

Natural Resources Building
1111 Washington St SE
Olympia WA 98501

PO Box 40917
Olympia WA 98504-0917



(360) 902-3000
TTY (360) 902-1996
Fax: (360) 902-3026

E-mail: info@rco.wa.gov
Web site: www.rco.wa.gov

STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

October 12, 2007

Topic #11: WWRP Mitigation Banking Projects – Policy Issues

Prepared and Presented By: Leslie Ryan Connelly **Approved by the Director:** 

Proposed Action: Decision

Summary

On August 27, Recreation and Conservation Office staff requested comment from interested parties on policies regarding mitigation banking projects applying for funding in the 2008 Washington Wildlife and Recreation Program (WWRP) grant cycle. This memorandum summarizes the proposed options and comments, and outlines staff's recommendation for modifications to existing program policies.

Staff Recommendation

Staff recommends that mitigation banking projects compete with other projects within their category with no special consideration except for evaluation of the banking portion of the project by a panel with expertise in the subject.

Staff also recommends against all three proposed options for sale of credits for mitigation banking projects, and that WWRP funds be allowed only for the acquisition portion of a banking project. The sponsor would not be allowed to sell credits on any portion of the project funded by a WWRP grant (or on the match) but would be allowed to sell credits on any restoration done with non-WWRP funds. This would be consistent with the intent of the WWRP and would avoid the problem of how to reinvest revenues generated from sale of credits on a WWRP investment.

Staff further recommends that the decision on revenue distribution be postponed until the first Recreation and Conservation Funding Board (RCFB) meeting in 2008 to allow additional time for public comment and for staff to assemble a group of mitigation and conservation banking policy experts to discuss the future role of public grant funds in supporting mitigation banking projects.



Background

The Washington State Legislature established the Washington Wildlife and Recreation Program¹ in 1990. Of the eleven funding categories, mitigation and conservation banking projects are eligible to receive grants from the Critical Habitat, Urban Wildlife Habitat, and Riparian Protection categories. The 2006 application cycle was the first year that these types of projects were eligible.

In order to learn more about how to best evaluate proposals, implement projects, and encourage creative approaches to mitigation and conservation banking, the Board decided to approach this as a pilot program and issue a separate Request for Grant Proposals for these types of projects and use a separate evaluation process. In the 2006 grant cycle, two of three mitigation banking pilot proposals were funded.

Stakeholders were asked to comment on two main areas in anticipation of possible changes for the 2008 WWRP grant cycle:

1. The evaluation process, and
2. Policies regarding revenues received from the sale of credits.

Analysis: Evaluation Process

Stakeholders commented on the following three options regarding the evaluation process.

- ➔ **Option 1:** Extend the pilot program, giving mitigation banking projects special consideration. Issue a special Request for Grant Proposals, and require applicants to present their proposal to two separate teams for evaluation. A special mitigation banking evaluation team would rate proposals based upon the merits of the mitigation banking portion of the proposal. The traditional WWRP category evaluation team would rank mitigation banking proposals along with other grant proposals within that category. The RCFB would then consider funding mitigation banking proposals based upon their rank in the WWRP category, the rating by the mitigation banking team, and opportunities the project could offer in helping further the development of mitigation banking policy for the RCFB and for the state.

Pros	Cons
Provides another opportunity to stimulate innovative approaches to public funding of mitigation and conservation banking projects.	Dual evaluation requires significantly greater time and effort on the part of applicants, staff and evaluators.
Land purchased for banking projects typically has degraded habitat and special consideration is necessary for the project to compete with "traditional" projects.	Special consideration may provide an unfair advantage for banking projects.

¹ WWRP is codified in RCW 79A.15 and WAC 286-27.

- ➔ **Option 2:** Let mitigation banking projects compete with other projects in the respective categories after the banking portion of the proposal has been reviewed by a separate evaluation team. Comments from the mitigation banking evaluation team would be forwarded to the traditional WWRP evaluation team for consideration during final evaluations and ranking. The mitigation banking evaluators could rely on the written application materials or require in-person presentations. The RCFB would not give special consideration to mitigation banking projects.

Pros	Cons
Eliminates the special consideration for mitigation banking projects, thereby creating an equal opportunity for non-banking projects.	Without special consideration, a mitigation banking project will probably not score as well as a project intended to preserve habitat that is in superior condition. This could provide disincentive for mitigation projects.
Leaves evaluation of the mitigation banking portion of a project to a panel with expertise in banking.	Dual evaluation requires significantly greater time and effort on the part of applicants, staff and evaluators.

- ➔ **Option 3:** Compete with other projects in the respective categories with no separate review for mitigation banking projects. The criteria in the Critical Habitat, Urban Wildlife Habitat, and Riparian Protection categories would be modified to incorporate questions to address this project type. At least one member of the Critical Habitat, Urban Wildlife Habitat, and Riparian Protection evaluation teams would have expertise in mitigation banking for scoring purposes. The RCFB would not give special consideration to mitigation banking projects.

Pros	Cons
Streamlines the process.	Would include evaluation of the mitigation banking portion of a project by people with no expertise in mitigation banking.
Removes what is perceived as an unfair advantage for mitigation banking projects.	Requires modification of the evaluation criteria.

Stakeholders strongly favored not extending the pilot program, but requiring mitigation projects compete head to head with other projects.

Analysis: Revenues From Sale of Credits

Stakeholders commented on the following three options regarding how revenue from the sale of credits should be used.

- ➔ **Option 1:** Revenues from the sale of credits on the WWRP funded portions of a mitigation bank would be returned to the Recreation and Conservation Office, where they would be applied to alternate projects within a WWRP category or account.

Pros	Cons
Ensures the funds are distributed to the most deserving projects, based on adopted evaluation criteria.	Funds would trickle in over a number of years, complicating budgeting and reappropriations.
Revenues may come in piece-meal and redistribution by RCFB provides the greatest assurance they will be spent in a timely manner since RCFB can offer the funds to partially funded projects already under agreement, or to alternates on an existing list.	For mitigation banking projects, this option effectively turns WWRP into an interest-free revolving loan fund instead of a grant program.
Eliminates the need for a cumbersome tracking system that tries to keep tabs on how numerous entities (sponsors) are reinvesting the funds.	May result in unfair competition with entrepreneurial bankers who must make a profit on investments in land and restoration.

- ➔ **Option 2:** Revenues from credit sales would be reinvested by the grant sponsor in acquiring and/or restoring another mitigation banking site.

Pros	Cons
Eliminates the problems with returned revenues discussed in Option 1.	Would require unknown amounts of Recreation and Conservation Office staff time to track revenue and track reinvestment. Also requires approval by RCFB, which may be complicated to achieve in a timely manner given the Boards quarterly schedule.
	Could lead to funds being reinvested in later banking sites/projects that are not as high a quality as one competing for new WWRP funds.

- ➔ **Option 3:** Revenues would be used by the grant sponsor to acquire high quality habitat land elsewhere. This land would not be used in a mitigation bank, but could be contiguous to the mitigation bank originally funded with the WWRP grant, complement its ecosystem functions, or provide similar functions in the same watershed or service area.

Pros	Cons
Eliminates the problems with returned revenues discussed in Option 1.	Recreation and Conservation Office staff and the RCFB would have to verify that the proposed acquisition is of equal or greater quality than the original mitigation bank property after its successful restoration.
Requires acquisition of high quality habitat in perpetuity. Could be approached as if there was a "conversion" on the original property.	

In Options 2 and 3, the allocation of revenue by the project sponsor must be approved by the RCFB. Reinvestment requests should reflect the goals of the original grant proposal and the reinvestment strategy identified in the application. Proposed target acquisitions must meet the eligibility criteria of the funding category (e.g., Critical Habitat, Urban Wildlife Habitat, or Riparian Protection). Sponsors should explain how their reinvestment request furthers the strategy identified in their original application and how the proposal meets the funding category's intent, goals, and statutory criteria. All of this represents a substantial effort on the part of sponsors, Recreation and Conservation Office staff and RCFB members.

Stakeholders generally favored returning funds to RCFB for redistribution, rather than allowing the sponsor to reinvest them.

Next Steps

Public comments on the proposed options referenced above were distributed to the Board at the September 14 RCFB meeting. Comments received by October 25 on staff's recommendation as presented in this memorandum will be distributed to the Board electronically in advance of the November meeting.

If the Board approves staff's recommendation, staff will incorporate the change into the evaluation processes outlined in Manual #10b, *WWRP Habitat Conservation Account and Riparian Protection Account: Policies and Project Selection* and send out notices to potential applicants and other interested parties. Adopted changes will affect grant requests beginning with the 2008 grant cycle.

Staff will finalize policy language regarding revenue distribution, send out for public comment and propose adoption of a policy at the Board's first meeting in 2008.

Attachment

- Resolution 2007-28

RESOLUTION #2007-28
Washington Wildlife and Recreation Program
Evaluation of Mitigation Banking Projects

WHEREAS, Chapter 79A.15 RCW established the Washington Wildlife and Recreation Program (WWRP) and authorized the Recreation and Conservation Funding Board (RCFB) to adopt policies and rules for the program; and

WHEREAS, in 2006 the statute was amended to allow funding of mitigation banking projects in the Critical Habitat, Urban Wildlife Habitat, and Riparian Protection categories of the WWRP; and

WHEREAS, the RCFB adopted a policy to accept mitigation banking projects as part of a pilot program and issued a separate Request for Grant Proposals for these types of projects; and

WHEREAS, each project was evaluated in two independent evaluation processes; and

WHEREAS, after implementation of these processes during the first grant round it has been determined that these independent evaluations are complex, duplicative, and inefficient; and

WHEREAS, the RCFB desires to reduce the complexity of duplicative processes and incorporate a change to the WWRP policy manual regarding the evaluation of mitigation banking projects in the Habitat Conservation and Riparian Protection accounts; and

WHEREAS, the proposed policy has been made available for review and comment by individuals and organizations that have expressed an interest in WWRP; and

WHEREAS, final adoption of the policy revisions will be incorporated into Manual 10b, *WWRP Habitat Conservation Account and Riparian Protection Account: Policies and Project Selection*;

NOW, THEREFORE BE IT RESOLVED, that mitigation banking projects compete with other projects within their category with no special consideration except for evaluation of the banking portion of the project by a panel with expertise in the subject; and

BE IT FURTHER RESOLVED, that the Recreation and Conservation Office staff is directed to take the necessary steps for implementation of this revision beginning with the 2008 grant cycle.

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: November 1, 2007