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STATE OF WASHINGTON

WASHINGTON STATE PARKS AND RECREATION COMMISSION

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January 29, 2015

Item E-1: Non-Recreational Motorized Use of State Park Long Distance Trail Corridors – Requested Action

EXECUTIVE SUMMARY: This item asks the Washington State Parks and Recreation Commission to adopt new agency policy on non-recreational motorized use of state park long-distance trail corridors. This item additionally asks the Commission to amend Policy 55-06-1 Real Estate Transactions and Non-Recreational Uses of Parklands to delegate to the Director or Designee the ability to permit motorized access on long-distance trails. This item is consistent with the Commission Transformation Strategy “Demonstrate that all Washingtonians benefit from their state parks” and the agency culture and core values.

SIGNIFICANT BACKGROUND INFORMATION:

Washington State Parks operates 455 miles of long-distance trails in five separate trail corridors. These trails, all former railroad rights-of-way, include Iron Horse State Park Trail, Willapa Hills State Park Trail, Klickitat State Park Trail, Columbia Plateau State Park Trail, and Spokane River Centennial State Park Trail. The current condition of the trail corridors varies. For example, Spokane River Centennial State Park Trail is paved for its entire length, while the portion of Iron Horse west of the Columbia River is surfaced in compacted crushed rock, and the center portion of the Columbia Plateau Trail is as yet unimproved, retaining its original railroad ballast surfacing. The use patterns on these trails are also quite varied, from the heavily used Centennial Trail, to the moderately used Willapa Hills Trail near Chehalis, to the lightly used portion of Iron Horse in Adams County. All the trails, however, play important roles as portions of a long-term vision of a comprehensive cross-state trail system, connecting parks and communities across the state, and sparking the imagination of trail users in Washington and beyond.

Many of the trail corridors for at least part of their length cross rural agricultural lands, and in some cases, a single landowner owns lands on both sides of a trail. The Washington State Parks and Recreation Commission (Commission) has recognized and confirmed the rights of adjoining landowners’ pre-existing agricultural and forestry operations adjacent to its long-distance trails, and in Commission Policy 55-06-1, the Commission delegated to the Director the ability to permit these landowners access across or parallel to the trails, but not move in linearly on the actual trail tread, for temporary agricultural, forest management, or other uses.

In addition to Policy 55-06-1, until 2014 there was also a state statute that prohibited most motorized use on a portion of Iron Horse State Park Trail. State Parks has, however, received requests from adjacent landowners to allow them to drive on portions of state park long-distance

trails in order to practice agriculture on otherwise difficult-to-access properties. State Parks was able to (at the Commission level) consider such requests for most of its long-distance trails, but not for the portion of Iron Horse covered by the statute. So in recognition of the importance of being a good neighbor, and in the interests of consistent management of its long-distance trails throughout the state, State Parks requested legislation in 2014 to remove the prohibition of motorized vehicles on Iron Horse, and committed to developing a policy to determine when and how to permit non-recreational motorized use of its long-distance trails by adjacent landowners. That bill (HB 2225) passed, and was signed by the Governor in March 2014.

PUBLIC PROCESS

In August 2014, staff began work to develop a policy that would allow reasonable vehicular access by adjacent landowners while protecting State Parks facilities and resources, as well as the safety and recreational experience of trail users. Staff developed a project webpage (<http://j.mp/1qKo6Qa>) to share information on the policy development with the public, and put together a project contact list that included:

- Recreational trail user groups
- State and local elected officials
- Tribes
- Most adjacent landowners

The public process to develop the policy included four stages:

1. Seeking initial public input
2. Developing a draft policy based on that input
3. Seeking input on the draft policy
4. Developing a staff-recommended policy based on that input

Initial Public Input

Staff sent a mailing to the project contact list to ask for initial input to guide policy development. The mailing directed the public to the project webpage, where a document asked the following questions:

- When and where is motorized use of the trail surface reasonable and appropriate?
 - Should it vary depending on recreational use patterns?
 - What level of motorized use is compatible with recreational trail use?
- When motorized use is allowed, what limitations should be enforced?
 - What is a safe maximum speed for motorized vehicles?
 - How should drivers behave when encountering recreational trail users?
 - Should there be limits on seasons, days, times, or frequency of use?
- What kind of monitoring is needed to ensure state property and facilities are protected?
- What fees are appropriate?
 - How much should a permit cost?
 - How should trail damage be addressed?

The public submitted over 200 comments, and they roughly broke down as follows:

- Supports agricultural use with few or no conditions: 24 responses
- Supports agricultural use with conditions: 47 responses
- Wants no motorized use of trails at all: 100 responses

- Supports crossings only, no linear use: 7 responses
- Comments related to motorized recreation (both pro and con): 34 responses

The public comments are available for review on the project webpage.

Draft Policy

Staff used the initial public comments to develop a draft policy, which was posted to the project webpage, and a second mailing went out to invite input on the draft. Two public workshops were also held to explain the policy and gather additional input. The workshops were announced in a third mailing. A news release was also developed to announce the workshops and ask for input on the draft policy, and the story was run by at least 8 newspapers across the state.

The first workshop was held in Ellensburg on December 17, 2014, and approximately 40 people attended. The second workshop was held in Chehalis on December 19, with approximately 50 people in attendance.

Overall, Parks received nearly 200 responses to the draft policy, and those responses were used to develop the staff recommendation.

ISSUES

Some of the issues that the public or staff saw in the draft policy included:

1. *Conflict with Policy 55-06-1 Real Estate Transactions and Non-Recreational Uses of Parklands.* This policy recognized “grandfathered” crossings of State Parks long distance trails, and also delegated to the Director authority to permit non-recreational use parallel to, but not on, the trail tread for temporary agricultural, forest management, or other uses. The new draft policy 55-15-1 is in conflict with 55-06-1 because it proposes to allow some non-recreational motorized use of the trail tread.

Proposed Resolution: Revise Policy 55-06-1 to delegate to the Director authority to authorize use parallel to, and on, the trail tread, as shown in Appendix 3.

2. *Allowing motorized use at all.* Many of the public comments received urged State Parks to prohibit all motorized uses of the trails. These park visitors expressed concern over safety, specifically:
 - a. Concern that some trails or trail sections are not wide enough to allow recreationists room to pass motorized vehicles on the trail
 - b. Concern that some drivers drive too quickly to allow a recreational trail user to get out of the way
 - c. Concern that motorized vehicles may spook horses, which can result in serious injury for equestrians
 - d. Concern that motorized vehicles may pose a fire danger because there can be dry vegetation within or adjacent to the trail.

There was also concern over how motorized vehicles would change the trail experience for recreationists. There were specific concerns about noise and exhaust fumes, and some comments said that there are relatively few places for people to hike or ride a horse or

bicycle without fear of motorized vehicles, and they didn't want to lose that experience. Public commenters also expressed concern about motorized vehicles damaging the trail surface, making it more difficult for recreationists to use.

Proposed Resolution: The staff-recommended policy affirms that non-motorized recreation remains the principal use of State Parks long-distance trails, and that the safety and pleasure of park visitors must not be significantly compromised by permitted motor vehicle use. It also allows motorized use only in areas where there is no other practical alternative for access to an abutting property. When motorized use is permitted, the policy includes conditions for use that are intended to minimize safety hazards and facility damage. Staff believes that there may be cases where there are no other reasonable alternatives to access privately-owned adjacent land than to drive on the trail. By developing a policy to restrict motorized use to permit holders who need to abide by the permit conditions, staff believes that State Parks can be a good neighbor while still protecting trail users and facilities.

3. *Draft fee schedule.* Many farmers and their supporters believed that the fees in the draft policy were too high. Some of this was due to misunderstanding how the draft fee schedule worked. After hearing an explanation of the intention behind the draft fee schedule at the public workshops, there was less opposition from those in the audience, but some still requested a simpler system with lower fees overall. Other commenters thought that there should be no fees for use by adjacent property owners, in particular in those places where there was some potential that they held title or some real property interest in the right-of-way.

Proposed Resolution: The staff-recommended fee schedule, in Appendix 2, streamlines and reduces the application and processing fees, and reduces the use fees to only cover estimated costs for field staff to monitor the permitted use, plus a small per-mile fee to help cover trail surface maintenance for normal wear and tear. The underlying approach to fees would be to recoup actual public costs to allow private use of the public right-of-way.

4. *Grant or permit restrictions.* Some State Parks long-distance trails were purchased or developed with grant funding, and in many cases, there are deed restrictions or other restrictions that may limit the agency's ability to permit non-recreational use of the trails. In some parks, there may also be restrictions imposed by a local government agency through the environmental permitting process. The consequences of not abiding by such restrictions can be costly. When a grant-funded project is determined by the funding agency to have been changed from its intended use, it is called a conversion. To resolve a conversion, State Parks would need to purchase and develop new recreational land as a replacement. Another complication of grant or permit restrictions is that proposed non-recreational motorized use permits may need to gain approval from the grant or permitting agency, in addition to State Parks. As an example, the center 40' of the Willapa Hills State Park Trail corridor is subject to a deed restriction. If State Parks considers permitting non-recreational motorized use within that center 40', the permit

would also need to be reviewed through the Recreation and Conservation Office's Allowable Use Procedure to determine whether it would be a conversion.

Proposed Resolution: The staff-recommended policy states that State Parks will abide by the restrictions imposed by grant funding or permitting agencies. The agency would thus not end up needing to resolve a costly conversion. This means that State Parks may need to consult with the Recreation and Conservation Office, or others, before approving a permit, and that in some cases a decision on whether non-recreational motorized use will be allowed will take longer than the 30 days required for State Parks review.

LEGAL AUTHORITY: RCW 79A.05.030

SUPPORTING INFORMATION:

Appendix 1: State Park Long-Distance Trail Map

Appendix 2: Proposed Policy 55-15-1 Non-Recreational Motorized Trail Use Permits and Proposed Fee Schedule

Appendix 3: Proposed Revision to Policy 55-06-1 Real Estate Transactions and Non-Recreational Uses of Parklands

REQUESTED ACTION OF COMMISSION:

That the Washington State Parks and Recreation Commission

1. Revise Commission Policy 55-06-1 Real Estate Transactions and Non-Recreational Uses of Parklands to delegate to the Director or designee authority to permit non-recreational motorized access on rail trails, as shown in Appendix 3.
2. Adopt proposed Policy 55-15-1 Non-Recreational Motorized Trail Use Permits, as shown in Appendix 2.
3. Adopt proposed Fee Schedule for Non-Recreational Motorized Trail Use Permits, as shown in Appendix 2.
4. Delegate to the Director authority to make minor changes as needed to Policy 55-15-1.

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Reviewer(s):

Randy Kline, SEPA Review: Following review, staff has determined that the action proposed for the Commission by staff is exempt from the State Environmental Policy Act (SEPA) pursuant to WAC 197-11-800(19).

Christeen Leeper, Fiscal Impact Review: The Commission's adoption of this policy is intended to be cost neutral as this program is intended to be financially self-supporting. The proposed amounts in the fee schedule will need to be reviewed and revised as needed.

Michael Young, Assistant Attorney General Review: January 7, 2015

Peter Herzog, Assistant Director

Approved for Transmittal to Commission:



Don Hoch, Director

APPENDIX I
STATE PARKS LONG-DISTANCE TRAILS MAP



APPENDIX 2 PROPOSED POLICY AND FEE SCHEDULE

55-15-X Non-Recreational Motorized Trail Use Permits

I. PURPOSE

The long-term preservation of publicly owned and managed long-distance trail corridors has many economic, social, environmental, and cultural benefits, and the protection of the integrity of these corridors is of paramount importance. State Parks also recognizes that working agricultural lands benefit the state and that long-distance trails may, in some cases, act as barriers to efficient commerce. Some flexibility in allowing limited use of these corridors by motor vehicles is in the public interest.

The purpose of this policy is to provide guidance to Washington State Parks and Recreation Commission (State Parks) staff on permitting motorized non-recreational use of state park long-distance trail corridors. This policy does not apply to trail crossings, perpetual easements, park and corridor maintenance activities, emergency response activities, park concessions, or short-term special events or activities.

II. DEFINITIONS

- a. **Conversion:** In areas where land was acquired or improved with grant funding from the Recreation and Conservation Office (RCO), a conversion is a project status that results when use or function of recreation or habitat land or facilities changes to uses or functions other than those for which assistance originally was approved. Converted projects must be corrected by replacement with land and facilities of equivalent size, function, and value.
- b. **Corridor Maintenance Activity:** Repair, replacement or maintenance of fences, hedges, walls, or other structures by adjacent landowners
- c. **Equestrian:** A person riding a horse. For the purposes of this policy, as it relates to motor vehicle width restrictions, equestrian does not include wagon riders.
- d. **Flagger:** A person who provides temporary traffic control.
- e. **Long-distance trails:** Stand-alone trails or trails within linear parks, usually located on former railroad rights-of-way. State Parks long-distance trails include John Wayne Pioneer Trail, Willapa Hills Trail, Columbia Plateau Trail, Klickitat Trail, and Spokane River Centennial Trail. This policy does not apply to long-distance trails that only pass through State Parks property for a small portion of their extent, such as the Olympic Discovery Trail, the Pacific Northwest Trail, or the Discovery Trail.
- f. **Motorized recreational use:** Motorized use for the purpose of enjoyment, often using all-terrain vehicles, off-highway vehicles, or motorcycles.

- g. **Motor vehicle:** A terrestrial vehicle that is self-propelled using a motor or engine but not operated upon rails.
- h. **Non-recreational motorized use:** Motorized use of a State Parks long-distance trail for the purpose of access to an adjacent landowner's property.
- i. **Other Power-Driven Mobility Device (OPDMD):** Power-driven devices other than wheelchairs used for locomotion by individuals with mobility disabilities. They are devices powered by batteries, fuel, or other engines, and may or may not be designed primarily for use by individuals with mobility disabilities. OPDMDs include golf carts, electronic personal assistance mobility devices, such as the Segway® PT, or any other mobility device designed to operate in areas without defined pedestrian routes.
- j. **Significant degradation:** Unmitigated loss or diminishment of scarce or sensitive public resources.
- k. **Trail corridor:** A zone that includes the trail tread and the area to the sides of it, including all adjacent property owned or managed by State Parks that is dedicated to the trail and its supporting uses. The typical width of a State Parks trail corridor is 50 feet on center, or 100 feet total, but corridor widths can be narrower or wider.
- l. **Trail tread:** The portion of the trail on which people travel.

III. GENERAL PRINCIPLES

- a. Non-motorized recreation remains the principal use of State Parks long-distance trails, and the safety and pleasure of park visitors must not be significantly compromised by permitted motor vehicle use.
- b. State Parks facilities, recreational values, and natural and cultural resources must not be significantly degraded by permitted motor vehicle use. State Parks may, at its sole discretion, not approve non-recreational motorized use of a trail if impacts from such use cannot be sufficiently mitigated, as determined by State Parks.
- c. Other than OPDMDs, motorized recreational use of state park long-distance trails continues to be prohibited.
- d. Non-recreational motorized use of a trail corridor will only be considered in areas where there is no other practical alternative for access to an abutting property. A practical alternative is defined as another access route, existing or legally permissible, that is economically feasible and environmentally acceptable, as determined initially by State Parks, and finally by the appropriate permitting agencies.
- e. Non-recreational motorized use of the trail tread will not be considered in areas of high recreational use as determined by State Parks using trail counts or direct observation of recreational trail use. When evaluating a permit renewal, State Parks will also consider whether recreational use has been displaced by the

permitted non-recreational motorized use by evaluating use patterns on the impacted trail section in comparison to patterns on adjacent or similar sections of trail. If State Parks determines that recreational use would likely be high without the permitted non-recreational motorized use, the permit renewal will not be approved.

- f. Wherever feasible, and where it will not cause significant resource degradation, non-recreational motorized use should be adjacent to, rather than on, the recreational trail tread.
- g. There should be no net cost to the state to permit, maintain, monitor, or manage permitted non-recreational motorized use of State Parks trails. Permit fees should cover necessary state costs.
- h. State Parks will be the sole determiner of long-distance trail standards and condition requirements. The condition of permitted sections of trail must be maintained consistent with standards for comparable non-permitted sections of the trail.
- i. Any damage to the trail corridor caused by permitted non-recreational motorized users will be repaired to State Parks satisfaction as soon as feasible; such damage must not be allowed to accumulate for repair at the end of a use season. Permittees should consult with State Parks before undertaking any repairs. Unrepaired damage will be cause for permit revocation.
- j. Any modification to State Parks property must be approved in writing prior to construction.
- k. State Parks will abide by any deed restrictions or other requirements imposed by the RCO, other grant funding agencies, or by permitting agencies. No use that results in a conversion or that is in violation of a building or environmental permit will be permitted.

IV. OTHER REQUIREMENTS

Permits for non-recreational motorized use of State Parks long-distance trails will include language and/or contract conditions as required for the protection of the park's natural, cultural, historic, and recreational values. Such conditions may include, but are not limited to:

- a. The size and type of vehicles driven on the recreational trail tread must not prevent safe passing by pedestrians, bicyclists, skiers, or equestrians while remaining on the trail tread except under the following conditions:
 - i. The permittee provides flaggers or temporary barricades at the next road crossings or trail access points on either end of the trail section being used

- ii. The motorized use must not delay recreational use for more than 10 minutes in one occurrence, and for no more than 60 minutes in any day during daylight hours.
 - iii. The vehicle track width, including its tires or tracks, must not exceed 90% of the width of the trail tread.
- b. Vehicle weights will be limited on trail sections and bridges when warranted.
- c. Vehicle width must not exceed the width of bridge railings or curbs.
- d. Motorized use will not be permitted through tunnels.
- e. The number of permitted vehicles using the same section of trail may be limited based on recreation use demands.
- f. The speed limit for motorized use must not exceed 15 miles per hour, except within 200 feet of recreational trail users, where speed must not exceed 5 miles per hour.
- g. Vehicle operators must yield to recreational trail users within 30 feet, and come to a complete stop to allow recreational users to pass. When encountering recreational trail users with horses or other pack animals, the vehicle operator must also turn off the vehicle until the animals have safely passed, unless the vehicle operates silently.
- h. State Parks bollards, gates, or other barriers must be replaced and relocked after each use, and permittees will not duplicate keys or make keys or lock combinations available to parties other than their employees or agents.
- i. Vehicle and equipment operators shall abide by all applicable licensing and safety regulations, and will not engage in any use of State Parks land that is in violation of any Federal, State, or local law.
- j. Vehicle operators shall carry their permit, and display it when requested by State Parks staff. Permittees are responsible for ensuring any vehicle operators under their permit understand and abide by permit requirements.
- k. In times or places where fire danger is elevated, State Parks may prohibit motor vehicles on the trails entirely or may require fire prevention and fighting measures. This may include, but is not limited to, vehicle exhaust modification, or firefighting tools, extinguishers, and/or a pump unit until the fire danger is over.
- l. State Parks may restrict non-recreational motorized use during special events or while it implements repairs or capital projects.
- m. State Parks may restrict non-recreational motorized use in areas or times when priority, listed, or other sensitive species inhabit the trail corridor.

V. PROCESS

The following process will be used to determine whether a request for non-recreational motorized use is permitted:

- a. Applicant will complete State Parks Application for Real Property Agreements.

- b. State Parks staff will review the application.
- c. If staff are considering permitting the use:
 - i. Relevant information will be posted to the State Parks website for a 14-day public comment period. A notification will be sent to known interested parties. Longer comment periods may be considered in extraordinary cases, at the discretion of the Assistant Director of Parks Development.
 - ii. Staff will consult with the Recreation and Conservation Office, and submit an Allowable Use Request if needed.
- d. Final determination will be made by the Assistant Director of Parks Development. Most determinations will be made within 30 business days of application, but more time may be needed if the request must be reviewed by the Recreation and Conservation Office or other agencies.

VI. VALUATION

The State Parks and Recreation Commission sets application and processing fees and guides staff in deriving use fees in its annually revised “Fee Schedule—Real Estate and Concession Services.” Fees for non-recreational motorized use permits are only intended to cover necessary state costs to approve and manage the permit.

- a. State Parks may, at its sole discretion, consider and accept non-monetary compensation or benefits in lieu of or in addition to monetary consideration when authorizing permits or other agreements, provided the action is consistent with federal and state law and with Commission policy. The in-kind services shall be documented and accepted in writing as being of equal or greater value than the monetary fee value for the use.
- b. State Parks may, at its sole discretion, waive or reduce use fees in lieu of other considerations when the proposed user is a public entity or a non-profit organization.
- c. In addition to use fees, State Parks may require liability insurance and a surety bond or savings account assignment.

VII. ASSIGNMENT

A State Parks non-recreational motorized user permit may only be used by the permittee or the employees or agents of the permittee. The permit is not assignable.

VIII. TERM

The maximum term for a non-recreational motorized use permit on the trail tread is 5 years. State Parks reserves the right to review and cancel use based on changing circumstances. Permits shall not be cancelled without cause and any cancellation will consider costs incurred by permit holders to comply with terms of the permit (e.g., road

construction, equipment, or fencing). In trail sections with improvement projects underway at the time of application, a shorter term may be approved to allow for consideration of higher recreation use levels after the improvement project. Longer terms will be considered for use adjacent to, but not on, the recreational trail tread. After expiration, a renewal request may not be approved if conditions or recreational use patterns have changed.

IX. TERMINATION

A non-recreational motorized use permit will remain in effect during its full term unless:

- a. The permittee is twice found in violation of the terms or conditions of the permit agreement without substantive reason, as determined by State Parks.
- b. State Parks receives consistent, repeated, and substantiated complaints from recreational users or adjacent landowners about the motorized use.
- c. The cost for State Parks to maintain the trail in a condition suitable for motorized use becomes prohibitive, such as if the trail becomes unusable due to damage not caused by the permittee, and State Parks is unable to repair that damage.
- d. State Parks cancels the permit due to changing circumstances, such as increased levels of recreational use.

State Parks will communicate with the permittee before cancelling a permit, and whenever feasible will provide at least a 30-day notice of cancellation.

Washington State Parks and Recreation Commission
Non-Recreational Motorized Trail Use Permits
Fee Schedule
January 29, 2015

Use Type	Application and Processing Fee (Due at application. Not refundable) <i>(to cover staff time to review application)</i>	Use Fee (Annual) <i>(Discounts for in-kind benefit or service in lieu of fees may be considered, and must be agreed to in writing)</i>
Trail corridor maintenance, repair, and emergency use only	\$100	No Use Fee
Year-Round Use— Standard width light and medium duty vehicles	\$250	<ul style="list-style-type: none"> • \$200 <i>(for monitoring by on-site staff)</i> <li style="text-align: center;">+ • \$500/mile <i>(for anticipated increase in routine maintenance required. Fee will be reduced for shorter trail segments.)</i>
Year-Round Use— Wide or Heavy Duty Vehicles*	\$250	<ul style="list-style-type: none"> • \$200 <i>(for monitoring by on-site staff)</i> <li style="text-align: center;">+ • \$1,000/mile <i>(for anticipated increase in routine maintenance required. Fee will be reduced for shorter trail segments.)</i>
Intermittent Use	\$250	Determined case-by-case. (Prorated from year-round use.)

* Wide or heavy duty vehicles are vehicles over 97 inches in width or over 26,000 pounds gross combination weight rating.

APPENDIX 3 PROPOSED REVISION TO POLICY 55-06-1

NOTE: Proposed revisions are shown as **underlined bold** for insertions and ~~striketrough~~ for deletions.

55-06-1 Real Estate Transactions and Non-Recreational Uses of Parklands

*(Revisions approved August 9, 2012 by Agenda Item E- 1 appendix 1, **and January 29, 2015 Agenda Item E-1 appendix 3**)*

I. DEFINITIONS

- A. Non-traditional park lands – any State Parks’ property that:
 - 1. Is in whole or substantial part a former railroad right-of-way corridor (commonly referred to as a rail-trail)
 - 2. Shows evidence of previous or current industrial or commercial use
 - 3. Has been designated as “non-traditional” park land by the Commission
- B. Traditional park lands – all other properties of the State Parks system
- C. Grandfathered Access – a historical road used for agriculture (seasonal ingress/egress), forestry access, a single private residence or other limited access to privately/publicly held lands defined as less than 50 trips per year
- D. Road Crossing – either a county road crossing or private drive which can feasibly be improved or additionally developed to access property. Utilities of any form located on, over, under or within park lands are not considered Crossings
- E. Unreasonable hardship – where the next best alternate access route or crossing is proven to the satisfaction of the Director to be either economically infeasible or environmentally unacceptable
- F. Surplus park lands – those lands which the Commission has formally designated as lands under its control that cannot advantageously be used for State Parks purposes and are not consistent with, or contribute significantly towards fulfilling the agency mission
- G. Major facilities – include but are not limited to sewage treatment facilities, central utility plants, major structures, transmission lines, new transmission towers, public and private telecommunications, commercial cables or conduits, commercial buildings, pipelines, etc.
- H. Concession – any contractual agreement (*e.g.*, lease, franchise, permit, etc.) granted by the Commission for the purpose of providing public accommodations, facilities and/or services on parkland
- I. Concessionaire – the contractor, franchisee, or permittee who provides public accommodations, facilities and/or services on parkland pursuant to a concession

- J. Economic benefit: Includes cost avoidance, land or material exchange, and revenue earned to the park system as a result of the agreement

GENERAL PRINCIPLES

- A. **Park Values.** The Washington State Parks and Recreation Commission is firmly opposed to the placement on parklands of any facility, utility line, improvement or commercial facility that will have a significant adverse effect on public recreation or the natural environment. Protection of park values and the provision of public recreational needs are paramount to any other use.
- B. **Refusal of Application.** The Commission may, at its sole discretion, refuse to approve any proposed use or concession on the basis that the facility or service detracts from the natural, cultural, or recreational values of the park, or causes adverse impacts that cannot be sufficiently mitigated.
- C. **Review Criteria.** The Commission may grant uses and/or site facilities only when review criteria are met. The Commission will consider the following in reviewing any request to use park lands for non-recreational purposes and deciding whether to grant or deny such a request.
 - 1. The extent to which the requested use will impact the physical environment and recreational uses of the park lands on which the use will occur;
 - 2. The extent to which any such impacts can be mitigated to the satisfaction of the Commission. Proposals that cannot be successfully mitigated will be denied;
 - 3. The amount of revenue to be generated based on payment of compensation pursuant to the applicable fee schedule or other valuation method adopted by the Commission or otherwise provided by law.

Review Criteria for granting uses on non-traditional park lands take into account the significantly different attributes and management conditions of rail-trails and other non-traditional lands. It is the policy of the Commission to recognize the significantly different attributes and management conditions of rail-trails and other non-traditional lands, and to be more flexible in permitting non-parks uses; specifically:

- A. The Commission continues to recognize established “grandfathered” residential, agricultural, forestry and other limited use access crossings of former railroad rights-of-way, and will not assess application or use fees against holders or requestors of “grandfathered” permits. “Grandfathered” crossings may be relinquished by the owner or terminated with the owner’s consent.
- B. Existing leases of rail-trail lands will be honored for the duration of their terms. The Commission will consider renewals or new leases per RCW 79A.05.030(5).

C. Permits or easements for crossings of these rights-of-way corridors, binding on all signatories, must fulfill statutory requirements under RCW 79A.05.030 (5) and RCW 79A.05.070 (7); be approved as to form by the AAG; and follow Commission policy and objectives as detailed in the *LANDS Manual, Volume One: Narrative and Data Tables*.

D. The Commission recognizes and confirms the rights of adjoining landowners' pre-existing agricultural and forestry operations on lands adjacent to the rail-trails.

The Director or designee may permit access or other use parallel to, ~~but not on~~ **or in some cases on**, the recreational trail within the right-of-way corridor of a rail-trail, for temporary agricultural, forest management or other uses under such terms and conditions as deemed necessary to protect the public interests.

E. Valuation. The Commission sets application and processing fees and guides staff in deriving use fees per its annually revised "Fee Schedule – Real Estate and Concession Services."

1. Staff may use other agencies' appraisals in deriving value of lands to be leased. In the event no independent appraisal is required, fair rental shall be determined through staff review, evaluation and negotiation.
2. The Commission may consider and accept non-monetary compensation or benefits in lieu of or in addition to cash or monetary consideration when authorizing leases, permits, easements or other agreements; Provided, the action is consistent with federal and state law and Commission policy. The in-kind services shall be documented and accepted in writing as being of equal or higher value than the negotiated monetary value for the use.
3. The Commission may, at its sole discretion, waive or reduce rents in lieu of other considerations when the proposed user is a public entity or a non-profit organization.

F. Waiver. Each use or concession request is unique; therefore, on a case-by-case basis, staff may request the Commission to waive specific requirements, to require additional materials, or to deviate from generally accepted criteria.

G. Other Requirements. Commission-approved agreements for non-recreational uses of parklands will include language and/or contract conditions as required for the protection of the park's natural, cultural, historic or recreational values.

Use Agreement terms and conditions, binding on all signatories, must fulfill statutory requirements under RCW 79A.05.030 (5) and RCW 79A.05.070 (7); be approved as to form by the AAG; and follow Commission policy and objectives as detailed in the *LANDS Manual, Volume One: Narrative and Data Tables*. "No permanent use may be conveyed that is not reciprocal or for the primary/sole benefit of the Commission." (Adopted May 3, 2001.)

H. Surplus Park Lands. The Commission may dispose of parklands only as authorized by statute. Surplus park property may be sold only after unanimous Commission declaration in open session of a regularly scheduled or special meeting that the property to be sold is surplus

to the needs of the state park system. Disposal of surplus park lands pursuant to RCW 79A.05.175 shall be guided by the following:

1. Staff will clearly separate the two processes of 1) designating a parcel of park lands surplus to the needs of Commission and 2) conducting subsequent property improvements, entitlements and sale activities with respect to such park lands.
2. Staff will seek to maximize the return to the State Parks system from the sale of any park lands declared surplus by the Commission, unless otherwise specifically directed by the Commission. Staff may determine that property improvements or entitlements are warranted prior to the sale of surplus property. The Commission acknowledges that prudent investments through reasonable property improvements of surplus property will return a net, positive economic value on the date of sale. Investments of this type are in the best interest of the Commission.
3. Prior to recommending disposal of surplus property to the Commission, staff will consider off-setting benefits or payments from third parties, in support of Commission goals to protect open space and natural areas. Surplus park lands shall be transferred in a natural condition, consistent with existing Commission policies and values (environmental, cultural, historic and recreational) when such transfers are economically feasible or environmentally warranted.