



SHASTA COALITION FOR THE PRESERVATION OF PUBLIC LAND;
SACRAMENTO RIVER PRESERVATION TRUST

172 IBLA 333

Decided September 28, 2007

**Editor's Note: appeal filed Civ. No. 2:08-645 WBS CMK (C.D. Calif.),
aff'd (April 7, 2009)**



United States Department of the Interior
Office of Hearings and Appeals
Interior Board of Land Appeals
801 N. Quincy St., Suite 300
Arlington, VA 22203

SHASTA COALITION FOR THE PRESERVATION OF PUBLIC LAND;
SACRAMENTO RIVER PRESERVATION TRUST

IBLA 2007-21, 2007-42

Decided September 28, 2007

Appeals from decisions of the California State Office, Bureau of Land Management (BLM), dismissing protests of a Finding of No Significant Impact/Decision Record issued by the Redding Field Office, BLM, approving the Salmon Creek Resources Land Exchange. CACA-43098-FD/PT.

Decision affirmed.

1. Exchanges of Land: Generally--Federal Land Policy and Management Act of 1976: Exchanges

BLM may dispose of lands by exchange under section 206(a) of FLPMA, 43 U.S.C. § 1716(a) (2000), where it determines that the public interest will be well served by making the exchange. BLM has discretion to decide how to balance all of the statutory factors when making a determination of the public interest. A decision approving a land exchange will be affirmed where the exchange will result in more logical and efficient management of the BLM lands in the area and is in accordance with existing land-use planning documents.

2. Environmental Quality: Environmental Statements--National Environmental Policy Act of 1969: Environmental Statements

Under section 102(2)(C) of NEPA, 42 U.S.C. § 4332(2)(C) (2000), the adequacy of an Environmental Assessment must be judged by whether it took a “hard look” at the potential significant environmental consequences of the proposed action, and reasonable alternatives thereto, and considered all relevant matters

of environmental concern. In general, the Environmental Assessment must fulfill the primary mission of section 102(2)(C), which is to ensure that BLM, in exercising the substantive discretion afforded it to approve or disapprove an action, is fully informed regarding the environmental consequences of such action.

APPEARANCES: Joseph J. Brecher, Esq., Oakland, California, for Shasta Coalition for the Preservation of Public Land; John Merz, Chico, California, for Sacramento River Preservation Trust; Sandra K. Dunn, Esq., and Jonathan R. Schutz, Esq., Sacramento, California, for Salmon Creek Resources, Inc.; Daniel Shillito, Esq., and Erica L.B. Niebauer, Esq., Office of the Field Solicitor, U.S. Department of the Interior, Sacramento, California, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE M^CDANIEL

Shasta Coalition for the Preservation of Public Land (the Coalition or Shasta Coalition) and Sacramento River Preservation Trust (the Trust) have appealed separate October 6, 2006, decisions of the State Director, California State Office, Bureau of Land Management (BLM), dismissing their protests of the Finding of No Significant Impact/Decision Record (FONSI/DR), dated April 26, 2006, issued by the Field Manager, Redding Field Office, BLM, approving the Salmon Creek Resources Land Exchange (the Exchange). The Field Manager based the FONSI/DR on an April 2006 Environmental Assessment (EA) (CA-360-RE-2004-15), prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2)(C) (2000), to analyze the environmental impacts of the Exchange, including reasonably foreseeable development of the Federal lands involved. BLM tiered its EA to the 1992 Environmental Impact Statement (EIS) prepared in support of the July 1993 Redding Resource Management Plan (RMP).

I. BACKGROUND

Salmon Creek Resources, Inc. (SCR), is the exchange proponent,¹ having offered in 2004 to exchange approximately 566 acres of non-Federal land in Trinity County, California, for approximately 216 acres of Federal land in Shasta County, California (referred to occasionally as “Area 51”), pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1716 (2000). The Federal land to be exchanged is located near Redding, California, and

¹ By order dated Jan. 19, 2007, the Board granted SCR’s motion to intervene in the current proceedings, denied SCR’s motion to dismiss the Coalition’s appeal for failure to notify an adverse party (SCR) and for lack of standing, and denied the Coalition’s request for a stay.

is surrounded by residentially developed land. While the land is likely to be developed, SCR has no current development plan.

The Federal land selected for exchange, or Area 51, encompasses various contiguous lots in secs. 5 and 6, T. 31 N., R. 5 W., and sec. 32, T. 32 N., R. 5 W., Mount Diablo Meridian, Shasta County, California.² It is one of several isolated parcels of Federal land in a developing area several miles west of Redding, California. The County General Plan land use designation for the parcel is “Natural Resource Protection–Open Space,” while the zoning designation is “Unclassified.” SCR Response to Petition for Stay, Ex. A; see EA at 25. The offered non-Federal land is situated in sec. 22, T. 32 N., R. 8 W., Mount Diablo Meridian, Trinity County, California, approximately 25 miles west of Redding, and is one of the last parcels of non-Federal land remaining in the Grass Valley Creek Watershed Area (GVC Watershed).³

In the EA, BLM explained that the Exchange would implement one of the major goals defined in the RMP, which is improving management of public lands by disposing of scattered Federal parcels while also acquiring lands where Federal management for recreation and resource management is appropriate. EA at 4. It further stated that “[a]cquisition of the non-Federal land for restoration of critically eroding land in the Grass Valley Creek Watershed Area complies with the Trinity River Basin Fish and Wildlife Restoration Act of 1984 and the Grass Valley Creek Watershed Management Plan dated 1995.” *Id.*

On behalf of BLM, the Appraisal Service Directorate, National Business Center, U.S. Department of the Interior, appraised the fair market value of the Federal and non-Federal lands as of January 5, 2006. Finding that the value of the Federal lands exceeded the value of the non-Federal lands by close to 15 percent, BLM required a cash equalization payment to the United States as part of the Exchange. FONSI/DR at 13-14.

² The Federal parcel is crossed by Salt Creek, a tributary of the Sacramento River, and several of its unnamed tributaries. At the recommendation of the California Department of Fish & Game, the Federal patent will be issued subject to a restrictive covenant, denoted “a creek setback requirement,” to limit surface disturbance activities near Salt Creek and its tributaries for the purpose of protecting fish and its habitat. SCR Response to Request for Stay at 7.

³ The parties refer to the offered non-Federal land as the GVC parcel.

II. ARGUMENTS OF THE PARTIES

The Coalition has filed an extensive statement of reasons (SOR), with which the Trust concurs, challenging the Exchange under section 206(a) of FLPMA, 43 U.S.C. § 1716 (2000), and under section 102(2)(C) of NEPA, 42 U.S.C. § 4332(2)(C) (2000). The Coalition divides its SOR into two parts, stating that the first part “shows why the State Director’s decision to divest itself of the Federal parcel . . . is based on bad facts and bad policy,” and that the second part “shows why it was illegal.” SOR at 1.

A. Factual and Policy Errors Asserted by the Coalition

The Coalition argues that the Exchange will have the effect of

obliterating 1) pristine habitat unique to our region (including *critical habitat* for *Central Valley Steelhead* designated by the National Marine Fisheries),⁴ 2) a 5-mile trail system nestled in the heart of Shasta and built by community volunteers over decades (well-used by people from throughout the region), and 3) a natural area of great solace to public users containing features of Shasta’s history identified as a community dating back to the *Gold Rush*.

SOR at 1. Contending that the Exchange is not in the public interest, the Coalition asks that the Board “terminate the proposed trade and institute another action that would benefit the community as a whole.” *Id.* at 2. The Coalition asks that the community be allowed to purchase Area 51 at fair market value, as already appraised by BLM, that the parcel be conveyed to the community via the Recreation and Public Purposes Act (R&PP Act), 43 U.S.C. §§ 869 to 869-4 (2000), or that the parcel be retained in Federal ownership.

The Coalition describes the importance of Area 51 to the community in the following terms:

Area 51 is located in the eastern portion of Shasta, close to Redding. . . . Over the past thirty or more years, the southern portion of the 216-acre federal parcel proposed for exchange has grown to become the centerpiece of an informal natural recreation area on Redding’s west side. Because of its relative seclusion, users

⁴ The National Marine Fisheries Service (NMFS) is in the National Oceanic and Atmospheric Administration, U.S. Department of Commerce. NMFS performs the same function with respect to marine species as the U.S. Fish and Wildlife Service under the Endangered Species Act, 16 U.S.C. § 1536 (2000).

affectionately named this centerpiece “Area 51” after the military’s secret Groom Lake installation in Nevada. Local residents and other volunteers have constructed over five miles of trails using natural, onsite materials. The trail system incorporates historic mining ditches and related features that track the topography. Walkers, runners, equestrians, and mountain bikers of the community and region alike enjoy its labyrinth of trails and the pristine setting.

SOR at 2.⁵

The Coalition asserts that the Trails and Bikeways Council of Greater Redding and the Shasta Community Services District jointly submitted an application under the R&PP Act to acquire Area 51. The Shasta Resources Council, organized in 2005 to acquire the land through exchange or direct purchase, submitted a concept proposal to acquire the Federal parcel, and in March 2006 it “attempted to acquire Area 51 by submitting a fully-funded, binding offer to purchase the GVC parcel from [the Exchange proponent] at appraised value plus 10%,” but the “offer was rejected out of hand.” *Id.* at 3. Also, the Coalition states that in the spring of 2006, the Shasta Resources Council submitted a binding, fully-funded cash offer directly to BLM to purchase Area 51 at current appraised value, with a loan guarantee for the appraised \$900,000 value, but that the State Director “characterized our offer as nothing more than an ‘expression of interest.’” *Id.*

The Coalition asserts that “BLM has clearly failed to treat, consider, study or in any way support community acquisition as a legitimate alternative.” SOR at 2. The Coalition states that “[t]he concern over the proposed exchange has been entirely mischaracterized as emanating solely from a few surrounding land owners.” *Id.* at 4. According to the Coalition, BLM’s “conduct toward the community in this matter has been almost militaristic.” *Id.* at 5. The Coalition states that “[t]he adverse social impact of the proposed trade and subsequent obliteration of Area 51 by subdivision as proposed would be very significant for the community and its future.” *Id.* In the Coalition’s view, Area 51 is “ecologically rich and important,” being a part of the Salt Creek watershed, by contrast to the GVC parcel to be acquired by BLM, which “is very remote and under no legitimate development pressure.” *Id.*

⁵ Counsel for BLM states that Area 51 “is covered with a network of unauthorized and unplanned trails.” BLM’s Response at 16; *see* Administrative Record (AR) Vol. I, doc. 31. As will become clear *infra*, BLM’s decision to proceed with the Exchange was motivated by its desire to acquire “pristine” non-Federal land that is surrounded by public land and, in accordance with the Redding RMP, to dispose of parcels such as Area 51 that present management problems.

The Coalition asserts that “BLM has presented no analysis of the effects of the significant surface disturbance and increase in surface runoff from the proposed subdivision and the associated increase in sedimentation of Salt Creek.” SOR at 7. The Coalition states that “[t]he National Marine Fisheries Agency has designated Salt Creek *critical habitat* for central valley steelhead,” and that BLM’s “NEPA documentation should address the potential impacts of the proposed BLM action in light of the recent *critical habitat* designation . . . to determine if compliance is even feasible.” *Id.* The Coalition argues that the EA “relied entirely on assurances that sufficient analysis of Area 51 had been done in 1992 and 1993 in support of the RMP and accompanying Environmental Impact Statement (EIS),” but that “the RMP did not analyze fisheries in the Sacramento River any nearer than Balls Ferry, at least 20 miles downstream from Salt Creek.” *Id.* at 8. Moreover, according to the Coalition, “[t]he 1993 RMP, now on the verge of being obsolete by federal standards, was written prior to the listing of several species in the Salt Creek area of the Sacramento River.” *Id.* The Coalition contends that Salt Creek, along with nearby Rock Creek, Middle Creek, Olney Creek, Canyon Creek, and Oregon Gulch, are together called the Shasta West Watershed by the Western Shasta Resource Conservation District, and that “[i]t is extremely important for each of the few Shasta County creeks still viable to support Central Valley Steelhead to be given utmost protection.” *Id.* The Coalition concludes that BLM has not “addressed the impacts that most assuredly will occur with the known 60-lot subdivision (or is it 500 lots?) planned . . . as a direct consequence of the proposed action.” *Id.*

The Coalition refers to the EA as “badly flawed” in its consideration of recreational values. It states that the trails on Area 51 are “centrally located” and connect “with other nearby trails, including the Sacramento River Trails, the Middle Creek Trails, the West Side Trails, and the Mule Mountain Trails.” SOR at 9. In the Coalition’s view, “it is not in the public’s interest to trade a network of well-used trails next to a major population center for deer trails on a remote and inaccessible wilderness parcel.” *Id.* The Coalition disputes the EA’s “claims that the GVC watershed is ‘highly suited for a variety of recreational uses such as hunting, fishing, hiking, mountain biking, [and] horseback riding . . . ,’” arguing rather that “[t]he GVC parcel is undeveloped land, about 2 miles from the nearest paved road, with no trails leading to it, in a ‘rural and sparsely population area.’” *Id.* at 9-10.

B. Legal Errors Asserted by the Coalition

Citing *Western Land Exchange Project v. Bureau of Land Management*, 315 F. Supp. 1068, 1087 (D. Nev. 2004), the Coalition contends that BLM should have prepared an EIS rather than an EA to evaluate the environmental impacts of the Exchange. The Coalition argues that the State Director mistakenly concluded that the potential impacts of developing Area 51 would be insignificant because they would be local rather than national in scope. The Coalition contends that BLM

improperly tiered to the 1992 EIS, given that “the 1992 document did not make a single reference to Area 51, let alone purport to analyze impacts of its disposal.” SOR at 12-13, *citing Klamath-Siskiyou Wildlands Center v. Bureau of Land Management*, 387 F.3d 989 (9th Cir. 2004); *Muckleshoot Indian Tribe v. U.S. Forest Service*, 177 F.3d 800 (9th Cir. 1999).

The Coalition challenges BLM’s cumulative impacts analysis as “unacceptable” and consisting of “naked conclusions with no supporting data” SOR at 14. The Coalition states that “Area 51 is in the midst of a number of BLM parcels scheduled for disposal and development,” and that “[a]t the end of that process, an urban area that is now ringed with open space will be completely developed, thereby fundamentally changing its character.” *Id.* at 15-16. Further, the Coalition argues that the EA fails to discuss “how the disposition of Area 51 relates to the numerous acres that have *already* been disposed of by BLM in the Redding area.” *Id.* at 16.

The Coalition maintains that “the EA failed to mention, much less analyze a host of alternatives that would have allowed BLM to acquire the [GVC] parcel without sacrificing Area 51.” SOR at 16.

The Coalition argues that BLM failed to comply with the appraisal standards required by FLPMA, 43 C.F.R. § 2201.3, and BLM’s “Land Exchange Handbook,” *BLM Manual H-2200-1*. The Coalition asserts that “there is an inadequate showing that the evaluation of the Government parcel was conducted by a knowledgeable, unbiased appraiser”; that the value of Area 51 “was improperly based on the assumption that houses built on the parcel would require a 20 acre minimum lot size”; that the “appraiser improperly downgraded the value of the Federal parcel by ignoring two comparable sales, in violation of BLM exchange regulation 2201.3”; and that “the Grass Valley Creek parcel was substantially overrated because it improperly assumed that a great deal of timber [] was available for harvest, despite regulatory constraints, and significantly underestimated the costs of harvests.” SOR at 22.

C. *The Trust’s Additional Arguments*

In its SOR, the Trust states that it concurs with the SOR filed by the Coalition. With its SOR, the Trust submits a June 14, 2006, letter to the Manager, Redding Field Office, BLM, requesting that “BLM change its proposed decision to dispose of Federal parcels containing pristine salmon and rainbow/steelhead trout habitat on Salt Creek” In that letter, the Trust asserts that the EA is based upon the “seriously out-of-date” 1992 EIS and 1993 Redding RMP, both “produced prior to the listing of several threatened and endangered species found in the Sacramento River watershed, including Spring-run Chinook salmon and Central Valley steelhead.” *Id.* The Trust states that “BLM provides no analysis of the cumulative effects of its

previous disposals, this proposed trade and future planned disposals of Sacramento River tributary parcels.” *Id.*

D. Responsive Pleadings Filed by SCR and BLM

SCR has filed an Answer responding primarily to appellants’ arguments that the Exchange is not in the public interest as required by section 206(a) of FLPMA, 43 U.S.C. § 1716(a) (2000), and BLM has filed a Response addressing primarily appellants’ arguments that BLM failed to take a “hard look” at the potential significant environmental consequences of the proposed action, failed to consider reasonable alternatives thereto, and failed to consider all relevant matters of environmental concern as required by section 101(2)(C) of NEPA, 42 U.S.C. § 4332(2)(C) (2000). Because we agree with the responsive arguments advanced by SCR and BLM, we will consider them in detail in the following sections of this opinion.

III. ANALYSIS

A. The Exchange Complies with Section 206(a) of FLPMA

[1] Section 206(a) of FLPMA, 43 U.S.C. § 1716(a) (2000), provides:

A tract of public land or interests therein may be disposed of by exchange by the [Secretary of the Interior] under this Act . . . where the Secretary . . . determines that the public interest will be well served by making that exchange: *Provided*, That when considering public interest the Secretary . . . shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

BLM, as the authorized officer of the Department, determines what is in the public interest. In doing so, it is required to fully consider

the opportunity to achieve better management of Federal lands, to meet the needs of State and local residents and their economies, and to secure important objectives, including but not limited to: Protection of fish and wildlife habitats, cultural resources, watersheds, wilderness and aesthetic values; enhancement of recreation opportunities and

public access; consolidation of lands and/or interests in lands, such as mineral and timber interests, for more logical and efficient management and development; consolidation of split estates; expansion of communities; accommodation of land use authorizations; promotion of multiple-use values; and fulfillment of public needs. In making this determination, the authorized officer must find that . . . [t]he intended use of the conveyed Federal lands will not, in the determination of the authorized officer, significantly conflict with established management objectives on adjacent Federal lands and Indian trust lands. Such finding and the supporting rationale shall be made part of the administrative record.

43 C.F.R. § 2200.0-6(b); *see also Daniel E. Brown*, 153 IBLA 131, 135 (2000); *Wade Patrick Stout*, 153 IBLA 13, 18-19 (2000); *Anthony Huljev*, 152 IBLA 127, 134-35 (2000); *Donna Charpied*, 150 IBLA 314, 331-32 (1999), *appeal dismissed sub nom, Desert Citizens Against Pollution v. Bisson*, 954 F. Supp. 1430 (S.D. Cal. 1997), *rev'd and remanded on other ground*, 231 F.3d 1172 (9th Cir. 2000); *see City of Santa Fe*, 103 IBLA 397, 399-400 (1988).

As we have held, “[i]n its consideration of the broad range of factors it is required to review in determining whether the public interest will be well served by the exchange, BLM has discretion to decide how to balance all of the statutory factors when making a public interest determination.” *Wade Patrick Stout*, 153 IBLA at 19; *Anthony Huljev*, 152 IBLA at 135; *Donna Charpied*, 150 IBLA at 332; *see National Coal Ass’n v. Hodel*, 825 F.2d 523, 532 (D.C. Cir. 1987); *Lodge Tower Condominium v. Lodge Properties, Inc.*, 880 F. Supp. 1370, 1380 (D. Colo. 1995); *National Coal Ass’n v. Hodel*, 675 F. Supp. 1231, 1245 (D. Mont. 1987), *aff’d*, 874 F.2d 661 (9th Cir. 1989); *Burton A. McGregor*, 119 IBLA 95, 103 (1991); *John S. Peck*, 114 IBLA 393, 397 (1990). We find that BLM has properly exercised that discretion here.

As an initial matter, we agree with SCR’s assertion that “[a]n important element in determining whether the Exchange is in the public interest is its consistency with the [Redding RMP].” SCR’s Answer at 4; *see BLM Land Exchange Handbook*, H-2200-1, at 1-8, 6-3. The EA recognized that the Redding RMP identifies the GVC Watershed as possessing regionally significant values that require protection. EA at 1; *see Redding RMP* at 39, 42. As SCR correctly emphasizes, “[b]y acquiring private lands within the Grass Valley Creek Watershed, BLM is able to achieve the important goal of reducing ‘the sediment load entering the Trinity River via Grass Valley Creek for the improvement of anadromous fisheries.’” SCR’s Answer at 4, *quoting Redding RMP* at 39.

Further, the record verifies SCR’s position that “[b]y exchanging isolated public land parcels for private lands, BLM is able to meet its goal for Grass Valley as

well as eliminate lands identified as difficult to manage.” SCR’s Answer at 4. The record in this case shows that meeting this goal is a critical public interest consideration in whether to proceed with the Exchange. In the EA prepared to study the environmental impacts of the Exchange, BLM described the purpose of the Exchange as

transform[ing] the scattered land base of the Redding Resource Area into consolidated resource management units . . . [and] consolidating land ownership in the Grass Valley Creek watershed area, while also disposing of land identified in the RMP as surplus [isolated, difficult to manage, or having low resource values].

EA at 4-5. Thus, SCR is correct to assert that “the Exchange is in the public interest because it achieves the important objectives of the Redding RMP.” SCR’s Answer at 5.

Moreover, as SCR acknowledges, section 206(a) of FLPMA requires BLM to consider the “needs of State and local people” in determining whether to approve an exchange. 43 U.S.C. § 1716(a) (2000); 43 C.F.R. § 2200.0-6(b). We see merit in SCR’s position that “the local interests of the Coalition are only one aspect BLM is required to consider in determining whether the Exchange is in the public interest,” that “[l]eaving the Federal parcel in its current state would serve only a very small portion of the public whose interests must be considered,” and that “BLM has discretion to consider, indeed, is required to consider, the greater public interests, as it has here, in determining that the Exchange protects the regionally significant values of the Grass Valley Creek watershed.” SCR’s Answer at 5. Further, while the Federal parcel offers recreational values, under section 206(a) of FLPMA, 43 U.S.C. § 1716(a) (2000), and 43 C.F.R. § 2200.0-6(b), “recreation is only one of many factors BLM must consider in determining whether the Exchange is in the public interest,” and that “[d]etermining whether the Exchange is in the public interest requires consideration of the needs of State and local people, including needs for lands for the economy, community expansion, food, fiber, minerals, and fish and wildlife as well as recreation.” SCR’s Answer at 5.

We agree with SCR that “the question of whether recreational interests of the federal parcel outweigh those of the non-federal parcel is an issue of discretion committed to the BLM.” *Id.* We further agree with SCR that, as BLM stated in its ROD, “[t]he non-federal parcel possesses great recreational potential, including hunting, fishing, hiking, horseback riding, and camping,” and that “[i]n addition, the non-federal parcel will become part of approximately 16,000 federally-owned acres of open space, which greatly enhances the recreational potential of the non-federal parcel.” *Id.* at 5-6; ROD at 12; *see Anthony Huljev*, 152 IBLA at 136-37. Further, to the extent that development does occur, “[t]he governing Act and regulations

expressly recognize community expansion as a favorable factor in assessing whether the exchange is in the public interest.” *Id* at 137.

The record shows that BLM carefully evaluated the controlling question of whether the public interest will be well served by the Exchange, and properly considered whether Federal land management would be improved by approving it. Appellants have not shown that BLM improperly exercised its discretion in deciding the Exchange should proceed. We conclude that BLM’s decision complied with its obligations under section 206(a) of FLPMA, 43 U.S.C. § 1716(a) (2000). *See, e.g., Wade Patrick Stout*, 153 IBLA at 20.

B. The EA Complies with NEPA

[2] Appellants also complain that BLM did not properly evaluate the environmental consequences of the transfer of Area 51 from Federal ownership to SCR. Under section 102(2)(C) of NEPA, 42 U.S.C. § 4332(2)(C) (2000), the adequacy of an EA will be judged by whether BLM has taken a “hard look” at the potential significant environmental consequences of the proposed action, and reasonable alternatives thereto, and considered all relevant matters of environmental concern. *E.g., Blue Mountain Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1211 (9th Cir. 1998); *Wade Patrick Stout*, 153 IBLA at 20; *Colorado Environmental Coalition*, 142 IBLA 49, 52 (1997), and cases there cited. The Board will evaluate the EA in accordance with the following standard:

In general, the EA must fulfill the primary mission of that section, which is to ensure that BLM, in exercising the substantive discretion afforded it to approve or disapprove an action, is fully informed regarding the environmental consequences of such action, that the resource values to be lost by the deeding of Federally-owned lands are balanced against the values to be gained from the transfer of the acreage, and that the transfer has not violated any provision of NEPA.

Wade Patrick Stout, 153 IBLA at 20-21; *Donna and Larry Charpied*, 150 IBLA at 321.

In determining whether an EA promotes informed decisionmaking, a “rule of reason” will be employed. *Colorado Environmental Coalition*, 149 IBLA 154, 157 (1999). The query is whether the EA contains a “reasonably thorough discussion of the significant aspects of the probable environmental consequences” of the proposed action and the alternatives thereto. *State of California v. Block*, 690 F.2d 753, 761 (9th Cir. 1982). “In those instances where BLM has satisfied the procedural requirements of section 102(2)(C) of NEPA by taking a ‘hard look’ at all the likely significant impacts of a proposed action, in this case the Combined Alternative, it will

be deemed to have complied with the statute, regardless of whether a different substantive decision could have been reached by some other decisionmaker.” *Wade Patrick Stout*, 153 IBLA at 21; *see Oregon Natural Resources Council*, 116 IBLA 355, 361 n.6 (1990).

For the appellants to overcome BLM’s decision to proceed with the Exchange, they must carry the burden to demonstrate by a preponderance of the evidence, with objective proof, that BLM failed to consider, or to adequately consider, a substantial environmental question of material significance to the proposed action or otherwise failed to abide by section 102(2)(C) of NEPA. *See Colorado Environmental Coalition*, 142 IBLA at 52. Our review of the record makes clear that appellants have failed to meet this burden.

1. *BLM Considered Impacts on the Watershed and Fisheries*

In its Answer, BLM addresses the numerous allegations of NEPA inadequacy made by the Coalition. In its decision on the Coalition’s protest, BLM responded to the argument that the EA failed to consider the adverse impacts to the watershed and fisheries of transferring Area 51 out of Federal ownership. Much of BLM’s discussion on watershed and fisheries relates to its consultation with NMFS in taking steps to protect threatened and endangered species as required by section 7(a) of the Endangered Species Act, 16 U.S.C. § 1536(a) (2000). BLM states that through consultation, the California Department of Fish and Game (CDFG) “ultimately supported the acquisition of the private GVC parcel and recommended that the federal parcel, if transferred, be protected through ‘adequate setbacks, parcel sizes, and stream crossings to minimize impacts to the stream corridor and fish and wildlife resources.’” BLM’s Response at 9, *quoting* AR Vol. IX, docs. 13 and 15.

BLM states that NMFS concurred with BLM’s determination that the Exchange was not likely to adversely affect listed salmonids, the green sturgeon (proposed as threatened), or the designated critical habitat or Essential Fish Habitat (EFH) for Pacific salmon. AR Vol. IX, doc. 6. In its decision dismissing the Coalition’s protest, BLM thoroughly addressed the Coalition’s argument that it failed in its obligation to protect listed species. The following quotation demonstrates that the Coalition’s criticisms in this regard are without substance:

Consultation with the NOAA’s National Marine Fisheries Service (NMFS) and coordination with California Department Fish & Game [] indicated as stated in the EA page 33, that no portion of Salt Creek south of Highway 299 is designated as critical habitat for California Central Valley steelhead (CCVS). However, after a review of *50 CFR Part 226, Endangered and Threatened Species; Designation of Critical Habitat for Seven Evolutionarily Significant Units of Pacific Salmon and*

Steelhead in California; Final Rule, it has been determined that an “unnamed tributary” crosses the public land parcel which has been designated critical habitat.

However, this does not change the findings discussed in the EA which conclude specifically, that Salt Creek is limited as a fishery, due to the seasonal nature, alluvial load, and relatively small size. These constraints on spawning habitat impose significant limitations for the spawning and migration of anadromous salmonids into the Sacramento River. These constraints on spawning habitat also limit the value of upper Salt Creek and its tributaries within and near the parcel for use by resident trout.

On September 29, 2005, NMFS concurred with the BLM that the proposed exchange is not likely to adversely affect listed salmonids, proposed threatened green sturgeon, proposed or designated critical habitat and EFH for Pacific salmon. That determination included habitat within the entire Federal parcel including Salt Creek and its tributaries. Guidance found in Habitat Approach applies the effects of proposed actions upon the freshwater habitat of listed salmonids, as a surrogate measure to effects on a species. Although the BLM states that no critical habitat occurred on the parcel, this measure was applied to the unnamed tributary in BLM’s biological assessment. Therefore, BLM concluded that NMFS made this determination with the knowledge that their final rule designated critical habitat in the unnamed tributary. Accordingly, NMFS appropriately concluded all designated critical habitat would not be destroyed or adversely modified.

Decision on the Coalition’s Protest, AR, Vol. V, doc. 12, at 14. BLM states that its determination that acquisition of land within the GVC Watershed would in fact benefit the listed species was made in reliance upon the analysis of its biologists and through consultation with NOAA Fisheries and CDFG. BLM’s Response at 10-11.

Despite the Coalition’s argument to the contrary, our review of the record shows that BLM considered the potential environmental impacts to fishery resources. See EA at 15, 33-34.

2. BLM Analyzed the Social Impacts of the Exchange

BLM addresses the Coalition’s argument that the EA failed to consider the “adverse social impacts” of the Exchange, and that transfer of Area 51 out of Federal ownership is likely to result in residential development of that parcel and will affect current use of the parcel for community recreation. We agree with BLM that the EA

and FONSI/DR “clearly document the rationale and resultant conclusion that a significant impact to the human environment would not occur as a result of the proposed action.” BLM’s Response at 11-12. *See* FONSI/DR at 1-2; EA at 25-28. As for the impact of the Exchange and the “subsequent obliteration of Area 51 by subdivision,” SOR at 5, BLM states that “any future subdivision development would likely be less intensive than that which surrounds the parcel. *See* AR Vol. VI, doc. 16.” BLM’s Response at 12.

3. *BLM Compared the Recreational Values of the Two Parcels*

BLM sharply disputes the Coalition’s argument that Area 51 provides recreational trail value that is superior to the non-Federal land to be acquired. BLM states that the private parcel “can be accessed from a number of directions through the surrounding public land parcels.” BLM’s Response at 16. In fact, asserts BLM, the contrast between Area 51 and the private parcel “is part of the rationale supporting the exchange.” *Id.* Quoting from the EA, BLM explains why this contrast provides compelling reasons for approving the Exchange:

The private parcel is surrounded by BLM open space that is managed for all of the resource values previously described in the EA and other record documents. . . . In contrast, the federal parcel is hardly “pristine,” as stated in appellant’s SOR. It has been mined, it is crossed by multiple utility rights-of-way, is surrounded by residential development, and is covered with a network of unauthorized and unplanned trails. The parcel has also been subjected to unauthorized waste disposal. . . . There is nothing unique about this parcel.

BLM’s Response at 16. We agree with BLM that “[a]side from pure argument and an obvious disagreement with the decision reached by the BLM, appellant provides no basis to support its contentions that the BLM did not take the requisite hard look at recreational effects.”

4. *BLM Analyzed the Cumulative Impacts of the Exchange*

The Coalition’s argument that BLM failed to consider the cumulative impacts associated with the Exchange is not supported by the record. Under regulations promulgated by the Council on Environmental Quality (CEQ), BLM is required to analyze the proposed action in terms of “cumulative impacts,” defined as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of [who] undertakes the other actions.” 40 C.F.R. § 1508.7.

The cumulative effects analysis in the EA includes a discussion of the number of acres transferred in the West Redding Area, stating that of the approximately 13,000 acres of land subject to development in the area, 750 acres had been patented from BLM over the past 10 years. EA at 48-49. In the next 10 years, BLM estimated that 500 additional acres will be patented. When the Redding RMP/EIS was prepared, BLM deemed it impossible to exactly quantify the intensity of development or make specific projections. See Redding RMP at 102-03. To this end, the EA states that the incremental effect of the Exchange would result primarily from the privatization of public lands and later potential development. EA at 48. The specific effects, both short and long term, are expected to be “minor and are the normal result of converting undeveloped lands to more intensive uses.” *Id.*; see BLM’s Response at 19. The EA further states that “potential adverse effects could be further reduced or eliminated in accordance with local development permit requirements.” EA at 48.

Also, BLM acknowledges in the EA that “[a]pproximately 500 acres of BLM lands (including land involved in this exchange) could be transferred to private ownership and developed within the next 10 years.” *Id.* at 49.

The Coalition argues that BLM should have, but did not, consider the cumulative effects on the “urban area that is now ringed with open space [that] will be completely developed, thereby fundamentally changing its character.” SOR at 15-16. The EA concludes that “[t]he proposed exchange would actually result in a cumulative increase in public open space,” and “recognized that the biggest impact from the exchange would be to the private landowners accustomed to using the federal parcel for their personal use and that the limited current use would shift to other nearby trails, some less than a mile away.” BLM’s Response at 20, *quoting* EA at 49, 35. Therefore, we find that the Coalition did not demonstrate that BLM failed to consider the cumulative impacts associated with the Exchange.

5. *The EA Considered a Range of Reasonable Alternatives*

Appellants’ contention that BLM failed to consider a range of reasonable alternatives is unsupported by the record. To the contrary, the EA considered a range of alternatives, including the no-action alternative, as required by NEPA. See, e.g., *Defenders of Wildlife*, 152 IBLA 1, 9 (2000). The EA contains a sufficient discussion of the relevant issues and opposing viewpoints to enable BLM to take a hard look at the environmental impacts of the proposed action and the alternatives, and to make a reasoned decision. See, e.g., *Biodiversity Conservation Alliance*, 169 IBLA 321, 347 (2006); *Howard B. Keck, Jr.*, 124 IBLA 44, 53 (1992), *aff’d*, *Keck v. Hasty*, No. S92-1670-WBS-PAN (E.D. Cal. Oct. 4, 1993).

The Coalition argues that BLM failed to mention, much less analyze, alternatives for BLM or the Community to acquire the Grass Valley parcel without transferring Area 51 into private ownership. The Coalition’s objective is to foreclose

by any alternative, other than exchange, the current availability and use of the parcel for recreational purposes. For example, according to the Coalition, BLM should have analyzed exchanging Federal acreage other than Area 51 to avoid “substantial impacts on recreation, fisheries and visual/open space associated with the development of the latter parcel.” SOR at 16. However, as BLM states in its Response, the Coalition “does not identify any other specific alternative that the BLM failed to address in its EA.” BLM’s Response at 22.

Further, the record refutes the Coalition’s position that BLM denied legitimate consideration of the community acquisition alternative. BLM analyzed the community acquisition alternative under two scenarios, as an application under the R&PP, as well as a proposal to purchase Area 51 through direct sale under section 203 of FLPMA, 43 U.S.C. § 1713 (2000). BLM states that the possibility that a community group could file an R&PP Act application for the Federal parcel was discussed, but that no application was received. The EA states as follows:

The 1993 RMP allowed for transfer of selected Federal land via the Recreation and Public Purposes Act [] to the State of California, County of Shasta, City of Redding, Community Service Districts or any other qualified organization within two years of the approval of the plan. The organizations were given to the end of 1995 to submit an application for specific parcels prior to the land being offered for exchange.

No application or expression of interest to dispose of the Federal parcel under the R&PP was received during that time. The RMP directs that any Federal parcels which were not identified by applications during that period would be offered for exchange or sale thereafter. The Federal parcel was not selected for disposal via R&PP within the two year window and therefore, was segregated for disposal by exchange.

During consideration of the current exchange proposal, BLM received a proposal for conveyance of the subject Federal lands to Shasta County Community Services District via R&PP. This proposal, however, would not conform to BLM regulation and policy. BLM regulations, 43 CFR 2741.4, requires a statement that shows, “an established or definite proposed project for use of the land including a detailed plan, schedule for development, management plan, and a description of how any revenues would be used.” No application has been submitted that meets the regulatory requirements.

EA at 9.

Moreover, BLM considered community acquisition of Area 51 through various other means. The EA makes clear that of the various alternatives considered, the Exchange is the only viable means of acquiring the GVC parcel. See EA at 4-5; BLM's Response at 23 (the Exchange "is the only viable means to acquire the Grass Valley Creek parcel, which is an important objective of the Redding Field Office.") BLM facilitated a meeting, which proved futile, between community members and SCR in an attempt to find a means to transfer all or part of Area 51 to the community. Again, BLM aptly summarized its reasons for rejecting such means of community acquisition in favor of the Exchange: "While 'community' acquisition may serve limited local interests by preventing, delaying, or minimizing housing development on the parcel, it does little or nothing to further the recreation or open space needs of the larger regional population, nor does it meet the consolidated land base objective approved in the RMP." BLM's Response at 23.

C. The Coalition Has Not Shown Error in the Appraisal

Finally, we will address briefly appellants' argument that BLM failed to comply with the appraisal standards required by FLPMA, 43 U.S.C. § 2201.3 (2000), and BLM's "Land Exchange Handbook," *BLM Manual* H-2200-1. It is well established that a party challenging an appraisal determining fair market value is generally required to either show error in the methodology used in determining fair market value or, alternatively, submit its own appraisal establishing fair market value. *E.g.*, *Daniel E. Brown*, 153 IBLA at 136; *San Carlos Apache Tribe*, 149 IBLA 29, 48 (1999); *Voice Ministries of Farmington, Inc.*, 124 IBLA 358, 361 (1992). Appellants have shown no error in the methodology of the appraisal, nor have they submitted their own appraisal of Area 51 or the selected private land. Other than the conclusory statements summarized above, appellants have submitted nothing upon which we could find that they have met their burden on the appraisal argument.

IV. CONCLUSION

The record shows that BLM carefully evaluated the controlling question of whether the public interest will be well served by the Exchange. In so doing, BLM decided to acquire a parcel of relatively pristine lands in the GVC Watershed surrounded by public lands, rather than retain Area 51 in Federal ownership, given its location within mostly developed non-Federal lands and its management problems. We agree with BLM that the Exchange is supported by the public interest and find that appellants have failed to show that BLM improperly exercised its discretion.

To the extent not specifically addressed herein, appellants' other arguments have been considered and rejected.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the decision appealed from is affirmed.

/s/
R. Bryan M^cDaniel
Administrative Judge

I concur:

/s/
James F. Roberts
Administrative Judge