

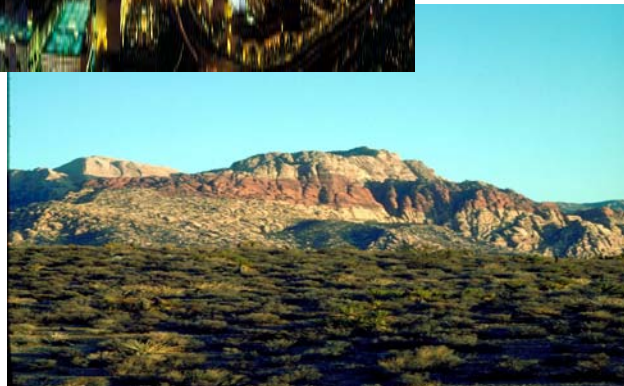


Department of the Interior Office of Inspector General



SNPLMA – A Model for Success

- ✓ Land Use Partnerships
Are Working
- ✓ Public Land Auctions
Enhance Receipts
- ✓ Businesslike Approach
Controls SNPLMA
Receipts
- ✓ Receipts Improve
Education,
Recreation, and
Environment



Implementation of the Southern Nevada Public Land Management Act (SNPLMA) Bureau of Land Management

No. 2003-I-0065

September 2003

Description of Photographs – Top to Bottom

View of Las Vegas - *Photo Courtesy Web Site – Las Vegas Convention and Visitors Authority*

Federal and Private Land Conveyed to Red Rock Canyon National Conservation Area under SNPLMA - *Photo Courtesy of BLM*

Lake Mead National Recreation Area - *Photo Courtesy of National Park Service*




United States Department of the Interior

Office of Inspector General
Western Region
Federal Building
2800 Cottage Way, Suite E-2712
Sacramento, California 95825

September 30, 2003
7430

Memorandum

To: Director, Bureau of Land Management

From: Michael P. Colombo 
Regional Audit Manager

Subject: Final Audit Report on Bureau of Land Management Implementation of the Southern Nevada Public Land Management Act (Report No. 2003-I-0065)

The attached report presents the results of our review of the Bureau of Land Management's (BLM) implementation of the Southern Nevada Public Land Management Act (SNPLMA). SNPLMA was enacted in 1998 to allow BLM to dispose of public land in southern Nevada through public auction and to use the receipts for education and environmental purposes and capital improvements in the State of Nevada. Our objective was to review certain operational aspects of the SNPLMA Project Office since its inception, including its management of the land sale program; its efforts to monitor and preserve BLM's interest in land transferred to Clark County, Nevada; and its administration of receipts and disbursements from the special U.S. Treasury account authorized by SNPLMA. Please see the appendix to the attached report for a summary of our audit scope and methodology.

We undertook our review because of news articles and inquiries from individuals who were concerned about Clark County's use of lands transferred under SNPLMA and the County's acceptance of the best offer in lieu of a higher offer for some of the lands exchanged. Our General Counsel concluded that under Nevada statutes it was legally defensible for Clark County to accept either the highest offer or an offer that allowed the County to meet its priority of limiting incompatible development near the airport.

We are pleased to report that BLM has made great strides in implementing SNPLMA. Specifically, BLM has established a SNPLMA Project Office; formed good working relationships with the federal, state, and local governmental agencies necessary to implement SNPLMA; transferred about 5,200 acres of public land to Clark County's Department of Aviation; implemented a successful land sales program; and established a special U.S. Treasury account to manage land sales and other SNPLMA receipts.

The success of the land sales program confirms the value of using competitive sales to let the market place set the price of the land to be sold. Partnerships with local government agencies to nominate federal lands to be sold contributed to BLM's success because only lands desired for development were offered for sale. In addition, BLM officials acknowledged that a volatile real estate market with more bidders than land, such as the market in the Las Vegas Valley, significantly contributed to the success of the program. We believe that selling federal land through public auctions, as advocated in SNPLMA, expedites the disposal of federal lands and provides full and open competition to the private sector, thereby generating the greatest monetary return to the taxpayer (see following tabulation).

Acres Offered for Sale	Acres Sold	Appraised Value (\$ million)	Estimated Sale Receipts (\$ million*)	Estimated Receipts In Excess Of Appraised Value (\$ million)
3,951	3,897	\$222.9	\$333.4	\$110.5

* As of March 31, 2003, collections totaled \$189.6 million. An additional \$143.8 million is scheduled for collection by July 31, 2003. Receipts do not include results of June 5, 2003 sales.

We found that BLM has developed and maintained good controls both to account for and disburse the receipts derived primarily from the sale of federal land. We noted, however, that the Project Office needed to improve its controls over administrative expenses, such as salaries, and believe that BLM's Nevada State Office should exercise stringent oversight over these expenses. While the instances and amounts of questionable charges we tested during fiscal year 2002 were relatively small, we are concerned that the growing balance in the special U.S. Treasury account and the expansion of the SNPLMA program by recently passed legislation may increase the risk of abuse. For example, within the near future, the Project Office will gross in excess of \$1 billion from federal land sales and other receipts related to the use of land transferred to Clark County's Department of Aviation. We believe that such large sums could represent a serious temptation for BLM managers to use part of these monies to supplement their budgets. We discussed our concerns with BLM's State Director and Associate State Director for Nevada, who agreed that effective fund control would be implemented and enforced by a Project Office business manager reporting directly to the Nevada State Office.

We also advised that the Project Office should finalize an enforceable operating agreement with Clark County's Department of Aviation to delineate respective responsibilities for complying with SNPLMA provisions regarding the disposition of the 5,200 acres of land.

The legislation, as amended, creating the Office of Inspector General requires that we report to Congress semiannually on all audit reports issued, actions taken to implement our audit recommendations, and recommendations that have not been implemented. We especially appreciate the cooperation shown by BLM staff during our review. A response to this report is not required. However, if you have any questions regarding the report, please call me at (916) 978-5653.

Attachment

cc: Audit Liaison Officer, Bureau of Land Management (MS 1000 L Street)

Southern Nevada Public Land Management Act

Las Vegas, one of the fastest growing cities in the United States, is landlocked by federal lands. Over the past decade, the population has increased by more than 60,000 people per year. To accommodate this rapid growth and expedite the disposal of federal land, Congress enacted SNPLMA in 1998 (Public Law 105-263, 31 USC 6901).

SNPLMA allows BLM to sell federal land (about 27,000 acres) primarily through public auctions, establish a special U.S. Treasury interest-bearing account, and use the resulting receipts for educational and environmental purposes and capital improvements. In addition, SNPLMA directed BLM to transfer ownership of about 5,200 acres of land in the McCarran Airport Cooperative Management Area (CMA) to Clark County to help the County enforce regulations concerning airport noise within the CMA. BLM is entitled to 85 percent of any receipts from the sale, lease, or other conveyance of CMA lands.

As of March 31, 2003, SNPLMA has generated \$262.8 million.¹ By July 31, 2003, an additional \$143.8 million representing final payments from the November 2002 live auction and the January 2003 Internet auction is scheduled to be collected. By July 31, 2003, SNPLMA will have generated at least \$406.6 million (see Figure 1).

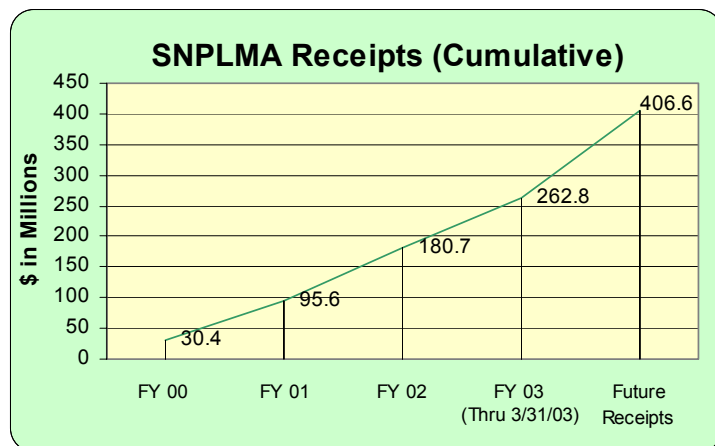


Figure 1

¹The \$262.8 million comprises the following: \$189,577,161 from live and Internet auctions; \$8,229,540 from direct land sales; \$48,308,917 from the use of CMA lands; \$5,691,053 from interest earnings; and \$10,987,676 from land exchanges, mineral conveyances, and forfeitures.

Under SNPLMA, state and local governments get “first pick” of available land for public purposes, and BLM and the applicable unit of local government jointly select the lands to be offered for sale. SNPLMA provides an opportunity for anyone, not just select private parties with a successful track record for completing land exchanges with federal agencies, to purchase federal land and lets the market place set the price of the land to be sold through competitive sales. It allows BLM to privatize federal land around the Las Vegas Valley to facilitate community growth.



Typical federal land being sold to private parties under SNPLMA
OIG Photo

Selling federal lands (primarily by auction) has generated \$197.8 million of the \$262.8 million. Receipts from land sales are distributed as follows: 5 percent to the State of Nevada for use in general education, 10 percent to the Southern Nevada Water Authority, and 85 percent to a special U.S. Treasury account that is managed by BLM’s national business center. The distribution of land sales receipts as of March 31, 2003, is shown in Figure 2.²

²As of March 31, 2003, distributions to the State of Nevada and Water Authority were less than the required 5 percent and 10 percent because of timing differences related to collecting the remaining receipts from the November 2002 and the January 2003 land sales. BLM typically makes the required distributions after all land sales receipts have been collected.

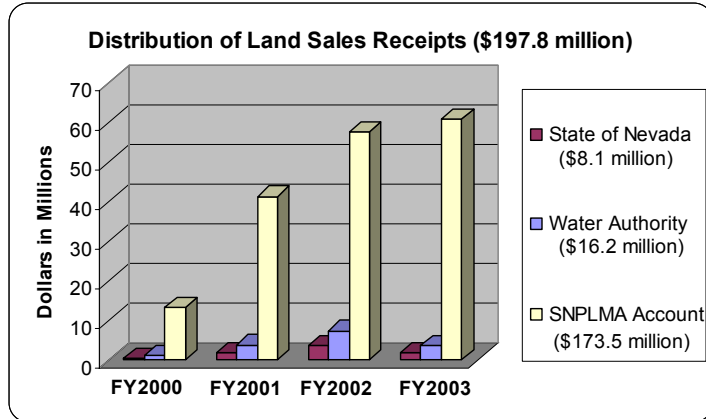


Figure 2

With the Secretary’s approval, receipts deposited into the special U.S. Treasury account can be used for the following:

- To purchase environmentally sensitive lands in the State of Nevada.
- To pay for capital improvements at the Lake Mead National Recreation Area; the Desert National Wildlife Refuge; the Red Rock Canyon National Conservation Area; and other areas administered by BLM in Clark County, including parks, trails, and natural areas.
- To develop a multi-species habitat conservation plan.

Of the reported \$220.5 million³ deposited in the special U.S. Treasury account, \$23 million has been expended and \$85.2 million obligated or set aside to pay for land, capital improvements, and habitat conservation plans; \$6 million has been expended for administrative expenses; and \$5.8 million has been reserved for acquiring environmental lands at Lake Tahoe. The remaining \$100.5 million is available to be expended in accordance with SNPLMA.

³Of the \$262.8 million generated by all of SNPLMA’s funding sources, about \$14.1 million was distributed to the State of Nevada, \$23.4 million was distributed to the State’s Water Authority, and an additional \$4.8 million was retained by Clark County’s Department of Aviation. The remaining \$220.5 million was deposited in the special U.S. Treasury account.

BLM Doing Good Job in Implementing SNPLMA but Controls Needed in Some Areas

Although more work remains to be done, BLM has done a good job of implementing SNPLMA in a businesslike manner. It has established a Project Office; forged effective partnerships with federal, state, and local governmental agencies; implemented a successful land sales program validating the competitive sales approach; transferred 5,200 acres of federal land to Clark County's Department of Aviation in a timely manner; and established and effectively administered a special U.S. Treasury account. We noted, however, that the Project Office needs assistance from the Nevada State Office in controlling inappropriate assessments for operational or administrative expenses, such as salaries, against the special U.S. Treasury account. The Project Office also needs to finalize an operating agreement with Clark County's Department of Aviation, which delineates respective responsibilities for complying with SNPLMA provisions.

SNPLMA's Project Office and BLM's national business center have worked together to develop and maintain good controls in accounting for and disbursing the receipts derived from federal land sales. The business center's senior operations accountant worked with SNPLMA's business manager, certified collection officers, realty specialists, General Services Administration personnel, and BLM law enforcement rangers to provide good accountability over sales receipts, disbursements for program purposes, and interest earned from SNPLMA receipts.

Success of Land Sale Program Validates Competitive Sales Approach

The success of the land sales program established by the Project Office validates a competitive approach as the best means of disposing of federal land. Thus far, the program, which lets the market place set the price of land through live or online Internet auctions, has garnered about \$333 million for the federal land sold.⁴ From November 1999 through March 31, 2003, the Project Office, in coordination with the General Services Administration, completed seven live and five online auctions. In many

⁴There is a delay in collecting the total sale price from the winning bidder, who conveys 20 percent of the sale price to BLM on the date of the auction and pays the remaining 80 percent within 6 months. If the bidder defaults on the payment, BLM retains the deposited funds and resells the land. As of March 31, 2003, \$189,577,161 has been collected, an additional \$127,280,000 is in escrow, and the remaining \$16,530,450 should be collected by July 31, 2003.

cases, the highest bid for a parcel of land exceeded its appraised value. BLM records indicated that the appraised value of the 3,897⁵ acres sold was \$223 million, yet the acres sold for \$333 million or \$110 million over their appraised value (see following table).

Auction Date*	Acres Sold	Appraised Value	Sales Price	Amount over Appraised Value
Nov 99	105	\$7,855,500	\$9,478,500	\$1,623,000
Jun 00	110.16	13,812,500	15,079,000	1,266,500
Nov 00	198.05	18,742,500	20,807,000	2,064,500
May 01	2,015.50	53,013,000	62,170,501	9,157,501
Nov 01	131.20	10,665,000	14,326,110	3,661,110
Jul 02	210	22,382,500	31,610,000	9,227,500
Nov 02	1,127.50	96,431,450	179,916,500	83,485,050
Totals:	3,897.41	\$222,902,450	\$333,387,611	\$110,485,161

* The totals for each auction date incorporate the sales totals for follow-up Internet auctions.

BLM officials told us that the partnerships established with local agencies to nominate land for sale have reduced the risk of trying to sell lands that are not desirable. BLM officials also acknowledged that the success of the land sales program is due to the high demand for federal land in an upward spiraling, volatile real estate market with more bidders than land. Receipts from each auction exceeded appraised values, and the November 2002 auction alone exceeded appraised values by almost 90 percent (see Figure 3):

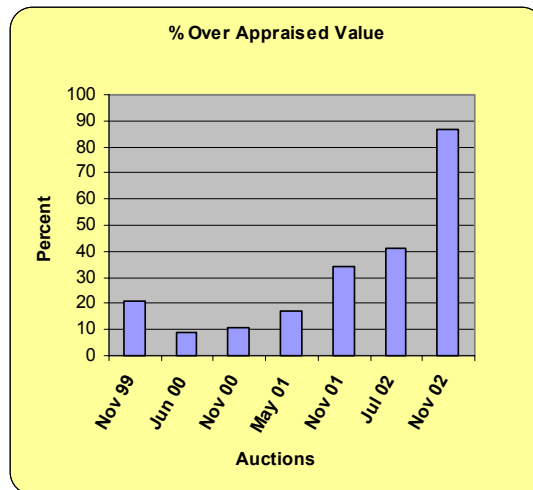


Figure 3

⁵ Of the 3,951 acres offered for sale, 3,897 acres have been sold.

BLM's emphasis on customer service also contributed to the success of the land sales program. For example, BLM designed Web pages and pamphlets to keep its customers and prospective bidders informed of critical land sale information, such as general auction procedures, terms of sale, eligibility of bidders, procedures for bidding, and daily bidding results for online auctions.

We believe that the success of the land sales program confirms the value of the competitive sales approach advocated by proponents of SNPLMA in disposing of federal land and generating the greatest return to the taxpayer. To illustrate, in the November 2002 live and follow-up Internet auctions, BLM sold 1,127.50 acres of land for about \$180 million to 26 private parties. The appraised value of the land was about \$96 million. One investor group alone purchased 992.5 acres of land in three separate transactions for \$159.1 million. Appraised value of the acres was about \$81.8 million.

The competitive sales approach contrasts sharply with previous BLM practices of disposing of federal land primarily through exchanges to select groups and using appraisals to establish the market value of the lands to be exchanged. Past General Accounting Office (GAO) and Office of Inspector General reports have criticized this method and questioned whether the appraisals resulted in lands being conveyed at lower values than those established by competitive sales. To illustrate, GAO's report *BLM and the Forest Service, Land Exchanges Need to Reflect Appropriate Value and Serve the Public Interest* (No. RCED-00-73), issued in June 2000, stated that BLM had given more than fair market value for land it acquired and received less than fair market value for public land it conveyed because the appraisals used to estimate land values did not always meet federal standards. Under SNPLMA the highest bidder in an auction establishes the price of federal land to be sold.

Partnerships with Local Governments Working

BLM has developed effective partnerships with local governments to jointly select the lands to be sold, and sales have progressed smoothly. These partnerships have also assisted BLM in conveying public land needed for local public use. Under SNPLMA and the Recreation and Public Purposes Act (43 USC 869 et. seq.), BLM can convey federal lands to local governments at low or no cost for

public use. BLM has worked with local governments, such as school and library districts, to give them an opportunity to select lands needed for such use before the land is sold, thereby demonstrating a commitment to the needs of the local communities. BLM reported that it has provided 2,256 acres of land to local governments since passage of SNPLMA.



Federal and private land conveyed to the Red Rock Canyon National Conservation Area under SNPLMA

Photo Courtesy of Photographer Chris Ross, BLM

Magnitude of Land Sales and of Other Receipts Highlights the Need for Improved Controls

The success of the land sales program mandates strict oversight and controls over funds disbursed for administrative salaries and other administrative expenses incurred to implement SNPLMA.⁶ We expect that in the next 2 to 3 years, the Project Office will likely gross in excess of \$1 billion from federal land sales and receipts related to the use of CMA lands. Our expectation is based on the recent passage of the Clark County Conservation of Public Land and Natural Resources Act (Public Law 107-282), which expanded the SNPLMA disposal boundary by an estimated 20,000 acres and increased, to about 43,000 acres, the amount of federal land remaining to be disposed of. In addition, the average sales price for each acre sold has exceeded \$85,000 per acre. Because of the

⁶Under SNPLMA, BLM can expend program receipts for arranging and administering federal land sales, completing land exchanges, and paying the administrative costs of implementing SNPLMA. Senate Report 106-99 defined administrative costs as those necessary to establish and administer the Special Account, transfer CMA lands to Clark County, develop implementation procedures, and consult with legal counsel.

growing balance in the special U.S. Treasury account and the expansion of the SNPLMA program, we believe that the Nevada State Office must provide stringent oversight for the disbursement of funds for Project Office expenses, particularly administrative salaries and costs.

We found, however, that BLM's Las Vegas Field Office⁷ was inappropriately charging Field Office employee salaries to the Project Office even though the employees did not work on Project Office activities to the extent that they charged their salaries to Project Office activities. While we did not identify the full extent of these inappropriate assessments, the following cases illustrate our concerns.

- A Las Vegas Field Office realty specialist was told by her supervisor to charge all work time to Project Office work codes for the remaining 5 months of fiscal year 2002, even though the specialist spent only about 1 month of her time working on Project Office related activities during that time. In response to our questions, a Las Vegas Field Office official stated that funding for the realty specialist would be fully expended before the end of the fiscal year and that it was necessary to charge her time to the Project Office activities.
- About \$85,000 of the Las Vegas Field Office manager's salary was paid for by SNPLMA receipts in 2002. Yet, in 2001, none of the salary was paid for by SNPLMA receipts. The manager stated that he worked on Project Office activities in both years but acknowledged that records were not routinely kept to support these charges.

A business manager hired in 1999 to oversee the financial activities of the SNPLMA program and the Project Office was not given authority to disallow erroneous or improper salary or other administrative charges assessed against SNPLMA funds. An internal memorandum prepared by the Nevada State Director's office authorizing such fund control for the manager was never implemented. We discussed our concerns with the State Director and the Associate State Director for Nevada, who agreed to

⁷At the time of our review, the Las Vegas Field Office was co-located with the Project Office.

implement stringent fund controls and assured us that the business manager would have this control. They also told us that while most Project Office activities would fall under the jurisdiction of the Las Vegas Field Office, the Project Office’s business manager would report to the Nevada State Office.

CMA Transfer Completed, But Operating Agreement Should Be Finalized

In addition to providing for the sale of public land, Section 4(g) of SNPLMA directed BLM to transfer ownership of about 5,200 acres of land in the McCarran Airport Cooperative Management Area (CMA) to Clark County, Nevada. On March 30, 1999, 6 months after passage of SNPLMA, BLM transferred ownership of these acres. Clark County designated the County’s Department of Aviation as the lead agency in administering, managing, and disposing of CMA lands. As of March 31, 2003, the Department of Aviation had reported collections of \$48.3 million⁸ from CMA lands (Figure 4).

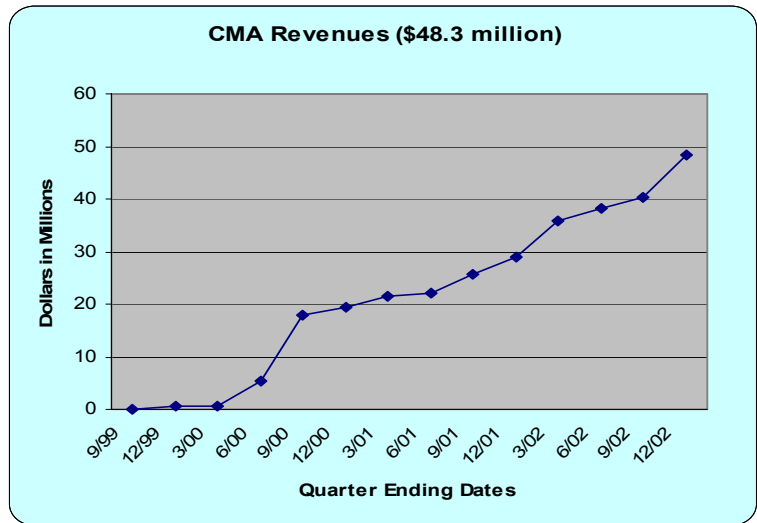


Figure 4

Under SNPLMA, the County remits to BLM 85 percent of any proceeds derived from the sale, lease, or other conveyance of CMA lands, such as land exchanges. The State of Nevada receives 5 percent for educational purposes, and the Department of Aviation retains the remaining 10 percent. Since March 1999, the County has completed 31 land exchanges, in which it disposed of about

⁸Proceeds were derived from the cash payments required to equalize the values of exchanged lands and from the sale and lease of other CMA lands.

900 acres and acquired 513 acres within the CMA, and has correctly remitted the proper funds to BLM (Figure 5).

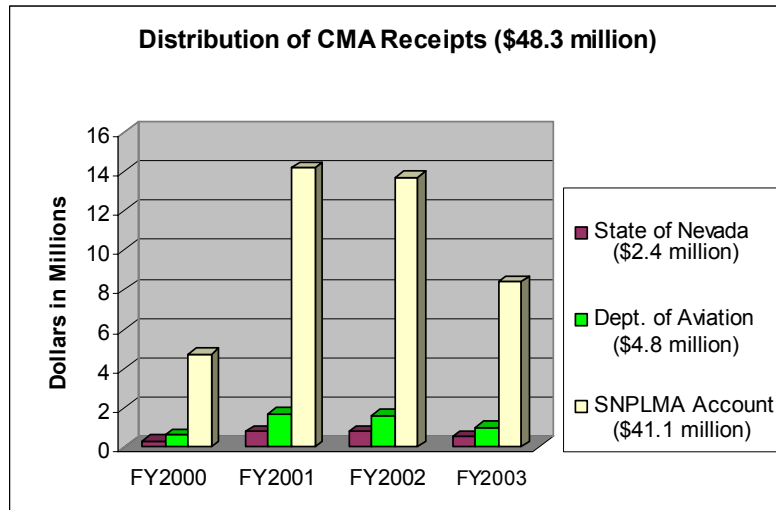


Figure 5

We also believe that BLM and the Department of Aviation should finalize an enforceable operating agreement that they have been negotiating since December 2001 to delineate their respective responsibilities for complying with SNPLMA provisions regarding CMA lands. It makes good business sense to finalize this agreement, which we believe should address, at a minimum, submissions of County financial reports, provisions for updated land maps, conduct of County audits, exchanges that include land outside CMA boundaries, legal notices, modifications and amendments, and mediation of disputes. Both BLM and the County agreed that the agreement should be finalized.

A December 2000 publication (*Property Disposal Program for Cooperative Management Area (CMA) Properties*) addressed the sale, lease, or exchange of CMA lands; listed the general location of desired land acquisitions; and stated that exchanges reducing residential development within the CMA area would be the County's highest priority. We found the County had generally identified the land acquired through the exchanges in its December 2000 publication.

Appendix

Scope and Methodology

Our review included BLM activities related to implementing SNPLMA from its enactment in 1998 through March 2003 and selected activities related to the disposition of CMA lands managed by Clark County's Department of Aviation. We conducted our review at BLM's Las Vegas Field Office and the McCarran Airport in Las Vegas, Nevada.

We undertook our review, in part, because of news articles and inquiries from concerned individuals who questioned the County's use of land exchanges and its acceptance of the best offer in lieu of a higher offer for some of the lands exchanged. We addressed these issues during our review. Our Office of General Counsel concluded that Nevada statutes provided authority for the exchanges and that it was legally defensible for Clark County to accept either the highest offer or an offer that allowed the County to meet its priority of limiting incompatible development near the airport.

We conducted our review, as applicable, in accordance with the *Government Auditing Standards* issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that we considered necessary under the circumstances. To accomplish our objective, we reviewed (1) applicable federal laws, including Nevada statutes, (2) Congressional briefings and testimony, (3) BLM policies and procedures for implementing provisions of SNPLMA, (4) Clark County Department of Aviation planning documents, maps, and Land Trade Analysis that depicted the scope of County land exchanges, (5) news articles and written complaints questioning Clark County's land exchanges within the CMA, (6) Project Office budgets, receipts, and expenditure documents, and (7) correspondence and other documents maintained at the Project Office to identify key actions and decisions of BLM and Airport officials concerning the implementation of all provisions of SNPLMA.

As part of our review, we evaluated BLM's system of internal controls related to implementing provisions of

SNPLMA and controls related to accounting for disbursing receipts to the extent we considered necessary to accomplish our audit objective. In this regard, we expanded on our previous review, the results of which are included in our “Advisory Letter” of June 5, 2001 (see Prior Audit Coverage). In our current review, we validated that Project Office managers maintained the same internal controls over receipts and disbursements or had improved on them. Since the previous review, we noted that the Project Office had sought additional help from BLM’s national business center regarding investing, controlling, and accounting for SNPLMA receipts. We also noted that the Project Office had issued standard operating procedures for the auctions, which included delineating specific roles and responsibilities for BLM staff, including staff of BLM’s national business center.

Although we validated that the Project Office had maintained or improved internal controls over receipts and disbursements, we found a minor weakness relating to fund control, which is discussed in the “Magnitude of Land Sales and of Other Receipts Highlights the Need for Improved Controls” section of this report. Based on discussions with BLM State and Associate State Directors for Nevada, we did not issue any recommendation in this regard.

We also reviewed Department of the Interior Reports on Accountability for fiscal years 2001 and 2002, which included information required by the Federal Manager’s Financial Integrity Act of 1982, and BLM’s annual assurance statements on management controls for fiscal years 2001 and 2002. We determined that no material weaknesses directly relating to the objective of our review were reported.

As part of our review, we also evaluated whether BLM included SNPLMA activities when reporting to Congress under the Government Performance and Results Act of 1993 (GPRA) (Public Law 103-62). GPRA requires that each federal department and agency prepare annual performance reports comparing planned accomplishments for mission-related activities with results actually achieved. BLM’s Annual Performance Plans for fiscal years 2002 and 2003, which include BLM’s Annual Performance Reports for fiscal years 2000 and 2001, discussed SNPLMA land

sales activities under the GPRA program activity: “Provide Economic and Technical Assistance,” (Long-Term Goals 01.06.03 and 01.06.04). BLM reported that it had accomplished the disposal of 345,902 acres of federal land outside the State of Alaska in support of local community and state economic needs. Although BLM identified SNPLMA land sale activities as one of the most innovative land conveyance authorities, BLM did not specifically identify or compare SNPLMA’s planned accomplishments with the results of its land sale activities (3,897 acres sold). Given that the results of SNPLMA land sale activities comprised only a small portion of BLM’s reported land disposal activities, we agree that BLM should not specifically identify goals and measures for SNPLMA land sale activities. In addition, we noted that BLM had developed a strategic plan to implement SNPLMA and produced a fiscal year 2002 Annual Performance Plan including program goals, which were compared with SNPLMA accomplishments.

Prior Audit Coverage

The Office of Inspector General issued one Memorandum Advisory Letter since SNPLMA’s inception in 1998. Our review was conducted in September and October of 2000 at the request of BLM to evaluate BLM controls over receipts and disbursement of funds derived from land sales authorized by SNPLMA. We concluded that the Project Office had established sufficient internal controls over receipts and disbursements. We noted a minor weakness in the separation of duties over cash deposits and reconciliations with the Department’s collection and billing system, which was resolved prior to issuance of our Advisory Letter on June 5, 2001.

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