

Tuesday, June 29, 2010

Are state lands in good hands?

By David Harrison, Stateline Staff Writer

Part one of a two-part series.

Right now, it's nothing more than 275 square miles of desert on the eastern periphery of metropolitan Phoenix. But one day, [Superstition Vistas](#) — named after the mountain range that looms over the scrubby land — could be home to a new city of 1 million people, almost as big as Phoenix itself.

That's the plan of the [Arizona State Land Department](#), which owns the land. The department, an agency of 122 people, is responsible for 9.3 million acres scattered throughout the state. Not long ago, it was an easily overlooked corner of the bureaucracy that mostly leased land to ranchers and miners. Over the past decade, however, the agency became a real estate juggernaut by selling thousands of acres to developers. For a while, sales poured hundreds of millions of dollars a year into a trust fund dedicated to schools.

Now, with the boom gone bust, the land department is hoping to catch its breath long enough to learn a few lessons. Superstition Vistas is a test case of sorts, to see if an agency that minted money by auctioning land to the highest bidder can take a more deliberate approach when the market rebounds. In Superstition's early planning stages, the land department is delving into the nitty-gritty of land use planning — something it has never attempted on such a scale. It's also seeking to reform



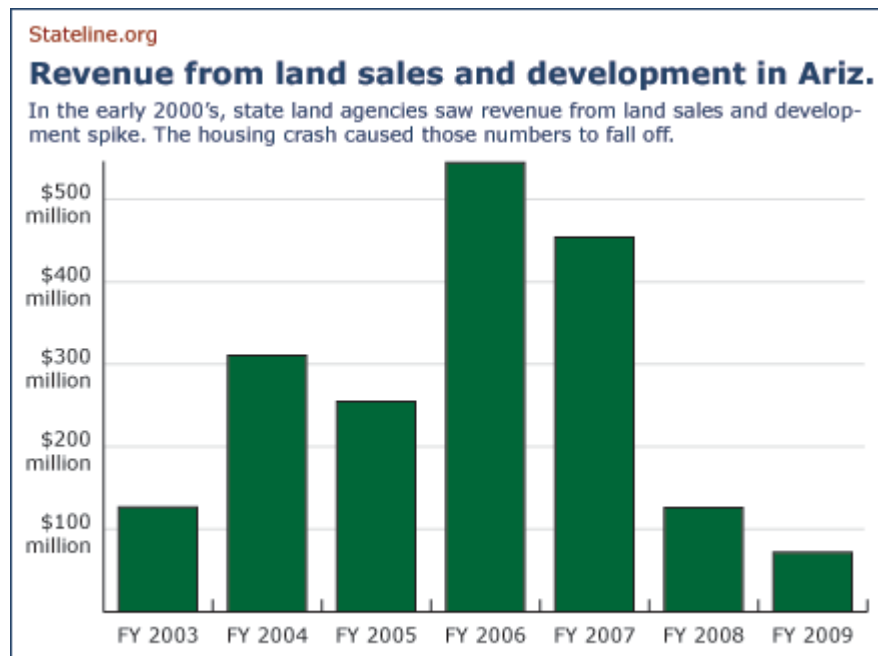
Photo courtesy of The Superstition Vistas Area Planning Project

The site of Superstition Vistas, where developers are working with the Arizona State Land Department to plan a new city of 1 million people. The project is a test case for the department, which is responsible for 9.3 million acres in the state and is trying to develop a sustainable development policy following the housing bust.

the rules governing state trust lands, which have not been substantially updated since Arizona became a state in 1912.

In the wake of the housing meltdown, similar conversations are taking place in other states across the West. Some 48 million acres in the West are in state hands. And while the bulk of it lies in remote places where ranching, forestry and mining will dominate for the foreseeable future, thousands of acres lie near growing metro areas where strip mines are giving way to strip malls. In the sun-baked Interior West, the next round of growth — whenever it comes — likely will take place on state lands. Jon Souder, an expert on state trusts lands who works as executive director of the [Coos Watershed Association](#) in Oregon, calls this phenomenon “the last land rush.”

Managing this growth will be a challenge for state governments. Most of them had almost no experience in real estate development until about a decade ago. In Arizona, for example, environmentalists want to see more land sealed off from developers, while developers want to cut through the red tape that tends to tie up state land sales. The state and local governments want more flexibility in deciding



Source: Arizona State Land Agency

how to dispose of the land, while school advocates are hesitant to sign off on any change that will reduce their trust fund revenues. All the while, ranchers, some from families that have been working state lands for generations, want to protect their leases.

“There’s a nice pause,” says Dave Richins, Arizona policy director for the nonprofit Sonoran Institute, which studies land use patterns in the West. The market slowdown, Richins says, “allows us to look at 9.3 million acres of state trust lands and plan where we want development and growth to be, plan where we want conservation to be, plan where we want transmission lines and roads to be and lock that in.”

The question is: Will Arizona and other Western states be ready when the market turns back up?

A rite of statehood

When territories achieved statehood, the federal government gave them millions of acres of lands, often in small parcels scattered across the state in a checkerboard pattern. Although the enabling legislation differed from state to state, they were required to create a trust to manage the land, put it to its “highest and best use,” and use the revenues to finance public education.

Some states, such as Nevada and California, sold off most of their land almost immediately. Others leased it out to ranchers and farmers, or struck agreements with timber and mining companies. Today, 23 states, including most states west of the Mississippi River, plus Wisconsin and Mississippi, maintain some land in trust. Texas has the most state land, with 20.3 million acres, much of it leased for oil drilling.

During the housing boom of the past decade, new suitors began to approach state governments. Raw land — once only valued for what could be mined, grazed or harvested from it — became valuable in its own right, as a place to put houses on the fringes of ever-expanding metro areas.

Arizona led the way. Although only a tiny fraction of its state trust land was attractive to developers, the Arizona State Land Department was able to wring eye-popping revenues from sales to developers thanks to the breakneck pace of Phoenix-area growth.

In 2003, then-Governor Janet Napolitano appointed Mark Winkleman to lead the department. Winkleman, who left in 2009, was the first director to come from a real estate background. “We worked pretty hard in my time there to put ourselves in a position to take advantage,” Winkleman says. Revenue from land sales rose from almost \$127 million in 2003 to \$544 million three years later.

In Utah, the [School and Institutional Trust Lands Administration](#) struck deals with developers to build on thousands of acres, mostly in Washington County in the Southwestern corner of the state. Development revenue jumped from \$15 million in 2003 to \$45 million in 2007. In Idaho, revenue from the sale of land increased by more than 600 percent between 2002 and 2007, from \$1.1 million to \$7 million. “These lands have really been in many ways undervalued,” Souder says. “The trust beneficiaries didn’t pay much attention to them, although that has changed in the last 10 years or so.”

As the pace of development grew faster — and states made more money for their schools — conflicts arose. Environmentalists worried that fragile land was being gobbled up with no regard for conservation. Their opponents weren’t just developers but also school advocates, who were hungry for more revenues. And local governments sometimes sparred with the state over the impact all the new development was having on local services.

Brian Boyle, a former land commissioner in Washington State, where commissioners are elected, says politics goes with the job. “There’s always a political furor that you run into with local legislators about a little parcel of land that some constituency wants to hang on to or when a subdivision doesn’t want the next parcel to be developed or they want the forest not to be cut.”

By law, the agencies have to earn as much money as they possibly can for schools, which

makes it very difficult to legally set land aside for conservation.

In Arizona, a ballot measure in 2006 to carve out conservation areas from the state's land holdings went down after ranchers and home builders opposed it. Another attempt, in 2008, failed for lack of signatures.

Then the housing bust did what the ballot efforts couldn't: It sucked the momentum out of development. By last year, land-department sales in Arizona dropped to \$72 million. What's more, developers who purchased state lands during the peak of the rush have defaulted on about half a billion dollars' worth of those sales, according to an analysis by the *East Valley Tribune*. When that happens, the land reverts to state ownership, although some of the cases are entangled in lawsuits.

One of the more dramatic tales from the bust happened in Utah. In Washington County, the developer of Coral Canyon, an upscale but unfinished 2,600-acre subdivision, put the half-built development on the market last year. Hedge funds circled around the sale but stayed away. Finally, the state decided to buy back the development itself for \$3.4 million and sit on it until the market bounces back. *(For more on Coral Canyon, visit Stateline next week.)*

Hopes for reform

While bailouts like the one Utah is making are rare, the housing crash has given land trust officials across the West reason to reevaluate what they're trying to accomplish. Says Doug Buchi, assistant director for real estate development at the Utah School and Institutional Trust Lands Administration: "We need to be a lot more prudent and cautious and not get caught up in the feeding frenzy of when there's the big land rush going on and everybody wants to jump in and take advantage of rapidly escalating prices only to have what happened happen."

In Arizona, land department officials made another attempt at land reform last year, but the package got bogged down by colliding interests and sidetracked by the state's collapsing budget. A central feature of reform would do away with the requirement that the state sell its land by auction. Doing so would give state officials more flexibility to guide what ultimately happens on the land. They could work with local governments, conservationists, builders, ranchers and school officials to find compromises among their various interests, rather than being beholden to selling the land to the highest bidder. In the case of Superstition Vistas, advocates of reform say the land would be worth more with careful planning than if the state auctioned off the 275 square miles piece by piece.

Nevertheless, prospects are dim for trust land reform in the near future. Conservationists, developers, ranchers, school administrators and state officials and others are gathering once again this year to draft an agreement, but making everybody happy will be difficult. Meanwhile, the land department, like all state agencies, has lost staff and seen its budget cut by 25 percent.

"I'm sure the department is doing the best it absolutely can," says Winkleman. "But there's no way it has the resources to do an effective job. I think this downturn is largely being wasted.

— Contact David Harrison at dharrison@pewtrusts.org

See related stories:

[Conservation cutbacks force states to pass on buyers' market](#) (06/03/2010)

[State parks reeling from budget droughts](#) (03/15/2006)

[Comment on this story in the space below by registering](#) with [Stateline.org](#).

ISSUES AND TOPICS ▮▮▮

Issues: Environment

COMMENTS (0) ▮▮▮

There are no comments yet, would you like to [add](#) one?

(c) 2009. The Pew Charitable Trusts. All rights reserved.