

**Decision Notice
And
Finding of No Significant Impact
For**

Braun Land Exchange

**USDA Forest Service
HOOSIER NATIONAL FOREST
Tell City Ranger District
Crawford and Orange Counties, Indiana**

Introduction

After reviewing the environmental assessment (EA), environmental studies, the Hoosier National Forest Land and Resource Management Plan (*Forest Plan*), Forest Plan Draft Environmental Impact Statement (DEIS), and Forest Plan Final Environmental Impact Statement, I have made a decision to implement the Braun Exchange Proposal as it was presented in the EA.

An interdisciplinary (ID) team prepared the EA following public scoping and utilized a variety of documents and information to do so, including field information, environmental studies, and the *Forest Plan*.

My decision will allow, Michael K. Braun to convey 277.05 acres of private land, in Crawford and Orange Counties, in exchange for 202.24 acres of federal land, in Crawford and Orange Counties. To equalize the values the United States will make a cash payment to Mr. Braun.

The federal lands are comprised of two parcels. Federal Tract 1 is 105.91 acres located three miles northwest of English in Sterling Township, Crawford County, Indiana, Township 2 South, Range 1 South, Section 3 and Township 1 South, Range 1 West, Section 34. The property is surrounded by private land, and the tree cover consists of hardwood timber with some pockets of pine. Brownstown Creek flows along part of the northern and western sides of the tract, while a county road provides access.

Federal Tract 2 is 96.33 acres located 3½ miles northwest of Marengo in Southeast Township, Orange County, Indiana, Township 1 South, Range 1 East, Section 28. The property is surrounded by private land, and the tree cover consists of hardwood trees with some pockets of pine. An electric transmission line crosses the southwest part of the tract. Bacon Creek flows along the northern edge of the tract. A county road along the northern boundary provides access.

The private lands are comprised of two parcels. Private Tract 1 is 220.35 acres located 14 miles south of English in Boone Township, Crawford County, Indiana, Township 4 South, Range 1 East, Sections 29 and 32. The property is adjacent to National Forest System (NFS) land on two sides and is covered with 131.50 acres of merchantable hardwood timber with some pockets of pine and 88.85 acres of open field with three ponds. The property has 1,400 feet of frontage along Mill Creek and is within the watershed of the Little Blue River. A county road along the southern boundary provides access. It contains an old barn of no value. The barn is typical of many barns in this area and will probably be removed.

Private Tract 2 is 56.70 acres located seven miles southwest of Paoli in Greenfield Township, Orange County, Indiana, Township 1 South, Range 1 West, Section 22. The property is adjacent to NFS land on three sides and is covered with hardwood timber and some pockets of pine. A spring was found on the property during a routine inspection. Cane Branch is along the west side of the property. Cane Branch is a small permanent stream that enters Patoka Reservoir about a mile below the property. An electric transmission line crosses the northwestern corner of the property. A county road south of the property provides access.

Purpose of the Proposed Action

The purpose for the Braun Exchange Proposal is to:

- protect about 1,400 feet of Mill Creek frontage by acquiring the private lands,
- create a more manageable land ownership pattern by consolidating NFS land and disposing of isolated parcels of NFS land,
- to convey 202.24 acres of federal land to Michael K. Braun in exchange for 277.05 acres of private land.

Need for the Proposed Action

The need is to meet the Land and Resource Management Plan (*Forest Plan*) goal to provide a usable land base. "The Forest needs to provide a land base that . . . enhances recreational opportunities, is easier for the public to find and increases management efficiency" (U.S. Department of Agriculture, Forest Service 1991b). The Patoka Reservoir and Little Blue River watersheds are priority areas for land adjustments on the Hoosier National Forest, since acquisition in these areas protects tributaries and water quality. This is an opportunity to achieve better management of NFS lands and resources by consolidating the NFS land for more logical and efficient management and protection of resources (36 CFR 254.3(b)(1)).

Decision

As stated above, I have decided to convey the 202.24 acres of federal land in Crawford and Orange Counties and a cash equalization payment in exchange for the 277.05 acres of private land in Crawford and Orange Counties, as described in Alternative A, the proposed exchange, of the July 24, 2003 Braun Exchange Proposal EA. I have made this decision based on the project analysis and evaluation in the EA, *Forest Plan*, Forest Plan Draft Environmental Impact Statement, and the Forest Plan Final Environmental Impact Statement. The proposal is documented in the EA.

Public Interest Determination

I have determined the proposed exchange, Alternative A, is in the public interest based on consideration of the following factors (36 CFR 254.3).

- (1) Exchange of the land is not practical under any other authority of the Secretary of Agriculture;
- (2) Administration and management of the resulting NFS lands will be more efficient and will result in improved utilization;
- (3) The Little Blue River watershed and 1,400 feet of Mill Creek frontage will be protected;
- (4) The public will have an additional 1,400 feet of shoreline along Mill Creek for fishing;
- (5) There will be a net gain of 13 acres of floodplain;
- (6) New or extensive inholdings which would create management problems will not be established;
- (7) Scenic, wildlife, environmental, historical, archaeological, or cultural values will not be substantially affected or impaired;

- (8) There are no structures authorized under permit or easement; and,
- (9) Applicable federal, state, and local laws, rules, regulations, and zoning ordinances will not be violated;
- (10) The resource values and the public objectives served by the private lands to be acquired exceed the resource values and the public objectives served by the federal lands to be conveyed.

This exchange meets the equal value requirements of 36 CFR 254.3. The federal land has an approved value of \$404,000 and the private land has an approved value of \$416,000. A cash equalization payment of \$12,000 will be made to the proponent as provided under 36 CFR 254.12.

Why Alternative A Was Selected

Alternative A provides watershed protection, consolidates ownership, and improves dispersed recreation opportunities. Alternative A best implements the *Forest Plan* by meeting 9 of the 12 criteria for land available for exchange (*Forest Plan*, Appendix E). The criteria are: (1) accomplishes objectives of Federal law or regulation; (3) results in more efficient land ownership patterns; (4) results in lower resource management costs; (5) minimum investment management of tract, i.e., extensive reclamation is not needed; (8) does not reduce access to National Forest land; (9) can straighten out land lines; (10) little likelihood of acquiring adjacent land; (11) isolated tracts of 160 acres or less will normally be exchanged in their entirety; and, (12) lands are not needed for economic development.

Alternative A best implements the *Forest Plan*. This project also supports three of our *Forest Plan* goals: protect and manage ecosystems, provide for recreation use in harmony with natural communities, and provide a usable landbase.

Protect and Manage Ecosystems:

The 220.35-acre Crawford County private land borders Mill Creek and is within the Little Blue River watershed. Acquisition of this property will provide for watershed protection and more efficient management. Acquiring this private land will protect about 1,400 feet of Mill Creek frontage and a portion of the Little Blue River watershed (EA, pp. 8-22).

The 56.70-acre Orange County private land, near Cane Branch, is a tributary to the Patoka Reservoir. Acquisition of this property will provide for watershed protection and more efficient management. Acquiring this private land will help protect the Patoka Reservoir watershed (EA, pp. 8-22).

Provide for Recreation Use in Harmony with Natural Communities:

As stated above, with acquisition of the private properties, a more contiguous block of NFS land will provide more desirable dispersed recreation opportunities for a larger section of the public (EA, pp. 23-25).

Provide a Usable Landbase:

Alternative A will provide a more usable landbase for dispersed recreation and more efficient management. This exchange will consolidate NFS landownership and help reduce administrative costs, particularly land surveying costs and costs associated with resolving encroachments. Acquiring the private properties and disposing of the federal land will result in a net reduction of 3.1 miles of USA and private boundary lines and a reduction of 15 property corners (EA, p. 9).

Consideration of Alternative B and C and Reasons for Not Selecting Them

I did not select Alternative B (no action) because of the following reasons:

- the 1,400 feet of Mill Creek frontage and the Little Blue River and Patoka Reservoir watersheds would not be protected (EA, pp. 8-26),
- both federal properties would remain isolated providing limited dispersed recreation opportunities (EA, pp. 23-25),
- the administrative costs of establishing and maintaining boundary lines would not be reduced (EA, p. 10).

I did not select Alternative C (land purchase) because of the following reasons:

- the exchange proponent has stated if the exchange is not implemented he will keep the Orange County tract and over half of the Crawford County tract for timber management (EA, p. 7),
- land acquisition funds are currently limited,
- both federal properties would remain isolated providing limited dispersed recreation opportunities (EA, pp. 23-25).

Alternatives Considered But Not Carried Forward for Further Analysis

An alternative to include other private or federal land was eliminated from further consideration because the proponent is not interested in including other suitable land and has no interest in acquiring additional land. An alternative to purchase land next to the federal land was also eliminated since the federal land is in a low priority area for acquisition, and no adjacent properties have been offered for sale.

Public Involvement

Public involvement was an important part of the decisionmaking process for this proposal. On July 19, 2002, we mailed scoping letters to over 270 interested parties. In addition, the public was notified of the proposed exchange by a legal notice appearing for a four week period in The Clarion News and The Paoli News between July 24 and August 15, 2002. During analysis, a second private tract of land was added to the exchange proposal. A revised legal notice, which ran for four weeks between February 19 and March 13, 2003, was placed in The Clarion News and The Paoli News. A second scoping letter was mailed on February 21, 2003, to over 290 interested parties. Information detailing the exchange proposal was listed in the August and November 2002, and February and May 2003 issues of the Hoosier Quarterly.

We received twelve responses from both scoping letters through letters or phone calls. The names of the respondents are listed in Appendices A and B of the EA. The interdisciplinary (ID) team reviewed each response for issues and concerns related to the proposed exchange. The ID team identified five issues that served as a basis for evaluating the alternatives including the proposed action. These issues were also used to assess environmental consequences.

A 30-day formal comment period followed release of the predecisional EA on June 15, 2003. One comment was received in response to the predecisional EA during the 30-day formal comment period. The comment concerned the effects of removal of the private land from the Crawford County tax base and environmental justice. We evaluated the comment against the proposed action and the effect it would have on the environment. The comment is addressed in the EA. The name of the respondent is listed in Appendix F.

Finding of No Significant Impact

I find that carrying out Alternative A for the Braun Exchange Proposal is not a major federal action, individually or cumulatively, and will not significantly affect the quality of the human environment. Therefore, an environmental impact statement is not needed. "Significance", as used in the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., requires consideration of both the context (here, a local context) and intensity (severity of the impact) of the federal action. I decided this based on the following factors.

Context:

Alternative A is within the context of the *Forest Plan*. The federal land meets a majority (9 out of 12) of the exchange criteria listed in Appendix E of the *Forest Plan*. The exchange of 202.24 acres of federal land for 277.05 acres of private land has local context. Within this local area, neither long-term nor short-term effects of the specific actions of Alternative A are significant (EA, pp. 8-26).

Intensity:

1. Alternative A will benefit the environment by protecting the private lands and increasing management efficiency. I considered both beneficial and adverse effects in determining the potential for significant impacts. There are no known irretrievable resource commitments or irretrievable losses of resources associated with this project (EA, pp. 8-26).
2. The proposed action will not affect public health or safety.
3. There are no unique characteristics of the geographical area that will be adversely affected by the actions of the project (EA, pp. 20-22).
4. Based on the involvement of resource specialists, within the Forest Service, I do not expect the effects of these actions on the quality of human environment to be highly controversial (scientifically). Some people may not accept the decision; some people may find their personal needs and values are not served by the proposed actions (EA Appendices A, B and F). However, I believe we addressed the most significant biological, social, and economical issues sufficiently to avoid scientific controversy over the scope and intensity of effects.
5. I do not know of any effects on the human environment from this project that are highly uncertain or involve unique or unknown risks (EA, pp. 8-26).
6. These actions do not set a precedent for other projects that may be done to meet the direction in the *Forest Plan*. Hoosier National Forest personnel have carried out similar actions under similar circumstances (EA, p. 5). All actions are wholly consistent with the *Forest Plan*. Therefore, this is not a decision of principle.
7. There are no known significant cumulative effects between this project and other past or reasonably foreseeable projects in the project area or adjacent areas. This finding is based on cumulative effects analyses under various resource headings in the EA (EA, pp. 8-26).
8. Heritage resources will not be adversely affected. The federal lands were surveyed for heritage resources in 1986 and 2002, and no significant historic or prehistoric sites were located (EA, pp. 25-26).

9. The biological evaluation found no federally endangered or threatened species on either tract of land. (EA, pp. 13-14). The biological evaluation also found there would be no effects of this exchange leading toward federal listing of any Regional Forester's sensitive species (EA, pp. 14-16).

10. The actions are consistent with and do not violate federal, state, or local environmental protection laws.

Findings Required By Other Laws

The *Forest Plan* was adopted to meet the requirements of the National Forest Management Act (NFMA) of 1976 (as amended). The proposed project is consistent with the management direction and guidance in the *Forest Plan* (EA, pp. 3-4). Land exchange policy for the Hoosier National Forest is outlined in the *Forest Plan*, Appendix E Land Adjustment Strategy.

Exchanges are authorized by the Weeks Law (Act of March 1, 1911), the Federal Land Policy and Management Act of 1976 (Act of October 21, 1976), and the Federal Land Exchange Facilitation Act of 1988 (Act of August 20, 1988). This exchange meets all the legal requirements.

The exchange complies with Executive Orders 11988 and 11990 (floodplains and wetlands) (EA, p.21). There are no known hazardous waste locations on either the federal or private properties (Land Transaction Screening Process Summaries).

Appeal Rights

This decision is subject to appeal pursuant to USDA Forest Service 36 CFR 215. Any written appeal, including any attachments, must be filed with:

Appeal Deciding Officer, Randy Moore,
USDA Forest Service, Eastern Region
Attn: Appeals and Litigation
626 E. Wisconsin Avenue, Suite 700
Milwaukee, Wisconsin 53202

Fax number: 414-944-3963

E-mail address: appeals-eastern-regional-office@fs.fed.us.

The publication date of legal notice in the newspaper of record (the Sunday *Herald Times*, Bloomington, Indiana) is the exclusive means for calculating the time to file an appeal. Those wishing to appeal should not rely upon dates or time frame information provided by any other source. An appeal, including attachments, must be filed (regular mail, fax, e-mail, hand-delivery, express delivery, or messenger service) with the Appeal Deciding Officer within 45 days following the date of publication of the legal notice. Individuals or organizations who submitted substantive comments during the comment period may appeal.

The Appeal Deciding Officer's office hours for hand delivery of an appeal: Monday – Friday: 7:30 am – 4:00 pm Central Time. Acceptable formats for appeals filed electronically: TXT, HTML, PDF, or any file format viewable in Microsoft Office applications.

Appeals must meet content requirement of USDA Forest Service 36 CFR 215.14. Those regulations can be reviewed at Forest Service offices, including the Hoosier National Forest Supervisor's Office at 811 Constitution Avenue, Bedford, IN 47421. The detailed project record for the environmental assessment is also available for public review at that office.

Responsible Official:
Kenneth G. Day
Hoosier National Forest
811 Constitution Avenue
Bedford, IN
(812) 275-5987

Project Implementation

If no appeal is filed within the 45-day time period, implementation of the decision may begin no sooner than the fifth business day following the close of the appeal filing period. If an appeal is filed, implementation may occur no sooner than the fifteenth business day following the date of appeal disposition (36 CFR 215.10).

In addition to the above, pursuant to 36 CFR 254.14, this decision is subject to the Secretary of Agriculture's approval and the required 30-day Congressional oversight.

Questions regarding the environmental assessment for this decision should be directed to:

Ross H. Taylor, Lands Program Manager
Hoosier National Forest
811 Constitution Avenue
Bedford, IN 47421
(812) 275-5987

Approval

/s/ *Kenneth G. Day*

29 September, 2003

KENNETH G. DAY
Forest Supervisor

Date

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