

**DECISION NOTICE
AND
FINDING OF NO SIGNIFICANT IMPACT (FONSI)
USDA Forest Service**

Gray Wolf Land Exchange

**Prescott National Forest, Yavapai County, Bradshaw, Verde and Chino RD
Apache National Forest, Apache County, Alpine RD
Coronado National Forest, Santa Cruz County, Sierra Vista RD**

HISTORY OF THE PROPOSED ACTION

In the late 1980s and early 1990s, the Verde Valley Landfill was nearing capacity and Yavapai County (County) was investigating several alternatives for solid waste disposal. In 1990, Waste Management of Arizona (WMA) presented a proposal to the County to develop the Gray Wolf Landfill on a 166-acre, privately owned inholding within the Prescott National Forest (PNF). This land parcel is located approximately 0.2-mile south of State Route (SR) 169, between Interstate 17 and SR 69, in Dewey, Arizona. In October 1990, after public hearings, WMA gained approval for the landfill from the County Planning and Zoning Commission and Board of Supervisors, and committed to providing sufficient landfill capacity for the solid waste disposal needs of Yavapai County for a 20-year period beginning in 1993. In order to access the 166-acre inholding, WMA obtained a special use permit from the PNF for an approximately 0.2-mile road easement across Forest Service land from SR 169 to the landfill site. This road provides the primary access to the Gray Wolf Landfill.

WMA is proposing to expand the landfill and exchange land with the U.S. Forest Service (Forest Service) for the expansion. The proposed land exchange includes the land north of WMA's inholding, which is crossed by the access road as well as surrounding lands to the east and south of WMA's property. In exchange for the 265 acres of adjacent PNF lands, the Forest Service would acquire approximately 645.20 acres of private (non-federal) lands on four parcels throughout Arizona (Table 1). Approval of the land exchange would negate the need for WMA's existing easement administered under a special use permit and could allow for the expansion of the landfill. Actual approval for expanding the landfill will be a separate decision made by other government agencies. The Gray Wolf Landfill is the only municipal landfill in the County, and it is anticipated to reach capacity by 2009 if not expanded.

An Environmental Assessment (EA) has been completed for the Gray Wolf Land Exchange proposal. The EA documents the issues associated with the proposed action, evaluates the proposed action and the no action alternative, and discloses known environmental impacts. The EA is available at the Southwestern Regional Office and at the Prescott National Forest Supervisor's Office, or from the Prescott National Forest's projects and plans website, <http://www.fs.fed.us/r3/prescott/projects/>.

Any expansion of the Gray Wolf Landfill would require permitting and approvals by the U.S. Environmental Protection Agency (EPA) and Arizona Department of Environmental Quality (ADEQ). Regardless of land ownership, these agencies would continue to maintain oversight of the operation for the life of the landfill and after closure. The oversight would include the requirement that WMA satisfy all environmental compliance elements outlined in ADEQ's Municipal Solid Waste Landfill Facility Plan checklist.

Table 1.1. Summary of the Federal and Non-Federal Lands Locations and Acreages for the Gray Wolf Land Exchange

Parcel	Acres	Ownership	Location
Gray Wolf, Prescott NF, Verde Valley Ranger District (RD)	254.78 record acres 265 acres surveyed	Federal	Approximately 11 miles east of Dewey south of State Route (SR) 169. Gila and Salt River Baseline and Meridian (GSRBM), Yavapai Co., AZ, T13N, R03E, Sec. 8 (Lots 13, 18, 19, and 21) and Sec. 17 (portions of Lots 2, 4 and 5)
TOTAL ACREAGE OF FEDERAL LAND SELECTED FOR DISPOSAL: 254.78 record acres; 265 acres surveyed			
Ash & Cedar, Coronado NF, Sierra Vista RD	28.97	Private	Approximately 9 miles southeast of Ash Fork. GSRBM, Santa Cruz Co., AZ, T23S, R16E, Sec. 22, unsurveyed, That portion of Mineral Survey No. 2193 described as the Ash and Cedar Patented Mining Claims.
Nutriosio, Apache-Sitgreaves NF, Alpine RD	14.40	Private	Approximately 4 miles north of Nutriosio. GSRBM, Apache Co., AZ, T07N, R30E, Sec. 09 (portion of NE¼)
Turkey Creek, Prescott NF, Bradshaw RD	41.83	Private	Approximately 7 miles south of Mayer. GSRBM, Yavapai Co., AZ, T11N, R01E, Sec.14 (portion of S½) and Sect. 23 (portion of N½)
Yearin, Prescott NF, Chino Valley RD	560.00	Private	Approximately 16 miles north of Chino Valley east of SR 89. GSRBM, Yavapai Co., AZ, T19N, R02W, Sec.13 (N½, SW¼, and N½ of SE¼)
TOTAL ACREAGE OF NON-FEDERAL LAND OFFERED FOR FEDERAL ACQUISITION: 645.20			

Under the proposed action, WMA would fence the perimeter of the Gray Wolf parcel to prevent unauthorized access. By fencing the property, an approximate 0.75-mile portion of an historic trail, the General Crook Trail, would no longer be accessible to the public. PNF would therefore relocate this portion of the trail around the southern edge of the Gray Wolf parcel. WMA has committed to reimburse PNF for all costs associated with the relocation of the trail. A Collection Agreement (04-CO-11030905-392) between WMA and the PNF has been established with monies (\$30,355) from WMA for the construction of the trail relocation.

ALTERNATIVES CONSIDERED IN DETAIL AND ADDITIONAL RATIONALE

Land exchanges typically have limited alternatives because the exchange proponent desires specific federal lands administered by the federal agency and the federal agency may use its discretion to not process a proposed exchange that it finds undesirable or not in the public interest. The EA analyzed two reasonable alternatives: the No Action alternative, as required under the National Environmental Policy Act (NEPA), and the Proposed Action alternative. Under the No Action alternative, the proposed land exchange would not occur. Under the Proposed Action alternative, the exchange would occur as described in the preceding “History of the Proposed Action” section.

Appraisals of the Federal and non-Federal lands were approved for Agency use on July 25, 2006 with an effective date of April 7, 2006. The appraisals expire for Agency use on October 6, 2006. The execution of a formal Land Exchange Agreement would commit both parties to accept as final the Agency-approved appraisal values for the subject lands. The Agency-approved appraisals indicate the value of the non-Federal land is more than the Federal land. A payment of cash by the FS in the amount of \$162,500 to WMA is required to equalize values as required by Sec. 206(b) of the Federal Land Policy and Management Act. The Agency-approved values would remain valid under the conditions cited in the

Federal and non-Federal appraisal review reports and continue to be fixed and valid as long as the estate to be conveyed is consistent with the estate appraised.

ALTERNATIVES NOT CONSIDERED AND ELIMINATED FROM DETAILED STUDY

The alternative of direct purchase of the non-federal lands was not considered because the land exchange proponent did not offer this option and federal funds were not available for land purchase of the non-federal lands.

ALTERNATIVES CONSIDERED BUT ELIMINATED FROM DETAILED STUDY

An alternative in which WMA would directly purchase adjacent private land to expand the Gray Wolf Landfill was considered. However, because no private land is adjacent to the federal lands, this alternative is not available.

Other means of acquiring the non-Federal lands were considered but eliminated from further study. The Land and Water Conservation Fund (LWCF) is the funding mechanism used by the Forest Service to purchase parcels of land. Funding for the purchase of non-Federal lands is limited by Congressional appropriation. Funding is almost always limited to acquiring only a few of the highest national priorities. The majority of deserving projects go without funding. Although the sale of non-Federal lands to the United States is an alternative to a land exchange the possibility of purchasing the non-Federal parcels through the LWCF is extremely remote. WMA proposed a land exchange because they wish to receive lands of equal value in the Gray Wolf area for those they are willing to convey to the Forest Service. The Federal government can only purchase land from willing sellers. In addition, as stated above, funds to purchase these privately owned parcels are not available.

An alternative considered but eliminated from further study was the Forest Service retention of ownership of the federal lands and issuance of a special use permit for the expansion of the landfill onto the PNF. This alternative was eliminated because the proposed use of the Gray Wolf parcel would violate federal regulations regarding lands under the administration of the Forest Service. Title 36 Code of Federal Regulations (CFR) 251.54 (e)(iv) states that a special use permit must not create “an exclusive use or perpetual right or use.” The proposed expansion of the existing landfill would create perpetual use of the area because the landfill is considered permanent. Furthermore, the proposed expansion would result in the disposal of solid waste on lands administered by the Forest Service, which is prohibited under 36 CFR 251.54 (e)(ix).

DECISION AND RATIONALE - PUBLIC INTEREST DETERMINATION

This Decision Notice/FONSI documents my decision regarding the proposed exchange of lands between the Forest Service and WMA.

Based on the information in the project record and the analysis and evaluation in the EA, it is my decision to approve and implement the Proposed Action, which entails exchanging the identified land parcels between the Forest Service and WMA. In this decision I am modifying the proposed action and deleting two parcels of offered non-federal land. To equalize value the Black Mesa and Buck Tank parcels were not needed.

In accordance with 36 CFR 254.3(b), I have determined that this exchange will serve the public interest. I considered the following in making my decision:

As required by 36 CFR 254.3 I have determined that the public interest is well served through this exchange.

1. The resource values and public objectives served by acquisition of the non-Federal parcels equal or exceed the resource values and public objectives served by conveyance of the Federal parcels. The non-Federal lands contain floodplain/riparian habitat.
2. The intended use of the Federal lands to be conveyed will not substantially conflict with established management objectives on adjacent Federal lands. Reasonably foreseeable legal development on the Federal lands will not significantly conflict with established management objectives on adjacent Federal or private lands.
3. The expansion of a single, existing landfill, rather than development of a new landfill in the region, represents better regional planning and reduces overall environmental impacts. Expanding the existing landfill will eliminate the need to site, permit, and develop a new municipal solid waste landfill in the County.
4. Acquisition by the Forest Service of the four identified parcels, totaling **645.20** acres, located within the boundaries of the PNF, Apache-Sitgreaves, and Coronado National Forests, will further consolidate federal land ownership and reduce inholdings within land administered by the Forest Service, and thereby contribute to more effective land management.
5. This decision will implement a portion of the Prescott, Coronado and Apache National Forest Plans. The Plans indicate the Forest Service will cooperate with local jurisdictions to meet community needs, as well as allowing government agencies to acquire land for long-term/permanent uses.
6. All of the non-Federal lands, except the Nutrioso parcel, lack fences to prevent livestock grazing. Each parcel will be incorporated into the grazing allotment which surrounds the land. Any future changes in grazing management will be made in separate allotment management plans.
7. Transfer of ownership to WMA of the identified 265 acres of PNF lands adjacent to the existing Gray Wolf Landfill site will eliminate the need for the Forest Service to continue to administer a special use permit for the existing access road to the landfill.
8. A small portion (approximately 0.75 mile) of the historic General Crook Trail will be relocated. However, the affected portion of the trail is minor in relation to its overall length. In addition, recent research indicates that the General Crook Trail designation, as depicted on USGS maps, may be incorrect at this location. The trail present on the Gray Wolf parcel is most likely a slightly older trail known as the Stoneman Trail

PUBLIC INVOLVEMENT AND SCOPING

A scoping letter describing the Proposed Action and soliciting public comments on the Gray Wolf Land Exchange was mailed on January 18, 2002 to 251 agencies, organizations, and interested individuals. In addition to this letter, a legal notice requesting comments on the project was published for four consecutive weeks, in the *Prescott Daily Courier*, *Arizona Daily Star*, *Arizona Daily Sun*, and the *White Mountain Independent* starting on February 15, 2002 and ending on March 8, 2002. The scoping period

ended March 16, 2002. The PNF has also listed the proposed land exchange since June 2002 in its Schedule of Proposed Actions (SOPA), which is published quarterly.

Ten comment letters were received during the scoping period in 2002. Each comment submittal was analyzed to determine if it identified one or more significant issues that required formal Forest Service response. A total of 26 comments were identified and, of these, five comments were considered to represent significant issues based on established U.S. Department of Agriculture criteria.

On May 28, 2004, PNF mailed a letter and draft EA Chapters 1 and 2 for public review to 27 agencies, organizations, and interested individuals. The public notice appeared in the *Prescott Daily Courier* on June 7, 2004. Two comment letters were received during the 30-day comment period following the notice.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

As the line officer with delegated authority to make this decision, it is my responsibility to review the EA and determine whether the proposed action may have a significant effect on the quality of the human environment. In compliance with 40 CFR 1508.13 and 1508.25, the following findings support my determination that there will not be a significant effect on the human environment and an environmental impact statement will, therefore, not be prepared.

Context

This project is a site-specific action that by itself does not have international, national, region-wide, or statewide importance. The discussion of the significance criteria that follows applies to the intended action and is within the context of local importance in the area associated with the Gray Wolf Landfill.

Intensity

The following discussion is organized around the 10 Significance Criteria described in NEPA regulations (40 CFR 1508.27).

1. The analysis considered both beneficial and adverse effects. As described in the rationale section above, impacts from this project are both beneficial and adverse. The beneficial effects include elimination of the need to approve and construct a new landfill site elsewhere in Yavapai County; a consolidation of federal land ownership and reduction of private inholdings; and improvement in overall management of the parcels to be acquired by the Forest Service. The exchange will also eliminate the need for the Forest Service to continue to administer a special use permit for the existing access road to the Gray Wolf Landfill. The adverse effects of relocating the 0.75-mile segment of the General Crook Trail are minor in context of the trail as a whole and will not significantly impair recreational use. Chapter 3 of the EA contains a complete discussion of the effects.
2. There are no known adverse impacts to public safety. The proposed expansion of the landfill will be subject to meeting all requirements to protect public health and safety as administered by the EPA, ADEQ, and ADWR.
3. No unique characteristics of the geography, such as cultural resources and wetlands, will be adversely affected. The Gray Wolf parcel is not located near any parklands, prime farmlands, or ecologically critical areas. Chapter 1 of the EA describes the location and existing conditions of the Gray Wolf parcel.

4. The effects on the quality of the human environment are not likely to be controversial. The effects of the project are limited to the immediate vicinity of the Gray Wolf Landfill. While some people have expressed concerns with the proposed expansion, no person has provided evidence that the environmental effects of the project have been wrongly predicted. Therefore, the effects are not likely to be controversial. Section 1.5 of the EA describes the public comments received.
5. The degree of possible effects on the human environment are not highly uncertain, nor are there unique or unknown risks involved. The environmental effects are typical to expansion of a landfill facility. Effects are discussed in Chapter 3 of the EA.
6. Site-specific actions found as part of this decision do not set a precedent for future actions, which may have significant effects, nor does this represent a decision in principle about a future consideration. A decision to expand the Gray Wolf Landfill does not establish any future precedent for other actions that may have a significant effect. Future actions will be evaluated through the NEPA process and will stand on their own as to the environmental effects and project feasibility.
7. These actions are not related to other actions that, when combined, will have significant impacts. Cumulative effects are documented in Chapter 3 of the EA. No off-site soil erosion, impacts to the overall watershed, or changes to vegetation beyond the immediate landfill parcel are expected. No substantial effects to air quality and therefore no cumulative effects are expected. Effects to wildlife habitat are described in detail in Chapter 3 of the EA and are generally minor and do not cause significant effects when considered with other activities in the general area.
8. This decision will not contribute to the loss or destruction of significant scientific, cultural, or historic resources. A small (0.75-mile) segment of the historic General Crook Trail will be relocated south of the Gray Wolf parcel. None of the parcels proposed for exchange are subject to treaty rights with Native Americans, nor do they contain any known Indian Trust Assets. Archeological surveys, reports, and site testing have been completed for the project area, indicating findings of no effect.
9. Consideration of the degree to which the action may affect threatened, endangered, and sensitive species, or habitat. No federally listed threatened and endangered species or critical habitat would be impacted. No impacts to Management Indicator Species or migratory birds would occur as a result of the proposed action. The land exchange does not conflict with the requirements of the Endangered Species Act of 1973, as amended.
10. This decision does not violate or threaten to violate federal, state, or local laws, or requirements imposed for the protection of the environment. None of the preparers of the EA or the governmental agencies, tribes, and individuals contacted during preparation of the EA (see Chapter 4) expressed the belief that the proposed project might be in violation of federal, state, or local laws.

I find that implementing the Proposed Action does not constitute a major federal action that would significantly affect the quality of the human environment in either context or intensity. I have made this determination after considering both positive and negative effects, as well as direct, indirect, and cumulative effects of this action and reasonably foreseeable future actions.

I have found that the context of the environmental impacts of this decision is limited to the local area and is not significant. I have also determined that the severity of these impacts is not significant.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

The Forest Service lands to be exchanged for expansion of the landfill are located in the Verde Valley Ranger District of the Prescott National Forest Plan, which identifies a portion of the federal land as base for exchange as well as identifying that lands adjacent to communities can be considered for land adjustments to meet community needs. Project implementation will adhere to the standards and guidelines for the management area.

This exchange will be completed under authority of and in accordance with the General Exchange Act of March 20, 1922, as amended; the Federal Land Policy and Management Act of October 21, 1976; and the Federal Land Exchange Facilitation Act of August 20, 1988. It is in accordance with current Forest Service regulations at 36 CFR 254 and consistent with the Prescott, Coronado and Apache National Forests' Land Management Plans. The scope of my decision is limited to the actions described in the EA and this Decision Memo/Finding of No Significant Impact (DN/FONSI). This decision is site specific. The environmental analysis documented in the EA is available for public review in the offices of the Prescott Forest Supervisor (Prescott, AZ), and the Southwestern Regional Forester (Albuquerque, NM).

Conveyance of federal land into private ownership does not conflict with the requirements of Sec. 402(g) of FLPMA (Grazing Permit Holder/Lessee).

The exchange of the federal land does not conflict with the requirements of the National Historic Preservation Act of 1966 and Executive Order 11593. None of the parcels proposed for exchange are subject to treaty rights with Native Americans, nor do they contain any known Indian Trust Assets. Archeological surveys, reports, and site testing have been completed for the project area, indicating findings of no effect.

This exchange does not conflict with Executive Order 11988 regarding floodplain management and Executive Order 11990 regarding wetland management. The Proposed Action alternative would result in a net gain of approximately 31.21 acres of floodplains and 1.3 acres of wetlands to federally-managed public lands. There are 11 acres of Federal land within the 100-year floodplain. Once the lands are passed out of Federal ownership, they are subject to floodplain restrictions of the Yavapai County Flood Control District Ordinance.

The National Flood Insurance Program (42 U.S.C. 4001-4128) provides the umbrella document for the states floodplain control programs. Counties must have floodplain regulations in effect in order to qualify for the National Flood Insurance Program. The State of Arizona has required that local governmental units adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry (A.R.S. § 48-3601 through 48-3627). In Yavapai County, Floodplain Regulations are found in YAVAPAI COUNTY FLOOD CONTROL DISTRICT ORDINANCE 2006-1, FLOOD DAMAGE PREVENTION ORDINANCE. These ordinances strictly control development in "Base Flood" areas, which are the same as our "100-Year Floodplains".

The proposed land exchange would not impact surface water or groundwater quality on the federal parcel. Although the land exchange would facilitate the potential landfill expansion, WMA would still have to demonstrate compliance with all applicable federal, state, and local environmental regulations before expansion of the existing facility would be permitted.

No federally listed threatened and endangered species or critical habitat would be impacted. Two hundred sixty-five acres of "low quality" habitat for mule deer and pronghorn would be impacted. Individuals of one Forest Sensitive species, Arizona toad, may be impacted. However, impacts would not

result in a trend toward listing or loss of population viability. No impacts to Management Indicator Species or migratory birds would occur as a result of the proposed action. The land exchange does not conflict with the requirements of the Endangered Species Act of 1973, as amended.

No caves are involved; therefore, this sale does not conflict with the intent of the Federal Cave Resources Protection Act of November 18, 1988.

Both the non-federal lands and the Forest Service lands have been examined for evidence of hazardous materials in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERLA) (42 USC 9601), as amended. No evidence was discovered indicating the likelihood of contamination on adjacent Forest Service lands associated with expansion of the Gray Wolf Landfill nor Forest Service lands adjacent to the offered non-federal lands. No hazardous materials would be accepted at the landfill. WMA would meet all federal and state requirements for use and storage of hazardous materials.

Road access in the area will not change as a result of this action.

OTHER FINDINGS

This decision meets the intent of and complies with the Prescott National Forest Land Management Plan. This project is limited in its physical scope and does not significantly alter the long-term relationship between levels of multiple-use goods and services projected within the Forest Plan.

This decision complies with relevant laws for the protection of the environment. Biological Evaluations and consultation with U.S. Fish and Wildlife Service is complete. Cultural Resources Clearance and consultation with the State Historic Preservation Officer is complete.

This decision also complies with Arizona State laws regarding natural resource protection, including but not limited to water quality, as well as county resource protection measures.

SECRETARY APPROVAL, WEEKS LAW, CONGRESSIONAL OVERSIGHT

The subject case is not subject to Secretary's approval or Weeks Law oversight. Pursuant to the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 requiring a 30-day oversight review by the House and Senate Appropriations Committees of the required 4-week publication of the Exchange Notice (proposed exchange cases involving Federal land in excess of \$500,000), the subject case was submitted and the 30-day review was completed August 29, 2006, without comment; therefore, case processing can proceed.

IMPLEMENTATION OF DECISION

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

DECISION SUBJECT TO APPEAL

This Decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215. The appeal must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer.

Send appeals to

Appeal Deciding Officer, USDA Forest Service, Southwestern Region;
333 Broadway, SE
Albuquerque, NM 87102

Telephone is 505-842-3274; and Fax number is 505-842-3173.

The business hours for those submitting hand-delivered appeals are: 7:15 a.m. to 4:45 p.m. ET, Monday through Friday, excluding holidays. An electronic appeal must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), and Word (.doc) to *appeals-southwestern-regional-office@fs.fed.us*. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Appeals, including attachments, must be filed within 45 days from the publication date of this notice in the Prescott Courier, the newspaper of record. The publication date in said newspaper of record, is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

Individuals or organizations who submitted comments by the close of the comment period, specified in 36 CFR 215.6 may appeal this Decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14.

INFORMATION CONTACT PERSON

For additional information concerning this decision or the Forest Service appeal process, contact Ken Simeral, Lands and Minerals Team Leader, at (928) 443-8010, or via email at *ksimeral@fs.fed.us*.

SIGNATURE AND DATE

/s/ *Alan M. Quan*
ALAN M QUAN
FOREST SUPERVISOR
PRESCOTT NATIONAL FOREST
Southwestern Region
USDA Forest Service

September 18, 2006
Date