

Appendix G: Review of Public Access to WWRP Acquisitions

Public Recreation Access on Lands Funded with Habitat Conservation and Riparian Protection Grants

(October 11, 2015)

Issue

Agencies and organizations receiving grants from the WWRP Habitat Conservation and the Riparian Protection Accounts often restrict recreational access at these project sites or to a portion of a site. To track this issue and aid in grant management, the Recreation and Conservation Office (RCO) requires all WWRP applicants to answer the question, "Is there, or will there be, any significant public access or use restrictions? If yes, Explain." (PRISM). This also is required for the Aquatic Lands Enhancement Account, Boating Infrastructure Grants, Boating Facilities Program, Firearms and Archery Range Recreation, Land and Water Conservation Fund, Nonhighways and Off-Road Vehicle Activities, Recreational Trails Program, and Youth Athletic Facilities grants.

How Long has RCO Asked the Access Question?

RCO has asked the access question at project application since 1992, the second funding year of WWRP. In 1991, the first year of WWRP grants, RCO funded 40 Habitat Conservation Account grants. However, these projects were generated by legislative appropriation, not application.

Recreational Access Policy

The WWRP statute does not mandate that all grant-funded properties be accessible by the recreating public, but properties where recreational access exists should remain open to the public for those purposes. It states, "projects...developed or otherwise accessible for public recreational uses shall be available to the public."¹

However, a statute that describes the authority of the Recreation and Conservation Funding Board seems to require all board-funded projects be open to the recreating public. It says that "...it is the legislative intent that, to such extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of this chapter, such areas and facilities shall be publicly maintained for outdoor recreation purposes."²

¹Revised Code of Washington 79A.15.030(4)

²Revised Code of Washington 79A.25.140

For the Habitat Conservation and Riparian Accounts, the board has adopted policy that narrows the requirements of Revised Code of Washington 79a.25.140 to allow projects in the Habitat Conservation and Riparian Protection Accounts to exclude recreationists if appropriate to accomplish the grant program objectives of species and habitat protection.³

On a related note, in making funding decisions in the Habitat Conservation Account, statute requires the Recreation and Conservation Funding Board to consider the environmental benefits of the project. "In providing grants through the habitat conservation account, the board shall require grant applicants to incorporate the environmental benefits of the project into their grant applications, and the board shall utilize the statement of environmental benefits in the grant application and review process."⁴

How Much do Project Sponsors Restrict Access?

RCO has awarded 373 Habitat Conservation and Riparian Protection Accounts grants since 1991. RCO recently reviewed the applicants' responses to the access question in a sample of 216 of the funded projects. Out of 216 grants, 130 (60 percent) of the responses indicated that the project properties did not have significant restrictions on recreational use. In these cases, the grant funded properties were identified by the sponsors as open to the public, but with common use restrictions such as no motorized uses, use of existing trails, and seasonal or temporary closures to protect the resources (built and natural). Only 86 of the 216 funded grants (40 percent) had significant restrictions to public access. In these cases, based on applicant responses, either no recreational uses were allowed or only a small or peripheral portion of the property is available to recreationists. Examples of this type of access include select viewpoints or a single or perimeter trail, or access restricted to roadways only.

State Sponsors

In the 216 project sample, the Washington Department of Natural Resources and the Washington Department of Fish and Wildlife had a similar amount of funded grants, and together their grants made up 75 percent of all funded projects. For the Department of Natural Resources, 70 percent of its funded projects had significant restrictions on recreational access, primarily due to the programmatic rules in the Natural Areas Program,⁵ which prioritize natural resource preservation and scientific study over recreation. However, grants awarded to the Department of Natural Resources properties managed per the rules of its Natural Resource Conservation Areas program,⁶ offer much broader recreational access as the statute establishes a priority for "low-impact" recreation if the approved uses do not have a significant detrimental effect on natural resources. For the department, about half the funded projects in the sample

³RCO Manual 10b, *Washington Wildlife and Recreation Program, Habitat Conservation and Riparian Protection Accounts*, p5-7

⁴Revised Code of Washington 79a.15.065

⁵Revised Code of Washington 79.70

⁶Revised Code of Washington 79.71

are for Natural Area Program properties and half for Natural Resource Conservation Areas. As the conservation areas tend to be larger than natural areas, the vast majority of total acres funded is available for “low-impact” recreational uses.

With regard to hunting and motorized recreation on the department’s Natural Area Program and Natural Resource Conservation Areas lands, the department may limit access, but does not have the authority to regulate hunting. For conservation areas, the *Statewide Management Plan* adopted in 1992 indicates that hunting would be allowed only in specifically designated zones on a site-by-site basis. In practice, the department generally allows hunting in conservation areas unless otherwise prohibited for a specific reason (protection of resources for example). For natural areas, access for hunting is generally not allowed. Motorized recreation, it is not an allowed by statute on Natural Area Program and Natural Resource Conservation Areas lands because it is not “low-impact” in nature.

It may be important to note that in 2002 the Legislature made changes to the Natural Area Program statute to allow the department to identify areas where recreational access is appropriate while at the same time allowing the department to restrict access to certain areas to protect resources.

While the Washington Department of Fish and Wildlife had similar grant funding rates as the Department of Natural Resources, only 22 percent of its grant-funded projects had significant restrictions on recreational access.

Why are Some Areas Restricted and Others Not?

For the Department of Natural Resources’ Habitat Conservation Account-funded sites with significant restrictions on recreational uses, the purpose of the restrictions mainly appears to be the protection of specific plants or plant communities and habitats. For similarly restricted areas on Washington Department of Fish and Wildlife land, the purpose mainly appears to be protection of specific animal and fish species. Where access is not significantly restricted on Department of Fish and Wildlife’s grant-funded land, temporary closures to protect animals during sensitive times of year seem common.

How are Grants Used?

Rather than individual grants creating or enhancing new or stand-alone sites, the Department of Natural Resources and Department of Fish and Wildlife projects tend to be located at existing sites. In other words, over time, there are multiple grants at the same project site for its expansion or enhancement.

Local and Non-Profit Sponsors

Overwhelmingly, the local governments that applied for and received grants are western Washington cities and counties. Local agencies allow recreation on their project properties around the same rate as the Department of Fish and Wildlife. Only 20 percent of funded local

governments projects had significant restrictions on recreational uses. The sample size of non-profits (nine funded projects) is not large enough to draw conclusions, but it appears that the rate of significant restriction on recreation in these grants is around 30 percent.

Table 1: Sponsors, Grants, and Significant Restrictions on Recreational Uses (Sample of 216 of the 373 funded Habitat Conservation and Riparian Protection Accounts Projects)

Agency	Grants in Sample	Grants with Significant Recreational Access Restriction	Notes
Department of Natural Resources	83	58*	70% with significant restriction
Department of Fish and Wildlife	79	17	22% with significant restriction
Local Government	44	9	20% with significant restriction. Most common local agency is King County (7 grants)
Nonprofits	6	2	
State-Other	4	0	State Parks (3 grants)
Total	216	86	

*With regard to the Department of Natural Resources grants with significant recreational access restrictions:

- 30 grants identified the project properties as Natural Area Program sites.⁷
- 16 grants identified the project properties as Natural Resource Conservation Areas.⁸
- 13 grants identified the project properties as a combination of Natural Area Program sites and Natural Resource Conservation Areas.

Table 2: All Habitat Conservation and Riparian Protection Accounts Grants by Program and Sponsor

Habitat Conservation Account Programs*	Types of Projects	Eligible Applicants	Grants Funded by Sponsor ⁹
Natural Areas	Acquisition and Development	State Agencies	DNR = 76 WDFW = 1 State Parks = 1
Critical Habitat	Acquisition and Development	State and Local Agencies	WDFW = 80 DNR = 8 State Parks = 3 Tribes = 1
Urban Wildlife	Acquisition and Development	State and Local Agencies	Local Govt = 67 DNR = 23 WDFW = 9 State (other) = 1
State Land Restoration	Development and Renovation	DNR and WDFW	WDFW = 28 DNR = 21

⁷Revised Code of Washington 79.70

⁸Revised Code of Washington 79.71

⁹DNR=Department of Natural Resources, WDFW=Washington Department of Fish and Wildlife

Habitat Conservation Account Programs*	Types of Projects	Eligible Applicants	Grants Funded by Sponsor ⁹
Riparian Protection (Account)	Acquisition, Enhancement, Restoration	State and Local Agencies, and Non-Profits	Local Govt = 16 Non-Profits = 9 WDFW = 9 State Parks =5 DNR = 8
Total			373

*Here are the WWRP statutory definitions for the Habitat Conservation and Riparian Protection Accounts programs:

(3) "Critical habitat" means lands important for the protection, management, or public enjoyment of certain wildlife species or groups of species, including, but not limited to, wintering range for deer, elk, and other species, waterfowl and upland bird habitat, fish habitat, and habitat for endangered, threatened, or sensitive species.

(6) "Natural areas" means areas that have, to a significant degree, retained their natural character and are important in preserving rare or vanishing flora, fauna, geological, natural historical, or similar features of scientific or educational value.

(8) "Riparian habitat" means land adjacent to water bodies, as well as submerged land such as streambeds, which can provide functional habitat for salmonids and other fish and wildlife species. Riparian habitat includes, but is not limited to, shorelines and near-shore marine habitat, estuaries, lakes, wetlands, streams, and rivers.

(12) "Urban wildlife habitat" means lands that provide habitat important to wildlife in proximity to a metropolitan area. (RCW79A.15.010)

Table 3: All Habitat Conservation and Riparian Protection Accounts Grants by Project Type

Project Type	Funded Grants	
Acquisition	259	
Acquisition and Development	16	
Acquisition, Development, Restoration	1	
Development	3	
Development and Restoration	1	
Planning and Restoration	1	
Restoration	48 (all in State Lands Restoration and Enhancement Category)	ⁱ WDFW = 26 Grants DNR = 21 Grants

ⁱWDFW=Washington Department of Fish and Wildlife, DNR=Department of Natural Resources