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Comments: Please accept and acknowledge the attached comments on the Crazy Mtns. land exchange proposal and EA.

steve kelly,

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December 21, 2022

Supervisor Mary Erickson

Custer Gallatin National Forest

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mary.Erickson@usda.gov

re: Preliminary Environmental Assessment for the East Crazy Inspiration Divide Land Exchange comments.

Dear Supervisor Erickson:

Please accept the following review, comments and concerns on the Preliminary Environmental Assessment (hereinafter, pEA) for the East Crazy Inspiration Divide Land Exchange on behalf of the Council on Wildlife and Fish and Alliance for the Wild Rockies.

The pEA wrongly makes several assumptions about Canada lynx and wolverine. High elevation [ldquo]shale rocks and ice[rdquo] are not needed by lynx. Lynx main prey are snowshoe hare, which live in places where they can eat low hanging branches above the snow. Snowshoe hare prefer life in the lowlands that will be traded away; like the lynx habitat that will be destroyed by recreation development, or logging, or livestock grazing or oil and gas development in corporate hands. All scenarios are possible if this exchange moves forward. We have seen what land exchange(s) produce when private-corporate ownership is consolidated, instead of outright purchases for public benefit; Big Sky/Moonlight Basin/Yellowstone Club/Spanish Peaks, for example. These same (traded away) lowlands are preferred elk habitat and support excellent public hunting opportunities, that will all be privatized, monetized, for corporate profit. Such a deal! I suppose this is the underlying intent and purpose of this one-sided land grab. Out with it, why bother to conceal from the public that which is self-evident?

Wolverines need high elevation habitat that holds snow late into the year to den and keep their cache of carrion cold for their kits. Apparently unbeknownst to the USFS-USDA, carrion comes most often from dead big game

that live in the lower-elevation lands that are being traded away. Brilliant! The mature lowland forests are needed for lynx and wolverine to thrive. Wildlife needs habitat security and something to eat to survive. This exchange threatens the continued survival

Canada lynx and wolverine, in violation of the ESA.

The pEA fails to analyze and disclose the monetary value of lands being exchanged. While it seldom phases the USFS-USDA handing over publicly owned asset value to corporations in the [ldquo]private sector,[rdquo] and getting little to nothing in return, this exchange really takes the cake. What is the land and mineral rights value being exchanged? A comprehensive accounting of both sides of the equation is mandatory.

The pEA will produce a net loss to public recreation and will take away long-standing public access locations in the Crazy Mountains. In particular, the exchange will eliminate existing recreational opportunities in the Sweet Grass drainage. Existing hunting and fishing opportunities will be lost, and commercialized by the pay-to-play corporate developers profiting excessively from the fleecing of the American public [ndash] with the usual [ldquo]professional[rdquo] assistance of the USDA-USFS.

The loss of historic public access trails and administrative roads to private ownership is a violation of Travel Plan and Forest Plan objectives. The pEA violates NEPA, NFMA and the APA.

The pEA fails to analyze the potential environmental effects that severed (USFS) ownership of mineral interests in the parcels being acquired by USFS could have on those lands in the future. In an exchange such as this, mineral rights should be preserved/included, not severed. Is this a [ldquo]backdoor[rdquo] play for mineral, and/or oil and gas development? Who knows if the pEA is silent on this, without contractual assurances or guarantees.

So, let[rsquo]s try again to understand how this works: 100% of the federally owned mineral rights would be transferred to the non-federal parties, and only 18% of non-federal mineral rights would be transferred to federal ownership in return. The public getting the shaft on both ends of this deal. There is no net public benefit here, only loss. What gives? Is it stupidity, corruption, ignorance, maliciousness, or a combination that causes this kind of criminal malfeasance? There should be an investigation by the DOJ, Congress and Treasury before this goes any further.

First, the pEA must disclose the titles to the lands being exchanged, including all sub-surface mineral claims, deeds and titles. If legitimate titles cannot be made public, this deal cannot proceed. These valuable rights have potential future value, which has not been estimated and disclosed. Full development impacts could be staggering. Building roads, cutting down trees, diverting/polluting water, are all part and parcel in the development of mineral rights. Those ecological losses (costs), along with the financial loss make this a one-sided disaster to the public interest, and a flagrant violation of the Public Trust. Perpetrators should be investigated and prosecuted for criminal negligence if found guilty by a preponderance of evidence.

The value of severed water rights has not been analyzed. Again, a chain of title to all water rights and claims must be disclosed. The fair market value must be appraised and disclosed, or another corporate handout is possible, without ever considering the values being exchanged. More unbelievable malfeasance.

The pEA fails to disclose a valuation of timberlands being exchanged. [ldquo]Equal or higher than[rdquo] is the federal standard. I mean, you can[rsquo]t make this stuff up!

The pEA is claiming public benefits which it cannot guarantee.

No contracts have been disclosed in the pEA to construct the alleged new trail and alleged [ldquo]new trailhead[rdquo] and parking lot improvements. No contract, no deal. Moreover, the pEA claims non-federal parties will provide access to Crazy Peak to the Crow Nation. The Crow Nation already has treaty rights to those lands. Here again, a title to the lands being exchanged is essential to determine the legitimacy of claims, titles and treaties that overlay this landscape. As we have witnessed over time, neither these, nor any other [ldquo]legal agreement[rdquo] between Indian Nations and the U.S. government can be trusted or enforced. The U.S. government has, time and time again, demonstrated that it is agreement incapable.

The pEA estimates the net wetland value loss at 44.6 acres, in violation of the Forest Plan and Executive Order 12962, which explicitly requires a no-net-loss standard for wetlands involved in land exchange. This is another significant loss of net public benefit and financial public loss. There is a pattern here! Emphasis added.

The USFS-USDA considered, and dismissed, at least four alternatives that were never analyzed in the pEA, claiming, without providing a shred of evidence, [ldquo]technical and/or economical infeasibility.[rdquo] Only the one action proposal submitted by the Yellowstone Club, Inc., and the no-action alternative (which is required by NEPA) are analyzed in the pEA. We do not consent to the sole action alternative, thus, we have no other option: We support and recommend selection of the no-action alternative.

NEPA requires all federal agencies to [ldquo]study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.[rdquo] 42 U.S.C [sect] 4332 (2)(E). The USFS-USDA has prejudiced the outcome by failing to consider and analyze a range of viable alternatives, in violation of NEPA.

The exchange will result in habitat loss and degradation of the riparian zone along Sweet Grass Creek. What is gained if stream fishing opportunity shifts to federal ownership? None, in violation of Executive Order 12962, which mandates directs federal agencies to improve aquatic valued for increased recreational fishing opportunities. The pEA fails.

The Travel Plan designates the Sweet Grass Trail No. 122 as a public, non-motorized and non-mechanized trail. The pEA does not conform to the Travel Plan or Forest Plan when it fails to reserve Sweet Grass Trail No. 122 for administrative or public use.

The pEA trades away low-lying, high-quality wildlife habitat for steeper and higher elevation rocks and ice. Hunters will lose quality hunting opportunities, and would lead to a significant loss to the public, a loss that far outweighs anything gained. There is no net public benefit, in violation of the NFMA.

It as if the Custer Gallatin remains in total denial of the existence of ecosystems and connecting ecological corridors. Ecosystem science is the best available science if maintaining and improving biological diversity is being pursued as envisioned in the NFMA of 1976. This (preserving biodiversity) [ldquo]black-letter[rdquo] legal requirement is being ignored, yet remains a necessary element of EA analysis. This blindness to ecosystem science and management is systemic. The 2012 Revised Forest Planning Rule is the direct cause of this myopic perception that ecosystems do not exist, or matter to the agents of the USFS-USDA. The best available science when trying to understand the functions and processes that sustain aquatic and terrestrial lifeforms is ecosystem science. The pEA, 2022 Revised Plan and 2012 NFMA rule are in violation of NEPA, MFMA, the ESA and APA.

Johnson v. M[rsquo]Intosh/Domination/Dominion

The Crow and other Indian nations have for millennia been an integral part of the landscape, living among the plants and animals of the Crazy Mountains. Creator of all the Universe made it that way. European colonialists/imperialists with imagined religious doctrine and dogma originating in the 15th Century claimed absolute title to these lands with nothing more than an imagined cognitive model based on categories and hierarchy. The European nations of Christendom invented the [ldquo]Doctrine of Discovery,[rdquo] which is the foundation of the imagined absolute title to these lands, and the seizing of lands from sovereign Indian nations with no compensation or consideration. An illegitimate claim, to be sure, unless the U.S. Constitution has no real meaning for sovereign Indian nations and people. The illegitimacy of ultimate (absolute) title being exercised by the United States government to these lands, originally (First) possessed by indigenous nations, in question must be raised here and now. The illegitimacy of the original railroad ceded lands must also be revisited and reconsidered in light of the original fraud in the legal foundation of Indian law and property law, and in full light and context of the rights granted by the U.S. Constitution. Religious, ethnic, racial, and creed are unacceptable bases for discrimination, colonial conquest and genocide. It is time to reexamine our social, cultural and legal history, and right the wrongs that have persisted for far too long. The pEA is a perfect time to pull out the historic documents, examine them closely, and decide if those customs and beliefs have meaning in 2022. This colonizing adventure must end here. If we cannot face this injustice, we must accept the fact that this land exchange is a continuation of colonization and [ldquo]discovery[rdquo] of Indian nations land, and that the United States has not yet moved into an era one might be able to describe as [ldquo]postcolonial.[rdquo]

Please disclose documents that give the U.S. government the right to absolute land title to these lands. Please disclose when absolute title and possession to these lands in the project area were legitimately transferred from indigenous stewards to the U.S. government.

Absolute title to these U.S. government lands have been assigned and reassigned over centuries, all under the divine powers granted by Pope Alexander VI (Inter Caetera, papal bull of 1493), which is the source and foundation of the Doctrine of (Christian) Discovery." This is 21st-century, Christian colonialism and American imperialism dominating (Genesis 1:28) all of God's creatures in the Crazy Mountains. See: Johnson v. McIntosh, 21 U.S. 8 Wheat. 543 (1823) for the full legal story and background. Emphasis added.

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 lands. It is time to overturn Supreme Court precedent established in 1823 in Johnson.

The CRS report below demonstrates how precedent can, and routinely is, overturned.
<https://crsreports.congress.gov/product/pdf/R/R45319>

The Crazy Mountains were sold to the United States from France in 1803.
<https://www.emwh.org/issues/public%20trust/federal/UnitedStatesExpansion.png>

The Roman Church in 15th-century (during The Inquisition) Europe practiced plunder and deception on a global scale. The East Crazy Inspiration Divide Land Exchange is a 21st century version of church and state working in tandem (theocracy) at the centuries-old practice and rule of colonial plunder and deception for power, riches and dominion over non-Christians (pagans) and [ldquo]heathens,[rdquo] especially indigenous nations and people, and Nature.

Let this proposed land exchange begin a new awareness of the wrongs that need righting. It is time for the U.S. government to formally repudiate and fully renounce the Doctrine of Christian Discovery as racist, genocidal, scientifically indefensible, legally invalid, morally despicable and socially unjust before the United Nations general assembly.

Only the Vatican can formally rescind the Doctrine of Christian Discovery, which is made up of a [ldquo]body of papal bulls,[rdquo] collectively known as the [ldquo]Doctrine of Discovery.[rdquo]

The Gallatin Custer National Forest is totally overlooking the true value in these "promised lands," originally seized (conquered) by the U.S. government (God's "chosen people[rdquo]).

In the United States, plunder and domination will always mean [ldquo]winning the war[rdquo] against non-Christians and Nature [ndash] until it is not. Regardless of what actually happens here and now in this perpetual war, even when their self-destructive loss is indisputable, that will be deemed unimportant [ndash] the U.S. will certainly be in the middle of [ldquo]winning[rdquo] a new war against indigenous nations and Nature to further [ldquo]American imperium.[rdquo] It[rsquo]s time to end this neo-colonial gibberish. The East Crazy Inspiration Divide Land Exchange appears to be just another outpost of American imperium. Only the USFS-USDA can begin the healing process. Reject this proposal. Reexamine the history and begin anew.

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

Sincerely,

Steve Kelly, Pres.

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