



Western Governors' Association Policy Resolution 13-01

Federal-State Land Exchanges and Purchases

A. BACKGROUND

1. Congress granted lands to states as they were admitted into union to be held in trust for support of public schools. Over time, the federal government has created conservation areas such as national monuments, wildlife refuges and wilderness study areas on public lands that surround or affect many of these trust lands. Tribal reservations and military withdrawals have also created state enclaves within federal landholdings.
2. Federal and state land managers, land users, the environmental community and the public all agree that the “checkerboard” land ownership pattern prevailing in much of the West is a major hindrance to effective and ecologically sound management of both federal and state lands.
3. Currently, there are three methods of resolving the checkerboard land tenure issue in the West: (1) land exchanges under existing legislation, such as Federal Lands Policy and Management Act (FLPMA); (2) the direct federal purchase of non-federal lands within federal management areas under Federal Lands Transfer Facilitation Act (FLTFA); and (3) individual acts of Congress. However, all three are lengthy, expensive, and inefficient.
4. Federal land exchanges -- whether with states or private interests -- are conducted under the FLPMA. FLPMA requires that land exchanges be of equal value as determined by appraisal and that the public interest is “well served by making [the land] exchange.” The complex regulatory requirements associated with FLPMA exchanges create unintentional barriers to federal-state land exchanges.
5. Generally, the estimated values of lands proposed for exchange are established through appraisals, which must be done in accordance with federal standards and other requirements. If the federal land value is estimated to be less than \$150,000, an appraiser’s statement of value (a professional assessment that is based on more limited information than is included in a full appraisal) can be used.
6. The FLTFA allows the Department of the Interior agencies and the Forest Service to use the proceeds from sales of surplus federal lands to acquire inholdings in national parks, national wildlife refuges, national forests and other designated areas, including the National Landscape Conservation System. FLTFA was passed in 2000 with a 10-year sunset. The act was reauthorized for one year in 2010, but was not extended at the July, 2011 expiration.

7. The Western States Land Commissioners' Association (WSLCA) has drafted proposed legislation to solve part of the land tenure problems based on a process known as "in lieu" selections. In lieu selections are established by 43 U.S.C 851-852 and allow western land grant states to select federal lands in lieu of land originally granted to the states that became unavailable due to preexisting conveyances or federal special purpose designations. Under the WSCLA proposal, states would have the right to relinquish state trust lands within federal conservation designations to the United States, and select replacements lands from unappropriated federal public lands within the states.

B. GOVERNORS' POLICY POSITION

1. To improve management of both federal and state lands in areas where there is checker-boarded ownership or state lands are completely captive within the boundaries of a federal management area, Western Governors call on Congress to simplify and expedite the federal-state land exchange and sale process.
2. The Governors request Congress amend the FLPMA to add language to:
 - Index the existing \$150,000 threshold for using an expedited exchange process for inflation since the \$150,000 threshold was adopted in 1986;
 - Allow use of a statement of value to replace the appraisal process in federal-state exchanges of similar rural lands; and
 - Presume any agreed federal-state land exchange as in public interest unless clearly countervailing factors are present (federal-private exchanges are not included in this presumption).
3. The Governors request that Congress reauthorize the FLTFA with priority to be given to acquisition of state inholdings.
4. The Governors encourage Congress to introduce and pass legislation that incorporates the proposed federal-state land selection improvements proposed by the WSLCA.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct the WGA staff, where appropriate, to work with Congressional committees of jurisdiction and the Executive Branch to achieve the objectives of this resolution including funding, subject to the appropriation process, based on a prioritization of needs.
2. Furthermore, the Governors direct WGA staff to develop, as appropriate and timely, detailed annual work plans to advance the policy positions and goals contained in this resolution. Those work plans shall be presented to, and approved by, Western Governors prior to implementation. WGA staff shall keep the Governors informed, on a regular basis, of their progress in implementing approved annual work plans.