

**DECISION RECORD and FINDING OF NO SIGNIFICANT  
IMPACT**

# **PUBLIC LAND SALE**

## **WYW-165149**

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

**BLM**

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



**November 2011**

## **DECISION RECORD**

**Project Name:** Town of Ten Sleep Public Land Sale WYW-165149

**NEPA Number:** DOI-BLM-WY-RO10-2010-0078-EA

It is my decision to proceed with the proposed direct sale of the BLM-administered land described as the Proposed Action of Environmental Assessment DOI-BLM-WY-R010-2010-0078-EA, which is legally described as follows:

Sixth Principal Meridian, Wyoming

T. 47 N., R. 88 W.,  
sec. 21, lot 10.  
(22.98 acres)

The transfer of surface rights on the public lands will not interfere unreasonably with operations under the Mineral Leasing Act.

**Authority:** Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1761-1771, as amended.

### **PLAN CONFORMANCE AND CONSISTENCY:**

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 as available for sale an area that encompasses the proposed lands, specifically including T. 47 N., R. 88 W., sec. 21. 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.”

### **Alternatives Considered:**

The Environmental Assessment (EA) for the proposal considered two alternatives.

The Proposed Action alternative assessed and disclosed the projected effects of patent of BLM-administered public lands to the Town of Ten Sleep as detailed in the Proposed Action portion of the environmental assessment.

The No Action alternative assessed the effects of not patenting any portion of the public land.

### **Rationale for Decision:**

Sale of the public land to the Town of Ten Sleep is in support of the local government initiative to have land available for more affordable residential development to encourage community vitality. The FLPMA, Section 203(3) allows the BLM to provide for community expansion and

economic development opportunities where reasonable to do so, and where supported by the BLM RMP. In this case the Washakie RMP, 1988, provides for sale of this parcel.

### **Public Participation and Comments on the EA:**

The environmental assessment was available for a formal review and comment period from October 30 through December 3, 2010 with an extension for additional comment until January 3, 2011. The decision record was delayed pending the completion of a new appraisal and continued expression in interest by the Town of Ten Sleep, which were completed in May 2011, and on August 9, 2011. All comments made formally to the BLM during the EA comment period were carefully considered and evaluated prior to reaching a decision.

Comment 1. Land should be sold under competitive or modified competitive sale procedures rather than under direct sale procedures to the Town of Ten Sleep.

Response: The intent of the sale is to serve important public objectives, including expansion of communities and economic development and, especially to support the businesses and institutions attempting to hire new employees into the Ten Sleep area. In most circumstances competitive bidding is the preferred method of selling public land that has been identified suitable for disposal through the land use planning process and where the best price can be achieved for the federal lands. In this instance an opportunity to aid a local community in its efforts to further the interests of its constituent's employers was presented to the BLM. Considering the stated goals of the proposed use of the land and relevant regulations, the direct sale of the public land to the Town of Ten Sleep was determined to be the most cost effective way to provide land to the Town to support the least expensive new housing opportunities.

Comment 2. There are currently abundant affordable properties for sale in the Ten Sleep area.

Response: No data was provided by the commenter to support this statement. In its meeting on September 8, 2011, the Town of Ten Sleep voted to continue to request the purchase of this parcel from the BLM.

Comment 3. Affordable housing is not available in the Ten Sleep Area.

Response: The purpose of the proposed land sale is for the Town of Ten Sleep to obtain land, at appraised fair market value, to promote availability of more affordable housing opportunities. As stated in the EA on page 3, both Washakie County and the Town of Ten Sleep used a report, an assessment by the Wyoming Rural Development Council that suggested the lack of availability of affordable housing was retarding the economic viability of the community.

Comment 4. Concerned about comparable sales used in the appraisal.

Response: Interested parties have been offered the chance to present comparable real estate sales or other information for use by the appraiser, however, no specific and current comparable sales were offered for the government's appraiser to consider as comments to the EA or when earlier requested. The initial appraisal was completed in October 2009 and expired in October 2010. An update to this appraisal was completed, also by a government appraiser in May 2011.

Comment 5. The fair market value established by the appraisal will lower values for other real estate in the Ten Sleep area.

Response: Since the appraisal is based on sales of comparable property, it would only reflect values for similar land and would not affect fair market value for developed residential property. As stated in the general valuation analysis of the Office of Valuation Services Appraisal Report dated May 31, 2011, "The Sales Comparison Approach to value has long been accepted as the most believable and defensible approach and is the easiest to understand and explain. This approach to value involves the direct comparison of the subject property with other properties which have been sold in the area to arrive at an indication of market value for the subject property."

Comment 6. BLM stated that the Town of Ten Sleep would be required to pay for the appraisal before anything could proceed.

Response: This is not a comment to the EA, nor is it relevant to the decision to sell this parcel of land to the Town of Ten Sleep. This is an often repeated statement attributed to the BLM throughout written and electronic correspondence during the sale. Although The Town of Ten Sleep is required to pay for the appraisal before the land sale is consummated, they are not required to pay before anything could proceed. A number of processing steps were required to be completed before a decision could be made to sell the property or not. The Town of Ten Sleep wanted an estimate of the value of the land involved and agreed to pay for the expense of the appraisal. They will be required to pay for the appraisal whether the land is sold or not. This is in accordance with established BLM procedures.

Comment 7. Interviewing representatives of the Town of Ten Sleep in the appraisal process and not seeking the input of adjoining landowners violates appraisal standards and procedures.

Response: Contacting the proponent of a proposed action affecting public land is common practice in the appraisal process. The appraiser may make contacts deemed necessary to make an accurate appraisal including adjoining landowners. It is up to the appraiser and the reviewing officials to insure that the appraisal is

conducted in accordance with proper standards and procedures. Several commenters and neighbors were given the opportunity to provide data or comparable sales during the updating of the appraisal, however, these persons did not provide any additional comparable sales information to the government appraiser.

- Comment 8. Sale of the public land to the Town of Ten Sleep could have negative impacts on utility services and Shriver Park residents.

Response: This concern has been addressed in the pertinent sections of the environmental assessment (page 7). The question of utility services would be addressed by the appropriate regulating bodies if the land is sold. Specifically, Washakie County Commissioners per letter dated November 16, 2010, has requested the Town of Ten Sleep to consider adequate water supply to Shriver Park and other matters prior to subdivision of this parcel for future sale. The Town of Ten Sleep responded to the Washakie County Commissioners by letter dated December 15, 2010; “We are in receipt of your letter of November 16, 2010 and we appreciate your concerns. At this time we do not feel that we can respond to any developmental issues as we do not own the property yet.”

- Comment 9. Concerned about the possible negative impacts to utility services and property values on adjacent property owners.

Response: See reply to comment 5 and 8 above.

- Comment 10. Concerned whether the Town of Ten Sleep has the money or resources to responsibly develop the property.

Response: This concern is outside the authority of the BLM and more properly lies with the Town of Ten Sleep and its responsibilities for compliance with its charter and the laws of the State of Wyoming and Washakie County ordinances.

- Comment 11. Adjoining landowners have not been afforded enough of a voice in the land sale deliberations to date. The concerns of adjoining landowners are not being addressed or are being ignored.

Response: The BLM formally answered questions regarding this opportunity with the Town of Ten Sleep, when invited to an open Town meeting on August 4, 2009. The Town of Ten Sleep also sponsored a meeting on April 8, 2010, to publicize its intention to purchase the public land for community purposes, namely to encourage economic growth and viability by making land more affordable for development of residential housing. Other meetings, all open to the public, were held as information on the future of Washakie County and its economic development were discussed, such as the Wyoming Rural Development Council’s Community Assessment for Washakie County held April 10-12, 2007.

When completed, the EA which summarized all analyses, reviews, issues and considerations for this proposed land sale was sent to every interested party (who had indicated an interest in the project by phone call, email, letter or in person.) In addition, the EA was posted on the BLM website and all Town of Ten Sleep citizens were notified of this project and available EA, by a flyer in the monthly utility bill provided by the Town of Ten Sleep. In November 2010 Washakie County Commissioners received comments from interested parties at an open Commissioners meeting, and then the Commissioners formally requested BLM extend the comment period on the EA to allow for additional public comment, BLM extended the comment period for an additional 30 days.

The BLM has pledged to keep interested parties informed of all progress regarding our consideration of the proposed sale. By this, BLM intended to provide all written documents to persons who had indicated interest when available. At times the project was involved in lengthy processes such as appraisal, survey, and environmental site assessment report preparation and there was no progress to report.

BLM has attempted to be open and transparent in our process of considering the proposed land sale to the Town of Ten Sleep. This final Decision Record has fully considered the information received, including the completion of an updated appraisal report.

Comment 12. The Town of Ten Sleep has no plans for this land.

Response: It is true the Town of Ten Sleep has no plans completed for the actual development of this land. It would be premature pending any decision regarding the availability of the public land. The Town of Ten Sleep has stated that they do have a plan in concept for the use of this land in support of community development and expansion submitted to BLM in their land sale proposal. It is a part of the official public record on file in the Worland Field Office.

Comment 13. Congressional support is based on erroneous information.

Response: The respective congressional offices must decide for themselves whether the information upon which they base their support is erroneous, using their knowledge of the needs of the populace in their district.

Comment 14. The Town of Ten Sleep is trying to buy land over which it does not have jurisdiction.

Response: The subject property is located in close proximity to the Town so that jurisdiction may be extended to include the property if necessary, subject to regulatory procedures allowing such action.

Comment 15. Adjacent landowners are outside the jurisdiction of the Town of Ten Sleep and do not have the power of the vote or other influence over the Town Council or Mayor or constituents of the Town of Ten Sleep.

Response: BLM cannot offer any relief to this particular situation, but did consider all comments regarding the proposed sale of the land to the Town of Ten Sleep. Washakie County Commissioners have provided the opportunity for its citizens to comment on the land sale.

Comment 16. Federal government land sale regulations and procedures are not being correctly followed by the BLM.

Response: BLM regulations provide for a direct sale of the land requested by the Town of Ten Sleep. (43 CFR § 2710.0-6(c)(3)(iii))

Comment 17. Collusion has occurred between the BLM and the Town of Ten Sleep in the conduct of this proposed land sale.

Response: The Town of Ten Sleep initiated the inquiry into the possibility of acquiring the subject public land in support of an identified community need which is supported by an assessment by the Wyoming Rural Development Council. In addition supporting letters were received from Debbie Hammons, Wyoming House of Representatives; Chris Davidson, General Manager, TCT; Michael B Enzi, United States Senator; John Barrasso, M. D., United States Senator; Kent Holiday, CEO, Eleutian Technology) The BLM staff did explain the regulations and the requirements that would need to be completed during the public disclosure process to be in compliance with applicable law. The tract has been identified in the Washakie Resource Management Plan as suitable for consideration for disposal.

### **Comments on this Decision Record**

Within the next few months, the BLM will publish a Notice of Realty Action, once in the Federal Register and 3 times in the Northern Wyoming Daily News. At that time, public comments will be solicited on all aspects of the public land sale, including the EA and Decision Record. All comments to the sale will be evaluated by the State Director who will make a final determination for BLM. The final determination of the State Director is appealable to the Interior Board of Land Appeals.

**Finding of No Significant Impact (FONSI)**

I have reviewed this environmental assessment including the analyses of potential significant environmental impacts. I have determined that the proposed action will not have any significant impacts on the human environment and that an EIS is not required.

**Terms and Conditions**

- A. The patent will be subject to all valid existing rights of record on the date of conveyance.
- B. Rights-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).
- C. All minerals will be reserved to the United States, together with the right to prospect for, mine and remove minerals.

**Compliance and Monitoring**

Compliance and monitoring are not needed since the land to be sold will not be under federal jurisdiction and there are no reversionary terms or conditions.

Don Krump  
Authorized Officer

11-30-2011  
Date