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PI ALBUQUERQUE, N.M.

May 3, 2001

Re; NMNM 101522, 2200 (010)  
San Felipe Pueblo/BLM Proposed Land Exchange Draft EIS

Edwin J. Singleton  
Albuquerque Field Manager  
Bureau of Land Management  
435 Montano Rd. NE  
Albuquerque, NM 87107-4935

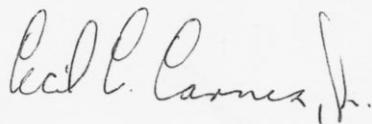
Dear Mr. Singleton:

I am reassured by the statement on page 3-7 of the Draft EIS that access for nearby landowners to their property will be provided prior to the transfer. I greatly appreciate your consideration in this matter.

I have attached my previous response to your earlier study in which I expressed my concern about access. Unfortunately, I think the sale mentioned in that response is now a dead issue because of the delay in resolving the access uncertainty. However, I am now optimistic about future prospects for the sale of my property.

My sincere thanks,

Cecil C. Carnes, Jr.



Date Received: \_\_\_\_\_

Comment Number: \_\_\_\_\_

**SAN FELIPE/SANTO DOMINGO LAND EXCHANGES  
SCOPING COMMENT SHEET**

**SUBMIT COMMENTS BY:**

Submitted by Mail     Open House, December 2, 1999     In Person

Please share your ideas, comments, and concerns in the space provided below. Fold this form and submit in the self addressed envelope. Attach postage, and return to the BLM by December 30, 1999. If you prefer, you may send a letter instead of this comment sheet by December 30, 1999. Please specify in comments which exchange is being addressed. For additional information, please contact:

**Debby Lucero, BLM Albuquerque Field Office  
435 Montano NE, Albuquerque, New Mexico 87107  
505/761-8787**

1-A

I object to the San Felipe/Santo Domingo Land Exchanges unless provisions are made for access to private lands before the transfer. I own an old federal homestead of 160 acres (W 1/2 of SE 1/4, E 1/2 of SW 1/4 Sec. 3 Twp. 13N Rge. 6E) which will be surrounded by San Felipe Pueblo lands after the transfer. For over a year I have had an agreement to sell my land for \$180,000 but have been unable to close the transaction because of uncertainty about the access. The BLM has refused to provide access and has suggested I negotiate with the Indians. The Indians do not want a private inholding within their lands and have expressed interest in purchasing my land. They have not been forthcoming about providing me with access. I am now retired, and the value of this land represents a significant part of my retirement plans. I am concerned about the delay in the sale of my land and about possibly being forced to sell it for less than its real value because of the access problem. I deeply resent being put in this awkward situation by my own government.

Last Name Carnes, Jr.    First Name Cecil    Initial C.  
Title (Optional) \_\_\_\_\_  
Organization Name (if applicable) \_\_\_\_\_  
Mailing Address (Street/POB/etc) \_\_\_\_\_  
City \_\_\_\_\_ State NM    Zip Code 87544

**Comment 1- Comment Acknowledged**

**WHITE,  
KOCH, KELLY  
&  
McCARTHY**  
A Professional Association

01 MAY 25 AM 11: 01

01 MAY 25 AM 11: 01

*Attorneys and Counselors at Law*  
John F. McCarthy, Jr.  
Benjamin Phillips  
David F. Cunningham  
Albert V. Gonzales  
Janet Clew  
Kevin P. Reilly  
C.W.N. Thompson, Jr.  
M. Karen Kilgore  
Sandra J. Brink  
Aron J. Wolf  
Mary E. Walta  
Rebecca Dempsey  
John M. Hickey  
Julie A. Wittenberger

Suzanne C. Odom

Special Counsel  
Paul L. Bloom

May 24, 2001

Mr. Edwin Singleton  
Field Manager  
Bureau of Land Management  
Albuquerque Field Office  
435 Montano Road NE  
Albuquerque, NM 87107-4935

Re: Environmental Impact Statement  
Proposed Land Exchange  
San Felipe Pueblo/Bureau of Land Management

Dear Mr. Singleton:

On behalf of the Estate of Edmund F. Ball, the following comments on the draft Environmental Impact Statement on the proposed exchange between San Felipe Pueblo and the Bureau of Land Management are respectfully submitted:

- a. The Ball Estate is the Owner of the following described lands within the area proposed for exchange with San Felipe Pueblo and within the ACEC area proposed for retention by the BLM:
  1. Portion of NW¼, Section 1, T13N, R6E, south of State Road 22
  2. S½ Section 34, T14N, R6E
  3. NE¼ SW¼ NW¼ SW¼, NW¼ SE¼ NW¼ SW¼, Section 27, T14N, R6E
  4. E½ SW¼, W½ SE¼, Section 31, T14N, R6E
  5. Lots 1 and 2; S½ NE¼, Section 6, T13N, R6E
  6. W½ E½, W½, Section 29, T14N, R6E
  7. Lot 4; SW¼ SW¼, Section 18, T13N, R7E
  8. Lots 1, 2, 3 and 4; W½ W½, Section 19, T13N, R7E

These tracts are unfenced and the Ball Estate is interested in exchanging these tracts for lands that adjoin other Ball properties.

**Response 2-A-** Ball Estate would need to submit this for consideration as a separate exchange proposal.

2-A

433 Paseo de Peralta  
Santa Fe, NM 87501

Post Office Box 787  
Santa Fe, NM 87504-0787  
e-mail: jfmc@wtkm.com

Telephone (505) 982-4374  
Fax Nos. (505) 982-0350; 984-8631

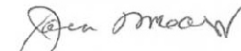


Mr. Edwin Singleton  
May 24, 2001  
Page 2

- 2-B | b. The Ball Estate has made improvements on the BLM property, such as fencing, water troughs, stock tanks, etc., which we understand are being appraised by the BLM and the Ball Estate will be compensated for the value thereof.
- 2-C | c. The Ball Estate will need access across Sections 27 and the north half of 34, T14N, R6E, and across the north half of Section 3, T13N, R6E, in order to access private parcels within the exchange area or for access to private parcels within the ACEC. If acceptable access cannot be agreed upon between the Ball Estate and San Felipe Pueblo, we expect the BLM to issue a right-of-way permit before completing the exchange and to make the patent subject to the right-of-way.
- d. The Ball Estate has no opposition to the proposed exchange with the understanding that the Conservation Easement will be imposed upon the property and that the terms and conditions thereof will be enforced by the Department of Interior.

We appreciated the opportunity to comment on the draft Environmental Impact Statement and request that the concerns set forth above be addressed before the issuance of the final Environmental Impact Statement.

Very truly yours,



John F. McCarthy, Jr.

cc: Douglas J. Foy  
Orville Moore  
Bill Waldman  
James Borgmann

JFM:lg

**Response 2-B-** The Ball estate will be compensated based on the current value of the improvements.

**Response 2-C-** The San Felipe Pueblo is willing to establish access agreements with the Ball Estate.



Comment Letter: 3

To: Edwin J. Singleton  
Field Manager  
Albuquerque Field Office

From: Thomas L. Petencin  
Recreational user of public lands.

Re: Proposed San Felipe/BLM Land Exchange  
DEIS April 2001

RECEIVED  
BLM 05/29/01  
01 MAY 30 2001  
OFF ALBUQUERQUE, N.M.

3-A

I want to express my concerns about the proposed land exchange and say that given what I know about the lands in question and based on my own personal experience with multiple visits to the area over the last year and a half, I believe that the exchange should not take place.

It is evident to me that the Albuquerque Field Office has not sufficiently examined the lands in question, has failed to make the public aware of the outstanding qualities present on the land, has not promoted recreational use of the land (e.g. Hiking), or informed the public about access to the land.

Contained within this area is some unique geology, colorful landscapes, peculiar rock formations (e.g. Bowling Ball spherical concretions near Hagan, Giant backbones in Arroyo del Tuerto.), outstanding concentrations of petrified logs (Two different types and in two different geologic strata.), fossil Titanotheres (rhinoceros-like mammal) bones, inscriptions dating to 1800's, mining sites, and Native American archeological sites.

BLM's lack of recognition about the character of the landscape is evident in the document, "Rio Puerco Resource Management Plan" (Oct. 92 reprint). The "Ball Ranch" SMA referenced in this document considers only the Northern half of the exchange area, and designates three small ACEC's. There is no mention of Southern Espinazo Ridge or the land just North of Hagan. Southern Espinazo Ridge contains petrified log specimens, similar to those in the Arroyo del Tuerto ACEC and has some interesting small canyons cut into the Espinazo formation. The area near Hagan is small, but visually stunning, with colorful badlands rimmed on the North by a steep cliff-forming escarpment and on the South by a lower, rounded slickrock ridge. It's incredibly pristine, contains lots of petrified logs, different in form from those along Espinazo Ridge and also contains the peculiar Bowling Ball concretions.

I believe that if the public had been informed about this area years ago, such as in the case with Tent Rocks, public interest would be at a high enough level now, that exchange of lands in this area would not even be a consideration. What you have here is an area that in total, is much larger than Tent Rocks, rivals or possibly exceeds its beauty, and has a variety of interesting characteristics that are unique to the area. I would suggest that BLM start from scratch, begin informing the public about this area, get public input, and start thinking about alternative management strategies for this area. Designation as one large SMA might be a possibility (Would fit perfectly as "Outstanding Natural Area") and land exchanges might be considered with Diamond Tail ranch to connect the parcel near Hagan with the Espinazo Ridge properties and maybe even encompass Hagan Ghost Town, which could add another public access.

Response to Letter: 3

**Response 3-A-** BLM has identified the resources of the selected lands in chapter three and the impacts expected to the human environment that would be expected as a result of making the exchange. BLM does not promote the use of resources where legal public access does not exist because it encourages trespass on private lands.

Our resources limit our ability to inform or promote all areas possessing recreation resources in which the public may have an interest in. Our efforts have been directed more toward administratively and congressionally designated areas, areas with resource protection issues, those areas with user conflicts, and those areas receiving a more noticeable amount of recreational use than the selected lands.

Lastly, I know that there are some people in the Albuquerque Field Office that know the value of keeping this land in public ownership. The purpose of this letter is not to criticize the BLM, but rather, to assist BLM in making the correct decision here, as I see it. It would be a great disservice to the U.S. public, true owners of this land, if this exchange takes place, with so few people being aware of what's out there, in a place so close to Albuquerque and Santa Fe. I encourage you to pursue Alternative C, the No Action alternative, at this time. Thanks for considering my comments.

Sincerely,

Thomas L. Petencin

P.S. I am willing to volunteer my time to assist BLM in any way, regarding future management of this area as public land.

Addr: Thomas L. Petencin

Ph:

E-mail

MAY 31, '01

EDWIN SINGLETON  
BLM  
ALB. OFFICE

Re: COMMENTS ON PROPOSED LAND EXCHANGE  
WITH SAN FELIPE

4-A

I URGE BLM TO GO WITH ALTERNATIVE C - THE NO LAND EXCHANGE. I URGE YOU TO HOLD OFF WITH ANY LAND EXCHANGES AT THIS TIME BECAUSE I FEEL THE BLM HAS NOT EXAMINED THE LAND TO BE EXCHANGED SUFFICIENTLY NOR HAS IT PROPERLY INFORMED THE PUBLIC ON WHAT IS CONTAINED IN THE LAND.

I HAVE BEEN OUT TO SEE THE PROPOSED EXCHANGE LAND AND WAS STUNNED AT HOW BEAUTIFUL AND UNIQUE THIS LAND IS. IT REMINDED ME OF A MINITURE UTAH, WE SAW PETRIFIED WOOD, FOSSILS & VERY INTERESTING GEOLOGICAL FORMATIONS, AND WE TRAVELED THROUGH CANYONS ~~AND~~ AND ENJOYED SCENIC VISTAS.

THE BLM SHOULD BE PROMOTING THIS AREA FOR PUBLIC RECREATION, PROVIDING ACCESS, MAPS & TRAILS - NOT USING IT FOR A DUBIOUS LAND EXCHANGE.

Julie Kutz



Response 4-A- (See response 3-A)

Comment Letter: 5

United States Department of the Interior  
**NATIONAL PARK SERVICE**  
INTERMOUNTAIN REGION  
Intermountain Support Office - Denver  
12795 West Alameda Parkway  
Post Office Box 25287  
Denver, Colorado 80225-0287

IN REPLY REFER TO: ER-01/0012

VIA ELECTRONIC MAIL: NO HARD COPY TO FOLLOW

June 1, 2001

Edwin Singleton  
Bureau of Land Management  
Albuquerque Field Office  
435 Montano Rd., NE  
Albuquerque, NM 87107-4935

RE: San Felipe Pueblo Proposed Land Exchange Draft Environmental Impact Statement  
(DEIS), Sandoval and Santa Fe Counties, NM

Dear Mr. Singleton:

5-A | The National Park Service has reviewed the subject DEIS and has no comments at this time. We appreciate the opportunity to comment. Should you have any questions or concerns, please contact me at (303) 969-2036.

Sincerely,

/s/ Laurie Domler

NEPA/Section 106 Specialist

Response to Letter: 5

**Comment 5-** Comment acknowledged.



**An Appraisal of the Proposed Land Exchange of BLM  
Holdings Near San Felipe Pueblo and the draft  
Environmental Impact Statement**

**By**

**Rick Hurley**

**(505) 299-8401**

**[RickHurley@aol.com](mailto:RickHurley@aol.com)**

I am writing to comment on the proposed land exchange between the BLM and San Felipe Pueblo on BLM holdings in the vicinity of the Ball Ranch ACEC just north of Albuquerque, NM. I am commenting on this exchange as a private citizen and reflect my personal views on the land exchange. I might add that, to date, this is first time I have been motivated to comment publicly on any kind of environmental issue. I have reviewed the April 2001 Environmental Impact Statement (EIS) for this land and where appropriate, I have referenced the EIS with bracketed notation [ page, paragraph]. Paragraphs that initiate on a previous page will not be considered the first paragraph. I hope my knowledge, observations and critique will be helpful in the making the final decision on this land exchange.

### The Land to be Exchanged (Selected Lands):

I have had the opportunity over the past 2 years to become acquainted with the land to be exchanged by conducting extensive hikes on public land in the area. I believe the BLM holdings in Sections 8,9,10,14,15,21,22,23,27 and 28 of T13N, R6E offers the following desirable features for public retention.

- a) **Petrified Wood**-The petrified wood in this area gathers nearly universal awe from the friends and acquaintances who have joined me on my hikes in this region. Photographs of deposits found in the sections listed above are shown in Figure 1. It is certainly unique to the Rio Grande valley and far superior to anything I have personally seen in the Rio Puerco, the Quebradas and most of the Wilderness Study Areas within a couple hundred miles of Albuquerque. To the BLM's credit, they are retaining part of this deposit (the Ball Ranch ACEC) but they should be retaining all of it since the wood in the lands to be traded is visually different and more diverse than that found in the ACEC. I believe the quality and variety of the wood, both in the ACEC and in the lands to be traded, compare favorably to other petrified wood areas I have visited in the Southwest (the Escalante Petrified Forest State Park and the Wolverine Petrified Wood area in Escalante National Monument, both in Utah).
- b) **Hagan Crescent**-The area of T13N, R6E, Section 27 and 28 (which we've nicknamed the "Hagan Crescent") is an astounding amphitheater of colorful cliffs and badlands that I believe is more scenic than the Ball Ranch ACEC. This land is similar in size to Tent Rocks (the new National Monument) and shares similar beauty and quality (examples of scenery from these sections are shown in Figure 2). The hike around the area from the nearby ghost town of Hagan is easy enough to be enjoyed by all ages. It would be a tragedy if the public were kept out of this enjoyable landscape.
- c) **Outstanding Vistas and Solitude**-The land on the ridge tops of the sections noted above (generally north of the petrified wood exposures) is vast, unobstructed range land that offers great views of the Cerrillos hills, the San Pedro Mountains, the Ortiz Mountains and the north end of the Sandia Mountain Wilderness. In addition, there are a number of hidden finger canyons in the land to be exchanged (Arroyo del Tonque, among others) whose seclusion reminds me of land in the WSAs of the Quebrados Byway near Socorro. Even with encroaching development, one could easily drop into these canyons and feel the solitude necessary for relief from the hustle and bustle of daily life. Examples of the land features in this area are shown in Figure 3. This land is optimally located between Santa Fe and Albuquerque for recreational use (better than any other land currently managed by the BLM) and would provide a winter time hiking alternative to the Sandia Mountains, where snow levels would prohibit that form of recreation.

Photographs noted above should be entered into the appropriate section of the document (Geology, Visual, etc.) to provide a more complete description of the land to be exchanged.

### Land to Be Obtained (Offered Lands):

The draft EIS includes maps of three principle areas of land that would be sought for exchange (Petaca Pinta, Malpais and the Rio Puerco) plus some smaller units near Taos, La Cienega and Tres Peidras (Maps 4a-d). As this information is largely new to me (we've been asking for it for a while), I think it would be prudent to allow time for the public to appraise the potential gains of these areas before approval of any land exchange involving the BLM lands near San Felipe Pueblo is granted. I have had the opportunity to hike with friends many times in the areas of the first three maps (4a-c). I am especially familiar with Petaca Pinta, having helped conduct a WSA survey for the New Mexico Wilderness Alliance.

From what I know about these areas, I do not believe that the average trade of land for the San Felipe property would be

**Response 6-A-** The basis for the exchange relates to equal values based on fair market value as determined by a certified appraiser which normally considers surface and mineral estate and any encumbrances which may affect values.

equitable. The road access to the lands around Petaca Pinta and the Rio Puerco is horrid (especially when the roads are wet) during the winter months and summer monsoons. These areas are too hot to hike in the summer anyway, so the opportunity to use the land is limited. Petaca Pinta WSA is beautiful, but the best part exists in the WSA, which is just about entirely public. The areas to the North, East and south of the WSA and west of BIA 54 (the road into the Alamo Indian reservation) is largely rangeland with a few small volcanic plugs. The area of Mesa Gallina to the east of route BIA 54 has possibilities, but the access is largely blocked by locked gates (we have ideas on how to get into there, but the mud kept us out the last time we tried).

Malpais does have good road access most of the year, but the map is already largely in public trust. Of the 2 large tracts of private land in this area, the private land bisected by 117 on the north side of the map is within site of I-40, making it less than scenic. The land on the southern end is going to afford "wondrous views" of a significantly large subdivision that developers have been selling plots for on television. I've never hiked in the area of Tres Peidras, but from my drive throughs, the scenic quality of the land has not exactly motivated me to explore the area further (it just doesn't look interesting).

I've observed that elderly people whom I have hiked with find the hiking far easier in the land near San Felipe Pueblo than in any of the other proposed areas I have visited, mostly due to the easy tread and shorter drive (less driving time makes for a slower hike). The back country hiking in the areas of Malpais, Petaca Pinta and the Rio Puerco is brutal (nothing like a trail in the Sandias) and there are not a large number of individuals who are even capable of long hikes in these areas due to the difficult cross country conditions. Addition of land in these areas isn't really going to add much to what the public can already gain access to, nor will it make it any easier to visit.

The ruin sites that can be obtained from private holdings [pg. 3-11, Paragraph 1] cannot be significantly large, certainly not as large as the ~10,000 acres proposed for exchange. I believe the BLM statewide manages smaller, more reasonable tracts of land to give up for ruin sites (as opposed to the large land tracts near San Felipe), especially if they expand the land exchange opportunities to individual citizens (such as ranches wanting to expand their existing grazing allotments). In addition, New Mexico is already gifted with a significant number of archeological sites on public land. Why would we give up any part of a "petrified forest" (unique to the Rio Grande) for a duplication of ruin sites?

Contrary to the conclusion of the report [pg. 4-5, 4th paragraph], the public gains little from this exchange for recreation in Malpais, the Rio Puerco or Petaca Pinta, in my estimation. I would much rather have 4 "incomplete" areas to explore as opposed to 3 "complete" areas (especially since the one we loose is so close to Albuquerque!).

### EIS Questions and Inconsistencies

The following is a list of inconsistencies/questions that have come to light when reading the EIS report which I would like the BLM office to address.

**Inaccessible Land** [pg 3-8, 2nd paragraph/3-9, 1st paragraph]: The report states that there is no legal access to Sections 16,17, 21,25-28,34-36 of T13N, R6E. This appears to be untrue as I have legally visited these parcels (with about 30 other people) this year. All these lands can be viewed by signing a simple waiver of liability provided (free of charge) by the Diamond Tail Ranch and accessing the land through ranch property (Note: The Hagan property is close enough to the main road that you wouldn't even need to drive on ranch property, you just need a waiver to cross the Diamond Tail on foot). For future reference, my contact for obtaining the waiver was:

Veronica Miner, Paralegal  
(of Rodey, Dickason, Sloan, Akin & Robb, P. A.)  
Albuquerque Plaza  
201 Third Street NW, Suite 2200  
P.O. Box 1888  
Albuquerque NM 87103  
(505)768-7246  
vaminer@rodey.com

**Land Usage** [4-16, paragraph 3]: The report states that neither pueblo or public use of the land is documented specifically. I'd like to add my observation about this for Sections 8,9,10,14,15,21,22,23,27 and 28 of T13N, R6E. In the 2 years (~10 day hikes) I've been visiting this area, I have not seen any native American on this public land, nor have I seen any evidence of large ceremonial gatherings. I have seen the occasional rancher, geology student and hiker, however, and evidence of some ATV usage (and, of course, cows). I've noted that (in areas like Chicoma Peak and Tapia) when people gather for large

**Response 6-B-** BLM's concern is with legal public access required for the public to visit areas of public interest without obtaining permits to cross private lands. Frequently situations requiring private land permits are ignored creating trespass situations.

6-B



religious ceremonies, especially on a yearly basis, there are usually obvious signs that they were present. Shrines, offerings and trodden pathways are usually in evidence, but I have not seen anything like that on the lands to be exchanged. Recreational use (except for the big groups who came out with me) is not high [pg 3-9, paragraph 2], but there is about a 20% chance (one out of every 5 hikes) that you would run into some other party in the area (especially near the ACEC), so I would call the land use moderate.

6-C | **Petrified Wood** [pg 3-7, paragraph 1]: The document states that “most of the Petrified wood in the area is located in the Ball Ranch ACEC”, implying that very little petrified wood is found on land to be exchanged. This is misleading. There are significant outcroppings of petrified wood in sections 14, 15, 22, 23 of T13N, R6E. Upon inspection, these deposits appear to be visually different from those found in the ACEC. This should be noted in the report.

6-D | **Fences Barring Access** [pg. 3-8, 2nd paragraph/3-9, 2nd paragraph]: The report states that public use of the area is low due the presence of fences and other physical barriers. Fences on public land do not impede public access. They impede *motorized* public access. Hikers can always find an easy way around a fence and most fences in this area (on the roads and in the ACEC) have unlocked cattle gates that can be popped open by lifting a hook or loop. A way from the roads some of the fences are old and have fallen into disrepair, so you can just step over them. The fences have nothing to do with sparse visitation of this area by the public. The reason the public does not visit the area is that the BLM has failed to inform them of all the neat features that can be found on the land. People just do not know the land is out there and how to access it (Who came up with this hog-wash?).

6-E | **1400 acres of Private Development** [pg 4-3, 2nd paragraph]: I would like to know who the private developer referred to in this paragraph is and where the development land is located. If development is included in lands to be swapped, that information should be prominently displayed and explained in the report.

6-F | **ACEC Access Corridor:** A 40’ wide corridor to be retained for public access to the ACEC is referenced on pg 1-3 as being shown on Map 1 but it does not appear there. I would like this location clarified.

6-G | **Visual quality of the Land** [pg 3-9, paragraph 5]: The BLM rating system for evaluating visual quality in this land assigns a visual class rating of IV (the worst) for most of the land to be exchanged with a small portion (240 acres) getting a rating of III. I’m not sure when these ratings were obtained (quite a while ago, according to the report) but I believe they may be largely subjective, out-of-date and misleading. In the last 20 years or so there has been an explosion in outdoor recreation and I would suspect that the definition of what is “visually pleasing” by the public has changed significantly as well. The square mile of Section 38, T13N, R6E is picturesque by most people’s standards (see Figure 2 for examples) and the balance of the land offers scenic vistas of the Sandia, San Pedro and Ortiz mountains as well as the Cerrillos Hills (even if the parcel of land itself is not interesting, it does not mean the land can not have scenic value since it could have proximity to other, more distant scenic features).

Since beauty is in the eye of each beholder, no one can guarantee that the observations of only a few people used to formulate the numerical rating for the land accurately predicts what the bulk of society might consider attractive. It could be misused to argue either for or against retention of land. As opposed to relying on a limited, subjective numerical rating system to judge the land’s appearance, the report should contain photographic documentation about the land to be swapped (easy to obtain in these days of digital cameras and desktop publishing), so that any person who reads the report can formulate their own opinion concerning the land’s visual value. The only picture in the report (the “windmill” on the front cover) shows nothing about land features and is worthless. I have provided (and will continue to provide) the Albuquerque BLM office with a CD containing scanned pictures of the land to be swapped for viewing by the general public. The BLM should make an effort to publicize this CD to those parties interested in obtaining information on this land exchange. The BLM has my permission to re-produce pictures from this report as well.

6-H | **Outdoor Enthusiasts Not Contacted:** The contact list [pg. 5-2, Table 5.1] shows that no outdoor recreation group in the Albuquerque or Santa Fe areas has been officially contacted by the BLM. I believe this to be a significant oversight, especially when the report addresses Recreation Uses of the land to be exchanged in several sections of in chapters 3 and 4. Groups with significant hiking activity in the Albuquerque area include the New Mexico Mountain Club, the Sierra Club (Albuquerque, Santa Fe and Los Alamos chapters) and Outdoor Adventures for Singles. In addition, several senior groups are known to have significant hiking populations. I believe that some effort should be made by the BLM to contact these groups and consult them as to usage of the land by their organizations and to make them aware of the proposed exchange. I would be willing to supply contact names for such groups I know about, if necessary.

6-I | **Restrictive Covenants** [pg. 4-2, paragraph 6]: The report points to restrictive covenants in a effort to convince the reader that

**Response 6-C-** Petrified wood is indeed abundant throughout the area including the selected lands. However, it is considered by the BLM to be part of the visual landscape. There is no documentation nor evidence to establish its precedence as a scientifically significant value over its aesthetic or collectible value. The wood varies in different ways according to conditions of preservation, mineralization and weathering processes. Under present management, petrified wood may be collected for personal use or commercial use under the conditions set forth in 43 CFR 3621 and 3622.

**Response 6-D-** Though you have expressed that fencing does not impede access to public lands for hikers, others have expressed just the opposite when asked to comment in other Environmental Assessments on the installation of fencing for livestock management. They expressed concerns about fences impeding their access to and movement within public lands. Even though fences may be in disrepair and easy to step over it does not mean they will always stay in that condition.

**Response 6-E-** The approximately 2,000 acres are adjacent to the Town of Tejon boundary to the east. The private landowner who has an agreement with San Felipe for an exchange to consolidate inholdings is Diamond Tail Inc. This is discussed in paragraph 3 of chapter 4 and is shown on Map 5.

**Response 6-F-** The Map has been corrected.

**Response 6-G-** Visual resource management (VRM) classes were assigned in the 1986 Rio Puerco Resource Management Plan (RMP). The process started with an inventory of visual resources which provided BLM management with a means of determining visual values. An important premise of the evaluation is that all public lands have scenic values, but areas with the most variety and most harmonious composition have the greatest scenic value. The inventory consisted of a scenic quality evaluation, sensitivity level analysis, and a delineation of distance zones. This RMP which established how public lands were to be used and allocated for different purposes, was developed through public participation and collaboration.

Visual values were considered throughout the RMP process, and the area’s visual resources were then assigned to management classes with established objectives after public participation. The BLM’s VRM system is an analytical process. Assessing scenic values can be a subjective process, but by implementing the system, objectivity and consistency for assessing scenic values on public lands is established.



## Comment Letter: 6

the government will maintain tight control over land that has been purchased by a private entity (in this case, the San Felipe Pueblo). The restrictive covenants on the land are not, by any means, a permanent fixture. I have no doubt that the Pueblos are honorable people and that, with such restrictions, we would not see the land change in our generation. However, future generations may change their mind, and if they did, they would surely find a loophole or process to circumvent such paper restrictions.

As a practical matter, I have to question how enforceable these covenants will be once the land is exchanged and the gates are locked. I don't put much faith in them. Better for the BLM to state the reality of the situation for public evaluation (that the land will pass out of their sphere of influence and thus they cannot guarantee much about the land's future use) than to try to dupe the public into thinking that the government still maintains some control over the land use. In addition, the covenants cover only "major surface disturbing activity" and do not account for the potential depletion of petrified wood from the area, which could be easily transported out and sold for profit by individuals if close government supervision and law enforcement were not maintained.

6-J | **Ease of BLM Management** [pg. 4-1, paragraph 5]: The BLM believes exchanging land in this area would ease management responsibilities by consolidating holdings in larger areas. If all the land in the area of San Felipe were traded, this would certainly eliminate the need to patrol the area. I'd like to point out, however, that the BLM is planning to retain a significant portion of the land near San Felipe Pueblo (the Ball Ranch ACEC), which adjoins the land they want to exchange. This means that, whether the land is exchanged or not, BLM land will remain in the area that must be managed and patrolled anyway. It is questionable, to me, that this land exchange is going to make management much easier.

6-K | **Habitation** [pg. 3-17, 1st paragraph and 3-10, paragraphs 3 and 4]: The passage in 3-17 states there is a long history of habitation in the exchange area but 3-10 indicates that sites are few and sparse (artifact scatters or field houses). This seems to be a contradict, although it may be proper to say habitation "near" the exchange area.

### Objections/Concerns:

The following are a list of concerns I have about how land exchanges are being conducted. I object to the stance of the Albuquerque BLM office concerning this land exchange. In conversations I have had with several principle BLM workers (notably Ed Singleton and John Roney) I have been given the impression that the Albuquerque Office has already made up their minds in favor of the exchange. I felt that more effort was being made to convince me to accept the exchange as opposed to objectively listening to my concerns. This has the effect of discouraging public comment by those who may not agree with the exchange. I worry that my comments and concerns are falling on deaf ears. I fear that the BLM has lost their sense of fairness and objectivity where this land exchange is concerned, either because they want to make their job easier by consolidating tracts of land or just to be politically correct when dealing with native Americans. This is a human reaction and forgivable, but it introduces an unfair bias into this process and should be called to the attention of those involved.

As I understand the exchange, the motivation for the San Felipe Pueblo is to secure additional land near the pueblo for cultural practices [pgs. 3-10, paragraph 4, 3-17, paragraph 4, 4-8, paragraph 3 and 4-13, paragraph 7] and their primary objective appears not to be development or economic use but to prevent non-native Americans from entering lands and disturbing them during these practices. On public lands they have freedom of religion but nobody (including native Americans) is guaranteed privacy when using public lands. But as private citizens who own exclusive rights to the land, they can do as they please, just as non-native Americans would in the same situation.

In principal, I have no problems with the efforts of the San Felipe Pueblo to gain exclusive access to said land by trying to purchase or exchange for it. This issue is one of private citizens attempting to acquire public land near their homes for their own personal use, nothing more. The term for this use, "traditional cultural practices" (or something similar), is used quite frequently in the report by the BLM. The use of this terminology conjures up images of a more spiritual, noble endeavor than lowly "recreational use" such as hiking. In fact, both activities should carry equal weight in deciding whether the land is exchanged or not. They each rejuvenate the soul and are non-destructive to the land. The inference of the document and comments made to me during this process by BLM personnel is that the former activity is somehow more weighted and receives more special favor than the latter, and I resent the fact that someone assumes that, just because I am not conducting a religious ceremony when I use the land, that this land is somehow less important to me than to someone who does. I can marvel at a 1000 year old ruin, or reflect on the significance of wood petrified over 50 million years ago and get as much cultural fulfillment as anyone involved in any formal ceremony. The BLM needs to follow the separation of church and state, acknowledge that cultural practices on the land are, in fact, just a recreational use of the land and not imply any greater value to them than other uses have, either when writing the report, communicating with the public or deciding what should happen on the land.

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**Response 6-H-** Your comment neglects to mention that notices regarding the exchange of this land were published in the local newspaper ( [Albuquerque Journal](#)) for four consecutive weeks in November 1999 and in the [Federal Register](#) November 9, 1999. In June 2000 another announcement was published ([Albuquerque Journal](#) and [Federal Register](#)) adding another alternative to the proposal. An additional notice describing the offered private lands to be exchanged was published in the [Albuquerque Journal](#) and the [Taos News](#) for 4 consecutive weeks beginning May 31, 2001. With each of these announcements interested parties were invited to participate in the process with their comments. We believe that there was adequate public notification that anyone who wished to be involved had ample opportunity.

**Response 6-I-** BLM proposes to use the legal means available to protect the natural resources of this area.

**Response 6-J-** The urban growth pressures and competing interests make this area difficult to manage under the principles of multiple use which is our mandate. This exchange has taken land that because of its location in the face of an urban growth pressure was sure to be controversial both in terms of who and for what it should be used and made an effort to keep it in a natural state for the enjoyment of a portion of the population to enjoy through the years. It will also relieve BLM from some of the legal costs and wrangling over how the area can be used. In addition the lands received in the exchange will add to one or more of the areas that BLM is developing as long range recreational facilities for use by a broader range of the American people. This enables BLM to manage these recreation and special value resource areas much more effectively because it eliminates the controversy with private land ownerships in and around these special areas. The Ball Ranch ACEC will continue to be a management concern for the BLM.

**Response 6-K-** Habitation as used here does not mean that the entire area had homes on it but that it was used by a group of people for some portion of their subsistence.

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The people who are the points of contact with the general public concerning the land to be exchanged are mostly uninformed about the land's content. Members of the BLM have been largely surprised by photos I have provided to the office and at meetings. The BLM is unable to describe or promote the quality of certain portions of this land to the general public as they currently do for other holdings like the Cabezon area and Tent Rocks. It is inexcusable that a government office in charge of managing public land cannot clearly and concisely articulate the features of any parcel of land it has in its trust. This is (contrary to the presence of "fences") [pgs.3-8, 2nd paragraph 3-8/3-9, 2nd paragraph] is a large reason why the land is only lightly visited by the public. The public does not know about this land because the BLM does not communicate to them about this land.

The selected lands are known and well identified, but the definition of offered lands is vague. This is understandable since the offered lands are probably not for sale yet and may not be for many years. As such, there is really no way of predicting what offered land you are getting for each parcel of the selected land until something goes on the market. But the BLM makes no effort to define what the appropriate exchange rate ought to be once the true offered land is identified. This is like the BLM committing \$20K to buy a vehicle without knowing if they are getting a bicycle, a bulldozer or a Ferrari. Nobody conducts business like this with their personal finances, so why would we do this when it comes to public land exchanges? Naturally, anyone who is on the offering side of this agreement would look to obtain the least expensive lands in the offered area (the "bicycle") and the government would lose valuable land in the process. There should be a mechanism in place (and described in the report) to ensure that, on a parcel by parcel basis, the American people and the pueblos each get a fair exchange.

One last, very disturbing observation I have made about land exchanges in general in this area is the exclusivity of the agreement between the BLM and the pueblos. Non-native American citizens (such as the ranchers in the area of the Ball ACEC), to my knowledge, are not allowed to participate in this land exchange, even though they have been associated with the area's land use in modern times [pg 4-7, paragraph 2]. The stated goals for acquisition by the pueblos are undeniably personal. Since the pueblos have the right to pursue certain parcels of public land for their own personal use, then why don't other citizens have that same right?

## Recommendations:

The idea of land exchange to consolidate holdings has merit, but I believe there are more reasonable candidates for consolidation than the BLM holdings near San Felipe Pueblo. I cannot recommend the exchange of all lands as indicated by options A or B in the report (C, no exchanges, would be the only option I would favor). The added lands of alternative B (those disconnected areas in T12N, R6E on Map1) are the only lands I feel the BLM should be allowed to exchange. All areas north of and including T13N, R6E should be retained for future public use. The location of the land near the major population centers of Albuquerque and Santa Fe, unique petrified wood deposits, interesting geology and paleontology, scenic vistas, wilderness values and dependable road access makes these parcels of land much, much more valuable for recreational use than lands that would be obtained in the areas of Rio Puerco, Petaca Pinta or Malpais.

I do not feel the office has had the time or resources to conduct a thorough, informative inventory of the exchange property as yet. I recommend the BLM conduct a section-by-section walk through of this land (complete with photographic documentation) before any final decision is made concerning the disposal of the land. I would gladly offer my help in this endeavor (as schedule permits).

## Alternatives:

I would like to suggest several alternatives to options A-C stated in the EIS:

**Keep All Lands Public, But Gate the Access:** If all the pueblos want to do is to maintain a certain level of privacy during ceremonies, they could save a lot of money and effort by pushing for gated, non-motorized, controlled access to the region instead of going through the expensive process of buying other land and trading for what they want. If the pueblo is truly low income [pg 4-18, paragraph 3] there is probably better ways to use their money than to buy land whose resources can't be utilized due to existing covenants. Without vehicle access, few people would really have the fortitude to walk or bike into most of the site from route 22, but a few hardy souls (like myself) might try it once or twice a year. I personally think this is

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not only agreeable, but justifiable. Vehicle access endangers the petrified wood deposits,(making them too easy to remove and sell) and spoils the solitude of the area. Hunting should also be curtailed as well. Given the moderate use of the area, this should just about guarantee all the privacy the pueblos would need. Some level of co-management between the BLM and Pueblo could also be investigated.

**Keep the Petrified Wood Outcroppings Only:** Keep only areas where petrified wood outcroppings have been documented and give the rest of the land up for exchange. This includes all sections noted in the first part of this report. Allowing this land to be visited by the public could lead to paleontological findings, like the "rhino" fossils that have been found in the ACEC. (Note: It was the New Mexico Mountain Club, a hiking group who was hiking on public land in the Ojito WSA, who discovered the Siesmosaurus bones that are on display today at the New Mexico Natural History Museum. Without that scheduled day hike, those bones would quite probably never have made it to the museum).

**Keep and Develop Hagan Crescent:** It would be a crime to hikers everywhere if this small but beautiful section of land were not kept in public trust, just like Tent Rocks is. It is a perfect 3 mile hike, suitable for all ages. Negotiations with the Diamond Tail Ranch to get access through a small corridor just west of the ghost town of Hagan (on the road from Casino Hollywood) should be aggressively pursued.

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Figure 1. Examples of Petrified Wood Found on Land Proposed for Exchange

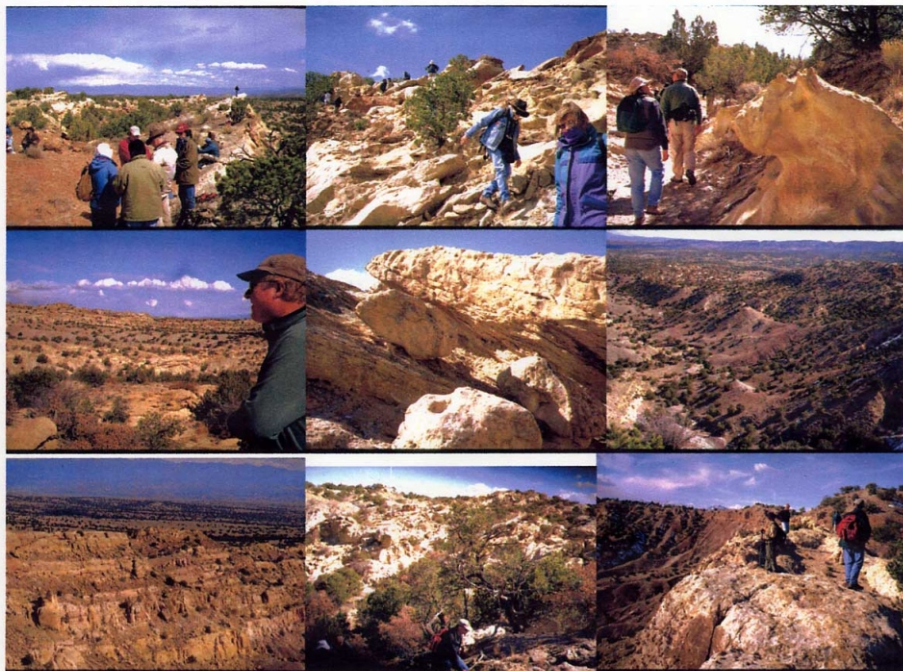


Figure 2: Hagan Property (Section 27 and 28, T13N,R6E)





Figure 3: Vistas and Solitude



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

May 29, 2001

Mr. Edwin J. Singleton  
Field Manager  
Bureau of Land Management  
Main Conference Room  
435 Montano NE  
Albuquerque, NM 87107

RECEIVED  
BLM  
01 JUN -4 AM 10: 22  
010 ALBUQUERQUE, N.M.

Dear Mr. Singleton:

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality Regulations for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Bureau of Land Management (BLM) San Felipe Pueblo Land Exchange Draft Environmental Impact Statement (DEIS). Completing the proposed land exchange would enhance BLM's land ownership consolidation in this area of New Mexico. The exchange would help eliminate and/or reduce conflicts between public land users and private land owners. The San Felipe Pueblo would acquire lands that have been identified as having significant traditional cultural values to them.

The EPA rates your DEIS as "LO," i.e., EPA has "Lack of Objections" to the lead agency's preferred alternative. Our classification will be published in the Federal Register according to our responsibility under Section 309 of the Clean Air Act, to inform the public of our views on proposed Federal actions.

We appreciate the opportunity to review the DEIS. We request that you send our office one copy of the Final EIS at the same time that it is sent to the Office of Federal Activities, (2251A), EPA, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20044.

Sincerely yours,

Michael P. Jansky, P.E.  
Regional Environmental Review  
Coordinator

Comment 7- Comment acknowledged.