

# Agenda

## Recreation and Conservation Funding Board Regular Meeting

April 16, 2014

Natural Resources Building, Room 172, Olympia, WA, 98501

**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.

### Special Accommodations:

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

### Public Comment:

- Comments about topics not on the agenda are taken during General Public Comment.
- Comment about agenda topics will be taken with each topic.

If you wish to comment at a meeting, please fill out a comment card and provide it to staff. The chair will call you to the front at the appropriate time. You also may submit written comments to the Board by emailing them to the RCO, attn: Cindy Gower, [cindy.gower@rco.wa.gov](mailto:cindy.gower@rco.wa.gov).

## Wednesday, April 16

### OPENING AND MANAGEMENT REPORTS

9:00 a.m.	<b>CALL TO ORDER</b>	<i>Chair</i>
	<ul style="list-style-type: none"><li>• Roll Call and Determination of Quorum</li><li>• Review and Approval of Agenda</li></ul>	
	<b>1. Consent Calendar (<i>Decision</i>)</b>	<i>Chair</i>
	<ul style="list-style-type: none"><li>A. Board Meeting Minutes – January 9, 2014</li><li>B. Time Extension Requests<ul style="list-style-type: none"><li>• Washington Department of Fish and Wildlife, Project #08-1512A, Lynch Cove Estuary</li><li>• Washington Department of Fish and Wildlife, Project #08-1610R, Pogue Mountain Pre-Commercial Thin</li></ul></li><li>C. Definitions for Maintenance and Development Projects in the Recreational Trails Program</li></ul>	
	<u>Resolution 2014-08</u>	
9:10 a.m.	<b>2. Director's Report</b>	<i>Kaleen Cottingham</i> <i>Nona Snell</i>
	<ul style="list-style-type: none"><li>• Agency Updates</li><li>• Legislative and Budget Update</li><li>• Policy Update<ul style="list-style-type: none"><li>– Public lands inventory</li><li>– Boating app</li><li>– Governor's Outdoor Recreation Task Force</li></ul></li><li>• Grant Management Report</li><li>• Fiscal Report</li><li>• Performance Report</li></ul>	<i>Marguerite Austin</i>
9:30 a.m.	<b>Presentation of Recently Completed Projects</b>	<i>Kim Sellers</i> <i>Sarah Thirtyacre</i>

**9:45 a.m. General Public Comment**

*Chair*

For issues not identified as agenda items. Please limit comments to 3 minutes.

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**10:00 a.m. State Agency Partner Reports**

- Department of Natural Resources
- State Parks
- Department of Fish and Wildlife

*Jed Herman*

*Don Hoch*

*Joe Stohr*

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**BOARD BUSINESS: BRIEFINGS**

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**10:15 a.m. 3. Liability of the Board or Board Members for Action Taken on Policy or Grants**

*Nona Snell*

*Leslie Connelly*

*Assistant Attorney General*

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**10:45 p.m. 4. Washington Wildlife and Recreation Program Administration Costs**

*Nona Snell*

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**11:15 a.m. BREAK**

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**BOARD BUSINESS: DECISIONS**

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**11:30 a.m. 5. Technical Correction to the Planning Grant Evaluation Criteria in the Nonhighway and Off-Road Vehicle Activities Program**

*Leslie Connelly*

Resolution 2014-09

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**6. Washington Administrative Code Public Hearing**

*Leslie Connelly*

- Staff Briefing
- Public Hearing
- Board Discussion and Decision

Resolution 2014-10

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**7. Compliance Policies for Firearms and Archery Range Recreation Grants**

*Leslie Connelly*

Resolution 2014-11

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**12:15 p.m. LUNCH**

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**BOARD BUSINESS: BRIEFINGS**

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**1:15 p.m. 8. Briefing on Upcoming Conversions**

*Myra Barker*

- WDFW Methow Watershed Phase 2 (Project #00-1429A)
- City of Mountlake Terrace Jack Long Park (Projects #68-096A, 69-099D)

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**1:45 p.m. 9. Highlights of Several High Profile Conversions**

- Mercer Slough
- SR 520

*Myra Barker*

*Leslie Connelly*

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**2:15 p.m. 10. Boating Plan Update**

*Sarah Gage*

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<b>2:30 p.m.</b>	<b>11. Trails Website Update</b>	<i>Sarah Gage</i>
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<b>2:45 p.m.</b>	<b>BREAK</b>	
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<b>3:00 p.m.</b>	<b>12. Demonstration of the Compliance Workbench</b>	<i>Scott Robinson</i> <i>Myra Barker</i> <i>Scott Chapman</i>
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<b>3:30 p.m.</b>	<b>13. Status Update on Electronic Billing</b>	<i>Mark Jarasitis</i>
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<b>4:00 p.m.</b>	<b>ADJOURN</b>	
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Natural Resources Building  
P.O. Box 40917  
Olympia, WA 98504-0917

1111 Washington St. S.E.  
Olympia, WA 98501



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

E-mail: [Info@rco.wa.gov](mailto:Info@rco.wa.gov)  
Web site: [www.rco.wa.gov](http://www.rco.wa.gov)

**STATE OF WASHINGTON**  
**RECREATION AND CONSERVATION OFFICE**

February 11, 2014

Senator Jim Honeyford  
Chair, Capital Budget, Ways and Means Committee  
Washington State Senate  
107 Irv Newhouse Building  
Post Office Box 40415  
Olympia, WA 98504-0415

Representative Hans Dunshee  
Chair, Capital Budget Committee  
House of Representatives  
314 John L. O'Brien Building  
Post Office Box 40600  
Olympia, WA 98504-0600

Senator Karen Keiser  
Assistant Ranking Member  
Capital Budget, Ways and Means Committee  
224 A John A. Cherberg Building  
Post Office Box 40433  
Olympia, WA 98504-0433

Representative Richard DeBolt  
Ranking Minority Member  
Capital Budget Committee  
425 A Legislative Building  
Post Office Box 40600  
Olympia, WA 98504-0600

Dear Legislators:

Last year in the Capital Budget (ESSB 5035, section 3161 (2)), the legislature directed the Recreation and Conservation Office (RCO) to re-evaluate the level of local support for the 2012 Okanogan-Similkameen project. You asked me as part of this evaluation to consult with the county commissioners and report back to you. Before any of the appropriation for this project can be disbursed, the proviso requires the legislature to allow the project to move forward.

Before detailing my efforts to ascertain the level of local support, here's a description of the Okanogan-Similkameen project. This project came to the RCO as an application for a critical habitat grant under the Washington Wildlife and Recreation Program.

Grant number	RCO #12-1127
Applicant	Department of Fish and Wildlife (WDFW)
Project goals	To protect shrub - steppe, riparian and dry forest habitats, and to benefit 60 priority species
Grant amount	\$3.1 million



In 2013, specific willing landowners that would be part of this project had not yet been identified. Since then, WDFW has identified two parcels with willing landowners and decided to only use the funds to purchase conservation easements instead of acquiring the land in fee simple ownership. Using the conservation easement tool will preclude the subdivision or development of the properties to protect critical wildlife habitat, while keeping the land in private ownership with continued grazing and farming allowed to occur. These two willing landowners have signed “letters of intent” evidencing a willingness to sell conservation easements to WDFW.

Here are some facts about the properties, which are shown on the attached map:

- **Ellis-Barnes** – The Ellis-Barnes Livestock Company is the first and oldest cattle ranching operation in Okanogan County. They have previously entered into a conservation easement for a portion of their ranch and this new funding would protect an additional 3,000 acres. The property is located west of Oroville, along the Similkameen River. The landowner would retain ownership of the land, WDFW would hold the conservation easement, and the Okanogan Land Trust would assist WDFW with monitoring compliance with the terms of the easement.
- **Dieterich** – The Dieterich property is 477 acres of agricultural land on Blue Lake, west of Oroville. It is adjacent to the Ellis-Barnes Ranch. The Dieterich property is owned by five siblings who inherited the property and are seeking to preserve the agricultural and habitat values while also resolving estate planning issues. The conservation easement will keep the property in private ownership by those family members who seek to continue farming. The property would continue to provide habitat continuity between state lands and other privately-owned agricultural land and would protect habitat and scenic values on Blue Lake. The landowners would continue to own the land, WDFW would hold the conservation easement, and the Okanogan land trust would assist WDFW with monitoring compliance with the terms of the easement.

I initiated my re-evaluation of this project in early fall of 2013 by calling the chair of the Board of Okanogan County Commissioners to get time on their official December 3, 2013, agenda. I then began calling and/or meeting with a variety of groups and individuals. I spoke with several organizations in Okanogan County: the local farm bureau; the state farm bureau; the state cattlemen’s association; the president of the state cattlemen’s association (who is an Okanogan county resident); and several land trusts that operate in Okanogan County (Okanogan Land Trust, Methow Land Conservancy, and the Trust for Public Land). I spent several hours in public session with the County Commissioners hearing their concerns and the concerns of others who asked to testify. I also subsequently had phone and email conversations with citizens interested in this project or with the concept of conservation easements in general. And finally, I have received many written letters and emails from citizens in Okanogan County, from organized groups, and from elected officials, all of which are attached to this report.

Without a statistically valid poll of some sort, it is impossible to ascertain how the entirety of Okanogan County's citizens feels about this particular project. It is clear that the County Commissioners have taken a position in opposition to this project (see attached letter). In addition, the local Farm Bureau has taken a position in opposition to this project, not because of opposition to conservation easements, but due to the use of public funds for this purpose (see attached e-mail). I have also received a few emails from local citizens in opposition to this particular project.

Conversely, I have also found a diverse set of groups and individuals who support this project. The state Cattlemen's Association feels strongly that the use of conservation easements to conserve working ranches is a good tool, as do many of those who currently own ranches in Okanogan County. This is the same position taken by all three of the Land Trusts who operate in Okanogan County and their members.

It is also clear from my conversations that property rights are a very strongly-held personal right and that how individuals make decisions about those rights should remain a personal decision. As with all projects within the Washington Wildlife and Recreation Program, the decision of a landowner to sell property, including a conservation easement, is a voluntary decision.

I have included a link with all the correspondence (letters and emails) that I received in the course of this re-evaluation of the Okanogan-Similkameen project.

<https://secure.rco.wa.gov/prism/search/projectsnapshotattachmentdata.aspx?id=178943>

Thank you for the opportunity to provide the legislature with feedback on this important project. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kaleen Cottingham".

Kaleen Cottingham  
Director

cc: Capital Budget Staff

Recreation and Conservation Funding Board  
Resolution #2014-08  
April 2014 Consent Calendar

**BE IT RESOLVED**, that the following April 2014 Consent Calendar items are approved:

- A. Approve Board Meeting Minutes – January 9, 2014
- B. Approve Time Extension Requests:
  - Washington Department of Fish and Wildlife, Project #08-1512A, Lynch Cove Estuary
  - Washington Department of Fish and Wildlife, Project #08-1610R, Pogue Mountain Pre-Commercial Thin
- C. Definition for Maintenance and Development Projects in the Recreational Trails Program

Resolution moved by: \_\_\_\_\_

Resolution seconded by: \_\_\_\_\_

Adopted/Defeated/Deferred (underline one)

Date: \_\_\_\_\_

## Recreation and Conservation Funding Board Summarized Meeting Agenda and Actions January 2014

### Agenda Items without Formal Action

Item	Board Request for Follow-up
2. Director's Report	Director Cottingham will include an update on the Public Lands Inventory in her monthly report; this will also be included as an agenda item for the April meeting. Director Cottingham will also send the board a link to the Public Lands Inventory Status Report following the meeting. Betsy Bloomfield asked about requiring public access to farmland preservation projects. Staff will follow up.
9. Washington Wildlife Recreation coalition recommendations for changes to WWRP	No follow up action requested.
10. Policy Priorities for 2014	Staff will reword the policy priority related to the acquisition of water rights, as suggested. They will also prioritize the conversion acquisition policy at a high level within the third priority tier.
11. Overview of Proposed WAC changes	Staff will prepare for the WAC public hearing, with an emphasis on what would constitute a minor versus substantive change to the suggested language.
12. Accessibility Regulations on Playgrounds	No follow up action requested.
13. Boating App Demo, Outreach and Launch Strategy	No follow up action requested.

### Agenda Items with Formal Action

Item	Formal Action	Board Request for Follow-up
1. Consent Calendar	APPROVED Board Meeting Minutes – November 7, 2013 APPROVED Time Extension Requests APPROVED Resolution 2014-01	No follow up action requested.
3. Cost Increase: Klickitat County law enforcement/public shooting range	APPROVED Resolution 2014-02	No follow up action requested.
4. Approve Washington State Trails Plan	APPROVED Resolution 2014-03	No follow up action requested.
5. Approve Nonhighway and Off-Road Vehicle Activities Plan	APPROVED Resolution 2014-04	No follow up action requested.
6. Approve changes to the Firearms and Archery Range Recreation program	APPROVED Resolution 2014-05	Staff will contact the Attorney General's office for guidance related to general board liability when funding firearm ranges. Limits of liability documentation will be provided to board members.
7. Approve Changes to the Grant programs	APPROVED Resolution 2014-06	Staff will further review memo 7 Attachment B, which includes public



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and Criteria for 2014		comments outside of the scope of the proposed changes.
8. Approve Changes to the Washington Wildlife and Recreation Program State Parks Category Evaluation Process and Criteria	APPROVED Resolution 2014-07	No follow up action requested.

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# Recreation and Conservation Funding Board Summarized Meeting Agenda and Actions January 2014

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## Recreation and Conservation Funding Board Summary Minutes

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Date: January 9, 2013

Place: Olympia, WA

### Recreation and Conservation Funding Board members present:

<b>Harriet Spanel</b>	Chair	<b>Jed Herman</b>	Designee, Department of Natural Resources
<b>Betsy Bloomfield</b>	Yakima	<b>Don Hoch</b>	Director, State Parks
<b>Mike Deller</b>	Mukilteo	<b>Joe Stohr</b>	Designee, Department of Fish and Wildlife
<b>Pete Mayer</b>	Snohomish		
<b>Ted Willhite</b>	Twisp		

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

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### Call to Order

Chair Spanel called the meeting to order at 9:06 a.m. Staff called roll, and a quorum was determined. New member Mike Deller introduced himself, followed by the remainder of the Recreation and Conservation Funding Board (board). Recreation and Conservation Office (RCO) staff and citizen attendees introduced themselves as well.

### Item 1: Consent Calendar

The board reviewed Resolution #2014-01, Consent Calendar. This resolution included time extensions for the Spruce Railroad Trail Tunnel Restoration Project and Okanogan Similkameen Phase 2 Project. Additionally, the board recognized all of the advisory committee members whose terms are over.

**Resolution 2014-01 moved by: Betsy Bloomfield and seconded by: Pete Mayer**  
**Resolution APPROVED**

### Item 2: Director's Report

**Director's Report:** Director Cottingham noted that the duplicate memos were removed from the board materials that were posted online. She introduced new staff at the RCO, including Cindy Gower, Jen Masterson, and Kyle Guzlas. The Director announced the redesign of the RCO logo to celebrate the agency's 50-year anniversary. She summarized a major update that was pushed out to the PRISM grant management system, including a new compliance workbench. The Director also updated the board on the Agency's revised strategic plan.

**Policy Update:** Nona Snell, Policy Director, reported that the legislative session is scheduled from January 13, 2014 through March 13, 2014. She and the Director have meetings scheduled with several legislators and have met with new legislative budget staff.

Ms. Snell reported that, in the Governor's supplemental budget, the RCO received \$200,000 to staff the Governor's Outdoor Recreation Task Force. The task force will, if included in the final budget, develop a

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sustainable funding strategy for State Parks and other state outdoor recreation lands and will develop strategies to encourage higher participation in outdoor recreation and advance environmental education.

The Governor's supplemental capital budget includes \$2 million in general obligation bonds for the Boating Facilities Program. If this appropriation remains in the final budget adopted by the Legislature, RCO will be able to fund projects that applied in 2012 (half to local and half to state projects). These funds partially backfill the \$3.3 million that was appropriated from this account for other uses in 2012.

In response to a question from Member Mayer, Ms. Snell shared that the Public Lands Inventory Status Report was submitted by the deadline of January 1, 2014 and posted to the RCO website. RCO finalized contracts with GeoEngineers and the University of Washington for work on the inventory. The board requested updates to the public lands inventory in Director Cottingham's monthly reports and as a topic for the next board meeting.

Ms. Snell reported that the Habitat and Recreation Lands Coordinating Group will release its 2013 monitoring report in a couple of weeks. This report includes the status of projects that received funding in 2009-2011.

Ms. Snell also summarized work on the Farmland Preservation Program, which was a 2013 Policy Priority. Phase I (in 2013) looked at the WWRP farmland preservation program: whether the projects that were funded actually met the goals of the program and what changes should be made to the program if goals were not met. Phase II (planned for 2014) will review the project selection criteria and identify potential changes. RCO met with both stakeholders and the farmland preservation program advisory committee a couple of times in 2013 to get their input. Stakeholders were generally satisfied with the projects funded through the program. In regard to the Phase I work completed in 2013, it was suggested improvements be made to the application and project selection process. These suggestions will be looked at in 2014 with changes planned for the 2016 grant cycle.

Member Bloomfield suggested that public access to farmland preservation program grant sites be evaluated as an added criterion. Staff will look into this concept over the next year.

**Grant Management Report:** Marguerite Austin, RCO Section Manager, responded to a question from Member Mayer related to the high number of director-approved projects. The board delegated authority to the Director to fund projects for the 2013-2015 biennium due to delays in legislative budgeting in 2013. Although RCO awarded 250 grants to date, there are 36 projects where contracts are not yet signed. Action on those contracts is expected shortly. Ms. Austin also reported that some territories have been reassigned to new grant managers. The application webinar is scheduled for January 29, 2014 to officially start the new grant application round.

**Building Security:** Scott Robinson, RCO Deputy Director, provided the emergency exit strategy and summarized security changes in the Natural Resources Building. These changes included tightening security in the Natural Resource Building with additional card readers, locking down four floors and constructing a hard wall in the RCO offices.

**Fiscal Report:** This report is available for review in the meeting materials; Director Cottingham is available to answer any related questions.

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**Performance Report:** Director Cottingham noted that the performance report was not included in the meeting materials. With the addition of new staff, this report will undergo review and potential layout changes before the next board next meeting.

### Presentation of Recently Completed Projects

Dan Haws and Kyle Guzlas, RCO grant managers, provided slide presentations for two recently completed projects:

- Newport City Spray Park (10-1236)
- Loop Trail Rehabilitation at Liberty Lake Park (10-1265)

#### Newport City Spray Park

Mr. Haws provided an overview of the Newport City Spray Park. Member Deller asked the population of Newport. Mr. Haws reported that it is a small town with around 2,100 people.

Member Willhite asked a question on the operating and maintenance costs of a spray park. Mr. Haws responded that the Newport City Spray Park uses around 35,000 gallons of non-recyclable water a day on hot days. As Newport is in a cold area, the spray park is only used seasonally. Water use estimates were noted during project application and design and possible alternatives were investigated and rejected. Member Willhite asked Mr. Haws about the public's use of the spray park compared to pools nearby. Mr. Haws reported that the closest public pool is an hour away and that the spray park has seen high public use.

Member Willhite asked if this kind of project would be approved under the board's current sustainability plan. Director Cottingham clarified that, although sustainability is encouraged, there is not a requirement for sustainability in grant applications.

In a board discussion of the merits of spray parks versus swimming pools, Member Mayer shared that spray parks do not require operational costs for lifeguards. He also said that the upkeep (such as winterizing) of recirculating spray park systems is more expensive than non-recycled spray park systems, in addition to higher installation costs.

Member Bloomfield asked if there were any new concessions related to the opening of this spray park. Mr. Haws shared that there were increased community events in the area during this past summer.

#### Loop Trail Rehabilitation at Liberty Lake Park

Mr. Guzlas provided an overview of a completed project at Liberty Lake Regional Park, one of the largest county parks in Washington State with more than seven miles of trails. It was acquired with RCO funding in 1966 with state bond and Land and Water Conservation Funding. This regional park provides a unique, non-motorized wilderness backcountry experience to over 600,000 regional residents.

This project consisted of 5 main components: a half mile trail re-route, wetland enhancement occurring on a closed section of trail, bedrock blasting in the upper switchbacks of the loop trail, new bridge construction over Liberty Creek, and sign and interpretive display design and construction. The project was conducted by Washington Trails Association and Backcountry Horsemen volunteers and county staff. Volunteer time for this project exceeded 1,000 hours.

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This project has improved the recreational opportunity for hikers, mountain bikers, and equestrian users alike. It has also improved the ecological function of Liberty Lake and its associated wetlands. Spokane County Parks and Recreation deserves great praise for another successful project. Total project cost was \$68,962 with approximately 54% funded by the board (\$36,860).

Member Willhite asked for clarification related to the limited number of counties who applied for trail program grants. Mr. Guzlas responded that not many counties qualify for the Recreational Trails Program, as this grant category supports projects that provide a backcountry experience. This means that the trail's physical setting, not its distance from a city or road, should be predominately natural. Very few counties have parks or land ownerships that are large enough to qualify for this grant category.

### State Agency Partner Reports

**State Parks:** Member Don Hoch related that the Washington State Parks and Recreation Commission is meeting in Olympia in this month. He anticipates policy related to advertising, both printed materials and on the Web page. Member Hoch also shared that an updated State Parks Web page is pending. This is the third year in a row that State Parks is in a new legislative committee. Member Deller asked if the Deputy Director position will be filled. Member Hoch related that State Parks has no current plans to fill the position at this time.

**Department of Natural Resources:** Member Herman believes that we will see increased interest in both Discovery Pass revenue and the development of shooting areas in the upcoming legislative session. Director Cottingham asked a question related to the ALEA account and the status of the Chinese restriction of geoduck imports. Member Herman related that ALEA grant funding was based on a forecast of the volume and price of geoduck sales and the Chinese hold a significant portion of this market. DNR and the board will continue to closely monitor this situation.

**Department of Fish and Wildlife (WDFW):** Member Joe Stohr related that WDFW is getting ready to place their land acquisition proposals on their Web site. Partnership with the DNR on the Teanaway project is continuing strong; a public workshop is scheduled for this week.

### Board Business: Decisions

#### Item 3. Cost Increase: Klickitat County Law Enforcement/Public Shooting Range (Firearms and Archery Range Recreation Program)

Marguerite Austin, RCFB Section Manager, presented the information described in the staff memo and provided additional information about the request to delegate authority to the Director to consider a cost increase for Klickitat County. The county wants to build a 100-yard rifle range, 20-yard pistol range, required safety berms and baffles, and associated parking. Future plans include construction of archery facilities, skeet and trap fields, and a law enforcement training area.

Chair Spanel asked if it was standard procedure for the Legislature to remove money from a board account. Ms. Austin responded that the Legislature has the authority to add and remove funds.

Member Deller asked if there was an estimated total cost for construction. Ms. Austin responded that Klickitat County is waiting to find out how much money they will have to work with before they finalize the scope of work with detailed cost estimates. According to Ms. Austin, currently the county can ask for

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up to \$100,000; however, staff will present a proposal (later on the agenda) that would raise the upper limit to \$150,000.

Member Mayer asked whether Phase I would include any features for law enforcement. Ms. Austin responded that, although there will be some unique features in future phases for law enforcement, law enforcement would also be able to use the shooting ranges completed as part of Phase I.

Member Willhite asked a question about the safety review process. He questioned whether delegation of authority to Director Cottingham would alter the safety review process. Ms. Austin clarified that delegation of authority would place this proposal before the FARR (Firearms and Archery Range Recreation) committee for further review.

Member Herman asked for clarification of what project funds could be used for. Ms. Austin responded that funds for this project can be used for design, permitting, and cultural resources. She further clarified that the cultural resources assessment for the berms is complete, but additional cultural resource assessments are necessary for the range and surrounding areas.

**Resolution 2014-02 moved by: Mike Deller and seconded by: Don Hoch**  
**Resolution APPROVED**

### **Item 4. Approve Washington State Trails Plan**

Sarah Gage, Policy and Special Projects Manager, shared an overview of the nature of the Trails plan and final changes to the plan.

#### Public Comment:

*Steven Davies, member of the public*, provided comment. Mr. Davies' concern was the meaning of "sustainability." He questioned the definition of this word, as it can be interpreted quite broadly and arbitrarily. Director Cottingham responded that this board has adopted an encouraging approach to sustainability which is neither prohibitive nor regulatory. Mr. Davies was concerned that sustainability would be used to assign points to projects based on sustainability.

*Ted Jackson, member of the public representing the Sky Valley Recreation Group*, asked that the interests of off-highway vehicle groups be included in future surveys, as there may be more interest and revenue from these groups in the future due to changes in licensing and access.

Member Mayer noted that recommendations are listed as state-wide priorities and asked the board if these recommendations align with member agency priorities. Members Herman and Stohr responded that the trails plan would likely be used as a backdrop for agency priorities. Member Hoch stated that he has appointed a new trails coordinator.

**Resolution 2014-03 moved by: Ted Willhite and seconded by: Pete Mayer**  
**Resolution APPROVED**

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### Board Business: Decisions

#### Item 5. Approve Nonhighway and Off-Road Vehicle Activities Plan

Sarah Gage, Policy and Special Projects Manager, presented the information as described in the staff memo and provided additional description of final changes to the NOVA (Nonhighway and Off-Road Vehicle Activities) plan. Ms. Gage asked for board comment and to adopt the plan.

#### Public Comment:

*Ted Jackson, member of the public representing the Sky Valley Recreation Group*, commended the board and staff for their work on the plan. Mr. Jackson suggested that the education and enforcement category be incorporated into budgets in a way that would protect funds from budget shortfalls. Director Cottingham noted that such a modification would require a change in statute.

**Resolution 2014-04 moved by: Jed Herman and seconded by: Mike Deller**  
**Resolution APPROVED**

#### Item 6. Approve Changes to the Firearms and Archery Range Recreation Program

Leslie Connelly, Policy Specialist, presented the information as described in the staff memo and asked for board comment and to adopt the final changes to the FARR (Firearms and Archery Range Recreation) criteria.

Member Hoch requested clarification on the requirement for a “qualified professional” to design proposed shooting ranges, as described in the FARR criteria. Ms. Connelly responded that this issue was discussed at length during development of the draft proposal. Although the initial proposal was to use experts from the National Rifle Association (NRA), Ms. Connelly shared that public comment indicated NRA resources may have availability limitations. She further commented that the current language proposed for board adoption is the same as that being used by King County and other local jurisdictions. In response to a question from Member Mayer on who will deem a professional as “qualified,” Ms. Connelly responded that the responsibility will be with the project sponsor to determine who is a qualified professional to aid in the design of FARR facilities. Selection of the qualified professional will also be reviewed during the grant process.

Member Deller asked if legal counsel has reviewed the potential for board liability if something goes wrong at a facility. Ms. Connelly responded that each facility is required to have liability insurance that lists the board members and the agency as additionally insured. Director Cottingham clarified that recently there was a review of liability for the Salmon Recovery Funding Board related to the funding of wood structures in streams. Member Deller requested to see the limits of liability.

Member Mayer asked if it was the intent of staff to use the language “public hearing” for government applicants instead of “public meeting” in the FARR requirements. Ms. Connelly responded in the affirmative.

**Resolution 2014-05 moved by: Pete Mayer and seconded by: Ted Willhite**  
**Resolution APPROVED**

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### Item 7. Approve Changes to the Grant Programs and Criteria for 2014

Leslie Connelly, Policy Specialist, presented the information as described in the staff memo and asked for board comment and to adopt the final changes to the criteria proposed for multiple grant programs.

Member Mayer recommended that general comments received as shown in Attachment B of the memo be considered by staff when they develop proposed changes in the future.

**Resolution 2014-06 moved by: Mike Deller and seconded by: Ted Willhite**  
**Resolution APPROVED**

### Item 8. Approve Changes to the Washington Wildlife and Recreation Program State Parks Category Evaluation Process and Criteria

Marguerite Austin, RCFB Section Manager, reviewed the changes to the WWRP state parks category evaluation process and criteria and asked board members to adopt the final proposal.

#### Public Comment:

*Tom Bugert, Washington Wildlife and Recreation Coalition (WWRC), noted that WWRC received feedback on how grants are evaluated and ranked. Mr. Bugert felt this proposed process was an excellent way to improve transparency by evaluating all categories in a similar way.*

Member Willhite commended RCO staff for a wonderful job closing the loop and finalizing the criteria. He asked for clarification regarding the criteria for documenting a willing seller and whether documentation will help transparency with local commissioners. Ms. Austin responded that she believes this process will be helpful in that State Parks will have additional information when meeting with county commissioners and evaluators will know when a project already has momentum behind it.

**Resolution 2014-07 moved by: Pete Mayer and seconded by: Ted Willhite**  
**Resolution APPROVED**

Chair Spanel recessed for lunch from 12:20 until 1:04 p.m.

### Board Business: Briefings

### Item 10. Policy Priorities for 2014

*(Please note this item was delivered out of order at the meeting due to participant availability.)*

Nona Snell, Policy Director, presented the recommended policy priority list for 2014. The list was presented in three tiers. She related that priorities are not specific to one board or council; they are priorities for the RCO as a whole, including the RCFB and SRFB. Director Cottingham indicated that some Tier II priorities include activities to prepare for the 2016 grant round. The three tiers include tasks that are required by law or board direction, high priority work that is timely and that there is staff time to work on, and other items that will be worked on if time allows.



## Recreation and Conservation Funding Board Summarized Meeting Agenda and Actions January 2014

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Member Willhite commended Ms. Snell and asked if consideration and comments from the Legislature were taken into account when determining policy priorities. Ms. Snell responded that she considers legislators as a stakeholder in the process and that their comments were very much taken into consideration.

Member Mayer asked for more information on the stakeholders the Salmon Recovery Funding Board (SRFB) is working with to address riparian issues. Director Cottingham shared that the National Oceanographic and Atmospheric Administration (NOAA) and the SRFB are working closely together and that RCFB policies and interests are being considered in the decision-making process.

Member Bloomfield suggested that the "Washington Water Trust" wording should be altered to be more inclusive ("in trust" instead of "Washington Water Trust".)

Member Hoch suggested that the conversion acquisition policy should be prioritized at a higher level within the third tier.

### **Item 9. Washington Wildlife Recreation Coalition Recommendations for Changes to Washington Wildlife and Recreation Program**

*(Please note this item was delivered out of order at the meeting due to participant availability.)*

Washington Wildlife and Recreation Coalition Treasurer Joe Mentor submitted some actions for the board to consider, both in policy and in administration, to improve the Washington Wildlife and Recreation Program (WWRP). Tom Bugert summarized these actions, which included state parks project evaluation changes, increased frequency of inspections for funded WWRP projects, improved transparency of the ranked project lists, and the continued review of the farmland grant category.

Member Deller asked a question about the capability of the RCFB to monitor projects and the options for enforcement. Director Cottingham noted that the RCO has an inspections program and grants out of compliance are sometimes subject to being considered a conversion.

Member Bloomfield suggested that WWRC train volunteers who could potentially help to inspect RCFB funded projects. Director Cottingham clarified that the new compliance workbench may assist in streamlining the inspection process, but that there might be some initial work that could be completed by volunteer groups in the future.

Director Cottingham noted that any future guidance on the inclusion of Land Trusts in more WWRP categories would require statutory change.

Member Mayer asked a question about whether elected officials are made aware of projects in their districts. Director Cottingham clarified that a proponent of a WWRP acquisition project must contact the local county commissioners or other local officials before submitting a grant application.

### **Item 11. Overview of Proposed Washington Administrative Code Changes**

Leslie Connelly, Policy Specialist, presented a two-phased strategy for updating the agency's Washington Administrative Code (WAC) rules over the course of the next year and explained the role of the board in this process.

Ms. Connelly advised the board that Phase 1 of WAC changes is scheduled for the next several months; it will be voted on at the April board meeting and will become effective 30 days after. Ms. Connelly noted that Phase 2 will kick off around the July meeting. The plan is to tee up topics and do filings with the Code Reviser's Office so that the April 16 board meeting would be the public meeting. Ms. Connelly confirmed that the RCO has filed a preliminary notice of intent to make changes to the WAC. The public hearing for Phase II would be held during the October 2014 board meeting.

Members Willhite and Bloomfield were excused from the meeting at 2:00 p.m.

### **Item 12. Accessibility Regulations on Playgrounds**

Rory Calhoun, Outdoor Grants Manager, gave an overview of the new Americans with Disabilities (ADA) requirements for playgrounds and presented examples of board funded playground projects that are ADA compliant.

Director Cottingham stated that Mr. Calhoun is an incredible resource for RCO. Member Mayer stated he has worked with Mr. Calhoun on several projects and was aware of an entity's obligation to maintain guidelines and certify regular inspections for playgrounds.

Mr. Calhoun stated that some RCO staff have completed the playground safety course to increase their knowledge of playgrounds, but didn't actually take the test to become certified as playground inspectors. When RCO staff inspect projects for compliance with the grant agreement, they didn't want to be seen as certified playground inspectors.

Chair Spanel asked a question about the frequency of maintenance for playground surfacing. Mr. Calhoun advised the board that some surfaces are maintained daily, particularly if they have engineered wood fiber surfacing. Those with rubber surfaces generally are not in need of daily maintenance or inspections for wear and tear, except where high daily use is common. Mr. Calhoun stated that if a sponsor pays more money upfront for better accessible surfacing they won't have to maintain it as much or as often as is common with engineered wood products.

### **Item 13. Boating App Demonstration and Launch Strategy**

Sarah Gage, Policy and Special Projects Manager, and Scot McQueen of GeoEngineers gave the board an overview of the Washington Water Cruiser, a mobile app under development to help boaters find boating facilities and amenities. The RCO received a grant from the US Fish and Wildlife Service Boating Infrastructure Grant (BIG) program to accomplish this work. The app will take advantage of crowdsourcing to keep the data relevant and updated. This app will be presented publically at the January Boat Show in Seattle, and it will be launched in time for the opening day of the boating season in May.

Member Hoch asked who will monitor and maintain this site into the future. Director Cottingham responded that RCO has cooperative agreements with data providers and does not pay for the data the app incorporates. Future funding may have to be discussed, but currently RCO is covering attendant costs with

## Recreation and Conservation Funding Board Summarized Meeting Agenda and Actions January 2014

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the existing grant and with RCO's administrative funds from the Boating Facilities Program. Member Mayer asked if there is an opportunity to add water trails information to the app. Mr. McQueen advised that it would definitely be possible to include the Washington water trails in future. Director Cottingham added that RCO is currently working with the Department of Fish and Wildlife (WDFW) on a data sharing agreement to incorporate WDFW's boat ramp data into the app.

The meeting was adjourned at 3:03 p.m. by Chairwoman Spanel.

Approved by:

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Harriet Spanel, Chair

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Date

## Recreation and Conservation Funding Board Summarized Meeting Agenda and Actions January 2014

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Recreation and Conservation Funding Board  
Resolution #2014-08  
April 2014 Consent Calendar

**BE IT RESOLVED**, that the following April 2014 Consent Calendar items are approved:

- A. Board Meeting Minutes – January 9, 2014
- B. Time Extension Requests:

Resolution moved by: \_\_\_\_\_  
Resolution seconded by: \_\_\_\_\_  
Adopted \_\_\_\_\_  
Date: \_\_\_\_\_

Recreation and Conservation Funding Board  
Resolution #2014-01  
January 2014 Consent Calendar

**BE IT RESOLVED**, that the following January 2014 Consent Calendar items are approved:

- A. Board Meeting Minutes – November 2013
- B. Time Extension Requests
  - Clallam County (08-1075) Spruce Railroad Trail Tunnel Restoration Project.
  - Department of Fish and Wildlife's (08-1502) Okanogan Similkameen Phase 2
- C. Advisory Committee Recognition

Resolution moved by: Betsy Bloomfield

Resolution seconded by: Pete Mayer

Adopted/Defeated/Deferred (underline one)

Date: 1/9/14

Recreation and Conservation Funding Board  
Resolution 2013-02  
Delegation of Authority to the Director to Approve a Cost Increase for  
Klickitat County Public Shooting Range

**WHEREAS**, the Washington State Legislature awarded \$35,000 to Klickitat County (County) for development of a shooting range; and

**WHEREAS**, the County needs additional funds to develop a viable public shooting facility; and

**WHEREAS**, funds are available in the Firearms and Archery Range Recreation Program Account; and

**WHEREAS**, consideration of a cost increase supports the board's strategy to provide funding to protect, preserve, restore, and enhance recreation opportunities statewide; and

**WHEREAS**, the Firearms and Archery Range Recreation Advisory Committee will review the project to ensure consistency with the objectives of the Firearms and Archery Range Recreation Program; and

**WHEREAS**, this assessment by the committee promotes the board's objectives to conduct its work with integrity and in an open manner; and

**WHEREAS**, delegating authority to the director to approve a cost increase for the project and expedite implementation supports the board's goal to operate efficiently;

**NOW, THEREFORE BE IT RESOLVED**, that the director is authorized to approve a cost increase for the Klickitat County Shooting Range up to the maximum amount allowed for Firearms and Archery Range Recreation projects, subject to review by the FARR Advisory Committee.

Resolution moved by: Mike Deller

Resolution seconded by: Don Hoch

Adopted/Defeated/Deferred (underline one)

Date: 1/9/14

Recreation and Conservation Funding Board  
Resolution 2014-03  
Approval of the 2013–2018 Washington State Trails Plan

**WHEREAS**, Washington State law (RCW 79A.35.040) requires that the Recreation and Conservation Office (RCO) prepare a state trails plan and

**WHEREAS**, the National Park Service (NPS) provides federal Land and Water Conservation Fund (LWCF) grant-in-aid assistance to the states to preserve and develop outdoor recreation resources; and

**WHEREAS**, to be eligible for the LWCF funds, Washington State must submit a State Comprehensive Outdoor Recreation Plan (SCORP), and update that plan at least every five years; and

**WHEREAS**, the Washington State SCORP has been updated and approved by the NPS in 2013; and

**WHEREAS**, the Recreation and Conservation Office (RCO) has worked with a consultant to produce the 2013–2018 Washington State Trails Plan that assesses progress made since the previous (1991) plan, reviews current research on trail opportunities, identifies key issues and opportunities for meeting public demand for trails over the next five years, and aligns planning for trails with the overall goals of the SCORP; and

**WHEREAS**, the development of this 2013–2018 Washington State Trails Plan involved ample public participation including a scientifically and statistically valid survey of residents, an Internet blog through which residents reviewed documents and provided comments, and a public advisory committee; and

**WHEREAS**, approving this plan meets the Recreation and Conservation Funding Board (board) objectives to (1) provide leadership to help our partners strategically invest in the protection, restoration, and development of habitat and recreation opportunities and (2) ensure funded projects and programs are managed in conformance with existing legal authorities;

**NOW, THEREFORE BE IT RESOLVED**, that the board hereby approves the 2013–2018 Washington State Trails Plan as presented.

Resolution moved by: Ted Willhite

Resolution seconded by: Pete Mayer

Adopted/Defeated/Deferred (underline one)

Date: 1/9/14

Recreation and Conservation Funding Board  
Resolution 2014-04  
Approval of the 2013–2018 Nonhighway and Off-road Vehicle Activities  
(NOVA) Plan

**WHEREAS**, Washington State law (RCW 46.09.370) requires that the Recreation and Conservation Funding Board (board) maintain a statewide Nonhighway and Off-Road Vehicle Activities (NOVA) Plan; and

**WHEREAS**, the plan shall be updated at least once every third biennium and the previous plan was adopted in 2005; and

**WHEREAS**, the Recreation and Conservation Office (RCO) has worked with a consultant to produce the 2013–2018 Washington State Nonhighway and Off-Road Vehicle Activities (NOVA) Plan to assess policy issues identified in the 2005 NOVA Plan and identify emerging issues, to evaluate NOVA demand, and to develop priorities and recommendations for implementing the program; and

**WHEREAS**, the development of this Washington State Nonhighway and Off-Road Vehicle Activities (NOVA) Plan involved ample public participation including a scientifically and statistically valid survey of residents from the State Comprehensive Outdoor Recreation Plan (SCORP) related to NOVA recreation (39 activities from 13 activity categories), an Internet blog through which residents reviewed documents and provided comments, and a public advisory committee; and

**WHEREAS**, approving this plan meets the Recreation and Conservation Funding Board (board) objectives to (1) provide leadership to help our partners strategically invest in the protection, restoration, and development of habitat and recreation opportunities and (2) ensure funded projects and programs are managed in conformance with existing legal authorities;

**NOW, THEREFORE BE IT RESOLVED**, that the board hereby approves the Washington State Nonhighway and Off-Road Vehicle Activities (NOVA) Plan as presented.

Resolution moved by:

Jed Herman

Resolution seconded by:

Mike Deller

Adopted/Defeated/Deferred (underline one)

Date:

1/1/14



Recreation and Conservation Funding Board  
Resolution 2014-05

Approving Policy Changes to the Firearms and  
Archery Range Recreation Program

**WHEREAS**, pursuant to state law (RCW 79A.25.210), the Recreation and Conservation Funding Board (board) administers and approves policies that govern the Firearms and Archery Range Recreation program; and

**WHEREAS**, the evaluation criteria and policies in the Firearms and Archery Range Recreation program were last updated in December 2002, and since then staff has identified clarifications, revisions and new issues that warrant an update to the criteria and policies; and

**WHEREAS**, the board reviewed draft changes in November 2013 at an open public meeting and instructed staff to release the draft changes for public review and comment; and

**WHEREAS**, based upon the public comment received, staff adjusted the evaluation criteria and policies as appropriate and recommends the board approve the changes as presented in Attachment B;

**WHEREAS**, the changes reflect the opportunity to make a number of policy improvements that support the board's goals to achieve a high level of accountability in managing the resources and responsibilities entrusted to the board, and deliver successful projects by inviting competition and by using broad public participation and feedback, monitoring, assessment, and adaptive management;

**WHEREAS**, the changes are consistent with state law, the board's administrative rules, and the State Comprehensive Outdoor Recreation Plan (SCORP); and

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt the changes in the evaluation criteria and policy statements shown in Attachment B; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to incorporate these changes in the appropriate policy manual with language that reflect the policy intent; and

**BE IT FURTHER RESOLVED** that these policies shall be effective beginning with the 2014 grant cycle.

Resolution moved by:

Pete Mayer

Resolution seconded by:

Ted Willhite

Adopted/Defeated/Deferred (underline one)

Date: 7/9/14

Recreation and Conservation Funding Board  
Resolution 2014-06  
Approving Policy Changes to the Grant Programs and Criteria for 2014

**WHEREAS**, pursuant to state law (RCW 79A.25.210), the Recreation and Conservation Funding Board (board) administers and approves policies that govern the Firearms and Archery Range Recreation program; and

**WHEREAS**, the evaluation criteria and policies in the Firearms and Archery Range Recreation program were last updated in December 2002, and since then staff has identified clarifications, revisions and new issues that warrant an update to the criteria and policies; and

**WHEREAS**, the board reviewed draft changes in November 2013 at an open public meeting and instructed staff to release the draft changes for public review and comment; and

**WHEREAS**, based upon the public comment received, staff adjusted the evaluation criteria and policies as appropriate and recommends the board approve the changes as presented in Attachment B;

**WHEREAS**, the changes reflect the opportunity to make a number of policy improvements that support the board's goals to achieve a high level of accountability in managing the resources and responsibilities entrusted to the board, and deliver successful projects by inviting competition and by using broad public participation and feedback, monitoring, assessment, and adaptive management;

**WHEREAS**, the changes are consistent with state law, the board's administrative rules, and the State Comprehensive Outdoor Recreation Plan (SCORP); and

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt the changes in the evaluation criteria and policy statements shown in Attachment B; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to incorporate these changes in the appropriate policy manual with language that reflect the policy intent; and

**BE IT FURTHER RESOLVED** that these policies shall be effective beginning with the 2014 grant cycle.

Resolution moved by:

Mike Deller

Resolution seconded by:

Ted Willhite

Adopted/Defeated/Deferred (underline one)

Date:

1/9/14

Recreation and Conservation Funding Board

Resolution #2014-07

Modifying the Evaluation Process and Criteria for the State Parks  
Category of the Washington Wildlife and Recreation Program

**WHEREAS**, the Recreation and Conservation Funding Board (Board) approves policies that govern the Washington Wildlife and Recreation Program (WWRP); and

**WHEREAS**, the State Parks and Recreation Commission (Commission) wishes to modify the evaluation process and criteria for the State Parks category; and

**WHEREAS**, the modifications to the process are designed to help maintain the integrity of the evaluation process and to improve its transparency; and

**WHEREAS**, the changes to the proposed criteria are consistent with the State Comprehensive Outdoor Recreation Plan (SCORP) and priorities outlined in the Commission's Transformation Strategy; and

**WHEREAS**, the Board reviewed the proposed evaluation process and criteria changes in November 2013 at an open public meeting; and

**WHEREAS**, the proposed changes were published for public review and have been considered, thereby supporting the Board's goal to perform its work in an open manner;

**NOW, THEREFORE BE IT RESOLVED**, that the Board does hereby adopt the revised evaluation process and criteria for the Washington Wildlife and Recreation Program State Parks category as shown in Item 8, Attachments B and C of the January 2014 briefing materials; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to publish the changes in the appropriate policy manual and implement this revision beginning with the 2014 grant cycle.

Resolution moved by:

Pete Mayer

Resolution seconded by:

Ted Willhite

Adopted/Defeated/Deferred (underline one)

Date:

4/9/14

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Approve Time Extension Requests  
**Prepared By:** Recreation and Conservation Section Grant Managers

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

This is a request for the Recreation and Conservation Funding Board to consider the proposed project time extensions shown in Attachment A.

### Board Action Requested

This item will be a:

<input checked="" type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input type="checkbox"/>	Briefing

Resolution #: 2014-08 (As part of the Consent Calendar)

Purpose of Resolution: Approve the requested time extensions

## Background

Manual #7, *Funded Projects*, outlines the Recreation and Conservation Funding Board (board) adopted policy for progress on active funded projects. Key elements of this policy are that the sponsor must complete a funded project promptly and meet the project milestones outlined in the project agreement. The director has authority to extend an agreement for up to four years. Extensions beyond four years require board action.

The RCO received a request for a time extension for each of the projects listed in Attachment A. This document summarizes the circumstances for the requested extensions and the expected dates of project completion. Board action is required because the project sponsors are requesting an extension to continue the agreements beyond four years.

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;
- Current status of activities within the grant;
- 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.

### **Strategic Plan Link**

Consideration of these requests 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.

### **Summary of Public Comment**

The RCO received no public comment on the requests.

### **Staff Recommendation**

Staff recommends approval of the time extension requests for projects listed in Attachment A.

### **Attachments**

- A. Department of Fish and Wildlife Time Extension Requests for Board Approval

## Department of Fish and Wildlife Time Extension Requests for Board Approval

Project # and type	Project name	Grant program	Grant funds remaining	Current end date	Extension request	Reasons for Delay and Justification of Request
08-1610R	Pogue Mountain Pre-Commercial Thin	Washington Wildlife and Recreation Program, State Lands Restoration	Total Remaining: \$36,256  11% of \$328,800 grant.	June 30, 2014	6 Months  December 31, 2014	<p>This project is about 90 percent completed. Pre-commercial thinning has occurred throughout the project site, and the slash was piled and burned last fall.</p> <p>In November, the board approved a 6-month time extension to allow the Department of Fish and Wildlife (WDFW) to perform spring burning to promote regrowth on two aspen stands. Subsequently, WDFW determined that instead they needed 12 months to allow time for a second burn on the site to improve aspen regeneration.</p> <p>WDFW requests an additional 6-month extension to allow time to perform a second burning this fall to promote regrowth on two aspen stands. Fall burns to rejuvenate aspen have higher success rates, allowing for greater fuel loads and drying of fuels to meet burn goals and objectives. A dry, hot fire is needed to stimulate aspen regrowth.</p>
#08-1512A	Lynch Cove Estuary	Washington Wildlife and Recreation Program, Urban Wildlife Habitat	Total Remaining: \$630,695  49% of \$1,406,265 grant.	April 30, 2014	September 30, 2014	<p>This project is nearly complete. All acquisitions have been completed and Department of Fish and Wildlife (WDFW) is completing the final post-acquisition activities for one of the properties. The acquisition of this particular property was delayed because the sellers originally declined WDFW's offers. In 2012 the sellers re-approached WDFW and accepted the original offer. WDFW requires an additional 6 months to complete the tenant relocation on the newly acquired property. The Washington Department of Transportation is managing the relocation plan.</p>

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014

**Title:** Definitions for Maintenance and Development Projects in the Recreational Trails Program

**Prepared By:** Leslie Connelly, Natural Resource Policy Specialist

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

At the January 2014 meeting, the board adopted new definitions for maintenance and development projects in the Recreational Trails Program (RTP) and Nonhighway and Off-road Vehicles Activities (NOVA) program. The definitions for the two programs were very similar except for a difference in how existing trailside and trailhead facilities were defined. Staff recommend the board eliminate this difference by applying the definitions in the NOVA program to the RTP.

### Board Action Requested

This item will be a:

<input checked="" type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input type="checkbox"/>	Briefing

Resolution: 2014-08

Purpose of Resolution: Revises the definitions for RTP maintenance and development projects to align with those used for the NOVA program.

### Background

At the January 2014 meeting, the Recreation and Conservation Funding Board (board) adopted new definitions for maintenance and development projects in the Recreational Trails Program (RTP) and Nonhighway and Off-road Vehicles Activities (NOVA) program. The definitions adopted by resolution 2014-06 are detailed below.

#### **RTP, Manual 16, Eligible Project Types**

*Maintenance projects* - Maintenance and restoration of existing trails may be interpreted broadly to include any kind of trail maintenance, restoration, rehabilitation, or relocation.

*Development projects* - Development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails, may be interpreted broadly to include development or rehabilitation (not routine maintenance) of any trailside and trailhead facility. Trailside and trailhead facilities should have a direct relationship with a recreational trail; a highway rest area or visitor center is not an appropriate use of funds.

"Rehabilitation" means extensive repair needed to bring a facility up to standards suitable for public use.

### **NOVA, Manual 14, Eligible Project Types**

*Maintenance and operation projects* - Maintenance and operation of existing trails may be interpreted broadly to include any kind of trailside, trailhead or trail maintenance, operation, restoration, rehabilitation, or relocation. "Rehabilitation" means extensive repair needed to bring a facility up to standards suitable for public use. "Operation" means non-capital costs such as cleaning restrooms, garbage service, septic service, etc.

*Development projects* – Development of trailside and trailhead facilities, new trails, and trail linkages for recreational trails. Trailside and trailhead facilities should have a direct relationship with a recreational trail; a highway rest area or visitor center is not an appropriate use of funds.

For both programs, the goal is to define maintenance projects as any work on existing trails and trail facilities and development projects as any work on new trails or trail facilities and to apply consistent definitions in the RTP and NOVA program. The main differences between the two programs are that new trails and operating costs for trails and trail facilities are only allowed in NOVA. These changes are consistent with the federal program guidance for RTP and are supported by public comment, which focused on the need for definitions which better reflect how trail work is implemented in the field.

The slight difference between the definitions for the RTP and NOVA program is that work on existing trailside and trailhead facilities are considered development projects for the RTP program and maintenance projects for the NOVA program. This difference was a result of staff's initial review of the RTP requirements from the Federal Highway Administration. During this initial review, staff believed existing RTP trailside and trailhead facilities could only be defined as a development project.

After the board action in January 2014, staff began to prepare the RTP grant manual for publication with the new definitions for maintenance and development projects. At this point, it became clear that defining existing trailside and trailheads facilities as development projects rather than maintenance projects was unnecessary. Staff revisited the federal authorization for the RTP program called Moving Ahead for Progress in the 21st Century Act (MAP-21) and found it was within the state's authority to freely categorize the types of projects that are eligible for funding. The permissible uses of RTP funds identified in the MAP-21 Act are included in Attachment A. Therefore, staff felt it was important to bring this situation to the board's



attention and discuss whether to proceed with the current definitions or make a course correction before new grant applications are due this summer.

## Options for Consideration

Based on our revised analysis of the RTP permissible uses, staff identified two options for the board to consider:

- 1) Retain the definitions as adopted in January 2014.
- 2) Adjust the RTP definition to remove the rehabilitation of trailside and trailhead facilities from the development project category and move it to the maintenance project category.

### Option One – No Change

The board could choose to maintain the definitions adopted in January 2014 for the RTP. The definitions for the RTP and NOVA program would categorize work on existing trailside and trailhead facilities differently. This would potentially confuse applicants as they attempt to determine what type of project to apply for. It would also complicate the tracking of RTP and NOVA program matching grants and the standardized reporting of project outcomes.

### Option Two – Modify Definitions

The board could choose to modify the definitions for the RTP to make them more consistent with NOVA program. Revised definitions are included below, with underline and strike-through text to document the adjustments needed to bring the RTP and NOVA program definitions into alignment. This option would likely reduce applicant confusion.

Option two is also consistent with public comments received during the definition review process in January.

#### Modified Definitions in RTP

*Maintenance projects* - Maintenance and restoration of existing trails may be interpreted broadly to include any kind of trailside, trailhead, or trail maintenance, restoration, rehabilitation, or relocation. "Rehabilitation" means extensive repair needed to bring a facility up to standards suitable for public use.

*Development projects* - Development ~~and rehabilitation~~ of trailside and trailhead facilities and trail linkages for recreational trails, ~~may be interpreted broadly to include development or rehabilitation (not routine maintenance) of any trailside and trailhead facility.~~ Trailside and trailhead facilities should have a direct relationship with a recreational trail; a highway rest area or visitor center is not an appropriate use of funds.

## **Staff Recommendation**

Staff recommend the board adopt option two, to modify the RTP definitions for maintenance and development projects to better align with the definitions in the NOVA program.

## **Strategic Plan Link**

The proposed changes reflect the opportunity to make a number of policy improvements that support the board's goals to:

- Achieve a high level of accountability in managing the resources and responsibilities entrusted to the board, and
- Deliver successful projects by inviting competition and by using broad public participation and feedback, monitoring, assessment, and adaptive management.

The proposed changes are also supported in the Washington State Trails Plan (2013) to:

- Provide incentives, within existing resources, for grant applicants to submit trail data in consistent ways, and
- Support funding for maintenance of trails.

## **Next Steps**

Staff will implement the board's decision for the 2014 grant cycle.

## **Attachments**

Attachment A – Permissible Uses in the Moving Ahead for Progress in the 21st Century Act (MAP-21)

## **Attachment A – Permissible Uses in the Moving Ahead for Progress in the 21st Century Act (MAP-21)**

PERMISSIBLE USES.--Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include--

- A. maintenance and restoration of existing recreational trails;
- B. development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;
- C. purchase and lease of recreational trail construction and maintenance equipment;
- D. construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be--
  - i. permissible under other law;
  - ii. necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 et seq.) and that is in effect;
  - iii. approved by the administering agency of the State designated under subsection (c)(1); and
  - iv. approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);
- E. acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;
- F. assessment of trail conditions for accessibility and maintenance;
- G. development and dissemination of publications and operation of educational programs to promote safety and environmental protection, (as those objectives relate to one or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and
- H. payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year.

Note: Board policy does not allow for acquisition projects in the RTP program (Item E above).

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Director's Report

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

This memo is the director's report on key agency activities.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

### In this Report

- ▶ Agency update
- ▶ Policy update
- ▶ Legislative and budget update
- ▶ Grant management report
- ▶ Fiscal report
- ▶ Performance report

## Agency Update

### IT Strategic Planning

RCO and the Puget Sound Partnership contracted with Insignia Consulting LLC to review our Information Technology operations and systems and to develop a scope of work for an IT strategic plan. Our two agencies are increasingly reliant on our IT systems, many of which are shared. A final report outlined how to move forward in the development of a long-range plan that will help both agencies be more strategic with IT management and investment. We will shortly be recruiting for a consultant to help both agencies develop the IT strategic plan.

### Governor's Results Washington

I continue to serve on the Governor's Results Washington goal council for sustainable energy and a clean environment. RCO is partnering with the Department of Fish and Wildlife and Puget Sound Partnership to track leading indicators related to salmon recovery and estuary restoration, respectively.

On March 26 the goal council was scheduled to review its progress during a “Results Review” with Governor Inslee. Due to the tragic mudslide in Snohomish County, this event has been postponed until April 14. I am organizing a panel of Family Forest Fish Passage Program stakeholders to highlight several customer perspectives for the Governor. Initial performance data will be posted to the Results Washington Web site ([www.results.wa.gov](http://www.results.wa.gov)) shortly after the Results Review.

## **Grant Round Preparation**

Staff spent a great deal of time preparing for the launch of the grant cycle in mid-February. They have updated the agency’s 22 manuals and countless web page and forms. In addition, staff sent out a news release recruiting grant evaluators and completed an extensive outreach plan for getting the word out about the opening of the grant round.

## **Meetings with Partners**

- **U.S. Forest Service** – On February 26, Darrell Jennings attended the Wilderness and Trails Meeting for Mount Baker Snoqualmie National Forest. The Forest Service holds this annual planning and coordinating meeting to bring together adjacent forests and other partners (many of whom are RCO grant applicants), such as the Pacific Crest Trail Association, The Wilderness Society, Washington Trails Association, Mountains to Sound Greenway, Back Country Horsemen, Washington State Parks and Recreation Commission, and others. Darrell gave an overview of the recent board-adopted recreation and trails plans and provided updates about implementing plan priorities. He also summarized the policy and process changes grant applicants will encounter this year.
- **Agriculture and Forestry Leadership Program** – I was invited to speak at this leadership program for agricultural and natural resource managers. I gave them an overview of RCO, talked about how our grant programs served as an incentive for conservation of wildlife lands and working farms and ranches. I also spoke about how these grants are vital investments in preserving Washington’s quality of life (attracting businesses and supporting outdoor industries). And of course, I did a little bragging about our 50<sup>th</sup> anniversary.
- **Big Tent Event** – I was one of several speakers at the Big Tent Outdoor Recreation Coalition’s event in the Natural Resources Building. The Big Tent coalition is comprised of more than two dozen outdoor recreation organizations, businesses, and agencies that have come together to raise the awareness and profile of outdoor recreation. At the event, I gave an overview of RCO and talked about how we are investing not only in outdoor activities but in jobs and in preserving the quality of life in Washington. I also gave a plug for the opening of our grant round.
- **Washington Association of Land Trusts (WALT)** – I try to attend the quarterly meetings of WALT to make sure the land trusts are aware of our priorities, schedules, policies, and programs. I reminded them about the start of the grant round, gave an update on the public lands inventory and talked about the status of legislation. I also talked about the

Governor's Blue Ribbon Task Force on Parks and Recreation. I previewed the policies we'll be working on this year and other things on our plate.

- **Washington Wildlife and Recreation Coalition** – I was joined by several staff and board members at the Governor's Mansion to celebrate the Washington Wildlife and Recreation Coalition. The Governor spoke about the importance of the Washington Wildlife and Recreation Program and of the importance of conservation and outdoor recreation to the next generations to come. Many of our sponsors and partners were there to talk, mostly to staff, about their projects. Earlier in the day, I spoke to the board of the coalition about priorities in the agency and about the start of the grant round.
- **Washington Boating Alliance:** I gave a presentation at the Seattle Boat Show to unveil our new boating app and talk about the upcoming grant round.
- **Washington Recreation and Parks Association:** I spoke to the WRPA members assembled in Olympia for their legislative day.

### Update on Sister Boards

- **Salmon Recovery Funding Board (SRFB)** – Governor Inslee appointed a new citizen member to the Salmon Recovery Funding Board, Sam Mace. This Spokane resident has extensive professional and volunteer experience in conservation policy and natural resource issues. She is currently the Inland Northwest director for the Save our Wild Salmon Coalition. Bob Cusimano also joined the board as the new representative for the Department of Ecology. The board met in March and the two big topics were riparian buffer guidelines for board-funded restoration projects and revised recommendations for monitoring investments.
- **Washington Invasive Species Council** – Staff completed the 2013 annual report to the Legislature, and made plans for 2014, which include updating the council's statewide strategy, planning for a workshop on prevention protocols and decontamination practices, submitting a grant proposal to complete the Puget Sound baseline assessment for the remaining priority species, rolling out the new invasive species reporting app (now available at the Apple Store and Google Play) for smartphones, and continuing work with the Pacific Education Institute and school science programs to distribute new standards for how teachers handle invasive species in the classroom.
- **Habitat and Recreation Lands Coordinating Group** – The Habitat and Recreation Lands Coordinating Group completed the statutorily-required 2013 monitoring report that shows the progress of habitat and recreation acquisitions that were funded in the 2009-11 budgets. The annual report and 2014 work plan are also complete. A quarterly meeting and the acquisition forum was held in March. At the forum, the four state agencies --Fish and Wildlife, Natural Resources, State Parks, and the Conservation Commission -- described their planned land purchases.
- **Governor's Salmon Recovery Office (GSRO)** – GSRO hired a consulting firm to develop a communications plan on behalf of regional organizations and recovery partners and solicited contractor proposals for a mitigation matching project that matches

transportation projects with habitat restoration and protection projects. GSRO also is helping the Department of Fish and Wildlife and Northwest Indian Fisheries Commission manage several Environmental Protection Agency grants related to data and information sharing.

## **Policy Update**

### **Governor's Outdoor Recreation Task Force**

The Governor issued an Executive Order establishing a Blue Ribbon Task Force on Parks and Recreation and asked RCO to provide staff support and administer contracts to complete the work of the task force. The task force includes 16 voting members that represent a number of private and nonprofit groups, 8 state agencies that are non-voting members, and 4 legislators that are also non-voting members. The list of members can be found at: <http://www.rco.wa.gov/boards/TaskForceMembers.shtml>. The task force is required to write a plan and recommendations on how to increase outdoor recreation and promote jobs and businesses associated with outdoor recreation. A draft plan and recommendations are due September 1, with the final plan and recommendations due September 19. The task force's first meeting is April 9. To complete the work, RCO hired two part-time, temporary employees: Jim Fox is the project lead for the task force, and Meg O'Leary has joined as the project administrator. RCO has contracted out for facilitation and public outreach services.

### **Boating App Update**

RCO's new app for boaters, the Washington Water Cruiser, is being tested in anticipation of launching in time for the opening of boating season in May. With a time extension from the U.S. Fish and Wildlife Service and having passed the entry requirements for being made available in the Apple and Android app stores, GeoEngineers is building out the functionality of the app. We are working with more than 25 people who signed up at the Seattle Boat Show to help test the app.

### **Public Lands Inventory Update**

Work is well underway on a new project from the Legislature – to update the inventory of public lands and to make it accessible via the Web. The natural resource agencies have been meeting to discuss data sharing and other technical data necessary to complete the project. In February, the agencies supplied information to our contractor at the University of Washington. They are currently collating the datasets for the inventory. GeoEngineers, another contractor on this project, is working on how the inventory will be presented online. We also are collaborating with staff at the Joint Legislative Audit and Review Committee, which the Legislature assigned additional economic studies related to public lands. We provided a [status report](#) to the Legislature by the January 1<sup>st</sup> deadline. We also presented the inventory progress to the Senate Ways and Means Committee.

## Legislative and Budget Update

The Legislature adjourned March 13<sup>th</sup>. Bills improving the process to remove culvert and helping prevent and remove invasive species passed, along with a couple bills that affect the boards. The Legislature also passed supplemental operating and transportation budgets (budgets that make changes to the 2013-15 biennial budget enacted in 2013) but did not pass a supplemental capital budget.

### Legislative Update

The bills that passed and impact RCO, our boards, and programs are listed below.

Bill	Title	Description
HB 2105	Government agency meeting agendas	Requires public agencies with governing bodies to make the agenda of each regular meeting of the governing body available online at least 24 hours in advance of each regular meeting. RCO staff currently post board agendas to the Web two weeks in advance of most meeting. Subsequent modifications of agendas or failure to comply will not invalidate action taken at the meeting.
SB 5964	Public records and meetings	Requires our board members and agency public records officer(s) to participate in public records, records management, and open public meetings training. The bill provides no explicit guidance for people who have already assumed their duties, but they may have to complete training within 90 days of when the bill takes effect (September 29, 2014). The Attorney General has already launched an open government training page and, based on the hearing testimony, plans to release a 20 minute training video. Follow up training would occur at intervals of no more than 4 years.
SB 6040	Invasive species	Helps the Department of Fish and Wildlife respond to aquatic invasive species. Includes consultation with the Invasive Species Council on classifying, reclassifying, adopting rules, and offering advice related to emergency response to invasive species. Although this bill didn't make all of the deadlines, it was revived and passed.
HB 2251	Fish barrier removals	Adds new categories of fish barrier removal projects to the list of projects that are eligible for streamlined permitting under the hydraulic project approval process. Reconvenes and makes structural changes to the Fish Passage Barrier Removal Task Force, which includes the Governor's Salmon Recovery Office, and provides direction as to how fish passage barriers are to be addressed, including the establishment of fish passage barrier removal principles.

### Budget Update

The Legislature made a few technical changes to RCO's operating budget and included two new items:

1. \$150,000 to support the Parks and Outdoor Recreation Task Force created by the Governor's executive order (as discussed in the Policy Update). The appropriation



is \$50,000 less than the amount funded in the Governor's and House budgets, so adjusted our plan but will be able to proceed with carrying out the requirements of the executive order by the deadline of September 19, 2014.

2. \$100,000 is provided for an economic study of outdoor recreation. A proviso directs RCO to contract with a consultant to conduct a study that will quantify the economic contribution to the state economy from the state's public lands and statewide recreation. We have until the end of the year to complete this work.

For the first time since 1996, the Legislature did not pass a supplemental capital budget. Although RCO is not greatly impacted by the lack of a supplemental capital budget, we did not receive our one request, which was to replace funds removed from the Recreation Resources Account for the Boating Facilities Program (\$3.3 million was used two years ago for a different use).

## Grant Management Report

### Trails

#### Supreme Court Decision on Rail Trails

Staff are watching with interest a U.S. Supreme Court decision in the case involving a rail corridor formerly on federal land that is now privately owned ([Marvin M. Brandt Revocable Trust et al. v. United States](#)). On March 10, the court ruled that the railroad right-of-way across a Wyoming landowner's property does not belong to the federal government. The corridor ownership that was established by a railroad was extinguished when the railroad was later abandoned, and did not revert to public ownership. This was a reversal of the lower court's ruling.

The ruling only affects non-railbanked corridors that were created from federally granted rights-of-way through the 1875 Act. According to the Rails-to-Trails Conservancy, most railroad corridors created under this federal law are located west of the Mississippi River. Because there isn't a federal database on federally granted rights-of-way, it isn't possible to answer exactly how many miles of corridor this applies to. Since RCO has not systematically collected this data either, we are unable to assess whether there have been trail investments made by the board that could possibly be lost to reversionary rights.

Additional information can be found at [www.railstotrails.org](http://www.railstotrails.org).

#### Recreational Trails Program Grants

On March 18, as the result of federal transportation funding, RCO received notice of \$1.8 million in federal fiscal year 2014 funds for the Recreational Trails Program (RTP). The funding was anticipated and has allowed me to approve grants for approximately 30 alternate projects on the board approved ranked list for the 2013-15 biennium. Staff are working to issue agreements so sponsors may implement their scopes of work beginning this summer. The funded projects are shown in Attachment A, Funding for Alternates and Partially-Funded Projects.

### Annual Report for the Recreational Trails Program

The Federal Highway Administration released the 2013 Annual Report on the Recreational Trails Program (RTP) in early March. The report summarizes the program, its purpose and funding allocations, and its 20 years of accomplishments. You may notice, from information found in the report, that the federal program is broad in the scope of allowable uses for RTP funding. For Washington State, the board has limited the program to emphasize proposals that reduce backlogged maintenance on trails that provide a backcountry experience.

An overview of the report can be found here:

[http://www.fhwa.dot.gov/environment/recreational\\_trails/overview/report/2013/page00.cfm](http://www.fhwa.dot.gov/environment/recreational_trails/overview/report/2013/page00.cfm), or

you may link directly to the complete report by clicking here:

[http://www.fhwa.dot.gov/environment/recreational\\_trails/overview/report/2013/report\\_2013.pdf](http://www.fhwa.dot.gov/environment/recreational_trails/overview/report/2013/report_2013.pdf)

The data provided in the report comes from a national database,

<http://www.recreationaltrailsinfo.org>, to which RCO provides information from our grant management database, PRISM. We are modifying PRISM to expand our collection of data and increase data consistency to more closely align with this national effort.

### Environmental Review of Recreational Trails Program Projects

In February, RCO entered into a memorandum of agreement with the Federal Highway Administration (FHWA) for managing compliance with the National Environmental Policy Act (NEPA) for the RTP. The agreement takes advantage of a new categorical exclusion for certain projects funded by FHWA. We expect more RTP projects to meet the conditions of the categorical exclusion and therefore reduce the time spent by sponsors, RCO, and FHWA staff on reviewing projects for environmental effects.

### Washington State Trails Conference

The Washington State Trails Coalition will sponsor the 10th biennial State Trails Conference in Bellingham this coming fall. This year's conference, "On the Trails of Change," will pay special attention to how trail organizations and agencies are adjusting to changing conditions, with an emphasis on innovation and adaptation in trail planning, advocacy, and management in both urban and rural trail settings. The conference will also emphasize the role of emerging leaders and young adults in the planning, maintenance, and management of trails in Washington State. The conference program committee is currently reviewing session topics. RCO staff submitted two sessions for consideration – one on RCO's trail planning, coordination efforts, and grant opportunities and the other on newly implemented Americans with Disabilities Act requirements for recreational trails. Whatcom Parks and Recreation Foundation is the conference host. More information is available at: <http://washingtonstatetrailscoalition.org>.

### 2014 Grant Cycle Update

#### Application Workshop Webinar

On January 29, more than 260 people joined staff via the Web for the Recreation and Conservation Office (RCO) virtual application workshop. This Webinar, envisioned as a way to eliminate staff and sponsor travel expense, provided a high-level look at RCO grant programs

and changes to RCO policies and procedures. Part two of the workshop is a series of [presentations](#) posted on our Web site that outline specific information about the grant programs available this year.

#### [Efficiencies for the 2014 Grant Cycle](#)

Staff have implemented three key changes this year to create efficiencies in the grant processes. First, to participate in this year's grant cycle, applicants had to establish planning eligibility by March 1, 2014. This allows staff to focus their attention on [eligible applicants](#) only. More than 140 applicants currently meet the planning eligibility requirement. I approved 23 extensions, which range from one week to five months. These extensions give organizations additional time to meet the planning requirements; however, plans must be adopted before the evaluation meetings.

Second, for the first-time applicants submit their grant requests using [PRISM On-Line](#). PRISM On-Line is an internet based tool that allows applicants to submit grant applications using a personal computer (Windows or Mac-based platforms) or a tablet. In addition, changes were made to ensure applicants cannot submit an application without completing required data fields and adding the required attachments. PRISM On-Line opened on February 18 and there are currently 103 applications underway. Applications are due May 1 for some grant programs and July 1 for others.

I have created three new standing advisory committees for the Washington Wildlife and Recreation Program. The new Habitat Acquisition Advisory Committee will focus on the review and evaluation of the Critical Habitat, Natural Areas, and Urban Wildlife Habitat categories. The Habitat Restoration Advisory Committee will review and rank Riparian Protection and State Lands Restoration and Enhancement projects. The State Parks Advisory Committee will review and evaluate projects in the State Parks category. If you are interested in seeing the list of advisory committee members, you may check out the various links here:

[http://www.rco.wa.gov/grants/advisory\\_cmte.shtml](http://www.rco.wa.gov/grants/advisory_cmte.shtml). Just know that some of these are still in the recruitment phase (see below).

#### [Volunteer Recruitment Underway](#)

Staff recently put out a [press release](#) and are using word of mouth, phone calls, email, and the RCO Web site to enlist additional volunteers to serve during this year's grant cycle. Volunteers are essential for reviewing and scoring project proposals. RCO is seeking volunteers who have backgrounds in trails, parks, water access, farming, and habitat conservation. All interested individuals are encouraged to visit our [Web site](#) and fill out an application or contact [Lorinda Anderson](#), our volunteer coordinator.

#### **Boating Infrastructure Grant Projects Receive Federal Grants**

In October 2013, I approved two projects for submittal to the U.S. Fish and Wildlife Service (USFWS) for consideration in the Boating Infrastructure Grant (BIG) Program. The program provides grants to develop and renovate boating facilities for vessels over 26 feet. The Tier 1

category is for projects under \$100,000. The board has delegated authority to me to approve Tier 1 projects.

We just received notice that the following projects are receiving grants:

Project Number	Project Name	Sponsor	Grant Request	Sponsor Match	Total Project Cost	Grant Award
<a href="#">13-1396D</a>	Tokeland Marina Transient Float Development	Port of Willapa Harbor	\$78,520	\$26,174	\$104,694	\$62,210
<a href="#">13-1301D</a>	Columbia Point Marina	Richland Parks and Recreation	\$85,218	\$28,407	\$113,625	\$49,379

The Port of Willapa Harbor's Tokeland Marina project involves construction of a new 300-foot moorage float system to replace a wooden float that has outlived its useful life. Plans also include installation of new piles, a gangway, an access route to upland amenities, lighting, and utility service. The new float will serve as a breakwater for the marina. The BIG grant accounts for approximately 15 percent of the total cost of the project, which represents current and future use of the site by boats 26 feet and larger. In July, the Port of Willapa was the recipient of a \$664,800 Boating Facilities Program grant that will help with construction of the new float, restrooms, parking, a picnic area, and other amenities. The primary focus of the project is transient recreational boating in the greater Willapa Bay area.

Richland Parks and Recreation will use its grant to install seven new power pedestals on docks that were constructed at the Columbia Point Marina in 2008. They will also install about 550 linear feet of dock bumpers to keep boats from scraping the whalers. Columbia Point Marina Park is one of the most popular marina destinations along the Columbia River in the Tri-Cities.

### Using Returned Funds for Alternates and Partially-Funded Projects

I recently awarded 34 new grants for the alternate projects shown in Attachment A, Table A-1. The funds are from projects that did not use the full amount of their grant awards and the new appropriation of \$1.8 million from the Federal Highway Administration for the RTP.

Also, as unused funds have become available from other projects, I have approved additional funding for four partially funded projects. The second table in Attachment A shows the projects' original grant award and the total grant funds now approved.

### Project Administration

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

- Active projects are under agreement.

- Staff are working with sponsors to place the "Board Funded" and "Director Approved" projects under agreement.

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

Program	Active Projects	Board Funded Projects	Director Approved Projects	Total Funded Projects
Aquatic Lands Enhancement Account (ALEA)	15	0	1	<b>16</b>
Boating Facilities Program (BFP)	34	0	0	<b>34</b>
Boating Infrastructure Grant Program (BIG)	1	0	0	<b>1</b>
Firearms and Archery Range Recreation (FARR)	12	0	0	<b>12</b>
Land and Water Conservation Fund (LWCF)	7	0	4	<b>11</b>
Nonhighway and Off-Road Vehicle Activities (NOVA)	119	0	1	<b>120</b>
Recreational Trails Program (RTP)	54	0	24	<b>78</b>
Washington Wildlife and Recreation Program (WWRP)	153	0	11	<b>164</b>
Youth Athletic Facilities (YAF)	4	0	1	<b>5</b>
<b>Total</b>	<b>399</b>	<b>0</b>	<b>42</b>	<b>441</b>

Since the January board meeting, staff have closed 27 active project agreements. This significant number of closures reflects the tenacity of our sponsors to complete funded projects and the exceptional work of our dedicated grant managers. Closing completed projects before a new grant cycle begins helps us balance our workload and results in a number of efficiencies.

## Fiscal Report

The following financial reports reflect Recreation and Conservation Funding Board activities as of March 19, 2014. Revenues are shown through January 31, 2014. You will see:

- The budget status of board activities by program.
- The budget status of the entire agency by board.
- Revenue collections. We are on track to meet our projections.
- A Washington Wildlife Recreation Program (WWRP) summary. Since the beginning of this program, \$721 million of funds in the WWRP program have been spent.

## Recreation and Conservation Funding Board Activities by Program

For the Period of July 1, 2013 - June 30, 2015, actuals through 2/28/2014 (3/19/14) Fiscal Month  
08. Percentage of biennium reported: 33.3 percent.

	BUDGET	COMMITTED		TO BE COMMITTED		EXPENDITURES	
Grant Programs	New and Re-appropriation 2013-2015 (\$)	Dollars (\$)	% of Budget	Dollars (\$)	% of Budget	Dollars (\$)	% Expended of Committed
<u>Washington Wildlife and Recreation Program (WWRP)</u>							
WWRP Re-appropriations	43,402,789	37,930,038	87	5,472,751	13	2,731,148	7
WWRP New 13-15 Funds	63,050,000	62,353,160	99	696,840	1	2,668,341	4
<u>Boating Facilities Program (BFP)</u>							
BFP Re-appropriations	4,767,400	4,697,400	99	70,000	1	1,659,836	35
BFP New 13-15 Funds	6,363,000	6,363,000	100	0	0	156,455	2
<u>Nonhighway and Off-Road Vehicle Activities (NOVA)</u>							
NOVA Re-appropriations	3,912,066	3,816,258	98	95,808	2	1,052,401	28
NOVA New 13-15 Funds	8,075,900	8,009,676	99	66,224	1	29,981	0.4
<u>Land and Water Conservation Fund (LWCF)</u>							
LWCF Re-appropriations	1,024,757	1,024,757	100	0	0	489,759	48
LWCF New 13-15 Funds	543,030	543,030	100	0	0	0	0
<u>Aquatic Lands Enhancement Account (ALEA)</u>							
ALEA Re-appropriations	3,160,577	3,136,077	99	24,500	1	1,051,429	34
ALEA New 13-15 Funds	6,000,000	6,000,000	100	0	0	1,152,283	19
<u>Recreational Trails Program (RTP)</u>							
RTP Re-appropriations	1,531,638	1,528,674	100	2,963	0	638,699	42
RTP New 13-15 Funds	3,544,094	3,544,094	100	0	0	50,006	1
<u>Youth Athletic Facilities (YAF)</u>							
YAF Re-appropriations	395,675	193,559	49	202,116	51	153,145	79
YAF New 13-15 Funds	3,480,444	3,480,444	100	0	0	168,190	5
<u>Firearms and Archery Range Recreation (FARR)</u>							
FARR Re-appropriations	299,115	236,769	79	62,346	21	32,729	14
FARR New 13-15 Funds	800,000	765,000	96	35,000	4	148,054	19
<u>Boating Infrastructure Grants (BIG)</u>							
BIG Re-appropriations	362,186	362,186	100	0	0	100,660	28
BIG New 13-15 Funds	0	0	100	0	0	0	0
Sub Total Grant Programs	150,712,671	143,984,122	96	6,728,549	4	12,283,115	9
General Operating Funds	6,121,924	6,121,924	100	0	0	1,961,288	32
<b>Grant and Administration Total</b>	<b>\$156,834,595</b>	<b>\$150,106,046</b>	<b>96%</b>	<b>\$6,728,549</b>	<b>4%</b>	<b>\$14,244,403</b>	<b>9%</b>

## 2013-15 Capital and Operating Budget Status for the Recreation and Conservation Office

For the Period of July 1, 2013 - June 30, 2015, actuals through 2/28/2014 (3/19/14) Fiscal Month 08. Percentage of biennium reported: 33.3 percent.

Board/Program	New (\$)	Re-appropriation (\$)	BUDGET	COMMITTED		TO BE COMMITTED		EXPENDITURES	
			New and Re-appropriation 2013-2015 (\$)	Dollars (\$)	% of Budget	Dollars (\$)	% of Budget	Dollars (\$)	% of Committed
Recreation and Conservation Funding Board	94,697,743	62,136,852	156,834,595	150,106,046	96	6,728,549	4	14,244,403	9
Salmon Recovery Funding Board	91,494,281	124,224,099	215,718,380	159,544,291	74	56,174,090	26	35,197,071	22
Governor's Salmon Recovery Office	885,380	0	885,380	885,380	100	0	0	48,005	5
Invasive Species Council	200,000	0	200,000	200,000	100	0	0	67,550	34
<b>Total</b>	<b>\$187,277,404</b>	<b>\$186,360,951</b>	<b>\$373,638,355</b>	<b>\$310,735,717</b>	<b>83%</b>	<b>\$62,902,639</b>	<b>17%</b>	<b>\$49,557,029</b>	<b>16%</b>

## Recreation and Conservation Funding Board Revenue Report

For the Period of July 1, 2013 - June 30, 2015, actuals through 1/31/2014 Fiscal Month 07.  
Percentage of biennium reported: 29.2 percent.

PROGRAM	BIENNIAL FORECAST	COLLECTIONS	
	Estimate	Actual	% of Estimate
Boating Facilities Program (BFP)	12,545,400	3,687,138	29
Nonhighway, Off-Road Vehicle Program (NOVA)	9,603,211	2,669,297	28
Firearms and Archery Range Rec Program (FARR)	550,000	170,214	31
<b>Total</b>	<b>\$22,698,611</b>	<b>\$6,526,649</b>	<b>29%</b>

### Revenue Notes:

- Boating Facilities Program (BFP) revenue is from 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.
- This reflects the most recent revenue forecast of February 2014. The next forecast is due in June 2014.

## Washington Wildlife Recreation Program (WWRP) Biennial Appropriations Summary

Biennium	Appropriation (\$)
89-91 Biennium	53,000,000
91-93 Biennium	61,150,000
93-95 Biennium	65,000,000
95-97 Biennium <sup>1</sup>	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 <sup>2</sup>	48,500,000
07-09 Biennium <sup>3</sup>	95,491,955
09-11 Biennium <sup>4</sup>	67,344,750
11-13 Biennium <sup>5</sup>	40,740,000
13-15 Biennium <sup>6</sup>	63,050,000
<b>Grand Total</b>	<b>\$721,036,705</b>

<sup>1</sup> Original appropriation was \$45 million.

<sup>2</sup> Entire appropriation was \$50 million; 3% or \$1,500,000, went to administration.

<sup>3</sup> Entire appropriation was \$100 million; 3% or \$3,000,000 went to administration, removed \$981,000 with FY10 supplemental budget.



<sup>4</sup> Entire appropriation was \$70 million; 3% or \$2,100,000 went to administration.

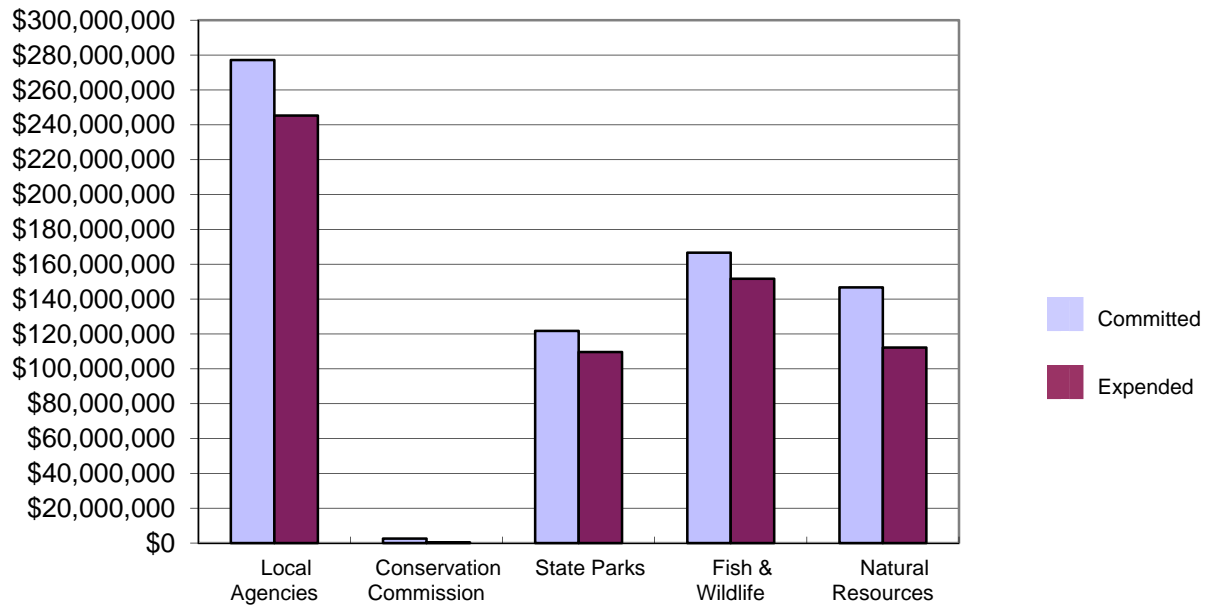
<sup>5</sup> Entire appropriation was \$42 million; 3% or \$1,260,000 went to administration.

<sup>6</sup> Entire appropriation was \$65 million; 3% or \$1,950,000 went to administration.

### WWRP Expenditure Rate, by Agency or Organization

Agency	Committed (\$)	Expenditures (\$)	Percent Expended
Local Agencies	277,170,564	245,289,366	88
Conservation Commission	2,549,463	356,783	14
State Parks and Recreation Commission	121,734,516	109,595,483	90
Department of Fish and Wildlife	166,620,997	151,681,759	91
Department of Natural Resources	146,753,403	112,165,928	76
Riparian Habitat Administration	185,046	185,046	100
Land Inventory	549,965	549,965	100
<b>Subtotal Committed</b>	<b>\$715,563,955</b>	<b>\$619,824,329</b>	<b>87%</b>

### History of Committed and Expended Funds for WWRP Program



## Performance Report

The following performance data are current as of March 18, 2014.

Recreation and Conservation Funding Board Performance Measures				
Measure	Target	Fiscal YTD		Notes
Percent of Projects Issued Agreement within 120 Days of Board Funding	85-95%	<b>90%</b>	●	For projects where an agreement has been issued, staff took an average of 52 days.
Percent of Projects Under Agreement within 180 Days of Board Funding	95%	<b>87%</b>	●	A total of 229 projects were scheduled to be under agreement so far this fiscal year. Of these, 199 were completed on time.
Percent of Progress Reports Responded to On Time	65-75%	<b>93%</b>	●	A total of 240 progress reports have been due so far this fiscal year. Of these, 222 were responded to in 15 days or less.
Percent of Bills Paid within 30 days	100%	<b>75%</b>	●	This fiscal year to date 452 bills have come due. A total of 341 were paid on time.
Percent of Projects Closed on Time	60-70%	<b>64%</b>	●	Seventy of 109 projects that were scheduled to close this fiscal year closed on time.
Number of Projects in Project Backlog	0	<b>13</b>	●	Staff continue to work with sponsors to get the proper documentation to close backlog projects.
Number of Post-Completion Inspections Done	No target set	<b>127</b>	NA	
Percent of Project Sponsors Submitting Annual Bill	100%	<b>73%</b>	●	The sponsor has submitted a bill so far this fiscal year for 71 projects out of 97. The remaining 26 sponsors have until June 30, 2014 to submit a bill.

## Attachment A: Funds for Alternate and Partially-Funded Projects

Table A-1: Funds for Alternate Projects

Project Number	Project Name	Sponsor	Grant Request	Funds Approved	Category
<a href="#">12-1823M</a>	Straddleline ORV Park Trail and Campground Maintenance and Operation	Grays Harbor County	\$96,500	\$20,530	Recreational Trails Program
<a href="#">12-1346M</a>	Gifford Pinchot National Forest Wilderness Trails Maintenance	U.S. Forest Service, Gifford Pinchot National Forest, Cowlitz Valley Ranger District	\$85,206	\$85,206	Recreational Trails Program
<a href="#">12-1601E</a>	Gifford Pinchot National Forest Snow Ranger	U.S. Forest Service, Gifford Pinchot National Forest, Mount Adams Ranger District	\$20,000	\$20,000	Recreational Trails Program
<a href="#">12-1742M</a>	Alpine Lakes Trail Maintenance	U.S. Forest Service, Mount Baker Snoqualmie National Forest Snoqualmie Ranger District	\$75,000	\$75,000	Recreational Trails Program
<a href="#">12-1048E</a>	Mount Baker Ranger District Mountain Stewards	U.S. Forest Service, Mount Baker-Snoqualmie National Forest, Mount Baker Ranger District	\$20,000	\$15,016	Recreational Trails Program
<a href="#">12-1539M</a>	Mount Baker Ranger District Trail Maintenance	U.S. Forest Service, Mount Baker Snoqualmie National Forest, Mount Baker Ranger District	\$60,000	\$21,640	Recreational Trails Program
<a href="#">12-1256M</a>	Skykomish Trail Maintenance	U.S. Forest Service, Mount Baker-Snoqualmie National Forest, Skykomish Ranger District	\$75,000	\$75,000	Recreational Trails Program
<a href="#">12-1301M</a>	Methow Valley Ranger District Trail Maintenance	U.S. Forest Service, Okanogan National Forest, Methow Ranger District	\$75,000	\$75,000	Recreational Trails Program
<a href="#">12-1591M</a>	Sawtooth Backcountry Trail Maintenance	U.S. Forest Service, Okanogan National Forest, Methow Ranger District	\$12,050	\$12,050	Recreational Trails Program

<a href="#"><u>12-1844E</u></a>	Leave No Trace-Tread Lightly	U.S. Forest Service, Umatilla National Forest, Pomeroy Ranger District	\$10,000	\$10,000	Recreational Trails Program
<a href="#"><u>12-1850E</u></a>	Pomeroy Winter Trail Patrol	U.S. Forest Service, Umatilla National Forest, Pomeroy Ranger District	\$10,000	\$10,000	Recreational Trails Program
<a href="#"><u>12-1512M</u></a>	Chelan Down Lake Trails - Winter and Summer	U.S. Forest Service, Wenatchee National Forest, Chelan Ranger District	\$150,000	\$150,000	Recreational Trails Program
<a href="#"><u>12-1291M</u></a>	Chelan Uplake Trails	U.S. Forest Service, Wenatchee National Forest, Chelan Ranger District	\$150,000	\$150,000	Recreational Trails Program
<a href="#"><u>12-1795E</u></a>	Snoqualmie Pass Interstate 90 Corridor Winter Education	U.S. Forest Service, Wenatchee National Forest, Cle Elum Ranger District	\$20,000	\$20,000	Recreational Trails Program
<a href="#"><u>12-1399M</u></a>	U.S. Forest Service Cle Elum Nonmotorized Trails	U.S. Forest Service, Wenatchee National Forest, Cle Elum Ranger District	\$90,000	\$90,000	Recreational Trails Program
<a href="#"><u>12-1761M</u></a>	Entiat Ranger District Wilderness Non-Motorized Trail Maintenance	U.S. Forest Service, Wenatchee National Forest, Entiat Ranger District	\$60,000	\$60,000	Recreational Trails Program
<a href="#"><u>12-1750M</u></a>	Naches District Wilderness Trails Maintenance and Operation	U.S. Forest Service, Wenatchee National Forest, Naches Ranger District	\$65,100	\$65,100	Recreational Trails Program
<a href="#"><u>12-1830M</u></a>	Multi-Use Trails Maintenance	U.S. Forest Service, Wenatchee National Forest, Wenatchee River Ranger District	\$60,000	\$60,000	Recreational Trails Program
<a href="#"><u>12-1851E</u></a>	Wenatchee River Ranger District Climbing Ranger	U.S. Forest Service, Wenatchee National Forest, Wenatchee River Ranger District	\$20,000	\$20,000	Recreational Trails Program
<a href="#"><u>12-1848E</u></a>	Wenatchee River Ranger District Wilderness Education	U.S. Forest Service, Wenatchee National Forest, Wenatchee River Ranger District	\$20,000	\$20,000	Recreational Trails Program

<a href="#">12-1483M</a>	Interstate 90 Corridor Non-Motorized Sno-Parks and Trails	Washington State Parks and Recreation Commission	\$146,944	\$146,944	Recreational Trails Program
<a href="#">12-1471M</a>	Mount Baker Area Snowmobile Sno-Parks and Trails	Washington State Parks and Recreation Commission	\$109,000	\$109,000	Recreational Trails Program
<a href="#">12-1479M</a>	Northeast Washington Snowmobile Sno-Parks and Trails	Washington State Parks and Recreation Commission	\$145,343	\$145,343	Recreational Trails Program
<a href="#">12-1482M</a>	Okanogan Highlands Snowmobile Sno-Parks and Trails	Washington State Parks and Recreation Commission	\$49,613	\$49,613	Recreational Trails Program
<a href="#">12-1480M</a>	Southeast Washington Snowmobile Sno-Parks and Trails	Washington State Parks and Recreation Commission	\$46,193	\$46,193	Recreational Trails Program
<a href="#">12-1475M</a>	Stemilt-Colockum Snowmobile Sno-Parks and Trails	Washington State Parks and Recreation Commission	\$34,591	\$34,591	Recreational Trails Program
<a href="#">12-1473M</a>	Taneum-Manastash Snowmobile Sno-Parks and Trails	Washington State Parks and Recreation Commission	\$85,942	\$85,942	Recreational Trails Program
<a href="#">10-1677A</a>	Ebey's Reserve Farmland - North Penn Cove	Whidbey Camano Land Trust	1,250,000	\$262,500	WWRP Farmland Preservation
<a href="#">10-1684A</a>	Ebey's Reserve Farmland - Ebey's Prairie 2010	Whidbey Camano Land Trust	\$955,000	\$215,000	WWRP Farmland Preservation
<a href="#">12-1315R</a>	Bear Creek Riparian Enhancement	Department of Fish and Wildlife	\$46,500	\$46,500	WWRP State Lands Restoration
<a href="#">12-1316R</a>	Toutle River Enhancement Phase 5	Department of Fish and Wildlife	\$336,000	\$336,000	WWRP State Lands Restoration
<a href="#">12-1253R</a>	Chehalis River Surge Plain Ecosystem Restoration	Department of Natural Resources	\$87,400	\$87,400	WWRP State Lands Restoration
<a href="#">12-1046R</a>	Secret Harbor Estuary and Salt Marsh Restoration	Department of Natural Resources	\$480,207	\$480,207	WWRP State Lands Restoration
<a href="#">12-1119R</a>	Woodard Bay Natural Resources Conservation Area Wetland and Shoreline Restoration	Department of Natural Resources	\$97,700	\$97,700	WWRP State Lands Restoration

Table A-2: Funds for Partially-Funded Projects

Project Number	Project Name	Sponsor	Grant Request	Original Grant Funding	Current Total Grant Funding	WWRP Category
<a href="#"><u>12-1718M</u></a>	Maintaining Trails in Jeopardy	Back Country Horsemen of Washington	\$150,000	\$32,634	\$150,000	Recreational Trails Program
<a href="#"><u>12-1015M</u></a>	Groom and Maintain Methow Valley Trails	Methow Valley Snowmobile Association	\$32,000	\$7,891	\$32,000	Recreational Trails Program
<a href="#"><u>12-1187E</u></a>	Minimum Impact Recreation 2013	Back Country Horsemen of Washington	\$20,000	\$9,322	\$20,000	Recreational Trails Program
<a href="#"><u>12-1778E</u></a>	Wenatchee River Ranger District Snow Ranger <sup>1</sup>	U.S. Forest Service, Wenatchee National Forest, Wenatchee River Ranger District	\$20,000	\$17,955	\$20,000	Recreational Trails Program

Table A-2: Funds for Partially-Funded Projects

Project Number	Project Name	Sponsor	Grant Request	Original Grant Funding	Current Total Grant Funding	WWRP Category
<a href="#">12-1718M</a>	Maintaining Trails in Jeopardy	Back Country Horsemen of Washington	\$150,000	\$32,634	\$150,000	Recreational Trails Program
<a href="#">12-1015M</a>	Groom and Maintain Methow Valley Trails	Methow Valley Snowmobile Association	\$32,000	\$7,891	\$32,000	Recreational Trails Program
<a href="#">12-1187E</a>	Minimum Impact Recreation 2013	Back Country Horsemen of Washington	\$20,000	\$9,322	\$20,000	Recreational Trails Program
<a href="#">12-1778E</a>	Wenatchee River Ranger District Snow Ranger <sup>1</sup>	U.S. Forest Service, Wenatchee National Forest, Wenatchee River Ranger District	\$20,000	\$17,955	\$20,000	Recreational Trails Program

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Liability of the Board or Board Members for Action Taken on Policy or Grants  
**Prepared By:** Nona Snell, Policy Director

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

During the January board meeting, staff were asked about board member and Recreation and Conservation Office (RCO) liability with regard to the Firearm and Archery Range Recreation Program, other programs, and the general liability of the board. This memo explains the potential liability of Recreation and Conservation Funding Board and Salmon Recovery Funding Board members and RCO officers, employees, and volunteers. Staff and our designated Assistant Attorney General will summarize these liability issues and answer board questions at the April 2014 meeting.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Background

### Request for Review of Liability

In January, the Recreation and Conservation Funding Board (board) asked whether its members are liable for potential damages related to firearm or archery ranges that receive Firearm and Archery Range Recreation program (FARR) or other Recreation and Conservation Office (RCO) grants.

At the same meeting, the board approved a FARR program change that requires projects that directly benefit shooting activities or noise and safety abatement projects be evaluated by a certified advisor from a professional association, professional engineer, or other qualified professional consultant with experience and expertise in the evaluation and design of ranges and courses.

Neither RCO staff, the board, nor the FARR advisory committee evaluates the degree to which a range is safe, nor do they certify ranges or courses as being safe. However, RCO does require that range and course facilities funded by the FARR program are acquired, planned, designed,



operated, and maintained to contain bullets, shot, arrows, or other projectiles within the facility property and to minimize noise impacts to adjacent and nearby properties.

## Past Review of Liability

In November 1990, the board requested its Assistant Attorney General (AAG) review RCO's liability related to FARR projects.<sup>1</sup> At the following board meeting in March 1991, the FARR liability insurance requirement was adopted with guidance from the AAG. This is the same requirement we have today.

At the time the liability insurance requirement was adopted, the AAG's view was that board members have no greater liability exposure for their actions related to the FARR program than for any other grant program. The insurance requirement was intended to protect private non-profit organizations from liability that might arise from public use of their facility, which is a requirement of grant funding. The agency and board members were added to the insurance policy as extra measure, even though they are covered under the public duty doctrine.

## Analysis

### Summary of Attorney General's Memo

To answer the board's recent question regarding liability, we asked the AAG four questions:

- 1. Can board members and RCO officials be personally liable for actions that they take while acting as board members?**
- 2. What general exposure to liability does the board, the Salmon Recovery Funding Board (SRFB), and the RCO have in awarding and administering grants under the various grant programs they implement?**
- 3. What is the potential for state liability to arise in the following scenarios:**
  - a. Design defect that causes injury or property damage;**
  - b. Contractor negligence that causes injury or property damage at a job site;**
  - c. Grantee negligence in operating and maintaining a state funded facility that causes injury or property damage.**
- 4. Does the board and/or the RCO have any additional exposure to liability related to grants under FARR?**

In summary, the AAG memo (Attachment A) advises that, under state statute, board members, and RCO officers, employees, and volunteers have broad protection against personal liability. However, grant documentation should state that RCO is not responsible for safety and grant management staff should not indicate that RCO has a responsibility related to safety.

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<sup>1</sup> At the time of the AAG's review, RCO was called the Interagency Committee for Outdoor Recreation (IAC).

## Questions and Answers

**Question 1:** Can board members and RCO officials be personally liable for actions that they take while acting as board members?

**Answer:** Under state statute, board members and RCO Officers, employees, and volunteers have broad protection against personal liability and state law requires representation for state officers, employees, and volunteers while performing their official duties.

**Question 2:** What general exposure to liability do the boards and the RCO have in awarding and administering grants under the various grant programs?

**Answer:** Because the State is removed from the actions of a grantee that may cause injury or property damage to a third party, it is highly unlikely that the State would be found to owe a duty to an injured third party. Case law and the history of the RCO grant programs do not disclose any threat of liability relating to grant funding. The AAG could not find cases holding a grant agency liable for tortious injury or damage caused by a grantee. Also, after about four decades of operating a state grant program, to the AAG's knowledge, the State has had no known liability for a third party tort related to grant awards or administration.

**Question 3:** What is the potential for state liability to arise from a design defect that causes injury or property damage, contractor negligence that causes injury or property damage at a job site, or grantee negligence in operating and maintaining a state funded facility that causes injury or property damage?

**Answer:** Although liability in the listed scenarios is unlikely, the AAG points out that two factors increase the risk: 1) The degree of control that any grant documents confer on the RCO with respect to design, construction, or operation; and 2) Statements and conduct of RCO grant staff that may be construed to indicate RCO responsibility for policing the requirements or protecting others from injury. Grant documentation should make clear that RCO is not responsible for policing safety requirements, and staff should not indicate that RCO has responsibility for safety.

**Question 4:** Does the board and/or the RCO have any additional exposure to liability related to grant under the FARR program?

**Answer:** Because the grant funds are meant to create a quality facility, not to ensure safety of facility users, the potential for liability is very small. However, the risk of this new language requiring a third party review for safety purposes can be further ameliorated by adding disclaimer language in the grant manual.

## Attachments

### A. Memorandum from the Assistant Attorney General

# Attachment A: Memorandum from the Assistant Attorney General

## MEMORANDUM

DATE: March 14, 2014

TO: Nona Snell, RCO Policy Director

CC: Kaleen Cottingham, RCO Director

FROM: Brian Faller, Assistant Attorney General

SUBJECT: **Potential Liability of RCFB, SRFB, RCO, and Board Members and RCO Officers with respect to grant programs**

You have requested legal advice with respect to potential liability of the Recreation and Conservation Funding Board, the Salmon Recovery Funding Board, and their board members and the RCO and its officers. For ease of discussion, I address this request via the following questions:

1. Can Board members and RCO officials be *personally* liable for actions that they take while acting as board members?
2. What general exposure to liability does the RCFB, the SRFB, and the RCO have in awarding and administering grants under the various grant programs they implement?
3. Please comment on the potential for state liability to arise in the following scenarios: (a) design defect that causes injury or property damage; (b) contractor negligence that causes injury or property damage at a job site; (c) grantee negligence in operating and maintaining a state funded facility that causes injury or property damage.
4. Does the RCFB and/or the RCO have any additional exposure to liability related to grant under the [Firearms and Archery Range Recreation Program](#) (FARR)?

### Discussion

1. Can Board members and RCO officials be *personally* liable for actions that they take while acting as board members?

Under state statute, RCFB members and RCO Officers, employees, and volunteers have broad protection against personal liability. RCW 4.24.470 provides limited immunity for members of the governing body of a public agency.

An appointed or elected official or member of the governing body of a public agency is immune from civil liability for damages for any discretionary decision or

failure to make a discretionary decision within his or her official capacity, but liability shall remain on the public agency for the tortious conduct of its officials or members of the governing body.

RCW 4.24.470(1).<sup>2</sup> The state also has enacted a statute providing for indemnification of state employees for acts or omissions giving rise to civil liability or criminal fines if the acts or omissions were "in good faith and occurred while the employee was acting within the scope of his or her employment or duties". RCW 4.24.490(1). RCW 4.24.490(2) defines the term "state employee" to mean "a member of the civil service or an exempt person under chapter 41.06 RCW, or higher education personnel under chapter 28B.16 RCW."

In addition to these statutes, the Legislature has also enacted laws providing for representation of state officers, employees, and volunteers in actions for damages arising out of acts or omissions performed within the scope of their official duties. In any action for damages instituted against any state officer, employee, or volunteer "arising from acts or omissions while performing, or in good faith purporting to perform, official duties", the officer or employee may request the attorney general to "authorize the defense of said action or proceeding at the expense of the state." RCW 4.92.060. The request will be granted (and the attorney general will represent the interests of the officer or employee in question) if the attorney general finds that the acts or omissions giving rise to the claim "were, or were purported to be in good faith, within the scope of that person's official duties". RCW 4.92.070. Furthermore, if the attorney general represents the officer, employee under RCW 4.92.070, the judgment creditor is entitled to seek satisfaction only from the state, and "the judgment shall not become a lien upon any property of such officer, employee, or volunteer." RCW 4.92.075.<sup>3</sup>

I have been informed that new state officials and board members sometimes request their agency to obtain directors and officers insurance, but the State Office of Risk Management has declined such requests because of the above statutes providing for immunity, defense and indemnification.

## **2. What general exposure to liability does the RCFB, the SRFB, and the RCO have in awarding and administering grants under the various grant programs they implement?**

The ability to describe potential tort liability for the state in the abstract, without specific facts, is very limited, but some general observations may be provided.

The public duty doctrine holds that statutes and regulations that are intended in general to protect the welfare of the public from harm do not create duties to protect individual citizens from such harm; but that where a statute intends to prevent harm to a particular class of

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<sup>2</sup> RCW 4.24.470(2) defines "public agency" broadly to include any state "agency, board, [or] commission" and defines the term "governing body" as "the policy-making body of a public agency." The RCO and its boards come within this definition.

<sup>3</sup> The above discussion I copied nearly verbatim from an informal AGO opinion by James Pharris, dated January 17, 2008 to Joseph A. Dear, Executive Director Washington State Investment Board.

individuals or a special relationship exists between the government and injured person a duty may lie. The public duty doctrine typically applies to licensing, inspection, and policing functions of government, but the courts have also applied it to broad "social welfare programs" aimed to protect some class of citizens. However, RCFB and SRFB statutes are not aimed to protect persons from injury or property loss but rather to fund facilities and activities for recreation, conservation, and salmon habitat purposes. Thus, initially, it seems unlikely any of the enabling statutes could form the basis for finding a duty owed to a third-party plaintiff.

The State is sufficiently remote from the acts and omissions of a grantee that may cause injury or property damage to a third party such that it is highly unlikely that the state would be found to owe a duty to an injured third party under a negligence theory. A number of factors support this remoteness of liability, including:

- (i) the lack of privity of contract between the State and the third party;
- (ii) the lack of or minimal level of state control over the actions of the grantee tortfeasor; the terms of the grant and the deed of right do not control the design and construction and do not require conduct in operation that could not reasonably be conducted in a safe manner.
- (iii) the absence of a statute or regulation that evidences a clear intent that the state grant programs act to protect a particular and circumscribed class of persons.

Case law and the history of the RCO grant programs do not disclose any threat of liability relating to grant funding. I could locate no cases holding a grant agency liable for tortious injury or damage caused by a grantee. Also, after about four decades of operating a state grant program, to our knowledge, the State has had no known liability for a third party tort related to grant awards or administration.<sup>4</sup>

The state acting as grantor of funds is acting very much like a bank, and thus, it is relevant to look to lender liability cases. A substantial body of law exists around lender liability and to date lender liability has not extended to torts committed by borrowers. Even in cases where lender liability has extended to creditors of borrower, it must be shown that the lender has exercised "excessive" control over the borrower. Defense of Lender Liability Litigation, 44 Am. Jur. Trials 613 (updated Feb. 2014); Bruce E.H. Johnson, Lender Liability Litigation Checklist: A Summary of Current Theories and Developments, 59 UMKC L. Rev. 205, 248 (1991).<sup>5</sup>

**3. Please comment on the potential for state liability to arise in the following scenarios:  
(a) design defect that causes injury or property damage; (b) contractor negligence that**

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<sup>4</sup> At my request, the State Office of Risk Management ran a search of its data base and found over a forty year period only three minor payouts regarding the RCO or its predecessor agency and the Board, totaling less than \$10,000.

<sup>5</sup> In the hazardous waste arena, lenders that hold title who are involved with the management of a borrower's polluting facility may be found liable. But there environmental statutes specifically create that liability.

**causes injury or property damage at a job site; (c) grantee negligence in operating and maintaining a state funded facility.**

As above, without more specific facts an assessment of risk for these scenarios is speculative, but the observations above would also apply here to indicate liability in these three scenarios would be highly unlikely. However, two potential factors that may increase that risk are worthy to mention as they bear upon these scenarios:

(i) The degree of control that any grant documents confer on the RCO with respect to design, construction, or operation. Do, for example, the specific grant documents for project design and construction require the sponsor to obtain some level of design peer review or follow some construction safety practices? If so, does the document make clear that the RCO assumes no responsibility for policing these requirements including reviewing the adequacy of the peer review? I would be happy to assist you in reviewing existing documents to spot potential issues and in drafting any needed disclaimers. I discuss disclaimers again briefly in the discussion of the FARR program below.

(ii) Statements and conduct of RCO grant staff that may be construed to indicate RCO responsibility for policing the requirements or protecting others from injury. For example, on occasions when RCO staff talk to applicants, engineers, or a member of the public who calls, and safety, design adequacy, or performance issues are discussed, does staff ever make statements that might be construed to suggest some RCO responsibility. Messaging can be the basis for liability, and thus some review of current practices and establishment of best practices might be useful.

**4. Does the RCFB and/or the RCO have any additional exposure to liability related to grants under the [Firearms and Archery Range Recreation Program \(FARR\)](#)?**

You indicate that RCO's forthcoming grant manual revision will require that FARR grant recipients provide an independent review that a FARR facility is designed to meet published industry safety standards (NRA or archery depending upon the facility) before the RCO makes reimbursement. You also indicate that the new manual language will not in any way require the RCO to approve or commit to peer review the independent review.

These revisions to the grant manual raise the question whether, if such an independent review is not done, and RCO still reimburses, or the review appears woefully inadequate and RCO overlooks that failure and continues to fund, would that potentially lead to liability if a third-party is injured due to unsafe design or construction?

It would seem that a reasonable argument would still exist that the state would not be liable, as the state intended this independent review only to provide some minimal indication that its money was used to create quality facilities but not to ensure the safety of future facility users. However, the risk of this new language can be further ameliorated by adding disclaimer language in the grant manual.

For example, the new language in the manual can be supplemented with the following disclaimers:

The sponsor is solely responsible for range and facility safety. The RCO requires the above certification and evaluation only for its internal purpose to provide another indicator of the appropriate use of state grant funds. The RCO does not in any way review or pass on the adequacy of any certification or evaluation and does not assume any obligation to any person or entity to ensure that such a certification or evaluation is complete or received before or after providing reimbursement.

Since the intent of the parties is relevant in assessing the existence of a duty, even what appear to be self-serving statements may help in a close case to tip a court to find no duty.

Finally, one might posit that a claim of liability under FARR might be based on the tort doctrine of abnormally dangerous activities.<sup>6</sup> It may be argued that firing ranges and archery facilities are abnormally dangerous activities, like dynamiting rock operations, and thus a funder of the facilities who exercises no more than a minimal level of control may be assumed to be responsible as well as the owner or operator.

Washington courts have been conservative in finding abnormally dangerous activities. The only reported case where liability was found was a public fireworks where a spectator was hit with a shell. The courts have refused to extend liability to gas pipelines that exploded, water mains that burst, and wild predatory animals that killed a human on private property. No abnormally dangerous activities cases dealing with firearm or archery ranges have been published in Washington. While the risk of liability does go up some when property is made open to the public, no cases have held a lender responsible for a borrower's abnormally dangerous activities. On balance, the likelihood of RCO liability on this theory is again very small.

This memo provides my best professional judgment but is not either a formal or informal opinion of the Attorney General, as such opinions are obtained through a separate process within the Office of the Solicitor General.

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<sup>6</sup> In Washington, strict liability is imposed for abnormally dangerous activities when the conditions of Restatement (Second) of Torts §§ 519, 520 (1977) are met. Section 520 lists the factors to be considered when determining \*501 what constitutes an abnormally dangerous activity:

- (a) existence of a high degree of risk of some harm to the person, land or chattels of others;
- (b) likelihood that the harm that results from it will be great;
- (c) inability to eliminate the risk by the exercise of reasonable care;
- (d) extent to which the activity is not a matter of common usage;
- (e) inappropriateness of the activity to the place where it is carried on; and
- (f) extent to which its value to the community is outweighed by its dangerous attributes.

New Meadows Holding Co. by Raugust v. Washington Water Power Co., 102 Wash. 2d 495, 500-01, 687 P.2d 212, 215-16 (1984)

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Washington Wildlife and Recreation Program Administration Costs  
**Prepared By:** Nona Snell, Policy Director

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

This memo summarizes the Washington Wildlife and Recreation Program administration fee allowance and the need to assess what it costs to administer this grant program. The memo describes the history of funding the administration of this and other RCO grant programs and sets forth several options for consideration. Taking a look at the costs is an important step to improve program management. The memo briefly outlines possible options for statutory changes and stakeholder outreach, should the board choose to head that direction.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Background

The Washington State Legislature established the Washington Wildlife and Recreation Program (WWRP) in 1990. The program was envisioned as a way for the state to accomplish two goals: acquire valuable recreation and habitat lands before they were lost to other uses and develop recreation areas for a growing population. Several additional goals were added later (farmland preservation and state land restoration/development).

## Administration Allowance

When the WWRP program was established, the law<sup>1</sup> prohibited the use of appropriated monies to pay for staff, overhead expenses, or for state, regional, or local agency operation and maintenance of projects awarded grants. In 2005, the law was amended<sup>2</sup> to allow up to three percent of the funds appropriated for WWRP to be used by the Recreation and Conservation Office (RCO) for administration of the program.

<sup>1</sup> Section 7, chapter 14, Laws of 1990 1<sup>st</sup> Ex. Sess.

<sup>2</sup> RCW 79A.15.030(7)



Since 2005 several administrative requirements and public expectations have been added to the RCO's management of all grant programs. Examples include: consultation on cultural resources; increased expectations for electronic accessibility of project information; increased requests for disclosure of public information; increased requirements for fiscal accountability and review; increased accountability for grant compliance; and increased efforts to streamline grant processes with technology.

RCO currently has 8 grant managers that manage 9 board grant programs, many of which have sub-grant categories. In addition, RCO has fiscal staff, IT staff, managers, policy staff, and other administrative staff who support the board's grant programs. While the RCO is a very efficient and effective agency, some of the new requirements have stressed our ability to maintain the board's strategic plan goal to achieve a high level of accountability in managing the resources and responsibilities entrusted to us.<sup>3</sup> As a result, administrative requirements discussed above have suffered in the process.

The current allowance of three percent of WWRP appropriations for RCO's administrative functions is inadequate for two reasons: 1) the varied administrative amount (three percent of total appropriation levels) does not provide stable funding; and 2) it does not allow us to respond to new public requirements and expectations. This affects RCO's ability to effectively manage the program during the grant award cycle and over the long-term.

## **History of WWRP Administration and Appropriation Amounts**

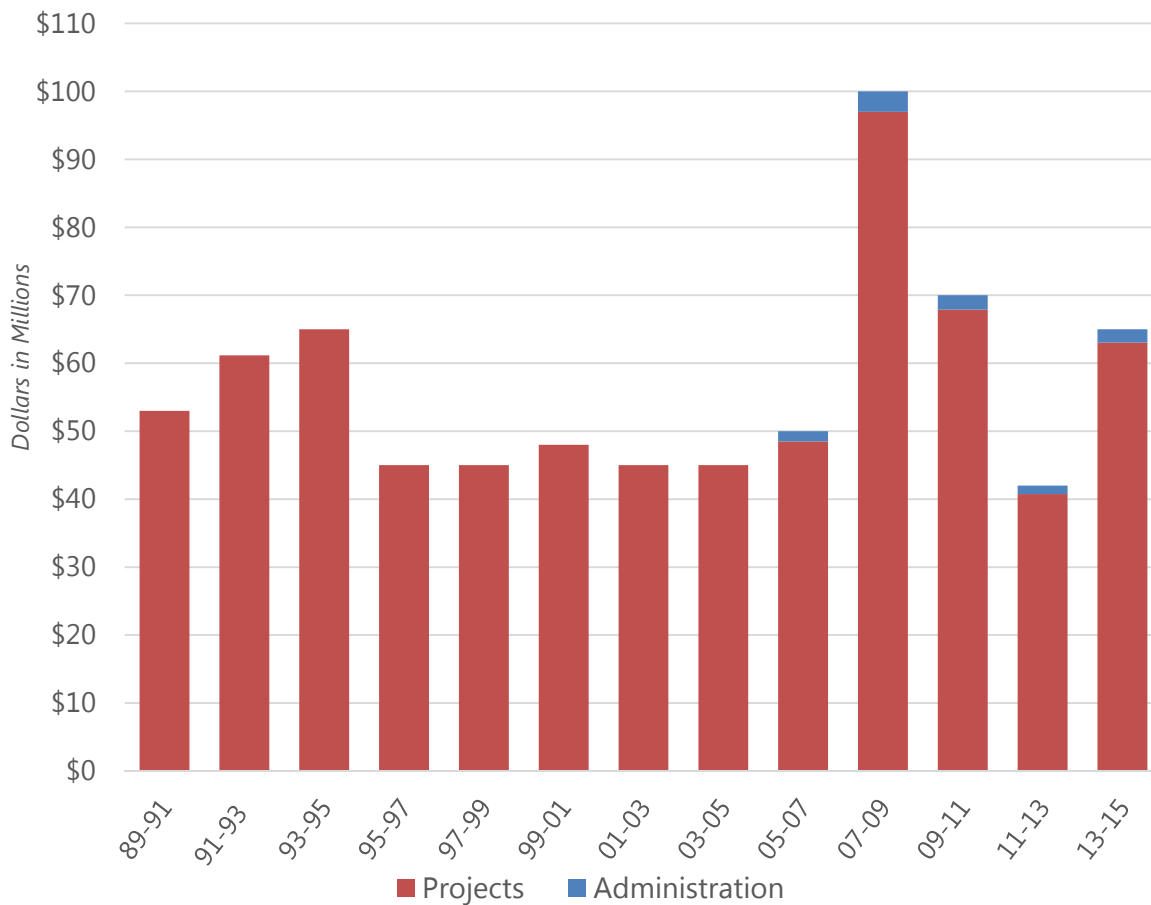
From 1990 through 2005, the Interagency Committee for Outdoor Recreation (now the RCO) received biennial appropriations for WWRP that ranged from \$45 to \$65 million. During this timeframe, all of the WWRP appropriations were used for projects that received grants and none were used for grant administration, which includes grant application solicitation, technical assistance, application review, cultural resource review, compliance, and other tasks. Grant administration was paid for with funds from other programs.

Since 2005, three percent of the appropriation amount was used for administration of WWRP. During this timeframe, WWRP appropriations have ranged from \$42 to \$100 million (Figure 1). The three percent administration allowance fluctuated from \$1.3 million to \$3 million.

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<sup>3</sup> Recreation and Conservation Funding Board Strategic Plan (2012)

**Figure 1: WWRP Appropriations since 1990 with Amounts for Projects and Administration**



### **WWRP Administrative Rate Compared to other RCO Grant Programs**

RCO administers 16 grant programs (this includes salmon recovery programs). Eight of those grant programs have an administrative or indirect rate of 4.12 percent, which is approved by the U.S. Department of the Interior. Five grant programs have an administrative rate set higher than 4.12. Three grant programs have an administrative rate at 3 percent (see Table 1 for the rate of each grant program).

**Table 1: Current Administrative Rates of RCO Programs**

Program	Basis for Admin Rate	Admin Rate (%)
Aquatic Lands Enhancement Account (ALEA)	Negotiated	5
Boating Facilities Program (BFP)	As needed, by appropriation	Varies, currently 33
Boating Infrastructure Grant (BIG)	Federally approved indirect rate	4.12
Estuary and Salmon Restoration Program (ESRP)	Interagency agreement	4.12
Firearms and Archery Range Recreation (FARR)	Historical	10
Family Forest Fish Passage Program (FFFP)	Interagency agreement	5
Land and Water Conservation Fund (LWCF)	Federally approved indirect rate	4.12
Nonhighway and Off-Road Vehicle Activities (NOVA)	Statute	10
Puget Sound Acquisition and Restoration Fund (PSAR)	Interagency agreement	4.12
Puget Sound Critical Stock (PSCS)	Federally approved indirect rate	4.12
Pacific States Marine Fisheries Commission (PSMFC)	Federally approved indirect rate	4.12
Recreational Trails Program (RTP)	Federally approved indirect rate	4.12
Salmon Federal	Federal limitation, <sup>4</sup> grant guidelines	3
Salmon State	Federally approved indirect rate	4.12
Washington Wildlife and Recreation Program (WWRP)	Statute	3
Youth Athletic Facilities (YAF)	Statute	3

## Administration Activities

Administration of the WWRP includes the following activities for grant and program administration:

- Develop WWRP related policies for approval by the board;
- Communicate with potential applicants and provide technical assistance to prepare for grant cycles;
- Prepare grant manuals, electronic applications, and other materials necessary to carry out the competitive grant process;
- Review grant applications;

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<sup>4</sup> For the federal salmon program, 4.12 percent is used as the administrative rate until the total amount used for administration reaches 3 percent for the total appropriation.

- Manage and support volunteer advisory committees who review and rank applications;
- Manage and support the board in their role to set policy and approve projects for funding;
- Conduct project review and evaluation;
- Prepare funding lists and presentations for board approval and submittal to the Governor and Legislature;
- Provide data and information related to WWRP throughout the legislative process;
- Collect and review documents for project grant awards;
- Address amendments or other project or contract changes;
- Prepare contracts for each project;
- Maintain and update data systems (PRISM, e-billing, GIS) to collect applicant and project information;
- Provide cultural resources technical assistance and coordinate compliance with legal and executive order requirements;
- Monitor project progress, pay invoices, and conduct audits and inspections;
- Monitor projects for compliance with long-term statutory and contractual requirements;
- Provide public access to and disclosure of grant records; and
- Pay for staff salaries and benefits and the materials necessary to carry out the above tasks.

## Analysis

Each biennial WWRP appropriation is expected to cover the cost of the approved projects, the costs to administer those projects, the costs associated with review of projects for the next biennium, and the costs of compliance. Having an administrative funding mechanism that is low and variable has had a detrimental impact on the administration of the WWRP grant program. RCO balances its workforce and systems to prioritize current grant management and the acceptance of grant applications for the next biennium. What receives less attention in lean times is contract compliance, data systems, and application technical assistance to applicants. RCO's administration responsibilities in the WWRP have increased since 2005 in the following five areas, as described further below. If the agency had additional funding for the WWRP program, we could improve our administration.

## Project Implementation

The purpose of the board policy on project implementation is to help ensure reasonable and timely project completion, accountability, and the proper use of funds. To meet the board's policy requirements, grant recipients must submit applications for and provide assurance that projects can be completed within four years. Applicants must set milestones and begin work on projects quickly. RCO may terminate projects that do not meet critical milestones established in the project agreement.

RCO grant managers assist sponsors with meeting these requirements by issuing agreements, monitoring progress reports, addressing project issues, and processing reimbursement requests

in a timely manner. With additional administrative funds RCO would continue its work on streamlining processes and procedures and providing resources to make it easier for sponsors to implement projects, meet the terms of the project agreement, and help us reduce reappropriations and meet important accountability measures.

## **Compliance**

WWRP projects may not, without prior approval of the board, be converted to a use other than that which was originally approved.<sup>5</sup> Once a grant project is complete, the grant contract enters a period of post-completion compliance.

The number of grants that are subject to compliance monitoring changes over time, as completed projects are added to the portfolio. As of March 2014, the WWRP compliance portfolio contains 1,001 projects, which is approximately 23 percent of RCO's compliance workload.

Along with their other responsibilities, RCO grant managers periodically inspect each project to ensure the post-completion requirements are met. In the past, RCO attempted to inspect each grant site once every five years. This level of inspection is no longer feasible with the growing number of projects in RCO's portfolio and with the other responsibilities that have been added (as noted below). Under the five year compliance timeframe, RCO staff would be responsible for conducting a total of approximately 172 inspections of WWRP projects annually. In 2013, a year in which grant applications were not accepted, staff conducted a total of 133 WWRP inspections.

Increased administrative dollars would allow us to complete development of our compliance module and resources tools for monitoring compliance; allocate staff resources to help sponsors address compliance issues; and to improve our performance on monitoring stewardship of WWRP funded sites.

## **Cultural Resources**

Cultural resources include archaeological and historical sites and artifacts, traditional areas, and tribal items of religious, ceremonial, and social uses. The goal is to ensure that reasonable action is taken to avoid damage to these resources during the construction or demolition of any grant-funded project. The cost associated with cultural resources review is an eligible item for project sponsor reimbursement in the project agreement. All construction or land acquisitions for the purposes of construction are subject to [Governor's Executive Order 05-05](#), which includes consultation with the Department of Archaeology and Historic Preservation (DAHP) and the tribes to determine potential impacts to cultural and historic resources. Projects that have a federal nexus must comply with Section 106 of the National Historic Preservation Act.

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<sup>5</sup> RCW 79A.15.030(8)

Based on the consultation with state, federal, and tribal partners, the project sponsor may be required to conduct additional cultural resources work, including a cultural resources survey by a professional archaeologist or on-site monitoring of ground disturbing activities. Modification to the project design may be requested to avoid impacts or mitigation may be required where impact cannot be avoided.

While the work of our grant sponsor can be covered as an allowable expense, the work of the RCO must come out of the administrative allocation. RCO requires documented compliance with the Governor's executive order or the National Historic Preservation Act, whichever is applicable to the project, before issuing a notice to proceed with project construction. RCO withholds reimbursement of grant funds for any development or restoration (including demolition, fencing, and noxious weed control) expenditures until this requirement is met.

Since RCO does not employ or retain a trained archaeologist to review projects for potential impacts to cultural and historic resources, the State's Department of Archeology and Historic Preservation requires a full cultural resources survey on many of our projects. The cost of surveys ranges from \$5,000 to \$20,000 or more, depending on the scope of the project. Adequate administrative funds will allow RCO to plan for this ongoing work, reduce sponsor costs, and improve the timeliness of cultural resource reviews and project completion. Access to a contracted archaeologist to review selected RCO funded projects would allow the agency to better determine whether a project will have an impact to cultural or historic resources and eliminate the need for sponsors to conduct unnecessary survey work.<sup>6</sup>

## **Data Systems**

RCO staff, project sponsors, and stakeholders are reliant on data systems for managing grant applications, contracts, and compliance as well as for project transparency, accountability, and information sharing with the public and our partners. We are currently developing a completely electronic billing system. Staff time is needed to keep our systems on-pace with evolving technology as we strive for additional access and transparency. We primarily use RCO's Project Information System (PRISM) for these purposes. We also rely heavily on our website to communicate with our sponsors, partners, legislators and the public. These take time and resources to maintain and keep current.

As we continue to progress toward a more efficient, transparent, comprehensive, and integrated system, the many improvements to RCO's data systems have been identified. Additional administrative dollars would allow us to develop tools for application review, electronic scoring, create Web-based reporting, improve mapping, and digitize archived project records.

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<sup>6</sup> State agency sponsors have the authority to ensure compliance with cultural resource requirements on their own lands. RCO does not initiate review nor provide cultural resources consultation for projects sponsored by another state agency.

## Fiscal Monitoring Requirements

RCO monitors all grant funds to ensure project costs are eligible for reimbursement. For all billings we review the sponsor-requested reimbursement as invoices are submitted. We annually review additional documentation, including timesheets, bank records, and other backup, for all sponsors. Fiscal staff periodically conduct on-site visits to review practices, documentation, and backup. Adequate administration funds would help to continuously complete these fiscal monitoring requirements that ensure our grant funding is being appropriately used.

## Options

Bringing more stability to the staffing process is a high RCO priority. Rounding out the ups and downs (i.e. more stable funding) for administration would help to avoid the ramping up during times of large appropriations and laying off during times of lower appropriations. More constant staffing levels allow staff to better balance managing active grants and new applications with the compliance work necessary on older grants. On-going program management is required regardless of whether appropriations are high or low.

The administration allowance is set by statute. Such a statutory change will lead to improvements in the following five areas. These changes are designed to increase the quality and efficiency of RCO services provided to project sponsors and the public:

- Meet the board's policy on project implementation;
- Monitor older projects for compliance with contractual requirements;
- Meet legal requirements for cultural resources that may be found on project sites;
- Maintain data systems necessary to provide current information on funded projects, enhance the tools to electronically manage grants, and provide more information to the public and elected officials; and
- Meet agency fiscal monitoring requirements.

As the board considers possible changes to the WWRP administration allowance to address funds available for administration and to complete necessary work, several options may be considered:

Option 1: No change to the WWRP administration allowance.

Option 2: Increase the administrative rate to be in line with the federal indirect rate (currently 4.12 percent).

Option 3: Increase the administration allowance to five percent, depending on administrative need (to be justified to OFM).

Option 4: Maintain a three percent administrative rate on a base amount of appropriations (\$40 million) and increase the percent on appropriation amounts above the base.

Option 5: Increase the administration allowance to 5 percent on a base level of administration (\$30 m, \$40 m, or \$50 m) and maintain three percent on appropriations amounts above the base.

Option 6: Increase the administration allowance on a base amount of appropriations (\$50 m) and eliminate administration allowance on appropriation amounts above the base.

These options and their impacts on different WWRP appropriation levels are summarized in Table 2.

**Table 2 Summary of Administration Allowance Options for WWRP**

WWRP Appropriation (\$)	Option 1	Option 2	Option 3	Option 4	Option 5			Option 6
	No Change (3%)	Federal Indirect Rate (4.12%)	Increase Admin Rate to 5%	3% for first \$40 M and 5% on Amount Above	5% for first \$30 M and 3% on Amount Above	5% for first \$40 M and 3% on Amount Above	5% for first \$50 M and 3% on Amount Above	5% for first \$50 M and 0% on Amount Above
\$120,000,000	\$3,600,000	\$4,944,000	\$6,000,000	\$5,200,000	\$4,200,000	\$4,400,000	\$4,600,000	\$2,500,000
\$110,000,000	\$3,300,000	\$4,532,000	\$5,500,000	\$4,700,000	\$3,900,000	\$4,100,000	\$4,300,000	\$2,500,000
\$100,000,000	\$3,000,000	\$4,120,000	\$5,000,000	\$4,200,000	\$3,600,000	\$3,800,000	\$4,000,000	\$2,500,000
\$90,000,000	\$2,700,000	\$3,708,000	\$4,500,000	\$3,700,000	\$3,300,000	\$3,500,000	\$3,700,000	\$2,500,000
\$80,000,000	\$2,400,000	\$3,296,000	\$4,000,000	\$3,200,000	\$3,000,000	\$3,200,000	\$3,400,000	\$2,500,000
\$70,000,000	\$2,100,000	\$2,884,000	\$3,500,000	\$2,700,000	\$2,700,000	\$2,900,000	\$3,100,000	\$2,500,000
\$60,000,000	\$1,800,000	\$2,472,000	\$3,000,000	\$2,200,000	\$2,400,000	\$2,600,000	\$2,800,000	\$2,500,000
\$50,000,000	\$1,500,000	\$2,060,000	\$2,500,000	\$1,700,000	\$2,100,000	\$2,300,000	\$2,500,000	\$2,500,000
\$40,000,000	\$1,200,000	\$1,648,000	\$2,000,000	\$1,200,000	\$1,800,000	\$2,000,000	\$2,000,000	\$2,000,000

## Discussion and Next Steps

Staff recommend the board seek stakeholder feedback on all six of the options presented in this memo, with the goal of providing a stable and sufficient amount of administrative funding for the WWRP program. This should happen over the next several months.

If, after hearing from key stakeholders, the board wants to proceed, it would need to make a decision to pursue a statutory change at the July meeting. All agency requests for statutory changes must be approved by the Governor's office. Although the Governor's office has not yet directed agencies on the timing of requests, we anticipate a statute change request from RCO would be due by the end of August. If the board/RCO request is approved by the Governor's Office, we will need to meet with legislators and legislative committee staff to educate them on the need for the change and the associated cost.

The 2015 legislative session is scheduled to adjourn in mid-April. If this proposed legislation is passed, the change would take effect with the 2015-17 WWRP appropriation.



## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014

**Title:** Technical Correction to the Planning Grant Evaluation Criteria in the Nonhighway and Off-Road Vehicle Activities Program

**Prepared By:** Leslie Connelly, Natural Resource Policy Specialist

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

At the January 2014 meeting, the board adopted a sustainability criterion in the Nonhighway and Off-road Vehicles Activities (NOVA) program for acquisition, development, and maintenance and operation applications. The criterion is worth ten points. The addition of this criterion created a disadvantage for planning grant applications, which do not have the benefit of the additional ten points. Staff propose a technical correction to increase the eligible points for planning grant applications, which will correct the disparity in the total maximum points.

### Board Action Requested

This item will be a:

<input checked="" type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input type="checkbox"/>	Briefing

Resolution: 2014-09

Purpose of Resolution: Adjusts the scoring for planning grant applications in the NOVA program.

## Background

### Nonhighway and Off-road Vehicles Activities Program

The Nonhighway and Off-road Vehicle Activities (NOVA) program provides grants to a variety of government entities to support a wide range of trail and back-road related outdoor recreation such as: riding off-road vehicles (ORVs); hunting and fishing; gathering berries, mushrooms, and other natural products; hiking and backpacking; horseback riding and pack animal activities; and mountain bicycling. Funds may be used for four project types: land acquisition, constructing new or renovating existing facilities, maintenance and operation of facilities, and planning for new NOVA opportunities.

## **Sustainability Criterion Adopted in January**

At the January 2014 meeting, the Recreation and Conservation Funding Board (board) adopted a new sustainability criterion for acquisition, development, and maintenance and operation applications in multiple grant programs including the NOVA program. The purpose of the criterion was to:

- Support findings in Statewide Comprehensive Outdoor Recreation Plan,
- Implement the sustainability policy in all relevant programs following a pilot in select grant programs, and
- Incorporate the sustainability policy into the evaluation criteria to measure and assist with prioritizing projects.

## **Planning Grants Not Included**

When the board adopted the sustainability criterion for the NOVA program, it was for acquisition, development, and maintenance and operation applications. It was not written to apply to planning grant applications.

Planning grants may cover a variety of different phases of planning that result in future NOVA-type recreation opportunities. The types of eligible activities in planning grants are:

- Comprehensive plans,
- Construction drawings,
- Cultural resource assessments and surveys,
- Environmental assessments,
- Feasibility and preconstruction studies,
- Route surveys and reconnaissance, and
- Site master plans.

Staff did not recommend the board apply the sustainability criterion to planning grant applications because the board's sustainability policy is specific to a project's sustainable design, and planning projects do not always have a direct impact on the natural environment. For example, it could be difficult to assess sustainability when the scope of work is to prepare a comprehensive plan or conduct a cultural resource assessment.

## **Scoring Inequity**

The addition of the sustainability criterion to the acquisition, development, and maintenance and operation applications created a disadvantage for planning grant applications, which do not have the benefit of the additional ten points. The current maximum possible points by project type and funding category are in Table 1 and 2. Note the current evaluation criteria provide five additional points for nonhighway and nonmotorized projects. See Attachment A for a complete set of the current evaluation criteria.

**Table 1: Maximum Possible Points for Nonhighway and Nonmotorized Applications**

Project Types	Total Possible Points
Acquisition, Maintenance and Operation, and Development	82
Planning	72

**Table 2: Maximum Possible Points for Off-Road Vehicle Applications**

Project Types	Total Possible Points
Acquisition, Maintenance and Operation, and Development	77
Planning	67

## Analysis

### Consequence for Planning Grant Applications

The ten point disparity between planning grants and the other types of applications was an unintended consequence of applying the sustainability criterion to only three of the four eligible project types in the NOVA program.

Applications for the 2014 grant cycle are due July 1<sup>st</sup>. Proceeding with the current set of evaluation criteria will create a disadvantage for planning grant applications, which was not intended. Therefore, it is important for the board to discuss whether to proceed with the current set of evaluation criteria or make a course correction before new grant applications are due this summer.

Staff identified three options for the board's consideration, which are described in detail in the next section.

- Option 1 - No Change
- Option 2 - Increase the Points for Planning Grant Applications
- Option 3 - Apply a New Sustainability Criterion to Planning Grant Applications

## Options for Consideration

### Option One – No Change

The board could choose to retain the current set of evaluation criteria and make no change. The total possible score for acquisition, development, and maintenance and operation applications would remain ten points higher than for planning grant applications. The ten point difference could potentially result in fewer funded planning grants because ten points can make a significant difference in the final ranked scores.

For example, in 2012, there were seven planning grant applications out of 29 total in the nonmotorized category. Two planning grant applications received funding with scores of 55.36 and 53.27, respectively. The last funded application received 52.64 points. The two planning grant applications would likely not have received funding if they were disadvantaged by ten points.

If the board chooses option one, staff recommend the board revisit the evaluation criteria for planning grants, along with all other NOVA categories for the 2016 grant cycle. This review should be in conjunction with revisions based on the State Comprehensive Outdoor Recreation Plan, Washington State Trails Plan, and the Nonhighway and Off-Road Vehicle Activities Plan.

### **Option Two – Increase the Points for Planning Grant Applications**

Currently, evaluation criterion #3 specifically targets each type of application with a specific set of questions. For planning grant applications, criterion #3d asks “To what extent will the proposed plan or study help provide opportunities?” The point range for this criterion is currently zero to five and the score is then multiplied by two for a total possible 10 points.<sup>1</sup>

#### Part A

The board could choose to increase the maximum points for criterion #3d from 10 to 20 points. To make this change, the scoring for evaluators would remain a point range of zero to five. The multiplier would be increased from two to four for a total possible 20 points.

Increasing the maximum score to 20 points would provide an equivalent number of points for planning grant applications compared with acquisition, development, maintenance and operation applications regardless of the funding category. Table 3 illustrates the maximum points by funding category under this option. Note this option provides for an equal number of points regardless of project type and retains the five additional points for nonhighway and nonmotorized projects.

**Table 3: Option Two Scenario for Maximum Possible Points in the NOVA Program**

<b>Funding Category</b>	<b>Project Types</b>	<b>Total Possible Points</b>
Nonhighway and Nonmotorized	Acquisition, Maintenance and Operation, Development, and Planning	82
Off-road Vehicles	Acquisition, Maintenance and Operation, Development, and Planning	77

#### Part B

To account for the additional weight of criterion #3d, the board could provide additional factors for evaluators to consider. In general, evaluation criteria are organized by criterion and then

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<sup>1</sup> Individual criterion may include several factors or questions.

follow-up questions or factors to guide applicants on how to respond and evaluators on how to score the criteria. Not all follow-up questions or factors apply to each proposal.

Including more scoring questions and factors for criterion #3d would provide additional guidance on how the proposed plan or study will provide NOVA-type recreation opportunities. It would also incorporate factors related to sustainability for planning projects. Potential changes to evaluation criterion #3d are illustrated below with underlined text. The additional follow-up questions were adapted from the planning criterion in the Boating Facilities Program and the sustainability criterion for the other types of projects in the NOVA program.

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**3d. Planning. To what extent will the proposed plan or study help provide opportunities and address sustainability of the natural environment?<sup>2</sup> (Applicants respond only to bulleted items clearly relevant to your project.)**

Recreation Benefit and Public Involvement Factors

- Will this project directly benefit the intended recreation? Explain. (For example, will it result in a development proposal, or will more planning be required?)
- What are the results of any public involvement in the planning proposal?

Proposed Plan Scope and Outcomes Factors

- Are the project's planning goals and objectives appropriate? Explain.
- Is the proposed plan or study cost-effective?
- Does the plan or study reflect current planning or design standards or is the approach untested?
- Are there any conditions on site or in the study area that might require extraordinary or unique planning or design efforts?
- What is the complexity or feasibility of environmental mitigation that could be required?
- Does the plan or study address maintenance and stewardship of the planning area?
- What are the qualifications and experience of the personnel, including consultants?

Sustainability Factors

- How do the natural characteristics of the site support future planned uses?

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<sup>2</sup> An applicant should address the recreation opportunities provided in the specific grant category in which he or she is applying. For example, if the applicant is applying for an off-road vehicle grant, he or she should describe the off-road vehicle opportunities that would be provided.

- Will the plan or study address how to protect, enhance, or restore wetlands and other ecosystem functions of the site?
- Does the plan or study include a response to any invasive species on site or within the study area?
- What other noteworthy characteristics demonstrate how the natural features within the planning area contribute to energy efficiency, less maintenance, fewer environmental impacts, or sustainability?

▲ **Point Range: 0-5 points, which staff later multiplies by 2 4.**

0 points	Evidence is vague or it appears that the project will not lead to new opportunities for the intended type of recreation <u>or does not show any concepts of sustainability.</u>
1-2 points	Fair to moderate evidence. Proposal likely will lead to weak or below average new <u>recreation opportunities and sustainability concepts.</u>
3 points	Good. Proposal likely will lead to an above average or several solid <u>recreation opportunities and sustainability concepts.</u>
4-5 points	Very good to excellent. Proposal likely will lead to an outstanding opportunity in the intended recreation type <u>and improved sustainability concepts.</u>

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### **Option Three - Apply a New Sustainability Criterion to Planning Grant Applications**

The board could choose to add a new stand-alone sustainability criterion worth ten points to the evaluation criteria for planning grant applications. This would treat planning grants the same as all other types of projects and require plans and studies to address sustainability concepts.

The board could apply the same criterion used for acquisition, development, and maintenance and operation applications (criterion #4 in Attachment A) or it could adopt a sustainability criterion that is specific for planning project types.

Below is an example of a proposed sustainability criterion specific to planning grants which could be applied in the NOVA program. This criterion was adapted for planning grants from the existing sustainability criterion applied to acquisition, development, and maintenance and operation applications.

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## NEW CRITERION

### **Sustainability and Environmental Stewardship. Will the plan address how NOVA-type recreation opportunities will minimize impacts on the natural environment?**

Factors to consider for plans and studies are outlined below.

- Does the plan or study address how to preserve the natural function of the site?
- How does the plan or study address protecting, enhancing, or restoring the ecosystem functions of the property?
- Does the plan or study include a response to any invasive species on site or within the study area?
- How do the natural characteristics of the site support future planned uses?
- Does the plan or study protect wetlands or wetland functions? Describe the size, quality, and classification.
- What other noteworthy characteristics demonstrate how the natural features within the planning area or study area contribute to energy efficiency, less maintenance, fewer environmental impacts, or sustainability?
- Does the proposed plan or study protect natural resources onsite and integrate sustainable elements such as low impact development techniques, green infrastructure, or environmentally preferred building products?
- How will the plan or study address on-site storm water management such as rain gardens, porous paving, or other sustainable features?
- What is the strategy or plan for long-term maintenance and stewardship of the planning area or study area?

▲ **Point Range: Evaluators award a maximum of 5 points that are multiplied later by 2.**

## Staff Recommendation

Staff recommend the board adopt option two (Parts A and B) to increase the total eligible points for planning grant applications and expand the evaluation criteria to account for the additional points. Under option two, all grant applications would be eligible for the same number of points, regardless of the project type, without making major revisions to the evaluation criteria overall.<sup>3</sup> Option two causes the least disruption to the current evaluation criteria and is the most straightforward way to correct the scoring disparity for planning grant applications.

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<sup>3</sup> There would still be a five point difference between nonhighway road and nonmotorized projects compared with off-road vehicle projects.

Taking no action (option one) would not address the significant disadvantage for planning grant applications when competing for grant funds. It would not address the unintended consequence created by the adoption of the sustainability criterion for acquisition, development, and maintenance and operation applications. It may impact the number of grant applications submitted and grants awarded for planning type projects.

Adding a new evaluation criterion (option three) would be a significant change. The sustainability criterion applied to acquisition, development, and maintenance and operation grant applications does not fit well for planning grants. The stand-alone criteria proposed in this memo may need to be vetted with the public and stakeholders prior to adoption. If the board would like to apply a sustainability criterion to planning grant applications, staff would like additional time to further develop the criterion to better address how plans and studies can incorporate sustainability concepts. Additional work on a new criterion could be developed for the 2016 grant cycle.

## **Request for Decision**

Resolution 2014-09 is provided for the board's consideration.

Regardless of which option the board chooses to implement, the board may want to consider its decision an interim measure for the 2014 grant cycle. Additional review of all of the NOVA program criteria is scheduled for later this year to implement recommendations from the State Comprehensive Outdoor Recreation Plan, Washington State Trails Plan, and Nonhighway and Off-road Vehicle Plan. Staff plan to bring revised criteria to the board next year in preparation for the 2016 grant cycle.

## **Strategic Plan Link**

The proposed changes reflect the opportunity to make a number of policy improvements that support the board's goals to:

- Achieve a high level of accountability in managing the resources and responsibilities entrusted to the board, and
- Deliver successful projects by inviting competition and by using broad public participation and feedback, monitoring, assessment, and adaptive management.

## **Next Steps**

Staff will implement the board's decision beginning with the 2014 grant cycle.

## **Attachments**

- Attachment A – Current NOVA Program Evaluation Criteria – Nonhighway Road, Nonmotorized, and Off-Road Vehicle Categories



Recreation and Conservation Funding Board  
Resolution #2014-09  
Changes to the NOVA Program Criteria for 2014

**WHEREAS**, pursuant to state law, the Recreation and Conservation Funding Board (board) administers and approves policies that govern the Nonhighway and Off-road Vehicle Activities (NOVA) program and sets evaluation criteria for grant applications; and

**WHEREAS**, the board adopted the State Comprehensive Outdoor Recreation Plan in June 2013 and adopted the Washington State Trails Plan and NOVA Plan at its January 2014 meeting;

**WHEREAS**, in response to recommendations and action items in the above referenced plans, at its January 2014 meeting per Resolution #2014-06, the board added an evaluation criterion measuring project sustainability to the NOVA program evaluation criteria for acquisition, development, and maintenance and operation applications which increased the total possible points for those types of projects; and

**WHEREAS**, there were no changes made to the evaluation criteria for planning grant applications and planning grant applications were not afforded the additional points possible when the other evaluation criteria were changed; and

**WHEREAS**, it was not the intent of the board and staff to place planning grant applications at a disadvantage in the total possible points eligible in scoring the evaluation criteria;

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt changes in the evaluation criteria as described in option two of the staff memo; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to incorporate these changes in the appropriate policy manuals with language that reflects the revised evaluation criteria; and

**BE IT FURTHER RESOLVED** that these policies shall be effective for 2014 NOVA grant cycle.

Resolution moved by: \_\_\_\_\_

Resolution seconded by: \_\_\_\_\_

Adopted/Defeated/Deferred (underline one)

Date: \_\_\_\_\_

## Attachment A – Current NOVA Program Evaluation Criteria – Nonhighway Road, Nonmotorized and Off-Road Vehicle Categories

### NOVA Evaluation Criteria – Nonhighway Road and Nonmotorized Categories

Applicants must provide oral responses to evaluation criteria (1-8).

NOVA Evaluation Questions Summary					
Scored By	Evaluation Question	Title	Category and Project Type Questions	Maximum Points	NOVA Plan Policy or SCORP
Advisory Committee	1	Need	All	15	A-1, C-7
Advisory Committee	2	Need fulfillment	All	15	A-1, C-6, C-7
Advisory Committee	3a	3a. Site suitability	Acquisition	10	C-15
Advisory Committee	3b	Project design	Development	10	C-1, C-5, C-7, C-8, C-14
Advisory Committee	3c	Maintenance	Maintenance	10	C-5, C-7, C-8, C-14
Advisory Committee	3d	Planning	Planning	10	C-6, C-15
Advisory Committee	4	Sustainability and Environmental Stewardship	Acquisition, Development, Maintenance	10	SCORP
Advisory Committee	5	Readiness to proceed	All	5	
Advisory Committee	6	Predominantly natural	Nonmotorized and Nonhighway Road category projects only.	5	C-13
Advisory Committee	7	Project support	All	10	C-3, C-4
Advisory Committee	8	Cost-benefit	All	5	A-1, C-3
RCO staff	9	Matching shares	All	5	C-4

NOVA Evaluation Questions Summary					
Scored By	Evaluation Question	Title	Category and Project Type Questions	Maximum Points	NOVA Plan Policy or SCORP
RCO staff	10	Population proximity	All	2	C-2
RCO staff	11	Growth Management Act preference	All	0	
<b>Acquisition, Maintenance and Development Total Possible Points</b>				<b>82</b>	
<b>Planning Total Possible Points</b>				<b>72</b>	

KEY:

All=includes acquisition, development, maintenance and operation, and planning project types.

NOVA Plan Policy=Criteria orientation in accordance with the *NOVA Plan 2005-2011*. The letter and number codes reference corresponding policies in the plan.

SCORP = *Statewide Comprehensive Outdoor Recreation Plan 2013-2018*

## NOVA Evaluation Criteria – Off-Road Vehicle Categories

Applicants must provide oral responses to evaluation criteria (1-7).

NOVA Evaluation Questions Summary					
Scored By	Evaluation Question	Title	Category and Project Type Questions	Maximum Points	NOVA Plan Policy or SCORP
Advisory Committee	1	Need	All	15	A-1, C-7
Advisory Committee	2	Need fulfillment	All	15	A-1, C-6, C-7
Advisory Committee	3a	3a. Site suitability	Acquisition	10	C-15
Advisory Committee	3b	Project design	Development	10	C-1, C-5, C-7, C-8, C-14
Advisory Committee	3c	Maintenance	Maintenance	10	C-5, C-7, C-8, C-14
Advisory Committee	3d	Planning	Planning	10	C-6, C-15
Advisory Committee	4	Sustainability and Environmental Stewardship	Acquisition, Development, Maintenance	10	SCORP
Advisory Committee	5	Readiness to proceed	All	5	
Advisory Committee	6	Project support	All	10	C-3, C-4
Advisory Committee	7	Cost-benefit	All	5	A-1, C-3
RCO staff	8	Matching shares	All	5	C-4
RCO staff	9	Population proximity	All	2	C-2
RCO staff	10	Growth Management Act preference	All	0	
<b>Acquisition, Maintenance and Development Total Possible Points</b>				<b>77</b>	
<b>Planning Total Possible Points</b>				<b>67</b>	

KEY:

All=includes acquisition, development, maintenance and operation, and planning project types.

NOVA Plan Policy=Criteria orientation in accordance with the *NOVA Plan 2005-2011*. The letter and number codes reference corresponding policies in the plan.

SCORP = *Statewide Comprehensive Outdoor Recreation Plan 2013-2018*

## Advisory Committee Scored—All Applicants Must Respond

For each question scored by the advisory committee, descriptive text and bullets are provided to help applicants and evaluators. A successful proposal need not address each consideration, nor is the list all inclusive.

### 1. Need. What is the need for new, improved, or maintained facilities<sup>4</sup>? (Applicants respond only to bulleted items clearly relevant to your project.)

#### A. State, Regional, Land Manager, or Community Needs

- Cite any publicly reviewed and adopted plan that supports the need for the project by name, location, or type.
- Describe why NOVA funds are critical to the completion of this project (current physical condition, safety, environmental issues, imminent threat of loss of recreation, etc.)

#### B. Inventory Issues

- Describe similar opportunities now available in the local area.
- Describe the need for new and/or improved facilities in the service area. For example, are there overcrowding issues? Is this a unique recreational experience?
- Describe any significant maintenance backlog in the project area.

#### C. Use

- Describe how accessible (including to people with disabilities) the finished project will be to intended users.
- Describe how heavily trails and support facilities in the area are used.
- Describe any un-served or under-served user groups.

### ▲ Point Range: 0-5 points, which staff later multiplies by 3.

0 points      No or very weak need established.

---

<sup>4</sup> Throughout this question, the applicant should address the need for facilities or recreation opportunities in the specific grant category in which he or she is applying. For example, if the applicant is applying for an off-road vehicle grant, he or she should describe the need for off-road vehicle facilities or address the off-road vehicle recreation opportunities.

1-2 points Fair to moderate need established.

3 points Strong need established.

4-5 points Very high to exceptional: several points made to establish need.

Last revised 2004.

**2. Need fulfillment. How well will this project fulfill the service area's needs identified in Question 1? (Applicants respond only to bulleted items clearly relevant to your project.)**

- How does the project meet the applicant's stated goals and objectives?
- How does the project meet the needs identified in the service area?
- How will the project meet the needs of any underserved user groups?
- How have intended users been included in the planning process and how has their feedback been addressed?

**▲ Point Range: 0-5 points, which staff later multiplies by 3.**

0 points No or weak evidence of need satisfaction.

1-2 points Fair to moderate evidence. Project fills only a small portion of the apparent or expressed need.

3 points Strong evidence. An important need will be addressed by the project, although that need will not be completely filled by the project as proposed.

4-5 points Very high to exceptional evidence. The project fulfills a critical need.

Last revised 2004.

***Answered by Applicants with Acquisition Projects***

**3a. Site suitability. To what extent is the site to be acquired well suited for the intended recreational activity?<sup>5</sup> (Applicants respond only to bulleted items clearly relevant to your project.)**

Describe the suitability of the site's physical features for the proposed uses. Generally, sites most compatible with the proposed uses will score higher. Consider such factors as:

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<sup>5</sup> An applicant should address the suitability of the site for the recreation facility in the specific grant category in which he or she is applying. For example, if the applicant is applying for an off-road vehicle grant, he or she should describe the suitability of the site for off-road vehicle recreation.

- Size
- Topography
- Soils
- Natural amenities
- Location

Other considerations include:

- How is the proposed acquisition compatible with the adjacent land uses?
- Does this acquisition provide a buffer to the existing use area? Explain.
- Will the proposed acquisition link to an existing facility?<sup>6</sup> Explain.

▲ **Point Range: 0-5 points, which staff later multiplies by 2.**

- |            |   |
|------------|---|
| 0 points   | No evidence presented, or the site is inappropriate for the intended recreation uses.   |
| 1-2 points | Below average to moderate. The site appears fair for the intended uses, though there may be concern over its appropriateness. |
| 3 points   | Good. Site is adequate or reasonable for intended uses.   |
| 4-5 points | Very good to excellent. Site is outstanding.  |

Last revised 2004.

*Answered by Applicants with Development Projects*

**3b. Project design. Is the proposal appropriately designed for intended uses and users? (Applicants respond only to bulleted items clearly relevant to your project.)**

If the facility has a Primary Management Objective<sup>7</sup>, describe how the project design is compatible with the objective.

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<sup>6</sup> Existing facilities providing recreation for the specific grant category in which he or she is applying. For example, if the applicant is applying for an off-road vehicle grant, will the proposed acquisition link to an existing facility providing off-road vehicle recreation.

<sup>7</sup> Primary Management Objective means the main type of use for which a trail or facility is managed. Primary Management Objectives are adopted by policy and communicated to users. For example, if an agency carries out a policy to specifically manage a facility for wildlife viewing, and communicates this fact to users, the Primary Management Objective is wildlife viewing. Such a Primary Management Objective does not necessarily mean that other uses are prohibited. A Primary Management Objective provides all users with an understanding of the type of experience to expect.



Explain how the project uses proven design criteria including:

- Barrier free and other user friendly elements.
- Adequate spatial relationships, surfacing, width, and grades (are there switchbacks, how is multiple-use facilitated, how tight are curves for ORVs, bicycles, and motorcycles?)
- Trails: Were "loop" designs considered and if present, do the loops lead to a primary destination?

Explain how the design:

- Makes the best use of the site.
- Satisfies users' desired level of difficulty (for ORVs only)
- For existing trails: Does not over build (retains the difficulty level) and minimizes user displacement.

▲ **Point Range: 0-5 points, which staff later multiplies by 2.**

0 points	Poor evidence presented or inappropriate design. For example: Environmental issues not addressed, trail difficulty level or user experience not addressed or can be expected to change substantially, or high probability of user displacement.
1-2 points	Below average to moderate. For example: Design does fair job of addressing environmental issues, use difficulty level and user experience will change somewhat, there appears to be some user displacement.
3 points	Good. For example: Design is adequate or reasonable to address environmental problems, retains similar difficulty level and user experience, or may be low levels of user displacement.
4-5 points	Very good to excellent. Design is outstanding. If a trail, retains difficulty level and user experience with minimal or no user displacement.

Last revised 2013.

*Answered by Applicants with Maintenance and Operation Projects*

**3c. Maintenance. Are the project's maintenance goals and objectives appropriate? (Applicants respond only to bulleted items clearly relevant to your project.)**

- If this is a trail project, what safeguards are in place to ensure an appropriate level of difficulty or challenge is retained?

- Does the site pose special maintenance problems? Will it be cost-effective to continue maintenance over the long term? Explain.
- By how long will this maintenance project extend the service life of this facility? Explain.

▲ **Point Range: 0-5 points, which staff later multiplies by 2.**

- |            |   |
|------------|---|
| 0 points   | Poor. Too little information is presented, or the goals and objectives don't seem appropriate.          |
| 1-2 points | Fair to moderate. Project appears to be only somewhat important.  |
| 3 points   | Good. Project effectively addresses a relatively important maintenance need in a timely way.            |
| 4-5 points | Very good to excellent. This project effectively addresses a critical maintenance need in a timely way. |

Last revised 2013.

*Answered by Applicants with Planning Projects*

**3d. Planning. To what extent will the proposed plan or study help provide opportunities?<sup>8</sup> (Applicants respond only to bulleted items clearly relevant to your project.)**

- Will this project directly benefit the intended recreation? Explain. (For example, will it result in a development proposal, or will more planning be required?)
- Are the project's planning goals and objectives appropriate? Explain.
- What are the qualifications and experience of the personnel, including consultants?

▲ **Point Range: 0-5 points, which staff later multiplies by 2.**

- |            |  |
|------------|--|
| 0 points   | Evidence is vague or it appears that the project will not lead to new opportunities for the intended type of recreation. |
| 1-2 points | Fair to moderate evidence. Proposal likely will lead to weak or below average new opportunities.                         |

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<sup>8</sup> An applicant should address the recreation opportunities provided in the specific grant category in which he or she is applying. For example, if the applicant is applying for an off-road vehicle grant, he or she should describe the off-road vehicle opportunities that would be provided.

- 3 points      Good. Proposal likely will lead to an above average or several solid opportunities.
- 4-5 points    Very good to excellent. Proposal likely will lead to an outstanding opportunity in the intended recreation type.

Last revised 2004.

4. **Sustainability and Environmental Stewardship. Will the project result in a quality, sustainable, recreational opportunity while protecting the integrity of the environment?**

Factors to consider for acquisition, development, and maintenance and operation projects are outlined in the table below.

Acquisition	Maintenance and Operation or Development
<ul style="list-style-type: none"> <li>Does the acquisition and proposed development preserve the natural function of the site?</li> </ul>	<ul style="list-style-type: none"> <li>Does the proposed development protect natural resources onsite and integrate sustainable elements such as low impact development techniques, green infrastructure, or environmentally preferred building products?</li> </ul>
<ul style="list-style-type: none"> <li>How do the proposed uses protect, enhance or restore the ecosystem functions of the property?</li> </ul>	<ul style="list-style-type: none"> <li>Vegetation/Surfaces – Are you replacing invasive plant species with native vegetation? Are you using pervious surfaces for any of the proposed facilities?</li> </ul>
<ul style="list-style-type: none"> <li>Are there invasive species on site? If there are, what is your response plan?</li> </ul>	<ul style="list-style-type: none"> <li>Education – Are you installing interpretive panels/signs that educate users about sustainability?</li> </ul>
<ul style="list-style-type: none"> <li>What is the strategy or plan for maintenance and stewardship of the site?</li> </ul>	<ul style="list-style-type: none"> <li>Materials – What sustainable materials are included in the project?</li> </ul>
<ul style="list-style-type: none"> <li>How do the natural characteristics of the site support future planned uses?</li> </ul>	<ul style="list-style-type: none"> <li>Energy – What energy efficient features are you adding?</li> </ul>
<ul style="list-style-type: none"> <li>To provide for greater fuel economy, is the proposed acquisition located close to the intended users?</li> </ul>	<ul style="list-style-type: none"> <li>What modes of transportation provide access to the site?</li> </ul>
<ul style="list-style-type: none"> <li>What modes of transportation provide access to the site?</li> </ul>	<ul style="list-style-type: none"> <li>Water – Is the on-site storm water managed by rain gardens, porous paving, or other sustainable features? Does the design exceed permit requirements for storm water management?</li> </ul>
<ul style="list-style-type: none"> <li>Does this project protect wetlands or wetland functions? Describe the size, quality, and classification.</li> </ul>	

Acquisition	Maintenance and Operation or Development
<ul style="list-style-type: none"> <li>How does the proposed acquisition help create connectivity? How many acres are already protected? How critical is this property to the overall plan?</li> </ul>	<ul style="list-style-type: none"> <li>If there are wetlands on site, describe the size, quality and classification and explain how the design considers the wetland functions.</li> </ul>
<ul style="list-style-type: none"> <li>What other noteworthy characteristics demonstrate how the natural features of the site contribute to energy efficiency, less maintenance, fewer environmental impacts, or sustainability?</li> </ul>	<ul style="list-style-type: none"> <li>What is the strategy or plan for long-term maintenance and stewardship of the site?</li> </ul>
	<ul style="list-style-type: none"> <li>What other developed features will contribute to increasing energy efficiencies, reducing maintenance, minimizing environmental impacts, or being more sustainable?</li> </ul>

▲ **Point Range: Evaluators award a maximum of 5 points that are multiplied later by 2.**

Adopted January 2014.

**5. Readiness to proceed. How soon after the grant is approved can the project begin? (Applicants respond only to bulleted items clearly relevant to your project.)**

There are often good reasons why managers are unable to initiate a project immediately. Even so, if other factors are equal, the NOVA program favors projects that move the quickest.

- Start-Finish: When will work on the project begin? When will work be completed and/or the facility be open to use?
- Preliminary Work: Are all elements ready—permits, environmental clearances, engineering, signed agreements, equipment, labor force, etc.? Have any appeals been resolved? (Explain.)
- Acquisitions: Has the landowner been contacted? Is the owner willing to sell? Does the applicant hold an option on the property? (Describe). Are required appraisals and reviews completed? (Describe). Will the land acquired be immediately available for use by users in the intended category? Explain.

▲ **Point Range: 0-5 points.**

- |            |  |
|------------|--|
| 0 points   | Very large barriers exist that likely will delay the project a year or more.                 |
| 1-2 points | Substantial to significant barriers exist that likely will be removed in the next 12 months. |

- 3-4 points    Minimal to ordinary barriers exist that likely will be removed by the time a grant is approved.
- 5 points      No barriers. The project is ready to move forward immediately.

Last revised 2004.

**6. Predominantly natural. Is the project site in a predominantly natural setting? (ORV applicants do not answer this question. All other applicants respond only to bulleted items clearly relevant to your project.)**

Consider the project's immediate physical setting, not its distance from structures that affect the setting. Apart from the proposal, to what extent does the user experience the natural environment versus human structures and activities: buildings, radio/cell towers, roads, dams, etc.?

A setting does not need to be pristine or untouched to rate a high score:

- A second growth forest often is sufficiently natural.
- A remote high camp or ridge-top trail can afford distant views of cities or towns.
- A campground or trailhead can be located adjacent to or at the end of a paved road.
- The number of people using the facility will not detract necessarily from the setting or desired recreational experience.

When evaluators score this question, they will look at the natural setting of the location, not the facility proposed for funding.

**▲ Point Range: 0-5 points.**

- 0 points      No evidence presented, or site is not natural.
- 1-2 points    Setting is not very natural: too much noise, too many roads, clear cuts, etc.
- 3-4 points    Setting is mostly natural. Though it may be adjacent to a clear cut or touch a road, virtually all views and sounds are natural.
- 5 points      Setting is natural. Any trees are predominately mature, sights and sounds are all natural.

Last revised 2004.

**7. Project support. To what extent do users and the public support the project? (Applicants respond only to bulleted items clearly relevant to your project.)**

Support can be demonstrated in both financial and non-financial ways and varies depending upon the project type. In scoring this question, evaluators consider the type of support that is most relevant to the project. Examples of support or endorsement include:

- Voter-approved initiatives and bond issues.
- Donations to help complete the project: Labor, equipment, money, materials, or land.
- Advisory board approval, completion of a public planning process that endorsed this project.
- Positive letters, oral testimony at public meetings, or support from friends or user groups.
- Positive (or the absence of extensive negative) media coverage.

▲ **Point Range: 0-5 points, which staff later multiplies by 2.**

- |            |   |
|------------|---|
| 0 points   | No or very weak evidence presented.           |
| 1-2 points | Minimal to fair specific evidence of support. |
| 3 points   | Moderate support.                             |
| 4-5 points | Exceptional to overwhelming support.          |

Last revised 2004.

**8. Cost-benefit. Do the project's benefits outweigh its costs? (Applicants respond only to bulleted items clearly relevant to your project.)**

Costs may include fiscal outlays, unacceptable harm to adjoining areas or the environment, and factors that cause unnecessary ill will from users, the public, or others. Benefits may be economic gains for the community, added opportunity for facility users, improvements to the environment, etc.

- What is the cost per mile for trails or other unit of measure for other projects? Explain.
- Describe this project's impact on the net availability of opportunities?<sup>9</sup>

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<sup>9</sup> An applicant should address the availability of recreation opportunities in the specific grant category in which he or she is applying. For example, if the applicant is applying for an off-road vehicle grant, he or she should describe the availability of off-road vehicle recreation opportunities.

- What alternatives to the project were considered and why were they rejected in favor of the current proposal?
- Describe the recreation and non-recreational benefits this project will provide, including health, community economic development, education, and stewardship.
- Describe the project's environmental cost-benefit.
- Explain why reviewers should have confidence in the budget for this project.

▲ **Point Range: 0-5 points.**

- |            |   |
|------------|---|
| 0 points   | No evidence of a net benefit presented.             |
| 1-2 points | Little to modest evidence of a mild net benefit.    |
| 3-4 points | Adequate to strong evidence of a solid net benefit. |
| 5 points   | Substantial evidence of an exceptional net benefit. |

Last revised 2004.

Scored by RCO Staff

**9. Matching shares. What percentage of the total project cost is the applicant contributing?**

RCO staff scores this question based on information provided in the application. Only elements considered reimbursable are eligible for use as an applicant's match. For evaluation scoring purposes, an RCO grant used as match will not count toward the award of matching share points. No additional information is required.

▲ **Point Range: 0-5 points.**

- |          |   |
|----------|---|
| 0 points | 0-10 percent of project's value will be contributed by the applicant.         |
| 1 point  | 10.01-20 percent of project's value will be contributed by the applicant.     |
| 2 points | 20.01-30 percent of project's value will be contributed by the applicant.     |
| 3 points | 30.01-40 percent of project's value will be contributed by the applicant.     |
| 4 points | 40.01-50 percent of project's value will be contributed by the applicant.     |
| 5 points | More than 50 percent of project's value will be contributed by the applicant. |

Last revised January 2014.

**10. Population proximity. Is the project site located:**

- **In a county with a population density greater than 250 people per square mile**
- **Within 30 miles of a city with a population of 25,000 people or more?**

RCO staff will score this question based on maps provided with the application. No additional information is required. The *2013-2018 NOVA Plan* directs the Recreation and Conservation Funding Board to encourage projects convenient to population centers. That policy is supported by Revised Code of Washington 79A.25.250.

**▲ Point Range: 1-2 points. RCO staff awards 1 point each below, for a maximum of 2 points.**

- |         |  |
|---------|--|
| 1 point | Located in a county with a population density greater than 250 people per square mile and/or |
| 1 point | Located within 30 miles of a city with a population of 25,000 people.                        |

**11. Growth Management Act preference. Has the applicant<sup>10</sup> made progress toward meeting the requirements of the Growth Management Act?<sup>11</sup>**

State law requires that:

- A. Whenever a state agency is considering awarding grants to finance public facilities, it shall consider whether the applicant has adopted a comprehensive plan and development regulations as required by Revised Code of Washington 36.70A.040 ("state law").
- B. When reviewing such requests, the state agency shall accord additional preference to applicants that have adopted the comprehensive plan and development regulations. An applicant is deemed to have satisfied the requirements for adopting a comprehensive plan and development regulations if it:
  - Adopts or has adopted within the time periods specified in state law;
  - Adopts or has adopted by the time it requests a grant or loan; or
  - Demonstrates substantial progress toward adopting within the time periods specified in state law. An agency that is more than six months out

<sup>10</sup> Applicants in this question are counties, cities, and towns only. This question does not apply to nonprofit organizations or state and federal agency applicants.

<sup>11</sup> Revised Code of Washington 43.17.250 (Growth Management Act-preference required)



of compliance with the time periods has not demonstrated substantial progress.

- C. A request from an applicant planning under state law shall be accorded no additional preference based on subsection (b) over a request from an applicant not planning under this state law.

Scores for this this question are based on information from the state Department of Commerce, Growth Management Division. If an agency's comprehensive plan, development regulations, or amendments have been appealed to a Growth Management Act Hearings Board, they cannot be penalized during the period of appeal. Scoring occurs after RCO's technical completion deadline.

**▲ Point Range: -1-0. RCO staff subtracts a maximum of 1 point.**

- 1 point      The applicant does not meet the requirements of Revised Code of Washington 43.17.250.
- 0 points      Applicant meets the requirements of Revised Code of Washington 43.17.250.
- 0 points      Applicant is a nonprofit organization, state or federal agency.

## Supplemental Questions

There are several questions that are applied only to projects eligible for competitive and excess funds.

Supplemental Questions					
Scored By	Question	Title	Project Type Questions	Maximum Points	Recreation and Conservation Funding Board Meeting
RCO staff	A1	NOVA Recreationists Served	All	5	3/2009
Advisory Committee	A2	Confidence in Number Served	All		3/2009
RCO staff	B	Amount of Non-State Match	All	5	3/2008
RCO staff	C	Unfunded Projects in Category	All	5	3/2008
Points Possible				15	

KEY:

All=includes acquisition, development, maintenance and operation, and planning project types.  
 Recreation and Conservation Funding Board Meeting=The date of the meeting in which policy was set.

### Scored by RCO Staff

#### **A1. Number of NOVA recreationists served. How many NOVA recreationists actually will use this facility or project in a typical year?**

RCO staff scores this question based on data provided in the application. No additional information is required. A revised score may be recommended by the advisory committee based on over-all confidence in the number provided by the applicant and the number's derivation.

#### **▲ Point Range: 0-5 points.**

- 0 points      Project will serve 0–999 NOVA recreationists.
- 1 point       Project will serve 1,000–9,999 NOVA recreationists.
- 2 points      Project will serve 10,000–49,999 NOVA recreationists.
- 3 points      Project will serve 50,000–99,999 NOVA recreationists.
- 4 points      Project will serve 100,000–249,999 NOVA recreationists.
- 5 points      Project will serve 250,000 or more NOVA recreationists.

Revised March 26, 2009

### Scored by the Advisory Committee

The advisory committee scores this question based on information provided in the application. No additional information is required.

#### **A2. Confidence in estimated nova recreationists served. How accurate is the applicant-provided number of NOVA recreationists served?**

#### **▲ Point Range: 0-1 point, which staff later multiplies by the score of Question A1.**

- 0 points      There is no confidence that the claimed number served is accurate. For example, there appears to be no basis for the number.
- 0.2 point     There is very low confidence that the claimed number served is accurate. For example, the information is from "office" estimates or trailhead registers.

- |           |  |
|-----------|--|
| 0.4 point | There is low confidence that the claimed number served is accurate. For example, the information is based on very old information or interviews.                                 |
| 0.6 point | There is moderate confidence that the claimed number served is accurate.   |
| 0.8 point | There is good confidence that the claimed number served is accurate. For example, the information may be a little dated, but is from once accurate sources like on-site surveys. |
| 1 point   | There is high confidence that the claimed number served is accurate. For example, information is from a current on-site survey.  |

Added: March 26, 2009

### Scored by RCO Staff

**B. Amount of non-state match. What percentage of the total project cost is the applicant contributing from non-state resources?**

RCO staff scores this question based on information provided in the application. Only elements considered reimbursable are eligible for consideration. No additional information is required.

▲ **Point Range: 0-5 points.**

- |          |   |
|----------|---|
| 0 points | 0-10 percent of project's value will be from non-state resources.         |
| 1 point  | 10.01-20 percent of project's value will be from non-state resources.     |
| 2 points | 20.01-30 percent of project's value will be from non-state resources.     |
| 3 points | 30.01-40 percent of project's value will be from non-state resources.     |
| 4 points | 40.01-50 percent of project's value will be from non-state resources.     |
| 5 points | More than 50 percent of project's value will be from non-state resources. |

Added 2008

**C. Unfunded projects in category. After scoring and ranking, how many projects are below the pre-Recreation and Conservation Funding Board approved funding line?**

RCO staff scores this question based on information provided in the post evaluation listing of ranked projects. No additional information is required.

▲ **Point Range: 0-5 points.**

- |          |  |
|----------|--|
| 0 points | 0 projects are below the funding line. |
|----------|--|

- |          |  |
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| 1 point  | 1-2 projects are below the funding line.       |
| 2 points | 3-4 projects are below the funding line.       |
| 3 points | 5-6 projects are below the funding line.       |
| 4 points | 7-8 projects are below the funding line.       |
| 5 points | 9 or more projects are below the funding line. |

Added 2008

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Washington Administrative Code Public Hearing  
**Prepared By:** Leslie Connelly, Natural Resource Policy Specialist/Rules Coordinator

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

This memo presents a staff recommendation for amendments to the administrative rules in Title 286 of the Washington Administrative Code and outlines the required public review process for the adoption of amendments.

### Board Action Requested

This item will be a: ☒ Request for Decision  
☐ Request for Direction  
☐ Briefing

Resolution: 2014-10

Purpose of Resolution: Adopts amendments to Title 286 of the Washington Administrative Code.

## Background

Administrative rules are regulations of executive branch agencies issued by authority of state statutes. The Recreation and Conservation Office's (RCO) administrative rules are found in Title 286 of the Washington Administrative Code (WAC). The rules cover a number of subjects including general authorities of the Recreation and Conservation Funding Board (board) and RCO director, general grant assistance rules, and specific program rules. The rules are organized into the following chapters:

Chapter	Title
286-04	General
286-06	Public Records
286-13	General Grant Assistance Rules
286-26	Nonhighway and Off-road Vehicle Funds

286-27	Washington Wildlife and Recreation Program
286-30	Firearms Range
286-35	Boating Facilities Program
286-40	Land and Water Conservation Fund
286-42	Aquatic Lands Enhancement Account Program

Chapters 286-04, 286-06, and 286-13 WAC are broad in scope and apply to the agency's operations and the board's grant programs. The remaining chapters are specific to certain grant programs. Note there are no specific administrative rules for Boating Infrastructure Grants, the Recreational Trails Program, and Youth Athletic Facilities. The rules were most recently amended in 2007.

### **Agency's Name Changed**

In 2007, the name of both the board and agency was changed in state law from the Interagency Committee for Outdoor Recreation (which treated the committee and the agency as one entity) to the Recreation and Conservation Funding Board and RCO.<sup>1</sup> The name change clarified the different roles of the board and the agency. Although this change was implemented by state law, it was not updated in the WAC.

### **Rule-making Moratorium**

All non-critical rule-making was suspended from October 11, 2011 through December 31, 2012 by [Governor's Executive Order 11-03](#). The board and agency name change was considered non-critical rule-making; therefore, RCO could not update the administrative rules to reflect the name change. Since the order expired at the end of 2012, agencies may now file non-critical rule-making with the Office of the Code Reviser.

### **Citizen Petition**

In October 2011, RCO received a petition from Citizens for Sustainable Development requesting the board initiate rulemaking to address the agency's name change. At the time, RCO agreed an update was needed but determined it was not critical and must wait until the Governor's executive order expired. The amendments to the administrative rules recommended in this memo address the petitioner's request.

### **Two Phases of Planned Rule-Making**

At the board's January meeting, staff briefed the board on a two phase process for amending the administrative rules.

Phase I: The first phase considers non-substantive changes, such as changing the name of the board and agency and updating references throughout the title. Phase I also includes clarifying

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<sup>1</sup> Section 39, Chapter 241, Laws of 2007.

the grant assistance rules and deadlines in preparation for the 2014 grant cycle. Rule-making was filed for phase I amendments, as summarized below in the public review section.

Phase II: The second phase will consider substantive changes such as reorganizing the Title 286 WAC chapters, reviewing definitions, and amending rules for grant agreements, long-term grant compliance, and consistency for all programs except the Firearms and Archery Range Recreation (FARR) program (FARR compliance will be addressed in phase I, as directed by changes adopted by the board in January 2014). The anticipated schedule for phase II is that it will be launched at the board's July meeting, with a public hearing scheduled for the board's October meeting.

## Analysis

### Proposed Amendments for Phase I

The purpose of the proposed phase I amendments to Title 286 WAC is to:

- 1) Change the agency's name from the Interagency Committee for Outdoor Recreation to the Recreation and Conservation Office or the Recreation and Conservation Funding Board,
- 2) Revise the grant assistance rules for the application procedures and deadlines, matching shares, and retroactive costs;
- 3) Change the planning eligibility for applicants from five to six years in the Boating Facilities Program (BFP), and
- 4) Revise the long-term grant compliance requirements for projects funded in the FARR program.

The factors supporting the proposed phase I amendments are:

- 1) The agency's name was changed in 2007 in state law,
- 2) The grant assistance rules are outdated,
- 3) The planning eligibility in the BFP conflicts with other administrative rule language, and
- 4) The long-term compliance requirements for projects funded through the FARR program is unclear and inconsistent with other grant programs.

The text of the proposed amendments is included as Attachment A. The amendments are presented in a table format with an explanatory statement for each section. The explanations are meant to be a reference on the types of changes made in the section. In general, there are six types of changes:

- Name change,
- Updated reference,
- Formatting and grammar,
- Removing unnecessary text,
- Clarifying language consistent with other rules, policy, or the project agreement, and
- Substantive revision to the rules.

A majority of the amendments represent non-substantive changes of the administrative rules consistent with the scope of phase I. A description of the more substantive phase I changes is described below.

## Substantive Revisions

Proposed substantive revisions to Title 286 WAC are listed in the table below. The board may particularly wish to review amendments to chapter 286-13 WAC - General Grant Assistance Rules and chapter 286-30 WAC Firearms Range.

**Table 1: Substantive Revisions to Title 286 WAC**

<b>WAC Section Reference and Title</b>	<b>Explanatory Statement of the Proposed Amendment</b>
<b>Chapter 286-06 – Public Records</b>	
286-06-110: Review of denials.	<ul style="list-style-type: none"> <li>Removes the option to consult with the board when reviewing denials for inspecting public records.</li> </ul>
<b>Chapter 286-13 – General Grant Assistance Rules</b>	
286-13-040: What are the grant program deadlines and how can the deadlines be waived?	<ul style="list-style-type: none"> <li>Clarifies program deadlines and waivers.</li> </ul>
286-13-045: What rules govern eligible matching resources?	<ul style="list-style-type: none"> <li>Clarifies match requirements and eligible sources of match.</li> <li>Adds policy restricting use of grant funds to supplant existing resources.</li> <li>Adds policy limiting one grant matching another grant within the same biennium.</li> </ul>
286-13-050: Final decision.	<ul style="list-style-type: none"> <li>Clarifies when and how funding decisions are made.</li> </ul>
286-13-060: Project agreement.	<ul style="list-style-type: none"> <li>Clarifies the process to execute a project agreement.</li> </ul>
286-13-070: Disbursement of funds.	<ul style="list-style-type: none"> <li>Clarifies the process for disbursement of funds.</li> <li>Clarifies requirements for escrow payments.</li> </ul>
286-13-080: What rules govern expenses incurred before execution of a project agreement?	<ul style="list-style-type: none"> <li>Clarifying language consistent with the rest of the chapter.</li> </ul>



WAC Section Reference and Title	Explanatory Statement of the Proposed Amendment
286-13-085: Retroactive and increased costs.	<ul style="list-style-type: none"> <li>• Clarifying language consistent with the rest of the chapter.</li> <li>• Clarifying language consistent with terms in the project agreement.</li> <li>• Adds policy statements previously adopted by the board for waivers of retroactivity and preagreement costs.</li> <li>• Adds restoration projects to the types of projects.</li> <li>• Clarifies director's authority for approving cost increases.</li> </ul>
286-13-100: Nonconformance and repayment.	<ul style="list-style-type: none"> <li>• Clarifying language consistent with terms in the project agreement.</li> </ul>
286-13-110: Income, income use.	<ul style="list-style-type: none"> <li>• Adds reference to the funding source.</li> </ul>
286-13-120: Permanent project signs.	<ul style="list-style-type: none"> <li>• Adds restoration projects to the types of projects.</li> </ul>
<b>Chapter 286-26 – Nonhighway and Off-road Vehicle Funds</b>	
286-26-080: Does this program have planning eligibility requirements?	<ul style="list-style-type: none"> <li>• Clarifies language on plan requirements consistent with board policy.</li> </ul>
<b>Chapter 286-27 – Washington Wildlife and Recreation Program</b>	
286-27-010: What is the purpose of this chapter?	<ul style="list-style-type: none"> <li>• Updates references to certain grant categories.</li> </ul>
286-27-040: Does the WWRP have planning requirements?	<ul style="list-style-type: none"> <li>• Clarifies language on plan requirements consistent with board policy.</li> </ul>
<b>Chapter 286-30 – Firearms Range</b>	
286-30-030: Acquisition projects—Deed of right, conversions, leases and easements.	<ul style="list-style-type: none"> <li>• Consistent with state law, revises requirements for long-term compliance when there is an issue less than ten years from when the grant was first accepted.</li> <li>• Consistent with state law and board policy, revises requirements for long-term compliance when there is an issue ten or more years from when the grant was first accepted.</li> </ul>
286-30-040: Development projects—Conversion to other uses	<ul style="list-style-type: none"> <li>• Consistent with state law, revises requirements for long-term compliance on development projects.</li> </ul>

WAC Section Reference and Title	Explanatory Statement of the Proposed Amendment
<b>Chapter 286-35 – Boating Facilities Program</b>	
286-35-030: Planning requirements.	<ul style="list-style-type: none"> <li>• Clarifies language on plan requirements consistent with board policy.</li> <li>• Corrects an inconsistency with WAC 286-13-040 on the length of the capital improvement program.</li> </ul>

## Public Review

Prior to the board meeting, the public was made aware of the proposed rule-making on the following occasions:

- Agenda item at the January 2014 board meeting posted on RCO's Web site,
- Preproposal Statement of Inquiry (CR-101, Attachment B) filed December 17, 2013 and published in issue #14-01-093 of the Washington State Register,
- Proposed Rule-making (CR-102, Attachment C) filed February 28, 2014 and published in issue #14-06-063 of the Washington State Register,
- Proposed Rule-making filed February 28, 2014 with the Joint Administrative Rules Review Committee,
- Agenda item at the April 2014 board meeting posted on RCO's Web site,
- Posting of proposed rule-making on RCO's Web site, and
- Email notification sent to interested person.

## Public Hearing

The Administrative Procedures Act (APA) requires at least one public hearing prior to adopting amendments to the rules. The public hearing for the proposed rule-making in this memo is scheduled for 11:00 am on April 16, 2014, during the board's regularly scheduled public meeting. Notice of the public hearing was included in the rule-making filing and published accordingly in the Washington State Register.

Members of the public were invited to submit written comments in advance of the public hearing or to provide comments at the hearing. As of the writing of this memo, no public comments were received.

Before filing an adopted rule, the APA requires an agency prepare a "Concise Explanatory Statement"<sup>2</sup> (Attachment D) which includes a summary of all comments received and responses to them. The official comment period runs March 21 to April 16, which is after this memo is published. Staff will provide a draft Concise Explanatory Statement at the April board meeting.

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<sup>2</sup> RCW 34.05.325(6) and 34.05.370(2)(g)

## Options for Consideration

After the scheduled public hearing, the board will consider whether to adopt the amendments to the rules as written, amend the proposal, or postpone adoption.

State law allows the board to adopt a rule somewhat different than proposed as long as it is not "substantially different."<sup>3</sup> Factors to be considered in determining whether a proposed rule might be substantially different include the extent to which:

- A reasonable person affected by the rule would have understood how the rule would have affected his/her interests,
- The subject differs from that originally proposed, or
- The effects of the adopted rule differ from the effects of the proposed rule.

Any changes to the recommended amendments that are deemed substantially different from the proposal cannot be adopted without re-initiating the notification and comment procedures. If the board chooses to make substantial changes to the proposed rule-making, staff will file a supplemental notice in the Washington State Register and conduct another public hearing.

If the board prefers not to adopt all or portions of the proposed rule-making at the April meeting, the board can postpone adoption to a future meeting within 180 days of the rule-making filing, which was February 28, 2014. This means the board could take action on the current recommended amendments at its July meeting or August conference call without needing to re-file. The board could also decide to withdraw all or portions of the proposed rule-making.

## Staff Recommendation

Staff recommend adoption of the proposed rule-making filed February 28, 2014 and published in issue #14-06-063 of the Washington State Register.

## Request for Decision

Resolution 2014-10 is provided for the board's consideration.

## Strategic Plan Link

The proposed WAC changes reflect the opportunity to make policy improvements that support the board's goal to achieve a high level of accountability in managing the resources and responsibilities entrusted to the board.

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<sup>3</sup> RCW 34.05.340

## **Next Steps**

Should the board adopt the proposed rule-making, staff will prepare a Concise Explanatory Statement and file a final rule adoption notice for publication in the next available Washington State Register. Adopted rules are effective 31 days after they are filed with the Office of the Code Reviser.

Staff will also make any necessary changes for the 2014 grant cycle and draft phase II rule changes for the July meeting.

## **Attachments**

- A. Proposed Amendments to Title 286 WAC
- B. Preproposal Statement of Inquiry Notice (CR-101)
- C. Proposed Rule-making Notice (CR-102)
- D. Draft Concise Explanatory Statement (to be distributed at the board meeting)

Recreation and Conservation Funding Board  
Resolution #2014-10  
2014 Administrative Rule Changes Phase I

**WHEREAS**, pursuant to state law, the Recreation and Conservation Funding Board (board) adopts administrative rules that govern its grant programs and sets procedures for the Recreation and Conservation Office (RCO); and

**WHEREAS**, the name of the agency was changed in Section 39, Chapter 241, Laws of 2007, from the Interagency Committee for Outdoor Recreation to the Recreation and Conservation Funding Board and the Recreation and Conservation Office; and

**WHEREAS**, the board's policies and RCO's procedures regarding grant assistance have changed and need to be updated in the administrative rules; and

**WHEREAS**, various state and federal law references have changed and need to be updated and the planning eligibility in the Boating Facilities Program conflicts with other administrative rule language; and

**WHEREAS**, the board desires to revise the long-term compliance requirements for projects funded through the Firearms and Archery Range Recreation program; and

**WHEREAS**, RCO filed a Preproposal Statement of Inquiry with the Office of the Code Reviser on December 17, 2013 and it was published in issue #14-01-093 of the Washington State Register; and

**WHEREAS**, RCO filed a Proposed Rule-making with the Office of the Code Reviser on February 28, 2014 and it was published in issue #14-06-063 of the Washington State Register and also provided the proposed rule-making to the Joint Administrative Rules Review Committee; and

**WHEREAS**, RCO posted notice of the proposed rule-making on its Web site, sent an email notification to interested persons, and accepted public comments from March 21 to April 16, 2014; and

**WHEREAS**, the board conducted a public hearing on the proposed rule-making on April 16, 2014 and considered all written and verbal comments submitted;

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt the proposed rule-making as filed with the Office of the Code Reviser on February 28, 2014 and published in issue #14-06-063 of the Washington State Register; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to file a final notice of rule adoption with the Office of Code Reviser with an effective date of 31 days after it is filed.

Resolution moved by: \_\_\_\_\_

Resolution seconded by:

\_\_\_\_\_  
\_\_\_\_\_

Adopted/Defeated/Deferred (underline one)

Date:

\_\_\_\_\_

## Attachment A

## Proposed Amendments to Title 286 Washington Administrative Code

Amendment Text	Explanatory Statement
<b>Chapter 286-04 – General</b>	
<p><b>WAC 286-04-010 What definitions apply to this chapter?</b> For purposes of Title 286 WAC, unless the context clearly indicates otherwise:</p> <p>"Acquisition" means the gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.</p> <p>"Applicant" means any agency or organization that meets qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the <del>((committee))</del> <u>board</u>. Generally, a federal, state, local, tribal or special purpose government is an applicant.</p> <p>"Application" means the form, including project information form, approved by the director for use by applicants in soliciting project funds administered by the <del>((committee))</del> <u>board</u>.</p> <p><u>"Board" means the recreation and conservation funding board as described in RCW 79A.25.110.</u></p> <p>"Chair" means the chair of the <del>((committee. See RCW 43.99.110))</del> <u>board as described in RCW 79A.25.110.</u></p> <p><del>("Committee" means the interagency committee for outdoor recreation, (IAC) created by RCW 43.99.110.)</del></p> <p>"Development" means the construction and/or restoration of facilities to enhance outdoor recreation or habitat conservation resources.</p> <p>"Director" means the director of the <del>((committee))</del> <u>office</u> or that person's designee<del>((See RCW 43.99.130))</del> <u>as described in RCW 79A.25.150.</u></p> <p>"Nonhighway and off-road vehicle activities (NOVA) program" means the grants and planning program administered by the <del>((committee))</del> <u>board</u> under chapter 46.09 RCW.</p>	<p>Name change. Update references.</p>

Amendment Text	Explanatory Statement
<p>"Manual(s)" mean a compilation of state and federal policies, procedures, rules, forms, and instructions that have been assembled in manual form and which have been approved by the <del>((committee))</del> <u>board or director</u> for dissemination to agencies and organizations that may wish to participate in the <del>((committee's))</del> <u>board's</u> grant program(s).</p> <p><u>"Office" means the recreation and conservation office or the office of recreation and conservation as described in RCW 79A.25.010.</u></p> <p>"Preliminary expense" means project costs incurred prior to <del>((committee))</del> <u>board or director</u> approval, other than site preparation/development costs, necessary for the preparation of a development project.</p> <p>"Project" means the undertaking which is, or may be, funded in whole or in part with funds administered by the <del>((committee))</del> <u>board</u>.</p> <p>"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the <del>((committee))</del> <u>office</u> and a sponsor.</p> <p>"Sponsor" means an applicant who has been awarded a grant of funds, and has an executed project agreement.</p>	
<p><b>WAC 286-04-015 Address.</b> All communications with the <del>((committee))</del> <u>board</u> shall be directed to <del>((its))</del> <u>the recreation and conservation</u> office at the Natural Resources Building, 1111 Washington Street S.E., P.O. Box 40917, Olympia, Washington 98504-0917, telephone <del>((360) 902-3000))</del> <u>360-902-3000</u>.</p>	Name change. Formatting.
<p><b>WAC 286-04-020 Organization and operations.</b> The <del>((committee))</del> <u>board</u>:</p> <p>(1) Is an unsalaried body consisting of the (a) commissioner of public lands, (b) director of the department of fish and wildlife, (c) director of the parks and recreation commission, (or the designees of these individuals) and five citizens appointed by the governor from the public-at-large, with the consent of the senate, for a term of three years each. The chair of the <del>((committee))</del> <u>board</u> is a voting member, appointed by the governor from among the five citizen members.</p> <p>(2) Was created by Initiative 215 (Marine Recreation Land Act of 1964). It is authorized to allocate and administer funds to agencies and organizations from the state's outdoor recreation and other such accounts as may now or hereafter be established.</p> <p>(3) Is authorized and obligated to prepare, maintain and update statewide plans, including:</p>	Name change. Update references. Formatting.



Amendment Text	Explanatory Statement
<p>(a) A strategic recreation resource and open space or assessment and policy plan (RCW <del>((43.99.025))</del> <u>79A.25.020</u> and <u>79A.35.040</u>); and</p> <p>(b) A nonhighway and off-road vehicle plan (<del>((RCW 46.09.250))</del>);</p> <p><del>(c) A trails plan (RCW 67.32.050))</del> <u>(RCW 46.09.370)</u>.</p> <p>(4) Does not own or operate any outdoor recreation or resource facilities.</p> <p>(5) Performs and accomplishes work by a staff under the supervision of a director appointed by the governor.</p> <p>(6)(a) Conducts regular meetings, pursuant to RCW 42.30.075, according to a schedule it adopts in an open public meeting.</p> <p>(b) May conduct special meetings at any time, pursuant to RCW 42.30.080, if called by the chair.</p> <p>(c) Maintains an official record of its meetings in a recorded audio format, unless written minutes are otherwise indicated for logistical reasons.</p> <p>(7) Members who have been appointed from the public-at-large shall be reimbursed at the rate established by the office of financial management in accordance with RCW 43.03.050(1) for each day or portion thereof spent on official business and shall be entitled to receive all necessary travel expenses on the same basis as is provided by law for state officials and employees generally.</p> <p>(8) Defines a quorum as five of its members.</p> <p>(9) Adopts parliamentary meeting procedure generally as described in <i>Robert's Rules of Order</i>.</p>	
<p><b>WAC 286-04-030 Goals.</b> The general goals of the (<del>(committee)</del>) <u>board and office</u> are to:</p> <p>(1) Provide funds and planning assistance for acquisition and development and use of outdoor recreation and habitat conservation resources to maximize protection of the natural quality of the environment;</p> <p>(2) Provide funds and planning assistance for a system of public recreational facilities and opportunities for state residents and visitors;</p> <p>(3) Aid organizations and local government, with funds and planning assistance, in providing the type of facilities and resources which, under their jurisdiction, will best serve their needs for outdoor recreation and habitat conservation;</p> <p><u>and</u></p>	<p>Name change. Update references. Formatting.</p>

Amendment Text	Explanatory Statement
(4) Encourage programs which promote outdoor education, skill development, participation opportunity and proper stewardship of recreation and natural resources. See also RCW ((43.99.010)) <u>79A.25.005</u> .	
<p><b>WAC 286-04-050 Compliance with Environmental Act guidelines.</b> (1) The ((committee)) <u>board</u> has determined that all of its activities and programs in effect as of December 12, 1975, or pursuant to WAC 197-11-800 are exempt from threshold determinations and environmental impact statement requirements under the provisions of WAC 197-11-875.</p> <p>(2) To the extent applicable, it is the responsibility of applicants and sponsors to comply with the provisions of chapter 197-11 WAC, the State Environmental Policy Act rules for acquisition or development of projects, the National Environmental Protection Act, and to obtain associated land-use permits.</p>	Name change.
<p><b>WAC 286-04-060 Manuals and waivers—Guidance.</b> (1) The ((committee)) <u>board or director</u> shall adopt manuals that describe its general administrative policies for use by applicants, potential applicants, sponsors, and others. These manuals shall not have the force or effect of administrative code rules.</p> <p>(2) ((Committee)) <u>Board</u> policies, including those in the manuals shall be considered and approved by the ((committee)) <u>board</u> in an open public meeting. Notice of such considerations will be given by distribution of the agenda for the meeting, press releases, formal meeting notice in the Washington State Register, or other such means.</p> <p>(3) Project applicants, sponsors, or other interested parties may petition the director for a waiver or waivers of those items dealing with general administrative matters and procedures within the manuals. Determinations on petitions for waivers made by the director are subject to review by the ((committee)) <u>board</u> at the request of the petitioner.</p> <p>(4) Petitions for waivers of subjects dealing with ((committee)) <u>board</u> policy, and those petitions that in the judgment of the director require ((committee)) <u>board</u> review, shall be referred to the ((committee)) <u>board</u> for deliberation. Such waivers may be granted after consideration by the ((committee)) <u>board</u> at an open public meeting.</p>	Name change.
<p><b>WAC 286-04-065 Project evaluations.</b> It is the policy of the ((committee)) <u>board</u> to use an open, public, competitive selection process to guide it in allocating funds to grant applicants. In this regard, the director shall use priority rating systems in preparing funding recommendations for ((committee)) <u>board</u> consideration. These systems shall:</p>	Name change. Formatting.

Amendment Text	Explanatory Statement
<p>(1) Be developed, to a reasonable extent, through the participation of interested parties and specialists;</p> <p>(2) Consider applicant, local, regional, and statewide needs, a project's technical merits, and other criteria;</p> <p>(3) Be adopted by the ((committee)) <u>board</u> in advertised public meetings;</p> <p>(4) Be made available in published form to interested parties;</p> <p>(5) Be designed for use by a team of evaluators selected for this purpose; <u>and</u></p> <p>(6) Be in accord with statutes.</p>	
<p><b>WAC 286-04-070 Director's authority.</b> Consistent with RCW ((43.99.025)) <u>79A.25.020</u>, and other applicable laws, the director is delegated the authority and responsibility to carry out policies of the ((committee)) <u>board</u>. This includes, but is not limited to the authority to:</p> <p>(1) Administer ((committee)) programs; employ, discipline, and terminate staff, consistent with applicable merit system and personnel rules;</p> <p>(2) Administer all applicable rules, regulations and requirements established by the ((committee)) <u>board</u> or reflected in the laws of the state; <u>and</u></p> <p>(3) Approve certain cost increase or waiver requests.</p>	<p>Name change. Update references. Formatting.</p>
<p><b>WAC 286-04-080 Federal overlay and requirements.</b> At times through the years, the ((committee's)) <u>board's</u> grant programs have been closely interrelated with certain federal grant programs. For example, see WAC 286-40-010, Land and Water Conservation Fund. The result of this interrelationship is that there are many federal requirements imposed on the ((committee)) <u>board</u> and its applicants over which the ((committee)) <u>board</u> has no control.</p> <p>Many of these requirements may be found in the Land and Water Conservation Fund Grants Manual (National Park Service). In addition, most of the federal requirements are restated or clarified in the manuals.</p>	<p>Name change.</p>
<p><b>WAC 286-04-085 Declaratory order—Petition requisites—Consideration—Disposition.</b> (1) Any person may submit a petition for a declaratory order in accordance with RCW 34.05.240 in any form so long as it:</p> <p>(a) Clearly states the question the declaratory order is to answer; and</p> <p>(b) Provides a statement of the facts which raise the question.</p> <p>(2) The director may conduct an independent investigation in order to fully develop the relevant facts.</p>	<p>Name change.</p>

Amendment Text	Explanatory Statement
<p>(3) The director will present the petition to the <del>((committee))</del> <u>board</u> at the first meeting when it is practical to do so and will provide the petitioner with at least five days notice of the time and place of such meeting. Such notice may be waived by the petitioner.</p> <p>(4) The petitioner may present additional material and/or argument at any time prior to the issuance of the declaratory order.</p> <p>(5) The <del>((committee))</del> <u>board</u> may decide that a public hearing would assist its deliberations and decisions. If such a hearing is ordered, it will be placed on the agenda of a meeting and at least five days notice of such meeting shall be provided to the petitioner.</p>	
<p><b>WAC 286-04-090 What is the history of the <del>((committee's))</del> <u>board's</u> fund sources?</b> (1) As of July 1, 1995, the "recreation resource account," <u>RCW 79A.25.200</u>, included <del>((appropriations and))</del> funds, under <del>((RCW 43.99.040 (recodified as)) RCW 79A.25.040 ((since 1999)))</del>, in support of the <del>((committee's))</del> boating facilities and other programs. These funds are derived from:</p> <ul style="list-style-type: none"> <li>(a) Unclaimed marine fuel tax refunds;</li> <li>(b) Moneys made available to the state of Washington by the federal government for outdoor recreation; and</li> <li>(c) Such other sources as may be provided.</li> </ul> <p>(2) As of July 1, 1995, the "NOVA program account," <u>RCW 46.09.510</u>, included <del>((appropriations and))</del> funds, under <del>RCW ((46.09.110 and 46.09.170))</del> <u>46.68.045 and 46.09.520</u>, in support of the <del>((committee's))</del> nonhighway and off-road vehicle activities program. These funds are derived from:</p> <ul style="list-style-type: none"> <li>(a) Refunds from the motor vehicle fund for nonhighway and off-road purposes;</li> <li>(b) Off-road vehicle permit fees; and</li> <li>(c) Such other sources as may be provided.</li> </ul> <p>(3) As of July 1, 1990, the "habitat conservation account," <u>RCW 79A.15.020</u>, included <del>((appropriations and))</del> funds, under chapter <del>((43.98A RCW (recodified as chapter))</del> <u>79A.15 RCW ((since 1999)))</u>, in support of the <del>((committee's))</del> Washington wildlife and recreation program. These funds are derived from:</p> <ul style="list-style-type: none"> <li>(a) Sales of bonds approved in capital budget appropriations; <u>and</u></li> </ul>	<p>Name change. Update references.</p>

Amendment Text	Explanatory Statement
<p>(b) Such other sources as may be provided.</p> <p>(4) As of July 1, 1995, the "outdoor recreation account," <u>RCW 79A.25.060</u>, included <del>((appropriations and))</del> funds, under chapter <del>((43.98A RCW (recodified as chapter))</del> 79A.15 RCW <del>((since 1999))</del>, in support of the <del>((committee's))</del> Washington wildlife and recreation program. These funds are derived from:</p> <p>(a) Sales of bonds approved in capital budget appropriations; <u>and</u></p> <p>(b) Such other sources as may be provided.</p> <p>(5) Prior to July 1, 1995, the "outdoor recreation account," <u>RCW 79A.25.060</u>, included <del>((appropriations and))</del> funds, in support of the <del>((committee's))</del> <u>board's</u> programs. Funds were derived from:</p> <p>(a) Unclaimed marine fuel tax refunds under RCW <del>((43.99.040 (recodified as RCW 79A.25.404 since 1999)))</del> <u>79A.25.040</u>:</p> <p>(b) Sales of bonds under Referenda 11, 18, <u>21</u>, and 28, and HJR 52;</p> <p>(c) State apportionments of the federal land and water conservation fund;</p> <p>(d) Moneys refunded from the motor vehicle fund under RCW <del>((46.09.170))</del> <u>46.09.520</u> and funds received under RCW <del>((46.09.110))</del> <u>46.68.045</u> for nonhighway and off-road vehicle purposes;</p> <p>(e) Off-road vehicle permit fees;</p> <p>(f) Sales of general obligation bonds for outdoor recreation purposes under RCW <del>((43.98A.050))</del> <u>79A.15.050</u>; and</p> <p>(g) Such other sources as were provided.</p> <p>(6) As of July 1, 1990, the "firearms range account" includes appropriations and funds, under <del>((RCW 77.12.720 (recodified as))</del> RCW 79A.25.210 <del>((since 1999))</del>, in support of the <del>((committee's))</del> firearms and archery range recreation program(s). These funds are derived from:</p> <p>(a) Concealed pistol license fees under RCW 9.41.070;</p> <p>(b) Destruction of firearms programs under RCW 9.41.098; and</p> <p>(c) Such other sources as may be provided.</p>	

Amendment Text	Explanatory Statement
(7) As of July 1, 2003, the "aquatic lands enhancement account" ( <del>includes appropriations under section 377, chapter 26, Laws of 2003, 1st sp. sess. These</del> ) funds are derived from the proceeds from sale or lease of aquatic lands or valuable materials therefrom under RCW ( <del>79.90.245 and 79.90.450</del> ) <u>79.105.150</u> .	
<b>Chapter 286-06 – Public Records</b>	
<b>WAC 286-06-045 ((Committee)) Office and the salmon recovery funding board.</b> The ((committee)) <u>office</u> provides support to the salmon recovery funding board, as directed in RCW 79A.25.240, including administration and management of the salmon board's public records. Such records shall be managed and made available through the ((committee's)) public records officer in the same manner as provided for ((committee)) <u>office</u> records and set forth in this chapter.	Name change.
<b>WAC 286-06-050 Public records available.</b> All public records of the ((committee and board)) <u>office</u> , as defined in RCW ( <del>42.17.260</del> ) <u>42.56.070</u> , as now or hereafter amended, are available for public inspection and copying pursuant to this regulation, except as otherwise provided by law, including, but not limited to, RCW ( <del>42.17.255 and 42.17.310</del> ) <u>42.56.050 and 42.56.210</u> and WAC 286-06-100( <del>—</del> ), <u> Exemptions.</u>	Name change. Update references.
<b>WAC 286-06-060 Responsibility.</b> The public records shall be available through a public records officer designated by the director. The public records officer shall be responsible for: Implementation of the rules and regulations regarding release of public records, coordinating the staff of the ((committee)) <u>office</u> in this regard, and generally ensuring compliance with the public records disclosure requirements of chapter ( <del>42.17</del> ) <u>42.56</u> RCW as now or hereafter amended.	Name change. Update references.
<b>WAC 286-06-065 Indexes.</b> (1) Through its public records officer, the ((committee)) <u>office</u> shall maintain indexes for the records and files listed in subsection (2)(a) through (g) of this section. These indexes:  (a) Provide identifying information as to its files and records;  (b) Are available for public inspection and copying at its offices in the Natural Resources Building, Olympia, in the manner provided in this chapter for the inspection and copying of public records;  (c) Are updated at least every five years and revised at appropriate intervals; <u>and</u>  (d) Are public records even if the records to which they refer may not, in all instances, be subject to disclosure.	Name change. Update references. Formatting.

Amendment Text	Explanatory Statement
<p>(2) Indexes of the following records and files are available:</p> <ul style="list-style-type: none"> <li>(a) Archived files;</li> <li>(b) Equipment inventory;</li> <li>(c) ((Committee)) <u>Office</u> and board policies and procedures, including manuals;</li> <li>(d) Active project files;</li> <li>(e) Publications such as brochures and special reports;</li> <li>(f) Policy statements entered after June 30, 1990, as defined in RCW 34.05.010(15), including grant program manuals; <u>and</u></li> <li>(g) Rule-making files, as described in RCW 34.05.370, for each rule proposed for adoption in the <i>State Register</i> and adopted.</li> </ul> <p>(3) The following general records and files are available by reference to topic, and generally arranged alphabetically or chronologically within such topic. Due to volume, costs and/or complexity, however, no master index is maintained.</p> <ul style="list-style-type: none"> <li>(a) Administrative files;</li> <li>(b) Comprehensive park-recreation plans;</li> <li>(c) Summaries of ((committee)) <u>office</u> staff meetings;</li> <li>(d) Closed/inactive project files;</li> <li>(e) General correspondence;</li> <li>(f) Attorney general opinions;</li> <li>(g) Financial records;</li> <li>(h) Summaries and memoranda of ((committee)) <u>office</u> and board meetings;</li> <li>(i) Final adjudicative proceeding orders entered after June 30, 1990, as defined in RCW 34.05.010(1) that contain an analysis or decision of substantial importance to the ((committee)) <u>office</u> or board in carrying out its duties (each listed alphabetically by subject with a phrase describing the issue or issues and relevant citations of law);</li> </ul>	

Amendment Text	Explanatory Statement
<p>(j) Declaratory orders entered after June 10, 1990, that contain an analysis or decision of substantial importance to the <del>((committee))</del> <u>office</u> or board in carrying out its duties (each listed alphabetically by case name with a phrase describing the issue or issues and relevant citations of law); <u>and</u></p> <p>(k) Interpretive statements as defined in RCW 34.05.010(8) (each indexed by the <del>((committee))</del> <u>office</u> or board program).</p> <p>(4) Before June 30, 1990, the <del>((committee))</del> <u>office</u> maintained no index of:</p> <p>(a) Declaratory orders containing analysis or decisions of substantial importance to the <del>((committee))</del> <u>office</u> in carrying out its duties;</p> <p>(b) Interpretive statements as defined in RCW 34.05.010(8); <u>and</u></p> <p>(c) Policy statements as defined in RCW 34.05.010(<del>((14))</del>) <u>(15)</u>.</p>	
<p><b>WAC 286-06-070 Office hours.</b> Public records shall be available for inspection and copying during the <del>((committee's))</del> <u>office's</u> customary office hours. Those hours shall be consistent with RCW 42.04.060 and <del>((42.17.280))</del> <u>42.56.090</u>, from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.</p>	<p>Name change. Update references.</p>
<p><b>WAC 286-06-080 Requests for public records.</b> Consistent with chapter <del>((42.17))</del> <u>42.56</u> RCW, public records may be inspected or copied or copies of such records may be obtained by members of the public, upon compliance with the following procedures:</p> <p>(1) A request shall be made in writing, preferably on a form prescribed by the director, which shall be available at its Olympia office or electronically. The request shall be presented to the public records officer or designee. The request shall include the following information:</p> <p>(a) The name of the person requesting the record;</p> <p>(b) The calendar date on which the request was made;</p> <p>(c) The nature of the request;</p> <p>(d) A reference to the requested record as it is described in any current index, if the matter requested is referenced within indexes; <u>and</u></p> <p>(e) An appropriate description of the record requested, if the requested matter is not identifiable in the indexes.</p>	<p>Name change. Update references. Formatting.</p>



Amendment Text	Explanatory Statement
<p>(2) Whenever a member of the public makes a request, the public records officer or designee shall ensure the request receives a "date received" stamp or equivalent notation and that assistance is provided in promptly identifying the public record requested as defined in RCW ((42.17.320)) <u>42.56.520</u>. The ((agency)) <u>office</u> shall assist to the maximum extent consistent with ongoing operations, and retains the authority to condition records access to prevent unreasonable invasions of privacy, access to other information protected from disclosure by law, damage/disorganization, and excessive interference with office operations and equipment.</p>	
<p><b>WAC 286-06-090 Copying.</b> (1) No fee shall be charged for the inspection of public records.</p> <p>(2) The director shall charge a fee of fifteen cents per page for providing copies of public records and for use of the ((committee's)) <u>office's</u> copy equipment. Copying in other formats shall be subject to a fee established by the director. These charges will be the amount necessary to reimburse the ((committee)) <u>office</u> for its actual costs incident to such copying.</p>	Name change.
<p><b>WAC 286-06-100 Exemptions.</b> (1) The ((committee and/or board and the)) director reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 286-06-080 is exempt under the provisions of state or federal law, or chapter ((42.17)) <u>42.56</u> RCW.</p> <p>(2) In addition, pursuant to chapter ((42.17)) <u>42.56</u> RCW, the ((committee and/or board and the)) director reserves the right to delete identifying details when made available or published in cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy, or would disclose information otherwise protected by law.</p> <p>(3) All denials of requests for public records, in whole or part, will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.</p>	Name change. Update references.
<p><b>WAC 286-06-110 Review of denials.</b> (1) Any person who objects to the denial of a request for a public record may petition the director for review by submitting a written request. The request shall specifically refer to the written statement which constituted or accompanied the denial.</p>	Name change. Update references.  Removes option to consult with the

Amendment Text	Explanatory Statement
<p>(2) After receiving a written request for review of a decision denying inspection of a public record, the director, or designee, will either affirm or reverse the denial by the end of the second business day following receipt according to RCW <del>((42.17.320))</del> <u>42.56.520</u>. This shall constitute final <del>((committee and/or board))</del> action. <del>((Whenever possible in such matters, the director shall first consult with the committee's or board's chair and members.))</del></p>	<p>board when reviewing denials for inspecting public records.</p>
<b>Chapter 286-13 – General Grant Assistance Rules</b>	
<p><b>WAC 286-13-010 What is the purpose of this chapter?</b> (1) This chapter contains general rules affecting grant program eligibility, applications, and projects funded with money from or through the <del>((committee))</del> <u>board</u>.</p> <p>(2) Further rules are in chapter 286-26 WAC (Nonhighway and off-road vehicle <u>activities</u> program), chapter 286-27 WAC (Washington wildlife and recreation program), chapter 286-30 WAC (Firearms and archery range recreation program), chapter 286-35 WAC (Initiative 215 boating facilities program), chapter 286-40 WAC (Land and water conservation fund program) and chapter 286-42 WAC (Aquatic lands enhancement account program).</p>	<p>Name change. Update references. Formatting.</p>
<p><b>WAC 286-13-020 Applications <del>((form))</del>.</b> (1) All grant requests must be completed and submitted in the format prescribed <del>((by the committee unless otherwise allowed))</del> by the director.</p> <p>(2) If the director determines that the applicant is eligible to apply for federal funds administered by the <del>((committee))</del> <u>board</u>, the applicant must execute the forms necessary for that purpose.</p>	<p>Name change.</p>
<p><b>WAC 286-13-030 Application review.</b> (1) All applications for funding submitted to the <del>((committee))</del> <u>office</u> will be referred to the director for review and recommendations. In reaching a recommendation, the director shall seek the advice and counsel of the <del>((committee's))</del> <u>office's</u> staff and other recognized experts, including those gathered at technical review and evaluation meetings or from other parties with experience in the field.</p> <p>(2) The <del>((committee))</del> <u>office</u> shall inform all applicants of the specific project application process and methods of review, including current evaluation tests and instruments, by delineating these items in the manuals or other publicly available formats.</p>	<p>Name change.</p>
<p><b>WAC 286-13-040 What are the grant program deadlines and how can the deadlines be waived?</b> (1) <del>((Applications. To allow time for review, applications))</del> <u>Compliance with the following deadlines is required to be eligible for grant funding and to receive grant funding.</u></p>	<p>Name change. Formatting.</p>

Amendment Text	Explanatory Statement
<p><u>(a) Applications</u> must be submitted at least four calendar months before the <del>((funding))</del> meeting <u>of the board</u> at which the applicant's project is first considered. Applications must be completed in final form and on file with the <del>((committee))</del> <u>office</u> at least one calendar month before <del>((this))</del> <u>the meeting of the board at which the applicant's project is first considered</u>. Excepted are applications for <del>((the National Recreational Trails Funding Act, Riparian Habitat, and Youth Athletic Facilities Programs, and))</del> programs where the director specifically establishes another deadline to accomplish new or revised statutory direction, <u>board direction, or to meet a federal grant application deadline</u>.</p> <p><del>((2) Plans.))</del> <u>(b) Plans</u> required for participation in <del>((committee))</del> <u>board</u> grant programs must be complete and on file with the <del>((committee))</del> <u>office</u> at least three calendar months before the <del>((funding))</del> meeting <u>of the board</u> at which the applicant's project is first considered. On the director's acceptance of the plan, the applicant shall be granted eligibility to submit applications for a period of up to six years.</p> <p><del>((3) Matches.))</del> <u>(c) To</u> <del>((allow time for development of))</del> <u>develop the director's funding recommendations,</u> written assurance must be provided whenever matching resources are to be considered as a part of an application. This assurance must be provided by the applicant to the <del>((committee))</del> <u>office</u> at least one calendar month before the meeting <u>of the board</u> at which the project is to be considered for funding.</p> <p><del>((4) Project agreement.))</del> <u>(d) To prepare a project agreement, certain documents or materials in addition to the application may be required by the office. These documents or materials must be provided by the applicant to the office at least two calendar months after the date the board or director approves funding for the project or earlier to meet a federal grant program requirement. After this period, the board or director may rescind the offer of grant funds and reallocate the grant funds to another project(s).</u></p> <p><u>(e) An applicant has three calendar months from the date</u> <del>((of the committee's mailing of))</del> <u>the office sends the project agreement to</u> <del>((execute))</del> <u>sign</u> and return the agreement to the <del>((committee's))</del> <u>office</u>. After this period, the <del>((committee))</del> <u>board</u> or director may reject any agreement not signed and returned and reallocate the grant funds to another project(s).</p>	<p>Clarifies program deadlines and waivers.</p>

Amendment Text	Explanatory Statement
<p><del>((5) Waivers.))</del> (2) Compliance with <del>((these))</del> <u>the</u> deadlines is required <del>((for eligibility))</del> unless a waiver is granted by the <u>board or</u> director. Such waivers are considered based on several factors which may vary with the type of waiver requested, including <u>any one or more of the following</u>:</p> <p>(a) <del>((When the applicant started the application/planning process (for application and plan deadline waivers)))</del>  <u>Current status and progress made to meet the deadline;</u></p> <p>(b) <del>((Progress made))</del> <u>The reason the established deadline could not be met;</u></p> <p>(c) When <del>((final plan adoption will occur (for plan deadline waivers)))</del> <u>the deadline will be met;</u></p> <p>(d) <del>((The cause of the delay (procedural or content related, etc.);</del></p> <p><del>((e)))</del> <u>Impact on the ((committee's)) board's evaluation process;</u></p> <p><del>((f))</del> <u>(e) Equity to other applicants; and</u></p> <p><del>((g))</del> <u>(f) Such other information as may be relevant.</u></p>	
<p><b>WAC 286-13-045 What rules govern ((eligible)) matching resources?</b> (1) When <del>((requiring a match from an applicant for committee administered funds, or giving))</del> <u>the board gives</u> preference to an applicant that provides a <del>((match))</del> <u>matching resource</u>, it is the intent of the <del>((committee))</del> <u>board</u> to do so to foster <u>and demonstrate</u> local commitment to the proposed project <del>((and to demonstrate that commitment, and)),</del> to make funds from a given grant program <del>((and revenue source((s)))</del> available to a greater number of projects, <u>and to fund projects that are ready to implement without delay.</u></p> <p>(2) Applicant resources used to match <del>((committee))</del> <u>board</u> funds <u>must be eligible in the grant program. Sources of matching resources</u> include, but are not limited to, <u>any one or more of the following</u>: <del>((Cash; local impact/mitigation fees; certain federal funds; the value of donations such as privately owned real estate, equipment, equipment use, materials, and labor; or any combination thereof))</del></p> <p>(a) <u>Appropriations and cash;</u></p> <p>(b) <u>Value of the applicant's expenses for labor, materials, and equipment;</u></p> <p>(c) <u>Value of donated real property, labor, services, materials, and equipment use; and</u></p> <p>(d) <u>Grant funds, except those from the same grant program administered by the board.</u></p>	<p>Name change. Update references. Formatting.</p> <p>Clarifies match requirements and eligible sources of match.</p> <p>Adds policy restricting use of grant funds to supplant existing resources.</p> <p>Adds policy restricting use of RCO grants matching each</p>

Amendment Text	Explanatory Statement
<p>(3) <del>((An agency's or organization's match may include state and federal funds, including funds from other grant programs administered by the committee. However, the committee))</del> The board may require the <del>((agency or organization))</del> applicant to provide a portion of <del>((the match))</del> its matching resources in local resources.</p> <p>(4) <del>((Private donated real property, or the value of that property, must consist of real property (land and facilities) that would normally qualify for committee grant funding.</del></p> <p>(5)) State agency projects may be assisted by one hundred percent funding from <del>((committee sources))</del> board funds except where prohibited by law or the board.</p> <p><del>((6) The eligibility of some federal and state funds to be used as a match is governed by federal and state requirements and thus may vary with individual program policies.))</del></p> <p>(5) Grants from state funds are intended to supplement the existing capacity of a sponsor. They are not intended to supplant existing programs or fund projects that would have been undertaken without grant funding.</p> <p>(6) Except for grant applications submitted within the same biennium, matching resources or board grant funds committed in one board funded project must not be used as match in another board funded project.</p> <p>(7) If a matching resource is required or provided in the grant application, it must also conform to the deadlines in WAC 286-13-040.</p>	<p>other to within the same biennium.</p> <p>Adds reference to the match deadlines in another section.</p>
<p><b>WAC 286-13-050 ((Final)) Funding decision.</b> The <del>((committee))</del> board will review recommendations from the director for grant projects at regularly scheduled <del>((funding sessions. It))</del> public meetings. The board retains the authority and responsibility to accept or deviate from these recommendations and <del>((, where statutory authority exists, it alone will))</del> make the final decision concerning the funding of a project.</p>	<p>Name change.</p> <p>Clarifies when and how funding decisions are made.</p>
<p><b>WAC 286-13-060 Project agreement.</b> For every funded project, an agreement must be executed as provided in this section.</p> <p>(1) The project agreement shall be prepared by the <del>((director))</del> office subsequent to approval of the project by the <del>((committee))</del> board at a public meeting. The <del>((director shall execute the agreement on behalf of the committee and tender the document to the applicant. On execution by the applicant, who through this action becomes the sponsor,))</del> project agreement is executed upon the signature of the office and the applicant and the parties are bound by the</p>	<p>Name change. Update references. Formatting.</p> <p>Clarifies the process to execute a project agreement.</p>

Amendment Text	Explanatory Statement
<p>agreement's terms. The applicant <del>((may))</del> shall not proceed <del>((with the project))</del> until the <u>project</u> agreement has been executed <del>((and the project start date listed in the agreement has arrived))</del>, unless specific authorization pursuant to WAC 286-13-085 <del>((1)(a))</del> has been given by the director.</p> <p>(2) If the project is approved by the <del>((committee))</del> <u>board</u> to receive a grant from federal funds, the director shall not execute an agreement or amendment with the applicant until federal funding has been authorized through <del>((execution of a concurrent project))</del> <u>an</u> agreement with the applicable federal agency.</p> <p>(3) Execution of the project agreement must conform to the deadlines in WAC 286-13-040.</p>	<p>Adds reference to the agreement deadlines in another section.</p>
<p><b>WAC 286-13-070 Disbursement of funds.</b> <del>((1))</del> Except as otherwise provided <del>((herein))</del> in this chapter, the <del>((director))</del> <u>office</u> will authorize disbursement of project funds only on a reimbursable basis<del>((, after the sponsor has spent its own funds and))</del> <u>at the percentage identified in the project agreement after the sponsor has presented ((a billing showing satisfactory evidence of property rights acquired and/or)) an invoice documenting costs incurred and</u> compliance with <del>((partial or all))</del> <u>the</u> provisions of the project agreement.</p> <p><del>((1) Reimbursement method. Reimbursement must be requested on voucher forms authorized by the director and must include all documentation as detailed in the manual in effect at the time reimbursement is requested.))</del></p> <p>(2) <del>((Reimbursement level.))</del> The amount of reimbursement may never exceed the cash spent on the project.</p> <p>(3) <del>((Partial payment. Partial reimbursements may be made during the course of a project on presentation of billings showing satisfactory evidence of partial acquisition or development.</del></p> <p>(4) <u>Exceptions.</u></p> <p>(a) <del>State agencies' Initiative 215 (Marine Recreation Land Act) appropriations. Prior to the 1995-1997 biennium (July 1, 1995,) state agencies were required to submit voucher forms with the supporting documentation specified in the manual in effect at the time of completion of project acquisition, relocation or development.</del></p> <p>(b) <del>Direct payment.))</del> <u>Reimbursement shall not be approved for any donations, including donated real property.</u></p> <p>(4) Direct payment to <u>an</u> escrow <u>account</u> of the <del>((committee's))</del> <u>office's</u> share of the approved cost of real property <u>and related costs</u> may be made following <del>((committee))</del> <u>office</u> approval <del>((of an acquisition project))</del> when the sponsor indicates a temporary lack of funds to purchase the property <u>on a reimbursement basis</u>. Prior to release of the</p>	<p>Name change. Update references. Formatting.</p> <p>Clarifies the process for disbursement of funds.</p> <p>Removes unnecessary subsections.</p> <p>Clarifies requirements for escrow payments.</p>

Amendment Text	Explanatory Statement
<p><del>((committee's))</del> <u>office's</u> share <del>((of))</del> <u>into</u> escrow <del>((funds))</del>, the sponsor must provide the <del>((director))</del> <u>office</u> with a copy of a binding <del>((sale))</del> agreement between the sponsor and the seller, <u>all required documentation</u>, and evidence of deposit of the sponsor's share <del>((if any))</del>, <u>identified in the project agreement</u>, into an escrow account.</p>	
<p><b>WAC 286-13-080 What rules govern expenses incurred before execution of a project agreement?</b> <del>((Except as hereinafter provided, the committee will not approve the disbursement of funds for expenses))</del> <u>Unless otherwise provided in this chapter, the office shall not approve the disbursement of funds for costs</u> incurred before execution of a project agreement.</p>	<p>Name change. Clarifying language consistent with the rest of the chapter.</p>
<p><b>WAC 286-13-085 Retroactive, <u>preagreement</u>, and increased costs.</b> <del>((See WAC 286-04-010 for definition of terms for the following section.</del></p> <p><del>Under most conditions, eligible expenses may only be reimbursed for activities))</del> <u>(1) The office will only reimburse costs</u> that occur within the period <del>((cited))</del> <u>of performance</u> in the project agreement<del>((This is known as the committee's prohibition on retroactivity. To avoid this prohibition, a waiver may be issued.</del></p> <p><del>(1) Retroactive land acquisition costs)).</del></p> <p><u>(2) The director may grant a waiver of retroactivity for acquiring real property</u> whenever an applicant asserts, in writing, <del>((that a condition exists which may jeopardize the project))</del> <u>the justification for the critical need to purchase the property in advance of the project agreement along with any documentation required by the director.</u> When evidence warrants, the director may grant the applicant permission to proceed by issuing <del>((the))</del> <u>a</u> written waiver. This waiver of retroactivity will not be construed as <del>((an))</del> approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for <del>((assistance))</del> <u>grant funding</u>. If the project is to remain eligible for <del>((grant support))</del> <u>funding</u> from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its own waiver of retroactivity as provided under its rules and regulations. <u>A waiver may be issued for more than one grant program.</u></p> <p><del>((2) Retroactive development costs.))</del> <u>(3) The only retroactive acquisition, development, and restoration costs</u> eligible for <del>((reimbursement consideration are preliminary expenses (e.g., engineering costs)).</del></p>	<p>Name change. Update references. Formatting. Grammar.</p> <p>Clarifying language consistent with the rest of the chapter.</p> <p>Clarifying language consistent with terms in the project agreement.</p> <p>Adds policy statements previously adopted by the board for waivers of retroactivity and preagreement costs.</p>

Amendment Text	Explanatory Statement
<p><del>However, solely in respect to WWRP projects on LEAP Capital Document 5, the director is authorized to grant a waiver of retroactivity which establishes eligibility for future reimbursement of all appropriate development costs. Such applicants' retroactivity requests must be in writing, and provide sufficient justification. Reimbursement of expenditures is subject to the provisions of WAC 286-13-070. This authority shall be effective until the execution of a project agreement or June 30, 1997, whichever occurs first.</del></p> <p><del>(3) Cost increases.</del></p> <p><del>(a)) grant funding are preagreement costs as defined by the board.</del></p> <p><del>(4) Cost increases for approved projects may be granted by the ((committee)) board or director if financial resources are available.</del></p> <p><del>((b)) (a) Each cost increase request will be considered on its merits.</del></p> <p><del>((c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.</del></p> <p><del>((d)) (b) The director may approve a ((sponsor's acquisition, development, and/or noncapital project)) cost increase request so long as the ((total request)) cost increase amount does not exceed ten percent of the project's approved initial ((cost)) grant funding amount. The director's approval of an acquisition project cost increase is limited to a parcel-by-parcel appraised and reviewed value.</del></p>	<p>Adds restoration projects to the types of projects.</p> <p>Removes outdated text.</p> <p>Clarifies director's authority for approving cost increases.</p>
<p><b>WAC 286-13-090 Federal assistance.</b> Insofar as is possible under the ((committee's)) <u>board's</u> statewide ((plan(s))) <u>plan</u> provided ((under WAC 286-04-020(3))) <u>in this chapter</u>, applications will be administered and approved in a manner that will maximize any federal assistance available for the benefit of projects in Washington.</p>	<p>Name change. Update references.</p>
<p><b>WAC 286-13-100 Nonconformance and repayment.</b> Any ((sponsor expenditure of committee grant moneys)) <u>project cost</u> deemed by the ((committee)) <u>board</u> or director to conflict with applicable statutes, rules and/or related manuals must be repaid, upon written request by the director, to the appropriate state account <u>per the terms of the project agreement</u>. Such repayment requests may be made in consideration of an applicable report from the state auditor's office.</p>	<p>Name change.</p> <p>Clarifying language consistent with terms in the project agreement.</p>



Amendment Text	Explanatory Statement
<p><b>WAC 286-13-110 Income, <u>use of income</u> ((<u>use</u>)).</b> (1) ((<u>Income</u>.  <del>((a) Compatible source.))</del> The source of any income generated in a <del>((committee assisted))</del> <u>funded</u> project or project area must be compatible with the <del>((element(s) defined in the))</del> <u>funding source and</u> project agreement.</p> <p><u>(a)</u> The way the project or project area is defined varies with the source of funds provided by the <del>((committee))</del> <u>board</u>. That is, income generated in a project assisted with funds that originate from:</p> <p>(i) A state source must be consistent with the limits of the element(s) assisted by the <del>((committee))</del> <u>board</u> (for example, within the area of an athletic field or habitat area).</p> <p>(ii) The federal land and water conservation fund must be consistent within the <u>protected</u> boundary <u>as</u> described in <del>((chapter 660.2.6.A. ("project area") of the L&amp;WCF Grants-in-Aid Manual))</del> <u>the Land and Water Conservation Fund Act, 36 C.F.R., Part 59.</u></p> <p>(b) <del>((Fees.))</del> User <del>((and/or))</del> <u>or</u> other fees may be charged in connection with land acquired or facilities developed with <del>((committee))</del> <u>board</u> grants if the fees are consistent with the:</p> <p>(i) Value of any service(s) furnished; <del>((and))</del></p> <p>(ii) Value of any <del>((opportunity(ies)))</del> <u>opportunities</u> furnished; and</p> <p>(iii) Prevailing range of public fees in the state for the activity <u>involved</u>.</p> <p><u>(iv)</u> Excepted are firearms and archery range recreation program safety classes (firearm and/or hunter) for which a facility/range fee must <i>not</i> be charged (RCW <del>((77.12.720))</del> <u>79A.25.210</u>).</p> <p>(2) <del>((Income use.))</del> Regardless of whether income or fees in a <del>((committee assisted))</del> <u>project</u> area (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) are gained during or after the reimbursement period cited in the project agreement, unless precluded by state <u>or federal</u> law, the revenue may only be used to offset:</p> <p>(a) The sponsor's matching <del>((funds; and/or))</del> <u>resources</u>;</p> <p>(b) The project's total cost; <del>((and/or))</del></p> <p>(c) The expense of operation, maintenance, <del>((and/or))</del> <u>stewardship, monitoring, or</u> repair of the facility or program assisted by the <del>((committee))</del> <u>board's</u> grant; <del>((and/or))</del></p>	<p>Name change. Update references. Formatting. Grammar.</p> <p>Adds reference to the funding source.</p>

Amendment Text	Explanatory Statement
<p>(d) The expense of operation, maintenance, <del>((and/or))</del> <u>stewardship, monitoring or</u> repair of other <u>similar</u> units in the sponsor's <del>((park and recreation and/or habitat conservation))</del> system; <del>((and/or))</del> <u>or</u></p> <p>(e) Capital expenses for similar acquisition <del>((and/or))</del> <u>or</u> development.</p>	
<p><b>WAC 286-13-115 Discrimination, preferences.</b> (1) Sponsors shall not discriminate against users of projects assisted with <del>((committee))</del> <u>board</u> funds on the basis of race, creed, color, sex, religion, national origin, disability, marital status, or sexual orientation.</p> <p>(2) Sponsors shall not express a preference for users of <del>((committee))</del> <u>board</u> grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems). However, reasonable differences in admission and other fees may be maintained on the basis of residence. The <del>((committee))</del> <u>board</u> does not encourage the imposition of such differential fees. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.</p>	Name change.
<p><b>WAC 286-13-120 Permanent project signs.</b> Permanent signs identifying that land was acquired <del>((or facilities))</del>, developed <u>or restored</u> with financial assistance from the <del>((committee))</del> <u>board</u> are required unless waived by the director. Such waivers are considered based on agreed project goals.</p>	<p>Name change.</p> <p>Adds restoration projects to the types of projects.</p>
<b>Chapter 286-26 – Nonhighway Road and Off-road Vehicles Fund</b>	
<p><b>WAC 286-26-010 Scope of chapter.</b> This chapter contains rules affecting the nonhighway and off-road vehicle activities grant program administered by the <del>((committee))</del> <u>board</u> under chapter 46.09 RCW. Additional provisions are contained in <u>"What definitions apply to this chapter?" WAC 286-04-010 and "General grant assistance rules((:))" chapter 286-13 WAC.</u></p>	<p>Name change.</p> <p>Adds relevant reference to another section in Title 286 WAC.</p>
<p><b>WAC 286-26-020 What definitions apply to this chapter?</b> For purposes of this chapter, the following definitions shall apply:</p>	<p>Name change.</p> <p>Update references.</p>

Amendment Text	Explanatory Statement
<p>"Management" means the action taken in exercising control over, regulating the use of, and operation and maintenance of ORV trails and ORV areas.</p> <p>"NOVA" means the <del>((committee's))</del> <u>board's</u> nonhighway and off-road vehicle activities program described in chapter 46.09 RCW.</p> <p>"NOVA advisory committee" as provided in RCW <del>((46.09.280))</del> <u>46.09.340</u>, means the panel of representatives chosen to advise the director in the development of the statewide NOVA plan, the development of a project priority rating system, the suitability and evaluation of NOVA projects submitted to the <del>((committee))</del> <u>board</u> for funding, and other aspects of NOVA recreation as the need may arise, in accordance with chapter 46.09 RCW.</p> <p>"Off-road vehicle" <del>((ORV))</del> as provided in RCW <del>((46.09.020))</del> <u>46.04.365</u>.</p> <p>"ORV sport park" as provided in RCW <del>((46.09.020, means a facility that accommodates racing two, three, and/or four wheel ORVs, and four wheeled vehicles over forty inches width which are equipped with four wheel drive or other characteristics such as nonslip drive trains and high clearance. Such courses include ORV trail or area characteristics such as sharp turns, jumps, soft tread material, dips, or other obstacles found in more natural settings))</del> <u>46.09.310</u>. Race courses which are paved and designed primarily for other vehicles, such as go-karts and formula cars, are not eligible for funds from the NOVA program account.</p>	
<p><b>WAC 286-26-080 Does this program have planning eligibility requirements?</b> Yes. To be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2), except that such a plan is not required to support a funding request for education<del>((—))</del> <u>and</u> enforcement <del>((and/))</del> or maintenance<del>((—))</del> <u>and</u> operation projects. At minimum the plan must include:</p> <ul style="list-style-type: none"> <li>(1) A statement of the applicant's long-range goals and objectives;</li> <li>(2) An inventory<del>((, or description of the planning area))</del>;</li> <li>(3) An analysis of demand and need, that is, why actions are required;</li> <li>(4) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;</li> <li>(5) A current capital improvement program of at least six years; <u>and</u></li> </ul>	<p>Formatting. Grammar.</p> <p>Clarifies language on plan requirements consistent with board policy.</p>

Amendment Text	Explanatory Statement
<p>(6) Evidence that this plan has been approved by the applicant's governing entity most appropriate to the plan's scope. For example, a city or county-wide plan must be approved at the council or commission level. Plans with a different scope will be approved by department heads, district rangers, regional managers/supervisors, etc.</p>	
<p><b>WAC 286-26-083 What long term rules apply?</b> (1) Without prior approval of the <del>((committee))</del> <u>board</u>, land, natural resources and/or facilities purchased and/or developed with <del>((committee))</del> <u>board</u> administered NOVA funds shall not be converted to uses other than those for which the funds were originally approved.</p> <p>(2) The <del>((committee))</del> <u>board</u> is entitled to pursue and obtain remedies that assure the substitution or replacement of natural resources or facilities in accordance with this chapter.</p>	Name change.
<p><b>WAC 286-26-085 When considering approval of a conversion, what rules apply?</b> The <del>((committee))</del> <u>board</u> shall only approve conversions when:</p> <p>(1) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; and</p> <p>(2) Another resource(s) will serve as a replacement. The replacement resource(s) must:</p> <p>(a) <del>((f))</del> If a land acquisition<del>((t))</del>, be real <del>((property(ies)))</del> <u>property</u> of at least equal fair market value and public benefit at the time of conversion;</p> <p>(b) <del>((f))</del> If a development<del>((t))</del>, provide a facility of at least equal fair market value and public benefit as that which existed at the time of the original investment;</p> <p>(c) Be of reasonably equivalent or greater recreation usefulness and location;</p> <p>(d) Be administered by the same political jurisdiction as the converted property <del>((and/or))</del> or development;</p> <p>(e) Satisfy <del>((need(s)))</del> <u>needs</u> identified in the <del>((committee's))</del> <u>board's</u> or sponsor's plan; and</p> <p>(f) Include only elements eligible under the <del>((committee's))</del> <u>board's</u> program from which funds were originally allocated.</p>	Name change. Grammar.
<p><b>WAC 286-26-090 For land acquisition projects, are there long term obligations?</b> Yes. Sponsors must execute an instrument(s) containing:</p> <p>(1) For fee or perpetual property rights acquisition projects:</p> <p>(a) A legal description of the property acquired;</p>	Name change. Formatting.

Amendment Text	Explanatory Statement
<p>(b) A conveyance to the state of Washington for the right to use the described real property for outdoor recreation purposes forever unless a term is specified in the project agreement; and</p> <p>(c) A prohibition on conversion of use of the land to a principal use other than that for which funds were originally approved without prior approval of the ((committee)) <u>board</u>.</p> <p>(2) For lease, less than fee, or nonperpetual property rights, a binding agreement which:</p> <p>(a) Contains a legal description of the property and rights acquired;</p> <p>(b) Contains a conveyance to the state of Washington for the right to use the described real property for outdoor recreation purposes for the period of the lease;</p> <p>(c) Contains a prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the ((committee)) <u>board</u>;</p> <p>(d) Is for at least twenty-five years unless precluded by state law;</p> <p>(e) Is not revocable at will;</p> <p>(f) Has a value supported through appraisal requirements approved by the ((committee)) <u>board</u>; <u>and</u></p> <p>(g) Is paid for in lump sum at initiation.</p>	
<p><b>WAC 286-26-100 For development projects, are there long term obligations?</b> Yes.</p> <p>(1) Properties and facilities assisted with money granted by the ((committee)) <u>board</u> shall not be converted (WAC 286-26-083(1)).</p> <p>(2) Properties and facilities assisted with money granted by the ((committee)) <u>board</u> shall be:</p> <p>(a) Built, operated, used, and maintained according to federal, state, and local laws and regulations, including public health standards and building codes;</p> <p>(b) Built, operated, used, and maintained in a reasonably safe condition for the project's intended use;</p> <p>(c) Operated and maintained throughout its estimated life so as to prevent undue deterioration; <u>and</u></p> <p>(d) Built and operated in compliance with all federal and state nondiscrimination laws, regulations, and policies.</p> <p>(3) Facilities open to the public must:</p> <p>(a) Be built, operated, and maintained according to state and federal accessibility guidelines((-));</p>	<p>Name change. Formatting.</p>

Amendment Text	Explanatory Statement
<p>(b) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods<del>((:));</del> <u>and</u></p> <p>(c) Be available for use at reasonable hours and times of the year, according to the type of area or facility.</p>	
<p><b>WAC 286-26-105 What provisions apply to federal agencies?</b> A <del>((committee-federal))</del> <u>board-federal</u> agency agreement signed by the parties shall control the provision of funds granted by the <del>((committee))</del> <u>board</u> for facility developments to federal agency sponsored projects. Absent this agreement, the <del>(("general provisions"))</del> <u>standard terms and conditions</u> of <del>((committee's))</del> <u>board's</u> project agreement shall control.</p>	<p>Name change.</p> <p>Updates reference to project agreement.</p>
<p><b>WAC 286-26-110 Matching amounts and caps determined.</b> The <del>((committee))</del> <u>board</u> will establish <del>((NOVA program))</del> sponsor matching share requirements and fund request limits. Any changes will normally be done at a <del>((committee))</del> <u>board</u> meeting six months before program funding consideration.</p>	<p>Name change.</p> <p>Removes unnecessary text.</p>
<b>Chapter 286-27 – Washington Wildlife and Recreation Program</b>	
<p><b>WAC 286-27-010 What is the purpose of this chapter?</b> This chapter contains rules affecting the Washington wildlife and recreation grant program <del>((WWRP))</del> administered by the <del>((committee))</del> <u>board</u> under chapter 79A.15 RCW. Additional provisions are contained in <u>"What definitions apply to this chapter?" WAC 286-04-010</u> and <u>"General grant assistance rules<del>((:))</del>"</u> chapter 286-13 WAC. These moneys are available through the <del>((committee))</del> <u>board</u> for projects in the following accounts and categories:</p> <ul style="list-style-type: none"> <li>(1) Farmlands preservation account<del>((:));</del></li> <li>(2) Habitat conservation account: <ul style="list-style-type: none"> <li>(a) Critical habitat category;</li> <li>(b) Natural areas category;</li> <li>(c) Urban wildlife habitat category; and</li> <li>(d) <del>((Restoration-enhancement on state lands category.))</del> <u>State lands restoration and enhancement category.</u></li> </ul> </li> <li>(3) Outdoor recreation account: <ul style="list-style-type: none"> <li>(a) State parks category;</li> <li>(b) Local parks category;</li> </ul> </li> </ul>	<p>Name change.</p> <p>Formatting.</p> <p>Removes unnecessary text.</p> <p>Adds reference to another section of Title 286 WAC.</p> <p>Updates references to certain categories.</p>

Amendment Text	Explanatory Statement
<p>(c) Trails category;</p> <p>(d) Water access category; and</p> <p>(e) <del>((Development- renovation on state lands category.))</del> <u>State lands development and renovation category.</u></p> <p>(4) Riparian protection account.</p>	
<p><b>WAC 286-27-040 Does the ((WWRP)) program have planning eligibility requirements?</b> Yes. Except as noted under subsection (2) of this section, to be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2).</p> <p>(1) At <u>a</u> minimum the plan must include:</p> <p>(a) A statement of the applicant's long-range goals and objectives;</p> <p>(b) An inventory<del>((, or description of the planning area))</del>;</p> <p>(c) An analysis of demand and need, that is, why actions are required;</p> <p>(d) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;</p> <p>(e) A current capital improvement program of at least six years; <u>and</u></p> <p>(f) Evidence that this plan has been approved by the applicant's governing entity. For example, a city plan would be approved at the council level and a county-wide plan at the county council or commission level. Plans with a different scope would be approved by department heads, regional managers/supervisors, etc.<del>((;))</del></p> <p>(2) A plan is not required for projects submitted in the farmlands preservation account.</p>	<p>Formatting. Grammar.</p> <p>Removes unnecessary text.</p> <p>Clarifies language on plan requirements consistent with board policy.</p>
<p><b>WAC 286-27-045 What is a conversion of use?</b> A "conversion" occurs when interests in real property and facilities acquired, developed, renovated, enhanced or restored <del>((with WWRP funds))</del> are converted to uses other than those for which the funds were originally approved and described in the project agreement <del>((with the committee))</del>. Interests in real property include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.</p>	<p>Removes unnecessary text.</p>
<p><b>WAC 286-27-055 Are there long-term obligations for acquiring interest in real property?</b> Yes. Sponsors must execute an instrument(s) containing these provisions:</p>	<p>Name change. Formatting.</p>

Amendment Text	Explanatory Statement
<p>(1) For acquisition of perpetual interest in real property:</p> <p>(a) A legal description of the property acquired;</p> <p>(b) A conveyance to the state of Washington of the right to use the described real property for farmland, habitat conservation, and/or outdoor recreation purposes; and</p> <p>(c) Except as provided in WAC 286-27-066, agreement to a prohibition on conversion of use.</p> <p>(2) For acquisition of nonperpetual interest in real property:</p> <p>(a) A legal description of the property and a description of the interests acquired;</p> <p>(b) A conveyance to the state of Washington of the right to use the described real property for farmland, habitat conservation, and/or outdoor recreation purposes for the term of the lease or easement;</p> <p>(c) Except as provided in WAC 286-27-066, agreement to a prohibition on conversion of use;</p> <p>(d) A lease(s) or easement(s) period of at least fifty years except for:</p> <p>(i) Farmlands preservation account projects which shall be for at least twenty-five years; <u>or</u></p> <p>(ii) Projects that extend conservation reserve enhancement program leases which shall be for at least twenty-five years(<del>;</del>).</p> <p>(e) Is not revocable at will;</p> <p>(f) Has a value supported through appraisal methods approved by the (<del>committee</del>) <u>board</u>; <u>and</u></p> <p>(g) Terms of payment between the sponsor and seller.</p>	
<p><b>WAC 286-27-061 Are there long-term obligations for restoration projects?</b> Yes.</p> <p>(1) Unless otherwise approved by the (<del>committee</del>) <u>board</u>, environmental restoration and enhancement projects (<del>(granted WWRP funds)</del>) must continue to provide the functions for which the funds were originally approved and not be converted to any other use.</p> <p>(2) When approving such a conversion, the (<del>committee</del>) <u>board</u> shall require the (<del>grant recipient</del>) <u>sponsor</u> or successor to provide for environmental restoration or enhancement as a replacement. When approving the replacement, (<del>committee</del>) <u>board</u> considerations shall include the intended ecological benefits of the replacement compared to those of the original project and likelihood that the replacement project will be successful.</p>	<p>Name change.</p> <p>Removes unnecessary text.</p> <p>Updates terms consistent with Title 286 WAC.</p>



Amendment Text	Explanatory Statement
<p><b>WAC 286-27-065 Are there long-term obligations for development projects?</b> Yes.</p> <p>(1) Properties, structures, and facilities developed with the assistance of money granted by the <del>((committee))</del> <u>board</u> shall not be converted except as provided in WAC 286-27-066.</p> <p>(2) Properties, structures, and facilities developed with the assistance of money granted by the <del>((committee))</del> <u>board</u> shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health standards to assure a reasonably safe condition and to prevent premature deterioration.</p> <p>(3) Properties, structures, and facilities intended for public use shall meet state and federal accessibility guidelines and nondiscrimination laws, regulations, and policies; be maintained to a standard that encourages use; and be open and available to the public at reasonable hours and times of the year.</p>	Name change.
<p><b>WAC 286-27-066 What additional rules apply to conversions of use?</b> (1) Except as provided in this section, interest in real property and facilities acquired, developed, renovated, enhanced or restored <del>((with WWRP funds))</del> shall not, without prior approval of the <del>((committee))</del> <u>board</u> be converted to uses other than those for which the funds were originally approved.</p> <p>(2) The <del>((committee))</del> <u>board</u> shall assure the substitution or replacement of interest in real property and/or facilities in accordance with this chapter.</p> <p>(3) The <del>((committee))</del> <u>board</u> shall only approve conversions when:</p> <p>(a) All practical alternatives to the conversion have been evaluated and rejected; and</p> <p>(b) The sponsor or successor will provide another interest in real property(s) and/or facilities to serve as a replacement. The replacement must:</p> <p>(i) Be of equivalent or greater usefulness and location;</p> <p>(ii) Be administered by the same sponsor or successor unless otherwise approved by the <del>((committee))</del> <u>board</u>;</p> <p>(iii) Satisfy need(s) identified in the most recent plan(s) required under WAC 286-27-040;</p> <p>(iv) Be eligible to receive a grant in the WWRP account or category from which funds were originally allocated, unless otherwise authorized by the <del>((committee))</del> <u>board</u>;</p>	<p>Name change.</p> <p>Removes unnecessary text.</p>

Amendment Text	Explanatory Statement
<p>(v) If acquisition of interests in real property: Be interest in real property(ies) of at least equal market value and public benefit at the time of replacement;</p> <p>(vi) If a development: Provide a facility of at least equal market value and public benefit as that which existed at the time of the original investment of WWRP funds; and</p> <p>(vii) If a restoration or enhancement project: Provide restoration or enhancement activities necessary to replicate the ecological benefit intended by the project.</p> <p>(4) Projects authorized by the Interstate Commerce Commission under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d) shall convert to railroad purposes automatically upon reactivation of a line for rail purposes under an ICC order. Substitution or replacement with interest in real property, facilities or moneys which are of at least equal market value at the time of replacement may be required.</p>	
<p><b>WAC 286-27-071 What rules apply to the sale of farmland?</b> (1) Any moneys from the sale of farmland acquired by a city or county in fee simple with farmlands preservation account funds, along with any net income derived from agricultural activities on the property, shall be returned to the farmlands preservation account, or, used by the city or county to purchase interests in additional farmland properties. The city or county may deduct expenses associated with the transaction and management of the property as authorized by the ((committee)) <u>board</u>.</p> <p>(2) The sale of the farmland and use of funds to purchase additional farmland properties must be approved by the ((committee)) <u>board</u>.</p>	Name change.
<p><b>WAC 286-27-075 Are matching resources required—Are there caps?</b> Yes. Consistent with RCW 79A.15.060(4) ((and)), 79A.15.070(4), 79A.15.120(7), and 79A.15.130(8) the ((committee)) <u>board</u> will establish sponsor matching share requirements and fund request limits.</p>	Name change. Update references.
<b>Chapter 286-30 – Firearms Range</b>	
<p><b>WAC 286-30-010 Scope.</b> This chapter contains rules affecting the firearms and archery range recreation grant program administered by the ((committee)) <u>board</u> under RCW ((77.12.720)) <u>79A.25.210</u>. Additional provisions are contained in "<u>What definitions apply to this chapter?</u>" WAC 286-04-010 and "General grant assistance rules((,))" chapter 286-13 WAC.</p>	Name change. Update references.  Adds reference to other relevant sections.

Amendment Text	Explanatory Statement
<p><b>WAC 286-30-030 Acquisition projects—Deed of right, conversions, leases and easements.</b> <del>((For acquisition projects, sponsors must execute an instrument or instruments that contain:))</del> (1) For fee, less-than-fee, and easement acquisition projects <u>sponsors must execute an instrument or instruments that contain:</u></p> <ul style="list-style-type: none"> <li>(a) A legal description of the property acquired;</li> <li>(b) A conveyance to the state of Washington of the right to use the described real property <del>((for at least ten years from the date of the committee's final reimbursement))</del> for outdoor recreation purposes; and</li> <li>(c) A restriction on conversion of use of the land <del>((for at least ten years from the date of the committee's final reimbursement, with the proviso that should use be discontinued or a noncommittee approved conversion occur, the sponsor shall pay back to the committee the entire grant amount. That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not, within ten years, be converted))</del> to a use other than that for which funds were originally approved. <del>((The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location:))</del></li> </ul> <p>(2) For lease acquisition projects<del>((;))</del> <u>sponsors must execute</u> a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The <del>((interest))</del> <u>agreement:</u></p> <ul style="list-style-type: none"> <li>(a) Must be for at least ten years from the date of the <del>((committee's))</del> <u>office's</u> final reimbursement unless precluded by state law;</li> <li>(b) May not be revocable at will;</li> <li>(c) Must have a value supported through standard appraisal techniques;</li> <li>(d) Must be paid for in lump sum at initiation; <u>and</u></li> <li>(e) May not be converted during the lease period<del>((;))</del> to a use other than that for which funds were originally approved<del>((;))</del> without prior approval of the <del>((committee))</del> <u>board</u>.</li> </ul> <p><u>(3) If a conversion occurs less than ten years after the office's final reimbursement, the board shall approve such a conversion under the following conditions:</u></p> <ul style="list-style-type: none"> <li><u>(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;</u></li> </ul>	<p>Name change. Formatting.</p> <p>Consistent with state law, revises requirements for long-term compliance when there is an issue less than ten years from when the grant was first accepted.</p> <p>Consistent with state law and board policy, revises requirements for long-term compliance when there is an issue ten or more years from when the grant was first accepted.</p>

Amendment Text	Explanatory Statement
<p><u>(b) The sponsor shall pay back the entire grant amount to the firearms range account; and</u></p> <p><u>(c) The sponsor shall comply with other board adopted policies as applicable.</u></p> <p><u>(4) If a conversion occurs ten or more years after the office's final reimbursement, the board shall approve such a conversion under conditions which assure:</u></p> <p><u>(a) The substitution of other land of at least equal fair market value at the time of conversion and nearly as feasible equivalent usefulness and location as the original project; or</u></p> <p><u>(b) By other remedy as adopted by the board to satisfy the conversion of use.</u></p>	
<p><b>WAC 286-30-040 Development projects—Conversion to other uses.</b> (1) <del>((Within ten years of the committee's final reimbursement, and without prior approval of the committee,))</del> A facility developed with money granted by the <del>((committee))</del> board shall not be converted to a use other than that for which funds were originally approved. <del>((Should a thus prohibited conversion occur, the sponsor shall pay back to the committee the entire grant amount.</del></p> <p><del>(2) The committee shall only approve such a conversion under conditions which assure that:</del></p> <p><del>(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;</del></p> <p><del>(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."), will serve as a replacement which:</del></p> <p><del>(i) Is of reasonably equivalent recreation utility and location;</del></p> <p><del>(ii) Will be administered by the same political jurisdiction or entity as the converted development; and</del></p> <p><del>(iii) Includes only elements eligible under the committee's program from which funds were originally allocated.))</del></p> <p><u>(2) If a conversion occurs less than ten years after the office's final reimbursement, the board shall approve such a conversion under the following conditions:</u></p> <p><u>(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;</u></p> <p><u>(b) The sponsor pays back the entire grant amount to the firearms range account; and</u></p> <p><u>(c) The sponsor shall comply with other board adopted policies as applicable.</u></p> <p><u>(3) This section does not apply to development projects ten or more years after the office's final reimbursement.</u></p>	<p>Name change. Formatting.</p> <p>Consistent with state law, revises requirements for long-term compliance on development projects.</p>

Amendment Text	Explanatory Statement
<p><b>WAC 286-30-050 Matching requirements and caps determined.</b> The <del>((committee))</del> <u>board</u> will establish sponsor matching share requirements and fund request limits. Any changes will normally be done at a <del>((committee))</del> <u>board</u> meeting six months before project funding consideration.</p>	Name change.
<b>Chapter 286-35 – Boating Facilities Program</b>	
<p><b>WAC 286-35-010 Scope.</b> This chapter contains rules affecting the <del>((Initiative 215))</del> boating facilities <del>((grant))</del> program administered by the <del>((committee))</del> <u>board</u> under the Marine Recreation Land Act, chapter <del>((43-99))</del> <u>79A.25</u> RCW. Additional provisions are contained in "What definitions apply to this chapter?" WAC 286-04-010 and "General grant assistance rules<del>((:))</del>" chapter 286-13 WAC.</p>	<p>Name change. Updates references.</p> <p>Adds reference to another relevant section of Title 286 WAC.</p>
<p><b>WAC 286-35-030 Planning requirements.</b> To be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2). At minimum the plan must include:</p> <ul style="list-style-type: none"> <li>(1) A statement of the applicant's long-range goals and objectives;</li> <li>(2) An inventory<del>((, or description of the planning area))</del>;</li> <li>(3) An analysis of demand and need, that is, why actions are required;</li> <li>(4) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;</li> <li>(5) A current capital improvement program of at least <del>((five))</del> <u>six</u> years; <u>and</u></li> <li>(6) Evidence that this plan has been approved by the applicant's governing entity most appropriate to the plan's scope. For example, a city or county-wide plan must be approved at the council or commission level. Plans with a different scope will be approved by department heads, district rangers, regional managers/supervisors, etc.</li> </ul>	<p>Formatting.</p> <p>Clarifies language on plan requirements consistent with board policy.</p> <p>Corrects an inconsistency with WAC 286-13-040 on the length of the capital improvement program.</p>
<p><b>WAC 286-35-060 Matching requirements and caps determined.</b> The <del>((committee))</del> <u>board</u> will establish sponsor matching share requirements and acquisition-development fund request limits. Any changes will normally be done at a <del>((committee))</del> <u>board</u> meeting six months before project funding consideration.</p>	Name change.
<p><b>WAC 286-35-080 Acquisition projects—Deed of right, conversions, leases and easements.</b> For acquisition projects, sponsors must execute an instrument or instruments which contain:</p>	<p>Name change. Updates references. Formatting.</p>

Amendment Text	Explanatory Statement
<p>(1) For fee, less-than-fee, and easement acquisition projects:</p> <ul style="list-style-type: none"> <li>(a) A legal description of the property acquired;</li> <li>(b) A conveyance to the state of Washington of the right to use the described real property forever for outdoor recreation purposes; and</li> <li>(c) A restriction on conversion of use of the land.</li> </ul> <p>That is, marine recreation land with respect to which money has been expended under RCW <del>((43.99.080))</del> <u>79A.25.080</u> shall not, without the approval of the <del>((committee))</del> <u>board</u>, be converted to uses other than those for which such expenditure was originally approved. The <del>((committee))</del> <u>board</u> shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location.</p> <p>(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:</p> <ul style="list-style-type: none"> <li>(a) Must be for at least fifty years unless precluded by state law;</li> <li>(b) May not be revocable at will;</li> <li>(c) Must have a value supported through standard appraisal techniques;</li> <li>(d) Must be paid for in lump sum at initiation; <u>and</u></li> <li>(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the <del>((committee))</del> <u>board</u>.</li> </ul>	
<p><b>WAC 286-35-090 Development projects—Conversion to other uses.</b> (1) Without prior approval of the <del>((committee))</del> <u>board</u>, a facility developed with money granted by the <del>((committee))</del> <u>board</u> shall not be converted to a use other than that for which funds were originally approved.</p> <p>(2) The <del>((committee))</del> <u>board</u> shall only approve such a conversion under conditions which assure that:</p> <ul style="list-style-type: none"> <li>(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; <u>and</u></li> <li>(b) A new development<del>((, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."))</del>) will serve as a replacement which:</li> </ul>	<p>Name change. Updates references. Formatting.</p>

Amendment Text	Explanatory Statement
<p>(i) Is of reasonably equivalent recreation utility and location;</p> <p>(ii) Will be administered by the same political jurisdiction as the converted development; and</p> <p>(iii) Includes only elements eligible under the <del>((committee's))</del> <u>board's</u> program from which funds were originally allocated.</p>	
<b>Chapter 286-40 – Land and Water Conservation Fund</b>	
<p><b>WAC 286-40-010 Scope.</b> This chapter contains rules affecting the federal land and water conservation fund program administered by the <del>((committee))</del> <u>board</u>. These funds are administered pursuant to the Land and Water Conservation Fund Act of 1965 (Public Law 88-578, 78 stat 897)<del>((, and the Land and Water Conservation Fund Grants Manual (U.S. Department of the Interior, National Park Service)))</del>. Under the terms of this program many federal requirements are imposed on both applicants and the <del>((committee))</del> <u>board</u> over which the <del>((committee))</del> <u>board</u> has no control. Most of these federal requirements are restated or clarified in the manuals. Additional provisions are contained in "<u>What definitions apply to this chapter?</u>" WAC 286-04-010 and "<u>General grant assistance rules((;))</u>" chapter 286-13 WAC.</p>	<p>Name change. Updates references.</p> <p>Adds reference to another relevant section of Title 286 WAC.</p>
<p><b>WAC 286-40-020 Funding and candidate selection.</b> Funding for projects approved under this chapter is from any eligible account administered by the <del>((committee))</del> <u>board</u>. Candidate project(s) are recommended by the director, and approved by the <del>((committee))</del> <u>board</u>. Selection criteria include:</p> <p>(1) How well the project(s) has ranked in the evaluation;</p> <p>(2) How well the project(s) meets needs identified in the statewide comprehensive outdoor recreation planning program and the general goals identified in WAC 286-04-030;</p> <p>(3) How well the project(s) meets the criteria in the Land and Water Conservation Fund Grants Manual; <u>and</u></p> <p>(4) An assessment of how quickly the project(s) will progress through planning and implementation stages.</p>	<p>Name change. Formatting.</p>
<p><b>WAC 286-40-030 Matching requirements.</b> (1) Local agencies. The <del>((committee))</del> <u>board</u> shall only approve local agency projects when the applicant's share is at least equal to the <del>((committee))</del> <u>board</u> amount awarded.</p> <p>(2) State agencies. If federal matching money is available, state agency sponsors may be assisted by <del>((committee))</del> <u>board</u> funds to meet federal matching requirements.</p>	<p>Name change.</p>

Amendment Text	Explanatory Statement
<p><b>WAC 286-40-040 Projects eligible for funding.</b> Only those acquisition and development costs eligible under the federal Land and Water Conservation Fund Act as specified in that program's manual will be eligible for consideration by the <del>((committee))</del> <u>board</u>. However, from time to time the <del>((committee))</del> <u>board</u> may decide as a matter of policy that certain project costs are ineligible irrespective of how those costs are treated under the Land and Water Conservation Fund Act.</p>	Name change.
<p><b>WAC 286-40-050 Acquisition projects—Deed of right, conversions, leases and easements.</b> For acquisition projects, sponsors must execute an instrument or instruments which contain:</p> <ul style="list-style-type: none"> <li>(1) For fee, less-than-fee, and easement acquisition projects: <ul style="list-style-type: none"> <li>(a) A legal description of the property acquired;</li> <li>(b) A conveyance to the state of Washington of the right to use the described real property forever for outdoor recreation purposes; and</li> <li>(c) A restriction on conversion of use of the land. That is, without prior approval of the <del>((committee))</del> <u>board</u>, a facility acquired with money granted by the <del>((committee))</del> <u>board</u> shall not be converted to a use other than that for which funds were originally approved. The <del>((committee))</del> <u>board</u> shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location.</li> </ul> </li> <li>(2) For lease acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest: <ul style="list-style-type: none"> <li>(a) Must be for at least fifty years unless precluded by state law;</li> <li>(b) May not be revocable at will;</li> <li>(c) Must have a value supported through standard appraisal techniques;</li> <li>(d) Must be paid for in lump sum at initiation; <u>and</u></li> <li>(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the <del>((committee))</del> <u>board</u>.</li> </ul> </li> </ul>	Name change. Formatting.



Amendment Text	Explanatory Statement
<p><b>WAC 286-40-060 Development projects—Conversion to other uses.</b> (1) Without prior approval of the <del>((committee))</del> <u>board</u>, a facility developed with money granted by the <del>((committee))</del> <u>board</u> shall not be converted to a use other than that for which funds were originally approved.</p> <p>(2) The <del>((committee))</del> <u>board</u> shall only approve such a conversion under conditions which assure that:</p> <p>(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; <u>and</u></p> <p>(b) A new development<del>((, in the spirit of WAC 286-13-080 ("aid through the committee is intended to supplement the existing capacity of a sponsor..."))</del>) will serve as a replacement which:</p> <p>(i) Is of at least equal fair market value and of reasonably equivalent recreation usefulness and location;</p> <p>(ii) Will be administered by the same political jurisdiction as the converted development; and</p> <p>(iii) Includes only elements eligible under the <del>((committee's))</del> <u>board's</u> program from which funds were originally allocated.</p>	<p>Name change. Formatting. Updates references.</p>
<b>Chapter 286-42 – Aquatic Lands Enhancement Account Program</b>	
<p><b>WAC 286-42-010 What is the purpose of this chapter?</b> This chapter provides rules affecting the aquatic lands enhancement account <del>((ALEA))</del> grant program administered by the <del>((committee))</del> <u>board</u> under RCW <del>((79.90.245 and section 377, chapter 26, Laws of 2003, 1st sp. sess))</del> <u>79.105.150</u>. Additional provisions are contained in "<u>What definitions<del>((:))</del> apply to this chapter?</u>" <u>WAC 286-04-010</u> and "General grant assistance rules<del>((:))</del>" chapter 286-13 WAC.</p>	<p>Name change. Update references.</p> <p>Removes unnecessary text.</p>
<p><b>WAC 286-42-020 What organizations may receive <del>((ALEA))</del> grants?</b> Through the <del>((committee, ALEA))</del> <u>board</u>, grants are available to any division of local or state government and Native American tribe that is eligible to apply and that is legally authorized to acquire and develop public open space, habitat, recreation lands, and/or natural resources.</p>	<p>Name change.</p>
<p><b>WAC 286-42-040 What long term rules apply?</b> (1) Without prior approval of the <del>((committee))</del> <u>board</u>, land, natural resources and/or facilities purchased and/or developed with <del>((committee))</del> <u>board</u> administered <del>((ALEA))</del> funds shall not be converted to uses other than those for which funds were originally approved.</p> <p>(2) The <del>((committee))</del> <u>board</u> is entitled to pursue and obtain remedies that assure the substitution or replacement of natural resources or facilities in accordance with this chapter.</p>	<p>Name change.</p> <p>Removes unnecessary text.</p>

Amendment Text	Explanatory Statement
<p><b>WAC 286-42-050 When considering approval of a conversion, what rules apply?</b> The <del>((committee))</del> <u>board</u> shall only approve conversions when:</p> <ul style="list-style-type: none"> <li>(1) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; and</li> <li>(2) Another resource(s) will serve as a replacement. The replacement resource(s) must: <ul style="list-style-type: none"> <li>(a) <del>((If a land acquisition((?))),</del> be real property of at least equal fair market value and public benefit at the time of conversion;</li> <li>(b) <del>((If a development((?))),</del> provide a facility of at least equal fair market value and public benefit as that which existed at the time of the original investment;</li> <li>(c) Be of reasonably equivalent or greater recreation and habitat usefulness and location;</li> <li>(d) Be administered by the same political jurisdiction as the converted property and/or development;</li> <li>(e) Satisfy need(s) identified in the <del>((committee's))</del> <u>board's</u> or sponsor's plan; and</li> <li>(f) Include only elements eligible under the <del>((committee's))</del> <u>board's</u> program from which funds were originally allocated.</li> </ul> </li> </ul>	<p>Name change. Formatting.</p>
<p><b>WAC 286-42-060 For land acquisition projects, are there long term obligations?</b> Yes. Sponsors must execute an instrument(s) containing:</p> <ul style="list-style-type: none"> <li>(1) For fee or perpetual property rights acquisition projects: <ul style="list-style-type: none"> <li>(a) A legal description of the property acquired;</li> <li>(b) A conveyance to the state of Washington for the right to use the described real property for habitat conservation and/or outdoor recreation purposes forever unless a term is specified in the project agreement; and</li> <li>(c) A prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the <del>((committee))</del> <u>board</u>.</li> </ul> </li> <li>(2) For lease, less than fee, or nonperpetual property rights, a binding agreement which: <ul style="list-style-type: none"> <li>(a) Contains a legal description of the property and rights acquired;</li> <li>(b) Contains a conveyance to the state of Washington for the right to use the described real property for habitat conservation and/or outdoor recreation purposes for the period specified;</li> </ul> </li> </ul>	<p>Name change. Formatting.</p>

Amendment Text	Explanatory Statement
<p>(c) Contains a prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the ((committee)) <u>board</u>;</p> <p>(d) Is for at least twenty-five years unless precluded by state law;</p> <p>(e) Is not revocable at will;</p> <p>(f) Has a value supported through appraisal requirements approved by the ((committee)) <u>board</u>; <u>and</u></p> <p>(g) Is paid for in lump sum at initiation.</p>	
<p><b>WAC 286-42-080 For development projects, are there long term obligations?</b> Yes.</p> <p>(1) Properties and facilities assisted with moneys granted by the ((committee)) <u>board</u> shall not be converted (WAC 286-42-040(1)).</p> <p>(2) Properties and facilities assisted with moneys granted by the ((committee)) <u>board</u> shall be:</p> <p>(a) Built, operated, used, and maintained according to federal, state, and local laws and regulations, including public health standards and building codes;</p> <p>(b) Built, operated, used, and maintained in a reasonably safe condition for the project's intended use;</p> <p>(c) Operated and maintained throughout its estimated life so as to prevent undue deterioration; <u>and</u></p> <p>(d) Built and operated in compliance with all federal and state nondiscrimination laws, regulations, and policies.</p> <p>(3) Facilities open to the public must:</p> <p>(a) Be built, operated, and maintained according to state and federal accessibility guidelines;</p> <p>(b) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods; <u>and</u></p> <p>(c) Be available for use at reasonable hours and times of the year, according to the type of area or facility.</p>	<p>Name change. Formatting.</p>
<p><b>WAC 286-42-090 Must a grant recipient provide matching funds for the project—Are grant amounts limited?</b> Yes. The ((committee)) <u>board</u> establishes sponsor matching share requirements and fund request limits. Any changes to current requirements are normally made at a ((committee)) <u>board</u> meeting six months before program funding consideration.</p>	<p>Name change.</p>



## PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (June 2004)**

(Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

**Agency:** Recreation and Conservation Office

**Subject of possible rule making:** Changes in the rule making will include: 1) change the agency's name from the Interagency Committee for Outdoor Recreation to the Recreation and Conservation Office or the Recreation and Conservation Funding Board, 2) revisions to the general grant assistance rules for grant application procedures and deadlines, matching shares, and retroactive costs, 3) change the planning eligibility for applicants from five to six years in the Boating Facilities Program, and 4) remove references as to the length for long-term grant compliance for projects funded by the Firearms and Archery Range Recreation program.

**Statutes authorizing the agency to adopt rules on this subject:** 2007 c 241 § 39; 46.09.530; 79A.25.210; 79A.15.070

**Reasons why rules on this subject may be needed and what they might accomplish:** The agency name and board name needs to be changed to reflect 2007 statutory changes. The grant application rules need to be changed to clarify the process and deadlines and the agency director's authorities. The Boating Facilities Program and Firearms and Archery Range Recreation changes are to align programs with other agency policies

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** No other federal or state agencies regulate grant funding programs administered by the board and office.

**Process for developing new rule (check all that apply):**

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study

☒ Other (describe) Our intent is to advance this proposal through a participatory process that includes distribution of the recommendations to the agency's advisory committees and other interested parties, including those who have asked to be placed on the agency's WAC notification listing. We will encourage comments via mail, email, telephone, and in person at a scheduled Recreation and Conservation Funding Board meeting. Based on any comments, revisions will be considered before presentation of the final recommendations for adoption in an advertised and open public hearing.

**How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:**

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Leslie Connelly, Rules Coordinator, Recreation and Conservation Office  
1111 Washington Street SE  
PO Box 40917  
Olympia, WA 98504-0917  
(360) 902-3080 (office) / (360) 902-3026 (fax)  
leslie.connelly@rco.wa.gov

**DATE**

December 17, 2013

**NAME (TYPE OR PRINT)**

Leslie Connelly

**SIGNATURE**

**TITLE**

Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 17, 2013**

**TIME: 1:45 PM**

**WSR 14-01-093**



# PROPOSED RULE MAKING

**CR-102 (June 2012)**

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

**Agency:** Recreation and Conservation Office

- ☒ **Preproposal Statement of Inquiry was filed as WSR 14-01-093 ; or**  
☐ **Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or**  
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

- ☒ **Original Notice**  
☐ **Supplemental Notice to WSR \_\_\_\_\_**  
☐ **Continuance of WSR \_\_\_\_\_**

**Title of rule and other identifying information:** (Describe Subject)

Amendments to all chapters within Title 286 Interagency Committee for Outdoor Recreation.

**Hearing location(s):**

Natural Resources Building, Room 172  
 1111 Washington St. SE  
 Olympia, WA 98504

Date: April 16, 2014 Time: 11:30 a.m.

**Submit written comments to:**

Name: Leslie Connelly  
 Address: 1111 Washington Ave. S., PO Box 40917, Olympia, WA 98504-0917  
 e-mail [leslie.connelly@rco.wa.gov](mailto:leslie.connelly@rco.wa.gov)  
 fax (360) 902-3026 by (date) April 15, 2014

**Assistance for persons with disabilities:** Contact

Cindy Gower by April 15, 2014

TTY (360) 902-1996 or (360) 902-3013

**Date of intended adoption:** April 16, 2014  
 (Note: This is **NOT** the **effective** date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The purpose of the proposal is to:

- 1) Change the agency's name from the Interagency Committee for Outdoor Recreation to the Recreation and Conservation Office or the Recreation and Conservation Funding Board,
- 2) Revise the general grant assistance rules for grant application procedures and deadlines, matching shares, and retroactive costs,
- 3) Change the planning eligibility for applicants from five to six years in the boating facilities program, and
- 4) Revise the long-term grant compliance requirements for projects funded in the firearms and archery range recreation program.

**Reasons supporting proposal:**

The reasons supporting this proposal are:

- 1) The agency's name was changed in 2007 in state law,
- 2) The grant assistance rules are outdated,
- 3) The planning eligibility in the boating facility program planning conflicts with other administrative rule language, and
- 4) The long-term compliance requirements for projects funded through the firearms and archery range recreation program is unclear and inconsistent with other grant programs.

**Statutory authority for adoption:** For Title 286 RCW is section 39, chapter 241, Laws of 2007 and RCW 34.05.220, 34.05.230, and 42.56.040; for Chapter 286-26 WAC is RCW 46.09.530; for Chapter 286-27 WAC is RCW 79A.15.030, 79A.15.060, 79A.15.070, 79A.15.120, and 79A.15.130; for Chapter 286-30 WAC is RCW 79A.25.210

**Statute being implemented:** chapters 79A.15 and 79A.25 RCW, RCW 46.09.530 and 79.150.105

**Is rule necessary because of a:**

- Federal Law? ☐ Yes ☒ No  
 Federal Court Decision? ☐ Yes ☒ No  
 State Court Decision? ☐ Yes ☒ No  
 If yes, CITATION:

**DATE**  
 February 28, 2014

**NAME** (type or print)  
 Leslie Connelly

**SIGNATURE**

*Leslie Connelly*

**TITLE** Natural Resources Policy Specialist

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
 STATE OF WASHINGTON  
 FILED

**DATE:** February 28, 2014  
**TIME:** 2:21 PM

**WSR 14-06-063**

(COMPLETE REVERSE SIDE)

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

None.

**Name of proponent:** (person or organization) Recreation and Conservation Office

- ☐ Private  
☐ Public  
☒ Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Leslie Connelly	1111 Washington St. SE, Olympia WA 98504	(360) 902-3080
Implementation....Kaleen Cottingham	1111 Washington St. SE, Olympia WA 98504	(360) 902-3000
Enforcement..... Kaleen Cottingham	1111 Washington St. SE, Olympia WA 98504	(360) 902-3000

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

☐ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone (     ) \_\_\_\_\_

fax     (     ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No. Explain why no statement was prepared.

The proposed rule-making does not meet the definition of a "minor cost" in RCW 19.85.020(2). The rule making clarifies grant application and implementation requirements. Applying for a grant is a voluntary action with no direct fee to apply.

**Is a cost-benefit analysis required under RCW 34.05.328?**

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone (     ) \_\_\_\_\_

fax     (     ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No: Please explain:

The Recreation and Conservation Office is not listed as an agency required to complete a cost-benefit analysis under RCW 34.05.328(5)(a)(i).

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Conversion Policies for Firearm and Archery Range Recreation Grants  
**Prepared By:** Leslie Connelly, Natural Resource Policy Specialist

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

At the January 2014 meeting, the board adopted revisions to the Firearms and Archery Range Recreation (FARR) program. The board also approved pursuing changes to the conversion rules in chapter 286-30 of Washington Administrative Code (WAC), which is scheduled as Item 6 of the April 2014 meeting. If the board adopts the proposed amendments to chapter 286-30 WAC, it allows the board to approve other remedies to resolve a conversion for a FARR acquisition project if it occurs ten or more years after the grant is accepted. Staff recommend that the board adopt a policy statement that identifies potential remedies for these types of conversions.

### Board Action Requested

This item will be a:

<input checked="" type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input type="checkbox"/>	Briefing

Resolution: 2014-11

Purpose of Resolution: Adopt a policy statement for FARR acquisition projects subject to conversion.

### Background

The Firearms and Archery Range Recreation (FARR) program provides grants to purchase and develop land, construct or improve shooting range facilities, purchase equipment, address safety or environmental needs, abate noise, and provide liability protection for increased general public access to ranges.

In state law,<sup>1</sup> the FARR program is unique because it is the only program governed by the board that specifically requires the project sponsor to repay the grant funds if use of the range facility is discontinued less than ten years after the grant is accepted<sup>2</sup>. The law, however, does not address how to remedy a conversion when it occurs ten or more years after the grant is accepted. Therefore, if a conversion occurs after the ten year period, there is no statutory direction for how to remedy the conversion. Because this gap in law and policy, RCO has not required compliance requirements for FARR projects with a conversion when it occurs ten or more years after the grant is accepted. Of the 108 projects funded in the FARR program, there are four acquisition projects which acquired property in fee title but are not subject to compliance rules after the ten year period lapses.

When considering compliance rules and policies for the FARR program, there are several factors that provide a different construct for FARR grant conversions in comparison to the board's other grant programs.

- Few FARR projects involve the acquisition of land ,
- FARR facilities are increasingly more difficult to site today due to changes in land use regulations and neighbor concerns, and
- State law allows for repayment of grant funds in the FARR program

Another possible compliance issue for a FARR project is the dissolution<sup>3</sup> of a non-profit project sponsor so that a FARR-funded facility closes without another organization willing to assume responsibility for it.

## **Administrative Rule Changes**

In January 2014, the board directed staff to draft changes to the administrative rules in chapter 286-30 of the Washington Administrative Code (WAC) that would address conversions for acquisition projects when a conversion occurs ten or more years after the grant is accepted. The changes are proposed in Item 6 of the April 2014 meeting agenda. If adopted as proposed, the rules for compliance in the FARR program will be as presented in Attachment A.

The proposed administrative rule changes for FARR include two tiers depending on when the conversion occurs. The first tier conforms to state law that requires a project sponsor pay back the grant amount if the use of the range facility is discontinued less than ten years after the grant is accepted. The second tier allows for substitution of land (also called replacement property), similar to the conversion requirements in other board programs or another remedy as adopted by the board to satisfy the conversion of use. There is no compliance requirement for development projects after ten years.

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<sup>1</sup> RCW 79A.25.210.

<sup>2</sup> Administrative rules define compliance starting at the time of the office's final reimbursement.

<sup>3</sup> If there is another organization willing to assume the responsibility, RCO transfers the FARR grant requirements to the new organization with an amendment to the project agreement.



The option to allow another remedy other than replacement property was included in the administrative rules to allow the board flexibility to resolve a conversion should it become impracticable to find an adequate replacement property due to the factors discussed above. Without some other means to remedy the conversion, it would likely remain unresolved and there would be a loss in firearm and archery recreation opportunities.

The proposed administrative rules are framed to allow the board to adopt other remedies to satisfy a conversion in the FARR program. An analysis of other potential remedies is described below.

## **Analysis**

There is no immediate need for the board to adopt a policy statement now to address how to resolve a conversion of an acquisition project in the FARR program, as the earliest the board may need to consider an alternative remedy is 2025. The four previously funded acquisition projects are not retroactively subject to this new compliance requirement. However, new applicants interested in understanding the long-term compliance obligations for a FARR acquisition project may benefit from understanding the alternative remedies available to resolve a conversion before they agree to accept the grant. Clarifying such remedies now would provide clarity to applicants on the long-term compliance obligations for an acquisition project and provide guidance for future board members on appropriate alternatives.

Staff identified two options for the board's consideration, which are described in detail in the next section.

- Option One - Delay Board Action to Some Point in the Future
- Option Two - Define Other Remedies Now

Option one would address conversions on a case by case basis and provide the board with flexibility to determine what makes an adequate remedy that results in no net loss in firearms and archery range recreation opportunities. Option two would adopt specific remedies, in priority order, for a conversion of an acquisition project including the option to identify adequate remedies on a case by case.

## **Options for Consideration**

### **Option One – Delay Board Action to Some Point in the Future**

When finding replacement property for a conversion of a FARR acquisition project becomes impracticable, the board could address the conversion on a case by case basis. This allows the board flexibility to decide on an alternate remedy that results in no net loss in firearms and archery range recreation opportunities. It is difficult to predict the specific situations which may arise in the future and the potential options available to a project sponsor to resolve a conversion. A draft policy statement for option one is:

## **Option One - Long-term Compliance for Acquisition Projects**

If a conversion occurs ten or more years after the office's final reimbursement, the board shall approve such a conversion under conditions which assure:

- The substitution of other land of at least equal fair market value at the time of conversion and nearly as feasible equivalent usefulness and location as the original project; or
- By other remedy as adopted by the board to satisfy the conversion of use.<sup>4</sup>

The board's preferred method to resolve a conversion of an acquisition project ten years or more after a grant is accepted would be for the project sponsor to find substitute land of at least equal fair market value at the time of conversion and nearly as feasible equivalent usefulness and location as the original project (also called the replacement property). The proposed replacement property must meet program eligibility requirements.

However, the board recognizes that it may be impracticable for a project sponsor to identify a suitable replacement property. Should this occur, the project sponsor must demonstrate the specific reason why finding a replacement property is impracticable and must propose another remedy that results in a no net loss in firearms and archery range recreation opportunities. While other remedies for resolving a conversion are not the board's preferred approach, the board will consider such requests on a case by case basis.

## **Option Two - Define Other Remedies Now**

The board could choose to adopt specific remedies to resolve a conversion when replacement of the property is impracticable. Adopting other remedies now would clarify for applicants, project sponsors, and board members the types of acceptable alternatives intended by the board. Staff developed three additional remedies in addition to the traditional replacement property remedy for this option, which are listed in preferential order and would only be considered after the project sponsor demonstrates the specific reason why finding a replacement property is impracticable.

### **Remedy A – Provide Replacement Property**

The preferred remedy to resolve a conversion of an acquisition project when it occurs ten or more years after the grant is accepted would be for the project sponsor to provide substitute of other land of at least equal fair market value at the time of conversion and nearly as feasible equivalent usefulness and location as the original project. This is the first option identified in the proposed administrative rules changes and would be the first option for the project sponsor to consider.

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<sup>4</sup> WAC 286-30-030(4) – pending adoption at the April 2014 meeting.

## Remedy B - Substitute Organization

The board could allow another organization eligible in the FARR program to act as the project sponsor's substitute to satisfy the conversion. The board's compliance policies currently do not specifically allow a project sponsor to work with a substitute organization to satisfy a conversion of use. The substitute organization would be responsible to acquire the replacement property and assume the conditions of the FARR grant agreement. The standard acquisition policies would apply to the replacement property, including filing a deed of right. The substitute organization would become the new project sponsor and RCO would execute an amendment to the project agreement.

## Remedy C – Case by Case

Another remedy would be to allow flexibility to decide on an adequate remedy for a conversion for an acquisition project on a case by case basis, as presented in option one above. It may be impracticable for the project sponsor to find adequate replacement property or find a substitute organization to assume the responsibilities for the conversion. However, there may be other remedies available to the project sponsor that may result in no net loss in firearms and archery range recreation opportunities.

It is difficult to predict the specific situations which may arise in the future and the potential options available to a project sponsor to resolve a conversion. One example might be that the project sponsor may be able to develop new range facilities at an existing range instead of acquiring replacement property. Retaining the option to allow for a flexible solution is placeholder in the event it is impracticable for the project sponsor to provide a replacement property on its own or through a substitute organization.

## Remedy D - Repayment

A remedy of "last resort" could allow the project sponsor to repay i) the original grant amount or ii) the current fair market value of the property acquired, based on RCO's percentage in the original grant, whichever amount is higher at the time of conversion. This would be the least preferred remedy. The repayment would be deposited into the firearms range account for distribution to eligible projects in the FARR program.

An example of how this remedy would work is:

- The original grant award was \$25,000.
- RCO's grant share was 50% of the total project cost.
- The converted property is appraised at \$100,000 at the time of the conversion.
- The project sponsor repays \$50,000 to the firearms range account.

A draft policy statement for option two is:

### **Option Two - Long-term Compliance for Acquisition Projects**

If a conversion occurs ten or more years after the office's final reimbursement, the board shall approve such a conversion under conditions which assure:

- The substitution of other land of at least equal fair market value at the time of conversion and nearly as feasible equivalent usefulness and location as the original project; or
- By other remedy as adopted by the board to satisfy the conversion of use.<sup>5</sup>

The board's preferred method to resolve a conversion of an acquisition project ten years or more after a grant is accepted is for the project sponsor to find substitute land of at least equal fair market value at the time of conversion and nearly as feasible equivalent usefulness and location as the original project (also called the replacement property). The proposed replacement property must meet program eligibility requirements.

However, the board recognizes that it may be impracticable for a project sponsor to identify a suitable replacement property. Should this occur, the project sponsor must demonstrate the specific reason why finding a replacement property is impractical. To resolve the conversion, the project sponsor must propose another remedy that results in a no net loss in firearms and archery range recreation opportunities.

The board will consider another remedy in the following order:

- Purchase of land of at least equal fair market value at the time of the conversion nearly as feasible equivalent usefulness and location as the original project by a substitute organization who agrees to act as the project sponsor and acquire the substitute land and assume the conditions of the FARR grant agreement,
- Another remedy that results in a no net loss in firearms and archery range recreation opportunities that is acceptable to the board, or
- Repay the grant amount or the current fair market value of the property based on RCO's percentage in the original grant, whichever is greater, to the firearms account.

### **Staff Recommendation**

Staff recommend the board adopt a policy statement that will define other remedies for the conversion of an acquisition project when it occurs ten or more years after the grant was accepted. This is presented as option two.

### **Request for Decision**

Resolution 2014-11 is provided for the board's consideration.

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<sup>5</sup> WAC 286-30-030(4) – pending adoption at the April 2014 meeting.

## **Strategic Plan Link**

The proposed changes reflect the opportunity to make policy improvements that support the board's goal to achieve a high level of accountability in managing the resources and responsibilities entrusted to the board.

## **Next Steps**

Staff will implement the board's decision and make any necessary changes for the 2014 grant cycle.

## **Attachments**

A. Conversion of Use Policies for FARR Program

Recreation and Conservation Funding Board  
Resolution #2014-11  
Conversion Policies for the FARR Program

**WHEREAS**, pursuant to state law, the Recreation and Conservation Funding Board (board) administers and approves policies that govern the Firearms and Archery Range Recreation (FARR) program and sets long-term compliance policies for funded projects; and

**WHEREAS**, the board adopted amendments to chapter 286-30 of Washington Administrative Code at the April 2014 meeting per resolution #2014-10, which includes changes to the long-term compliance policies for funded projects in the FARR program;

**WHEREAS**, pursuant to the amendments to chapter 286-30 of Washington Administrative Code, the board wishes to provide an additional policy statement for conversions of use that may occur ten or more years after a project sponsor accepts a grant for an acquisition project; and

**WHEREAS**, this additional policy statement will provide clarity to FARR applicants on the long-term compliance obligations for an acquisition project;

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt an additional policy statement for long-term compliance to assure no net loss of firearms and archery range recreation opportunities provided by the FARR program as described in option two of the staff memo; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to incorporate these changes in the appropriate policy manuals with language that reflects the new policy; and

**BE IT FURTHER RESOLVED** that these policies shall be effective for 2014 FARR grant cycle.

Resolution moved by: \_\_\_\_\_

Resolution seconded by: \_\_\_\_\_

Adopted/Defeated/Deferred (underline one)

Date: \_\_\_\_\_

## **Attachment A – Conversion of Use Policies for the FARR Program**

### **Acquisition Projects Conversion Policy.<sup>6</sup>**

If a conversion occurs less than ten years after the office's final reimbursement, the board shall approve such a conversion under the following conditions:

- All practical alternatives to the conversion have been evaluated and rejected on a sound basis;
- The sponsor shall pay back the entire grant amount to the firearms range account; and
- The sponsor shall comply with other board adopted policies as applicable.

If a conversion occurs ten or more years after the office's final reimbursement, the board shall approve such a conversion under conditions which assure:

- The substitution of other land of at least equal fair market value at the time of conversion and nearly as feasible equivalent usefulness and location as the original project; or
- By other remedy as adopted by the board to satisfy the conversion of use.

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<sup>6</sup> WAC 286-30-030(3) and (4) – pending adoption at the April 2014 meeting.

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014

**Title:** Briefing on Conversion Request: WDFW, Methow Watershed Phase 2, Project #00-1429A

**Prepared By:** Myra Barker, Compliance Specialist

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

The Washington Department of Fish and Wildlife is asking the Recreation and Conservation Funding Board to approve a conversion of 60 acres located within the Methow Wildlife Area. The conversion is due to a land exchange with an adjacent property owner. Staff will ask for board comments and questions in April so that we can prepare for a decision at the July meeting.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Overview of the Board's Role and Applicable Rules and Policies

The subject of this memo is a proposed conversion of property acquired with a grant from the Washington Wildlife and Recreation Program (WWRP), Critical Habitat Category. The sponsor is asking to convey property interests to a private landowner.

### The Role of the Board

Because local needs change over time, state laws and Recreation and Conservation Office (RCO) rules allow conversions of grant funded projects if the project sponsor provides for adequate substitution or replacement as listed below.

The role of the Recreation and Conservation Funding Board (board) is to evaluate the practical alternatives considered for the conversion and replacement (including avoidance) and to consider if the replacement property meets the requirements set in RCO administrative rules and policies. The board does not have the authority in statute to levy penalties or dictate the future use of the property being converted.



## Applicable Policies and Rules

State law states that WWRP habitat land that was purchased with a board grant may not be converted to a use other than that originally approved without prior approval of the board. The board has adopted policy that defines when a conversion occurs for an acquisition project, the appropriate replacement measures, and the steps that sponsors must take to request approval.

For the Methow Watershed Phase 2 project, the proposed action is considered a conversion because property interests are being conveyed to a non-grant eligible private landowner for uses that are not related to habitat conservation.

## Conversions in the Washington Wildlife and Recreation Program

In accordance with state law,<sup>1</sup> the board has adopted administrative rules for the WWRP to address a project sponsor's obligation to resolve a conversion for an acquisition project.<sup>2</sup> The applicable rules that apply to an acquisition project are as follows:

- All practical alternatives to the conversion have been evaluated and rejected, and
- The project sponsor will provide another interest in real property and/or facilities to serve as replacement. The replacement must:
  - Be of equivalent or greater usefulness and location;
  - If an acquisition project, be interests in real property of at least equal market value and public benefit at the time of replacement;
  - Be administered by the same project sponsor or successor unless otherwise approved;
  - Satisfy needs identified in the most recent plans on file at RCO related to the project sponsor's eligibility; and
  - Be eligible in the WWRP account or category of the original project unless otherwise approved.

## Board Policies for All Conversions

In addition, the board has adopted policy that requires the project sponsor supply the following for any conversion:<sup>3</sup>

- A list and discussion of all alternatives for replacement or remediation of the conversion, including avoidance.
- Evidence that the public has been given a reasonable opportunity to participate in the identification, development, and evaluation of alternatives. The minimum requirement is publication of notice and a 30-day public comment period.

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<sup>1</sup> RCW 79A.15.030(8)

<sup>2</sup> WAC 286-27-066; staff have omitted rules addressing development or restoration projects because they are inapplicable

<sup>3</sup> Manual 7, Section 2

## Background

The project in question is RCO #00-1429A.

<b>Project Name:</b>	Methow Watershed Phase 2	<b>Project #:</b>	00-1429A
<b>Grant Program:</b>	Washington Wildlife and Recreation Program, Critical Habitat Category	<b>Board funded date:</b>	December 2001
<b>WWRP Amount</b>	\$6,705,037	<b>Original Purpose:</b>	This project acquired 4,093 acres for wildlife habitat.
<b>Project Sponsor Match</b>	\$0		
<b>Total Amount:</b>	\$6,705,037		

The Washington Department of Fish and Wildlife (WDFW) acquired the subject property for wildlife habitat in Okanogan County (Attachment A). The conversion property is 60 acres and was part of a larger tract of 1,660 total acres acquired in June 2003 for \$2,096,000.

The Phase 2 project, overall, acquired 4,093 acres for wildlife habitat in the Methow Wildlife Area. The wildlife area provides habitat for mule deer winter range, and for songbirds, amphibians and reptiles, small mammals, nesting golden eagles, and three species of forest grouse.

### The Conversion

The conversion is requested by a private landowner to exchange properties to move cattle more directly to other privately-owned property. The subject property bisects the private landowner's property.

The conversion would improve access for both WDFW and the private landowner.

## Details of Proposed Replacement Property

### Location

The proposed replacement property is 60 acres. It is adjacent to the conversion property (Attachment B).

### Property Characteristics

One parcel is rectangular-shaped, consisting of about 20 acres, and the other property is a 40 acre, square-shaped parcel. Both are open range land.

## Analysis

In summary, the board considers the following factors in addition to the scope of the original grant and the proposed substitution of land or facilities:

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

### **Evaluation of Practical Alternatives**

The alternative to conversion is to take no action and to refuse the private landowner's request. This was not considered feasible due to the locations of the respective conversion and replacement properties.

The proposed replacement property was selected by WDFW based on the following factors:

- It is adjacent to the conversion property.
- It would provide habitat values that closely match those that are being displaced on the conversion property.
- The estimated value of the replacement property is anticipated to be equal to or exceed the value of the conversion property.
- The size of the replacement property is equivalent to the conversion property.
- The replacement property is consistent with state and local plans.

### **Evaluation of Fair Market Value**

The converted and replacement properties are being appraised at this time. The estimated value of the replacement property is anticipated to be equal to or exceed the value of the conversion property.

### **Evaluation of Reasonably Equivalent Location**

As indicated by the map included as Attachment B, the replacement property is adjacent to the conversion property.

### **Evaluation of Reasonably Equivalent Utility**

WDFW has determined the replacement property will provide habitat values consistent with the conversion property.

### **Evaluation of Public Participation**

WDFW will conduct public participation efforts as part of the State Environmental Policy Act (SEPA). There is a 30-day public comment period for the SEPA process. WDFW will review comments and work with project stakeholders, as applicable. A Notice of Action will be issued after the SEPA comments have been addressed.

Formal public comment regarding the action in this memo is scheduled for this spring. The public comment will focus on whether the replacement property meets the criteria for the

conversion of the property acquired with grant funds. Public comments will be shared with the board at the July meeting.

### **Other Basic Requirements Met**

#### **Same Project Sponsor**

The replacement property will be administered by the same project sponsor (WDFW).

#### **Satisfy Needs in Adopted Plan**

The replacement property satisfies the needs as described in WDFW's Habitat Conservation and Recreation Plan.

#### **Eligible in the Funding Program**

The parcel is privately-owned and meets eligibility requirements.

### **Next Steps**

RCO staff will work with WDFW to finalize the conversion request for a board decision at its meeting in July 2014. These preparations will take into account any questions the board raises at its April meeting.

### **Attachments**

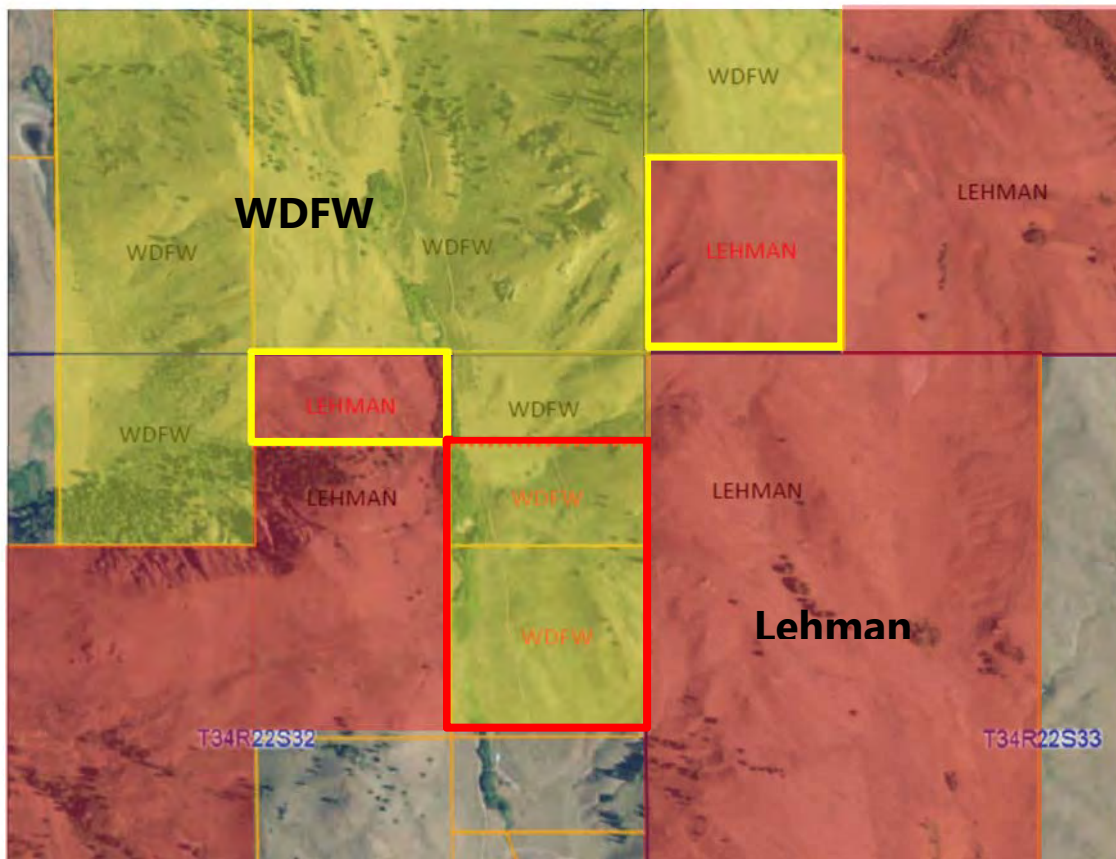
- A. Location Map of Subject Property
- B. Parcel Map of the Conversion and Replacement Properties

## Attachment A: Location Map of Subject Property





## Attachment B: Parcel Map of the Conversion and Replacement Properties



Note: Current property ownership is shaded yellow (WDFW) and red (Lehman); with proposed conversion area outlined in red, replacement property outlined in yellow.

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014

**Title:** Briefing on Conversion Request: City of Mountlake Terrace, Jack Long Park, Project Numbers 68-096A and 68-099D

**Prepared By:** Myra Barker, Compliance Specialist

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

The City of Mountlake Terrace is asking the board to approve the conversion of 0.5 acres at Jack Long Park. The conversion is due to the installation of private carrier cell phone equipment and a radio tower. Staff will ask for board comments and questions in April so that we can prepare for a decision at the July meeting.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Conversion Policy and Board's Role

The project that is the subject of this memo has funding from the Land and Water Conservation Fund (LWCF) and Washington state bond funds.<sup>1</sup> As a result, both the Land and Water Conservation Fund Act<sup>2</sup> and Recreation and Conservation Funding Board (board) set rules and policies for addressing the proposed conversion.

- Use of LWCF grant funds creates a condition under which property and structures acquired 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, including state bond funds, must not be changed (either in part or in whole) or converted to uses other

<sup>1</sup> Funding was from Referendum 11, RCW 43.98A

<sup>2</sup> Title 36, Chapter 1, Part 59 - Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance Responsibilities

than those for which the funds were originally approved without the approval of the board.<sup>3</sup>

- The RCO project contract provides additional protections from conversion.

However, because needs and values often change over time, federal law and board policy allow conversions of grant funded property under carefully scrutinized conditions. If a LWCF or state-funded project is converted, the project sponsor must replace the converted interests in real property, structures, or facilities. The replacement must have at least equal market value and have reasonably equivalent recreation utility and location.

### The Role of the Board

Because the project was partially funded by the federal LWCF, the role of the board is to decide whether to recommend approval of the conversion to the National Park Service (NPS). To do so, the board evaluates the list of practical alternatives that were considered for the conversion and replacement, including avoidance, and considers if the replacement property has reasonably equivalent recreation utility and location. The NPS has the legal responsibility to make the final decision of whether or not to approve this conversion related to the LWCF project.

Under current policy the board does not have the ability to accept other types of mitigation, levy additional penalties, or dictate the future use of the property being converted.

### Background

The projects in question are #68-096A, Jack Long Park Acquisition and #68-099D, Jack Long Park Development.

<b>Project Name:</b>	Jack Long Park Acquisition	<b>Project #:</b>	68-096A
<b>Grant Program:</b>	Referendum 11 (bond funds)	<b>Board funded date:</b>	December 1967
<b>Referendum 11 Amount</b>	\$ 6,000	<b>Original Purpose:</b> This project acquired 1.19 acres for a neighborhood park. The acquisition added to a 2.38 acre city-owned property.	
<b>Project Sponsor Match</b>	\$2,000		
<b>Total Amount:</b>	\$ 8,000		

<sup>3</sup> Policy is consistent with state law. See especially RCW 79A.15.030 .



<b>Project Name:</b> Jack Long Park Development		<b>Project #:</b> 68-099D
<b>Grant Program:</b> Land and Water Conservation Fund		<b>Board funded date:</b> December 1967
<b>LWCF Amount</b>	\$ 4,500	<b>Original Purpose:</b> Park development included play equipment, a fountain-wading pool, trail, picnic tables, benches, and landscaping.
<b>Project Sponsor Match</b>	\$4,500	
<b>Total Amount:</b>	\$ 9,000	

The City of Mountlake Terrace used these two grants in 1968 to acquire 1.19 acres and to develop a new neighborhood park (Attachments A and B).

Jack Long Park is located east of I-5 in the northern section of the city. Original development included a play structure, fountain, benches, and a trail. The play structure and fountain were amended out due to obsolescence. The park currently offers a climbing rock, horseshoe pits, picnic tables, benches, and a pathway. The park is bordered by residential housing and an elementary school.

A portion of the park serves as a storage site for the city's water supply. The city's existing (and planned) water towers were identified in the grant materials.

The park is designated in the city's *Parks, Recreation and Open Space Plan* as a "neighborhood park" that serves residents within a quarter or half mile distance.

## The Conversion

The conversion at Jack Long Park is caused by the installation of private cell phone carrier equipment and installation of a county radio tower and equipment building.

The private cell phone carrier equipment is located on a platform within a fenced area that encompasses the water towers. The city leases that area to private carriers. While siting cell phone equipment on the ground triggers a conversion, the placement of antennas on the water towers does not. The date of installation of the grounded components is unknown.

The county radio tower and equipment building was added to the site in 2002 for the Snohomish County Emergency Radio System. The system is used by police, fire, and 911 dispatch as the emergency communication system throughout Snohomish County. The conversion displaces a portion of open space/play area at the park (Attachment C). Several nearby water towers are not included in this conversion because they are noted in the original grant site plan. The current developed outdoor recreation features of the park will remain.

## Details of Proposed Replacement Property

### Location

The proposed replacement property is approximately 2.92 acres. It is located approximately one half mile from Jack Long Park and is adjacent to Terrace Creek Park.

### Property Characteristics

The property is accessed from 228<sup>th</sup> Street SW and is irregular-shaped with portions adjacent to Lyon Creek. The property is sloped and is covered with second and third-growth trees and understory.

## Analysis

When reviewing conversion requests, the board considers the following factors, in addition to the scope of the original grant and the proposed substitution of land or facilities.<sup>4</sup>

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

### Evaluation of Practical Alternatives

The alternatives to conversion were to remove the cell phone and radio tower infrastructure in its existing location or take no action. Neither alternative was considered feasible.

The “no action” option would lead to an unresolved conversion.

The preferred replacement property was selected by the City of Mountlake Terrace based on the following factors:

- It is the closest opportunity in proximity to Jack Long Park.
- It represents an opportunity for expanding Terrace Creek Park and open space along Lyon Creek Greenway.
- Estimated value is anticipated to be equivalent.
- The size of the replacement property is greater than the conversion property.
- The replacement property is consistent with state and local plans.

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<sup>4</sup> Manual #7: *Long-term Obligations*

## **Evaluation of Fair Market Value**

The converted and replacement properties are being appraised at this time. Estimates indicate the proposed replacement property value will be equivalent or exceed the value of the conversion area.

## **Evaluation of Reasonably Equivalent Location**

There is no available property adjacent to Jack Long Park that could have been used as replacement.

The replacement property would expand an existing park and provide open space.

## **Evaluation of Reasonably Equivalent Utility**

The Jack Long Park serves as a neighborhood park and will continue to function as such. The replacement property expands Terrace Creek Park.

Terrace Creek Park is the city's largest park at 60 acres. It is classified as a neighborhood park and also serves as a community park. It offers a trail system, playground, gazebo, picnic facilities, 18-hole disc golf course, and an open grassy field. The park provides the southern access point into the Lyon Creek Greenway.

The replacement property will be developed as an access point and trail into the central portion of Terrace Creek Park and will serve as open space and habitat.

## **Evaluation of Public Participation**

The City of Mountlake Terrace plans public participation as part of the environmental assessment and State Environmental Policy Act (SEPA) process.

Formal public comment regarding the action in this memo is scheduled for later this spring. The public comment will focus on whether the replacement property meets the criteria for the conversion of a property acquired with grant funds. Public comments will be shared with the board at the July meeting.

## **Other Basic Requirements Met**

### **Same Project Sponsor**

The replacement property will be administered by the same project sponsor (City of Mountlake Terrace).

### **Satisfy Needs in Adopted Plan**

The replacement property satisfies the needs as described in the City of Mountlake Terrace's *Parks, Recreation, and Open Space Plan* for acquiring open space along the Lyon Creek Greenway.

### Eligible in the Funding Program

The parcel is currently privately-owned.

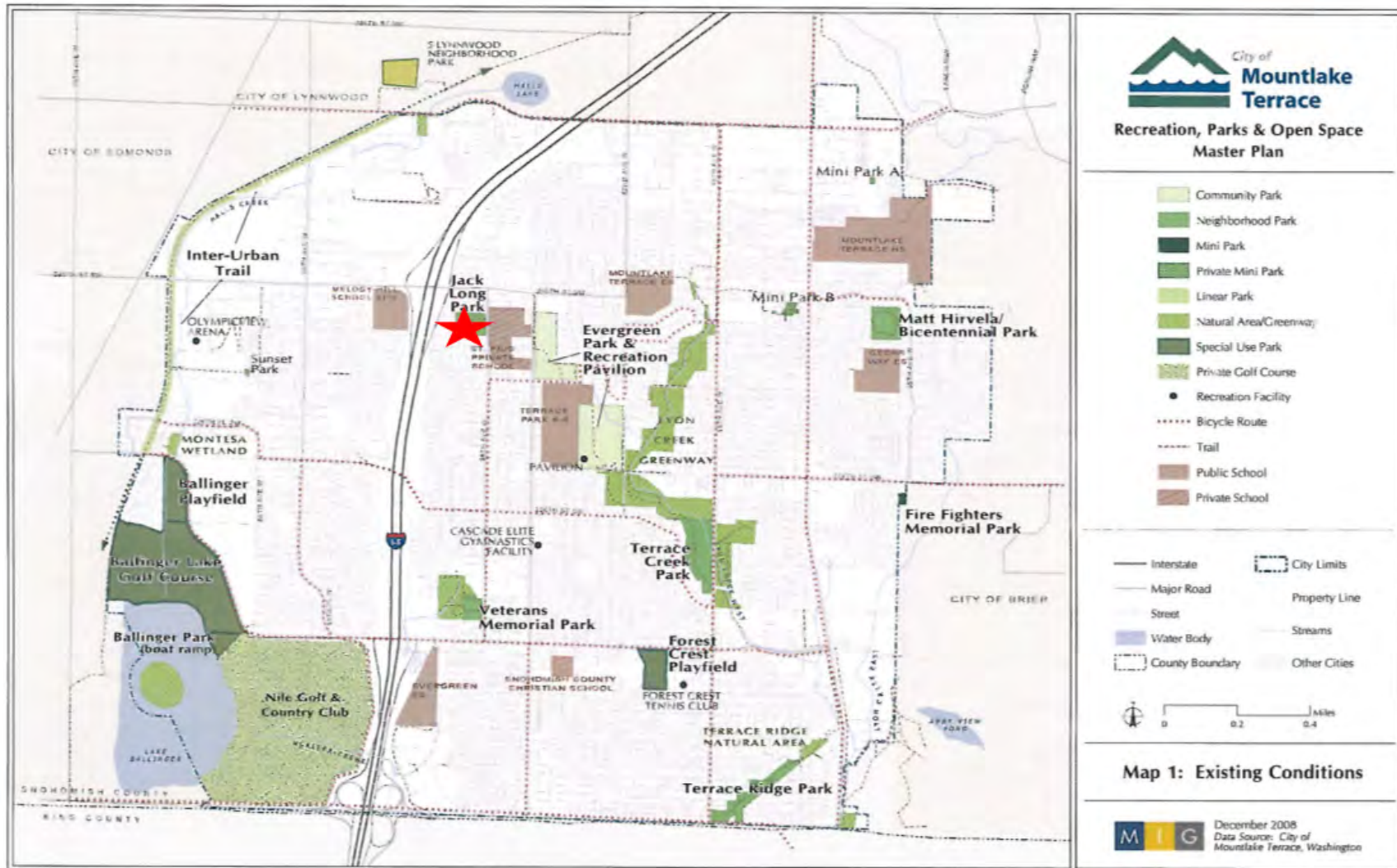
### Next Steps

RCO staff will work with the City of Mountlake Terrace to comply with the LWCF conversion requirements and finalize the conversion request for board decision at its meeting in July 2014. These preparations will take into account any questions the board raises at its June meeting.

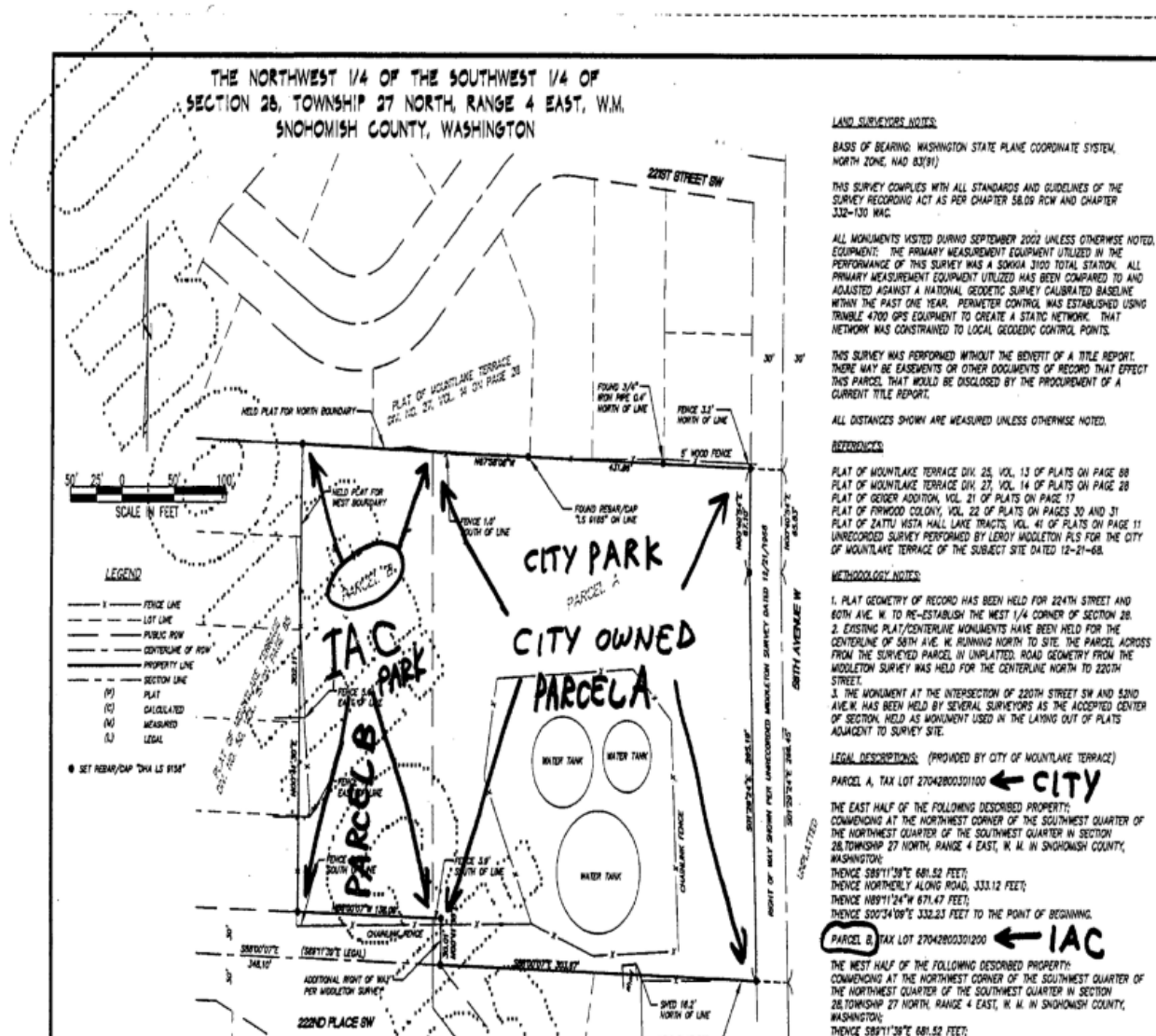
## Attachments

- A. Location Maps
- B. Map of Original Grants at Jack Long Park
- C. Maps of the Conversion and Replacement Properties

## Attachment A: Location Map



## Attachment B: Maps of Original Grants at Jack Long Park







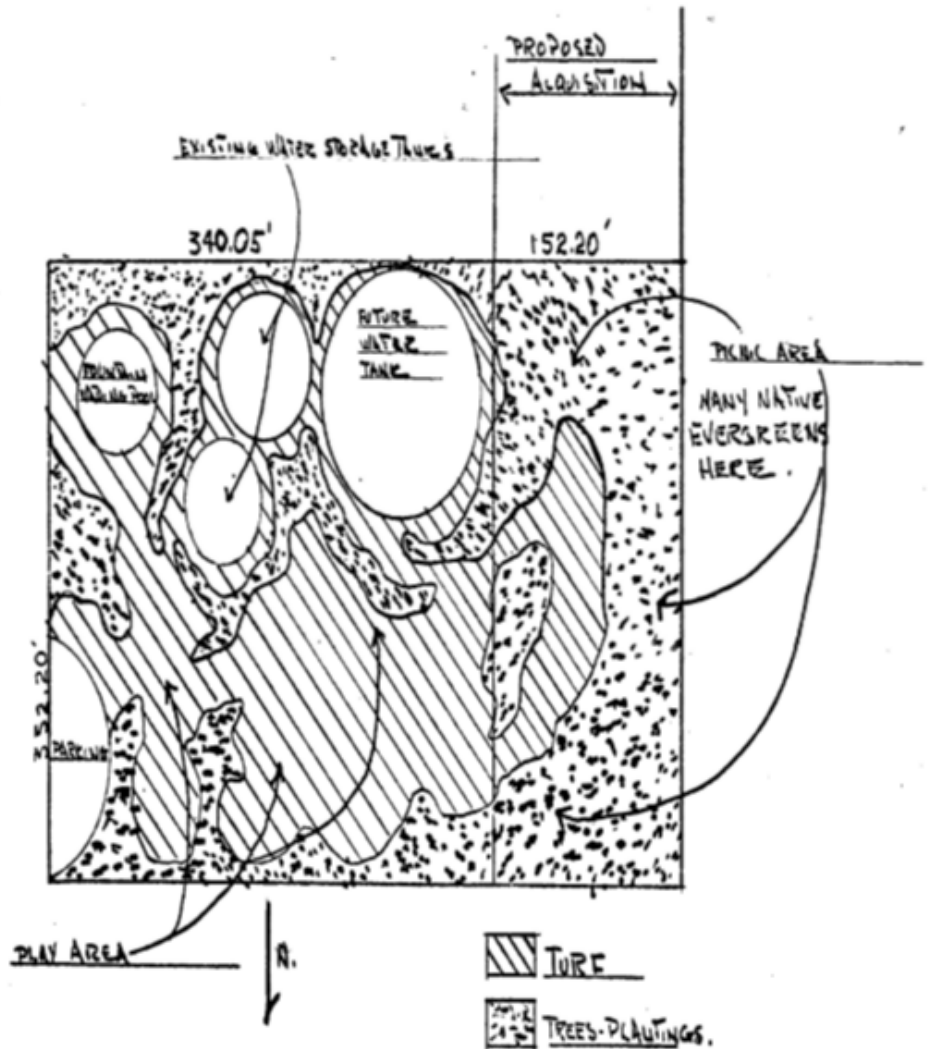
1- STATE OF WASHINGTON



2- COUNTY OF SNOHOMISH



3- CITY OF MOUNTLAKE TERRACE

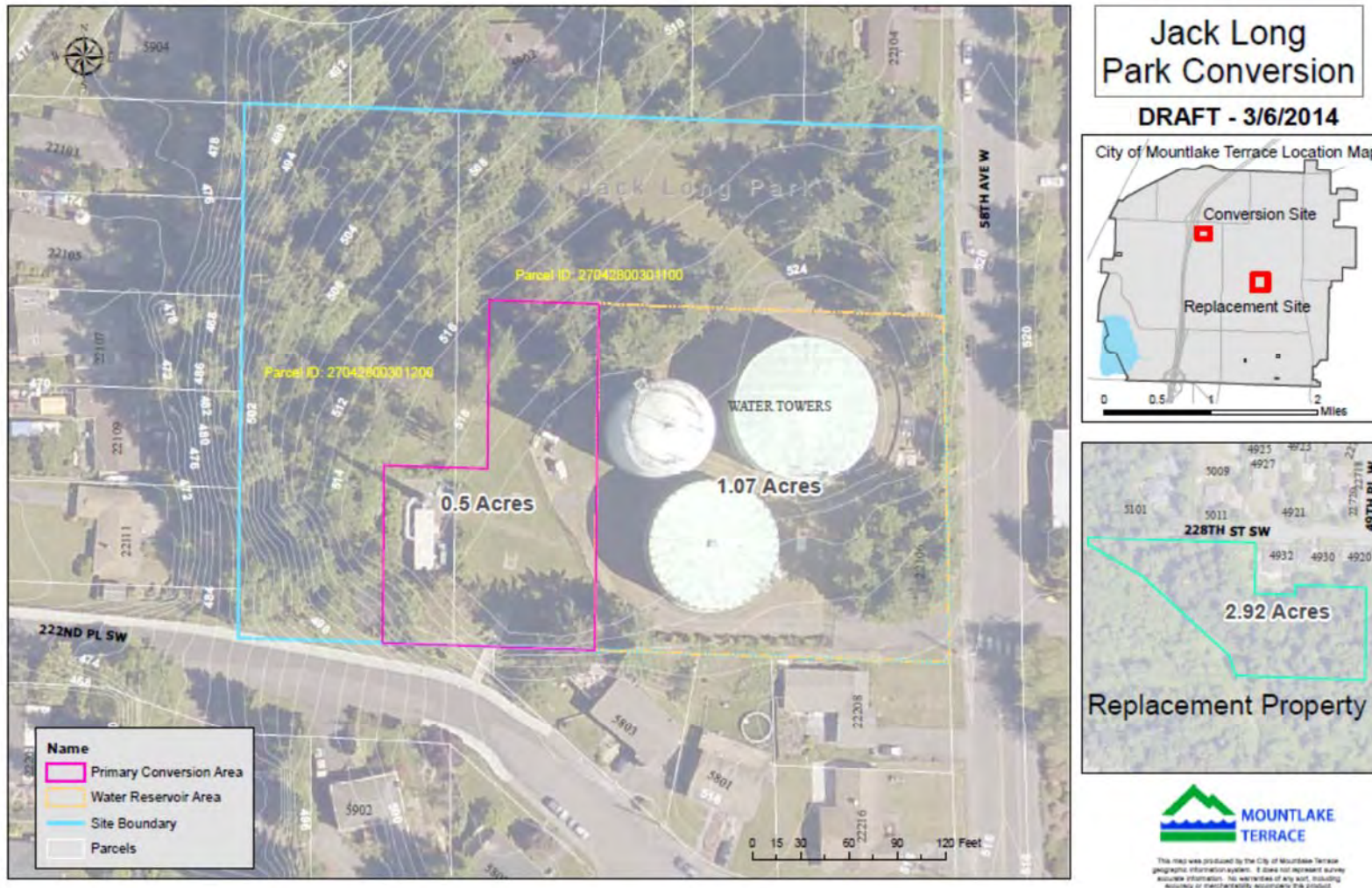


EXISTING - WATER TANKS-2- TREES, ALL OF TREE AREA SHOWN IN PROPOSED ACQUISITION, PART IN REMAINDER  
 PROPOSED-PLANTINGS AROUND TANKS AND PERIPHERAL PLANTINGS, PARKING, FOUNTAIN, RECREATION TURF, PICNIC TABLES, BENCHES, PLAY EQUIPMENT.

THE AREA IS PRESENTLY USED AS OPEN SPACE PLAY AREA BY CHILDREN.



# Attachment C: Map of the Conversion and Replacement Properties



## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014

**Title:** Briefing on Conversion Request: City of Bellevue, Mercer Slough Phase 1, #73-026A; State Parks, Mercer Slough #78-513A

**Prepared By:** Myra Barker, Compliance Specialist

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

The City of Bellevue and State Parks are asking the board to approve a conversion of 1.03 acres at Mercer Slough Nature Park. The conversion is due to the Sound Transit East Link light rail project, which will impact a portion of the western edge of the park. Staff will ask for board comments and questions in April so that we can prepare for a decision at the July meeting.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Conversion Policy and Board's Role

The projects that are the subject of this memo have funding from the Land and Water Conservation Fund (LWCF) and Washington state bond funds<sup>1</sup>, respectively. As a result, both the Land and Water Conservation Fund Act<sup>2</sup> and the Recreation and Conservation Funding Board (board) set rules and policies for addressing the proposed conversion.

- Use of LWCF grant funds creates a condition under which property and structures acquired 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, including state bond funds, must not be changed (either in part or in whole) or converted to uses other

<sup>1</sup> Funding was from Referendum 28, RCW 43.83C

<sup>2</sup> Title 36, Chapter 1, Part 59 - Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance Responsibilities

than those for which the funds were originally approved without the approval of the board.

- The RCO project contract provides additional protections from conversion.

However, because needs and values often change over time, federal law and board policy allow conversions of grant funded property under carefully scrutinized conditions. If a LWCF or state-funded project is converted, the project sponsor must replace the converted interests in real property, structures, or facilities. The replacement must have at least equal market value and have reasonably equivalent recreation utility and location.

## The Role of the Board

Because one of the projects was partially funded by the federal LWCF, the role of the board is to decide whether to recommend approval of the conversion to the National Park Service (NPS). To do so, the board evaluates the list of practical alternatives that were considered for the conversion and replacement, including avoidance, and considers if the replacement property has reasonably equivalent recreation utility and location. The NPS has the legal responsibility to make the final decision of whether or not to approve this conversion related to the LWCF project.

Under current policy the board does not have the ability to accept other types of mitigation, levy additional penalties, or dictate the future use of the property being converted.

## Background

The projects in question are #73-026A, Mercer Slough Phase 1 and #78-513A Mercer Slough.

<b>Project Name:</b>	Mercer Slough Phase 1	<b>Project #:</b>	73-026A
<b>Grant Program:</b>	Referendum 28 (bond funds) Land and Water Conservation Fund	<b>Board funded date:</b>	May 23, 1971
<b>LWCF Amount</b>	\$ 410,874.66	<b>Original Purpose:</b> This project acquired about 60 acres to preserve a natural peat bog ecosystem.	
<b>Referendum 28 Amount</b>	\$ 205,437.33		
<b>Project Sponsor Match</b>	\$205,437.33		
<b>Total Amount:</b>	\$ 821,749.32		

The City of Bellevue used the Mercer Slough Phase 1 grant in 1975 to acquire approximately 60 acres for a nature park. This park is now called Mercer Slough Nature Park.

<b>Project Name:</b>	Mercer Slough	<b>Project #:</b>	78-513A
<b>Grant Program:</b>	Referendum 28 (bond funds)	<b>Board funded date:</b>	May 23, 1971
<b>Referendum 28 Amount</b>	\$ 206,000	<b>Original Purpose:</b> This project acquired about 24 acres.	
<b>Project Sponsor Match</b>	\$206,000		
<b>Total Amount:</b>	\$ 412,000		

State Parks used the Mercer Slough grant in 1981 to acquire approximately 24 acres to expand the Mercer Slough Nature Park.

The City of Bellevue and State Parks formed a partnership in the 1970's to maintain an ecological resource in an urban area. Mercer Slough Nature Park was created and the agencies established an inter-local agreement for the operation and maintenance of the park.

The City of Bellevue is the lead agency for the conversion approval process for these two projects. The City and State Parks are working on options for the city's perpetual use and management of the RCO funded project area.

Mercer Slough Nature Park is the largest of Lake Washington's remaining freshwater wetlands and is one of Bellevue's largest parks, with over 320 acres of wildlife habitat, agriculture, and freshwater wetland ecosystems. It serves as a regional park for the greater Puget Sound (Attachment A). The park offers about seven miles of trails including a canoe trail and opportunities for environmental education and wildlife viewing.

Since the original grants to acquire property, RCO has made the following investment at the park:

- Mercer Slough Habitat, #91-225D, WWRP-UW, which constructed a trail bridge and trail and enhanced habitat by creating a pond and adding landscaping.

## The Conversion

The conversion at the Mercer Slough Nature Park is caused by the expansion of Sound Transit Light Rail system from downtown Seattle to Redmond (Attachment B). A segment of the 18-mile East Link project will impact two areas on the western boundary of the park, creating a conversion (Attachment C).

The light rail system will enter the park at its southwestern edge, near I-90, on an elevated structure to a station located at the existing South Bellevue Park and Ride. From the station, the rail proceeds north along western edge of the park, descending from elevated piers to a retained cut profile below the grade of Bellevue Way SE. The retained cut includes a 170 foot lidded trench section in front of the Winters House. The Winters House is listed in the National Register of Historic Places for its Spanish Eclectic style and its link with early agricultural activities in the area.

The light rail system will impact the board-funded sites in two separate locations on Bellevue Way SE, creating a conversion of 1.03 acres (Attachment C). The conversion areas are approximately 35 feet in width and approximately 530 feet in length at the northwest section; and approximately 35 feet in width and approximately 170 feet in length at the southern section. The conversion areas include both permanent acquisition and temporary construction easements. The temporary easements extend beyond the 180-day allowable timeframe,<sup>3</sup> thereby creating a conversion.

The conversion areas are adjacent to Bellevue Way SE and the park's Periphery Trail sidewalk. The conversion areas are primarily grassy-sloped with vegetation and trees. Access to the blueberry farm operation and Winters House (neither part of RCO funded areas) will be temporarily closed during construction. A new access road will be built, slightly south of the existing access.

During construction, the park and trails will remain open to the public. Access will be available at points south of the blueberry farm operation, at the Sweylocken Boat Ramp, and on the park's eastern boundary along 118<sup>th</sup> Ave SE.

The remainder of the light rail system within the park area, approximately 2,410 linear feet, lies outside of RCO project boundaries.

Light rail construction is expected to begin in 2015 and be completed in 2019. The East Link light rail is anticipated to open in 2023.

## Analysis

When reviewing conversion requests, the board considers the following factors, in addition to the scope of the original grant and the proposed substitution of land or facilities.<sup>4</sup>

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

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<sup>3</sup> LWCF and RCFB policy limits temporary non-conforming uses of funded sites to 180 days; exceeding 180 days creates a conversion. (Manual #7: Long-term Obligations)

<sup>4</sup> Manual #7: *Long-term Obligations*

## **Evaluation of Practical Alternatives**

Sound Transit began formal planning for the East Link project in 2006 to expand light rail service from Seattle to Bellevue and Redmond. There were thirty-five alternatives considered for this segment. Although avoidance was considered, there were no feasible and prudent alternatives. A route that would avoid Mercer Slough Nature Park would have required either substantial property relocations or highly complex engineering to align the light rail corridor from its southern starting point near I-90.

## **Evaluation of Fair Market Value, Reasonably Equivalent Location and Utility**

The converted property is being appraised at this time. An appraisal and negotiations are underway on the preferred replacement property. Staff will provide additional information, as available, at the April meeting.

## **Evaluation of Public Participation**

Sound Transit is the lead agency for public participation in the East Link project National Environmental Policy Act (NEPA) environmental review process. The transit agency held numerous open houses, hearings, and workshops to gather public comment. The City of Bellevue also participated in the public outreach efforts.

Sound Transit will complete the NEPA process, including a public comment period on whether the replacement property meets the criteria for the conversion of a property acquired with grant funds. The date for this action is unknown at this time.

## **Next Steps**

RCO staff will work with the City of Bellevue to comply with the LWCF and board conversion requirements and finalize the conversion request for board decision at its meeting in July. These preparations will take into account any questions the board raises at its April meeting.

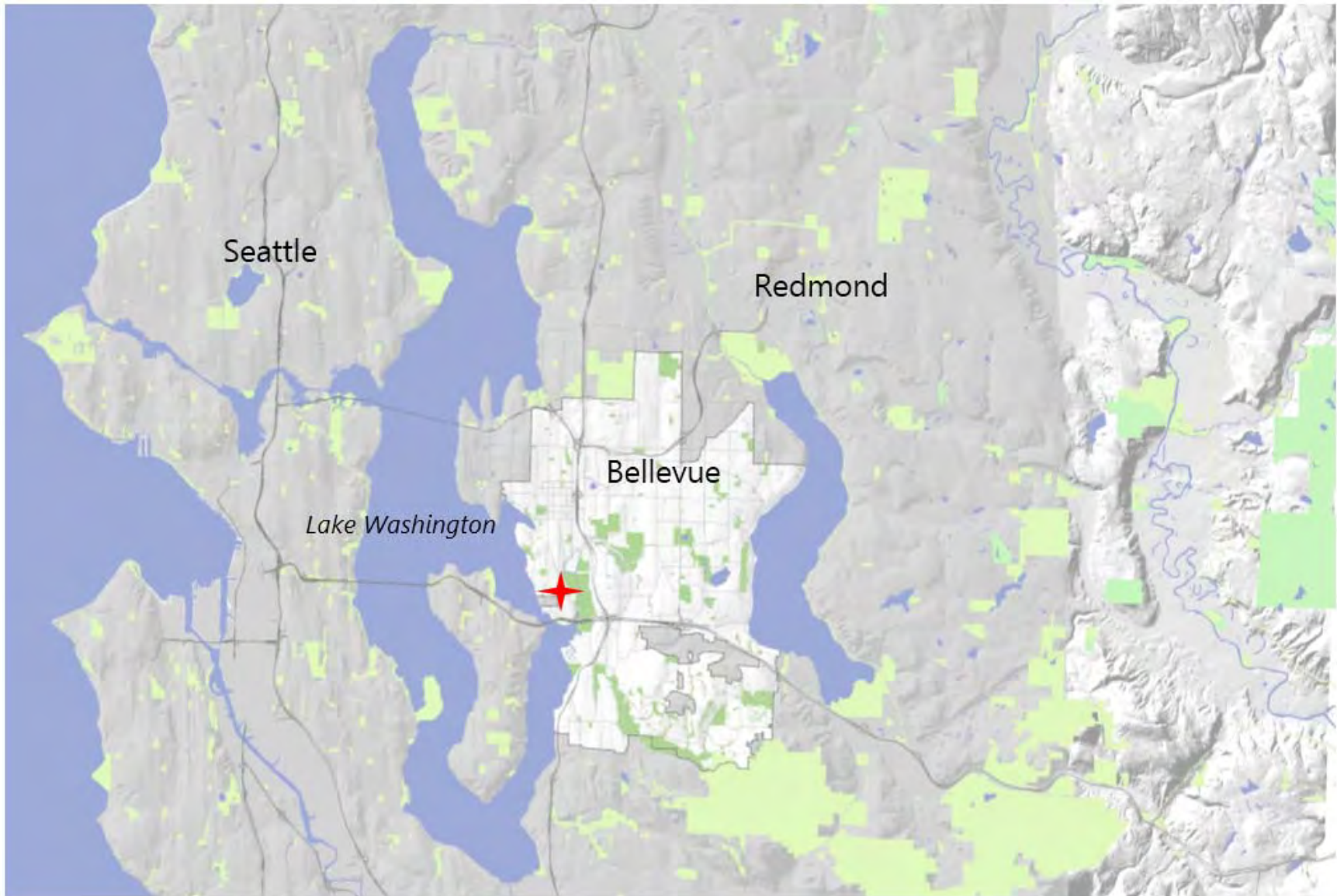
Future extension of the East Link light rail project will likely impact board-funded sites at Marymoor Park, East Sammamish Lake Trail, Bear Creek Trail, and Sammamish River Trail.

## **Attachments**

- A. Site Location Map
- B. Sound Transit East Link Route Schematic
- C. Sound Transit East Link Route Map along West Edge of Mercer Slough Nature Park; Detail Map of Conversion Location



## Attachment A: Site Location Map



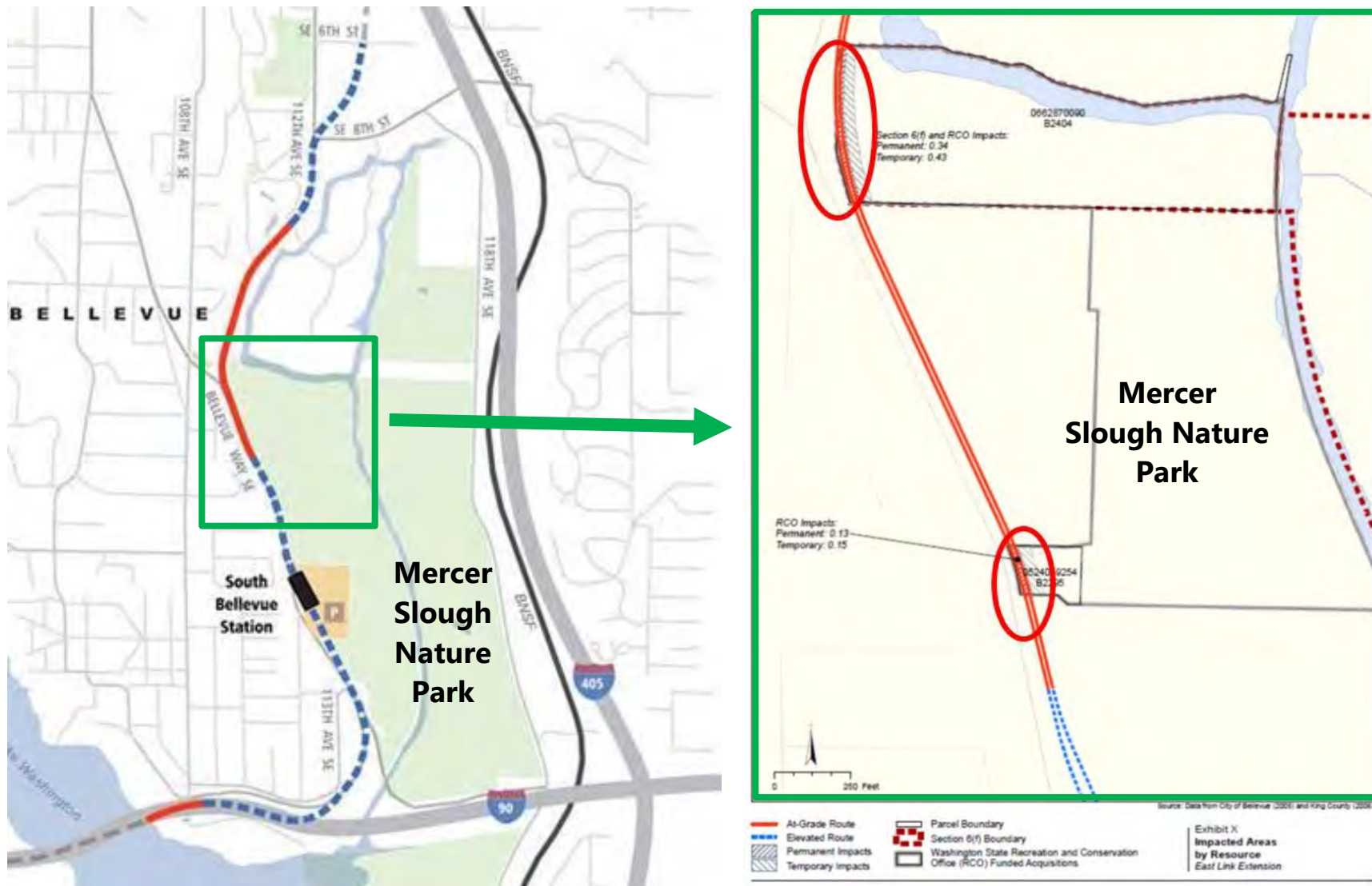
## Attachment B: Sound Transit East Link Route Schematic



Note: Map is not drawn to scale. Green box indicates general vicinity of conversion area.



## Attachment C: Sound Transit East Link Route Map along West Edge of Mercer Slough Nature Park; Detail Map of Conversion Location



Note: Green box on route map indicates general vicinity of detail map of conversion location. Conversion locations on detail map are circled in red.

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Briefing on Upcoming Conversions – SR 520 and Washington Park Arboretum  
**Prepared By:** Leslie Connelly, Natural Resources Policy Specialist

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

This memo summarizes the current status of the conversion at the Washington Park Arboretum in Seattle caused by the expansion of State Route 520.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Background

### Washington Park Arboretum, East Montlake Park, and Ship Canal Trail Grants

At the board's meeting in June 2013, the board approved the conversion at the Arboretum Waterfront Trail and the replacement property at the Bryant site in Seattle per resolution #2013-05. (See [Memo 5](#) from the board materials for the June 2013 meeting for background on this conversion). The market equivalency for the converted and replacement properties was established via the appraisal reports submitted to NPS for review in May. (See the section below on the results of NPS's compliance review of the appraisal reports.)

The board's approval was contingent on the City of Seattle, University of Washington, and WSDOT agreeing to the terms of the proposed conversion and replacement through a three-party agreement. Once the parties reached an agreement, the board authorized the RCO director to: 1) proceed with finalizing the conversion request for the ALEA grant and 2) recommend the conversion request and the proposed replacement site for the LWCF grant to NPS for final approval.

## **Update**

### **Three-Party Agreement**

The City of Seattle, University of Washington, and WSDOT signed the three-party agreement in August 2013. The agreement formalized the commitment of the parties to the conversion impacts and the Bryant site as the replacement property. Since the agreement was executed, WSDOT has purchased the converted properties from the City of Seattle and University of Washington. WSDOT expects to start construction of the SR 520 project in the Montlake area this summer.

### **Cultural Resources Negotiations**

As the state administrator of the LWCF program, RCO is responsible to address any impacts to cultural resources under the National Historic Preservation Act (NHPA). The replacement property at the Bryant site itself and the structure are eligible for listing in the National Register of Historic Places. The structure would need to be removed from the site for construction of the replacement park. Removal of the structure will cause impacts to cultural resources and therefore, per the NHPA, requires appropriate mitigation.

Between November 2012 and February 2014, RCO led discussions between the Department of Archaeology and Historic Preservation, City of Seattle, University of Washington, WSDOT, Federal Highway Administration, NPS, and other interested parties. Negotiations resulted in a memorandum of agreement between the parties. A final agreement has been reached and was circulated to parties for signature on March 19. The agreement includes the following stipulations:

- Development of the Bryant site final park design plans, including deconstruction, salvage, and adaptive reuse of the historic structure in the new park,
- Development and implementation of an interpretive plan to communicate to the public the historic relevance of the Bryant site,
- An historic resources inventory of the University of Washington Seattle Campus, and
- Cleaning and tuckpointing of the Wilcox Bridge in the Washington Park Arboretum.

As the LWCF state administrator, RCO is the lead responsible party to ensure the agreement is implemented by the deadline in 2024.

### **Appraisal Review Results**

In August 2013, NPS informed RCO that the appraisals for the converted and replacement properties did not pass the Department of Interior's review. NPS instructed RCO to prepare new appraisal reports and appraisal reviews that would meet the program requirements. NPS offered technical assistance to RCO and the local project sponsors to help us obtain the new appraisal reports.

RCO worked with the City of Seattle, University of Washington, and WSDOT, with technical assistance from NPS, to commission new appraisals in January 2014. The completed appraisals are expected in April 2014.

### **Conversion Request Submitted to NPS**

RCO submitted the conversion package to the NPS in October 2013, pending the NPS review of the appraisals and completion of an agreement on cultural resources impacts. NPS is holding on to the request until these two requirements are completed.

### **Next Steps**

In April, staff expect to submit the new appraisal reports and a signed memorandum of agreement for cultural resources to NPS. This will complete the conversion documentation requirements for NPS and allow it to move forward with its review and approval process. NPS expects to complete its approval of this conversion before WSDOT starts construction on the SR 520 project in the Montlake area in July 2014.

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Boating Grant Programs Policy Plan Update  
**Prepared By:** Sarah Gage, Policy and Special Projects Manager

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

This memo summarizes the proposed process for updating the Boating Grant Programs Policy Plan, and requests comments from the Recreation and Conservation Funding Board on the general direction of the plan.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input checked="" type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Background

The Recreation and Conservation Office (RCO) manages seven grant programs that support recreational boating. These programs are:

- For motor boating, the Boating Facilities Grant Program and the Boating Infrastructure Grant Program.
- For non-motor boating, the Aquatic Lands Enhancement Account, the Recreational Trails Program, and the Washington Wildlife and Recreation Program, Outdoor Recreation Account.
- For all boating, the Boating Activities Program and the Land and Water Conservation Fund.

The money from these grant programs is intended to encourage agencies to provide the best possible sites and facilities for the recreational boating public. As the neutral facilitator of the open, public grant process, RCO does not initiate nor advocate for projects. The agency relies on project sponsors to identify boating projects that meet program goals and to prepare grant applications.

## **Current Plan Adopted in 2009**

The boating plan was last prepared in 2009. It was a key recommendation of the 2007 [Washington Boater Needs Assessment](#) that presented survey data on how boaters rated the importance of facilities and services, how those facilities and services were performing, and whether the state should invest more time and resources in boating activities. The assessment also discussed the challenges and opportunities that recreational boating providers reported they face in meeting boaters' needs. The assessment recommended that the board continue to use survey data to guide its grant funding decisions. In response to the assessment, RCO staff developed the Boating Grant Programs Policy Plan (boating plan).

The boating plan explores the broad context of recreational boating in Washington, presents results of general recreation and boating-specific surveys, and provides policies intended as a foundation for guiding grant funding. These policies are intended to help ensure that grants go to projects that satisfy boater needs, address provider challenges, and respect the environment. Boating plan policies are implemented by RCO, as directed by the Recreation and Conservation Funding Board (board), through grant program rules and evaluation criteria.

## **Proposed Plan Development**

Staff propose that the overall scope of the recently-completed update of the Nonhighway and Off-road Vehicle Access (NOVA) program plan serve as a template for updating the boating plan. The scope of updates would include identification of emerging boating issues, assessment of issues identified in the 2009 boating plan, development of policy guidance and recommendations, and updates to administrative and program policies and priorities.

RCO staff will incorporate relevant boating-related data contained in the State Comprehensive Outdoor Recreation Plan (SCORP) into the boating plan. The SCORP surveyed the general population of Washington.

Staff recommend generating additional input from the boating population through consultation with the Boating Program Advisory Committee and by contracting out the work associated with a boating needs assessment, analysis of boating demand, public participation in the boating plan update process, and analysis of identified boating issues. Executive management staff have identified \$50,000–\$70,000 from returned boating funds for this effort.

Staff anticipate updating the boating plan will take approximately 10 months, with a tentative schedule of May 2014–February 2015. This timeline ensures that the boating plan's priorities will be available for grant program criteria development in 2015.

## **Request for Board Comment**

Staff request the board comment on the general direction proposed for updating the Boating Grant Programs Policy Plan.

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Trails Web site Update  
**Prepared By:** Sarah Gage, Policy and Special Projects Manager

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

This memo summarizes the process for developing a Web site that includes a regional trails inventory and provides links to other information about trails, as recommended in the 2013–2018 Washington State Trails Plan.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Background

The Recreation and Conservation Funding Board (board) approved the 2013–2018 Washington State Trails Plan in November 2013. The plan offers strategic direction for state recreation trails in Washington State for the next five years. It is separate but complementary to the Statewide Comprehensive Outdoor Recreation Plan (SCORP) adopted in June 2013.

The trails plan acknowledges stakeholder priorities and provides strategic guidance on trails route planning, designation, and coordination. The plan includes six statewide recommendations and five RCO actions.

This memo pertains to statewide recommendation #1 and RCO action #1.

### Statewide Recommendation #1

Statewide recommendation #1 reads: Develop a Web site that includes a regional trails inventory and provides links to other information about trails.

### RCO Action #1:

RCO action #1 reads: Develop a Web page that is a clearinghouse for trails information.

## **Proposed Project Development**

Staff propose developing criteria to inform the development of this project. Suggested criteria include the following:

1. Avoid duplicating other efforts.
2. Provide a meaningful and useful service to the public.
3. Develop and maintain the Web page within existing RCO resources.
4. Serve all trail user groups statewide.

RCO staff anticipate that the following actions will be included in project development:

1. Generate ideas via discussion with internal stakeholders (RCO recreation, IT, and policy staff; executive management).
2. Develop 2-5 options for further exploration and information gathering.
3. Prepare preliminary scopes of work for these options, including timelines and budgets.
4. Discuss with external stakeholders, especially the trails advisory committee and members of organizations with key trails Web sites or data projects.

Following this consultation with internal and external stakeholders, RCO staff will refine an option further and develop a proposal for board review.

## **Request for Board Comment**

Staff welcome board comment on the general direction proposed for developing a Web page that responds to the 2013–2018 Washington State Trails Plan’s Statewide Recommendation #1 and RCO Action #1.



## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Demonstration of the Compliance Workbench  
**Prepared By:** Myra Barker, Compliance Specialist

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

This memo summarizes the Compliance Workbench, a new web-based application used by Recreation and Conservation Office staff to more efficiently conduct project compliance inspections and to track project compliance concerns and conversions. Staff will give an overview and demonstration of the workbench at the April board meeting.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Background

The Compliance Workbench (workbench) is a new web-based application used by Recreation and Conservation Office (RCO) staff to more efficiently conduct project compliance inspections and to track project compliance concerns and conversions. The workbench helps RCO achieve two key organizing principles -- ensuring that grants are implemented and maintained efficiently and effectively and providing innovative support services.

The workbench has many key features including:

- Assigning project inspections geographically instead of by individual project.
- Allowing grant managers to fill out compliance forms electronically in the field for multiple projects, which gives project sponsors more timely inspection results.
- Tracking compliance issues until they are resolved by RCO staff.

The workbench is a component of RCO's existing PRISM grants management system. The workbench was developed partially in response to a National Park Service recommendation that RCO improve the tracking of long-term stewardship issues at funded sites. The workbench was funded with a grant from the Land and Water Conservation Fund and RCO administrative dollars.

## Update

The Compliance Workbench was implemented in January 2014. A total of 36 inspections<sup>1</sup> have been completed to date.

Staff will give an overview and demonstration of the workbench at the April board meeting.

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<sup>1</sup> As of March 13, 2014.

## Recreation and Conservation Funding Board Briefing Memo

**Meeting Date:** April 2014  
**Title:** Status Update on Electronic Billing  
**Prepared By:** Mark Jarasitis, Chief Financial Officer

**APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM**

### Summary

This memo summarizes the Recreation and Conservation Office's electronic billing system.

### Board Action Requested

This item will be a:

<input type="checkbox"/>	Request for Decision
<input type="checkbox"/>	Request for Direction
<input checked="" type="checkbox"/>	Briefing

## Background

For over 10 years, the Recreation and Conservation Office (RCO) has considered, in concept, an electronic billing (e-billing) system. Cost was the primary factor that kept the project on hold. Due to recent upgrades to the PRISM database system, it is now cost-effective and feasible for RCO to move forward with e-billing. At the April Recreation and Conservation Funding Board (board) meeting, staff will present information about the agency and customer efficiencies created by the newly implemented e-billing system that allows sponsors to submit bills online.

## Recreation and Conservation Funding Board Summarized Meeting Agenda & Actions

### April 16, 2014

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#### Agenda Items without Formal Action

Item	Follow-up Actions
2. Director's Report	In response to the public comment given by Doug Levy and Paul Simmons staff will prepare a presentation for the July board meeting on the Youth Athletic Facilities (YAF) program. Staff will also consider the option of asking for YAF money from the Legislature and report back to the board.
3. Liability of the Board or Board Members for Action Taken on Policy or Grants	No follow up action requested.
4. Washington Wildlife and Recreation Program Administration Costs	More work to be done and this will come back to the board in July.
8. Briefing on Upcoming Conversions <ul style="list-style-type: none"> <li>WDFW Methow Watershed Phase 2 (Project #00-1429A)</li> <li>City of Mountlake Terrace Jack Long Park (Projects #68-096A, 69-099D)</li> </ul>	These conversions will come back to the board for decisions when all details are ready for action.
9. Highlights of Several High Profile Conversions <ul style="list-style-type: none"> <li>Mercer Slough</li> <li>SR 520</li> </ul>	The Mercer Slough conversion will come back to the board for decision when all details are ready for action
10. Boating Plan Update	No follow up action requested.
11. Trails Website Update	No follow up action requested.
12. Demonstration of the Compliance Workbench	No follow up action requested.
13. Status Update on Electronic Billing	No follow up action requested.

#### Agenda Items with Formal Action

Item	Formal Action	Board Request for Follow-up
1. Consent Calendar <ul style="list-style-type: none"> <li>A. Board Meeting Minutes</li> </ul>	APPROVED Board Meeting Minutes – January 9, 2014	No follow up action requested.
<ul style="list-style-type: none"> <li>B. Time Extension Requests <ul style="list-style-type: none"> <li>WDFW, Project 08-1512A, Lynch Cove Estuary</li> <li>WDFW, Project 08-1610R, Pogue Mountain Pre-Commercial Thin</li> </ul> </li> </ul>	APPROVED Time Extension Requests	

C. Definitions for Maintenance and Development Projects in the Recreational Trails Program	APPROVED Resolution <u>2014-08</u>	
5. Technical Correction to the Planning Grant Evaluation Criteria in the Nonhighway and Off-road Vehicle Activities Program	APPROVED Resolution <u>2014-09</u>	No follow up action requested.
6. Washington Administrative Code Public Hearing <ul style="list-style-type: none"> <li>• Staff Briefing</li> <li>• Public Hearing</li> <li>• Board Discussion and Decision</li> </ul>	APPROVED Resolution <u>2014-10</u>	No follow up action requested.
7. Compliance Policies for Firearms and Archery Range Recreation Grants	APPROVED Resolution <u>2014-11</u>	No follow up action requested.

## Recreation and Conservation Funding Board Summary Minutes

**Date:** April 16, 2014

**Place:** Olympia, WA

### Recreation and Conservation Funding Board Members Present:

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<b>Harriet Spanel</b>	Chair	<b>Jed Herman</b>	Designee, Department of Natural Resources
<b>Betsy Bloomfield</b>	Yakima	<b>Don Hoch</b>	Director, State Parks
<b>Mike Deller</b>	Mukilteo	<b>Joe Stohr</b>	Designee, Department of Fish and Wildlife
<b>Pete Mayer</b>	Renton		
<b>Ted Willhite</b>	Twisp		

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**It is intended that this summary be used with the meeting materials provided in advance of the meeting. A recording is retained by RCO as the formal record of meeting. The recording was temporarily disabled for 20 minutes.**

### Call to Order

Chair Spanel called the meeting to order at 9:04 a.m. Staff called roll, and a quorum was determined. Updates to the minutes were discussed, including the residency of members Deller and Mayer.

### Opening and Management Reports

#### Item 1: Consent Calendar

The board reviewed Resolution #2014-08, Consent Calendar. This resolution included time extensions for Washington Department of Fish and Wildlife (WDFW) and a correction to the definitions of Maintenance and Development projects in the Recreational Trails Program.

#### **Resolution 2014-08**

**Moved by:** Pete Mayer

**Seconded by:** Ted Willhite

**Resolution:** APPROVED

#### Item 2: Director's Report

**Agency Updates:** Director Cottingham introduced new staff at the Recreation and Conservation Office (RCO), including new administrative support staff Amee Bahr and Justine Sharp. Kiko Freeman was hired as an accountant and will join RCO's fiscal team in early May. Director Cottingham also announced that Sarah Gage has taken a new job with the Governor's Salmon Recovery Office. Jen Masterson will transition to manage projects and a new board liaison will be hired. RCO is also in the process of hiring an additional IT support person so the Puget Sound Partnership will have on-site IT support in Tacoma.

Director Cottingham updated the board on the Results WA presentation delivered to the Governor earlier this week. A panel of Family Forest Fish Passage Program stakeholders highlighted the program's customer focus.

**Grant Round Preparation:** Director Cottingham informed the board that the RCO staff spent a great deal of time preparing for the launch of the grant cycle in mid-February. They have updated the agency's 22 manuals, website, and numerous forms. In addition, staff sent out a news release recruiting grant evaluators and completed an extensive outreach plan for getting the word out about the opening of the grant round.

**Policy Update:** Nona Snell, Policy Director, reported that the Legislature adjourned in mid-March. Ms. Snell briefed the board on the objectives and funding of the Blue Ribbon Task Force on Parks and Outdoor Recreation, staffed by RCO. The task force is required to write a plan and recommendations on how to increase outdoor recreation and promote jobs and businesses associated with outdoor recreation. RCO added two temporary staff to help with the task force. A draft plan and recommendations are due September 1, with the final plan and recommendations due September 19.

Member Mayer asked a question about whether the mission of the task force includes efforts to secure a stable funding source. Ms. Snell responded in the affirmative. Director Cottingham also communicated that several contractors were hired to help with public engagement for the task force. Member Hoch commented the first task force meeting went well and was televised on TVW.

Ms. Snell summarized a proviso in the operating budget that directs RCO to contract for an economic study of public lands. With the proviso included \$100,000 from three agencies: Washington Department of Fish and Wildlife (WDFW), State Parks, Department of Natural Resources (DNR). Ms. Bloomfield asked if data is available from the State Comprehensive Outdoor Recreation Plan (SCORP) for the economic study. Ms. Snell responded in the affirmative.

Ms. Snell also updated the board on other passed legislation that affects RCO. Items discussed included bills related to culvert removals, invasive species, board member training requirements, and posting public meeting agendas to agency websites.

Updates on the boating app and the public lands inventory were also provided; demonstrations for both will be shown at the July board meeting.

**Grant Management Report:** Marguerite Austin, RCO Section Manager, reported that there are currently 192 grant applications in RCO's database; 136 are for the Washington Wildlife and Recreation Program. RCO staff is sending out another reminder on April 18 to ensure all applicants submit their applications on time. Director Cottingham asked Ms. Austin to summarize the amount of return funds that have rolled over to other projects. Ms. Austin advised that a couple big projects, e.g., WDFW's Okanogan Similkameen project, were not moving forward so funds were rolled over to eligible alternates; awards were also made to alternate farmland projects. RCO staff will be asking the director to approve another alternate DNR project.

Member Mayer brought up a Supreme Court case related to transportation corridors used for recreation trails and stated he would forward the legal documents to staff.

Member Willhite asked Ms. Austin to compare the number of grant applications between this and past grant cycles. Ms. Austin confirmed that the number of grant applications varies from year to year; however, once the cycle is complete we will have approximately the same number of projects as the last grant round. Ms. Austin believes that the limiting factor in grant applications has to do with staffing and funding availability at sponsoring state agencies.

### **Presentation of Recently Completed Projects**

Kim Sellers, RCO grant manager provided a slide presentation for Oakland Bay County Park Trails (09-1396), recently completed project.

**Marine Shoreline Protection:** Marguerite Austin, RCO Section Manager, gave a presentation on the Marine Shoreline Protection Program (MSPP), a new grant program running through RCO in partnership with the Department of Natural Resources (DNR) and the Washington Department of Fish and Wildlife (WDFW). MSPP's primary goal is protecting high-priority marine shoreline habitat from the impacts of development, especially feeder bluffs and drift cells. The agencies have asked that RCO staff use board approved acquisition policies for the program.

MSPP is supported by \$1.2 million from the U.S. Environmental Protection Agency, made available through the Puget Sound Marine Nearshore Grant Program (also a program managed in partnership with DNR and WDFW). The grant maximum is \$600,000, with applications due June 2 and awards to be announced in September 2014. Eligible applicants include state and local agencies, Native American tribes, and nonprofit conservation organizations. Funds may be used for fee simple acquisition or the purchase of perpetual easements. The projects must be completed by August 2016.

Chair Spanel asked if the feeder bluff is included in the shoreline protection acquisition for Island County's Barnum Point project. Ms. Austin responded in the affirmative.

Member Mayer asked how this program affects current priorities. Ms. Austin responded that the Puget Sound Partnership, WDFW and DNR will identify the priorities. Director Cottingham clarified that MSPP is a partnership that highlights the strengths of the participating agencies. RCO staff will provide administrative support for the program; DNR and WDFW will put together an evaluation team and will oversee the scoring and ranking of projects.

**Oakland Bay County Park Trails:** Kim Sellers, grant manager, provided an overview of the Oakland Bay County Park Trails Development in Mason County which was funded in 2010. RCO provided two grants: one from the Salmon Recovery Funding Board and another from the Recreation and Conservation Funding Board. Member Willhite inquired who owns the title to the surrounding shorelines and upland northeast. Neil Winters, Assistant General, introduced himself and informed the board that he believes Taylor Shellfish owns the title to the shorelines. Member Willhite asked if of all the uplands is public land. Ms. Sellers advised part of it is private land.

Member Deller asked if there have been any community celebrations. Ms. Austin reported they had a work day in celebration of the opening. Member Mayer made an inquiry regarding forest maintenance, large parcel acquisition for forest health, invasive species and urban world acres, asking how much we know about the forest health. Ms. Sellers advised the site has been logged in the past; there are big pockets of first growth trees including some remnant trees that are 7 feet in diameter.



## General Public Comment

**Note: This item was presented out of order due to meeting participant availability.**

Doug Levy, State lobbyist, was joined by Paul Simmons, legislative co-chair, for public comment. Mr. Levy requested the board consider submitting a request packet for the Governor's Office and the Office of Financial Management (OFM) for additional funding for the Youth Athletic Facilities (YAF) program.

Scott Robinson, Deputy Director, summarized that it is the board's decision whether or not to request applicants to submit letters of intent for YAF projects in advance of receiving funding from the legislature. He expressed concern that it may not be possible to complete this in time for the July board meeting, but RCO could come up with a revised process for later this summer/fall.

Member Herman asked staff to provide an update on the current political landscape for such funding requests. Director Cottingham stated that \$3 million was awarded to projects similar to YAF last year. She highlighted Mr. Levy is successful in ensuring the program is well-known, and included deferred maintenance (not every-day maintenance) to fund parks that do not score well in RCO's other grant programs. Member Mayer noted that in the SCORP document sport field issues were discussed at length, and this is the second highest activity in the state. Member Mayer feels that many good projects are not funded and that all-weather options should be prioritized. Member Deller asked if the Washington Wildlife Recreation Program (WWRP) has looked into whether there are private funding dollars, in the spirit of Paul Allen's original funding of YAF. Ms. Austin responded that it was suggested to use the \$2.5 million to get other sports to contribute funds.

Mr. Levy responded that efforts are underway to attract federal dollars, but the available funds do not meet the current needs. Member Deller stated that service clubs that have been inundated with requests in reducing health costs across the county may be willing to participate. Member Willhite agreed that the health care and law enforcement communities are also stakeholders in this process. This is a good time to remember who we are trying to get involved and put a face on people who use the fields and outreach on the health care side, law enforcement, schools and education. Director Cottingham summarized that RCO has put YAF into the budget the last several years, but it hasn't been funded. The concept will be considered and discussed by staff and RCO will brief the board in July.

## Briefings

### Item 3: Liability of the Board or Board Members for Action Taken on Policy or Grants

Nona Snell, Policy Director, introduced Assistant Attorney General Brian Faller, and summarized the board members' and RCO's liability related to the Firearm and Archery Range Recreation (FARR) Program, other programs, and the general liability of the board. Ms. Snell explained the potential liability of Recreation and Conservation Funding Board and Salmon Recovery Funding Board members and RCO officers, employees, and volunteers.

Chair Spanel asked whether the disclaimer language written to address the liability question that Mr. Faller suggested in a memo will be added to contracts. Ms. Snell responded in the affirmative.

Member Mayer asked whether the board needs to provide additional clarity related to the scope of compliance checks, or if there is potential confusion about whether compliance relates to safety issues.

Director Cottingham confirmed that the staff is aware that they are responsible for compliance related to the grant contract only.

Member Deller thanked Mr. Faller for his review and asked a question about the messaging staff uses with applicants and sponsors. Leslie Connelly, Policy Specialist, responded that there is internal staff training on this issue.

#### **Item 4: Washington Wildlife and Recreation Program Administration Costs**

Nona Snell, Policy Director, provided a summary of the WWRP administration fee allowance, presented challenges, and options for addressing those challenges. Ms. Snell described the history of program funding and several options for the board's consideration that may provide more sufficient and stable funding.

Member Herman asked if administering a grant program requires a standard percentage of total funds. Ms. Snell responded that staff is still working to calculate that number, and explained that there are many factors that make the percentage difficult to determine.

Ms. Snell suggested that possible next steps include outreach to major stakeholders and possible statutory changes. Options to change the administration allowance include matching the federal allowance, increasing the rate to five percent, or increasing the administration allowance based on variable appropriation amounts. Member Stohr commented that some of the options presented seem to create larger "roller coasters," and staff may want request stakeholder feedback on a smaller list of options.

Member Willhite asked if there is a metric that non-governmental organizations (NGOs) use for administrative overhead. Ms. Snell responded that she will look into administrative rates used by NGOs. Additionally, Member Willhite felt that the options should summarize both the benefits of the program to the state along with the administrative costs to better frame this conversation.

Member Mayer asked about RCO's total funding and discretionary dollars. Mark Jarasitis, Chief Financial Officer, responded that funds are aligned to specific programs or purpose; RCO does not receive discretionary dollars. Member Mayer asked a question about full-time employees (FTEs). Director Cottingham responded that RCO may employ up to 49 full-time staff at this time.

Member Bloomfield stated that the backlog may not be an effective argument to base an administrative allowance change on because it creates an argument that funding the program creates costs in the future.

Member Mayer asked if the fund source matters, and if the FTE allowance is tied to a funding source. Director Cottingham responded that salmon projects may require additional administrative fees because of selection process and the smaller size of those projects, but funding is associated with the board that receives it.

Member Mayer asked if taking a risk-based approach to compliance inspections is possible. Myra Barker, Compliance Specialist, responded that RCO negotiates compliance activities with the National Park Service and uses a combination of available tools, e.g., desk reviews with field reviews.

Member Deller responded that base operating costs of the WWRP program should be considered and asked that staff present them at the next meeting.

**Break 11:03 – 11:15 a.m.**

### **State Agency Partner Reports**

**Note: This item was presented out of order due to meeting participant availability.**

**Department of Natural Resources:** Member Herman reported that a Trails Act for DNR-managed land was signed by the Governor. The act provides general policy direction and liability protection for state volunteers. Member Herman noted that DNR sent over 100 people to help with recovery efforts for the Oso mudslide. A Senator asked DNR if there are ways we can further develop recreation in that area for the future; Member Herman thinks this is something to consider.

**State Parks:** Member Don Hoch reported that the Washington State Parks and Recreation Commission has two new commissioners. The next Commission meeting is at Sun Mountain Lodge. State Parks is looking into marketing and will show several 15 and 30 minute commercials during television season finales. Parks will also partner with Subway restaurants for a discount offered at 400 Subways. Additionally, Subway will produce a commercial with Subway spokesman Jared and State Park rangers. The State Park Web site is now available in 75 different languages.

**Washington Department of Fish and Wildlife:** Member Joe Stohr reported that there are several counties where acquisitions have become controversial. WDFW has been working with Asotin County and the public in the area to discuss these acquisitions. WDFW is conducting an economic review of the impacts of acquisitions in Okanogan County, currently complete and undergoing internal review; it will be available for public review shortly. The county is conducting a separate report as well. Member Stohr spoke about Pittman-Robertson dollars which come from federal taxes on hunting firearms and ammunition. WDFW currently receives about 8 to 10 million dollars per year. Since President Obama took office, the amount of money received has gone up and it is expected that WDFW will receive 14 million next year which the department will put towards the operations and maintenance of land acquisitions. WDFW is working with DNR on the Teanaway Management Plan which will guide operations on 50,000 acres recently set aside. The 20 member Teanaway advisory committee held their second meeting, and WDFW is optimistic that the group will meet their established deadline.

Lastly, WDFW has 4 sections of leased lands near Wenatchee and is currently working with locals and Senator Parlette to preserve these lands permanently through acquisition. Director Cottingham added these are WWRP projects.

### **Decisions**

#### **Item 6: Washington Administrative Code Public Hearing**

**Note: This item was presented intentionally out of turn.**

Leslie Connelly, Policy Specialist, presented a staff recommendation for amendments to the administrative rules in Title 286 of the Washington Administrative Code (WAC). She outlined the required public review process for the adoption of amendments. The rules cover a number of subjects including general

authorities of the Recreation and Conservation Funding Board and RCO director, general grant assistance rules, and specific program rules.

The board opened a public hearing on proposed changes to Title 286 of the WAC. There was no public comment.

The public hearing was closed. Ms. Connelly noted that three written public comments were received. One suggested that a reference to the state trails plan be added under WAC 286-04-020 3.a.

**Resolution 2014-10**

**Moved by:** Ted Willhite

**Seconded by:** Mike Deller

**Resolution:** APPROVED

A friendly amendment to the substitute resolution to correct a spelling error was moved by Ted Willhite and seconded by Mike Deller.

Member Willhite commented that he believed a public comment made by Reed Waite was addressed. Member Herman suggested some punctuation changes to the WAC that may be helpful to the reader.

**Item 5: Technical Correction to the Planning Grant Evaluation Criteria in the Nonhighway and Off-road Vehicle Activities Program (NOVA)**

Leslie Connelly, Policy Specialist, reminded the board they adopted a sustainability criterion in the Nonhighway and Off-road Vehicles Activities (NOVA) program for acquisition, development, maintenance and operation applications at the January 2014 meeting. The adoption of the new criterion created a disparity in the total maximum points for planning grant applications. Ms. Connelly proposed a technical correction to increase the eligible points for planning grant applications, which would correct the disparity in the total maximum points.

Member Willhite asked whether feedback was solicited from stakeholder groups for this change. Ms. Connelly responded that the proposed change was included in an e-mail that went out with board materials. No comments were received.

Member Herman asked for clarification on why the planning category did not include the sustainability criterion. Ms. Connelly responded that the criterion developed did not fit well with planning type projects but, looking forward to 2016, the board may consider including a new sustainability criterion for planning applications. What is being suggested is a pragmatic fix for the upcoming grant round. Director Cottingham added it has been a timing issue, as the evaluation criteria must be in place by July 1 for the upcoming grant cycle. Member Deller asked how many applications this will impact. Ms. Connelly responded we don't know how many new applications will be submitted but there were eight planning applications for the last grant cycle in 2012.

The board requested public comment on the proposed technical correction to increase the eligible points for planning grant applications. There was no public comment.

**Resolution 2014-09**

**Moved by:** Pete Mayer

**Seconded by:** Ted Willhite  
**Resolution:** APPROVED

### **Item 7: Compliance Policies for Firearms and Archery Range Recreation Grants**

Leslie Connelly, Policy Specialist, presented a possible statement to clarify the board-adopted revisions to the Firearms and Archery Range Recreation (FARR) program made at the January and April 2014 (Item#6) board meeting. As the board adopted the proposed amendments to Chapter 286-30 WAC in Item 6, it allows the board to approve "other remedies" to resolve a conversion for a FARR acquisition project if it occurs ten or more years after the grant is accepted. Ms. Connelly recommended that the board adopt a policy statement that identifies potential remedies for these types of conversions.

Member Herman asked if the lack of a policy for conversions after ten years was an oversight or intentional. Ms. Connelly responded that there was no documentation to suggest the intent of initial policy makers when the law was passed.

Member Herman asked a question about possible contamination on the converted property and how that might impact the appraisal of land. Ms. Connelly advised they would need to identify and factor the contamination in the market value. Contamination may not diminish the value and it depends on the location as it may absorb the costs.

Member Mayer asked if this policy would apply to a partial conversion. Ms. Connelly responded in the affirmative: it applies to full or partial conversions. Member Mayer also asked about extenuating circumstances in regard to FARR grant access and the use of law enforcement that trumps or infringes the conversion. Director Cottingham identified a circumstance that triggered an infringement in the Cascades; RCO worked with King County to resolve the issue.

Member Willhite commented that he would prefer anticipating problems and providing sponsors advance notice and clarify the policy now.

Member Bloomfield asked a question about repayment as the final preferred remedy and how this would work if a nonprofit organization was dissolved. Ms. Connelly responded that, if an organization dissolved, their land would presumably go to another organization.

**Resolution 2014-11**  
**Moved by:** Mike Deller  
**Seconded by:** Ted Willhite  
**Resolution:** APPROVED

***Lunch 12:15 - 1:00 p.m.***

### **Briefings**

### **Item 8: Briefing on Upcoming Conversions**

**Methow Watershed Phase 2 (Project #[00-1429A](#)):** Myra Barker, Compliance Specialist, provided a quick definition of conversion and the board's responsibilities in regard to the WDFW Methow Watershed

Phase 2 (Project #00-1429A). The board contributed nearly \$25 million in funding to this site. The conversion property of 60 acres is located within the Methow Wildlife Area. The conversion is requested by a private landowner to exchange properties (block up land) in order to move cattle more directly to other privately-owned property. The WDFW property, subject of the exchange, bisects the private landowner's property. Ms. Barker advised that staff will work with WDFW to finalize the conversation and prepare for the board's decision at the July meeting. The conversion would improve access for both WDFW and the private landowner.

Member Mayer asked if there is a marketed difference in grazing land property. Ms. Barker responded that they are waiting for the appraisal which would identify differences, if any. Member Stohr responded that he believes there is no difference in net grazing value. This conversion will provide value to the private landowner by ensuring a contiguous area and will no longer require his cattle to be moved across state land. Chair Spanel asked if the properties are fenced. Member Stohr stated he is not sure if the entire property is fenced.

**City of Mountlake Terrace Jack Long Park (Projects #68-096A, 68-099D):** Myra Barker, Compliance Specialist, presented the proposed conversion of 0.5 acres at Jack Long Park (Projects #68-096A, 68-099D). The conversion is due to the installation of private carrier cell phone equipment and a radio tower. Ms. Barker asked for board comments and questions so that they can prepare for a decision at the July meeting.

Member Deller asked if there was a fenced area before the cell tower was installed. Ms. Barker replied in the negative; however, the cell equipment still triggers a conversion. Member Mayer asked a question about the title ownership of the land and whether the city or the city utility owns the land. Ms. Barker replied she believes the property was owned the water district and was deeded to the city before the projects were funded. Member Mayer asked if the replacement property is currently owned by the city. Ms. Barker advised the replacement property is privately owned.

### **Item 9: Highlights of Several High Profile Conversions**

**Mercer Slough:** Myra Barker, Compliance Specialist, shared that the City of Bellevue and State Parks will be asking the board to approve a conversion of 1.03 acres at Mercer Slough Nature Park. The conversion at the Mercer Slough Nature Park is due to the expansion of Sound Transit Light Rail system from downtown Seattle to Redmond. A segment of the 18-mile East Link project will impact two areas on the western boundary of the park, constituting the conversion.

Director Cottingham stated that RCO was consulted in the initial planning for the alignment of the light rail corridor. Member Mayer asked if consideration has been given to the existing lid that would stand alone or satisfy our requirement. Ms. Barker stated the Winter's House is just south of where the 6(f) boundary exists. Director Cottingham noted that even a lidded structure would create a conversion.

Member Willhite asked if there has been discussion with Friends of the Parks. Ms. Barker responded the light rail corridor in the Mercer Slough area has gone through public comment periods, starting in 2006. Camron Parker, City of Bellevue, and Elma Borbe, Sound Transit, introduced themselves and clarified that the lid was a part of the impact mitigation to the historic Winter's House through the Section 106 process. It is currently designed to reach the longest possible length without added cost for tunnel-like features (lights, etc.). Director Cottingham clarified that the board will make a recommendation to the

National Park Service (NPS) when they are ready to make a decision on this conversion, which is tentatively scheduled for the July meeting.

**State Route 520:** Leslie Connelly, RCO Policy Specialist and former Compliance Specialist, summarized the SR 520 conversion that will impact the Arboretum Waterfront Trail. RCO submitted the conversion package to the National Park Service (NPS) in October 2013. Approval is pending NPS review of the appraisals and completion of an agreement on cultural resources impacts. The Washington Department of Transportation is scheduled to begin construction of SR 520 in July 2014. NPS is holding onto the request until these two requirements are completed.

Ms. Connelly shared that NPS rejected RCO pre-submitted appraisals, so a new appraisal was commissioned by the City of Seattle. The appraisals are currently being reviewed and are expected to meet all requirements. Ms. Connelly added that the values of the appraisals are expected to be different now two years later. Director Cottingham stated this conversion is likely going to be the largest fiscally that RCO has done and NPS has seen nationally. Director Cottingham noted that conversions are one reason why a 3% administrative rate is inadequate to cover RCO costs. Member Deller asked who ordered the appraisals. Ms. Connelly replied the University of Washington submitted the first appraisal, and the City of Seattle will submit the second appraisal.

Member Mayer asked if one of the replacement properties involves the police department. Ms. Connelly stated that the police department is located in the building at the replacement property. Director Cottingham mentioned that removal and relocating of the police station is part of the agreement.

#### **Item 10: Boating Plan Update**

Sarah Gage, Policy and Special Projects Manager, provided background on the boating grant programs policy plan to the board. RCO recently updated other policy plans, notably the SCORP (Statewide Comprehensive Outdoor Recreation Plan) the Trails Plan, and the Nonhighway and Off-road Vehicle Access (NOVA) program plan. Ms. Gage proposed that the boating grant programs policy plan make use of the boating-related data from the SCORP and obtain additional input, which would include surveying and generating discussion among the boating population of Washington. RCO has an available budget of \$50,000 - \$70,000, which is returned funds from boating projects. The staff plans to contract out the work of boating needs assessment, analysis of demand, and analysis of issues. It is anticipated that the plan will take about 10 months to complete. The goal is to finish the plan so that priorities will be in place for developing grant evaluation criteria for the 2016 grant round.

Member Stohr asked if invasive species issues would be linked into this plan. Ms. Gage responded that she would like to see invasive species issues included at a later date.

Member Mayer asked about motorized and non-motorized boating. Ms. Gage responded that the plan covers all types of boating and that she believes some types of non-motorized boating, such as stand-up paddling, may have emerged in popularity since the last boating policy plan.

#### **Item 11: Trails Website Update**

Sarah Gage, Policy and Special Projects Manager, presented a summary on the Trails Web Site project, which the board approved November, 2013. She proposed criteria and a project work plan. RCO plans to develop a web page that is a clearing-house for trails information. Development of this project includes



discussion with internal stakeholders to develop two to five alternatives. Staff will then consult the trails advisory committee and members of organizations with trail Web sites or data projects. RCO plans to convene the internal work group and prepare a more detailed proposal for consideration at the next board meeting in July.

Member Willhite asked if RCO can or should sell advertising space on the Trails website that would allow commercial sponsors to buy space. Director Cottingham responded that RCO has some ability to accept donations and staff will look into this matter further. Member Hoch expressed that the domain of the website creates some constraints.

Member Willhite requested that the website include some blogging possibilities. Member Willhite also suggested that the website link to other data, such as snowpack information. Director Cottingham reminded the board that this website is intended to serve as a "hub" with links to other existing sites.

Member Mayer suggested that the board use a framework similar to that used for the Boating App, where RCO acts as a clearinghouse for the data, and other organizations or sponsors are responsible for marketing and management of the site.

***Break 2:00 – 2:10 p.m.***

#### **Item 12: Demonstration of the Compliance Workbench**

Scott Robinson, Deputy Director, and Myra Barker, Compliance Specialist, provided a summary of RCO's PRISM compliance workbench including long-term responsibilities. The purpose of the compliance workbench is to manage projects geographically, map all worksites and conduct and complete sections in the field. The tracking issues are anything related to compliance with the grant agreement, an example being conversions and allowable use and work type changes.

Member Deller asked when RCO would expect the information to be digitized for use in the compliance workbench, given the 7,000 files in boxes offsite. Ms. Barker shared that RCO is wrapping up work on a records checklist that identifies which project documents need to be scanned. Mr. Robinson stated RCO is starting with the oldest records and moving forward; organizing and converting archived historic papers will likely take much longer. On May 1, 2014 RCO is moving towards a paperless grant process, receiving primarily electronic files. Member Deller asked if there is consistency training for grant managers in place. Mr. Robinson stated RCO conducted a soft roll-out, and plans to use the workbench and map components initially and make improvements overtime; the future hope is to use this workbench with sponsors so they can assist with site inspections.

Director Cottingham stated that she is unsure how much of our database is populated with old records, anything essential is probably already in PRISM. Mr. Robinson stated RCO needs to figure out a way of scanning large maps. Director Cottingham stated the State Archives is running out of space, so RCO needs to keep these records for a long time in order to ensure long-term compliance. Member Willhite asked if all new grant application will be accepted electronically. Mr. Robinson responded in the affirmative.



**Item 13: Status Update on Electronic Billing**

Mark Jarasitis, Chief Financial Officer, gave an overview of the electronic billing (E-billing) process. The purpose is to allow sponsors to submit bills online, provide for greater transparency, and conduct billing verifications automatically. The next steps are to continue development, conduct two more testing phases in 2014, complete the tool by March 2015, and roll out for use and training by June 2015.

Chair Spanel noted that some areas of the state do not have sufficient or existing internet access. Mr. Jarasitis responded that the electronic application process seemed to suggest there is enough access for sponsors to use e-billing; RCO will monitor this concern.

Member Hoch asked with new technology, when inspections are completed does the e-billing have the capability of tracking labor time so you know how much time is spent on inspections. Director Cottingham noted that the state is moving towards a standardized financial system under the "One Washington" program; RCO will likely wait and see what direction that system goes.

Member Herman asked how does e-billing interface with big financial agencies. Mr. Jarasitis advised that the DNR representative on the design review group has been consulted. DNR uses Datamart and their IT staff are working to create some custom reports that will be uploaded to e-billing, so staff will not need to hand key in all of the information. Mr. Jarasitis clarified that RCO has nine different sponsors participating on the e-billing design review group which includes representatives from State Parks, DNR, and WDFW.

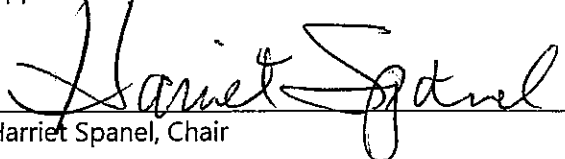
Member Mayer asked Mr. Jarasitis to summarize some examples of how RCO was using e-billing to streamline their processes. Mr. Jarasitis described how volunteer hours will be summarized more easily. Additionally, separate forms for each type of project are now combined into one.

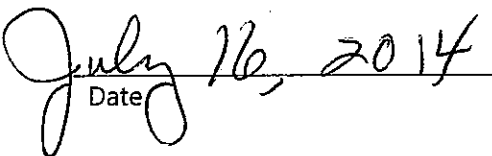
**Closing Remarks**

Director Cottingham noted that the next board meeting will be held in Vancouver, Washington on July 16-17, 2014.

The meeting was adjourned at 3:01 p.m. by Chairwoman Spanel.

Approved by:

  
Harriet Spanel, Chair

  
Date

**Recreation and Conservation Funding Board**  
**Resolution #2014-08**  
**April 2014 Consent Calendar**

**BE IT RESOLVED**, that the following April 2014 Consent Calendar items are approved:

- A. Approve Board Meeting Minutes – January 9, 2014
- B. Approve Time Extension Requests:
  - Washington Department of Fish and Wildlife, Project #08-1512A, Lynch Cove Estuary
  - Washington Department of Fish and Wildlife, Project #08-1610R, Pogue Mountain Pre-Commercial Thin
- C. Definition for Maintenance and Development Projects in the Recreational Trails Program

Resolution moved by: Pete Mayer

Resolution seconded by: Ted Willhite

Adopted/Defeated/Deferred (underline one)

Date: April 16, 2014

**Recreation and Conservation Funding Board**  
**Resolution #2014-09**  
**Changes to the NOVA Program Criteria for 2014**

**WHEREAS**, pursuant to state law, the Recreation and Conservation Funding Board (board) administers and approves policies that govern the Nonhighway and Off-road Vehicle Activities (NOVA) program and sets evaluation criteria for grant applications; and

**WHEREAS**, the board adopted the State Comprehensive Outdoor Recreation Plan in June 2013 and adopted the Washington State Trails Plan and NOVA Plan at its January 2014 meeting;

**WHEREAS**, in response to recommendations and action items in the above referenced plans, at its January 2014 meeting per Resolution #2014-06, the board added an evaluation criterion measuring project sustainability to the NOVA program evaluation criteria for acquisition, development, and maintenance and operation applications which increased the total possible points for those types of projects; and

**WHEREAS**, there were no changes made to the evaluation criteria for planning grant applications and planning grant applications were not afforded the additional points possible when the other evaluation criteria were changed; and

**WHEREAS**, it was not the intent of the board and staff to place planning grant applications at a disadvantage in the total possible points eligible in scoring the evaluation criteria;

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt changes in the evaluation criteria as described in option two of the staff memo; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to incorporate these changes in the appropriate policy manuals with language that reflects the revised evaluation criteria; and

**BE IT FURTHER RESOLVED** that these policies shall be effective for 2014 NOVA grant cycle.

Resolution moved by: Pete Mayer

Resolution seconded by: Ted Willhite

Adopted/Defeated/Deferred (underline one)

Date: April 16, 2014

**Recreation and Conservation Funding Board**  
**Resolution #2014-10**  
**2014 Administrative Rule Changes Phase I**

**WHEREAS**, pursuant to state law, the Recreation and Conservation Funding Board (board) adopts administrative rules that govern its grant programs and sets procedures for the Recreation and Conservation Office (RCO); and

**WHEREAS**, the name of the agency was changed in Section 39, Chapter 241, Laws of 2007, from the Interagency Committee for Outdoor Recreation to the Recreation and Conservation Funding Board and the Recreation and Conservation Office; and

**WHEREAS**, the board's policies and RCO's procedures regarding grant assistance have changed and need to be updated in the administrative rules; and

**WHEREAS**, various state and federal law references have changed and need to be updated and the planning eligibility in the Boating Facilities Program conflicts with other administrative rule language; and

**WHEREAS**, the board desires to revise the long-term compliance requirements for projects funded through the Firearms and Archery Range Recreation program; and

**WHEREAS**, RCO filed a Preproposal Statement of Inquiry with the Office of the Code Reviser on December 17, 2013 and it was published in issue #14-01-093 of the Washington State Register; and

**WHEREAS**, RCO filed a Proposed Rule-making with the Office of the Code Reviser on February 28, 2014 and it was published in issue #14-06-063 of the Washington State Register and also provided the proposed rule-making to the Joint Administrative Rules Review Committee; and

**WHEREAS**, RCO posted notice of the proposed rule-making on its Web site, sent an email notification to interested persons, and accepted public comments from March 21 to April 16, 2014; and

**WHEREAS**, the board conducted a public hearing on the proposed rule-making on April 16, 2014 and considered all written and verbal comments submitted;

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt the proposed rule-making as filed with the Office of the Code Reviser on February 28, 2014 and published in issue #14-06-063 of the Washington State Register; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to file a final notice of rule adoption with the Office of Code Reviser with an effective date of 31 days after it is filed.

Resolution moved by: Ted Willhite

Resolution seconded by: Mike Deller

Adopted/Defeated/Deferred (underline one)

Date: April 16, 2014

**Recreation and Conservation Funding Board**  
**Resolution #2014-11**  
**Conversion Policies for the FARR Program**

**WHEREAS**, pursuant to state law, the Recreation and Conservation Funding Board (board) administers and approves policies that govern the Firearms and Archery Range Recreation (FARR) program and sets long-term compliance policies for funded projects; and

**WHEREAS**, the board adopted amendments to chapter 286-30 of Washington Administrative Code at the April 2014 meeting per resolution #2014-10, which includes changes to the long-term compliance policies for funded projects in the FARR program;

**WHEREAS**, pursuant to the amendments to chapter 286-30 of Washington Administrative Code, the board wishes to provide an additional policy statement for conversions of use that may occur ten or more years after a project sponsor accepts a grant for an acquisition project; and

**WHEREAS**, this additional policy statement will provide clarity to FARR applicants on the long-term compliance obligations for an acquisition project;

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt an additional policy statement for long-term compliance to assure no net loss of firearms and archery range recreation opportunities provided by the FARR program as described in option two of the staff memo; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to incorporate these changes in the appropriate policy manuals with language that reflects the new policy; and

**BE IT FURTHER RESOLVED** that these policies shall be effective for 2014 FARR grant cycle.

Resolution moved by: Mike Deller

Resolution seconded by: Ted Willhite

Adopted/Defeated/Deferred (underline one)

Date: April 16, 2014