

Shasta Resources Council

Securing Shasta's Future

March 1, 2007

Interior Board of Land Appeals
Office of Hearings and Appeals
801 North Quincy Street
MS 300-QC
Arlington, VA 22203

SUBJECT: Your Support Is Urgently Needed for Community Acquisition of Area 51

On behalf of the Shasta Resources Council (SRC) and Shasta community, I respectfully ask that you give our community the chance to take responsibility for its future by preserving Area 51 as a public resource through direct purchase from the BLM. The BLM proposes trade to a development speculator. Appeals supported and submitted by our community and a broad range of organizations are now before you. Our website documents the history of community efforts and the unique value that Area 51 represents to our community and the public:

www.shastaresources.org

If concluded, our community must host the consequences of BLM's proposed trade to development speculators in perpetuity. We feel very strongly that the community should be given the first opportunity to acquire Area 51, over and above speculators and developers. At stake are five miles of long-established trails constructed and maintained by the community, miles of pristine stream designated *critical habitat* by NOAA, natural park space in Redding's urban fringe on which future generations can depend, and historic resources dating back to the Gold Rush era. We are located in Shasta County jurisdiction and the County has no plan or funding for the preservation of natural areas at the urban fringe as we are. The SRC is trying to fill this planning void. However, once in private hands, preservation of Area 51 will no longer be feasible. Direct transfer from Federal to local public ownership, at fair market value, is the only economically viable means by which the preservation of Area 51 can be achieved.

BLM announced it would process an exchange proposal submitted by Joe Rice, who is represented by developer Brent Owen, in late 2004. Mr. Owen has a side agreement with Mr. Rice under which he would acquire about 30 percent of Area 51 should their exchange proposal be accepted. Community acquisition efforts beginning in 2002 are outlined below. Also included in the outline are comments on related BLM/Owen-Rice allegations and ploys. Copies of relevant correspondence and other documents, including our plan for Area 51, are on our website.

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. All proposals and inquiries submitted to the BLM were perfectly appropriate and in keeping with the intent of the RPPA. Instead, community members were literally shunned by BLM.

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. Again we were shunned. We were not contacted or asked for clarification. We were not asked for proof of financial capacity or to supply secured funding, 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 SRC website for letter from *BLM to SRC*, April 4, 2005, under *Community Acquisition, Letters*). To highlight our seriousness, in a meeting with State BLM Director Mike Pool arranged by Senator Boxer's representative Stacey Smith, we stated that we would be willing to "open a purchase escrow immediately." Mike Pool should remember this clearly. 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 or funding. How could this possibly be concluded when we were never given the opportunity or asked by BLM, including Mr. Pool, to demonstrate capacity?

BLM Disinformation Muddies SRC Efforts

During and after the time of our March 2005 offer, 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. This disinformation caused substantial confusion among community members and the media leading to marginalization of our purchase proposal by some locals. So, not only did BLM refuse to communicate with or engage the SRC to enable proper formalization of our sincere purchase offer, but the staff insidiously undercut the validity of our effort by claiming that what we proposed was fundamentally illegal.

SRC Offer to Purchase GVC Trade Parcel From Rice Rejected

In the spring of 2006, the SRC put forth a compromise proposal. We offered Rice a handsome price allowing him to make a 400 percent profit on his original investment. By doing so, the community could then conclude the exchange, implement the public preservation plan for Area 51, and the BLM would acquire the GVC property. Therefore, with encouragement from BLM, we submitted a fully-funded, formally binding offer directly to Joe Rice to purchase the GVC parcel. Appraised by BLM at \$763,000, we offered Rice \$840,000. 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 compromise offer. Subsequently, a letter from Rice was sent to the BLM Resource Area Manager rejecting our offer, ostensibly on the grounds that proof of funds was not included, making the false claim that he had stipulated in writing that such proof must accompany any such offer. Although no such stipulation was ever made and the SRC was fully prepared to comply had such a request been made, the BLM Resource Manager immediately issued his decision to proceed with the trade. No other discussion or communication ensued.

Owen-Rice (Salmon Creek Resources) Proposal to SRC Infeasible and Unethical

In a response to the Shasta Coalition appeal, Rice claims to have offered to sell the entire Federal parcel (Area 51) to SRC following exchange. While an offer was advanced orally in concept to SRC by Owen, representing Rice, the claim that the whole of the Federal parcel was offered is false. Further, the arrangement actually offered was to enter into an agreement wherein following trade consummation and subdivision by Joe Rice, the SRC would purchase lots amounting to some minor portion of Area 51 at a price about equal to the BLM appraised

value of the whole Federal parcel. 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 or reasonable for the SRC because:

- A community nonprofit as is the SRC must maintain complete transparency, and nondisclosure would destroy public trust and support;
- We cannot control the actions of other groups opposing the trade and it would be inappropriate for us to try;
- Subdivision of Area 51 into 60 lots, as Mr. Rice proposes, would preclude our sale of lot expansions to repay the purchase loan. Our *Area 51 Prospectus and Plan* explaining this approach may be found on our website under *Community Acquisition*;
- Mr. Owen's tax benefit scheme proposed was seriously unethical if not illegal. The benefit was to be accomplished through Mr. Rice's "donation" to SRC of the increase in value of the land achieved through subdivision. Preservation of the lots to be purchased by the SRC was to be achieved through abandonment of the entitlements obtained. We believe that tax benefits related to preservation are intended to be derived from the liquidation of pre-existing entitlements, not through the deliberate creation of entitlements for the sole purpose of subsequent abandonment as proposed, and avoiding the payment of tax otherwise due Federal and State governments.

Area 51-GVC Acquisition Dependency False

The SRC supports the BLM objective of Federal acquisition for the purpose of protecting environmentally sensitive land. However, the BLM contention that Area 51 must be sacrificed in order for them to acquire the GVC parcel owned by Joe Rice is false. In early 2006, when SRC representatives met with Joe Rice to discuss purchase of his Grass Valley Creek parcel and thereby allow community acquisition, a key question was posed. He was asked why Area 51 was selected for trade from the many thousands of acres of BLM-administered land available for disposal. Mr. Rice stated to SRC representatives that the BLM had given him "no other choice" and that he would willingly consider other parcels. The BLM representative attending the meeting quickly admonished Mr. Rice, advising him that should he choose a parcel other than Area 51, the "process would have to start over" and anyway, "some other SRC" would simply spring up and he would be "back where you are now" facing opposition. Therefore, the BLM contention that sacrifice of Area 51 is essential to their acquisition of the Grass Valley Creek parcel is not correct and has never been correct from the very beginning. In fact, the comments of Mr. Rice and the BLM representative combined are evidence of improper influence and manipulation of what is being represented as a simple trade proposal originating from Mr. Rice to acquire Area 51. SRC representatives are happy to testify under oath.

Density Limit Contention False

Owen-Rice variously contend that County zoning limits density on Area 51 from two total on the parcel to one unit per 20 acres. In actuality, the Federal parcel is not classified. Under the County general plan, when land is converted from public to private ownership as BLM proposes, it is automatically placed in a holding designation of one unit per 20 acres until the final zoning is applied. Typically, in Shasta, final zoning is one unit per 2 acres. Hence, Owen-Rice submitted a preliminary plan to the County in 2004 showing 60 lots on the 216-acre Area 51 Federal parcel (see website under *Background, Trade speculator's plan to subdivide Area 51*).

Lack of Access to Area 51 False

Multiple access ways are presently available to the many hikers, bikers and equestrians who use Area 51 daily. Many prescriptive easements exist from public rights-of-way to Area 51 and across it. Many adjoining land owners have agreed to provide additional and permanent public access easements with implementation of our plan. The BLM statement that the Area 51 trail system is not recognized by BLM or the County is meaningless as the status of the trails is purely a function of California law and owner choice. The County has no policy or ordinance enabling such "recognition." Upon acquisition, the SRC will make all trails permanently accessible and usable by the public.

SRC Purchase Offer Remains 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 (see *Offer and Loan Guarantee* under *Community Acquisition* on our website). The Federal Land Transaction Facilitation Act (FLTFA) allows disposal by sale or trade. Revenue derived by the BLM from such sales 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.

Please help us.

Sincerely,

Randall Hauser
President, Shasta Resources Council, Inc.

cc: Senators Boxer and Feinstein
Congressman Herger
Shasta County Board of Supervisors
Citizens for Smart Growth
Other Concerned Organizations and Individuals