

**Forest Service Manual  
National Headquarters - Washington Office  
Washington, DC**

**Forest Service Manual 5400 – Landownership  
Chapter 5450 – National Forest System Modification**

**Amendment:** 5400-2015-1

**Effective date:** April 22, 2015

**Duration:** This amendment is effective until superseded or removed.

**Superseded Directive:** 5450, Amendment 5400-2003-7, 07/25/2003; 5410, Amendment 5400-2005-1

**Approved by:** Leslie A.C. Weldon, Deputy Chief, NFS

**Date approved:** April 16, 2015

**Responsible Staff:**

**Posting Instructions:** Amendments are numbered consecutively by title and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this title was 5400-2005-1 to FSM 5410.

**Explanation of changes:** Following is an explanation of the changes throughout the directive by section.

**Digest:**

This amendment makes numerous editorial changes to clarify and enhance the usefulness of this directive.

**5450.1:** Adds additional language that clarifies the laws authorizing acquiring lands and transferring jurisdiction of Federal lands.

**5450.2:** Adds additional language that clarifies the objectives in this section.

**5450.3:** Adds additional language that clarifies policy in this section.

**5450.4:** Adds additional language that clarifies responsibilities for various agency officials in this section.

**5450.5:** Adds new definitions and additional language that classifies definitions in this section.

**5451.2:** Changed heading from “Reserved Land” to “Reserved Public Domain” for clarity and sets forth direction.

**5451.3:** Adds additional language that discusses unreserved and acquired lands.

**5452.01:** Adds additional language authorizing the Secretary of Agriculture to acquire or to dispose of land, water or interests therein.

**5452.01b:** Adds additional language that clarifies executive orders which are now public land orders.

**5452.01c:** Deletes reference to FSM 1580 and replaces with reference to FSH 1509.11, chapter 50.

**5452.03:** Adds additional language on policy for land transfer and interchange.

**5452.04:** Adds additional language that clarifies responsibilities for various agency officials for management and administration of the lands program for this section.

**5452.11:** Adds additional language that clarifies the principles and guidelines in determining the transfer of jurisdiction between the Forest Service and another Federal agency.

Substantive changes to direction in this chapter (5452.2 and 5452.21) are as follows:

**5452.2:** Establishes, code, caption, and direction for “Interchange with the Department of Defense”. Sets forth new direction for interchanges with the Corps of Engineers on managing lands and water resources and cross references FSM 1533.21.

**5452.21:** Establishes, code, caption, and direction for “Interchange Processing Guidelines”. Sets forth new direction on coordinating through the Washington Office Lands and Realty Management staff when negotiating with the Department of Defense and adds exhibits.

**5452.3:** Adds additional language that clarifies the Federal Property and Administrative Services Act.

**5453:** Adds additional language that clarifies Federal legislative jurisdiction.

**5453.04:** Adds additional language that clarifies responsibilities for various agency officials for legislative jurisdiction of lands.

**5453.05:** Adds additional language that clarifies definitions in this section.

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## 5450.1 - Authority

The following are the laws which provide the authorization of acquiring lands for National Forest System (NFS) purposes. Also included are the laws pertaining to the transfer of jurisdiction of Federal lands to other Federal or State Government entities.

### 5450.11 - Laws

1. Organic Act of June 4, 1897 (30 Stat. 34; 16 U.S.C. 473). This act gives the President authority to modify any executive order or proclamation establishing any National Forest and by such action to change the boundary lines of such National Forest. The National Forest Management Act of 1976 (item 9 of this section) limits the President's authority under this act. Thus, boundaries may be changed but land cannot be removed from National Forest status.
2. Weeks Act of March 1, 1911 (36 Stat. 961; as amended, 16 U.S.C. 515, 521). This act directs the Secretary of Agriculture to:
  - a. Examine, locate, and purchase forested, cut-over, or denuded lands within the watersheds of navigable streams that may be necessary to the regulation of the flow of navigable streams or for the production of timber.
  - b. Divide lands acquired under this act into specific National Forests and to name them.
  - c. Permanently reserve, hold, and administer lands acquired under this act as National Forest lands.
3. Limitation on National Forest Designation by Act of June 15, 1926 (16 U.S.C. 471a). This act limits the creation of and additions to National Forests in Arizona and New Mexico to acts of Congress.
4. Fish and Wildlife Coordination Act of March 10, 1934 (48 Stat. 401; as amended by Act of August 12, 1958, 72 Stat. 563; 16 U.S.C. 663(f)). Any lands acquired under section 3 of this act by any Federal agency within the exterior boundaries of a National Forest will, upon acquisition, become National Forest lands with Weeks Law status and will be administered by the forest within which they are situated, except for lands acquired to carry out the National Migratory Bird Management Program.
5. Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (50 Stat. 522; 7 U.S.C. 1010-1011). Title III, Section 32 of this act gives the Secretary of Agriculture the authority to:
  - a. Make such rules and regulations deemed necessary to regulate the use and occupancy of the property acquired by or transferred to the Secretary under or for the purposes of the Bankhead-Jones Act, which includes for example, protection and

preservation of the soil and natural resources, and protection of the watersheds of navigable streams.

b. Transfer lands acquired under this act to other Federal, State, or territorial agencies subject to a public reverter provision.

6. Interchange With Department of Defense Act of July 26, 1956, as amended (70 Stat. 656; 16 U.S.C. 505a, 505b). This act authorizes the Secretary of Agriculture and the Secretary of a military department which has lands within or adjacent to the exterior boundaries of a unit of the National Forest System to interchange such lands, without reimbursement or transfer of funds. Lands, which are transferred to the Secretary of Agriculture, are subject to the laws applicable to lands acquired under the Weeks Act of March 1, 1911 (36 Stat. 961), as amended. This act also authorizes the interchange of lands or interests in lands.

7. Federal Water Project Recreation Act of July 9, 1965 (79 Stat. 217; 16 U.S.C. 460l-18(c), as amended (88 Stat. 33; 106 Stat. 4690)). Section 7 of this act:

a. Authorizes the Secretary of the Interior to transfer jurisdiction of project lands and facilities to the Secretary of Agriculture for recreation and other National Forest System purposes. This section provides further that such a transfer must be made if the lands are within or adjacent to the exterior boundaries of a National Forest unless the Secretaries jointly determine otherwise.

b. Gives the lands transferred hereunder National Forest status: providing, however, that lands and waters within the flow lines of any reservoir or otherwise needed or used for operation of the project will continue to be administered by the Secretary of the Interior for project purposes.

c. Requires consent from the head of the Federal agency who has jurisdiction of lands included within any Federal navigation, flood control, reclamation, hydroelectric, or multi-purpose project to include or devote such lands to recreation or fish and wildlife purposes under this act.

d. Authorizes the head of the Agency to transfer jurisdiction of lands within Federal Reclamation Projects to the Secretary of the Interior for recreation or fish and wildlife purposes.

8. Forest and Rangeland Renewable Resources Planning Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1609; as amended 88 Stat. 480, renumbered section 11, 90 Stat. 2949, 2957). Section 11 of this act defines the National Forest System as consisting of units of federally owned lands, unified into a nationally significant integral system dedicated to long term public benefits, including national forest lands reserved or withdrawn from the public domain or acquired through purchase, donation or other means, the national grasslands and land utilization projects and other lands, waters, or interests therein administered by the Forest Service.

9. National Forest Management Act of October 22, 1976 (90 Stat. 2949; 16 U.S.C. 515, 1609). This act provides:

- a. In Section 9 that no lands reserved or withdrawn from the public domain as National Forests will be returned to the public domain except by act of Congress.
- b. In Section 17(a)(3) that all functions of the National Forest Reservation Commission are transferred to the Secretary of Agriculture.

10. Federal Land Policy and Management Act of October 21, 1976, as amended (90 Stat. 2743; 43 U.S.C. 1714, 1716).

- a. Section 204 authorizes the Secretary of the Interior, through the implementation of withdrawals, to transfer jurisdiction of public lands subject to the consent of the administering agency, from one department, bureau, or agency to another. Withdrawals of 5,000 acres or more require Congressional oversight.
- b. Section 206(c) provides that lands acquired through exchange by the Secretary of the Interior within the boundaries of any unit of the National Forest System will immediately upon acceptance of title be reserved for administration under the laws, rules, and regulations of that unit.

11. Tennessee Valley Authority Acts:

- a. Act of May 18, 1933 (48 Stat. 58, Section 7(b); 16 U.S.C. 831f). This act authorizes the President to transfer to the Tennessee Valley Authority the use, possession, and control of such real or personal property of the United States, as the President may deem necessary and proper.
- b. Act of July 18, 1941 (55 Stat. 599, Section 4(k); 16 U.S.C. 831c). This act allows the Tennessee Valley Authority to transfer any part of the real property under its control to any other department or agency, except land developed with a permanent dam, hydroelectric power plant, or munitions plant.

12. Blue Ridge Parkway Acts:

- a. Act of May 13, 1952 (66 Stat. 69; 16 U.S.C. 460a-4). This act authorizes the Secretary of the Interior to transfer to the Secretary of Agriculture lands or interest in lands acquired for or in connection with parkway purposes, which will best serve the public interest by being managed as National Forest lands. Lands transferred under this act receive Weeks Law status.
- b. Act of October 9, 1968 (82 Stat. 967; 16 U.S.C. 460a-6; 16 U.S.C. 460a-10). This act authorizes the transfer of Federal land needed in connection with the parkway extension to the Secretary of the Interior. The act also authorizes the Secretary of the Interior to transfer to the Secretary of Agriculture for National Forest purposes lands or interests in lands acquired in connection with the parkway extension.

13. Atomic Energy Act of August 1, 1946, Section 9 (60 Stat. 755; as amended by the Act of August 30, 1954, 68 Stat. 960; 42 U.S.C. 2015). This act authorizes the President to direct a Government agency to transfer property to the Atomic Energy Commission, now the Department of Energy.

14. Federal Property and Administrative Services Act of June 30, 1949 (63 Stat. 377; 40 U.S.C. 101, 102c-e, g, 529, 541), as amended). This act requires all Federal bureaus or agencies to report excess real property to the General Services Administration (GSA) for disposition. The act specifically excludes lands reserved or dedicated for National Forest purposes whether such lands are within or outside a National Forest boundary. For instance, acquired lands within an established purchase unit have National Forest status and would therefore be excluded. Also lands acquired under Title III of the Bankhead-Jones Act have not been subject to utilization surveys by the GSA. A recent Court decision confirms the position that these lands are effectively dedicated for National Forest purposes and is therefore exempt. See FSM 5570 and FSH 5509.11, chapter 20.

## **5450.2 - Objectives**

Establish new boundaries for inclusion to NFS or the modification of existing National Forest boundaries to facilitate management and administration.

1. The objectives of NFS modifications are to:
  - a. Obtain National Forest status for all appropriate lands within the NFS.
  - b. Modify existing NFS unit boundaries as needed to provide logical exterior boundaries.
  - c. Establish purchase units as needed to meet program objectives.
  - d. Establish National Forest or other boundaries as needed to facilitate management and administration.
2. The objectives of land transfers are to:
  - a. Improve management efficiency of Federal lands.
  - b. Improve service to the public.
  - c. Result in net benefits to the Government, to the public, or both.

### **5450.3 - Policy**

Provides strategies and criteria to determine if modification of official boundaries or land transfers are appropriate.

1. Modify the official boundaries of land and provide National Forest status to lands acquired or to be acquired that are located outside National Forest boundaries when:
  - a. The lands are appropriate to retain in Federal ownership as part of the National Forest System.
  - b. The lands are or will be managed under the principles of multiple use.
  - c. The land area is large enough to manage as a separate unit or is located close enough to other National Forest lands to permit efficient, and cost effective management.
  - d. The land is not within the official limits of a city or town and is not an administrative or similar limited purpose site.
2. Consider land transfers when they:
  - a. Consolidate National Forests.
  - b. Clarify administration or protection responsibilities.
  - c. Improve resource conservation or production.
  - d. Reduce administrative costs.
  - e. Contribute to achieving Forest Plan objectives.
3. Group the national grasslands into administrative units, define, change or modify their boundaries as necessary for effective and economical administration.
4. Recommend through Congressional action any lands that qualify for National Forest status but where the Secretary of Agriculture lacks authority to so designate the lands.

### **5450.4 - Responsibilities**

Provides delegation of authority to the Secretary of Agriculture, Chief, Director of Lands and Realty Management, Regional Foresters, Station Directors, and Forest Supervisors for overall lands program administration and management.

1. Secretary of Agriculture. The Secretary of Agriculture:
  - a. Acts on the Chief's request for modification of National Forest boundaries requiring executive or legislative action.



- b. Designates as National Forest any lands of more than 3,000 acres acquired under and subject to the Weeks Act of March 1, 1911, as amended (16 U.S. C. 521).
  - c. Designates as National Grasslands any land utilization projects to be permanently held by the Secretary of Agriculture for administration under the provisions and purposes of Title III of the Bankhead-Jones Farm Tenant Act and the National Forest Management Act and related acts (36 CFR 213).
  - d. Jointly with the Secretary of the appropriate military department, signs interchange orders authorized under the Act of July 26, 1956.
2. Chief. The Chief of the Forest Service:
- a. Recommends National Forest boundary modifications to the Secretary of Agriculture when executive or legislative action is required and on actions involving over 3,000 acres of Weeks Law lands.
  - b. As necessary for administrative purposes, designates as National Forest any lands of 3,000 acres or less acquired under the Weeks Act of March 1, 1911, as amended, and which are contiguous to existing National Forest boundaries established under the authority of the Weeks Act.
  - c. Groups the National Grasslands into administrative units, defines, changes or modifies the boundaries as necessary (36 CFR 213.2).
3. Director of Lands and Realty Management. The Washington Office Director of Lands and Realty Management has overall program management responsibility for NFS modifications including:
- a. Coordinating with other Washington Office staffs before proceeding with proposals,
  - b. Processing an interchange or other orders for Secretary's signature,
  - c. Submitting proposals for Congressional review, and
  - d. Publishing documents in the Federal Register.
4. Regional Foresters and Station Directors. Regional Foresters and Station Directors must recommend and justify appropriate NFS modifications for lands under their management control.
5. Forest Supervisors. Forest Supervisors must identify, through the Forest Planning process, needed NFS modifications.

## **5450.5 - Definitions**

Describes classifications that characterizes the proclaimed boundaries of a Forest Service unit.

Acquired Land. Land that has been received in exchange for unreserved land, or land that has been purchased or donated.

National Forest Boundary. The identified boundary line formally established around a National Forest unit encompassing a geographic area including lands managed by the Forest Service that have been set aside and reserved for National Forest purposes.

National Grassland Boundary. An identified boundary line around a geographical area enclosing land designated by the Secretary and grouped by the Chief into administrative units to be managed by the Forest Service for National Grassland purposes.

Public Domain Lands. Lands which have never left Federal ownership. Also, lands in Federal ownership which were obtained by the Government in exchange for public lands or for timber on such lands.

Purchase Unit. An identified geographical area within which the Secretary of Agriculture authorizes the acquisition of land under the Weeks Act authority.

Reserved Public Domain. Lands which have never left Federal ownership that have been reserved from the public domain for special purposes such as National Forests pursuant to the Act of March 3, 1891 (26 Stat. 1103; 16 U.S.C. 471) or any Act supplementary to or amendatory thereof. These lands may have been reserved from the public domain for the establishment of National Forests or reserved by another Federal agency and later transferred to the Forest Service.

## **5451 - Boundary Modification**

### **5451.1 - Procedures**

The National Forest Management Act of 1976 limits the President's authority. Wherein boundaries may be changed but land cannot be removed from National Forest status.

Establishing a National Forest or extending the boundary of an existing National Forest in Arizona or New Mexico requires Congressional action pursuant to the Act of June 15, 1926, Limitation on National Forest Designation.

### **5451.2 - Reserved Public Domain**

Establishing or extending a National Forest boundary encompassing public lands is accomplished as an integral part of a land transfer proposal. Follow the procedures found under FSM 5452.

### **5451.3 - Acquired Land**

Acquired NFS lands have Weeks Act status under the Act of September 2, 1958; and therefore, are not available for mineral entry.

1. National Forest boundaries will be designated to replace existing purchase units.
2. When acquisition of land using Weeks Act authority is planned outside National Forest boundaries or when National Forest status is appropriate for NFS land located outside National Forest boundaries, then:
  - a. Regional Foresters shall submit to the Chief a justification statement for the action proposed and a map showing the land involved, including associated National Forest lands.
  - b. The Chief extends the National Forest boundary to include the acquired lands or requests the Secretary designate appropriate National Forest boundaries. The Secretary's or Chief's action typically results in a notice published in the Federal Register.
3. Land acquired under the Weeks Act has National Forest status upon acquisition.

Lands acquired under authorities other than the Weeks Act and located outside National Forest boundaries receive National Forest status when a National Forest boundary is established around the acquired lands due to operation of the Act of September 2, 1958 (16 U.S.C 521a).

### **5452 - Land Transfer and Interchange**

#### **5452.01 - Authority**

Acts of Congress (U.S. Statute) that authorizes the Secretary of Agriculture to acquire land, water or interests therein for NFS purposes, or to dispose of NFS land, water or interests there into other Federal Departments or Agencies.

#### **5452.01a - Laws**

See FSM 5450.11.

## **5452.01b - Executive Orders**

Official documents, numbered consecutively, issued by the President of the United States for managing the operation of the Federal Government, under statutory authority and inherent powers which are published in the Federal Register. Executive orders may affect the disposal of lands and/or resources from the operation of some or all the public land and/or mineral laws. Public land orders are now utilized to perform this function.

1. Executive Order 10355 of May 26, 1952 (43 CFR 2300.0-3; 17 FR 4831) confers on the Secretary of the Interior all of the delegable authority of the President to make, modify, and revoke withdrawals and reservations.
2. Executive Order 11609 (3 U.S.C. 301) delegates certain functions vested in or subject to the approval of the President to the Administrator of General Services Administration. They are, as numbered in the Executive Order:
  - (14) Upon recommendation of the Secretary of Agriculture, transfer to other Federal, State, or territorial agencies lands acquired under the Bankhead-Jones Farm Tenant Act.
  - (15) Transfer to the Secretary of Agriculture any right, interest, or title held by the United States in any lands acquired under section 340 of the Consolidated Farmers Home Administration Act of 1961, 75 Stat. 318 (7 U.S.C. 1990), for national defense and no longer needed for that program. Transfers require concurrence by the Secretary of Defense.
  - (16) and (17) Exercise transfer authority under the Tennessee Valley Authority Acts.

## **5452.01c - Agreements**

Interagency agreements, as described in FSH 1509.11, chapter 50, allow assignment or exchange between agencies of limited and temporary land management responsibility. The authority for agencies to work together may be based on laws governing the actions of one agency or the other.

Agreements do not transfer jurisdiction, thus management of lands and resources covered by an agreement must continue under the laws and regulations of the holding agency. An exception is provided by section 7 of the National Trails System Act of October 2, 1968, as amended (16 U.S.C. 1246). While this act does not authorize the transfer of land, it does authorize the transfer of trail management responsibility between the Secretaries of Agriculture and Interior. The laws, rules, and regulations of the managing agency apply on the trail segment as described in the Agreement.

### **5452.03 - Policy**

A plan or course of action or guiding principles designed to influence a decision in considering a jurisdictional land transfer.

1. Evaluate small or isolated areas of NFS land intermingled with lands of another agency for transfer to that agency.
2. Accept lands in transfer that are compatible with NFS purposes and are suitable for administration as an individual unit or in combination with existing units.
3. Discourage transfer of small or isolated tracts to the Forest Service except when continued Federal ownership is desirable and transfer will improve Government efficiency.
4. Consider implementing an interchange with a Department of Defense agency whenever such action is of mutual benefit and in the public interest.

### **5452.04 - Responsibility**

Details the delegation of authority to the Chief, Regional Foresters, and Forest Supervisors for management and administration of the lands program.

1. Chief. The Chief approves legislative transfer proposals before public involvement is initiated.
2. Regional Foresters. Regional Foresters will work with the appropriate officials of other Federal agencies to jointly identify and recommend cost effective jurisdictional transfers.
3. Forest Supervisors. Forest Supervisors will identify jurisdictional transfer opportunities during revision of land and resource management plans.

### **5452.1 - Legislative Jurisdictional Transfers**

A jurisdictional transfer involving a National Forest lands requires an act of Congress, except when specifically authorized (FSM 5450.1).

### **5452.11 - Principles and Guidelines**

Provides procedures or strategies in the determination of the transfer of jurisdiction between the Forest Service and another Federal agency.

1. Consider any portion of the NFS for inclusion in a jurisdictional transfer proposal.
2. Consider any lands managed by other Federal agencies for acceptance in a proposed transfer.

3. Transfer proposals should not be limited by arbitrary criteria such as requiring equal acreage or equal value.
4. Maintain the established land management direction of areas transferred to the Forest Service until updated through land management planning procedures.
5. Use an interagency agreement when appropriate to assign or exchange short-term, limited management responsibility covering specific lands.

#### **5452.12 - Transfer Proposal Analysis**

Prepare a legislative impact analysis statement based on the direction contained in the annual 1510 Legislative Affairs letter concerning legislative proposals.

#### **5452.2 - Interchange With the Department of Defense**

Interchange, as authorized in the Act of July 26, 1956, is a transfer of jurisdictional boundaries between the Forest Service and the Department of Defense (DOD). This authority may be used whenever there is a determination that an interchange will facilitate land management, and will provide maximum use for the authorized purposes of each agency. The Act has been interpreted by the Office of the General Counsel (OGC) to require a two-way transfer of lands or interest in lands administered by the agencies. Equal value or equal acreage is not required, provided that some land or interest in lands is transferred by both agencies and there should be no reimbursement of costs or transfer of funds associated with the interchange.

The Forest Service is the only Federal agency with authority to interchange lands with the DOD and the acquired lands obtaining Weeks Law status. Interchanges are not subject to the National Environmental Policy Act.

All interchanges with the Corps of Engineers should be conducted under the terms of the August 13, 1964, agreement on managing lands and water resources in FSM 1533.21.

#### **5452.21 - Interchange Processing Guidelines**

All interchanges should be coordinated through the Washington Office Lands and Realty Management staff.

The formal processing guidelines for an interchange are:

1. Negotiate with the DOD to determine the location and size of the DOD parcels and NFS parcels being proposed for interchange. (If there are improvements on either the Forest Service or DOD parcels, coordinate with Acquisition Management and Engineering staffs.)

2. Ensure the proposed interchange parcels are identified on Forest maps that meet the legislative mapping tool requirements found at: <http://fsweb.wo.fs.fed.us/lands/index-legmap.shtml>.

a. Create a vicinity map and large scale map showing the individual proposed parcels.

b. Ensure the proposed DOD and NFS interchange parcels identified and agreed upon are certified for accuracy with legal land description by the Forest/Regional Surveyor.

c. Obtain Letters of Endorsement from DOD supporting the interchange.

3. Obtain a DOD Environmental Baseline Survey (EBS) or an Environmental Assessment on the proposed DOD interchange parcels. The EBS must be reviewed and approved by a qualified Forest Service Environmental Engineer or Regional Environmental Attorney.

4. Prepare a Memorandum of Understanding (MOU) for signature by the Regional Forester or delegated Authorized Officer and the local DOD official. The MOU should define the roles and responsibilities of each agency and the terms and conditions of the interchange. (Refer to ex. 01.)

a. Include separate attachments for the legal descriptions and maps for both NFS and DOD proposed interchange parcels.

b. If the proposed interchange parcel or portions of the proposed interchange parcel of NFS lands is currently under a Special Use Authorization (SUA) to DOD, include any terms and conditions amending the SUA if DOD continues portions of the authorized use on NFS lands adjacent to but outside of the NFS lands to be interchanged. The SUA on the lands to be interchanged should be terminated upon consummation of the interchange.

c. The amended SUA should be executed prior to or upon effective date of the interchange.

d. If hazardous materials or petroleum products as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) and/or unexploded ordinances are discovered on the proposed DOD parcel, the Authorized Officer should seek guidance from the Regional CERCLA Coordinator and/or the OGC Pollution Control Team. After considering risk and potential environmental liability associated with the property, the Regional Forester or delegated Authorized Officer may:

(1) Terminate the proposal,

- (2) Negotiate with the DOD for suitable substitute parcels,
  - (3) Negotiate acceptable remediation of the hazardous conditions before proceeding with the interchange, or
  - (4) With concurrence from Washington Office, Lands and Realty Management Specialist and OGC, proceed with the interchange.
  - e. Coordinate and seek concurrence with the Regional OGC and Regional Environmental Engineer if hazardous materials are cited before finalizing the MOU for signature by the Regional Forester or delegated Authorized Officer and DOD.
- 5. Submit a Land Transfer Report that includes: statutory authority; summary of the interchange with attached legal descriptions; historical background of the proposed parcels identified for the interchange; effect of the interchange; cost items (such as an increase or decrease of NFS land acreage, rights-of-way, special use authorizations, and access); valid third party rights; social and economic effects; local attitudes regarding the transfer if known; conclusion; and a recommendation signed by the Forest Supervisor and approved by the Regional Forester. In addition, submit a Letter of Endorsement of the interchange from DOD to the Regional Forester.
  - 6. Submit a letter from the Regional Forester to the Chief supporting the interchange.
  - 7. Draft a Joint Interchange Order for signature by the Secretaries of Agriculture and Defense or their designee. (Refer to ex. 02.)
  - 8. Draft a letter of notification to the President of the Senate and Speaker of the House for signature by the Secretaries or their designee (refer to ex. 03). The interchange will not be effective until 45 days (counting only the days occurring during regular or special sessions of Congress) (16 U.S.C. 505a) after the intent to interchange jurisdiction is submitted to Congress.
  - 9. Obtain the signature of the Secretary of Defense or designated DOD official who has authority to sign in lieu of the Secretary (Secretary of the Navy, or the Secretary of the Army or their designee) on the Joint Interchange Order and letters of notification to the President of the Senate and the Speaker of the House.
  - 10. Upon the return of the completed and signed documents by the DOD, prepare a Decision Memorandum for the Chief's approval which must include a table of contents to include the following documents:
    - a. Briefing paper;
    - b. Memorandum of endorsement from the Regional Forester to the Chief;



- c. Memorandum of endorsement from the Forest Supervisor to the Regional Forester;
- d. MOU between the DOD and the Forest Service;
- e. Maps displaying the parcels and acreage to be transferred from DOD to the Forest Service;
- f. Maps displaying the parcels and acreage to be transferred from the Forest Service to DOD;
- g. Letter from Forest Service Regional Environmental Engineer or the OGC Pollution Control Team concurring with the proposed interchange;
- h. Land Transfer Report (refer to ex. 04);
- i. The Joint Interchange Order signed by the DOD; and
- j. The signed letters of notification to the President of the Senate and Speaker of the House by DOD.

11. Once the Secretary of Agriculture signs the Joint Interchange Order and notification letters to the Speaker of the House and President of the Senate, make three duplicate copies of the items listed at 5421.21(10)(a) - (j) to create an interchange package. Deliver one copy of the interchange package to the President of the Senate and one copy to the Speaker of the House. (It is advisable to hand-deliver the interchange packages to obtain a date stamp for proof of delivery on the two packages. The date stamp will be used to calculate the 45-day review period. Copies of the date stamp should be retained by the Washington Office Lands and Realty Management Staff and sent to the Region for the case file.)

12. Draft a Federal Register Notice for the proposed interchange (refer to ex. 05).

13. After the 45-day Congressional oversight period ends, the Federal Register Notice is published and the Interchange is completed.

14. Notify the Region when the interchange is complete.

15. The Forest should publish a notification in the local newspaper of the completed interchange. In addition, the Forest should document the change of jurisdiction by posting the new boundaries, updating the land status atlas, and revising the visitor information maps as necessary.

**5452.21 - Exhibit 01 – Sample**

**MEMORANDUM OF UNDERSTANDING**

Between The  
UNITED STATES DEPARTMENT OF THE ARMY  
And The  
UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE  
Relating to a Land Interchange  
Between Joint Readiness Training Center (JRTC) and Fort Polk, Louisiana  
And The Kisatchie National Forest

**I. INTRODUCTION**

A. The United States Department of the Army (Army) and the United States Department of Agriculture, Forest Service (Forest Service) plan to execute a Joint Order affecting an interchange of lands between Joint Readiness Training Center (JRTC) and Fort Polk (FP) and the Kisatchie National Forest (KNF) in Vernon and Natchitoches Parishes, Louisiana. The interchange consists of 481.33 acres of Army land and 480 acres of National Forest System (NFS) land. Army and the Forest Service enter into this Memorandum of Understanding (MOU), as a component of the interchange, to allocate environmental responsibilities for the parcels that are being exchanged. This MOU supersedes the MOU relating to the same interchange signed by Army and Forest Service representatives on 6 January 2003.

B. Army and the Forest Service enter into this MOU pursuant to their authorities under 16 U.S.C. 505a-505b, which authorize the Secretary of the Army and the Secretary of Agriculture to interchange certain lands without reimbursement or transfer of funds whenever they determine that the interchange will facilitate land management and will provide maximum use of federal land for authorized purposes.

C. The Forest Service has administrative control and land management responsibility for approximately 480.00 acres of land that are located within the FP reservation boundary on four parcels. The Forest Service has permitted this land to the Army to support military training operations under the special use permit, dated 4 June 1987.

D. Army has administrative control and land management responsibility for approximately 481.33 acres, located in seven parcels (described in 6 exhibits). These parcels are adjacent to NFS land in the KNF.

E. The dual administrative and land management responsibilities for the parcels described above led to a proposal to interchange lands between the KNF and FP. The Army and the Forest Service have each determined that this interchange of lands will facilitate land management and will provide for the maximum use thereof.

## 5452.21 - Exhibit 01—Continued

### II. DEFINITIONS

For purposes of this MOU, the following definitions apply:

A. “Fort Polk Land” (FPL) means Exhibit A, 1-6 of 6 (FPL Parcels 1-7) as described in the “Planning Report, Interchange Of Lands Between The Department Of The Army, Joint Readiness Training Center (JRTC) and Fort Polk, Louisiana (FP) and The U.S. Forest Service, Department of Agriculture, Kisatchie National Forest (KNF),” dated 24 February 2004 (Planning Report). The FPL includes 481.33 acres. A legal description of the FPL is attached at Exhibit A and depicted on the map at Exhibit C.

B. “Forest Service Land” (FSL) means Exhibit B, 1-4 of 4 (FSL Parcels 1-4) as described in the Planning Report. The FSL consists of 480.00 acres. A legal description of the FSL is attached at Exhibit B and depicted on the map at Exhibit D.

C. “Army” means the Department of the Army, its employees, contractors, subcontractors, lessees, or assigns.

D. “Forest Service” means the United States Department of Agriculture, Forest Service, its employees, contractors, subcontractors, lessees, or assigns.

E. “Environmental condition” means any of the following:

1. A release of a hazardous material on, at or under the FPL or the FSL;
2. The migration of any hazardous material onto or under the FPL or the FSL onto or under another property;
3. Any adverse environmental, health, or safety aspects of the use, handling, treating, generating, storing, transporting, recycling, disposing, or release of a hazardous material in connection with the operations of the FPL or the FSL; and
4. The violation or alleged violation of any environmental law, order, permit, or license of or from any applicable authority or court relating to environmental, health, or safety matters in the operations on the FPL or the Forest Service.

### III. ENVIRONMENTAL LIABILITY

A. Army has occupied and conducted activities on the FPL since 1940’s. Army has also occupied and conducted activities under a special use permit on various portions of the FSL since 1987. Army will have sole and complete responsibility for compliance with all applicable environmental laws and regulations with respect to activities or environmental conditions arising from Army’s use of the FPL and the FSL.

## 5452.21 - Exhibit 01--Continued

B. The Forest Service will not assume any of the United States' obligations or potential liability for environmental conditions arising from Army's use of the FPL, or the FSL. Army will retain responsibility for obligations or liability for environmental conditions arising from Army's use of the FPL and the FSL.

C. Army and the Forest Service agree that any unexploded ordinance or contamination found in the future on the FPL or the FSL is likely due to Army's past use of that land. If the Forest Service encounters, on the FPL, any environmental condition that arises from Army's use of that land, the Forest Service must immediately notify the Army. Army will be responsible for and pay all costs related to any response action required to meet any environmental law requirement concerning such environmental condition. The Army and the Forest Service will cooperate on the nature and extent of any required response action, giving due consideration to the risks involved and taking into account the intended land use for the property under the KNF Plan. The Army and the Forest Service will also cooperate on the nature and extent of any required response action.

### IV. GENERAL PROVISIONS

A. Except as expressly provided in this MOU, the Army and Forest Service reserve the right to exercise their respective authorities. Army and the Forest Service reserve their rights and authorities under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601, et. seq.), as well as any other applicable laws. This MOU will not be construed to diminish or enlarge those rights and authorities, or to prejudge what those rights and authorities may be.

B. The Forest Service, in cooperation with Army, will notify the Speaker of the House of Representatives and President of the Senate of the intended interchange. The interchange of lands will not be final until forty-five days after the submission of the notice of the intended interchange. The forty-five days will be calculated by counting only days occurring during any regular or special session of the Congress.

C. The parties understand that there will be no significant change in the current use of the lands to be interchanged. No boundary survey, boundary markers, or fencing are required as a result of the interchange.

D. Each party will be responsible for providing the services and administrative costs associated with the interchange.

E. Each party will provide the other with the acquisition documents, survey records and maps, and other related documents necessary to complete the interchange.

F. The parties recognize that each must operate within the requirements of the federal budget process and legal restrictions concerning obligations of funds. No provision of this MOU will be construed to require the Forest Service or Army to obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. 1341.

**5452.21 - Exhibit 01--Continued**

G. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement, contribution of funds, or transfer of anything of value between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures, including those for Government procurement. Such endeavors will be outlined in separate agreements that must be made in writing by representatives of the parties and must be independently authorized by appropriate authority.

H. This MOU will not be deemed to create any right, benefit, or trust obligation, either substantive or procedural, enforceable by any person or entity in any court against the United States, its agencies, its officers, or any other person.

I. This MOU may be modified, amended, or terminated only in writing by mutual agreement of the parties and by a duly authorized representative of each party.

J. This MOU may be executed in counterparts by each of the signatories. Each of the counterpart documents will be deemed an original, but together will constitute one and the same instrument.

K. This MOU is effective upon the date signed by the last of the parties and will continue in effect unless terminated.

The undersigned parties hereby agree to the terms and conditions of this Memorandum of Understanding.

**UNITED STATES  
DEPARTMENT OF THE ARMY**

**UNITED STATES  
DEPARTMENT OF AGRICULTURE  
FOREST SERVICE**

Joseph W. Whitaker  
Deputy Assistant Secretary of the Army  
(Installations and Housing)  
OASA (I&E)

Dale N. Bosworth  
Chief, USDA Forest Service

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

**5452.21 - Exhibit 02 - Sample**

DEPARTMENT OF THE ARMY

DEPARTMENT OF AGRICULTURE

FORT POLK, LOUISIANA

**JOINT ORDER INTERCHANGING ADMINISTRATIVE JURISDICTION OF  
DEPARTMENT OF THE ARMY LANDS AND NATIONAL FOREST SYSTEM LANDS**

By virtue of the authority vested in the Secretary of the Army and the Secretary of Agriculture by the Act of July 26, 1956 (70 Stat. 656; 16 U.S.C. 505a, 505b), it is ordered as follows:

1. The lands under the jurisdiction of the Department of the Army described in Exhibit A and shown on a map on file and available for public inspection in the Office of the Chief, U.S. Department of Agriculture (USDA), Forest Service, Washington, DC, which lie within the boundary of Joint Readiness Training Center (JRTC) and Fort Polk's military reservation, Vernon and Natchitoches Parishes, Louisiana, are hereby transferred from the jurisdiction of the Secretary of the Army to the jurisdiction of the Secretary of Agriculture, subject to outstanding rights or interests of record.
2. The lands under the jurisdiction of the USDA Forest Service described in Exhibit B and shown on a map on file and available for public inspection in the office of the Chief, USDA Forest Service, Washington, DC, which lie within the Kisatchie National Forest (KNF), Louisiana, are hereby transferred from the jurisdiction of the Secretary of Agriculture to the jurisdiction of the Secretary of the Army, subject to outstanding rights or interests of record.
3. Pursuant to a Memorandum of Understanding dated \_\_\_\_\_, the Forest Service must publish a notice in the Federal Register that the lands described in Exhibits A and B are deemed transferred to the jurisdiction of the Secretary of Agriculture and Secretary of the Army, respectively, as provided in this Joint Interchange Order.
4. Subject to the condition in Paragraph 3 and pursuant to Section 2 of the aforementioned Act of July 26, 1956, the National Forest lands transferred to the Secretary of Army by this Joint Interchange Order, are hereby subject only to the laws applicable to the Department of the Army lands comprising JRTC and Fort Polk, Louisiana. The Department of the Army lands transferred to the Secretary of Agriculture by this order are hereafter subject only to the laws applicable to National Forest System lands within the KNF. Subject to the condition in Paragraph 3, the boundary of JRTC and Fort Polk is hereby adjusted to exclude all of the lands transferred to the Secretary of Agriculture and include all lands received by the Secretary of Army, subject to outstanding rights or interests of record. The special use permit (SUP), in existence since 1987, is currently being revised and will include and reflect any needed modifications. The execution of the SUP will occur simultaneously with the Interchange.

**5452.21 - Exhibit 02--Continued**

5. Any environmental liability created by the Department of the Army's use of the lands described in Exhibits A and B, will be the Army's sole responsibility. For lands in Exhibit B, this responsibility is required by the Special Use Permit entered into by the USDA Forest Service and the Department of the Army, dated 4 June 1987, and as further amended. After the effective date of this Joint Interchange Order, the Department of the Army will remain responsible for the response to any ordinance, explosives, hazardous substances, or pollutants or contaminants discovered on all lands described in Exhibits A and B, that are the result of past Army operations on those lands, or that occurred during the Army's administration of those lands.

This Joint Interchange Order will be effective as of the date of publication in the FEDERAL REGISTER.

\_\_\_\_\_  
Honorable Les Brownlee  
Acting Secretary of the Army

\_\_\_\_\_  
Ann M. Veneman  
Secretary of Agriculture

Date \_\_\_\_\_

Date \_\_\_\_\_

5452.21 - Exhibit 03 - Draft

**Notification to the President of the Senate**

Honorable Richard B. Cheney  
President of the Senate  
Washington, DC 20515

Dear Mr. President:

Pursuant to the provisions of the Act of July 26, 1956, as amended (70 Stat. 656; 16 U.S.C. 505a, 505b), we hereby give notice in duplicate of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of Army and National Forest lands at Joint Readiness Training Center (JRTC) and Fort Polk, Louisiana. JRTC and Fort Polk have used these national forest lands as a military training area under a special use permit since 1987.

A copy of the joint order making the proposed transfer of jurisdiction and maps illustrating the lands to be interchanged by the two agencies is enclosed. This order will be effective upon its publication in the Federal Register, but will not be published until 45 days have elapsed from your receipt of this letter.

The purpose of this joint order is to interchange approximately 481.33 acres of land under the jurisdictional control of the Army to the Forest Service for ongoing Forest Service programs; and approximately 480.00 acres of land under the jurisdictional control of the Forest Service to the Army for improved management. The Forest Service lands being transferred have been used continuously for administrative and training purposes by the Army since 1987, and are best managed by the Army. The lands being transferred to the Forest Service adjoin existing National Forest lands and represent areas best managed by the Forest Service.

This action will be in the public interest because it will provide both the Army and the Forest Service jurisdiction and management over lands best suited for their missions. All public uses of the area will be better served without overlapping or duplicating activities of the Army and Forest Service. The interchange will improve management, coordination, and utilization of Federal lands in the area.

Sincerely,

\_\_\_\_\_  
Honorable Les Brownlee  
Acting Secretary of the Army

\_\_\_\_\_  
Ann M. Veneman  
Secretary of Agriculture

Date \_\_\_\_\_

Date \_\_\_\_\_

Enclosures



**5452.21 - Exhibit 03--Continued – Draft**

**Notification to the Speaker of the House**

Honorable J. Dennis Hastert  
Speaker of the House of Representatives  
House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the provisions of the Act of July 26, 1956, as amended (70 Stat. 656; 16 U.S.C. 505a, 505b), we hereby give notice in duplicate of the intention of the Departments of the Army and Agriculture to interchange jurisdiction of Army and National Forest lands at Joint Readiness Training Center (JRTC) and Fort Polk, Louisiana. JRTC and Fort Polk have used these national forest lands as a military training area under a special use permit since 1987.

A copy of the joint order making the proposed transfer of jurisdiction and maps illustrating the lands to be interchanged by the two agencies is enclosed. This order will be effective upon its publication in the Federal Register, but will not be published until 45 days have elapsed from your receipt of this letter.

The purpose of this joint order is to interchange approximately 481.33 acres of land under the jurisdictional control of the Army to the Forest Service for ongoing Forest Service programs; and approximately 480.00 acres of land under the jurisdictional control of the Forest Service to the Army for improved management. The Forest Service lands being transferred have been used continuously for administrative and training purposes by the Army since 1987, and are best managed by the Army. The lands being transferred to the Forest Service adjoin existing National Forest lands and represent areas best managed by the Forest Service.

This action will be in the public interest because it will provide both the Army and the Forest Service jurisdiction and management over lands best suited for their missions. All public uses of the area will be better served without overlapping or duplicating activities of the Army and Forest Service. The interchange will improve management, coordination, and utilization of Federal lands in the area.

Sincerely,

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Honorable Les Brownlee  
Acting Secretary of the Army

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Ann M. Veneman  
Secretary of Agriculture

Date \_\_\_\_\_

Date \_\_\_\_\_

Enclosures

**5452.21- Exhibit 04 - Example**

**Land Transfer Report**

United States Department of the Navy, United States Marine Corps  
and the  
United States Department of Agriculture, Forest Service  
Relating to a Land Interchange between the Marine Corps Mountain Warfare Training Center,  
California, and the Humbolt-Toiyabe National Forest

**STATUTORY AUTHORITY:** Act of July 26, 1956 (70 Stat. 656, as amended;  
16 U.S.C. 505a, 505b)

**SUMMARY:** The United States Department of the Navy, United States Marine Corps (Navy/Marine Corps) and the United States Department of Agriculture, Forest Service (Forest Service) plan to execute a Joint Order affecting an interchange of lands between the Navy/Marine Corps Mountain Warfare Training Center (MWTC) and the Humboldt-Toiyabe National Forest (H-T NF) located in Mono County, California. The interchange consists of 240 acres, more or less, of Department of Navy (DoN) land, and 350 acres, more or less, of National Forest System (NFS) land. The proposed NFS land identified is currently being used by the MWTC as a permanent facility location for military training purposes. The Navy/Marine Corps and the Forest Service entered into a Memorandum of Agreement (MOA) as a component of the interchange to reassign jurisdiction and land management responsibilities, and to reassign environmental responsibilities for the parcels that are being interchanged, as well as to identify procedural responsibilities for the interchange.

This proposed interchange transfers the administrative responsibility for security and land management responsibilities over the identified NFS land to the Navy/Marine Corps which will eliminate the need for Forest Service personnel to provide oversight of the MWTC permanent training facility and associated infrastructure. Obtaining the identified DoN land will allow the H-T NF to consolidate federally owned land within the H-T NF boundary allowing the Forest Service to manage the land according to its Forest Plan, thereby preventing land use and land development which could be incompatible with the H-T NF mission. This interchange has been identified as beneficial to both parties.

## 5452.21 - Exhibit 04--Continued

**LEGAL DESCRIPTION:** obtain from survey documents

1. DoN Land: 240 acres  
  
Mount Diablo Meridian  
T. 7 N., R. 22 E.,  
Section 14, W1/2NW1/4, W1/2SW1/4;  
Section 15, E1/2SE1/4

2. NFS Land: 350 acres

(insert legal description from survey)

**HISTORICAL BACKGROUND:** The Forest Service has had administrative control and land management responsibility for approximately 350 acres of NFS land that is located within the H-T NF boundaries and has been used by the MWTC under a series of formal agreements since 1951 (as amended in 1955, 1957, 1963, 1972, 1976, 1982, 1984, 1986, and 1989). The Forest Service and Navy/ Marine Corps also entered into a Memorandum of Understanding concerning environmental matters at the MWTC in 2001. The identified NFS land has been used by the Navy/ Marine Corps to conduct various military training exercises, and to construct buildings and infrastructure critical to their training mission. The NFS land proposed for interchange with the Navy/ Marine Corps has lost its natural character, has limited public use, and limited value to the National Forest System. DoN has administrative control and land management responsibility for approximately 240 acres of land located within the boundary of the H-T NF. The land is undeveloped and consistent in character with surrounding NFS land. The dual administrative and land management responsibilities for the parcels described above led to a proposal to interchange lands between the H-T NF and MWTC. The Navy/ Marine Corps and the Forest Service have each determined this interchange of lands will facilitate land management and will provide for the maximum use thereof.

**EFFECT OF INTERCHANGE:** The properties to be interchanged are located in the Bridgeport Ranger District, H-T NF, Mono County, California.

#### **5452.21 - Exhibit 04--Continued**

The 240 acres of DoN land to be transferred to the Forest Service was acquired through a grant deed from The P & D Family Trust Agreement, acting by and through Marilyn Lee Ashurst McKenzie and Ashlee McKenzie – Co-Trustees for the P & D Family Trust Agreement, dated June 22, 2009, recorded June 29, 2009, as Entry No. 2009003187, Official Records of Mono County. These lands will have “Acquired” status and are subject to the following outstanding interests, restrictions, and reservations:

1. Fee simple title was acquired on lands identified in Exhibit X (attach map).
2. Easement for the diversion, conveyance and distribution of water and water rights, as granted to Antelope Valley Mutual Water Company. Said Easement recorded January 19, 1926, in Book V, page 16 of Official Records.
3. Such rights and easements for navigation and fishery which may exist over that portion of said land lying beneath the waters of the Lost Cannon Creek.

The 350 acres of NFS land to be transferred to the DoN is classified as both public domain lands and acquired lands. Approximately 200 acres are classified as reserved public domain land and are subject to the following outstanding interests, restrictions, and reservations:

1. Power Classification Site #394, dated April 13, 1948.

The remaining 102 acres was acquired through Warranty Deed from Lands of Sierra Inc., dated June 15, 1989, recorded June 20, 1999, as Entry No. 009561, in Book 532, page 147, Official Records, Mono County, California. These lands will have “Acquired” status and are subject to the following outstanding interests, restrictions, and reservations:

1. Fee simple title was acquired on lands identified in Exhibit X (attach map).
2. Any rights, interest or claims which may exist or arise by reason of State Highway 108 crossing over and upon said land.

#### **5452.21 - Exhibit 04--Continued**

3. Public trusts rights, including, but not limited to, the right to preserve West Walker River, Millie Lake, Mud Lake, Little Walker River, and Middle Walker River, and all streams and creeks flowing through and across the lands describe herein in their natural states, and an easement in favor of the public for commerce, navigation, fisheries, environmental and recreational purposes.

**COST ITEMS:** The interchange of land will have a decrease of NFS land by approximately 110 acres, more or less.

1. Department of Navy lands transferred to the U.S. Forest Service 240 acres.
2. U.S. Forest Service lands transferred to the Department of Navy 350 acres.

#### **SOCIAL AND ECONOMIC EFFECTS/ LOCAL ATTITUDES:**

**CONCLUSION AND RECOMMENDATIONS:** It is concluded the interchange of lands between the DoN and the Forest Service would benefit both agencies and enable the agencies to manage the respective lands more effectively according to their management plans. It is recommended the Forest Service proceed with actions to complete this interchange of lands. Draft copies of letters for Congressional notification, draft Federal Register Notice, and the Joint Order for the Interchange are enclosed.

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JEANNE HIGGINS  
Forest Supervisor  
Humboldt-Toiyabe National Forest

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HARV FORSGREN  
Regional Forester  
Intermountain Region

Enclosures

**Federal Register Notice**

DEPARTMENT OF AGRICULTURE

USDA Forest Service

Transfer of Administrative Jurisdiction: Marine Corps Mountain Warfare Training Center

Interchange Humboldt-Toiyabe National Forest, CA

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of joint interchange of lands

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**SUMMARY:** On XXXXXXXX XX, 2011, and XXXXXXXX XX, 2011 respectively, the Secretary of the Army and the Secretary of Agriculture signed a joint **interchange** order authorizing the transfer of administrative jurisdiction from the Department of Agriculture to the Department of the Navy for 346.49 acres, more or less located in Mono County, California, and generally described as: Portions of Sections 13, and 24, Township 6 North, Range 22 East, Mount Diablo Meridian, lying within the and Marine Corps Mountain Warfare Training Center and the Humboldt-Toiyabe National Forest and more particularly described according to the map and legal description on file in the Forest Service office noted below. Furthermore, the order transfers from the Department of the Navy to the Department of Agriculture for inclusion in the Humboldt-Toiyabe National Forest 240 acres, more or less located in Mono County, California, and generally described as: Portions of Section 14 and 15, Township 7 North, Range 22 East, Mount Diablo Meridian, being 240 acres more or less; within the boundaries of the Humboldt-Toiyabe National Forest, and more particularly described according to the map and legal

**5452.21 - Exhibit 05--Continued**

description on file in the Forest Service office noted below. A copy of the Joint Interchange Order, as signed, which describe the lands therein being conveyed from jurisdictional change to the USDA Forest Service, are set out at the end of this notice.

**DATES:** The 45-day Congressional oversight requirement of the Act of July 26, 1956, as amended (70 Stat. 656; 16 U.S.C. 505a, 505b) has been met. The order is effective XXXXXXXXXX XX, 2011.

**ADDRESSES:** Copies of the maps with adjoining legal descriptions showing the lands included in this joint **interchange** order are on file and available for public inspection in the Office of the Regional Forester, Intermountain Region, USDA Forest Service, 324 25<sup>th</sup> Street, Ogden, UT 84401, between the hours of 8:30 a.m. and 4:30 p.m. on business days. Those wishing to inspect the maps with adjoining legal descriptions are encouraged to call ahead to (801) 625-5306.

**FOR FURTHER INFORMATION CONTACT:** (WO Lands and Realty Project Manager)  
Forest Service, USDA, 201 14th Street, SW., Washington, DC 20250, Telephone:  
(202) 205-1792.

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XXXXXXXXXXXXXXXXXX  
Deputy Chief for  
National Forest System

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(Date)

### **5452.3 - Land Transfer Under Federal Property and Administrative Services Act**

The Federal Property and Administrative Services Act (FPASA) of June 30, 1949 (63 Stat. 377; 40 U.S.C. 101, 102c-e, g, 529, and 541), as amended, requires all federal bureaus or agencies to report excess real property to GSA for disposition. The FPASA specifically excludes lands reserved or dedicated for National Forest purposes regardless of whether those lands are inside or outside a National Forest boundary. For instance, acquired lands within an established purchase unit have National Forest status and would therefore be excluded from the FPASA. Also lands acquired under Title III of the Bankhead-Jones Act have not been subject to utilization surveys by GSA. These lands are effectively dedicated for National Forest purposes and therefore exempt from the FPASA. See FSM 5570 and FSH 5509.11, chapter 20. However, in the Federal Management Regulation, GSA has interpreted the FPASA real property procedures to apply to improvements, structures, and fixtures (except for prefabricated movable structures) when designated for disposition without the underlying land, even on lands reserved or dedicated for National Forest purposes. See 41 CFR 102-71.20(2).

#### **5452.31 - Responsibility**

The Washington Office Acquisition Management Staff has primary responsibility for transfers to the Forest Service under this authority (FSM 6440). Responsibility for disposition under FPASA of improvements, structures, and fixtures without the underlying land lies with the Regional Director of Acquisition Management.

Transfers of real property under this authority are the responsibility of GSA and lands are reported to them as excess real property. GSA notifies other agencies when property is excess and available for transfer at fair market value. The Secretary of Agriculture may request an exception to paying GSA fair market value for real property to be transferred to the Forest Service. The Office of Management and Budget approves justified exceptions.

#### **5452.4 - Status of Transferred Land**

Reserved public domain lands that have been set aside and reserved for administration by the Forest Service as National Forests are severed from the public domain. However, these National Forest lands with "Reserved" status are subject to the mining laws under the Organic Act of June 4, 1897 (30 Stat. 34 and 36; 16 U.S.C. 472, 478).

Acquired land transferred to the Forest Service for administration receives Weeks Law status if it is located within the exterior boundary of a National Forest and is not located within the official limits of a town or city. Revested Oregon and California railroad grant lands transferred to the Forest Service have National Forest status. However, they retain their revested Oregon and California railroad land status. See the Act of September 2, 1958 (72 Stat. 1571; 16 U.S.C. 521a).

Lands acquired from GSA which are outside National Forest boundaries or which are within the official limits of cities or towns will not have National Forest status.



## **5453 - Legislative Jurisdiction of Lands**

Federal legislative jurisdiction refers to the Federal authority to legislate and to exercise executive and judicial powers within a specified area. When the Federal Government has legislative jurisdiction over a particular land area, it has the power and authority to enact, execute, and enforce general legislation within that area.

### **5453.01 - Authority**

The Secretary of Agriculture may relinquish to a State all or part of the legislative jurisdiction of the United States over lands or interests under the Department's control. (P.L. 95-441, 92 Stat. 1064; 7 U.S.C. 2268.)

### **5453.03 - Policy**

Exclusive legislative jurisdiction will not be retained on NFS lands except when approved by the Deputy Chief for NFS.

### **5453.04 - Responsibility**

For purposes of this section, the Washington Office Director of Lands and Realty Management, Regional Foresters, and Station Directors are delegated the authority for overall lands program management responsibilities.

1. Washington Office Director of Lands and Realty Management. The Director of Lands and Realty Management has program management responsibility concerning jurisdiction of lands and must process requests to retain or relinquish exclusive legislative jurisdiction over specified lands.
2. Regional Foresters and Station Directors. The Regional Foresters and Station Directors must determine the legislative jurisdictional status of lands under their responsibility, and must request release from or retention of exclusive jurisdiction.

### **5453.05 - Definitions**

For purposes of this section, the following definitions apply.

Concurrent Legislative Jurisdiction. Federal and State governments exercise independent legislative powers in the same area, that is, both sets of laws apply. The State grants exclusive jurisdiction to the Federal Government but retains the same jurisdiction to itself.

Exclusive Legislative Jurisdiction. The Federal Government excludes all the authority of the State except the right to serve civil or criminal process in the area.

Partial Legislative Jurisdiction. A State grants the Federal Government authority to exercise certain State powers but retains other powers to itself or concurrently with the Federal Government.

Proprietorial Interest. The Federal Government acquires legal rights to the land but not the State's legislative authority over the land. The Federal Government performs the functions delegated to it by the Constitution as the sovereign under the supremacy clause. Most NFS lands are under proprietorial jurisdiction.

#### **5454 - Annexation and Zoning**

Towns and other local governmental entities empowered under State law to annex (incorporate within the political boundaries) or to zone property may include NFS lands. Zoning actions, being legislative in nature, only apply to private land.

Private parties using or occupying NFS land within an area annexed by a town or city are subject to various State or local laws and ordinances, but their rights under a special-use permit are not affected. Rights of the United States Government are not affected by annexation.

Forest Service officials must remain neutral to annexation proposals involving NFS land; express neither support nor opposition to such proposals.