

## Agenda Item Summary

### BACKGROUND

#### Purpose

The purpose of this agenda item is to seek Commission approval of a property exchange with adjacent landowner Mr. Robert Huston to consolidate ownership and improve public access through the center of Oregon Department of Fish and Wildlife's Riverside Wildlife Area. Properties involved include portions of the former Wyoming and Colorado Railroad Company (WCRC) rail service corridor owned by Mr. Huston, to be exchanged for two separate parcels of land owned by Oregon Department of Fish and Wildlife (ODFW). These ODFW lands are disjunct from the remainder of the Wildlife Area and no longer serve the original purpose for which they were obtained. One of the two parcels is currently landlocked within private property with no public access. Properties to be exchanged are of equal value, but not equal acreage. No monies will be exchanged.

#### Background

The Riverside Wildlife Area is in Malheur County, approximately 17 miles SW of the community of Juntura. Juntura is on Hwy 20 approximately halfway between Burns and Ontario, Oregon. The Wildlife Area consists of 2200 acres running linearly 8 miles along the Malheur River between the former railroad community of Riverside and Juntura (See map Attachment 2).

The Wildlife Area is bisected throughout its length by the rail service corridor of the former WCRC. ODFW acquired land on either side of the rail service corridor (but not the rail service corridor) to form Riverside Wildlife Area by bargain and sale deed from Union Pacific Land Resources Corporation (predecessor to WCRC) in 1977.

Riverside Wildlife Area provides unique dispersed recreation activities for both anglers and hunters in a semi-remote, high desert canyon of southeast Oregon. For nearly 20 years prior to abandonment of rail operations, anglers and hunters enjoyed uninhibited, non-motorized access along the rail service corridor in pursuit of rainbow trout, upland game birds (chukars and pheasants), bighorn sheep, deer and elk. WCRC abandoned rail operations in the mid-1990's.

Following abandonment of rail operations, ODFW pursued purchase of the rail service corridor, but ultimately withdrew from negotiations with WCRC due to perceived uncertainties on who owned title to the corridor. In 1999 WCRC sold portions of the rail service corridor bisecting the Wildlife Area to Mr. Huston via quitclaim deed. Subsequently, Mr. Huston closed the rail service corridor to public access, posted no trespassing signs and placed gates on each bridge crossing on the river.

Current public access to lands in Riverside Wildlife area is severely restricted because the privately owned rail service corridor effectively bisects ODFW

properties. Anglers have access to interior portions of the Wildlife Area by floating the river corridor during summer months. Malheur River is too low for boating during spring, fall and winter months. Hunters attempting to access the interior of the Wildlife Area must traverse sometimes steep terrain above and below the rail service corridor as well as frequently wade across the river to reach desirable hunting locations on the opposite bank. Until this exchange is complete, the rail service corridor (the only flat path through the wildlife area) is off limits to the public.

Negotiations for this property exchange were initiated by former Director Ball in 2003. Subsequent title review of the rail service corridor by staff from the Department of Justice has concluded that WCRC in fact owned those properties in fee simple (actual ownership, not an easement from the federal government as has been purported) and Mr. Huston's subsequent ownership via quitclaim deed is valid.

Preliminary approval of this proposed exchange was granted by the Oregon Fish and Wildlife Commission in November 2004. Subsequently, ODFW staff have been working to complete federal requirements for the parcels leaving public ownership. The initial Riverside Wildlife Area properties were purchased using Federal Aid Sport Fish Restoration monies administered by the US Fish and Wildlife Service triggering federal requirements.

Completion of the exchange will enhance the Wildlife Area through addition of full ownership in fee simple of 11 segments of the abandoned rail service corridor (See map in Attachment 2, parcels to be received are titled "Huston to ODFW"). The actual width of the corridor varies throughout its length, but in each segment the entire width will become part of the Wildlife Area for continuous ownership. This will allow for uncontested public ownership and management of approximately 8 miles of corridor.

The two non-contiguous parcels to be traded to Mr. Huston have been satellite areas to the main Wildlife Area, one of which is currently landlocked within private property with no public access. On the attached map, the two parcels to be traded away are labeled "ODFW to Huston" with the tax lot number just south of the town of Juntura.

During 2008, ODFW staff is scheduled to initiate development of a long range management plan for the Wildlife Area. Integral to the plan will be objectives to address public access to Wildlife Area lands, including the rail service corridor and bridge crossings over the Malheur River.

Approximately 90% of the work required to conclude the trade has been accomplished to date. The exchange is between lands of equal value with no money to be exchanged.

**PUBLIC  
INVOLVEMENT**

On numerous occasions the public has requested verbally and in writing that ODFW and the Commission resolve this access issue. By necessity, specifics

of this real estate transaction have been kept confidential until now. The Commission has been briefed on this situation by former Director Ball on three previous occasions.

**ANALYSIS**

Private ownership of the rail transportation corridor bisecting Riverside Wildlife Area has closed off public access to valuable state-owned lands, impeded administration of management actions, and severely degraded public enjoyment of the Wildlife Area. Completion of the proposed land exchange will consolidate ownership, greatly simplify administration of necessary habitat improvement projects and improve public access through the center of ODFW's Riverside Wildlife Area.

**OPTIONS**

1. Approve the exchange as planned.
2. Do not approve the exchange.

**STAFF  
RECOMMENDATION**

Approve the exchange as planned.

**DRAFT MOTION**

I move to approve the land exchange as proposed and direct staff to proceed with the required processes to conclude the transaction.

**EFFECTIVE DATE**

November 3, 2006