

Response to Public Comment on the Proposed McGregor Meadows Land Exchange in Lake Chelan National Recreation Area

Understanding National Park Service Stehekin River Protection in the Lake Chelan National Recreation Area

The National Park Service (NPS) has a long history of protecting resources in the Stehekin River Valley as the administrative agency of the area since 1968 when Lake Chelan National Recreation Area (NRA) was established.

In 2012, NPS published the Stehekin River Corridor Implementation Plan Final Environmental Impact Statement (SRCIP FEIS), which enabled the NPS to meet the goals and direction provided in the 1995 Lake Chelan National Recreation Area General Management Plan¹. In the SRCIP FEIS, NPS identified Alternative 5 as the preferred alternative, which prioritized private lands for acquisition, focusing on the most vulnerable areas that could be affected by flooding. Alternative 5 encouraged removal of unsustainable development from the channel migration zone (CMZ), giving highest priority to parcels in McGregor Meadows and at the head of the lake.

In the 2012 SRCIP FEIS, the NPS updated the 1995 Land Protection Plan (LPP) and generated the 2012 LPP. The 2012 LPP identified all parcels in the valley and established a direction for determining NPS' priorities in acquiring private land for resource protection. The LPP also reemphasized the NPS' longstanding policy that private land would only be acquired on a willing seller/willing buyer basis. Additionally, and highly important to this proposed McGregor Meadows land exchange, land available for transfer into private possession would have to come from acreage that the NPS previously acquired from private landowners. Land that has always been in federal ownership (i.e., the "public domain") is not available for exchange by the NPS².

The enabling legislation for Lake Chelan NRA located within the North Cascades National Park Service Complex, identifies *both* public outdoor recreation use *and* enjoyment of the Stehekin River and Lake Chelan, *as well as* conservation of scenic, scientific, historic, and other values, as reasons why the NRA was established. The McGregor Meadows exchange provides a public benefit by protecting the Stehekin River from potential future development in a high priority area identified in the 2012 LPP, and by supporting a thriving Stehekin community since NPS will move private property owners out of the CMZ while keeping them in Stehekin Valley via the land exchange³.

Context of the Proposed Exchange

As noted above, the Courtney parcel (07-203) that NPS proposes to acquire is part of the former Leader parcel in McGregor Meadows. Mr. Leader owned 28 acres. This parcel was the highest

¹ See SRCIP FEIS at Title Page (Abstract).

² SRCIP FEIS at 128; LPP at 26.

³ See LPP at 3, 33.

ranking priority of all potential acquisitions in the 2012 LPP⁴. Mr. Leader sold 10 acres to Tom and Elizabeth Courtney in 2011 and the remaining acreage to two other private owners in 2014 and 2015. Although the NPS is not acquiring all 28 acres, the Courtney acquisition remains high priority as it is in McGregor Meadows. Notably, a residence has already been constructed on one of the other parcels that was sold underscoring that potential development near the river may occur.

The Courtney parcel is within the floodplain, and the property has flooded in the past. Despite its flooding potential, small areas above the floodplain can support a residence. On June 9, 2020, Chelan County amended Chapter 3.20 Flood Hazard Development of the Chelan County Code by Resolution Number 2020-63. Under the updated code, development in flood-prone areas is still possible and not prohibited.

In exchange for acquiring the Courtney parcel, NPS will transfer approximately 17 acres of federal land located next to the Stehekin Valley Ranch to the Courtney's. These 17 acres were acquired from Chelan Box and Manufacturing Company in 1970 as part of a larger acquisition by NPS of most of Homestead Entry Survey No. 150. These 17 acres are not "public domain" land, which have always been under federal ownership but rather land that NPS acquired, which was previously under private ownership.

After the 1970 acquisition, the NPS issued a Special Use Permit on 10 acres to Ray Courtney in 1971 for a commercial horse and packing operation next to the Stehekin Valley Ranch, owned and operated by the Courtney family. For the last 50 years, the Courtney family has used the 10 acres as a base of operations for the Stehekin Outfitters. This operation provides recreational access to the backcountry. The Courtneys provide horseback day-rides and horse-supported hiking and riding trips for hunters, fishers, and hikers within Lake Chelan NRA and to adjacent U.S. Forest Service land. The operation under the Special Use Permit includes a barn, hay storage sheds, and a corral.

After publication of the 2012 LPP, the NPS added another 7 acres to the 10-acre parcel identified in the LPP due to County zoning requirements⁵. The NPS had learned from the County that because the federal parcel was zoned RR20, it could not be conveyed as 10 acres. The County and NPS concluded that a 17-acre tract could be recognized as a legal lot of record through a Certificate of Exemption from the County. The NPS' determination that the approximately 17-acre parcel was suitable for exchange was considered in the February 2020 Categorical Exclusion Documentation Form.

The 7 acres largely border the Stehekin Valley Road. The scenic easement will not allow construction of buildings, structures, or improvements in Zones B-1 and B-2 (except minor improvements). Zone C will be managed as open space with only forest management activities permitted. Only Zone A – which is located away from the road – will allow additional residences and outbuildings, subject to further County approval. Zone A will also have a 100-foot scenic buffer on the south side.

⁴ LPP at 49, 74.

⁵ See LPP at 59 (identifying the 10-acre parcel).

It is important to note that the 2012 LPP recognized that exchanges would be based on near equal real estate *values*, not acre for acre⁶. In 2014, the market value of the Courtney parcel (07-203) was \$95,000, and the market value of the federal parcel (08-108) was \$48,000. In 2018, the market value of the Courtney parcel was \$100,000, and the market value of the federal parcel was \$110,000. Because the federal parcel increased in value from 2014 to 2018, the federal Keller Park parcels that had been planned to be part of the exchange were no longer needed and removed from the exchange.

Response to Public Comments on the Proposed Land Exchange

Several themes flowed through the majority of comments received on the proposed land exchange in Lake Chelan NRA. The responses below are intended to provide clarity and context based on those comments.

Use of a Categorical Exclusion

The 10 acres of federal land proposed for exchange next to the Stehekin Valley Ranch were already analyzed under NEPA in the 2012 SRCIP FEIS and LPP. Only the additional 7 acres were not previously considered in 2012 but were considered recently in 2020.

The NPS evaluated the exchange, including the additional 7 acres of federal land with the scenic easement, under NEPA in 2020 and concluded that the proposed land exchange was categorically excluded from further NEPA analysis. NPS staff relied on CEQ guidance, related NPS policies, and the NPS NEPA Handbook in determining that the proposed land exchange was categorically excluded from further NEPA analysis. Specifically, the NPS found that Categorical Exclusion C(2) from the NPS NEPA Handbook applied, which allows for-- *Land exchanges which will not lead to significant changes in the use of land.*

In the judgment of the NPS, the federal tract would not change in character. The basis for this determination is rooted in the already partially developed nature of NPS Tract 08-108. The existence of structures on this parcel and on neighboring parcels (including the commercial Stehekin Valley Ranch nearby) represents the sparsely developed nature of private property common to the Stehekin Valley. Allowing for limited future development is in keeping with the character of the valley and the parcel.

All proposed projects must undergo environmental, cultural, and, when appropriate, wilderness compliance analysis. The depth of NPS' analysis is consistent with CEQ guidance and NPS policy on NEPA and other related statutes. Review of potential impacts to endangered, threatened, and species of special concern was conducted for the environmental compliance review of the land exchange. NPS has satisfied NPS and CEQ requirements for documentation to support the appropriate use of a Categorical Exclusion for the proposed land exchange. The Categorical Exclusion form was made available to the public in the NPS Planning, Environment, and Public Comment (PEPC) system.

Project in the National/Public Interest

⁶ LPP at 56. This requirement is derived from the enabling legislation for the NRA. See Pub. L. 90-544, Sect. 302.

The 1995 General Management Plan for Lake Chelan National Recreation Area established the NPS interest in protecting and restoring the natural function of the river, which in turn supports the NPS' mission for resource protection as part of the NPS Organic Act. The 2012 LPP as a component of the larger 2012 SRCIP FEIS established the NPS policy of protecting the river corridor by acquiring private property within the floodplain thereby removing the threat of development whenever possible. The Stehekin River Corridor Implementation Plan and the Land Protection Plan together demonstrate the public interest in protecting and restoring the river valley through various mechanisms including land acquisition and exchange.

Insufficient Information About Exchange

In response to early public comments following publication of NPS' Notice of Realty Action in the Wenatchee World newspaper on June 2, 2020, the NPS uploaded additional documents on the NPS' PEPC website for the public to access and provided notice of their availability in the Wenatchee World newspaper on June 30, 2020. The documents were:

- 2012 Stehekin River Corridor Implementation Plan Final Environmental Impact Statement
- 2012 Lake Chelan National Recreation Area Land Protection Plan
- Maps of the exchange parcels (Tract 07-203 and Tract 08-108)
- Scenic Easement Terms and Conditions for the federal parcel (Tract 08-108)
- Explanation of the changed tract numbers from the 2012 Land Protection Plan
- Categorical Exclusion form for the proposed land exchange

The NPS provided these materials to provide the greatest possible transparency possible.

Unequal Acreage

As noted above, the 2012 LPP stated that exchanges would be based on near equal real estate values, not acre for acre⁷. This is because Section 302 of Public Law 90-544, which established North Cascades National Park Complex, including Lake Chelan NRA, states that “[t]he values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.”⁸

Therefore, the land acquired by NPS through exchange must be approximately equal in terms of value rather than in terms of acreage. In this case, the NPS obtained appraisals of the exchange parcels in 2014 and 2018. The most recent appraisals in 2018 showed that the 10.06-acre private parcel was of approximately equal value (\$100,000) to the 17.48-acre federal parcel with the scenic easement (\$110,000).

Thus, the disparity in acreage between the parcels does not run afoul of the enabling legislation of Lake Chelan NRA.

Parcels Not in the LPP

⁷ See 2012 LPP at 56.

⁸ See 2012 LPP at 77.

The 2012 LPP ranked private property acquisition in the Stehekin Valley at a discrete point in time in relation to values associated with resource protection. Realty transactions can occur between private parties as occurred here with the former Leader parcel. Properties can be subdivided or combined. NPS adapts its tract numbers accordingly. Realty actions occurring within the valley inevitably result in changes to realty tract numbers and boundaries; this does not result in the invalidation of the LPP. The administrative nature of changes to realty tract numbers and boundaries do not unravel the analysis conducted for the 2012 LPP in the Stehekin River Implementation Plan EIS.