

# Public Land Exchanges

## Net Loss for the Public?

by Sandy Lonsdale

After 50 years of federal stewardship of public land, very little old growth forest remains. Most of what is left grows at high elevation, on steep and fragile soils. Ecological considerations restrict timber sales in these forests but do not restrict exchanges. Because timber companies depleted their holdings, most of the remaining old growth forests stand on public land. Hence extractive industries trade their surplus, low-value lands for high-value public land.

The federal government owns more than half of Oregon. Each year, thousands of acres are traded between public and private interests: timber, ranching, mining and development corporations, or subsidiaries that have been created solely to enable an exchange. In the past five years, more than 1.7 million acres have been traded and deals on another two million are pending. Trading away surplus or difficult to manage land to private interests consolidates ownership into blocks more easily managed by the Forest Service.

Big Timber and development mega-corporations do not think in terms of public benefit, ecosystem management, or multiple uses. When public lands become private property, wildlife habitat, recreation, public hunting and fishing rules and laws change the minute that deeds are signed. Fences and locked gates boasting No Trespassing signs quickly follow.

Ironically, the best way to monitor land exchanges is already written into the laws governing trades of public land. The Federal Land Policy and Management Act (FLPMA) of 1976 strengthened laws enacted 90 years ago by declaring that all federal lands shall remain in public ownership except where disposal of a certain parcel will serve the national interest. It further stated that any public land trades must be based on equal values of land to be traded. The National Environmental Policy Act (NEPA) empowers citizens to participate in decisions concerning land trades.

Despite NEPA and FLPMA, the public still loses value in these swaps. Federal agencies do not fully inform the public when exchanges are proposed and keep secret the appraisals until an exchange is completed. Only then do we see that these agencies did not fully evaluate the productivity of soils nor the needs of

wildlife species. Under rules governing public land exchanges, intangibles like scenic values and fish wildlife habitat are not considered. Yet private timber companies are granted discounts to cover costs and risks they may incur such as locating endangered species on acquired land or declines in world commodity prices.

Some appraisals value old growth forests the same per acre as industrial stump-lands. They count roads as assets when they are on private land yet as liabilities when they come into public ownership. Though necessary for extraction, roads may have little or no value for hikers and wildlife. The public may pay twice for roads: first when they are over-valued and again when they are brought up to federal standards or decommissioned to meet federal limits on road density on public holdings.

When valuable minerals are located beneath public forests currently zoned for forest use, the public gives away the minerals for free in a trade with private companies. The public collects value based only on the current market price of the trees growing on the surface. The private company realizes a windfall when the minerals are mined and sold, or when the land is up-zoned or sold to a third party for development.



Public old growth in Deschutes National Forest to be

In Central Oregon, commercial logging activity has reduced the 1.2-million acre Deschutes National Forest to a mere skeleton of its former glory; just three to five percent is old growth. Wildlife species relying on old growth have been pushed into smaller and smaller plots. Old Ponderosa pine forests, the Interior Columbia Basin Eco-system Management Project has determined, are among the most threatened environments in the nation.

We traded these forest remnants in a 65,000-acre exchange with Crown Pacific, a timber and development company. The public gave up about 31,000 acres of prime forestland around Bend for about 34,000 acres of corporate timberlands far south and east of Bend. Our stewards traded away priceless old-growth pine forests, view property in one of Oregon's hottest real estate markets, millions of dollars worth of minerals, highway frontage and more, for an average assessed value of just under \$1,200 an acre. Comparable real estate values in this area at the time of the trade were \$20-30,000 an acre. If public lands were valued at their true market price as real estate, the public would receive far more for the land it sells or trades.

#### National Environmental Policy Act

The National Environmental Policy Act (NEPA) applies to all major federal land actions. It provides a structure for citizens to participate in decisions concerning land trades and other actions affecting the environment. It created the Council on Environmental Quality, which promulgates regulations for implementing NEPA. Most agencies base their own regulations and guidelines for implementing NEPA on CEQ regulations.

NEPA requires agencies to assess projects that may affect the environment. If the assessment determines that a project will impact the environment, the agency must develop an Environmental Impact Statement (EIS) through a process called "scoping". The agency identifies the need for and the purpose of a proposed action. In the draft EIS it explains and analyses the project's effects on the environment. The draft is published in the Federal Register and announcements are sent to interested parties. The public is given 30 days to submit comments on the EIS draft before the final EIS is issued. The final EIS addresses public concerns and selects an alternative or action.

A record of decision (ROD) accompanies this process. The ROD includes a rationale for proceeding with an approach to a specific project. The public is allowed 45 days from the date of the ROD to appeal the decision to regional and national authorities.

#### The Land and Water Conservation Fund

Besides private/public land exchanges, the government also consolidates land for public benefit by utilizing the Land and Water Conservation Fund (LWCF). This visionary statute was created in 1964 by Congress



Foreground: Crown Pacific trade to public (surrounding land remains Deschutes National Forest).

Sandy Lonsdale, Wild Earth Images

The Forest Service is not allowed to sell any of its public holdings, forcing it to rely solely on trades to dispose of land deemed to be surplus. The Bureau of Land Management can sell public land, but it must give the receipts to the US Treasury. Neither type of transaction encourages agencies to bargain for the highest price for public land.

How can we fix these problems? Given incentives to protect the public interest, public agencies should:

- evaluate public land at real market prices, the way CFOs of major corporations evaluate the holdings of their companies;

- fully disclose appraised values in the early stages of the process;

- place restrictions on deeds before lands are traded that would oblige new owners to adhere to certain management objectives, i.e. maintaining or improving old-growth forests; and

- be empowered to sell surplus land to the highest bidder. While buyers might build on the formerly pristine, they do now anyway and the exchange gets us nothing for it. A fairer sale, netting more money, would enable the Land and Water Conservation Fund to acquire more private land.

Royalties flow into the Land and Water Conservation Fund (LWCF; see sidebar) from leases of public oil and natural gas fields. One rationale for creating the fund was to mitigate the ecological damage that might result from this commercial activity by acquiring or protecting land for open spaces, parks, and wildlife habitat.

An average of \$900 million goes into this fund annually, and in the past 30 years more than seven million acres of land

have been acquired or otherwise protected. Due to political infighting Congress has failed to appropriate money from the LWCF for its intended purposes. Instead, the fund has been used as a slush account, as Social Security funds are used to balance federal operating budgets.

In the past ten years an annual average of only \$233 million was appropriated from the LWCF, and not all of that was actually spent to preserve or acquire land. Perhaps due to increased public pressure, in 1997 nearly \$700 million was appropriated from the LWCF, with more than half allocated for big-ticket items such as purchasing the Headwaters Forest in Northern California and the New World Mine, which was threatening Yellowstone National Park. However, while the trend seems to be toward increasing the appropriation, actual spending on needed projects has been delayed by other legislative priorities. This year the Clinton administration set the stage for fully appropriating the LWCF when it launched its one billion-dollar Land Legacy Initiative.

To rehabilitate and improve species viability and the resiliency of natural habitats, federal agencies must recognize that the living value of public resources exceeds their commercial value. For many surplus lands, the highest and best use is non-use. It is in the interest of the people of the United States that government officials understand this before more wild habitat is traded away for stumps and low diversity tree farms.

Sandy Lonsdale, a freelance writer-photographer based in Bend, is an activist for the Sierra Club and other grassroots organizations. To learn more about public land exchanges see the web site of the Western Land Exchange