

**DECISION MEMO
CATEGORICAL EXCLUSION
BELLEMONT LAND EXCHANGE**

**USDA Forest Service, Southwest Region,
Coconino, Coronado, Kaibab, Prescott, Sitgreaves, and Tonto National Forests
Cochise, Coconino, Gila, and Yavapai Counties, Arizona
AZA 31884**

DECISION

Description of Decision and Rationale

My decision is to exchange approximately 754 acres of Federal Land on the Coconino National Forest for approximately 1,160 acres of non-Federal land located within the Coconino, Coronado, Kaibab, Prescott, Sitgreaves, and Tonto National Forests. The land exchange will be processed through the State of Arizona acting by and through the Arizona Game and Fish Commission acting by and through their administrative agent, the Arizona Game and Fish Department (State). The decision will be implemented through a warranty deed that meets the requirements of the Secretary of Agriculture and the Department of Justice. The Federal land Patent and Deed issued to the Arizona Game and Fish Department will meet the requirements of the Department of Interior.

This project will transfer a Federal parcel into State ownership which will allow the Arizona Game and Fish Department to directly develop and operate a permanent shooting facility in a safe and efficient manner. All development and uses of this shooting facility, including safety zones, will be encompassed in these 754 acres. Furthermore, this exchange will allow the Forest to either stop or better control the unregulated and indiscriminate shooting on National Forest land in unsafe and uncontrolled cinder pits around the Flagstaff area. State regulations will govern use of this developed shooting facility.

Currently, this Federal land is encumbered with a special use permit to the State for Phase I construction for this shooting facility. This land exchange is in conformance with standards and guidelines in the Coconino Land & Resource Management Plan (Coconino L&RMP) that generally requires acquisition by other government agencies of those lands where agencies have permanent or long-term, high-investment uses on Forest land. That special use permit is based on an Environmental Assessment for the Bellemont Shooting Facilities and its supporting administrative record. This record includes all required field resource surveys and analysis, all public scoping documents and all public involvement notices published in newspapers. As a result of this analysis and assessment of the issues, a Decision Notice was signed on May 15, 2001 and the Forest Supervisor selected Alternative C, issuance of a special use permit for a shooting facility with its specific design and construction measures for safety and sound, and all additional mitigation measures.

The Federal land will subsequently be deleted from the L&RMP management area within which it is located. In exchange for these lands the Forest Service will acquire undeveloped lands that will better meet National Forest management objectives.

The exchange conveys into State ownership one parcel of National Forest System land that is currently designated for use as a shooting range. In exchange for the Federal parcel, the State will transfer ownership of 10 separate parcels of State land totaling approximately 1,160 acres to the United States (Forest Service). The State parcels are located within the Peaks Ranger District of the Coconino National Forest (Lamar Haines parcel), Douglas Ranger District of the Coronado National Forest (Manhattan Claims parcel), Williams Ranger District of the Kaibab National Forest (Sunflower Flat parcel), Chino Valley Ranger District of the Prescott National Forest (Verde River parcel), Chevelon-Heber Ranger District of the Sitgreaves National Forest (the 4 Chevelon Ranches parcels), and Pleasant Valley Ranger District of the Tonto National Forest (the 2 Cunningham Tracts parcels), all in the state of Arizona.

Purpose of Decision

National Forest administration will be simplified and enhanced through acquisition of the State land and the resulting consolidation of land ownership through this exchange. Completion of this exchange will result in a reduction of about 14 miles of private/National Forest property boundary and a reduction of 98 property-controlling corners. The estimated long-term maintenance savings from the elimination of these miles of interior boundary and the numerous property controlling corners is over \$100,000.

The State and Federal lands in the exchange have been appraised. The Agency-approved appraisals indicate the value of the Federal land is \$6,786,000, and the State land is \$6,896,000. A payment of cash by the Forest Service to the Arizona Game and Fish Department of \$110,000 is required to equalize values as required by Sec. 206 (b) of the Federal Land Policy and Management Act. Cash equalization payments by the United States will be made by using funds deposited by public school entities in previous exchange cases under the authority of the Sisk Act (Exchange with Public Schools Act) of December 4, 1967, or Land and Water Conservation Act funds. Use of these funds for this purpose meets the intent of said Acts.

The Federal parcel is located within, and has been managed in accordance with the emphasis items of the Coconino L&RMP (pp. 206-59), Management Area 30. Area 30 emphasizes a shooting facility to be operated under special-use permit by the Arizona Game and Fish Department and the land is identified as base-for-exchange. Forest Plan Management Area 30 includes approximately 854 acres all of which was expected to be included in this land exchange; however a reduction in the size of the range to approximately 754 acres was made to equalize values. This change in size is within the scope of the original decision amending the Coconino L&RMP. The smaller parcel configuration still meets the purpose and need, is responsive to all the issues raised, and is still supported by the DN/FONSI for the special use permit. The site design within the

754 acres includes all buildings, structures and roads and includes all safety zones required by State law.

Acquisition of the 10 parcels of State land is consistent with the respective Sitgreaves, Coconino, Coronado, Kaibab, Prescott and Tonto National Forest Land and Resource Management Plans. The acquisition of these State parcels will result in more efficient resource administration, reduced property boundary survey, and will prevent conflicts such as title claims and encroachments. These acquisitions will eliminate or reduce issues related to Forest management around non-Federal land inholdings, such as costs related to fire suppression and resource protection, coordination of road access, fragmentation of wildlife habitat, limited access to water sources, and incompatible development which often negatively impact adjacent National Forest System lands and resources in general, and can disrupt a unified approach to forest management.

National Forest administration is often made more difficult by the existence of small non-Federal parcels (referred to as “inholdings”). Nine of the ten State parcels are complete inholdings. The Verde River tract is not but is adjacent to private and State lands that have key resource values for wildlife habitat and public use. This parcel would enhance management of these key resource areas for public use and enjoyment.

Resource objectives for the State Lands being acquired will be based upon management area designations of adjacent National Forest System Lands. All parcels are within the boundaries of a National Forest. The State parcels will be incorporated into adjacent Forest Service Management Areas.

The Arizona Game and Fish Department has asked for written agreements that would allow the Department to maintain existing fences primarily for the protection of riparian habitat at the Cunningham, Chevelon Canyon Ranches, Sunflower Flat and LaMar Haines properties following the transfer of title to the Forest Service. The involved Forests have agreed in principle that this request is in conformance with their respective Forest Plans and that exclusion of livestock from these small land parcels for the purpose of protecting riparian areas and wetland ecosystems is a management objective that is shared by both the State and the Forest Service. Any agreements will be consummated after the Forests acquire the parcels and in accordance with all laws and regulations applicable to management of Forest Service land.

The Forest Service includes wildlife as one of its beneficial uses for the water rights acquired through this exchange.

SUMMARY OF EACH NON-FEDERAL PARCEL’S ATTRIBUTES:

The Lamar Haines property is located 12 miles north of Flagstaff in Coconino National Forest Management Area 3 (MA3). MA3 is an area of ponderosa pine and mixed conifer used for a range of uses including logging, grazing, firewood gathering, hunting and other recreation. The area provides key wildlife habitat for many species of wildlife (Coconino L&RMP, page 116). The Lamar Haines parcel meets the Coconino L&RMP exchange

criteria for acquisition of “... lands where special resource needs such as key wildlife habitat exist and lands having riparian habitat where the adjacent riparian areas are in Forest ownership” (page 86). The L&RMP goes on to describe in-holdings and says the desire is “...to acquire [these] into Forest ownership; to discourage land uses not compatible with adjacent Forest uses, where ownership consolidation substantially improves management, where key wildlife habitat or key public recreation sites are identified or lands having threatened and endangered species habitat if adjacent forest lands do not provide adequate habitat or riparian habitat where the adjacent riparian areas are in Forest ownership.”

Manhattan Claims parcel is five miles northwest of Portal, Arizona in Coronado National Forest Management Area 4 (MA4). Lands in MA4 are managed for a sustained harvest of livestock and fuel wood while maintaining and improving game animal habitat. Visual quality objectives will be met or exceeded. Dispersed recreation activities may occur except for those that adversely affect the productivity of the land or resources. Watershed and soil conditions will be improved or maintained (Coronado L&RMP page 62). There is an emphasis on wildlife management and on improving and maintaining watershed condition (Coronado L&RMP pages 62 and 67).

The Sunflower Flat property is located approximately ten miles southeast of Williams, Arizona in Coconino County within Kaibab National Forest Management Area 5 (MA5). Lands in MA 5 are the majority of the ponderosa pine forestlands on the Williams and Chandler Ranger Districts and provide extensive habitat for a variety of wildlife. There is emphasis on intensive management for recreation, range, and wildlife and fish resources. Realty Management direction for MA 5 includes language to: “...acquire lands and interests in lands to provide consolidated land ownership, public and administrative access to National Forest Lands, and efficient resource management.” (Kaibab LMP pages 85 - 87).

The Verde River property is located approximately eight miles north of Chino Valley in Yavapai County, Arizona in Prescott National Forest Management Area 2 (MA2). Lands in MA2 are managed as woodland and support the bulk of the Forest fuelwood program. Exchange of the Verde River parcel, which is located inside but adjacent to the Prescott National Forest boundary, would serve to reduce boundary irregularities while providing for key resource values of visual protection and critical wildlife habitat (Prescott LMP Amendment 7 pages 65-66).

The Cunningham Tracts (two parcels) are located along Crouch Creek approximately seven miles northeast of Young, AZ in Tonto National Forest Management Area 5D (MA5D). Management emphasis for MA5D is for a variety of renewable resource outputs with primary emphasis on intensive, sustained yield timber management, timber resource protection, creation of wildlife habitat diversity, increased populations of emphasis-harvest species, and recreation opportunity. Timber harvesting methods and timing will include improvement of wildlife habitat quality and watershed condition and will consider impacts on intensive range and recreation management. Mining activities are authorized in conformance with existing laws and regulations. Wildfires will be

managed consistent with resource objectives. Prescribed fire will be used as a tool to achieve desired resource benefits (Tonto L&RMP, page 151).

Acquisition of the State lands will result in the elimination of a lease agreement for a roadway easement for an existing road between the Tonto National Forest and the Arizona Game and Fish Commission, for road construction and maintenance and public access across the Cunningham Tracts property for approximately 2/3 mile of existing Forest Road 202. This agreement has a ten-year term and would require renewal prior to July 28, 2004. No roads would be added to the Tonto National Forest system as a result of acquisition of the Cunningham Tracts property. The responsible official has determined that additional roads analysis is not needed for this land exchange. This temporary public access will become permanent public access after the exchange.

The Chevelon Ranches (four parcels) are located approximately 20 miles west of Heber, Arizona in Coconino County within Apache-Sitgreaves National Forest Management Area 16 (MA16). Management emphasis for MA16 is for semi-primitive non-motorized recreation opportunities by protecting high scenic values and maintaining the unique aquatic habitat and current wildlife habitat values. The Apache-Sitgreaves Forest Plan also includes Management Direction to “...*acquire lands that are needed for landownership consolidation and improved management efficiency through land exchange, purchase or donation.*”

REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 sections 31.b or 31.2 and there are no significant impacts on any existing extraordinary circumstances.

Category of Exclusion

This project is within 31.1b (7) that includes “Sale or exchange of land or interest in land and resources where resulting land uses remain essentially the same.” The Federal land is currently designated and is being developed for use as a shooting facility and that use will remain the same. A proposal to establish a shooting facility on the Federal land was analyzed with an Environmental Assessment provided for public review in September 2000. A decision to amend the Coconino National Forest Land and Management Plan to designate the area for a shooting facility and to authorize such use by special use permit was made on May 15, 2001. This is consistent with the local Coconino County Board of Supervisor’s decision to recognize this as a valid use of this land.

The State tracts are currently undeveloped and used for wildlife habitat and dispersed recreation. The adjoining National Forest System land is currently being managed for similar purposes and objectives.

Relationship to Extraordinary Circumstances

1. Steep Slopes or Highly Erosive Soils

The terrain on the Federal parcel is predominantly flat to gently sloping, but also contains some steep side hill on the north end. The terrain is conducive to the activities included in this decision. The soils present are classified as porous, cobbly, and stony (Brolliar-Sponseller association). The sub soils are clay-loam underlain with basalt bedrock. No significant soil-related impacts will occur.

2. Threatened and Endangered Species or Their Critical Habitat

The Endangered Species Act requires that Federal activities not jeopardize the continued existence of any species Federally-listed or proposed as threatened or endangered, or result in adverse modification to such species' designated critical habitat. As required by this Act, potential effects of this decision on listed species have been analyzed and documented in a Biological Evaluation (March 26, 2002). Suitable habitat is present on the Federal parcel for two listed species: black-footed ferret and bald eagle. It was determined that this decision has "no effect on the black-footed ferret, the bald eagle, or habitat for either species."

3. Floodplains, Wetlands, or Municipal Watersheds

a. Floodplains: Executive Order 11988 is to avoid adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as, "...the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any one year." The Federal parcel contains no floodplain. The non-Federal parcels contain approximately 3.4 miles (approximately 7 acres) of floodplain. This has been validated by map and on-site review. This exchange does not conflict with Executive order 11988 regarding floodplains management.

b. Wetlands: Executive Order 11990 is to avoid adverse impacts associated with the destruction or modification of wetlands. Wetlands are defined by this order as, "...areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction." The Federal parcel contains no wetlands. The non-Federal parcels contain approximately 184 acres of wetlands. This has been validated by map research and on-site review. This exchange does not conflict with Executive Order 11990 regarding wetlands management.

c. Municipal Watersheds: This decision will not affect a municipal watershed.

4. Congressionally Designated Areas

- a. Wilderness: This decision does not affect Wilderness. The project is not within Wilderness. The Lamar Haines parcel is adjacent to the Kachina Wilderness. The Exchange of this parcel will not affect the Wilderness. This decision does not affect Wilderness Study Areas. There are no Wilderness Study Areas on the Coconino National Forest.
- b. National Recreation Areas: This decision does not affect National Recreation Areas. There are no National Recreation Areas on the Coconino National Forest.
- c. Wild and Scenic Rivers: This decision does not affect Wild and Scenic Rivers. The Verde River is the only Wild and Scenic River on the Forest. The Federal parcel is over 50 miles from the Wild and Scenic portion of the Verde River.
- d. Inventoried Roadless Areas: The project is not part of an inventoried roadless area as defined in Interim Direction FSM 1925.05 and mapped in the Roadless Conservation Plan EIS, November 2000. Additionally, this decision complies with Agency Roadless direction because there have been no designations on the Coconino National Forest.

5. Research Natural Areas

This decision does not affect Research Natural Areas. The project is not part of a Research Natural Areas on the Forest. The closest Research Area is the San Francisco Peaks Research Natural Area. It is located 9 miles from the project area.

6. Native American Religious or Cultural Sites, Archaeological Sites, or Historic Properties or Areas

Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. Section 106 of the National Historic Preservation Act also requires Federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Archaeological Resources Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered in Federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and objects that are excavated or discovered in Federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through “in situ” preservation, but may encompass other actions to preserve these remains and items. This decision complies with the cited Acts. Surveys were conducted for Native American religious and cultural sites, archaeological sites, and historic properties and areas that may be affected by this project.

Fourteen archeological sites were located on the Federal land. A Memorandum of Agreement was developed among the Arizona State Historic Preservation Officer, Forest Service, Arizona Game and Fish Commission, the Hopi Tribe and Yavapai-Apache Nation regarding the archeological sites within the area. The Coconino National Forest Supervisor and the State Historic Preservation Officer approved a data recovery plan. As directed by the data recovery plan and the Memorandum of Agreement, these sites have undergone the appropriate data recovery. The fieldwork has been completed. Sign-off on the Final Clearance by the State Historic Preservation Office was on December 9, 2002. The Forest Supervisor approved this Final Clearance on December 16, 2002.

No other extraordinary circumstances related to this action were identified.

Public Involvement

A public involvement notice was published in the following newspapers: the Arizona Daily Sun on February 8, 15, 22, and March 1, 2002; the Payson Roundup on February 15, 22, and March 1, 8, 2002; the Prescott Courier on February 13, 20, 27 and March 6, 2002; the Williams News on February 13, 20, 27, and March 6, 2002; the White Mountain Independent on February 26, March 5, 12, and 19, 2002 and the Douglas Daily Dispatch on February 27, March 6, 13, and 20, 2002.

This project was listed in the Coconino National Forest's Schedule of Proposed Actions issued October 2001, December 2001, April 2002 and August 2002. These schedules are sent quarterly to hundreds of individuals and organizations that have expressed an interest in Forest projects. These schedules are also located on the Forest's web site.

The following groups were sent letters requesting their input on the proposed shooting range on September 29, 1998, providing the decision notice for the shooting facility permit and forest plan amendment decisions on May 15, 2001 with a follow up letter containing the land exchange proposal on January 16, 2002:

Earthjustice Legal Defense Fund, Arizona Wildlife Federation, Southwest Forest Alliance, Rio Salado Sportsman's Club, Grand Canyon Trust, Western Land Exchange Project, Northern Arizona Shooting Range Association, Northern Arizona Audubon Society, Phoenix Retrievers Club, Sierra Club, Center for Biological Diversity, Flagstaff Shooting Association, Arizona State Trapshooting Association, Arizona Cowboy Shooters Association, Flagstaff Archers, Bellemont Baha'i School, Arizona Shoot to Retrieve / Bird Dog Association, Southwest Forest Alliance, Forest Guardians, Arizona Airgunners, Rough Country Bowhunters, Flagstaff Trap and Skeet, Arizona Trapper's Association, Fraternal Order of Police – Lodge #13, Mohave Sportsman Club, Forest Conservation Council, and the Mazatzal Mountain Muzzleloaders.

Private property owners having lands adjacent to or near the involved parcels plus private property owners within a one-mile radius of the Federal land in the exchange were sent letters providing information about the shooting facility and pending land exchange on September 29, 1998. This letter also asked for any input the reader might have. Letters

were sent providing the Decision Notice for the shooting facility permit and Forest Plan Amendment decisions on May 15, 2001. Subsequently, a letter describing the land exchange proposal was sent on January 16, 2002. This letter also asked the reader for any comments or concerns.

Permittees, including R & R Minerals, Inc., El Paso Natural Gas Company, Arizona Public Service Corporation, Qwest Communications, Inc. and W. J. Wells, were sent letters on September 29, 1998 requesting their input. They were subsequently sent letters providing the Decision Notice for the shooting facility permit and forest plan amendment decisions on May 15, 2001. Letters were also sent to these permittees on January 16, 2002, describing the Forest Service intent to complete the processing of a proposed land exchange, and asking for any input they might have.

The following Federal agencies: USDI-Fish and Wildlife Service, Environmental Protection Agency, and the U.S. Naval Observatory were contacted. They were sent letters on September 28, 1998, May 15, 2001, and January 16, 2002.

The following state and local governments were contacted: AZ Game and Fish Department, AZ State Land Department, Arizona Department of Environmental Quality, AZ Department of Water Resources, AZ Army National Guard, AZ Department of Public Safety, AZ Department of Transportation, Gila County Board of Supervisors, Cochise County Board of Supervisors, Yavapai County Board of Supervisors, Coconino County Board of Supervisor's, Coconino County Public Works Department, Coconino County Community Development, Coconino County Parks and Recreation Department, Coconino County Sheriff's Office, City of Flagstaff, Flagstaff Police Department, Parks/Bellefont Fire District. They were sent letters on either January 14 or January 16, 2001, telling them of the pending land exchange and asking for comments.

The following tribal governments were contacted: Navajo Nation, Hopi Tribe, Havasupai Tribe, Hualapai Tribe, Yavapai-Apache Nation, Yavapai-Prescott Tribe, San Juan Southern Paiute Tribe, and Pueblo of Zuni. They were sent one or more letters on March 24, 1998 or January 15, 1999 or September 1, 1999 and January 16, 2002.

The Cochise, Coconino, Gila and Yavapai County Boards of Supervisors, and the appropriate Congressional delegation members were formally advised. No objections or adverse comments were received.

Coconino County's "**Flagstaff Area Regional Land Use Plan (Draft - November 1999)**" has been revised by the County to include the Federal exchange lands within the Bellefont Rural Growth Boundaries. This action was in support of the land exchange proposal and was needed to accommodate the conversion of these lands for the intended use as a shooting facility.

An additional 480 potentially interested parties were identified on the basis of their interest in the Bellefont Shooting Facility Project. Besides the mailings for the shooting

facility, these 480 individuals received the January 16, 2002 letter advising them of the intent to process the land exchange proposal and asked for their input again.

Some questions were raised through the public and agency involvement process (scoping) for the public shooting facility proposal. Four issues were identified during the development of the Environmental Assessment for the Bellemont Shooting Facility: noise/sound; property values; public health hazards; and public safety. These issues were all resolved in the shooting facility special use permit environmental analysis and resulting Decision Notice (5/15/2001 distribution). All issues were resolved with appropriate mitigation measures. No significant issues were identified through external and internal scoping.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

This decision complies with all applicable laws and regulations, including:

Federal Land Policy and Management Act of October 21, 1976

The Maxwell Springs grazing allotment permittee Mr. Billy Wells was contacted about the proposed land exchange in 1999. The permittee's representative, Mr. Jerry Mundell, met with Forest Service and Arizona Game and Fish Department representatives on several occasions. While there will be no reduction in permitted livestock numbers within the allotment, the Federal parcel provided an important corridor to facilitate cattle movement into one of the pastures in the allotment. The Arizona Game and Fish Department has agreed, in writing, to provide a fenced livestock driveway area around the shooting range on land they will acquire. This will facilitate movement of the permittee's cattle into and off of the adjacent Federal land allotment. The Arizona Game and Fish Department will ensure that the current and future livestock permittees on the Maxwell Springs cattle allotment will be able to drive livestock around the shooting range, through State land.

Federal Land Exchange Facilitation Act of August 20, 1988

No issues were identified relating to FLEFA.

General Exchange Act of March 20, 1922

A part of the Federal land, 278.94 acres, was exchanged out of Federal ownership but re-conveyed to the U.S. This action gave these lands Reserved status under the General Exchange Act.

A formal mineral report concluded that no minerals of value are located on the lands to be exchanged. The Bureau of Land Management, Arizona State Office, concurred with these findings on November 14, 2002.

Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999

Requires 30-day review by House and Senate Appropriations Committees of the 4-week formal exchange notice(s) publication for proposed exchange cases involving Federal land value in excess of \$500,000: The subject case was submitted on March 14, 2002. The 30-day review was completed without comment; therefore, case processing can proceed.

Forest Plan Consistency (National Forest Management Act)

This Act requires the development of long-range L&RMP's (Forest Plans). The Coconino L&RMP was amended on May 15, 2001 to classify the Federal lands as potential exchange lands (base-in-exchange). The L&RMP provides for guidance for all natural resource management activities on the Forest. The Act requires all projects and activities be consistent with the L&RMP. All L&RMP's have been reviewed in consideration of this project. This decision is consistent with the direction contained in the Sitgreaves, Coconino, Coronado, Kaibab, Prescott and Tonto National Forest L&RMP's.

Endangered Species Act

See previous section on Threatened and Endangered Species (Extraordinary Circumstances #2).

Sensitive Species (Forest Service Manual 2670)

Manual direction requires analysis of potential impacts to sensitive species, those species for which population viability is a concern. Potential effects of this decision on sensitive species have been analyzed and documented in a biological evaluation (March 26, 2002). Suitable habitat is present for three Forest Service Sensitive Species: Navajo Mountain Mexican vole, American peregrine falcon, and the northern goshawk. It was determined that this decision will have no impact to any Forest Service Sensitive species.

Federal Cave Resources Protection Act

This act is to secure, protect, and preserve significant caves, to the extent practical. No caves are affected by this decision.

National Historic Preservation Act, Archaeological Resources Protection Act, and Archaeological Resources Protection Act, Native American Graves Protection and Repatriation Act

See previous section on these topics (Extraordinary Circumstances #6).

American Indian Religious Freedom Act

This Act protects American Indians inherent right of the freedom to believe, express, and exercise their traditional religions. The Federal government has trust responsibilities to Nations and Tribes under a government-to-government relationship to insure that the Nation and Tribe's reserved rights are protected. Consultation with Nations and Tribes helps insure that these trust responsibilities are met. The Forest Service consulted with the following potentially affected Nations and Tribes: Navajo Nation, Hopi Tribe, Havasupai Tribe, Hualapai Tribe, Yavapai-Apache Nation, Yavapai-Prescott Tribe, San Juan Southern Paiute Tribe, and Pueblo of Zuni. No Tribes or Nations objected or had issues relating to this exchange.

Environmental Justice (Executive Order 12898)

This order requires consideration of whether projects would disproportionately impact minority or low-income populations. This decision complies with this Act. Public involvement occurred for this project, the results of which I have considered in this decision-making. Public involvement did not identify any adversely impacted local minority or low-income populations. This decision will not adversely impact minority or low-income populations.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Small Business Liability Relief and Brownfields Revitalization Act of 2002. [Public Law 107-118]

The Federal and non-Federal lands were examined for evidence of hazardous materials in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601), as amended by the Small Business Liability Relief and Brownfields Revitalization Act of January 11, 2002 [PL 107-118]. Formal reports documenting the presence or absence of hazardous substances or petroleum products have been completed for all of the involved lands prior to Warranty Deeds, Patent, Deed, and other documents being signed and placed in escrow. In the event that either the subject Federal and/or non-Federal property is found to be contaminated from solid wastes, hazardous wastes or substances, pollutants or contaminants, or other regulated substances, or that the subject property is in a condition which would constitute a violation of any applicable Federal, State, or local laws or regulations relating to the protection of health, safety, or the environment, one of the following 3 alternatives may be taken to resolve the situation:

1. Remediate the situation as quickly as possible to the satisfaction of the United States and/or the State of Arizona.
2. Adjust the acreage and description of the subject property, thereby excluding from the conveyance those portions of the parcel(s) that are affected by the discovered contamination or condition. Correspondingly, consideration to be given by the United States shall be adjusted accordingly by the Forest Service Regional Appraiser to reflect the adjustment concerning the subject property.

3. Declare this Exchange to be null and void, if, as a last resort, all parties cannot agree upon an adjustment concerning the properties and consideration.

The State parcel known as the Manhattan Lode Claims Parcel (Manhattan parcel) is 531 acres in southern Arizona on the Coronado National Forest. Upon completion of a Phase I report and investigation, it was determined that a small amount of potential hazardous material might be present on this parcel. The Forest Service Regional Abandoned Mine specialist visited the site in May of 2002 and requested that a Phase II Environmental Site Analysis be conducted. His letter of June 10, 2002 to OGC requested that the potential contamination (a white precipitate and 3 waste rock piles [1500 cubic yards] covering .06 acre) be viewed as a Recognized Environmental Condition by ASTM standards. In December 2002, a contract environmental firm completed their Phase II report and analysis of all potential contamination on Manhattan parcel. The Regional Office Engineering Evaluation/Cost Analysis, dated January 23, 2003, concluded there was low risk to human health and safety in acquiring this parcel because of the remoteness of the site, the lack of movement of any of the potential hazardous substances tested, the low concentrations of materials, and the limited access to the site.

Based on due diligence, and under the Bona Fide Prospective Purchaser Exemption to CERCLA, the Manhattan parcel will remain a part of this exchange. A warranty deed with no restrictions will be used to convey this property. The Coronado National Forest will cooperate, assist, and provide access to persons that are authorized to conduct response actions or natural resource restoration on this property, should it become necessary.

The Forest Supervisor on the Coronado National Forest has documented his intention to study the parcel for potential wildlife habitat (recent examinations of the 2 adits revealed one being used as a bear den and the other a possible bat and bear habitat) but will request dollars through his budget request process program should remediation, other than signage, be necessary.

National Environmental Policy Act

This Act requires public involvement and consideration of potential environmental effects. The entirety of documentation in the Administrative Record for the May 15, 2001 special use permit decision and the Administrative Record for this land exchange decision supports compliance with this Act.

PUBLIC INTEREST DETERMINATION

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

- The Exchange achieves better management of Federal land and resources by eliminating inholdings and required maintenance of property controlling corners and boundaries.
- The Exchange consolidates National Forest System land for more logical and efficient management.
- The Exchange promotes multiple-use values.
- The Exchange enhances dispersed recreation opportunities and acquires needed public access.
- The Exchange implements the Coconino Forest's Land and Resource Management Plan.
- The Exchange adds valuable areas of floodplain and wetland to the National Forest System land. No floodplains or wetlands will go out of Federal ownership.
- 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 exchange will allow the Forest to shut down or better control unregulated and indiscriminate shooting in uncontrolled cinder pits around the Flagstaff, AZ area.

APPEAL

This Land Exchange Approval Document is not subject to the appeal procedures for National Forest System projects and activities pursuant to 36 CFR 215.8(a)(4), Decisions Not Subject to Appeal.

IMPLEMENTATION DATE

Timing of implementation is contingent upon resolution of a pending court case (CIV-02-2495-PCT-FJM).

CONTACT PERSONS

Further information about this decision can be obtained from H. Wayne Thornton, Director of Lands and Minerals, Southwest Region, USDA Forest Service, 333 Broadway SE, Albuquerque, New Mexico 87102, (505) 842-3271 or Pete Mourtsen at the Coconino National Forest Supervisors Office, 2323 E. Greenlaw Lane, Flagstaff, Arizona 86004 (928) 527-3414.

SIGNATURE AND DATE

I have concluded that this decision may be categorically excluded from documentation in an environmental impact statement or environmental assessment as it is in category 7 identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15, section 31.1b, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect. My conclusion is based on information presented in this document and the entirety of the Planning Record.

/s/ H. Wayne Thornton
H. WAYNE THORNTON
Director of Lands and Minerals
Southwestern Region
USDA Forest Service

2/20/2003
Date