

**U.S. Department of the Interior
National Park Service**

NOTICE OF REALTY ACTION

Notice of Realty Action is hereby given for a proposed exchange of an easement over Federally-owned land for water rights owned or claimed by Verda F. Lee, Trustee of the Lee Family Marital Trust dated April 11, 2001, David K. Lee, Gregory B. Lee, and Lizette I. Tennison (hereinafter "Lees") within the Lassen Volcanic National Park (hereinafter "Park"), Plumas County, California. The authority for this exchange is Public Law 70-320, April 26, 1928 (45 Stat. 463).

Lees hold California Licenses for Diversion and Use of Water (License) Nos. 2023 and 2024 for domestic use and irrigation between May 1st and November 1st of each year. License No. 2023 authorizes the use of 0.17 cubic feet per second ("cfs") from Kings Creek and 0.20 cfs from Cold Spring. License No. 2024 authorizes the use of 0.25 cfs from Sunflower Flat (Juniper) Creek. The points of diversion for each of the water sources (Sunflower Flat Creek, Kings Creek and Cold Spring) are within the Park boundary. The land for which the water use is authorized is outside the Park boundary.

The purpose of the exchange is to: 1) Create a non-vehicular access easement for Lees to maintain existing water-related improvements at Cold Spring and Sunflower Flat Creek within the Park boundary; and 2) transfer to the United States of America ("USA") all of Lees' water-related claims, rights and interests to and from Kings Creek within the boundary of the Park.

1. An easement over the following described Federal land has been determined to be suitable for disposal by exchange:

A) Easement No. 1: A non-vehicular access easement to the points of diversion on Sunflower Flat Creek as described in License No. 2024, along with a right of way for conveyance of water, being a strip of land, variable in width, located in the Northeast One Quarter of Section 30, Township 30 North, Range 6 East, Mount Diablo Meridian, Plumas County, California.

B) Easement No. 2: A non-vehicular access easement to the point of diversion on Cold Spring as described in License No. 2023, along with a right of way for conveyance of water, being a strip of land, variable in width, located in the Northwest One Quarter of Section 29, and the Northeast One Quarter of Section 30, Township 30 North, Range 6 East, Mount Diablo Meridian, Plumas County, California.

Said easements within the boundary of the Park are designated as Lassen Volcanic NP Tract 01-173. The above described easements will be quitclaimed to Lees by the USA. The USA will remain the fee owner of the land subject to Lees' easement interest. These easements will be the sole and exclusive location for access to water rights at Cold Spring and Sunflower Flat Creek pursuant to Licenses 2023 and 2024 within the Park.

The selected Federal land is, and will remain, within the boundary of the Park, but will be subject to Lees' easement interests. The land has been surveyed for endangered and threatened species and cultural resources as appropriate.

2. In exchange for the interests identified in Paragraph 1, the USA will acquire from Lees any and all claims, rights and interests they have or may have to water in and from Kings Creek within the boundary of Park, to wit:

A) A pre-1914 appropriative water claim recorded in the State of California, Plumas County, Book 3 of Water Claims, Page 67, for the diversion and use of 500 miner's inches of water from the right bank of Kings Creek, Plumas County, California within the boundary of the Park and designated as Lassen Volcanic NP Tract 01-174.

B) Any and all rights or claims of right to divert water, from point of diversion inside the Park boundary, from Cold Spring, including but not limited to riparian rights or pre-1914 claims (this does NOT affect Lee's right to divert and use water from Cold Spring pursuant to License No. 2023).

C) Any and all rights or claims of right to divert water, from point of diversion inside the Park boundary, from Sunflower Flat Creek, including but not limited to riparian rights or pre-1914 claims (this does NOT affect Lee's right to divert and use water from Sunflower Flat Creek pursuant to License No. 2024).

D) Any right or claim of right to divert, from point of diversion located inside the Park boundary, water from Kings Creek, pursuant to ownership of lands riparian to Kings Creek located outside the Park boundary (this does NOT affect Lee's ability to divert water pursuant to a riparian right outside the boundary of the Park).

3. The following shall be relinquished by Lees to the State of California:

That portion of License No. 2023 authorizing diversion and use of the waters of Kings Creek, Plumas County, California, within the boundary of the Park. License No. 2023 also authorizes use of water from Cold Spring. This relinquishment applies ONLY to the diversion and use of water from Kings Creek, and does NOT affect Lees' authorization to divert water from Cold Spring pursuant to License No. 2023.

4. The following shall be declared abandoned by Lees:

A) Any right or claim of right to withdraw groundwater, whether percolating or part of an underground stream, with point of withdrawal located within the boundary of the Park.

B) Any right or claim of right for a right of way located within the Park to divert, pump, pipe, or convey water from Kings Creek to any of Lees' properties located outside Park boundary, including any diversion or conveyance associated with License No. 2023 or associated with the claim set forth in paragraph 2.A), above.

C) Any right or claim of right for a right of way located within Park boundary and not located within the permanent access easements conveyed to Lees within this agreement, to divert, pump, pipe, or convey water from Cold Spring or Sunflower Flat Creek.

Conveyance of the above-described water rights, asserted rights, and claims, will be by quitclaim deed. Interests being relinquished or transferred to NPS within the boundary of the Park are designated as Lassen Volcanic NP Tract 01-174.

The value of the lands to be exchanged shall be determined pursuant to 49 C.F.R. 24, Subpart B, § 24.102(c)(2) and, if appropriate, shall be equalized by payment of cash as circumstances require.

A Land Protection Assessment and all required evidence of environmental compliance under the *National Environmental Policy Act* (NEPA) and the *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA) will be prepared and completed prior to the exchange.

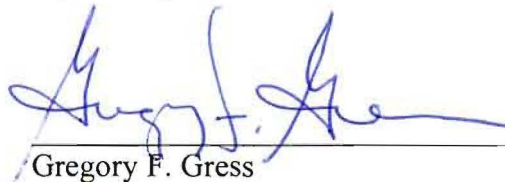
A copy of this Notice, map of the affected area, the surveyed metes and bounds legal description, and natural and cultural resource reports are available at <http://parkplanning.nps.gov/parkHome.cfm?parkID=319>, or upon written request. Any questions regarding this exchange proposal should be addressed in writing to the following point of contact:

Chief, Pacific Land Resources Program Center
Pacific West Region, National Park Service
1111 Jackson Street, Suite 700
Oakland, California 94607
e-mail: Greg_Gress@nps.gov

For a period of 45 calendar days from the first date of publication of this Notice, interested parties may submit comments to the above addressee. Adverse comments will be evaluated and this action may be modified or vacated accordingly. In the absence of any action to modify or vacate, this Realty Action will become the final determination of the Department of the Interior.

Dated this 3rd day of August, 2011.

Signed:



Gregory F. Gress
Chief, Pacific Land Resources Program Center
Pacific West Region

For publication in the Redding Record Searchlight and the Chester Progressive on August 3, 10, and 17, 2011.

