

Lochsa Land Exchange Task Force Final Report To The Idaho Board of County Commissioners

The Lochsa Land Exchange Task Force

Established: November 23, 2011 Duration: January 23, 2012 Final Report: January 24, 2012

Purpose: To advise the official comments of the Idaho County Commission to the USFS relative to the "Supplemental Draft EIS" concerning the Idaho County proposal for the Upper Lochsa Land Exchange.

Initial Meeting: November 28, 2012 4:00 pm
Final Report Issued: January 24, 2012 1:00 - 2:30 pm

Background: The USFS wants to acquire 38,800 +/- acres, currently owned by Western Pacific Timber, located in the Lochsa River Drainage in Idaho County. Western Pacific Timber wants the USFS to acquire the 38,800 +/- acres. The USFS wants to exchange various parcels of land located throughout northern Idaho in exchange for the lands that they wish to acquire in the Lochsa River Drainage in Idaho County. The federal requirements for land exchanges require that the lands exchanged be exchanged on an equal value for equal value basis. The Idaho County Board of Commissioners insist that the exchange must occur entirely within Idaho County; and that the exchange be completed on an acre-for-acre basis. An acre-for-acre exchange will require special legislative action in the U.S. Congress.

Seventeen people were initially appointed by the Idaho Board of County Commissioner's to serve on The Lochsa Land Exchange Task Force. One person never attended any meetings of the task force and another only attended the very first meeting of the task force. The information being presented to the Idaho Board of County Commissioners represents the thinking of the fifteen (15) members who did in fact actually participate in the formulation of the final recommendations to the Idaho Board of County Commissioner's.

The following persons: Roy E. Lee, Stites, Idaho; Rob Groom, Grangeville, Idaho; Jeff Adams, Grangeville, Idaho; Denis Duman, Cottonwood, Idaho; Steve Lamont, Cottonwood, Idaho; Jo Ann Smith, Harpster, Idaho; Larry J. Allen, Grangeville, Idaho; Al Bolden, Whitebird, Idaho; Jay Balch, Grangeville, Idaho; Ed Hall, Grangeville, Idaho; Brian Lorentz, Grangeville, Idaho; Ray Stowers, Whitebird, Idaho; Bob Abbott, Grangeville, Idaho; Bob Crump, Riggins, Idaho; Ray Anderson, Grangeville, Idaho were the fifteen members of the Lochsa Land Exchange Task Force who did in fact participate in the formulation of the final recommendations to the Idaho Board of County Commissioner's. Roy E. Lee served as Chairman of The Lochsa Land Exchange Task Force.

The Lochsa Land Exchange is a very controversial land exchange proposal. The Idaho Board of County Commissioners, realizing that Alternative F of the Supplemental Draft EIS Upper Lochsa Land Exchange was generating significant concern amongst the populace of Idaho County, formed the Lochsa Land Exchange Task Force. The mission of the Lochsa Land Exchange Task Force is to gather facts, analyze

those facts, and then advise the official comments of the Idaho County Commission to the USFS relative to the "Supplemental Draft EIS" concerning the Idaho County proposal for the Upper Lochsa Land Exchange.

The Task Force includes mayors, city councilman, ranchers, local business owners, logger interests, people who own properties near or adjacent to lands proposed to be exchanged, retired Forest Service and BLM professionals. The Task Force represents the public.

In a series of four meetings following the inaugural meeting of the task force the Task Force met with Rick Brazell, the Supervisor of the USFS and with Teresa Trulock, the project leader for the USFS Upper Lochsa Land Exchange "Supplemental Draft EIS" and with Steve Hiebert, Range Conservationist, USFS ; Ray Hennekey, a representative from the Idaho Department of Fish and Game Regional Supervisors Office in Lewiston, Idaho; Brian Disney, Project Lead and Andy Hawes, Attorney for Western Pacific Timber; Barbara Seaman an expert in Conservation Easements. Presentations concerning potential economic impacts upon Idaho County were made by Professor Steven Peterson, Research Economist and Instructor, University of Idaho and Mr. Clare Chapman, a Whitebird area resident with distinguished credentials involving economic analyses. The facts presented in Mr. Chapman's presentation were provided by Sharon Cox, Idaho County Treasurer; Patty Cox, SD 244; James Zehner, Idaho County Assessor; Kathy Ackerman, Idaho County Auditor; the Idaho Department of Lands and Teresa Trulock, USFS. Public interest in the final findings and how the Task Force arrived at our final recommendations remains high as evidenced by the attendance at these meeting once the general public became aware that these meetings were open to the public.

The result of those meetings is the information contained in this report. The chairman of the task force early on realized the need to fully involve the citizenry of Idaho County in our decision-making process, and the need to limit emotion and maximize fact when the final report was issued. The findings of the Task Force represent not just the opinions of the individual task force members, they also represent the opinions expressed by the general public at large. It is very evident that the general populace of Idaho County is adamantly opposed to this land exchange and they are particularly incensed with the proposal to exchange the lands within Idaho County presently identified in Alternative F of the Upper Lochsa Land Exchange "Supplemental Draft EIS".

Tasks

1) An acre for acre exchange, if it were to be selected by the USFS, will involve 38,800 +/- acres of Western Pacific Timber land for 38,800 +/- acres of USFS land. Between 45,000 and 49,000 USFS acres of USFS lands are currently under consideration in Idaho County.

The Task Force is asked to recommend which USFS lands should be eliminated from consideration.

Task Force Findings:

An acre for acre exchange is not a viable alternative. *The USFS has no authority to exchange lands on an acre-for-acre basis. The USFS's authority only permits value for value exchanges of land.*

There is unanimous agreement amongst all members of the Task Force that the Task Force does not agree with the Idaho Board of County Commissioners that this land exchange should only go forward on an acre-for-acre exchange basis

Fourteen (14) of the fifteen (15) Task Force members are in favor of stopping this land exchange. The Task Force supports the No Action Alternative. Task Force member Al Bolden believes that the exchange should go forward in the best interests of the citizens of Idaho County and the State of Idaho.

Al also believes that the USFS will do what it wants in this matter and it is better to be engaged in the process than to be a spectator. It is Al's opinion that advocating "no action" would leave Idaho County on the sidelines with no input. **By an overwhelming majority (fourteen to one) the Task Force voted that it does not want this land exchange to be finalized. There is overwhelming, almost universal support for the "No Action Alternative" from the general public in Idaho County. The Task Force requests that the Idaho Board of County Commissioners pursue the "No Action Alternative" as their official position. The "No Action Alternative" will ensure that there is no economic loss to Idaho County.**

The Task Force members are supportive of an alternative course of action wherein an exchange involving only the checkerboard lands in the Upper Lochsa River drainage occurs; blocking up ownership so that there would be only one inholding when the land exchange process is finalized. If any exchange has to happen the Task Force supports only an equal value for equal value exchange of lands without special legislation to make it happen.

Several members also are in favor of doing an exchange involving lands other than those lands already inventoried in the Lochsa Land Exchange Supplemental Draft EIS. Both the USFS and WPT have clearly stated that neither party will entertain any additional alternatives to the Supplemental Draft EIS Upper Lochsa Land Exchange.

A subset of the Task Force (Rob Groom, Grangeville, Idaho; Jeff Adams, Grangeville, Idaho; Denis Duman, Cottonwood, Idaho; Larry J. Allen, Grangeville, Idaho; Jay Balch, Grangeville, Idaho; Bob Abbott, Grangeville) considered presenting to the Idaho Board of County Commissioners some lands that they think might be available for exchange, should the USFS decide to possibly pursue a hybrid alternative (a combination of any other alternative and some aspects of Alternative F). **No action was taken and no lands, other than the checkerboard lands located within the Upper Lochsa River drainage, are being recommended by the Task Force to the Idaho Board of County Commissioners for exchange.**

The following Task Force members **did not support** presenting to the Idaho Board of County Commissioners any lands for exchange, should the USFS decide to possibly pursue a hybrid alternative (a combination of any other alternative and some aspects of Alternative F) are: Roy E. Lee, Stites, Idaho; Steve Lamont, Cottonwood, Idaho; Jo Ann Smith, Harpster, Idaho; Al Bolden, Whitebird, Idaho; Ed Hall, Grangeville, Idaho; Brian Lorentz, Grangeville, Idaho; Ray Stowers, Whitebird, Idaho; Bob Crump, Riggins, Idaho; Ray Anderson, Grangeville, Idaho.

Rationale behind the above positions: There is no coherent rationality associated with Alternative F. The criterion cited in the DEIS justifying the need for the proposed land exchange will be re-created on those lands managed by the USFS that will be adjacent to the lands being proposed for exchange in Alternative F, should Alternative F be selected. No management problems will be resolved in Alternative F; we are simply relocating where these kinds of problems will exist and we are creating many new issues that will need to be dealt with.

All of the lands identified for exchange in Idaho County are located near the population centers of Elk City, Harpster, Grangeville, and Riggins. These lands are the lands where the local publics go to pursue their various recreational pursuits - hiking, sightseeing, horseback riding and pack stock, hunting, fishing,

camping, picnicking, riding ATV's, off-road motorcycles, and snowmobiles. These lands are utilized by local people to generate income, or to reduce everyday living expenses - firewood cutting/sales, commercial mushroom and berry picking (personal consumption and sales), outfitting, guiding people from outside the area, ranching etc. This land exchange would be devastating to the thousands of campers, tourists, and residents that enjoy the area because of its pristine or near pristine characteristics and the natural beauty inherent to the area.

Riggins, Idaho has successfully converted their community into an almost totally recreationally based economy. Privatizing lands in the Riggins area could prove to be very harmful to that community. People come from all over the world to recreate in the Riggins area. Their purpose for coming to Riggins is to immerse themselves as much as is practical in a recreational experience which provides an escape from the hectic world in which they live. They come seeking the high quality visual experiences that the area currently has to offer. The opportunity for the general public to participate in quality hunting experiences in game unit 18 would be significantly diminished if lands in this area were to be privatized. Private landowners in the area are already leasing the access rights to their privately owned lands to out-of-state hunting clubs, outfitter's and guide services and individuals who can afford to pay for sole, or very limited, access to privately held property.

2) Westem Pacific Timber has stated that they would consider a conservation easement on "The Cove" and "Fish Creek" lands currently proposed for exchange.

The Task Force is asked to develop a level of expertise and comfort with conservation easements. The Task Force is asked to be specific about easement management and requirements for grazing, recreation, logging, and subdivision.

Task Force Findings:

Conservation easements on lands involving the magnitude of the proposed land exchange are simply not practical, nor enforceable. A conservation easement, no matter how expertly crafted, cannot alone protect important land or historic resources. Only a willingness to act against violations, including legal action if necessary, can assure that resources are protected - or restored when damaged. Size, distance, and remoteness of the properties involved here make monitoring impractical. The concept of a conservation easement is somewhat interesting but totally unworkable.

You must have the funds to monitor and enforce the easement, in court if necessary. Stewardship funds are the most difficult for private groups to fundraise for, they are among the least popular items in government budgets, and among the quickest to be cut in lean times. Dealing with violations - and especially going to court - requires even greater resources.

Requiring conservation easements in this scenario seems foolhardy. Anyone with sufficient funds to challenge and take any conservation easement to court and keep it there; or multiple infractions of the various conservation easements by any number of parties could possibly bleed the easement holder to death with legal expenses. Conservation easements are, according to attorney's that have been consulted, a legal nightmare.

The only solution available to remedy a violation of a conservation easement is to threaten to, or to actually take your case to civil court. Taking the violator to civil court is not a viable option for people who have the kinds of concerns being expressed by the general public to the Task Force. e.g.

Let's say for argument you have an easement that guarantees hunting activities will be allowed. WPT then logs off the timber, destroys the wildlife habitat and ruins the quality of hunting we now enjoy. The conservation easement still allows you to hunt, but why bother.

Second scenario is: You drive up Race Creek to go hunting and a work crew has the road blocked. They inform you that there will be no hunting this week because they are working in the area and it would be unsafe to shoot in that area. You inform them you have an easement and they can't close the road. Who are you going to call to enforce your Rights? The Sheriff's Office would not respond because it is a violation of a Civil Agreement, not a criminal matter. Your only recourse would be to return to town and hire an Attorney to file a suit or an injunction. This is expensive and time consuming and totally unacceptable because it does not address your need to timely access the area where you have a big game tag to hunt.

The Task force does not have the time, the knowledge, nor the legal expertise to develop a level of expertise and comfort with conservation easements. The Task Force recommends that any concerns that the Idaho Board of County Commissioners might have be dealt with in the form of Deed Restrictions rather than Conservation Easements. The Task Force suggests that further investigation by the Idaho County District Attorney into the following areas may prove worthwhile: Ensure that, in perpetuity, there is no loss of *free* access to, through, or across any lands exchanged or sold after the lands are exchanged. Ensure that (where livestock grazing is currently a legally authorized activity) any properties transferred into private ownership, as a result of the proposed land exchange, are not subdivided in such a manner as to make grazing of livestock on the property physically or financially impractical.

The best solution and protection for everyone's interest is to not exchange any of these lands and to strongly encourage the USFS to more pro-actively manage these lands for multiple use i.e. sustained yield timber production, livestock grazing, recreation, wildlife habitat, healthy watersheds, etc.

3) If there is an exchange and there are USFS lands traded but not covered under a conservation easement, recreation activities may be affected. Western Pacific has stated it will allow current recreation activities.

The Task Force is asked to determine recreational uses and recommend specific protections of those uses.

The Task Force respectfully declines to address Task 3 as it would be an impossible task to recommend all of the specific protections that would be to required and then it would be an impossible task to monitor and enforce the protections that could be developed. Again, the Task Force suggests that further investigation by the Idaho County District Attorney into the following areas may prove worthwhile: Ensure that, in perpetuity, there is no loss of *free* access to, through, or across any lands exchanged or sold after the lands are exchanged.

The best solution and protection for everyone's interest is to not exchange any of these lands and to strongly encourage the USFS to more pro-actively manage these lands for multiple use i.e. sustained yield timber production, livestock grazing, recreation, wildlife habitat, healthy watersheds, etc.

4) Grazing leases may be altered in the event the USFS selects the acre for acre exchange option. Western Pacific Timber and the USFS have stated that they will honor the current grazing leases, on a prorata basis.

The Task Force is asked to determine if boundary adjustments to USFS grazing leases jeopardize the status of those leases. The task force is asked to make specific recommendations aimed at protecting current grazing allotments.

The Task Force recommends the following actions be required to protect current livestock grazing leases.

Ensure that (where livestock grazing is currently a legally authorized activity) any properties transferred into private ownership, as a result of the proposed land exchange, are not subdivided in such a manner as to make grazing of livestock on the property physically or financially impractical.

Require that the maximum cost per Animal Unit Month (AUM) charged, in all future grazing leases on private properties created by the land exchange, should it occur, not exceed what the USFS grazing rates are each year. These grazing fees are established nationwide on an annual basis.

5) There are private homes and holdings which currently border USFS land which may be included in an exchange. Owners of these holdings may be affected by a change in use.

The Task Force is asked to address the issue and make recommendations to mitigate any potential negative impact.

The Task Force recommends the following actions to protect the property values of people who currently own lands currently bordering USFS land which may be included in an exchange. Each property owner contact the Idaho Board of County Commissioners with their concerns and grievances and see if the Commissioners are willing to have the Idaho County District Attorney prepare Deed Restrictions designed to protect the current property owners. If this will not work or if it is not practical then the best course of action is to oppose the land exchange.

The Lochsa Land Exchange Task Force requests that the Lochsa Land Exchange Task Force Final Report To The Idaho Board of County Commissioners, submitted to the Idaho Board of County Commissioners on January 24, 2012, be included in its entirety into whatever documents are submitted to the USFS when the Idaho County Board of County Commissioners submit their formal response(s) to the USFS Upper Lochsa Land Exchange Supplemental Draft EIS.

The Lochsa Land Exchange Task Force supports inclusion of the document **A Preliminary Analysis of the Upper Lochsa Land Exchange Effects on Idaho County prepared by Steven Peterson Research Economist and Instructor University of Idaho** into the documents to be submitted to the USFS when the Idaho County Board of County Commissioners submit their formal response(s) to the USFS Upper Lochsa Land Exchange Supplemental Draft EIS.

Respectfully submitted on behalf of the Lochsa Land Exchange Task Force.

Roy E. Lee
Chairman, Lochsa Land Exchange Task Force

January 24, 2012