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Department of  
Agriculture

Forest  
Service

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# Environmental Assessment

## Dull Center Land Exchange

between

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and the

**United States of America**

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## Summary

This Environmental Assessment (EA) complies with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA), and the Office of the Presidents Council on Environmental Quality regulations for implementing the Act. It documents the environmental effects analysis of the Dull Center Land Exchange proposal on Federal lands within the Thunder Basin National Grassland, Campbell and Converse counties, Wyoming. This EA includes a description of the proposal, the purpose and need for the action, the public issues about the actions that are identified, the alternatives to the proposed action that were considered, the affected environment and the environmental consequences of implementing the proposal or any alternatives to it that were developed in detail.

The Forest Service has prepared an Environmental Assessment (EA) of the proposed Dull Center Land Exchange project that is located in all or parts of T.39-42N.R.,68-71W., 6<sup>th</sup> P.M. This proposed exchange area is located on the Thunder Basin National Grassland approximately 55 miles northeast of Douglas, Wyoming. The proposed land exchange area is found on the Teckla, Piney Canyon SW, Dugout Creek North, Coal Bank Draw, Fiddleback Ranch and Wagonhound Creek 7.5 minute topographic (1:24,000 scale) USGS Quadrangle maps.

The Forest Service proposes to convey six (6) separate tracts of Federal land totaling up to 4,478.41 acres that has an appraised value of \$746,000.00, for two (2) parcels of non-Federal land totaling up to 4,318.03 acres with an appraised value of \$768,000.00. This land exchange has been structured on an 'equal appraised value' basis. A cash equalization payment in the amount of \$22,000 will be made by the United States to the non-Federal party

One non-Federal parcel is located in the Dull Center area northeast of Douglas and southeast of Wright Wyoming. That non-Federal parcel is located along the Cheyenne River and provides access to the Miller Hills and additional wildlife habitat for several Region 2 Sensitive Species. The second non-federal parcel is located in the vicinity of Red Hills. See Appendix A for location descriptions and map showing non-Federal parcel.

The majority of the Federal lands involved are perimeter lands that are intensively managed for mineral production and mineral extraction support facilities, including pipelines, roads, and power lines. Most of these lands will eventually be surface mined by one or more coal companies. See Appendix A for location descriptions and map showing Federal lands.

The Interdisciplinary Team for this land exchange proposal met on May 2, 2001 and completed a comprehensive Roads Analysis (RAP) as now required by Forest Service policy. The Road Related Opportunities section of the RAP report for this land exchange identifies the current road information for the lands considered for disposal and those considered for acquisition, as well as road related Recommendations. This RAP report

includes all pertinent information about the existing transportation system, and the opportunities and recommendations constitute the proposed action. This RAP report is part of the project analysis file for this proposed land exchange.

The proposal includes the decommissioning of 8.3 miles of existing low standard and/or two-track roads that occur on the lands that would be acquired by the United States.

The proposed action would not significantly impact in an adverse way any threatened, endangered or sensitive animal or plant species or their habitats, but can beneficially affect some important habitats and move the analysis area toward the desired condition as described in the 2001 Thunder Basin National Grassland Land and Resource Management Plan (Grassland Plan).

In addition to the proposed action, the Forest Service also evaluated the following alternative(s) in detail:

Alternative A - *No Action* – by this alternative no proposed land exchange would occur.

Four (4) other alternatives were considered but eliminated from further consideration and analysis. These other alternatives include: 1) direct purchase of land by the Forest Service, 2) incorporating the proposal into a larger, multi-party exchange, 3) an exchange proposed by the Dilts' that would have resulted in an area of crucial elk winter range becoming private land, and 4) the original proposal evaluated in the draft EA that included the culturally significant sites.

A complete description of the proposed land exchange and its locations, and the legal descriptions of these areas are presented in the Alternatives section of this environmental assessment.

This Environmental Assessment (EA) is not a decision document. It is a document disclosing environmental consequences of implementing the proposed action and the alternatives to that action. The decision as how to proceed will be documented in a Decision Notice signed by the responsible official.

## Introduction

### Document Structure

The Forest Service has prepared this Environmental Assessment in compliance with the National Environmental Policy Act (NEPA) and other relevant Federal and state laws and regulations. This Environmental Assessment discloses the direct, indirect, and cumulative environmental impacts that would result from the proposed action and alternatives. The document is organized into six (6) parts!

**Introduction:** This section includes project Background, a description of the *Purpose and Need* for the project, the specific *Existing Conditions* that have prompted the proposed action, the *Desired Future Condition* of the analysis area as regards land ownership pattern and management, the Grassland Plan requirements relevant to the proposal and its consistency with the plan's direction, including applicable management area(s) standards and guidelines, and the *Decision to be Made*.

**Issues and Alternatives:** This section details how the Forest Service informed the public of the proposal and how the public responded. It provides a detailed, site-specific description of the agency's Proposed Action as well as any alternative methods for achieving the stated purpose of the project. These alternatives were developed based on significant issues raised by the public and other agencies. This discussion also includes the potential adverse impacts mitigating measures that may be required and that are common to all the action alternatives. Finally, the section provides a table that compares the alternatives that were considered in detail.

**Environmental Consequences:** This section contains a description of the affected environment and the existing conditions in the environment (analysis area) that could be affected by the proposed project. It also describes the environmental effects of implementing the proposed action and the other alternatives considered in detail. The affected environment description and effects disclosure are organized according to resource area, significant issues, and type of effect or impact (e.g., direct and indirect and cumulative). Short uses versus long term productivity and any irreversible or irretrievable commitment of resources are disclosed.

**Consultation and Coordination** This section provides a list of the persons who were involved in preparing the environmental document and the analysis process record and other individuals, groups, and/or agencies consulted during the analysis process and the development of the environmental assessment.

**Documents Incorporated by Reference:** This section documents the references cited.

**Appendices:** The appendices include the project area maps. They also provide additional information about the analyses presented in the environmental assessment. When the final version of the EA is prepared at the time a decision is signed, it will

contain an appendix section that discloses the public comments received on the EA and the agency responses to those comments.

Additional documentation, including detailed analyses reports, etc. of project-area resources, can be found in the project analysis record located at the Douglas Ranger District Office at 2250 East Richards Street in Douglas, Wyoming.

## Background

Jerry and Barbara Dilts approached the Douglas Ranger District wanting to initiate a land exchange. Through negotiations and a feasibility analysis 4,478.41 acres of National Forest System Lands were identified to trade for 4,318.03 acres of non-Federal land. This land exchange would consolidate both the non-Federal and Federal ownerships. The majority of the non-Federal parcels are situated along Converse County Road 38 and provide access into the Miller Hills and build on the proposed Black Footed Ferret re-introduction area.

On July 30, 2001, an Agreement to Initiate was signed between the USDA Forest Service and Jerry J. and Barbara H. Dilts to exchange Federal land for non-Federal land within Campbell and Converse Counties, Wyoming. The agreement is in accordance with the Bankhead Jones Farm Tenant Act of July 22, 1937, as amended (50 Stat. 522; 7 U.S.C. 1010-1012); Federal Land Policy and Management Act of October 21, 1976, as amended (90 Stat. 2743; U.S.C. 1716); and the Federal Land Exchange Facilitation Act of August 20, 1988 (102 Stat. 1086; 43 U.S.C. 1716 (note); 43 U.S.C. 751 (note)).

The majority of the Federal lands involved are perimeter lands that are managed for intensive mineral production and mineral support facilities, such as pipelines, roads, and power lines. Most of these lands will eventually be surface mined by individual coal companies. See Appendix A for location descriptions and map showing Federal lands.

Federal regulation requires that, except in emergencies, the Forest Service notify the holders of grazing agreements two years in advance of any proposal, including land exchanges, which would result in National Forest System lands being devoted to another public purpose which would exclude livestock grazing (36 CFR 222.4(a)(1)). The Thunder Basin Grazing Association has been notified and its officers have agreed, and have signed a waiver of the two-year notice in this regard.

A preliminary review identified that minor amounts of Petroleum Products (oil cans) existed on the non-Federal parcel and needed further investigation. A Fuel Oil Tank with an underground line into the homestead house also existed on the non-Federal parcel and required further investigation. While further investigation was warranted, it was unlikely a Hazardous Material Site existed (e.g. 2200 lbs of hazardous material in place). Since this initial inspection, the above petroleum products and fuel tank have been removed. The proponent's clean-up contractor completed this work in accordance with State of Wyoming Department of Environmental Quality standards and regulations by a

contractor. The Forest Service hazardous materials report includes documentation from the Douglas Ranger District ‘hazmat’ specialist concurring that the tank and line were properly removed. Further investigations are not required as no hazardous materials site(s) now exist.

## The Purpose and Need for the Project

The Douglas District Ranger and District Resources Management Team have determined that there is an ongoing *need* to consolidate the fragmented and often difficult to manage existing public land holdings in the Dull Center area of the Thunder Basin National Grassland. Most of these Federal holdings are relatively small tracts that are surrounded or nearly surrounded by large areas of non-Federal land. A significant public benefit could accrue if this scattered ownership pattern could be reduced or eliminated.

The *purpose* of this land exchange is to consolidate Federal land ownership into fewer peninsula-like perimeter and more manageable, larger-sized blocks of Federal ownership and to concurrently reduce the number of tracts of Federal land in the Dull Center area. This land exchange would build a consolidated landownership pattern that can give the Federal and non-Federal landowners an opportunity to improve management of the lands that would come to be in their ownership. Through consolidation of land ownership in the analysis area, an increased public benefit will result. Through this proposed land exchange, the Forest Service would no longer need to acquire any Right-of-Way (ROW) across private land to access national grassland in the Miller Hills area.

The non-Federal land is composed of upland grassland and breaks and is described as rolling prairie with several small drainages. Deciduous trees (cottonwood and willow) are scattered along the riparian areas. This land type and ecosystem is valuable to the public for its scenic, wildlife habitat and recreation values. This habitat is potentially beneficial for management indicator species including Ferruginous Hawk, Mountain Plover, Black Tailed Prairie Dog, Black Footed Ferret, Burrowing Owl and Bald Eagle.

Consummation of this land exchange would consolidate ownership, provide legal, unrestricted motorized public access to the Miller Hills where none has existed previously, and would provide habitat for listed, threatened, endangered, or Region 2 sensitive species. There would be a reduction of 10.5 miles of landline boundaries and a reduction of 18 land corners requiring survey with this exchange. There would be a reduction of eight (8) required oil well compliance inspections and elimination of eight (8) Special Use permits. One (1) grazing allotment would be eliminated. It would result in a considerable savings of administrative costs to the government, while providing increased management efficiency in the future. The need to acquire one (1) right-of-way would be eliminated saving the Federal Government an estimated \$10,000.

Acquisition of the non-Federal property would provide recreation opportunities such as wildlife viewing, hunting and other uses by the public without concern of trespassing on private land.

Although one (1) inholding would remain in private hands, the benefits of this land exchange would far exceed the costs of the future land management associated with that inholding.

## **The Existing Condition in the Purpose and Need for Action**

The Federal lands in the Dull Center analysis area are perimeter lands surrounded or nearly surrounded by private land. The management of these scattered and fragmented holdings is less than efficient, and has a cost that exceeds what it would be if the non-Federal and Federal land ownerships in the area were consolidated into larger blocks of land. The existing ownership pattern sometimes places local, non-Federal landowners and the Forest Service in a real or perceived conflict, or seemingly at odds as regards land management, land uses, improvements, maintenance, access or lack thereof, trespass by the recreating public and others, etc. Currently, it is likely that the costs that are borne by these intermingled owners and ownerships exceeds the level that would occur given the management efficiency that would be gained from 'greater in size' and 'less in number'.

There are ten (10) special use permits and three (3) road use permits that provide access to oil wells identified on Federal lands.

The proposed land exchange area is located adjacent to two (2) previously implemented land exchange areas that were completed in 1997 and 1998. Those exchanges involved the acquisition of a total of 22,032 acres of previously non-Federal land that is now in public ownership. The specific area where the proposed Dull Center land exchange would occur is an area where the accomplishment of land ownership consolidation and the opportunities and efficiencies that accrue from such actions have occurred previously.

No known existing hazardous materials, or potential for the occurrence of any hazardous materials, has been identified in the analysis area, or is expected.

## **The Desired Future Condition in the Analysis Area**

The Draft Environmental Assessment was tiered to the 1985 Land and Resource Management Plan for the Medicine Bow National Forest and Thunder Basin National Grassland. On July 31, 2002, the Regional Forester signed the Record of Decision for the Land and Resource Management Plan for the Thunder Basin National Grassland (Grassland Plan).

This Environmental Assessment has been tiered to the Grassland Plan and its Final Environmental Impact Statement (USDA Forest Service 2001). Information from the Grassland Plan and the FEIS is incorporated by reference into this EA. The NFS lands in the Dull Center area of the TBNG are subject to the management goals and objectives, and standards and guidelines described under specific management area prescriptions named and described in the Grassland Plan, Broken Hills Geographical Area pages 2-2

through 2-8, Hilight Bill Geographic Area pages 2-21 through 2-25, and pages 3-18 through 3-21, 3-24 through 3-26.

The Grassland Plan establishes long-term management direction for the forest and contains management standards and guidelines to achieve forest-wide multiple-use goals and objectives. Management emphasis areas were established based on similar management themes. Each management area has specific goals, objectives, and standards and guidelines that supplement the forest-wide standards described in the Grassland Plan.

The desired conditions for the Federal lands in the land exchange area can be achieved by emphasizing management that would reduce the number of scattered Federal parcels in favor of a pattern of large contiguous blocks of public land. Also, by creating a road system that meets the current and future needs while eliminating unneeded transportation facilities. And finally, by accomplishing an exchange that preserves rights-of-way to Federal lands that might otherwise be lost.

The land exchange proposed is an appropriate, efficient and cost-effective way to better meet these goals, and for the management of Federal lands in the Dull Center area.

The proposed exchange will result in the establishment of a logical and manageable boundary between the National Grassland and non-Federal property owners and would minimize potential conflict between those owners and other users on the Thunder Basin National Grassland.

Acquisition of the non-Federal lands will consolidate and connect two (2) existing large blocks of Thunder Basin National Grassland into one large parcel creating more logical and efficient management.

The non-Federal parcel includes valuable resources such as wetlands, cultural resources, T&E species, sensitive species and management indicator species that would be brought under Forest Service Management. Floodplains would not be affected. The exchange enhances recreational opportunities and public access by eliminating the need to acquire one (1) right-of-way.

*Desired conditions* for the management areas that occur in the analysis area are summarized below, and are described in full in the Grassland Plan (see page references above).

MA 3.65 Rangelands with Diverse Natural-Appearing Landscapes: Management emphasizes maintaining or restoring a diversity of desired plants and animals and ecological processes and functions while providing for a mix of other rangeland values and uses, with limits on facilities to support livestock grazing. The desired conditions in this area is for having relatively few livestock grazing developments resulting in a mosaic of livestock grazing patterns and diverse vegetation composition and structure. Livestock graze most areas annually, but some areas receive little or no grazing due to topography.

Riparian areas and streams will move toward properly functioning condition and have few human-caused alterations. Restored riparian areas will be evident. Prescribed fire is used as a management tool.

Wildfires are aggressively controlled. Natural outbreaks of native insects and diseases are allowed to proceed without intervention unless there is a substantial threat to high-value resources. Natural-appearing landscapes predominate; however, oil and gas development may occur and are visually subordinate to the landscape.

MA 3.68 Big Game Range: These areas are managed to emphasize deer, elk, and pronghorn habitat. The desired conditions are such that activities and uses are managed so that big game can effectively use the area. High levels of suitability and habitat effectiveness are maintained for big game. Conflicts that cannot be mitigated are resolved in favor of big game. Big game habitat management goals are developed by the Forest Service in consultation with states and owners of intermingled, privately owned land to minimize resource conflicts on and off National Forest System lands and to provide recreation opportunities and a diversity of plant and animal communities.

MA 5.12 General Forest and Rangelands: Range Vegetation Emphasis: These areas are managed for the sustainability of physical, biological, and scenic values associated with woody vegetation and open grasslands. The Desired Conditions are such that these areas are dominated by open meadows, grasslands, shrub lands, and areas of woody vegetation. Diversity is achieved by maintaining or enhancing hardwood and coniferous trees, shrub inclusions and other beneficial plant communities and openings. Tree densities vary within stands to create landscape-scale diversity. Fire is used to promote open, park-like timber stands. Late-successional vegetation may be found in the area. Management emphasis is on a balance of resources uses and opportunities, such as livestock grazing, wildlife habitat, dispersed recreation, minerals management and timber harvest. Some areas produce substantial forage for livestock and wildlife. Through some areas are forested, they usually do not produce commercial wood fiber because of poor site potential.

MA 8.4 Mineral Production and Development: The areas are managed for solid mineral operations. The desired conditions are such that mineral operations of all types are emphasized to effectively and efficiently remove available commercial mineral resources, concurrent with other ongoing resource uses and activities. Operations include development and production of solid minerals, such as coal, bentonite, uranium and hard rock, open-pit mines, stock-piled overburden and top soil, and various ancillary facilities. Facilities and landscape modifications are visible but are reasonably mitigated to blend and harmonize with natural features. Reclamation activities restore the area to a reasonable level of its pre-mining condition. Grazing will occur, except on areas being actively being mined and areas under reclamation for bond release. Restrictions on public use occur to ensure public safety and to avoid unreasonable interference with mineral operations. Visitors can experience frequent encounters with people, heavy equipment, and noise.

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## Grassland Plan Requirements and Project Consistency

The analysis that is documented in this Environmental Assessment is tiered to the Thunder Basin National Grassland Land and Resource Plan (USDA Forest Service 2001), and to the Final Environmental Impact Statement and Record of Decision for that planning, analysis, and decision process. Information and management requirements from that plan are referenced in this document. The Grassland Plan establishes the management direction that is appropriate on this National Grassland and the Douglas Ranger District. It includes grassland-wide and site-specific standards and guidelines that can assist the land manager to achieve the goals and objectives, and desired conditions on the forest consistent with the Plan. The Dull Center area of the Thunder Basin National Grassland contains lands with several management emphases. These Management Prescriptions are described in detail above. Factors that were considered in determining whether the proposed land exchange is consistent with Grassland Plan requirements and direction include:

- The Purpose and Need for the project
- The Grassland Plan management area prescriptions relevant to the Analysis Area
- The current conditions in the Dull Center area of the Thunder Basin National Grasslands (TBNG) compared with the desired conditions for land ownership pattern and emphases as described in the Grassland Plan.
- The perceived necessity to continue and where possible complete the consolidation of land ownership in an area significant progress toward that goal has already been made, and by doing so to further meet intended Grassland Plan goals and objectives for improved recreation, other needed access opportunities, wildlife and threatened, endangered and sensitive species habitat needs, and other resource needs and considerations.
- The Forest Service interdisciplinary team (IDT) members believe that the proposed land exchange responds to Grassland Plan and manual direction to consolidate fragmented Federal and non-Federal or ownership pattern(s) where they exist, and that pursuing and implementing this action can successfully move the pattern of NFS land ownership in the analysis area toward the desired condition described in that plan.

The Record of Decision for the Grassland Plan (page 11) states, in part that “All opportunities for exchange to consolidate land for efficient management or acquiring access to Federal lands will be considered”.

## The Decision to be Made

Given the purpose and need, the deciding official reviews the proposed action and the other alternatives in order to make the following decisions:

The Responsible Official, who is the Forest Supervisor, will decide which alternative represents the best scenario for land exchange and future land ownership pattern in the Dull Center area of the TBNG. The Forest Supervisor will decide what environmental impacts mitigating measures and monitoring activities will occur as part of the implementation of the decision that will adequately address the issues and concerns raised in the public comments received about the proposed action, and that will help to move the area toward the desired future condition, as identified in the Grassland Plan.

The official responsible will decide whether or not, and if so, what if any lands in the Dull Center area should and will be exchanged at this time to achieve the purpose and need, and the goals and objectives for the project. Inherent in this decision will be a final verification and determination that the change of land ownership and ownership consolidation can help to move the Analysis Area toward its desired future condition. Some of the questions that the responsible official will need to answer include:

Would the proposed land exchange accomplish the consolidation of ownership and make for more efficient future management of the Federal lands in the Dull Center area?

Would the exchange bring important resources such as wetlands, cultural properties and wildlife, T&E and sensitive species habitats under Federal ownership, and would there be a net gain or loss of such areas when compared with current ownership?

Would the exchange of the lands that are proposed help to prevent development on land parcels where such development would likely be in conflict with the management emphasis and prescription standards and guidelines that would be applied on adjacent or surrounding NFS lands?

Does the necessary title commitment for/to the current non-Federal lands indicate any special title transfer problems or exceptions that cannot be resolved or are unacceptable?

How many, if any, and what acres would be exchanged?

What classified (inventoried) and/or unclassified roads would remain open, which roads if any would be improved, or closed but would be available for specific permitted or other management needs in the future, and which roads would be decommissioned and removed from the inventoried NFS roads system?

What access, if any would be needed and what rights-of-way would be sought or reserved?

Are there any lands that would become public that could or would contain hazardous materials after ownership conveyance?

What existing improvements would be conveyed and who would be responsible for the future maintenance of those improvements that would be acquired by the Government?

What would be the impact of this action as to the net public gain or loss of wetlands?

What other impact mitigating measures and/or monitoring activities would be required and would be used, before, during and/or after the land exchange is implemented?

The Forest Supervisor can decide to defer action at this time by selecting the “No Action” alternative, or to implement the Proposed Action. The final acreages, both Federal and non-Federal, that are proposed, and that would be conveyed, may be adjusted up or down so as to minimize the need for cash equalization.

## **The Issues Identified and Alternatives Considered**

Federal Regulations 40 CFR, Part 1500.2(e) requires that Federal agencies “Identify and assess the reasonable alternatives to proposed actions that will avoid or minimize the adverse effects of these actions upon the quality of the human environment”. The regulation also requires agencies to: “(a) rigorously explore and objectively evaluate all reasonable alternatives,” and “(b): include the alternative of No Action” (Part 1502.14).

## **Public Involvement**

The Responsible Official selected an Interdisciplinary (ID) Team and “charged” that team to scope with the public to determine their concerns and issues, to develop alternatives to the proposal that respond to those issues, to analyze the environmental effects of the proposed land exchange and to prepare the environmental document. The ID Team reviewed existing information about the project area and actions similar to the proposal.

A public scoping statement addressing the proposed action was sent to one hundred five (105) organizations and individuals listed as parties interested in proposed activities on the Thunder Basin National Grassland and parties that may be affected by the proposal, including adjacent landowners, tribal governments, the County Commissioners of Campbell and Converse Counties, the State Clearinghouse, and the Congressional Delegation (June 1, 2001). A complete list of individuals and organizations contacted is contained in this environmental assessment.

Pursuant to the compliance requirements of 36 CFR 254.8, and under Executive Orders 11988 and 11990 regarding floodplains and wetlands, a Land Exchange Notice was published in the Gillette News Record and Douglas Budget on June 6, 13, 20, and 27 of 2001. News releases about the proposed exchange were published in the Gillette News Record, Douglas Budget and Casper Star Tribune. The scoping document was posted on the Douglas Ranger District worldwide web internet website. The project was also listed on the Medicine Bow-Routt National Forest quarterly Schedule of proposed Actions that is mailed to individual recipients and posted on the Medicine Bow-Routt National Forests

website. Additional scoping to solicit comments or concerns related to the proposed action was accomplished by publication of the exchange proposal in the Casper Star Tribune on June 5<sup>th</sup> and 21<sup>st</sup>, and in the Laramie Boomerang on June 7<sup>th</sup> and 21<sup>st</sup> of 2001.

A site-specific example of the level of scoping, consultation and coordination that occurred between the US Forest Service and tribes involves the surveyed occurrence of two (2) stone feature sites located on two (2) current federal land parcels that were a part of the original proposal for land exchange first proposed by, and discussed with Jerry and Barbara Dilts, and that could have become private land if and when an exchange would be implemented. During the course of consultation with the Standing Rock Sioux tribe and the Rosebud Sioux tribe, a decision was made and concurred with by the parties in consultation that the two (2) parcels of land (160-acres) where these important and sensitive sites occur would be withdrawn from, and not included in a revised proposal. It is this revised proposal that was analyzed, and that is documented in the environmental assessment (EA), and that is identified in that environmental document as Alternative B, Proposed Action.

Fourteen (14) comment letters or telephone calls were received as a result of the external public scoping effort.

## **The Issues Identified**

The public submitted comments that the project Interdisciplinary (ID) Team determined contained twenty-five (25) issues or concerns.

## **Key (Significant) Issues:**

No key (significant) issues (40 CFR, Part 1508.27) about the proposal were identified out of the public scoping effort. The following concerns expressed by the public will be considered, mitigated or otherwise resolved during the analysis of this proposal, and, as appropriate, in the decision. These other issues and concerns and the reason(s) for the determination that they are not significant are displayed.

## **Other Issues and Concerns:**

1: *Whether or not the proposal will result in the transfer of quality habitat for a listed proposed or candidate species to the private landowner resulting in a loss.*

The proposed land exchange would result in a net gain of quality habitat for important wildlife species, not a loss. The land exchange would result in a net gain for public ownership of prairie dog and mountain plover habitats, including areas that have been observed being used by plovers. (See Environmental Effects Section)

2: *Whether or not the proposed land exchange would jeopardize the rights of any landowner other than the government or exchange proponent who may hold leases, rights or other interest with regard to lands that would be exchanged.*

The proposed exchange includes the surface estate only. There would be no exchange of minerals so the legal aspects of mineral rights would not be involved. How existing mineral rights will be exercised in the future would change with the change in surface ownership. The laws regulations and procedures for developing minerals under Federal surface differ from those that apply under non-Federal surface. So, while there would be no change of legal rights, there will be change of development procedures. Existing surface right(s), lease(s) and permitted uses will be protected. Permit holders on Federal lands that would become non-Federal would have their uses converted to easements. Grazing use on current federal lands is a privilege, not a right, and grazing permits in force on current Federal lands that would become non-Federal would be terminated.

3: *Whether or not the land exchange will result in the creation of an inholding that conflicts with the purpose and need of the project.*

The proposed land exchange would create/leave one (1) inholding. The inholding is the private Fiddleback Ranch Headquarters. The existence of that inholding will not significantly conflict with the goals and objectives of the land exchange. The purpose and need of the project would be met.

4: *Whether or not the proposed land exchange will consolidate Federal ownership in a way that is consistent with the Forest Service's broad scale and long-term goals.*

Grassland Plan direction for land acquisition would be met by acquiring lands that meet resource management goals and objectives. In this case, these lands provide for demonstration of multiple uses in grassland agriculture and provide access where rights-of-way are needed to meet resource management goals and objectives. These lands also benefit and provide habitat for threatened and endangered species. The exchange would consolidate Federal ownership into larger contiguous blocks that can be managed more efficiently.

5: *Whether or not the proposed land exchange puts a value on the ecological values of the lands that would be traded by the exchange.*

Ecological values are considered and given heavy weight early in the land exchange process, even before NEPA analysis begins, when the Forest Service reviews the proponent's exchange proposal to determine if it is in the public interest.

The Land Exchange Feasibility Analysis that is a part of the exchange process record documents consideration of the possible effects and other ramifications of the exchange on threatened, endangered and sensitive plants and animals and their habitats, and the habitats of other wildlife that may exist on the lands that would be exchanged. Also, other amenities, including existing heritage and Paleontological resources are considered

and evaluated. It has determined that the proposed exchange would bring more of these very amenities and values into Federal ownership and protection, and can add significant benefit and value to the existing and future ecological relationships between these resources. This is very much the case for the Dull Center Land Exchange.

As a point of information, the Uniform Appraisal Standards for Federal Land Acquisitions are used and followed to determine a fair market value of Federal and non-Federal land or interest in land being acquired or conveyed by the United States.

*6: Whether or not it is appropriate for the government to acquire the surface rights only and not also the sub-surface mineral rights.*

The Powder River Basin contains high value subsurface mineral resources. The United States avoids the conveyance of high value mineral estates under Federal lands, and does not expect to receive similar sub-surface rights for/under lands it acquires. The United States, through the USDI Bureau of Land Management, has, by law and regulation, the authority to make the determination as to whether or not mineral rights can/will be acquired or disposed of. Specifically, with regard to the Dull Center LEX, a substantial portion of the mineral rights under the current private lands that would become Federal are already Federal rights.

*7: Whether or not the land exchange “involves a net of 4,158 acres or more on the order of 640 acres”.*

The land exchange involves 4,318.03 current non-Federal acres that would become Federal land. A surveyed 4,478.41 acres of current Federal land will become private. The Government would receive a net decrease of 160.38 acres, not 640 acres as the commenter believes. A significant benefit that would accrue out of this land exchange is that the 4,318.03 acres that would be acquired would provide road access into the Miller Hills area, while the 4478.41 acres that would be conveyed offers very limited access opportunity.

*8: Whether or not the proposed land exchange benefits the national public interest as well as the interest of those local private parties that will receive federal land.*

Land exchanges are bilateral, that is they occur because all parties are interested and willing. The Forest Service ID team has determined the proposal as described would result in a level of public benefit that makes the exchange an appropriate course of action. Clearly the non-Federal landowner who would receive federal lands in exchange for his non-Federal land has determined that he will receive a benefit that's equal or exceeds whatever loss he may incur by exchanging out of those lands that he owns.

*9. Whether or not the land that would be a part of the proposed land exchange would be degraded by strip mining activity.*

Some of the lands that the government would exchange are currently part of existing coal leases. This mineral development use would occur regardless of whom owns the land. While the United States would be exchanging out of these coal lease lands, it would retain the mineral rights and receive the financial royalties associated with the federal coal when it is mined. The lands that the United States would receive by this exchange are not leased for coal development and because of their location would not be developed in the future due to economic viability.

10. *Whether or not access to the Miller Hills by ranchers and other parties with interest there will be compromised.*

Presently, there is no existing unrestricted, motorized public access into the Miller Hills. There is access by walking in over land. The public would gain unrestricted, motorized access to that area by this land exchange while retaining the walk-in access that exists there now.

11. *Whether or not wildlife habitat and quality of hunting opportunity in the area of exchanged lands will be ruined because of the land exchange.*

Landowners who currently have some exclusive access by virtue of the ownership pattern would see that circumstance change. The general public would have better access opportunity, and would likely enjoy a quality hunting experience in the Miller Hills area. With increased public access would come increased public use, and likely resulting in increased game harvest that may require increased attention to animal population trends and related game management. This may also change the quality of the hunting experience. Also see issue #1 above concerning the effect of the exchange on wildlife habitat.

12. *Whether or not the proposed land exchange will result in an increase of trespass on private lands in the area.*

While the likelihood of trespass onto the non-Federal lands in the Miller Hills area might increase, preventing trespass from Federal land onto non-Federal land is not a Forest Service responsibility. Such issues are in reality the responsibility of the landowner and local and/or county law enforcement officials. It is the responsibility of the Forest Service, on the other hand, to make access to Federal land available, to provide clear and adequate signing regarding ownership, and to create and accomplish a Federal land ownership pattern that facilitates management, is efficient and makes Federal land available to, and useable by the public. The proposed exchange would consolidate Federal lands by eliminating peninsula-like perimeter tracts of National Grassland that often contribute to trespass problems. Roads on lands that would be acquired by the United States would be appropriately signed.

13. *Whether or not the proposed land exchange includes the planned decommissioning of roads so as to limit or prevent unrestricted public access while preserving rancher and grazing permittee access.*

In order to arrive at a decision to decommission an existing inventoried system road or other road, the deciding official must first complete a Roads Analysis and Roads Management Plan (RAP) and an environmental effects analysis, to determine that the road is no longer needed for any authorized use or resource management. This conclusion would necessarily include reaching such a determination regarding the rancher or grazing permittee. If the deciding official concludes that the road is needed for administration or a permitted use, the decision is likely to be that the road would be closed but not decommissioned. In this way access for permitted uses would be preserved.

14. *Whether or not the proposed land exchange will result in a loss of grazing capacity for the livestock grazing permittee.*

It is expected that there would be no net loss of grazing capacity to the Thunder Basin Grazing Association. Individual members might ultimately lose some grazing capacity in affected allotments on Federal land proposed for exchange; however the true capacity remains as before and would only shift to non-Federal ownership. Association members affected could be eligible through the association for grazing capacity available on other Federal lands. The Thunder Basin Grazing Association and the Forest Service would amend the current grazing agreement to reflect actual acres and AUMs after the land exchange.

15. *Whether or not the proposed action includes transfer of water rights adjudication as is appropriate when the land exchange occurs.*

The intent of the Deciding Official is to complete the record for all transfer(s) of water rights. In the State of Wyoming, water rights usually go with the land, and change in ownership should be recorded in order to maintain State records.

16. *Whether or not the proposed land exchange will in fact provide for motorized unrestricted public access.*

The proposed exchange gains unrestricted, and what can and may very well continue to be, motorized public access to the National Forest System Lands in the Miller Hills area where none exists now. Walk-in access has been, and will continue to be available. The proposed exchange would provide the Forest Service with active management opportunities of some roads into the Miller Hills. How these roads are managed in the years ahead would depend to a great extent on Thunder Basin National Grassland Plan direction and this and other site-specific analyses relative to roads that might occur in the future.

17. *Whether or not the proposed land exchange that includes obtaining motorized access will increase road density.*

An analysis of existing roads and future roads in the area of the land exchange has been completed. That analysis documents the need to decommission and take out of service

some roads on those lands being acquired. The analysis documents that no new roads are needed. Therefore the road density on Federal land would decrease.

18. *Whether or not the proposed action will result in a net loss of income to the government and/or net loss of funds available for managing public lands.*

The proposed land exchange is expected to result in no significant loss of income to the government or a net loss of funding for the management of Federal lands. For example grazing fees would no longer be collected on the lands that become non-Federal but would be collected for permitted grazing on the lands that become Federal. Also while the surface ownership would be exchanged, the government would retain all subsurface minerals and the royalties that accrue when the minerals are developed.

19. *Whether or not the Forest Service will continue to maintain roads to standard.*

The ID Team has completed an analysis of the existing roads and other transportation facilities. That analysis provides for the possible improvement, closure and decommissioning of the roads on lands that are a part of this exchange. Roads that are not needed would be removed from the transportation system while roads that are needed would either be closed and left available for use by permit or other means, or upgraded and maintained to a level that is appropriate to their use. In general, how roads are maintained and otherwise managed in the years ahead would depend in large measure on Thunder Basin National Grassland Plan direction and this, and other site-specific analyses relative to roads that may occur in the future.

20. *Whether or not the Forest Service will post roads as they wind back and forth through non-Federal and Federal lands.*

It is the intent of the Forest Service to maintain proper signing to delineate Federal and Non-federal lands.

21. *Whether or not public access is available to the Miller Hills.*

See the response to concerns #10 and 16 above.

22. *Whether or not improved public access will result in additional road maintenance and cleaning up trash problems.*

See the response to concerns #8, 12, 16, 17 and 19, above.

23. *Whether or not the identified or proposed road system will have an effect or disrupt existing water spreader system.*

See the response to concern #19, above. The road that would impact the current water spreader system is planned for decommissioning. It would be removed from the system inventory of roads.

24. *Whether or not all current Forest Service roads associated with proposed land exchange will remain open.*

See the response to concern # 19 and 23 above.

25. *Whether or not current road access to public lands will be maintained.*

The proposed land exchange would provide for Forest Service management of roads into the Miller Hills. The Forest Service might well manage some or all of those roads as open to public use into the future. Some roads may be closed to public use, or the use level changed or restricted, as environmental need(s) dictate. In general, how roads on public land would be maintained and managed in the years ahead would depend in large measure on Thunder Basin National Grassland Plan direction to this, and other site-specific analyses relative to roads, that may occur in the future.

See the LEX map in Appendix A for the locations of the ROWs that would be reserved.

## **The Alternatives, including the Proposed Action**

This section describes and compares the alternatives treatment actions considered by the ID team and deciding official for the purpose of moving the conditions in the analysis area in the direction of those that are desirable. It includes a description of each alternative considered, and includes related maps that are in the Appendix section of this document. This section also presents the alternatives in comparative form, sharply defining the differences between each alternative and providing a clear basis for choice among options by the decision maker and the public. Some of the information used to compare the alternatives is based upon the quantitative nature of each alternative (i.e. how many acres of land or miles of road would be involved, while some of the information is based upon the environmental, social and economic effects of implementing each alternative (i.e., the amount of land corners that would be eliminated, or the number of permits that would be retained, etc).

### **The Alternatives:**

#### **Alternative A: No Action**

No lands would be exchanged between the Forest Service and Jerry Dilts. Lands owned by Jerry Dilts would be available for his current use or resale. Federal lands identified for this exchange would remain under current management prescriptions of the Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan.

## Alternative B: Proposed Action

Under this alternative, the United States would exchange land with Jerry and Barbara Dilts under current laws and regulations.

The United States would convey 4,478.41 acres of Federal land contained in six (6) tracts, and with an appraised value of \$746,000.00, into non-Federal ownership. This land would then be in non-Federal ownership and would be owned by the Dilts', and under the jurisdiction of state and county ordinances and laws. The land could be used for cultivation, grazing, recreation, and/or other uses determined by the owner.

In return, Jerry Dilts would convey 4,318.03 acres of non-Federal land contained in two (2) tracts, and with an appraised value of \$768,000.00, to the United States. Acquisition would provide access to the Miller Hills (previously non-existent) and connect two large segments of Thunder Basin National Grassland. The proposed Federal parcel occurs in Management Prescription area 3.65 and would be managed under this prescription. Management Area Direction 3.65 provides for maintaining or restoring diversity of desired plants and animals and ecological process.

The United States would reserve an easement over the Phillips Road (FSR 973) in T.41N. R.69W., sections 17 and 18 where it now crosses existing Federal ownership. An easement would be reserved over the Beckwith Road FSR 1618 in T.41N. R.69W., Section 8, and then north from the Beckwith Road into Section 5. See the LEX map in Appendix A for the locations of these easements..

There are (10) special use permits and (3) road use permits that provide access to oil wells identified on Federal lands to be conveyed to non-Federal ownership. The new landowner would be obligated to issue easements to continue any existing uses. Waivers of the ten (10) special use permits and three (3) road use permits that give access to oil wells on Federal land, and the easements to replace these authorizations, would be executed by the non-Federal party prior to, or at closing. The permitted surface use on Coal Lease W-0321779 would be reserved as identified in the lessee's permits, easements and lease(s).

Improvements that now exist on the non-Federal lands would remain in place and would be required to be in satisfactory condition on the date of conveyance of ownerships.

The corrals, sheds and related facilities on the current non-Federal lands that would be conveyed would become the property of the United States. The maintenance of said corrals, sheds and related facilities would be the responsibility of the grazing association (TBGA) and its members. If a decision would be made in the future to remove such improvements, the process and associated costs of removal would be the responsibility of the association and its members.

The United States will except and reserve all cultural resources defined by 36 CFR 60.3 within the different 40 acre parcels containing sites 48CA3218, 48CA3596, 48CA3606, 48CA3607, 48CO960/961, and the 80 acre parcel containing 48CA1420/3219. Only the area of the sites will be reserved within the larger parcels, together with the right of ingress, egress, and temporary occupancy needed to identify, monitor, preserve, protect, mitigate, and remove any scientific resources within or from the above described property. Such right may be exercised by the United States or by any person or organization expressly authorized by the United States to conduct scientific resource investigations on the above described lands. This reservation becomes null and void upon completion of the terms of the project-specific Memorandum of Agreement between the Forest Service, the State Historic Preservation Office and the Advisory Council For Historic Preservation. The termination shall be evidenced by a statement in a 'recordable' form that would be furnished by the Forest Supervisor, Medicine Bow National Forest to the Grantee.

### **Alternatives Considered But Eliminated:**

#### **Alternative C: Purchase Lands from Jerry Dilts**

Under this alternative, the United States would purchase the non-Federal parcels identified above. This alternative was eliminated from further consideration because Jerry Dilts wishes to consolidate his ownership into a more efficient ranching operation and is unwilling to sell to the United States in any manner that would not accomplish that goal. Also, and based on past history and experience, land purchase funds are unlikely to be available. Monies needed to purchase land would necessarily have to come from the Land and Water Conservation Fund and none of these funds are currently available for property purchase.

#### **Alternative D: Larger Land Exchange**

Under this alternative, a multi-party proposal would be considered and its feasibility determined. This land exchange would involve multiple parties. This alternative was eliminated from further consideration because there are no lands available for sale that could serve as "trading stock".

#### **Alternative E: The Proponent's Original Land Exchange Proposal**

Under this alternative, the Federal lands that would become private contain crucial elk winter range. As a result of meetings between the Forest Service and the Wyoming Game and Fish Department, the Responsible Official determined that in order to adequately protect these areas of important wildlife habitat it was necessary and appropriate to remove them from the proposed exchange and to retain them in public ownership.

**Alternative F: Proposal analyzed in the Draft EA**

Under this alternative, some Federal lands that would become private contained sensitive cultural resources. Consultation and coordination that occurred between the US Forest Service and tribes involved the surveyed occurrence of two (2) stone feature sites located on two (2) current federal land parcels that were a part of the original proposal for land exchange first proposed by, and discussed with Jerry and Barbara Dilts.. During the course of consultation with the Standing Rock Sioux tribe and the Rosebud Sioux tribe, a decision was made and concurred with by the parties in consultation that the two (2) parcels of land (160-acres) where these important and sensitive sites occur would be withdrawn from, and not included in a revised proposal.

**Monitoring Requirements Common to all Action Alternatives**

Resource surveys would be performed on any newly-acquired parcels in order to establish baseline data for those new National Forest System lands.

The Black-tailed prairie dog and golden eagle are recommended for selection as project management indicator species (MIS). The potential beneficial effects and or adverse impacts of this decided action on these species would be evaluated. Forest Service wildlife biologists would perform appropriate periodic on-the- ground survey and evaluation monitoring to determine whether or not, and if so to what extent, the land exchange would be effecting the habitats for, and use of the project area by these species.

**Comparison of the Alternatives:**

This section provides a summary of the effects of implementing each alternative considered in detail. Information in the table is focused on activities and effects where different levels of effects or outputs can be distinguished quantitatively between alternatives analyzed in detail.

Table #1: Quantitative Comparison of the Alternatives That Are Analyzed in Detail (the table values are for the Federal lands, only)

Comparison Points	No Action (A)	Proposed Action (B)	Remarks
1. Wetlands Area (acres)	2.6	2.8	A net gain of 0.2 acres
2. Motorized Public Access (#)	-0-	1	A net gain of one access location
3. Landline (miles)	21.25	10.75	A reduction of 10.50 miles
4. Land Corners (#)	42	24	A reduction of 18 corners

5. Special Use Permits (#)	10	2	A reduction of 8 permits
6. Oil/Gas Wells (#)	8	-0-	A reduction of 8
7. Allotments (#)	6	4	A reduction of 2
8. Selected MIS Habitat ac			A net gain of 500 acres
Prairie Dogs	400	900	
Sage grouse	2000	2920	A net gain of 920 acres
9. Water Right(s) (ac. ft.)	5.78	43.17	A net gain of 37.39 ac. ft.
10 Roads removed from FS inventory (miles)	-0-	13.1	A reduction of 13.1 miles of inventoried roads
Roads on acquired lands that would be decommissioned (miles)	NA	8.3	A reduction of 8.3 miles of road
11 Estimated 10 year management and administrative savings relating to items #3-7 and 10, above.	\$0.00	\$44,000.00	

## Environmental Consequences

This section describes the potential changes to the resources and environments that could occur in the analysis area if any of the alternatives considered in detail is implemented. It also provides the scientific and analytical bases comparing the effects of the alternatives described in detail.

All actions have potential effects, both beneficial and adverse, on forest resources. The level and direction of impacts (negative or positive) depends on (1) goals and objectives for land management, (2) ecosystem resistance and resilience, and (3) the severity of the disturbance.

## **Special (Permitted) Land Uses:**

### **Alternative A – No Action**

#### **Direct and Indirect Effects**

The Forest Service would continue to administer the three (3) road use and ten (10) special use permits that occur on Federal lands in the Dull Center area. The two (2) pipeline easements, those on the non-Federal land, would remain on the Federal land.

#### **Cumulative Effects:**

Implementing this alternative would not cause any known significant cumulative beneficial effects or adverse impacts to the special uses currently permitted.

### **Alternative B – Proposed Action**

#### **Direct and Indirect Effects:**

The proposed action would result in a net decrease in the number of authorized (permitted) uses encumbering National Forest System lands (NFS).

There would be three (3) fewer Road Use permits on NFS lands. This would eliminate the administrative task associated with those permitted uses on NFS lands. The environmental impacts would not be eliminated, but would be shifted to private surface. The kinds of environmental impacts that are occurring because of the presence of these roads are more reasonable, acceptable and consistent with the management of private surface, i.e., prudent grassland agriculture, than it is on self-sustaining, naturally appearing National Forest System land with the management objectives applicable there.

There would be eight (8) fewer Special Use permits on National Forest System lands. This would eliminate administrative tasks and responsibilities associated with those current permitted uses from the management of the NFS lands. The environmental impacts would not be eliminated, but rather would be shifted to non-Federal surface. The kinds of environmental impacts that are occurring because of the presence of these permitted uses are more reasonable, acceptable and consistent with the management of non-Federal surface, i.e., prudent grassland agriculture, than it is on self-sustaining, naturally appearing National Forest System land with the management objectives applicable there.

The existing special uses on NFS lands would be converted to easements, which would go with the land. The effect of implementing this alternative would be positive for the special use permit holders because they would retain and continue the use(s) they enjoy under their existing permit while no longer paying an annual use fee to the United States Forest Service.

There are two (2) pipeline easements located on the non-Federal land that would be conveyed. These easements would remain on the Federal land. One is the Belle Fourche Pipeline Company's crude oil pipeline, and the other is a KN (Kinder Morgan) natural gas pipeline. Both of these pipelines also now cross National Forest System lands and there are no known reasons why these existing uses would not be compatible on the lands that would be acquired.

**Cumulative Effects:**

Implementing this alternative would not cause any known cumulative beneficial effects or adverse impacts to permitted special uses.

**Minerals Management:****Alternative A – No Action****Direct and Indirect Effects**

The management and administration of the surface plans of operation for the eight (8) operating oil and gas wells on NFS lands in the analysis area will remain with the United States. The Surface Mining Control and Reclamation Act (SMCRA) surface owner consent relative to the tracts in section 27 and 34, T.42N.R.71W. would remain with the United States.

**Cumulative Effects:**

Implementing this alternative would not cause any known cumulative beneficial effects or adverse impacts specific to the management of the minerals resources in the analysis area.

**Alternative B – Proposed Action****Direct and Indirect Effects:**

There are no indications the proposed land exchange would affect the production rates of minerals from the Federal mineral estates (oil, gas and coal.). The net effect is positive, since the number of encumbrances on the National Forest System lands would be lessened as would the administrative work of managing the outstanding rights, i.e., special use permits and oil and the gas lease operations.

The proposed exchange would create a "split estate" situation where the Forest Service would no longer be involved in minerals development and extraction activity but the Bureau of Land Management (BLM) would manage the Federal minerals under lands with non-Federal surface. This is a common situation in the Powder River Geologic

Basin and is routinely dealt with by the BLM. The Federal mineral estate reservations provide for use of the surface as necessary and prudent to develop those Federal mineral resources.

*Surface Mining C Reclamation Act (SMCRA)* surface owner consent is a potential future issue, since the tracts in sections 22 and 27, T.42N.R.71W. are underlain with coal. It is reasonable to foresee that this coal will be leased sometime in the future. The concern is not if the mineral will be developed. The concern is economic payment for landowner consent. The appraiser has consulted with the USDI-BLM as to: (1) the likelihood of future leasing of the coal, (2) the projected future date when that leasing could occur, and (3) the estimated value of the landowner consent.

There would be no effect on the mineral estate since mineral ownerships would not change.

### **Cumulative Effects:**

There are no known cumulative beneficial effects or adverse impacts on minerals or their management that would occur by implementing this alternative.

### **Livestock Grazing and Rangeland Management:**

The proposed Dull Center Land Exchange would occur within the area cooperatively administered by the Forest Service and the Thunder Basin Grazing Association (TBGA) on the Thunder Basin National Grassland. It involves non-Federal and National Grassland acres that are used for livestock grazing by six (6) TBGA association members. The parcels proposed for exchange are shown on the attached project map.

The current Federal lands to be exchanged are located in the South Wright (#242), South Turner (#281), Roger's Draw (#278), North Antelope (#205), Sherwin (#208), and Irwin (#212) allotments. The allotments are a mixture of Federal and non-Federal. Approximately 1,019 animal months are permitted on the Federal land that would be exchanged.

The non-Federal lands lie within the boundaries of three (3) pastures of the Rothleutner (#246) Allotment. The current grazing capacity of both the non-Federal and Federal land is approximately 981 animal months. One association member is permitted for grazing in this allotment.

Rangeland condition in the allotments, on both the Federal and non-Federal lands, is currently classed as "satisfactory". No known significant noxious weed infestation(s) occur. The occasional Canada thistle patch exists where ground disturbance activities have occurred.

The TBGA agreed to waive the two-year notice requirement in 36 CFR 222.4(a)(1) for the Federal lands that would be a part of this land exchange. These lands would be

excluded from livestock grazing by association members under the existing association permit if the lands are exchanged out of Federal ownership.

## **Alternative A – No Action**

### **Direct and Indirect Effects**

If the land exchange does not occur, management of the rangelands and grazing program would remain unchanged.

### **Cumulative Effects:**

There are no known cumulative beneficial effects or adverse impacts to the livestock grazing or rangeland resources or their management that would occur by implementing this alternative.

## **Alternative B – Proposed Action**

### **Direct and Indirect Effects:**

If the land exchange would occur, the management of the rangelands may change within the Rothleutner allotment, depending on management direction of the proposed acquired lands, i.e. prairie dogs, ferret re-introduction, mountain plover, red meat production. Administration of the grazing program would be more efficient because of the elimination of two (2) allotments. Acquiring the proposed land would eliminate problems in grazing administration. Current grazing management may not continue as it has in the past. Stocking rates, pasture size, rotation schedule and grazing system may be modified. More effective management of the rangeland resource would occur because of the blocking up of federal parcels.

### **Cumulative Effects:**

Disposal of the federal land in the south Wright (#242) and Roger's Draw Allotment (#278), in conjunction with the current and future coal mining operations, may eventually terminate the grazing in these allotments resulting in the loss of essentially all of the existing grazing capacity that now exists for an extended period of time.

## **Threatened, Endangered and Sensitive Plant and Animal Species:**

The following federally-listed Threatened or Endangered species (USF&WS) are the species that may occur on the Thunder Basin National Grassland (TBNG). While all of

these species were considered, not all species occur in the project area, or would be affected by the proposed land exchange. Those species that would not be affected were eliminated from further review and analysis.

**Bald eagle** (*Haliaeetus leucocephalus*) Federally listed as Threatened  
**Black-footed ferret** (*Mustela nigripes*) Federally listed as Endangered  
**Ute ladies'-tresses orchid** (*Spiranthes diluvialis*) Federally-listed as Threatened

The Ute ladies'-tresses orchid was dropped from further consideration since there is no suitable habitat in the analysis area for this plant, and the project would not have any effect on any suitable habitat that could exist but is not known. Repeated recent surveys have not identified this plant anywhere on the Thunder Basin National Grassland.

The Wyoming Natural Diversity Database (Scholl et. al 2001) was consulted for any location data regarding bald eagle, and black-footed ferret. In addition the Forest Service has conducted repeated surveys for these species using various approved protocols over several years. The following surveys have been conducted:

**Bald Eagle:** Winter roost surveys conducted from 11/1 - 3/30 (1978-2000)  
Aerial raptor nesting surveys from 4/1 - 6/30 (1978-1999)  
Yearlong field observations (1978-2001)

**Black-footed Ferret:** Ferret night surveys 6/1–8/30 (USFWS protocol){1981-1991}  
Ferret habitat mapping (prairie dog towns){1980-1997}

#### **Black-footed Ferret**

Within the project analysis area (1 mile radius from project site) there are black-tailed prairie dog towns that are potentially suitable black-footed ferret re-introduction habitat. The Forest Service has conducted numerous night searches for ferrets in these towns.

The results of the surveys were that no evidence of black-footed ferrets was found. Based on past records, there is approximately 400 acres of live prairie dog towns.

There are approximately 900 acres of prairie dog towns within the private parcel, based on past surveying efforts.

The results of past surveys gave no evidence that black-footed ferrets exist in this area. This parcel is located near the future black-footed ferret re-introduction area.

#### **Bald Eagle**

Raptor nest surveys, including surveys for bald eagles, have been conducted in the area of the proposed land exchange periodically over the past 22 years. The most recent survey occurred in 1998.

Two bald eagle winter roost sites are located within one (1) mile of the proposed land exchange area boundary, but are not included in the Federal land being considered for exchange.

Yearlong field observations and monitoring are also reported annually as bald eagles are seen in the field. This area receives regular, routine visits by Forest Service field crews annually, thus providing annual observations of wildlife from the area. Currently, this area is used only as incidental winter foraging for bald eagles, with little or no summer use occurring. At this time there are no other identified threats to the bald eagle or black-footed ferret within the project area. Recreational prairie dog shooting has been identified as a potential threat to ferret re-introduction, and is being addressed under a different action.

There is one known eagle nest located on the private parcel. It was discovered during a site visit in April of 2001. It is not known whether it is active, or what type of eagle nest it is. There are no other known eagle nests within the rest of the project area. Two adult eagles were seen on these lands during the 2000 site visit. This indicates that there may be a bald eagle nest in the vicinity and that this area is used as a foraging area.

These areas are some of the most inventoried and monitored areas on the TBNG. The data available is wholly adequate to support the evaluation of this project and the determinations of effects made and documented in the Environmental Assessment.

### Forest Service R2 Sensitive Species/Management Indicator Species

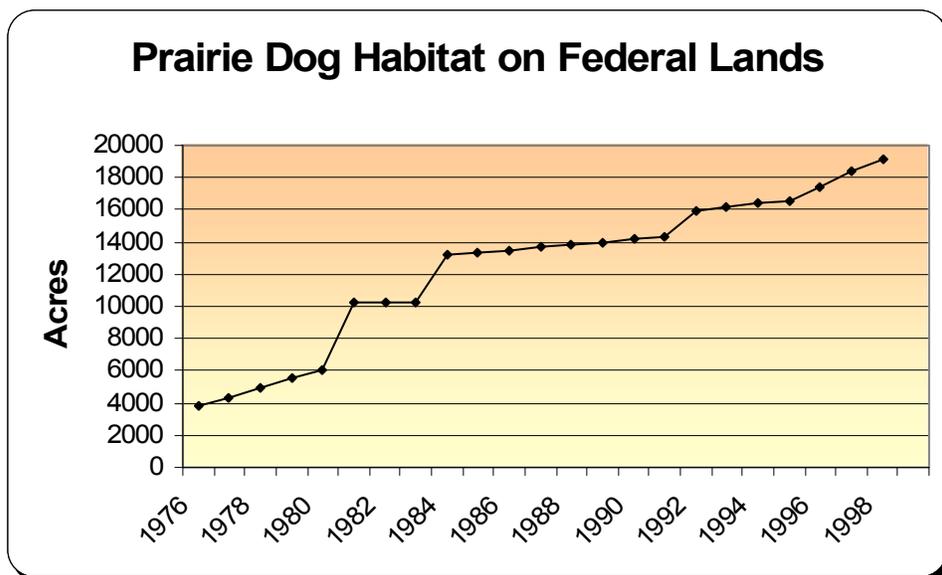
The Black-tailed prairie dog and sage grouse are R2 Sensitive Species that occur in the analysis area. Black-tailed prairie dog and sage grouse are the selected MIS for the Broken Hills Geographic Area and sage grouse is for the Hilight Bill Geographic Area.

A considerable body of survey information about the occurrence of these species in the analysis area is available. Black-tailed prairie dogs occupy prairies (shortgrass and mixed grass) and shrublands dominated by sagebrush on the northern plains. Some soils are preferred by prairie dogs, but few preclude prairie dog burrowing. Most soils on the NFS lands in the analysis area are suitable for prairie dog burrowing. A golden eagle was observed in the analysis area near prairie dog town 246-1.

The prairie dog readily accepts ground disturbances and generally increases occupied acres to include areas where vegetation has been reduced in height. On mixed grass prairie and to a lesser extent on short grass prairie, colonies frequently originate on sites that have been disturbed from previous farming or other soil disturbances and on areas grazed by livestock. Sites that are heavily grazed, where livestock concentrate, are more likely to be colonized by prairie dogs. Soil disturbances in the form of water developments, pipelines, range ripping and furrowing, and past cultivation are also good predictors of suitable prairie dog habitat and potential sites likely to be colonized by prairie dogs. Vegetative modifications that remove heavy shrub components such as

burning, herbicide spraying, windrowing also pre-dispose an area to colonization by prairie dogs.

The population trend and acres of active prairie dog habitat of the black-tailed prairie dog on the Thunder Basin National grassland has been a steady increase since 1976. However, individual areas have been affected by the recent outbreak of plague resulting in local declines. The first plague outbreak on TBNG was in 1994 and affected approximately 2500 acres of prairie dog colonies. There has been recovery in some of those colonies, e.g. – colony 312-1 that was reduced from 328 acres to 2 acres was mapped as 335 acres in 2001. TBNG prairie dog towns mapped by Dr. Jack Cully (Kansas State University) in 2002 and 2003 showed an increase from 4322 active acres to 5627 active acres. Since this project will have a net increase of 500 acres of prairie dog habitat, it is expected to have a beneficial cumulative impact on prairie dog recovery on TBNG



Information for 1985 to 1991 was interpolated using 1984 and 1992 information.

**Greater Sage Grouse**

This Grouse is referred to both as *Sage Grouse* and *Greater Sage Grouse*, and the two terms are interchangeable. They have been used as appropriate where citations have been taken from the context of either a species list, a management plan or some other direction or policy.

Greater sage grouse are found in sagebrush shrub-land habitat. Sagebrush is essential for sage grouse during all seasons of the year. Sage grouse require an extensive mosaic dominated by sagebrush of varying densities and heights along with an associated diverse native plant community dominated by high levels of native grasses and forbs (Wyoming Greater Sage Grouse Conservation Plan 2003). Food sources for sage grouse include sagebrush, succulent forbs and insects. The amount of potential sagebrush habitat

currently available to sage grouse on Thunder Basin National Grassland is estimated at 438,500 acres (USDA Forest Service, 2001b). The quality of the available sagebrush habitat on Thunder Basin National Grassland is unknown.

Sage Grouse congregate on strutting grounds called leks for spring breeding. Male sage grouse appear to form leks opportunistically within or adjacent to potential nesting habitat (Connelly, et al., 2000). Lek habitat generally tends to be areas of low vegetation, with little, or no sagebrush on the site. However, often there are areas of denser sagebrush nearby the lek that are used for foraging, loafing and hiding cover (Wyoming Greater Sage Grouse Conservation Plan 2003). Once formed, grouse (both male and female) tend to return to these leks habitually each year. Males will remain in attendance at the lek until all females have left the area.

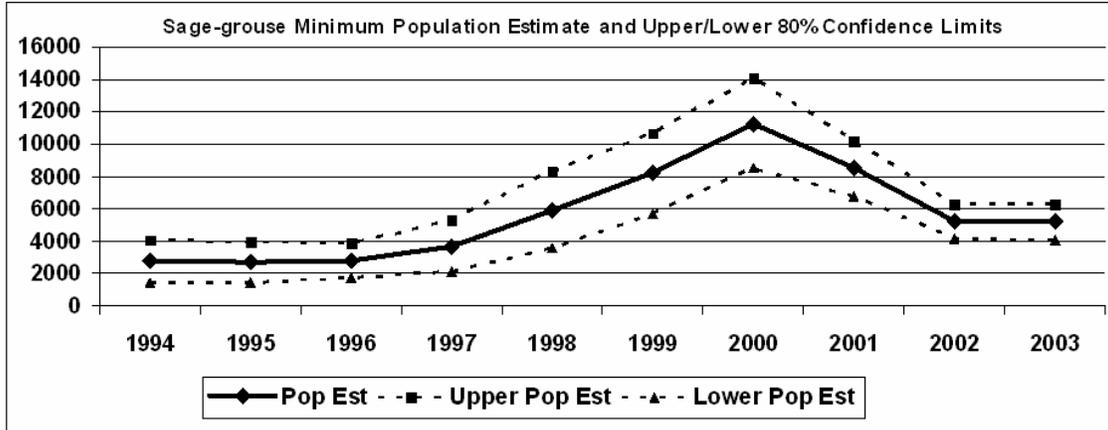
The majority of nesting sage grouse nest within 3 miles of their breeding lek (Wyoming Greater Sage Grouse Conservation Plan 2003). Sage grouse normally nest under tall sagebrush, but may use other plants as well. Nesting habitat in Wyoming is described as sagebrush stands with between 6% and 40% canopy cover, with higher quality nesting habitat found in the areas of higher canopy cover. Sagebrush stands used for nesting range in height from 8 to 18 inches tall, with individual nest plants reaching up to 32 inches tall (Wyoming Greater Sage Grouse Conservation Plan 2003). A dense understory of herbaceous plants (grasses and forbs) is needed in association with the nesting area. These plants need to be greater than 6" tall (Connelly, et al., 2000). Both new spring herbaceous growth and residual cover are important in the understory for nesting sage grouse (Wyoming Greater Sage Grouse Conservation Plan 2003). Characteristics of sagebrush stands for nesting and wintering are very similar, but at least 12 inches of the sagebrush plant needs to remain above the snow.

Greater sage grouse are year-round residents of Thunder Basin National Grassland. Breeding populations of this species have declined by at least 17-47% throughout much of its range (Connelly, et al., 2000). Sage grouse populations and their distribution in Wyoming have declined over the last five decades (Oedekoven 2001). According to the Wyoming Greater Sage Grouse Conservation Plan "it appears that the statewide sage-grouse population was at very low levels in the mid 1990s but increased approximately three-fold during the late 1990's, peaking in 2000. This increase was attributed to increased precipitation received in those years." The Plan also indicates that this population increase was "short-lived due to the return of drought conditions" across the State. In 2001 and 2002 the population again declined with the population appearing to stabilize in 2003.

Thunder Basin National Grassland, Hilight Bill Geographic Area, is within Wyoming Game and Fish Department's (WYGF) Sheridan Region. The minimum population estimate for sage grouse within the Sheridan Region for 2001 was about 7,000 adult birds (Oedekoven 2001). The trend in the sage grouse population for the Sheridan Region suggests about a 10 year cycle with periodic highs and lows. Subsequent population peaks appear lower than the previous peak, suggesting a steadily declining sage grouse population within the Sheridan Region (Oedekoven 2001).

The following graph, provided by Wyoming Game and Fish Department, illustrates the sage grouse trend the Wyoming Game and Fish Department Sheridan Region over the last 33 years. While experiencing significant peaks and declines, the overall indication is a decreasing population trend.

**Graph I: Sage Grouse Trends for the Wyoming Game and Fish Department Sheridan Region**

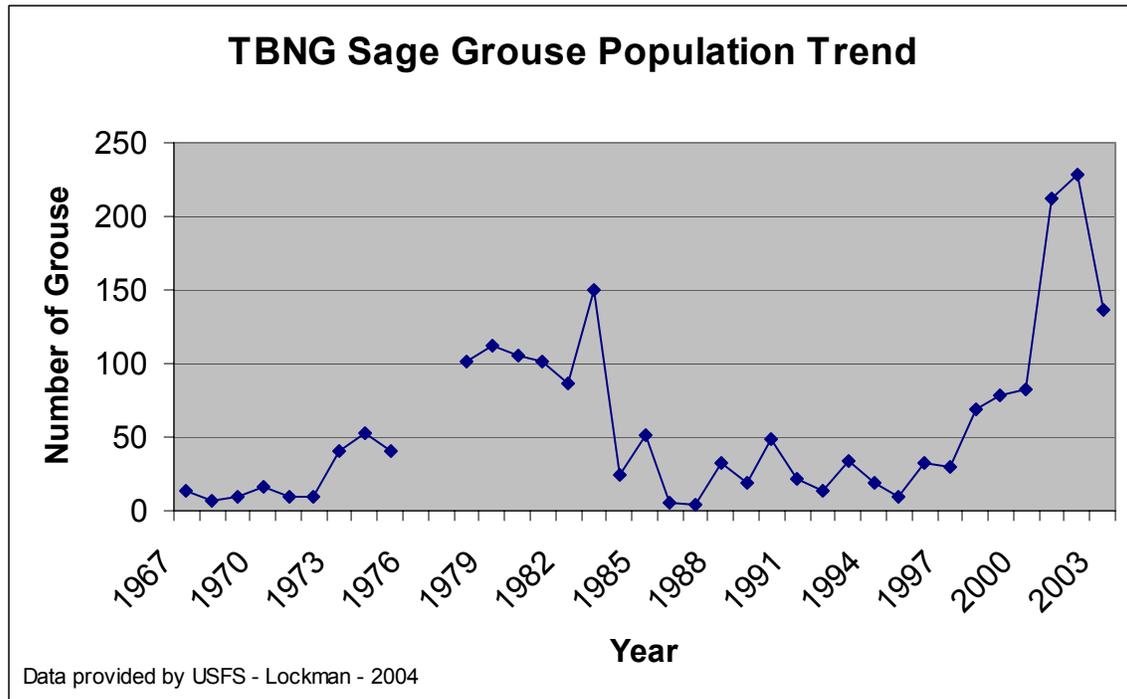


Population estimates based on lek complex counts. Average complex population estimate based on a sex ratio of 2 females for every male. Total population estimate multiplies Average Complex Population Estimate by the total number of lek complexes in the last year of the report, typically the maximum number of possible lek complexes for the analysis area. Confidence intervals calculated at 80%.

(Data provided by Wyoming Game and Fish – Odekoven – 2004)

*Sage grouse monitoring has also occurred on Thunder Basin National Grassland since 1967. The following graph shows the population numbers reported during that time.*

**Graph II: Sage Grouse Trends for Thunder Basin National Grassland**



*Sage Grouse populations on Thunder Basin National Grassland followed a pattern similar to that of the Wyoming Game and Fish Department Sheridan Region (Graph I) and those of the state. Populations were at low levels throughout the mid 1990's, with an increase beginning about 1997, and continuing until 2002. The population then began declining.*

*As a part of interpreting population data, several cautions must be remembered:*

1. *The information is based on lek counts, not a total population inventory.*
2. *The survey effort and the number of leks surveyed/counted has varied over time.*
3. *It is assumed that not all leks in the state have been located.*
4. *Sage grouse populations appear to cycle over about a 10 year time frame.*
5. *The effects of unknown leks cannot be quantified.*
6. *Lek locations may change over time.*

*(Wyoming Greater Sage Grouse Conservation Plan 2003)*

With this said, monitoring male attendance at leks is a widely accepted process for determining relative population size and trend. This is the process used extensively by both state and federal agencies in monitoring populations and their trends.

## **Alternative A – No Action**

### **Direct and Indirect Effects**

**Listed Species:**

Because present ownership of the land proposed in the land exchange would remain the same, there would be no direct effect on the present populations of bald eagles and black-footed ferrets.

Studies conducted on bald eagle use at winter roost sites on Thunder Basin National Grassland indicate the use at any given roost site may fluctuate dramatically from year to year and day to day. It appears that weather and food availability may play a large part in the food use of these areas. Due to the lack of any significant fisheries or other concentrations of food sources on existing Federal and non-Federal lands, the bald eagles using the roost sites associated with the lands in this exchange probably are a wide ranging population. It is expected that these birds will continue to hunt for food on these Federal lands, as well as non-Federal lands in the proposed project area without regard to ownership.

Under this alternative, potential black-footed ferret habitat would not be consolidated under Federal management. Because no ferrets have been found on either parcel of land, present management for that species remains the same. The non-Federal parcel is located near the future black-footed ferret re-introduction area, but is not included in the actual lands that would be exchange.

**Proposed Species:**

No proposed species are known to occur in the analysis area.

**R2 Sensitive Species:**

There are no known significant beneficial effects or adverse impacts that would be likely to occur to any R2 sensitive species if the land exchange is not implemented.

**Management Indicator Species:**

Because present ownership of the land proposed in the land exchange would remain the same, there would be no direct effect on the present populations of sage grouse or black-tailed prairie dogs.

**Cumulative Effects:****Listed species:**

In the past, most of these lands have been used for domestic livestock grazing. In 1981, the Forest Service established the Rosecrans Black-Footed Ferret Potential Habitat Area to provide habitat for ferrets that would not be adversely affected by prairie dog poisoning. Most recently, the analysis areas have been characterized by varmint shooting activities associated with the black-tailed prairie dog towns. Currently, varmint and big

game hunting, livestock grazing, and dispersed recreation are the dominant human activities found within the analysis area. In addition to the proposed project, future activities may include oil and gas exploration and development; further hunting and dispersed recreation, and continued livestock grazing. Also, the non-Federal parcel is located near the Rosecrans re-introduction area, which has been identified as the best-unoccupied black-footed ferret site in the nation. Ferret re-introduction is planned in the future.

The past, present, and possible future activities are expected to continue if there is no action, or if the land exchange proceeds. The no-action alternative will not conflict with the current Grassland Plan, and future objectives to manage the area for black-footed ferrets and bald eagles.

“Determination” regarding federally-listed species:

The determination of the Forest Service wildlife biologist is that not implementing the proposed land exchange would have “no effect” (cumulative beneficial or adverse) on bald eagles, or the black-footed ferrets, or endangered or threatened plants, or their habitats, or the potential for reintroduction of ferrets.

Proposed Species:

No proposed species are known to occur within the analysis area.

R2 Sensitive Species:

There are no known significant cumulative beneficial effects or adverse impact(s) that would be likely to occur to any R2 sensitive species if the land exchange is not implemented.

Management Indicator Species:

There are no known significant cumulative beneficial effects or adverse impact(s) that would be likely to occur to Management Indicator Species if the land exchange is not implemented.

## **Alternative B – Proposed Action**

**Direct and Indirect Effects:**

Listed Species:

Identified bald eagle winter roost sites are located on Federal land near but not on lands that would be exchanged. Bald eagles will continue to hunt and scavenge in the area without regard to the ownership there, and the exchange should not affect their habitat.

One eagle nest has been identified on the non-Federal parcel, but it has not been determined whether or not it is active, or if it is a bald eagle nest or not. No other known eagle nests are within the project area.

Under this alternative, potential black-footed ferret habitat would be consolidated under Federal management. There would be an approximate net gain of 500 acres of prairie dog towns, with the acquisition of the non-Federal parcel. This could improve ferret recovery and reduce private land conflicts if ferret re-introduction occurs. Since ferrets have not been located or identified within the project area, there should be no direct or indirect effects associated with the exchange of the Federal parcel.

The characteristics of the area probably won't be changed through the implementation of this proposed project because there shouldn't be an increase in human activities or disturbance.

Currently, there are no known habitats that would be adversely impacted by this proposed land exchange.

#### Proposed Species:

No species that is currently proposed is known to occur in the analysis area.

#### R2 Sensitive Species:

It is expected that this land exchange will have no significant beneficial effect or adverse impact on golden eagles, because they will continue to use the areas without regard to ownership. The land exchange could provide some benefit to eagles, mountain plover, ferrets, hawks and because federal management of additional acres of prairie dog colonies would provide some level of protection against poisoning, thereby potentially increasing the prey base for eagles in the area.

#### Management Indicator Species:

There would be an approximate net gain of 500 acres of prairie dog towns, with the acquisition of the non-Federal parcel. This could improve ferret recovery and reduce private land conflicts if ferret re-introduction occurs.

With the increase in the acres of active prairie dog colonies comes the increase in habitat potential for other MI species like bald eagles, mountain plovers, black-footed ferrets, upland sandpipers, woodhouse toads, and ferruginous hawks that all use prairie dog towns in some capacity or another.

There would be a net gain of 920 acres of sage grouse habitat. The lands the United States will be giving away has marginal grouse habitat, due to the fact that a heavily used railroad and a coal mine are located in and around the lands.

**Cumulative Effects:**

## Listed Species:

In the past, most of these lands have been used for domestic livestock grazing. In 1981, the Forest Service established the Rosecrans Black-Footed Ferret Potential Habitat Area to provide habitat for ferrets that would not be adversely affected by prairie dog poisoning. Most recently, the analysis areas have been characterized by varmint shooting activities associated with the black-tailed prairie dog towns. Currently, varmint and big game hunting, livestock grazing, and dispersed recreation are the dominant human activities found within the analysis area. In addition to the proposed project, future activities may include oil and gas exploration and development; further hunting and dispersed recreation, and continued livestock grazing. Also, the non-Federal parcel is located near the Rosecrans re-introduction area, which has been identified as the best non-occupied black-footed ferret site in the nation. Ferret re-introduction is planned in the future.

The past, present, and possible future activities are expected to continue if the land exchange proceeds. The proposed action will not conflict with the current Grassland Plan, and future objectives to manage the area for black-footed ferrets and bald eagles. Expectations are that with the acquisition of more prairie dog town acres closer to the ferret reintroduction area, that habitat conditions for ferrets would be greatly enhanced. The past, present, and possible future activities are expected to continue if the land exchange proceeds. The proposed action will not conflict with the current Grassland Plan, and future objectives to manage the area for black-footed ferrets and bald eagles.

## “Determination” regarding federally listed species:

After thoroughly considering the information disclosed in this document, it is the wildlife biologist’s determination that the land exchange would have “no effect” on bald eagles, or the black-footed ferrets, or any threatened or endangered plants, or their habitats, or on the potential for reintroduction of ferrets.

## Proposed Species:

No proposed species are known to occur within the analysis area.

It is the determination of the wildlife biologist that the land exchange is not likely to jeopardize the continued existence, or adversely modify, proposed critical habitat(s).

## R2 Sensitive Species:

There are no known significant cumulative beneficial effects or adverse impact(s) that would be likely to occur to any sensitive or management indicator (MIS) species if this land exchange is implemented.

### Management Indicator Species:

Expectations are that with more prairie dog town acres closer to the ferret reintroduction area, that habitat conditions for ferrets would be greatly enhanced. Habitat conditions for both the sage grouse and prairie dog would be improved by completing the exchange.

## **Fisheries Management:**

No fishery resource(s) are known to exist in the analysis area.

## **Recreation Management:**

During the past decade, an aggressive land exchange program on the Thunder Basin NG has resulted in the consolidation of many previously fragmented National Forest System lands, especially in highly desired areas identified in a land exchange strategy, and disposal of fragmented lands in areas identified for disposal. The Dull Center land exchange would continue to move towards meeting the district land exchange strategy.

The Federal lands are predominantly within an area identified in the Medicine Bow National Forest and Thunder Basin National Grassland Land and Resource Management Plan (Grassland Plan) that are managed for intensive mineral production and mineral support facilities, such as pipelines, roads, and powerlines. All of the lands considered for disposal through this exchange border existing National Forest System lands and/or State of Wyoming lands, however, they mostly consist of “peninsulas” of land where the public/private boundaries are difficult to discern on-the-ground. This creates a situation where the potential for inadvertent trespass onto adjacent non-Federal lands is high.

The Recreation Opportunity Spectrum (ROS) for much of this area is towards the development scale, specifically Urban, Rural and Roaded Natural. The area around Sunny Draw falls into the Roaded Natural ROS, and is used by mule deer and antelope hunters in the fall. All these lands basically surround the North Antelope and Rochelle coal mine. The attractiveness of these lands to most recreationists is limited due to the surrounding heavy mineral activities, and some are closed to public entry as they fall within mine permit boundaries. Most of these lands will eventually be surface mined by these coal lessees. The Scenic Integrity Objective (SIO) for the lands in the analysis area is “Low”.

Legal public road access into these areas varies. About half of the area has good legal road access, while the other half has limited to non-existent legal road access. All of these lands can be accessed legally by non-road travel.

The lands identified for acquisition in this exchange are located adjacent to National Forest System lands acquired through land exchanges in the past decade. The proposed

lands to acquire are within an area of predominantly ranching settings, and fall mostly within the Roded Natural ROS with some of the more remote areas towards the Semi-Primitive scale. Current recreation use is dependent upon gaining permission from the private landowner.

## **Alternative A – No Action**

### **Direct and Indirect Effects**

Legal, unrestricted public road access would continue to be nonexistent. The public's use of the area for recreation would continue to be very limited, and would only be available to those persons who have obtained permission to cross non-Federal land to reach existing public land. The Forest Service would continue to lack the legal access appropriate and needed to conduct needed current or future multiple-use management activities on Federal lands in the Miller Hills area. The Medicine Bow and Thunder Basin National Grassland Plan direction to consolidate the existing fragmented Federal land ownership would not be achieved, nor would the ownership pattern move toward the desired future condition described in that plan. Excess roads that may be adversely effecting the environment could not be decommissioned, stabilized or made less of a real or possible environmental threat.

### **Cumulative Effects:**

Implementing this alternative would not cause any known significant cumulative beneficial effects or adverse impacts specific to the management of recreation uses or related resource resources in the analysis area.

## **Alternative B – Proposed Action**

### **Direct and Indirect Effects:**

The proposed exchange would be beneficial for recreation in that:

The Federal lands are much more fragmented than those lands that would be acquired which would result in a reduced potential for inadvertent trespass onto adjacent private lands.

The lands to be acquired would build on the consolidation of National Forest System lands from past land exchange acquisitions.

The ROS class for the lands that would be acquired is a more primitive one than for those that would be conveyed. The newly acquired lands would provide more and better recreation opportunities for hunters, hikers, four-wheel drive users, dispersed campers, and those who enjoy solitude and viewing wildlife and representative grassland in a natural landscape.

The lands to be acquired will provide improved legal public road access into the Miller Hills area of the TBNG in an area where such access does not currently exist.

**Cumulative Effects:**

Implementing this alternative would result in increased public use and recreation in the analysis area. No other cumulative beneficial effects or adverse impacts specific to the management of the recreation resources in the analysis area are known that would occur.

**Transportation Management and Engineering:**

The Interdisciplinary Team for this land exchange proposal met on May 2, 2001 and completed a comprehensive Roads Analysis Plan (RAP), as required by Forest Service policy (USDA Forest Service 1999). The Road Related Opportunities section of the RAP report identifies the current existing road data and related information for the lands considered for disposal and those lands that are being considered for acquisition, as well as road use and management recommendations. The RAP report contains pertinent information about the existing transportation system, and the opportunities and recommendations described in it are a requirement of (made a part of) the proposed action. The RAP report is contained in the project analysis file for this proposed land exchange.

**Alternative A – No Action****Direct and Indirect Effects**

If this alternative is implemented, legal public road access into the Miller Hills area will continue to be nonexistent. Recreational use opportunities will continue to be limited, and only those persons who have received permission from adjacent non-Federal landowners to cross their lands to enter public lands will be able to access the Federal lands by motorized means. The Forest Service will remain in the position of needing unrestricted access for the purpose of multiple-use land management activities, but not having it. Road maintenance costs will continue to exceed funding available and user created roads would continue to be a management problem. The desired condition as regards transportation facilities and roads management will not be achieved.

**Cumulative Effects:**

Implementing this alternative would not cause any known site-specific cumulative beneficial effects or adverse impacts specific to the management of the transportation resources in the analysis area.

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## Alternative B – Proposed Action

### Direct and Indirect Effects:

The Forest Service would reserve an easement for the Phillips Road (FSR 973) and over the Beckwith Road (FSR 1618), both in T.41N. R.69W.

A total of 13.1 miles of classified National Forest System Roads would move to non-Federal ownership and would no longer be carried on FS inventory.

A total of 12.4 miles of classified and unclassified roads that would be acquired would be decommissioned because they will not be needed for future management.

The agency has determined that there are 5.5 miles of existing unclassified roads that have been identified that will continue to be needed for future management. These road miles would be classified and would be placed on the roads inventory.

### Cumulative Effects:

Through this land exchange, legal public motorized access would be gained into the Miller Hills area over existing roads. The effect would be that public recreation use in that area would increase in the future.

## Heritage (Cultural) and Paleontological Resources Management:

### Heritage:

A portion of the non-Federal lands proposed for exchange to Federal ownership overlook major basin drainages. In other areas in the Powder River Basin such areas near resource-rich ecotones are known to contain archaeological sites. The lands that would be acquired by this exchange lie on the south side of the Cheyenne River and contain major terraces above the flood plain. They are likely to contain archaeological sites.

Several heritage resources surveys have been completed in the project area, and have revealed that the area has likely seen human habitation for the past 15,000 years.

Generally, the soils on TBNG are changing and rarely are soils over 7-8,000 years old. Many are much younger than that. A total of sixty-eight (68) sites have been located and recorded. These sites are on lands that would become non-Federal if the proposed exchange is implemented. Seven of the sites have been determined to be eligible for nomination to the National Register of Historic Places. “Five sites have been determined eligible for the National Register of Historic Places and could be affected by the project. One site still needs work to make a complete determination of eligibility and will be treated as eligible (48CA3606). These historic properties are briefly described as:

Site 48CO960/961 is a camp with a scatter of chipped stone and ground stone tools, rock from campfires and there is an animal bone in the ground (a ‘bone bed).

Site 48CA1420/3219 contains at least two hearth features and a scatter of chipped stone as well as buried cultural layers.

Site 48CA3218 had two late archaic projectile points and an intact buried cultural layer (1.4 meters below the ground surface).

Site 48CA3596 contains on its western edge a buried cultural layer, two fire related features and stone tools.

Site 48CA3606 is in an unusual situation. No indications of buried cultural features were found but the site contains a soil layer which on nearby sites contains cultural materials. This site needs further testing, probably directed by ground penetrating radar prior to making further decisions about the site.

Site 48CA3607 lies on a terrace and contains at least two and probably more rock filled hearths or ovens and associated living areas. Currently this site is being impacted by stream bank erosion.

There are presently two documented traditional cultural properties (TCPs) on the TBNG. They are located well to the north and outside of the proposed land exchange area. The Cheyenne River is important to many plains tribes, and other TCPs may well be described to the Forest Service in the future by Native American Indian traditional practitioners.

It is anticipated that historic properties exist on the land to be acquired on the terraces above the Cheyenne River.

The six (6) sites eligible for nomination to the National Register of Historic Places listed above would leave Federal ownership and without the adoption of the MOU as mitigation measure described elsewhere in this document, would result in a National Historic Preservation Act-defined determination of 'Adverse Effect'.

**Paleontology:**

The geologic formation exposed in the project area is the Tertiary Fort Union deposited in a time when eastern Wyoming was a humid sub-tropical environment. Most of the fossils found in the Fort Union are plant fossils such as magnolia, sycamore, maple, oak, fig, birch, etc. Some vertebrate fossils are known from several sites located on private lands in the analysis area. The Fort Union geologic unit is found throughout eastern Wyoming and Montana and western North Dakota. The unit is renowned for producing coal and gas, which is demonstrated by the presence of several coal-mining operations in the general area. The most common fossils found within the lower members of the Fort Union are plants, which primarily make up the coal seams. According to the Geologic Map of Wyoming compiled by J. D. Love and Ann Coe Christiansen, and published in 1985, the Fort Union members exposed in the area of the proposed land exchange are known and demonstrated to have potential for paleontological resources.

In sections 35 and 26, T.41N.R.70W., and sections 8, 17 and 18, T.41N.R.69W., a Forest Service paleontologist noted some organic and plant material exposed in the fossil layer, though nothing of significance. In section that section 18, the scientist discovered plant impressions in the more resistant iron-rich layer of rock. These impressions are described as showing great detail of the leaves. These types of fossils are common in the Fort Union formation. Throughout this portion of the area of the proposed land exchange, the red “clinker” beds, the remnants of past burned coal beds, are exposed, and provided a “benchmark” for stratigraphic reference during the inventory in the project area.

In sections 22 and 27, T.42N.R.71W., the exposed fossil bearing layer contains variegated yellow and gray bentonitic sediments. Close examination of these outcrops did not provide any fossiliferous material. Due to the highly eroding sediments, fossils may be discovered in the future. Of the fossils discovered during the inventory of the project area, nothing discovered was significant or would warrant any special attention or mitigation for the paleontological resources in the proposed Dull Center Land Exchange area.

## **Alternative A – No Action**

### **Direct and Indirect Effects**

No significant beneficial effects or adverse impacts to inventoried sites would occur.

### **Cumulative Effects:**

Implementing this alternative would not cause any known site-specific cumulative beneficial effects or adverse impacts specific to the heritage or paleontological resources in the analysis area.

## **Alternative B – Proposed Action**

### **Direct and Indirect Effects:**

There are likely to be historic properties on the lands to be acquired near the Cheyenne River. There would be the beneficial direct effect of acquiring lands that contain historic properties. Another direct effect is that the consolidated land ownership pattern resulting from the exchange will make access to, and management of, historic properties on Federal land more efficient. This improved efficiency will accrue on both the lands to be acquired, and on lands that would remain in Federal ownership but that are difficult to access now.

The positive benefits of the land exchange including improved land ownership patterns, the potential for acquiring historic properties and access make the land exchange a valuable consideration if the costs involved with treating the archaeological sites eligible for the National Register of Historic Places can be undertaken.

**Cumulative Effects:**

Implementing this alternative would improve knowledge about the past in the area and impact some historic properties. However, the land exchange would not cause any known cumulative beneficial effects or adverse impacts specific to the heritage or paleontological resources in or near the analysis area.

**Hazardous Fuels and Fire Management:****Alternative A – No Action****Direct and Indirect Effects**

If the proposed land exchange does not occur, there will be no consolidation of Federal land ownership, and the determination of ownership during wildfire initial attack will continue to be problematic. Developing and implementing the appropriate management response to wildland fire occurrences will be difficult, in part, because of the continuing fragmented ownership pattern.

**Cumulative Effects:**

Implementing this alternative, that is, not proceeding with a land exchange would not cause any known significant cumulative beneficial effects or adverse impacts relating to fuels and fire management in the analysis area.

**Alternative B – Proposed Action*****Direct and Indirect Effects:***

The proposed land exchange would consolidate Federal land ownership. This consolidation would be beneficial to fire and fuels management. It would make determination of ownership in initial attack more efficient. Also, land consolidation makes it easier to develop and implement appropriate management responses to wildland fires based on analysis of the local situation, values to be protected, management objectives, external concerns and land use.

The proposed land exchange would take 4,478.41 acres of Federal land that is currently in Campbell and Converse Counties and would revert it to non-Federal ownership. The exchange would increase federal acres and decreasing private ownership by about 160.38 acres in Campbell and Converse Counties. This exchange of land ownership would have a negligible effect from a fire management perspective because the counties have similar Wildfire Control Agreements with the Federal government. All of Thunder Basin National Grassland in the counties is considered a reimbursable fire protection zone. Counties responding to fire on Federal land are compensated for all their fire suppression costs.

The consolidations of these lands may increase recreational uses. This would increase the likelihood of an increase in human caused fires in the area that would become Federal land. Fire prevention signing and patrols could help negate this effect.

### **Cumulative Effects:**

Implementing this alternative would not cause any known significant cumulative beneficial effects or adverse impacts relating to fuels and fire management in the analysis area.

### **Floodplains, Wetlands and Water Rights:**

Executive Order 11988 requires that “flood hazards be held to a practicable minimum in *floodplains* within and downstream from land being conveyed for Federal ownership. Floodplains must be identified on the Federal lands only. If available, use Flood Hazard Boundary Maps (FHBM) produced by the Federal Emergency Management Agency”.

Converse and Campbell counties are participants in the National Flood Insurance Program, but only the major stream courses on non-Federal lands in these counties that have buildings in floodplains have been mapped by the Federal Emergency Management Agency. The lands being conveyed from Federal ownership has not been mapped under this Program.

If the qualifying floodplain exists on Federal land to be conveyed is located in a county that participates in the National Flood Insurance Program (NFIP), local regulations satisfy the intent of Executive Order 11988 to not increase flood hazards, and a statement to this affect is all that is required. Converse and Campbell Counties do participate in the National Flood Insurance Program (NFIP). Local county zoning and planning regulations will also apply to any future development in the land being conveyed out of Federal ownership.

Although Converse and Campbell counties are participating, the floodplains were not mapped in this part of the county under (NFIP) acreage mapping. Both the floodplains and the wetlands that are associated with the land exchange have been mapped using Topographic maps (1:24,000 scale). Geomorphic features were used to delineate these flood plains and wetlands. The accuracy of the mapping was verified through field reconnaissance, and extensive ID team member knowledge of the local area.

If the exchange would increase flood hazards downstream from the lands to be conveyed, enough land must be identified for possible exclusion from the exchange to prevent the increase. This would happen only if projected uses of conveyed lands would sharply increase runoff, and any development that might occur in the future would be required to follow state, county, and city regulations so as to would minimize flood hazards.

The non-Federal lands that would be conveyed to the United States contain approximately 15.3 acres of qualifying floodplain. The Federal lands that would be

conveyed to Jerry and Barbara Dilts contain approximately 13.4 acres of qualifying floodplain.

A *wetland* is defined, in part, by the plant communities that occur there, and as an area where at least seasonal saturation of the rooting zone, where hydric soils occur and by wetland hydrology.

As required by Executive Order 11990, Wetlands – No land exchange may cause a net loss of “natural and beneficial values” of wetlands on NFS lands. Thus, wetlands that occur on lands that are involved in the Dull Center land exchange are subjected to a “balancing test”, whereby such values (biotic richness and diversity, wildlife habitat, water supply and quality regulation) are compared between the Federal and non-Federal wetlands. The acres and “quality” of wetlands on both the Federal and non-Federal lands must be identified.

The non-Federal lands that would be conveyed to the United States contain approximately 2.8 acres of wetlands. As to the quality of these non-Federal wetlands, they are confined to areas around man-made reservoirs and narrow streams channels. Existing vegetation consists of riparian species such as willow and carex (sedges). The condition of the vegetation is considered good.

The Federal lands that would be conveyed to the Dilts’ contain approximately 2.6 acres of wetlands. These wetland areas are confined to areas around man made reservoirs and narrow streams channels. The vegetation is predominantly carex. The condition of the vegetation is considered good.

All of the wetland areas on both the non-Federal and Federal lands that would exchange by the Dull Center proposal have been mapped, and the location of all wetland boundaries has been refined through field reconnaissance.

If the exchange would disrupt water regimes in wetlands downstream from conveyed lands, enough land must be identified for possible exclusion for conveyance to prevent the disruption. Again, this would happen only if projected uses of conveyed lands would sharply increase runoff.

There would be a net increase of 0.2 acres of wetlands if the proposed action is implemented and the alternative meets the intent of Executive Order 11990.

The Wyoming State Engineer’s Office has identified that the following water rights exist on the lands that would be exchanged:

1. The Forest Service owns two (2) stock watering reservoirs that have a total capacity of 5.78 ac./ft.
  - a. Permit No. 3888, Matheson #228-2 Stock Reservoir, 4.4 acre-feet
  - b. Permit No. 4199, Wilkinson #F.S. 9-264-5 Stock Res. 1.38 acre-feet

2. The non-Federal land that would be conveyed to Federal ownership has four stock watering reservoirs that a total capacity of 43.17 ac./ft.
  - a. Permit No. 1233, Leo #1 Stock Reservoir, 4.47 acre-feet
  - b. Permit No. 1436, Meadow #1 Stock Reservoir, 17.04 acre-feet
  - c. Permit No. 3993, Meadow creek Dam #1 Stock Res., 19.7 acre-feet
  - d. Permit No. 342, Rothleutner #1 Stock Reservoir, 1.96 acre-feet

All the stock watering reservoirs referred to above are considered to be in good condition.

## **Alternative A – No Action**

### **Direct and Indirect Effects**

The 'status quo' as to floodplains, wetlands and water rights would be maintained. No - gains in the number of acres of wetland area, or acre feet of water right, that would accrue to the Federal government under the proposed action would be realized.

### **Cumulative Effects:**

Implementing this alternative, that is, not proceeding with a land exchange, would not cause any known significant cumulative beneficial effects or adverse impacts relating to flood plain and wetlands management in the analysis area.

## **Alternative B – Proposed Action**

### **Direct and Indirect Effects:**

The projected uses of the conveyed lands would not be expected to change in the near future, and any development that does occur must, and is expected to comply with state, county, and city regulations that would minimize downstream flood hazards.

The Forest Service hydrologist has made a finding that the quantity and quality of the wetlands that would be conveyed to the United States would equal or exceed the quality and quantity that now exist on the Federal land.

The lands that would be conveyed are not expected to sharply increase runoff. If an increase could occur in the future, it would happen only if the uses of conveyed lands would change significantly, and any development that might occur would be required to comply with state, county, and city regulations which would serve so to minimize flood hazards.

On lands the Federal government would receive, the current use of water in reservoirs is for domestic and wildlife water. These reservoirs provide beneficial drainage sediment catchments.

The water rights would be transferred at the time of the land exchange. In Wyoming, the water rights go with the land. The Federal government would give up 5.78 ac./ft. of existing water right, and would be receiving 43.17 ac./ft. of water right with the lands that would be conveyed to Federal ownership. This represents a net gain of 37.39 ac./ft. of water rights.. Because the United States would be giving up two (2) stock watering reservoirs and would be receiving four (4) stock reservoirs for a net gain in the number of reservoirs, there would be additional future costs for upkeep and maintenance when compared to the effects of the No Action alternative. The current uses of water in reservoirs for domestic and wildlife water would continue. The reservoirs would continue to provide important drainage sediment control.

**Cumulative Effects:**

There are no known or likely cumulative beneficial effects or adverse impacts on floodplains, wetlands or water rights that would occur by implementing this alternative.

**Short-term Uses vs. Long-term Productivity**

The implementation of the Dull Center Land Exchange will not adversely impact or limit the long-term productivity of the non-Federal and Federal lands in the analysis area or more generally on the Thunder basin National Grassland, nor will it, in and of itself, affect such uses or productivity on any NFS or other Federal or non-Federal lands nearby that will remain in current ownerships or be exchanged at another time. (The concepts of short-term uses and long-term productivity are described and discussed in Chapter IV of the Medicine Bow Forest and Thunder Basin National Grassland Plan, 1985, as amended.

**Irreversible and Irretrievable Commitment of Resources**

There is no significant irreversible or irretrievable commitment of resources that will occur out of implementing the proposed land exchange, or the No Action alternative, as regards the lands and resources within the boundaries of the Thunder Basin National Grasslands.

**Consultation and Coordination**

The Forest Service consulted the following individuals, Federal, State and local agencies, tribes and non-Forest Service persons during the development of this environmental assessment:

**ID TEAM MEMBERS:**

Theodore Cook – ID Team Leader/Land Exchange Coordinator

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Tommy John – Forest Soil Scientist/Hydrologist  
Liz Schnackenberg-South Zone Hydrologist  
Rob Schmitzer/Amy Ormseth - District Recreation and Engineering Staff  
Joe Reddick – Forester, Lands & Minerals  
Ian Ritchie – Archaeologist  
Tim Byer– District Wildlife Biologist  
Pat Hessenflow – Rangeland Management Specialist  
William Steenson – NEPA/Land Management Planning Specialist  
Barbara Beasley – North Zone Paleontologist  
Clay Westbrook – Fire Management Officer

FEDERAL, STATE, AND LOCAL AGENCIES:

State of WY – Office of Federal Land Policy  
Converse County Commissioners – Douglas, WY  
Weston County Commissioners – Newcastle, WY  
Campbell County Commissioners - Gillette, WY  
Betty Rice – Campbell County Planning Commission  
Intermountain Conservation District – Gillette  
Wyoming Oil & Gas Commission – Casper  
Bob Oakleaf - WY Game & Fish – Lander, WY  
Tamara Gertsch - BLM State Office – Cheyenne, WY  
Rod Lebert – WY Game & Fish – Douglas, WY  
Olin Oedekovin – WY Game & Fish – Gillette, WY  
Art Reese – State of WY Federal Land Policy  
Richard Currit – WY Dept of State Parks & Cultural Resources

Bill Wichers – WY Game and Fish Department – Cheyenne, WY  
USDI Fish and Wildlife Service – Ecological Services  
David Benner - State of WY – Engineers Office – Cheyenne  
Senator Bill Barton – Upton  
Senator Richard Erb – Gillette  
Senator Steven Youngbauer – Gillette  
Senator Jim Anderson – Glenrock  
Representative Jeff Wasserburger – Gillette  
Representative John Hines – Gillette  
Representative Michael Deegan – Gillette  
Representative Ross Diercks - Lusk  
Representative George McMurtrey - Rozet  
Representative James Hageman – Ft. Laramie, WY  
Representative Dave Edwards – Douglas  
Senator Michael Enzi  
Senator Craig Thomas  
Representative Barbara Cubin

TRIBES:

Cheyenne River Sioux Tribal Council – Eagle Butte, SD  
Standing Rock Sioux Tribe – Fort Yates, ND  
Fort Peck Assiniboine & Sioux Tribes – Poplar, MT  
Northern Arapaho – Ft Washakie, WY  
Crow Tribal Council – Crow Agency, MT  
Eastern Shoshone – Ft. Washakie, WY  
Oglala Sioux Tribe – Pine Ridge, SD  
Shoshone Arapaho Joint Business Council –Ft. Washakie, WY  
Mandan, Hidatsa & Arikara Nation – New Town, ND  
Northern Cheyenne Tribal Council – Lame Deer, MT  
Sisseton – Wahpeton Sioux Tribe – Sisseton, SD  
Rosebud Sioux – SD

OTHERS WHO COMMENTED:

Lona Nachtman – Douglas  
Wyoming Wildlife Federation – Cheyenne  
John Jolley – Casper  
Western Land Exchange Project – Seattle, WA  
Wendell Funk – Palmyra, IL  
Bob Stoddard – Douglas  
Jean Harshbarger – Newcastle  
Leland Turner – Gillette

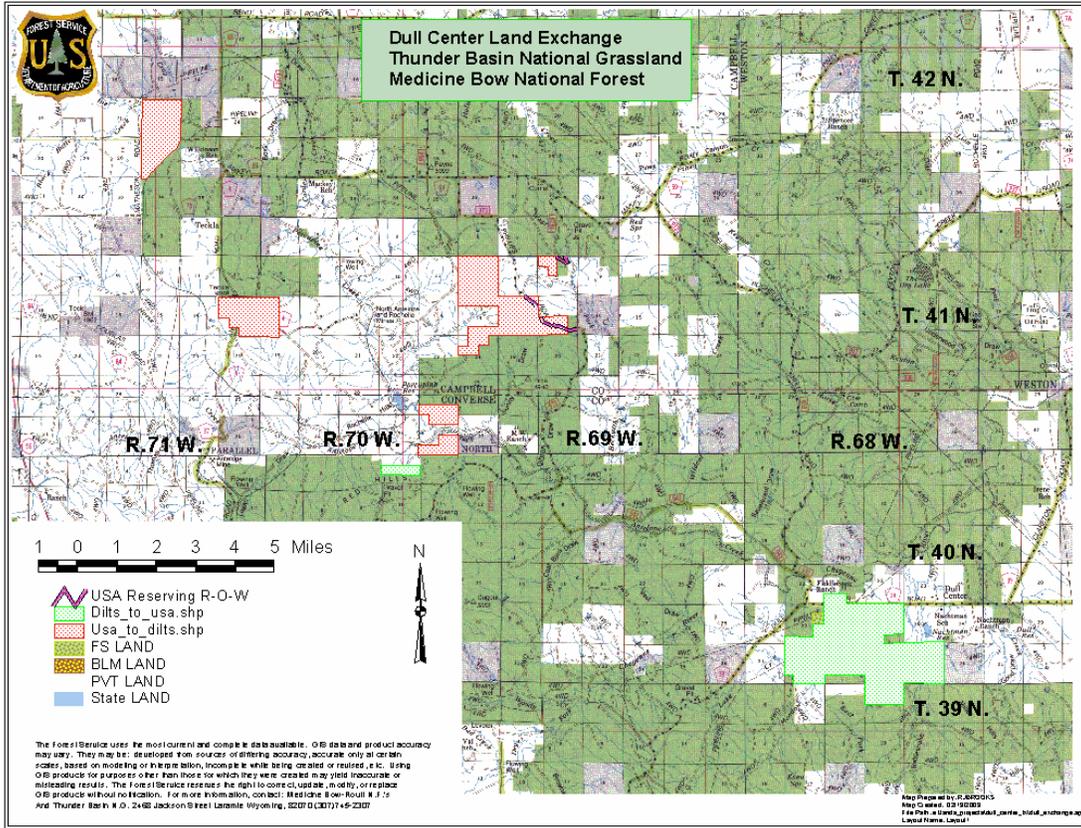
## **Documents Incorporated By Reference**

USDA Forest Service. 1999. FS Miscellaneous Report FS-643. Roads Analysis: Informing Decisions About Managing the National Forest Transportation System.

Scholl, Summers Smith, Rebekah S. and Data Management Staff. 2001. Medicine Bow National Forest: Known Occurrences of Threatened, Endangered, Forest Sensitive and WYNDD-designated Plant and Animal Species of Concern and Community Occurrences. Wyoming Natural Diversity Database. University of Wyoming

USDA Forest Service. 2001. Thunder Basin National Grassland Land and Resources Management Plan Revision, as amended.

# Appendix A – Maps



## APPENDIX B

### DULL CENTER LAND EXCHANGE

#### PUBLIC COMMENTS RECEIVED IN RESPONSE TO THE ENVIRONMENTAL ASSESSMENT (EA) DOCUMENT AND FOREST SERVICE RESPONSES TO THOSE COMMENTS

Commenter:

1. Wendell Funk, Palmyra, Illinois
2. Jean Harshbarger, Newcastle, Wyoming
3. Wyoming Wildlife Federation, Gillette, Wyoming
4. Wyoming Game & Fish Department, Cheyenne, Wyoming
5. Western Land Exchange Project, Seattle, Washington

*Comment 1:* Your goal to make unrestricted motorized public access available is a sure way to degrade the environment. (1)

*Response:* It is Forest Service policy that the agency will take steps to acquire and provide public access to National Forest lands for Land Management and other purposes, including motorized recreation. Motorized use does not necessarily mean that there would be a loss of quality habitats or other environmental degradation. Through this land exchange, the Forest Service has conducted an analysis of the roads in the area. Where there is more than one available access route, or there are otherwise unneeded roads, roads have been identified for closure. In addition, it is the Forest Service's intention to implement a travel management program in this area that can limit off-road vehicle activities. All of these actions can help to protect the environment, including important wildlife habitat in the project area. While additional motorized access would be available, it would not provide the destination-type facilities such as campgrounds or scenic overlooks to draw significantly higher traffic levels.

*Comment 2:* Contrary to what seems to be your view that access is compatible with the goal for a semi-primitive recreation experience, they are not compatible. If you allow motorized access you will not be able to offer a semi-primitive experience. (1)

*Response:* The Recreation Opportunity Spectrum (R.O.S.) System adopted by the Forest

Service in the recreation manual and handbook directives includes semi primitive motorized (SPM) recreation opportunities. The setting and anticipated uses in the lands proposed for acquisition will meet SPM criteria.

*Comment 3:* Contrary to your view that the sub-surface minerals have a high public value, it is the exploitive companies who reap the high value, not the national public. (1)

*Response:* Whoever receives value from the development of any leaseable mineral resource and/or its extraction or other measure of that value, such value opportunity has been determined in law and is reflected in Federal leasing regulations and policy. In the case of Federal minerals, under National Forest System lands, the Mineral Leasing Act of 1920 and 36 CFR 228 are the applicable laws and regulations. Federal mining law is beyond the scope of this analysis.

*Comment 4:* What is to prevent the land exchange proponent from exploiting the sub-surface mineral rights on the lands that he will acquire. (1)

*Response:* There would be no exchange of mineral ownership by this land exchange. The private party will not acquire any mineral rights on the land that would be exchanged. (See EA Page 27.)

*Comment 5:* The quality hunting that you say the public will have access to is nothing more than sadistic slaughter. (1)

*Response:* Hunting is an authorized legal and generally accepted outdoor recreational activity on National Forest Service lands in this area that is sanctioned and administered and managed by the State of Wyoming. While some members of the public take exception to the view that hunting is an accepted and appropriate land use, it is one management tool used to manage and regulate wildlife populations.

*Comment 6:* Your land exchange appears to benefit members of the local TBGA much more that it does the national public. (1)

*Response:* The proposed Land Exchange can provide numerous public benefits. See the Description Of The Purpose and Need For The Project on EA Page 5; the Desired Future Conditions described on EA page 6; the Forest Service responses to Other Issues and Concern on EA Pages 12-18; the description of the Proposed Action on EA Pages 19-20; Table 1 on EA Page 22, and the Environmental Consequences Chapter beginning on Page 23 of the EA for information about and examples of the public benefits of this land exchange.

*Comment 7:* Your proposal to allow motorized public access will contribute to global warming. (1)

Response: “There is a lack of sufficient information to predict or determine change in forest health and productivity due to climatic change. The agency accepts and endorses the concept that the atmospheric and climate effects that could possibly result from National programs be considered in national planning. Such analysis have been incorporated as part of the Resources Planning Act (RPA) Assessment and recognized as an issue in the RPA Program. However, until such research yields meaningful results, the National Environmental Policy Act (NEPA) disclosure documents at the forest or project levels are not the appropriate place or means to address global climate change issues. Analysis of global climate changes that might result from forest or site specific projects would be speculative, masked by regional and global influences, and would rarely provide meaningful information for the decision maker. Evaluations of possible global climate changes attributive to long-term regional programs, may be appropriate in the future when more research information is available” (F. Dale Robertson, Chief of Forest Service, Department of Agriculture Memorandum dated 10/1/90)

The issue of global warming is outside the scope of this site-specific land exchange proposal.

*Comment 8:* The grazing fee you will receive from the lands that you receive are only a small fraction of their real value. (1)

*Response:* Grazing fees are an issue for many people including those both inside and outside the agriculture industry. These fees are set legislatively and nationally and the issue is outside the scope of this site-specific project proposal.

*Comment 9:* Will the lands the United States receive or the lands that will be conveyed to the proponent be mined through in the future. (1)

*Response:* During the environmental analysis it was determined that some of the lands that are now Federal but would become private very likely would be in an area where coal mining could occur in the future.

*Comment 10:* Why are you trading out of public lands that are already connected to other lands that you will retain. (1)

Response: The proposed exchange will result in the establishment of a logical and manageable boundary between the National Grassland and private property owners and would minimize potential conflict between private property owners and users of the Thunder Basin National Grassland. Acquisition of the non-Federal lands will consolidate two existing large blocks of Thunder Basin National Grassland into one large parcel provided for more logical and efficient management. The exchange enhances recreational opportunities and public access.

See also EA pages 7, 10 and 13 subsections 3 & 4.

*Comment 11:* What is the public benefit to be gained by allowing coal leaseholders to [destroy] the public land surface and [take away] public land surface use. (1)

*Response:* The situation implied/described in the comment does not exist. The proposal does not authorize any coal leasing as part of the decision that will be made. In fact, by this land exchange the public would be trading out of lands that could well be leased and would be acquiring other lands that will likely never be leased and mined. The comment is outside the scope and purpose and need of the proposed action.

*Comment 12:* Why are you assuming ownership of corrals, sheds and other facilities that are on the land that becomes Federal. The public would be best served by their prompt removal. (1)

*Response:* The range improvements that would be acquired can be utilized in the management of the allotment and they will be retained and the use will become subject to of the grazing agreement. The Thunder Basin Grazing Association will be responsible for maintenance of the facilities. If in the future, the Forest Service determines that the facilities are not necessary for management of the allotment, the Thunder Basin Grazing Association, Converse County Fire Department and the Forest Service will jointly remove the facilities. (*EA, page 16, 20*).

*Comment 13:* Your land exchange is a “public be damned” proposal. All considerations are being “subsumed” to the maximization of profit by private parties. (1)

*Response:* See the Response under Comment 6, above.

*Comment 14:* Contrary to your view that it is not an environmental issue – SMCRA surface owner consent and the economics associated with it are an environmental issue. Any action regarding public land or water must include environmental considerations. Your failure to do so is [irresponsible]. (1)

*Response:* For the tracts that will be impacted by mining in the foreseeable future, the Surface Mining Control and Reclamation Act of 1977 (SMCRA) surface owner consent has already been given. At sometime in the distant future, the tract in T.41N.R.71W. could be mined. It is underlain with coal. If it is mined SMCRA consent will be necessary. Such future possible actions are too speculative in nature to venture a guess, or to predict what will occur or what the impacts would be of such a distant future event.

*Comment 15:* Prairie dog shooting is not recreation. It would be better if the dogs shot the recreationists. (1)

*Response:* Prairie dog shooting has been recognized by the Forest Service as a legal recreational pastime on NFS lands for many decades. On Thunder Basin National Grassland a restriction on shooting prairie dogs has also be initiated by the Forest

Supervisor as of March 22, 2002. This area encompasses approximately 72,500 acres. The lands that would be acquired by the Forest Service through this exchange are directly adjacent to this area. Prairie dog shooting is also regulated by the State of Wyoming. Whether or not to allow shooting is outside the scope of this proposal.

*Comment 16:* At several places in the EA you refer to the motorized access the public will gain to the Miller Hills area out of this exchange and then when describing the effects of the proposed action on TE & S species you say that "...There shouldn't be an increase in human activities or disturbances."? How can this be? (1)

*Response:* While additional motorized access would be available, it would not provide the destination-type facilities such as campgrounds or scenic overlooks to draw significantly higher traffic levels. Some increase of big game hunter levels are anticipated during the fall. These levels are not anticipated to be significant and would be of short duration. During the rest of the year, very few people would be expected to visit this area, due to the lack of resources that currently draw public land users to a location (i.e. fishing, campground, etc)

*Comment 17:* With regard to your view that ferrets would not be adversely affected by prairie dog poisoning, no punishment is too severe for those [persons] permitting or engaging in such action. (1)

*Response:* While prairie dog poisoning is still a legal activity, the U.S. Forest Service discontinued all prairie dog poisoning on the National Grassland surface in May of 1999. There are only two rare situations when the Forest Service would now authorize prairie dog poisoning. The first is where it is the only reasonable alternative to remedy immediate human health or safety concerns, and the second is when and where it can be clearly demonstrated that poisoning is necessary to protect an existing black-footed ferret reintroduction site.

*Comment 18:* What will be the effect of the land exchange on amphibians? (1)

*Response:* On those lands that would go to private ownership, it is expected that there will be no change to amphibians since the current grazing permittee will be the new owner. It is expected that he would not change the livestock grazing or other activities currently occurring on the land. On those lands being acquired by the U.S. Forest Service it is expected that amphibian habitat would either remain the same, or improve in condition due to direction the Forest Service has for riparian and aquatic habitats.

*Comment 19:* How can the newly acquired lands provide better recreation opportunity for hikers, 4-wheel drive users, and those who enjoy solitude. These uses are not compatible with one another. (1)

*Response:* Recreation multiple uses such as motorized and non-motorized uses commonly occur on National Forest System lands in the same areas. Some conflicts between these users might occur.

*Comment 20:* On EA Page 34 under Transportation Management you say that the proposed actions would result in an increase in public recreation use in the Miller Hills but on page 27 under the Effects of the proposal on TE & S species you say there shouldn't be an increase in human activities or disturbance. Which is it? You can't have it both ways. (1)

*Response:* See the response to comment #16, above.

*Comment 21:* Will the land exchange provide an opportunity to reduce livestock grazing use and livestock trampling in the Dull Center area so that ground cover can recover, sediment movement will be reduced, and reservoirs there will not be relied upon to catch the sediment that occurs from these uses. (1)

*Response:* Existing condition analysis of the area determined that rangeland vegetation including ground cover condition and the possibility of sediment movement is in satisfactory condition. The effects and issues about livestock grazing, and the extent to which it will or will not occur, will be analyzed in future allotment management NEPA analysis and the allotment management planning process. (See EA, pgs. 25 and 39).

*Comment 22:* How will the increased water right that will be available on Federal land be allocated to livestock or wildlife? (1)

*Response:* The increased water right would not necessarily result in any increased availability of surface water at any particular point in time. When and if water is available in reservoirs or wells it would be available for use by wildlife and livestock, as needed.

*Comment 23:* Were the tribes who may have an interest in the area where the land exchange will occur fully informed and consulted, and if so in what way? (1)

*Response:* The Forest Service consulted a number of tribal governments with interest in the Thunder Basin National Grassland including the:

- Cheyenne River Sioux
- Crow
- Fort Peck Assiniboine and Sioux
- Northern Arapaho
- Northern Cheyenne
- Oglala Sioux
- Rosebud Sioux
- Shoshoni
- Sisseton-Wahpeton Sioux

Southern Arapaho  
Southern Cheyenne  
Standing Rock Sioux

The officials for each of these tribes were sent a copy of the public scoping document that was sent to a total of 105 individuals, groups and organizations in June, 2001.

A site-specific example of the level consultation and coordination that occurred between the US Forest Service and tribes involves the surveyed occurrence of two (2) stone feature sites located on two (2) current federal land parcels that were a part of the original proposal for land exchange first discussed with Jerry and Barbara Dilts, and that could have become private land if and when the exchange would be implemented. During the course of consultation with the Standing Rock Sioux tribe and the Rosebud Sioux tribe, a decision was made and concurred with by the parties in consultation that the two (2) parcels of land (160-acres) where these important and sensitive sites occur would be withdrawn from, and not included in a revised proposal. It is this revised proposal that was analyzed, and that is documented in the environmental assessment (EA), and that is identified in that environmental document as Alternative B, Proposed Action.

*Comment 24:* While you have stated there will be extensive signing to help prevent trespass on non-Federal lands, no matter what you do, the problems with trash, vandalism, rutting of roads cannot be prevented. (2)

*Response:* The land exchange will result in a reduction of intermingled lands thus reducing potential for trespass on non-Federal lands. The Thunder Basin Grassland visitor map would also be updated to reflect this land adjustment that will aid visitors in determining their location.

*Comment 25:* Will rancher's opportunity to use roads that you plan to close be preserved? (2)

*Response:* In general, how roads are maintained and otherwise managed in the years ahead would depend in large measure on Thunder Basin National Grassland Plan direction, allotment management planning, and other site-specific analyses related to roads that may occur in the future. Roads needed for administration of the grazing allotment may be used by the permittee, however, use levels or restrictions may occur, as environmental need(s) dictate. (See *EA pages 17 and 18*)

*Comment 26:* Contrary to what you say in the EA which is "the public would not gain any additional access rights in to the Miller Hills by this exchange", the fact is the public **will** gain additional access since the unrestricted motorized access would certainly be a gain. Your response to Other Issue #10 on EA page 17 is incorrect. (2)

*Response:* See revised clarified response to Other Issues and Concerns # 10 on EA page 15.

*Comment 27:* Will the increased public access into the Miller Hills Area have a negative effect on the quality of hunting there? (2)

*Response:* Increased public access into the Miller Hills may have a perceived negative effect on hunting quality to some hunters. However, it is not anticipated that the overall quality of hunting experience in the area of the land exchange would actually decline to any significant degree.

*Comment 28:* Instead of exchanging lands why doesn't the Forest Service sell pieces of public land so as to remove as much land as possible from Federal ownership and put it into non-Federal ownership. (2)

*Response:* The Forest Service currently has very limited authority to remove lands from Federal ownership by sale. Such authority that does exist is not applicable to this land exchange action.

*Comment 29:* Are the acreage figures presented on page 1 and elsewhere in the EA final, and if not what are the final acreages that will be conveyed to the government and to the proponent? If the acres change, will the public have an opportunity to comment on the appraisal and determination of the final exchange acres and location? (3)

*Response:* The Land Exchange acreage figures disclosed in the Environmental Assessment dated March 2002, are the proposed analyzed acres, but not the final acreages that would be exchanged by all parties if this Land Exchange is implemented. The public will have an opportunity to take exception to or challenge the final exchange acreages during the 45-day decision appeal period.

*Comment 30:* Will this land exchange result in a net gain or net loss of Federal lands in Wyoming? (4)

*Response:* There would be a net loss of Federal Lands in the amount of 151.91 acres.

*Comment 31:* Will the Forest Service be able to maintain a public right-of-way through T. 41 N., R. 69 W., sec. 18, and through T. 41 N., R. 70 W., sec. 13, in order to preserve these traditional access routes to hunting areas on public lands? (4)

*Response:* These lands would be disposed of by the Forest Service and a Road Easement will be retained by the Forest Service on National Forest Service Road 973 (Phillips Road). Access to National Forest System lands south of sec. 13 & 18 will be by walk-in and on existing National Forest System roads off of System road # 973.

*Comment 32:* Does this land exchange retain existing public access? (4)

*Response:* The land exchange would retain existing traditional public access where it is needed to access lands that will either remain or become public in the analysis area if and when the land exchange is implemented.

*Comment 33:* Did your environmental analysis of the effects of the land exchange compare the consequences of mineral development under Federal surface with the consequences of such development under the same surface when and if it becomes private? (5)

*Response:* Yes, and the environmental effects and economic impact from mining, before and after the proposed land exchange would be for all intents and purposes the same.

*Comment 34:* Will the Forest Service place necessary restrictions on the deeds to the Federal parcels that would become private land in order to limit grazing, prohibit prairie dog poisoning and varmint shooting and to provide for the re-introduction of black-footed ferrets and the protection of mountain plover habitat? (5)

*Response:* It has been suggested by some persons that the use of a deed restriction on the Federal lands that would be conveyed might be appropriate to protect them from over-grazing, prairie dog poisoning and varmint shooting and to provide for the re-introduction of black-footed ferret and the protection of mountain plover habitat, or future development. Forest Service direction for the use of deed restrictions is found in:

- 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 Part 254 - Land Exchanges; Final Rule. A review of the specific comments for 36 CFR 254.3 (h) *Reservations or restrictions in the public interest provides* 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 the 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 is that deed restrictions are in question to be imposed only in rare occasions when necessary to protect critical Federal interests. The property was initially considered for disposal partly because of the absence of any critical surface resources.

Neither scoping, nor formal evaluation of the Federal land by specialists, identified any critical surface resources. The Federal tract contains no rare, unique or protected resources. It was inventoried for sensitive, threatened and endangered species, wetlands, floodplains, and heritage resources. Ponderosa pine cover type, which is scattered along the ridge slopes of the National Forest System lands in the southern Black Hills region, as well as, much of the private land in the immediate vicinity. It has a history of past logging and grazing. There are some roads and it receives some dispersed recreation activity.

Local authorities are in the best position to determine appropriate uses of private land and protect the interests of their citizens. The Forest Service has neither the legal authority nor the responsibility to substitute deed restrictions for local zoning controls. Local governments have traditionally agreed, and have insisted that such decisions be left to them.

Based on the fact that conveyance of the property with deed restrictions would be inconsistent with policy, direction and regulation, contrary to the stated purpose and need of the exchange, and 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.

*Comment 35:* Why didn't the Forest Service consider an alternative that incorporates a grazing prohibition on the land traded to the public? (5)

Response: A consideration as to whether or not livestock grazing would be allowed or prohibited on the lands that become public is outside the scope of the proposed action and its purpose and need. There were no issues identified through internal or external scoping that supported development of such an alternative. If and when the land exchange is consummated, issues regarding livestock grazing and the extent to which it will or will not occur in the future would be considered and decided upon in the future as part of allotment management NEPA analysis and allotment management planning.