

Use of Comments

All comments, including name and address when provided, will become a matter of public record. Comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval.

Dated: July 6, 2000.

James R. Furnish,

Deputy Chief for National Forest System.

[FR Doc. 00-17580 Filed 7-11-00; 8:45 am]

BILLING CODE 3410-11-U

DEPARTMENT OF AGRICULTURE**Forest Service****Davis Land Exchange; White River National Forest; Colorado**

AGENCY: Forest Service, USDA.

ACTION: Notice of land exchange.

SUMMARY: On June 15, 2000, Anne Keys, Deputy Under Secretary for Natural Resources and Environment, signed a Decision Notice and Finding of No Significant Impact for the Davis Land Exchange. The decision authorizes the exchange of 7.32 acres within the White River National Forest, Colorado, for approximately 61 acres in Pitkin County, Colorado. The exchange will be completed under authority of and in accordance with the General Exchange Act of March 20, 1922; the Federal Land Policy and Management Act of October 21, 1976, as amended; and the Federal Land Exchange Facilitation Act of August 20, 1988.

EFFECTIVE DATE: June 15, 2000.

ADDRESSES: Copies of the decision and environmental assessment may be obtained from Mr. Allan Grimshaw, Aspen Ranger District, 806 West Hallam Street, Aspen, CO 81611.

FOR FURTHER INFORMATION CONTACT:

Allan Grimshaw, Aspen Ranger District, at (970) 925-3445 or email agrimshaw@fs.fed.us.

Dated: June 26, 2000.

Sally D. Collins,

Associate Deputy Chief.

Decision Notice and Finding of No Significant Impact for the Davis Land Exchange, Pitkin County, Colorado, USDA Forest Service, White River National Forest, Aspen and Sopris Ranger Districts, May 2000

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Introduction

The Davis Land Exchange was initiated in an effort to resolve a title claim by Mr. D. Stone Davis against the United States, Pitkin County, Colorado, and others. Properties claimed by both the United States and Mr. Davis were conveyed to the United States by Pitkin County in 1994 as part of the implementation of the Colorado Land Exchange Act of May 19, 1994 (Pub. L. 103-255). The United States has entered into a settlement agreement with Davis and Pitkin County whereby the United States would consider exchange of certain National Forest System lands for Davis' interest in disputed lands and others.

This Decision Notice (DN) documents my decision regarding the proposed Davis Land Exchange. An environmental assessment (EA) has been prepared in compliance with the National Environmental Policy Act for this proposal and discloses the environmental effects. This EA is available for review at the Forest Service Offices in Aspen and Glenwood Springs, Colorado. A biological assessment (BA)/biological evaluation (BE) was prepared in compliance with process requirements under the Endangered Species act and related Forest Service Policy. Floodplain and wetlands evaluations were prepared. A heritage resources inventory and report were completed. I referred to and have relied heavily upon these documents in my decision documented here.

Purpose and Need

The Colorado Land Exchange Act of May 19, 1994 (Pub. L. 103-255) directed the Forest Service to exchange approximately one hundred thirty two acres of land at the former Mt. Sopris Tree Nursery (MSTN), in Eagle County, Colorado, for approximately one thousand three hundred acres of patented mining claims whose ownership was claimed by Pitkin and Eagle Counties. Pitkin County issued a quit claim deed to the United States for 148 patented claims on August 16, 1994 and an additional quit claim deed for 4

patented parcels on September 30, 1994. Eagle County issued a quit claim deed to United States for 4 patented claims on July 26, 1994.

The Act also provided that any party who claimed any right, title, or interest in or to any lands conveyed to the Forest Service under the Act, would have to bring an action against the United States pursuant to the Real Property Quiet Title Act of October 25, 1972 (section 2409a of title 28, U.S.C.), prior to September 15, 2000. Civil action No. 96-WM-1607 was filed in United States District Court for the District of Colorado, naming the United States of America, Pitkin County, and a number of other parties as defendants. The purpose of the action was to have the court quiet title to the Picayune Lode (U.S. Mineral Survey No. 5743) and the Daisy Lode (U.S. Mineral Survey No. 4050).

Subsequently, Mr. Davis, the United States and Pitkin County negotiated a settlement agreement to resolve Mr. Davis' title claim. The settlement agreement was accepted by the U.S. District Court on September 10, 1999. The settlement agreement specifies that Mr. Davis, the United States, and Pitkin County will exchange various interests in land.

The Decision

I am well convinced that there is a valid purpose and need for this exchange. It is my decision to proceed with the land exchange as proposed in Alternative 1 of the EA. The exchange will be completed under authority of and in accordance with the General Exchange Act of March 20, 1922 (Pub. L. 67-173), the Federal Land Policy and Management Act of October 21, 1976 (FLPMA, Pub. L. 100-409). Additional authority for settlement is provided through the United States Attorney Manual, Chapter 4-1.300.

The Forest Service will convey approximately 7.32 acres of Federal land with an agency approved value of \$725,000 to D. Stone Davis. Non-Federal parcels totalling approximately 65 acres with an agency approved value of \$897,781 will become National Forest. This exchange will require a cash equalization payment by the United States to Mr. Davis in the amount of \$172,781, in order to meet the equal value requirements of the Federal Land Policy and Management Act. The decision also includes the specified mitigation outlined in the environmental assessment. With regards to item d. of Alternative 1, the MIDCON Realty property to be conveyed to the United States is described as follows:

Township 10 South, Range 89 West, 6th PM,
County of Pitkin, State of Colorado
Sec. 10 N $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11 SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 14 N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE @
NW $\frac{1}{4}$.

The area described contains 42.5 acres,
more or less.

Reasons for My Decision

After reviewing the EA and the public comment received through the process, I am convinced that this land exchange serves the public interest.

Implementation of Alternative 1 not only resolves the title claim fairly and expeditiously, it provides for the acquisition of non-Federal land valuable for National Forest purposes.

Acquisition of the non-Federal parcels assist in achieving the objectives of the White River National Forest Land and Resource Management Plan (EA page 2). The non-Federal parcels which become National Forest will be protected from the sale, resale, and further development which could occur absent this exchange. Development would likely take place on most of the non-Federal lands in this exchange. This development would have a negative affect on the surrounding National Forest and would threaten the values for which those lands are being managed in the broader public interest. This is particularly true for the Case Lode and the MIDCON parcels. This exchange offers the opportunity to secure these lands from such intrusion.

The Forest Service's jurisdiction over the proposed land exchange is limited to the transfer of land ownership. While the National Environmental Policy Act (NEPA) requires the Forest Service to evaluate and disclose the impacts that can be expected as a result of the exchange. The use and management of the land that becomes private as a result of this exchange will be subject to the zoning authority which is Pitkin County. Pitkin County is a party to the Settlement Agreement. The agreement, as well as the past actions, demonstrate a strong desire to insure controlled development within the County. They support this exchange. This indicates to me that they are reasonably comfortable with their jurisdictional authority to regulate and mitigate development which results from the land exchange.

The Federal parcel is located in an area of considerable private land with ongoing development. The conveyance of this parcel will affect its use and enjoyment by owners of the adjacent property. However, it is my responsibility to insure that decisions involving National Forest reflect the greater public interest. It is

acknowledged that wildlife habitat quality, which is already low, would decline further when the parcel is inevitably developed. In addition, the limited recreation resources associated with the parcel would be lost. I believe that both of these impacts are more than offset by the values associated with the non-Federal parcels to be acquired.

The administrative obligations of the Forest Service would be reduced through reduction of 6000 feet of boundary line to be located, posted and maintained and 12 corners to locate and maintain. Boundary location cost in this area is estimated of \$11,000/mile. Maintenance costs are estimated at \$2,500/mile every five years. There would be no change in road maintenance costs. There will be no net change in road miles the Forest Service would maintain.

Public Interest Determination

Per the requirements of 36 CFR 254.3(2), I have reviewed this decision against the criteria for determining public interest.

The resource values and the public objectives served by the non-Federal lands and interests to be acquired exceed the resource values and public objectives served by the by the Federal land to be conveyed. Also considered here was the time and expense of prolonged litigation in resolving the title claim.

The intended use of the Federal land will not substantially conflict with established management objectives on adjacent Federal land.

The consideration of all physical and biological resources and the public interests associated with both Federal and non-Federal properties, demonstrates a net gain in the public interest with the selection of Alternative 1.

Alternatives

The proposed action was analyzed in detail in the Environmental Assessment, along with the No Action alternative. Other alternatives were considered but dismissed from further analysis. The alternatives analyzed in detail in the Environmental Assessment are summarized below.

Alternative 1, Exchange Lands with D. Stone Davis, Proposed Action

Complete a land exchange under the current laws and regulations and Department of Justice Settlement Authority.

- The Forest Service would convey approximately 7.32 acres of Federal land into private ownership.

- D. Stone Davis would convey approximately 65 acres of non-Federal land to the United States.

Alternative 2, No Action

No lands would be exchanged between the Forest Service and D. Stone Davis.

- Land owned entirely by Davis would be available for resale or development. Litigation would continue over those properties with disputed title.

- The Federal land would remain under the current management prescription of the White River National Forest Land and Resource Management Plan. It would remain available for potential disposal in future exchanges.

Deed Restrictions

I wish to further expound on the impositions of deed restrictions, and alternative that was initially considered but dismissed. It has been suggested that the use of deed restrictions on the Federal parcel may be appropriate.

Forest Service direction for use of deed restrictions is found at several locations, including:

(a) Forest Service Manual 5474 deed restrictions and conditions.

In conveyances of National Forest System lands, in addition to reservations, it may be necessary to apply specific limiting conditions to manage effectively or to protect National Forest System lands and resources.

(b) Federal Register Notice of March 8, 1994, Part II, Department of Agriculture, Forest Service. 36 CFR 254 Land Exchanges; final rule.

A review of specific comments for 36 CFR 254.32 (h) *Reservations or restrictions in the public interest* provide an indication of the intent of this regulation. It contains references to "protecting critical interests" and restrictions to protect "any federal interests". The regulation itself states that "(t)he use or development of lands conveyed out of federal ownership are subject to * * * all laws, regulations and zoning authorities of State and local governing bodies".

(c) Forest Service Policy Statements.

October 14, 1999 memo from Deputy Chief James Furnish to Regional Foresters: "Do not propose or agree to restrictive covenants on the Federal lands unless they are required to comply with legal, regulatory requirements, executive orders, (i.e., wetlands or floodplains, cultural) or to meet land and resource management objectives. Do not agree to reservations by either party as a means of equalizing values. The potential de-valuing effect of covenants on the Federal lands need

to be considered when developing proposals.”

Forest Service direction indicates that deed restrictions are to be imposed in only those occasions when necessary to protect critical Federal interests. Neither scoping nor evaluation of the Federal land by specialists identified any critical resources or National Forest lands in need of protection through deed restrictions. In addition, the use of deed restrictions is not consistent with the Forest Service goal of improving the effectiveness and efficiency of its management. The Forest has identified these properties for disposal because of their intermingled status with private land, which makes management complicated and costly. Administration of deed restrictions can be extremely complicated, time consuming and expensive, resulting in a potential decrease in management efficiency, instead of the intended increase.

Finally, deed restrictions are not imposed to protect property interests on adjacent private property. The Forest Service has long taken the position that zoning and regulation of uses on private land are within the responsibility of state and local governments. Local authorities are in the best position to determine appropriate uses of private land. The Forest Service has neither the legal authority nor responsibility to substitute deed restrictions for local zoning controls. Local governments have traditionally agreed and insisted that such decisions be left to them.

Based on the fact that conveyance of the property with deed restrictions is inconsistent with policy, direction and regulation, and is beyond the scope of Forest Service responsibility, this alternative was dismissed from further consideration. It is “unlikely to be implemented” and thus, merited no further consideration.

Scoping and Public Involvement

A scoping effort to solicit issues and concerns related to the proposed action was accomplished through:

- The publication of the exchange proposal in the Aspen Times (July 31, August 7, 14 and 21, 1999)
- A mailing addressing the proposed action to potentially interested or affected organizations and individuals across the White River National Forest (July 30, 1999)
- A mailing to local officials, Pitkin County Commissioners, State of Colorado agencies, and the Colorado Congressional Delegation (March 23, 1999)

Four comment letters were received as a result of the scoping effort. All comments made or submitted were

considered in this analysis and are available for review in the project file.

A notice of the availability of the completed EA was mailed to four parties on April 6, 2000. Both a notice of the availability of the EA and a copy of the EA were mailed or hand delivered to 18 parties between April 5th and April 7th. Those 18 parties were those who had commented, those who had previously requested copies, and those who we believed were very interested in the proposal. Legal notices of the availability of the EA were published April 3, 2000 in the Federal Register and April 8, 2000 in the Aspen Times.

Four written comments on the Environmental Assessment were received within the 30 day comment period. These comments have been documented and responses are provided in Appendix G of the EA.

Changes in the Environmental Assessment in Responses to Public Comment and Since February 2000

The Scoping section (EA page 4) was amended to include public review of the Environmental Assessment. Appendix G was also added. Appendix G is identification of the public comments on the Environmental Assessment and the Forest Service Response to those comments.

The EA, under mitigation measures for Alternative 1, called for reserving a right-of-way across the Federal parcel for a driveway to access land to the north. It was determined that this reservation is not needed because land to the north adjoins Castle Creek Road. This mitigation has been deleted from the EA.

Three names have been added to Exhibit 3 of Appendix B (parties who were mailed the 7/30/99 scoping letter). These names were overlooked when the EA was prepared.

Appendix E (BA & BE) has been supplemented with documentation of “No Effect” on Canada Lynx.

Finding of No Significant Impact

Based on my review of the Environmental Assessment, including appendices and supporting documents, it is my conclusion that Alternative 1 is not a major Federal action that would significantly effect the quality of the human environment as defined at 40 CFR 1508.27. Therefore, an environmental impact statement will not be prepared. This finding is based on the following factors:

- *Consideration for context of the project.* The context is local to Pitkin County, Colorado with implications for the immediate area only.

- *Consideration of both beneficial and adverse impacts.* Impacts from the selected action are not unique to this project. I conclude that the beneficial and adverse effects of the selected action are not significant to the context of the proposed and cumulative effects.

- *Consideration of the effects on public health and safety.* This exchange will not affect public health or safety. There are no hazardous materials or substances present on either the federal or non-Federal lands to be exchanged.

- *Consideration of unique characteristics of the geographic area.* There are no “unique characteristics of the geographic area” as defined at 40 CFR 1508.27(3).

- *Consideration of the degree to which the effects are likely to be highly controversial.* This land exchange is consistent with many other lands exchanges. There are no scientific disputes over the likely effects of this project. Therefore, I conclude that the environmental effects of the decision will not be highly controversial.

- *Consideration of the degree to which effects are uncertain or unknown.* This exchange is not likely to result in effects on the human environment which are highly uncertain or involve unique risk. It is similar to many past actions which have occurred on the White River National Forest. The probable effects and risks are well understood.

- *Consideration of the degree to which this action will set a precedent for future actions with significant effects.* Neither the land exchange nor this decision are precedent setting. Similar land exchanges have occurred in the past, nationally and locally. They are completed by Forest Service and by other public land management agencies with the objective of consolidating public land ownership. I conclude that this action does not establish precedence for further actions as each project must be evaluated on its individual merits.

- *Consideration of the action in relation to other actions with individually insignificant but cumulatively significant impacts.* This land exchange would not likely have cumulatively significant impacts on the environment.

- *Consideration of the degree to which the action may adversely affect districts, sites, highways, structures, or objects listed or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural or historic resources.* Cultural resource surveys have been conducted on all Federal lands to be exchanged. The selected

action will not affect any site, structure or object. No sites that are eligible for listing in the National Register of Historic Places or that may be scientifically, culturally or historically significant will be affected. Based on this information, I conclude that the selected action will not cause loss or destruction of significant scientific, cultural or historic resources. (EA, page 4)

- *Consideration for the degree to which the action may affect threatened or endangered species, or its critical habitat.* No threatened, endangered species is known to exist in the areas considered under this land exchange. There is no habitat within the project area that is viewed as critical habitat for threatened or endangered species, as documented in the biological assessment. There is the potential for sensitive species to benefit from the protection of acres of potential habitat. (EA, Page 4)

- *Consideration of whether the action violates or threatens to violate federal, state, or local laws or requirements imposed for the protection of the environment.* This land exchange does not violate nor threaten to violate any federal, state or local laws, regulations or requirements for protection of the environment.

Findings Required by Other Laws and Regulations

Executive Orders 11988 and 11990

The Forest Service has evaluated the proposed exchange in accordance with EO 11988 Floodplains and EO 11990 Wetlands and is in compliance. There are no floodplains or wetlands involved.

Endangered Species Act

The Biological Assessment/Biological Evaluation concluded the land exchange would have "No Effect" on any threatened, endangered or sensitive species.

National Historic Preservation Act

Heritage resource inventories have been completed on the federal parcels and the Colorado State Historic Preservation Officer has concurred with a finding of No Effect.

White River National Forest Land and Resource Management Plan

The land exchange is in compliance with the White River National Forest Land and Resource Management Plan as described on pages 2-3 of the EA.

CERCLA, Comprehensive Environmental Response, Compensation, and Liability Act

Field examinations of the Federal and non-Federal parcels considered for exchange have been completed. No evidence was found that hazardous or potentially hazardous substances or petroleum products have been used, stored, released or disposed on any parcel.

Implementation Date

Implementation of this decision may occur immediately.

Administrative Review or Appeal Opportunities

Since the decision notice was approved by the Secretary of Agriculture pursuant to the provisions of 36 CFR 215.2, this decision is not subject to the overall requirements of 36 CFR 215 and thus, cannot be appealed. The requirements of 36 CFR 215 apply only to forest service line officers.

Additional Information and Contact Person

For additional information concerning this decision, contact: Allan Grimshaw, Aspen Ranger District, White River National Forest, 806 West Hallam St., Aspen, Colorado 81611, 970/925-3445.

Dated: June 15, 2000.

Anne Keys,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 00-17581 Filed 7-11-00; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-853]

Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 12, 2000.

FOR FURTHER INFORMATION CONTACT: Constance Handley at (202) 482-0631 or Charles Riggle at (202) 482-0650, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to

the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 1999).

Final Determination

We determine that circular seamless stainless steel hollow products from Japan are being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins are shown in the *Suspension of Liquidation* section of this notice.

Case History

The preliminary determination in this investigation was issued on April 21, 2000. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 25305 (May, 1, 2000) (*Preliminary Determination*). On May 31, 2000, case briefs were filed by Plymouth Tube Company (Plymouth Tube) and the petitioners.¹ Sumitomo Metal Industries, Ltd. (SMI) and the petitioners submitted rebuttal briefs on June 5, 2000. A hearing was held on June 26, 2000.

On May 31, 2000, SMI, Kawasaki Steel Corporation (Kawasaki) and Mitsui Tubular Products Inc., requested that the Department issue to the Customs Service a clarification which would allow certain shipments of proprietary grade oil country tubular goods (OCTG), which have been excluded from the scope of the investigation, to enter without suspension of liquidation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" (*Decision Memorandum*) from Holly A. Kuga, Acting Deputy Assistant Secretary, Group II, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated July 5, 2000, which is hereby adopted by this notice.

A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision*

¹ The petitioners include Altex, Inc., American Extruded Products, PMAC Ltd, DMV Stainless USA, Inc., Salem Tube Inc., Sandvik Steel Co., International Extruded Products LLC, Pennsylvania Extruded Company (Pexco) and the United Steel Workers of America, AFL-CIO/CLC.