

Data Submitted (UTC 11): 7/18/2022 6:00:00 AM

First name: Julie

Last name: Nania

Organization: HCCA

Title:

Comments: Hi Chad & Corey,

I thought it might be helpful to send around a few discussion points in advance of our respective meetings. HCCA will be reviewing the conservation easement language this week. MEMC has expressed that they hope to sign an ATI with the USFS as soon as possible once the easement language is finalized. My understanding is that the ATI won't cover any substantive concerns, but may outline a proposed process/timeline for moving the land exchange forward. To that end, we'd like to offer some considerations for the land exchange process and check-in on two substantive elements of the proposal.

Major initial concerns of the Southwest Rockies Conservation Alliance (SRCA) were embodied in a letter sent to the USFS on April 7th, 2022. Assuming that the conservation easement language is acceptable and that the substantive provisions of the exchange are satisfactory, HCCA will be facilitating outreach and input from our colleagues in the conservation community to build support for the exchange (while we collaborate with some of these entities regularly, they represent somewhat diverse interests and may have different priorities than local groups).

It is still unclear how the USFS intends to address several of the concerns articulated in the SRCA letter. HCCA's hope is that by addressing these issues early and directly in this process we will be able to enter into this process with broad support for the proposal (including from our counterparts). To that end:

- 1.
2. Scoping,
3. notice and public process.
- 4.

Typically, land exchanges undergo a NEPA analysis that is an Environmental Assessment or Environmental Impact Statement. The USFS and Mt. Emmons Mining Company have expressed a desire to conduct this land exchange via a categorical exclusion, specifically 202.6 9 (7) (ii).

The use of a categorical exclusion for a large land exchange proposal evokes an elevated level of scrutiny amongst groups that review these proposals to determine whether they are in the public interest, including the signatories to the April 7th SRCA email. Process and opportunity for transparent review and to offer substantive input is a core component of scoping. Because this is a significant exchange undergoing a truncated formal

review, it is critical that the USFS offer opportunities for substantive review and input. We encourage the USFS to pursue this in earnest to avoid opposition due to a lack of opportunity for input. HCCA would like to discuss the following:

- *
- * When does
- * the USFS intend to initiate scoping?
- *
- *
- * How will
- * scoping be noticed?
- *
- *
- * How long
- * will the scoping period last?
- *
- *
- * How will
- * the USFS be incorporating the conservation easements into the documents available for review?
- *
- *
- * How will
- * the USFS be addressing any substantive public concerns raised in a review process?
- *
- *
- * Will the
- * USFS record commenters' questions and provide an agency response for the public?
- *

In addition to the import scoping questions above, we have the following questions about where the process is currently at:

- *
- * What is
- * the projected timeline for accomplishment included in the ATI?
- *
- *
- * Is
- * the feasibility analysis complete?
- *
- *
- * In that
- * analysis, what did you consider or evaluate for public values/interest?

*

*

* Was it just

* the face value of the lands?

*

*

* Did you

* consider the value of the lands in conservation v. in fee?

*

*

* Have the

* lands already been evaluated pursuant to EPA's All Appropriate Inquiry rule?

*

2) The Three Peaks Ranch parcel should be taken into the USFS lands as-is, without opening the parcel to mineral exploration.

As discussed prior, the Three Peaks Ranch is currently held in fee by MEMC. This means that the parcel is currently closed to mineral exploration. Typically, when the USFS acquires lands those lands take on the characteristics of the surrounding land. While surrounding lands are currently open to exploration, the owner of surrounding mining claims (MEMC) has expressed an intent to withdraw these lands from mineral exploration. Similarly, it is the intent of the Town, County, and local stakeholders to pursue a withdrawal on the land surrounding the Mt. Emmons parcel.

Given that the community objective and intent of the claims owner is to remove that area from mining and mineral exploration, it makes sense to take the Three Peaks Ranch into the public domain without opening it to mineral exploration. Doing so will ensure that:

*

* Others do

* not claim minerals in the newly acquired parcel while a mineral withdrawal is being pursued and that ultimately lands are maintained in a consistent land management regime.

*

*

* The land

* will be managed in substantively the same manner as it is currently managed, better satisfying 202.6 9 (7) (ii).

*

What is the current plan for the Three Peaks Ranch parcel?

3) Explanation for how the USFS will ensure that the land exchange meets 202.6 9(7)(ii).

It is still unclear whether the USFS will condition the land exchange on execution of the conservation easement language agreement. MEMC has stated that they would accept this as a condition but that the USFS has indicated that it is unwilling to require this. If this is the case, how will the USFS demonstrate to the public that the land exchange meets the requirements of 202.6 9(7)(ii)?

Thank you for your consideration. I look forward to our follow-up conversations.

Best,

Julie