

Time: Opening sessions will begin as shown; all other times are approximate.

Order of Presentation:

In general, each agenda item will include a presentation, followed by board discussion and then public comment. The board makes decisions following the public comment portion of the agenda item.

Public Comment:

If you wish to comment at a meeting, please fill out a comment card and provide it to staff. Please be sure to note on the card if you are speaking about a particular agenda topic. The chair will call you to the front at the appropriate time. You also may submit written comments to the Board by mailing them to the RCO, attn: Rebecca Connolly, Board Liaison or at rebecca.connolly@rcow.wa.gov.

Special Accommodations:

If you need special accommodations, please notify us by March 24, 2011 at 360/902-3013 or TDD 360/902-1996.

THURSDAY, MARCH 31

OPENING AND MANAGEMENT REPORTS

- 9:00 a.m. CALL TO ORDER** *Board Chair*
- Roll Call and Determination of Quorum
 - Introduction of New Members
 - Betsy Bloomfield
 - Pete Mayer
 - Review and Approval of Agenda – March 31, 2011
- 9:10 a.m. 1. Consent Calendar (*Decision*)** *Board Chair*
- a. Approval of Board Meeting Minutes – October 28-29, 2010
 - b. Time Extension Request: Auburn Environmental Park, City of Auburn, Project #06-1834
 - c. Recognition of Volunteer Evaluators
- Resolution #2011-01
- 9:15 a.m. 2. Management Reports (*Briefing*)**
- a. Director's Report *Kaleen Cottingham*
 - b. Fiscal Report
 - c. Legislative and Budget Update *Steve McLellan*
 - d. Policy Report *Steve McLellan*
 - e. Grant Management Report *Scott Robinson and Marguerite Austin*
 - Overview of Grant Evaluations for 2011
 - Overview of State Auditor Finding regarding Whistleblower Complaint
 - Presentation of Closed Projects of Note
 - f. Performance Report *Rebecca Connolly*
- 10:15 a.m. State Agency Partner Reports**

10:25 a.m. 3. Perspectives on Recreational Trails Program Funding and Project Categorization *Greg Lovelady
Gary Johnson
(Washington Off-Highway Vehicle Alliance)*

10:35 a.m. GENERAL PUBLIC COMMENT: *Chair*
For issues not identified as agenda items. Please limit comments to 3 minutes.

10:40 a.m. BREAK

BOARD BUSINESS: DECISIONS

10:55 a.m. 4. Proposed Change in Land and Water Conservation Fund Evaluation Criteria *Jim Eychaner*
Resolution 2011-02

11:10 a.m. 5. Proposed Change to Increase Maximum Grant Amount in Firearms and Archery Range Recreation (FARR) Program *Jim Eychaner*
Resolution 2011-03

11:25 a.m. 6. Proposed Change to Biennial Grant Cycle for All Grant Programs *Jim Eychaner
Marguerite Austin*
Resolution 2011-04

Noon 7. Delegation of Authority to Director to Resolve 6(f) Boundary Issues at Kah Tai Lagoon Park, Port Townsend *Kaleen Cottingham
Jim Anest
Scott Robinson*
Resolution 2011-05

12:30 p.m. LUNCH

BOARD BUSINESS: BRIEFINGS

1:15 p.m. 8. Policy Development Updates *Jim Eychaner
Lucienne Guyot
Jim Eychaner
Dominga Soliz*
a. Sustainability Practices and Policy Development
b. Level of Service Recommendations
c. Allowable Uses Policy

2:30 p.m. BREAK

2:45 p.m. 9. Project Overview and Preview of Upcoming Time Extension *Elizabeth Butler*
a. Qwuloolt Estuary Restoration and Interpretive Trail Project, Tulalip Tribe, Project #06-1604D

3:00 p.m. 10. Overview of Upcoming Conversion: Sullivan Park, City of Everett, Project #79-011 *Jim Anest*

3:30 p.m. 11. Americans with Disabilities Act (ADA): New Requirements for Grant-Funded Projects *Rory Calhoun*

4:00 p.m. ADJOURN

Recreation and Conservation Funding Board
Resolution #2011-01
March 2011 Consent Agenda

BE IT RESOLVED, that the following March 2011 Consent Agenda items are approved:

- a. Recreation and Conservation Funding Board Meeting Minutes – October 28-29, 2010
- b. Time Extension Request:
 - i. Auburn Environmental Park, City of Auburn, Project #06-1834
- c. Recognition of Volunteer Evaluators and Committee Members

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

RECREATION AND CONSERVATION FUNDING BOARD SUMMARIZED MEETING AGENDA AND ACTIONS, OCTOBER 28-29, 2010

Agenda Items without Formal Action

Item	Board Request for Follow-up
Item 15: Conversion Policy Framework	Staff review of policies should include: <ul style="list-style-type: none"> • Latitude regarding conversions that are discovered and proceed without permissions • Ways to create incentives and disincentives • Staff workload

Agenda Items with Formal Action

Item	Formal Action	Board Request for Follow-up
Item 1: Consent Calendar	APPROVED <ul style="list-style-type: none"> • Approval of Board Meeting Minutes – August 20, 2010 • Time Extension Request: Project #06-1778 • Time Extension Request: Project #06-1679 • Major Scope Change Request: Project #06-1816 • Major Scope Change Request: Project #08-1505 	
Item 3: 2011 Schedule	APPROVED as Amended <ul style="list-style-type: none"> • Amended to place the travel meeting in either June or September, with a preference for September. 	
Item 5: WWRP Habitat and Conservation Grants	APPROVED <ul style="list-style-type: none"> • Approved ranked lists for Critical Habitat Category, Natural Areas Category, State Lands Restoration Category, and Urban Wildlife Category for submission to Governor 	
Item 6: WWRP Riparian Protection Account Grants	APPROVED <ul style="list-style-type: none"> • Approved Riparian Protection ranked list for submission to Governor 	
Item 7: WWRP Farmland Preservation Account Grants	APPROVED <ul style="list-style-type: none"> • Approved Farmland Preservation ranked list for submission to Governor 	
Item 8: WWRP Outdoor Recreation Account Grants	APPROVED <ul style="list-style-type: none"> • Approved ranked lists for Local Parks , State Lands Development, State Parks ,Trails , and Water Access categories for submission to Governor 	
Item 9: Aquatic Lands Enhancement Account Grants	APPROVED <ul style="list-style-type: none"> • Approved ALEA ranked list for submission to Governor 	
Item 10: Land and Water Conservation Fund Grants	APPROVED <ul style="list-style-type: none"> • Approved LWCF ranked list and project funding 	
Item 11: Recreational Trails Program Grants	APPROVED as amended to remove sixth whereas statement <ul style="list-style-type: none"> • Approved RTP ranked list and project funding 	
Item 12: Recognition of Board Member Service	APPROVED <ul style="list-style-type: none"> • Resolutions to recognize the service of Rex Derr, Karen Daubert, Jeff Parsons, and Bill Chapman 	
Item 13: Approve Acquisition Policy Updates and Changes for Manual 3	APPROVED <ul style="list-style-type: none"> • Sections 2 and 4 (Third Party Appraisals, and Statement of Value Less Than \$10,000) of Proposal 1 were approved without amendment. The remainder was deferred for future consideration. • Proposals 2 through 7 and Proposal 9 were approved without amendment. • Proposal 8 was approved as amended to offer an option of an affidavit certifying that the landowner had been contacted. 	Appraisal standards and appraisal “shelf life” to be further evaluated, including their link to conversion policy
Item 14: Approve Changes to Evaluation Questions for Boating Facilities Program	APPROVED <ul style="list-style-type: none"> • Changed to the scoring criteria used to review and evaluate grant proposals for the Boating Facilities Program. 	

** DRAFT **

Item 16: Conversion Request: WDFW, Project #68-603	APPROVED <ul style="list-style-type: none">• Approves the proposed conversion and directs staff to forward the recommendation on to the National Park Service for consideration	
Item 17: Conversion Request: City of Newcastle, #91-211	APPROVED as Amended <ul style="list-style-type: none">• Amended to encourage the city to authorize and fund rerouting of the surface road north trail to the south side and tie into the Coal Creek Road Crossing	•

RECREATION AND CONSERVATION FUNDING BOARD SUMMARY MINUTES

Date: October 28-29, 2010

Place: Room 175, Natural Resources Building, Olympia, WA

Recreation and Conservation Funding Board Members Present:

Bill Chapman, Chair	Mercer Island	Stephen Saunders	Designee, Department of Natural Resources
Jeff Parsons	Leavenworth	Rex Derr	Director, State Parks
Harriet Spanel	Bellingham	Jennifer Quan	Designee, Department of Fish and Wildlife
Karen Daubert	Seattle		
Steven Drew	Olympia		

Mr. Parsons and Mr. Drew arrived shortly after roll was called.

Mr. Derr left at the lunch break, following item #5. During his absence, Steve Hahn represented State Parks. Mr. Derr returned to the board at 3:30 p.m., as item #10 began.

It is intended that this summary be used with the notebook provided in advance of the meeting. A recording is retained by RCO as the formal record of meeting.

Thursday, October 28, 2010

Opening and Management Report

Chair Bill Chapman called the meeting to order at 1:10 p.m. Staff called roll, and a quorum was determined.

The Recreation and Conservation Funding Board (board) reviewed Resolution #2010-14, Consent Calendar. The consent calendar included the following:

- Approval of Board Meeting Minutes – August 20, 2010
- Time Extension Request: L.T. Murray Wenas Wildlife Area Rehabilitation, Washington Department of Fish and Wildlife, Project #06-1778
- Time Extension Request: Wind River Boat Ramp Improvements, Skamania County, Project #06-1679
- Major Scope Change Request: Skagit River Forks, Washington Department of Fish and Wildlife, Project #06-1816
- Major Scope Change Request: Methow Watershed Phase Six, Washington Department of Fish and Wildlife, Project #08-1505

Resolution 2010-14 moved by: Parsons
Resolution APPROVED

and seconded by: Daubert

Item 2: Management Report

Kaleen Cottingham introduced new staff and noted that the RCO would be hiring a fiscal staff person to address the audit findings. She also noted items from her director's reporting including the upcoming LWCF program review, the RCO's role in natural resources reform, and the sunset dates for the Biodiversity Council and Monitoring Forum.

Steve McLellan, Policy Director, provided an update on the policies in the memo, with an emphasis on work regarding sustainability. He discussed the budget situation, noting that there likely will be more cuts before the end of the biennium. He also noted likely reductions in the 2011-13 capital budget.

Scott Robinson and Marguerite Austin, Grant Section Managers, highlighted key information from their grant management report, including volunteer activity, inspections, BIG projects, and compliance. Marguerite noted that a new grant cycle will begin on November 15 for NOVA, BFP, and FARR. They have sent out notices and invited potential applicants to attend grant workshops. She also noted that staff will be proposing a policy change in February to allocate all of the money at the beginning of the biennium, rather than the typical annual cycle. Policy staff is seeking input from stakeholders.

Rebecca Connolly, Board Liaison/Accountability Manager, presented the sponsor and applicant survey results. Board members were particularly interested in the application process and PRISM.

State Agency Partner Reports

Rex Derr, State Parks, discussed the hiring process for a new state parks director and the development of a successor plan to the Centennial 2013 plan. He encouraged those in attendance to participate in the planning. They will be celebrating the state parks system in 2013.

Stephen Saunders, Department of Natural Resources (DNR), noted that they sponsored a tour of the Michel property, which they purchased with board funding, and recently restored. He also noted the mixed effect of the economy on the agency's ability to acquire property and reminded the board that the lack of indirect cost reimbursement continues to be a challenge for DNR.

Jennifer Quan, Department of Fish and Wildlife (DFW), noted the budget impacts on DFW and the reductions in employees, fish production, land management, and other activities. She also discussed the agency's request legislation for increased fees.

General Public Comment

Mayor Bud Norris, Mount Vernon, thanked the board for their time, and offered support to the lists they will provide to the legislature. The city appreciates both the staff and the process. He thanked the board for funding the Kiwanis Park Project, and described how the project is enjoyed by the community and connected to other projects.

Board Briefings

Item 4: WWRP Framework

Steve McLellan gave an overview of the Washington Wildlife and Recreation (WWRP) program, as described in the notebook. He handed out a revised list of projects that would be funded at various levels.

Board Decisions

Item 3: 2011 Meeting Schedule

Rebecca Connolly presented the schedule as discussed in the memo. Director Cottingham discussed the guidelines for travel, and recommended a tour of Okanogan County. Board members discussed the merits of travel and whether it should be during this fiscal year or next fiscal year.

**Resolution 2010-15, amended to place the travel meeting in either June or September
moved by: Spanel and seconded by: Derr**

Stephen Saunders offered a friendly amendment to prioritize September over June, pending availability of the facility. Daubert seconded.

Amendment APPROVED; Resolution APPROVED

Item 5: Habitat Conservation Account

Scott Robinson, Section Manager, introduced the Habitat Conservation Account policies and statistics.

5A: Critical Habitat Category

Scott Robinson presented the Critical Habitat category, as described in the memo. He concluded with a discussion of the top two ranked projects in the category. The board discussed the effect of changing from private to public ownership with regard to hunting for project #10-1613A, Mountain View Property Phase 1. Member Derr also noted a concern with the ability of the state to manage the land as well as this very dedicated landowner, stating that that he does not oppose the acquisition, but wants to register a concern with future management.

Member Drew asked if projects ten and eleven (#10-1304A, Lewis River/Mud Lake and #10-1065C, Saltese Flats Wetland Restoration, respectively) could have competed better in another category, and suggested that staff look at the criteria to ensure that local governments are not at a disadvantage. Scott noted that staff works with all sponsors to ensure that the projects are put in the category that best matches the proposal. Director Cottingham and Chair Chapman noted that the board's decision to have no maximum grant amount created a situation in which fewer projects are funded, but that the intent was to fund the best.

**Resolution 2010-16 moved by: Parsons and seconded by: Daubert
Resolution APPROVED**

5B: Natural Areas Category

Scott Robinson discussed the Natural Areas category, as presented in the memo. His presentation concluded with a discussion of the top two ranked projects in the category.

Member Daubert asked if the property owners affected by the top two projects (#10-1472A, Klickitat Canyon Natural Resource Conservation Area and #10-1458A, Dabob Bay Natural Area) were aware of the desire to purchase the property. Member Saunders noted that they have already started outreach to find willing sellers, including ensuring that the community is aware of what is proposed.

Member Parsons asked how DNR decided which projects went to Urban Wildlife versus this category, expressing a concern that local communities are at a disadvantage. Scott noted that it was likely based on population proximity. Kaleen Cottingham reminded the board that the Urban Wildlife category specifically sets aside 40 percent of funds for non-state agencies.

Resolution 2010-17 moved by: Drew and seconded by: Parsons
Resolution APPROVED

5C: State Lands Restoration Category

Kim Sellers, Grant Manager, discussed the State Lands Restoration category, as presented in the memo. Her presentation concluded with a discussion of the top two ranked projects in the category. The board offered no comments or questions.

Resolution 2010-18 moved by: Derr and seconded by: Saunders
Resolution APPROVED

5D: Urban Wildlife Category

Elizabeth Butler, Grant Manager, discussed the Urban Wildlife category, as presented in the memo. She also noted the effect of the projects over time. Her presentation concluded with a discussion of the top two ranked projects in the category.

Member Daubert noted that the board needs to be careful regarding population proximity in the category, because the intent is to have wildlife near urban areas. She suggested greater priority for this criterion. The board discussed the background of the policy and legislative distribution of funds, and the need to balance the urban/rural makeup of the evaluation team.

Resolution 2010-19 moved by: Drew and seconded by: Spanel
Resolution APPROVED

Item 6: Riparian Protection Account

Kim Sellers, Grant Manager, discussed the Riparian Protection Account, as presented in the memo. Her presentation concluded with a discussion of the top two ranked projects in the category. The board offered no comments or questions.

Resolution 2010-20 moved by: Parsons and seconded by: Drew
Resolution APPROVED

Item 7: Farmland Preservation Protection Account

Kammie Bunes, Grant Manager, discussed the Farmland Preservation Protection Account, as presented in the memo. She discussed previous grant cycles, noting that all previously-funded projects involved easements, and then explained the statutory definition of "farmland," including the recent changes. She also noted that nonprofits are now eligible in the category. She concluded with a discussion of the top two ranked projects.

Member Drew asked if this category was submitted to the Puget Sound Partnership for review. Director Cottingham responded that it had not. Member Drew suggested that the board should discuss that at a future meeting. Member Quan asked if property could be purchased in fee. Director Cottingham responded that it cannot because of IRS rules.

Public Comment:

Ken VanBuskirk, Citizen, commented on project 10-1213, the Petersen Farm project, and asked the board to review the project evaluations and defer their decision. Chair Chapman noted that the project's score on agricultural values was lower. Mr. VanBuskirk responded that the farm has fallen into disrepair due to the death of the farm's owner, but that the new owner has plans to return it to good condition. Member Drew asked if there had been any changes at the farm since the evaluation. Kammie Bunes responded that it is a farm in transition; that is, the degree of farming had fallen in the past few years, but that lessees hope to farm it more aggressively. Member Parsons asked what it grown on the farm. Mr. VanBuskirk responded that it currently was row crops, and that it could grow a tremendous amount of produce for the local community because it is near the urban growth boundary.

Resolution 2010-20 moved by: Daubert and seconded by: Saunders
Resolution APPROVED

Item 8: Outdoor Recreation Account

Marguerite Austin, Section Manager, began the presentation with an overview of the account, its categories, history, and general policies regarding project type and sponsor eligibility. She noted key evaluation criteria in the categories. She compared this year's Outdoor Recreation Account applications to those in 2008, noting drops in the number of applications and requested funds. She also addressed the metrics that the sponsors now need to address.

8A: Local Parks Category

Laura Moxham, Grant Manager, discussed the Local Parks category, as presented in the memo. Her presentation concluded with a discussion of the top two ranked projects in the category.

Public Comment:

John Keats, Director Mason County Parks and Legislative Co-Chair WRPA, described their project – #10-1064D, Mason County Recreation Area Park Infield Renovation, which ranked eighth on the list – and thanked the board. Renovating the fields will improve the complex, which was built in the 1970s. WRPA is developing their legislative platform, and they will support the \$100 million funding level for WWRP.

**Resolution 2010-22 moved by: Parsons and seconded by: Drew
Resolution APPROVED**

8B: State Lands Development Category

Dan Haws, Grant Manager, discussed the State Lands Development category, as presented in the memo. He concluded by presenting the top two ranked projects in the category. Chair Chapman noted the positive impacts of bridges on ensuring stream quality. Member Saunders noted that they are trying to increase the compatibility of their recreation opportunities with environmental considerations.

**Resolution 2010-23 moved by: Drew and seconded by: Daubert
Resolution APPROVED**

8C: State Parks Category

Myra Barker, Grant Manager, discussed the State Parks category, as presented in the memo. She concluded with a presentation of the top two ranked projects in the category.

Member Hahn explained that the State Parks Commission flipped the third and sixth projects (#10-1384D, Lake Sammamish Boardwalk Washington Wildlife & Recreation Program and #10-1308D, Cape Disappointment Multiple-Use Trail Extension, respectively) because the sixth project had already completed Phase I, but in its current state, the public was forced to walk along a state highway without a shoulder. The public safety risk resulted in the flip.

Member Parsons asked if there was any development in Eastern Washington. Member Hahn responded in the affirmative, so Parsons recused himself from the vote, citing conflict of interest given his wife's position with State Parks.

**Resolution 2010-24 moved by: Drew and seconded by: Spanel
Resolution APPROVED, with Member Parsons abstaining.**

8D: Trails Category

Darrell Jennings, Grant Manager, presented the Trails category, as described in the memo. He concluded by presenting the top two ranked projects in the category. In response to board questions, he noted that there are no limits regarding acquisition or development. Chair Chapman asked about the balance between paved and unpaved trails. Darrell responded that he believes it is predominantly paved trails.

Public Comment:

Larry Otis, Director of Mount Vernon Parks and Recreation, noted that the board policies have changed over time but he has always felt that the process was fair, regardless of where they ranked. He stated that it doesn't have political ties and it is a national model. The problem is that there isn't enough money. He also noted that 31,000 people in his community use the parks, and that they couldn't do it without RCFB funding. Mr. Otis also noted that grant managers are knowledgeable, professional, and good at walking them through the process.

Resolution 2010-25 moved by: Drew and seconded by: Daubert
Resolution APPROVED

8E: Water Access Category

Karl Jacobs, Grant Manager, presented the Water Access category, as described in the memo. He concluded by presenting the top two ranked projects in the category. The board offered no comment or questions.

Public Comment:

Bonnie Knight, Exec. Director Port of Allyn, stated that the port has been able to acquire 500 feet of shoreline and that it is a tremendous asset. Next year, they expect over 20,000 visitors to the park. They are very excited to be able to expand it.

Resolution 2010-26 moved by: Parsons and seconded by: Quan
Resolution APPROVED

Item 9: Aquatic Lands Enhancement Account

Leslie Ryan-Connelly, Grant Manager, began the presentation with an overview of the program, its goals, evaluation criteria, and general policies regarding project type and sponsor eligibility. She noted that this program is subject to the Puget Sound requirements in RCW 79.105.150. One project withdrew from consideration due to a potential conflict with the Action Agenda. She noted the distribution of projects statewide and in saltwater versus freshwater.

Member Drew asked how much of the funding comes from geoduck versus other revenues. Scott Robinson estimated that it was a 60/40 split.

Public Comment:

John Botelli, Spokane County Parks and Recreation, and Pamela McKenzie, City of Spokane Parks Department, testified regarding project #10-1497A, Spokane River Falls YMCA Site Acquisition, which ranked second on the list. Due to the way the acquisition is financed, the grant funds would allow them to take \$1 million off the purchase price, and leverage to a savings of \$1.8 million in principal and interest payments. Removing the building will be a major undertaking, and they hope to have bids in December. Board members commented that the park is a good feature of the city.

Resolution 2010-27 moved by: Spanel and seconded by: Parsons
Resolution APPROVED

Member Derr returned to the board at 3:30 p.m., as item #10 began.

Item 10: Land and Water Conservation Fund

Sarah Thirtyacre, Grant Manager, began the presentation with an overview of the program, its history, and general policies regarding project type and sponsor eligibility. She explained the relationship to SCORP, source of funding, and National Park Service requirements. She concluded her presentation with a discussion of the top two ranked projects.

Director Cottingham noted that there is considerable discussion in Congress about the program, and that there is potential for greater revenues in the future. There are a number of sponsors who would be ineligible due to outstanding compliance issues, so some are motivated to resolve the issues.

Public Comment:

John Keats, Director Mason County Parks, discussed some features of project #10-1061A, Sunset Bluff Natural Area Park Acquisition, which is the number two project. The county discussed whether this was the best time for an acquisition, but ultimately decided that the benefit to the community was too great to pass on the opportunity.

Resolution 2010-28 moved by: Derr and seconded by: Parsons
Resolution APPROVED

Item 11: Recreational Trails Program

Greg Lovelady, Grant Services Program Manager, began the presentation with an overview of the program, its categories, goals, history, the process for 2010, and general policies regarding project type and sponsor eligibility. He noted that there is some skepticism about whether there will be additional program funding for federal fiscal year 2011 (Table 1). He noted that the lines in Attachment C are hypothetical, and that so far, there is funding for only one of the 86 projects. Greg then explained the federally-mandated funding formula. He concluded his presentation with a discussion of the top projects by category. Greg also noted that the sixth "Whereas" statement in the resolution is no longer accurate because Congress has appropriated about \$100,000.

Resolution 2010-29 as amended to remove the sixth paragraph
moved by: Daubert and seconded by: Quan
Resolution APPROVED

Item 12: Recognition of Board Members' Service

Chair Chapman commented on Member Derr's service to the board, especially his insistence that we link actions to the strategic plan. He noted Derr's courage, statesmanship, and leadership, noting that everyone has tremendous respect for him.

Chair Chapman commented on Member Daubert's service to the board, in particular her work on the WWRP Urban Wildlife category policies. He noted she is known for working toward the right answers and establishing the right tone on the board.

Chair Chapman commented on Member Parson's service to the board, noting his thoughtfulness, ideas, and preparedness. He was known for representing the conservation community. He has the respect of all his colleagues.

Kaleen Cottingham commented on Chair Chapman's service to the board. She noted that his enthusiasm, leadership, and intellect benefit the board and are appreciated by staff. Other board members also acknowledged the contributions of the four members.

**Resolution 2010-30 moved by: Daubert and seconded by: Spanel
Resolution APPROVED**

**Resolution 2010-31 moved by: Daubert and seconded by: Spanel
Resolution APPROVED**

**Resolution 2010-32 moved by: Daubert and seconded by: Spanel
Resolution APPROVED**

**Resolution 2010-33 moved by: Daubert and seconded by: Spanel
Resolution APPROVED**

Meeting adjourned for the day at 4:30 p.m.

Friday, October 29, 2010

Call to Order

Chair Bill Chapman called the meeting to order at 9:06 a.m. Staff called roll, and a quorum was determined. Member Derr arrived shortly after roll was called. All members were present at that time.

Board Briefings

Item 15: Conversion Policy Framework

Director Cottingham noted that conversions are staff intensive efforts, in part because we must rely on old documents. The policy is permissive, with the goal to replace lost property.

Scott Robinson, Section Manager, reminded the board that they asked staff in June to review the conversion policy and the board's authority. He then defined conversions, reviewed the board's authority and role, current policy, and how the policy is applied. He noted that equivalence often needs to be evaluated on a case-by-case basis and cautioned against a policy that is overly punitive.

Board Decisions

Item 13: Manual 3, Acquisition Policy Changes

Leslie Ryan-Connelly, Grant Manager, presented information about the policy changes, as discussed in the notebook. Leslie noted that the board was considering the policy language, not the procedures. She directed the board and audience to Attachment A of the memo, noting that the language proposed is policy intent, and that the actual text for the manuals would be revised for plain language. Director Cottingham noted that Attachment C gave the background of current policy and the proposal sent out for public comment. Leslie then discussed the individual proposals and the public response.

Proposal #1: Appraisal and Review Appraisal Requirements

Member Drew asked if the third-party appraisal policy would apply to conversions. Leslie responded that the appraisal standards also would apply to the acquisition of property for conversions.

Proposal #2 - Environmental Audits and Contaminated Property

Member Parsons asked if environmental audits were required. Leslie responded that current board policy already requires an audit for each property, and defines the two ways that it could be done.

Proposal #5 - Interim Land Uses

Members Parsons and Derr asked for clarification of the word "review" in the third bullet, which read *"The second party's use will be phased out within three years of the date of acquisition. If the use will continue for more than three years, it must be reviewed under the compatible use policy."* Leslie said that the policy intent is to allow for the activities to continue for up to three years. Dominga Soliz, Policy Specialist, explained the progress and outreach regarding the compatible use policy.

Member Drew suggested that the acquisition policy was incomplete without a separate policy for conversions and compatible uses. The chair and staff acknowledged that they are related issues, and that staff is continuing to work on the issue separately.

Member Parsons asked if the expression "totally limit" under the life estate section could be changed to "preclude." Member Quan then asked about the implementation of the addition of "purpose of the Project Agreement or funding program." Director Cottingham noted that she would look for consistency and compatibility between the intent of the program and the interim land use. The board concluded that the first bullet in the life estate section should read: *The estate does not unreasonably limit public use or the achievement of the purpose of the project agreement or funding program.* Similar language was revised in the second bullet of the secondary party use policy as follows: *The use does not unreasonably limit public use or the achievement of the purpose of the project agreement or funding program.*

Member Quan asked about the intent of the limitation of life estates to the property owner only. She suggested the addition of "spouse and immediate family." The board discussed alternatives to fee less the life estate, property transfers, and the effect on property negotiations. Chair Chapman suggested that the language as proposed protected state funds more effectively.

Proposal #6 - Conservation Easement Compliance

Members Saunders and Quan expressed concern that their agencies do not have the funding to fulfill the proposed requirement to monitor the easements every five years. Member Parsons said it was illogical to put in place a requirement that would not be implemented, and suggested that the policy require the sponsor to develop a plan to monitor the easements and then comply with the plan they submit. The fourth bullet was removed and the third bullet of the proposed policy was revised as follows: *Require the project sponsor to develop and implement a plan to monitor RCO funded conservation easements.*

Proposal #8 - Landowner Acknowledgement

Leslie explained the proposal, and she handed out an alternate proposal that had been suggested after the notebook was distributed. Member Quan suggested that the proposal be amended to allow agencies to omit landowner names from the landowner willingness form. The board discussed whether it was possible to omit the names without conflict with public records.

Proposal # 9 - Acquisition of Future Use

Leslie explained that the proposal originally said three years, but was changed to five years based on stakeholder feedback. The project sponsor may propose a longer timeframe for large scale, multi-phased projects during the grant application process, and the director may issue extensions. Member Derr stated that it can take decades to develop properties; he cited examples, and noted that the property remains open for public enjoyment, regardless of development. Member Spanel noted that there can be extensions to reflect how much time it can take; she prefers that to no timeline at all.

Public Comment:

Robert Meyer, Rainier, provided a handout and commented on the value of property for endangered species such as spotted owls. He suggested that the board use the valuation methodologies already approved by the Legislature for habitat (i.e., Riparian Open Space Program). He asked the board to establish a policy for just compensation based on riparian open space formula for permanent easements in the future. His written comments suggested proposed policy language.

Vicky Adams, real estate appraiser in Edmonds Washington, discussed problems with the use of federal yellow-book standards in reaching a fair market value in a willing buyer/seller environment. She noted problems: how to deal with larger parcels, exclusion of other sales, and exclusion of different approaches. She suggested that if the policy is implemented, the RCO will need to facilitate communication between appraisers and reviewers to avoid different interpretations.

Chris Hilton, Whidbey-Camano Land Trust, also commented on the proposed use of federal yellow book standards for all appraisals. She stated that they heavily favor comparable sales approach, which is difficult for riparian, conservation easements, and wetlands. As a result, appraisers have to go too far outside of the market, and must take too many adjustments. She believes that USPAP allows greater flexibility. She noted appreciation for exemptions in the proposed policy.

Glen Kost, City of Bellevue, spoke regarding Item #9, which requires sponsors to develop within five years. The city doesn't believe it allows for long-range planning and seems to penalize agencies that are purchasing to address future needs. He stated that the policy puts RCO staff in the position of determining what is development or phased development on a case-by-case basis and creates a need for ongoing discussions. He and the board engaged in discussion about the policy with regard to land banking, conversions, project evaluation, and specific activities in the city.

Doug Chase, Spokane County Parks, made some general comments about the policies. He noted that a combination of specific intent and flexible implementation is the right approach. He supported the landowner acknowledgement form and approach; they work only with willing sellers. The alternative option – sending a notification – concerns him because it doesn't involve the property owner.

before most of them were part of the city. Michael Holly stated that the existing trail is informal, and that the trails group wants to make it more formal.

Member Drew asked if the acquisitions would make a trail possible where it was not already feasible. He suggested that the trail could be put in place below the replacement property on existing open space so that it would be aligned with the original intent and the "experience" sought by users. Member Spanel and Chair Chapman asked for clarification of where the official trail met the proposed replacement property. Michael Holly noted that existing trail ended at an informal trail that crossed the proposed replacement property at the same grade, and that rerouting the trail below the replacement would be more technical and cross more difficult topography.

Member Drew stated that he thinks that the replacement property is good property, but that it does not support the original intent of the grant. He suggested that the city should move the connector trail to the south of the converted property as a condition of the board accepting the replacement property so that the trail corridor is more consistent with the original intent. Ms. Reitan reminded the board that their trail plan is part of their adopted Comprehensive Plan. They can bring the suggestions back to the city, but a decision would need to be made through a public process by the council, not staff.

Member Saunders noted that the replacement property still protects and preserves a wooded trail system, which was the original intent of the project. He suggested that the resolution include a recommendation that the city consider the proposal to move the connector trail.

Member Daubert noted that she is troubled by the conversion, but believes that the conversion meets the policy criteria that they are asked to evaluate. Chair Chapman noted that by purchasing the replacement property, they had kept the trail wooded.

Resolution 2010-38 with a strong recommendation that the city evaluate a trail south of the converted property

moved by: Daubert

and seconded by: Saunders

Member Saunders made a friendly amendment to add "Be it further resolved, the board strongly encourages the city to authorize and fund rerouting of the surface road north trail to the south side and tie into the Coal Creek Road Crossing." Member Daubert accepted the amendment.

Chair Chapman asked staff to define site in the sixth paragraph.

Resolution APPROVED as Amended.

The board asked for staff and legal analysis regarding:

- Latitude regarding conversions that are discovered and proceed without permissions
- Ways to create disincentives; what legislation is needed
- How do we address the workload on staff for later-discovered conversions
- Ways to incentivize bringing the issues to the board before the conversion takes place

**** DRAFT ****

Director Cottingham noted that compliance and conversions are already on the work plan, and that these concerns will be wrapped into that work.

Meeting adjourned at 2:45 p.m.

Approved by:

Bill Chapman, Chair

Date

Recreation and Conservation Funding Board
Resolution #2010-14
October 2010 Consent Agenda

BE IT RESOLVED, that the following October 2010 Consent Agenda items are approved:

- a. Recreation and Conservation Funding Board Meeting Minutes – August 20, 2010
- b. Time Extension Requests:
 - i. L.T. Murray Wenas Wildlife Area Rehabilitation, Washington Department of Fish and Wildlife, Project #06-1778
 - ii. Wind River Boat Ramp Improvements, Skamania County, Project #06-1679
- c. Major Scope Change Request: Skagit River Forks, Washington Department of Fish and Wildlife, Project #06-1816
- d. Major Scope Change Request: Methow Watershed Phase Six, Washington Department of Fish and Wildlife, Project #08-1505

Resolution moved by: Parsons

Resolution seconded by: Daubert

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution # 2010-15
2011 Recreation and Conservation Funding Board Meeting Schedule

WHEREAS, the Recreation and Conservation Funding Board (board) is established by statute and conducts regular meetings, pursuant to RCW 42.30.075, according to a schedule it adopts in an open public meeting; and

WHEREAS, RCW 42.30.075 directs state agencies to file with the code reviser a schedule of the time and place of such meetings on or before January of each year for publication in the Washington state register; and

WHEREAS, having open public meetings is essential to achieving the board's goals to use broad public participation and feedback and to achieve a high level of accountability by using a process that is open to the public; and

WHEREAS, having open public meetings also is essential to the Board's ability to conduct its business so that it achieves its mission and goals as documented in statute and/or its strategic plan;

NOW, THEREFORE BE IT RESOLVED, the following schedule for 2011 regular meetings of the Recreation and Conservation Funding Board is hereby adopted; and,

Dates	Location
February 1, 2011	Conference Call
March 31 – April 1, 2011	Olympia
June 22 – 23, 2011	Olympia
September 21 – 22, 2011	Olympia or Okanogan
November 14 – 15, 2011	Olympia

BE IT FURTHER RESOLVED, the board directs staff to publish notice in the State Register accordingly.

Resolution moved by: Spanel

Resolution seconded by: Derr

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-16
Washington Wildlife and Recreation Program
Critical Habitat Category, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, eleven Critical Habitat category projects are eligible for funding from the Habitat Conservation Account of the Washington Wildlife and Recreation Program; and

WHEREAS, these Critical Habitat category projects were evaluated using criteria approved by Recreation and Conservation Funding Board (Board) members; and

WHEREAS, these evaluations occurred in an open public meeting, thereby supporting the Board's strategy to ensure that its work is conducted with integrity and in a fair and open manner; and

WHEREAS, all eleven Critical Habitat category projects meet program requirements as stipulated in Manual #10b, *Washington Wildlife and Recreation Program- Habitat Conservation Account and Riparian Protection Account*, including criteria regarding public benefit and relationship to established plans; and

WHEREAS, the projects address a variety of critical habitat needs and their evaluation included information about the quality and function of the habitat and the demonstrated need to protect it for fish and/or wildlife, thereby supporting the Board's strategy to provide partners with funding for projects that help sustain Washington's biodiversity, protect "listed" species, and maintain fully functioning ecosystems;

NOW, THEREFORE BE IT RESOLVED, that the Board hereby approves the ranked list of projects depicted in Table 1 – *WWRP, Critical Habitat Ranked List of Projects, FY 2012*, and

BE IT FURTHER RESOLVED that the Board hereby recommends to the Governor the ranked list of Critical Habitat category projects for further consideration.

Resolution moved by: Parsons

Resolution seconded by: Daubert

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-17
Washington Wildlife and Recreation Program
Natural Areas Category, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, nine Natural Areas category projects are eligible for funding from the Habitat Conservation Account of the Washington Wildlife and Recreation Program; and

WHEREAS, these Natural Areas category projects were evaluated using criteria approved by Recreation and Conservation Funding Board (Board) members; and

WHEREAS, these evaluations occurred through a written evaluation process approved by the board, supporting the board's strategy to deliver successful projects by using broad public participation; and

WHEREAS, all nine Natural Areas category projects meet program requirements as stipulated in Manual #10b, *Washington Wildlife and Recreation Program- Habitat Conservation Account and Riparian Protection Account*, including criteria regarding public benefit and relationship to established plans; and

WHEREAS, the projects address a variety of critical habitat needs and their evaluation included information about the quality and function of the habitat and the demonstrated need to protect it for fish and/or wildlife, thereby supporting the board's strategy to provide partners with funding for projects that help sustain Washington's biodiversity, protect "listed" species; and maintain fully functioning ecosystems,

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in Table 1 – *WWRP, Natural Areas Ranked List of Projects, FY 2012*; and

BE IT FURTHER RESOLVED that the board hereby recommends to the Governor the ranked list of Natural Areas category projects for further consideration.

Resolution moved by: Drew

Resolution seconded by: Parsons

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-19
Washington Wildlife and Recreation Program
Urban Wildlife Habitat Category, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, seventeen Urban Wildlife Habitat category projects are eligible for funding from the Habitat Conservation Account of the Washington Wildlife and Recreation Program; and

WHEREAS, these Urban Wildlife Habitat category projects were evaluated using criteria approved by the Recreation and Conservation Funding Board (board); and

WHEREAS, these evaluations occurred in an open public meeting, thereby supporting the board's strategy to ensure that its work is conducted with integrity and in a fair and open manner; and

WHEREAS, all seventeen Urban Wildlife Habitat category projects meet program requirements as stipulated in Manual #10b, *Washington Wildlife and Recreation Program- Habitat Conservation and Riparian Protection Accounts*, including criteria regarding public benefit and relationship to established plans; and

WHEREAS, the projects address a variety of Urban Wildlife habitat needs, and the evaluation included information about the quality and function of the habitat and the demonstrated need to protect it for fish and/or wildlife, thereby supporting the board's strategy to provide partners with funding for projects that help sustain Washington's biodiversity, protect "listed" species, and maintain fully functioning ecosystems;

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in Table 1 – *WWRP, Urban Wildlife Habitat Ranked List of Projects, FY 2012*; and

BE IT FURTHER RESOLVED that the Board hereby recommends to the Governor the ranked list of Urban Wildlife Habitat category projects for further consideration.

Resolution moved by: Drew

Resolution seconded by: Spanel

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-20
Washington Wildlife and Recreation Program
Riparian Protection Account, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, twenty Riparian Protection account projects are eligible for funding from the Riparian Protection Account of the Washington Wildlife and Recreation Program; and

WHEREAS, these Riparian Protection account projects were evaluated using criteria approved by the Recreation and Conservation Funding Board (board); and

WHEREAS, these evaluations occurred in an open public meeting, thereby supporting the board's strategy to ensure that its work is conducted with integrity and in a fair and open manner; and

WHEREAS, all twenty Riparian Protection Account projects meet program requirements as stipulated in Manual #10b, *Washington Wildlife and Recreation Program- Habitat Conservation and Riparian Protection Account: Policies and Project Selection*; and

WHEREAS, those program requirements include criteria regarding riparian habitat benefits, public access and education, relationship to existing planning documents, and ongoing stewardship, such that providing funds to these projects would further the board's goals to fund the best projects as determined by the evaluation process and make strategic investments; and

WHEREAS, the projects provide habitat benefits for a variety of species, thereby supporting the board's strategy to provide partners with funding to for projects that help sustain Washington's biodiversity; protect "listed" species, and maintain fully functioning ecosystems; and

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in *Table 1 – WWRP, Riparian Protection Account Ranked List of Projects, FY 2012*, and

BE IT FURTHER RESOLVED that the board hereby recommends to the Governor the ranked list of Riparian Protection Account projects for further consideration.

Resolution moved by: Parsons

Resolution seconded by: Drew

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-21
Washington Wildlife and Recreation Program
Farmland Preservation Program, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, twenty-four Farmland Preservation Program projects are eligible for funding from the Farmland Preservation Account of the Washington Wildlife and Recreation Program, and

WHEREAS, these Farmland Preservation Program projects were evaluated using criteria approved by Recreation and Conservation Funding Board (board) members, and

WHEREAS, these evaluations occurred in an open public meeting, thereby supporting the board's strategy to ensure that its work is conducted with integrity and in a fair and open manner, and

WHEREAS, all twenty-four Farmland Preservation Program projects meet program requirements as stipulated in Manual #10f, *Washington Wildlife and Recreation Program-Farmland Preservation Program*, including criteria regarding agricultural, environmental and community values, and

WHEREAS, all of the projects meet criteria that demonstrate preference for perpetual easements, thus supporting the board's strategic goal to maximize the useful life of board-funded projects; and

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in Table 1 – *WWRP, Farmland Preservation Ranked List of Projects, FY 2012*, and

BE IT FURTHER RESOLVED that the board hereby recommends to the Governor the ranked list of Farmland Preservation Program projects for further consideration.

Resolution moved by: Daubert

Resolution seconded by: Saunders

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-22
Washington Wildlife and Recreation Program
Local Parks Category, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, sixty-three Local Parks category projects are eligible for funding from the Outdoor Recreation Account of the Washington Wildlife and Recreation Program; and

WHEREAS, these Local Parks category projects were evaluated using criteria approved by Recreation and Conservation Funding Board (board) members; and

WHEREAS, these evaluations occurred in open public meetings, thereby supporting the board's strategy to ensure that its work is conducted with integrity and in a fair and open manner; and

WHEREAS, all sixty-three Local Parks category projects meet program requirements as stipulated in Manual 10a: *Washington Wildlife and Recreation Program – Outdoor Recreation Account*, thus supporting the board's strategy to fund the best projects as determined by the evaluation process; and

WHEREAS, the projects involve acquisition, development, and/or renovation of properties for recreation, thereby supporting the board's strategy to provide partners with funding to enhance recreation opportunities statewide;

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in Table 1 – *WWRP, Local Parks Ranked List of Projects, FY 2012*; and

BE IT FURTHER RESOLVED that the board hereby recommends to the Governor the ranked list of Local Parks category projects for further consideration.

Resolution moved by: Parsons

Resolution seconded by: Drew

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-23
Washington Wildlife and Recreation Program
State Lands Development and Renovation Category, Fiscal Year 2012,
Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, fourteen State Lands Development and Renovation category projects are eligible for funding from the Outdoor Recreation Account of the Washington Wildlife and Recreation Program; and

WHEREAS, these State Lands Development and Renovation category projects were evaluated using criteria approved by Recreation and Conservation Funding Board (board) members; and

WHEREAS, these evaluations occurred through a written evaluation process approved by the board, supporting the board's strategy to deliver successful projects by using broad public participation; and

WHEREAS, all fourteen State Lands Development and Renovation category projects meet program requirements as stipulated in Manual #10a, *Washington Wildlife and Recreation Program- Outdoor Recreation Account: Policies and Project Selection*, thereby supporting the board's strategy to fund the best projects as determined by the evaluation process; and

WHEREAS, the projects involve development and renovation of public access sites on state lands, thereby supporting the board's strategy to provide partners with funding to enhance recreation opportunities statewide;

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in *Table 1 – WWRP, State Lands Development and Renovation Ranked List of Projects, FY 2012*, and

BE IT FURTHER RESOLVED that the board hereby recommends to the Governor the ranked list of State Lands Development and Renovation category projects for further consideration.

Resolution moved by: Drew

Resolution seconded by: Daubert

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Resolution #2010-24
Washington Wildlife and Recreation Program
State Parks Category, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, twelve State Parks category projects are eligible for funding from the Outdoor Recreation Account of the Washington Wildlife and Recreation Program; and

WHEREAS, these twelve State Parks category projects were evaluated using criteria approved by Recreation and Conservation Funding Board (board) members; and

WHEREAS, the Washington State Parks and Recreation Commission ranked the projects to place high priority on those that have an element of urgency; and

WHEREAS, these evaluations occurred in an open public meeting, thereby supporting the board's strategy to ensure that its work is conducted with integrity and in a fair and open manner; and

WHEREAS, all twelve State Parks category projects meet program requirements as stipulated in Manual #10, *Washington Wildlife and Recreation Program – Outdoor Recreation Account: Policies and Project Selection*, thus supporting the board's strategy to fund the best projects as determined by the evaluation process; and

WHEREAS, the projects involve acquisition and development of properties for recreation, thereby supporting the board's strategy to provide partners with funding to enhance recreation opportunities statewide;

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in *Table 2 – WWRP, State Parks Commission Ranked List of Projects, FY 2012*, and

BE IT FURTHER RESOLVED that the board hereby recommends to the Governor this ranked list of State Parks category projects for further consideration.

Resolution moved by: Drew

Resolution seconded by: Spanel

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-25
Washington Wildlife and Recreation Program
Trails Category, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, twenty-five Trails category projects are eligible for funding from the Outdoor Recreation Account of the Washington Wildlife and Recreation Program; and

WHEREAS, these Trails category projects were evaluated using criteria approved by Recreation and Conservation Funding Board (board) members; and

WHEREAS, these evaluations occurred in open public meetings, thereby supporting the board's strategy to ensure that its work is conducted with integrity and in a fair and open manner; and

WHEREAS, all twenty-five Trails category projects meet program requirements as stipulated in Manual #10, *Washington Wildlife and Recreation Program - Outdoor Recreation Account*, thereby supporting the board's goal to fund the best projects as determined by the evaluation process; and

WHEREAS, all of the projects acquire, develop or renovate pedestrian, bicycle, equestrian, or cross-country ski trails, thereby furthering the board's goal to provide funding for recreation opportunities statewide, including bicycling and walking facilities and facilities most conducive to improved health;

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in *Table 1 – WWRP, Trails Ranked List of Projects, FY 2012*; and

BE IT FURTHER RESOLVED that the board hereby recommends to the Governor the ranked list of Trails category projects for further consideration.

Resolution moved by: Drew

Resolution seconded by: Daubert

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-26
Washington Wildlife and Recreation Program
Water Access Category, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, thirteen Water Access category projects are eligible for funding from the Outdoor Recreation Account of the Washington Wildlife and Recreation Program; and

WHEREAS, these thirteen Water Access category projects were evaluated using criteria approved by Recreation and Conservation Funding Board (board) members; and

WHEREAS, these evaluations occurred in an open public meeting, thereby supporting the board's strategy to ensure that its work is conducted with integrity and in a fair and open manner; and

WHEREAS, all thirteen Water Access category projects meet program requirements as stipulated in Manual 10a: *Washington Wildlife and Recreation Program – Outdoor Recreation Account*, thus supporting the board's strategy to fund the best projects as determined by the evaluation process; and

WHEREAS, the projects involve acquisition, development, and/or renovation of properties for recreational access to water, thereby supporting the board's strategy to provide partners with funding to enhance recreation opportunities statewide;

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in *Table 1 – WWRP, Water Access Ranked List of Projects, FY 2012*; and

BE IT FURTHER RESOLVED that the board hereby recommends to the Governor the ranked list of Water Access category projects for further consideration.

Resolution moved by: Parsons

Resolution seconded by: Quan

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-27

Aquatic Lands Enhancement Account, Fiscal Year 2012, Ranked List of Projects

WHEREAS, for fiscal year 2012 of the 2011-2013 biennium, twenty-seven Aquatic Lands Enhancement Account (ALEA) program projects are eligible for funding; and

WHEREAS, these ALEA projects were evaluated using criteria approved by the Recreation and Conservation Funding Board (board); and

WHEREAS, these evaluations occurred in an open public meeting, thereby supporting the board's strategy to ensure that its work is conducted with integrity and in a fair and open manner; and

WHEREAS, all twenty-seven ALEA program projects meet program requirements as stipulated in Manual 21: *Aquatic Lands Enhancement Account Grant Program: Policies And Project Selection*; and

WHEREAS, the projects enhance, improve, or protect aquatic lands and provide public access to such lands and associated waters, thereby supporting the board's strategies to provide partners with funding for both conservation and recreation opportunities statewide;

NOW, THEREFORE BE IT RESOLVED, that the board hereby approves the ranked list of projects depicted in *Table 1 – ALEA Ranked List of Projects, FY 2012*; and

BE IT FURTHER RESOLVED that the board hereby recommends to the Governor the ranked list of ALEA projects for further consideration.

Resolution moved by: Spanel

Resolution seconded by: Parsons

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board
Resolution #2010-32

A Resolution to Recognize the Service of Jeff Parsons
to the Residents of Washington State
and the Recreation and Conservation Funding Board

WHEREAS, from December 2004 through December 2010, Jeff Parsons served the residents of the state of Washington as a member of the Recreation and Conservation Funding Board; and

WHEREAS, Mr. Parsons' service assisted the State of Washington in protecting some of its most important wildlife habitat and farmland, and in providing opportunities for a variety of recreational pursuits statewide; and

WHEREAS, Mr. Parsons helped the board embrace four new categories in the Washington Wildlife and Recreation Program, and was always willing to travel across the expanse of Eastern Washington to deliver a big check; and

WHEREAS, Mr. Parsons provided the board with valuable insight, leadership, and excellent advice that assisted in the development of exemplary policies and decisions for funding projects that promoted sound investments of public funds; and

WHEREAS, during his term, the board approved 974 grants, creating a state investment of \$301 million in Washington's great outdoors; and

WHEREAS, Mr. Parsons' term on the board expires on December 31, 2010; and

WHEREAS, members of the board wish to recognize his support, leadership, and service, and wish him well in future endeavors;

NOW, THEREFORE BE IT RESOLVED, that on behalf of the residents of Washington and in recognition of Mr. Parsons' dedication and excellence in performing his responsibilities and duties as a member, the board and its staff extend their sincere appreciation and compliments on a job well done, and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent with a letter of appreciation to Mr. Parsons.

Resolution moved by: Daubert _____

Resolution seconded by: Spanel _____

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010 _____

Recreation and Conservation Funding Board
Resolution #2010-32

A Resolution to Recognize the Service of Jeff Parsons
to the Residents of Washington State
and the Recreation and Conservation Funding Board

WHEREAS, from November 2004 through February 2009, William Chapman served the residents of the state of Washington as a member of the Recreation and Conservation Funding Board; and

WHEREAS, from March 2009 through December 2010, William Chapman served the residents of the state of Washington as the chair of the board; and

WHEREAS, Mr. Chapman's service assisted the State of Washington in protecting some of its most important wildlife habitat and farmland, and in providing opportunities for a variety of recreational pursuits statewide; and

WHEREAS, Mr. Chapman's intellect, statesmanship, creativity, lawyerly debate skills, and general good thinking helped the board work through many challenging assignments, including embracing four new categories in the Washington Wildlife and Recreation Program and a statewide study of acquisitions; and

WHEREAS, Mr. Chapman provided the board with valuable insight, leadership, and excellent advice that assisted in the development of exemplary policies and decisions to fund 980 grants, creating a state investment of \$304 million in Washington's great outdoors; and

WHEREAS, Mr. Chapman's current term as chair expires on December 31, 2010; and

WHEREAS, members of the board wish to recognize his support, leadership, and service;

NOW, THEREFORE BE IT RESOLVED, that on behalf of the residents of Washington and in recognition of Mr. Chapman's dedication and excellence in performing his responsibilities and duties as a member, the board and its staff extend their sincere appreciation and compliments on a job well done, and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent with a letter of appreciation to Mr. Chapman.

Resolution moved by: Daubert

Resolution seconded by: Spanel

Adopted/Defeated/Deferred (underline one)

Date: October 28, 2010

Recreation and Conservation Funding Board

Amended Resolution #2010-34

Adoption of Policy Updates and Changes Regarding Acquisitions (Manual 3)

WHEREAS, all projects funded by the Recreation and Conservation Funding Board (board) or the Salmon Recovery Funding Board that result in the acquisition of land or property rights must comply with policies adopted in *Manual #3: Acquiring Land*; and

WHEREAS, Manual #3 was last updated in March 2007, and Recreation and Conservation Office (RCO) staff identified various clarifications, revisions, and new issues that warrant an update to the policies; and

WHEREAS, RCO staff developed and circulated eleven significant policy proposals and several additional procedural revisions for public review and comment, thereby supporting the board's goals to (1) ensure that its work is conducted in an open manner and (2) deliver successful projects by using broad public participation and feedback; and

WHEREAS, the public responses provided constructive suggestions for modifications to the drafts and were generally supportive of nine of the eleven significant policy changes proposed by RCO staff; and

WHEREAS, based on public comment, RCO staff adjusted the drafts as appropriate and is recommending that the board approve only nine of the eleven significant policy changes; and

WHEREAS, adopting this revision would improve the policies and procedures governing acquisitions, thereby advancing the board's goal to help its partners protect, restore, and develop habitat and recreation opportunities that benefit people, wildlife, and ecosystems; and

WHEREAS, the RCO director currently has authority to implement the procedural changes as recommended by staff, based on public feedback;

NOW, THEREFORE BE IT RESOLVED, that the board does hereby adopt the statements of policy intent numbers two through eight shown in Attachment A as amended at the October 29, 2010 board meeting; and

BE IT FURTHER RESOLVED, that the board directs RCO staff to incorporate these policy statements into Manual 3 with language that reflects the policy intent; and

BE IT FURTHER RESOLVED, that unless otherwise agreed to between a project sponsor and the RCO director, these policies shall be effective beginning January 1, 2011.

Resolution moved by: Daubert

Resolution seconded by: Spanel

Adopted/Defeated/Deferred (underline one)

Date: October 29, 2010

Recreation and Conservation Funding Board
Resolution #2010-35
Critical Updates for Boating Facilities Program

WHEREAS, RCW 79A.25.080 authorizes the Recreation and Conservation Office (RCO) to fund marine recreation land projects through the recreation resources account; and

WHEREAS, it is in the best interests of the state that RCO manage this program and funds based on a foundation of good data based on sound research, systematic analysis, and public involvement; and

WHEREAS, the Boating Grant Programs Policy Plan (Plan) was developed according to these principles; and

WHEREAS, in October 2009, the Recreation and Conservation Funding Board (board) approved the *Boating Programs Policy Plan*; and

WHEREAS, the *Boating Programs Policy Plan* states that the "Recreation and Conservation Funding Board shall encourage projects that best meet the needs of the boating public. Grant evaluation will be consistent with boater needs."; and

WHEREAS, RCO staff revised the scoring criteria for the Boating Facilities Program to align with the *Boating Programs Policy Plan*; and

WHEREAS, RCO staff circulated the policy revisions for public comment, thereby supporting the board's goal to ensure the work of the board and staff is conducted with integrity and in a fair and open manner, with broad public participation; and

WHEREAS, adopting this revision would further the boards' goal to develop strategic investment policies and plans so that projects selected for funding meet the state's recreation needs;

NOW, THEREFORE BE IT RESOLVED, that the board does hereby adopt the new policy language shown in Attachment A to the October 2010 board memo to add one sentence to question #1, remove question #6, and adjust the point total accordingly; and

BE IT FURTHER RESOLVED, that the board directs RCO staff to implement this policy beginning with the 2011 grant cycle.

Resolution moved by: Daubert

Resolution seconded by: Parsons

Adopted/Defeated/Deferred (underline one)

Date: October 29, 2010

Recreation and Conservation Funding Board

Resolution 2010-36

Approving Conversion for Statewide Water Access (RCO #68-603-A)

WHEREAS, the Washington State Department of Fish and Wildlife (WDFW) used a grant from the three separate funds (Land and Water Conservation Fund, bonds, and Boating Facilities) to acquire property on the Yakima River to provide public water access and fishing opportunities; and

WHEREAS, WDFW faced a claim of adverse possession along its southern boundary and proposes to enter into a land exchange with the adjacent private landowner to avoid the costs and uncertainty of litigation; and

WHEREAS, WDFW proposes to grant the portion of the site on the east side of the Yakima River (9 acres) to the adjacent landowner in exchange for property of equal value and equal or superior recreational utility; and

WHEREAS, due to the relatively high value of the nine acres to be exchanged, the exchange presents the opportunity to purchase property at three sites: 26 acres directly across the Yakima River; more than 1,600 feet of river frontage in a three-acre parcel up-river near Thorp; and, more than 100 acres at Mesa Lake in Franklin County; and

WHEREAS, the Recreation and Conservation Funding Board (board) and staff have determined the proposed exchange meets 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 sites have reasonably equivalent utility and location, and (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

WHEREAS, meeting these factors supports the board's goal to protect, restore, and develop habitat and recreation opportunities that benefit people, wildlife, and ecosystems; and

WHEREAS, the sponsor sought public comment on the conversion and discussed it during open public meetings, thereby supporting the board's strategy to regularly seek public feedback in policy and funding decisions; and

NOW, THEREFORE, BE IT RESOLVED, that the Recreation and Conservation Funding Board approves the partial conversion request and the proposed replacement sites for Project #68-603A Statewide Water Access 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: Parsons

Resolution seconded by: Derr

Adopted/Defeated/Deferred (underline one)

Date: October 29, 2010

Item 1B

Meeting Date: March 2011
Title: Project Time Extension
Prepared By: Leslie Ryan-Connelly, Grant Manager

Approved by the Director:



Proposed Action: Decision

Summary

Recreation and Conservation Office (RCO) staff requests that the Recreation and Conservation Funding Board (board) consider the proposed project time extension shown in Attachment A.

Strategic Plan Link

Consideration of this request supports the board's goal of helping its partners protect, restore, and develop habitat and recreation opportunities that benefit people, fish and wildlife, and ecosystems.

Staff Recommendation

Staff recommends approval of the time extension request for project #06-1834 via Resolution #2011-01 (consent calendar).

Background

Manual #7, *Funded Projects: Policies and the Project Agreement*, outlines the board's adopted policy for progress on active funded projects.

The RCO received a time extension request for the project listed in Attachment A. This document summarizes the circumstances for the requested extension and the expected date of project completion. Board action is required because the project sponsors are requesting extensions to continue the agreements beyond the four-year period authorized in board policy.

Analysis

General considerations for approving time extension requests include:

- Receipt of a written request for the time extension;
- Reimbursements requested and approved;
- Date the board granted funding approval;
- Conditions surrounding the delay;
- Sponsor's reasons or justification for requesting the extension;
- Likelihood of sponsor completing the project within the extended period;
- Original dates for project completion;
- Sponsor's progress on this and other funded projects;
- Revised milestones or timeline submitted for completion of the project; and
- The effect the extension will have on reappropriation request levels for RCO.

Next Steps

If approved by the board, staff will execute the appropriate amendments and monitor progress through successful completion of the project.

Attachments

- A. Time Extension Request for Board Approval

Attachment A: Time Extension Request for Board Approval

Project #	Project sponsor	Project name	Grant program	Grant Amount Remaining	Funding date	Extension request	Circumstances or reasons for delay
06-1834	City of Auburn	Auburn Environmental Park	WWRP Urban Wildlife	\$453,551	6/7/2007	12/31/11	<p>This project was originally funded as one of the mitigation bank pilot projects in June 2007. The City of Auburn spent two years working through the mitigation banking permit process and was approved by the Department of Ecology as a mitigation bank. However, Auburn chose to not pursue development of a mitigation bank because of the cost and regulatory hurdles with implementation. In addition, the board discontinued the mitigation bank pilot project in 2009, so mitigation banking projects are no longer eligible for grant funding.</p> <p>Auburn completed development of a bird viewing tower (Phase 1) to look at the existing wetlands in June 2009. In January 2010, Auburn requested a scope change to remove the mitigation banking elements of the project and include land acquisition to expand the park area and develop a trail around the wetlands (Phase 2). The scope change was approved by the director in April 2010. Auburn completed acquisition of the Auburn Land Company property in September 2010, which expanded the park area by 29 acres.</p> <p>Auburn is now completing permitting and design of the trail (Phase 2 of the public access development) and will be ready to construct it this summer. The time extension would allow the construction to occur at the driest part of the year (August) rather than during the wet spring weather.</p>

Item 1C

Meeting Date: March 2011
 Title: Service Recognition of Volunteer Evaluators
 Prepared By: Lorinda Anderson

Approved by the Director: *Kaleen Cottingham*

Proposed Action: Decision

Summary

The Recreation and Conservation Office relies on volunteers to help administer its grant programs. Volunteers provide a strategic balance and perspective on program issues. Their activities, experience, and knowledge help shape program policies that guide us in selecting projects and administering grants.

The following individuals have completed their terms of service or have otherwise bid farewell after providing valuable analysis and excellent program advice. Outdoor recreationists in Washington will enjoy the results of their hard work and vision for years to come. Staff applauds their exceptional service and recommends approval of the attached resolutions via Resolution 2011-01 (consent).

Firearms and Archery Range Recreation Advisory Committee

Eric Biebesheimer	Citizen, Malott	6 years
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Land and Water Conservation Fund Advisory Committee

Bill Koss	State Parks and Recreation Commission	8 years
Dan Nelson	Citizen, Puyallup	3 years

Recreational Trails Program Advisory Committee

Lunell Haught	Citizen (hiker), Spokane	4 years
Thomas C. Windsor	Citizen (snowmobiler), Winthrop	4 years

Attachments

Individual Service Resolutions



A Resolution to Recognize the Service of

Eric Biebesheimer

To the Residents of Washington State and the Recreation and Conservation Funding Board

WHEREAS, from July 2005 through August 2010, Eric Biebesheimer served the residents of the state of Washington and the Recreation and Conservation Office by participating on the Firearms and Archery Range Recreation (FARR) Advisory Committee; and

WHEREAS, Mr. Biebesheimer's service assisted the State of Washington in providing recreational shooting sports facilities important to a variety of recreational pursuits statewide; and

WHEREAS, Mr. Biebesheimer provided valuable analysis and excellent advice that assisted in the development of exemplary program policies and the evaluation of local agency and nonprofit organization FARR projects for funding; and

WHEREAS, Mr. Biebesheimer always displayed great knowledge, passion for his work, thoughtfulness, a highly technical perspective, and a rare diligence to program improvement – all qualities which RCO staff greatly appreciates; and

WHEREAS, Mr. Biebesheimer assisted in the development of funding decisions to award grants to 22 projects, creating a state investment of more than \$1.8 million in Washington's great outdoors; and

WHEREAS, members of the board wish to recognize his support and service,

NOW, THEREFORE BE IT RESOLVED, that on behalf of the residents of Washington and in recognition of Mr. Biebesheimer's dedication and excellence in performing these services, the board and its staff extend their sincere appreciation for his work and condolences to his family on his passing, and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent with a letter of appreciation to his family.

Approved by the Recreation and Conservation Funding Board
in Olympia, Washington
on March 31, 2011

Bill Chapman, Chair



A Resolution to Recognize the Service of

Bill Koss

To the Residents of Washington State and the Recreation and Conservation Funding Board

WHEREAS, from July 2002 through June 2010, Bill Koss served the residents of the state of Washington and the Recreation and Conservation Office by participating on the Land and Water Conservation Fund (LWCF) Advisory Committee; and

WHEREAS, Mr. Koss's service assisted the State of Washington in protecting some of its most important recreation and conservation lands, and in providing opportunities for a variety of recreational pursuits statewide; and

WHEREAS, the result of this service was the provision of valuable analysis and excellent advice that assisted in the development of exemplary program policies, program planning, and the evaluation of state and local agency LWCF projects for funding; and

WHEREAS, Mr. Koss assisted in the development of funding decisions to award grants to 37 projects, creating a state investment of more than \$41 million in Washington's great outdoors; and

WHEREAS, the result of this service also included the evaluation of state agency Washington Wildlife and Recreation Program – State Lands Restoration projects; and

WHEREAS, members of the board wish to recognize his support and service, and wish him well in future endeavors;

NOW, THEREFORE BE IT RESOLVED, that on behalf of the residents of Washington and in recognition of Mr. Koss's dedication and excellence in performing these services, the board and its staff extend their sincere appreciation and compliments on a job well done, and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent with a letter of appreciation to Mr. Koss.

Approved by the Recreation and Conservation Funding Board
in Olympia, Washington
on March 31, 2011

Bill Chapman, Chair



A Resolution to Recognize the Service of

Dan Nelson

To the Residents of Washington State and the Recreation and Conservation Funding Board

WHEREAS, from May 2008 through December 2010, Dan Nelson served the residents of the state of Washington and the Recreation and Conservation Office by participating on the Land and Water Conservation Fund (LWCF) Advisory Committee; and

WHEREAS, Mr. Nelson's service assisted the State of Washington in protecting some of its most important recreation and conservation lands, and in providing opportunities for a variety of recreational pursuits statewide; and

WHEREAS, the result of this service was the provision of valuable analysis and excellent advice that assisted in the development of exemplary program policies, program planning, and the evaluation of state and local agency LWCF projects for funding; and

WHEREAS, Mr. Nelson assisted in the development of funding decisions to award grants to 10 projects, creating a state investment of more than \$10 million in Washington's great outdoors; and

WHEREAS, members of the board wish to recognize his support, and service, and wish him well in future endeavors;

NOW, THEREFORE BE IT RESOLVED, that on behalf of the residents of Washington and in recognition of Mr. Nelson's dedication and excellence in performing these services, the board and its staff extend their sincere appreciation and compliments on a job well done, and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent with a letter of appreciation to Mr. Nelson.

Approved by the Recreation and Conservation Funding Board
in Olympia, Washington
on March 31, 2011

Bill Chapman, Chair



A Resolution to Recognize the Service of

Lunell Haught

To the Residents of Washington State and the Recreation and Conservation Funding Board

WHEREAS, from February 2007 through December 2010, Lunell Haught served the residents of the state of Washington and the Recreation and Conservation Office by participating on the Recreational Trails Program (RTP) Advisory Committee; and

WHEREAS, Ms. Haught's service assisted the State of Washington in protecting some of its most important recreation lands and trails in the backcountry, and in providing opportunities for a variety of recreational pursuits statewide; and

WHEREAS, the result of this service was the provision of valuable analysis and excellent advice that assisted in the development of exemplary program policies, program planning, and the evaluation of state and local agency and nonprofit organization RTP projects for funding; and

WHEREAS, members of the board wish to recognize her support and service, and wish her well in future endeavors;

NOW, THEREFORE BE IT RESOLVED, that on behalf of the residents of Washington and in recognition of Ms. Haught's dedication and excellence in performing these services, the board and its staff extend their sincere appreciation and compliments on a job well done, and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent with a letter of appreciation to Ms. Haught.

Approved by the Recreation and Conservation Funding Board
in Olympia, Washington
on March 31, 2011

Bill Chapman, Chair



A Resolution to Recognize the Service of

Thomas C. Windsor

To the Residents of Washington State and the Recreation and Conservation Funding Board

WHEREAS, from February 2007 through December 2010, Thomas C. Windsor served the residents of the state of Washington and the Recreation and Conservation Office by participating on the Recreational Trails Program (RTP) Advisory Committee; and

WHEREAS, Mr. Windsor's service assisted the State of Washington in protecting some of its most important recreation lands and trails in the backcountry, and in providing opportunities for a variety of recreational pursuits statewide; and

WHEREAS, the result of this service was the provision of valuable analysis and excellent advice that assisted in the development of exemplary program policies, program planning, and the evaluation of state and local agency and nonprofit organization RTP projects for funding; and

WHEREAS, members of the board wish to recognize his support and service, and wish him well in future endeavors;

NOW, THEREFORE BE IT RESOLVED, that on behalf of the residents of Washington and in recognition of Mr. Windsor's dedication and excellence in performing these services, the board and its staff extend their sincere appreciation and compliments on a job well done, and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent with a letter of appreciation to Mr. Windsor.

Approved by the Recreation and Conservation Funding Board
in Olympia, Washington
on March 31, 2011

Bill Chapman, Chair

Item 2A

Meeting Date: March 2011
Title: Director's Report
Prepared By: Kaleen Cottingham, Director



Proposed Action: Briefing

Summary

To minimize duplication, some items that might normally be included in the director's report have been deleted here and included in other memos throughout the notebook (such as the policy director's report, legislative update, and the grant manager's report).

Audits and Related Reviews

The following list shows the current audits being conducted by the state Auditor's Office, legislative review committees, and federal agencies:

- **A-133 Federal Single Audit by the State Auditor:** RCO was not audited this year. However, because our correction to the cash management finding was not in place for the full 2010 fiscal year, RCO will have a repeat finding in this area. This relates to how we deal with advances for salmon recovery grants.
- **General Accountability Audit by the State Auditor:** The auditor is taking an in-depth look at eight individual state funded grants in the following programs --Youth Athletic Facilities, Firearm and Archery Range Recreation, and Salmon Recovery.
- **National Park Service Program Review:** This review is complete. RCO has asked for clarification on draft recommendation relating to decision-making on cultural resources. We expect a final report and recommendations for changes soon. We expect to see recommendations to address issues in conversions, cultural resources relationships and procedures, and inspections.
- **Joint Legislative Audit and Review Committee – Boating Study:** This study compared revenues with expenditures on recreational boating. Report is final and there are no recommendations impacting RCO.
- **Joint Transportation Committee – Gas Tax Review:** This was a review of gas tax revenues and un-met needs for all off-road recreational programs. This report summarized information and did not offer recommendations.

- **Environmental Protection Agency (EPA) Administrative Review:** EPA will review use of National Estuary Program funds managed by RCO on behalf of the Puget Sound Partnership. This review will be completed in late March.

Requiring Backup for Recreation and Conservation Invoices

As a result of audit findings, RCO is requiring more documentation for grant invoices, adding to the list the grants for recreation and conservation projects. RCO staff has scored sponsors, which determined the level of documentation provided for all invoices. We have shared those scores with sponsors for feedback. Some sponsors will provide expanded documents with each invoice while others will provide expanded documents less frequently. The change, which already is in place for salmon grants, will be effective for all invoices received March 15, 2011 forward.

Employee Survey Summary

On February 2, we discussed with staff the results of the agency self-assessment, which was conducted last fall. This year we had 46 respondents, which was much higher than the 37 we received last year. The overall results indicated that RCO is doing very well in the areas of ethics and communications. Areas we will focus on improving this year include setting priorities, process improvement, innovation through technology, and communication.

News from Our Sister Boards

Salmon Recovery Funding Board (SRFB): The SRFB met on March 2. The day began with service recognition for former board member and chair Steve Tharinger. The standard management and partner reports took up most of the morning, followed by selection of Bud Hover as a new subcommittee member. The afternoon included three presentations from the Governor's Salmon Recovery Office, including the long-term funding strategy and preliminary discussions of lead entity and region funding for 2011-2013.

Washington Biodiversity Council: Biodiversity staff continues to transition projects from the council to other willing recipients. In February, staff met with representatives from the Washington Department of Fish and Wildlife, Department of Natural Resources, and State Parks and Recreation Commission about their interest in the biodiversity scorecard project and the future of the council's Web site.

Washington Invasive Species Council: Council and staff are putting the final touches on two major projects – the baseline assessment of invasive species in the Puget Sound basin and an educational Web site. The assessment is in the final editing stage and is due March 1. Design work on the information clearinghouse web site continues with final designs set to be completed by March 1. Staff also is creating additional fact sheets on the state's top 50 priority

species and will be distributing its newly created invasive animal species field guide to county weed coordinators at their annual meeting in March.

Habitat and Recreation Lands Coordinating Group: The Habitat and Recreation Lands Coordinating Group is developing plans for the first State Land Acquisition Monitoring Report. The report is aimed at monitoring the success of state land acquisitions. It will present maps and data that compare closed projects with their initial proposals. The report will be published on the lands group Web site in September.

Washington Forum on Monitoring Salmon Recovery and Watershed Health: The forum's final meeting before being dissolved will be on March 30. Topics to be discussed include a final Memorandum of Understanding intended to guide any ongoing monitoring coordination needs among signing agencies. The Forum will also finalize a document outlining "lessons learned" that will summarize the accomplishments and knowledge gained through the forum's efforts to coordinate monitoring across state, federal, tribal, local, and watersheds.

Governor's Salmon Recovery Office (GSRO): Staff completed the "2010 State of the Salmon in Watersheds" report (http://www.rco.wa.gov/doc_pages/other_pubs.shtml#gsro). This is the sixth biennial report and the first prepared within RCO. It consolidates the State of Salmon report with the SRFB report, information from the monitoring forum, and a watershed planning update by the Department of Ecology. Key information includes:

- 1) An indication that 9 of 12 listed species are stable or increasing in numbers.
- 2) Water quality and quantity appears to be improving.
- 3) Development is competing with habitat restoration and protection.
- 4) Implementation of recovery plans progressed in six of seven habitat limiting factors.
- 5) Funding was targeted toward the restoration of damaged habitat and protection of pristine areas used by salmon.

It also is clear that more information is needed on fish abundance, habitat status and trends, land use and land cover, and plan implementation progress.

Item 2B

Meeting Date: March 2011
Title: Fiscal Report
Prepared By: Mark Jarasitis, Chief Financial Office

Approved by the Director:



Proposed Action: Briefing

Recreation and Conservation Funding Board Fiscal Report

The attached financial reports reflect Recreation and Conservation Funding Board (board) activities as of January 31, 2011.

- Attachment A reflects the budget status of board activities by program.
- Attachment B reflects the budget status of the entire agency by board.
- Attachment C reflects the revenue collections.
- Attachment D is a Washington Wildlife Recreation Program (WWRP) summary.
 - Since the beginning of the WWRP program, \$615 million (88 percent) of funds appropriated in the WWRP program have been spent or accrued.
 - Effective February 2011, the FY 2011 Supplemental Budget moved \$1,082,295 in WWRP Farmland Account funds into reserve status. They are no longer available to spend.

If you have any questions on the materials, please call Mark Jarasitis at (360) 902-3006 or inquire at the meeting.

Attachments

- A. Recreation and Conservation Funding Board - Activities by Program
- B. Recreation and Conservation Office – Entire Agency Summary by Board
- C. Recreation and Conservation Funding Board – Revenue Report
- D. Recreation and Conservation Funding Board – Washington Wildlife and Recreation Program Summary

Recreation and Conservation Funding Board - Activities by Program

For the Period of July 1, 2009 - June 30, 2011, actuals through 1/31/11 (fm 19)

Percentage of biennium reported: 79.1%

	BUDGET	COMMITTED		TO BE COMMITTED		EXPENDITURES	
	new & reapp. 2009-11	Dollars	% of budget	Dollars	% of budget	Dollars	% of committed
Grant Programs							
WA Wildlife & Rec. Program (WWRP)							
WWRP Reappropriations	\$68,386,791	\$66,666,185	97%	\$1,720,607	2.5%	\$34,120,204	51.2%
WWRP New 09-11 Funds	\$67,344,750	\$67,081,309	100%	\$263,441	39.00%	\$25,485,348	38.0%
Boating Facilities Program (BFP)							
BFP Reappropriations	6,043,203	6,043,203	100%	0	0.0%	4,411,754	73.0%
Nonhighway & Off-Road Vehicle (NOVA)							
NOVA Reappropriations	7,790,780	7,746,404	99%	44,376	1.0%	4,341,928	46.1%
Land & Water Conserv. Fund (LWCF)							
LWCF Reappropriations	1,583,505	1,583,505	100%	0	0%	1,041,114	65.7%
LWCF New 09-11 Funds	2,019,598	2,019,598	100%	0	0%	109,698	5.4%
Aquatic Lands Enhan. Account (ALEA)							
ALEA Reappropriations	3,904,216	3,904,216	100%	0	0.0%	1,538,029	39.4%
ALEA New 09-11 Funds	5,570,009	5,570,009	100%	0	0.0%	2,102,188	37.7%
Recreational Trails Program (RTP)							
RTP Reappropriations	1,172,110	1,172,110	100%	0	0.0%	1,159,163	98.9%
RTP New 09-11 Funds	3,989,301	3,989,301	100%	0	0.0%	1,067,414	26.8%
Youth Athletic Facilities (YAF)							
YAF Reappropriations	1,735,796	1,735,796	100%	0	0.0%	914,904	52.7%
Firearms & Archery Range Rec (FARR)							
FARR Reappropriations	430,199	360,072	84%	70,127	16%	208,831	58.0%
FARR New 09-11 Funds	495,000	262,421	53%	232,579	47%	79,432	30.3%
Boating Infrastructure Grants (BIG)							
BIG Reappropriations	142,478	142,478	100%	0	0%	87,888	61.7%
BIG New 09-11 Funds	750,000	750,000	100%	0	0%	48,923	6.5%
Sub Total Grant Programs	171,357,736	169,026,606	99%	2,331,130	1%	76,716,818	45.4%
Administration							
General Operating Funds	6,578,871	6,578,871	100%	0	0%	4,896,577	74.4%
Grant and Administration Total	\$177,936,607	\$175,605,477	99%	\$2,331,130	1%	\$81,613,395	46.5%

Note: The budget column shows the state appropriations and any received federal awards.

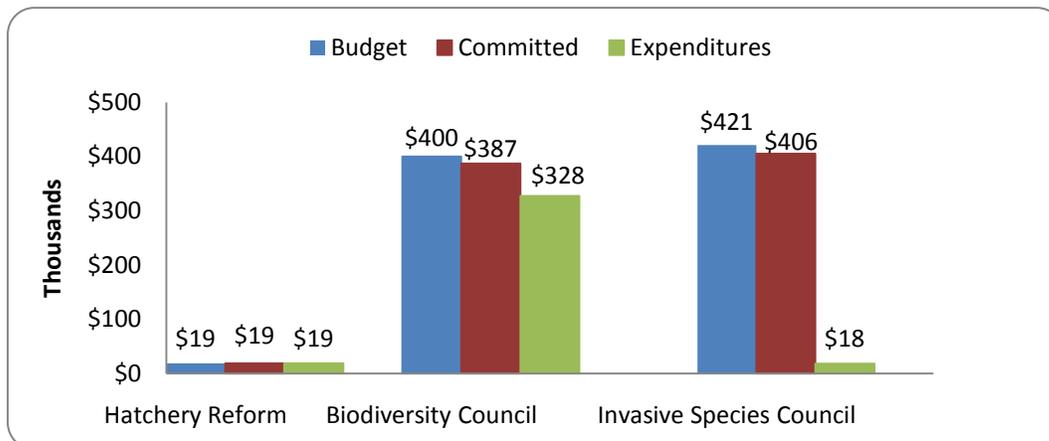
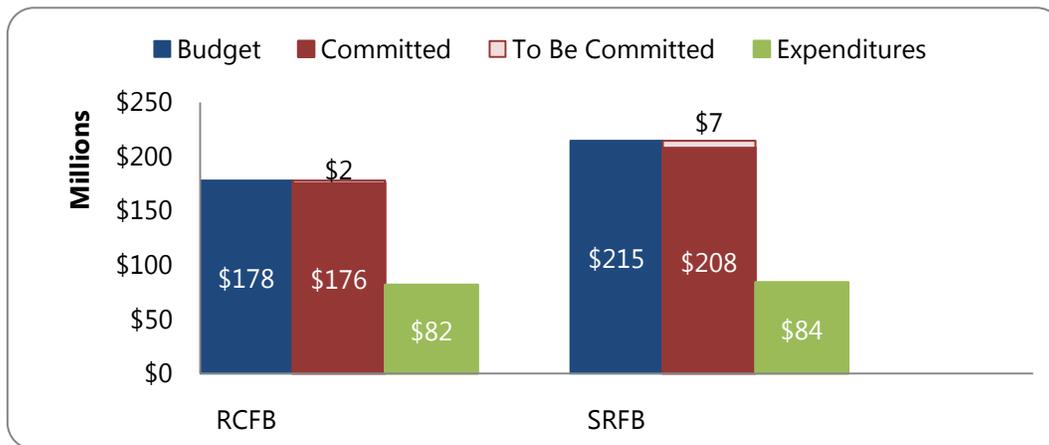
Recreation and Conservation Office – Entire Agency Summary by Board

2009-11 Budget Status Report, Capital + Operating the Agency

For the Period of July 1, 2009 - June 30, 2011, actuals through 1/31/11 (fm 19)

Percentage of biennium reported: 79.1%

Board/Program	BUDGET			COMMITTED		TO BE COMMITTED		EXPENDITURES	
	New	Reapp.	new and reapp. 2009-2011	Dollars	% of budget	Dollars	% of budget	Dollars	% of committed
Board/Program									
RCFB	\$85,107,799	\$92,828,808	177,936,607	\$175,605,477	99%	\$2,331,130	1.31%	\$81,613,395	46%
SRFB	175,361,887	39,284,975	214,646,862	208,072,020	97%	6,574,842	30.60%	83,894,909	40%
Hatchery Reform	-	18,849	18,849	18,849	100%	0	0.00%	18,849	100%
Biodiversity Council	387,472	-	387,472	387,472	100%	0	0.00%	327,567	85%
Invasive Species Council	405,660	-	405,660	405,660	100%	0	0.00%	287,075	71%
Total	\$261,262,817	\$132,132,632	\$393,395,449	\$384,489,478	98%	\$8,905,971	2.26%	\$166,141,795	43%



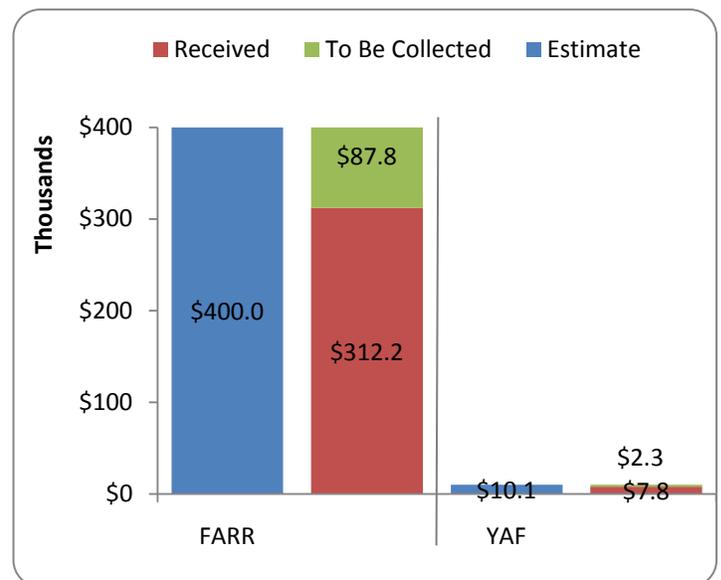
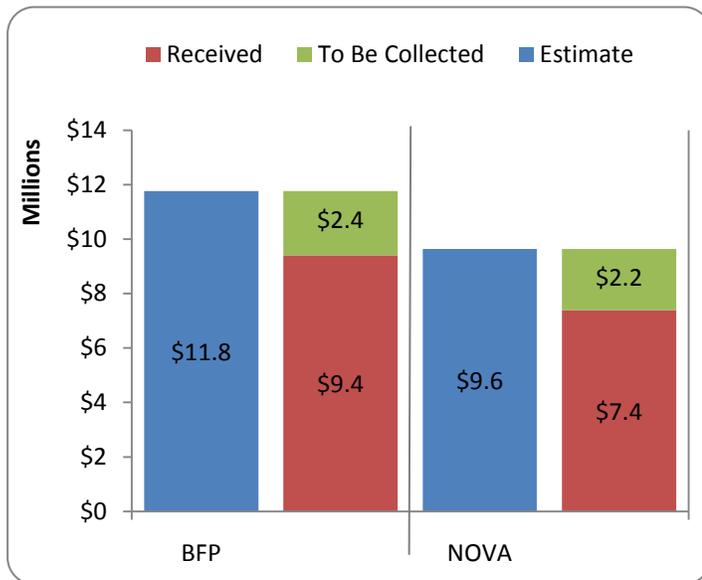
Recreation and Conservation Funding Board – Revenue Report

2009-11 Budget Status Report - Revenues

For the Period of July 1, 2009 - June 30, 2011, actuals through 1/31/11 (fm 19)

Percentage of biennium reported: 79.1%

Revenue	Bienial Forecast	Collections	
	Estimate	Actual	% of Estimate
Boating Facilities Program (BFP)	\$11,766,400	\$9,411,791	80%
Nonhighway, Off-Road Vehicle Program (NOVA)	9,642,868	7,398,003	77%
Firearms and Archery Range Rec Program (FARR)	400,000	312,162	78%
Youth Athletic Facilities (YAF)	10,139	7,821	77%
Total	21,819,407	17,129,777	79%



Revenue Notes:

Boating Facilities Program (BFP) revenue is from the unrefunded marine gasoline taxes.

Nonhighway, Off-Road Vehicle Program (NOVA) revenue is from the motor vehicle gasoline tax paid by users of ORVs and nonhighway roads and from the amount paid for by ORV use permits.

Firearms and Archery Range Rec Program (FARR) revenue is from \$3 each concealed pistol license fee.

Youth Athletic Facilities (YAF) revenue is from an initial \$10 million contribution by the Seattle Seahawks "team affiliate" in 1998. The new revenue is from the interest on the unexpended amount of the fund.

This reflects the most recent revenue forecast of November 2010. The next forecast is due in March 2011.

RCFB – Washington Wildlife and Recreation Program Summary

1990 Through February 23, 2011

History of Biennial Appropriations

Biennium	Appropriation
89-91 Biennium	\$53,000,000
91-93 Biennium	61,150,000
93-95 Biennium	65,000,000
95-97 Biennium*	43,760,000
97-99 Biennium	45,000,000
99-01 Biennium	48,000,000
01-03 Biennium	45,000,000
03-05 Biennium	45,000,000
05-07 Biennium **	48,500,000
07-09 Biennium ***	95,491,955
09-11 Biennium ****	67,344,750
Grand Total	\$617,246,705

Notes to History of Biennial Appropriations:

* Original appropriation was \$45 million.

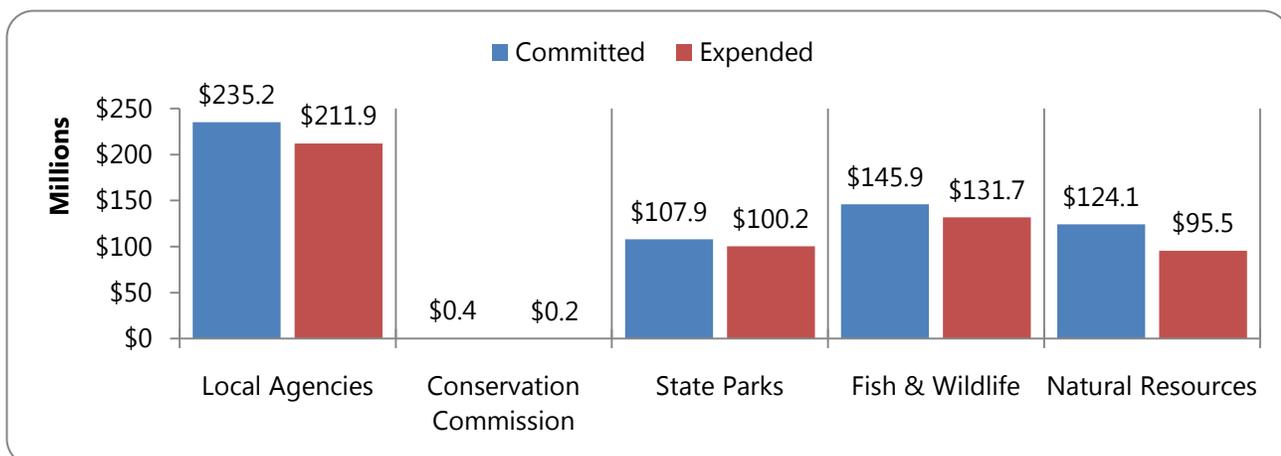
** Entire appropriation was \$50 million.
3% (\$1,500,000) went to admin.

*** Entire appropriation was \$100 million.
3% (\$3,000,000) went to admin. Removed \$981,000 with FY 10 supplemental, removed \$527,045 with FY 2011 supplemental.

**** Entire appropriation was \$70 million.
3% (\$2,100,000) went to admin. Removed \$555,250 with FY 2011 supplemental.

History of Committed and Expenditures

Agency	Committed	Expenditures	% Expended
Local Agencies	\$235,216,127	\$211,901,557	90%
Conservation Commission	\$383,178	\$173,178	45%
State Parks	\$107,869,078	\$100,171,048	93%
Fish & Wildlife	\$145,943,371	\$131,735,304	90%
Natural Resources	\$124,115,892	\$95,456,070	76%
Riparian Habitat Admin	\$185,046	\$185,046	100%
Land Inventory	\$549,965	\$549,965	100%
Sub Total Committed	\$615,262,657	\$540,181,168	88%



Item 2C

Meeting Date: March 2011
Title: Legislative and Budget Update
Prepared By: Steve McLellan, Policy Director

Approved by the Director:



Proposed Action: Briefing

Summary

The 2011 regular legislative session began on January 10 and is scheduled to end on April 24. Staff will provide an update on key activities at the board meeting on March 31, 2011.

Budget Update

Current Biennial Budget

The Legislature approved the most recent version of the supplemental budget on February 18 (covering the current fiscal year). It contained no further reductions for RCO beyond those taken in last December's "early action" budget.

As of this writing, it appears that no further reductions will be needed to balance the state books by June 30. Lawmakers are expected to close the remaining gap by delaying a payment to school districts into the next biennium.

A number of key data points will be updated after the mailing date of this memorandum, so staff will provide the board with a more detailed report at the meeting.

2011-13 Biennial Budget

The next revenue forecast is scheduled for March 17. There are growing concerns that the forecast may show an additional decline, but as of this writing that is not confirmed. The March 17 forecast will set the revenue level to which lawmakers will write the 2011-2013 operating budget, so discussion of most major budget issues (consolidation, fee proposals, employee compensation and benefits, diversion of dedicated funds) will come into sharper focus after that date.

The March 17 revenue forecast will have a significant effect on the capital budget. Because of constitutional (and statutory) debt limits, the amount of new bonds that can be issued is partly driven by the amount of money in the general fund. We expect capital resources to be extremely

tight. Current projections are that new bonding capacity will be below that estimated by the Governor when she issued her proposal last December. OFM and lawmakers are looking at options to increase bonding capacity and are likely to target capital resources first to job-creating projects. As of this date, there appear to be significant differences between the House and Senate in their philosophical approach to the capital budget, as well as in overall funding levels.

RCO Grant Funding

The Governor's proposed budget provided no funding for WWRP. Instead, the budget provided \$20 million for a Puget Sound WWRP that focused exclusively on projects that would advance Puget Sound recovery. It appears that both the House and Senate are unlikely to adopt this approach and, if WWRP funds are provided, they will be spread across the state. It is not clear whether the legislative proposals will use the statutory WWRP formulas, or will suspend the formulas and target grants based on jobs created. ALEA received no funding in the Governor's budget proposal and no funding is likely in the legislature as well.

The Governor's budget specifically prohibited land acquisition by state agencies. Acquisitions by local government or non-profit sponsors would still be allowed. At present it is not clear whether the legislature will agree with this limitation.

The Governor's budget restored the NOVA and Boating program money that was swept last budget cycle to backfill the State Parks budget. The Governor's budget also provided RCO with the critical operating dollars from these funds. As of this writing, it appears likely that those funds will remain with RCO.

Effects on Staffing and Agency Operations

Budget cuts in both the operating and capital budgets will likely lead to reductions in our staffing; at this point, we believe the reduction could be between six and nine positions – about 10-15 percent of the agency (based on the Governor's proposed budget). This may be balanced by retirements or other savings. Any cuts we need to make now or in the future will be based upon business needs. The Director has asked staff to share ideas for savings. We are also watching closely the developments on the federal level. It appears that the Recreational Trails Program money is secure for this funding cycle. Funding for the Land and Water Conservation Fund and for some of the key salmon programs administered by the agency is less certain.

Legislative Updates

The following are some highlights of the legislative session. Staff will provide an updated list of bills at the board's March meeting.

Natural Resources Consolidation

The Governor introduced request legislation to consolidate RCO with the Department of Fish and Wildlife and the State Parks and Recreation Commission, into a new Department beginning July 1,

2012. The bill (SB 5669) has moved to the Senate Ways and Means Committee. Because it is considered part of overall budget decisions, it is exempt from cutoff dates. We expect it will be at least a couple of weeks before further hearings are scheduled. A companion bill (HB 1850) was introduced in the House but was not heard.

Under the proposal as passed by the Senate committee, the name of the new agency was changed to the Department of Fish, Wildlife, and Recreation. The Recreation and Conservation Funding Board would be retained as a strong board with final, independent authority over any issues involving the new agency as a grant applicant or grant recipient. A number of major changes were made in committee restoring policy authority to the Fish and Wildlife Commission and the State Parks and Recreation Commission.

Key interest groups and the Governor's office still have significant concerns with the bill, so more changes are likely, and we also are awaiting final release of the prime sponsor's estimate of how much consolidation will save. The consolidation bill and natural resource fee bills are in Senate Ways and Means and are likely to be approached as a "package" by the Senate later in the session. As of this date, the passage of consolidation legislation is highly uncertain.

Elimination of the Boards and Commissions

HB 1371 and SB 5469 (both requested by the Governor) initially were written to eliminate the Salmon Recovery Funding Board (SRFB), the NOVA Advisory Committee, and the FARR advisory committee. HB 1371 was amended in committee to allow the SRFB to continue in existence. The NOVA advisory committee also was restored, but the statutory FARR advisory committee would still be eliminated. The bill is awaiting action by the full House.

We expect efforts in the Senate to change the bill back to something closer to the Governor's original proposal.

Changes to WWRP

We are also tracking SB 5825, a bill requested by OFM that would make major changes in the way WWRP grants (among others) are structured. We have raised concerns about the workability of the approach (which in the bill splits contracts into "preconstruction" and "construction" phases) and are working with OFM and other stakeholders on an alternative approach that would add a simple four-year time limit for WWRP grants. The bill is designed to reduce the level of reappropriations. It is likely that some form of this bill will proceed.

Invasive Species Council

RCO request legislation (HB 1413) to extend the Invasive Species Council until June 30, 2017 remains alive at this time. HB 1413 was passed by the House on February 28, and sent to the Senate, where it has been heard by the Natural Resources & Marine Waters. This committee passed the Senate version of the bill earlier in the session.

Under the bill, the Council will be required to find operating funding from sources other than the general fund. We are expecting to receive a small appropriation from the vessel response account, and to ask for contributions from member agencies. Based on initial responses we are confident that needed funding can be secured.

Item 2D

Meeting Date: March 2011
Title: Policy Report
Prepared By: Steve McLellan, Policy Director

Approved by the Director: 

Proposed Action: Briefing

The Policy Section is working on a number of issues at the request of the Recreation and Conservation Funding Board (RCFB), Salmon Recovery Funding Board (SRFB), the legislature, and the Recreation and Conservation Office (RCO) staff and director. This memo highlights the status of some key efforts.

Recreational Cabin Eligibility Policy

Policy staff is developing a proposal to clarify the eligibility of overnight recreational cabins on grant funded property. The existing policy on the kinds of cabins that are eligible for reimbursement is unclear. Specifically:

- The policy manual on development projects says that typical overnight facilities that are eligible for reimbursement include tent and recreational vehicle camping areas.
- The policy manual on acquisitions says that "overnight rustic cabins" that are compatible with the funding purposes are eligible for reimbursement.

The staff proposal will add language to clarify existing policy to help staff and sponsors identify which types of cabins are eligible. The proposal will be presented to the board in June 2011.

SCORP Update

Staff is beginning to make plans to develop the next required State Comprehensive Outdoor Recreation Plan (SCORP). The SCORP is required as a condition of receiving federal Land and Water Conservation Fund money. Staff is developing alternatives for gathering data about how citizens participate in recreational activities, the extent and state of recreational lands and facilities available, public involvement, and board participation. Some planning money is expected to be available from the National Park Service. Staff will provide the board with additional information on the SCORP process at the next meeting.

Puget Sound Partnership Target Setting

The Puget Sound Partnership is developing ecosystem targets to articulate a vision of a healthy Puget Sound by 2020. The targets are currently scheduled to be incorporated into the next Action Agenda revision at the end of 2011 to help state agencies – including RCO – and others implement the strategy. There will be two types of targets:

- ecosystem component targets (for desired future conditions of human health and well-being, species and food webs, habitats, water quantity, and water quality), and
- ecosystem pressure targets (for desired reduction in the level of each pressure on the ecosystem).

About 25 targets will be set, including the Dashboard Ecosystem Indicators for swimming beaches, quality of life index, birds, land use/land cover, and the programmatic target for funding Puget Sound Action Agenda Engagement. RCO policy staff is tracking the developments. At this point, staff does not expect that RCO policies would need to change as a result of the new targets. In the future, RCO may need to adjust procedures for collecting project data in order to report consistently with the Puget Sound targets.

Item 2E

Meeting Date: March 2011
Title: Recreation and Conservation Grants Management Report
Prepared By: Scott Robinson and Marguerite Austin, Section Managers

Approved by the Director: *Kaleen Cottingham*

Proposed Action: Briefing

Overview of Grant Evaluations for 2011

The Recreation and Conservation Funding Board (board) will award grants for several grant programs during 2011.

Grants for Consideration in June

The Recreation and Conservation Office (RCO) received 140 applications for these programs by the January 10 deadline, as shown in the following table.

Program	Projects	Grant Requests	Applicant Match	Total
Boating Facilities	38	\$13,440,203	\$3,595,059	\$16,318,262
Firearms and Archery Range Recreation	8	\$478,344	\$514,157	\$992,501
Nonhighway and Off-Road Vehicle Activities	94	\$10,051,087	\$5,105,450	15,156,537

The standing advisory committees for each program reviewed the proposals and applicants are refining their projects and preparing for evaluations in April. Pending fund availability, the board will be asked to award grants in these three programs at the June 2011 meeting.

Grants for Other Consideration

On February 15, RCO began accepting applications for three federally-funded grant programs:

- Boating Infrastructure Grant (BIG)
- Land and Water Conservation Fund (LWCF)
- Recreational Trails Program (RTP)

As of March 15, the agency had received 44 applications requesting nearly \$4.7 million. The application deadline for all three programs is May 2.

In September, the director will submit BIG Tier 1 applications to the U.S. Fish and Wildlife Service for its consideration. For projects in the BIG Tier 2 program, we will compare the federal due

date (when it is published) against board meeting dates to determine whether we will need to ask the board to delegate submission authority to the director.

In November, the board will approve ranked lists for LWCF and RTP pending receipt of federal funds.

Grant Funds: BIG for Federal Fiscal Year 2011

In September 2010, the RCO director approved submission of five Boating Infrastructure Grant (BIG) Tier 2 projects to the U.S. Fish and Wildlife Service for federal fiscal year 2011 fund consideration.

On March 14, 2011, Secretary of the Interior Ken Salazar announced grant awards of more than \$13.5 million for 16 Tier 2 projects. One recipient is the Port of Anacortes, which will receive a grant of \$1,447,532. Funding for the Port's project represents 11 percent of the entire funding provided for Tier 2 nationally. Although BIG requires only a 25 percent matching share, the Port is providing 50 percent of the cost for this \$2.8 million project.

The project will replace two moorage docks that are more than 40 years old with state-of-the-art floats and upgraded amenities for 54 transient moorage slips. The project is located at Cap Santé Boat Haven, which has 30 moorage slips and receives more than 11,000 requests a year for guest moorage. Cap Santé, on Fidalgo Bay, is a major Pacific Northwest destination that serves as the gateway to the San Juan Islands in the Puget Sound.

Grant Funds: RTP for Federal Fiscal Year 2011

In October 2010, the board approved a ranked list of projects for the Recreational Trails Program (RTP) for federal fiscal year 2011. These projects provide education, renovation, and maintenance of recreational trails and facilities that provide a backcountry experience.

Congress appropriated funds earlier this year, and the Department of Highway Administration allocated \$839,730 for Washington State; sufficient to provide funding for 15 projects on the board-approved ranked list. Staff does not expect any additional funds for this grant round during this federal fiscal year, but if funds do become available, the list includes 71 remaining alternates.

LWCF Program Review

Last fall, the National Park Service (NPS) conducted a review of RCO's administration of the Land and Water Conservation Fund program. NPS has provided RCO staff with a preliminary draft of its program review report. The report includes several positive comments about RCO's administration of the program, and identifies three areas that need attention: (1) appraisal and appraisal review requirements, (2) resolution of compliance issues, and (3) the need for a programmatic agreement with the state Department of Archeological and Historic Preservation

for addressing potential impacts to cultural, archaeological or historic resources. The National Park Service will send its final report to the Governor within the next few weeks.

PRISM Update: Final Report

In late January, RCO staff released a new feature in PRISM that allows sponsors to electronically submit their final report to RCO.

The RCO requires that the sponsor submit the report; the grant manager must accept it before authorizing the final payment. The final report tells the complete story of the RCO-funded project, and includes metrics, dollars spent, and an updated project description. The metrics include information about the overall project, as well as the specific properties or worksites. Examples include acres acquired or renovated, stream miles restored, and elements such as lighting, fencing, and parking. RCO will use the information to measure long-term compliance with the grant agreement.

Staff Activity

Revised Acquisitions Manual

The Recreation and Conservation Funding Board (RCFB) approved significant policy changes for funded RCO acquisition projects at its meeting in October 2010.

Following that decision, staff finalized the manual and put the improved acquisition projects manual online. It is now in use by staff for agreements signed after December 1, 2010. RCO staff has been attending a series of trainings to better understand the complex aspects of acquiring land.

Appraisals

At the same time, some issues regarding possible changes to appraisal standards ("federal Yellow book") and possible changes in how timber is valued were left to further staff work.

In January, RCO solicited for appraisal services to provide staff training on appraisal standards, conduct an internal audit of a small set of appraisals on completed projects, review the Land and Water Conservation Fund appraisal recommendations, and provide recommendations to RCO on improving its procedures and policies regarding appraisal practices. Seven consultants submitted proposals. RCO is currently negotiating the contract with the appraisers that submitted the top ranked proposal. The scope of work is scheduled through June 30, 2010. After the work is complete, RCO will determine next steps for additional changes that may be needed for RCO's acquisition policies and bring an update to the board. Staff also has met with Robert Meier of Rayonier about possible changes to timber valuation on conservation lands; those discussions are ongoing.

Annual RCO/DAHP Meeting

In 2009, RCO and the Department of Archeology and Historic Preservation (DAHP) executed the agencies' first programmatic agreement to address projects and project elements that would be exempt from further cultural resources review. The intent was to streamline the cultural resources review process. For example, it was agreed that certain projects -- including planning and education projects -- would (by definition) be deemed to have no impacts on cultural resources. As a part of the agreement, the agencies also agreed to meet annually to discuss possible updates to the agreement and other issues of common interest.

The 2011 meeting between RCO and DAHP occurred in early February. Discussion points included communication between the agencies, potential changes to the programmatic agreement of exemptions, and a review of the comments received during a recent RCO staff cultural resources questionnaire. As a result of the meeting, RCO and DAHP staff updated the programmatic agreement by adding project types that are considered exempt and scheduled training for grants managers in October 2011.

State Auditor Finding Regarding Whistleblower Complaint

A citizen contacted the State Auditor's Office Citizen Hotline on March 29, 2010, regarding RCO's Farmland Preservation grants in WWRP. Specifically, the individual was concerned about a \$750,000 grant for Snohomish County to purchase a property known as the People's Ranch. The citizen had concerns that Snohomish County's application misrepresented the value of development rights it wished to purchase with the grant. The citizen also questioned whether the board's grant approval process violated the Open Public Meetings Act and complied with Farmland Preservation grant award evaluation requirements.

After several months of investigation, the State Auditor's Office (SAO) found that the county's farmland grant proposal was evaluated in accordance with program guidelines and complied with the Open Public Meetings Act. The SAO did identify concerns with the county's documentation supporting the market value of development rights for the property. The RCO is waiting for the final SAO findings to be released to see what if any additional follow-up is needed.

RCO staff independently conducted a fiscal review of the county in 2010 and found an issue related to the way in which they tracked staff time. This issue was minor and has been corrected.

With regard to the specific project, the County engaged an independent appraisal of the property in March 2009, which was subsequently rejected by the federal review appraiser. RCO staff also shared its concerns about the initial appraisal with Snohomish County. Since that time, the County engaged a different appraiser to do a new report, which is currently in the federal review process. RCO is waiting for the outcome of that review and has not reimbursed Snohomish County for any expenses other than a small amount for project administration.

Project Administration

This table summarizes the outdoor recreation and habitat conservation projects currently being administered by staff:

- Active projects are under agreement.
- Staff is working with sponsors to place the "Board Funded" and "Director Approved" projects under agreement.
- "Board preliminary approved" is the status for projects in WWRP and ALEA that the board forwarded to the Governor and Legislature. They are subject to funding in the next biennium, and will be considered for final approval in June.

In addition, staff has several hundred funded projects that they monitor for long-term compliance.

Program	Active Projects	Board Funded Projects	Director Approved Projects	Total	Board Preliminary Approved
Aquatic Lands Enhancement Account (ALEA)	18	0	1	19	27
Boating Facilities Program (BFP)	13	0	0	13	0
Boating Infrastructure Grant Program (BIG)	3	0	0	3	5
Firearms and Archery Range Recreation (FARR)	12	1	0	13	0
Land and Water Conservation Fund (LWCF)	12	0	1	13	14
Recreational Trails Program (RTP)	66	5	0	71	71
Nonhighway and Off-Road Vehicle Activities (NOVA)	56	0	0	56	0
Washington Wildlife and Recreation Program (WWRP)	152	0	0	152	224
Youth Athletic Facilities (YAF)	11	0	0	11	0
Total	343	6	2	351	341

Projects of Note

Staff from the Recreation and Conservation Sections will present information about the following two projects at the March board meeting.

Project #07-1571: Crown-S Ranch Farmland

- Sponsor:** Okanogan County
- Location:** Located south of Winthrop in the Methow Valley
- Grant Source:** WWRP – Farmland Preservation Program
- Funding:** \$213,750 grant; \$213,750 sponsor match
- Description:** This project supported the purchase of a permanent agricultural conservation easement on a 42-acre farm that could have been developed into nine residences. The Crown-S Ranch combines traditional animal husbandry with new technology to create sustainable farming practices. The farmer raises grass-fed cattle, pigs, laying hens, chickens, and turkeys on certified organic pasture land. The Crown S Ranch conservation easement provides a connection between four existing farmland conservation easements within the Winthrop-Twisp farm corridor. Okanogan County partnered with the Methow Conservancy on this project and is a co-holder of the easement. Matching funds came from the federal Farm and Ranch land Protection Program.

Project #06-1598: Civic Sports Fields Renovation

- Sponsor:** City of Woodinville
- Location:** Located next to city hall in downtown Woodinville in King County.
- Grant Source:** WWRP – Local Parks category
Youth Athletic Facilities – Improving category (YAF)
- Funding:** \$300,000 WWRP; \$75,000 YAF; \$3.3 million sponsor match
- Description:** This project, designed to meet diverse community needs, involved renovation and expansion of a former 1970's era elementary school sports complex that is now owned by the City. It resulted in an eight-acre community park that features all-weather synthetic turf fields and field lighting to allow for year-round, day and evening play for youth and adults. The park was designed to complement the adjacent community center, provide safe access to Wilmot Gateway Park, and provide trail access between downtown Woodinville and the regional Sammamish River Trail. The renovation cost nearly \$3.7 million.

Item 2F

Meeting Date: March 2011
 Title: RCO Performance Measures Update
 Prepared By: Rebecca Connolly, Board Liaison and Accountability Manager

Approved by the Director: 

Proposed Action: Briefing

Summary

The Recreation and Conservation Office (RCO) uses performance measures to help the agency reduce reappropriations and improve the way we do business. Staff combines the measures and the agency work plan updates in the monthly Government Management Accountability and Performance (GMAP) report. This memo provides highlights of agency performance related to the projects and activities funded by the Recreation and Conservation Funding Board (board).

Grant Management

The following measures are among those that help us to check our processes at several points in the grant management cycle. All data are for recreation and conservation grants only. Additional detail is shown in the charts in Attachment A.

Measure	Target	FY 2010 Performance FINAL	FY 2011 Performance Through Sept. 30	Indicator for Current Fiscal Year
Percent of recreation/conservation projects closed on time	70%	64%	62%	↔↔
Percent of recreation/conservation projects closed on time and without a time extension	50%	69%	47%	↔↔
% recreation/conservation projects issued a project agreement within 120 days after the board funding date	75%	88%	No data at this time.	
% of recreation/conservation grant projects under agreement within 180 days after the board funding date	95%	92%	No data at this time.	
Fiscal month expenditures, recreation/conservation target	Varies by Fiscal Month	31% (30% target)	41% (39% target)	↑
Bills paid within 30 days: recreation/conservation projects	100%	63% Average days to pay = 30	63% Average days to pay = 28	↔↔

Time Extensions

The board's adopted policy for progress on active funded projects requires staff to report all requests for time extensions and subsequent staff actions to the board.

Time Extension Requests – Director Approved

Since the beginning of the biennium, the RCO has received several requests to extend projects. Staff reviewed each request to ensure compliance with established policies. The following table shows information about the time extensions granted by quarter, as of March 7, 2011.

Quarter	Extensions Approved	Number of Repeat Extensions	Average Days Extended	Number Closed to Date
Q1	20	8	236	12
Q2	45	15	268	24
Q3	13	6	216	3
Q4	33	16	257	8
Q5	16	5	246	2
Q6	51	15	206	1
Q7	12	10	145	0

Key Agency Activities

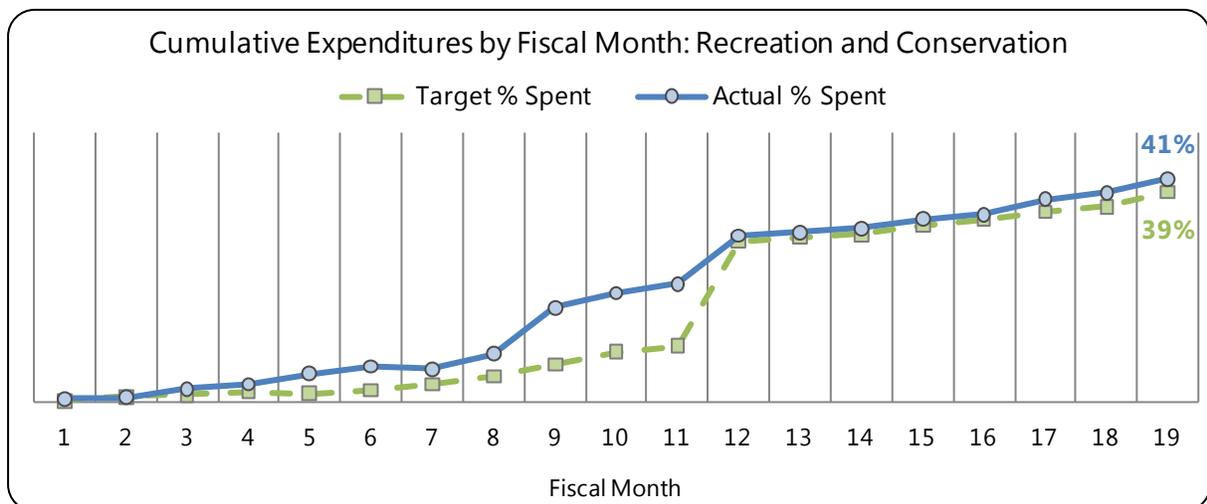
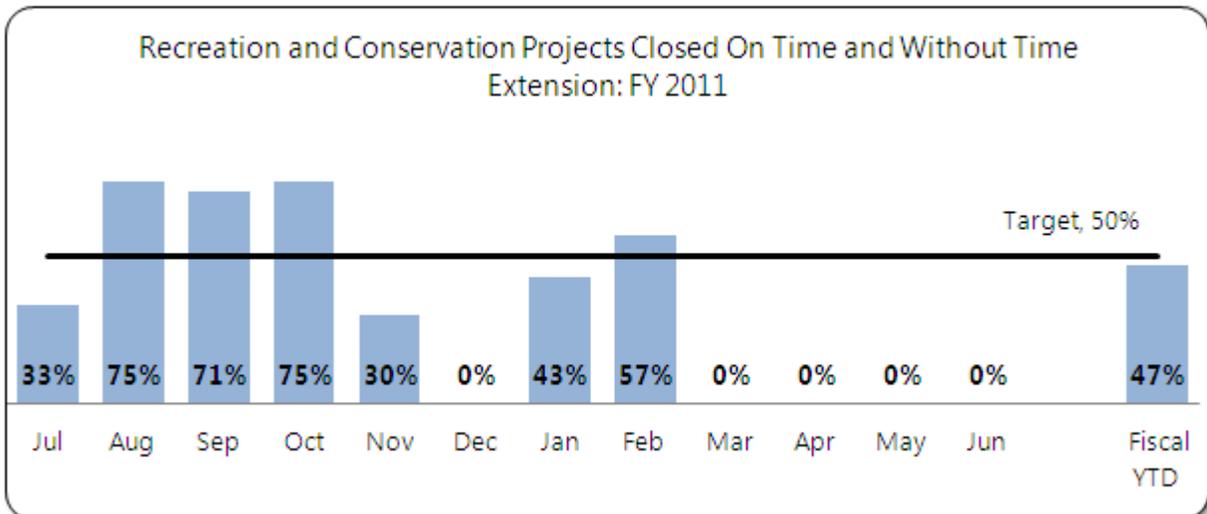
The RCO also tracks progress on key activities through its fiscal year work plan. The following are a few of the actions that the operations team reviews on a monthly basis.

Agency Work Plan Task	Current Status	
Create operations manual for grant management	Progress continues. Staff is working to incorporate the revised deed of right and acquisitions manual into the operations manual.	↑
Propose policies to encourage sustainable practices in grant programs.	Staff conducted an analysis of sustainability metrics from PRISM, based on applications received (see Item 8)	↑

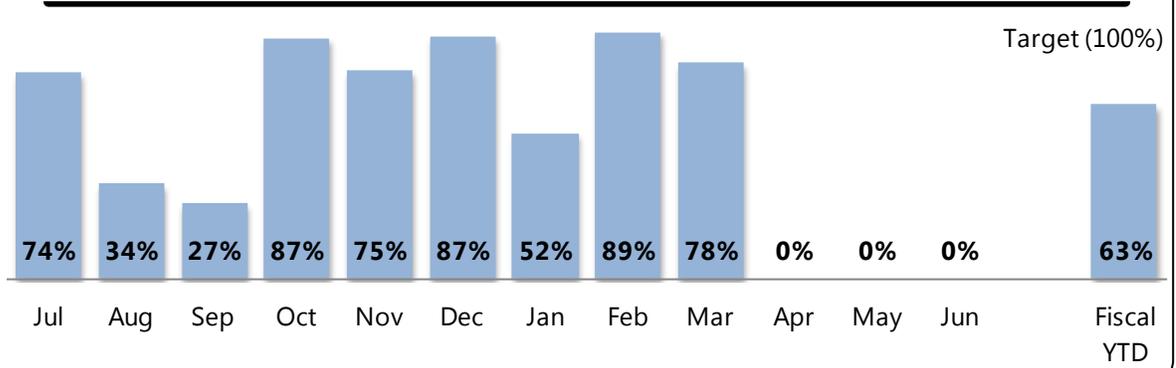
Attachments

- A. Performance Measure Charts

Performance Measure Charts



Percent of Bills Paid Within 30 Days: Recreation and Conservation Projects,
FY 2011



Item 3

Meeting Date: March 2011
Title: Perspectives on Recreational Trails Program Funding and Project
Categorization
Prepared By: Greg Lovelady, Grant Services Program Manager

Approved by the Director: 

Proposed Action: Briefing

Summary

Mr. Gary Johnson, a member of the Recreational Trails Program (RTP) advisory committee, has requested an opportunity to present to the Board his individual concerns about RTP project categorization. This memo provides an overview of the program's funding process as background for his presentation.

Strategic Plan Link

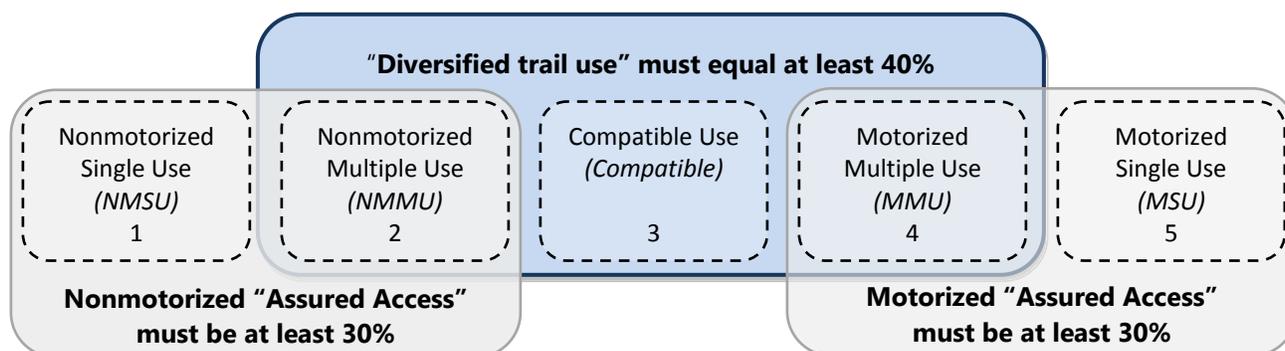
This memo provides background for information that will be presented by a member of the public. Allowing time for such testimony is in keeping with the board's strategy to ensure that the work of the board and staff is conducted with integrity and in a fair and open manner.

Background

The Recreation and Conservation Funding Board follows two sets of policies when funding RTP projects: its own adopted policies and those mandated by the federal government. In its own policies, the board targets projects that reduce the backlog of trail maintenance on backcountry trails and gives preference to projects that further the goals of its various plans, including the *Washington State Trails Plan* and the *Assessment and Policy Plan*. These preferences are shown in program's evaluation criteria.

Regarding the federal mandates, the board looks to the applicable United States Code¹ and the 1999 "guidance" document written by the Federal Highways Administration. As shown in the following figure, these criteria address the way the money is to be distributed among motorized and non-motorized projects.

¹ 23 U.S.C. 206, (d)(3)(A)



Funds are distributed to the states based on a formula that relies on off road recreational gasoline consumption and other factors.

Development of the Five Categories

As originally conceived, federal requirements for use of the funds were based on providing benefits to recreationists who use trail motorcycles, ATVs, and four-wheel drive vehicles. Thus, the program has motorized recreation categories – “motorized multiple use” and “motorized single use.” The proposal didn’t make much progress in Congress, however, until the support base was broadened to include categories for nonmotorized trail users – “nonmotorized single use” and “nonmotorized multiple use”.

Because of the potential for a use that encompassed both motorized and nonmotorized uses, a fifth category, “compatible use” was added. The phrase “compatible use” was coined by RCO staff to label this middle category. Regarding this category, the federal guidance document says:

“This category includes projects where motorized use is permitted, but is not the predominant beneficiary. The category includes projects where motorized and nonmotorized uses are separated by season, such as equestrian in summer and snowmobile in winter. Other examples: a common trailhead project serving separate ATV and bicycle trails; purchasing a machine to groom both snowmobile and cross-country ski trails.”

These five categories won Congressional approval. The middle three categories (nonmotorized multiple use, compatible use, and motorized multiple use) were named “Diversified,” and at least 40 percent of the dollars must be dedicated to projects supporting these uses. The overlapping remaining categories each receive 30 percent of the program’s dollars. These are named “Assured Access” and include nonmotorized single use and motorized single use projects. In addition, states may choose to allocate up to 5 percent of all funds to trail safety and education projects².

² The board has typically allocated five percent of funds to safety and education projects, as is allowed. Each project is assigned to one of the five categories, so the 40-30-30 split is unaffected.

RCO Process

As applications arrive, RCO staff uses the policies and a “decision tree” (Manual 16) to determine which category is most appropriate to federal rules and provides the best chance for funding.

Historically, few projects have met the federal definition for the compatible use category, as described above. As a result, most projects in the “diversified use” category are allocated to either the Motorized Multiple Use or Nonmotorized Multiple Use category.

Item 4

Meeting Date: March 2011
Title: Proposed Change in Land and Water Conservation Fund Evaluation Criteria
Prepared By: Jim Eychaner, Senior Policy Specialist

Approved by the Director: 

Proposed Action: Decision

Summary

Recreation and Conservation Office (RCO) staff proposes to change the wording of question 9, "Applicant Compliance," in the Land and Water Conservation Fund (LWCF) priority rating system. The change should make the question easier for applicants to understand, and improve the scoring process.

Staff Recommendation

Staff recommends that the Recreation and Conservation Funding Board (board) approve the revised wording and point system via Resolution #2011-02.

Strategic Plan Link

Consideration of this addition supports the board's objectives to (1) ensure funded projects are managed efficiently and in conformance with existing legal authorities and (2) fund the best projects as determined by the evaluation process.

Background

The Land and Water Conservation Fund (LWCF) is a federal grant program that helps to pay for outdoor recreation sites and facilities. The National Park Service manages the program in cooperation with RCO. Projects must help address federal priorities and be consistent with state comprehensive outdoor recreation planning (SCORP) documents.

Project selection is highly competitive and takes place in an open public process. The process relies on a "priority rating system" to identify the best available projects for funding. The board approved the current rating system in March 2009, and added a "design" question in March 2010. There are now nine questions in the priority rating system.

Proposed Change

Staff is proposing that the board change question number nine, "Applicant Compliance." The intent of the question, which we developed at the request of the National Park Service, is to address a federal priority to reward sponsors for compliance with LWCF rules and regulations.

The question is scored by staff who found that the RCO has insufficient project data to score the question with a high degree of confidence. The number of points assigned to the question is significant, and can substantially affect a project's score and ranking.

Staff proposes to rewrite the question so that it would be easier to score and interpret.

- As with the original, the revised question focuses on how well the sponsor complies with the program rules and its grant agreements.
- The scoring changes from a system that adds points for compliance to one that reduces the score for non-compliance.

Current Question	Proposed Change
<p>Applicant compliance. Has the sponsor demonstrated good grant stewardship?</p> <p>Point Range</p> <p>0 points An otherwise eligible sponsor has one or more outstanding confirmed conversions that are more than 5 years old and/or the sponsor is not working actively with RCO and the National Park Service to resolve.</p> <p>1 point Sponsor has outstanding confirmed conversion of its own making and is actively working with RCO and the National Park Service to resolve.</p> <p>2 points Sponsor has outstanding confirmed conversion not of its making and is actively working with RCO and the National Park Service to resolve.</p> <p>3 points Sponsor has no outstanding compliance issues but has outstanding site inspection findings that are not conversions.</p> <p>4 points Sponsor has no outstanding compliance issues and has had only minor site inspection findings (e.g. missing signs).</p> <p>5 points Sponsor has no outstanding compliance issues and has had no negative site inspection findings.</p>	<p>Applicant compliance. Is the sponsor in compliance with its RCO grant agreements?</p> <p>When scoring this question, staff will consider the applicant's record in all RCO-managed grant programs.</p> <p>Point Range</p> <p>0 points Sponsor has no known compliance issues and no unapproved conversions</p> <p>-1 point Sponsor has one or more known compliance issues <i>including at least one unapproved conversion</i>, but is actively working to correct the issues</p> <p>-2 points Sponsor has one or more known compliance issues <i>including at least one unapproved conversion</i>, but is not working actively to correct the issues; or the sponsor has been identified as a high-risk sponsor</p>

Analysis

Changing the question should reduce the amount of time staff needs to confidently score the question, and makes it more defensible.

The use of negative points, as proposed, is not new; RCO uses “negative” points in other grant programs. The Nonhighway and Off-road Vehicle Activities (NOVA) program, for example, subtracts a point for proposals from applicants that do not meet the requirements of the Growth Management Act (GMA). This is to recognize that not all applicants are required to comply with the GMA.

Consultation with the LWCF advisory committee found that the committee supports the change. The National Park Service has reviewed and accepted the question.

The RCO received no comments during public review of the proposal, which staff conducted via the web between late November 2010 and early January 2011.

Next Steps

If approved, staff will revise the priority rating system immediately by changing the question in Manual 15. The revised question will be used in this year’s LWCF grant round.

Attachments

Resolution #2011-02

- A. Revised Question Nine, LWCF Priority Rating System

Recreation and Conservation Funding Board
Resolution #2011-02
Approving Changes to the Land and Water Conservation Fund Evaluation
Criteria

WHEREAS, Chapter 79A.25.130 RCW authorizes the Recreation and Conservation Office (RCO) to participate in or receive aid from any federal program respecting outdoor recreation or conservation; and

WHEREAS, the Land and Water Conservation Fund (LWCF) is a federal program managed by the National Park Service (NPS) that grants funds to the state for recreation purposes; and

WHEREAS, RCO is recognized as the state agency responsible for management of LWCF funds in Washington State; and

WHEREAS, the NPS requires a priority rating system for selection of potential LWCF projects; and

WHEREAS, the priority rating system must include criteria that address a federal priority to reward sponsors for compliance with LWCF rules and regulations; and

WHEREAS, the revised question number nine shown in Attachment A to the Recreation and Conservation Funding Board (board) memo meets the National Park Service requirements; and

WHEREAS, the revision to question nine supports the board's objectives to (1) ensure funded projects are managed efficiently and in conformance with existing legal authorities, and (2) fund the best projects as determined by the evaluation process;

NOW, THEREFORE BE IT RESOLVED, that the board the revised question number nine and directs staff to implement the system for use in the 2011 and future grant rounds.

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

Revised Question Nine, LWCF Priority Rating System

Question #9: Applicant compliance.

Is the sponsor in compliance with its RCO grant agreements?

When scoring this question, staff will consider the applicant's record in all RCO-managed grant programs.

Point Range

- | | |
|-----------|--|
| 0 points | Sponsor has no known compliance issues and no unapproved conversions |
| -1 point | Sponsor has one or more known compliance issues <i>including at least one unapproved conversion</i> , but is actively working to correct the issues |
| -2 points | Sponsor has one or more known compliance issues <i>including at least one unapproved conversion</i> , but is not working actively to correct the issues; or the sponsor has been identified as a high-risk sponsor |

Item 5

Meeting Date: March 2011
Title: Proposed Change to Increase Maximum Grant Amount in Firearms and Archery Range Recreation (FARR) Program
Prepared By: Jim Eychaner, Senior Policy Specialist

Approved by the Director: *Kaleen Cottingham*

Proposed Action: Decision

Summary

The Firearms and Archery Range Recreation (FARR) program provides funds to acquire, develop, and renovate firearm and archery training and practice facilities. Grants are currently limited to a maximum of \$50,000. Staff proposes that the Recreation and Conservation Funding Board (board) raise the limit to a maximum of \$100,000 per grant.

Staff Recommendation

Staff recommends that the board approve raising the grant limit via Resolution #2011-03.

Strategic Plan Link

Consideration of this policy change supports the board's strategies to (a) provide funding to protect, preserve, restore, and enhance recreation opportunities statewide, and (b) evaluate and develop strategic investment policies and plans so that projects selected for funding meet the state's recreation and conservation needs.

Background

The FARR program is supported by a portion of fees paid by the public for concealed pistol permits. These fees – typically about \$500,000 per biennium – are deposited into the firearms range account. State law authorizes the board to adopt policies¹ to manage the firearms range account.

¹ RCW 79A.25.210 authorizes the board to adopt rules. The board adopted WAC 286-30-050, which states that it will establish matching share requirements and fund request limits. The board does so by policy.

FARR grants can be used to acquire property, develop facilities, or renovate facilities. All funded sites must be available for public use.

Analysis

Demand for Funds

Demand for FARR grants has been unpredictable. In some years, the number of projects is far below the number to fully utilize the available funds; in other years, the demand has outpaced the total funding available, including unused funds from previous biennia. In recent grant cycles, the lists presented to the board have included as few as four and as many as 17 projects.

Grant Funding Limits

Since at least 1999, FARR grants have been subject to a limit of \$50,000 per application. In 2007, however, the board approved a temporary, one-cycle increase in the grant limit, from \$50,000 to \$100,000. A key reason for raising the limit was to ensure that all funds in the account were allocated to grants.

Due to the variation in project applications, the fund allocation was less of a consideration than whether the grant amount was sufficient to meet the needs of the projects. For example, construction and other costs associated with firearms and archery ranges have risen over time. As a result, in late 2010, staff proposed permanently increasing the grant limit to \$100,000. Staff posted the proposal to the RCO web site on November 15 for public comment.

The RCO received ten comments by the December 10 deadline; comments are summarized in Attachment A. All responses were positive. Many respondents noted that the increased cost and uncertainty of securing permits also were factors in their support. The Firearms and Archery Range advisory committee unanimously supports the increase.

Grant Cycles Affected

Staff recommends that the change be effective beginning with the current grant cycle.

The applicable rule states that the board "normally" would adopt changes to fund request limits six months before project funding consideration.² Potential applicants for the 2011 grant cycle were informed of the potential change. Five of the eight applications requested more than \$50,000 (the current limit). The total requested is about \$481,000. The Governor's budget request includes \$365,000 in new appropriations for the program, and it is likely that there will be returned funds available as well.

² WAC 286-30-050: "The committee will establish sponsor matching share requirements and fund request limits. Any changes will normally be done at a committee meeting six months before project funding consideration."

Next Steps

If the resolution is approved, grant staff will immediately change Manual 11 (*Firearms and Archery Range Recreation Program Policies and Project Selection*) and implement the change.

Attachments

Resolution #2011-03

- A. Proposal to Change Funding Limits and Public Comments on Proposal

Recreation and Conservation Funding Board
Resolution #2011-03
Approving an Increase Maximum Grant Amount in the
Firearms and Archery Range Recreation (FARR) Program

WHEREAS, the Firearms and Archery Range Recreation (FARR) program is authorized by RCW 79A.25.210, and

WHEREAS, the Recreation and Conservation Funding Board (board) has the authority to adopt policies to manage the firearms range account, which funds the FARR program, and

WHEREAS, the Recreation and Conservation Office (RCO) has recognized that the cost of the projects funded by FARR grants is increasing due in part to construction and permitting fees, and

WHEREAS, RCO staff proposed increasing the grant limit from \$50,000 per application to \$100,000 per application and received only supportive comments from stakeholders, and

WHEREAS, the board can promotes its goals of making strategic investments and helping partners to develop recreation opportunities by providing a meaningful level of funding to projects selected and evaluated through a competitive process,

NOW THEREFORE BE IT RESOLVED, that the board permanently sets the maximum grant limit for FARR projects at \$100,000 beginning with the 2011 grant cycle.

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

Proposal and Public Comments

Proposal Posted to the Web Site

"RCO is proposing to change the maximum amount of grant money an applicant can request with one application. Right now, that maximum is \$50,000. RCO would like to raise that maximum amount to \$100,000. The reasons to raise the maximum are to recognize increasing costs and to encourage better projects."

Advisory Committee and Public Comments

Person/Affiliation	Comment	RCO Response (if any)
Chuck Ray Hunter Education Program	I support the increase to the range grant total as long as there is enough money to cover the increase.	
Lori Flemm Parks Director, City of Lacey	Your reasons sound valid. No other comments.	
Joel G. Winborn, Director, Clallam County Parks, Fair & Facilities	I think the increase to \$100,000 is a good idea. Costs of permitting and all of the associated miscellaneous fees are quite expensive. This of course means that agencies will need to up their match amount, but I think that is a good thing and would lead to better projects.	
Robert Jaeger FARR Advisory Committee	As a multi-year and multi-term FARR grant evaluator, I would like to offer my support for this proposed change. In the inflationary and expensive economy of Washington State, the existing grant cap has often been an arbitrary and unhelpful limitation on proposed projects. I believe the higher, proposed, grant cap will allow higher quality and more appropriate project proposals to be presented to FARR for grant funding in future years.	
Patricia Sprague-Binder FARR Advisory Committee	I concur on upping the amount of the grants given by the FARR board. This may help to insure the completion, or at least expedite completion.	
James Clem FARR Advisory Committee	This sounds like a very good change.	

Person/Affiliation	Comment	RCO Response (if any)
Linda Parker FARR Advisory Committee	I concur with raising the maximum amount of a grant to \$100,000. With the cost of everything, \$50,000 doesn't cover very significant projects.	
Jerry Cline FARR Committee	I agree with the increase from \$50,000 to \$100,000, as long as all proposed grants are considered including small ones. By that I mean I don't want this increase to result in large grants being funded to the detriment of small requestors.	We do not anticipate that sponsors with small projects will be discouraged by the higher grant limit.
Dick Miller Cowlitz Game & Anglers	<p>Raising the limits on grants from \$50,000 to \$100,000 is a very good policy. We agree costs have risen wherein significant contracts to improve shooting range facilities need additional funds to impact requirements for worthwhile projects.</p> <p>Cowlitz Game & Anglers has been the recipient of significant funding authorization and appreciates the problems of escalating costs. First estimates to build the Cowlitz Public Shooting Range have proven too low. During the longer than expected permitting process energy, lumber, labor & cement prices have increased.</p> <p>It is recommended the matching funds requirement be reduced by 50%. Current requirements put a very high priority on fund raising which is becoming increasingly difficult in these current recessional times. The 50% reduction in matching funds would still require the project leaders to campaign for local funds which would include local citizens and governments to show support for the project yet not become a debilitating requirement.</p> <p>Our experience with RCO personnel has been outstanding. We appreciate the courteous, knowledgeable and timely attention to project details.</p>	The match is set in state law (RCW 79A.25.210). We are not proposing agency request legislation to change the match requirement at this time.

Person/Affiliation	Comment	RCO Response (if any)
Pam Schmitz FARR Committee	<p>I am not against it, but question if there is enough money to fund projects - if we do the \$100,000, then it is possible only 4-6 projects will get funded each 2 years.</p> <p>In one case we had 3 separate projects for one range - no problem, but all were worthwhile and all got funded, but I am not sure that the manpower or matching funds were there for all three projects - so some of the other projects didn't get funded. As a committee, that was not our judgment, we had to rate on the criteria given, not on if all three could be done.</p> <p>I would like the committee to be able to 1/2 fund projects if you do put the \$100,000 limit into effect. Fund certain areas of project, not just give 1/2 the money.</p>	<p>The match is set in state law (RCW 79A.25.210). We are not proposing agency request legislation to change the match requirement at this time.</p> <p>It is possible that fewer total projects could be funded.</p>

Item 6

Meeting Date: March 2011
Title: Proposed Change to Biennial Grant Cycle for All Grant Programs
Prepared By: Jim Eychaner, Senior Policy Specialist
Marguerite Austin, Recreation Section Manager

Approved by the Director: *Kaleen Cottingham*

Proposed Action: Decision

Summary

The Recreation and Conservation Funding Board (board) currently awards grants in ten programs. These grants are awarded on a variety of annual and biennial cycles. For reasons described in this memo, the Recreation and Conservation Office (RCO) staff proposes that the board change the cycles so that all recreation grant programs are offered every two years in the same even-numbered year. Conservation grants already are on a two-year cycle.

Staff Recommendation

Staff recommends that the board change the grant cycles so that all programs are offered only in even-numbered years via Resolution 2011-04.

Strategic Plan Link

Consideration of this policy change supports the board's goal to achieve a high level of accountability in managing the resources and responsibilities entrusted to it. In particular, this proposal uses adaptive management to meet changing needs. It continues to provide a structure under which the board provides strategic funding to its partners and awards grants through fair, impartial, and open public processes.

Background

Under current board policy, grant programs are offered on a number of cycles:

- Four grant programs are offered every two years: Aquatic Lands Enhancement Account (ALEA), Firearms and Archery Range Recreation (FARR), Washington Wildlife and Recreation Program (WWRP), and Nonhighway and Off-Road Vehicle Activities (NOVA) education and enforcement category.

- NOVA grants for the nonhighway road, nonmotorized, and off-road vehicle categories are offered every year.
- Boating Facilities Program (BFP) grants are offered every year for local agencies and in even-numbered years for state agencies.
- The three federal grant programs – Boating Infrastructure Grants (BIG), Land and Water Conservation Fund (LWCF), and Recreational Trails Program (RTP) – are offered every year.
- Two other programs – Boating Activities Program and Youth Athletic Facilities – have not been offered recently due to lack of funding.

These grant programs represent an average investment of \$96.4 million per biennium, depending on funding allocations. The grant programs offered annually are an average of roughly \$4.7 million per biennium, or about 5 percent of the total funding. We do not track the comparative workload demands of the individual programs.

Staff Proposal

Staff is proposing a change so that all grant programs would be offered every two years in the same even-numbered year. The change would be phased in so that it does not affect the cycles currently underway or scheduled for 2011. The proposal is summarized in this table:

Programs and Biennial Funding*	In this year, these grant programs would accept applications					
	2010	2011	2012	2013	2014	2015
Aquatic Lands Enhancement Account (ALEA): \$5,000,000	ALEA		ALEA		ALEA	
Boating Activities Program (BAP)**						
Boating Facilities Program: local and state (BFP): \$8,000,000		BFP	BFP		BFP	
Boating Infrastructure Grants (BIG): \$190,000	BIG	BIG	BIG		BIG	
Firearms and Archery Range Recreation (FARR): \$500,000		FARR	FARR		FARR	
Land and Water Conservation Fund (LWCF): \$1,000,000	LWCF	LWCF	LWCF		LWCF	
Nonhighway and Off-road Vehicle Activities (NOVA): \$7,000,000		NOVA	NOVA		NOVA	
Recreational Trails Program (RTP): \$3,600,000	RTP	RTP	RTP		RTP	
Washington Wildlife and Recreation Program (WWRP): \$73,000,000	WWRP		WWRP		WWRP	
Youth Athletic Facilities (YAF)**						

* Averages presented on RCO's "grants" web site

** Grant programs that have no money and are not scheduled

The reasons for making the proposal are:

- To reduce impacts on applicants' budgets: it should cost less to apply every other year instead of every year;
- To better match the two-year budgeting cycle used by state government and by some local governments;
- To get the funding under contract earlier in the biennium;
- To allow RCO grant managers to focus on grant implementation in "off years;"
- To reduce the burden of travel, leave, and travel expenses for our volunteer advisory and evaluation committees;
- To lower the per-grant cost of RCO administration;
- To reduce the amount of money in reappropriation requests; and
- To address a key recommendation made by Strategica in its Business Practices Consulting Project in its report on RCO grant practice streamlining and efficiency (December 2008).

Reasons not to make a change include:

- Loss of applicant opportunity for year-after-year funding, with potential to hamper on-going or complex projects;
- Potential for an increased number of applications when programs are offered;
- Longer waiting time for unsuccessful applicants; and
- Perceived inability on the part of some nonprofits to adapt to changing conditions.

Analysis

Review of Applicable Rules and Laws

Staff has reviewed the applicable state and federal rules and laws governing the board-funded grant programs, and has found nothing that would bar the board from making this change.

Management and Staff Assessment

Staff believes the advantages of the two-year cycle outweigh the disadvantages.

Of all the reasons for making the change, perhaps the most important, is the likelihood that grants managers would be able to focus on all phases of their grant work load in "off" years. The RCO was assigned the Washington Wildlife and Recreation Program in 1991. That event increased grant work load by 400 percent with no increase in staff resources. Since that event, additional programs have been added, with small increases in staff size. The graphic in Attachment A was prepared by Berk and Associates for its report *Recreation and Conservation*

Office Project Delivery and Grant Manager Workload Study:¹ it illustrates the dramatic growth in the number of programs assigned to RCO.

The result of this growth has been a grant management emphasis on the application phase. Other phases including active grant management and on-going compliance management have been de-emphasized and sometimes deferred. The deferral has resulted in issues related to re-appropriations and sponsor compliance. These issues have been addressed by the board in other sessions.

Management believes it is likely that structuring the grant cycle to have “off years” will enable grant staff to re-emphasize active project and compliance work.

Public Comment

We sought public input on the proposal over the winter. Responses are summarized in Attachment B.

- We received 12 comments in support of or “not against” the proposal. The people commenting represent a mix of government agencies, program advisory committees, and nonprofit organizations.
- We received eight comments opposed to the proposal. Again, there was a mix of interests, but most are from the nonprofit area, especially those interested in the Recreation Trails Program (RTP).

Most “comments opposed” are from nonprofit groups that apply in the RTP. RTP by policy emphasizes recreational trail maintenance grants. The comments focused mainly on two arguments: (1) that a two-year grant cycle would hamper RTP applicants’ ability to adapt to unknown future trail conditions, and (2) that the risk of a lag or gap in funding for unsuccessful applicants would create difficulties for smaller organizations with limited financial resources.

Staff finds the first argument somewhat puzzling. Trail maintenance grants are far more flexible by their very nature than other grants. RCO asks the trail maintenance sponsor to generally maintain a number of miles of trail without holding the sponsor to detailed actions. Contract amendments when needed are simple to execute. Sponsors have the same flexibility with a one- or two-year grant. Also, we note that a number of nonprofit applicants are currently successfully managing two-year RTP projects.

We understand the second argument. The reality of any open competitive grant program makes it impossible to ensure applicants they will receive money in a given year. However, the lag or gap in funding in “off years” could be partially addressed by raising the grant limit in the RTP, perhaps from the current \$75,000 to \$150,000. In fact, staff recommends that the RCFB direct us to investigate changing the grant limit in RTP.

¹ Berk and Associates, 2008

Next Steps

If the proposal is approved, the current grant rounds will proceed as normal. In 2011, the application deadlines are January 10 for some grant programs and May 2 for the remaining programs. The new schedule (shown above) will be put in place, with application deadlines established in the fall of 2011 for the 2012 grants cycle.

Attachments

Resolution #2011-04

- A. Attachment "A Conceptual Timeline of Growth at the RCO" (Berk and Associates)
- B. Public Comment Received

Recreation and Conservation Funding Board
Resolution #2011-04
Approving Biennial Application and Award Cycles for Board-Funded
Grant Programs

WHEREAS, the Recreation and Conservation Funding Board (board) has the authority and responsibility to establish cycles for evaluating project proposals and awarding grants for the programs under its purview, and

WHEREAS, the board has established a variety of annual and biennial cycles over the years, and

WHEREAS, Recreation and Conservation Office (RCO) management has commissioned studies in 2008 and 2009 to improve business processes, and

WHEREAS, both studies recommended streamlining the grant application processes, including the use of a biennial cycle for all programs, and

WHEREAS, the staff assessment found that such a move would improve organizational efficiency and support the agency and board goals to better manage projects and improve long-term project compliance, and

WHEREAS, the staff assessment and public comment also found that a single process would be less time-consuming for applicants and volunteer evaluators, and

WHEREAS, using a single biennial schedule supports the board's goal to achieve a high level of accountability in managing its resources and responsibilities while continuing to provide funding to its partners and award grants through fair, impartial, and open public processes,

NOW THEREFORE BE IT RESOLVED, that the board does hereby authorize the RCO to use a biennial cycle for all grant programs, and to take steps to implement it in a timely manner; and

BE IT FURTHER RESOLVED that the Director is authorized to execute supplemental grant cycles when funding levels or other circumstances warrant.

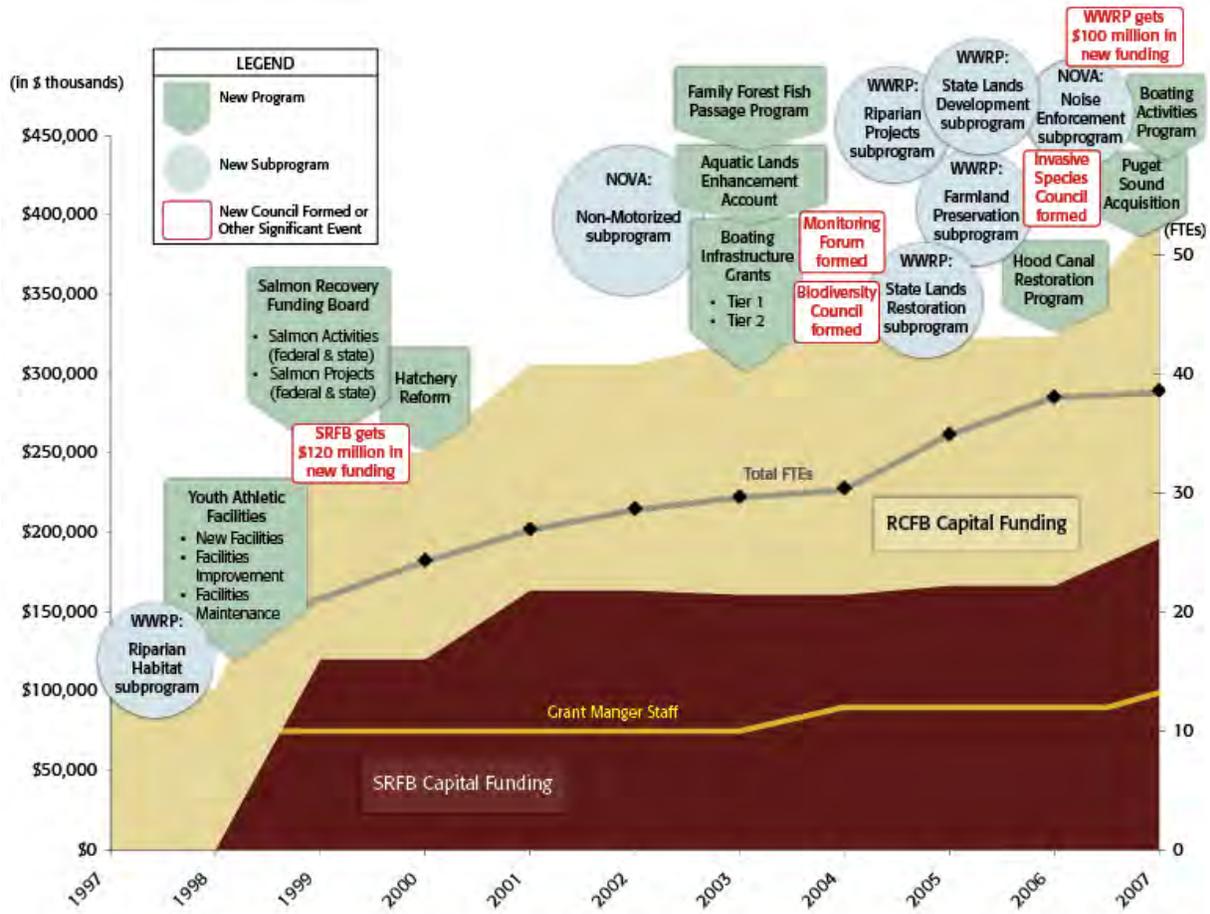
Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

“A Conceptual Timeline of Growth at the RCO” (Berk and Associates)



Public Comments on the Proposal

Comments in Favor of the Proposal

Staff responses are shown in footnotes as appropriate.

Person/Organization	Comment	Staff Reply
Pam Schmitz, FARR grant committee	Great idea!	
Rob Kirkwood, State Parks	I have worked with RCO grants for twenty years. Tracking the RCO project schedules separate from the capital budget project schedules has added to our work load. Having all projects on the same schedule would help set production priorities and help insure that projects are completed in the proposed time frame. I support your proposal to revise the RCO grant schedule.	
Mike Branstetter Boating Programs Advisory Committee	This proposal sounds like a "win" for everyone. Great idea!	
Greg Jones Facility Manager, Chelan County PUD	I support the intent of this, and aligning all grant funding with the state budget cycle. This should help make things a little more efficient.	
T Whal, City of Bellingham	This sounds great.	
Jason Filan Parks Manager, City of Kirkland	I think anytime we can streamline a process to make it more efficient and effective that is just good government. Fully supportive of the 2-year cycle proposal.	
Jessi Richardson, Director of Parks and Recreation, City of Sammamish	I am in favor of this change. Simplifies life on a lot of levels.	

Person/Organization	Comment	Staff Reply
Lunell Haught Recreational Trails Advisory Committee	These reasons and recommendations look quite sensible to me - better to focus on program related activity than getting a grant together.	
Steve Greaves Recreational Boating Association of WA; Boating Programs Adv. Cmte.	Yes ... I agree ... if this change holds down costs ... it likely won't cause any significant delays in projects ... sometimes the first year is a "permit" grant proposal ... and then the second year is a "development" grant proposal ... but that's fairly rare and could be handled as an exception by the Director ... and often (unfortunately) it takes multiple years to get permitting accomplished anyway ...	
John Spring Spring Trail Trust	I strongly endorse this change as positive and a good direction.	
Kurt Dahmen, Recreation Superintendent, City of Pullman	<p>We concur with the RCO proposed grant cycle change and with the well thought out reasoning as presented in your December 3, 2010 e-mail to "Persons Interested in Recreation and Conservation Grants".</p> <p>We would add that agencies applying for the various grants such as ours on the east side of the State of Washington are significantly challenged by the burden of travel and related expenses incurred when presence is required before the volunteer evaluation committees. It is our belief that the in-person presentation grant component should be suspended at least for the duration of the economic recession.</p>	We have gone to "paper" evaluations, where projects are assessed at evaluators' home or office workstations, in some programs. We could extend the practice to other grant programs.

Neutral Comments

Staff responses are shown in footnotes as appropriate.

Person/Organization	Comment	Staff Reply
John Keats Mason County	<p>My only worry about this proposal is coming from a small agency perspective is having the off year to submit grants gives me a chance to space out the workload. So if RCO does go to a grant submission program of every other year I'll have more projects to prepare and manage during that "on" year. This can be a real challenge in smaller departments and hopefully we'll be able to continue to apply for RCO funding as we have in the past, the big assumption is the matching funds.</p> <p>I'm not against it, just concerned about trying to fit everything in if I had lots of projects. Is there any provision to provide grant sponsors a bit more time to prepare projects and complete evaluation process. Last grant round we had 8 projects to prepare and it was really tough.</p>	<p>One reason for proposing the two-year cycle is to give applicants more time to prepare applications including evaluation materials. That is, applicants would have the intervening odd-numbered year in which to begin their applications.</p> <p>We understand the need to decide on priorities and workload issues.</p>

Comments Opposed

Staff responses are shown in the table.

Person/Organization	Comment	Staff reply
Curtis L. Hancock Project Manager Metro Parks Tacoma	<p>I believe this is a step in the wrong direction. Rather than going to 2 year cycles I believe all grant programs should be moving to annual cycles. Not only that, decreasing the time between application and funding availability would help more than anything. I would suggest starting that application cycle after the legislature approves the budget and staggering all the programs over the following year (or two years if you continue on the two year cycle). This would level out the work for everyone. Currently having all applications due at once is a tremendous burden on the applicants and I imagine it's the same for RCO.</p> <p>So in short I do not agree with the proposal and suggest changes in the other direction. Capital projects do not work well on a two year cycle. Due to permitting and design, capital projects proceed at their own speed and the 18 month application before funding and the two year cycle do not work well for projects.</p>	<p>We appreciate your comments. The 18-month cycle refers to our major program, the Washington Wildlife and Recreation Program (WWRP). The suggestion to receive applications after budget approval is not workable for WWRP. Statute requires that WWRP project lists be submitted for Legislative approval. Legislative approval is in the form of a biennial capital budget that lists specific projects by category. In order to have lists to submit, we must receive and process WWRP applications prior to the budget process.</p>
Ann Dunphy Recreation Planner USDA Forest Service Mt Baker RD	<p>Our grant applications are very opportunistic so we only apply when we are able to match and have a good project ripe for funding. I think a two year cycle would hurt us since it is often a timing thing for us and every two years increases a chance for mismatches since we are funded annually, unless it is an election year. So a vote No for me.</p>	<p>We understand the complexities of capital projects. We note that one of our evaluation criteria is "readiness to proceed." The theory behind the criteria is to reward those projects for which permits and design has already been done or is not needed.</p> <p>We appreciate your comments. We understand that field conditions may change unpredictably. We have the ability to help sponsors amend grant agreements to help adapt to change.</p>

Person/Organization	Comment	Staff reply
Jane Byram Backcountry Horsemen of Washington	<p>I would like to comment on the new two year grant cycle proposal. I write education grants for Backcountry Horsemen of Washington under the RTP program. Last year BCHW's Leave NO Trace Program was recognized by the Coalition of Recreational Trails for Outstanding Use of RTP funds in the area of Environment and Wildlife Compatibility. We use all volunteer help and use the grants to fund the educational program.</p> <p>While I would welcome writing grants once every two years, I am wondering if I would be writing them for twice the money as in one year. Education grants are limited to \$10,000 per grant cycle. On the other hand, I would not like to wait two years to apply for another grant if one was not awarded. BCHW relies on the RTP funds to run the top quality Leave No Trace Program that has been so successful in the last 10 years.</p> <p>I am also wondering how this would work with the federal funds be allocated on an iffy basis, such as last year.</p> <p>I guess I have enough reservations about the proposal to say I would like things to stay as they are with the RTP program.</p>	<p>We appreciate your comments. Within the approved limits, the amount of funds requested is at the discretion of the applicant. However, we anticipate that applicants would submit multiple requests.</p> <p>Currently, many applicants get money every year or every other year to maintain the same trails, so they don't need "flexibility" – it's routine and ongoing. Other applicants don't get funded and have to wait until the next grant cycle – there is no certainty when applying for grants now, especially in our over-subscribed programs.</p>
Tom Windsor RTP Advisory Board Member	<p>I have talked to representatives from organizations in Okanogan County, both motorized and non-motorized, and everyone I have discussed this issue with is opposed to changing the grant cycle from one year to a two year cycle. Whereas this may make it easier for RCO to administer the grants, it would impose an inconvenience and hardship on grant applicants. The feeling is that on a one year cycle there is flexibility to apply for grants needed to respond to unforeseen situations immediately, rather than having to wait for an additional year. All organizations feel that a two year cycle would cause deterioration in their ability to maintain trails and build bridges and other structures required to keep motorized and non-motorized trails open for the public.</p>	<p>We appreciate your comments. We understand that field conditions may change unpredictably. We have the ability to help sponsors amend grant agreements to help adapt to change.</p> <p>The RTP grant cycle typically begins in the spring with three different "deadlines" and ends in November, when grant decisions are made. Therefore, funds are not normally spent on many trails until the following year. In their applications, nonprofit organizations seem to be able to anticipate "typical" conditions and are assumed to have the ability to respond to change.</p>

Person/Organization	Comment	Staff reply
Jim Vannice President, Mountain Trails Grooming Assoc.	<p>We want you to know we disagree with this idea whole-heartedly and unanimously.</p> <p>We are a non-profit grooming association, privately-owned and run, primarily through the efforts of a number of local volunteers who put in an enormous number of hours each year. Having established a very successful operation, we want to continue that pattern and be able to implement changes and improvements every year. Moving to a 2-year cycle offers the probability of loss of ability to do that. It promotes the lack of flexibility – i.e., the ability to respond to the variety of events that can, and often do, occur during the year, especially during the winter season.</p> <p>Although it appears that a 2-year cycle would be advantageous for your state committee, we believe if you look at the scenario a little more closely you will discover the opposite. It appears the underlying “cause” of this proposal is to save taxpayers dollars, which we all agree is a noble cause. After all, we, also, pay (a lot, it seems!) in taxes. But that concept is based on responsibility and the origin of the word “responsibility” infers the “ability to respond.”</p> <p>You, as a government agency and us, as a local entity, cannot react effectively to current events if we are locked into having to plan and implement on a 2-year cycle. We lose the ability to respond – i.e. lose our responsibility. As your committee knows, it is tricky responding to needs that arise even on a yearly basis. Even if the (relatively) minor expenses of travel are minimized, these savings pale in the light of being able to serve our winter-recreation population who, in turn, patronize local businesses. Entire communities will be affected adversely.</p> <p>We sincerely request that your committee re-think this proposal and make the decision to remain on a yearly plan cycle.</p>	<p>We appreciate your comments. We understand that field conditions may change unpredictably. We have the ability to help sponsors amend grant agreements to help adapt to change.</p> <p>Currently, many applicants get money every year or every other year to maintain the same trails, so they don’t need “flexibility” – it’s routine and ongoing. Other applicants don’t get funded and have to wait until the next grant cycle – there is no certainty when applying for grants now, especially in our over-subscribed programs.</p> <p>Cost savings may be modest. In addition, we are interested in shifting staff’s work load to allow more focus on grant compliance.</p> <p>Our experience suggests that our sponsors, including non-profits, are flexible and creative, able to adapt to change. We have the ability to help sponsors amend grant agreements to help adapt to change.</p>

Person/Organization	Comment	Staff reply
Chris Holm Secretary, Methow Valley Snowmobile Association	<p>To a person, our membership is against the idea, as we see several problems inherent in this idea.</p> <p>We live in a recreation area that, economically, depends on people visiting, and staying, to take advantage of the outdoor, park and forest environments and activities available. A plan that is not responsive to community needs, as we think this plan is, would be disastrous for the economics of our area. So I am speaking not only for our membership, but also for all those who come here to recreate and the businesses which are open because of those visitors.</p> <p>We think your committee would be inundated with requests to re-open grants in the off year and one of two scenarios would occur. You would be just as busy, albeit not as organized, as if you'd remained with the current plan or, upon refusing to re-open some proposals, you would create a cadre of very unhappy constituents.</p> <p>Given the unpredictability of our sport (mostly weather), it is difficult enough to plan for an annual cycle and changing to a 2-year cycle would be disastrous. We believe this is true of most sports. The 2-year cycle does not allow for the flexibility needed. Responsiveness to current changes would be lost. The ability to react to current situation is most critical – and that is even before one considers the monetary aspect.</p> <p>Travel expenses, which are minimal in the overall budget anyway, would not be saved and the allocation of funds could easily be unfair. Speaking of funds, would all funds be appropriated for the 2 years or would some be saved back? What happens if the saved funds are not used, or if there are not enough funds reserved? Your planning, our planning, all sports' planning could be, and most likely would be, unsuccessful.</p>	<p>We appreciate your comments.</p> <p>Our experience suggests that our sponsors, including non-profits, are flexible and creative, able to adapt to change. We have the ability to help sponsors amend grant agreements to help adapt to change.</p> <p>We are routinely asked about funding for projects at any given point in time. Grant program schedules do not always align with potential applicant needs. Proposals are considered in an open competitive process, and, especially in over-subscribed programs, we are unable to fund everyone.</p> <p>We are not proposing changes to the evaluation process and do not agree there is a connection between travel costs and allocation of funds becoming "unfair."</p> <p>State government has a need to minimize all costs, including travel. The state is interested in cumulative savings.</p>
	Please make a decision to remain on a yearly plan cycle.	

Person/Organization	Comment	Staff reply
Glenn Glover Executive Director Evergreen Mountain Bike Alliance	<p data-bbox="478 237 1283 337">As Executive Director of Evergreen Mountain Bike Alliance, and on behalf of our thousands of supporters around the state, I express our firm opposition to the proposed change of grant schedule.</p> <p data-bbox="478 380 1283 797">Specifically, the proposal to convert RTP from an annual to a biannual grant program will have a significant negative impact on small to mid-size recreation and conservation organizations. As a two-time recipient of an RTP grant, with another highly ranked application this year, I can attest to the importance of the annual nature of potential financial support for projects. These are extremely competitive grants and very few organizations are successful on their first attempts, rather taking the information learned from the scoring committee results and improving the focus and quality of their project and application in subsequent applications. Moving to a two-year cycle will make this process almost impossible for small organizations.</p> <p data-bbox="478 839 1283 1044">Biannual calendars can work for larger grant programs, such as WWRP and NOVA. These are intended for, and essentially open only to, government agencies pursuing very large projects. The RTP grant program, with a \$75,000 annual award limit has always been a means for agencies and non-profits to execute highly valued and highly efficient small projects.</p> <p data-bbox="478 1086 1283 1325">Furthermore, I have spoken with two members of the RTP scoring committee about these proposed changes. As I understand they were not consulted or offered the opportunity to provide input on this proposal and they are very concerned about the additional work load that will create. In "scoring" years they will now be expected to score twice as many applications and for many community volunteers this will be an unsustainable intensity of effort.</p> <p data-bbox="478 1367 1283 1430">Evergreen has brought tens of thousands of volunteer labor and hundreds of thousands of matching dollars to projects around</p>	<p data-bbox="1310 237 1929 264">We appreciate your comments.</p> <p data-bbox="1310 306 1929 370">Our experience with nonprofit organizations makes us aware of the importance of grant funding.</p> <p data-bbox="1310 412 1929 651">All past and current funded projects are open and available in PRISM to anyone – applicants can learn a lot from reading a few successful proposals, viewing the attachments, evaluation responses, etc. OGMs are also here to help. But even organizations that have “won” a lot of grants also have applications that score below the funding line.</p> <p data-bbox="1310 693 1929 756">The RCFB could decide to raise grant limits and fund two-year proposals.</p> <p data-bbox="1310 799 1929 927">All advisory committee members and interested people were notified and given equal opportunity to comment. Note the support from RTP and other advisory committee members, above.</p> <p data-bbox="1310 969 1929 1032">Staff anticipates that we may get a few more, but probably not twice as many applications.</p> <p data-bbox="1310 1075 1929 1203">Also, the draft proposal would likely increase the workload somewhat in even years but we feel this would be compensated by “no application work” in odd numbered years.</p> <p data-bbox="1310 1245 1929 1395">We do not agree that a two-year funding cycle diminishes the ability of applicants to leverage government funds, since applicants currently bring substantial match to our two-year grants programs.</p>

Person/Organization	Comment	Staff reply
	Washington State. This proposed change will diminish our ability to continue this and support non-motorized recreation at a time when leveraging of government fund has never been more important.	

Item 7

Meeting Date: March 2011
Title: Request for Delegation of Authority,
Kah Tai Park (RCO# 81-043A) Boundary Dispute
Prepared By: Jim Anest, RCO Conversion Specialist

Approved by the Director: *Kaleen Cottingham*

Proposed Action: Decision

Summary

In 1981, the City of Port Townsend and the Port of Port Townsend used federal Land and Water Conservation Fund (LWCF) and state bonds to purchase property for Kah Tai Park¹. The two grant sponsors are now in dispute with the National Park Service (NPS) about how the grant-protected boundary of the park is defined. If unresolved, this difference of opinion could lead to a conversion or to litigation.

This issue is complicated by the fact that the project files are incomplete and agency policy is unclear on the director's authority to negotiate this boundary dispute.

Therefore, Recreation and Conservation Office (RCO) staff is asking the Recreation and Conservation Funding Board (board) to delegate to the RCO director the authority to negotiate a resolution to this issue of a disputed park boundary.

Staff Recommendation

Staff recommends that the board approve delegation of authority to the RCO director to negotiate the project boundary at Kah Tai Park in Port Townsend, WA via Resolution #2011-05.

Strategic Plan Link

This request for delegation of authority supports the board's strategy of ensuring that funded projects are managed in conformance with existing legal authorities.

¹ Unrelated to the acquisition grant, the City of Port Townsend received a development grant from the board in 1983 (RCO# 83-018D). These bond funds were used to construct trails, restrooms and other features in the park.

Background

Project Name:	Kah Tai Park	Project #:	81-043A
Grant Program:	50% Land and Water Conservation Fund (LWCF) 25% Bonds 25% local match	Board funded date:	1981
LWCF Amount:	\$ 113,977	Original Purpose: The acquisition of approximately 78.5 acres for a park through donations, land transfers and purchases.	
State Bonds	\$ 56,983		
Sponsor Match	\$ 59,000		
Total Amount:	\$ 229,960		

In 1981, the City of Port Townsend (City) and the Port of Port Townsend (Port) were awarded a grant to acquire 78.5 acres for park purposes in Port Townsend (Attachment A). Much of the sponsors' match for the grant was donated land. As part the match, the port entered into a 30-year lease with the city for 20 acres, which make up the southern portion of the park (Attachment B). This lease expires in mid-2012.

There is no question that the 30-year lease was a part of the land donation constituting the sponsor match. The dispute is over the long-term geographic scope of the grant. That is, whether the land donation was limited to the 30-year term of the lease or perpetual.

- The National Park Service (NPS)² believes that, as a signatory to the grant, the Port agreed to perpetual outdoor recreational use for the leased property. They assert that the LWCF program has never allowed short-term leases in acquisition grant agreements.
- A land use attorney retained by the port, however, concluded that LWCF rules (at the time of the grant) did allow lease terms, and that the port's grant obligations terminate with the end of the lease agreement.

Complicating matters further, street easements owned by the city were apparently never included in the grant. As a result, a fragmented grant boundary was created for this park.

Staff has been working with NPS and the sponsors for over a year on this issue. Due to the nature of the park, public interest in the outcome is high. A transit center with a park and ride lot has been built in recent years adjacent to the southwest corner of the Kah Tai Park. Currently, there is a proposal for a multipurpose aquatic, recreation, and fitness center adjacent to the transit center on about 1.5 acres of the port-leased portion of the park.

² According to the LWCF act, the National Park Service makes the final decision in determining grant project boundaries. The state, through the RCFB and RCO, are responsible for ensuring perpetual grant compliance.

Analysis

This situation illustrates some common challenges of long-term compliance with older grants, especially those with multiple sponsors:

- Difference of opinion between sponsors as to what is required by the grant;
- Incomplete and ambiguous records in the file; and
- Conflicting memories of those who participated in the decisions of many years ago.

While the particular facts of this dispute are unique, it is common to discover unanticipated boundary problems with older grants. Resolving such problems without litigation requires considerable time and effort to negotiate with those involved. The ability to be flexible in decision making is a significant asset.

Staff is recommending the clear delegation of authority to the director so that the parties can negotiate and resolve the matter in a way that allows for flexibility in decision making. Doing so also would improve the timeliness of the resolution, since the director could consider alternatives as they are proposed, without the potential delay from waiting for the board meetings.

Next Steps

If delegated authority by this board, the director will meet with all parties to the grant agreement and seek a mutually acceptable resolution to the dispute over park boundaries.

Attachments

Resolution 2011-05

- A. Kah Tai Park location map
- B. Map of Kah Tai Park

Recreation and Conservation Funding Board
Resolution #2011-05

Delegating Authority to the Director to Negotiate a Resolution to the
Boundary Dispute for Project #81-043A

WHEREAS, In 1981, the City of Port Townsend (City) and the Port of Port Townsend (Port) were awarded a grant to acquire 78.5 acres for Kah Tai Park in Port Townsend; and

WHEREAS, the grant included funding from the Land and Water Conservation Fund (LWCF) , which is funded by the National Park Service (NPS), and is thus subject its rules and determinations regarding boundaries; and

WHEREAS, the NPS makes the final determination regarding the boundary; and

WHEREAS, the Recreation and Conservation Funding Board (board), through the Recreation and Conservation Office (RCO) are responsible for ensuring ongoing compliance with LWCF-funded grants in Washington State; and

WHEREAS, the two grant sponsors are now in dispute with the NPS about how the grant-protected boundary of the park is defined; and

WHEREAS, as the grant management agency, RCO has been working with NPS and the sponsors for over a year on this issue; and

WHEREAS, negotiating a resolution to complicated boundary disputes requires the ability to consider alternatives in a timely manner; and

WHEREAS, avoiding costly litigation over boundaries is in the best interest of the public, protects the board's investments, and supports the board's goal to manage its resources in an accountable way; and

WHEREAS, delegating authority to the director to negotiate a resolution with the sponsors and the National Park Service allows for the consideration of multiple alternatives and a timely resolution; and

NOW THEREFORE BE IT RESOLVED, that the board hereby delegates authority to the Recreation and Conservation Office director to negotiate a resolution to the boundary dispute regarding project number 81-043A.

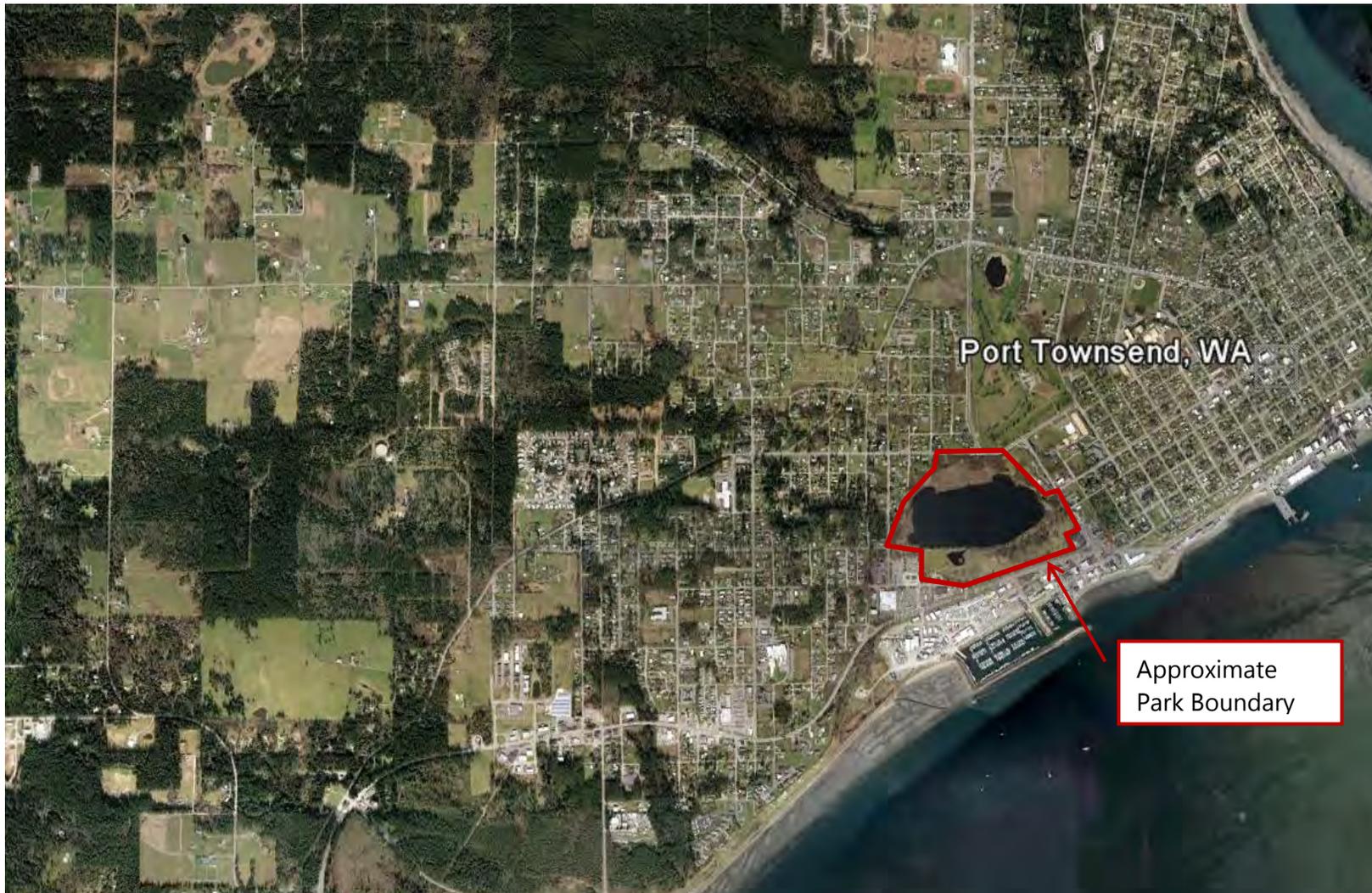
Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

Kah Tai Park Location Map



Map of Kah Tai Park



From: [Tom Cunningham](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments Agenda 7
Date: Wednesday, March 30, 2011 11:37:22 AM

Dear Rebecca Connolly,

I am a member of the Audubon and visit the Kah Tai park daily. It is home to over a thousand species of birds, ducks and geese. Other animal life is found there.

I am a teacher and take my class there several times per year on field trips. I am not clear on what grounds the Port of Port Townsend has to take over this park but common sense should prevail.

I have several friends who are hiring attorneys they feel so strongly on this issue. I was asked to write you with my thoughts on this issue.

I would strongly urge you to fight against the Ports plans to destroy this lovely and educational wild life refuge.

I thank you for your help in this situation.

Sincerely, Thomas Cunningham
425-785-1788

From: [Larry Dennison](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7--Kah Tai Lagoon Park, Port Townsend
Date: Monday, March 28, 2011 9:36:27 PM

Dear Ms Connolly,

I am writing to ask that the Washington State Recreation and Conservation Office (RCO) continue 6(f) protection for the all of the land designated as Kah Tai Park in Port Townsend. I have been a resident of Port Townsend since 1974 and was member of the Port Townsend Planning Commission when the Kah Tai Lagoon Park was being created. I also was the District 1 (Port Townsend) representative to the Jefferson County Board of Commissioners from 1984 through 1992. I specifically remember the process that led to the creation of Kah Tai Park project, for which the city, Port District, and hundreds of community members labored several years creating consensus. In the end, the parties came together to create one of the most important and unique natural areas in the Puget Sound region. For the Port of Port Townsend to suggest now, some thirty years later that the Port--whose current commissioners were not a part of the original consensus agreement and contract--"did not intend the lease to be for a park in perpetuity" is ingenuous at best. How would they even know the intent of there predecessors in 1981? The community of Port Townsend certainly expected the Port's property (which technically belongs to us, the tax payers of the Port District) to become a part of Kah Tai Park in perpetuity. To suggest that they intended to take a critically important piece of the park back in 30 years is sadly laughable.

As one who was involved in the process of creating Kah Tail Park, there is no question in my mind that all the property included in its 78+ acre boundary was intended by the Port of Port Townsend, the City of Port Townsend, and the National Park Land and Water Conservation Fund (LWCF) to be a park forever. In fact, the LWCF stipulates that any lands designated as parks under their program be designated in perpetuity (so-called 6(f)(3)) if created with their funds. For the State RCO to reverse this thirty-year consensus agreement now would be a travesty of justice that likely could be challenged in court. Please advise the RCO to look very carefully and thoughtfully at this issue before making a decision that could create significant tension and reaction in our community. You do not need that, nor do we.

Respectfully,

Larry Dennison

From: [Lynn Anju/Rick Dennison](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda item #7
Date: Tuesday, March 29, 2011 5:09:19 PM

Ms. Connolly,

As a resident of Port Townsend since 1975, I was here when Kah Tai park was established. Over the years many people have volunteered hundreds, if not thousands, of hours building and maintaining Kah Tai park. I myself have been involved many times over the years. Local consensus has always been to establish Kah Tai park into a nature park and outdoor recreation area, with only a small restroom, playground and picnic shelter. I do not remember the Port showing a desire for the park to be anything but what it is today. I find it interesting that the Port hierarchy purports to speak to the 'intent' of the Port Commissioners and Port Townsend City Council of 1981. The fact that the 1981 Port Commissioners signed the LWCF, speaks more to their intent than the fact that the Port later leased the 20 acres in question to the city. It was my understanding that the lease allowed the city parks department to take responsibility for maintenance and upkeep, not allow the construction of a 35,000 sq. ft building, regardless of it's stated purpose. That the Port now contends that this lease shows the Port of 1985 had no intention of tying up their options for the property is troubling. Lease or no, the Port signed the LWCF with all of it's 6(f) restrictions. Even if the 1981 Port did not understand the 6(f) restrictions, they signed a legally binding document. Ignorance of the law is no defense.

If Kah Tai park indeed falls under the LWCF 6(f) restrictions then any major development that substantially alters the wildlife/outdoor recreation status of the park would undoubtedly be a violation. That is what is in play with the request for interpretation before the RCO at this time. If the RCO sides with the Port on this matter it will not only go against the letter of the contract and the intent of those volunteers that worked hard to make the park a reality, but the demonstrated concerns of the community at large.

Sincerely,

Rick Dennison
1715 Jefferson St.
Port Townsend, Wa 98368

March 29, 2011

To: RCO Board of Directors

Re: Kah Tai Lagoon Nature Park, Grant no. 81-0243A
Agenda Item no. 7 - RCO Board Meeting March 31, 2011

I hope that Board members will study the additional material submitted by the public, because the briefing memo you received from staff is a minefield of misinformation, bias, and careful omission of essential facts. Do not vote yes on the related resolution just because you have been told it is necessary or because you find the issues difficult to understand. Besides short-changing due public process, the resolution should not be adopted because of the following fundamental errors in the related briefing memo:

Briefing Memo Error no. 1: The statement that ... ***“There is no question that the 30 year lease was part of the land donation constituting the sponsor match.”***

- Mr. Anest’s memo doesn’t say what evidence from the grant record he relies on to make his unqualified assertion. If Mr. Anest has such evidence, he hasn’t shared it. You should ask him for it rather than taking his word for it. The port’s legal response to RCO made the same assertion, but likewise never cited any evidence. Nevertheless, both the port and RCO staff doggedly repeat that the lease was part of the local match.
- It is an important RCO statement because it shows staff’s renewed support of the underpinning for the port’s overall legal argument. It’s a house of cards, but Mr. Anest doesn’t show you how the rest of the cards stack up. Without first establishing this preliminary and highly significant “fact”, it is impossible for RCO/port to then argue that 6(f) encumbrances do not apply to leased land that has been used as sponsor match. Friends of Kah Tai and others have looked through the record very carefully but never found any proof that a lease was used as sponsor match, but did find multiple references that the local match was fully met by the appraised value of private parcel donations. No other funding or valuation was needed or used as match.
- There is one good reason why the grant documents don’t mention the 20-acre lease as match – *because that lease didn’t exist when the grant was signed.* Maybe Mr. Anest will finally explain the basis of his assertion to the Board rather than just repeating it to you. In truth, the 20-acre lease came later, in 1983, and it was an IAC application requirement that the city prove control of the property that was to be developed under the city’s 1983 IAC grant. The lease also temporarily settled an on-going city/port dispute over the port’s unauthorized and unpaid use of city rights-of-way in the port’s Boat Haven.

- For years RCO staff members have been telling citizens – including myself on two occasions—that RCO’s obligations to Kah Tai will end when the lease expires. So the briefing memo is again consistent with that old RCO line, but Mr. Anest did not take this position last summer while working with NPS on a draft 6(f) map, at least not in the records available by public records request. Only after the port filed its legal objections in January of this year did RCO subtly resurrect its old position into the statement quoted at the beginning of this section.
- For a more detailed analysis of the lease/match issue, I refer you to Friends of Kah Tai’s February 14th memo to RCO, which analyzed the arguments in the port’s legal response. It is attached to the comment letter in your packet from Rick Jahnke. I have attached to my comments an earlier Friends’ memo to RCO on the topic of the intended scope of the park as indicated by abundant evidence in the grant records. That memo was submitted last July after Mr. Anest and Ms. Ramsay had met in June with the co-sponsors in Seattle at NPS offices and while everyone was still working on the draft 6(f) map which culminated in the attached October 21 version generated by the city for NPS. That map and others related to the 6(f) discussion can also be found in the *Map Folio* section of the February 14th Friends of Kah Tai memo, but it will be necessary for you to ask staff to provide you with color printouts of the emailed maps in order for you to fully understand the ownership distinctions shown on the color-coded maps. Packet materials are normally just distributed as black and white copies.
- If you feel that the lease aspect of the grant is too difficult to understand or to fully discuss in the limited timeframe of a 30 minute agenda slot that includes public comment, then the only responsible thing for you to do as a Board member is to postpone adoption of the resolution until you do understand it, especially since the point of the resolution is that staff will never have to discuss the boundary with you again before RCO makes its required formal boundary recommendation to NPS.
- Despite all of the above, you should know that NPS has stated that everything about the Kah Tai leases is totally irrelevant to their 6(f) determination. More of that further on.

Briefing Memo Error no. 2: “*The two grant sponsors are in dispute with the National Park Service (NPS) with how the grant-protected boundary of the park is defined.*”

- The port is the **only** sponsor that has objected to the NPS boundary parameters. You have received a copy of the city’s comment letter for this agenda item, so you know that the city does **not** support the proposed resolution and debunked the RCO/port lease theory. Also, Mr. Timmons has told me that he does not wish

to participate in any further talks on this matter. One out of two sponsors is not a quorum for a negotiated settlement.

- I have attached the October 21, 2010 draft 6(f) ownership map because it fully incorporates the NPS definitions for the grant-protected boundary – the boundary that staff and the port find so inflexible. That map is what belatedly triggered the port's objections six months after learning what the NPS parameters were. Mr. Anest helped to edit the attached map, but he chose not to give it to you in your briefing materials. Despite the fact that your under-funded agency has spent over a year working out the details of it, and even more time before that finding and clarifying the record, and despite the fact that one sponsor doesn't want to negotiate any changes to the existing draft 6(f) map, your staff is nevertheless asking your permission for full authority to start over again with the simple map they did give you, using "flexibility" and as yet unknown parameters other than those NPS specified.
- The attached map you were not given was, however, briefly mentioned negatively in the briefing memo as a "*fragmented boundary*" that had been created because the city's rights-of-way (ROW's) had "*apparently*" not been included in the first grant. The purpose of that statement, I believe, was to downplay the actual significance of the map that was withheld from the Board, implying that the unmentioned rights-of-way were the only reason for the creation of the "fragmented" map and that the map wasn't important enough to include in the Board's agenda packet.
- However, the "*fragmented boundary*" map was created because Heather Ramsay had made it very clear to RCO and the sponsors in her office in Seattle last June that the final NPS 6(f) map would include all property owned or controlled by the sponsors when the grant was closed March 29, 1985. The resulting attached draft 6(f) ownership map accordingly designates the city's many unopened ROW's throughout Kah Tai and throughout the port's parcels as 6(f) because that was the NPS parameter, independent of the fact that the city had dedicated them for park-use only in 1983 via City Council Resolution 83-01. While easements weren't specifically mentioned in the 1981 acquisition grant, the city owned and controlled those easements when the 1981 grant closed in 1985, and that is why they were mapped as 6(f). But they were not the sole reason for the "fragmented boundary."
- The boundary determination process is actually much further along than the staff briefing materials indicate. If it were not for staff's over-reaction to the port's rather lame legal objections, your agenda item today could just as easily have been a different resolution finally recommending the existing attached draft 6(f) map to NPS. NPS has even sent RCO an undated copy of its draft decision letter that would be sent to RCO in response to your anticipated but still-delayed recommendation of the attached map. NPS has also worked on that map extensively and wants it finalized. The attached draft letter will be from Michael

Linde to Kaleen Cottingham, and it was sent ahead of time to Mr. Anest for preliminary comments. It concisely describes the boundary parameters reflected in the attached map, parameters that were not described in the briefing memo.

From that letter:

“NPS concurs with the RCO’s proposal that the 6(f) 3 boundary include all properties owned by the grant sponsors at the close of the grant, while maintaining a contiguous park boundary.”

“Furthermore, NPS accepts the following as true:

The intent of the grant was clearly to protect the entirety of Kah Tai Park, nearly 80 acres.

The grant was final billed on 03.29.1985.

Two grant sponsors signed the RCO’s state/local agreement -- the Port of Port Townsend and the City of Port Townsend

Any interlocal agreements between the two co-sponsors for managing the property is irrelevant to NPS, as it’s the grant contract maintained by the RCO that matters for NPS purposes.

A large portion of the 80 acre Kah Tai Park was owned by neither grant sponsor at the time of grant close and cannot be legally protected by 6(f) 3 of the LWCF Act until a new grant is processed for the park.”

The Map Story and Staff’s Resolution 2011-05 Strategy:

The process that resulted in the above draft letter started two years ago when RCO finally responded to numerous citizen inquiries, including my own, about the long-term status of the grant and perpetual protection of Kah Tai. RCO spent several months scrambling to locate, assemble, and review its archived grant documents. Mr. Anest and Heather Ramsay at NPS exchanged many emails on the subjects of the missing or incorrect map and the future final map. Mr. Anest met individually with the co-sponsors. In June Mr. Anest and Ms. Ramsay met with the co-sponsors at NPS offices in Seattle. At that meeting, Ms. Ramsay clearly described the NPS policy parameters that would control the final 6(f) map, the same parameters later included in the NPS draft decision letter quoted above. All that was missing last June to complete a 6(f) map was sponsor verification of their parcel ownership, so Ms. Ramsay asked the co-sponsors to do the title research and then provide maps showing the relevant ownership information based on the NPS map parameters explained to them at the Seattle meeting.

At the same meeting, she also clearly explained to the co-sponsors that per statute the sponsors had two future development options for their properties within the boundary -- either removing it from the park boundary via a federally-approved conversion process with equal land substitution or requesting approval to build a compatible public facility within the boundary that was consistent with the approved terms of the original grant. Over the next several months, the sponsors provided the requested ownership information to Mr. Anest and Ms. Ramsay, who then each thoroughly reviewed and edited it, particularly the ROW's, resulting in the attached draft 6(f) ownership map. NPS continues to support that map because it is based on their parameters.

Mr. Anest's notes of the June Seattle meeting mention that litigation by the port was not anticipated. However, in January the port sent RCO a memo stating its legal objections, and RCO's staff support for the existing draft map shifted accordingly. Mr. Anest's briefing memo warns of possible conversions and litigation, so it is ironic that he himself is now proposing a "flexible" negotiated settlement intended to appease the port with a revised map that could possibly remove several acres of its property from the current draft 6(f) map, and do it all quietly ahead of time outside of a conversion process and the statutory requirement to substitute converted land with land of equal market value and of equal public outdoor recreational function.

I think the staff strategy is that if NPS doesn't agree with RCO's revised map recommendation, then, at least, the port's ire would be directed at NPS and not RCO, who had tried, after all, by recommending the revised boundary. And it wouldn't even have to be the Board voting to recommend that revised boundary because they would have already delegated full authority to staff. If NPS were somehow to also agree to be more "flexible", so much the better for RCO, because it would then also be spared the trouble of reviewing a controversial future conversion of a nature park that has many devoted supporters.

That is really what staff is asking you to approve on March 31st.

The Board should realize, however, that **no** aspects of the attached draft 6(f) map were ever negotiated with the sponsors. NPS merely told the sponsors that their contractual obligations were to be mapped, and that was that. The sponsors were never asked to be "flexible" and to deliberate on what made them happy and what they jointly or individually wanted to include or didn't want to include regarding future development projects. There is still no basis for "negotiating" a different boundary recommendation now -- especially when only one sponsor is unhappy with the current map and the other doesn't even want to attend the meetings.

From the NPS perspective, the boundary is a graphic representation of contractual obligations. The port didn't threaten litigation -- its legal objections only concluded that because its property had never been encumbered, others had the burden to prove otherwise. The port could not deny its contractual obligations and only offered a lame

statute of frauds defence based on the same erroneous lease assertion that is in the briefing memo.

As grant managers and stewards of public investment in park lands, RCO has its own contractual obligations to Kah Tai Lagoon Nature Park and NPS, and that is what you should be discussing with your staff now, not Item no. 7. RCO should not be wasting any more of its limited time and resources on an unnecessary new map.

The briefing memo stated that your authorization for a full delegation of power was necessary because agency policy was "*unclear*" on the Director's role in negotiating a final boundary settlement. If it is "*unclear*", it only means that it has never been legislatively delegated to staff to do so. It is the RCO Board -- not its administration -- that is legislatively empowered to make policy decisions like a grant boundary recommendation to NPS.

Moving this controversy into final private negotiations for a revised map will only add to the public controversy over the park. Approval of Resolution 2011-05 will be seen as your passive approval of a pre-emptive conversion that you would never have to discuss or approve in an open meeting with public comment. Approving Resolution 2011-05 and its implicit failure to follow due process would just add to the list of mistakes RCO has already made with this grant and further diminish RCO's low credibility with the public regarding its protection of Kah Tai Lagoon Nature Park.

Thank you for your consideration of these comments and the attached materials.

Nancy Dorgan

Cc: Michael J. Linde, Partnership Programs Manager,
National Park Service – Pacific West Region
[email: Michael_Linde@nps.gov]

Kaleen Cottingham, Director, Recreation and Conservation Office (RCO)
[email: Kaleen.Cottingham@rco.wa.gov]

Scott Robinson, Conservation and Grant Services Section Manager,
Recreation and Conservation Office (RCO)
[email: scott.robinson@rco.wa.gov]



United States Department of the Interior

NATIONAL PARK SERVICE
Pacific West Region
909 First Avenue, Fifth Floor
Seattle, Washington 98104-1060



IN REPLY REFER TO:

L32 (PWR-PPR)
53-00486

DATE

Ms. Kaleen Cottingham, Director
WA Recreation and Conservation Office
PO Box 40917
Olympia, WA 98504-0917

Re: 81-043 Kah Tai Park Boundary Determination

Dear Ms. Cottingham:

The National Park Service (NPS) is writing in response to staff recommendations regarding the 6(f)3 boundary at Kah Tai Park in Port Townsend. As you know, this grant either closed without adequate boundary maps, or the maps have subsequently been lost from both our agencies' files. NPS concurs with the RCO's proposal that the 6(f)3 boundary include all properties owned by the grant sponsors at the close of the grant, while maintaining a contiguous park boundary.

Furthermore, NPS accepts the following as true:

- The intent of the grant was clearly to protect the entirety of Kah Tai Park, nearly 80 acres.
- The grant was final billed on 03.29.1985.
- Two grant sponsors signed the RCO's state/local agreement – the Port of Port Townsend and the City of Port Townsend.
- Any interlocal agreements between the two co-sponsors for managing the property is irrelevant to NPS, as it's the grant contract maintained by the RCO that matters for NPS purposes.
- A large portion of the 80 acre Kah Tai Park was owned by neither grant sponsor at the time of grant close and cannot be legally protected by 6(f)3 of the LWCF Act until a new grant is processed for the park.

Finally, the City's ownership at the time of grant close included a number of noncontiguous vacated road rights of way (ROW). Unless those properties were used as part of the sponsor's grant match, NPS agrees that only those ROWs that connect with land owned by one of the two grant sponsors as of 03.29.1985 should be included in the 6(f)3 boundary.



In order to finalize a 6(f)3 map for this park, NPS will require three original grant amendments, a 424 and a new 6(f)3 map. If you have any questions, please contact Heather Ramsay at 206.220.4123 or heather_ramsay@nps.gov.

Sincerely,

Michael J. Linde
Leader, Partnership Programs

FNP:HRamsay:hr(206)220-4123:1.28.2011:FILE



July 18, 2010

Heather Ramsay, Project Manager
National Park Service, Community Assistance Programs
909 First Avenue, Seattle, WA 98104-1060

Re: NPS Final 6(f)(3) Grant Project Boundary Map -
IAC Grant 81-043A Kah Tai Lagoon Park

Dear Heather,

Friends of Kah Tai was identified in the grant project application *Program* (p.5) as one of the groups: "...who have taken an active part in the past to protect and enhance the Lagoon for a park". We have been studying our copies of Kah Tai grant documents from the RCO archive and have found many references to the intended scope of the acquisition project. We'd like to share this work with you now as you complete your map research. We have an extensive collection of Kah Tai reports, studies, newspaper clippings, government documents, etc., that has accumulated over many years, but we couldn't find a final Section 6(f)(3) project boundary map in our records, either. We think it is fairly safe to assume that a final map was never done during the busy times of the overlapping '83 development project.

Because big construction proposals always come knocking at Kah Tai's "vacant" shores, *Friends of Kah Tai* completely supports your work to reconstruct the final Section 6(f)(3) project boundary map. When it is finished, it will determine once and for all, literally, where the Federal guarantee of perpetuity applies. We believe the Federal project boundary map will be the only real protection left against non-compliant development in Kah Tai Lagoon Park.

The following summary focuses on documents in the grant record already available to you from RCO that are relevant to the scope of the project and the map it reflects. For *Friends of Kah Tai*, the grant documents are also the reflection in the public record of what the general community thought was finally happening to create a City park after decades of local conflict and uncertainty whether to further develop or to preserve the remnants of the lagoon area as a natural park. As the title of the Burke article I sent you concluded:

"..... A Park Emerges".

I. Conclusions -- Scope of the Final Section 6(f)(3) Project Boundary Map

Friends of Kah Tai supports the position that all lagoon property owned or controlled by the co-sponsors should be included in the final Section 6(f)(3) map, for the following reasons:

I.1. The Port co-signed the IAC grant Project Agreement on June 1, 1981 and the Federal Assurance of Compliance on November 25, 1980. This joint sponsorship with the City to create the new Kah Tai Lagoon Park continues to obligate the Port to maintain the grant project area as described and approved by the two funding agencies.

I.2. The Port did not control all of its lagoon property before the grant was approved or before it closed March 29, 1985.

I.2.1. The Port Commission passed the following motion 10-21-80, authorizing a City lease for park-only use of the Port's underwater parcels and the 10 foot strip of shoreline between Prosper and Decatur Streets:

"...for the purpose of providing a perimeter park and providing that this land not be used for any other than park purposes. Included in this Lease is an option to purchase this land at its appraised value at its time of purchase..."

"We hope this action will assist the City in resolving the I.A.C. grant request."

I.2.2. The second Port/City lease is dated 7-30-1982 and was also for park-use only, but this one extended the lease to all of the Port's upland parcels. It was approved by Port Resolution No. 7-82, which found a good reason for having a park across the street from its Boat Haven:

"WHEREAS, it is found that a park in the close vicinity of the Port Townsend Boat Haven is necessary in order to more fully utilize the said Boat Haven's harbor and waterway facilities, and WHEREAS, the Port of Port Townsend owns lands adjacent to certain property which the City of Port Townsend is developing as a park, and which are located near the Port Townsend Boat Haven..."

When both leases expire in 2012 and control of this area reverts back to the Port, it does not mean that the final NPS project boundary map also expires or that the

Port is then free to pursue other uses for its property. The Section 6(f)(3) map applies in perpetuity regardless of the terms of the local park management leases that were consistent with the grant approvals. The recreation uses protected by the terms of the grant and its project boundary map can only be changed by NPS/RCO approval of a requested conversion to new uses and replacing the property removed from the map.

I.3. The City has had uninterrupted ownership and control of all the platted right-of-way easements among the Port's park parcels. Prior to approval of the '83 IAC development grant, the City solidified its intention regarding future use of these rights-of-way by dedicating them exclusively for park use in City Council Resolution 83-001. It applies as long as the easements remain in the park.

I.4. The grant record discussed below clearly describes a project scope that includes the area south of the lagoon, which should be included in the final Section 6(f)(3) map.

II. Project Scope Described in Grant Documents

Grant Match Donations

The park wouldn't have been created in '81, or maybe ever, if it were not for two crucial parcel donations -- one from a family and one from the Port:

II.1. Parcel "Y" is on the east side of the lagoon and was valued in the Kah Tai Lagoon Appraisal report by Jeffrey Ingman at \$30,000, more than half of the required \$59,000 local match. It was donated by George and Amy Green, who put a condition on their gift to the City. In their 10-31-80 letter to IAC - Eugene Leach, they wrote:

"Port Townsend's Parks and Recreation Board Chairperson Lois Flury has advised us of the excellent planning and cooperation of all concerned with establishing a public park consisting of the entire perimeter of Kah Tai Lagoon.

Having lived about twenty years in that lovely little city - many of them on the shore of the Lagoon where we owned and finally donated the Lagoon Nursing Home so it could better serve the area as the Kah Tai care

Center - we are glad that so many of the dreams of the good people of Jefferson County may now at last become reality.

We're sure that we don't have to tell you what such a park will mean to the many residents of the Care Center, as well as to nature-lovers, joggers, walkers, children, etc.! The citizenry and visitors will get a lift of spirit and pride, too.

So, if this project is awarded the necessary Interagency Committee Grant, and if the entire perimeter of Kah Tai Lagoon is included in the park, we would gladly donate the property we had hoped someday to have our retirement home, as follows:... [Legal description follows]

And thank you so very much, Mr. Leach, and the entire committee for your good work and kindly consideration of this most worthy project.”

In a letter to the grant project appraiser (Appraisal, p.25), the Greens were even more specific about the terms of their match donation:

“We have been planning a summer and retirement home on this property, but would consider donating it for a city park if the entire perimeter of the Kah Tai Lagoon (including all the South end “filled” area from the lagoon to the Sims Way Highway [State Highway 20]) is donated and included in the park.”

This couple thought their significant donation was going to be used for the creation of a City-owned park of roughly the same configuration and size (approx. 78.5 acres) as the large City park explicitly described as such in various State and Federal documents in the record. The City of Port Townsend accepted the Green gift in good faith that it would be used in the creation of this intended park around the lagoon.

II.2. Parcel “D”: This match property is on the west shore of the lagoon and was given a value of \$27,200, which made up almost all of the rest of the City’s required local match to create its new park. The Port had originally received Parcel D in 1977 from H.J. Carroll intending to use it as a match donation for a different IAC grant application. It was subsequently donated to the City by the Port for \$1.00 for the ’81 grant project. The Carroll parcel had already been Federally-waivered for a previous but still incomplete Port-only IAC proposal. IAC requested and received further Heritage Conservation and Recreation Service permission to extend its earlier funding waiver into the revised ’81 grant project, now co-sponsored by the City.

Earlier park funding applications by the Port as sole sponsor had ultimately failed because of legal restrictions on what port districts can do - not create parks. Accordingly, on several occasions in the 70's, the Port had asked the City to co-sponsor IAC grant projects involving the Port's Kah Tai property, but until 1981 the City had declined to do so for various reasons related to the type of park being proposed by the Port. For example, the proposal that would have originally used the above Carroll donation as match was a park plan for a 25-foot wide green-belt City park along the shoreline that would be integrated with a Port-owned commercial planned unit development along Sims Way (State Highway 20).

Neither happened, obviously, but the Port's earlier efforts to develop a park on its property are in the RCO record and are important background to the scope of the revised 1981 project. It shows that the Port had been involved with park creation on its lagoon property, well before it ever co-signed the 1981 application for a 100% City-owned non-commercial park in the same location.

By 1981, the Port and the City had finally worked out a mutual agreement to go forward together and co-sponsor a new City-owned park that included purchase of private parcels in the west, north, and east perimeters and the transfer of public parcels. IAC Director Robert Wilder's 11-10-80 letter to HCRS Regional Director Maurice Lundy:

"Per your request, I am enclosing a map showing the subject property in relation to the overall project and a revised EIA. Please note the nature of the entire project has changed significantly in that a proposed commercial development is not now proposed."

What was now being proposed was 100% park around the lagoon, including the southern area owned by the Port.

III. IAC Grant Application Documents

III.1. The following four documents in the grant record use identical words to describe the grant project area as approximately 78.5 acres and consisting of the entire lagoon area:

"This Project entails the acquisition of approximately 78.5 acres through donation, land transfer, and purchase, is designed to consolidate under the ownership of the City the contiguous land along the west, north, and east perimeters of Kah Tai Lagoon, thereby enabling the City to plan and develop a municipal park around the lagoon."

III.1.1 IAC's Application Form 424, dated 11-20-80, and signed by IAC Director Robert Wilder. It was included in the application package IAC sent to the Heritage Conservation Recreation Service requesting Federal Funding for the described project.

III.1.2. United States Department of the Interior/Heritage Conservation and Recreation Service Land and Water Conservation Fund Project Agreement with the State of Washington; one page Form HCRS 8-92 for Project Number 53-00486.

III.1.3. IAC's application: Program Narrative Part IV -- 3.a "Project Scope".

III.1.4. IAC's 12-23-81 Press Release

"Governor John Spellman announced today that the City of Port Townsend received a check from the Interagency Committee for Outdoor Recreation in the amount of \$124,260.00 as first payment for the Kah Tai Lagoon Acquisition project.

This Project entails the acquisition of approximately 78.5 acres through donation, land transfer, and purchase, is designed to consolidate under the ownership of the City the contiguous land along the west, north, and east perimeters of Kah Tai Lagoon, thereby enabling the City to plan and develop a municipal park around the lagoon."

III.2. IAC Recreation Project Resume (Form 028)

This undated one-page document showed the IAC evaluation score and rank for Kah Tai Park. It contained the City's project description, with both narrow and broad components, and listed the total acres of the project as 45 and the grant total as \$206,000, rather than what later would become \$218,000:

"This acquisition project is designed to consolidate under the ownership of the City the contiguous land along the west, north, and east perimeters of Kah Tai Lagoon, thereby enabling the City to plan and develop a municipal park around the Lagoon."

III.3. IAC Application Attachment G-6

When IAC Director Wilder sent the IAC application package to HCRS Regional Director Lundy, his cover letter specifically mentioned an important subset of enclosed documents: *"The A-95 Clearinghouse procedure has been initiated and no adverse comments received."* He was referring to the signed Circular A-95

Review Response forms that had been distributed by Jefferson County Planning Department's Ed Darden to local agencies (City, County, Community Action Council, School District, Port, and the PUD). Darden had tallied the signed responses and returned them to IAC on 3-10-81. As Mr. Wilder's cover letter stated, there were no adverse comments received -- including none from the Port.

The Regional Planning Council had received the A-95 materials from Park Board Chair Lois Flury by letter dated 8-18-80, which referred to the Project Resume, (Form 028 above) and stated:

"We have enclosed a copy of the Project Resume and Boundary Map prepared for use by the Port Townsend Park Board. Additionally we have prepared and enclosed a pre-application notification form of the project for your files."

It is not clear which document she meant by "*pre-application notification form*" since she had already mentioned the standard Project Resume. It might have been a copy of copy of IAC's Form 424 (Document no. 1 above) because our archive collection of this subset of G-6 documents includes an IAC 424 for this project that had been date-stamped "*Received Feb 31 1981 Jefferson County Planning Department*", and it is possible that this form was also included in the A-95 review materials sent out and received back from the County. Only one of the signed responses in our records was date-stamped County Planning in addition to the date-stamped IAC 424, and it's really impossible for us now to determine who got what when. Perhaps this could be confirmed in the IAC archives if it would be useful to you.

If the Port did see IAC's 424 during the early stage of the grant application, it would have seen their broader and clearer project description than the narrow+ broad wording the City used in its A-95 Clearinghouse Project Notification and Review Form which the Port responded to:

"An acquisition project to consolidate under the ownership of the City of Port Townsend the contiguous land along the west, north, and east perimeters of Kah Tai Lagoon, thereby enabling the City to plan and develop a municipal park around the Lagoon."

If IAC's 424 were the mystery document Lois Flury referred to as being included in the local pre-application review, that review would have been the Port's first opportunity to object to the identified project area.

After that, however, the Port always had an ongoing opportunity to request project scope clarification via a project amendment. Three other project

amendments were approved for various reasons during the term of the grant: on 7-26-82, 1-3-83, and 10-16-84. Thirty years ago, the Port must have seen at least one of the documents containing a broad project description that included their property, and it seems a little late now to object to it being included in the final map for the project it co-sponsored.

III.4. City Attachment G-1, Resolution

A local resolution approving a grant application is a required attachment for an IAC application. The last 'whereas' clause in the City's Resolution 80-13 clearly states the City's intention regarding the broader scope of the project --down to Sims Way (Highway 20), including the Port property--. The second "resolve" refers to the narrower scope of the specific private parcels that would be acquired with grant funds and private donations:

"Whereas, The City Council of the City of Port Townsend considers it in the best public interest to create a community park in the Kah Tai Lagoon area of the city between Sims Way and 19th Street, Now therefore be it resolved ..."

"2. That any fund assistance so received be used in the acquisition of approximately 8 acres of land in the Kah Tai Lagoon area..."

III.5. IAC Application Attachment G-5: Environmental Impact Assessment (EIA)

III.5.1. "Proposed Action":

This section briefly described the proposed purchase of 8 acres of private parcels for inclusion in a municipal park. Regarding Port property, it stated that it was "not technically within the project boundary", but when one considers all sections of the EIA together, the EIA clearly shows that Port property was to be included in the new park and that:

"...negotiations are under way to secure the transfer of the land to the City of Port Townsend."

III.5.2. "Existing Conditions":

This section (p.1) appropriately included a description of the southern portion of the lagoon area, and the overall project area was described as:

"The site is bounded on the south by State Highway 20 and on the east and north by major arterial streets. Geographically it is centrally located

within the town, with easy access to surrounding residential neighborhoods.”

Clearly, the intended project area was something greater than 8 acres of private parcels within the west, north, and east perimeters, much of which is wetland nesting habitat suitable only for a limited trail system. Instead, this section identified a project area that extended to Highway 20.

III.5.3. “*Environmental Impact of the Proposed Action*”:

Page 2 specifically describes proposed changes to that southern area and mentions the “entrance” to town, which is Highway 20 south of the lagoon referred to in previous section:

“What is now a de facto wildlife park, with crude trails and no facilities will be formalized and made more attractive and accessible. Detrimental activities such as motorbiking will be prohibited and disturbed areas re-vegetated. Through reclamation and landscaping, the Lagoon basin will be improved as a major element of the city-scape at the visual entrance to town”.

III.5.4. “*Alternatives to the Proposed Action*”:

Page 3 also describes Port property and implies a larger project boundary than what was “*technically*” excluded earlier in the document:

“1. Do Nothing: The site will continue to deteriorate because of motorbike activities. As development pressures increase, the immediate uplands will be further encroached upon by residential development. The fill area south of the Lagoon is already under very strong pressures for commercial development and will likely succumb if a park plan is not acted upon in the very near future.”

2. Find Alternative Site: The strong expression of community sentiment in favour of a park at Kah Tai Lagoon over the past years is definitely site specific, and precludes substitution. The site is unique in its location and richness of wildlife habitat.

III.5.5. The EIA *Alternatives* section will be important to include in any future review of a conversion request - as it states, this site “*precludes substitution*”. Kah Tai is irreplaceable.

III.6. City Attachment A-1, “*Conceptual Site Plan KAH TAI PARK*” is an aerial drawing showing the new park occupying the entire area around the lagoon. It

shows trail locations and minor developments to portions of the park that were intended to be transferred from Port to City ownership for the park.

III.7. U.S. Department of the Interior “Assurance of Compliance” INT 5226-79

This document bears the signatures of the mayor of Port Townsend and a Port Commissioner. These signatures obligated their respective jurisdictions to the assurances that were given -- including the terms imposed by HCRS, as well as the assurances described in Part V’s standard text of the application package.

The most important assurance 30 years later is that the project area be maintained in perpetuity as described in the approved grant documents, and that area includes the southern lagoon parcels owned by the Port.

III.8. IAC Project Agreement

This agreement was signed by and obligates both the Port and the City to its terms. Since both State funds and Federal funds from the Land and Water Conservation Fund were used in the project, the Federal requirements are included in the State’s acquisition agreement as well. Signing this document obligated both the City and Port to perpetual stewardship or site replacement with any approved conversion.

III.9. Statement of Justification for Contingency Preserve Funds

This attachment used the complete project area description:

“The Kah Tai Lagoon acquisition project encompasses an area nearly 80 acres in size, including 35 acres of water and 15 acres of marsh and wetland. Close to 76% of the area is in public ownership which is to be donated and transferred (public land) to the project sponsor”.

“In addition to the funding program shown on Table II approved by the IAC, the committee authorized the submittal of the Kah Tai Lagoon project for contingency fund consideration due to its excellent natural features and recreation potential unique to the region as well as the land donation aspects connected with it.”

The clear expectation based on intergovernmental pre-grant discussions and planning was that land already in public ownership would be transferred or donated, including Port property, and not just the Carroll parcel.

The Justification section also stated that *“The site is also quite visible and accessible from Sims Way (State Highway No.20)...would provide a recreation service to travelers on this popular tourist route.”* This is not a description of 8 parcels along the sides and northern shoreline of the lagoon. It goes on to state:

“The project site includes adequate uplands to accommodate wildlife observation shelters and walking, jogging and bicycle paths which were identified as No. 1 priority in the Comprehensive Parks and Recreation Plan. Future development is also intended to include a picnic area and informal open space for passive activities”.

III.10. Acquisition Schedule

The acreage number of 78.5 that shows up throughout the application is broken down by parcel numbers in this table. Parcel Z is assigned a total 70 acres and identified as Parcel “Z”. It was coded as “4. Land Transfer (Public)”. The entire grant project revolved around the transfer of public land for a large park. Those public agencies that didn’t co-sponsor the project eventually came through for the park. The one that did co-sponsor hasn’t yet, but is nevertheless obligated to keep its parcels in the park.

III.11. Program Narrative

Page 1 describes the entire lagoon area and the obstacles of mixed ownership to park creation. Page 4 states:

“Negotiations are presently underway with the Port of Port Townsend and Jefferson County to secure transfer of their holdings of approximately twenty-four (24) acres to the City of Port Townsend. Two additional acres held by the Jefferson county Public Utility District will also be sought by the City. It is anticipated that these transfers will be completed by mid-1981.”

The rest of the narrative describes the value of the lagoon area to all the public uses surrounding it and the value of a wide range of possible outdoor passive recreation activities that can co-exist with the important wildlife areas in the park. From page 4 again:

“Throughout the planning and development stages, major emphasis will be placed on preserving and enhancing the natural habitat of the Lagoon in conjunction with public use. An ongoing project of wildlife habitat reclamation is projected for a major portion of the fill area south of the

Lagoon, with continuing study of the process of regeneration as an underlying theme.”

IV. Public Land Transfers for the City Park

The Program Narrative stated that: “*Kah Tai Lagoon has been the subject of public discussion for many years in Port Townsend.*” That was putting it very mildly. See the Burke article I sent you earlier for a good and balanced synopsis of those turbulent years of public planning. Nevertheless, significant progress and even some optimism produced the '81 joint application. The expectation was that the extensive amount of land already in public ownership (County/Port/P.U.D.) would be acquired through public land transfers. That assumption appears throughout the grant documents.

The expected County transfer did not occur until after the grant closed in 1985, nor did the County/City underwater lease, but because the County did not co-sponsor the grant project, it is expected that County properties may not be included in the NPS boundary map depicting the status of ownership/control March 29, 1985. The same applies to several private parcels that were dropped from the original acquisition list for various reasons. However, the P.U.D. property along Kearney Street at the east end of the park was leased to and controlled by the City in 1982 for park purposes, with an option to purchase, which the City did after the date the grant closed, so it should be included in the final map.

Numerous grant documents in the '81 grant record refer to the Port's intention to transfer its lagoon parcels to the City for the new park. The Program Narrative said that this would be complete by mid-1981. Because the transfers did not occur on schedule prior to the subsequent development grant application, it became a grant requirement that the City and Port sign a 30-year park management lease giving the City control for that period of time.

Land transfers could have still happened during the time of the lease to put the park fully in City ownership. The most recent attempt was in 2009 - a proposal from City Manager David Timmons to exchange the City's Boat Haven rights-of-way for Port property in the park, but those negotiations with the Port also failed. The City's Parks/Recreation/Open Space Functional Plan continues to include policies to acquire additional Kah Tai parcels for the park, and that could be for additional private parcels or the Port's property.

Many grant documents in the record refer directly or indirectly to public transfers for the park. These include, for example:

- IAC's Application (SF424) to the Heritage Conservation Recreation Service
- HCRS' Project Agreement
- IAC's Program Narrative Part IV -- 3.a "Project Scope"
- Environmental Impact Assessment (EIA), Attachment G-5, "*Proposed Action*"
- Statement of Justification for Contingency Preserve Funds
- Attachment G-6
- Acquisition Schedule: This table included a 70-acre Parcel "Z" coded #4 for public land acquisition by transfer
- Statement of Justification for Contingency Preserve Funds, p. 1, 4
- Program Narrative, p. 4
- The Trust for Public Land letter of grant support to IAC Chief of Project Services
- Port of Port Townsend Manager Stacey Thompson's 11-19-80 letter of grant support to IAC Chief of Project Services: "*The Commission instructed me to meet with the Mayor and attempt to develop a possible exchange of properties.*"

The Port has assumed that its property is excluded from the Section 6(f)(3) map and has been negotiating with The Jefferson Land Trust to put the majority of it into a conservation easement effective 2012 when the park lease expires. The remaining 1.9 acres between the Park and Ride and the play meadow would be withheld for future non-park construction projects to be owned by the Port. City rights-of-way within the 1.9 section, however, would have to be vacated to make any large project possible, but no street vacations are possible as long as those rights-of-way are still within Kah Tai Lagoon Park, per City Resolution 83-001. Whether the Port's property is or isn't part of the park is the key issue the final map will resolve.

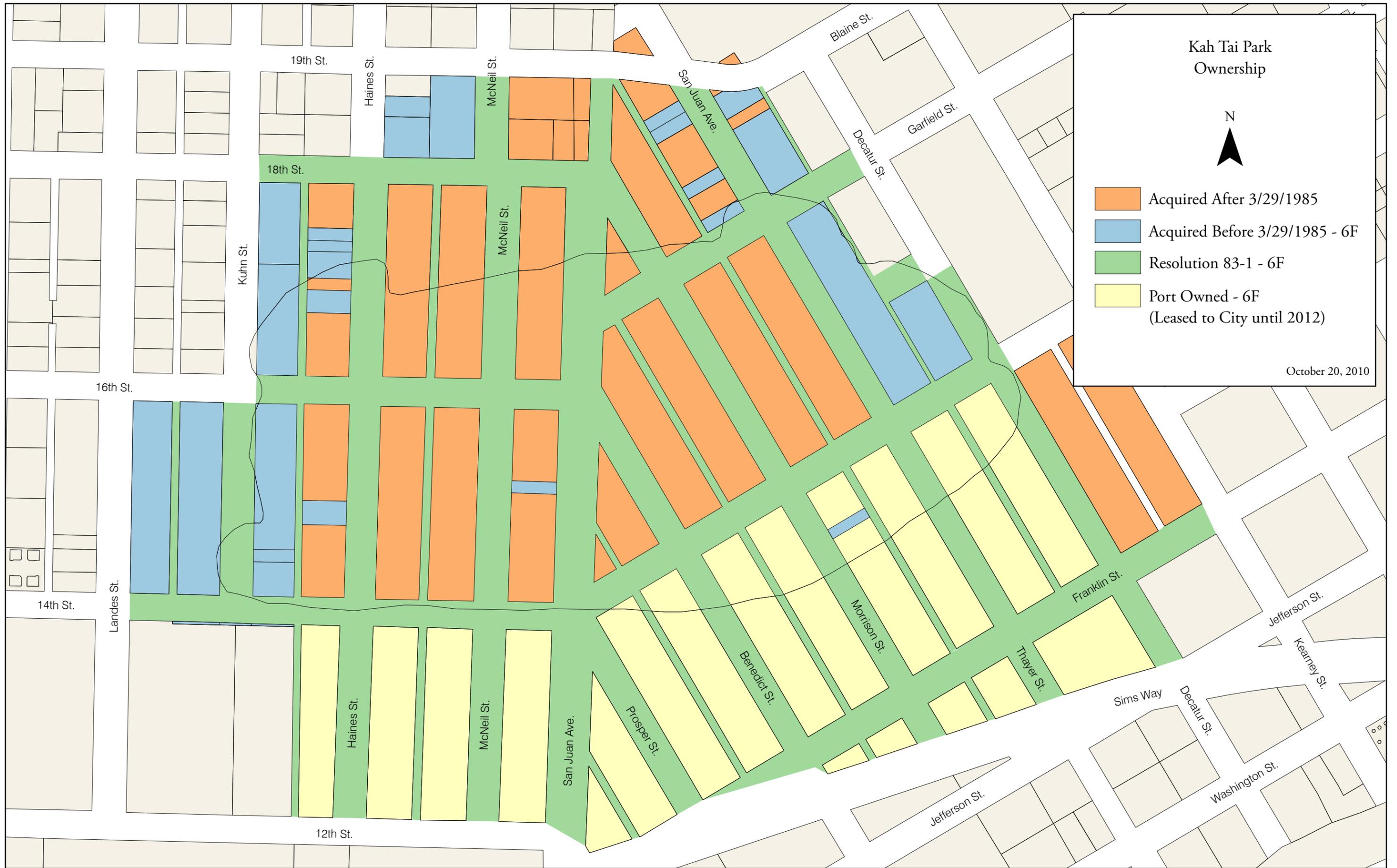
It is not reasonable for the Port (or anyone else) to think that the State or Federal governments would have created a new park and paid to develop it based only on the Port's short-lived good intentions in 1981 to transfer its property to the City. That's what contracts, agreements, and signatures are for - guarantees, not just intentions, to protect the longevity of an acquisition project. It is also not reasonable to think that after thirty years, the State or Federal governments would fracture an existing park based on arguments by a co-sponsor that its property did not belong in the park boundary and that it now wanted to do something non-conforming with its property.

The park was not created merely on stated intentions to transfer public lands, nor should it be disrupted by the failure of the most important transfer to happen in a timely manner. Whether a land transfer of its property into the City's park ever happens, the Port, nevertheless, legally encumbered its property when it co-sponsored the park and assumed the associated responsibilities to maintain the mapped area in perpetuity as approved by the funding agencies.

I hope this document review has not been too long, too short, or too tedious and that you find even some of it helpful. Please email me if you have any questions about the content. If the final map can be emailed when it goes public, would you please send me a copy? If not, please let me know where we can purchase a hard copy.

Thank you so much for your consideration of all this,

Nancy Dorgan
On behalf of *Friends of Kah Tai*



Kah Tai Park
Ownership



-  Acquired After 3/29/1985
-  Acquired Before 3/29/1985 - 6F
-  Resolution 83-1 - 6F
-  Port Owned - 6F
(Leased to City until 2012)

October 20, 2010

From: [Ellen Dustman](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Thursday, March 24, 2011 8:40:21 PM

Dear Ms. Connolly,

I am writing to ask that you **support 6(f) protection for the Ports' land in Kah Tai Park** in Port Townsend. The history of contracts and agreements seems to clearly support this designation. I won't list the same facts that are probably already presented in many emails. Suffice it to say, please recommend protection of this land.

Thank you very much for your consideration.

Ellen Dustman
Port Townsend

From: [Mel Epling](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Kai Tai Lagoon Nature Park
Date: Sunday, March 27, 2011 5:18:14 PM

To Whom It May Concern,

We highly value Kai Tai Lagoon as a little bit of nature in our backyard. It's existence improves the quality of life for a great many Port Townsend residents. It was admirable foresight which established the park and it would be a sad case of shortsightedness to whittle it away or divide it up to competing interests. We urge you to stick to the letter and the spirit of the founding agreement and to preserve our beloved park "in perpetuity."

Sincerely,
Mel & Erica Epling

From: [JSestes](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Saturday, March 26, 2011 8:51:57 AM

i am asking the RCO Board to support 6(f) protection for the Ports land in the Kah Tai Park. i am appalled by the efforts of the Port to subvert the original intent to maintain all of Kah Tai as a park.

john estes
360-385-9577

From: [LAURETTE GILBERT](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: comments to the RCO board agenda item # 7
Date: Monday, March 28, 2011 2:02:38 PM

I was a part of the Port Townsend community during the 1980 to 1985 era when Kai Tai Park was being "established" and when the contracts/documents were presented after the State, NPS, Port and City agreed. I, like many others felt that we had at last established a Park in perpetuity. To hear now that the Port wishes to renege on what was considered a binding contract by even their own commissioners at that time is rather disconcerting. It appears elected officials can change their minds as it suits them and make themselves believe that the intent was never there. Please do not allow this lack of responsible governing influence your decision. I remain,

Yours truly: Laurette Gilbert 935-18th St. Port Townsend, Wa. 98368

From: cgluckman@aol.com
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7 - Kah Tai land Protection
Date: Friday, March 25, 2011 6:25:14 AM

I would like to express my support for the perpetual protection of the Kah Tai Lagoon Nature Park and a ruling by your board recognizing this end. As an environmental attorney who has practiced in this area for many years, it appears clear from the documentation that the Port of Port Townsend entered into a binding agreement to transfer the land in perpetuity and cannot now attempt to back out of that agreement. Any action on your part allowing them to do so will only lead to protracted litigation the citizens of this community will have to pay for. Losing the protection for all of the land in Kah Tail Lagoon Nature Park is unacceptable to a large segment of Jefferson County and I hope you will support that position.

David Gluckman
811 22nd St.
Pt. Townsend, WA 98368
360 379-0360

From: [Guild James](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: RCO Board agenda 7
Date: Wednesday, March 30, 2011 11:15:21 AM

Ms. Connolly:

The Kah Tai lagoon nature park is a big attraction for the city of Port Townsend. It attracts many visitors and I am in the business of vacation rentals.

I am also an Audubon member and know this would be a crime against nature to turn this nature refuge into a smelly repair shop for the Port of Port Townsend.

I have lived in this town long enough to see some shady deals executed by the port but this is outrageous!

I have decided to contact the United States animal protection agency and get whatever support we can get against these crooks.

James Guidry

From: [Anne Holman](#)
To: [Connolly, Rebecca \(RCO\)](#)
Cc: rosemarysikes@olympus.net
Subject: Comments to the ROC Board. Agenda Item # 7
Date: Monday, March 28, 2011 2:11:40 PM

As a resident of Port Townsend and a user of Kak Tai Park, I am asking that the Washington State Recreation and Conservation Board, consider very carefully this item before you.

As public servants of the people of the State of Washington, it is your responsibility to facilitate actions for the GOOD OF THE PEOPLE.

Here in Kah Tai we have a small but UNIQUE park that serves the need for both RECREATION and CONSERVATION.

Kah Tai Park was developed using PUBLIC FUNDS which were allocated based on the CONTRACT signed by both PORT and CITY of PORT TOWNSEND to preserve this land IN PERPETUITY.

The removal of 20+ acres will heavily impact and forever change this Park. BATHROOMS GONE! PICNIC SHELTER GONE! PLAY FIELD GONE! In their place concrete and noise. This destroys both Recreation and Conservation.

Please consider your role as TRUSTEES OF THE PUBLIC GOOD and assist us in the preservation of a unique piece of our environment.

J. Anne Holman, PhD. Marine Biology
1060 BLAINE ST. Port Townsend, WA 98368



28 March 2011

Ms. Kaleen Cottingham
Director
Washington Recreation and Conservation Office
PO Box 40917
Olympia, WA 98504-0917

and

Washington Recreation and Conservation Funding Board Members

Dear Ms. Cottingham and RCO Funding Board Members,

Members of Friends of Kah Tai (FoKT), a nonprofit incorporated in 1977, played a major role in the creation of Kah Tai Lagoon Nature Park, writing the acquisition and development grants and taking the lead in the negotiation for the sale and donation of the private parcels acquired to form the park. One year ago, seven boxes of FoKT original records ended up in my basement. These not only include copies of the official records on file at RCO but original records and letters. Neither the Port of Port Townsend or City of Port Townsend had retained any records of the 1981 LWCF acquisition grant that had formed the park and the corporate memory had been lost.

To re-educate both the residents and current administrations about the history, I began giving public lectures on the park and, last fall, personally met with two of three Port Commissioners (one declined to meet), Port Executive Director Larry Crockett, and City officials. At these meetings, I described the history, including the use of LWCF support to acquire the required private parcels to create the park and provided to them copies of the critical documents, including the signed Project Contract page, signed Assurance of Compliance form and descriptions of LWCF contractual obligations, land use restrictions/compliant use/conversion requirements. At the completion of my meeting with Port Executive Director Larry Crockett, he told me that despite the documentation I had provided, it was not the history "he chose to believe." But none of us get to choose history.

During the last year, RCO staff have worked to understand the history of this park and FoKT have provided significant documentation and analysis to assist in that effort. As one example, I have appended our 14 February 2011 submission to RCO which was in response to the Port of Port Townsend's legal analysis. Despite these contributions, erroneous information, such as the inclusion of public, port-controlled lands in the grant financial match, has been incorporated into your briefing booklet. More importantly, critical information such as the fact that the Port of Port Townsend had legally entered into a grant agreement and that such agreements are considered by the federal government to be binding contracts, has not been included in the briefing booklet. You have received detailed technical comments about these and other issues from the Port Townsend City Manager Mr. David Timmons and attorneys Mr. David Mann and Mr. Brendan Donckers from the law firm Gendler and Mann, LLP, and I will not repeat that discussion here.

The briefing materials also state that the two co-sponsors are now in dispute with the National Park Service (NPS) about the grant boundary. This is also in error. The City of Port Townsend, NPS, the citizen advocacy groups (AAS and FoKT), the Mayor of Port Townsend at the time of park creation, Mr. Barney McClure, and the Port Manager at the time of park creation, Mr. George Yount, and many other interest groups and individuals have all stated to RCO their agreement to the proposed 6(F) boundary suggested by the land ownership map researched and supplied to RCO by the City of Port Townsend last November. These different interests do not agree because they are all of like mind, socialize together and suffer collective 'group-think' but rather because the documented record leads to only one conclusion. It is only the Port of Port Townsend that now is trying to re-write history.

I ask the Board to use its authority to resolve this matter in the only way that is consistent with the documented record: recommend to NPS that the lands owned by the co-sponsors, as indicated on the city-provided map, be incorporated within the 6(F) boundary area. To do otherwise would open the door for needless litigation. Given the inaccurate and incomplete nature of the current briefing information, you may be reluctant to do so, so let me suggest an alternative. Please postpone any vote on this measure until such time as accurate and reasonably complete briefing materials can be provided. Furthermore, charge RCO staff to conduct a fact-finding mission, contacting not just the two sponsors of the grant, but other parties of record as well who can provide accurate and objective information so that subsequent RCO Board rulings are consistent with fact.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Jahnke". The signature is fluid and cursive, with a long horizontal stroke at the end.

Richard A. Jahnke
360-531-3417
rjahnke@att.net



FRIENDS OF KAH TAI

14 February 2011

To: Heather Ramsay, Project Manager
National Park Service (NPS), Community Assistance Programs
[email: heather_ramsay@nps.gov]

Jim Anest, Conversion Specialist,
Recreation and Conservation Office (RCO),
[email: Jim.Anest@rco.wa.gov]

Re: Port of Port Townsend's Legal Response to NPS draft 6(f) Boundary Map
For Grants No. 53-00486 and 81-043A, Kah Tai Lagoon Nature Park

Dear Heather and Jim:

Friends of Kah Tai submitted comments to the record in July 2010, citing numerous instances in the 1981 acquisition grant record that referenced Port property being included in the new park around what was left of Kah Tai Lagoon. We would like to incorporate by reference the documents we cited earlier in order to avoid unnecessary repetition in this one. While the following comments reflect our own analysis, they are seconded by the signatures of more than 1,390 Jefferson County residents who have signed our petition of support reaffirming the goals of the 1981 Federal Land and Water Conservation Fund (LWCF) grant to preserve wildlife habitat and open space for outdoor recreation. At this time, we would like to comment on the January 21st memo prepared by the law firm representing the Port of Port Townsend (Port). We will refer to that memo below as the "*Port response*".

Purpose of the Port Response: Future Non-Park Development

The intent of the Port response as stated in the cover letter to RCO was to:

"...analyze whether any encumbrances exist which impair the Port's ownership interest in certain parcels which were leased to the City."

The context of the Port response was stated as "*competing potential future property uses.*" Development of the lagoon area for non-park uses has been a concern that 30 years ago the

community thought was settled. At some point after the nature park was acquired and created by grant, however, the transfer negotiations stopped. History was forgotten, ignored, or re-written. The Port had changed its mind. A 1996 comment letter from the Port's attorney regarding the City's draft Comprehensive Plan objected to the proposed park/open space designation as a "taking" of Port property. The letter also mentioned various future commercial uses supported by the Port after lease expiration in 2012:

"...while the port has no specific immediate plan for that property, the property would make an excellent area for future retail businesses' light manufacturing, boat storage, or other uses that are not dedicated to parks and recreation." [Attachment no. 1, Port attorney comments]

Several years ago, a dramatic new kind of non-park development proposal from a non-profit organization for a large aquatic/fitness facility inside the park on Port property got the Port and City both involved in a potential park conversion. At a March 2009 joint workshop of the City Council and Port Commission, the City Manager proposed a negotiated agreement for a Kah Tai/Boat Haven land swap/replat via recorded binding site plan that would have also created a separate parcel for the proposed aquatic/fitness facility next to the remainder of the park.

Those private negotiations failed, and the proponent shifted its approach to a Port-only agreement -- the Letter of Intent it signed with the Port December 2009 and renewed December 2010. Accordingly, the City shifted to a new position of neutrality a year ago, working off the record regarding the use of Kah Tai as a site for the facility. The City Council (which had carefully refrained from a formal vote of support to site the facility at Kah Tai) was told that while the proponent had requested City endorsement of the proposal, it was necessary for the City to remain legally neutral to protect its ability to process any related development permit review/approvals on Port property.

However, the "new information" on an unsettled 6(f) boundary and the Port's rejection of any 6(f) encumbrances has simultaneously put the City into legal limbo as well. Without a 6(f) determination of the proposed development site, the City is unable to start a SEPA (or NEPA) clock for timely environmental review and permit approvals for an impatient (pre)applicant. So the City is now as equally motivated to support your Kah Tai 6(f) process as the Port is to avoid it.

All of the above is the future development context RCO and NPS have been working in throughout the belated 6(f) determination process. While never expressing an opinion on the merits of the proposal, agency emails have nevertheless often referred in both general and specific terms to it being either a potential conversion of Kah Tai to non-park uses or the possibility of it being the subject of a subsequent "compatible" public facility review/approval process. Even if there had not been such a proposal in the wings during your 6(f) determination, the possibility of a different future proposal has framed your work. From the beginning, this has never been just about a forgotten 6(f) map, but about what happens to the park when there is one.

Protecting its property from any restrictions on future development, therefore is the stated purpose of the Port response.

Legal Arguments in the Port Response:

After a long recitation of legal arguments, the Port response concludes with a legal position of **“You prove it!”** regarding any 6(f) encumbrances. It asserts that the Port need do nothing after July 30, 2012 because no 6(f) encumbrances were ever recorded to title, and it is too late now to file new ones.

Lacking its own in-house grant records and institutional memory of the history of the creation of the park, the current Port administration sought legal consultation on the issue of 6(f) encumbrances. The complete grant records from both State and Federal archives were obtained, read, and conclusions drawn by Port attorneys. However, little of the grant record itself seems to have been understood. The Port response is only a concoction of irrelevant legal arguments without actual proof from the record, which is rarely even cited. Even worse, important facts have been intentionally omitted or incompletely described. On the key issue of what actually constituted matching funds, new *“facts”* supporting their claims were simply invented. Or, more likely, the Port’s decision to use a Statute of Frauds defense prevents the Port from admitting to the existence of the very concrete contracts and associated documents signed by the City and Port as co-sponsors.

The main deficiencies we find in the Port response are summarized below in these areas:

- I: Omission of the fact that the Port is a grant sponsor**
- II: False statements that Port property was used as local grant match**
- III: Inaccurate statements regarding an existing 6(f) map**
- IV: Faulty assertions about City policy**



Deficiency I: Omission of the fact that the Port was and remains a grant sponsor

From *expertlaw.com*:

“The purpose of a “statute of frauds” is, as the name suggests, to prevent injury from fraudulent conduct. There is some criticism of the continued existence of these statutes, as they are often used by parties who freely entered into fair contracts yet wish to avoid having to fulfill their agreements.”

We do not comment at this time on the actual legal conveyance and servitude interpretations of the Statute of Frauds law so prominently referenced in Section IIIA of the Port response. We trust that the structure and *“formalities”* of the Federal and State contracts and Assurances in the ’81 acquisition grant have been fully tested already and successfully used in the creation and defense of many public parks. We will focus, instead, on the grant record.

There is not a single reference in the Port response that the Port sponsored the acquisition grant that created Kah Tai Lagoon Nature Park, an omission probably necessary to establish its stated Statute of Frauds defense. The Port response only noted that the State sponsored the Federal LWCF Grant No. 53-00486. That's just the way the LWCF system works -- with the State signing its own Project Agreement/Contract/General Assurances and accepting its own set of legal responsibilities to administer the terms of the Federal grant for the State's (sponsor-signed) application, including 6(f) compliance in perpetuity.

Sponsorship for the creation of Kah Tai Lagoon Nature Park thus occurred at two different levels, but the Port response only mentions the higher level of obligations and not once mentions its own obligations as co-sponsor of the integrated 1981 State grant 81-043A, which incorporated all Federal terms by reference. This point wasn't denied in the Port response, only quietly omitted. Each of the other times the word "sponsor" appears in the Port response, it is only within a policy quote from an agency manual and a statement that it did not sponsor the subsequent non-Federal 1983 park development grant. The Port response, however, cited a Port resolution in support of that second grant. Such owner approval of development by others was understandably an IAC attachment requirement for the City's grant application, because the intended public land transfers integral to the 1981 grant had not yet been completed:

"The Resolution makes clear that a copy of the Port's Lease was attached to State grant Application; thus the State had notice that the Port's allowance of the use of the property to aid in obtaining the grant was temporary and not a grant in perpetuity"
[p. 9, 7.b.(ii)]

Merely giving notice to the State of the terms of the Port/City lease, however, cannot alter the legal fact of Port sponsorship of the previous acquisition grant. It is highly unfortunate that some RCO staff did not understand the distinction either and were the source of serious misinformation about ongoing sponsor obligations incurred two years before the above resolution and related lease were ever signed.

Evidence of actual Port sponsorship exists throughout the grant records as shown by these examples:

- *Project Contract signature page with Port signature including witnessing Port attorney*
- *the Assurance of Compliance Form signed November 25, 1980, by both City and Port*
- *the NPS website (<http://waso-lwcf.ncrc.nps.gov/public/index.cfm>)*
- *RCO website (<http://www.rco.wa.gov/maps/projects.shtml>) showing the Kah Tai grant sponsors as City and Port*
- *the 1980 Fredrick Bender letter regarding HRSC contingency funds for the City and Port's new park*
- *Form IV of State IAC grant application (81-043A)*

It is easier to avoid mentioning actual sponsorship and contractual obligations in the Port response than it is to legally avoid the obligations and responsibilities incurred by that sponsorship. The evidence in the above examples is sufficient that we take it as fact that the Port was a sponsor of the 1981 LWCF acquisition grant (53-00486/81-043) and accompanying State IAC grant (81-043A) and thereby encumbered its property in perpetuity per the signed agreements and Federal policy.

Deficiency II: False statements that leased Port property was used as grant match

Port response, p. 7: “The Port’s leased land was purely offered by the Port to be used as value toward the required associated state grant match below.”

Port response, p. 8: “5. Between: IAC and City and Port (Port leased land was used to satisfy grant match).”

These false statements are the fundamental basis of the Port response. It was first necessary to establish the (false) premise that the Port’s leased land was grant match before being able to then argue the applicability of numerous quotes from State/Federal policies regarding limited encumbrances when leased lands are used as local grant matches. The final step of the Port’s argument was to then conclude that Port property was only temporarily encumbered for park use until the 2012 lease expired and not further encumbered by any grants. The fatal flaw in the Port response, however, was its failure to cite a single document from the grant record to prove, in actual fact, that its leased lands had been used **“to satisfy grant matches”**.

It is not disputed that upon termination of current leases Port lands will revert to Port control. However, as a sponsor, the Port’s LWCF contractual grant obligations do not terminate at the same time. They exist in perpetuity. Lease expiration in this situation only means that the Port will then be responsible for park management of the portion of the park it owns and that the park must be managed and maintained according to the approved terms of the grant.

The Port response carefully listed three active Port leases it has with the City, each giving the City permission to manage various sections of its property for park uses until July 30, 2012. While the first lease for a narrow 10’ shoreline strip plus adjacent underwater parcels was effective six months before final 1981 grant approval, the second lease, for the **“tract of land north of Sims Way and south of Kah Tai Lagoon, for park purposes”** is unrelated to the 1981 acquisition grant signed by City and Port officials a year prior. The third lease corrects the incomplete list of parcels in earlier leases. As stated earlier, there is no evidence given in the Port response or present in the record that any of the following Port/City leases were ever used as matching funds:

- Lease no. 1. Jan. 19, 1981*
- Lease no. 2. July 30, 1982*
- Lease no. 3. Aug. 5 1985*

NPS has stated that it considers local park management leases between two sponsors to be only that - local management agreements - and irrelevant to Federal grant concerns as long as authorized park use is retained as originally granted. NPS has also stated that the duration of such leases and even their start dates relative to the beginning of a LWCF grant is not particularly relevant to NPS. What does matter to NPS, however, is what was agreed to by the co-sponsors with the Federal government.

The question relevant here is whether the claim that the mutual leases were also used as local grant match is true. It is not. The “fill-in-the-blank” standard forms used for IAC grant applications contain several places where the applicant is asked to indicate whether leased lands are part of the application. In each of these places for the acquisition grant, the blanks are still

blank. Moreover, the acquisition grant documents were never amended at the Port's request to correct any errors or omissions in how the application had been approved relative to the inclusion of leased lands as matching funds. It is simply a made-up assertion of fact that they were.

There are numerous documents in the record that repeatedly show what **did** constitute the actual local match for the acquisition grant. It was the total appraised value of four private parcels that were kindly donated to the City to help create the new park around the lagoon. A few examples of such documents are the required Acquisition Schedule and the Appraisal reports dated September 22, 1980 for the Carroll, Green, Papritz, and Bergstrom parcels.

The Acquisition Schedule is useful in understanding the falseness of the Port's claims about its leased land being used as match, but the document is also useful in understanding the Port's distortion of the meaning of the term **"acquisition"**. The Schedule shows at a glance that **"acquisition"** is a term used for various types of property transactions other than actual purchase. The table lists by parcel letter all the properties to be acquired under the grant and assigns a code number next to each parcel indicating which method of acquisition was being used in the grant for each of the listed parcels. Those codes are:

1. *Negotiated purchase,*
2. *Condemnation,*
3. *Donation (private), and*
4. *Land Transfer (public)*

There is no code for leases and nothing was otherwise noted as being acquired by a lease, even temporarily, as matching funds. However, all the Port's Kah Tai property was listed indirectly in the Acquisition Schedule as part of **"Parcel Z"**, a 70 acre parcel coded no.4 **"Land Transfer (public)"**. Parcel Z was the composite of acreage of all public parcels owned by the City, the Port, the PUD and Jefferson County. These lands were included even though transfer negotiations had not yet been completed. The record contains a letter dated November 19, 1980, from the Port President, included in the grant application, describing how the Port was supportive of the park proposal, offering to sell, lease, and donate certain of its properties, and mentioning that transfer negotiations were underway. P. 4 of the Application Narrative, Section 3. **"Approach"** also mentioned the PUD parcels:

"Negotiations are presently underway with the Port of Port Townsend and Jefferson County to secure transfer of their holdings. Two additional acres held by the Jefferson County Public Utility District will also be sought by the City. It is anticipated that these transfers will be completed by mid-1981."

It is worth noting that the section of the official appraiser's report for the donation of the Green parcel, which comprised more than half of the actual local match, includes a statement from Mr. Green:

"We have been planning a summer and retirement home on this property, but would consider donating it for a city park if the entire perimeter of the Kah Tai Lagoon (including all the South end "filled" area from the Lagoon to the Sims Way Highway) is donated and included in the park." [Emphasis added]

Whether the Port was ever directly involved with the Green acquisition or had delegated that negotiation, as a co-sponsor they accepted that property under the stipulations stated by the owners. The Greens would not have donated their land for a temporary park. H.J. Carroll, who provided most of the remaining private donation of land for match, specified in his donation *'for park purposes only'*. To expect that these private donations are permanent while public lands may be removed from the park boundary falls uncomfortably close to bait and switch.

As a sponsor of the 1981 acquisition grant, the Port was active in the negotiations of the land donations that did comprise the local matching support. The H.J. Carroll parcel was, in fact, held unrecorded by the Port for an incomplete park grant application, but had received a special Federal retroactive waiver extension so it could be used as a private donation for the Port's new joint application with the City in 1981. The Port/City negotiations were conducted primarily in 1979-1980, well in advance of the official signing of the grant (April 24, 1981 by the City and June 1, 1981 by the Port) and well before the establishment of the Port lease on the filled lands (August 4, 1982). The files also include earlier cited letters from Stacey Thompson (President of the Port Commission at the time) demonstrating knowledge of the negotiated donated lands. Thus, the Port was well aware of the donated lands and their stipulations prior to obtaining the federal and state grant support.

Despite Port assertions about its leased lands being used as grant match, there is ultimately relevant LWCF manual policy (2008) that would not have allowed it:

9. Use of existing public land for matching purposes.

Existing government-owned lands cannot be used as a part of the non-federal matching share of a project unless such land is to be acquired by the sponsoring agency from another agency and there is a statutory requirement that the selling agency be reimbursed for the value of the property (pp. 36-7).

The Port was also aware that their insistence about 'fair market value' in 1996 was not supportable [Attachment 2 re: financial aspects of Port/City land transfers].

Deficiency III: Inaccurate statements regarding an existing 6(f) map

The Port response tries to cover all possible 6(f) scenarios, deflecting any possible encumbrance for each possibility with faulty assertions about existing or recreated maps and about what it is now too late to do or not do. Each defense invokes again the false premise that its leased property was used as local grant match, and therefore no encumbrances can legally exist after those leases expire, and also the repeated assertion that it is too late now anyway to record any grant-related 6(f) encumbrances. This is the case, they argue:

- *whether Port property is inside or outside any 6(f) map;*
- *whether a missing original map is found;*
- *whether a replacement 6(f) is now unlawfully "re-created".*

The last scenario above was mentioned in a footnote on page 11, referring to an undated Attachment A-2 plat map with a crudely drawn line identified in the map legend as Project Boundary, and which did not include the area south of the lagoon but did include many private properties on the north side that are not and were never intended to be included in the park. The Port pointed out that the current file copy of this map included a hand-written note in the

legend that said “Official 6(F)”. However, RCO and NPS have subsequently corrected the record for the note on that map, explaining how the annotation was a 2004 agency error and not an official 6(f) determination. The error is not to be taken seriously, and the Port should not try to parlay a clerical error on the wrong map into a final 6(f) map excluding its property just because it is the version which best suits the Port’s development objectives in 2011. Ms. Ramsay advised April 28, 2010, that this map be removed from RCO files or annotated to indicate that it is an error.

There is an application boundary map in both RCO and NPS archives without an attachment number that correctly incorporated all private and public lands to be acquired for the park [Attachment no. 3, Map Folio no. 3]. It maps an area much larger than that circled on the undated A-2 plat map favored by the Port.

Friends of Kah Tai’s July comments illustrated the abundant grant narrative in the record that NPS is authorized to use in addition to any application maps when determining its final 6(f) grant project boundary. Because the NPS record already contains a boundary map showing Port property in the park boundary, it does not need to invent such a map using only grant narrative, but it does, per LWCF manual policy, have the right and obligation to prepare a revised final 6(f) map that includes all relevant properties at the time the grant was closed March 29, 1985. These updated details are necessary for notice to title and post-completion grant administration. NPS is fully authorized by law to create a revised final 6(f) map depicting sponsor-owned parcels and rights-of-way, and excluding any public lands originally mapped that had not yet been transferred to a sponsor at the time the grant was closed.

It is curious that the only named attachment missing in the grant application record is a plot plan and the only unnamed map that is in the original grant documents happens to be a type of plot plan, well-drawn to scale with all relevant property boundaries and outlines of adjacent properties but not exactly an architectural drawing. The application process included a lot of back and forth correspondence between the City and IAC until IAC deemed the application documentation to be complete. There is a letter in the record of that process, dated November 19, 1980, from Steve Hayden to IAC Grant Manager Eugene Leach, enclosing the last of the required application materials listed in his letter. He mentions: **“5. latest rendition of boundary map.”** This tells us that there were at least two iterations of the boundary map at that time.

The legend of the unlabeled but dated map [Attachment no. 3, Map Folio no. 3] reads ‘September 20, 1980’, during the time in which a flurry of activity finalized grant documents and land acquisition negotiations. Unfortunately, the map referred to as **“attached”** to the November 10, 1980, IAC letter from Robert Wilder about the waiver for the **“joint project”** with the Port and City is not attached in the RCO files, so it is not known which map he was referencing at that time or what it looked like. Despite the uncertainties, the September 20, 1980, map that was included in the original 1981 LWCF grant documentation is very similar to the map created from a parcel analysis by Ms. Ramsay (NPS) in September 2009 [Attachment no. 3, Map Folio no. 4] and to the map created by the City from ownership analysis in November 2010 [Attachment no. 3, Map Folio no. 5].

Furthermore, all of these maps are in general agreement with the overall size and park description provided in the project narrative, the conceptual site plan that was included in the original 1981 grant documents [Attachment no. 3, Map Folio no.2] and the Illahee Associates color schematic conceptual plan in RCO records [Attachment 3, Map Folio no. 1]. This is in contrast to the map favored by the Port that does not inscribe an area consistent with the project narra-

tive, that is inconsistent with all of the aforementioned maps and schematics in that it does not include the southern uplands and that incorrectly includes private lands to the north of the lagoon.

Deficiency IV: Faulty assertions about City Land Use Policy

Port Response Section 9c, p. 12. “Other records Consistent that Lease is the Sole Encumbrance” - City Resolution 97-08”

The Port response was incorrect in citing City Resolution 97-08 as further documentary evidence that the park lease is the sole encumbrance on Port property in Kah Tai. This resolution was adopted as part of a negotiated settlement of the Port's GMA appeal of park zoning of its Kah Tai properties in the City's 1996 initial adoption of its Comprehensive Plan. The Port ultimately agreed to drop its appeal if the City added cross-hatching to the Port's Kah Tai property on the land use map to indicate Port ownership of that area and if the City adopted the provisions of Resolution 97-08, which it did. The resolution basically stated that - like any other property owner - the Port had the future right to apply for a rezone and that the current land use designation was not necessarily controlling, which was just another way of saying that no council can control a future council on land use decisions because they are legislative. That is one particularly good reason why encumbrances like the 6(f) project boundary map are needed to protect outdoor recreation areas in perpetuity from the vagaries of local politics and never-ending development pressures.

Resolution 97-08 did acknowledge that the Port property was encumbered by the park lease until 2012. However, just because the resolution did not mention any other encumbrances is not evidence that the resolution stated that no other encumbrances existed, as the Port response incorrectly inferred above. Why would the City mention something like a 6(f) encumbrance in a document intended to end an appeal? It was not the City's responsibility to educate the Port on its other encumbrances, and this would have been the last place the City would have chosen to remind the Port of them, even if anyone at City Hall still remembered or understood the terms of the Federal grant the City had co-sponsored with the Port 16 years earlier.

On June 17, 1980 when the City Council adopted Resolution 80-01, authorizing the City's grant application, it certainly understood the concept of perpetuity on its own property. The resolution read:

“That any property acquired with financial aid through the Interagency Committee for Outdoor Recreation be placed in use as an outdoor recreation area and be retained in such use in perpetuity unless as otherwise provided and agreed to by the City Council, the Interagency Committee for Outdoor Recreation and any affected federal agency.”

That is the City's current position regarding the draft 6(f) boundary map, which it helped to prepare and now supports in its entirety, and which the Port challenges in its Response, adding Resolution 97-08 to an accumulation of other baseless assertions.

Port Response Section 10a, p.13: “Other Arguments Not Persuasive Nor Consistent with State Law Requirements.

a. City Resolution 83-01 for “dedications of streets for park purposes” is of no consequence.”

The January 18, 1983 minutes of City Council adoption of Resolution 83-01 included an explanation by Parks Board member Lois Flury, who had helped draft both City grant applications:

“...all these streets were within the perimeter of the proposed park and necessary to complete the land acquisition and gain points for the development grant.”

That should certainly put the City’s rights-of-way (ROW’s) within any 6(f) project boundary for the first grant even though it was particularly adopted for the second grant application. While the header above states that City Resolution 83-01 is not “*consistent with state law requirements*”, no relevant RCW prohibitions were cited to substantiate the statement. As for being of “*no consequence*”, the resolution is actually very relevant to future use by the Port of its Kah Tai property. The Port had purchased those inexpensive, formerly underwater parcels originally as a place to easily dump its dredge spoils in order to avoid expensive barging to deep waters. The City resolution is a clear policy statement regarding future use of its unopened ROW’s for park use. It also meant that twenty years of ungoverned motorcycle joy-riding around the abandoned dredge “*flats*” was finally over. A beautiful “*Gateway*” park was to take its place.

If the City’s ROW’s are designated in the final 6(f) map as now proposed in the draft 6(f) map, it would be a serious limitation on the Port’s future development options, given both City policy and the fact that the Port’s relatively narrow parcels are separated by park-dedicated City ROW’s and would be too small by themselves for the large-scale projects envisioned by the Port. The Port response claims that Resolution 83-01 is not binding on the Port and is not an impairment to any future change in Port use of its Kah Tai property. However, if the Port decides to pursue new development with or without final 6(f) designation, it will still need a larger building site than any now possible with its parcels as platted. The Port would have to consolidate parcels by vacating any intervening City ROW’s.

The development permit process would have to include filing a street vacation application with the City. Street vacations are governed by an RCW process requiring public notice, public hearing, and adoption by City Council ordinance. To obtain approval, the request would have to comply with all the review criteria in the City’s stringent street vacation code, one of which is consistency with existing City policy such as Resolution 83-01. Code criterion G would also be very difficult to meet. It requires:

“...that the proposed vacation will not increase the potential for disturbance of an environmentally sensitive area (ESA), as defined by Chapter 19.05 PTMC, including ESAs situated within and outside of the street, right-of-way or alley proposed for vacation.”

Being in a designated nature park that includes shorelines, wetlands, nesting and feeding habitat, etc., it would be impossible for a large development in need of more buildable “*vacant*” land via street vacation to avoid disturbing sensitive areas inside and outside of the unopened ROW’s.

It would not comply with City policy.

Conclusion:

We believe that the interconnected deficiencies in the Port response are of such a magnitude that the document should not be used as a basis for or contribute to any RCO recommendations or NPS decisions concerning the final 6(f) grant boundary map and the outdoor recreation protections it represents in perpetuity.

Sincerely,

Nancy Dorgan, Deborah Jahnke, and Richard Jahnke

On behalf of all Friends of Kah Tai

Attachments: (3)

CC: Michael J. Linde, Partnership Programs Manager,
National Park Service – Pacific West Region
[email: Michael_Linde@nps.gov]

Kaleen Cottingham, Director, Recreation and Conservation Office (RCO)
[email: Kaleen.Cottingham@rco.wa.gov]

Scott Robinson, Conservation and Grant Services Section Manager,
Recreation and Conservation Office (RCO)
[email: scott.robinson@rco.wa.gov]

David Timmons, City Manager, City of Port Townsend
[email: dtimmons@ci.port-townsend.wa.us]

Larry Crockett, Executive Director, Port of Port Townsend
[email: larry@portofpt.com]





ATTACHMENTS

1. Letter from Port of Port Townsend Attorney Craddock Verser to City of Port Townsend Attorney Timothy McMahan re: *Draft Comprehensive Plan of the City of Port Townsend* (14 June 1996)
2. Letter from City of Port Townsend Attorney Timothy McMahan to Port of Port Townsend Attorney Craddock Verser re: *Draft Comprehensive Plan -- Your June 14, 1996 letter* (21 June 1996)
3. Map Folio

0117178



P.O. Box 1180
Port Townsend, Washington 98368-4624

Phone: (360) 385-0656 Moorage Office: (360) 385-2355 Fax: (360) 385-3988 e-mail: port@daka.com

June 14, 1996

Mr. Tim McMahan
City of Port Townsend Attorney
Port Townsend City Hall
540 Water Street
Port Townsend, WA 98368

RE: Draft Comprehensive Plan of the City of Port Townsend

Dear Tim:

The Board of Commissioners of the Port of Port Townsend and myself have reviewed the June 3, 1996, Draft Comprehensive Plan proposed by the Planning Commission. The Plan was discussed at the Commission meeting on June 12, and Commissioner Sokol will be present at the June 19, hearing to address specific concerns the Commission has. While some of these concerns are relatively minor, I take this opportunity to address one of the major concerns.

As you probably know, the Port owns property adjacent to the Kah Tai Lagoon across Sims Way from the Boat Haven. Roughly, the Port owns property from Washington Mutual Bank up to Henry's Hardware, bordered on Sims Way.

In the Draft Comprehensive Plan, the Draft designates that property as "P/OS Existing park and open space". Existing park and open space land is defined as on page V-20 as follows:

"...Existing City, County and State owned parks and recreation areas, and City owned lands which provide valuable natural and open space functions".

The property the Port owns would not fall within that definition. As you know the Port is mandated by statute to encourage economic growth, and while the Port has no specific immediate plan for that property, the property would make an excellent area for future retail businesses, light manufacturing, boat storage, or other uses that are not dedicated to parks and recreation.

Mr. Tim Mahan
June 14, 1996
Page 2

The concern has been raised by the Commission that, should the City adopt the Draft Comprehensive Plan as proposed, and thus designate Port owned property as "existing park and open space" the City would be in effect taking Port property without compensation. I am sure you are more familiar with that issue more than I and I do not intend on researching the area at this time. It does appear that if the City designated Port property as "existing parks and open space" that option would certainly preclude the Port from following its legislative mandate to foster economic growth through the use of that real property. The Port requests that you delete the Port owned property from any designation as "existing park and open space", or "potential park and open space property."

An additional collateral concern has been brought to my attention through litigation between the Port and Jefferson County Fire District No. 6. I call your attention to RCW 43.09.210. That statute in part states that all "...property transferred from one [municipal corporation to another] ...shall be paid for at its full and true value..." The statute apparently does apply to transactions between municipal corporations. The State of Washington Grays Harbor County, 48 Wn.2d 606, 656, P.2d 1084 (1983) .

The Port leased the property at issue to the City for \$1.00. I believe the leases expire in 2012. While the Port has not conducted, and does not intend to conduct an appraisal of the property, it is clear the property would have at a fair market rental value far in excess of \$1.00.

I would appreciate your thoughts particularly on the second issue. It seems to me that given the statute that if the City does want to continue to use the property, we are going to have to at least adjust the rent to reflect some reasonable value for the property. On the other hand if the City does not want to use the property perhaps we should just formally terminate the lease. I believe that this is the type of issue could be passed by the State Auditor, and I do not think either the Port or the City wants that.

Sincerely,



Craddock D. Verser
Port Attorney

files/96/rb/cdbv6-14



City of Port Townsend
Office of the City Attorney

540 Water Street
Port Townsend, WA 98368
(360) 385-5991 Fax: (360) 385-5248

Timothy L. McMahan
City Attorney

Mary A. Winters
Assistant City Attorney

June 21, 1996

Mr. Craddock Verser
Port of Port Townsend Attorney
PO Box 1180
Port Townsend, WA 98368-4624

RE: Draft Comprehensive Plan -- Your June 14, 1996 Letter

Dear Crad:

I am writing in response to your June 14, 1996 letter. First, let me express my concern about the rather adversarial tone of your letter, as well as your confusion regarding some important aspects of Washington municipal law. The City of Port Townsend and the Port of Port Townsend have traditionally benefitted from a cooperative relationship in the ownership and use of public property, and the City intends to continue to facilitate that relationship. Your letter, and the positions you advocate in your letter, do not help in building intergovernmental cooperation. Please be advised that this letter responds to the legal issues raised in your letter and should not be construed as a response from the City Council regarding its legislative prerogative to revise Comprehensive Plan Map designations in accordance with the Port's comments.

The relevant definition in the Draft Comprehensive Plan addressing park/open space designations needs to be revised to include land "controlled" by the City of Port Townsend. While the City certainly understands and strongly supports the Port's statutory objective to encourage economic growth, the City and the Port negotiated a Lease of the property at issue through the year 2012, at nominal value.

Given the fact that the City has control over the property as a public tenant through 2012, there is no legal ability for the Port to argue that the City has affected a "taking" of Port property "without compensation" by designating the property park/open space. The Port has no standing to raise an inverse condemnation claim in this matter because it has no control of the property, cannot make application for property development, and will not have control of the property until 2012. Under the Growth Management Act, the Comprehensive Plan and all implementing regulations will be reviewed on an annual basis to consider all requests for revisions, rezones, *etc.* In the event the City does not maintain control of the property at issue after 2012, I would anticipate that the Port of Port Townsend would request an amendment in 2012 to revise the Comprehensive Plan designation and zoning, in anticipation of the Port regaining control of the property. Until that time, an inverse condemnation argument is nonsensical.

Mr. Craddock Verser
Port of Port Townsend Attorney
June 21, 1996
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Even if a viable inverse condemnation argument could possibly be advanced, inverse condemnation does not occur until an actual, specific land use application has been filed by the property owner having control of the property, with a legal ability to perfect a permit once obtained. An inverse condemnation claim is predicated upon that permit being denied, with the applicant exhausting all available administrative remedies. Zoning alone generally does not support a "takings" argument, particularly where an opportunity is available to address the Comprehensive Plan and zoning designation when the Port regains property control. Please review the following cases: *Bellevue 120th Assoc. v. The City of Bellevue*, 65 Wn. App. 594 (1992); *R/L Assoc., Inc. v. Seattle*, 61 Wn. App. 670 (1991); *Citizens for Clean Air v. Spokane*, 114 Wn.2d 20 (1990); *Estate of Friedman v. Pierce County*, 112 Wn.2d. 68 (1989); *R/L Assoc., Inc. v. Klockars*, 52 Wn. App. 726 (1988); *Del Monte Dunes at Monterey, Ltd. v City of Monterey*, 920 F.2d 1496 (9th Cir. 1990); *Executive 100, Inc. v. Martin County*, 922 F.2d 1536 (11th Cir. 1991); and *Lake Nacimiento Ranch Company. v. County of San Luis Obispo*, 830 F.2d 977 (9th Cir. 1987).

I am particularly alarmed at your suggestion that RCW 43.09.210 precludes the City from renting the property from the Port of Port Townsend at a nominal lease value. As the Court in *State v. Grays Harbor County*, 98 Wn.2d 606, 608 (1983) found, the language in RCW 43.09.210 is "ambiguous." Additionally, the statute is utterly inapplicable to intergovernmental dispositions and purchases of property. Please review RCW 39.33.010, which provides the following:

(1) The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, ***on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned.*** [Emphasis mine.]

The statute continues, providing that intergovernmental transfers made prior to the effective date of the statute (1972) are validated.

Given your suggestion that the Port might consider intervention from the Washington State Auditor, I took the time to call the Assistant Attorney General who advises the State Auditor in matters of this kind. If you have any lingering confusion about the law after reviewing this letter, I would encourage you to contact Assistant Attorney General Brian Bukholtz. Mr. Bukholtz told me that the Attorney General's Office interprets the scope of RCW 43.09.210 to be very limited, and looks to specific statutes to allow governments to contract with one another for the disposition

Mr. Craddock Verser
Port of Port Townsend Attorney
June 21, 1996
Page 3

of property on whatever terms and compensation local governments deem appropriate. The specific statute allowing the transaction on the Kah Tai property is RCW 39.33.010. Mr. Bukholtz advised me that he has never seen an auditor finding, or advice from the Attorney General's Office, that the kind of transaction at issue here creates any legal problem for the jurisdictions. Mr. Bukholtz indicated that throughout the state, local governments routinely "gift" public property to each other or convey property at nominal values. This effectuates important public policy objectives. Lloyd Cahoon should recall that on numerous occasions I have advised the City council that the City has the legal authority to provide property and services to the Port "free of charge."

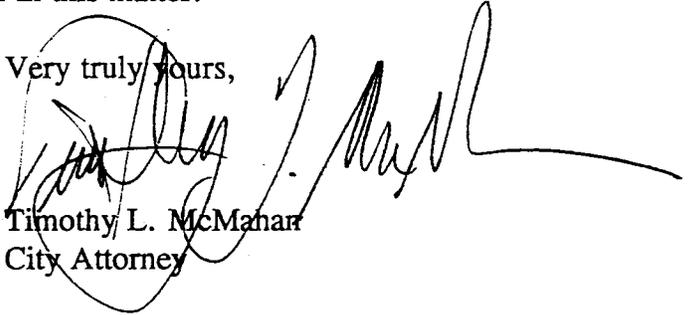
According to the Attorney General's Office, the more specific state statutes control over the ambiguous, general language in RCW 43.09.210. If you believe an audit is necessary to further develop this matter, you are at liberty to request State Auditor involvement. However, I would assume that the State Auditor would turn to their Assistant Attorney General (Mr. Bukholtz) to give them legal guidance in reviewing your question. You might also review AGO 1973 No. 18, which states as follows: ". . . finally, where the legislature has authorized gifts of public property from one agency to another, it has done so by express statute. *See*, RCW 39.33.010,"

What particularly alarms me about your allegation that the Kah Tai lease is invalid is that this office recently, in good faith, cooperated with you to complete the conveyance of the Quincy Street Dock -- coincidentally for **\$1.00**. Obviously, this was a nominal conveyance to further important public policy objectives, pursuant to RCW 39.33.010. Assistant Attorney General Bukholtz advised me that, assuming the Port's argument conveyed in your June 14 letter could be correct, the City would have the legal authority to "unwind" that transaction, invalidate the purchase, and again assume and repossess control of the Quincy Street Dock. The Port recently approached the City for a reduction in permitting fees for the Heavy Haulout Project. Under your interpretation of RCW 43.09.210, that kind of intergovernmental cooperation would be impossible, as would free police services to patrol Port-owned roadways. In short, the position you take in your June 14, 1996 letter opens a "Pandora's box" which would leave the Port in a very unfortunate position, quite contrary to its best interests and the best interests of our taxpayers and residents.

Mr. Craddock Verser
Port of Port Townsend Attorney
June 21, 1996
Page 4

I hope this letter clarifies the City's position in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Timothy L. McMahon', written over a circular stamp or seal. The signature is fluid and extends to the right.

Timothy L. McMahon
City Attorney

copy: Mayor Julie McCulloch
Dave Robison, BCD Director

[95-101]Let{Vers0621.ltr}

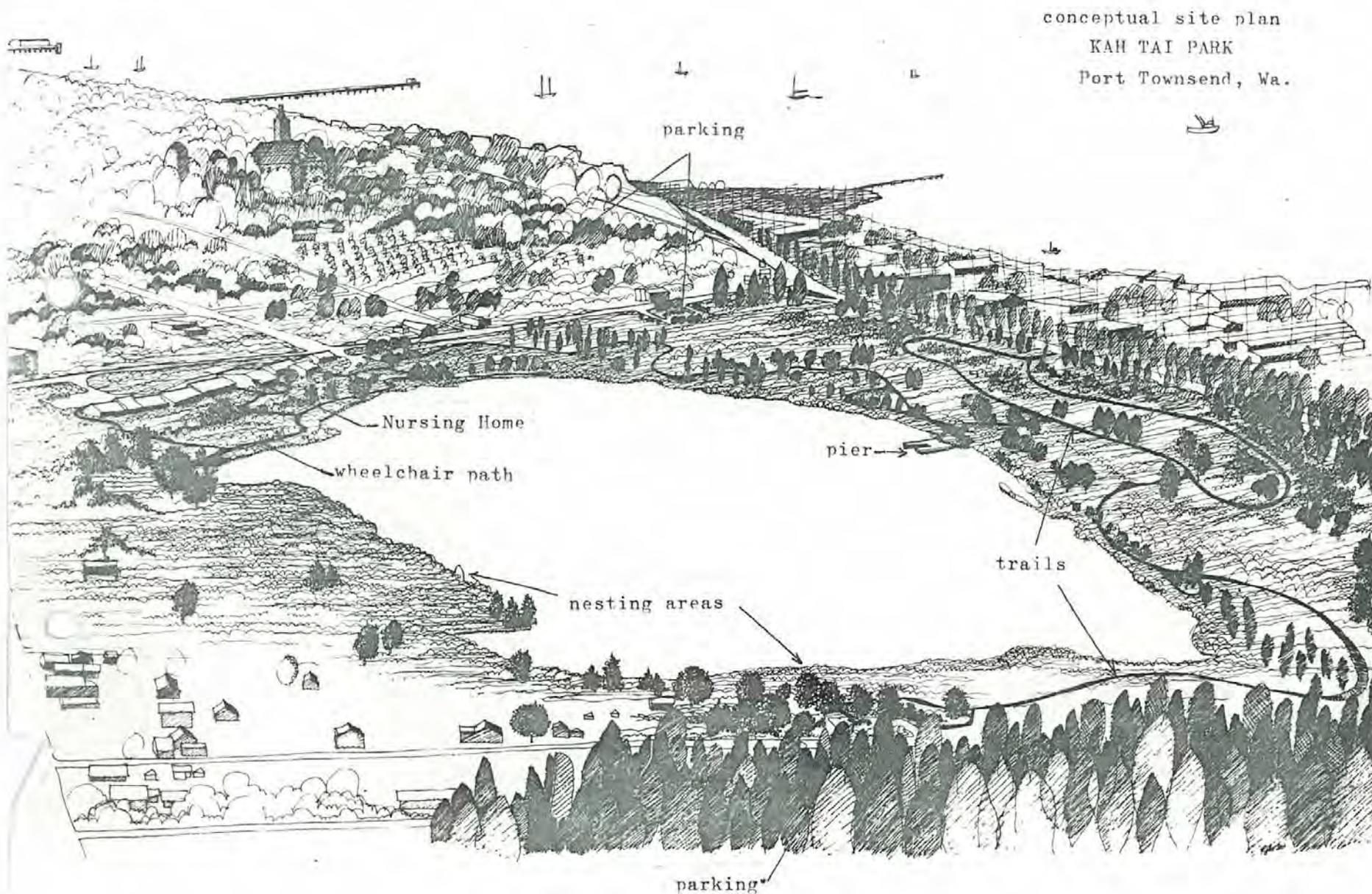


MAP FOLIO

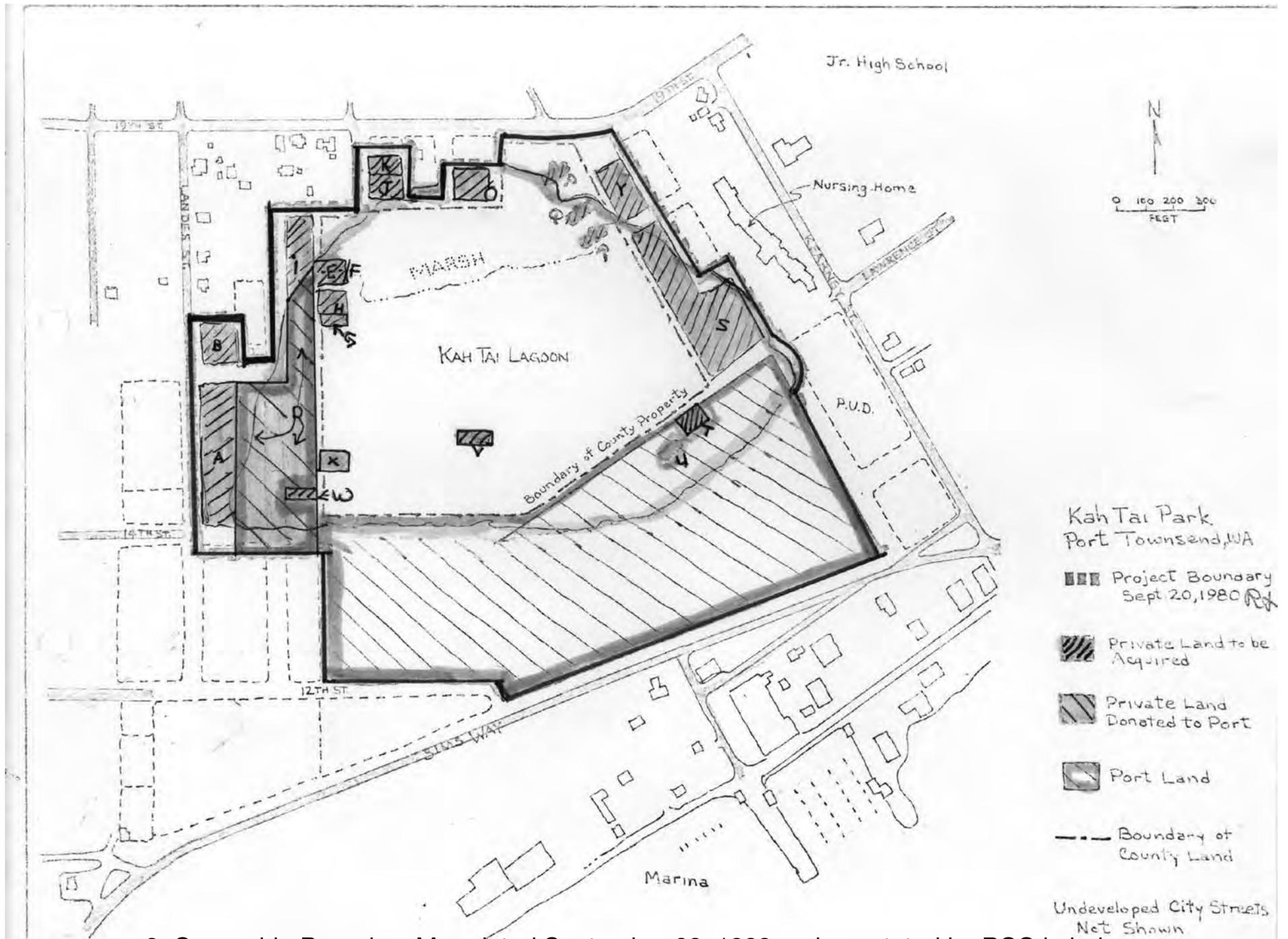
1. Kah Tai Lagoon Park rendering from NPS archive
2. Conceptual Site Plan – Kah Tai Park
3. Ownership Boundary Map dated September 1980 and annotated by RCO in ledger
4. Jefferson County parcel detail map with boundary and “6f approx. by HR” annotation
5. Draft 6(f) Map



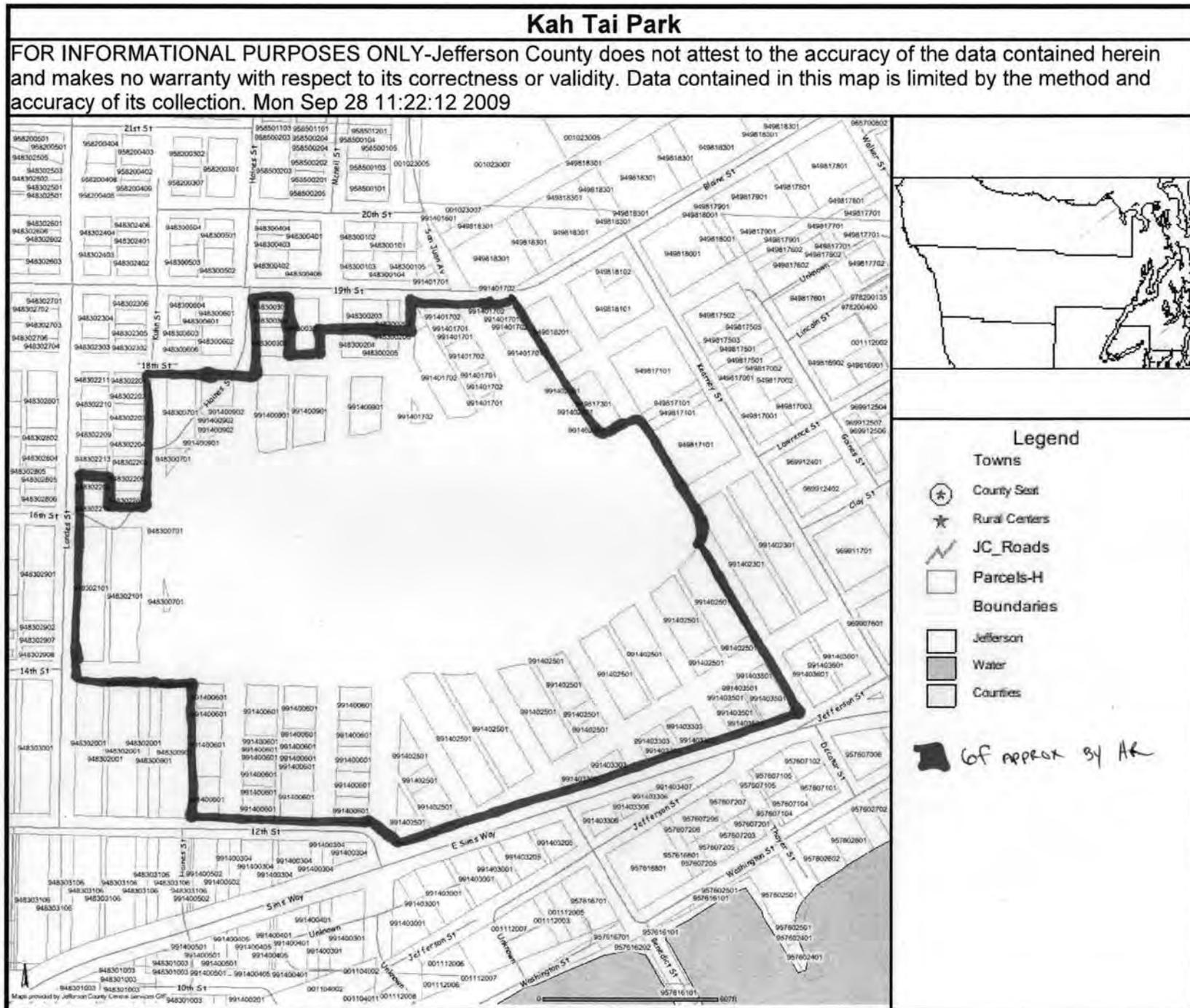
1. Kah Tai Lagoon Park rendering from NPS archive



2. Conceptual Site Plan – Kah Tai Park



3. Ownership Boundary Map dated September 20, 1980 and annotated by RCO in ledger



4. Jefferson County parcel detail map with boundary and "6f approx. by HR" annotation



5. Draft 6(f) Map

29 March 2011

To: RCO Funding Board

Re: Briefing Memo, Item 7 - Kah Tai, 31 March 2011

More than 30 years ago, the citizens of Port Townsend spoke at the ballot box to elect both City and Port officials on a platform of saving what remained of an estuarine lagoon. The mayor of Port Townsend elected in that landslide and the Port manager in place at that time have both contributed clear and convincing arguments to RCO and NPS that the scale of the planned Kah Tai Lagoon Nature Park included the Port land now under discussion. Throughout the recent deliberations by NPS and RCO, individual citizens and citizen groups have provided volumes of accurate and important information from the historic record of the park's creation, and often from RCO's own historic records via public records requests.

The Park was created by volunteers. The acquisition grant proposal was written by volunteers. It ended up in the Secretary of the Interior's Contingency Fund because the reviewers for the conventional funding path thought that the plan could not be carried out by volunteers even though the proposal had great merit and the area was under serious threat from development. Four generous private citizens donated valuable land to provide the required local match.

Judging from the briefing memo provided to this Board, citizen input has been ignored by RCO. The errors throughout the briefing document come from the Port attorney's response to a draft boundary map for the park developed by NPS, the City of Port Townsend and RCO. NPS and the City are in complete agreement that the original park boundary should be protected and that failures by various government agencies to properly complete the process at the required stages do not invalidate the federal contract creating the park in perpetuity. An attorney representing citizen groups has submitted a letter to the Board documenting that this is the correct interpretation of the contract signed by the co-sponsors.

The City of Port Townsend should have flagged the titles. NPS should have submitted an accurate boundary map at the close of the acquisition grant in 1985. RCO had an obligation as the State agency in authority to see that these actions were undertaken, but RCO didn't do its job either. And the Port of Port Townsend should cease denying its voluntary role in the creation of an LWCF park with all the strings attached. Instead, it has wasted taxpayer money, agency time, local government time, and the goodwill of citizens to bring us to this point.

RCO is asking for the authority to negotiate something that is non-negotiable. The City of Port Townsend's manager has forcefully stated the City's position on that issue. NPS has stated its position. What remains is the Port of Port Townsend, seeking a crack big enough to allow it to ignore its federal and state contractual obligations. Apparently, RCO staff are willing to assist the Port in that effort. The RCO Board should forward a recommendation to NPS for the full intended 6(f)(3) boundary for Kah Tai Lagoon Nature Park.

Sincerely,
Deborah B. Jahnke
360-531-3415 dbjahnke@att.net
Port Townsend citizen
Friend of Kah Tai
Admiralty Audubon member

GENDLER & MANN, LLP

ATTORNEYS-AT-LAW

Michael W. Gendler*
David S. Mann
Brendan W. Donckers

1424 FOURTH AVENUE, SUITE 715
SEATTLE WA 98101

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*Also admitted in Oregon

March 30, 2011

Kaleen Cottingham
Director
Washington Recreation and Conservation Office
PO Box 40917
Olympia, WA 98504-0917

RE: Kah Tai Lagoon Park Boundary Lines

Dear Ms. Cottingham:

We write on behalf of the Admiralty Audubon Society and Friends of Kah Tai to request that the Washington Recreation and Conservation Office issue a §6(f)(3) boundary determination which includes *all* of the approximately 78.5 acres of Kah Tai Park that the City of Port Townsend and Port of Port Townsend agreed by contract to steward in perpetuity as a parkland.

I. SUMMARY RECOMMENDATION

While the grant file appears to be missing several documents, sufficient evidence exists to clearly demonstrate the intent of the City of Port Townsend and the Port of Port Townsend to include all of the approximately 78.5 acres acquired pursuant to the Land and Water Conservation Fund Act and protected as a park in perpetuity. Both the Port and the City agreed, in unequivocal terms, in a contract with the state of Washington, to strictly limit the use of these lands to outdoor recreation for the purposes of a public park.

The Port's claim that one or all of several leases existing between the City and the Port should have any bearing on the question of park boundary lines is a red herring. Port leases with the City do not have any legal effect upon the Port's separate agreement with the state to permanently restrict all of the land that was acquired, with state and federal assistance, to create the park. The Port's intent at the time the leases were entered into is readily apparent: both the first (1981) and second (1982) leases were authorized while expressing support for the Kah Tai Park and were specifically intended to facilitate the park's establishment. Given such clear manifestations of intent in the available record, RCO's boundary determination should include *all* of the approximately 78.5 acres of Kah Tai Park.

II. RELEVANT FACTS

Between February of 1979 and June of 1981, the City of Port Townsend and the Port of Port Townsend (Contracting Parties) entered into a "Project Contract" (Contract), Project Number 81-043A, with the State of Washington Interagency Committee for Outdoor Recreation (IAC),

agreeing to limit the use of 78.5 acres of an estuarine lagoon, wetlands and uplands in Port Townsend, Washington known as Kah Tai Lagoon Nature Park to outdoor recreation as a public park. Contract at ¶¶1-5.

The Contract was received by the IAC on June 11, 1981 and detailed a total project cost of \$236,000.00, \$118,000.00 of which would be contributed by the United States Department of the Interior as federal Land and Water Conservation Funds (LWCF). Contract at ¶4. The IAC agreed to pay \$59,000.00 and the remaining \$59,000.00 was matched by four local, privately-held land donations.¹ *Id.* The parties signing the Contract agreed to subject the parkland to use restrictions derived from the LWCF Act. Contract at ¶¶6-8. The Port is to be held to “strict compliance” with the terms of the contract, *id.* at ¶9, and the state agreed to enforce land use restrictions as a condition to obtaining a grant from the U.S. Department of the Interior.

The Contract was amended on several occasions, in part for the limited purpose of extending the completion time of the project, in 1982 and 1983. In 1984, the Contract was again amended to reduce the scope of the project by a number of privately-held parcels of land. No additional provisions or modifications of standard provisions to the Contract were stated on a page requesting the contracting parties to identify any that existed. There was no reservation of *any* rights in the Contract.

Several documents surrounding the execution of the Contract demonstrate that the parkland acquisition was specifically intended to prevent further degradation of sensitive habitats and preserve public access to the shoreline. The state viewed the project as one which would meet two of Washington’s Statewide Comprehensive Outdoor Recreation Plan (SCORP) goals: providing public access to shoreland and tidelands and retaining “wetlands as wildlife habitat areas.” (Letter from state to Secretary of U.S. Dep’t of Interior dated 12/5/80; *see also* Kah Tai Lagoon Acquisition Project Briefing Paper dated 12/1/80 and Memo from Heritage Conservation and Recreation Service to Interagency Committee for Outdoor Recreation dated 11/19/80).

Documents the state submitted to the federal government reiterate SCORP goals, stating that the purpose of the grant funding would be to promote both public access and conservation, enabling the City to “plan and develop a municipal passive park around the Lagoon.” (Federal Assistance Application dated 6/30/80). Accordingly, the LWCF agreement describes the project as an acquisition to enable the “City to plan and develop a municipal passive park around the Lagoon.” (LWCF Agreement between state and U.S. Dep’t of Interior dated 1/30/81).

The Port entered into leases with the City, in 1981 and 1982. The 1981 agreement with the City leases underwater portions of the lagoon and a ten foot strip of upland bordering the south boundary of the lagoon. The second lease, entered into in 1982, concerned 20+ acres of uplands between the south shore of the Kah Tai Lagoon and Sims Way. The Port entered both leases acknowledging that the leases served the purpose of supporting a parkland acquisition grant and

¹ Gordon Papritz, Rennie Bergstrom, George Green, and H.J. Carroll donated four parcels to meet federal matching requirements.

a development grant and strictly limiting the City to using the land “for park purposes only.” Language in the leases specifically identifies and supports the Kah Tai Park project. The state was not party to any of the Port’s leases with the City. The federal grant closed on March 29, 1985 without any record of a modification to the Contract executed between the state and the Contracting Parties.

In 1983, the City applied for a development grant from IAC, Project Number 83-018D, to fund Kah Tai Park improvements, including the construction of parking facilities, play equipment, restrooms, and utilities. The City received the grant, applied funds for the stated purpose and the grant was closed in 1987.

III. GOVERNING LAW

The Land and Water Conservation Fund (LWCF) was enacted in 1965 to preserve natural resources by enabling states and local political jurisdictions to partner with the federal government to obtain financial assistance to acquire and set aside natural landscapes. The City of Port Townsend and Port of Port Townsend deliberately sought out the assistance of the federal government pursuant to the LWCF Act, beginning in the 1970s, to preserve the Kah Tai Lagoon. Ultimately, the Port and the City entered into a contract with the state to set aside all of approximately 78.5 acres of the lagoon, wetlands, and uplands. In connection with the Contract, the state entered into a separate agreement with the U.S. Department of the Interior to obtain financial assistance to acquire parkland.

The Contract executed between the City, the Port, and the state restricts “the area of Port Townsend known as the Kai Tai Lagoon” to an “outdoor recreation” use as a public park. Contract at ¶¶1-5. The parties agreed to subject the parkland to use restrictions adopted pursuant to the LWCF Act. Contract at ¶¶6-8. The agreement states that the “Contracting Party shall not *at any time* convert any property or facility acquired or developed pursuant to this contract to uses other than those for which assistance was originally approved without the prior approval of the Interagency Committee.” Contract at ¶14 (Emphasis added).

Related documents in the grant file, including those outlined in Section II above, show that the Port, the City, the State of Washington, and the Department of Interior all understood that the land acquired for Kah Tai Park would be permanently encumbered and limited to parkland for outdoor recreation. There is no evidence in the Contract or related grant documents supporting the Port’s claim, that it intended to reserve a right to change or later convert the park’s use.

Even if the Port had attempted to reserve a right of conversion, federal law and implementing regulations would have foreclosed the attempted reservation. The Contract expressly incorporates the General Provisions of Section 660.4 of the Land and Water Conservation Grant Manual, which state that the manual is “made part of this contract and *the Contracting Party shall abide by the Project Agreement General Provisions.*” Contract at ¶8 (Emphasis added).

Section 660.4(II) of the manual, entitled “Continuing Assurances,” states that the parties to the project agreement specifically recognize that Land and Water Conservation Fund assistance

creates “an obligation to maintain property described in the project agreement consistent with the Land and Water Conservation Act and the following requirements.” *See* U.S. Department of the Interior, Heritage Conservation and Recreation Service Manual (Manual), § 660.4 (1978). Requirements include a provision stating that no land included within a project boundary map may be converted to any use “other than public outdoor recreation” and shall instead be “maintained in public outdoor recreation in perpetuity.” *Id.* at Part II(B). These regulations are unequivocal in stating that any conversion *must* be approved by the Secretary of the Interior. *Id.*

The state is obligated to enforce land use restrictions. The Manual provides that the state “will further impose these requirements, and the terms of the project agreement, upon any political subdivision or public agency to which funds are transferred pursuant to the project agreement.” *Id.* at Part II (A). The state, even aside from its authority to enforce land use restrictions under the terms of its agreement with the Port, is also obligated to enforce such conditions under federal law. RCO should heed this language, and ensure that *all* of the approximately 78.5 acres of parkland are included within the updated boundary map.

While Washington courts have not extensively reviewed matters arising under the LWCF Act, the federal courts have strictly construed the provisions of the LWCF Act in favor of preservation. In the seminal case, *Friends of Shawangunks, Inc. v. Clark*, 754 F.2d 446 (1985 2nd Cir.), the Second Circuit ruled that a proposed golf course constituted an unlawful conversion under the LWCF Act. The court stated that the property right that was acquired locally is “the right to prevent further development of the land underlying the easement.” 754 F.2d at 450.

Friends of Shawangunks criticized the local RCO’s assertion that the change in use from “an unspoiled area to private golfing” did not constitute an unlawful conversion. *Id.* at 451. A conversion, the court quipped, conflicted sharply with land use restrictions attached to the provision of federal grant funds: “Consistent with Congress’s concern for lasting recreation opportunities, the Secretary approved federal funding...in part because of the plans for the easement area’s future specific constraints on development and guarantees of environmental protection.” *Id.* Consequently, “any future change that contravenes these plans retroactively calls into question the basis for the original federal funding” and “necessarily requires the Secretary’s approval[.]” *Id.* at 451-2.

While the federal government very clearly reserves the right to approve any conversion of parkland use, Manual at §660.4(Part II)(B), the Port ignores the rights and interests of the state and federal government as they are stated in the Contract and related agreements and grant documentation by claiming that “No such deed or writing exists” to bind the Port. *See* Port Letter dated 1/21/11 at p. 14. The Port’s claim is belied not only by the plain terms of the Contract, but by the Port’s own admission of its existence.

The Port argues that one or several leases with the City of Port Townsend preempt the Port’s independent contractual obligations under the Contract with the State of Washington. The assertion is a red herring. The Port very plainly agreed to encumber Port-owned land in the Contract and expressly acknowledged the parkland acquisition as the basis for the lease. The use

restriction the Port agreed to in the Contract applies whether the Port has leased the land or not. The mere expiration of a fixed-term lease has no effect on land which is subject to a restriction under a separate and independent agreement with the State of Washington.

The Port invokes the Statute of Frauds to nullify the Port's obligation under the Contract, but this theory flatly conflicts with Washington law. The well-established common law doctrine of equitable estoppels states that "a party should be held to a representation made or position assumed where inequitable consequences would otherwise result to another party who has justifiably and in good faith relied thereon." *Kramarecky v. Dep't of Soc. & Health Servs.*, 122 Wn.2d 738, 743 (1993). The elements of equitable estoppel are: 1) a party's admission, statement or act inconsistent with its later claim; 2) action by another party in reliance on the first party's act, statement or admission; and 3) injury that would result to the relying party from allowing the first party to contradict or repudiate the prior act, statement or admission. *Id.* Under this doctrine, the Port cannot seek to change, modify, or convert the use of land within park boundaries after having already agreed to bind the use of such land to parkland in an agreement with the City and the State of Washington. Any attempt to do so requires approval from the federal government. *See, Friends of Shawangunks*, 754 F.2d at 451-2.

The Port's further claim, that the failure to record the Contract is dispositive of any other interest, is inapposite. *See* Port Letter dated 1/21/11 at p.4. The plain language of RCW 64.08.070 states that the conveyance not so recorded "is void as against any subsequent purchaser or mortgagee in good faith and for a valuable consideration." *Id.* There is no evidence that a person or entity has purchased Port land and so the protections afforded to a "subsequent purchaser" are inapplicable here. RCW 64.08.095, also relied upon by the Port, *id.*, applies to "every conveyance of fee title to real property." There has been no assertion that the Port conveyed property held in fee title to anyone or any entity. Neither statute applies here.

Even if there were no written agreement between the Contracting Parties and the state of Washington, the doctrine of part performance is an exception to the Statute of Frauds and statutory recording requirements. *French v. Sabey Corp.*, 134 Wn.2d 547, 556-7 (1998). Sufficient part performance exists where rights to the subject land are actually conveyed subject to an agreement for consideration, and improvements are made on the property subject to the agreement. *Wagers v. Associated Mortg. Investors*, 19 Wn. App. 758, 766 (1978). The Port conveyed the right to develop on land within Kah Tai Park in the Contract in exchange for obtaining grant assistance from the state and the federal government to establish the park. Based on pending LWCF assistance – which included Port land – the City sought and received a maintenance and improvement grant from the state. The City sought out and applied additional funds understanding that use restrictions protecting the parkland would exist in perpetuity. The City's performance under the Contract precludes application of the Statute of Frauds and statutory recording requirements.

IV. CONCLUSION

We again respectfully request that the RCO boundary determination include *all* of the approximately 78.5 acres of Kah Tai Park which were acquired for the purpose of establishing parkland with state and LWCF grant assistance. The Port, along with the City of Port Townsend, knowingly and deliberately entered into an agreement with the state to bind all of the parkland included in the acquisition project in perpetuity. The state should negotiate nothing less.

We appreciate your consideration of our comments and would be happy to provide any additional assistance as this matter progresses.

Very Truly Yours,

GENDLER & MANN, LLP



Brendan W. Donckers

March 27, 2011

Recreation and Conservation Funding Board Members:

I have lived on the Quimper Peninsula for almost forty years. Early in those years I had young daughters. Kah Tai was an easy walk from our house; we walked it often. Even though by then the estuary had been cut off from tidal action the lagoon was alive with birds and there was a sense of wildness about.

In those years it was not unusual to have snows that lasted for a week or more and temperatures that froze the lagoon solid enough for ice skating. From my window I could see the skaters and the warming fires all along the shoreline.

As I joined into the effort to establish the park I learned about how native peoples had used the string of lagoons from North Beach to Port Townsend Bay for portage to avoid the treacherous tides of the point. My girls had science projects that involved birds and habitat around the Kah Tai.

The process to confirm this chunk of land for a park was arduous. There were several law suits; lawyers paid with monies earned from selling corn at the Wooden Boat Festival, selling balloons for quarters along the Rhody Parade route; donations at benefit concerts, quilt raffles, and lots of personal checks.

Along the way local politics and city council elections became a major factor in order to qualify for grant assistance to keep the park dream solvent. The City Council, Port Commissioners, PUD, and private landowners, all agreed to commit real estate for the "lagoon". to become part of our hometown landscape known as Kah Tai Lagoon Nature Park.

The work was not just the thousands of hours of digging and planting, coaxing this scarred jewel into its new life. There was never any question about putting in the sweat equity because we all knew that in exchange for government money our leaders signed on the dotted line under the word "perpetuity". Our efforts were going to create a legacy for the future.

The 2012 Port lease became an accepted urban myth. But we kept tending to the park habitat in good faith. Every few years there was an attempt to raid the park land for some development scheme and finally the discussion of the lease became urgent and the questions came. What did the contracts signed so many years ago say? What were the legal park boundaries? And so began the search for the myriad documents saved in attics and garages (not in government files apparently) for the proof of what we believed - the park was intended to be forever. The proof was found, a contract issued by NPS and signed by the Port and the City in 1981 stating the lands acquired for the 78 acres were to be an outdoor nature park forever and in perpetuity.

We have turned gray and arthritic but this irreplaceable nature park in the middle of our town gives renewal with every walk along the lagoon edge binoculars at the ready; with the chance of coming upon kite flyers in the meadow, bumping into friends along the trail, sharing a conversation on bench, or simply indulging in a quiet interlude to a busy day. The night darkness, native plants and water are the essence of this habitat. We share this place with birders who trek along the Pacific Flyway to glimpse migrations. We all watch - with anticipation.

Sincerely,

Julie Jaman
Friends of Kah Tai
790 McMinn Rd.
Port Townsend, WA 89368
360-385-6078







From: [Victoria](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: COMMENTS TO RCO BOARD, AGENDA #7
Date: Wednesday, March 30, 2011 10:55:12 AM

To whom it may concern:

I live on Landes Street across from the Kah Tai nature park. I was told by my realtor in 1999 when I purchased my home that it was protected and would always remain a nature park.

The Kah Tai nature park was one of the main reason for purchasing my home in this location.

Additionally, it is home to many species of birds and wildlife. The peninsula schools bring children to the park on nature studies and tours. It is a main stay for bicycle riders. Visitors to Port Townsend enjoy the park and I have been told by many I meet within the park it is why they return to Port Townsend for vacations, which creates revenue for the City.

The Port signed an agreement and it is illegal what they are trying to do. I for one will seek my own attorney against the ports actions if this should go any further.

Most of Port Townsend's land has been used up commercially and this is the last sanctuary left.

Respectfully submitted, Victoria Kelley
360-379-3814

From: [kkolff](#)
To: [Connolly, Rebecca \(RCO\)](#)
Cc: [Kees Kolff](#); [Rose Sikes](#)
Subject: Kah Tai Park, Agenda item #7 for RCO
Date: Friday, March 25, 2011 6:11:34 AM

March 25, 2011

RCO Board.

To whom it may concern:

The grant that helped establish the Kah Tai Park in 1981 was clearly intended to preserve the park "in perpetuity", and therefor should be preserved with 6(f) status. This should include all of the 78.5 acres of the park as described at that time, regardless of ownership. Subsequent leases by any party, including the Port of Port Townsend, should not affect this protected status.

Kah Tai is a community treasure that should be protected as a park for future generations. There are, and will continue to be, development pressures on dwindling wildlife habitat and open spaces in urban settings. Please avoid setting a precedent of negotiating away publicly funded open space and preserve Kah Tai as a park forever.

Sincerely,
Kees Kolff, MD, MPH
Former Mayor, Port Townsend

From: [Helen](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Wednesday, March 30, 2011 8:24:38 AM

March 30, 2011

To The Washington State Recreation and Conservation Office,

I am a resident of Port Townsend and urge you to recommend 6(f) protection of the Port of Port Townsend's land in the Kah Tai Park since the Port signed the Land and Water Conservation Fund contract in 1981.

I would also like to see this land continue to be protected since it is an integral part of the current lagoon ecosystem providing wildlife habitat, because it is low-lying and may not be a suitable building site, and because it is valuable open space.

Thank you for your consideration,

Helen Kolff
335 37th St.
Port Townsend, WA 98368

From: [Robert Komishane](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Recommend 6(f) protection for the Ports Land in the Kah Tai Park
Date: Friday, March 25, 2011 10:16:44 AM

Dear Ms. Connolly,

I'm sure you must have or will be getting other emails about the legalities concerning the protection of Kah Tai Park from potential development. I just wanted to emphasize how important this small parcel of land is-- to me and to others I know--as an oasis in a more & more urbanized environment here in Port Townsend. Each time another little bit of natural beauty is lost to development, it may not seem like that much in and of itself, but over the months and years it keeps accumulating until less and less of this kind of land remains. I live a few blocks from Kah Tai, and since I can't get around town easily, I find it an accessible place to go to whenever I need a little restful pause in the midst of a busy day. Losing even a small portion of the park would significantly encroach on the quiet, peaceful refuge it provides. So, I hope you will do whatever you can to help protect Kah Tai Park and allow it to continue as it is "in perpetuity". Thank you for your time in reading this letter.

Best,
Robert Komishane

March 26, 2011

Recreation & Conservation Funding Board

Re: Briefing Memo Item 7- Kah Tai

A staff member at the Recreation & Conservation Office, Mr. Jim Anest, has proposed that the RCO Director be given authority to negotiate the Kah Tai Lagoon Nature Park boundary. The boundary was established thirty years ago and is confirmed by the written record presently on file with the National Park Service and RCO. Have you examined these records?

Also of import, if you grant Mr. Anest's request you will affirm blatant factual errors in his proposal and analysis. One example. Twenty acres of Port of Port Townsend land leased to the City of Port Townsend was not part of the match to acquire Federal funding as claimed by Mr. Anest. The IAC Grant Project Agreement was signed a year and one-half before that lease was signed.

His argument that "differences of opinion" and "conflicting memories" should be the basis for reviewing and, by inference, possibly overturning previous decisions that lawfully designate park and recreation lands is deeply troubling. To guard against faulty memory or expedient latter-day opinions the rules governing the use of Recreation and Conservation funds make sure that signatories on a contract know it is in *perpetuity*.

You must not abrogate your responsibility or authority. Consistency and enforcement of State and Federal regulations administered by the RCO Board are necessary to assure compliance and, confidence in the law. I suspect that allowing for the "flexibility in decision making" that Mr. Anest touts, the motivation behind his request for authority, is an attempt to facilitate a change of the park boundary to placate the Port of Port Townsend.

I have lived in Port Townsend for over thirty years. Recently I was privileged to review the records and newspaper articles about the establishment of the Park and was reminded of those I knew who worked so hard to make that dream a reality. That work continues today.

No private negotiations! Conduct deliberations in public.

Margaret Lee, 809 Gaines Street, Port Townsend, WA 98368 ptmlee@olympen.com

From: uniquelegacies@aol.com
To: [Connolly, Rebecca \(RCO\)](#)
Subject: agenda 7
Date: Wednesday, March 30, 2011 12:01:43 PM

Rebecca Connolly,

I think more publicity should be given to what the port is trying to do. I am contacting my step-daughter who worked for Steven Spielberg for 20 years.

I think as an environmentalist he could advise her how to get this nation wide attention. he has made movies up here and loves the area.

WHAT IS THE PORT THINKING!!!!

Judy Little

From: [Linda Lou Marshall](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Tuesday, March 29, 2011 5:18:12 PM

Greetings Rebecca,

I felt it important to express my concern about this upcoming item for discussion that greatly impacts the public who use and treasure Kah Tai Nature Park and Lagoon in Port Townsend. Please recommend 6(f) protection for the Port's land in the Kah Tai Park. There have been multiple commitments in the past (including from the Port) about this area being preserved as a nature park. But it seems that matters like this come under constant pressure by pressure for development and the commitments of the past are disregarded. Outdoor recreation and the ability to enjoy nature and its creatures at its finest within city limits are important to us humans and to animals – and what this area was set aside for.

Please support us in our desire to maintain this space for all of the public to enjoy.

Thank you for listening,

Linda Lou Marshall
PO Box 861
Chimacum, WA 98325
360-732-5070

From: [Colleen McCaffrey](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Thursday, March 24, 2011 8:57:36 PM

I am a resident of Port Townsend and I wish to lend my support for the continuation of the 6(f) protection of lands in the Kah Tai Park area. I am an avid birder and walker in that area, and given the fragility of the wetlands there, encourage the continuation of the original intent of the 1981 contract between the NPS and the City.

Colleen McCaffrey
5210 Mason St
Port Townsend, WA 98368

March 30, 2011

TO: Recreation and Conservation Funding Board
email: Rebecca Connolly, Board Liaison Officer @ rco.wa.gov

RE: Request for Delegation of Authority.
Kah Tai Park (RCO #81-043A) Boundary Dispute

Ladies and Gentlemen:

I address this letter to the RCO Board asking you to reject the Request for Delegation of Authority to the RCO Director to negotiate the project boundary at KahTai Lagoon Nature Park in Port Townsend, WA (Resolution # 2045). Granting such authority contradicts the Board's strategy of ensuring that funded projects are managed in conformance with existing legal authorities for the following three reasons:

I

The Request before you and the attached Resolution are based on material erroneous statements and/or implications:

ERROR 1: Page 1, Summary (para 1, sentence 2): "The two grant sponsors are now in dispute with the National Park Service (NPS) about how the grant-protected boundary of the park is defined."

BUT: The city and NPS are not in dispute. They are in accord that the 1981 park boundaries referred to in the 1981 grant application can be clearly deduced from the surrounding documents and deeds.

ERROR 2. Page 2 of the Request: "As part of the match, the port entered into a 30-year lease with the city for 20 acres, which make up the southern portion of the park."

BUT: The requirement for the match came at the time of the original grant application (1981). The lease was entered into at a later date (1982). See record.

ERROR 3. Page 2 of the Request: "There is no question that the 20-year lease was part of the land donation constituting the sponsor match."

BUT: There is every indication in the documents that unencumbered port land was indeed to be used as part of the match. The lease of the land came a year after the original grant application. To meet an RCO deadline for the city's subsequent request for funds to build restrooms at the park, the port, who had not completed the land transfer required by its 1981 grant sponsorship, did the quickest thing--they placed the subject lands into a lease. This met the RCO deadline and the RCO request that these subsequent funds go to a single governing entity. *The lease did not abrogate the port's contractual duty to complete the land transfer under its 1981 grant sponsorship.*

ERROR 4: Page 2 of the Request: The positions of the NPS and the opinion of a land use attorney are set against each other as having equal merit.

BUT: The grant included funding from LCWF and is thus subject to published NPS rules and determinations. The port's attorney's opinion is replete with errors. It omits entirely the 1981 grant application documents, whereon the port signed as a sponsor and left blank all opportunities to list leased land as part of the match. It omits the chronologic sequencing of the application and lease. It omits the fact that the port neglected all opportunities to amend the application and list its matching land as "leased." It omits the fact that the city relied on the port's sponsorship of unencumbered matching land to assure donors that the park would exist "in perpetuity." And most importantly, it omits the fact that from the port's signing the 1981 grant application, a contractual obligation to the state arose. The terms of that contract were set in the application, and the port cannot now seek to impose a condition on terms it agreed to 30 years ago.

ERROR 5: The Fifth WHEREAS of Resolution # 2011-05 states: "WHEREAS the two grant sponsors are now in dispute with NPS about how the grant-protected boundary of the park is defined;"

BUT: The City of Port Townsend is not in dispute with the NPS over the grant-protected boundary but are, in fact, in accord.

II

The location of the boundaries is a question of fact and does not lend itself to negotiation. Facts show that the port sponsored the 1981 grant without listing the land it contributed for the match as leased. Facts show that the lease was

entered into subsequent to the grant sponsorship. Facts show that the port never sought to amend the 1981 application to show the lease. Facts show that the city relied on the port's co-sponsorship with lands that were unencumbered and therefore available for park designation in perpetuity. Facts show that the port knew of the city's statements to donors that the nature park would exist "in perpetuity." Facts show there is no dispute between NPS and the City of Port Townsend on the placement of the park boundary--the 1981 application controls. Facts show that NPS and ROC dispensed funds to the grantees. The law states that NPS regards these grant agreements as contracts that impose substantive land use obligations on grantees. These obligations are not subject to negotiation.

None of this--neither the facts nor the law--present evidence of "rewritten history or faulty memory." They simply are, and cannot be subjects for negotiation.

III

The RCO Board's strategy of ensuring that funded projects are managed in conformance with existing legal authorities is not served by delegating authority to your Director to negotiate the park boundaries for a final and most important reason. Negotiation is inapplicable.

What does serve the Board's strategy is clear:

You must uphold the terms of the contract between the state and the co-sponsors of this grant.

You have the authority now to declare 6(f) protection of the park boundaries as they are deducible from the documents and agreed upon by NPS and the City of Port Townsend.

As a taxpayer, I submit that you have this duty to exercise your authority. By so doing you end unnecessary expenditures of public and private money and time, as well as the possibilities of litigation that will only find the same facts you have before you

I ask that you grant 6(f) protection to the KahTai Lagoon Nature Park and order the port to fulfill its contractual obligations.

Thank you.



Mary McDowell

From: [Marilyn Muller](#)
To: [Connolly, Rebecca \(RCO\)](#)
Cc: [Cottingham, Kaleen \(RCO\)](#); heather_ramsay@nps.gov; gloria_shinn@nps.gov; michael_linde@nps.gov
Subject: RCO BOARD MEETING 31 MARCH 2011
Date: Monday, March 28, 2011 5:08:51 PM

PLEASE MAKE THIS LETTER PART OF THE OFFICIAL RECORD FOR THE RCO BOARD MEETING OF 31 MARCH 2011

March 28, 2011

Dear Recreation and Conservation Funding Board,

I am writing in regard to the memo from Mr. Anest (Resolution #2011-05) asking that the board delegate authority to the RCO director to negotiate a settlement regarding disputed boundaries of Kah Tai Lagoon Nature Park by the Port of Port Townsend.

I am a concerned citizen, resident of Port Townsend for 20 years and a member of Friends of Kah Tai. FoKT is the citizen organization that worked tirelessly in the late 1970s, early 1980s to form Kah Tai Lagoon Nature Park and was instrumental in acquiring grants as well as donations to meet required local matches to the grants. It continues to this date with many citizen volunteers working to maintain, support and protect the park.

The early Friends of Kah Tai were meticulous record-keepers. When the park grants-- acquisition (NPS) and a later development grant (RCO)-- were signed and implemented, the FoKT principals moved on to resume their lives after years of involvement. They left seven large boxes of records for safe keeping, knowing that nature parks are constantly under assault from development. The present officers have kept those records for almost 30 years.

Those seven boxes contain newspaper clippings, brochures and ads from many community fund raisers, old photos, legal documents showing port and city signed agreements founding the park, deeds and letters from citizens donating their land to the park, documents from four citizen lawsuits.

While our records are made up of many small pieces, the pieces add up to the complete picture-- the undisputed intent of the founders and the matching grant donors.

One particularly poignant letter is from the Greene family, whose donation of private land constituted more than half of the required financial match. They deeded the land where they intended to build their retirement home on the condition that the park in its entirety, explicitly including the port land, was forever protected as park land and signed it "with love". How the port or anyone can think they have the right--legal or moral-- to develop a huge swath of park is incomprehensible.

It is interesting to note that none of the current port commissioners or their manager were here at the time of founding the park and their claims amount to little more than hearsay while the mayor of Port Townsend at the time of acquisition who signed the grant along with the port chairman has stated that the intention always was to preserve the entire park forever.

One essential missing piece is the official map showing protected boundaries but upon careful reading of records it is clear that the now disputed port land is within NPS protected (6f) boundaries. There is no mention in all the records that the port land would be excluded but the port persists in fostering that urban myth.

The memo directed to the board contains many false statements. On page 2 : *"Much of the sponsors' match for the grant was donated land. As part of the match, the port entered into a 30-year lease with the city for 20 acres..."* That is impossible. The acquisition grant was finalized in 1981. The port lease was signed a year later. There are no references in any records, in any description of land parcels that this was leased land. Further, all references in the records to the park's 78.5 acres would have to include the port land.

As recently as 3 years ago, David Timmons, Port Townsend City Manager, believed that the port land was temporarily in the park as leased land and could be used to site the proposed 35,000 square foot pool-fitness center. However he, unlike the port and others, carefully researched the old records and the law. He has concluded that the port land was included in the original park boundary described in the federal contract and not controlled by a lease written a year after park formation.

Another false statement in the memo (page 3): *"This situation illustrates some common challenges of long-term compliance with older grants.....Incomplete and ambiguous records in the file; and conflicting memories of those who participated in the decisions of many years ago."* Written records are not ambiguous but present clear documentation even though there may be "conflicting memories". We (FoKT) have submitted all pertinent records to Mr. Anest. Although it is difficult and time consuming to carefully wade through it all, it is there in the records that the actions and intent of those involved and present 30+ years ago are revealed.

The preponderance of evidence is clear. There is nothing for Mr. Anest or Ms. Cottingham to negotiate. The park map that Port Townsend City Manager Timmons has submitted is irrefutable. Because *"...agency policy is unclear on the director's authority to negotiate this boundary dispute"*: (Mr. Anest 2nd paragraph, page 1) this matter should be sent directly to National Park Service which has the authority to make the final decision (Memo page 2 footnote) and to protect our nature park from this and future development into perpetuity.

Sincerely,

Marilyn Muller
PO Box 1754 (mailing address)
940 Lawrence St. #403
Port Townsend, WA 98368
[360-379-9553](tel:360-379-9553)

From: [Paula Mackrow](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Distribute re: Resolution 2011-05, Item #7 RCo agenda 3/31/11
Date: Wednesday, March 30, 2011 4:33:30 PM

I hope you will delay or deny a vote on Resolution 2011-05 until the entire RCO Board has had a decent time frame to review the dense public record of submissions before you today. Please delay this effort by your staff to remove the public from your review of these files. Please take the time to fully understand the importance of a fully public deliberation on support of 6(f) designation for the Kah Tai Lagoon Nature Park.

I am writing as the author of the 1999 City of Port Townsend Park, Recreation and Open Space Plan, a 25 year park volunteer and a restoration ecologist that understands the importance of time in evolving ecosystems. From a productive mudflat full of salmon fry and migrating birds, the park was created by the wrenching of the fertile marine substrate into "land". As the Boat Haven Harbor was dredged into creation so was the nascent "Park". It has been the stated intent of the citizens of the City of Port Townsend to incorporate all non-city land into the Kah Tai Nature Lagoon Park in all Park Plans since 1980. The public surveys continue to reinforce the public's commitment and desire for more open space and protected nature areas.

The Port of Port Townsend Comprehensive Scheme 2002 lists protecting Kah Tai Nature Lagoon Park as an existing undeveloped park to avoid further environmental degradation. The Port Scheme outlines the multitude of impacts the 1960's era marine industrial development has done to the shoreline. RCO Board members are well aware of the costs of recovering degraded, polluted areas of Puget Sound in order to improve the status of the Endangered Species Act listed Chinook and summer chum salmon. The roll of the Board is to assure the conservation values are not "compromised" years down the road when the institution has changed its name and administration but not its mission and commitment.

As one of the Port Townsend folks that approached RCO staff regarding the status of the actual boundary issue, I am concerned the issue revealed several missteps in past administration of the conservation lands grants. I am concerned that lack of institutional memory is going to "win out" over the actual legal documentation the Friends of Kah Tai have preserved over the last 3 decades. As others have written, there are errors of omission and misinformation in the simplified summary of the Anest staff memo.

By short-changing due public process, the resolution, based on Mr. Anest's briefing memo that is proposing a "flexible" negotiated settlement, will likely result in a conversion process outside of the statutory requirements. Those requirements include a substitution of converted land with land of equal market value and of equal public outdoor recreational function. Full statutory conversion is not a desired outcome of the Port. They just want to not be designated at all, anymore. The record stands against them.

The City of Port Townsend has written it does not support a "flexible" process at this point. The City has consistently supported the Friends of Kah Tai and the Admiralty Audubon Society as the designated volunteers working to implement and maintain the conservation values expressed in the original LWCF documents. Friends of Kah Tai have shown a long record of dedication to public process and public service on this land.

It is better for RCO, that the citizens of Port Townsend, and all of Washington to know the

Board is diligent in its commitment to the conservation of open space and passive outdoor recreation by reviewing a controversial future conversion of a nature park in full public light with full opportunity for public comment. The RCO is responsible to continue protection of the efforts of a generation of citizens, school children, restoration scientists, birdwatchers, dog walkers, cyclists, carpenters and many, many more interests in the Kah Tai Lagoon Nature Park.

The briefing memo stated that your authorization for a full delegation of power was necessary because agency policy was "*unclear*" on the Director's role in negotiating a final boundary settlement. If it is "*unclear*", it only means that it has never been legislatively delegated to staff to do so. It is the RCO Board -- not its administration -- that is legislatively empowered to make policy decisions like a grant boundary recommendation to NPS.

Moving this controversy into final private negotiations for a revised map will only add to the public controversy over the park and antagonize the NPS who have spent much effort to fix the problems identified first by the active and concerned public supporters of the Nature Park. Approval of Resolution 2011-05 will be the same as approval of a pre-emptive conversion that you would never have to discuss or approve in an open meeting with public comment. Please stand for open democracy at this critical time.

Thank you for your consideration of these comments and all the material submitted by the conservation minded public.

Paula Mackrow

P.O. Box 163

Carlton WA 98814



P.O. Box 1730
Port Townsend, WA
98368

March 25, 2011

Kaleen Cottingham, Director
The Recreation and Conservation Office
P.O. Box 40917
Olympia, Washington 98504-0917

Re: Kah Tai Park Boundary Dispute (RCO #81-043A)

Dear Ms. Cottingham;

I see from The Recreation and Conservation Funding Board Resolution #2011-05 that, pending Board approval, you will be given authority to negotiate a resolution to the subject boundary dispute. I presume that the parties to the negotiation would be the original parties to the subject grant (City of Port Townsend, Port of Port Townsend and the National Park Service) and will not involve interested citizen's groups. However, I wanted to provide some background information about *MAKE WAVES!* and our interest in Kah Tai Lagoon Park. Let me say at the outset that we will of course abide by whatever resolution is finally reached in this dispute.

Vision for Kah Tai Lagoon Park

Our vision for the Kah Tai Lagoon Park is one that encompasses nature and people. It is a park that protects the critical wildlife habitat while giving greater and safer access to all citizens of Jefferson County, as well as visitors, for recreation and enjoyment of nature. It is a park that would unite our community through shared participation in stewardship and decisions.

Who is *MAKE WAVES!* ?

Make Waves in Port Townsend (*MAKE WAVES!*) is an all-volunteer non-profit 501(c)(3) corporation with a mission "to develop a multipurpose aquatic, recreation, and fitness center that is affordable, financially sustainable, politically supportable, and serves the needs of all the members of our community for generations to come." Our current Board members have varied backgrounds in

business, academia, law, recreation and public service. One member served as the Chairman of the Port Townsend Park Commission when Kah Tai Lagoon Park was established and received the State grants. Over 2500 citizens have signed as supporters for the above mission. Our website <http://www.makewavesinpt.org/> provides further information about our organization, bios of the Board members, and copies of all the exhibits cited in this letter.

Why is there a *MAKE WAVES!* ?

The only publicly accessible swimming pool in Jefferson County is aged, only minimally meets the needs of the community, and has been under frequent threat of closure for many years due to the taxpayer support necessary for its operation. Following several failed community efforts to develop a concept for a new aquatic facility, a group of interested citizens founded *MAKE WAVES!* in 2007 to address this critical need for our maritime community. It represents the only current undertaking (private or public) to address this problem.

Why does *MAKE WAVES!* propose an aquatic recreation center rather than a pool?

Our number one requirement is that a new aquatic center be financially sustainable. Public pools across the country have been closed or are facing closure due to stress on public budgets. Without local taxpayer support for construction or operations, the center would have to be financially self-sustaining. Our extensive research determined that stand alone aquatic facilities do not support their operational costs from user fees. However, there are numerous examples of financially self-sustaining aquatic recreation centers – combining aquatic and non-aquatic recreation amenities – in communities such as ours. A professionally prepared economic feasibility study (Exhibit 1) determined that such a center would be sustainable in our community, if the capital costs for construction can be paid from donations and grants.

Vision for an aquatic recreation center

We envision when the center is fully operational 500 citizens will use it on an average day, and over 3000 different people will use it during a year. The center will serve youth, families and seniors for recreation, fitness, therapeutic and health purposes. As these users recreate and mingle with each other, they will create an important social center for our community spanning across social, economic, political and other interests. Fees and scholarships will be structured to make it accessible to the widest possible range of citizens. Users will arrive by transit, walking or bicycling (often through Kah Tai Lagoon Park) or by car where they can use the existing and vastly underutilized public transit park and ride lot. The center will be operated by a non-profit as a public facility accessible and affordable for all citizens.

Why does *MAKE WAVES!* propose placing the center in Kah Tai Lagoon Park?

We hired ORB Architects of Renton to conduct a professional assessment of candidate sites. Starting with a long list of twenty possible sites, ORB narrowed the number to five for final assessment. Using 15 criteria with a total of 525 allocated points, ORB concluded the Kah Tai site was the best with 475 points (Exhibit 2). The next closest site (Jefferson Transit Authority headquarters which is not currently available) scored 410 points, while the site of the current pool at Mountain View ranked considerably lower at 320. Important factors affecting the choice were: accessibility, existing infrastructure including the adjacent public parking lot, site characteristics and costs, and central location to the largest user population. All these factors are important for the financial success of the proposed center. The Port of Port Townsend strongly supports this location of the proposed aquatic recreation center as evidenced by a Letter of Intent with *MAKE WAVES!* (Exhibit 3).

Will the proposed center diminish the habitat quality of Kah Tai Lagoon Park?

The proposed site (Exhibit 4) is in the extreme SW corner of the park, outside the 200 foot shorelines buffer, in a partially developed area that has an access road, parking area and restrooms (which would be replaced and enhanced by the proposed facility). We commissioned studies by respected flora and fauna experts *before* we completed the site selection who concluded the proposed site does not contain any critical habitat or vegetation (Exhibits 5 and 6). There are no studies that refute these findings. Indeed, this past year Admiralty Audubon Society completed a scientifically based bird count at multiple locations in Kah Tai Lagoon Park. At the location encompassing the proposed site, no endangered, rare, or water associated birds were observed (Exhibit 7).

Is the proposed aquatic recreation center compatible with the original vision for Kah Tai Lagoon Park?

The original vision for Kah Tai Lagoon Park included outdoor recreation and nature. In the ensuing years, the park failed to fulfill the portion of the vision that involved a diversity of human recreation activities, and excluded almost all recreation amenities. The hand built picnic shelter partially constructed with State grant funds lacks a picnic table or barbeque pit. It primarily serves as the gathering spot for numerous transients inhabiting the park. We subscribe to the original vision of the park which serves a wider range of citizens than are currently being served.

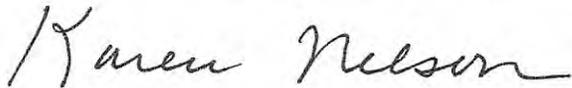
Pools and parks have been harmonious for many years throughout the country. Many such pools are outdoor facilities, which are simply not practical in our

community. We believe an indoor aquatic recreation center would not only be harmonious with the entire park, but indeed would enhance it. We have promised the community a building and landscaping which complements the park. We envision that the center could introduce many more citizens to the park through educational exhibits and easy access. We look forward to working with other stakeholders to achieve the vision for Kah Tai Lagoon Park articulated at the beginning of this letter.

In summary, we look forward to your negotiations resolving the disputes surrounding Kah Tai Lagoon Park. Although they may focus only on legal issues surrounding the subject grant, they will have much broader implications for Jefferson County. The perspective of the current group that “guards” the park is reflected in their bumper sticker – “Kah Tai is for the birds.” As such, it serves a narrow special interest group of citizens. We believe Kah Tai Lagoon Park is for people and for wildlife, and can be managed to serve many more citizens without diminishing the wildlife habitat. The outcome of your negotiations will determine which path the community follows.

MAKE WAVES! will be happy to answer any questions or provide any additional information that will assist in the negotiation you may be undertaking. Please do not hesitate to contact me.

Regards

A handwritten signature in cursive script that reads "Karen Nelson". The signature is written in black ink on a white background.

Karen Nelson
President, Make Waves in Port Townsend
360-379-2885

cc: Larry Crockett, Port of Port Townsend Director
David Timmons, City of Port Townsend Manager
Port Townsend City Council Members
Port of Port Townsend Commissioners

Make Waves *Facility Recommendations*

Presented by Greg Boland and Jack Tawney



Make Waves Feasibility Study • Boland/Tawney Consulting



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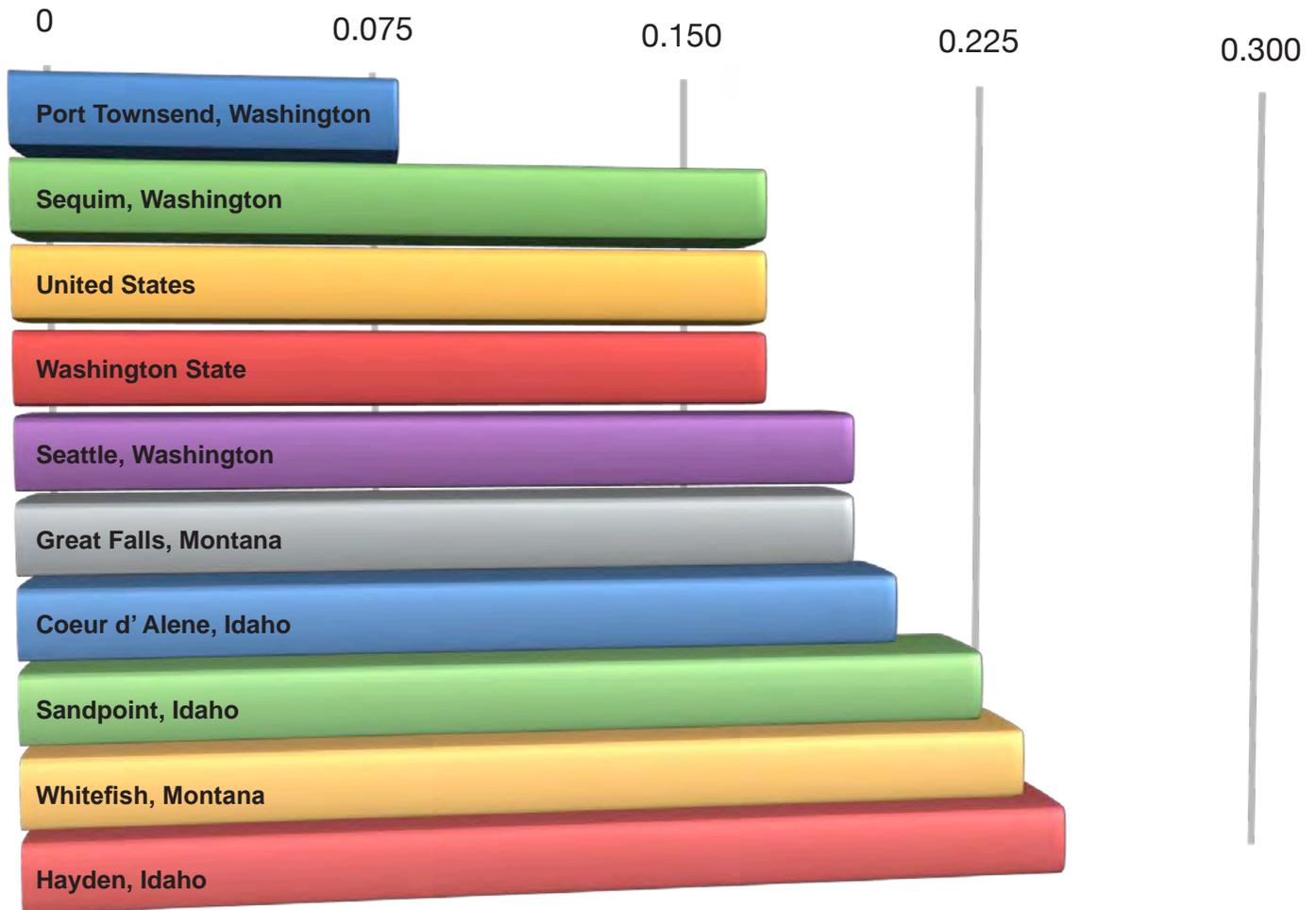
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Health club membership as a percentage of population

Port Townsend, Washington	8%
Sequim, Washington	16%
United States	16%
Washington State	16%
Seattle, Washington	18%
Great Falls, Montana	18%
Coeur d' Alene, Idaho	19%
Sandpoint, Idaho	21%
Whitefish, Montana	22%
Hayden, Idaho	23%



* Smaller markets (under 25,000) tend to have a higher percentage of members to population.

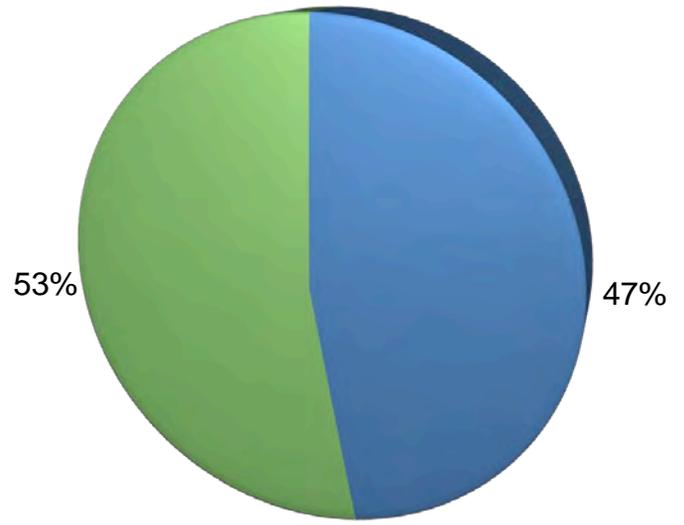
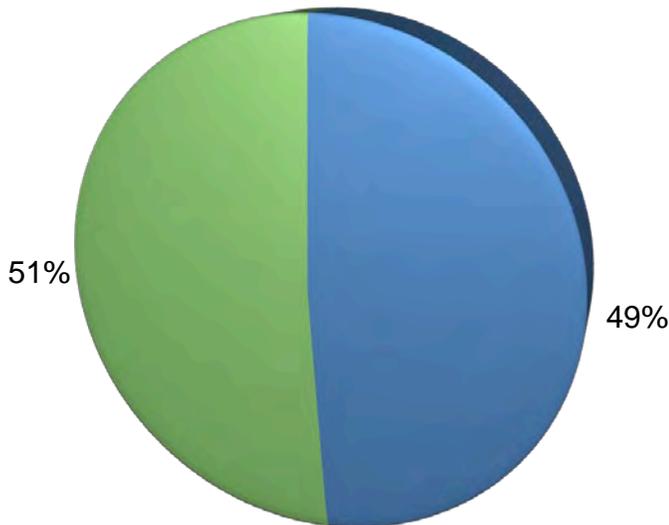
4 MAKE WAVES FACILITY RECOMMENDATIONS

Health Club Comparison by Gender

	Male	Female
Port Townsend market	9,645	10,111
Port Townsend as %	49%	51%
US Club membership	47%	53%

Port Townsend market area by gender

US Health Club Membership by age

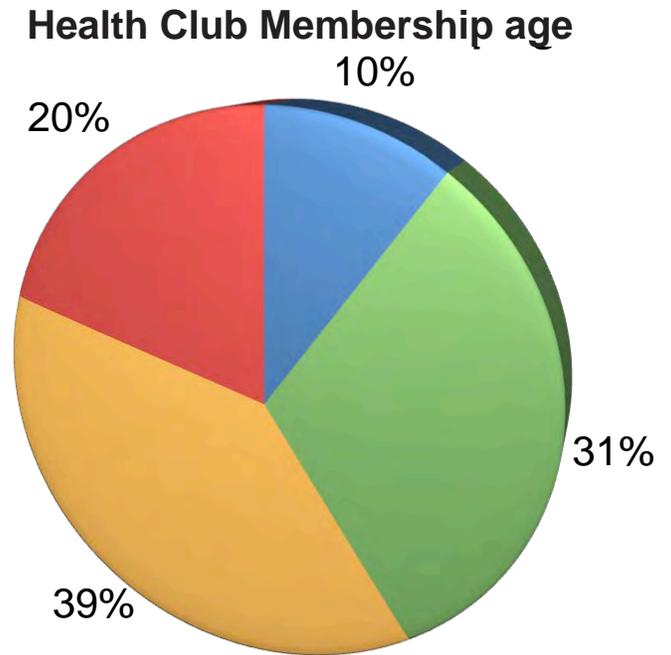
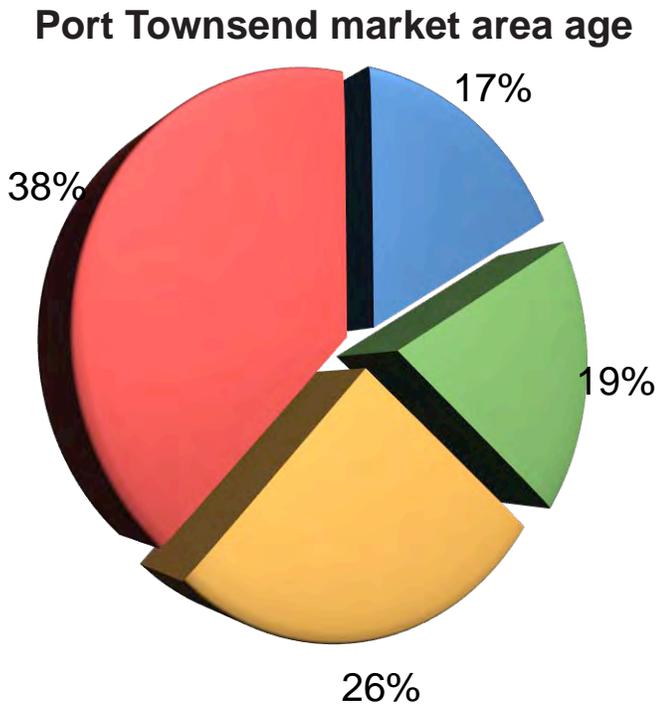


Female
 Male

- * Since 1995, more women have joined health clubs than men
- * Over the past 10 years, the number of men increased by 92%.
- * Between 1995 and 2005, the number of women increased by 130%, and by 40% over the past 5 years.
- * It is very likely that the increase in women-only facilities is responsible for the increase in the total number of female health club members.

HEALTH CLUB COMPARISON BY AGE

Port Townsend market	people	% of population	U.S. health club age	Difference
Under 18	3,317	17%	10%	7%
18-34	3,766	19%	31%	-12%
35-54	5,212	26%	39%	-13%
55+	7,461	38%	20%	18%
Total	19,756			



*The number of members over the age of 55 has grown a phenomenal 339% since 1990

* Parents continue to enroll their children in clubs, with the number of members between the ages 6 and 17 increasing by 125% since 1990

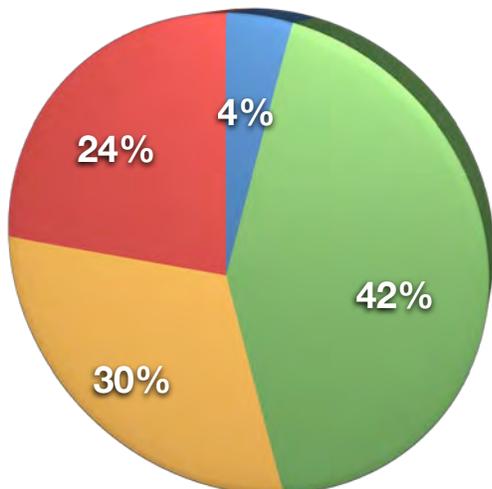
* Contrary to popular stereotypes that portray health clubs as catering to a young and "ultra fit" client, nearly 60% of all U.S. club members are now over the age of 35.

6 MAKE WAVES FACILITY RECOMMENDATIONS

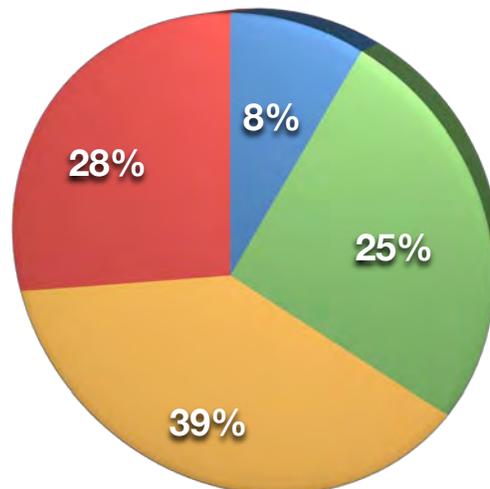
Household income in market area (15 min drive time)

	Port Townsend	Sequim	Whitefish	U.S. average
\$0 - \$24,999	4%	8%	0%	8%
\$25,000 - \$49,999	42%	25%	47%	19%
\$50,000 - \$74,999	30%	39%	17%	23%
\$75,000 plus	24%	28%	36%	50%

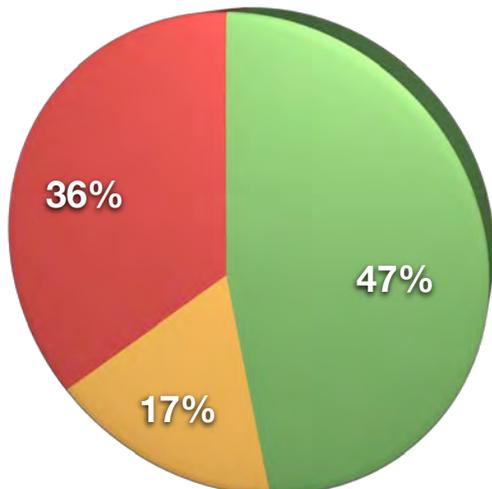
Port Townsend market by income



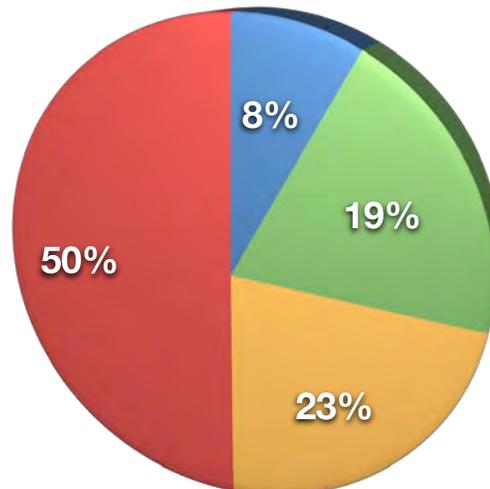
Sequim by income



Whitefish market by income



US Membership by income



- * The average health club member had a household income of \$82,900 compared with \$65,800 for the general survey population.
- * People with household incomes of excess of \$75,000 account for nearly half of all health club members.
- * Interestingly, Americans with annual household incomes between \$25,000 and \$49,000 prove to be the most active health club members, averaging 96 days of attendance in 2006.

RESULTS AND RECOMMENDATIONS

This study focuses on five sites. All areas were picked either for their proximity or because the general population make-up was similar to Port Townsend. The primary interest is in the percentage of market area population that belongs to an athletic facility. The percentage of population that belongs to an athletic club in the below locations is as follows:

	Market Area Population	Members	% Members
Coeur d'Alene, Idaho	55,000	10,500	19%
Great Falls, Montana	60,000	11,000	18%
Hayden, Idaho	12,000	2,800	23%
Sandpoint, Idaho	18,500	3,800	21%
Sequim, Washington	27,599	4,354	16%
Whitefish, Montana	22,000	5,000	22%

The figures for population are using the latest census figures. The figures for club members are using all clubs in the area, excluding yoga and aerobics studios.

—Injecting Port Townsend into the Equation—

The 15 minute and under drive time figures are 19,756 permanent residents. Taking an average of the above percentage membership, you would have 20.6 percent of people who would join an athletic facility. This gives us a number of 4,070 people.

	Population	Members	% Members
Port Townsend, WA	19,756	4,070	20.6%

This figure includes the membership at the present other clubs in town, they are Evergreen Fitness, Port Townsend Athletic Club, and the 24 Hour Gym. This total is approximately 1,600. If the above clubs can sustain the current levels with a new and better Wave Club there are 2,470 members available.

Some points to consider:

- 1.) Industry statistics show 18% of existing club members will move to a new club if they are in the market area. This would conservatively draw an additional 288 members and bring membership to 2758.
- 2.) The large tourist population will bring in above average short term memberships and non-dues revenue to the club.
- 3.) The new facility will be the class of the Jefferson county area clubs.
- 4.) Port Townsend is similar to the Whitefish project in relation to strong community involvement. This should influence a higher membership percentage.

The population figures show that Port Townsend can support a first class athletic facility.

STATE OF THE INDUSTRY

A CHANGING AND GROWING MEMBERSHIP:

Following a period of relatively stable membership numbers in the early 1990s, total U.S. health club membership has risen a robust 63% from just 26.2 million members in 1996 to nearly 43 million today. Aging Americans interested in maintaining their health, the decrease in funding for school Physical Education programs forcing parents to search for alternative play/exercise options for their children, and an increasing variety of quality clubs, along with other factors, have contributed to fuel this growth in consumer demand. Today, Americans over the age of 35 account for nearly 60% of all U.S. members, with the number of members over the age of 55 growing by a phenomenal 339% to just over 8.5 million, since 1990. Data from the most recent edition of the IHRSA/American Sports Data Health Club Trend Report also suggests that the industry continues to attract new customers through the door, with 41% of members indicating that they were “first-time” club members in 2006.

The club industry also stands to benefit as the first wave of the more than 70 million members of the “Echo Boom” generation born between 1982 and 1994 enter the full-time workforce, representing an enormous potential new market for clubs over the next five to ten years. While the positive trends in the industry’s historical growth and broader market demographics bode well for the future, the rate of total U.S. health club membership growth has slowed in the last few years. After remaining steady at approximately 41.3 million members in 2004 and 2005, membership grew by slightly more than 3% in 2006.

Source: IHRSA/American Sports Data Health Club Trend Report.

PORT TOWNSEND MARKET BY GENDER – (gender chart)

The Port Townsend market has a slightly higher male population (2%) than the U.S. club market. This number is not significant enough to alter club amenities or marketing strategies.

PORT TOWNSEND MARKET BY AGE – (age chart)

The Port Townsend market area shows a slightly higher percentage of children under 18 compared to the typical U.S. health club population. The largest difference comes with the over 55 age group; Port Townsend market area has a high concentration in the plus 55 age category (38% of the population). This high of a percentage should be taken into consideration when it comes to facility design, programming, and marketing.

PORT TOWNSEND MARKET BY HOUSEHOLD INCOME

– (income chart) The typical full service health club member household income is over \$50,000. Whitefish, Montana and Sequim have been included because of proximity, facility features, and similar business models. To insure high membership and usage rates planning would include low barrier registration fees and an affordable dues structure.

Exhibit 1

8 MAKE WAVES FACILITY RECOMMENDATIONS

Competition	Evergreen Fitness	Port Townsend Athletic Club	Sequim Rec Center
Address	22 Talequah Rd 98368	229 Monroe Street	610 N. 5th Ave, Sequim
Phone	360.385.3036	(360) 385-6560	(360) 683-3344
Web Site	evergreenfitness.net	Ptathletic.com	sarcfitness.com
Hours			
Weekdays	5:30am - 8:30pm	5:30am - 9:00pm	5:45am - 9:00pm
Sat. / Sun.	8:00am - 3:00pm	Sat 8am - 6pm sun 4pm	Sat 10 -6 , Sun 1-6
Distance from site	3.3 miles	1.5 miles	30.8 miles
Est. # of members	600 memberships / 900 members	500 + members	4054

AMENITIES

basketball gym			x
cardio equipment	x	x	x
daycare	x		
free weights	x	x	x
group ex classes	x	x	x
hot tub		x	x
indoor track			
juice bar	x	x	
massage	x	x	
racquetball		1	2
sauna	x	x	x
selectorized weights	x	x	x
spinning	x		
squash			
steam room	x		x
swimming pool			x
tanning	x	x	
yoga	x	x	

FOCUS / STRENGTH

Youth			x
Adult	x	x	x
Senior	x		x
Family			x
Conditioned	x	x	x
De-conditioned		x	x

AFFILIATIONS

Chamber of Commerce	x	x	
Fitlife Member			
IHRSA Member	x		
Silver Sneakers			

Registrations * excluding tax

Single	\$159.00	\$99.00	0
2nd Family	\$129.00	\$40.00	0
Additional Family	\$129.00	\$40.00	0
Youth	na	na	0
Senior	na	na	0
Corporate available	x	x	

Dues * excluding tax

Single	\$51.00	\$46.00	\$26.66
2nd family member	\$51.00	\$34.00	\$19.18
Additional Family (ea)		\$30.00	\$10.48
Youth	na	na	\$20.95
Senior	na	na	\$24.76
Corporate available	x	x	

Highlights reflect unavailable services to the community.

Make Waves Facility Size & Features

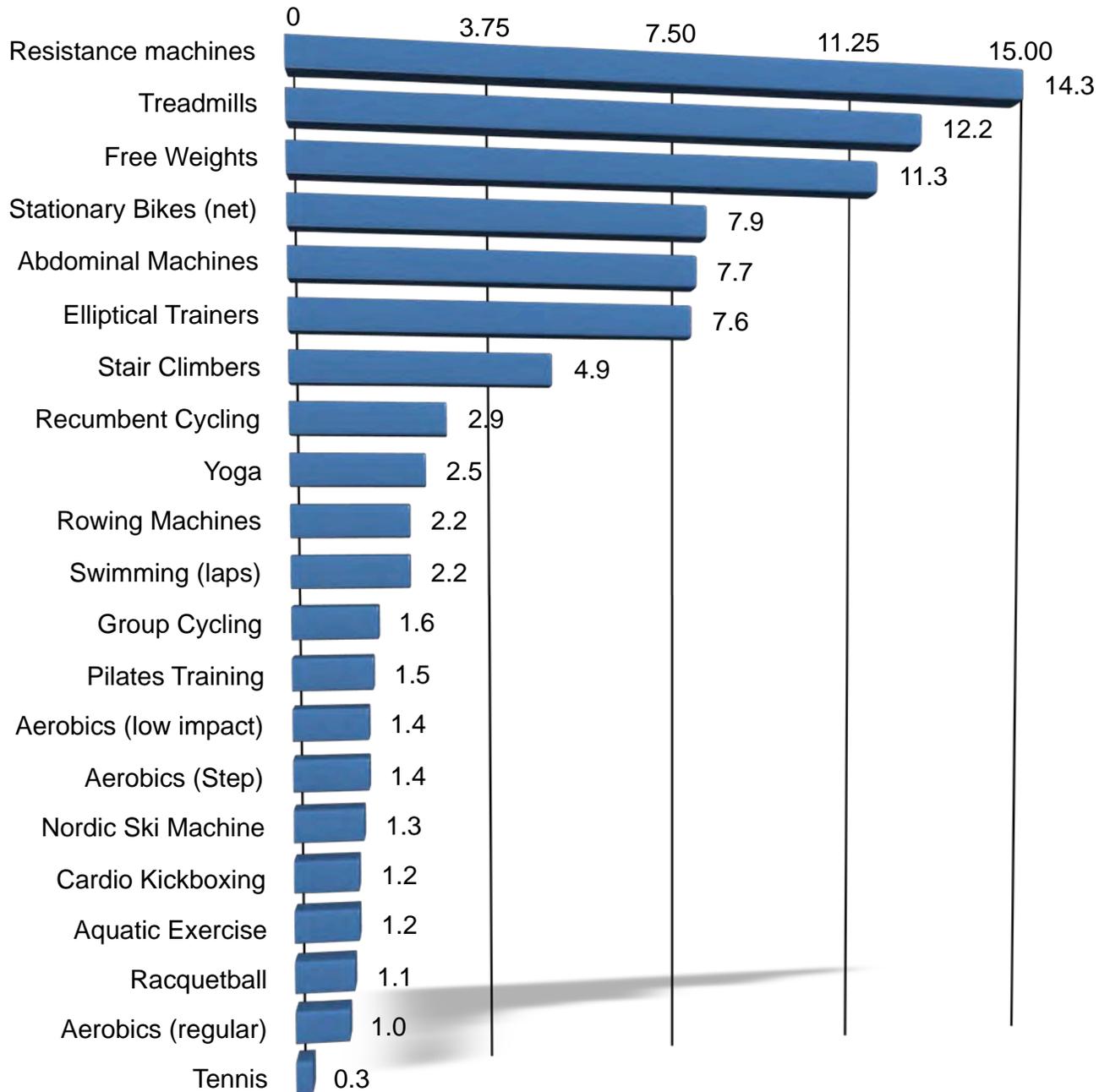
Aquatic Center	Square Feet	General	
Lap pool	3,150	Conference room	300
Warm water pool	1,500	Hallways, etc.	2,000
Hot Tub	145	Offices	900
Kids play pool	900	Storage	1,500
Area total	5,695	Area total	4,700
Daycare & youth activity center		Gymnasium w/ storage	4,200
Infant & small children area	450		
Playzone	700	Lobby & Front Desk area	
Area total	1,150	Juice Bar	300
		Pro Shop	300
Fitness		Reception desk & lobby	850
Cardio area	2,000	Area total	1,450
Free weight section	1,750		
Selectorized area	1,750	Locker Rooms	
Area total	5,500	Adult	3,200
		Kids & family change rooms	2,000
Group exercise studios		Area total	5,200
Studio 1 - General classes	1,800		
Studio 2 - Yoga & wellness	1,500	Massage & Estitican Rooms (2)	242
Cycle Studio	800		
Area total	4,100	Racquetball/Squash Courts (2)	1,600

Facility Total	33,837
\$ per foot	\$211.00
Walking / Running Track	\$100,000
Building cost	\$7,139,607
Building cost w/ track	\$7,239,607

* does not include design & architect fees, permits, equipment.

MAKE WAVES FACILITY RECOMMENDATIONS

CLUB PARTICIPATION (Millions)



* Elliptical trainers continue to grow in popularity with 7.6 million health club users in 2006, reflecting a 43% increase since 2002.

* Treadmills still represent the most popular piece of cardio equipment with 12.2 users.

* Training with resistance equipment in clubs remains the most popular single activity, with some 14.3 million users in 2006, reflecting a 25% increase since 2002

Source: IHRSA/American Sports Data Health Club Trend Report

Aquatic Center - Lap Pool

Size – 3150 sq ft
25 yards, 6 lanes

Youth – lap, recreation, lessons
Adult- lap, aerobics, lessons
Senior- lap, aerobics, lessons

Non-dues revenue sources –
Lessons, Non-member passes, specialty classes,
swim team, rentals

Warm water recreation pool

Size – 1500 sq ft
Youth – Small children lessons, recreation,
mom-tot classes
Adult – Water therapy classes, rehab
Senior – Arthritis & therapy classes, aerobics, rehab

Non-dues revenue sources –
Lessons, Non-member passes, specialty
classes, therapy rental



Kids Play Pool

Size – 900 sq ft
Youth – Small children lessons, recreation,
mom-tot classes
Adult and Senior– Family recreation

Non-dues revenue sources –
Lessons, Non-member passes, party rental
and special events

Group exercise studio 1

Size - 1800 sq ft
Youth - Karate, Hip Hop, Ballet
Adult - Cardio, strength & stretch classes
Senior- Mobility, Strength, Flexibility classes

Non-dues revenue sources -
Seminar & educational classes, martial arts,
hip hop, ballet
Non-Member passes



Yoga & Wellness studio 2

Size – 1500 sq ft

Youth – Teen yoga & Pilates
Adult – Warm yoga, yoga, Pilates, Ti-Chi
Senior – Gentle yoga, Ti-Chi, Flexibility classes

Non-dues revenue sources–
Personal Yoga, Pilates, Seminars,
Rental space. Non-member passes

Cycling studio

Size –800 sq ft
Youth – Teen Spinning classes
Adult – Spinning & cycle classes
Senior – Sr. spinning

Non-dues revenue sources–
Spinning and cycle certification classes, guest visits



Cardiovascular fitness center

Size – 2000 sq ft
 Youth – Weight loss & weight control, sports training, general health
 Adult – Weight loss & weight control, sports training, injury rehab, general health
 Senior – Weight loss & weight control, mobility, injury rehab, general health

Non-dues revenue sources –
 Personal training, cardiac rehab classes

Selectorized weight center

Size – 1750 sq ft
 Youth – Weight training, sports training, injury prevention, overall strength
 Adult – Strength training, sports training, injury rehab, general health
 Senior – Strength training, mobility, injury prevention, general health

Non-dues revenue sources – Personal training, rehab classes



Free weight center

Size – 1750 sq ft
 Youth – Strength, sports training, general health
 Adult – Strength training, sports training, injury rehab, general health
 Senior – Strength training, mobility, injury rehab, general health

Non-dues revenue sources –
 Personal training



Gymnasium

Size – 4200 sq ft

Youth – Basketball, volleyball, multi-purpose
 Adult – Basketball, volleyball, large group exercise classes
 Senior – Sr. Basketball, pickle ball, large senior classes

Non-dues revenue sources –
 Youth camps (basketball, volleyball), teen dances, social events, community events & gym rental space.



Juice Bar

Size – 300 sq ft

Youth – Healthy snacks, juices, & smoothies

Adult – Healthy food, coffee, lattes, juices, & smoothies

Senior – Healthy food, coffee, lattes, juices, & smoothies

Non-dues revenue sources–

Food and beverage sales for members & guests, leased space or in-house



Pro Shop

Size – 300 sq ft

Youth – Swim & exercise gear – goggles, t-shirts, etc.

Adult – Swim & exercise gear – goggles, logo wear, yoga clothing

Senior – Swim & exercise gear – goggles, caps, water slippers, clothing

Non-dues revenue sources–

Clothing and supplies for members, guests, & public. Leased space or in-house



Co-ed Hot tub

Size – 145 sq ft

Youth – Limited use with adult supervision

Adult – Post work out, rehab, relaxation, and social

Senior – Post work out, rehab, relaxation, and social

Non-dues revenue sources –

Non-member passes



Massage & Facial Rooms

Size – 300 sq ft

Youth – Teen sports & rehab, clinical facials

Adult – Injury, relaxation, wellness

Senior – Injury, relaxation, wellness

Non-dues revenue sources – Services & retail.

Lease or in-house.

Daycare & youth activity center

Size – 1150 sq ft

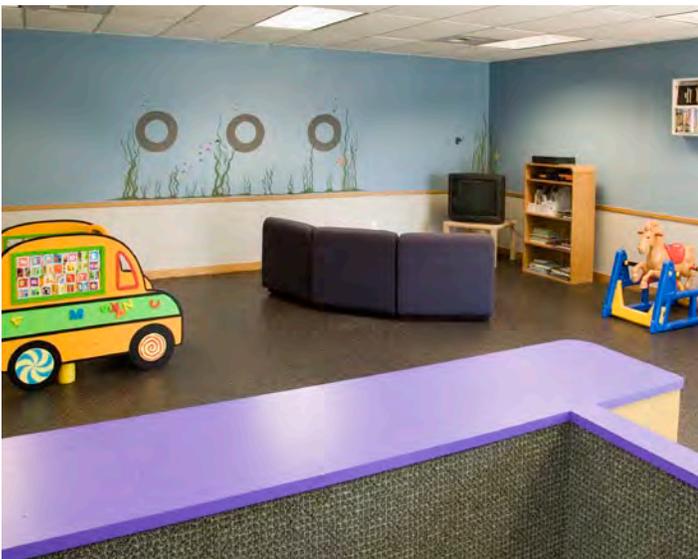
Youth – Supervised childcare for infants to 12 years of age

Adult – Safe & fun place for children while parent uses facility

Senior – Available feature for grandchildren when visiting

Non-dues revenue sources–

Hourly fees for service, specialty classes, camps, party rental area



Youth locker rooms & family changing area

Size – 2000 sq ft

Youth – Family change rooms for young children

Adult – Designated area to assist and supervise young children

Senior – Designated area to assist and supervise grandchildren

Non-dues revenue sources – Rental lockers

Adult Locker rooms

Size – 1600 sq ft

Youth – Family change rooms available

Adult – Sauna, Full length, rental lockers, hair spray, lotions

Senior – Sauna, Full length, rental lockers, hair spray, lotions

Non-dues revenue sources – Rental lockers



Conference Room

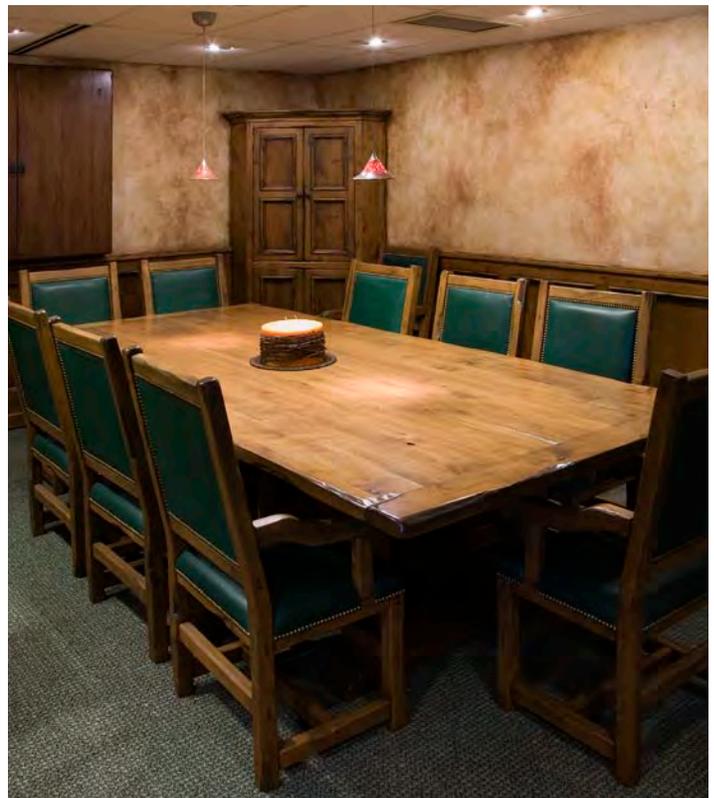
Size – 300 sq ft

Youth – Teen meetings & projects

Adult – Business & community meetings

Senior – Business meetings, card games, etc.

Non-dues revenue sources- Room rental for outside groups



Make Waves Project Costs Estimate

Building without track & racquetball	\$6,802,007
Consulting fee	\$50,000
Design and Architect	\$300,000
Equipment - Aquatic, Fitness, Office, etc.	\$700,000
Permits	\$75,000
Pre-opening sales & marketing	\$55,000
Total costs	\$7,982,007

Building with indoor track only	\$9,902,007
Consulting fee	\$50,000
Design and Architect	\$300,000
Equipment - Aquatic, Fitness, Office, etc.	\$700,000
Permits	\$75,000
Pre-opening sales & marketing	\$55,000
Total costs	\$8,082,007

Building w/ racquetball / squash only	\$7,139,607
Consulting fee	\$50,000
Design and Architect	\$300,000
Equipment - Aquatic, Fitness, Office, etc.	\$700,000
Permits	\$75,000
Pre-opening sales & marketing	\$55,000
Total costs	\$8,319,607

Building w/ track and racquetball	\$7,239,607
Consulting fee	\$50,000
Design and Architect	\$300,000
Equipment - Aquatic, Fitness, Office, etc.	\$700,000
Permits	\$75,000
Pre-opening sales & marketing	\$55,000
Total costs	\$8,419,607

16 MAKE WAVES FACILITY RECOMMENDATIONS

Income	Monthly	Year 1	Year 2	Year 3	Year 4	Year 5
Dues	\$77,224	\$926,688	\$998,414	\$1,093,263	\$1,118,736	\$1,180,602
Finance Charges	\$800	\$9,600	\$10,343	\$11,326	\$11,590	\$12,230
Group Fitness	\$2,500	\$30,000	\$32,322	\$35,393	\$36,217	\$38,220
Guest Fees	\$3,000	\$36,000	\$38,786	\$42,471	\$43,461	\$45,864
Juice Bar	\$4,500	\$54,000	\$58,180	\$63,707	\$65,191	\$68,796
Locker Rental	\$1,200	\$14,400	\$15,515	\$16,988	\$17,384	\$18,346
Daycare	\$1,700	\$20,400	\$21,979	\$24,067	\$24,628	\$25,990
Other Programs	\$3,000	\$36,000	\$38,786	\$42,471	\$43,461	\$45,864
Pro Shop	\$5,000	\$60,000	\$64,644	\$70,785	\$72,434	\$76,440
Registration Fees	\$4,000	\$48,000	\$51,715	\$56,628	\$57,948	\$61,152
Rental Income	\$7,500	\$90,000	\$96,966	\$106,178	\$108,652	\$114,660
Swim Programs	\$6,000	\$72,000	\$77,573	\$84,942	\$86,921	\$91,728
Personal Training	\$6,000	\$72,000	\$77,573	\$84,942	\$86,921	\$91,728
Total Income	\$122,424	\$1,469,088	\$1,582,795	\$1,733,161	\$1,773,544	\$1,871,621
Cost of Goods Sold						
Juice Bar	\$3,000	\$36,000	\$38,786	\$42,471	\$43,461	\$45,864
Pro Shop	\$2,500	\$30,000	\$32,322	\$35,393	\$36,217	\$38,220
Total Cost of Goods Sold	\$5,500	\$66,000	\$71,108	\$77,864	\$79,678	\$84,084
Gross Profit	\$116,924	\$1,403,088	\$1,511,687	\$1,655,297	\$1,693,866	\$1,787,536
Expenses						
Advertising	\$4,897	\$58,764	\$60,526	\$62,342	\$64,212	\$66,139
Bad Debts	\$1,600	\$19,200	\$19,776	\$20,369	\$20,980	\$21,610
Bank Service Charges	\$1,800	\$21,600	\$22,248	\$22,915	\$23,603	\$24,311
Continuing Education	\$400	\$4,800	\$4,944	\$5,092	\$5,245	\$5,402
Contributions	\$167	\$2,000	\$2,060	\$2,122	\$2,185	\$2,251
Dues and Subscriptions	\$100	\$1,200	\$1,236	\$1,273	\$1,311	\$1,351
Equipment	\$600	\$7,200	\$7,416	\$7,638	\$7,868	\$8,104
Equipment lease interest	\$3,000	\$36,000	\$37,080	\$38,192	\$39,338	\$40,518
Insurance - Medical	\$2,675	\$32,100	\$33,063	\$34,055	\$35,077	\$36,129
Insurance - Liability	\$2,200	\$26,400	\$27,192	\$28,008	\$28,848	\$29,713
Laundry	\$500	\$6,000	\$6,180	\$6,365	\$6,556	\$6,753
Office Supplies	\$1,500	\$18,000	\$18,540	\$19,096	\$19,669	\$20,259
Other Programs	\$150	\$1,800	\$1,854	\$1,910	\$1,967	\$2,026
Payroll and taxes	\$42,848	\$514,181	\$529,606	\$545,494	\$561,859	\$578,715
Postage	\$350	\$4,200	\$4,326	\$4,456	\$4,589	\$4,727
Printing	\$400	\$4,800	\$4,944	\$5,092	\$5,245	\$5,402
Professional fees	\$3,500	\$42,000	\$43,260	\$44,558	\$45,895	\$47,271
Repairs	\$1,000	\$12,000	\$12,360	\$12,731	\$13,113	\$13,506
Security	\$150	\$1,800	\$1,854	\$1,910	\$1,967	\$2,026
Supplies	\$4,000	\$48,000	\$49,440	\$50,923	\$52,451	\$54,024
Telephone	\$300	\$3,600	\$3,708	\$3,819	\$3,934	\$4,052
Utilities	\$12,000	\$144,000	\$148,320	\$152,770	\$157,353	\$162,073
Total Expenses	\$84,137	\$1,009,644	\$1,039,934	\$1,071,132	\$1,103,266	\$1,136,364
Net Income	\$32,787	\$393,444	\$471,753	\$485,906	\$500,483	\$515,498
Building & equipment replacement fund	\$10,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000
Scholarship fund	\$1,750	\$21,000	\$21,000	\$21,000	\$21,000	\$21,000
Interest expense 30 year @ 7%						
\$1,000,000	\$6,653	\$79,836	\$79,836	\$79,836	\$79,836	\$79,836
Net Income	\$26,134	\$313,608	\$391,917	\$406,070	\$420,647	\$435,662
\$3,000,000	\$19,959	\$239,508	\$239,508	\$239,508	\$239,508	\$239,508
Net Income	\$12,828	\$153,936	\$232,245	\$246,398	\$260,975	\$275,990
\$5,000,000	\$33,265	\$399,180	\$399,180	\$399,180	\$399,180	\$399,180
Net Income	\$(478)	\$(5,736)	\$72,573	\$86,726	\$101,303	\$116,318
Revenue Increase / year			7.74%	9.50%	2.33%	5.53%
Expense Increase / year			3.00%	3.00%	3.00%	3.00%
Income as a % of Revenue			29.81%	28.04%	28.22%	27.54%
Assumptions						
Members		2,758	2,971	3,253	3,329	3,506
Dues per individual member	\$28.00	\$336	\$336	\$336	\$336	\$336

Make Waves Feasibility Study Research Sources

1. Make Waves demographic data report.
2. Peak Performance Health Club Marketing and Research.
3. Susan K. Bailey Marketing Company.

4. 2007 IHRSA Global Report.

5. Fitlife Northwest Club Association.

6. Clubs Northwest internal demographic and marketing data.

7. American Sports Data Health Club Trend Report.

Aquatic Recreation Center Site Selection Evaluation

By ORB Architects for Make Waves

Criteria and weighting of sites is by ORB, using methods they have applied to hundreds of aquatic recreation projects. Site identification by Make Waves. Listed sites have been suggested to Make Waves (Mountain View, the Park and Ride, the Transit site) or are representative of general areas, such as those on Howard Street (representing upper Sim's way). The fairgrounds was both suggested and representative of sites in that general area. Approximately fifteen other sites, including Fort Worden, were initially considered but rejected after consultation with ORV and others as not realistically feasible.

Site Evaluation Criteria	CRITERIA														Weighted Total	
	Adequate Site Size	Major Arterial Access	Cost / Availability of Acquisition	Accessible to Service Area Population	Public Visibility	Transit Access	Proximity to Shopping / Retail	Conformance to Local Master Plans	Central to Population	Infrastructure - Availability of Utilities	Soils or Other Construction Cost Impacts	Located central to Future Population Growth	Proximity to School or Other Recreational Activity	Potential to Generate Most Non-Residential Users		Pedestrian / Bicycle Access
Potential Sites	50	50	50	40	40	40	30	30	30	30	30	30	20	20	20	
Kah Tai - Haines Place Park and Ride	50	40	50	40	40	40	30	25	25	30	20	25	20	20	20	475
Mountain View Pool	40	20	40	25	25	20	0	25	15	30	25	15	20	5	15	320
Jefferson County Fairgrounds *2	50	40	40	20	25	10	0	25	10	25	25	10	15	10	15	320
Jefferson Transit Authority *1	30	50	30	35	40	25	20	20	30	30	20	30	10	20	20	410
Howard Street Site *1	50	40	30	30	35	5	15	20	25	15	20	30	10	15	15	355

Date: 24 April 2008

*1 - Jefferson Transit Authority and Howard Street site assumes site location directly off of Sims Way (Hwy 20) with visual connection to that highway

*2 - Jefferson County Fairgrounds site assumes the use of vacant land at the north end of the property closest to the 49th Street.

**Port Of Port Townsend / Make Waves In PT
Community Aquatic Recreation Center
Letter of Intent
December 28, 2009**

1. The Port of Port Townsend ("Port") is a Washington port district and municipal corporation, and is the owner of certain land and improvements, a drawing and legal description of which is contained in Exhibit A hereto ("Property"). The Property is presently subject to a lease between the Port and the City of Port Townsend expiring on July 31, 2012 ("City Lease").

2. Make Waves In PT ("Make Waves") is a Washington nonprofit corporation with tax-exempt status under U.S. Internal Revenue Code §501(c)(3). Make Waves desires to develop and operate a community pool and related facilities on the Property (the "Project") after the expiration of the City Lease.

3. This Letter Of Intent ("LOI") is intended to outline the general terms of the written agreements to be negotiated by the parties regarding the Project ("agreements"), but is not intended to be binding on either party. The general terms of the agreements are stated as follows:

a. The agreements will grant Make Waves an option or other interest in the Property whereby the Property will be reserved for development of the Project for a period of five (5) years starting August 1, 2012. If Make Waves has not started construction of the Project by July 31, 2017, then the Port may terminate the parties' agreements. During the reservation period, the Port may use the Property for other purposes, so long as such uses do not interfere with the development of the Project.

b. Make Waves will raise all funds necessary to develop the Project, including but not limited to planning, design, permitting, and construction. The conceptual development plan for the Project, and all material changes thereto, will be subject to Port Commission review and approval as consistent with Port's development guidelines and policies with respect to the Property and the Project prior to Make Waves seeking permits or entitlements from the City of Port Townsend.

c. Upon completion of construction of the Project, the Port will accept ownership of the improvements, subject to the Port's approval of such improvements, and at no cost to the Port, and the Port will grant a long term lease of the Property and improvements to Make Waves or an operator designated by Make Waves.

d. Make Waves will raise all funds necessary to maintain and operate the Project continuously and in a first class manner.

e. Prior to the commencement of the negotiations between the parties, the Port will furnish Make Waves with an opinion from the Port's legal counsel that the transactions and commitments contemplated by this LOI are within the statutory powers of a Washington State port district.

4. This LOI does not contain all essential terms of the agreement or agreements to be entered into by the parties regarding the Project. The parties shall not be bound to any development agreement or other agreement, nor to any particular terms of any such agreements, and the parties will have no liability to one another with respect to such agreements or any particular terms thereof, unless and until final definitive written agreements containing all essential terms of the transaction are negotiated and approved by the parties' respective boards, and signed by the parties.

5. For the duration of this LOI as defined in Section 3 below, the parties will engage in exclusive negotiations with one another regarding the Project; provided, that the parties are permitted to also have discussions with governmental and other regulatory agencies, and potential users, regarding the Project. The parties will work diligently to complete the negotiation of all terms of final agreements and all necessary documents related to such final agreements regarding the Project by April 1, 2010.

6. The duration of this LOI shall begin on the date this LOI has been signed by both parties, and shall end on the earlier of (a) the date that the Port and Make Waves enter into final written agreements regarding the Project, or (b) December 31, 2010. The duration of this LOI may be extended for additional periods by written agreement of the parties.

7. During the time that the parties are negotiating a final agreement and related documents, Make Waves will commit substantial resources to evaluate, design and plan the Project, including but not be limited to market studies, engineering and architectural design, and environmental and geotechnical review. The Port will also be committing resources to the Project, including but not limited to review and approval of conceptual designs and other materials provided by Make Waves, negotiation with Make Waves regarding final agreements, and support of the Project. If this LOI terminates and Make Waves does not develop the Project, then Make Waves will convey and assign to the Port all of Make Waves' entire ownership interest in, and all other right, title, and interest of Make Waves in and to, all reports, studies, designs, plans, permits, and other documents resulting from those efforts, and all other documents and information related to the investigation and development of the Project; provided, however, that Make Waves shall not be required to provide or convey or assign to the Port any document or information to the extent protected by attorney work product or attorney/client privilege; and provided further, however, that such assignment shall not preclude Make Waves' use of any part or all of such documents or information.

8. This LOI contains the entire agreement of the Parties with respect to its subject matter and supersedes any and all other written or oral understanding or agreement. No amendment, change, or modification of this LOI shall be valid, unless in writing and signed by the parties hereto.

9. The Parties agree that money damages would not be a sufficient remedy for any breach of this Agreement, and that either party may seek equitable relief, including injunction and specific performance, in the event of any such breach, in addition to all other remedies available at law or in equity.

10. The Parties agree that no failure or delay by either party in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder. No waiver of any provision of this LOI shall be valid unless in writing and signed by the party charged with the waiver.

11. If any provision of this LOI is found to violate any statute, regulation, rule, order or decree of any governmental authority, court, agency or exchange, such invalidity shall not be deemed to affect any other provision hereof or the validity of the remainder of this LOI, and such invalid provision shall be deemed deleted herefrom to the minimum extent necessary to cure such violation.

12. This LOI shall be construed and interpreted in accordance with and shall be governed and enforced in all respects according to the laws of the state of Washington, without regard to conflict of law principles, and venue of any action or proceeding regarding this LOI shall be in Jefferson County, Washington.

13. This LOI does not confer any rights or benefits on any person or entity other than the undersigned Parties, and may not be assigned.

December 28, 2009

MAKE WAVES IN PT
a Washington non-profit corporation

Karen Nelson, President
Karen Nelson
President

PORT OF PORT TOWNSNED
a municipal corporation

Herb Beck
Herb Beck
President

Dave Thompson
Dave Thompson
Secretary

John Collins
John Collins
Vice President

EXHIBIT B

MAKE WAVES IN P.T. PARCEL

THAT PORTION OF BLOCK 6 AND BLOCK 7 OF RAILROAD ADDITION TO PORT TOWNSEND AS RECORDED IN VOLUME 2 OF PLATS, PAGE 78, RECORDS OF JEFFERSON COUNTY, WASHINGTON, TOGETHER WITH THAT PORTION OF HAINES AVENUE DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID BLOCK 6, SAID POINT BEING ON THE NORTH MARGIN OF 12TH STREET;
THENCE NORTH 00° 53' 33" EAST ALONG THE WEST LINE OF SAID BLOCK 6, A DISTANCE OF 291.27 FEET;
THENCE SOUTH 89° 06' 27" EAST, A DISTANCE OF 152.67 FEET;
THENCE SOUTH 38° 55' 27" EAST, A DISTANCE OF 258.20 FEET;
THENCE SOUTH 64° 54' 46" EAST, A DISTANCE OF 95.55 FEET TO A POINT ON THE EAST LINE OF SAID BLOCK 7 AND THE WEST MARGIN OF McNEILL AVENUE;
THENCE SOUTH 02° 01' 38" WEST ALONG SAID EAST LINE, A DISTANCE OF 53.80 FEET TO A POINT ON SAID NORTH MARGIN OF 12TH STREET;
THENCE NORTH 89° 06' 27" WEST ALONG SAID NORTH MARGIN, A DISTANCE OF 404.09 FEET TO THE POINT OF BEGINNING.

EXHIBIT A: PORT OF PORT TOWNSEND

MAKE WAVES IN P.T. PARCEL
 IN SECTION 10, TOWNSHIP 30 NORTH, RANGE 1 WEST, W.M.
 JEFFERSON COUNTY, WASHINGTON



NOTES:

1. THIS SURVEY WAS PERFORMED BY FIELD TRAVERSE METHODS USING A 3 SECOND TOPCON GTS-313 TOTAL STATION AND STEEL TAPE.
2. FOR BASIS OF BEARING SEE GEODETIC CONTROL NETWORK AND MONUMENTATION PLAN FOR PORT TOWNSEND, WA. DONE BY POLARIS ENGINEERING AND SURVEYING, ON FILE WITH CITY OF PORT TOWNSEND PUBLIC WORKS DEPARTMENT.

DECEMBER 15, 2009



DRAWN BY: JKB
 SER#: 013013-PORT OF PT\KAI TA-120\09

	P.O. Box 2199
	935 N 5th Ave.
LAND SURVEYING	Sequim, WA 98382
MAPPING	(360) 681-2161
DEVELOPMENT CONSULTING	FAX 683-5310
CONSTRUCTION MANAGEMENT	(608) 681-9181



EXHIBIT A: *PORT OF PORT TOWNSEND*
 MAKE WAVES IN P.T. PARCEL
 IN SECTION 10, TOWNSHIP 30 NORTH, RANGE 1 WEST, W.M.
 JEFFERSON COUNTY, WASHINGTON



NOTES:

1. THIS SURVEY WAS PERFORMED BY FIELD TRAVERSE METHODS USING A 3 SECOND TOPCON GTS-313 TOTAL STATION AND STEEL TAPE.
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DECEMBER 15, 2009



		P.O. Box 2199
		935 N 5th Ave.
		Sequim, WA 98382
LAND SURVEYING		(360) 681-2161
MAPPING		FAX 683-5310
DEVELOPMENT CONSULTING	(888) 681-2161	
CONSTRUCTION MANAGEMENT		

DRAWN BY: JKB
 SER#: 013010-PORT OF PT\KAI FAI-120709

**FIRST AMENDMENT TO Port Of Port Townsend / Make Waves In PT
Community Aquatic Recreation Center
Letter of Intent
December 28, 2010**

This First Amendment is authorized for Executive Director signature by the Port of Port Townsend Commission public vote taken at its 22 December 2010 meeting, and modifies that certain Letter of Intent (LOI) dated December 28 2009, between the Port of Port Townsend ("Port") a Washington port district and municipal corporation, and Make Waves In PT ("Make Waves"), a Washington nonprofit corporation with tax-exempt status under U.S. Internal Revenue Code §501(c)(3).

1. Extension. Paragraph 6 is modified as follows:

The duration of this LOI shall begin on the date this LOI has been signed by both parties and shall end the earlier of (a) the date that the Port and Make Waves enter into final written Agreements regarding the Project or (b) December 31, ~~2010~~ 2011. The duration of this LOI may be extended for additional periods by written Agreement of the parties.

2. Amendment. Paragraph 3.c is modified as follows:

~~Upon completion of construction of the Project, the Port will accept ownership of the improvements, subject to the Port's approval of such improvements, and at no cost to the Port. The parties will negotiate appropriate consideration to be incorporated in to the ultimate final Project Agreement.~~

3. Original Remains Effective. Except as specifically amended herein, the original LOI remains unchanged and in effect.

MAKE WAVES IN PT

By: Karen Nelson
Name: Karen Nelson
Title: President
Date: December 29, 2010

PORT OF PORT TOWNSEND

By: Larry Crockett
Name: Larry Crockett
Title: Port of Port Townsend
Executive Director
Date: Dec 28, 2010

Kah Tai Lagoon

-  Current Park Boundary
Approximately 76 Acres
-  Approximate Shoreline
Jurisdiction

8/12/2010

Kah Tai Lagoon Park 76.5 +/- Acres



building footprint
relative to Kah Tai
Lagoon Park




Aquatic Recreation
Center—Less than
1 Acre Footprint

approximate
building
footprint

Wildlife Habitat Survey Kah Tai Feasibility Study



Proposed project location.

June 20, 2008

Prepared for:

Make Waves!
PO Box 1730
Port Townsend, WA 98368

Michael B. Dawson

1361 51st Street

Port Townsend, WA 98368

360-385-1773

MichaelB.Dawson@gmail.com

Introduction

A habitat survey has been requested by the Make Waves! non-profit organization as part of a feasibility study for the proposed construction of a recreational pool facility. The project location is in the southwest corner of Kah Tai Lagoon Nature Park in the City of Port Townsend, Jefferson County, Washington (Figure 1). A building footprint of approximately 40,000 square feet would be built in a space currently occupied by a gravel parking lot, public restroom and open space between the nature park and the Park and Ride (P&R) lot to the west (Figure 2). Part of the P&R lot would be utilized for the associated parking for the facility. The goal of the habitat survey is to characterize onsite habitat, identify critical habitat and species within the study area and evaluate potential project impacts based on preliminary conceptual designs put forward by Make Waves. Washington Department of Fish and Wildlife (WDFW) area biologists Shelly Ament and Chris Byrnes were consulted regarding this survey.

General Description

The study area is approximately 6 acres in size, half of which is a paved parking area and the other half primarily open space. The Port of Port Townsend owns the southern portion of the lagoon which is leased to the City of Port Townsend and utilized as a park. Much or all of the study area is located on fill material that reclaimed an area of the lagoon that historically extended south closer to Port Townsend Bay. Topography is generally flat, with some berms of fill material. Planted Lombardy poplars (*Populus nigra*) dominate the southern edge of Kah Tai Lagoon park. Other planted and volunteer tree and shrub species are present as are areas of mowed lawn. Pedestrian trails traverse the southern portion of the park.

Five habitat areas were identified within the study area corresponding to natural and artificial environmental factors (Figure 3). The following five areas are referred to in this survey:

- Lagoon
- Lawn
- Berm
- P&R Lot
- Swale

Lagoon

The lagoon is the brackish aquatic habitat defined by the surface water of Kah Tai lagoon and its fringe of aquatic vegetation. The lagoon is approximately 35 acres in size. The lagoon was partially filled in the 1970s. The lagoon has a subsurface connection through pipe to Port Townsend Bay.

Lawn

Mowed lawn is present north of the 12th Street entrance to the park. Regular mowing limits the vegetation to typical grasses and herbs of lawns with the only trees being a small number of planted pines approximately 15 to 20 feet tall in the southern quarter.

Berm

Mounds of fill material were created between the P&R lot and the lawn either when the lagoon was filled or when the adjacent parking lot was created. This area is too steep for regular mowing, although some trimming of vegetation may occur. The southern third of the berm has been planted with such species as Lombardy poplar and Douglas-fir (*Pseudotsuga menziesii*). The northern section is vegetated with grasses and shrubs.

P&R Lot

The P&R lot in the southwest corner of the project area is asphalt paved and includes small areas of landscaping along the margins and in median strips. The landscaping consists of native and non-native tree and shrub species. A Jefferson Transit bus stop is also located in the southeastern portion of the lot.

Swale

Stormwater detention swales to the north of the P&R lot are vegetated with Black cottonwood (*Populus balsamifera*), Douglas-fir, Bitter cherry (*Prunus emarginata*), Scouler's willow (*Salix scouleriana*), Nootka rose (*Rosa nutkana*) and Scotch broom (*Cytisus scoparius*). The swale provides the most dense cover in the area, and is adjacent to the lagoon. Trees to 30 feet in height are present.

Evaluation**Structure**

The Swale and Berm areas contain the most variety of vertical structure, from herbaceous and shrub layers to tree layers. Although some poplars reach approximately 80 feet in height, planting is sparse and linear. The planted Lombardy poplars provide perching sites for songbirds, but do not exhibit the type of branching structure preferred by bald eagles. Other tree species are young and less than 20 feet in height. Canopy, where it exists, is open and doesn't exceed 20 percent cover. Vertical structure is highly limited in the Lagoon, Lawn and P&R Lot, however man-made structures provide perching and roosting sites for gulls and nesting sites for House sparrows in the P&R Lot.

Cover

Shrub cover is provided by a dense layer of Scouler's willow and Nootka rose in the Swale area. Wildlife need cover for protection from predators and as a buffer from human disturbance. Forest canopy is very limited since most tree species onsite are immature and the large poplars have very narrow crowns.

Corridors

Cover is more valuable when connected in corridors of sufficient width to allow species to move between different natural areas. Historic corridors between Kah Tai Lagoon, Port Townsend Bay and the prairies and wetlands of the lowlands between Kah Tai and Chinese Gardens to north have long been severed by a network of city streets.

Extent

The lagoon covers almost half of the area of the park overall. Within the more narrow study area, the P&R Lot covers the greatest area and the Berm covers the least area. In general, larger areas of natural habitat support more wildlife, however small high quality natural areas can also provide significant habitat.

Lagoon	35 acres
Swale	1.7 acres
Berm	1.5 acres
Lawn	2 acres
P&R Lot	3 acres
Other natural area within park	39 acres

Priority Habitats

The Lagoon represents both Estuary and Urban Natural Open Space priority habitat types. The Lagoon is frequented by concentrations of waterfowl. Marine shoreline, another priority habitat, is farther than 330 feet to the south of the project area in the Port of Port Townsend Boat Haven marina.

Priority Species

Mature conifers and snags near shorelines can provide nesting and perching sites for bald eagles. The nearest mapped eagle nest is 0.5 miles southwest of the study area near the Manresa Castle property (Shelly Ament, WDFW, personal communication, June 2008). The study area is therefore outside of the 800-foot radius eagle management zone of this nest. No large conifers, cottonwoods or other native trees are present in the study area. Large onsite Lombardy poplars do not provide the perching structures that eagles favor, although they are utilized by songbirds. No priority species or sign were found onsite.

Species Diversity

Diversity of plant species is moderate in the Swale, Berm and Lagoon and low elsewhere. Greater diversity of plant species supports a greater diversity of wildlife and non-native species can be detrimental. Invasive species are present throughout the park including Scotch broom and Himalayan blackberry (*Rubus armeniacus* syn. *R. discolor*). Mammal species known or expected to utilize the study area include Columbian black-tailed deer (*Odocoileus hemionus columbianus*), coyote (*Canis latrans*), raccoon (*Procyon lotor*), eastern cottontail (*Sylvilagus floridanus*), Eastern gray squirrel (*Sciurus carolinensis*), little brown bat (*Myotis sp.*), moles, shrews and rodents. High diversity of migratory and resident bird species may be found in the Nature Park as a whole, including the lagoon. The lagoon is a popular birding spot and many informal reports of sightings can be found on the Admiralty Audubon website. Bird species utilizing the study area are more moderate in diversity and primarily include species typically adapted to or tolerant of human-influenced environments, however other transient species are likely. Garter snakes (*Thamnophis sp.*), Western fence lizards (*Sceloporus occidentalis*) and Pacific treefrogs (*Pseudacris regilla*), as well as common invertebrates are also likely to be present.

 Michael B. Dawson

Interspersion

Moderate interspersion between open-water, emergent and shrub vegetation exists. Greater variety of vegetation types and greater interspersion between them benefit wildlife. Many species thrive in edges between habitat types and these factors increase the amount of edges present in a given area.

Vicinity

Other significant habitat within a three mile radius include intertidal areas of Port Townsend Bay and wetlands such as Froggy Bottoms and Chinese Gardens to the north. A remnant prairie plant community is being restored one quarter mile northeast of the lagoon in the Port Townsend Golf Club.

Snags

No snags or downed wood greater than four inches in diameter were observed in the project area. Downed and standing dead wood provide nutrients for fungi and invertebrates, which in turn support species who feed on them. Snags provide perches and cavities for birds and other mammals.

Human Encroachment

Heavily used city streets bound the western and southern edges of the study area. The P&R Lot contains a Jefferson Transit bus stop. Commercial businesses (a grocery store, restaurant and hardware store) occupy the adjacent parcels to the south of the study area. Southern Kah Tai park is traversed by a network of trails. An east-west trail skirts the southern Lagoon shoreline and connects Landes and Kearney streets. Trails are all non-motorized access only. Illegal camping is common in the park, especially in the Swale and Berm areas surrounding the P&R Lot. This includes some clearing of vegetation, considerable trash and uncertain sanitary conditions.

Project Impact

Impacts typically associated with projects of this scale include clearing of vegetation and loss of open space, sediment runoff, increased impervious surface area, construction noise, disruption of habitat functions and increased pedestrian and vehicle traffic. Trees likely to be removed include some large Lombardy poplars and smaller native and non-native trees less than 10 inches in diameter and shrubs in the Berm area. A tree conservation plan may be required under chapter 19.06 of the City of Port Townsend municipal code (PTMC).

Careful planning and management practices can help mitigate the effects of construction related impacts. Best management practices (BMPs) should be employed to specifically address each anticipated impact. Buffer areas around the lagoon should be established and protected by clearly marking them, preventing access, controlling sediment movement and monitoring. A stormwater management plan should be established that would minimize impact to nearby waterways. Higher infiltration rates of stormwater would be preferable given the proximity to the lagoon.

Summary

Critical wildlife habitat was not found within the study area, but is present adjacent to the proposed project site to the north in Kah Tai Lagoon. No priority species are known to be present within the study area. Moderate habitat value was found in the onsite urban landscape. Impacts to critical habitat adjacent to the study area are anticipated to be small with a project placed outside of lagoon buffer areas and with an appropriate stormwater management plan.



Michael B. Dawson
Biologist
Port Townsend

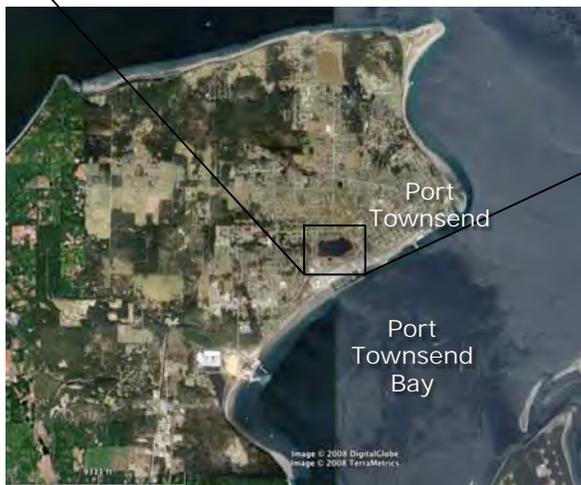


Figure 1: Site Vicinity
Kah Tai Habitat Survey
June 20, 2008
Michael B. Dawson



Figure 2: Site Plan
Kah Tai Habitat Survey

June 20, 2008
Michael B. Dawson



Figure 3: Habitat Areas
Kah Tai Habitat Survey

June 20, 2008
Michael B. Dawson



856 50th Street
Port Townsend, WA 98368
360 385-6432
dixie@cablespeed.com

May 14, 2008

Karen Nelson
Make Waves, Port Townsend Aquatic Center
P.O. Box 1730
Port Townsend, WA 98368

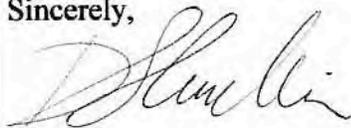
Plant Assessment for Kah Tai Lagoon Proposed Building Envelope for Aquatic Center

At the request of the Make Waves committee a plant assessment was conducted on April 14, May 5, and May 12, 2008. All plant species present were recorded within the vicinity of the proposed building site of the aquatic center. The area surveyed includes the existing restroom (open April through October), the small dirt parking lot, and from the foot path to the Park and Ride. Several species were not blooming and were identified by leaf shapes and structure. A map of area assessed and a species list are included at the end of this letter. The plant list records scientific and common names, species origin, family, and wetland status. The list also recorded the species on the Jefferson County Weed List (2008).

In summary 55 plant species were identified within the proposed building envelope. No sensitive plants species were observed (plants listed on the USDA State Director's Sensitive Vascular Plant Species List which includes Federally Listed Species, updated July 2007). There were 20 native trees shrubs and herbaceous/grass species; of which at least 6 were planted and are not native to the site. Of the remaining 35 non-native species 7 are listed on the Jefferson County Weed list (2008) and include butterfly bush, spotted knapweed, poison hemlock, Scotch broom, dog fennel, hairy cat's ear, and common groundsel. Both Scotch broom and poison hemlock are selected weeds listed for suppression or control within Jefferson County. There are 9 wetland tolerant species, none of which require regular inundation. The only species that qualifies as a facultative wet wetland plant is red-stem dogwood which was planted and is often used in landscape settings outside of wetlands. Wetland species never dominated any plant community within the proposed building site location. The majority of species identified thrive in dry, often disturbed upland areas.

If further information is required please don't hesitate to call.

Sincerely,



Dixie Llewellyn
Principal Biologist, Olympic Wetland Resources, Inc.

Kah Tai Lagoon

Vascular Flora for Proposed Make Waves Project

May 2008

Scientific Name Common Name Origin Family Comments

<i>Acer circinatum</i>	Vine maple	n	Aceraceae		Planted
<i>Achillea millefolium</i>	Yarrow	n	Asteraceae		
<i>Agrostis capillaris</i>	Colonial bentgrass	Eu	Poaceae	FAC	
<i>Alnus rubra</i>	Red Alder	n	Betulaceae	FAC	
<i>Amelanchier alnifolia</i>	Serviceberry	n	Rosaceae		
<i>Arbutus menziesii</i>	Pacific madrone	n	Ericaceae		
<i>Aster sp.</i>	Unkown	?	Asteraceae		
<i>Bellis perennis</i>	Lawn daisy	E	Asteraceae		
<i>Berberis aquifolium</i>	Tall Oregon grape	n	Berberidaceae		
<i>Brassica nigra</i>	Black mustard	Eu	Brassicaceae		
<i>Bromus tectorum</i>	Cheat grass	E	Poaceae		
<i>Buddleja davidii</i>	Butterfly bush	China,nox	Buddlejaceae		Class B Weed
<i>Cardamine hirsuta</i>	Hairy bittercress	Eu	Brassicaceae		
<i>Cedrus deodara</i>	Himalayan cedar	Eu	Pinaceae		Planted
<i>Centaurea biebersteii</i>	Spotted knapweed	Eu, nox	Asteraceae		Class B Weed
<i>Cerastium arvense</i>	Field chickweed	n	Caryophyllaceae		
<i>Claytonia perfoliata</i>	Miner's lettuce	n	Portulacaceae		
<i>Claytonia sibirica</i>	Candy flower	n	Portulacaceae		
<i>Conium maculatum</i>	Poison hemlock	E,nox	Apiaceae		Class B Weed
<i>Cornus sericea</i>	Red-stem dogwood	n	Cornaceae	FACW	Planted
<i>Cytisus scoparius</i>	Scot's broom	E,nox	Fabaceae		Class B Weed
<i>Dactylus glomerata</i>	Orchard grass	Eu	Poaceae		
<i>Draba (Eriophila) verna</i>	Spring whitlow grass	E	Brassicaceae		
<i>Elymus mollis</i>	Beach ryegrass	n	Poaceae		
<i>Elytrigia repens</i>	Quackgrass	Eu	Poaceae		
<i>Equisetum arvense</i>	Field horsetail	n	Equisetaceae	FAC	
<i>Festuca arundinacea</i>	Tall fescue	Eu	Poaceae	FAC	
<i>Foeniculum vulgare</i>	Dog fennel	E, nox	Apiaceae		Class B Weed
<i>Galium aparine</i>	Woodland bedstraw	n	Rubiaceae		
<i>Geranium molle</i>	Dovefoot geranium	E	Geraniaceae		
<i>Hypochaeris radicata</i>	Hairy catsear	E,nox	Asteraceae		Class B Weed
<i>Lamium purpureum</i>	Common dead nettle	E	Lamiaceae		
<i>Lathyrus latifolius</i>	Everlasting pea	E	Fabaceae		
<i>Lupinus arboreus</i>	Tree lupine	Calif.	Fabaceae		
<i>Malva sylvestris</i>	Tall mallow	Eu	Malvaceae		
<i>Muscari armeniacum</i>	Grape hyacinth	Eu	Liliaceae		
<i>Pinus contorta</i>	Shore pine	n	Pinaceae		Planted
<i>Plantago lanceolata</i>	English plantain	Eu	Plantaginaceae		
<i>Poa bulbosa</i>	Bulbous bluegrass	E	Poaceae		
<i>Poa pratensis</i>	Kentucky bluegrass	Eu	Poaceae		
<i>Populus balsamifera</i>	Black cottonwood	n	Salicaceae	FAC	
<i>Pseudotsuga menziesii</i>	Douglas fir	n	Pinaceae		Planted

Scientific Name Common Name Origin Family Comments

Ribes sanguineum	Red flowering currant	n	Grossulariaceae		Planted
Rosa nutkana	Nootka rose	n	Rosaceae	FAC	
Rubus armeniacus	Himalaya blackberry	E	Rosaceae		
Rumex crispus	Sour dock	E	Polygonaceae	FAC+	
Senecio vulgaris	Common groundsel	E,nox	Asteraceae		Class C Weed
Solidago canadensis	Canada goldenrod	n	Asteraceae		
Sorbus aucuparia	Rowan tree	E	Rosaceae		Planted
Symphoricarpos albus	Snowberry	n	Caprifoliaceae		
Taraxacum officinale	Dandelion	E	Asteraceae		
Thuja plicata	Western redcedar	n	Cupressaceae	FAC	Planted
Trifolium sp.	clover	E	Fabaceae		
Valerianella locusta	European corn salad	E	Valerianaceae		
Vicia hirsuta	Tiny vetch	Eu	Fabaceae		

Origin

E=Europe
 Eu=Eurasia
 NA=North America
 M=mediterranean
 n=ative
 nox=noxious

Wetland Status

OBL Obligate wetland species
FACW Facultative wet wetland species
FAC Facultative wetland species
 + or - defines wetland tolerance
 All other species are primarily upland

 <p>Olympic Wetland Resources, Inc. 856 50th Street Port Townsend, WA 98368 360 385-6432 dixiellewellin@yahoo.com</p>	<p>Title: Vegetation Exhibit 6 Kah Tai Lagoon Port Townsend, WA 98368</p>	<p>Scale: As Indicated</p>	<p>Sheet #1</p>
	<p>Client: Make Waves PO Box 1730 Port Townsend, WA 98368</p>	<p>Date: 05/14/08</p>	
		<p>Job #: 2008-0414</p>	



Area Surveyed

Bird observations at the proposed Aquatic Recreation Center site in Kah Tai Lagoon Nature Park

Admiralty Audubon Society released on November 24, 2010 a comprehensive year long survey of bird species observed in the Kah Tai Lagoon Nature Park. The report is available from the Society's web site <http://admiraltyaudubon.org/>

Bird counts were made every other week for 5 minutes within a 100 meter diameter¹ circle at 6 points in the park, on walks between the points, and from one vantage point on the lagoon as shown in the map. Point 2 corresponds to the site of the proposed Aquatic Recreation Center. In total, 90 species of birds were sighted within the park, including 61 land-associated and 29 water-associated species.



Map from Page 1 of Audubon Report

Of the 90 species sighted, 28 were observed at Point 2 and are listed in the first two columns of the attached table, taken from Appendix 2 of the Survey. Only land associated species were seen at Point 2, which is outside the 200 foot wetlands buffer zone. However, the 100 meter circle may overlap the buffer zone. Point 1 to the upper left of Point 2 is within the 200 foot wetlands buffer zone. The Survey summarizes Point 1 and 2 sightings as follows: "The most numerous species seen at Point 1 were Red-winged Blackbird, American Crow, Song Sparrow, Black-capped Chickadee and Marsh Wren, whereas predominant birds at Point 2 were Bushtit, House Finch, American Crow, and Yellow-rumped Warbler. This reflects the different habitat types. Point 1 includes marsh and mixed forest habitat and Point 2 supports field grasses, Nootka roses and young trees. The largest peaks in number of birds for Point 1 and 2 were largely due to flocks of two species. In late December 16 Glaucous-winged Gulls and 16 Mallards were sighted at Point 1. In mid-June, predominant species were House Finch and House Sparrow for Point 2."

These sightings can be compared to the Audubon Society's Checklist of Birds representing 225 species sighted around the Quimper Peninsula. Data from the Checklist for the species sighted at Point 2 are shown in the last four columns of the table. Comparison of the sightings for Point 2 with the area reference sightings from the Checklist provide the reader an opportunity to assess the species found at the proposed Aquatic Recreation Center with those seen at other locations on the Quimper Peninsula.

¹ A 100 meter diameter circle encompasses about 1.94 acres, greater than twice the footprint of the proposed Aquatic Recreation Center.

Bird Observations at Proposed Aquatic Recreation Center Site in Kah Tai Lagoon Nature Park

Species Name	Site Sightings ¹ 10/09 – 9/10	Area Reference ²			
		Sp	S	F	W
Bushtit	41	C	C	C	C
House Finch	36	C	C	C	C
American Crow	34	C	C	C	C
Yellow-rumped Warbler	34	U	U	U	U
House Sparrow	20	C	C	C	C
Brown-headed Cowbird	15	U	C	U	-
Spotted Towhee	14	C	C	C	C
Song Sparrow	14	C	C	C	C
Pine Siskin	12	C	C	C	C
Red-winged Blackbird	11	U	U	O	U
Barn Swallow	10	U	C	-	-
American Goldfinch	8	C	C	C	-
White-crowned Sparrow	7	C	C	C	U
Ruby-crowned Kinglet	5	C	-	C	C
Glaucous-winged Gull	4	C	C	C	C
Black-capped Chickadee	4	C	C	C	C
American Robin	3	C	C	C	C
European Starling	3	C	C	C	C
Cliff Swallow	2	U	C	-	-
Marsh Wren	2	U	U	U	U
Cedar Waxwing	2	C	C	U	U
Northern Flicker	1	C	C	C	C
Violet-green Swallow	1	U	C	U	-
Chestnut-backed Chickadee	1	C	C	C	C
Orange-crowned Warbler	1	U	C	-	U
Wilson's Warbler	1	U	C	-	-
Golden-crowned Sparrow	1	C	-	C	C
Dark-eyed Junco	1	-	-	-	O

Legend Sp = Mar-May; S = Jun-Aug; F = Sep-Oct; W = Nov-Feb
 C = Common (seen every year)
 U = Uncommon (birds present but not seen every year)
 O = Occasional (birds not present every year)

- 1 Admiralty Audubon Society "Kah Tai Lagoon Nature Park Bird Survey 2009/2010" <http://admiraltyaudubon.org/>
- 2 Data from "Checklist of Birds: Quimper Peninsula and Surrounding Waters of Puget Sound", 3rd Ed 2008 published by Admiralty Audubon Society <http://admiraltyaudubon.org/>

From: [Mary Jo Nichols](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: comments toRCO Board Agenda # 7
Date: Friday, March 25, 2011 8:08:22 AM

I would like the Board to recommend 6(f) protection for the port's land in Kah Tai park. Mary Jo Nichols, 940 Lawrence St., Unit 402, Port Townsend, WA 98368

From: [Libby Palmer](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Tuesday, March 29, 2011 4:19:23 PM

I have lived in Port Townsend since 1980 and well remember the sequence of events that led to the setting aside of Kah Tai Park to be preserved "in perpetuity." There is no mistake about the declaration. The Port of Port Townsend and the City of Port Townsend co-signed the agreement.

It is absolutely inconceivable that a public body, such as the Port, would now seek to revoke that agreement. As a voter, an active citizen, a teacher and proud resident, I urge you to not change the 6(f) status of this Park. The Port has not presented any convincing need for such a change - indeed, considering the rapid population growth in the area since 1985, such protected lands are more needed than ever before.

Furthermore, the City Manager says that the record is clear and that there is no need to negotiate anything on this land.

No matter what the Port now says it "thought", the fact is that the Port DID in fact sign the contract in 1981 and signed the required Assurances of Compliance in 1988. It is patently a violation of trust and the public will to now claim that it "didn't know" that the lease was in perpetuity.

I see no reason for the RCO Board to follow that illegal and contradictory line of reasoning. I urge the Board to merely examine the record and support the maintenance of the current 6(f) status for Kah Tai Park.

Libby Palmer
2336 Kuhn Street
Port Townsend, WA 98368
360-385-7585

From: [Penny Lawrence](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: comments to the RCO board, Agenda item #7
Date: Sunday, March 27, 2011 5:25:04 PM

To the board of the RCO , My name is Lionel J.Pine, I live at 1723 Gise St. Port Townsend WA. I have lived here in Port Townsend for 20 years and in that time have volunteered on numerous projects in Kah Tai Park. I believe the Port of Port Townsend is wrong in their attempt to dispute the 6(f) status of the land at Kah Tai. The Port, City, and National Park Service all dropped the ball and now the Port is trying to get out of their commitment to keeping the whole 78 acres as open space. This area is beautiful and is much needed by birds and wildlife as well as people who live here. Please follow the guidelines already established by the Ports signing of the grant and allow Kah Tai Park to be protected once and for all. Thank You , Lionel J. Pine

From: [Bob Podrat](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Friday, March 25, 2011 12:55:02 PM

Dear Ms. Connolly,

I am writing to you in support of Kai Tai Lagoon Nature Park's 6(f) status.

The City and Port of Port Townsend cosponsored the creation of Kah Tai Lagoon Nature Park in 1981 with funds from the National Park Service's Land and Water Conservation Fund (LWCF). The Mayor of Port Townsend and the President of the Port Commission signed the project contract for the grant in 1981. LWCF stipulates perpetuity (so-called 6(f)(3)) for any park created with their funds. It does not matter how small a piece of the total park is purchased with LWCF funds, the whole park is protected. The City, RCO and NPS have produced a draft 6f map that includes the Port land.

The Port of Port Townsend is now claiming that it never intended to include its land in perpetuity, and further claims that a lease it signed with the City releases it from those requirements. An attorney hired by the Port does not acknowledge the existence of a contract, and claims that since the Port's leased land was used as the required sponsor match, they cannot be held to the stipulations because the lease was for 30 years, nonrenewable.

The State Recreation and Conservation Office has chosen to follow the reasoning of the Port attorney rather than the documentation provided in their own records. The RCO will ask its Board on 31 March to delegate authority to the head of RCO to 'negotiate' with the City and Port about the park boundary. The City does not believe there is anything to negotiate, that the record is clear. (We confirmed this again with the City Manager on Thursday, 17 March.)

The facts:

1. A project contract was signed by both the City and the Port, as were other documents related to the creation of the Park. The Port signed the contract in June 1981 and signed required Assurances of Compliance in 1980. The Port is named as co-sponsor throughout the documents and on both the relevant State and Federal LWCF websites.
2. The lease the Port describes was signed in August 1982. It cannot have any bearing on the contract because it did not exist when the contract was signed. The lease in question was signed in preparation for a second grant to further develop the park in 1983 and is not relevant to the 1981 grant.
3. The lease did not exist when the contract was signed so the Port land could not have been used as leased donor match. The Port land was never appraised during the process that evaluated all the parcels around the park prior to park

creation. If it had been intended to be used as match, it would have had to be appraised when all the other properties were appraised. The full dollar value required for donor match was provided by four donations of private land, well documented in the record.

4. The park described in the 1981 grant documents is 78.5 acres. There is no way to draw a boundary around the area in question and get to 78.5 acres without including the 20+ port acres.

Thank you for your consideration.

Bob Podrat
2211 Spruce Street
Port Townsend, WA 98368
360.344.3403

From: [Andrew Reding](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Monday, March 28, 2011 12:08:42 PM

I am writing to ask your help in preserving a very important wildlife habitat in the City of Port Townsend: Kah Tai Nature Park and Lagoon. Until I moved to Bellingham, I was a member of the Jefferson County Planning Commission.

The City and Port of Port Townsend cosponsored the creation of Kah Tai Lagoon Nature Park in 1981 with funds from the National Park Service's Land and Water Conservation Fund (LWCF). The Mayor of Port Townsend and the President of the Port Commission signed the project contract for the grant in 1981. LWCF stipulates perpetuity (so-called 6(f)(3)) for any park created with their funds. It does not matter how small a piece of the total park is purchased with LWCF funds, the whole park is protected. The City, RCO and NPS have produced a draft 6f map that includes the Port land.

The Port of Port Townsend is now claiming that it never intended to include its land in perpetuity, and further claims that a lease it signed with the City releases it from those requirements. An attorney hired by the Port does not acknowledge the existence of a contract, and claims that since the Port's leased land was used as the required sponsor match, they cannot be held to the stipulations because the lease was for 30 years, nonrenewable.

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3. The lease did not exist when the contract was signed so the Port land could not have been used as leased donor match. The Port land was never appraised during the process that evaluated all the parcels around the park prior to park creation. If it had been intended to be used as match, it would have had to be appraised when all the other properties were appraised. The full dollar value required for donor match was provided by four donations of private land, well documented in the record.
4. The park described in the 1981 grant documents is 78.5 acres. There is no way to draw a boundary around the area in question and get to 78.5 acres without including the 20+ port acres.

Sincerely,

Andrew A Reding
1152 Grant Street
Bellingham WA 98225

From: [nora regan](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Boundaries of Kah Tai Lagoon Nature Park, Port Townsend, WA
Date: Monday, March 28, 2011 6:00:41 PM

PLEASE MAKE THIS LETTER PART OF THE OFFICIAL RECORD FOR THE RCO BOARD MEETING OF 31 MARCH 2011

March 28, 2011

To the Recreation and Conservation Funding Board:

As a friend of Kah Tai, I am concerned that there has been deliberate obfuscation of the facts over the years. Both the city of Port Townsend and the Port of Port Townsend conveniently lost? threw away? forgot about? the grants that were awarded to us by the state and the NPS to ensure that Kah Tai remains a wildlife park in perpetuity. This park has been political since its inception and the battle continues, however it appears that those of us who have poured our blood, sweat and tears into restoring and preserving this park have the law on our side.

There are forces within our city who just can't seem to understand open space and outdoor passive recreation. A 35,000 square foot aquatic center has to be worst fit yet for this site, but there is big money behind it and a resentful retired port commissioner leading the fight. The port has always wanted to use this land for economic purposes. That is why they conveniently got the facts wrong regarding a supposed lease that would expire in 2012 and give part of the land back to them.

Locating an aquatic center this size in Kah Tai will destroy the ambience of this wildlife park. Make Waves is adamant that theirs will be a "green" building, but not building this center at all and leaving the park as it is, is truly "green". They have options for other sites in our city which include infrastructure that is already in place as well as parking. There is no reason that their dream has to be located in our park. We already have a pool in Port Townsend and the city has architectural plans which were drawn up several years ago for improvement and expansion of this pool.

If a conversion of this land were to be granted, the proposed Make Waves aquatic center would completely alter the nature of this park. Just the process of building it would disrupt and destroy much of the work that has been done to restore this serene lagoon and the wildlife that lives here or migrates here. The noise, the fumes, and the physical destruction that would occur with construction would profoundly upset the delicate balance of this urban wildlife refuge. Once the building is completed, there would be increased car traffic and noise, fumes as the berm and evergreens planted to prevent this would be eradicated, noise from various pumps located outside the building running 24 hours a day, lights left on all night to prevent vandalism, and the pathways to the center paved and lighted as users of the center would demand it.

It is all about a sense of place. According to Wallace Stegner, an informed sense of place requires that what happened in a given place in the past has meaning in the present. The citizens who fought to preserve Kah Tai were looking to the future. They knew it would take time for this much-abused lagoon and its surrounding environs to recover. They also knew that open space is often viewed as only of value if developed. They wanted to preserve this beautiful wildlife park in perpetuity for future generations to enjoy. They wrote and were awarded grants to ensure that this would happen.

Sincerely, Nora Regan
President, Friends of Kah Tai
1331 Olympic Ave
Port Townsend, WA 98368

Dear RCO Board members:

I am writing as a citizen of Port Townsend, WA in regard to our Kah Tai Lagoon Nature Park. Kah Tai is a 78 acre land/water jewel in the southeast portion of our city—a refuge for wildlife and a place for people to walk, picnic and be at peace in nature.

Kah Tai was created by citizens over 30 years ago and has been improved and maintained almost entirely by volunteers, with the understanding that the entire 78 acres would be preserved from development in perpetuity. This was also the understanding of property owners who donated land at the onset as a matching requirement for a federal Land and Water Conservation Fund acquisition grant.

Now, it seems that the Port of Port Townsend is trying to renege on its commitment to transfer title to 20 acres of land to the City of Port Townsend, even though the Port was one of the original local government sponsors of the park, and signed a contract pledging this land. Current Port directors are claiming that a lease of these 20 acres to the City in 1982 was intended as a match for a State development grant, and that at the termination of this lease in 2012 their land will not be part of the park.

This is patently untrue. The lease was intended to be only an administrative mechanism to allow time for title transfers. Two other governmental bodies, Jefferson County and the local Public Utilities District, signed similar leases and transferred title to land, with only token monetary compensation. The Port is now saying that their land will be unencumbered next year, and want "fair market value" should they decide to sell it.

This turnaround on the part of the Port is unconscionable. It is an affront to those who donated property, and to those who have donated thousands of hours of time and effort over the years. Now the Port is asking

you as a Board to allow your staff to “negotiate” the boundaries of Kah Tai Park with the City and the Port. This request is totally inappropriate. Failure to include the 20 acres of Port land in the park would be a breach of a contract which has been in place for decades. Inclusion or exclusion of Port lands is not negotiable.

It is true that some procedural details were not completed in a timely manner by local, federal and state agencies. The City should have flagged titles, the NPS should have submitted an accurate boundary map at the close of the acquisition grant, and the RCO had an obligation to see that these actions were undertaken. However, these lapses are not grounds for the Port to try to wiggle out of its contractual obligations.

What we are asking of you today is to collaborate with the City of Port Townsend, the Port of Port Townsend and the National Park service in codifying the entire 78 acre boundary of Kah Tai Lagoon Nature Park in a way that is just and legal.

Lang Russel

Port Townsend. WA

From: [jan.schroeder](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: comments to the RCO board, agenda item #7
Date: Sunday, March 27, 2011 7:03:49 PM

I urge you to recommend 6(f) protection for Port land in the Kah Tai Park. I have lived in Jefferson County, both in Pt Townsend and outside it, for almost 30 years and have seen the many changes and encroachments. The Park is very worthy of protection, for all the benefits it provides to humans and critters alike. I am not in favor of the Port's position contesting 6(f) status. Please recommend 6(f) protection for Port land in Kah Tai Park. Thank you. Jan Schroeder

From: [Selden](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Uphold 6(f) protection
Date: Tuesday, March 29, 2011 12:44:23 PM

Though I am traveling for a few weeks and away from Port Townsend I still remain informed of important issues. This is critical: uphold 6(f) protection for Kah Tai. What good is a legal commitment if it can just be put aside a few decades later? It makes no sense to just throw out such a commitment. The precedent is frightening. Does it mean legal conservation easements are good only until a new owner finds them inconvenient?

I hope the RCO will do the right thing and demonstrate that a legal commitment stays with the property no matter who controls it.

Yours

Mary Selden McKee
2671 Wilson St
Port Townsend WA

Sent from my iPhone

From: [Dena Shunra](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Wednesday, March 30, 2011 11:55:42 AM

I am writing to ask that the RCO board do the right thing and recommend 6(f) protection for the Ports land in the Kah Tai Park.

The Kah Tai Park has been a bone of contention in Port Townsend for many years, and the 6(f) status would go a long way toward settling the contention and allowing community resources to be expended on more productive issues.

The 6(f) status is in line with the documentation I have seen relating to the historical "battles of Kah Tai", dating back to the 1980s.

Thank you for considering making this recommendation,

Dena Bugel-Shunra

1132 Van Ness Street
Port Townsend, WA 98368, USA
tel. +1 360 379 2506
<http://hebrew.shunra.net>

From: [Rosemary Sikes](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item #7 Mar 31 meeting
Date: Saturday, March 26, 2011 12:46:52 PM
Attachments: [83-001.pdf](#)
[ATT15943846.htm](#)

March 25, 2011

Re: Recreation and Conservation Funding Board Briefing Memo, Item 7, Kah Tai Lagoon Nature Park (RCO# 81-043A) Boundary Dispute

Dear RCO Board:

The Recreation and Conservation Funding Board Briefing Memo, Item 7, for the March 31, 2011 meeting contains glaring errors on page 2. I am very concerned that citizens carry no weight with RCO staff unless our letter is submitted by an attorney. February 1, 2011 I submitted a letter, with the approval of the Admiralty Audubon Board, about the Port of Port Townsend (Port) letter dated January 21, 2011. The Ports letter was written by their attorney. In my letter I included documentation from the record showing the Port was a cosponsor to the 1981 LWCF grant and the donated land for the match to the acquisition grant was not the Ports land but were from citizens Jack Carroll (\$27,000), George Green (\$30,000), Gordon Papritz (\$200) and Rennie Bergstrom (\$1,800) for a total of \$59,000. However, even with the documentation submitted, page 2 of the Briefing Memo reads There is no question that the 30-year lease was a part of the land donation constituting the sponsor match. If RCO staff would take time to look at the record there is no question the Ports land was NOT a part of the match for the LWCF acquisition grant. They are cosponsors. The Ports lease for the 20 acres of uplands was not even signed until 1982 the LWCF acquisition grant was signed in 1981. The 1982 20-acre Port lease was a management tool for the 1983 IAC development grant.

Further on page 2 of the Briefing Memo states street easements owned by the city were apparently never included in the grant. As a result, a fragmented grant boundary was created for this park. In fact the city did include the city rights of way as part of the park in City Council Resolution 83-01 dated January 18, 1983 (see attachment). The closure of the 1981 LWCF acquisition grant was March 29, 1985 therefore city rights of way were included in the park well before the closure date.

The Briefing Memo did make an absolutely true statement on page 2. Due to the nature of the park, public interest in the outcome is high. Kah Tai Lagoon Nature Park is a tranquil oasis surrounded by commercial, industrial, and residential property in the heart of Port Townsend. Home to at least 90 bird species according to Admiralty Audubons Kah Tai Lagoon Nature Park Bird Survey 2009/2010 (<http://www.admiraltyaudubon.org/Conservation/2010AASbirdsSurvey.pdf>). Friends of Kah Tai have over 1400 signatures on their petition opposing development in Kah Tai Lagoon Nature Park in order to maintain Kah Tai Lagoon as a nature reserve and passive recreation area. I am one of many who will not sit idly by and see our

beloved park bulldozed.

Sincerely,

Rosemary Sikes

President Admiralty Audubon

RESOLUTION NO. 83-1

AN RESOLUTION DEDICATING CERTAIN STREETS
AND ALLEYS FOR PARK PURPOSES.

WHEREAS, the development of Kah Tai Lagoon Park requires that certain streets and alleys within the park be devoted to park purposes, now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT TOWNSEND, IN REGULAR SESSION ASSEMBLED, DOES HEREBY RESOLVE:

Section 1. Dedication for park purposes, as a part of Kah Tai Lagoon Park, is hereby made as to the following streets and alleys: 18th Street between Kuhn St. & San Juan Ave.; 16th Street between Kuhn St. & San Juan Ave.; 14th Street between Landes & San Juan Ave.; Garfield Street between San Juan Ave. & Decatur St.; Lawrence St. between San Juan Ave. & Decatur St.; Franklin St. between Prosper St. & Kearney St.; Kuhn Street between 14th St. & 16th St.; Haines Street between 12th & 18th Str.; McNeil Street between 12th St. & 19th St.; San Juan Ave. between 12th St. & 19th St.; Prosper Street between Sims Way & San Juan Ave.; Benedict St. between Sims Way & San Juan Ave.; Morrison Street between Sims Way and San Juan Ave.; Thayer Street between Sims Way & 19th Street; Decatur St. between Sims Way & Lincoln St.; Lincoln St. between Decatur St. & Blk 23, Railroad Add.; Alleys in Railroad Addition: Blocks 7, 10, 13, 18, 20, 21, 22, 25, 26, 27, 28, 29, 33, North of Sims Way, 34'; Alleys in Eisenbeis Addition: Block 21; Alleys between: Blk. 17, Railroad, and 182 Estate; Blk 23 Railroad, and Blks 172 & 173 Estate; Blk 7 Eisenbeis and Blk 11 Railroad; Blk 9 Eisenbeis and Blk. 6 Railroad.

Section 2. The dedication herein made shall continue in force so long as said street and alleys are included in Kah Tai Lagoon Park.

	RECREATION PROJECT RESUME				EVAL. SCORE 95	RANK 25	IAC NO. 81-043A
	AGENCY City of Port Townsend and Port of Port Townsend		PROJECT Kah Tai Park			REGION 1	
	COUNTY Jefferson	LEGIS. DIST. 24	CONGR. DIST. 3	SECTION 10,11	TOWNSHIP 30N	RANGE 1W	AREA TYPE Small Urban
	ADDRESS/DESCRIPTION Kah Tai Lagoon Basin				NEAREST STATE HWY. SR NO 20 DIST. AWAY adjacent		PRIORITY

EXISTING		NO. OF PARCELS <u>16</u> ACRES THIS APPL. <u>5.69</u> TOT. ACRES <u>45</u>	<input checked="" type="checkbox"/> NEW SITE <input type="checkbox"/> ADD. TO EXIST. <input checked="" type="checkbox"/> FEE SIMPLE <input type="checkbox"/> LEASE <input type="checkbox"/> OTHER (SEE DESC. OPTION)	APPRAISED VALUE LAND \$206,000 IMPROVE. \$ _____ COST PER ACRE \$ 36,200 PER FRONT FT. _____
ZONING <u>P-1 - Public Use</u> USE <u>Undeveloped</u> OWNER <u>Multiple</u> TIDE/SHORELAND OWNER <u>Multiple</u>	WATERFRONT Kah Tai Lagoon FRONT FEET _____		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

PROJECT DESCRIPTION

This acquisition project is designed to consolidate under the ownership of the City the contiguous land along the west, north, and east perimeters of Kah Tai Lagoon, thereby enabling the City to plan and develop a municipal park around the Lagoon.

The Lagoon has been identified as a prime natural area associated marsh, wetlands, and grasslands - an important nesting, feeding and breeding area for birds and ducks.

FACILITY(IES) PROPOSED FOR ACQUISITION/DEVELOPMENT & ESTIMATED COST	TRAIL MI.	BOATING ACCESS	DESTINATION
		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

Future development includes walking, jogging, and bicycle trails, wildlife observation stations, interpretive center, and wheelchair paths.

REQUIRED PERMITS/COORD. N/A <input type="checkbox"/> DNR <input type="checkbox"/> COAST MGT. <input type="checkbox"/> CORP OF ENGRS. <input type="checkbox"/> PARKS <input type="checkbox"/> FISH/GAME <input type="checkbox"/> SHORELINE MGT. <input type="checkbox"/> HEALTH <input type="checkbox"/> OTHER	RELOCATION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EST. COST \$ _____	TOT. EST. COST \$ <u>206,000</u>	
COMMENTS Audubon Society identified Lagoon as fragile shoreline habitat area. Matching Share: Donation of Real Property Town Population - 6,000	IAC CONSIDERATION NO. OF TIMES REV. SINCE LAST CONSIDERED <u>0</u> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	FUND SOURCE % IAC: INIT. 215 _____ LWCF 50 103,000 State Bond 25 51,500 OTHER (SEE COMS.) _____ LOCAL: 25 51,500	
	IAC GRANTS NO. APPVD. <u>0</u> TOT. VAL. \$ <u>0</u> NO. COMPL. <u>0</u> NO. INCOM. <u>0</u>	LOCAL: 25 51,500	
		TOT. \$ <u>206,000</u>	

From: [barbara.stone](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: to the board agenda #7
Date: Friday, March 25, 2011 3:12:16 PM

I support leaving the Kai Tai nature park as a park and not be developed. Barbara Stone

From: [David Timmons](#)
To: [Connolly, Rebecca \(RCO\)](#)
Cc: [Anest, Jim \(RCO\)](#); [Jim Pivarnik](#); [Catharine Robinson](#); [David King](#); [George Randels](#); [Kris Nelson](#); [Laurie Medicott](#); [Mark Welch](#); [Michelle Sandoval](#)
Subject: Comments to the RCO Board, Agenda Item #7
Date: Tuesday, March 22, 2011 2:52:42 PM

All,

Please let me offer the following comments. The record of this situation has been quite clouded and confusing. It has been a source of frustration to all of us involved. There has been considerably forensic effort to reconstruct the records and each day a better picture of what happened materializes. I have surmised from the records what I believe is the correct course of action for the City to support. I felt I should share this as a part of your deliberations.

It appears to me that the record demonstrates that there were in fact three different leases and two grants during the course of the development of the park. However there remains confusion on the part of some as to the purpose of each of the leases and grants. This is no fault of anyone, but the result of the fragmented evidence that has been developing as the matter is further researched.

The two grants were: the first was the LWCF acquisition grant for 78+- acres; and, the second was a separate development grant for park improvements.

The first of the leases was for a small strip of land in the park.

The second lease related to the authorization for the use of City ROW and land that was contained in the Boat Haven for an exchange of use of the land in Kah Tai Park owned by the Port. This occurred after the acquisition grant agreement and the minutes of the City Council meeting where this was discussed references the lease as a benefit to leverage the second development grant. It appears from these records that the second lease had no bearing or relationship to the acquisition grant, but did in fact bear on the second grant.

The third and final lease was solely to rectify errors contained in the first two.

For the record I was never a part of the development or implementation of the grants or leases.

It is not hard to understand the confusion. If the RCO Board believes it to be in the interest of the parties to have the Director negotiate the boundary of the park then may I suggest, in my opinion, that said boundary already has been established and exists based upon the original LWCF acquisition grant agreement and should be recognized. The subsequent

lease has no bearing on the 6f determination. Any negotiated adjustment to the park boundary should be accomplished consistent with 6f use or conversion rules. This will assure due process is afforded to all interested parties.

I await your actions and findings and look forward to an equitable resolution.

David Timmons,
City Manager
City of Port Townsend

From: [J.T](#)
To: [Connolly, Rebecca \(RCO\)](#)
Cc: [Cottingham, Kaleen \(RCO\)](#); heather_ramsay@nps.gov; gloria_shinn@nps.gov; michael_linde@nps.gov
Subject: Kah Tai Nature Park Petition/ RCO Board Meeting 31 Mar 2011
Date: Sunday, March 27, 2011 3:13:36 PM

PLEASE MAKE THIS LETTER PART OF THE OFFICIAL RECORD FOR THE RCO BOARD MEETING OF 31 MARCH 2011

Board of Recreation and Conservation Office (RCO): 27 Mar 2011

Since March 2010 I have led a volunteer effort to collect signatures for the Friends of Kah Tai (FKT) petition: "In order to maintain KahTai Lagoon as a nature reserve and passive recreation area, we the undersigned residents of Jefferson County oppose the use of the Kah Tai Lagoon Nature Park (KTLNP) in Port Townsend (PT) as a site for the Make Waves aquatic/fitness center or for any other project that would diminish the quality of the wildlife habitat in the park." To date over 1420 residents have signed the petition, and the number continues to increase. Besides PT, KTLNP petition signers live in the county (18), Chemicum (50), Port Hadlock (42), Port Ludlow (29), Quilcene (20), Nordland (20), Kala Point (7), Brinnon (5), Gardiner (3). Many signatures (111) were collected in the KTLNP.

Clearly there is a strong and widespread support for keeping the KTLNP as the "de facto wildlife park" described in the environmental impact assessment in the 1981 National Park Service (NPS) grant proposal signed by the Port and the City of PT (see letters of ex-Port Manager George Yount to Jim Anest dated 8 Feb 2011 and ex-PT Mayor Barney Mc Clure to Heather Ramsay dated 23 Sep 2010). It should be noted that the quality of wildlife habitat in KTLNP has improved over the years as indicated by the 51 species of birds found there in 1978 (US Fish&Wildlife "Important Fish & Wildlife Habitats in Washington") compared to 90 species found there in 2010 (Admiralty Audubon Society KTLNP bird survey).

Strong public support for the KTLNP coupled with wildlife habitat improvements made by citizen volunteers (over 1400 recorded hours just for weeding and planting since 2001) should be enough impetus to protect this natural area for future generations, but unfortunately legal issues have obstructed the effort. Several facts emerge from the plethora of data provided by FKT (e.g., the 19 Jul 2010 document by Nancy Dorgan) and the Admiralty Audubon Society:

- 1) There is a 1981 contract signed by the City and Port of PT to establish a

wildlife park at the Kah Tai Lagoon.

- 2) Federal (NPS) and State (RCO) funds and private land donations were received to achieve the contract objective.
- 3) The City and Port have failed to consolidate their park holdings under City management as per contract. Currently the Port is ignoring their contractual obligations by claiming their property along Sims Way does not fall within the park boundary.
- 4) The original park boundary map is missing, but there is overwhelming evidence that the boundary recognized by NPS, FKT, and the City is the correct one (14 Feb 2011 response to the Port's legal analysis of the KTLNP boundary by Nancy Dorgan and Deborah and Richard Jahnke).
- 5) The KTLNP needs protection from development pressures such as the Make Waves aquatic/fitness center project.

The future of the KTLNP has been uncertain for 30 years. This is not the time to negotiate but rather the time to implement the goal of a wildlife park as expressed by Jefferson County residents, private land donors, and the 1981 City/Port contract. I urge the RCO Board to protect the KTLNP in perpetuity under the 6f clause of the Land and Water Conservation Fund Act.

Jim Todd 1515 Fir St., PT, WA 98368

From: [Bob Tyer](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Port Townsend Kah Tai
Date: Wednesday, March 30, 2011 7:51:59 AM

Dear Rebecca

The city and port both signed the contract to make the park and give it 6(f)(3) status because of funds given by LWCF.

This was signed on Jun 1981 and given assurances of compliance in 1980. The lease that the port describes was signed in Aug 1982 which has no bearing on happen in Jun 1981.

Please do not give away 20 acres of the park that was part of the 1981 grant from the National Park Service.

Thank you

Bob Tyer 1940 31st Port Townsend, Wa. 98368

From: [judith walls](#)
To: [Connolly, Rebecca \(RCO\)](#)
Subject: Comments to the RCO Board, Agenda Item # 7
Date: Friday, March 25, 2011 2:13:57 PM

Dear RCO Board members,

Please consider my concerns for your RCO Board, Agenda Item #7; The Kah Tai Park including the lagoon in Port Townsend WA. I am a life long Washington resident – my people settled Grays Harbor County before the gold rush. So I feel deeply about most of the land use issues in our state; especially when I see current politicians not honoring agreements historically signed by their agencies. I have lived near Port Townsend for over 30 years now and it is my social hub. Kah Tai Park is located in the center/heart of this small town and is valued, like Central Park is embraced by New York. Many local residents have objected to multiple historic efforts to “develop the edges” of the little park—and have won & also lost a couple of those battles. I am personally not against development, but believe a city needs to be planned for quality open space to enhance the quality of life in the community. I, my neighbors and many of the Port Townsend residents know this is a wonderful place to live, but allowing Kah Tai to be diminished and compromised will only benefit the minority and harm the town’s visible heart.

If you have not already read her comments, please consider the following local resident’s (Ms Jahnke) summation. She states just the facts. And, I personally ask that you please be mindful that the Port Townsend Port’s attorney is a paid, pro-development focused professional.

My best regards,
Judith Walls,
190 N Bay Way
Port Ludlow WA 98365
ph: 360-437-2394
e-mail: judithwalls@q.com

Ms Jahnke's data follows:

The City and Port of Port Townsend cosponsored the creation of Kah Tai Lagoon Nature Park in 1981 with funds from the National Park Service's Land and Water Conservation Fund (LWCF). The (then) Mayor of Port Townsend and the President of the Port Commission signed the project contract for the grant in 1981. LWCF stipulates perpetuity (so-called 6(f)(3)) for any park created with their funds. It does not matter how small a piece of the total park is purchased with LWCF funds, the whole park is protected. The City, RCO and NPS have produced a draft 6f map that includes the Port land.

The Port of Port Townsend is now claiming that it never intended to include its land in perpetuity, and further claims that a lease it signed with the City releases it from those requirements. An attorney hired by the Port does not acknowledge the existence of a contract, and claims that since the Port's leased land was used as the required sponsor match, they cannot be held to the stipulations because the lease was for 30 years, nonrenewable.

The State Recreation and Conservation Office has chosen to follow the reasoning of the Port attorney rather than the documentation provided in their own records. The RCO will ask its Board on 31 March to delegate authority to the head of RCO to 'negotiate' with the City and Port about the park boundary. The City does not believe there is anything to negotiate, that the record is clear. (We confirmed this again with the City Manager on Thursday, 17 March.)

The facts:

1. A project contract was signed by both the City and the Port, as were other documents related to the creation of the Park. The Port signed the contract in June 1981 and signed required Assurances of Compliance in 1980. The Port is named as co-sponsor throughout the documents and on both the relevant State and Federal LWCF websites.
2. The lease the Port describes was signed in August 1982. It cannot have any bearing on the contract because it did not exist when the contract was signed. The lease in question was signed in preparation for a second grant to further develop the park in 1983 and is not relevant to the 1981 grant.
3. The lease did not exist when the contract was signed so the Port land could not have been used as leased donor match. The Port land was never appraised during the process that evaluated all the parcels around the park prior to park creation. If it had been intended to be used as match, it would have had to be appraised when all the other properties were appraised. The full dollar value required for donor match was provided by four donations of private land, well documented in the record.
4. The park described in the 1981 grant documents is 78.5 acres. There is no way to draw a boundary around the area in question and get to 78.5 acres without including the 20+ port acres.

Letter to State of WA Recreation and Conservation Office
Citizen Advisory Board
Re: KahTai Lagoon Nature Park
From: Alea Waters, RN, Port Townsend, WA

March 28, 2011

Dear Board,

I am a citizen and taxpayer of Port Townsend, WA, and will be taking a day off work this Thursday to come to Olympia, 100 miles from my home, to help defend the integrity of our park, the Kah Tai Lagoon Nature Park, a Land and Water Conservation Fund park. *I am here to urge the Citizen Advisory Board of the Recreational and Conservation Office to direct their staff to complete the formalities necessary to protect this park in perpetuity with its original boundaries.*

There is an underhanded attempt being launched by some of our own public officials, the present Port of Port Townsend, to take back the portion of public land the Port turned over 30 years ago, in a signed contract, to help create this park. This land is now an integral part of the park. The Port has decided they may want to use this land for other purposes -- specifically for private, commercial development.

I am only one of hundreds of dedicated citizens who have spent thousands of hours creating, maintaining, and improving this park. We worked hard to save this land from demolition when it was slated for development in the 1980's. A community, city, countywide, state and federal contract was signed at that time to preserve in perpetuity the remains of this sensitive estuary. This conservation effort originated with the citizens of Port Townsend and was *cosponsored by the city government of Port Townsend and the port government of Port Townsend!*

The collaboration went on to include the government of Jefferson County, the Public Utility District, private land donors, the State Parks Dept., and the National Park Service. Private individuals donated their valuable land holdings and transferred their land titles to the city. Public agencies did the same, with the exception of the Port, who lagged. The NPS and State Parks granted funds to acquire and develop the park.

And then we citizens got even busier. We built a picnic shelter and restroom. We removed invasive plant species. We planted

native trees and other native plants. We built and maintained trails. We created a pond for the ducks with a bridge to the lagoon. We rebuilt the bridge when it needed it. We surveyed the bird species over the years to note and record changes.

One of the things the Port fails to acknowledge is that KAH TAI LAGOON NATURE PARK IS ALREADY DEVELOPED. The citizens have followed through on their part of the bargain. Kah Tai is a living, breathing reality -- a gem in the heart of our town -- one of the last natural places on our entire peninsula waterfront, and the city's largest open space. There are plenty of other sites available in Port Townsend for the concrete commercial development the Port appears to want to shepherd. They do not have to destroy our exquisite, already developed park to do so.

Not only is this pitifully misguided and deceptive attempt to rewrite and back out of the contract they signed *illegal*, it is divisive for our community and destructive of citizen goodwill. At a recent public hearing many Port Townsend residents begged the port commissioners to follow through on their obligations and stand behind the park they cosponsored. Our sincere pleas fell on deaf ears, and we were utterly and blithely ignored.

We are all here today because of 30 years of procrastination and neglect on the part of the Port in transferring title of the public Port lands promised in the contract. This transfer is a *mere formality*, and has been completed by all the other agencies and donors involved. The state and federal agencies mandated to oversee the completion formalities of the contract neglected to do so. The City of Port Townsend and the Port of Port Townsend lost their copies of the critical documents. To the state's credit, the Recreation and Conservation Office maintained their copy of the documents, and citizens concerned about the emerging threat to the park have recently unearthed them and brought them forward. *The City of Port Townsend and the National Park Service have clearly stated their positions: the full boundaries of the park will be protected in perpetuity.*

We have had enough of the Port's procrastinations, machinations and contrivances to wiggle out of their contract. Instead of choosing to continue a community-building process of collaboration, as was suggested by citizens at the above-mentioned public hearing, the present Port officials have chosen force and

intimidation to achieve their goal. *We are insulted and enraged at the Port's use of our tax money to pay an attorney to threaten RCO!*

It is my understanding that citizen advocacy groups, as a result of this, have employed an attorney to explore their options.

We demand that the Port honor its contract, and stop wasting our tax money and time, and our agencies' time, trying to slip out of its obligations -- trashing public goodwill in the process, and making a mockery of our agencies' and our community's efforts.

We strongly urge the Citizens Advisory Board of the Recreation and Conservation Office to:

- Recognize the inappropriateness of the Port attorney's recent request to "direct RCO staff to negotiate boundaries with the Port."
- Acknowledge and respect the tremendous citizen effort and trust that has gone into creating and maintaining this park.
- *Join with the City of Port Townsend and the National Park Service in formalizing the originally designated boundaries of beautiful Kah Tai Lagoon Nature Park.*

Thank you for your attention.

Sincerely,
Alea Waters, RN

25 March 2011
To the Recreation and Conservation Office
Rebecca Connolly, Board Liaison
Regarding Kah Tai Lagoon Park in Port Townsend

Kah Tai

Nurse- It's, still moving, or...?
Doctor- Yes, let's see- it's
Nurse- Beating?
Doctor- Scalpel!
Nurse- But, but...
Doctor- There, it's quiet now.
Nurse- But, wasn't that- the heart?
Doctor- Oh, yes, well I guess it was—

And so you too, Port Townsend,
The knife is raised, and what yet beats
Can be silenced soon enough.
This heart, this quiet place,
At rest in the fold of silent tongues,
This, that no man, no group,
No councilman, or commissioner,
has the right to take—
This heart beats for all, and
All should have a say.
If ever a referendum should be held,
Then it is now. If this heart is to be
Cut out, then all hands should grasp
The handle, and all hands thrust the blade.
Those who think they alone should cut
This heart—remember
Blood does not wash.

In the case of Kah Tai vs. the wavemakers:
The case for preserving Kah Tai Lagoon and the surrounding lands cannot be made clearer. That the Port of Port Townsend has managed to get the answer that they wanted to hear from hired lawyers is no surprise. Why they wanted that particular answer is, however, a mystery. The unraveling of their argument, or really their failure to address the entire range of issues, has been convincingly presented by The Friends of Kah Tai.
Port Townsend has an unfortunate history of making the wrong choices for the wrong reasons. Demolition has now started on the infamous "Tidal Clock", and it is being replaced with a giant bronze nut. Appropriate perhaps, but in a very sad manner.

Kah Tai Lagoon is a jewel in the heart of our town, and the Recreation and Conservation Office has the opportunity, as well as the obligation, to do the right thing, as well as something right. I would strongly suggest that anyone who has an interest in this case should spend part of a quiet morning walking around the lagoon, and then try to imagine a massive concrete multi-purpose behemoth sitting on its shores. The "Pool" has morphed from a swimming facility to a sports facility, and it has no place on the shores of what must be one of the rare urban jewels left in Jefferson County. However, what might be termed emotional pleas by some, are beyond the core of this issue. Converting park land to other uses is clearly illegal, quite aside from being wrong in every other sense. The actions taken here will have a very long term affect on Port Townsend. This is an opportunity to make the right decision, as well as the only legal one. It is not a time to become enamored by grandiose delusions. I speak as not only a long time resident of Jefferson County and Port Townsend, but also as a parent and grandparent of Port Townsend residents. Furthermore, I am a long term and daily user of the pool that we have. If the only alternative to the Port Townsend City Pool is to desecrate the shores of Kah Tai Lagoon then I would have to find an alternative recreation. I could not, and would not, participate in the plunder of one of the most delicate and sacred places that we, as residents, must share.

Sincerely

Brian Young
PO Box 1010
Port Townsend, WA 98368
360-379-6423
ydesign@olympen.com

George B. Yount
717-25th Street
Port Townsend WA 98368

Tuesday, February 08, 2011

Mr. Jim Anest
Compliance/Conversion Specialist
Washington State RCO Grants Manager
re: 6(f) boundary determination for Kah Tai Park

email: Jim.Anest@rco.wa.gov

Mr. Anest,

I was the Port Manager of the Port of Port Townsend from June 1980 to May 1988 and I am very much aware of events and documents regarding the development of Kah Tai Lagoon Nature Park. I have to take issue with the Port's staff regarding the intentions of the Port at the time that the leasing and developing of the park took place as noted in your June 22, 2010 meeting with the Port staff, the City of Port Townsend and other agencies. I respect the Port's staff. I believe they are very competent and honorable gentlemen. However, the statement of the Port's intent in the 1980's is not quite accurate. "The Port said they talked with the Commissioners who are still living and it was their recollection that the intent was only to encumber the land for 30 years." I concur that intent may not be a matter of law, but intent is an issue with me.

In 1978/79 the citizens of Port Townsend were united in their objection to the development of Kah Tai Lagoon. Safeway and other new stores started to press in on the Lagoon. The "Battle of Kah Tai Lagoon" was very divisive for the community and much of their anger was directed at the Port because the public believed the Port of Port Townsend was poised to make Kah Tai Lagoon a strip development. In 1979 the City of Port Townsend was developing its comprehensive plan and 79% of the citizens wanted Kah Tai Lagoon as a municipal park. 76% wanted it to be a wildlife refuge or arboretum. To move the "bull's eye" away from the Port, the idea of a land exchange with the City became both politically and economically viable.

The Port had no intention to allow the thirty year lease to run its course. It was an interim arrangement to buy time for the Port and the City to carefully work out a permanent land swap. The Port of Port Townsend could not complete its 1982 comprehensive plan for the Boat Haven without control of the city street right of ways. The City agreed to a lease of its right of ways and the Port leased the properties from Sims Way to the Lagoon shoreline (see attachment).

The Port Commission was very much involved in the development of the Park and the associated grants. The Port Minutes reflect this. The Commission received the City's park development plan and approved it (August 18, 1982). That plan, I believe included all the land that we presently know as Kah Tai Nature Park (see attachment).

The Port Commissioners were party to the IAC grant. Mr. Glenn Abraham, the Port's attorney, advised Mr. Thompson on the appropriate documents the Port needed to co-sign. I too, had read all the documents, particularly the assurances, and advised Mr. Thompson as well as the other Commissioners. It was my job. Bear in mind we thought the lease was only an interim medium to a more permanent solution.

It troubles me that records seem to be missing on this important issue, particularly the 6(f) map. I know that I kept extensive notes and developed reports on this project. The minutes state, "The Manager's report was read, duly noted, and made a matter of record." I have spoken to Mrs. Rita Beam, my secretary at the time, and she confirmed they were archived. The Port's staff is looking for these files. I believe they could be of aid in sorting out the issues. I would be happy to help. My phone number is 360-385-0456.

Sincerely,

George B. Yount

George B. Yount

Former Port Manager, Port of Port Townsend 1980-1988

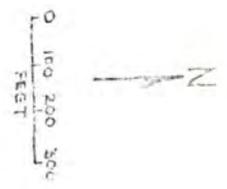
Attachment: 1 pdf

page 1: City resolution showing lease arrangement for 1983 IAC development grant

page 2: map showing full extent of park from 1981 NPS/IAC acquisition grant



-  Private Land to Acquired
 -  Private Land Donated to Port
 -  Port Land
 -  Boundary of County Land
 -  Undeveloped City Street Shown
- Kah Tai Park.
Port Townsend, WA
- Project Bounded
Sept 20, 1980



ACQUISITION SCHEDULE

Code*	Parcel No.	Acres	Anticipated Date of Acquis.	Appraised Value of Land	Number of improvements	Appraised Value of Improvm'ts	Estimated Relocation Costs	Total Estimated Cost
3/1	A	1.069	2/15/81	80,000	Ø	-	N/A	81,000
1	B	.268	2/15/81	20,000	Ø	-		21,000
1	E	.066	2/15/81	200	Ø	-		200
1	F	.066	2/15/81	200	Ø	-		200
1	G, H, W, X	.492	2/15/81	1,400	Ø	-		1,400
1	I	.466	2/15/81	35,000	Ø	-		35,620
1	J	.252	2/15/81	18,920	Ø	-		18,920
1	K	.126	2/15/81	9,460	Ø	-		9,460
1	O	.241	2/15/81	400	Ø	-		400
1	P	.071	2/15/81	5,000	Ø	-		5,000
1	Q	.071	2/15/81	200	Ø	-		200
1	R & U	.140	2/15/81	400	Ø	-		400
1	S	1.711	2/15/81	4,200	Ø	-		4,200
1	T	.137	2/15/81	400	Ø	-		400
1	V	.073	2/15/81	200	Ø	-		200
3	Y	.426	2/15/81	30,000	Ø	-		30,000
4	Z	70.0	2/15/81	-	-	-		-
3	D	2.823	2/15/81	27,400	Ø	-		27,400
Total		78.498					Total	236,000

*Code: 1. Negotiated Purchase 2. Condemnation 3. Donation (Private)
 4. Land Transfer (Public)

NOTE: Total value of donations is \$59,000 Parcel A is a partial donation.

INSTRUCTION

PART II - SECTION B

11. SITES AND IMPROVEMENTS: _____ Not required, <input checked="" type="checkbox"/> Attached as exhibits Applicant intends to acquire the site through: _____ Eminent domain, _____ Negotiated purchase, _____ Other means (specify)
12. TITLE OR OTHER INTEREST IN THE SITE IS OR WILL BE VESTED IN: <input checked="" type="checkbox"/> Applicant, _____ Agency or institution operating the facility, _____ Other (specify)
13. INDICATE WHETHER APPLICANT/OPERATOR HAS: <input checked="" type="checkbox"/> Fee simple title, _____ Leasehold interest, _____ Other (specify)
14. IF APPLICANT/OPERATOR HAS LEASEHOLD INTEREST, GIVE THE FOLLOWING INFORMATION: a. Length of lease or other estate interest _____, and number of years to run _____ b. Is lease renewable? _____ Yes _____ No c. Current appraised value of land \$ _____ d. Annual rental rate \$ _____
15. ATTACH AN OPINION FROM ACCEPTABLE TITLE COUNSEL DESCRIBING THE INTEREST APPLICANT/OPERATOR HAS IN THE SITE AND CERTIFYING THAT THE ESTATE OR INTEREST IS LEGAL AND VALID.
16. WHERE APPLICABLE, ATTACH SITE SURVEY, SOIL INVESTIGATION REPORTS AND COPIES OF LAND APPRAISALS.
17. WHERE APPLICABLE, ATTACH CERTIFICATION FROM ARCHITECT ON THE FEASIBILITY OF IMPROVING EXISTING SITE TOPOGRAPHY.
18. ATTACH PLOT PLAN. <input checked="" type="checkbox"/>
19. CONSTRUCTION SCHEDULE ESTIMATES: _____ Not required, _____ Being prepared, _____ Attached as exhibits Percentage of completion of drawings and specifications at application date: Schematics _____ % Preliminary _____ % Final _____ %
20. TARGET DATES FOR: Bid Advertisement _____ Contract Award _____ Construction Completion _____ Occupancy _____
21. DESCRIPTION OF FACILITY: _____ Not required <input checked="" type="checkbox"/> Attached as exhibits Drawings - Attach any drawings which will assist in describing the project. Specifications - Attach copies of completed outline specifications. (If drawings and specifications have not been fully completed, please attach copies or working drawings that have been completed.)

NOTE: ITEMS ON THIS SHEET ARE SELF-EXPLANATORY; THEREFORE, NO INSTRUCTIONS ARE PROVIDED.

PART IV

Project: City of Port Townsend/ Port of
Port Townsent
Kah Tai Lagoon
IAC #81-043A

1-2 Page Numbers from State Plan:

Chapter III 12.1-6

- 3a. Project Scope: This acquisition project of approximately 78.5 acres through donation, land transfer, and purchase is designed to consolidate under the ownership of the City the contiguous land along the perimeters of Kah Tai Lagoon, thereby enabling the City to plan and develop a municipal passive park around the Lagoon.

The Lagoon has been identified as a prime natural area associated marsh, wetlands, and grass lands - an important nesting, feeding and breeding area for birds and ducks.

3b. Staged Project:

This is not a staged project.

3c. Agreements:

There are no agreements in existence or contemplated with other agencies, individuals or organizations for the acquisition, construction, operation and maintenance of this project.

Attachments:

Project Agreement
Project Boundary Map
Plot Map
Site Plan

Acquisition Schedule
Assurance of Compliance
Location Map
Waiver of Retroactivity

Item 8A

Meeting Date: March 2011
Title: Sustainability Practices and Policy Development
Prepared By: Jim Eychaner, Senior Policy Specialist
Lucienne Guyot, Agency Sustainability Coordinator

Approved by the Director: 

Proposed Action: Briefing

Summary

Per direction from the Recreation and Conservation Funding Board (board) in 2010, staff has continued its review of sustainability practices through research and analysis of available data, focusing on grant applicants' report of sustainability measures. This memo provides highlights; more detail will be provided at the March meeting.

Strategic Plan Link

The board's mission states that it will "Provide leadership and funding to help our partners protect and enhance Washington's natural and recreational resources for current and future generations." Consideration of sustainability is vital to implementing the mission for future generations.

Background

In March 2010, Recreation and Conservation Office (RCO) staff presented a research paper on issues related to sustainability (Attachment A). This paper suggested potential board actions for policy, planning, and programs.

Since then, staff has leveraged new PRISM¹ metrics to investigate grant applicants' reports concerning sustainable measures they intend to implement if awarded funds. Per board direction, we examined application data in the local parks, trails, and state lands grant categories of the Washington Wildlife and Recreation Program (WWRP).

¹ PRISM is the agency database for tracking projects.

Analysis

Staff found the following:

- 88% of applications in the local parks category claimed sustainable measures.
- 72% of applications in the trails category claimed sustainable measures.
- 93% of applications in state lands development/renovation claimed sustainable measures.

The most reported “sustainable” metrics are:

- On site materials reduction
- Stormwater management
- Plantings and landscaping
- Use of recycled materials
- Use of pervious surfaces

We also conducted brief case studies based on informational interviews with a number of applicants to better understand their perspectives. We will summarize the interviews during our briefing.

Next Steps

Staff will present our findings and additional information to the board in March, and will develop next steps based on board guidance.

Attachments

- A. Approaches to Policies to Promote Sustainability through the Recreation and Conservation Funding Board, 2010

DRAFT

Approaches to Policies to Promote Sustainability through the Recreation and Conservation Funding Board



Jim Eychaner
Policy and Planning Specialist

March 2010



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Background

The Recreation and Conservation Funding Board (RCFB) has expressed interest in incorporating sustainability concepts into its grant programs. This paper discusses

- How Washington state government has defined sustainability;
- RCFB grant program consistency with these definitions;
- RCFB's authority for addressing sustainability;
- Relevant state law and Governor's Executive Orders;
- Models for implementing and measuring sustainable practices; and
- Potential actions for RCFB consideration.

It is assumed that RCFB will direct Recreation and Conservation Office (RCO) staff to work with the public and grant program stakeholders to identify or recommend appropriate actions.

Sustainability as Defined by Washington State Government

To *sustain* literally means to support, keep up, lengthen or extend, nourish, or take on. *Sustainability* is the property or characteristic of being able to sustain – being able to support, keep up, lengthen or extend, nourish, or take on.

From its beginnings in 1964, the Recreation and Conservation Funding Board has been concerned with a particular form of sustainability: that is, sustaining the state's investment in outdoor recreation and habitat over time. The Board and agency's organic legislation includes the provision

... land with respect to which money has been expended under RCW 79A.25.080 shall not, without the approval of the board, be converted to uses other than those for which such expenditure was originally approved.¹

This "non-conversion" clause has helped ensure sustained access to and enjoyment of the land and facilities paid for in whole or part with state funds managed by the RCFB.²

Since the 1960s, but especially in the late 20th and early 21st Centuries, the term *sustainability* has evolved to take on an environmental and ethical emphasis.

¹ RCW 79A.25.100

² This assumes both the RCFB and its clients have the tools needed to manage portfolios forever. This is not necessarily the case. RCO, for example, is not always able to describe the exact location and boundaries of land paid for in previous decades.

This emphasis may have originated in the 1987 “Brundtland Report,” which defined sustainability as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”³

Washington State Government has adapted a variation of the Brundtland definition. Both the Office of Financial Management and the Department of Ecology currently define *sustainability* as “... a holistic approach to living and problem solving that addresses social equity, environmental health, and economic prosperity. To be sustainable, the economy must support a high quality of life for all people in a way that protects our health, our limited natural resources, and our environment.”⁴

Washington State Parks defines sustainability as “An ethic that guides individual and organizational decisions resulting in the conservation of environmental, economic and human resources for current and future generations.”⁵

Similarly, the Recreation and Conservation Office’s 2003 internal sustainability plan defines sustainability as “... a way of meeting present needs, without compromising future generations of their ability to meet their own needs, while integrating environmental protection, economic need, and social concerns.”

The common themes to be found in these recent definitions are: the environment, the economy, and people (health, human resources, social concerns). The “environment” has come to include issues related to climate change, including but not limited to protection of natural resources and natural processes and the extent of human-produced “greenhouse gases” such as carbon dioxide. For this reason, much of the discussion to follow will reference carbon emissions and greenhouse gases.

Consistency with the Definitions

RCFB policy has, since the Board and agency’s beginnings, reflected the themes found in modern definitions of sustainability.

Environment. In all RCFB-supervised grant programs, the natural environment is referenced either in program purpose, policy, or evaluation criteria. The Washington Wildlife and Recreation Program findings state “That Washington possesses an abundance of natural wealth in the form of forests, mountains, wildlife, waters, and other natural resources, all of which help to provide an unparalleled diversity of outdoor recreation opportunities and a quality of life unmatched in this nation.” (RCW 79A.15.005)

³ Report of the World Commission on Environment and Development *Our Common Future*, Gro Harlem Brundtland (Norway) Chairman

⁴ <http://www.ofm.wa.gov/sustainability/default.asp> and *A Field Guide to Sustainability connecting concepts with action*, Ecology, publication #03-04-005 (Rev. October 2007)

⁵ *Agency Policy on Sustainability and “Being Green,”* Washington State Parks and Recreation Commission, June 2008

Policy A-2 of the Boating Programs Policy Plan reads "**RCO boating grants shall assist public agencies in providing quality opportunities for the recreational boating public—opportunities that satisfy user needs in an environmentally responsible manner.** RCO does not own or operate facilities. In making funding available to facility providers, however, RCO will recognize its responsibility as a partner in the stewardship of the natural environment."

Sustainability as an element in grant evaluation criteria may use different wording and emphasis, but is consistently present. For example:

- The Aquatic Lands Enhancement Account (ALEA) criterion 4b (Manual 21) asks among many other questions "Will the [restoration] project lead to sustainable ecological functions and processes over time?"
- Washington Wildlife and Recreation Program (WWRP) Local Parks criterion 3 (Manual 10a) asks "Will environmental or other important values be protected by the proposed development?"
- The Nonhighway and Off-Road Vehicle Activities (NOVA) ORV criterion 3b (Manual 14) asks applicants to "Explain how the design protects and complements the environment."

It could be assumed that conservation grants from programs such as ALEA or WWRP's "Critical Habitat" program are essentially contributions to environmental sustainability. There is a fallacy, however, in assuming that nature does not change. There is no long-term, steady-state in nature. A conservation grant made to support a particular species, for example, cannot assure perpetual existence of that species when so many conditions are beyond human control. Grant compliance policy is beginning to recognize this fact and allows for a certain level of adaptability.⁶

The Economy. The Recreation and Conservation Office (RCO) is not recognized as an economic development or "jobs" agency: such tasks are typically assigned to the Department of Commerce or other agencies. Grant criteria do not measure economic development or jobs, though there is mention of consideration of youth crews in Recreational Trails Program (RTP) policy, and a "Jobs for Veterans" effort in grants managed by the Salmon Recovery Funding Board (SRFB). Also, the agency's PRISM data base is being modified to track job creation/retention attributable to grants.

People. There is no other reason for RCFB and its grant programs to exist than to satisfy public demand, whether for trails, ball fields, or land preservation for human values from scenic to ecological. Statute, policy, and evaluation criteria all emphasize human and social need, whether the integration of health and recreation in the state comprehensive outdoor recreation plan (SCORP), or asking about "need" in evaluation criteria.

⁶ Manual 7 *Funded Projects: Policies and the Project Agreement*, RCO
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Recreation is recognized as fundamental to human needs. The United Nations has declared "Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay."⁷

Accepting that leisure/recreation is fundamental to human existence, we can make a further generalization: that is, *managed* recreation is sustainable; *unmanaged or undermanaged* recreation may not be sustainable. This is confirmed by the Washington State Department of Natural Resources and its 2008-09 Sustainable Recreation initiative.

"Recreation occurring on state lands has dramatically changed over the course of the last forty years since the Multiple Use Act was enacted. When DNR began building its recreational facilities and trails in the 1960's most people in the outdoors participated in fishing, hiking, horseback riding, swimming, picnicking and hunting. Now... the most outdoor activities include mountain biking, camping, and motorized trail use (motorcycles, ATVs, 4x4s). Other activities like paragliding, paintball and mountain biking did not occur on the state lands until well after the 1960s. Not only has the type of recreation changed, but the amount of recreation has dramatically increased, as reflected by the fact that the state's population has doubled from 3.3 million people to 6.5 million in the last forty years.

"As DNR faces issues with drastically changing recreation trends on state lands, DNR is forced to keep up with increased demand for outdoor recreational opportunities with the same outdated facilities and trails it built forty years ago. As increased use and demand for recreation continues to grow so does the need for increased maintenance and management abilities to handle these changes. *As the gap between the public's increase demand for outdoor recreation opportunities and DNR's limited supply continues to grow the negative effects of recreation on the environment and public safety will also grow.*"⁸ [Emphasis added]

RCFB can assume that investment in the management of recreation through appropriate sites and facilities is in essence a contribution to social or human sustainability. Further, many recreation facility grants are used to protect resources, adding to environmental sustainability.

In sum, RCFB grant programs address the major elements of sustainability as defined by state agencies. Whether they do so in a deliberate, systematic, or strategic manner is a different question.

⁷ United Nations Universal Declaration of Human Rights, Article 24.

⁸ Sustainable Recreation Work Group Forum Issue: Access, Background Information 2, Preliminary DRAFT, July 2009

RCFB's Ability to Promote Sustainability

The RCFB's powers and duties are established in state law. Because the Recreation and Conservation Office, the agency that supports the RCFB, is part of the Executive Branch, both the Board and the agency must ultimately be in accord with the Governor's agenda. There are a number of issues and concepts worthy of RCFB promotion or encouragement, from healthy lifestyles through physical activity to environmental justice. Fortunately, successive Governors have taken a high level of interest in sustainability, as evidenced by Executive Orders supported by legislation. RCFB therefore can be confident that promoting sustainability is within its authority.

Statutory Context for Sustainability Policy

RCFB has some latitude in taking initiative to add the concept of sustainability to grant program direction and evaluation. However, consistent with any criteria development, it must make sure that new criteria are consistent with applicable state law and Governor's Executive Orders. Also, it must consider the institutional capacity of its clients and avoid placing unreasonable burdens on these clients.

Statutes and Executive Orders specific to sustainability are relatively few. The more important ones are

Planning

- **36.70A RCW, Growth Management Act**, in which the legislature finds "... that uncoordinated and unplanned growth, together with a lack of common goals expressing the public's interest in the conservation and the wise use of our lands, pose a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state."

Development

- **RCW 39.04.133**, requiring a preference for the purchase and use of recycled content products in State capital improvement or construction projects.
- **RCW 39.35D.030**, establishing that "All major facility projects of public agencies receiving any funding in a state capital budget, or projects financed through a financing contract... must be designed, constructed, and certified to at least the LEED⁹ silver standard." The statute applies to buildings of 5,000 square feet and larger.

⁹ "LEED" is Leadership in Energy and Environmental Design, a program managed by the US Green Building Council. It provides third-party verification that a building was designed and built using strategies aimed at improving performance in energy savings, water efficiency, CO₂ emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts.

- **43.21C RCW, State Environmental Policy**, declares a state policy "... which will encourage productive and enjoyable harmony between humankind and the environment; (2) ... promote efforts which will prevent or eliminate damage to the environment and biosphere; (3) ... stimulate the health and welfare of human beings; and (4) ... enrich the understanding of the ecological systems and natural resources important to the state and nation."

Greenhouse Gases (CO2)

- **RCW 47.01.440**, adopts statewide goals to reduce annual per capita vehicle miles traveled: 18% reduction by 2020, 30% by 2035, and 50% by 2050.
- **70.235 RCW** directs certain agencies to participate in the design of a regional multi-sector market-based system to help achieve greenhouse gas emission reductions, assessing other market strategies to reduce emissions of greenhouse gases, and ensuring the state has a well trained workforce for a clean energy future.
 - RCW 70.235.050 requires all state agencies to achieve reductions in greenhouse gas emissions generated by agency travel.
 - RCW 70.235.070 directs that when distributing capital funds through competitive programs for infrastructure and economic development projects, all state agencies must consider whether the entity receiving the funds has adopted policies to reduce greenhouse gas emissions.

Solid Waste

- **70.95 RCW** establishes "... a comprehensive statewide program for solid waste handling, and solid waste recovery and/or recycling which will prevent land, air, and water pollution and conserve the natural, economic, and energy resources of this state." Assigns primary responsibility to local government and a supporting role to Ecology. No role for RCFB.

Executive Orders

- **Executive Order 02-03**, directs state agencies to develop sustainability plans for their own internal operations.
- **Executive Order 05-01**, directs state agencies to incorporate "green" building practices in all new construction projects and in major remodels that cost over 60% of the facility's assessed value (buildings of 5,000 square feet). Orders agencies to reduce petroleum use by 20%, paper use by 30%, and reduce energy purchase by 10%, effective 9-1-09.
- **Executive Order 07-02**, Washington Climate Change Challenge, adopting the 2005 Clean Car Act requiring certain automobiles to meet tougher emissions standards beginning with 2009 models; sets state goals for reducing greenhouse gas emissions, for increasing "green" energy sector jobs, and for reducing the amount of fuel imported into the State; and adopting high performance green building standards, as well as having one of the most energy efficient building codes in the nation.
- **Executive Order 09-05** Washington's Leadership on Climate Change, instructs Ecology to continue work in the Western Climate Initiative toward reducing greenhouse emissions, establish emissions baselines by certain large facilities, and develop emission benchmarks Ecology believes will be covered by a regional or federal cap and trade program; to work with Department of Natural Resources

on recommendations for forestry offset protocols; instructs Washington State Department of Transportation to develop plans and strategies when implemented will reduce vehicle miles traveled.

Except for 70.95 RCW, which targets action by local agencies, these statutes and Executive Orders are analyzed with RCFB grant programs in mind.

State Law

36.70A RCW: Growth Management Act

According to RCFB Manual 2, *Planning Policies*, the Growth Management Act (GMA) encourages recreation and habitat conservation planning in several ways, including –

- A GMA goal designed to guide the development and adoption of comprehensive plans is to – *“Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.”* RCW 36.70A.020(9)
- *“Each county shall adopt development regulations that protect critical areas.”* RCW 36.70A.060(2)
- *“Each comprehensive plan shall include... a land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for... recreation, open spaces....”* RCW 36.70A.070(1)
- *“Comprehensive plans may include... other subjects relating to the physical development within its jurisdiction, including... recreation.”* RCW 36.70A.080(1)(c)
- *“Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify open space corridors within and between urban growth areas. They shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030.”* RCW 36.70A.160
- *“Whenever a state agency is considering awarding grants... to finance public facilities, it shall consider whether the... requesting [agency] is a party to a county-wide planning policy under RCW 36.70A.210... and shall accord additional preference to the [agency] if such policy exists.”* RCW 43.17.250

Many of RCFB’s planning requirements parallel those in GMA, including a capital facility element with inventory, forecast of future needs, and the multi-year financing plan. Manual 2 encourages applicants to consider meeting GMA and RCFB requirements in a single plan document.

As well as providing planning guidance, RCFB policy rewards those governments that meet GMA requirements. Nearly all RCFB-managed grant programs have an evaluation question focused on meeting the requirements of the GMA; the exceptions are the Boating Infrastructure Grant (BIG) program that operates with federal evaluation criteria, and the Boating Activities Program which at present has no funding and no evaluation criteria.

RCW 39.04.133: purchase and use of recycled content products

This statute calls for preferences for the purchase and use of recycled content products as a factor in the design and development of state capital improvement projects. It appears to extend to RCFB development grants made with capital dollars:

RCW 30.04.133 (2) If a construction project receives state public funding, the product standards, as provided in RCW [43.19A.020](#),¹⁰ shall apply to the materials used in the project, whenever the administering agency and project owner determine that such products would be cost-effective and are readily available.

RCFB does not currently have a policy or directive in place that specifically references RCW 39.04.133. It could be argued that the small-scale construction typically funded by RCFB was not targeted by this statute. Many grant recipients are already incorporating recycled materials into project elements from park benches to play ground surfaces.

¹⁰ RCW 43.19A.020 makes federal product standards the standards for the State of Washington.
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RCW 39.35D.030: Leadership in Energy and Environmental Design (LEED)

This law directs that all major facility projects by public agencies receiving any funding in a state capital budget must be designed, constructed, and certified to at least the LEED silver standard.¹¹ It applies to buildings over 5,000 square feet.

LEED's measurable standards are arranged into seven categories, of which 5 appear to have relevance to the outdoor orientation of RCFB grant projects. The seven categories have a total of 25 criteria.

Staff analyzed LEED criteria against RCFB grant programs with "typical" projects in mind. The analysis considered the applicability or suitability of the 25 criteria using a scale of low, medium, high, and "not applicable." We found that overall, 15% of the criteria are not applicable (e.g., indoor environmental quality), 49% have low applicability, 23% have medium applicability, and only 12% have high applicability.¹²

The few buildings funded by RCFB tend to be significantly smaller than 5,000 square feet. Typical buildings are restrooms, winter-use warming shelters, and primitive "convenience camping structures" such as yurts. Even the largest of the structures funded by RCFB may be a few hundred square feet in size.

Other RCFB-funded facilities such as ball fields, boat launches, trails and trail heads, and play grounds "fit" the LEED criteria only in the most generic sense. Applying the criteria to these projects requires a level of subjectivity that would be difficult to defend. In short, asking a LEED inspector to use these criteria on a "typical" RCFB project may be somewhat akin to using automobile manufacturing standards to rate a bicycle.

Refining LEED: A Potential Option. LEED weaknesses are recognized by entities seeking guidance on sustainable construction for projects other than buildings. The Sustainable Sites Initiative (SSI) is a leading proponent for augmenting LEED to cover more types of construction.

The Sustainable Sites Initiative "... began as separate projects of the Sustainable Design and Development Professional Practice Network of the American Society of Landscape Architects (ASLA) and the Lady Bird Johnson Wildflower Center. In 2005, the two groups joined forces to hold a Sustainable Sites Summit in Austin, Texas.

In 2006, the United States Botanical Garden (USBG) joined as a major partner in the Initiative. A Steering Committee representing 11 stakeholder groups was selected to guide the Initiative. More than 30 experts are now on Technical Subcommittees

¹¹ LEED points are awarded on a 100-point scale, and silver standard is 50 points or above.

¹² Percentages do not add up to 100% due to rounding.
Draft -- Page 11

developing sustainable benchmarks for soils, hydrology, vegetation, human health and well-being and materials selection. These subcommittees are developing the technical foundation for the *Guidelines and Performance Benchmarks*. The first interim report - the "Preliminary Report" - was released in November 2007.

The Initiative's central message is that any landscape, whether the site of a large subdivision, a shopping mall, a park, an abandoned rail yard, or a single home, holds the potential both to improve and to regenerate the natural benefits and services provided by ecosystems in their undeveloped state. ¹³

The SSI work could be important, as the U.S. Green Building Council anticipates incorporating these guidelines and performance benchmarks (measurable criteria) into future iterations of the LEED system. The guidelines and benchmarks are in progress: SSI is seeking sponsors to submit planned projects as case studies to further refine the criteria.

At first glance, this set of criteria seems to have more promise for assessing RCFB-funded projects than LEED. SSI presents its criteria in eight prerequisite categories and nine credit categories. A total of 65 criteria may be measured.

To assess relevance of "typical" RCFB projects to SSI, staff conducted the same analysis done for LEED, using a scale of low, medium, high, and "not applicable." We found that virtually all criteria are applicable, but that overall 47% appear to have low applicability, 21% medium, and 31% high. ¹⁴

As mentioned above, SSI is continuing to test and refine its criteria. It is worth tracking this initiative over time, perhaps proposing a future case study associated with an RCFB grant program. For the present, however, the fact that nearly half of the SSI criteria have no or low applicability to RCFB grant projects should be of concern.

Key finding. "Sustainability" standards for recreation facilities do not exist. Current efforts by recreation providers borrow somewhat unpredictably from a variety of sources from low impact development to urban forestry to invasive species prevention guidelines. While there is some overlap of facilities (e.g., parking, restrooms) among the huge variety of outdoor recreation activities, different forms of recreation require different facilities which in turn should be treated with different standards: ball fields cannot be compared to trails which cannot be compared to boat ramps.

Also, neither LEED nor SSI criteria are relevant to a substantial portion of the RCFB's portfolio. LEED and SSI standards cannot be used to measure sustainable farm lands, riparian areas, aquatic lands, or habitat of any variety.

¹³ Text quoted from www.sustainablesites.org, the web page of the Sustainable Sites Initiative, 2008.

¹⁴ Percentages do not add up to 100% due to rounding.

43.21C RCW, State Environmental Policy Act (SEPA)

Any development or major renovation project proposed by local or state agency sponsors is subject to review under SEPA. The SEPA process, managed by the Washington State Department of Ecology, starts with a checklist of environmental and other project impacts. The purpose of the checklist is to help a project proponent decide whether an environmental impact statement (EIS) is needed.

The SEPA checklist asks about potential project impacts to 16 environmental elements from air and water to recreation and transportation. None of the elements are specific to sustainability or sustainable practices. Unlike LEED or SSI criteria, the elements are not evaluated or scored.

SEPA is useful to RCFB grant processes in many respects, for example as an applicant's major step toward securing permits or demonstrating readiness to proceed. However, SEPA as it is now designed is not particularly useful for sustainability purposes. Ecology recognizes this and has acted to improve the connection between SEPA and climate change. It has assembled a Climate Advisory Team, which has segued into an Implementation Working Group responsible for a *Report to the Climate Action Team* at Ecology. The report focused on a directive "to ensure that climate change considerations are fully incorporated into governmental decision-making, resource and development planning, permitting and approval. This addresses the broader recommendation to analyze greenhouse gas emissions and mitigation options early in decision-making, planning processes, and development projects."¹⁵

Therefore, there does not seem to be a need to further address 43.21C RCW in RCFB criteria.

Building on the SEPA Foundation: Permits as Sustainability Tools. An important function of the SEPA checklist is to help a project proponent to determine the extent of permits needed. The Department of Ecology's Environmental Permit Handbook lists 119 permits in thirteen major categories. As the name of the handbook implies, virtually all of these permits are in place to protect natural resources: air quality, water, land resources, and wetlands, among others. The permits may be issued by federal, state, or local government. Native American Tribes must be consulted for other permits, such as an archeological excavation permit.

Development and renovation projects funded by RCFB are subject to permit requirements. A water access project could be subject to a list of permits ranging from hydraulic to on-site sewage, shoreline variance to shoreline substantial development.

¹⁵ 2008 Climate Action Team, Appendix 6: State Environmental Policy Act (SEPA) Implementation Working Group, "Report to the Climate Action Team," Ecology.

RCFB does not require applicants to have permits “in hand” at the time of grant application. However, grant criteria do ask about the status of permits, usually in a “readiness to proceed” question.

RCW 47.01.440: Reducing Vehicle Miles Traveled

Burning gasoline for mobility is a known and significant source of greenhouse gases including carbon dioxide (CO₂).¹⁶ This law adopts statewide goals to reduce annual per capita vehicle miles traveled by 2050. It is intended to support implementation of RCW 47.04.280 and Executive Order 07-02 (Washington Climate Change Challenge), both of which address greenhouse gases from mobile sources. One rationale is related to sustainability: “To enhance Washington’s quality of life through transportation investments that promote energy conservation, enhance healthy communities, and *protect the environment.*” RCW 47.04.280(1)(d) emphasis added.

The focus of Executive Order 07-02 is the State’s response to evidence that “...greenhouse gas emissions are causing global temperatures to rise at rates that have the potential to cause economic disruption, environmental damage, and a public health crisis.”¹⁷

The intent of RCW 47.01.440 is partially addressed by RCW 79A.25.250, which requires RCFB grants to give priority to parks located in or near urban areas. The statute’s rationale includes “... the fact that the demand for park services is greatest in our urban areas, that parks should be accessible to all Washington citizens, that the urban poor cannot afford to travel to remotely located parks... [and] *that a need exists to conserve energy...*” *Emphasis added.* Nearby parks and trails should mean less driving. RCFB has implemented RCW 47.01 by use of an evaluation question.

Grant programs that support the goals of RCW 47.01.440. RCFB grant programs that help pay for urban bicycle and pedestrian facilities can support the goal of reducing vehicle miles traveled. The Burke-Gilman Trail in King County, for example, receives 2 million or more uses annually; about 1/3 of these uses are for commuting.¹⁸ The RCFB-managed Land and Water Conservation Fund (LWCF) recognizes this in its priorities for LWCF investment:

RCO recommends... the provision of active connections between communities and recreation sites and facilities. “Active connections” means shared use trails and paths, greenways, and other facilities and features that encourage walking, jogging, running, and bicycling for more than recreation.

¹⁶ “Motor vehicles account for at least half the carbon monoxide pollution in Washington,” Focus: Major Air Pollutants, Washington State Department of Ecology, FA-92-132 (Revised 4/98).

¹⁷ Governor’s Executive Order 07-02, February 7, 2007.

¹⁸ Puget Sound “Trends” Newsletter, Puget Sound Regional Council, November, 2000.

Reason: Leverage funding to address multiple priorities of government, including recreation, health through physical activity, and personal mobility.¹⁹

In addition to LWCF, the Washington Wildlife and Recreation Program and the Recreational Trails Program (by law) can support these facilities.²⁰

RCFB has been among the leaders in encouraging use of trails and paths for transportation as well as recreation. RCFB has adopted policy statements including "Trails need to be incorporated into transportation plans at state and local levels," and "plan for access [to parks] via trail modes: foot, bicycle, horse."²¹ These policies have been incorporated into grant criteria only for LWCF.

Uncertain grant programs. In contrast, RCFB manages and in fact depends on (for grant project and RCO administrative funding) a number of programs that at first glance appear to be inconsistent with this statute. The Boating Facilities Program, Boating Infrastructure Grant (BIG) program, the Nonhighway and Off-Road Vehicle Activities (NOVA) Program, and the Recreational Trails Program (RTP) are all based on funding derived from the consumption of gasoline.

One point of view could argue that these programs encourage gasoline consumption by rewarding vehicle miles traveled, whether motor vehicle travel to a recreation site or by recreational use of a motor vehicle or gasoline-powered boat.

A counterpoint is that the programs mitigate for minor CO₂ impacts by helping managers provide programs and facilities that minimize the environmental impacts of vehicle and boat use. The Department of Natural Resources, for example, has learned that virtually all types of recreation on its lands is essentially sustainable if the agency has the money and other resources it needs to actively manage for recreation. DNR has stated that "Human activity in nature that may appear benign can still cause significant harm to the environment if not managed properly."²²

In addition, NOVA activities often take place in a forested setting: forests are known to absorb CO₂.²³ If NOVA funds are being used to protect the environment by placing and maintaining suitable facilities that prevent resource damage, NOVA in a sense could be "off-setting" itself. The same concept could not necessarily be claimed for boating; water

¹⁹ *Defining and Measuring Success: the Role of State Government in Outdoor Recreation*, RCO, June 2008.

²⁰ RTP has flexibility under Federal law to fund urban bicycle and pedestrian facilities; RCFB policy directs RTP funds to "backcountry" trails that do not contribute to reducing vehicle miles traveled.

²¹ *Washington State Trails Plan Policy and Action Document*, RCO, June, 1991.

²² "Environmental Impacts Paper" developed by the Department of Natural Resources for the Sustainable Recreation Work Group, 2008-09.

²³ The Department of Natural Resources recently estimated that state trust forests have the potential to absorb 200 million tons of carbon, *2008 Climate Action Team, Forest Sector Workshop, Forest Sector Workgroup on Climate Change Mitigation, Final Report*, Ecology and DNR.

does absorb CO₂, but in doing so it becomes more acidic, potentially harming the marine environment.

Whether these perspectives balance or even should balance is a challenging question. To put the conversation into perspective, it is helpful to understand the potential "carbon" (CO₂) contribution of gasoline-powered recreation. We have data available with which to make an estimate of CO₂ contributed by two major recreational gasoline uses.

- RCO's 2003 fuel study found that "NOVA activities" from driving family vehicles or pickups on nonhighway roads to motorcycle and ATV riding off of roads burned 25,600,000 gallons of gas in the study period.
- According to the Washington State Department of Licensing, the motor boating community, over time, averages 1% of annual gasoline sales. WSDOT estimates 2010 gas sales at 2,772 million gallons. Boating's share of the estimate would be 1% or 27,200,000 gallons.
- Burning a gallon of gasoline creates 20 pounds of CO₂.²⁴
- With these data, we can calculate the following:

Estimated Annual CO ₂ Contribution of Boating and NOVA Activities				
Program	Gallons of gas consumed	Pounds of carbon per gallon	Pounds of carbon	Pounds converted to US tons
NOVA	25,600,000	20	512,000,000	256,000
Boating	27,200,000	20	554,000,000	277,000

As recently as 2005, Washington State's total CO₂ emissions have been estimated at about 95 million tons.²⁵ The total estimated CO₂ from boating and NOVA activities of 533,000 tons is an insignificant part of that total.

It must be noted that boat and vehicle manufacturers are increasingly aware of their responsibilities with regard to fuel efficiency (responding to consumer concerns about the price of gas) and carbon emissions. The BMW Group, owners of the Husqvarna motorcycle line, for example, promises that its products will offer "Less fuel consumption, lower CO₂ emissions, practical environmental protection..."²⁶ Honda is working to reduce emissions from its motorcycles 20% over 2001 levels by the year 2012; between 1996 and 2006 Honda claims to have increased its motorcycle fuel efficiency by 33.1%.²⁷

In the broadest terms, it could be argued that these emissions are a small part of the national "carbon" total that is subject to current and on-going national and international debate and negotiation. Certainly, it is worth noting that Ecology's SEPA Implementation Working Group found that "...only part of the future greenhouse gas reductions

²⁴ www.fueleconomy.gov web site of the United States Environmental Protection Agency

²⁵ Washington State Department of Natural Resources

²⁶ "Sustainability by Design. Taking Responsible Action." BMW Group brochure, 2009.

²⁷ Publication "Setting High Standards: Striving for Sustainability," Honda, 2006.

mandated by Washington State law is likely to be implemented through SEPA-related mitigation. Much of the eventual future reductions will likely result from multi-state, national or international "cap and trade" provisions, carbon taxes, or other Washington State laws that may not be tied directly to the SEPA process."²⁸

The Future of Gasoline and the Sustainability of the RCFB. Because RCFB and its RCO administrators depend on gasoline taxes to pay for administrative costs, it needs to be concerned about larger issues of gasoline use and supply. In the short run, per capita gasoline sales are falling, and with it gasoline tax revenue.²⁹

As total revenue declines, the share credited to NOVA and Boating Facilities will likewise decline: each is a percentage of total gas used and taxes paid, and as the total declines, the shares will decline. Note that gas taxes attributable to boating and credited to the recreation resource account have not yet declined because of a graduated rate that has not yet reached its maximum (see chart, below).

State Fuel Tax Allocations (per gallon of gasoline)			
Year	Total State Fuel Tax Rate RCW 82.36.025	Fuel Tax Rate Used to Calculate Transfer to the Recreation Resource Account RCW 79A.25.070	Fuel Tax Paid by Boaters Directed to Highways
2002	\$0.23	\$0.18	\$0.05
2003	\$0.28*	\$0.19	\$0.09
2004	\$0.28	\$0.19	\$0.09
2005	\$0.31	\$0.20	\$0.11
2006	\$0.34	\$0.20	\$0.14
2007	\$0.36	\$0.21	\$0.15
2008	\$0.375	\$0.21	\$0.165
2009	\$0.375	\$0.22	\$0.155
2010	\$0.375	\$0.22	\$0.155
2011	\$0.375	\$0.23	\$0.145

*RCW 82.36.025(2) allows this \$0.05 to expire "when the bonds issued for transportation projects 2003 are retired." Bond information is available from the Washington State Treasurer.

After 2011, RCFB can expect the recreation resource account to erode as gasoline sales continue to decline at least through 2018.³⁰

²⁸ 2008 Climate Action Team, Appendix 6: State Environmental Policy Act (SEPA) Implementation Working Group, "Report to the Climate Action Team," Ecology.

²⁹ Transportation Revenue Forecast Council, June 2009 *Transportation Economic and Revenue Forecasts*, Volume 1, Summary Document, Washington State Department of Transportation.

³⁰ Ibid.

The big picture of gasoline supply is uncertain. How long petroleum will be available for cost-effective recovery is simply not known. The amount of recoverable petroleum is sometimes a state secret in those countries with known deposits. A recent opinion on the extent of supply comes from the International Energy Agency (IEA): it reported that "the output of conventional oil will peak in 2020 if oil demand grows on a business-as-usual basis."³¹

In the long run, there seems to be no question that the cost of petroleum and gasoline will continue to rise.³² As the cost goes up, perhaps including future "carbon taxes," society will turn to alternatives. People will continue to recreate with boats and trail machines; however, they may not be using gasoline to power them. "Hybrid" passenger vehicles are becoming commonplace. Electric vehicles are promised for the near future. Biofuels could become commonplace in recreational uses.³³ These and other, potentially cheaper, energy technologies no doubt will be adapted for recreation.

Obviously, if people buy less gasoline over time, RCFB would receive less revenue over time for its programs – and for the agency that supports it. The question could then become how long the funding sources, grant programs, the Board, and the agency will be sustainable. Losing this structure could compromise or endanger the past investments made in land and infrastructure statewide.

³¹ Reported in *The Economist*, The Peak Oil Debate 2020 Vision, December 10, 2009.

³² "...oil prices will recover as the world economy emerges from recession; North Sea Brent, the European benchmark, will average \$74 a barrel, up from \$62 in 2009." *The World in 2010*, The World in Figures, The Economist, December 2009.

³³ For discussion of alternate fuels for motor boating, see *Ecoboat – Boats for a Sustainable Future on the Norfolk and Suffolk Broads*, School of Marine Science and Technology, University of Newcastle Upon Tyne, May 2005.

70.235 RCW Limiting greenhouse gas emissions

This law focuses on state participation in the design of a regional multi-sector market-based system to help achieve those emission reductions. Responsibility is assigned to the Department of Ecology and the Department of Commerce.

A “market-based” system implies the buying and selling of carbon units of some kind, with the potential to find market values for carbon sequestration services provided by forests.

RCFB would have no direct role in implementation of this law. However, it is of interest to speculate on “market value” value of the carbon emissions that could be attributed to recreation.

For example, cap-and-trade proponents debate the value of carbon units. Value is usually expressed in dollars per ton. *The Economist* magazine suggests carbon should be priced at US \$18 per ton. *Forbes* magazine suggested that the recent Copenhagen debate might settle on US \$10 per ton (and did not).

Using a “for instance” price of \$10 US per ton of CO₂, calculated against the values for NOVA and Boating gasoline consumption discussed above, we can estimate the market value of the carbon attributable to gasoline-supported grant programs this way:

Program	Gallons of gas consumed	Pounds of carbon per gallon	Pounds of carbon	Pounds converted to US tons	Price per ton	Potential annual price
NOVA	25,600,000	20	512,000,000	256,000	\$10	\$2,560,000
Boating	27,200,000	20	554,000,000	277,000	\$10	\$2,770,000

Whether these estimates have any relevance to a multi-sector market-based system is unknown at this time. NOVA and boating, not to mention recreation generally, is probably not a major source sector: the figures above represent only 2% of CO₂ from gasoline consumption. However, these figures could find their way into Washington State’s unique emissions portfolio at some point in the future.

Recent changes to 70.235 RCW. In the 2008-09 session, the Legislature approved ESSB 5560, now codified as RCW 70.235.070. The section reads

Beginning in 2010, when distributing capital funds through competitive programs for infrastructure and economic development projects, all state agencies must consider whether the entity receiving the funds has adopted policies to reduce greenhouse gas emissions. Agencies also must consider whether the project is consistent with: (1) The state's limits on the emissions of greenhouse gases established in RCW 70.235.020; (2) Statewide goals to reduce annual per capita vehicle miles traveled by 2050, in accordance with RCW 47.01.440, except that the agency shall consider whether project locations in rural counties, as defined in

RCW 43.160.020, will maximize the reduction of vehicle miles traveled; (3)
Applicable federal emissions reduction requirements.

The Office of Financial Management (OFM) has determined that this section is not applicable to the RCFB's grant programs: parks, boat launches, trails and other sites and facilities paid for by RCFB grants do not meet the intended definition of "infrastructure."³⁴ OFM does encourage RCO to implement the provisions of this statute when feasible.

Executive Orders

02-03 Sustainable practices by state agencies

Directs state agencies to prepare and implement sustainability plans for their business practices. RCO has maintained a sustainability plan since 2003. In annual reports to the Office of Financial Management, the agency has shown real results toward the goals of this executive order. For example, the agency reported in 2003 it used 3,965 reams of paper; in 2007, 972 reams; the agency reduced gasoline purchase by over 1,000 gallons between 2008 and 2009.

The agency sustainability plan has no real applicability to RCFB policy to promote sustainability other than as a "good example."

05-01: Establishing sustainability and efficiency goals for state operations

Again, RCO has met its goals to reduce gasoline and paper use, but this executive order does not apply to policy promoting sustainability.

07-02 Washington Climate Change Challenge

See discussion under RCW 47.01.440, page 15.

09-05 Washington's Leadership on Climate Change

See discussion under 70.235 RCW, page 19. In addition to Ecology and Commerce leading on establishing emission baselines and investigating a market-based system, the Order gives the Department of Natural Resources a key role in making recommendations for making forestry offset protocols, and also gives the Department of Transportation a role in giving the public additional transportation alternatives and choices.

³⁴ IMPLEMENTATION OF RCW 70.235.070, memo from Office of Financial Management, February 8, 2010

Summary of State Laws and Executive Orders

Applicability of different state laws and Executive Orders to RCFB grant programs appears to be problematic. Not all statutes are evenly applicable to all programs, and some executive orders are aimed at the agency and are not necessarily applicable to sustainability policy affecting grant programs.

Statute or Executive Order	Applicability to RCFB Grant Programs	Comments
36.70A RCW, Growth Management Act	High	RCFB policy encourages planning and rewards compliance with GMA
RCW 39.04.133 preference for recycled materials	Mixed – uncertain connection to acquisition projects	No policy in place
RCW 39.35D.030 buildings to LEED standards	Low, funded structures do not meet minimum size	Sustainable Sites Initiative may be more relevant
43.21C state environmental policy	Low in programs funding federal projects, high in all others	SEPA check lists may be evidence of applicant's "readiness to proceed"
RCW 47.01.440 reduce vehicle miles traveled	Mixed	Boating, NOVA, and RTP may be problematic
70.95 RCW solid waste management	Not applicable	
Executive Order 02-03 sustainable practices by state agencies	Low	Agency specific, not applicable to grant clients
Executive Order 05-01 sustainability goals for state agencies	Low	Agency specific, not applicable to grant clients
Executive Order 07-02 Washington Climate Challenge	Mixed	Boating, NOVA, and RTP may be problematic
Executive Order 09-05 Washington's leadership on climate change	Mixed	Uncertain relationship

Unfortunately, this mixed or uneven applicability does not help RCFB to craft policy that is deliberate, systematic, or strategic. Especially confounding is the apparent problematic relationship between some grant programs and state law and Executive Order.

Other Guidance for Developing Sustainability Policy

Looking beyond state law and Executive Order, RCFB may consider sustainability models from other agencies, institutions, or organizations.

Living Building Challenge

The International Living Building Institute (ILBI) is a non-governmental organization (NGO) "dedicated to the creation of a truly sustainable built environment in all countries around the world." It was "...initially launched and continues to be operated by the Cascadia Region Green Building Council www.cascadiagbc.org (a chapter of both the US Green Building Council and Canada Green Building Council)...."³⁵

The Living Building Challenge offers a set of 20 criteria in seven categories for assessing development in four settings: neighborhood, building, landscape+infrastructure, renovation. A cursory examination shows that, like LEED, the LBC has low applicability to many of the projects funded by RCFB.

The Natural Step

Ecology refers to the concept called The Natural Step as a framework for decision making. "The Natural Step was developed beginning in the late 1980s by Dr. Karl-Henrik Robèrt, a Swedish oncologist, who later collaborated with physicist, Dr John Holmberg to create a framework for the conditions that are considered essential for life. The Natural Step framework strives to move beyond ongoing debate over appropriate levels of risk or potential long-term effects of a product or process. If an activity continually violates the system conditions, it cannot be sustained over the long term."³⁶

The Natural Step System Guidelines have four goals.

- Goal 1: Fossil fuels, metals, and other minerals should not be extracted from the earth and accumulate on the surface at a faster rate than their slow redeposit into the Earth's crust.
- Goal 2: Synthetic substances should not be produced faster than they can be safely used or broken down in nature.
- Goal 3: The productivity and diversity of nature should not deteriorate. We must not harvest more from nature than can be recreated or renewed. Also, we cannot change the climate such that major imbalances in global systems arise. We cannot destabilize the dynamic equilibrium necessary

³⁵ Quoted from www.ilbi.org web site 2009

³⁶ Quoted from www.naturalstep.org web site 2009

for life as we and all other creatures know it, such as the balance between oxygen and carbon dioxide in the oceans and atmosphere.

Goal 4: There must be fair and efficient use of resources. Basic human needs³⁷ should be met with the most resource-efficient methods possible, including equitable resource distribution. Economic development should be sustainable for all the economies of the world.

The Washington State Department of Ecology assessed The Natural Step (TNS) as a foundation for its own agency sustainability plan and found important weaknesses. For example, a criterion of “measurability” was rated “poor.” Ecology writes, “TNS was designed to define societal sustainability and requires estimates of substance flows compared to the earth’s ability to process those flows and to handle wastes. These measurements are very difficult and in some cases, probably beyond humankind’s current knowledge. Organizations must use measurable surrogates that may not be systematic or comprehensive as indicators.”³⁸

Another weakness of The Natural Step is its model of “backcasting” – that is, identifying a desired outcome and looking back in space and time at the steps needed to achieve the outcome. Other than the *Washington State Trails Plan* (RCO, 1991), no RCFB-approved document has established measurable goals for grant or other RCO programs from which to “backcast.”

The Natural Step is not a satisfactory model for RCFB policy on sustainability.

Salmon Safe

Salmon Safe is a nonprofit organization dedicated to restoring urban and agricultural watersheds for salmon. It has developed salmon-safe certification standards for parks and natural areas, focusing on avoiding harm to stream ecosystems. As such, it is perhaps too narrowly focused to be considered a sustainability model, though its application would be consistent with sustainability. It is of interest as it could make a connection between RCFB and the Salmon Recovery Funding Board (SRFB).

Washington State Department of Ecology

Ecology offers a major document intended to assist organizations in assessing their “ecological footprint,” *Pathways to Sustainability*. *Pathways* focuses on “business practices” such as building design and facility operations. Ecology also offers a minor document intended as a general interest or promotional piece, *A Field Guide to Sustainability*. The *Field Guide* somewhat contradicts *Pathways* by focusing on The

³⁷ “Basic human needs” defined to include leisure, Natural Step Internet site <http://www.naturalstep.org/the-system-conditions> October 2009, emphasis added.

³⁸ *Pathways to Sustainability, A Comprehensive Strategic Planning Model for Achieving Environmental Sustainability*, Washington State Department of Ecology, Publication No. 02-01-008.

Natural Step. The *Field Guide* deals in generalities. Its advice to government is to engage in: environmentally preferable purchasing, green building, and green energy.

Neither Pathways nor the Field Guide offers substantial guidance for developing sustainability policy related to RCFB grant programs.

Local Washington Communities

Many local communities refer to sustainability in parks and recreation programs and services. These tend to a grab-bag of initiatives such as tree planting, volunteerism, recycling, and "green" design such as use of artificial turf with no underlying strategy or standards.

Other States

Staff queried planners through the National Association of Recreation Resource Planners (NARRP).

California. Its sustainability web site focuses on retention and adaptive use of older and historic buildings.

Nebraska. State Parks was developing a "green cabin" project. In searching for applicable standards or criteria, it borrowed a checklist from San Mateo (CA) County. The check list includes consideration of site, water, recycled materials, sustainable products such as wood from sustainable forests, and saving energy through design.

Pennsylvania. Pennsylvania State Parks offers Community Recreation and Conservation grants. It has decided to "Go Green," and scores applications accordingly: 30 out of 100 possible points are linked to sustainable practices. Points are based on the Sustainable Sites Initiative guidelines. The points are allocated in four major sections: water, natural landscaping and trees, green design and construction (including LEED criteria for buildings), and connecting people to nature. To assist applicants, the agency offers an Internet site on "Greening Parks and Sustainable Practices" <http://www.dcnr.state.pa.us/brc/grants/indexgreen.aspx> This site features Parks' "Green/Sustainable Project Scorecard for Grant Applicants."

Texas. Encourages but does not require grant applicants to use "environmentally responsible activities" with a grant evaluation question specific to these activities. Examples range from use of native plants to water catchment systems. It also offers a publication to grant applicants called *Environmentally Responsible Activities: Recommendations*.

Wisconsin. Generally recommends different sustainability standards for different recreation types. Detail is not currently available.

Alternatives for RCFB Action

The Recreation and Conservation Funding Board may approach sustainability policy in three broad and interrelated areas: agency policy, agency planning, and grant programs. Because accepted standards for sustainability specific to recreation sites and facilities are simply not available, work in this area could be ground-breaking. As such, a proposal to develop such standards could be worthy of agency-request legislation or other means to seek research and development funds.

To avoid unintended consequences, stakeholder resistance, and poor precedence, a high level of due diligence is essential. As the Department of Ecology's SEPA Implementation Work Group found,

In other states and on a federal level, we have witnessed climate change policy under SEPA-like statutes being made on an ad hoc basis through piecemeal litigation or through piecemeal precedent set by individual environmental reviews negotiated between individual applicants and individual lead agencies. In neither case has there been consistency or predictability. Our aim is to diminish the potential for litigation (and to provide consistency and predictability) by giving state and local agencies the tools and framework they need to fully incorporate climate change considerations into their decision-making.³⁹

Policy

RCFB could consider crafting any number of general Board and agency policies regarding sustainability. It appears that RCFB could be well served by ensuring that existing policies are aligned before making new demands of its clients.

At the simplest level, RCFB could on the evidence available to it simply declare that its current practices address sustainability in a sufficient manner. The agency sustainability plan is in place, and its goals are being met. RCFB grants routinely pay for projects that contribute to sustainability, whether the acquisition of wetlands or forest habitat, or a development project that protects natural resources by directing and focusing use. RCFB does not fund capital projects subject to LEED requirements.

However, it may be desirable to ensure that any RCFB-funded development be executed with sustainable practices as a specific goal. Trails, ball fields, parks, and boat launches could be built with recyclable materials, use native vegetation, conserve water, and minimize energy use.

³⁹ 2008 Climate Action Team, Appendix 6: State Environmental Policy Act (SEPA) Implementation Working Group, "Report to the Climate Action Team," Ecology.

RCFB could assist with implementation of RCW 70.235.070, considering whether grant applicants have adopted policies to reduce greenhouse gas emissions. This action would require sensitivity to the variety of applicants we serve. For example, it may be unreasonable to ask a small nonprofit seeking a trail maintenance grant to submit its greenhouse gas policies; on the other hand, a large city such as Seattle may have already adopted and implemented its policies and considers a park project to be directly related to greenhouse gas reduction.

Regarding those programs with uncertain alignment with state law or Executive Order, the RCFB could find that its varied programs act as offsets for one another. Or it could find that emissions from recreation-based sources a diminutive part of the state's overall emission profile, and that this profile will be subject to national or international action such as cap and trade, cap and dividend, or other carbon limits legislation.

Defending offsets. To support an assertion that varied programs offset one another, it may be desirable to defend the assertion with metrics. It is possible to develop an estimated carbon footprint of the impacts and benefits of funded projects in all grant programs in a given biennium or grant cycle. The carbon footprint estimate, perhaps an initial baseline followed by regular updates, would be made up of estimates of a number of elements related to the themes identified in the State's definition of sustainability.

Potential Metrics to Estimate Biennial Carbon Footprint				
Element	Measure	Impact	Benefit	Comments
Environmental	Use of petroleum products	✓		Pavement, artificial turf, fuel used in construction
	Use of timber		✓	If certified "green" products, though different certifications are controversial
	Percent of pervious surface	✓		Farm land program has set precedent with "envelope" concept
	Estimated vehicle traffic	✓		Difficult to determine service area, could be offset with bicycle access, transit stop
	Use of native plants		✓	The public has been known to object to replacement of grass with native plantings
	Energy used on site	✓		Lighting for ball fields, parking lots, restrooms, etc.
	Energy generated on site		✓	Potential for solar, wave-energy, other generation if it does not interfere with the purpose of the grant
	Preservation of natural processes		✓	So-called green infrastructure benefits, such as carbon sequestration, water filtration, storm water control
Social	Public satisfaction		✓	Requires survey potentially limited to projects: high cost
	Promote physical activity		✓	Would tend to reward trails, ball fields, sports courts, playgrounds
	Meet "demand"		✓	"Demand" needs better definition, potential link to level of service
Economic	Jobs created or preserved		✓	PRISM report in progress
	User spending		✓	Economics of recreation poorly understood and often overstated

The challenge would be to gather the required data and make sense of it. Assigning points to criteria makes sense, though determining how many points to assign to estimate vehicle traffic versus public satisfaction would require a consensus among key clients and stakeholders. If metrics were to be developed and data collected, it would only make sense to collect data consistently over time to monitor trends from the baseline. Currently, RCO lacks the resources necessary to fully develop these metrics, in terms of expertise and available staff. At minimum, staff training would be needed, but which staff in an agency working beyond capacity would be a difficult decision.

Moving into more complex policy areas, RCFB could decide that it needs to assume it has responsibility to reduce or mitigate for emissions attributable to motor boating or NOVA activities.

Reducing: While the RCFB has virtually no influence over consumer choice in terms of recreation activities, it could for example work with user groups to publicize alternates to fossil fuel: hybrid technology, biofuels, solar, or others. This kind of activity would require additional work to address a likely decline in program revenue. In the realm of speculation, it may be possible to develop agency legislation that results in replacement of fuel taxes foregone with revenue from another source, perhaps the boating excise tax or sales tax related to the equipment needed for NOVA activities.

Mitigating: In a creative action perhaps needing new agency authority, RCFB could pay a forest landowner, such as DNR, to defer or delay timber harvest of sufficient volume to account for CO2 attributable to motorized recreation. Optionally, grant sponsors could be asked to set aside a portion of grant funds for some kind of mitigation payment.

The challenges here would include, at minimum, weighing the political risk against potential return.

Planning

RCFB could direct RCO staff to incorporate sustainability concepts in internal policy and client planning requirements.

Internal planning. Examples of internal plans that could readily incorporate sustainability issues include the state comprehensive outdoor recreation plan (SCORP); the NOVA plan; or the Boating Programs Policy Plan. The work here could be a “next step” in going from no applicable sustainability guidelines or standards to exploring activity-specific guidelines or standards.

Client planning. RCFB grant programs such as Boating Facilities, NOVA, and the Washington Wildlife and Recreation Program (WWRP) require potential applicants to submit an approved plan to establish programmatic eligibility. RCFB could encourage, recommend, or require a sustainability element in those plans. Implementation would

include amending the Washington Administrative Code and program Manual 2. Amendments could include case studies, checklists, references, and other material.

Grant Programs

Of all the activities that RCFB oversees, there is no doubt that the grant programs have the most influence outside of the agency. The RCFB could adjust grant program policies and rules to promote sustainability agenda in at least three ways.

1. Recommend. Similar to the Pennsylvania State Parks approach, RCFB could direct that programs provide clients with general guidance, checklists, and resources. Clients could self-assess the extent to which they are doing or are willing to do “the right thing.”

2. Reward. Grant programs could be restructured to give more weight, more evaluation points, or more money to projects demonstrating sustainable practices. The first order of business, of course, would be to determine what those practices are on a program-by-program basis.

As of this date, the word “sustainability” is found in one RCFB evaluation criteria in the WWRP State Parks category. The word “sustainable” is found only in the Land and Water Conservation Fund (LWCF) criteria. However, virtually all program evaluation criteria reference protection of the environment or natural resources.

- **Aquatic Lands Enhancement Account.** Question 4b. Project design and viability (Access Projects Only): *Does the proposed development protect the natural resources on site? For example, does the project include low impact development techniques, green infrastructure, or environmentally preferred building products?*
- **Boating Activities Program.** No criteria are in place at this time.
- **Boating Facilities Program.** Question 3b. Project Design. *Is the proposal appropriately designed for the intended use? Development only. RCFB policy rewards design standards and construction techniques intended to maximize service life, minimize routine maintenance, and avoid environmental impacts.*
- **Boating Infrastructure.** No reference in existing federal criteria.
- **Firearms Archery Range.** Question 3. Project Design. *Has this project been designed in a high quality manner? Development projects. Environment - How are aesthetic, accessibility, and environmental issues addressed? If applicable, how are lead recovery, soil, and water conditions addressed?*
- **Land and Water.** Question 5. Cost Efficiencies. *The extent that this project demonstrates efficiencies and/or reduces government costs through documented use of: Innovative or **sustainable** design or construction resulting in long-term cost savings. Examples: Use of solar energy, integration of wetlands as “green infrastructure,” new materials or construction techniques with outstanding potential for long service life. [emphasis added]*
- **Nonhighway and ORV.** All categories use Question 3b. Project Design. *Is the proposal appropriately designed for intended uses and users? Explain how the*

design: Protects and complements the environment. Question 3c. Maintenance. Are the project's maintenance goals and objectives appropriate? Is the project needed to ensure protection of an environmentally sensitive site?

- **Recreational Trails.** Question 3. Project Design. *Is the proposal appropriately designed for intended uses and users? How does the design protect and complement the environment?*
- **WWRP.** From Manual 10a WWRP – ORA, all categories, Question 3. Project Design. *Does the project demonstrate good design criteria? Does it make the best use of the site? Will environmental or other important values be protected by the proposed development?* Manual 10a, State Parks category, question 8, **Application of Sustainability.** *Does the proposed design or acquisition meet accepted sustainability standards, best management practices, and/or stewardship of natural or cultural resources?* From Manual 10b WWRP – HCA. 3. Manageability and Viability. *What is the likelihood of the site remaining viable over the long term and why is it important to secure it now? [Describe] Ongoing stewardship.*
- **Youth Athletic Facilities.** No reference in existing criteria.

To give more weight to “sustainability,” the RCFB could direct staff to simply insert the word “sustainable” in existing evaluation questions, accompanied by a definition and examples. Where questions are lacking, new questions could be written, as the State of Texas has done. The problem with adding points or a question is that the element assigned the points becomes a new requirement: in a process in which some projects are separated by tenths of a point, all points are important. Regardless, RCFB would need to develop program-specific definitions, checklists, case studies, or guidelines to help clients respond to the “sustainability” element.

Beyond points, RCFB may wish to encourage action by offering more money to grants demonstrating sustainability. For example, where policy calls for a sponsor to bring its own matching resources to bear on at least 10% of a project cost, the amount could be lowered to 5%. Another approach would be to raise grant limits; boating for example could provide 90% funding instead of the current 75%.

3. Require. The RCFB could make sustainable practices a requirement for program participation. One suggestion is to establish a sustainability threshold of some kind. A threshold would be difficult to determine. One way would be to require applicants to have permits in hand at the time of application or evaluation.

There is no doubt that an option to *require* clients to address sustainability would be the most difficult to implement. Here again, no clear standards or guidelines exist. RCFB would have to direct RCO staff to work with the public to develop acceptable guidelines based on available examples.

Additional action. Whatever the decision, RCFB could consider approaching the Sustainable Sites Initiative about making a “sustainable Grant program” part of the case studies SSI is seeking to further develop its criteria.

Public Process

To achieve any policy initiative, RCFB understands that a public process is essential. Addressing sustainability as an agency priority or requirement in the public arena would not be a simple undertaking.

At minimum, staff recommends a "sustainability steering committee." A committee could include experts and experienced people associated with each of the grant programs potentially involved. It could be charged with taking RCFB direction and providing advice to RCO staff.

Additional public involvement could include personal interviews with experts and important stakeholders, workshops, focus groups, public meetings, web polls, and other approaches.

Next Steps

Assuming the RCFB wishes to make sustainability a priority, the RCO currently has sufficient resources available for developing and implementing a public process. A caution is that the more complex the direction, the more time it will take to develop recommendations that have client and public support.

A public process should result in consensus recommendations to the Board, including an assessment of the agency's capacity to achieve the recommendations.

Appendix: Summary of Grant Programs and Estimated Applicability of State Laws and Executive Orders

36.70A RCW, Growth Management Act

RCFB Grant Program	<i>Potential Applicability of 36.70A RCW</i>	<i>Comments</i>
Aquatic Lands	High	No RCFB planning requirement
Boating Activities	High	No RCFB planning requirement
Boating Facilities	High	
Boating Infrastructure	High	No RCFB planning requirement
Firearms Archery Range	High	No RCFB planning requirement
Land and Water	High	
Nonhighway and ORV	Low	Significant number of projects take place on federal lands subject to National Environmental Policy Act (NEPA)
Recreational Trails	Low	Significant number of projects take place on federal lands subject to National Environmental Policy Act (NEPA); no planning requirement
WWRP	High	Not all categories have a planning requirement
Youth Athletic Facilities	High	No RCFB planning requirement

RCW 30.04.133, use of recycled content products

Grant Program	<i>Potential Applicability of RCW 30.04.133</i>	<i>Comments</i>
Aquatic Lands	Low	Development projects
Boating Activities	High	Development projects
Boating Facilities	High	Development projects
Boating Infrastructure	High	Development projects
Firearms Archery Range	High	Development projects
Land and Water	High	Development projects
Nonhighway and ORV	Low	On site materials may be recycled
Recreational Trails	Low	On site materials may be recycled
WWRP	High	Development projects
Youth Athletic Facilities	High	All categories

LEED Criteria

Grant Program	Potential Applicability: LEED Criteria	Comments
Aquatic Lands	Low 4 (15.4%) Medium 6 (23.1%) High 15 (57.7%) N/A 1 (3.8%)	Parking, restrooms
Boating Activities	Low 3 (11.5%) Medium 4 (15.4%) High 15 (57.7%) N/A 4 (15.4%)	Parking, docks, restrooms
Boating Facilities	Low 3 (11.5%) Medium 4 (15.4%) High 15 (57.7%) N/A 4 (15.4%)	Parking, docks, restrooms
Boating Infrastructure	Low 2 (7.7%) Medium 4 (15.4%) High 12 (46.1%) N/A 8 (30.8%)	Docks, piers, floats, restrooms
Firearms Archery Range	Low 0 (0%) Medium 8 (30.8%) High 13 (50%) N/A 5 (19.2%)	Shelters, restrooms, water use, energy use
Land and Water	Low 7 (26.9%) Medium 10 (38.5%) High 8 (30.8%) N/A 1 (3.8%)	Development: water use, energy use, restrooms, parking, "hard" trail surfaces
Nonhighway and ORV	Low 1 (3.8%) Medium 2 (7.7%) High 10 (38.5%) N/A 13 (50%)	ORV sport parks may have modest buildings, parking, restrooms
Recreational Trails	Low 1 (3.8%) Medium 2 (7.7%) High 14 (53.8%) N/A 9 (34.6%)	Use of native elements, recycled materials on site
WWRP	Low 8 (30.8%) Medium 9 (34.6%) High 9 (34.6%) N/A 0 (0%)	Affects development projects: parking, restrooms, lights, water use
Youth Athletic Facilities	Low 2 (7.7%) Medium 9 (34.6%) High 14 (53.8%) N/A 1 (3.8%)	Water use, lighting, on-site energy

Sustainable Sites Initiative

Grant Program	<i>Potential Overall Applicability: SSI</i>		<i>Comments</i>
Aquatic Lands	Low- Medium High N/A	19 (29.2%) 15 (23.1%) 31 (47.7%) 0 (0%)	Aligns well with natural systems preservation and social values
Boating Activities	Low Medium High N/A	38 (58.5%) 8 (12.3%) 17 (26.2%) 2 (3.1%)	Potential conflict with floodplain criteria
Boating Facilities	Low Medium High N/A	32 (49.2%) 13 (20.0%) 18 (27.7%) 2 (3.1%)	Potential conflict with floodplain criteria
Boating Infrastructure	Low Medium High N/A	33 (50.7%) 12 (18.5%) 18 (27.7%) 2 (3.1%)	Potential conflict with floodplain criteria
Firearms Archery Range	Low Medium High N/A	41 (63.1%) 11 (16.9%) 13 (20.0%) 0 (0%)	Water use, energy, recycled materials
Land and Water	Low Medium High N/A	16 (24.6%) 22 (33.8%) 27 (41.5%) 0 (0%)	Aligns well with social values
Nonhighway and ORV	Low Medium High N/A	42 (64.6%) 7 (10.8%) 15 (23.1%) 1 (1.5%)	On site elements, recycled materials (on site), parking, restrooms
Recreational Trails	Low Medium High N/A	42 (64.6%) 7 (10.8%) 15 (23.1%) 1 (1.5%)	On site elements, recycled materials (on site)
WWRP	Low Medium High N/A	13 (20%) 27 (41.5%) 25 (38.5%) 0 (0%)	Development projects are applicable, water use, on-site energy, site selection
Youth Athletic Facilities	Low Medium High N/A	31 (47.7%) 13 (20%) 21 (32.3%) 0 (0%)	Water use, site selection, recycled materials

43.21 RCW, state environmental policy (SEPA)

Grant Program	<i>Potential Applicability of 43.21 RCW</i>	<i>Comments</i>
Aquatic Lands	High	Development projects only
Boating Activities	High	Development projects only
Boating Facilities	High	Development projects only
Boating Infrastructure	High	Development projects only
Firearms Archery Range	High	Development projects only
Land and Water	High	Development projects only
Nonhighway and ORV	Low	Funds many federal projects not subject to SEPA
Recreational Trails	Low	Funds many federal projects not subject to SEPA
WWRP	High	Development projects, but 80% of WWRP goes for acquisition ⁴⁰
Youth Athletic Facilities	High	New or improvement projects

RCW 47.01.440, reduce vehicle miles traveled

Grant Program	<i>Potential Applicability of RCW 47.01.440</i>	<i>Comments</i>
Aquatic Lands	Potentially low	Neutral?
Boating Activities	Potentially high	Inconsistent?
Boating Facilities	Potentially high	Inconsistent
Boating Infrastructure	Potentially high	Inconsistent?
Firearms Archery Range	Potentially low	Neutral?
Land and Water	Potentially medium to high	Potential for offsets?
Nonhighway and ORV	Potentially high	Inconsistent?
Recreational Trails	Potentially high	Inconsistent?
WWRP	Potentially low	Potential for offsets?
Youth Athletic Facilities	Potentially low	Neutral?

⁴⁰ Determined by staff analysis for OFM in response to RCW 70.235.070 , December 2009.

Item 8B

Meeting Date: March 2011
Title: Level of Service Recommendations
Prepared By: Jim Eychaner, Senior Policy Specialist

Approved by the Director:



Proposed Action: Briefing

Summary

The Recreation and Conservation Office (RCO) hired a contractor to complete a statewide test of the level of service (LOS) recreation planning tool. Our contractor is recommending, and staff agrees, that the LOS be amended and used as an optional tool for local and state agency recreation planning. Staff will brief the Recreation and Conservation Funding Board (board) about the tool at the March board meeting.

Strategic Plan Link

Consideration of the level of service recreation planning tool supports the board's strategy to evaluate and develop strategic investment policies and plans so that projects selected for funding meet the state's recreation and conservation needs.

Background

In 2005, Representative Hans Dunshee expressed interest in an easy way to explain recreation "demand." To that end, he helped create a Legislative Study Committee on Outdoor Recreation. The committee found that typical approaches to recreation planning such as "population ratios" once recommended by National Recreation and Park Association are neither desirable nor effective.

Representative Dunshee then sponsored budget language that directed RCO to "... develop recommendations for a statewide approach to a recreation level of service for local and regional active recreation facilities, including indicators with which to measure progress in achieving level of service objectives."¹

¹ Supplemental Capital Budget, ESSB6384, April 4, 2006

Developing a Level of Service

RCO assembled an advisory group of local planners and other experts to help staff develop a scope of work. After an open contractor competition, RCO retained the consulting firm of EDAW (now AECOM). EDAW started work in July 2006.

RCO and EDAW held a series of public meetings on the assignment. Two meetings were scheduled for each community: one in the afternoon intended for professionals, and one in the evening intended for volunteers and the general public. The public meetings were held in Spokane, Wenatchee, Everett, Tacoma, and Aberdeen. The meetings were well attended, especially in Everett and Tacoma.

Reception was mixed. Planners and citizens were highly interested in and supportive of a tool with which to make more objective judgments about the status of and need for recreation sites and facilities. Park directors and managers were often neutral, or voiced concerns about unfunded state mandates, unproven tools, the potential need to re-do plans that had been developed at great political and financial cost, and the potential of being held to a new standard.

Working to meet the Legislative mandate, RCO and EDAW collaborated to develop the most reasonable and practical outcome. The result was a preliminary Level of Service (LOS) based on a three-tiered approach: quantity, quality, and access. In its report to RCO, EDAW stressed that the LOS was preliminary and that the concept needed further testing.

In a letter transmitting the LOS report to the Legislature in March 2007, the RCO Director stated

"The result is a recommendation that is both ground-breaking and preliminary.

It is ground-breaking in the sense that it introduces a truly new and unique concept of how to measure both performance of and the potential need for active park and recreation facilities. To our knowledge, no other state has developed anything like the initial level of service method presented in the report. The multi-level method has the potential to become a powerful planning tool, useful locally and at a statewide level to identify gaps in active park and recreation facilities.

It is preliminary in that the authors of the report recognize the need for further testing and refinement with input from communities across the state."

Testing the Preliminary Level of Service Proposal

In order to further the opportunity to test the LOS proposal, RCO staff added the preliminary LOS outcome to the state comprehensive outdoor recreation planning (SCORP) document,

which was then under development². The SCORP document was focused on defining and measuring success based on staff’s experience with the state budget “Priorities of Government” process, as well as its experience in the LOS workshops held across the state.

The board agreed with this approach to further the public dialogue on the LOS and approved the 2008 SCORP with the preliminary LOS as a major component. A key provision of the SCORP’s discussion of the LOS was to acknowledge that the concept needed further testing. The National Park Service subsequently agreed to help fund a statewide test.

RCO again conducted a competition to find a contractor to conduct the statewide test. The successful bidder was AECOM (formerly EDAAW).

Testing the Local Agency LOS

AECOM, with input from RCO staff and the project’s advisory group, developed a sample of communities and counties on which to test the local agency LOS tool. The sample was stratified by population size, median income, and percent minority (non-white) to allow for potential comparisons. The selection of sample communities and counties based on these characteristics helped ensure that the preliminary LOS tool was tested on and applicable to a variety of communities/counties throughout the state.

Sample Communities				Sample Counties
Algona	Beaux Arts Village	Bellevue	Bellingham	• Adams
Bremerton	Brewster	Buckley	Carbonado	• Benton
Clarkston	Colton	Duvall	Ellensburg	• Ferry
Elmer City	Federal Way	Forks	Grand Coulee	• Grant
Issaquah	Kettle Falls	Kirkland	Lacey	• Kitsap
Mercer Island	Mossyrock	North Bend	Oakville	• Kittitas
Prosser	Pullman	Puyallup	Redmond	• Lewis
Renton	Richland	Ridgefield	Roy	• Lincoln
Royal City	Sedro-Woolley	Sequim	Skykomish	• Okanogan
Soap Lake	South Cle Elum	Spokane	Steilacoom	• Skagit
Sunnyside	Tacoma	Twisp	Walla Walla	• Spokane
Wenatchee	West Richland	Yakima		• Wahkiakum

The test was done by gathering existing park and recreation data from the communities. No new information or data were collected at the community/county level. The available data was then analyzed according to the preliminary LOS guidelines.

Presented with the results of the test, communities were surveyed on two major items: attitude toward the LOS and the accuracy of the LOS.

² SCORP is required to maintain Washington State’s eligibility for federal Land and Water Conservation Fund grants from the National Park Service.

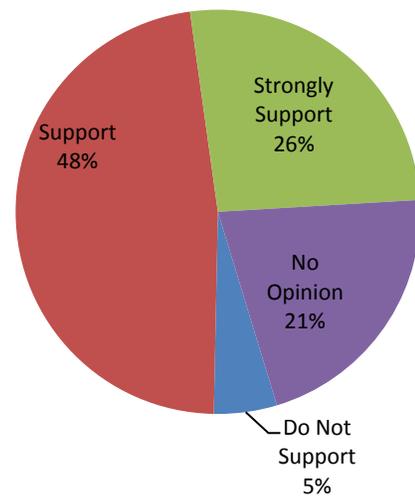
Regarding attitudes, as shown in the graph, there was strong support among the communities responding.

Regarding accuracy, communities responded as shown in the table. In short, they believed that the tool was quite accurate, but the response for individual indicators was mixed.

Accuracy of Local Agency LOS Grades

	LOS Overall	Individual Indicators
Very Accurately	24%	10%
Accurately	48%	55%
Neither Accurately nor Inaccurately	14%	10%
Inaccurately	14%	25%
Very Inaccurately	0%	0%

Attitudes Toward the Preliminary LOS (Local)



Testing the State Agency LOS

Three state agencies (DNR, WDFW, and State Parks) were invited to participate in a test of the preliminary state agency LOS. Several challenges appeared immediately.

- Among the three state agencies, there is inconsistency in whether or not data exist, the type of data that exist, and the usability of the information.
- All three agencies aim to protect the resources listed in their mission or mandate, whether that is forested lands, recreation sites, and/or fish and wildlife habitat. Recreation resources hold varying degrees of priority in those missions.
- The three agencies are aiming for different goals, have differing visions and mandates, and reach different objectives through the provision of recreation resources.

The state agency test was not as robust or conclusive as the local agency LOS test. However, AECOM recommended retaining a version of the state LOS, recommending further work in the next iteration of SCORP.

Analysis

Potential Use of the LOS in Grant Making

As a component of the recreation LOS testing process, the RCO also requested a “mock” grant evaluation. The intent of the mock grant evaluation was to assess the potential use of the LOS tools in RCO grant processes. Because of the common denominator of SCORP, the LWCF grant program was chosen by the RCO and AECOM as the case study for the mock grant process using the LOS.

AECOM recreation planners compiled and reviewed available data and information (using the RCO's PRISM software, which is available to the public) for each of these grant applications. Based on this review and prior knowledge from the local agency LOS tool testing process, AECOM determined that (1) the applicants had likely included any available pertinent data and information in their grant applications and (2) additional sources of data/information were not likely to be gained via direct engagement with the grant applicants.

AECOM recreation planners gathered and summarized available data and information from the 2010 LWCF grant applications (as provided by the grant applicants in PRISM). Originally, AECOM recreation planners hoped to engage the LWCF Advisory Committee in the review and scoring of the new LOS-related grant criteria. This plan proved unfeasible, so we used an internal review group of three AECOM recreation planners and two RCO staff members.

Overall, using the new LOS-related criteria with the existing LWCF grant criteria resulted in no change in rank for five of the fourteen grant applicants, an increase in rank for five of the grant applicants, and a decrease in rank for four of the grant applicants. Of the four applicants that decreased in rank, two (Tacoma and Mason County [Sunset Bluff]) decreased by 3 places –the largest relative move in the rankings. The change in rank seems to indicate that adding a LOS-related set of criteria to the LWCF grant application process would result in slightly different final ranks for grant applications.

While this change in rank is an interesting observation, it is difficult to draw definitive conclusions from the mock grant process because of several limitations associated with the process. First, the LWCF Advisory Committee scored the existing criteria, while an internal review group (many of whom were not experienced in scoring grants) scored the LOS-related criteria. Second, the grant applicants were not asked to directly address the LOS-related criteria. Third, the process lacked a robust stakeholder input process.

Local Agency LOS

High support for the local agency LOS indicated that it has high value as a planning tool. Mixed response to the criteria, however, indicated that changes were needed. Changes included eliminating several criteria. AECOM added a criterion based on "population ratios" commonly used in recreation planning. While many planning professionals reject the "population ratio" approach as simplistic and inadequate, it is retained as a sort of "short hand" that is easy to understand and explain.

AECOM Recommendations

- Retain the overall concept and execution of the LOS planning tool.
- Modify some of the specific indicators used in the tool (indicators are deleted, revised, or new).

- Reorganize the indicators within the three following categories: Quantity, Quality, and Distribution and Access.
- Recommend that local agencies use the LOS tool, but do not require its use.
- The revised LOS tool increases the ease of use and utility of the local agency LOS tool, can be enhanced in the future to accommodate other indicators, and retains inherent flexibility to best meet the needs of an individual community or jurisdiction.

State Agency LOS

The state agency LOS needs further development. However, AECOM has simplified it from the preliminary approach by removing criteria. A new criterion based on budget goals has been added.

AECOM Recommendations

- The original recommendation was to eliminate the use of the state agency LOS planning tool, as preliminarily proposed.
- Based on additional feedback (on the draft Recommendation Report), the final recommendation is to revise the state agency LOS planning tool to focus less on integration with state agency planning processes, and instead provide a consistent measurement approach for park and recreation facilities managed by the state.
- Like the recommendation for the local agency planning tool, the indicators should be designed and organized around three main concepts: Quantity, Quality, and Access. The indicators should exclude Distribution.

AECOM Recommendations: Moving Forward

As the state moves forward in potentially advocating the use of the LOS tools (per the recommendations in this report), the following are key considerations:

- **Provide Implementation Assistance:** The RCO could consider providing direct assistance (e.g., funding, staff time) to those communities who may not have the staff and/or resources to utilize the local agency LOS tool in their planning efforts.
- **Provide Written Guidance for Implementation.** The RCO could provide more direction on how to use the local agency LOS tool. For example, a guidebook could be created that communities/counties could use to apply the LOS indicators and criteria in a meaningful manner.
- **Provide On-Line Guidance.** The RCO should also consider creating an online local agency LOS knowledge-sharing or community of practice website.

- **Add Predictive Element to the LOS Tool.** The RCO should consider including an element on using the LOS tool to quantify future recreation needs, often a key component of recreation planning at the local level.
- **Continue to Work with State Agencies.** The RCO should continue to work with DNR, State Parks, and WDFW to refine and improve the state agency LOS planning tool.

Next Steps

Staff notes the high level of support shown for the LOS by test communities and agrees with the local agency LOS modifications proposed by AECOM. Staff also agrees that use of the LOS should be recommended, not required, as a way to help local communities assess the effectiveness of their park and recreation programs.

We agree with providing guidance. However, we recognize that the agency's budget means that this should be done at the lowest possible cost. We are pursuing two initial methods:

- We have rewritten policy Manual 2, *Planning Policies*, to include the LOS as a recommended tool for agency self assessment.
- We propose to develop a web page based on the material developed for Manual 2.

We also agree that further work with state agencies is needed. The next iteration of SCORP needs to follow up on the current edition by presenting the LOS test and test results. As the development of SCORP is done with the cooperation of affected parties and public review, it is an ideal next step for development of the LOS.

Attachments

- A. Preliminary local agency LOS, as published in SCORP and tested
- B. Recommended local agency LOS, based on 2010 test
- C. Preliminary state agency LOS, as published in SCORP and tested
- D. Recommended state agency LOS, based on 2010 test
- E. Text from Manual 2, *Planning Policies*, explaining the recommended LOS

Attachment A: Preliminary Local Agency LOS as published in SCORP and tested

Indicators and Criteria	Level of Service Ratings				
	A	B	C	D	E
Baseline Criteria: Per Capita Participation					
Individual Active Participation					
Percent of population that participates in one or more active outdoor activities	66-100%	51-65%	41-50%	31-40%	0-30%
Facility Capacity: Activity-Specific Participation					
Existing facilities meet this percentage of activity-specific demand	76-100%	61-75%	46-60%	31-45%	0-30%
Enhanced Criteria: Service Area/Population-Based (Equity)					
Urban Park, Trail					
Percentage of population within 0.5 mile of a neighborhood park or trail	76-100%	61-75%	46-60%	31-45%	0-30%
County Park, Trail*					
Percentage of population within 1.5 miles of a county park/trail	76-100%	61-75%	46-60%	31-45%	0-30%
Regional Park, Trail*					
Percentage of the population within 25 miles of a regional park or trail	76-100%	61-75%	46-60%	31-45%	0-30%
In-depth Criteria: Function-Based Guidelines					
Agency-based Assessment					
Percentage of facilities that are fully functional per their specific design and safety guidelines (based on manager assessment)	81-100%	61-80%	41-60%	21-40%	0-20%
Public Satisfaction					
Percentage of population satisfied with the condition (including facility condition, cleanliness, etc.) of existing outdoor park and recreation facilities	66-100%	51-65%	36-50%	26-35%	0-25%
Operations and Maintenance					
On average, routine operations and maintenance funded at this percentage of annual need (does not include major capital development)	80-100%	61-80%	41-60%	21-40%	0-20%
Access					
Percentage of facilities that may be accessed safely via foot, bicycle, or public transportation	80-100%	61-80%	41-60%	21-40%	0-20%

Attachment B: Recommended Local Agency LOS, based on 2010 test

Indicators and Criteria	A	B	C	D	E
QUANTITY CRITERIA					
Number of Parks and Recreation Facilities					
Percent difference between existing quantity or per capita average of parks and recreation facilities and the desired quantity or per capita average	<10%	11-20%	21-30%	31-40%	>41%
Facilities that Support Active Recreation Opportunities					
Percent of facilities that support or encourage active (muscle-powered) recreation opportunities	>60%	51-60%	41-50%	31-40%	<30%
Facility Capacity					
Percent of demand met by existing facilities	>75%	61-75%	46-60%	30-45%	<30%
QUALITY CRITERIA					
Agency-Based Assessment					
Percentage of facilities that are fully functional per their specific design and safety guidelines	>80%	61-80%	41-60%	20-40%	<20%
Public Satisfaction					
Percentage of population satisfied with the condition, quantity, or distribution of existing active park and recreation facilities	>65%	51-65%	36-50%	25-35%	<25%
DISTRIBUTION and ACCESS CRITERIA					
Population within Service Areas					
Percentage of population within the following services areas (considering barriers to access):	>75%	61-75%	46-60%	30-45%	<30%
0.5 mile of a neighborhood park/trail					
5 miles of a community park/trail					
25 miles of a regional park/trail					
Access					
Percentage of parks and recreation facilities that may be accessed safely via foot, bicycle, or public transportation	>80%	61-80%	41-60%	20-40%	<20%

Attachment C: Preliminary State Agency LOS Tool as Published in SCORP and Tested

Indicators and Criteria	Level of Service Ratings				
	A	B	C	D	E
Baseline Criteria: Sustainable Access					
Sustainable Access					
The agency provides sustainable access while meeting this percentage of its resource protection goals	More than 70%	61-70%	51-60%	50-59%	0-50%
Enhanced Criteria: Service Area, Population-Based (Equity)					
Distance to Parks, Trails, Access Sites					
Percentage of population within 1 hour of a state site	66-100%	51-65%	36-50%	21-35%	0-20%
In-Depth Criteria: Function-Based Guidelines					
Agency-based Assessment					
Percentage of facilities that are fully functional per their specific design and safety guidelines	81-100%	61-80%	41-60%	21-40%	0-20%
Public Satisfaction					
Percentage of users satisfied with the condition (facility condition, cleanliness, etc.) of outdoor access and recreation facilities	66-100%	51-65%	36-50%	35-49%	0-35%
Operations and Maintenance					
On average, routine operations and maintenance funded at this percentage of annual need	81-100%	61-80%	41-60%	21-40%	0-20%
Access					
Percentage of facilities that may be accessed safely via foot, bicycle, or public transportation	66-100%	51-65%	36-50%	21-35%	0-20%

Attachment D: Recommended State Agency LOS, based on 2010 Test

Indicators and Criteria	A	B	C	D	E
QUANTITY CRITERIA					
Capital Facility Development					
Biennial average percentage of unmet capital facility development (redevelopment, renovation, and/or restoration) goals	<30%	30-40%	41-50%	51-60%	>60%
QUALITY CRITERIA					
Agency-Based Assessment					
Percentage of facilities that are fully functional per their specific design and safety guidelines	>80%	61-80%	41-60%	20-40%	<20%
Public Satisfaction					
Percentage of visitor population satisfied with existing park and outdoor recreation facilities/experiences/opportunities	>65%	51-65%	36-50%	25-35%	<25%
ACCESS CRITERIA					
Sustainable Access					
Percentage of parks/recreation areas/facilities that provide sustainable recreation opportunities (e.g., help protect natural and cultural resources, use green infrastructure to strengthen natural processes, minimize encroachment and/or user-developed facilities, prohibit poaching, etc.)	>65%	56-65%	46-55%	36-45%	<35%

Attachment E: Text from Manual 2, *Planning Policies*, explaining the recommended LOS

Recommendations for Your Planning Process

RCO recommends but does not require determination of a level of service for park and recreation planning, including trails.

This recommendation is based on a level of service first proposed in the state comprehensive outdoor recreation plan (SCORP).³ The proposed level of service was subsequently tested and refined. The test found strong support for a level of service tool, with 73% of the communities testing the level of service tool supporting or strongly supporting an LOS tool.⁴

The LOS works best for local communities considering grants from ALEA, BFP, LWCF, WWRP, and YAF. The state agency LOS tool may be useful for federal as well as state agency applicants in BFP, RTP, and NOVA, especially the criteria concerning resource protection.

An analysis with the level of service tool will indicate strengths and weaknesses of your parks and trails system, suggesting where you may need additional resources.

Once the categories and elements have been assessed and scored, it is your choice whether to average the scores or to keep each separate. Consider how you will use the LOS scores when deciding.

For example:

- If you are applying for a grant to build a new ball field, you may wish to present results of the quantity criteria that support your request.
- If you are building a budget request for additional maintenance resources, you may wish to use results from the quality criteria. Providing new trails can be justified with the access criteria.
- If you are developing a report to citizens, you may wish to publish results of each of the criteria, and suggest an overall average.

³ *Defining and Measuring Success: The Role of State Government in Outdoor Recreation*, RCO, 2008

⁴ The complete test is posted on RCO's web site at <http://www.rco.wa.gov/recreation/scorp.shtml>

Item 8C

Meeting Date: March 2011
Title: Allowable Project Uses
Prepared By: Dominga Soliz, Policy Specialist

Approved by the Director: 

Proposed Action: Briefing

Summary

As part of its work on compliance issues, Recreation and Conservation Office (RCO) staff is developing a new policy regarding allowable uses of grant-funded land and facilities. The policy and process will help staff and the funding boards make clear, consistent, and more streamlined decisions about how to determine whether certain uses are compatible with the grant funding. It will give sponsors and staff a clearer understanding of RCO's expectations about how grant grant-funded land and facilities should be used.

This memo provides an overview of the draft staff proposal for the new policy. Staff will bring the proposal to the Recreation and Conservation Funding Board (board) for a decision in June 2011.

Strategic Plan Link

Consideration of this policy advances the board's goal to achieve a high level of accountability in managing the resources and responsibilities entrusted to it. It also is critical to ensuring that the board investments are maintained, and that the statutory intent of the programs is upheld. Evaluating allowable uses is an integral part of the RCO's compliance policy, which the board has established as a priority in its annual work plan.

Background

At the direction of the board, RCO staff is developing policies and procedures to address several aspects of grant compliance.¹ In general, the policies affect both this board and the Salmon Recovery Funding Board.

¹ This involves making the conversion process more efficient and effective, including ways to encourage sponsors to disclose conversion issues. While related, that work is outside the scope of this memo and process.

One important aspect of compliance is the way that sponsors use the project site. Policies stating whether a project use is eligible for reimbursement are generally clear. However, policies about whether a project use is allowed – even if it is ineligible for reimbursement – are less clear. Thus, it can be difficult and subjective for grant managers to determine whether a project use is allowed on the project site or if it constitutes non-compliance.

Common questions about allowable project uses include:

- Should cattle be allowed to graze on riparian habitat?
- Should cell towers be allowed on outdoor recreation or habitat conservation land?
- Should low-impact recreation be allowed on habitat conservation land?
- Should non-conforming uses such as construction staging be temporarily allowed ?
- Should existing structures that provide habitat be allowed to remain on acquired land?
- Should recreational cabins with amenities such as bathrooms and kitchens be allowed as part of outdoor recreation projects?
- Should structures that are significant to the community be allowed to be retained on acquired property?

Questions about a project use can arise at any time during the grant process. For example, a potential grant applicant may want to know whether they will be allowed to use part of the habitat land for agriculture if they receive grant funds. Or, after the project is completed, RCO staff may find a cell tower on a grant-funded local park project during inspection.

Questions can arise about any type of board-funded project, including acquisition, development, and restoration projects. They can arise about a wide range of project uses, including activities by humans and animals, structures, and infrastructure elements. Since grant projects are unique and diverse, and since project purposes are expected to be fulfilled forever, the range of potential questions about allowable uses of land and facilities is practically limitless.

Policy and Process Development

Policy staff is developing a proposal to help both the Recreation and Conservation Funding Board and the Salmon Recovery Funding Board determine whether a specific use is out-of-compliance with the grant.

- **The policy** will clarify when a use is allowed and when it is out-of-compliance. This will help staff and the boards make clear, consistent, and more streamlined decisions about how to treat project uses. It will give sponsors and staff a better understanding about RCO's expectations about how grant funds should be used.
- **The process** will describe the steps that staff will follow when considering a proposed use. Since the list of uses is potentially endless, there will always be "gray" areas. The process is intended to help sort out those uses that fall between allowed and not allowed. The process begins with a review by a grant manager. It progresses to

compliance team review, and ultimately the director and/or board depending on the situation.

This memo presents only the policy proposal. Staff is developing an internal implementation process, if the board adopts the policies.

Analysis

Summary of the Proposed Policy

Board-funded grants are intended to support resource-oriented conservation, restoration, or outdoor recreation opportunities. Staff will propose that in order for a non-recreational or non-habitat use to be allowable, it must be either:

1. Clearly allowed by existing policy,

OR

1. consistent with grant purposes: both the specific grant agreement and the overall grant program;
2. reasonably justified; and
3. Achieve its intended purpose with minimum impairment to the resource. An overall impairment would not be allowed.
 - A use that results in some impairment to the habitat conservation or outdoor recreation resource must provide benefits to the resource that are at least equivalent to the impairment.

Clearly Allowed by Existing Policy

This test determines which policies apply: allowable uses or non-compliance. If existing policy clearly prohibits the proposed use, then the non-compliance policy would apply. Otherwise, the allowable uses policy is applicable. If existing policy clearly allows the proposed use, then the use is allowed.

Consistent with Grant Purposes

Applicable statutes and rules state that grant-funded land and facilities may not, without prior approval of the board, be converted to a use other than that for which funds were originally approved.² To ensure the statute is met, RCO must identify whether a project use is consistent with the grant agreement and program.

² The grant program statutes and regulations provide similar language. For example, the Washington Wildlife and Recreation Program statute states, "Habitat and recreation land and facilities acquired or developed with moneys appropriated for this chapter may not, without prior approval of the board, be converted to a use other than that for which funds were originally approved." RCW 79A.15.030

Consistency with the Grant Agreement

The project agreement is the sponsor’s promise to spend the funds in a certain way. For example, a project agreement to provide baseball fields is different from an agreement to provide an outdoor swimming pool, even though both provide outdoor recreation opportunities.

If a use is already included in the project agreement, then it would be allowed. If the use is not included in the project agreement, then it would be compared against the overall goal, primary purpose, and key elements described in the project agreement (see table for examples).

	Project Type	Examples
Overall Goal	Recreation project	Expand capacity in local parks for softball and baseball leagues
	Habitat project	Establish habitat connectivity
Primary Purpose	Recreation project	Provide day and night baseball and softball
	Habitat project	Protect riparian habitat for Endangered Species Act (ESA) listed anadromous fish
Key Elements	Recreation project	8 acres for ball fields, 2 acres restrooms and parking lots
	Habitat project	10 acres riparian and wetland, 10 upland

Staff proposes that as long as the use does not impair the overall goal, primary purpose, and key elements in the project agreement, then it would be considered consistent with the project agreement.

Consistency with the Grant Program

A project must be consistent with the grant program because there is an expectation that those program funds will be expended for certain purposes valued by the program. For example, funds from recreation programs are intended to result in opportunities for public recreation in perpetuity while funds from habitat programs are intended to result in habitat values or functions in perpetuity³.

Project uses that are neither clearly prohibited nor clearly allowed would be compared to the values of the grant program. Depending on the program, program values may include:

- Public access on the project site
- Habitat quality or species on the project site
- Activities that support operation and maintenance of the project land on the project site

³ RCO compliance policy

- Land features, such as vegetation, on the project site
- Structures, facilities or infrastructure elements on the project site
- Public support for the project

Staff proposes that if a use does not impair the program values, then it would be considered consistent with the program.

Reasonably Justified

A project use that is not included in the project agreement should be justified as reasonably related to a legitimate public interest or need.

Staff proposes that sponsors provide justification explaining the reasons for the use. In lieu of strict standards, which could not contemplate all potential uses, staff proposes that the justification be evaluated by the staff team on a case-by-case basis. We expect that over time, such decisions would be documented and create a “past practice” basis for consideration.

Impairment to the Grant Resource

A non-recreational or non-habitat project use should be done in such a way that it achieves its purpose with minimum impairment to the resource.

- For example, a recreational trail on habitat conservation land should be located and built so that it meets its intended purpose (recreation) with minimal impairment to habitat functions.

Sometimes project uses that result in impairments also provide benefits to grant resources.

- For example, temporarily restricting access to certain areas of a habitat project site impairs the public access purposes of the grant, but the overall benefit to species and habitat function may outweigh the impairments.
- Similarly, allowing a barn to remain on habitat land impairs the habitat conservation values by retaining the barn’s footprint, but the benefit to the species that nest in the barn may outweigh the impairments.
- In addition, allowing cattle to graze on non-riparian habitat land can impair habitat for some plant and animal species, but weed management that results from grazing can provide benefits to other species.

Staff will propose that the *overall* impairment to a project should be evaluated by analyzing the project use’s consistency with the grant purpose, the justification, and whether it achieves its purpose with minimum impairments to the resource the grant is intended to protect. The likely impairment on the project resource will be given significantly more weight than economic efficiency or convenience. All practical alternatives should be considered before a use that

results in resource impairments is allowed. The National Park Service has a similar minimum requirement policy for wilderness areas⁴.

Note that the proposed policy would require changes to current policy that prohibits non-habitat conservation or non-outdoor recreation uses that result in any impairments (rather than overall impairments).

Process Note: Approval or Denial

The process will include several stages of review. At each step, a use that is inconsistent with policy, the project agreement, and/or the grant program are grounds for denial. Approval could be granted by the grant manager if the use is clearly consistent with policy and the agreement. If the grant manager denies the use because it is not clearly consistent, then the sponsor could request a formal review and go to the next step. All approvals of formal requests would be made by the director based on the compliance team's recommendation. Requests for which the compliance team is undecided, or recommends denial, could be approved or denied by the director, could be submitted to an external review panel, or could be submitted to the board for approval at the director's discretion.

Next Steps

Staff is vetting the proposed policy and process with staff and a group of key stakeholders. Following that review, the public will have a 30-day opportunity to provide comment. Staff will bring the revised proposal and a summary of comments to the board for decision in June 2011.

⁴ Section 6.3.5 of the National Park Service Management Policies: www.nps.gov/policy/mp/policies.html#_Toc157232833

Item 9

(REVISED 3/22/2011 – ATTACHMENT D ONLY)

Meeting Date: March 2011
Title: Project Overview and Preview of Upcoming Time Extension: Qwuloolt Estuary Restoration and Interpretive Trail Project, Tulalip Tribes, Project #06-1604D
Prepared By: Elizabeth Butler, Outdoor Grants Manager

Approved by the Director:



Proposed Action: Briefing

Summary

The success of the Tulalip Tribes' Qwuloolt Estuary Restoration and Trail Project depends on a partnership with the US Army Corps of Engineers (Corps). While the sponsor has made good progress on design, permitting, and some restoration work, construction of the setback levee has been delayed by internal project review at the Corps. Now, the sponsor and the Corps are completing design and securing permits to start levee construction this summer. The Tulalip Tribes anticipate requesting a time extension at the June 2011 Recreation and Conservation Funding Board (board) meeting.

Strategic Plan Link

This project is an example of how the board achieves its goal to help its partners protect, restore, and develop habitat and recreation opportunities that benefit people, wildlife, and ecosystems. Consideration of a future time extension, where the sponsor has demonstrated diligent effort and the reasons for the extension are outside its control, is consistent with the board's goal to achieve a high level of accountability and its objective to ensure funded projects are managed efficiently.

Background

In June 2007, the board approved \$499,000 of Aquatic Lands Enhancement Account (ALEA) funding for the Tulalip Tribes' Qwuloolt¹ Estuary Restoration and Trail project. The Qwuloolt site is among the largest estuarine habitats to be restored in the Puget Sound (second only to the

¹ Qwuloolt means "Marsh" in lushootseed, the language of the Tulalip people.

Nisqually delta) and will provide fish passage to 16 miles of an adjacent stream, Allen Creek, that flows through the City of Marysville. The project is located east of I-5, in the City of Marysville and within the Snohomish River floodplain about three miles upstream from its outlet to Puget Sound (Attachment A).

This top-ranked 2006 ALEA project proposed the restoration of about 360 acres of floodplain. The project will construct a setback levee, breach the levee along the north bank of Ebey Slough, restore historic tidal channels, remove tide gates at Allen and Jones Creeks, plant native vegetation, and reintroduce tidal inundation to fallow farmland (Attachments B and C). While the project name references a "trail," recreational elements were never included in the scope; rather the new levee will form the foundation for a future trail. This project will restore significant ecosystem functions, structure, and dynamic ecological processes to benefit protected Chinook, bull trout, and Steelhead, among many other fish and bird species. It balances public access and aesthetic considerations with the ecological benefits of improved water quality, enhanced fish migratory pathways and increased cover and forage habitat.

The ALEA-funded project is part of a larger effort that began more than fifteen years ago, when the Tulalip acquired the first farmland lying north of Ebey Slough. The efforts were necessitated by floodplain reengineering that expanded agricultural opportunities throughout the region a century ago. Dikes, levees, and tide gates now restrict the river and tides from reaching historic wetlands in the floodplain; as a result less than 20 percent of the 10,000 acre Snohomish River estuary area remains. Since then, the Tribe has purchased more than 430 acres of Qwuloolt floodplain from willing sellers – an investment of about \$6.2 million. Acquisition funding sources included an \$850,000 grant from the Salmon Recovery Funding Board.

Progress to Date

Over the past three and a half years Tulalip staff worked diligently on planning, design, and construction of the Qwuloolt Estuary Restoration. They have increased the restoration footprint from 360 to more than 400 acres. Since 2008, they've excavated about 2 miles of channel and filled nearly 1 mile of old drainage ditches in preparation for the levy breach.

Construction alone is estimated to cost a total of about \$9.1 million, and involves nine partner agencies (Attachment D). The key to project success is a partnership with US Army Corps of Engineers (Corps), which will contribute about \$4.5 million (65 percent of remaining construction costs) to complete the setback levee and reconnect the flood plain to river and tides. Perhaps more importantly, the Corps is providing engineering expertise, and will assume liability to ensure flood protection for the City of Marysville and neighboring property owners.

Analysis

The Tulalip Tribes and the Corps have been working together for more than six years on Qwuloolt Estuary restoration. The construction delays were caused by a slower than anticipated internal review by the Corps, and thus were outside the sponsor's control. The Corps approved

the decision document² on February 4, 2011, clearing a critical milestone for a summer 2011 construction start.

The ALEA grant is part of the 35 percent match necessary to secure the \$4.5 million Corps investment. Without a time extension on the ALEA grant, the success of Qwuloolt Estuary Restoration Project would be significantly threatened.

Large scale estuary restorations are complicated to permit, expensive to implement, and can take years to realize. For example, the Nisqually delta project took more than 10 years for the project proponents to see the tide finally roll in to the National Wildlife Refuge – and now it is celebrated as a grand success.

Next Steps

The Corps Partnership Project Agreement needs to be signed by the Assistant Secretary of the Army for Civil Works in Washington DC by the end of May to enable a summer 2011 construction start.

The City of Marysville Community Development Department completed two reviews of the project. The city planner reports they expect to issue a conditional shoreline permit enabling the setback levee construction to begin in July 2011. The levee breach is planned for 2012, allowing time for additional flood analysis and mitigation measures to satisfy the City of Marysville.

If the project makes good progress towards a 2011 construction start, staff expects to present a time extension request to the board in June.

Attachments

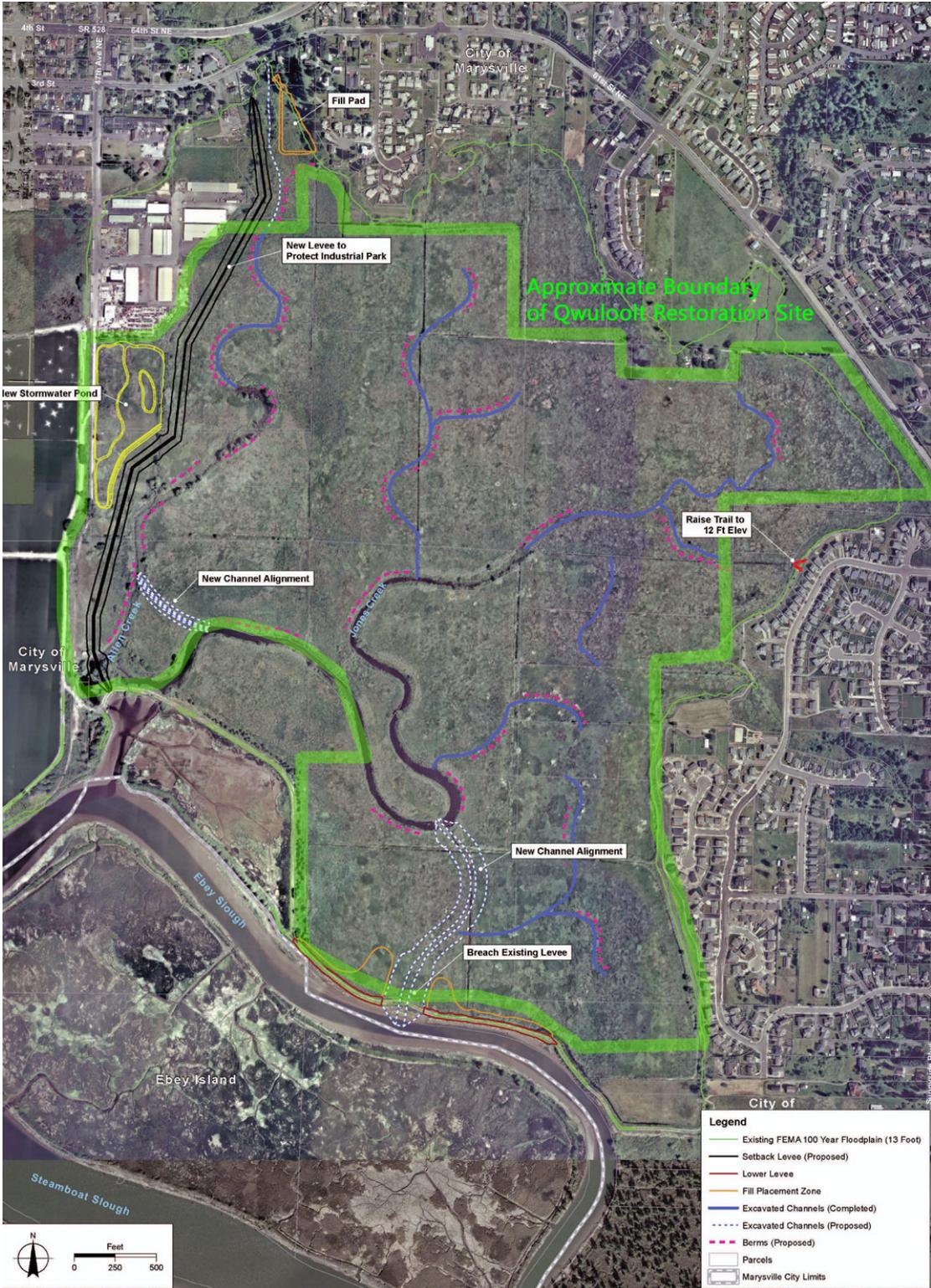
- A. Project Area Map
- B. Design Plan
- C. Photos
- D. RCO and Partner Investments to Date
- E. Letter of Support from the City of Marysville

² A "decision document" is a substantial report prepared by the Corps for the Corps that outlines the problem to be addressed, analyzes a series of restoration options, and then recommends the preferred strategy. The engineering designs cannot be finished until the decision document is approved.

Project Area Map



Restoration Design



Photos



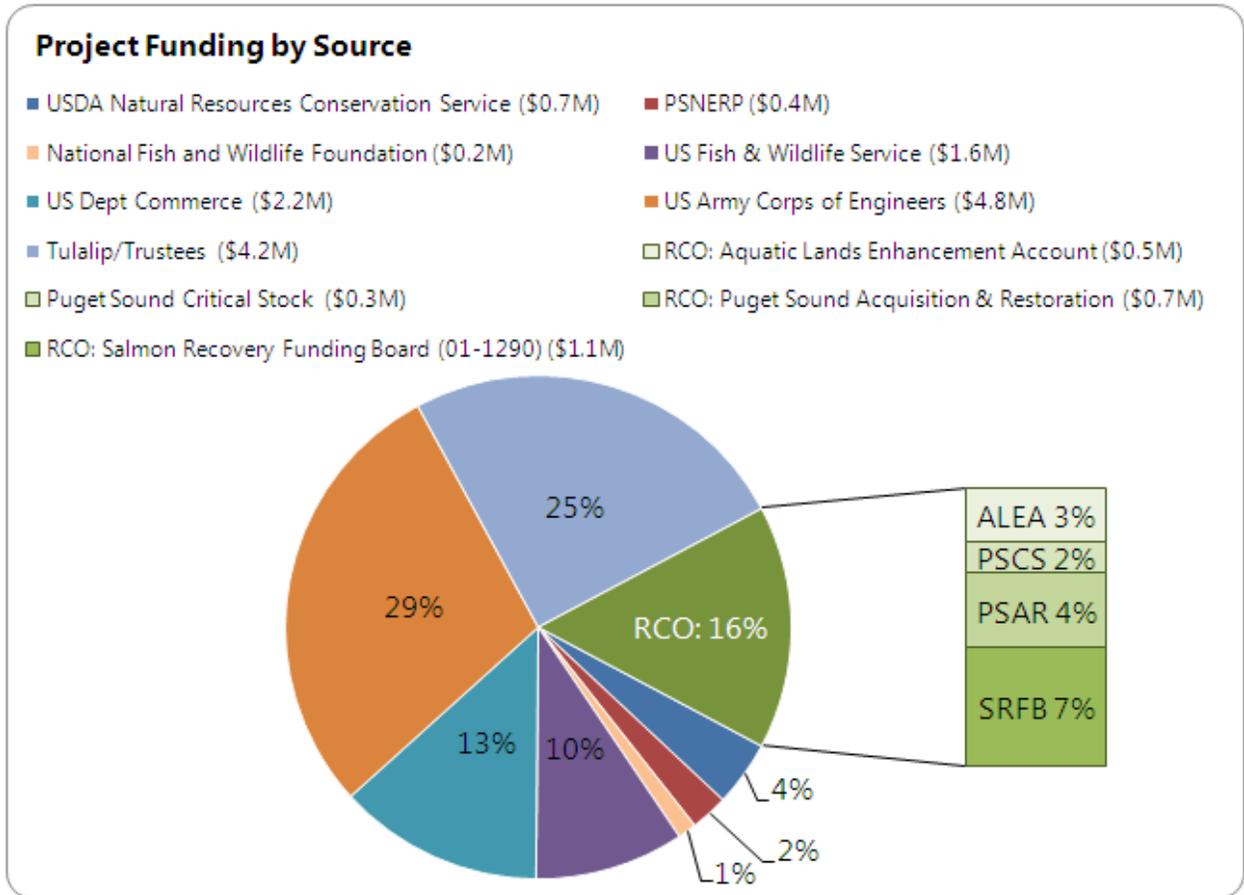
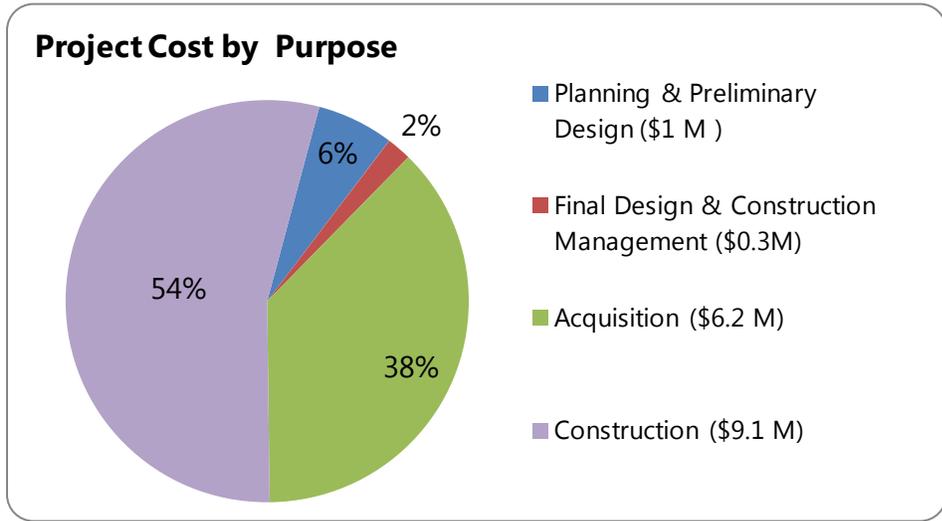
Aerial view looking west over the Qwuloolt site. Ebey Slough in upper left.



Walking west along the north bank Ebey Slough levee at high tide. Qwuloolt restoration area to right.

RCO and Partner Investments to Date

The Tulalip Tribes have worked diligently to cultivate partnerships and further the success of the Qwulooit Estuary Restoration and Interpretive Trail Project. They assembled more than \$16.7 million dollars from private, tribal, state, and federal government agencies.



Letter of Support from the City of Marysville



OFFICE OF THE MAYOR

Jon Nehring
1049 State Avenue
Marysville, Washington 98270
Phone: (360)363-8000
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marysvillewa.gov

RECEIVED

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RECREATION AND CONSERVATION OFFICE

February 24, 2011

Kaleen Cottingham, Director
Recreation Conservation Office
PO Box 40917
Olympia, WA 98504-0917

SUBJECT: Qwuloolt Restoration Project #06-1604

Dear Ms. Cottingham:

I am writing in support of the Tulalip Tribes request for an extension of the Qwuloolt Restoration and Trails Project, funded in part by an ALEA grant #06-1604. The City of Marysville has been an active partner in this project with many other agencies over an 11 year period. The Tribes has been diligent in performing all requirements including multiple in-depth feasibility studies associated with permitting processes. It is our understanding that the primary reason for delays has been due to the extensive review process by the US Army Corps of Engineers. We experienced a similar situation with our Ebey Waterfront Project in 2004/2005 under a BFP Grant. We received extensions from your agency as a result of the same review challenges by the Corps office. The project was accomplished shortly thereafter.

This project is one of the largest restoration projects in the state of Washington and will restore populations of several species within the watershed. The residents of Snohomish County will benefit from a sustainable improvement involving 350 acres including public access, educational opportunities, and the ability to become stewards within our prized estuary.

Tulalip Tribes has demonstrated its ability to respond satisfactorily to any and all technical issues and now is awaiting determinations from the Corps review creating an unanticipated delay. This project is key to the City's environmental future in many respects and any loss of funding at this stage would be a substantial impact to this project and community. We are certain this project will be completed on schedule provided the reviews are accomplished in a timely manner and funding remains in place.

On behalf of the partners of the Qwuloolt Restoration Project, I thank you in advance for your consideration to support an extension of the grant period in support of the extraordinary work that has been accomplished.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon Nehring".

Jon Nehring, Mayor

JB:lcs(Feb2011.4)

cc: Elizabeth Butler- RCO

Item 10

Meeting Date: March 2011
Title: Proposed Conversion: Sullivan Park #2, Project #79-011D
Prepared By: Jim Anest, RCO Conversion Specialist

Approved by the Director:



Proposed Action: Briefing

Summary

This memo provides an overview to the Recreation and Conservation Funding Board (board) about a proposed partial conversion that will be presented for decision at the June 2011 meeting. Staff will ask for board comments and questions in March so that we can prepare for the June decision.¹

The project in question is Sullivan Park, a 23-acre recreation area located in the south side of Everett. In 1979, the city was awarded a development grant (RCO# 79-011 D) through the federal Land and Water Conservation Fund (LWCF). A portion of the site was converted (without an advance request to the board) for a fire station, and the city is proposing to replace the converted property (1.6 acres) with a larger parcel of at least equal value and reasonably equivalent location and recreational utility.

Strategic Plan Link

Ensuring long-term compliance supports the board's strategy to provide funding to protect and enhance recreation opportunities statewide, as well as its objective to ensure that funded projects are managed in conformance with existing legal authorities.

Conversion Policy and Board's Role

Use of grant funds creates a condition under which funded property and structures become part of the public domain in perpetuity. Board policy states that interests in real property, structures, and facilities that were acquired, developed, enhanced, or restored with board funds must not

¹ Staff believes that this approach will improve the conversion process by giving the board an opportunity to discuss conversion proposals and raise questions and issues of concern earlier in the decision process. We welcome board feedback on the approach.

be changed (either in part or in whole) or converted to uses other than those for which the funds were originally approved without the approval of the board.²

If a board-funded project is changed or converted, the project sponsor must replace the changed or converted interests in real property, structures, or facilities. The replacement must have at least equal value and have reasonably equivalent recreation utility and location.

Because this project was funded by the federal Land and Water Conservation Fund (LWCF), the role of the board is to decide whether to recommend approval of the conversion to the National Park Service (NPS). The NPS has the legal responsibility to make the final decision of whether or not to approve this conversion.

The role of the board is primarily to evaluate the list of practical alternatives that were considered for replacement or remediation, including avoidance, and to consider if the replacement property has reasonably equivalent location and utility.

Background

Project Name:	Sullivan Park #2	Project #:	79-011D
Grant Program:	Land and Water Conservation Fund (LWCF)	Board funded date:	1979
RCO Amount:	\$ 44,900	Original Purpose:	Develop various facilities to enhance water-oriented recreational activities.
Total Amount:	\$ 89,800		

Sullivan Park has served as a widely used outdoor recreation and swimming location for many decades. The city of Everett purchased the property in 1922. The area surrounding the park is now largely developed with Interstate-5 to the immediate west, and a major arterial 112th Street to the north. Nevertheless, the ongoing uses of the park have changed little over the decades. Swimming, picnicking, and appreciating nature are the major uses of this day-use facility.

In 1979, RCO awarded a grant from the federal Land and Water Conservation Fund (LWCF) to the City of Everett. The purpose of the grant was to enhance water-oriented recreation activities. This grant provided underground utility systems, one restroom, a boat dock, asphalt paths, two day use shelters, and area lighting along selected paths and other required areas for safety.

Grant funds were used only for development of the site. None of the facilities purchased with this development grant were impacted by this conversion. However, LWCF rules require that the land upon which the grant-funded development occurred must be used for outdoor recreation in perpetuity.

² Policy is consistent with state law. See especially RCW 79A.15.030 (8) and RCW 79A.25.100.

The Conversion

In 1995, the city authorized the construction of a fire station, driveway, and parking area on 1.6 acres at the northeast corner of the park along 112th Street. The fire station was built in 1996. In 2005, the city constructed a one lane road in front of the fire station. This road separates the fire station from the park and allows egress for a neighboring community (Attachment A). The total area of these two conversions is 1.6 acres.

In 2008, city officials approached the RCO to acknowledge that they had unknowingly developed the grant protected site and wanted to properly replace the converted property.

Analysis

The city purchased a 15-acre piece of property under a waiver of retroactivity (W08-04) in 2008 with the intent of satisfying this conversion and possibly other conversions. They are asking for approval to use 3.5 acres of this property as replacement property for the Sullivan Park conversion.

Evaluation of Practical Alternatives

Because this conversion has already occurred, it is not realistic to evaluate the practical alternative locations for the fire station. The alternative to remove and replace the fire station was rejected as too costly to be practical. Therefore, this evaluation will address only the practical replacement alternatives.

Because this is an urban area that is largely built out, there are very limited options for open space replacement property near to the area being converted.

Evaluation of Reasonably Equivalent Location

The area of the city near Sullivan Park is highly developed and there are very few sites with recreation and conservation values available for sale.

- The converted property is located immediately adjacent to an increasingly busy arterial street (112th Street), a short distance from Interstate 5.
- The proposed replacement property is located about one-half mile by bike or foot northwest of the park, adjacent to the Interurban bicycle and pedestrian trail, parallel to Interstate 5. This trail is an important recreational link providing access from Seattle to Everett. Locally, the trail links individual neighborhoods to the Everett Mall and Sullivan Park. The replacement property would therefore improve access from these areas to Sullivan Park by way of a recently constructed bicycle and pedestrian route on 112th Street across Interstate 5, providing a more direct path (Attachment B).

Evaluation of Reasonably Equivalent Recreational Utility

Before the construction of the fire station, the converted site consisted of a mix of coniferous and deciduous trees. Its primary use appears to have been open space and a place for the appreciation of nature. The replacement property will serve this function for a similar recreational community.

The property being proposed for replacement also is forested with coniferous and deciduous species and has more than twice the acreage of the converted property. Trails and several small wetlands cover the replacement property. The city plans to improve the walking trails and add interpretive signs. They further intend to provide public access signs, benches, and picnic areas within the replacement property.

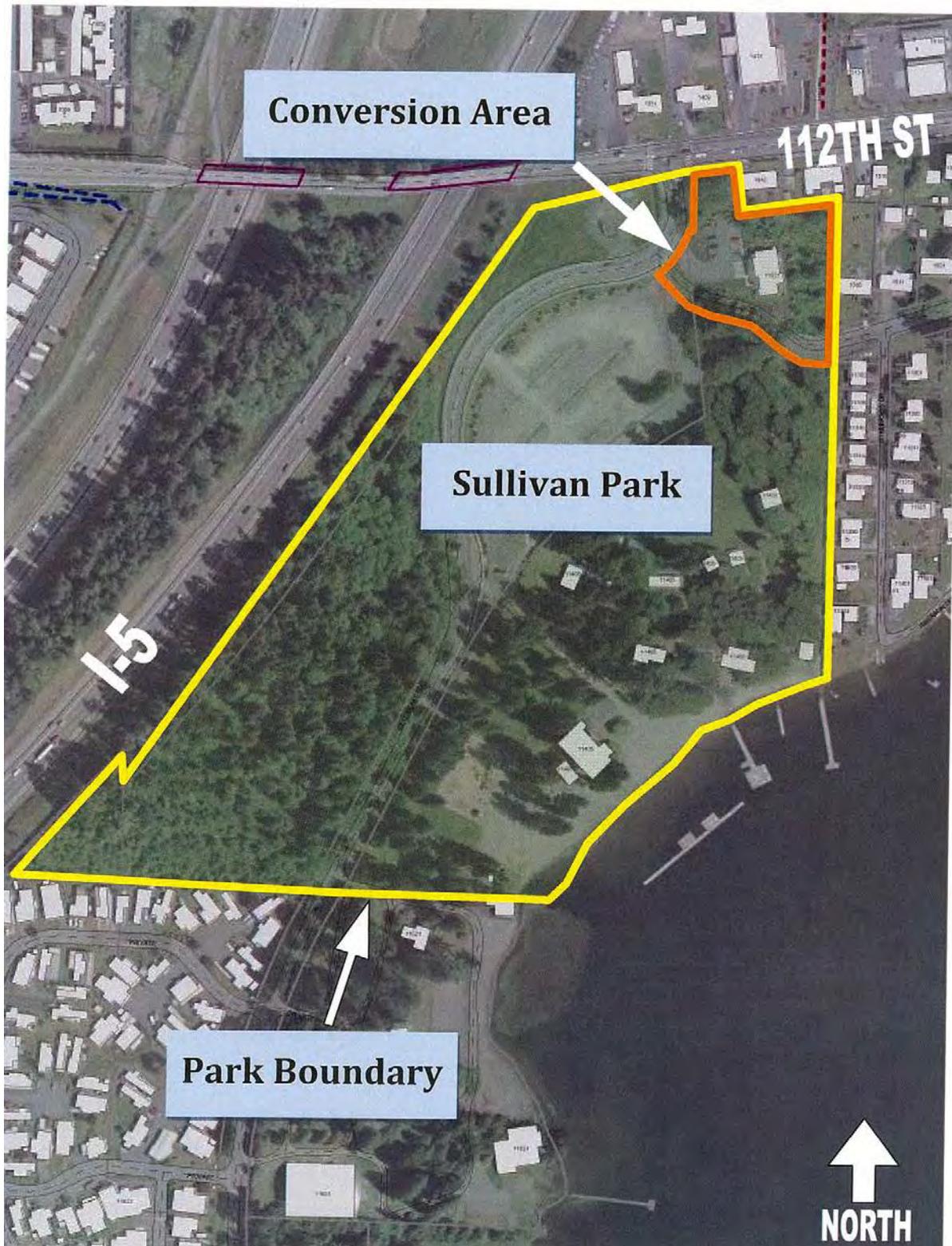
Next Steps

Staff will communicate any concerns raised by the board to the City of Everett as they prepare a final conversion proposal. Staff and the city intend to bring this conversion back to the board in June of this year. At that time, the board will decide whether or not to recommend this conversion to the National Park Service for final approval.

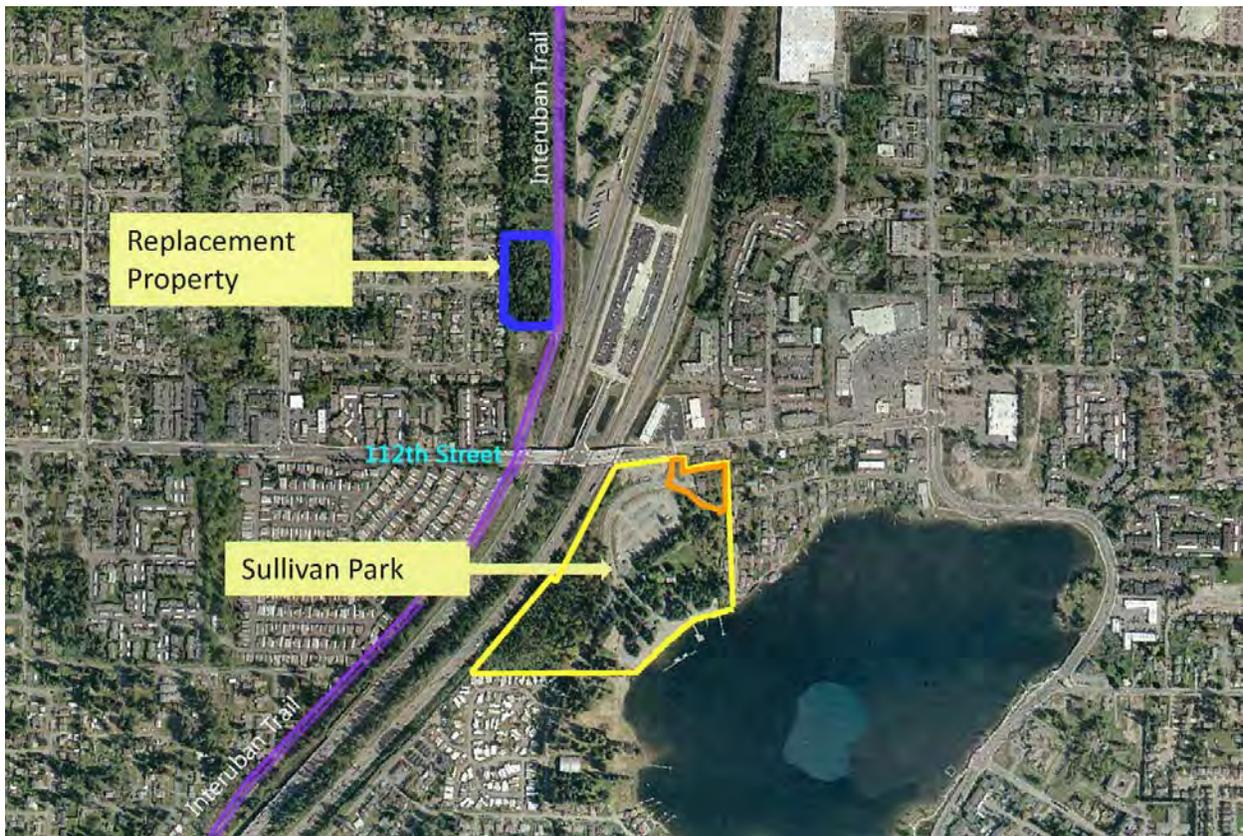
Attachments

- A. Map of Sullivan Park with area to be converted
- B. Site of proposed replacement property in relation to converted property

Map of Sullivan Park with area to be converted



Site of proposed replacement property in relation to converted property



Item 11

Meeting Date: March 2011
Title: Americans with Disabilities Act (ADA): New Requirements for Grant-Funded Projects
Prepared By: Rory Calhoun, Accessibility Specialist

Approved by the Director: 

Proposed Action: Briefing

Summary

Projects funded by the Recreation and Conservation Funding Board (board) must comply with the Americans with Disabilities Act (ADA) of 1990.

The Department of Justice (DOJ) has issued a final rule which updates and amends certain provisions within the ADA. The new accessibility standards include some substantial changes that will need to be incorporated into project review, evaluation and compliance work.

This memo provides an overview of those changes, which staff will present in more detail at the March meeting.

Strategic Plan Link

Understanding and incorporating ADA rules into project requirements helps the board to achieve its strategic objective to ensure funded projects are managed in conformance with existing legal authorities. By promoting accessibility to the outdoors, the board also supports its goal to help partners provide recreation opportunities that benefit people.

Background

RCO promotes accessibility to the outdoors by working closely with applicants and sponsors, providing technical assistance about accessibility requirements, providing specific feedback on facility design, and reviewing construction plans and specifications to ensure that they meet accessibility requirements. Staff also helps sponsors of older projects who want to find the most efficient and effective way to bring aging facilities into compliance with current requirements.

The DOJ issued new 2010 ADA Standards for Accessible Design. The standards are a compilation of existing building codes, federal laws and guidelines and some "best practices" developed over

the years. They will become the minimum standards for providing accessibility, and RCO grant sponsors will be required to meet these standards. Exemptions may be made in cases of damage to fragile landscapes, damage to historic or cultural resources, or for reasons of safety.

Analysis

The final rule went into effect March 15, 2011. The DOJ will begin enforcing the provisions on March 15, 2012 for construction projects sponsored by government agencies and the commercial sector. Although adherence to the new standards is optional for sponsors that begin construction before that date, Recreation and Conservation Office (RCO) staff will recommend that they do so.

RCO has not identified any major conflicts between board policies and the new standards, and will make only minor revisions as needed to incorporate the new DOJ rules into existing grant programs.

Significant Changes

The new standards include a specific chapter for recreation facilities, and provide the minimum scoping and technical standards that would be required for boating, fishing, playgrounds, golf and other facilities. Developed trails, beaches, picnic, and camping areas are not part of the rule.

Another significant requirement for state and local governments and other RCO grant sponsors is that they must allow "power driven mobility devices" to be used in any place pedestrians are allowed. RCO has been working with State Parks, and the departments of Natural Resources and Fish and Wildlife to develop a consistent draft plan to address expected requests for access and to comply with the rule. The plan includes a unified definition of mobility disability and a unified special use permit system for all agencies. Individual agency approaches are also being developed to address requested access to specific sites available for outdoor recreation.

Many public agencies appear to have been caught off-guard by the requirement even though the rule went through a lengthy comment period. We will work with our local project sponsors to help them comply with the rule on RCO-funded sites.

Next Steps

Local and state agencies will be responding to requests by persons with mobility disabilities who want to access lands managed by state and local governments. RCO will continue to work with those needing technical assistance and promote the use of universal designs to help the greatest number of people enjoy the outdoors.

More information may be found at: http://www.ada.gov/2010ADASTandards_index.htm