

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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IN REPLY REFER TO:  
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(NV-930) P  
October 4, 2005

EMS TRANSMISSION October 4, 2005  
Instruction Memorandum No. NV-2006-003  
Expires: 9/30/2007

To: Field Managers, Nevada

From: State Director, Nevada

Subject: Disposals under the Federal Land Transaction Facilitation Act of 2000  
(P.L. 106-248)

DD: 10/28/2005

The Federal Land Transaction Facilitation Act of 2000 (P.L. 106-248) (FLTFA), commonly referred to as the "Baca Act," provides authority for the use of receipts from disposal actions under the Federal Land Policy and Management Act (FLPMA) to fund qualifying acquisitions and administrative and other expenses necessary to carry out the land disposal program. Land disposal actions under the FLTFA are limited to sales under Section 203 of FLPMA, exchanges under Section 206 of FLPMA, and mineral conveyances under Section 209 of FLPMA. The FLTFA further limits the authority to utilize the receipts from the disposal of public lands to those lands identified for disposal in an approved land use plan (Resource Management Plan or Management Framework Plan) as of July 25, 2000.

In Nevada, the FLTFA is not applicable to lands eligible for disposal under the Santini-Burton Act (P.L. 96-568), the Southern Nevada Public Land Management Act (SNPLMA) (P.L. 105-263), as amended by P. L. 106-113 and P.L. 107-282, Lincoln County Land Act (LCLA - P.L. 106-298), and Ivanpah Valley Airport Public Lands Transfer Act (P.L. 106-362). The FLTFA-applicable lands identified within the Lincoln County Conservation, Recreation and Development Act of 2004 (P.L. 108-424) will no longer be eligible upon completion of Ely Resource Management Plan.

FLTFA affirms the Bureau's authority under FLPMA for disposal of public lands and interests in lands through sale or exchange. Exchanges, sales, and mineral conveyances shall continue to be processed under FLPMA, the applicable regulations (43 CFR Parts 2200, 2710/2711, and 2720), and policies, guidance, and direction in BLM Manuals and Instruction Memoranda. The law also provides for the use of receipts from sales and exchanges. An amount not to exceed 20 percent of the receipts deposited into the accounts established by the FLTFA may be used to fund administrative expenses for disposal actions. The FLTFA Federal Land Disposal Account (for Nevada), under subactivity 5870, funds may be used for that portion of receipts for such expenses.

This instruction memorandum (IM) is issued for purposes of partially reinstating as well as updating Nevada BLM policy, issued under NV-IM-2003-076, in order to allocate and manage the 5870 funds and the associated workload in an appropriate, efficient, effective, and equitable manner. The IM also requests nominations for disposal projects under FLTFA be submitted from Nevada Field Offices to the Nevada State Office, Division of Natural Resources, Lands, and Planning (NV-930) by October 28, 2005.

The following are statewide policies for the FLTFA program:

- FLTFA conveyances, whether sales or exchanges, should meet Nevada Legacy Plan goals.
- The FLTFA program will be managed as a statewide program. Overall program management will be the responsibility of NV-930.
- The primary funding source for FLTFA conveyances will be subactivity 5870 Federal Land Disposal Account. Field Offices may consider use of other MLR subactivities, as applicable, to supplement sales in support of management objectives. Field Offices should negotiate/consider contributed funds, especially from direct sale or exchange proponents, as a primary or co-lateral source for funding disposal projects. If contributed funds are considered for competitive or modified competitive sale projects, there should be clear written documentation that the contribution of funds does not provide any preference or competitive advantage to the contributor, and that the contribution simply allows for expediting the offering of the parcel for sale.
- Subactivity 5870 shall primarily be a funding source for contracted services such as appraisals. In general, a minimum base amount of \$200,000 will be maintained and allocations from 5870 shall be considered when the base amount is exceeded. Allocations from the 5870 account shall only be considered for costs directly related to a disposal project and shall not be considered for overhead or indirect costs (building rent, utilities, IRM, vehicles, etc.).
- To ensure violations of the Anti-Deficiency Act or other Federal appropriations law do not occur, all 5870 expenditures must have a direct and verifiable relationship to the FLTFA. 5870 funds cannot be used for disposal projects, or portions of disposal projects, that do not qualify under the FLTFA.

Funding requests for proposed FLTFA disposal projects shall be submitted to NV-930. Nomination packages will be evaluated and recommendations made to the State Leadership Team (SLT) which will determine the priorities for funding. It is anticipated that most nominations will be for sales, but exchanges can also be considered. In general, nominations will be evaluated using the criteria listed below.

- Expected fair market value (FMV). Projects with a high FMV shall be a priority as one of the goals will be to increase the funding available in the 5870 account.
- Likelihood of sale occurring. There should be an “imminent known buyer” or other indications that the parcel will sell, at least at the estimated FMV. Parcels that have little or no prospect of generating an immediate sale, and immediate revenue, shall be a low priority.
- Ratio of expected revenue to processing costs. Projects where estimated processing costs are less than 20 percent of the expected revenue shall be a priority. Priority will also be

given to projects where there are other committed funding sources (MLR funds or contributed funds) that would eliminate or reduce the 5870 funding need.

- Resource issues. There should be a low likelihood of resource issues that would stop, or add lengthy delays to case processing or would cause significant increases in processing costs.
- Public opposition. There should be a low likelihood of protests, appeals to the IBLA, or litigation that would stop, or add lengthy delays to case processing or would cause significant increases in processing costs.
- Public Support. Projects that have documented support from the Congressional delegation, State or local government, County Citizen Advisory Boards, interest groups, or the general public shall be a priority.
- Nevada Legacy Plan. Projects that significantly achieve Legacy Plan goals shall be a priority. Analysis of Federal land acquisitions under the SNPLMA, FLTFA, and LCLA, by county will also be a factor.
- Annual Work Plan/Performance Measures. Projects identified in the annual work plan for planned accomplishment shall be a priority.
- Community Development Needs. Projects eligible under FLTFA proposed by State or local governments that support community development shall be a priority.

Exhibit A (attached) lists the information that must be included in a nomination package for FLTFA funding, and Exhibit B is an example of a completed nomination. Exhibit C is a list of the potential disposal projects that the Field Offices have identified to date; however, Field Offices are not limited to the projects on this list. Nominations will be considered in conjunction with the annual work plan process, and funding to be allocated will depend on the expected amounts available in the 5870 account. Again, nominations for FY 2006 should be submitted to NV-930 Lands team Lead on or before October 28, 2005.

Nomination packages are only required if a Field Office wishes to utilize 5870 funds for case processing. However, the prioritization criteria and process may be useful for prioritizing all disposal actions. Even if disposal projects are not being funded by 5870, Field Offices should keep the Nevada State Office through NV-930, informed of all FLTFA-related projects and their status in order to do workload planning and budget projections. The unit of measurement used for disposal workload is acres.

If you have any questions regarding this policy, please direct them to Jim Stobaugh at 775-861-6478.

Signed By:  
Amy L. Lueders  
Acting State Director

Authenticated By:  
Ellyn Darrah  
Staff Assistant, NV-930

### 3 Attachments

1. Exhibit A – FLTFA Land Disposal Nomination Package Requirements (3 pp)
2. Exhibit B – Example Nomination Submission (5 pp)
3. Exhibit C – FLTFA Sales Summary Sheet (3 pp)