

ENVIRONMENTAL ASSESSMENT

PUBLIC LAND SALE

WYW-165219

DOI-BLM-WY-R010-2010-0078-EA

BLM

Worland Field Office, Wind River/Bighorn Basin District, Wyoming

August 2011



The BLM's multiple-use mission is to sustain the health and productivity of the public lands for the use and enjoyment of present and future generations. The Bureau accomplishes this by managing such activities as outdoor recreation, livestock grazing, mineral development, and energy production, and by conserving natural, historical, cultural, and other resources on public lands.

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1.0 INTRODUCTION

1.1 Purpose and Need for the Proposed Actions

The Town of Ten Sleep has identified a lack of affordable housing in their community, and has approached BLM with a proposal to purchase a parcel of vacant public land near town. The desire of the Town of Ten Sleep is to provide more affordable land for housing, to encourage in migration of employees for local businesses and institutions in this remote community. The purpose of this land sale is to meet the need identified by the Town of Ten Sleep. The proposed alternative is to convey title to the surface estate to the Town of Ten Sleep (Town) for 22.98 acres of Bureau of Land Management (BLM) administered public lands, which the city has identified for acquisition under the Federal Land Policy and Management Act. The Town has proposed a direct sale pursuant to 43 CFR 2711.3-3.

1.2 Conformance With Land Use Plan

The proposed action is consistent with the Washakie Resource Management Plan (RMP) Record of Decision (ROD) dated September 2, 1988. The RMP ROD states on page 12 that “The disposal of public lands (e.g., transfer from the administration of the BLM) to other federal agencies, or local or state government...will be considered on a case-by-case basis (map 5).” Map 5 identifies an area that encompasses the proposed lands. Also, on page 14 of the RMP ROD it states “prior to any disposal action, lands will be evaluated for compliance with the disposal criteria listed in Appendix B of the proposed Washakie RMP/FEIS.”

The proposed RMP/FEIS states on page 9 that “Disposal of public lands...through methods such as ...public sale...would be considered on a case-by-case basis.” Also on page 9 it states “Prior to any disposal action, lands would be evaluated for compliance with the disposal criteria that are also listed in Appendix B. Future proposals for disposal of lands not listed or identified to date would also be considered on a case-by-case basis.” The proposal for sale to the Town of Ten Sleep for community purposes appears to meet general public interest standards.

In Appendix B on page 169 of the proposed RMP/FEIS the Land Disposal Criteria that will be applied on a case-by-case basis are listed as the criteria established by policy, law, or regulation, which make lands unsuitable for sale or exchange. None of the six items listed that make lands unsuitable for sale apply to the parcel being proposed for sale. There are also nine additional items which are to be considered during the process of review or evaluation of proposals for land disposal. These items may be applied to further the management objectives of various programs and may make lands undesirable for sale.

The only of these nine items that would apply to the parcel being proposed for sale is item 3 “Lands in Visual Resource Management (VRM) classes I and II”. The parcel being proposed for sale is in VRM Class II, as recommended by the visual resource inventory for the scenic quality rating unit SQRU. Rating SQRU involves scoring a scenic quality as Class A (high scenic quality), B, or C (low scenic quality); rating sensitivity levels as high, medium, or low; and determining the distance zone from the main key observation points. Inventorying visual resources is completed in an interdisciplinary team, and the appropriate VRM Class is recommended from the inventory. This SQRU had been rated with a high B (a score of 15) scenic quality; high sensitivity due in part to its proximity to WY Highway 434 and front country distance zone. With the existing residential housing in the adjacent Shriver Park subdivision along with other commercial and residential development in the immediate area located on private lands, the development of this parcel for additional residential housing in the area, if the proposed sale were to occur, would have an insignificant impact on the visual quality of the area. Therefore, this is not considered to be a significant enough factor to make the proposed sale of this parcel undesirable.

More specifically, the proposed RMP/FEIS includes the legal description of “tracts that may be suitable for consideration for disposal.” in Appendix B on page 172. Township 47 North, Range 88 West, Section 21, Lots 2 and 3 were identified. A BLM Cadastral Survey was conducted in 2010 to separate these parcels at the paved public roadway (WY Highway 434) which dissects Lots 2 and 3. The parcel being proposed for sale in Section 21 is now designated as Lot 10 (22.98 acres) and is comprised of that portion of Lot 2 that was west and south of WY Highway 434, plus a narrow strip along the southern border of Lot 2 that was identified as Lot 4. Although Lot 4 was not specifically designated in the proposed RMP/FEIS as “suitable for consideration for disposal” it makes sense to combine it with the southwest portion of Lot 2 to avoid leaving a small isolated parcel (approximately 6 acres) that would be impractical and/or impossible to manage, and in consideration of the case-by-case allowance for land disposal noted above.

1.3 Relationship To Statutes, Regulations, or Other Plans

The authority for the proposed sale is Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1761-1771, as amended, which authorizes the Secretary of the Interior to convey public lands under specified conditions. The regulations at 43 CFR 2711.3-3 provide for a direct sale to State and local governments or nonprofit organizations when in the opinion of the Authorized Officer, a competitive sale is not appropriate and the public interest would best be served by a direct sale.

1.4 Background

The Town of Ten Sleep submitted a proposal to the BLM in February 2009 expressing interest in purchasing up to 40 acres of public land to be used for affordable housing. The lands were not within the town limits, but are located about one mile southeast of town. The Town has a shortage of affordable housing which is needed to attract and retain employees of the school district and the other successful businesses. Each of these entities has had new-hires reject offers because they were not able to find affordable housing. To further emphasize the housing

situation, the Wyoming Rural Development Council had completed assessments for Worland (2000), Ten Sleep (2001), and for Washakie County in 2007. The findings in each of these assessments was that housing issues are a top concern for Washakie County citizens. As the proposal was discussed over a period of approximately one year, it became evident that the town would have to narrow the purchase to a single parcel of approximately 20 acres. Following a cadastral survey, a lot of 22.98 acres was established for further consideration.

The Town's proposal is to subdivide the lands into single acre lots and to provide water, utilities, and streets to each lot. The lots would be sold to people willing to establish permanent residences on the lots and construct a single family dwelling within a prescribed amount of time.

Appropriate legal restrictions would be placed on each lot sold to avoid having the lots go to speculators or people who weren't willing to establish the land acquired through this program as their permanent residence. The Town owns a water line to an existing subdivision bordering on the south and the new lot borders highway 434 providing excellent access.

In the Town's proposal to purchase public lands, they asked that the lands be sold by direct sale at the appraised market value. The Town's position was that if the lands were offered for sale through competitive bidding procedures, they might be sold to speculators or developers and would not ultimately be developed to fill the affordable housing needs of the area.

2.0 PROPOSED ACTIONS AND ALTERNATIVES

2.1 Proposed Action

The proposed action is to patent BLM-administered public lands to the Town of Ten Sleep for an affordable housing subdivision.

The proposed action is detailed below:

2.1.1 Patent Lands for the Subdivision

BLM-administered public lands would be patented to the Town of Ten Sleep under the authority of Federal Land Policy and Management Act and development would occur in the form of housing, streets, and utilities. The Town of Ten Sleep submitted a proposal on the following lands:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 88 W.,

Sec. 21, lot 10.

(22.98 acres)

The proposed patent on the above described lands would contain a reservation to the United States for all minerals together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior (43 CFR 2741.7(d)).

2.2 No Action Alternative

The no action alternative considers the same components as the proposed action. However, under this alternative, the BLM-administered public lands would not be patented.

2.2.1 Not to Patent Lands for the Subdivision

Not to patent lands which have been described above in the proposed action. The Town of Ten Sleep would need to find other opportunities for affordable housing, if possible.

3.0 AFFECTED ENVIRONMENT

3.1 General Setting

The proposed site is located in northwest Wyoming about 26 miles east of Worland and about 1 mile southeast of Ten Sleep. (See the attached map, Exhibit "A", which shows the general area and Exhibit "B" which shows the site map.)

This area is generally characterized by cold winters and warm summers with prevailing westerly winds. The mean maximum summer temperature is 89.7 degrees F. and mean minimum winter temperature is 10.4 degrees F. Mean annual precipitation is 7.4 inches.

The site elevation is approximately 4400 feet with a shrub-grass plant community. Depth to groundwater is 150 to 200 feet below the surface based on well data provided by Environmental Data Resources. The subject property is part of the Bighorn River – Elk Creek sub-watershed draining into the Nowood River approximately one-half mile to the south.

3.2 Affected Resources

3.2.1 Water Resources

The Nowood River flows about one-half mile south of the proposed property. The river may be indirectly impacted by storm water drainage following storm events and possible increased water discharged in the river associated with existing nearby residential development and compaction of soils from roads and other disturbed areas.

3.2.2 Vegetation

Vegetation communities on the project lands are upland habitats consisting mostly of sagebrush and grasses. Primary species include Wyoming big sagebrush, bluebunch wheatgrass, June grass, needle and thread, Indian ricegrass, bottlebrush squirreltail, and western wheatgrass.

3.2.3. Wetlands/Riparian Areas

There are no wetlands or riparian areas on site.

3.2.4 Geology and Mineral Resources

The proposed property is located within the large geologic, sedimentary filled basin known as the Big Horn Basin in northwestern Wyoming. The basin is surrounded by the Big Horn Mountain range on the east, the Bridger and Owl Creek Ranges on the south, the Absaroka Range on the west and the influence of the Pryor and Bear Tooth uplifts on the north.

The site is located on Quaternary terrace deposits simply described as accumulations of silt, sand and gravel left by a river and lie above the present stream level and its associated flood plain.

Oil and gas is considered to be prospectively valuable with the accumulation of hydrocarbons in concealed structural or stratigraphic traps. The BLM's Solid Mineral Occurrence and Development Potential Report, Bighorn Basin Resource Plan Revision Project (USDI-BLM, 2009) shows the basin area as having a low potential for occurrence and development of solid leasable minerals of coal, oil shale, tar sands and phosphates. The Big Horn Basin has a low potential for coal bed natural gas development. The subject land possesses no known potential for locatable and saleable minerals.

3.2.5 Wildlife and Wildlife Habitat

The project area provides limited year-round habitat for mule deer and pronghorn antelope. The project area also provides habitat for a variety of nongame species.

There are no known threatened or endangered species in the project area.

3.2.6 Cultural Resources

The proposed site has been evaluated for cultural resources and no cultural resources were identified.

3.2.7 Livestock Grazing

The proposed land is not within a BLM grazing authorization. During initial scoping the concern of there being a stock driveway (SD) was raised. The SD was originally withdrawn as SD #3 by Secretarial Order on February 5, 1924. On March 16, 1998 the SD was partially revoked in conjunction with the R&PP sale for the land fill, affecting approximately 178.31 acres of public land including the land now proposed for sale. The SD now terminates approximately one-quarter mile east of the subject parcel.

3.2.8 Wastes (Hazardous/Solid)

An Environmental Site Assessment (ESA) has been completed by BLM. The preliminary investigation identified a buried storage tank adjoining an abandoned runway. Preliminary testing around the tank did not reveal any Recognized Environmental Conditions, nor were any other conditions identified during the field examination of the subject property. The tank was removed and inspected for signs of deterioration and leaking, none were discovered. Additional screening and sample collection below the tank was completed and lab analysis confirmed that there had not been a release into the environment. With the tank removal and reclamation having been completed, from an environmental and liability standpoint, proceeding to patent is appropriate.

3.2.9 Recreation

The site may have limited opportunities for hunting, hiking and bird watching, although the proximity of the highway and other residential development renders this site less desirable for these activities than other more remote areas.

3.2.10 Existing Rights-of-Record

Right-of-ways listed on the Master Title Plats (MTP) and in Automated Land and Minerals Records System on the lands which are proposed for patent are:

1. A right-of-way to WYDOT for state highway 434;
2. A right-of-way to Tri-County Telephone for a buried telephone cable;
3. A right-of-way to Tri-County Telephone for a buried telephone cable;
4. A right-of-way to 360 Networks (USA) Inc. for a buried telephone cable.

3.2.11 Mandatory Items

No threatened or endangered species, prime or unique farmlands, air or water quality (drinking/ground), wild or scenic rivers, invasive non-native species, wild and scenic rivers, wilderness, environmental justice, flood-plains, ACEC's or known Native American religious concerns would be affected by the proposed action.

3.3 Socio-Economics

The Town of Ten Sleep held a public meeting to discuss the potential sale on April 8 2010. BLM attended and made a presentation on the sale procedures and answered questions from the public. The comments expressed at the meeting were divided in two specific camps. The Town and local business owners took the position that affordable housing in the Ten Sleep area was lacking and was in turn hurting the efforts to recruit and retain employees in the area. The need for affordable housing was explained and the Town explained their position for a direct sale verses a competitive sale. Although the Town has not submitted a formal plan of development to the

BLM for the property, the proposal has remained unchanged. The position of the Town was supported by local businesses and by reports from the Wyoming Rural Development Council. Several letters of support for the proposed land sale from local businesses, as well as State and Federal politicians are attached.

There were comments expressed at the meeting and to BLM in subsequent communications that would have preferred the land either be left in BLM ownership or sold through competitive bidding. These comments came mostly from residents of an established subdivision that adjoins the subject property to the south (part of the subdivision can be seen on Exhibit B). The concerns of the subdivision residents range from a concern for their property values to what might happen to their water supply which is provided by the Town of Ten Sleep. Additional concerns have been raised about the appraisal process and whether the land will be sold by direct or competitive procedures. These are legitimate questions raised by folks unfamiliar with the BLM sales procedures, the Department of the Interior appraisal procedures, and the uncertainty of their needs currently being supplied by the Town of Ten Sleep.

The BLM cannot evaluate the validity of services being supplied to the subdivision by the Town of Ten Sleep. Whatever agreements the subdivision and the Town have for services is a civil matter between them and may or may not change over the years. It must be assumed that as the development of the property is planned all local residents will have the opportunity to provide direct input to the Town. The proposal as submitted to BLM is for land to be developed for affordable housing and BLM has no reason to believe that the Town will do otherwise. At this point, the Town has not spent Town funds to specifically plan how the property will be developed. As with most rural communities, it would not be in their best economic interest to spend the money needed to plan a subdivision until such time as they have obtained title to the property. BLM must take the proposal at face value and assume that once in Town ownership, development will occur as outlined in their proposal.

4.0 ENVIRONMENTAL IMPACTS

4.1 Impacts of Proposed Action

4.1.1 Patent Lands to the Town of Ten Sleep

The proposed action would result in minimal environmental impacts after the patent is issued as a result of land clearing and building of the proposed facilities. It is anticipated that wildlife numbers and use will be reduced as a result of the proposed action, as native habitat would be replaced by houses and occupied yards. There are no cultural sites on the proposed lands nor is there any development potential for solid minerals. Leasable minerals could be developed with stipulations that safeguard the surface facilities.

Once the proposed subdivision is constructed and becomes part of the active Ten Sleep community, it is anticipated that the economic vitality of the Town will improve as more potential employees may find affordable housing.

4.2 Impacts of No Action Alternative

4.2.1 Not Patent Lands to the Town of Ten Sleep

The no action alternative would result in the 22.98 acres of BLM-administered land remaining in federal ownership and continued limited uses as are now present on the lands. No new affordable housing is anticipated to become available, limiting the ability of the Town of Ten Sleep to attract new employees for business or institutions.

5.0 RESIDUAL IMPACTS

5.1 Proposed Action

5.1.1 Patent Lands to the Town of Ten Sleep

There would be the residual impact of the loss of vegetation and habitat on the property resulting from development of the subdivision. The residual impacts would be for the life of the proposed action which would be considered in perpetuity.

5.2 No Action Alternative

There would be no increase in availability of affordable housing.

6.0 CONSULTATION AND COORDINATION

6.1 Persons and Agencies Consulted

Wyoming Department of Environmental Quality

BLM Resource Personnel

Jack Haggerty, Town of Ten Sleep Council

Vic Trickey, Realty Specialist (Interviewed by Steve Kiracofe as part of ESA completion)

Steve Trombly and Claude Tyrel (Interviewed by Steve Kiracofe as part of ESA completion)

Jared Glanz (Washakie County Weed and Pest District)

7.0 ADDENDUM

Exhibit "A" - Area Map

Exhibit "B" - Site Map