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Comments: Dear Supervisor Erickson:

Please accept the following public comments on the proposed East Crazy Inspiration Divide Land Exchange on behalf of the Council on Wildlife and Fish and the Alliance for the Wild Rockies.

Chain of (land) Title

Does either party to this proposed land exchange have a legitimate claim and/or title to the lands being considered?

The Crazy Mountains was sold to the US government by France in 1803 (Louisiana Purchase). See map link below:<https://www.emwh.org/issues/public%20trust/federal/UnitedStatesExpansion.png>

Please acknowledge the origin of the claims and alleged title(s) to Crazy Mountains lands being proposed for exchange. It is important to first establish legitimate legal title to lands claimed by both parties in the proposed exchange.

Please include in [ldquo]the record[rddquo] and disclose in the NEPA process all documents -- chain of title -- that provide evidence that the U.S. government has legitimate, absolute land title (property right/dominion) to these lands. Please disclose all legal documents that memorialize the lands transfer, including any consideration and/or compensation, flowing from sovereign, indigenous stewards and over (and back) to the U.S. government.

If the Gallatin Custer National Forest, as authorized agent of the U.S. government, cannot produce the legal documents that confirm legitimate, absolute title, by both parties involved, the land exchange should not, cannot, proceed until land titles are cleared of any prior claims, liens or other encumbrances.

It is our contention that the presumed ultimate (absolute) title being exercised by the United States and its successor, the Great Northern Railroad, lack certain and necessary legal criteria (foundation) to establish a legitimate legal foundation to these lands. NEPA requires that the legal history cannot be overlooked or hidden from the general public any longer. We can and should all agree that these lands were originally (First) possessed by indigenous nations. The legal question of land title must be raised here and now, and answered in full compliance with the U.S. Constitution.

It is our contention that the illusion of absolute title to these U.S. government lands, later transferred in the Louisiana Purchase, was granted to France, and the other Christian Nations (Crowns of Europe), by Pope Alexander VI in the papal bulls of May 4, 1493 [ndash] the source and foundation of the Doctrine of (Christian) Discovery.

The Doctrine of Christian Discovery is the basis of the Supreme Court Opinion in *Johnson v. McIntosh* (1823), which remains precedent U.S. law in 2022.

The following quote from *Johnson* illustrates extreme discrimination against Indian Nations, possession of their land and their sovereignty:

The United States, then, have unequivocally acceded to the great and broad rule (of discovery) by which its civilized inhabitants now hold this country. They [hellip]maintain, as all others have maintained, that discovery gave an exclusive right to extinguish the Indian title of occupancy, either by purchase or by conquest; and gave also a right to such a degree of sovereignty, as the circumstances of the people would allow them to exercise.[rdquo] (*Johnson* at p. 587)

In his ruling, Chief Justice John Marshall suggested that by the Treaty of Paris (1783), Great Britain had transferred its assertion of ultimate dominion to the United States. Subsequently, the United States took its newly assigned claim, and asserted its assigned right of possession over Indian Nations[rsquo] lands. It is time to overturn Supreme Court precedent established in *Johnson*.

The CRS report below demonstrates how precedent can, and routinely is, overturned.

<https://crsreports.congress.gov/product/pdf/R/R45319>

The genesis of Indian dispossession is easily traced back to the Doctrine of Christian Discovery, two 15th-Century papal bulls. Underpinning it all is a Christian-heathen distinction Judge John Marshall slipped into *Johnson vs. McIntosh*.

Johnson vs. McIntosh is the foundation of federal policy that Indians can inhabit and possess reservation land but not sell it (barring federal approval), since actual title is held in trust by the government for this use and this occupancy. *Johnson vs. McIntosh* orders that the ultimate title to those lands resides with the United States government. Bottom line: *Johnson vs. McIntosh* denies sovereignty to non-Christians. This is essential to understanding the principle Justice John Marshall adopted into a U.S. Supreme Court decision that is precedent in 2022.

The chief justice's opinion relied upon English charters of exploration. One such charter was granted by Henry VII to John Cabot in 1496. Cabot's charter, and others that followed, contained a language of subjugation derived from papal decrees of the mid- to late-15th century.

A bull of Pope Nicholas V, in 1452, permitting the king of Portugal "to go to the western coast of Africa, and to ... capture, vanquish and subdue the Saracens, pagans and other enemies of Christ, and put them into perpetual slavery and to take all their possessions and their property.

The impact of the *Inter Cetera* Bull of 1493 and its 1452 predecessor extended throughout Christian Europe, and beyond it to the Netherlands and Russia. Each of these countries accepted the moral high ground afforded by the *Inter Cetera* Bull for seizing "heathen" land and converting - or in default of that killing - "heathen" populations.

Justice Marshall assured the United States would not be left out if there was ever any doubt, when he "incorporated the Doctrine of Discovery into case law to be the (precedent) law of the land, which stands to this day.

The East Crazy Inspiration Divide Land Exchange is a 21st century continuation of church and state (theocracy) working in tandem at the centuries-old practice and rule of colonial plunder and deception for power, riches and dominion over man, especially indigenous nations, and Nature.

In the United States, plunder and domination will always mean [ldquo]winning the war,[rdquo] against non-Christians and Nature. No matter what actually happens in this perpetual war, even when their self-destructive loss is indisputable, that will be unimportant [ndash] the U.S. will certainly be in the middle of winning a new war against indigenous nations and Nature to further [ldquo]American imperium.[rdquo] The East Crazy Inspiration Divide Land Exchange just another outpost of American imperium.

Indifference to Ecological Value

The lands the USFS-USDA is proposing to trade away are ecologically important wildlife habitat. High value wildlife habitat is being traded for less suitable wildlife lands.

In particular, the two sections of USFS-USDA lands along Sweet Grass Creek (bottomlands with riparian values) will be traded out, exchanged for private sections at higher elevation with conifer stands.

It is not in the public interest to give up the valuable wildlife habitat for a new trail. Ecologically, this is neither a fair nor equal trade.

As proposed, the exchange won[rsquo]t be a good deal for members of the public. Giving up lower-elevation wintering grounds for elk in exchange for high-elevation [ldquo]rocks and ice[rdquo] makes this a bad deal for the public.

Custer Gallatin National Forest wrongly assumes benefits to [ldquo][hellip]snow-dependent animals such as Canada lynx and wolverine as well as ungulates like mountain goats, adept at navigating steep, rocky terrain." This assumption is incorrect. Canada lynx and wolverine need to eat to survive, and lynx main prey are snowshoe hare; but snowshoe live where they eat low hanging branches above the snow. Snowshoe hare do not occupy the "rocks and ice" the USFS is receiving. There are snowshoe hare in the lowlands that will enter into private ownership.

Wolverines do need high elevation habitat that holds snow late into the year to den and keep their cache of carrion cold for their kits, but the carrion comes most often from dead big game that live in the the lowlands being transferred into private ownership.

The mature lowland forests are needed for lynx to successfully raise kittens frequently. The shale rocks and ice are not needed by lynx.

This is a bad deal for the public, and a bad deal for wildlife. It should be permanently shelved.

We thank you for this opportunity to comment and express our concerns.

Sincerely,

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