

NLWJC - Kagan

Counsel - Box 023- Folder 004

Headwaters Forest Complex [3]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. draft	Draft letter. (4 pages)	04/10/1996	P5
002. draft	Draft Letter. (6 pages)	03/26/1996.	P5
003. draft	Draft Letter. Duplicate Copy. (6 pages)	03/26/1996	P5

COLLECTION:

Clinton Presidential Records
 Counsel's Office
 Elena Kagan
 OA/Box Number: 8289

FOLDER TITLE:

Headwaters Forest Complex [3]

2009-1006-F
vz132

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE
 (Actual Properties)(-Selected Properties)

PROGRAM NAME: ActInv.PD

GS&A CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS
09- D -CA-0688QH AF	George AFB/Parcel H/Credit Union San Bernardino 92394 BRIDGES	10/01/93	TOTAL: 3.00	0 1
		10/01/93	1.21	
			EXCESS: 0.00	0
			0.00	
		SURPLUS: 3.00	0	
		1.21		
09- D -CA-0688QJ AF	George AFB Golf Course/Parcel J San Bernardino 92394 BRIDGES	11/01/93	TOTAL: 284.00	4 1
		11/16/93	114.93	
			EXCESS: 0.00	0
			0.00	
		SURPLUS: 284.00	4	
		114.93		
09- D -CA-09711B AF	MATHER AFB - EDC SACRAMENTO 95655 DOSZKOCS	10/01/93	TOTAL: 750.69	94 1
		10/10/93	303.80	
			EXCESS: 0.00	0
			0.00	
		SURPLUS: 750.69	94	
		303.80		
09- D -CA-09711D AF	Mather AFB-Family Housing Area Sacramento 95655 GRAY	04/20/93	TOTAL: 351.00	1271 1
		02/06/95	142.05	
			EXCESS: 0.00	0
			0.00	
		SURPLUS: 351.00	1271	
		142.05		
09- D -CA-09711P AF	MATHER AFB - BASE PERSONNEL OFFICE SACRAMENTO 95655 DOSZKOCS	10/01/93	TOTAL: 4.20	1 1
		10/10/93	1.70	
			EXCESS: 0.00	0
			0.00	
		SURPLUS: 4.20	1	
		1.70		
09- D -CA-09711R AF	MATHER AFB - PARCEL R SACRAMENTO 95655 DOSZKOCS	04/20/93	TOTAL: 2128.50	0 0
		02/06/95	861.42	
			EXCESS: 0.00	0
			0.00	
		SURPLUS: 2128.50	0	
		861.42		

Handwritten notes:
 list of excess
 will be cleared
 prep
 Non-Proc
 bldg included with
 in dispersal of them
 normal prices.
 G-S&A lists

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(Actual Properties)(-Selected Properties)

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY-SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS
09- D -CA-0971IU AF	Mather AFB Utility Systems Sacramento, CA 95655 GRAY	04/20/93 01/27/95	TOTAL: 2.00	1 3
			EXCESS: 0.81	
			0.00	0
			0.00	
09- D -CA-0971IV AF	MATHER AFB - VACANT LAND SACRAMENTO 95655 DOSZKOCS	10/01/93 10/10/93	TOTAL: 21.50	0 1
			8.70	
			EXCESS: 0.00	0
			0.00	
09- D -CA-10308B AF	Castle AFB Atwater/Merced 99999 HUEY	06/18/93 01/05/94	TOTAL: 2531.04	319 14
			1024.32	
			EXCESS: 660.00	62
			267.10	
04- D -FL-1078 AF	HOMESTEAD AFB HOMESTEAD, FL 33039 CRENSHAW	10/01/94	TOTAL: 2838.20	85 7
			1148.62	
			EXCESS: 0.00	0
			0.00	
01- D -IL-0692AF AF	CHANUTE AIR FORCE BASE RANTOUL 61866 CZAPEK	10/01/91	TOTAL: 79.00	13 7
			31.96	
			EXCESS: 3.00	1
			1.21	
01- D -IN-0588 AF	GRISSOM AFB BUNKER HILL 46971 COSTA	07/01/92 10/01/95	TOTAL: 1200.00	0 1
			485.64	
			EXCESS: 1200.00	0
			485.64	
			SURPLUS: 0.00	0
			0.00	

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GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS		
01- D -MI-0752 AF	WURTSMITH AFB OSCODA 48750 COSTA	09/30/92	TOTAL:	3026.00	608	3
				1224.62		
		10/01/94	EXCESS:	3026.00	608	
				1224.62		
		SURPLUS:	0.00	0		
			0.00			
04- D -SC-04511 AF	Myrtle Beach AFB Myrtle Beach 29577 CRENSHAW	09/30/92	TOTAL:	2202.00	2089	4
				891.14		
			EXCESS:	0.00	0	
				0.00		
		SURPLUS:	2202.00	2089		
			891.14			

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE

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(Actual Properties)(-Selected Properties)

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS
09- A -AK-0619E SCS	Nome Site Lot 10 Block 67 Nome 99999 HAGEN	12/21/94 12/21/94	TOTAL:	0 1
			EXCESS:	0
			SURPLUS:	0
				0.00
09- A -AK-0746 FS	KETCHIKAN RANGER HOUSE KETCHIKAN 99901 MAY	06/16/94	TOTAL:	1 1
			EXCESS:	1
			SURPLUS:	0
				0.00
04- C -AL-0764 NOAA	National Weather Svc Station Centreville 35034 NASH	12/11/95 12/14/95	TOTAL:	3 1
			EXCESS:	3
			SURPLUS:	0
				0.00
07- D -AR-0472E AF	Titan II Missile Site No. 9 Conway/Faulkner 72200 JENNINGS	09/11/95 09/11/95	TOTAL:	0 2
			EXCESS:	0
			SURPLUS:	0
				0.00
07- G -AR-0546	Federal Building Russellville 72801 CONLEY	07/11/95 07/11/95	TOTAL:	1 1
			EXCESS:	1
			SURPLUS:	0
				0.00
07- G -AR-0550	Former Benton Federal Building Benton/Saline 99999 CONLEY	10/15/95 09/15/95	TOTAL:	1 1
			EXCESS:	1
			SURPLUS:	0
				0.00

EO 12812

AM assets covered by Fed
 grant (many are)
 currently withheld by
 GSA

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GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS	
09- G -AS-0001	GSA HOUSING QUARTERS 16, 17, &18 PAGO PAGO 96799 MENDEZ	11/02/94 11/02/94	TOTAL:	0.00	3 0
			EXCESS:	0.00	0
			SURPLUS:	0.00	3
				0.00	
09- I -AZ-0487B BIA	TUBA CITY BLDG NO. 78 TUBA CITY 86503 MENDEZ	12/28/94	TOTAL:	0.00	1 0
			EXCESS:	0.00	1
			SURPLUS:	0.00	0
				0.00	
09- I -AZ-0626 BUREC	CO RIVER BASIN SALINITY CTRL PROJ. YUMA, ARIZONA 00000 BRIDGES	03/24/94	TOTAL:	640.00	0 1
			EXCESS:	259.01	0
			SURPLUS:	0.00	0
				640.00	
			259.01		
09- I -AZ-0643 BUREC	3.897 Acres BOR/SFPP Land Yuma 85366 DOSZKOCS	10/01/95 12/18/95	TOTAL:	3.90	0 1
			EXCESS:	1.58	0
			SURPLUS:	3.90	0
				1.58	
			0.00		
			0.00		
09- N -CA-0000 NAVY	FOR NAV RESEARCH BLDG, 1030 GREEN PASADENA, CA 91106 BRIDGES	08/18/89	TOTAL:	0.44	1 0
			EXCESS:	0.18	0
			SURPLUS:	0.00	0
				0.00	
			0.44	1	
			0.18		
09- G -CA-0514K	1401 SEPULVEDA BLVD. CA 90025 BRIDGES	04/17/84	TOTAL:	2.13	1 1
			EXCESS:	0.86	0
			SURPLUS:	0.00	0
				0.00	
			2.13	1	
			0.86		

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(Actual Properties)(-Selected Properties)

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS
09- U -CA-0556B CG	NW SEALROCK & LIGHTHOUSE,ST GEORGE DEL NORTE COUNT 99999 DOSZKOC	07/08/94	TOTAL: 1.60 0.65 EXCESS: 0.00 0.00 SURPLUS: 1.60 0.65	1 1 0 1
09- G -CA-0580C	SANTA ROSA SEWAGE TREATMENT PLANT SANTA ROSA 95407 ROCHHOLZ	01/15/93 02/11/93	TOTAL: 4.11 1.66 EXCESS: 0.00 0.00 SURPLUS: 4.11 1.66	0 1 0 0
09- Z -CA-1162A USIA	PORTION, VOICE OF AMERICA SITE Dixon, CA 95620 DIVITO	04/26/90	TOTAL: 0.32 0.13 EXCESS: 0.32 0.13 SURPLUS: 0.00 0.00	0 0 0 0
09- Z -CA-1162AB USIA	Portion, VOA, Dixon Receiver Site Dixon, CA 95620 DIVITO	02/16/93	TOTAL: 156.19 63.21 EXCESS: 156.19 63.21 SURPLUS: 0.00 0.00	1 1 1 0
09- Z -CA-1162BA ICA	Dixon Relay Station Dixon/Solano,CA 95620 DIVITO	02/16/93	TOTAL: 156.19 63.21 EXCESS: 0.00 0.00 SURPLUS: 156.19 63.21	0 1 0 0
09- N -CA-1304A NAVY	Por Navy Research Detachment Bldg Pasadena, CA 91109 SOUTHWARD	10/08/93	TOTAL: 0.44 0.18 EXCESS: 0.00 0.00 SURPLUS: 0.44 0.18	1 1 0 1

*California Desert
 Limit*

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GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS	
09- Z -CA-1308A USIA	Portion, Delano Receiver Site Pixley, CA 93215 DIVITO	09/29/89	TOTAL:	81.93	1 1
				33.16	
			EXCESS:	81.93	1
				33.16	
			SURPLUS:	0.00	0
				0.00	
09- I -CA-1325 BUREC	TRACY CENTRAL VALLEY PROJECT SAN JOAQUIN 95376 DIVITO	06/09/92	TOTAL:	4.07	0 1
				1.65	
			EXCESS:	0.00	0
				0.00	
			SURPLUS:	4.07	0
				1.65	
09- D -CA-1468 ARMY	ARMTEC DEFENSE PRODUCTS CO - GOCO COACHELLA 92236 DOSZKOCS	10/03/95 10/12/95	TOTAL:	0.00	0 1
				0.00	
			EXCESS:	0.00	0
				0.00	
			SURPLUS:	0.00	0
				0.00	
07- GR -CO-0468D	Portion Air Force Finance Center Denver 80202 ROBINSON	10/26/92	TOTAL:	18.79	5 1
				7.60	
			EXCESS:	0.00	0
				0.00	
			SURPLUS:	18.79	5
				7.60	
07- GR -CO-0468E	PORTION OF AIR FORCE FINANCE CENTER DENVER 80202 ROBINSON	11/22/94	TOTAL:	18.79	0 1
				7.60	
			EXCESS:	18.79	0
				7.60	
			SURPLUS:	0.00	0
				0.00	
04- G -DC-0461A	(P) Square 571 Washington, DC 99999 CRENSHAW	09/30/86	TOTAL:	0.84	1 0
				0.34	
			EXCESS:	0.00	0
				0.00	
			SURPLUS:	0.84	1
				0.34	

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GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS
04- G -DC-0468	2400 M Street WASHINGTON 20037 BRANDON	08/21/95	TOTAL:	1 1
				0.50
			EXCESS:	0
				0.00
			SURPLUS:	1
				0.50
04- A -DE-0459 ARS	POULTRY RESEARCH LABORATORY GEORGETOWN, DE 19947 CRENSHAW	08/14/95	TOTAL:	4 1
				0.00
			EXCESS:	4
				0.00
			SURPLUS:	0
				0.00
				-0.00
04- D -FL-0780 AF	Jacksonville Communications FacAnn OrangePark Clay 32073 WALDEN	05/19/95 06/30/95	TOTAL:	2 1
				2.17
			EXCESS:	0
				0.00
			SURPLUS:	2
				5.35
				2.17
04- N -FL-1079 NAVY	SITE ALPHA NAVAL SECURITY GROUP HOMESTEAD FL 33018 THOMPSON	01/31/94 10/11/95	TOTAL:	26 1
				307.59
			EXCESS:	26
				760.04
			SURPLUS:	0
				0.00
				0.00
04- Z -FL-1083A SBA	G.O.R.E. MIAMI MIAMI, FL 00000 YEAGER	10/05/94	TOTAL:	0 0
				0.00
			EXCESS:	0
				0.00
			SURPLUS:	0
				0.00
				0.00
04- Z -FL-1083B FDIC	G.O.R.E. MIAMI MIAMI, FL 00000 YEAGER	10/05/94	TOTAL:	0 0
				0.00
			EXCESS:	0
				0.00
			SURPLUS:	0
				0.00
				0.00

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09- D -HI-0405B AF	Bellows Air Force Station Oahu, Hawaii 96795 PAULSON	01/20/89	TOTAL:	8.65	0 1
				3.50	
			EXCESS:	0.00	0
				0.00	
01- U -IL-0681 CG	CHICAGO MOORINGS CHICAGO 60611 O'BRADOVIC	10/21/91	TOTAL:	0.47	2 1
				0.19	
			EXCESS:	0.00	0
				0.00	
01- U -IL-0695 FAA	RCLR FACILITY ST. ANNE 62707 PATRUNO	04/25/94	TOTAL:	3.00	3 1
				1.21	
			EXCESS:	3.00	3
				1.21	
01- U -IL-0696 FAA	RCL FACILITY MANHATTAN 60176 PATRUNO	04/25/94	TOTAL:	4.30	1 1
				1.74	
			EXCESS:	4.30	1
				1.74	
01- I -IN-0430GRE NPS	LAPORTE ARMY RESERVE CENTER LAPORTE COUNTY 46352 PATRUNO	06/26/95	TOTAL:	12.50	0 1
				5.06	
			EXCESS:	12.50	0
				5.06	
01- D -IN-0579A COE	Portion, Brookeville Lake Project Brookville 99999 O'BRADOVIC	06/20/95	TOTAL:	12.73	1 1
				5.15	
			EXCESS:	12.73	1
				5.15	
			SURPLUS:	0.00	0
				0.00	

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07- D -KS-0513 COE	Fall River Lake Project Greenwood 67047 JENNINGS	08/13/93 08/25/93	TOTAL:	0.00	0 1
				0.00	
			EXCESS:	0.00	0
				0.00	
04- G -KY-0604	FEDERAL BUILDING DANVILLE 40423 HANWRIGHT	07/12/94 07/12/94	TOTAL:	0.30	1 1
				0.12	
			EXCESS:	0.00	0
				0.00	
07- D -LA-0467E ARMY	NEW IBERIA NATL GUARD TRAINING AREA IBERIA PARISH 70560 BRAUER	09/27/95	TOTAL:	203.50	0 1
				82.36	
			EXCESS:	203.50	0
				82.36	
01- J -MA-0792 BOP	ESTATE OF STANLEY S. NEWBURG WOBURN 01801 JACOBS	08/29/94	TOTAL:	3.50	1 1
				1.42	
			EXCESS:	3.50	1
				1.42	
01- GJ -MA-0793	LOIS AND ELLEN STREETS HAVERILL 01831 ROBBINS	10/08/87	TOTAL:	0.75	0 1
				0.30	
			EXCESS:	0.75	0
				0.30	
01- D -MA-0825 AF	PORTION AIR FORCE STATION NORTH TRURO 00000 ROBBINS	08/15/95 08/15/95	TOTAL:	5.30	0 1
				2.14	
			EXCESS:	5.30	0
				2.14	
			SURPLUS:	0.00	0
				0.00	

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GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS
01- N -MA-0826	RAYTHEON GOCO ANDOVER 00000 ROBBINS	12/18/95	TOTAL: 0.00 0.00 EXCESS: 0.00 0.00 SURPLUS: 0.00 0.00	0 1 0 0
01- D -ME-05261 AF	BLDG. 487, BANGOR INT'L. AIRPORT BANGOR 04401 JACOBS	06/01/95 09/20/95	TOTAL: 2.80 1.13 EXCESS: 2.80 1.13 SURPLUS: 0.00 0.00	1 1 1 0
01- U -ME-0624 FAA	REMOTE CENTER AIR GROUND COMM CTR HODGDON 04730 LEE	01/22/96 01/22/96	TOTAL: 0.91 0.37 EXCESS: 0.91 0.37 SURPLUS: 0.00 0.00	2 1 2 0
01- D -MI-0722A COE	ST. MARYS RIVER SAULT ST. MARIE 49783 PATRUNO	06/02/95	TOTAL: 0.62 0.25 EXCESS: 0.62 0.25 SURPLUS: 0.00 0.00	3 1 3 0
01- J -MI-0749 USA	THOMAS S. HALLEY ESTATE MUSKEGON 49445 PATRUNO	12/02/89	TOTAL: 4.00 1.62 EXCESS: 4.00 1.62 SURPLUS: 0.00 0.00	0 1 0 0
01- L -MI-0757 ETA	DETROIT JOB CORPS CENTER DETROIT/WAYNE 42128 PATRUNO	12/20/94 12/20/94	TOTAL: 1.50 0.61 EXCESS: 1.50 0.61 SURPLUS: 0.00 0.00	2 5 2 0

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01- U -MI-0758 CG	ST. CLAIR FLATS OLD CHANNEL LIGHTS ST. CLAIR CO 48046 PATRUNO	06/23/95	TOTAL:	0.00	0 1
			EXCESS:	0.00	0
			SURPLUS:	0.00	0
				0.00	
01- U -MI-0760 CG	ST. MARTIN'S ISLAND, LIGHT STATION DELTA COUNTY 00000 ROBBINS	01/12/96	TOTAL:	47.80	0 1
			EXCESS:	19.34	0
			SURPLUS:	47.80	0
				19.34	0
			0.00		
01- U -MN-0475GR FHWA	FORMER AF GAP FILLER ANNEX RICE COUNTY 55057 PATRUNO	09/15/95 08/30/95	TOTAL:	0.45	0 1
			EXCESS:	0.18	0
			SURPLUS:	0.45	0
				0.18	0
			0.00		
			0.00		
01- U -MN-0503E CG	BAUDETTE FAMILY HOUSING LAKE-WOODS CO 56623 O'BRADOVIC	03/24/92 04/07/92	TOTAL:	1.03	4 1
			EXCESS:	0.42	0
			SURPLUS:	0.00	0
				0.00	
			1.03	4	
			0.42		
01- G -MN-0550	POR BISHOP HENRY WHIPPLE FB FT SNELLING 55111 LEE	02/26/88	TOTAL:	6.34	2 1
			EXCESS:	2.57	0
			SURPLUS:	0.00	0
				0.00	
			6.34	2	
			2.57		
01- I -MN-0550A BOM	POR FORT SNELLING FT SNELLING 55111 LEE	05/11/89	TOTAL:	4.68	5 1
			EXCESS:	1.89	0
			SURPLUS:	0.00	0
				0.00	
			4.68	5	
			1.89		

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE

PROGRAM NAME: ActInv.PD

(Actual Properties)(-Selected Properties)

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS	
01- D -MN-0558 ARMY	U.S. ARMY RESERVE CENTER NEW PRAGUE 56071 PATRUNO	03/17/93	TOTAL:	0.00	2 1
				0.00	
			EXCESS:	0.00	0
				0.00	
01- N -MN-0559 NAVY	NAVY PLANT ST. PAUL 55104 CZAPEK	01/10/94	TOTAL:	14.98	10 1
				6.06	
			EXCESS:	0.00	0
				0.00	
07- D -MO-0607F COE	Portion of Harry Truman Dam Henry, St. Caire 99999 CONLEY	07/13/95	TOTAL:	245.62	0 86
				99.40	
			EXCESS:	245.62	0
				99.40	
07- G -MO-0626	KANSAS CITY MO FEDERAL OFFICE BLDG K C, JACKSON 64106 HASTINGS	01/18/95 01/18/95	TOTAL:	0.44	1 1
				0.18	
			EXCESS:	0.00	0
				0.00	
07- W -MO-0627	FAA VORTAC, SWISS SITE GASCONADE 65041 HASTINGS	06/19/95 06/26/95	TOTAL:	26.50	0 3
				10.72	
			EXCESS:	0.00	0
				0.00	
07- F -MT-0594 HRSA	SIOUX PASS RADIO RELAY RICHLAND 59270 ROBINSON	12/22/92	TOTAL:	5.17	1 1
				2.09	
			EXCESS:	0.00	0
				0.00	
			SURPLUS:	5.17	1
				2.09	

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE
 (Actual Properties)(-Selected Properties)

PROGRAM NAME: ActInv.PD

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS	
04- GR -NC-0481B	(P) VA Reservation Oteen 28804 COOPER	03/09/93 03/02/93	TOTAL:	3.24	1 1
				1.31	
		EXCESS:	3.24	1	
		SURPLUS:	0.00	0	
				0.00	
04- G -NC-0710	Grove Arcade Federal Building Asheville 28802 DILBECK	06/02/94	TOTAL:	1.55	1 1
				0.63	
		EXCESS:	0.00	0	
		SURPLUS:	0.00	1	
				0.63	
04- G -NC-0713	SANFORD FEDERAL BLDG.-POST OFFICE SANFORD/LEE 27330 HANWRIGHT	10/22/94 10/13/94	TOTAL:	0.50	1 1
				0.20	
		EXCESS:	0.00	0	
		SURPLUS:	0.00	1	
				0.50	
				0.20	
04- U -NC-0714 CG	222 BAYSHORE ELIZABETH CITY 27909 THOMPSON	10/17/95 10/17/95	TOTAL:	0.00	1 1
				0.00	
		EXCESS:	0.00	1	
		SURPLUS:	0.00	0	
				0.00	
04- U -NC-0715 CG	224 BAYSHORE DRIVE ELIZABETH CITY 27909 THOMPSON	10/17/95 10/17/95	TOTAL:	0.00	1 1
				0.00	
		EXCESS:	0.00	1	
		SURPLUS:	0.00	0	
				0.00	
				0.00	
04- U -NC-0716 CG	226 BAYSHORE DRIVE ELIZABETH CITY 27909 THOMPSON	10/17/95 10/17/95	TOTAL:	0.00	1 1
				0.00	
		EXCESS:	0.00	1	
		SURPLUS:	0.00	0	
				0.00	
				0.00	

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE
 (Actual Properties)(-Selected Properties)

PROGRAM NAME: ActInv.PD

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS	
04- U -NC-0717 CG	228 BAYSHORE DRIVE ELIZABETH CITY 27909 THOMPSON	10/17/95 10/17/95	TOTAL:	0.00	1 1
			EXCESS:	0.00	1
			SURPLUS:	0.00	0
				0.00	
04- U -NC-0718 CG	CONSOLIDATED ROAD ELIZABETH CITY 27909 THOMPSON	12/12/95 12/12/95	TOTAL:	0.00	1 1
			EXCESS:	0.00	1
			SURPLUS:	0.00	0
				0.00	
04- I -NC-0720 BIA	Parcel 658, Cherokee Indian Reser. Cherokee, NC 99999 DILBECK	01/10/96	TOTAL:	0.19	1 1
			EXCESS:	0.08	0
			SURPLUS:	0.00	1
				0.19	
07- B -ND-0495 WAPA	Trailer Lots Devils Lake 58301 MOORE	10/20/95 09/20/95	TOTAL:	1.05	0 1
			EXCESS:	0.42	0
			SURPLUS:	1.05	0
				0.42	
07- D -ND-0496 COE	W.L. Jewel Bearing Plant Rolla 58367 ROBINSON	09/01/95 09/11/95	TOTAL:	9.77	3 1
			EXCESS:	3.95	0
			SURPLUS:	0.00	3
				9.77	
07- D -ND-0497 COE	Dickinson Tech. Ops site, ND Dickinson, hetti 58646 HASTINGS	04/01/96 09/01/95	TOTAL:	10.00	1 1
			EXCESS:	4.05	0
			SURPLUS:	10.00	1
				4.05	

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE

PROGRAM NAME: ActInv.PD

(Actual Properties)(-Selected Properties)

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A		ACRES/ HECTARES	NO OF BLDGS	NO OF PARCELS
07- C -NE-0518 NOAA	FARM SITE SAUNDERS COUNTY 68041 HASTINGS	02/16/95 02/16/95	TOTAL:	11.35	0	1
				4.59		
			EXCESS:	11.35	0	
				4.59		
01- L -NJ-0463H ETA	POR NEW JERSEY JOB CORPS EDISON 08817 CROCKER	09/30/87	TOTAL:	4.91	0	1
				2.00		
			EXCESS:	0.00	0	
				0.00		
07- I -NM-0543 BIA	MAGDALENA INDIAN SCHOOL SOCORRO COUNTY 87825 MOORE	09/18/95	TOTAL:	12.10	14	2
				4.90		
			EXCESS:	12.10	14	
				4.90		
09- U -NV-0467C FAA	Tonopah Housing Complex Tonopah/Nye 89049 GRAY	09/30/93 05/04/94	TOTAL:	6.85	18	2
				2.77		
			EXCESS:	1.00	5	
				0.40		
01- G -NY-0554E	GSA DEPOT SCOTIA 99999 D'ANDREA	12/29/92	TOTAL:	71.20	23	1
				28.81		
			EXCESS:	71.20	23	
				28.81		
01- G -NY-0760A	GSA DEPOT- BINGHAMPTON BROOME COUNTY 13901 D'ANDREA	02/16/94	TOTAL:	17.54	2	1
				7.10		
			EXCESS:	17.54	2	
				7.10		
			SURPLUS:	0.00	0	
				0.00		

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE
 (Actual Properties)(-Selected Properties)

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GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS	
01- N -NY-0811A NAVY	EASTMAN KODAK ROCHESTER 14563 O'BRADOVIC	04/30/94 11/30/94	TOTAL:	12.39	8 1
				5.01	
		EXCESS:	0.00	0	
		SURPLUS:	12.39 5.01	8	
01- U -NY-0817 CG	POINT AU ROCHE LIGHT BEEKMANTOWN 12901 ROBBINS	01/07/94	TOTAL:	0.10	1 1
				0.04	
		EXCESS:	0.10	1	
		SURPLUS:	0.00 0.00	0	
01- D -NY-0825AF AF	AF PLANT 59 JOHNSON CITY 13790 COSTA	05/01/94 05/01/95	TOTAL:	29.52	2 1
				11.95	
		EXCESS:	29.52	2	
		SURPLUS:	11.95 0.00 0.00	0	
01- J -NY-0827MS USMS	115TH ROAD QUEENS 00000 CUSHING	10/01/94 12/01/94	TOTAL:	0.25	0 1
				0.10	
		EXCESS:	0.25	0	
		SURPLUS:	0.10 0.00 0.00	0	
01- J -NY-0828MS USMS	38 CLAVER PLACE BROOKLYN 00000 CUSHING	10/01/94 12/01/94	TOTAL:	0.25	0 1
				0.10	
		EXCESS:	0.25	0	
		SURPLUS:	0.10 0.00 0.00	0	
01- A -NY-0829 ARS	USDA RESEARCH FACILITY ITHACA 99999 CROCKER	10/20/94	TOTAL:	0.00	6 1
				0.00	
		EXCESS:	0.00	6	
		SURPLUS:	0.00 0.00 0.00	0	

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE

PROGRAM NAME: ActInv.PD

(Actual Properties)(-Selected Properties)

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A		ACRES/ HECTARES	NO OF BLDGS PARCELS	
01- Z -OH-0726B USIA	BETHANY RELAY STATION MASON, OHIO 45040 CZAPEK	03/15/95 03/15/95	TOTAL:	625.22	2	1
				253.03		
			EXCESS:	625.22	2	
				253.03		
			SURPLUS:	0.00	0	
				0.00		
01- G -OH-0781A	Zanesville Federal Building Zanesville 00119 O'BRADOVIC	10/20/94	TOTAL:	0.52	1	1
				0.21		
			EXCESS:	0.00	0	
				0.00		
			SURPLUS:	0.52	1	
				0.21		
01- D -OH-0793 COE	PORTION, RC BYRD L&D MIDDLEPRT/MEIGS 00000 PATRUNO	06/23/94	TOTAL:	17.23	0	1
				6.97		
			EXCESS:	17.23	0	
				6.97		
			SURPLUS:	0.00	0	
				0.00		
01- U -OH-0794 FAA	RADAR MICROWAVE LINK REPEATER BROADVIEWEW HGT 00000 PATRUNO	04/25/94	TOTAL:	1.19	1	1
				0.48		
			EXCESS:	1.19	1	
				0.48		
			SURPLUS:	0.00	0	
				0.00		
01- Z -OH-0797 NASA	CEDAR POINT RD, NASA LRC CLEVELAND 99999 PATRUNO	08/28/95	TOTAL:	0.53	0	1
				0.21		
			EXCESS:	0.53	0	
				0.21		
			SURPLUS:	0.00	0	
				0.00		
07- G -OK-0558	ALTUS FEDERAL BUILDING ALTUS, JACKSON C 73521 BLAIR	09/27/95	TOTAL:	0.48	1	1
				0.19		
			EXCESS:	0.48	1	
				0.19		
			SURPLUS:	0.00	0	
				0.00		

INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE
 (Actual Properties)(-Selected Properties)

PROGRAM NAME: ActInv.PD

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS	
09- F -OR-0687A	Reservoir Tract, Eagle Point Jackson 97524 DIVITO	11/17/94	TOTAL:	2.49	0 1
				1.01	
			EXCESS:	2.49	0
				1.01	
04- L -PA-0766 MSHA	Mine Emergency Operations Facility Aliquippa 15001 JENNINGS	04/01/93 05/05/93	TOTAL:	15.94	1 1
				6.45	
			EXCESS:	0.00	0
				0.00	
01- N -PR-0483 NAVY	WESTERN LA HUECA BEACH FRONT VIEQUES 00765 ROTONDO	09/30/92 07/13/92	TOTAL:	83.00	0 1
				33.59	
			EXCESS:	83.00	0
				33.59	
01- N -PR-0483A NAVY	CENTRAL BEACH AREA, LA HUECA VIEQUES 00765 ROTONDO	09/30/92 07/13/92	TOTAL:	83.00	0 1
				33.59	
			EXCESS:	83.00	0
				33.59	
01- N -PR-0483B NAVY	EASTERN LA HUECA BEACH FRONT VIEQUES 00765 ROTONDO	09/30/92 07/13/92	TOTAL:	83.00	0 1
				33.59	
			EXCESS:	83.00	0
				33.59	
01- N -PR-0483C NAVY	WESTERN LA HUECA MT. AREA VIEQUES 00765 ROTONDO	09/30/92 07/13/92	TOTAL:	83.00	0 1
				33.59	
			EXCESS:	83.00	0
				33.59	
			SURPLUS:	0.00	0
				0.00	

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE

PROGRAM NAME: ActInv.PD

(Actual Properties)(-Selected Properties)

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS	
01- N -PR-0483D NAVY	CENTRAL LA HUECA MT. AREA VIEQUES 00765 ROTONDO	09/30/92 07/13/92	TOTAL:	83.00	0 1
				33.59	
			EXCESS:	83.00	0
				33.59	
01- N -PR-0483E NAVY	EASTERN LA HUECA MT. AREA VIEQUES 00765 ROTONDO	09/30/92 07/13/92	TOTAL:	83.00	0 1
				33.59	
			EXCESS:	83.00	0
				33.59	
01- N -PR-0486 NAVY	VIEQUES LANDFILL EXTENSION AREA VIEQUES 00765 ROTONDO	09/30/92 07/13/92	TOTAL:	27.00	0 1
				10.93	
			EXCESS:	27.00	0
				10.93	
01- N -PR-0486A NAVY	VIEQUES RIDGE AREA VIEQUES 00765 ROTONDO	09/30/92 07/13/92	TOTAL:	35.00	0 1
				14.16	
			EXCESS:	35.00	0
				14.16	
01- N -PR-0486B NAVY	VIEQUES BEACH AREA VIEQUES 00765 ROTONDO	09/30/92 07/13/92	TOTAL:	35.00	0 1
				14.16	
			EXCESS:	35.00	0
				14.16	
04- N -SC-0489A NAVY	Naval Hospital Beaufort 29902 DILBECK	09/16/92 09/16/92	TOTAL:	2.66	0 1
				1.08	
			EXCESS:	2.66	0
				1.08	
		SURPLUS:	0.00	0	
			0.00		

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE

PROGRAM NAME: ActInv.PD

(Actual Properties)(-Selected Properties)

C GSA CONTROL NUMBER/ T BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A		ACRES/ HECTARES	NO OF BLDGS PARCELS	
\ 04- G -TN-0639	FEDERAL BUILDING, LIBERTY STREET JACKSBORO, TN 37757 JENNINGS	03/01/95 03/06/95	TOTAL:	1.00	1	1
				0.40		
			EXCESS:	1.00	1	
				0.40		
\ 04- G -TN-0640	WARRTBURG FB & PO WARTBURG, TN 37887 JENNINGS	03/15/95 03/06/95	TOTAL:	1.10	1	1
				0.45		
			EXCESS:	1.10	1	
				0.45		
\ 04- L -TN-0641 ETA	Knoxville Job Corps Center Knoxville 37921 COOPER	03/21/95 03/21/95	TOTAL:	5.15	2	1
				2.08		
			EXCESS:	0.00	0	
				0.00		
\ 07- D -TX-0505M COE	WHITNEY LAKE BOSQUE COUNTY 76634 MOORE	02/23/95	TOTAL:	4.99	0	1
				2.02		
			EXCESS:	0.00	0	
				0.00		
\ 07- D -TX-0778A AF	Eagle Pass Auxiliary Airfield Maverick 78853 JENNINGS	01/09/95 01/09/95	TOTAL:	97.77	0	1
				39.57		
			EXCESS:	0.00	0	
				0.00		
\ 07- G -TX-0982	U.S. APPRAISERS STORE HOUSTON 77011 JENNINGS	06/14/95	TOTAL:	1.33	1	1
				0.54		
			EXCESS:	0.00	0	
				0.00		
			SURPLUS:	1.33	1	
				0.54		

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INVENTORY OF EXCESS AND SURPLUS PROPERTY DISPOSABLE
 (Actual Properties)(-Selected Properties)

PROGRAM NAME: ActInv.PD

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A	ACRES/ HECTARES	NO OF BLDGS PARCELS
04- A -VA-0709 ARS	Tidwater Agricul Experiment Station Suffolk, VA 23437 JENNINGS	07/28/95 09/07/95	TOTAL:	8 1
				0.00
			EXCESS:	8
				0.00
04- H -VA-0710A HSI	G.O.R.E.VIRGINIA NORFOLK, VA 00000 DILBECK	06/16/95	TOTAL:	0 0
				0.00
			EXCESS:	0
				0.00
04- J -VA-0710B USMS	G.O.R.E. VIRGINIA NORFOLK, VA 00000 DILBECK	06/16/95	TOTAL:	0 0
				0.00
			EXCESS:	0
				0.00
04- D -VA-0711 ARMY	U. S. Army Reserve Center Bristol 24201 CARSON	09/30/95 12/01/95	TOTAL:	1 1
				0.25
			EXCESS:	1
				0.25
09- GR -WA-0513M	FORMER SAGE COMPLEX, LARSEN AFB MOSES LAKE, WA 99999 HOLM	06/16/95	TOTAL:	3 2
				2.87
			EXCESS:	3
				2.87
09- I -WA-0523B BLM	3000 AREA HANFORD SITE RICHLAND BENTON 99999 MAY	01/11/96	TOTAL:	16 0
				28.39
			EXCESS:	16
				28.39
			SURPLUS:	0
				0.00

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PROGRAM NAME: ActInv.PD

(Actual Properties)(-Selected Properties)

GSA CONTROL NUMBER/ BUREAU CODE	PROPERTY/LOCATION/ REALTY SPECIALIST	EXCESS P/A		ACRES/ HECTARES	NO OF BLDGS PARCELS
09- G -WA-0543	Stadium Homes Site Seattle King 98108 HOLM	10/16/95	TOTAL:	2.97	0 2
				1.20	
			EXCESS:	2.97	0
				1.20	
09- C -WA-1069 NOAA	Sandpoint Control Tower Seattle King 98174 HOLM	03/07/94	TOTAL:	11.30	1 1
				4.57	
			EXCESS:	0.00	0
				0.00	
01- D -WI-0572 COE	Portion, Kewaunee Area Office Kewaunee 54216 O'BRADOVIC	06/21/95	TOTAL:	0.95	0 2
				0.38	
			EXCESS:	0.95	0
				0.38	
04- D -WV-0525 COE	R. T. Price House Williamson/Ming 25661 CARSON	08/01/95	TOTAL:	0.44	1 1
				0.18	
			EXCESS:	0.44	1
				0.18	
07- A -WY-0535 FS	205 SPRING ST. COKEVILLE 83114 ROBINSON	04/24/95	TOTAL:	0.25	1 1
				0.10	
			EXCESS:	0.00	0
				0.00	
07- A -WY-0535A FS	410 PINE STREET COKEVILLE 83114 ROBINSON	04/24/95	TOTAL:	0.19	2 1
				0.08	
			EXCESS:	0.00	0
				0.00	
			SURPLUS:	0.19	2
				0.08	



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

Memorandum

April 18, 1996

To: James Pipkin
Counselor to the Secretary

From: Allen McReynolds *ADM*
Special Assistant to the Secretary

Subject: The Potential Role of Non-Profit Organizations

A part of our meeting yesterday regarding the potential land exchange in Montana included a brief discussion about the kind of real estate that could be traded and the best mechanism for transfer. One of the options that should be considered for this particular transaction is the use of a middleman, a non-profit conservation organization. The reasons for considering this type of strategy are several. Below is a brief description of the reasons that apply in this instance.

Timing of the "Deal"

Those officials who are guiding this project have expressed on numerous occasions that time is of the essence. In order for a Federal agency to conduct a land exchange, whether the selected agency is GSA, BLM, or some other group, is typically years. There are many steps, legislated in the acquisition process, that must be crossed - most created to protect the fiduciary interests of all Americans. Generally, a federal agency could not enter into a purchase contract for a contaminated property of this type without a Level III Contaminant Survey, which could take as long as six months to complete. If the survey step could be eliminated/waived, then the agency could complete an Environmental Assessment (EA) instead. At this point, there does not appear to be consensus regarding which agency will take title to the property, so conducting an EA could present a timing problem of its own.

Reclamation of the Property

In my experience, Interior agencies are reluctant to take title to a property that is contaminated unless the reclamation program is fully funded. With the budget process being such as it is, perhaps this wise. In any event, when a federal agency takes title to a property, that agency is then within the legal chain of title. In short, Interior, for example, could be automatically under Comprehensive Environmental Response, Compensation, and Liability laws to fund the reclamation or the balance of any unfunded portion of the reclamation. It seems clear to me from the discussions that I have witnessed that the funding of the reclamation is an unresolved issue. Thus, it would seem prudent to take steps to keep the federal government out of the chain of title

until this is resolved.

The Role of the Non-Profit

Non-profit conservation organizations have for many years acquired property for the three land acquisition agencies at Interior (FWS, BLM, NPS) that the federal agency could not acquire because of timing of the funding or other issues. In some cases, the use of these agencies assists the agency in circumventing rules which constrict the agency's ability to act quickly. As with the Montana parcel, Interior frequently desires to purchase a property that has environmental problems. The non-profit can often accomplish many tasks more easily than the agency, such as:

- o Negotiate a price below fair market value (and pass on the cost savings to the federal agency);
- o Borrow the capital to close on the property and then hold title to the property while funds are being raised by the federal agency;
- o Convince an unwilling seller, because of special knowledge or persuasive skills, to become a willing seller;
- o Hold title to the property while environmental clearances are being achieved (archaeological, contamination, etc);
- o Resolve boundary disputes quietly without media attention; and
- o Get an option on the property without the owner learning who the ultimate owner will be.

While many of these tasks may not be applicable in this particular case, the use of the non-profit's skills is made clear by these examples.

Appropriate Non-Profits to Consider

Due to the complexity, secrecy, and unresolved problems associated with this property, there are only a few non-profits which might be appropriate for use in consummating this transaction. Those non-profits large enough and capable enough to handle this are few. Those knowledgeable about conducting land exchanges are even fewer. The following is a brief list of those you may wish to consider:

- o American Lands Conservancy, San Francisco. Specializes in land exchanges. Has extensive experience in closing complicated land exchanges with the Forest Service and BLM. Needs to be reimbursed for all costs associated with transaction.
- o The Trust for Public Lands, San Francisco. Specializes in land purchases and marking the price up to fair market value to earn the "increment". Has extensive experience in purchasing lands for the Forest Service, NPS, FWS, BLM. Has not completed very many land exchanges. Needs to be reimbursed for all costs associated with transaction.
- o The Nature Conservancy, Salt Lake City. Specializes in purchasing land with LWCF funds and donated funds. Has extensive experience in purchasing lands for the Forest Service, NPS, FWS, and BLM. Has not completed very many land exchanges. Could consider donating the expenses related to conducting the exchange.
- o The Conservation Fund, Roslyn, VA. Has extensive experience in purchasing and donating lands using funds from the Mellon Foundation. Clients have included the Forest Service, NPS, FWS, and BLM. Has not completed very many land exchanges. Would most likely donate the

expenses related to conducting the exchange.

o The Greater Yellowstone Coalition. Moderate-sized local land trust specializing in acquiring lands to support Yellowstone ecosystem. Has experience in negotiating and closing on small tracts of land.

o Bell and Tjorthelm. Huddie Bell and Jim Tjorthelm, two Canadian real estate developers, have conducted land purchases and land exchanges within Nevada and Arizona with the BLM and Forest Service. They bring a familiarity with mining, have extensive Canadian contacts, and understand the Interior regulations and environmental laws for land acquisition.

Thank you for your attention.

Enclosures

Federal Land Transfer Authorities

✶ I. Federal Property and Administrative Services Act of 1949, 40 U.S.C. § 471 et seq.

The Federal Property Act provides for transfers of excess property between federal agencies as well as disposal of surplus property. The General Services Administration (GSA) administers the Act through regulations at 41 C.F.R. § Part 101-47.

A. Federal Property Transfer Restrictions

This Act provides for the transfer of any interest in property except (1) the public domain; lands reserved or dedicated for national forest or national park purposes; minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and land withdrawn or reserved from the public domain except lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator of GSA, determines are not suitable for return to the public domain for disposition under the general public-land laws because such lands are substantially changed in character by improvements or otherwise. 40 U.S.C. § 472(d); 41 C.F.R. § 101-47.103-12.

B. Inventory of Excess Property

“Excess property” means property under the control of a federal agency which is not required for the particular agency’s needs, while “surplus property” is excess property that is not needed by any federal agency. 40 U.S.C. § 472(e),(g). Each federal agency must periodically inventory real property under its control and report excess to the GSA. 41 C.F.R. § 101-47.201-2, 47.202-1. GSA will then provide notices of availability to all agencies which might have a use for the property. 41 C.F.R. § 101-47.203-5. After receiving notice, an agency may express interest by notifying GSA within 30 days of a requirement for the property. 41 C.F.R. § 101-47.203-5(a). GSA confirms that, as a matter of practice, two agencies may tentatively work out a particular transfer before undertaking this process. Alternatively, agencies requiring real property may notify a GSA regional office, and GSA will inventory available excess or surplus property. 41 C.F.R. § 101-47.203-3.

C. GSA Compliance Evaluation

Transfers requested by an agency are subject to GSA evaluation for compliance with certain guidelines. 41 C.F.R. § 101-47.201-2, 101-47.203-7. Agencies must first look to their own property inventories for the desired property and use that property before transferred property. 41 C.F.R. § 101-47.201-2(d)(2)-(3). The appraised fair market value of the excess real property should not substantially exceed the probable purchase price of real property which would be suited for the intended purpose. 41 C.F.R. § 101-47.201-2(d)(4). Excess property should not be transferred for programs which appear to be scheduled for curtailment or termination. 41 C.F.R.

§ 101-47.201-2(d)(7). GSA states that transferred property generally must be for direct program missions. Agencies must have the authority to administer the transferred property. GSA and Interior have previously discussed the issue of Interior's receiving excess property for land exchange purposes, but there is not yet a clear policy.

D. Reimbursement and OMB Waiver

A significant obstacle to a real property transfer to conduct a land exchange is a reimbursement requirement. Transfers of excess property must ordinarily be reimbursed by the transferee at 100 percent of fair market value as determined by GSA. 41 C.F.R. § 101-47.203-7(f)(2)(i). A transferee may, however, request an exception from this requirement from GSA and the Office of Management and Budget (OMB). 41 C.F.R. § 101-47.203-7(f)(2)(ii). This request must be endorsed by the head of the department or agency requesting it and must explain how granting the exception would further essential agency program objectives. Funding shortages alone are not sufficient to justify an exception. 41 C.F.R. § 101-47.203-7(f)(2)(ii)(B)(2). Staff at OMB stated that OMB practice is to grant this waiver only where the transferee has facilities on the property or is currently utilizing the property. While GSA can process an exchange within thirty days, seeking a waiver of the reimbursement requirement could delay the transfer.

II. Federal Land Policy and Management Act, 43 U.S.C. § 1701 to 1784

A. Public Lands

The Federal Land Policy and Management Act of 1976 (FLPMA) establishes land policies for public lands. "Public Lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership. 43 U.S.C. § 1702(e).

B. Land Exchanges

A tract of public land or interests therein may be disposed of by exchange by the Secretary and a tract of land or interests therein with the National Forest System may be disposed of by exchange by the Secretary of Agriculture under applicable law where the Secretary concerned determines that the public interest will be well served by making the exchange. When considering land exchanges, the public interest, including the needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife, must be considered. 43 U.S.C. § 1716

C. Acquisition of Non-Federal Lands

In exercising the exchange authority, the Secretary may accept title to any non-Federal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land or interest to be acquired. 43 U.S.C. § 1716(b)

D. Addition to Existing Unit

Lands acquired by the Secretary by exchange under this section which are within the boundaries of any unit of the National Forest System, National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or the boundaries of the California Desert Conservation Area, or the boundaries of any national conservation area or national recreation area established by Act of Congress, upon acceptance of title by the United States shall immediately be reserved for and become a part of the unit or area within which they are located, without further action by the Secretary, and shall thereafter be managed in accordance with all laws, rules, and regulations applicable to such unit or area. 43 U.S.C. 1716(c).

E. Costs Associated with Exchanges

The parties involved in an exchange may mutually agree that one party (or parties) will assume, without compensation, all or part of certain costs or other responsibilities or requirements ordinarily borne by the other party or parties. In addition, the Secretary concerned may make adjustments to the relative values involved in an exchange transaction in order to compensate a party for assuming costs associated with the exchange. "Costs or other responsibilities or requirements" include land surveys and appraisals, mineral examinations, title searches, archeological surveys and salvage, removal of encumbrances, and arbitration expenses. 43 U.S.C. § 1716(f).

F. Segregation of Lands from Mining Laws

Upon receipt of an offer to exchange lands or interests in lands, the Secretary of the Interior may temporarily segregate the Federal lands under consideration for exchange from appropriation under the mining laws. Such temporary segregation may only be made for a period of not to exceed five years. 43 U.S.C. § 1716 (i)

G. Mining Law Segregation

All non-Federal lands which are acquired by the U.S. and managed by the Secretary of Agriculture shall be automatically segregated from appropriation under the public land law, including the mining laws, for ninety days after acceptance of title by the U.S. At the end of the ninety day period, the segregation shall end and such lands shall be open to operation of the public land laws and to entry, location, and patent under the mining laws. 43 U.S.C. § 1716(i)

H. Cost Equalization

FLPMA requires that exchanged lands be of equal value, but values may be equalized through a cash equalization payment not exceeding 25 percent of value of the federal lands in the exchange proposal. The Secretary or private party can waive cash equalization if the amount does not exceed 3 percent of the value of the federal land being traded or \$15,000, whichever is less. 43 U.S.C. § 1716(b).

III. The Transfer of Real Property Act, 16 U.S.C. § 667b

A. Provisions

The Transfer of Real Property Act allows real property, which is no longer required by the agency exercising jurisdiction over the property, to be transferred to state wildlife agencies for wildlife conservation purposes or to the Secretary of the Interior in instances where the property has particular value in carrying out the national migratory bird management program. Properties which are valuable for such uses, and which, in the determination of the Administrator of General Services Administration (GSA), are available for such uses may, notwithstanding any other provisions of law, be transferred without reimbursement or transfer of funds (with or without improvements as determined by the Administrator) by the Federal agency having jurisdiction or control of the property.

B. Reservation of Rights

Any such transfer to other than the U.S. shall be subject to the reservation by the U.S. of all oil, gas, and mineral rights, and to the condition that the property shall continue to be used for wildlife conservation or other of the above-stated purposes, and in the event it is no longer used for such purposes or in the event it is needed for national defense purposes, title shall revert to the U.S.

IV. Base Closure and Realignment Act, Public Law 100-526

The Base Closure and Realignment Act of 1988 (BRAC) directed the GSA to delegate its disposal authorities to DOD and required that property disposal be carried out in accordance with the Federal Property Act and applicable regulations governing excess/surplus real property, Subchapter H of the Federal Property Management Regulations, 41 C.F.R. § 101-47.

A. Amendments

Since its enactment, BRAC has been amended numerous times (e.g., National Defense Authorization Acts, Public Law 103-421). Under these amendments, the disposal process was modified to allow for:

- o an expedited Federal screening process;
- o conveyance to the Local Redevelopment Authority at less than fair market value for economic development purposes; and
- o an exemption from McKinney Homeless Assistance Act procedures. (Homeless needs still must be met; however, providers no longer receive a definite priority for property.)

B. Role of the Local Redevelopment Authority

Of particular importance is the role that the Local Redevelopment Authority (LRA) assumes in the base closure process. Once property is determined surplus to the Military Department, the Defense Department notifies the LRA, which begins a comprehensive planning process for reuse

of the closing installation. Based on notices of interest received from all potential parties (state and local governments, homeless providers, private parties, etc.), the LRA will develop a comprehensive redevelopment/reuse plan. Consistent with Base Closure Acts, the President's Five Part Plan, and DOD policy issuances, the Military Departments will give locally developed reuse plans major consideration in their disposal process.

C. DOI Partnership with the LRA

The exchanges proposed by DOI would be subject to the requirements cited above (OMB clearance for waiver of reimbursement, submission of an explanatory statement, etc.). DOI's proposal for exchange would be made to the LRA. If the LRA accepts the proposal, the LRA would then include the disposal by exchange in the plan submitted to the Military Department charged with disposing the base. DOI would not be in the position of a "sponsoring agency" for purposes of acquiring surplus property, but would be in partnership with the LRA to carry out the LRA's preferred plan of reuse.

D. Military Bases from Public Domain

Bases on lands withdrawn from the public domain for military use are not covered by the base closure acts or the Federal Property and Administrative Services Act. If a base on withdrawn lands is to be closed, the Military Department notifies the Secretary of the Interior, through the BLM. 32 C.F.R. § 91.7(a)(9). BLM screens these lands to determine if they are appropriate for return to the public domain. *Id.* If they are appropriate, BLM notifies the Military Department that it will accept relinquishment of the lands. If the lands are not appropriate for return to the public domain, BLM notifies the Military Department that the lands should be processed as any other real property. *Id.* Public domain base lands could function well as trade stock because they would be transferred directly to BLM without the limitations imposed by the Federal Property and Administrative Services Act or base closure acts.

V. Fish and Wildlife Service Statutes

A. Fish and Wildlife Act of 1956, 16 U.S.C. § 742f

16 U.S.C. § 742f(a)(4) authorizes the Secretary of the Interior to "take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources including, but not limited to ... acquisition by purchase or exchange of land and water, or interests therein."

The broad authority to "take such steps as may be required" to protect fish and wildlife could be read to authorize FWS to acquire and hold real property without habitat value solely for the purpose of exchange. This broad reading is untried, however. The statute does not limit the FWS to land exchanges within the same state.

B. Endangered Species Act, Section 5, 16 U.S.C. § 1534

Section 5 of the ESA authorizes the Secretary of the Interior to further a fish, wildlife, and plant conservation program by acquiring "by purchase, donation, or otherwise, lands, waters, or interest therein, and such authority shall be in addition to any other land acquisition authority vested in him." 16 U.S.C. § 1534(a)(2) (emphasis added). This broad language could arguably include the authority to acquire and hold non-habitat properties for subsequent exchange.

C. National Wildlife Refuge System, 16 U.S.C. § 668dd

For the purpose of conserving fish and wildlife, the Secretary is authorized, through FWS, "to acquire lands or interests therein by exchange ... for acquired lands or public lands ... under his jurisdiction which he finds suitable for disposition." The values of exchanged properties must be approximately equal, but "if they are not approximately equal the values shall be equalized by the payment of cash." § 668dd(b)(3).

This authority does not limit the Secretary to intrastate exchanges. The exchange authority, however, is for lands under the Secretary's jurisdiction, which does not appear to be broad enough to give the Secretary independent authority to acquire and hold non-habitat lands solely for exchange purposes.

VI. National Park Service Statutes

A. 16 U.S.C. § 460j-22(b)

The Secretary of the Interior is authorized to accept title to any non-Federal property or interest therein within a unit of the National Park System or miscellaneous area under his administration and in exchange may convey any Federally-owned property under his jurisdiction which he determines is suitable for exchange or other disposal and which is located within the same state.

B. 16 U.S.C. § 460j-9(c)

The Secretary of the Interior may, following written notice to specified Congressional committees, acquire by donation, purchase with donated funds, transfer from any other Federal agency, or exchange, lands, waters or interests therein adjacent to an area of the National Park System. The Secretary may not, however, alienate properties administered as part of the National Park System in order to acquire these lands by exchange.

Final Version 4/17/96

Illustrations of Exchange Authorities

A. BLM administers public lands in Oregon which it would like to exchange for privately-held forested lands in Oregon.

BLM would use its exchange authority under the Federal Land Policy and Management Act (FLPMA) to make the exchange. Because both parcels of land are located within the same state, the exchange would comply with FLPMA's limitation to same state exchanges. The exchange would have to be in the public interest. Factors supporting a public interest finding would exist in the case where the public lands were difficult to manage due to their location in a "checkerboard" area surrounded by private lands, and the acquisition of the forested lands would provide a local community an intact recreation area. The exchanged properties would need to be of equal values, although a cash equalization payment of up to 25 percent of the value of the federal lands being exchanged is allowed.

B. BLM seeks to acquire high-priority forested lands in Oregon but holds no lands in Oregon which are appropriate for disposal. BLM holds lands in Washington which are suitable for disposal and the Army is closing a military base in Oregon. The private owner is in a rush to dispose of the property.

Because BLM's exchange authority under FLPMA is limited to same-state exchanges, BLM could not use its land holdings in Washington for the exchange. BLM could seek to acquire the Army lands in Oregon from the Army and then exchange these lands for the private lands. BLM would work with the Local Redevelopment Authority to use a portion of the Army lands for exchange. Because BLM would hold the Army lands for some time before the exchange, BLM would need independent authority to administer those lands. Further, BLM would have to seek a waiver of the reimbursement requirement from the Office of Management and Budget (OMB) and the Army. If the Army lands were from the public domain, then the lands could be transferred directly to BLM if appropriate for return to the public domain. The limitations imposed by the Federal Property and Administrative Services Act and Base Closure Acts would not apply.

Since the owner is in a rush to dispose of the property, BLM could also work with a non-profit conservation organization with § 501(c)(3) tax status to facilitate the transaction. The private status and lack of regulatory restraints on the non-profit organization might enable it to purchase the property quickly and then hold it while BLM processes the exchange. BLM would provide the non-profit with federal property in exchange for the private property and the non-profit would then sell the federal property.

C. FWS seeks to acquire private forest lands in California but FWS holds no lands suitable for exchange. Another federal agency holds an office building in Texas which it does not need.

Under the Federal Property and Administrative Services Act, the federal agency could excess the office building through the General Services Administration (GSA) to FWS. The FWS would need to seek a waiver of the reimbursement requirement from GSA and OMB. FWS would also need approval from GSA to utilize the excessed land for exchange purposes. Arguably, exchange is not a sufficiently direct programmatic use of the excessed property under the GSA regulations. Next, FWS would need authority to hold commercial real estate such as an office building. Under the Fish and Wildlife Act of 1956 and Endangered Species Act, FWS arguably has the authority to hold any type of land or water interest for purposes of exchange. FWS could then use its interstate exchange authority under these acts to exchange Texas lands for California lands.

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 15.48.24

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07577-00424873-1

LEX INDICATOR Y

7577 ORE CAMLU RETIREMENT APTS
2221 SOUTH REAL ROAD

CP BANK 7645

CP DATE 95/11/15

PRI OFF 65413

BILL FREQ 1

SEC OFF 65529

BILL METHOD S

SITE 60650

INSR REQUIRED N

DLR NO

LOAN CLASS MFP

LN TYPE N35

LN STATUS CDE

GL TYPE 035

EMPLOYEE CODE

CR SCORE 0

CR SCR OVRDE

REC/REP CD

REFIN/RENEW CD Y

CRED LOC 60650

ADV/LOAN IND Y

KERN COUNTY

BAKERSFIELD CA 93309

H PHN B PHN

ORIG NOTE DATE

ORIG MATURITY

ORIG TERM 0

ORIG AMT 1,786,500.00

CURR BAL 1,908,000.00

DATE LAST PMT

CURR P/O 1,908,000.00

DTE LST NON-MON 95/09/19

LAMIS ISSUE DTE 94/05/12

GOOD THRU 96/02/27

PAID-TO DATE

MAT DATE 199/12/31

DAILY ACCR .000000

INT PD YTD .00

APR .000000

TOT REB AMT .00

INT LST YR

INDEX/VAR / .000000

CHARGES DUE .00

PARTICIPATION INDICATOR N

PYMT AMT 1,786,500.00

TIMES NSF DYS

PART PAY AMT .00

DUE DATE 199/12/31

EXT CKS DEL

CUR RSRV BAL .00

AMT DUE .00

0 0 0

RSRV ADV BAL .00

COLL 103 110 UNIT SENIOR CITIZEN APT CO

UNAPLD FUNDS .00

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LU #6

FDIC properties

*(Diff from ones
in catalogue)*

*RTC FDIC other
↓ ↓
catalogue them*

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 16.15.55

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS	LOAN NUMBER	07602-50132265-1		LEX INDICATOR	N
7602 ORE WALDEN ON LAKE HOUSTON		CP BANK		CP DATE	
FM 1960 & LAKE HOUSTON PW		PRI OFF	44542	BILL FREQ	1
FM 1960 & LAKE HOUSTON PK		SEC OFF	44471	BILL METHOD	S
HARRIS COUNTY		SITE	40450	INSR REQUIRED	N
HOUSTON TX 77346		DLR NO		LOAN CLASS	
H PHN	B PHN	LN TYPE	035	LN STATUS CDE	
ORIG NOTE DATE	95/05/31	GL TYPE	035	EMPLOYEE CODE	
ORIG MATURITY	199/12/31	CR SCORE	0	CR SCR OVRDE	
ORIG TERM	255	REC/REP CD		REFIN/RENEW CD	N
ORIG AMT	6,040,136.00	CRED LOC	40450	ADV/LOAN IND	N
		CURR BAL	5,478,135.00	DATE LAST PMT	96/01/16
		CURR P/O	5,478,135.00	DTE LST NON-MON	95/07/20
LAMIS ISSUE DTE	95/05/31	GOOD THRU	96/02/27	PAID-TO DATE	95/05/31
MAT DATE	199/12/31	DAILY ACCR	.000000	INT PD YTD	.00
APR	.000001	TOT REB AMT	.00	INT LST YR	
INDEX/VAR	/	CHARGES DUE	.00	PARTICIPATION INDICATOR	N
PYMT AMT	6,040,136.00	TIMES NSF	DYS	PART PAY AMT	.00
DUE DATE	199/12/31	EXT CKS	DEL	CUR RSRV BAL	.00
AMT DUE	.00	0	0	RSRV ADV BAL	.00
COLL	122 CC/GOLF C./1100	LOTS23AC COM		UNAPLD FUNDS	.00

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LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 16.03.11

LGEN CO 200 OP 186

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07602-50132244-1

LEX INDICATOR N

7602 ORE NORTHBOROUGH I

CP BANK

CP DATE

I H 45 & RANKIN ROAD

PRI OFF 44561

BILL FREQ 1

I-45 & RANKING RD

SEC OFF 44483

BILL METHOD S

HARRIS COUNTY

SITE 40450

INSR REQUIRED N

HOUSTON TX 77060

DLR NO

LOAN CLASS

H PHN

B PHN

LN TYPE 035

LN STATUS CDE

ORIG NOTE DATE 95/05/31

GL TYPE 035

EMPLOYEE CODE

ORIG MATURITY 199/12/31

CR SCORE 0

CR SCR OVRDE

ORIG TERM 255

REC/REP CD

REFIN/RENEW CD N

ORIG AMT 6,526,098.00

CRED LOC 40450

ADV/LOAN IND N

CURR BAL

6,526,098.00

DATE LAST PMT

CURR P/O

6,526,098.00

DTE LST NON-MON 96/02/27

LAMIS ISSUE DTE 95/05/31

GOOD THRU

96/02/27

PAID-TO DATE

95/05/31

MAT DATE

199/12/31

DAILY ACCR

.000000

INT PD YTD

.00

APR

.000001

TOT REB AMT

.00

INT LST YR

INDEX/VAR /

.000000

CHARGES DUE

.00

PARTICIPATION INDICATOR N

PYMT AMT

6,526,098.00

TIMES NSF

DYS

PART PAY AMT

.00

DUE DATE

199/12/31

EXT CKS

DEL

CUR RSRV BAL

.00

AMT DUE

.00

0

0

0

RSRV ADV BAL

.00

COLL 123 145.7204 ACRES

IN 12 NON-CONT

UNAPLD FUNDS

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LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 15.48.55

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER 07683-00427347-1 LEX INDICATOR N

7683 ORE 1813 MARLESTA COURT APARTMENTS CP BANK CP DATE
 1813 MARLESTA COURT PRI OFF 65413 BILL FREQ 1
 SEC OFF 65521 BILL METHOD S
 SITE 60650 INSR REQUIRED N
 DLR NO LOAN CLASS MFP

CONTRA COSTA COUNTY

PINOLE CA 94564

H PHN B PHN

ORIG NOTE DATE LN TYPE N35 LN STATUS CDE
 ORIG MATURITY GL TYPE 035 EMPLOYEE CODE
 ORIG TERM 0 CR SCORE 0 CR SCR OVRDE

ORIG AMT 6,250,000.00 CURR BAL 6,250,000.00 REC/REP CD REFIN/RENEW CD Y
 CURR P/O 6,250,000.00 CRED LOC 60650 ADV/LOAN IND N

LAMIS ISSUE DTE 94/06/01 GOOD THRU 96/02/27 DATE LAST PMT
 MAT DATE 199/12/31 DAILY ACCR .000000 DTE LST NON-MON 95/09/20
 APR .000000 TOT REB AMT .00 INT PD YTD .00
 INDEX/VAR / .000000 CHARGES DUE .00 INT LST YR .00
 PYMT AMT 6,250,000.00 TIMES NSF DYS PART PAY AMT .00
 DUE DATE 199/12/31 EXT CKS DEL CUR RSRV BAL .00
 AMT DUE .00 0 0 0 RSRV ADV BAL .00
 COLL 103 144 APT COMPLEX 28 2&3 STORY B UNAPLD FUNDS .00

AMT DUE .00 0 0 0

COLL 103 144 APT COMPLEX 28 2&3 STORY B UNAPLD FUNDS .00

MAT DATE 199/12/31 DAILY ACCR .000000 INT PD YTD .00

APR .000000 TOT REB AMT .00 INT LST YR .00

INDEX/VAR / .000000 CHARGES DUE .00 PARTICIPATION INDICATOR N

PYMT AMT 6,250,000.00 TIMES NSF DYS PART PAY AMT .00

DUE DATE 199/12/31 EXT CKS DEL CUR RSRV BAL .00

AMT DUE .00 0 0 0 RSRV ADV BAL .00

COLL 103 144 APT COMPLEX 28 2&3 STORY B UNAPLD FUNDS .00

B ==

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 16.10.46

LGEN CO 200 OP 186

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER 07670-50135639-1 LEX INDICATOR N

7670 ORE SANTA CLARITA LANE
 SANTA CLARITA LANE
 SANTA CLARITA CA 91351

CP BANK CP DATE
 PRI OFF 65414 BILL FREQ 1
 SEC OFF 65512 BILL METHOD S
 SITE 60650 INSR REQUIRED N
 DLR NO LOAN CLASS
 LN TYPE 035 LN STATUS CDE
 GL TYPE 035 EMPLOYEE CODE
 CR SCORE 0 CR SCR OVRDE
 REC/REP CD REFIN/RENEW CD N
 CRED LOC 60650 ADV/LOAN IND N

H PHN B PHN
 ORIG NOTE DATE 95/10/31
 ORIG MATURITY 199/12/31
 ORIG TERM 250
 ORIG AMT 8,700,000.00

CURR BAL 8,700,000.00 DATE LAST PMT
 CURR P/O 8,700,000.00 DTE LST NON-MON 96/02/09
 GOOD THRU 96/02/27 PAID-TO DATE 95/10/31
 DAILY ACCR .000000 INT PD YTD .00
 TOT REB AMT .00 INT LST YR
 CHARGES DUE .00 PARTICIPATION INDICATOR N
 TIMES NSF DYS PART PAY AMT .00
 EXT CKS DEL CUR RSRV BAL .00
 0 0 0 RSRV ADV BAL .00
 UNAPLD FUNDS .00

LAMIS ISSUE DTE 95/10/31
 MAT DATE 199/12/31
 APR .000001
 INDEX/VAR / .000000
 PYMT AMT 8,700,000.00
 DUE DATE 199/12/31
 AMT DUE .00
 COLL 123 VACANT LAND

B ≡≡

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 15.51.04

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07697-50130993-1

LEX INDICATOR N

7697 ORE PALM DESERT
SEC GERALD FORD AVE & MON

CP BANK
PRI OFF 65412
SEC OFF 65512
SITE 60650

CP DATE
BILL FREQ 1
BILL METHOD S
INSR REQUIRED N

RIVERSIDE COUNTY
PALM DESERT CA 92260

DLR NO
LN TYPE 035
GL TYPE 035

LOAN CLASS
LN STATUS CDE
EMPLOYEE CODE

H PHN B PHN
ORIG NOTE DATE 94/11/30
ORIG MATURITY 199/12/31
ORIG TERM 261
ORIG AMT 11,762,734.00

CR SCORE 0
REC/REP CD
CRED LOC 60650

CR SCR OVRDE
REFIN/RENEW CD N
ADV/LOAN IND N

CURR BAL 11,762,734.00

CURR P/O 11,762,734.00

DATE LAST PMT
DTE LST NON-MON 95/11/14

LAMIS ISSUE DTE 94/11/30

GOOD THRU 96/02/27

PAID-TO DATE 94/11/30

MAT DATE 199/12/31

DAILY ACCR .000000

INT PD YTD .00

APR .000001

TOT REB AMT .00

INT LST YR .00

INDEX/VAR / .000000

CHARGES DUE .00

PARTICIPATION INDICATOR N

PYMT AMT 11,762,734.00

TIMES NSF DYS

PART PAY AMT .00

DUE DATE 199/12/31

EXT CKS DEL

CUR RSRV BAL .00

AMT DUE .00

0 0 0

RSRV ADV BAL .00

COLL 123 300.655 ACRES RESIDENTIAL & 19

UNAPLD FUNDS .00

B ==

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 15.56.09

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER 07561-00435647-1 LEX INDICATOR N

7561 ORE 3353 BRADSHAW ROAD
 3353 BRADSHAW ROAD
 SACRAMENTO CA 95813

CP BANK CP DATE
 PRI OFF 65414 BILL FREQ 1
 SEC OFF 65522 BILL METHOD S
 SITE 60650 INSR REQUIRED N
 DLR NO LOAN CLASS
 LN TYPE 035 LN STATUS CDE
 GL TYPE 035 EMPLOYEE CODE
 CR SCORE 0 CR SCR OVRDE
 REC/REP CD REFIN/RENEW CD Y
 CRED LOC 60650 ADV/LOAN IND N

H PHN B PHN

ORIG NOTE DATE 95/12/21

ORIG MATURITY 199/12/31

ORIG TERM 0

ORIG AMT 2,903,500.00 CURR BAL 2,903,500.00 DATE LAST PMT

CURR P/O 2,903,500.00 DTE LST NON-MON 96/02/01

LAMIS ISSUE DTE 95/12/21 GOOD THRU 96/02/27 PAID-TO DATE 95/12/21

MAT DATE 199/12/31 DAILY ACCR .000000 INT PD YTD .00

APR .000001 TOT REB AMT .00 INT LST YR

INDEX/VAR / .000000 CHARGES DUE .00 PARTICIPATION INDICATOR N

PYMT AMT 2,903,500.00 TIMES NSF DYS PART PAY AMT .00

DUE DATE 199/12/31 EXT CKS DEL CUR RSRV BAL .00

AMT DUE .00 0 0 0 RSRV ADV BAL .00

COLL 114 PROFESSIONAL OFFICE BUILDING UNAPLD FUNDS .00

B ≡≡ LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 15.57.11

LGEN CO 200 OP 186

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07589-00367460-1

LEX INDICATOR N

7589 ORE AMBASSADOR HOTEL
1312 S. ERVAY *Dallas Tex*

CP BANK

CP DATE

PRI OFF 44480

BILL FREQ 1

SEC OFF 44480

BILL METHOD S

SITE 40450

INSR REQUIRED N

DLR NO

LOAN CLASS

LN TYPE 035

LN STATUS CDE

GL TYPE 035

EMPLOYEE CODE

CR SCORE 0

CR SCR OVRDE

REC/REP CD

REFIN/RENEW CD Y

CRED LOC 40450

ADV/LOAN IND

3838 W CONGRESS

LAYFAYETTE LA 79999

H PHN B PHN

ORIG NOTE DATE 89/12/31

ORIG MATURITY 199/12/31

ORIG TERM 0

ORIG AMT 4,996,226.57 CURR BAL 4,996,226.57

DATE LAST PMT

CURR P/O 4,996,226.57

DTE LST NON-MON 95/01/11

LAMIS ISSUE DTE 89/12/31 GOOD THRU

96/02/27

PAID-TO DATE 89/12/31

MAT DATE 199/12/31 DAILY ACCR

.000000

INT PD YTD .00

APR .000001 TOT REB AMT

.00

INT LST YR

INDEX/VAR / .000000 CHARGES DUE

.00

PARTICIPATION INDICATOR P

PYMT AMT 4,996,226.57 TIMES NSF DYS

PART PAY AMT

.00

DUE DATE 199/12/31 EXT CKS DEL

CUR RSRV BAL

.00

AMT DUE .00 0 0 0

RSRV ADV BAL

.00

COLL 118 114 ROOM CLOSED DOWN HISTORIC

UNAPLD FUNDS

.00

B ≡≡

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 15.58.41

LGEN CO 200 OP 186

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07602-50132208-1

LEX INDICATOR N

7602 ORE WEST BELT
 SWC S HOUSTON PKWY & BRIA
 SWC S HOUSTON PKWY/BRIAR
 HARRIS COUNTY
 HOUSTON TX 77042
 H PHN B PHN
 ORIG NOTE DATE 95/05/31
 ORIG MATURITY 199/12/31
 ORIG TERM 255
 ORIG AMT 4,328,500.00

CP BANK
 PRI OFF 44571
 SEC OFF 44483
 SITE 40450
 DLR NO
 LN TYPE 035
 GL TYPE 035
 CR SCORE 0
 REC/REP CD
 CRED LOC 40450
 CP DATE
 BILL FREQ 1
 BILL METHOD S
 INSR REQUIRED N
 LOAN CLASS
 LN STATUS CDE
 EMPLOYEE CODE
 CR SCR OVRDE
 REFIN/RENEW CD N
 ADV/LOAN IND N

CURR BAL 4,328,500.00
 CURR P/O 4,328,500.00
 DATE LAST PMT
 DTE LST NON-MON 95/06/01
 GOOD THRU 96/02/27
 PAID-TO DATE 95/05/31
 DAILY ACCR .000000
 INT PD YTD .00
 TOT REB AMT .00
 INT LST YR
 CHARGES DUE .00
 PARTICIPATION INDICATOR N
 TIMES NSF DYS
 PART PAY AMT .00
 EXT CKS DEL
 CUR RSRV BAL .00
 0 0 0
 RSRV ADV BAL .00
 UNAPLD FUNDS .00

LAMIS ISSUE DTE 95/05/31
 MAT DATE 199/12/31
 APR .000001
 INDEX/VAR / .000000
 PYMT AMT 4,328,500.00
 DUE DATE 199/12/31
 AMT DUE .00
 COLL 123 15.05 ACRES

B ==

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 15.46.25

LGEN CO 200 OP 186

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07561-00424035-1

LEX INDICATOR N

7561 ORE 14813 JACKSON ROAD LOTS & LAND
14813 JACKSON ROAD

CP BANK

CP DATE

PRI OFF 65412

BILL FREQ 1

SEC OFF 65521

BILL METHOD S

SITE 60650

INSR REQUIRED N

DLR NO

LOAN CLASS

LN TYPE N35

LN STATUS CDE

GL TYPE 035

EMPLOYEE CODE

CR SCORE 0

CR SCR OVRDE

REC/REP CD

REFIN/RENEW CD Y

CRED LOC 60650

ADV/LOAN IND N

SACRAMENTO COUNTY

RANCHO MURIETA CA 95683

H PHN B PHN

ORIG NOTE DATE 94/04/19

ORIG MATURITY 199/12/31

ORIG TERM 1

ORIG AMT 1,409,380.00

CURR BAL

504,630.00 DATE LAST PMT 95/10/23

CURR P/O

504,630.00 DTE LST NON-MON 95/01/27

LAMIS ISSUE DTE 94/04/19

GOOD THRU

96/02/27 PAID-TO DATE

MAT DATE 199/12/31

DAILY ACCR

.000000 INT PD YTD .00

APR .000001

TOT REB AMT

.00 INT LST YR

INDEX/VAR / .000000

CHARGES DUE

.00 PARTICIPATION INDICATOR N

PYMT AMT 1,409,380.00

TIMES NSF

DYS PART PAY AMT .00

DUE DATE 199/12/31

EXT CKS

DEL CUR RSRV BAL .00

AMT DUE .00

0 0

0 RSRV ADV BAL .00

COLL 123 LOTS & LAND

UNAPLD FUNDS .00

B ==

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 16.00.04

LGEN CO 200 OP 186

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS	LOAN NUMBER	07602-50132230-1	LEX INDICATOR	N
7602 ORE WESTVIEW ON LAKE AUSTIN		CP BANK	CP DATE	
ELOHI DRIVE		PRI OFF 44563	BILL FREQ	1
ELOHI DRIVE		SEC OFF 44485	BILL METHOD	S
TRAVIS COUNTY		SITE 40450	INSR REQUIRED	N
AUSTIN TX 78746		DLR NO	LOAN CLASS	
H PHN	B PHN	LN TYPE 035	LN STATUS CDE	
ORIG NOTE DATE 95/05/31		GL TYPE 035	EMPLOYEE CODE	
ORIG MATURITY 199/12/31		CR SCORE 0	CR SCR OVRDE	
ORIG TERM 255		REC/REP CD	REFIN/RENEW CD	N
ORIG AMT 2,917,132.00	CURR BAL 2,917,132.00	CRED LOC 40450	ADV/LOAN IND	N
	CURR P/O 2,917,132.00	DATE LAST PMT		
LAMIS ISSUE DTE 95/05/31	GOOD THRU 96/02/27	DTE LST NON-MON	95/06/01	
MAT DATE 199/12/31	DAILY ACCR .000000	PAID-TO DATE	95/05/31	
APR .000001	TOT REB AMT .00	INT PD YTD	.00	
INDEX/VAR / .000000	CHARGES DUE .00	INT LST YR		
PYMT AMT 2,917,132.00	TIMES NSF	DYS	PART PAY AMT	.00
DUE DATE 199/12/31	EXT CKS	DEL	CUR RSRV BAL	.00
AMT DUE .00	0 0	0	RSRV ADV BAL	.00
COLL 123 68 RESIDENTIAL LOTS			UNAPLD FUNDS	.00

B ==

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 16.01.29

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07602-50132236-1

LEX INDICATOR N

7602 ORE LPC-SUMMIT RIDGE APTS

CP BANK

CP DATE

1604 RIDGE HAVEN DRIVE

PRI OFF 44589

BILL FREQ 1

1604 RIDGE HAVEN DR

SEC OFF 44487

BILL METHOD S

TARRANT COUNTY

SITE 40450

INSR REQUIRED N

ARLINGTON TX 76011

DLR NO

LOAN CLASS

H PHN B PHN

LN TYPE 035

LN STATUS CDE

ORIG NOTE DATE 95/05/31

GL TYPE 035

EMPLOYEE CODE

ORIG MATURITY 199/12/31

CR SCORE 0

CR SCR OVRDE

ORIG TERM 255

REC/REP CD

REFIN/RENEW CD N

ORIG AMT 6,270,479.00

CRED LOC 40450

ADV/LOAN IND N

CURR BAL

6,270,479.00

DATE LAST PMT

CURR P/O

6,270,479.00

DTE LST NON-MON

95/06/01

LAMIS ISSUE DTE 95/05/31

GOOD THRU

96/02/27

PAID-TO DATE

95/05/31

MAT DATE 199/12/31

DAILY ACCR

.000000

INT PD YTD

.00

APR .000001

TOT REB AMT

.00

INT LST YR

.00

INDEX/VAR / .000000

CHARGES DUE

.00

PARTICIPATION INDICATOR N

PYMT AMT 6,270,479.00

TIMES NSF

DYS

PART PAY AMT

.00

DUE DATE 199/12/31

EXT CKS

DEL

CUR RSRV BAL

.00

AMT DUE .00

0 0

0

RSRV ADV BAL

.00

COLL 103 264-UNIT APARTMENT COMPLEX

UNAPLD FUNDS

.00

B ≡≡

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 16.07.

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07670-50135608-1

LEX INDICATOR N

7670 ORE LAKE HIGHLANDS VILLAGE
718 N BUCKNER BLVD

CP BANK
PRI OFF 44555
SEC OFF 44486
SITE 40450

CP DATE
BILL FREQ 1
BILL METHOD S
INSR REQUIRED N

DALLAS COUNTY
DALLAS TX 75218

DLR NO
LN TYPE 035
GL TYPE 035

LOAN CLASS
LN STATUS CDE
EMPLOYEE CODE

H PHN B PHN

ORIG NOTE DATE 95/10/31

CR SCORE 0

CR SCR OVRDE

ORIG MATURITY 199/12/31

REC/REP CD

REFIN/RENEW CD N

ORIG TERM 250

CRED LOC 40450

ADV/LOAN IND N

ORIG AMT 3,154,519.67 CURR BAL 3,154,519.67

DATE LAST PMT

CURR P/O 3,154,519.67

DTE LST NON-MON 95/11/01

LAMIS ISSUE DTE 95/10/31 GOOD THRU

96/02/27

PAID-TO DATE 95/10/31

MAT DATE 199/12/31 DAILY ACCR

.000000

INT PD YTD .00

APR .000001 TOT REB AMT

.00

INT LST YR

INDEX/VAR / .000000 CHARGES DUE

.00

PARTICIPATION INDICATOR N

PYMT AMT 3,154,519.67 TIMES NSF

DYS

PART PAY AMT .00

DUE DATE 199/12/31 EXT CKS

DEL

CUR RSRV BAL .00

AMT DUE .00 0 0 0

RSRV ADV BAL .00

COLL 115 85,500 SF SHOPPING CENTER ON 4

UNAPLD FUNDS .00

B ==

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 16.06.19

LGEN CO 200 OP 186

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07602-50132268-1

LEX INDICATOR N

7602 ORE ATASCOCITA REO-GSA
 7702 FM 19060 EAST
 FM 1960 EAST
 HARRIS COUNTY
 HOUSTON TX 77346
 H PHN B PHN
 ORIG NOTE DATE 95/05/31
 ORIG MATURITY 199/12/31
 ORIG TERM 255
 ORIG AMT 181,486.00

CP BANK
 PRI OFF 44561
 SEC OFF 44471
 SITE 40450
 DLR NO
 LN TYPE 035
 GL TYPE 035
 CR SCORE 0
 REC/REP CD
 CRED LOC 40450
 CP DATE
 BILL FREQ 1
 BILL METHOD S
 INSR REQUIRED N
 LOAN CLASS
 LN STATUS CDE
 EMPLOYEE CODE
 CR SCR OVRDE
 REFIN/RENEW CD N
 ADV/LOAN IND N

CURR BAL 181,486.00
 CURR P/O 181,486.00
 LAMIS ISSUE DTE 95/05/31
 MAT DATE 199/12/31
 APR .000001
 INDEX/VAR / .000000
 PYMT AMT 181,486.00
 DUE DATE 199/12/31
 AMT DUE .00
 COLL 123 9.027 ACRES
 GOOD THRU 96/02/27
 DAILY ACCR .000000
 TOT REB AMT .00
 CHARGES DUE .00
 TIMES NSF
 EXT CKS 0 0
 DATE LAST PMT
 DTE LST NON-MON 95/06/01
 PAID-TO DATE 95/05/31
 INT PD YTD .00
 INT LST YR .00
 PARTICIPATION INDICATOR N
 PART PAY AMT .00
 CUR RSRV BAL .00
 RSRV ADV BAL .00
 UNAPLD FUNDS .00

B ==

LU #6

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

22-Apr-1996 05:36pm

TO: Kathleen A. McGinty

FROM: Elisabeth Blaug
Council on Environmental Quality

CC: Elena Kagan
CC: Shelley N. Fidler

SUBJECT: RE: headwaters

Yes--we've had this list for some time. Allen has been in the process of sifting out suitable properties, but now we will begin the political scrubbing process, with input from White House counsel.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

10-Apr-1996 12:33pm

TO: Elena Kagan
TO: Dawn Chirwa

FROM: Elisabeth Blaug
 Council on Environmental Quality

SUBJECT: headwaters

I just faxed you the final draft "litigation letter" and accompanying principles for the Headwaters discussions. Both have been vetted through DOJ and DOI. I would appreciate your final review for clearance...if possible, DOI would like to send it to Hurwitz's attorneys today.

Thanks again for your help.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY

TO: Elena Kagan / Dawn Chirba
FROM: Elizabeth Blake
DATE: 4/10/96 FAX# 66279

Number of pages including cover: 5

COMMENTS: This has been vetted through DOJ
and DOI - Could you take one last
look? Thx Elizabeth



Phone (202) 395-5750 FAX (202) 456-6546

722 Jackson Place, NW
Washington, DC 20503

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. draft	Draft letter. (4 pages)	04/10/1996	P5

COLLECTION:

Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8289

FOLDER TITLE:

Headwaters Forest Complex [3]

2009-1006-F
vz132

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

3/26/96 Headwaters

1. Letter - sign off of disclosures to pending lawsuits
Need to get in place - top priority
No conceptual delay
Mechanical issues

2. Appraisal. Ch / fed gov wants to do. Need access to orig app.
[will be done.]

3. Other properties - any area of interest?

FDIC list
DOT loan closures list

} Publicly avail docs
Havent figured what
actually to put on
table.

Suggestions

Property - Scottsdale?
↳ could develop.

Villeras, Puerto Rico.

Ellyton

↓
Imp not to make 1 env.
prop for another
Need to develop.

GSA
FDIC
loan closure prop

} can swap
w/ mt leg.

BLM } Need leg. if
FS } in another state

Other
lawsuits?

If you want, you must
write.

Poss creation
ways around
this.
JG: This is high
profile. Let's not
do stony further
at time in this
case

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY

TO: Elena Kagan / Dawn Chius

FROM: Elizabeth Blay

DATE: 3/26

FAX: 61647

Number of pages including cover: _____

COMMENTS: Handwritten notes



PHONE: (202) 395-5750 FAX: (202) 456-6546
722 JACKSON PLACE
WASHINGTON, D.C. 20501



United States Department of the Interior

OFFICE OF THE SOLICITOR
Division of Conservation and Wildlife
1849 C Street N.W., Mail Stop 6560
Washington, D.C. 20240

61647

Phone: 202-208-4344
Fax: 202-208-3877
Internet: Robert_Baum@ios.doi.gov

March 26, 1996

FAX Cover Sheet

Please Deliver:

To: Katie McGinty
Elizabeth Blaug

Telecopy Phone Number: 456-2510
456-0753

Verify Number: 456-6224
395-7420

From: Robert L. Baum
Associate Solicitor-
Conservation and Wildlife

Subject: Headwaters Confidentiality Agreement

Comments: Here is what Hurwitz sent in connection with keeping the 1994 meetings confidential, and our suggested changes for these negotiations. The redlined portions of our draft are the most substantive changes, other than eliminating Hurwitz's puff paragraph about the "expense, delays and inconvenience (including harassing litigation) it has suffered in obtaining approvals to conduct timber operations..." DOJ has been kept in the loop and is reviewing this draft. Please let me know your thoughts.

Number of Pages(including cover sheet): 9

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Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. draft	Draft Letter. (6 pages)	03/26/1996	P5

COLLECTION:

Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8289

FOLDER TITLE:

Headwaters Forest Complex [3]

2009-1006-F

vz132

RESTRICTION CODES

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EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY

TO: Elena Lopez / Dawn Chrus
FROM: Elizabeth Blay
DATE: 3/26
FAX: 61647

Number of pages including cover: _____

COMMENTS: Handwritten notes



PHONE: (202) 395-5750 FAX: (202) 456-6546
722 JACKSON PLACE
WASHINGTON, D.C. 20501



United States Department of the Interior

OFFICE OF THE SOLICITOR
Division of Conservation and Wildlife
1849 C Street N.W., Mail Stop 6560
Washington, D.C. 20240

61647

Phone: 202-208-4344
Fax: 202-208-3877
Internet: Robert_Baum@ios.doi.gov

March 26, 1996

FAX Cover Sheet

Please Deliver:

To: Katie McGinty
Elizabeth Blaug

Telecopy Phone Number: 456-2510
456-0753

Verify Number: 456-6224
395-7420

From: Robert L. Baum
Associate Solicitor-
Conservation and Wildlife

Subject: Headwaters Confidentiality Agreement

Comments: Here is what Hurwitz sent in connection with keeping the 1994 meetings confidential, and our suggested changes for these negotiations. The redlined portions of our draft are the most substantive changes, other than eliminating Hurwitz's puff paragraph about the "expense, delays and inconvenience (including harassing litigation) it has suffered in obtaining approvals to conduct timber operations..." DOJ has been kept in the loop and is reviewing this draft. Please let me know your thoughts.

Number of Pages(including cover sheet): 9

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Clinton Library

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003. draft	Draft Letter. Duplicate Copy. (6 pages)	03/26/1996	P5

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Counsel's Office
Elena Kagan
OA/Box Number: 8289

FOLDER TITLE:

Headwaters Forest Complex [3]

2009-1006-F

vz132

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- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

March 22, 1996

Elena:

Attached is an analysis of the key legal issues regarding the feasibility of obtaining Headwaters Forest from Pacific Lumber, which is owned by Charles Hurwitz. As we discussed in your office, a new potential element has been added to the discussions, that being the involvement of third party Red Emerson, owner of an adjoining lumber company (Sierra Pacific). Emerson has expressed a lot of interest in obtaining all or some of the Pacific Lumber property, so he may very well be a key player in any negotiations that might occur.)

Also attached is a memo Garamendi sent to Katie the other day, which is generally self-explanatory. It does reference follow-up with Jim Lyons: since you and I talked, Agriculture has expressed a willingness to identify any forest lands that may be thrown into the "pot" for a possible land swap. We haven't heard anything back from them, but I talked to Brian Burke about this the other day, and he was going to check around.

Katie is meeting with Garamendi, Hurwitz and Tommy Boggs on Tuesday, so we look forward to talking with you on Monday (12:30) to get your advice on some sticky issues. In the meantime, give me a call at 57420 if you have any questions. Thanks for your help!



Elisabeth Blaug

FDIC

Federal Deposit Insurance Corporation
Washington, DC 20429

Legal Division

November 6, 1995

MEMORANDUM TO: Kathleen McGinty
Chairperson
Council on Environmental Quality
Executive Office of the President

FROM: Jack D. Smith *J. Smith*
Deputy General Counsel
Federal Deposit Insurance Corporation

SUBJECT: Headwaters Forest/Charles Hurwitz
Debt-for-Nature Transaction

At a meeting in your office on October 22, 1995, you requested an analysis of certain issues pertaining to the viability of obtaining a transfer of the Headwaters Forest from Pacific Lumber (a corporation controlled by Charles Hurwitz) to the United States.

This memorandum states the issues and summarizes the answers. More detailed responses are attached. These responses were prepared by representatives of the Federal Deposit Insurance Corporation, the Office of Management and Budget, and the Department of the Interior.

Issues and Answers

Issue 1: Is it feasible for Hurwitz to transfer the Headwaters Forest to the FDIC in exchange for a settlement of the FDIC's lawsuit and/or other assets?

Answer: Yes. While Hurwitz does not directly own the Headwaters Forest, he controls the boards of directors and the business decisions of the corporate entity that owns the land. Hurwitz is the majority stockholder of Maxxam, Inc. which, through its wholly owned subsidiaries, owns the Headwaters Forest. He is also the Chairman of the Board of Directors, President and Chief Executive Officer of Maxxam and through these capacities has controlled the business and financial decisions of Maxxam and its subsidiaries. Most important, the FDIC lawsuit against Hurwitz may well ultimately be a liability of Maxxam because Maxxam's bylaws contractually obligate it to indemnify Hurwitz for liability in connection with acts performed while serving in any capacity on a Maxxam subsidiary such as United Savings Association of Texas or its holding companies. Hurwitz, through his control over Maxxam's and its subsidiaries' boards of directors, has previously influenced the transfer of Pacific

Lumber's assets to resolve other liabilities, including lawsuits. Finally, the FDIC's Chairman has stated that in the event the Headwaters Forest is offered to the FDIC as part of a settlement of the FDIC's claims against Hurwitz, the FDIC Board of Directors would consider accepting such assets to resolve the claims against Hurwitz.

Issue 2: Is it feasible for FDIC to transfer the Headwaters Forest to the Department of the Treasury?

Answer: The FDIC could legally transfer title to the Headwaters Forest out of the FDIC's FSLIC Resolution Fund ("FRF") to Treasury, if the FDIC determined that the state of the FRF at the time of transfer were such that the value of the Headwaters Forest was not better retained in the fund for discharge of FRF liabilities. It is unclear whether the FDIC Board of Directors would be able to make the requisite determination in the near term given uncertainties as to contingent liabilities, although a plausible case might be made in favor of such a determination in light of the present condition of FRF's balance sheet. We note, too, that Treasury would have to be willing to receive the Headwaters Forest (if only as part of an instantaneous transfer on to the Department of the Interior or another federal agency), and an interagency memorandum of understanding would therefore seem desirable in order to flesh out this plan. In the event that the FDIC Board were unwilling in the near term to make the requisite determination for a transfer to Treasury, a feasible alternative might be for the FDIC as manager of the FRF to hold the Headwaters Forest, under an interagency agreement whereby it would be managed by the Department of the Interior, until such time as conditions for a determination for outright transfer to Treasury (and then on to Interior) are satisfied.

Issue 3: What legislative mechanisms exist that may facilitate a transfer of the Headwaters Forest to the U.S. Department of the Interior with minimal financial outlay?

Answer: Three legislative authorizations provide a mechanism for an inter-agency transfer of title to the Headwaters Forest to the Department of the Interior. They are The Transfer of Real Property Act; The Coastal Barriers Improvement Act; and The Base Closure and Realignment Act of 1990. Each Act presents particular legal and political considerations that require special consideration.

Issue 4: What would be the likely budgetary impact from an acquisition or transfer of the Headwaters Forest through the FDIC?

Answer: Any budgetary impact, including "scoring," is dependent on the particular structure of the transaction and whether particular legislation is necessary to facilitate the acquisition or transfer of the Headwaters Forest.

Next Steps

It appears appropriate to arrange a meeting as soon as possible to decide upon what, if any, action is appropriate. Hurwitz has recently signaled - both directly and through his personal and corporate representatives - his desire to discuss the Headwaters Forest with representatives of the Government. For example, in a recent newspaper interview (attached), Hurwitz endorsed the possibility of a transfer of the Headwaters Forest in exchange for assets of equivalent economic value. Furthermore, in recent discussions with FDIC after the publication of the interview, Hurwitz's lawyers have indicated their client's interest in discussing a resolution of the Headwaters Forest issue. Similar statements have been made by other Hurwitz representatives to the Department of the Interior.

There appears to be little downside in responding to these overtures at an early date. If everyone else agrees, it would be necessary to decide the following:

1. Which person(s) should be authorized to contact Hurwitz;
2. Through which Hurwitz representative (e.g., Maxxam, Pacific Lumber, Hurwitz's defense lawyers) should such contact be made;
3. The substantive authority of the negotiating person or group for its discussions with Hurwitz; and
4. A mechanism for the negotiating person or group to regularly consult and coordinate its discussions with the respective federal agencies and offices that are involved in this effort.

Please let me know if the FDIC can be of further assistance. My phone number is (202) 898-3706 and William F. Kroener, III, FDIC General Counsel, can be reached at 898-3680.

Attachments

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San Jose, California, Sunday, October 22, 1995

THE PRESS Democrat

Pacific Lumber: 10 years after

Charles Hurwitz: Time has proven critics of him and his company wrong

MIKE GENIELLA
Writer

COTIA — Ten years after pulling off a nearly \$1 billion hostile takeover of Pacific Lumber Co., Texas financier Charles Hurwitz is seething because his most prized asset remains off-limits.

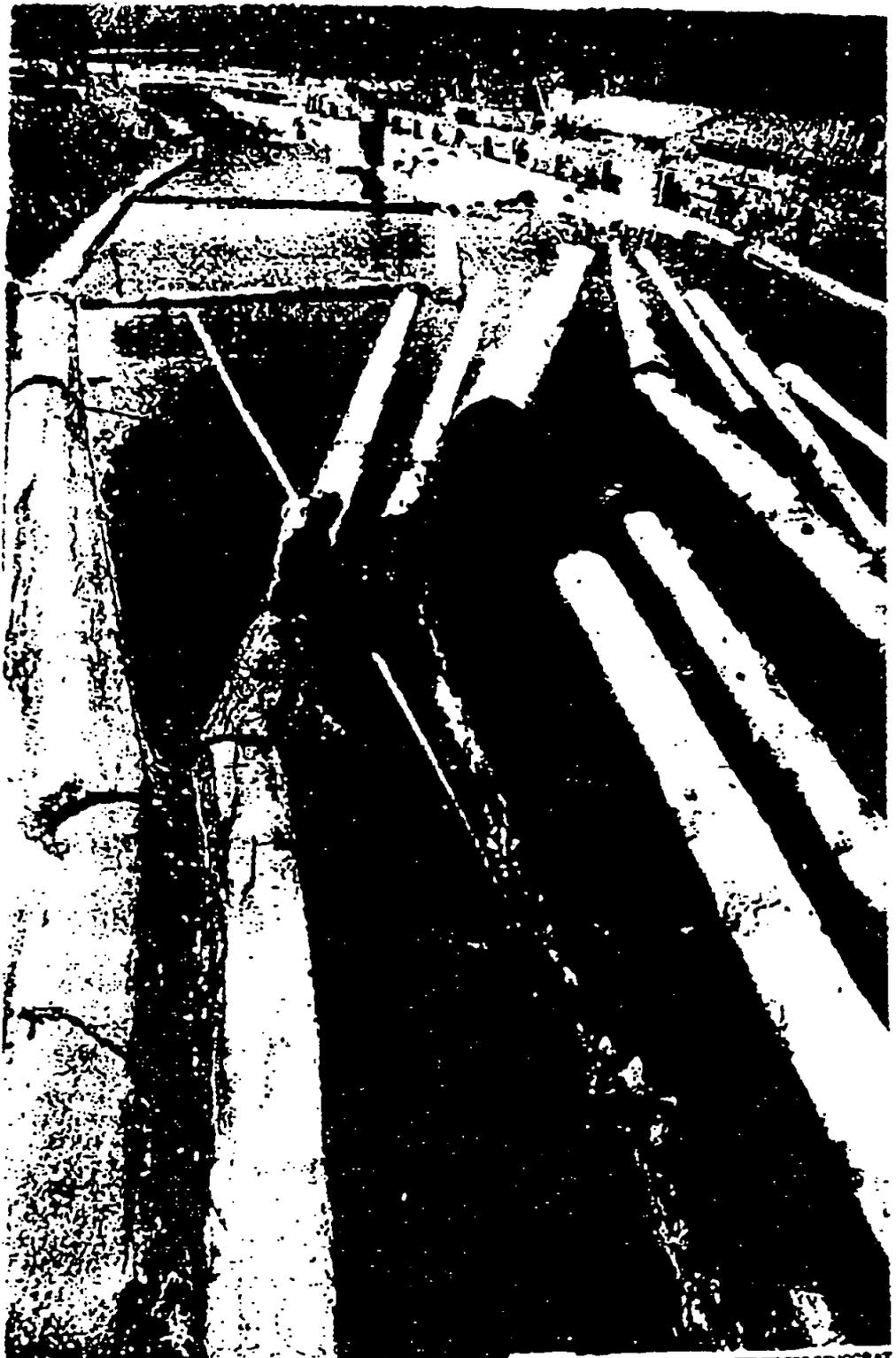


Hurwitz

Hurwitz believes a continuing controversy about Headwaters Forest, the largest stand of ancient redwoods left in private hands — worth \$600 million today by company estimates — not only hinders business, but denies him and managers of the 127-year-old North Coast timber giant the recognition he feels they deserve.

"We've stuck around for 10 years. We've reinvested \$100 million in new facilities, added more and expanded our timber base. We rebuilt down after an earthquake and fire," said Hur-

witz. "We're the bad guys," he said. "In any way the critics beat the hell out of this company, you would think we have slaves hanging there or something," complained Hur-



KEN F. PORTER/PRESS DEMOCRAT

Working in the largest log pond on the North Coast, Pacific Lumber

in a rare interview, Hurwitz told The Press

Hurwitz

Continued from Page A1
Headwaters if that helps bring an end to the North Coast's most tenacious environmental battle.

Andy McLeod, spokesman for Secretary of Resources Douglas Wheeler, welcomed Hurwitz's offer.

"Without doubt, determining a value for the forest is key to finding solutions to the complexities surrounding Headwaters," he said.

However, McLeod said the state will not negotiate "other than directly with the parties involved."

"Any further discussion on any value for Headwaters will have to be done directly," he said.

Epic court fights, regulatory skirmishing and disputes over its value, have kept company chainsaws from cutting Headwaters' 3,000 acres of towering redwoods, some dating back to the time of Christ.

Different appraisals

Pacific Lumber contends Headwaters' fair market value is nearly \$600 million, but government appraisals have ranged as low as \$400 million. Because of normal regulatory constraints surrounding harvesting of old-growth trees, preservation proponents say Headwaters' true value is much less, perhaps around \$100 million.

Whatever value may be set, Hurwitz said he doesn't necessarily expect taxpayers to come up with that kind of cash. He once again said he would favor offsetting some of the cost by swapping the big trees for abandoned U.S. government property.

"You know, if I could get someone who was very serious about resolving this, and who had some authority, to sit down with me, I think we could work out a Headwaters solution in half a day," said Hurwitz.

Hurwitz warned, however, that a deal needs to be struck soon. He said he believes a Republican majority in Congress, and its zeal

for private property rights, creates a better political climate for Pacific Lumber's efforts to either be fairly compensated for Headwaters, or be allowed to log the swath of old trees tucked in the coastal ridges east of Fortuna.

"I want to tell you that this is America, and that this land is zoned for timber cutting," said Hurwitz defiantly.

"We are going to move forward. Somebody is going to pay us fair market value, or we're going to cut it. And we're not embarrassed to say that," he said. A federal court recently has put on hold company plans to remove dead or dying trees from Headwaters pending trial of the latest in a series of lawsuits filed by the grass-roots group Environmental Protection Information Center in Garberville.

Deal of century

Departing from his usual stance of no interviews, Hurwitz spoke for nearly an hour by phone from a Puerto Rico resort being developed by his Houston-based Maxxam Inc. The conglomerate also owns Kaiser Aluminum, and substantial real estate holdings nationwide. The conference call interview included Pacific Lumber President John Campbell, who was a P-L executive before the Hurwitz takeover.

Hurwitz talked freely about controversies that erupted after Pacific Lumber's old board of directors capitulated 10 years ago today, and voted to sell the aristocrat of West Coast timber companies to Maxxam. It became the timber deal of the century because Pacific Lumber's under-valued assets were probably worth closer to \$2 billion, according to estimates in some shareholder lawsuits filed in the aftermath of the Hurwitz takeover.

At the time of Hurwitz's takeover, Pacific Lumber was touted by the Sierra Club and Save the Redwoods League for its responsible logging practices. Generations of Humboldt County residents have worked for Pacific Lumber and lived in Scotia, the West's last real mill town. Until the takeover, they were comforted by

"This is America, and that this land is zoned for timber cutting."

CHARLES HURWITZ

a paternalistic management that gave them a lifestyle once characterized as "Life in the Peace Zone."

Pacific Lumber's buyout by an outsider was a stunning development for hundreds of workers and their families, and a region that depends on the company for its economic well-being. The takeover ignited a decade of environmental activism in the streets and in the courts, and reshaped the face of North Coast politics. Logging controversies have played a role in almost every major election since the takeover.

In the beginning, Hurwitz was largely unknown. At the time, he was a small-time investor with alleged ties to convicted Wall Street wheeler-dealers Michael Milken and Ivan Boesky, and a failed Texas savings and loan that cost taxpayers \$1.6 billion. Today his personal portfolio is worth an estimated \$180 million.

After snagging sleepy Pacific Lumber for \$900 million during the takeover craze of the 1980s, Hurwitz ordered the cut doubled to meet the company's cash flow needs, and pay up to \$80 million a year in interest payments on about \$350 million in junk bonds he used to finance the takeover. Hurwitz later was to use early profits from Pacific Lumber's accelerated cut to help fund a takeover of another venerable Northern California industrial giant, Kaiser Aluminum.

As his empire grew, Hurwitz was attacked as a ruthless raider whose targets, including Pacific Lumber,

3

were asset-rich companies. His dealings involving Pacific Lumber came under scrutiny by the Securities and Exchange Commission, the U.S. Labor Department and a congressional oversight committee, none of which took any action. A probe by the Federal Deposit Insurance Corp. into Hurwitz's role in a failed Texas savings and loan resulted in a \$250 million claim being filed against him.

Accusations not true

Hurwitz dismisses his critics.

"Their accusations are just not true, and anybody who will spend the time looking into them will find that out," said Hurwitz.

Soon after the Pacific Lumber takeover Hurwitz ordered the sale of a tool company subsidiary of Pacific Lumber for \$300 million. He sold Pacific Lumber's former San Francisco headquarters building for another \$30 million, moving all corporate operations to Scotia and fueling speculation he intended to dismantle the timber giant and sell all of its assets. Critics predicted Scotia would be a ghost town within 10 years.

Hurwitz said the years have proven the critics wrong.

"We're still here, and we're still growing," he said.

Hurwitz said his rogue image is a carryover from the 1980s. "When everybody who did takeovers was cast in a bad light. But contrary to a lot of those kind of people, we're builders. We're happy with our investments."

Still his reputation persists.

"I warned Hurwitz early on that his takeover of Pacific Lumber would become the absolutely perfect symbol of what everyone doesn't like about American business," recalled former Rep. Doug Bosco, D-Sebartopol. After his defeat to Rep. Frank Riggs, R-Windsor, Bosco for a year was paid \$15,000 a month by Hurwitz to try to forge a consensus in Congress, where a bill had been introduced for the public acquisition of Headwaters.

Those efforts failed, and so have a series of others in the state Legislature and at the federal

level.

Hurwitz said he's disgusted with the political "circus." He recalled in 1988 when he went to Sacramento with Bosco, who was then still a congressman, to meet with key legislative leaders. They asked Hurwitz to agree to a voluntary logging moratorium on Headwaters, an agreement Pacific Lumber stuck to until this year, when Hurwitz said he'd had enough.

Nothing happened

"I was told by these guys that they were going to step in and solve this issue," said Hurwitz. "But they didn't do a damn thing. We sat around for two years twiddling our thumbs waiting for something to happen, and nothing ever did."

Bosco said he no longer has any ties to Hurwitz, or Pacific Lumber. But he said he agrees with Hurwitz that most of the blame for the Headwaters stalemate is with the political process.

"It should have been resolved in the public arena, but it wasn't," said Bosco.

Hurwitz said the bad rap he and Pacific Lumber receive about wanting to log the last of the ancient redwoods in private ownership is unfair.

"I get all these letters every day from high school and junior high kids saying, 'Please don't cut down the Headwaters,'" said Hurwitz.

"I write them back and give them our version of this thing, and then I tell them they should write their senators, write the Congress, and write the president if they want to save the Headwaters," he said.

Hurwitz rejected environmentalists' clamor for a so-called "debt-for-nature" swap involving a \$250 million claim a federal agency has filed against the Houston investor for his alleged role in the collapse of United Savings and Loan Association of Texas.

Hurwitz contended the Federal Deposit Insurance Corporation claim is in the form of a personal lawsuit against him, and cannot be linked to Maxxam or Pacific Lumber operations.

②

Lap

The possibility of swapping Headwaters for surplus government property dominated Hurwitz's thoughts during the interview.

Hurwitz cited as an example a closed military base in Texas between Galveston and Houston, where he lives.

"It's 15,000 acres of land, and it's doing nothing but drawing dust and rattlesnakes. Wouldn't it be great if someone like ourselves took it over and built new homes and a shopping center and created new jobs rather than have this land just sit there and do nothing?"

Hurwitz described such a possibility as a "win-win for everyone."

"Everyone thinks we're the stumbling block (to a Headwaters solution), and that's just not the case," said Hurwitz.

Hurwitz insisted the future is bright for Pacific Lumber.

Pacific Lumber, whose annual sales are \$200 million, is not for sale, the Wall Street Journal reported earlier this summer to the contrary, said Hurwitz.

Hurwitz said in fact, Pacific Lumber under Campbell's guidance is looking to the North Coast, and around the globe to expand its timber operations.

"We've been to South America, Africa and even Russia," he said.

"We're builders. We don't buy and sell," said Hurwitz about Maxxam's investment strategies.

Hurwitz said he likes the timber business. "Just last week, we had discussions about a potential acquisition within the industry," he said. "We're very much in the growth mode," said Hurwitz.

Hurwitz said he's offended that Pacific Lumber has been cast as an environmentally insensitive company under his stewardship.

"What bothers me more than anything else is that people think we're hurting the environment. It's simply not the case. We've hired the best foresters, the best biologists to chart the company's course into the next century," said Hurwitz.

Hurwitz and Campbell said Pacific Lumber's timberlands, even after a decade of accelerated cutting, still have the most timber volume per acre than anywhere else in California, and perhaps Oregon and Washington. They said the company will be able to sustain current production and job levels indefinitely by acquiring more timberland, and developing new product lines.

"But that isn't what you hear on the streets, or read in the newspapers," said Hurwitz. "I've had people tell me they went to Scotia expecting to see a Palm Springs no trees and all sand. They were amazed to see forests everywhere they looked."

Charles Hurwitz

- Age: 55
- Born: 1940, Kilgore, Texas
- College: University of Oklahoma
- Career: Started work as a stockbroker for Bache & Co. in 1962 in New York, later San Antonio.
- First deal: At age 27, Hurwitz got investors to put up \$54 million to launch the Hedge Fund of America. In 1967, it was the second-largest public offering ever on Wall Street.

The Hurwitz Decade:

- May 1982: Hurwitz's MCO Holdings and Federated Development buy Simplicity Pattern Co. for \$48 million, and later change name to Maxxam.
- October 1985: Pacific Lumber board capitulates, and agrees to sell North Coast timber giant to Hurwitz.
- May, 1988: Maxxam acquires KaiserTech, corporate parent of Kaiser Aluminum for about \$930 million.
- December 1988: Another Hurwitz investment — United Savings Association of Texas — fails, eventually costing taxpayers \$1.6 billion.
- July 1992: Maxxam bids \$360 million for a controlling interest in Continental Airlines, but offer rejected.

ISSUE 1: IS IT LEGALLY FEASIBLE FOR CHARLES HURWITZ TO ARRANGE THE TRANSFER OF MAXXAM'S ASSETS SUCH AS THE HEADWATERS FOREST TO THE GOVERNMENT IN EXCHANGE FOR A SETTLEMENT OF THE FDIC LAWSUIT AND/OR OTHER ASSETS?

SHORT ANSWER: YES. BY HIS DOMINANT POSITION AS MAXXAM, INC.'S CHAIRMAN OF THE BOARD, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AND AS ITS MAJORITY (60%) STOCKHOLDER, HURWITZ CONTROLS MAXXAM AND PACIFIC LUMBER (a wholly owned subsidiary of MAXXAM, INC.) AND THE BUSINESS DECISIONS OF THEIR BOARDS OF DIRECTORS. THROUGH HIS POSITIONS, HURWITZ CAN ARRANGE FOR MAXXAM TO EXCHANGE ITS PROPERTY FOR OTHER ASSETS AND/OR THE DISCHARGE OF MAXXAM LIABILITIES. THE FDIC LAWSUIT AGAINST HURWITZ MAY WELL ULTIMATELY BE A LIABILITY OF MAXXAM BECAUSE MAXXAM'S BYLAWS OBLIGATE IT TO INDEMNIFY HURWITZ FOR LIABILITY IN CONNECTION WITH ACTS PERFORMED WHILE SERVING IN ANY CAPACITY ON A MAXXAM SUBSIDIARY SUCH AS UNITED SAVINGS ASSOCIATION OF TEXAS OR ITS HOLDING COMPANIES. MOREOVER, IF THE OTS BRINGS CHARGES AGAINST MAXXAM DIRECTLY THIS WOULD ALSO BECOME A MAXXAM LIABILITY. (Answer prepared by FDIC).

DISCUSSION ANSWER:

I. Hurwitz's Control of Pacific Lumber

Hurwitz controls Pacific Lumber's corporate activities, including a sale or transfer of its assets, through his equity ownership in and domination of the board of directors of Maxxam, Pacific Lumber's parent corporation.

a. Hurwitz's Control of Maxxam

1. Controlling Stockholder: Hurwitz and various family interests own a controlling block of stock in Maxxam. Hurwitz and his family currently own and control, directly and through wholly owned personal and family investment companies and trusts, approximately 60.4 percent of the voting stock interests of Maxxam. Through this majority stock ownership, Hurwitz controls the election of candidates to Maxxam's board of directors and the financial and business decisions of Maxxam and its numerous wholly owned subsidiaries, including Pacific Lumber.

2. Controlling Director and Officer: Hurwitz is Maxxam's Chairman of the Board,¹ President, and Chief Executive

¹ At the May, 17, 1995, annual meeting of Maxxam's stockholders, Hurwitz was reelected to the Maxxam Board of Directors by a vote of 11,915,182 votes for, -0- votes against.

Officer, and has held these positions since he acquired Maxxam.

b. Maxxam's Control of Pacific Lumber: Maxxam is engaged in forest products operations through its wholly owned subsidiary, Maxxam Group, Inc. ("MGI"), and MGI's wholly owned subsidiary, Pacific Lumber Company, which Hurwitz acquired in a hostile tender offer in October 1985. Pacific Lumber owns, either in its own name or through subsidiaries, approximately 189,000 acres of commercial timberlands in Humboldt County in northern California.

1. 179,000 acres of Pacific Lumber's timberlands, including approximately 6,000 acres of virgin old growth redwood and border areas known as the Headwaters Forest, have been transferred to Scotia Pacific Holding Company, a wholly owned subsidiary of Pacific Lumber.

2. Title in the Headwaters Forest was in turn transferred to Salmon Creek Corporation, a wholly owned subsidiary of Scotia Pacific. Salmon Creek's only asset is the Headwaters Forest; it has been reported that the debt and other liabilities undertaken in connection with Hurwitz's acquisition of Pacific Lumber were maintained with Pacific Lumber and were not transferred to Salmon Creek. Moreover, Hurwitz has deliberately avoided pledging any part of the Headwaters Forest timber as collateral for Pacific Lumber's or its subsidiaries' financing arrangements, thereby making a transfer of title to the Headwaters Forest from Salmon Creek to the U.S. relatively easier.

c. Hurwitz's Ability to Transfer Pacific Lumber's Assets:

Hurwitz has demonstrated his ability to control the actions of the board of directors of Maxxam, Pacific Lumber, and its subsidiaries in connection with the resolution of claims against the assets of Maxxam, Pacific Lumber, and other subsidiaries. Through his domination of Maxxam's board of directors, Hurwitz has influenced the financial and business decisions of Pacific Lumber and its two subsidiaries, Scotia Pacific and Salmon Creek. After the acquisition of Pacific Lumber, numerous lawsuits were filed against Hurwitz, Pacific Lumber, Maxxam, MGI, and others involving Hurwitz's tender offer and hostile takeover of Pacific Lumber. In November 1994, Hurwitz attended a conference in U.S. District Court, Southern District of New York, where the consolidated cases were pending. As a result of that meeting, Hurwitz, acting on behalf of Pacific Lumber, Maxxam, and other Maxxam subsidiaries, agreed to settle the cases for \$52 million, with \$14.8 million paid by Pacific Lumber, \$33 million paid by insurance carriers of Pacific Lumber, Maxxam and MGI, and the balance from other defendants. See,

See, Maxxam, Inc. 10-Q, June 30, 1995.

Maxxam, Inc. 10-K, December 31, 1994. Moreover, two weeks ago Hurwitz said he could "work out a Headwaters solution in half a day" if he could get the government to talk to him.

II. Maxxam May Well Ultimately Be Obligated to Indemnify Hurwitz for FDIC Lawsuit

a. Maxxam's indemnification provisions are contained in the amended Bylaws dated August 1, 1988, and provide indemnity to "each person who is or was a director or officer [of Maxxam] . . . at any time on or after August 1, 1988, . . . by reason of the fact that he or she is or was a director, officer, employee or agent . . . or is or was at any time serving at the request of [Maxxam], any other corporation . . . or other enterprise in any capacity, against all expenses, liability and loss" Maxxam refers to these indemnification obligations in connection with a description of the FDIC lawsuit against Hurwitz in its most recent SEC filing, stating that Hurwitz has not yet made a formal claim for indemnification from Maxxam. See, Maxxam, Inc. 10-Q, June 30, 1995.

b. Although Hurwitz was not an elected director of United Savings Association of Texas ("USAT"), and Hurwitz -- not Maxxam -- is a defendant in the FDIC's lawsuit, the suit alleges that Hurwitz was a "de facto" director of the thrift through his assertion of actual control over its operations and decisionmaking, that he was an elected board member of United Financial Group ("UFG") (USAT's first-tier holding company), and was a member of the joint USAT/UFG Strategic Planning Committee.

c. Moreover, the FDIC's suit alleges that Hurwitz breached his fiduciary duty to USAT by placing his and Maxxam's financial interests above the interests of USAT and its depositors by choosing to refuse to cause Maxxam to infuse new capital into USAT, as was required by a capital maintenance agreement with the Federal Home Loan Bank Board, that would have replenished USAT's depleted capital.

d. Maxxam currently possesses sufficient assets to pay a substantial liability, including indemnifying Hurwitz for the amount of a judgment or settlement. Maxxam is a publicly traded company with market capitalization of \$233 million and total assets of \$3.7 billion. See, Maxxam, Inc. 10-Q, June 30, 1995.

III. Related Litigation Which Could be Settled in a Global Settlement With Hurwitz

In addition to the FDIC's lawsuit, there are at least three other lawsuits which have value and could be exchanged in a global settlement involving the Headwaters Forest.

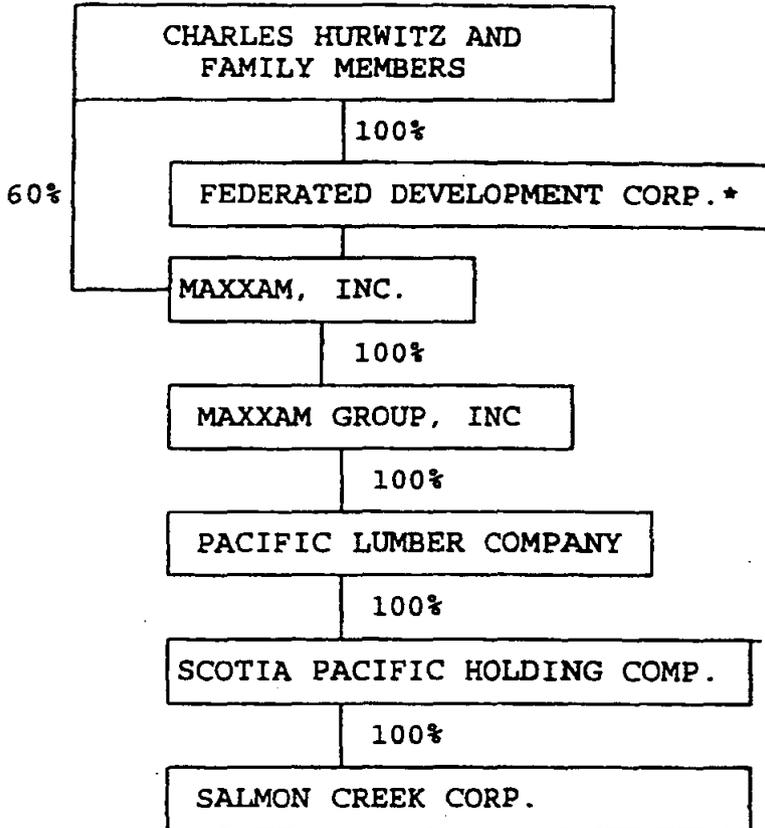
a. In early 1994, Robert Martel, a private citizen,

supported and funded by numerous environmental organizations, ~~filed a lawsuit against Hurwitz, Maxxam, and other persons and entities that alleges that Hurwitz illegally used USAT funds for the benefit of himself and Maxxam, and that such transactions diverted money from USAT and resulted in its insolvency. The complaint seeks damages against Hurwitz, Maxxam, and others under the False Claims Act which authorizes a damage award of three times the alleged actual damages of \$250 million.~~

b. The Office of Thrift Supervision, a department of the Treasury, has been investigating the conduct of Hurwitz, other former USAT directors and officers, Maxxam and other USAT holding companies. On November 1, 1995, OTS notified Hurwitz, Maxxam and other potential respondents of its intention to file claims against them in early December 1995. An OTS suit is likely to include a direct claim against Maxxam and may seek monetary damages that exceed \$350 million.

c. Pacific Lumber has been unable to reduce the substantial debt Hurwitz burdened it with as a result of his successful takeover effort. The company is in need of cash to service its operations. As harvestable timberland, the virgin old growth redwoods that comprise the Headwaters Forest are among Pacific Lumber's most valuable assets. To date, however, Pacific Lumber has been unable to log these trees, and has suffered financially as a result. In addition to numerous lawsuits filed by various environmental organizations against Pacific Lumber that prevented the logging of the virgin old growth trees over the last few years, a temporary restraining order was recently granted further prohibiting Pacific Lumber from harvesting in the Headwaters Forest. As a result, the cash starved company continues to lose its best source of income.

CHARLES HURWITZ'S CORPORATE OWNERSHIP AND CONTROL OF THE HEADWATERS FOREST



* Federated Development Corp. is a private entity wholly owned by Hurwitz, members of his immediate family and trusts. Hurwitz's individual interest is approximately 52.5%.

ISSUE 2: IS IT FEASIBLE FOR FDIC TO TRANSFER THE HEADWATERS FOREST TO TREASURY ?

SHORT ANSWER: THE FDIC COULD LEGALLY TRANSFER TITLE TO HEADWATERS FOREST FROM THE FSLIC RESOLUTION FUND ("FRF") TO TREASURY IF THE FDIC DETERMINED THAT THE STATE OF THE FRF AT THE TIME OF TRANSFER WERE SUCH THAT THE VALUE OF HEADWATERS FOREST WAS NOT BETTER RETAINED IN THE FRF FOR DISCHARGE OF FRF LIABILITIES. A CASE COULD BE MADE IN FAVOR OF SUCH A DETERMINATION AT PRESENT, ALTHOUGH THE FDIC BOARD OF DIRECTORS MIGHT PREFER TO FOSTER ALL FRF ASSETS IN VIEW OF CONTINGENT LIABILITIES. ABSENT SUCH A DETERMINATION, AN ALTERNATIVE MIGHT BE FOR THE FDIC TO HOLD THE HEADWATERS FOREST FOR THE TIME BEING, UNDER MANAGEMENT BY THE DEPARTMENT OF THE INTERIOR. (Answer prepared by FDIC).

DISCUSSION ANSWER:

Assuming a settlement of professional liability claims in which the Headwaters Forest is transferred from a Hurwitz-related company to the FDIC as manager of the FSLIC Resolution Fund ("FRF"), the question becomes how best to then transfer the redwood forest from the FDIC to another agency with an ultimate view toward dedicating it to wilderness purposes for the benefit of the United States. We believe that the most efficient way of doing this -- and perhaps the only way with a clear enough legal framework not requiring new legislation -- would be for the FDIC to transfer Headwaters out of the FRF to Treasury, utilizing unique authority existing under the FRF enabling statute, and for Treasury thereafter to transfer the forest to the Department of the Interior or other federal agency pursuant to other, more general statutory authority concerning inter-agency transfers of property.²

With regard to transfer out of the FRF, it should be noted that section 11A(f) of the FDI Act, 12 U.S.C. § 1821a(f), provides that the FRF "shall be dissolved upon satisfaction of all debts and liabilities and sale of all assets. Upon dissolution any remaining funds shall be paid into the Treasury." Treasury is thus, in effect, the residual beneficiary of the FRF -- a fund which is supported by appropriated monies from Treasury

² The FDIC does not believe that the Coastal Barriers Improvement Act (referred to in Issue 3, below) represents a viable option for transfer of the Headwaters Forest directly from the FRF to the Department of the Interior. This is because, as discussed in this Issue 2, the FDIC as manager of the FRF is under fiduciary constraints with respect to that taxpayer-supported fund such that any disposition directly to the Department of the Interior would likely require cash consideration equal to fair market value.

(see section 11A(c) of the FDI Act, 12 U.S.C. § 1821a(c)), and which logically (as well as statutorily) should therefore go back into Treasury. To date approximately \$46 billion has been appropriated to support the FRF and it is only equitable that any funds remaining be returned to the Treasury. Furthermore, although section 11A(f) by its terms speaks of FRF funds going to Treasury only upon FRF dissolution, the entire statutory framework of the FRF has previously been interpreted to allow the return of FRF funds to Treasury under appropriate circumstances prior to such dissolution. In particular, as stated in another context:

it may be asserted generally that Congress could not have intended for excess funds to remain indefinitely in the FRF in the event that the FDIC as manager were to determine in later years that the amount of such funds exceeded the FRF's needs estimated as of that time -- especially since any liabilities unpaid by the FRF as a result of an early transfer to the Treasury would have to be satisfied by subsequent appropriations for which an authorization of appropriations is provided in § 11A(c) of the FDI Act.

FDIC Memorandum, dated October 5, 1995, from Henry R. F. Griffin, Assistant General Counsel, through William F. Kroener, III, General Counsel, to William A. Longbrake, Deputy to the Chairman & Chief Financial Officer.

Thus, if the FDIC as manager of the FRF were to conclude at any time that the amount of assets in the FRF exceeds the FDIC's then estimate of FRF liabilities, the amount of such excess or any portion thereof could be turned over to Treasury prior to dissolution of the FRF. (We stress, however, that any such early transfer out of the FRF would be within the FDIC's sole discretion.) Furthermore, although the statute speaks in terms of FRF funds going back to Treasury, and the previous opinion concerned FRF funds, we do not perceive a legal bar to the FDIC's making an early transfer of FRF assets in kind (such as Headwaters, if it were obtained by the FRF in settlement with Hurwitz), provided the other conditions for an early transfer were satisfied.

This approach would have the decided advantage, from the FDIC's viewpoint, of avoiding the necessity for the FDIC to liquidate the Headwaters Forest at its fair market value. So long as the FDIC had obtained fair value from Hurwitz and related companies in return for settlement of its professional liability lawsuit (i.e., assuming the estimated value of the Headwaters Forest would exceed the FDIC's settlement value of the case), then the FDIC could hand the property over to Treasury without any question as to whether the FDIC had fulfilled its fiduciary duty of maximizing (Headwaters) value to the FRF. Treasury as

~~"residual beneficiary" could itself maximize that value, applying its own policy and other judgments to the matter---presumably by effecting a further transfer to the Department of the Interior or another federal agency for wilderness preservation purposes to the ultimate benefit of the United States.'~~

In short, the FDIC could legally transfer title to the Headwaters Forest out of the FRF to Treasury, if the FDIC determined that the state of the FRF at the time of transfer were such that the value of Headwaters was not better retained in the FRF for discharge of FRF liabilities. We believe that a plausible case for such a determination may be possible at present or in the foreseeable future, given that the FRF currently has assets and appropriated funds in excess of its liabilities. However, there can be no assurance that the FDIC Board of Directors would be willing to make the requisite determination given uncertainties as to contingent liabilities of the FRF.⁴ We note, too, that Treasury would have to be willing to receive the Headwaters Forest (if only as part of an instantaneous transfer on to the Department of the Interior or another federal agency), and an inter-agency memorandum of understanding would therefore seem desirable in order to flesh out this plan.

Finally, it is crucial to this approach that Treasury, as residual beneficiary of the FRF and standing in lieu of taxpayers of the United States, will have to make the assessment (in consultation with other appropriate Federal governmental entities) that transferring the Headwaters Forest for the contemplated purposes is, as a policy and legal matter, the right thing to do, all factors considered. This assessment amounts to

³ It should be noted that any proposal for handling the Headwaters Forest that might involve a transfer by the FDIC as manager of the FRF to an entity other than Treasury (e.g., to another federal or state agency under federal excess or surplus property statutes) would suffer from the apparent defect that the FDIC would have to be paid fair value. Only by transferring to Treasury could it be said that the FDIC fulfilled its fiduciary duty in disposing of the Headwaters Forest without receiving reasonable cash consideration, because it would have transferred in kind to the residual beneficiary itself.

⁴ In the event that the FDIC Board were unwilling in the near term to make the requisite determination for a transfer to Treasury, a feasible alternative might be for the FDIC as manager of the FRF to hold the Headwaters Forest, under an interagency agreement whereby it would be managed by the Department of the Interior, until such time as conditions for a determination for outright transfer to Treasury (and then on to Interior) are satisfied.

a judgment call as to the relative value of preserving the Headwaters Forest for wilderness purposes as opposed to settling the claim against Hurwitz for cash in order to reduce the federal deficit to that extent. It is not in any event for the FDIC to make that assessment, although if the assessment is made in favor of Headwaters Forest preservation, the FDIC may assist in its implementation by the means discussed above.

that is either located within the Coastal Barrier Resources System or is undeveloped, greater than 50 acres in size, and adjacent or contiguous to any lands managed by a governmental agency primarily for the preservation purposes stated above. If a Federal agency or qualified organization submits such a letter of intent, the corporation concerned may not transfer the property to any other party for ninety days, unless the letter of intent is withdrawn.

Defense Base Closure and Realignment Act of 1990 (Pub. L. 101-510, Section XXIX), as amended

The Base Closure Act authorizes the Department of Defense (DOD) to transfer properties to Federal and State agencies through public benefit conveyances, if the property supports a primary mission of the agency. The Department of the Interior is specifically provided opportunities to acquire base closure property at no cost for any one of three purposes: parks and recreation, wildlife conservation, or historic monuments.

Attached are materials relative to these authorities.

DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Parts 90 and 91****RINs 0790-AF61 and 0790-AF62****Revitalizing Base Closure
Communities and Community
Assistance****AGENCY: Department of Defense, DoD.****ACTION: Interim final rule; amendments.**

SUMMARY: The interim final rule amendment promulgates guidance required by Section 2903 of the National Defense Authorization Act for Fiscal Year 1994. This guidance clarifies the application process and the criteria that will be used to evaluate an application for property under this section.**DATES: This document is effective October 26, 1994. Any pending written request for economic development**

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no adjustment. Consequently, applications submitted by entities other than LRAs will not be considered.

When should an application for an Economic Development Conveyance be made?

First, an LRA must be organized and a development plan created. The Department of Defense's Office of Economic Adjustment can provide guidance and technical and financial support in these efforts. Once a development plan has been developed and adopted, the LRA can then submit an EDC application to the Military Department responsible for the property. The application should be submitted by the LRA after consultation with the Military Department which will establish a reasonable time period for submission of the application.

The LRA always has the option of acquiring property under the FPASA and thus it may not be necessary to complete an application for an EDC within the stated timetables. LRAs can discuss the various transfer options with the Military Department.

How much property should be included in an Economic Development Conveyance application?

The property should be used by LRAs to install parcels of the base rather than merely individual buildings. The acreage received from some of the higher value property should be used to offset the maintenance and marketing costs of the less desirable parcels. In order for this conveyance to spur development, large parcels must be used to provide an income stream to assist the long-term development of the property.

Why is an application necessary?

This Amendment to the interim final rule prescribes that an application be prepared by an LRA as the formal request for property, to better assist the Military Department in considering requests for property under the Economic Development Conveyance (EDC). This information also will provide the basis for the Military Department to respond to its obligations under Title XXIX, taking into account the best community-based information in the proposed conveyance action. A great deal of information necessary for an application is readily available to the LRA through the community planning process and supported through existing DoD technical and financial resources.

Beyond the standard planning information collected to date, LRAs should incorporate a business and development component into their overall base reuse planning process as a basis for receiving and managing the real property. This supplemental effort

will assist LRAs in identifying necessary implementation resources and establish a community-based proposal for the Military Department's consideration.

The Military Departments and the Office of Economic Adjustment will continue to work closely with the affected LRA to ensure that an adequate planning effort is undertaken.

What must an application contain?

The application should explain why an EDC is necessary for economic redevelopment and job creation. The application should contain the following elements.

1. A copy of the adopted Redevelopment Plan.

2. A project narrative including the following:

- A general description of property requested.
- A description of the intended uses.
- A description of the economic impact of closure on the local communities.
- A description of the financial condition of the community and the prospects for redevelopment of the property.

—A statement of how the EDC is consistent with the overall Redevelopment Plan.

3. A description of how the EDC will contribute to short- and long-term job creation and economic redevelopment of the base and community, including projected number, and type, of new jobs it will assist in creating.

4. A business and development plan for the EDC parcel, including such elements as:

- A development timetable, phasing plan and cash flow analysis.
- A market and financial feasibility analysis describing the economic viability of the project, including an estimate of net proceeds over a fifteen-year period, the proposed consideration or payment to the Department of Defense, and the estimated fair market value of the property.
- A cost estimate and justification for infrastructure and other investments needed for the development of the EDC parcel.
- Local investment and proposed financing strategies for the development.

5. A statement describing why other authorities—such as negotiated sale and public benefit transfers for education, parks, public health, aviation, historic monuments, prisons, and wildlife conservation—cannot be used to accomplish the economic development and job creation goals.

6. If a transfer is requested for less than the estimated fair market value—

with or without initial payment at the time of transfer—then a statement should be provided justifying a discount. The statement should include the amount and form of the proposed consideration, a payment schedule, the general terms and conditions for the conveyance, and projected date of conveyance.

7. A statement of the LRA's legal authority to acquire and dispose of the property.

Additional information may be requested by the Military Departments to allow for a better evaluation of the application. LRAs are encouraged to use site information available from the Military Departments, including maintenance and caretaking expenses.

What criteria will be used to make a determination on the application?

After receipt of an application for an EDC, the Secretary of the Military Department will determine whether an EDC is appropriate to spur economic development and job creation and examine whether the terms and conditions proposed are fair and reasonable. The Military Department may also consider information independent of the application, such as views of other Federal agencies, appraisals, caretaker costs and other relevant information.

The following criteria and factors will be used, as appropriate, to determine whether a community is eligible for an EDC and to evaluate the proposed terms and conditions of the EDC, including price, time of payment and other relevant methods of compensation to the Federal Government.

- Adverse economic impact of closure on the region and potential for economic recovery after an EDC.
- Extent of short- and long-term job generation.
- Consistency with the overall Redevelopment Plan.
- Financial feasibility of the development, including market analysis and the need and extent of proposed infrastructure investment.
- Extent of State and local investment and level of risk incurred.
- Current local and regional real estate market conditions.
- Incorporation of other Federal agency interests and concerns, and applicability of, and conflicts with, other Federal property disposal authorities.
- Relationship to the overall Military Department disposal plan for the installation.
- Economic benefit to the Federal Government, including protection and maintenance cost savings and

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icipated consideration from the

- **Consistency with applicable Federal, State, and local laws and regulations.**
- **What are the guidelines for determining the terms and conditions of consideration?**

The individual circumstances of each community and each base mean that the amount and type of consideration may vary from base to base. This amendment gives greater discretion and flexibility to the Military Departments to negotiate with the LRA to arrive at an appropriate arrangement. Due to the circumstances of a particular site, the base's value may be high or low, and the range of the estimated present fair market value may be broad or narrow. Where there is value, the Department of Defense has an obligation under Title XXIX of the National Defense Authorization Act for FY 1994 to obtain consideration within the estimated range of present fair market value, or to justify why such consideration was not realized.

Taking into account all information provided in the EDC application and any additional information considered relevant, the Military Department will estimate or prepare an estimate of the fair market value of the property, which may be expressed as a range of values. The Military Department shall consult with the LRA on valuation assumptions, guidelines and on instructions given to the person(s) making the estimation of value.

As stated above, the EDC application must contain a statement that proposes general terms and conditions of the conveyance, as well as the amount and type of the consideration, a payment schedule, and projected date of conveyance. After reviewing the application, the Military Department has the discretion and flexibility to enter into one of two types of agreements:

1. Consideration within the estimated range of present fair market value, as determined by the Secretary of the Military Department. The Military Department can be flexible about the terms and conditions of payment, and can provide financing on the property. The payment can be in cash or in-kind, and can be paid at time of transfer or at a time in the future. The Military Departments will have the discretion and flexibility to enter into agreements that specify the form and amount of consideration and ensure that consideration is within the estimated range of fair market value at the time of application. Such methods of payment could include: participation in the gross

or net cash flow, deferred payments, mortgages or other financing arrangements.

2. Consideration below the estimated range of fair market value, where proper justification is provided: If a discount is found by the Secretary of the Military Department to be necessary to foster local economic redevelopment and job creation, the amount of consideration can be below the estimated range of fair market value. Again, the terms and conditions of payment will be negotiated between the Military Department and the LRA.

(a). Justification. Proper justification for a discount shall be based upon the findings in the business and development plan contained in the EDC application.

Development economics, including absorption schedules and legitimate infrastructure costs, would provide a basis for such justification. The ability to pay at time of conveyance or to obtain financing would not be a proper justification, since payment terms and conditions can be negotiated.

In negotiating the terms and conditions of consideration with the LRA, the Secretary of the Military Department must determine that a fair and reasonable compensation to the Federal Government will be realized from the EDC. Where property is transferred under an EDC at an amount less than the estimated range of fair market value, the Military Department shall prepare a written explanation of why the consideration was less than the estimated range of present fair market value.

D. Executive Order 12866

It has been determined that these amendments are a significant regulatory action. The amendments to the rule raise novel policy issues arising out of the President's priorities.

E. Regulatory Flexibility Act

This rule amendment is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the amendment will not have a significant economic impact on a substantial number of small entities. The primary effect of this amendment will be to reduce the burden on local communities of the Government's property disposal process at closing military installations and to accelerate the economic recovery of the relatively small number of communities that will be affected by the closure of nearby military installations.

F. Paperwork Reduction Act

The Rule amendment is not subject to the Paper Reduction Act because it

imposes no obligatory information requirements beyond internal DoD use.

List of Subjects in 32 CFR Parts 90 and 91

Community development. Government employees. Military personnel. Surplus Government property.

PART 90—REVITALIZING BASE CLOSURE COMMUNITIES

1. The authority citation for 32 CFR part 90 continues to read as follows:

Authority: 10 U.S.C. 2687 note.

§ 90.4 (Removed and Reserved)

2. Section 90.4(a)(1)(iii) is removed and reserved.

3. Section 90.4(b) is revised to read as follows:

§ 90.4 Policy.

(b) In implementing Title XXIX of Public Law 103-160, it is DoD policy to convey property to a Local Redevelopment Authority (LRA) to help foster economic development and job creation when other federal property disposal options cannot achieve such objectives. Conveyances to the LRA will be made under terms and conditions designed to facilitate local economic redevelopment and job creation, and may be made at less than fair market value, with proper justification.

PART 91—REVITALIZING BASE CLOSURE COMMUNITIES—BASE CLOSURE COMMUNITY ASSISTANCE

4. The authority citation for part 91 continues to read as follows:

Authority: 10 U.S.C. 2687 note.

4A. Section 91.4 is revised to read as follows:

§ 91.4 Policy.

It is DoD policy to convey property to a Local Redevelopment Authority (LRA) to help foster economic development and job creation when other federal property disposal options cannot achieve such objectives. Conveyances to the LRA will be made under terms and conditions designed to facilitate local economic redevelopment and job creation, and may be made at less than fair market value, with property justification. This regulation does not create any rights and remedies and may not be relied upon by any person, organization, or other entity to allege a denial of any rights or remedies other than those provided by Pub. L. 103-160, Title XXIX.

References in Text

The Housing and Urban Development Act of 1968, as amended, referred to in par. (2), is Pub.L. 90-448, Aug. 1, 1968, 82 Stat. 476, as amended. Title IX of the Housing and Urban Development Act of 1968, as amended, is classified principally to chapter 49 (§ 3351 et seq.) of Title 42, The Public Health and Welfare. Title IV of the Housing and Urban Development Act, which was classified to chapter 49 (§ 3301 et seq.) of Title 42, was repealed, with certain exceptions which were omitted from the Code, by Pub.L. 96-181, Title IV, § 474(e), Nov. 30, 1983, 97 Stat. 1239. For complete classification of this Act to the Code, see Short Title of 1968

§ 1441a-2. Authorization for State housing finance agencies and nonprofit entities to purchase mortgage-related assets

(a) Authorization

Notwithstanding any other provision of Federal or State law, a State housing finance authority or nonprofit entity may purchase mortgage-related assets from the Resolution Trust Corporation or from financial institutions with respect to which the Federal Deposit Insurance Corporation is acting as a conservator or receiver (including assets associated with any trust business), and any contract for such purchase shall be effective in accordance with its terms without any further approval, assignment, or consent with respect to that contract.

(b) Investment requirement

Any State housing finance authority or nonprofit entity which purchases mortgage-related assets pursuant to subsection (a) of this section shall invest any net income attributable to the ownership of those assets in financing, refinancing, or rehabilitating low- and moderate-income housing within the jurisdiction of the State housing finance authority or within the geographical area served by the nonprofit entity.

(Pub.L. 101-73, Title XIII, § 1302, Aug. 9, 1989, 103 Stat. 548.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1989 Act, House Report No. 101-64 and House Conference Report No. 101-209, see 1989 U.S. Code Cong. and Adm. News, p. 86.

Codifications

Section was enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and not as part of the Federal Home Loan Bank Act, which comprises this chapter.

ment Act of 1989 and not as part of the Federal Home Loan Bank Act, which comprises this chapter.

Definitions

For definitions of terms used in this section see section 1441a-1 of this title.

LIBRARY REFERENCES

American Digest System

Supremacy of federal law as to banking, see States ¶18.19.

Encyclopedias

Concurrent of conflicting state legislation, see C.J.S. States ¶ 24.

WESTLAW ELECTRONIC RESEARCH

States cases: 360k[add key number].

§ 1441a-3. RTC and FDIC properties

(a) Reports

(1) Submission

The Resolution Trust Corporation and the Federal Deposit Insurance Corporation

initial term of 2 years and 1 shall be appointed for an initial term of 3 years. Thereafter, such members shall be appointed for a term of 3 years.

(3) Vacancy

If a member leaves the office in which such member was nominated

Codifications

Section was enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and not as part of the Federal Home Loan Bank Act, which comprises this chapter.

Separability of Provisions

If any provision of Pub.L. 101-73 or the application thereof to any person or circumstance is held invalid, the remainder of Pub.L. 101-73 and the application of the provision to other persons not similarly situated or to other circumstances not to be affected thereby, see section 1221 of Pub.L. 101-73, set out as a note under section 1811 of this title.

(2) Consultation

In preparing the reports required under this subsection, each corporation concerned may consult with the Secretary of the Interior for purposes of identifying the properties described in paragraph (1).

(b) Limitation on Transfer

(1) Notice

The Resolution Trust Corporation and the Federal Deposit Insurance Corporation may not sell or otherwise transfer any covered property unless the corporation concerned causes to be published in the Federal Register a notice of the availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property.

(2) Expression of serious interest

During the 90-day period beginning on the date that notice under paragraph (1) concerning a covered property is first published, any governmental agency or qualified organization may submit to the corporation concerned a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the corporation concerned may prescribe.

(3) Prohibition of transfer

During the period under paragraph (2), a corporation concerned may not sell or otherwise transfer any covered property for which notice has been published under paragraph (1). Upon the expiration of such period, the corporation concerned may sell or otherwise transfer any covered property for which notice under paragraph (1) has been published if a notice of serious interest under paragraph (2) concerning the property has not been timely submitted.

(4) Offers and permitted transfer

If a notice of serious interest in a covered property is timely submitted pursuant to paragraph (2), the corporation concerned may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under paragraph (2) except to a governmental agency or qualified organization for use primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes, unless all notices of serious interest under paragraph (2) have been withdrawn.

(c) Definitions

For purposes of this section:

(1) Corporation concerned

The term "corporation concerned" means—

- (A) the Federal Deposit Insurance Corporation, with respect to matters relating to the Federal Deposit Insurance Corporation; and
(B) the Resolution Trust Corporation, with respect to matters relating to the Resolution Trust Corporation.

(2) Covered property

The term "covered property" means any property—

- (A) to which—
(i) the Resolution Trust Corporation has acquired title in its corporate or receivership capacity; or
(ii) the Federal Deposit Insurance Corporation has acquired title in its

(d) Powers of the Funding Corporation

The Funding Corporation shall have only the powers described in paragraphs (1) through (3), subject to the other provisions of this section and such regulations, orders,

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4: WHAT WOULD BE THE POSSIBLE BUDGETARY IMPACT FROM AN ACQUISITION OF THE HEADWATERS FOREST THROUGH THE FDIC?

ANSWER: ANY BUDGETARY IMPACT, INCLUDING ISSUES OF "DEBT FOR NATURE SWAP," IS DEPENDENT ON THE PARTICULAR STRUCTURE OF THE TRANSACTION AND WHETHER SPECIFIC LEGISLATION WAS NECESSARY TO FACILITATE THE ACQUISITION OR TRANSFER OF THE HEADWATERS FOREST.

ANSWER:

The interagency group has discussed several potential mechanisms for accomplishing the proposed "debt for nature" swap. The following discussion addresses the budgetary impact of several possible ways of acquiring the Headwaters Forest, putting the question of whether there is substantive authority for Treasury, or Interior/USDA to execute any of these transactions under existing law.

First, we have discussed a possible transaction in which the Resolution Fund (FRF) would gain title to the land and transfer it to Treasury, possibly considering the value of the land as an "advance payment" on funds that will eventually be repaid to Treasury when the FRF dissolves.⁵ Treasury would then transfer/sell the land to the appropriate agency. If it is determined that the authority to execute this transaction exists under current law, then the transaction cannot be "scored" under the Budget Enforcement Act (only legislation may be scored). If not, there would be a budget impact. If FRF gained title to the land and did not recover cash for it, FRF would have fewer assets. In more technical terms, the failure to recover cash for the land would be a foregone receipt to FRF. This foregone receipt increases FRF's outlays, increases total Federal outlays, and increases the deficit. The budget effect is the same regardless of whether the transfer is to Treasury as an advance payment, or directly to the Park Service.

Second, there may be a possibility of trading other U.S. Government property (such as surplus military property) for the Headwaters Forest. This transaction would not necessarily need to involve the Resolution Fund, which could receive any settlement of its claims in cash. If no legislation is required, then the transaction cannot be scored under the Budget Enforcement Act. In general, barter transactions are not recorded in the budget. However, if the property that is used in the exchange would have otherwise been sold, the agency which owned the property would be

... the FRF does not and will not owe any certain amount to the Treasury. It simply is required to transfer any remaining assets of cash to the Treasury when the FRF is dissolved. In the final analysis, FDIC will want credit for the value of any non-cash assets it has transferred.

foregoing receipts. These foregone receipts would increase that agency's outlays, increase total Federal outlays, and increase the deficit.

Third, it may be the case that legislation is needed to authorize the transaction or to appropriate funds to complete the debt-for-nature swap. If legislation is needed, then the Congressional Budget Office and OMB would be responsible for estimating the budgetary effect of the transaction. Legislation that increases direct spending (i.e., spending that is not under the control of Congressional appropriators) is scored under the "pay-as-you-go" (PAYGO) rules of the Budget Enforcement Act. An example of direct spending legislation that is relevant to the case at hand would be if the legislation directed FDIC to hand over the property to another Federal agency without reimbursement; this legislation would be considered to be direct spending since it forces the FRF to forgo receipts (and therefore increases FRF's outlays and total Federal outlays). Similarly, legislation that requires the exchange of excess Government property that would otherwise have been sold for the Headwaters Forest would also be scored as foregone receipts under the PAYGO rules.

Legislation that simply authorizes an appropriation for an agency (e.g., the Park Service) to buy the property from the FRF (or, for that matter, from an individual) would not be scored, since no resources would actually become available for the purchase until a separate appropriations law is enacted. If an appropriations act provides funding to an agency to purchase the property, then the budget impact would be scored as discretionary.



United States Department of the Interior

OFFICE OF THE DEPUTY SECRETARY

Washington, D.C. 20240

March 20, 1996

MEMORANDUM

TO: Katie McGinty

FROM: John Garamendi

SUBJECT: Headwaters

1. Attached is the list of FDIC properties and a memorandum from the Bureau of Land Management in Sacramento on the appraisal process.
2. We have received a draft of the litigation letter from Pacific Lumber. It is being reviewed by our lawyers and by the Department of Justice. Completion is imminent.
3. I will contact Boggs and get a written signoff for the 1993 appraisal report. I will also follow up to get California to release it (Mantel said he would do so). You should follow up with Jim Lyons at the Department of Agriculture.
4. We have yet to hear from the General Services Administration.
5. The Department of Defense information has not been sent; it will be sent soon.

Attachments

Memorandum

March 15, 1996

To: John Garamendi
Deputy Secretary

From: Allen McReynolds *ADM*
Special Assistant

Subject: F.D.I.C. Properties

The attached list of properties has the approval of the General Counsel's office for release to the parties considering a land exchange in California. Please note that the materials that I provided to you last week are to be considered confidential and are not to be released to outside parties.

With regard to the fair market value of these properties, the F.D.I.C. would prefer that we say that the properties are not currently valued. Significant time has passed on many of the appraisals in their files for each asset and are assumed to be no longer valid. In addition, information is not shown for either the book value or market value. The only financial number that is shown on these forms is the original loan amount, which I have highlighted.

Finally, the collateral reference (COLL) line at the bottom of the sheet briefly describes the asset (e.g. 122 condominium units/golf course). I can obtain more details about each property should it be requested.

Thank you for your attention.

Enclosures (14)

Dave watts
7957

LGEN 0 CLS GENERAL LOAN INQUIRY 96/02/27 16.07.
ACTION INQ (INQ, NXT) MS 10004 INQUIRY SUCCESSFUL

PRODUCT CLS	LOAN NUMBER	07670-50135608-1	LEX INDICATOR	N
7670 ORE LAKE HIGHLANDS VILLAGE		CP BANK	CP DATE	
718 N BUCKNER BLVD		PRI OFF 44555	BILL FREQ	1
		SEC OFF 44486	BILL METHOD	S
DALLAS COUNTY		SITE 40450	INSR REQUIRED	N
DALLAS TX 75218		DLR NO	LOAN CLASS	
H PHN	B PHN	LN TYPE 035	LN STATUS CDE	
ORIG NOTE DATE 95/10/31		GL TYPE 035	EMPLOYEE CODE	
ORIG MATURITY 199/12/31		CR SCORE 0	CR SCR OVRDE	
ORIG TERM 250		REC/REP CD	REFIN/RENEW CD	N
ORIG AMT 3,154,519.67	CURR BAL	CRED LOC 40450	ADV/LOAN IND	N
	3,154,519.67	DATE LAST PMT		

COLL 115 85,500 SF SHOPPING CENTER ON 4
B == LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 16.01.29

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER 07602-50132236-1 LEX INDICATOR N

		CP BANK	CP DATE
7602 ORE LPC-SUMMIT RIDGE APTS		PRI OFF 44589	BILL FREQ 1
1604 RIDGE HAVEN DRIVE		SEC OFF 44487	BILL METHOD S
1604 RIDGE HAVEN DR		SITE 40450	INSR REQUIRED N
TARRANT COUNTY		DLR NO	LOAN CLASS
ARLINGTON TX 76011		LN TYPE 035	LN STATUS CDE
H PHN B PHN		GL TYPE 035	EMPLOYEE CODE
ORIG NOTE DATE 95/05/31		CR SCORE 0	CR SCR OVRDE
ORIG MATURITY 199/12/31		REC/REP CD	REFIN/RENEW CD N
ORIG TERM 255		CRED LOC 40450	ADV/LOAN IND N
ORIG AMT 6,270,479.00	CURR BAL 6,270,479.00	DATE LAST PMT	

COLL 103 264-UNIT APARTMENT COMPLEX

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY 96/02/27 15.46.25
CO 200 OP I86 MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS	LOAN NUMBER	07561-00424035-1	LEX INDICATOR	N
		CP BANK	CP DATE	
7561 ORE 14813 JACKSON ROAD LOTS & LAND		PRI OFF 65412	BILL FREQ	1
14813 JACKSON ROAD		SEC OFF 65521	BILL METHOD	S
		SITE 60650	INSR REQUIRED	N
SACRAMENTO COUNTY		DLR NO	LOAN CLASS	
RANCHO MURIETA CA 95683		LN TYPE N35	LN STATUS CDE	
H PHN B PHN		GL TYPE 035	EMPLOYEE CODE	
ORIG NOTE DATE 94/04/19		CR SCORE 0	CR SCR OVRDE	
ORIG MATURITY 199/12/31		REC/REP CD	REFIN/RENEW CD	Y
ORIG TERM 1		CRED LOC 60650	ADV/LOAN IND	N
ORIG AMT 1,409,380.00 CURR BAL		504,630.00	DATE LAST PMT	95/10/23

COLL 123 LOTS & LAND

B ==

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY 96/02/27 15.58.41
CO 200 OP 186 MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER 07602-50132208-1 LEX INDICATOR N

CP BANK		CP DATE	
7602 ORE WEST BELT	PRI OFF 44571	BILL FREQ	1
SWC S HOUSTON PKWY & BRIA	SEC OFF 44483	BILL METHOD	S
SWC S HOUSTON PKWY/BRIAR	SITE 40450	INSR REQUIRED	N
HARRIS COUNTY	DLR NO	LOAN CLASS	
HOUSTON TX 77042	LN TYPE 035	LN STATUS CDE	
H PHN	GL TYPE 035	EMPLOYEE CODE	
ORIG NOTE DATE 95/05/31	CR SCORE 0	CR SCR OVRDE	
ORIG MATURITY 199/12/31	REC/REP CD	REFIN/RENEW CD	N
ORIG TERM 255	CRED LOC 40450	ADV/LOAN IND	N
ORIG AMT 4,328,500.00	CURR BAL 4,328,500.00	DATE LAST PMT	

COLL 123 15.05 ACRES
B ~~EE~~

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY 96/02/27 15.57.11
LGEN CO 200 OP I86 MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER 07589-00367460-1 LEX INDICATOR N

CP BANK		CP DATE	
7589 ORE AMBASSADOR HOTEL	PRI OFF 44480	BILL FREQ	1
1312 S. ERVAY <i>Dallas Tax</i>	SEC OFF 44480	BILL METHOD	S
	SITE 40450	INSR REQUIRED	N
3838 W CONGRESS	DLR NO	LOAN CLASS	
LAYFAYETTE LA 79999	LN TYPE 035	LN STATUS CDE	
H PHN B PHN	GL TYPE 035	EMPLOYEE CODE	
ORIG NOTE DATE 89/12/31	CR SCORE 0	CR SCR OVRDE	
ORIG MATURITY 199/12/31	REC/REP CD	REFIN/RENEW CD	Y
ORIG TERM 0	CRED LOC 40450	ADV/LOAN IND	
ORIG AMT 4,996,226.57	CURR BAL 4,996,226.57	DATE LAST PMT	

COLL 118 114 ROOM CLOSED DOWN HISTORIC

B == LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY 96/02/27 15.56.09
CO 200 OP I86 MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)	PRODUCT CLS	LOAN NUMBER	07561-00435647-1	LEX INDICATOR	N
7561 ORE 3353 BRADSHAW ROAD				CP BANK	CP DATE
3353 BRADSHAW ROAD				PRI OFF 65414	BILL FREQ 1
SACRAMENTO CA 95813				SEC OFF 65522	BILL METHOD S
				SITE 60650	INSR REQUIRED N
				DLR NO	LOAN CLASS
H PHN	B PHN			LN TYPE 035	LN STATUS CDE
ORIG NOTE DATE 95/12/21				GL TYPE 035	EMPLOYEE CODE
ORIG MATURITY 199/12/31				CR SCORE 0	CR SCR OVRDE
ORIG TERM 0				REC/REP CD	REFIN/RENEW CD Y
ORIG AMT 2,903,500.00	CURR BAL	2,903,500.00	DATE LAST PMT	CRED LOC 60650	ADV/LOAN IND N

COLL 114 PROFESSIONAL OFFICE BUILDING
B LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY 96/02/27 15.51.04
CO 200 OP I86 MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)	PRODUCT CLS	LOAN NUMBER	07697-50130993-1	LEX INDICATOR	N
7697 ORE PALM DESERT			CP BANK	CP DATE	
SEC GERALD FORD AVE & MON			PRI OFF 65412	BILL FREQ	1
			SEC OFF 65512	BILL METHOD	S
			SITE 60650	INSR REQUIRED	N
RIVERSIDE COUNTY			DLR NO	LOAN CLASS	
PALM DESERT CA 92260			LN TYPE 035	LN STATUS CDE	
H PHN B PHN			GL TYPE 035	EMPLOYEE CODE	
ORIG NOTE DATE 94/11/30			CR SCORE 0	CR SCR OVRDE	
ORIG MATURITY 199/12/31			REC/REP CD	REFIN/RENEW CD	N
ORIG TERM 261			CRED LOC 60650	ADV/LOAN IND	N
ORIG AMT 11,762,734.00	CURR BAL	11,762,734.00	DATE LAST PMT		

COLL 123 300.655 ACRES RESIDENTIAL & 19
B EE LU #6

IGEN 0 CLS GENERAL LOAN INQUIRY 96/02/27 16.10.46
MS 10004 INQUIRY SUCCESSFUL

IGEN CO 200 OP I86
ACTION INQ (INQ, NXT)

PRODUCT CLS	LOAN NUMBER	07670-50135639-1	LEX INDICATOR	N
7670 ORE SANTA CLARITA LANE	SANTA CLARITA LANE	SANTA CLARITA CA 91351	CP BANK	CP DATE
			PRI OFF 65414	BILL FREQ I
			SEC OFF 65512	BILL METHOD S
			SITE 60650	INSR REQUIRED N
			DLR NO	LOAN CLASS
			LN TYPE 035	LN STATUS CDE
			GL TYPE 035	EMPLOYEE CODE
			CR SCORE 0	CR SCR OVRDE
			REC/REP CD	REFIN/RENEW CD N
			CRED LOC 60650	ADV/LOAN IND N
H PHN	B PHN		DATE LAST PMT	
ORIG NOTE DATE	95/10/31			
ORIG MATURITY	199/12/31			
ORIG TERM	250			
ORIG AMT	8,700,000.00	CURR BAL	8,700,000.00	

COLL 123 VACANT LAND

B

LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 15.48.55

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER 07683-00427347-1 LEX INDICATOR N

CP BANK CP DATE

7683 ORE 1813 MARLESTA COURT APARTMENTS PRI OFF 65413 BILL FREQ I

1813 MARLESTA COURT SEC OFF 65521 BILL METHOD S

CONTRA COSTA COUNTY SITE 60650 INSR REQUIRED N

PINOLE CA 94564 DLR NO LOAN CLASS MFP

H PHN B PHN LN TYPE N35 LN STATUS CDE

ORIG NOTE DATE GL TYPE 035 EMPLOYEE CODE

ORIG MATURITY CR SCORE 0 CR SCR OVRDE

ORIG TERM REC/REP CD REFIN/RENEW CD Y

ORIG AMT 6,250,000.00 0 CRED LOC 60650 ADV/LOAN IND N

CURR BAL 6,250,000.00 DATE LAST PMT

COLL 103 144 APT COMPLEX 28 2&3 STORY B

B = LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY 96/02/27 16.03.11
 CO 200 OP I86 MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS	LOAN NUMBER	07602-50132244-1	LEX INDICATOR	N
7602-ORE-NORTHBOROUGH-I			CP BANK	
I H 45 & RANKIN ROAD			CP DATE	
I-45 & RANKING RD			PRI OFF 44561	1
HARRIS COUNTY			SEC OFF 44483	S
HOUSTON TX 77060			SITE 40450	N
H PHN	B PHN		DLR NO	
ORIG NOTE DATE 95/05/31			LN TYPE 035	
ORIG MATURITY 199/12/31			GL TYPE 035	
ORIG TERM 255			CR SCORE 0	
ORIG AMT 6,526,098.00	CURR BAL 6,526,098.00		REC/REP CD	
			CRED LOC 40450	
			ADV/LOAN IND	N
			DATE LAST PMT	

COLL 123 145.7204 ACRES IN 12 NON-CONT UNAPLD FUNDS .00
 B == LU #6

LGEN 0 CLS GENERAL LOAN INQUIRY

96/02/27 15.48.24

LGEN CO 200 OP I86

MS 10004 INQUIRY SUCCESSFUL

ACTION INQ (INQ, NXT)

PRODUCT CLS LOAN NUMBER

07577-00424873-1

LEX INDICATOR Y

7577 ORE CAMLU RETIREMENT APTS
2221 SOUTH REAL ROAD

CP BANK 7645

CP DATE 95/11/15

PRI OFF 65413

BILL FREQ 1

SEC OFF 65529

BILL METHOD S

SITE 60650

INSR REQUIRED N

DLR NO

LOAN CLASS MFP

LN TYPE N35

LN STATUS CDE

GL TYPE 035

EMPLOYEE CODE

CR SCORE 0

CR SCR OVRDE

REC/REP CD

REFIN/RENEW CD Y

CRED LOC 60650

ADV/LOAN IND Y

KERN COUNTY

BAKERSFIELD CA 93309

H PHN B PHN

ORIG NOTE DATE

ORIG MATURITY

ORIG TERM 0

ORIG AMT 1,786,500.00 CURR BAL

1,908,000.00 DATE LAST PMT

COLL 103 110 UNIT SENIOR CITIZEN APT CO

B

LU #6

LGEM 0 CLS GENERAL LOAN INQUIRY 96/02/27 16.15.55
ACTION INQ (INQ, NXT) MS 10004 INQUIRY SUCCESSFUL

PRODUCT CLS	LOAN NUMBER	07602-50132265-1	LEX INDICATOR	N
7602 ORE WALDEN ON LAKE HOUSTON		CP BANK	CP DATE	
FM 1960 & LAKE HOUSTON PW		PRI OFF 44542	BILL FREQ	1
FM 1960 & LAKE HOUSTON PK		SEC OFF 44471	BILL METHOD	S
HARRIS COUNTY		SITE 40450	INSR REQUIRED	N
HOUSTON TX 77346		DLR NO	LOAN CLASS	
H PHN	B PHN	LN TYPE 035	LN STATUS CDE	
ORIG NOTE DATE 95/05/31		GL TYPE 035	EMPLOYEE CODE	
ORIG MATURITY 199/12/31		CR SCORE 0	CR SCR OVRDE	
ORIG TERM 255		REC/REP CD	REFIN/RENEW CD	N
ORIG AMT 6,040,136.00	CURR BAL 5,478,135.00	CRED LOC 40450	ADV/LOAN IND	N
		DATE LAST PMT	96/01/16	

COLL 122 CC/GOLF C./1100 LOTS23AC COM
B == LU #6

THIS DOCUMENT IS SUBJECT TO THE ATTORNEY CLIENT AND DELIBERATIVE PRE-DECISIONAL PRIVILEGES, NOT TO BE RELEASED.

March 7, 1996

APPRAISALS

ACTIONS ITEMS:

1. GET COPY OF FOREST SERVICE APPRAISAL. We need to have this information to have a fuller understanding of the issues and the basis of the original estimates of just compensation. Hasty of BLM has requested the appraisal through Regional Forester Sprague.

2. HIRE AS OUR EXPERT ONLY AN APPRAISER TO REVIEW THE FOREST SERVICE APPRAISAL, USE EXISTING CRUISE DATA TO UPDATE THE SALES DATE, AND DEAL WITH POSSIBLE SEVERANCE DAMAGE ISSUES, IF ANY. We need to have our own experts with whom you can discuss the valuation issues, debate with the landowners the difficult issues, and appreciate the nuances of timber values. In the end this is the expert that you will use at the congressional hearings to support any decisions. Hasty is providing a short list.

3. LETTER FROM TIMBER FOLKS, WITH AUTHORITY TO SIGN AND BIND, THAT NEGOTIATIONS ARE INADMISSIBLE IN ANY LITIGATION. The concern is that the corporations that might have claims against us agree that the negotiations are inadmissible in possible future litigation. Although one or more folks may control the corporation, the cause of action rests with the corporation, not the individual. You can also ask for opinions of counsel from the attorneys for the landowners regarding whether the corporations have the authority to make the promises and whether the board members who acted were properly authorized.

4. BEG OFF ON TRYING TO REACH AGREEMENT BETWEEN ALL THE PARTIES (I.E., STATE, FOREST SERVICE, INTERIOR, LAND OWNERS) ON A PROTOCOL OR STANDARD FOR APPRAISING THE TIMBER LANDS. The issues of how timbering might be limited or regulated by state law and federal law are controversial, novel, and with limited precedent. You could spend a significant period of time negotiating the integral elements of a market appraisal with all of the parties. I view the success of the negotiations as problematic. The idea is to understand the magnitude of the cost/value elements of the land use elements so that the negotiations are over dollar values, not legal debates over land use regulations.

5. FIND A FEDERAL OFFICIAL TO BE THE REVIEW APPRAISER. You need some in-house folks to help you, and in whom you have high confidence. The dollar amounts are very large and you need to make

sure that the federal family is not too divergent in its appraisal methodologies, and any divergence can be explained.

APPRAISAL INSTRUCTIONS: You can turn an appraiser loose and say ~~give me your opinion on the market values of the lands involved in the transaction.~~ You will get an opinion on value, but the opinion might not be helpful in the negotiations. What would be helpful is to value elements associated with the more controversial land use implications of cutting old trees in northern California.

1. ADJUST CRUISE DATA FOR THE 2 1/2 YEARS OF GROWTH. You have 100% cruise. All the trees were counted and measured. These numbers have to be reviewed and the adjusted for the time period.

2. DETERMINE PERCENTAGE OF VALUE THAT IS LAND AND THAT WHICH IS TIMBER. At Redwood National Park, 15% of the value was land, 85% value was timber, the timber was subjected to a 10% discount because of the large volume, and around a million dollars in severance damages were recognized.

3. POSSIBLE SEVERANCE DAMAGES - MILLS THAT MIGHT BE CLOSED, LAND REMAINING HAVE NO ECONOMIC USE. This issue can be a million dollar item, and has to be carefully addressed.

4. DISCOUNT FOR VOLUME. In Redwoods we tried for a 20% discount and lost. We stumbled into a 10% discount. Landowners will fight over any discount, as it is viewed as a penalty for big landowners.

5. LOCAL ZONING

A. LIMITATIONS OF CALIF FOREST PRACTICES ACT. This law is a key issue. Some of the areas might not be harvested because of soils and slope conditions. You need an expert to advise you on these state limitations, which clearly affect value.

B. LIMITATIONS OF CALIF FOREST PRACTICES ACT TRIGGERED BY INTERIOR ACTIONS (HCP'S). We need to understand the interplay, if any, between the California law and which of its provisions might be triggered as a matter of state law by a federal action, such as an HCP or designating critical habitat.

C. WHAT LANDS COULD REASONABLY BE LOGGED AND THOSE THAT COULD NOT. This concern is straight forward engineering and logging technology. Sometimes it is technically impossible or too costly to harvest some trees, because of their location.

D. OTHER APPLICABLE STATE LAWS. Are there limitations on road construction, width, culverts, etc that affect cutting and marketing tress?

E. WHAT LIMITATIONS WOULD BE PLACED ON FEDERAL TIMBER LANDS THAT ARE TRADED TO A PRIVATE COMPANY. Although the USFS can operate with some impunity from state law, that is not true for landowner who acquires federal lands in a trade. The nuance of

timber rights vs ownership vs what can be cut needs to be fully understood.

6. SCOPE OF PROJECT EFFECTS. This theme is simple - the federal project (how ever that might be defined) - precludes the landowners from claiming enhanced value added to the land by the project and conversely protects them for diminished values to their lands caused by the project. Here the project might be characterized as the acquisition of the Headwaters. We need to understand what the "project" might do to land values.

A. ARE THERE FEDERAL ACTIONS THAT HAVE AFFECTED VALUE, EG CWA, ESA, ETC. Some of these federal actions have no affect on value, others are debatable. Nonetheless we need to know the value increments.

B. SEGREGATE THE VALUE COMPONENTS OR CHANGES, IF ANY, RESULTING FROM LISTING OF SPECIES, DETERMINING CRITICAL HABITAT, AND/OR DEVELOPMENT OF HCP'S. We just need to know whether these are big dollar items, or philosophical debates.

THE GOAL OF THE LATTER TWO CATEGORIES IS TO SPLIT OUT SEPARATELY THE VALUES ASSOCIATED BY THE APPLICATION OF THE CALIFORNIA LAND USES LANDS AND THE VALUE CHANGES ASSOCIATED BY THE APPLICATION OF THE ESA. THESE VALUES MIGHT NOT BE SIGNIFICANT, OR THEY COULD BECOME NEGOTIABLE. WE ARE TRYING TO GET THE APPRAISER TO GIVE US A RANGE OF VALUES, DEPENDING HOW ONE MIGHT INTERPRET THE LEGAL APPLICATION OF THESE LAND USE LAWS.

EXPECTATIONS:

1. COMPLETED EXCHANGE. It might take 2-3 years to actually close on a land transaction through the execution of deeds. These agreements are very intense.

2. EXCHANGE AGREEMENT. It might take a year to have a legally binding agreement to proceed with the land transaction, in which the parties have made enforceable promises.

3. LETTERS OF INTENT. It might be possible in late summer to have the landowners and government sign letters of intent to proceed with a transaction that looks like "x" and "y," with the details to be further negotiated.

U.S. Department of the Interior
Bureau of Land Management
State Director, California State Office



To: John Garamendi

MAR 19 1955

From: Ed Haste

John,

As followup to our Headwaters assignments, as of this AM (Tuesday 3/19), the FS was still awaiting release from PL on releasing the appraisal to us. We'll stay on it.

We have done an estimate for you on the appraisal costs:

- 1) We figure a new cruise, if necessary, would run about \$50,000. If we did it with our own foresters, we could save some bucks. We won't be able to tell you if a new cruise is needed until we see the appraisal data, but my gut feeling is, it won't be. But to address the credibility issue, we may need to spend some time and money to validate or re-check the FS's data.
- 2) We figure a good appraisal, providing an array of values depending on the appraisal criteria applied, would cost about \$75,000. Based on my research so far (including talking to Renee Stone, the former solicitor Leshy referred me to -- by the way, she's now Kennedy's chief of staff at NPS) is that your best bet is to let us do a pretty broad array of values, based on specific criteria, to give you the most flexibility possible in determining a price.

Per your direction, we'll start evaluating the FS appraisal as soon as it arrives, but won't take any other action until you and John get the release you need from PL re the takings thing.

Ed Haste

2800 Cottage Way, Sacramento, CA 95825 (916) 979-2845