



STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

MEETING DATE: November 2009 **ITEM NUMBER:** 5
TITLE: Funding CREP Projects in WWRP's Riparian Protection Account
PREPARED BY: Dominga Soliz, Policy and Planning Specialist
APPROVED BY THE DIRECTOR:

Proposed Action: Decision

Summary

Riparian Protection Account legislation makes projects currently enrolled in the Conservation Reserve Enhancement Program (CREP) eligible for lease extensions of at least 25 years. However, current Recreation and Conservation Funding Board (board) policy does not provide a mechanism or criteria by which the projects could be evaluated. Recreation and Conservation Office (RCO) staff worked with stakeholders to develop and gather public comment on policy options and is asking the board to consider approving the policies so that CREP projects can be considered starting with the 2010 grant cycle.

Strategic plan link

Consideration of these policy changes supports the board's objectives to (1) evaluate and develop strategic investment policies and plans so that projects selected for funding meet the state's recreation and conservation needs, and (2) fund the best projects as determined by the evaluation process.

Staff Recommendation

RCO staff recommends that the board adopt the revised policies via resolution #2009-28. Specifically, staff recommends the board:

- Fund term and permanent conservation easements, as well as lease extensions, for continuing CREP projects.
- Require the holder of title for a CREP conservation easement (or similar role in the case of a lease) funded by the Riparian Protection Account to meet the account's eligibility requirements.
- Allow the State Conservation Commission to bundle CREP projects in a single application to the Riparian Protection Account, rather than submitting a separate application for each grant, although each project will be ranked individually.
- Provide the State Conservation Commission funds for CREP projects via a master contract that includes the funded individual projects.
- Require the State Conservation Commission to partner with Conservation Districts in order to receive funding for CREP projects.



Background

When the Washington Wildlife and Recreation Program (WWRP) Riparian Protection Account was created in 2005, its enabling legislation required that projects currently enrolled in the Conservation Reserve Enhancement Program (CREP) be eligible for lease extensions of at least 25 years.

Washington's CREP program is jointly managed by the U.S. Department of Agriculture Farm Service Agency and the State Conservation Commission (Commission). The program allows landowners to receive federal and state funds for establishing buffers along salmon or steelhead bearing streams to increase water quality and wildlife habitat. The Commission has helped administer 790 CREP agreements between landowners and conservation districts. The contracts typically extend for 10 to 15 years. The first four CREP project contracts will expire in 2010, at which point they would be eligible for lease extensions through the Riparian Protection Account.

The Commission, the Farm Service Agency, and stakeholders predict most landowners will elect to renew in the federal program when their agreements expire. However, landowners who prefer to protect their buffers for more than 10 to 15 years might choose the state program. The Commission estimates that about 5 landowners per year will seek funds from the Riparian Protection Account for the next few years, with a gradual increase in participation to over 10 projects per year until about 2018. After that point, the Commission estimates that participation will plateau at 10 or fewer per year. The Commission estimates, based on current median rental rates, that a CREP project might seek about \$50,000 from WWRP for a 25-year term.

Analysis

Staff worked with stakeholders to develop the following policy proposals:

General Policy

1. Fund term and permanent conservation easements, as well as lease extensions, for continuing CREP projects.
2. Require the holder of title for a CREP conservation easement (or similar role in the case of a lease) funded by the Riparian Protection Account to meet the account's eligibility requirements.

Application and Evaluation

3. Allow the State Conservation Commission to bundle CREP projects in a single application to the Riparian Protection Account, rather than submitting a separate application for each grant.
4. Provide the State Conservation Commission funds for CREP projects via a master contract.
 - a. After the commission submits the application, each project in the bundle would be evaluated and ranked individually against other riparian protection projects. The board would then determine an amount to award the overall grant and the approved (funded) projects would be consolidated into a master contract.
5. Require the State Conservation Commission to partner with Conservation Districts in order to receive funding for CREP projects.

Stakeholders included the following:

Name	Organization
Mike Denny	Walla Walla Conservation District
Steve Martin	Snake River Salmon Recovery Board
George Boggs	Whatcom County Conservation District
Jay Gordon	Washington State Dairy Federation
Carol Smith	State Conservation Commission
Al Latham	Jefferson County Conservation District
Rod Hamilton	USDA Farm Service Agency

Funding Conservation Easements

The statute requires the board to make leases eligible in the Riparian Protection Account. Although RCO has the authority to manage leases, lease management is not a standard agency practice. Challenges to managing CREP leases include (1) providing annual rent payments within a biennial grant cycle, and (2) contracting with sponsors to provide annual payments to projects for at least 25 years. In fact, it might be impossible for RCO to guarantee rental payments for 25 years because doing so might obligate the state to guarantee payments in future biennia.

To address these challenges, staff and stakeholders suggest that board policy also make conservation easements eligible. Some of the landowners would likely be interested in maintaining CREP buffers for 25 years or more with term or permanent conservation easements. This approach would increase the likelihood of riparian protection and meet the intent of the legislation. Like other easements, funding can be provided for the project easement in one lump sum. This approach also has the advantage that it would be easier for evaluators to compare CREP easements against other Riparian Protection Account projects, which typically include easements.

Other states have developed CREP programs to continue the funding for projects that have expiring agreements with the federal Farm Service Agency. Some states have created programs that roll expiring contracts into conservation easements. Others states have created programs that extend the contract agreements. These programs typically offer landowners all of the rental payments in one lump sum in exchange for a discounted rental rate. This method helps states avoid managing annual rental payments.

Require Titleholder or Leaseholder to Meet Eligibility Requirements

Fair treatment and landowner assurances will be promoted by requiring any entity holding title to a CREP lease or easement funded through the Riparian Protection Account to meet the eligibility standards of the account. Standards include, for example, requiring the value of the land be supported by an appraisal and appraisal review and requiring the interest not be revocable at will.

Allow the State Conservation Commission to Submit a Single Grant for Multiple CREP Projects

The State Conservation Commission currently administers the CREP program in partnership with local conservation districts and with the federal Farm Service Agency. By allowing the SCC to submit a single grant application for multiple CREP projects, administrative processes will be streamlined and landowners will be encouraged to keep CREP buffers on their land.

Provide Riparian Protection Account Funds to the SCC Through a “Master Contract”

As noted at the October board meeting, the proposal distributed for public comment included three options for distributing funds to the State Conservation Commission. Although stakeholder feedback supported the idea of having the commission prioritize CREP projects outside the WWRP process, RCO staff is proposing a “master contract” method. Staff believes that this approach is most consistent with the direction that the board provided at its October 2009 meeting, promotes fairness to competing sponsors, and maintains the integrity of the WWRP grant process. Each project in the State Conservation Commission’s bundled application can be evaluated and ranked directly against other Riparian Protection Account projects. Also, direct ranking would allow CREP projects to be incorporated fairly into the ranked list submitted to the legislature.

Staff talked with the commission about their concerns regarding the master contract approach. They clarified that their concern was not with the “bundling” approach, but with the conflict between their evaluation approach and the statewide ranking done in WWRP. The commission has existing program requirements for prioritizing CREP projects and some stakeholders thought it would be simpler to avoid WWRP’s evaluation process. The commission believes that if the master contract approach were used, landowners would be better qualified than the SCC to address specific WWRP evaluation questions about CREP projects on their land. They think that the result of involving landowners in this way could be that few would choose to apply for Riparian Protection Account funds due to the time and effort required. While staff understands this approach to the ranking process raises concerns for the commission, it believes that it is the most consistent with the fundamental WWRP approach of requiring a competitive statewide ranking of projects by objective third-party evaluators.

Without specific CREP-related criteria, however, it is difficult to predict how CREP projects will score against other projects in the category. Stakeholders will meet in early 2010 to develop specific CREP criteria for board consideration.

Require the State Conservation Commission to Partner with Conservation Districts

Requiring the State Conservation Commission to partner with local conservation districts builds upon existing processes and encourages community engagement in the CREP planning process. The SCC currently partners with Conservation Districts to administer CREP projects in the federal program. In that program, the landowner signs a contract with the conservation district, the SCC submits a payment to the conservation district, and then the district releases funds to the landowner

upon satisfaction of escrow instructions. This process is similar to many other grants that are administered by the commission to conservation districts.

The State Conservation Commission has been co-managing Washington CREP contracts since 1999, so it has expertise in evaluating, prioritizing, funding, and administering CREP projects. Landowners currently enrolled in CREP through the commission are accustomed to working with conservation districts to secure funding through familiar processes. Also, the commission will not have to provide 50 percent matching resources for the projects will stakeholders believe will encourage CREP projects.

Public Review

On October 18, 2009, staff circulated a draft to about 1600 people who had expressed an interest to RCO in hearing about issues related to the Riparian Protection Account.

Only four people responded. One comment expressed concern about allowing the State Conservation Commission to bundle CREP projects into one application and to prioritize projects in the bundle. The State Conservation Commission supports the overall policy proposals, but prefers a method for distributing funds to them that avoids the WWRP evaluation process. Attachment A includes the comments received, in summary format.

Next Steps

If the board approves the policy revisions, RCO staff will implement the policies for the 2010 grant cycle.

Staff will continue to work with the stakeholder group to develop criteria related to CREP projects.

Attachments

Resolution #2009-28

- A. Public Comments on the Proposal
- B. Letter from the Conservation Commission

RESOLUTION #2009-28

Changes to WWRP Farmland Preservation Program Eligibility Criteria

WHEREAS, the 2007 Legislature allowed lease extensions of at least 25 years to receive funding through WWRP’s Riparian Protection Account for projects continuing in the Conservation Reserve Enhancement Program (CREP); and

WHEREAS, the first four CREP project contracts will expire in 2010, at which point they would be eligible for lease extensions through the Riparian Protection Account; and

WHEREAS, term and permanent conservation easements would increase the likelihood of riparian protection and meet the intent of the legislation to allow lease extensions; and

WHEREAS, current Recreation and Conservation Funding Board (board) policy does not provide a mechanism or criteria by which the CREP projects could be evaluated, and the revised evaluation policy balances the interests of efficiency and fairness to competing sponsors, and maintains the integrity of the WWRP grant process; and

WHEREAS, allowing the State Conservation Commission (commission) to submit a single grant application for multiple CREP projects, will streamline administrative processes and encourage landowners to keep CREP buffers on their land; and

WHEREAS, requiring the commission to partner with local conservation districts builds upon existing processes and encourages community engagement in the CREP planning process; and

WHEREAS, Recreation and Conservation Office (RCO) staff developed and circulated a policy proposal for public review and comment, thus supporting the board’s goal to conduct its work in an open manner; and

WHEREAS, adopting these revisions would further the board’s strategic goal to “[f]und the best projects as determined by the evaluation process”;

NOW, THEREFORE BE IT RESOLVED, that the board does hereby adopt the policies to:

- Fund term and permanent conservation easements, as well as lease extensions, for continuing CREP projects.
- Require the holder of title for a CREP conservation easement (or similar role in the case of a lease) funded by the Riparian Protection Account to meet the account’s eligibility requirements.
- Allow the State Conservation Commission to bundle CREP projects in a single application to the Riparian Protection Account, rather than submitting a separate application for each grant although each project will be ranked individually.
- Provide the State Conservation Commission funds for CREP projects via a master contract that includes the funded individual projects.
- Require the State Conservation Commission to partner with Conservation Districts in order to receive funding for CREP projects; and

BE IT FURTHER RESOLVED, that the board directs RCO staff to implement this revision beginning with the 2010 WWRP grant cycle.

Resolution moved by: _____

Resolution seconded by: _____

Adopted/Defeated/Deferred (underline one)

Date: _____

ATTACHMENT A: SUMMARIZED PUBLIC COMMENTS ON THE PROPOSED FARMLAND POLICIES

Commenter	Comments¹	Staff Response (if applicable)
Joanna Grist, Washington Wildlife and Recreation Coalition	<p>We have some concerns with the staff recommendation that the CREP leases be prioritized and bundled by the Conservation Commission into grant application. However, this is a minor issue because most existing CREP leases will wish to retain their federal funding status and will not apply. ...</p> <p>There is some concern about [the option that would give] the Conservation Commission the authority to prioritize within the one grant as it “gives away” some of the WWRP’s authority...</p> <p>We do agree that once the grant is approved it should be given to the Conservation Commission to administer</p>	<p>Staff follow-up with the WWRC found that they can support the proposal as it is being presented to the board.</p> <p>This proposal is not included in the staff recommendation.</p>
Mark Clark, Director, State Conservation Commission	<p>We are delighted with the set of WWRP proposals that add the option of extended leases and conservation easements to landowners with expiring CREP contracts.</p> <p>We fully support all of the policy proposals listed, but do want to express one serious concern over one of the options under Proposal 2. We support Options 2 and 3, but do not support Option 1, [which] states that “Each project in the application bundle could be evaluated and ranked by RCO evaluators...”</p> <p>... Option 1 will be more time-consuming for all concerned... we’ll likely have to present more background material on each project because RCO evaluators will not have familiarity with each contract as compared to the internal ranking that can be done by the Conservation Commission in Options 2 and 3.</p> <p>For Options 2 and 3 if prioritization is required by the WWRP, we can work with Conservation Districts to develop a set of standardized prioritization criteria or criteria to define eligibility tiers for expiring CREP contracts to streamline this process.</p> <p>This one concern over Option 1 should not overshadow the positive attributes presented in the remainder of the proposal document. ...</p>	<p>The commission’s full letter is attached.</p> <p>“Option 1” referred to here is the “master contract” that that is recommending. Under the other options, the Conservation Commission would prioritize the projects.</p> <p>Staff contacted the Conservation Commission regarding its concerns and our recommendation to choose the master contract option. The commission clarified that their concern is with the work involved in the WWRP ranking process, and its possible negative effect on landowner participation.</p>

¹ In some cases, the remarks have been edited for brevity.

Commenter	Comments ¹	Staff Response (if applicable)
Del Groat, Fisheries Biologist, Pomeroy Ranger Dist.	I'm in favor of both policies... The CREP program especially will continue to protect riparian habitats. Working through local boards will ensure you reach the right folks and maximize this effort.	
Greg Jones Facility Manager/ Interim Fleet Manager Chelan PUD No. 1, Wenatchee	Looks good. Thank you for asking.	