



U.S. Department of Agriculture
Office of Inspector General
Western Region
Audit Report

VALUATION OF LANDS ACQUIRED IN
CONGRESSIONALLY DESIGNATED
AREAS
LAND ADJUSTMENT PROGRAM
FOREST SERVICE
WASHINGTON, D.C.



Report No.
08002-2-SF
NOVEMBER 2000



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20250



DATE: November 28, 2000

REPLY TO

ATTN OF: 08002-2-SF

SUBJECT: Valuation of Lands Acquired in Congressionally Designated Areas

TO: Mike Dombeck
Chief
Forest Service

This report presents the results of the U.S. Department of Agriculture, Office of Inspector General's (OIG) review of Forest Service (FS) land acquisitions in congressionally designated areas. The review was conducted as a result of an audit survey of the FS Pacific Northwest (PNW) Region Land Adjustment Program. Our survey objectives were to review the PNW land adjustment policies, procedures and operations and to determine areas for future audit coverage. During the survey, we identified a condition that occurred at the Columbia Gorge National Recreation Area that could affect FS appraisals nationwide. This condition relates to the valuation of lands located in congressionally designated areas that could artificially inflate appraisal values.

BACKGROUND

The FS acquires lands through purchase and exchange in order to protect key resources, eliminate conflicting uses, and reduce fragmented ownership. Much of the non-Federal land acquired through purchase and exchange lies within specific geographic locations Congress has identified as having unique characteristics. These congressionally designated areas include wilderness areas, national recreation and research areas, wild and scenic river corridors and historic trails. FS lands nationwide include hundreds of these special legislated areas; totaling millions of acres.

The valuation of land acquired in congressionally designated areas can be significantly impacted if the area is considered to be a Federal "project." An area qualifies as a Federal project if three elements exist in the authorizing legislation: (1) the FS has condemnation authority; (2) the boundaries of the area to be acquired by the Government are clearly defined; and (3) the intent is to acquire, by all available means, every outstanding non-Federal property within the area boundary within a specified completion date.

Lands located within Federal project areas are subject to special valuation rules.

AUDIT REPORT

The *Uniform Appraisal Standards for Federal Land Acquisitions* (UASFLA) specifies that the Government should not pay for increases in value that result from the project itself; likewise the landowner should not suffer from any decrease in land value. For example, if the Federal project is the construction of a hydroelectric dam, the land being acquired for this project cannot be valued as though already under water (a decrease in value), or as new waterfront property (an increase in value). Instead, UASFLA directs that any increase or decrease in value due to the project should be disregarded when valuing the property. Because lands within project areas are subject to this special valuation rule, identifying a congressionally designated area as a Federal project can significantly affect the appraised value of land in that area. UASFLA directs appraisers to confer with the counsel of the acquiring agency if there is any question whether property meets the project test.

OBJECTIVE

Our survey objectives were to review PNW land adjustment policies, procedures and operations and to determine areas for future audit coverage.

SCOPE

This audit was performed as part of our audit survey of land adjustments from Fiscal Years 1996 through 2000 in the PNW Region. In order to accomplish our objective, we interviewed staff from the FS Washington Office (WO), PNW Regional Office (RO), the Office of General Counsel (OGC), and the Department of Justice (DOJ) about current policy and procedure guiding FS acquisitions in congressionally designated areas. We also judgmentally selected and reviewed FS documents associated with the valuation of lands acquired in congressionally designated areas. Due to the limited scope of the survey work that identified this issue, we only reviewed documentation relating to acquisitions in special legislated areas in the PNW Region. The survey fieldwork was performed for the 3 months ending in September 2000.

The work was conducted in accordance with government auditing standards.

METHODOLOGY

To accomplish our review of FS land acquisitions in congressionally designated areas, we performed the following steps and procedures.

- At the PNW RO, we interviewed staff members about their procedures relating to land acquisitions in special legislated areas within the region. In addition, we judgmentally selected and reviewed regional and forest documents associated with land acquisitions in the Columbia River Gorge National Scenic Area (CRGNSA).

- We interviewed staff from OGC and DOJ concerning the classification of certain congressionally designated areas as Federal projects, and the criteria necessary for Federal project status.
- We interviewed the WO Chief Appraiser about the proper valuation methods applicable to land acquisitions in congressionally designated areas.

SUMMARY OF FINDINGS

FS staff may be improperly valuing lands acquired in congressionally designated areas. This is occurring because the FS has not developed a consistent process that establishes which special legislated areas in FS boundaries represent Federal projects, and which do not. Rather, the identification of an area as a Federal project, subject to special valuation rules, appears to be open to the interpretation of FS lands staff and FS appraisers. As a result, the FS may have been incorrectly valuing lands acquired in congressionally designated areas throughout the nation.

The CRGNSA is one of approximately 111 congressionally designated areas in the PNW Region. Congress enacted the CRGNSA Act in November 1986 to enhance the natural resources of the Columbia River gorge. The FS has been acquiring lands in the CRGNSA from November 1986, and has purchased approximately 31,000 acres at a cost of about \$44 million since 1995.

The FS valued lands it acquired in the CRGNSA based on the assumption that the CRGNSA represented a Federal project, and that land values had to ignore the “influence” of the project. This assumption resulted in appraised values that were based on county zoning in effect before Congress created the area (zoning in effect prior to 1986), rather than the more restrictive zoning actually in place when the lands were acquired. In many cases, the use of the “pre-act” zoning significantly increased the price paid by the FS.

The use of this pre-act valuation procedure was widely accepted by FS appraisers and lands staff at both the RO and WO levels for many years. However, the WO Chief Appraiser recently concluded that the CRGNSA might not actually qualify as a Federal project. Consequently, the value of lands acquired at the CRGNSA over the past 15 years may have been misstated. The FSWO is currently working with OGC and DOJ to resolve this issue. As a result, the PNW RO has suspended approximately 35 land exchanges and purchases with an estimated value of \$48 million at CRGNSA since February 2000, pending a determination by the FSWO as to the CRGNSA’s Federal project status.

We interviewed FS staff at the RO and WO levels, as well as individuals at OGC and DOJ, to determine how lands at the CRGNSAU could have been improperly valued for so many years. We found that the FS had not developed a consistent process to establish which congressionally designated areas in FS boundaries

represented Federal projects, and which did not. Some individuals we interviewed thought FS appraisers were responsible for determining whether a special legislated area qualified as a Federal project. Others thought it was the responsibility of the FS' legal counsel to make that determination. None of the individuals we spoke with knew of any FS direction or policy dealing with the valuation of lands in congressionally designated areas.

In the absence of any consistent direction concerning the appraisal of lands in congressionally designated areas, we were concerned that the valuation errors that had occurred in the CRGNSA might also be occurring in other such areas throughout the FS. We felt this potential deficiency needed immediate attention and communicated our concerns to FS staff both verbally and in a formal Management Alert issued by OIG in September 2000.

The FS responded to our concerns and took immediate action to address this potential problem. In August 2000, the FS Deputy Chief sent a letter to all Regional Foresters that clarified the FS position on valuations in congressionally designated areas, stating that all lands in such areas were subject to normal valuation procedures unless congressional legislation specifically directed otherwise. The Deputy Chief's letter also instructed the Regional Foresters to review all pending and completed appraisals done over the past three years to determine if valuations in special legislated areas had been properly conducted. The complete written response by the Associate Chief is attached as Exhibit A.

In September 2000, the FSWO received responses to the Deputy Chief's request from all regions. Each Regional Forester indicated that no improper valuations of FS lands in congressionally designated areas had occurred within the past three years. Although the FS concluded that the use of Federal project influence was very limited, it has expressed a continuing commitment to improving accountability in the Land Valuation Program.

We believe that the FS must develop procedures to determine whether congressionally designated areas within FS boundaries represent Federal projects subject to special valuation rules. Early analysis before, or immediately following, the enactment of a congressional act is critical to ensuring that the values paid to landowners meet the intent of the congressional acts and comply with Federal laws regarding just compensation. Once there has been a determination that a congressionally designated area represents a Federal project, the FS needs to ensure that appraisal procedures are consistently applied in accordance with Federal land appraisal standards.

Recommendation No. 1:

Implement a formal procedure to identify and to determine whether congressionally designated areas in FS boundaries represent Federal projects subject to special valuation rules.

ES Response:

The FS concurs with this recommendation. The FS sent a letter (dated August 18, 2000) to the Regional Foresters to solicit responses from all regions, and found that the use of “project influence” as valuation consideration was extremely limited. However, the FS is in the process of recommending changes to the current revision of the *Uniform Appraisal Standards for Federal Land Acquisitions* that will better define the criteria for determining what is a project area for Federal appraisal purposes. In the interim, the FS will include revisions to its Forest Service Manual 5410 and/or Forest Service Handbook 5409.12, as appropriate, to provide instructions regarding consideration of Federal project areas.

OIG Position:

We accept FS’ management decision.

Recommendation No. 2:

Ensure that FS appraisers are trained in valuing lands with implications of “project influence” and “project areas,” and that the National Oversight teams monitor this in their regional land exchange reviews.

ES Response:

The FS concurs with this recommendation. The FS has already scheduled training for all regional appraisers and senior review appraisers regarding valuation implications of “project influence” and “project areas.” Additionally, the Chief Appraiser oversight and monitoring reviews of the regions will now specifically include requests for copies of appraisal reports and appraisal review reports where “project influence” may have been a valuation consideration.

OIG Position:

We accept FS’ management decision.

CONCLUSION

The FS response to our recommendations was acceptable for reaching management decision on this audit. The Office of the Chief Financial Officer (OCFO) has responsibility for monitoring and tracking final action for the findings and recommendations. Please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the cooperation and assistance of your staff during the audit.

/s/

JAMES R. EBBITT
Assistant Inspector General
for Audit

Attachment



United States
Department of
Agriculture

Forest
Service

Washington Office

201 14th Street S.W.
Washington D.C. 20250

File Code: 1430
Route To: 5410

Date: **SEP 19 2000**

Subject: Office of Inspector General Management Alert, Audit Number 08002-2-SF(1)

To: James R. Ebbitt
Assistant Inspector General for Audit
Office of Inspector General

As a part of the Forest Service's ongoing efforts to improve accountability in our Land Valuation Program, a letter to all Regional Foresters dated August 18, 2000, signed by the Deputy Chief for National Forest Systems, James R. Furnish, requested a review of all appraisals over the past three years to determine if the Forest Service's approved values were based upon zoning not in effect, nor likely to be in effect as of the date of value. This was to determine if there had been any instances where approved values were not prepared in conformance with the Federal appraisal standards as reflected in the Uniform Appraisal Standards for Federal Land Acquisition, and relied upon by the Forest Service, as the basis of value for the lands action. Specifically, were the properties appraised based upon assumed zoning, resulting in artificially inflated estimates of value?

In addition, special emphasis on the Federal appraisal standards as reflected in the Uniform Appraisal Standards for Federal land acquisition is in progress, including the updating of Forest Service Manual 5410, and Forest Service Handbook 5409.12. These documents provide policy and procedure for all realty appraisal functions. It is expected that the updated manual and handbook will be published by March 2001. In the interim, national training dealing with these topics among others is scheduled for all Regional Appraisers and Senior Review Appraisers in early October of 2000.

Responses to Mr. Furnish's memo were received from all Regions, with all indicating that no such actions had occurred in any realty action within the past three years, with the exception of Region 5, The Pacific Southwest Region (see memo dated September 6, 2000).

Region 5 identified three closed cases and one open case that were found to have been based upon an unsupported zoning potential. The appraisal on the open case was rejected as it failed to adequately provide sufficient support for the proposed zoning potential. Of the three closed cases, one was rejected based upon unsupported assumptions (Morrison), and two were approved based upon a reasonable probability of a probable change to a more intensive zone designation, and changing IPES scores in the Lake Tahoe Basin. All of the cases cited in Region 5, were in the Lake Tahoe Basin Management Unit.

Specific attention was paid to the program activity cited in The Pacific Northwest Region, (Region 6). There were no Forest Service approved appraisals in the past three years reflecting this circumstance. The zoning issue was discovered on the Columbia Gorge over three years ago, and all pending appraisals that were based upon "pre Gorge-Act" zoning were held until the matter could be resolved. There were no instances in any other Congressionally designated program area or in any other land adjustment action that were appraised based upon an assumed



Caring for the Land and Serving People

Printed on Recycled Paper



AUDIT REPORT

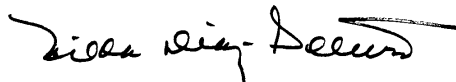
zoning premise. Please see the attached responses from the individual Regions for their detailed responses.

Recommendation No. 1: Implement a formal procedure to identify and to determine whether congressionally designated area in Forest Service boundaries represent "Federal projects" subject to special valuation rules.

Forest Service Response Recommendation No. 1: The Forest Service concurs with this recommendation. The Forest Service sent a letter (dated August 18, 2000) to the Regional Foresters to solicit responses from all Regions and found that the use of "project influence" as valuation consideration was extremely limited. However, the Forest Service is in the process of recommending changes to the current revision of the *Uniform Appraisal Standards for Federal Land Acquisitions* that will better define the criteria for determining what is a project area for Federal appraisal purposes. In the interim, the Forest Service will include revisions to its Forest Service Manual 5410 and/or Forest Service Handbook 5409.12, as appropriate, to provide instructions regarding consideration of Federal projects areas.

Recommendation No. 2: Ensure that Forest Service appraisal procedures result in a consistent methodology when determining the fair market value of lands subject to special valuation rules.

Forest Service Response Recommendation No. 2: The Forest Service concurs with this recommendation. The Forest Service has already scheduled training for all Regional Appraisers and Senior Review Appraisers regarding valuation implications of "project influence" and "project areas." Additionally, Chief Appraiser oversight and monitoring reviews of the Regions will now specifically include requests for copies of appraisal reports and appraisal review reports where "project influence" may have been a valuation consideration.



HILDA DIAZ-SOLTERO
Associate Chief, Natural Resources