



Land Exchange Update

Western Land Exchange Project
Seattle, Washington

Research, Advocacy, and Outreach
for Land Exchange Policy Reform

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Forest Service Feels the Pressure

Agency Agrees to Review Appraisals in Three NW Swaps

In response to a request from the Western Land Exchange Project and mounting pressure for land exchange reform, the US Forest Service (USFS) has agreed to launch an internal review of appraisals conducted for the Huckleberry, I-90, and Crown Pacific land exchanges in the agency's Pacific Northwest Region.

In a letter to USFS Chief Michael Dombeck dated August 3, WLXP Director Janine Blaeloch urged him to investigate whether the appraisals for the three exchanges were fairly conducted. The Land Exchange Project attached a letter from Oregon timber cruisers/appraisers Roy Keene and Greg Harty regarding their review of the Huckleberry appraisal. Among their findings:

- 1) hundreds of acres of Federal timber were unaccounted for in the timbered acreage calculations;
- 2) tens of millions of board feet of 80-to 150-year-old Federal timber were under-tallied during the cruising process, contracted and controlled by Weyerhaeuser;
- 3) huge discounts (over 1/3 of its total value) were applied to Federal timber values amounting to millions of dollars in unrealized value;

- 4) a built-in profit of over 15 percent on the Federal timber involved in the exchange was included for the benefit of Weyerhaeuser.

The WLXP letter also referred to audits now being conducted by the USDA Inspector General's office on land exchanges in USFS Regions 3, 4, and 5 (see below). The letter stated:

"The Forest Service appears now to recognize that there are acute problems with the process for and conduct of land-exchange appraisals. It must further recognize that the lack of public access to valuation data and methodology only compounds these problems. The secrecy of the appraisal process increases the potential for improper actions, and, as you are aware, greatly adds to the public's distrust in the land exchange process.

"If, as we believe, public lands and timber are being undervalued and private lands overvalued...perhaps the greatest harm lies in the fact that through appraisal error or malfeasance, the public may be relinquishing more forest and irreplaceable habitat than would occur in equal trades."

Three weeks after receipt of the letter, the USFS agreed to review the appraisals. Spokesperson Chris Wood told the Seattle Times that the agency is creating a task force to prioritize exchanges, out of concern that private interests are controlling the agenda. ☺

The USDA Inspector General (IG) is currently conducting audits in Forest Service regions 3 and 5, and recently released an audit on the Deer Creek land exchange in Nevada's Toiyabe National Forest (Region 4). The Region 4 audit found that as a result of agency malfeasance and undue influence by private parties to the exchange, taxpayers lost about \$6 million. Forest Service Employees for Environmental Ethics published an excellent special report on the IG audit, which can be obtained at a cost of \$2.50. Write to FSEEE/Inner Voice at Box 11615, Eugene, OR, 97440.

WLXP Pushes for Reform

Western Land Exchange Project Director Janine Baeloch made two visits to Washington DC this summer to speak with agency staff, Members of Congress, and national environmental groups regarding the need for land exchange policy reform.

For the last several months, we have been pushing both the Bureau of Land Management (BLM) and the Forest Service (USFS) to make changes in the land swap process. Land trades proposed by the USFS have been of particular concern to us because of the number of proposals pending between that agency and timber companies in the Northwest.

Wrong Regulations

For many months, WLXP has been trying to persuade the Forest Service to use the legally correct appeals process for land exchanges. The agency uniformly directs citizens to use a "streamlined" appeals process (36 CFR 215) that provides only one level of review of the agency's decisions. The proper process (36 CFR 217, required under land exchange regulations) provides two levels of review. WLXP is concerned about this issue for the following reasons:

First, there is a high potential for conflict of interest among local staff making decisions on land exchanges and appeals. Moving an appeals decision from the Regional to the National level, for example, might lead to more objective decisions.

Second, under the streamlined regulations, citizens whose appeals are dismissed have no further recourse before proceeding to litigation. The two-level process provides one more "administrative remedy" before appellants must sue.

Third, ***it's the law.***

WLXP brought the agency's error to the attention of the USDA and submitted a paper explaining the legality of and need for the two-level appeals process. Under orders from USDA, the Forest Service agreed to begin using the correct procedure. But the agency has failed to carry out this promise, and in fact now plans to change the land exchange regulations to codify the streamlined process!

The Western Land Exchange Project will participate in the upcoming comment process for this

regulatory change and will advocate loudly for preservation of the two-level appeals process.

A Plethora of Bad Policies

Some of the other issues under discussion with the Forest Service include the following:

- There is a continuing trend in swapping intact public forest for private clearcuts;
- The agency has been acquiring hundreds of miles of private logging roads, yielding both ecological and financial liabilities to the public. This trend is particularly irksome because the Forest Service already has a \$10 *billion* backlog in forest road maintenance and repair and an unknown number of road miles that must be "put to bed" in order to forestall further environmental damage. Further, future costs associated with roads acquired in exchanges are not taken into account in the land exchange appraisal process.
- The Forest Service will not release land exchange appraisal information to the public until after a swap is completed. This means that the central factor in determining whether a trade is fair and legal—its equal value—cannot be judged by citizens until the deal is a *fait accompli*. WLXP has submitted legal and policy arguments to the Forest Service in the hope of getting the agency to budge on this highly controversial practice. The agency has tentatively responded by releasing land exchange appraisals for the Crown Pacific exchange in Oregon and the Upper Gunnison Basin exchange in Crested Butte, Colorado. 🐼

Plum Creek says, "Jump!" Gorton says, "How High?"

On June 5, 1998 Senator Slade Gorton (WA) introduced a bill (S. 2136) that would implement Plum Creek's I-90 Land Exchange and shut the public out of the decision-making process. Representative Doc Hastings (WA) introduced the House version (HR 4021) three days later.

Plum Creek hopes to obtain public trees by trading clearcuts and lands it finds too controversial or inaccessible to log profitably.

PCTC seeks legislation of the I-90 Land Exchange to avoid what it calls the "inevitable litigation and appeal" associated with land swaps. By enacting

the exchange through Congress, the company can eliminate the public review and appeals process
Plum Creek.....

provided under the National Environmental Policy Act (NEPA). (See "Plum Creek Throws its Weight Around," Land Exchange Update, Winter 1998).

In April, 25 environmental groups joined the Western Land Exchange Project in a letter strongly opposing legislation of the swap, submitted to Washington members of Congress, key committee members, and the Administration. Despite varying positions on the exchange itself, all of the organizations oppose bypassing NEPA to facilitate corporate interests.

As reported in our last issue, documents obtained by WLXP showed that the Forest Service streamlined wildlife surveys and other procedures for the Draft EIS in order to meet deadlines set by Plum Creek. More recently, Senator Gorton has requested that the USFS rush to complete the Final EIS by September 10. The bill would contain some version of the preferred alternative identified in the FEIS.

The I-90 Land Exchange could pass as a stand-alone bill in late September, but many suspect that Senator Gorton will try to push the exchange through as a rider (amendment) on the Interior Appropriations bill. In that case, the language now contained in the bill could be drastically changed with no public knowledge.

While favoring the trade itself, both the Clinton Administration and Senator Patty Murray oppose legislating the trade as either a bill or a rider. 🐿

SWAPS HAPPEN...

We apologize for letting so much time elapse since our last issue of Land Exchange Update. We keep hoping the land exchange juggernaut will stop and give us time to sit back for more civilized pursuits such as newsletter production, but the trades keep rolling in...

Welcome, Beth Fries!

In late March, the WLXP hired Program Coordinator Beth Fries, who has an extensive background in

forest activism and environmental policy. Beth conducts research, tracks new exchange proposals, issues Freedom of Information Act requests, reviews and comments on agency documents, and also performs much-needed administrative maintenance. Beth's help has been invaluable, and has given us room to widen our agenda. 🐿

WLXP Testifies before Congress

In late July, Director Janine Baeloch testified before two congressional subcommittees regarding Plum Creek's I-90 Land Exchange bill. Baeloch declared opposition to the legislation and the exchange itself on behalf of WLXP, Pacific Crest Biodiversity Project, and Tahoma, Black Hills, Seattle, and Pilchuck Audubon Societies. Copies of the written testimony are available upon request from the Project.

Janine will return to DC in mid-September to work against legislation of the I-90 Land Exchange and other swaps. Since its birth, the 1999 Appropriations Bill has been saddled with ill-conceived anti-environmental riders, and we are anticipating that some of the country's most controversial land exchanges will join them. WLXP will continue to argue that the public interest is never served when significant federal actions are exempted from the National Environmental Policy Act, and that—flawed though it is—the administrative process for land exchanges is far superior to legislative fast-tracking. 🐿

Crown Pacific

In April 1998, WLXP joined the Oregon Natural Resources Council (ONRC), Wild Wilderness, Native Forest Council, Central Oregon Forest Issues Committee, and the Juniper Group of the Sierra Club in appealing the Record of Decision for the Crown Pacific Land Exchange (see "Bending in the Corporate Wind," Land Exchange Update, Winter 1998).

Issues cited in the appeal included the land valuation process, insufficient analysis of impacts, violations of the Eastside Screens, Clean Water Act, and Migratory Bird Treaty Act, and failure to comply with NEPA.

With a cursory dismissal of 39 issues raised, the Pacific Northwest Regional office denied the appeal in early August. Appellants have re-filed the appeal

One of the penalties for refusing to participate in politics is that you end up being governed by your inferiors.

with USFS Chief Dombeck and may seek judicial review if it is again dismissed. 🐼

Nicholson Backs Off

In our last issue, we explained how Idaho resident Ken Vargason got wind of Boise businessman Tom Nicholson's latest land deal. Ken and an anonymous cohort began ferreting out the details of the Nicholson #3 Land Exchange, which would have traded 5,000 acres of public land for scattered private parcels totaling 500 acres (see Land Exchange Update, Winter 1998).

Historic maps indicate that the fragmented federal ownership used as justification for the exchange was created by prior exchanges with Mr. Nicholson.

WLXP submitted a Freedom of Information Act (FOIA) request for data on all three exchanges completed or proposed with Mr. Nicholson. Soon after, Nicholson withdrew exchange #3, but Forest Service staff believe he will return with a new deal. In the meantime, WLXP will persist in our request for documents on the three exchanges, by which we hope to get a clearer understanding of Nicholson's dealings.

Victory for Relentless Wyoming Advocate!

For almost two years, **John Jolley** of Mills, Wyoming has worked on behalf of public lands by seeking the truth about a BLM land swap in his home state. Jolley—a retired lawyer and editor of the *Grassroots Advocate* newspaper—has contested the Big Trails Land Exchange, which involves 6,934 acres of public land and 2,379 acres held by a group of private landowners. While challenging this particular swap, Jolley has invested uncounted time and personal funds in researching land exchange policy and law, exposing questionable practices, and publicizing the issue through the *Advocate*.

Among the issues upon which Jolley protested the exchange was the fact that the appraisals were actually *conducted by the private proponent.*

The BLM justified trade of the federal parcels by characterizing them as scattered, isolated, and difficult to access—but Jolley has shown that many of the parcels are part of larger, consolidated public land holdings that would be fragmented as a result of the trade.

On July 2, 1998, an administrative judge at the Department of Interior's Board of Land Appeals set aside and remanded an earlier dismissal of Jolley's protest and has ordered the BLM to find a new appraiser for the Big Trails exchange.

Congratulations, thanks, and financial support can be sent to Jolley via the *Grassroots Advocate*, Box 2968, Mills, WY, 82644-2968. WLXP also wishes to thank John for reprinting our articles.

“...I have never known much good done by those who affected to trade for the public good...”

Adam Smith, *The Wealth of Nations*, book IV, ch. 2.

Citizen Activists Are Working for All of Us!

We want to acknowledge the fine work of the following citizen activists and groups for efforts on their home ground to protect our public lands from bad trades. (*More in our next issue.*)

Lee LeBlanc Chapter Audubon Society, Iron River, Michigan. Beth Rogers has worked tirelessly to field-check and analyze the Andreski exchange on the Ottawa National Forest. (eirogers@btc1.up.net)

High Country Citizens' Alliance. This group has appealed the decision on a trade that would allow a ski-area developer to intensively develop what are now public lands. (POB 1066, Crested Butte, CO 81224)

Lois Eagleton and Susan Birchak have worked for more than 2 years to steer the USFS away from ill-conceived land exchanges with developers in the town of Payson, AZ. (mleagle@goodnet.com)

Sierra Club Palo Verde Group/McDowell Park Association. These folks are working against a developer-driven trade in Arizona that could involve up to 200,000 acres of federal, state, and private land. The Forest Service lands to be traded have not been fully identified. Arizona Sen. John McCain may try to take the swap through Congress. (donsteuter@aol.com)

Bridger/Bangtail Alliance has fought an uphill battle to keep precious forest in Montana's Bangtail Mtns. from being traded to Big Sky Lumber in the notorious Gallatin Land Exchange. (slfrancis@mcn.net)

Steven Day has been working for years against dubious land disposals by the BLM in the Arcata Resource Area of California. (maprap@zapcom.net)

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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.

Western Land Exchange Project

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We've Moved (But Our Mailing Address Hasn't)

We have moved to new offices in the Areis Building, 2366 Eastlake Avenue East, Suite 216, Seattle, WA 98102. Our new phone number is (206) 325-3515. Our fax number will be (206) 325-3509. Due to the recent strike by communications workers, we only have one operative line, but hope to have this resolved soon.

We extend sincere thanks to all the folks at the Center for Environmental Law & Policy, which has supported our work by providing us space and the use of office equipment for the past 17 months. We especially thank Jan Naragon, CELP's Outreach Coordinator, for her incredible support and humor.

Special thanks to members Beth Menig, Dr. John Osborn, Rob Caldwell, the Friends of the Green, and Bruce Gaynor. We also welcome Citizens for Teton Valley, Harrison Grathwohl, Don Hooper, Greg Nagle, Jan Naragon, Deb Patla, George and Leanna Peterson, and Laura Weeks.

Very special thanks to Guy Pence of the US Forest Service, whose insight and love of the land serve all of us.

This Lean, Mean, Land Exchange Machine NEEDS YOUR SUPPORT!

Rachael Paschal, President of the Board

Eighteen months ago, the Western Land Exchange Project was not much more than a gleam in Janine Blaeloch's eye.

In late August, *in response to a letter from the Western Land Exchange Project*, the U.S. Forest Service announced it will investigate the appraisals for 3 major exchanges here in the Northwest (see Page 1). In addition, the agency is contemplating a moratorium on all new land exchange proposals until its policies are brought around to better guard the public interest.

In just a year and a half, WLXP has had a very real impact on a federal agency not usually known for its responsiveness to activism. Policies and practices are changing, thanks to our work.

In the future we're striving for, land exchanges serve public, rather than corporate interests. Precious pieces of our western ecosystems can be spared the dubious land trades that now threaten them. *There must be no more sacrifice areas.*

We've operated on a shoestring budget, with a skeletal staff. Janine and Beth labor long, hard, and effectively. But the result of success is more work! In the coming months, we must take the battle

- to the Forest Service -- to continue to work for better policy and more protective regulations;
- to Congress -- to fight legislated exchanges;
- to the Courts -- if necessary, to halt the destructive Crown Pacific exchange; and
- to the public -- to educate and motivate citizens to fight for our commonly-held lands.

The Western Land Exchange Project needs your support to accomplish our mission. **Please** make a tax-deductible donation **now** to WLXP. A little goes a long way, so give generously. Your support will make the difference at this crucial juncture in national land exchange policy!

Join, Already!

As a member, you can help support our research, outreach, and advocacy on behalf of public lands—and give us the crucial legal standing we need to take administrative and legal action against Bad Swaps. Please complete this form and return it with your payment. Checks should be made payable to the **Western Land Exchange Project**.

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