APPENDIX 13—LAND TENURE ADJUSTMENT CRITERIA

The Federal Land Policy and Management Act of 1976 (FLPMA) provides for retention of the public lands in federal ownership and management by the Bureau of Land Management (BLM) for multiple uses. FLPMA and other federal laws, executive orders, and policies suggest criteria to use when categorizing public lands for retention or disposal, and for identifying acquisition priorities. Disposal by sale, exchange, or Recreation and Public Purpose (R&PP) patent remains an option if such an action would serve an important objective and have a public benefit.

The following is a list of suggested criteria to consider in land tenure adjustment proposals, but it is not considered all-inclusive. These criteria are meant to guide and streamline consideration of land tenure adjustment proposals.

Criteria for Retention or Acquisition:

- Important, crucial, or critical habitat for fish, wildlife, and plants
- Riparian areas and wetlands
- Parcels that provide access to larger blocks of public land
- Lands with special designation or management emphasis
- Significant cultural resources
- Recreation opportunities and benefits
- Mineral development potential.

Criteria for Disposal:

- Parcels difficult or costly to administer
- Parcels more suitable for management by another federal or state agency
- Parcels of special importance to local communities.

Transfer to other public agencies will also be considered if improved management efficiency would result. Prior to any disposal, a site-specific analysis must determine that the lands considered contain no significant wildlife, recreation, or other resource values the loss of which could not be mitigated; have no overriding public values; and represent no substantial public investments. Land tenure adjustments must serve the public interest. Exchange will be the preferred method for disposals.

EXCHANGES

- Land exchanges that serve the national interest and are beneficial to BLM programs or that support the programs of other agencies (reference Sections 102, 205, and 206 of FLPMA) will be promoted.
- Transfer of leasable minerals out of federal ownership should be avoided except when non-federal leasable minerals are to be received in return. It is preferable to trade both surface and subsurface (mineral) estates.
- Exchanges should involve lands similar in character and/or value. Lands acquired by BLM in an exchange will be retained under federal ownership or control.

- Exchanges should not be made solely for the purpose of blocking up federal land ownership.

SALES

Public land sale proposals are the result of a BLM initiative or in response to expressed public interest or need. Lands to be considered for disposal, at a minimum, must meet the following criteria as outlined in Section 203 of the FLPMA:

- They are difficult and uneconomical to manage and are not suitable for management by another federal department or agency.
- Disposal would serve important public objectives, including but not limited to, community expansion or economic development, that could not be achieved prudently or feasibly on land other than public lands and that outweigh other public objectives or values.
- The tract was acquired for a specific purpose, and the tract is no longer required for that purpose or any other federal purpose.

SALES AND EXCHANGES INVOLVING WETLANDS

Bureau policy is to retain wetlands in federal ownership unless federal, state, public, and private institutions and parties have demonstrated the ability to maintain, restore, and protect wetlands and riparian habitats on a continuous basis (BLM Manual 6740). Sales and exchanges may be authorized when—

- The tract of public wetlands is either so small or remote that it is uneconomical to manage.
- The tract of public wetlands is not suitable for management by another federal agency.
- The patent contains restrictions of uses as prohibited by identified federal, state, or local wetlands regulations.
- The patent contains restrictions and conditions that ensure the patentee can maintain, restore, and protect the wetlands on a continuous basis.

RECREATION AND PUBLIC PURPOSES LEASE/PATENT

The objective of the R&PP Act is to meet the needs of state and local governmental agencies and other qualified organizations for public lands required for recreational and public purposes. Use of the R&PP Act protects public values in the land through its reversionary provisions and helps qualified entities obtain the more liberal pricing authorized under the Act.

Public lands shall be conveyed or leased only for an established or definitely proposed project for which there is a reasonable timetable of development and satisfactory development and management plans. No more land than is reasonably necessary for the proposed use shall be conveyed.

DESERT LAND ENTRIES

- The purpose of the Desert Land Law is to permit the reclamation by irrigation of arid public land through individual effort and private capital (reference 43 Code of Federal Regulations [CFR] §2520).
- Lands that will not produce any reasonably remunerative agricultural crop by the usual means or methods of cultivation, without artificial irrigation, may be considered for a desert land entry. The lands must be untimbered, surveyed, unreserved, and unappropriated. Tracts need not be contiguous, but shall be sufficiently close to each other to be managed satisfactorily as an economic unit.
- The proposed crop may include any agricultural product to which the land under consideration is generally adapted and which would return a fair reward for the expense of producing it.
- All Desert Land Entry applications will be coordinated with the Wyoming State Engineer and the Soil Conservation Service.

ACQUISITION

- Acquisition of lands will be considered, if in compliance with the Resource Management Plan (RMP), to facilitate various resource management objectives and to acquire lands with high resource values.
- The preferred method for acquisition will be through exchange.
- Acquisitions, including easements, can be completed through exchange, Land and Water Conservation Funds (LWCF) purchases, or donations.
- Acquisitions of private lands will be pursued only with willing landowners.