

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

LAND EXCHANGE MEETING
HELD AT THE
CLINCHFIELD SENIOR ADULT CENTER
220 UNION STREET
ERWIN, TENNESSEE 37650

O P E N I N G R E M A R K S

FEBRUARY 19, 2009
6:30 p.m. to 9:00 p.m.

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MS. SHAW: My name is Susan Shaw. I'm with the Cherokee National Forest out of the supervisor's office in Cleveland, Tennessee. My title is Biological and Physical Resources Planning Land and Minerals Staff Officer, you can call me the beeper-plum lady, that's what my assistant calls us. I just want to go over what we're going to be talking about today.

I want to go over a few things about the facilities. As you go out the door here and down the hall there's some men's room and ladies room and there's a Coke machine right out the door and there's some coffee in the back. And at the end of the meeting, we're going to have a person set up with a court reporting machine and we also have Nancy up here in the front with the court reporting machine for the question and answer period. So, if you would like to give oral comments, you can go out to the room that's out back that way and we can direct you to there a little later and go in and give your two-minutes worth of oral comments.

On the back of the hand-out that you got, there's a sheet for writing written comments. So if you want to write them and turn them in today that's, fine, or if you want to write them and then mail them in to us, that's fine also. We have a date of March 6, 2009, to have those

1 comments in. And like I said, the oral comments can go
2 into the gentleman in the other room.

3 Let's see, we weren't sure how many people to
4 expect so I'm glad that we only have to do this once
5 tonight. Hopefully everyone signed in the attendance list
6 and you picked up your copy of the agenda package. Terry
7 Bowerman, the district ranger, will be going over what's in
8 the package here in a little bit. Like I told you a minute
9 ago, we're going to be taking comments three ways -
10 written, taking them tonight; written, mail them in or oral
11 comments with the court reporter.

12 Just wanted you all to know that your comments will
13 be considered public information. If someone calls us and
14 says, hey, I want to make a Freedom of Information Act
15 request, your comments and your names will be releasable
16 but your addresses will not, okay? But I just wanted you
17 all to know that up front so you're not surprised by it.

18 The other thing, during the question and answer
19 period, we are going to have you write your questions down
20 on the note cards that you were handed out and if we need
21 to get some more, we can. We'd also like you to put your
22 name and address on the note cards just in case we don't
23 get to all the questions tonight, we will -- if you have
24 your name and address on there, we will either write you a
25 letter and respond to the question or we will call you and

1 answer your question. The other thing I would like to make
2 sure we stay focused on the topic tonight which is Unicoi
3 County and the Rocky Fork Tract and the land exchange
4 proposal in Unicoi County, okay? Okay let's see, I'd like
5 to introduce Terry Bowerman, our district ranger from the
6 Nolichucky Unaka Ranger District and Terry is the deciding
7 official for this project.

8 MR. BOWERMAN: Welcome. I just wanted to
9 quickly introduce the folks that are involved in the
10 meeting. We have -- as you met Susan Shaw already, Dave
11 Ferguson, who's going to be speaking here in a few minutes.
12 You met Jason Jennings, W. Able and Scotty Myers at the
13 front desk when you signed in. And also we have Rex Bonner
14 and Ralph Knoll from the Conservation Fund and Rex is going
15 to be speaking also here in a few minutes.

16 The Forest Service has been interested in the
17 acquisition of the Rocky Fork property either in parts or
18 all of it since at least the '70's and maybe farther back
19 than that, but that's as far as we know at least of folks
20 that have been around here that we've been interested in
21 the purchase or acquiring the Rocky Fork property.

22 Through the years, the Forest Service has been in
23 negotiations with different land owners that have owned
24 that property and with obviously no success and we started
25 really formally talking with the landowners, I think in the

1 early '90s and we worked through negotiations off and on
2 through that time. But what it's come to is on December
3 15th of last year, the Forest Service purchased 2,237 acres
4 of the property along with the Conservation Fund who
5 purchased 7,387 acres of the property. So, that's where we
6 stand right now. The Conservation Fund owns over 7,000 and
7 the Forest Service has about 2,200 acres.

8 The purpose of this meeting is to present a
9 proposal from the Conservation Fund to the Forest Service
10 for exchanging a portion of the Rocky Fork Property that
11 the Conservation Fund owns for some National Forest land in
12 the Cherokee National Forest within Unicoi County. So,
13 that's what you're going to hear today is that proposal and
14 we're going to also explain to you, if we go forward with
15 that proposal or parts of the proposal, how that process
16 works to do the land exchange.

17 Now, when you signed in, you were all given an
18 agenda and you can see that there. One thing that I wanted
19 to point out in the packet that you got, are some maps and
20 the maps have the proposed three portions of the National
21 Forest land that is being proposed for exchange. Also,
22 there is that comment form that's there that Susan talked
23 about.

24 Also the large map which is two-sided. One side
25 has a map of the actual Rocky Fork property with proposed

1 portions of the property that have either already been
2 acquired by the Forest Service or will be acquired by the
3 Forest Service and maybe the State of Tennessee; if that
4 goes through. And also on the backside of that is a map of
5 Unicoi County showing the location of Rocky Fork on it.
6 And I should point out if you look at that map, which is
7 also the same map that's around the room is that the Rocky
8 Fork tract, only a portion of it is in Unicoi County and a
9 portion of it is in Greene County. It isn't all entirely
10 in Unicoi County.

11 When we're done with the presentations, we're going
12 to give everybody an opportunity to ask questions. You may
13 not understand everything that's being presented. We
14 prefer that you would hold those questions until the end of
15 all the presentations. I think you were all given little
16 cards and that's for you to write those questions down as
17 you're thinking about them as the presentations are going
18 so you don't forget them by the end. We're going to ask
19 that those cards be sent to the end of the isles and we'll
20 have somebody that will read those questions and we'll have
21 the panel of folks including myself up front to attempt to
22 answer those questions.

23 Then after that question and answer period is done,
24 we'll give you that opportunity to go into the rooms if you
25 want to and make an oral presentation for your comments.

1 You can actually do that now if you want to, but if you
2 want to wait through the presentation; and then after
3 that's done, after the questions and answers, you can give
4 those comments to the court reporters. You can also either
5 write them down on the form that you were given and either
6 pass those in today or you can mail them to us by March 6th.

7 MS. SHAW: The address is on the bottom of the
8 page.

9 FROM THE FLOOR: March 6th or March 9th?

10 MR. BOWERMAN: It says March 6th on the form.
11 Also I failed to say that we have one other list here that
12 shows the criteria for federal land being conveyed, so
13 that's to help you understand the process. And with that
14 being said I'm going to pass it on Rex Boner from the
15 Conservation Fund.

16 MR. BONER: Thanks Terry. We're going to try
17 new technology here with this new little mouse thing and if
18 I can try to figure out how to work it. I'll get into sort
19 of a brief discussion and description here of the proposal
20 that the Conservation Fund has made but there's just a
21 couple of preliminaries. One is, before we turn the lights
22 out -- well, I guess we've turned the lights. All in favor
23 -- we've got the lights back on.

24 We mentioned some other folks but Ralph, where are
25 you? I would like for Ralph Nowell to stand up or raise

1 your hand wherever you are. Ralph's a colleague of mine at
2 the Conservation Fund. If you're local, you've seen him in
3 the paper and I've tried to them if they want to sell
4 papers they should put his picture in the back but they
5 keep putting it in the front page. But seriously, Ralph's
6 been very involved in this project and he's been sort of
7 our local person on the scene.

8 We also sort of began this whole effort with a lot
9 of other partners and some of them are in the audience
10 tonight, I just want to recognize a few of them. Carl
11 Silverstein, if you want to raise your hand. Carl is with
12 the Southern Appalachian Highlands Conservancy based out of
13 Asheville, it's a regional land trust. It does great work up
14 here in the mountains to try to protect some of these very
15 special resources. And his board member standing next to
16 him, Jay Leutze. Jay, I appreciate you coming. Jay is a
17 volunteer and I think he puts more time in to this than we do
18 as sort of paid staff people. We appreciate all of your
19 effort. Also Morgan Summerfield, Morgan; again many of you
20 have met Morgan. He's been in the community, he's working on
21 some classroom activities here and he's worked with the
22 counsel and the county commission, been a great partner and
23 we appreciate that.

24 I'm just going to run through the proposal quickly
25 in a second. This is all business but to me, business can

1 be fun and I think we ought to have fun as we go through
2 this and I couldn't think of a good joke to tell but you're
3 always supposed to start with humor, right? And the best
4 thing I was going to try on you and see if it works, first
5 of all anybody here from Texas? Nobody from Texas, so we
6 can pick on Texas. I was going to say that this gentleman
7 was in New York sightseeing and somehow got in a crowd and
8 got sort of feeling good and boasted about how much land he
9 owned in Texas. And you know how everything's bigger in
10 Texas and you know, he owned a big ranch down there and
11 he's explaining that to the New York crowd and he went on
12 and on about it. And he said it took him literally all day
13 to drive that truck of his across his land in Texas and he
14 was feeling real proud of that. And somebody in the crowd,
15 I don't know, maybe they were from Tennessee but they kind
16 of spoke up later and said, you know, I used to have a
17 truck like that myself. So anyway I hope our truck tonight
18 works and gets us where we want to go.

19 But seriously, I'm with the Conservation Fund.
20 We're a national, non-profit conservation organization. We
21 really have known about and followed the Rocky Fork
22 property for right at say, fifteen or twenty years. We've
23 been aware of it and the important property that it is.
24 We've tried to work with the Forest Service in the past but
25 the purchase of it just never really happened and as Terry

1 indicated we've sort of worked over the last two years to
2 acquire it and actually closed in December.

3 So, the Forest Service acquired some and the
4 Conservation Fund acquired the rest of the property. We
5 don't intend to be long-term owners of Rocky Fork; we're a
6 facilitator and interim owner, cooperator to work with
7 public agencies and others to protect our land and water
8 resources in America. We're working with the Forest
9 Service on additional federal appropriations to buy
10 additional parts of the ownership that we have in the
11 property. We're also working with the State of Tennessee;
12 this is a priority for them as well because of the very
13 high resource values that are on Rocky Fork. You folks
14 have followed this in the local press and so forth, so you
15 know what these features are.

16 But our role here through the Conservation Fund is
17 to continue to work sort of out our ownership and we're
18 doing that in a variety of ways. Also when we came to town
19 a couple of years ago, and I guess I'm supposed to be
20 flipping through my slide-show. Terry's already mentioned
21 this; we closed jointly in December and purchased the
22 entire property that's about 10,000 acres; when it was
23 surveyed it was slightly less than that. So, the Forest
24 Service acquired over 2,200 acres and they own that now.
25 The Conservation Fund acquired the rest.

1 And this map is in your handout and there's a large
2 version of it someplace in the room as well.

3 MS. SHAW: Straight back.

4 MR. BONER: Straight back, okay. But in
5 general and also if I can flip my guide over and use it
6 here. Again, Rocky Fork is sort of this real funny-shaped
7 piece of property here. See, it's too fancy for me. It
8 adjoins the Cherokee National Forest and the Pisgah
9 National Forest and it's pretty much an inholding in public
10 land. I'm sorry, I meant to call the technical people here
11 and I'm going to quit using the pointer.

12 When we closed in December -- go ahead and point
13 that -- when we closed in December, the U.S. Forest Service
14 bought this piece down here, that piece up there and a
15 portion at the top. That's the 2,200 acres that they own,
16 okay? The Conservation Fund owns the rest of it and again,
17 our intent is at this point to continue to work with the
18 U.S. Forest Service to transfer this part up here in darker
19 green to the Forest Service. And if the State of Tennessee
20 can work with us on their funding, they may buy this
21 internal part. And I say maybe because right now, their
22 funding sources are not as strong as they used to be for
23 land conservation so we're working through how that could
24 happen. So the federal owners might be a little bit more
25 or might be a little bit less, but that's the plan here.

1 And what we wanted to talk about tonight is the
2 part of this property that's in Unicoi County and again,
3 the yellow line is the Unicoi/Greene County border. And
4 one of the very important aspects of this property is the
5 Appalachian Trail which comes across the very bottom part
6 of the map. Again, it's in both counties here and we're
7 going to focus on the Unicoi County portion of this.

8 When we came to town about two years to really try
9 to help with this project, we listened and we learned. We
10 made a lot of new friends, we learned a lot in the
11 community in terms of sort of connected interest to this
12 project. And one of those was the impact that the
13 acquisition of this by public agencies could have on the
14 county and those impacts could be positive, they could be
15 negative. And we were determined to make them positive.
16 And by that, I mean before Rocky Fork was purchased, Unicoi
17 County was fifty percent public ownership.

18 And I'll use the facts and figures that we're aware
19 of but I know we have at least tax assessor in the audience
20 that can confirm some of this. But public ownership is a
21 very valuable asset. A lot of communities utilize those
22 public lands in a variety of ways to benefit the
23 communities. Just quickly look at some statistics about
24 the Great Smokey Mountains. As you know -- probably know,
25 they get about 9 million visitors a year; that's more than

1 twice the number of any other national park. That
2 visitation generates about 718 million dollars a year for
3 surrounding communities. And so I often ask myself, what
4 would the towns of Gatlinburg, Pigeon Forge and others be
5 if it weren't for the Great Smokey Mountains.

6 And we view these conservation opportunities and
7 projects much like that; how can we contribute to the
8 economics of the local community and the regional community
9 and so forth. We've had a lot of discussions here in this
10 community about that and about if this becomes public land
11 and if affects the tax digest, how can make it be an
12 economic benefit to the community. And those conversations
13 have led to a lot of things that we're involved in, helping
14 with the economic benefits of the Rocky Fork project and we
15 can talk about a number of those.

16 But tonight's focus is really on something that we
17 were asked to consider and that is that we, rather than
18 have public dollars buy all of Rocky Fork, is there a way
19 to do a land exchange; so that we would exchange some of
20 our ownership of Rocky Fork for less strategic land owned
21 by the Forest Service here in Unicoi County. And again,
22 you give a microphone and a podium, I forget my slides to
23 show. But again, this is just a background of why we're
24 here.

25 We knew this had an impact in terms of the amount

1 of public ownership in the county. We've talked to a lot
2 of people about it to get input, to get advice and a land
3 exchange was suggested. Here's another map that shows that
4 ownership situation; again, the green is the Federal
5 Cherokee National Forest. There is some state ownership,
6 there's some local government but that comes out to about
7 fifty percent public land before Rocky Fork that's shown on
8 the left which is about 6,200 acres in Unicoi County.
9 Right there is Rocky Fork. So that sort of shows it very
10 graphically and very visually.

11 So we again listened, we learned and we worked hard
12 to follow up on could a land exchange be something that
13 could be carried out. And we tried to identify the
14 objectives that we look for in suitable lands that we would
15 exchange for and this is sort of a quick summary of some of
16 those. And that is, if we're going to seek public
17 ownership plans, we would seek those that are less
18 strategic, that are closer to town, that are close to
19 utilities and infrastructures; the whole point being that
20 those lands would come into private ownership and then
21 would be developed or utilized in ways that might generate
22 a higher economic return to the community.

23 Also, we wanted to make sure those lands didn't
24 contain any known recreational features or amenities such
25 as trails or facilities and that sort of thing. And again,

1 lands that have a potential to be developed for other uses,
2 whether it be residential development, light industrial
3 development; I mean, all of those considerations are still
4 to be made. And this is just for our, The Conservation
5 Fund's sort of assessment of the situation.

6 And Dave Ferguson's going to go through the whole
7 land exchange process with the U.S. Forest Service in just
8 a second but it's a very lengthy, thorough, in-depth
9 process. What we're proposing tonight is simply a
10 proposal; if the Conservation Fund would consider
11 exchanging some of our ownership of the Rocky Fork property
12 in value for value exchange for public land. And then we
13 would take that former public land to be owned privately by
14 us and work with the community to develop it to your
15 satisfaction to generate the type of development and the
16 economic return that you want to see.

17 This is another map and there's actually several
18 copies of this map around the room. And what it shows is
19 the ownership of the National Forest lands in the county,
20 Unicoi County. And again, by types of ownership. And
21 again, it shows the Rocky Fork property itself way over
22 here on the left of the map. And what we're proposing this
23 evening and actually there's more details in your handouts
24 and better maps in your handouts; and that is, we've
25 identified three tracts that we think would be suitable for

1 the Forest Service to exchange with us for some of our
2 ownership at Rocky Fork.

3 The very first one, Susan, if you want to go back
4 to your first one. We're calling this one Martin Creek
5 Tract and again, it's in your handouts and you have a map
6 that shows it in greater detail. You know, it's right next
7 to the City of Erwin. It has good access, it contains
8 about 209 acres. Our understanding is that this property
9 has even been considered in the past as a possible exchange
10 property and we would propose that that would be something
11 to be considered.

12 The other two properties are sort of together up
13 there on Highway 107 north of that. And I can never
14 pronounce it correctly. Ciota Road through the middle of
15 them here and the one on the left, we're calling the Stone
16 Mountain Tract and it contains about 660 acres. And the
17 one on the right, we're calling the Irishman Branch Tract
18 and it contains about 798 acres. And again, why these
19 three, why these, why this acreage?

20 A lot of time and effort has gone into again,
21 listening, learning, spending time in the community talking
22 to people, understanding what might make the most sense to
23 consider. And also in the case of these, we've done some
24 early assessment on potential development and we think it
25 can be done in a high quality way and in a way that would

1 be very -- sort of acceptable at that location. And these
2 three properties are the ones that we're proposing be
3 considered by the Forest Service to exchange to the
4 Conservation Fund in exchange for part of Rocky Fork.

5 And again, David Ferguson's going to go through the
6 logistics of an exchange and the process and so forth in a
7 minute. But that basically is what our proposal is and
8 that's the reason for the public meeting tonight. We
9 appreciate everybody coming out. Again, there's ways to
10 present your comments orally tonight, in writing tonight,
11 in writing after tonight. We're asking the questions be
12 submitted in writing and we'll respond to those -- the
13 entire panel of folks here tonight; we want to make, you
14 know, as much information available as possible and respond
15 to all questions as we can because this is really sort of a
16 decision we want to make sure is the right decision for the
17 local community.

18 That's really sort of my part of it and at this
19 point, I'm going to have Dave Ferguson come up who maybe
20 many of you know, he handles the land acquisition and
21 exchange, property rights-of-way and everything else for
22 the Cherokee National Forest that's based right here in
23 Unicoi County.

24 MR. FERGUSON: Thanks, Rex. If you all will
25 bear with me just a second, I have to bring up the slide-

1 show. Again, my name's Dave Ferguson. I'm the realty
2 specialist here on the Cherokee National Forest. And as we
3 get into this, you'll see as Rex mentioned, this is a
4 pretty lengthy process or can be and I'm the person that'll
5 probably have to see it all the way through the process.
6 So I'm sort of going to run through it and give you an idea
7 of what a land exchange is with the Forest Service. And as
8 we go through it, it'll probably generate some questions
9 but just be patient as we go on through the slide-show, a
10 lot of those questions may be answered.

11 A lot of the photos in this slide-show are Rocky
12 Fork. Not all of them are Rocky Fork photos, although we
13 put some photos to dress the slide-show up a little bit.
14 The exchange process that we're going to go through is the
15 general process that we do for all exchanges and not
16 specifically for Rocky Fork.

17 Congress has given the Forest Service the authority
18 to enter in to land exchanges with private individuals and
19 groups and land exchanges can be effective tools because
20 the Forest Service has very limited authority to sell lands
21 and limited funds for acquiring key tracts. Any time the
22 Forest Service gets involved in any type of acquisition,
23 whether it be a purchase, exchange; we have to have an
24 authority to do that. And Congress gives our authority and
25 we have several authorities. We have some general exchange

1 acts that we can use and we -- each act may have a specific
2 purpose or be for a specific type of land like the grass
3 lands in Texas or something. But we've got authorities
4 that we can use for an exchange here in the Eastern United
5 States.

6 Exchanges have become more costly and typically
7 take multiple years to complete due to increased regulatory
8 requirements in recent years. The National Forest received
9 many more land exchange proposals than it has resources to
10 accomplish. The Forest Service has a formal process to
11 evaluate proposed exchanges to evaluate possible exchanges
12 in a fair and consistent manner.

13 And the first one up here, the first bullet, the
14 good thing about Rocky Fork is that you'll see in the
15 process, there's a whole lot of steps. Well, the Rocky
16 Fork property, when we initially made the first purchase,
17 we had already had the appraisal done. Our surveyor's been
18 working really hard, he's been working with the State of
19 Tennessee to get the whole Rocky Fork tract surveyed so we
20 are very near to having the whole complete tract surveyed.

21 And also, we have the environmental site assessment
22 done which is looking for any type of hazardous substances
23 that have been disposed or stored or released on the
24 property. And so, we have all of that done so that would
25 shorten the process.

1 And this is a flow chart for the land exchange
2 process. We get the exchange proposal and once we get the
3 proposal, we have to do a feasibility analysis. That
4 feasibility analysis, I have to write one up and send it to
5 the region for review. And in that feasibility analysis,
6 we have to define what the estate is, how it fits into our
7 land and resource management plan, how it fits into the
8 strategic plan, the description. So we have to -- and how
9 it's going to be in the public interest to do the exchange
10 and all that has to be in the feasibility analysis.

11 Once we get the feasibility analysis done, it goes
12 into our regional office for oversight review. And then
13 once they take a look at that, they can tell us whether we
14 need -- we can proceed or not. And then we have to execute
15 an agreement to initiate. And what this does this is a
16 non-binding agreement. Excuse me, I had this wrote down;
17 documents, the scope of the exchange, the cost estimates,
18 the parties responsible for funding and performing various
19 actions in the exchange process.

20 Doing the public notification. When we do the
21 public notification, we have to publish in the paper the
22 exchange proposal for four consecutive weeks and then take
23 comments on that. We also have to -- anybody that will be
24 influenced by this exchange, like an adjoining landowner or
25 others; Indian tribes, people of this nature, we have to

1 send letters and let them know that this is -- that we're
2 entering into an exchange.

3 We then have the congressional review which is if
4 it's over a \$150,000 exchange, it has to go before
5 congressional review. This initially, if we estimate that
6 that's going to be over \$150,000, it has to go before the
7 congressional review, a thirty-day review. If it's over
8 \$250,000, it has to go for the secretary's approval,
9 Secretary of Agriculture. If it's over \$500,000, then we
10 have to send it on to our National Landowner Adjustment
11 Team in Washington to review as well. So, it's a lot of
12 processes that it goes through.

13 Then we go into the scoping process and that's part
14 of the NEPA process where they send letters out to all of
15 the interested parties and take a comment period to see
16 again what the public comment is. We go into the NEPA
17 analysis and as we go into the NEPA analysis, we have all
18 of our specialists go out onto the properties. We have our
19 biologists look for sensitive and T&E species. We have our
20 archaeologists look for heritage resources. Our
21 hydrologists look at the flood plains and wetlands. We
22 have our minerals people go out and look at the minerals.
23 And again, the environmental site assessments, which is
24 looking for any kind of hazardous substances and then the
25 water rights. And that's just a few of the things that we

1 look at.

2 Then we get into the appraisal preparation and
3 approval, and again, it's value for value and not acre for
4 acre. And so, we have to have a formal written appraisal
5 of the values and it has to be approved by our qualified
6 review appraisers. Then you go back into the oversight
7 review. Once we have a price on the -- per acre price and
8 we know what that is and we can get into the agreement,
9 then it goes to the oversight review again; the \$150,000 --
10 over \$150,000 goes for the congressional review. \$250,000,
11 secretary's approval and over \$500,000 for the National
12 Landowners Adjustment Team to review.

13 Our forest supervisor will then do a decision memo
14 based upon the NEPA analysis and that's also again
15 published. The title clearance, we have to have title
16 insurance on anything that the government gets. We have to
17 have a good clean title with -- they look that what's going
18 to encumber the government as far as restrictions or
19 covenants or outstanding rights that may be on the
20 property.

21 So we have to -- you know, in this part of the
22 country, we get into a lot of title lapse where two deeds,
23 they have -- you know, their coverage may lap each other.
24 So, you get into a lot of different things so we always
25 have to have our title insurance and get our title

1 clearance. Then the transaction closing is when we take
2 and everything's done; the deeds are signed and we can
3 record the deeds. And then the final title clearance and
4 close the case after the closing has occurred.

5 EXCHANGE PROPOSALS: The first step for an
6 individual proposing exchange is to meet with the district
7 ranger -- federal land being considered for exchange. The
8 ranger will review the proposal to determine if the
9 proposed federal tracts are identified as exchange lands in
10 the forest land adjustment plan. And we have a forest land
11 adjustment plan that addresses -- you know, we take a look
12 and look at what properties that we would like to get rid
13 of; maybe a nice lake parcel that doesn't adjoin the
14 National Forest. And then we look at parcels that we would
15 like to acquire like maybe a parcel that's totally
16 surrounded by National Forest. So, all of these are looked
17 at in the forest land adjustment plan.

18 And each in each circumstance, land that's not
19 identified in the adjustment plan will be considered for
20 exchange. If the ranger deems the proposed exchange as
21 meeting specified public interest criteria and a high
22 priority for the district, they will request additional
23 information about the private tracts in order to prepare a
24 formal exchange proposal for forest review.

25 The forest review is a forest team. District

1 rangers are requested to submit the highest priority
2 exchange proposal annually for evaluation by a forest-wide
3 team. In the spring of each year, the team will prioritize
4 proposals based on nationally identified criteria.
5 Typically, only one exchange is started on the forest each
6 year and some years, no exchange will be started in order
7 to complete work on existing exchanges.

8 Typically, we don't do a whole lot of exchanges on
9 the Cherokee -- typically, because we've had money, we've
10 been able to -- we've had funding to acquire tracts and so
11 we've not had to look to exchanges. One of the things that
12 I guess the Conservation Fund is looking at is, you know,
13 with lack of funding, this is always a good alternative,
14 the pond up in Rocky Fork.

15 What are the steps of completing the land exchange?
16 Once the forest is committed to proceed with an exchange,
17 the forest service person responsible for coordinating the
18 exchange will meet with the private party to review the
19 proposal and reach a mutual agreement on who will pay for
20 what exchange costs. Very early in the process, the forest
21 service will need to obtain a preliminary title commitment
22 that shows the United States as the proposed insured, along
23 with the plat and legal description of the private parcels.

24 And as part of the agreement to initiate, we have
25 an implementation schedule in that and very early on, that

1 implementation schedule that's attached to the agreement to
2 initiate, it defines who's responsible for what costs.

3 THE FEASIBILITY ANALYSIS: This document identifies
4 the lands involved, any outstanding rights and that the
5 exchange is in the public interest. This document must be
6 reviewed and approved by the Forest Service Regional Office
7 prior to beginning the process. And I think I mentioned
8 that earlier.

9 HAZMAT: Lands considered for exchange are formally
10 reviewed for the presence of hazardous materials pursuant
11 to EPA's appropriate inquiry rule.

12 AGREEMENT TO INITIATE: Again, this is a non-
13 binding agreement signed by the Forest Service, an exchange
14 partner that which documents the scope of the exchange,
15 costs estimates and the parties responsible for performing
16 various implementation actions necessary to complete the
17 exchange. It also includes a projected timetable for
18 accomplishment.

19 PUBLIC SCOPING: Information about the exchange is
20 sent out to give interested public a chance to comment on
21 the proposal. Again, with the public scoping, we publish
22 in the paper, four consecutive weeks to give people a
23 chance to respond.

24 SPECIALIST REPORT AND NEPA REQUIREMENTS: The
25 federal land to be exchanged is examined by a variety of

1 specialist to determine that there are no special
2 circumstances that would render the proposed exchange not
3 in the public interest. This information is made available
4 for the public comment usually in the form of an
5 environmental analysis, an EA document. And this
6 document, the responsible Forest Service official formally
7 determines whether or not to complete exchange. This
8 decision usually is appealable by the public.

9 APPRAISALS: Formal appraisal documents are
10 completed for all tracts involved in the exchange.
11 Exchanges are again on a value for value appraisals and not
12 acre for acre. The Forest Service also has the exchange
13 agreement and this is -- once we get to this point, this is
14 legally binding agreement. And it's an optional agreement;
15 you don't have to sign the exchange agreement. You may be
16 so far in the process that you can go ahead and once you
17 get to this point, you're almost ready to draft your deeds
18 up and go ahead and execute your deeds.

19 But what the exchange agreement does, a lot of
20 times processes get held up. A lot of times, you get an
21 appraisal completed and it's just good for one year from
22 the time of inspection. However, if you sign an exchange
23 agreement, what that does is locks the values in so you
24 don't have to go back and have it re-appraised because
25 you're waiting maybe on the survey. Might be surveying the

1 tract of land and you come up and find encroachments or
2 some kind of other problems that delays what you're trying
3 to do. And by that time, your appraisal runs out; so this
4 allows you to lock in the values.

5 FINAL REVIEW: Final surveys are done, plats are
6 drawn and final title work is completed and the exchange
7 package that includes all of the foregoing documents is
8 sent to the Forest Service Regional Office and if over the
9 defined value threshold, also to the Washington office for
10 review and final approval by government attorneys. And
11 again, the thresholds that I mention is what they're
12 talking about here; the \$150,000, \$250,000 and \$500,000.

13 How long does it take to complete a land exchange?
14 An exchange is a lengthy process; most take between two to
15 four years to complete. Some take longer if complications
16 arise. Again, those complications could be title problems,
17 it could be survey problems, encroachments or just a whole
18 host of different problems you can encounter.

19 But again with this Rocky Fork property, I don't
20 think we're going to have a problem and so it could be a
21 shorter time span. With all of the work that we have
22 completed on it, probably it would run more smoothly than
23 most exchanges starting from scratch would.

24 What are the costs involved in a land exchange?
25 The primary costs for an exchange are paying for the case

1 processor's time, the resource specialist time, appraisals,
2 land surveyors and NEPA preparation. At a minimum, the
3 private party in an exchange usually pays for all of the
4 appraisals, survey and title costs. If a shorter time is
5 important in completing the exchange, the private party may
6 pay or all costs involved. The costs may -- well, the cost
7 will vary depending on the size and complexity of the
8 exchange. And exchanges sometimes tend to be, you know,
9 pretty expensive when you start adding up all of the costs.
10 That and the complexity of the exchanges when the funding
11 is available is why we try to do acquisitions through
12 purchase instead of exchanges on the forest.

13 Why are land exchanges determined for a land -- or
14 land values determined for a land exchange? Land is
15 appraised based on its highest and best use. Market value
16 is determined and documented by a professional appraiser.
17 These appraisals are then reviewed for accuracy by a
18 certified review appraiser. Sometimes parcels of the same
19 size may have significant differences in value due to
20 different highest and best uses or various elements of
21 value such as access.

22 All Forest Service land exchanges are completed on
23 an equal value basis. If one parcel is made slightly -- is
24 of slightly higher value, the difference can be made up in
25 cash not to exceed 25 percent of the value of the federal

1 land. And the highest and best use, when you're talking
2 highest and best use, you're talking as the appraiser looks
3 at it as the most probable and legal use of the property.

4 You may have two properties, one they're very
5 similar but one may not have access, it may not have
6 utilities and water available to it. Its highest and best
7 use may be a recreational residence or just recreational
8 hunting because there's no access or anything. Where
9 another one that has good access, it might be the highest
10 and best use for like subdividing for maybe hunting cabins
11 or something of this nature. So you can have two parcels
12 that are very similar in size but have totally different
13 highest and best uses and be, you know, in the same areas.
14 Although location also would have a -- it would also
15 influence the highest and best use.

16 What prevents an approved land exchange from being
17 completed? Sometimes specialists locate a threat or
18 endangered species or significant archaeological site on
19 federal parks which may make the land too valuable for the
20 overall public to consider it for exchange. Sometimes land
21 values once appraised are too far apart to continue an
22 exchange. And this can happen, for instance, if only one
23 tract has legal access; just what I mentioned.

24 In other cases, there may be previously unknown
25 title problems that keep the private party from having

1 adequate title to exchange their parcel such as tracts with
2 outstanding covenants or road maintenance agreements the
3 Forest Service cannot acquire. Also, public comments on a
4 proposed exchange may bring up previously unrecognized
5 recreation or scenic values on the public parcels that make
6 it more suitable to keep for public use and enjoyment.

7 Because of these sometimes unknown factors, the
8 Forest Service can't promise at the beginning of the
9 process that an exchange can be completed but we make a
10 commitment in good faith to make the process in an open and
11 timely manner.

12 And the criteria for federal land to be conveyed; I
13 think if you look in your packets, you've got this same
14 list and I'll just read through them.

- 15 • Small parcels intermingled with private land.
- 16 • Parcels that will serve a greater public need in
17 state, county, city or other federal agency
18 ownership.
- 19 • Parcels isolated from other national forest system
20 lands.
- 21 • Lands under special use authorization and occupied
22 by substantial structural improvements and these
23 are all lands that have lost or don't have a forest
24 coverage or don't fit in to our forest our national
25 forest system lands base well.

- 1 • Occupancy, trespass cases involving highly valuable
2 structural improvements.
- 3 • Parcels within major blocks of private land; the
4 use of which is substantial for non-forest
5 purposes.
- 6 • Parcels that have boundaries or portions of
7 boundaries with inefficient configurations
8 such as projecting, long narrow strips of
9 land.
- 10 • Land inside or adjacent to communities or
11 intentionally developed private land and
12 chiefly valuable for non-national forest
13 purchases.

14 So, as you can see -- I think that concludes the
15 process. It is a very lengthy process but what we have
16 already accomplished with Rocky Fork, it sort of takes a
17 little bit of the sting out of it. So, Susan's next and
18 she's going to talk a little bit on the BPRPLM process.

19 MS. SHAW: I was beginning to feel like Vanna
20 White when I was helping Rex, you know, pointing. I only
21 have one slide and just kind of wanted to go over this red
22 tape with NEPA and everything. You couldn't be the federal
23 government without going the red tape but we try to make it
24 as painless as possible.

25 As Dave said, you know, we start out with a project

1 proposal and we try and run the land exchange process hand-
2 in-hand with the NEPA process so that -- we don't have to
3 one and then start the other one. So a lot of the things
4 like the project development, developing a proposed action
5 or a purpose and need for the proposed action can be done
6 about the same time as Dave does his land exchange proposal
7 that the Conservation Fund has presented us.

8 The public scoping is another area where we can
9 coincide both of those activities during the land exchange
10 process and the NEPA process. We do public scoping on all
11 of our projects, we get comments from the public and any
12 other interested parties and ask them and we look at the
13 issues and the alternatives that might be developed from
14 those issues that are brought forth. We may redefine the
15 proposed action if needed based on those issues that are
16 brought forward.

17 The next -- Dave talked a little bit about the
18 analysis that our specialists do and we look at the
19 development of the alternatives considered for analysis by
20 the issues that the public brought up. Sometimes we
21 develop alternatives but we realize that they're not going
22 to meet our purpose and need, so we don't carry those
23 forward through the whole environmental analysis or the
24 environmental assessment but we do document that we at
25 least took a cursory look and looked at those alternatives.

1 Next we have a thirty-day notice and comment period
2 and that is a requirement by the 36 CFR 215 regulations and
3 CFR's are our federal code of regulations which we have to
4 comply with. The thirty-day notice and comment period;
5 when we send that out to the public for them to review, it
6 can be any part of the environmental assessment. It can
7 be, you know, the first -- just the proposed action, it
8 could be the proposed action plus some alternatives. You
9 know, it could even have some of the analysis in it, so it
10 just varies depending on how the package has been put
11 together and the document has been put together.

12 And again, this notice and comment -- public
13 involvement that they go through, the land exchange could
14 be done in a similar timeframe so that we don't have to
15 drag down the process any further than we absolutely need
16 to. After that, we'll complete the environmental
17 assessment document and disclose all the effects that the
18 specialists have looked at as far as, you know, like Dave
19 said, the biologists with the threatened and endangered
20 species or rare communities or rare species, the
21 archaeologists with cultural resource sites or historic
22 properties, wetlands; just you know, whatever they happen
23 to find out there. It'll all be disclosed within the
24 environmental assessment.

25 And after that, if there aren't any significant

1 impacts found, we perform or we draft a finding of no
2 significant impact and a decision notice for the deciding
3 official to sign. And then that is a published legal
4 notice that is put in the paper and distributed to all the
5 folks that commented on the project during the previous
6 timeframe, whether it's through scoping or through the
7 thirty day notice and comment period.

8 We also complete a project file and so we try and
9 get all of the records that we've gathered through this
10 whole process and have it all organized and available in
11 case somebody would like to see, you know, how we reached
12 our decision. After the decision has been signed, there is
13 an appeal period of forty-five days from the date that the
14 legal notice is published in the paper. And after that
15 timeframe, we can implement the project if within -- if we
16 do not have any appeals, we can implement it five days
17 after the appeal period is over.

18 If however we do have an appeal, then the process
19 takes a little bit longer. They have forty-five days for
20 an appeal deciding official to review all of the documents
21 and make a decision on whether or not to go forward with
22 the project as signed or if it needs to be remanded back to
23 the Forest and maybe make some changes on it. If the
24 decision is upheld by the review deciding official, then we
25 can implement that project fifteen days after that

1 decision.

2 And so if you're asking now, where do we go from
3 here, what we're going to end up doing is once we get all
4 of the comments in, so it'll be sometime after probably
5 March 6th, we'll review all of the comments that are sent in
6 by all you folks and summarize them and then we'll present
7 those to Terry Bowerman, the District Ranger on the
8 Nolichucky Unaka District and then after that, we'll take
9 the proposal that the Conservation Fund has provided us,
10 the comments that you all have provided and any other folks
11 out in the community and present those to the board of
12 leadership team and a decision will be made on whether or
13 not to proceed with the, you know, to go through the NEPA
14 process and the land exchange process.

15 And all of the things that Dave talked about and
16 the NEPA stuff that I just talked about will start
17 happening. And I probably should have said this at the
18 beginning; NEPA stands for the National Environmental
19 Policy Act. And so, I shouldn't use these acronyms without
20 defining them, should I.

21 And let's see, the next thing we're going to do is;
22 has everybody been writing down their question, because
23 we're going to ready for the question and answer period.
24 We've been up for about an hour, you all want to take like
25 a ten or fifteen minute break, kind of look at the maps and

1 use the facilities, grab some coffee or do you just want to
2 keep going and wrap things up?

3 FROM THE FLOOR: Keep going.

4 MS. SHAW: Keep going? Okay. My kind of
5 folks. Maybe get to bed early tonight. Okay, well if --
6 let's see, Dave and some of the other folks, is Debbie Able
7 in here, we may need to go get them. You can all start
8 passing your questions to the outside aisle, we'll start
9 gathering those and we'll start our question and answer
10 period, so I'll give you all a moment to get your questions
11 passed around and we'll turn the lights back on.

12 If any of you would like to give your oral
13 presentation -- your oral comment -- I guess I'll have to
14 be louder, hello. Could we all take our seats again,
15 please. If any of you just want to give your oral
16 comments, if you go out the door, past where you registered
17 there'll be somebody out there and there'll be a sign on
18 the right-hand side to say oral comments this way. I think
19 -- Jason, is that where you're headed?

20 JASON: Yes.

21 MS. SHAW: Okay, you can follow Jason if you
22 just want to give your oral comments. Okay, the first
23 question -- wow, what happened to our panel? We've got
24 Terry Bowerman up here. Ralph, you're coming up, aren't
25 you? Well, Rex will be in a little bit; we've got Ralph

1 Noel right here with the Conservation Fund, Terry Bowerman,
2 The district ranger and Dave Ferguson, our land specialist,
3 realty specialist for the Cherokee National Forest. I may
4 have Debbie come over and help me read some of these just
5 in case I need to answer some of the questions but we've
6 got a whole stack of questions. I just hope we've answered
7 some of these. Okay, let's see.

8 END OF OPENING REMARKS

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