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Service

**Southwestern
Region**



March 2006

Environmental Assessment for Proposed TONTO APACHE LAND EXCHANGE

Tonto, Coconino, Prescott and Sitgreaves National Forests

Tonto Apache Land Exchange Proposal

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Chapter 1 – Project Scope

Introduction

The objective of this environmental assessment (EA) is disclosure of environmental effects of the proposed Tonto Apache Land Exchange. The Forest Service is considering this proposal under the authorities of the General Exchange Act of March 1922, the Federal Land Policy and Management Act of October 1976, and the Federal Land Exchange Facilitation Act of August 1988.

The National Environmental Policy Act (NEPA) process for this exchange includes the following steps: conduct public scoping and identify issues, develop alternatives and mitigation to address issues and to achieve objectives, analyze and disclose the effects of alternative implementation on issue resolution and objective attainment in an EA, solicit public review and comments, select an alternative that has the most overall public benefit, and publish a Decision Notice. The law requires that land values be equal or nearly equal on both sides as determined by an agency approved appraisal. Cash equalization is permissible within set limits if values are slightly unequal. Final values for this proposed exchange, if completed, will be disclosed in the Decision Notice.

This EA analyzes a land exchange proposal made to the Tonto National Forest by the Tonto Apache Tribe of Payson, Arizona and examines those issues and alternatives that were identified through public involvement. The proposal, if implemented, would exchange approximately 405 acres of private land in four Arizona national forests for approximately 273 acres of National Forest System (NFS) Lands within the corporate limits of the Town of Payson and adjacent to the Tribe's reservation. The Tribe would use the acquired federal lands to provide additional housing for current residents, open space, and cultural needs of the Tribal members.

Background

The Tonto Apache Tribe was recognized in 1972 by the Federal Government and given, in trust, the 85 acres which comprise the current Tonto Apache Reservation south of Payson, Arizona. Tribal leaders reasoned that there were 85 members and each member should have one acre. Tribal membership has grown since that time to 125 (Sabrina Campbell, Tribal Enrollment Clerk, Tonto Apache Tribe, letter of March 22, 2006). Including resident non-tribal members, total population on the Reservation is approximately 150.

Reservation Trust Status

When tribal land, such as a Reservation, is in trust status, it means that title is held in the name of the United States. The property is owned by the federal government for the benefit of an individual tribe. On land in trust status, tribes do not have to comply with local government zoning requirements, pay property taxes or sales taxes on Indian-owned businesses. Non-Indian-owned businesses operated on trust land pay a leasehold tax to the state and, if appropriate, the local governments within whose limits they operate. Trust lands cannot be sold by tribes unless a majority of tribal members and Congress approve.

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Land acquired by a tribe in fee simple (ownership is absolute and unconditional) status does not automatically acquire trust status. The Bureau of Indian Affairs (BIA) has been delegated the authority by the Secretary of Interior to process applications for trust (25 CFR 151). The process of analysis involves an opportunity for public comment and production of an environmental analysis. The Tonto Apache Tribe sent the BIA an “Application for Approval of the On-Reservation Acquisition of Land in Trust Status for the Benefit of the Tonto Apache Tribe and to Add Such Lands to the Existing Tonto Apache Reservation” on September 8, 2004. The BIA (Amy Heuslin, 03/06/2006: personal communication) plans to begin its environmental analysis for land to be conveyed to the Tribe in this exchange in the near future.

Land Exchange

The Tonto Apache Tribe originally proposed this exchange in 1995. An agency scoping meeting was held in Payson, Arizona on December 12, 1996 to explore issues relating to relations between governments. Notes of that meeting are in the Process Record. The original parcel configurations did not conform to standards in adopted national forest land and resource management plans and questions arose about some of the easements and other encumbrances on some of the parcels. A revised proposal was submitted to the Forest Service in 1999. The federal parcel identified in this proposal was selected from properties identified as base-for-exchange in the Tonto National Forest Land and Resource Management Plan.

An initial Forest Interdisciplinary (ID) Team meeting was held on February 9, 2000 to clarify issues identified to date and to develop guidance for conducting an environmental analysis. Another agency scoping meeting was held in Payson, Arizona on March 21, 2000. Representatives of the Tribe, the Town of Payson, and the Forest Service were present along with representatives of SEC, Inc., the NEPA Contractor. Concerns discussed then were basically the same as those discussed with the Town of Payson in 1996 and are included in Section F, Issues.

A scoping letter (April 5, 2000; see Appendix A) was sent to interested parties using a mailing list furnished by the Payson Ranger District. The letter summarized the proposed exchange, listed some tentative issues and alternatives, invited comments using an enclosed form, and announced a public open house in Payson on April 18, 2000. Articles also appeared in the *Payson Roundup* on April 14 and April 28, 2000. Eighty-one people signed in at the open house and 91 separate responses were mailed to the Forest Service. Responses from governmental entities and the public were analyzed to refine the list of issues. The scoping report was accepted and the Forest Service decided to continue with analysis.

The EA was provided for public review in early 2002. A revised EA was provided during a 30-day opportunity to comment in October 2005. After receiving comments that there was an irregularity in the comment opportunity, the Forest Service released the draft EA, once again, for 30-day comment in November 2005. Comments received were used to revise the EA into its current final version.

Purpose and Need for Action

Existing Condition

The federal lands in this exchange proposal are located within Management Area 4F of the Tonto National Forest Land and Resource Management Plan (1985). The property is within the Town limits of Payson and identified as base for exchange. The Forest Plan states:

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“Land ownership adjustments within and adjacent to local communities need a continuing emphasis to significantly increase efficiency in resource management and to satisfy the needs of expanding communities.” (Tonto National Forest Land and Resource Management Plan, 1985: 14)

Current tribal membership is 125 people and there are also approximately 25 non-tribal members living on the Reservation. The Tonto Apache Reservation has 36 houses and 4.17 people per house. Many houses on the Reservation are crowded and contain two families. Some contain three. This compares to the adjacent Town of Payson where average household size was 2.30 people (Payson General Plan Update, 2003: 17). The Tonto Apache Tribal Chairperson estimates and the recently signed Water Use Agreement with the Town of Payson confirms a desire for 22 additional houses. When the 85-acre reservation was created, tribal membership comprised 85 people. The size of the federal parcel proposed for exchange was determined by the Tonto Apache Tribe to be adequate for the proposed Tribal needs and it abuts the current Reservation.

Non-federal lands included in this exchange proposal contain special features and habitats such as a bog and riparian habitat associated with perennial water. These lands are to varying extents subject to development that could diminish those natural resource values and support activities that would be incompatible with the surrounding national forest character. Small inholdings increase land management complexity because of common or shared boundaries.

Desired Condition

High resource value private lands within national forests would become NFS Lands. Only two peat bogs are known to exist in Arizona. A part of one of those bogs would be acquired. Riparian habitat containing perennial water would also be protected and managed for federally listed species and other wildlife.

Sufficient land would be acquired by the Tonto Apache Tribe to provide for construction of new housing to accommodate current tribal members, for limited future housing expansion, for open space, and for possible future commercial development.

Purpose and Need

In order to bridge the gap between the existing condition and the desired condition, the Forest proposes to consolidate land ownership by conveying parcels within the boundaries of the Town of Payson to the Tonto Apache Tribe and to acquire privately held parcels within national forests in the State of Arizona. This will have the added benefit of meeting the expansion needs of the local Tonto Apache community.

Objectives

The following objectives have been described for this project and provide specific details on how this project will contribute to the desired condition.

1. Acquire riparian habitat for national forest protection and management.
2. Acquire a portion of one of only two known peat bogs in the State of Arizona.

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3. Exchange 273 acres of Tonto National Forest lands within the Town of Payson to the Tonto Apache Tribe.
4. Reduce administrative burden by simplifying land ownership patterns.

The following maps, Figures 1 – 6, show the parcels under consideration.

Tonto Apache Land Exchange Proposal

Figure 1, Vicinity Map

Tonto Apache Land Exchange Proposal

Figure 2, Payson Parcel

Tonto Apache Land Exchange Proposal

Figure 3, Truswell Parcel

Tonto Apache Land Exchange Proposal

Figure 4, Munoz Parcel

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Figure 5, Peat Bog Parcel

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Figure 6, Tin Hat Ranch Parcel

Proposed Action

The proposed action is to complete a land exchange between the Tonto Apache Tribe and the Forest Service in accordance with the approved national forest land and resource management plans of the involved national forests. Implementing the proposed action would:

- ❖ Acquire approximately 405.3 acres of private land in four separate parcels within the Coconino, Prescott, Tonto, and Sitgreaves National Forests, some containing rare and special habitats, for national forest management.
- ❖ Grant up to approximately 272.77 acres of Tonto National Forest land within the Town of Payson to the Tonto Apache Tribe for additional housing construction, open space, and for possible future commercial use.
- ❖ Revoke special use permits for a jointly used utility corridor to Arizona Public Service Company, Qwest, and NPG Cable. These authorizations will be protected as easements upon conveyance.

Decision to Be Made

The Director of Lands, Southwestern Region of the Forest Service is the official responsible for deciding whether or not an exchange will be completed. The Director of Lands, Southwestern Region, may decide to 1) select the no action alternative; 2) select the proposed action; 3) select an alternative that adjusts parcel sizes to achieve balanced land values; or 4) select an alternative that eliminates approximately 20 acres of national forest land west of State Route (SR) 87 (also known as the “Beeline Highway”) from the exchange.

Issues

Issues are disputes, debates or discussions about environmental effects that may be created by the proposed project. This section presents significant issues identified during the scoping process, comment period and internal agency review. The ID Team grouped and analyzed comments received (“Comment Summary Analysis,” 2000; “Comments on Tonto Apache LEx,” 1/30/2006). These documents are filed in the project record. Potential issues were collected, screened and categorized to ascertain which were significant and would be carried forward and used to develop alternatives, mitigation measures, and focus the analysis.

In accordance with policy, laws and Executive Orders, the potential effects on vegetation, soils, air, floodplains, wetlands, caves, archaeological, Threatened, Endangered, and Sensitive species, and range resources will also be analyzed. In addition, the EA will address hazardous materials on any parcels and environmental justice concerns involved in project implementation.

Specific concerns are identified below. These issues define the scope of environmental concerns that will be addressed in this analysis.

1. Concern over soil erosion onto adjacent private lands due to development on federal parcel.

Measure: Narrative description

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2. Availability of water to support planned increase in residential and possible commercial development.
Measure: Estimates of acre feet per year of water use for development of the federal tract and narrative discussion of the local water situation.
3. Potential loss of wildlife habitat quality due to development and use of currently undeveloped private and federal lands.
Measure: Qualitative description of whether habitat would be suitable for species.
4. Reduction in air quality due to construction and increased traffic on federal parcel.
Measure: Expressed by measures consistent with state air quality attainment standards.
5. Loss of potential sales tax revenues to the Town of Payson if the federal property is exchanged and the land is placed in Trust status rather than private ownership.
Measure: Qualitative description of which businesses on tribal properties may be taxed by local governments if the land has Trust status.
6. If additional land for Tribal housing is not provided, quality of life on the reservation will suffer.
Measure: Quantitative comparison of existing Reservation housing/population density with that of nearby Payson developments and potential density on federal land; qualitative description of social/cultural need for open space.
7. Visual character of the Payson parcel may be reduced if the land is traded to the Tribe for development.
Measure: Description of existing and potential visual appearance of parcels and comparison to surrounding visual appearance.
8. Loss of potential Gila County tax base.
Measure: Potential for Gila County property tax revenue change.
9. Concern with which government entity would have law enforcement jurisdiction on SR 87 should the Tribe obtain Trust status for the conveyed federal land.
Measure: Describe authority and jurisdiction for SR 87.
10. Concern that the value of private property adjacent to the federal land may be reduced if the federal land is transferred into Tribal ownership due to development and increased traffic through adjacent existing neighborhoods.
Measure: Describe potential comparative values for similar properties under similar circumstances.
11. Concern about livestock:
 - On federal parcel wandering onto adjacent private land.
Measure: Description of Tribe's plans for livestock on acquired parcel.
 - Grazing on acquired non-federal parcels. Forest Service should protect resource values that made non-federal parcels attractive by emphasizing managing for those values and excluding grazing.
Measure: Description of effect of current Forest Plan emphases for Management Areas into which parcels would be absorbed and descriptions of planned management of acquired parcels.

Project Location/Analysis Area

This analysis process will result in a site-specific environmental document that discloses the environmental effects related to the major issues raised by the proposed action. The lands are located within the Coconino, Prescott, Tonto, and Sitgreaves National Forests in Arizona.

Table 1. Tonto Apache Land Exchange Parcels, Federal and Non-Federal Lands.

PARCEL	APPROX. ACREAGE	LOCATION
FEDERAL LANDS		
Payson Tract	273	T.10N., R.10E., sections 9 & 10, Tonto National Forest, Payson Ranger District (<i>Figure 2</i>)
NON-FEDERAL LANDS		
Truswell Tract	160	T.4N., R.5E., section 18, Prescott National Forest, Verde Ranger District and Coconino National Forest, Red Rock Ranger District (<i>Figure 3</i>)
Munoz Tract	99	T.11N., R.20E., section 29, Sitgreaves National Forest, Lakeside Ranger District (<i>Figure 4</i>)
Peat Bog Tract	15	T.11N., R.11 1/2E., section 19, 20, 29 & 30, Tonto National Forest, Payson Ranger District (<i>Figure 5</i>)
Tin Hat Ranch Tract	131	T.5N., R.12E., section 34, Tonto National Forest, Tonto Basin Ranger District (<i>Figure 6</i>)

Summary descriptions of the lands proposed for exchange follow.

Federal Land

Payson parcel (Figure 2)

This parcel would be conveyed to the Tonto Apache Tribe if the exchange were completed.

The Payson Parcel contains approximately 273 acres of Tonto National Forest land on the south edge of, and within the corporate boundary of Payson, Arizona. It is adjacent to the Tonto Apache Reservation. This parcel is displayed on the “Town of Payson Land Use Plan” map of the *Payson General Plan Update* (January 2003) as “Proposed Indian.”

The parcel is bounded on the north by private land developed with single family residences, on the east and south by NFS land, on the west by the existing Tonto Apache Reservation and on the southwest by a small area of SR 87 frontage. A small parcel of federal land is also included adjacent to and west of SR 87.

Topography is gently to moderately sloping lands containing scattered pinyon and juniper with manzanita. No permanent surface water is evident and there have been no water claims filed. There are no mineral claims (in accordance with the Mining Act of 1872) on the federal parcel. All rights would be conveyed with title. A Department of Transportation Federal Highway Easement is held by the Arizona Department of Transportation for SR 87, which runs north-south and a utility corridor with electric (APS), telephone (Qwest) and cable television (NPG Cable) lines crosses the parcel just to the east of SR 87.

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Other past, present, and reasonably foreseeable future actions that may contribute to cumulative effects are:

- Landownership Adjustments: Payson I Land Exchange, Payson II Land Exchange, Payson III Land Exchange, Star Valley Land Exchange, NW Payson-Montezuma Land Exchange, Payson Forest Service Administrative Site sale, BIA determination of trust status for federal land acquired by Tonto Apache Tribe in this exchange;
- Land uses: Water developments and requests for water developments from nearby NFS lands and private lands; past placement of APS power line on east side of Beeline Highway and recent maintenance of the line with pole replacement;
- Peat bog reclamation: planned treatment for the peat bog if it comes into federal ownership;
- Grazing: The eastern portion of this parcel is a part of the Round Valley Pasture of the Payson Allotment. On September 29, 2005, this area was determined not suitable for grazing. This decision is currently under appeal. Even prior to this formal decision, however, about 80 acres on the easternmost portion of the parcel has not been grazed for more than twenty years. The portion on the west side of the Beeline Highway (part of the American Gulch Allotment) has not been grazed for several years.
- The Tribe has repeatedly stated that the west side of the Payson federal parcel will remain open space for the foreseeable future. A possible future action would be relocation of all housing to the acquired parcel and further commercial development on the existing reservation land. The Tribe currently operates a hotel on property within Payson Town limits and outside Reservation boundaries. It is subject to all Town of Payson taxing authorities, zoning, and building regulations. The Tribe is currently building a 40-room hotel immediately adjacent to the existing casino on Reservation land.

Non – Federal Land, Four Parcels

The Tribe purchased and is offering four parcels of private land that would become national forest if the exchange were completed. All mineral rights come with the parcels. Forest Service land exchange regulations at 36 CFR 254.3(f) specify that acquired parcels will automatically become part of the land and resource management plan areas in which they are located, without further Forest Service action and will be managed in accordance with the laws, rules, regulations, and land and resource management plan applicable to such area.

Truswell Parcel (Figure 3)

This parcel is approximately 160 acres along the Verde River 3.5 miles south of the Town of Camp Verde, and is accessible by way of Salt Mine Road. It contains nearly 0.6 mile of the perennial Verde River. Topography ranges from steep mountain slopes to gently sloping river terrace land and riverwash. Vegetation includes chaparral and scattered juniper on the mountain slopes, open fields, shrubs, and trees with some large cottonwoods on the river terrace, and dense riparian vegetation on the riverwash that includes cottonwood, willow, sedges, and grasses. The Woods Irrigation Ditch traverses the property. The property is entitled to 2.5 shares of the Woods Ditch.

The Truswell parcel is within the boundaries of the Prescott National Forest (Management Area #5; Prescott NF Plan, 1987, Amendment #7, July 1994: p. 78-79) and Coconino National Forest

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(MA 12, Coconino NF Plan). The west side of the parcel is adjacent to National Forest System land managed by the Prescott National Forest. The east side is adjacent to privately held land. The Prescott's Management Area #5 emphasizes watershed condition, range management, and wildlife habitat for upland game birds. The Coconino's MA 12 emphasizes wildlife habitat, visual quality, fish habitat and watershed improvement on wetlands, riparian forest and riparian scrub vegetation.

Munoz Parcel (Figure 4)

This parcel is approximately 99 acres one mile northeast of Pinedale, Arizona, and is bordered on the south by SR 260 and the Pinedale-Taylor Road on the north. The topography is relatively flat pastureland with one hill in the northeast corner. The parcel contains a stock pond with an existing water claim. Vegetation consists mainly of grasses and forbs with scattered ponderosa pine on the east side hill that is approximately 100 feet higher than the pasture. The east and southeast boundaries of the parcel abut NFS land. Private parcels bound the parcel on the north and south. The west side is adjacent to a small, approximately 5-acre parcel of NFS land.

The Munoz parcel is within the boundaries of the Sitgreaves National Forest (Management Area 1; Apache-Sitgreaves NF Plan, 1987: 119-144). Management Area 1 emphasizes a combination of multiple uses including timber and fuelwood production, wildlife habitat, livestock grazing, watershed protection, and dispersed recreation. Acquisition of the water claim on this parcel by the United States would benefit wildlife, particularly elk winter habitat.

Peat Bog Parcel (Figure 5)

This parcel is approximately 15 acres 12 miles east of Payson, Arizona, and is near SR 260. Topography of this triangular parcel includes moderate slopes and gently sloping meadowland along Little Green Valley Creek. Vegetation includes ponderosa pine on the slopes with grasses and forbs on the meadowland. Sedges are present in areas of seasonally saturated soils. Little Green Valley Creek contains water for part of the year. The parcel is a small piece of a larger inholding bounded on the east and west by NFS land and on the north by private land.

The Peat Bog parcel is within the boundaries of the Tonto National Forest (Management Area 4F; Tonto NF Plan, 1985: 138-143). Area 4F emphasizes wildlife habitat improvement, livestock forage production, dispersed recreation, watershed improvement and riparian area management and improvement. This tract is part of HES 424 that has been parceled into three lots with separate ownership: the one owned by the Tonto Apache and offered in this land exchange proposal; the bulk of the parcel still owned by John Anderson; a 10-acre parcel, sold by Mr. Anderson, on the east side that serves as commensurate land for a grazing allotment. The remainder of the peat bog is on Mr. Anderson's private parcel and not currently available for sale or exchange to the United States. The Payson Ranger District (Rob Ingram 2006: personal communication) has approached Mr. Anderson in the past about cooperating on conservation of the peat bog, but Mr. Anderson has not responded positively.

Tin Hat Ranch (Figure 6)

This inholding is approximately 131 acres 5 miles north of Roosevelt, Arizona, and is within 2 miles of Roosevelt Lake. It is accessible from Forest Road 60. Topography ranges from moderate slopes to gently sloping bottomland along Salome Creek. Vegetation consists mainly of chaparral with some riparian desert scrub species along Salome Creek. The creek contains intermittent surface water. Two inclusions, part of the bottomland and an old cemetery plot, would remain in private ownership.

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Tin Hat Ranch is entirely within the boundaries of the Tonto National Forest and surrounded by NFS land (Management Area 6J; Tonto NF Plan, 1985). Management Area 6J emphasizes management for a variety of renewable natural resources with primary emphasis on wildlife habitat improvement, livestock forage production, dispersed recreation and improved watershed conditions.

Chapter 2 – Alternatives

This chapter is arranged in four sections. The scoping and comment analysis processes used to identify issues and develop alternatives are described in the *Alternative Development* section by discussing mailings and meetings held to gather input. Alternative development is described with a clear link to issues to resolve or problems to solve. In the second section, *Alternatives Considered but Eliminated from Detailed Study*, alternatives addressed but not evaluated in detail are described along with reasons they were not subjected to detailed evaluation. All action alternatives as well as the required No Action alternative are clearly and equally described in the *Alternatives Considered in Detail* section. Mitigation measures that apply to specific alternatives are described. Finally, effects of all alternatives are compared and contrasted in tabular format in the *Comparison of Alternatives* section.

Alternative Development

A preliminary review of the current proposed exchange was conducted in February 2000 by a Forest Service Interdisciplinary (ID) Team. A second agency scoping meeting was held in Payson, Arizona on March 21, 2000. Representatives of the Tribe, the Town of Payson, and the Forest Service were present along with representatives of SEC, Inc., the NEPA Contractor. Concerns discussed then were basically the same as those discussed during a 1996 agency scoping meeting and are included in Section F, Issues. A scoping letter was sent to interested parties using a mailing list furnished by the Payson Ranger District. The letter (in the Appendix) summarized the proposed exchange, listed some tentative issues and alternatives, invited comments using an enclosed form, and invited them to a public open house in Payson on April 18, 2000. Articles also appeared in the *Payson Roundup* on April 14 and April 28, 2000. Eighty-one people signed in at the open house and 91 separate responses were mailed to the Forest Service as of May 18, 2000.

An earlier version of the EA was made available to the public with a 30-day opportunity to comment in early 2002. A revised EA was also made available in October and November 2005. Responses from governmental entities and the public were considered using comment analysis to refine the list of issues. An alternative that deletes approximately 20 acres of national forest land under and west of SR 87 from the exchange was developed to respond to concerns about perceived unfair business competition from some of the Payson businesses and a concern expressed by some officials of the Town of Payson that the Town would not be able to regulate those activities or collect sales tax if the property gains Trust status. Another alternative was developed to respond to the possible need to equalize value for the exchange by adjusting parcel sizes. At this point, the Forest Supervisor decided to continue with an analysis.

Alternatives Considered but Eliminated from Detailed Study

1. **Move federal parcel to the south.** One commenter suggested that the national forest lands to be exchanged should be moved to the south. The Forest Service considered this and decided to eliminate this alternative from detailed study because the remnant landownership pattern would increase landownership complexity and would not, therefore, be consistent with the Purpose and Need to increase resource management efficiency.

2. **Place buffer between existing subdivisions and federal parcel.** Another commenter suggested that a 1000-foot buffer between the existing subdivisions and the proposed national forest exchange parcel be retained by the Forest Service. The Forest Service considered this alternative and decided to eliminate it because it would be contrary to one of the objectives of the exchange, that of boundary complexity reduction. The parcel would also be difficult to manage and its value and return to the public would be reduced. Also, such a buffer is an unreasonable restriction upon the use of 90 acres or more of land and is not consistent with existing buffers within adjacent subdivisions. These have 20-foot back yards and five-foot sideyard setbacks.
3. **Compensate adjacent landowners for lost property values.** Another commenter asked that a clause be included in the exchange agreement that would compensate adjacent property owners for lost value if the national forest parcel were exchanged. The Forest Service considered this and decided to eliminate this alternative because there is no legal basis for such compensation for a hypothetical condition.
4. **Delay exchange until area water issues resolved.** One commenter suggested that the exchange be delayed until a new water source to meet Payson community demand was found. This alternative was not advanced for further study because it does not meet one of the purposes of conducting the exchange: to meet the expansion needs of the local community. Allowing the Tribe to expand onto the 273 acres proposed for exchange would result in minimal increase in water demand. In addition, a recent opportunity to construct a pipeline to deliver C.C. Cragin (formerly Blue Ridge) Reservoir water to the Town will reduce pressure on the aquifer that supplies water to the Payson area. The Bureau of Reclamation, Forest Service, Salt River Project, several local governments and the Tribe are working together on this project.
5. **Acquire non-federal lands by other means.** Other means of acquiring the non-federal lands were considered but eliminated from further study. Purchasing non-federal lands by the United States is an alternative to land exchange; however, the trend in availability of Land and Water Conservation Fund Act appropriations from Congress to purchase private land is downward. In addition, the Tonto Apache purchased these parcels with the specific intent of providing them in exchange for land they felt they desperately needed. They are unwilling to sell them to the United States in lieu of exchange.
6. **Place development restrictions on deed for federal land.** Public scoping suggested that deed restrictions be used to limit future development of the federal land, if conveyed. Forest Service regulations at 36 CFR 254.3(h) state:

“In any exchange, the authorized officer shall reserve such rights or retain such interests as are needed to protect the public interest or shall otherwise restrict the use of Federal lands to be exchanged, as appropriate.”

A deed restriction alternative was considered, but eliminated from further study. Protection of the federal land through deed restriction is not appropriate as proposed development by the Tonto Apache is considered to be less intense than adjacent existing subdivisions. Deed restrictions are not required in order to fulfill the purpose and need for the action. Restrictions, if imposed, also require continued federal administration or oversight of the lands exchanged out of federal ownership. A principal objective of the exchange is to reduce administrative burdens.

Alternatives Considered In Detail

The alternatives include a “no action” alternative and three action alternatives that respond to the need for action and issues described in Chapter 1. All three action alternatives (B, C, and D) include provision for revoking three special use permits for a jointly used utility corridor. The corridor use will be protected on conveyance by easement.

Alternative A – No Action

There would be no exchange with this alternative. The Payson parcel would remain national forest. The Truswell parcel containing a portion of the Verde River, the Salome parcel containing desert riparian scrub, the Munoz parcel near Pinedale Arizona, and the Peat Bog parcel in Little Green Valley containing a peat bog would remain in private ownership.

Alternative B – The Proposed Exchange

Implementing this alternative would result in completing the exchange as proposed. The Payson parcel would be conveyed to the Tonto Apache Tribe. The Truswell parcel, containing a portion of the Verde River; the Salome parcel, containing desert riparian scrub; the Munoz parcel near Pinedale, Arizona; and the Peat Bog parcel in Little Green Valley, containing a peat bog; would become NFS lands.

Alternative C – Adjust Acreage

The Payson parcel acreage would be reduced in 10-acre increments on the east side to achieve a balance of value according to a final approved appraisal. However, the exchange would be similar to Alternative B in that all of the private lands proposed would be included. The Truswell parcel, containing a portion of the Verde River; the Salome parcel, containing desert riparian scrub; the Munoz parcel near Pinedale, Arizona; and the Peat Bog parcel in Little Green Valley, containing a peat bog; would become NFS lands.

Alternative D – Eliminate 20+ Acres West of the Beeline Highway

To respond to concerns involving lack of sales tax collection and resulting perceived unfair business competition expressed by the Town of Payson and some businesses, the Payson parcel would be owned by the Tonto Apache Tribe except for the 20+ acres west of the Beeline Highway. The Truswell parcel, containing a portion of the Verde River; the Salome parcel, containing desert riparian scrub; the Munoz parcel near Pinedale Arizona; and the Peat Bog parcel in Little Green Valley, containing a peat bog; would become NFS lands. If the private lands represented significant value in favor of the Tribe, the Forest Service would either equalize the exchange in cash or the Tribe would withdraw their offer of the Munoz parcel which does not have as much resource value as the other non-federal parcels.

Comparison of Alternatives

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

Table 2. Alternative Comparison

AFFECTED RESOURCE/ISSUE	ALT. A No Action	ALT. B Proposed Exchange	ALT. C Adjust Acreage	ALT. D Eliminate West Acreage*
Vegetation				
Federal land	Little or no effects	Some native plant removal likely	Some native plant removal likely	Some native plant removal likely
Non-federal lands	No major changes unless parcels with development potential sold Peat bog may have continued erosion.	Native vegetation maintained and improved	Native vegetation maintained and improved	Native vegetation maintained and improved
Soils				
Federal land	No measurable soil loss	Short-term soil loss due to development. Mitigation in compliance with Clean Water Act	Short-term soil loss due to development. Mitigation in compliance with Clean Water Act	Short-term soil loss due to development. Mitigation in compliance with Clean Water Act
Non-federal lands	Little change in soil erosion or productivity With development, parcels may suffer short-term soil loss Peat Bog may have continued soil loss	Minimize soil loss and maintain productivity. No major changes Improve Peat Bog condition	Minimize soil loss and maintain productivity. No major changes Improve Peat Bog condition	Minimize soil loss and maintain productivity. No major changes Improve Peat Bog condition

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AFFECTED RESOURCE/ISSUE	ALT. A No Action	ALT. B Proposed Exchange	ALT. C Adjust Acreage	ALT. D Eliminate West Acreage*
Watershed Conditions				
Federal land	No change in condition	Potential for increased flow and erosion mitigated in compliance with Clean Water Act.	Potential for increased flow and erosion mitigated in compliance with Clean Water Act.	Potential for increase in flow and erosion mitigated in compliance with Clean Water Act.
Non-federal lands	No significant changes except Peat Bog would not receive rehab treatment	Gov't nets +0.94 miles of floodplain and +14.0 acres of wetland	Gov't nets +0.94 miles of floodplain and +14.0 acres of wetland	Gov't nets +0.94 miles of floodplain and +14.0 acres of wetland
Water Availability				
Federal land	Water use by Tribe would increase less than allowed under Payson Water Use Agreement	38 acre-feet of water for new homes would not surpass aquifer safe yield	38 acre-feet of water for new homes would not surpass aquifer safe yield	38 acre-feet of water for new homes would not surpass aquifer safe yield
Wildlife/Riparian/TES/Peat Bog Habitat				
Federal land	Little change in habitat capabilities (which are diminished due to urban proximity)	No effect on TES species or habitat. Will not cause a trend toward T&E listing of migratory birds Pinyon-juniper habitat loss not significant	No effect on TES species or habitat. Will not cause a trend toward T&E listing of migratory birds Pinyon-juniper habitat loss not significant	No effect on TES species or habitat. Will not cause a trend toward T&E listing of migratory birds Pinyon-juniper habitat loss not significant
Non-federal lands	With development, reduced upland species habitat, reduced amphibian habitat (Munoz)	No effect on TES species or habitat. Will not cause a trend toward T&E listing of migratory birds Habitat gains not significant	No effect on TES species or habitat. Will not cause a trend toward T&E listing of migratory birds Habitat gains not significant	No effect on TES species or habitat. Will not cause a trend toward T&E listing of migratory birds Habitat gains not significant

Tonto Apache Land Exchange Proposal

AFFECTED RESOURCE/ISSUE	ALT. A No Action	ALT. B Proposed Exchange	ALT. C Adjust Acreage	ALT. D Eliminate West Acreage*
Air Quality Federal land	Meet air quality standards	Short-term increases within standards	Short-term increases within standards	Short-term increases within standards
Non-federal lands	Short-term increases	Meet standards	Meet standards	Meet standards
Loss of Sales Tax Revenue Federal land	No changes. No sales tax revenue on federal land.	Commercial development unlikely. If land in Trust status, some tax revenue for goods sold to non-Indians. None from Indians.	Commercial development unlikely. If land in Trust status, some tax revenue for goods sold to non-Indians. None from Indians.	Commercial development unlikely. If land in Trust status, some tax revenue for goods sold to non-Indians. None from Indians.
Land for Housing and Cultural Needs Tonto Apache Tribe	Housing = 36 units (4.17 people/house). No open space for cultural needs	Housing = 58 units (2.59 people/house) Open space for cultural needs.	Housing = 58 units (2.59 people/house) Less open space than Alt. B	Housing = 58 units (2.59 people/house) Least open space of action alternatives.
Visual Character Federal land	No change	Appearance of parcel altered, but not inconsistent with adjacent development. Reduced scenic quality for those approaching Payson from south.	Appearance of parcel altered, but not inconsistent with adjacent development. Reduced scenic quality for those approaching Payson from south.	Appearance of parcel altered, but not inconsistent with adjacent development. Reduced scenic quality for those approaching Payson from south.
Non-federal lands	If developed, might be inconsistent with adjacent national forest land	Compatible with forest surroundings	Compatible with forest surroundings	Compatible with forest surroundings

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AFFECTED RESOURCE/ISSUE	ALT. A No Action	ALT. B Proposed Exchange	ALT. C Adjust Acreage	ALT. D Eliminate West Acreage*
Gila County Tax Base Federal land Non-federal lands	No change Revenues will increase but be insignificant compared to annual County revenue stream	No change Loss of County revenue of less than 0.01% of annual take	No change Loss of County revenue of less than 0.01% of annual take	No change Loss of County revenue of less than 0.01% of annual take
State Route 87 Jurisdiction Federal lands	No change	AZ Dept of Public Safety will enforce law on state highways regardless of underlying ownership	AZ Dept of Public Safety will enforce law on state highways regardless of underlying ownership	No change
Property Values Traffic Safety	Property values expected to change consistent with the Payson housing market. Recent trends have been upward. Traffic into adjacent developments will not change.	Property values expected to change consistent with the Payson housing market. Recent trends have been upward. Traffic into adjacent developments will not change due to gated access.	Property values expected to change consistent with the Payson housing market. Recent trends have been upward. Traffic into adjacent developments will not change due to gated access.	Property values expected to change consistent with the Payson housing market. Recent trends have been upward. Traffic into adjacent developments will not change due to gated access.

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AFFECTED RESOURCE/ISSUE	ALT. A No Action	ALT. B Proposed Exchange	ALT. C Adjust Acreage	ALT. D Eliminate West Acreage*
Hazardous Materials	No hazardous materials on any of parcels			
Caves Federal lands	No caves or special areas			
Environmental Justice	No concerns identified	No concerns identified	No concerns identified	No concerns identified

**If Munoz parcel is removed in this alternative, then effects on that parcel would be consistent with those of the No Action Alternative (A)*

Chapter 3 – Affected Environment and Environmental Consequences

This chapter describes the current condition (i.e., affected environment) within the project area and the changes that can be expected from implementing the exchange alternatives or taking no action at this time. The No Action alternative sets the environmental base line for comparing effects of the exchange alternatives.

Regulations at 36 Code of Federal Regulations 254.3(f) state that:

“...Lands acquired by exchange that are located within areas having an administrative designation established through the land management planning process shall automatically become part of the area within which they are located, without further action by the Forest Service, and shall be managed in accordance with the laws, rules, regulations, and land and resource management plan applicable to such area.”

Parcels acquired in implementation of any of the action alternatives will be managed in compliance with Forest Plan objectives for the appropriate Plan management area.

Major issues define the scope of environmental concern for this project. The environmental effects (changes from present base line condition) described in this chapter reflect the identified major issues. Issue numbers are shown in brackets after each subheading to cross reference issues with the effects discussions that follow. Discussions of cumulative effects end each section.

Vegetation

A Biological Assessment and Evaluation (Pollock 2000) for the proposed project was completed for Threatened, Endangered and Sensitive species (plants and animals). No threatened, endangered or sensitive plant species were found on the federal or non-federal parcels. Determinations of no effect were made for all animal species. This report was supplemented in August 2005 (Klein 2005) to evaluate the potential effects of the proposed action on species and/or critical habitat listed or proposed since the initial consultation. It was determined that the rationale for the 2000 *no effect determination* is still valid.

Payson Parcel (Federal land)

Affected Environment

An evergreen woodland occupies the parcel and contains pinyon pine (*Pinus edulis*), one-seed juniper (*Juniperus monosperma*), and a thick presence of shrubs such as shrub live-oak (*Quercus turbinella*), manzanita (*Arctostaphylos pungens*), squawbush (*Rhus trilobata*), and mesquit acacia (*Acacia constricta*). In addition, banana yucca (*Yucca baccata*), soap tree yucca (*Yucca elata*), bear grass (*Nolina microcarpa*), agave (*Agave sp.*), prickly pear cactus (*Opuntia engelmanni*), and ephedra (*Ephedra sp.*) are represented. Blue grama (*Bouteloua gracilis*) and side-oats grama (*Bouteloua curtipendula*) grasses were also observed. Very few herbaceous plants were observed. Disturbance of the existing vegetation is light.

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The eastern portion of this parcel is a part of the Round Valley pasture of the Payson Allotment. On September 29, 2005, this area was determined not suitable for grazing. This decision is currently under administrative appeal by the permit holder. Even prior to this decision, however, about 80 acres on the easternmost portion of the parcel has not been grazed for more than twenty years. The portion on the west side of the Beeline Highway (part of the American Gulch Allotment) has not been grazed for several years. Forest Plan management objectives for vegetation emphasize wildlife habitat improvement and livestock forage production.

Environmental Consequences

Under Alternative A, No Action, the existing vegetation condition would likely remain as it is now with occasional light disturbance. Management objectives would be met in part although the potential for wildlife habitat improvement is low because of the urban or nearly urban setting.

Under exchange Alternatives B, C, and D, construction activities could remove a substantial part of the native vegetation in areas of construction for houses and possible commercial buildings and associated roads. Tribal member may keep livestock (principally horses) corralled near their homes. While most of the homes currently on the Reservation have retained native plant surroundings, we might expect that some of the new ones might replace native vegetation with lawns and ornamental plantings. Native vegetation would likely be retained in areas designated as open space for cultural needs. Forest plan management objectives for vegetation would not be met.

Truswell Parcel

Affected Environment

A variety of habitats are represented on this upper-Sonoran desert grassland. The northern half of the site west of Salt Mine Road contains relatively flat topography supporting mesquite (*Prosopis juliflora*) and catclaw (*Acacia greggii*), with shrubs, grasses and herbaceous plants not common. The southwest quarter of the property contains a few hills rising to a mesa in the west. Mesquite is dominant with one-seed juniper and crucifixion thorn (*Canotia holocantha*) also occurring. Shrubs include prickly pear cactus, banana yucca, soaptree yucca, narrowleaf yucca (*Yucca angustissima*), and range rattany (*Kremaria greyii*). Herbs and grasses are not abundant.

The southeast quarter of the property includes an old homestead site and pasture, a marshy backwater, and two small, perennial channels that run parallel to the Verde River and drain into the backwater. A few ephemeral gullies also occur in this quarter. Many taller trees such as Arizona sycamore (*Plantanus wrightii*), Fremont cottonwood (*Populus fremontii*), Arizona walnut (*Juglans major*) and smaller trees such as desert willow (*Chilopsis linearis*), tamarisk (*Tamarix pentandra*) and mesquite were noted. Herbs such as white horsenettle (*Solanum elaeagnifolium*), horehound (*Marrubium vulgare*), cocklebur (*Xanthium strumarium*), and ragweed (*Ambrosia sp.*) are well represented along with Bermuda grass (*Cynodon dactylon*) and lovegrass (*Agrostis sp.*).

The Verde River runs along the East side of the property and is non-meandering, approximately 300 feet wide at its greatest width, and shallow at the time of the survey. It is slow moving at this location and its banks are laid back and sandy with small muddy areas occurring occasionally. They support mature Arizona sycamore and Fremont cottonwood, with very little understory vegetation. Small islands occur mid-channel and are well vegetated with willow (*Salix sp.*), Fremont cottonwood, and tamarisk.

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The vegetation management objective for the surrounding national forest lands is livestock grazing with an emphasis on maintaining or enhancing perennial grass species. Priority is given to the protection and enhancement of riparian areas.

Environmental Consequences

Under Alternative A, No Action, the parcel could be sold and developed resulting in the loss of most of the referenced resource values. While development potential may be limited due to steep slopes and floodplain (see the following section B. Soils), some may occur. Such development may be inconsistent with objectives for adjacent national forest lands.

Under any of the exchange alternatives B, C, or D, native vegetation would be maintained including the high-value riparian habitat. The adjacent national forest management objectives could be achieved.

Munoz Parcel

Affected Environment

The parcel is essentially a heavily grazed meadow bordered on two of three sides by public roads. Ponderosa pine occupies the eastern border. Water occurs in a small, man-made cattle pond. Its banks are muddy and sparsely vegetated with weedy species such as filaree (*Erodium cicutarium*), dandelion, (*Teraxicum officinale*), common mallow (*Malva neglecta*), and sweetclover (*Melilotus sp.*).

The majority of the meadow is grassy and heavily grazed. Approximately 95% of the grasses had been grazed at the time of the visit. Tree species found on the eastern portion of the site include Utah juniper (*Juniperus osteosperma*) and ponderosa pine (*Pinus ponderosa*). Some pines reach a maximum height of 60 feet, although most are 30' to 40' tall. Shrub understory includes soaptree yucca, squawbush and rabbitbrush (*Chrysothamnus nauseosus*).

Herbaceous vegetation consists mostly of weedy species such as mullein (*Verbascum thapsus*), Russian thistle (*Salsola kali*), amaranth (*Amaranthus sp.*), ragweed, filaree, sweetclover, coneflower (*Ratibida sp.*), and thistle (*Cirsium sp.*). Blue grama is the dominant grass species on the site. The timber stand is subject to damage by wildfire.

Vegetation management objectives for the adjacent national forest lands are the promotion of forest health while maintaining habitat for Threatened, Endangered, and Sensitive species. Emphasis is placed on reducing the risk of stand replacing fires by the use of various methods of vegetation manipulation.

Environmental Consequences

Under Alternative A, No Action, some native vegetation could be lost because of house, road, and utility construction on the east side of the parcel in the trees. Activities to reduce the risk of fire may not be implemented which could lead to fire damage in adjacent national forest timber stands.

The meadow may continue to be heavily grazed.

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Under Alternative B, the Proposed Exchange, and Alternative C, Adjust Acreage, native vegetation would be maintained. The parcel would be integrated into ongoing Forest Service management plans for the Apache-Sitgreaves National Forest MA1. Livestock grazing would be subject to allotment management plan objectives. Measures to reduce the risk of fire in the timber stand might be implemented.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, effects would be similar to those of Alternative B if this parcel remained in the exchange. If not, effects would be similar to Alternative A.

Peat Bog Parcel

Affected Environment

The parcel is located in a ponderosa pine vegetation type with transition tree species such as alligator juniper (*Juniperus deppeana*), Gambel oak (*Quercus gambellii*), and shrubs such as manzanita, and squawbush on the slopes bordering the drainage. Riparian tree species including Arizona sycamore, Fremont cottonwood, Arizona walnut, and willow occur in the drainage. The majority of the understory within the drainage consists of grasses, forbs, moss, and both submergent and emergent aquatic species. These aquatic plants include sorrel (*Rumex sp.*), bulrush (*Scirpus sp.*), horsetail (*Equisetum arvense*), and speedwell (*Veronica americanus*) in the wetland. Very few shrubs were noted. The wetland is heavily grazed but vegetation covers nearly 100% of the ground.

The drainage channel at the site is rather narrow with fairly steep sloping sides. Thick blocks of peat moss have tumbled into the channel and flank the small stream. Grazing animals are destabilizing the channel sides.

Adjacent national forest vegetation management objectives promote sustained timber yield and wildlife habitat diversity. Maintenance and improvement of the peat bog is a high priority.

Environmental Consequences

Under Alternative A, No Action, development in the drainage is unlikely because of high water table limitations but the hillside could be developed and accommodate one or two cabins.

Clearing vegetation from road and utility construction and building cabins could occur if the parcel remains in private ownership. Vegetation management objectives and objectives for the peat bog would not be achieved.

Under any of the exchange Alternatives, B, C, and D, the parcel would be under national forest management, objectives would be met, and the unique features of the peat bog would be managed to maintain those features.

Tin Hat Ranch Parcel

Affected Environment

The majority of the site occurs within the floodplain of Salome Creek but also extends to include the uplands along the eastern slopes above the floodplain.

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On the uplands, saguaro cactus (*Carnegia gigantea*) and the paloverde tree (*Cercidium microphyllum*) are the dominant large plants with ephedra, jojoba (*Simonsia chinensis*) and crucifixion thorn. Stands of creosote bush (*Larrea tridentata*) were also observed. Floodplain vegetation is dominated by mesquite tree and weedy species such as puncturevine (*Tribulus terrestris*), horehound, common malva (*Malva sp.*), datura (*Datura wrightii*), and Bermuda grass. A small riparian woodland, characterized by Arizona sycamore, tamarisk, and willow, follows the main channel of Salome Creek in the southern portion of the site. This woodland continues north, up the drainage, and includes Fremont cottonwood in this portion of the parcel.

Management objectives for adjacent national forest lands emphasize range productivity and livestock forage production. Priority is featured for riparian area protection and enhancement.

Environmental Consequences

Under Alternative A, No Action, some native vegetation could be lost because of construction and there would be no emphasis on managing the riparian scrub vegetation. However, the upland native vegetation is abundant because of the large amount of surrounding national forest acres. Range productivity and riparian area management would not be emphasized.

Under any of the exchange Alternatives, B, C, and D, native vegetation would be maintained and management emphasis to maintain the riparian scrub would be featured. National forest management objectives would be emphasized.

Cumulative Effects on Vegetation

The western portion of the parcel in the American Gulch Allotment and about 80 acres on the east side of the in the Round Valley Pasture of the Payson Allotment have not been grazed for several years. Other past projects (e.g., the APS power line) have either had very localized or no effect on vegetation on the federal parcel.

If one of the action alternatives is selected and the Tonto Apache Tribe constructs additional residences and/or commercial buildings on the property, localized vegetation loss is expected. Current landscaping around housing on the existing reservation parcel is mostly native and does not indicate that a significant increase in exotics is expected.

Since 1963, several landownership adjustment projects in the Payson vicinity have removed 5,613 acres or 0.40% of pinyon-juniper woodland habitat (1,419,599 acres) from Tonto National Forest management. Selection of Alternative B would remove 273 acres of pinyon-juniper woodland or 0.019% of pinyon-juniper woodland subject to forest management. The NW Payson-Montezuma Land Exchange will remove 222 acres (0.016%). Selection of either Alternative C or D will remove fewer pinyon-juniper acres from Forest Service management. Alternative B will not add appreciably to the total pinyon-juniper woodland habitat removed from Forest management during the last 40 years.

Acquiring of the Peat Bog parcel would enable planning and implementation of a Forest Service stabilization and restoration project for the peat bog to increase soil moisture and vigor of grasses and forbs in the area.

Soils

Payson Parcel (Federal)

Affected Environment

Soils of this parcel are characterized as moderately deep and deep, well drained soils that formed in alluvium (transported by water) and residuum (weathered in place) from mixed sources. Soils of this parcel are described in the Tonto National Forest Terrestrial Ecosystem Survey. Surface soils are medium textured loams and subsoils are clay loams and sandy clay loams. Litter dams are common due to excessive surface runoff. Sodium concentrations are sufficient to have a dispersing effect on soil particles and reduce infiltration. Rock outcrops are prominent on the west side of SR 87. Erosion hazards are moderate for sheet and rill and severe for gully erosion. Severe limitations exist for off-road vehicle use when the soils are wet. Construction activities are generally not limited, with the exception of the land west of SR 87 because of shallow soil depths and rock outcrop.

Environmental Consequences

Under Alternative A, No Action, the parcel would remain national forest and use would be limited to occasional off-road vehicle enthusiasts, hikers, and horseback riders.

Under exchange Alternatives B, C, and D, construction activities associated with residential and possible eventual commercial development would create a some soil disturbance and increased soil erosion for a limited time. The revegetation potential for these soils is rated high and methods exist to reduce both the amount and duration of erosion. Limitations associated with the poor bearing strength of wet soils would be addressed with design and construction specifications.

The location and type of development that would occur on the federal parcel is unclear at this point. The majority of the federal parcel drains to the south towards the Round Valley area. Development of these lands would not affect drainage towards adjacent homes to the north in Payson. Regardless of development location on the parcel or direction of drainage, any development would require compliance with the Clean Water Act. Any construction site that disturbs more than one acre would require a storm water discharge permit from the Environmental Protection Agency. Operators of construction sites would be required to develop and implement storm water pollution prevention plans to control discharge of pollutants. These protective requirements would be in effect if the land is owned in fee and is subject to Town of Payson ordinances or is in Trust status and subject only to federal statutes and regulations.

Truswell Parcel

Affected Environment

Both floodplains and wetlands occur on this parcel along with uplands. Soils of this parcel are described in the Prescott and Coconino National Forests Terrestrial Ecosystem Surveys. The floodplain soils are immediately adjacent to the Verde River and on the slightly higher adjacent first terrace positions. They occupy slopes ranging from 0-5% and are deep gravelly loamy sands and deep cobbly sandy loams developing from alluvium of mixed sources. These soils are subject to flooding. Riverwash in the Verde River channel composed of sands, gravels, and cobbles are also included. The alluvial soils occupy sloping alluvial fans with slopes ranging from 5-15% and are very gravelly sandy loams with substantial amounts of clay in the subsoil. They are developing from alluvium of mixed sources. The upland soils occupy moderately steep

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to steep hills with 15-40% slopes and are deep extremely cobbly sandy loams. They are developing from mixed alluvium over sedimentary or granitic bedrock. Erosion hazards for the floodplain soils are slight. Revegetation potentials are low because of the sandy soils and cobbles and the potential for flooding. Soils of the alluvial fans have a slight erosion hazard and high revegetation potentials because the clay holds water and the soils occupy concave slopes. The uplands soils have a moderate erosion hazard and a low revegetation potential because of the high quantities of lime throughout the profiles.

Environmental Consequences

Under Alternative A, No Action, soil erosion and productivity are expected to change little. Some development could occur on the alluvial fan soils. Erosion would be limited because of the high revegetation potential. Yavapai County participates in the National Flood Insurance Program and is required to have a floodplain management ordinance. Development on the floodplain is unlikely because of this ordinance. The hillsides are generally rated as unsuitable because of steep slopes; however, some development could occur.

Under any of the exchange alternatives B, C, and D, national forest management direction would emphasize minimizing soil erosion and maintaining soil productivity.

Munoz Parcel

Affected Environment

Contrasting soils occupy two types of topography. Both upland and meadow soils occur according to the Apache-Sitgreaves National Forests Terrestrial Ecosystem Survey. The upland soils occupy the low hill on the eastern boundary with slopes ranging from 0-15% and are moderately deep very gravelly sandy loams developing from old alluvial deposits, rim gravels, over basalt bedrock. The meadow soils occupy slopes ranging from 3-6% and are deep sandy loams and gravelly loams developing from old alluvial deposits, rim gravels, over basalt bedrock. The subsoil horizons are composed of heavy clays. Both the upland and the meadow soils have high revegetation potentials, a slight to moderate sheet and rill erosion hazard, and severe limitations for wheeled off road vehicles. The heavy clay subsoils would limit private development because the clay soils limit the effectiveness of septic drain fields.

Environmental Consequences

Under Alternative A, No Action, development might occur on the eastern boundary of the parcel. A temporary increase in soil erosion could be expected but the high revegetation potentials would limit the amount and duration.

Under Alternative B, the Proposed Exchange, and Alternative C, Adjust Acreage, Forest Service management direction would focus on maintaining ground cover, minimizing soil disturbance, and managing wheeled off road vehicle use.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, Forest Service management direction would focus on maintaining ground cover, minimizing soil disturbance, and managing off-highway vehicle use if the parcel remained in the exchange. If not, effects would be similar to Alternative A.

Peat Bog Parcel

Affected Environment

This parcel contains mountain slopes, a wetland, and inclusions according to the Tonto National Forest Terrestrial Ecosystem Survey. The mountain slopes contain shallow and moderately deep very gravelly sandy loams developing from granitic rocks. Slopes range from 10 to 25 percent. Meadow inclusions contain deep dark fibrous soils. The water table is shallow. This area meets federal wetland diagnostic characteristics. Layered soil horizons alternate between peat and sand textures. Slopes range from three to six percent. Thick blocks of peat were observed during the parcel visit. Domestic livestock grazed the meadow. Soils on the mountain slopes present few limitations to national forest activities. Private development would be limited because of shallow soils but still could occur. Meadow soils present few limitations to national forest activities but severe limitations to development because of poor bearing strength and shallow water tables. The meadow contains one of only two known peat bogs in Arizona.

Environmental Consequences

Under Alternative A, No Action, existing conditions are not expected to change much in the meadow. Some development on the slopes is possible with a temporary increase in soil disturbance and erosion. Grazing of the peat bog would continue and there would be no management emphasis to maintain and improve the peat bog.

Under land exchange Alternatives B, C, and D, development of the slopes would not occur and the Forest Service would investigate actions to stabilize and maintain the peat bog to stop head cutting. The parcel would be included within Payson Management Area 4F which emphasizes wildlife habitat improvement, livestock forage production, dispersed recreation, watershed improvement and riparian area management and improvement. We would expect proposals consistent with Plan management objectives for actions to improve peat bog condition.

Tin Hat Ranch Parcel

Affected Environment

Contrasting topography characterizes this parcel. Upper terrace and side slope soils are described in the Tonto National Forest Terrestrial Ecosystem Survey in progress along with bottomland and first terrace soils. The upper terrace soils occur on 0-15% slopes and are deep very cobbly sandy loams and clay loams developing from old alluvium. The side slope soils occur on 15-40% slopes and are deep very cobbly sandy loams developing from old alluvium that has been dissected by water creating many short, small channels. The bottomland and first terrace soils occur on 0-5% slopes and are deep cobbly loamy fine sands and deep loams developing from recent alluvial materials. Soils on the upper terrace present few limitations to national forest activities or private development. Soils of the riverwash and first terrace pose few limitations to national forest activities but could limit private development because of potential flooding by runoff from high intensity storms.

Environmental Consequences

Under Alternative A, No Action, existing erosion and productivity is not expected to change much. Because of the parcel's remoteness, the possibility for development is considered small.

Under any of the exchange Alternatives B, C, and D, existing erosion and productivity is not expected to change significantly.

Cumulative Effects on Soils

If the federal lands remain in federal management under the *No Action Alternative*, soil erosion hazard is expected to remain the same: moderate for most of the property. Past, present and known future activities on the federal parcel have not affected long-term soil loss. Even with localized, short-term vegetation removal that might occur with house construction under the action alternatives, no significant increase in erosion hazard is expected.

With acquisition of the Peat Bog parcel the Forest Service may plan and implement a stabilization and restoration project for the peat bog. Measures to reduce erosion and prevent further head cutting into the bog would likely be implemented.

Watershed Conditions

This section contains an evaluation of the watershed characteristics of each parcel. Water availability for the Payson parcel is evaluated in the following section.

Forest Service hydrologists have reviewed information from National Wetlands Inventory maps, topographic maps, aerial photos, District staff and field visits to determine miles of floodplain and wetlands that would be exchanged in the proposed action (Mason 2/06/2001 and 9/30/2005). The federal government would see net gains in both floodplain miles and wetland acres if the proposed action is selected for implementation.

Table 3. Watershed Characteristics by Parcel

Parcel	Floodplains (miles)	Wetlands (acres)
Federal	0.66	0.0
Truswell	0.60	0.0
Munoz	0.17	0.0
Peat Bog	0.23	14.0
Tin Hat	0.60	0.0
Net federal gain	+ 0.94	+ 14.0

Payson Parcel (Federal)

Affected Environment

Most of the parcel lies within the Rye Creek – Tonto Creek fifth code watershed. The northern portion of the parcel lies within the East Verde River fifth code watershed. The portion of the parcel within the Rye Creek – Tonto Creek watershed includes the headwaters of Gibson Creek and a tributary to Gibson Creek, which both flow north-south through the center of the parcel for a total of 0.66 miles. Gibson Creek flows through Round Valley to Houston Creek and eventually to Tonto Creek after leaving the parcel. A few shallow drainages occur throughout the parcel. Standing or flowing water is seen only during and immediately after snow melt or a heavy rain.

The Payson parcel does not contain wetlands as defined in the *Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1*.

Environmental Consequences

Under Alternative A, No Action, existing conditions would not change.

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Under any of the exchange Alternatives B, C, and D, construction of houses, streets, and utilities would tend to concentrate water flows and increase the potential for erosion on adjacent lands. However, project designs would likely incorporate mitigation in compliance with the Clean Water Act to reduce these effects. Significant changes are not expected.

If the property is not entered into Trust, it will fall under the jurisdiction of the Gila County Floodplain Management Ordinance (Document 2003-010889, recorded in Gila County).

Truswell Parcel

Affected Environment

The northern half of the parcel west of the Salt Mine Road contains a few shallow, ephemeral drainages. A narrow, channeled waterway is found west of the Salt Mine Road. The southeast quarter of the parcel includes a marshy backwater and two small, perennial channels that run parallel to the perennial Verde River and drain into the backwater. A few ephemeral gullies also occur in this quarter. The Verde River runs through the east part of the parcel for approximately 0.6 mile, is non-meandering, and about 300 feet wide at its widest point. There are approximately 15 acres of riparian habitat associated with the river. The parcel also contains a section of the Woods Ditch.

The Truswell parcel contains no wetlands as defined in *Technical Report Y-87-1*. It does contain 0.6 miles of floodplain land associated with the Verde River.

Environmental Consequences

Under Alternative A, No Action, watershed conditions are not expected to change significantly. The Truswell parcels would remain in private ownership and would not receive wetland management emphasis to support riparian habitat. Any proposed development would require oversight by Yavapai County to address drainage issues. There would be no management emphasis to maintain watershed characteristics.

Under any of the exchange Alternatives B, C, and D, watershed conditions are not expected to change much over those that exist now. However, development would be precluded and there would be Forest Service management direction to maintain watershed characteristics to support riparian habitat. The Woods Ditch would be under an easement. Management emphasis would be directed toward maintaining the natural and beneficial values served by floodplains and would be consistent with Executive Order 11988, Floodplain Management. The national forests in Arizona would see a net gain of 0.6 miles of floodplain.

Munoz Parcel

Affected Environment

There is a small ephemeral drainage on the northwest corner of the parcel that flows only in response to precipitation. It flows approximately 0.17 miles through the parcel and contains no significant riparian vegetation and minimal floodplain values. There is one stock pond with an associated water claim. The water is usually murky.

The Munoz parcel does not contain wetlands as defined in the *Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1* and it is not located within a floodplain.

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Environmental Consequences

Under Alternative A, No Action, little change is expected from the existing conditions because development would most likely occur on the hill on the east boundary of the parcel.

Under Alternative B, the Proposed Exchange, and Alternative C, Adjust Acres, Forest Service management direction would promote maintenance of ground cover vegetation to improve the quality of runoff water. The water right would be maintained by livestock and wildlife use.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, the effects would be similar to those of Alternative B if the parcel remained in the exchange and Alternative A if it did not.

Peat Bog Parcel

Affected Environment

Little Green Valley Creek flows through the site and over the peat bog that forms Little Green Valley. At the lower end of the bog the Creek is eroding the toe of the bog and has created a head cut 10-15 feet high. The stream is shallow and ranges from two feet to four feet wide. This water is essential to maintaining the peat bog.

The Peat Bog parcel contains wetlands as defined in *Technical Report Y-87-1*. Floodplain mapping has not been completed for the Peat Bog parcel but, it contains floodplain topography.

Environmental Consequences

Under Alternative A, No Action, the Peat Bog parcel would remain in private ownership and would not receive wetland management emphasis. Existing watershed conditions are expected to continue but there would be no special emphasis on maintaining water quality to support the peat bog or to prevent further head cutting into the bog. State and county requirements might limit changes to wetlands and the Gila County Floodplain Ordinance would limit development within the floodplain.

Under any of the Alternatives B, C, and D, Forest Service management emphasis would be directed toward maintaining wetland habitat characteristics consistent with the intent of Executive Order 11990, Protection of Wetlands. The national forests in Arizona would see a net gain of 14 acres wetlands. The Forest Service may also implement measures to prevent further head cutting of the bog.

Tin Hat Ranch Parcel

Affected Environment

Salome Creek is a south-flowing stream that empties into Roosevelt Lake. The parcel contains an approximate .6 mile length of the stream. Salome Creek is intermittent but can be flashy during heavy rains. The water is relatively free of suspended sediment during periods of low flows but quite turbid during heavy runoff events.

Standing or flowing water was not observed at any location within the parcel during the survey but can occur during periods of peak runoff. A few small, moist, grassy areas were noted just out of the main channel of Salome Creek under the sycamore trees in the southern part.

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The Tin Hat Ranch parcel along Salome Creek does not contain wetlands. FEMA Floodplain mapping has not been completed for the Tin Hat Ranch parcel but it contains at least 0.6 miles of floodplain.

Environmental Consequences

Under Alternative A, No Action, little change in watershed and water quality conditions is expected. Gila County Floodplain Ordinance would limit development within the floodplain.

Under any of the exchange Alternatives B, C, and D, Forest Service management direction would promote maintenance and improvement of water quality. However, turbidity during heavy runoff events is characteristic of surrounding desert lands and little change is expected from existing conditions.

Cumulative Effects on Watershed Characteristics

Since 1977 the Tonto National Forest has, in compliance with Executive Orders 11990 and 11988, received either an equal or greater amount of wetlands and floodplains than it has exchanged out of federal ownership. This project and future projects are expected to be in compliance, as well. Therefore, there are no detrimental cumulative effects with respect to wetlands and floodplains.

Water Availability - Payson Parcel (Federal)

Affected Environment & Environmental Consequences

Surface waters such as springs, seeps and streams, are limited in the immediate vicinity of Payson. There is no surface water available on the Payson parcel. As a result, water needed for future development of this tract will in all probability be derived from groundwater located beneath the parcel or from activation of the Tribe's CAP (Central Arizona Project) allocation if a method of delivery can be found. Water quality has not been identified as an issue in this project.

The Payson aquifer is the primary source of water for Payson and the surrounding area. It consists primarily of Payson granite and to a lesser extent the Gibson Creek batholith, gneissic granitoids (granite-like), and basaltic dikes. Water is found throughout the upper 300 to 800 feet of this aquifer, primarily in joints, fractures and faults. Payson estimates that the aquifer underlying the Town can provide 1,826 acre-feet of water annually on a sustained basis (Southwest Groundwater Consultants, Inc., 1998). In 2004, groundwater consumption was 1,615 acre-feet, 88% of estimated safe yield, down from 92% in 2003 (Town of Payson Water Department, 2005). In addition to the Town's use, there are numerous private wells scattered throughout the area.

Water supplies to provide for anticipated residential and commercial growth on the reservation and proposed exchange federal parcel have become available from the Town of Payson. The tribe recently entered into a water service agreement with the Town (Agreement, 2005) that provides a set amount of water for existing and planned water uses. The agreement is to remain in effect for five years and will automatically renew for one year intervals thereafter unless either party provides a six-month written notice to the other stating its intent not to renew. The agreement provides an average of 32,000 gallons per day for existing uses, and an additional average of 33,847 gallons per day for planned uses. Water delivery rate would at no time exceed 100 gallons per minute nor an average of 65,847 gallons per day based on a calendar-year average. Future uses provided for in the agreement include:

- 22 residential units

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- 1 casino expansion project, to include a new restaurant, food court, lounge, arcade, offices and meeting rooms, and associated facilities
- 1 full-service 40-room hotel with pool
- 2 tribal administration buildings
- 1 small playground/park with restrooms
- low water use landscaping

The agreement includes water service for uses which would occur on the proposed exchange parcel (the federal Payson parcel) as well as the existing Reservation. The casino expansion project and hotel are already in progress on existing Reservation land. It is likely that the 22 new homes that would be provided with water under this agreement would be constructed on the federal lands acquired by the tribe. The other future uses may or may not be placed on the exchanged lands (Robyn Interpreter, 2005: personal communication).

Other features of the Agreement include:

- A commitment by the Tribe to implement water conservation measures comparable to the Town's regulations on both the Reservation and the Payson parcel, should the exchange be approved.
- A commitment by the Tribe to cooperate with the Town in efforts to identify and procure additional and new water supplies.
- A commitment by the Tribe during the term of the Agreement not to utilize new wells that negatively impact existing Town wells.

The federal Payson parcel lies within the corporate boundaries of the Town of Payson. The Town has adopted ordinances that require proposals for development of more than 20 lots or building units to demonstrate that a ground water supply is available to support the water demands of the developments. The developer must demonstrate that the use of identified water will not diminish the Town's existing supplies.

Most of the Payson parcel is underlain by the Payson granite at depth. Well yields from the Payson granite are generally predicted to be in the range of 10-15 gallons per minute (gpm) (USDA Forest Service, 2004). Higher yields of from 50 to 150 gpm may be available at the inferred intersection of two faults in the northern part of the parcel (USDA Forest Service, 2004). The actual volume of water available would not be known until wells are completed in the formation. The Town of Payson is almost entirely dependent on wells drilled into the Payson granite for its water supply.

Under the terms of the Town's ordinances, it may be difficult to demonstrate that wells drilled into the Payson parcel would not affect the Town's existing wells. If the Payson parcel were to be placed into Trust status, the Tribe would still be subject to the terms of the Water Service Agreement. Under the terms of this agreement, the Tribe has committed not to utilize new wells that would negatively impact existing Town wells. Consequently, ground water from beneath the Payson parcel may not be a viable water source to further Tribe developments.

The Tribe presently has no plans to develop any other hotel or commercial development on the Payson parcel (Robyn Interpreter, 2005: personal communication). However, if residential and/or commercial development is proposed on the parcel that would require water in excess of the volume of water provided under the Water Service Agreement then the Tribe would need to find an alternate source of water. Potential water sources include ground water beneath the Payson parcel, ground water from sources on nearby NFS lands, water from C.C. Cragin

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Reservoir, or activation of the Tribe's CAP contract for 128 acre-feet per year. For the reasons mentioned above, ground water from beneath the Payson parcel may not be a viable source for purposes other than low volume uses.

Development of groundwater on nearby NFS lands would require compliance with the ground water policy developed by the Southwestern Region of the Forest Service (Forest Service Manual R3 Supplement 2500-2001-1). Drilling on NFS land would not be authorized unless it can be demonstrated that there are no other feasible water supplies available. The Manual Supplement also requires that before a proposal to develop a well on NFS lands can be approved, it must be demonstrated that NFS resources will be adequately protected and that neighboring water supplies will not be impaired.

The Arizona Water Rights Settlement Act (P.L. 108-451) allocates 3,500 acre-feet of water from C.C. Cragin Reservoir to communities in Northern Gila County. Some of this water may be available for Tribal use.

The Tribe has a CAP contract for 128 acre-feet of water and has initiated an appraisal level study to investigate the feasibility of delivering this water to the Tribe (letter dated 2/6/06 from Robyn Interpreter, attorney for the Tribe to Grant Loomis, Tonto National Forest Hydrologist). The initial appraisal level study is expected to be completed in October 2006. The objective of the study is to determine if an exchangeable surface water supply is reasonably available for diversion and delivery to the Reservation, and to develop project alternatives for further feasibility level study if such alternatives are deemed viable in the appraisal level study. CAP water could possibly be delivered through a joint works system with the Town of Payson from C.C. Cragin Reservoir via an exchange agreement with Salt River Project (SRP).

The maximum increase in water usage that could occur on the Reservation and proposed exchange federal parcel, based on the Water Service Agreement, would be about 38 acre-feet per year. This increase represents about two percent of the estimated safe yield (1,826 acre-feet per year (Payson, 2005)) of the Payson aquifer. Although development beyond that described in the Agreement is not currently anticipated, any development that would exceed the volume available through the Agreement would require an alternate water supply. For the reasons discussed above, ground water from beneath the exchange parcel may not be a viable water source. Ground water from nearby NFS lands would require compliance with the Forest Service Manual Region 3 Supplement. The most likely source of additional water supplies is the CAP contract for 128 acre-feet held by the Tribe that is currently under an appraisal level study. Without new water supplies additional development beyond that described in the Water Service Agreement would be difficult.

Under Alternative A, No Action, water use by the Tribe would probably increase by less than is authorized by the Water Service Agreement with the Town of Payson because construction of 22 residential units would be difficult without the exchange parcel. Water use for the Town of Payson and the existing Reservation would continue to approach the safe yield limit of 1,826 acre-feet per year.

Under any of the exchange Alternatives B, C, and D, the Tribe would construct additional housing for its existing population and additional facilities permitted under the Water Service Agreement. This would result in an increase of about 38 acre-feet per year. Although additional development is not planned, any development that would exceed the volume of water available through the Water Service Agreement would require additional water supplies. The most likely source of supply would be activation of the Tribe's CAP contract. Small differences in water

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demand might occur because of the small acreage differences in the action alternatives. Payson withdrew 1,615 acre-feet of water in 2004 (Payson, 2005) from this aquifer. Tribal demands planned for in the Water Service Agreement could increase that use by 38 acre-feet per year. This would result in a two per cent increase in water withdrawn from the aquifer. The Town of Payson estimates safe yield to be approximately 1,826 acre-feet per year. The potential additional use of 38 would not surpass the safe-yield of the aquifer.

Cumulative Effects on Water Availability

The Arizona Water Rights Settlement Act (P.L. 108-451) allocates 3,500 acre-feet of water from C.C. Cragin Reservoir to communities in Northern Gila County. Up to 3,000 of the 3,500 acre-feet may be available for Payson. Delivery of this water would reduce pressure on the aquifer that provides water supply for the Payson area. Construction of the pipeline to deliver C.C. Cragin Reservoir water to Payson may also provide a means for the Tribe to execute its CAP contract and acquire additional water for its use.

A number of land exchanges have been completed within and near the Town of Payson's corporate boundaries within the past twenty years. These include:

Table 4. Land Exchanges Completed in Project Vicinity

Land Exchange	Year	Federal Acreage Conveyed
Payson I	1985	829
Payson II	1988	895
Star Valley	1989	426
Payson III	1995	1596
Eastern Arizona College	1996	64
TOTAL		3810

Proposed land exchanges and sales that are pending in addition to the Tonto Apache Land Exchange include:

Table 5. Lands Transactions Planned for Project Vicinity

Land Transaction	Federal Acreage to be Conveyed	
Northwest Payson – Montezuma Exchange	659	
Payson Administrative site sale	296	
TOTAL		955

In all above listed cases, involved non-federal parcels were/are located either on other Arizona national forests or within the Tonto NF but not within the Payson vicinity. So, these tables represent net gain in privately held acreage in the Payson vicinity since 1985.

The Town of Payson, in a 2000 policy document regarding Forest Service land exchange and sales activities, recognized that the Town does not have an adequate water supply within its boundaries to accommodate development on land offered for exchange or sale by the Tonto NF. It has passed an ordinance requiring that subdivisions in excess of 20 units provide new sources of water that will not impact the Town's existing water supplies. This ordinance, while protecting the Town's water supplies, may result in impacts to the supplies of water users outside the corporate boundaries. The addition of 3,000 acre-feet of water from C.C. Cragin Reservoir to

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the Town's water supplies will reduce substantially the impact on the Town's ground water resources and potentially impacts to the ground water resources of adjoining areas.

Concern has been expressed that the Tribe will acquire Trust status for the federal land and be beyond state regulatory control of water resources. The Tribe has applied to the BIA for the federal land to be placed into Trust (Sparks, Tehan & Ryley letter of 9/9/2004). Congress has granted the BIA authority to decide all Trust issues. The Forest Service has no authority to decide this issue. However, the Forest Service is required to disclose reasonably foreseeable effects for its decisions.

Potential development of the federal parcel beyond that envisioned in the Water Service Agreement with the Town of Payson will depend on the availability of water regardless of whether the land is placed in Trust status. Potential water sources include wells drilled on the federal lands acquired through the exchange (such wells are not regulated by the State of Arizona regardless of landownership status). This option may be limited by the Tribe's commitment in the Water Service Agreement not to utilize new wells that negatively impact existing Town wells. If a successful well(s) is developed on the federal parcel, the Tribe can pump as much water as it needs regardless of impacts to adjoining well owners. Transferring the acquired lands into Trust status or relocating the existing residences from existing Trust (Reservation) lands would mean the Tribe is not subject to local or state regulation.

Wildlife; Riparian; Threatened, Endangered, and Sensitive Species; and Peat Bog Habitats

Payson Parcel

Affected Environment

This parcel is fairly monotypic in that it has little habitat variation. It is not capable of supporting a fishery or habitat for reptiles and/or amphibians because it has no surface water impoundments. In addition, it is not capable of providing habitat for waterfowl and/or wading birds.

Snags were not encountered during the survey and raptor nests were not observed in any of the trees. The parcel could potentially provide suitable forage habitat for raptors because of the small open areas, small birds, rodent holes, insects, and lizards.

The rock outcrops west of the highway provide potential roosting habitat for bat species. The close proximity to areas of high human use currently provides a source of disturbance and could deter bats from the use of these outcrops. Caves were not observed on this parcel.

Data gathered by observation, tracks, or scat on all species encountered during the survey comprise the following list:

Avian species: American robin, bushtit, common raven, dark-eyed junco, pinyon jay, and rock dove.

Mammalian species: Coyote, elk, deer, and rabbit.

Reptile species: Whiptail lizard

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On September 12, 2000, Forest Service wildlife biologist Don Pollack completed a Biological Assessment and Evaluation (BA&E) of the effects of the proposed action on threatened, endangered and sensitive (TES) species and/or critical habitat within the federal parcel. The report was supplemented on August 26, 2005 by Forest Service wildlife biologist E.H. Duke Klein to evaluate the potential effects of the project on species or critical habitat listed or proposed since the initial consultation. There are no known TES species or habitat associated with this parcel. The federal parcel is not within boundaries of Mexican spotted owl critical habitat and does not include southwestern willow flycatcher critical habitat or Chiricahua leopard frog habitat. Copies of the BA&E and Supplement No.1 are in the process record.

Environmental Consequences

Under Alternative A, No Action, habitat capabilities would change little because very little habitat variation occurs on the site and the close proximity to areas of high human use provides a source of disturbance that deters most use of the habitat.

Under any of the exchange Alternatives B, C, and D, there would be little improvement from existing conditions because the site would lack habitat variation and human disturbance would increase. The BA&E (2000) and Supplement No.1 (2005) determined that there will be no effect on any TES species, proposed or designated critical habitat. The Migratory Bird Analysis (Klein 2005) indicated minute negative change (undetectable at the forest or regional scale) for the Gray Flycatcher, Pinyon Jay, Gray Vireo, Black-throated Gray Warbler and the Juniper Titmouse. Actions in these alternatives are not expected to cause a trend in any of the migratory bird species analyzed toward federal listing as Threatened or Endangered. The Management Indicator Species Analysis (Klein 2005) showed loss of pinyon-juniper woodland habitat type. However, the loss is so minute (less than one hundredth of one percent) that it will not alter forest wide habitat or population trends.

Truswell Parcel

Affected Environment

This parcel contains riparian habitat with perennial water. Overall, the site provides a variety of habitats capable of sustaining a number of species. The parcel provides forage areas for many raptor species. Small burrows indicating the presence of rodents and lizards were observed in association with open areas. Two species of hawk, Cooper's hawk and red-tailed hawk, were noted during the survey and currently utilize this area as a hunting ground. The Verde River provides forage for fish-eating raptors such as bald eagle and common black hawk. Both the marshy area and the small perennial channels running parallel to the Verde River are all well vegetated with both emergent and submergent aquatic vegetation. These areas provide both nesting and foraging habitat for wading birds such as herons and egrets, which are known to inhabit the Verde River drainage.

Small, muddy areas vegetated with grasses occur in association with the marsh and the two channels. These areas provide habitat for various reptiles and amphibians such as garter snakes and frogs. In addition, many fish species are known to prefer marshes and the quiet water found in the southeast quarter of the parcel. Fry of an unknown fish species were observed in one of the aforementioned channels. The water in this area contains good cover for various fish. Pools were not observed within the main channel of the Verde River and the water was shallow. The

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riverbed provides a substrate known to be preferred by species of dace and sucker. Some of these species are federally listed.

Although rock outcrops, cliffs, mine shafts, caves, and snags were not observed, trees with exfoliating bark do occur and provide potential roosts for certain bat species. In addition, many insects were noted which provide forage for bats.

Data gathered by observation, tracks, or scat on all species observed during the field survey comprise the following list:

Avian species: Abert's towhee, American Crow, American robin, and black phoebe, common raven Cooper's hawk, Crissal's thrasher, dark-eyed junco, Gambel's quail, great blue heron, greater roadrunner, northern cardinal, northern flicker, red-tailed hawk, rufous-sided towhee, Say's phoebe, scrub jay, western meadowlark, and white-crowned sparrow.

Mammalian species: Collared peccary, desert cottontail rabbit, and ground squirrel.

The Truswell parcel is located within the proposed Gila Recovery Unit and is part of the Verde Management Unit. It is proposed as critical habitat for the Chiricahua leopard frog.

Environmental Consequences

Under Alternative A, No Action, development could reduce habitat capabilities for upland species by vegetation alteration and increased human disturbance. Riparian vegetation alteration is unlikely because of federal and state jurisdictions but habitat capability could be reduced because of nearby human disturbance. There would be no emphasis to maintain riparian habitat capabilities.

Under any of the exchange Alternatives B, C, and D, Forest Service management direction would feature maintenance of wildlife habitat for both upland and riparian dependent species including federally listed species. An increase in nearby human disturbance is not expected because development would not occur. However, access by the public would exist. The BA&E (2000) and Supplement No.1 (2005) determined that there will be no effect on any TES species, proposed or designated critical habitat. Although the parcel is within proposed critical habitat for the Chiricahua leopard frog, there is no anticipated effect to the habitat from the action of this project. The Migratory Bird Analysis (Klein 2005) indicated either no change or minute positive change (undetectable at the forest or regional scale) for several species. Actions in these alternatives are not expected to cause a trend in any of the migratory bird species analyzed toward federal listing as Threatened or Endangered. The Management Indicator Species Analysis (Klein 2005) showed minute positive gains for antelope, Lucy's Warbler, and macroinvertebrates. The gains will not alter forest wide habitat or population trends.

Munoz Parcel

Affected Environment

This parcel provides forage and water for grazing mammals and raptorial birds, and habitat for small burrowing mammals and reptiles. Elk sign was noted at the cattle pond and throughout the site. Additionally, small burrows and holes in the ground indicated presence of small mammals.

A small stock pond with an associated water claim is on the parcel.

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The lack of trees on most of the parcel makes it an ideal hunting ground for raptors inhabiting the surrounding forest. Trees on the east side were inspected for raptor sign. None was noted.

Caves were not observed on this parcel.

Data gathered by observation, tracks, or scat on all species encountered during the parcel survey comprise the following list:

Avian: Common raven, mountain bluebird, northern flicker, and Stellar's jay

Mammalian: Deer and elk

The parcel is not within designated critical habitat for the Mexican spotted owl or the southwestern willow flycatcher. It does not contain occupied Chiricahua leopard frog habitats (BA&E and Supplement No. 1, Klein 2000 & 2005).

Environmental Consequences

Under Alternative A, No Action, habitat for raptorial birds and small, burrowing mammals and reptiles is expected to change little and habitat for amphibians would continue to be reduced because of a lack of vegetation cover around the pond.

Under either Alternative B, the Proposed Exchange, or Alternative C, Adjust Acreage, Forest Service management direction would emphasize habitat improvement for raptorial birds and habitat for small, burrowing mammals and reptiles. The small stock pond would be maintained for livestock and wildlife use.

The BA&E (2000) and Supplement No.1 (2005) determined that there will be no effect on any TES species, proposed or designated critical habitat. The Migratory Bird Analysis (Klein 2005) indicated either no change or minute positive change (undetectable at the forest or regional scale) for several species. Actions in these alternatives are not expected to cause a trend in any of the migratory bird species analyzed toward federal listing as Threatened or Endangered. The Management Indicator Species Analysis (Klein 2005) showed minute positive gains for several species. The gains will not alter forest wide habitat or population trends.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, effects would be similar to those of Alternative B unless land values were such that this parcel was deleted from the exchange. If that were the case, the effects would be similar to those of Alternative A.

Peat Bog Parcel

Affected Environment

This parcel contains a peat bog and is capable of sustaining a variety of species. The small stream is silty bottomed just south of the waterfall and becomes increasingly sandy-bottomed moving south through the site. Fish were not observed during the survey, but the stream is capable of providing fish habitat because good cover is furnished by overhanging vegetation and both emergent and submergent aquatic plant species. Blocks of peat moss provide additional cover. Algae were also noted. In addition, a number of aquatic insects and hellgrammites were observed utilizing the stream.

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Overall, this parcel is relatively shielded from access by the general public. The variety of plants and insects found in association with this drainage provide valuable forage habitat for many species. Many of the plants showed indications of having been foraged or browsed upon by mammals. The grasses, rocks, and mosses provide habitat for amphibians.

A large, grassy meadow extends north of the parcel boundary and provides a valuable hunting ground for raptor species. Several larger ponderosa pine (70' and taller) occur infrequently throughout the parcel. All of these trees were thoroughly inspected for signs of nesting by raptor species but none was encountered. Additionally, a few small snag trees were noted within the parcel and could provide habitat for certain owl species.

Small burrows were observed throughout the parcel indicating the presence of small mammals. Downed, hollow logs and rocky outcroppings containing crevices were noted. These provide habitat for small mammals, lizards, and bats; but caves were not observed.

Data gathered by observation, tracks, or scat on all species encountered during the Peat Bog parcel survey comprise the following list:

Avian: American robin, bald eagle, common raven, dark-eyed junco, Hutton's vireo, and scrub jay.

Mammalian: Coyote, elk, and rabbit.

Other: Many aquatic insect species were observed.

The parcel is not within designated critical habitat for the Mexican spotted owl or the southwestern willow flycatcher. It does not contain occupied Chiricahua leopard frog habitats (BA&E and Supplement No. 1, Klein 2000 & 2005).

Environmental Consequences

Under Alternative A, No Action, habitat capability is expected to remain about as it is now in the meadow-bog area because of high water tables. Development of the hillside is possible and would create additional human disturbance. There would be no management emphasis to maintain and improve a unique habitat and no assurance that grazing use would remain at present levels, although state requirements involving T&E species might limit grazing.

Under any of the exchange Alternatives B, C, and D, Forest Service management direction would promote the maintenance and improvement of a unique peat bog habitat by increasing stream bank stability and streamside vegetation. Habitat for raptor species would be maintained.

The BA&E (2000) and Supplement No.1 (2005) determined that there will be no effect on any TES species, proposed or designated critical habitat. The Migratory Bird Analysis (Klein 2005) indicated either no change or minute positive change (undetectable at the forest or regional scale) for several species. Actions in these alternatives are not expected to cause a trend in any of the migratory bird species analyzed toward federal listing as Threatened or Endangered. The Management Indicator Species Analysis (Klein 2005) showed minute positive gains for several species. The gains will not alter forest wide habitat or population trends.

Tin Hat Ranch Parcel

Affected Environment

This site contains a mixture of habitats capable of sustaining a number of varied species. The dry, cobbly channel contains some moist, grassy areas that provide potential habitat for some amphibians. The dry, rocky slopes out of the creek provide habitat for reptile species.

The mesquite bosque in the floodplain provides forage and nesting habitat for small birds such as dove, quail and various song birds. It was frequented by many bird species during the survey. In addition, a roost site and remains of a large stick-structure nest were located on the slope just above the floodplain, to the south. The site provides a forage area for raptor species that apparently inhabit the nearby cliffs because small open areas occur on the parcel. Lizards and small mammals were noted during the survey.

Many insect species were observed. The parcel provides a forage area for certain bat species because bat guano was seen in the cave to the southeast and off of the parcel.

Data gathered by observation, tracks, or scat on all species encountered during the survey comprise the following list:

Avian: American tree sparrow, blue-gray gnatcatcher, common poorwill, common raven, curve-billed thrasher, and Gambel's quail, Gila woodpecker, northern cardinal, northern flicker, rufous-sided towhee, scrub jay, and Verdin and white-crowned sparrow.

Mammalian: Bat, collared peccary, coyote, deer, desert cottontail, and ground squirrel.

The parcel is not within designated critical habitat for the Mexican spotted owl or the southwestern willow flycatcher. It does not contain occupied Chiricahua leopard frog habitats (BA&E and Supplement No. 1, Klein 2000 & 2005).

Environmental Consequences

Under Alternative A, No Action, habitat capabilities are expected to remain about as they are now. Grazing by domestic animals would continue on a limited basis and there would be no management emphasis on maintaining or improving existing habitats.

Under any of the exchange Alternatives B, C, and D, Forest Service management direction would feature maintenance and improvement of habitat capability for the wide range of species found in the area including riparian dependent species.

The BA&E (2000) and Supplement No.1 (2005) determined that there will be no effect on any TES species, proposed or designated critical habitat. The Migratory Bird Analysis (Klein 2005) indicated either no change or minute positive change (undetected at the forest or regional scale) for several species. Actions in these alternatives are not expected to cause a trend in any of the migratory bird species analyzed toward federal listing as Threatened or Endangered. The Management Indicator Species Analysis (Klein 2005) showed minute positive gains for several species. The gains will not alter forest wide habitat or population trends.

Cumulative Effects on Wildlife, Riparian, TES, and Peat Bog Habitats

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Cumulative effects on wildlife; threatened, endangered and sensitive species; riparian; and peat bog habitats will be limited under either the no action or action alternatives. The action alternatives may provide greater long-term protection to listed species and management indicator species. This would result from acquiring riparian and peat bog habitat currently on non-federal land. With respect to management indicator species, forest-wide analyses do not indicate management-induced trends that would be strongly influenced by action or inaction at the scale of the proposed land exchange. Even considering land exchanges in the Payson area during the last 40 years (see section A. Vegetation, above), the effect of conveying land with pinyon-juniper habitat viewed from a forest-wide perspective, has been negligible.

Air Quality

Payson Parcel (Federal)

Affected Environment

Payson has been classified as in non-attainment for the federal based PM10 health standard for exceeding the 24-hour PM10 standard. Coarse particulates (PM10 = particulate matter 10 microns or larger) are mostly geological and are dominated by dust from paved roads, driving on unpaved roads and earth moving associated with construction. The Arizona Department of Environmental Quality (ADEQ) Air Assessment and Planning Staff developed a PM10 State Implementation Plan (SIP) for the Payson area which was submitted to EPA in June of 1995. The last violation of the PM10 NAAQS (National Ambient Air Quality Standards) in the area occurred in 1990. As a result of several years of attainment of the annual PM10 NAAQS, EPA determined that the Payson PM10 nonattainment areas did attain the 24 hour and annual PM10 NAAQS by December 31, 2000. In March 2002, ADEQ requested that EPA redesignate Payson to attainment based on five years of air quality data (1996-2000) and approve a limited maintenance plan.

Analyses of the meteorological conditions, the emissions inventory, and the results of dispersion modeling for the December 7, 1990 PM10 exceedance day in Payson indicate that it was wood smoke from residential fireplaces/wood stoves and industrial source emissions combined with a strong thermal inversion that caused this exceedance. The calm, stagnant air conditions that led to the PM10 exceedance in Payson were a major contributing factor. Dispersion modeling, with PM10 control measures, predicts that Payson will be in attainment for both the 24-hour PM10 Health Standard and the Annual PM10 Health Standard by the Year 2001. The major changes responsible for the improvement in air quality (i.e., decrease in ambient PM10 levels) from 1990 to 2001 for Payson appear to be:

1. Closing and dismantling of the Kaibab Industries facility as of September 1, 1993.
2. Moving a portable crushing/screening plant from south of Payson to northeast of Payson on SR 260 (Payson Concrete and Material).
3. Replacing old wood stoves and fireplaces (non-EPA-approved) with cleaner, EPA-approved wood stoves and fireplace inserts.
4. Installing new, cleaner, EPA-approved wood stoves in residences after 1992.
5. Implementing the Town of Payson's restriction on wood stoves as the sole source of heat in new housing construction.

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6. Implementing new Town of Payson zoning laws requiring paving of new parking lots.
7. Applying dust palliatives on unpaved roads by the Town of Payson.
8. Paving additional miles of roads and shoulders of paved roads by the Town of Payson and Gila County.

The attainment of the PM10 health standard is in spite of increases in population and in vehicle traffic in Payson over the last several years. During the last Town fiscal year the Town issued 208 new residential building permits. The number of permits issued has been fairly consistent from year to year. The Town averages about 200 new residential buildings per year (Chris Floyd, Payson Community Development Office: personal communication 2005).

Data was collected for Payson from the *Annual Report 2003* prepared by the Arizona Department of Environmental Quality. It indicates that Payson is meeting the PM10 air quality standards for particulates. Since 1985, Payson has reduced PM10 concentrations three-fold. Since 1991, Payson has reduced fine particulates significantly as well: from 17.9 micrograms/cubic meter in 1991 to 10 in 2002. The closest Class 1 airshed is the Mazatzal Wilderness, approximately 8 miles west of Payson.

Environmental Consequences

Under Alternative A, No Action, no development would occur and air quality would continue to meet standards.

Under either Alternative B, the Proposed Exchange, or Alternative C, Adjust Acreage, development could occur. Construction could cause a temporary increase in dust and wood stoves could increase smoke in the area. However, such development would be limited and standards are expected to be met because the additional housing would be constructed for the Tribal members that live in the area now. Possible future commercial development is not expected to cause non-attainment of air quality standards.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, development could occur. Construction could cause a temporary increase in dust and wood stoves could increase smoke in the area. However, such development would be limited and standards are expected to be met because additional housing would be constructed for the Tribal members that live in the area now. Possible future commercial development is not expected to cause non-attainment of air quality standards.

Truswell Parcel

Affected Environment

The closest monitoring station to this parcel is Montezuma Castle National Monument, approximately seven miles to the north. Data from the *1999 Air Quality Report* indicates that both the annual and the 24-hour averages of measured particulates are well within attainment and that those averages have either been holding steady or decreasing during the 1996, 1997, and 1998 years. Particulate concentrations are approximately 25 % of the maximum allowable. The closest Class 1 Airshed is the Pine Mountain Wilderness approximately 13 miles to the south.

Environmental Consequences

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Under Alternative A, No Action, development could occur. Construction could cause a temporary increase in dust and wood stoves could increase smoke in the area. However, such development would be limited and continued attainment is expected.

Under Alternative B, the Proposed Exchange, or Alternative C, Adjust Acreage, no development would occur and air quality would continue to meet standards.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, air quality is expected to remain in attainment.

Munoz Parcel

Affected Environment

The closest monitoring station to this parcel is at Show Low, approximately 15 miles to the east. Data from the *Annual Report 2000* indicates that both the annual and the 24-hour averages of measured particulates are well within attainment and that those averages have either been holding steady or decreasing during the 1996, 1997, 1998, and 1999 years. Particulate concentrations are approximately 20 % of the maximum allowable.

The closest Class 1 Air Quality Site is the Pleasant Valley Ranger Station approximately 44 miles to the southwest.

Environmental Consequences

Under Alternative A, No Action, development could occur. Construction could cause a temporary increase in dust and wood stoves could increase smoke in the area. However, such development would be limited and continued attainment is expected.

Under either Alternative B, the Proposed Exchange, or Alternative C, Adjust Acreage, no development would occur and air quality would continue to meet standards.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, air quality is expected to remain in attainment regardless of whether the parcel remains in the exchange or not.

Peat Bog Parcel

Affected Environment

The closest monitoring station to this parcel is at Payson approximately nine miles to the southwest. That site is expected to be within PM10 standards because the Peat Bog parcel is located away from particulate production in Payson. The closest Class 1 Air Quality Site is the Pleasant Valley Ranger Station approximately 17 miles to the southeast.

Environmental Consequences

Under Alternative A, No Action, development could occur. Construction could cause a temporary increase in dust and wood stoves could increase smoke in the area. However, such development would be limited and air quality would continue to meet standards.

Under either Alternative B, the Proposed Exchange, or Alternative C, Adjust Acreage, no development would occur and air quality would continue to meet standards.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, air quality would continue to meet standards.

Tin Hat Ranch Parcel

Affected Environment

The closest monitoring station to this parcel is at Tonto National Monument approximately 4.5 miles to the south. Data from the *Annual Report 2000* indicates that both the annual and the 24-hour averages of measured particulates are well within attainment of standards. Particulate concentrations are approximately 20 % of the maximum allowable. The closest Class 1 Airshed is the Sierra Ancha Wilderness approximately two miles to the north.

Environmental Consequences

Under Alternative A, No Action, development would be limited or would not occur and air quality is not expected to change. Continued attainment is expected.

Under any of the exchange Alternatives B, C, and D, development would not occur and air quality would remain in attainment. The existing ranch buildings on the excluded part would remain but would not be a significant source of dust or wood smoke and continued attainment is expected.

Cumulative Effects on Air Quality

Despite 40 years of Forest Service land exchange history in the Payson area and more than 5,600 acres (3810 acres since 1985) transferred into private ownership, Payson has not violated PM10 NAAQS in many years. If the federal lands remain within federal ownership, as in the no action alternative, then this project will not affect air quality.

The Tonto Apache Land Exchange action alternatives propose to transfer a maximum of 273 acres into Tribal ownership. There could be short-term increases in PM-10 with additional construction. However, existing rules for dust abatement should mitigate PM10 emissions. While it is not known if the Tribe will pave additional roads and driveways for housing access, the number of new homes expected (22) is a small percentage of the 200 per year that have been built in Payson over the last several years.

Loss of Sales Tax Revenues for Payson and Unfair Business Competition Because Sales on Tribal Trust Lands are Tax Exempt

Payson Parcel (Federal)

Affected Environment

The Payson parcel is part of the Tonto National Forest and does not now contribute any sales tax revenue to the town of Payson. There are no businesses on the Payson parcel at this time and thus no competition with established businesses in Payson. Tribal members who shop in Payson are paying sales tax now. Court decisions recognize that state taxation of persons without tribal affiliation who conduct business on a reservation is permissible. Accordingly, taxation of general commercial activity of non-Indians applies equally to reservation lands and non-reservation lands. Non-Indian commercial activity on Tribal Trust lands has no tax advantage over business activity within the Town of Payson. Six court case citations are contained in the Appendix. In addition, the Tribal Constitution of the Tonto Apache Tribe establishes their authority to levy taxes on Tribal Trust lands including sales taxes on commercial activities.

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Some anticipate commercial development similar to that of the Yavapai-Prescott Tribe. The Yavapai-Prescott Tribe developed a shopping mall on their trust property in Prescott, Arizona. According to that tribe, they collect a 1% tax for the Tribe, state sales tax, and county sales tax on commercial operations involving non-Indians. A portion of the state sales tax collections comes back to the City of Prescott in state revenue sharing fund.

The configuration of the Payson parcel provides little Beeline Highway frontage suitable for commercial development. The Tribe has stated that they do not intend to develop the acreage on the west side of the Beeline and the east side frontage is very narrow.

Environmental Consequences

Under Alternative A, No Action, conditions would not change from the existing. There are no sales tax collections at present and there would be none in the future. Tribal members would continue to pay sales taxes in Payson.

Under Alternative B, the Proposed Exchange, case law indicates that there would be nearly equal sales taxation on Trust lands and adjacent private lands unless Tribal owned and managed businesses were selling goods to Tribal members.

Under Alternative C, Adjust Acreage, sales tax collections would be similar to Alternative B.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, sales tax collection would be similar to those of Alternative B.

Cumulative Effects on Sales Tax Revenues

Cumulative effects on sales tax revenue are not anticipated, regardless of the alternative selected, because the parcel does not now provide any sales tax revenue. In addition, the property configuration and the Tribe's decision not to develop anything on the west side of the Beeline Highway, would mitigate against any commercial development that would generate sales tax revenue.

Additional Land for Tribal Housing and Cultural Needs

Tonto Apache Tribe

Affected Environment

When the 85-acre reservation was created, the Tribe had 85 members. Tribal leaders wanted at least one acre for each member. Space for housing is fully developed. The Tribe now (letter of 3/22/2006) has 125 members and additional 25 non-tribal members living on the Reservation. The Reservation has 36 houses, five of which are mobile homes. There are 55 families living on the Reservation. Many of the houses on the Reservation contain two families and some contain three. There are 4.17 people per house on the Reservation. This compares with the adjacent Town of Payson where average household size has been 2.30 people (Payson General Plan Update, 2003: 17). The recently signed Water Use Agreement with the Town of Payson confirms a desire for 22 additional houses to accommodate projected needs for the next five years.

Freedom to walk and enjoy open areas on the existing Reservation does not exist. Open space was central to Tribal ancestors' enjoyment of life. The need for open space is recognized by most

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societies. The present Reservation size precludes the traditional keeping of livestock, and space for gardens is limited.

Environmental Consequences

Under Alternative A, No Action, housing would remain at 36 units and would continue to be inadequate to meet the needs of the Tribal population. There would be no open space for cultural needs.

Under Alternative B, the Proposed Exchange, sufficient space would be available to build 22 additional housing units for the present Tribal members. This would provide one house per family and would bring the people per house statistic (2.59) for the Reservation close to the local standard of 2.3.

Alternative B would also provide freedom to walk in and enjoy open space, keep some livestock, and have gardens to meet cultural needs of Tribal members.

Under Alternative C, Adjust Acres, effects would be the same as those of Alternative B except that less land for open space for cultural needs would be available.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, land for 22 additional housing units and cultural needs would be available. Similar to Alternative B, this would provide one house per family and would bring the people per house statistic (2.59) close to the local standard of 2.3. Land for open space would be limited.

Cumulative Effects on Tribe of Additional Land for Tribal Housing and Cultural Needs

Establishing the Reservation with an acre of land per Tribal member created an expectation of continued acre per member population density. If the No Action alternative is selected, the Tribe will either continue to have more than one family per household or to consider greater housing density per acre. This may lead to greater pressure for individuals to give up traditional subsistence practices such as gardening and keeping livestock.

The Action Alternatives provide for additional developable acreage to meet the needs of the Tribe. Population on the Reservation has not changed greatly with the advent of the casino. The Tribal population is not expected to increase as a result of availability of additional acreage. Past and planned commercial developments on existing Reservation property may provide financial resources that could be a catalyst for culture change.

Visual Character

Payson Parcel (Federal)

Affected Environment

The Payson parcel currently has a natural-appearing landscape with no development and is bordered by an altered landscape on two sides containing houses, and businesses.

Environmental Consequences

Under Alternative A, No Action, there would be no change.

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Under any of the exchange Alternatives B, C, and D, housing construction and other development activities such as streets and utility installation would alter the appearance of the parcel. It would appear similar to the adjacent residential and business areas. These alternatives would reduce the scenic quality for those approaching Payson from the south via SR 87.

Truswell Parcel

Affected Environment

This parcel has a natural appearing landscape and is compatible with the surrounding landscape of national forest system lands except for Salt Mine Road which traverses the parcel.

Environmental Consequences

Under Alternative A, No Action, the parcel could be developed and the landscape would be modified and be inconsistent with the surrounding Prescott and Coconino National Forests lands.

Under any of the exchange Alternatives B, C, and D, the natural appearing landscape of the parcel would remain compatible with the surrounding national forest.

Munoz Parcel

Affected Environment

This parcel has natural appearing features and landscape character and is compatible with surrounding national forest lands.

Environmental Consequences

Under Alternative A, No Action, development could occur on the eastern part of the parcel and the landscape character would no longer be natural appearing.

Under either exchange Alternatives B or C, the natural appearing landscape of the parcel would remain compatible with the surrounding national forest.

Under Alternative D, effects would be similar to Alternative B unless the parcel was deleted from the exchange to equalize values. In that case, the effects would be similar Alternative A.

Peat Bog Parcel

Affected Environment

This parcel has a natural appearing landscape that is compatible with the adjacent national forest lands.

Environmental Consequences

Under Alternative A, No Action, development could occur on the hill side part of the parcel and the landscape character for that part would no longer be natural appearing.

Under any of the exchange Alternatives B, C, and D, the natural appearing landscape of the parcel would remain compatible with the surrounding national forest.

Tin Hat Ranch Parcel

Affected Environment

This parcel has a somewhat modified appearance from natural because of the ranch buildings that are on the excluded part within the parcel. The surrounding national forest lands have a natural appearing landscape.

Environmental Consequences

Under Alternative A, No Action, additional development could occur and a larger part of the parcel would have a modified appearance. This would contrast with the natural appearing landscape of the surrounding national forest lands.

Under any of the exchange Alternatives B, C, and D, changes in appearance of the parcel would be limited to those made on the excluded part and thus limit the degree of contrast to the surrounding national forest lands.

Cumulative Effects on Visual Character

The viewshed in the Payson vicinity has become increasingly urbanized as residential and commercial development has occurred along highway frontage and within the Town. The Tribe's casino has changed the visual effect of entry to Payson. Further commercial development, if it should occur on the federal land, would continue this trend.

Gila County Tax Base

Potential changes in Gila County property tax revenues are evaluated.

Payson Parcel (Federal)

Affected Environment

At present, the Payson parcel is federal land exempt from county property taxes. The parcel does generate a small amount of revenue for Gila County from federal funds provided as payment in lieu of taxes.

Payments to States. Prior to passage of the *Secure Rural Schools and Community Self-Determination Act (P.L. 106-393)* in 2000, Arizona counties received revenue to offset federal land within their boundaries from two main sources: Payments in Lieu of Taxes (PILT) and the "Twenty-Five Per Cent Fund." PILT funds derived from a 1976 law (P.L. 94-565) that provided funds to local governments based on the number of acres of federal lands within their jurisdiction. These payments were affected by federal funding limitations, prior year payments, and formulas based on county population. Congress did not always fully fund PILT. The 25% Fund authorized by a 1908 law and amended by the Weeks Act of 1911 allocated 25% of gross revenues from federal lands within a particular county's jurisdiction be used for schools and roads.

As commercial uses of federal lands diminished in recent years, so did revenues to counties. The *Secure Rural Schools and Community Self-Determination Act* was enacted in 2000 in direct response to these diminishing 25% monies. The law allows states the option to continue receiving 25% funds or elect to receive a set amount based on the average of the three highest payments received between 1986 and 1999. All counties in Arizona opted to take payments

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under the Secure Rural Schools Act. Title I funds are for schools and roads. Title II Funds support the work of Resource Advisory Committees in those counties, such as Gila County, that have them. Title III funds are for specific county projects. Gila County does not have any.

The following tables present payments to the State of Arizona and Gila County during the last several years. It is important to note that since enactment of the Secure Rural Schools Act, county payments have not been tied to NFS acreage. Increases are tied to the Consumer Price Index.

Table 6. Payments from Federal Government to State of Arizona

1995-1999 = Payments in Lieu of Taxes (PILT) or 25% Fund

2002-2006 = Payments to States under P.L. 106-393

Year*	NFS Acreage as of Previous September	% Change	Full Payment	% Change	Secure Rural Schools & Community Self-Determination Act of 2000		
					Title I	Title II	Title III
1995	11,250,006	- - -	\$ 8,435,276	- - -	N/A	N/A	N/A
1996	11,251,701	0.02	9,637,593	14.25	N/A	N/A	N/A
1997	11,255,004	0.03	9,439,156	(0.02)	N/A	N/A	N/A
1998	11,254,994	0.00	10,033,602	6.30	N/A	N/A	N/A
1999	11,260,999	0.05	10,275,296	2.41	N/A	N/A	N/A
2002	11,261,846	- - -	7,319,329	- - -	\$ 6,206,346	\$ 319,080	\$ 793,904
2003	11,262,683	0.01	7,377,886	0.80	6,203,016	321,633	853,237
2004	11,262,350	0.00	7,466,420	1.20	6,233,410	325,492	907,518
2005	11,262,527	0.00	7,563,481	1.30	6,314,443	351,251	897,788
2006	11,263,640	0.01	7,737,433	2.30	6,505,317	359,329	872,797

* We were unable to find data for 2000 and 2001

Table 7. Payments from Federal Government to Gila County

Payments to States under authority of P.L. 106-393

Gila County acreage = 3,051,508(4,768 square miles)

Payment Year	NFS Acreage as of Previous September	% Change	Full Payment	% Change	Title I	Title II	Title III
2002	1,704,652	N/A	\$ 363,363	N/A	\$ 308,859	\$ 54,504	\$ 0
2003	1,704,511	(0.01)	366,270	0.72	311,330	54,941	0
2004	1,704,384	(0.01)	370,666	1.20	315,066	55,600	0
2005	1,704,694	0.02	375,483	1.30	319,161	56,322	0
2006	1,704,990	0.02	384,120	2.30	325,502	57,618	0

The Secure Rural Schools Act is set to expire in September 2006. This makes future payments uncertain. The President has proposed a revenue neutral law that will sell NFS land to support continued Payments to States. The proposal includes the provision that payments will be phased out over the next few years. This proposal has met with some opposition. The ultimate disposition of state/county payments, regardless of the decision on this land exchange, is uncertain.

Environmental Consequences

Under Alternative A, there would be no change from the existing situation.

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Under any of the exchange Alternatives B, C, and D, if the Payson parcel were owned by the Tribe fee simple, it would be subject to county property taxes. If the land was placed in Trust status, it would be exempt from county property taxes. Either way, under the current version of the Secure Rural Schools Act, the change in federal acreage in the county (0.0002 %) would have virtually no effect on Payments to States.

Peat Bog Parcel

Affected Environment

According to Gila County, property taxes for tax year 2000 were \$1,247.96. This represented less than 0.01 per cent of the \$38,544,915.00 in property tax the county collected that same year.

Environmental Consequences

Under Alternative A, No Action, Gila County would continue to receive taxes. Revenues to the county are expected to increase as valuations increase.

Under any of the exchange Alternatives B, C, and D, the parcel would become national forest land and Gila County would lose the existing source of revenue. The addition of less than 16 acres to the NFS lands in the county would be virtually undetectable in any calculation of Payments to States.

Tin Hat Ranch Parcel

Affected Environment

According to Gila County, property taxes for tax year 2000 were \$4,089.84 excluding the portion containing the ranch buildings. This represented 0.01 per cent of the \$38,544,915.00 in property tax the county collected that same year.

Environmental Consequences

Under Alternative A, No Action, Gila County would continue to receive taxes. Revenues to the county are expected to increase as valuations increase.

Under any of the exchange Alternatives B, C, and D, the parcel would become national forest land and Gila County would lose the existing source of revenue. The addition of approximately 130 acres to the NFS lands in the county would be virtually undetectable in any calculation of Payments to States.

Cumulative Effects on Gila County Tax Base

Property valuations have continued to rise in recent years resulting in a potential increase in revenue for Gila County. Gila County has lost and gained taxable acres with past exchanges and land values have increased because development on conveyed federal parcels. Conveyance of private property to the federal government in this exchange in Gila County would result in a reduction in county property tax revenues. There would be little change in revenues from the Payson parcel if it became Trust land because it is currently national forest land and not subject to county property taxation. Previous land exchanges in Yavapai, Coconino, and Navajo Counties have resulted in substantial increases in county property tax revenues because of subsequent development of the exchanged federal parcels. Payments to States for Gila County increased

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each year since enactment of the Secure Rural Schools Act. The increases have ranged from \$2,900 to \$8,600 between 2002 and 2006. These increases are tied to the Consumer Price Index.

State Route 87 Jurisdiction

Payson Parcel (Federal)

Affected Environment

The NFS land under the Beeline Highway is covered by a U.S. Department of Transportation easement. The Town of Payson has stated that “the Town remains concerned that conveyance of the land underlying SR 87 into Trust status for the Tribe may needlessly complicate the regulatory and adjudicatory role of the state respecting persons traveling across and incidents occurring on this busy stretch of SR 87.”

Environmental Consequences

Under Alternative A, No Action, the existing conditions with national forest management and the U.S. Department of Transportation easement would remain as they are.

Under either Alternative B, the Proposed Exchange, or Alternative C, Adjust Acreages, the patent will recognize the senior outstanding right. Additionally, the Arizona Attorney General’s Office has issued a verbal opinion that the Arizona Department of Public Safety (DPS) will enforce the law on state highways regardless of underlying ownership. Two court cases have also clarified the jurisdictions. Decisions in these cases held that traffic violations, motor vehicle collisions, and public safety issues are within the purview of the state where non-Indians are involved. Case references are contained in the Appendix. Also, if the conveyed land acquires Trust status, the United States would hold title and the BIA would manage the land for the Tribe.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, the existing conditions with national forest management and the senior U.S. Department of Transportation easement right would remain as they are.

Cumulative Effects on State Route 87 Jurisdiction

Previous and planned projects have not and will not affect SR 87 jurisdiction.

Values of Adjacent Private Properties and Traffic Safety

Payson Parcel (Federal)

Affected Environment

Concerns were expressed regarding the effect of conveyance of federal land into Tribal ownership on adjacent home values and traffic (a safety concern) on streets leading from the federal parcel north into existing private developments.

The following information was collected from a realtor in Payson that is familiar with the area near the existing Reservation and the proposed addition.

A home at 316 E. Ridge sold for \$85,000 in 1987 and sold again for \$170,000 in 1995. Lot 2 at 208 E. Ridge sold for \$16,500 in 1995 and sold again for \$24,000 in 1999. Three Lots at 100,

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112, and 114 E. Ridge were purchased for \$50,000 in 1995. 110 E. Ridge with a house sold for \$126,760 in 1996. 112 E. Ridge with a house sold for 105,000 in 1996. 114 E. Ridge with a house sold for 102,900 in 1996. 312 E. Ridge with a house sold for \$175,000 in 2001. 310 E. Ridge with a house was on market for \$199,900 in 2001. Concerning the Elk Ridge properties, any effects on land values are based on buyers' preconception of what may happen to the adjoining land rather than what actually exists as with the properties along Ridge Lane. A survey of Elk Ridge properties shows a 10% increase in sales prices in the 2000 and 2001. Recent years have seen much greater increases in market values.

The Town of Payson Land Use Plan (part of the Payson General Plan Update, January 2003) indicates that adjacent private property to the north of the federal parcel is zoned for medium density development or 2.5 to 5.5 dwelling units per acre (Payson General Plan 2003; 23-25).

Environmental Consequences

Under all Alternatives (A, B, C, and D), property values and sale prices are expected to change consistent with the Payson housing market. Recent trends have shown continued increase in values. Approximately 22 homes are expected to be built on the maximum of 273 acres the Tribe would acquire under Alternative B. This is low density residential development for the area.

If 22 homes are constructed on the 273 acre federal parcel, that housing density (one home per 12.4 acres) will be substantially less than that allowed on adjacent private property (ranging from one home per 0.4 acres to one home on 0.2 acres). Even if the Tribe moved all existing housing (36) to the new parcel and built the 22 new homes, the housing density would only be one home per 4.7 acres. Such low density housing should not adversely affect adjacent home values.

With regard to the traffic concern, the Tribe has plans to gate the access to Phoenix Street. They expect to only use that ingress/egress for emergencies. There would be no increase in traffic or threat to safety. *Under Alternative A, No Action*, this access would rarely be used by the Tribe and traffic would not increase.

Cumulative Effects on Values of Adjacent Private Properties

Past land exchanges have added to the private property land base in Payson. These exchanges have not led to decreased land values. In fact, values in the Payson market have continued to increase. Since the federal parcel will not actually be added to the Payson market (i.e., be made available for sale on the open market), we do not expect it to affect values cumulatively or otherwise.

Grazing Resources

Affected Environment

The eastern portion of the federal parcel is a part of the Round Valley Pasture of the Payson Allotment. It has been determined to be not suitable for grazing (September 29, 2005). Even prior to this decision, about 80 acres on the easternmost portion of the parcel had not been grazed for over twenty years. The portion on the west side of the Beeline Highway (part of the American Gulch Allotment) has not been grazed for several years. Forest Plan management objectives for vegetation emphasize wildlife habitat improvement and livestock forage production.

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The potential for domestic livestock grazing of all parcels in this exchange exists and some parcels do sustain livestock grazing. The aggregate number of animal unit months for all parcels is small.

All parcels conveyed into federal ownership will be managed under the same strictures and guidelines outlined for surrounding National Forest System lands in applicable Forest Plans (36 CFR 254.3(f)). In most cases this will involve balancing multiple uses. Management direction specific to particular parcels is outlined in Chapter 1, "Project Location/Analysis Area" section, above. Any further in-depth analysis of grazing on the parcels is beyond the scope of this land exchange project analysis.

Environmental Consequences and Cumulative Effects on Range Resources

Changes in livestock grazing patterns and capacities are expected to be consistent with Forest Plan objectives (as outlined above in Chapter 1) with implementation of any of the alternatives. Parcels conveyed into federal ownership will be managed as required by the Forest Plan units in which they are located. Past activities have not and planned future activities will not, in conjunction with implementation of any of the action alternatives, have any measurable effect cumulatively.

Any livestock the Tribe may have on the federal parcel would likely be corralled near homes and not pastured. It is likely, consistent with the current situation, that horses would be the livestock of choice. Considering the desire for housing, livestock use will be incidental and will not have a measurable effect on the range resource.

Under Alternative A, No Action, there will be no significant changes grazing or range resources.

Under Alternative B, the Proposed Exchange, the Payson Allotment would be reduced by approximately 258 acres. A portion of this pasture has not been grazed in about 20 years and there will be no change in permitted numbers. The American Gulch Allotment will be reduced by about 15 acres. This area has not been grazed for several years and there will be no decrease in permitted numbers. Several Tonto Apache currently keep livestock, principally horses, corralled near their homes. It is expected that under this alternative the same pattern of incidental livestock use will prevail.

Under Alternative C, Adjust Acreage, the Payson Allotment will be reduced by something less than 258 acres, depending upon appraised values. Similar to Alternative B, there will be no reduction in permitted numbers for the Payson Allotment or the American Gulch Allotment which would be decreased by about 15 acres. Livestock use by the Tonto Apache is expected to be incidental.

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, the Payson Allotment would be reduced by approximately 258 acres and there would be no reduction in permitted numbers. The American Gulch Allotment would see no change in acreage or permitted numbers. Livestock use by the Tonto Apache on the federal parcel would be incidental.

Landownership Complexity

Affected Environment

For purposes of this analysis, land ownership complexity is defined as the number of miles of shared property boundary between national forests and private lands. At present, there are 8.52 miles of shared property boundaries.

Environmental Consequences

Under Alternative A, No Action, conditions would not change and 8.52 miles of shared property boundary would exist.

Under Alternative B, the Proposed Exchange, the shared property boundary would be 5.87 miles.

Under Alternative C, Adjust Acreage, the miles of shared property boundary would be (to be determined with final valuation and Payson parcel size).

Under Alternative D, Eliminate the 20+ Acres West of the Beeline Highway, the miles of shared property boundary would be 5.03. If the 20+ acres were dropped from the exchange, the Bureau of Land Management would have to resurvey and replot the property with increased costs and survey time.

Cumulative Effects on Landownership Complexity

Overall, past landownership adjustment activities and expected future projects have and will continue the trend of reducing landownership complexity.

Heritage Resources

Payson Parcel (Federal)

Affected Environment

A heritage resources survey was completed for the Payson parcel in 2000 in compliance with the *National Historic Preservation Act*. Effects are determined according to the process set down in section 106 of the Act and implementing regulations at 36 CFR 800. The archaeological survey identified nine prehistoric and historic sites within the parcel. Two of these sites were determined not eligible for the *National Register of Historic Places* on the basis of that survey. Subsequent archaeological investigations of the remaining sites, documented in the report “*Archaeological Investigations at Seven Sites for a Land Exchange between the Tonto National Forest and the Tonto Apache Tribe, Gila County, Arizona*,” prepared by Kimberley Spurr of the Navajo National Archaeology Department (Tonto NF Heritage Project 2003-12-097B, dated May 25, 2005), determined that two additional sites were also not eligible for the Register.

Environmental Consequences

Under Alternative A, No Action, Tonto National Forest Land and Resource Management Plan direction would promote maintenance of those resources. Federal protection of these heritage resources under Sec. 106, the Antiquities Act, ARPA, 36 CFR 261 would be maintained and would limit the risk of loss or damage from unregulated development and vandalism.

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Under any of the exchange Alternatives B, C, and D, the effect on heritage properties is that the transfer from federal ownership removes them from federal protection. This, in turn, places the properties at risk of loss or damage through unregulated development and vandalism in situations where the aforementioned laws and regulations do not apply. Loss or damage to a heritage property, especially when such properties have the potential to contain human remains, is an adverse effect. Therefore, placing them at risk of damage or loss would also constitute an effect. Based on the results of the original inventory, it has been determined, in consultation with the State Historic Preservation Officer (SHPO) and the affected tribes, that this would constitute an adverse effect on the remaining eligible properties. This effect could be resolved by completing appropriate data recovery and other mitigation measures as required in the Tonto NF Land and Resource Management Plan. Following this consultation, a Memorandum of Agreement was signed between the Forest Service and SHPO requiring the development and implementation of a treatment plan to resolve the adverse effect through additional testing and excavation data recovery. This was accomplished in 2005. SHPO accepted the final report (Tonto NF Heritage Project 2003-12-097B) and concurred with the Forest's determination that the adverse effect had been resolved. SHPO's concurrence was contingent on the Tribe providing protection for the immovable petroglyph boulders. In a letter from the Tribe to the Forest Supervisor (September 20, 2005), Tribal commitment to protect the petroglyphs after conveyance was confirmed. With this commitment, the section 106 process has been completed.

Nine Tribes were consulted on this land exchange proposal: Ft. McDowell Yavapai Nation, Yavapai-Prescott Tribe, Yavapai-Apache Tribe, Tonto Apache Tribe, San Carlos Apache Tribe, White Mountain Apache Tribe, Salt River Pima-Maricopa Indian Community, The Hopi Tribe, and the Pueblo of Zuni. The Hopi Tribe expressed concern with the disposition of the petroglyph sites. Agreement was reached, as discussed above, with Tonto Apache Tribe commitment to protect the petroglyph boulders.

Cumulative Effects on Heritage Resources

Past and known future projects have not and will not have any effect on heritage resources on the federal parcel.

Hazardous Materials

All parcels have been assessed for hazardous substances.

- Payson: Land Transaction Screening Process Worksheets (May 22, 2002)
- Truswell: Phase I Environmental Site Assessment (April 4, 2003)
- Munoz: Transaction Screening Process Worksheets (August 17, 2005)
- Peat Bog: Phase I Environmental Site Assessment (May 22, 2002)
- Tin Hat: Phase I Environmental Site Assessment (August 14, 2002)

There was no evidence of release, storage or disposal of hazardous substances or petroleum products. These studies will be updated prior to case closing.

Caves

The proposed action meets the intent of the Federal Cave Protection Act of November 18, 1988. No caves are located on the Payson federal parcel. No special management areas designated in

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the Tonto NF Plan are located on the Payson parcel. Therefore there will be no effect on special areas.

Environmental Justice

Executive Order 12898 (February 16, 1994) specifies:

“To the greatest extent practicable and permitted by law...each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations in the United States and its territories and possessions...”

Consideration was given to local minority and low-income groups that may be affected by the Proposed Action. The Tonto Apache Tribe initiated the proposed land exchange in order to provide additional land for residential housing and enhance their local community. No concerns related to Environmental Justice have been identified.

Chapter 4 – Consultation and Coordination

List of Preparers

SEC, Inc. Interdisciplinary Resource Analysis Team:

Ray Wrobley, Principal-In-Charge
Dick Thompson, Team Leader
Mary Beach, Vegetation/Wildlife
Donald E. Weaver, Jr., Cultural Resources Inventory

Forest Service Interdisciplinary Team:

Rod Byers	Lands and Minerals Staff, Payson Ranger District, Tonto National Forest (transferred to Cibola NF)
Ed Armenta	District Ranger, Payson Ranger District, Tonto National Forest
Emily Garber	Assistant Public Services Group Leader, Tonto National Forest
Carl Taylor	Public Services Group Leader, Tonto National Forest (retired)
Paul Stewart	Land Management Planner, Tonto National Forest (retired)
Richard Martin	Physical Resource Group Leader, Tonto National Forest (retired)
Grant Loomis	Forest Hydrologist, Tonto National Forest

Other Contributors

The following people prepared resource information and specialized technical guidance during the analysis:

Apache – Sitgreaves National Forests

Ton Subirge	Terrestrial Ecosystem Survey, Soil Scientist, S.O.
Kristen Johnson	Visual Quality Objectives, Forest Landscape Architect, S.O. (transferred to National Forests in Florida)

Tonto National Forest

Norm Ambos	Terrestrial Ecosystem Survey, Forest Soil Scientist, S.O.
Kim Vander Hoek	Visual Quality Objectives, Forest Landscape Architect, S.O.
Don Pollock	Biological Assessment and Evaluation, Payson Parcel, Zone Wildlife Biologist, Payson Ranger District

Prescott National Forest

Michele Girard	Terrestrial Ecosystem Survey, Resources, Verde Ranger District
Kermit Johannson	Visual Quality Objectives, Forest Landscape Architect, S.O.

Yavapai – Apache Nation

Vincent Randall, Chairman	Tribal history
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Tonto Apache Tribe

Vivian Burdette, Chairperson	Housing and cultural needs, Casino water use
Lat Celmins, Legal Counsel	Copies of legal opinions and court determinations about water, sales tax authorities, SR 87 jurisdiction, public service agreements with the Town of Payson
Robyn Interpreter, Legal Counsel	Copies of legal opinions, water agreements, general information

Bureau of Indian Affairs

Bob McNichols, Truxton Canyon Superintendent (retired)	Management authorities for Trust lands
Amy Heuslein	NEPA consultation

Federal Highway Administration

Ron Hill, Rights-Of-Way Agent	Conveyance of Federal Highway easement to the Arizona Department of Transportation
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Arizona Department of Transportation

Paula Gibson, Rights-Of-Way	Information on the Arizona Attorney General's verbal opinion regarding law enforcement on State highways
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Gila County, Arizona

Gila County Treasurer	Property tax information
Gila County Engineer	Flood control mapping information

Arrowhead Realty, Payson

Cliff Potts	Historic and current real estate sales prices of bordering residential properties
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Appendices

Appendix A

Scoping Letter

File Code: 5430

Date: April 5, 2000

Dear Interested Party:

The Forest Service is considering a land exchange proposal from the Tonto Apache Tribe to exchange 406 acres of private land within the Coconino, Prescott, Tonto, and Sitgreaves National Forests in Arizona for approximately 273 acres of Tonto National Forest land within the Town of Payson, Arizona.

The purpose of the proposed exchange is for the Tribe to acquire land for housing for Tribal members. The Reservation contains approximately one half the housing needed for present Tribal members. The Tribe intends to use the land for single-family housing. An approximate 20 acre parcel on the west side of Highway 87 has commercial potential but the Tribe has no definite plans for development of anything other than housing.

The land the Tribe wishes to acquire is located on the south edge of Payson, Arizona and adjacent to the Tonto Apache Reservation. Access is by way of Highway 87. Topography is gently to moderately sloping lands containing pinyon and juniper with manzanita and oak understory.

The Tribe is offering four parcels of private lands that would become National Forest if the exchange were completed:

The "Truswell" Parcel contains approximately 160 acres along the Verde River, is 3.5 miles south of the Town of Camp Verde, and is accessible by way of Salt Mine Road. It contains nearly 0.6 mile of the perennial Verde River. Topography ranges from steep mountain slopes to gently sloping river terrace land and riverwash. Vegetation includes chaparral and scattered juniper on the mountain slopes, open fields, shrubs, and trees with some large cottonwoods on the river terrace, and dense riparian vegetation on the riverwash that includes cottonwood, willow, sedges, and grasses.

The "Munoz" Parcel contains approximately 99 acres, is 1 mile northeast of Pinedale, Arizona, and is bordered on the south by Highway 260 and the Pinedale-Taylor Road on the north. The topography is relatively flat with one hill in the northeast corner that is less than 100 feet high. The parcel contains a stock pond, and vegetation consists mainly of grasses and forbs with scattered ponderosa pine on the east side.

The "Peat Bog" Parcel contains approximately 16 acres, is 12 miles east of Payson, Arizona, and is near Highway 260. Topography includes moderate slopes and gently sloping meadowland along Green Valley Creek. Vegetation includes ponderosa pine on the slopes with grasses and forbs on the meadowland. Sedges are present in areas of seasonally saturated soils. Green Valley

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Creek contains water for part of the year. The parcel is part of the homestead known locally as Little Green Valley.

The Salome Creek Parcel contains approximately 130 acres, is 5 miles north of Roosevelt, Arizona, and is within 2 miles of Roosevelt Lake. It is accessible by way of Forest Road 60. Topography ranges from moderate slopes to gently sloping bottomland along Salome Creek. Vegetation consists mainly of chaparral with some riparian desert scrub species along Salome Creek. The creek contains water surface water intermittently.

The lands being considered for exchange with the Tribe are shown on the enclosed maps.

Initial issues to be considered in an environmental analysis for this proposal have been identified by a Forest Service Interdisciplinary Team as:

- 1) Will there be sufficient water available to support the planned residential development?
- 2) The Tribe intends to seek Trust status for the acquired land that would be exempt from local Town government ordinances and taxation of Tribal businesses.
- 3) Unfair business competition may exist because the Tribe does not have a similar taxing structure and associated costs to the public.
- 4) Additional community development and growth may result from additional housing and potential commercial developments.
- 5) Expanding Tribal enterprises may place a demand on housing, schools, police, fire, and other public services without compensating those entities.
- 6) Land values based on preliminary estimates may not match and may require adjustments in acres to achieve a balance before a final agreement can be reached.

The benefits expected by the addition of the offered lands to the NFS include acquisition of riparian habitats for protection and management, a reduction in complex land ownership patterns, and acquisition of one of only two known peat bogs in the State of Arizona as a very unique biological resource.

The potential effects on caves, floodplains, wetlands, archaeological, biological, and range resources must also be analyzed.

The Forest Service Interdisciplinary Team has also identified the following alternatives to be considered in the analysis:

- 1) Take No Action; this alternative is required to be included by the National Environmental Protection Act (NEPA). There would be no exchange with this alternative. The private lands and the National Forest lands would remain in existing ownership and management.
- 2) Alternative 1; the exchange of lands would be completed as proposed by the Tribe.

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- 3) Alternative 2; In order to balance the values of the lands to be exchanged the size of the Federal parcel would be reduced on the east side in 10 acre increments and/or the size of the Munoz parcel would be reduced by surveyed lots based on a final appraisal.

A public open house has been scheduled for April 18, 2000 from 4 to 7 PM in the gymnasium on the Tonto Apache Reservation in Payson, Arizona to furnish additional information and gather comments from any interested party. Written comments regarding any clarification of issues, additional issues or other alternatives that you believe should be considered are requested by May 19, 2000. We appreciate your time and interest in considering this matter. Comments should be addressed to: Rod Byers, Lands Staff, Payson Ranger District, 1009 E. Highway 260, Payson, Arizona 85541.

Sincerely,

DON A. POLLOCK
District Ranger

Appendix B

Legal References

Water Availability

Well and Ground Water:

Winters v. United States, 207 U.S. 564 (1908) (Federal reserved water rights).

Cappaert v. United States, 426 U.S. 128, 138 (1976) (Federal reserved water rights).

Arizona v. California, 373 U.S. 546, 601 (1963) (Federal reserved rights apply to Indian reservations for present and future uses).

Maricopa County Municipal Water Conservation District No. 1 v. Southwest Cotton Company, 39 Ariz. 65, 96, 4 P. 2d 369, 380 (1931) (definition of subflow).

Arizona v. San Carlos Apache Tribe, 463 U.S. 545, 571 (1983) (state courts must apply federal substantive law to measure federal rights in state adjudication); accord. United States v. Super. Ct., 144 Ariz. at 276-77, 697P. 2d at 669-70.

Arizona Supreme Court Nos. WC-90-0001-IR through WC-90-0007-IR (Consolidated) (1999) and WC-79-0001 through WC-79-0004 (Consolidated) (1999) (reserved water rights to meet Indian reservation needs from whatever source the reservation has at hand and water necessary to accomplish the purposes of a reservation).

Maricopa County Nos. W-1, W-2, W-3, W-4 (Consolidated).

Tribal and Federal Water Claims:

Tribal Claim No. 39-07-12675 filed by the Tribe and pending in the General Stream Adjudication, Gila River System.

Federal Claim No. 39-05-50058 filed by the United States Department of Interior and Department of Justice and pending in the General Stream Adjudication, Gila River System.

Contracted Water:

Central Arizona Indian Water Delivery Contract between the United States Department of Interior and the Tonto Apache Tribe, December 11, 1980.

Sales Tax Authority

In State of Washington vs. Confederate Tribes of Colville (1980), taxation of cigarette sales to non-Indians was permitted on the reservation.

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Recent U.S. Ninth Circuit Court cases also clarified sales tax responsibilities for various businesses on Tribal Trust lands. In a 1995 case involving the Salt River Pima-Maricopa Indian Community vs. the State of Arizona, sales at Scottsdale Pavilions Shopping Mall such as J C Penny were taxable because all businesses were owned and managed by non-Indian entities, and most of the sales were of off-reservation produced goods to non-Indian purchasers. Another case, Gila River Indian Community vs. Waddell in 1996, clarified that sales taxes could be imposed by the State on ticket sales and concession sales at Compton Terrace and Firebird International Raceway. A third case in 1997 involving the Yavapai-Prescott Indian Tribe vs. Scott that stated sales taxes could be imposed on food, beverages, and room rentals at the Prescott Casino hotel.

Arizona Department of Revenue v. Dillon, 170 Ariz. 560, 826 P.2d 1186 (App. 1991): The state in which an Indian reservation is located may impose its tax on non-affiliated Indians doing business on reservations within their borders.

Discussion of the decision:

Arizona's transaction privilege tax does not apply to business activities performed by businesses owned by an Indian tribe, a tribal entity or an individual tribal member if the business activity takes place on the reservation which was established for the benefit of the tribe.

The gross proceeds derived from business activities performed by non-affiliated or non-Indian vendors on the reservation, for Indians who are enrolled members of the tribe for which the reservation was established, are not subject to Arizona's transaction privilege tax. However, the gross proceeds derived from sales to non-Indians or non-affiliated Indians are subject to Arizona's transaction privilege tax.

Right-of-Way Jurisdiction

Strate v. A-1 Contractors, 520 U.S. 438, 117 S.Ct 1404 (1997): when an accident occurs on a public highway maintained by the State pursuant to a federally granted right-of-way over Indian Reservation land, a civil action against allegedly negligent nonmembers falls within the state or federal regulatory and adjudicatory governance; absent a statute or treaty authorizing the tribe to govern the conduct of nonmembers driving on the State's highway, tribal courts may not exercise jurisdiction in such cases.

Oliphant v. Suquamish Tribe, 435 U.S. 191, 98 S.Ct. 1011 (1978): tribes lack criminal jurisdiction over non-Indians.

Appendix C

List of Acronyms

ADEQ	Arizona Department of Environmental Quality
APS	Arizona Public Service Company
BA&E	Biological Assessment and Evaluation
BIA	Bureau of Indian Affairs
CAP	Central Arizona Project
CFR	Code of Federal Regulations
DPS	Department of Public Safety
EA	Environmental Assessment
EPA	Environmental Protection Agency
FEMA	Federal Emergency management Agency
gpm	gallons per minute
ID	Interdisciplinary
NAAQS	National Ambient Air Quality Standards
NEPA	National Environmental Policy Act
NF	National Forest
NFS	National Forest System
PM	Particulate Matter
SHPO	State Historic Preservation Officer
SIP	State Implementation Plan
SR	State Route
SRP	Salt River Project

Appendix D

LEGAL DESCRIPTIONS

Non-Federal Land

COCONINO AND PRESCOTT NATIONAL FORESTS ("TRUSWELL" PARCEL) Beaver Creek and Verde Ranger Districts

GILA AND SALT RIVER MERIDIAN, Yavapai County, Arizona

T. 13 N., R. 5 E.

sec. 17--S1/2SE1/4;

sec. 20--N1/2NE1/4.

Containing 160.00 record (177.76 surveyed) acres, more or less.

SITGREAVES NATIONAL FOREST ("MUNOZ" PARCEL) Lakeside Ranger District

GILA AND SALT RIVER MERIDIAN, Navajo County, Arizona

T. 11 N., R. 20 E.

secs. 29 and 32--That parcel of land located within the SE1/4 sec. 29 and the NE1/4 sec. 32, more particularly described as follows: BEGINNING at the southeast corner of said sec. 29; thence S. 89°17'00" W. on the South line of said sec. 29, a distance of 1350.51 feet; thence S. 01°14'32" E., a distance of 387.22 feet to a point on the northerly right-of-way of State Highway No. 260, said point also being a point on a curve, concave to the northeast, having a central angle of 18°24'22" and a radius of 7539.44 feet; thence northwesterly on said curve, a distance of 2422.02 feet; thence N. 49°02'22" W. continuing on said highway right-of-way, a distance of 303.92 feet; thence N. 00°44'12" W., a distance of 210.73 feet; thence N. 89°17'48" E., a distance of 905.05 feet; thence N. 01°00'03" W., a distance of 63.00 feet, to a point in the existing centerline of the Pinedale-Taylor Road; thence N. 89°24'00" E. on said centerline, a distance of 2685.48 feet, to a point on the East section line of sec. 29; thence S. 01°28'45" E., on said section line, a distance of 1377.97 feet to THE POINT OF BEGINNING.

Containing 98.98 record/surveyed acres, more or less.

TONTO NATIONAL FOREST ("PEAT BOG" PARCEL)

Payson Ranger District

GILA AND SALT RIVER MERIDIAN, Gila County, Arizona

T. 11 N., R. 11 1/2 E. (unsurveyed)

secs. 19, 20, 29 & 30 (protracted)--A portion of HES 424, depicted on that certain "Record of Survey Of A Portion Of HES 424..., March 1995, Blair C. Meggitt, R.L.S. 18436"; and more particularly described as follows:

COMMENCING at Corner No. 2 of HES 424; thence West (Record bearing and Basis of Bearing) a distance of 1974.23 feet to Corner No. 3 of said HES 424, being THE TRUE POINT OF BEGINNING; thence S. 44°58'58" W., a distance of 1593.14 feet to Corner No. 4 of said HES 424; thence N. 04°33'09" W., on the line between Corners No. 4 and No. 5 of HES 424, a distance of 1130.42 feet to a point which bears S. 04°33'09" E., a distance of 1324.98 feet from said Corner No. 5; thence East, along the Westerly prolongation of Corners No. 2 and No. 3 of HES 424, a distance of 1215.90 feet to Corner No. 3, THE TRUE POINT OF BEGINNING.

Containing 15.73 record/surveyed acres, more or less.

TONTO NATIONAL FOREST ("TIN HAT RANCH" PARCEL)

Tonto Basin Ranger District

GILA AND SALT RIVER MERIDIAN, Gila County, Arizona

T. 5 N., R. 12 E. (unsurveyed)

sec. 34 (protracted)--A portion of HES 247, depicted as PARCEL C on that certain "Record of Survey Of A Portion Of HES 247... January 1997, Blair C. Meggitt, R.L.S. 18436", recorded February 4, 1997, as Map #1327, Fee 701450, official records of Gila County, Arizona, and having a boundary more particularly described as follows:

BEGINNING at the Standard southeast section corner of sec. 34, T. 5 N., R. 12 E., said corner also being Corner No. 1 of said HES 247; thence N. 89°48'00" W., along the South line of sec. 34, a distance of 1313.19 feet to Corner No. 2 of HES 247; thence N. 00°49'05" E., 1302.35 feet to Corner No. 3; thence S. 89°56'05" W., 662.80 feet to Corner No. 4; thence N. 00°13'15" E., 654.65 feet to Corner No. 5; thence N. 89°20'18" W., 657.15 feet to Corner No. 6; thence N. 00°37'42" E., 1978.05 feet to Corner No. 7; thence S. 89°47'40" E., 1962.66 feet to Corner No. 8; thence S. 00°21'33" W., 1973.86 feet to Corner No. 9; thence S. 89°59'37" E., 659.50 feet to Corner No. 10; thence S. 00°34'09" W., 1964.73 feet to the

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USGLO scribed stone Witness Corner to Corner No. 1 of HES 247; thence continuing S. 00°34'09" W., 0.66 feet to THE POINT OF BEGINNING;

LESS AND EXCEPTING THEREFROM those portions of said HES 247, also shown on said Record of Survey Map #1327 and more particularly described as follows:

PARCEL A:

COMMENCING for a tie at the USGLO scribed stone marking Corner No. 9 of HES 247 described in Parcel C above; thence S. 67°46'49" W., 446.86 feet to THE TRUE POINT OF BEGINNING; thence S. 71°24'31" W., 600.00 feet; thence N. 09° 22'59" W., 542.00 feet; thence N. 27°53'42" W., 1490.80 feet; thence N. 71°24'31" E., 600.00 feet; thence S. 27°53'42" E., 1490.80 feet; thence S. 09°22'59" E., 542.00 feet to THE TRUE POINT OF BEGINNING; and

PARCEL B (Bacon Family Cemetery):

COMMENCING at said Corner No. 9 of HES 247; thence N. 00°21'33" E., on the line between Corners No. 9 and No. 8 of H.E.S. 247, a distance of 915.65 feet; thence N. 89°38'27" W., 92.81 feet to THE TRUE POINT OF BEGINNING; thence S. 00°21'33" W., 168.58 feet; thence N. 89°38'27" W., 129.20 feet; thence N. 00°21'33" E., 168.58 feet; thence S. 89°38'27" E., 129.20 feet to THE TRUE POINT OF BEGINNING; (0.50 acres, more or less)

Containing, after recognizing the exceptions, 130.59 record (130.27 surveyed) acres, more or less.

Non-Federal land:

ALTOGETHER containing 405.30 record (422.74 surveyed) acres, more or less.

	Record Acres	Surveyed Acres
Yavapai County	160.00	177.76
Navajo County	98.98	98.98
Gila County	146.32	146.00

Federal Land

TONTO NATIONAL FOREST

Payson Ranger District

GILA AND SALT RIVER MERIDIAN, Gila County, Arizona

T. 10 N., R. 10 E.

sec. 9--Lots 4 and 6, SE1/4SE1/4SW1/4;

sec. 10--SW1/4; W1/2SE1/4.

Containing 272.77 record (273.97 calculated) acres, more or less.