

Area 51 Gets Federal Court Hearing

03.31.2009

Randall Hauser, Chair, SRC

Attorneys for the SRC described many defects in BLM procedures and documentation at the hearing before Judge William Shubb in Sacramento on March 30. Defects ranged from failure to consider alternatives honestly to gratuitously dismissing adverse impacts on environmental resources resulting from the trade and development. The central fact that stood out most prominently to me, however, was that if the BLM had simply allowed the community to acquire Area 51 as proposed, none of the unaddressed impacts could occur and the greater public interest would be served.

The 10 year effort by the community to acquire Area 51 began with inquiries, progressed to offers to assume responsibility for it by the local trails council and water district, further progressed to a detailed concept offer wherein cooperation from the BLM was requested to refine the offer as necessary to meet applicable requirements, and culminated with the Shasta Resources Council (SRC) bona fide offer to buy Area 51 for public preservation at BLM appraised value. The BLM ignored and shunned all these efforts in favor of trading it to speculators. After BLM delay and prodding on our part, BLM did finally respond to our concept offer of 2005. The response was shocking and definitive. We were told in a letter from Field Manager Steve Anderson that our concept offer would be “considered” in the Environmental Assessment (EA) being prepared by his office and admonished not to contact his office at all further regarding our purchase offer. This terminated any possibility of cooperation to refine our offer as needed to make it meet BLM needs or criteria. Of course, the trade proponent Joe Rice and his representative Brent Owen, who later substituted himself as Area 51 owner, received extensive guidance, cooperation and support from BLM during the long course of refining their trade proposal. This even included being allowed to participate in meetings with regulatory agencies, such as the California Department of Fish and Game, during the environmental assessment process regarding findings that would affect the development potential of Area 51. In actuality, BLM never intended to consider community acquisition sincerely and, in truth, brutally suppressed its very possibility. The agency had its trade agenda in place and we were simply in the way; just impudent antagonists to be pushed aside. Ironically, NEPA was used insidiously to marginalize and defeat the community in favor of agency objectives. Hard proof of this fact is very salient in Anderson’s abortion of our concept offer. It was indeed addressed in the EA; however, it was distorted and criticized as not viable for BLM. Of course we never intended that it would be acceptable on its face, which was the whole point of asking for cooperation in its refinement. A copy of our concept offer as submitted to BLM in 2005 is [here](#). Copies of

subsequent correspondence requesting a meeting and clarifying the nature of our proposal are [here](#) and [here](#). Field Manager Anderson's letter of rejection is [here](#).

The BLM has slated about 3000 acres for disposal in county jurisdiction on Redding's western urban fringe, of which the 216 acre Area 51 is a part. The SRC would also like to preserve other federal disposal parcels for public benefit as funds can be raised. The area is uniquely prone to severe wildfires, its water and road infrastructure are sorely inadequate to serve any additional development and its relatively pristine stream ecosystems are on the brink of crumbling as so many others have in the region due to sprawl. Its sharply irregular and erodible terrain makes infrastructure expansion and fire suppression very problematic and unusually costly. The local water district is fully committed and has no additional water allocation to distribute. Acquiring any additional allocation would be highly contentious and the probability bleak at best given California's water picture. County capacity to administer the area is nil. It is financially unable to provide for development in the area or secure and maintain essential open space or parks, particularly after privatization as with Area 51. BLM NEPA documentation addresses none of these underlying deficiencies and its refrain that our proper course of action should be to influence the local planning process or purchase the land from the speculator is a cruel joke.

The community supports BLM efforts to acquire the Trinity County parcel for which Area 51 was traded. We also understand the need to dispose of federal land in fringe areas and consolidate holdings into more manageable units. However, BLM's contention that it had no choice but to trade Area 51 for the Trinity parcel is false. The owner of the Trinity parcel stated repeatedly and BLM records show that he was perfectly willing to accept any number of other BLM parcels in trade. So why did BLM so vehemently preclude sale to the community and proceed with the trade? According to the BLM state director, the agency is not required to give priority consideration to community acquisition if they dispose by trade, whereas they are so obligated if they dispose by sale. If sold, the agency must share about 30% of the proceeds with other federal resource agencies. Of course all these funds stay with the public. But in a selfish effort to avoid sharing, BLM will only trade, not sell, the thousands of acres of land it has slated for disposal in our region. This also insures that its land base will not shrink, thereby protecting its budget rationale and the financial security of employee ranks. However, the only feasible way for communities to acquire such land is by direct transfer or purchase. Trading is a game only speculators can feasibly play. Consequently, local acquisition of public land ideally situated for recreation and environmental preservation in the urban fringe, such as Area 51, is not feasible. We feel the needs of host communities as ours should not be subordinated to the self-serving objectives of a federal bureaucracy. This agency, wittingly or not, is capitalizing upon and driving urban sprawl through its disposal policy, urban sprawl that is now known to be fundamentally and ultimately unsustainable.

In conclusion, the genuine and well-documented 10-year effort by the community to assume responsibility for and acquire Area 51 strictly for public benefit, land which has always been public, in a manner equitable for the federal government and general public, should not and cannot be ignored. This is not a story of another NIMBY neighborhood exploiting NEPA to protect its property values, privacy and so on by whining about environmental effects and blocking the legitimate actions of government. Instead, this is a story of a community working hard to guide its own future, achieve stability in an urban fringe unsuitable for any sort of urban expansion, and preserve of a gem of local natural open space and environmental resources in its midst. It is also a story of a federal agency disabling and undermining this effort through its self-serving actions and policies, while both failing to honestly consider environmental impacts and disregarding community values and initiative.

Judge Shubb is known for thorough examination of the facts and being a defender of public rights. The SRC Board and members of the SRC respectfully hope that the Judge will find in favor of the SRC and community in this matter.