and carefully considered from initiation to closing. Treat the exchange proposal as a project; identify a lead person and a core team responsible for general project processing. Remember land exchanges do not benefit the lands program. You must identify by sub-activity and agree to how the exchange will be funded, including costs for surveys (cultural, timber cruise, T&E), travel, appraisals, and publications. Make an accurate projection of staffing and funding needs to process the exchange.

\*Track and monitor the costs and timeframe commitments to keep the exchange on track and to document any mid-course adjustments to the projected timeframes or cost commitments, as well as options and alternatives that can be considered for shortfalls in available funding. Also realize the sequence of events are important in processing land exchanges; we must be serious about our commitment and be accountable for keeping to the schedule for processing; we must do our part to make it happen.

\*Keep the State Office Lands and Realty Program Lead apprized of progress and/or adjustments with processing of proposals.

## 2. **In the Feasibility Phase:**

\*Document land use plan conformance. What specific management decision/prescription would be implemented /achieved? Are the lands specifically identified for disposal and/or acquisition or is a land use plan amendment needed?

\*Understand land status and title. Is it clear what rights are being reserved or exchanged?

\*Ensure early and continuous involvement of key players. Communication, coordination, and cooperation between Field Office staff, State Office support staff and Program

Leads, appraisal staff, and the proponent/facilitator is essential in developing a good proposal and processing the exchange on schedule.

\*Give thorough consideration of personnel and budget needs. Determine funding capabilities, staff time and expertise (including support staff), and other priority workload. Consider outside sources, as sometimes there are opportunities for partnerships and interest groups to contribute funding to cover some of the costs and commitments. Check with State Office Program Leads for availability of special project dollars that might be utilized for land exchange processing that would also accomplish a special project or initiative.

\*Use the Agreement To Initiate to ensure both parties' commitments for responsibilities and timeframes.

\* Ensure the proposal will support a public interest determination. If not, revise or abort.

3. **In the Processing Phase:**

\* The sequence of events is important in processing exchanges. A serious commitment to process and schedule should be maintained.

\*Monitor the agreement to initiate for adherence to commitments; amend as needed.

\*Ensure opportunity for public involvement. Consider public outreach plan, use of news releases, and host informal public meetings to disseminate information and solicit comments.

\*Ensure for adequate level of NEPA documentation. Have potential issues and rights been thoroughly addressed and documented given consideration that our actions and decisions are subject to possible protest and/or appeal?

\*Drop or revise proposals when warranted.

4. **In the Decision Phase:**

\*Is the decision fully justified and documented?

\*Reach and document agreement of value.

\*Clearly document the public interest and equal value determination in the decision.

\*Reduce the difference in value and amount of equalization payment to the smallest amount possible (consistent with FLEFA).

5. **In the Closing Phase:**

a) Plan for closing. How will it be done (including escrow process)? Ensure documents and equalization payments are ready and accurate. Coordinate with the State Office Lands Adjudication staff.

b) Ensure LR2000 and MIS are timely completed as part of case processing.

**B. State Office Level:** The State Office provides program support, case-specific oversight to an exchange project, and quality control to the land exchange program.

1. State Director:

- Has authority to approve all actions, subject to the title opinion of the Field Solicitor, in all matters relating to the exchange of lands and issuing conveyance documents under FLPMA or other authority. This includes approval of: all Feasibility Analysis Reports; Agreements to Initiate that provide for compensation of costs assumed; agreements on value based on bargaining or arbitration; establishment of ledger accounts, certification of values on a ledger and a decision to secure the land value owed the United States on a ledger; and dismissal of a protest.

2. State Office Program Leads and Support Staff Functions:

- Ensure applicable resource/program specific policy and guidance is applied where a resource/program is affected by an exchange action.

- Provide honest feedback when reviewing proposals. Does the exchange make sense from a resource, public interest determination, budget, and even an out-year management and funding commitment standpoint? Looking at the “bigger picture” scenario, can we answer the question: How much (land or resource) is enough on a national, regional, state, or local level?

- Identify opportunities for funding sources such as situations to accomplish multiple initiatives; e.g., funding from the 1150 Sagebrush and Prairie Grassland Conservation Initiative program was utilized to cover some costs of exchange processing which resulted with a credit for acreage to conserve and restore ecosystems (native plant communities and habitats) at risk when the exchange was completed.

- Plan on supporting land exchange proposals with workmonths and funds to cover costs like travel, surveys, publish notices, contracts for appraisal and cultural. We do not do land exchanges to benefit the lands program; all programs potentially benefit by an exchange of lands and should share in the costs.

3. State Office Lands and Realty Program Lead:

- Serve as primary contact for coordinating the exchange program.

- Assembles and coordinates activity of the Exchange Opportunity Review Group.

- Conduct/coordinate review of the “Feasibility Package” (Feasibility Analysis Reports with accompanying documents) with the Field Solicitor’s office, National Exchange Team, and State Office inter-disciplinary staff.

- Conduct/coordinate the review of the “Decision Package” and request for concurrence to publish the Notice of Decision to the Field Solicitor and National Exchange Team.

- Provide recommendation on priority ranking of land exchange proposals on a statewide basis to the Chief, Branch of Land Resources. This will be done at a minimum each year at PAWP/AWP time to establish and concentrate on the most important projects when allocating funds and making staff commitments to processing. However, larger projects (assembled, facilitated, etc) will be done as approval is given by the Exchange Opportunity Review Group to proceed.

- Tracks the costs of exchange processing and submits status to the SMT on quarterly basis.

4. State Office Adjudication Staff:

- Process segregation actions of Federal lands.

- Process private title acquisition actions (examine title evidence, prepare warranty deeds, coordinate closing with escrow offices, prepare title acceptance documents).

- Prepare title opinion requests for Field Solicitor action.

- Coordinate title transfer, complete patent issuance, ensure removal of unacceptable encumbrances.

- Prepare and maintain ledger actions.

- Process associated withdrawal actions.

5. Chief, Branch of Land Resources:

- Address and resolve conflicts arising with scheduling of work involving appraisals, clearances, etc., giving consideration to all aspects, including conflicting and competing workloads.

6. Deputy State Director, Division of Resources

- Address and resolve conflicts arising with recommendations from the Exchange Opportunity Review Group on exchange opportunities.

**C. Managers Proactive Role:**

- **Plan for Landownership Adjustments.** Take advantage of opportunities, and say NO to proposals that do not meet BLM objectives; promote landownership adjustment program objectives.

- **Take it seriously and BE INVOLVED IN the development and processing of the proposals.**

- Although the Realty Specialist usually negotiates the steps/commitments for the BLM, the Manager is responsible for the commitments made and to complete the exchange on schedule.

- The clock starts when the Agreement to Initiate is signed, so demonstrate leadership to make it happen; make sure our commitments are met.

- **Brief the SMT.** Advise the SMT when you have a new exchange opportunity recommended for processing; report progress on ongoing exchange projects.

- **Be prepared to address the State Directors “Red Flags” and specifically answer the following questions:**

1) Why are we doing this exchange? (Clear public benefit determination documented; specific tie to resource management plan decisions/implementation.)

2) Is the proposal well thought-out from initiation to closing? (Scoping of issues, project area, and specific lands identified; number of closing/phases planned, concurrent actions addressed).

3) How are we sharing the responsibilities and costs for processing the exchange?

4) How are we covering our responsibilities and costs?

5) What future management needs and budget (personnel, funding, facility, and infra-structure development) will be required once the land is acquired?

6) What priority is the exchange within the Field Office in relation to other priority workload?

7) Once we commit to processing the exchange, what other priority workload might not get done in order to complete the exchange on schedule?

- **Promote Successes.** Recognize and reward those who made it happen.

- **Attend and encourage attendance of staff at training courses.** The “National Lands Training for Line Officers and Program Managers” (NTC 2000-23) provides an excellent oversight to land tenure adjustments for managers and supervisors having responsibilities with land exchange processing. Realty staff should attend training courses applicable to land tenure adjustments such as “Advanced Land Transactions” (NTC 2100-03).

D. **All:** Everyone directly or indirectly involved with processing land exchange actions should:

- Communicate, coordinate, and cooperate throughout the process as this is essential in developing a good proposal and to process the land exchange on schedule. Ensure everyone understands and is in agreement with what is proposed and the schedule for processing the exchange.

- Clearly document our thought process and decisions to ensure they will withstand the scrutiny of audits and possible appeals.

- Watch for opportunities to improve efficiency in accomplishing clearances; i.e., utilizing systematic contracting for cultural clearances with costs borne by the proponent, and establishing better defined standards for clearances.

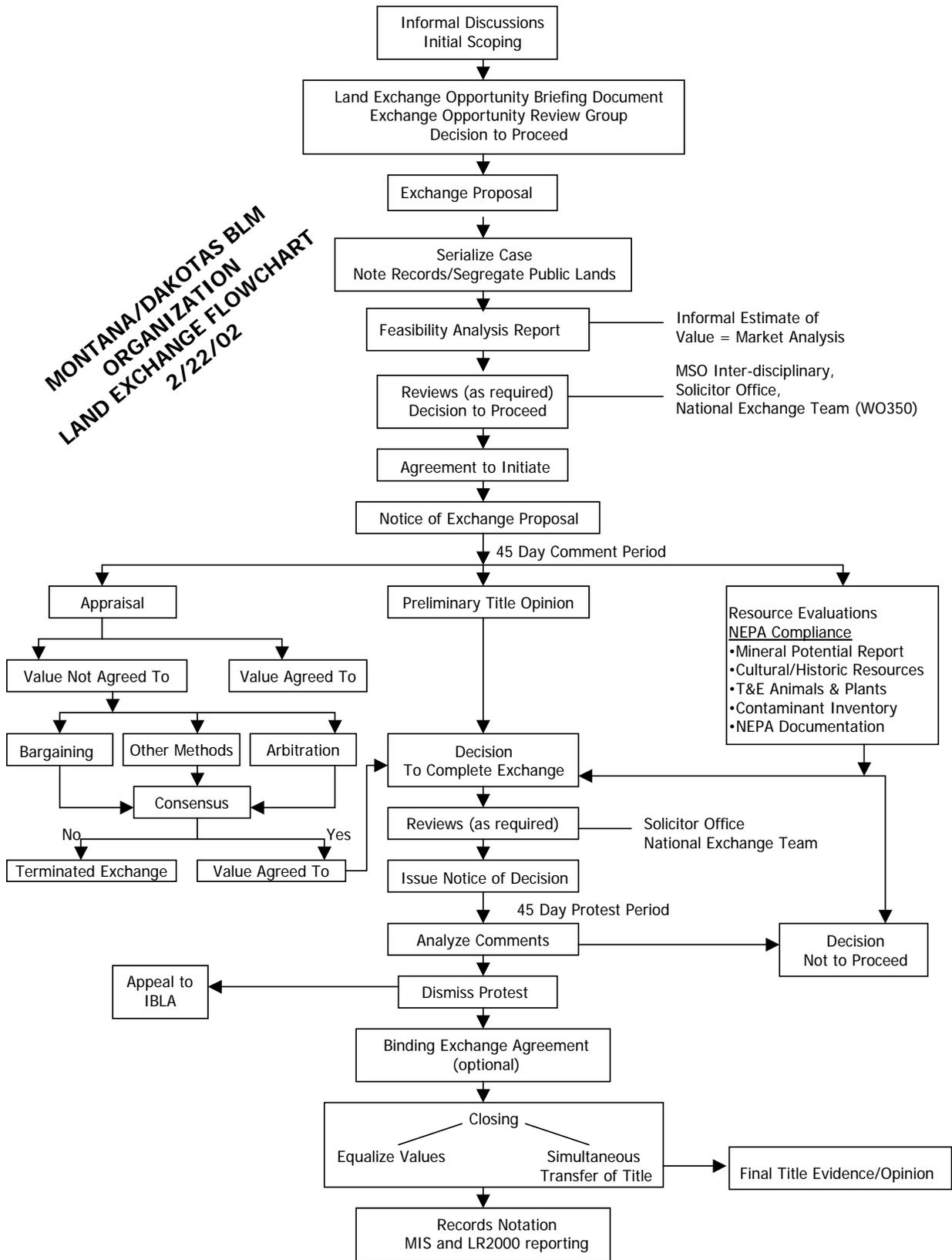
- Develop negotiation strategies to increase chances of success - outreach, recognition.

- Realize the sequence of events are important in processing land exchanges; we must be serious about our commitment and be accountable for keeping to the schedule for processing; we must do our part to make it happen.

## Appendix A

### Land Exchange Flow Chart

**MONTANA/DAKOTAS BLM  
ORGANIZATION  
LAND EXCHANGE FLOWCHART  
2/22/02**



## Appendix B

### Land Exchange Opportunity Briefing Document

## LAND EXCHANGE OPPORTUNITY BRIEFING DOCUMENT

Field Office: \_\_\_\_\_ Proponent: \_\_\_\_\_

Field Office Project Lead/Contact: \_\_\_\_\_

Common Name of Exchange Opportunity: \_\_\_\_\_

Type of Exchange:      Traditional (single landowner/one closing) \_\_\_ Mineral \_\_\_\_\_  
                                 Assembled - Non-facilitated \_\_\_\_\_      Assembled -Facilitated \_\_\_\_\_  
                                 Other Agency - Benefitting \_\_\_\_\_      Legislative/Judicial \_\_\_\_\_

Short description of proposal: (lands - acreage and number parcels being evaluated, number closings, benefitting resources, rights to be exchanged or retained)

Why exchange is priority and potentially in public benefit: (land use plan conformance--specific management decision implemented, how resources being gained--compare to those being lost)

Anticipated Support/Resource needs:

Cadastral Survey \_\_\_\_\_      Public Outreach \_\_\_\_\_      GIS/Mapping \_\_\_\_\_  
Plan Amendment \_\_\_\_\_      Withdrawals \_\_\_\_\_      Engineering \_\_\_\_\_  
Cultural Survey \_\_\_\_\_      Hazmat Inventory \_\_\_\_\_      Appraisal \_\_\_\_\_  
Easements \_\_\_\_\_      Timber \_\_\_\_\_      Minerals \_\_\_\_\_  
Water Rights \_\_\_\_\_

Appraisal and Value Consultation: (how to address appraisal (contract?); any unique, complex, or controversial aspects of appraisal, strategies for equalizing the exchange, potential availability of funds for equalization, )

How would responsibilities and costs be shared?: ( BLM cover, proponent contribution, compensation)

Funding/Staffing availability: (priority in office)

Funding sources: (benefitting sub-activities, outside sources)

Possible conflicts or problems: (sensitivity, support/opposition, local government position, resources - e.g. weeds)

Factors influencing time frames for processing and completing the exchange:

Future use/development and management needs if lands acquired: (future commitments for staffing and budget, infrastructure assessment, access issues, water right issues, applicable management prescriptions--restrictions/controls)

## Appendix C

Parcel Information Sheet

**PARCEL INFORMATION SHEET**

**LAND EXCHANGE NAME:** \_\_\_\_\_

**PARCEL IDENTIFICATION NUMBER:** \_\_\_\_\_ **Federal** \_\_\_\_\_ **NON-Federal** \_\_\_\_\_

**LEGAL DESCRIPTION:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**ACRES:** \_\_\_\_\_

Vegetation & General Vegetative Type	
Noxious Weeds	
Land Form (Rolling Hills, Flat, etc.)	
Soil Type(s)	
Grazing -- lessee name, address, phone no.; Allotment Name, AUMs	
Range Improvements--- Type and Cost to Lessee	
Wildlife and Fisheries Habitat	
T & E Species	
Surface Water (Creek, Reservoir, Spring Dev.) Water rights?	
Riparian/Wetlands	
Recreation	
Access	
Merchantable Timber	
Geology and Mineral Potential (Mining claims, O&G Leases)	
Hazardous Materials	
Land Use Plan Conformance	
Encumbrances ( ROWs, Permits, unauthorized use)	
Other Comments or Information	

**CONTACTS:**

**Field Office/Station:** \_\_\_\_\_ **Contact Person:** \_\_\_\_\_ **Phone No.:** \_\_\_\_\_  
**Access to property: Name:** \_\_\_\_\_ **Address:** \_\_\_\_\_ **Phone No.:** \_\_\_\_\_

Appendix D

Environmental Site Assessment for Land Disposal Actions Form



**Property Description**

Serial Number.

Name of Realty Action:

Location.:

Field Office/Contact: \_\_\_\_\_

Phone No.

Type and Purpose of Disposal:

**Site Inspection**

Date:

Inspection Item	None	Onsite	Nearby
Surface disturbance of any form			
Vegetative differences, stress differences from surroundings			
Sterile/modified water bodies			
Stained areas/discolored stream banks			
Oil Slicks/unusual colors on water			
Dump areas of any kind			
Structure of any type			
Power Lines			
<p>Any ONSITE existence of any of the above features will require further investigation by proceeding to an Initial Assessment or Phase I unless justified in the comments section.</p> <p>Past Uses of the Property: _____</p> <p>Current Uses of the Property:</p>			

**Records Search/Historical Sources**

Date:

Type of Record	No	Yes	If yes, Describe

Landfills/Dumps			
USTs/LUSTs			

Any YES answers to the above questions will require further investigation by proceeding to an Initial Assessment or a Phase I.

Aerial Photos - Years Reviewed:

Description of What Can be Observed:

Anomalies/Recognized Environmental Conditions:

**Questionnaire/Interviews (Optional)**

Landowner:

Other:

Comments:

**Recommendation (Check 1)**

\_\_\_\_\_ No evidence of hazardous substances, petroleum products, or any other environmental liability was evident on this property.

*Disposal of this real estate is recommended.*

\_\_\_\_\_ Evidence of Recognized Environmental Conditions was evident or suspected on this property.

*Disposal of this real estate is not recommended.*

\_\_\_\_\_ Evidence of Recognized Environmental Conditions was evident or suspected on this property.

*Further inquiry is recommended: \_\_\_\_\_Initial Assessment \_\_\_\_\_Phase I ESA.*

**Approvals**

Prepared By:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: Realty Specialist

Reviewed By:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: HazMat Coordinator

Recommended By:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Approved By:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Attachments:

\_\_\_\_\_ Site Map

Appendix E

Environmental Site Assessment for Land Acquisition Actions Form

**Property Description**  
**Field Office:**

Serial No.

Location/Tax Lot No.:

Owner:

Name

Phone No.

Type and Purpose of Acquisition:

**Site Inspection**

Date:

Inspection Item	None	Onsite	Nearby
Surface disturbance of any form			
Vegetative differences, stress differences from surroundings			
Sterile/modified water bodies			
Stained areas/discolored stream banks			
Oil Slicks/unusual colors on water			
Dump areas of any kind			
Structure of any type			
Power Lines			
<p>Any ONSITE existence of any of the above features will require further investigation by proceeding to an Initial Assessment or Phase I unless justified in the comments section.</p>			
<p>Past Uses of the Property: _____</p>			
<p>Current Uses of the Property: _____</p>			



**Records Search/Historical Sources**

Date:

Type of Record	No	Yes	If yes, Describe
Landfills/Dumps			
USTs/LUSTs			

Any YES answers to the above questions will require further investigation by proceeding to an Initial Assessment or a Phase I.

Aerial Photos - Years Reviewed:

Description of What Can be Observed:

Anomalies/Recognized Environmental Conditions:

**Questionnaire/Interviews (Optional)**

Landowner:

Other:

Comments:

Recommendation (Check 1)

\_\_\_\_\_ No evidence of hazardous substances, petroleum products, or any other environmental liability was evident on this property.

*Acquisition of an Interest in this real estate is recommended.*

\_\_\_\_\_ Evidence of Recognized Environmental Conditions was evident or suspected on this property.

*Acquisition of an Interest in this real estate is not recommended.*

\_\_\_\_\_ Evidence of Recognized Environmental Conditions was evident or suspected on this property.

*Further inquiry is recommended: \_\_\_\_\_Initial Assessment \_\_\_\_\_Phase I ESA.*

**Approvals**

Prepared By:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: Realty Specialist

Reviewed By:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: HazMat Coordinator

Recommended By:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Approved By:

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Attachments:

\_\_\_\_\_ Site Map