



COURTHOUSE NEWS SERVICE

Public wary Montana land swap may favor wealthy landowners

A public-private land swap proposed by a small working group has many members of the public questioning whether the U.S. Forest Service has the public good at heart.

LAURA LUNDQUIST / December 27, 2022



Looking east toward Montana's Crazy Mountains in wintertime. (Mike Cline/Wikipedia via Courthouse News)

MISSOULA, Mont. (CN) — Some say collaboration is the way to solve complicated public land issues. But in Montana's Crazy Mountains, both

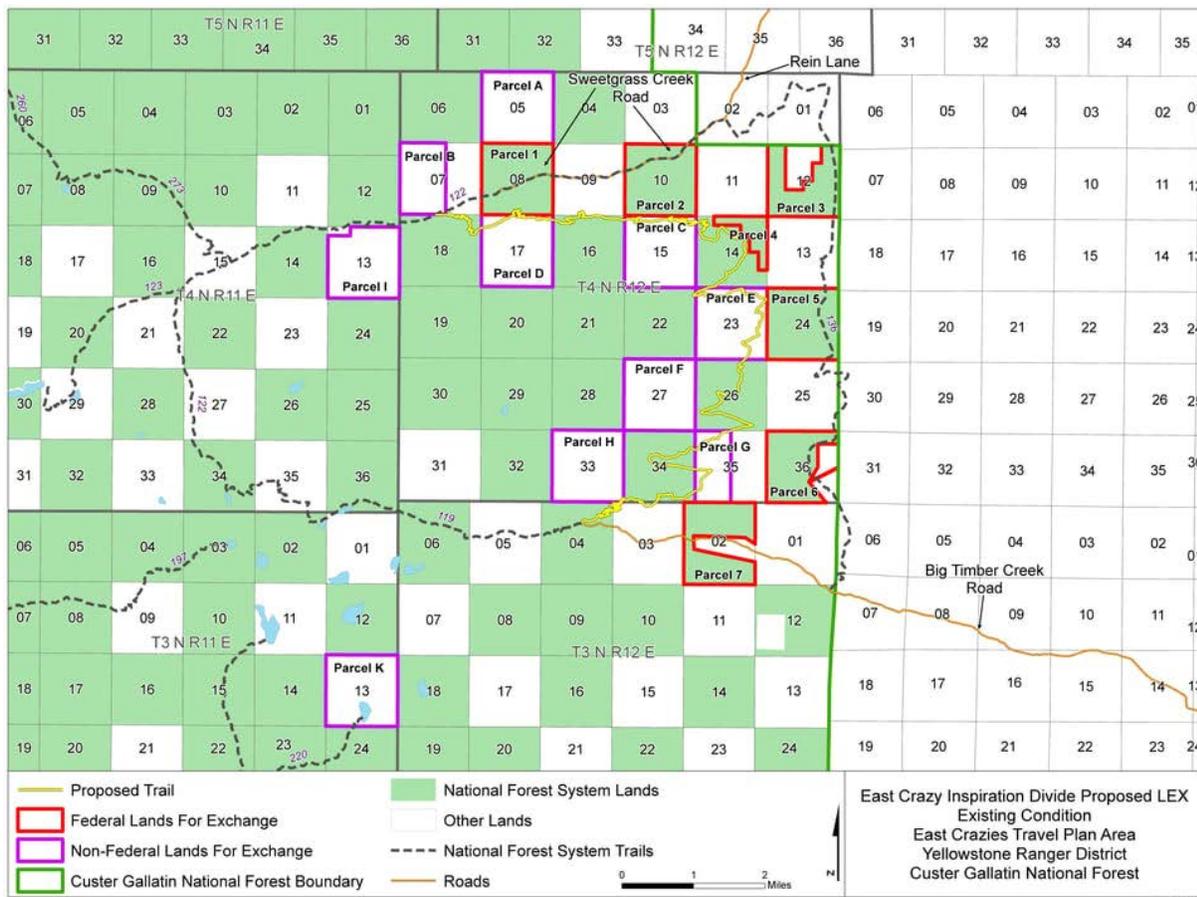
collaborators and outsiders are questioning the intent and timing of a proposed public-private land swap.

After the public comment period closed on Dec. 23 for the “East Crazy Inspiration Divide Land Exchange,” the 1,060 comments submitted online appear to show that a majority of the public does not support the exchange as proposed.

The Custer-Gallatin National Forest’s online summary says it would exchange about 4,135 acres of public land for 6,430 acres of private land to consolidate more of the public land in the Crazy Mountains of central Montana. While that sounds like a win for the public, the devil is in the details according to Montana conservationist Andrew Posewitz.

While the U.S. Forest Service oversees most of the Crazy Mountains, its management has been complicated by several sections of private land woven among the public land. In the latter 19th century, the federal government gave the sections away to encourage railroads and settlers to move west, ignorant of the public-land headaches that would result more than a century later.

In several parts of the West, current maps look like a checkerboard of public and private land, each section containing 640 acres. But in the Crazy Mountains, it seems more a game of chess than checkers where certain moves to consolidate public land might belie the endgame.



The existing “checkerboard” of property ownership in the eastern Crazy Mountains. (U.S. Forest Service via Courthouse News)

The Crazy Mountains used to be a remote region visited mainly by a smattering of locals for hiking, hunting and fishing. But in recent decades, as nearby Bozeman has grown in popularity, prosperity and population, new landowners have moved in and barred roads and trails to lock people out of public land, prompting resentment.

The Forest Service is supposed to defend existing public access to its lands. That’s especially important in places like the Crazy Mountains where access is limited to begin with. But starting about five years ago, the Custer-Gallatin National Forest stopped taking the illegal barriers down.

That prompted local hunter Brad Wilson to form [Friends of the Crazy Mountains](#) to defend public access. In the meantime, people like Bozeman

hunter Rob Gregoire, who tried to travel the roads and trails he'd used before, were cited for trespassing.

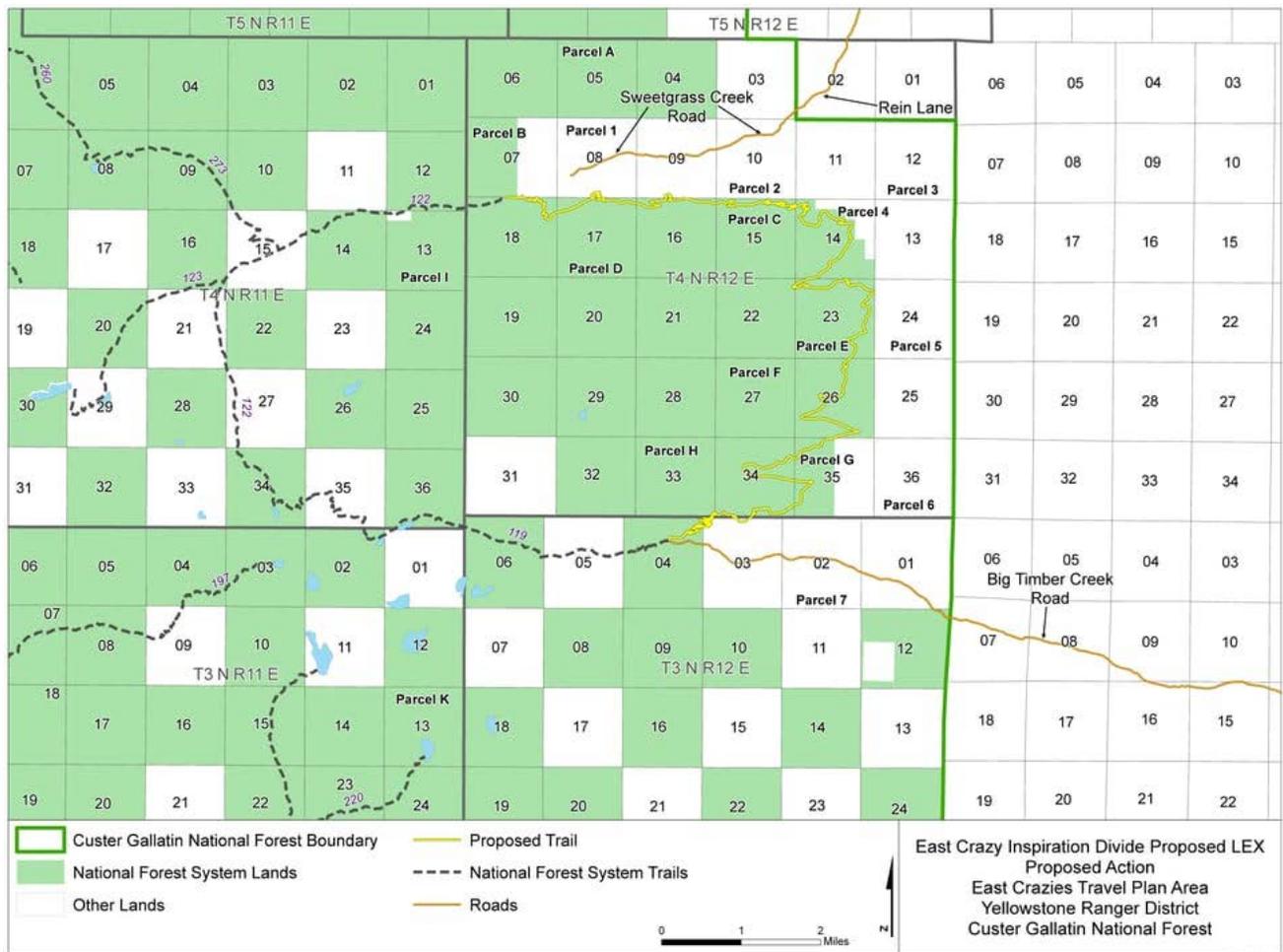
Public frustration built to the point that in 2019, four Montana conservation groups including Friends of the Crazy Mountains and Backcountry Hunters and Anglers sued the Forest Service for not protecting prescriptive easements across private land to keep four trails open.

That same year, at the prompting of the Forest Service, the Yellowstone Club and some landowners started hatching a plan to consolidate lands in the eastern portion of the Crazy Mountains. Another group of landowners was already working on land swaps along the southern edge of the mountains, most of which were finalized in May 2021.

More than 100 miles from the Crazy Mountains, the Yellowstone Club is a gated community at Big Sky that has catered to the rich and powerful for about two decades, including political heavy-hitters like former vice presidents Dan Quayle and Dick Cheney and former U.S. Representative Jack Kemp. At first, the Yellowstone Club only wanted more national forest land near Big Sky for ski runs. In exchange, it hired the Western Land Group, a consulting company, to come up with some land exchanges along the east edge of the Crazy Mountains and offered to build a 22-mile trail to replace the four being contested. Then about a year ago, Yellowstone Club owner CrossHarbor Capital Partners bought the Crazy Mountain Ranch, giving it more interest in the land swap. Yellowstone Club member David Leuschen, former partner at Goldman Sachs, bought his Switchback Ranch in the Crazy Mountains in 2012. Sections from both ranches are part of the trade.

Posewitz, the Montana conservationist, said all the leverage the Forest Service gave to the Yellowstone Club was inappropriate. If the Big Sky portion was pulled out, the East Crazy land swap would have even less support, Posewitz said.

In July 2021, the Western Land Group submitted their proposal to the Forest Service. The Park County Environmental Council then formed the Crazy Mountain Access Project, a dozen landowners and conservation advocates from other efforts, to advocate for the Yellowstone Club proposal. But when the Forest Service finally released its preliminary environmental assessment seven weeks ago, it was noticeably different from the July 2021 proposal the Access Project had been shown.



Some members of the Access Project were stunned that there was little mention of conservation easements that were to be placed on the traded federal sections, and the Forest Service appeared to have abandoned its claim on the Sweetgrass Trail, one of the hotly disputed parts of the agreement.

Forest Service Realty Specialist Anna Ball, who was assigned to the project late in the process, said Forest Supervisor Mary Erickson had worked on a few versions of the proposal with the landowners.

Nathan Anderson, a fifth-generation owner of the Billy Creek Ranch along the Sweetgrass Trail, has worked with the members of the Access Project for several years, but he was aware of the changes before they were, because some of the ranchers in the Yellowstone Club proposal are his neighbors.

“This is the proposal that the Forest Service and the landowners have kind of been working on. Somewhere, something got missed — I have to acknowledge that — because people aren’t seeing the same thing. I don’t feel that it was misrepresented, but there was something that was missed there,” Anderson said.

The Sweetgrass Trail is one of the four trails that prompted the Forest Service lawsuit. It’s actually a road, not a trail, that travels up into the Crazy Mountains from the eastern lowlands, traversing several alternating sections of private and public land for decades. Wilson said the lawsuit is one reason this proposal shouldn’t move ahead just now.

A federal judge ruled against the Friends of the Crazy Mountains plaintiffs this past April, finding that even if the Forest Service historically believed it possessed prescriptive easements on the trails, the agency no longer had a duty to protect them because the easements were never deeded. The groups have appealed to the Ninth Circuit.

In addition to conservation easements and the trails, many question the lack of information in the preliminary proposal, saying it shows just how rushed the proposal was. Conservationists say much of the proposal doesn’t comply with the law because it allows for the loss of wetlands and elk habitat but doesn’t quantify the loss and doesn’t look at the land value of each parcel.

Public land trades are supposed to be equal in value. So some groups asked for another round of public comment.

Ball said the Forest Service team would probably be able to address all comments by spring. Then Erickson would make the decision whether to move ahead with the proposal.

“There are only two options here. That isn’t to say there couldn’t be tweaks here and there,” Ball said. “But if they went with the no-action alternative, there would probably be that hard conversation of ‘Is it totally done? Are we done with any sort of proposal? Or is there a different iteration that could be looked at in the future?’ Because we’ve put so much time into this proposal as it is, we would be hard pressed to get a different proposal on the board — it would take time.”

That’s what has some people so desperate to pass the proposal even if it’s problematic: Negotiating a new proposal would be difficult and take more time. Some say that’s worth it to keep rich landowners from using money and political connections to pull a fast one, and some want to wait for the courts to decide whether the public has a right to use the Sweetgrass Trail. But others feel this might be their only chance to pull some parts of the Crazies together.

Categories / [ENVIRONMENT](#), [GOVERNMENT](#), [REGIONAL](#)