

A Guide to Land Exchanges on National Forest Lands





Land-for-Land Exchanges

- Congress has given the Forest Service authority to enter into land exchanges with private individuals and groups. Land exchanges can be effective tools because the Forest Service has very limited authority to sell lands and limited funds for acquiring key tracts.



Exchanges

- Exchanges have become more costly and typically take multiple years to complete due to increased regulatory requirements in recent years.
- The National Forests receive many more land exchange proposals than it has the resources to accomplish.
- The Forest Service has a formal process to evaluate proposed exchanges to evaluate possible exchanges in a fair and consistent manner.

LAND EXCHANGE PROCESS FLOW CHART

Exchange Proposal
Feasibility Analysis
Oversight Review
Execute Agreement to Initiate
Public Notification
Congressional Review
Scoping
NEPA Analysis
Appraisal Preparation and Approval
Oversight Review
Decision
Title Clearance
Transaction Closing
Final Title Clearance
Close Case

Exchange Proposals

- The first step for an individual proposing an exchange is to meet with the District Ranger (or designee) that manages the federal land being considered for exchange. The ranger will review the proposal to determine if the proposed federal tract(s) are identified as exchange lands in the Forest Land Adjustment Plan.

- In unique circumstances lands not identified in the adjustment plan will be considered for exchange. If the ranger deems the proposed exchange as meeting specified public interest criteria and a high priority for the district, they will request additional information about the private tracts in order to prepare a formal exchange proposal for forest review.

- District Rangers are requested to submit their highest priority exchange proposal annually for evaluation by a forest-wide team. In the spring of each year, the team will prioritize proposals based on nationally identified criteria. Typically only one exchange is started on the forest each year; in some years no exchange will be started in order to complete work on existing exchanges.



What are the steps to completing a land exchange?

- Once the Forest has committed to proceed with an exchange, the FS person responsible for coordinating the exchange will meet with the private party to review the proposal, and reach mutual agreement on who will pay for what exchange costs. Very early in the process, the Forest Service will need to obtain a preliminary title commitment that shows the United-States as the proposed insured, along with a plat and legal description of the private parcel(s).
- The primary steps for the exchange include:

Feasibility Analysis

- This document identifies the lands involved, any outstanding rights, and that the exchange is in the public interest. This document must be reviewed and approved by the FS Regional Office prior to beginning the process.

HAZMAT

- Lands considered for exchange are formally reviewed for the presence of hazardous materials pursuant to EPA's All Appropriate Inquiry rule.

Agreement to Initiate

- A non-binding agreement that is signed by the Forest Service and the exchange partner which documents the scope of the exchange, cost estimates, and the party(s) responsible for funding or performing various implementation actions necessary to complete the exchange. It also includes a projected timetable for accomplishment.

Public Scoping

- Information about the exchange is sent out to give interested publics a chance to comment on the proposal.

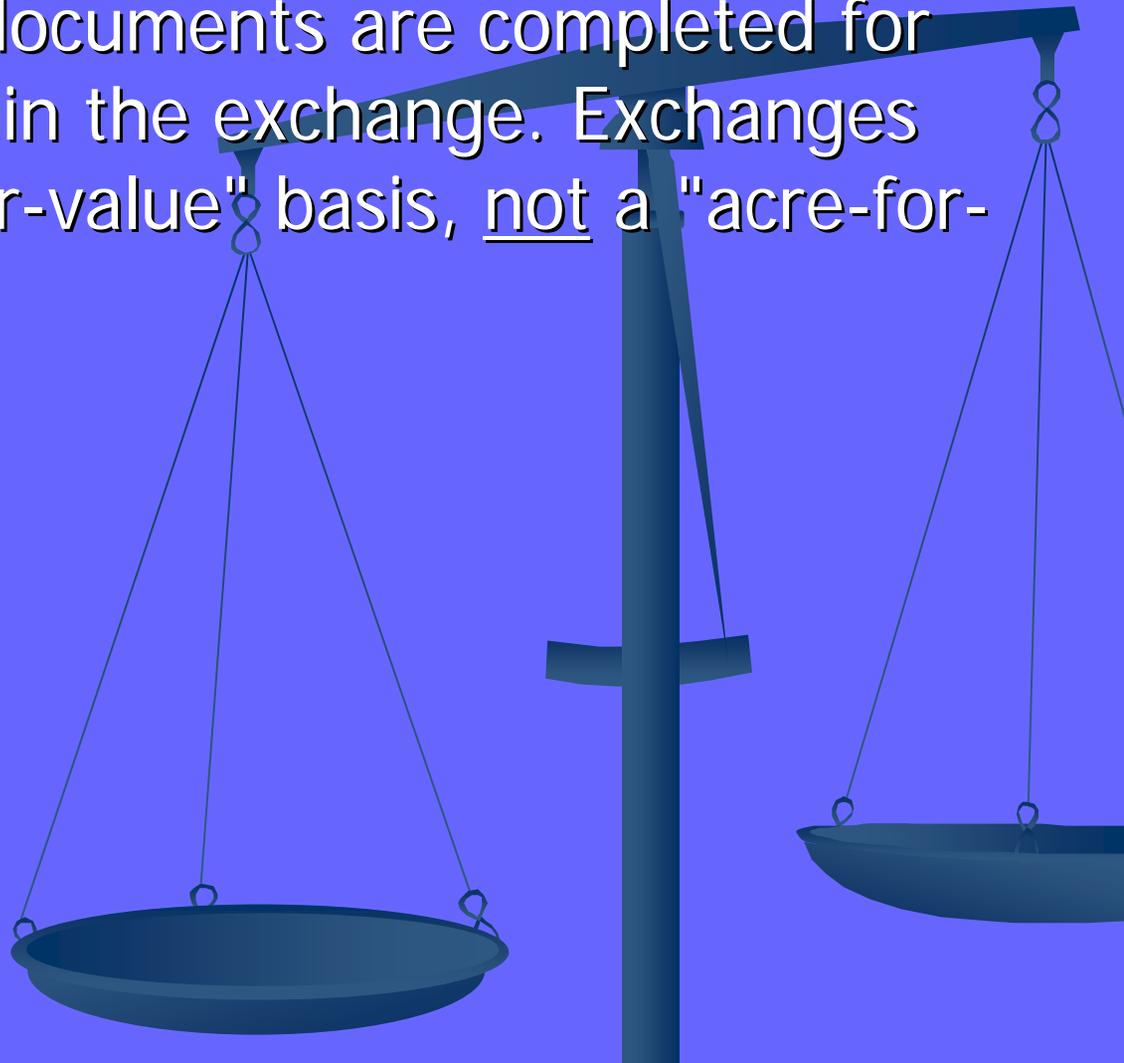


Specialist Reports/NEPA Requirements

- The federal land to be exchanged is examined by a variety of specialists to determine that there are no special circumstances that would render the proposed exchange not in the public interest. This information is made available for public comment, usually in the form of an Environmental Analysis (EA) document. In this document, the responsible Forest Service official formally determines whether or not to complete the exchange. This decision usually is appealable by the public.

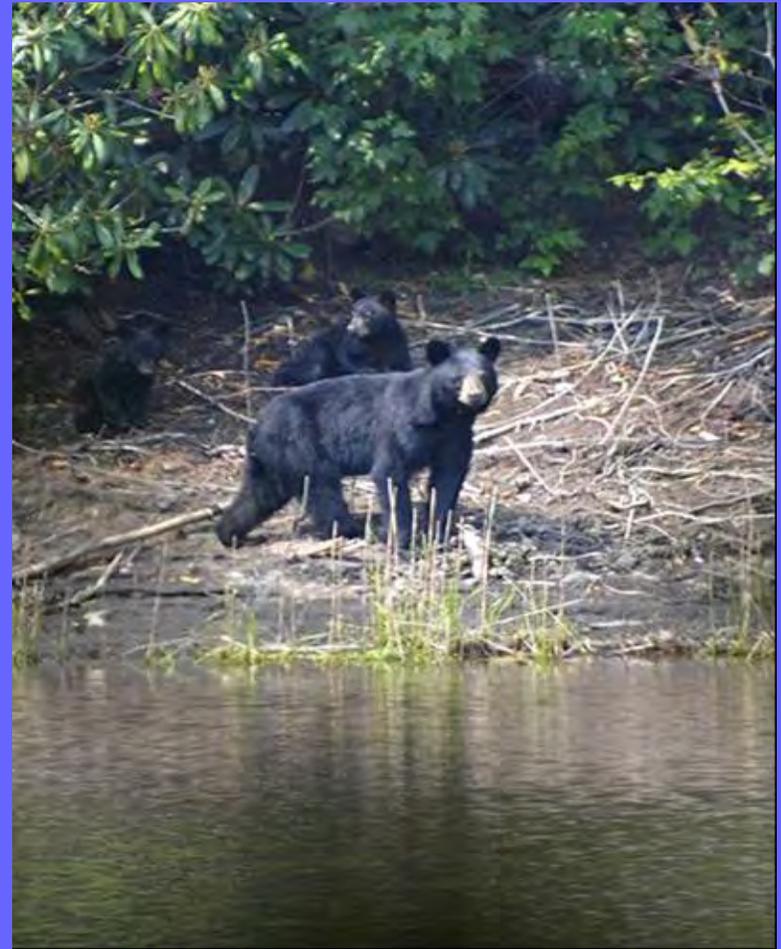
Appraisals

- Formal appraisal documents are completed for all tracts included in the exchange. Exchanges are on a "value-for-value" basis, not a "acre-for-acre" basis.



Exchange Agreement

- The Forest Service and the private party sign a legally binding exchange agreement (optional).



Final Review

- Final surveys are done, plats are drawn and final title work is completed. An exchange package that includes all of the foregoing documents is sent to the FS Regional Office, and if over a defined value threshold also to the Washington Office, for review and final approval by Government attorneys.

How long does it take to complete a land exchange?

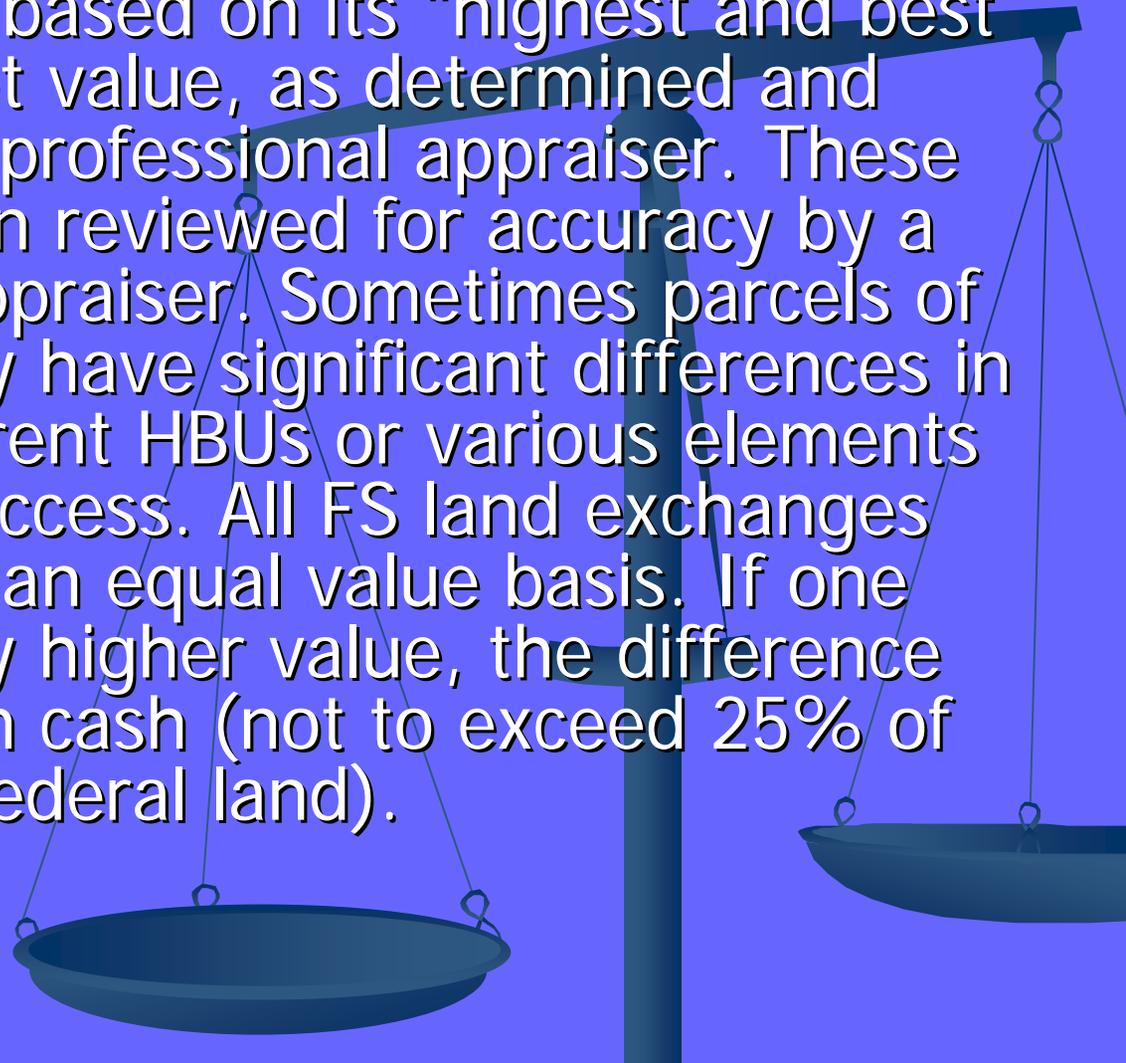
- An exchange is a lengthy process.
- Most take between 2 to 4 years to complete.
- Some take longer if complications arise.

What are the costs involved in a land exchange?

- The primary costs for an exchange are paying for the case processor's time, resource specialists' time, appraisals, land surveys, and NEPA preparation. At a minimum, the private party in an exchange usually pays for all of the appraisal, survey, and title costs. If a shorter time frame is important in completing an exchange, the private party may pay for all costs involved. These costs will vary depending on the size and complexity of an exchange.

How are land values determined for a land exchange?

- Land is appraised based on its "highest and best use" (HBU) market value, as determined and documented by a professional appraiser. These appraisals are then reviewed for accuracy by a certified review appraiser. Sometimes parcels of the same size may have significant differences in value due to different HBUs or various elements of value such as access. All FS land exchanges are completed on an equal value basis. If one parcel is of slightly higher value, the difference can be made up in cash (not to exceed 25% of the value of the Federal land).



What prevents an approved land exchange from being completed?

- Sometimes specialists locate a threatened or endangered species or significant archaeological site on the federal parcel, which may make the land too valuable for the overall public to consider it for exchange.
- Sometimes land values, once appraised, are too far apart to continue an exchange (can happen for instance if only one tract has legal access).



- In other cases, there may be previously unknown title problems that keep the private party from having adequate title to exchange their parcel (such as tracts with outstanding covenants or road maintenance agreements the Forest Service cannot acquire). Also, public comments on a proposed exchange may bring up previously unrecognized recreation or scenic values on the public parcel(s) that make it more suitable to keep for public use and enjoyment.



- Because of these sometimes unknown factors, the Forest Service cannot promise at the beginning of the process that an exchange can be completed, but we make a commitment in good faith to complete the process in an open and timely manner.



Criteria for Federal Land to be conveyed:

- Small parcels intermingled with private land.
- Parcels that will serve a greater public need in State, county, city, or other federal agency ownership.
- Parcels isolated from other National Forest System Lands.
- Lands under special use authorizations and occupied by substantial structural improvements.

- Occupancy trespass cases involving highly valuable structural improvements.
- Parcels within major block of private land, the use of which is substantial for non-forest purposes.
- Parcels that have boundaries, or portions of boundaries, with inefficient configurations, such as protecting long, narrow strips of land.
- Land inside or adjacent to communities or intensively developed private land, and chiefly valuable for non-national forest purposes.

NEPA Process

Environmental Assessments

Project Development

Scoping

Analysis

Notice & Comment

Complete EA Document

Finding Of No Significant Impact & Decision Notice

Appeal Period

Implement Project