

Item 4B

Meeting Date: March 2010
Title: Washington Department of Fish and Wildlife Land Exchange Phase Two
Prepared By: Leslie Ryan-Connelly, Outdoor Grants Manager

Approved by the Director:

Proposed Action: Decision

Summary

The Washington Department of Fish and Wildlife (WDFW) is asking the Recreation and Conservation Funding Board (board) to recommend that the National Park Service approve the conversion of portions of the L. T. Murray project (RCO #69-609A), which was funded through the Land and Water Conservation Fund.

This is the second phase of an effort to exchange land with the Washington Department of Natural Resources.

Strategic Plan Link

This action supports the board's strategy to help land management agencies maximize the useful life of board-funded projects.

Staff Recommendation

Recreation and Conservation Office (RCO) staff recommends that the board approve Resolution #2010-02 to recommend approval of the proposed conversion and direct staff to forward the recommendation on to the National Park Service for consideration.

Background

The Washington Department of Fish and Wildlife (WDFW) and the Washington Department of Natural Resources (DNR) first proposed an exchange of lands in 2005. Exchanging lands would allow each agency to better address its specific management goals. The consolidated ownership also would help WDFW manage its wildlife areas across the landscape, with a reduced threat of development within the managed area.

The land exchange was proposed in phases based on the source of funding for the original acquisition of the WDFW land.

- The first phase was for the lands acquired with funding from the Washington Wildlife and Recreation Program (WWRP) critical habitat category. Phase 1 was approved in December 2009.
- The second phase, and subject of this memo, involves lands acquired with Land and Water Conservation Funds.

Phase 2

Property to be Converted

In Phase 2, the WDFW is proposing to convert 4,749 acres of property that it purchased with assistance from a Land and Water Conservation Fund (LWCF) grant.

The LWCF grant, which was awarded in 1969, provided funding for the first phase of acquisition of the area known as High Valley Ranch, on the east slope of the Cascades, near Ellensburg. The grant award was \$1.8 million.

The proposed conversion would affect 4,749 acres, which is 7 percent of the original project scope. Most of the property proposed for conversion is higher-elevation eastern slope forestland in the L. T. Murray Wildlife Area in Kittitas County. Allowed recreational uses of the properties include hunting, fishing, and wildlife viewing.

The appraised value of the land to be converted is \$6,106,297.

Replacement Property

The land proposed for replacement is DNR trust land that is dominated by lower elevation forestland and shrub steppe habitat. WDFW would manage the replacement property with recreational management goals similar to those that exist on the property to be converted. Table 1 summarizes the proposed list of replacement properties, which total 7,370 acres with a total appraised value of \$6,107,731 million.

Table 1: Proposed Replacement Properties in Phase 2

County	Wildlife Area	Replacement Acres	Appraised Value
Asotin	Asotin	420.20	\$810,000
Klickitat	Klickitat	90.00	\$35,774
Okanogan	Methow	761.59	\$2,993,315
Yakima	Oak Creek	880.67	\$564,000
Okanogan	Sinlahekin	602.56	\$226,000
Kittitas	Skookumchuck	3,722.40	\$1,158,000
Kittitas/Yakima	Wenas	893.12	\$320,642
Total		7,370.54	\$6,107,731

Existing program policies, administrative rule, and statutory language state that Board-funded land and facilities must be used only for the purposes for which funding was granted. Manual #7: Funded Projects: Policies and the Project Agreement (August 2009) states:

RCFB-SRFB policy, consistent with state law , is that interests in real property, structures, and facilities acquired, developed, enhanced, or restored with RCFB/SRFB funds must not be changed, either in part or in whole, nor converted to uses other than those for which the funds were originally approved. If an RCFB/SRFB funded project is found to be changed or converted (out of compliance with the project agreement or agreement amendments), the project sponsor is responsible for replacing the changed or converted interests in real property, structures, or facilities with interests, structures, or facilities of equivalent size, value, and utility.

Analysis

When reviewing conversion requests, the RCO considers the following factors, in addition to the scope of the original grant and the proposed substitution of land or facilities¹.

- All practical alternatives to the conversion have been evaluated and rejected on a sound basis.
- The proposed replacement property meets the program eligibility requirements.
- Justification exists to show that the replacement site has reasonably equivalent utility and location.
- The fair market value of the converted property has been established and the proposed replacement land is of at least equal fair market value.
- The public has opportunities for participation in the process.

Practical Alternatives Evaluated

Three alternatives were considered in place of the land exchange.

- The first alternative was to purchase (i.e., fee title) the DNR lands. This option was eliminated due to the lack of available funds.
- The second option was to process the change in ownership of land as a grant sponsor change instead of as a conversion. A sponsor change would involve DNR accepting LWCF grant obligations and responsibilities for the lands it received from WDFW. The DNR rejected this option because it would not allow them flexibility to meet their needs for revenue for their trust beneficiaries.

¹ Manual #7 - Funded Projects: Policies and the Project Agreement

- The third alternative considered was to purchase deed restrictions and/or conservation easement on DNR parcels. WDFW would be responsible for monitoring, administration, and enforcement in perpetuity of those easements held on DNR land. Encumbered lands would not be acceptable to the DNR because this would not allow it the necessary flexibility to meet the revenue needs for the trust beneficiaries. In addition, deed restrictions and/or conservation easements would not streamline land management as it would also require continued WDFW administration and oversight of the lands exchanged with WDNR.

Eligibility of Proposed Replacement Property

Publicly owned lands are eligible for LWCF grants under the following circumstances²:

- The replacement land was not originally acquired by the sponsor or selling agency for recreation.
- The replacement land has not been previously dedicated or managed for recreational purposes while in public ownership.
- No federal assistance was provided in the replacement land's original acquisition unless the assistance was provided under a program expressly authorized to match or supplement LWCF assistance.
- Where the project sponsor acquires replacement land from another public agency, the selling agency must be required by law to receive payment for the land so acquired.

The DNR trust land identified for replacement property meets all four of the above criteria. The DNR originally acquired the trust lands from the federal government for the purposes of generating revenue for the trust beneficiaries. While DNR allows recreational use of all trust land, the replacement lands do not contain any dedicated recreational areas, nor have the lands been managed for recreational purposes. The DNR may close areas to recreation if such use affects the trust resources. As the lands are dedicated in trust for the purposes of generating revenue, the DNR must receive compensation when divesting of trust land.

Reasonably Equivalent Utility and Location

The original intent of the L. T. Murray grant was to acquire property for recreational hunting and fishing purposes. All of the land to be converted is located in the northern portion of the wildlife area just southeast of Cle Elum. (Attachment A, Map 3) There are no developed recreational facilities or access points on the property to be converted.

The recreational utility for the DNR replacement property would be of similar dispersed recreational use as the WDFW property. There would be a net increase in acreage that WDFW

² Land and Water Conservation Fund, Federal Financial Assistance Manual, Volume 69, October 1, 2008

owns and would manage for recreation. The exchange is intended to improve access to lands for dispersed recreation by consolidating landownership. There are no immediate plans to develop recreational facilities on replacement lands

The proposed replacement properties are located in six different counties as identified in Table 1 and Attachment A, Maps. Each proposed replacement property will contribute to consolidating WDFW land ownership within existing wildlife areas and improve recreational management objectives. The replacement property would provide similar hunting and fishing opportunities as compared with the original grant. Existing LWCF park boundaries (i.e., 6f boundaries) will be expanded in the Skookumchuck, Wenas, Oak Creek, and Klickitat Wildlife Areas. New LWCF park boundaries will be created in the Scotch Creek and Asotin Wildlife Areas.

WDFW would accept the terms of existing grazing leases on DNR exchange lands that are in effect at the time of acquisition. Approximately 60% (4,460 acres) of the replacement land is encumbered with a grazing lease. These encumbrances were taken into consideration in determining fair market value (see below). LWCF policies allow for grazing activities on recreation land as long as the property is managed primarily for recreational purposes³. The DNR grazing leases require open access to the public for the purposes of hunting and fishing on leased lands unless a closure is authorized in writing by the state. WDFW would ensure that the public access provisions are enforced. WDFW would consider future reissuance of grazing leases or permits where consistent with respective management goals and objectives.

Evaluation of Fair Market Value

The properties proposed for conversion and replacement were appraised and reviewed in May 2007. The appraisals were conducted in compliance with federal land acquisition standards (i.e., "Yellow Book"). The appraisal took into consideration the grazing leases on DNR land and the market value reflects these encumbrances.

The WDFW and DNR have an existing purchase and sale agreement to exchange lands based upon the established market values from these appraisals. The property proposed for conversion is valued at \$6,106,297. The proposed replacement property is valued at \$6,107,731 (Table 1). The replacement property is of at least equal market value as the property proposed for conversion.

Public Participation

The WDFW and DNR have conducted significant public outreach as part of the overall land exchange process. Efforts included:

³ Land and Water Conservation Fund, *Federal Financial Assistance Manual*, Volume 69, October 1, 2008

- *September 2006* - Letters to county commissioners, state legislators, members of Washington's federal delegation, and tribes, to inform them of potential exchange activities and invite them to open houses and public hearings. DNR staff also made presentations to county commissions.
- *November and December 2006* – Open houses were conducted in Clarkston, Pasco, Everett, Hoquiam, Suncrest, Colville, Okanogan, Wenatchee, Ellensburg, Goldendale, and Longview.
- *March 2007 and November 2007* – DNR provided newsletter updates on progress of the proposed exchange to parties who had expressed interest.
- *April 2008* - DNR held public hearings in Omak, Ellensburg, and Tumwater. The Ellensburg site satisfied DNR's legal requirement to hold a public hearing in the county where the most DNR exchange land is located. The additional hearing sites were provided for the convenience of the public.
- *July 2009* – DNR held a final public meeting in Ellensburg to update the public on the proposed exchange and receive any final comments.

DNR tracked feedback from all workshops and public meetings in spreadsheets. Specific issues raised regarding the WDFW exchange included availability of grazing leases after the exchange, public access to lands exchanged, and WDFW's management of lands formerly held by DNR.

WDFW augmented the DNR lead efforts on public involvement for the land exchange by publishing articles that described the proposed action in several editions of the WDFW Landline Newsletter⁴, which has a statewide mailing list of over 1,400 interested individuals, environmental organizations, and adjacent landowners.

The land exchange proposal was identified in the WDFW 2006 draft management plans for the LT Murray/Whiskey Dick/Quilomene, Wenas, Sinlahekin, Scotch Creek, and Oak Creek Wildlife Areas. These plans were made available in 2007 for a 30-day public review and comment period. These efforts were supplemented with news releases and other media outreach efforts.

Finally, WDFW issued a draft environmental assessment per the National Environmental Policy Act and provided a 30-day comment period, which ended December 16, 2009. Four comments were received regarding the LWCF portion of the phase 2 land exchange. One commenter supported the exchange, one opposed the exchange, and two other expressed concerns regarding forest replanting and public access. Attachment B provides the comments and WDFW's responses.

⁴ Winter 2004, Summer 2004, Summer 2006, Winter/Spring 2007, Fall 2007, and Spring 2008

Next Steps

If the board recommends approval of the conversion to the National Park Service, staff will prepare conversion amendments for National Park Service consideration.

Attachments

Resolution #2010-02

- A. Washington State Departments of Fish & Wildlife and Natural Resources, Post Land Exchange NPS 6F Boundary Maps
- B. Public Comments Received on Draft Environmental Assessment

Recreation and Conservation Funding Board
Resolution #2010-02
Washington Department of Fish and Wildlife Land Exchange

WHEREAS, the Washington Department of Fish and Wildlife (WDFW) proposes to convert about 4,749 acres of wildlife area lands that it acquired with grants awarded by the Recreation and Conservation Funding Board (Board); and

WHEREAS, the conversion is part of a larger land exchange with the Washington Department of Natural Resources (DNR) intended to consolidate land ownership and better address specific land management goals; and

WHEREAS, the exchange will affect property acquired with funding assistance from the Land and Water Conservation Fund (#69-609A); and

WHEREAS, WDFW is required to replace the converted land pursuant to federal Land and Water Conservation Fund conversion requirements; and

WHEREAS, the board and staff have determined the request met the following factors: (a) all practical alternatives to the conversion have been evaluated and rejected on a sound basis, (b) the proposed replacement property meets the program eligibility requirements, (c) justification exists to show that the replacement site has reasonably equivalent utility and location, (d) the fair market value of the converted property has been established and the proposed replacement land is of at least equal fair market value, and (e) the public has opportunities for participation in the process; and

WHEREAS, this proposal is consistent with the board's objectives and strategies to ensure that its investments meet the state's recreation and conservation needs and to adapt its management to meet changing needs;

NOW, THEREFORE, BE IT RESOLVED, that the Recreation and Conservation Funding Board approves the conversion request and the proposed replacement site for the WDFW land exchange and the submittal of the request to the National Park Service for final approval, and

BE IT FURTHER RESOLVED, that the Director is authorized to execute the necessary amendments subject to National Park Service action.

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

Washington State Departments of Fish & Wildlife and Natural Resources, Post Land Exchange NPS 6F Boundary

Scotch Creek and Sinlahekin Wildlife Areas



Legend

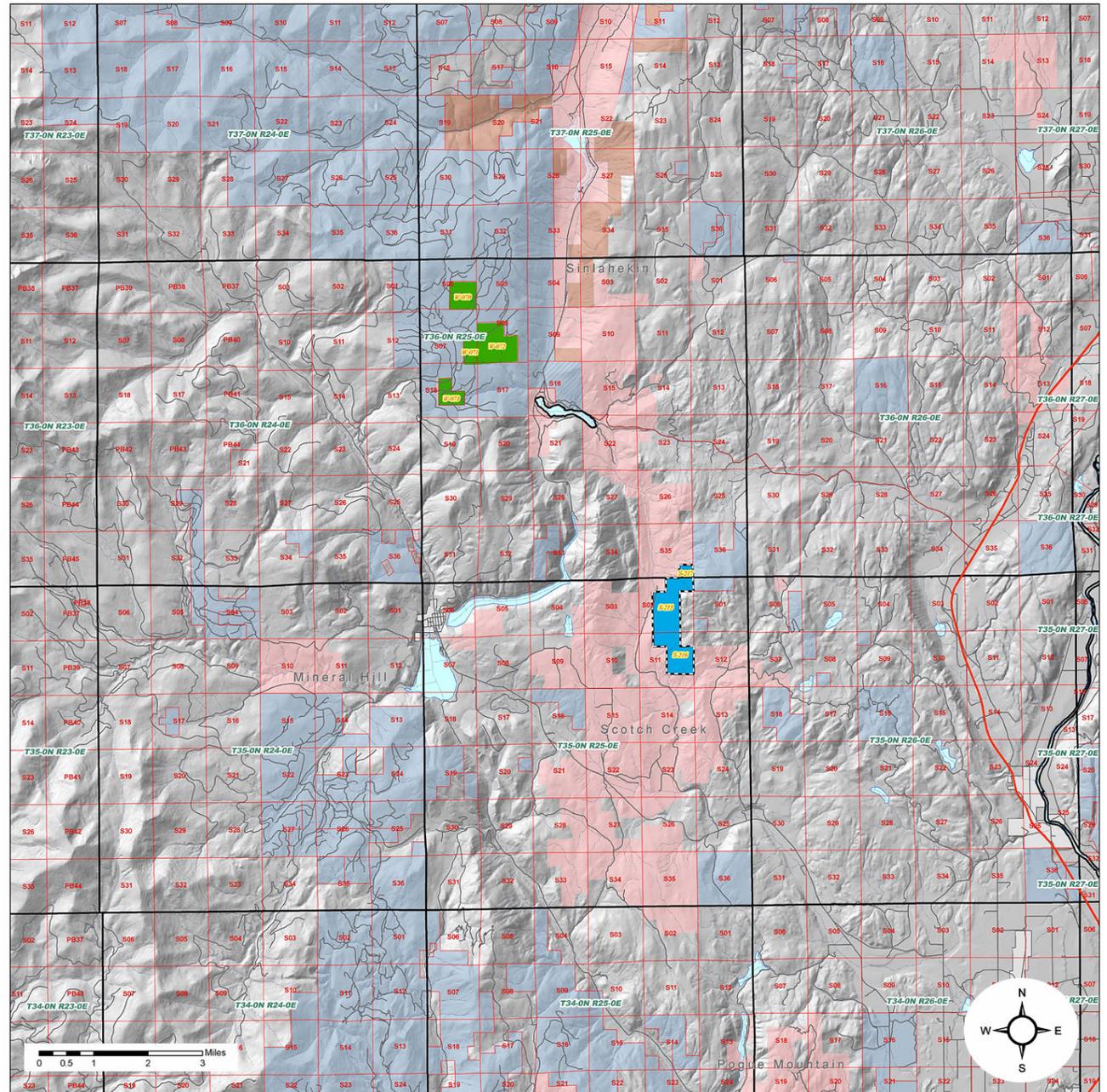
- Stream
- Highway
- Township
- Section
- Road
- 6F Boundary

Conversion and Replacement Parcels

- LWCF Replacement
- PR Conversion

WDFW Owned and Managed Lands

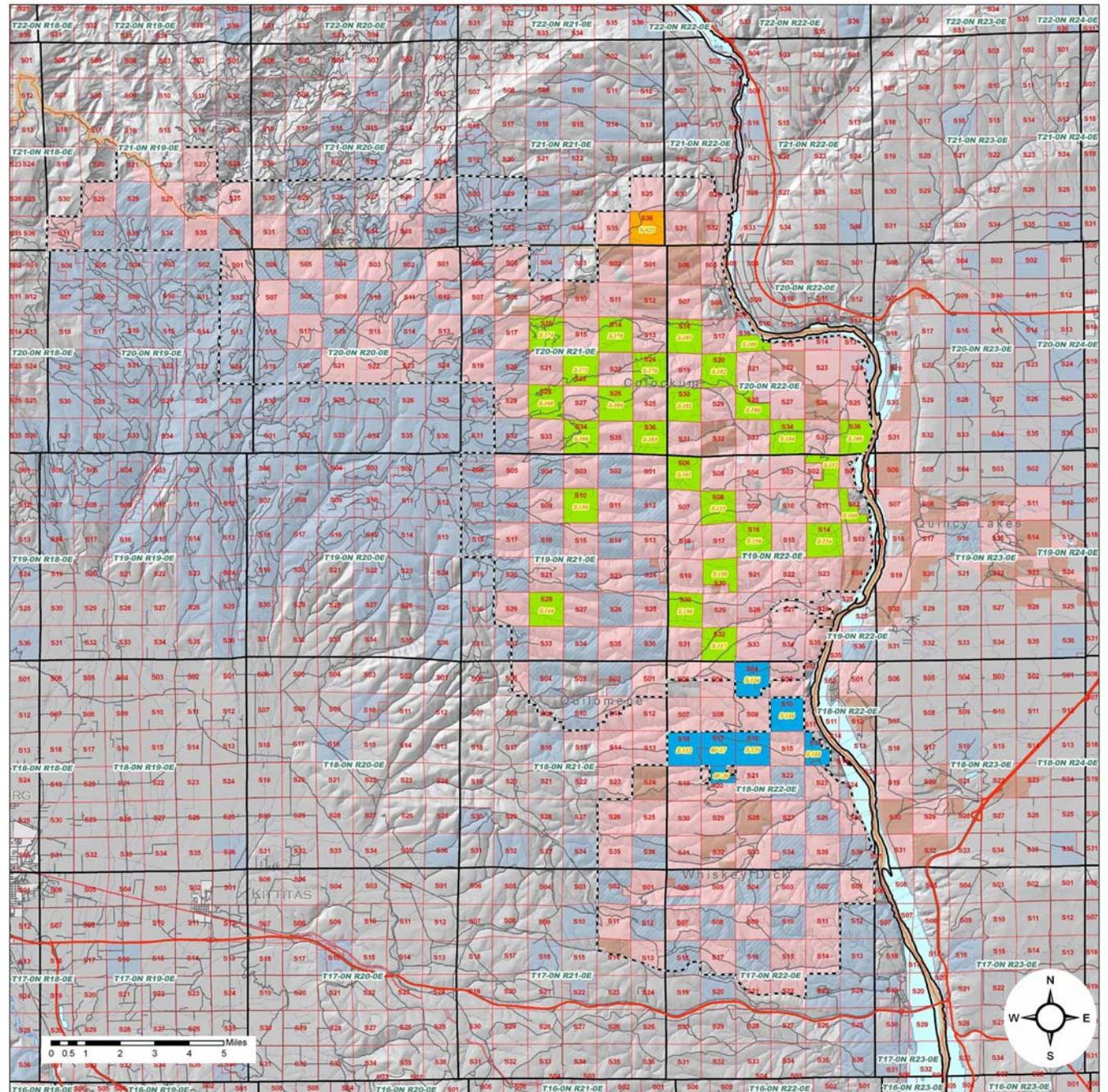
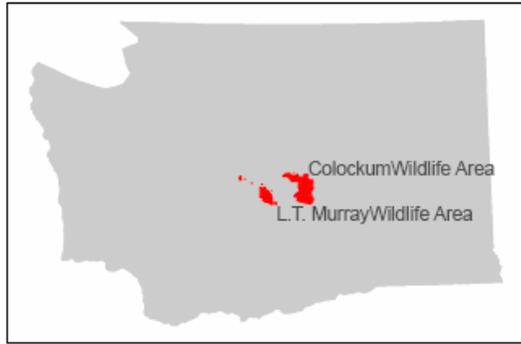
- Federal - WDFW Contolled
- Owned
- State - WDFW Controlled
- DNR Parcel



October 30, 2009

NPS 6F areas include only WDFW-owned lands within the 6F boundary. GIS data used to create this map is considered a generalized spatial representation that is subject to revisions. This information is provided as a visual representation only and is not to be used as a legal or official representation of legal boundaries. Washington State Department of Fish and Wildlife makes no claim as to the accuracy of the spatial data and assumes no responsibility for positional or content accuracy.

Colockum & L.T. Murray Wildlife Areas



Legend

- Stream
- Highway
- Township
- Section
- Road
- 6F Boundary

Conversion and Replacement Parcels

- LWCF Replacement
- PR Replacement
- Other Replacement

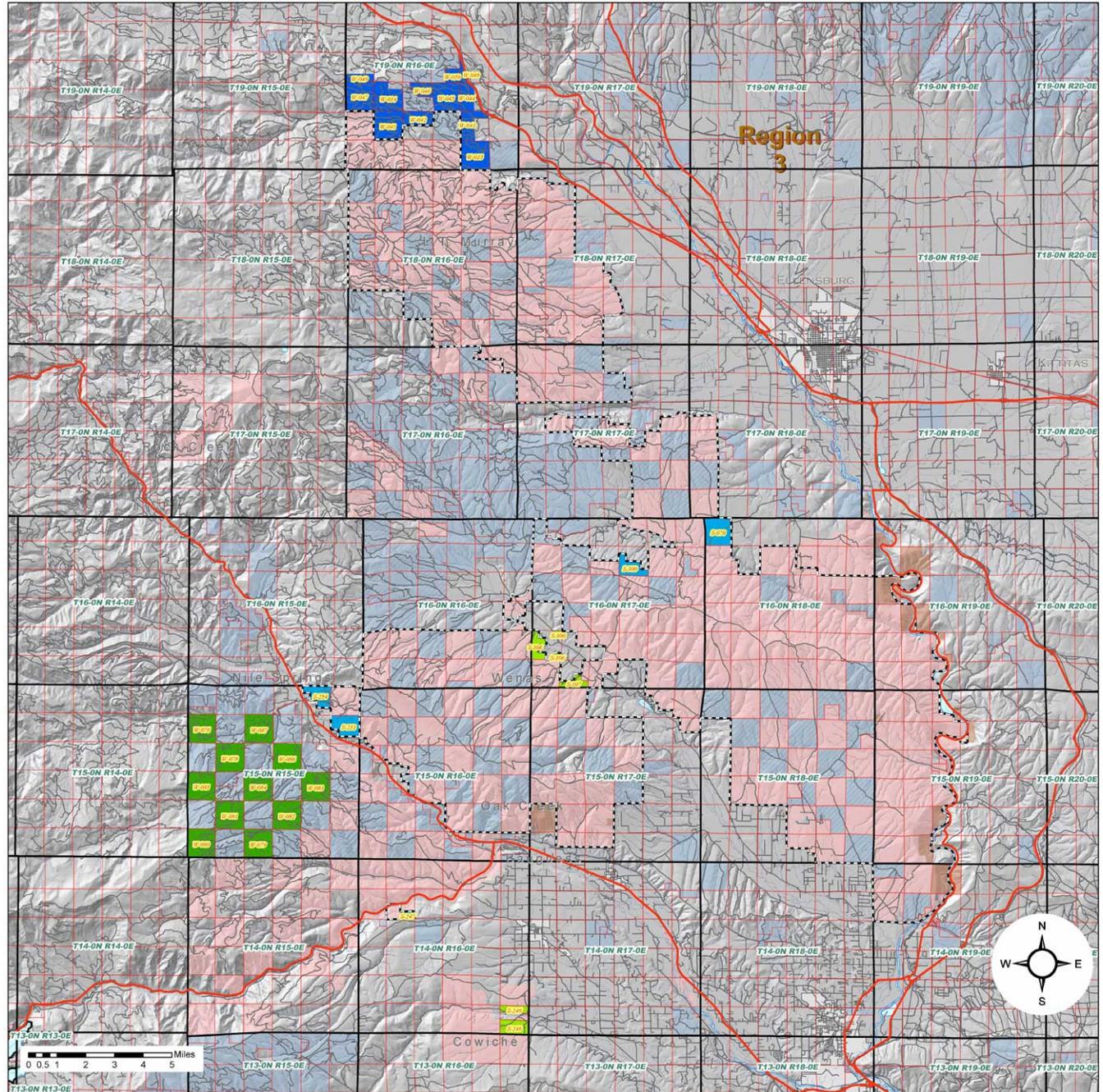
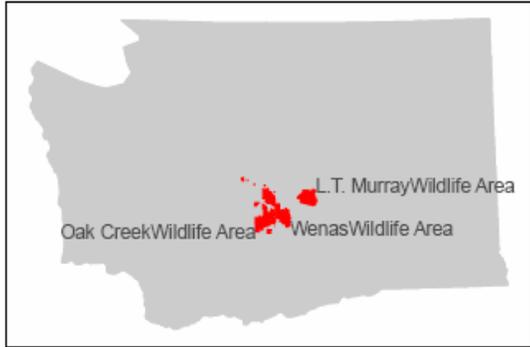
WDFW Owned and Managed Lands

- Federal - WDFW Contolled
- Owned
- State - WDFW Controlled
- DNR Parcel

October 30, 2009

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Oak Creek, Wenas, & L.T. Murray Wildlife Areas



Legend

- Stream
- Highway
- Township
- Section
- Road
- 6F Boundary

Conversion and Replacement Parcels

- LWCF Conversion
- LWCF Replacement
- PR Conversion
- PR Replacement

WDFW Owned and Managed Lands

- Federal - WDFW Contolled
- Owned
- State - WDFW Controlled
- DNR Parcel

October 30, 2009

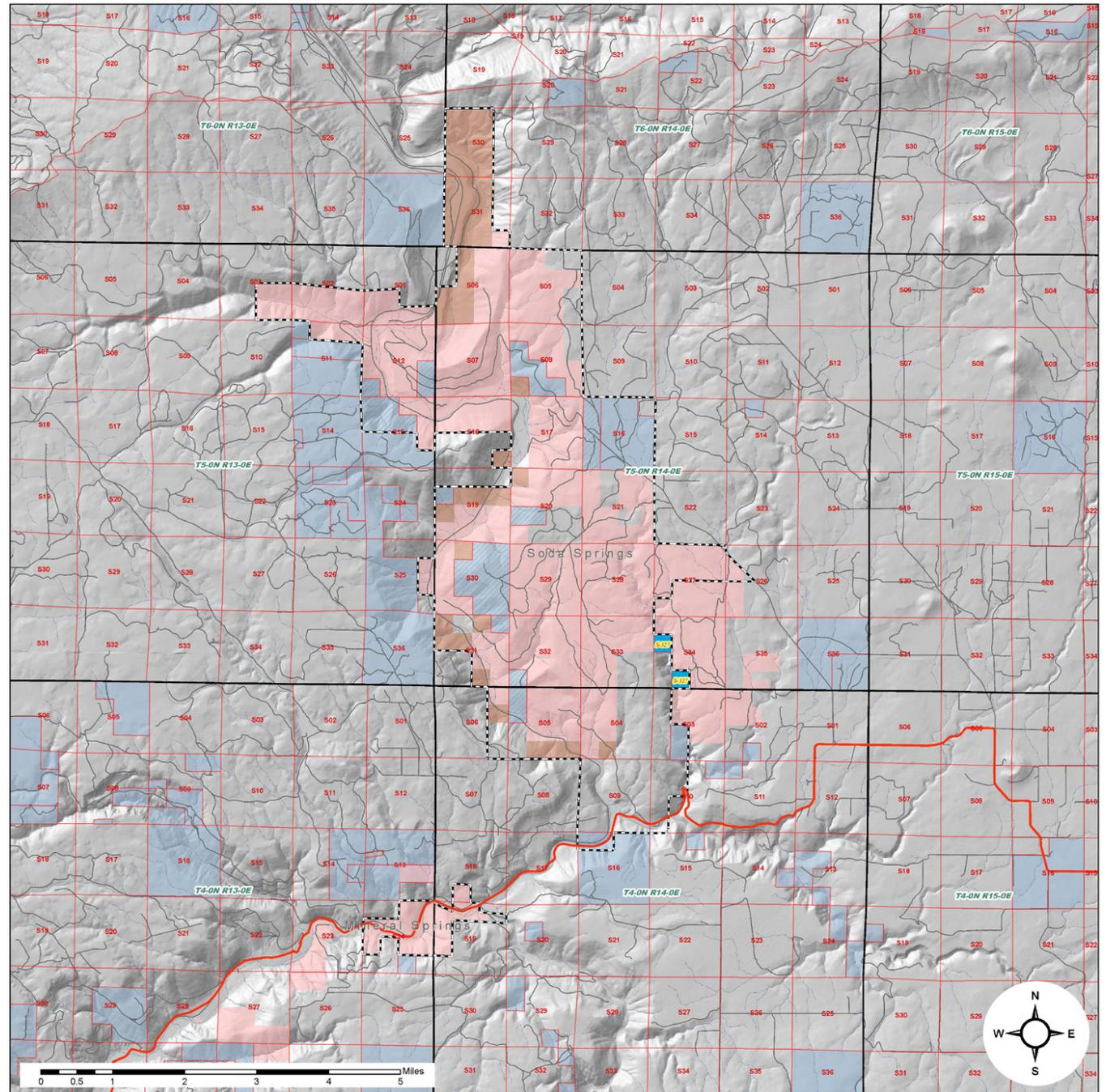
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Klickitat Wildlife Area



Legend

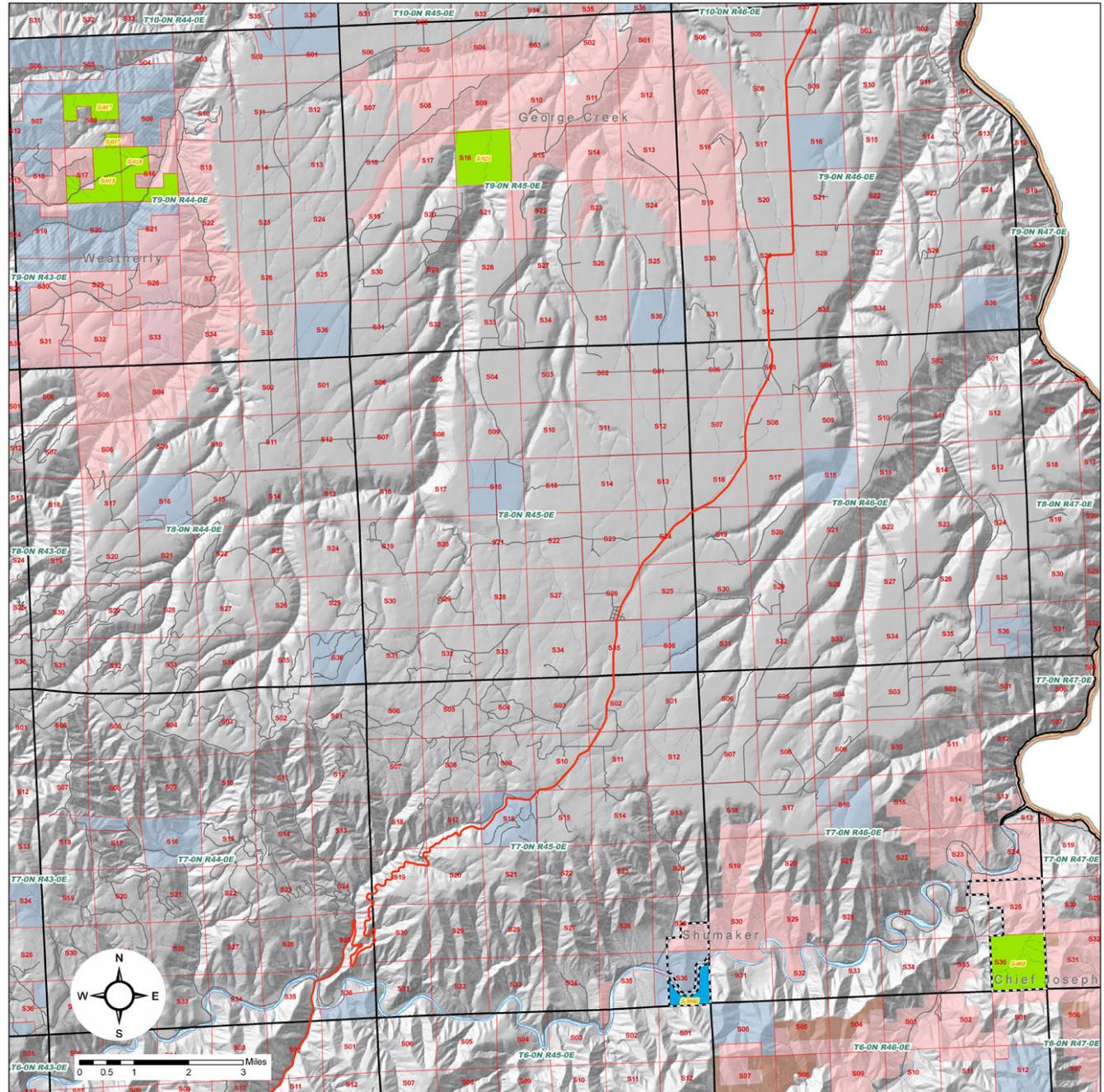
- Stream
 - Highway
 - Township
 - Section
 - Road
 - 6F Boundary
 - LWCF Replacement Land Exchange Parcel
- WDFW Owned and Managed Lands**
- Federal - WDFW Contolled
 - Owned
 - State - WDFW Controlled
 - DNR Parcel



October 30, 2009

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Chief Joseph & Asotin Wildlife Areas



Legend

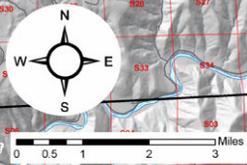
- Stream
- Highway
- Township
- Section
- Road
- 6F Boundary

Conversion and Replacement Parcels

- LWCF Replacement
- PR Replacement

WDFW Owned and Managed Lands

- Federal - WDFW Contolled
- Owned
- State - WDFW Controlled
- DNR Parcel



October 30, 2009

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Public Comments Received on Draft Environmental Assessment

Name	Comments	WDFW Response
Dennis Ivanov	<p>I strongly oppose and discourage this transaction to take place! DNR has no business in owning this land!</p> <p>As of today, any bank will struggle with determining the actual value for any land or property. Except for the land proposed to be developed. This is exactly the plan of this transaction and I strongly encourage you to reconsider this decision.</p>	<p>I appreciate your concern and taking time to comment on the land exchange. It appears that you do not like the idea of lands being transferred to DNR and suspect that the exchange will lead to development of public lands. The following information (more detail provided within the Environmental Assessment) may help ease your concern. The land exchange is intended to increase the likelihood that state lands will remain in public ownership for the following three reasons.</p> <ul style="list-style-type: none"> • WDFW will acquire lower-elevation DNR lands that are more vulnerable to disposal into private ownership and more sought after for development. • There will be a net transfer of land to DFW which is less likely to sell lands. • WDNR will acquire higher-elevation timber land with long term revenue generating potential that they will want to keep indefinitely in support of their public trust fund objectives.
Patrick Eakes	<p>Being a concerned citizen, I question the responsibility the WDNR has shown to follow through with the management of land, which was in the peoples possession and then sold to private and Native parties. (i.e., the sale to the Little Boston Tribe of land located on the Hansville Highway in Kingston Wa.98346) which was clear cut immediately and not replanted or managed what so ever after the sale. If the WDFW plans to exchange valuable land with the WDNR please install safeguards to insure responsible management of our precious wildlife and forest habitat. As in all things passing, memories fade quickly of things that are gone forever. Please think of our future as well as our present.</p>	<p>Thank you for your comment and concern. The following information (more detail provided within the Environmental Assessment) may help ease your concern about the land exchanges impacts on the potential disposal of public lands and the resulting loss of protections associated state ownership. The land exchange is intended to increase the likelihood that state lands will remain in public ownership for the following three reasons.</p> <ul style="list-style-type: none"> • WDFW will acquire lower-elevation DNR lands that are more vulnerable to disposal into private ownership and more sought after for development. • WDNR will acquire higher-elevation timber land with long term revenue generating potential that they will want to keep indefinitely in support of their public trust fund objectives. • There will be a net transfer of land to DFW which is less likely to sell lands.

Name	Comments	WDFW Response
Robert Elliott	<p>Although it does make sense to "block" lands managed by WDFW and WDNR, it appears DNR gets short changed in acreage.</p> <p>Access to public land is critical. WDFW should ensure public access is increased.</p>	<p>Thanks for your input and concern.</p> <p>A few things for you to consider.</p> <ul style="list-style-type: none"> • While the number of acres exchanged is unbalanced, the value of exchanged land is balanced. DNR receives less acres in the exchange because they wanted timber lands with higher economic value. • I expect access to improve on lands coming to WDFW as we don't have to engage in trust fund revenue generation activities like DNR that sometimes conflict with public access.
Janet Azevedo	<p>I am in favor of the Washington Department of Fish and Wildlife and Washington Department of Natural Resources Land Exchange Phase 2. The original fragmented ownership of these lands made for very inefficient management of these lands and apparently made managing resources almost impossible. Thank you to whoever came up with the idea of these land swaps!</p>	<p>Thank you for your comment.</p>

October 30, 2009

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