

# Decision Notice/Finding of No Significant Impact

## Coon Creek Administrative Site Sale

USDA Forest Service  
Grand Valley Ranger District  
Grand Mesa, Uncompahgre and Gunnison National Forest  
Mesa County, Colorado  
NE1/4 Section 16, T. 11 S., R. 96 W., 6<sup>th</sup> P.M.

### **Background**

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The Grand Mesa, Uncompahgre and Gunnison National Forest (GMUG NF) completed its Facility Master Plan in 2003. In that plan, the Forest identified a number of facilities and administrative sites that are no longer needed for various reasons. The Coon Creek administrative site was identified as being no longer needed for National Forest administrative purposes. It is vacant land. There has been virtually no use since 1942, when the Civilian Conservation Corps (CCC) camp closed. The CCC camp operated from 1940-1942.

In May 2006, the Coon Creek administrative site was one of a number of sites selected by a Congressional subcommittee as eligible for the Pilot Conveyance Program (Publ. L. 107-63, sec. 329(a)). This program was authorized by Congress in Fiscal Year (FY) 2005 as a means for the Forest Service to dispose of unneeded facilities and administrative sites and retain the revenues to perform deferred maintenance or acquire replacement facilities.

The Forest Service has identified a need to use the Pilot Conveyance Program legislation to sell the Coon Creek administrative site on the GMUG NF to obtain funding to acquire, improve and maintain other Forest facilities and administrative sites that better serve the public and provide quality work environments for employees. Congress passed this legislation in recognition of limited funding available for facility acquisition, operations and maintenance. This legislation allows for income derived from the sales of these properties to be used to acquire or improve administrative facilities that better provide for public service and to improve employee working conditions.

An environmental assessment (EA) was provided to the public for comment from March 12 through April 11, 2007. A Revised EA was then prepared because greenback cutthroat trout, a federally-listed threatened species, was discovered in the stretch of Coon Creek within the administrative site proposed for sale. The Revised EA was provided to the public for comment from January 22 through February 21, 2008. The Revised EA documented the analysis of four alternatives to meet the need described above. It included disclosure of the presence of greenback cutthroat trout and identified means of mitigating the potential effects of conveying the habitat of that species out of federal ownership.

Following the 2008 comment period, the Revised EA was further revised to incorporate analysis in response to the comments received. This resulted in a Final EA that was posted to the GMUG NF's internet website on March 24, 2008. A postcard was mailed to those who commented on either the EA or the Revised EA notifying them of the availability of the Final EA, that a comment period was not provided, and to expect a decision by the first of May.

This Final EA was not circulated for further public review because (1) there is no agency direction to do so, (2) when documenting environmental analysis in an Environmental Impact Statement (EIS), there is no requirement or expectation to provide public review of the final EIS, (3) I do not find that further public review will lend any additional information or understanding of the issues important to this decision, and (4) should there be additional objection to the way in which comments were considered or responded to, the appeals process described at the end of this Decision Notice is available to those who commented.

It is the Final EA, dated March 24, 2008, that I have relied upon to inform and support my decision.

## **Decision**

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Based upon my review of all alternatives, I have decided to implement Alternative 4, the proposed action. Under this alternative, the Forest Service will sell the 160-acre Coon Creek administrative site. The Forest Service will then use the sale proceeds for administrative facilities that better serve the public. Conservation measures will be implemented to benefit or promote the recovery of greenback cutthroat trout.

These conservation measures will include the construction of a barrier in Coon Creek, on a reach of the creek approximately one mile upstream of the subject property. It will be constructed either on private property near the intersection of Coon Creek and the Forest boundary, or if not possible, then alternatively on National Forest land a short distance upstream from the Forest boundary. The purpose of the barrier is to keep brook trout from moving upstream into a known population of greenbacks. Brook trout will compete with greenbacks for the same habitat. The Forest Service will also improve habitat on either upper Coon Creek or West Antelope Creek. Habitat improvement activities will include placement of large wood or rock structures, stabilizing stream banks, and perhaps planting riparian vegetation.

At this time, the Forest Service plans to sell the administrative site competitively by offering four configurations (see maps in Appendix 1 of the Final EA): (a) the 160-acre parcel, (b) two parcels (65 and 95 acres) separated by the state highway, (c) three parcels (65, 47 and 47 acres), and (d) four parcels (35, 35, 45 and 45 acres). The configuration receiving the highest cumulative bid(s) for the entire 160 acres will be selected.

I am aware that, if sold as four parcels as described just above, it is possible for a fifth, smaller non-conforming parcel to result, in accordance with Mesa County regulations. This fifth parcel would be that part of the southwestern quarter of the 160 acres that lies to the east of the highway. I will take that into consideration as I formulate the public offering.

The entire mineral estate (leasables, locatables, and salables) will be retained by the Federal government and will continue to be administered by the BLM; however the Forest Service will cease having (1) responsibility for granting consent to the BLM on leasing, and (2) authority to approve surface uses associated with development of leasable minerals.

Selection of Alternative 4 does not specifically address the method of sale of the property (oral auction vs. sealed bid, online vs. not, etc.) as the method of sale does not have environmental effects other than the configurations offered. The configuration that would yield the greatest number of residences consistent with County zoning was considered (four 35+ acre parcels) and the environmental effects were analyzed and disclosed in the Final EA. Nonetheless, the method of sale planned is to sell the property in the four configurations described above via an online

auction. An Invitation For Bids (IFB) will be prepared that describes the property and will be provided to interested buyers. The highest bid, of any of the above configurations, will be the selected option, provided the bid represents the market value of the property.

## **Reasons for the Decision**

In making this decision, I have considered a number of factors, including environmental effects documented in the Final EA, findings of the Biological Evaluation and the Biological Assessment, advice of the US Fish and Wildlife Service, advice of the Colorado State Historic Preservation Office (SHPO) regarding cultural resources, comments received from the public during scoping, a public meeting, and the two comment periods, as well as other factors.

When compared to the No Action alternative (Alternative 1), this alternative will allow the Forest Service to sell the Coon Creek administrative site and use the proceeds of that sale to acquire, construct or improve administrative facilities. The Coon Creek parcel is a 160-acre parcel of Reserved Public Domain land. It is separated from the main body of the Forest by a half-mile. The parcel is virtually surrounded by private lands that are becoming more developed with both year-round and second homes. As an isolated parcel, this administrative site is not being managed in the same manner as, or even used by the public as, National Forest. Isolated parcels such as this are difficult to manage, making them suitable for disposal if other purposes may be served by so doing. I believe this is the case here.

When compared to Alternative 2, the only difference is that Alternative 4 provides for conservation measures to benefit or promote the recovery of greenback cutthroat trout. The reason I have opted for the conservation measures in Alternative 4 is that they are appropriate to facilitate the improvement of the habitat of this federally-listed threatened species.

When compared to Alternative 3, the differences are that (a) Alternative 4 does not include a deed restriction to protect fish and wildlife habitat from development along the third-of-a-mile of Coon Creek within the parcel (see the description of Alternative 3 below for more detail of the deed restriction), and (b) Alternative 4 provides for conservation measures to benefit or promote the recovery of greenback cutthroat trout. The reasons I have opted not to select Alternative 3, and impose a deed restriction on the subject parcel are:

- 1) The benefits that a deed restriction would provide along the 1,750-foot stretch of Coon Creek within the parcel would be ineffective when put in context of the whole creek:
  - There is a lack of similar protection of 8.4 miles of the creek where it flows through private lands.
  - The private lands Coon creek flows through are owned by over 50 different landowners with the average length of creek per landowner being 850 feet. This means there is no entity providing oversight to protect and manage the creek and the greenback cutthroat trout, a threatened species. Establishing a deed restriction on 1,750 feet of the 44,352 feet of stream habitat below the Grand Mesa National Forest boundary would have little to no effect on protecting greenback cutthroat habitat.
  - There is a substantial percentage of brook trout (40%), in most of the 8.4 mile reach of Coon Creek (below the Forest boundary), which have competitive

advantages over greenbacks and displace populations of greenbacks from their habitat.

- The Coon Creek parcel is a small parcel isolated from the main body of the Grand Mesa National Forest and, as such, is difficult to manage, including ensuring protection of the fish and wildlife.
- 2) Forest Service experience shows that deed restrictions are difficult to administer with changing owners. While the first owner is often supportive and understanding of the deed restrictions, subsequent landowners are typically less so, which can lead to deed restriction violations.
  - 3) Deed restrictions could reduce the value of the National Forest parcel.

While the Forest Service did not formally consult with the U.S. Fish and Wildlife Service (FWS) on Alternative 3, in informal discussion with the FWS, they indicated that Alternative 4 was preferred over Alternative 3 because Alternative 4 will provide for more effective long-term management and protection of greenback cutthroat trout.

Selection of Alternative 4 does not specifically address how the property will be developed after the sale as the Forest Service will have no authority or responsibility as to what occurs on the private land. In any future development of the property, successful bidder(s) will be subject to County of Mesa processes, zoning and ordinances.

This alternative meets requirements under the Pilot Conveyance Program (Publ. L. 107-63, sec. 329(a)), National Historic Preservation Act, Endangered Species Act, and National Environmental Policy Act, and is consistent with the Forest Plan<sup>1</sup> and the Forest's Facility Master Plan. Selection of this alternative is subject to the following design features:

- Existing permitted uses will be protected during the sale process. These permitted uses include:
  - An easement granted in 1967 from the Bureau of Public Roads to the Colorado Department of Transportation for State Highway 65. The parcels will be conveyed to the new owner(s) subject to this easement.
  - A special use permit granted in 1986 by the Forest Service to Grand Valley Rural Power Lines, Inc., for two electric transmission lines. Protection will likely occur by requiring the new owner(s) to issue a replacement easement at closing.
  - A special use permit granted in 2007 by the Forest Service to CenturyTel of Eagle, Inc. for buried and aerial telephone lines. Protection will likely occur by requiring the new owner(s) to issue a replacement easement at closing.
- Existing land ordinances and regulations would be applied by the local government jurisdictions after sale of the properties. Future uses and development will be managed under those regulations and ordinances.
- Access to the parcel(s) is authorized by permits granted to the Forest Service from the Colorado Department of Transportation (CDOT). The two access points are along State

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<sup>1</sup> 1991. Grand Mesa, Uncompahgre and Gunnison National Forests (GMUG NF) Land and Resource Management Plan, as amended.

Highway (SH) 65, midway of the parcel (milepost 43.86); one to the east and one to the west of SH 65. The owners will be responsible for constructing the driveways per CDOT permit requirements. The existing driveways, which lie about 400 feet north of the parcel's midpoint, will be abandoned.

In making this decision, I have also given consideration to the land use regulation which will apply to this land once it has been transferred into private ownership.

Mesa County uses zoning districts to support and implement their land use classification as described in the Mesa County Land Development Code. The Coon Creek administrative site will fall within the zoning district of AF-35, Agricultural and Forestry District.<sup>2</sup> This zoning district "...is primarily intended to provide for the protection and continuation of agriculture and forestry operations, and the protection of environmentally sensitive lands" and provides regulatory control of one dwelling unit per 35+ acres.<sup>3</sup>

According to the Mesa County Land Use Plan,<sup>4</sup> the parcel will be given a Rural/Agricultural 35+ acre land use classification, which allows single-family detached homes (includes manufactured homes), accessory dwelling units, agricultural labor housing, home-based day care facility, some parks and open space including golf course, oil or gas drilling, and various conditional uses.

I am aware that, if sold as four parcels, it is possible for a fifth, smaller non-conforming parcel to result, in accordance with Mesa County regulations. This fifth parcel would be that part of the southwestern quarter of the 160 acres that lies to the east of the highway.

The Coon Creek administrative site falls within a "very high potential for impact category" on the 1995 Wildlife Composite Map for Mesa County.<sup>5</sup> As such, prior to issuing a building permit, the County will consult with the Colorado Division of Wildlife "... to substantiate the basis for the potential impact and to address various, specific measures to avoid, minimize, or mitigate negative impacts to wildlife and its habitat."<sup>6</sup> A building permit will be required for construction of a residence, road, or creek crossing.

In coming to my decision, I have also considered the input of several people who expressed an opposition to the sale of the Coon Creek administrative site, including those who have said that the Forest Service should:

- Not sell National Forest lands (for any purpose);
- Not sell National Forest lands to generate funds for building or office needs; and
- Retain National Forest lands for future generations.

These are all legitimate opinions and I agree that the Forest Service should be prudent in the sale of National Forest lands, whether to generate funds for buildings or for any purpose. Indeed, this parcel has provided limited habitat for wildlife and open space values. However, my decision to dispose of it is heavily weighted upon three factors: a) this parcel is distantly separate from the rest of the Grand Mesa National Forest; b) it is surrounded by private lands that are becoming increasingly developed for residential purposes (causing a gradual decline in the parcel's

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<sup>2</sup> Mesa County Land Development Code 4.5.1.

<sup>3</sup> Mesa County Land Development Code 4.1.1.

<sup>4</sup> Mesa Countywide Land Use Plan, Updated February 2, 2006.

<sup>5</sup> Per Michael Warren, Senior Planner, Mesa County, March 10, 2008.

<sup>6</sup> Mesa County Land Development Code 7.6.4.A., Wildlife Habitat Protection.

National Forest character); and c) the Forest Service has no need to use this parcel for administrative purposes.

I have also given consideration to certain evidence that the parcel was included in the original National Forest Proclamation not for National Forest resource purposes but solely for administrative purposes. Evidence that tends to support this position includes (a) it is the only parcel in the original Forest proclamation that is physically separated from the Grand Mesa National Forest, (b) had there been an intent to establish a larger block of land for resource management purposes in the Coon Creek area, the nearby public lands (now BLM) would have also been included, and (c) the Forest proclamation (in 1892) was followed relatively soon by the administrative site withdrawal in 1906. The Coon Creek parcel has been designated an administrative site for over 100 years, clearly distinguishing it from other National Forest lands.

### **Other Alternatives Considered**

In addition to the selected alternative, I considered three other alternatives. A comparison of these alternatives can be found in the Final EA on page 16.

#### *Alternative 1 (No Action)*

Under the No Action alternative, current management plans would continue to guide management of this parcel. The 160-acre Coon Creek administrative site would stay in National Forest ownership and in the short-term would remain a federal administrative site. The lands in the administrative site could be nominated by an interested party for oil and gas lease to the Bureau of Land Management (BLM). In that case, the Forest Service would exercise its consent role to BLM leasing, and follow established procedures to verify the land availability for leasing and consistency with the Forest Plan and *Oil and Gas Leasing EIS* and *Record of Decision* (1993).

#### *Alternative 2*

Under Alternative 2, the Forest Service would sell the entire 160-acre Coon Creek administrative site and use the proceeds for administrative facilities. There would be neither deed restrictions nor conservation measures to protect or enhance fish and wildlife habitat along Coon Creek.

The entire mineral estate would be retained by the Federal government and would continue to be administered by the BLM; however the Forest Service would cease having responsibility and authority over surface use and occupancy associated with mineral developments.

The 160-acre parcel would likely be developed as approved through the County of Mesa zoning and development process. It would likely be zoned by the County as a *Rural/Agricultural 35+ acre* land use classification, which allows single-family detached homes (includes manufactured homes), accessory dwelling units, agricultural labor housing, home-based day care facility, some parks and open space including golf course, oil or gas drilling, and various conditional uses. With the 35+ acre limitation, the number of parcels within the 160-acre parcel could not exceed four without certain County action.

#### *Alternative 3*

Under Alternative 3, the Forest Service would sell the entire 160-acre Coon Creek administrative site and use the proceeds for administrative facilities. This alternative includes a deed restriction to protect fish and wildlife habitat from development along the third-of-a-mile of Coon Creek within the parcel. Restrictions would be established to prohibit the development of houses and

supportive infrastructure (e.g., outbuildings, leach fields) within the water influence zone: a 100-foot corridor each side of the creek. Restrictions would also be established to ensure stream crossings will allow for passage of fish at all flows. Allowable stream crossings would include bridges or bottomless arch culverts; prohibited crossings would be culverts with bottoms.

The entire mineral estate would be retained by the Federal government and would continue to be administered by the BLM; however the Forest Service would cease having responsibility and authority over surface use and occupancy associated with mineral developments.

The 160-acre parcel would likely be developed as approved through the County of Mesa zoning and development process. It would likely be zoned by the County as a *Rural/Agricultural 35+ acre* land use classification, which allows single-family detached homes (includes manufactured homes), accessory dwelling units, agricultural labor housing, home-based day care facility, some parks and open space including golf course, oil or gas drilling, and various conditional uses. With the 35+ acre limitation, the number of parcels within the 160-acre parcel could not exceed four without certain County action.

## **Public Involvement**

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As described in the *Background*, the need for this action arose in 2003. A proposal to sell the Coon Creek administrative site was listed in the Schedule of Proposed Actions on July 2006. The proposal was provided to the public, other agencies and the three Ute Tribes for comment during scoping in August 2006. In addition, as part of the public involvement process, the agency provided a news release of the scoping period that was printed by *The Grand Junction Daily Sentinel*. The Forest Service also held a public meeting at the nearby Powderhorn Ski Resort to allow for specific discussion on the proposal. Seventeen people attended.

Using the comments from the public, other agencies, and the three Ute Tribes (see *Issues* section), the interdisciplinary team identified several issues regarding the effects of the proposed action. Main issues of concern included historic and cultural resources, habitat for wildlife species with special status, riparian area, and surface management of leaseable minerals (see Final EA page 4). To address these concerns, the Forest Service created the alternatives described above.

The opportunity to comment on the EA was announced through a legal notice in both *The Grand Junction Daily Sentinel*<sup>7</sup> and *The Denver Post*<sup>8</sup> on March 12, 2007. Articles on the opportunity to comment were also printed in *The Grand Junction Daily Sentinel* and *The Delta County Independent*. The EA and a cover letter were sent to 83 people. A public meeting was held at the Powderhorn Ski Resort to explain the EA, answer questions, and to allow for specific discussion on the proposal. Eleven people attended.

Five comment letters were received during the 30-day comment period. Copies of the comments and the Forest Service responses to them are found in Appendix II of the EA, which was sent to the project mailing list.

A Revised EA was prepared after the discovery of the greenback cutthroat trout. The Revised EA was provided to the public for a 30-day comment period that extended from January 22 through February 21, 2008. The Revised EA and a cover letter were sent to 85 people.

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<sup>7</sup> The newspaper of record for the Grand Mesa, Uncompahgre and Gunnison National Forests.

<sup>8</sup> The newspaper of record for the Rocky Mountain Region, USDA Forest Service.

Articles announcing the availability of the Revised EA and comment period were provided to *The Grand Junction Daily Sentinel* and published in *The Delta County Independent* (1/23/08). An article was written by a journalist and published in *The Grand Junction Free Press* and *The Aspen Times* (both on 1/30/08). Legal notices were published in *The Grand Junction Daily Sentinel* and *The Denver Post* (both on 1/22/08).

Comments from 29 people were received. Copies of the comments are in the record as is a table describing how each comment was considered. Six letters and the Forest Service responses to them are found in Appendix III of the Final EA.

The Final EA and three appendices were posted to the GMUG NF internet website on March 24, 2008. Also on that date, a postcard was mailed to all those who commented on the EA or the Revised EA. That postcard notified recipients of the availability of the Final EA on the website, that no comment period was provided, and to expect a decision by the first of May.

### **Finding of No Significant Impact**

After considering the environmental effects described in the Final EA, I have determined that these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

Context: The setting of the selected alternative and proposal is local in regards to long- and short-term effects on both human and natural resources. The effects of this action are limited to a small area of Mesa County, near the unincorporated community of Mesa. Approximately 1/3<sup>rd</sup> mile of Coon Creek (the stream) will be conveyed to private ownership. Of the total length of the creek (11.2 miles), 8.4 miles are already privately owned, by over 50 landowners. The physical and biological settings are common to the entire north face of the Grand Mesa.

Intensity:

1. My finding of no significant environmental effects is not biased by the beneficial effects of the action.

There will be no significant effects on public health and safety, since potential development of the property to be sold will be subject to ordinances and laws that require compliance with health and safety standards. No specific safety or health issues were raised during the environmental analysis. An assessment for hazardous materials and petroleum products was conducted by Forest Service personnel. No evidence of either were identified.

2. There will be no significant effects on unique characteristics of the area. This parcel is bisected by a state highway with private lands virtually surrounding it, and the area does not contain unique features. While there was a Civilian Conservation Corps (CCC) camp on the parcel from 1940-1942, there is little evidence remaining of that use. There are no other sensitive resources or unique characteristics on the site, including farmlands or rangelands, nor are there adverse impacts to minority groups, civil rights, women, consumers, or relative to environmental justice.
3. The effects on the quality of the human environment are not likely to be highly controversial because there is no known scientific controversy over the impacts of the

project. The effects are clearly understood based on the uses of many other privately-owned parcels in the general vicinity.

4. The Forest Service has considerable experience with the types of activities to be implemented. The effects analysis shows the effects are not uncertain, and do not involve unique or unknown risk. The Forest Service has completed many small parcel sales and land exchanges on this National Forest. While this proposal is not a land exchange, land exchanges transfer lands from public to private ownership much like this sale. Development on the 160-acre property to be sold will likely be similar to what is seen in adjacent and various other areas of the community around the property.
5. The action is not likely to establish a precedent for future actions with significant effects, because no other activities or decisions are necessary as a result of this decision. Other administrative sites on the Forest may be sold under a similar authority (the Forest Service Facilities Realignment and Enhancement Act of 2005); however this law does not require the sales. Any future sales of administrative sites are separate decisions and unrelated to this decision.
6. The cumulative impacts are not significant (see cumulative effects discussions in the Final EA).
7. The action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, because cultural resource sites found on the parcel, especially for the CCC camp, were tested and mitigated under current law and regulation. All important information was collected from the sites or the sites were determined as ineligible based on site testing. No other items or effects would occur as a result of the sale of the property. Cultural resource surveys and reports were completed and the Colorado State Historic Preservation Office (SHPO) has concurred with the findings in this report. Clearance for the sale of the property was given on May 5, 2005 (see Final EA, pages 18-19). The action will also not cause loss or destruction of significant scientific, cultural, or historic resources, because no other resources were identified on the property. Implementation of conservation measures for greenback cutthroat trout will require site-specific cultural resource surveys and SHPO consultation prior to these ground-disturbing activities.
8. The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, because a Biological Assessment and Evaluation, that was revised on March 11, 2008 and an Amended Biological Assessment and Evaluation, that was completed on December 3, 2007, for the sale of the property, found that the sale would not adversely affect any endangered or threatened species or its habitat (see Final EA pages 19-24). Consultation with the U.S. Fish and Wildlife Service was completed with their concurrence, provided in a letter dated January 14, 2008, of the Forest Service's finding "... that the proposed project, including conservation measures as described in the Biological Assessment, may affect, but is not likely to adversely affect the threatened greenback cutthroat trout."
9. The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the

Final EA. The action is consistent with the Grand Mesa, Uncompahgre and Gunnison Land and Resource Management Plan (Forest Plan) (See Final EA pages 34-35).

### **Findings Required by Other Laws and Regulations**

The Coon Creek administrative site was recommended for disposal in the GMUG NF's Facility Master Plan, August 2003, so this action responds to this plan.

This decision to sell the 160-acre Coon Creek administrative site (Alternative 4) is consistent with the intent of the Forest Plan's long term goal to "Increase opportunities for exchange and transfer of National Forest System land" (page III-4). The project was designed in conformance with land adjustment guidelines for conveyance of federal land.<sup>9</sup>

The Forest Plan does not specifically address the disposal of administrative sites. However, the following was developed for all other National Forest lands (page III-72):

*Classify lands for disposal according to the following priorities:*

- a) *To States, counties, cities, or other Federal agencies when disposal will serve a greater public interest.*
- b) *In small parcels intermingled with mineral or homestead patents.*
- c) *When suitable for development by the private sector, if development (residential, agricultural, industrial, recreational, etc.) is in the public interest.*
- d) *When critical or unique resource (wetlands, floodplains, essential big game winter range, threatened or endangered species habitat, historical or cultural resources, critical ecosystems, etc.) effects are mitigated by reserving interests to protect the resource, or by exchange where other critical resources to be acquired are considered to be of equal or greater value.*

Each of the four elements above is addressed below:

- a) *To States, counties, cities, or other Federal agencies when disposal will serve a greater public interest.*

The purpose of the proposal is to sell the Coon Creek administrative site and retain the revenues for use at other Forest Service administrative sites. Forest Service policy for this type of disposal (sale) allows a parcel to be sold non-competitively to an Indian Tribe or Federal, State or local governmental entity.<sup>10</sup> None of these entities expressed interest in purchasing this parcel.

- b) *In small parcels intermingled with mineral or homestead patents.*

The Coon Creek administrative site is virtually surrounded by private lands, is separated from the main body of the Grand Mesa National Forest, and is intermingled with homestead patents.

- c) *When suitable for development by the private sector, if development (residential, agricultural, industrial, recreational, etc.) is in the public interest.*

The Coon Creek administrative site is suitable for development by the private sector because it is outside the main National Forest boundary and is situated among private lands with similar

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<sup>9</sup> April 2006. Forest Service Handbook (FSH) 5509.11, Title Claims, Sales and Grants, Chapter 20 – Sales (draft).

<sup>10</sup> Forest Service Handbook (FSH) 5509.11 Chapter 26.03-4

attributes conducive to development (relatively flat, accessible, at moderate elevation with picturesque views and access to nearby year-round recreational opportunities).

*d) When critical or unique resource (wetlands, floodplains, essential big game winter range, threatened or endangered species habitat, historical or cultural resources, critical ecosystems, etc.) effects are mitigated by reserving interests to protect the resource ....*

There are no critical or unique resources that require effects to be mitigated by reserving interests (see Final EA as follows: wetlands and floodplains, page 30; elk winter range, page 26; threatened or endangered species habitat, pages 19-24; and historical or cultural resources, page 18). I do not find that the elk winter range on the 160-acre Coon Creek administrative site to be a critical or unique resource (Final EA, page 26).

*...or by exchange where other critical resources to be acquired are considered to be of equal or greater value.*

A land exchange is not being proposed as it will not meet the need of developing funds for use at other Forest Service administrative sites. Thus other critical resources cannot be acquired that would be considered to be of equal or greater value.

The decision to sell the property is consistent with the Pilot Conveyance Program (Publ. L. 107-63, sec. 329(a)), a program authorized by Congress in 2005 that allows the Forest Service to sell unneeded facilities and administrative sites and use the proceeds of those sales to acquire, construct or improve administrative facilities.

The project is consistent with land adjustment guidelines for conveyance of federal land.

A Hazardous Material Examination of the project area was completed to ensure compliance with Forest Service Manual 2166. No hazardous materials were found. This was documented in Worksheet 1 – Land Transaction Screening Process Summary, dated December 13, 2006, and, based on public comments to the EA, amended on May 3, 2007.

A Water Resources Evaluation was completed for the project area to ensure compliance with Forest Service Manual 2527.03 and Executive Orders 11988 (Floodplains) and 11990 (Wetlands). The sale of this property was found to be consistent with these two Executive Orders.

A mineral report was prepared by the Bureau of Land Management on September 13, 2006, for leaseable minerals. The report concluded that the project area "... has a high potential for resource occurrence for both oil and gas and coal. The long-term development potential for oil and gas currently is unknown based on lack of drilling, but short-term development is projected to be moderate. Coal development potential is considered to be low."

My conclusion is based on a review of the record that shows a thorough review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information, scientific uncertainty, and risk (e.g., Biological Assessment and Evaluation, that was revised on March 11, 2008 and an Amended Biological Assessment and Evaluation, that was completed on December 3, 2007).

## **Implementation Date**

If no appeals are filed within the 45-day appeal filing period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. If appeals are filed, implementation may not occur until 15 days after the date of the last appeal disposition.

## **Administrative Review or Appeal Opportunities**

This decision is subject to administrative review (appeal) pursuant to 36 Code of Federal Regulations (CFR) Part 215. Notices of Appeal that do not meet the requirements of 36 C.F.R. 215.14 will be dismissed. In order to be eligible to appeal, parties, individuals, or organizations must have submitted comments, or otherwise expressed interest, during one of the two opportunities to comment offered, as specified at 215.6.

Appeals filed under 36 CFR, Part 215, must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer at:

### Regular Mail:

USDA Forest Service  
Attn: EMC Appeals  
Mail Stop 1104  
1400 Independence Avenue, SW  
Washington, D.C. 20250-1104  
(202) 205-0895

Fax: (202) 205-1012

### Private Carrier or Hand Delivery:

USDA Forest Service  
Ecosystem Management Coordination  
Attn: Appeals  
Yates Bldg., 3CEN  
201 14th Street, SW  
Washington, DC 20250

Email: [appeals-chief@fs.fed.us](mailto:appeals-chief@fs.fed.us)

The office business hours for those submitting hand-delivered appeals are: 8:00 am – 5:00 pm Monday through Friday, excluding federal holidays. Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), or Word (.doc). In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Appeals, including attachments, must be filed within 45 days from the publication date of a legal notice of this decision in *The Denver Post*, the newspaper of record. (The legal notice will also be published in *The Grand Junction Daily Sentinel*; however, *The Denver Post* is the newspaper of record and that is the publication date which will initiate the appeal filing period.) Submittals received after the 45 day appeal period will not be considered. The publication date in *The Denver Post*, newspaper of record, is the exclusive means for calculating the time to file an

appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

### **Contact**

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For additional information concerning this decision or the Forest Service appeal process, contact Corey Wong, Public Service Staff Officer, GMUG NF, 2250 Highway 50, Delta, CO, 81416, (970) 874-6668.

### **Authorized Officer**

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/s/ Randall Karstaedt  
RANDALL KARSTAEDT  
Physical Resources Director  
Rocky Mountain Region, R-2

May 9, 2008  
Date

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