

Overview of Community Acquisition Efforts

02.14.2007

This will outline community acquisition efforts and BLM responses to date. We also refute assertions that the Shasta Resources Council refused to negotiate a compromise. Copies of relevant correspondence and other documents may be found on our website at: www.shastaresources.org

Early Requests to Acquire Under the RPPA Shunned

As early as 2002, prior to BLM initiation of the present trade proposal under appeal, the community attempted to acquire Area 51 through a direct transfer pursuant to the Recreation and Public Purposes Act. The various proposals and inquiries submitted were not even so much as acknowledged by the local BLM office. The reason for this conduct on the part of BLM has never been explained. The community organizations involved were not contacted or advised as to how the acquisition concepts put forth were deficient or what changes could be made to enable BLM consideration. Instead, community members were literally shunned.

2005 Offer to Purchase at Appraised Value Ignored

In March of 2005, the SRC submitted a concept offer to purchase Area 51 outright at BLM appraised value. We asked that an escrow be opened and that we be given a fair chance to perform. The offer was submitted well within the NEPA review window when BLM is required to develop and consider all alternatives. BLM announced it would accept an exchange proposal submitted by Joe Rice, who is represented by developer Brent Owen, in late 2004. Again we were shunned. We were not contacted or asked for clarification. We were not asked for proof of financial capacity, and when we asked to meet with the local Resource Area manager to learn how to refine our offer in keeping with BLM criteria, we were sharply rebuffed and admonished not to contact the BLM office again regarding the matter (see website for letter from Steve Anderson to SRC). BLM subsequently completed its NEPA Environmental Assessment wherein it distorted our offer and failed utterly to consider it as a legitimate alternative citing, among other bogus reasons, lack of financial capacity. How could this possibly be concluded when we were never given the opportunity to demonstrate capacity? Parallel to this, BLM staff regularly misinformed members of the public that it would be "illegal" for the agency to sell Area 51 and that it could only be traded. We must host the consequences of BLM's disposal action in perpetuity. We feel that the community should be given the opportunity to acquire first, over and above speculators and developers. The SRC believes this principle is supported by FLPMA directly and by NEPA indirectly through selection of the alternative with the fewest adverse impacts.

SRC Offer to Purchase Rice Trade Parcel Rejected

In the spring of 2006, the SRC offered to purchase the Grass Valley Creek trade parcel being offered by Joe Rice for exchange. By doing so, the community could then conclude the exchange, implement the public preservation plan for Area 51, and the BLM could acquire the GVC property. Therefore, with encouragement from BLM, we submitted a fully-funded offer directly to Joe Rice to purchase the GVC

parcel. Appraised by BLM at \$763,000, we offered Rice \$840,000, the additional amount being to cover his expenses thus far relative to the exchange. Given that Mr. Rice paid \$210,000 for the property just a few years ago and that GVC timberland values have not changed appreciably during the interim, we thought this to be a very fair offer. Unfortunately, it was rejected without discussion or counter-offer.

Owen-Rice Proposal to SRC Infeasible

Also in the spring of 2006, Mr. Owen proposed what he termed a compromise. The SRC was to enter into an agreement wherein following trade consummation and subdivision by Joe Rice, the SRC would purchase some pre-defined minor portion of Area 51 at a price about equal to the BLM appraised value of the whole parcel. It should be noted that Mr. Owen has a side agreement with Mr. Rice under which he would acquire about 30% of Area 51 should their exchange proposal be accepted. Conditions demanded of the SRC by Mr. Owen were as follows:

- The SRC was not to disclose the content of the agreement to our community;
- We were to cease opposition to the proposed trade and discourage opposition by other groups;
- We were to support subdivision of Area 51 through the County entitlement process;
- We were to cooperate in the realization of a substantial tax benefit for Mr. Rice that would compensate him significantly beyond that the SRC would pay for a minor portion of Area 51.

Compliance with these conditions was not feasible for the SRC because:

- As a nonprofit acting on behalf of the community, we must maintain complete transparency, and nondisclosure would destroy public trust;
- We cannot control the actions of other groups opposing the trade;
- Subdivision of Area 51 into 60 lots, as Mr. Rice proposes, would preclude implementation of the SRC funding plan;
- Mr. Owen's tax benefit scheme proposed was potentially illegal and, at a minimum, seriously unethical.

The need for SRC transparency, inappropriateness for us to discourage opposition by other groups, and loss of funding plan feasibility do not require much explanation as reasons for rejection of the Owen-Rice offer. Our intent is to sell lot expansions to repay the purchase loan. It is obvious that Mr. Owen's scenario precludes this possibility. Our *Area 51 Prospectus and Plan* explaining this approach may be found on our website under *Community Acquisition*.

However, rejection of the central condition of the agreement, creation of a tax benefit does warrant some explanation. The benefit was to be accomplished through Mr. Rice's "donation" to SRC of the increase in value to be achieved through subdivision, expanded legal entitlements and the commensurate increase in value of the land. Preservation of the lots to be purchased by the SRC was to be achieved though abandonment of the entitlements obtained. This concerted act of creating and subsequently abandoning entitlements granted through the County

legislative process would have been expressly intended by both parties to the contract as proposed by Mr. Owen.

Tax benefits of this type are commonly used to achieve conservation. However, such tax benefits are to be derived from the liquidation of pre-existing entitlements, not through the deliberate creation of entitlements for the express purpose of subsequent abandonment and liquidation as proposed by Mr. Owen. All this was to be done solely for the purpose of avoiding the payment of tax otherwise due Federal and State governments. The SRC does not feel that this is a defensible application of the income tax deduction benefit granted by the US Internal Revenue Service and/or California Franchise Tax Board for charitable donations. Abandonment of the resulting entitlements for the purpose proposed would also have made a complete mockery of local planning and legislative processes.

SRC Offer Now Before BLM

Our current proposal is for direct purchase of the Area 51 parcel at its full BLM appraised value of \$900,000. A bona fide offer in this amount has been submitted to BLM by SRC backed by a loan guarantee. Pursuant to the Federal Land Transaction Facilitation Act (FLTFA), revenue derived by the BLM from such a sale must be shared with other federal resource agencies. The BLM's current policy is to not share funds and instead dispose of land only via exchange (see *BLM Intransigence Dissected* under *Background* on our website). SRC strongly believes that the peculiarities of competition for revenue felt by the BLM toward other federal agencies do not constitute just cause to deny direct community purchase. We are even willing to assist the BLM in attempting to retain this revenue for local priority acquisitions. This is possible pursuant to FLTFA in that the Secretaries of the Interior and Agriculture may mutually consent to such an arrangement. However, with or without full revenue retention by the BLM, direct sale to the SRC will result in the least adverse impact and yield far greater overall public benefit than the proposed trade.