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Draft Record of Decision for the Show Low South Land Exchange

Apache-Sitgreaves, Coconino, and Prescott National Forests



Cover Photo: Show Low South Federal Parcel

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Decision

Based on my review of the Environmental Impact Statement (EIS), I have decided to implement Alternative 1 (Proposed Action), which exchanges approximately 1,558 acres of non-Federal inholdings within National Forest System (NFS) lands in Apache, Coconino, Greenlee, Navajo, and Yavapai counties, Arizona, for 1,028 acres of Federal lands within the Coconino and Apache-Sitgreaves national forests in Coconino and Navajo counties, Arizona (Figures 1 and 2).

Background

Project History

A formal offer to exchange lands was submitted by SL Land Exchange, LLC, to the acting Apache-Sitgreaves National Forests (ASNFs) supervisor on January 25, 2008. The proposed project included several geographically separate land parcels located on three individual national forests: the Apache-Sitgreaves National Forests (ASNFs), Coconino National Forest (CNF), and Prescott National Forest (PNF). Given the broad scope of the land exchange, it was determined that preparation of an EIS was warranted in order to comply with the National Environmental Policy Act (NEPA). The EIS scoping process was initiated on April 28, 2009, with publication in the Federal Register of the Notice of Intent (NOI) to prepare an EIS. Thirty-six comment correspondences (letter, e-mail, comment form, or phone call) were received during the scoping process identifying key issues and potential environmental effects of the proposed action. The most frequent comment received was associated with the potential adverse social and economic impacts (including a possible decrease in the availability of recreational lands) due to the potential development on the Federal lands (if exchanged). The Agreement to Initiate (ATI) the exchange was authorized by the Forest Service Director of Lands and Minerals on March 19, 2010. A Notice of Availability (NOA) of the Draft EIS was published in the Federal Register on November 2, 2012. A total of 25 comment correspondences were received during the public comment period and were subsequently addressed and responded to in the final EIS (Appendix C of the FEIS). Additional analysis of the parcel values and socioeconomic impacts to the surrounding community of Show Low was included in the final EIS in response to several public comments received.

Land appraisals reviewed and approved by the Forest Service Senior Review Appraiser are part of the established land exchange process and will result in a certification that the lands are of approximate equal value. Once an appraisal is finalized, the deciding officer will ensure that the exchange of Federal and non-Federal lands are of equal value, using either cash equalization or removal of parcels to ensure the values are equal.

Purpose and Need

The proposal to exchange lands in the ASNFs, CNF, and PNF responds to the Forest Service's need for consolidation of Federal land ownership patterns and the need to enhance management of the public's natural resources. The forests need to acquire lands that: (1) protect habitat for several threatened, endangered, and sensitive species; (2) facilitate public access to Federal lands; (3) improve wetlands, flood plains, and riparian areas; (4) decrease the complexity of maintaining property boundaries; and (5) improve the efficiency of resource management by focusing the forest's funding and staff on consolidated ownerships. The non-Federal lands offered in this exchange meet several of the ASNFs, CNF, and PNF forest plans' criteria identifying them as lands that would meet these needs (FEIS p. 5)

Public Involvement

Scoping

Public involvement for the proposed Show Low South Land Exchange was initiated on April 28, 2009, with publication of the NOI to prepare an EIS for the proposed Show Low Land Exchange in the Federal Register. The project was placed on the “Apache-Sitgreaves NFs Schedule of Proposed Actions” (SOPA) on April 2, 2009 located on the ASNFs website, and published quarterly thereafter. More detailed information on the proposed land exchange was provided on the ASNFs website under the Land and Resource Management tab. Scoping for the Draft EIS included a land exchange notice publication and notice of public open house in the White Mountain Independent (36 CFR 254.8); direct mailing of an “interested party” letter to over 160 county, state, and congressional delegations and other potentially interested agencies, individuals (including adjacent landowners) and organizations; and one public open house held on April 28, 2009, to provide information about the proposed exchange and solicit comments on the proposed action. The project record contains records of public involvement. During initial scoping 36 comment correspondences (letter, comment form, e-mail, or phone call) were received.

Key Issues

The following key issues were identified from scoping comments and were used to inform the scope of the analysis in the Draft EIS:

Trails, access, and recreation: Several comments were received concerning public access to the existing Buena Vista Trail #637 on the Show Low South parcel. Issues relating to recreation were specifically addressed in the Draft EIS and the Forest Service has included an option to realign the Buena Vista Trail #637 south of the existing route to maintain public access and recreation opportunities.

Future development of lands including density and type of development: Concerns were raised regarding the increased traffic through the Sierra Pines neighborhood. Future development of exchanged parcels is considered as an indirect effect of the exchange. Issues related to increased traffic and number of access points to new developments is guided by the City of Show Low General Plan and building codes and regulations. Future development of exchanged parcels was considered in the Draft EIS.

Land values, use, and character: Residents in the Sierra Pines neighborhood raised the concern that additional development within the community of Show Low would add to the oversupply of available housing and may affect land values as well as reducing the distinctive mountain forest community character. Development on the Show Low South parcel would not take place until the demand exists for new residences, and is not expected to negatively affect land values of adjacent landowners. The Show Low South parcel would likely be zoned similarly to the Sierra Pines neighborhood as presented in the General Plan though the exact nature of planned development would be decided through the local planning and zoning process of the City of Show Low.

Wildlife use and migration routes: Scoping comments included concern that the land exchange could impact migration routes, habitat, and water availability for wildlife on the City of Show Low and Show Low South parcels. Under the proposed action alternative, the City of Show Low parcel, except for the expansion area of the waste water treatment facility, would remain undeveloped, allowing for the continued use of habitat, water availability, and migration routes for wildlife. The Show Low South parcel would be developed as a low density, mixed-use residential area and would maintain treed areas and open habitat available for wildlife use and migration. The proposed action may result in some loss of lower value habitat for wildlife species that has been subject to public recreation on the Federal parcels going

out of forest ownership; however, the lands coming into forest ownership are of greater acreage and the land exchange would result in a net gain of wildlife habitat of much higher value. Additionally, the City of Show Low parcel would include a post-exchange conservation easement on the City of Show Low parcel to maintain open space along Show Low Creek.

Noise and general pollution: Concerns were raised that development of the Federal parcels would increase tree removal, noise, and pollution. Upon transfer to private ownership, there would be an anticipated increase in tree removal and local noise pollution on the City of Show Low, Show Low South, and Soda Springs Ranch Adjustment parcels. Activities on these parcels would have to conform to zoning regulations which stipulate acceptable levels for these development parameters. The City of Show Low has indicated it would not discharge effluent into Show Low Creek from its municipal wastewater treatment plant.

Draft EIS Public Review

A letter was sent to those who submitted scoping comments and other interested stakeholders notifying them that the Draft EIS was available for public comment on the ASNFs website. Notice of Availability (NOA) of the document was sent to other Federal agencies, federally recognized tribes, and state and local governments. The official NOA for the Draft EIS was published in the Federal Register on November 2, 2012. A legal notice for public comment on the Draft EIS was also published in the White Mountain Independent on November 2, 2012. Twenty five correspondences were received from federal, state, and local agencies; private organizations; and the general public.

How Comments and Issues Were Addressed

In accordance with the National Environmental Policy Act, all comments received were reviewed and considered in the final EIS. Appendices C and D of the final EIS summarize the comments received and the Forest Service's response. Some of the public's input led the Forest Service to respond by improving, modifying, or making factual corrections to the final document. In response to comments received the Forest Service adjusted the final EIS to provide further information and clarification on required laws and regulations, specifically regarding cultural resources; tribal consultation; the valuation process of lands parcels; effects on cultural resources and historic sites; the development process for the City of Show Low Planning and Zoning; the history of land adjustments and property values in the City of Show Low; conceptual designs for the wastewater treatment plan on the City of Show Low parcel; and the tribal governments and offices consulted (FEIS pp. 16-17 for list of changes). Photographs of all parcels were also added (FEIS Appendix A) and minor edits, changes in text formatting and slight modifications to the document structure were completed throughout the final EIS to impart clarification of information previously presented.

Tribal Consultation

In compliance with NEPA, the National Historic Preservation Act of 1966 as amended; Executive Orders 13007 (Indian Sacred Sites), 13084 and 13174 (Consultation and Coordination with Indian Tribal Governments) the ASNFs identified the tribes that are associated with the lands that are part of the proposed action and initiated government to government consultation. The tribal governments that were consulted are as follows: Hopi Tribe, Navajo Nation, the Ramah Chapter of the Navajo Nation, Pueblo of Zuni, San Carlos Apache Tribe, Tonto Apache Tribe, White Mountain Apache Tribe, Fort McDowell Yavapai Nation, Yavapai-Apache Nation, and Yavapai-Prescott Indian Tribe.

These tribes were informed and consulted about the proposed land exchange in April 2009 as part of the NEPA process. Two tribes provided written responses in May 2009: the Hopi Tribe and the Navajo Nation. The Hopi Tribe commented that they wish to be provided with copies of the cultural resources survey report and any proposed treatment (mitigation) plan if prehistoric cultural sites are located within the Federal parcels that would be adversely impacted. The Navajo Nation commented that they have no concerns with the land exchange, as it is not expected to impact any cultural sites important to the Navajo Nation.

In August 2010, an additional consultation letter was sent by the ASNFs to the Hopi Tribe and Pueblo of Zuni requesting concurrence on the reported archaeological findings, and both tribes were asked to contact the Forest if they wished to participate in developing a mitigation plan and a memorandum of agreement (MOA) regarding the treatment of affected sites. The Hopi Tribe responded by letter in August 2010, and the Pueblo of Zuni later responded by phone/email. The tribes concurred with the eligibility of the documented sites, including those to be affected by the proposed land development. The Hopi recommended that the lands with the prehistoric sites be withdrawn from the Show Low South parcel, but in subsequent meetings agreed to the exchange provided mitigation measures set forth in an MOA were carried out. The Hopi specifically indicated that they would defer to the State Historic Preservation Office and interested parties regarding the MOA but requested that consultation continue with them, including participation in the development and implementation of a mitigation plan.

The heritage program manager/ tribal liaison of the ASNFs attended an administrative meeting with the Hopi Tribe's Cultural Preservation Office on January 12, 2011 to discuss the proposed land exchange, among other topics. At the meeting the heritage program manager/tribal liaison discussed with the Hopi that if the Forest Service withdrew the lands with the archaeological sites within the Show Low South parcel the land exchange would not be viable. The sites are not located in an area that can be excluded from the parcel without changing the parcel size and potential land value. The Hopi Tribe agreed to consult on the treatment plan for mitigating adverse impacts to two identified prehistoric sites on the Show Low South parcel. The draft treatment plan was sent to the Hopi Cultural Preservation Office and the Zuni Heritage and Historic Preservation Office for review in April 2011. The Hopi responded by letter also in April, reiterating what they had stated at the January 2011 meeting. They also requested consideration of a rock art panel at Site AR-03-01-07-1031 to be left in place and not disturbed. The request was taken to the project proponent who expressed in a January 30, 2012 email a willingness to preserve the rock art boulder. This cooperative preservation option has been included within the project's treatment plan.

The ASNFs submitted a revised treatment plan, draft MOA, and draft Native American Graves Protection and Repatriation Act (NAGPRA) plan to the Hopi Tribe and Pueblo of Zuni with an accompanying letter on October 3, 2012. The heritage program manager of the ASNFs attended another administrative meeting with the Hopi Tribe on October 17, 2012 to discuss the submitted treatment plan and draft NAGPRA plan. Revisions were suggested to both documents, particularly the NAGPRA plan, and it was indicated at the meeting that the Pueblo of Zuni would also need to be provided an opportunity to comment on the revised documents. The Hopi Tribe followed up the meeting with a November 13, 2012 letter summarizing their consultation to date and requesting continued consultation (with the Pueblo of Zuni) on the proposed treatment and NAGPRA Plan of Action. The ASNFs incorporated the comments submitted by email from the Hopi CPO and Zuni THPO into the NAGPRA plan.

The ASNFs submitted a revised NAGPRA Plan of Action to the Hopi and Zuni tribes via email on December 7, 2012. The Hopi Tribe and the Pueblo of Zuni were invited to be signatories of the MOA. The Hopi Tribe has deferred to the Arizona State Historic Preservation Officer regarding the MOA and is

not a signatory of the MOA. The Zuni THPO indicated that the Pueblo of Zuni would like to be a concurring signatory to the MOA.

Alternatives Considered in Detail

The Council on Environmental Quality (CEQ) regulations (40CFR 1505.2(b)) require the Record of Decision (ROD) identify the alternative(s) that could be considered environmentally preferable. The environmentally preferred alternative is defined by CEQ as: (1) the alternative that causes the least damage to the biological and physical environment, and (2) the alternative that best protects, preserves, and enhances historic, cultural, and natural resources. Alternative 1 (Proposed Action) is the environmentally preferred alternative as the Forest Service will obtain currently private parcels with valuable wildlife habitat, including perennial water on some parcels, and will be able to manage the acquired lands for conservation. A more detailed comparison of the alternatives analyzed in detail can be found in the final EIS on pages 16-22.

Alternative 1 – Proposed Action, Selected Alternative

The proposed action includes the exchange of 1,558 acres of non-Federal land for 1,028 acres of Federal land. The Federal lands consist of approximately 1,020 acres of land within the ASNFs and 8 acres within the CNF. These would be conveyed to First American Title Insurance Company, as Trustee, and not personally, under Trust No. 8667. The non-Federal lands are located in Apache, Coconino, Greenlee, Navajo, and Yavapai Counties, Arizona. These would be conveyed to the Forest Service.

Federal Lands To Be Exchanged (Total 1,028 acres)

City of Show Low Parcel (70 acres): This parcel is located just north of the City of Show Low, Arizona, within the Lakeside Ranger District, Sitgreaves National Forest, in Section 8, Township 10 North, Range 22 East, Gila and Salt River Meridian (G&SRM). The parcel is relatively flat at an elevation of approximately 6,300 feet above mean sea level (amsl). The southern boundary of the parcel adjoins private land, while the west, north, and east boundaries adjoin ASNFs lands. The parcel, which remains undeveloped, contains a short segment of Show Low Creek in the southwest corner. The parcel's southwest corner also extends over the City of Show Low's sewage pipeline. Vegetation within this parcel consists primarily of juniper woodland with some gamble oak and ponderosa pines. Show Low Creek canyon contains riparian grasses, willows, and other vegetation.

Show Low South Parcel (948 acres): This parcel is located just south of the City of Show Low, Arizona, within the Lakeside Ranger District, Sitgreaves National Forest, in Sections 31 and 32 of Township 10 North, Range 22 East, G&SRM. Elevations on the property range from approximately 6,550 to 6,850 feet amsl. ASNFs lands flank the west and south, while private lands border the north and east sides. The parcel is contiguous to urban/transitional lands, such as the Sierra Pines subdivision, and contains part of the Buena Vista Trail #637, which would be rerouted for that part of the trail to federal land following exchange. The parcel also contains two identified prehistoric sites, which would have effects mitigated through implementation of a treatment plan (FEIS pp. 87-88). The Show Low South Parcel is located within a vegetation transition zone between ponderosa pine and piñon-juniper habitat. Several small unnamed drainages cross the parcel and Lost Tank is located near the center of the parcel.

Sierra Blanca Ranch Adjustment Parcel (2 acres): This parcel is located within the Alpine Ranger District, Apache National Forest, in Section 34, Township 6 North, Range 29 East, G&SRM. The Sierra Blanca Ranch Adjustment Parcel is located approximately 6.5 miles northwest of Alpine, Arizona.

Elevations on the parcel range from approximately 8,430 to 8,580 feet amsl. The parcel is encumbered by an existing residential structure contiguous to the retained portion of Sierra Blanca Ranch. The general vegetation is mixed-conifer forest with grasslands and open meadows. The northeastern section of the property is forested, while the southwestern area is open grassland and meadow habitat. No hydrologic features occur within the property, though Lake Sierra Blanca is located directly southeast of the parcel.

Soda Springs Ranch Adjustment Parcel (8 acres): This parcel is located within the Red Rock Ranger District, CNF, in Section 32, Township 15 North, Range 6 East, G&SRM. The Soda Springs Ranch Adjustment Parcel is located approximately 7 miles northeast of Camp Verde, Arizona. Elevations on the parcel range from approximately 3,580 to 3,620 feet amsl. The parcel borders private lands to the west and south, and CNF lands to the north and east. This area of CNF is exposed to the management issues associated with urban and rural boundaries. The vegetation on this parcel is diverse as the southern half is characterized by an open irrigated nonnative grassy field, while the northern section is primary desert scrub habitat. No hydrologic features are present within the parcel, though Wet Beaver Creek is located immediately south of the parcel.

Private Lands (non-Federal) To Be Acquired (Total 1,558 acres)

Alder Peak Parcel (160 acres): This private parcel is surrounded by the Clifton Ranger District, Apache National Forest, and located within unsurveyed Section 4, Township 1 South, Range 30 East, G&SRM. The Alder Peak parcel is located approximately 22 miles north of Clifton, Arizona. Elevations on the property range from approximately 6,000 to 6,400 feet amsl. A minor drainage flows south to north into Burns Tank located near the central-western section of the parcel. This tract is rural with an open meadow and a small water body. Vegetation on the parcel is primarily ponderosa pine and alligator juniper with a variety of low-lying shrubs and grasses.

Cherry Parcels (117 acres): The Cherry parcels (which are comprised of three separate parcels) are located on private inholdings surrounded by the Verde Ranger District, PNF. The Cherry Parcels are located approximately 8 miles south of Cottonwood, Arizona. The three parcels (Cross Cut/Gulch Parcel; Ida/Gold Ring/Potomac Parcel; and Sitting Bull Parcel) are located in five sections of Township 14 North, Range 3 East, G&SRM. The parcel boundaries of the Cross Cut/Gulch Parcel and Ida/Gold Ring/Potomac Parcel are located within Sections 9, 10, and 15 and are surrounded by Federal land. Located in Sections 5 and 6, the Sitting Bull Parcel's northwest corner adjoins private land and the remaining boundaries are connected to Federal lands. Steep surface topography exists for the Cherry Parcels. The Cherry Creek drainage crosses a portion of the Sitting Bull Parcel, and other minor drainages occur on the Cross Cut/Gulch Parcel and Ida/Gold Ring/Potomac Parcel. Vegetation within the Cherry Parcels is characterized by dense manzanita with occasional interspersed junipers.

Juan Miller Parcel (120 acres): This parcel is surrounded by the Clifton Ranger District, Apache National Forest, and located within Section 10, Township 2 South, Range 29 East, G&SRM. The Juan Miller Parcel is located approximately 15 miles north of Clifton, Arizona. The elevation of the parcel ranges from 5,800 to 6,400 feet amsl. Access to the parcel is from Coronado Road (Forest Road 475), which intersects the parcel and leads to campgrounds to the east. Juan Miller Creek bisects the parcel, with surface topography becoming steeper to the north and south of the creek. The area along Juan Miller Creek is characterized by a single large sycamore and several native riparian vegetation species. North of Juan Miller Creek is a south-facing slope with scrub-live oak, agave, juniper, prickly pear, and blue grama. The area north of Juan Miller Creek drainage is predominantly ponderosa pine.

Leonard Canyon Parcel (640 acres): A total of 632 acres of the Leonard Canyon Parcel is bordered by the Mogollon Rim Ranger District, CNF, while the remaining 8 acres (that portion located east of Leonard Canyon) is bordered by the Black Mesa Ranger District, Sitgreaves National Forest. The parcel is the full Section 15, Township 14 North, Range 12 East, G&SRM, and is surrounded by Federal lands. The Leonard Canyon Parcel is located approximately 14 miles northeast of Happy Jack, Arizona. The elevation of the parcel ranges from 6,200 to 6,860 feet amsl. Approximately 0.3 mile of Leonard Canyon is located within this parcel. This 0.3 mile of Leonard Canyon is considered a perennial pool stream reach, which means it has pools of water that remain year-round, while water flows throughout the entire 0.3 mile of Leonard Canyon for a portion of the year. This perennial pool stream reach flows into East Clear Creek north of the parcel. General vegetation within the parcel consists of ponderosa pine, gamble oak, alligator juniper, and various grasses. Cacti species are present along the open areas on south-facing slopes.

Railroad Parcels (22 acres): The Railroad Parcels, surrounded by the Lakeside Ranger District, Sitgreaves National Forest, and located within Sections 21, 28, and 33, Township 11 North, Range 20 East, G&SRM, consist of three separate parcels of land that are approximately 100 feet wide. The Railroad Parcels are located approximately 1 mile east of Pinedale, Arizona. These three parcels of land are situated along abandoned Standard Lumber Mill, Inc., railroad grades. Elevations on the parcels remain relatively flat at approximately 6,300 feet amsl. Mortensen Wash runs through the middle and southern sections, and Pine Tank is located immediately adjacent to the southern section. Vegetation within the Railroad Parcels consists primarily of native grasses, various thistles, and ponderosa pine. Evidence of the Rodeo-Chediski Fire which occurred in 2002 is present.

Sierra Blanca Ranch Parcel (156 acres): This private parcel is primarily bordered by the Alpine Ranger District, Apache National Forest, in Sections 27 and 34, Township 6 North, Range 29 East, G&SRM. The southeast corner of this parcel borders private land. The Sierra Blanca Ranch Parcel is located approximately 6.5 miles northwest of Alpine, Arizona. Elevations on the property range from approximately 8,430 to 8,600 feet amsl. The general vegetation is mixed-conifer forest with grasslands and open meadows. The parcel includes a wetland area approximately 82 acres in size. Three creeks meet within the wetland area. Boneyard Creek enters the parcel near the northeast corner and exits the parcel on the western boundary. Another creek (spillway from Sierra Blanca Lake) enters at the southern boundary and drains into Boneyard Creek. The third creek enters from the northern boundary and also drains into Boneyard Creek. This parcel is currently encumbered by a conservation easement held by The Nature Conservancy.

Soda Springs Ranch Parcel (157 acres): This private parcel is partially bordered by the Red Rock Ranger District, CNF within Sections 31 and 32, Township 15 North, Range 6 East, G&SRM. The Soda Springs Ranch Parcel is located approximately 7 miles northeast of Camp Verde, Arizona. The parcel also borders Montezuma Castle National Monument to the west and private land on part of the east boundary. Elevations on the parcel range from 3,575 to 3,700 feet amsl. The prominent hydrologic features include Wet Beaver Creek and Red Tank Draw, both of which cross the parcel. Montezuma Well and Soda Spring are located within ¼ mile of the parcel.

Sponseller Ranch Parcel (118 acres): This parcel is surrounded by the Black Mesa Ranger District, Sitgreaves National Forest, and is located within Sections 27 and 34, Township 13 North, Range 16 East, G&SRM. The Sponseller Ranch Parcel is located approximately 3 miles northwest of Heber, Arizona. Elevations on the property remain relatively flat at an elevation of approximately 6,600 feet amsl. The center of the parcel is dominated by blue grama and other grasses, while a number of ponderosa pine and

junipers occur along the edges of the parcel. Brookbank Canyon is the prominent drainage and crosses the length of the parcel.

Sprucedale Parcel (70 acres): This parcel is partially bordered by the Alpine Ranger District, Apache National Forest, within unsurveyed Section 35, Township 4½ North, Range 29 East, G&SRM. The Sprucedale Parcel is located approximately 14 miles southwest of Alpine, Arizona. The parcel borders ASNFs on the southwest and northwest corners and along the eastern boundary of the parcel. The remaining boundaries adjoin private land. Elevations on the property remain relatively flat at approximately 7,550 feet amsl. The prominent drainages in the area include Beaver and Horton Creeks, both intermittent streams. Vegetation within the parcel consists almost entirely of grasses, while dense ponderosa pine stands surround the area.

Alternative 2 – No Action

Under the No Action Alternative, no exchange of lands would occur between the Forest Service and First American Title Insurance Company, under Trust No. 8667. Lands would remain in current ownership.

Alternatives Considered But Not Analyzed in Detail

Public comments received in response to the proposed action provide suggestions for alternative methods for achieving the purpose and need. Some of these alternatives may have been outside the scope of consideration for land exchanges or may already be addressed in the alternatives considered in detail.

The range of alternatives considered in a discretionary land exchange is limited by the exchange process itself. A value-based balanced exchange package is arrived at by a series of proposals and counter proposals until both the non-Federal and Federal parties agree on an acceptable configuration of parcels. Once both parties agree upon an acceptable allocation of lands, the Forest Service proposes to go forward with an analysis of the proposed action. The exchange proposal analyzed in this document reflects lands mutually agreed upon by the non-Federal landowner and the Forest Service. The Federal lands, if not already classified as base-for-exchange, would be reclassified when it has been determined they meet required criteria as identified in the forest plans and a decision has been made to exchange the selected lands.

Other means of acquiring the non-Federal lands were considered but eliminated from further study. The sale of non-Federal lands to the Forest Service is an alternative to a land exchange; however, funds to purchase these privately owned parcels are presently not available and it appears funds for land purchases will continue to be limited. Even if funds were available, the land exchange proponent has made the non-Federal lands available to the Forest Service on the basis of exchange only.

Some scoping and public review comments suggested that deed restrictions be used to control potential future development on the Federal lands once conveyed into private ownership. The purpose of a deed restriction should be to limit use or development on the Federal lands after conveyance as a means of addressing environmental concerns. A deed restriction alternative on the Federal lands was considered but eliminated from further study because no environmental concerns exist that require the reservation of rights by the United States (36 CFR 254.3(h)). In addition, any potential future development on the exchanged Federal lands would be subject to all laws and regulations of the State of Arizona and zoning ordinances, including subdivision development requirements of Apache, Navajo, and Yavapai counties, as applicable. The relevant laws, regulations, and zoning ordinances contain adequate measures to assure the conveyed Federal lands, adjacent private land, and remaining adjacent NFS lands are not adversely affected. Changes in zoning typically require public review and comment at the county or city level.

Protection of the Federal lands through deed restriction is not necessary, as the intended use of the conveyed land would not substantially conflict with the established management objectives on the adjacent NFS lands. Deed restrictions are not required in order to fulfill the purpose and need. Restrictions, if imposed, also require continued Federal administration or oversight of the lands exchanged out of Federal ownership. A principle objective of the exchange is to reduce administrative requirements. The Forest Service has long taken the position that zoning and regulation of uses on private land are within the responsibility of state and local governments. Deed restrictions are not to be considered unless there is a need to protect the public interest where state or local regulations are not adequate. “Except as authorized by law, order, or regulation, Forest Service policies, practices, and procedures shall avoid regulating private property use” (USDA 2003). “Reservations and restrictions should not be used to address a social or political issue” (USDA 1995; Chapter 33.41c).

Decision Rationale

I have selected Alternative 1, the Proposed Action, as described in the Show Low South Land Exchange final EIS. I selected the land exchange decision under Alternative 1 as it best meets the purpose and need for the proposed land exchange. The Forest Service has the responsibility to manage NFS lands for appropriate public uses. This includes making adjustments in land ownership that serve the public interest and are consistent with land management planning objectives. The proposed exchange has been found to be consistent with the management direction, goals and objectives of the ASNFs, CNF, and PNF forest plans and is in the public interest (36 CFR 254.3(b)(2)). The non-Federal lands meet the ASNFs, CNF, and PNF standards and guidelines that identify them as desirable for acquisition and the Federal lands as available for conveyance under the land exchange authorities. My decision best meets the Forest Service land management objectives.

Multiple benefits are expected with the addition of the offered non-Federal lands to the NFS. These benefits include a net gain of 530 acres increasing public recreational use areas; a reduction in complex ownership patterns that would help to consolidate public land ownership; elimination of 20 miles of landline boundaries and 22 controlling corners that will contribute to management efficiency; and elimination of any possible future development on these remote private inholdings within the boundaries of the ASNFs, CNF, and PNF. Furthermore, the NFS will gain over three miles of perennial creeks and streams that provide high quality and vital habitat for the federally listed Apache trout, Gila chub, loach minnow, little Colorado spinedace, Chiricahua leopard frog, and three forks springsnail. Acquisition of these creeks and streams and associated riparian habitat also provides high quality habitat for many other species adding to the value for wildlife of the NFS land. The exchanged lands would be available for recreational use. Show Low Creek, which has potential habitat for some federally listed species, will not receive effluent and will be preserved through a post-exchange conservation easement.

The final EIS found no significant impacts to short term uses and long term productivity of natural resources and no significant adverse effects to land use, recreation and public access, socioeconomic, tourism and recreation, lifestyle, community infrastructure, property taxes, environmental justice, employment and income, demographic trends, plants, fish and wildlife (including federally listed species, migratory birds, Forest Service sensitive species or management indicator species), grazing, prime and unique farmlands, water quality, rights and claims, mineral resources, roads, fire and fuels or hazardous materials.

The proposed action will impact two federally owned historic properties and a privately owned historic property that are eligible for nomination to the National Register of Historic Places (NRHP). Transferring lands out of federal ownership that include historic properties that are eligible for the NRHP will have

unavoidable adverse effects that are irreversible on these historic properties. These adverse effects will be minimized or mitigated by retrieving the significant information from those sites and by following required mitigation measures laid out in a Memorandum of Agreement and an approved mitigation treatment plan developed for this project (see “Required Mitigation”).

During the scoping and release of the Draft EIS, several comments were received regarding the desire to maintain access to recreational opportunities, wildlife habitat, and the mountain forest character of the Show Low community. These issues were examined thoroughly in the draft EIS and implementation of the selected alternative was found to have no significant impacts to these and other resources. Comments received on the draft EIS have been addressed in the final EIS and accompanying Appendix C.

No significant impacts have been identified other than for cultural resources, and the mitigation measures developed for historic and archaeological sites are included in this decision. The Show Low South Land Exchange EIS and accompanying project record document the analysis and conclusions upon which this decision is based.

Required Mitigation

A Memorandum of Agreement and an approved mitigation treatment plan were developed to resolve the adverse effects to three historic properties. The MOA is required to comply with Section 106 of the National Historic Preservation Act as amended and pursuant to 36 CFR 800, the regulations implementing Section 106. The mitigation measures stated in the MOA including the treatment plan and NAGPRA Plan of Action are required for implementation of the selected alternative and are hereby incorporated as part of the ROD. Responsible parties for implementing mitigation measures may include the Arizona State Historic Preservation Officer, Forest Service line officers and cultural resource specialists, Show Low Land Exchange, LLC, the Pueblo of Zuni, and the Hopi Tribe. Responsibilities for ensuring that these mitigation measures are implemented rests with the Forest Service and Show Low Land Exchange, LLC. The MOA has been signed by the Regional Forester and the Arizona State Historic Preservation Officer.

Findings Required by Other Laws and Regulations

The analysis of exchanging land between federal and non-federal entities must comply with numerous statutory requirements, including the following acts.

National Forest Management Act

The proposed land exchange has been found to be consistent with the management direction, goals and objectives of the ASNFs, CNF, and PNF forest plans and is in the public interest (36 CFR 254.3(b)(2)). The non-Federal lands meet the ASNFs, CNF, and PNF forest plans standards and guidelines that identifies them as desirable for acquisition, and the Federal lands as available for conveyance under land exchange authorities.

When acquired, the non-Federal lands will be incorporated into the Management Areas in which they are located (36 CFR 254.3(f)). Management objectives for the parcels would be the same as surrounding federal lands, unless otherwise changed by future amendment of the ASNF, CNF, or PNF forest plans. No site-specific forest plan amendment is required.

National Environmental Policy Act

This decision is in accordance with the National Environmental Policy Act of 1969 (NEPA, 42 USC §4321-4347). The NEPA provisions have been followed as required under 40 CFR 1500. The FEIS and ROD comply with the intent and requirements of NEPA. The FEIS analyzes a range of reasonable alternatives, including the “no action” alternative. It also discloses the expected impacts of each alternative, and discusses the identified issues and concerns. This document describes the decision I have made and the rationale for making the decision.

Endangered Species Act

This decision complies with the environmental conservation law of the Endangered Species Act of 1973 (ESA, 7 USC §136, 16 USC §1531). The ESA was implemented to protect endangered and threatened species from extinction. The FEIS and ROD comply with the laws, plans, permits, agreements and species protection/listing statuses of the ESA. The FEIS identifies all issues and concerns related to any threatened or endangered species that could be affected by the Show Low South Land Exchange, analyzes reasonable alternatives including the “no action” alternative and discloses the expected impacts of each alternative.

Migratory Bird Treaty Act

This decision is in accordance with the Migratory Bird Treaty Act of 1918 (MBTA, 16 USC §§ 703-712). The MBTA is an agreement enacted between the United States and Great Britain that provides protection for migratory bird species. The FEIS and ROD comply with the laws outlined in the MBTA that provide protection for migratory birds in the United States. The Show Low South Land Exchange FEIS highlights any concerns related to migratory birds and analyzes the impacts of all reasonable alternatives (including the “no action” alternative) in relation to the MBTA.

Executive Order 11990 Wetlands

This decision is in compliance with EO11990, which requires Federal agencies to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out agency responsibilities for acquiring, managing, and disposing of Federal lands and facilities. This decision will result in a net gain of approximately 110.5 acres of wetland areas (FEIS p. 83) that will come under the protection of federal ownership.

Executive Order 11988 Floodplains

This decision is in compliance with EO11988, which requires Federal agencies to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out agency responsibilities for acquiring, managing, and disposing of Federal lands and facilities. This decision will result in a net gain of 163 to 166 acres of floodplains (FEIS p. 83) that will come under the protection of federal ownership.

National Historic Preservation Act

This decision is consistent with the National Historic Preservation Act of 1966 as amended (NHPA; Public Law 89-665, 16 USC §470 et seq.). The NHPA is a legislative law that preserves and protects historical and archaeological sites in the United States. The law requires all Federal agencies to take into account the effects of their undertakings (actions, financial support, and authorizations) on properties

included in or eligible for the National Register. In addition, it initiated the National Register of Historic Places, the list of National Historic Landmarks, and the State Historic Preservation Offices. The Show Low South Land Exchange FEIS and ROD comply with the legislation of the NHPA. The FEIS discloses the expected impacts to historic and archaeological sites in the area, analyzes the impacts of all reasonable alternatives (including the “no action alternative”) in relation to the NHPA. When adverse effects are identified by the analysis process, NHPA requires preparation of a Memorandum of Agreement in consultation with the Arizona State Historic Preservation Officer, the Advisory Council on Historic Preservation, and associated tribes. The ASNFs has developed the required Memorandum of Agreement to mitigate and resolve the adverse impacts to two archaeological sites and one historic building.

Archaeological Resources Protection Act

This decision is consistent with the Archaeological Resources Protection Act of 1979 as amended (ARPA) (16 U.S.C. 470aa et seq). ARPA establishes a permit process for the excavation or removal of any archeological resources from Federal lands. If a permit issued may result in harm to, disturbance to, or destruction of, any religious or cultural site, as determined by the federal land manager, the federal land manager shall notify any federally recognized tribe that may consider the site as having religious or cultural importance. This law also establishes criminal and civil penalties for illegally excavating, removing, damaging, or defacing any archeological resources on federal lands. It further establishes provisions for the confidentiality of archeological resources on public lands. To implement the selected alternative of the Show Low South Land Exchange FEIS and ROD, the necessary permits required by ARPA will be acquired and issued.

American Indian Religious Freedom Act

This decision is consistent with the American Indian Religious Freedom Act (AIRFA) of 1978, as amended (42 U.S.C. 1996). The law protects and preserves for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use, and possession of sacred objects and the freedom to worship through ceremonial and traditional rites. The FEIS and ROD complies with the AIRFA. Throughout the NEPA process the ASNF consulted American Indian tribes that are associated with the federal lands included in the alternatives that could leave federal ownership. No access issues or traditionally used lands were identified by the tribes which could be affected by the selected alternative. The selected alternative will not affect the right of American Indians to access federal lands used to express and exercise ceremonial and traditional rites.

Native American Graves Protection and Repatriation Act

This decision is consistent with the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) (25 U.S.C. 3001). The laws provides a process for federal agencies to return Native American human remains, funerary objects and sacred objects to the ancestors and appropriate Native American tribe. The law also includes provisions for the intentional excavation and unanticipated discovery of Native American cultural items on federal and tribal lands. Human remains are not expected to be discovered at the archaeological sites that will be adversely affected. A NAGPRA plan of action was developed as part of the MOA (Appendix A) in consultation with the tribes culturally associated with the adversely effected archaeological sites in case of inadvertent discovery of human remains. Implementation of the MOA is required to implement the selected alternative. The Show Low South Land Exchange FEIS and ROD comply with the legislation of NAGPRA.

Objection Review, Final Decision, and Implementation

The Show Low South Land Exchange project is subject to the objections process pursuant to 36 CFR 218, which provides for a 45-calendar-day objection filing period. If no objections are filed within the 45-day time period, the final ROD may be signed 5 business days following the end of the objection filing period indicating approval of the project for immediate implementation. If objections are filed, all objections must be resolved within a following 45-calendar-day resolution period starting the day following the filing period. Once responses to the objections are completed and recorded in writing, and any direction from the Reviewing Officer completed, the final ROD may be signed to initiate immediate implementation. Following 36 CFR 218 no legal notice is required once a final decision is signed. However, the Forest Service may choose to release a legal notice for notification or send a letter or news release to notify interested parties of the availability of the final decision document(s).

Contact

For additional information concerning this decision, contact Randall Chavez, Recreation and Lands Staff, address: 2022 W. White Mtn. Blvd. Lakeside, AZ, 85929; phone: 928-368-2106; and email: rchavez02@fs.fed.us.

JAMES E. ZORNES
Forest Supervisor
Apache-Sitgreaves National Forests

Date

Figure 1. Non-Federal and Federal parcels to be exchanged on the Apache-Sitgreaves National Forests

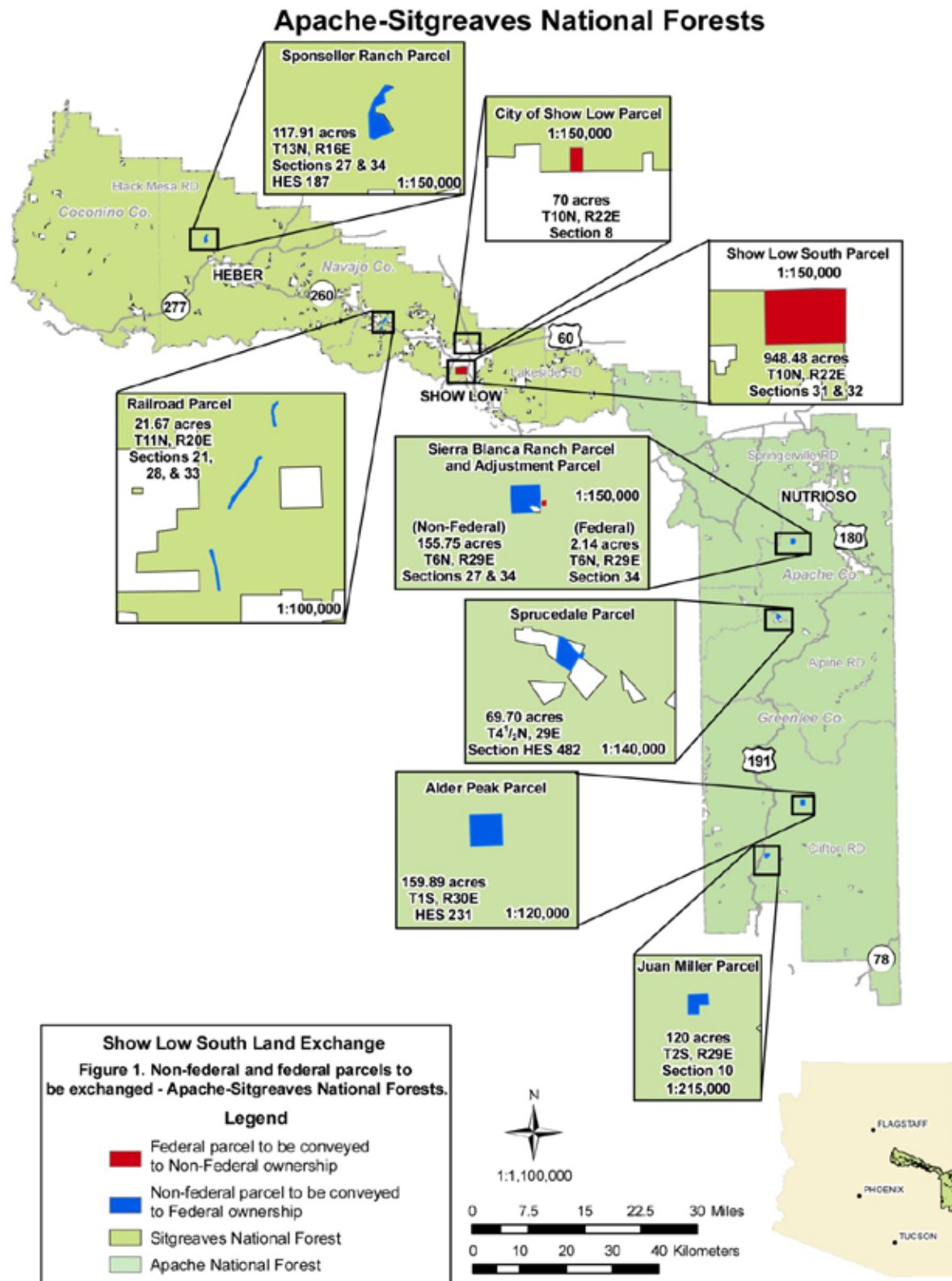


Figure 2. Non-Federal and Federal parcels to be exchanged on the Coconino and Prescott National Forests.

