



United States
Department of
Agriculture

Forest
Service

Pacific
Southwest
Region

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File Code: 1570-1
Appeal No.: 07-05-00-0037-A215
Date: July 19, 2007

Mr. Gavin Wilkinson
Box 1102
Lone Pine, CA 93545

CERTIFIED - RETURN
RECEIPT REQUESTED

Dear Mr. Wilkinson:

On June 5, 2007, you filed a Notice of Appeal (NOA) pursuant to 36 CFR 215 of the Inyo National Forest Supervisor's Decision Notice (DN) approving Alternative 1 of the Mammoth Community Facilities Land Exchange Environmental Assessment (EA) that was signed on April 26, 2007.

I have reviewed the entire appeal record, including your written Notice of Appeal (NOA), the DN, EA, and supporting documentation. I have weighed the recommendation from the Appeal Reviewing Officer and incorporated it into this decision. A copy of the Appeal Reviewing Officer's recommendation is enclosed. This letter constitutes my decision on the appeal and on the specific relief requested.

FOREST ACTION BEING APPEALED

Alternative 1, the Selected Alternative will result in an immediate net gain of 3,061.77 acres of lands having valuable resource attributes to the National Forest System on the Inyo, Eldorado, and Tahoe National Forests (see Purpose and Need Section of the EA), in exchange for 12.517 acres of National Forest System land located within the boundaries of the Town of Mammoth Lakes. This decision will also result in the acquisition of an additional 3,871.34 acres of non-Federal located within the Eldorado and Tahoe National Forests, which are in surplus of this exchange.

APPEAL REVIEWING OFFICER'S FINDINGS

The Appeal Reviewing Officer (ARO) found that the Forest Supervisor's decision was appropriate and complied with existing laws, policies, and regulations.

The project is in compliance with the Inyo National Forest Land and Resource Management Plan as amended by the Sierra Nevada Forest Plan Amendment Record of Decision (February, 2004).

The purpose and need for the project were clear.



DECISION

I agree with the ARO's analysis as presented in the recommendation letter. The issues in your appeal are very similar to those you raised in your comments on the Preliminary EA and the record is adequate to support the Forest Supervisor's decision. All appeal issues raised have been considered. I affirm the Forest Supervisor's decision to implement Alternative 1.

My decision constitutes the final administrative determination of the Department of Agriculture [36 CFR 215.18(c)].

Sincerely,

/s/ Beth G. Pendleton
BETH G. PENDLETON
Deputy Regional Forester
Appeal Deciding Officer

Enclosure

cc: Karen L Burmark
Gary R Chase
Marlene Finley



File Code: 1570-1

Date: July 15, 2007

Subject: Mammoth Community Facilities Land Exchange
Appeal No. 07-05-00-0037-A215
Inyo, Eldorado, and Tahoe National Forests

To: Appeal Deciding Officer

I am the designated Appeal Reviewing Officer for this appeal. This is my recommendation on disposition of the appeal filed by Gavin Wilkinson appealing the Inyo National Forest Supervisor, Jeffrey E. Bailey's, Decision Notice (DN) for selecting Alternative 1 of the Mammoth Community Facilities Land Exchange Environmental Assessment (EA).

BACKGROUND

Decision – The Southern Mono Health Care District has proposed a land exchange with the Forest Service to acquire 12.517 acres of federal land located within the Town of Mammoth Lakes for the development of a community facilities center that would allow for expansion of the hospital. In exchange, the hospital has offered to convey lands of approximately equal value. This includes up to 161.87 acres in Inyo County, 1,190.08 acres in Mono County, 727.00 acres in El Dorado County, 4,374.16 acres in Placer County, and 480.00 acres in Nevada County for a total of 6,933.11 acres of land transferred to National Forest System.

The current hospital is 25 years old and does not meet current seismic, Americans with Disabilities Act (ADA), or Life Safety codes. District voters approved a general obligation bond in the amount of 22.5 million dollars for land acquisition and construction of additional hospital facilities.

In the EA, the non-Federal properties were prioritized in order of acquisition in recognition that some of these non-federal parcels might have to be dropped from the exchange to accomplish approximate equal values. Following is a list of all parcels considered, in order of priority:

1. Bristlecone Pine Parcels
2. Adobe Ranch Parcels
3. Jacob Murray Parcel
4. Tub Springs Parcel
5. Middlefork American and Rubicon River/Sierra Pacific Industries lands
6. Milk Lake Parcel

Alternative 1, the Selected Alternative will result in an immediate net gain of 3,061.77 acres of lands having valuable resource attributes to the National Forest System on the Inyo, Eldorado, and Tahoe National Forests (see Purpose and Need Section of the EA), in exchange for 12.517



acres of National Forest System land located within the boundaries of the Town of Mammoth Lakes. This decision will also result in the acquisition of an additional 3,871.34 acres of non-Federal located within the Eldorado and Tahoe National Forests, which are in surplus of this exchange.

Milk Lake and the remainder of the SPI parcels considered in the EA are in surplus of this exchange because they are not necessary to achieve approximately equal values between the non-Federal and Federal parcels. However, acquisition of these parcels is crucial, and consequently the Milk Lake parcel, will be acquired through a tripartite exchange and the remainder of the SPI parcels will be purchased with Land and Water Conservation Funds (LWCF), either immediately or as funds become available.

Scoping – The Mammoth Community Facilities Land Exchange Project was listed in the Spring 2005 Schedule of Proposed Actions (SOPA). The intent to pursue a land exchange was reported in the local newspapers and media which resulted in several articles in local newspapers, including the Mammoth Times (Town of Mammoth Lakes). Consultants hired by the Healthcare District and other agencies made a presentation regarding the exchange to the public, members of the Mammoth Lakes Town Council, Mono County Board of Supervisors, Fire and Hospital District Board members, and representatives of the Superior Courts in May, 2005.

Special use permit holders and private property owners abutting the Federal parcel were notified of the proposed exchange via an Inyo National Forest letter dated August 12, 2005.

Tribal Consultation was undertaken upon receipt of the land exchange proposal and prior to signing of the Agreement to Initiate. Tribal notification letters were mailed on January 5, 2005. No responses were received.

The Notification of Exchange Proposal (NOEP) was placed in the Inyo Register (Inyo and Mono Counties), Mountain Democrat (El Dorado County) and The Union (Placer County) newspapers. These notifications were published once a week for four consecutive weeks during October and November 2005 (10/13, 10/20, 10/27, and 11/3 issues).

Copies of the NOEP were sent to appropriate Congressional, State, and local governments, and affected Native American tribes in involved counties. Appendix B of the EA lists all agencies and persons consulted.

As a result of the above-described public scoping activities, the Inyo National Forest received 14 written comments (letters and/or e-mails) from interested members of the public.

APPEAL SUMMARY

The legal notice of decision was published April 26, 2007; the deadline for filing appeals was June 11, 2007. The current appeal was filed on June 5, 2007 and is timely.

An informal disposition meeting was held on June 21, 2007 with Gavin Wilkinson for this appeal. No appeal issues were resolved.

As relief the appellant requests the Forest Service to eliminate the loss of private land in Inyo County.

ISSUES AND RESPONSES

1. **The decision did not consider the effects of the exchange on the citizens of Inyo County, and the needs of the local economies, as required by 36 CFR 254.**

Response: 36 CFR 254.3(b) states that the authorized officer may complete an exchange only after a determination is made that the public interest will be well served.

The appellant is correct, one of the factors that needs to be considered is to meet the needs of State and local residents and their economies. However, that is only one of many other factors that needs to be considered.

Under 36 CFR 254.3(b)(2), to determine that an exchange well serves the public interest, the authorized officer must find that:

- 1) The resource values and the public objectives served by the non-Federal lands or interests to be acquired must equal or exceed the resource values and the public objectives served by the Federal lands to be conveyed, and
- 2) The intended use of the conveyed Federal land will not substantially conflict with established management objectives on adjacent Federal lands, including Indian Trust lands.

The rationale for the public benefit determination is found on pages 3 through 5 of the Decision Notice for the Mammoth Community Facilities Land Exchange.

I find that the public benefit determination documented in the Decision Notice for the Mammoth Community Facilities Land Exchange complies with 36 CFR 254.

RECOMMENDATION

My review was conducted pursuant to and in accordance with 36 CFR 215.19 to ensure the analysis and decision is in compliance with applicable laws, regulations, policy, and orders. I reviewed the appeal record, including the comments received during the comment period and how the Forest Supervisor used this information, the appellant's objections and recommended changes.

Based on my review of the record, I recommend the Forest Supervisor's decision be affirmed on all issues. I recommend that the appellant's requested relief be denied on all issues.

FINDINGS

Clarity of the Decision and Rationale

The Forest Supervisor's decision and supporting rationale are clearly presented in the Decision Notice. His reasons for selecting Alternative 1 are logical and responsive and consistent with direction contained in the Inyo National Forest Land and Resource Management Plan as amended by the Sierra Nevada Forest Plan Amendment Record of Decision (February, 2004).

Comprehension of the Benefits and Purpose of the Proposal

The purpose of the proposal as stated in the Background section above is clear and the benefits are displayed.

Consistency of the Decision with Policy, Direction, and Supporting Information

The decision is consistent with direction contained in the Inyo National Forest Land and Resource Management Plan as amended by the Sierra Nevada Forest Plan Amendment Record of Decision (February, 2004).

Effectiveness of Public Participation Activities and Use of Comments

Public participation was adequate and well documented. The project was added to the quarterly Schedule of Proposed Actions. The Forest hosted public meetings, and distributed EAs to interested groups and individuals. The Inyo National Forest has maintained current information on planning and activities on its web page. The decision of the Forest Supervisor indicates he considered and responded to public input.

CONCLUSION

Based on the finding above, I recommend the requested relief be denied and that the Forest Supervisor's decision to implement Alternative 1 be affirmed.

/s/ Tyrone Kelley

TYRONE KELLEY
Appeal Reviewing Officer
Forest Supervisor, Six Rivers National Forest