United States General Accounting Office

GAO

Report to Congressional Committees

March 2000

FEDERAL LAND MANAGEMENT

Land Acquisition Issues Related to the Baca Ranch Appraisal

GAO

Accountability * Integrity * Reliability

GAO/RCED-00-76

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Abbreviations

GAO General Accounting Office

United States General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-284411

March 2, 2000

Congressional Committees

The Baca Location No. 1 (the Baca Ranch) is a privately owned ranch covering almost 95,000 acres in northern New Mexico that the Department of Agriculture's Forest Service (the Service) wants to buy because it contains a diversity of natural features—including volcanic and geothermal features and a scenic setting—and is almost completely surrounded by the Santa Fe National Forest.

To establish a price for the ranch, the owners commissioned an appraisal of the property and the Service reviewed the appraisal to assure that it complied with federal appraisal standards, which address the principles applicable to appraising property for federal acquisition.[1] The owner's appraisal was done by certified appraisers and completed in September 1998; it identified and evaluated sales of ranches that it considered to be comparable to the Baca Ranch and concluded that the property's fair market value was $1,061 per acre, or $101 million in total. In order to facilitate its review of the appraisal, the Service commissioned a market study by another certified appraiser—completed in June 1998—that also identified and evaluated sales of ranches that it considered to be comparable to the Baca Ranch. The market study was not intended to be an appraisal of the Ranch's value and did not include an inspection of the Ranch. Two Service appraisers used the market study when they reviewed the owner's appraisal, and in September 1999, they found that the appraisal met federal standards and approved it. In October 1999, the Service and the owners signed a purchase agreement for the appraised value, and in November 1999, the Congress appropriated $101 million for the purchase.

[1]See *Uniform Appraisal Standards for Federal Land Acquisitions,* Interagency Land Acquisition Conference (1992). These standards were prepared to promote uniformity in the appraisal of real property among the various agencies acquiring property on behalf of the United States. The Interagency Land Acquisition Conference is chaired through the Department of Justice and composed of representatives of many federal agencies that acquire land.

The Appropriations Act for the Department of the Interior and Related Agencies for fiscal year 2000[2] provides that the Service can use these funds to buy the ranch when three conditions are met: (1) the Congress enacts legislation authorizing its acquisition, (2) GAO reviews the appraisal, and (3) GAO issues a report on the results of its review. The act requires us to issue our report within 90 days of its enactment. This report discusses the extent to which the value established by the owner's appraisal was consistent with the comparable property sales data presented in the appraisal and in the Service's market study and other key factors that influenced the appraisal's final outcome.

To determine whether the appraised value is consistent with data on comparable sales and what key assumptions were used, we examined the owner's appraisal, the Service's appraisal review report, and the Service's market study. We also contracted with E. Nelson Bowes—an independent and certified appraiser in Denver, Colorado, who has over 30 years' experience in appraising properties, including recreational and other investment real estate, and who has worked with various government entities—to conduct a desk review of the appraisal. His review included determining whether the appraisal is consistent with professional standards and his professional opinion on whether the data in the appraisal support its value conclusion; he did not reappraise the property or visually inspect it or the comparable properties. We also provided him with the Service's market study for his consideration in reviewing the appraisal. Because we were told by the owner's representative that the property was inaccessible due to winter conditions during the 90-day window of the mandate—November 29 through February 27—neither we nor our independent appraiser visited it during our review. We conducted our review from December 1999 through February 2000 in accordance with generally accepted government auditing standards.

[2]Public Law 106-113 (Nov. 29, 1999).

Results in Brief

Although the owner's appraisal of the Baca Ranch's value complied with federal appraisal standards, the appraised value is higher than supported solely by sales of comparable properties presented in the appraisal and in the Service's market study because it reflects a premium. In arriving at a value, the owner's appraisal identified sales of 16 large ranch properties located in New Mexico and Colorado that it considered comparable to the Baca Ranch in one or more ways, such as location, topographical features, and usage. On the basis of professional judgment, the owner's appraisers relied heavily on two higher-valued properties (with prices of $880 per acre and $1,395 per acre),[3] which were considered most comparable in terms of location and usage, to estimate the Ranch's value of $101 million. Because the appraisers relied on high-valued properties to establish the Baca Ranch's value, that value reflects a premium over what it would be if it were computed on the basis of all 16 comparable sales; for example, using a weighted average of these sales results in a value that is $37 million less than the appraised value. In reviewing the owner's appraisal, the Service's chief appraiser examined the data in the appraisal and in the Service's market study. He told us that he had questions about the value in the owner's appraisal until he made a visual inspection of the property, which led him to agree that a premium value was warranted because of the property's unique size, beauty, and physical characteristics.

The Service's market study presents data on sales of 11 comparable properties (4 of which are also used in the owner's appraisal) that also support a range of lower values for the Baca Ranch—the high end of which was still $37 million less than the appraised value. Furthermore, our independent certified appraiser similarly found that the appraised value was higher than supported by information in the appraisal, which showed that some of the low-valued properties had similar physical characteristics and were comparable to the Baca Ranch. However, because he did not reappraise the property, he did not estimate what the Baca Ranch's value should be. On the basis of our analysis of the comparable property sales data presented in the owner's appraisal and in the Service's market study, the government would be paying a premium for the Baca Ranch if the value in the owner's appraisal is used to establish its price.

[3]The appraiser adjusted the actual sales prices to account for changes in land prices over time.

Background

Federal appraisal standards require that property to be acquired by the federal government be appraised at fair market value. According to the standards, the fair market value is the amount for which a property would be sold—for cash or its equivalent—by a willing and knowledgeable seller with no obligation to sell to a willing and knowledgeable buyer with no obligation to buy. Determining the fair market value requires the appraiser to first identify the property's "highest and best use," defined as the use that is physically possible, legally permissible, financially feasible, and maximally profitable for the owner.

To comply with federal appraisal standards, appraisers must then use one or more of three accepted valuation approaches: the sales comparison approach, which estimates a property's value by comparing it with comparable properties that have been sold; the income approach, which estimates a property's value by applying a capitalization rate to its potential net income; and the cost approach, which estimates a property's value by adding the estimated value of the land to the current cost of constructing replacements for any improvements (such as buildings) less depreciation on those improvements. The sales comparison approach is generally considered to be the most reliable when sufficient market data are available. It considers various factors—such as the location, size and other physical characteristics, and uses of the properties—to estimate the extent of comparability between the property being appraised and the comparable properties. A property's size is one of the physical characteristics considered when determining the extent of comparability between two properties; other things being equal, smaller parcels of land tend to have higher per-acre values than larger parcels. On the basis of the prices of the properties that are judged the most comparable, the appraiser then estimates the value of the property being appraised.

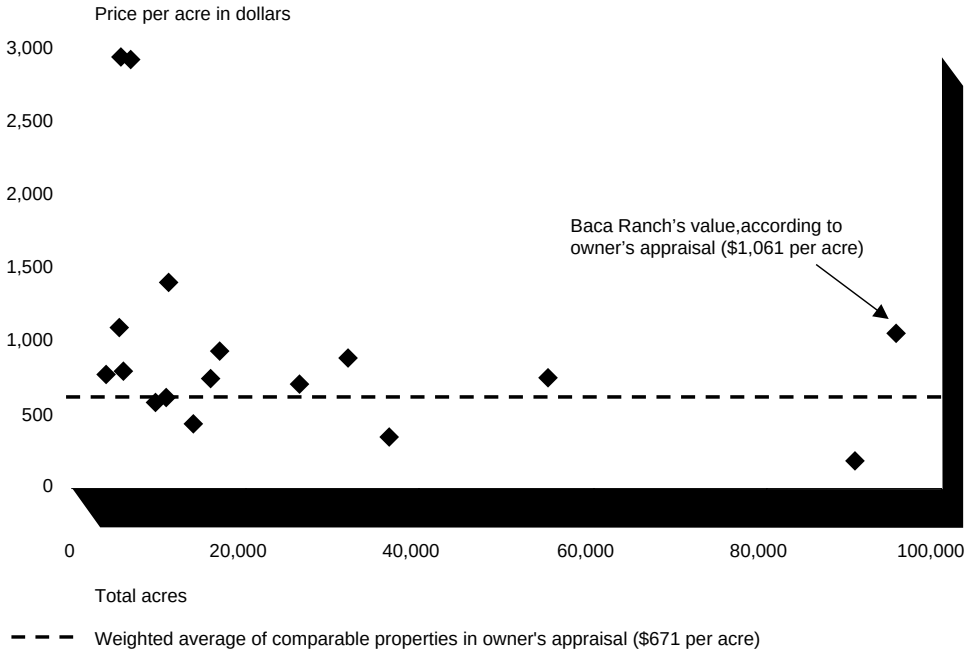
Federal appraisal standards also require, among other things, that appraisers collect, verify, analyze, and reconcile available data; identify and consider appropriate market information; use all pertinent information in developing the appraised value; and report their analyses, opinions, and conclusions clearly and accurately in a manner that is not misleading and that contains sufficient information to allow users of the report to understand it properly. The standards generally address appraisal procedures and documentation rather than outcomes; different appraisers can consider the same data and follow the same methodology but develop different estimates of appraised values, because they apply different professional judgments, and still comply with the standards. The federal

standards also state that it is essential for appraisers to visually inspect the properties that they are appraising, as well as properties used as comparisons.

Data on Comparable Sales Support a Lower Value for the Baca Ranch

While the September 1998 owner's appraisal is consistent with federal appraisal standards, it presents data on comparable ranch properties that support a value for the Baca Ranch that is lower than $101 million. The appraisal used the sales comparison approach because the property, which the appraisers considered to be a "trophy ranch" that is used primarily for recreation, produces relatively little income and has relatively few building improvements. The appraisal process first considered over 50 sales of properties as possible comparable sales, then narrowed the number to 16 large ranch properties located in New Mexico and Colorado that were more comparable to the Baca Ranch. These 16 properties had per-acre prices (adjusted to account for changes in land prices over time) ranging from $2,908 for 5,800 acres to $196 per acre for 90,000 acres (the only property of the 16 that is approximately the same size as the Baca Ranch). Figure 1 shows the time-adjusted price per acre and the total acres for each of the 16 ranches, the weighted average price per acre, and the appraised value of the Baca Ranch.

Figure 1: Price per Acre v. Total Acres for All 16 Comparable Property Sales Included in the Owner's Appraisal, the Weighted Average Price per Acre for These Sales, and the Appraised Value of the Baca Ranch



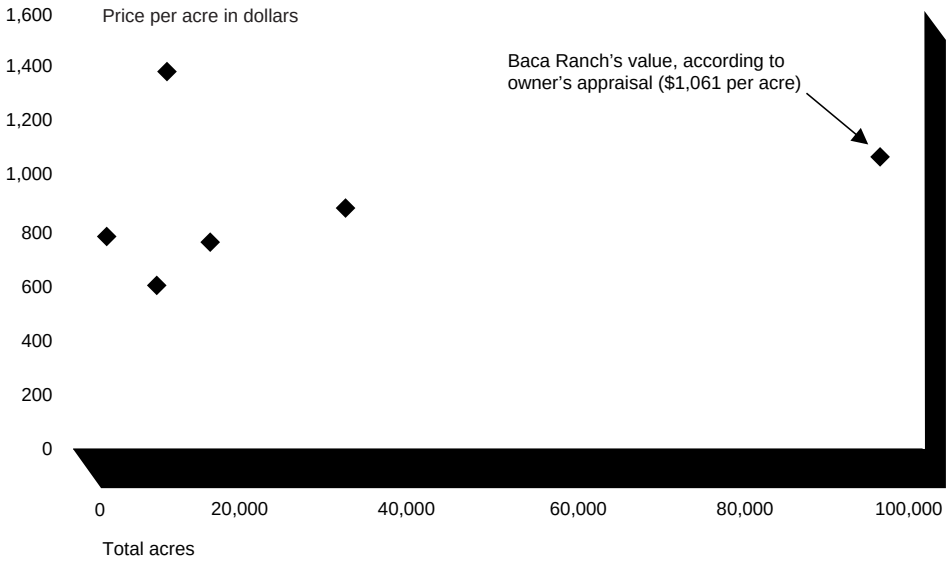
We computed the weighted average per-acre price for all 16 comparable ranches presented in the appraisal to be about $670 per acre.[4] Although a weighted average does not reflect all of the factors affecting a property's value, it shows that, on average, the value of the comparable properties is about $390 per acre lower—and $37 million lower, in total—than the appraised value of the Baca Ranch.

The appraisal further narrowed its consideration of comparable sales to five properties. Although these five properties were much smaller in size than the 95,000-acre Baca Ranch (they range from about 4,000 to about 32,000 acres), the appraisal considered them to be the most relevant on the basis of other factors, such as the date of sale, location, physical characteristics (other than size), and diversity of use. The appraisal

[4]For the properties that the appraiser had not already adjusted, we adjusted the sale prices to reflect an increase in land values of 4 percent per year so that these data would be more comparable to those presented in the appraisal.

analyzed the comparability of each of the five properties to the Baca Ranch and assessed four to be inferior and one to be superior. To account for changes in land prices over time, the appraisal adjusted the actual sales prices to their 1998 equivalents by applying an adjustment factor of 4 percent per year, resulting in a per-acre price range from $593 per acre to $1,395 per acre. The appraisal estimated that the Baca Ranch's value fell between the values of two properties that were most comparable to the Baca Ranch in terms of location and usage and that were also the highest of the five properties in price per acre: the superior property, which had a time-adjusted value of $1,395 per acre (for about 11,000 acres), and an inferior property, which had a time-adjusted value of $880 per acre (for about 32,000 acres). The appraisal calculated the Baca Ranch's value by assigning 85 percent of the per-acre value to the most comparable superior and inferior properties (40 percent and 45 percent, respectively) and the remaining 15 percent to the three lower-valued properties (5 percent each), resulting in the appraised value of $1,061 per acre for the Baca Ranch. By relying on the two high-valued properties, the appraisal resulted in a per-acre value that reflects a premium over what it would have been had it been computed on the basis of all 16 sales of comparable properties. Figure 2 shows the price per acre and the total acreage of the five properties that the appraisal classified as most relevant and the appraised value of the Baca Ranch.

Figure 2: Price per Acre v. Total Acres for the Five "Most Relevant" Comparable Property Sales Included in the Owner's Appraisal, and the Appraised Value of the Baca Ranch



In reviewing and approving the Baca Ranch appraisal and the appraised value, two review appraisers in the Service verified that it was complete and accurate, that its analysis and conclusions were logical, and that it met federal appraisal standards. As part of their review, the review appraisers visually inspected the Ranch as well as other properties discussed in the appraisal. The Service also used a market study, completed in June 1998, to define the market and identify sales of properties that would be relevant to the sale of the Baca Ranch. Consistent with the appraisal, the study applied the sales comparison approach to estimate the Ranch's value. The study analyzed sales of 11 large ranch properties located in New Mexico and southern Colorado (ranging from about 2,000 acres to about 95,000 acres) and classified them as superior, equal, or inferior to the Baca Ranch on the basis of several factors—such as the property's location and size, the presence of buildings or other improvements, and amenities such as trees and water.[5] Using a valuation technique similar to that used in the

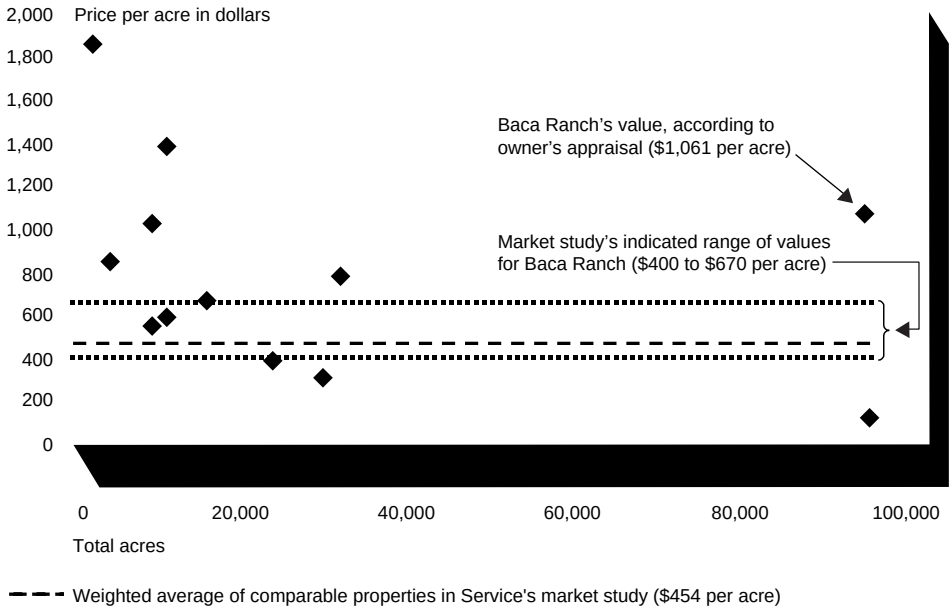
[5]Four of the 11 comparable properties identified in the Service's market study were also included in the 5 comparable properties identified as most relevant in the owner's appraisal.

appraisal, the study placed the Baca Ranch's value between a property with a price of $670 per acre (for about 16,000 acres) and another with a price of $400 (for about 24,000 acres); one property was judged to be equal to the Baca Ranch, at about $580 per acre (for about 11,000 acres). These values range from about $390 to $660 per acre lower than the appraised value of the Baca Ranch and suggest a total price about $37 million to $63 million lower than the appraised value.

The chief appraiser said that the market study was useful and saved him substantial time in reviewing the subsequent Baca Ranch appraisal because it provided verified market information about the characteristics and sales prices of relatively large western ranch properties. Furthermore, he said the study allowed the Service's managers to make an early assessment that the agency would probably be able to approve an appraisal—which had not yet been submitted to the Service—that would meet the price expectations of the Baca Ranch's owners. However, he also said that he did not consider the market study's values to be relevant to the appraisal because they were not supported by physical inspections. We acknowledge the importance of physical inspections in appraising property; however, even without such inspections the market study provided market data on comparable properties that indicate a lower range of value than estimated in the owner's appraisal. Again, recognizing its limitations, we computed the weighted average per-acre price for the 11 properties in the market study;[6] that average is about $450—a value about $610 lower per acre, or about $58 million lower in total than the Baca Ranch's appraised value. Figure 3 shows the price per acre for the sales of the 11 comparable properties used in the study, the indicated range for the Baca Ranch on the basis of those prices, the weighted average price, and the appraised value of the Baca Ranch.

[6]The market study indicated that the data were adjusted for several factors, and we did not make any further adjustments to them.

Figure 3: Price per Acre v. Total Acres for 11 Comparable Property Sales Included in the Service's Market Study, the Indicated Range of Values and the Weighted Average Price per Acre for These Sales, and the Appraised Value of the Baca Ranch



Our appraisal reviewer found that the owner's appraisal complies with professional appraisal standards;[7] however, he disagreed with its conclusion regarding the appraised value. He said that the information on comparable sales presented in the appraisal indicate that the appraised value should be lower. However, because he did not reappraise the property or visually inspect it he did not estimate how much lower that value should be. Furthermore, he said that data presented in the appraisal suggests that when properties are very large, the price per acre flattens out at a very low level, citing two large properties (90,000 acres and 580,000 acres) that were reported in the appraisal as selling for less than $200 per acre.[8]

The Baca Ranch's Uniqueness Was Cited as a Key Factor in Assigning It a Premium Value

The key factor that was cited by the appraisers as influencing their ultimate assessment of the property's premium value—and by the Service's chief appraiser as influencing his decision to accept it—was the Baca Ranch's uniqueness. Specifically, the owner's appraisal said that the Baca Ranch is a unique property—due to characteristics such as its location, size, scenery, and pristine appearance—and that purchasers of such "trophy ranches" as the Baca Ranch are willing to pay premium prices for uniqueness. Furthermore, the appraisal asserted that properties such as the Baca Ranch that range in size from 10,000 to 100,000 acres do not follow the usual size-price relationship in land—which says that as the amount of acreage increases, the price per acre decreases. As a result, the owner's appraisers believe that the Baca Ranch's size does not matter as much as its location, usage, and other physical characteristics do and that the property should bring a premium price because of these other factors. According to the owner's appraisal, no properties are truly comparable to the Baca Ranch; therefore, the appraisers applied professional judgment and used qualitative analysis to eliminate most of the larger and low-valued comparable properties. They instead relied on two smaller comparable properties to compute the appraised value, asserting that the two properties are most like the Baca Ranch in terms of their location and diversity of use. The appraisal then used the per-acre prices of these two

[7]See *Uniform Standards of Professional Appraisal Practice,* The Appraisal Foundation (1998). These standards are incorporated by reference into federal appraisal standards.

[8]The appraisal discussed the 580,000-acre property but did not consider it to be comparable because it had major limitations on its title and usage. The 90,000-acre property is the Baca Location No. 4, and the appraisal considered it to be comparable.

relatively high-priced properties to estimate the per-acre value of the Baca Ranch and calculated the Baca Ranch's total appraised value by multiplying the per-acre value by the ranch's acreage—a calculation that assumes that the property's total value is directly based on its size.

The Service's chief appraiser agreed with the owner's appraisal that the Baca Ranch is unique and said that professional judgment was a key factor in his review and approval of the appraisal. He said that the appraised value for the Baca Ranch lies within the parameters of the existing market—that is, it lies within the range of comparable sales data that are presented in the appraisal. However, he also acknowledged that the appraised value for the Baca Ranch is not clearly supported when one considers all the data from the 16 comparable sales that are presented in the appraisal. He said that in his review of the appraisal, he was initially very concerned that the appraised value appeared to be too high, but then he visually inspected the Baca Ranch and the comparable properties. In seeing the properties firsthand, he said that on the basis of his professional judgment, the relatively high value given to the Baca Ranch in the appraisal was warranted. He did not provide more specific information about the basis for his professional judgment, however, to support his approval of the appraised value. He noted that an appraised value is only an estimate and that appraised values normally have a tolerance of about 10 percent—that is, the actual market value can reasonably be expected to be as much as 10 percent higher or lower than the appraised value—if the appraisal is based on a lot of data (such as many comparable sales). When an appraisal is based on fewer comparable sales—as is the case of the Baca Ranch—he said that the tolerance level of the appraised value would be greater than 10 percent. In September 1999, the Service's appraisers found that the appraisal met federal standards and approved it.

Our appraisal reviewer said that he disagreed with the basic premise of the owner's appraisal, namely, that the Baca Ranch is unique and therefore exempt from the usual size-price relationship. He said that the information presented in the appraisal did not conclusively demonstrate to him that the Baca Ranch is unique. For example, he noted that the appraisal presented no clear evidence that the Baca Ranch property is the only large property with streams, timber, and other amenities. He said that the appraisal provides information showing that some of the lower-valued properties it identified have physical characteristics that make them comparable to the Baca Ranch. For example, some of the properties also reflect values associated with keeping them undeveloped. Furthermore, he said that the sales of these comparable properties clearly demonstrate the usual size-

price relationship—size matters—and that the size of the Baca Ranch is a relevant factor to consider in estimating its appraised value. For these reasons, he said that the comparable sales support a lower appraised value.

Conclusion

The value placed on the Baca Ranch by the owner's appraisal and agreed to by the Forest Service is higher than would be indicated if it were based solely on the sales prices of all the comparable properties. In arriving at this value, the appraisers applied their professional judgment and relied most heavily on two high-valued comparable properties, believing that the Baca Ranch would and should bring a premium price. We believe it is important for the Congress to be aware of the significance of this premium in determining the property's appraised value as it weighs its authorization decision.

Agency Comments and Our Evaluation

We provided the Forest Service with a draft of this report for its review and comment. The Service fundamentally disagreed with the information and conclusion contained in our draft report. The Service's disagreement focused on four basic areas. These areas of disagreement and our responses are presented below.

First, the Service asserted that our report is inconsistent with federal appraisal standards because it was not prepared by qualified appraisers who visited the Baca Ranch or any of the comparable properties. Our review was not, nor was it purported to be, an appraisal. As our report clearly states, our review was limited to evaluating the extent to which the value established in the owner's appraisal was consistent with data on comparable property sales—presented in the owner's appraisal and in the Service's market study—and determining other key factors that influenced the appraisal's final outcome. Neither we nor the independent appraiser we hired to assist us attempted to reappraise the Baca Ranch. In addition, neither we nor our independent appraiser visited the Baca Ranch or any of the comparable properties because the property owner's representative told us that the Baca Ranch was inaccessible due to winter conditions during the limited time available for our review.

Second, the Service asserted that we are inconsistent in raising questions about the appraised value yet finding that the owner's appraisal complied with federal appraisal standards. We do not believe our findings are inconsistent. Federal appraisal standards generally address appraisal

procedures and documentation—rather than outcomes. Different appraisers can use the same data and follow the same methodology in appraising a property, apply different professional judgments to develop different values, and still comply with the standards. As we state in our report, the owner's appraisers asserted that the usual size-price relationship in land is not an important factor in valuing the Baca Ranch, relied on two high-valued but smaller comparable properties to calculate a per-acre value for the Ranch, and then multiplied this per-acre value by the ranch's acreage to develop the appraised value of $101 million. This appraised value reflects a premium over what it would have been, had the appraisers determined that the usual size-price relationship in land applied or had the appraised value been computed on the basis of all 16 sales of comparable properties that they identified.

Third, the Service asserted that we used an inappropriate arithmetic analysis in reviewing the owner's appraisal, misapplying the concept of "comparable" properties and discounting the uniqueness of the Baca Ranch. We do not believe that our approach was in any way inappropriate. As our report makes clear, we analyzed the data presented in the owner's appraisal on the 16 property sales because the appraisers themselves considered the properties to be comparable to the Baca Ranch in one or more ways (such as location, topographical features, and usage). Our report also clearly states that the owner's appraisers used their professional judgment to eliminate most of these properties in estimating the appraised value because they believed that the Baca Ranch is unique—and would therefore bring a premium price as reflected in the higher-valued (and smaller) comparable sales. Nonetheless, if the appraised value were based solely on the sales prices of all 16 comparable properties, it would be lower. Although a weighted average does not reflect all of the factors affecting a property's value, it shows that on average, the value of the 16 comparable properties is about $670 per acre (or $37 million less in total than the appraised value).

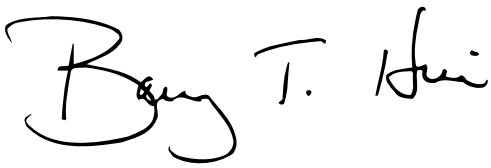
Fourth, the Service asserted that we erroneously used the Service's market study. This assertion is not accurate. Our report clearly states that the market study, although it was not an appraisal, identified and evaluated the degree of comparability between the Baca Ranch and 11 properties that were recently sold, on the basis of several factors, including size. The market study provided market data on these 11 comparable properties and indicated a range of values for the Baca Ranch between $400 per acre and $670 per acre (or, respectively, $63 million to $37 million less in total than the appraised value).

In summary, our review was never intended to represent a reappraisal of the Baca Ranch. Instead, we evaluated the owner's appraisal and analyzed data on comparable property sales that were presented in it. On the basis of that work, we conclude that the value placed on the Baca Ranch by the owner's appraisal and agreed to by the Service is higher than would be indicated if it were based solely on the sales prices of all the comparable properties and reflects a premium. We continue to believe that the Congress should be aware of this premium as it makes its authorization decision on the purchase of this property.

The full text of the Service's comments and our responses are in appendix I.

We are sending copies of this report to other appropriate congressional parties and the Honorable Daniel R. Glickman, Secretary of Agriculture. Copies will also be made available to others upon request.

If you or your staff have any questions, please call me at (202) 512-3841. Key contributors to this report were Jay R. Cherlow, Jennifer L. Duncan, Alan R. Kasdan, and Sue Ellen Naiberk.



Barry T. Hill
Associate Director, Energy, Resources,
and Science Issues

Congressional Committees

The Honorable Ted Stevens
Chairman
The Honorable Robert C. Byrd
Ranking Minority Member
Committee on Appropriations
United States Senate

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The Honorable Robert C. Byrd
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The Honorable Don Young
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The Honorable George Miller

Ranking Minority Member
Committee on Resources
House of Representatives

Comments From the Forest Service

Note: GAO's comments supplementing those in the report's text appear at the end of this appendix

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Washington, DC 20090-6090

File Code: 1420

Date: FEB 25 2000

Barry T. Hill, Associate Director
Resource, Community, and Economic Development Division
General Accounting Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Hill:

In response to the General Accounting Office's (GAO) draft report to Congressional requesters titled *Land Acquisition Issues Related to the Baca Ranch Appraisal* (GAO/RCED-00-76, code 141405), the Forest Service has reviewed your document and is enclosing its initial comments. Because we had only 24 hours to respond to your report, more detailed comments will be addressed in the final report.

If you have additional questions, please contact our External Audit Liaison, Linda Washington on (202) 205-3761.

Sincerely,

HILDA DIAZ-SOLTERO
Associate Chief for Natural Resources

Caring for the Land and Serving People

Printed on Recycled Paper

Response to GAO's Draft Report Titled

Land Acquisition Issues Related to the Baca Ranch Appraisal

(GAO/RCED-00-76)

We are pleased to provide the following response to the Draft Report of the General Accounting Office (GAO) dated February 2000, entitled *Federal Land Management: Land Acquisition Issues Related to the Baca Ranch Appraisal*. In that report, GAO examines the appraisal valuation of the 95,000 acre Baca Ranch in northern New Mexico.

See comment 1.

For the reasons noted herein, this Department fundamentally disagrees with the GAO findings. As we were given one day to review this report, this will only be our initial response, and we intend to provide a more detailed response at a later time. Nonetheless, in our opinion, the GAO Report is flawed in its methodology and its analysis, and is inconsistent with generally accepted principles of real estate valuation as well as applicable Federal appraisal standards. Further, the Report makes significant errors in its factual findings and its quotations of Forest Service personnel.

Basic Rules for Land Valuation:

The Forest Service does not value properties in a vacuum. There are substantive

-1-

and procedural requirements of Federal law, as well as accepted professional appraisal standards, which apply in establishing fair market value for all Federal land acquisitions. Over 19 Federal agencies acquire land as part of their programs and they all use the same appraisal techniques. Federal agencies acquire land for many purposes, including the construction of dams and reservoirs, highways, airports, government buildings and facilities, as well as land conservation.

In 1970, Congress enacted the Uniform Relocation Assistance and Real Property Acquisition Policies Act, better known as Public Law 91-646 (42 U.S.C. §§ 4601, *et seq.*), to assure that all Federal real estate acquisitions follow consistent and fair policies and procedures. This statute requires that Federal agencies offer to pay landowners the appraised fair market value of land. Not only do appraisals benefit the Federal buyer and the American taxpayer by assuring that the government does not pay too much for a property, they also benefit the seller by assuring the payment of fair and just compensation. Therefore, the goal of any appraisal is to ascertain "fair market value".[1]

The Federal Government actually adopted appraisal standards before the enactment of Public Law 91-646. In 1963, the Attorney General convened the Interagency Land Acquisition Conference composed of representatives of Federal land purchasing agencies. Under the auspices of the Conference, the *Uniform Appraisal*

[1] "Fair market value" is defined in the *Federal Standards* as, " the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy." *Federal Standards*, p. 4.

-2-

Standards for Federal Land Acquisitions were first published in 1972 (hereafter referred to as "*Federal Standards*"). These *Federal Standards*, which have been twice revised and updated, are well accepted in the professional appraisal community as well as the Federal courts as reflecting nationally recognized appraisal standards. The *Federal Standards* have been adopted through regulations (49 CFR, Part 24) for use by all Federal land acquiring agencies, and the standards are applied whenever an agency makes a land acquisition. Additionally, Federal legislation which provides for the appraisal and acquisition of real property at fair market value often specifically refers to the application of the *Federal Standards*. This is the case with the pending legislation authorizing the acquisition of the Baca Ranch.[2]

There are some fundamentals requirements for any appraisal. First, it has to be prepared by a qualified appraiser who is impartial and who must exercise sound judgment.[3] The appraiser of the Baca Ranch is highly qualified in the appraisal

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[2] S. 1892, (106th Cong., 1st Sess) at section 104(a) states: "The acquisition ...[of the Baca Ranch] shall be based on an appraisal done in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions... and such purchase shall be on a willing seller basis for no more than the fair market value of the land...".

[3] The *Federal Standards* state: "[An appraiser] must exercise sound judgment based on known pertinent facts and circumstances and it is their responsibility to obtain knowledge of all pertinent facts and circumstances which can be acquired with diligent inquiry and search. They must weigh and consider the relevant facts with good judgment and make their decision, entirely on their own, in a sound professional manner, completely unbiased by any consideration favoring either the owner or the government. The appraisal report should be documented and supported so as to convince an impartial reader of the soundness of the appraiser's estimates, within the limits of integrity, judgment and ethics." *Federal Standards* at section C-2, p. 89.

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profession, as are the Forest Service review appraisers, all of whom conducted their analyses in strict compliance with the *Federal Standards*.

By contrast, the GAO report was not done by appraisers. Its consulting appraiser admittedly did not prepare an appraisal himself, nor did he visit the property or any comparable properties as is required for any valuation analysis compatible with the *Federal Standards*.[4] For the record, it is noted that the Forest Service made arrangements for the GAO team to visit the Baca Ranch, but they did not avail themselves of that opportunity.

See comment 2.

See comment 3.

A second requirement of a proper appraisal is that it must assess fair market value utilizing one or more accepted methodologies. We agree with GAO that the most appropriate methodology is valuing the Baca Ranch using a comparable sales approach. However, GAO misunderstands what is a "comparable" sale. The *Federal Standards* note that rating elements for comparable sales include property rights conveyed,[5] financing terms, conditions of sale, market conditions, location and physical characteristics.[6] In contrast, in its examination of other sales, GAO only looked at the

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[4] The *Federal Standards* require that the appraiser make a personal inspection of the property appraised. *Federal Standards* at section B-1, p. 65.

[5] Property rights refer to the various interests in land which may include rights of access, water rights, minerals, and other elements that constitute title to land. When comparing sales of real property, the appraiser must examine what interests in land were conveyed. For example, two properties may not be comparable if one includes mineral rights and the other does not.

[6] *Federal Standards*, pp. 11-12.

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See comment 4.

elements of size and price and ignored other essential elements for determining comparability.

The Baca Ranch Appraisal Meets the *Federal Standards.*

Compliance with *Federal Standards* is a rigorous and time consuming analysis that must meet established tests of acceptability developed over decades of evolution in the law and appraisal techniques. Significantly, the Baca Ranch appraisal was deemed by both the Forest Service Review Appraiser and the GAO contract appraiser to be in conformity with the *Federal Standards*.[7] This means it was prepared by a qualified appraiser, using proper analytical methodology with valid comparable sales, with appropriate adjustments to value based on differences among properties. Additionally, the Baca Ranch appraiser necessarily justified his conclusions with appropriate documentation and site visits.

See comment 5.

However, notwithstanding that GAO finds that the appraisal of the Baca Ranch meets the *Federal Standards,* it concludes that the appraised value is higher than a value that is supported solely by sales of comparable properties. The notion that an appraisal can be in conformity with the *Federal Standards* and still not be supported by sales of comparable properties is a contradiction. To meet *Federal Standards*, the appraised

[7] The GAO Draft Report states at several places that the owner's appraisal of the Baca Ranch complied with federal appraisal standards; e.g. page 2 under "Results in Brief," and page 5 under "Data on Comparable Sales Support A Lower Value For the Baca Ranch."

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value *must* be premised on sales of comparable properties. This contradiction suggests that GAO uses the concept of comparability in a manner different from that sanctioned by the *Federal Standards*, and this difference may be one cause for its flawed methodology .

Flaws in GAO Methodology .

See comment 6.

GAO states that it did not do an independent appraisal of the Baca Ranch nor did any of its team ever view the property, which is a basic appraisal requirement for both the public and private sectors. Rather, it conducted its review "in accordance with generally accepted government auditing standards." [8] Herein lies a problem.[9] Audit procedures and standards do not readily lend themselves to valuing real property. An audit constitutes a largely arithmetic analysis in contrast to an appraisal which weighs numerous variables and requires the exercise of substantial judgment. An arithmetic approach cannot assess market conditions, buyer motivations, title considerations, and, most significantly, the uniqueness of a property.

At its most basic, GAO simply arrayed sixteen property sales based on a time

[8] GAO Draft Report, p. 2.

[9] The *Uniform Standards of Professional Appraisal Practice* (USPAP) govern private sector appraisals and it goes so far as to exclude accounting audits from anything to do with appraisal reviews. In USPAP Standard 3 it states: "The appraisal review requirements of this Standard do not apply to the activity of "review" or "audit" in the context of other professions, such as accounting." USPAP, (2000 Edition), p. 29. The *Federal Standards* incorporate USPAP review standards by reference. *See: Federal Standards,* C-8, p.94.

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adjusted sales price and found that the Baca fell on the high end of the price-per-acre. The GAO then implies that the Baca Ranch should be a lower price-per-acre based solely on the premise that higher acreage often results in a lower price per acre *for comparable properties*. (Emphasis ours).

By analogy, GAO's methodology of assessing the value differences among properties can be described in simpler terms. Most persons have a basic understanding of the value differences between properties, and most understand that their own home may differ in value from others in their community based on area, location, amenities, etc. GAO reduces those differences affecting value to two common denominators: size and price. Were one buying George Washington's unique home at Mt. Vernon, one might justify paying a high price when taking into account its superb river view location, its comparative size, its age, and its historic significance. Compared with other large residential properties in northern Virginia, it would likely command the highest price per acre on those factors. Or, similarly, consider 16 homes on one-acre lots in Santa Fe, New Mexico, ranging from a mansion, to tract houses, and to a shack.

See comment 7.

Using the GAO approach, one would merely array properties (including Mt. Vernon, the mansion, and the shack) according to a price per acre. Anyone paying over the mean average for a mansion would be paying too much, while the person paying under the mean for the shack would be getting a bargain.

This simple analogy illustrates another serious flaw in the GAO report. As

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suggested above, GAO misapplies the concept of "comparable" properties. To be a comparable sale, sales transactions must be adjusted to account for location, size, time, uniqueness and other factors. In assessing the 16 sales of large ranch properties, GAO made no adjustments among them other than for time and size. Having found all 16 sales "comparable", GAO then compared each solely on a price per acre basis. This treats land as a fungible commodity with nothing to distinguish its value except for size and timing of sale. Interestingly, while the GAO contract appraiser noted there were comparables that support a lower price-per-acre for the Baca Ranch, he ignored the fact that a comparable sale also supported a higher price-per-acre.

See comment 4.

See comment 8.

In fact, all 16 sales referred to by GAO were not directly comparable. Each property had different attributes such as timber, water, pasture, and similar resource values. They also differed on location, access to roads, and on the interests in land being conveyed.[10] For example, GAO refers to the sale of a 90,000 acre tract in Colorado for $196 per acre as a comparable sale to the Baca owing to its similar size.[11] However, that sale was examined by the appraiser and found to be a conveyance of surface rights only, and the sale was under duress since the landowner was unable to consolidate the various outstanding rights needed to develop the property. Therefore, it did not qualify as a comparable sale. This illustrates why the appraiser must consider appropriate

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[10] *See*: footnote 5.

[11] GAO Report, p. 5.

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adjustments to the respective prices in order to ascertain whether the sales are comparable and, if so, by how much.

See comment 9.

After such an analysis, the appraiser ascribed the most comparability to the Baca of two properties which happen to lie on the higher end of the price-per-acre scale. In making that determination of comparability, the appraiser relied upon his personal judgment and his first hand knowledge of the lands derived from personal visits to conclude that they shared similar attributes with the Baca. He also analyzed the property interests the sellers would be able to convey to the United States. Sales of these two properties were found more current than others, the properties shared some of the same physical and aesthetic qualities as the Baca, and were conveyances of similar property interests. They are large properties with abundant timber and water, and have recreation potential for hunting, fishing, and similar activities. This is why more reliance was placed on these two sales than the other fourteen.

The Uniqueness of the Baca Ranch

Disregarding all accepted appraisal standards, but utilizing its "one size fits all" approach to valuation, it was necessary for GAO to discount the uniqueness of the Baca Ranch. Indeed, the Report states that the GAO review appraiser said that the

See comment 10

"information presented in the appraisal did not conclusively demonstrate to him that the Baca Ranch was unique ... or that the Baca Ranch property is the only large property with

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See comment 10.

streams, timber and other amenities."[12] Having concluded that the Baca was nothing special, the GAO felt that there is nothing to justify it being on the high end of the price-per-acre scale.

Unique means "one of a kind." It is a factor that profoundly affects the value of anything, particularly real estate. Yet uniqueness is hard to demonstrate on paper; that is why all appraisers are required to inspect the property they are appraising and to apply professional judgments based on those inspections. Had the GAO reviewer taken the offered opportunity to visit the Baca Ranch, he would have witnessed a sight compared favorably with Yellowstone National Park and similar national treasures.

The 95,000 acre Baca Ranch in northern New Mexico is a unique land area. It has significant scientific, cultural, historic, recreational, ecological, and scenic values. It includes the famous Valles Caldera, a 15-mile wide remnant of an ancient volcano, with virtually the entire ranch surrounded by the Santa Fe National Forest. The property contains a seasonal elk heard of approximately 6,500 animals, approximately 27 miles of coldwater fisheries, and the headwaters for two watersheds including the Jemez Wild and Scenic River. It is permanently protected from adverse development of the surrounding land since it is bounded by the Bandelier National Monument, the Jemez National Recreation Area, and the Santa Fe National Forest. All these values have been

[12] GAO Report, p. 10.

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extensively studied and documented by the Forest Service.[13] Had GAO or its review appraiser evaluated these factors, the uniqueness of the Baca Ranch would be self evident.

This uniqueness contributes to the premium *value* of the Baca Ranch. GAO confuses a premium *price* with a premium *value*. It concludes that the Government would be paying a "premium price" to acquire the Baca for $101 million.

The Department of Agriculture takes a different view. Because the Baca is unique, a premium "value" is justified. When we pay $101 million, we are paying the fair market value of a property that is special and which cannot be duplicated elsewhere in the market place. Thus, the difference between a "premium price" and a "premium value" is much more than semantic, it goes to the very heart of the opposite views of fair market value by this Department and the GAO.

The Market Study.

The Report's extensive references to the Market Study procured by the Forest Service requires a response. Independent of the property owner's contract appraisal, the Forest Service contracted for a Market Study to identify sales of large ranch properties in the Southwest and to identify elements of comparability among each. The purpose of

[13] The Forest Service has extensive knowledge of the Baca Ranch. In 1993, acting pursuant to Congressional direction in Public Law 101-556, the Forest Service prepared its *Report on the Study of the Baca Location No. 1,* which extensively analyzed the Ranch's resources.

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this study was simply to provide the Forest Service with an independent source of factual data against which it could assess the appraisal when it was presented for agency review.

The Market Study was not an appraisal, and was not intended to be an appraisal. Therefore, the study contained no conclusions. Nevertheless, GAO erroneously states that the Market Study "supports a lower value for the Baca Ranch."[14] To the contrary, the study merely showed that some large ranches sold at different prices and identified some of the elements that would account for those differences.

See comment 11.

At another place, the Draft Report states that the study used a "valuation technique similar to that used in the appraisal," and thereby placed the ranch's value between those of properties at $670/acre and $400/acre, with one at $580/acre being "judged equal".[15] As noted, the study did not use any valuation techniques similar to the appraisal and it did not value the properties. Moreover, as demonstrated above, neither the Study nor the GAO complied with the accepted appraisal requirements for accessing compatibility.

See comment 12.

The Draft Report further elaborates on this study by correctly noting the statement of the Chief Appraiser, Paul Tittman, that the Market Study was useful and saved time in the subsequent review because it provided verified market information. That is a correct statement and it is all that the study was used for. However, it was *not* used to enable the Forest Service managers to make assessments of value "that would meet the price

See comment 13.

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[14] GAO Draft Report, p. 3.

[15] *Id.* at p. 7.

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See comment 13.

expectations of the Baca Ranch owners."[16] While the Chief Appraiser did not say this, the implication of this statement is that the appraisal process was skewed to meet the value expectations of the owners. This is not true. From the outset of negotiations between the Baca Ranch owners and the Forest Service, it was made clear that the Forest Service would follow the law to the letter; that is, that the Forest Service would only offer to acquire the Ranch based on the fair market value of the property as determined by an appraisal which was prepared and reviewed in conformity with the *Federal Standards*.

Statements attributed to the Chief Appraiser.

See comment 14.

Finally, we wish to clarify some other statements attributed to the Forest Service Chief Appraiser, Paul Tittman. While the Draft Report notes Mr. Tittman's statement that the valuation of the Baca Ranch "lies within the parameters of the existing market", it goes on to state that he "acknowledged that the appraised value for the Baca Ranch is not clearly supported when one considers all the data from the 16 comparable sales that are presented in the appraisal."[17] The erroneous implication apparently drawn from this latter statement attributed to Mr. Tittman is that he believes that the Baca Ranch valuation is not justified by comparable sales information. This is not true. As his

[16] *Id.* at p. 8.

[17] *Id.* at p. 10.

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See comment 14.

review report made clear, Mr. Tittman did not consider all sixteen sales to be sufficiently comparable to the Baca to form the basis of valuation, but that at least two of the sales at the higher end of the price-per-acre scale were comparable and the other fourteen were not.

Conclusions:

For the reasons noted herein, the Department of Agriculture strongly disagrees with the findings and conclusions of the GAO Draft Report. The Report was not prepared using any accepted appraisal methodology, nor did its preparers use proper analytical tools in its critique of the approved appraisal for the Baca Ranch.

All agree, even GAO, that the appraisal for the Baca Ranch meets *Federal Standards.* As such, the appraisal's valuation of $101 million represents the fair market value. The law requires the United States to offer landowners the appraised fair market value of their land. In purchasing the Baca Ranch for this amount, the United States would be paying a fair market value price for a premium property, a property so unique that it is widely considered one of the most spectacular natural and scenic areas of the nation still in private ownership. Accordingly, the Department of Agriculture stands fully behind the adequacy, fairness, and technical presentation in the appraisal of the Baca Ranch.

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The following are GAO's comments on the Forest Service's letter dated February 25, 2000.

GAO's Comments

1. As we discussed with the Service when we began our review, the mandated 90-day time frame for this review limited the time available to the Service for its comments. We met with the Service on February 10, 2000, to discuss the tentative results of our review.

2. Neither our review nor that of our independent appraiser was represented to be an appraisal of the property. We asked our independent appraiser to review the appraisal, and he did so in accordance with the requirements in Standard 3 of the Uniform Standards of Professional Appraisal Practice. According to this standard, in reviewing an appraisal and reporting the results of that review, an appraiser must form an opinion of the adequacy and appropriateness of the report being reviewed and must clearly disclose the nature of the review process undertaken. It does not require that the reviewer visit the appraised or comparable properties—only that he disclose whether or not he did so.

3. According to the Service's comments, it "made arrangements for the GAO team to visit the Baca Ranch, but they did not avail themselves of that opportunity." In point of fact, the Service made no such arrangements. On December 14, 1999, the Service's chief appraiser only provided us with the name and telephone number of the property owner's attorney and suggested that we telephone him to arrange a visit to the Baca Ranch. When we contacted the attorney, he stated that the Ranch would be accessible for only a few days during the following week and then would no longer be accessible during our review time frames due to winter conditions.

4. The Service comments that "in its examination of other sales, GAO only looked at the elements of size and price and ignored other essential elements for determining comparability." Our examination of the comparable sales identified in the owner's appraisal and in the Service's market study did not ignore other essential elements; rather, we point out that the appraisers asserted—and the Service agreed—that the usual size-price relationship in land is not an important factor in determining the comparability of these properties to the Baca Ranch. The only adjustment to sales prices that was made by the appraisers was to increase the reported sales prices for the five properties they

considered to be most relevant to the Baca Ranch, by a factor of 4 percent annually, to reflect the annual increase in land values. We also followed this technique in our analysis and made the same adjustment to the reported sales prices of the remaining 11 comparable properties.

5. We do not believe that it is a contradiction for us to report that the owner's appraisal complied with federal appraisal standards and yet show that the appraised value is not supported solely by the sales of the 16 properties identified as being comparable. As we state in our report, appraisal standards generally address procedural and reporting requirements for appraisals—not outcomes—and allow for the application of professional judgment. Furthermore, according to the Service's chief appraiser, property appraising is not an exact science, and appraisers may differ in their conclusions about a property's value.

6. We agree that audit procedures are different from appraisal procedures. However, we were not asked to reappraise the property; rather, we were mandated—as an auditing organization—to review the appraisal. In performing that review, we examined the owner's appraisal and considered the information it provided in support of its conclusion regarding the property's value. In addition, we examined the Service's review of that appraisal and additional information that the Service provided us in its market study. We also hired an independent certified appraiser to review the appraisal. Because the property owner told us that the Baca Ranch was inaccessible due to winter conditions during the limited time available for our review, we did not visit it or any of the comparable properties during our review.

7. We do not believe the Service's analogy is appropriate. Contrary to the Service's assertion, we did not array data for widely dissimilar properties. Rather, we used the data on properties that were presented in the owner's appraisal as comparable in one or more ways to the Baca Ranch. The data in the Service's market study were also presented as comparable properties. We also do not assert that the weighted average should be used to determine a property's fair market value, which may be justifiably higher or lower. In asserting that our use of a weighted average is inappropriate, the Service does not acknowledge that the owner's appraisers also computed weighted averages for several comparable properties and used these figures in their discussion of the relationship among those properties.

8. The Service states that our independent appraiser "ignored the fact that a comparable sale also supported a higher price per acre." This is incorrect. Our appraiser considered all of the sales of comparable properties presented in the appraisal. He found that these data clearly demonstrate that the size of the Baca Ranch is a relevant factor in estimating its appraised value and suggest that the price per acre for very large properties flattens out at a low level.

9. We acknowledge in our report that the owner's appraisal relied on professional judgment and physical inspection to conclude that the two properties were the most comparable properties to the Baca Ranch. However, we do not believe that the appraisers demonstrated that the relatively small size of these properties is less important than other factors in determining the Baca Ranch's value.

10. The Service asserts that we and our appraiser "discounted the uniqueness of the Baca Ranch." We recognize that the owner's appraisers and the Service's chief appraiser believe that the Baca Ranch is unique and that this was a key factor cited by them both as influencing their decisions. However, as correctly quoted in the Service's comments, our report states that information presented in the appraisal did not conclusively demonstrate to our appraiser that the Baca Ranch was unique. Furthermore, our appraiser said that the appraisal provides information showing that at least some of the lower-valued comparable properties have physical characteristics that make them comparable to the Baca Ranch.

11. The Service comments that its market study contained no conclusions and did not value the properties because it is not an appraisal. However, page 2 of the study states, "It is my opinion that as of June 2, 1998, the indicated range of values for the subject property are…[for New Mexico and southern Colorado sales] greater than $400 but less than $670 per acre with one sale at $583 per acre." Furthermore, the Service asserts that the market study did not use any valuation techniques similar to the owner's appraisal. This statement is incorrect. The owner's appraisal relied on a technique in which the five properties it identified as being "most relevant" to the Baca Ranch were classified as inferior, similar, or superior to the Ranch. Having made this determination, the appraised value was estimated to be between that of the highest-valued inferior property and the lowest-valued superior property, and the final value was computed by applying weights to the five properties. The Service's market study also used this qualitative

approach to classify 11 comparable properties as superior, equal, or inferior. Instead of estimating a single value for the Baca Ranch, the market study presents a range of values indicated by this analysis. We also note that 4 of the 11 properties identified in the Service's market study were included in the five comparable properties considered to be most relevant in the owner's appraisal.

12. The Service asserts that neither the market study nor GAO "complied with the accepted appraisal requirements for accessing [sic] compatibility [sic]." On the basis of information provided by the Service's chief appraiser, the market study is deficient because its comparisons of the property are not based on visual inspections. However, in reviewing the market study, we found that it presents an analysis of characteristics of the comparable properties and of the Baca Ranch, including such factors as the date of sale; property rights conveyed; conditions of the sale; location; size; and amenities, such as tree cover, water, and opportunities for hunting. While we recognize that the study is not an appraisal, we also believe that its results provide market information relevant to the Service's decision to approve the owner's appraisal. Our analysis was not intended to be an appraisal, which we clearly state in our report.

13. The Service asserts that the chief appraiser did not make the statement that we attribute to him on page 8 of our draft report (now on p. 11). The Service's chief appraiser made this statement in a memorandum that he wrote on January 12, 2000, which responded to questions we had earlier asked of him. Specifically, we asked him to comment on the difference between the market study's indicated range of value for the Baca Ranch and the value in the owner's appraisal. Page 3 of that document states the following:

"[The market study] was a very useful tool…in that it provided a verified market based understanding of what had sold in the intermountain west and for what price(s). This information was critical as the basis of the appraisal review and provided a current knowledge base upon which to evaluate the…appraisal. It in essence saved the Agency substantial time in the review process, and *provided management with an early assessment of probability as to if an Agency approved appraisal would meet the value expectations of the property owners. Had the consultation indicated that the price expectations of the owners could not be reflected in an Agency approved appraisal based upon the array of unadjusted sale information, the negotiations would have most likely taken a different tact [sic], and/or concluded before the appraisal was submitted to the Forest Service for review.*" (Emphasis added.)

14. The Service comments that we erroneously imply that the chief appraiser believes that the appraised value is not justified by comparable sales data. The Service clarifies that the chief appraiser considered the 2 higher-priced properties were comparable to the Baca Ranch and that the remaining 14 were not. However, the chief appraiser told us that until he viewed the property, he was very concerned about whether the appraised value was supported by the comparable sales information. Once he viewed the property, on the basis of his professional judgment, he believed the relatively high value given the Baca Ranch in the appraisal was warranted.

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