

# Land Exchange Update

Western Land Exchange Project  
Seattle, Washington

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Research, Advocacy, and Outreach  
for Land Exchange Policy Reform

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## ANOTHER LAND GRAB HITS THE WEST

In 1976, the Federal Land Policy and Management Act declared that federal lands would remain in public ownership "except where disposal of a certain parcel will serve the national interest." Passage of FLPMA marked the official end of the great Land Grab that had begun in the mid-18th century, and also set stricter criteria for land exchanges made by federal land agencies.

For decades, federal land swaps with private landowners have been a common mechanism for the government to consolidate land ownership patterns and acquire needed inholdings. Sometimes, land exchanges serve the public interest, but in recent years, skepticism has grown about the increasing number of exchanges that seem to serve *corporate* interests.

Between the Bureau of Land Management (BLM) and the Forest Service, more than 200 land swaps take place every year in the U.S. Most occur in the western states, where on any given day tens of thousands of acres of public land may change hands. The government's main trading partners are timber, mining, ranching, and development interests.

### **Timber**

Swaps with timber interests are occurring mainly in Washington, Oregon, Idaho, and Montana. The government's stated goal behind these exchanges is consolidation of lands into contiguous blocks for better ecosystem management, particularly in the alternating federal-private ownership pattern

of the "checkerboard" lands, a remnant of the 19th century railroad land grants.

Unfortunately, many swaps trade intact native forest owned by the public for a mix of forested and cut-over lands or overgrazed rangelands belonging to corporate interests. In some cases, the Forest Service is disposing of late-successional forest and other lands ostensibly protected under the Northwest Forest Plan for corporate lands with, at best, speculative ecological value.

In the Mt. Baker-Snoqualmie National Forest in Washington, the Huckleberry Land Exchange with Weyerhaeuser would trade naturally-regenerated post-fire mature and old-growth forest to Weyerhaeuser in exchange for clearcut corporate lands (see "Pray for the Green", page 4). On the other side of the state, a partially completed BLM exchange would bring the public degraded rangeland in trade partially for old-growth ponderosa pine.

To make matters worse, many of these proposals are implemented through legislation each year. Legislated land swaps are exempted from the National Environmental Policy Act and judicial review. Beneficiaries have included Weyerhaeuser, Big Sky Lumber, Potlatch, and Longview Fibre.

### **Mining**

In Arizona and other parts of the Southwest, the Forest Service and BLM are conducting (...see next page)

### **(...Land Grab)**

land swaps with several mining companies, including Phelps-Dodge and ASARCO. In most of these exchanges, the companies seek to acquire public lands adjacent to existing mines in order to expand their operations. In others, they are returning to previously abandoned areas where mining has become economical due to technological advances.

Where companies have patented mining claims on federal land, the 1872 Mining Law allows them to enter the lands without acquiring them—but they must comply with federal mining and restoration laws and conduct environmental analysis under NEPA. Acquisition through exchange eliminates these burdensome controls. Although Interior Secretary Babbitt's attempts at mining reform were largely quashed, they put the companies on alert, making acquisition a hedge against royalty payments and other potential future reforms.

Babbitt did accomplish a moratorium on patents, which Congress has been renewing on a regular basis. Where companies have unpatented claims, they are currently barred from filing patents and, in effect, from mining. Thus, acquisition through land exchange allows companies to circumvent the patent moratorium, too.

In Arizona alone, there are currently eight major land exchanges planned with mining companies. The companies have acquired isolated inholdings in public lands throughout the state. By law, land exchanges must yield equal value on both sides, not necessarily equal acreage. Generally, lands are valued based on their potential for development—for mines, tree farms, houses, etc., which means that isolated wilderness inholdings have a lower economic value than, say, lands that are adjacent to an open-pit mining operation. Yet in each of Arizona's mining-related exchange proposals, the company is offering a far smaller number of acres than it is asking for, suggesting that either the public lands to be traded are being greatly undervalued, or the inholdings offered by the companies overvalued.

A particularly disturbing aspect of the Arizona BLM's mining exchanges is that the companies pay the salaries of all land exchange staff in the agency and also pay for the environmental impact statements for the projects. BLM staffers say that this is a good deal for taxpayers and creates no conflict of interest. Indeed, land exchanges are discretionary actions which the agencies can opt out of at any point in the process, should they decide the project is not in the public interest. However, it seems unlikely that agency staff would walk away from a deal that has paid their salaries for two or three years or more.

### ***Ranching***

In Wyoming, land exchanges planned between the BLM and ranchers would trade a total of 36,400 acres of public land for 21,000 private acres. Activists in that state who are currently appealing one of the exchanges say that the appraisal process attaches too high a value to overgrazed private lands that would be traded to the public. In the case under appeal, the private land owner actually conducted the appraisals.

In New Mexico, the BLM is trading 8,776 acres to a large ranching operation and in return will receive 500 acres along the Pecos River. The land to be obtained by the agency contains riparian areas that are part of a BLM-designated Area of Critical Environmental Concern—but its management of the land will allow both cattle grazing and recreational vehicle use to continue.

### ***Development***

With the top three fastest-growing cities in the United States, Nevada is the center of land exchanges with private developers. Because 87 percent of the state is federal land, community expansion almost invariably requires land exchange. Presently, about 15 to 20 of these land swaps are in the works, along with a tremendous backlog of proposals. In the BLM's Las Vegas Resource Area alone, 16 land exchange proposals have been placed on moratorium while four others proceed.

Growth in Las Vegas is occurring at such phenomenal speed that the Nevada delegation to Congress has drafted a bill (H.R. 449) that would authorize the sale of BLM lands for community expansion. It would also earmark 10 percent of the proceeds for infrastructure development that local government is unable to provide as urban boundaries expand.

As is true of many land swaps, the most controversial aspect of the Las Vegas exchanges is the appraisal process. In one Nevada exchange, the public would acquire 70,000 remote acres and give up only 7,000 acres near the booming town of Wendover.

But in an exchange with Del Webb Corporation, a Las Vegas developer of numerous retirement communities, the acreage traded would be almost equal, even though the land going to Del Webb is at the edge of urban development, and should have a much higher value than the scattered inholdings offered by the developer.

From 1992 to 1995, the Department of the Interior's Office of the Inspector General (OIG) audited four land exchanges in the Las Vegas Resource Area and found numerous regulatory violations and dubious policy decisions in the BLM's implementation of these exchanges.

The OIG found that because BLM appraisers assigned low values to public lands and high

values to private trade lands, the agency lost about \$4.5 million in three of the exchanges. One 70-acre public parcel traded to a developer was appraised at \$763,000—and sold by the developer to another party for \$4.6 million on the same day that the exchange occurred.

In Payson, Arizona, developers are clamoring to acquire National Forest land for community expansion despite the availability of hundreds of acres of platted land within the city limits. Recently-built developments facilitated by past land exchanges are causing severe overdrafts of the area's groundwater supply (to water non-desert landscaping and golf courses). Long-time residents are seeing wells run dry. In the surrounding forest, trees are dying and riparian areas are left high and dry by the sinking water table. Last summer, the town declared a water emergency, with supply at 51 percent of normal, and yet the Town Council and Forest Service continue to promote land exchanges for community expansion.

Land exchange policy raises very serious questions about the role of public land agencies, and about how the disposition (or disposal) of public land best serves the public interest. In many land swaps, the BLM and

Forest Service have become facilitators in a process of corporate land acquisition and resource extraction that could wreak havoc on western lands. The second great Land Grab has begun. ↻

**One 70-acre public parcel traded to a developer was appraised at \$763,000—and sold by the developer to a third party for \$4.6 million on the same day he received it.**

*"We have incurred the violent hostility of the individuals and corporations seeking by fraud and sometimes by violence, to acquire and monopolize great tracts of the public domain...The managers and owners of the great lumber companies...have desired to get possession of the valuable timber of the public domain, to skin the land, and to abandon it when impoverished well nigh to the point of worthlessness."*  
**Teddy Roosevelt, 1906**

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# PRAY FOR THE GREEN

**If the Forest Service has its way**, the Green River in Washington's Mt. Baker-Snoqualmie National Forest will have accommodated three land exchanges over a period of about 17 years.

In 1982, the Feds traded lands in the Green River Basin to Burlington Northern (Plum Creek Timber's parent) and Weyerhaeuser in exchange for corporate inholdings in the nascent Alpine Lakes Wilderness Area. The two companies took 9,000 acres in that exchange. Currently, the USFS is proposing to swap thousands of additional acres in the Green to Weyerhaeuser (Huckleberry Exchange) and Plum Creek Timber Company (I-90 Exchange).

**The Huckleberry Exchange** would swap about 4,400 acres of native forest on Huckleberry Mountain for 30,000 acres of Weyerhaeuser land in the Snoqualmie Pass area of which 90 percent has been clear-cut. Last spring, Pilchuck Audubon Society, Huckleberry Mountain Protection Society, and the Muckleshoot Indian Tribe filed suit against the Forest Service. Plaintiffs allege:

- ◆ the land exchange does not serve the public interest because it trades intact native forest belonging to the public for largely cut-over corporate lands;
- ◆ the Forest Service failed to meet its obligations to consult with the Muckleshoot Indians under the National Historic Preservation Act;
- ◆ the swap does not obtain equal value for the public as required by law, because the 236 miles of roads on the Weyerhaeuser land were counted as an asset in the appraisal process, when in fact they are a significant liability;
- ◆ the exchange would violate several provisions of the Northwest Forest Plan;



**For this, we're trading forest!? Weyerhaeuser clearcuts to be exchanged to the Forest Service.** (Photo courtesy of U.S. Forest Service)

- ◆ the environmental impact statement (EIS) is inadequate because it fails to consider any non-exchange alternatives for resolving the problems of the checkerboard lands, such as purchase of private checkerboards with money from the federal Land & Water Conservation Fund.

**The I-90 Exchange** has just entered the environmental analysis process, with a draft EIS expected to be released at the beginning of 1998.

The Forest Service is effectively divesting itself of its holdings in the Green River without having declared that intention in Forest Planning documents. The combined effect of the Huckleberry and I-90 exchanges would be for the agency to turn 45 percent of its holdings in the Green River over to private timber companies.↵

*Concerned citizens can join the mailing list for the I-90 Exchange EIS by calling Floyd Rogalski, Forest Service Project Planner, Cle Elum Ranger District, (509) 764-4411, x. 315.*

## A NET GAIN—BUT IN WHAT?

According to data provided by the Forest Service central office in Washington, D.C., land exchanges from 1988 through 1996 resulted in a net gain in national forest lands. Private lands traded in that time totaled 594,882 acres, while the Forest Service traded away 410,932 acres for a net public gain of 183,950 acres. It's a comfort to know that, overall, we are not losing national forest acres—but important to note that in many cases, lopsided acreages reflect a trade of resource-rich federal lands for damaged private holdings.

## LAND GRANTS AND LAND EXCHANGES: WHEN WILL THE SUBSIDIES END?

Rachael Paschal, President  
Western Land Exchange Project

The devastation of our public lands through grazing, mining and logging is a continuing saga of public subsidies for private gain. The West's resource extraction industries have filled themselves at the public trough, consuming the profit and leaving us a mess. The plight of forests in Montana, Idaho and Washington is a case in point. In 1864 and 1870, Congress granted 40 million acres to the Northern Pacific Railroad Corporation in exchange for construction and operation of a 2,000-mile rail line between Lake Superior and Puget Sound. The lands were granted in a "checkerboard" pattern of alternating square mile sections. Congress intended that Northern Pacific sell these lands for agricultural settlement in parcels no larger than 160 acres.

It soon became apparent that the forested mountains of the Northwest were not suitable for farming but were incredibly rich in timber, and the Northern Pacific began what historians call the Great Barbecue—the wheeling, dealing, and exploitation of the checkerboard forests. Congress and federal agencies failed in repeated attempts to undo the land grants before the land grants undid the land. Instead, timber corporations fattened on railroad largesse, and the size and wealth of Weyerhaeuser, Plum Creek, Potlatch and others is a direct result of the illegal transfer of Northern Pacific lands and timber. As the pictures in this newsletter illustrate, these forests still await rescue.

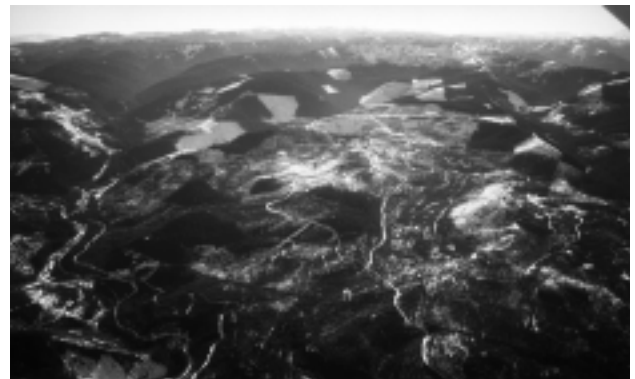
Congress can still reclaim these lands, but instead allows the Forest Service and Bureau of Land Management to *reward* timber corporations by bartering federal forests for cut-over land grant lands. The result of many land swaps is that in return for some of America's last few acres of old growth and native forest, the public receives square mile clear-cuts, substandard roads, and choked streams. Land exchanges are the newest tool by which resource-hungry corporations can manipulate federal land law and convert the last scraps of public assets into private profit.

Perhaps the greatest insult in all of this is the continuation of the public subsidy even after the exchange is done. When the timber companies exchange their clearcuts back to the Feds, they walk away from any obligation to clean up the

lands and waters they have ravaged. In August, Seattle newspapers touted the work of teenagers who volunteered their summer to help obliterate the "Zorro cut" -- a highly visible, slide-prone logging road left behind by Weyerhaeuser and Champion International on land acquired by the public via a state agency land exchange. How has it come to be that teenagers are cleaning up the damage done by multinational corporations? These youths are absolutely to be commended for their dedication and work, but that Weyerhaeuser's irresponsible behavior would be turned into a "win-win" story has implications that reach far beyond that damaged hillside.

It is time to question some assumptions. Why are federal and state agencies, charged with protection of the public interest, even contemplating the exchange of native forest to companies which openly admit their intent to engage in the same cut-and-run strategy they've employed all along? Why do we assume that timber companies are not responsible for decommissioning the thousands of miles of now-defunct logging roads they've left behind? Why are logging roads, which cost \$12,000 per mile to obliterate, in fact valued as assets in an exchange?

It is the goal of the Western Land Exchange Project to place these questions on the public agenda. Land exchanges have been around for a century, but the wholesale horsetrading of tens of thousands of acres of public lands is a new twist, and one that calls for rational policies and administrative reform. We invite you to use the resources we are developing to educate yourself and become involved in this critical issue.↵



**Washington's Green and Greenwater rivers flow through a landscape torn by logging and roads. Private checkerboards in this photo are part of the Northern Pacific Railroad land grant and are now controlled by Weyerhaeuser and Plum Creek.** (Photo courtesy of Martin Rand/Project LightHawk)

# FORESTLAND EXCHANGES NO SOLUTION

By Roy Keene

[Originally printed in the Eugene Register-Guard, Oct. 30, 1997]

A recent article in the Register Guard reported that a "land exchange appears promising". Seneca and other corporate sawmills have proposed to exchange some of their lands for some of ours. Trading logged over industry bottom lands for well-stocked federal uplands does, indeed, appear promising if you're the one anticipating getting high quality stumpage for your stumps.

The timber industry would like to be relieved of their responsibility to care for the public resources, water and wildlife (particularly salmon), that are entwined with their vast forest holdings. Their concern over the conflict between our resources and theirs is legitimate. Two thirds of the salmon and steelhead habitat are in the private forest where three quarters of the logging now occurs. Scientists tell us that if streams continue to be logged, our fish runs will be lost.

Considering that most of the streams that flow through the private forests have already been logged, the obvious solution would seem to be quit logging in and around streams in the future. Corporate industry's attitude, however, is that they have the right to continue logging streams that flow through their forest, even if it fouls our water and kills our salmon. Although this archaic concept went out of style when common law replaced feudalism, lawmakers are, unfortunately, still quicker to defend corporate property rights than they are the public's.

Giving a billion dollars worth of tax relief to private forest owners isn't enough to buy us some stream protection in Oregon. The timber industry has consequently convinced congress to spend millions of our tax dollars on a gaggle of scientists to study their proposed trade, the Umpqua Land Exchange. The results from this kind of "science" can be predicted long before they are announced. Rest assured that the ecological values of industry's heavily logged lands will be found, by well paid researchers, to marvelously equal or exceed the value of our relatively uncut lands!

The Feds never seem to come out well on land trades with industry, partially because they undervalue our timber and overvalue the logged over lands they trade for. A recent trade included in [former Oregon Senator Mark] Hatfield's Opal Creek Bill between Rosboro Lumber Company and the Willamette National Forest to "consolidate lands" provides a classic example. We inherited a heavily cutover section of land and Rosboro

got a half section of mostly stocked public forest, a far better deal for Rosboro than for us. Cutover forest acreage can be purchased cheaply in "real world" markets, since it often represents a financial liability, requiring restocking and erosion control, rather than providing the financial potential of standing timber.

The Weeks Law was created specifically to empower the Feds to outright purchase or even condemn logged over private lands to protect future watershed values. Under the Weeks Law, millions of acres of industrially ravished forestlands in the Southern and Eastern United States were redeemed back into public ownership. These lands, purchased cheaply, are now well stocked forests, protecting streams and water quality for wildlife and human populations that have burgeoned over the decades. Why not purchase logged over private forestlands rather than trade for "less sensitive" well-timbered public land?

As the Umpqua Land Exchange project director noted, exchanges take "a willing seller and a willing buyer". Would industry be willing to sell their logged over lands at fair market value when they can make more money with a congressionally funded, "scientifically" justified trade for public timber?

An initiative to reform logging practices that includes reducing streamside logging is now gathering signatures and could produce additional incentive. If this worthy initiative passes, corporate forest owners will be forced to pay more respect to public resources. They might find it cheaper to sell their bottom lands rather than have to leave some trees in the future.

The Umpqua Land Exchange is on a well-greased fast track. For this exchange to hold any promise for the public, it needs to be slowed down and weighed against other alternatives such as federal purchase of private bottom lands at market value.

The fairest and cheapest way, however, for the public to protect their property rights will be at the ballot box. To secure the promise of clean drinking water and healthy salmon runs for your children, resist dubious land exchanges and vote for logging practice reforms.

***Roy Keene is a consulting forester who works on public forestry issues. His e-mail address is rkeene@teleport.com***

## **“NO LAND SWAP / NO OPEN PIT MINE!”**

Save the Scenic Santa Ritas (SSSR), a citizens group based in Tucson, AZ, is fighting a proposed swap between the Forest Service and ASARCO on the Coronado National Forest. ASARCO wishes to acquire 13,000 acres of public land where it has patented mining claims in exchange for about 2,000 acres of inholdings throughout the state. The company's plan is to create a huge open pit mine by lopping the top off of several peaks in the Santa Rita Mountains, extract copper, and dump the mountaintops into the valley below.

To the agency's discomfort, SSSR has launched an energetic campaign against the land exchange, with support from dozens of recreational, environmental, and civic groups. In July, SSSR hosted a public forum on the swap, attended by more than 200 citizens. Speakers included Aimee Boulanger of the Mineral Policy Institute, Rod Mondt of the Wildlands Project, National Environmental Policy Act expert Denise Boggs, and Janine Blaeloch, Western Land Exchange Project director. Forest Service staff were present and audience participation was spirited.

Shortly after the forum, the Forest Service ceased work on the swap pending submittal of a mining plan by ASARCO. SSSR hopes to stop the swap by building public opposition to the project. ↻

*For more information, contact Randy Serraglio at SSSR, (520) 628-9585.*

Land Exchange Update is a publication of the Western Land Exchange Project, a non-profit charitable organization conducting research, outreach, and advocacy for the reform of federal land exchange policy.

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## **THANKS FOR YOUR SUPPORT !!**

We are grateful for the generous support of the **True North** and **Weeden** Foundations, who have helped the Western Land Exchange Project get on its feet and stay standing.

Thanks to the Center for Environmental Law & Policy for providing initial fiscal sponsorship, a roof, chair, desk, and invaluable moral support.

*Merci* to Emily Buck for help with the newsletter.

Finally, we thank Founders John Osborn, Don Fries, Delmis Sonneson, Betsy Dennis, Rachael Paschal, and anonymous donors.

### **LAND EXCHANGE DATABASE**

**Since June, the Western Land Exchange Project has been gathering data on land exchanges by contacting Forest Service and Bureau of Land Management offices throughout the 11 western states. With 97 of 108 offices responding so far, we have substantive information (e.g., an environmental analysis or complete description) on about 75 exchanges and we are building files on dozens more.**

**These and other data collected over the next several months will be incorporated into a comprehensive report on land exchanges, scheduled to be released in July 1998. The report will include land swap history, policy, and law. It will provide specifics on the land deals occurring now, and examine problems and controversies associated with these projects. The report will be distributed widely to citizens, environmental groups, and BLM and USFS personnel.**

***If you have information about a land exchange in your area, or would like to know where trades are happening, please contact us at (206) 223-8454 or via e-mail: westlx@igc.org ↻***

## The Western Land Exchange Project

- ◆ Disseminates information about ongoing and planned exchanges;
- ◆ Provides legal and environmental analysis of exchange proposals;
- ◆ Networks with environmental organizations and communities affected by land exchanges;
- ◆ Assists with administrative or legal actions;
- ◆ Consults with agencies that are planning exchanges; and
- ◆ Advocates for reform of land exchange policies and regulations.

As a member, you can help support our research, outreach, and advocacy on behalf of public lands. You will receive regular updates on land exchanges and related issues around the West and beyond, as well as information on opportunities for action. Please complete this form and return it with your payment. Checks should be made payable to the **Western Land Exchange Project**. All contributions are tax-deductible.

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