

WALLACE

Environmental Consulting, Inc.

P.O. Box 266
Courtland, CA 95615
(916) 775-2380
jim@wallaceenvironmental.com

March 4, 2019

Proposal to Acquire National Forest Lands Contiguous to the Mammoth Yosemite Airport for the Town of Mammoth Lakes in Accordance with the Townsite Act

Project Understanding

Mammoth Yosemite Airport and the Town of Mammoth Lakes propose to purchase approximately 90 to 95-acres along the airport's southern and western boundaries¹ from the Inyo National Forest. The Forest Service lands, now located within Mono County (General Plan land use designated Resource Management) would be annexed to the airport and to the Town of Mammoth Lakes and rezoned "airport" in accordance with Town of Mammoth Lakes zoning ordinance. The Town will submit an application to the Inyo National Forest to purchase the land in accordance with the Townsite Act of 1958.

Townsite Act of 1958

The Secretary of Agriculture has authority to convey lands within National Forest Service (NFS) boundaries out of federal ownership either through sale or exchange. One option for the conveyance of NFS lands is the 1958 Townsites Act which authorizes the transfer up to 640 acres of NFS land adjacent to communities in Alaska or the eleven western states, including California, for townsites, if the "indigenous community objectives ... outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership" (16 U.S.C. §478a). Public notice of the application for such transfer is required, and upon a "satisfactory showing of need," the Secretary may offer the land to a local governmental entity at "not less than the fair market value."

Phase I: Application to Purchase NFS Lands

National Forest System lands, needed by a community, may be sold under the Townsite Act for fair market value if those lands would serve indigenous community objectives that outweigh the public objectives and values of retaining the lands in Federal ownership. Indigenous (generally local governmental entities) community objectives may include space for housing and for service industries, expansion of existing economic enterprises, new industries utilizing local resources and skills, public schools, public health facilities, community parks, and other recreation areas for local citizens, but excludes such uses as commercial enterprises or new industries and housing projects that would change the character of the local community.

¹ Based on our preliminary review of Mono County Assessor Parcel Maps, there appears to be a narrow strip of NFS land between the airport property boundary and Airport Road.

An application to purchase National Forest System lands must be submitted so that the Inyo National Forest can determine if the application meets the requirements at 36 CFR 254.20(a) and 254.22. The application:

- Must be made by designated officials authorized to do business in the name of the Town;
- May be in the form of a letter, ordinance, or resolution;
- Must be furnished to the District Ranger (Mammoth Ranger District) or the Forest Supervisor (Inyo National Forest);
- Must be limited to 640 acres or less adjacent to an established community, and
- Must include:
 - A legal description of the land proposed for purchase,
 - A development plan, consisting of a detailed narrative statement and map, which provides a description of the intended use of the site and how essential community needs are met by the purchase.
 - Statement of reasons why transfer of the land would serve community objectives that outweigh the public objectives and values which would be served by maintaining the tract in Federal ownership.
 - Evidence that there is no equally suitable private, local government, State, or other Federal lands available for townsite purpose.
 - A copy of current zoning ordinances, covenants, and standards affecting development and use of the described lands which assures the land to be conveyed will be managed so that the use will not interfere with protection and management of adjacent National Forest System lands.
 - Include a history of the existing Forest Service/Airport lease and the Town's record as a good resource steward.

Phase II: NFS Documents and Procedures to Approve a Townsite Act Conveyance

When the Inyo National Forest accepts the Town's application it must submit an initial public notice announcing the land conveyance and publish it in a local newspaper. The Forest would normally provide a 45-day public comment period. Concurrently, or after the public comment period, the Mammoth Ranger District must make the following determinations:

- Determine if the Town has made a satisfactory showing that the land will meet essential community needs;
- Determine if lands applied for would serve community objectives that outweigh other public objectives and values which would be served by maintaining the tract in Federal ownership;
- Consider land exchange as an alternative to use of the Townsite Act when conveyance or use of needed lands is in the public interest.
- Determine the extent and types of studies needed to support evaluations of scenic, wildlife, environmental, historical, archeological, or cultural values;
- Determine if the sale would substantially affect or impair important scenic values, threatened or endangered wildlife or plants, hazardous materials, floodplains, wetlands and historical, archeological, or cultural values;
- Determine conflicts with mining claims or mineral leases;
- Contact the Comprehensive Environmental Response, Compensation, and Liability Act Coordinator to consult on the appropriate level of investigation and analysis needed to determine the environmental site condition.

- Assess the environmental effects of the proposed conveyance and alternatives required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 (note)). The environmental assessment must consider the environmental effects of the Town's proposed development and the mitigating effects of applicable State and local laws, zoning ordinances, covenants, and standards. The Town may prepare necessary environmental reports and the environmental assessment.
- Evaluate the applicability of public comments;
- Identify the extent of valid existing rights and uses;
- Determine if zoning ordinances, covenants, or standards are needed to protect adjacent National Forest land and to protect or mitigate valid existing rights and uses.
- Upon approval, the authorized Forest Service official shall take appropriate steps to have an assessment made of the fair market value of the land and process the conveyance:
 - Conveyance of the approved tract(s) may be made by a single transaction or by multiple transactions spread over a period of time in accordance with a prearranged schedule.
 - The authorized Forest Service official will execute and convey title to the townsite tract(s) by quitclaim deed; Ensure deeds are free of terms and covenants, except those deemed necessary to ensure protection of adjacent National Forest System land and/or valid existing rights and uses
 - Deliver executed deeds to the governmental body upon adoption of zoning ordinance and development plan if found necessary and notice from the authorized Forest Service Fiscal Agent that payment has been received.
 - The authorized Forest Service official shall conduct or provide for the necessary tract survey and boundary posting of National Forest System land.
 - Fair market value of townsite tracts shall be determined following Forest Service appraisal procedures and the Uniform Standards for Federal Acquisitions.
 - Submit a final package to the Pacific Southwest Region Forester (Sacramento) with a recommendation regarding conveyance of the lands within the designated townsite. The package should include the following:
 1. Tract examination information.
 2. Environmental assessment and draft decision notice or environmental statement.
 3. Public notice information and public responses.
 4. Draft deed.
 5. Applicable covenants, standards and zoning ordinances needed to protect public and private rights and interests.
 6. Other information or material that clarifies or supports the final recommendation.

Phase III: Other Compliance Issues

Based on a preliminary assessment of other compliance issues, the Town may need to comply with the following:

- FAA
 - NEPA compliance for the preparation of an Environmental Assessment for land conveyance (purchase) of more than 3-acres. FAA guidance for land conveyance is found in FAA Order 5050.4B, Chapter 2; Section 204. The FAA could accept the

Forest Service EA. However, we believe that some sort of formal arrangement between the federal agencies needs to be arranged. Most NEPA agreements between federal agencies regarding lead agency status, cooperating agency status or co-lead status are related to environmental impact statements, not environmental assessments. This issue needs to be vetted early in the Townsite Act application process.

- Mono County:
 - Change of land ownership from Forest Service to the Town needs to be addressed in the County's General Plan land use designation.
 - LAFCO is responsible for coordinating changes in local governmental boundaries.
 - Airport Land Use Commission: Mammoth Yosemite Airport – Airport Land Use Plan will need to be revised.
 - CEQA compliance is required for the proposed projects, Town is lead CEQA agency.
- Town of Mammoth Lakes:
 - Serves as airport sponsor for FAA compliance
 - Submits Townsite Act application
 - Approves annexation of Townsite Acts land
 - Serves as lead CEQA agency

Preliminary Strategy to Complete Townsite Act Conveyance of NFS Land to the Town of Mammoth Lakes

To move the Townsite Act application forward we suggest the following (the exact order should be modified as needed):

1. Develop rationale for land conveyance to include local and regional benefits which can best be served by the Town and airport.
2. Accurately identify the land to be conveyed and place it on a suitable map.
3. Conduct a cursory evaluation of environmental issues.
4. Conduct a cursory evaluation of land use and entitlement issues.
5. Develop an "administrative" approach to the conveyance. That is, identify the political landscape and how best to navigate.
6. Approach the District Ranger and the Forest Supervisor for an informal, non-binding, discussion of the Town's intent. Informally present the information developed in items 1-4.
7. Reach out to U.S. Congressional office to inform them of the Town's intent.
 - a. Others who could help improve chances of success may include U.S. Senators, Mono County Supervisors, FAA Administrators, LADWP, airlines serving MMH.
8. Request a resolution from the Town and make the first formal public presentation.
9. Based on the results and tenor of the meeting with the Forest Service, finalize the Townsite Act application (the application should be complete before requesting a Town resolution).
10. Submit the Townsite Act application to Inyo NF, Mammoth Ranger District.
11. Submit a letter to the FAA indicating the Town's intent.
12. Conduct "what if" discussions with the FAA to help identify administrative issues, NEPA and special purpose law requirements.
13. Identify qualified appraiser (could become an Inyo NF issue).
14. Develop administrative strategies to address:

- a. Mono County land use and General Plan issues
 - b. LAFCO requirements
 - c. Airport Land Use Commission
- 15. Flush out NEPA and CEQA strategies and costs.
 - a. Identify public meeting strategies – type, location, etc.
 - b. Prepare draft NEPA and CEQA documents
 - c. Prepare to respond to public comments
 - d. Prepare final environmental documents
- 16. Work with the Forest Service to complete the conveyance