



United States
Department of
Agriculture

Forest
Service

Lewis and Clark
National Forest

1101 15th Street North
P.O. Box 869
Great Falls, MT 59403-0869
406 791-7700
FAX 406 731-5302

File Code: 1950/5430

Date: April 20, 2009

Route To:

Subject: 18.1 and 18.4 Review of Changed Conditions for Taylor Hills Land Exchange

To: Project File

An interdisciplinary review has been completed to address the effects of changed conditions for the Taylor Hills Land Exchange decision.

Forest Service Handbook direction at 1909.15 Section 18.1 and 18.4, define the procedures for considering new information. Circumstances related to rights-of-way as described in the Taylor Hills Land Exchange Environmental Assessment and Decision Notice/Finding of No Significant Impact (FONSI) have changed. The non-Federal party, Zehntner Brothers, LLC (Zehntner) is no longer willing to grant rights-of-ways on Roads Nos. 6424 and 6372, which were part of the original decision. The following Supplemental Information Report forms the basis of the decision concerning whether or not a supplement is needed to the Taylor Hills Land Exchange Environmental Assessment.

Background

The Lewis and Clark National Forest and Zehntner Brothers, LLC (Zehntner) have been actively processing the Taylor Hills Land Exchange. I decided to complete the proposed land exchange and documented this in an October 9, 2008 Decision Notice and Finding of No Significant Impact (DN/FONSI). The DN/FONSI stated the selected action and is summarized as:

The United States would acquire the following lands and road and trails right-of-way (R/W) easements located in Meagher County, Montana:

- 151.52 acre Taylor Hills HES 185, located within Sections 13 and 24, T14N, R5E and Sections 18 and 19, T14N, R6E;
- One water right in HES 185 for stock;
- 0.91 miles of public road R/W, 66 feet wide, on Roads Nos. 6424 and 6372, located within Section 30, T14N, R5E through Zehntner property;
- One 53 public foot trail bridge R/W, 66 feet wide, on an existing private bridge crossing of Tenderfoot Creek at the terminus of Road No. 6372 located within Section 30, T14N, R5E.;

- 2.07 miles of public trail R/W, 20 feet wide, on Trails Nos. 342 and 345, located within Sections 19 and 30, T14N, R5E, and Sections 24 and 25, T14N, R4E; and
- Retain 447 feet of public road R/W reservation, 66 feet wide, on existing NFS Road No. 6424, located in Section 30, Government Lot 18.

The United States would convey the following lands and grant the following road easements to Zehntner property located in Meagher County, Montana:

- 158.83 acres NFS land, located within Section 30, Lots 16, 18, 19 and 20; and Section 32, Lots 1, 2, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, T14N, R5E;
- Grant a 1,556 feet forest road easement on NFS Road No. 6372, Section 30, Lot 14, T14N, R5E;
- Grant a 440 feet forest road easement on NFS Road No. 6424, Section 30, Lot 14, T14N, R5E; and
- Grant a 1,506 feet forest road easement on road segment of NFS Trail No. 342, Section 30, Lot 15, T14N, R5E.

After the DN/FONSI was signed Zehntner indicated that they were not willing to grant the 0.91 miles of public road R/W, 66 feet wide, on Roads Nos. 6424 and 6372, located within Section 30, T14N, R5E. This route will continue to be open by good will courtesy of the landowner.

I will still continue with this land exchange. Earlier in 2008, the Forest Service and conservation partners began the process to acquire a large portion of private land south and west of Zehntner Brothers HES 668. Road No. 6242029, called the Tenderfoot-Bair Road, crosses this property and was used to log the property in the 1990's. A field inspection of this road in August 2008 determined that this road could be a better long term access route to National Forest System land west of Zehntner Brothers HES 668. The Forest Service will now pursue long term access across this route and will reserve a public ROW on the portion of Road No. 6242029 that currently crosses lot 20, section 30, T.14N, R5E on the National Forest System land proposed to be exchanged to Zehntner Brothers. This determination will be documented in an amended decision notice. With this alternative route identified, access across Zehntner Brothers HES 668 is not as critical.

Since the Forest Service is not pursuing long term access across Zehntner Brothers HES 668, the reciprocal road easements to Zehntner Brothers would not be granted at this time. Neither is there any longer a need to acquire the bridge easement.

The Travel Plan decision designated NFS Road 6424 as open to highway legal vehicles only and NFS Road 6372 as open season to highway legal vehicles July 1st through August 31st. The current use of the road will continue; however, Zehntner will need to apply for a special use authorization for use of NFS Road 6372 if it is needed outside the designated season. If Zehntner were to apply for a special use authorization, a reciprocal R/W could be required as a condition of this authorization. This would be done if Road No. 6242029

(Tenderfoot-Bair Road) cannot be acquired. If any special use request is accepted as an application, it would require a separate environmental analysis as part of the authorization process.

Findings by Responsible Official Based on Consideration of Changed Circumstance

As the Responsible Official for the Taylor Hills Land Exchange, I am required to review my decision if a changed circumstance arises, pursuant to agency policy in the Forest Service Environmental Policy and Procedures Handbook 1909.15 Section 18.1. As required in 36 CFR 254.3(b), I have determined the public interest is still well served through this exchange, even with the changed circumstances.

The Environmental Assessment (EA) August 2008 for the Taylor Hills Land Exchange did not identify any specific environmental effects from acquisition/exchange of ROWs/easements. Neither would environmental effects be expected from the changes identified in this review. An interdisciplinary team reviewed the changes to the proposed action and determined that there would be no environmental effects to water, heritage, wildlife or fisheries resources. These reviews are contained in the project record. Therefore, I do not feel there is a need to supplement the EA or change my determination in the finding of no significant impact.

The resource values and public objectives served by the acquired non-Federal lands equal or exceed the resource values and the public objectives served by the conveyed Federal lands. The specific purpose of this land exchange is to maintain wildland values and roadless characteristics of the Tenderfoot-Deep Creek Inventoried Roadless Area; maintain high quality wildlife habitat; and maintain undisturbed watersheds downslope in the Tenderfoot Creek for Westslope cutthroat trout habitat, a sensitive species. The Forest Service management in this area emphasizes semi-primitive recreation opportunities while maintaining and protecting other Forest resources. The land exchange would help consolidate land ownership configuration that tends to improve long-term management effectiveness, especially semi-primitive recreation opportunities.

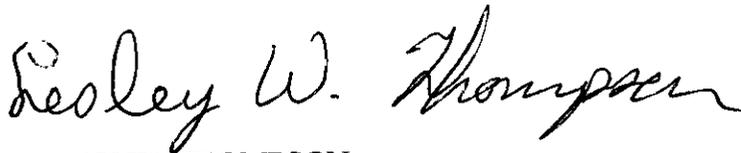
In addition to protecting wildland values and acquiring and perfecting public access, other benefits of the exchange and acquisition ROW include:

- Protect 1.2 miles of trail within HES 185 from logging impacts. This trail is presently open by good will courtesy of the landowner;
- Maintain other resources on HES 185, including recreation use, soils, and visual aesthetics; and
- Acquire and perfect 2.07 miles of public trail ROW for Trails 342 and 345, as public ROW into and along Tenderfoot Creek, presently open as good will courtesy of the landowner.

The intended use of the Federal lands to be conveyed will not conflict with established management objectives on other Federal lands, including Indian Trust lands in the area.

An amended technical appraisal review report has been completed by C. Kim Zier, Review Appraiser – Region 1. In the technical review report it discussed the changed estate; no reciprocal R/W easements to Zehntner or the United States and an additional road reservation by the United States. The report stated the value of the non-Federal lands identified for exchange, which in total consists of 151.52 acres, as \$380,000. The report stated the current estimated market value of the Federal lands, which in total consists of 158.83 acres, as \$358,000. The exchange will be completed on the basis of equal market values. The United States will pay the non-Federal party \$22,000 equalization payment as allowed by 36 CFR 254.12.

Considering the preceding rationale, I find that the changed circumstance is within the context of the overall project and no changes to the EA are necessary to address environmental concerns that have bearing on the action, its impacts, and my determination in the finding of no significant impact. However, in order to clarify my decision in light of the changed circumstances, I will issue an amended Decision Notice. These findings are hereby incorporated into the project file.



LESLEY W. THOMPSON
Forest Supervisor