**AGREEMENT TO INITIATE A LAND EXCHANGE**

**Between**

**The United States of America**

**Bureau of Land Management**

**And**

**The Fort Hill, LLC, a Limited Liability Company**

**Serial Number: WYW-179564**

**A. Purpose and Scope**

**A.1.** The Bureau of Land Management (BLM), Fort Hill, LLC (Fort Hill) of Big Piney, Wyoming, and Mr. Thomas Thrash (“*the parties*”) enter into this non-binding Agreement to Initiate a Land Exchange (ATI), for the purpose of documenting the commitments the parties hereto make to evaluate the merits of pursuing a proposal to exchange Federal and non-Federal land or interests therein.

**A.2.** The parties acknowledge that participation in these commitments will have no binding effect on any party to consummate the exchange. Termination of this ATI without consummating an exchange will require no reimbursement or payment of damages associated with participation in the activities identified herein for considering the exchange proposal to the other party.

**A.3.** Fort Hill hereby certifies that they have legal ownership of the non-Federal lands and/or interests in lands described on Exhibit B and the ability to provide title acceptable to the United States of America.

**A.4.** Fort Hill hereby certifies that it is a Limited Liability Company subject to the laws of the United States and the State of Wyoming. Mr. Thomas Thrash hereby certifies he is a citizen of the United States.

**A.5.** The Federal lands consist ofapproximately 1,802.5 acres located in Sublette County, Wyoming. Privately owned lands surround the majority of the Federal lands. The largest Federal parcel, consisting of 1,477.5 acres, has no public access and is very difficult to manage. See attached Map C.

The Federal lands include portions of five grazing allotments. The BLM will initiate the notification process upon approval of the Feasibility analysis.

* Rathburn Individual - This 686 acre allotment, permitted for 205 animal unit months (AUM), is completely within the Federal parcel. The current permittee, Chuck Thornton, would lose the privilege of these AUMs.
* Guio Sections Individual - 580 acres of this 2,749-acre allotment, permitted for 417 AUMs, is on the Federal lands included in the exchange. Disposal of the Federal lands would result in a loss of 89 AUMs for the permittee. However, the lands would still be fenced within the Guio Sections allotment. Elimination or control of grazing on these lands once they leave Federal ownership would require construction of approximately 2 miles of new fence to exclude livestock.
* Upper Post Individual - 125 acres of this 290-acre allotment, permitted for 123 AUMs, is on the Federal lands included in the exchange. Disposal of the Federal lands would result in a loss of 54 AUMs for the permittee. The lands would still be fenced within the Guio Sections allotment.
* Red Canyon Common - 160 acres of this 6,345-acre allotment, permitted for 1075 AUMs, is on the Federal lands included in the exchange. Disposal of the Federal lands would result in a loss of 27 AUMs for the permittee. The lands would still be fenced within the Red Canyon allotment. Elimination or control of grazing on these lands once they leave Federal ownership would require construction of approximately 3.5 miles of new fence to exclude livestock.
* North Rathburn Individual - This 142-acre allotment, permitted for 28 AUMs is completely within the Federal parcel. The current permittee, Chuck Thornton, would lose the privilege of these AUMs. Elimination or control of grazing on these lands once they leave Federal ownership would require construction of approximately 2.5 miles of new fence to exclude livestock.

The non-Federal lands consist of approximatley 2274.68 acres (See attached Maps A and B), the majority of which are within the Miller Mountain Management Area (MMMA), as designated by the Record of Decision and Approved Pinedale Resource Management Plan, dated 2008. The non-Federal lands are located within an area of consolidated public lands. The scattered private parcels create a fractured approach to management of the public lands within the MMMA and the larger South LaBarge landscape.

There is one easement on the non-Federal lands. A perpetual road right-of-way easement, described as a strip of land 40 feet in width, 5595 feet in length, being part of Tract 60, T. 26 N., R. 115 W.

1. **Authority**

This ATI is made and entered into pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, as amended (43 U.S.C. 1716) (FLPMA). The consideration of an exchange of Federal and non-Federal lands or interests therein must include, among other things, an evaluation of how the exchange will serve the public interest based on a BLM equal value determination, independent appraisals which are reviewed and approved by the Department of the Interior, Office of Valuation Services (OVS), an environmental analysis, and coordination with State and local governments and/or other affected property, and public interests.

**C. Format**

This ATI consists of this Section; Site Maps A, B, and C; Exhibits A (Federal land) and B (non-Federal land) providing the legal and title information; and Exhibits C and D addressing land exchange processing costs, responsibilities and schedule, all attached hereto and made a part hereof.

**D. Amendment and Termination**

**D.1**. The parties must make all amendments to this ATI in writing by the mutual consent. The parties jointly agree to share in the responsibilities for amending the ATI with the frequency and level of detail necessary to support the purposes of the ATI.

**D.2.** This ATI will be effective until the exchange is completed or until either party chooses to withdraw from the ATI provided the parties are diligently pursuing the commitments and responsibilities outlined in Exhibits C and D. Should either party wish to withdraw from the ATI, they may do so by providing the other party a written 30-day advance notice of intent to terminate participation.

**D.3.** To the best of their abilities, the parties agree to process the exchange in accordance to the agreed upon schedule upon approval of the feasibility analysis. The processing schedule will contain responsible parties for completion of each required task, the target dates for each party to complete tasks, and the start and completion dates of each task.

**D.4.** The withdrawal from, and termination of an exchange proposal, or an agreement to initiate an exchange, by the authorized officer at any time prior to the notice of decision, pursuant to 43 CFR 2201.7-1 is not protestable or appealable under 43 CFR part 4.

**E. General Provisions**

**E.1. Hazardous Substances:** Each party to this ATI hereby declares that to the best of its knowledge there has been no actual or suspected release, storage, or disposal of hazardous substances on the Federal or non-Federal land involved in this exchange. The BLM will comply with legal requirements necessary to determine if hazardous substances are present on the Federal land and the non-Federal party will comply with legal requirements necessary to determine if hazardous substances are present on the non-Federal land involved in this exchange. If hazardous substances are determined to exist on any land involved in this exchange, the parties may choose to either: (a) conduct further investigation and, if necessary, remediation;

(b) remove the affected land from the exchange proposal; or (c) terminate the ATI.

**E.2. Right to Enter:** Each party to this ATI hereby grants permission to the other, and their authorized agents, contractors or permittees, to enter upon and physically examine the land described in this ATI. The conduct of such examination will be limited to non-surface disturbing activities. The parties will limit vehicular travel to existing roads. Any examination or entry that exceeds the scope of the above-described conduct will require advance approval from the other party. The grant of permission does not require the prior notification of the other party.

**E.3. Relocation and Use Termination:** Pursuant to 49 CFR 24.101, this ATI serves as formal notice of the voluntary nature of this exchange and that the United States would be acquiring the non-Federal lands on a voluntary basis. The United States will not pay relocation benefits to the exchange parties. The non-Federal party certifies there are no known tenants or occupants of the property and no unrecorded matters that may affect the property.

**E.4. Availability of Information:** The BLM will make all documents, reports, and other related requirements prepared for both the Federal and non-Federal lands for the evaluation and processing of the exchange a part of the administrative record. These will be subject to public availability at the discretion of the Federal party. This includes information which may be exempt from release under the Privacy Act (5 U.S.C. 552 (a), and information which may qualify for exemption under the Freedom of Information Act (5 U.S.C. 552 (b).

**E.5. Regulatory Deadline Suspension:** The parties to this ATI suspend the deadlines for completion of appraisals pursuant to provisions of 43 CFR 2201.1 (d) and for reaching an agreement on value pursuant to 43 CFR 2201.4(a) (1). In lieu of those deadlines, the ATI adopts the processing schedule outlined in Exhibit C of this ATI related to obtaining appraisal reports, completion of appraisal review by the OVS, acceptance of appraisals by the BLM, and reaching agreement on value between the parties. All such materials prepared in relation to this ATI will become the property of the BLM. The BLM will consider the materials “pre-decisional working papers” not subject to premature availability prior to reaching an agreement on value.

**E.6. Compensation of costs:** There will be no compensation of costs pursuant to the provisions of 43 CFR 2201.1-3 in this exchange.

**E.7.** **Appraisal Strategy and Equalization of Values:** An independent appraiser hired by Fort Hill will conduct the appraisal. The OVS will review and approve the final report. The appraiser will determine the highest and best use of both the Federal and non-Federal lands.

A. Appraisal Process

* The BLM Pinedale Field Office (PFO) developed interim legal descriptions for both the Federal and non-Federal lands.
* The PFO will submit legal description for the Federal and non-Federal lands to the BLM, Wyoming State Office, Branch of Geographic Sciences (Cadastral), for final review and approval in the form of a Land Description Review certification.
* **Phase I** of the appraisal process will involve the appraisal of both the Federal and non-Federal properties as defined in the interim legal descriptions. The BLM will submit an appraisal request to the OVS for both the Federal and Non-Federal lands. The interim legal descriptions provided by the BLM Cadastral Surveyor will be the basis for the descriptions used in the appraisals.
* Fort Hill will be the engaging party for the initial appraisal assignment for both the Federal and non-Federal properties. Fort Hill will issue the appraisal contract (Professional Service Agreement) and be responsible for payment of the professional services fee. The OVS will be the client and solely responsible for the final selection of the contract appraiser and for review and approval of the appraisal reports. The reports will identify the OVS, Fort Hill, and the BLM, as intended users.
* The OVS will prepare a Statement of Work (SOW) and provide it to Fort Hill. The OVS-approved SOW will be an attachment to the appraisal contract to ensure preparation of the “Third Party Appraisal” in accordance with professional and Federal appraisal standards including the Uniform Standards for Professional Appraisal Practices, the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646).
* Fort Hill agrees to provide to the OVS and the selected appraiser all options, deeds, grants, contracts, and/or sales information pertaining to the non-Federal property for the appraisal process required by the UASFLA.
* The appraisal contract will stipulate payment to the appraiser by Fort Hill as follows: 1) one-half of the cost is payable upon submittal of the final appraisal report to the OVS; and 2) the second half of the appraisal cost is payable upon issuance of the approval letter by the OVS. Fort Hill agrees to pay the appraiser as shown above, or as otherwise stipulated in the appraisal contract. The parties will credit Fort Hill with its payment for the appraisal against its share of the exchange costs as outlined in Exhibit C.
* The OVS will receive appraisal reports for the Federal and non-Federal lands.
* The OVS will review the completed appraisals and provide to the BLM the Phase I Appraisal Review results (values) for both the Federal and non-Federal parcels.
* The BLM will evaluate the approved appraised value differential between the Federal and non-Federal parcels to determine 1) if the price differential exceeds that allowed by the exchange regulations (43 CFR 2200) and the FLPMA; or 2) if there are viable opportunities to further reduce the differential in order to minimize any potential equalization payment from the proponent (based on subsequent consultation with OVS) by re-sizing the Federal parcel or non-Federal parcels (up or down).
* **Phase II** of the appraisal assignment would involve a re-appraisal of the Federal and non-Federal lands if necessary. If a viable option exists, the BLM would develop a new legal description for the Federal or non-Federal lands and would request the OVS to perform a re-appraisal of the Federal or non-Federal lands based on the new legal description and calculated acreage.
* The OVS will review and approve the re-appraisals and provide the BLM with an Appraisal Review Report.
* The BLM will determine if the new valuation difference is acceptable and consistent with the exchange regulations and the FLPMA and that the parties have exhausted all reasonable efforts to equalize values by adding or deleting lands.
* The BLM will request final approved appraisals for both the Federal and non-Federal lands (as re-configured in Phase II) from the OVS.
* Upon review and approval of the final appraisal(s), the BLM will submit the legal description for the non-Federal lands to the BLM, Wyoming State Office, Fluid Minerals, Lands & Appraisal Branch, for final review and approval.

**F.** **Optional Provisions**

**F.1.** Equalization of Values: To the maximum extent possible, the parties agree to modify the exchange proposal by excluding Federal or non-Federal lands and/or interests in lands to equal values towards completion of an acceptable land exchange. Both parties agree not to take any action that would diminish or negate either the market or the resource values of the lands and/or interests in lands, except as agreed to by both parties 60 days in advance of any such action being taken.

**F.2.** The parties may decide to enter into a binding exchange agreement pursuant to 43 CFR 2201.7-2 in order to lock-in the values of the land through consummation of the land exchange.

**G. Decision and Closing Provisions**

The parties will follow the decision and closing processes below should they decide to proceed with consummation of the exchange:

**1.** Decision: Upon reaching and documenting an agreement on value based on approved appraisal reports, issue a decision and initiate the protest period.

**2.** Pursuant to 43 CFR 2201.9, the parties will transfer title to the Federal and non-Federal land simultaneously through escrow procedures. The responsibility for the costs associated with the closing are assigned in Exhibit D.

This ATI will be effective as of the last date shown below.

**Federal Party**:

Authorized Officer, Bureau of Land Management Date

The Authorized Officer has named the following primary contact for all communication and cooperation related to this ATI:

Name and Title Address Phone/e-mail

**Non-Federal Party(s)**:

Date

The non-Federal party has named the following primary contact for all communication and cooperation related to this ATI:

Name and Title Address Phone/e-mail

**EXHIBIT A**

**WYW-179564**

**MILLER MOUNTAIN LAND EXCHANGE**

**Federal Land Legal Description and Title Information**

6th PM, Sublette County, Wyoming

T. 31 N., R. 114 W.

Sec. 21, NE¼SE¼,SW¼SE¼; 80

Sec. 22, NW¼NE¼,NE¼NW¼,SW¼NW¼,N½NW¼SW¼,SW¼NW¼SW¼,

W½SE¼NW¼SW¼,NW¼SW¼SW¼,NE¼SW¼SE¼,NE¼NW¼SW¼SE¼,

S½NW¼SW¼SE¼,S½SW¼SE¼; 202.5

Sec. 26, All; 640

Sec. 27, NE¼, E½NW¼, SW¼NW¼, N½SW¼, SW¼SW¼, NW¼SE¼; 440

Sec. 28, NE¼NW¼,SW¼NW¼,SE¼SW¼,SE¼; 200

Sec. 33, N½N½. 160

Total Acres 1802.5

The United States will convey the surface estate only.

Excepting and Reserving to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C.945)
2. All Minerals

Encumbrances:

1. The Federal land currently has five grazing permits issued on it. The United States will not issue the patent subject to this encumbrance. The grazing permittee and Fort Hill agree to negotiate future grazing use.

See Map C Attached:

**EXHIBIT B**

**WYW-179564**

**MILLER MOUNTAIN LAND EXCHANGE**

**Non-Federal Land Legal Description and Title Information**

6th PM, Lincoln County, Wyoming

T. 23 N., R. 115 W.,

Sec. 13, SW¼NW¼. 40

T. 24 N., R .115 W.,

Sec. 4, Lots 10-12; 120

Sec. 5, Lots 5-9. 200

T. 25 N., R. 114 W.,

Sec. 5, NW¼NE¼; 40

Sec. 6, SE¼NW¼; 40

Sec. 8, NE¼NE¼; 40

Sec. 9, SW¼NW¼; 40

Sec. 17, NE¼SW¼, NW¼SE¼; 80

Sec. 18, SW¼SE¼; 40

Sec. 19, N½SE¼; 80

Sec. 20, NE¼SW¼, NW¼SE¼; 80

Sec. 22, SW¼NW¼, N½SW¼, NW¼SE¼; 160

Sec. 29 , NW¼SW¼; 40

Sec. 30, SE¼NW¼, NE¼SE¼. 80

T. 25 N., R. 115 W.,

Sec. 12, SW¼SW¼; 40

Sec. 13, W½W½; 160

Sec. 23, NE¼NE¼; 40

Sec. 24, W½NW¼. 80

T. 26 N., R. 114 W.,

Sec. 17, SW¼SE¼. 40

T. 26 N., R. 115 W.,

Tract 38; 40

Tract 39; 119.63

Tract 60; 160

Tract 70; 40.75

Sec. 32, W½NE¼. 80

6th PM, Sublette County, Wyoming

T. 27 N., R. 107 W.

Sec. 26, SW¼NW¼. 40

T. 27 N., R. 115 W.,

Tract 44; 40

Tract 46. 40

T. 29 N., R. 105 W.,

Sec. 18, Part of E½E½ (west of the thread of Big Sandy River);

Sec. 19, Lot 3, Part of NE¼NE¼, Part of NW¼NE¼, Part of SW¼NE¼

(west of the thread side of Big Sandy River). 198.4

T. 29 N., R. 106 W.,

Sec. 24, Part of N½SE¼, Part of SW¼SE¼ (west of the thread of

Big Sandy River);

Sec. 25, Part of NW¼NE¼ (west of the thread Big Sandy River). 75.9

Total 2274.68

The proponent will convey surface estate only.

Encumbrances:

1. A perpetual road right-of-way easement, described as a strip of land 40 feet in width, 5595 feet in length, being part of Tract 60, T. 26 N., R. 115 W.

See maps A and B Attached.

EXHIBIT C

**WYW-179564**

**MILLER MOUNTAIN LAND EXCHANGE**

**EXCHANGE PROCESSING SCHEDULE**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **RESPONSIBILITY** | | **TARGET DATES** | |
|  | **BLM** | **Proponent** | **Start** | **Finish** |
| **A. FEASIBILITY/SCHEDULING (Approximately 160 days)** | | | | |
| Preliminary Title Commitment to BLM |  | Fort Hill | 01/01/13 | 03/15/13 |
| Req. Prelim. Title Opinion | PFO/WYSO |  |  | 06/15/13 |
| Draft Warranty Deed/patent | WYO |  |  | 03/15/15 |
| Prepare Feasibility Analysis | PFO/WYO |  | 01/01/13 | 05/15/14 |
| Draft Agreement to Initiate (ATI)& Notice of Exchange Proposal (NOEP) | PFO |  | 10/01/13 | 05/15/14 |
| Segregate public lands | PFO/WYSO |  | 02/21/14 | 11/30/18 |
| Feasibility Rpt. Approved | WYSO/WO-350 |  | 06/18/14 | 08/15/14 |
| Mailing List (NOEP, NOD) | PFO |  |  | 08/15/14 |
| Prelim. Statement of Work/Appraisal | PFO/OVS/DOI |  | 11/01/13 | 08/30/14 |
| **B. EXCHANGE PROCESSING PHASE (Approximately 130 days)** | | | | |
| Execute ATI | BLM | Fort Hill |  | 09/01/14 |
| Cert. Inspection/Possession  (in conjunction w/hazmat) | WYSO | Fort Hill |  | 09/01/14 |
| Appraisal Contract (120days/OVS), includes review/approval | PFO/OVS | Fort Hill | 08/15/14 | 09/30/14 |
| Publish, Mail NOEP- (publish four consecutive weeks local newspaper/60 day comment) | PFO | Fort Hill | 09/01/14 | 10/01/14 |
| Public Meeting | PFO/MSO |  | 01/01/14 | 08/31/14 |
| Congressional Notification | WYSO/WO-350 |  | 09/01/14 | 12/31/14 |
| Consultation (Tribes, State & Local Gov’t, etc.) | PFO |  | 01/01/14 | Continuous |
| Mineral Report | PFO/WYSO |  | 01/01/14 | 10/31/14 |
| NEPA Documentation | PFO |  | 05/30/14 | 12/15/14 |
| NEPA Review, DR | PFO |  |  | 01/15/15 |
| Review/Appv. Mineral Report | WYSO |  |  | 11/30/14 |
| Cultural Clearance (Both areas) | PFO |  | 08/01/13 | 08/01/14 |
| Grazing Notice | PFO |  |  | 09/01/14 |
| **C. DECISION PHASE (Approx. 130 days)** | | | | |
| Draft Documents/Decision Package | PFO |  | 01/15/15 | 02/15/15 |
| SO/Solicitor review of Decision Package | WYSO/Solicitor |  | 02/15/15 | 03/15/15 |
| WO350 Review/Approval of Decision Package | WYSO/WBO |  | 01/01/15 | 02/15/15 |
| Publish NOD/Mail (one time in newspaper w/45 day comment/60 day Governor) | PFO |  |  | 03/01/15 |
| Final Title Insurance Policy |  | Fort Hill |  | 03/01/15 |
| **D. CLOSING PHASE (Approx. 30 days)** | | | | |
| Certificate of Inspection/Possession | PFO | Fort Hill |  | 07/01/14 |
| Final Title Opinion | Regional Solicitor |  |  | 05/01/15 |
| Closing - Issue Patent, (Escrow) | WYSO | Fort Hill |  | 04/15/15 |
| LR2000/Note Plats | PFO/WYSO |  |  | 04/15/15 |

**EXHIBIT D**

**MILLER MOUNTAIN LAND EXCHANGE**

**PROCESSING COST ESTIMATES**

**WYW-179564**

**Description of Work** **BLM**  **Proponent** **TOTAL**

Initial Preparation, Realty/Records, etc. $ 6,200 $ 6,200

Preliminary Title Evidence $ 1,400 $ 900 $ 2,300

Mineral Report $ 3,000 $ 3,000

Cultural Survey $ 6,500 $ 6,500

Biological Surveys $ 3,500 $ 3,500

Hazmat/ESA $ 3,000 $ 3,000

Cadastral Survey $ 2,400 $ 2,400

Newspaper $ 500 $ 1,500 $ 2,000

Public Meetings, local govt.

coordination, etc. $ 1,500 $ 1,500

NEPA prep. and review $12,200 $12,200

Patent/WD, title final adjudication $ 1,400 $ 1,400

Title Insurance Policy $ 1,500 $ 1,500

Escrow/Closing Costs $ 3,000 $ 3,000

Appraisals (contract) $ 35,000 $ 35,000

Appraisal Review $1,500 $ 1,500

TOTAL $43,100 $ 41,900 $85,000





