

Husted-Maitland Land Exchange

Decision Notice and Finding of No Significant Impact

**U.S. Department of Agriculture Forest Service
Canyon Lakes Ranger District
Arapaho and Roosevelt National Forests and Pawnee National Grassland
Larimer County, Colorado**

Introduction

The Husted-Maitland Land Exchange (LEX) is an assembled land exchange between CTD Colorado, LLC (CTD) and Opal Land and Cattle, LLC (Opal) (collectively referred to as the “non-Federal Party”) and the USDA Forest Service, Arapaho and Roosevelt National Forests and Pawnee National Grassland (ARP) being the administrative unit. The land exchange is located on the Canyon Lakes Ranger District of the Roosevelt National Forest in Larimer County, Colorado. In December 2015, a Feasibility Analysis was prepared by the ARP and approved by the Forest Service’s Rocky Mountain Regional Office; the Forest Service and the non-Federal Party signed an Agreement to Initiate (ATI) for a value-for-value exchange.

Purpose and Need for Land Exchange

A summary of the purpose and need for the ARP’s Forest Supervisor’s decision is to acquire land or easements to:

- Enhance and improve public motorized and non-motorized recreational access by acquiring non-Federal Parcels containing several trails: National Forest System Trail (NFST) 997, Miller Fork; NFST 926, Donner Pass; NFST 926.1, Donner Cutoff; and a segment of Crystal Mountain Road that ties to National Forest System Road (NFSR) 344.
- Acquire through donation, a permanent public access easement for NFST 931, Crosier Mountain Trail, which crosses the non-Federal Party’s property.
- Eliminate non-Federal inholdings surrounded by National Forest System land and reduce future development that could affect the character of the surrounding National Forest System lands that are within two designated Colorado Roadless Areas.
- Consolidate landownership patterns to create more logical boundaries and continuity of ownership.
- Reduce the overall administrative issues arising from the management of Federal lands adjacent to private lands that are inaccessible to the Forest Service and the public.
- Ensure the ecological values (wetlands, noxious weeds, minerals, intended use of parcels by proponents etc.) of the land conveyed by the Forest Service and acquired by the Forest Service are equal or exceeded.

The purpose and need of the land exchange is to convey Federal lands that are:

- Adjacent to privately-owned land and are desirable by the non-Federal Party to consolidate with their ranches.
- Not manageable by the Forest Service nor accessible to the public due to lack of legal public access across private lands.
- Surrounded by private land and make logical sense to convey into private ownership.

Decision

The Husted-Maitland Land Exchange Environmental Assessment (EA) documents the environmental analysis and conclusions upon which this decision is based.

Based upon my review of the EA, project file, and technical appraisal review reports, as Forest Supervisor for the ARP, I have determined that the Husted-Maitland Land Exchange (land exchange) is in the public interest per the requirements of 36 Code of Federal Regulations (CFR) 254.3(b). The land exchange supports the forest-wide direction in the *1997 Revision of the Arapaho and Roosevelt National Forests and Pawnee National Grassland Land and Resource Management Plan* (Forest Plan), as explained at the end of this section. I have decided to implement the land exchange through the proposed action alternative as detailed in the EA. Analysis of the no action alternative, providing a baseline for comparing the effects of the proposed action, is detailed in the EA. The details of my decision are listed below.

In exchange for conveying six parcels of National Forest System lands that contain approximately 356 acres, the United States will acquire four parcels of non-Federal land totaling approximately 367 acres from the non-Federal Party. Upon completion of the exchange, the Forest Service would acquire a permanent trail easement through donation, for the Crosier Mountain Trail, NFST #931. The non-Federal Parcels for acquisition by the United States are described in Table 1. The Federal Parcels for conveyance to the non-Federal Party are described in Table 2 (see Overview Map of the Exchange, page 12). The exchange is an equal value land exchange, where the values of the Federal Parcels match the values of the non-Federal Parcels.

Prior to closing the land exchange, the preliminary Phase I Environmental Site Assessment report (which covers all of the Federal and non-Federal Parcels) will be updated and finalized by an Environmental Professional per ASTM E 1527-13 standards. During a previous inspection for the Phase 1, a small amount of asbestos (20-30 square feet) was found in floor tiles in the building foundation that was used for a television translator site on Federal Parcel 1. The tiles were removed by an approved contractor on July 19, 2017, and properly disposed of. There were no other hazardous materials found on any of the Federal or non-Federal Parcels in the preliminary report.

Upon closing of the land exchange and pending approval by the Chief of the Forest

Service, a modification to the Colorado Roadless Boundary for the Crosier Mountain and Comanche Peak Adjacent Unit G Roadless Areas is expected to occur. A 90-day public notice and comment period on the proposed boundary modification began on November 7, 2018, with the publication of a legal notice in the *Fort Collins Coloradoan*. No substantive comments by the public were received specific to the boundary modification. The Chief of the Forest Service is expected to approve the boundary modification to the Crosier Mountain and Comanche Peak Adjacent Unit G Roadless area boundaries to allow the inclusion of approximately 324 acres of acquired non-Federal land and remove approximately 199 acres of conveyed Federal land. The parcels affected and acreage are further described below.

Table 1: Non-Federal Parcels proposed to be acquired by the United States

***Parcels affecting the Crosier Mountain and Comanche Peak Adjacent Unit G Roadless Area Boundaries**

Parcel	Federal Parcel Name	Approximate Acreage	Location	Proponent/Owner
A	Crosier Mountain Inholding*	139	Southwest of Crosier Mtn.	CTD, Colorado LLC
B	Buckhorn	43	North of Crystal Mountain, CO	CTD, Colorado LLC
C	Miller Fork*	148	Northwest of Glen Haven, CO	Opal Land & Cattle, LLC
D	Miller Fork East*	37	Northwest of Glen Haven, CO	Opal Land & Cattle, LLC
	TOTAL (in Fee Title)	367		
	Crosier Mtn. Trail Easement Donation	0.10	West of Drake, CO off County Road 43	Opal Land & Cattle, LLC

Table 2: Federal Parcels to be conveyed to Non-Federal Party

***Parcels affecting the Crosier Mountain and Comanche Peak Adjacent Unit G Roadless Area Boundaries**

Parcel	Non Federal Parcel Name	Approximate Acreage	Location	New Owner
1	Husted Ranch South	40	Southwest of Crosier Mountain	CTD Colorado, LLC
2	Husted Ranch North*	120	Southwest of Crosier Mountain	CTD Colorado, LLC
3	Maitland Ranch East*	41	Northeast of Crosier Mountain	Opal Land & Cattle, LLC
4	Maitland Ranch Central*	61	Northeast of Crosier Mountain	Opal Land & Cattle, LLC
5	Maitland Ranch West*	77	North of Crosier Mountain	Opal Land & Cattle, LLC
6	Maitland Ranch North	17	East of North Fork Trailhead along County Road 43	Opal Land & Cattle, LLC
	TOTAL	356		

My decision for the Federal Parcels exchanged into private ownership includes the following uses and recognized interests:

Federal Parcel 1

- The Forest Service will convey the existing television translator tower by a Quit Claim Deed or other appropriate instrument. (The non-Federal Party (CTD) does not intend to operate the site and may remove the tower at a future date)
- At closing, the non-Federal Party will be required to issue an easement for the electric power line to the Town of Estes Light & Power Company.

Federal Parcels 3, 4 and 5

- Federal Parcel 3: Will be conveyed subject to a 150-foot wide right-of-way for County Road 43 that was granted to Larimer County via a Highway Easement Deed dated May 29, 2018 and recorded in the public records of Larimer County on June 27, 2018, at Reception No. 20180038672.
- Federal Parcel 3: At closing, the Forest Service will reserve a 15-foot wide public non-motorized trail easement for the portion of NFST #931 that crosses Federal Parcel 3.
- Federal Parcels 3, 4 and 5: Opal has a grazing permit for the Dunraven Allotment located on the parcels. Prior to closing, these parcels will be removed from the grazing permit.
- Federal Parcels 3 and 4: Federal Energy Regulatory Commission concurred with the partial revocation of the withdrawal and release of the provisions of Section 24 of the Federal Power Act affecting these parcels. The partial revocation and release of reservations under PLO No 7448 was approved by the Assistant Secretary of the Interior-Lands and Minerals, through Public Land Order No. 7871 posted in Federal Register-Volume 83, No 148, on August 1, 2018.

Federal Parcel 6

- Will be conveyed subject to a 150-foot wide right-of-way for County Road 43 that was granted to Larimer County via a Highway Easement Deed dated May 29, 2018 and recorded in the public records of Larimer County on June 27, 2018, at Reception No. 20180038672.
- Three acres of regulated floodplains occur on the parcel. The property will be conveyed subject to notification of the presence of the floodplain and subject to requirements to comply with all Federal, State and local requirements for activities in a floodplain, including Larimer County floodplain regulations.

My decision for the non-Federal lands exchanged into Federal ownership includes the following:

Non-Federal Parcels C and D

- Non-Federal Parcel C: Miller Fork Trail (NFST#997); Donner Pass Trail (NFST #926), and Donner Cutoff Trail (NFST #926.1) will all be incorporated into NFST's.
- Non-Federal Parcel D: The 0.3 mile trail segment will be incorporated into the Donner Pass Trail (NFST #926) located on surrounding National Forest System land.
- Water Rights on non-Federal Parcel C will not be acquired.

My decision responds to the goals and objectives outlined in the Forest Plan and as described in the EA in Section 1.3.1. They are summarized below:

- Improved boundary management by the administration of less boundary lines, corners, and signage. (Forest-wide goal);
- Consolidation of National Forest System land through land exchanges (Forest-wide objective);
- Acquisition of inholdings to maintain and increase habitat effectiveness and preclude development that is inconsistent with management area objectives of National Forest System lands (Management Area 3.5 guidance, non-Federal Parcels A, C, and D);
- Acquisition of inholdings within Forest lands recommended for Wilderness (Management Area 1.2 guidance, non-Federal Parcels C and D);
- Acquisition of inholdings to improve and maintain recreational opportunities and provide access (Management Area 4.3 guidance, non-Federal Parcel B);
- Manage the Miller Fork drainage as semi-primitive wilderness with no new trails (Geographic Area Direction – Crosier Mountain, non-Federal Parcels C and D);
- Rehabilitation of trails and trailheads (Geographic Area Direction – Crosier Mountain, Crosier Mountain Easement); and,
- Accommodation of public motorized uses on the existing transportation system (Geographic Area Direction – Buckhorn, non-Federal Parcel B).

Decision Rationale

In order to be in the public interest, the resource values and public benefits of the non-Federal lands must exceed those of the Federal lands. Per 36 CFR 254.3(b)(2), I considered how the land exchange advances the following objectives:

- 1) The opportunity to achieve better management of Federal lands and resources;
- 2) The needs of the state and local residents and their economies;
- 3) Achieving important resource management objectives including protection of fish and wildlife habitat, riparian habitat, cultural resources, wilderness and aesthetic values,

- enhancement of recreational opportunities, public access and watersheds;
- 4) Consolidation of lands and/or interests in lands, such as mineral and timber interests, for more logical and efficient management and development;
 - 5) Consolidation of split estates; expansion of communities;
 - 6) Accommodation of existing or planned land use authorizations;
 - 7) Promotion of multiple-use values;
 - 8) Implementation of applicable Forest Land and Resource Management Plans; and
 - 9) Fulfillment of public needs.

Below is a summary of my public interest considerations.

Public Access and Recreation Benefits

My decision is in the public interest for access and recreation because it:

- Secures legal public access and expands recreational opportunities on 1.2 miles of trail crossing non-Federal Parcels C and D. These trail segments tie to NFSTs on National Forest System land including: NFST #997, the Miller Fork Trail; NFST #926, the Donner Pass Trail; and NFST #926.1, the Donner Cutoff Trail.
- Secures permanent public access by acquiring an easement through donation, for the Crosier Mountain Trail, NFST #931.
- Secures legal, public motorized access on a road segment that ties to NFSR 344 immediately south of Larimer County Road 44H. This secures motorized recreation opportunities in the Crystal Mountain area for the public and Forest Service management of National Forest System lands, including implementation of a hazardous fuels reduction project (Federal Parcel B).

Increase Management Efficiency and Consolidation

My decision increases management efficiency because it:

- Eliminates a 40-acre inholding surrounded by private land that has no public or Forest Service legal access (Federal Parcel 1).
- Eliminates the need to administer the non-operational television translator site formerly authorized by a special use permit. (Federal Parcel 1)
- Consolidates the non-Federal Party's (CTD) ranch land (Federal Parcels 1 and 2).
- Eliminates the need to administer a grazing permit for the Dunraven Allotment on Federal Parcels 3, 4, and 5.
- Consolidates the non-Federal Party's (Opal) ranch land (Federal Parcels 3, 4, 5, and 6).
- Eliminates a 17-acre Federal inholding surrounded by private land (Federal Parcel 6).

Roadless

My decision is in the public interest for Roadless because it:

- Acquires the only private inholding within the Crosier Mountain Roadless area (non-Federal Parcel A).
- Acquires two inholdings located in the Miller Fork drainage within the Comanche Peak Adjacent Unit G Roadless Area (non-Federal Parcels C and D). These parcels are adjacent to National Forest System land recommended for Wilderness protection.
- Creates a net increase of approximately 125 acres of land managed under the Colorado Roadless Rule (non-Federal Parcels A, C and D).

Sensitive Environments and Habitat

My decision is in the public interest for sensitive environments and habitat because it:

- Provides a net gain of approximately one-acre of wetlands (non-Federal Parcels A, B, C, and D).
- Acquires segments of the Miller Fork stream and tributary to the Miller Fork. The perennial streams contain high quality riparian areas and wetlands. (Non-Federal Parcels C and D).
- It will allow the Forest Service to manage vegetation to achieve a mix needed for wildlife habitat and fuel loading in the Crystal Mountain area by securing legal access to National Forest System land for hazardous fuels reduction treatments (non-Federal Parcel B).

Minerals

The mineral estate will be exchanged. The BLM reviewed and concurred on the Mineral Potential Report on June 25, 2018. My decision will result in a net increase to the mineral estate of the United States. (See EA Section 1.7.6)

Intended Use of Federal Lands

The non-Federal Party has indicated no plans to develop the Federal Parcels they will acquire. The intended use of the conveyed Federal Parcels, to be consolidated with the existing ranch operations, will not conflict with management objectives of adjacent National Forest System land. Local county zoning and ordinances will regulate the amount and type of future development or uses that are allowable on the properties. These regulations would adequately protect the resources and would not result in a change on the character of the area, water, visuals, wildlife, and other resources.

Equal Value Statement

Appraisals were conducted, the Regional Appraiser reviewed the reports, and the results have been approved for agency use. A summary of the preliminary appraisal acreages and values together with cash required to equalize values, follows in Table 3.

Table 3. Appraisal summary.

Property Name	Size (approximate acres)	Ownership	Market Value	Husted	Maitland
Parcel A - Crosier Mountain In-Holding	139	CTD Colorado, LLC	\$986,000	\$986,000	
Parcel B - Buckhorn	43	CTD Colorado, LLC	\$182,000	\$182,000	
Parcel C - Miller Fork	148	Opal Land and Cattle, LLC	\$519,00		\$519,000
Parcel D - Miller Fork East	37	Annemarie Chenoweth	\$130,000		\$130,000
Non-Federal Total:			\$1,817,000	\$1,168,000	\$649,000
Property Name	Size (acres)	Ownership	Market Value	Husted	Maitland
Parcel 1 - Husted Ranch South	40	U.S.A.	\$336,000	\$336,000	
Parcel 2 - Husted Ranch North	120	U.S.A.	\$840,000	\$840,000	
Parcel 3 - Maitland Ranch East	41	U.S.A.	\$207,000		\$207,000
Parcel 4 and 5 - Maitland Central & West	138	U.S.A.	\$330,000		\$330,000
Parcel 6 - Maitland Ranch North	17	U.S.A. from Ollie & Roma McKeehan	\$90,000		\$90,000
Federal Total:			\$1,803,000	\$1,176,000	\$627,000
*CASH required for Equalization: \$14,000.00					

*The appraised value of the Federal lands was less than that of the non-Federal lands; therefore, the United States will pay the non-Federal party the amount of \$14,000 to equalize the values of the properties upon closing.

Public Involvement

Public notifications of land exchange proposal were placed in the *Fort Collins Coloradoan*, and *The Estes Trail Gazette*. These notifications were published once a week for four consecutive weeks from 02/11/2016 to 03/03/2016 (*Coloradoan*) and 02/12/2016 to 03/04/2016 (*Estes Trail Gazette*). Notification letters were sent to the appropriate elected

officials, Federal, State and local government agencies, Indian Tribes, adjacent landowners and other interested Parties. This notification began the combined public scoping and 45-day comment period.

As a result of the above-described public scoping and comment notification, the ARP received eight written comments from interested groups, adjacent landowners, and members of the public. These letters have been summarized and responded to in EA Appendix A. A complete list of contacts made and the scoping letters can be found in the project file at the Canyon Lakes Ranger District in Fort Collins, Colorado.

A 90-day public notice and comment period began on November 7, 2018, with the publication of a legal notice in the *Fort Collins Coloradoan*, soliciting comments to the proposed boundary modification to the Crosier Mountain and Comanche Peak Adjacent Unit G roadless area boundaries. No substantive comments were received on the boundary modification. Additionally, coordination with the State of Colorado was required. The Colorado Department of Natural Resources (DNR) was contacted to determine their interest in participating in the exchange process. They declined to participate, so no further coordination with the State of Colorado was required by the Colorado Roadless Rule.

Findings Required by Other Laws and Regulations

This decision is consistent with the Forest Plan. The project was designed in conformance with Forest Plan forest-wide direction with respect to land ownership adjustments as summarized in Section 1.3 of the EA.

The following Federal laws, regulations and/or policy have specific application to this proposed action and have been addressed to ensure compliance. Further information can be found in the final EA in the sections indicated.

- Proposed Threatened, or Endangered Species (PTES): The Endangered Species Act of 1973 requires analysis of the effects to PTES wildlife, fish and plant species that could be affected by the project proposal. (EA Section 3.3)
- Sensitive and Management Indicator Species (MIS): Forest Service regulations require analysis of Regionally Sensitive wildlife, fish and plant species as well MIS that could be affected by the project proposal. (EA 3.4 and 3.5)
- Wetland and Floodplains: Executive Orders 11988 and 11990 require analysis of wetlands and floodplains affected by the project proposal. (EA Section 3.6)
- Heritage Resources: Heritage resources are to be considered for the exchange parcels as required by Executive Order 11593, the National Historic Preservation Act of 1966 (16 USC 470), and 36 Code of Federal Regulations part 800. (EA Section 3.7)
- Comprehensive Environmental Response, Compensation, and Liability Act: All Appropriate Inquiries and Phase I Environmental Site Assessments have been completed and will be updated and approved by a Forest Service Environmental Professional prior to the completion of the land exchange. (Section 1.7.6)

Finding of No Significant Impact (FONSI)

As the Responsible Official, I evaluated the effects of the land exchange relative to the definition of significance established by the Council on Environmental Quality regulations (40 CFR 1508.13). I reviewed and considered the EA and documentation included in the project record. Based on those reviews, I determined the Husted-Maitland Land Exchange including the no action and proposed action alternative will not have a significant effect on the quality of the human or natural environment. As a result, a no environmental impact statement will be prepared. Per 40 CFR 1508.27, my rationale for this finding is as follows:

Context

For the land exchange, the context of the environmental effects is based on the environmental analysis in the EA. Land exchanges convey land, interest in land, and associated resources. However, the act of conveyance has no environmental effects. Therefore, the environmental analysis focused primarily on future use and management of lands acquired and conveyed and the effect of the land exchange on adjoining lands. The lands conveyed are local to Larimer County, Colorado, with implications for the local area only. The lands acquired are would be managed like the surrounding National Forest System lands.

Intensity

Intensity is a measure of the severity, extent, or quantity of effects, and is based on information from the effects analysis of the EA and the references in the project record. The effects of this project have been appropriately and thoroughly considered with an analysis that is responsive to concerns and issues raised by the public. The Forest Service has taken a hard look at the environmental effects using relevant scientific information and knowledge of site-specific conditions gained from field visits. My finding of no significant impact is based on the context of the land exchange and intensity of effects using the 10 factors identified in 40 CFR 1508.27.

1. *Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.* I considered both beneficial and adverse impacts and conclude that the impacts of the selected action are not significant in context of direct, indirect, and cumulative effects.
2. *The degree to which the proposed action affects public health or safety.* The land exchange will not affect public health or safety.
3. *Unique characteristics of the geographic area such as the proximity to historical or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas. Acquired lands include inholdings within designated wilderness areas, land adjacent to designated wilderness, net increase in wetlands,*

and other lands adjacent to special management areas such as roadless areas and other Congressionally designated area that are desirable to meet management goals. My decision acquires lands within the Crosier Mountain and Comanche Peak Adjacent Unit G Roadless Areas that will provide additional protection from timber harvest and road building. My decision will add almost 1 acre of wetlands to the National Forest System.

4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* The land exchange is consistent with many other exchanges. There are no scientific disputes over the likely effects of the project. Therefore, I conclude that the environmental effects of the decision are not highly controversial.
5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* The land exchange is not likely to result in effects on the human environment that are highly uncertain or involve unique risk. It is similar to other past land conveyance actions that have occurred on the ARP. The probable effects are well understood and have been disclosed.
6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* Neither the land exchange nor this decision will set a precedent. Similar exchanges have occurred in the past, nationally and locally. Land exchanges are completed by the Forest Service and by other public land management agencies with the objective of consolidating public land ownership, while preserving the public interest. Each exchange is evaluated on a case-by-case basis and on its own individual merits. I conclude that this decision does not establish a precedent for future actions.
7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The EA evaluates the land exchange in the context of past, present, and potential future actions that could lead to cumulative impacts, and no significant impacts were identified.
8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.* The State Historic Preservation Office (SHPO) concurred with the recommended finding of *no historic properties affected* (36 Code of Federal Regulations 800.4(d)(1) under Section 106 through this land exchange. The SHPO concurred that the Crosier Mountain Trail in Federal Parcel 3 supports the overall eligibility for the National Register of Historic Places. SHPO also concurred with the recommended finding of *no adverse effect* (37 Code of Federal Regulations 800.5(d)(1) under Section 106, provided an easement protecting public access, maintenance, and the protection of the historic character of the trail is enacted. An easement will be reserved for the trail, so this land exchange will have no adverse

effects to historic resources (See EA Section 3.7).

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.* Effects on listed species associated with the land exchange have been disclosed and analyzed. Consultation with the U.S. Fish and Wildlife Service has been completed (EA Section 3.3 and Biological Assessment and Biological Evaluation in project file).
10. *Whether the action threatens a violation of Federal, state, or local law or requirements imposed for the protection of the environment.* The land exchange does not violate nor threaten to violate any Federal, state, or local laws, regulations, or requirements imposed for the protection of the environment (EA Section 1.3.3).

Administrative Review (Objection) Opportunities

This decision has been subject to a pre-decisional objection in accordance with the provisions of 36 CFR § 218 subparts A and B, no objections were received. The Reviewing Officer has directed me to proceed with the issuance of the decision notice without further instructions.

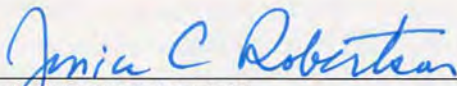
Implementation Date

Implementation of this land exchange may occur on the fifth business day after my signature below.

Contact

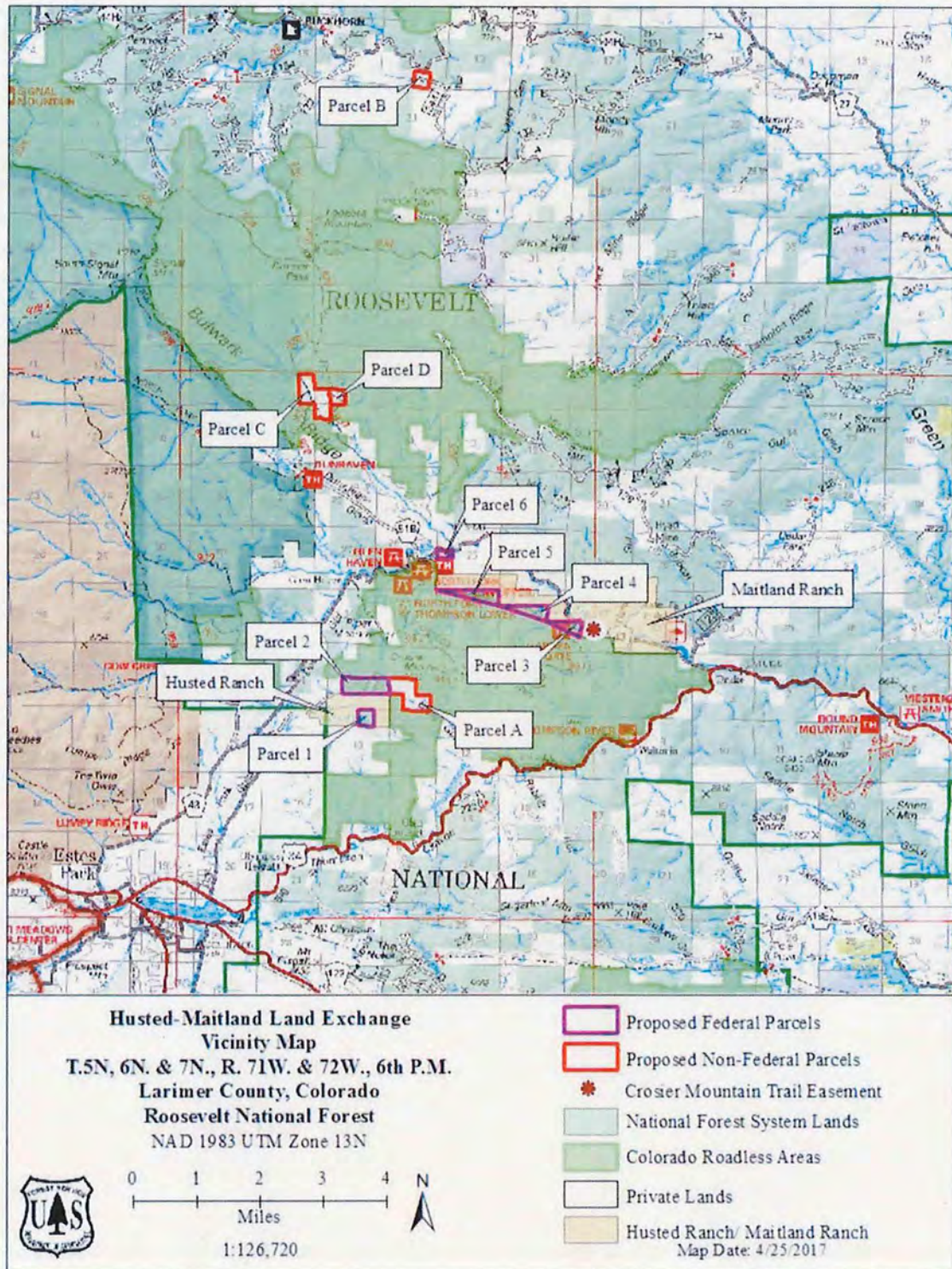
For additional information concerning this decision, contact:

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for MONTE WILLIAMS
Forest and Grassland Supervisor
Arapaho and Roosevelt National Forests
Pawnee National Grassland
Rocky Mountain Region

2/28/19
Date

Overview Map of the Exchange



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