

Data Submitted (UTC 11): 11/14/2023 1:10:59 AM

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Comments: COMMENTS ON EAST CRAZY INSPIRATION DIVIDE LAND EXCHANGE

## INTRODUCTION

As modified and proposed, I oppose the East Crazy Inspiration Divide Land Exchange ("Proposed Exchange") as stated in the Draft Decision and Finding of No Significant Impact ("Draft Decision").

The Draft Decision continues to link what should be a simple land exchange in the Big Sky-area property with an unrelated, extraordinarily complex, and emotionally charged land exchange in the east Crazy Mountains. The Draft Decision reduces the value our public lands and negatively impacts our access, hunting, fishing, and enjoyment opportunities in the south end of the Crazy Mountains.

The Draft Decision prioritizes the special interests of landowners and recreational developers over the interests of the public. The special interests involved in the Proposed Exchange have a history of recreational development. The Draft Decision provides this special interest group with the foundation to develop the exchanged land as they see fit and simultaneously degrades the recreational opportunities for the public.

The Draft Decision is deficient in several areas; however, I will focus my comments on the following:

- 1.The Draft Decision did not develop and consider adequate alternatives.
- 2.The Draft Decision eliminates the existing access.
- 3.The Draft Decision degrades recreational opportunities.
- 4.The Draft Decision does not provide for the effective natural resource management of the consolidated lands.
- 5.The Draft Decision increased the potential for development on exchanged private land.
- 6.The Draft Decision does not describe related agreements, and the USFS is not a party to some of these related agreements.

## ADEQUATE ALTERNATIVES ARE NOT DEVELOPED OR CONSIDERED

The United States Forest Service ("USFS") presented only two alternatives: 1) the modified action plan, or 2) No Action. In the Draft Decision, the USFS pushes forward with Alternative 1 - the modified action plan. The Draft Decision sets a terrible precedent and is poor public policy because the USFS abandons its duty to the public for the special interests of the landowners. In the Draft Decision, the USFS capitulates to the landowners' desire for an advantageous land exchange and rewards them for years of obstructing legal public access.

There are at least two other alternatives that should have been explored which are to 1) defend historical access, and 2) expand the scope of land exchange.

The USFS's starting point for alternatives is defending historical access. The USFS has a duty to acquire all interests and rights needed to meet the objectives and future uses of the Crazies. Furthermore, the right of public access in the Crazies is well documented and began when the US Government deeded title of the land to the Northern Pacific Railroad. Until recently, the USFS defended the right to access. This policy shift or change

is not well understood and is not in the best interest of the public.

Expanding the scope of the Draft Decision could provide a platform to resolve public access and land-use issues more fully. Additionally, an expanded scope could preserve and protect the historical character of the Crazies by limiting future development.

One potential concept would be to convert all non-Federal land to Federal land within and adjacent to the USFS boundary. In the Preliminary Environmental Assessment ("PEA"), the USFS dismissed this approach stating, "that landowners have only expressed interest in exchanging non-Federal lands for Federal lands located within, and adjacent, to their private lands." The USFS never mentions that they never attempted to propose a broader concept to the landowners, however, they need to do so.

A broader approach would require the direct purchase of non-Federal land. Yes, the landowners would need to approve. The Draft Decision is a mere partial solution leaving many issues unresolved. However, if you look forward 10, 20 or 50 years, the conflicts and issues will not go away with a partial solution. A grander approach now, while more challenging, could benefit both landowners and the public by eliminating further confrontation and litigation. Finally, a more comprehensive approach could preserve the natural grandeur of the Crazies.

#### ACTIONS:

- 1.The USFS must develop a plan to fully defend and preserve historical public access rights.
- 2.The USFS must take a strategic view of the issues in the south end of the Crazies and develop a plan to include other non-Federal land in the south end of the Crazies, and to fully address public access and to preserve the historical character of the Crazies.

#### ELIMINATING THE EXISTING ACCESS TO SWEET GRASS CANYON IS UNACCEPTABLE

The Draft Decision eliminates the public's current access point to Sweet Grass Trail #122 and access to and recreational use of lower Sweet Grass Creek.

In the Draft Decision, the USFS is replacing this short, easy access provided by Sweet Grass Trail #122 with an arduous 22-mile access to a point just above the old trailhead. The new trail would reroute the existing, lower level, East Trunk Trail and the lower end of Sweet Grass Trail #122 with a new trail through high-elevation rock slopes. This new East End Trail would now require one to two days of rigorous hiking. From a practical standpoint, the new access point and route will be restricted to multi-day backpackers and packhorses.

The new trail changes the nature and recreational opportunities. The new trail would have scenic views, but would have no access for fishing and no reasonable access for hunting. Currently, access via Trail #122 is a scenic hike through meadows with direct access to fishing on Sweet Grass Creek. The existing East Trunk Trail provides access to better elk hunting habitat than the new trail which traverses poor elk habitat.

The Draft Decision attempts to mitigate this issue by retaining 200 acres in Parcel 2 and rights to access the land from Sweet Grass Trunk Trail No. 274 located in the adjacent Parcel C. However, the USFS exchanges that land for 320 acres in Parcel D and an easement. This cannot be considered an improvement. This concept only addresses the wetlands issue highlighted in Parcel 8 while ignoring the main issue which is the loss of access and use of lower Sweet Grass Creek.

#### ACTION:

- 1.Maintain and improve access to the Crazy Mountains and lower Sweet Grass Creek.

## DEGRADING THE PUBLIC'S RECREATIONAL OPPORTUNITIES IN THE CRAZY MOUNTAINS IS UNACCEPTABLE

The Draft Decision consolidates timbered foothills and the lower Sweet Grass Creek into private ownership and high elevation alpine areas into public ownership. Although the intent is this consolidation is meaningful, the Draft Decision improves the recreational opportunities for the private landowners while diminishing the recreational opportunities for the public.

The Draft Decision consolidates land in timbered foothills and Sweet Grass Creek for private landowners, improving access and expanding hunting and fishing areas. The timbered foothills have the best big game hunting which provides excellent elk hunting habitat. Lower Sweet Grass Creek is home to good trout fishing.

On the other hand, the public benefits are more difficult to discern. While consolidating high elevation land is an improvement, the access to that land is diminished, habitat suitable for elk hunting is reduced, and the opportunity to fish is all but eliminated. The remaining areas suitable for elk hunting would be limited, and hunting pressure would drive elk into the more expansive private land. The Draft Decision eliminates public ownership of the riparian environment along lower Sweet Grass Creek. Overall, the Draft Decision a material net loss in recreational opportunities for the public.

### ACTION:

- 1.Preserve and expand the public's recreational opportunities in the Crazy Mountains.

## NATURAL RESOURCE MANAGEMENT IS INADEQUATE

The USFS mismanages the exchange for natural resources in the Draft Decision.

The USFS fails to protect and preserve existing water rights. The Draft Decision asks the public to give up all water rights on land it is giving to the landowners, while it does not receive the water rights on all the land it receives.

The USFS fails to obtain adequate value for existing timber and fails to protect both transferred and consolidated land from logging. Prior to an exchange, landowners could harvest timber. After an exchange, the consolidate timbered lowlands will provide landowners the opportunity for harvesting timber. The Draft Decision is silent on this issue.

As required by law, the USFS has not provided an appraisal or value analysis for real estate, access roads, mineral rights, water rights, timber, and so on. The USFS promises to conduct an appraisal and provides a methodology to resolve value differences. By conducting the appraisal after the final decision lacks transparency and denies the public's right to provide input on the valuation.

### ACTIONS:

- 1.As required by law, appraise real estate and the value of natural resources such as water rights and timber.
- 2.Equitably exchange natural resources such water rights and timber.

## DEVELOPMENT ON PUBLIC LAND TRANSFERRED TO PRIVATE LANDOWNERS IS UNRESTRICTED

The USFS does not take adequate measures to protect the exchanged lands from future development.

The Draft Decision places deed restrictions on Parcels 1, 2, 3 and 4 which restricts mineral development and prohibits subdivision into parcels under 160 acres. The deed restrictions are extremely limited in scope, and consequently, do not limit any other development.

Once land is consolidated, landowners will have the opportunity for logging and recreational development. Landowners and the USFS need to be transparent with their logging interests so that future logging operations are disclosed to the public. Additionally, landowners could contemplate significant tourist developments such as golf courses and other commercial developments. The Draft Decision is silent on this issue and so one is to conclude that this development is unrestricted, and probable.

#### ACTION:

1. Protect exchanged public land from future development which is inconsistent with environmental and recreational values.

#### RELATED AGREEMENTS NOT INCLUDED IN THE DRAFT DECISION

The USFS mentions and relies upon public benefits of several proposed arrangements by third parties in the exchanged and adjacent lands. There are several arrangements that lack transparency and are not available for public review. These include the arrangement to construct and pay for the new East End Trail and parking lot improvements, the preservation of access to upper Sweet Grass Creek drainage of Rein Lane and the conservation easement for Section 7 granted by Switchback Ranch, LLC. The USFS describes the benefits within the PEA of access to Crazy Peak for the Crow Tribe and access across private land and consideration of conservation easements, however, the USFS is not a party to and cannot enforce or guarantee these agreements.

#### ACTIONS:

1. The USFS must become a signatory to agreements related to the Draft Decision.
2. The USFS must make the related agreements public.

#### CONCLUSION

In the PEA, the USFS outlined seven (7) guiding principles for the East Crazy Inspiration Divide Land Exchange:

1. To resolve long-standing public access and land use disputes.
2. To provide for more effective and efficient natural resource management and protection of consolidated lands.
3. To improve recreational opportunities and provide for perpetual public access in both the East Crazies, Smeller Lake and along Inspiration Divide.
4. To secure and protect roadless characteristics and provide a quiet, recreation opportunity consistent with the Crazy Mountain BCA and South Crazy Mountain RWA.
5. To conserve the existing traditional uses and landscape character of the Crazy Mountains by reducing the potential for development of private lands interior to and comingled with NFS lands.
6. To conserve wildlife connectivity and protect key habitat.
7. To increase protection of high elevation lands in the Crazy Mountain Range, an important traditional cultural

area identified by the Crow Tribe.

The fundamental issue is that the Draft Decision does not fulfill the requirements of these guiding principles.

First, it does not resolve long-standing public access and land use disputes. It only shifts the debate and does not address issues in other non-Federal lands in the southern Crazies.

Second, as described earlier, the Draft Decision does not protect consolidated lands.

Third, public access is not improved in the East Crazies, it is diminished.

Fourth, the roadless characteristics of the Crazies are not protected in the public land conveyed to private landowners. In fact, you could assume that there is a distinct possibility for more development and more roads on lower elevations and along lower Sweet Grass Creek.

Fifth, the Draft Decision changes the nature of access by the public and presents landowners the opportunity for development.

Sixth, the Draft Decision deteriorates the protection of key habitat by consolidating land into contiguous private tracts with limited restriction on development.

Seventh, while protection of the consolidated high elevation lands is improved, the land including Crazy Peak is not a part of the Draft Decision.

As described, the Draft Decision should be scrapped. In all likelihood, the Draft Decision lays the groundwork for future development in the exchanged lands - a vast departure from the USFS's stated objectives. The USFS needs to present and pursue alternatives to attain their guiding principles more fully and to address and meet the needs of the public.