



# United States Department of the Interior

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## BUREAU OF LAND MANAGEMENT ARIZONA STATE OFFICE

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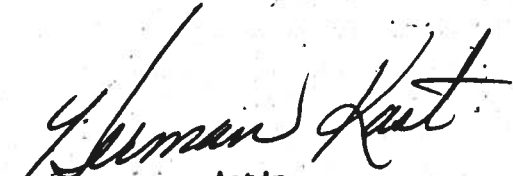
To: District Managers  
Deputy State Directors, Mineral Resources  
Operations

From: Deputy State Director, Lands and Renewable Resources

Subject: Memorandum of Understanding (MOU) Between the Bureau of Land  
Management and State Land Department for Land Exchanges

Attached is the MOU which has been finalized between the Arizona BLM and the Arizona State Land Department. This MOU sets forth objectives, criteria and procedures which are to be used for land exchanges between the two agencies.

The development of this MOU was the result of a coordinated effort by all offices and will provide a standardized approach to the State exchange program.

  
Acting

1 Attachment  
Attachment 1 - Memorandum of Understanding (7 pp)

MEMORANDUM OF UNDERSTANDING

AZ-86

Purpose

The purpose of this Memorandum of Understanding (MOU) between the Bureau of Land Management (BLM) and the State Land Department (SLD) is to establish procedural guidelines to accomplish a comprehensive statewide surface and subsurface land exchange program.

Authority

1. The Federal Land Policy and Management Act of 1976 (FDPMA).
2. Arizona Revised Statutes 37-604 and 37-722: Authority of Land Department and Selection Board to make exchange of State-owned for Federally-owned lands.
3. The Navajo and Hopi Indian Relocation Act of 1980, P.L. 96-305.

Background

Since statehood, the SLD through a series of grants, in-lieu selections and exchanges, has acquired lands which have created an intermixed land pattern with BLM. These intermixed holdings, often involving the split estate of surface and subsurface, have complicated the land management programs and missions of both agencies.

## Objectives

The objective of the MOU is to facilitate and expedite the exchange processes to:

1. Meet the long-range management objective of both agencies by consolidating land ownership patterns.
2. Develop procedures that are most expeditious and cost-effective.
3. Address and establish short- and long-range priorities.

## General Criteria for Exchange

1. Consolidation of State and ELM land within areas and/or ranch allotments primarily controlled by the State and ELM to facilitate the grazing management programs of both agencies.
2. Exchange of subsurface (mineral) estates to consolidate subsurface ownership with surface ownership by the same agencies.
3. Acquisition by ELM of lands with high multiple use resource values; or to protect wilderness, wildlife habitat, recreation and other public values; or to facilitate programs such as the Navajo-Hopi Relocation Project.
4. Acquisition by the State of lands with commercial, industrial, residential, or agricultural development potential.
5. All land exchanges will be equal value transactions based on fair market value appraisals.
6. All subsurface exchanges involved will be equal acreages of State and Federal lands which have been determined to be of comparable value and/or mineral potential.

## Procedures

To carry out the objectives and follow the criteria for the exchange program, the following procedures are agreed upon:

1. Proposals - The exchanges will be processed according to the procedures for exchange under 43 CFR Part 2200. The SLD exchange proposals will be subject to approval by the State Selection Board.
  
2. Application/Patent Procedures - To facilitate the exchange process, BLM will establish a "master" State exchange application in each District.  
  
BLM and State trust lands will be added into this master application file as the lands become identified and agreed upon by both agencies. When State and BLM lands are cleared, appraised, and ready for transfer, individual, equal-value groupings of State and BLM land parcels will be packaged and titles will be traded as "A", "B", "C", etc. subparts under the master serial number for that District.
  
3. Planning Consistency - BLM regulations require that both the acquired and disposal lands have been determined suitable through the public land use planning process. New plans or plan amendments may be required before an exchange can begin.
  
4. Land and Mineral Report/EA - BLM will prepare these documents covering uniformly the resources on both the BLM and SLD lands. The SLD Division of Natural Resources will provide BLM with hydrologic and mineral data on State lands. When the report is completed, the SLD will be provided an opportunity to review and concur on the adequacy of the report.

5. Grazing Permits/Leases - The exchanges should not interfere with ranching operations. Range users' input will be obtained jointly by BLM and SLD as soon as possible and protests will be considered and resolved as appropriate. Unless the land is to be dedicated to a use that would preclude grazing, the range user will have the preference to obtain grazing authorization from the new landowner. In situations where the BLM permittee will not sign a waiver of the two-year notification, BLM will issue the two-year notification and transfer the land to the State, subject to continued grazing use for two years from notification under the same terms and conditions as authorized in the existing BLM permit/lease.
6. Range Improvements - Range improvements on State lands are owned by the grazing lessee. Upon acquisition of State lands, BLM will issue the proper range improvement permit to recognize this ownership. Range improvements on BLM lands may be owned either by the permittee/lessee or the BLM. A record of the privately-owned improvements will be provided to the SLD. Title to the BLM improvements will transfer to the SLD and a list of these improvements and copy of the authorization will be provided to the SLD.
7. Appraisals - The agency having the appraisal lead will be determined on an individual case basis. The preferred method will be an agency's appraiser(s) doing the appraisal on both the selected and offered lands with review and approval by both agency's appraiser(s).
8. Public Participation - The BLM will issue a Notice of Realty Action (NORA) and publish in the Federal Register. The NORA will provide the public an opportunity to comment and to segregate the lands from mineral entry. The NORA will also be published in a local newspaper for three consecutive weeks with the SLD paying the cost of publication. The SLD will also issue the order of classification and closing of State land.

9. T&E Plants and Animals - BLM will coordinate with the U.S. Fish and Wildlife Service on actions which may affect Federally-listed species listed in the Endangered Species Act of 1973, as amended.

10. Cultural Resources - A Programmatic Memorandum of Agreement (PMOA) dated September 13, 1984 has been developed among BLM, the Advisory Council, and the State Historic Preservation Officer (SHPO) to meet the Bureau's responsibilities under Sec. 106 of the National Historic Preservation Act as amended (36 CFR 800). Specific guidance for cultural resource protection responsibilities is set forth in a Memorandum of Agreement among BLM, SLD, SHPO, and Arizona State Museum dated December 31, 1984.

11. Mineral and Rights-of-Way Leases and Permits - The following procedures will be followed for managing existing mineral and rights-of-way permits and leases on lands transferred between the two agencies.

a. Each agency will provide with the title document (clearlists or patents from BLM; deeds of reconveyance or patents from the SLD):

(1) Copies of leases and permits, including maps and terms of conditions that are encumbrances on the lands being conveyed;

(2) Names and addresses of current lessees and permittees; and

(3) Dates next rental payments are due.

7 b. The agency that issued the oil and gas or mineral leases, or prospecting permit will continue to administer the lease or permit and to collect rentals for as long as that agency's mineral lease or permit is in effect.

c. The agency that issued the right-of-way permit will retain any monies already collected for future use. The agency receiving title to the land will assume administration of the permit on the date title passes and will collect rentals at the start of the next rental billing period.

d. After title has passed, both the BLM and SLD will contact the lessees and permittees on the lands that agency has acquired to inform them of the change of land ownership, and to encourage them to drop their existing lease/permit and obtain a new one from the new managing agency.

12. Mining Claims - Lands with mining claim conflicts will ordinarily not be transferred to the State. On a case-by-case basis, BLM may decide to challenge the validity of a claim to enable the transfer.

#### Coordination

Formal and informal meetings between the designees of the SLD and BLM to exchange information, coordinate activities, develop procedures, expedite tasks, and facilitate achieving the purpose and objective of this MOU shall be held quarterly with additional meetings scheduled as necessary or desirable.

#### • Effective Date, Termination, Amendment

This MOU shall be effective upon approval by both parties and shall remain in effect until termination by mutual agreement or by either party upon thirty (30) days notice in writing to the other.

Amendments and supplements to this MOU are subject to the review and approval of the Commissioner, State Land Department, and the State Director, Bureau of Land Management:

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This MOU is subject to the laws of the State of Arizona, the laws of the United States, and the delegated authority assigned in each instance. Nothing in this MOU shall be construed as obligating either party hereto for the expenditure of funds or for future payment of money in excess of appropriations authorized by law.

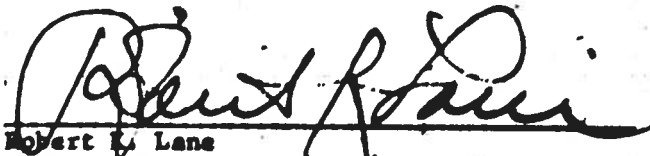
All parties are hereby put on notice that this agreement is subject to cancellation by the Governor, pursuant to the provisions of Section 38-511, Arizona Revised Statutes.

APPROVED:



D. Dean Bibles  
State Director, Arizona  
Bureau of Land Management  
U.S. Department of the Interior

3/5/85  
Date



Robert E. Lane  
State Land Commissioner  
Arizona State Land Department  
State of Arizona

3/4/85  
Date