

**CLARK COUNTY
STAFF REPORT**

DEPARTMENT: Environmental Services / Policy and Planning / Legacy Lands Program

DATE: August 11, 2015

REQUESTED ACTION: Authorize initiation of the surplus property and grant conversion processes for AP #s 209739-000 and 209695-000 near Paradise Point State Park. Provide direction to staff on the scope of the alternatives analysis to be undertaken and the public process through which it will be completed.

CHECK ONE: Consent Hearing County Manager

BACKGROUND:

The Board of County Councilors has been reviewing county-owned lands to determine if the original purposes for which the land was acquired are still valid, if alternative county uses of the property should be considered, or if the properties are no longer needed for county purposes and could be declared surplus and sold to better benefit county interests.

AP #s 209739-000 (5 acres with a residence) and 209695-000 (15 acres, undeveloped) are located near Paradise Point State Park and adjoin each other with access off of NW 24th Avenue. See Exhibit A attached to this report.

The properties were acquired with County Conservation Futures and Washington State Wildlife and Recreation Program grant funding as part of the Lower East Fork Lewis River Greenway. Purchase Price was \$395,500. The parcels are at the crest of a north facing hill that slopes down to the river with views over the East Fork Lewis River, rural Clark County and Cascade Mountain Peaks. The parcels do not have river frontage but are separated from the East Fork Lewis River by intervening properties purchased from the same family for greenway purposes. The greenway planning concept for these parcels was a view park with trails going down to the river and connecting into a river oriented trail system between Paradise Point State Park and La Center Road. The staff report authorizing acquisition of these properties stated an intent to sell the house after acquisition.

The parcels are zoned Ag-20, Agriculture, 20-acre minimum lot size. One residence exists on AP# 209739-000 for which the county receives \$1,900 monthly rental income. AP #209695-000 is undeveloped. A legal lot of record would allow one residence to be built on it. The update of the Comprehensive Growth Management Plan is underway, so plan and zoning designations could change in the near future.

COUNCIL POLICY IMPLICATIONS

Clark County Code Section 2.33A prescribes the process for declaring property surplus. Salient code provisions are attached as Exhibit B:

The Board of County Councilors would have to authorize budget commitments to pursue this process. Please see the Budget Implications section below and the Fiscal Impact Statement attached as Exhibit C.



Grant funding through the State of Washington Wildlife and Recreation Program assisted in the acquisition of these properties. Grant agreement 96-074 between Clark County and the State of Washington requires Clark County to dedicate a Deed of Right to the state, attached as Exhibit D, which requires the county to keep the property in open space and recreation uses, consistent with the category of grant funds (water access category) used to assist the acquisition. If the county does not do this, for example selling the property to a private interest, a "conversion" of the grant-funded land results, requiring the county to find an alternative property that is of equal market value and equivalent recreational value for the purposes articulated in the grant category. The conversion requirement is found in the project agreement general terms and provisions, and in RCW 79A.15.030 (8) and WAC 286-27-066. The RCW and WAC references are excerpted as Exhibit E. Recreation and Conservation Guidance Manual 7 contains the policy for mitigating a conversion. The Recreation and Conservation Office has a defined process for considering conversions. Exhibit F, attached to this report, is the State's Conversion Request Submittal Requirements Checklist. Key elements include:

- County must complete an alternatives analysis of all opportunities for avoiding the conversion and for replacement properties that provide equivalent recreation value consistent with the grant category for which state funds were awarded.
- County must provide 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 a notice initiating a 30-day public comment period on an alternatives analysis and a response comments received.
- If the conversion is not avoided, fair market value of the property to be converted and the substitute property recommended to the State has to be established through appraisals and review appraisals of the properties to assure equal market value.
- Substitute properties may only be acquired from willing sellers and for prices substantiated by the appraisals. Notices of voluntary transactions by, and just compensation to, landowners must be provided.
- Due diligence studies, such as legal lot determinations and property boundary surveys must be completed for both parcels to be converted and substitute parcels. A level 1 environmental assessment would have to be completed for the recommended substitute parcel(s).

ADMINISTRATIVE POLICY IMPLICATIONS

County Manager Considerations: If the policy decision of the Board of County Councilors is to pursue the surplus property and grant conversion processes, staff time in several departments will have to be allocated. As a minimum, Environmental Services, Public Works (Real Property Services, Parks, Survey), Community Development, the Public Information Office and the Prosecuting Attorney will be involved. Contracts/Task Orders for professional services will need to be executed with various consultants.

The Recreation and Conservation Office pursues a two-phased process for consideration of a conversion. Phase I is a briefing of the Recreation and Conservation Funding Board (RCFB) of an impending conversion request. The RCFB meets quarterly and the next meeting this item could be scheduled is November 18-19. Information the county would have to provide for that meeting would need to be submitted by October 1, 2015 and would include:

- a description of the original project for which grant funds were allocated;
- a description of the proposed conversion;
- an appraisal of the proposed conversion;

- a scope of the alternatives analysis to be undertaken;
- the public process through which the alternatives analysis will be reviewed.

Phase 2 would be a decision whether or not to approve the conversion. This will only happen if the County submits all required information, including documentation of the alternatives analysis and public review processes, documentation that indicates proposed substitute property is of equivalent market and recreational value as the property to be converted. The RCFB calendar is not yet scheduled for 2016. However, the first meeting of the year is typically in February. Again, RCO requests all required information be submitted 6 to 8 weeks in advance of the RCFB meeting.

COMMUNITY OUTREACH: The Board of County Councilors has had several work sessions on property management issues, including January 30, 2013 and August 6, 2014. In addition property management issues have been discussed at several recent "Board Time" meetings, including May 13, July 1, July 8, July 15, July 22 and July 29, 2015.

BUDGET IMPLICATIONS: Conservation Futures Fund revenues should be sufficient to cover costs for this process if potential proceeds from the sale of potential surplus property are sufficient to acquire a substitute property. Assessed value of AP #209739-000 is \$389,934. Assessed value of AP #209695-000 is \$213,747. However, additional budget capacity in the Conservation Futures Fund will be needed to pursue this process. Assuming February 2016 is the earliest that RCFB would be able to approve a conversion, the additional capacity could be authorized through the 2015-2016 budget re-authorization/amendment process.

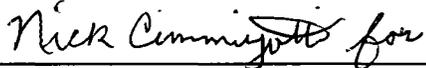
| YES | NO | |
|-----|----|--|
| | x | Action falls within existing budget capacity. |
| | x | Action falls within existing budget capacity but requires a change of purpose within existing appropriation |
| x | | Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager. |

BUDGET DETAILS

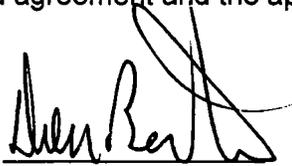
| | |
|--------------------------|--|
| Local Fund Dollar Amount | Professional Services - \$50,000 County Staff Hours – 275 Land Acquisition \$605,000 |
| Grant Fund Dollar Amount | \$0 |
| Account | Conservation Futures Fund 3085 |
| Company Name | NA |

ACTION REQUESTED: Authorize initiation of the surplus property and grant conversion processes for AP #s 209739-000 and 209695-000 near Paradise Point State Park. Provide direction to staff on the scope of the alternatives analysis to be undertaken and the public process through which it will be completed.

DISTRIBUTION: Please return original copies of the signed agreement and the approved staff report to Environmental Services Administration.



Patrick Lee
Legacy Lands Program Coordinator



Don Benton
Environmental Services Director

APPROVED: 

CLARK COUNTY, WASHINGTON
BOARD OF COUNTY COUNCILORS

DATE: Aug. 11, 2015

SR# SR 163-15

APPROVED: _____
Mark McCauley, Acting County Manager

DATE: _____

PL/but

c: Environmental Services Administration

Enclosures:

- Exhibit A – Map of AP #s 209739-000 and 209695-000
- Exhibit B – Excerpts from Clark County Code Title 2.33A, Property Management
- Exhibit C – Budget Impact Attachment
- Exhibit D – Deed of Right to the State
- Exhibit E – Excerpts from RCW 79A.15.030 and WAC 286-27-066 regarding Conversions of Grant-Funded Property
- Exhibit F – Recreation and Conservation Funding Board Conversion Request Submittal Requirements

Exhibit A – Proposed Surplus Property

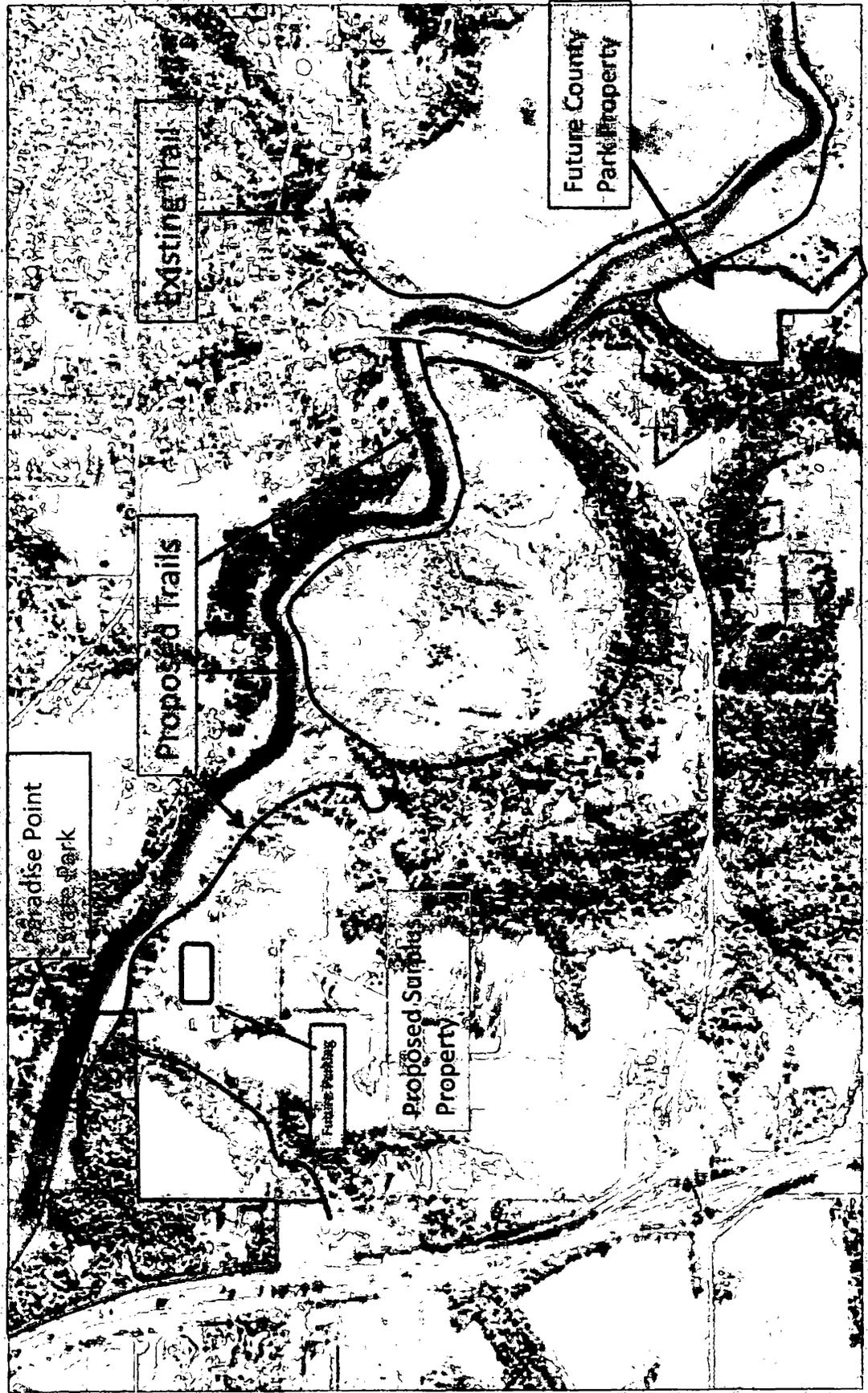


Exhibit B

Excerpts from Clark County Code 2.33A, Property Management

2.33A.120 Surplus property disposition—Board approval considerations.

- (1) Whenever, in the opinion of the property manager, any county real or personal property is surplus to the needs of the county, the property manager shall so advise the board, making appropriate recommendation for the possible use, sale, lease or other disposition of such property. The property manager shall consult the property management committee and the office or department last using such property before so advising the board. Possible uses to be considered by the property manager shall include:
 - (a) Potential uses by other county offices and departments;
 - (b) Exchange or trade-in for publicly or privately owned property needed by the county;
 - (c) Sale or lease to other governmental agencies;
 - (d) Lease to nongovernmental parties;
 - (e) Retention by the county if a parcel is within an environmentally sensitive area, a floodplain, a slide hazard property or another area whose public ownership is in the public interest;
 - (f) Sale at public auction.
- (2) If the board concludes that the property is surplus to the foreseeable needs of the county, the board may authorize the sale or other disposition of such property as provided for in this chapter. (Sec. 12 of Ord. No. 1987-03-46)

2.33A.130 Notice of sale or lease.

- (1) The property manager shall cause notice of the sale or lease of surplus county property, describing the property, the time and place where the property may be inspected in the case of personal property, the terms of sale, and the time, place and manner of sale or lease, to be published once each week for two successive weeks in a newspaper of the county, the last date of publication being at least ten (10) days before the date of sale or lease; PROVIDED, that for personal property having an estimated value of less than five hundred dollars (\$500), notice of sale may be given by posting in the manner provided for in Section 2.37.010.
- (2) Any notice of sale of real property shall include both its legal description and street address, if any, and the terms of sale if the sale is for other than cash. (Sec. 13 of Ord. No. 1987-03-46)

2.33A.140 Sale or lease—Highest responsible bidder.

- (1) All sales or leases of county property shall be made to the highest responsible bidder at public sale, except where different provisions are made in this chapter.

- (2) On sales for cash, the highest bidder shall be deemed responsible. In determining the highest responsible bidder for other sales and for leases, the property manager may consider the price and terms bid, the character, integrity, reputation and financial responsibility of the bidder, and previous experience, if any, of the county with the bidder.
(Sec. 14 of Ord. No. 1987-03-46)

Exhibit C
BUDGET IMPACT ATTACHMENT

Part I: Narrative Explanation

To pursue the surplus property and grant conversion processes, staff time would be needed from several departments. Specific services will be required from the following departments within Clark County: Environmental Services, Community Development, Prosecuting Attorney's Office, and Public Works. Budget authority need for this activity was not included in DES's adopted 2015-16 budget. It is assumed that the land costs for the required replacement land would equal the revenues received from the sale of the surplus land.

Part II: Estimated Revenues

The revenue provided in the table below is from the sale of the surplus property.

| Fund #/Title | Current Biennium | | Next Biennium | | Second Biennium | |
|----------------------------|------------------|---------|---------------|-------|-----------------|-------|
| | GF | Total | GF | Total | GF | Total |
| 3085, Conservation Futures | 0 | 605,000 | 0 | 0 | 0 | 0 |
| | | | | | | |
| Total | 0 | 605,000 | 0 | 0 | 0 | 0 |

Part III: Estimated Expenditures

III. A – The expenditure estimated below assume the cost of the land replacement land, some external professional services and approximately 275 hours from the following County departments: 150 hours from Environmental Services; 20 hours from Community Development; 20 hours from the Prosecuting Attorney's Office; and 85 hours from Public Works. The total 275 hours, incurred across several County departments and personnel classifications are assumed to cost \$27,500 for the 2015-2016 biennium. External professional services for appraisers, surveyors, and due diligence studies are estimated to cost \$50,000. The land acquisition costs for replacement conserved land are estimated to cost approximately \$605,000.

| Fund #/Title | FTE's | Current Biennium | | Next Biennium | | Second Biennium | |
|---------------------------|-------|------------------|---------|---------------|-------|-----------------|-------|
| | | GF | Total | GF | Total | GF | Total |
| 3085-Conservation Futures | 0 | 0 | 682,500 | 0 | 0 | 0 | 0 |
| | | | | | | | |
| Total | 0 | 0 | 682,500 | 0 | 0 | 0 | 0 |

III. B – Expenditure by object category

| Fund #/Title | Current Biennium | | Next Biennium | | Second Biennium | |
|----------------------|------------------|---------|---------------|-------|-----------------|-------|
| | GF | Total | GF | Total | GF | Total |
| Salary/Benefits | 0 | 27,500 | | | | |
| Contractual | 0 | 50,000 | | | | |
| Supplies | 0 | 0 | | | | |
| Travel | 0 | 0 | | | | |
| Other controllables | 0 | 0 | | | | |
| Capital Outlays | 0 | 605,000 | | | | |
| Inter-fund Transfers | 0 | 0 | | | | |
| Debt Service | 0 | 0 | | | | |
| Total | 0 | 682,500 | | | | |

DEED OF RIGHT TO USE LAND FOR PUBLIC RECREATION PURPOSES

The Grantor, **CLARK COUNTY, WASHINGTON, A Municipal Corporation**, for and in consideration of monies coming in whole or in part from the Outdoor Recreation Account of the General Fund of the State of Washington and in fulfillment of terms of the Project Agreement identified below, conveys and grants to the State of Washington individually and as the representative of all the people of the State, the right to use the real property described below forever for the outdoor recreation purposes described in the Project Agreement entered into between the Grantor and the State of Washington through the Interagency Committee for Outdoor Recreation entitled **LEWIS RIVER GREENWAY, PHASE II**, Project Number **96-074A** signed by the Grantor on the **28TH DAY OF NOVEMBER, 1995**, and by the Interagency Committee on the **27TH DAY OF OCTOBER, 1995**, and the application and supporting materials which are on file with the Grantor and the State in connection with the Project Agreement.

The Grantor will not make or permit to be made any use of the real property described in this deed, or any part of it, which is inconsistent with the right to use for public outdoor recreation herein granted unless the State, through the Interagency Committee for Outdoor Recreation or its successors, consents to the inconsistent use, which consent shall be granted only upon conditions which will ensure that other outdoor recreation land of at least equal fair market value at the time of change of use and of as nearly as feasible equivalent usefulness and location for the public recreation purposes for which State assistance was originally granted will be substituted in the manner provided in RCW 43.99.100 for marine recreation land, whether or not the real property covered by this deed is marine recreation land. RCW 43.99.100 reads as follows:

"Marine recreation land with respect to which money has been expended under RCW 43.99.080 shall not, without the approval of the committee, be converted to uses other than those for which such expenditure was originally approved. The committee shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location."

The real property covered by this deed is described as follows:

SEE ATTACHED LEGAL DESCRIPTION

This deed shall in no way modify or extinguish the functions of the Grantor under the Project Agreement, including the Grantor's functions to operate and maintain the land as set out in Section 15 (f) of the Project Agreement.

Dated this 16th day of July, 1996.

ATTEST:

Juan Richards

[Signature]
BOARD OF COUNTY COMMISSIONERS
FOR CLARK COUNTY, WASHINGTON
Chair

Commissioner

Commissioner

**NOTARIAL ATTACHMENT
TO DEED OF RIGHT TO USE LAND FOR PUBLIC RECREATION PURPOSES**

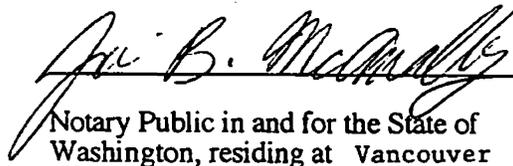
Dated: July 16, 1996
Grantor: Clark County, Washington, A Municipal Corporation
Grantee: State of Washington

STATE OF WASHINGTON
COUNTY OF CLARK

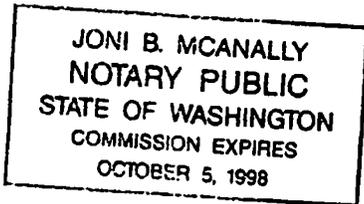
I certify that I know or have satisfactory evidence that Dave Sturdevant

signed this instrument on oath stated that he/she was authorized to execute the instrument and acknowledged it as the **BOARD of COUNTY COMMISSIONERS, CLARK COUNTY, WASHINGTON** to be the free and voluntary act of such parties for the uses and purposes mentioned in this instrument.

DATED: July 16, 1996


Notary Public in and for the State of
Washington, residing at Vancouver

My commission expires October 5, 1998





Pearson Family Living Trust
Serial # 209739 & Portion of 209695

**DEPARTMENT OF
PUBLIC WORKS**

Superior service that is responsive and cost justified.

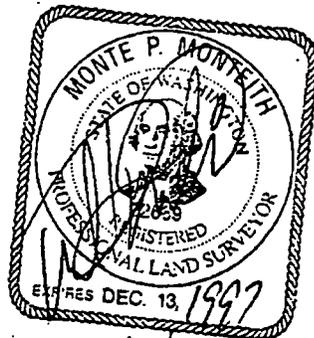
**DESIGN & ENGINEERING
SURVEY**

**DESCRIPTION
20 ACRE PARCEL**

A parcel of land lying in the Northwest 1/4 and the Northeast 1/4 of Section 4, Township 4 North, Range 1 East of the Willamette Meridian, said parcel being more particularly described as follows:

Commencing at a stone with "+" marking the Southwest corner of Section 33, Township 5 North, Range 1 East and running thence S88°23'22"E a distance of 1272.21 feet along the Northerly line of said Section 4 to the Northeast corner of that certain tract of land described in that certain Real Estate Contract recorded November 26, 1975 under Auditor's file G 707347, Deed Records of Clark County, Washington; thence S 00°59'55" W, parallel with the Westerly line of said Section 4 a distance of 643.80 feet to a point on the South boundary line of the North half of the Northeast quarter of the Northwest quarter of said Section 4, said point being on the centerline of NW 24th Avenue, formerly known as Cowley Road; thence along said centerline S 01°53'40" W a distance of 111.31 feet to the True Point of Beginning; thence continuing along said centerline run S 01°53'40" W a distance of 532.00 feet; thence S 88°18'41" E a distance of 722.62 feet; thence along an existing fence run S 02°40'15" W a distance of 254.56 feet; thence S 01°49'47" W a distance of 116.46 feet; thence S 02°00'28" W a distance of 82.91 feet; thence S 89°39'42" E a distance of 224.06 feet; thence S 08°24'18" E a distance of 136.90 feet; thence S 72°09'57"E a distance of 4.70 feet; thence N 56°14'40" E a distance of 65.37 feet; thence N 02°45'00" E a distance of 100.17 feet; thence departing from said fence line S 89°39'42" E a distance of 260.60 feet; thence N 02°26'04"E a distance of 692.37 feet; thence N 72°34'27" W a distance of 61.78 feet; thence N 59°13'50" W a distance of 546.25 feet; thence N 88°18'41" W a distance of 755.35 feet to the True Point of Beginning, all in Clark County, Washington.

This parcel contains 20.00 acres, more or less, based on calculations using the double meridian distance method.



10/25/95



Exhibit E

Excerpts from RCW 79A.15.030 and WAC 286-27-066 regarding Conversions of Grant-Funded Property

RCW 79A.15.030 (8)

Allocation and use of moneys—Grants.

(8) 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. [2009 c 341 § 2; 2007 c 241 § 28; 2005 c 303 § 2; 2000 c 11 § 66; 1990 1st ex.s. c 14 § 4. Formerly RCW 43.98A.030.

[2009 c 341 § 2; 2007 c 241 § 28; 2005 c 303 § 2; 2000 c 11 § 66; 1990 1st ex.s. c 14 § 4. Formerly RCW 43.98A.030.]

WAC 286-27-066

What additional rules apply to conversions of use?

(1) Except as provided in this section, interest in real property and facilities acquired, developed, renovated, enhanced or restored shall not, without prior approval of the board be converted to uses other than those for which the funds were originally approved.

(2) The board shall assure the substitution or replacement of interest in real property and/or facilities in accordance with this chapter.

(3) The board shall only approve conversions when:

(a) All practical alternatives to the conversion have been evaluated and rejected; and

(b) The sponsor or successor will provide another interest in real property(s) and/or facilities to serve as a replacement. The replacement must:

(i) Be of equivalent or greater usefulness and location;

(ii) Be administered by the same sponsor or successor unless otherwise approved by the board;

(iii) Satisfy need(s) identified in the most recent plan(s) required under WAC 286-27-040;

(iv) Be eligible to receive a grant in the WWRP account or category from which funds were originally allocated, unless otherwise authorized by the board;

(v) If acquisition of interests in real property: Be interest in real property(ies) of at least equal market value and public benefit at the time of replacement;

(vi) If a development: Provide a facility of at least equal market value and public benefit as that which existed at the time of the original investment of WWRP funds; and

(vii) If a restoration or enhancement project: Provide restoration or enhancement activities necessary to replicate the ecological benefit intended by the project.

(4) Projects authorized by the Interstate Commerce Commission under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d) shall convert to railroad purposes automatically upon reactivation of a line for rail purposes under an ICC order. Substitution or replacement with interest in real property, facilities or moneys which are of at least equal market value at the time of replacement may be required.

RCFB/SRFB Conversion Request Submittal Requirements for State Funded Projects¹

- 1) Cover letter to RCO director summarizing items below.
- 2) Formal written request
 - i) Description of the original project
 - ii) Description of the proposed conversion
 - iii) A list and discussion of all alternatives for replacement² or remediation³ of the conversion, including avoidance.
 - iv) Evidence that the public has been given a reasonable opportunity to participate in the identification, development and evaluation of alternatives. (Minimum is publication of notice and a 30-day public comment period.)
 - v) For remediation actions:
 - (i) Site plan that clearly indicates the proposed conversion
 - (ii) Description of the proposed remediation
 - vi) For replacement actions:
 - (i) Justification that supports the proposed replacement as a reasonably equivalent recreation or habitat utility and location.
 - (ii) Fair market value⁴ established for converted and replacement properties
 - (iii) Appraisal and review appraisal of property to be converted
 - (iv) Appraisal and review appraisal of replacement property
- 3) Cultural Resources Review for Executive Order 05-05
 - i) EZ1 form for archeological review with identified Area of Potential Effect.
 - ii) Information needed for historic properties review.
 - RCO submits information to Department of Archeological and Historic Preservation and Indian Tribes (unless project sponsor is another state agency).
 - May lead to additional survey work and a memorandum of agreement on any identified impacts.
- 2) RCO acquisition documentation for replacement property.
 - a) Hazardous Substances Certification Form with RCO checklist or phase 1 environmental site assessment.
 - b) Preliminary title report
 - c) Notice of voluntary transaction to landowner
 - d) Notice of just compensation to landowner
 - e) Relocation plan, if eligible displaced parties on site

¹ Manual 7, Section 3

² Structure or property interest of equivalent size, function, and value to any structure or property lost to conversion.

³ Actions taken by a project sponsor to restore or replace changed elements, or to correct conversions. Return of grant funds is allowed only in the Firearms and Archery Range program.

⁴ Property improvements will be excluded from determining market value. Market values must be contemporaneous to each other (market value dates within one year of each other).

- 4) Additional documents for any project
 - i) Maps
 - ii) Plans
 - iii) Graphics
 - iv) SEPA checklist, if required for other approvals or actions
 - v) Other as requested

June 8, 2012