

This is a Legal Protest, regarding Buffalo Horn Land Exchange, Serial No COC-76595. Defined in the attached Notice of Decision dated 1-14-2021.

2.3.2021

**Bureau of Land Management (BLM)  
White River Field Office - Kent Walter  
220 East Market Street  
Meeker, CO 81641**

### Protest

The BLM has failed to adhere to Colorado Revised Statute (CRS) **3.1.102 -Consent to Acquire Land**, while acquiring private lands in the State of Colorado, that are to be converted to federal lands at the completion of the Buffalo Land Exchange. CRS 3.1.102 is attached to this communication. The BLM has failed to announce to the public that the County/State have the legal ability to object and stop this transfer of private lands to the federal government based on State Law. This ability for the State/County to object is not defined or addressed in any detail in BLM released land exchange documents. Communications with Heather Saul (BLM- White River Office) have revealed that the BLM feels ***“The statute that you have cited (CRS 3.1.102) does not pertain to a BLM land exchange conducted under section 206 of the Federal Land Policy and Management Act since the BLM is not seeking exclusive jurisdiction once the land is acquired.”***

The BLM is not using these, soon to acquired private lands, from the Buffalo Horn Land Exchange, for any critical government use, such as: public highways, custom houses, courthouses, post offices, arsenals, or other governmental buildings. Consent to Acquire, does apply when the BLM acquires Colorado private lands for general public land uses (meaning these lands being acquired have no crucial value for the federal gov't to function).

CRS 3.1.102 states the following:

***“However, before any privately owned land in the state is acquired for any purpose other than for public highways, custom houses, courthouses, post offices, arsenals, or other governmental buildings, the United States shall give written notice of intention to acquire the land to the board of county commissioners of the county wherein the land is situated and to the division of property taxation, which notice shall be given at least sixty days prior to the date of the intended acquisition. If the notice is not given or if the board of county commissioners or the division files with the secretary of state of the state of Colorado within the sixty-day period a request that the acquisition be considered by the general assembly of the state of Colorado, then the consent of the state of Colorado shall not be deemed to have been given to the acquisition unless and until the general assembly of the state of Colorado shall have by law specifically consented thereto.”***

Let us think about CRS 3.1.102, if the County/State can't object to a basic land acquisition that will turn private lands into general multi-use federal lands, then when else could they actually object and request that the acquisition be considered by the general assembly of Colorado? I believe the basic function of this State law is to protect the County/State from losing control of lands within their borders. My County is 72% federally managed lands, which leaves only 28% of the lands taxable.

FLPMA does not apply to private lands. Section 206 of FLPMA , Section i1, "*(i)(1) Upon receipt of an offer to exchange lands or interests in lands pursuant to this Act or other applicable laws, at the request of the head of the department or agency having jurisdiction over the lands involved*".

The State of Colorado holds complete legislative jurisdiction over the private lands involved with this transaction. It seems to me that to acquire private lands in any State/County, the BLM would need the approval of the County/State with jurisdiction over the private lands in question. The BLM is acquiring over 1800 acres of private land in this land exchange.

The Code of Federal Regulations (CFR) does not apply to private lands in Colorado. The BLM has no jurisdiction or management authority over Colorado's private lands. Section 701 of FLPMA- defines that FLPMA does not alter any form of the State's jurisdiction over federal lands within Colorado.

In closing, per CRS 3.1.102, the County and State must be provided the opportunity to object and possibly stop the transfer of private lands to the BLM. The BLM has failed to announce to the public that the County/State can object to this transfer of these private lands, based on Colorado having full legislative jurisdiction over private lands within its borders. This ability for the State/County to object is not defined or addressed in any detail on any land exchange BLM documents. I would presume the ability for the County/State to object has not been explained to County Commissioners and the extensions that would be required if the acquisition was sent State General Assembly has not been accounted for. The communities involved are not being told they can address concerns with their elected officials at the State and County level when it comes to the private lands involved with this transfer.

Thank you for your attention to this matter.  
Respectfully,

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Current through all Laws passed and signed in the First Regular and First Extraordinary Sessions of the 71st General Assembly (2017)

- Colorado Revised Statutes
- TITLE 3. UNITED STATES
- JURISDICTION
- ARTICLE 1.PROPERTY CEDED TO UNITED STATES

### 3-1-102. Consent to acquire land - when notice required - directive to the attorney general

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- **(1)** Except as provided in this section, the consent of the state of Colorado is hereby given, in accordance with section 8 (17) of article I of the constitution of the United States, to the acquisition by the United States, by purchase, condemnation, or otherwise, of any land in the state required for custom houses, courthouses, post offices, arsenals, or other buildings whatever, or for any other proper purpose of the United States government; except that consent is not hereby given to the acquisition of, or exclusive jurisdiction over, land sought by the United States department of defense for purposes associated with the expansion of the Pintilde;on Canyon maneuver site. However, before any privately owned land in the state is acquired for any purpose other than for public highways, custom houses, courthouses, post offices, arsenals, or other governmental buildings, the United States shall give written notice of intention to acquire the land to the board of county commissioners of the county wherein the land is situated and to the division of property taxation, which notice shall be given at least sixty days prior to the date of the intended acquisition. If the notice is not given or if the board of county commissioners or the division files with the secretary of state of the state of Colorado within the sixty-day period a request that the acquisition be considered by the general assembly of the state of Colorado, then the consent of the state of Colorado shall not be deemed to have been given to the acquisition unless and until the general assembly of the state of Colorado shall have by law specifically consented thereto.
- **(2)** The attorney general of the state of Colorado shall oppose any attempt by the United States department of defense or other unit of federal government to acquire by any means, including purchase or condemnation, state lands for which consent to acquire has been withdrawn pursuant to this section for the expansion of the Pintilde;on Canyon maneuver site pursuant to subsection (1) of this section and section 36-1-123.5, C.R.S. Such opposition shall be made a priority by the attorney general and, whenever feasible, take precedence over any other matters.

### History

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**Source:**

L. 07: p. 589, § 1. R.S. 08: § 6900. C.L. § 493. CSA: C. 168, § 2. L. 47: p. 895, § 1. CRS 53: § 142-1-2. L. 63: p. 977, § 1. C.R.S. 1963: § 143-1-2. L. 2007: Entire section amended, p. 681, § 2, effective May 3. L. 2009: Entire section amended, (HB 09-1317), ch. 381, p. 2072, § 1, effective June 2.

▼ Annotations

Notes

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## NOTICE OF DECISION

### EXCHANGE OF LANDS IN RIO BLANCO AND MOFFAT COUNTIES, COLORADO Buffalo Horn Land Exchange, Serial No. COC-76595

UNITED STATES DEPARTMENT OF THE INTERIOR, Bureau of Land Management (BLM),  
White River Field Office, 220 East Market Street, Meeker, Colorado 81641.

Notice is hereby given that on January 14, 2021, Catherine L. Cook, Acting Northwest District Manager, issued a decision to approve a land exchange with Buffalo Horn Properties, LLC that will convey 14 parcels of Federal lands in Rio Blanco and Moffat Counties, aggregating 2,652 acres, to acquire one (1) parcel of non-Federal lands totaling 1,327.06 acres located in Rio Blanco County. The BLM will also accept Buffalo Horn's offer to donate four (4) parcels of non-Federal land in Rio Blanco County (totaling 508.2 acres) that are isolated "inholdings" between the non-Federal exchange parcel and other BLM-managed public land. The BLM determined the Federal lands are suitable for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended (FLPMA). Exhibit A (Federal Parcels) and Exhibit B (Non-Federal Lands) attached to this notice provide legal descriptions of the exchange lands. Exhibit C describes the donation parcels.

The BLM will exchange 14 Federal parcels in the Strawberry Creek area. Patents for the described Federal lands will reserve a right-of-way for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945) and all minerals. The patent for Parcel F-2 will be subject to an existing power line right-of-way and Parcel F-6 will be subject to two existing pipeline rights-of-way.

Disposal of the Federal lands is consistent with the considerations for land tenure adjustments outlined in the White River and Little Snake Resource Management Plans. Management of the Federal parcels is difficult due to lack of access (11 parcels have no public access, and access on the remaining parcels is limited due to rugged terrain).

In exchange, the United States will acquire one (1) non-Federal parcel in the Smith Gulch area (Parcel B-1). The United States will acquire Parcel B-1, subject to existing rights (640 acres of private mineral estate and a pipeline easement). The BLM will also acquire the four donation parcels (Parcels B-2, B-3, B-4., and B-5), subject to existing rights (Parcel B-4 has private mineral estate; Parcel B-5 has 80 acres of private mineral estate and a pipeline easement). The encumbrances will not interfere with future management objectives for the parcels and are acceptable to the United States.

The BLM and Buffalo Horn will grant each other reciprocal access rights on existing two-track routes in order to provide access to and through retained Federal lands in the Price Creek area (modified Parcel C-1).

The Department of the Interior (DOI) Appraisal and Valuation Services Office (AVSO) approved the appraisals for the Federal and non-Federal lands. Appraisal of the exchange lands in January 2019 determined the value of the non-Federal lands to be substantially higher than the value of the Federal lands. A supplemental appraisal of Parcel B in July 2019 separated it into an exchange parcel (Parcel B-1) and four donation parcels (Parcels B-2, B-3, B-4, and B-5). Buffalo

Horn offered to donate Parcels B-2, B-3, B-4, and B-5 to the United States under a separate transaction pursuant to Section 205 of the FLPMA.

The BLM evaluated the impacts associated with the exchange and addressed them in an Environmental Assessment (EA) prepared for the land exchange and donation, DOI-BLM-CO-N050-2017-0009-EA. Consummation of the exchange and acceptance of the donation will accomplish BLM land adjustment objectives, consolidate land ownership, and improve access to public lands. Management of the Federal parcels is difficult due to lack of access (11 parcels have no public access, and access on the remaining parcels is limited due to rugged terrain). The non-Federal lands are adjacent to large blocks of public lands (including the Windy Gulch and Black Mountain Wilderness Study Areas), have public access via a BLM road on the western boundary, and would provide additional recreation opportunities (due to gentler topography).

Interested parties may obtain a copy of the EA and the decision to approve the exchange and donation from the White River Field Office at the above address, online at <https://go.usa.gov/xnW2y>, or by contacting Heather Sauls at (970) 878-3855.

For a period of 45 days from the date of publication of this notice, interested parties may submit a written protest to Kent Walter, Field Manager, White River Field Office, at the above address. Before including your address, phone number, e-mail address, or other personal identifying information in your protest, you should be aware that the BLM may make your entire comment – including your personal identifying information – publicly available at any time. While you may include in your comment a request for the BLM to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

CATHERINE COOK

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COOK  
Date: 2021.01.14 13:25:59 -07'00'

Catherine L. Cook  
Northwest District Manager (Acting)

January 14, 2021

Date