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First name: Max

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Organization: Park County Environmental Council

Title: Conservation Director

Comments: Please find Park County Environmental Council's comments and supporting materials on the South Crazy Mountain Land Exchange in the attachments.

Thank you,

Max Hjortsberg

Conservation Director

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copied from attached:

Dear Ms. Erickson,

I am writing on behalf of the Park County Environmental Council (PCEC), a local grassroots environmental group with more than 500 members and 2,300 supporters. I appreciate your time and consideration on this important matter. I would like to thank you for the opportunity to provide comments to the Custer Gallatin National Forest (CGNF) on the Environmental Assessment for the South Crazy Mountain Land Exchange (EA).

PCEC has been working to protect and preserve Park County's vast natural resources since 1990. We are a countywide environmental group focusing exclusively on issues affecting Park County. PCEC works with residents to safeguard and advocate for the county's world-class rivers, diverse wildlife, landscapes, and outstanding natural beauty, while protecting the health and wellbeing of people who live and work here.

Initially formed by a small group of community members to advocate for wild places, wilderness and quality of life issues in Park County, PCEC has grown to cover numerous issues related to the Yellowstone River and its tributaries, public land management, and land use and threats from development, while encouraging community engagement on these issues.

The Crazy Mountains

PCEC has long been a local advocate for the Crazy Mountains, or as we refer to them locally, the Crazies; in fact, our organization's original name was Crazy Paradise, reflecting our consideration regarding the importance of the mountain range for Park County.

PCEC has been working steadily since 2016 to support the various stakeholders working on issues of particular importance to the Crazies. We understand the complexity of those issues faced by the area landowners, the public and the CGNF.

The legacy of checkerboarded land ownership in the Crazies, resulting in private landowners owning significant lands within the Forest Service boundary, has long been a concern for PCEC because of the litany of federal

land management challenges for the Forest Service and conflicts between landowners, hunters and other recreationists in our community.

The range remains quite challenging to access for the public, with few roads reaching the forest boundary. While many trails have been on maps for a century, the Forest Service has very few recorded easements. Landowners and the public disagree about the legitimacy of trails with recorded historic use, but no recorded easements. The Forest Service has been working to resolve these disputes for decades, with little success. It's a complicated landscape.

For the last two years, PCEC has participated in a community working group convened by the Crazy Mountain Stockgrowers Association to work through private and public land management challenges with a diverse coalition of landowners, recreationists, conservationists and land management agencies—also known as the Crazy Mountain Working Group.

The first conceptual agreement to come out of the conversations started by the working group was a reroute of trail #267, the Porcupine-Lowline trail connecting the Porcupine and Ibex Cabins. The Forest Service has already completed the first phase of the trail reroute to Elk Creek, which provides access to Campfire Lake and several sections of public land.

PCEC supports this reroute. The Forest Service's efforts will result in moving a disputed motorized trail that goes through more than six miles of private land to a non-motorized trail that is principally on public land. This will also guarantee easements for the public. While not perfect, we think it's a win/win.

We understand the CGNF's priorities in the Crazy Mountains have now been shifted towards resurrecting a long dormant land exchange proposal for the south Crazies with the goal of resolving access issues and consolidating federal lands where possible. PCEC has long supported resolution to the checkerboarded lands in the Crazies, which the EA addresses, but we do not support that outcome when it comes at the public's expense. In order to support a land swap, we must ensure that both the public and the wild win a fair trade with a willing landowner. We do not believe that public land should be consolidated as a priority above all else: losing critical low-elevation habitat and public access.

## Land Exchange

On the surface, the EA appears to be a win for both the public and the private landowners involved. Overall we have no concerns regarding the portion of the land exchange with both the Rock Creek Ranch (RCR) and the Wild Eagle Mountain Ranch (WEMR), but after a more thorough examination, we find that the EA largely tipping in favor of one landowner: Phillip Morris/Altria and its Crazy Mountain Ranch (CMR).

Sections 4 and 8 - the heart of the exchange with the CMR - are valued tremendously by the public. We have heard from many PCEC members and partners who are opposed to losing those two sections. We understand why; Sections 4 and 8 are ecologically intact, biologically diverse and relatively easy to access. They are known big game habitat, and Rock Creek in Section 8 holds self-sustaining populations of trout.

We recognize the interior sections owned by CRM possess different qualities and values. They are high elevation parcels that form the headwaters of Rock Creek. They are prime wolverine habitat and Canada lynx habitat. High elevation landscapes are also key for long-term resilience in the face of climate change. However, they are not ideal big game habitat, and fishing opportunities are only the result of stocking efforts by Montana Fish, Wildlife and Parks. This does not negate their value; it only serves to illustrate their differences with the lower elevation parcels, many of which directly impact the public, especially when access to privately owned low elevation habitat is increasingly out of reach.

The opportunity to consolidate public lands in the Crazies and reduce the amount of checkerboarded land ownership is another benefit of the proposed land exchange, and one that PCEC supports. Our organization has advocated over our 30-year history for a wilderness area in the Crazy Mountains. Public land consolidation must occur before we can create new wilderness in the Crazy Mountains. We believe that wilderness, the most thorough way to preserve the wild character of the range, provides the greatest level of protection, which the Crazies deserve.

The Forest Service must not ignore how much the local community values Sections 4 and 8, even though their exchange resolves management conflicts for the USFS. PCEC recognizes that Sections 4 and 8 would likely never qualify as wilderness due to the existing use and presence of motorized trails roads. While an exchange is an important step towards future wilderness designations in the Crazy Mountains that we seek, we found too many shortcomings with the EA, deterring us from giving it our full support.

### Conservation Easements

PCEC commends the private landowners for their willingness to include conservation easements as part of the Exchange. This demonstrates a stewardship commitment on the part of the landowners if they are to take possession of public land.

While we applaud this action, we must insist upon stronger conservation easement language than what is detailed in the EA. The EA states that the conservation easements [ldquo]would continue to provide for traditional land uses including recreation, livestock grazing, and timber management.[rdquo] (EA, 12). Logging and overgrazing risk degrading the ecological value of lands that once belonged to the public. Recreation use, if left unchecked, could also create significant disturbances, like new roads and trails with motorized use displacing wildlife and establishing new sources of erosion.

The conservation easements should reflect the current value and integrity of the land, and function to preserve those qualities and conditions. Not only does that include the biological and ecological integrity, but public hunting access. Conservation easements can be structured and administered to allow for public access and hunting, which we feel is also worth considering, given the value that Sections 4 and 8 hold in that regard.

### Trails and Trailheads

Current access requires the public to walk through several miles of private land before reaching public lands. To date, we have not heard of this scenario creating any conflicts between the public and private landowners in the south Crazies. But this could be a recipe for disaster in the future.

Local stakeholders and the CGNF just spent years resolving matters regarding a public trail crossing miles of private lands with the Porcupine Lowline Trail reroute. Conflict on this trail didn[rsquo]t happen all at once, it grew over time until it reached a point that it could no longer be ignored. The solution was to move a majority of the trail onto public lands, thereby reducing instances of trespassing, whether intentional or not, and placing the public on a trail within public lands.

With so much emphasis on securing easements and access to public lands, not addressing the location of the primary public trailhead will potentially lead to the very same conflicts we[rsquo]ve all worked tirelessly to resolve on the west side, especially now that the land exchange has greatly increased public knowledge and awareness of the Rock Creek trails.

When thinking of long-term solutions to benefit the CGNF and the public, as well as private landowners, creating access points that reduce the potential for conflict between the two only seems reasonable. Doing so now would be the most prudent and responsible thing to do.

## Alternatives

The public deserves, and the law requires, a thorough evaluation of potential alternatives. Being presented with an either/or scenario in the EA gives the public very few options to meaningfully engage in this process. We understand the importance of private negotiations between the landowners and the CGNF. For example, the EA excludes any discussion of the option to purchase the internal parcels stating [ldquo]This alternative was considered, but not evaluated in detail. CMR, RCR, and WEMR were not interested in selling land to the Forest Service.[rdquo] (EA, 12) The public deserves a more thorough explanation of why public land purchases were not considered.

Hypothetically, if public support were added to the equation, additional funding could potentially be secured, either philanthropically, or through a federal funding program, like the Land and Water Conservation Fund. If the public had been more meaningfully engaged prior to this EA, could we have strengthened the options during the negotiation process?

## Access and Trail Easements

We strongly believe that access and trail easements should be addressed and resolved prior to any land exchange, both with respect to the current EA, or during future land exchange negotiations. Coupling the two puts the CGNF and the public at a disadvantage, giving the landowners an unfair advantage, and what amounts to veto power by interested private parties unrelated to the value of public or private lands during any negotiation.

This issue, as we discovered during our research of the EA, is even more thorny than we thought. It turns out that not only were easements and access not adequately addressed in the EA, one particular easement was overlooked entirely.

## Robinson Bench Road

In the Introduction of the EA, the CGNF states that one of the benefits of the proposed land exchange would be [ldquo]securing a permanent road easement on the Robinson Bench Road No.193 to provide public access to the Rock Creek North trailhead.[rdquo] (EA, 1)

In Section 1.3 (Need For Action), the CGNF continues in the same manner, claiming that one of the purposes of the land exchange would be [ldquo]to acquire access on the Robinson Bench Road No.193, through Sections 20, 21 and 22, to the Rock Creek North trailhead.[rdquo] (EA, 3)

The CGNF adds in Section 1.5, as part of its Decision Framework, which ultimately guides the Forest Supervisor's decision for either Alternative A or B in the EA, that the [ldquo]decision will address specific components of the proposed action[rdquo] including an [ldquo]easement for public use of Robinson Bench Road[rdquo](EA, 4)

The USFS failed to conduct the necessary research regarding the current status of public easements for Robinson Bench Road. Therefore, the fundamental rationale for the exchange as set forth in the EA are not accurate. Park County holds an easement for the portion of the road that the USFS claims to acquire through this exchange. PCEC[rsquo]s record search at the county courthouse revealed a 1968 decision, Charles F. Urschel Jr. v. Park County et. al.?, that upheld a challenge to a county easement on Robinson Bench Road in Sections 21 and 22, T2N, R11E. (?See attachment A). The ruling states the Robinson Bench Road [ldquo]is a public road heretofore established by prescription and adverse use, and that said premises are subject to an easement therefor.[rdquo] (?Id.?)

The record demonstrates that the public maintains access to public land in the south Crazies through current Forest Service easements and the county easement on Robinson Bench Road:

Once the Robinson Bench Road enters private property in Section 15, it is then known as the Rock Creek North Road which terminates at the Rock Creek Trailhead parking area. The United States also holds permanent easements for this portion of road, as well as the trailhead parking area and trail, all of which provides for permanent public access to the Rock Creek Trail in sections 10 and 15, T. 2 N, R 11 E14. (EA, 13-14)

This allows access to public land on Rock Creek in Section 34. Additionally, [ldquo]the United States currently holds easements for the existing Rock Creek Road No. 199 across Sections 3, 9 and 10,[rdquo] (EA, 10) which allows public access to Sections 4 and 8.

This means the status quo provides legal public access to all public lands in the south Crazies. Therefore, the USFS does not need to resolve public access on Robinson Bench Road through the South Crazies Land Exchange. Instead, the public needs the CGNF to defend our current right to access public lands in the south Crazies.

The Forest Service[rsquo]s failure to acknowledge current access on Robinson Bench Road is a significant oversight within the EA. As a result, the foundation of the negotiations regarding the land exchange are based on a false premise[mdash]the need to secure public access. Considering the emphasis that the CGNF placed on easements regarding Robinson Bench Road in the EA, and the fact that the public has an existing easement completely transforms the balance of the land exchange with CMR.

As a result of this fundamental flaw, we believe that the CGNF needs to adopt Alternative A - No Action. We presume that the acquisition of an easement on Robinson Bench Road served as a major point of negotiation between the Forest Service and CMR, which formed the basis of the South Crazies land exchange. As a result, an already lopsided agreement becomes even more so, much to the detriment of the public.

## Conclusion

We would like to thank the Custer Gallatin National Forest for the opportunity to provide comments on the South Crazy Mountains Land Exchange and for their work to resolve land management issues in the Crazy Mountains.

PCEC[rsquo]s long-term goal is to support protection and consolidation of National Forest lands in the Crazy Mountains. The first and most important step towards that goal requires resolving conflicts over public access and continuing community dialogue between interest groups.

As southwest Montana continues to grow, development and recreational pressures on the Crazies will only increase. Even though the Crazies face significant challenges, we believe this is a critical time to be thinking about the future of this landscape.

In conclusion, we do not believe the South Crazy Mountain Land Exchanges presents an acceptable solution to land management and access issues in the CGNF. In light of the new information provided in these comments regarding public access on Robinson Bench Road, we recommend that the Forest Service renegotiate the CMR portion of the Land Exchange. At the time, however, PCEC can only recommend Alternative A - No Action.