



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT PROGRAM

June 29, 2018

In reply refer to: FOIA #BPA-2018-01191-F

Kristin Kovalik  
1007 E. Main St  
Bozeman, MT 59715  
kristin.kovalik@tpl.org

Ms. Kovalik:

This communication is a final response to your request for Bonneville Power Administration (BPA) records made under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). Your FOIA request was received on June 5, 2018 and formally acknowledged on June 7, 2018.

### Request

“...the 2018 appraisal review report and written correspondence providing explanation of the review decision. The project is the Swift Creek Acquisition Project (BPA Tract ID HHDMT-WL-19, project number 2008-800-00, TBL task order 233878). The project is managed by Cecilia Brown EWM-4 and the BPA review appraiser is Tom Konency - TERS 3. Other BPA staff associated with this project include Heidi Haserot, Philip Key, Tucker Miles and Dorothy Welch. The appraisal review period is February 28, 2018 through May 24, 2018.”

### Response

BPA conducted electronic searches of records in the following agency offices:

- Fish and Wildlife Division: Montana/Idaho Implementation
- Real Property Services: Valuation and Forestry

BPA located eight pages of agency records responsive to your request and is herein releasing all eight pages, with three redactions applied under 5 U.S.C. § 552(b)(6) (Exemption 6), as explained in detail below. Those agency records accompany this communication.

The FOIA generally requires the release of all government records upon request. However, FOIA permits withholding certain, limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)).

**Exemption 6**

BPA is releasing these records in full with the exception of minimal redactions applied to three pages under 5 U.S.C. § 552 (b)(6)(Exemption 6) to protect personal privacy. Exemption 6 to the FOIA protects information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." The application of Exemption 6 requires balancing the public's interest in acquiring the information against the individual's privacy interests. If a significant privacy interest is found to exist, but there is no FOIA public interest in disclosure, the information should be protected. Here, BPA asserts Exemption 6 to withhold a personal phone number and the name of the Appraiser of Record, neither of which is related to the business of BPA or the Executive Branch. BPA can find no public interest in the forgoing information and has therefore redacted it under Exemption 6.

**Certification**

Your FOIA request is now closed with all available agency records provided. Pursuant to 10 C.F.R. § 1004.7(b)(2), I am the individual responsible for the release and exemption determinations described above.

**Fees**

There are no fees associated with your FOIA request.

**Appeal**

This decision, as well as the adequacy of the search, may be appealed within 90 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to:

Director, Office of Hearings and Appeals,  
HG-1, L'Enfant Plaza  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585-1615

The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal to [OHA.filings@hq.doe.gov](mailto:OHA.filings@hq.doe.gov), including the phrase "Freedom of Information Appeal" in the subject line. The appeal must contain all of the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either: 1) in the district where you reside; 2) where you have your principal place of business; 3) where DOE's records are situated; or 4) in the District of Columbia.

You may contact BPA's FOIA Public Liaison, Jason Taylor, at the address o this letter header, at [jetaylor@bpa.gov](mailto:jetaylor@bpa.gov), or at 503-230-3537 for any further assistance and to discuss any aspect of your request or this communication.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Phone: 202-741-5770; Toll free: 1-877-684-6448; Fax: 202-741-5769

Thank you for your interest in Bonneville Power Administration.

Sincerely,



C. M. Frost  
Freedom of Information/Privacy Act Officer

**From:** Konency,Thomas J (BPA) - TERS-3  
**To:** [Haserot,Heidi M \(BPA\) - TERR-3](#)  
**Cc:** [Campbell,Kara M \(CONTR\) - TERR-3](#); [Carrey,Melinda A \(CONTR\) - TERS-3](#); ["Graf,Phillip E \(BPA\) - TERS-3 \(pegraf@bpa.gov\)"](#)  
**Subject:** Swift Lazy  
**Date:** Monday, May 21, 2018 11:10:00 AM

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Hi Heidi,

I have finished my review of the appraisal report on the Swift Lazy property.

Unfortunately the report is not acceptable.

Mostly the access and utilities issues are not addressed to a level that lends credibility to the results.

Rather than providing thorough analysis, general statements are made instead.

In fact some information seemingly contradicts statements made.

The issue of remoteness of the property was brought to the appraiser's attention at the pre-appraisal meeting.

It is my understanding access and utilities were also issues in the prior reports submitted.

Based on this history I do not believe further discussions with the appraiser is warranted.

Thomas J Konency, Appraiser

Bonneville Power Administration

Transmission Eng: Real Property Services, TERS-3

905 NE 11th Avenue, Portland, OR 97232

PO Box 3621, Portland, OR 97208-3621

Office: 503-230-3278 Cell: (b)(6) Fax: 503-230-5571

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**UNITED STATES DEPARTMENT OF ENERGY  
 BONNEVILLE POWER ADMINISTRATION  
 REAL PROPERTY SERVICES  
 TECHNICAL APPRAISAL REVIEW OF THE  
 SWIFT LAZY PROPERTY APPRAISAL  
 DONE FOR THE TRUST FOR PUBLIC LAND**



DATE: May 18, 2018

TO: Heidi Haserot, BPA Realty Specialist, TERR-3

FROM: Thomas J Konency, BPA Staff Appraiser, TERS-3

BPA PROJECT: Swift Lazy

BPA TRACT ID: HHDMT-WL-19

TER ID: 13-0194

WORK ORDER NUMBER: 00426016

APPRAISAL EFFECTIVE DATE: February 1, 2018

DATE OF APPRAISAL REPORT: February 22, 2018

LANDOWNER: Weyerhaeuser Company

APPRAISER: (b)(6)

APPRAISER'S OPINION OF VALUE:

TRACT #	ACRES	MARKET VALUE
HHDMT-WL-19	3,180.08-acres	NOT APPROVED

COMMENTS & CONCLUSION OF REVIEW: The appraisal is **not approved** for agency use. This review is subject to and incorporates any and all the jurisdictional exceptions, assumptions and limiting conditions, extraordinary assumptions, and hypothetical conditions per both the appraisal of record and included in this appraisal review and attached addendum.

## TECHNICAL APPRAISAL REVIEW

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**Client and Intended Users of the review:** Bonneville Power Administration (BPA) as a representative of the United States Government is the client and only intended user of this review.

**Purpose and Intended Use of the Review:** The purpose of this review is to determine if the appraisal of record was written in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), utilizing recognized methods and techniques necessary to produce a credible appraisal report, including evaluating the relevance of the data cited and any adjustments made to that data as well as an assessment of the analysis, opinions, and conclusions expressed in the appraisal report. The intended use of the review is to assist this reviewer's client in the decision making process concerning financial involvement in the potential purchase of the subject property.

**Scope of Work:** BPA received a narrative real estate appraisal report from the original client of the appraisal, the Trust for Public Land (TPL). The appraisal is related to a BPA conservation project known as Swift Lazy. The appraisal is to have provided the market value of a parcel of privately owned land proposed for a partial acquisition in fee simple interest. Said land is to be used for conservation purposes. My assignment is to review the appraisal report. As such, the appraisal of record was carefully read and checked for technical adequacy to ascertain whether appraisal procedures were properly and accurately developed, market data was thoroughly and logically analyzed, and conclusions provided consistent with the data presented.

This review is primarily a desk review; as such the material presented in the appraisal report is predominantly relied on. This review focuses on the content of the written appraisal report and the supporting information. More specifically, on the determination of the larger parcel and highest and best use of the property, and on the valuation of the land and related contributory components, considering appropriate features such as location, site size, physical characteristics including condition, amenities and hazards. The comments included in this review appraisal discuss the procedures utilized in the appraisal of record as well as the recommendations and conclusions of the reviewer.

The undersigned did physically drive the access roads as close as possible to the subject property and was able to overlook the property. The access roads to Comparable Sales 1 through 12 were also driven as close as possible to the sales and in most cases the sales were viewed from these roads. No access roads for Sale 13 off of State Highway 83 were driven. Having worked in Montana previously, this reviewer is generally familiar with the subject neighborhood and neighborhoods of the comparable properties. This reviewer did do a cursory check on available market data to supplement this knowledge. However, the report's market data was itself not re-verified. Extensive use has been made of internet aerial viewing software, and topography and road maps to assess both the subject and sale properties. No valuation was done on timber, water, or minerals. I was consulted by another reviewer for information about the subject's area and about general information about Montana real estate; this was related to a review of an appraisal done on this property in 2017 by the same appraiser. I did not actually review said report and only supplied information. I did attend a pre-appraisal meeting regarding this assignment and did offer some thoughts about the information provided by the appraiser.

This review has been completed in general accordance with the "Appraisal Review" section of the UASFLA 2016 edition and in compliance with the 2018/2019 edition of USPAP "Standards 3 & 4" appraisal review section.

This appraisal review is not a stand-alone document. It is important that the appraisal review and appraisal of record be kept together. The appraisal contains detailed descriptions regarding the scope of the appraisal assignment, neighborhood, subject property descriptions, highest and best use analysis, market analysis, and comparable market data researched and analyzed, etc., thus it may be difficult to fully understand the review without said appraisal of record. This review assignment is subject to and incorporates any and all the jurisdictional exceptions, assumptions and limiting conditions, extraordinary assumptions, and hypothetical conditions per both the appraisal of record and any attached to this appraisal review.

## APPRAISAL REPORT SUMMARY

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**Client and Intended Users of Appraisal:** The appraiser's client is the Trust for Public Land. The intended users are the client, the property owner, the Montana Department of Natural Resources and Conservation (MT DNRC) and Bonneville Power Administration. No other intended users are identified.

**Purpose of the Appraisal:** The purpose of the appraisal is to estimate the Market Value of the subject property.

**Intended Use of the Appraisal:** The appraisal is intended to assist the client with their decision making process for the possible voluntary acquisition of the subject property.

**Date of Appraisal:** February 1, 2018

**Date of Appraisal Report:** February 22, 2018

**Appraiser of Record:** (b)(6)

**Land Owners, Owner Contact & Sales History:** The current owner is the Weyerhaeuser Company. The appraiser states the landowner's representative accompanied the appraiser during the property inspections. Per the appraiser, the last transfer was from Plum Creek Timber Company about two years ago as part of a much larger transaction involving several million acres and several processing plants spread across a number of states. No separate allocation was made for the subject property. See Last Sale of Subject on Page 62.

**Property Address:** Olney Crossover Road, Olney, Montana.

**Location:** About 5¼ road-miles off State Highway 93, in Olney, and about 21¼ road-miles northwest of Whitefish, Montana. Road miles are to the main point of access to the acquisition portion of the property.

**Acquisition Property Tax IDs:** (Per the title report) 44-0290260 & 44-0290265 & 44-0290270

**Acquisition Legal Description:** The acquisition property's legal description is located in the Addendum's Title Report. All of Sections 1, 2, 12, 13 & 24, Town 32 North, Range 23 West, P.P.M., Flathead County, Montana.

**Property Rights Appraised:** Fee simple interest.

**Jurisdictional Exception:** Exposure Period.

**Hypothetical Conditions in Appraisal:** None noted.

**Extraordinary Assumptions in Appraisal:** None noted.

**Subject Property:** The subject parent parcel is a vacant, rural property used for timber production, totaling about 5,100-acres. The proposed acquisition area will consist of about 3,180-acres and the remainder will be about 1,920-acres. The land is in an irregular shape, generally very rolling, varying from small level areas to steep ground, with elevations ranging from below 3,100 feet to over 4,100 feet. Several miles of creek frontage are present; however no water rights exist for the property. Current timber consists of mostly young growth and it appears the limited mature timber is located in the riparian areas and not harvestable. The best current access to the parent parcel is located at the southern end of what would be the remainder portion of the property. This access point is just under 2 road-miles from Hwy 93 on a gravel public road, with rural utilities present. This appears to be a year-round road. The best current access to the acquisition portion is located near the northwest border of the property and is about 5¼ miles off Hwy 93, on a seasonal gravel road across state lands. No rural utilities are located at the acquisition portion. See the appraisal report for photos, maps and more details describing the overall parent property, the acquisition portion and the remainder portion of the property.

**Zoning:** The property is not zoned. [However Montana does have other laws and regulation concerning development and all environmental regulations must be met.]

**Hazardous Conditions/Encumbrances:** The report states the property has a number of small creeks and some wetlands. No mention is made of flood hazards. The report states the property has endangered and threatened species present, such as bull trout. The appraisal report does not discuss the effects these conditions may have on the residential/recreational use of the property.

**Larger Parcel Determination/Description:** The landowners currently have 5,100-acres in the immediate area. The appraiser felt this total acreage qualifies as the Larger Parcel, and consists of the acquisition portion of 3,180-acres and the remainder portion of 1,920-acres. The reader is referred to the appraisal report for the property details, descriptions, analyses and maps concerning the appraiser's determinations.

**Highest and Best Use (HBU) as Vacant:** The appraiser determined the HBU of the Larger Parcel in the Before Condition and the HBU of the Acquisition and Remainder in the After Condition, is as recreational/residential use. Timberland, with mostly only young growth, is the current use.

**Valuation:** The property was valued using the sales comparison approach. First the larger parcel determined by the appraiser was appraised in its as-is condition and then the remainder was valued with the partial acquisition removed. A set of thirteen sales were looked at for the larger parcel. The appraiser then looked at these same thirteen sales for valuing the remainder. The sales were compared to the subject and arranged to bracket the subject to arrive at a value for the larger parcel based on a unit price of per acre. Then this same analysis was applied to the remainder. The appraiser stating the change in creek frontage equaled the change in both access and utilities, thus the unit price was the same. The difference in value from the larger parcel to the remainder was then attributed to the conservation acquisition. The appraisal report provides some more details of the analysis. No damages to the remainder, uneconomic remnants or cost to cure are mentioned in the report. No personal property was considered in the appraisal. No valuation was done on minerals, timber or water rights.

The appraiser determined the subject's market value as of February 1, 2018 to be \$11,448,000.



## REVIEWER'S ANALYSIS, COMMENTS, AND CONCLUSIONS

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This section of the review report provides the reviewer's findings and commentary regarding the credibility of the analyses, conclusions and opinions presented in the appraisal, the reviewer's comments regarding the appraisal and report in general, and the reviewer's final conclusions.

**To provide credible assignment results, the reviewer must:**

- 1) Develop an opinion as to whether the analyses are appropriate within the context of the requirements applicable to the work.**

The appraiser used the Sales Comparison Approach to develop his opinion(s) of value. Sales that do not appear to be really comparable are used and the sales verification and analysis is lacking. Some information supplied in the report seems to contradict statements made. Although access concerns were expressed in the pre-appraisal meeting, the analysis is not comprehensive. Instead generalizations are made about creek frontage offsetting access and utilities. The appraiser does not appear to have done a thorough study of the subject property and the appraisal problem. The appraiser's scope of work and analyses do not appear appropriate for the assignment.

- 2) Develop an opinion as to whether the opinions and conclusions are credible within the context of the requirements applicable to the work.**

Lacking good verification of the sales and analysis of those sales, having inconsistent or contradictory information, and lacking comprehensive analysis, the results are not properly supported and are not considered credible.

- 3) Develop an opinion as to whether the report is appropriate and not misleading within the context of the requirements applicable to the work.**

Historically the subject property larger parcel was used as timberland through currently it has little if any merchantable timber, and is located in an area of riparian areas and threatened and endangered species. If the proposed acquisition were to occur, the intended future use of the acquisition land would be for conservation. Rural utilities are not needed nor desired for timber production or conservation, and access can be more restricted than is generally found for other uses, like residential. However, the appraiser is supposedly valuing the larger parcel and acquisition portion as residential property and even comments about possible future development. Yet the analysis does not seem concerned about the absence of year-round access and utilities. The report does not provide the appropriate level of confidence in the results that it should.

**Reviewer's Final Conclusions:** The reviewer's final conclusions are subject to and incorporate any and all the jurisdictional exceptions, assumptions and limiting conditions, extraordinary assumptions, and hypothetical conditions per both the appraisal of record and this appraisal review. The appraiser's opinion(s) of the market value of the subject property, as of February 1, 2018, does not appear well supported and is not approved for agency use.



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Thomas J Konency, Review Appraiser  
Washington Certified General Appraiser #1102281

Date: May 18, 2018

## **ASSUMPTIONS & LIMITING CONDITIONS**

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1. The reviewer is not responsible for matters of a legal nature affecting either the property being appraised or the title to it, including legal access or encroachment/trespass issues. No opinion is intended to be expressed for legal matters or that would require specialized knowledge or investigation, such as a title search. The reviewer assumes that the title is good and marketable, (“free and clear”), and, therefore, will not render any opinions about the title. The property is assumed to be under responsible ownership and/or competent management unless noted differently in the report itself.
2. Unless noted otherwise, the reviewer assumes there are no hidden or unapparent conditions of the property, subsoil, or structures, and/or adjacent properties, which would render the subject more or less valuable including the presence of any artifacts or archeological items. This includes any adverse environmental conditions, (i.e., the presence of hazardous wastes, toxic substances, etc...). Because the reviewer is not an expert in the field of environmental hazards, or archeological matters, the review report must not be considered as an environmental or cultural assessment of the property and the reviewer makes no guarantees or warranties, express or implied, regarding the condition of the property. Concerns about soil conditions, actual condition of improvements or systems, or property conformity to zoning, building, fire, ADA, and other such applicable laws, regulations, rules and codes, should all be referred to the proper experts.
3. The reviewer is not an expert in minerals, mineral rights, timber, timber volumes, crops, farm programs or water requirements and rights. Unless otherwise noted, only surface rights will be appraised with no value specifically allotted to the mineral rights or deposits. Timber values, if considered a part of the report, will rely on proper experts, as will farm programs. Typically, growing crops are not considered in the review report. Usually it is assumed the water rights have been secured or perfected, with their value generally considered an inherent part of the land value, with any deviation from this to be included in the report. Rental and lease agreements, conservation plans, options and other situations may also require reliance on proper experts.
4. Any information, legal descriptions, acreage of land types, measurements of improvements, opinions, estimates, surveys, plans, maps and information on regulations, restrictions and studies, etc., from various sources including BPA, as well as from real estate professionals, government agencies, reviewers and other sources is considered reliable and the information is complete and correct. However, the reviewer does not assume responsibility for the accuracy of such items that were furnished by other parties. Any sketches, maps, or drawings, in the review report itself are included for informational purposes only, to assist the reader in visualizing the property. They are not to be considered a legal survey or engineer's plan of any kind and are not for any legal reference. The reviewer assumes no responsibility or liability for future conditions, about which information was not supplied or readily available or was not public knowledge at the time the review is made, nor for the effect of events, which might concern the value of the subject property subsequent to date of review.
5. The scope of work has been disclosed in the report. The review and report was prepared for, and is specific to, the needs of the client, intended users and the intended use. This review assumes the information presented in the Appraisal Report is correct and accurate.
6. The reviewer will not disclose the contents of this review report except as provided for in the Uniform Standards of Professional Appraisal Practice, and applicable federal, state, or local laws, rules or regulations. Any distribution of the valuation in the report applies only under the existing program of utilization. The separate valuations of components must not be used outside of this review and are invalid if so used. The reviewer is not obligated to/by any unauthorized use of this report by third parties or the “extraction” of only parts of the report and attempting to apply those parts in any other process or to reach a conclusion. No change of any item in the review report shall be made by anyone other than the reviewer and the reviewer is not responsible for any such unauthorized change.

## REVIEW APPRAISER CERTIFICATION

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The appraiser whose signature appears on the Certification does hereby certify that, to the best of my knowledge and belief that:

The statements of fact contained in the review report are true and correct;

The reported analyses, opinions, and conclusions in this review process are limited only by the reported extraordinary assumptions, hypothetical conditions and assumptions and limiting conditions, and are my personal, impartial and unbiased professional analyses, opinions, and conclusions;

The undersigned has no present or prospective interest in the property that is the subject of this review report and no personal interest with respect to the parties involved, and I have no bias with respect to the property that is the subject of this review report or to the parties involved with this assignment;

Engagement in this assignment was not contingent upon developing or reporting predetermined results, and my compensation is not contingent on an action or event resulting from the analysis, opinions, or conclusions in this review or from its use;

My compensation for completing this assignment is not contingent upon the developing or reporting of predetermined assignment results or assignment results that favors the cause of the client, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal review;

The analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP), except to the extent that the Uniform Appraisal Standards for Federal Land Acquisitions required invocation of USPAP's Jurisdictional Exception Rule, and the *Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Funded Programs* as provided in Federal Regulations, 49 CFR Part 24 (Public Law 91-646), and the appraisal review was made and the review report prepared in general conformity with the requirements of the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), 2016 edition;

The undersigned viewed the subject and sales as described in further detail in the Scope of Work section above. This reviewer did not re-verify the data presented and used in the appraisal, and did not do any additional market research.

No one provided significant appraisal review assistance to the person signing this certification;

Having worked in Montana previously, I was consulted by another reviewer for information about the subject's area and about general information about Montana real estate; this was related to a review of an appraisal done on this property in 2017 by the same appraiser. I did not actually review said report and only supplied information. I did attend a pre-appraisal meeting regarding this assignment and did offer some thoughts about the information provided. I have not performed any other services regarding the property that is the subject of this report within the three-year period immediately preceding this assignment.

The appraiser's opinion of the market value of the subject property as of February 1, 2018, is not approved for agency use.



Thomas J Konency, Review Appraiser  
Washington Certified General Appraiser #1102281

Date: May 18, 2018