



REDDING GUN CLUB

171 IBLA 28

Decided December 28, 2006

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IBLA 2004-265

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Appeal from decision by the Field Manager, Redding (California) Resource Area Office, Bureau of Land Management, denying a request for a direct sale of up to 260 acres of public land. CA 45567.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Land-Use Planning--Federal Land Policy and Management Act of 1976: Sales

An application for the transfer of lands must be rejected if they are identified for retention in Federal ownership in the applicable resource management plan.

2. Federal Land Policy and Management Act of 1976: Land-Use Planning--Federal Land Policy and Management Act of 1976: Sales

The Interior Board of Land Appeals has no jurisdiction to review a BLM decision denying a proposal to amend a resource management plan developed under 43 CFR Part 1600.

APPEARANCES: Patrick Henry Jones, Redding, California, for appellant; Nancy S. Zahedi, Esq., Office of the Regional Solicitor, Sacramento, California, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE McDANIEL

The Redding Gun Club (the Club) has appealed from a June 2, 2004, decision by the Field Office Manager, Redding (California) Resource Area Office, Bureau of Land Management (BLM), denying the Club's request for a direct sale of up to 260

acres of public land in Secs. 32 and 33, T. 33 N., R. 5 W., ^{1/} Mount Diablo Meridian (CA 45567). The decision stated that the lands requested were in an area identified for acquisition and retention by the Redding Resource Management Plan (RMP), and that disposal would require a plan amendment. Also on June 2, BLM issued a Decision Record/Finding of No Significant Impact (DR/FONSI), based on Environmental Assessment (EA) CA 360-RE-2003-71. This DR/FONSI supported denial of the requested sale because it was “not in conformance with the existing Redding [RMP] and * * * not in the best public interest.”

According to the EA, BLM has been in discussions with local planning agencies and groups, including the Club, who have been seeking a location for a local firing range since 1986. Until that year, the Club had operated a firing range on land leased from the City of Redding. In 1984, the Club was informed that the firing range had to be relocated, but alternative sites were not found and the firing range was closed. Between 1989 and 1991, law enforcement agencies and local officials sought new sites without success. In 1991, when BLM was developing its RMP for the area, the City examined a site on public land administered by BLM along Walker Mine Road. In 1993, BLM issued its RMP.

The land appellant seeks lies within the Interlakes Special Recreation Management Area within the Shasta Management Area, and the RMP specifies land use allocations for that area, none of which provides for the disposal of these particular lands by sale. (RMP at 44.) Although the RMP called for BLM to develop “an integrated resources activity plan for the Interlakes Special Recreation Management Area” that includes identifying “potential site(s) for a regional firing range,” no provision was made for the sale of land for that purpose to a private entity. (RMP at 45-46.)

In the following years BLM met with representatives of various public agencies and organizations to identify a location for the gun range. In September 1996, Shasta County sent a letter to BLM concerning the transfer of a 60-acre site to the County.

In January 1998, BLM approved the Interlakes Special Recreation Management Area Plan (ISRMAP). The Plan stated that 60 to 160 acres had been identified for acquisition by Shasta County to be considered as a regional firing

^{1/} Although BLM’s decision rejecting the request for sale identified the tract as being in T. 33 N., R. 9 W., the Notice of Realty Action for this tract of land published in the Federal Register at 67 FR 61918 (Oct. 2, 2002) shows that the tract is located at T. 33 N., R. 5 W, Mount Diablo Meridian.

range. (ISRMAP at 2-50.) We note, however, that the ISRMAP is an activity plan, not an RMP, and did not amend any allocation decision made in the RMP.^{2/}

By 2001 the various local governmental entities were no longer actively participating in the project to develop a firing range. In January and May 2001, the Club wrote to BLM concerning the purchase of 160 acres of land in two phases as money became available. BLM published a Notice of Realty Action (NORA) pertaining to the direct sale of 63.50 acres to the Club on October 2, 2002. 67 FR 61918 (Oct. 2, 2002). In September 2003, BLM prepared an EA for the sale of an additional 35.95 acres to the Club. At some point, BLM recognized that the existing RMP did not authorize the sale of the land at issue, and initiated the process required to amend the RMP to allow the sale. On January 22, 2004, BLM published a Notice of Intent to amend the Redding RMP to consider disposal of up to 260 acres, and a NORA for the direct sale of 100 acres to the Club at the present time and 160 acres in the future. 69 FR 3169-70 (Jan. 22, 2004). A public meeting held on February 4 was attended by well over 100 people expressing support for and opposition to the proposal. BLM also received more than 100 written comments on the proposal and at least two protests were filed.

In a letter to the Administrative Officer for Shasta County dated May 3, 2004, the Field Office Manager referred to the County's prior involvement in the proposal and queried the County about its permitting requirements for constructing a firing range, the costs of the permitting process, and whether the County still believed that a firing range would be successful. In a May 6 response, the County's Director of Resource Management referred to the need for the Club to comply with California land use laws that would require an environmental document and zoning and general plan changes as well as a use permit. The costs of permitting a firing range could not be estimated until the scope of the project was presented to the County.

BLM met with the Club on May 10 concerning the status of the project. By letter dated May 19, BLM notified the Club that the process to amend the RMP was being terminated. BLM explained in the letter that if the firing range were not

^{2/} Although all "resource management authorizations and actions" are required by 43 CFR 1610.5-3(a) to "conform to the approved plan," the plan to which this regulation refers is an RMP developed in accordance with procedures established in 43 CFR Part 1600. Such a plan can be approved only by a BLM State Director, not the manager of a resource area office. See 43 CFR 1610.5-1 and 1610.5-5(a); Bay Area Nuclear Waste Coalition, 9 OHA 212, 213 (1993). Unlike an RMP, the ISRMAP was not developed in accordance with the procedures in Part 1600 and was not approved by a State Director. In Friends of the River, 146 IBLA 157, 162-66 (1998), the Board discusses various types of planning decisions and the appropriate level of review.

developed, BLM would have no means to reacquire the property. Yet, the Club did not provide complete assurance that it had the financial means to complete the project. BLM further stated that the sale would create a private island of land in an area where BLM was seeking instead to consolidate its ownership, noting that the Sacramento River Trail non-motorized extension was proposed for the same area. The decision noted that the increase in land values in the area necessitated updated appraisals for the public land. It also referred to continuing residential development and increasing public opposition to a firing range, noting that the original proponent had been Shasta County but that the Club was a private non-profit organization. BLM's June 2 decision denying the Club's request for a direct sale of the property repeated the reasons given in its May 19 letter for terminating the land use plan amendment.

In its appeal the Club claims that the Redding RMP is old and needs amending. The Club refers to the fact that the parcel was identified in the ISRMAP as suitable and that the Club has been operating the only outdoor firing range in the County. The former Redding Field Office Manager had worked with the Club leading up to the sale, and the Club attributes the change in the decision to a new Field Office Manager. The Club refers to the need for a safe shooting facility and asserts that it has the financial backing to cover the costs necessary to build and obtain permits for the facility.

[1] BLM's decision stated that the lands requested were in an area identified for acquisition and retention by the Redding RMP and that disposal would require a plan amendment. We agree with BLM that an application for the transfer of lands must be rejected if they are identified for retention in Federal ownership in the applicable RMP, as was the case here.^{3/} Dona Jeanette Ong, 165 IBLA 274, 277 (2005), and cases cited therein. Therefore, BLM's decision denying the request for sale was proper.

[2] Appellant further contends that the RMP is outdated and should be amended to allow the sale of the property. However, BLM terminated the proposed amendment for the reasons cited in its letter to Appellant on May 19, 2004. Although the Board has authority to review BLM decisions relating to the use and disposition of the public lands, see 43 CFR 4.1(b)(3), 4.410(a), it does not have jurisdiction to review appeals of decisions to approve or amend an RMP, which is "designed to guide and control future management actions." (Emphasis added.) 43 CFR 1601.0-2, 1601.0-5(k); see Friends of the River, 146 IBLA at 163 (1998); Harold E. Carrasco, 90 IBLA at 41(1985). Under 43 CFR 1610.5-2, decisions to adopt or amend an RMP may be protested and these protests are subject to review by

^{3/} Map 2 of the RMP designates the Interlakes Special Recreation Management Area, which contains the proposed tract of land, as "retain & acquire."

the Director of BLM, whose decision is final for the Department. As the Supreme Court stated in Norton v. Southern Utah Wilderness Alliance, 524 U.S. ___, 124 S. Ct. 2373 (2004): “Plans also receive a different agency review process from implementation decisions. * * * [T]he Board, which reviews ‘decisions rendered by Departmental officials relating to . . . the use and disposition of public lands and their resources,’ * * *, does not review the approval of a plan, since it regards a plan as a policy determination, not an implementation decision. * * * Plans are protested to the BLM [D]irector, not appealed [to the Board of Land Appeals].” It follows that this Board has no jurisdiction to review a BLM decision denying a proposal to amend an RMP. Bay Area Nuclear Waste Coalition, 9 OHA at 213; Harold E. Carrasco, 90 IBLA at 41. Accordingly, we have no jurisdiction to review BLM’s decision that it will not amend the governing RMP to allow for disposal of the lands sought by the Club.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

R. Bryan McDaniel
Administrative Judge

I concur:

Lisa Hemmer
Administrative Judge