

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, or, in very limited circumstances and on a case-by-case basis, 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

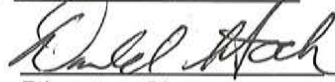
that the property to be sold is surplus to the needs of the state park system. Disposal of surplus park lands pursuant to RCW 79A.05.175 shall be guided by the following:

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.

Commission Action Date: January 29, 2015

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

Approved for publishing date: 3-2-2015


Director Signature