

DECISION NOTICE
and
FINDING OF NO SIGNIFICANT IMPACT
for the
MULE PARK LAND EXCHANGE

AZA 31734

Mogollon Rim Ranger District
Coconino National Forest
USDA Forest Service
Coconino County, Arizona

Under authority of the General Land Exchange Act of March 20, 1922 (42 Stat. 465), the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1716), and the Federal Land Exchange Facilitation Act of August 20, 1988, the Forest Service has been considering a proposal to exchange approximately 197 acres of Federal land (in one parcel) for approximately 270 acres of non-Federal land (in three parcels) within the Coconino National Forest in Coconino County (maps attached).

Lawrence and Beverly Knipp proposed this land exchange in an effort to acquire Federal land adjacent to their existing private land. The Federal parcel is adjacent to non-Federal land known as Mule Park. The Federal land involved in this exchange is described in the attached Exhibit B. The non-Federal parcels currently contribute to an undesirable landownership pattern and are considered desirable for acquisition in accordance with the Landownership Adjustment section of the Land and Resource Management Plans for the Coconino National Forest. The non-Federal parcels are within the Mogollon Rim Ranger District of the Coconino National Forest. Those lands that would be acquired by the United States are described in the attached Exhibit A.

The Environmental Assessment (EA) of the proposed Land Exchange involving lands within the congressionally set boundaries of the Coconino National Forest has been completed. The EA documents the issues associated with the proposed action, evaluates the proposed action, and the no action alternative and discloses known environmental impacts. The analysis was done by an interdisciplinary team with public participation. The EA and associated files are available at the Coconino National Forest Supervisor's Office.

This Decision Notice documents my decision and rationale for implementation of the Forest Plan in relation to the proposed land exchange as identified in the EA.

Decision and Rationale

Based on the information in the project record, the analysis and evaluation in the EA and other documents on file, and past experience, it is my decision to approve and implement the Action Alternative. I considered the following in making my decision:

1. This land exchange is within the context and meets the guidelines envisioned and spelled out in the Final Environmental Impact Statement and approved Coconino National Forest Land and Resource Management Plan. The Forest Plan provides criteria for lands offered by the United States referred to as "base-in-exchange." The federal lands proposed for exchange meet two of the criteria ... "lands that provide consolidation of the public lands... lands that will improve management, benefit specific resources, or increase management efficiency."

The proposed acquisition of private land inholdings by the Coconino National Forest will further the long term management direction as stated in the Forest Plan which includes managing the recreation resource to increase opportunities for a wide variety of developed and dispersed experiences (Forest Plan, page 22), increasing the opportunities for wildlife and fish oriented recreation activities (Forest Plan, page 23), and acquiring lands that are needed for land ownership consolidation and improved management efficiency through land exchange, purchase, or donation (Forest Plan, page 24).

The proposed acquisition is consistent with Forest-Wide Standards and Guidelines by acquiring private lands to achieve ownership patterns to meet management objectives consistent with an area's designation, meeting the applicable standards and guidelines and the Forest Plan implementation schedule (Forest Plan, page 84); consolidating the ownership patterns to achieve efficient Forest management (Forest Plan, page 85); acquiring private lands with multiple-use values (Forest Plan, page 85); acquiring where necessary to correct or discourage land uses not compatible with adjacent Forest uses (Forest Plan, page 86); acquiring where special resource needs such as key wildlife habitat or key public recreation sites are identified (Forest Plan, page 86). The acquisition of the three parcels of non-Federal land is consistent with the Forest Plan. The Forest Plan includes acquisition criteria for wildlands with small non-Forest ownership "to acquire into Forest ownership lands... where special resource needs such as key wildlife habitat or key public recreation sites are identified... having riparian habitat where the adjacent riparian areas are in Forest ownership... where ownership consolidation substantially improves management, is cost-efficient and enhances public use." All three non-Federal parcels meet one or more of these criteria.

Upon conveyance of the non-Federal land to the United States, the newly acquired land will be managed together with surrounding management areas in accordance with the standards and guidelines in the respective Plans. The Federal land will be deleted from the management area within which it is located.

2. The EA shows that National Forest management will not be adversely affected by this transaction. The alternative of exchange, with specified mitigation measures, provides the best combination of physical, biological, social, and economic benefits. It further shows that there will be no significant adverse impacts on the quality of the human environment and the transaction is in the public interest. No other critical National Forest resource values and/or programs would be significantly affected. Based upon a recommendation by the Forest the proponent has agreed to treat ½ acre of downy brome (*Bromus tectorum*) on the Mahan Park parcel. This mitigation measure will be done prior to transfer of the property.

3. The consolidations achieved through this exchange would result in overall cost savings through more efficient resource administration; reduced property boundary survey, posting and maintenance needs (the exchange would eliminate 22 property corners and approximately 3.8 miles of landline between National Forest System and other lands); and prevention of conflicts such as title claims and encroachments.
4. Potentially important wildlife habitat would be acquired. This consolidation of landownership would provide for less fragmentation and more efficient management of wildlife habitat. Under this alternative, the Federal Government would acquire land that could contribute meadow, seasonal meadow and wetland habitat all of which is important for wildlife. Opportunity exists to improve habitat on all three non-Federal parcels. Once acquired, range resources on these parcels will be evaluated. Management options to be considered will include fencing all or part of these parcels to protect watershed and soil productivity. Livestock use may be allowed if such use will improve native vegetation on the parcels. Allotment management plans will consider wildlife habitat, watershed conditions and native vegetation as key elements of any livestock use of the lands.
5. The risk of new, isolated developments and subdivisions adjacent to National Forest System lands would be avoided through acquisition of non-Federal parcels. This is particularly important for reducing potential impacts on wildlife.
6. Acquisition of these isolated inholdings by the Forest would save Coconino County the costs of providing expensive services to small, remote areas having a relatively low tax base. If they remain in private ownership it is assumed that residences would be built. Costs to the County of providing services in these locations would likely exceed revenue.
7. Acquisition of the non-Federal parcels would result in a net increase of approximately 73 acres of National Forest System land.
8. The existing easement for Forest Highway 3 will be protected by reservation to Coconino County. Public access to National Forest System land east of the Federal parcel is maintained as none of the existing Forest access roads are included in the exchange.
9. The Forest will apply for assignment of approximately 5 acre feet (the actual amount depending upon the validity and accuracy of existing claims) of surface water rights associated with 4 tanks located on the three non-Federal parcels.
10. Field reconnaissance and records review has shown no evidence of hazardous materials on the non-Federal parcels.

The non-Federal and Federal lands in the exchange have been appraised. The Agency-approved appraisals indicate that the value of the Federal land (\$1,888,000) exceeds the value of the non-Federal land (\$1,650,000). The amount of cash equalization (12%) is well within the amount allowed by law. A

payment of \$233,000 by the proponent to the United States will equalize values, as required by Sec. 206 (b) of the Federal Land Policy and Management Act.

The appraisal for this exchange was prepared by an Independent Fee Appraiser under instructions from the Forest Service. The appraisal was conducted in accordance with the *Uniform Standards of Professional Appraisal Practice* and the *Uniform Appraisal Standards for Federal Land Acquisitions* utilizing the principles and techniques recognized by professional appraisal organizations. The appraisal report was reviewed and the values approved by a Forest Service Senior Review Appraiser.

The Appraiser considered all three approaches to determine the value: (1) *The Income Approach*: This looks at the earning power of the property based on factual income-yield data. Such net income is then capitalized through a mathematical process and the value derived. (2) *The Cost Approach*: The value of the property is derived by estimating the value of the replacement or reproduction costs of the improvements, deducting the estimated depreciation, and then adding the value of the land. (3) *The Sales Comparison Approach*: This consists of comparison of the subject property, both land and improvements, if any, with recently sold, similar property. Such sales are analyzed for the purpose of estimating the price at which the subject property could be sold.

The Appraiser considered all three approaches to value. The Appraiser determined that The Cost Approach and The Income Approach to value would not be appropriate in this case because the subject property does not earn an income stream nor are there improvements on the property which contribute to the overall value of the property. Therefore, the Appraiser developed only the Sales Comparison Approach. The estate appraised is all right, title, and interests, including the surface and minerals estate, subject to any outstanding rights and reservations. The Appraiser determined the highest and best use to be low density residential, or investment for future use or resale.

Public Involvement

Scoping for the land exchange proposal involved Interdisciplinary Team meetings, where objectives and possible issues were developed, and a request for comments letter was sent on June 22, 2001 to 61 interested parties (including governmental agencies, organizations and individuals). In addition, legal notices were published weekly for four consecutive weeks in September 2001 in the Arizona Daily Sun (Coconino County). Informational letters and maps were sent to the Coconino Board of Supervisors, the appropriate members of Arizona's Congressional delegation, and the Arizona State Clearinghouse. The proposal was listed in the Forest's Schedule of Proposed Actions in April, October, and December of 2001 and April, August of 2002. This Schedule is mailed to hundreds of names and is also available on the Coconino National Forest website. Copies of the Environmental Assessment were sent to 55 parties. Issues were identified by the Interdisciplinary Team (IDT), interested members of the public, and representatives of State and Federal agencies and special interest groups. Comments on the project are documented on page 10 of the EA and specific people and agencies involved are documented in the project file. Respondents were generally supportive of this project.

Scoping activities did not identify any significant issues that resulted in a need to develop additional alternatives.

The following comments were received upon notice and distribution of the Environmental Assessment:

The Cultural Preservation Office of the Hopi Tribe submitted an editorial comment regarding use of the term "clearance".

The Western Land Exchange Project recommended including a prohibition on livestock grazing on the non-Federal parcels as part of the exchange decision. They also asked to have a brief discussion of appraisal assumptions and methodology included in the decision document.

The U. S Fish and Wildlife Service recommended consideration be given to initiating formal consultation with them relative to potential effects of the exchange to the Mexican spotted owl and the Chiricahua leopard frog.

Alternatives Considered

The alternatives include a "no action" alternative and one action alternative which responds to the purpose and need for the action and the identified issues

Action Alternative

- Exchange ownership of 270.87 record acres (272.075 surveyed) acres of non-Federal land for 197.21 record acres (196.66 surveyed acres) of Federal land.

The Non-Federal land includes three parcels: (T. 15 N., R.10 E., sec. 5 – approx. 80 acres; T. 14 N., R. 9 E., secs. 2 and 3 – approx. 92 acres; and T. 14 N., R. 9 E., secs.8 and 9 – approx. 98 acres within the Coconino National Forest boundaries in Coconino County.

The Federal land includes one parcel within the Coconino National Forest in Coconino County: T. 16 N., R. 9 E., secs. 19, 20, 27, and 29 - approx.197 acres.

No Action Alternative

- No exchange of lands would take place. All lands would remain in current ownership.

Alternatives Dropped from Detailed Study

Two alternatives (conservation easement and substitution of a different parcel) were considered but eliminated from detailed analysis. The alternative of direct purchase of the non-Federal lands was not considered because the land exchange proponent did not offer this option and federal funds were not available for land purchase at these locations. No circumstances (such as sensitive resources) were identified on the Federal parcel that would require deed restrictions.

Findings Required by Other Laws and Regulations

The actions of the selected alternative are consistent with the management emphases in the Coconino National Forest Plan and will further the long-term goals and objectives listed in this Plan.

The Federal lands are located in Management Areas 3 and 6 of the Forest Plan. Non-Federal lands are within Management Areas 6 and 10. Project implementation is in conformance with standards and guidelines for these management areas.

It has been determined that the selected alternative is in compliance with the General Exchange Act of March 20, 1922; the Federal Land Policy and Management Act of 1976; and the Federal Land Exchange Facilitation Act of August 20, 1988.

Conveyance of Federal land into private ownership does not conflict with the requirements of Sec. 402(g) of FLPMA (Grazing Permit Holder/Lessee).

No archaeological/cultural values are involved. The exchange does not conflict with the requirements of the National Historic Preservation Act of 1966 nor Executive Order 11593. An Inventory Standards and Accounting Form (cultural resource clearance) was approved on December 4, 2001 and is the project record.

This exchange does not conflict with Executive Order 11988 regarding Floodplain management and Executive Order 11990 regarding Wetland management.

Approximately 40 acres of restricted habitat for the Mexican spotted owl will be impacted by this land transfer. No areas of critical habitat are affected. Through consultation with the U.S. Fish and Wildlife Service it has been determined that this transaction is not likely to jeopardize the continued existence of the Mexican spotted owl. On March 29, 2002 a field visit to the site with U.S. Fish and Wildlife personnel concluded that it was highly unlikely that a Chiricahua leopard frog was seen on the Federal parcel and no further consultation was necessary. This exchange does not conflict with the requirements of the Endangered Species Act of 1973, as amended.

No caves are involved; therefore, this exchange does not conflict with the intent of the Federal Cave Resources Protection Act of November 18, 1988.

The Federal and non-Federal lands have been examined for evidence of hazardous materials in accordance with the Comprehensive Environmental response, Compensation and Liability Act of 1980 (CERLA) (42 U.S.C. 9601), as amended. No evidence was discovered indicating the likelihood of contamination on the Federal or non-Federal lands. No evidence was found to indicate that any hazardous material was stored for one year or more or disposed of or released on the properties.

A formal mineral report concluded that there is low potential for locatable minerals on the Federal and non-Federal lands. There is low potential for oil and gas, or other leasable (including energy) minerals, and moderate potential for common variety minerals. The Bureau of Land Management, Arizona State Office, concurred with these findings on February 12, 2002.

Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 required 30-day review by House and Senate Appropriations Committees if the formal notices published or proposed exchange cases involving Federal land values in excess of \$500,000. The subject case was submitted. The 30-day review was completed on February 21, 2002 without comment; therefore, case processing may proceed.

Congressional oversight in accordance with the Weeks Law (i.e., 30-day House and Senate Committees' Oversight after approval by the Secretary of Agriculture for cases at or above \$150,000) is not required for this proposal.

Finding of No Significant Impact

Based on my review of the EA and the supporting record, I have determined that my decision does not constitute a major Federal action significantly affecting the quality of the human environment, as defined by the provisions of 40 CFR 1508.27(b). Therefore, it is my decision that an Environmental Impact Statement (EIS) is not necessary and will not be prepared. My rationale for this determination is documented in the following discussion.

Context

Based upon the size and location of the lands proposed for exchange, no significant adverse or beneficial effects internationally, nationally, region-wide, or statewide are anticipated. Because the non-Federal lands will experience little change as a result of my decision, no significant impacts, either beneficial or adverse, are expected.

Intensity

The following discussion is organized around the Ten Significance Criteria described in the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act (40 CFR 1508.27). The discussion of the significance criteria applies to the intended action and is within the context of local importance in the area associated with the Mogollon Rim Ranger District of the Coconino National Forest.

1. *Consideration of the beneficial and adverse environmental impacts.* Both beneficial and adverse environmental effects are discussed in pages 13 to 34 of the EA. None of the environmental effects were determined to be significant, singularly or in combination.
2. *Consideration of the effects on public health and safety.* The project has little or no effect on public safety or health. No issues related to health and safety were identified relative to the exchange.
3. *Consideration of the unique characteristics of the geographic area.* None of the parcels involved in this exchange are near or contain known historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas. The Federal land is not unique

within its geographic setting and is generally similar to many others areas of National Forest System and private land in the area.

4. *Consideration of the degree to which effects are likely to be highly controversial.* Eleven comments were received from the public during scoping. State and Federal agencies were contacted, as were environmental groups, local governments and citizens. The concerns of these agencies and individuals and organizations have been incorporated into the analysis. There has been no information presented which indicates that there are potentially controversial effects.
5. *Consideration of the degree to which effects are uncertain or unknown.* My decision is similar to many past actions in the Coconino National Forest and the Southwestern Region of the Forest Service. Effects of this action will be similar to the effects of past similar actions. Land exchanges have occurred in the Region for quite some time and their effects are relatively well understood. Based on the results of past actions, combined with professional insight, there are no known or expected effects on the human environment that are highly uncertain or involve risk as a result of implementing this proposal.
6. *Consideration of the degree to which this action will set a precedent for future actions with significant effects.* My decision to exchange land with Lawrence and Beverly Knipp does not establish any future precedent for other actions that may have significant effects. Future Federal actions will be analyzed based upon their own merits and analyses of effects. My decision neither establishes a precedent for future actions nor represents a principle about future considerations.
7. *Consideration of the action as related to other actions with cumulatively significant impacts.* No other Forest Service actions are connected to or dependent upon accomplishment of this land exchange. Contributions toward cumulative effects have been considered as part of the analysis as discussed in the EA. Analysis indicates that both individual and cumulative effects are not significant.
8. *Consideration of the degree to which the action may affect cultural sites, listed in or eligible for the National Register of Historic Places.* This action will not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural or historic resources. Case clearance of this project by the State Historic Preservation Officer was not required as per programmatic agreement and /or SHPO letter of October 10, 2000. No cultural resources eligible for inclusion on the National Register were found during survey of the Federal lands.
9. *Consideration of the degree to which the action may affect threatened endangered and sensitive species, or habitat.* There will be an adverse effect on approximately 40 acres of restricted pine-oak habitat by this land transfer, however through consultation with the U.S. Fish and Wildlife Service it has been determined that this transaction is not likely to jeopardize the continued existence of the Mexican spotted owl. Biological Assessments and Evaluations and amendments to them were completed on November 8, 2002.
10. *Consideration of whether the action violates Federal, State, or local laws or requirements imposed for the protection of the environment.* To the best of my knowledge, this proposal is in

compliance with all Federal, State and local law requirements. Local county and town governments were consulted on this project, as were State Agencies.

Public Interest Determination

I have determined that the public interest will be well served. I have considered the following factors in making this determination:

- Acquisition will achieve better management of Federal lands and resources;
- Acquisition will consolidate National Forest System land for more logical and efficient management;
- Acquisition will promote multiple-use values;
- Acquisition will enhance dispersed recreation opportunities and public access;
- Acquisition will implement the Forest's Land and Resource Management Plan;
- Acquisition will add areas of floodplain and wetland to the National Forest System land.
- The resource values and the public objectives served by the non-Federal lands equal or exceed the resource values and the public objectives served by the Federal lands to be conveyed;
- The intended use of the conveyed Federal land will not substantially conflict with established management objectives on adjacent Federal lands. The parcel is likely to remain in its present condition for the foreseeable future. It could eventually be developed subject to the Coconino County Planning and Zoning ordinance which allow one home for 10 acres. Configuration of the parcel maintained all existing access to the adjacent Forest lands.

Implementation Date

This project will not be implemented sooner than five business days following the close of the appeal filing period established in the Decision Notice in the **Arizona Daily Sun**. If an appeal is filed, implementation will not begin sooner than 15 calendar days following a final decision on the appeal.

Right to Appeal or Administrative Review

This Decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215 (Nov. 4, 1993). The written appeal must be filed with the Appeal Deciding Officer: Regional Forester, Southwestern Region, 333 Broadway S.E. Albuquerque, New Mexico, 87102 or Fax 505-842-3800.

Appeals, including attachments, must be filed within 45 days from the publication date of the notice in the **Arizona Daily Sun**, the newspaper of record. The publication date in said 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.

The notice of appeal must meet the appeal content requirements at 36 CFR 215.14.

Contact Person

For additional information concerning this decision, please contact Pete Mourtsen, Realty Specialist, Coconino National Forest, 1824 S. Thompson Street, Flagstaff, AZ 86001, (928) 527-3414.

____/s/ Nora B. Rasure_____3/22/04____

Forest Supervisor
Coconino National Forest
Southwestern Region
USDA Forest Service

Date

Attachments:

Legal Descriptions and maps: Non-Federal Land

Legal Description and maps: Federal Land