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Hermosa Park/Mitchell Lakes Land Exchange

Frequently Asked Questions

- Updated August 18, 2009 -

In compliance with the National Environmental Policy Act and other federal laws and regulations, the U.S. Forest Service (USFS) has prepared a Draft Environmental Impact Statement (Draft EIS) to analyze a proposed land exchange between Tamarron Properties Associates and the USFS. The proposed action is referred to as the Hermosa Park/Mitchell Lakes Land Exchange. It involves federal and non-federal lands in the San Juan National Forest (SJNF). The USFS is seeking public comments on the Draft EIS for 45 days and will hold public meetings and field trips during the public comment period.

What is the proposal studied in the Draft EIS?

Through the Proposed Action, the USFS would exchange approximately 265 acres of SJNF lands in La Plata County for approximately 330 acres of privately owned lands in La Plata and San Juan counties. All of the parcels involved are located within the Columbine Ranger District of the SJNF. The 265-acre federal parcel is one contiguous tract 14 miles north of Durango on the southern edge of the Haviland Lake/Chris Park Recreation Area and adjacent to Tamarron Resort. The non-federal parcels consist of three tracts in separate locations within the Animas River drainage. The 160-acre Mitchell Lakes parcel is on the west slopes of Animas River Valley, roughly one mile west of U.S. Highway 550 and 11 miles northeast of Durango. The 160-acre Hermosa parcel is located in Hermosa Park about 22 miles northwest of Durango. The 10-acre Iron Clad parcel is in the Weminuche Wilderness Area 4.7 miles southeast of Silverton.

Why is the USFS considering this land exchange?

The privately owned inholdings are within the boundaries of the SJNF. The Hermosa and Mitchell Lakes parcels are surrounded by public lands on all sides and the Iron Clad mining patent is surrounded by public lands on three of its four sides. These non-federal properties have high natural and social resource attributes that would be a valuable addition to the SJNF. These attributes, their potential for loss under private management and the concern for resource values on the adjacent NFS lands were the key motivating factors in the USFS decision to enter into a consideration of this exchange proposal.

The USFS has long recognized the natural resource values of the isolated, undeveloped private parcels associated with this land exchange proposal. The agency also realizes that incompatible land-management strategies, such as development of these properties in the future, would most likely have a negative influence on the adjacent public lands. The SJNF has made both informal inquiries and formal attempts toward the acquisition of these properties in the past, however, the offered price has exceeded fair market value, making the parcels unavailable for purchase under existing federal regulations.

What is the background of this project?

In 2005 the proponent approached the Forest Service with a proposal to initiate an exchange that involved the Hermosa Park and Mitchell Lakes properties. From there, the original proposal was amended through a collaborative process of proposals and counter-proposals between the two parties. Through this process, the initial boundaries of the federal parcel were substantially

altered to address resource and recreation concerns, resulting in a much smaller parcel than was originally proposed. In addition, the Iron Clad parcel, a patented mining claim, was added to the exchange offer to enhance the benefit to the public and to ensure an equalization of monetary values. An amended version of the proponent's original proposal is identified as the preferred alternative in the Draft EIS.

How would the public benefit if the USFS acquired the private parcels?

The USFS has determined that, while there are "trade-offs" in terms of resource values gained and lost through the exchange, the net result would be an overall benefit to public in the following ways:

- The private parcels proposed for acquisition by the public are privately owned properties (inholdings) within the boundaries of the SJNF. The Hermosa and Mitchell Lakes parcels are surrounded by public lands on all sides. The Iron Clad patented mining claim is surrounded by public lands on three of its four sides, and is within the Weminuche Wilderness. All involve public trail systems and public uses that would be enhanced if the parcels were added to the SJNF.

- Private development would most likely be incompatible with USFS management of adjacent public lands and result in irretrievable losses to natural-resource values. Other incompatible side effects of their development would include trespass, requests for improved access and rights-of-way across public lands for development infrastructure, and a variety of other issues that arise when private inholdings are developed.

- Public acquisition of the Mitchell Lakes and Hermosa Park parcels, which are within the boundaries of the National Forest and adjacent to the Hermosa Roadless Area, would make the properties unavailable for future development. The acquisition of the Iron Clad parcel would increase public access along the Whitehead Trail near Silverton and prevent development in the Weminuche Wilderness.

- Public acquisition of the private parcels would allow the USFS would jurisdictional control over valuable natural resources, including segments of major stream courses, wetlands, floodplains, and important wildlife habitat and areas with high scenic and recreational value. The acquisition of the private parcels would also enhance and protect resource values on the adjacent SJNF lands.

- The proposed land exchange would result in the creation of more consolidated federal and private ownership patterns in the SJNF, reducing the cost of federal management and increasing management efficiency.

- A current trespass situation, whereby a corner of the proponent's golf course encroaches in the southwestern corner of the proposed federal exchange parcel, would be resolved.

Description of Hermosa Park Parcel (currently private property)

The parcel lies along the Hermosa Park Road (Forest Road #578), a well-maintained and popular scenic drive along the East Fork of Hermosa Creek in La Plata County. The road is part of a very popular 4WD route connecting Hermosa Park to Rico over Bolam Pass. A local snowmobile club grooms the road during winter for commercial and private snowmobile use. The upper trailhead and developed parking area for the Hermosa Creek Trail is located 400 feet from the eastern boundary of the private parcel, and the trail passes through the lower southeast corner of the property as it enters the Hermosa Canyon. The trail is one of the most popular multiple-use trails on the SJNF, receiving heavy use from hikers, horseback riders, mountain bikers, anglers and hunters. The private property's location, open character and gently rolling topography offer a high level of visibility from both the road and trail system.

The overall Hermosa Park area is a popular destination for winter and summer visitors and is valued by the public for its scenic qualities and recreational opportunities. Many visitors to the area do not realize the scenic views they enjoy from the Upper Hermosa Trail and Trailhead and Hermosa Park Road are of this private parcel and not protected from development.

The Hermosa parcel is also important in terms of its ecological values and influence on adjacent SJNF lands. Both Hermosa Creek and the East Fork of Hermosa Creek pass through the parcel just above their confluence. These streams, including those reaches within the private parcel, have been recommended for Wild and Scenic designation in the SJNF Draft Resource Management Plan. About 1.6 miles of live stream on the parcel provide excellent fish habitat, representing a central component in the Colorado Division of Wildlife's (CDOW) Colorado River cutthroat trout recovery plan for Hermosa Creek. The streamside riparian corridor provides habitat for a number of wildlife species. About 36 acres of associated riparian wetlands and 59 acres of active floodplain play an important role in sediment capture, regulation of stream flows, and bank stabilization in the downstream channel. The parcel provides 69 acres of habitat for the federally listed Canada lynx and lies on the edge of a key lynx-linkage corridor.

Residential development of this private parcel could have a substantial effect on the character of what is now a relatively pristine subalpine valley. Views from adjacent recreational facilities would be significantly altered by its development. Private development would also pose negative impacts to Hermosa Creek for many miles downstream through alterations in stream flow and water quality. The USFS would likely also have to address future administrative issues associated with development, such as an upgrading of the Hermosa Park Road, placement of support infrastructure (power, phone, etc.), and winter access.

Description of Mitchell Lakes Parcel (currently private property)

This 160-parcel is on the eastern edge of the Hermosa Roadless Area atop the western cliffs that frame the Animas River Valley north of Durango in La Plata County. Even though the private property is within a mile from U.S. Highway 550, its setting and overall character are remote. The area may be accessed via the 4WD Pinkerton Road from U.S. Highway 550 or from the Jones Creek Trail in Lower Hermosa Creek. In summer, the road is used by a commercial outfitter/guide service for daily horseback rides.

The area is characterized by open upland meadow surrounded by steep mountain slopes with mid- to late-successional ponderosa pine and warm-dry mixed conifer forests. Also present are almost nine acres of wetlands that provided suitable habitat for several amphibian species, including one species of high conservation concern. Portions of the wetlands are connected to wetland systems on the adjacent SJNF. Due to its remote setting and diverse ecological character, the Mitchell Lakes area has been identified by the Colorado Division of Wildlife as important habitat for a number of terrestrial wildlife species, including elk, mule deer and black bear.

If residential development were to occur on the property, many of its natural-resource values would likely be lost, and recreation, wildlife and wetlands values on the adjacent SJNF would be impacted. The USFS would likely also have to address future administrative issues associated with development, such as construction of a new road on a currently held easement, placement of support infrastructure (power, phone, etc.), and winter access.

Description of Iron Clad Mining Patent (currently private property)

This 10.3-acre patented mining claim is 4.5 miles southeast of Silverton at high elevation in the Weminuche Wilderness in San Juan County. Due to the general incompatibility with Wilderness values and management, the USFS welcomes the prospect of consolidating lands within Wilderness when the opportunity is presented. Approximately ¼-mile of the Whitehead Trail passes through the parcel. This trail segment is part of a popular loop that includes the Highland Mary Lakes, Verde Lakes and Deer Park. Any disruption to the trail through this area

or any development along the trail would have a substantial impact on the Wilderness user experience. Other resource values associated with this parcel include 0.1 acres of high-elevation wetland habitat and 310 lineal feet of perennial stream.

Why can't the USFS acquire these properties in another manner?

The USFS has made both informal inquiries and formal attempts toward acquisition of these properties through direct purchase or land exchange over several decades. However, the offered price for the properties has always exceeded fair market value, making them unavailable for purchase under existing federal regulations. The proponent to this land exchange now owns the Hermosa parcel and holds the first option to purchase the Mitchell Lakes and Iron Clad properties. Neither the proponent nor other associated landowners has indicated any interest in selling these lands outright to the USFS. Because a federal purchase must occur with a willing seller, the land-exchange process is one of the few remaining viable options left to the agency in acquiring these properties.

What would be traded out of federal ownership in the land exchange?

The USFS recognizes that the federal parcel south of Chris Park offers important natural and social resource values that would move out of public ownership through the exchange. These include wetlands, wildlife habitat, recreational trails and dispersed recreational opportunities, cultural features, and scenery.

The 265-acre federal parcel is 15 miles northeast of Durango in La Plata County, roughly one mile south of Haviland Lake. It lies east of U.S. Highway 550 between Chris Park and the northern boundary of the Tamarron Resort properties. The parcel is a glaciated landscape of benches, cliffs, and small hills dominated by mid-successional ponderosa pine with a Gambel oak understory. Pothole wetlands occur on the eastern third. There are small patches of older individual trees on protected rocky slopes and ridges, but none of the stands qualifies as old growth, based on structure or age class. Three shallow ponds often have surface water year long, while several smaller ponds have surface water only after spring runoff or heavy rainfall.

Large rock outcrops create habitat for reptiles, rodents, bats, and offer denning habitat for larger mammals, such as fox and bear. The broken landscape of outcrops and glacial deposits enhances the quality of the security and escape cover for elk and deer. Another important wildlife feature is a vertical cliff band that provides habitat for bats and cliff-nesting birds, and enhances security habitat for larger mammals.

The high amount of human use of this parcel impacts the quality of wildlife habitat for some species. Public access is available from the Chris Park Campground, via an extensive social trail system, a gravel road accessing nearby private property, the highway, and several residentially developed areas. Even with the high levels of human presence, a variety of birds and mammals use the federal parcel on a transitional, seasonal or full-time basis. The western bench and the southeast corner of the parcel, which currently have no distinct trail systems, appear to receive only low levels of human visitation. These areas are both heavily used by elk and deer during transitional periods, and evidence of bear is found throughout the area.

What alternatives are studied in the DRAFT EIS?

Alternative I – No Action Alternative (existing condition – land exchange would not occur)

Alternative II - Preferred Alternative

The Proposed Action has been selected as the Preferred Alternative. Under the Proposed Action, the USFS would exchange a 265-acre parcel of SJNF lands in La Plata County for three private inholdings in La Plata and San Juan counties. Through the exchange the non-federal lands would be conveyed to public ownership and become part of the SJNF under the administration of the USFS. These non-federal parcels total approximately 330 acres in size. Through the exchange the proponent would acquire complete ownership and full rights to the federal parcel and would incorporate the property into its existing resort development. Based

on a conceptual plan, a nine-hole golf course and up to 125 residential units (under an existing development agreement with La Plata County) would be constructed on the property.

Under the Proposed Action, the USFS would also grant an easement from U.S. Highway 550 across SJNF lands to the northwest corner of the parcel. This 60-foot wide easement would allow for construction of a paved 24-foot wide, full-access road into the northwest corner of the exchange parcel. The length of the road would be approximately 2,970 feet from the highway to the boundary of the federal parcel. This road would provide year-round access for up to 65 residential units to be located on the upper bench in the western portion of the property. A public parking area would be constructed along the roadway on SJNF lands to provide off-highway parking for access to the existing trail system in this area.

To mitigate the loss of existing recreational trails that would occur through the Proposed Action the USFS would construct a new trail along the eastern side of Elbert Creek from just below the Haviland Lake dam to Chris Park. This new, approximately 1.9-mile trail segment would connect to the existing trail system that runs along the upper bench on the western side of Elbert Creek. The trail would be available for all non-motorized users including the equestrian outfitter that is currently authorized to use the Haviland/Chris Park area under an outfitter-guide special use permit. In addition to the Lower Elbert Creek trail an approximately 0.5 mile trail segment originating on the west side of Chris Park Road north of the campground would be constructed to maintain the connectivity between the trail networks on the east and west sides of Chris Park Road. The cost of construction for both of these trails would be paid for by the proponent.

Alternative III – Modified Northern Boundary with Emergency Access Road
Under this alternative a portion of the northern federal parcel boundary, as configured under Alternative 2, would be moved to the south to coincide with an existing ridgeline. This would decrease the total size of the Federal parcel to approximately 243 acres. This shift in boundary would reduce the potential for visual and auditory impacts to Chris Park Campground and the trails along the northern boundary of the Federal parcel. It would also reduce potential impacts to wetland and forest habitats occurring at the northern edge of the parcel.

Under Alternative 3 a gated emergency-only access easement would be granted by the USFS from the U.S. Highway 550 to the northwest corner of the Federal parcel. This road would follow the same alignment as that discussed under the Proposed Alternative. However, the road would be reduced in size to a 20-foot wide graveled driving surface and would be available for use only as an emergency access. A gate would be placed near the junction of the access road and the highway, and the gate would be locked except during emergency situations. No public parking area would be available to the public under this alternative but the roadway would still be available for non-motorized travel (i.e., hiking, skiing). As a result of limitations relating to the development agreement with the County, this would reduce the total number of residential units that could be built on the western bench to 15 units. The remainder of the total 125 units would presumably be built in the eastern portion of the Federal parcel below the bench.

Under Alternative 3 the existing user-created “social trail” along the southern edge of Chris Park would be realigned and reconstructed to mitigate a portion of the loss of social trails that would occur through the exchange of the Federal parcel. This reconstructed trail would enhance connectivity between the trail networks on the east and west side of Chris Park Road and resolve wetland and erosion issues associated with the current trail alignment. The Lower Elbert Creek trail would not be constructed under this alternative.

As a result of the elimination of the full year-round legal access to the federal parcel there will likely be a decrease in the fair market value of the property. Land exchanges, by law, require that fair market value of the properties being exchanged are equal in value with cash equalization payments allowed up to 25% the appraised value of the Federal parcel by either

party. This potential diminution in value may affect the equalization of values between the Federal and non-Federal properties and could result in a reduction in the non-Federal properties offered in the exchange.

Alternative IV – Modified Northern Boundary with No Access Road
Alternative 4 is identical to Alternative 3, except that no road easement would be granted by the USFS to access the western portion of the federal parcel from U.S. Highway 550. As in Alternative 3, the elimination of the access road and the decrease in acreage would likely affect the overall fair market value of the federal property and may result in the reduction of the private properties offered in this exchange. This alternative would include reconstruction of the trail along the southern edge of Chris Park as described under Alternative 3, but the Lower Elbert Creek trail would not be constructed under this alternative.

Is the proponent's original proposal now the Preferred Alternative?
The Preferred Alternative in the Draft EIS represents a modified version of the proponent's original proposal. In 2005 Tamarron first approached the Forest Service with a proposal to initiate an exchange that involved the Hermosa Park and Mitchell Lakes properties. From there, the original proposal went through several revisions during a collaborative process of proposals and counter-proposals between the two parties. Through this process, the initial boundaries of the federal parcel were substantially altered to address resource and recreation concerns, resulting in a much smaller parcel than was originally proposed. In addition, the Iron Clad parcel, a patented mining claim, was added to the exchange offer to enhance the benefit to the public and to ensure an equalization of monetary values.

How were the alternatives developed?
The Draft EIS was completed after a year of review incorporating hundreds of public comments received during the initial scoping period, consultation with other agencies, and study by the San Juan National Forest Interdisciplinary Team. The Draft EIS presents four draft alternatives for public review and comment, identifies a Preferred Alternative, and studies the impacts associated with each alternative. It identifies the issues involved in the proposed exchange and analyzes mitigation measures for impacts to natural, cultural and social values.

What alternatives were considered but dismissed?
Public comments received during the scoping period provided suggestions for alternative methods for achieving the purpose and need. Some of these alternatives may have been outside the scope of the proposed action or duplicative of the alternatives considered in detail. Those suggested alternatives that were considered, but dismissed from detailed consideration, are described below with a summary of the reasons why they were eliminated from detailed analysis.

Initial Proponent Proposals
In 2005 the proponent first approached the Forest Service with two different federal parcel configurations for consideration in an exchange process, both of which included substantially larger acreage for the federal parcel. The Forest Service rejected both of these options outright because of significant impacts to the network of user-created trails and Chris Park campground.

Direct Purchase of Non-Federal Properties
Some suggested that the USFS should purchase the private parcels associated with this exchange using public funds. Historically, the USFS has acquired critical non-federal parcels through a Congressional appropriation from the Land and Water Conservation Fund (LWCF). While the acquisition of these non-federal parcels would be desirable, based on past experience, this alternative was dropped from further consideration because of the limited LWCF appropriations that exist today. Informal contacts made with the former landowners over the last 20 years regarding a purchase or exchange option met no success. The proponent has made the private parcels available to the USFS on the basis of exchange only, and has indicated no interest in conveying the parcels to the USFS through a direct sale. Therefore, the

USFS concluded that the land-exchange process offered the most viable means of acquiring these properties.

Exclusion of Wagon Road from Exchange
A segment of a historic wagon road, which passes through the federal parcel, would be conveyed into private ownership through each of the three action alternatives. The USFS examined the possibility of removing the historic wagon road and a 250-foot wide buffer on each side of it from the federal parcel. The resulting strip of land would have extended from the southern boundary to the northern boundary of the parcel and decreased the parcel size by approximately 36 acres. The altered configuration and reduced acreage would have likely decreased the appraisal value of federal parcel to a degree that equalization of monetary values between the federal and non-federal properties would not have been possible. Therefore, it was decided to remove this alternative from detailed consideration. Additionally, the proponent indicated that these changes would limit design options to a point that he could no longer achieve the objectives that originally motivated him to initiate the exchange proposal. As a result, he felt that he could not, in good faith, continue with the analysis process with this alternative as a possible outcome of the decision-making process.

What issues are studied in the DRAFT EIS?
The Draft EIS summarizes the physical, biological, social, and economic environments of the project areas and the impacts of implementing each alternative on that environment. Issues studied include:

Recreation issues relating to possible lost recreational opportunities occurring through the exchange of the federal parcel, impacts to the existing trail systems, and effects to the Chris Park Campground.

Visual Resource issues relating to potential visual impacts that could occur through development on the federal parcel as viewed from the scenic byway along U.S. Highway 550, Chris Park Campground, and the trails along the northern boundary of the federal parcel.

Road Easement issues arising from the proposal to grant an easement for an access road from U.S. Highway 550 to the northwest corner of the federal parcel. Resources that could be affected include scenic resources, trails, and outfitter operations.

Historic Wagon Road issues relating to the loss of public access to and the possible obliteration of a portion of the existing historic wagon road that passes through the federal parcel

Wildlife issues, including effects to migration corridors and loss of key habitats, potential adverse effects from the development anticipated on the federal parcel after the exchange to threatened and endangered species and species of high conservation concern, and the general effects to wildlife populations on SJNF lands.

Wetlands issues primarily related to the impacts that might occur to the glacial pothole and other wetland features within the federal parcel in terms of the potential loss of wetlands, effects to wetland functioning, and potential effects to rare plants that might inhabit these areas.

Old Growth Forest issues concerning the possible loss or functioning of late successional ponderosa pine forests on the federal property.

Socio-economic issues relating to potential lost educational opportunities, impacts to outfitter services, and losses to the local tourist and outdoor recreation-based economy resulting from a reduction in recreational opportunities in the accessible Haviland Lake area (includes issues relating to a social class shift from existing public use on the federal to exclusive use by private entities after the exchange).

Reasonably Foreseeable Development Scenario for Inholdings issues associated with possible outcomes that could occur through the non-federal parcels remaining in private ownership in the absence of an exchange (i.e. the ecological, recreational, scenic and other resource values that could be lost on the private properties through such outcomes as residential development, and potential resource impacts that might occur to the adjacent SJNF lands).

Forest Plan Compliance issues relating to how the proposed action complies with the direction provided in the current SJNF Resource Management Plan.

Process Issues relating specifically to management of the land-exchange process and its analysis, the appraisal process, alternative approaches for acquiring the non-federal lands, and concerns associated with the NEPA assessment process.

What would happen to the federal parcel if it is exchanged out of federal ownership?
The Draft EIS assumes that the residential development, which would occur on the federal parcel following an exchange, would not exceed the 125 units that have already been agreed upon by La Plata County through an existing development agreement. Specific design criteria provided in the development agreement with the County, such as those pertaining to building heights, ridge-top development, stormwater drainage, water usage, fuels management, and air quality, would be adhered to in any amended agreements associated with future development on the federal parcel. The conceptual plan offered by the Proponent for the Proposed Action generally offers a reasonably accurate portrayal of the eventual location of the different development components (i.e., golf course fairways, buffers, residential building areas).

Under Alternative 2, no more than 48 residential units would be constructed on the upper bench in the western portion of the Federal parcel. Under Alternative 3, no more than 15 residential units would be constructed in this area, due to constraints related to access. Under Alternative 4, no residential development would occur on the upper bench. However, it is understood that the USFS would have no jurisdictional control over the parcel if the exchange were completed.

What could happen to the private parcels if they are not acquired by the USFS?
The Hermosa and Mitchell Lakes parcels could each be subdivided into four residential lots, 35-acres or greater in size, without having to enter into a formal subdivision process with the County. However, the County would still have to approve development plans before any residential construction could occur on these properties. On the Iron Clad parcel, one residential unit could be constructed with the recommendation of the San Juan County planning commission and approval by the Board of County Commissioners.

Considering that the Hermosa parcel is currently owned by the proponent, a prominent developer in the local market, it is likely that this parcel would eventually be developed. Considering that there is an approved easement for reconstruction of the access road to the Mitchell Lakes parcel and that similar properties have been developed in the vicinity, it is likely that this parcel would eventually be developed. While the Iron Clad parcel is somewhat remote and lacks developed access, there is the potential this parcel could be developed at some level that could affect the surrounding public lands.

What public involvement has taken place so far?
On June 12, 2007 a scoping notice was mailed to 123 community residents, interested individuals, pubic agencies and organizations. The notice was also distributed at local USFS offices. This notice was designed to solicit comments, concerns and issues pertaining to the Proposed Action. A press release and legal notice were also issued in local and regional media providing notification of the proposal and to further encourage comment on the proposal from the general public. Two open house meetings were announced in these notices and subsequently held on June 21, 2007 at the Purgatory Village Community Conference Center

and June 25, 2007 at the San Juan Public Lands Center in Durango. Additionally, two field trips were held on June 28 and 29, 2007 to visit the federal and non-federal properties associated with the exchange. Local newspapers have covered this project in a number of articles since the beginning of the scoping process, and the project has been the subject of a number of comments from the public through "letters to the editor" in local papers, including the Durango Herald and Durango Telegraph.

The formal scoping period during which the USFS accepted public comment for inclusion into the Draft EIS process took place from June 11 to September 10, 2007. This included an extension of the initial 45-day scoping period. The USFS received 402 public comments in response to its scoping solicitations. Based on comments received and the issues raised by the various publics and internal specialists, the agency determined an EIS was the most appropriate level of analysis for the project. Subsequently, the agency published a Notice of Intent to prepare an environmental impact statement for the proposed land exchange in the Federal Register on May 8, 2008.

What public involvement is now underway?

A public meeting is scheduled for Wednesday, September 2, 2009, at the Durango Public Library. From 5:30 – 6:30 p.m., an open house will be held for members of the public to ask questions of USFS staff and to sign up to offer oral comments. From 6:30 – 9 p.m., oral comments will be recorded into the public record for the Draft EIS. Sign-up sheets and schedules for field trips will be available at the public meeting. Written comment forms will also be available. Comments will be accepted for 45 days following the date of publication of a Notice of Availability in the Federal Register. The deadline for comments is October 1, 2009.

What is the status of the appraisals for the parcels?

The appraisals were completed by Kevin Chandler, MAI of Chandler Consulting. He is from Steamboat Springs, Colorado and has extensive experience in appraisals in and around resort communities through Colorado. The Member, Appraisal Institute (MAI) designation is one of the most recognizable professional appraisal designations and indicates a higher level of knowledge and experience in appraisal practice as well as requiring additional education and demonstration of one's appraisal expertise.

The appraisal information regarding the value of the Federal and non-Federal properties will not be available on August 14, 2009, as previously announced in the USFS notification letters. Because of the current workload, a shortage of appraisers in the Region, and an ongoing large case load with recreation residence appraisals required in 2009 and 2010, the expected release date for the information will be September 4, 2009.

Timothy J. Hansen, Senior Review Appraiser for USFS Region 2, is currently conducting the final review of the appraisal report. If no changes are necessary, the report and values will be approved. The values will be released to the public as soon as the Senior Regional Appraiser for the Forest Service has completed the final review and approved the appraisal reports. This is still well within the public review and comment period for the Draft EIS.

Review of the appraisal reports is required by federal law and regulation. Once they are reviewed and approved by the review appraiser, the results of those appraisals will be transmitted to the Forest, along with the Technical Appraisal Review Report, which details the review appraisers observations related to the appraisal of the subject property. The appraisal refer does not pertain to the value determination, but to the quality of the appraisal report. In a sense, it is a critique of the appraisal with analysis of whether or not it meets the standards of Uniform Appraisal Standards for Federal Land Acquisitions, the Uniform Standards of Professional Appraisal Practice (USPAP), and U.S. Forest Service appraisal specifications.

The UASFLA, also known as the "Yellow Book," is a set of standards that must be met for almost all appraisals completed for federal real estate actions. These standards supersede

USPAP, where there are conflicts, and are considered supplemental standards to USPAP. The USPAP is a set of standards that all appraisers and appraisals must conform to. These are promulgated by the Appraisal Foundation, which was created by Congress to oversee the licensing and practice of appraisal.

After the appraisal reports have been approved, they are available through the Freedom of Information Act (FOIA). A written request must be submitted to the USFS, either at the District level, Forest level, or to the Director of Physical Resources in the Regional Office. The request will be assigned a tracking number by the FOIA Specialist to ensure timely release of information. Requestors may be charged a fee for duplication of the requested material. This will be determined by the FOIA Specialist at the time of request. After evaluation of the request by the person responsible for the release of the requested information, if approved, the information will be provided to the requestor within 20 business days of the request. The Director of Physical Resources in the Regional Office is the official authorized to release appraisal information. If the request is denied in whole or in part, the denial must be approved by the Regional Forester.

How are values determined?

Appraisals are prepared on an "as is" basis. This means that the property is appraised as of the date of value for the appraisal which is typically the last inspection date. Appraisers are prohibited by both UASFLA and Forest Service appraisal specifications from valuing a property as though it has already been rezoned for a different use. Appraisers may consider the adaptability of the property to a different type of zoning, but cannot appraise the property as though the zoning has already been changed. Any appraisal that is based on a transitional use must account for the risk involved to any potential purchaser on the open market, not the value to a particular owner or buyer. "Documentation of a pending request and speculation as to possible outcome by a local zoning authority is not adequate in and of itself to support a change in the highest and best use." (FSH 5409.12, Ch. 10, Section 13.34)

The Federal Land Policy and Management Act (FLPMA) of 1976, as amended, requires that the value of exchanged lands be equal, but can be adjusted for any difference in value by cash equalization payments of up to 25% of the value of the federal lands. USFS regulations require that values for exchange purposes be determined by appraisal.

Appraisals of the market value of the federal and private parcels proposed for exchange must conform with the Uniform Appraisal Standards for Federal Land Acquisitions, the most recent edition of the Uniform Standards of Professional Appraisal Practice and written appraisal specifications for the exchange issued by the USFS Review Appraiser. While the proponent pays for the appraisals, the appraiser works at the direction of the USFS Review Appraiser, who is ultimately responsible for review and approval of the appraisals.

The appraisals form an opinion of the market value of the properties, defined as:

> "the amount in cash, or terms reasonably equivalent to cash, which lands or interest in lands should bring in a competitive and open market under all conditions requisite to a fair sale, where the buyer and seller each acts prudently and knowledgeably, and the price is not affected by undue influence." (36 CFR 254.2)

Three traditional approaches to arriving at a property's market value are used by appraisers. These are the sales comparison approach, the cost approach, and the income approach. When appraising unimproved land, the cost and income approaches are typically not relevant.
The sales comparison approach is based on the proposition that an informed purchaser will pay no more for a property than the cost of acquiring an existing property with the same utility and desirability. Therefore, a property's "highest and best use" must be determined prior to identifying comparable properties. The four criteria used to determine a parcel's highest and best use are legal permissibility, physical possibility, financial feasibility and maximum productivity.

UASFLA is very clear in that "there is a presumption that the existing use of land is its highest and best use."

(UASFLA B-3) Also, that any proposed highest and best use "requires a showing of reasonable probability that the land is both physically adaptable for such use **and** that there is a need or demand for such us in the reasonably near future."

(UASFLA B-3) Sales of similar or "comparable" properties to the subject are then gathered and analyzed. "In selecting the comparable sales to be used in valuing a given property, it is fundamental that all sales have the same economic highest and best use as the property under appraisal."

(UASFLA A-17) This approach is most applicable when an active market provides sufficient quantities of recent, suitable data that can be verified. All conclusions of value must be fully supported by verified market transaction evidence.

Dollar or percentage adjustments directly related to differences between each comparable and the subject are then quantified, if possible, and applied to the sale price of each comparable to arrive at a value which is more reflective of the subject's value. Adjustments to the values of comparable properties are commonly made to reflect seller financing in relation to its cash equivalent, market conditions at the time of sale, seclusion/privacy, access, view amenities, etc.

In situations where there is a lack of data to support quantitative adjustments, qualitative or subjective comparisons are used by the appraiser to establish a bracket of sale prices that indicate a range of values in the market. Within this range, the appraiser uses his/her judgment to determine which of the sales is most similar to the subject property and concludes a value within the range that is supported by the best sales available.

Are the appraisals open for comment?

Appraisals are not open for comment, as they are not a decision as defined in National Environmental Policy Act. The decision to use the appraisals for the proposed action is covered under NEPA, but the appraisals themselves are not. The appraisal review process is an internal process, and because the standards have been promulgated in regulations and policy, the review process is not open to comment. Parties with information they would like to be considered are free to submit any information in writing to the assigned review appraiser for their consideration. If it is pertinent to the assignment at hand, the review appraiser may ask the appraiser to analyze the information to determine if it would have any effect on value.

How is the federal parcel currently managed by the USFS?

The Forest Plan Management Prescription Direction for the federal parcel is Management Area 2A, emphasizing semi-primitive motorized recreation opportunities such as, snowmobiling, four-wheel driving, and motorcycling both on and off roads and trails. Motorized travel may be restricted or seasonally prohibited to designated routes to protect physical and biological resources.

How would the private parcels be managed if acquired by the USFS?

Hermosa Park, Mitchell Lakes and Iron Clad parcels are private inholdings within the SJNF. If these parcels were acquired by the USFS through exchange, they would be managed according to adjacent prescriptions. Land exchange regulations state, “Lands acquired by exchange that are located within areas having an administrative designation established through the land management planning process shall automatically become part of the area within which they are located without further action by the USFS, and shall be managed in accordance with the laws, rules, and regulations and land and resource management plan applicable to such area.”

In the case of Hermosa Park and Mitchell Lakes, the surrounding SJNF lands are managed under Prescription 2B, which emphasizes rural and roaded natural recreation opportunities. Motorized and non-motorized recreation activities, such as driving for pleasure, viewing scenery, picnicking, hiking, mountain biking, fishing, snowmobiling and cross-country skiing, are possible. Public lands surrounding the Iron Clad Parcel are managed as part of the Weminuche Wilderness.

How and at what level of the agency will the decision on the land exchange be made?
The responsible official and decision-maker for this project will be the Center Manager for the San Juan Public Lands. The deciding official reviews the Proposed Action and other alternatives in order to decide if the land exchange should occur as proposed, as modified under various alternatives, or not at all. The deciding official will also determine if the exchange should proceed under any of the action alternatives and what design criteria the USFS should apply to the project.

How can I learn more?
The best way to start digesting the information in the Draft EIS is by reading the Executive Summary. A good way to peruse the larger document is to view it on the computer screen, using the "Find" function to go to selected topics. CDs are available, and the environmental documents and maps are posted on the SJNF website at: *http://www.fs.fed.us/r2/sanjuan/projects/projects.shtml*. Limited hard copies can also be viewed at public libraries and public lands offices (to save paper).

How can I submit comments?
Written, facsimile, hand-delivered, and electronic comments concerning this action will be accepted for 45 days following the date of publication of a Notice of Availability in the Federal Register. The comment deadline is October 1, 2009.

Methods of comment submittal include:

- Written comments may be mailed to Cindy Hockelberg, Project Leader, Columbine Ranger District, P.O. Box 439, 367 Pearl Street, Bayfield, Colorado 81122.
- Comments may be faxed to the attention of Cindy Hockelberg at (970) 884-2428.
- Electronic online comments may be submitted to *comments-rocky-mountain-san-juan-columbine@fs.fed.us*. A scanned signature may serve as verification.
- Hand-delivered comments may be submitted to the Columbine Ranger District during normal business hours.