

WASHINGTON WILDLIFE AND RECREATION PROGRAM

I. Overview

Among the most rapidly growing of the Western states, Washington is also among the most biologically diverse.¹ In 1990, concerns over habitat loss and increased public demand for outdoor recreation land prompted the state legislature to create the Washington Wildlife and Recreation Program (WWRP).² The WWRP's primary goal is "to acquire as soon as possible the most significant lands for wildlife conservation and outdoor recreation purposes before they are converted to other uses."³ The program provides grant funding for the acquisition and development of local and state parks, water access sites, trails, critical wildlife habitat, natural areas, urban wildlife habitat, riparian protection, and farmland. The WWRP has awarded approximately \$405 million for projects across the state since its inception in 1990.⁴

The WWRP has authority to prioritize land acquisition based on biodiversity considerations and utilizes this authority within a habitat conservation account subprogram. The program has no current plans to explicitly reference Washington's Comprehensive Wildlife Conservation Strategy (also referred to as the wildlife action plan) in its project selection criteria.⁵ However, WWRP officials expect to reward future project applicants who demonstrate consistency with the strategy, as the program currently does with other planning documents.⁶

II. Washington's Wildlife and Recreation Program

The WWRP is administered by the Interagency Committee for Outdoor Recreation (IAC),⁷ an executive branch state agency whose board is composed of five governor-appointed citizen members and state agency directors from the Washington State Parks and Recreation Commission, Washington Department of Fish and Wildlife, and Washington Department of

¹ Washington Biodiversity Conservation Committee, Washington Biodiversity Conservation Strategy Report (October 1, 2003), *available at*:

http://www.iac.wa.gov/Documents/IAC/Special_Projects/Biodiversity/BiodiversityStrategyReport.pdf.

² Washington Wildlife and Recreation Program, *FAQ*, at http://www.iac.wa.gov/iac/grants/wwrp_faq.htm (© 2003).

³ WASH. REV. CODE § 79A.15.005.

⁴ Telephone Interview with Marguerite Austin, Manager, Recreation & Habitat Section, Project Services Division, Interagency Committee for Outdoor Recreation (March 23, 2005); Washington Wildlife and Recreation Program, *Fact Sheet*, at http://www.iac.wa.gov/Documents/IAC/Grants/WWRP/WWRP_fact_sheet.pdf (last visited April 28, 2005).

⁵ For information on Washington's State Wildlife Action Plan, *see*: Washington Department of Fish and Wildlife, Wildlife Conservation, *Washington's Comprehensive Wildlife Conservation Strategy*, at <http://wdfw.wa.gov/wlm/cwcs/> (© 2004).

⁶ Telephone Interview with Marguerite Austin, Manager, Recreation & Habitat Section, Project Services Division, Interagency Committee for Outdoor Recreation (December 21, 2005)

⁷ The IAC also administers Washington's federally funded Land and Water Conservation Fund (<http://www.iac.wa.gov/iac/grants/lwcf.htm>), and the Salmon Recovery Funding Board, which uses state and federal monies to support salmon recovery through habitat protection and restoration projects (<http://www.iac.wa.gov/srfb/default.asp>).

Natural Resources.⁸ The IAC has a number of biologists and ecologists on staff, although none are specifically dedicated to the WWRP.⁹

Program Funding

Program funds are derived from the sale of general obligation bonds authorized through biennial legislative appropriations. Funding is divided equally between the program's habitat conservation and recreation accounts.¹⁰ During the first ten years of the program (1990 to 2000), the legislature appropriated an average of \$33 million per year for the WWRP.¹¹ Beginning in Fiscal Year 2001, appropriations dropped to \$45 million every two years.¹² Monies are distributed as grants to state and local agencies. Within the habitat conservation account, the statute specifies that monies be allocated as follows: 35 percent for the acquisition and development of critical habitat; 20 percent for natural areas; and 15 percent for urban wildlife habitat. The remaining 30 percent may be used to fund high priority projects in any subprogram area.¹³ Between 1990 and 2003, critical habitat projects received 23 percent of total WWRP funds, while natural areas projects received 13 percent and urban wildlife projects received 13 percent.¹⁴

WWRP funds are available to state agencies, municipal and county agencies, tribal governments, park and recreation districts, and port and school districts.^{15,16} Local agencies are required to match granted funds by a minimum of 50 percent. All grant applicants are required to submit evidence that their projects are supported by a plan that includes: an explanation of the applicant's long-range goals and objectives; a description of current conservation and recreation conditions; and a description of the demand and need for land acquisition.¹⁷

III. Land Protection Strategy

Land Protection and Prioritization

As mentioned above, the WWRP habitat conservation account funds critical habitat projects, natural areas projects, and urban wildlife habitat projects. Authorizing legislation defines "critical habitat" as "lands important for the protection, management, or public enjoyment of

⁸ Office of the Interagency Committee, *About The Board*, at <http://www.iac.wa.gov/iac/board.htm> (© 2003).

⁹ Austin, *supra* note 4.

¹⁰ Washington Wildlife and Recreation Program, *supra* note 2; WASH. REV. CODE § 79A.15.030.

¹¹ Trust for Public Land, *Funding Profile: Washington*, at http://www.tpl.org/tier3_cdl.cfm?content_item_id=885&folder_id=706 (© 2005).

¹² *Id.*; Austin, *supra* note 4.

¹³ It should be noted that in meeting the "most pressing needs" for critical habitat, natural areas, and urban wildlife habitat, the statute does not require the percentages to be met in any one biennium. WASH. REV. CODE § 79A.15.010.

¹⁴ Washington Wildlife and Recreation Program, *supra* note 4.

¹⁵ Washington Wildlife and Recreation Program, *supra* note 2.

¹⁶ During the 1990s, the Washington State Legislature approved a pilot program to fund land trust participants in acquiring conservation easements for riparian habitats. Though the program does not currently allow direct land trust participants, land trusts commonly partner with state and local agencies on WWRP land acquisition projects. Furthermore, as of 2005, a bill currently that would open the riparian category (and possibly another category) to land trusts was before legislature. Austin, *supra* note 4.

¹⁷ Washington Wildlife and Recreation Program, *Policies and Project Selection*, available at http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10.pdf (January 28, 2003).

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 populations.”¹⁸ “Natural areas” are defined as “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.”¹⁹ “Urban wildlife habitat” includes “lands that provide habitat important to wildlife in proximity to a metropolitan area.”²⁰

Projects funded under the WWRP habitat account utilize several open space land protection tools, including fee title acquisition, conservation easements, and leases.²¹ Project evaluation criteria are used to assess proposals and determine acquisition priorities.²² Biodiversity-related criteria, as specified in the statute, include “diversity of species using the site,” “quality of the habitat,” and “presence of endangered, threatened, or sensitive species,” in addition to other conservation factors.²³ The evaluation criteria were developed in consultation with scientists from the Washington Department of Natural Resources (WDNR), Washington Department of Fish and Wildlife (WDFW), and private citizens and were revised in the late 1990s to increase emphasis on ecological and biological characteristics, including whether the proposed project will support a diversity of special status species and communities.²⁴

An evaluation team of eight individuals leads the project selection process for each category (critical habitat, natural areas, and urban wildlife habitat). The team must include at least one representative each from the WDNR and the WDFW. Remaining members are chosen by IAC staff and must have experience and expertise in a discipline directly related to conservation science or land management.²⁵

Evaluation teams use point-based criteria to evaluate proposals for each habitat account category (critical habitat, natural areas, and urban wildlife habitat). With few exceptions, the criteria and associated points are the same for all three categories: ecological and biological characteristics (20 points); species and communities with special status (10 points); management and viability factors (15 points); public benefit (5 points).^{26,27} The ecological/biological characteristics

¹⁸ WASH. REV. CODE § 79A.15.010.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Austin, *supra* note 4.

²² See authorizing legislation for minimum criteria for each category. WASH. REV. CODE § 79A.15.060. Criteria are also further detailed the program’s policies. *See*: Washington Wildlife & Recreation Program, Evaluation Criteria, Critical Habitat Category, *available at* http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10-WWRP-CH_eval.pdf (May 16, 2003); Washington Wildlife & Recreation Program, Evaluation Criteria, Natural Areas Category, *available at* http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10-WWRP-NA_eval.pdf (May 19, 2003); Washington Wildlife & Recreation Program, Urban Wildlife Habitat, *available at* http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10-WWRP-UWH_eval.pdf (May 22, 2003).

²³ WASH. REV. CODE § 79A.15.060.

²⁴ Austin, *supra* note 4.

²⁵ Washington Wildlife and Recreation Program, *supra* note 17, at 12.

²⁶ Washington Wildlife & Recreation Program, Evaluation Criteria, Critical Habitat Category, *available at* http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10-WWRP-CH_eval.pdf (May 16, 2003); Washington Wildlife & Recreation Program, Evaluation Criteria, Natural Areas Category, *available at* http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10-WWRP-NA_eval.pdf (May 19, 2003).

evaluated include how the project is supported by a comprehensive plan (including watershed, conservation, open space, and species planning), the uniqueness or significance of the site, significant species and/or communities at the site, and how the ecological/biological qualities of the site support species or communities present. Under management and viability factors, projects that enhance existing protected lands are given priority.²⁸

Proposed projects for funding under the habitat acquisition account must also be submitted to WDNR and WDFW for review. WDNR reviews projects for consistency with the Washington Natural Heritage Program (WNHP), which collects and inventories data about existing native ecosystems and species through referrals and field inventories.²⁹ WDFW is responsible for mapping and tracking priority habitats in the state and supplies applicants with data and information about the biological qualities of their site (including information on game and non-game species, communities, and status).³⁰

The program is currently undergoing a performance evaluation of the project selection process.³¹ Additionally, the IAC, under mandate from the state legislature, completed a state land acquisition strategy in 2005 that focuses on how the state can improve biodiversity, land protection, and efforts to track public ownership property management.³²

Protection in Perpetuity

Properties that are acquired with WWRP funds must be retained in perpetuity for public outdoor recreation use,³³ a requirement made clear in a deed restriction similar to those used in the Federal Land and Water Conservation Fund.³⁴ However, the IAC has authority to approve conversions when a substitution or replacement project provides natural resources of at least equal fair market value and equivalent or greater usefulness and location.³⁵ Conversions are approved on a regular basis, but typically only involve a small portion of a protected property (e.g. cases that involve Washington Department of Transportation road widening projects).³⁶

²⁷ The urban wildlife habitat category scores out of 60 possible points, with 5 additional points for public use and 5 additional points for population and proximity to nearest urban areas. Washington Wildlife & Recreation Program, Urban Wildlife Habitat, *available at* http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10-WWRP-UWH_eval.pdf (May 22, 2003).

²⁸ Washington Wildlife & Recreation Program, Evaluation Criteria, Critical Habitat Category, *available at* http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10-WWRP-CH_eval.pdf (May 16, 2003); Washington Wildlife & Recreation Program, Evaluation Criteria, Natural Areas Category, *available at* http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10-WWRP-NA_eval.pdf (May 19, 2003); Washington Wildlife & Recreation Program, Urban Wildlife Habitat, *available at* http://www.iac.wa.gov/Documents/Manuals&Forms/Manual_10-WWRP-UWH_eval.pdf (May 22, 2003).

²⁹ Austin, *supra* note 4; Washington Natural Heritage Program, Washington State Department of Natural Resources, *About Washington Natural Heritage Program*, at <http://www.dnr.wa.gov/nhp/about.html> (Last visited May 4, 2005).

³⁰ Austin, *supra* note 4.

³¹ *Id.*

³² Telephone Interview with Marguerite Austin, Manager, Recreation & Habitat Section, Project Services Division, Interagency Committee for Outdoor Recreation (July 28, 2005).

³³ Washington Wildlife and Recreation Program, *supra* note 2.

³⁴ Austin, *supra* note 4.

³⁵ Washington Wildlife and Recreation Program, *supra* note 17, at 14.

³⁶ Austin, *supra* note 4.

The WWRP does not provide funding for long-term management, monitoring or stewardship of lands acquired through the program. There have been several failed attempts to find funding for stewardship, and, although the state legislature has mandated the WWRP to formalize a stewardship plan, the program lacks the funds to carry out this mandate.³⁷

IV. State Wildlife Action Plan

The Washington Department of Fish and Wildlife developed the state wildlife action plan (also known as the Comprehensive Wildlife Conservation Strategy). Guiding principles used in developing the strategy included: addressing species and habitats with greatest conservation need, while recognizing the importance of maintaining the presence of common species; building/strengthening partnerships with other conservation agencies; and incorporating the recommendations of the Washington Biodiversity Strategy Report.³⁸

As of December 2005, WWRP staff had no formal plan to integrate the strategy into their land acquisition prioritization process. However, since WWRP grant applicants must link their project to a current plan, program officials anticipate that future projects will use the strategy in conjunction with other open space/conservation plans to support their proposals. Project proposals that reference the wildlife action plan will receive increased emphasis, as with other planning documents. Furthermore, WWRP officials anticipate that during the next round of selection criteria updates, the program may take the opportunity to formally integrate the strategy into their selection criteria.³⁹

V. Summary

The Washington Wildlife and Recreation Program has statutory authority to prioritize land acquisition projects based on biodiversity considerations—particularly with respect to species, communities, and habitats with special status. The WWRP funds state and local agency projects that improve the state's biodiversity by protecting natural areas, critical wildlife habitat, and urban wildlife habitat, in addition to funding recreation-focused projects. Although the WWRP has no formal plans to integrate the state wildlife action plan into their project selection criteria, future project proposals that demonstrate consistency with the plan will likely be recognized during grant selection processes.

³⁷ *Id.*

³⁸ Washington Department of Fish and Wildlife, Wildlife Conservation, *Washington's Comprehensive Wildlife Conservation Strategy*, at <http://wdfw.wa.gov/wlm/cwcs/> (© 2004).

³⁹ Austin, *supra* note 6.