



Aubrey Dunn, State Land Commissioner
State of New Mexico

FOR IMMEDIATE RELEASE

August 15, 2018

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Dunn rejects settlement offer from CBP

SANTA FE, NM – State Land Commissioner Aubrey Dunn has rejected an offer from U.S. Customs and Border Protection (CBP) to remedy its trespass on State Trust Lands.

In February, Commissioner Dunn launched an investigation that determined that the federal agency had constructed a portion of the controversial border wall, and was maintaining a road on State Trust Lands east of Santa Teresa without acquiring the necessary right-of-way. In all, an estimated 7-plus acres of trust lands were affected.

Shortly thereafter, CBP officials acknowledged the trespass and the two agencies began a dialogue to remedy the situation leading to a Memorandum of Understanding (MOU) that saw the federal agency complete an appraisal on the affected stretch of land. That appraisal, however, yielded a figure far less than Commissioner Dunn is willing to entertain.

“After nearly six months of evaluation, we hoped to sell the one-mile wide stretch of land for a reasonable price,” Dunn said. “The Federal appraisal was for \$8,736.”

Dunn said he is unwilling to proceed with a conveyance for less than the State Land Office would receive for either a 35-year or a 99-year easement for use of the lands. A 60-foot road and access easement for the same acreage would generate nearly \$20,000 over the course of a 35-year lease and \$54,310 over the course of a 99-year lease agreement.

“I’m disappointed with the federal government’s confiscation of State Trust Lands and the compensation offered,” Commissioner Dunn said. “President Trump continues his push to funnel billions of dollars to construct a border wall, yet his administration seems bent on shortchanging our beneficiaries. I just cannot accept it.”

The affected mile-long section of land, located east of the Santa Teresa Port of Entry in Dona Ana County, was conveyed to the Territory of New Mexico under the 1898 Ferguson Act and continues to be held in trust solely for public schools.

In other areas along the border, the federal government has, since a 1907 proclamation by President Theodore Roosevelt, reserved to itself a 60-foot wide strip of land “as a protection against the smuggling of goods between the United States and said Republic.” However, New Mexico acquired this section of land prior to the reservation, so that any federal occupation or use of the land requires authorization from the State Land Commissioner and payment to the trust.

Oil, gas, and mineral production, ranching and farming, and commercial development on State Trust Lands support public schools, seven universities, New Mexico Military Institute, New Mexico School for the Deaf, New Mexico School for the Blind and Visually Impaired, three hospitals, correctional facilities, water conservation projects, and public building construction and repair. In fiscal year 2017, the State Land Office collected \$664 million from lease payments, oil and gas lease sale earnings, rights-of-way, permits, interest, fees, and oil, gas, and mineral royalties.