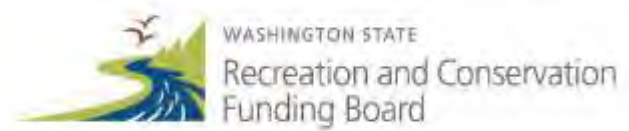


## Proposed Agenda

### January 31 and February 1, 2018



Regular Meeting

Natural Resources Building, Room 172, 1111 Washington Street SE, 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.

**Public Comment:** To comment at the meeting, please fill out a comment card and provide it to staff. Please be sure to note on the card if you are speaking about a particular agenda topic. The chair will call you to the front at the appropriate time. Public comment will be limited to 3 minutes per person. You may also submit written comments to the board by mailing them to RCO, attn: Nikki Gaddis, Administrative Assistant at the address above or to [nikki.gaddis@rco.wa.gov](mailto:nikki.gaddis@rco.wa.gov).

**Meeting Accommodations:** Persons with disabilities needing an accommodation to participate in RCO public meetings are invited to contact us via the following options: 1) Leslie Frank by phone (360) 902-0220 or email [leslie.frank@rco.wa.gov](mailto:leslie.frank@rco.wa.gov); or 2) 711 relay service. Accommodation requests should be received by September 27, 2017 to ensure availability.

## WEDNESDAY, January 31, 2018

### OPENING AND MANAGEMENT REPORTS

9:00 a.m.	<b>Call to Order</b>	<i>Chair Willhite</i>
	<ul style="list-style-type: none"><li>Roll Call and Determination of Quorum</li><li>Review and Approval of Agenda</li><li>Remarks by the Chair</li></ul>	
9:10 a.m.	<b>1. Consent Calendar</b>	<i>Chair Willhite</i>
	<ul style="list-style-type: none"><li>A. Approve October 11-12, 2017 Meeting Summary</li><li>B. Waive 180 Temporary Closure for Bosch Lot, City of Spokane</li><li>C. Technical Correction to Youth Athletic Facilities Match Reduction Policy</li><li>D. Time Extension Requests<ul style="list-style-type: none"><li>Klickitat County Shooting Facility, RCO #13-1565D</li></ul></li></ul>	
	<u>Resolution 2018-01</u>	
9:25 a.m.	<b>2. Director's Report</b>	
	<ul style="list-style-type: none"><li>Director's Report</li><li>Legislative, Budget, and Policy Update</li><li>Grant Management Report</li></ul>	<i>Kaleen Cottingham</i> <i>Wendy Brown</i> <i>Marguerite Austin</i>
	Projects of note:	
	<ul style="list-style-type: none"><li>Wenatchee, Saddle Rock Gateway, RCO #14-1135D and #10-1082A</li><li>Columbia Land Trust, Trout Lake Valley Phase 2, RCO #16-1765, #12-1463A, and #10-1682</li></ul>	<i>Karen Edwards</i> <i>Kim Sellers</i>
	<ul style="list-style-type: none"><li>Performance Report</li><li>Fiscal Report – Written</li></ul>	<i>Brent Hedden</i>
10:20 a.m.	<b>3. State Agency Partner Reports</b>	
	<ul style="list-style-type: none"><li>Governor's Outdoor Recreation Policy Advisor</li><li>Department of Natural Resources</li><li>State Parks and Recreation Commission</li><li>Department of Fish and Wildlife</li></ul>	<i>Jon Snyder</i> <i>Brock Milliern</i> <i>Peter Herzog</i> <i>Joe Stohr</i>

**10:45 a.m. BREAK**

11:00 a.m.	<b>4. Washington Administrative Code (WAC) Public Hearing – Public Disclosure Request Fees</b> <ul style="list-style-type: none"> <li>Briefing</li> <li>Public Comment</li> <li>Discussion</li> <li><u>Resolution 2018-02</u></li> </ul>	<i>Scott Robinson</i> <i>Patty Dickason</i>
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<b>11:30 a.m.</b>	<b>5. Department of Natural Resources' Rural Partnership Program Overview</b>	<i>Josh Wilund, DNR</i>
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**12:00 p.m. LUNCH**

<b>1:00 p.m.</b>	<b>6. Control and Tenure on State-Owned Aquatic Lands</b> <div> <div>○ Board discussion</div> <div>○ Public comment</div> <div>○ <u>Resolution 2018-03</u></div> </div>	<i>Adam Cole</i>
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## 7. BOARD BUSINESS: BRIEFING

<b>1:45</b>	<ul style="list-style-type: none"> <li>• Kent East Hill Park/Morrill Meadows Conversion</li> </ul>	<i>Myra Barker</i>
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**2:05 p.m.**

- Leavenworth Skate Park Conversion *Myra Barker*
  - Board Discussion
  - Public Comment
  - Resolution 2018-04
- Declaration of Conversion - Kitsap Rifle and Revolver Club *Scott Robinson*
  - Board Briefing *Kim Sellers*
  - Presentation by Kitsap Rifle and Revolver Club
  - Public Comment
  - Possible Executive Session
  - Board Discussion
  - Resolution 2018-05

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**3:15 p.m. BREAK**

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### **BOARD BUSINESS: BRIEFINGS**

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- 3:30 p.m. 9. No Child Left Inside Grant Program**
- Process
  - Overview of Past Projects

*Kyle Guzlas*

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### **BOARD BUSINESS: REQUEST FOR DIRECTION**

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- 4:00 p.m. 10. Communications**
- Communication Plan Update
  - State's Comprehensive Outdoor Recreation Plan (SCORP) Outreach
  - Match Waiver Policy Outreach

*Susan Zemek*

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**4:30 p.m. RECESS FOR THE DAY**

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## **THURSDAY, FEBRUARY 1, 2018**

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### **OPENING**

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- 9:00 a.m. RECONVENE Meeting**
- Roll Call and Determination of Quorum
  - Review Agenda
  - Remarks of the Chair

*Chair Willhite*

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**9:05 a.m. General Public Comment** for issues not identified as agenda items. Please limit comments to 3 minutes.

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### **BOARD BUSINESS: REQUEST FOR DECISION**

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- 9:35 a.m. 11. Washington Wildlife and Recreation Program (WWRP) Phase III changes to policy and criteria**
- Board Discussion
  - Public Comment
  - Resolution 2018-06

*Adam Cole*

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### **BOARD BUSINESS: BRIEFINGS**

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**10:15 a.m. 12. State Land Acquisition Strategy- Briefing**

*Wendy Brown*

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**10:30 a.m. BREAK**

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**10:45 a.m. 13. How the Board Encourages Grant Applicants to incorporate Climate Change and Resiliency Into Project Proposals**

- Briefing
- Board Discussion

*Wendy Brown  
Amy Snover, UW*

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**11:45 p.m. 14. Joint Legislative Audit and Review Committee (JLARC):** Update on *Study on Measuring Outcomes of Habitat and Recreation Acquisitions and Regulations*

*TBD - Eric Thomas  
Rachel Murata  
Suzanna Pratt*

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**12:15 p.m. Comments for the Good of the Order**

*Chair Willhite*

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**12:30 p.m. ADJOURN**

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**Next Meeting:**

April 25-26, 2018, Room 172, Natural Resources Building, Olympia

## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31-February 1, 2018  
**Title:** Waive 180-Day Temporary Closure Period for the Bosch Lot, City of Spokane  
**Prepared By:** Kyle Guzlas, Grants Manager

#### Summary

The City of Spokane Parks and Recreation requests the board to waive the 180-day temporary closure period for the Bosch Lot in downtown Spokane at Riverfront Park. The city is completing major infrastructure improvements that include the installation of two combined sewer overflow (CSO) tanks and the replacement of the Post Street Bridge. The Bosch lot provides a critical location for staging for these actions. Once complete, the infrastructure improvements provide added recreation benefits that include the Centennial Trail and new park and plaza areas. The city is requesting to use a portion of the site for staging until the end of 2019.

#### Board Action Requested

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

**Resolution:** Consent Calendar, Resolution 2018-01

### Project Summary and Background Information

The City of Spokane's Central City Riverfront project ([RCO #72-040](#)), included the acquisition of approximately five acres of uplands along the Spokane River for public recreation purposes. The total project cost was \$1,255,650 of which \$941,739 was derived from bonds<sup>1</sup> from the Outdoor Recreation Account (ORA) and a Housing and Urban Development grant in 1972. The project was the second phase of the acquisition strategy for developing a downtown park located at the Spokane River Falls (*Attachments A and B*). The project did not include any development, only the acquisition of twelve parcels.

Spokane Parks and Recreation requested RCO to allow a use of the Bosch Lot for an underground CSO tank in September of 2015. Additionally, the City requested to use the site for staging and construction impacts during the course of the Post Street Bridge replacement (the Post Street Bridge is immediately adjacent to the Bosch Lot). The RCO director conditionally approved this allowable use per Board approval of waiving the 180-day temporary closure period. The Board approved this request at the February 2016 meeting; however, the approval was only for the closure period associated with the CSO tank development. The Board requested

<sup>1</sup> Funding was from Referendum 28, [RCW 43.83](#)

the City to request the waiver for additional staging impacts once a definitive schedule was developed.

In 2017, the City took initial steps to potentially convert the Bosch lot due to property rights being conveyed or the development of a non-eligible indoor use. The Board was briefed on this proposal at the May 2017 meeting. Through a public outreach process, the City determined that the Bosch lot was best suited to remain as a park property to serve Riverfront Park with a parking structure and provide additional park amenities. The Spokane Parks and Recreation Department plans to continue to own and manage the site and is working closely with the community to finalize the redevelopment strategy.

<b>Project Name:</b>	Central City Riverfront	<b>Project #:</b>	72-040A
<b>Grant Program:</b>	Referendum 28 (bond funds)		
<b>HUD Amount</b>	\$ 627,825	<b>Original Purpose:</b> This project acquired about 5 acres to consolidate the remaining riverfront area as proposed in the Spokane Parks and Open Space Plan of 1965.	
<b>Bonds</b>	\$ 313,912		
<b>Project Sponsor Match</b>	\$ 313,913		
<b>Total Amount:</b>	\$ 1,255,650		

### Temporary Closure Waiver Request

The City of Spokane is requesting that the board extend the allowable recreational closure timeline for this project. The Long-Term Obligations Manual limits public recreational access site closures to 180 days or less<sup>2</sup>. The installation of the south bank CSO tank (CSO 26) and the replacement of the Post Street Bridge are scheduled to be completed by the end of 2019.

The proposed interim use of the Bosch Lot is to retain over half of the site for trailhead parking for Riverfront Park and the Centennial Trail, while the remaining western portion is fenced as construction staging area for the south bank CSO 26 project (*Attachment C*). The south bank CSO 26 project site is scheduled to be finished in late 2018 and will provide a new public plaza, park space and connection for the Centennial and South Bank Trail systems (*Attachment D*).

Upon completion of the CSO 26 project, the Post Street Bridge Replacement project is set to begin. This project will replace the 100-year-old bridge and critical sewer interceptor with a new bridge structure with associated utilities beneath that highlights the Centennial Trail as its key feature. The usage of the Bosch Lot is intended to flip east to west. The parking area for the trailhead and Riverfront Park will switch to the west side of the site, and the east side will be part of the Post St. Bridge staging area.

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<sup>2</sup> Manual 7, Long-Term Obligations

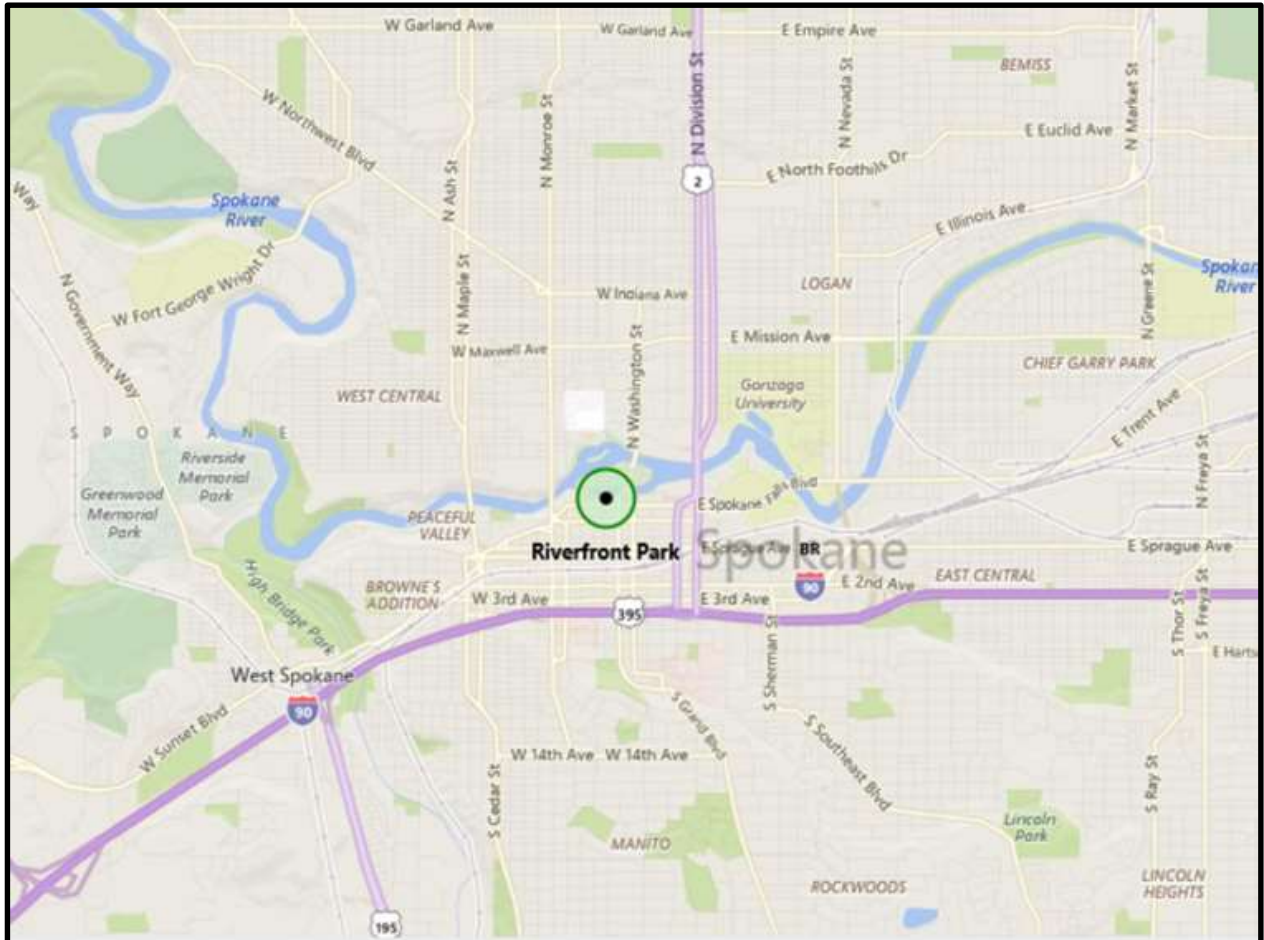
## Analysis

The temporary closure requirement does not pertain to park renovation or redevelopment actions within RCO funded facilities. These infrastructure projects are for “public works” benefits associated with stormwater management and vehicular transportation. Approval of the request will provide the city the adequate space to not only develop and replace essential infrastructure, but it will also provide significant park and access benefits once these projects are completed. The long-term benefits to the public outweigh the temporary impacts produced by this temporary closure. Staff is recommending approval of waiving the 180-day temporary closure period.

## Attachments

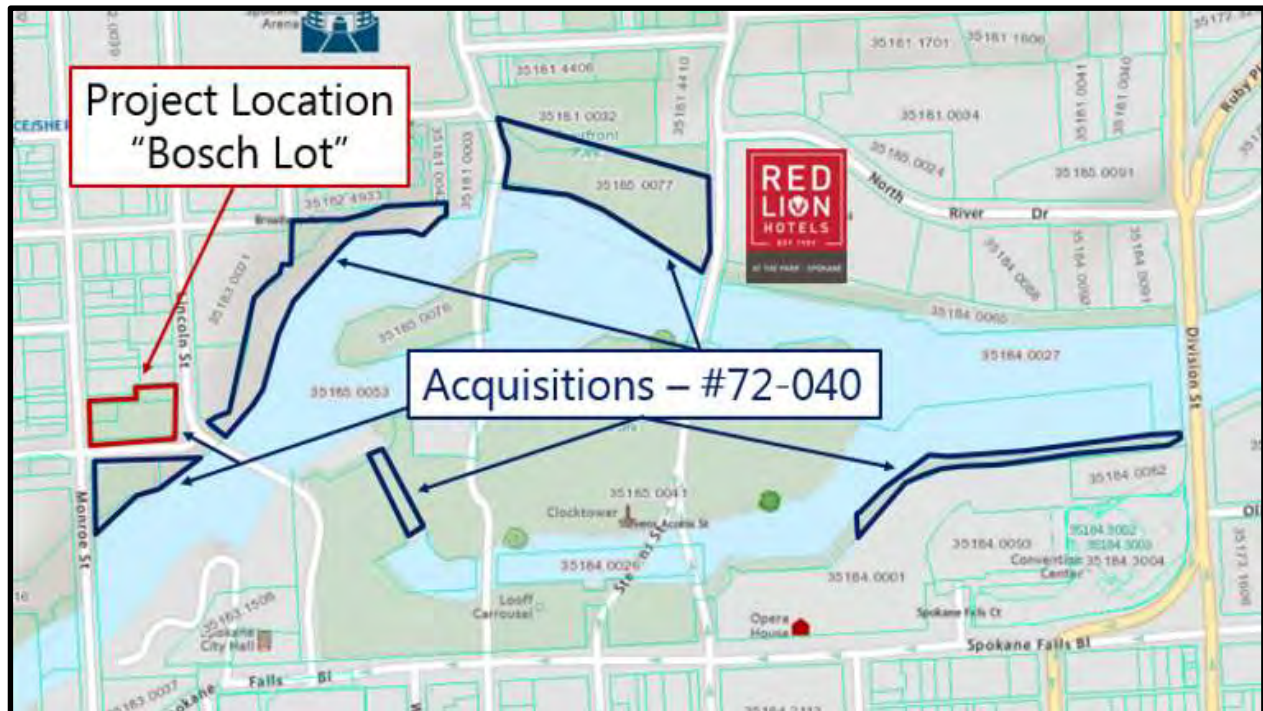
- A. Location Map – Spokane Riverfront Park**
- B. Map of Central City Riverfront Properties (RCO #72-040)**
- C. Temporary Parking Plan**
- D. CSO 26 Redevelopment Schematic**

A. Location Map – Spokane Riverfront Park





B. Map of Central City Riverfront Properties (RCO #72-040)



C. Temporary Parking Plan



D. CSO 26 Redevelopment Schematic



## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31 – February 1, 2018

**Title:** Technical Correction to the Youth Athletic Facilities Match Reduction Policy

**Prepared By:** Adam Cole, Natural Resource Policy Specialist

#### Summary

This memo describes a non-substantive change to the Youth Athletic Facilities (YAF) program match reduction policy. The change strikes the current \$500,000 maximum amount of match that may be reduced for any single grant. Staff recommends this change because of the grant limits in YAF which make this maximum irrelevant. If the \$500,000 cap is retained, it will likely confuse applicants.

#### Board Action Requested

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

**Resolution:** 2018-01

### Background

At its [October 2017 meeting](#), the board approved match reduction policies for the Washington Wildlife and Recreation Program (WWRP) and the Youth Athletic Facilities (YAF) program. The policy proposals and public comments are contained in that meeting's [Item 4 \(WWRP\)](#) and [Item 5 \(YAF\)](#) background materials.

### Problem Statement

The WWRP match reduction policy contains a \$500,000 cap on the amount of total match that may be reduced for any single project. This cap was put in place because the WWRP Trails and Water Access categories have no grant request limit. Without a cap, a single project receiving a match reduction could sweep all available funds.

However, the YAF program has maximum grant requests of \$350,000 for New and Improving Projects, and \$75,000 for Small Grants projects. Therefore, staff recommend removing the \$500,000 match reduction cap in YAF because it is not needed and may confuse applicants.

### Request for Decision

Staff recommend the following strikeout in the attached Adopted Policy Statement (in four sections):

~~• The maximum reduced match for a single project is \$500,000.~~

See Attachment A below for complete policy details.

### **Next Steps**

Staff will update all 2018 application and grant management tools and publications to reflect the board's decision on this issue.



## Appendix A

### **ADOPTED POLICY STATEMENT**

The following policies are added to those already in existence at the time of the RCFB decision. Where conflicts or lack of policy exist, the following shall apply:

**1. Eligible Projects.** Allow renovation and new projects.

- Renovation: Project must be for an existing athletic facility, but project could include expansion of the site through construction, or a combination of construction and acquisition (a "Combination" project). Acquisition of land alone is not eligible.
- New: Project that develops an athletic facility where one does not exist, and can include a combination of construction and acquisition of land (a "Combination" project). Acquisition of land alone is not eligible.

**2. Grant Limits.** Maximum Grant Award = \$350,000

**3. Match Reductions.** Apply the RCFB adopted policies for minimum match for Underserved Populations, Communities in need, Counties in Need, and Federal Disaster as amended and adopted by at its October 11<sup>th</sup> 2017 meeting per resolution 2017-33.

Non-Profits. If the project is located in an incorporated area or on Native American tribal land, the minimum match for those jurisdictions apply. If the project is in an unincorporated area, the applicable County or park district's minimum match for those jurisdictions applies.

**4. Evaluation Criteria.** Use the current evaluation criteria for all project types and categories. However, staff recommends updating the language of the criteria to fit the full range of project types now eligible. (No substantive changes to criteria, only technical and grammatical corrections to reflect these new policies shall be allowed. See [Board Memo](#) for more details.)

**Small Grants Category.** Create a new Small Grants category.

Allocation, Competition, and Limits

- Allocate 10% of any YAF appropriation to the Small Grants category. If the category is undersubscribed, the remaining funds would be allocated to the other categories (New and Renovation).
- Small Grant applications compete head-to-head and not with the general YAF pool of projects.
- To avoid large projects being subdivided into smaller applications, applicants may submit only one Small Grant project per single location per biennium.

Eligible Entities

- Cities/towns and park districts must have a population of 10,000 residents or fewer.
- Counties under 60,000 residents are eligible, but the project must be in an unincorporated area.
- Native American tribes and nonprofit organizations have no population or membership threshold for eligibility.
- For nonprofit organizations, the population of the jurisdiction where the project lies will apply.

#### Grant Limits and Project Costs

- No minimum grant request.
- Maximum Grant Request = \$75,000 (No cost increase above this amount is eligible.)
- The total estimated project cost must be no greater than \$150,000.
- A Small Grant project must be a stand-alone project and not a subpart of a larger athletic facility project occurring at the same time or in the near term.

#### Eligible Projects

- Only construction activities are eligible. Acquisition of land is not eligible.
- Projects implementing accessibility improvements, and those that go beyond ADA and other accessibility minimums, shall be an eligible stand-alone project. No 'in bounds' elements are required for these accessibility projects.

### **5. Match Reduction Policies**

The following 4 policy statements to reduce match for local governments seeking funds from the Outdoor Recreation Account apply in YAF:

1. Communities in Need
2. Underserved Populations
3. Counties in Need
4. Federal Disaster

For jurisdictions' boundaries that do not align with US Census or other data geographies, RCO shall estimate population and income based on US Census block groups or other reliable data source. If applicant's determination of its income, population, or taxable land base does not align with RCO estimates, it may provide alternate data which may be approved by the RCO director.

For all four policy statements, data source for income and population shall be the best and most currently available from the US Census Bureau, or the Washington State Office of Financial Management, or other sources as may be appropriate.

#### **5.1. Communities in Need**

If the grant applicant is a jurisdiction (any YAF eligible entity) of 20,000 residents or fewer, and the median household income is less than the state median household income, the applicant's minimum match is identified in Table 1.

**Table 1. Minimum Match for Communities in Need**

<b>Jurisdiction's Median Household Income as a Percent of State Median Household Income</b>	<b>Minimum Match Required</b>
0 to 50	10%
50.01 to 60	20%
60.01 to 80	30%
80.01 to 99.99	40%

Additional requirements:

- ~~The maximum reduced match for a single project is \$500,000.~~

- At least 10 percent of total project cost must be provided in the form of a non-state, non-federal contribution.
- If a project is sponsored by more than one organization ("co-sponsors"), all must qualify for some match reduction. Minimum match shall be assigned based on the Primary Sponsor of the application.
- If the jurisdiction is home to an institution of higher learning (college, university) and 20% or more of the jurisdiction's population is college enrolled (as identified by the US Census Bureau), the jurisdiction's Median Family Income, and state's Median Family Income shall apply in place of its Median Household Income, and the state Median Household Income. Removing the college enrolled population may make an otherwise ineligible jurisdiction eligible for a match reduction in this policy (based on the remaining population amount).
- Non-Profits. If the project is located in an incorporated area or on Native American tribal land, the minimum match for those jurisdictions apply. If the project is in an unincorporated area, the applicable County or park district's minimum match for those jurisdictions applies.

## **5.2. Underserved Populations**

If the grant applicant is a jurisdiction (any YAF eligible entity) that has a median household income less than the state median household income, and the project is located in a census block group where the median household income is less than 70 percent of the state median household income, the following minimum match in Table 2 applies.

Table 2. Minimum Match for Underserved Populations

<b>Census Block Group's Median Household Income as a Percent of State Median Household Income</b>	<b>Minimum Match Required</b>
0 to 55	10%
55.01 to 60	20%
60.01 to 65	30%
65.01 to 69.99	40%

Additional requirements:

- ~~The maximum reduced match for a single project is \$500,000.~~
- At least 10 percent of total project cost must be provided in the form of a non-state, non-federal contribution.
- If a project is sponsored by more than one organization ("co-sponsors") all must qualify for some match reduction. Minimum match shall be assigned based on the Primary Sponsor of the application.
- If the jurisdiction is home to an institution of higher learning (college, university) and 20% or more of its population is college enrolled (as identified by the US Census Bureau), the jurisdiction's Median Family Income, and state's Median Family Income shall apply in place of its Median Household Income, and state Median Household Income. Removing enrolled population may also qualify the jurisdiction for the community in need policy.
- Non-Profits. If the project is located in an incorporated area or on Native American tribal land, the minimum match for those jurisdictions apply. If the project is in an



unincorporated area, the applicable County or park district's minimum match for those jurisdictions applies.

### **5.3. Counties in Need**

An applicant that is a county shall have match reduced if its median income is less than 70% of the state median income, it is distressed (as defined by Washington Employment Security Department), and 60% or more of its land base is in a non-taxable status.

The below table shows the match reductions (from 50%) that apply for any county in the state. The reductions are cumulative if the county meets more than one condition.

<b>Variables (Any or all may apply)</b>	<b>50% Match Shall be Reduced by: (Cumulative)</b>
County Median Household Income less than 70% of State Median Household Income	10%
County Median Household Income less than 65% of State Median Household Income	10%
County is " <a href="#">Distressed</a> " as defined by WA Employment Security Department	10%
60% or more of land is non-taxable*	5%
75% or more of land is non-taxable*	5%

*\*Includes properties/land where the county receives payments in lieu of taxes from a government entity.*

#### Example:

*County A: Starting minimum match is 50%. County A has a median household income of 68% of the state median income which is a 10% reduction in required match. County A meets no other variables. Minimum match requirement in this case is 50% minus 10%. County A's minimum required match is 40%.*

*County B: Starting minimum match is 50%. County B has a median household income of 64% of the state median income, is a "Distressed" county, and 80% of its land is non-taxable. Therefore, County B has met all 5 equaling a match reduction of 40% (50% minus 40% is 10%). County B's minimum required match is 10%.*

Additional requirements:

- ~~• The maximum reduced match for a single project is \$500,000.~~
- At least 10 percent of total project cost must be provided in the form of a non-state, non-federal contribution.
- If a project is sponsored by more than one organization ("co-sponsors") all must qualify for some match reduction. Minimum match shall be assigned based on the Primary Sponsor of the application.

#### **5.4. Federal Disaster**

If the grant applicant is a jurisdiction (city, town, tribe, special purpose district,) that is, or is located in, a federally declared disaster area (Major Disaster under the Stafford Act), the following minimum match in Table 4 applies for grant applications submitted within 5 years of the disaster incident period.

**Table 4. Minimum Match for Jurisdictions Declared a Federal Disaster or in a Disaster Jurisdiction**

Threshold(s)	Minimum Match
1) Applicant is, or is within, a jurisdiction declared a disaster area, and the value of damage to the applicant's assets is at least twice the county per capita public assistance eligibility dollar amount (currently \$3.61) <sup>1,2</sup> (based on the applicant's population)	25%
Or	
2) Applicant is within a jurisdiction declared a disaster area, and its annual gross revenues since the disaster incident period have declined by 40%.	

<sup>1</sup> As reported to Washington Military Department and eligible for public assistance.

<sup>2</sup> Per capita dollar value to be doubled will be the current public assistance county or tribal damage threshold as published annually by the Federal Emergency Management Agency or the Washington Military Department.

Additional requirements:

- ~~• The maximum reduced match for a single project is \$500,000.~~
- All match may be provided in the form of a state, or federal contribution.
- If a project is sponsored by more than one organization ("co-sponsors") all must qualify for some match reduction. Minimum match shall be assigned based on the Primary Sponsor of the application.
- Grant requests using this Federal Disaster match policy shall be limited to 2 per jurisdiction (per biennium).
- Only non-temporary, permanent work costs shall be considered towards meeting the per capita amount established by FEMA.
- The burden to show damage recovery costs and revenue declines is on the applicant.

#### **POLICY INTENT**

Update the YAF to reflect current priorities of the RCFB and to keep the YAF distinguishable from other grant programs managed by the board.

Create a Small Grants Category for small projects proposed by small communities. This category benefits small agencies by limiting competition among these projects to projects similar in size, and not with larger projects that are inherently more competitive in the current criteria.

Reduce the match required for smaller jurisdictions whose ability to raise match is constrained.

For a low income jurisdiction (city, town, tribal area, eligible special purpose district) of any population size, reduce the match required for projects in a census block where the income is less than the jurisdiction as a whole.

Reduce the match required for counties whose ability to raise match is constrained.

Reduce the match required for jurisdictions adversely impacted by a federally declared disaster to support the recovery of assets as well as long term economic and community recovery.

For the purposes of establishing a minimum match amount, in the absence of available data from a well-established and credible source, the RCO Director may approve the use of data provided by the applicant.

## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31-February 1, 2018  
**Title:** Time Extension Request  
**Prepared By:** Recreation and Conservation Section Grants Managers

#### Summary

This is a request for the Recreation and Conservation Funding Board to consider the proposed project time extension 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:** 2018-01

**Purpose of Resolution:** Approve the requested time extension.

### Background

Manual #7, *Funded Projects*, outlines the Recreation and Conservation Funding Board's (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 Recreation and Conservation Office (RCO) director has authority to extend an agreement for up to four years. Extensions beyond four years require board action.

RCO received a time extension request for the project listed in Attachment A. This document summarizes the circumstances for the requested extensions and the expected date of project completion. Board action is required because the project sponsor is requesting an extension to continue the agreement 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 re-appropriation request levels for RCO.

### **Plan Link**

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

### **Summary of Public Comment**

At the time of the writing of this memo, no public comment on the project has been received.

### **Staff Recommendation**

Staff recommends approval of the time extension request for the project listed in Attachment A.

### **Attachments**

A. Time Extension Request for Board Approval

## Time Extension Requests for Board Approval

### Klickitat County Public Works

Project number/type	Project name	Grant program	Grant funds remaining	Project start date	Current end date	Extension request	Reasons for Delay and Justification of Request
<a href="#">13-1565</a> Development	Klickitat County Shooting Range Development Phase 1	Firearms and Archery Recreation Range Program	\$9,734.60	01/31/14	04/30/18	12/31/18	<p>Klickitat County Public Works experienced delays due to permitting, cultural resource issues, and a last minute road easement change requiring relocation of the planned entry road. That change triggered additional cultural resource investigation before building a much longer road bed than originally planned. A long snowy winter in 2017 combined with a long wet spring prevented any digging or hauling in of fill material before June. In addition, Klickitat County did not have enough "big" machines to build the 35-foot tall berms instead of the 25-foot berms originally planned. They have had to wait to rent earth moving equipment for this project because the equipment needed was already reserved for other construction projects. All of these unpredictable complexities resulted in the need for a time extension.</p> <p>With only one bid, which was 35 percent more than the engineers estimate, Klickitat County is using its own road crew to develop the range. They have now completed the entry road, 35-foot berms, and the gravel parking lot. All building supplies are on site for the firing line and the overhead baffles that provide "no blue sky" protection. Perimeter fencing will be installed last.</p> <p>An 8-month extension will provide the time needed to complete development of the phase one project.</p>

## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31 – February 1, 2018

**Title:** Director's Report

#### Summary

This memo outlines key agency activities and happenings.

#### Board Action Requested:

This item will be a:

- ☐ Request for Decision
- ☐ Request for Direction
- ☒ Briefing

#### In this Report:

- Agency update
- Legislative, budget, and policy update
- Grant management report
- Fiscal report
- Performance report

### Agency Update

#### Statewide Plan Gets Federal Approval



RCO submitted its [State Recreation and Conservation Plan](#) to the National Park Service and received approval from the federal government in 2 days – a new record for RCO. The plan provides strategic direction for how government and tribal agencies and private and nonprofit partners can assure the effective and adequate provision of outdoor recreation and conservation to meet the needs of Washington State residents. It lays the foundation and context that will help guide decisions and determine how to invest limited funding on the

most important recreation and conservation needs. The plan sets five priorities:

- Sustain and grow the legacy of parks, trails and conservation lands
- Improve equity of parks, trails and conservation lands
- Plan for culturally relevant parks and trails to address changing demographics
- Get youth outside
- Assert recreation and conservation as a vital public service

The plan incorporates several other RCO plans for trails, boating, and athletic fields. It also incorporates an action plan (called the Integrated Strategy) that lays out the work of RCO and the RCFB for the next 5 years.

### RCO Presents to the State Parks and Recreation Commission



For the first time in recent history, four RCO staff and board members made presentations to the Washington State Parks and Recreation Commission at its November meeting. RCFB Chair Ted Willhite and Director Cottingham gave the commission an overview of the agency and its interaction with state parks. Sarah Thirtyacre gave a presentation on the No Child Left Inside grant program, and Leslie Connelly gave a presentation on the new statewide recreation and conservation plan and its resident survey.

### Director on TVW



If any of you haven't had a chance to check out the RCO director's interview on TVW's Inside Olympia, take a peek [here](#). During the 20-minute interview, Director Cottingham talked about what our grants are, how the process works, the new match reduction policy for recreation grants, the capital budget, salmon recovery, and our recreation surveys and plans. Inside Olympia is TVW's long-running weekly interview show featuring in-depth discussions with state leaders.

### RCO Launches Grant Round to Get Kids Outside



RCO announced the opening of the [No Child Left Inside](#) grant program for new applications. The Washington State Legislature created the program to provide under-served students with quality opportunities to experience the natural world. Typical projects are outdoor adventures or environmental education. This is the second year that RCO has administered the grant program on behalf of the Washington State Parks and

Recreation Commission. In the first year, RCO evaluated 122 applications and awarded grants to 19 projects, or just 15 percent. This year RCO has \$1.5 million to spend, with \$500,000 dedicated to grants run by organizations that employ veterans. Applications are due January 17 and grants will be awarded in May. For an overview of the 2016 funded projects and the program check out this [story map](#).



### 28<sup>th</sup> Annual Centennial Accord

RCO participated in the 28<sup>th</sup> Annual Centennial Accord meeting, hosted by the Swinomish Tribe. Governor Inslee, and his cabinet and other statewide elected officials, met with the elected tribal chairs and councilmembers for this annual government-to-government meeting. The 2-day meeting covered a wide range of topics ranging from education and early learning to the opioid epidemic and broadband services.



## Trails Caucus



The Washington State Trails Coalition held its biennial State Trails Caucus in Mukilteo on November 8. Nearly 100 trail enthusiasts from all around the state, representing motorized and non-motorized trail managers, planners, users, and advocates, gathered to share information. RCO presented findings from the newly approved *State Recreation and Conservation Plan*. RCO staff and board members presenting, attending, or helping with caucus logistics included: Director Cottingham, RCFB Chair Ted Willhite, and staff Adam Cole, Ben Donatelle, Kyle Guzlas, Dan Haws, Karl Jacobs, and Darrell Jennings.

## Ribbon Cuttings



Fall was the time of year for ribbon cutting and ground breaking ceremonies. Director Cottingham and several board members were on the road to help our sponsors celebrate great projects. RCFB Chair Ted Willhite helped **Key Peninsula Parks** cut the ribbon on Gateway Park. The park district used an RCO grant to build a playground,

picnic shelter, restroom, and trailhead to the adjoining trails. Director Cottingham helped the city of **North Bend** cut a ribbon for its new gathering plaza and a recreational loop trail at Torguson Park, the city's primary athletic fields. RCFB member Danica Ready and Director Cottingham helped **Twisp** to dig the first shovel full of dirt for a new section of trail along the Methow River, the city's first phase of a trail system. Director Cottingham also helped the City of **Duvall** cut the ribbon on its newly refurbished ball fields. The City used an RCO grant to install synthetic turf and improve drainage to soccer and baseball fields in Big Rock Park. Finally, Director Cottingham and grant manager Darrell Jennings joined **Jefferson County**, the Peninsula Trails Coalition and dozens of other partners to cut the ribbon for the newest segment of the 135-mile Olympic Discovery Trail along Discovery Bay.

## Meetings with Partners

- **Washington Recreation and Parks Association (WRPA):** At our quarterly meeting, we discussed contingency plans due to the lack of a capital budget, the state planning efforts, and policy topics on the RCFB's October meeting agenda.
- **Washington State Conservation Commission:** Director Cottingham met with Executive Director Mark Clark and his staff to discuss the lack of the capital budget and impacts to the commission and conservation districts. As key partners in farmland preservation, the potential for layoffs within the commission and the conservation districts may affect the work we can achieve implementing grant projects.
- **All Things Trails:** Grant manager Darrell Jennings met with the State Parks and Recreation Commission during its work session in Spokane. Darrell provided an overview of the trails grant programs, spoke about financial investments in the State Parks' cross-state trail system and the collaboration between RCO and State Parks, provided updates on the state

comprehensive outdoor recreation plan, the state trails designation, the trails database, and RCO's work with the Washington State Trail Coalition.

- **E-bikes:** In November, Darrell Jennings and Randy Kline (Washington State Parks and Recreation Commission) co-organized a meeting with staff from RCO, RCO's partner agencies, Washington State Department of Transportation's Active Transportation, and the Governor's Office. The session included viewing an American Trails Webinar on E-bikes; a facilitated discussion on trends, policies, and issues agencies are facing; and a chance to demo-ride E-bikes. We expect to see the Legislature modify the law as it relates to e-bikes this year.
- **NASORLO (National Association of State Liaison Officers):** Director Cottingham had the opportunity to compare notes with the other states who administer federal outdoor recreation grant programs. NASORLO members gathered in Little Rock, Arkansas for 3 days of sharing stories, identifying areas to improve, and getting clarity from the National Park Service on the Land and Water Conservation Fund requirements. Her take away was that Washington is a real leader on administering these federal programs. Washington is miles ahead on the use of technology (whether it be PRISM database or GIS tools) and has many more programs and funds than any of the other states. Most of the states just administer two or three federal programs and have no state funds dedicated to outdoor recreation.
- **King County Director's Meeting:** Darrell Jennings and Kyle Guzlas attended the monthly meeting of King County park directors in Federal Way on December 1. They shared information and findings from the State Comprehensive Outdoor Recreation Plan (SCORP), described the implementation strategy for SCORP, and shared information about the board's new match reduction policy for the Washington Wildlife and Recreation Program and the Youth Athletic Facilities program.
- **Boating Workshop:** Kyle Guzlas and Rory Calhoun made a presentation on the board's grant programs at a Boating Facility Grants Workshop on December 6. The workshop, hosted by Washington Sea Grant, gave public and private marina operators the opportunity to learn how to access state and federal grants for recreational boating infrastructure.

### Employee Changes

- **Lorinda Anderson:** At the end of December, RCO said goodbye to Lorinda Anderson, the agency's longest-serving active employee. Lorinda joined RCO in 1978 as a resource planner. While here, Lorinda helped the agency select more than 5,000 recreation and conservation projects, valued at more than \$1.2 billion, by recruiting nearly 8,000 top-notch people to evaluate grant proposals. In addition, she provided technical assistance to cities, counties, and others when drafting comprehensive plans, and provided that same sharp editor's pen and attention to detail when helping coworkers.
- **Tessa Cencula** joined RCO in December to replace Lorinda as the volunteer and grants process coordinator. She grew up in Washington and moved to Colorado when she was young. She has bachelor and master degrees in history from Colorado State University and most recently worked at the [Go For Broke Education Center](#) in Los Angeles, CA. Tessa has experience in recruiting and working with volunteers and managing grants.



- **Leslie Connelly** left RCO to take a new position as the Governor's natural resources budget analyst at the Office of Financial Management. Leslie spent 14 years at RCO, starting as an outdoor grants manager, then as our compliance specialist, and finally as one of our policy specialists. Her departure was timed nicely to coincide with her completion of the incredible Statewide Outdoor Recreation and Conservation Plan. A job well done.
- **Wyatt Lundquist** will join the RCO family as our board liaison. Wyatt comes to us from the Department of Fish and Wildlife. Wyatt was born and raised in south Pierce County and is very passionate about the outdoors and his family. He graduated in 2015 from Central Washington University with a degree in law and justice and a degree in interdisciplinary studies. He intends to start his master of environmental science program at The Evergreen State College in 2018.

## Update on Sister Boards

### Salmon Recovery Funding Board (SRFB)

In December, the SRFB approved funding \$18 million in projects, pending approval of a capital budget. It also discussed alternatives for funding lead entities, which are watershed-based organizations that recruit projects, if there is no capital budget after March. Finally, the board decided to begin the 2018 grant round as normal in hopes that the Legislature will pass a capital budget.

### Washington Invasive Species Council (WISC)

As part of the council's 2018 outreach plan, WISC created a [Twitter](#) account to compliment the [Facebook](#) and [Instagram](#) accounts. Follow them! In October, Washington State held a quagga/zebra mussel incident command exercise focusing on a mock detection at Lincoln Rock State Park in Wenatchee. The exercise proved to be a great success in implementing the incident command system and quickly responding to an infestation. WISC worked with the Kalispel Tribe of Indians and the Pacific NorthWest Economic Region to rally support for 5-year funding to the [Okanagan Nation Alliance](#) for northern pike suppression in British Columbia. This is the only suppression happening in the province and is critical to protect Washington from further downstream northern pike invasion. Finally, Ray Willard, WISC chair and representative from the Washington Department of Transportation, spoke at the "[Innovations in Invasive Species Management](#)" conference in Nashville. WISC participated in a Western Governors' Association 100 top invasive species of the western states and islands data sharing and economic analysis initiative. The [WISC priority species list and management grid](#) and its [economic analysis](#) served as models.

## Legislative, Budget, and Policy Update

The Governor's supplemental operating and capital budgets were released on December 14, 2017. RCO had made two requests to the Governor's office for inclusion in the supplemental operating budget – an increase in general fund state to maintain funding for our salmon recovery lead entities until a capital budget is passed and an unfunded proviso to direct the Washington Invasive Species Council and the Departments of Fish and Wildlife and Agriculture to convene a stakeholder process around feral pig protections. While neither were included in the proposed budget, our funding levels remained essentially the same (e.g., minor tweaks were made to allow for changes in pension and other general government costs).

In the supplemental capital budget, with one exception, the appropriations are identical to those proposed in the budget bill last negotiated by the Legislature (SB 5981). The one difference is in the NOVA account where the appropriation is decreased by about \$1.8 million to adjust for reduced revenue collections. The Forestland Preservation WWRP list is included as part of the supplemental budget, and

the rest of the WWRP leap list remains unchanged meaning that the three projects removed by the Legislature last session are still off the list.

In the State Parks budget section, the legislatively inserted proviso requiring access to the John Wayne Pioneer Trail is maintained in the Governor's proposal.

Now we turn our attention to the Legislature, which began the 2018 Legislative Session on January 8. The three big to-do's early in session, we hope, are: pass a bill that addresses the Hirst decision (in order to free up the capital budget), pass the capital budget, and pass the bond authorization bill. In addition to passing the capital budget and supplemental budgets, we anticipate tracking and weighing in on several bills. One in particular has severe implications for RCO, pre-filed as SB 5999 then pulled and reintroduced as SB6123, would restrict the use of capital funds for state employee compensation and related costs. In a normal biennium, 4% of bond funding goes toward administrative costs, which covers 52% of the RCO's staffing costs. We also will expect to see bills related to e-bikes, recreational fees, net pens, orcas and salmon recovery. We will also be asking for the confirmation of several of our board members.

## Grant Management Report

### 2018 Grant Application Webinar

RCO will hold an application webinar on February 15, to introduce and provide information about the 2018 grants cycle for recreation, conservation, farmland, and forestland projects. The webinar will include general information about the application process, grant programs, eligible projects, application due dates, and important procedural and policy changes for 2018.

Applications for the following programs are due May 1, 2018.

- Aquatic Lands Enhancement Account
- Boating Infrastructure Grants
- Land and Water Conservation Fund<sup>1</sup>
- Washington Wildlife and Recreation Program<sup>1</sup>
- Youth Athletic Facilities Program

The application due date for the Boating Facilities<sup>1</sup>, Firearms and Archery Range Recreation, Nonhighway and Off-road Vehicle Activities<sup>1</sup>, and Recreational Trails programs is November 1.

Individuals may [register online](#) for the application webinar. [PRISM Online](#) will open on February 15 for applications due in May and August 1 for applications due in November. [Land and Water Conservation Fund Grant Awards](#)

U.S. Secretary of the Interior Ryan Zinke recently announced approval of \$1.9 million for the state of Washington for the Land and Water Conservation Fund (LWCF). This federal program provides matching grants to states to acquire and develop outdoor recreation areas for public use. The board approved the final ranked list of LWCF projects for the 2017-19 biennium in July and delegated authority to the director to award grants. Although the Legislature has not approved new capital budget funds, they did grant authority for reappropriation of existing grant funds. That approval allows RCO to take advantage of

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<sup>1</sup>Applicants must establish planning eligibility (see [Manual 2](#)) for this grant program. The deadline is March 1, 2018.

unused spending authority for this federal grant program. Using federal fiscal year 2017 funds, the Director has awarded full or partial grants to the five LWCF projects shown in Attachment A. Partially funded projects are eligible for full funding when the Legislature approves the state capital budget. [State Grant Awards](#)

The board approved final ranked lists for all of its grant programs in July and delegated authority to RCO's Director to award grants, contingent on budget approval. As referenced above, the Legislature did re-appropriate existing grant funds. RCO is using that spending authority to award grants to ranked lists of projects. Attachment A shows the grants awarded to date.

### Annual Retreat

The Recreation and Conservation staff held a one-day retreat on October 19. The retreat was designed to reflect upon work completed in 2017 and planning for the 2018 grants cycle. Key tasks included assignments for updating RCO's online resources for applicants, addressing workload issues, and using new project management techniques to implement process improvements for the next grants cycle. The new map with contact information for grant manager assignments is posted on our [Website](#)

### Project Administration

Staff administer outdoor recreation and habitat conservation projects as summarized in the table below. "Active" grants are under agreement and are in the implementation phase. "Director Approved" grants includes grant awards made by the RCO director after receiving board-delegated authority to award grants. Staff are working with sponsors to secure the materials needed to place the Director Approved grants under agreement.

Program	Active Projects	Director Approved Projects	Total Funded Projects
Aquatic Lands Enhancement Account (ALEA)	8	0	8
Boating Facilities Program (BFP)	21	2	23
Boating Infrastructure Grant (BIG)	6	3	9
Firearms and Archery Range Recreation (FARR)	4	2	6
Land and Water Conservation Fund (LWCF)	8	4	12
Nonhighway and Off-road Vehicle Activities (NOVA)	102	0	102
Recreation & Conservation Office Recreation Grants (RRG)	36	0	36
Recreational Trails Program (RTP)	52	6	58
Washington Wildlife and Recreation Program (WWRP)	90	0	90
Youth Athletic Facilities (YAF)	10	2	12
<b>Total</b>	<b>337</b>	<b>19</b>	<b>356</b>

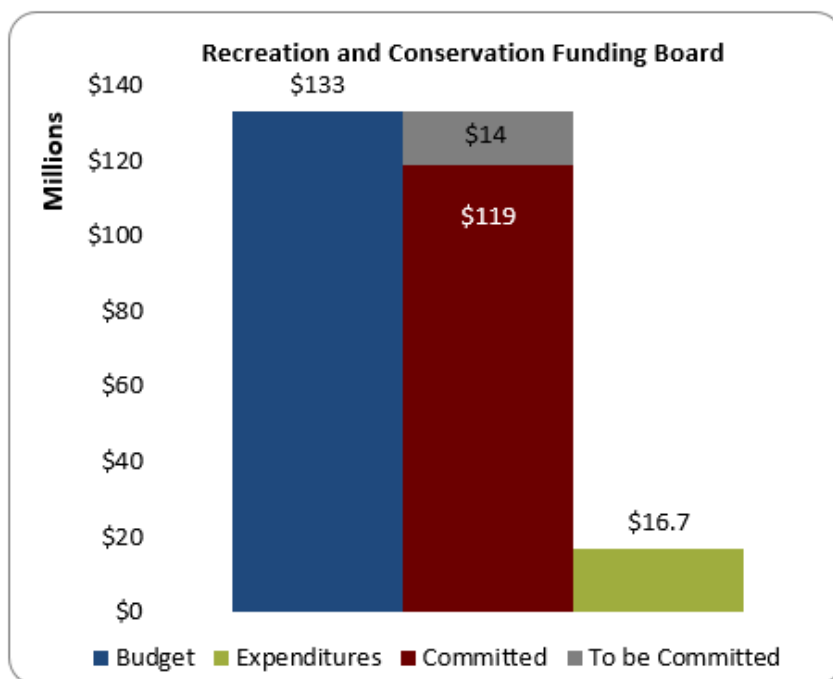
### Viewing Closed Projects

Attachment B lists projects that closed between September 1, 2017 and December 31, 2017. Click on the project number to view the project description, grant funds awarded, and other information (e.g., photos, maps, reports, etc.)

## Fiscal Report

For July 1, 2017 - June 30, 2019, actuals through December 16, 2017 (Fiscal Month 5). Percentage of biennium reported: 20.8 percent. The "Budget" column shows the state appropriations and any received federal awards.

Grant Program	BUDGET Re- appropriations 2017-2019	COMMITTED  Dollars	TO BE COMMITTED		EXPENDITURES		
			% of Budget	Dollars	% of Budget	Dollars	% Expended of Committed
Grant Programs							
ALEA	\$4,217,996	\$3,448,611	82%	\$769,385	18%	\$1,498,690	43%
BFP	\$13,296,144	\$13,084,496	98%	\$211,648	2%	\$271,634	2%
BIG	\$1,701,308	\$1,701,308	100%	\$0	0%	\$60,259	4%
FARR	\$571,796	\$571,796	100%	\$0	0%	\$114,160	20%
LWCF	\$4,766,400	\$4,766,400	100%	\$0	0%	\$1,546,093	32%
NOVA	\$6,707,269	\$6,580,765	98%	\$126,504	2%	\$700,023	11%
RTP	\$3,425,024	\$3,253,792	95%	\$171,232	5%	\$529,829	16%
WWRP	\$59,286,368	\$48,120,808	81%	\$11,165,561	19%	\$6,977,475	14%
RRG	\$25,765,297	\$24,095,826	94%	\$1,669,471	6%	\$2,794,928	12%
YAF	\$5,698,000	\$5,644,301	99%	\$53,699	1%	\$829,246	15%
Subtotal	\$125,435,602	\$111,268,103	89%	\$14,167,499	10%	\$15,322,336	14%
Administration							
General Operating Funds	\$7,330,122	\$7,330,122	100%	\$0	0%	\$1,383,324	19%
Grand Total	\$132,765,724	\$118,598,225	89%	\$14,167,499	11%	\$16,705,660	14%



Acronym	Grant Program
ALEA	Aquatic Lands Enhancement Account
BFP	Boating Facilities Program
BIG	Boating Infrastructure Grant
FARR	Firearms and Archery Range Recreation
LWCF	Land and Water Conservation Fund
NOVA	Nonhighway and Off-road Vehicle Activities
RTP	Recreational Trails Program
WWRP	Washington Wildlife and Recreation Program
RRG	RCO Recreation Grants
YAF	Youth Athletic Facilities



## Board Revenue Report

For July 1, 2017-June 30, 2019, actuals through November 30, 2017 (Fiscal Month 5).  
Percentage of biennium reported: 20.8%.

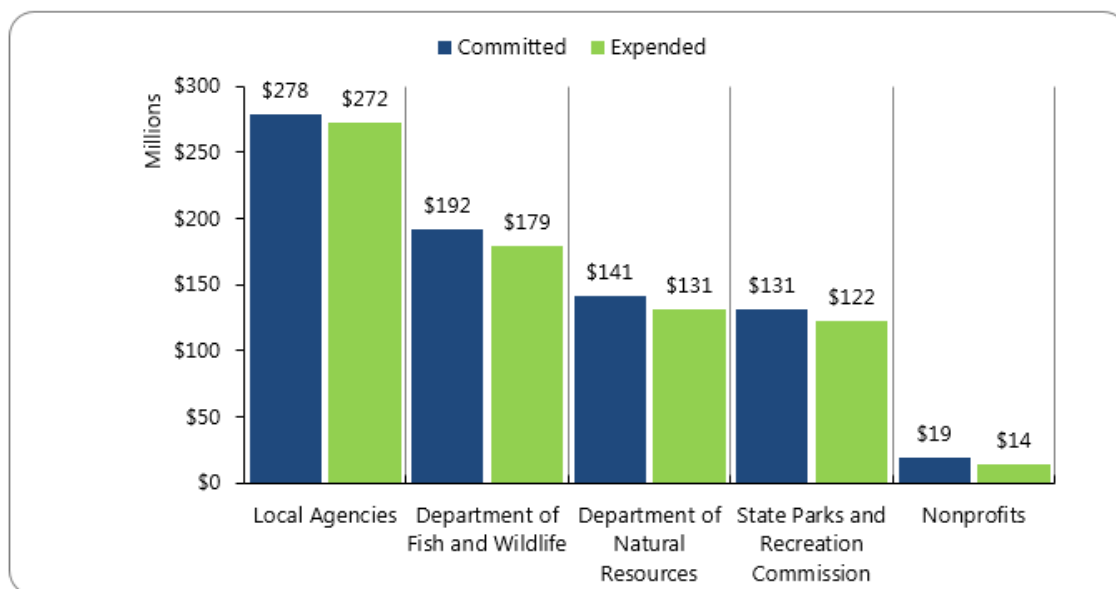
Program	Biennial Forecast	Collections	
	Estimate	Actual	% of Estimate
Boating Facilities Program (BFP)	\$20,712,747	\$4,515,502	21.8%
Nonhighway, Off-Road Vehicle Program (NOVA)	\$14,387,075	\$3,055,484	21.2%
Firearms and Archery Range Rec Program (FARR)	\$573,264	\$114,074	19.9%
<b>Total</b>	<b>\$35,673,086</b>	<b>\$7,685,060</b>	<b>21.5%</b>

### Revenue Notes:

- BFP revenue is from the un-refunded marine gasoline taxes.
- NOVA revenue is from the motor vehicle gasoline tax paid by users of off-road vehicles and nonhighway roads and from the amount paid for by off-road vehicle use permits. NOVA revenue is from the motor vehicle gasoline tax paid by users of off-road vehicles and nonhighway roads and from the amount paid for by off-road vehicle use permits.
- FARR revenue is from \$2.16 of each concealed pistol license fee.
- This reflects the most recent revenue forecast of November 2017. The next forecast is due in March 2018 after the drafting of this memo.

### WWRP Expenditure Rate by Organization (1990-Current)

Agency	Committed	Expenditures	% Expended
Local Agencies	\$278,330,291	\$272,429,962	98%
Department of Fish and Wildlife	\$191,648,814	\$178,688,144	93%
Department of Natural Resources	\$140,930,153	\$131,458,760	93%
State Parks and Recreation Commission	\$131,479,757	\$122,478,636	93%
Nonprofits	\$18,511,261	\$14,065,416	76%
Conservation Commission	\$378,559	\$378,559	100%
Tribes	\$741,411	\$697,455	94%
<b>Other</b>			
Special Projects	\$735,011	\$735,011	100%
<b>Total</b>	<b>\$762,755,257</b>	<b>\$720,931,942</b>	<b>95%</b>



## Performance Measures for Fiscal Year 2018

The following performance data are for recreation and conservation projects in fiscal year 2018 (July 1, 2017 – June 30, 2018). Data are current as of January 2, 2018.

### Recreation and Conservation Funding Board Performance Measures

Measure	Target	Fiscal Year-to-Date	Status	Notes
Grant agreements mailed within 120 days of funding	90%	<b>N/A</b>	●	There have been no agreements due to be mailed this fiscal year.
Grants under agreement within 180 days of funding	95%	<b>N/A</b>	●	There have been no grants due to be under agreements this fiscal year.
Progress reports responded to within 15 days	90%	<b>96%</b>	●	RCFB staff received 254 progress reports and responded to them in an average of 4 days.
Bills paid in 30 days	100%	<b>100%</b>	●	428 bills have come due and all were paid within 30 days. On average, staff paid bills within 10 days.
Projects closed within 150 days of funding end date	85%	<b>75%</b>	●	41 of 55 projects have closed on time.
Projects in Backlog	5	<b>16</b>	●	There are 16 RCFB projects in the backlog
Compliance inspections done	125	<b>105</b>	●	There have been 105 worksites inspected.
Annual bills submitted	100%	<b>87%</b>	●	Bills for 244 of 282 projects have been submitted thru January 2, 2018. The remaining projects have until June 30, 2018 to submit a bill.

## Attachments

- A. Grant Awards for the 2017-19 Biennium
- B. Projects Completed and Closed from September 1, 2017 to December 31, 2017



## Grant Awards for the 2017-19 Biennium

Attachment A

Project Number	Project Name	Sponsor	Grant Request	Funds Approved*	Grant Program and Category
<a href="#">16-2302D</a>	Bloedel Donovan Park Dock and Piling Replacement	Bellingham	\$66,731	\$66,731	Boating Facilities Program, Local
<a href="#">16-2601D</a>	Brownsville Marina Boat Launch and Staging Area	Brownsville	\$653,616	\$653,616	Boating Facilities Program, Local
<a href="#">16-2467D</a>	Lawrence Lake Access Redevelopment	Washington Department of Fish and Wildlife	\$505,000	\$505, 000	Boating Facilities Program, State
<a href="#">16-2650D</a>	Poulsbo Sportsman's Club 50 Meter Range Improvement	Poulsbo Sportsman's Club	\$150,000	\$150,000	Firearms and Archery Range Recreation
<a href="#">16-2336D</a>	Rattlesnake Mountain Shooting Facility Improvement	Tri-Cities Shooing Association	\$30,969	\$30,969	Firearms and Archery Range Recreation
<a href="#">16-2784D</a>	Plantation Indoor Range Roof Replacement	Whatcom County	\$149,500	\$66,085	Firearms and Archery Range Recreation
<a href="#">16-1778A</a>	East Wenatchee 9 <sup>th</sup> Street Acquisition	Eastmont Metropolitan Park District	\$212,350	\$42,470	Land and Water Conservation Fund
<a href="#">16-1858D</a>	Entiat Way Park	Entiat	\$283,500	\$283,500	Land and Water Conservation Fund
<a href="#">16-1984A</a>	Barnum Point	Island County	\$500,000	\$500,000	Land and Water Conservation Fund
<a href="#">16-1772C</a>	Sunset Neighborhood Park Phase 2	Renton	\$500,000	\$120,859	Land and Water Conservation Fund
<a href="#">16-1665D</a>	Kiwanis Methow Park Renovation Phase 1	Wenatchee	\$500,000	\$500,000	Land and Water Conservation Fund
<a href="#">16-1845D</a>	Memorial Field Lighting Replacement	Jefferson County	\$112,500	\$112,500	Youth Athletic Facilities

\* Partially funded projects are eligible for full funding when additional funds become available.

## Projects Completed and Closed from September 1, 2017 to December 31, 2017

Attachment B

Project Number	Project Name	Sponsor	Program	Closed On
<a href="#">14-1789M</a>	Coulter Creek Acquisition Phase 2	Mason County	Aquatic Lands Enhancement Account	10/31/17
<a href="#">10-1383D</a>	Lake Sammamish Beach Renovation and Boardwalk	Washington State Parks and Recreation Commission	Aquatic Lands Enhancement Account	09/14/17
<a href="#">14-1927D</a>	Evergreen Boat Ramp Rehabilitation	Bremerton Port of	Boating Facilities Program, Local	09/05/17
<a href="#">11-1064P</a>	Entiat Moorage	Entiat City of	Boating Facilities Program, Local	12/13/17
<a href="#">14-1859D</a>	Possession Ramp Construction	South Whidbey Port of	Boating Facilities Program, Local	09/06/17
<a href="#">14-1938D</a>	Tokeland Marina Redevelopment Phase 1	Port of Willapa Harbor	Boating Facilities Program, Local	09/20/17
<a href="#">12-1769D</a>	Rifle Range Safety Enhancement	Bainbridge Island Sportsmen's	Firearms & Archery Range Rec.	12/21/17
<a href="#">14-1838E</a>	Snoqualmie Corridor Education and Enforcement	Washington Department of Natural Resources	Nonhighway and Off-road Vehicle Activities, Education and Enforcement	09/14/17
<a href="#">12-1710D</a>	Taylor Mountain Forest Trail and Parking Improvements	King County Department of Natural Resources and Parks	Nonhighway and Off-road Vehicle Activities, Nonmotorized	10/05/17
<a href="#">14-1837M</a>	Snoqualmie Corridor Trails Maintenance	Washington Department of Natural Resources	Nonhighway and Off-road Vehicle Activities, Nonmotorized	12/20/17
<a href="#">14-1952D</a>	Antoine Peak Public Access Development	Spokane County	Nonhighway and Off-road Vehicle Activities, Nonmotorized	10/05/17
<a href="#">14-1945P</a>	Mica Peak Non-Motorized Recreation Plan	Spokane County	Nonhighway and Off-road Vehicle Activities, Nonmotorized	12/08/17
<a href="#">12-1790P</a>	Number Two Canyon Non-Motorized Trail Planning	U.S. Forest Service, Okanogan-Wenatchee National Forest, Wenatchee River Ranger District	Nonhighway and Off-road Vehicle Activities, Nonmotorized	11/17/17
<a href="#">14-2042E</a>	Lake Wenatchee and Entiat Snow Rangers 2015-16	U.S. Forest Service, Okanogan-Wenatchee National Forest, Entiat RD	Recreational Trails Program, Education	10/04/17
<a href="#">14-2096E</a>	Pomeroy Winter Trail Patrol 2014	U.S. Forest Service, Umatilla National Forest, Pomeroy Ranger District	Recreational Trails Program, Education	11/16/17

Project Number	Project Name	Sponsor	Program	Closed On
<a href="#">14-1869M</a>	Salmon Ridge Trail System Maintenance 2015-17	Nooksack Nordic Ski Club	Recreational Trails Program, General	10/03/17
<a href="#">12-1256M</a>	Skykomish Trail Maintenance 2014-2015	U.S. Forest Service Mount Baker Snoqualmie National Forest, Skykomish Ranger District	Recreational Trails Program, General	11/02/17
<a href="#">14-2077M</a>	Entiat Lake Wenatchee Snowmobile Maintenance 2016-17	U.S. Forest Service Okanogan-Wenatchee National Forest, Entiat Ranger District	Recreational Trails Program, General	11/15/17
<a href="#">14-2087M</a>	Pomeroy Trail Grooming Maintenance and Operation 2014	U.S. Forest Service, Umatilla National Forest, Pomeroy Ranger District	Recreational Trails Program, General	11/15/17
<a href="#">14-1982M</a>	Backcountry Trail Teams	Washington Trails Association	Recreational Trails Program, General	09/28/17
<a href="#">14-1981M</a>	Front Country Volunteer Trail Maintenance	Washington Trails Association	Recreational Trails Program, General	10/20/17
<a href="#">14-1983M</a>	Youth Volunteer Trail Maintenance	Washington Trails Association	Recreational Trails Program, General	10/17/17
<a href="#">12-1951A</a>	Mid Columbia-Grand Coulee 2012	Washington Department of Fish and Wildlife	WWRP Critical Habitat	10/17/17
<a href="#">08-1337D</a>	South Kitsap Regional Park Phase 1	Kitsap County	WWRP Local Parks	10/26/17
<a href="#">12-1383D</a>	Mason County Recreation Area Infield Renovation	Mason County	WWRP Local Parks	10/31/17
<a href="#">14-1444A</a>	Refuge Road Neighborhood Park Acquisition	Ridgefield	WWRP Local Parks	11/27/17
<a href="#">14-1131C</a>	Hale Park Acquisition and Development	Wenatchee	WWRP Local Parks	11/27/17
<a href="#">12-1123D</a>	Winthrop Ice Rink Phase 2	Winthrop	WWRP Local Parks	10/24/17
<a href="#">12-1177A</a>	Lacamas Prairie Natural Area 2012	Washington Department of Natural Resources	WWRP Natural Areas	10/24/17
<a href="#">14-1150A</a>	Willapa Bay-Seal Slough Conservation Acquisition	Columbia Land Trust	WWRP Riparian Protection	10/18/17
<a href="#">12-1422A</a>	Divide Block Kitsap Forest and Bay - Grovers Creek	Great Peninsula Conservancy	WWRP Riparian Protection	11/06/17

Project Number	Project Name	Sponsor	Program	Closed On
<a href="#">12-1175A</a>	Dabob Bay Natural Area Riparian 2012	Washington Department of Natural Resources	WWRP Riparian Protection	10/25/17
<a href="#">10-1629R</a>	Sinlahekin Ecosystem Restoration Phase 2	Washington Department of Fish and Wildlife	WWRP State Lands Restoration	11/01/17
<a href="#">12-1316R</a>	Toutle River Enhancement Phase 5	Washington Department of Fish and Wildlife	WWRP State Lands Restoration	10/31/17
<a href="#">12-1248D</a>	Olallie Trail Development 2012	Washington State Parks and Recreation Commission	WWRP State Parks	12/22/17
<a href="#">14-1124D</a>	Spruce Railroad McFee Tunnel Restoration	Clallam County	WWRP Trails	09/28/17
<a href="#">06-1763D</a>	Whitehorse Trail: Arlington -Trafton	Snohomish County	WWRP Trails	10/10/17
<a href="#">12-1185A</a>	Woodard Bay Natural Resources Conservation Area 2012	Washington Department of Natural Resources	WWRP Urban Wildlife	10/25/17
<a href="#">14-1130A</a>	Sage Hills Gateway Acquisition	Wenatchee	WWRP Urban Wildlife	11/21/17
<a href="#">13-1494D</a>	Northshore Athletic Field Improvements	Northshore Athletic Fields	Youth Athletic Facilities, Improving	12/20/17
<a href="#">15-1334D</a>	Robinswood Park Synthetic Sports Field Renovation	Bellevue	Youth Athletic Facilities, Renovation	12/20/17
<a href="#">15-1328D</a>	Schmuck Park Renovation	Colfax	Youth Athletic Facilities, Renovation	12/15/17
<a href="#">15-1430D</a>	Stevens Field Park Ballfield #1 Synthetic Infield	Olympia	Youth Athletic Facilities, Renovation	10/27/17
<a href="#">15-1359D</a>	Otto Walberg Field Renovation	Skagit County	Youth Athletic Facilities, Renovation	10/13/17
<a href="#">15-1390D</a>	Turf Field at Harmony Sports Complex	Washington Timbers Football Club	Youth Athletic Facilities, Renovation	11/06/17

\* WWRP = Washington Wildlife and Recreation Program

## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31-February 1, 2018

**Title:** Public Hearing for Amendments to Title 286-06 Washington Administrative Code, Public Records

**Prepared By:** Patty Dickason-Records Officer, Scott Robinson-Deputy Director

#### Summary

This memo presents a staff recommendation for amendments to the administrative rules in Title 286-06 of the Washington Administrative Code and outlines the required public review process for the adoption of the amendments.

#### 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:** 2018-02

**Purpose of Resolution:** Adopt amendments to Title 286-06 of the Washington Administrative Code.

### Background

A legislative work group met in 2016 to update and modernize Washington's Open Public Records Act (PRA). As a result, ESHB 1594 and EHB 1595 were passed by the Legislature in 2017, amending and adding several citations in RCW 42.56. The associated rule covering the Recreation and Conservation Office (RCO) was last updated in November 2014.

The RCO is proposing rulemaking to amend Chapter 286-06 WAC, Public Records, to meet the new requirements of the law. The purpose of this chapter is to implement requirements of the Public Records Act, including the process the RCO uses for disclosing records and charging fees. The legislation offered three fee options for agencies to choose from for supplying records – charging actual costs, statutory default fees, or an alternative flat fee. RCO followed the recommendation of the Office of the Attorney General to use statutory default fees and include the option to waive fees in certain circumstances.

### Proposed Amendments

#### Proposed Amendments Title 286-06 Washington Administrative Code (WAC)

The Recreation and Conservation Office is proposing rulemaking to amend Chapter 286-06 WAC, Public Records, as listed above. The amendments will:

- Clarify that public records requests must be for identifiable records (all records will not be considered a valid request), – WAC 286-06-070(5), and

- Outline the fees RCO may charge for these records – WAC 286-06-090.

The revised version of WAC 286-06 is enclosed as *Attachment A*. The new language is underlined and deleted language is shown in “strike-out” format.

### Public Notice

Prior to the board meeting, RCO informed the public of the proposed rulemaking on the following occasions:

- Pre-proposal Statement of Inquiry (CR-101, *Attachment B*) filed October 31, 2017 and published in issue #17-22-120 of the Washington State Register,
- Proposed Rulemaking (CR-102, *Attachment C*) filed December 19, 2017 in issue #18-01-102 of the Washington State Register,
- Agenda item at the January/February 2018 board meeting and public hearing posted on RCO’s website,
- Posting of proposed rulemaking on RCO’s website, and
- Email notification sent to interested persons.

### Public Hearing

The Administrative Procedures Act (APA) requires at least one public hearing prior to adopting amendments to the rules.<sup>1</sup> The public hearing for the proposed rulemaking outlined in this memo is during the board’s regularly scheduled public meeting and set for:

January 31 at 11:00 AM  
Natural Resource Building Rm 172  
1111 Washington St SE  
Olympia, WA 98501

Notice of the public hearing was included in the rulemaking filing and published accordingly in the Washington State Register.

### Written Comments

Members of the public may submit written comments in advance of the public hearing or provide comments at the hearing. Written comments can be submitted:

From December 18, 2017 to January 25, 2018  
ATTN: Patty Dickason  
WA Recreation and Conservation Office  
1111 Washington St. SE  
PO Box 40917  
Olympia, WA 98504-0917  
[Patty.dickason@rco.wa.gov](mailto:Patty.dickason@rco.wa.gov)  
(360) 902-3085 fax

Any comments received will be shared with the board prior to the public hearing.

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<sup>1</sup> RCW 34.05.325

## 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>2</sup> Factors that may affect 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 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 rulemaking, staff will file a supplemental notice in the Washington State Register and the board must conduct another public hearing.

If the board prefers not to adopt all or portions of the proposed rulemaking at the January/February meeting, the board can postpone adoption to a future meeting within 180 days of the rulemaking filing. This means the board could take action on the current recommended amendments at its April or July, meeting without needing to re-file. The board could also decide to withdraw all or portions of the proposed rulemaking.

## Staff Recommendation

Staff recommends adoption of the proposed rulemaking filed December 19, 2017 and published January 3, 2018 in issue #18-01 of the Washington State Register.

## 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.

## Next Steps

Should the board adopt the proposed rulemaking, staff will prepare a final 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 filing with the Office of the Code Reviser.

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<sup>2</sup> RCW 34.05.340

## Attachments

- A. Comparison of Existing Administrative Code to Proposed Amendments
- B. CR101 - Pre-proposal Statement of Inquiry
- C. CR102 - Proposed Rulemaking
- D. Resolution 2018-02



**WAC 286-06-070 Availability of public records.** (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the office, from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

(2) **Records index.**

(a) An index of public records is available for use by members of the public, including:

- (i) Archived files;
- (ii) Equipment inventory;
- (iii) Office and board policies and procedures, including manuals;
- (iv) Active project files;
- (v) Publications such as brochures and special reports;
- (vi) Policy statements entered after June 30, 1990, as defined in RCW 34.05.010, including grant program manuals; and
- (vii) Rule-making files, as described in RCW 34.05.370, for each rule proposed for adoption in the Washington State Register and adopted.

(b) Before June 30, 1990, the office did not maintain an index of:

- (i) Declaratory orders containing analysis or decisions of substantial importance to the office in carrying out its duties;
- (ii) Interpretive statements as defined in RCW 34.05.010; and
- (iii) Policy statements as defined in RCW 34.05.010.

(c) 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 complexity; however, no master index is maintained:

- (i) Administrative files;
- (ii) Comprehensive park-recreation plans;
- (iii) Summaries of office staff meetings;
- (iv) Closed or inactive project files;
- (v) General correspondence;
- (vi) Attorney general opinions;
- (vii) Financial records;
- (viii) Summaries and memoranda of office and board meetings;
- (ix) Final adjudicative proceeding orders entered after June 30, 1990, as defined in RCW 34.05.010 that contain an analysis or decision of substantial importance to the office 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);

(x) Declaratory orders entered after June 10, 1990, that contain an analysis or decision of substantial importance to the office 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); and

(xi) Interpretive statements as defined in RCW 34.05.010 (each indexed by the office or board program).

(3) **Organization of records.** The office will maintain its records in a reasonably organized manner. The office will take reasonable actions to protect records from damage and disorganization. A requestor shall not take records from the office without the permission of the

public records officer or designee. A variety of records is available on the office's web site at [www.rco.wa.gov](http://www.rco.wa.gov). Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

**(4) Making a request for public records.**

(a) Any person wishing to inspect or copy public records of the office should make the request in writing on the office's request form, or by letter, fax, or email addressed to the public records officer and include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any email address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit.

(c) A form is available for use by requestors at the office of the public records officer and online at [www.rco.wa.gov](http://www.rco.wa.gov).

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

**(5) A public records request must be for identifiable records.** A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records under this chapter, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of an agency's records.

**(6) An agency may deny a bot request** that is one of multiple requests from the requestor to the agency within a twenty-four hour period, if the agency establishes that responding to the multiple requests would cause excessive interference with other essential functions of the office. For purposes of this subsection, "bot request" means a request for public records that an office reasonably believes was automatically generated by a computer program or script.

**AMENDATORY SECTION** (Amending WSR 14-22-100, filed 11/4/14, effective 12/5/14)

**WAC 286-06-085 Processing of public records requests—Electronic records.** (1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the office and is generally commercially available, or in a format that is reasonably translatable from the format in which the office keeps the record.

Costs for providing electronic records are governed by WAC 44-14-07003.

(3) **Customized access to databases.** With the consent of the requestor, the office may provide customized access under RCW 43.41A.130 if the record is not reasonably locatable or not reasonably translatable into the format requested. The office may charge a fee consistent with RCW ((43.41A.130)) 43.105.355 for such customized access.

AMENDATORY SECTION (Amending WSR 14-22-100, filed 11/4/14, effective 12/5/14)

**WAC 286-06-090 Costs of providing copies of public records. (1) Costs for paper and electronic copies.**

~~((a) There is no fee for inspecting public records in the office or emailing electronic records to a requestor, unless another cost applies such as a scanning fee.~~

~~(b) The office will charge an amount necessary to reimburse its costs for providing paper and electronic copies of records, including costs for electronic copies on a CD-ROM and scanning paper or other nonelectronic records.~~

~~(c) The fee amounts shall be reviewed from time to time by the office, and shall represent the costs of providing copies of public records and for use of the office's copy equipment, including staff time spent copying records, preparing records for copying, and restoring files. This charge is the amount necessary to reimburse the office for actual costs for copying. The charge for special copy work of non-standard public records shall reflect the total cost, including the staff time necessary to safeguard the integrity of these records.~~

~~(d) Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.~~

~~(e) The office will not charge sales tax when it makes copies of public records unless it uses an outside vendor to make the copies.~~

~~(2) **Costs of mailing.** The office may also charge actual costs of mailing, including the cost of the shipping container.~~

~~(3) **Payment.** Payment may be made by cash, check, or money order to the office.)) The following copy fees and payment procedures apply to requests to the office under chapter 42.56 RCW.~~

~~(2) Pursuant to RCW 42.56.120 (2)(b), as amended by section 3, chapter 304, Laws of 2017, the office will not be calculating actual costs for copying records because to do so would be unduly burdensome for the following reasons:~~

~~(a) The office does not have the resources to conduct a study to determine all its actual copying costs;~~

~~(b) To conduct such a study would interfere with other essential agency functions; and~~

~~(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records.~~

(3) The office will charge for copies of records consistent with the fee schedule established in RCW 42.56.120(2).

(a) No fee shall be charged for the inspection of public records or locating public documents and making them available for copying, unless another cost applies such as a copy fee;

(b) Fifteen cents per page for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of agency equipment to photocopy public records;

(c) Ten cents per page for public records scanned into an electronic format or for the use of agency equipment to scan the records;

(d) Five cents per each four electronic files or attachments uploaded to email, cloud-based data storage service, or other means of electronic delivery;

(e) Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically;

(f) The cost of any digital storage media or device provided by the office, the cost of any envelope or container used to mail the copies to the requestor, and the cost of any postage or delivery charge;

(g) The office will not charge sales tax when it makes copies of public records unless it uses an outside vendor to make the copies;

(h) A requestor may ask the office to provide, and if requested the office shall provide, an estimated summary of the applicable charges before any copies or scans are made and the requestor may revise the request to reduce the number of copies to be made and reduce the applicable charges;

(i) The office shall not impose copying charges under this section for access to or downloading of records that the agency routinely posts on its public internet web site prior to receipt of a request unless the requestor has specifically requested that the agency provide copies of such records through other means;

(j) The office shall take reasonable steps to provide the records in the most efficient manner available to the agency in its normal operations;

(k) The charges for copying methods used by the office are summarized in the fee schedule available on the office's web site at [www.rco.wa.gov](http://www.rco.wa.gov).

(4) Fee waivers are an exception and are available for some small requests under the following conditions:

It is within the discretion of the public records officer to waive copying fees when: (a) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or (b) all of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(5) The public records officer may require advanced payment. An advance deposit of twenty-five percent of the estimated fees may be required when the fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The office will notify the requestor of when payment is due.

(7) Payment should be made by check or money order to the recreation and conservation office. The office will not accept cash payment.

(8) The office will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)**

**(Implements RCW 34.05.310)**

Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: October 31, 2017**

**TIME: 1:56 PM**

**WSR 17-22-120**

**Agency:** Recreation and conservation office on behalf of the recreation and conservation funding board

**Subject of possible rule making:** The recreation and conservation funding board is beginning rule making to amend chapter 286-06 WAC, Public records. The purpose of chapter 286-06 WAC is to implement requirements of the Public Records Act including the process the recreation and conservation office uses for disclosing records. This update will modernize the rule to reflect the current law, technology, and processes. The salmon recovery funding board conducts access to public records in the same manner as chapter 286-06 WAC as described in WAC 420-04-100(2).

**Statutes authorizing the agency to adopt rules on this subject:** RCW 42.56.100 Public Records Act – Protection of public records – Public access.

**Reasons why rules on this subject may be needed and what they might accomplish:** The rule was last updated in November 2014. Since then, the Public Records Act has been amended by the State Legislature. The rule needs to be revised to meet requirements of the current law.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** There are no other state, federal, or local agencies that regulate public records disclosure for the recreation and conservation funding board, salmon recovery funding board, and recreation and conservation office.

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

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study
- ☒ Other (describe) The board will follow the standard process for the adoption of rules under the Administrative Procedures Act, chapter 34.05 RCW.


**Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:**

Name: Wendy Brown, Policy Director  
Address: PO Box 40917, Olympia, WA 98504-0917  
Phone: (360) 902-3021  
Fax: (360) 902-3026  
TTY: (360) 902-1996  
Email: [wendy.brown@rco.wa.gov](mailto:wendy.brown@rco.wa.gov)  
Web site: [www.rco.wa.gov](http://www.rco.wa.gov)  
Other:

(If necessary)

Name: Scott Robinson, Deputy Director  
Address: PO Box 40917, Olympia, WA 98504-0917  
Phone: (360) 902-0207  
Fax: (360) 902-3026  
TTY: (360) 902-1996  
Email: [scott.robinson@rco.wa.gov](mailto:scott.robinson@rco.wa.gov)  
Web site: [www.rco.wa.gov](http://www.rco.wa.gov)  
Other:

**Additional comments:** Interested parties can participate in the formulation of the proposed rule before publication and the decision to adopt the new rule. Interested parties can stay informed about the rule making and public involvement opportunities by visiting the recreation and conservation office web site at [www.rco.wa.gov/about/Rulemaking.shtml](http://www.rco.wa.gov/about/Rulemaking.shtml). If you wish to receive email notices, please contact Patty Dickason, public records officer, recreation and conservation office, PO Box 40917, Olympia, WA 98504-0917, phone (360) 902-3085, email [patty.dickason@rco.wa.gov](mailto:patty.dickason@rco.wa.gov)

<b>Date:</b> October 31, 2017	<b>Signature:</b> 
<b>Name:</b> Leslie Connelly	
<b>Title:</b> Rules Coordinator/Natural Resource Policy Specialist	



# PROPOSED RULE MAKING

**CR-102 (October 2017)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 19, 2017**

**TIME: 9:39 AM**

**WSR 18-01-102**

**Agency:** Recreation and Conservation Office on behalf of the Recreation and Conservation Funding Board.

☒ **Original Notice**

☐ **Supplemental Notice to WSR** \_\_\_\_\_

☐ **Continuance of WSR** \_\_\_\_\_

☒ **Preproposal Statement of Inquiry was filed as WSR** 17-22-12 ; 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); or**

☐ **Proposal is exempt under RCW** \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject) Amending WAC 286-06 Public Records

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
January 31, 2018	11:00 am	Natural Resources Bldg. in Conference Room #172 located at 1111 Washington St. SE, Olympia, WA 98501	This is a meeting of the Recreation and Conservation Funding Board

**Date of intended adoption:** January 31, 2018 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Patty Dickason

Address: 1111 Washington Street SE PO Box 40917 Olympia, WA 98504

Email: [patty.dickason@rco.wa.gov](mailto:patty.dickason@rco.wa.gov)

Fax: 360-902-3026

Other: Written comments may also be submitted through the website of the Recreation and Conservation Office on the Policy and Rulemaking page at <https://www.rco.wa.gov/about/Rulemaking.shtml>

By (date) January 25, 2018

**Assistance for persons with disabilities:**

Contact Patty Dickason

Phone: 360-902-3085

Fax: 360-902-3026

TTY:

Email: [patty.dickason@rco.wa.gov](mailto:patty.dickason@rco.wa.gov)

Other:

By (date) January 25, 2018

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Recreation and Conservation Office is proposing rulemaking to amend chapter 286-06 WAC, Public records. The purpose of chapter 286-06 WAC is to implement requirements of the Public Records Act including the process the Recreation and Conservation Office uses for disclosing records and charging fees.

The Salmon Recovery Funding Board conducts access to public records in the same manner as chapter 286-06 WAC as described in WAC 420-04-100(2)

This update will modernize the rule to reflect the current law, technology, and processes



**Reasons supporting proposal:** The rule was last updated in November 2014. Since then, the Public Records Act has been amended by the State Legislature. The rule needs to be revised to meet requirements of the current law.

This update will modernize the rule to reflect the current law, technology, and processes and thus be more functional and allow the Recreation and Conservation Office to better serve the public, the Legislature, our partners and other constituents when seeking agency public records.

**Statutory authority for adoption:** RCW 42.56.100 Public Records Act – Protection of public records – public access.

**Statute being implemented:** RCW 42.56

**Is rule necessary because of a:**

Federal Law? ☐ Yes ☒ No

Federal Court Decision? ☐ Yes ☒ No

State Court Decision? ☐ Yes ☒ No

If yes, CITATION:

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

**Name of proponent:** (person or organization) Recreation and Conservation Office on behalf of the Recreation and Conservation Funding Board.

☐ Private

☐ Public

☒ Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Patty Dickason	Olympia, WA	360-902-3085
Implementation:	Patty Dickason/Tammy Finch	Olympia, WA	360-902-3085/360-725-3936
Enforcement:	Scott Robinson	Olympia, WA	360-902-0207

**Is a school district fiscal impact statement required under RCW 28A.305.135?**

☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**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:

TTY:

Email:

Other:

☒ No: Please explain: A cost benefit analysis is not required under RCW 34.05.328

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

☐ RCW 34.05.310 (4)(b)  
(Internal government operations)

☐ RCW 34.05.310 (4)(c)  
(Incorporation by reference)

☐ RCW 34.05.310 (4)(d)  
(Correct or clarify language)

☐ RCW 34.05.310 (4)(e)  
(Dictated by statute)

☐ RCW 34.05.310 (4)(f)  
(Set or adjust fees)

☐ RCW 34.05.310 (4)(g)  
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☒ This rule proposal, or portions of the proposal, is exempt under RCW RCW 42.56.070; RCW 42.56.120.

Explanation of exemptions, if necessary: The Model Rules are advisory only and apply only to government agencies, not small businesses. RCW 42.56.570. To the extent there are costs assessed by public agencies providing records in response to PRA requests by small businesses, the authorized costs are set out in statute and apply to all requestors.

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Date:** December 18, 2017

**Name:** Kaleen Cottingham

**Title:** Agency Director

**Signature:**



**Resolution #2018-02**  
**Amendments to Title 286-06 of the Washington Administrative Code (WAC)**  
**Changes to Public Records Process and Fees**

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

**WHEREAS**, the administrative rules in Title 286-06 of the Washington Administrative Code (WAC) provide policy direction to the board, director, and office on general grant program administration and are in need of revision to update the public record process and fees; and

**WHEREAS**, RCO filed a Pre-proposal Statement of Inquiry to amend Title 286-06 WAC with the Office of the Code Reviser on October 31, 2017 and published in issue #17-22-120 of the Washington State Register and no comments were received; and

**WHEREAS**, RCO filed a Proposed Rule Making to amend Title 286-06 WAC with the Office of the Code Reviser on December 19, 2017 and published in issue #18-01-102 of the Washington State Register ; and

**WHEREAS**, RCO posted notice, in accordance with RCW 34.05.320, of the proposed rulemaking to amend Title 286-06 WAC and the project area recommendation on its website, sent an email notification to interested persons, and accepted public comments from December 20, 2017 to January 25, 2018; and

**WHEREAS**, the board held a public hearing on the 31<sup>st</sup> of January 2018 to solicit further public input and that input was considered in the final determination.

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt the proposed rulemaking as filed with the Office of the Code Reviser on December 19, 2017 and published in issue #18-01-102 of the Washington State Register and reflected in Attachment A; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to file a final rule making order, in accordance with RCW 34.05.325, with the Office of the Code Reviser and it shall have an effective date of 31 days from the date it is filed.

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

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

Adopted/Defeated/Deferred (underline one)

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

## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31, 2018

**Title:** Control and Tenure on State-Owned Aquatic Lands

**Prepared By:** Adam Cole, Natural Resource Policy Specialist

#### Summary

Staff seek a decision on an update to the Recreation and Conservation Funding Board's (board) control and tenure policy for projects on state-owned aquatic lands managed by the Washington Department of Natural Resources (DNR). Currently, a sponsor must provide RCO a use authorization (a lease for example) from DNR with a term of 25 or more years (depending on the program). Recently DNR has moved to offering terms of around 12 years to better manage state-owned aquatic lands. However, if a project is scoped to maximize environmental stewardship outcomes, a longer-term lease meeting the board's policy is likely. This memo describes proposed changes to board policy that will require an applicant's early engagement with DNR to evaluate the proposed scope of work, and allows sponsors a longer period of time to demonstrate control and tenure.

#### Board Action

This item will be a:

- ☒ Request for Decision
- ☐ Request for Direction
- ☐ Briefing

Resolution: 2018-03

### Background

At its [October 2018 meeting](#), staff presented proposed changes to the board's control and tenure policy. At that time the board directed staff to solicit public comments on the proposal. Staff gathered public comments from December 18, 2017 to January 4, 2018. Staff are now asking the board to approve the policy recommendations in this memo.

#### What is Control and Tenure

According to current board policy, any organization receiving a grant must demonstrate that it owns or otherwise controls the land where the project will be implemented (Table 1). This is referred to as having "control and tenure" of a project site, which could be ownership or control of the property through a lease, easement, use agreement, or similar means. Sponsors must demonstrate that the project meets the board's control and tenure requirements before the Recreation and Conservation Office (RCO) will issue a project agreement.

The purpose of the policy is three-fold. First, the policy ensures that RCO enters into an agreement with a sponsor that has the authority to implement a project on the subject lands. Second, it ensures that control and tenure is secured at the time a project agreement may be issued so as not to delay project implementation. Third, the tenure sets the compliance period for the long-term obligations of the project

and ensures use of the facility by the public for a reasonable length of time to justify the investment of public funds.

Sponsors who want to conduct grant-funded development projects on [state-owned aquatic lands](#) may not be able to meet the board-adopted minimum term of control and tenure for development projects.<sup>1</sup> The consequence of this is that RCO staff are faced with evaluating projects that may not receive control and tenure meeting the board's policy or having to address requests for waivers of board policy, especially for state-sponsored projects. Examples of projects where a sponsor would develop a structure on state-owned aquatic lands includes the installation or renovation of docks, piers, marinas, or boat launches.

### **State-Owned Aquatic Lands**

The Department of Natural Resources' (DNR) leasing practices for properties with improvements generally utilize shorter-term leases which are typically 12 years. With a shorter lease term, DNR believes it can more readily implement best practices that aim to achieve a healthier environment and a better functioning facility. For example, a shorter term will allow the DNR to better address changing regulatory requirements, such as requiring the removal of creosote pilings or addressing structures that impede the migration of salmon along the shoreline. Shorter term leases also enable DNR to minimize state liability by keeping lease language up-to-date and ensuring security and insurance clauses are appropriate for the given use.

In addition to leasing preferences, there are also constitutional and statutory limitations on the length of time the agency can issue a lease or easement depending on the type of state-owned aquatic lands (Attachment D).

### **DNR's Stewardship and Leasing Resources**

Additional resources regarding DNR's stewardship and leasing resources include the following:

- Aquatic Stewardship:  
<http://www.dnr.wa.gov/programs-and-services/aquatics/stewardship-measures>
- Leasing for Grant Projects:  
[http://file.dnr.wa.gov/publications/em\\_fs11\\_018.pdf](http://file.dnr.wa.gov/publications/em_fs11_018.pdf)
- Caring for Washington's Nearshore Environments:  
[http://file.dnr.wa.gov/publications/em\\_fs10\\_001.pdf](http://file.dnr.wa.gov/publications/em_fs10_001.pdf)
- Leasing State-owned Aquatic Lands:  
[http://file.dnr.wa.gov/publications/em\\_fs11\\_019\\_leasing\\_soal.pdf](http://file.dnr.wa.gov/publications/em_fs11_019_leasing_soal.pdf)
- Fact Sheet for Leasing Aquatic Lands:  
[http://file.dnr.wa.gov/publications/aqr\\_fs\\_leasing\\_guide\\_0816.pdf](http://file.dnr.wa.gov/publications/aqr_fs_leasing_guide_0816.pdf)

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<sup>1</sup> Because of statutes unique to Port Districts which allow long-term Port Management Agreements with DNR, these organizations typically meet the board's control and tenure requirements without issue.

## Current Policy and Issues

### Current Board Policy

The board policy for control and tenure was adopted in 1996 and calls for a twenty-five year term (Attachment C). However, additional terms now exist by program (see below) due to additional board policies adopted since 1996 and via pre-emption of board policy by the Revised Code of Washington (RCW) or the U.S. Code of Federal Regulations. The following is the current board policy as expressed in [RCO Manual #4, Development Projects](#):

**Table 1. Current Control and Tenure Policy from Manual #4, Development Projects**

*"Before executing a project agreement, the applicant must provide RCO with documentation as described below:*

- **Applicant owns property.** *Current title information for property owned by the applicant. This information must include:*
  - *Legal description*
  - *Documentation of deed restrictions and encumbrances*
  - *Documentation of current owner*
  - *Documentation of easements*
  - *Explanation of the immediate or potential impacts of any restriction, encumbrance, or easement*

*If the property was acquired with RCO assistance, simply provide the project name and timeframe to RCO and a list of any deed restrictions, encumbrances, or easements that may have been added after acquisition.*

- **Applicant does not own property.** *Copies of applicable leases, easements, or use agreements on the property to be developed including state aquatic lands managed by the Washington Department of Natural Resources. Under this option the lease or easement or use agreement:*
  - **Must extend for the "minimum interest length" shown in the table below from the date RCO releases the final reimbursement and accepts the project as complete.<sup>2</sup>**
  - *Must not be revocable at will.*
  - *Must ensure the right of continuous public access.*
  - *Allow RCO or designee the right of entry to inspect without notice.*
  - *Incorporate RCO's sign requirements.*

*Evidence must be provided by the sponsor that the proposed development and its intended uses are consistent with and legally permissible under the conditions of the lease, easement, or agreement. Completed project elements may not be transferred to the landowner upon completion of the RCO project."*

#### Minimum Control and Tenure Length for Property Not Owned by the Applicant

Grant Program	Interest Length
Aquatic Lands Enhancement Account	25 years
Boating Facilities Program	25 years
Boating Infrastructure Grant	Useful Life

<sup>2</sup> Emphasis Added

Firearms and Archery Range Recreation	10 years
Land and Water Conservation Fund (Easements only, leases are not eligible.)	Perpetuity
Nonhighway and Off-road Vehicle Activities	25 years
Recreational Trails Program	25 years
Washington Wildlife and Recreation Program	25 years
Youth Athletic Facilities	20 years

### Current Status, Requests to Waive Policy

When a sponsor cannot meet the board-adopted minimum tenure for a development project, typically twenty-five year, the sponsor often submits a request for a waiver of the board's policy. These are evaluated by RCO on a case-by-case basis. If a waiver is approved, it may be addressed with a special condition in the project agreement. In nearly all cases where a waiver is approved, the sponsor must commit to a long-term obligation timeline that extends beyond the term of its lease (for example). Failure to abide by that commitment would then be a compliance issue, including a potential conversion.

### Summary of Public Comments

To view verbatim comments see [Attachment A](#).

The public comment period began December 18, 2017, and closed January 4, 2018, and drew four commenters. There was general support for the proposal. However, one commenter, the Washington Department of Fish and Wildlife (WDFW), recommended the following changes which staff included in this revised policy proposal:

- Do not require WDFW (*and other state agencies*) to conduct early engagement site meetings with DNR and provide forms acknowledging the meeting at the time of project application. (*Given the amount of project proposals from WDFW, this creates a significant burden on staff resources.*)
- Allow 24 month after project funding to obtain control and tenure as may be needed.

Given these comments, the staff was faced with three options: 1) create a two track process (one for local projects and one for state projects); 2) maintain the proposed process for each individual sponsor to consult with DNR; or 3) not change current policy (which would not require advance consultation with DNR). To ensure board funding is put to use in a timely manner towards projects most likely to receive control and tenure terms meeting the board's policy, staff selected option 2 (two-track process) and made the following changes to application requirements for state agency sponsors:

State Agency Sponsors: For state agency sponsored projects, the Recreation and Conservation Office shall coordinate an inter-agency in-person review of projects where this policy applies. That inter-agency review shall occur before RCO's application complete deadline. The purpose of the review is to have the Washington Department of Natural Resources (DNR) review all of a state agency's projects at one time and provide feedback on the feasibility of issuing a means of control and tenure consistent with board policy. At this review, consideration of changing scope, project type, or withdrawing a project shall be discussed. RCO shall remove any project from consideration if DNR cannot provide adequate assurance that a control and tenure term meeting the board's policy is possible. RCO, DNR, and state agency project sponsor shall all participate in the review.

## Recommended Policy (and Procedure) Proposal

### RCO – DNR Coordinated Control and Tenure Proposals

There are three options for changes to the control and tenure policy:

1) Approval of the Policy Statements below. **(Staff Recommendation)**

Or

2) Approval of the Policy Statements but strike policy statement 2.4 that requires an RCO led interagency review of state agency sponsored projects which may result in projects being re-scoped, converted to a Planning project, or removed from the application process.

Or

3) No Action. RCO Director approves and/or conditions projects on a case-by-case basis.

To view this policy in a flow-chart format, see Attachment E.

Red text in the policy statements below represent changes made after evaluating public comments.

#### *Policy Intent*

For the following policy proposal, the intent is to establish an early and coordinated review of a grant request to determine if an “Aquatic Use Authorization” term longer than DNR’s preferred 12-year term, and one that meets board policy, is appropriate. A longer term Aquatic Use Authorization may be possible depending on the degree to which the scope of work and planned long-term management of the site support the state’s water access, environmental stewardship, and public recreation goals.

#### *Policy Statements*

### **Policy for Projects located on State-Owned Aquatic Lands Managed by DNR.**

**This policy is applicable to all Board programs.**

**1. Demonstrating Control and Tenure.** If the project is on state-owned aquatic lands managed by Washington Department of Natural Resources (DNR), sponsor must obtain a use authorization from DNR as control and tenure for your project site. The authorization must meet the requirements of the board policy and grant program.

1.1 If at any time a lesser term is accepted by RCO, this does not change the term of the compliance period as required by the grant program.

1.2 If sponsor has an existing use authorization which complies with the board control and tenure policy (other than term), and it has more than 15 years left on its term when the project is expected to be completed, this term shall suffice in meeting the board’s control and tenure policy.

1.3 In the case where an amended use authorization, or short term authorization is signed or in existence with a term that extends beyond when the project shall be completed and open to the public, and a longer-term authorization meeting the board’s



minimum control and tenure term is likely (per a written assurance from DNR), this shall be sufficient to allow a grant application and issue a grant agreement.

1.4 If the needed term of an authorization exceeds DNR's statutory limit, a lesser term may be accepted at the discretion of the RCO Director.

1.5 Planning Projects. Control and tenure is not required to apply for, or sign an agreement for a planning project.

1.5.1 Long-term control and tenure for the construction and useful life of the planned project is a required deliverable of planning projects. The control and tenure term must meet the program's minimum as set by the board. (Because the Nonhighway and Off-Road Activities program's planning grants may be comprised of feasibility and other studies, this subsection shall not apply to those types of projects).

1.5.2 During an active development project, if the project is in a grant program that allows planning projects, the project may be converted to a planning only project.

1.5.3 Sponsor may not receive funds for more than one planning project at a given work site for the same or similar scope of work.

## **2. DNR's Review of Scope of Work:**

### **A. Local Governments and Private Organizations**

2.1 If a **local government or private organization sponsor** does not have a current use authorization meeting board policy, sponsor must meet with DNR to review the proposed scope of work and complete a Joint Aquatic Resource Permit Application (JARPA) and submit it to DNR.

2.2. **Local government or private organization sponsor** must submit to RCO a DNR signed Scope of Work Acknowledgement Form (*or similar form, example below*) prior to the application complete deadline. If this cannot be completed the grant application is rejected. Under unusual circumstances, RCO Director may establish an alternate deadline for this form.

### **B. For State Agencies**

2.3 For state agency sponsors: If the project is to develop a new facility where one currently does not exist, the state agency sponsor is subject to the same requirements of local government and private organization sponsors.

2.4. For state agency sponsored projects, the Recreation and Conservation Office shall coordinate an inter-agency in-person review of projects where this policy applies. That inter-agency review shall occur before RCO's application complete deadline. The purpose of the review is to have the Washington Department of Natural Resources (DNR) review all of a state agency's projects at one time and provide feedback on the feasibility of issuing a means of control and tenure consistent with board policy. At this review, consideration of changing scope, project type, or withdrawing a project shall be discussed. RCO shall remove any project from

consideration if DNR cannot provide adequate assurance that a control and tenure term meeting the board's policy is possible. RCO, DNR, and state agency sponsor shall all participate in the review.

**3. Obtaining Control and Tenure.** Where sponsor cannot demonstrate sufficient control and tenure (per board and program policy), and a grant agreement is issued for a development or restoration project, sponsors have 24 months after the board funding date to secure control and tenure. If the sponsor has made significant progress toward securing control and tenure, the RCO Director may allow more time. This section shall not apply in those cases where section 1.3 applies.

**4. Reimbursement.** For development and restoration projects; until control and tenure meeting the board's policy requirements is secured and a copy provided to RCO, and prior to RCO issuing a notice to proceed with project construction, only those costs that may be eligible pre-agreement costs are reimbursable.

- 4.1 For planning projects where the sponsor has not yet obtained control and tenure that meets the grant program's minimum control and tenure term, RCO may reimburse up to 50% of the project costs only.

**Figure 1. DRAFT Form to Acknowledge Review of Scope of Work Prior to Grant Application**

<b>Appendix XX: Scope of Work Acknowledgement Form</b>	
Project Applicant: _____ RCO Project # _____	
Project Name: _____	
<div></div>	
Water Body: _____ Size of Project (acres): _____	
Address: _____ County: _____	
Department of Natural Resources (DNR) District: _____	
The below signatories met at the project site on _____ and discussed the proposed scope of work in the above Recreation and Conservation Office grant application. This project is a:	
<input type="checkbox"/>	New Project (Building a new facility where one does not exist)
<input type="checkbox"/>	Redevelopment Project (Renovating or adding to or changing an existing facility)
And	
<input type="checkbox"/>	The scope of work for the proposed site <u>IS</u> sufficient to conform to DNR's long-term stewardship requirements and therefore <u>may receive a use authorization meeting RCO's control and tenure requirements.</u>
The below signature does not represent authorization of project implementation.	
_____ Landowner Agent (DNR) Signature	_____ Date
_____ Printed Name	
_____ RCO Grant (Project) Applicant Signature	_____ Date
_____ Printed Name	_____ Agency Name

## Policy Pros and Cons

The proposed policy changes have the following pros and cons.

**Table 2. Policy Proposal Pros**

Policy Pros	Example
Increases Utility of Planning Grants for Sponsors	<ul style="list-style-type: none"><li>• Reduces burden on sponsors to obtain long-term control and tenure of a project site in order to apply for planning grant.</li><li>• Establishes a planning grant option which may be needed prior to a development grant.</li><li>• May result in two shorter term grants and increases project success.</li></ul>
Manages Expectations Proactively	<ul style="list-style-type: none"><li>• Applicant is told early on that the scope of work is insufficient to qualify for a long-term authorization.</li><li>• Sponsor can better identify its financial needs and timeline before its application is complete.</li><li>• Reduces sponsor requests for policy waivers.</li></ul>
Promotes Longer Lasting Sites and Better Stewardship of State Owned Aquatic Lands.	<ul style="list-style-type: none"><li>• Grant funds may support newer, more modern facilities over renovating out of date sites.</li><li>• Institutionalizes best practices into scope of work and long-term management of the site.</li></ul>
Better Utility for Recreationists	<ul style="list-style-type: none"><li>• Modern sites increase the public's utility of facilities.</li><li>• Longer-term authorizations mean long-term public use.</li></ul>
Captures Long-Term Savings	<ul style="list-style-type: none"><li>• Sponsor facilities potentially last longer and require less maintenance.</li><li>• Modern facilities may require less insurance and bonding in the use authorization process.</li><li>• Longer authorization terms require fewer negotiations and renewals.</li></ul>
Reduce Risk	<ul style="list-style-type: none"><li>• Better design and stewardship practices reduce the state and sponsor's regulatory liability.</li></ul>

**Table 3. Policy Proposal Cons**

Policy Cons	Example
Increase Project Cost for Sponsors	<ul style="list-style-type: none"><li>• Scope of project may increase in order to get a long-term authorization.</li></ul>
Projects may take longer to complete.	<ul style="list-style-type: none"><li>• Negotiating a long-term authorization within the project agreement phase of the grant delays construction activities and potentially increases re-appropriation rates.</li></ul>
May reduce public access in the short-term.	<ul style="list-style-type: none"><li>• May reduce opportunity for a sponsor to apply for a “smaller” project to shore up a failing site while it raises capital for a newer facility.</li></ul>
Wasted Effort/Resources	<ul style="list-style-type: none"><li>• Following a planning grant, if development funds are not readily available, permits may expire.</li></ul>
Policy Risk	<ul style="list-style-type: none"><li>• If a short-term authorization is issued to complete the project, sponsor may choose not to sign a longer-term lease.</li></ul>

## Next Steps

Staff will incorporate any needed changes for the 2018 grant round into grant application and management tools and publications.

## Attachments

- A. Verbatim Public Comments
- B. Resolution 2018-03
- C. Control and Tenure Policy Adopted Per Board Resolution #1996-10
- D. DNR Lease and Easement Terms for State-Owned Aquatic Lands
- E. Policy Flowchart

Attachment A.

Public Comments: Control and Tenure				
Number	Summary	Source	Comment	Response
1	<b>No Additional Comments</b>	<b>Maria Hunter</b> Aquatic Policy Analyst Aquatic Resources Division Washington Department of Natural Resources	Control and Tenure Policy Changes: Since DNR has already been involved in developing these policy changes, I have no additional comments.	Thank you for your comments.
2	<b>Needs Improvement</b>  Policy is an administrative burden to state agency with multiple project proposals.  State sponsors should be able to wait to show engagement with Department of Natural Resources after funding decision.	<b>Cynthia Wilkerson</b> Lands Division Manager, Washington State Department of Fish and Wildlife	<u>Control and Tenure Policy Change</u>  Please note specific suggested edits to the proposed policy in 3 sections as stated below.  Demonstrating Control and Tenure.  We appreciate the clarity that has been added to distinguish between grants and projects as previously discussed. However, there remains one location that still needs to be cleaned up - 1.5.3: "Sponsor may not receive grant funds for more than one planning project-"  DNR's Review of Scope of Work. "applicant must submit to meet with DNR---"  As a state agency sponsor, DFW prepares and submits numerous grant applications for projects statewide on State Owned Aquatic Lands Managed by the Washington State Department of Natural Resources (DNR). It is an additional unfunded workload for DFW staff in Olympia to coordinate site visits statewide with DNR and RCO and prepare planning documents for all proposed projects when several of them will not even receive funding. Because of the number of applications requiring review and the need to reduce the unfunded activities, we suggest that the timing for state sponsors read:	Staff will update proposal with regard to consistent use of the terms "grant" and "project."  Staff recognize the uniqueness of state agency sponsors with regard to the capacity of early engagement with the Department of Natural Resources (DNR) as mandated in the policy proposal. The recommendation to have a singed form acknowledging a site visit and reviewed scope of work shall only remain for local government and private organization sponsors.

			<p>"Applicant must then submit to RCO a signed Scope of Work---State sponsors must submit the required form prior to issuance of an agreement. Under unusual circumstances, RCO Director may establish an alternate deadline for this form."</p> <p>Obtaining Control and Tenure.</p> <p>The permitting process for projects on State Owned Aquatic Lands can be lengthy and with multiple projects an 18-month timeline to secure control and tenure is not reasonable. The aquatic lease is typically not issued until all other permits are in hand. Rather than have to request multiple extensions, we suggest extending the standard timeline to 24-months AND replacing the reference to "6 additional months" with:</p> <p>"If the sponsor has made significant progress toward securing control and tenure, the Director may allow additional time."</p>	<p>However, RCO shall coordinate increased inter-agency review and coordination with regard to evaluating the viability of a long-term use authorization meeting the policy requirements of this proposal.</p> <p>Staff shall update the proposal stating that all sponsors shall have up to 24 months after project fund date to meet the control and tenure provisions of this policy proposal. Proposal shall be updated as suggested.</p>
3	<b>Support</b>	<b>Andrew Austin</b> Government Affairs Manager Metro Parks Tacoma	...While many of these proposed changes do not directly impact grants MPT applies for, we support all of the proposed changes....	Thank you for your comments.
4	<b>Delegated Support</b>	<b>Eric Burr</b> Mazama	The descriptions are too vague and I'm too unfamiliar with your procedures to have useful comments. I would however endorse any comments from the Washington Trails Association, or the Native Plant Society, of which I am a long time member of both.	Thank you for your support.

## Attachment B.

**Recreation and Conservation Funding Board  
Resolution 2018-03  
Control and Tenure Policy for Projects on State Owned Aquatic Lands Managed by the Washington  
State Department of Natural Resources**

**WHEREAS**, the Revised Code of Washington 79A.25.005 authorizes the Recreation and Conservation Funding Board (board) to administer recreational grant-in-aid programs; and

**WHEREAS**, this policy is desired to prepare for the 2018 grant cycle; and

**WHEREAS**, updating the board's control and tenure policy is desired for transparency and flexibility in having sponsors meet the board's grant requirements and the Recreation and Conservation Office's grant management and contracting requirements; and

**WHEREAS**, retaining control and tenure policies help insure funded projects can occur and completed projects remain in the public domain for a long period of time; and

**WHEREAS**, the board solicited and heard public comments on the policies recommended in this memo in an open public meeting on January 31, 2018, and

**WHEREAS**, staff reviewed and considered public comments on the recommendations contained in this memo.

**NOW, THEREFORE BE IT RESOLVED**, that the board approves Resolution 2018-03 and the policy and procedural recommendations contained in this memo.

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

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

*Adopted/Defeated/Deferred (underline one)*

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



## Attachment C.

### Control and Tenure Policy Adopted in 1996 per Resolution #1996-10

"To protect the Interagency Committee for Outdoor Recreation (IAC) (now RCFB) assisted capital investment, sponsors must have adequate control and tenure of development project areas. This may be documented in several ways, including by showing land ownership, lease, use agreement, or easement.

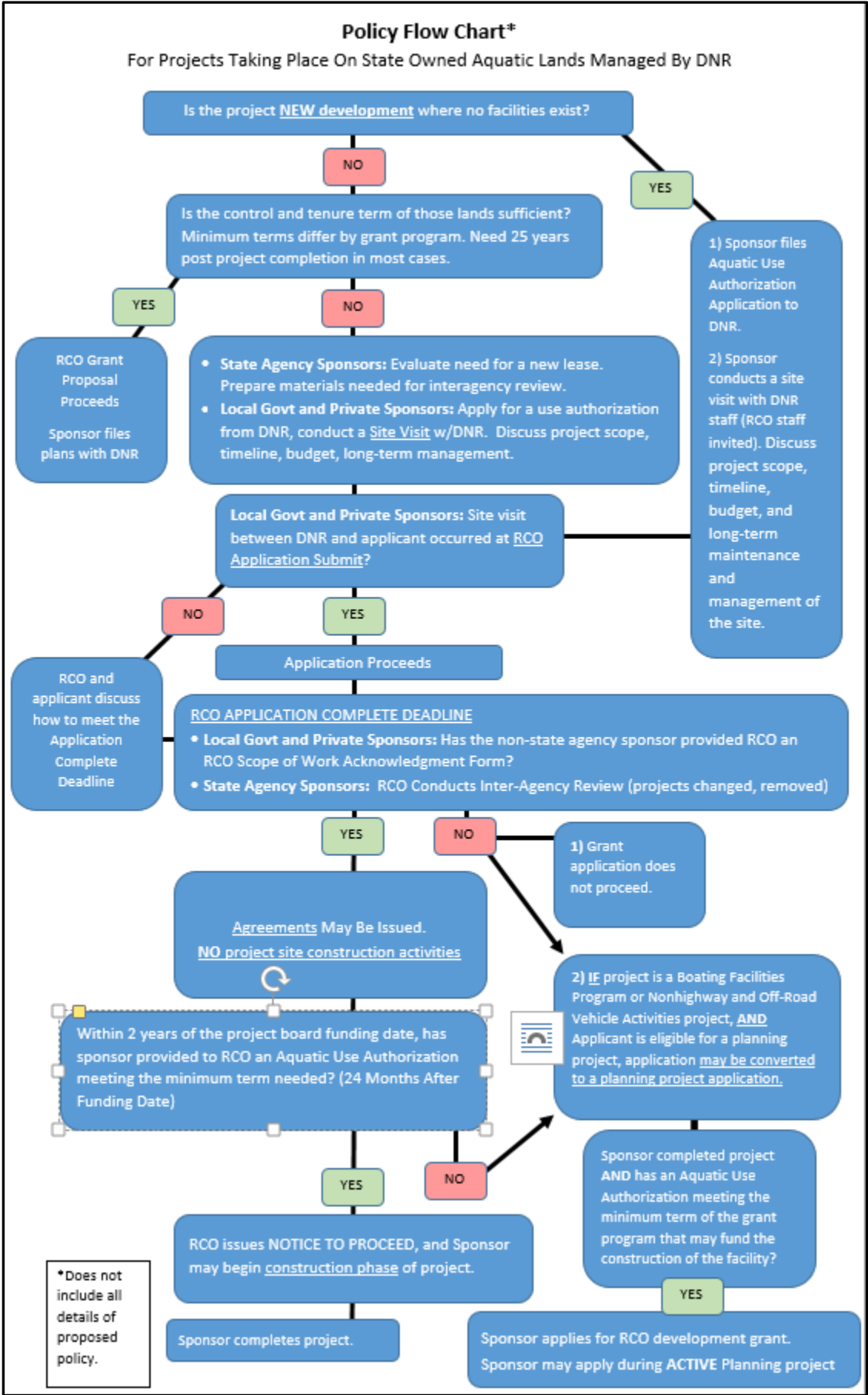
Before executing a project agreement, the applicant must provide IAC (now RCO) with:

1. Current title information for project property owned by the applicant, but not acquired with RCFB assistance. This information must include:
  - Legal description,
  - Deed description,
  - Encumbrances,
  - Documentation of current owner, and
  - Easements. Explain the immediate or potential impact of any restriction, easement, or encumbrance.
2. Copies of applicable leases, easements, or use agreements on the area or property to be developed, if not owned by the sponsor. Under this option:
  - The lease, easement, or use agreement must extend for 25 years from the date of RCFB approval.
  - The lease, easement, or use agreement may not be revocable at will.
  - Evidence must be provided by the sponsor that the proposed development and its intended uses are consistent with and legally permissible under the conditions of the lease, easement, or agreement."

## Attachment D.

### DNR's Lease and Easement Terms for State-Owned Aquatic Lands

Agreement type	Locations <u>(Defined)</u>	DNR Preferred Term	Maximum Term allowed by Statute	Authority
Easements	Bedlands – in front of second-class tide/shorelands	Depends 12 years	NA	<a href="#">RCW 79.36.355</a>
	Bedlands – in front of unplatted first-class tide/shorelands	10 years	NA	
	First and second-class platted tidelands and shorelands	12 years	NA	
	First class unplatted tide/shorelands	10 years	NA	
	Harbor Areas	12 years	NA	
	Waterways	5 years	NA	
Lease	Bedlands – in front of second-class tide/shorelands	12 years	30 years	<a href="#">RCW 79.130.020</a>
Lease	Bedlands – in front of unplatted first-class tide/shorelands	10 years	10 years	<a href="#">RCW 79.130.020</a>
Lease	First and second-class platted tidelands/shorelands	12 years	55 years	<a href="#">RCW 79.125.200</a>
Lease	First class unplatted tide/shorelands	10 years	10 years	<a href="#">RCW 79.125.410</a>
Lease	Harbor Areas	12 years	30 years	<a href="#">State Constitution, Article XV, §2, RCW 79.115.110 &amp; RCW 79.115.120</a>
Waterway permit – Salmon Bay and East and West Duwamish River	Tidelands and shorelands	5 years	30 years	<a href="#">RCW 79.120.040</a>
Waterway Permit – elsewhere		Up to 1 year	1 year	<a href="#">WAC 332-30-117</a> (3)
Waterway Permit – certain uses		Up to 5 years	5 years	<a href="#">WAC 332-30-117</a> (4)



## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Dates:** January 31-February 1, 2018

**Title:** Briefing on Conversion Request: City of Kent, East Hill/Morrill Meadows Park  
RCO #91-170A, 96-1224D, 97-036A, 02-1175A

**Prepared By:** Myra Barker, Compliance Specialist

#### Summary

The City of Kent is asking the Recreation and Conservation Funding Board (board) to approve a conversion of approximately 3.56 acres located at East Hill/Morrill Meadows Park. The conversion is due to the city's plan to convey property rights to the YMCA of Seattle for development of an indoor facility. In addition, the city will permit a portion of the park to be used for parking by YMCA members. Staff will ask for board comments and questions at the January 31-February 1, 2018 meeting in order to prepare for a decision at the April 2018 meeting.

#### Board Action Requested

This item will be a:

- ☐ Request for Decision
- ☐ Request for Direction
- ☒ Briefing

### Overview of the Board's Role and Applicable Rules and Policies

The subject of this memo is a proposed conversion of property acquired and developed with grants from the Washington Wildlife and Recreation Program (WWRP), Local Parks Category. The sponsor, the City of Kent, plans to convey property interests to the YMCA of Seattle for construction of an indoor facility. Additionally, a portion of the park will be developed for YMCA user parking to meet city requirements.

#### The Role of the Board

Because local needs change over time, state law 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 whether the replacement facility or property meets the requirements set in RCO administrative rules and policies. The board does not have the authority in statute or rule to levy penalties or dictate the future use of the property or project area being converted.

## Applicable Policies and Rules

The state law<sup>1</sup> for the WWRP includes a prohibition against conversion without board approval.

Specifically,

*Habitat and recreation land and facilities acquired or developed with moneys appropriated for this chapter may not, without prior approval of the board, be converted to a use other than that for which funds were originally approved. The board shall adopt rules and procedures governing the approval of such a conversion.*

The board has adopted Washington Administrative Code<sup>2</sup> and policy that defines when a conversion occurs, the appropriate replacement measures, and the steps that sponsors must take to request approval. The rule that applies to acquisition and development projects is as follows:

The sponsor must:

- Demonstrate the need to convert the project area<sup>3</sup> including all efforts to consider practical alternatives, how they were evaluated, and the reasons they were not pursued;
- Provide an opportunity for the public to participate in the identification, development and evaluation of the alternatives, including a minimum public comment period of at least thirty days; and
- Provide another project area to serve as replacement. The replacement must:
  - Be interest in real property of at least equal current market value to the converted property;
  - Be of reasonably equivalent usefulness and location;
  - Be administered by the same sponsor unless otherwise approved by the board;
  - Be a new project area with facilities that satisfy need(s) identified in the sponsor's current plan, or other relevant local or statewide plan;
  - Be eligible in the WWRP account or category of the original project unless otherwise approved by the board; and
  - Satisfies the conversion without grant assistance from the board.

The most recent revision<sup>4</sup> to the rule removed the requirement to provide equivalent value for conversion of a development project (funded facilities and/or structures). The rule now clarifies that replacement must provide a new project area and facilities.

### Board Policies for All Conversions

In addition, the board has adopted policy that requires the project sponsor supply the following for any conversion<sup>5</sup>:

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<sup>1</sup> RCW 79A.15.030 (9)

<sup>2</sup> WAC 286-13-160; WAC 286-13-170

<sup>3</sup> WAC 286-04-010 (19) Project area is a geographic area that delineates a grant assisted site which is subject to application and project agreement requirements.

<sup>4</sup> WAC 286-04 rule revision effective June 17, 2017.

<sup>5</sup> Manual 7, Section 2

- A list and discussion of all alternatives for replacement or remediation of the conversion, including avoidance; and
- Evidence 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.

### Background – RCO Projects Impacted

<b>Project Name:</b>	East Hill Neighborhood Park	<b>Project #:</b> 91-170AD
<b>Grant Program:</b>	Washington Wildlife and Recreation Program- Local Parks Category	<b>Board funded date:</b> July 1991
<b>WWRP Amount</b>	\$381,060.52	<b>Original Purpose:</b> This project acquired and developed 4.62 acres for a neighborhood park. Development included a playground, basketball and tennis courts, picnic shelter, restrooms, sidewalks and pathways, parking, and landscaping.
<b>Project Sponsor Match</b>	\$381,060.52	
<b>Total Amount:</b>	\$762,121.04	
<b>Project Name:</b>	East Hill Neighborhood Park Phase 2	<b>Project #:</b> 97-036A
<b>Grant Program:</b>	Washington Wildlife and Recreation Program Local Parks Category	<b>Board funded date:</b> April 1997
<b>WWRP Amount</b>	\$479,443	<b>Original Purpose:</b> This project acquired approximately 13 acres to expand East Hill Park.
<b>Project Sponsor Match</b>	\$479,443	
<b>Total Amount:</b>	\$958,887	
<b>Project Name:</b>	Morrill Meadows Park Development	<b>Project #:</b> 96-1224D
<b>Grant Program:</b>	Washington Wildlife and Recreation Program- Local Parks Category	<b>Board funded date:</b> July 1997
<b>WWRP Amount</b>	\$300,000	<b>Original Purpose:</b> This project developed approximately 13 acres to expand East Hill Park. Development included a playground, picnic shelter, pathways, restrooms, roads, parking, and landscaping.
<b>Project Sponsor Match</b>	\$434,289	
<b>Total Amount:</b>	\$734,289	
<b>Project Name:</b>	Morrill Meadows/East Hill Park Connection	<b>Project #:</b> 02-1175A
<b>Grant Program:</b>	Washington Wildlife and Recreation Program Local Parks Category	<b>Board funded date:</b> July 2003
<b>WWRP Amount</b>	\$275,660	<b>Original Purpose:</b>
<b>Project Sponsor Match</b>	\$275,661	

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**Total Amount:**

\$551,321

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This project acquired approximately 3.17 acres located between Morrill Meadows Park and East Hill Park.

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The City of Kent was awarded four grants to acquire five parcels totaling about 21.17 acres and develop the East Hill Neighborhood Park and Morrill Meadows Park from 1991 to 2003. The parks are adjacent and located on SE 248<sup>th</sup> Street. (Attachment A)

The first grant established the neighborhood park. A few years later, the city was awarded a grant to acquire property that created the Morrill Meadows Park, which is located just west of East Hill Neighborhood Park. The most recent grant (#02-1175A) was used to acquire property that connected and consolidated the two parks into one. RCO funding was used to develop facilities in areas throughout both parks, as described above. (Attachment B)

The city subsequently acquired, without RCO funding, the remaining three parcels that had been inholdings in the overall park boundary. (Attachment B)

### **The Conversion**

The city is requesting a conversion to permit the construction of a 50,000 square foot YMCA facility at the park. Property rights will be conveyed to an ineligible third-party (the YMCA of Seattle) and development of a YMCA or similar indoor facility and aquatic center is not eligible nor allowed on RCO funded sites without conversion.

The conversion area is approximately 3.65 acres crosses multiple parcels and includes the RCO funded developed facilities at East Hill Park. (Attachment C)

## **Details of Proposed Replacement Property and Development Replacement**

### **Location / Property Characteristics / Proposed Development**

The city is currently exploring options for replacement property and for the replacement for the developed park facilities that will be converted. Staff will provide details on the proposed replacement property and the proposed development at the April 2018 meeting.

## **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 for Conversion**

The alternatives considered were limited to city-owned property because of the lack of resources the city had to make a financial contribution to the partnership with the YMCA for a new facility. In 2015, the city council authorized the mayor to enter into a memorandum of understanding to continue discussion on possible development of a community recreation and aquatics center at the East Hill/Morrill Meadows Park. The city determined the location of a new facility must meet the following criteria:

- Convenient to the greatest number of households within the city;
- Located on a street that could accommodate the anticipated increase in traffic;
- Located on city-owned property;
- Meeting the YMCA criteria for location near economically challenged neighborhoods; and
- Sited on a property large enough for an indoor facility and aquatic center and for outdoor public use.

The city determined a park best met the criteria. Additionally, the opportunity to integrate the design of an indoor facility with park improvements was another factor. Subsequently, the East Hill/Morrill Meadows Park was selected. The city council approved moving forward with the surplus process to make a portion of the East Hill/Morrill Meadows Park available for sale to the YMCA of Greater Seattle and construction of a community recreation facility.

### **Evaluation of Practical Alternatives Considered for Replacement Property and Development**

Staff will provide the city's alternatives analysis at the April 2018 meeting.

### **Evaluation of Fair Market Value**

Staff will provide the appraised values at the April 2018 meeting.

### **Evaluation of Reasonably Equivalent Location**

Staff will provide the location information at the April 2018 meeting.

### **Evaluation of Reasonably Equivalent Utility**

Staff will provide the city's justification of the replacement meeting equivalent recreational utility at the April 2018 meeting.

### **Evaluation of Public Participation**

The city has conducted public outreach on the proposed YMCA at East Hill/Morrill Meadows Park that included city council meetings, posting the proposed site development plan for the park and YMCA facility on the city Parks website, conducting a review through the State Environmental Protection Act (SEPA), and the city property surplus process which required a public hearing. The public notice for the city surplus process referenced that the planned YMCA project may require removal of covenants that restrict the park property use. The city's Park and Recreation Commission was kept informed of the plan for the park. Additionally, local newspapers have published articles about the city's partnership with the YMCA for a facility to be constructed at the park.



Unfortunately, information on the RCO funding and grant requirements and opportunity for public comment regarding the impacts to the funded parks was omitted from the outreach efforts. The city plans to publish a notice that clearly identifies the planned YMCA facility creates a conversion of RCO projects and will solicit public comment on alternatives for replacement to meet board policy and the required 30-day public comment period per Washington Administrative Code.

### **Other Basic Requirements Met**

#### *Same Project Sponsor*

The replacement property will be administered by the same project sponsor (City of Kent).

#### *Satisfy Needs in Adopted Plan*

Staff will provide the city's justification on how the replacement property satisfies the needs as described in the city's plan at the April 2018 meeting.

#### *Eligible in the Funding Program*

Staff will provide the information on the proposed replacement property and development eligibility at the April 2018 meeting.

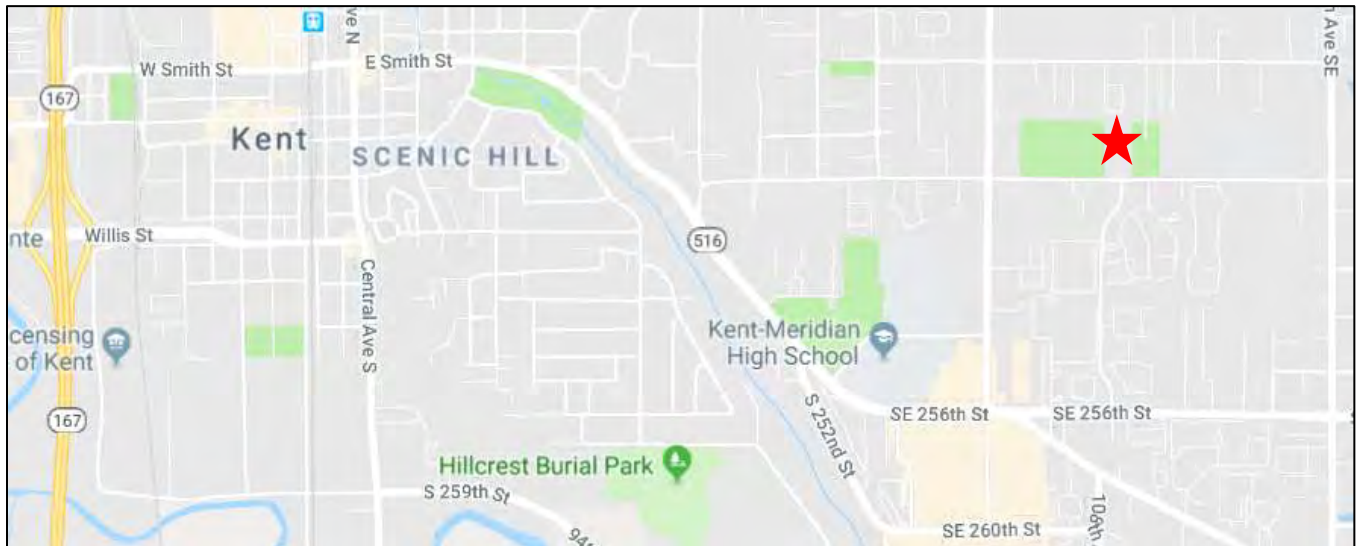
### **Next Steps**

RCO staff will work with the City of Kent to comply with the conversion requirements and finalize the conversion request for a board decision at the April 2018 meeting. These preparations will take into account any questions raised by the board at the January 31-February 1, 2018 meeting.

### **Attachments**

- A. Location and Aerial Maps of East Hill/Morrill Meadows Park
- B. Parcel Map of RCO Project Area at East Hill/Morrill Meadows Park
- C. Proposed Conversion Area
- D. Site Photos

## Attachment A: Location and Aerial Map Kent East Hill/Morrill Meadows Park

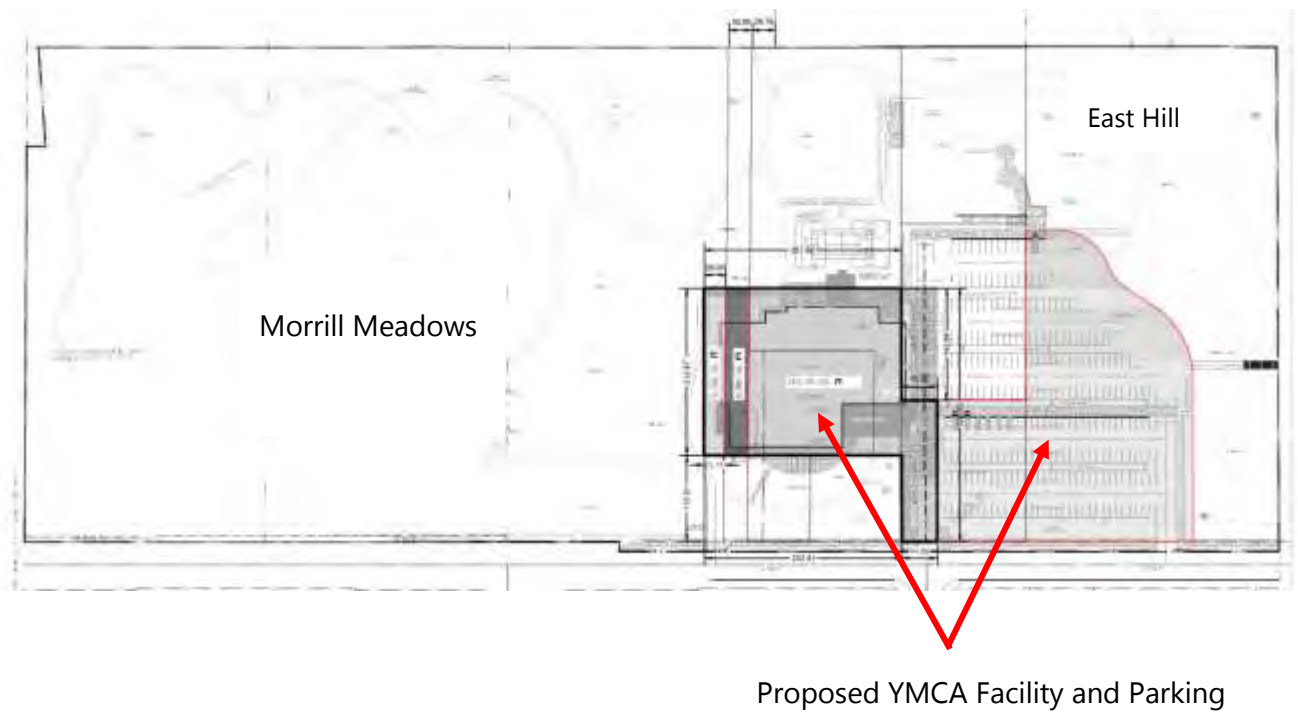


## Attachment B: Kent East Hill/Morrill Meadows Parcel Map – Combined RCO Project Area; Aerial Parcel Map



Red-outlined property purchased with city funds and have no RCO funding

## Attachment C: Proposed Conversion Area





## Attachment D: Site Photos



## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31/February 1, 2018

**Title:** Conversion Request: City of Leavenworth, Leavenworth Skate Park  
RCO Project #00-1469D

**Prepared By:** Myra Barker, Compliance Specialist

#### Summary

The City of Leavenworth requests the Recreation and Conservation Funding Board (board) approve a conversion of the skate park. The skate park was demolished in June 2016 due to the phased construction of a new high school. A new skate park has been constructed in the city's Enchantment Park.

#### Board Action Requested

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

**Resolution:** 2018-04

**Purpose of Resolution:** Approve or deny the conversion.

### Overview of the Board's Role and Applicable Rules and Policies

The subject of this memo is the conversion of a skate park that was developed with a grant from the Washington Wildlife and Recreation Program (WWRP), Local Parks Category. The conversion was created when the skate park was demolished by the Cascade School District for construction of a new school. The sponsor, City of Leavenworth, is requesting approval of the conversion and of the replacement skate park that opened in July 2017 at the city's Enchantment Park.

#### The Role of the Board

Because local needs change over time, state law 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 whether the replacement facility or property meets the requirements set in RCO administrative rules and policies. The board does not have the authority in statute, or rule, to levy penalties or dictate the future use of the property or project area being converted.

## Applicable Laws, Rules, and Policies

State law<sup>1</sup> for the Washington Wildlife and Recreation Program (WWRP) includes a prohibition against conversion without board approval. Specifically,

*Habitat and recreation land and facilities acquired or developed with moneys appropriated for this chapter may not, without prior approval of the board, be converted to a use other than that for which funds were originally approved. The board shall adopt rules and procedures governing the approval of such a conversion.*

The board has adopted Washington Administrative Code<sup>2</sup> and policy that defines when a conversion occurs, the appropriate replacement measures, and the steps that sponsors must take to request approval. The rule that applies to a development project is as follows:

- The sponsor has demonstrated the need to convert the project area<sup>3</sup> including all efforts to consider practical alternatives, how they were evaluated, and the reasons they were not pursued;
- Provide an opportunity for the public to participate in the identification, development and evaluation of the alternatives, including a minimum public comment period of at least thirty days; and
- Provide another project area to serve as replacement. The replacement must:
  - Be of reasonably equivalent usefulness and location,
  - Be administered by the same sponsor unless otherwise approved by the board,
  - Be a new project area with facilities that satisfy need(s) identified in the sponsor's current plan, or other relevant local or statewide plan,
  - Be eligible in the WWRP account or category of the original project unless otherwise approved by the board, and
  - Satisfies the conversion without grant assistance from the board.

The most recent revision<sup>4</sup> to the rule removed the requirement to provide equivalent value for conversion of a development project (funded facilities and/or structures). The rule now clarifies that replacement must provide a new project area and facilities.

### Board Policies for All Conversions

In addition, the board has adopted policy that requires the project sponsor supply the following for any conversion<sup>5</sup>:

- A list and discussion of all alternatives for replacement or remediation of the conversion, including avoidance; and
- 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 (9)

<sup>2</sup> WAC 286-13-170

<sup>3</sup> WAC 286-04-010 (19) Project area is a geographic area that delineates a grant assisted site which is subject to application and project agreement requirements.

<sup>4</sup> WAC 286-04 rule revision effective June 17, 2017.

<sup>5</sup> Manual 7, Section 2

## Background

The project in question is [RCO #00-1469D](#), Leavenworth Skate Park.

<b>Project Name:</b>	Leavenworth Skate Park	<b>Project #:</b>	00-1469D
<b>Grant Program:</b>	Washington Wildlife and Recreation Program, Local Parks Category	<b>Board funded date:</b>	July 2001
<b>WWRP Amount</b>	\$67,500	<b>Original Purpose:</b> This project developed a skate park on school district property.	
<b>Project Sponsor Match</b>	\$67,500		
<b>Total Amount:</b>	\$135,000		

The City of Leavenworth developed an approximately 6,000 square foot skate park in 2004. The skate park was located on Cascade School District property, at the high school, which is adjacent to Chumstick Highway. (Attachments A and B)

Board policy requires a sponsor to have control and tenure over the project area. If the sponsor does not own the land where a project is located, they must provide control and tenure for a minimum term of 25 years for WWRP funding. This may be met through an easement, lease, or use agreement that extends at least 25 years from the date the project is accepted as completed and final reimbursement has been issued.

Because the skate park was constructed on school district property, the city met this requirement with an interlocal agreement with the school district that became effective August 15, 2000. The term of the agreement was for a period of 25 years with options to extend it for additional one year periods.

While the project was substantially completed in August 2004, it was not accepted as completed until September 28, 2008. Addressing accessibility issues delayed close-out. The 25-year compliance period began at that time with the minimum long-term obligation expiring on September 28, 2033. Site inspections conducted in 2004, 2009, and 2015 confirmed the skate park was open and available for public outdoor recreational use. (Attachment C)

In August 2015, the city contacted RCO and advised that the school district planned to remove the skate park to construct a new high school. Subsequent communications between city and RCO staff took place over the next several months regarding board policy and procedures for approval. RCO staff met on-site with the city and school district in November 2015.

In January 2016, the city requested RCO concur with their determination that the skate park had met its useful life and was obsolete. The basis of the request was that the school district's development of the high school would impact the existing skate park, the location of the skate park did not meet school district safety protocol, and the term of the interlocal agreement had reached its midway point. The city asked to be released from the long-term obligations of the grant with no requirement for replacement.

By board policy, obsolescence may be considered when a structure has met an agreed upon useful service life and when the project area will remain open and available for public outdoor recreation. RCO has no established schedule for useful service life for facilities and structures. Typically, industry standards or a sponsor's asset management plan and experience provide guidance in determining a useful service life. Generally, the expected useful service life for a concrete skate park is 25 to 30 years or more.



RCO reviewed the request and because the project area would return to dedicated school use and the skate park was still functioning, the request was denied. RCO's director advised the circumstances would create a conversion and asked the city to consult with RCO staff on options for eligible replacement.

### **The Conversion**

As noted earlier, the conversion was created by the demolition of the skate park. The skate park was removed so that the landowner, the Cascade School District, could construct a new high school.

## **Details of the Replacement**

### **Location**

The replacement is located at Enchantment Park (Attachment D). The city, in partnership with its Skate Park Committee, considered seven locations. The criteria for determining the location included city ownership, time constraints, amenities and infrastructure, potential conflicts and impacts, barriers to "shovel ready", visibility and security. The public was invited to provide comments during the site selection process. The Skate Park Committee reviewed public comments and made a recommendation to the city council. The city council approved siting the new facility at Enchantment Park.

### **Replacement Facility**

Three design options were provided for public vote by interested parties in the community. The final design was approved by city council in April 2017 (Attachment E). Design considerations included: offering features for different skating levels, public comment, suitability within the physical limits of the area identified in Enchantment Park, and costs not to exceed the identified budget.

The city constructed a 4,350 square foot skate park. The replacement skate park was opened to the public in July 2017 (Attachment F).

### **Project Area Characteristics**

Enchantment Park is part of the city's waterfront park system. The city has received two grants at the park that helped to construct trails, access to the river, parking, and a restroom. One of the grants funded a bridge and trail to connect Enchantment Park to Blackbird Island and Waterfront Park.

The new skate park is located in a part of the park that was not within existing footprints of the previously funded projects at Enchantment Park.

## **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.
- Justification exists to show that the replacement property or facility has at least reasonably equivalent utility and location.
- The public has opportunities for participation in the process.

### **Evaluation of Practical Alternatives**

The city advised there were no alternatives to consider. The property is owned by the Cascade School District, who through a planning and design process, determined the skate park must be removed to accommodate the construction of the new high school.

### **Evaluation of Value**

The value of a developed facility proposed for conversion and the proposed replacement is no longer a consideration as it was before the most recent update to the Washington Administrative Code. Previously the total grant project cost for the developed facility was a factor in determining the value for replacement.

### **Evaluation of Reasonably Equivalent Location**

The replacement skate park is located 1.4 miles from the school district site.

### **Evaluation of Reasonably Equivalent Utility**

The replacement is a skate park and provides the same recreational opportunity. The design was determined in consultation with the public, the city's Skate Park Committee, with final approval by the city council in April 2017.

### **Evaluation of Public Participation**

The city began a public process in May 2016 by issuing a press release informing the public of the planned demolition of the skate park and the plan to provide a replacement. The city formed a Skate Park Committee composed of city council members and representatives from the skating community. During the period from June 2016 through March 2017, the city used social media (Facebook), public workshops, and city council meetings for soliciting public comments. Additionally, a voting process was used to help determine the final design prior to the city council approval of the replacement skate park design and its location in April 2017. The following summarizes the city's efforts.

- Postings on the city's Facebook page (June 2016 – April 2017)
- Skate Park Committee meetings (June 2016 – March 2017)
- Two public meetings on the skate park design (November 2016; January 2017)
- City council meetings (June 2016 – April 2017)

The city did not designate a specific 30-day public comment period and chose to involve the public as described above.

### **Other Basic Requirements Met**

#### *Same Project Sponsor*

The replacement skate park is located in an existing park and will be administered by the City of Leavenworth.

#### *Satisfy Needs in Adopted Plan*

A skate park is consistent in meeting the city's current parks plan goals of providing year-round active recreational activities and encouraging the use of parks to promote active living.

#### *Eligible in the Funding Program*

A skate park is eligible in the grant program and category.

## **Conversion Policy Requirements Met**

RCO received the city's request in August 2017 after the new skate park had been built and opened to the public. Staff did not have an opportunity to review the alternatives considered prior to receiving notification from the city of the new skate park.

Following the notification in August, the documentation for approval of the conversion has been compiled to meet the board's policy requirements.

## **Board Decision**

Staff recommend approval conditioned on consolidating the previously funded project areas with the area occupied by the new skate park at Enchantment Park. This will update the RCO project area boundary that will be subject to the long-term obligations of the grant funding.

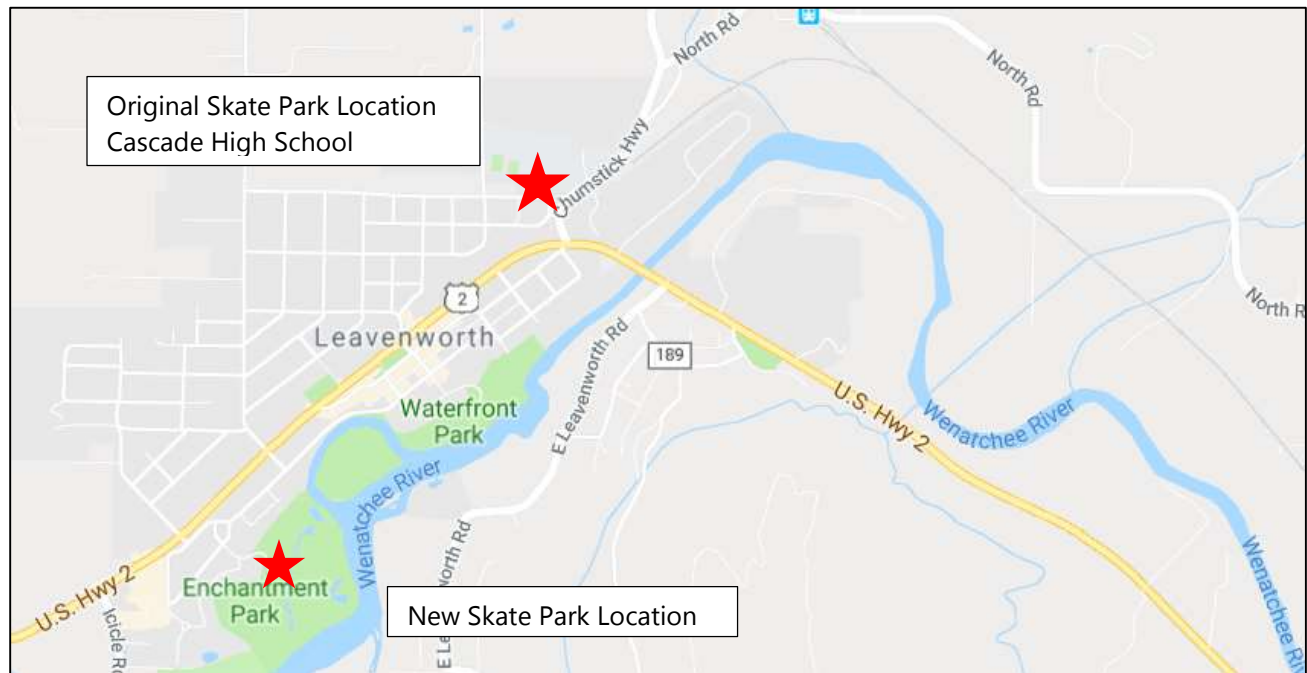
## **Next Steps**

Should the board approved the conversion and replacement, staff will execute all necessary amendments to the project agreement, as directed.

## **Attachments**

- A. Location Map of Original Skate Park and Replacement Skate Park
- B. Aerial Photos of Original Skate Park Project Area
- C. Inspection Photos of Original Skate Park
- D. Aerial of Enchantment Park
- E. Design of Replacement Skate Park
- F. Photos of Replacement Skate Park
- G. Resolution 2018-04

## Attachment A: Location Map



## Attachment B: Aerial Photos of the Location of Original Skate Park

May 2015



July 2017





## Attachment C: Inspection Photos of the Original Skate Park

August 2004



August 2009



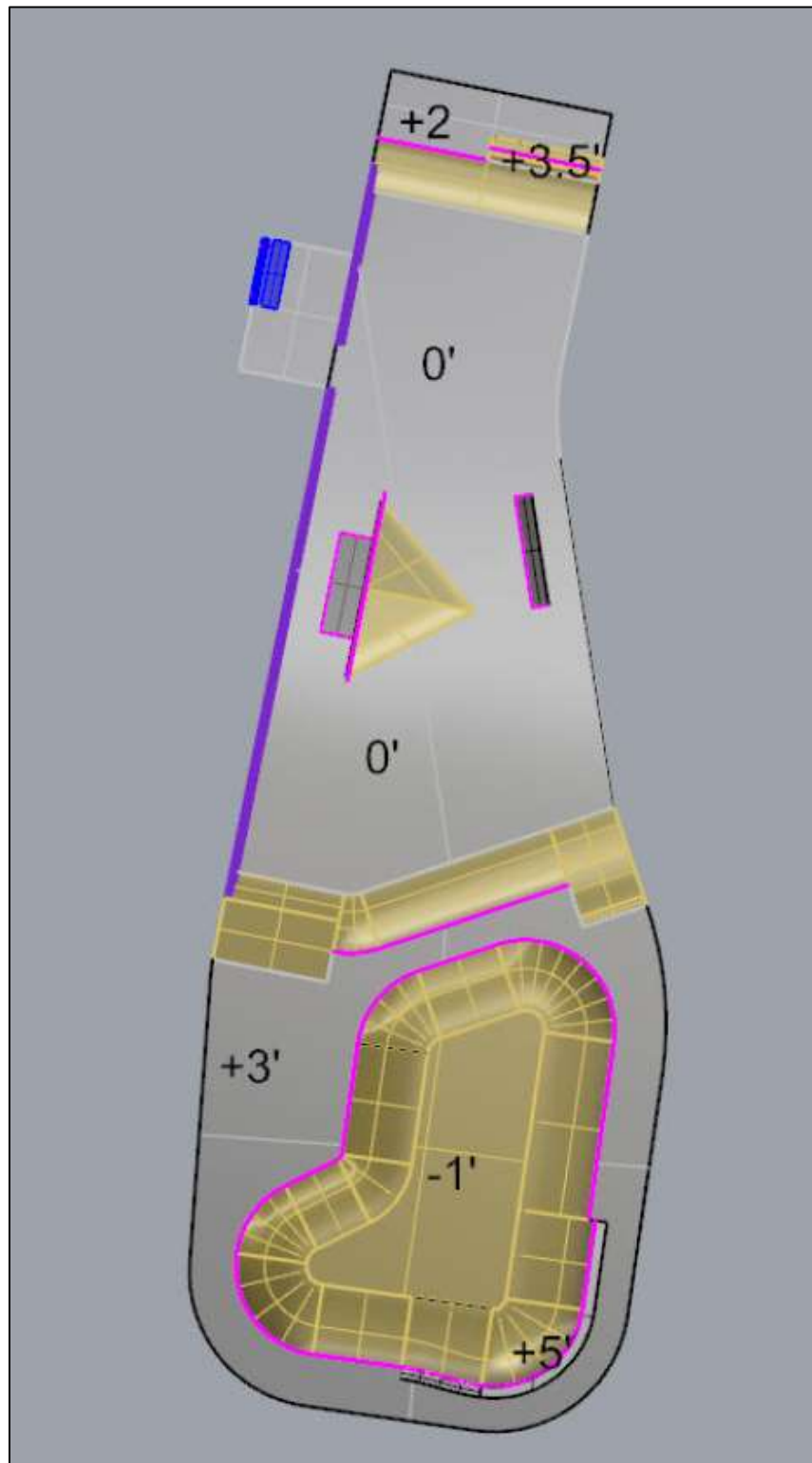
November 2015



## Attachment D: Enchantment Park



## Attachment E: New Skate Park Design





## Attachment F: New Skate Park Photos



**Recreation and Conservation Funding Board**  
**Resolution 2018-04**  
**Conversion Request: Leavenworth Skate Park (RCO #00-1469D)**

**WHEREAS**, that the City of Leavenworth used a grant from the Washington Wildlife and Recreation Program – Local Parks category (WWRP-LP) to develop a skate park; and

**WHEREAS**, that the skate park was demolished due to construction of a new high school thereby creating a conversion; and

**WHEREAS**, that as a result of this conversion, the project area no longer satisfies the conditions of the RCO grant; and

**WHEREAS**, that the city is asking for Recreation and Conservation Funding Board (board) approval to replace the converted project area; and

**WHEREAS**, that the replacement skate park provides equivalent opportunities of those displaced by the conversion; is supported in the city's parks plan in providing active recreational activities and encouraging the use of parks for active living; thereby supporting the board's goals to provide funding for projects that result in public outdoor recreation purposes; and

**WHEREAS**, that the sponsor sought public comment on the replacement, thereby supporting the board's strategy to regularly seek public feedback in policy and funding decisions.

**NOW, THEREFORE BE IT RESOLVED**, that the Recreation and Conservation Funding Board hereby approves the conversion conditioned upon the project area including all of Enchantment Park, thus consolidating the replacement with previous board funding at the park; and

**BE IT FURTHER RESOLVED**, that the board the Board authorizes the Director to execute the necessary amendments.

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

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

*Adopted/Defeated/Deferred (underline one)*

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

## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31, 2018

**Title:** Kitsap Rifle and Revolver Club- Declaration of Conversion

**Prepared By:** Scott T. Robinson, Deputy Director

#### Summary

This memo includes a brief history of compliance issues for grant [#03-1156](#), Rifle Line Re-orientation Sound Cover, sponsored by the Kitsap Rifle and Revolver Club. Staff recommends the Board declare a conversion requiring the sponsor to repay \$46,965.16 in grant funds.

#### Board Action Requested

This item will be a:

- ☒ Request for Decision
- ☐ Request for Direction
- ☐ Briefing

**Resolution:** 2018-04

### Background

The Recreation and Conservation Funding Board (board) awarded grant funding to the Kitsap Rifle and Revolver Club (Club) on November 21, 2003, to renovate an existing 200-yard rifle line to improve sound attenuation and safety. The Club completed those improvements in early 2009, apparently without obtaining the permits Kitsap County (County) required for, among other things, building, grading, excavation, storm water, and wetlands fill. Section 9 of the General Provisions of the FARR Project Agreement (Agreement) requires the Club to comply with all local laws. The Club obtained its final reimbursement from RCO on February 10, 2009.

For substantial periods of time from 2012 to the present, the Club had been shut down to shooting due to several injunctions that Kitsap County obtained on grounds on public nuisance and the failure to obtain required permits. Section D of the Agreement requires the Club to operate a shooting range for ten years from the final reimbursement, which is February 10, 2019.

### Kitsap County Injunctions Against the Club

The opened for shooting in 1926 on land leased from the Department of Natural Resources and incorporated as a nonprofit in 1985. In 1993 Kitsap County "grandfathered" the Club as a non-conforming use. In 2009, the Club obtained fee title to the property, appropriately 70 acres.

In late 2009 - 2010, the county saw a dramatic increase in complaints from the public about noise and allegations of stray bullets leaving the range. The county determined that the original footprint and uses of the Club had significantly expanded from what had been grandfathered previously as a non-

conforming use, and the expansion had been done without permits for excavation, building, storm water, wetland fill, etc.

In 2011, the County brought a nuisance action to require the Club to obtain after-the-fact permits related to unpermitted construction and to enjoin the Club from the expanded uses that increased noise and threatened public safety. The expanded uses consisted of exploding targets, use of automatic and semi-automatic weapons, use of the range for military training using larger caliber weapons, and the addition of a new type of range for "practical shooting" where the shooter fires in rapid succession at numerous targets from a structure, such as a house, which is intended to simulate an under-fire scenario.

This lawsuit led to several injunctions and three appeals to the court of appeals and counting. In November of 2017, the appeals court approved an injunction which prohibits the use of the range for the expanded uses, but not for the historic uses that existed before the expansion. In a separate part of this litigation, on December 2, 2016, the trial court entered a contempt order enjoining the Club from using the range for historic uses until it obtains the after-the-fact permits. The Club has failed to apply for the permits asserting it lacks funds to do so, and has appealed the contempt ruling to the court of appeals. That appeal is now fully briefed and argued and awaits decision. The Club's insurance company has paid the legal fees for the Club's defense and appeals arising from the nuisance suit.

The County filled a second lawsuit (a code enforcement action) in 2015 to require the Club to obtain a firing range operating permit pursuant to a new ordinance that the County passed in 2014. The new ordinance requires all shooting clubs in the county to apply for an operating permit every 5 years, a process that includes a requirement that clubs address any sound or safety issues. The Club twice filed permit applications, but both were rejected as incomplete. The trial court declared that the Club was in violation of the ordinance, which the Club appealed on grounds the ordinance was unlawful. In November 2017, the court of appeals rejected that appeal. While that appeal was pending, on June 12, 2017, the County obtained an injunction prohibiting the Club from operating the shooting range for the historic uses without obtaining an operating permit. The Club (using counsel not provided by the insurance company) recently appealed the contempt order injunction. That appeal has not yet been briefed or argued, and a decision is likely to take at least several months.

In summary, two injunctions are currently in place enjoining the Club from operating the shooting range, and both of those injunctions are on appeal.

## Compliance Issues

Under Section D of the Agreement and consistent with board policy, facilities constructed with Firearms and Archery Range Recreation (FARR) grants must be opened for the authorized purpose and available to the public for a period of at least 10 years from the date of the last reimbursement. For the Kitsap Rifle and Revolver Club, this date was February 10, 2009. Therefore, the facilities must remain open to the public until February 20, 2019.

Between 2012 and the present, the Club has been shut down to shooting for substantial periods, collectively exceeding several years. The exact amount of time the facility has been shut down is unknown because the Club has been unresponsive when RCO staff requested this information. However, it is known that the Club has been under injunctions prohibiting shooting from April 24, 2015 to April 8, 2016 and from December 2, 2016 to present.

Since March 2012, the RCO has sent the Club numerous letters<sup>1</sup> and has made multiple attempts through email and phone requesting information about the Club's closures and their plans to reopen. Although there has been some response from the Club, representatives continue to deny that the Club is closed, making the case that although the Club is closed to shooting high powered rifles, it is technically open for other uses, such as air rifles. RCO staff have made it clear that the facilities constructed with grant funding need to remain open for the intended purposes. In this situation, the facilities that need to remain open to the public are the renovated 200 foot rifle line constructed between 2006 and 2007. Despite numerous requests, the Club has failed to provide a timeline of closures to RCO staff or share their plans for reopening the facility. Additionally, it is clear that the Club is not likely to be able to resolve their legal disputes with the county in the near future so there is a strong likelihood that the Club will remain closed for the indefinite future.

State law (Revised Code of Washington (RCW) 79A.25.210) and state rule (Washington Administrative Code (WAC) 286-30-040) require that a facility receiving grant funds in the FARR program is required to pay back the entire grant amount if the range facility is discontinued less than ten years after funding. Section 25 of the Project Agreement authorizes the Board to declare a conversion if the property no longer meets or conforms to the intent of the Agreement. WAC 286-30-040 (2) provides:

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:

- (a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;
- (b) The sponsor pays back the entire grant amount to the firearms range account.

## Staff Recommendation

RCO staff believes that the above circumstances demonstrate that no practical alternatives to achieve compliance are available and warrant the declaration of a conversion requiring the Club to repay the grant amount.

Staff has reviewed the situation, the Agreement, all board policies, relevant laws, and consulted with the Assistant Attorney General and recommends the board declare a formal conversion requiring the Club to repay the grant in the amount of \$46,965.16. Resolution 2018-04 is provided as Attachment A for your consideration.

## Next Steps

If this request is approved, staff will formally notify the Club that the Board has declared a conversion and full repayment of the grant funded amount of \$46,965.16 is due within ninety days.

## Attachments

- (a) Resolution 2018-05
- (b) Project Timeline
- (c) Letter from Director Cottingham Dated December 12, 2017
- (d) Project agreement 03-1156

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<sup>1</sup> Letters will be provided to the board at the board meeting.

**Recreation and Conservation Funding Board  
Resolution 2018-05  
Kitsap Rifle and Revolver Club- Declaration of Conversion**

**WHEREAS**, the Recreation and Conservation Funding Board provided grant funding through the Firearms and Archery Range Recreation program for grant #03-1156, Rifle Line Re-orientation Sound Cover sponsored by Kitsap Rifle and Revolver Club; and

**WHEREAS**, the Firearms and Archery Range Recreation program requires grant funded facilities be open and available to the public for a period of 10 years following final reimbursement, or in the case of grant #03-1156 until February 10, 2019; and

**WHEREAS**, it has come to our attention that in the case of grant #03-1156 the sponsor, Kitsap County Rifle and Revolver Club, has failed to keep this facility open and available to the general public as required; and

**WHEREAS**, Kitsap Rifle and Revolver Club have been largely unresponsive to the efforts of staff at the Recreation and Conservation Office to work together to come to cure these closures.

**NOW, THEREFORE BE IT RESOLVED**, the board hereby declares a formal conversion has occurred; and

**BE IT FURTHER RESOLVED**, the board hereby orders the Kitsap Rifle and Revolver Club be held accountable for that conversion and per RCW 79A.25.210 and WAC 286-30-040 fully reimburse the Firearms and Archery Range Recreation program \$46,965.16 in grant funding within thirty days of this Resolution; and

**BE IT FURTHER RESOLVED**, the director and office is authorized to work on behalf of the board to ensure such payment is received in a timely manner.

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

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

*Adopted/Defeated/Deferred (underline one)*

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

**Timeline: Kitsap Rifle and Revolver Club****As of January 9, 2018**

November 11, 1926	Kitsap Rifle and Revolver Club (Club) opens.
1985	The Club incorporates as a nonprofit.
Sept 7, 1993	Kitsap County (county) approves shooting range ordinance, the Club grandfathered in as a long time pre-existing use.
2003	Grant funding received to renovate the current 200-yard rifle line to improve sound attenuation and safety. The project regrades existing berms to implement the Club's Safety Committee recommendations to improve shooting safety. The range will also have improved electrical power, new rifle line cover, construction of pole building structures for shooting bays, and will provide improved ADA access. See <a href="#">project #03-1156</a>
May 4, 2006	County requires Club to obtain a Conditional Use Permit for rifle line realignment. The Club disagrees.
2009	The Club applied for and received an RCO grant to provide water for an accessible restroom, complete with a septic system and drain field, install lights for the parking area and target line, and pave the access area to better connect the entrance into the range. <a href="#">Project #09-1430</a> was never implemented.
November 2009	County code enforcement officials see a spike in calls from neighbors of the gun Club complaining of heavy equipment, noise and allegations of stray bullets
Feb 2010	Aerial photos of the Club from 2009 to 2010 indicate a spread in the site's footprint.
March 2, 2010	Officials visit the Club to inspect the work and Club leaders deny the visit saying there wasn't enough notice.
June 2010	County again reviews aerial photos, which shows that land has possibly been cleared up to a wetland and they contact the Club again.
July 2010	County officials visit the site with aerial photos in hand. Club officials deny expansion and prohibit access. County issues a stop work order.
Sept 8, 2010	Kitsap County prosecutors file a lawsuit against the Club alleging safety concerns and violations of land use codes. The suit also says that the Club has built shooting areas, berms and backstops without required permits.



January 2011	The County determines that work done between November 2009 and May 2010 was completed without a permit and that it occurred outside of the historic 8 acre footprint. This work included grading, and excavation to extend new berms to catch bullets, tree removal, and the installation of two 24-inch pipes to divert storm water into a wetland.
Feb 9, 2012	Judge declares the shooting range a public nuisance and orders the Club to shut down until land-use permits are obtained. Judge also terminated the nonconforming use (grandfathered) status, although this part of the ruling was overturned on April 18, 2012.
March 30, 2012	The Club files an appeal asking the court to stay the judge's injunction.
April 18, 2012	Judge hears arguments and ultimately determines that terminating the nonconforming use (grandfathered) status was improper and restores that status. The judge said that the proper course of action for the unpermitted work was to require a conditional use permit that spells out how the property may be altered and types of uses allowed.
September 2014	Ordinance passed by County requiring gun Clubs to apply for an operating permit every 5 years that includes demonstrating that the Clubs have a plan to address any safety or noise issues that come up. This ordinance went into effect December 2014 and provided 90 days for gun ranges to comply. (Note: that this is a new permitting requirement and would not include violations discovered from unpermitted construction work from 2010.)
March 23, 2015	Deadline for the Club to apply for an operating permit from the County. Another gun Club, the Poulsbo Sportsman Club, was also given this same deadline which they met. The Kitsap Rifle and Revolver Club did not.
March 28, 2015	County files a request for a preliminary injunction to shut down the Club until it complies with permitting requirements (construction permit for past work in 2010 and operating permit).
April 17, 2015	Judge rules that although the Club was granted non-conforming status in 1993, it still is required to comply with new rules regulating health and safety. Gives the Club 90 days to apply for an operating permit and made clear that failure to comply would result in a closure of the Club. County requests the judge grant a preliminary injunction against the Club.
April 24, 2015	Judge grants the preliminary injunction and the Club is ordered to temporarily stop all shooting activities. Judge places the blame on the Club calling the injunction an "invited conflict."
July 8, 2015	The Washington State Supreme Court refuses to hear an appeal from the Club that they should not have to apply for construction permits stating that two lower courts had already found that excessive noise, unsafe shooting conditions and unpermitted work constitute a public nuisance. This is related to a case that dates back to the original September 2010 violations.



December 11, 2015	Judge reconfirmed that the Club exceeded its allowable activities under nonconforming uses (grandfathered status) when it expanded into new uses, therefore it is required to apply for permits to cover those uses.
February 2016	Judge gives Club six months to apply for land use permits to correct violations from 2010.
March-April 2016	The Club applied for an operating permit (later found to be incomplete), under protest arguing that state law prohibits any local government from regulating the use of firearms. The judge stated that although county regulations do not regulate registration, licensing, possession, purchase, sale, acquisition, transfer, discharge or transportation of firearms by individuals, but the Club itself still needed to comply with county law.
April 8, 2016	Judge lifts the injunction when the county withdrew its opposition to the Clubs request that the injunction be dissolved. However restrictions imposed by separate court ruling for the construction work (land use permit) from 2010 still remain which state that guns over .30 caliber, exploding targets and "practical shooting" (meaning shooting at many different angles) are prohibited.
May 4, 2016	Club is given an additional 90 days to submit missing information to complete their operating permit requirements.
August 3, 2016	Club misses deadline for submitting additional information required for operating permit and fails to ask for a time extension in the required window. Permit expires and Club is notified that they must start the application process over again.
August 8, 2016	Court of appeals issues a stay of the injunction on guns over .30 caliber, exploding targets and "practical shooting" stating that it is debatable if the uses in question were permissible intensifications of use or impermissible expansions of use.
August, 2016	Club states that their attendance has declined to less than 10 percent of normal use due to confusion over the rules and what is and is not allowed.
August 18, 2016	The Kitsap Sun reports that the Club was working with a consulting firm to provide a technical report needed for the Club's land use permit but that their insurance company refused to pay for this report. The Club stated that they are now taking legal action against the insurance company.
September 2016	Judge gave Club an additional 90 days to apply for land use permits for past construction work.
September 2016	Club submits a second operating land use application but it still does not include the information that was required. Club has until January 2017 to provide that information. (Note, this required information that was not provided included: how the gun Club would contain bullets, the location of

	firing lines, descriptions of berm heights and backstops, identification of wetland boundaries and a strategy to keep bullets out of the wetlands.)
November 28, 2016	Club attempts to submit a land use permit application to the county, but the county will not let the Club file the application because the Club filled out the wrong application and didn't submit the \$3,612 filing fee.
December 2, 2016	A contempt of court order was issued by Pierce County Superior Court related to the Club not obtaining a construction permit (for work conducted in 2010) after the Club stated that they do not have funds to apply for a land use permit. The judge stated that the Club had plenty of time to raise funds since 2010. The judge then ordered that attorneys from both sides come up with a solution. The solution (both sides agreed) would be that the Club would cease all shooting until a permit was approved. The Club later called the judge corrupt and said they would fight the decision.
January 2017	The Club fails to provide the required information for their second operating permit application and the county refuses to grant the Club an additional time extension because the Club had failed to make any significant progress on the application materials since the first application was submitted in March - April of 2016.
February 2, 2017	Club asks courts to order county to give them an additional 90 day time extension even though their application had expired. Club attorney argues that the county is asking for more information from the Club than they did from the Poulsbo Sportsman Club, which applied for and received their operating permit back on March 23, 2015. (Note this is when the Poulsbo Club applied for the permit but the Kitsap Club decided instead to fight the process in court.)
February 10, 2017	Judge refuses to force the county to extend the Club's second operating permit application. The Club plans an appeal.
November 1, 2017	The Club's appeal to force the county to extend the Club's second operating permit application is denied. This means that the Club will now need to apply and pay for a third operating use permit.
November 21, 2017	The judge ruled on the Club's appeal, stating that the county has the right to require the Club to obtain an operating permit. The appeals court found that the county's shooting-range ordinance did not violate either Washington state law or the state Constitution.

Natural Resources Building  
1111 Washington St SE  
Olympia WA 98501

PO Box 40917  
Olympia WA 98504-0917



STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

Attachment C

(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)

December 12, 2017

Mr. Brad Smith, President  
Kitsap Rifle and Revolver Club (KRRC)  
4900 Seabeck Hwy NW  
Bremerton, WA 98312

Re: Submission of Declaration of Conversion to the Recreation and Conservation Funding Board

Dear Mr. Smith:

As you are aware, the Recreation and Conservation Office (RCO), the successor to the Office of the Interagency Committee of Outdoor Recreation (Laws of 2007, ch. 241, § 1), has made numerous efforts to work with the Kitsap Rifle and Revolver Club (Club) to resolve an outstanding compliance issue resulting from its cessation of public use of its rifle range in violation of Section D of the Firearms and Archery Range Recreation Project Agreement approved on November 21, 2003 (Attachment A). This Section requires the rifle range be open for public use for the ten years following final reimbursement from the state grant, which occurred on February 10, 2009. Unfortunately, RCO's efforts have been unsuccessful.

As a result RCO will ask the Recreation and Conservation Funding Board (Board), at its January 31/February 1, 2018 meeting, to approve a declaration of conversion which requires a repayment of funds in the amount of \$46,965.16 from the Club (WAC 286-30-040 (2)). The Club is welcome to attend this public meeting and address the Board with concerns or send in written correspondence which will be provided for consideration.

Please contact Marguerite Austin, Grants Section Manager, at (360) 902-3016 or [marguerite.austin@rco.wa.gov](mailto:marguerite.austin@rco.wa.gov) if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kaleen Cottingham".

Kaleen Cottingham  
Director

cc: Marcus Carter, Executive Officer, KRRC  
Dorothy O'Dell, Vice President, KRRC  
Recreation and Conservation Funding Board Members

Enclosure

# FARR Project Agreement

## Firearms Range Account

**Project Sponsor:** Kitsap Rifle and Revolver Club  
**Project Title:** Rifle Line Re-orientation & Sound Cover

**Project Number:** 03-1156D  
**Approval Date:** 11/21/2003

**A. PARTIES OF THE AGREEMENT**

This Project Grant Agreement (Agreement) is entered into between the Interagency Committee for Outdoor Recreation (IAC), P.O. Box 40917, Olympia, Washington 98504-0917 and Kitsap Rifle and Revolver Club, 4900 Seabeck Hwy NW, PO Box 134, Bremerton, WA 98337 (Sponsor) and shall be binding upon the agents and all persons acting by or through the parties.

**B. PURPOSE OF AGREEMENT**

This Agreement sets out the terms and conditions by which a grant is made from the Firearms Range Account of the State of Washington's General Fund. The grant is administered by the IAC to the Sponsor for the project named above.

**C. DESCRIPTION OF PROJECT**

The subject Project is described on the attached Project Summary.

**D. TERM OF AGREEMENT**

The Project Sponsor must insure that the facility developed, improved, and/or maintained identified in the Project Agreement is made available for use for a minimum of ten (10) years from the date of project completion (issuance of final reimbursement).

**E. PERIOD OF PERFORMANCE**

The Project reimbursement period shall begin on December 10, 2003 and end on June 30, 2005. No expenditure made before or after this period is eligible for reimbursement unless incorporated by written amendment into this Agreement.

**F. PROJECT FUNDING**

The total grant award provided by the IAC for this project shall not exceed \$50,000.00. The IAC shall not pay any amount beyond that approved for funding of the project. The Sponsor shall be responsible for all total project costs that exceed this amount. The contribution by the Sponsor toward work on this project at a minimum shall be as indicated below:

	Percentage	Dollar Amount
IAC - Firearms & Archery Range Rec.	66.38%	\$50,000.00
Project Sponsor	33.62%	\$25,325.00
<b>Total Project Cost</b>	<b>100.00%</b>	<b>\$75,325.00</b>

**G. RIGHTS AND OBLIGATIONS**

All rights and obligations of the parties to this Agreement are subject to this Agreement and its attachments, including the Sponsor's Application, Project Summary, Eligible Reimbursement Activities Report, Project Milestones, and the General Provisions, all of which are attached hereto and incorporated herein.

Except as provided herein, no alteration of any of the terms or conditions of this Agreement will be effective unless provided in writing. All such alterations, except those concerning the period of performance, must be signed by both parties. Period of performance extensions need only be signed by IAC's Director.

The Sponsor has read, fully understands and agrees to be bound by all terms and conditions as set forth in these documents.

**H. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND IAC POLICIES**

This Agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, including Chapter 79A.25 RCW, Chapter 286 WAC and published agency policies, which are incorporated herein by this reference as if fully set forth.

**I. ADDITIONAL PROVISIONS OR MODIFICATIONS OF THE GENERAL PROVISIONS**

(none)

**J. FEDERAL FUND INFORMATION**

(none)

**K. PROJECT GRANT AGREEMENT REPRESENTATIVE**

All written communications sent to the Sponsor under this Agreement will be addressed and delivered to:

**Project Contact**

Name: Marcus Carter  
Title: Executive Officer  
Address: PO Box 134  
Bremerton, WA 98337

**IAC**

Interagency Committee for Outdoor Recreation  
Natural Resources Building  
PO Box 40917  
Olympia, Washington 98504-0917  
www.iac.wa.gov/iac/

These addresses shall be effective until receipt by one party from the other of a written notice of any change.

**L. ENTIRE AGREEMENT**

This agreement, along with all attachments, constitutes the entire agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

**M. EFFECTIVE DATE**

This agreement, for project #03-1156D, shall be effective upon signing by all parties.

**STATE OF WASHINGTON**

**INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

BY: Laura E. Johnson

Laura Eckert Johnson, Director

DATE: 12/12/03

**PROJECT SPONSOR**

BY: [Signature]

DATE: 02 JAN 04

TITLE: EXECUTIVE OFFICER

Pre-approved as to form:

BY: /S/

Assistant Attorney General

**RECEIVED**  
**JAN 05 2004**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**



# Firearms and Archery Range Recreation Program

## Application Project Summary

<b>TITLE:</b> Rifle Line Re-orientation	<b>NUMBER:</b> 03-1156D (Development)													
	<b>STATUS:</b> Preapplication													
<b>APPLICANT:</b> Kitsap Rifle and Revolver Club	<b>CONTACT:</b> Marcus Carter (360) 373-1007 April Ward													
<b>COSTS:</b> <table><tr><td>IAC</td><td>\$50,000</td><td>75 %</td></tr><tr><td>Local</td><td>\$16,665</td><td>25 %</td></tr><tr><td>Total</td><td>\$66,665</td><td>100 %</td></tr></table>	IAC	\$50,000	75 %	Local	\$16,665	25 %	Total	\$66,665	100 %	<b>SPONSOR MATCH:</b> <table><tr><td>Appropriation \ Cash</td><td>\$12,000</td></tr><tr><td>Cash Donations</td><td>\$4,665</td></tr></table>	Appropriation \ Cash	\$12,000	Cash Donations	\$4,665
IAC	\$50,000	75 %												
Local	\$16,665	25 %												
Total	\$66,665	100 %												
Appropriation \ Cash	\$12,000													
Cash Donations	\$4,665													

### DESCRIPTION:

This project improves and expands capabilities of an existing rifle line at the Kitsap Rifle and Revolver Club in Kitsap County to provide a broader range of public and member, group and individual shooting activities. The project re-oriens the current 150-yard rifle line to take better advantage of the surrounding forested buffer to improve sound attenuation to surrounding residences. the project adds side earth berms and regrades and grooms existing berms to implement club safety committee recommendations to improve shooting safety. The project also extends the rifle range to 300 yards, which will provide the most capable rifle range in the West Puget Sound region, providing additional options for recreational and competition shooting. The planned changes will allow individual public and member access to the rifle line simultaneously with group shooting competition and training. Increased access will provide alternatives to recreational shooting in multiple-use public lands, which is a dangerous and illegal activity. It will also allow us to expand our law enforcement and military training practice as well as public formal shooting practice and competition.

### LOCATION INFORMATION:

NW of the City of Bremerton

**COUNTY:** Kitsap

### SCOPE (ELEMENTS):

Architectural & Engineering	Sales Tax
Permits	Site Preparation

### PERMITS ANTICIPATED:

Clear & Grade Permit

### LAND CHARACTERISTICS:

ANTICIPATED ACREAGE TYPE	Existing Acres	Acres To Acq	Acres To Dev	Acres To Renov	Total
Uplands	72.41		3.00		72.41

### SHOOTING FACILITY TYPE:

	Current	Planned	HOURS OF PUBLIC USE:	Current	Planned
Pistol Range 25 yards	6		Weekend	32	60
Pistol Range 50 yards	1		Weekday	178	350
Rifle Range 200 yards	1		Weeknight	40	90
Rifle Range 300 yards		1			

### LAND COMMENTS:

The property totals 72.41 acres and is a mix of second growth forest, freshwater wetlands and some clearcuts. The shooting range is sited on the south end of the parcel in one of the clear cut areas. Reorientation will make better use of forested buf

**LAST UPDATED:** May 16, 2003

**DATE PRINTED:** June 27, 2003

86,000

## Milestone Worksheet

**Project Number:** 03-1156 D  
**Project Name:** Rifle Line Re-orientation & Sound Cover  
**Sponsor:** Kitsap Rifle and Revolver Club  
**IAC Project Manager:** Kammie Bunes

### Instructions:

1. To complete this worksheet, first review the milestone list in column two and determine which milestones best apply to the project.
2. Place a check-mark in column one beside each milestone that is applicable to this project. Each project is different and not all milestones will apply to every project.
3. Establish a timeline for completion of the project. This timeline should be realistic, attainable and allow for quick implementation and expenditure of grant funds. Using the timeline, please write in column three the anticipated date that selected milestones will be accomplished.
4. Use column four, Comments/Description, to write in comments that will assist in describing the milestone.

Applicable	Milestone	Target Date	Comments/Description
Required	Project Start		
	RFP Complete/Consultant Hired		
	A&E Complete/Permits Submitted		
	Plans & Specs Reviewed by IAC		
	Bid Awarded		
Required	Construction Started		
Required	Project Complete		
Required	Final Docs & Billing to IAC		



## Development Costs

Kitsap Rifle and Revolver Club  
Rifle Line Re-orientation

03-1156 D  
Firearms & Archery Range Rec.

Element/Item	Unit	Quantity	Unit Cost	Total Cost	Description Needed	Description
<b>Permits</b>						
Permits	Lump sum	1.00	\$2,665.00	\$2,665.00	Optional	
<b>Site Preparation</b>						
Clearing	Acres	3.00	\$2,000.00	\$6,000.00	Optional	
Cut	Cubic Yds	17,000.00	\$2.00	\$34,000.00	Optional	
Fill	Cubic Yds	12,000.00	\$2.00	\$24,000.00	Optional	
A&E Amount				\$0.00		
Tax Amount				\$0.00		
Total Costs				<u>\$66,665.00</u>		



## General Provisions

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## SECTION 1. HEADINGS AND DEFINITIONS

- A. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- B. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

**Acquisition** - The gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.

**Agreement** - The accord accepted by all parties to the present transaction; the Agreement, supplemental agreement, intergovernmental agreement, monitoring plan, and/or a landowner agreement between the Funding Board and a Sponsor.

**Applicant** - Any agency or organization that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the Funding Board.

**Application** - The forms and support documents approved by the Funding Board or its Director for use by applicants in soliciting project funds administered by the Office.

**Asset** - Equipment purchased by the Sponsor or acquired or transferred to the Sponsor for the purpose of this Agreement. This definition is restricted to non-fixed assets, such as vehicles, computers or machinery.

**Contractor** - shall mean one not in the employment of the Sponsor who is performing all or part of the eligible activities for this projects under a separate Agreement with the Sponsor. The term "Contractor" and "Contractors" means Contractor(s) in any tier.

**Development/Restoration** - The construction, renovation, redevelopment, or installation of facilities to provide for outdoor recreation or natural resources.

**Director** - The Office Director or the Director's designee.

**Funding Board** - As Identified in Paragraph A in the Agreement as either the (1) Interagency Committee for Outdoor Recreation (IAC) - The committee created under Chapter 79A.25.110 RCW Includes eight members. Three are agency heads: the Commissioner of Public Lands, the Director of Parks and Recreation, and the Director of Fish and Wildlife (or their designees). Five, by appointment of the Governor with the advice and consent of the Senate, are members of the public at large who have demonstrated interest in and a general knowledge of outdoor recreation in the state; (2) Salmon Recovery Funding Board (SRFB) - The Board created under Chapter 77.85.110 RCW, is comprised of five governor-appointed voting members (one a cabinet-level appointment) and five non-voting state officials: the Commissioner of Public Lands, the Secretary of Transportation, the Director of the Conservation Commission, the Director of Fish and Wildlife, and the Director of Ecology (or their designees); or (3) Hatchery Scientific Review Group (HSRG) - The independent Board established by Congress to ensure hatchery reform programs in Puget Sound and Coastal Washington are scientifically founded and evaluated.

**Office - Office of the Interagency Committee** - The Office provides support to the IAC, SRFB, and HSRG. The Office includes the Director and personnel, created by Chapters 79A.25.110 and 79A.25.150 RCW and charged with administering this Agreement by Chapters 77.85.110 and 79A.25.240 RCW.

**Landowner Agreement** - A landowner agreement is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor for salmon recovery projects.

**Milestone** - Important date(s) tracked in the Agreement for monitoring the Project status.

**Period of Performance** - The time period specified in the Agreement, under Section E, Period of Performance.

**Post Evaluation Summary** - One of the documents used to summarize and describe the actions undertaken in the Agreement.

**Project** - The undertaking that is the subject of this Agreement and that is, or may be, funded in whole or in part with funds administered by the Office on behalf of the Funding Board.

**Sponsor** - The applicant who has been awarded a grant of funds and is bound by this executed Agreement; includes its officers, employees and agents.

## **SECTION 2. PERFORMANCE BY THE SPONSOR**

The Sponsor shall undertake the Project as described in this Agreement, Post Evaluation Summary, the Sponsor's application, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the Funding Board. All submitted documents are incorporated by this reference as if fully set forth herein. The Order of Precedence is covered in Section 26.

Timely completion of the Project is important. Failure to do so, as set out in this Agreement, is a material breach of the Agreement.

## **SECTION 3. ASSIGNMENT**

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the Funding Board.

## **SECTION 4. RESPONSIBILITY FOR PROJECT**

While the Funding Board undertakes to assist the Sponsor with the Project by providing a grant pursuant to this Agreement, the Project itself remains the sole responsibility of the Sponsor. The Funding Board undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the Project, as those phases are applicable to this Project, is solely that of the Sponsor, as is responsibility for any claim or suit of any nature by any third party related in any way to the Project.

## **SECTION 5. INDEMNIFICATION**

To the fullest extent permitted by the law, the Sponsor expressly agrees to and shall indemnify, defend and hold harmless the State and its agencies, officials, agents and employees from and against all claims, actions, costs, damages, or expenses of any nature arising out of or incident to the Sponsor's or any Contractor's performance or failure to perform the Agreement. Sponsor's obligation to indemnify, defend and hold harmless also includes any claim by Sponsor's agents, employees, representatives or any Contractor or its employees. Sponsor's obligation to defend includes payment of any costs or attorneys' fees. Sponsor's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Sponsor, its Contractors, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Sponsor or its Contractors, agents, or employees. The Sponsor expressly agrees to waive his/her immunity under Title 51 RCW to the extent required to indemnify, defend, and hold harmless the State and its agencies, officials, agents or employees.

## **SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR**

The Sponsor and its employees or agents performing under this Agreement are not employees or agents of the Funding Board or the Office. The Sponsor will not hold itself out as nor claim to be an officer or employee of the Office or of the state of Washington by reason hereof, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under Chapters 41.06 or 28B.16 RCW.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

## **SECTION 7. CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the Office may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by the Office that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Sponsor in the procurement of, or performance under this Agreement. In the event this Agreement is terminated as provided above, the Office shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the

Agreement by the Sponsor. The rights and remedies of the Office provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Office makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes Hearing" clause of this Agreement.

In the event this Agreement is terminated as provided above, the Funding Board or the Office shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of the Funding Board or the Office provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Funding Board or the Office makes any determination under this clause may be reviewed as provided in the "Disputes" clause of this Agreement.

#### **SECTION 8. ACKNOWLEDGMENT AND SIGNS**

- A. Publications. The Sponsor shall include language which acknowledges the funding contribution of the program to this Project in any release or other publication developed or modified for, or referring to, the Project.
- B. Signs. The Sponsor also shall post signs or other appropriate media at Project entrances and other locations on the Project which acknowledge the program's funding contribution, unless exempted in Funding Board policy or waived by the Director.
- C. Ceremonies. The Sponsor shall notify the Office no later than two weeks before a dedication ceremony for this Project. The Sponsor shall verbally acknowledge the program's funding contribution at all dedication ceremonies.
- D. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:
  - 1. The percentage of the total costs of the Project that is financed with federal money;
  - 2. The dollar amount of federal funds for the Project; and
  - 3. The percentage and dollar amount of the total costs of the Project that is financed by nongovernmental sources.

#### **SECTION 9. COMPLIANCE WITH APPLICABLE LAW**

The Sponsor will implement the Agreement in accordance with applicable federal, state, and local laws and regulations.

The Sponsor shall comply with, and the Office is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, and/or policies, including, but not limited to, State Environmental Policy Act; Industrial Insurance Coverage; Architectural Barriers Act; permits (shoreline, Hydraulics Project Approval, demolition); land use regulations (comprehensive areas ordinances, Growth Management Act); federal and state safety and health regulations (Occupational Safety and Health Administration/Washington Industrial Safety and Health Act); and Buy American Act.

The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to, the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act. In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the Funding Board. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law:

No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

For habitat restoration projects funded in part or whole with National Marine Fisheries Service funding, Sponsor shall not commence with clearing of riparian trees or in-water work unless and until an ESA consultation is completed and delivered by National Marine Fisheries Service to the Sponsor. Violation of this paragraph shall not be the basis for any enforcement responsibility by the IAC.

#### **SECTION 10. RECORDS MAINTENANCE**

The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by the Office, personnel duly authorized by the Office, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

#### **SECTION 11. ACCESS TO DATA**

In compliance with chapter 39.29 RCW, the Sponsor shall provide access to data generated under this Agreement to the Office, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.

#### **SECTION 12. TREATMENT OF ASSETS**

- A. Assets shall remain in the possession of the Sponsor for the duration of the project or program. When the Sponsor discontinues use of the asset(s) for the purpose for which it was funded, the Office will require the Sponsor deliver the asset(s) to the Office, dispose of the asset according to agency policies, or return the fair market value of the asset(s) to the Office. Assets shall be used only for the purpose of this Agreement, unless otherwise provided herein or approved by the Office in writing.
- B. The Sponsor shall be responsible for any loss or damage to assets which results from the negligence of the Sponsor or which results from the failure on the part of the Sponsor to maintain and administer that property in accordance with sound management practices.

#### **SECTION 13. RIGHT OF INSPECTION**

The Sponsor shall provide right of access to its facilities to the Office, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

If a Landowner Agreement has been executed, it may further stipulate and define the Funding Board and the Office's right to inspect and access lands acquired or developed with Funding Board assistance.

#### **SECTION 14. STEWARDSHIP AND MONITORING**

Sponsor agrees to perform monitoring and stewardship functions as stated in the monitoring and stewardship plans as approved by the Funding Board or the Office. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the Funding Board.

#### **SECTION 15. DEBARMENT CERTIFICATION**

The Sponsor certifies it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency. If requested by the Office, the Sponsor shall complete a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form. Any such form completed by the Sponsor for this Agreement shall be incorporated into this Agreement by reference.

#### **SECTION 16. PROJECT FUNDING**

- A. Additional Amounts. The Funding Board shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the Funding Board or Director and incorporated by written amendment into this Agreement.
- B. Before the Agreement. No expenditure made, or obligation incurred, by the Sponsor before the effective date of this Agreement shall be eligible for grant funds, in whole or in part, unless specifically provided for by Funding Board policy. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- C. After the Period of Performance. No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the Funding Board may have under this Agreement, the amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

#### **SECTION 17. PROJECT REIMBURSEMENTS**

- A. Compliance and Payment. The obligation of the Office to pay any amount(s) under this Agreement is expressly conditioned upon strict compliance with the terms of this Agreement by the Sponsor.
- B. Compliance and Retainage. The Office reserves the right to withhold disbursement of the final ten percent (10%) of the total amount of the grant to the Sponsor until the Project has been completed and approved by the Director. A Project is considered "complete" when:
  - 1. all approved or required activities outlined in the Agreement are complete;
  - 2. on-site signs are in place (if applicable);
  - 3. a final Project report is submitted to the Office with the Sponsor's final request for reimbursement;
  - 4. the completed Project has been approved by the Office;
  - 5. final amendments have been processed; and
  - 6. fiscal transactions are complete.
- C. Invoice Frequency. Invoices are required at least once a quarter from state agency sponsors and at least once a year from all other sponsors. The year-end Invoice should include expenditures through June 30, the last day of the State's fiscal year and be submitted no later than July 15th. Final reimbursement requests should be submitted to the Office within ninety (90) days of the completion of the Project, funding end date, or the termination date, whichever comes first.

#### **SECTION 18. ADVANCE PAYMENTS**

Advance payments of or in anticipation of goods or services to be provided under this Agreement are limited to salmon grants and must comply with SRFB policy.

#### **SECTION 19. NON-AVAILABILITY OF FUNDS**

If amounts sufficient to fund the grant made under this Agreement are not appropriated by the Washington State Legislature, or if such funds are not allocated by the Washington State Office of Financial Management (OFM) to the Office for expenditure for this Agreement in any biennial fiscal period, the Office shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or OFM occurs. If the Office participation is suspended under this section for a continuous period of one year, the Office's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

#### **SECTION 20. RECOVERY OF PAYMENTS**

In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, the Office reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.

The Sponsor shall reimburse the Office for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by the Office. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.

#### **SECTION 21. COVENANT AGAINST CONTINGENT FEES**

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. The Office shall have the right, in the event of breach of this clause by the Sponsor, to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

#### **SECTION 22. PROVISIONS APPLYING TO DEVELOPMENT/RESTORATION PROJECTS**

The following provisions shall be in force only if the Project described in this Agreement is for development/restoration of land or facilities for outdoor recreation, habitat conservation, or salmon recovery:

- A. **Construction Document Review and Approval.** The Sponsor agrees to submit one copy of all construction plans and specifications to the Office for review. Review and approval by the Office will be for compliance with the terms of this Agreement.
- B. **Contracts for Construction.** Sponsor shall award all contracts for construction using whatever method is appropriate and legal for the Sponsor.
- C. **Construction Contract Change Order.** Only change orders that significantly reduce or change the scope of the Project as described to and approved by the Funding Board or the Office must receive prior written approval.
- D. **Control and Tenure.** Appropriate control and tenure of the land proposed for use must be executed and documented.
- E. **Nondiscrimination.** Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this Project:

"During the performance of this contract, the Sponsor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."



### SECTION 23. PROVISIONS APPLYING TO ACQUISITION PROJECTS

The following provisions shall be in force only if the Project described in this Agreement is for the acquisition of interest in real property for outdoor recreation, habitat conservation, or salmon recovery purposes:

- A. Evidence of Land Value. Before disbursement of funds by the Office as provided under this Agreement, the Sponsor agrees to supply evidence to the Office that the land acquisition cost has been established per Funding Board policy.
- B. Evidence of Title. The Sponsor agrees to show the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
- C. Deed of Right to Use Land for Public Purposes. The Sponsor agrees to execute an instrument or instruments which contain:
  - 1. The legal description of the property acquired under this Agreement;
  - 2. A conveyance to the State of Washington of the right to use the described real property forever for the purpose identified in the Agreement; and
  - 3. A requirement to comply with applicable statutes, rules, and the Funding Board policies with respect to conversion of use.
- D. Assignment of Right. When acquiring a conservation easement, the Sponsor agrees to execute an instrument or instruments that contain:
  - 1. The legal description of the conservation easement acquired under this Agreement;
  - 2. An assignment to the State of certain rights for access to and stewardship of the property covered by the conservation easement;
  - 3. Acknowledgement of the right of the Funding Board and the Office for enforcement of the provisions of the conservation easement; and
  - 4. A statement that the Sponsor will retain all responsibility for obligations under the terms of the conservation easement.
- E. Real Property Acquisition and Relocation Assistance
  - 1. When federal funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.
  - 2. When state funds are part of this Agreement, the Sponsor, if required by law, agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26.010 RCW, and Chapter 468-100 WAC.
  - 3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this Project, the Sponsor agrees to provide any housing and relocation assistance required.

### SECTION 24. HAZARDOUS SUBSTANCES

- A. Definition. "Hazardous substance," as defined in Chapter 70.105D.020 (7) RCW, means:
  - 1. Any dangerous or extremely hazardous waste as defined in Chapter 70.105.010(5) and (6) RCW, or any dangerous or extremely dangerous waste designated by rule pursuant to Chapter 70.105 RCW;
  - 2. Any hazardous substance as defined in Chapter 70.105.010(14) RCW or any hazardous substance as defined by rule pursuant to Chapter 70.105. RCW;
  - 3. Any substance that, on March 1, 1989, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C. Sec. 9601(14);
  - 4. Petroleum or petroleum products; and

5. Any substance or category of substances, including solid waste decomposition products, determined by the director [or director's designee of the department of ecology] by rule to present a threat to human health or the environment if released into the environment.
  6. The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.
- B. Certification. The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances and certify:
- (1) No hazardous substances were found on the site, or
  - (2) Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
- C. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in Chapter 70.105D RCW.
- D. Hold Harmless. The Sponsor will defend, protect and hold harmless the Office and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property being acquired.

#### **SECTION 25. RESTRICTION ON CONVERSION OF FACILITY TO OTHER USES**

The Sponsor shall not at any time convert any real property acquired or any facility developed pursuant to this Agreement to uses other than those purposes for which assistance was originally approved, without the approval of the Funding Board or Director, in compliance with applicable statutes, rules, and Funding Board policies as identified in this Agreement. It is the intent of Funding Board's conversion policy that all lands acquired and all lands developed with funding assistance from the Funding Board remain in the public domain in perpetuity unless otherwise identified in the Agreement.

- A. By Funding Board policy a conversion may occur under any of the following circumstances:
1. Conveyance. Property interests are conveyed for purposes inconsistent with the intent of the Agreement and the funding source.
  2. Use. Non-eligible uses (public or private) are made of the Project area, or portion thereof.
  3. Eligibility. Non-eligible facilities are developed within the Project area without prior approval of the Funding Board or the Office.
  4. Termination of Use/Non-Conformance. The property acquired or project developed no longer meets or conforms to the intent of the Agreement or the funding source.
- B. Element Change. When approved by the Funding Board or Director, certain elements may be deleted from the Agreement without invoking the requirement to replace the elements. Such deletions are allowed when the Funding Board or Director determines that the elements are not needed or cannot be retained due to one or more of the following conditions:
1. Obsolescence
  2. Extraordinary vandalism
  3. Acts of Nature
  4. Designed life expectancy reached
  5. Fire
  6. Property or property rights lost as a result of legal action
  7. ICC National Trails System Act reversion order (*National Trails System Act 8(d)*, 16 U.S.C. § 1247(d); WAC 286-27-060(2)).

## **SECTION 26. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS**

Sponsors must ensure that properties or facilities assisted with Funding Board funds, including undeveloped sites, are built, operated, used, and maintained:

- A. According to applicable federal, state, and local laws and regulations, including public health standards and building codes.
- B. In a reasonably safe condition for the project's intended use.
- C. Throughout its estimated life so as to prevent undue deterioration.
- D. In compliance with all federal and state nondiscrimination laws, regulations and policies.

Facilities open to the public must:

- E. Follow all state and federal accessibility guidelines.
- F. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
- G. Be available for use at reasonable hours and times of the year, according to the type of area or facility.

## **SECTION 27. INCOME AND INCOME USE**

### **A. Income.**

- 1. **Compatible source.** The source of any income generated in a Funding Board assisted Project or project area must be compatible with the funding source and the Agreement.
- 2. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed with Funding Board grants if the fees are consistent with the:
  - (a) Value of any service(s) furnished;
  - (b) Value of any opportunity(ies) furnished; and
  - (c) Prevailing range of public fees in the state for the activity involved.

*Excepted* are Firearms and Archery Range Recreation Program safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (Chapter 79A.252.210 RCW).

### **B. Income use.** Regardless of whether income or fees in a Funding Board-assisted area (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) are gained during or after the reimbursement period cited in the Agreement, unless precluded by state law, the revenue may only be used to offset:

- 1. the Sponsor's matching funds; and/or
- 2. the Project's total cost; and/or
- 3. the expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the Funding Board grant; and/or
- 4. the expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system; and/or
- 5. capital expenses for similar acquisition and/or development.

## **SECTION 28. PREFERENCES FOR RESIDENTS**

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Even so, the Funding Board discourages the imposition of 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.

## **SECTION 29. PROVISIONS RELATED TO NON-PROFIT OR NOT-FOR-PROFIT SPONSORS**

A non-profit or not-for-profit organization sponsor shall:

- A. Maintain a non-profit or not-for-profit status (including registering with the Washington Secretary of State) throughout the Sponsor's obligation to the Project as identified in this Agreement.
- B. Notify the Office prior to dissolution and within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities. A qualified successor is any party eligible to apply for funds in the subject grant program *and* capable of complying with the terms and conditions of this Agreement. The Office will process an amendment transferring the Sponsor's obligation to the qualified successor.
- C. Provide for operation and maintenance of the project. Should the Sponsor fail in this obligation for any reason, the Project will be considered converted or a failed project, and be subject to all remedies available to the Funding Board and the Office.

## **SECTION 30. LIABILITY INSURANCE REQUIREMENTS FOR FIREARM RANGE SPONSORS**

- A. The Sponsor<sup>1</sup> shall procure an endorsement, or other addition, to liability insurance it may currently carry, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of persons who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- B. The liability insurance policy, including any endorsement or addition, shall name Washington State, the Funding Board, and the Office as additional insureds and shall be in a form approved by the Funding Board or Director.
- C. The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the Project as identified in this Agreement.
- D. The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to the Office not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- E. The requirement of Subsection A through D above shall not apply if the Sponsor is a federal, state, or municipal government which has established a program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy as a part of its application to the Funding Board.
- F. By this requirement, the Funding Board and the Office does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer while present at, or in the vicinity of, the facility to which this grant relates. Any such person, or any other person making claims based upon such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

## **SECTION 31. REQUIREMENTS OF THE NATIONAL PARK SERVICE**

If the Project has been approved by the National Park Service, United States Department of the Interior, for assistance from the Federal Land and Water Conservation Fund (LWCF), the Agreement General Provisions in Section 660.3 Attachment B of the *L&WCF Grants-in-Aid Manual* as now existing or hereafter amended are made part of this Agreement, and the Sponsor shall also abide by these Agreement General Provisions. Further, the Sponsor agrees to provide the Office with reports or documents needed to meet the requirements of the Agreement or Section 660.3 Attachment B of the *L&WCF Grants-in-Aid Manual*.

<sup>1</sup> As used in this Section, Sponsor refers to Firearms Range Sponsors.

## **SECTION 32. ORDER OF PRECEDENCE**

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute, rule, or policy or procedure, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable federal and/or state statutes, regulations, policies and procedures including applicable federal Office of Management and Budget (OMB) circulars and federal and state executive orders;
- B. Project Agreement including attachments;
- C. Additional Provisions or Modifications of General Provisions;
- D. General Provisions.

## **SECTION 33. AMENDMENTS**

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

## **SECTION 34. LIMITATION OF AUTHORITY**

Only the Office or Office's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by the Office.

## **SECTION 35. WAIVER OF DEFAULT**

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the Director, or the Director's designee, and attached to the original Agreement.

## **SECTION 36. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH**

The Funding Board and the Office rely upon the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

## **SECTION 37. TERMINATION AND OTHER REMEDIES**

The Funding Board and the Office may require strict compliance by the Sponsor with the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules and Funding Board policies which are incorporated into this Agreement, and with the representations of the Sponsor in its application for a grant as finally approved by the Funding Board.

The Funding Board or the Director, may suspend, or may terminate, the obligation to provide funding to the Sponsor under this Agreement:

- A. In the event of any breach by the Sponsor of any of the Sponsor's obligations under this Agreement;  
or
- B. If the Sponsor fails to make progress satisfactory to the Funding Board or Director toward completion of the Project by the completion date set out in this Agreement.

In the event this Agreement is terminated by the Funding Board or Director, under this section or any other section after any portion of the grant amount has been paid to the Sponsor under this Agreement, the Funding Board or Director may require that any amount paid be repaid to the Office for redeposit into the account from which the funds were derived.

The Funding Board and the Office may enforce this Agreement by the remedy of specific performance, which usually will mean completion of the Project as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to the Office. No remedy available to the Funding Board or the Office shall be deemed exclusive. The Funding Board or the Office may elect to exercise any, any combination, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity.

#### **SECTION 38. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Agreement, the Office may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part. If this Agreement is so terminated, the Office shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

#### **SECTION 39. DISPUTE HEARING**

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the Funding Board, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the Director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed upon, the third person shall be chosen by the Funding Board's Chair.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based upon written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

#### **SECTION 40. ATTORNEYS' FEES**

If either party brings litigation to enforce any term or condition of this Agreement, or as a result of this Agreement, the prevailing party shall be awarded its reasonable attorneys' fees together with necessary fees, expenses, and costs incurred for such litigation at both trial and appellate levels, as well as in obtaining execution of judgment. The reasonableness of such costs and attorneys' fees shall be determined by the court and not a jury.

#### **SECTION 41. GOVERNING LAW/VENUE**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be proper only in Thurston County Superior Court. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

In the cases where this agreement is between the Funding Board and a federally recognized Indian tribe, the following Governing Law/Venue applies:

- A. The State of Washington agrees that it shall initiate any lawsuit against a federally recognized Indian tribe arising out of or relating to the performance, breach or enforcement of this agreement in Federal Court. Interpretation shall be according to the law of the State of Washington. In the event that the Federal Court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the parties agree to venue in Thurston County Superior Court, but the parties agree that the matter shall not be pursued in superior court unless there is a Federal Court determination that it lacks subject matter jurisdiction.
- B. Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from the action shall be binding and enforceable upon the parties. Any money judgment or award against the Tribe, tribal officers and members, or the State of Washington and its officers and employees may not exceed the amount provided for in Section F- Project Funding of the Agreement.
- C. The Tribe hereby waives its sovereign immunity as necessary to give effect to this section, and the State of Washington has waived its immunity to suit in state court. These waivers are only for the benefit of the Tribe and State and shall not be enforceable by any third party or by any assignee or delegate of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

#### **SECTION 42. SEVERABILITY**

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.



## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31, 2018  
**Title:** No Child Left Inside Grant Program  
**Prepared By:** Kyle Guzlas, Grants Manager

#### Summary

The Washington State Legislature created the [No Child Left Inside](#) (NCLI) grant program to provide under-served students with quality opportunities to experience the natural world. This grant program seeks to empower local communities to engage students in outdoor education and recreation experiences and focuses on serving students with the greatest needs. This grant program is statutorily within the State Parks and Recreation Commission portfolio, but with the new funding in the 2015-2017 biennium, State Parks teamed up with the Recreation and Conservation Office (RCO) to administer the grant program. The Legislature authorized \$1.5 million in funds for this program for the 2017-18 grant cycle. Staff will provide an update on the applications received in the current grant cycle and provide a summary review of the completed projects from the 2016-17 grant cycle.

#### 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

### History

In 2007, the Washington State Legislature funded the Outdoor Education and Recreation Program, commonly called the No Child Left Inside (NCLI) grant program. This program was to be administered by the Washington State Parks and Recreation Commission with the goal of providing under-served students with quality opportunities to experience the natural world. State Parks teamed up with the Washington State Recreation and Conservation Office (RCO) to administer the grant program in 2015.

Grants are available for outdoor environmental, ecological, agricultural, or other natural resource-based education and recreation programs serving youth through the age of 18 or those enrolled in high school or a General Education Development (GED) programs. This grant program is intended to empower local communities to engage students in outdoor education and recreation experiences and focuses on serving students with the greatest needs. Students work to improve their overall academic performance, self-esteem, personal responsibility, community involvement, personal health, and understanding of nature. Programs should:

- Make use of research-based, effective environmental, ecological, agricultural, or other natural resource-based education curriculum.
- Contribute to healthy lifestyles through outdoor recreation and sound nutrition.

- Provide students with opportunities to directly experience and understand nature and the natural world.
- Employ veterans<sup>1</sup> in implementation or administration<sup>2</sup> of the project.

### Eligible Applicants

A wide range of organizations are eligible to apply for NCLI. These include nonprofit organizations, educational institutions, formal and informal after school programs, local governments (cities, towns, counties, port districts, park and recreation districts, etc.), private entities and businesses, tribal governments, and state and federal agencies.

### Typical Projects

Programs include environmental education, hiking and backpacking, camping, canoe and kayaking, farming and agricultural science programs, sailing, mountaineering and climbing, etc. Effectively, any program that engages youth and gets them outdoors is likely eligible to apply for funding assistance.

## Summary of 2016-17 Projects

The 2016 grant cycle clearly demonstrated the importance and demand for this funding program. The Legislature allocated \$1 million for this grant program in the 2015-17 state operating budget. A total of 122 applications were received, with a request of \$5.4 million in funding assistance along with \$6.2 million in sponsor match. Applicants were located throughout the state in 31 of the state's 39 counties. Nonprofit and community organizations submitted the majority of the applications; however, applicants included tribes, local governments and schools.

A total of 19 projects received grant assistance in the 2016-17 grant cycle. These projects engaged over 8,000 youth, providing 292,618 hours of education. RCO created a [story map](#) highlighting the NCLI program and the completed projects.

## Grant Program Updates and Changes

RCO staff and State Parks worked collaboratively in 2017 to update the grant program in accordance with the Washington Administrative Code<sup>3</sup> (WAC) and Revised Code of Washington<sup>4</sup> (RCW). Major changes included modification of the grant limits for Tier 1 and Tier 2 projects and streamlining of the grant application and evaluation process.

The Tier 1 grant limit was reduced from \$50,000 to \$35,000 and the Tier 2 grant limit was reduced from \$125,000 to \$75,000. Reduction of grant limits will help to fund more projects across the state.

RCO implemented several changes to the grant process to ease the burden on applicants and the advisory committee. This includes the modification of the evaluation criteria that reduces the number of written response pages in half while maintaining the statutory intent of the evaluation guidance.

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<sup>1</sup> Revised Code of Washington 41.04.007

<sup>2</sup> Grant proposals that include the employment of veterans may qualify for preference in funding awards.

<sup>3</sup> Chapter 352-80 WAC

<sup>4</sup> RCW 79A.05.351

In addition, the Legislature authorized \$1.5 million in funds for this program, however, for the 2018-19 grant cycle, a minimum of \$500,000 is reserved for organizations that have at least one veteran on staff<sup>5</sup> who will be assigned with primary implementation duties of the funded project. A veteran<sup>6</sup> is defined as a person who has received an honorable discharge, was discharged for medical reasons with an honorable record, or has a U.S. Department of Defense discharge document that characterizes his or her service as honorable.

### 2017-18 Application Schedule

Item	Date
PRISM Opens for Applications	November 17, 2017
Applications Due	January 17, 2018
RCO's Staff Review	January 17-February 7, 2018
Evaluation Period	March-April 2018
Pre-agreement Materials	By April 2, 2018
Projects Approved	April 2018
RCO Issues Project Agreements	Starting May 1, 2018
Project Completion Date	June 15, 2019

### Summary of 2017-18 Projects

As of the writing of this memo, RCO is accepting applications. Staff will provide the board with a summary of the new applications at the Jan/Feb 2018 board meeting.

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<sup>5</sup> Staff is defined as a person receiving financial compensation for his or her services as an employee of the organization.

<sup>6</sup> Revised Code of Washington 41.04.007

## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31-February 1, 2018  
**Title:** Communications Plan Progress  
**Prepared By:** Susan Zemek, Communications Manager

#### Summary

This memo summarizes progress implementing the RCO communications plan. It also outlines outreach strategies for the board's match reduction policy and the *Washington State Recreation and Conservation Plan 2018-2022*.

#### Board Action Requested

This item will be a:

- ☐ Request for Decision
- ☐ Request for Direction
- ☒ Briefing

### Background

RCO communications staff developed a 5-year, agency-wide, multi-board communications plan, which began in 2013. The plan has three main goals:

- Goal 1: Build support for RCO's missions of salmon recovery, land conservation, recreation, and invasive species management.
- Goal 2: Ensure RCO maintains its brand as an exemplary, ethical, and open grant agency.
- Goal 3: Strengthen RCO's internal communications.

To accomplish these goals, communications staff developed a series of strategies, activities, and tasks. With 1 year remaining in the plan, the majority of tasks have been completed. See Appendix 1 for a detailed status report.

The plan also had a several measurements to gauge effectiveness of the plan.

#### Measurement 1: Development of key messages for all three boards

Key messages have been developed for all three boards. The Recreation and Conservation Funding Board's messages are as follows.

- Washington citizens voted to create RCO, and we honor that direct accountability to citizens in all our work.
- RCO brings citizens and governments together for the common good, and that's democracy at its best.

- RCO staff and experts make sure that tax dollars support only the best and most lasting projects.
- The best time to invest in outdoor recreation is right now.
- Spending time outdoors is vital to the mental and physical health of both kids and adults.
- Investments in outdoor recreation pay many dividends.

### Measurement 2: Increased media coverage generated by RCO outreach efforts

Media coverage of RCO has improved significantly since the start of the communications program in 2003.

In fact, the number of news articles written about the agency has increased 64 percent since 2003, generating more than 1,500 articles.

From 2013 to present, RCO has distributed 72 news releases. In 2003, the number of news articles resulting directly from the agency's news releases was 10. To date in 2017, that number jumped to 77. In many cases, the news articles are printed nearly verbatim from the news releases.

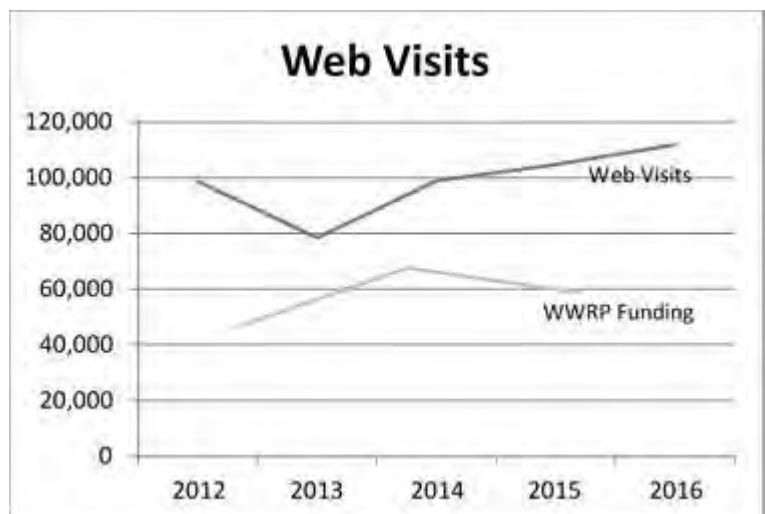
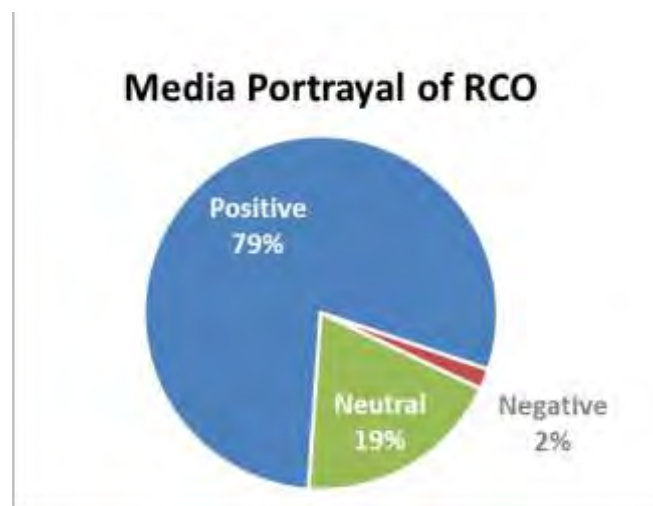
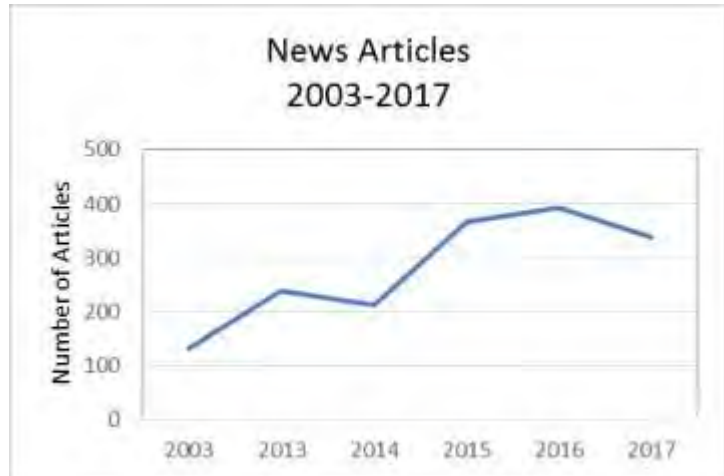
Not only are people seeing more about RCO, but what they are seeing is positive the majority of time.

### Measurement 3: Increased visits to places on the RCO Web sites targeted by social media tools

#### Web Site Usage

Visitation to RCO's Web site varies with the amount of grants offered. When funding for the Washington Wildlife and Recreation Program (WWRP) is up, so are the agency's Web visits. This makes sense when you consider RCO's core clients are grant applicants and recipients.

RCO has near equal new and returning visitors. Most clients still use their desktop (81 percent) to interact with RCO's Web site, although this has dropped from 87 percent in 2012. During the same time, viewing the Web site from mobile devices has increased from 15 percent in 2012 to 20 percent this year.



When they come to the RCO Web site, visitors are focused on technical information, viewing two to three pages per session and spending about 2-3 minutes on the site.

The answer to the specific question of whether or not there is increase visitation to the Web site from social media, is YES! The table on the right shows that referrals from social media have increased more than 440 percent from Facebook and more than 250 percent from Twitter.

#### **Measurement 4: Appearance by RCO at partner annual meetings and community events to share RCO's missions**

RCO leadership makes appearances throughout the year at partner quarterly and annual meetings and at community events. Below is a list of such appearances.

Most Viewed Pages	2017 Sessions
Home	31,403
Prism	15,116
Grants	9,678
Documents	5,745
Manuals by the Number	5161
Youth Athletic Facilities	4,786

Social Media Referrals		
Year	Facebook Referrals	Twitter Referrals
2013	405	39
2014	1,526	335
2015	1,224	109
2016	1,028	52
2017	2,192	138

Community Appearances	
Event	City
John Storvik Spray Park Grand Opening	Anacortes
Candy Mountain Acquisition Grand Opening	Richland
Downtown Park Ribbon Cutting and Grand Opening	Bellevue
Big Rock Park	Duval
Fishing Pier	Edmonds
Gateway Park Ribbon Cutting	Gig Harbor
Hale Dog Park Grand Opening	Wenatchee
Lake Sammamish State Park's Sunset Beach Opening	Issaquah
McFee Tunnel Opening	Port Angeles
North Creek Forest Ribbon Cutting	Bothell
Olympic Discovery Trail Ribbon Cutting	Jefferson County
Ebey Waterfront Park's Qwuloolt Estuary Trail Ribbon Cutting	Marysville
Saddle Rock Gateway Grand Opening	Wenatchee
Torguson Park Gateway Grand Opening	North Bend
Twisp Community Trail Groundbreaking	Twisp
Partner Meetings	
Boating Stakeholders	Quarterly
Boating Legislative Day	Olympia Yacht Club, Northwest Marine Trade Association, Recreational Boating Association of Washington
Boating Alliance	Special presentation
State Parks and Recreation Commission Meeting	Special presentation
Washington Association of Land Trusts	Quarterly
Washington Wildlife and Recreation Coalition	Quarterly

## Measurement 5: Development of products contained in the communications plan

This table lists all the communication plan products and their status.

Product	Status
Develop key messages	Complete
Develop news releases that on focus key times in the grant cycle as well as trend information produced by SCORP	Underway. News releases developed, except for one on SCORP, which will be released in January.
Update the media distribution list	Complete
Create a recognition award for top ranked projects completed each year	Complete
Develop interactive Web features that engage the public.	Delayed until Web site redesign in 2018
Incorporate more videos on our Web site	Delayed until Web site redesign in 2018
Develop a facebook site or blog to highlight projects, the benefits of RCO's mission, and the work of our partners.	Complete
Create a director's electronic newsletter that informs partners of RCO activities and ways to participate.	Underway. Newsletter completed but shared limitedly with external audiences.
Convert <i>Grant News You Can Use</i> into an electronic newsletter.	Complete. Inaugural edition debuts in January.
Develop information graphics that explain the relationship between RCO and its partners (WWRC, WWRP, etc.)	Not started
Develop generic PowerPoint presentations and talking points for use by staff and board members.	Underway
Develop a priority list of special events that kick off new projects and celebrate the completion of projects to attend.	Completed
Develop an automatic PRISM trigger for projects nearing completion, so that celebrations can be encouraged.	Completed
Develop graphic standards and templates for agency publications, presentations, and Internet.	Not started
Develop template talking points for staff.	Completed
Collect and distribute links of all news coverage of RCO programs.	Completed. Weekly distribution.
Develop a plan for improving internal communications.	Not started.

## What's Next?

Communications staff will complete elements in the communication plan that haven't been finished as well as develop a new 5-year plan to begin in 2019.

## Match Reduction Communication Plan

The Recreation and Conservation Funding Board approved a new policy this year that reduces the match requirement in two grant programs—the Washington Wildlife and Recreation Program (WWRP) and the Youth Athletic Facilities program. The reductions take effect in the 2018 grant round and a communications plan for getting the word out to grant applicants is outlined below.

### Audience

- Grant applicants eligible for match reduction
- Associations who represent eligible applicants (Washington State Association of Counties, Association of Washington Cities, Washington Recreation and Parks Association, Washington Public Ports Association, etc.)

### Messages

- New opportunity for communities
- Result of comments heard from grant applicants
- We've made it easier for you to get grants
- This is first phase in multi-year effort to streamline and remove barriers to grants

Cautionary notes: Applies only to some grant programs and organizations must have comprehensive plans to apply in 2018.

### Methods

- E-mails to all possible grant recipients
- Web site information
- Partner communications—asking them to help spread the word to their constituents
- News release
- Social media postings
- In-person presentations and personal calls
- Letter/e-mail to legislators with special interest in WWRP

### December

- Update information on Web site with clickable lists of eligible applicants
- Update grant program Web pages to describe new policy
- Update Web with maps for the "County" and "Underserved Populations" pathways.

### January

- News release announcing start of grant round and new waiver policy
- Mass e-mail
- Partner communications
- Social media posts
- Legislative letters



## **February**

- Additional social media posts
- Information presented at application Webinars

## **Communications Plan for the Washington State Recreation and Conservation Plan**

In December, the agency released its new statewide recreation and conservation plan (SCORP). The releases was only online and only to a few select audiences. RCO will announce more broadly, beginning in January. Below is an outline of the communications plan.

### **Audience**

- General public
- Media
- Legislators and congressional delegation
- Grant applicants
- Partner associations (Washington State Association of Counties, Association of Washington Cities, Washington Recreation and Parks Association, Washington Public Ports Association, Washington Association of Land Trusts, Tribes, etc.)

### **Messages**

- State has new plan to guide recreation and conservation decisions
- Plan comes with interactive maps so local agencies can better plan
- Interesting statistics about how people like to recreate
- The best time to invest in outdoor recreation is right now.
- Spending time outdoors is vital to the mental and physical health of both kids and adults.
- Investments in outdoor recreation pay many dividends.

### **Methods**

- News release
- Social media postings (one a month, highlighting a different recreation activity)
- Web site information
- E-mails to grant recipients
- Article in Grant News You Can Use newsletter
- Article in Director's Blog
- In-person presentations to partner organizations
- Presentations to larger audiences, such as at conferences
- Partner communications—asking them to help spread the word to their constituents
- Letter/e-mail to legislators and congressional delegation, fact sheet handed out at in-person meetings

## **January**

- News release
- Mass e-mail
- Partner communications
- Social media posts
- Legislative letters

## **February**

- Additional social media posts
- Information presented at application Webinar

- Article in Grant News You Can Use newsletter
- Article in Director's Blog
- Presentations to larger audiences, such as at conferences

**March**

- Additional social media posts
- Presentations to larger audiences, such as at conferences

**April-Dec**

- Additional social media posts
- Presentations to larger audiences, such as at conferences

## Recreation and Conservation Funding Board Briefing Memo

# APPENDIX 1

## COMMUNICATIONS PLAN STATUS REPORT

Activity	Tasks	Status
<b>Goal 1: Build support for RCO's missions of salmon recovery, land conservation, recreation, and invasive species management.</b>		
<b>Strategy 1: Create compelling information about the benefit of investing in RCO's missions.</b>		
Activity 1: Develop Key Messages	Tasks 1: Develop key messages	Complete. Key messages are in the board memo.
<b>Strategy 2: Engage the media in telling the story of RCO's missions.</b>		
Activity 1: Promote RCO's missions to the media through a combination of news releases, editorial boards, guest editorials, letters to the editor, reporters' tours, and interviews.	Task 1: Create RCFB news releases that on focus key times in the grant cycle as well as trend information produced by SCORP.	Complete. 44 news releases distributed.
	Task 4: For significant topics only, pitch stories to newspaper editors for editorial boards, guest editorials, letters to the editor, reporters' tours, interviews, blogs, and social media.	Underway. <i>Washington State Recreation and Conservation Plan 2018-2022</i> news release to come in January.
Activity 2: Update the media distribution list. Try to add blogs and other social media outlets.		Complete. Media list is updated with each news release. Larger update is underway.
<b>Strategy 3: Engage partners in educating their constituents about RCO's missions.</b>		
Activity 1: Ask partners to share information with their constituents about RCO's missions.	Task 1: Share media releases, key messages, and specially written stories with key partners, asking them to use the information on their Web sites and in their	Complete. Regularly ask them to share grant round key dates, volunteer recruitment, board policy public comment opportunities, and grant award news.

Activity	Tasks	Status
	constituent newsletters and social media.	
Activity 2: Recognize top ranking projects through RCO awards.	Task 1: Create a recognition award for top ranked projects completed each year.	Complete. 10 Bravo Awards have been given out to date.
	Task 2: Promote the noteworthy project designated by the RCFB through news releases, Web postings, and social media.	Completed. New releases, web and social media postings done with each Bravo Award.
Activity 3: Attend annual meetings and conferences of key partners to share RCO's missions.	Task 1: Attend annual conferences and trade shows of key partners.	Complete.
<b>Strategy 4: Educate the Public</b>		
Activity 1: Make our Web sites and publications sources of information about the benefits of RCO's missions.	Task 1: Develop interactive features that engage the public.	In progress. State recreation plan Web pages are the only interactive feature.
	Task 2: Incorporate more videos on our Web sites.	Completed for salmon but not recreation,
Activity 2: Develop social media tools to draw people to RCO's Web sites.	Task 1: Develop a Facebook site or blog to highlight projects, the benefits of RCO's mission, and the work of our partners.	Completed. Facebook, Instagram, Twitter, YouTube, and Flickr sites developed.
Activity 3: Schedule agency leaders to speak at community events.	Task 1: Schedule agency representatives to share RCO's missions at special community events and large gatherings of stakeholders.	Completed. Speeches at 42 events given.
<b>Goal 2: Ensure RCO maintains its brand as an exemplary, ethical, and open grant agency.</b>		
<b>Strategy 1: Increase partners' understanding of RCO grant processes and programs.</b>		
Activity 1: Keep partners informed of RCO activities and involved in its issues.	Task 1: Create a director's electronic newsletter that informs partners of RCO activities and ways to participate.	Delayed. Director's internal newsletter turned into blog but is delivered to only a few external partners.
	Task 2: Convert <i>Grant News You Can Use</i> into an electronic newsletter.	Complete. Newsletter debuts in January.
	Task 3: Schedule regular meetings between the director and key stakeholder groups and elected officials to discuss issues and hear the latest RCO activities.	Complete. Quarterly meetings set with stakeholders for boating, land trusts, parks and recreation, and the Washington Wildlife and Recreation Coalition.

Activity	Tasks	Status
	Task 4: Participate in the annual meetings and conferences of key stakeholders.	Complete. RCO is co-leader of state Trails Coalition, and participates in annual parks and recreation conferences.
	Task 5: When seeking comment from partners on policy issues, ensure adequate response time and wide distribution of information.	Complete. Special outreach efforts are made for all board policy decisions.
	Task 6: Educate legislators, the congressional delegation, and other elected officials about RCO's grant processes and programs by sending periodic updates and scheduled meetings.	Complete. Agency leadership schedules the meetings. Communications staff provide education publications.
	Task 7: Continue support of agency's online grant workshops as a means of delivering information about RCO processes to partners.	Complete.
<b>Strategy 2: Ensure RCO's grant processes and programs are accessible to the public.</b>		
Activity 1: Make our publications and online efforts sources of information about RCO's grant programs and processes.	Task 1: Regularly review materials to ensure they are up-to-date, easily understood by the public, and clearly explain our grant processes.	Complete.
	Task 2: Develop information graphics that explain the relationship between RCO and its partners (WWRC, WWRP, etc.)	Delayed
	Task 3: Develop generic PowerPoint presentations and talking points about the agency and its grant processes for use by staff and board members.	Underway
Activity 2: Proactively work with project sponsors and partners to schedule community celebrations for WWRP and LWCF projects and use the opportunity to explain RCO's role in those projects.	Task 1: Develop a priority list of special events that kick off new projects and celebrate the completion of projects to attend. Proactively work with sponsors and partner organizations to promote the events.	Partially complete. Monthly conference calls are held with the Washington Wildlife and Recreation Coalition to discuss upcoming activities. All ribbon cuttings and groundbreakings are promoted online. Communications staff has not initiated any local events on its own.
	Task 2: Develop an automatic PRISM trigger for projects nearing	Complete. Quarterly list of projects closing is shared with the

Activity	Tasks	Status
	completion, so that celebrations can be encouraged.	Washington Wildlife and Recreation Coalition.
Activity 3: Look for ways to share RCO information on the publications and Web sites of our partners.	Task 1: Investigate getting grant information in the grant portals of other organizations.	Delayed.
<b>Strategy 3: Strengthen agency identity.</b>		
Activity 1: Develop a unified look for agency publications, presentations and e-mail.	Task 1: Develop graphic standards and templates for agency publications, presentations, and Internet presence.	Partially complete. There are unified standards for board PowerPoints, fact sheets, manuals, and most Web sites but not for all publications.
<b>Strategy 4: Provide tools for staff to be RCO brand ambassadors</b>		
Activity 1: Ensure staff has the communications tools they need to do their jobs successfully and understand their role as RCO brand ambassadors.	Task 1: Regularly visit section meetings to discuss communications issues and query staff on needs for communications products.	Partially complete. Regular communication happens but not a section meetings.
	Task 2: Develop template talking points for when they are at speaking engagements.	Completed.
	Task 3: Collect and distribute links of all news coverage of RCO programs to help staff stay informed.	Complete. News clips are distributed weekly to staff and board members.
<b>Goal 3: Strengthen RCO's internal communications.</b>		
<b>Strategy 1: Ensure there are tools to keep staff involved in and informed of agency activities.</b>		
Activity 1: Survey staff about use of internal communications tools.	Task 1: Survey staff to see if the current communication tools are useful. Gauge how well agency leadership is keeping them informed of major decisions and recognizing their valuable contributions.	Delayed
Activity 2: Develop routine ways for staff to stay informed and engaged in agency activities.	Task 1: Develop a plan for improving internal communications.	Delayed

## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31 and February 1, 2018

**Title:** Washington Wildlife and Recreation Program (WWRP) Phase III Changes to Policy and Criteria

**Prepared By:** Adam Cole, Natural Resource Policy Specialist

#### Summary

This memo provides policy and evaluation criteria changes for the Washington Wildlife and Recreation Program. The proposed changes represent the final items needed to implement Substitute Senate Bill (SSB) 6227. The changes affect the Washington Wildlife and Recreation Program including: policies related to public access and acquisition under the Habitat Conservation, and Farm and Forest Accounts. Recreation and Conservation Office staff will summarize the results of the recent public comment period and ask for board decision on these changes.

#### Board Action Requested

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

**Resolution:** 2018-06

**Purpose of Resolution:** Approve or deny the proposed changes.

### Background

[Substitute Senate Bill \(SSB\) 6227](#) changed the Washington Wildlife and Recreation Program (WWRP) in early 2016 in a number of ways. The Recreation and Conservation Office has implemented the changes in three phases based on direction in the law and past Recreation and Conservation Funding Board decisions. The first phase addressed everything necessary to accept applications for the 2016 grant round, including changing the funding allocation formulas and eligible grant applicants. The second phase included everything necessary to evaluate the 2016 grant round, including creating the Forestland Preservation category. The third phase includes all changes necessary to implement the 2018 grant round.

### Phase III Proposals

At the [October 2017 board meeting](#), staff briefed the board on changes needed for phase III as described in agenda [Item 9](#) of that meeting. The board provide guidance on the preparation of draft policies, approved further development of the policies based on additional stakeholder consultation, and directed staff to solicit public comment on any final proposals.

The remaining items in phase III included:

#### **Public Access Policy**

- Public Access: A policy for development projects, recreational access projects, or fee simple acquisition projects that allows sponsors to limit public access to protect sensitive species, water quality, or public safety.

#### **Noxious Weed and Site Stewardship Plan Costs**

- Noxious Weed Costs: Increases the maximum allowable cost for managing noxious weeds on property acquired with grant funds.
- Stewardship Plan Costs: Allows for stewardship planning costs in most of the grant categories under the Habitat Conservation and Farm and Forest Accounts.

#### **Evaluation Criteria Changes**

- Adds consideration of “multiple benefits” into the evaluation criteria in the following grant categories: Critical Habitat, Forestland Preservation, Natural Areas, Riparian Protection, and Urban Wildlife Habitat.
- Adds the following consideration to the evaluation criteria for Critical Habitat, Natural Areas, and Urban Wildlife Habitat categories:

*The extent to which a conservation easement can be used to meet the purpose of the project; community support from local citizens, local organizations, and local elected officials; estimated costs of maintaining and operating the property acquired, and evaluating projects in terms of their state-wide significance of a site.*

#### **Updates to Manual 10b: Washington Wildlife and Recreation Program, Habitat Conservation and Riparian Protection Accounts**

- Update list of eligible items to include the policy changes contained in this memo, and minor changes to eligible work items.

### **Final Proposals**

Staff recommend the approval of the following updated proposals:

- **Attachment A:** Washington Wildlife and Recreation Program Public Access Policy Statement
- **Attachment B:** Noxious Weed and Site Stewardship Plan Costs
- **Attachment C:** Evaluation Criteria
- **Attachment D:** Updates to Manual 10b: Washington Wildlife and Recreation Program, Habitat Conservation and Riparian Protection Accounts

To view the original proposed policies with changes highlighted in red see the [public comment materials package](#).



## Summary of Public Comments

The public comment period began December 18, 2017, and closed January 4, 2018, and drew nineteen commenters. Many of them commented on multiple items.

To view verbatim comments see [Attachment E](#).

### Public Access Policy

There was general support for the Public Access policy statement. Many commenters suggested changes.

Staff changes to the Public Access Policy Proposal based on public comment:

- Added “environmentally sensitive areas,” to protection of areas with significant research and educational values, and areas where active research and education are occurring.
- With regard to identifying negative impacts, staff replaced the term “definite” with “likely.”
- Added exemption to any limits on public access for cultural and spiritual uses as approved by the landowner.
- Explicitly stated that properties purchased with easements are not covered under this policy.

Staff did not amend the policy proposal based on the following suggestions:

- WWRP funds should go to government entities exclusively,
- Limitations on public access should also be based on the quality of access points and social impacts such as impacts to neighbors,
- Limits on what types of amenities should be provided,
- Consideration of passive vs active uses, and
- Scrutinizing funding for projects on school grounds because of a property owner’s ability to limit “public” use during school hours.

### Noxious Weed and Stewardship Plan Costs

All the commenters on noxious weed and stewardship plan costs were supportive of these policies. However, multiple comments suggested increasing the cost for noxious weed control. One commenter asked to also include costs for treatment of “invasive species” to this cost category.

Policy changes based on public comment:

- Increased the maximum reimbursable cost for treatment of noxious weeds to \$175 per acre or \$3,500 for properties up to 20 acres.
  - Previous recommendation was to raise per acre cost from \$125 per acre to \$150, with a raise from \$2,500 to \$3,000 for properties up to 20 acres.

### Evaluation Criteria Changes

There was general support for the recommended changes to the evaluation criteria.

#### Evaluation Criteria Changes Based on Public Comment:

- Added guidance to evaluate the adequacy of a conservation easement to achieve conservation goals.
- Technical edits.

Staff did not amend the evaluation criteria proposal based on the following:

One commenter suggested adding a criterion for the protection of historic and cultural resources. Another suggested there should not be an evaluation of the type of property interest acquired (fee simple vs easement), multiple benefits should be included in existing criteria questions not as a stand-alone criterion, and climate change should be included in the criteria.

#### General and Miscellaneous Comments

There were five short miscellaneous public comments. See verbatim comments for details ([Attachment E](#)).

#### Next Steps

Staff will incorporate any needed changes for the 2018 grant round into grant application and management tools and publications.

#### Attachments

- A. Washington Wildlife and Recreation Program (WWRP) Public Access Policy Statement
- B. Noxious Weed and Site Stewardship Plan Costs Policy Statement
- C. Evaluation Criteria
- D. Updates to Manual 10b
- E. Verbatim Comments
- F. Resolution 2018-06

## Attachment A.

### **Washington Wildlife and Recreation Program (WWRP) Public Access Policy Statement**

This policy only applies to project areas receiving funds through the Washington Wildlife and Recreation Program. When public access is restricted in a project area per this policy, At its discretion, RCO may require changes to the board funded project agreement, to include special conditions and amendments, to authorize the restriction.

#### Approved Public Access Restrictions

Unless otherwise provided for in RCW 79A.15, projects receiving grants from the Washington Wildlife and Recreation Program for development, recreational access, or fee simple land acquisition must be accessible for public recreation and outdoor education. However, the board authorizes limiting (restricting) public access to a project area, in a project area, or a portion of a project area, for the following reasons:

1. Protection of critical, important, and sensitive species, habitats, or ecosystems.
2. Preserving rare or vanishing flora or fauna; or sensitive, threatened, or endangered species; or those proposed for threatened or endangered status, or otherwise a candidate for a listing status review; or a unique species or ecosystem.
3. Protection of an environmentally sensitive area and to preserve the ecological integrity of a landscape or water body.
4. Protection for the safety of the public. For public safety closures, sponsor must identify a specific hazard with known consequences to visitors. As appropriate to protect the public, prior to any public safety closure, sponsor must have first attempted to address public safety problems with common practices such as signage, increased patrols, partial fencing, or moving infrastructure (parking lots, trails, etc.) where practical.
5. Protection of water quality.
6. Protection of significant research and education values/resources that might otherwise be compromised by public access, and areas where there is active research or education occurring. These include public access limits described in The Natural Area Preserves Act (RCW 79.70).
7. Protection of historical or cultural resources. However, sponsor shall allow exemptions to limits on public access in the case of cultural and spiritual uses that do not damage or otherwise adversely affect the protected resource(s). These exemptions shall occur only if authorized by the landowner.

#### Other Policy Statements

1. Priorities: Conservation priorities shall be the primary focus of projects in the Washington Wildlife and Recreation Program (WWRP) - Habitat Conservation Account, but exclusion of the general public should be avoided.

2. Public Access Defined: Public access (accessible) means that the general public has regular access to and use of the grant funded project area at reasonable hours and time of the year.
3. Discrimination: Sponsors shall not discriminate on the basis of age, race, creed, color, sex or gender, religion, national origin, disability, marital status, or sexual orientation.
4. Credentials: Allowing access only to a specific group or class of the public based on credentials or profession shall not be considered public access.
5. Constraints: Where restricting public access is authorized by this policy, such restriction shall be as narrowly constrained as possible to achieve the identified protection goal. Where year-round limits on public access are in place, the sponsor must have considered a partial closure such as limited in time or geography, and rejected it on a sound basis.
6. Signs: Where restricting public access is authorized by this policy, the requirement to post signs identifying the area as open to the public is waived.
7. Restoring Access: When the rationale for limiting public access is no longer valid, the area shall be made available for public access.
8. Conservation Easements: Although public access is encouraged, this policy does not apply to areas purchased under a conservation easement or similar less than fee simple method.
9. Providing Facilities: Providing public access to the project area does not mean that developed facilities must be provided.

If requested by RCO, sponsor must provide RCO with adequate justification for any limits on public access in project areas. If requested by RCO, sponsor shall provide in its justification items 1- 5 from the list contained below: Approving Additional Limits to Public Access on Case-by-Case Basis section.

#### Approving Additional Limits to Public Access on Case-by-Case Basis

To limit public access for reasons other than those listed above, the board delegates its authority<sup>1</sup> to approve such limits on public access to the RCO Director or designee. In these cases, the sponsor must provide, and RCO shall review, a written request that:

1. Clearly delineates the area where public access shall be limited.
2. Clearly identifies (each) specific resource (area, habitat, species, type of water, etc.) in need of protection from public access.
3. Demonstrates that public access will likely (probable, high chance of occurring) have a substantive negative impact to the resource(s).
4. Describes the type and duration of public access restrictions.
5. How the public was involved in sponsor decision-making.

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<sup>1</sup> RCW 79A.15.030(5)

## Attachment B.

### Noxious Weed and Site Stewardship Plan Costs Policy Statements

#### Noxious Weed Costs

The following update shall be made to Manual 3: Acquiring Land:

Eligible noxious weed control costs:

- Initial control, up to \$175 per acre or \$3,500 per property for properties less than 20 acres.

#### Site Stewardship Plan Costs

The following is applicable to the Natural Areas, Critical Habitat, Urban Wildlife Habitat, Riparian Protection, and Forestland Preservation categories:

Development of a site stewardship plan is an eligible cost activity. Applicants may request up to 1 percent of the total project cost or \$10,000, whichever is less. An outline for the stewardship plan must be submitted with the grant application and, at a minimum, it must contain the following elements:

- Long-term stewardship goals and objectives
- Monitoring goals and objectives
- Restoration goals and objectives (if applicable)
- Short-term land management goals and objectives
- Description of the project area, including the following:
  - U.S. Geological Survey quadrant map and county assessor's parcel map
  - Map showing all human-made and natural features
  - Narrative description of the property
  - Photographs taken at permanent photograph points
- A detailed stewardship plan implementation budget that also identifies the source of funding.

## Attachment C.

### Evaluation Criteria

### Critical Habitat Category

WWRP Critical Habitat Evaluation Summary			
Criteria	Evaluation Elements	Possible Points	Weight
Project Introduction	<ul style="list-style-type: none"> <li>• Locate the project on statewide, vicinity, and site maps.</li> <li>• Brief summary of the project (goals and objectives statement)</li> </ul>	Not scored	0%
1. Ecological and Biological Characteristics	<ul style="list-style-type: none"> <li>• The bigger picture</li> <li>• Uniqueness and significance of the site</li> <li>• Fish and wildlife species or communities</li> <li>• Quality of habitat</li> </ul>	20	40%
2. Species and Communities with Special Status	<ul style="list-style-type: none"> <li>• Threat to species or communities</li> <li>• Importance of acquisitions</li> <li>• Ecological roles</li> <li>• Taxonomic distinctness</li> <li>• Rarity</li> </ul>	10	20%
3. Manageability and Viability	<ul style="list-style-type: none"> <li>• Immediacy of threat to the site</li> <li>• <u>Consideration of a Conservation Easement</u></li> <li>• Long-term viability</li> <li>• Enhancement of existing protected land</li> <li>• Ongoing stewardship</li> <li>• Livestock Grazing Uses</li> </ul>	15	30%
4. Public Benefit and <u>Community</u> Support	<ul style="list-style-type: none"> <li>• <u>Project Community</u> support</li> <li>• Educational and/or scientific value</li> </ul>	5	10%
5. <u>Multiple Benefits</u>	<ul style="list-style-type: none"> <li>• <u>Recreation and Resource Uses, and Management Practices</u></li> </ul>	<u>3</u>	<u>5%</u>
<b>Total Points Possible</b>		<b><u>50-53</u></b>	

### 3. Manageability and Viability

What is the likelihood of the site remaining viable over the long term and why is it important to secure it now? This question's intent is to determine whether the site can be managed, and how it will be managed, to protect the target species or communities.

#### Immediacy of Threat of the Habitat

What, and how immediate or imminent, are the threats to the habitat at the site (i.e. inherent, ecological, human, conversion, abatable or non-abatable threats)? Are these new threats or ongoing threats? How do or will these threats affect the function of the habitat? How will protection of the site affect these threats? What steps already have been taken to secure the land or reduce the threats?

#### Consideration of a Conservation Easement

Would a conservation easement provide an appropriate level of protection for this habitat? If yes but fee simple acquisition is the preferred approach, describe the reasons why a conservation easement is not being pursued.

- Characterize the components of the easement under consideration and state why and how those components provide adequate conservation of the site and its features.

#### Long-Term Viability

What regulatory protections currently are afforded the site (i.e. county comprehensive plan, critical areas ordinances, zoning, development regulation, shoreline management rules, forest practice rules including landowner landscape plans, habitat conservation plans, etc.)? Demonstrate how the site will be managed over time to maintain the desired characteristics. Who will maintain it and what human and financial resources are available to do it? What management needs are there? Is the habitat recoverable? What restorative efforts, if any, are needed and planned? What is happening across the landscape or watershed that may affect the viability of the site? Describe any long-term site monitoring plans and identify who will implement monitoring?

#### Enhancement of Existing Protected Land

Are there other protected lands (public and private) near or adjoining this site that have complementary or compatible land uses for the target species (consider wide-ranging or migratory species)? Are they managed in a manner consistent with the needs of the target species or communities? Is this site part of a larger ownership? If so, describe the connectivity and management of the other land.

## Ongoing Stewardship

Describe the ongoing stewardship program for the site project area including that includes the estimated costs of maintenance and operation and the control of noxious weeds, detrimental invasive species, etc.

What is the source of funding for this stewardship work? funds from which the program will be funded?

## Livestock Grazing Uses

Livestock grazing may not diminish the essential purposes of the proposed project. Describe livestock grazing uses of the property that would occur if the property is acquired. Describe the site-specific management plan for livestock grazing that protects or enhances the health of the species targeted in the grant proposal. The site-specific management plan must incorporate current laws, rules, and guidelines for wildlife species protection and include a duration and periodic renewal schedule.

▲ Maximum Points=15

## 4. Public Benefit and Community Support

To what degree do communities, governments, landowners, constituent groups, or academia benefit from or support the project?

This question's intent is to find out what the unique public benefits are of your project. Public benefit should not be equated with "public access." The question is not meant to discount projects for *not* having overwhelming support or educational opportunities. It may be that your project has one or the other qualities and not both. Your answer will be scored on those unique qualities and how they are appropriate for, or of benefit to, your project.

### Project-Community Support

Describe the support or partnerships from the community including: local citizens, local organizations, local elected officials, interest groups, volunteers, public agencies, etc. How have these groups been involved in project development? Explain any known opposition to the project.

Describe and document other monetary means that have been secured to help cover the costs for the project, i.e., grants, donations, in-kind contributions, etc.

## Educational or Scientific Value

Describe the scientific and educational values of the site. Is there an identified research or educational need documented in a management plan, thesis, or scientific journal related to the habitat, species, or communities at the site? How likely is it that these opportunities will come to fruition? How accessible is the site for these activities?



## 5. Multiple Benefits

1. Does the project area include recreational uses that are compatible with habitat conservation?

Explain these recreational uses and how they are compatible with the habitat conservation objectives of the project.

- Provide an evidenced based explanation of compatibility.
- Explain how recreational uses are managed on the landscape, and balanced with habitat conservation.
- Discuss the quality of the recreational experience.

2. Does the project area include resource uses or management practices that are compatible with and provide the ability to achieve additional conservation benefits?

Describe the resource uses or management practices and explain how they are compatible with conservation and achieve additional conservation benefits.

- Provide an evidenced--based explanation of 1) compatibility with conservation and 2) achieving additional conservation benefits.
- How will these resource uses and management practices be managed.
- Describe how the local or regional communities and their leaders value these resource uses or management practices.
- Evidence provided by the sponsor showing local support for conservation due to the applicant continuing a compatible historic use or practice which would otherwise be threatened may be considered as meeting the criteria of achieving additional conservation benefits.
- Scoping the project to avoid impairing a locally preferred resource use or management practice may be considered as meeting the criteria of achieving additional conservation benefits.

### ▲ Point Range: 0-3

0 points      No multiple benefits provided, or multiple benefits are not compatible with or achieve additional conservation benefits.

1-3 points      More points shall be given to the extent multiple benefits exist, and to the extent recreational uses are compatible with conservation, and resource uses and management practices achieve additional conservation benefits.

## Natural Areas Category

Natural Areas Evaluation Summary		
Criteria	Evaluation Elements	Possible Points
Project Introduction	<ul style="list-style-type: none"> <li>Brief summary of the project goals and objectives</li> <li>Locate the project on statewide, vicinity, and site maps.</li> </ul>	Not scored
1. Ecological and Biological Characteristics	<ul style="list-style-type: none"> <li>The bigger picture</li> <li>Uniqueness or significance of the site</li> <li>Species or communities</li> <li>Quality of habitat and natural features</li> </ul>	20
2. Species and Communities with Special Status	<ul style="list-style-type: none"> <li>Threat to species or communities</li> <li>Importance of acquisition(s)</li> <li>Ecological roles</li> <li>Taxonomic distinctness</li> </ul>	10
3. Manageability and Viability	<ul style="list-style-type: none"> <li>Immediacy of threat to the site</li> <li><u>Consideration of a Conservation Easement</u></li> <li>Long-term viability</li> <li>Enhancement of existing protected land</li> <li>Ongoing stewardship</li> </ul>	15
4. Public Benefit and <u>Community</u> Support	<ul style="list-style-type: none"> <li><u>Project-Community</u> support</li> <li>Educational and/or scientific value</li> </ul>	5
5. <u>Multiple Benefits</u>	<ul style="list-style-type: none"> <li><u>Recreation and Resource Uses, and Management Practices</u></li> </ul>	<u>3</u>
<b>Total Points Possible</b>		<b><del>50</del> 53</b>

### 3. Manageability and Viability

What is the likelihood of the site being viable (functioning) over the long term and why is it important to secure it now?

This question's intent is to determine whether the site can be managed, and how it will be managed, to protect the target species, communities, or natural features.

### Immediacy of Threat to the Site

What, and how imminent, are the threats to the site (i.e., inherent, ecological, human, conversion, abatable or non-abatable threats)?

- Are these new threats or ongoing? How do or will these threats affect the function of the site?
- How will protection of the site affect these threats? What steps already have been taken to secure the land or reduce the threats?

### Consideration of a Conservation Easement

Would a conservation easement provide an appropriate level of protection for this habitat? If yes but fee simple acquisition is the preferred approach, describe the reasons why a conservation easement is not being pursued.

- Characterize the components of the easement under consideration and state why and how those components provide adequate conservation of the site and its features.

### Long-Term Viability

What regulatory protections already are afforded the site (i.e., county comprehensive plan, critical areas ordinances, zoning, development regulations, shoreline management rules, forest practice rules including landowner landscape plans, habitat conservation plans, etc.)?

Demonstrate how the site will be managed over time to maintain the desired characteristics.

- Who will maintain it and what human and financial resources are available to do it? What management needs are there? What restorative efforts, if any, are needed or planned?
- What is happening across the landscape or watershed that may affect the viability of the site?
- Describe any long-term site monitoring plans and identify who will implement monitoring.

### Enhancement of Existing Protected Land

Are there other lands (public and private) near this site that have complimentary or compatible land uses for the target species or communities?

- Are they managed in a manner consistent with the needs of the target species or communities?
- Is this site part of a larger ownership? If so, describe the connectivity and management of the other land.

## Ongoing Stewardship

Describe the ongoing stewardship program for the site project area including that includes the estimated costs of maintenance and operation and the control of noxious weeds, detrimental invasive species, etc.

What is the source of funding for this stewardship work? funds from which the program will be funded?

## 4. Public Benefit and **Community** Support

To what degree do communities, governments, landowners, constituent groups, or academia benefit from or support the project?

This question's intent is to find out what the *unique* public benefits are of your project. Public benefit should not be equated with "public access." The question is not meant to discount projects for *not* having overwhelming support or educational opportunities. It may be that your project has one or the other qualities and not both. Your answer will be scored on those unique qualities and how they are appropriate for, or of benefit to, your project.

### **Project-Community** Support

- Describe the support or partnerships from the community including: local citizens, local organizations, local elected officials, interest groups, volunteers, public agencies, etc. How have you involved these groups in project development? Explain any known opposition to the project.
- Describe and document other monetary means that have been secured to help cover the costs for the project, i.e., grants, donations, in-kind contributions, etc.

## Educational and Scientific Values

Describe the scientific and educational values of the site.

- Is there an identified research or educational need documented in a management plan, thesis, or scientific journal related to the habitat, species, or communities at the site? How likely is it that these opportunities will come to fruition? How accessible is the site for these activities?

## 5. Multiple Benefits

1. Does the project area include recreational uses that are compatible with habitat conservation?

Explain these recreational uses and how they are compatible with the habitat conservation objectives of the project.

- Provide an evidenced based explanation of compatibility.
  - Explain how recreational uses are managed on the landscape, and balanced with habitat conservation.
  - Discuss the quality of the recreational experience.
2. Does the project area include resource uses or management practices that are compatible with and provide the ability to achieve additional conservation benefits?

Describe the resource uses or management practices and explain how they are compatible with conservation and achieve additional conservation benefits.

- Provide an evidenced--based explanation of 1) compatibility with conservation and 2) achieving additional conservation benefits.
- How will these resource uses and management practices be managed.
- Describe how the local or regional communities and their leaders value these resource uses or management practices.
- Evidence provided by the sponsor showing local support for conservation due to the applicant continuing a compatible historic use or practice which would otherwise be threatened may be considered as meeting the criteria of achieving additional conservation benefits.
- Scoping the project to avoid impairing a locally preferred resource use or management practice may be considered as meeting the criteria of achieving additional conservation benefits.

▲ Point Range: 0-3

0 points      No multiple benefits provided, or multiple benefits are not compatible with or achieve additional conservation benefits.

1-3 points      More points shall be given to the extent multiple benefits exist, and to the extent recreational uses are compatible with conservation, and resource uses and management practices achieve additional conservation benefits.

## Riparian Habitat Category

Riparian Protection Account Evaluation Criteria			
Number	Scored By	Topic	Maximum Score
1	Advisory Committee	Riparian habitat benefits	20
2	Advisory Committee	Planning priority	20
3	Advisory Committee	Site suitability and project design	20
4	Advisory Committee	Threats to the habitat	15
5	Advisory Committee	Project support	15
6	Advisory Committee	Public Access Opportunities	15
7	Advisory Committee	Ongoing stewardship and management	10
<u>8</u>	<u>Advisory Committee</u>	<u>Multiple Benefits</u>	<u>6</u>
<u>9</u>	RCO Staff	Matching share	4
<u>10</u>	RCO Staff	Growth Management Act preference	0
Maximum Possible Score			<b><u>119-125</u></b>

### 6. Public Access Opportunities

- Does this project include any passive recreation opportunities for walking, wildlife viewing, and observation?
- Does the project area include recreational uses that are compatible with habitat conservation?
  - Explain these recreational uses and how they are compatible with the habitat conservation objectives of the project.
  - Provide an evidenced based explanation of compatibility.
  - Explain how recreational uses are managed on the landscape, and balanced with habitat conservation.
  - Discuss the quality of the recreational experience.

- Does this site have any educational or scientific value?
  - Is there an identified research or educational need documented in a management plan, thesis, or scientific journal related to the habitat, species, or communities at the site?
  - How likely is it that these opportunities will come to fruition?
  - How accessible is the site for these activities?
- ~~If public access is excluded, describe the circumstances such as habitat characteristics or private landowner desires that support restricting public access? How will access be monitored to protect the site?~~

## **8. Multiple Benefits**

Does the project area include resource uses or management practices that are compatible with and provide the ability to achieve additional conservation benefits?

Describe the resource uses or management practices and explain how they are compatible with conservation and achieve additional conservation benefits.

- Provide an evidenced--based explanation of 1) compatibility with conservation and 2) achieving additional conservation benefits.
- How will these resource uses and management practices be managed.
- Describe how the local or regional communities and their leaders value these resource uses or management practices.
- Evidence provided by the sponsor showing local support for conservation due to the applicant continuing a compatible historic use or practice which would otherwise be threatened may be considered as meeting the criteria of achieving additional conservation benefits.
- Scoping the project to avoid impairing a locally preferred resource use or management practice may be considered as meeting the criteria of achieving additional conservation benefits.

### **▲ Point Range: 0-6**

0 points      No multiple benefits provided, or multiple benefits are not compatible with or achieve additional conservation benefits.

1-6 points      More points shall be given to the extent multiple benefits exist, and resource uses and management practices achieve additional conservation benefits.

## Urban Wildlife Habitat Category

Urban Wildlife Habitat Evaluation Summary			
Criteria	Score By	Evaluation Elements	Possible Points
Project Introduction	Not Scored	<ul style="list-style-type: none"> <li>Brief summary of the project goals and objectives</li> <li>Create statewide, vicinity, and site maps</li> </ul>	Not scored
1. Ecological and Biological Characteristics	Advisory Committee	<ul style="list-style-type: none"> <li>The bigger picture</li> <li>Uniqueness or significance of the site</li> <li>Fish and wildlife species and or communities</li> <li>Quality of habitat</li> </ul>	20
2. Species and Communities with Special Status	Advisory Committee	<ul style="list-style-type: none"> <li>Threat to species or communities</li> <li>Importance of acquisition to protection and recovery</li> <li>Ecological roles</li> <li>Taxonomic distinctness</li> <li>Rarity</li> </ul>	10
3. Manageability and Viability	Advisory Committee	<ul style="list-style-type: none"> <li>Immediacy of threat to the site</li> <li><u>Consideration of a Conservation Easement</u></li> <li>Long-term viability</li> <li>Enhancement of existing protected land</li> <li>Ongoing stewardship</li> </ul>	15
4. Public Benefit and <u>Community</u> Support	Advisory Committee	<ul style="list-style-type: none"> <li>Project support</li> </ul>	10
5. Educational Opportunities	Advisory Committee	<ul style="list-style-type: none"> <li>Educational and scientific value</li> </ul>	5
6. Public and <u>Recreational Uses</u>	Advisory Committee	<ul style="list-style-type: none"> <li><u>Recreational Uses</u></li> <li>The public's use of the site</li> <li><u>Multiple Benefits</u></li> </ul>	10
7. <u>Resource Uses and Management</u>	<u>Advisory Committee</u>	<ul style="list-style-type: none"> <li><u>Multiple Benefits</u></li> <li><u>Compatible uses that achieve</u></li> </ul>	<u>4</u>



<u>Practices</u>		<u>additional conservation benefits</u>	
<del>7.8</del> Growth Management Act	RCO Staff	<ul style="list-style-type: none"> <li>• Growth Management Act preference</li> </ul>	0
<del>8.9</del> Population	RCO Staff	<ul style="list-style-type: none"> <li>• Population of, and proximity to, the nearest urban area</li> </ul>	10
<b>Total Points Possible</b>			<del>80</del> <u>84</u>

### 3. Manageability and Viability

What is the likelihood of the site remaining viable over the long term and why is it important to secure it now?

This question's intent is to determine whether the site can be managed, and how it will be managed, to protect the target species or communities.

#### Immediacy of Threat to the Habitat

What, and how imminent, are the threats to the habitat at the site (i.e., inherent, ecological, human, conversion, abatable or non-abatable threats)?

- Are these new threats or ongoing?
- How do or will these threats affect the function of the habitat?
- How will protection of the site affect these threats?
- What steps already have been taken to secure the land or reduce the threats?

#### Consideration of a Conservation Easement

Would a conservation easement provide an appropriate level of protection for this habitat? If yes but fee simple acquisition is the preferred approach, describe the reasons why a conservation easement is not being pursued.

- Characterize the components of the easement under consideration and state why and how those components provide adequate conservation of the site and its features.

#### Long-Term Viability

- What regulatory protections currently are afforded to the site (i.e., county comprehensive plan, critical areas ordinances, zoning, development regulation,

shoreline management rules, forest practice rules, etc.)?

- Demonstrate how the site will be managed over time to maintain the desired characteristics.
- Who will maintain it and what human and financial resources are available to do it? What management needs are there?
- Is the habitat recoverable? What restorative efforts, if any, are needed or planned?
- What is happening across the landscape or watershed that may affect the viability of the site?
- Describe any long-term site monitoring plans and identify who will implement monitoring?

### Enhancement of Existing Protected Land

Are there other protected lands (public and private) near this site that have complementary or compatible land uses for the target species (consider wide-ranging or migratory species)?

- Are they managed in a manner consistent with the needs of the target species or communities?
- Is this site part of a larger ownership? If so, describe the connectivity and management of the other land.

### Ongoing Stewardship

Describe the ongoing stewardship program for the site project area including that includes the estimated costs of maintenance and operation and the control of noxious weeds, detrimental invasive species, etc.

What is the source of funding for this stewardship work? funds from which the program will be funded?

## 4. Public Benefit and Support

To what degree do communities, governments, landowners, constituent groups, or academia benefit from or support the project?

This question's intent is to find out what unique benefits or support your project provides to organizations or communities. This question should not be equated with "public access" and is not meant to discount projects for not having overwhelming support. Your answer will be scored on those unique qualities and how they are appropriate for, or of benefit to, your project.

## Project and ~~Community~~ Support

- Describe the support or partnerships from the community including: local citizens, local organizations, local elected officials, interest groups, volunteers, public agencies, etc. How have you involved these groups in project development?
- Explain any known opposition to the project.
- Describe and document other money that has been secured to help cover the costs for the project, (i.e., grants, donations, in-kind contributions, etc.)

## 6. Public and ~~Recreational~~ Use

Does this project provide potential opportunities for public access, education, or enjoyment?

~~Public use or access is only encouraged when and where it is appropriate. The intent of the question is to determine what level of public access is provided that will ensure resource values are sustained. The answer will be scored on how the opportunities provided are appropriate for, or of benefit to, the project.~~

### ~~The Publics Use of the Site~~

Does the project area include recreational uses that are compatible with habitat conservation?

Explain these recreational uses and how they are compatible with the habitat conservation objectives of the project.

- Provide an evidenced based explanation of compatibility.
- Explain how recreational uses are managed on the landscape, and balanced with habitat conservation.
- Discuss the quality of the recreational experience.
  - ~~○ Describe public use that is or will be provided and why it is appropriate.~~
  - ~~○ How will public use be managed to sustain resource values? Include important or unique details about construction techniques, placement of structures, timing of activities and access, onsite stewards, guided tours, etc. How likely is it that the public will use the site? How accessible is the site (in terms of remoteness, driving directions, and distance from populated areas).~~
  - ~~○ Does the site provide opportunity for one or more special needs group? Will the site provide barrier free access to persons challenged by sensory, mobility, and or mental abilities? If so, briefly describe the facilities and how they meet accessibility requirements and guidelines.~~

- Describe why public use is not appropriate for this site.
- How will the site be managed to limit or restrict public use. Describe what it is about the site, habitat, or the species using the site that makes it sensitive to public use.
- What other opportunities exist nearby for recreational or educational experiences by the public?

## **7. Resource Uses and Management Practices**

Does the project area include resource uses or management practices that are compatible with and provide the ability to achieve additional conservation benefits?

Describe the resource uses or management practices and explain how they are compatible with conservation and achieve additional conservation benefits.

- Provide an evidenced--based explanation of 1) compatibility with conservation and 2) achieving additional conservation benefits.
- How will these resource uses and management practices be managed.
- Describe how the local or regional communities and their leaders value these resource uses or management practices.
  - Evidence provided by the sponsor showing local support for conservation due to the sponsor continuing a compatible historic use or practice which would otherwise be threatened may be considered as meeting the criteria of achieving additional conservation benefits.
  - Scoping the project to avoid impairing a locally preferred resource use or management practice may be considered as meeting the criteria of achieving additional conservation benefits.

### **▲ Maximum Points=4**

0 points      No multiple benefits provided, or multiple benefits are not compatible with nor achieve additional conservation benefits.

1-4 points      More points shall be given to the extent multiple benefits exist, and to the extent resource uses and management practices achieve additional conservation benefits.

## Forestland Preservation Category

Scored by	#	Evaluation Criteria	Maximum Score	Percent of Total
Advisory Committee	1	<b>Viability of the Site</b> What is the viability of the site for commercial timber production?	15	38%
Advisory Committee	2	<b>Forestland Stewardship</b> What stewardship practices beyond the Forest Practices Act are in place that support timber production or provide ecological benefits?  What is the experience of the applicant to monitor the conservation easement to ensure the forest stewardship activities proposed are realized?	10	25%
Advisory Committee	3	<b>Threat to the Land</b> What is the likelihood the land will be converted to some other use than forestland if it is not protected?	8	20%
Advisory Committee	4	<b>Community Values</b> How will protecting the land for timber production provide benefits to the community?  Do the community and area Native American tribes support the project?	6	15%
<u>Advisory Committee</u>	<u>5</u>	<u>Multiple Uses</u>  1) <u>Does the project include recreational uses that are compatible with habitat conservation?</u>  2) <u>Does the project include resource uses or management practices that are compatible with conservation and provide the ability to achieve additional conservation benefits?</u>	<u>2</u>	<u>5%</u>
RCO	<del>5</del> <u>6</u>	<b>Match</b>	2	5%
		<b>Total Points</b>	<b><del>41</del> <u>43</u></b>	<b>100%</b>

**4. Community Values** – How will protecting the land for timber production provide benefits to the community? Do the community and area Native American tribes support the project?<sup>2</sup>

Preference is provided to projects that are identified in community planning efforts in one or more of the following ways:

- Is the project recommended in a limiting factors analysis or critical pathways analysis?
- Is the project recommended in a watershed plan developed under Revised Code of Washington 90.82 or other planning effort?
- Is the project recommended in a conservation plan (other than a habitat conservation plan required under the Endangered Species Act)?
- Is the project recommended in a coordinated region-wide prioritization effort?
- Is the project consistent with a regional or statewide recreational or resource plan ~~and does it provide public recreational access?~~
- Is the project consistent with the local comprehensive plan as forestland of long-term significance or other local planning effort?
- Does the project assists in the implementation of a local shoreline master plan updated according to Revised Code of Washington 90.58.080?

Benefits to the community also may include the following:

- Creation or protection of jobs
- Support for local mills
- Viewshed and scenic beauty
- Research and educational opportunities

Support from the community and Native American tribes may be demonstrated by letters of support or donations to assist with implementing the project.

## **5. Multiple Benefits**

1. Does the project area include recreational uses that are compatible with habitat conservation?

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<sup>2</sup>Revised Code of Washington 79A.15.130(12)(a), (b) and (d)

Explain these recreational uses and how they are compatible with the habitat conservation objectives of the project.

- Provide an evidenced based explanation of compatibility.
- Explain how recreational uses are managed on the landscape, and balanced with habitat conservation.
- Discuss the quality of the recreational experience.

2. Does the project area include resource uses or management practices that are compatible with and provide the ability to achieve additional conservation benefits?

Describe the resource uses or management practices and explain how they are compatible with conservation and achieve additional conservation benefits.

- Provide an evidenced--based explanation of 1) compatibility with conservation and 2) achieving additional conservation benefits.
- How will these resource uses and management practices be managed.
- Describe how the local or regional communities and their leaders value these resource uses or management practices.
- Evidence provided by the sponsor showing local support for conservation due to the applicant continuing a compatible historic use or practice which would otherwise be threatened may be considered as meeting the criteria of achieving additional conservation benefits.
- Scoping the project to avoid impairing a locally preferred resource use or management practice may be considered as meeting the criteria of achieving additional conservation benefits.

▲ Point Range: 0-2

0 points      No multiple benefits provided, or multiple benefits are not compatible with or achieve additional conservation benefits.

1-2 points      More points shall be given to the extent multiple benefits exist, and to the extent recreational uses are compatible with conservation, and resource uses and management practices achieve additional conservation benefits.

## Attachment D

### Updates to Manual 10b: Washington Wildlife and Recreation Program, Habitat Conservation and Riparian Protection Accounts

#### PROPOSED REVISION: Critical Habitat Category Projects

This category provides grants to acquire, ~~create~~, enhance, or restore habitat for wildlife including game and non-game species; food fish; shellfish; and freshwater, anadromous, and other fish including habitat for endangered, threatened, or sensitive species.

- Includes habitats such as wetlands, forests, shrub-steppe, deer and elk winter range, and riparian zones, and habitats for saltwater or freshwater fish and shellfish.
- May include public use for both consumptive and non-consumptive activities
  - May include acquisition for species protection or enhancement.
- May include habitat enhancement or restoration ~~or creation~~.
- Must be accessible for public recreation and outdoor education
  - See the board's WWRP Public Access Policy for allowed limitations on public access.
  - May include limited development of public facilities such as roads, trails, parking, restrooms, signs or kiosks, and fences. ~~to allow public use and enjoyment.~~
- ~~May exclude public use, if needed to protect habitat and species.~~
- May include costs for developing stewardship plans.
- Does not allow renovation of facilities.

#### PROPOSED REVISION: Natural Areas Category Projects

These grants provide funding to acquire areas set aside to protect high quality, representative, native ecosystems; unique plant or animal communities; habitat for endangered, threatened, or sensitive species; rare geological features; or features of significant scientific or educational value.

- Must have retained most of their natural character.
- Must be managed primarily for resource preservation, protection, and study. ~~May provide limited or no public use.~~
- May include limited development of public facilities such as roads, trails, parking, restrooms, signs or kiosks, and fences.



- Must be accessible for public recreation and outdoor education
  - See the board's WWRP Public Access Policy for allowed limitations on public access.
- May include costs for developing stewardship plans.
- Does not allow for habitat enhancement or restoration.
- Does not allow renovation of facilities.

#### **PROPOSED REVISION: Riparian Protection Category Projects**

This account provides grants to acquire riparian habitat adjacent to any water body or its submerged lands. Riparian habitat may include shorelines, nearshore marine habitat, estuaries, lakes, wetlands, streams, or rivers. Grants also may include restoration or development components.

- Must include acquisition of real property (fee title, easement, or lease).
- May include functional habitat for salmon and other wildlife species.
- May include restoration or enhancement of the property to be acquired.
- May include limited development for low impact, public access. Development may include trails, roads to trail heads, parking, restrooms, signs and kiosks, and fences.
- May include costs for developing stewardship plans.
- May include conservation easements or leases for land enrolled in the Conservation Enhancement Reserve Program (CREP). Leases must be for at least 25 years.
- ~~May exclude public use, if needed to protect habitat and species.~~
- Must be accessible for public recreation and outdoor education
  - See the board's WWRP Public Access Policy for allowed limitations on public access.

#### **PROPOSED REVISION: Urban Wildlife Habitat Category Projects**

These grants are for the acquisition, development, or restoration of urban wildlife habitat. To be eligible in this category, the land **must lie**:

- Within the corporate limits of a city or town with a population of at least 5,000 or within 5 miles of such a city or town (or its adopted Urban Growth Area boundary)

Or

- Within 5 miles of an adopted Urban Growth Area in a county that has a population density of at least 250 people per square mile.

#### Projects:

- Provide habitat for wildlife, food fish, shellfish, or freshwater or marine fish.
- May serve as a corridor for wildlife movement in and through existing populated areas.
- ~~May include and encourage public use for wildlife interpretation and observation.~~
- Must be accessible for public recreation and outdoor education
  - See the Board's WWRP Public Access Policy for allowed limitations on public access.
- ~~May include development of limited facilities, such as fences, interpretive or observation trails, interpretive signs or kiosks, restrooms, and parking.~~
- May include limited development of public facilities such as roads, trails, parking, restrooms, signs or kiosks, and fences.
- May include creation or enhancement of habitat.
- ~~May exclude public use, if needed to protect habitat and species~~
- Does not allow renovation of existing facilities.

#### **PROPOSED REVISION: Site Stewardship Plan Costs**

##### ~~Riparian Protection Account Only~~

For Natural Areas, Critical Habitat, Urban Wildlife Habitat, Riparian Protection, and Forestland Preservation projects only.

Development of a site stewardship plan is an eligible cost activity ~~in the WWRP Habitat Conservation Account~~ up to 1 percent of the total project cost or \$10,000, whichever is less. An outline for the stewardship plan must be submitted with the grant application and, at a minimum, it must contain the following elements:

- Long-term stewardship goals and objectives
- Monitoring goals and objectives
- Restoration goals and objectives (if applicable)
- Short-term land management goals and objectives
- Description of the project area, including the following:

- U.S. Geological Survey quadrant map and county assessor's parcel map
  - Map showing all human-made and natural features
  - Narrative description of the property
  - Photographs taken at permanent photograph points
- A detailed stewardship plan implementation budget that also identifies the source of funding.

## Attachment E

### Verbatim Public Comments

Public Access Policy				
Number	Summary	Source	Comment	Response
1	<p><b>Support</b></p> <p>Policy should align with DNR's statutory ability to limit access for specific purposes.</p> <p>Temporary closures should be allowed to support ongoing research and education.</p>	<p><b>John Gamon</b> Assistant Division Manager, Conservation, Recreation and Transactions Division, Washington State Department of Natural Resources</p>	<p>Thank you for the opportunity to comment on the proposed updates to the Washington Wildlife and Recreation Program. The Department of Natural Resources has enthusiastically supported the review of WWRP and the recommended changes that have been underway over the last couple of years. We are generally supportive of the current recommended changes and have comments to offer regarding their implementation.</p> <p><u>New Public Access Policy:</u> DNR is in support of the intent of this policy, i.e., to ensure that the public has access to lands acquired with public funds. We believe that increased public support for our natural areas program will happen by making these sites accessible for everyone to enjoy and to learn from. There are, however, a few factors that we feel are important to consider as this new policy is adopted and implemented:</p> <ul style="list-style-type: none"> <li>• DNR has statutory authority to limit public access to Natural Area Preserves under RCW 79.70.030; we hope that implementation of this new WWRP policy acknowledges our existing statutory authority and is consistent with that authority.</li> <li>• The Natural Area Preserves Act (RCW 79.70) explicitly recognizes research and education values, yet these are not explicitly included as values that can be used as a justification for limiting public access.</li> <li>• The policy, as written, could be construed to not be inclusive of research and some education in the definition of public access.</li> </ul>	<p>Policy allows closures based on applicable authorities and agency policies and processes.</p> <p>Staff shall add current education and research projects to list of factors for limiting public access.</p>

			<p>As noted above, DNR currently has statutory authority to limit public access to Natural Area Preserves (RCW 79.70.030), consistent with the purposes of the Natural Area Preserves Act. Limitations to public access at individual sites must be spelled out in a management plan. The statute directs DNR to identify appropriate public uses and areas within natural areas where those uses are appropriate. The approach is a conservative one in terms of use, i.e., DNR is to identify places where public use is appropriate, rather than identifying places where it is inappropriate. The statute allows for the creation of buffer r zones with an increased level l of public access around more environmentally sensitive areas.</p> <p>Additionally, RCW 79.70 explicitly recognizes that Natural Area Preserves include research and educational opportunity values. Furthermore, the various categories within the Habitat Conservation Account all recognize, through the evaluation c criteria, that there are scientific and educational values to acquisition projects. However, these values (research and education) are not specifically addressed in the current draft policy language and, as a result, there is ambiguity regarding whether they would be treated, under the new policy, as values that could be used to justify limiting public access.</p> <p>Protecting sites that can provide baseline data regarding how natural ecosystems function and how they might respond to management activities is one of the primary, stated objectives of the Natural Area Preserves Act. Public investment to ensure that there are such sites has been viewed as valuable and desirable. To the extent that public access can have unknown and uncontrolled impacts on research projects and educational values, we would like to see protection of research and educational values as a qualifying reason for the RCFB to limit public access. This might best be accomplished by adding the following statement to the list of 7 reasons for which RCFB can limit public access:</p> <p>"Protection of significant research and education values that might otherwise be compromised by public access."</p> <p>We would further recommend that current item #8 in the new policy should apply to research and education locations within natural areas. That is, the project sponsor should have to identify the specific locations with research and education values that need protection from general public use. We would also recommend that project sponsors</p>	
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			demonstrate that public access would have a negative impact on research and education values, i.e., we recommend that #9 be modified to include research and education values.	
2	<p><b>Supported</b></p> <p><b>Needs Improvement</b></p> <p>Need transparent process.</p> <p>Need to accommodate limits on access into the future based on emerging issues.</p> <p>Need to limit access when impacts are "likely."</p>	<p><b>Cynthia Wilkerson</b> Lands Division Manager, Washington State Department of Fish and Wildlife</p>	<p>WDFW was very engaged in the legislative discussion that led to Senate Substitute Bill 6227 and are pleased to continue that work through to these policy elements.</p> <p><i>New Public Access Policy</i></p> <p>We share the value and intent of keeping public lands open to public use that is espoused by the proposed new policy. For the most part, WDFW lands are open to the public 365 days a year. We do, however, have times when there is a need to close specific areas for public safety and/or natural resource impacts. Some of these restrictions are annual and based on the annual biological needs of a species and can, therefore be somewhat predictable. Public safety closures and emergent issues such as disease, however, cannot be predicted. We have two recommendations for the development of the new policy:</p> <p>#1 Language to address the timing of when public access may be limited:</p> <p>Project proponents should understand when and how the board makes the decision to approve public access limitations. Project proponents need the flexibility to respond to future access limitations needs that are either: 1) unanticipated at the time of purchase, or 2) result from an emergency situation. In cases such as fire or extreme threat of disease transmission, we will need the ability and discretion to immediately restrict use. We suggest adding the following language to the policy, immediately after the list of 7 reasons for restricted access: "Requests for restricted public access may occur initially based on an expected need. Additionally, new restrictions may need to be implemented in the future. In some cases, future restrictions may need to be approved retroactively when emergency closures require immediate implementation for public safety or protection of public resources."</p> <p>#2 Edit to allow for the reality of managing public resources in order to reduce likely impacts vs being required to demonstrate a definitive impact:</p> <p>The language in #9 requiring a "<i>definite substantive negative impact</i> to important habitat or sensitive, threatened, or endangered species..." is not a defensible standard for WDFW's</p>	<p>Policy contains delegation to RCO's director to evaluate limits on public access. Sponsors may request board action specifically if desired.</p> <p>The public access policy as written applies to public access restrictions over time.</p> <p>Emergency closures shall be covered in the approved public safety closure statement.</p> <p>Staff shall update policy to incorporate the concept of "likely" impacts.</p>

			public land management. We manage lands to reduce risk to the resources that we manage on behalf of the public. If we had to demonstrate definitively that a specific patch of land would burn in an unpredictable, raging fire or that specific individual animals would absolutely be infected with a communicable disease before restricting public access, we would undoubtedly lose precious, limited resources before being able to act to protect them. As we have suggested before, we request that the language be edited to state "Sponsor must demonstrate that human access <i>is likely to have a negative impact to...</i> " We understand and agree that it needs to be a defensible standard and believe that our suggested language should suffice.	
3	<b>Support</b>	<b>Maria Hunter</b> Aquatic Policy Analyst Aquatic Resources Division Washington Department of Natural Resources	Creating a new Public Access Policy for funded project: <i>No additional comments, this change seems appropriate.</i>	Thank you for your comments.
4	<b>Supported</b>  <b>Needs Improvement</b>  Limit public access to protect historic and cultural resources.  Allow exceptions to closures for cultural purposes that do not damage resources.	<b>Greg Griffith</b> Deputy State Historic Preservation Officer Washington State/Department of Archaeology & Historic Preservation	<p>In regard to policy allowing project sponsors to limit public access to protect species, water quality, or public safety, DAHP recommends that sponsors should also be allowed to limit public access to protect significant cultural and historic resources. In addition, the policy should also identify exemptions to the limitation to allow authorized access to cultural and historic resources for cultural, spiritual, and/or other appropriate purposes that does not damage or otherwise adversely affect the resource(s).</p> <p>In regard to the policy revisions, DAHP recommends also allowing costs for mitigation of adverse effects to significant cultural and historic resources, including <i>but not limited to</i>: repair, restoration, documentation, interpretation, off-site mitigation, etc.</p>	<p>The policy allows limiting access to protect cultural and historical resources.</p> <p>The policy shall be updated to allow cultural uses of otherwise closed areas.</p> <p>Some of these examples of allowable costs are currently eligible.</p> <p>Repair, restoration and off-site mitigation are not clearly eligible. More information is needed from commenter on examples of these activities.</p>

				Staff shall follow up with commenter.
5	<p><b>Needs Improvement</b></p> <p>Means of access to properties often cause resource issues and create social and other issues for neighboring property owners.</p> <p>The lack of legal or appropriate access should be a reason to limit access.</p>	<p><b>Erik Kingfisher</b> Stewardship Director Jefferson Land Trust</p>	<p>Jefferson Land Trust’s mission is to ‘Help the community preserve open space, working lands, and habitat forever’ here in Jefferson County. Since 1989 we have worked with partners to permanently protect and ensure the long-term stewardship of lands with extraordinary conservation values - from salmon stream corridors, to undeveloped shorelines, to productive farmland, to sustainable working forestlands. We regularly help fulfill the purpose of the WWRP through fee-title acquisitions, conservation easement acquisitions, and restoration efforts.</p> <p><u>New Policy</u></p> <p>We appreciate the clarification that this policy statement provides regarding Public Access. We also appreciate the clear statement that “conservation priorities shall be the primary focus of projects”, and we support the board delegating authority to the RCO director to approve limits on public access.</p> <p>Through our work to permanently protect important habitat lands for current and future generations, we accept the responsibility to ensure the habitat and ecological function values of the protected lands are sustained over time. We have found that certain public access conditions can quickly impact the conservation values of a property or broader project area and we are careful to direct that access in appropriate ways, so <u>it is important that limitations on public access be an option as we steward these places that provide a wide array of public benefits not associated with recreational access.</u></p> <p>While we do need to be able to limit public access to protect the conservation values of certain properties, Jefferson Land Trust has been actively promoting access to what we are calling “Ambassador Preserves” – those protected lands we hold that have exceptional educational and recreational values which are consistent with the principal conservation values being protected. We recognize that public access to some habitat lands can be</p>	<p>Public investment in private property must maximize public benefits. As stated in the policy, unique situations such as limiting access based on quality of access and other issues such as impacts to neighbors may be evaluated on a case-by-case basis by the RCO Director.</p> <p>Staff shall update the numbering scheme in the policy.</p>



			<p>achieved in concert with certain preservation goals, and public access provides an important community education function.</p> <p>An additional reason to consider limiting public access is neighboring land use. Often we are acquiring an interest in a property with important conservation values that has been privately owned and stewarded for generations, and increased public access is inconsistent with the historic or neighboring land use patterns. We have encountered problems with neighbors when allowing public access on protected properties, where that property is only reasonably accessible in ways that impact the privacy of the neighboring landowners.</p> <p>This is particularly true in situations where access is by way of an ingress and egress easement rather than a public right-of-way, which is common in rural areas. Therefore, <u>we recommend that limitations of public access be acceptable when such access presents a significant burden to neighboring landowners as well.</u></p> <p>For clarity, we also suggest the final list of requirements for compliance with the policy begin again at number 1, rather than carrying on the numbering from the above list of reasons for restricting public access. So, "Sponsor must identify..." would be 1. rather than 8..</p>	
6	<p><b>Needs Improvement</b></p> <p>Supports ability to limit public access to enhance wildlife.</p>	<p><b>Paul Thorpe</b> Past President Recreational Boating Association of Washington</p>	<p>"For public safety closures, sponsor must identify a specific hazard with known consequences to visitors. As appropriate to protect the public, sponsor must have first attempted to address safety problems with practices such as signage, fencing, moving infrastructure (trails, etc.) prior to restricting public access."</p> <p>I suggest deleting "fencing" since by definition fencing restricts access.</p> <p>On page 8 of comment materials This line is deleted: "May exclude public use, if needed to protect habitat and species"...I object to this deletion, as public exclusion may be essential to the objective of enhancing wildlife habitat.</p>	<p>Staff agree with this literal interpretation of fencing and have added "partial" to the policy statement. In general, fencing is a best practice on landscapes where hazards exist and may be useful to keep the area as a whole open.</p>
7	<p><b>Not Opposed</b></p> <p>Limiting access on publicly financed lands should be scrutinized.</p>	<p><b>Christopher Owen French</b></p>	<p>Limiting public access</p> <p>Limiting the public access to land acquired with public funds is very sensitive. Obviously makes sense if safety is an issue. It is even more sensitive in these cases because NGO entities have used public funds to acquire lands. This situation is a possibly byproduct of</p>	<p>Thank you for your comments.</p>

			<p>the weakening of the state agencies that manage land like WDFW WDNR. Many members of the public I meet express concern that these properties should be state land not a NGO land. It is important to scrutinize and be extremely transparent with any attempt to limit the public access to any land purchased with tax dollars. It seems it would be good to have public comment for each case and clearly defined process. We already have water quality and endangered species policies in place. It seems granting funds to 501c3s to buy land has put the RCO in a weird position.</p> <p>This funding for land may have been better directed to WDFW and WDNR. We should allow our state professionals to manage our resources and wildlife. It seems they would be best qualified as to decide when to limit access. There seems to be fewer and fewer places you are allowed to go.</p>	
8	<p><b>Needs Improvement</b></p> <p>Limits on access are reasonable.</p> <p>Recommend prescribing maximum number of user amenities so as not to provided too much access.</p>	<p><b>David Noble</b></p>	<p>In Appendix B of Phase III WWRP, mandatory public access appears to be added, not curtailed/amended. It is worded as if sponsors often prefer no public access. In future, sponsors must request permission to limit public access for each project from the Recreation and Conservation Funding Board (RCFB).</p> <p>My experience in Spokane is that sponsors always want public access. Public access is the primary reason and goal for acquiring land ownership and easements. Testimony about conservation, habitat protection and so forth are secondary if not just a strategy to get public access. There is no need to make public access mandatory.</p> <p>There is a need to define what this public access means. It should not mean access to the full extent of a property, 24/7. Conservation and public access are inherently in conflict with each other. My recommendation is:</p> <ol style="list-style-type: none"><li>1. One trail head allowed.</li><li>2. Maximum of 2 looped trails allowed, one short and one long.</li><li>3. Exceptions to above must be submitted to RCFB for approval.</li></ol> <p>Why:</p>	<p>Given the diversity of projects the board funds, prescribing maximum or minimum amenities that need to be provide may limit access unnecessarily.</p>

			<p>Based on <a href="https://www.spokanecounty.org/DocumentCenter/View/4499">https://www.spokanecounty.org/DocumentCenter/View/4499</a> the estimated disturbance zone next to a trail (each side, so double the value) is 50 meters for deer and 75 meters for birds. I believe this estimate should be expanded for grass and shrub lands, reduced for woodland and forest. There are three points or areas the public is drawn to and that suffer off-trail activity:</p> <ol style="list-style-type: none"> <li>1. Trail head</li> <li>2. Highest point, summit on the parcel of land</li> <li>3. Water, such as pond, stream, spring, beach</li> </ol> <p>Extent of disturbance will be greater at these three points or areas than otherwise along trails.</p>	
9	<p><b>Do Not Oppose</b></p> <p><b>Needs Improvement</b></p> <p>Public safety concerns should not be a "loop hole" to limit access.</p>	<p><b>Monty Vanderbilt</b> Frequent Volunteer on Public Land Work Projects</p>	<p>It's not clear to me whether this is to limit public access to the grant proposal and other information that is part of the current process, or to public access to the site that the grant is about.</p> <p>I am strongly opposed to any reduction in transparency of the grant proposal. Open access to the grant applications is one of the most valuable aspects of this program for me, and I suspect for other parties interested in following public projects on lands of particular interest.</p> <p>I don't have an opinion on whether a funded project can limit access to the land -- I would need to see more details about that. But this restriction must be well justified. Closure for "public safety" seems like a big loop hole that could be used as a justification when it's really only a minor danger, such as a partial trail washout.</p>	<p>Staff and board thank you for your service on public lands.</p> <p>These proposals do not apply to the transparency of the grant-making process but rather access to publicly funded lands.</p>
10	<p><b>Needs Improvement</b></p> <p>Limiting access should be allowed. Properties where public access is limited still provide public benefit.</p>	<p><b>Richard Jahnke</b> President, Admiralty Audubon Society</p>	<p>On behalf of Admiralty Audubon Society, East Jefferson County, WA, I encourage RCO to adopt a policy that clarifies, controls and limits public access to project areas. It has been established that certain open spaces and wildlife habitats can provide a public benefit without necessarily allowing public access. Specific examples might include critical habitat for important species or aquifer recharge zones. Clarifying locations where public benefit</p>	<p>The discussion of whether a property is suited for passive vs active recreation shall be addressed in the evaluation</p>

	Helpful to clarify if areas should be accessible to passive vs active use.		includes public access and locations where it does not will provide for more effective protection of these areas and avoid misunderstanding and potential future conflicts. Clarifying what types of public access (passive vs. active recreation) are permitted in those locations would also provide helpful guidance.	criteria which considers the compatibility of public uses.
11	<b>Needs Improvement</b>  Funding of projects on school properties should be scrutinized and avoided if the sponsor can significantly limit public use.	<b>Toni Reading</b> Sultan	I would recommend only placing recreational 'assets' in locations that would allow full public participation at all times. My example would be the partnership tennis courts built on Sultan High School grounds that due to increased security decisions now prevent public use during school hours even if not used for class purposes-this is a heartbreaking loss of a public asset and profound waste of taxpayer monies for the courts to sit empty and unused 5 days a week during those restricted hours when they are not even primarily used by classes. As a lifelong tennis player, my home purchase in Sultan was considered only after verifying there were public courts available and I was assured at the time that they were a joint city/school venture with public access guarantee since I am retired and wanted to take full advantage of the extra court time retirement would offer-that access is now completely restricted during school hours and those courts sit unused at the far end of campus for the majority of the year. If the reality of closed campuses is the future for school districts, then I feel only truly public full access venues should be considered for these ventures or at least placement be made where campus restrictions would not apply or be allowed to be retroactively instituted. Tennis is truly a lifetime sport-Sultan School District student survey results shared with me by admin. personnel demonstrated a high interest in after school tennis programming (not actuated sadly) and the need for healthy lifestyle activities is great in our area for all, so to lose this amenity is a great loss for our community, including seniors that would/could use them at varied times outside the 40 hour work week schedule thus opening up weekend/after school hour use. Tennis courts sitting unused is a terrible resource waste but not enough opportunity to play/exercise due to too many wishing to engage during the same small window of time is also problematic. Follow-up maintenance should also be looked into as that was also an issue with these courts. The historical record regarding my effort to mitigate this circumstance also bears looking into and consideration.	Staff evaluate projects on school properties on a case by case basis and weigh the amount of available "public use" for eligibility purposes.  Existing policy allows closures during school hours. In most cases, facilities cannot be used primarily for varsity sports.  Staff will evaluate if a discrete and more comprehensive policy or institutional approach is needed when considering funding projects on school properties.
12	<b>Do Not Oppose</b>  <b>Needs Improvement</b>  State explicitly in policy statement that projects properties where a	<b>Jason Paulsen</b> Executive Director Methow Conservancy	In reading the Attachment B "Critical Habitat Category Projects" language on public access, it is stated that the land "Must be accessible for public recreation and outdoor education." In the WWRP Public Access Policy referenced in that section, it would appear (though is not specifically stated) that public access is <u>not</u> a program requirement if the conservation interest is secured by way of a conservation easement as opposed to a fee acquisition. It would be nice to have this specifically articulated v.s. having to be inferred to	Staff will add language for the easement exemption in the public access policy proposal.

	conservation easement is being used are not subject to public access requirements.		provide clarity for applicants working to implement conservation easements under the Critical Habitat program.	
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### Noxious Weed Funding and Stewardship Planning Costs

Number	Summary	Source	Comment	Response
1	<p><b>Support</b></p> <p>Cost increase for noxious weed control should be higher than current policy proposal.</p>	<p><b>Roy Brunskill</b></p> <p>King County Noxious Weed Control Program</p>	<p>The King County Noxious Weed Control Program is in support of increasing the Incidental Costs for Noxious Weed Control to \$150.00/acre. The cost associated with this proposed revision is within the parameters of the successful bid from a private contractor interested in being the programs contractor for enforcement activities that was accepted in 2014. It may make sense to revise the noxious weed control costs to be more in the range of \$160.00/acre or \$3,200.00 per property for properties less than 20 acres due to the increase costs of contractors.</p> <p>Thank you for the opportunity to comment on the importance of increasing the allowable grant funding availability for noxious weed control.</p>	<p>Staff shall change the policy proposal to increase the allowable costs for noxious weed control.</p>
2	<p><b>Support</b></p> <p>Should also include treatment of invasive species as an incidental cost of property acquisition.</p>	<p><b>Justin Bush</b></p> <p>Executive Coordinator Washington Invasive Species Council, Washington State Recreation and Conservation Office</p>	<p>On behalf of the Washington Invasive Species Council, I am writing to express strong support for the proposed policy revision increasing control costs for noxious weed control.</p> <p>Additionally, incidental costs for managing both noxious weeds and invasive species are equally important components of acquiring land. The Washington Invasive Species Council respectfully recommends that the policy be revised to include invasive species control costs.</p> <p>Suggested revision:</p> <p>Incidental Costs for Invasive Species and Noxious Weed Control, Manual 3: Acquiring Land</p> <p>Invasive species and noxious weed control (initial control, up to \$150 per acre or \$3,000 per property for properties less than 20 acres).</p>	<p>Staff shall not add invasive species to the items allowed under incidental project costs at this time but will take this comment forward for further review.</p>

3	<b>Support</b>  Cost increase for noxious weeds is helpful but modest.	<b>John Gamon</b> Assistant Division Manager, Conservation, Recreation and Transactions Division, Washington State Department of Natural Resources	<p>The Department of Natural Resources is fully supportive of both policy revisions: 1) increasing the maximum allowable amount for controlling noxious weeds and 2) allowing for stewardship planning costs. While the increase in maximum allowable costs for weed control is modest, every little bit can help, particularly given that weed control is one of the most consistent issues we face when we acquire properties.</p> <p>Providing the capacity to carry out stewardship planning, including the identification of costs associated with monitoring, restoration and general site management t will be extremely beneficial and will contribute to our long-term success in meeting goals and objectives for individual sites. This is also consistent with the recent JLARC study (<i>Measuring Outcomes of land Acquisitions and Regulations - Preliminary Report</i>) that included a recommendation that DNR, State Parks and WDFW identify the resources necessary to report stewardship needs.</p>	Staff shall change the policy proposal to increase the allowable costs for noxious weed control.
4	<b>Support</b>  Current cost increase for noxious weeds may not be adequate for all property types.	<b>Cynthia Wilkerson</b> Lands Division Manager, Washington State Department of Fish and Wildlife	<p>We would like to thank you for meeting with our staff on both issues over the past several weeks. The dialogue produced enhanced understanding on both sides and we found it constructive and productive.</p> <p><i>Proposed revision: Incidental Costs for Noxious Weed Control, Manual 3: Acquiring Land</i></p> <p>We support the increase of the allowable amount for weed control. We do, however, point out that weed control costs can be quite variable and the \$150/acre may not address the full need particularly on small acquisitions that need weed control throughout.</p>	Staff shall change the policy proposal to increase costs for noxious weeds.
5	<b>Support</b>	<b>Maria Hunter</b> Aquatic Policy Analyst Aquatic Resources Division Washington Department of Natural Resources	<p>1. Increasing costs allowed for managing noxious weeds:</p> <p><i>No additional comments, this change seems appropriate.</i></p> <p>2. Allowing stewardship plan costs in most categories:</p> <p><i>No additional comments, this change seems appropriate.</i></p>	Thank you for your comments.

6	<b>Support</b>  Some properties require higher costs for treatment of noxious weeds.	<b>Erik Kingfisher</b> Stewardship Director Jefferson Land Trust	We support the increase in allowable costs for managing noxious weeds, and while some properties certainly require more, this is a welcome increase. Acquiring a property that does not have some sort of invasive species management issue is the exception, rather than the norm. We also support the expansion of stewardship planning costs into other categories. Developing a plan for stewardship of protected lands is a time consuming and professional endeavor that is fundamental to the responsible protection of conservation lands.	Staff shall change the policy proposal to increase costs for noxious weeds.
7	<b>Support</b>	<b>Sharon L Sorby</b> Coordinator	Wow, after all the review committees I've served on and hammered on the need for noxious weed management plans, and how to fund them be included in the proposals - somebody has listened to beyond my input - thank you. I would like to state my agreement with these proposed changes.	Thank you for your comments.
8	<b>Support</b>  Recommended increase in noxious weed costs in not enough.  Need to validate the stewardship plans of non-profit nature conservancies.	<b>Christopher Owens French</b>	<p>Noxious Weeds...Yes increase the cost. \$125/ acre is not enough. \$150 is not a great improvement. To accomplish this work it often times requires hiring crews which cost \$1000 a day. Infestations of noxious weeds all come with challenges. Many times repeat treatments are necessary different plant species require treatment at different seasons. Another consideration; any time noxious weeds are removed a vacuum is created to be filled by more noxious weeds, also pollinators must adjust. Replanting appropriate native plants should be required any time weed money is released. In my opinion this is not enough funding.</p> <p>Allowing for stewardship Plans...Yes. The entire point is stewardship. These should have as much unified overarching management goals and objectives as possible. Possibly seek approval from WDFW. What qualifications do NGO employees have to write these plans and manage this land? How are these plans validated?</p>	Staff shall change the policy proposal to increase costs for noxious weeds.

Evaluation Criteria Changes



Number	Summary	Source	Comment	Response
1	<p><b>Support</b></p> <p>Criteria should also characterize the components of the easement under consideration and state why and how those components provide adequate conservation of the site and its features.</p>	<p><b>John Gamon</b> Assistant Division Manager, Conservation, Recreation and Transactions Division, Washington State Department of Natural Resources</p>	<p>The Department of Natural Resources is supportive of the proposed changes to the issue of multiple benefits. Not only are the meaning and intent of 'multiple benefits' clarified with the proposed changes, but the onus will be placed on the project sponsor to demonstrate that recreation and/or natural resource management are compatible with the conservation objectives of the project. This will be beneficial to the project evaluators, since they will no longer need to make assumptions about whether such uses are compatible or not.</p> <p>The Department also supports the notion of considering conservation easements as an alternative to fee simple acquisition. As written, the evaluation criterion puts the onus on the project sponsor to explain why a conservation easement is not being pursued. However, conservation easements can and do vary considerably. We recommend that if a project sponsor chooses to pursue a conservation easement, that they be required to characterize the components of the easement under consideration and state why and how those components provide adequate conservation of the site and its features.</p> <p>Finally, the Department supports the expanded definition of project support, specifically that local citizens, local organizations and local elected officials are all called out as contributing to what constitutes 'community support.' Including these additional elements of local communities creates a more complete picture of community support for individual WWRP projects.</p>	<p>Staff shall update criteria recommendation to include evaluation of the adequacy of the easement.</p>
2	<p><b>Support</b></p> <p>Remove "etc." from criteria to be more deliberate.</p>	<p><b>Cynthia Wilkerson</b> Lands Division Manager, Washington State Department of Fish and Wildlife</p>	<p>We support the changes in Attachment C including the added questions and the point allocations. Other minor comments: Remove any occurrence of "etc." in the document. This is a guidance document and "etc." allows an open-ended interpretation on both the application and evaluation.</p> <p>Ongoing stewardship pages 15/22/36 - "what is the source of funding for this stewardship work?"</p>	<p>Will correct ongoing stewardship language.</p>
3	<p><b>Support</b></p>	<p><b>Andrew Austin</b> Government Affairs Manager Metro Tacoma Parks</p>	<p>While many of these proposed changes do not directly impact grants MPT applies for, we support all of the proposed changes. In particular we support and appreciate adding "community support" and "multiple benefits" to all of the categories you have proposed</p>	<p>Thank you for your comments.</p>

			adding it to. Both of these evaluation criteria are critical components to a successful local project. We also appreciate the ongoing effort to align evaluation criteria across varying project categories.	
4	<b>Support</b>	<b>Maria Hunter</b> Aquatic Policy Analyst Aquatic Resources Division Washington Department of Natural Resources	<p>Criteria Changes</p> <ol style="list-style-type: none"> <li>Updating to accommodate “multiple benefits” criterion: <p>This change appears to align well with DNR’s “Build Healthy Rural Communities” strategic priority. DNR is invested in supporting diverse and vibrant local economies built on sustainable relationships, practices, collaboration, and investments. Allowing for historical uses or management practices, as long as they are compatible with conservation benefits, is in line with DNR’s goal of supporting rural communities.</p> </li> <li>Public support considerations: <p>No additional comments, this change seems appropriate.</p> </li> <li>Consideration of conservation easements: <p>No additional comments, this change seems appropriate.</p> </li> <li>Estimating stewardship costs: <p>No additional comments, this change seems appropriate.</p> </li> </ol>	Thank you for your comments.
5	<b>Support</b>	<b>Joe Irvin</b> Assistant/Acting City Manager, Sequim	<p>City of Sequim expresses strong support for proposed changes to grant-making policies.</p> <p>As a small city needing to accomplish as much as possible with limited funds, we are particularly supportive of the proposal to consider multiple benefits into the evaluation criteria for the WWRP Critical Habitat, Natural Areas, Riparian Habitat, Urban Wildlife</p>	Thank you for your comments.

			<p>Habitat, and Forestland Preservation Categories. We see advantages to the proposed changes benefiting recreational access, habitat preservation and enhancement, and economic concerns via increased tourism.</p> <p>Sequim is also supportive of changes to consider community support more specifically during project evaluation. Sequim participates on a variety of resource management committees and works regularly with regional recreation partners. We are actively supportive of our Tree City USA and Bicycle Friendly Community designations and work, for example, with the Boys &amp; Girls Club, school district and local anglers club to utilize City resources for public events such as a kids' fishing derby.</p>	
6	<p><b>Not Opposed</b></p> <p>Add protection of cultural and historic resources to criteria.</p>	<p><b>Greg Griffith</b></p> <p>Deputy Historic Preservation Officer,</p> <p>Washington State Department of Archeology and Historic Preservation</p>	<p>Under Evaluation Criteria Changes, DAHP recommends that benefit or protection of significant cultural and historic resources be added as a criteria or value in evaluating applicants in these grant categories.</p>	<p>At this time staff recommends not adding a discrete evaluation question regarding protecting cultural and historic resources. Considering impacts, protection, and possible mitigation of these resources is required in all grant programs.</p>
7	<p><b>Opposed (Limited)</b></p> <p>Evaluating easement vs fee simple purchase should not be included in the evaluation criteria.</p> <p>Multiple Benefits: Should be included in existing Public Benefit and Community Support questions.</p>	<p><b>Erik Kingfisher</b></p> <p>Stewardship Director</p> <p>Jefferson Land Trust</p>	<p>Manageability and Viability (<i>Criteria</i>):</p> <p>How a project is permanently protected, either through fee simple acquisition or a conservation easement, is a result of many unique factors for each project, and <u>we do not support the proposition that conservation easements or fee simple acquisitions affect how a project is scored in the evaluation criteria</u>. We use both fee simple and conservation easement acquisitions to achieve the purpose of the WWRP, and our mission, and each situation, landowner, and property is unique in its relation to what protection tool is used.</p> <p>Multiple Benefits (<i>Criteria</i>):</p> <p>This new criteria appears to be an expansion of the Public Benefit and Community Support section, and it may make sense to simply incorporate the Multiple Benefits criteria language into the Public Benefit and Community Support section. This also appears to be the</p>	<p>Including an evaluation of easement vs fee simple acquisitions is a legal requirement under RCW 79A.15.060(5)(a)(ii).</p> <p>Staff recommend a separate discrete question for multiple benefits (in most instances) to emphasize and prioritize the importance of this required new criterion. Where discrete</p>

	Projects that address climate change should be prioritized in the criteria.		appropriate place to include climate change and resiliency, and <u>we recommend that projects that are consistent with strategies for addressing climate change are scored more favorably.</u>	criteria is statutorily required and similar to the multiple benefit criteria the multiple benefits question was integrated into existing criteria.  The board will discuss its role in encouraging sponsors to address greenhouse gas emissions and climate resilience at the Jan/Feb 2018 board meeting.
8	<b>Not Opposed</b>  Technical corrections needed.	<b>Paul Thorpe</b> Past President Recreational Boating Association of Washington	.....Further down the page, "Map4 showing all human-made and natural features" - what is a Map4?  Page 12  This line stands alone at the top of the page: "Evaluators should ignore this question for projects outside Water Resource Inventory Areas 1-19."  As there are questions both before and after the line, which one is to be ignored?  There are six mentions of Appendix A beginning on page 12, but there is no Appendix A in the document.	Staff shall make tech changes to the recommendations:  "4" is a mistake, it should just say "Map".  Line that stands alone: This is the last sentence to the paragraph at the bottom of previous page.  Appendix A is an application requirement used in project evaluation. It is a list of sorts called "Species and Communities with Special Status"
9	<b>Needs Improvement</b>	<b>Jason Paulsen</b> Executive Director Methow Conservancy	With respect to "multiple benefits" and the opportunities for additional scoring, the application guidelines require applicants to "Provide an evidenced based explanation of compatibility." Given past challenges applicants have faced with WWRP review committees	Thank you for your comment.

	Need to provide examples of “evidenced based explanation.”		<p>sometimes bringing very subjective personal views to the scoring process, it may be helpful for RCO to develop sample language or examples of what an “evidenced based explanation” should look like.</p> <p>Thank you for providing this opportunity for review and comment. I suspect that some of these new provisions (particularly the scoring of “evidence based explanations” will require further refinement after a “test-drive” or two, and would encourage the Board and RCO staff to plan time in their work schedules for such a review after the next cycle.</p>	Asking for evidence based explanation should suffice to guide the applicant and evaluators.
<b>General, Miscellaneous</b>				
Number	Summary	Source	Comment	Response
1	<b>Miscellaneous</b>  Need policy to support aquifer recharge.	<b>John Willett</b>	I would like to see some mention and policies that enhance aquifer recharge, (open space and forest preservation) especially after the 'Hirst' Decision that is forcing the Counties, big or small, to take over Ecology's past mandate to regulate water availability in the state, without giving the Counties any money to do it.	Thank you for your comments.
2	<b>Support</b>	<b>Andrew Austin</b> Government Affairs Manager Metro Parks Tacoma	...While many of these proposed changes do not directly impact grants MPT applies for, we support all of the proposed changes....	Thank you for your comments.
3	<b>Support</b>	<b>Joe Irvin</b> Assistant/Acting City Manager Sequim	...City of Sequim expresses strong support for proposed changes to grant-making policies.....We see advantages to the proposed changes benefiting recreational access, habitat preservation and enhancement, and economic concerns via increased tourism...	Thank you for your comments.
4	<b>Miscellaneous/Public Access</b>	<b>Erik Kingfisher</b> Stewardship Director	....All of the project sponsors that hold title to properties acquired using WWRP funds are typically doing so with a reasonable level of confidence that the state's Recreational	RCO is following this issue and will brief the board on any

	Possible changes to recreational immunity may affect project sponsors ability to carry out the mission of WWRP.	Jefferson Land Trust	Immunity Statute would apply in the case of injury by a visitor. Some recent case law is challenging the scope of the Recreational Immunity Statute, and it appears as if the WA Supreme Court will be hearing a case to help settle the scope of the statute. If the statute is weakened and no longer applies to the type of conservation lands that land trusts and others are protecting and offering for public access, and public access continues to be a requirement of WWRP funding, then that could certainly impact the ability of sponsors to fulfill the purpose of WWRP. I'm not sure how that may affect these policy changes, but I wanted to somehow ensure the board was aware of this issue....	impacts to grant-making and previously funded projects.
5	<b>Delegated Support</b>	<b>Eric Burr</b> Mazama	The descriptions are too vague and I'm too unfamiliar with your procedures to have useful comments. I would however endorse any comments from the Washington Trails Association, or the Native Plant Society, of which I am a long time member of both.	Thank you for your support.

## Recreation and Conservation Funding Board Briefing Memo

### Attachment F

**Recreation and Conservation Funding Board  
Resolution 2018-06  
Washington Wildlife and Recreation Program Policy and Evaluation Criteria Updates**

**WHEREAS**, recent changes to the Revised Code of Washington 79A.15 requires and authorizes the Recreation and Conservation Funding Board (board) to update the policies and evaluation criteria for the Washington Wildlife and Recreation Program (WWRP); and

**WHEREAS**, the Revised Code of Washington 79A.25.005 authorizes the Recreation and Conservation Funding Board (board) to administer recreational grant-in-aid programs; and

**WHEREAS**, these policy and evaluation criteria updates are needed to prepare for the 2018 grant cycle; and

**WHEREAS**, keeping the WWRP policies and evaluation criteria current, aligned with the law, and relevant to project sponsors helps prioritize important investments on conservation and recreation lands state-wide; and

**WHEREAS**, the board solicited and heard public comments on the policies and evaluation criteria updates recommended in an open public meeting on February 1, 2018, and

**WHEREAS**, staff reviewed and considered public comments on the recommendations contained in this memo.

**NOW, THEREFORE BE IT RESOLVED**, that the board approves resolution 2018-06 and the proposed policy recommendations and evaluation criteria for the Washington Wildlife and Recreation Program.

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

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

*Adopted/Defeated/Deferred (underline one)*

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

## Recreation and Conservation Funding Board Briefing Memo

### APPROVED BY RCO DIRECTOR KALEEN COTTINGHAM

**Meeting Date:** January 31-February 1, 2018

**Title:** Strategy for State Recreation and Conservation Land Acquisition and Development

**Prepared By:** Wendy Brown, Policy Director

#### Summary

This memo discusses the Strategy for State Recreation and Conservation Land Acquisition and Development.

#### Board Action Requested

This item will be a:

- ☐ Request for Decision
- ☐ Request for Direction
- ☒ Briefing

**Resolution:** 2016-01

In 2015, the Washington State Legislature directed the Recreation and Conservation Office to review the Washington Wildlife and Recreation Program.<sup>1</sup> One of the recommendations of the review was for state agencies to develop a coordinated, statewide, conservation and outdoor recreation strategy that outlines state agency priorities for acquisitions and development. The Habitat and Recreation Lands Coordinating Group (lands group) worked with the agencies to develop the [Strategy for State Recreation and Conservation Land Acquisition and Development](#), which is provided on both the [RCO web site](#) and the [Washington State Recreation and Conservation Plan 2018-2022](#) web site (found under the 'Specific Plans' tab).

The state agencies primarily responsible for the acquisition and development of state lands for habitat conservation and outdoor recreation purposes are the Washington State Parks and Recreation Commission (State Parks), Washington Department of Natural Resources (DNR), and Washington Department of Fish and Wildlife (WDFW). Each of these agencies invests a significant amount of time and effort to look at the future and prioritize their portfolios of land and facilities to achieve their statutory missions. This plan consolidates the individual agency plans into a unified state strategy on land acquisition and development.

The land acquisition goals of the three natural resource agencies differ slightly in their focus, but all have overlapping elements. State Parks acquires lands that connect people to their natural and cultural heritage (people focus), DNR acquires lands to protect the finest ecosystems in our state, including rare or vulnerable plant and animal species, with low-impact recreation and environmental education opportunities (conservation, education, and research focuses), and WDFW acquires land to provide conservation value and outdoor recreation opportunities for all residents of the state (people and conservation focuses).

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<sup>1</sup>Washington Laws 2015 3<sup>rd</sup> Special Session PV C 3 § 3163



As a whole, the agencies make land acquisition decisions in order to make a variety of quality recreational environments and opportunities readily accessible and to protect the most important conservation values for the benefit of all Washington residents.

In addition to agency-specific goals and future land acquisition priorities, the following are unifying themes for land acquisition in the next 6 years:

- Recognize and strategically use state lands as amenities to make communities, counties, and the state a more desirable place to live, work, and visit.
- Continue to make investments in land acquisition and development that serve the needs of a growing population, an aging population, and an increasingly diverse population.
- To the greatest degree feasible, ensure that public lands are accessible to the people of the state and help to protect natural open spaces and resources.
- Complement existing infrastructure and acquisitions and other public investments and priorities and reduce long-term costs (e.g., prioritize the acquisition of inholdings).
- Continue efforts to dispose of properties that are no longer adding value to the citizens of the state.
- Place a high value on using voluntary approaches to conservation to prevent additional regulatory burdens.
- Develop reliable funding sources that allow each agency to properly steward the natural and cultural resources on newly acquired public lands.

The plan details will be presented to the board. It is the intent of the lands group to facilitate an update to this strategy every 6 years.

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December 12, 2017

Mr. Brad Smith, President  
Kitsap Rifle and Revolver Club (KRRC)  
4900 Seabeck Hwy NW  
Bremerton, WA 98312

Re: Submission of Declaration of Conversion to the Recreation and Conservation Funding Board

Dear Mr. Smith:

As you are aware, the Recreation and Conservation Office (RCO), the successor to the Office of the Interagency Committee of Outdoor Recreation (Laws of 2007, ch. 241, § 1), has made numerous efforts to work with the Kitsap Rifle and Revolver Club (Club) to resolve an outstanding compliance issue resulting from its cessation of public use of its rifle range in violation of Section D of the Firearms and Archery Range Recreation Project Agreement approved on November 21, 2003 (Attachment A). This Section requires the rifle range be open for public use for the ten years following final reimbursement from the state grant, which occurred on February 10, 2009. Unfortunately, RCO's efforts have been unsuccessful.

As a result RCO will ask the Recreation and Conservation Funding Board (Board), at its January 31/February 1, 2018 meeting, to approve a declaration of conversion which requires a repayment of funds in the amount of \$46,965.16 from the Club (WAC 286-30-040 (2)). The Club is welcome to attend this public meeting and address the Board with concerns or send in written correspondence which will be provided for consideration.

Please contact Marguerite Austin, Grants Section Manager, at (360) 902-3016 or [marguerite.austin@rco.wa.gov](mailto:marguerite.austin@rco.wa.gov) if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kaleen Cottingham".

Kaleen Cottingham  
Director

cc: Marcus Carter, Executive Officer, KRRC  
Dorothy O'Dell, Vice President, KRRC  
Recreation and Conservation Funding Board Members

Enclosure

# FARR Project Agreement

## Firearms Range Account

Project Sponsor: Kitsap Rifle and Revolver Club  
Project Title: Rifle Line Re-orientation & Sound Cover

Project Number: 03-1156D  
Approval Date: 11/21/2003

**A. PARTIES OF THE AGREEMENT**

This Project Grant Agreement (Agreement) is entered into between the Interagency Committee for Outdoor Recreation (IAC), P.O. Box 40917, Olympia, Washington 98504-0917 and Kitsap Rifle and Revolver Club, 4900 Seabeck Hwy NW, PO Box 134, Bremerton, WA 98337 (Sponsor) and shall be binding upon the agents and all persons acting by or through the parties.

**B. PURPOSE OF AGREEMENT**

This Agreement sets out the terms and conditions by which a grant is made from the Firearms Range Account of the State of Washington's General Fund. The grant is administered by the IAC to the Sponsor for the project named above.

**C. DESCRIPTION OF PROJECT**

The subject Project is described on the attached Project Summary.

**D. TERM OF AGREEMENT**

The Project Sponsor must insure that the facility developed, improved, and/or maintained identified in the Project Agreement is made available for use for a minimum of ten (10) years from the date of project completion (issuance of final reimbursement).

**E. PERIOD OF PERFORMANCE**

The Project reimbursement period shall begin on December 10, 2003 and end on June 30, 2005. No expenditure made before or after this period is eligible for reimbursement unless incorporated by written amendment into this Agreement.

**F. PROJECT FUNDING**

The total grant award provided by the IAC for this project shall not exceed \$50,000.00. The IAC shall not pay any amount beyond that approved for funding of the project. The Sponsor shall be responsible for all total project costs that exceed this amount. The contribution by the Sponsor toward work on this project at a minimum shall be as indicated below:

	Percentage	Dollar Amount
IAC - Firearms & Archery Range Rec.	66.38%	\$50,000.00
Project Sponsor	33.62%	\$25,325.00
Total Project Cost	100.00%	\$75,325.00

**G. RIGHTS AND OBLIGATIONS**

All rights and obligations of the parties to this Agreement are subject to this Agreement and its attachments, including the Sponsor's Application, Project Summary, Eligible Reimbursement Activities Report, Project Milestones, and the General Provisions, all of which are attached hereto and incorporated herein.

Except as provided herein, no alteration of any of the terms or conditions of this Agreement will be effective unless provided in writing. All such alterations, except those concerning the period of performance, must be signed by both parties. Period of performance extensions need only be signed by IAC's Director.

The Sponsor has read, fully understands and agrees to be bound by all terms and conditions as set forth in these documents.

**H. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND IAC POLICIES**

This Agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, including Chapter 79A.25 RCW, Chapter 286 WAC and published agency policies, which are incorporated herein by this reference as if fully set forth.

**I. ADDITIONAL PROVISIONS OR MODIFICATIONS OF THE GENERAL PROVISIONS**

(none)

**J. FEDERAL FUND INFORMATION**

(none)

**K. PROJECT GRANT AGREEMENT REPRESENTATIVE**

All written communications sent to the Sponsor under this Agreement will be addressed and delivered to:

**Project Contact**

Name: Marcus Carter  
Title: Executive Officer  
Address: PO Box 134  
Bremerton, WA 98337

**IAC**

Interagency Committee for Outdoor Recreation  
Natural Resources Building  
PO Box 40917  
Olympia, Washington 98504-0917  
[www.iac.wa.gov/iac/](http://www.iac.wa.gov/iac/)

These addresses shall be effective until receipt by one party from the other of a written notice of any change.

**L. ENTIRE AGREEMENT**

This agreement, along with all attachments, constitutes the entire agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

**M. EFFECTIVE DATE**

This agreement, for project #03-1156D, shall be effective upon signing by all parties.

**STATE OF WASHINGTON**

**INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

BY: Laura E. Johnson

Laura Eckert Johnson, Director

DATE: 12/12/03

**PROJECT SPONSOR**

BY: [Signature]

TITLE: EXECUTIVE OFFICER

DATE: 02 JAN 04

Pre-approved as to form:

BY: IS/

Assistant Attorney General

**RECEIVED**

**JAN 05 2004**

**INTERAGENCY COMMITTEE  
FOR OUTDOOR RECREATION**



# Firearms and Archery Range Recreation Program

## Application Project Summary

<b>TITLE:</b> Rifle Line Re-orientation	<b>NUMBER:</b> 03-1156D (Development)													
	<b>STATUS:</b> Preapplication													
<b>APPLICANT:</b> Kitsap Rifle and Revolver Club	<b>CONTACT:</b> Marcus Carter (360) 373-1007 <i>April Ward</i>													
<b>COSTS:</b> <table><tr><td>IAC</td><td>\$50,000</td><td>75 %</td></tr><tr><td>Local</td><td>\$16,665</td><td>25 %</td></tr><tr><td>Total</td><td>\$66,665</td><td>100 %</td></tr></table>	IAC	\$50,000	75 %	Local	\$16,665	25 %	Total	\$66,665	100 %	<b>SPONSOR MATCH:</b> <table><tr><td>Appropriation \ Cash</td><td>\$12,000</td></tr><tr><td>Cash Donations</td><td>\$4,665</td></tr></table>	Appropriation \ Cash	\$12,000	Cash Donations	\$4,665
IAC	\$50,000	75 %												
Local	\$16,665	25 %												
Total	\$66,665	100 %												
Appropriation \ Cash	\$12,000													
Cash Donations	\$4,665													

### DESCRIPTION:

This project improves and expands capabilities of an existing rifle line at the Kitsap Rifle and Revolver Club in Kitsap County to provide a broader range of public and member, group and individual shooting activities. The project re-oriens the current 150-yard rifle line to take better advantage of the surrounding forested buffer to improve sound attenuation to surrounding residences. the project adds side earth berms and regrades and grooms existing berms to implement club safety committee recommendations to improve shooting safety. The project also extends the rifle range to 300 yards, which will provide the most capable rifle range in the West Puget Sound region, providing additional options for recreational and competition shooting. The planned changes will allow individual public and member access to the rifle line simultaneously with group shooting competition and training. Increased access will provide alternatives to recreational shooting in multiple-use public lands, which is a dangerous and illegal activity. It will also allow us to expand our law enforcement and military training practice as well as public formal shooting practice and competition.

### LOCATION INFORMATION:

NW of the City of Bremerton

**COUNTY:** Kitsap

### SCOPE (ELEMENTS):

Architectural & Engineering	Sales Tax
Permits	Site Preparation

### PERMITS ANTICIPATED:

Clear & Grade Permit

### LAND CHARACTERISTICS:

ANTICIPATED ACREAGE TYPE	Existing Acres	Acres To Acq	Acres To Dev	Acres To Renov	Total
Uplands	72.41		3.00		72.41

### SHOOTING FACILITY TYPE:

	Current	Planned	HOURS OF PUBLIC USE:	Current	Planned
Pistol Range 25 yards	6		Weekend	32	60
Pistol Range 50 yards	1		Weekday	178	350
Rifle Range 200 yards	1		Weeknight	40	90
Rifle Range 300 yards		1			

### LAND COMMENTS:

The property totals 72.41 acres and is a mix of second growth forest, freshwater wetlands and some clearcuts. The shooting range is sited on the south end of the parcel in one of the clear cut areas. Reorientation will make better use of forested buf

**LAST UPDATED:** May 16, 2003

**DATE PRINTED:** June 27, 2003

*86,000*

## Milestone Worksheet

**Project Number:** 03-1156 D  
**Project Name:** Rifle Line Re-orientation & Sound Cover  
**Sponsor:** Kitsap Rifle and Revolver Club  
**IAC Project Manager:** Kammie Bunes

### Instructions:

1. To complete this worksheet, first review the milestone list in column two and determine which milestones best apply to the project.
2. Place a check-mark in column one beside each milestone that is applicable to this project. Each project is different and not all milestones will apply to every project.
3. Establish a timeline for completion of the project. This timeline should be realistic, attainable and allow for quick implementation and expenditure of grant funds. Using the timeline, please write in column three the anticipated date that selected milestones will be accomplished.
4. Use column four, Comments/Description, to write in comments that will assist in describing the milestone.

Applicable	Milestone	Target Date	Comments/Description
Required	Project Start		
	RFP Complete/Consultant Hired		
	A&E Complete/Permits Submitted		
	Plans & Specs Reviewed by IAC		
	Bid Awarded		
Required	Construction Started		
Required	Project Complete		
Required	Final Docs & Billing to IAC		



## Development Costs

Kitsap Rifle and Revolver Club  
Rifle Line Re-orientation

03-1156 D  
Firearms & Archery Range Rec.

Element/Item	Unit	Quantity	Unit Cost	Total Cost	Description Needed	Description
<b>Permits</b>						
Permits	Lump sum	1.00	\$2,665.00	\$2,665.00	Optional	
<b>Site Preparation</b>						
Clearing	Acres	3.00	\$2,000.00	\$6,000.00	Optional	
Cut	Cubic Yds	17,000.00	\$2.00	\$34,000.00	Optional	
Fill	Cubic Yds	12,000.00	\$2.00	\$24,000.00	Optional	
A&E Amount				\$0.00		
Tax Amount				\$0.00		
Total Costs				<u>\$66,665.00</u>		

## General Provisions

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## SECTION 1. HEADINGS AND DEFINITIONS

- A. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- B. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

**Acquisition** - The gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.

**Agreement** - The accord accepted by all parties to the present transaction; the Agreement, supplemental agreement, intergovernmental agreement, monitoring plan, and/or a landowner agreement between the Funding Board and a Sponsor.

**Applicant** - Any agency or organization that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the Funding Board.

**Application** - The forms and support documents approved by the Funding Board or its Director for use by applicants in soliciting project funds administered by the Office.

**Asset** - Equipment purchased by the Sponsor or acquired or transferred to the Sponsor for the purpose of this Agreement. This definition is restricted to non-fixed assets, such as vehicles, computers or machinery.

**Contractor** - shall mean one not in the employment of the Sponsor who is performing all or part of the eligible activities for this projects under a separate Agreement with the Sponsor. The term "Contractor" and "Contractors" means Contractor(s) in any tier.

**Development/Restoration** - The construction, renovation, redevelopment, or installation of facilities to provide for outdoor recreation or natural resources.

**Director** - The Office Director or the Director's designee.

**Funding Board** - As Identified in Paragraph A in the Agreement as either the (1) Interagency Committee for Outdoor Recreation (IAC) - The committee created under Chapter 79A.25.110 RCW Includes eight members. Three are agency heads: the Commissioner of Public Lands, the Director of Parks and Recreation, and the Director of Fish and Wildlife (or their designees). Five, by appointment of the Governor with the advice and consent of the Senate, are members of the public at large who have demonstrated interest in and a general knowledge of outdoor recreation in the state; (2) Salmon Recovery Funding Board (SRFB) - The Board created under Chapter 77.85.110 RCW, is comprised of five governor-appointed voting members (one a cabinet-level appointment) and five non-voting state officials: the Commissioner of Public Lands, the Secretary of Transportation, the Director of the Conservation Commission, the Director of Fish and Wildlife, and the Director of Ecology (or their designees); or (3) Hatchery Scientific Review Group (HSRG) - The independent Board established by Congress to ensure hatchery reform programs in Puget Sound and Coastal Washington are scientifically founded and evaluated.

**Office - Office of the Interagency Committee** - The Office provides support to the IAC, SRFB, and HSRG. The Office includes the Director and personnel, created by Chapters 79A.25.110 and 79A.25.150 RCW and charged with administering this Agreement by Chapters 77.85.110 and 79A.25.240 RCW.

**Landowner Agreement** - A landowner agreement is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor for salmon recovery projects.

**Milestone** - Important date(s) tracked in the Agreement for monitoring the Project status.

**Period of Performance** - The time period specified in the Agreement, under Section E, Period of Performance.

**Post Evaluation Summary** - One of the documents used to summarize and describe the actions undertaken in the Agreement.

**Project** - The undertaking that is the subject of this Agreement and that is, or may be, funded in whole or in part with funds administered by the Office on behalf of the Funding Board.

**Sponsor** - The applicant who has been awarded a grant of funds and is bound by this executed Agreement; includes its officers, employees and agents.

## **SECTION 2. PERFORMANCE BY THE SPONSOR**

The Sponsor shall undertake the Project as described in this Agreement, Post Evaluation Summary, the Sponsor's application, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the Funding Board. All submitted documents are incorporated by this reference as if fully set forth herein. The Order of Precedence is covered in Section 26.

Timely completion of the Project is important. Failure to do so, as set out in this Agreement, is a material breach of the Agreement.

## **SECTION 3. ASSIGNMENT**

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the Funding Board.

## **SECTION 4. RESPONSIBILITY FOR PROJECT**

While the Funding Board undertakes to assist the Sponsor with the Project by providing a grant pursuant to this Agreement, the Project itself remains the sole responsibility of the Sponsor. The Funding Board undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the Project, as those phases are applicable to this Project, is solely that of the Sponsor, as is responsibility for any claim or suit of any nature by any third party related in any way to the Project.

## **SECTION 5. INDEMNIFICATION**

To the fullest extent permitted by the law, the Sponsor expressly agrees to and shall indemnify, defend and hold harmless the State and its agencies, officials, agents and employees from and against all claims, actions, costs, damages, or expenses of any nature arising out of or incident to the Sponsor's or any Contractor's performance or failure to perform the Agreement. Sponsor's obligation to indemnify, defend and hold harmless also includes any claim by Sponsor's agents, employees, representatives or any Contractor or its employees. Sponsor's obligation to defend includes payment of any costs or attorneys' fees. Sponsor's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Sponsor, its Contractors, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Sponsor or its Contractors, agents, or employees. The Sponsor expressly agrees to waive his/her immunity under Title 51 RCW to the extent required to indemnify, defend, and hold harmless the State and its agencies, officials, agents or employees.

## **SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR**

The Sponsor and its employees or agents performing under this Agreement are not employees or agents of the Funding Board or the Office. The Sponsor will not hold itself out as nor claim to be an officer or employee of the Office or of the state of Washington by reason hereof, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under Chapters 41.06 or 28B.16 RCW.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

## **SECTION 7. CONFLICT OF INTEREST**

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the Office may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by the Office that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Sponsor in the procurement of, or performance under this Agreement. In the event this Agreement is terminated as provided above, the Office shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the

Agreement by the Sponsor. The rights and remedies of the Office provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Office makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes Hearing" clause of this Agreement.

In the event this Agreement is terminated as provided above, the Funding Board or the Office shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of the Funding Board or the Office provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Funding Board or the Office makes any determination under this clause may be reviewed as provided in the "Disputes" clause of this Agreement.

#### **SECTION 8. ACKNOWLEDGMENT AND SIGNS**

- A. Publications. The Sponsor shall include language which acknowledges the funding contribution of the program to this Project in any release or other publication developed or modified for, or referring to, the Project.
- B. Signs. The Sponsor also shall post signs or other appropriate media at Project entrances and other locations on the Project which acknowledge the program's funding contribution, unless exempted in Funding Board policy or waived by the Director.
- C. Ceremonies. The Sponsor shall notify the Office no later than two weeks before a dedication ceremony for this Project. The Sponsor shall verbally acknowledge the program's funding contribution at all dedication ceremonies.
- D. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:
  - 1. The percentage of the total costs of the Project that is financed with federal money;
  - 2. The dollar amount of federal funds for the Project; and
  - 3. The percentage and dollar amount of the total costs of the Project that is financed by nongovernmental sources.

#### **SECTION 9. COMPLIANCE WITH APPLICABLE LAW**

The Sponsor will implement the Agreement in accordance with applicable federal, state, and local laws and regulations.

The Sponsor shall comply with, and the Office is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, and/or policies, including, but not limited to, State Environmental Policy Act; Industrial Insurance Coverage; Architectural Barriers Act; permits (shoreline, Hydraulics Project Approval, demolition); land use regulations (comprehensive areas ordinances, Growth Management Act); federal and state safety and health regulations (Occupational Safety and Health Administration/Washington Industrial Safety and Health Act); and Buy American Act.

The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to, the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act. In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the Funding Board. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law:

No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

For habitat restoration projects funded in part or whole with National Marine Fisheries Service funding, Sponsor shall not commence with clearing of riparian trees or in-water work unless and until an ESA consultation is completed and delivered by National Marine Fisheries Service to the Sponsor. Violation of this paragraph shall not be the basis for any enforcement responsibility by the IAC.

#### **SECTION 10. RECORDS MAINTENANCE**

The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by the Office, personnel duly authorized by the Office, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

#### **SECTION 11. ACCESS TO DATA**

In compliance with chapter 39.29 RCW, the Sponsor shall provide access to data generated under this Agreement to the Office, the Joint Legislative Audit and Review Committee, and the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.

#### **SECTION 12. TREATMENT OF ASSETS**

- A. Assets shall remain in the possession of the Sponsor for the duration of the project or program. When the Sponsor discontinues use of the asset(s) for the purpose for which it was funded, the Office will require the Sponsor deliver the asset(s) to the Office, dispose of the asset according to agency policies, or return the fair market value of the asset(s) to the Office. Assets shall be used only for the purpose of this Agreement, unless otherwise provided herein or approved by the Office in writing.
- B. The Sponsor shall be responsible for any loss or damage to assets which results from the negligence of the Sponsor or which results from the failure on the part of the Sponsor to maintain and administer that property in accordance with sound management practices.

#### **SECTION 13. RIGHT OF INSPECTION**

The Sponsor shall provide right of access to its facilities to the Office, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

If a Landowner Agreement has been executed, it may further stipulate and define the Funding Board and the Office's right to inspect and access lands acquired or developed with Funding Board assistance.

#### **SECTION 14. STEWARDSHIP AND MONITORING**

Sponsor agrees to perform monitoring and stewardship functions as stated in the monitoring and stewardship plans as approved by the Funding Board or the Office. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the Funding Board.

#### **SECTION 15. DEBARMENT CERTIFICATION**

The Sponsor certifies it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency. If requested by the Office, the Sponsor shall complete a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form. Any such form completed by the Sponsor for this Agreement shall be incorporated into this Agreement by reference.

#### **SECTION 16. PROJECT FUNDING**

- A. Additional Amounts. The Funding Board shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the Funding Board or Director and incorporated by written amendment into this Agreement.
- B. Before the Agreement. No expenditure made, or obligation incurred, by the Sponsor before the effective date of this Agreement shall be eligible for grant funds, in whole or in part, unless specifically provided for by Funding Board policy. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- C. After the Period of Performance. No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the Funding Board may have under this Agreement, the amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

#### **SECTION 17. PROJECT REIMBURSEMENTS**

- A. Compliance and Payment. The obligation of the Office to pay any amount(s) under this Agreement is expressly conditioned upon strict compliance with the terms of this Agreement by the Sponsor.
- B. Compliance and Retainage. The Office reserves the right to withhold disbursement of the final ten percent (10%) of the total amount of the grant to the Sponsor until the Project has been completed and approved by the Director. A Project is considered "complete" when:
  - 1. all approved or required activities outlined in the Agreement are complete;
  - 2. on-site signs are in place (if applicable);
  - 3. a final Project report is submitted to the Office with the Sponsor's final request for reimbursement;
  - 4. the completed Project has been approved by the Office;
  - 5. final amendments have been processed; and
  - 6. fiscal transactions are complete.
- C. Invoice Frequency. Invoices are required at least once a quarter from state agency sponsors and at least once a year from all other sponsors. The year-end Invoice should include expenditures through June 30, the last day of the State's fiscal year and be submitted no later than July 15th. Final reimbursement requests should be submitted to the Office within ninety (90) days of the completion of the Project, funding end date, or the termination date, whichever comes first.

#### **SECTION 18. ADVANCE PAYMENTS**

Advance payments of or in anticipation of goods or services to be provided under this Agreement are limited to salmon grants and must comply with SRFB policy.

#### **SECTION 19. NON-AVAILABILITY OF FUNDS**

If amounts sufficient to fund the grant made under this Agreement are not appropriated by the Washington State Legislature, or if such funds are not allocated by the Washington State Office of Financial Management (OFM) to the Office for expenditure for this Agreement in any biennial fiscal period, the Office shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or OFM occurs. If the Office participation is suspended under this section for a continuous period of one year, the Office's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

#### **SECTION 20. RECOVERY OF PAYMENTS**

In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, the Office reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.

The Sponsor shall reimburse the Office for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by the Office. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.

#### **SECTION 21. COVENANT AGAINST CONTINGENT FEES**

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. The Office shall have the right, in the event of breach of this clause by the Sponsor, to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

#### **SECTION 22. PROVISIONS APPLYING TO DEVELOPMENT/RESTORATION PROJECTS**

The following provisions shall be in force only if the Project described in this Agreement is for development/restoration of land or facilities for outdoor recreation, habitat conservation, or salmon recovery:

- A. **Construction Document Review and Approval.** The Sponsor agrees to submit one copy of all construction plans and specifications to the Office for review. Review and approval by the Office will be for compliance with the terms of this Agreement.
- B. **Contracts for Construction.** Sponsor shall award all contracts for construction using whatever method is appropriate and legal for the Sponsor.
- C. **Construction Contract Change Order.** Only change orders that significantly reduce or change the scope of the Project as described to and approved by the Funding Board or the Office must receive prior written approval.
- D. **Control and Tenure.** Appropriate control and tenure of the land proposed for use must be executed and documented.
- E. **Nondiscrimination.** Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this Project:

"During the performance of this contract, the Sponsor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

### SECTION 23. PROVISIONS APPLYING TO ACQUISITION PROJECTS

The following provisions shall be in force only if the Project described in this Agreement is for the acquisition of interest in real property for outdoor recreation, habitat conservation, or salmon recovery purposes:

- A. Evidence of Land Value. Before disbursement of funds by the Office as provided under this Agreement, the Sponsor agrees to supply evidence to the Office that the land acquisition cost has been established per Funding Board policy.
- B. Evidence of Title. The Sponsor agrees to show the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
- C. Deed of Right to Use Land for Public Purposes. The Sponsor agrees to execute an instrument or instruments which contain:
  - 1. The legal description of the property acquired under this Agreement;
  - 2. A conveyance to the State of Washington of the right to use the described real property forever for the purpose identified in the Agreement; and
  - 3. A requirement to comply with applicable statutes, rules, and the Funding Board policies with respect to conversion of use.
- D. Assignment of Right. When acquiring a conservation easement, the Sponsor agrees to execute an instrument or instruments that contain:
  - 1. The legal description of the conservation easement acquired under this Agreement;
  - 2. An assignment to the State of certain rights for access to and stewardship of the property covered by the conservation easement;
  - 3. Acknowledgement of the right of the Funding Board and the Office for enforcement of the provisions of the conservation easement; and
  - 4. A statement that the Sponsor will retain all responsibility for obligations under the terms of the conservation easement.
- E. Real Property Acquisition and Relocation Assistance
  - 1. When federal funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.
  - 2. When state funds are part of this Agreement, the Sponsor, if required by law, agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26.010 RCW, and Chapter 468-100 WAC.
  - 3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this Project, the Sponsor agrees to provide any housing and relocation assistance required.

### SECTION 24. HAZARDOUS SUBSTANCES

- A. Definition. "Hazardous substance," as defined in Chapter 70.105D.020 (7) RCW, means:
  - 1. Any dangerous or extremely hazardous waste as defined in Chapter 70.105.010(5) and (6) RCW, or any dangerous or extremely dangerous waste designated by rule pursuant to Chapter 70.105 RCW;
  - 2. Any hazardous substance as defined in Chapter 70.105.010(14) RCW or any hazardous substance as defined by rule pursuant to Chapter 70.105. RCW;
  - 3. Any substance that, on March 1, 1989, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C. Sec. 9601(14);
  - 4. Petroleum or petroleum products; and



5. Any substance or category of substances, including solid waste decomposition products, determined by the director [or director's designee of the department of ecology] by rule to present a threat to human health or the environment if released into the environment.
  6. The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.
- B. Certification. The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances and certify:
- (1) No hazardous substances were found on the site, or
  - (2) Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
- C. Responsibility. Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in Chapter 70.105D RCW.
- D. Hold Harmless. The Sponsor will defend, protect and hold harmless the Office and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property being acquired.

#### **SECTION 25. RESTRICTION ON CONVERSION OF FACILITY TO OTHER USES**

The Sponsor shall not at any time convert any real property acquired or any facility developed pursuant to this Agreement to uses other than those purposes for which assistance was originally approved, without the approval of the Funding Board or Director, in compliance with applicable statutes, rules, and Funding Board policies as identified in this Agreement. It is the intent of Funding Board's conversion policy that all lands acquired and all lands developed with funding assistance from the Funding Board remain in the public domain in perpetuity unless otherwise identified in the Agreement.

- A. By Funding Board policy a conversion may occur under any of the following circumstances:
1. Conveyance. Property interests are conveyed for purposes inconsistent with the intent of the Agreement and the funding source.
  2. Use. Non-eligible uses (public or private) are made of the Project area, or portion thereof.
  3. Eligibility. Non-eligible facilities are developed within the Project area without prior approval of the Funding Board or the Office.
  4. Termination of Use/Non-Conformance. The property acquired or project developed no longer meets or conforms to the intent of the Agreement or the funding source.
- B. Element Change. When approved by the Funding Board or Director, certain elements may be deleted from the Agreement without invoking the requirement to replace the elements. Such deletions are allowed when the Funding Board or Director determines that the elements are not needed or cannot be retained due to one or more of the following conditions:
1. Obsolescence
  2. Extraordinary vandalism
  3. Acts of Nature
  4. Designed life expectancy reached
  5. Fire
  6. Property or property rights lost as a result of legal action
  7. ICC National Trails System Act reversion order (*National Trails System Act 8(d)*, 16 U.S.C. § 1247(d); WAC 286-27-060(2)).

## **SECTION 26. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS**

Sponsors must ensure that properties or facilities assisted with Funding Board funds, including undeveloped sites, are built, operated, used, and maintained:

- A. According to applicable federal, state, and local laws and regulations, including public health standards and building codes.
- B. In a reasonably safe condition for the project's intended use.
- C. Throughout its estimated life so as to prevent undue deterioration.
- D. In compliance with all federal and state nondiscrimination laws, regulations and policies.

Facilities open to the public must:

- E. Follow all state and federal accessibility guidelines.
- F. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
- G. Be available for use at reasonable hours and times of the year, according to the type of area or facility.

## **SECTION 27. INCOME AND INCOME USE**

### **A. Income.**

- 1. **Compatible source.** The source of any income generated in a Funding Board assisted Project or project area must be compatible with the funding source and the Agreement.
- 2. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed with Funding Board grants if the fees are consistent with the:
  - (a) Value of any service(s) furnished;
  - (b) Value of any opportunity(ies) furnished; and
  - (c) Prevailing range of public fees in the state for the activity involved.

*Excepted* are Firearms and Archery Range Recreation Program safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (Chapter 79A.252.210 RCW).

### **B. Income use.** Regardless of whether income or fees in a Funding Board-assisted area (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) are gained during or after the reimbursement period cited in the Agreement, unless precluded by state law, the revenue may only be used to offset:

- 1. the Sponsor's matching funds; and/or
- 2. the Project's total cost; and/or
- 3. the expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the Funding Board grant; and/or
- 4. the expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system; and/or
- 5. capital expenses for similar acquisition and/or development.

## **SECTION 28. PREFERENCES FOR RESIDENTS**

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Even so, the Funding Board discourages the imposition of 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.

## **SECTION 29. PROVISIONS RELATED TO NON-PROFIT OR NOT-FOR-PROFIT SPONSORS**

A non-profit or not-for-profit organization sponsor shall:

- A. Maintain a non-profit or not-for-profit status (including registering with the Washington Secretary of State) throughout the Sponsor's obligation to the Project as identified in this Agreement.
- B. Notify the Office prior to dissolution and within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities. A qualified successor is any party eligible to apply for funds in the subject grant program *and* capable of complying with the terms and conditions of this Agreement. The Office will process an amendment transferring the Sponsor's obligation to the qualified successor.
- C. Provide for operation and maintenance of the project. Should the Sponsor fail in this obligation for any reason, the Project will be considered converted or a failed project, and be subject to all remedies available to the Funding Board and the Office.

## **SECTION 30. LIABILITY INSURANCE REQUIREMENTS FOR FIREARM RANGE SPONSORS**

- A. The Sponsor<sup>1</sup> shall procure an endorsement, or other addition, to liability insurance it may currently carry, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of persons who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- B. The liability insurance policy, including any endorsement or addition, shall name Washington State, the Funding Board, and the Office as additional insureds and shall be in a form approved by the Funding Board or Director.
- C. The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the Project as identified in this Agreement.
- D. The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to the Office not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- E. The requirement of Subsection A through D above shall not apply if the Sponsor is a federal, state, or municipal government which has established a program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy as a part of its application to the Funding Board.
- F. By this requirement, the Funding Board and the Office does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer while present at, or in the vicinity of, the facility to which this grant relates. Any such person, or any other person making claims based upon such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

## **SECTION 31. REQUIREMENTS OF THE NATIONAL PARK SERVICE**

If the Project has been approved by the National Park Service, United States Department of the Interior, for assistance from the Federal Land and Water Conservation Fund (LWCF), the Agreement General Provisions in Section 660.3 Attachment B of the *L&WCF Grants-in-Aid Manual* as now existing or hereafter amended are made part of this Agreement, and the Sponsor shall also abide by these Agreement General Provisions. Further, the Sponsor agrees to provide the Office with reports or documents needed to meet the requirements of the Agreement or Section 660.3 Attachment B of the *L&WCF Grants-in-Aid Manual*.

<sup>1</sup> As used in this Section, Sponsor refers to Firearms Range Sponsors.

## **SECTION 32. ORDER OF PRECEDENCE**

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute, rule, or policy or procedure, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable federal and/or state statutes, regulations, policies and procedures including applicable federal Office of Management and Budget (OMB) circulars and federal and state executive orders;
- B. Project Agreement including attachments;
- C. Additional Provisions or Modifications of General Provisions;
- D. General Provisions.

## **SECTION 33. AMENDMENTS**

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

## **SECTION 34. LIMITATION OF AUTHORITY**

Only the Office or Office's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by the Office.

## **SECTION 35. WAIVER OF DEFAULT**

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the Director, or the Director's designee, and attached to the original Agreement.

## **SECTION 36. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH**

The Funding Board and the Office rely upon the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

## **SECTION 37. TERMINATION AND OTHER REMEDIES**

The Funding Board and the Office may require strict compliance by the Sponsor with the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules and Funding Board policies which are incorporated into this Agreement, and with the representations of the Sponsor in its application for a grant as finally approved by the Funding Board.

The Funding Board or the Director, may suspend, or may terminate, the obligation to provide funding to the Sponsor under this Agreement:

- A. In the event of any breach by the Sponsor of any of the Sponsor's obligations under this Agreement;  
or
- B. If the Sponsor fails to make progress satisfactory to the Funding Board or Director toward completion of the Project by the completion date set out in this Agreement.

In the event this Agreement is terminated by the Funding Board or Director, under this section or any other section after any portion of the grant amount has been paid to the Sponsor under this Agreement, the Funding Board or Director may require that any amount paid be repaid to the Office for redeposit into the account from which the funds were derived.

The Funding Board and the Office may enforce this Agreement by the remedy of specific performance, which usually will mean completion of the Project as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to the Office. No remedy available to the Funding Board or the Office shall be deemed exclusive. The Funding Board or the Office may elect to exercise any, any combination, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity.

#### **SECTION 38. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Agreement, the Office may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part. If this Agreement is so terminated, the Office shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

#### **SECTION 39. DISPUTE HEARING**

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the Funding Board, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the Director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed upon, the third person shall be chosen by the Funding Board's Chair.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based upon written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

#### **SECTION 40. ATTORNEYS' FEES**

If either party brings litigation to enforce any term or condition of this Agreement, or as a result of this Agreement, the prevailing party shall be awarded its reasonable attorneys' fees together with necessary fees, expenses, and costs incurred for such litigation at both trial and appellate levels, as well as in obtaining execution of judgment. The reasonableness of such costs and attorneys' fees shall be determined by the court and not a jury.

#### **SECTION 41. GOVERNING LAW/VENUE**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be proper only in Thurston County Superior Court. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

In the cases where this agreement is between the Funding Board and a federally recognized Indian tribe, the following Governing Law/Venue applies:

- A. The State of Washington agrees that it shall initiate any lawsuit against a federally recognized Indian tribe arising out of or relating to the performance, breach or enforcement of this agreement in Federal Court. Interpretation shall be according to the law of the State of Washington. In the event that the Federal Court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the parties agree to venue in Thurston County Superior Court, but the parties agree that the matter shall not be pursued in superior court unless there is a Federal Court determination that it lacks subject matter jurisdiction.
- B. Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from the action shall be binding and enforceable upon the parties. Any money judgment or award against the Tribe, tribal officers and members, or the State of Washington and its officers and employees may not exceed the amount provided for in Section F- Project Funding of the Agreement.
- C. The Tribe hereby waives its sovereign immunity as necessary to give effect to this section, and the State of Washington has waived its immunity to suit in state court. These waivers are only for the benefit of the Tribe and State and shall not be enforceable by any third party or by any assignee or delegate of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

#### **SECTION 42. SEVERABILITY**

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

# RECREATION CONSERVATION FUNDING BOARD

January 31 and February 1, 2018

## WEDNESDAY, January 31

Item	Formal Action	Follow-up Action
<b>OPENING AND MANAGEMENT REPORTS</b>		
<b>Opening and Call to Order</b>		Called to order 9AM
<ul style="list-style-type: none"> <li>Roll Call and Determination of Quorum</li> <li>Review and Approval of Agenda</li> <li>Introduce board liaison Wyatt Lundquist</li> <li>Remarks of the Chair</li> </ul>		Quorum determined Member Deller <b>MOVED</b> approval of agenda Member Shiosaki <b>SECONDED</b> . Agenda <b>APPROVED</b> as presented. No follow-up action requested
<b>1. Consent Agenda</b> A. Approve October 11-12, 2017 Meeting Summary B. Waive 180 Temporary Closure for Bosch Lot, City of Spokane C. Technical Correction to Youth Athletic Facilities Match Reduction Policy D. Time Extension Requests <ul style="list-style-type: none"> <li>Klickitat County Shooting Facility, RCO #13-1565D</li> </ul>	Decision	<b>Resolution 2018-01:</b> Member Ready <b>MOVED</b> Member Shiosaki <b>SECONDED</b> <b>APPROVED</b> as presented No follow-up action requested
<b>2. Director's Report</b> <ul style="list-style-type: none"> <li>Director's Report</li> <li>Legislative, Budget, and Policy Update</li> <li>Grant Management Report</li> <li>Fiscal Report (<i>written only</i>)</li> <li>Performance Report (<i>written only</i>)</li> </ul>	Briefings	<b>Suggestion:</b> Director Cottingham suggested adding some Methow farmland preservation areas to travel meeting agenda in July. No follow-up action requested
<b>3. State Agency Partner Reports</b> <ul style="list-style-type: none"> <li>Governor's Outdoor Recreation Policy Advisor</li> <li>Department of Natural Resources</li> <li>State Parks and Recreation Commission</li> </ul>	Briefings	<b>Request:</b> Chair asked Jon Snyder if the Governor's office is involved in promoting or supporting the upcoming special Olympics in Washington.
<b>4. Washington Administrative Code (WAC) Public Hearing – Public Disclosure Request Fees</b>	Decision	<b>Resolution 2018-02</b> Member Shiosaki <b>MOVED</b> Member Milliarn <b>SECONDED</b> <b>APPROVED</b> as presented Patty Dickason will E-file the change. No follow-up action requested
<b>State Agency Partner Report Cont.</b> <ul style="list-style-type: none"> <li>Department of Fish and Wildlife</li> </ul>		
<b>5. Department of Natural Resources' Rural Partnership Program Overview</b>	Briefing	<b>Request:</b> Josh Wilund, DNR, should work with RCO staff as ideas are narrowed and see how they best align with RCO grants. Scott Robinson will contact Josh.
<b>LUNCH BREAK</b>		
<b>BOARD BUSINESS: BRIEFINGS &amp; REQUESTS FOR DIRECTION</b>		



<b>6. WWRP Control and Tenure on State-Owned Aquatic Lands</b> <ul style="list-style-type: none"> <li>Board discussion</li> <li>Public comment</li> <li><u>Resolution 2018-03</u></li> </ul>	Decision	<b>Resolution 2018-03</b> Member Deller <b>MOVED</b> Member Gardow <b>SECONDED</b> <b>APPROVED</b> as presented No follow-up action requested
<b>7. Compliance / Conversion</b> <ul style="list-style-type: none"> <li>Kent East Hill Park/Morrill Meadows Conversion</li> </ul>	Briefing	<b>Request:</b> Schedule for the April Board meeting if appraisal and replacement property identified.
<b>8. Compliance / Conversion</b> <ul style="list-style-type: none"> <li>Leavenworth Skate Park Conversion</li> <li><u>Resolution 2018-04</u></li> </ul>	Decision	<b>Resolution 2018-04:</b> Member Milliarn <b>MOVED</b> Member Deller <b>SECONDED</b> <b>APPROVED</b> as presented No follow-up action requested
<b>Continued: Compliance / Conversion</b> <ul style="list-style-type: none"> <li>Declaration of Conversion - Kitsap Rifle and Revolver Club <ul style="list-style-type: none"> <li>Possible Executive Session</li> <li><u>Resolution 2018-05</u></li> </ul> </li> </ul>	Decision	<b>Resolution 2018-05</b> No motion was made – <b>NOT APPROVED</b> <b>Resolution 2018-05 as AMENDED</b> Member Shiosaki <b>MOVED</b> Member Deller <b>SECONDED</b> <b>APPROVED</b> as amended <b>Task:</b> Director and staff will set up a follow up meeting with KRRC. Deadline for contract amendment is March 1, 2018.
<b>9. No Child Left Inside Grant Program</b> <ul style="list-style-type: none"> <li>Process</li> <li>Overview of Past Projects</li> </ul>		No follow-up action requested
<b>10. Communications</b>		<b>Moved to Thursday, February 1, 2018 agenda</b>
<b>RECESS FOR THE DAY 4:55 pm</b>		
<b>THURSDAY, February 1</b>		
<b>OPENING AND BOARD BUSINESS</b>		
<b>Opening and Call to Order Day 2</b> <ul style="list-style-type: none"> <li>Roll Call and Determination of Quorum</li> </ul>		No follow-up action requested
<b>BOARD BUSINESS: BRIEFINGS &amp; REQUESTS FOR DIRECTION</b>		
<b>10. Communications</b> <ul style="list-style-type: none"> <li>Communication Plan Update</li> <li>State's Comprehensive Outdoor Recreation Plan (SCORP) Outreach</li> <li>Match Waiver Policy Outreach</li> </ul>	Decision	<b>Request:</b> Chair Willhite volunteered to research how the board could support the upcoming special Olympics.



<b>11. Washington Wildlife and Recreation Program (WWRP) Phase III Changes to Policy and Criteria</b> <ul style="list-style-type: none"> <li>○ Board Discussion</li> <li>○ Public Comment</li> <li>○ <u>Resolution 2018-06</u></li> </ul>	Decision	<b><u>Resolution 2018-06</u></b> Member Shiosaki <b>MOVED</b> Member Deller <b>SECONDED</b>  Member Deller <b>MOVED</b> to remove "invasive species" from the resolution as presented. Member Shiosaki <b>SECONDED</b> <b>AMENDMENT APPROVED</b>  Vote on the main motion, as amended: <b>YAYS:</b> Members Deller, Shiosaki, Ready, Gardow, Stohr and Chair Willhite <b>NAYS:</b> Member Milliern and Member Herzog  Resolution 2018-06 <b>APPROVED</b> as amended  <b>Request:</b> Continue discussion of adding invasive species (2 year cycle)
<del><b>12. State Land Acquisition Strategy-- Briefing</b></del>	Briefings	Follow-up action requested? Y/N <b>POSTPONED UNTIL APRIL</b>
<b>13. How the Board Encourages Grant Applicants to incorporate Reduction of Greenhouse Gasses and Resiliency Into Project Proposals</b> <ul style="list-style-type: none"> <li>○ Briefing</li> <li>○ Board Discussion</li> </ul>	Briefing	No follow-up action requested
<b>14. Joint Legislative Audit and Review Committee (JLARC):</b> Update on <i>Study on Measuring Outcomes of Habitat and Recreation Acquisitions and Regulations</i>	Briefing	No follow-up action requested
<b>Comments for the Good of the Order</b>		No follow-up action requested
<b>ADJOURN 12:30</b>		
<b>Next Meeting:</b> April 25 & 26, 2018 – Olympia, WA		

## RECREATION AND CONSERVATION FUNDING BOARD SUMMARY MINUTES

**Date:** January 31, February 1, 2018

**Place:** Natural Resources Building, Olympia Campus, First Floor, Room 172, 1111 Washington Street SE, Olympia, WA 98501

### Recreation and Conservation Funding Board Members:

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<b>Ted Willhite, Chair</b>	Seattle	<b>Kathryn Gardow</b>	Seattle
<b>Mike Deller</b>	Mukilteo	<b>Brock Milliern</b>	Designee, Department of Natural Resources
<b>Michael Shiosaki</b>	Seattle	<b>Peter Herzog</b>	Designee, Washington State Parks
<b>Danica Ready</b>	Winthrop	<b>Joe Stohr</b>	Designee, Department of Fish and Wildlife

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*It is intended that this summary be used with the materials provided in advance of the meeting. The Recreation and Conservation Office (RCO) retains a recording as the formal record of the Recreation and Conservation Funding Board (board) meeting.*

### 9:00 a.m. Opening and Call to Order

Roll Call and Determination of Quorum

**Motion:** Approval of the January 31-February 1, 2018, Meeting Agenda.

**Moved by:** Member Herzog

**Seconded by:** Member Deller

**Decision:** Approved as presented

- Approval Moved by Member Herzog and seconded by Member Deller
- Remarks of the Chair

### Item 1: Consent Agenda

Resolution 2018-01, Consent Agenda, which included approval of the October 11 & 12, 2018 meeting minutes, City of Spokane Waive 180 Temporary Closure of Bosch Lot, a technical correction to Youth Athletic Facilities match reduction policy, and a time extension request for Klickitat County Shooting Facility RCO project 03-1565.

#### Resolution 2018 - 01

**Moved by:** Member Ready

**Seconded by:** Member Herzog

**Decision:** Approved (No opposed)

The chair provided special thanks to RCO staff and the director noting the challenge it was to work without a Capital budget and how proud he was the agency was able to get the work done. Next, Chair Willhite introduced and welcomed the new board liaison, Wyatt Lundquist.

### Item 2: Director's Report

Director Cottingham provided the director's report. Highlighted items included: Statewide Outdoor Recreation Plan (SCORP) gets federal approval. RCO presented to the State Parks Commission. Director Cottingham was interviewed on TVW for the show Inside Olympia as a state leader.



### **Grant Management Report:**

Marguerite Austin, Recreation and Conservation Section Manager, greeted the board and provided the grant report.

Karen Edwards gave her presentation on the Saddle Rock Project by the City of Wenatchee.

Alison Greene, gave her presentation on Columbia Land Trust, Farmland Category, and Trout Lake Valley project.

Board discussed and gave praise to the presented projects

### **Performance Report:**

Brent Hedden, RCO Policy and performance analyst, provided an update to the board on performance measures.

### **Item 3: State Agency Partner Reports**

#### **Governor's Outdoor Recreation Policy Advisor, Jon Snyder:**

- Annual Outdoor Summit Meeting in Colorado
  - Great Outdoors Colorado (GOCO)
  - 100 things to do before your 12

#### **Department of Natural Resources (DNR), Brock Milliarn:**

- Capital Budget
  - DNR did not suffer any layoffs
  - The biggest struggle is filling the vacancies held in the absence of a delayed budget
- Blanchard Mountain, North Skagit County
  - There was an agreement a decade ago, to preserve the top areas of Blanchard Mountain for conservation and recreation
  - After 15 years of effort, the funding was finally included in this year's budget to make this happen

#### **State Parks and Recreation Commission, Peter Herzog:**

- Capital Budget
  - Parks did have to lay off some staff and currently have vacancies to fill.
  - Parks is also in the same place as DNR, less staff and less ability to do all the work for projects at the same time
- John Wayne Trail Proviso, directed Parks to use \$100,000 of their operating budget on noxious weed control along the trail.
- Next big thing, to ask communities to partner with State Parks, implementing new state parks in their areas

### **WDFW Report by Joe Stohr, Deputy Director, Delayed until after Item 4.**

**General Public comment:** Mary Flanagan, School Teacher at Pacific Beach Elementary School, Thanked the board and the department for their dedication and work on No Child Left Inside (NCLI).

### **Item 4: Washington Administrative Code (WAC) Public Hearing – Public Disclosure Request Fees**

#### **Proposed Amendments:**

The Recreation and Conservation Office proposed rulemaking to amend Chapter 286-06 WAC, Public Records, as listed above. The amendments will:

- Clarify that public records requests must be for identifiable records (all records will not be considered a valid request), – WAC 286-06-070(5), and

- Adopted rules are effective 31 days after filing with Office of the Code Reviser

*Public comment: No comment at this time*

Resolution 2018-02

**Moved by:** Member Shiosaki

**Seconded by:** Member Milliern

**Decision:** Approved (No opposed)

### **Item 3: State Agency Partner Reports (continued)**

**Department of Fish and Wildlife, Joe Stohr, provided his report:**

- General budget
  - WDFW has a deficit of about \$25 million
  - Looking at ways to increase licensing revenues
  - Implemented some one time fixes
  - Currently working with outside sources to help identify solutions

### **Item 5: Department of Natural Resources (DNR) Rural Partnership Program Initiative**

**Josh Wilund and Gabe Kaemingk, DNR, gave an overview of RPPI:**

The Rural Partnership Program Initiative (RPPI) is an avenue for rural communities to collaborate with DNR on projects that promote healthy local economic activity in areas such as: Mill Expansion and Forest Health, Recreation, Water and Agriculture, Wind and Solar, Geothermal heat, Good Neighbor Authority, Community Forests, Land and Leasing, and Carbon Storage.

DNR has narrowed their focus area to 12 of the 80 community partnership proposals received to date. DNR is hoping to submit 4-5 proposals of the twelve selected to RCO if eligible for grant funding opportunities.

The board entered a discussion and asked questions around the intentions of the initiative.

**Next steps**

Board requested that DNR work with RCO staff to identify the best grant funding avenues for current and future proposals.

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## **LUNCH BREAK**

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### **Item 6: Control and Tenure on State-Owned Aquatic Lands**

Adam Cole, RCO policy specialist, and Mike Rechner, DNR, gave an overview of the proposed control and tenure policy for projects on state owned aquatic lands.

The board entered a discussion around the policy and also asked questions on the stakeholder involvement.

**Public comment:** *No comment at this time*

Resolution 2018 -03

**Moved by:** Member Deller

**Seconded by:** Member Gardow

**Decision:** Approved (No opposed)



**Item 7: Briefing on Conversion Request: City of Kent, East Hill/Morrill Meadows Park RCO  
91-170A, 96-1224D, 97-036A, 02-1175A**

Myra Barker, RCO compliance specialist, gave a summary of the project and briefed the board on the board's conversion policy. She explained to the board that a conversion is the most serious form of non-compliance and remediation varies according to the grant program and the project.

**Next Steps**

After today's discussion with the board, RCO staff will work with the City of Kent to comply with the conversion requirements and finalize the conversion request for a board decision at the April 2018 meeting, if appraisals are finalized.

**Public comment:** Julie Parascondola, Parks Director, City of Kent provided comment.

**Item 8A: Conversion Request: City of Leavenworth, Leavenworth Skate Park RCO Project  
#001469D**

Myra Barker, RCO compliance specialist, gave a summary of the project and also briefed the board on the conversion request.

**Next Steps**

Staff recommended approval conditioned on consolidating the previously funded project areas with the area occupied by the new skate park at Enchantment Park. This updates the RCO project area boundary that will be subject to the long-term obligations of the grant funding. Staff will execute all necessary amendments to the project agreement, as directed.

**Public comment:** Joel Wolensky, City of Leavenworth, gave brief comment.

Resolution 2018 -04

**Moved by:** Member Milliern

**Seconded by:** Member Deller

**Decision:** Approved (No Opposed)

**Item 8B: Kitsap Rifle and Revolver Club- Declaration of Conversion, RCO Project  
#00-1469D 2:01 PM**

Kim Sellers, RCO Grant Manger, gave a background on the history of the grant and also provided the board with details on RCO's recommendation to address this compliance issue.

**Chair Willhite invited the Kitsap Rifle and Revolver Club (KRRC) to give a 15 minute presentation.**

The presentation was given by *Brad Smith, President, and Marcus Carter, Executive Officer, KRRC*

**Public Comment:** The following KRRC members provide public comment: Kenneth Patton, Randle Braggey, Barbara Butterton, Dorothy Odell, Karl Oval, Steven Foster, and Steven Blazina

Chair Willhite announced that the board would enter into **Executive Session** and provided a brief overview of Executive Session rules.

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**Board Recessed for Executive Session** with Brian Faller, Attorney General's Office. Executive Session was held in room 259 at 3:13 PM. Chair announced to end executive session at 3:40 PM. New announcement by Chair Willhite at 3:40 pm for an extension of the executive session to 4:15 pm.

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Board Reconvened at 4:15 to resume business. Chair Willhite presented Resolution 2018-05 previously revised (white copy) and now amended (purple copy) following the executive session. He opened the floor for discussion.

No motion was made to support resolution 2018-05 (as revised prior to the meeting). The board took up the resolution amended following the executive session. This resolution set forth the requirements for a process to amend the grant agreement by March 1, 2018, which would extend the contract term based on the number of days the facility has not been open to the public.

Resolution 2018 -05 as amended

**Moved by:** Member Shiosaki

**Seconded by:** Member Deller

**Decision:** Approved as amended (No Opposed)

**Next steps**

The RCO Director and staff will set up a follow up meeting with KRRC and report back to the board during our next regular scheduled meeting, April 25th-26th, 2018.

**Item 9: No Child Left Inside Grant Program**

Kyle Guzlas and Sarah Thirtyacre, RCO Grant Managers, gave a presentation on the No Child Left Inside (NCLI) grant program. Sarah also presented the story map which highlighted the program and projects.

The board discussed the program and also invited a former teacher from Hood Canal School District, Keith Chambliss, who was in the audience to provide comments.

**Public comment:** *Director of Parks, Don Hock was in attendance in the room and expressed his appreciation for RCO and the program.*

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**RECESS FOR THE DAY at 4:55 PM**

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## 9:00 AM Opening and Call to Order

- Roll Call and Determination of Quorum

### Opening comments:

- Chair Willhite recognized Christine Mahler, new executive director of the Washington Wildlife and Recreation Coalition (WWRC).

**Public Comment:** No comments.

## Item 10: Communications Plan Progress

Susan Zemek, RCO Communications Manager, began with a summary of the 5-year communications plan.

She noted that we are currently in year 4 of the 5-year plan, which has three goals:

- 1) Build support for RCO's Missions
- 2) Ensure RCO maintains its brand as an exemplary, ethical, and open grant agency
- 3) Strengthen internal communications

### Next steps

Communications staff will complete elements in the communication plan that haven't been finished as well as develop a new 5-year plan to begin in 2019, redo our Web site, and grow our social media footprint.

**Public comment:** No comments.

## Item 11: Washington Wildlife and Recreation Program (WWRP) Phase III Changes to Policy and Criteria

Adam Cole, RCO policy specialist, provided an update on policy and evaluation criteria changes for the Washington Wildlife and Recreation Program. These are the final items needed to implement Substitute Senate Bill (SSB) 6227. Staff also presented a recommendation about weed control on new acquisitions to the board. The Invasive Species Council, commented that there should be more than just weeds included in the language. As a result, in consultation with the executive director of the Washington Invasive Species Council (WISC), staff added "invasive species" into the proposed policy.

**Public comment:** *Tom Bugert, Government Relations, The Nature Conservancy: Tom stated he was happy with changes recommended by staff and excited to see consideration of conservation easements as a tool. He also said he was happy to see an increase for weed costs but takes no position on the invasive species.*

*Multiple benefits, compatible and aligning with the community and resources.*

[Resolution 2018-06](#)

**Moved by:** Member Shiosaki

**Seconded by:** Member Deller

**Open for discussion**

Concerns were shared by member Stohr on the "and other invasive species" language added to the proposal. This concern was also shared by other members.

Chair Willhite entertained a motion to remove "and other invasive species" from the proposed policy and resolution

**Moved by:** Member Deller

**Seconded by:** Member Shiosaki

6 members voted to remove the invasive species language from the policy and resolution 2018-06

Chair called for approval of Resolution 2018 -06 as amended

Resolution 2018 -06 as amended

**Moved by:** Member Shiosaki

**Seconded by:** Member Deller

**Decision:** Approved as amended (Member Herzog and Member Milliern, Opposed)

**Next steps**

Continue discussion of adding invasive species to the policy as discussed above (for the next 2-year cycle).

**Item 12: Strategy for State Recreation and Conservation Land Acquisition and Development (postponed until April, 2018 meeting agenda)**

**Item 13: How the Board Encourages Grant Applicants to Incorporate Reduction of Greenhouse Gasses and Resiliency into Project Proposals**

Wendy Brown introduced Dr. Amy Snover, Director of Climate Impact Groups, at the University of Washington, to present information on this topic.

Dr. Snover went over several things for the board: What to expect in the future for climate change, how RCO can build climate resiliency into grant funded projects, and different organizations and changes to climate impacts. Dr. Snover also suggested RCO could build climate resiliency into qualifications for project proposals. Ranging from project location which could be impacted by sea level rise to the design of the project which could be impacted by many things such as water availability or flooding.

After the presentation the board entered a discussion and Dr. Snover addressed questions.

**Next steps**

Invite someone to the board to discuss reduction of the carbon footprint in reference to our funded projects. Look at programs such as Urban Wildlife and Riparian as avenues for improving climate resiliency into the evaluation criteria.

**Item 14: Joint Legislative Audit and Review Committee (JLARC)**

Eric Thomas, Rachel Murata and Suzanna Pratt from JLARC gave an update on the JLARC study: Measuring Outcomes of Habitat and Recreation Acquisitions and Regulations.


**Comments for the Good of the Order:**

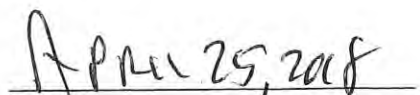
Member Deller congratulated the new executive director for the Washington Wildlife and Recreation Coalition (in the audience). Chair Willhite announced that the next meeting is scheduled for April 25-26, 2018 in Olympia. He also referenced that there needs to be a conversation around State Comprehensive Outdoor Recreation Plan (SCORP) to talk about health outcomes and whether something more specific is needed in that respect.

**Closing:**

The meeting was adjourned at 12:15 pm by Chair Willhite.

**Approved by:**

  
Theodore Willhite, Chair

  
Date



**Recreation and Conservation Funding Board**  
**Resolution #2018-01**  
**January 31, 2018 Consent Agenda**

**BE IT RESOLVED**, that the following January 31, 2018, Consent Agenda items are approved:

- A. Board Meeting Minutes
  - October 11-12, 2017 Meeting Summary
- B. Waive 180 Temporary Closure for Bosch Lot, City of Spokane ([#72-040](#))
- C. Technical Correction to Youth Athletic Facilities Match Reduction Policy
- D. Time Extension Request
  - *Klickitat County Shooting Facility (RCO [#13-1565D](#))*

Resolution moved by: Danica Ready

Resolution seconded by: Michael Shiosaki

**Adopted**/*Defeated/Deferred (underline one)*

Approved Date: January 31, 2018

## Recreation and Conservation Funding Board Briefing Memo

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Attachment D

**Resolution #2018-02**  
**Amendments to Title 286-06 of the Washington Administrative Code (WAC)**  
**Changes to Public Records Process and Fees**

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

**WHEREAS**, the administrative rules in Title 286-06 of the Washington Administrative Code (WAC) provide policy direction to the board, director, and office on general grant program administration and are in need of revision to update the public record process and fees; and

**WHEREAS**, RCO filed a Pre-proposal Statement of Inquiry to amend Title 286-06 WAC with the Office of the Code Reviser on October 31, 2017 and published in issue #17-22-120 of the Washington State Register and no comments were received; and

**WHEREAS**, RCO filed a Proposed Rule Making to amend Title 286-06 WAC with the Office of the Code Reviser on December 19, 2017 and published in issue #18-01-102 of the Washington State Register ; and

**WHEREAS**, RCO posted notice, in accordance with RCW 34.05.320, of the proposed rulemaking to amend Title 286-06 WAC and the project area recommendation on its website, sent an email notification to interested persons, and accepted public comments from December 20, 2017 to January 25, 2018; and

**WHEREAS**, the board held a public hearing on the 31<sup>st</sup> of January 2018 to solicit further public input and that input was considered in the final determination.

**NOW, THEREFORE BE IT RESOLVED**, that the board does hereby adopt the proposed rulemaking as filed with the Office of the Code Reviser on December 19, 2017 and published in issue #18-01-102 of the Washington State Register and reflected in Attachment A; and

**BE IT FURTHER RESOLVED** that the board directs RCO staff to file a final rule making order, in accordance with RCW 34.05.325, with the Office of the Code Reviser and it shall have an effective date of 31 days from the date it is filed.

Resolution moved by: Michael Shiosaki

Resolution seconded by: Brock Milliern

**Adopted**/Defeated/Deferred (underline one)

Date: January 31, 2018

**Recreation and Conservation Funding Board  
Resolution 2018-03  
Control and Tenure Policy for Projects on State Owned Aquatic Lands Managed by the Washington  
State Department of Natural Resources**

**WHEREAS**, the Revised Code of Washington 79A.25.005 authorizes the Recreation and Conservation Funding Board (board) to administer recreational grant-in-aid programs; and

**WHEREAS**, this policy is desired to prepare for the 2018 grant cycle; and

**WHEREAS**, updating the board's control and tenure policy is desired for transparency and flexibility in having sponsors meet the board's grant requirements and the Recreation and Conservation Office's grant management and contracting requirements; and

**WHEREAS**, retaining control and tenure policies help insure funded projects can occur and completed projects remain in the public domain for a long period of time; and

**WHEREAS**, the board solicited and heard public comments on the policies recommended in this memo in an open public meeting on January 31, 2018, and

**WHEREAS**, staff reviewed and considered public comments on the recommendations contained in this memo.

**NOW, THEREFORE BE IT RESOLVED**, that the board approves Resolution 2018-03 and the policy and procedural recommendations contained in this memo.

*Resolution moved by:* Mike Deller

*Resolution seconded by:* Kathryn Gardow

**Adopted**/*Defeated/Deferred (underline one)*

*Date:* January 31, 2018

**Recreation and Conservation Funding Board**  
**Resolution 2018-04**  
**Conversion Request: Leavenworth Skate Park (RCO #00-1469D)**

**WHEREAS**, that the City of Leavenworth used a grant from the Washington Wildlife and Recreation Program – Local Parks category (WWRP-LP) to develop a skate park; and

**WHEREAS**, that the skate park was demolished due to construction of a new high school thereby creating a conversion; and

**WHEREAS**, that as a result of this conversion, the project area no longer satisfies the conditions of the RCO grant; and

**WHEREAS**, that the city is asking for Recreation and Conservation Funding Board (board) approval to replace the converted project area; and

**WHEREAS**, that the replacement skate park provides equivalent opportunities of those displaced by the conversion; is supported in the city's parks plan in providing active recreational activities and encouraging the use of parks for active living; thereby supporting the board's goals to provide funding for projects that result in public outdoor recreation purposes; and

**WHEREAS**, that the sponsor sought public comment on the replacement, thereby supporting the board's strategy to regularly seek public feedback in policy and funding decisions.

**NOW, THEREFORE BE IT RESOLVED**, that the Recreation and Conservation Funding Board hereby approves the conversion conditioned upon the project area including all of Enchantment Park, thus consolidating the replacement with previous board funding at the park; and

**BE IT FURTHER RESOLVED**, that the board the Board authorizes the Director to execute the necessary amendments.

*Resolution moved by:*                      Brock Milliern \_\_\_\_\_

*Resolution seconded by:*                Mike Deller \_\_\_\_\_

**Adopted**/~~Defeated~~/~~Deferred~~ (*underline one*)

*Date:*    January 31, 2018 \_\_\_\_\_

**Recreation and Conservation Funding Board  
Resolution 2018-05 as amended  
Kitsap Rifle and Revolver Club- Declaration of Conversion**

**WHEREAS**, the Recreation and Conservation Funding Board ("Board") provided grant funding through the Firearms and Archery Range Recreation program for grant #03-1156, Rifle Line Re-orientation Sound Cover sponsored by Kitsap Rifle and Revolver Club ("Club"); and

**WHEREAS**, the Firearms and Archery Range Recreation program requires grant funded facilities be open and available to the public for a period of 10 years following final reimbursement, or in the case of grant #03-1156 until February 10, 2019; and

**WHEREAS**, it has come to the Board's attention that in the case of grant #03-1156 the sponsor, the Club, has failed to keep this facility open and available for firearms shooting as required under the project agreement and applicable rules; and

**WHEREAS**, Kitsap Rifle and Revolver Club have been largely unresponsive to the efforts of staff at the Recreation and Conservation Office (RCO) to work together to come to cure these closures. However, the Board is desirous of affording the Club a last opportunity prior to a conversion to reach an acceptable Amendment to the project agreement with the RCO to address the facility closure and to fully and faithfully carry out that Amendment;

**NOW, THEREFORE BE IT RESOLVED,**

The Board hereby finds and orders, that effective March 1, 2018, the Kitsap Rifle and Revolver Club shall be declared to have converted the grant funds paid for grant #03-1156 and per RCW 79A.25.210 and WAC 286-30-040, and that the Club shall fully reimburse the Firearms and Archery Range Recreation program the amount of \$46,965.16 in grant funding; provided this declaration shall not take effect if prior to the effective date, this Kitsap Rifle and Revolver Club enters an amendment to the project agreement acceptable to the RCO, which provides at a minimum for the following:

(1) extension of the existing 10 year period to cover days when the range has been or is closed to public firearms shooting based upon criteria for determining days closed that are acceptable to the RCO Director. Such extension shall require full cooperation and disclosure by the Club of the number of days of such closure that have already occurred and/or may occur in the future;

(2) the Club must commit (i) to make bi-monthly detailed reports to the RCO showing diligent pursuit and good faith progress toward obtaining any permits required to resume public shooting of firearms at the Club improvements funded by the grant, and (ii) to provide the RCO timely and complete responses to its information requests;

(3) establishment of a date certain by which the funded range improvements must be open to the public for firearms shooting, and provision for declaration of conversion by the Director if in the judgment of the Director, the Club has failed to meet this deadline; and

(4) provision for declaration of conversion prior to the date certain if the Board determines, in its sole judgment, that the Club has failed to comply with the conditions above or to show diligent pursuit and good faith progress in obtaining any permits required to resume public shooting of firearms at the range improvements funded by the grant.

**BE IT FURTHER RESOLVED**, the Director is authorized to seek to negotiate such an amendment with the Club and to enter any such amendment as it determines to be acceptable and appropriate consistent with the above conditions.

*Resolution moved by:*      Michael Shiosaki

*Resolution seconded by:*      Mike Deller

**Adopted**/*Defeated/Deferred (underline one)*

*Date:* January 31<sup>st</sup>, 2018

REVISED February 1, 2018

**Recreation and Conservation Funding Board  
Resolution 2018-06  
Washington Wildlife and Recreation Program Policy and Evaluation Criteria Updates**

**WHEREAS**, recent changes to the Revised Code of Washington 79A.15 requires and authorizes the Recreation and Conservation Funding Board (board) to update the policies and evaluation criteria for the Washington Wildlife and Recreation Program (WWRP); and

**WHEREAS**, the Revised Code of Washington 79A.25.005 authorizes the Recreation and Conservation Funding Board (board) to administer recreational grant-in-aid programs; and

**WHEREAS**, these policy and evaluation criteria updates are needed to prepare for the 2018 grant cycle; and

**WHEREAS**, keeping the WWRP policies and evaluation criteria current, aligned with the law, and relevant to project sponsors helps prioritize important investments on conservation and recreation lands state-wide; and

**WHEREAS**, the board solicited and heard public comments on the policies and evaluation criteria updates recommended in an open public meeting on February 1, 2018, and

**WHEREAS**, staff reviewed and considered public comments on the recommendations contained in this memo, and

**WHEREAS**, in addition to the policy and evaluation criteria changes contained in this memo, the board further approves the following:

1. Add invasive species to the Manual #3 Changes regarding initial control of noxious weeds. The policy statement shall read:
  - a. Eligible costs for control of noxious weeds: Initial control, up to \$175 per acre or \$3,500 per property for properties less than 20 acres.
2. In the Critical Habitat category evaluation criteria, strike the language "For Local Governments Only" from the state-wide significance question in evaluation question #1, and retain the remaining language thereby making the question an evaluation criteria for all project applicants.
3. Add the state-wide significance question as described in #2 above to the Natural Areas, and Urban Wildlife Habitat categories.
4. Update Manuals 3, 10a, 10b and 10C to reflect all the policy and evaluation criteria changes approved by the board.

**NOW, THEREFORE BE IT RESOLVED**, that the board approves resolution 2018-06 and the policy recommendations and evaluation criteria identified in this memo.

*Resolution moved by:* Michael Shiosaki

*Resolution seconded by:* Mike Deller

**Adopted**/*Defeated/Deferred (underline one)*

*Date:* February 1, 2018