

Testimony of John Winchester
Former Chief of the Sugar Loaf Fire Protection District
before the
U.S. House Committee on Natural Resources
concerning
H.R. 3923, the Sugar Loaf Fire Protection District Land Exchange Act of 2009

April 27, 2010

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify today in support of House Bill 3923. My name is John Winchester and I have been an active fire fighter in the Sugar Loaf Fire Department for 20 years, and have served as its chief for four of those years. For the last thirteen years I have represented the Sugar Loaf Fire Protection District as it pursued a land exchange with the U.S. Forest Service (USFS) that is the subject of this bill. The efforts of Representative Jared Polis of the 2nd District of Colorado that have made this bill possible are greatly appreciated.

Legislative History

This bill was first submitted on July 25, 2007 to the 110th Congress as H.R. 3181 by Mark Udall, then the Representative of Colorado's 2nd District. No hearing was held during the 110th Congress.

Early in the 111th Congress, the bill was jointly resubmitted in the Senate as S.555 by Senators Mark Udall and Michael Bennet of Colorado. A hearing was held on the bill before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources on October 29, 2009. Forest Service testimony was favorable to the bill but two minor changes were requested. These changes were subsequently incorporated in the bill and on December 17, 2009 the Committee on Energy and Natural Resources passed the bill by unanimous consent.

On October 23, 2009 the present bill was submitted to the House of Representatives as H.R. 3923 by Jared Polis, Colorado's 2nd District Representative. Updated shortly thereafter, H.R. 3923 is identical to S.555 which has been passed to the floor of the Senate.

Background

The Sugar Loaf Fire Protection District (SLFPD) encompasses 15,000 acres of private and public (USFS) land in the foothills of the Rocky Mountains west of Boulder, Colorado. Elevations range from 6000 to 9000 feet. The fire department began operation in 1967 and is staffed entirely by volunteers. Currently we have 34 fire fighters and respond to over 100 calls per year. We have always worked very closely with the USFS in fire prevention and suppression activities and will continue to do so.

Our first fire station was established in 1967 in an existing building on USFS land under a Special Use Permit. The second station was built in 1970, also on USFS land and under a special use permit. Both of these stations are in strategic locations, the first near the center of the district, the second near two housing developments and with good access to Boulder Canyon Drive (CO 119). Boulder Canyon Drive is one of the most accident-prone highways in Colorado and we frequently respond to accidents there.

Our goal with this legislation is to exchange an existing property, a patented mining claim surrounded by Forest Service land, for the land under our two stations.

Advantages of the land exchange to the Sugar Loaf Fire Protection District

This land exchange will provide us clear title to the land under our two stations. This is important for three reasons.

First, improve health and sanitation. State and County regulations prohibit well and septic systems on public lands for private use. We operate these stations without water supplies and without indoor plumbing. Station 2 is an election polling location, and currently we must rent a port-a-potty for the public to use on election days. If we obtain title to the lands, we will be able to install bathrooms and kitchens, features found in all fire stations today.

Second, achieve a greater degree of self-determination. At present, all modifications to the stations and their grounds must be approved by the USFS. Drawing up and reviewing plans for non-routine building maintenance, grading and drainage is time-consuming for both us and the USFS Boulder District office. In addition, the land at Station 1 includes a flat area we use for fire fighter training. Due to the steep terrain of our fire district, this is the only flat, non-private land available for training within the district, and currently we rely on the Boulder District's gracious interpretation of the Special Use Permit to train fire fighters in vehicle extrication, driver training and hose handling techniques. In addition, we have used this area as a slash collection point, so residents wishing to thin around their homes for fire mitigation have a place to drop off branches so they can be chipped.

Third, eliminate any uncertainty about the future of these fire stations. Although extremely unlikely because of our mutual interest in fire prevention and protection, the USFS has the right to not renew our Special Use Permit and change the use of these properties to some other purpose.

Advantages of the land exchange to the USFS

Three principal advantages accrue to the USFS:

First, due to the complex pattern of mining claims in the area, the Boulder Ranger District manages a large number of Special Use Permits. Because the fire stations are not a temporary use, if the land exchange does not occur the USFS will be required to inspect the properties and manage the Special User Permits in perpetuity. This exchange would

eliminate management of two Special Use Permits at the Boulder District and would reduce, by a small amount, their workload.

Second, it removes one more in-holding in the Boulder Forest District, and assures that it can never be developed. Blocking development to this property and properties like it is particularly important because any development would require construction of a new access road across USFS land.

Third, it removes liability from the USFS. As the current landowner, the USFS is ultimately responsible for the Fire Department's activities on the property, including the stations themselves, our fuel tanks, and our public activities. Transferring ownership puts the liability where it belongs, with the Fire District.

The procedural approach to land exchange has been tried

For the past 13 years we have worked very hard to achieve a land exchange under the Small Tracts Act, filing for ownership in 1997. In preparation for a formal small tracts exchange, we have:

- Paid for land surveys of both stations
- Purchased a 5-acre building site (the in-holding in forest land) to exchange with the USFS
- Paid for cultural resource surveys of both stations
- Coordinated an historical resources survey with the State of Colorado
- Signed a collection agreement in which the District agreed to pay for part of the USFS staffing costs
- Signed a Potentially Responsible Party Waiver
- Arranged for title insurance for the properties
- Filled in, at the request of the USFS, a small mine shaft on the exchange property.

In spite of these efforts, no progress has been made on the procedural land exchange.

Contributing factors to this lack of action have been:

- Changes in USFS staff at various offices have resulted in changing interpretations regarding exchange requirements, making continuity in the process difficult.
- Shortage of USFS lands staff, so that small exchanges such as this have very low priority.

The legislative approach

After 13 years, we now believe that a procedural approach to our land exchange will not succeed. Therefore we are requesting this legislative action to make the exchange, which we feel has benefits to both parties.

In addition to the advantages for both parties cited above, the legislative approach streamlines the exchange process, a big advantage for both the District and the USFS. The lengthy 64-step process required by the Small Tracts Act is not required.

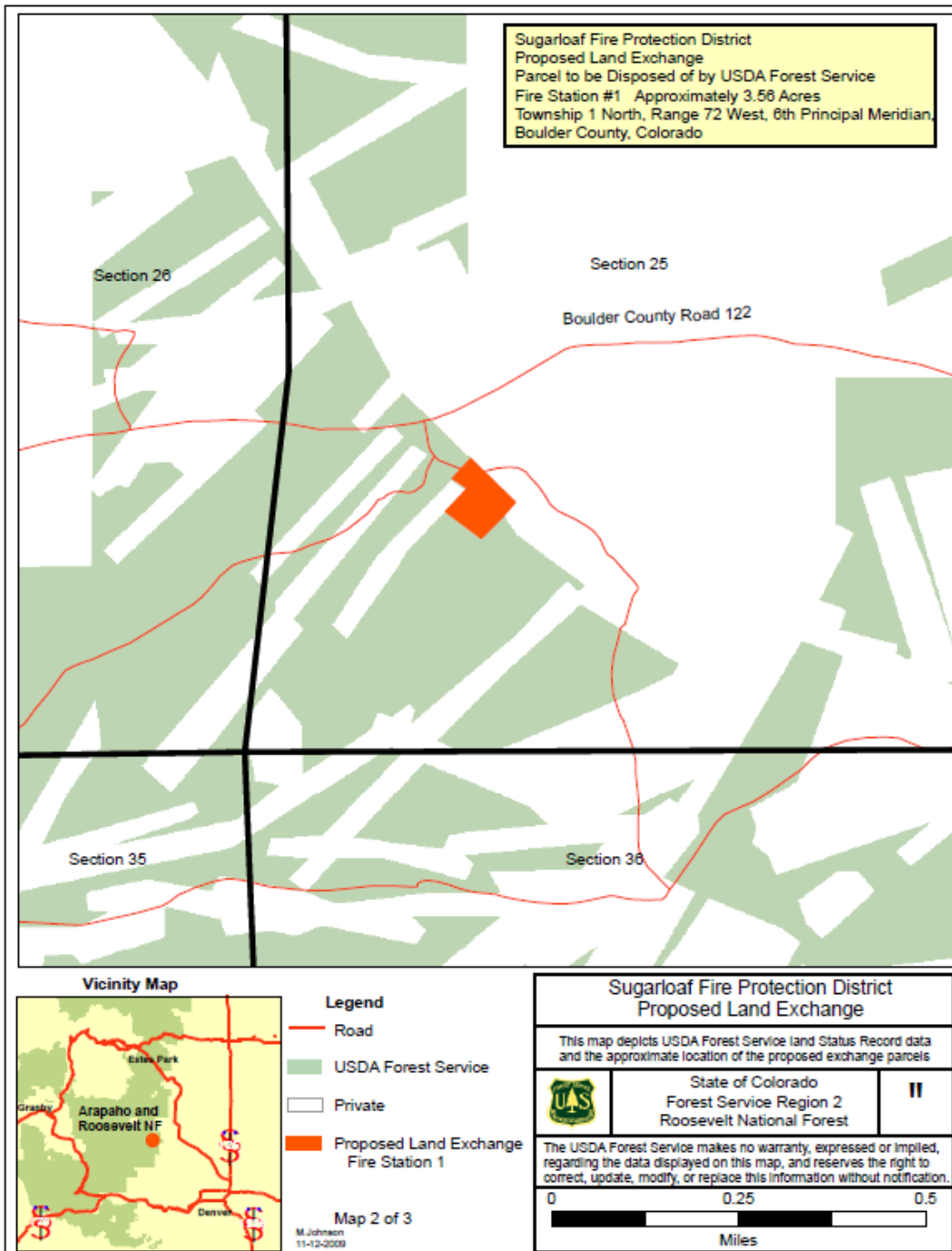
Are U.S. citizens, the owners of forest lands, protected? Yes.

The Fire District will be able to more efficiently provide fire and emergency medical services to the community. Land use will stay the same at both of the stations. The mining claim being exchanged will be protected from development, which will enhance the value of the public land that surrounds it.

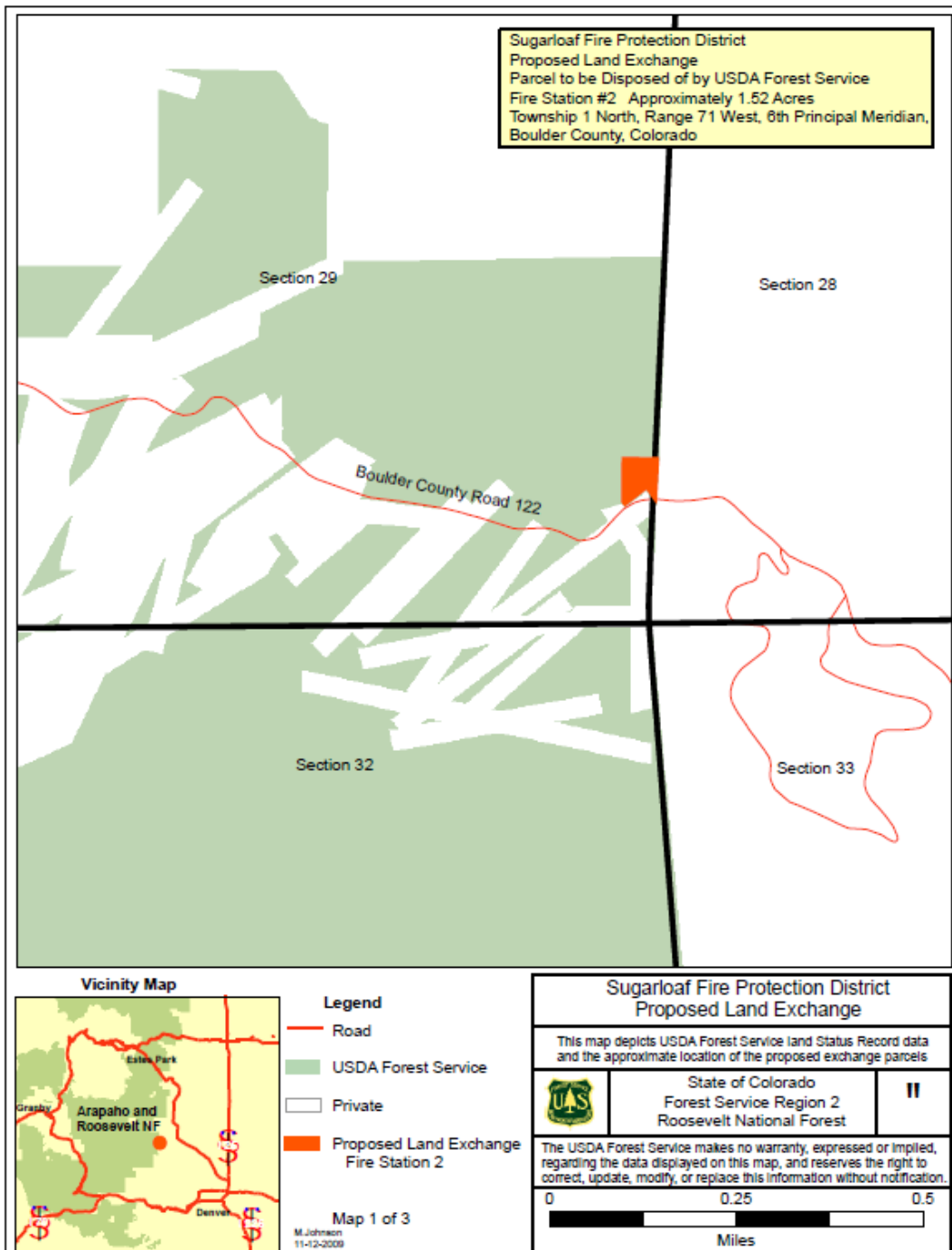
Furthermore, H.R. 3923 stipulates that the exchange must be equal in dollar value for the government. That is, if final land appraisals show the USFS land is of greater value, the SLFPD must equalize the exchange either by paying the USFS or reducing the size of one of the station properties.

Summary

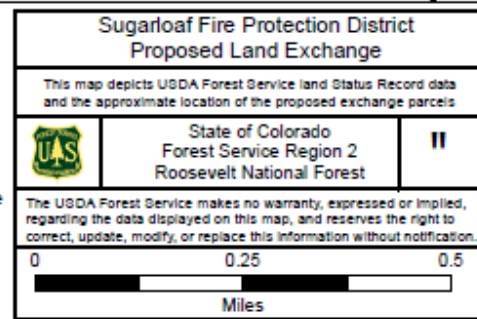
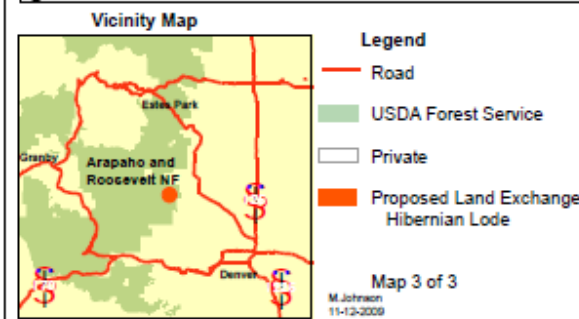
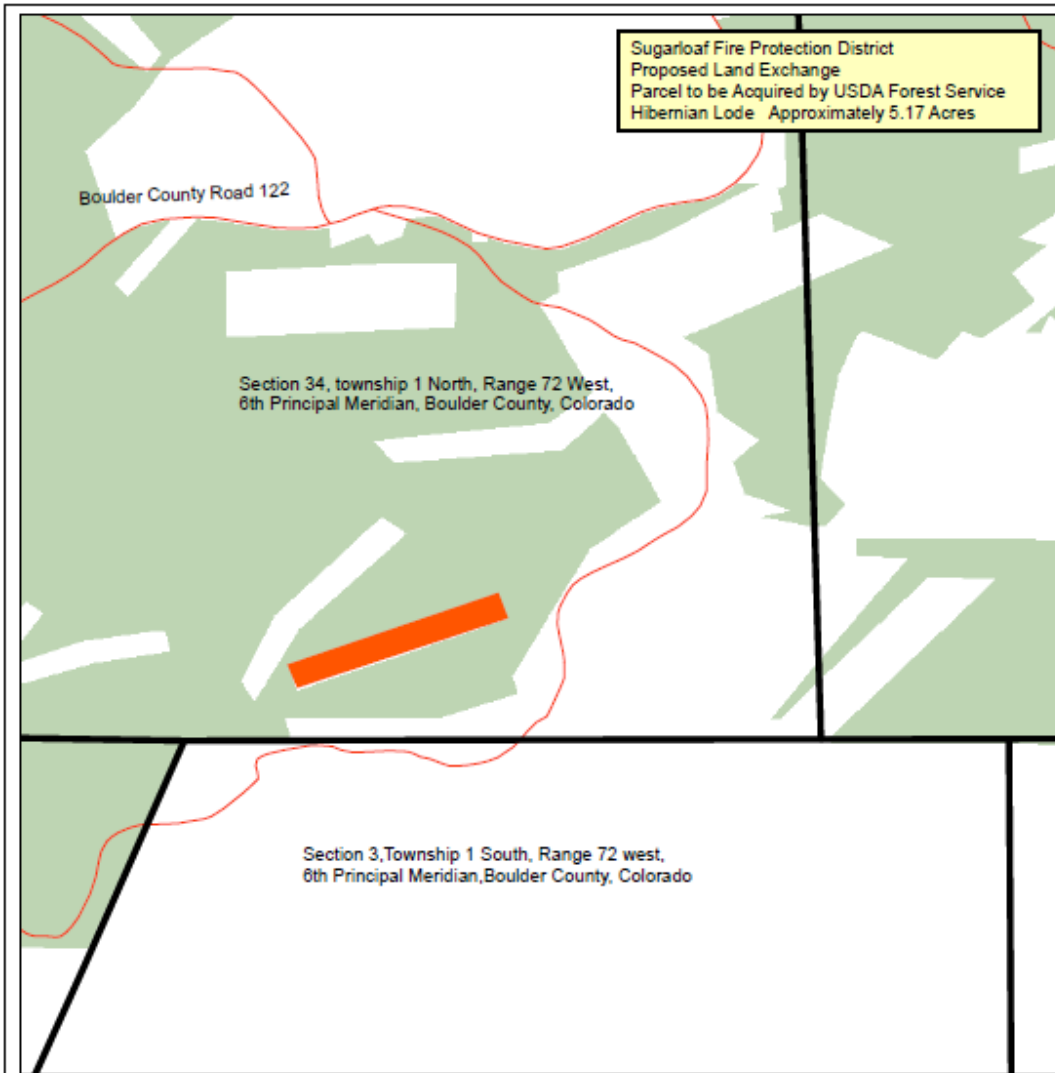
I appreciate the opportunity to speak to you today, and sincerely hope that the committee will approve H.R. 3923. I believe the land transfer requested in H.R. 3923 has advantages for both the SLFPD and the USFS and should proceed.



Sugar Loaf Fire Station No. 1



Sugar Loaf Fire Station No. 2



Sugar Loaf Fire property to convey to U.S. Forest Service