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November 2, 2021

Objection Reviewing Officer
USDA Forest Service Rocky Mountain Region
PO Box 18980;
Golden, CO 80402

Submitted via project website:
http://www.fs.usda.gov/project/?project=57154.

To the Objection Reviewing Officer,

Re: **Objection** to the Draft Decision Notice and Finding of No Significant Impact for the Valle Seco 2019 Land Exchange project.
Responsible Official: Kara Chadwick, Forest Supervisor.

The following are the objections and requests for clarification, of Colorado Wild Public Lands (CWPL) to the Draft Decision Notice (DDN), the Finding of No Significant Impact (FONSI), and the Final Environmental Assessment (FEA) for the Valle Seco Land Exchange (LEX) project, released by the USDA Forest Service (Agency) on September 24, 2021. The proposed LEX would involve lands on the Pagosa Ranger District of the San Juan National Forest.

Colorado Wild Public Lands is a 501(c) 3 organization. We work to keep our public lands open and accessible. CWPL has reviewed and analyzed the available public documents for this project since the land exchange scoping occurred in 2019, and CWPL has participated in each of the public comment periods. In this objection, we incorporate by reference CWPL's letter (with appendix) dated October 3, 2020, and the letter CWPL co-signed with Rocky Smith dated October 1, 2020, wherein we responded to the Valle Seco Land Exchange Draft Environmental Assessment. The proposal is the exchange of one private 880-acre parcel for 9 federal parcels comprised of about 380 acres; the non-federal parcel is considered part of important habitat for elk and deer.

To begin, we request a clarification of the exchange process regarding beneficiaries: Kelcy Warren, owner of Bootjack Ranch LLC, proposes to exchange land he owns (Parcel A) for land that he does not (Parcels 1, 2, and 3). This forms the only clear value-for-value property exchange between

non-Federal and Federal entities. The other parties in the exchange are listed as David Skidmore and Cynthia A. Sites, and David C. Lindner Trust and Dynasty Trust; they will acquire federal parcels 4, 5, 6, 7, 8 and 9 Yet, they do not appear to be exchanging any land to the Forest Service. Why are these entities included in the land exchange if they are not exchanging anything in return?

Please clarify the legal basis and support under which this Federal land is being conveyed to these other non-Federal beneficiaries. Additionally, the agreements among these beneficiaries should be available to the public as part of the project documentation. (CWPL FOIA letter, September 15, 2020.)

I. NEPA PROCESSES, PUBLIC INVOLVEMENT AND TRANSPARENCY

A. There has been insufficient outreach to the public. More accessible outreach is needed before the agency issues a Final EA and Draft Decision Notice.

The proposed Valle Seco Land Exchange (land exchange) and the connected action of the proposed Colorado Roadless Area Boundary Modification are complex projects and processes. The Agency has provided the minimum required public noticing and comment periods. The second comment period on the proposed CRA modifications was required because the scope changed from only removing designated CRA's to also including proposed new CRA designated land. (Response to Comments at 3.). The Agency has not been responsive to repeated requests from CWPL and San Juan Citizens Alliance (SJCA) regarding providing a more robust public involvement process. Reasons for these requests include the complexity of the proposal, amount of public response generated, multiple values of the public parcels proposed to be exchanged to private, potential loss of lands designated as CRA's, and the concurrent CRA boundary modification process.

There have been no general public forums such as in-person meetings, open houses, site visits, or online zoom meetings. These provide an opportunity for Agency staff to make presentations that describe the proposals in more easily understandable ways. They also provide the public an opportunity for questions and discussions about the proposals. Other land exchange projects in which we have participated have included one or more agency sponsored "open houses"; these events are an opportunity for the agencies to interact directly with the public to discuss the project, look at big maps, share perspectives of the affected groups, and answer questions about both the project and the process. The Valle Seco process has included none. Notifications of both processes were placed mainly in the "Public Notice" section of the "newspaper of record" and similarly in a couple of other local papers.

There was an op ed in the Durango Herald by the Forest Supervisor (February 8, 2020). The op ed was inappropriately biased in favor of the land exchange, identifying the benefits of the exchange, but minimizing the potential losses. Rather than simply presenting an unbiased summary of the

project and inviting people to participate in the process, this op ed was written in a way that influences public perception.

B. Public comments have not been resolved.

Draft Environmental Assessment Response to Comments, 2021: The Agency issued a 75 page "Response to Comments" providing extensive responses intended to substantiate their decision. However, there have been very few substantive actions to respond to comments. For example, commenters, CWPL, SJCA, Fuhrman and form letters wrote that:

> The Forest Service should analyze this project under an EIS due to the enormity of the issues, the length and complexity of the Draft EA, the extraordinarily controversial nature of eliminating wilderness-quality roadless areas and recommended wild and scenic rivers for private benefit, and because the proposed actions would significantly alter the undeveloped character of a roadless area. (Response to comments at 4.)

Despite the resources listed above, and all the valuable resources identified on the Federal parcels (CWPL Comments October 3, 2020), the Agency asserted:

> No significant effects were identified to any resources within the analysis area. (Response to comments at 4)

The public comments are generally opposed to the land exchange and to the loss of CRA's. The Agency has removed a Federal parcel (10) and non-Federal parcel (B) because of their inclusion in a suitable Wild and Scenic River Corridor; but the 6 acres on Parcel 1 that are part of the East Fork of the San Juan suitable WSR corridor are still included in the exchange. Why not just remove the 6 acres from the exchange? Additionally, the remaining 170 acres of Parcel 1 are also included in the South San Juan Adjacent CRA. Despite the public concerns about the removal of Parcel 1 from protected status, the land exchange is proceeding and will convey the protected acres into private hands. to a private party*. The lands designated as CRA's and suitable WSR corridors (Parcels 1 and 2) should maintain those designations and remain in Federal ownership.*

C. The NEPA process that the Agency has used with the Valle Seco Land Exchange and the connected action CRA Boundary Modification is confusing and inconsistent.

CWPL reiterates its objections to withdrawing acres from a designated CRA (CWPL October, 2020 and August 2021).

The Agency has been inconsistent in conducting the NEPA process for the Valle Seco land exchange and the connected action of the CRA Boundary Modification.

> The Chief's decision of whether to modify CRA boundaries to either remove or add acreage to CRAs is a management designation that is separate, but connected, to my decision. (DDN at 5.)

The two processes have been interwoven where convenient, and separated for procedure, making public comment opportunities seemingly redundant and certainly confusing. There are several examples. The May-July 2021, 90-day comment period on the CRA Boundary Modification was identified as a separate NEPA process, yet the only information provided beyond the notice of the proposed CRA boundary modification was referenced as being included in the Valle Seco LEX DEA (see https://cara.ecosystem-management.org/Public/ReadingRoom?List-size=25&project=NP-2434&List-page=3). Responses to comments from the 90-day comment period for the CRA Boundary Modification have not been issued in that context, but some responses are included in the "Responses to comments" for the Valle Seco FEA.

No decision has been issued on the proposed CRA Boundary Modifications (Draft Decision Notice [DDN] at 5), therefore the DDN, and the FONSI are premature. The land exchange includes conveying 175.86 acres designated CRA's from Federal to non-Federal ownership. Alternatives 3 and 4 propose increasing lands designated CRA's in the Winter Hills/Serviceberry Mountain CRA. Several commenters, including Trout Unlimited, stated support for Alternative 3 assuming it includes the additional CRA's:

> Trout Unlimited acknowledges the benefit to managers to have administrative access to road 653 and would support Alternative 3's proposed 4,675 acres of CRA additions and the closure of road 653 to public use. (Response to Comments at 45.)

The Agency has not issued a decision on whether the proposed roadless area additions will be included; therefore, it is unknown whether the configuration of the LEX that the DDN recommends will include the additional CRA lands.

> If the Chief approves the addition of acreage to the Winter Hills/Serviceberry Mountain CRA, there will be benefits to elk and mule deer (DDN at 9)

The DDN continues to cite future benefits to habitat, vegetation and bird resources that will accrue from acreage being added to the CRA's per above. These benefits could add to the mitigation for resources being lost on the Federal parcels to be exchanged. The FEA and DDN are premature in assuming those benefits since the CRA boundary modification decision to include the additional acreage, has not been made.

The Agency should have described the rules, processes and timelines for these related actions clearly in Scoping and at the opening of the comment periods for both the draft EA on the land exchange, and the CRA boundary modification. Going forward, the Agency should explain how they follow these rules and procedures. Additionally, we request that the FEA and DDN are withdrawn until after the CRA Boundary Modification process is complete and that decision has been issued.

D. Project appraisals have not been released to the public despite the Agency having used the appraisals to determine the parcels to be exchanged.

The appraisals are the heart of any land exchange. They inform the Agency about how the parcels that the NEPA documents analyze should be configured. The appraisals are paramount to complying with the Equal Value requirement, as they are the tool used to determine the economic value of the parcels being exchanged. For this reason, they also define the resources and values to be analyzed in the Public Interest Determination and to ensure the proposed exchange is in the public interest.

Because NEPA rules prevent significant alterations of a proposal once the NEPA documents have been released, the Agency has relied on at least some informal version of the appraisals, if not the actual ones, since the outset of the preparation of draft NEPA documents. Because these documents drive the land exchange NEPA process, the public should have access to them during public comment periods; without them, the public cannot make an informed, substantive assessment of the equal value requirement or the public interest determination.

The NEPA process and the appraisal process are so intertwined as to suggest that the proper procedure for a land exchange would be to complete the appraisal process *before the release of a draft NEPA analysis.* Having the appraisals in hand at the beginning of the process would shape the parcel configuration based on the actual Equal Value; then the agency could undertake an accurate resources assessment of the actual parcels to present for public comment and to inform the Public Interest determination. This order of procedure would not only present an accurate picture for assessment, it would also unequivocally allow the release of the appraisals with the rest of the supporting documentation that serves to inform public comment like the biological and wetlands studies. The status quo of concurrent appraisal and NEPA processes results in assessments based on mere speculation.

Indeed, the Appendix to CWPL's October 3, 2020 comments details how the appraisal process already determined the outcome of the land exchange before the Agency released the draft EA for public comment. The valuation discussion in a modification to the Agreement to Initiate a Land Exchange mentions the likelihood that Parcel 5 would be reduced, and Parcel 11 would be removed from the land exchange to equalize values [ATI at 20]. *The 2018 Feasibility Analysis (FA) shares an early and ongoing recognition that without a final determination regarding mineral rights, both the market and conservation values of Parcel A remain nebulous [FA at 29-30].*

The appraisal is not complete, as the mineral values for parcel A, which would be exchanged to the federal government along with the surface, are not known. The non-federal parties do not even own these rights:

> The non-Federal Party is pursuing acquisition of the entirety of the mineral estate under non-Federal Parcel A. (FEA at 24)

The value of these minerals needs to be disclosed so that the public can analyze the purported equal value of the parcels involved in the LEX.

Because the Equal Value requirement is fundamental to the Public Interest determination, the public's ability to assess and comment on this determination is hampered by the unavailability of the appraisals; withholding them fuels the impression that the Agency is not being transparent. The BLM has been chastised for this practice in another land exchange:

> There is something uncomfortable about the BLM concealing appraisals of the value of lands subject to a proposed exchange; it smacks of secrecy rather than transparency and thus gives rise to suspicions that the BLM is hiding some improper conduct. Accordingly, the Court does not condone the BLM's behavior and finds that it has contributed to the bringing of this litigation. (Civil Action No. 17-cv-01564-MSK Ruling March 25, 2021)

It is inferred from Modification #1 to the ATI that the Agency had appraisals in hand when they released the DEA for comment in September 2020 (at 5). The Technical Appraisal Report refers to an Appraisal dated August 14, 2020. The Forest Service Manual allows for release of the appraisals once they are "completed, signed and reviewed by the regional appraiser" [FSM 5400 Chapter 5410.74(c)]. The Response to Comments identifies that the appraisals met the criteria for release shortly after the close of the draft EA comment period:

> "The appraisal review process was completed in late October 2020 in accordance with applicable appraisal standards and Forest Service policy." [Response to Comments at 64]

Why then was the public precluded from reviewing these critical documents? Why has the Agency withheld the appraisals from the public at a time (i.e., during public comment periods) when they would be most useful?

As of October 31, 2021, the Agency still has not released the appraisal documents (other than heavily redacted versions), despite their repeated reliance on them. These appraisals were used to determine the land exchange parcel configuration for both EA documents and are part of the basis of the Equal Value and Public Interest Determination discussed in the DDN (DDN at 2); in fact, CWPL has had to file a FOIA complaint in Federal Court for them.

The Agency has said they will release the appraisals at the time of a signed decision. But that timing, coupled with the Agency use of this pre-decision Objection process rather than a post-decision appeal process, <u>denies the public any opportunity to evaluate whether the appraisals reflect current land values and how well, if at all, they support the Agency's public interest determination</u>. The appraisals were available and should have been released in a timely manner, so as to be considered during the Draft Environmental Assessment comment period, or at minimum during the objection period.

We request that the Agency withdraw the FEA and the DDN and release the Appraisals. Release of the appraisals must be accompanied by a 45-day period for the public to review and comment on them.

II. THERE IS AN OVERALL LOSS OF WETLANDS AND WATER-RELATED RESOURCES

In our October 2020 comments, CWPL and R. Smith noted that the land exchange could result in a net loss of natural wetlands. While there are wetlands on Parcel A, they are different from those on the federal Parcels; those on the federal parcels are natural PEM wetlands, while those on Parcel A tend to be PSS wetlands, many of which are supported by livestock watering. (FEA at 75-78) Moreover, the future viability of the wetlands on Parcel A is questionable [See discussion in Sections II and IV below]. The wetlands on the federal parcels are another reason this organization insists on conservation easements for their conveyance into private ownership.

The Agency is relying on Section 404 permits and local land use regulations instead of Conservation Easements for post-exchange wetlands protection on federal parcels 1, 3, and 5. These regulations are triggered only through a permit application process. Federal and local wetland regulations do not apply if a landowner is not seeking a permit. The new landowner, as proposed via the land exchange, has yet to seek a Clean Water Act permit, meaning there are no assurances these wetland values will be protected. Given the large acreage of many properties in Colorado, it is common practice to forgo the permitting process, start up the backhoe and start digging. At this point, any protections are merely speculative. It is reasonable to assume at least incremental reductions in wetlands on private property over time.

There should be conservation easements for the conveyance of wetlands into private ownership. Or the Forest Service could attach conditions to the LEX to protect the wetlands under 36 CFR 254.3(h).

III. COLORADO ROADLESS AREAS

CWPL reiterates all our previous concerns about losing the designated 175.86 acres of CRA (CWPL, December 12, 2019, October 1, 2020, October 3, 2020, January 23, 2020 and July 20, 2021).

The public expects that CRAs will be protected as roadless. Indeed, the South San Juan Adjacent (SSJA) area was not recommended for wilderness designation in part because "[m]anagement under the Colorado Roadless Rule would protect roadless characteristics…". San Juan Forest Plan (Forest Plan) Final EIS at C-51. (This is also noted at p. 17 of the Response to Comments.) The proposed land exchange reneges on this promise.

The preamble to the Colorado Roadless Rule (CRR) stated:

> Roadless areas belong to all Americans and are a resource to protect and pass on to future generations. The final rule will provide long-term management of CRAs to ensure roadless area values are passed on to future generations, (77 Fed Reg 39577, July 3, 2012.)

By trading away 175 acres of roadless lands, the Forest Service fails to fulfill the CRR's mandate to protect roadless lands in Colorado.

The Agency's management of the Colorado Roadless Area issues surrounding this exchange appears contrived to support this exchange. The NEPA documents do not refer to the CRA expansions as part of any larger CRA planning process; the only reference to this connected action is in the Agreement to Initiate a Land Exchange which listed the boundary modification as an action item (ATI Exhibit C). The intertwining of the Roadless Area Boundary Modifications NEPA with the Land Exchange NEPA serves to reinforce the perception that both processes are driven by pre-determined outcomes: the Land Exchange must proceed; therefore, the Roadless Area boundary modifications must be justified and the need for and intention to undertake the CRA Boundary Modifications are not well documented.

Rather than explaining the need for the dual process in either of the Valle Seco EA documents, the Agency, at conclusion, indicates they will move forward with CRA boundary modifications as the Chief decides:

> "Proposals to modify the boundary of a designated Colorado Roadless Area are approved by the Chief of the Forest Service. The Colorado Roadless Rule Boundary Modification decision is not subject to the objection process, and the Chief of the Forest Service is the Deciding Official." [FEA at 20]

This language replaces an extensive description of the comment periods and public input in the DEA, giving the impression, that regardless of the public's input, the Chief will exercise their discretion to make a decision. Removing the 175 acres from CRA designation would allow the land exchange to proceed. This decision appears to be pre-determined rather than based on consideration of public input and technical analysis, since the draft decision has already been issued.

The CRA designated land should maintain that status and remain in Federal ownership.

IV. CONDITIONS EXIST THAT DIMINSH THE STATED VALUE OF PARCEL A.

A. Wetlands

The FEA (at 76) and Response to comments (pages 34-35) note that wetlands on Parcel A have been drying up. Many of these wetlands are human-made stock ponds, and not natural wetlands.

> "The stock pond associated with the Bramwell No. 2 water right would be included in a closed grazing allotment. The current owner of the Bramwell Reservoir No. 2 water right would abandon the water right through water court." (FEA at 100)

We request clarification about what this means, for example, a loss of water or no more grazing?

A loss of stock water on the parcel would likely contribute to the aridification trend on Parcel A, undermining the future viability of the wetlands and eventually affecting vegetative and wildlife habitat on the parcel as well, particularly for species that rely on moist areas such as the Yellow Ladies Slipper. On the other hand, a reduction in cattle grazing could be beneficial.

The DDN (at 7) cites the acquisition of wetlands on Parcel A as a desirable trade for the lesser acreage of higher quality natural wetlands on the Federal Parcels; but *the supporting documents do not discuss how the "drying up" could affect the viability of the Parcel A wetlands without stock watering to support them.* If the wetlands are not viable, the Land Exchange would result in a net loss of wetlands, undermining the Agency's assertion that the resource values of Parcel A are greater than those of the parcels to be conveyed into private ownership. *This uncertainty surrounding future viability of the wetlands on Parcel A, could result in the land exchange violating the protections afforded wetlands under EO 11990; if the wetlands on federal parcels were protected by conservation easements, the exchange would result in a net gain of reliable, viable wetlands.*

B. Wildlife

CWPL has expressed its concerns that the acquisition of Parcel A with a split mineral estate and under continuation of livestock grazing will not serve the stated purpose of protecting wildlife habitat. (CWPL and R. Smith October 2020 at 4-7). The outstanding mineral ownership could allow for mineral development on the Parcel, and livestock grazing can have adverse impacts.

The remainder of parcel A, 487 acres, "will be included in the Lower Valle Seco Allotment which is currently closed to livestock grazing". (EA at 58, 100). However, this allotment could be reopened in the future. Indeed, a former owner (prior to the current owner) of this parcel did lease it out for livestock grazing. (EA at 100). Stock would likely not be present during the winter, but they could still consume forage that could otherwise be used by wintering big game. Stock could also have other impacts, such as compacting soils and reducing new vegetation growth.

The Response to comments has done little to abate those concerns. However, the Response to comments cites "the closure of NFSR 653 to public wheeled motorized use under Alternative 3" (Response to Comments at 30) as a means to protect the wildlife values on Parcel A. None of the documents clarify what this means, leaving the public wondering if this means that "snowmobiles are permitted"? If that is the case, this use restriction would undermine value of Parcel A as

critical winter habitat. *If acquired by the Forest Service, Parcel A should be closed to any motorized use and should be subject to winter closures for bicycles.*

C. Appraisals

Because the Agency has not yet released the appraisals, we cannot assess whether they valued Parcel A appropriately vis a vis the split mineral estate on parcel 3 and part of parcel 5. The appraisals should reflect the uncertainty over future residential and commercial real estate development that the split estate would impart. Additionally, development potential should be limited by the Agency's prioritization of wildlife in the Forest surrounding the property and the access; this management objective would likely affect the Agency's willingness to consider road improvements adequate to support development with year-round access.

These sections of the FEA: minerals, oil and gas, wetlands, wildlife, recreation, and appraisals; should be withdrawn and rewritten to determine the actual resource and financial value of Parcel A.

D. Request for Agency consistency in addressing speculative conditions.

It is possible that the existing conditions described in Alternative A, no action alternative provide equal or greater protection of wildlife habitat on Parcel A than the proposed post exchange public ownership. Currently, Parcel A is in private ownership. Public access is not allowed on the property and the road is closed to public use. Thus, the wildlife experience limited impacts from humans.

The DEA (DEA at 76) states that there are concerns regarding future uses including a possible elk farm and fencing. The FEA (at 23) and Response to comments (at 48-49), state that speculative uses will not be considered by the Agency, and therefore conservation easements are not required for long term protection of resources on the parcels to be exchanged to private ownership.

We request that there be consistency in the Agency's approach. If Parcel A is being acquired, in part because there is speculation about future uses (as an elk farm), then reasonably foreseeable development should also be assumed for the parcels to be exchanged to private ownership. At minimum, residential development as permitted by existing county codes should be considered likely; indeed, the Statement of Work for the appraisals includes an unusual instruction that appraisals for the federal parcels consider zoning. (See Section VI. Valuation) Protection of sensitive and valuable resources on those parcels should be assured through conservation easements.

It should be noted that in Alternative A, no action, in addition to Parcel A having a reasonable level of protection, none of the nine parcels and their resources would be lost to the public. The amount

of development that could currently occur on Parcel A is limited by Forest Service ownership of access roads and Forest Service wildlife management strategies.

V. RESOURCES ON LANDS TO BE CONVEYED OUT OF FEDERAL OWNERSHIP SHOULD BE PROTECTED WITH CONSERVATION EASEMENTS

36 CFR 254.3 (h) gives the Agency the right to impose appropriate restrictions on lands conveyed out of its jurisdiction

> ***Reservations or restrictions in the public interest.*** In any exchange, the authorized officer shall reserve such rights or retain such interests as are needed to protect the public interest or shall otherwise restrict the use of Federal lands to be exchanged, as appropriate. The use or development of lands conveyed out of Federal ownership are subject to any restrictions imposed by the conveyance documents and all laws, regulations, and zoning authorities of State and local governing bodies. (Underline added)

The majority of the public parcels in the exchange contain unique natural and/or cultural resources including wetlands, riparian and floodplain acreage, habitat for sensitive species and cultural sites These resources must continue to be protected in perpetuity, especially, if exchanged, to non-Federal ownership. (See CWPL October 3, 2020 at 3-8))

The Agency's response to concerns about the viability of these resources under private ownership is to dismiss the resource values as being insignificant and to say that nothing will change on the parcels once they become private. (See more detail in the Cumulative Impacts Analysis discussion, below.) We disagree.

CWPL's comments on the Draft EA stated that Parcels 1 3, 5, 6 and 7[1] be conveyed only subject to conservation easements to protect natural resources such as habitat for sensitive species, natural wetlands and old growth stands, and to protect cultural resources. [See CWPL, October 23, 2020, at 3, 6, 7, 8, 10, 16,17]. The Agreement to Initiate a Land Exchange agreed that conservation easements on Parcels 1, 5 and 6 were necessary, then later, the DDN (at 8) indicates that only 6 acres on Parcel 1 will be conveyed subject to a conservation easement.

It's essential that easements be drafted specifically to protect the target resources, and be managed by a grantee qualified to oversee the management of those target resources. (CWPL October 3, 2020, Conservation Easements at 16-17). That would offer the best protection for the resources given the inevitable uncertainty about future changes in use on privately owned land.

The Agency maintains, post-exchange uses of the parcels will not change:

[1] Those comments also express our opinion that Parcels 3 and 7 should remain in public ownership.

> …if Parcels 1 and 2 are exchanged and become incorporated into the adjacent landowners' grazing and hay production program and the Forest Ag Management Plan, these uses would not cause changes to the SIO or scenic character of these parcels. [Response to Comments, at. 55]

The beneficiaries of the various parcels should not object to receiving these lands under a requirement to protect them as they receive them; objection to this requirement suggests that the recipients of these lands may have other plans for them.

A. Parcel 1

The Conservation Easement for Parcel 1 applies to only 6 acres of the 175.48-acre property to protect the portion of the parcel within the existing Wild and Scenic River corridor:

> This Easement is intended to protect the free-flowing condition, water quality, and outstandingly remarkable value of that WSR and comply with the requirements of the forest plan and exchange. (Draft Deed of Conservation Easement at 1)

The easement, as drafted, leaves the rest of the acreage vulnerable to as much development as zoning permits now or in the future would allow. It does not afford protection to the resources on the other 170 acres of the parcel: roadless qualities, a significant historical site, old growth conifer, habitat for Forest sensitive species and stream frontage, none of which will be augmented or mitigated by the acquisition of Parcel A.

The Easement should be extended to the entire parcel and include restrictions appropriate to protection of those resources with limitations on the construction of new roads, trails and fences, recreation activities and sub-surface mineral development; these restrictions could include prohibition on development and a requirement for grazing management plans to protect sensitive areas

B. Parcel 3

Parcel 3 is valuable for public river access; located adjacent to one of only a few access points from US 160 to the San Juan River between Pagosa Springs and Wolf Creek pass. The access is easy and well used, starting from an informal parking area adjacent to US 160. Parcel 3, is on the east side of the river and the boundary is set back 100 feet from the center of the river, so the parcel doesn't extend to the river bank. Ostensibly, the public can still use both sides of the river, including a campsite with a firepit on the east bank, that CWPL observed on a site visit. (DEA at 75)

But this configuration would be problematic. It would impact river users and would likely set the stage for another land exchange threatening the future of this public access. The boundary's close proximity to the river invites claims of trespass from the landowner; this sets the stage for

acquisition of the other side of the river ostensibly to resolve management issues arising from these claims, losing one of the last public access points along this stretch of river.

There needs to be a legal agreement between the Agency and the proponent, Bootjack Ranch (and any future landowner) that the land in and around the San Juan River will remain in Forest ownership with public access in perpetuity. Additionally, because of the parcel's adjacency to the public riverfront, the Agency should convey it only under a deed restriction prohibiting development on the Parcel. Wildlife access to the river should be maintained. The Agency should require Bootjack Ranch to conspicuously post the property boundary. These measures would help to preserve public enjoyment of the river in perpetuity.

There are important biological resources on the parcel [CWPL, Valle Seco, October 3, 2020, p. 5] that should be protected by a conservation easement. It is not sufficient to rely on county floodplain regulations or on current uses to protect these resources, as suggested in the Response to Comments, at 55:

> these uses would not cause changes to the SIO or scenic character of these parcels. The same would be expected if Parcel 3 becomes part of the adjacent landowners' grazing and hay production program and the Forest Ag Management Plan.

Other components of the easement should include: grazing and forest management practices limited so as not to be destructive to riparian areas and wildlife habitat, and limits on new roads, trails and fences. Access to the river for big game and other wildlife must be maintained. Moreover, it is inevitable, not speculative, that at some point, the parcel would be developed if traded to private ownership. At minimum, the conservation easement should specify best practices for when that occurs.

The parcel's appraisal valuation should reflect its river frontage's impact on development value and its full assemblage value to the proponent.

C. Parcels 5, 6 and 7

The Feasibility Analysis refers to a June 2017 "Valuation Consultation", an excerpt from which indicates that Parcels 5 and 6 were to be conveyed subject to conservation easements.

> …Due to the lack of specifics regarding restrictions in conservation easements proposed to encumber Federal Parcels 5, 6, and 10...

The FEA (at 83) and DDN (at 4) discuss the proposed mitigation for culturally modified old growth trees on Parcels 5 and 7. This consists of an inventory and a brochure about the cultural significance of these trees. Yet, there are no measures to ensure protections of the trees themselves. If the trees are significant enough to warrant an educational brochure (about

resources to which the public will no longer have access), they should also be protected via a deed restriction that prohibits their removal and any activities that would damage their viability.

The configuration of Parcel 5 has been changed to remove land that contains identified significant cultural resources[2].

> In addition, in order to mitigate impacts to one cultural site eligible for inclusion on the NRHP, the boundary of Federal Parcel 5 will be modified to exclude the site. Consultation with tribes and SHPO is ongoing to identify mitigation measures for impacted cultural resources. (FEA at 22.)

This is good. But it limits protection to one cultural site. If this one site is a resource significant enough to warrant changes in the configuration of the acreage conveyed out of Federal ownership, the Agency should consider protection for the remainder of the Parcel so that all sites are conserved. Isolated finds have been identified on this parcel (EA at 81) and there could be as of now, undiscovered resources on this land. Parcel 5 also includes wetlands and habitat for Yellow Ladies Slipper.

Parcel 5 should not be conveyed out of Federal ownership. If the Agency proceeds with the conveyance, there must be a conservation easement prohibiting any future development. Require Federal protection for any cultural resources discovered

Due to the amount and variety of resources on Parcel 7, as well as its recreational use (CWPL October 3, 2020) *CWPL considers this to be the most valuable Federal parcel in terms of resources, recreational opportunities and likely appraised value. This parcel should be retained in Federal ownership. If not, it too requires a conservation easement prohibiting future development.*

CWPL has commented extensively on why the agencies should include such deed restrictions on parcels conveyed out of public ownership [CWPL Comments October 3, 2020). We would like to see this practice implemented, where needed to protect important resources, as a matter of policy on all land exchanges.

D. Cumulative Impacts

In CWPL's comments on the draft EA, we commented that the document did not contain a substantive analysis of the Cumulative Impacts associated with this exchange. Cumulative Impacts analysis should document a net gain or loss of environmental resources such as wetland and riparian areas, public river frontage, aquatic acreage, sensitive species habitat, and, because it affects the human environment, a characterization of the types of public access and recreational

[2] Incidentally, the ATI (at 20) indicates that the agency was already contemplating reducing the size of parcel 5 if it were necessary to equalize values, not to protect cultural resources.

assets in connection with other Agency actions [CWPL, October 2020 at 10]; and it should document these impacts in conjunction with those from other past and on-going national forest actions. The CEQ guidance suggests the agencies take more expansive view of the context surrounding Cumulative Impacts:

> "Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." [40 CFR ~ 1508.7].

The Valle Seco EA has limited the Cumulative Impacts analysis to uses on the individual parcels in this exchange, without considering these impacts in the context of other past or on-going management actions and projects which generate similar losses within the Forest, keeping the scope of this analysis sufficiently narrow to avoid looking at the totality of management activities around the Forest. At the very least, these analyses should consider past and present actions within the San Juan National Forest. Many of these analyses lend themselves to quantitative data, making wider analysis manageable; Appendix A is CWPL's nascent version of how this could be done.

Reasonably Foreseeable Actions

In the Response to comments, the Agency relies on the phrase "reasonably foreseeable actions"; in the Agency context, a reasonably foreseeable action is essentially one that is on-going:

> "For Alternatives 1-4, past, present, and likely future activities on the various Federal parcels include ditch construction and maintenance, limited road use, livestock grazing, livestock pond construction and maintenance, as well as some recreational use such as dispersed camping and hunting." [EA at 52, 74 and 81]

These are the same activities occurring on the federal parcels under the status quo. But the status quo also includes federal oversight of these activities which gives the Agency discretion over whether, how and when these activities may occur through permitting and other management actions. Post exchange, these parcels would no longer be subject to grazing management plans, and periodic review for permit renewals. This allows a loss through unregulated grazing, road and fence building, weed management, landscape modification for gardens, pools, driveways, and so forth, that would further impact the natural resources on the parcels.

The EA does not discuss the probability that the public parcels in the exchange will succumb to development once they become private; ironically, the only "reasonably foreseeable" development discussed in the EA would occur on non-federal parcel A. The proponents in this land exchange all enjoy access to and use of the federal parcels under the status quo; they are sophisticated business people who recognize that the real value in owning the federal parcels lies in their ability to include them in development plans, even if those plans are not imminent. There is evidence that

Bootjack Ranch has at least thought about a luxury development scheme. Mountain Works, a consulting firm specializing in resort planning has done work for Bootjack suggesting that the value of 35 acre lots there is about $5 million dollars [CWPL, October 2020, Appendix 1 at 8]. Within the next decade, some of these now public lands will succumb to development. Some development is inevitable, not just reasonably foreseeable.

Incrementalism and Repetition

The FONSI affirms the limited scope of the EA's cumulative impacts analysis by focusing on significant impacts:

> "The EA evaluates the land exchange in the context of … actions that could lead to cumulative impact, and no significant impacts were identified." [FONSI at 14]

CEQ guidance focuses on significant impacts, and uses words like "incremental", "minor" and "collectively":

> "Cumulative impact is the impact on the environment which results from the incremental impact of the action … Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." [40 CFR 1508.7]

The EA acknowledges that there will be impacts from the land exchange, but it avoids the incremental nature of the impacts through phrases such as "small percentage of their total habitat" [EA at 51] and "expected to remain functional" [EA at 61]. These impacts should be considered in the larger context of similar impacts from other projects, because they all begin to add up to larger impacts. Evaluating the impacts of the exchange only within the context of itself is disingenuous; the only way to understand the cumulative impacts of any given action is to evaluate it in conjunction with other actions.

> Six sensitive plant species have habitat on the parcels being analyzed for this proposed land exchange. This includes violet milkvetch, Missouri milkvetch, Aztec milkvetch, lesser yellow lady's slipper orchid, frosty bladderpod, and cushion bladderpod. All of these species have habitat on non-Federal Parcel A. Lesser yellow lady's slipper orchid also has habitat on Federal Parcels 3-7, … (FEA at 50-51)

It is important to understand actions and impacts affecting these sensitive plant species in the San Juan National Forest and surrounding areas, by doing a cumulative impacts analysis.

Both the EA and the FONSI discuss the 1992 Recovery Implementation Plan for endangered Fish Species in the San Juan River:

> "…determining that depletions of 100 AF or less would not limit the provision of flows identified for the recovery of the Colorado pikeminnow and razorback sucker and, thus, not be likely to jeopardize the endangered fish species or result in the destruction or adverse modifications of their critical habitat." [FONSI at 15] [EA at 63]

The context of this discussion is that the actions in this land exchange are below a water quantity threshold, therefore not harmful to the fish. Perhaps this land exchange will not harm the fish. But if the Forest considered all these "exempt" actions together, would there be a noticeable impact on the fish habitat? If the Forest isn't doing it, how do we know?

> "Repeated actions may cause effects to build up through simple addition… The most effective cumulative effects analysis focus[es] on what is needed to ensure long-term productivity or sustainability of the resource …each political entity actually manages only a piece of the affected resource or ecosystem. Cumulative effects analysis on natural ecosystems must use natural ecological boundaries … to ensure … all effects"[3]

Because CWPL reviews land exchanges around Colorado, we see bigger picture impacts from these land exchanges. Each individual national forest or BLM field office focuses on the project they are analyzing under a given NEPA process. We see "only a small percentage of" and "no significant impacts" repeated in every NEPA document by every field office, begging the question of what are the cumulative effects of all these smaller actions?

We see repeated conveyances of habitat for Sensitive Species, wetlands, cultural resources and publicly accessible stream frontage. Most of these resources have been conveyed out of Federal control without protections such as conservation easements. Our experience is limited mostly to land exchanges; we have no idea what is being compromised through oil and gas leasing, Special Use Permits, timber sales, protected area boundary modifications, and other land management agencies. Common sense says that the impacts from all of these actions taken together have long term impacts on the viability of species.

Cumulative Impacts Analysis Contributes to a Bigger Picture

Clearly, this organization views this attrition as a loss to the public. However, recent news suggests that it may be more significant. On September 28th, the New York Times reported that Federal wildlife officials had recommended that 23 species (22 animals and one plant) be declared extinct, not endangered, extinct; the article goes on to discuss fears that millions of species may be lost in our lifetimes[4]. Through its restoration of protections under the Migratory Bird Treaty Act the Biden Administration has signaled that it has concerns about species viability; and the Administration is proposing to restore a broader scope of NEPA analysis including guidance to consider direct, indirect and cumulative effects of agency actions on air quality and the earth's climate.

NEPA does not require the Agency to make decisions solely based on cumulative impacts analysis, only that they do the analysis. But the analysis should be substantive, if only to serve the purpose

[3] CEQ, *Considering Cumulative Effects Under the National Environmental Policy Act.* p.8
[4] Einhorn, Catrin. "Protected Too Late: Federal Officials Report More Than 20 Extinctions," *New York Times, Sept. 28, 2021.*

of gathering data. Such data would provide the bigger picture of whether and how much biodiversity is suffering in our national forests; inattention could result in the sensitive species being placed on the threatened list a few years from now. Being pro-active would avoid this and help to slow the rate of extinction. But the Agency cannot take appropriate action without gathering the supporting data, and substantive cumulative impacts analysis provides a platform to do this.

See Appendix A for an example of how the Agency could do a cumulative impacts analysis better.

VI. VALUATION

CWPL has persistently argued that the appraisals are the heart of every land exchange and should treat all lands in any given exchange equally, applying appraisal instructions evenly to the federal and non-federal parcels. Unfortunately, the appraisals for land exchanges often use methods imparted through appraisal instructions that distort the valuations.

Parcels 3 and 7 should be appraised individually

Unlike the other federal lands, Parcels 3 and 7 have development potential without relying on being assembled with other private property. They are relatively close to paved roads and utility services, have proximity to water sources, with areas flat enough to facilitate construction; they are also accessible without crossing private property.

Parcel 7 is arguably the best development site in the exchange[5]. It has motorized access from two forest service roads and is a little over ¼ mile from a paved, public road. While Parcel 3 does not currently have motorized access, it would be able to acquire it from State Highway 160 through ANILCA. It is less than ¼ mile from the highway and there is an existing two track that extends most of the way to the river's edge; access would require a bridge across the river.

While the Highest and Best use of several of the federal parcels may well be assemblage and/or grazing, the development potential of Parcels 3 and 7 indicates a different Highest and Best Use, which would be contrary to the "unity of Highest and Best Use" requirement for considering them as part of a larger Parcel with the other federal lands. Treating these parcels as part of larger ones should not be done as this would diminish their values; but the Statement of Work indicates that the appraisals have likely done this.

Parcel A

The Comparable Sales analysis should characterize the proponent, Bootjack Ranch, as a "motivated buyer"; the Agency has confirmed our thoughts that the parcel was purchased as "trade bait", for the sole purpose of encouraging a land exchange (Response to Comments at 14 and Final EA at 32). Hence, the appraisals for Parcel A should not inflate the development

[5] Not only does it likely have the greatest unit (per acre) value of the lands in the exchange, it also has the most public values and CWPL reiterates our belief that it should remain in public ownership.

potential of Parcel A. They should reflect its location in an area of the forest, for which a management priority is wildlife habitat; this would presumably affect the Forest Service's willingness to permit road improvements suitable for year-round access and extension of utilities over the Forest. The split mineral estate also would likely temper enthusiasm for any luxury development plans.

Additionally, Modification #2 to the ATI says "The Forest Service has determined that it does not wish to acquire the Bramwell Reservoir No. 2 Water Storage Right associated with Non-Federal Parcel A." (at 1). The valuation of the Parcel should reflect that these water rights are not being conveyed with the parcel.

Unusual Instructions

The Statement of Work contains some unusual Assignment Instructions, many of which create a set of conditions that lend themselves to artifice; these manufactured conditions lead to concerns about the credibility of the appraisals, none of which are assuaged by the Agency's continued withholding of them.

The first paragraph leads us to expect that the valuations will distort the analysis of the federal parcels. "The purpose of these appraisals is to derive a single market value conclusion … in the package of Federal lands" (SOW at 1). An English translation of this is the Agency telling the appraiser to value the lands as if they were being listed as a package of disparate, non-contiguous lands in an all or nothing and undesirable package; it serves to diminish the value of the Federal parcels that would have market value if they were in private ownership.

The instruction in the second paragraph allows for a contrived adjustment for the size of the parcels. Typically, larger acreages fetch a lower unit (per/acre) price than smaller ones; the thresholds may vary depending on local markets. The instruction to "provide a unit value … for the non-Federal property as a whole, and a unit value … for the Federal property as a whole, *and acreage ranges in which those values remain valid for use*" (SOW at 1) is asking the appraiser to give an opinion about where the size adjustment should lie, rather than letting the local market dictate the threshold.

The SOW has instructed the appraiser to value Parcel 1 as though it were already under a Conservation Easement. (SOW at 12). This is highly unusual and should not serve to diminish the value of Parcel 1, especially since the Conservation Easement only covers 6 of 175 acres.

The Scope of Work instructions provide avenues to further discounts of the federal lands and perhaps to inflate the value of non-federal Parcel A. The value of the federal lands will suffer from direction that the "appraiser shall not consider land outside the property described in the Agreement to Initiate and Modification #2of the Agreement to Initiate" (SOW at 13). The direction prohibits consideration of the benefits that assemblage with the proponents' lands would convey to the federal parcel, such as motorized access if the parcel has none currently; the conveyed access would allow homesite development. The direction serves to discount this assemblage value through a false narrative that eliminates what happens after conveyance. It incorrectly

assumes that the lands would not benefit from post-conveyance access, so theoretically they would remain difficult to develop.

Conversely the non-federal parcel A, a privately owned parcel with motorized access, would be assumed to be no longer surrounded by the National Forest. This false narrative allows the parcel to be treated like any other private property in terms of development potential; instead of allowing the potential impediments to getting necessary improvements through the Forest to be a consideration that might warrant a discount in the parcel's value.

The Scope of Work also limits consideration of Highest and Best Use. A typical set of Highest and Best Uses for Parcel A would be a combination of grazing, recreation, and seasonal homesites or assemblage with the Forest; however, the Statement of Work includes an assignment-specific instruction that "Sale to the United States or other public entity is not an acceptable … use." And the next paragraph, the "Tom Chapman" paragraph specifically prohibits the consideration of any wild development scenarios that might involve things like helicopters, even though we are experiencing an extraordinary real estate market driven by extraordinary wealth that likely does involve helicopters. (SOW at 14).

VII. PUBLIC INTEREST DETERMINATION

In the EA (EA at 30), it is noted that:

> The non-Federal Party has made the non-Federal Parcel A available to the Forest Service on the basis of exchange only and has no interest in conveying this parcel to the Forest Service through a direct sale. In addition, an exchange provides the Forest Service the opportunity to dispose of lands that are no longer in the public interest to retain.

Throughout the DEA and FEA, it is made clear that the Federal parcels proposed for exchange include many values and uses that are in the public interest to retain (CWPL, October 3, 2020). The Forest Supervisor states

> I recognize that in order to gain the important wildlife habitat and access discussed above, there will be some loss of other public resources on Federal Parcels 1-9 that will be transferred to private ownership. (DDN at 7)

They then continue to list the wildlife, cultural, water, recreational, CRA's and other resources on these Parcels. The parcels 1-9, proposed for LEX, are the ones the proponent wants, which drives the LEX. The Agency is justifying the loss of these valuable public lands by trying to compare the values of those lands with the value of Parcel A. It is not in the public interest for the Forest Service to give up the values on parcels 1-9 to get parcel A (see Sections II, IV and V above).

VIII. CONCLUSION

Overall, CWPL maintains that the Valle Seco Land Exchange, is not in the public interest. If the Agency proceeds with the exchange, further modifications and protective measures should be implemented per the recommendations in this letter.

We respectfully request to meet with the reviewing officer to discuss concerns and suggested resolutions outlined in our objections. Should you have any questions, please do not hesitate to contact us.

Yours sincerely,

James Katzenberger, Board Member
And the Board of Directors, Colorado Wild Public Lands

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ATTACHMENT A

RECENT AND ONGOING LAND EXCHANGES IN COLORADO

WORKING DOCUMENT: CUMULATIVE IMPACTS CHART

NAME OF EXCHANGE	BLUE VALLEY RANCH		BUFFALO HORN		HERMOSA / MITCHELL LAKES		NEW TRAIL BELOW GREEN MT ON FOREST SERVICE LAND		SUTEY RANCH		VALLE SECO		VILLAGE AT WOLF CREEK		WILSON PEAK	
OVERVIEW																
Field Office and Agency	Kremmling BLM Field Office		White River / Little Snake BLM Field Offices		San Juan National Forest		White River National Forest		Colorado River Valley BLM Field Office		San Juan National Forest		Rio Grande National Forest		Grand Mesa, Uncompahgre,San Juan, and Gunnison National Forests	
Number of Proponents (Includes Beneficiary Proponents that are receiving land and not known to be exchanging land)	4		1		1		Connected Action with Blue Valley Ranch Land Exchange		2		5				3	
Facilitator/Lead Consultant	Western Land Group				Western Land Group				Western Land Group		Western Land Group		Leavell-McCombs Joint Venture		Trust for Public Land	
LAND CHARACTERISTICS	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*
Number of Parcels	9	9	14	1+portions donated	1	2 + $ donations			6	2 + $ donations	9	1	1	1	4	7
Acreage Proposed for Exchange	1,489	1,830	2,652	1,327	228	170			2,200	670	380	880	204.4	177.6	303	681
Net Federal Acreage	341		-1,325		-58				-1,530		500		-26.8		378	
Adjacency to other private lands (besides proponent)	yes		yes		no	yes	yes				yes	no			yes	yes
Adjacency to other public lands	no	yes	yes		yes	yes	yes		yes		yes	yes			yes	yes
HABITAT TYPES (in acres, unless otherwise noted)	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*
Special Status Species (Other than listed below) §	Wolverine, hoary bat, river otter, western bumblebee Fragile rockbrake										American marten, hoary bat, fringed myotis, Western bumblebee	Gunnison's prairie dog, spotted bat, Western bumblebee, Violet, frosty and cushion bladderpods				
Fish §	Greenback cutthroat trout, bluehead sucker, flannelmouth sucker, colorado river cutthroat trout				Colorado pikeminnow, razorback sucker						Brook trout, brown trout, cutthroat trout, rainbow trout	Brook trout, brown trout, cutthroat trout, rainbow trout				
Sage Grouse	762	1135	14													195
Harrington Penstemon	6.3	0.3				yes			yes							
Lesser Yellow Lady's Slipper Orchid											yes	yes				
Migratory Birds	yes	yes	yes		yes	yes	yes				yes	yes				
Other Birds §	Bald eagle, golden eagle, peregrine falcon, flammulated owl, Lewis's woodpecker								Raptor, Brewer's sparrow		Flammulated owl, Lewis woodpecker, Northern goshawk, olivesided flycatcher	Brewer's sparrow, ferruginous hawk, loggerhead shrike, northern harrier, flammulated owl				
Deer severe/critical winter	225	110			yes	yes	yes		yes		0	376				
Elk severe/critical winter	80	54			yes	yes	yes		yes		0	880				yes
Elk production	253	246	1,208	some †	yes	yes					9.1	780				yes
Pronghorn winter	188	261					yes									
Bighorn Sheep					no	yes	yes		yes						yes	no
Lynx	yes				no	yes	yes				no	no	yes	yes	338.1	275.7
SIGNIFICANT RESOURCES	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*
Riparian Habitat (acres)			yes		8.6	51					1.25	0				
Wetland Habitat (acres)	77.7				5.76	44.96					2.6	9.3 ‖	20	47	4.8	20.1
Perennial stream/river frontage (linear feet)	22,509		6,000		0	6336	8,712				4,755	0			9,749	5,128
Floodplain (acres)											4.53	0				
Water Rights	5.377 cfs	3 cfs									9.74 cfs	2.475 af				171 af, 14 cfs
Cultural/paleontological/historical features	3		3		11						13				2	
Unique Features *	Fen								Wild turkey habitat		Old growth (ponderosa pine, warm-dry mixed conifer, cool-moist mixed conifer, aspen.)					
Special Designations			LWC-Wilderness Characteristics			Iron Clad Parcel within Weminuche Wilderness					Colorado Roadless Areas, Proposed Wild & Scenic River Designation					Parcels A, B and C are within or adjacent to wilderness areas
Developed recreation proposed to replace wild natural areas that have other opportunities (e.g. hunting)		yes				New trail along the lower Elbert Creek drainage proposed	New trail to river proposed			yes						Complete trail and access to Wilson Peak on public land
PUBLC ACCESS	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*
Motorized	some	yes	some		yes	some					some	some ¶			some	some
Year-round	some	some	no		some	some					no					
Non-motorized	yes	yes	yes		some	some	yes		yes		yes				some	some
Boat/Float Access	yes ‡	yes ‡			no	no										
SPECIAL USE PERMITS TO ENTITIES OTHER THAN PROPONENT	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*	*Federal*	*Non-Federal*

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Grazing			9			yes					yes	no				
Outfitting (Hunting)			5		yes						yes					
River Use and Fishing					no	yes					yes	no				yes
Other																

NOTES

**** Old growth, fens, etc.***

† The final EA does not specify for parcel B (FEA at 29).

‡ The type of access differs in that the existing federal access provides a remote float and the exchange would provide direct access from a parking area.

§ Limited to 5 listed species for space purposes. Additional species habitat may be present within this exchange. See reference documents for more information.

ll Wetlands on non-federal parcel are primarily man-made and are drying up, per the Final Environmental Assessment

¶ Non-federal parcel currently has private motorized access but will not have any public summer motorized access post exchange