

INFORMATION/ BRIEFING MEMORANDUM FOR LEGISLATIVE AFFAIRS

DATE: September 15, 2015
FROM: Chip Kimball, South Dakota Field Manager, 605-892-7001
SUBJECT: Congressional Transfer of BLM Land to the Black Hills National Cemetery

The Veteran's Administration (VA) has proposed the acquisition of BLM land adjacent to the Black Hills National Cemetery to provide burial space for future needs. Congressional action on this proposal is recommended as the BLM is restricted to a 20 year term withdrawal and the VA requires perpetual transfer of the property.

BACKGROUND

The BLM and the VA have been working toward resolution of this proposal for a number of years and have exhausted all known means of jurisdictional transfer. Field Manager Kimball and Cemetery Director Austin met with the South Dakota Veterans Cemetery Steering Committee (SDVCSC) May 13, 2015 to brief them on transfer options. This organization approached the Congressional Delegation to propose a legislative transfer.

Senator Thune has presented a bill, S.1924, which is now in the Energy and Natural Resources Subcommittee, to handle the transfer. On a parallel line, the VA is developing a package to go forward in FY17 for a similar proposal.

DISCUSSION

As part of the legislation, Congress will need to address the following to have the transfer take place:

1. Survey Requirements

There is not an existing legal description established by a federal survey depicted on the Master Title Plats that describes what lands the VA is requesting, and thus acreages can only be estimated via GIS. Therefore, a cadastral survey must be done in order to establish a boundary and specific acreage of land to be transferred. VA has agreed to pay for this survey in the past, therefore, BLM recommends that any proposed legislation should specify a federal survey be conducted by the BLM to establish a legal description and boundaries and be paid for by the VA.

2. Grazing

Cattle grazing does occur on the Ft. Meade Recreation Area and is authorized through a vegetative contract allowing the permittee to graze for up to three years. Therefore, the BLM would adjust Animal Unit Months (AUM's) before the next three year vegetative contract cycle. The current contract is set to expire in 2017, and grazing use would need to be allowed until expiration of this contract. The land transferred from the BLM to the VA could be removed from the next vegetative contract bidding process, which is set for 2017. Once the existing contract

expires and the land transfer is effective, VA will be tasked with determining if grazing continues.

3. Rights-of-Way

Records indicate two authorized ROW cross the land proposed for transfer. These include:

SDM 2232 Black Hills Power & Light Powerline. Perpetual
SDM 14258 12” gas pipeline held by Williston Basin Pipeline Co. Perpetual.

Both of these Rights-of-Way should be protected as valid existing rights. The VA is aware of these Rights-of-Way as they bisect the existing Cemetery grounds.

4. Mining Claims

No mining claims exist based on a mining claim report dated 9/11/2015, and the area is withdrawn from locatable minerals under the mining law based on the provisions in PLO 2112.

5. Other Mineral Uses/Geothermal

While the land is withdrawn from the mining law, the existing PLO 2112 did not close it to mineral leasing (sand and gravel). It would seem reasonable that legislation should address whether those uses are compatible with use of the land as a National Cemetery and address how these mineral resources would be managed, as well as that BLM would have jurisdiction over the mineral estate.

No geothermal resources exist in the area.

Assuming BLM would retain jurisdiction over the minerals, the legislation should contain language to modify PLO 2112 to change the purpose of the transferred area for management as a National Cemetery, but retain the segregation from locatable mineral entry, and perhaps also indicate that the area would be closed from other mineral leasing since those use would be incompatible with a cemetery.

6. Water Rights

The BLM does not hold water rights on this tract.

7. ACEC

Following the intent of Public Land Order No. 2112, which withdrew the area from appropriation under the public land laws, and reserved the area for conservation of natural resources, the property was set aside as part of a larger ACEC. With the modification of this portion of PLO 2112, the legislation should also remove the ACEC designation from this portion of the tract.

The adjoining section of the Centennial Trail will be retained by the BLM to maintain continuity of this purpose.

8. Cultural Resources

Cultural surveys are being conducted through cooperative efforts of the VA and the BLM.

9. Wildlife

No threatened or endangered species are known to inhabit the proposed area of transfer, nor does it contain sage grouse habitat. There are no wild horses or burros in the area.

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