



CONSERVATION COMMISSION

MEETING PACKET

JULY 2015

Washington State Conservation Commission
 The Heathman Lodge
 7801 NE Greenwood Dr.
 Vancouver, WA 98662

**PRELIMINARY BUSINESS MEETING AGENDA
 THURSDAY, JULY 16, 2015**

Time	Tab	Item	Lead	Action/Info
8:30 am		Call to Order		
		<ul style="list-style-type: none"> Additions and/or corrections to the agenda 	Chair O'Keefe	
8:35 am 15 min		Introductions/Tour discussion	All	
8:50 am 40 min		Cowlitz Indian Tribe: Welcome from Chairman William Iyall & Taylor Aalvik, Natural Resource Director		
9:30 am 5 min	1	Consent Agenda		
		<ul style="list-style-type: none"> Approval of the May 21, 2015 Business Meeting Minutes Approval of June 29, 2015 Special Commission Meeting Minutes 	Chair O'Keefe	Action
9:35 am 60 min	2	Budget		
		<ul style="list-style-type: none"> Overall Budget Review 	Mark Clark	Info
		Capital Budget		
		<ul style="list-style-type: none"> Shellfish Update 	Ron Shultz & SCC LEAN Team	Action
		<ul style="list-style-type: none"> Non Shellfish Policy <ul style="list-style-type: none"> Non Shellfish Funding 	Debbie Becker	Action
		<ul style="list-style-type: none"> Budget Allocations <ul style="list-style-type: none"> Irrigation Efficiencies Implementation Engineering CREP 	Ron Shultz Debbie Becker Debbie Becker Brian Cochrane	Action Action Action Action
*****Public Comment will be allowed prior to each action item*****				
10:35 am 15 min		BREAK		
10:50 am 60 min	2	Budget (continued)		
		Operating Budget		
		<ul style="list-style-type: none"> WSCC Budget <ul style="list-style-type: none"> District Allocations WADE Contract Envirothon Contract Technical Capacity Development WACD Contract Update Carlton Complex 	Mark Clark/ Debbie Becker Debbie Becker Debbie Becker Mark Clark Mark Clark Mark Clark	Action Action Action Action Action Action

o Pacific and Grays Harbor CD Mark Clark Action

*****Public Comment will be allowed prior to each action item*****

12:00 pm LUNCH PROVIDED: Please RSVP to the Conservation Commission
30 min

12:30 pm 3 District Operations
60 min
• CD Appointed Supervisor Applications Lori Gonzalez Action
• Elections Proposed Policy Manual Bill Eller Action
Updates
• Whatcom CD Election Update Bill Eller Action
• Good Governance Ray Ledgerwood Action
• Regional Manager Report Stu Trefry Info

*****Public Comment will be allowed prior to each action item*****

1:30 pm 4 Policy/Programs
80 min
• Priority Habitat Species Update Jeff Davis, Info
WDFW
• CREP Update Brian Cochrane Info
• Non Point Plan Update Kelly Susewind, Info
ECY
• Policy Update Ron Shultz Info
o Office of Farmland
Preservation Update (OFP)

2:50 pm BREAK
10 min

3:00 pm 5 Commission Operations
20 min
• WACD Remaining Resolutions Mark Clark/Alan Action
Stromberger
• Salary Increase as Directed by Chair Action
Legislature for Executive Director

3:20 pm Executive Session to discuss personnel matters as allowed by RCW
42.30.110 (1)(i).

Adjourn Chair O'Keefe

Next Meeting: Conservation District Tour hosted by **South Yakima Conservation District** on **September 16, 2015**, and **Conservation Commission Business Meeting** will be held on **September 17, 2015**

Location:

Best Western Plus Grapevine Inn
1849 Quail Lane
Sunnyside, WA 98944

*Please note that the times listed above are estimated and may vary. Every effort will be made, however, to adhere to the proposed timelines.

If you are a person with a disability and need special accommodations, please contact the Conservation Commission at 360.407.6200

TAB 1

Washington State Conservation Commission Regular Business Meeting
Lacey, Washington
May 21, 2015

The Washington State Conservation Commission (Commission/SCC) met in regular session on May 21, 2015, in Vancouver, Washington. Chair, Clinton O'Keefe called the meeting to order at 8:30 a.m.

COMMISSIONERS PRESENT

Clinton O'Keefe, Chair, East Region
Lynn Brown, Vice Chair, Central Region
Dean Longrie, West Region
Lynn Brown, Central Region
Jim Peters, Member
Lynn Bahrych, Member
Jim Kropf, WSU-Puyallup
Perry Beale, Dept. of Agriculture
Kelly Susewind, Department of Ecology (DOE)
Todd Welker, Department of Natural Resources
Alan Stromberger, President, WA Association
of Conservation Districts (WACD)

COMMISSION STAFF PRESENT

Mark Clark, Executive Director
Debbie Becker, Finance Director
Ray Ledgerwood, District Operations Manager
Ron Shultz, Policy Director
Mike Baden, Eastern Regional Manager
Bill Eller, South Central Regional Manager
Lori Gonzalez, Administrative Assistant
Laura Johnson, Communications & Outreach

PARTNERS AT THE TABLE REPRESENTED AT THIS MEETING

Sherre Copeland, Natural Resources Conservation Service (NRCS)
Dave Vogel, Executive Director, WACD

GUESTS ATTENDED

David Stearns, WA Attorney General's Office, Harold Crose, Anna Lael, Kittitas CD, Nichole Embertson, Whatcom CD, James Weatherford, Thurston CD, John Merz, Foster Creek, David Hall, Thurston CD, Dough Rushton, Thurston CD, Carolyn Kelly, Skagit CD, Gary Farrell, Ag Enterprises, and Marie Lots, Grant CD.

CONSENT AGENDA

Motion by Commissioner Longrie to approve the March 19, 2015 Meeting minutes. Seconded by Commissioner Beale Motion passed.

Motion by Commissioner Longrie to approve the Executive Director to attend the July Multi State Conservation Tour and September NASCA Annual Meeting. Seconded by Commissioner Brown. Motion passed.

CONSERVATION DISTRICT ELECTIONS

Bill Eller, SCC Elections Officer, recommended 44 of 45 district elections be certified and announced by the Commission. Of the 44 elections recommended by staff for certification and announcement of official winners, in the opinion of staff, none of those elections had issues that rose to the level of substantial non-compliance with Commission election procedure in order to warrant not certifying and announcing those elections. The one

remaining election (Whatcom CD's) was not recommended by staff for certification and announcement of the official winner at this time as there on-going issues existed with the ballot count in that election. Commission staff recommended that the Commissioners clarify some policy language surrounding Whatcom CD's election and direct the Whatcom CD to count the outstanding ballots after that language is clarified. Commissioners voted to adopt the staff recommendation. Commissioners also appointed 30 appointees to open board appointed positions on various district boards.

Motion by Commissioner Longrie to approve and certify the 44 out of 45 conservation district supervisor elections as recommended by the Commission's Election Officer. Seconded by Commissioner Brown. Motion passed. (Whatcom CD not certified)

Motion by Commissioner Bahrych that the SCC make a policy decision to count votes that are not in a sealed inner envelope absent any other indication of fraud or tampering. Seconded by Commissioner Longrie. Motion passed.

Motion by Commissioner Longrie that if the attestation statement is not inside the outer envelope, the district shall open the inner envelope to determine whether the voter mistakenly placed their attestation statement in the inner envelope, in which case the ballot shall not be disqualified for purposes of attestation. Seconded by Commissioner Bahrych. Motion passed.

STRATEGIC PLANNING SESSION

Commission Members met the day prior to the regular business meeting on the Commission's strategic planning. Members were presented the Mission and Vision statements for review. Discussed whether they met the goal of the agency. A subcommittee of members has been working on the mission statement with Laura Johnson, Communications and Outreach Coordinator. The following was adopted for the Mission and Vision statements:

Motion by Commissioner Bahrych to accept the newly revised mission statement: To conserve natural resources on private lands, in collaboration with conservation districts and other partners. Seconded by Commissioner Longrie. Motion passed.

Motion by Commissioner Bahrych to accept the proposed change to the Vision statement. Seconded by Commissioner Longrie. Motion passed. (The Conservation Commission is recognized as *the* independent and trusted agency ~~of choice~~ that implements stewardship in the state of Washington through support of and partnership with conservation districts and through partnership with other agencies and organizations).

Motion by Commissioner Longrie to remove bullet two of the Values and keep bullet 6. Seconded by Commissioner Beale. Motion passed. (bullet 2 removed: Healthy, diverse landscapes that reflect sustainable economic use of natural resources).

CONSERVATION DISTRICT APPOINTMENTS

Lori Gonzalez, SCC staff, presented the list of applicants that turned in their applications by the March 31, 2015 deadline. These applications are for the appointed supervisor vacancies on conservation districts boards. Applications are sent to the elected area commission members for vetting. The following motions were made to appoint applicants to the conservation district boards for a full three year term, effective May 21, 2015 to May 18, 2018.

Motion by Commissioner Longrie to appoint the uncontested conservation district appointments for the southwest region. Seconded by Commissioner Brown. Motion passed. *(Ben Smith, Clallam CD, James Scott, Cowlitz CD, Janet Strong, Grays Harbor, Roger Short, Jefferson County CD, William Knutsen, King CD, Frank Varley, Kitsap CD, Scott Gruber, Pierce CD, Vickie Heater, San Juan Islands, Jeff Ellingson, Snohomish CD, Doug Rushton, Thurston CD, Cyndi Soliz, Underwood CD, Larry Davis, Whatcom CD, and Edward Adams, Whidbey Island CD).*

Motion by Commissioner Brown to appoint to appoint Cascadia, Central Klickitat, Clark and Foster Creek conservation district appointments for the central region. Seconded by Commissioner Peters. Motion passed. Commissioner Dean Longrie abstains. *(Roger Wristen, Cascadia CD, Stephen Cunningham, Central Klickitat CD, Dean Longrie, Clark CD, John McLean, Foster Creek CD).*

Motion by Commissioner Brown to appoint Rhon Raschko and Karen Van de Graaf-Erickson to the Eastern Klickitat Conservation Board. Seconded by Commissioner Longrie. Motion passed.

Motion by Commissioner Brown to appoint Gail Thornton to the North Yakima CD. Seconded by Commissioner Bahrych. Motion passed.

Motion by Commissioner O'Keefe to appoint the uncontested conservation district appointments for the eastern region. Seconded by Commissioner Beale. Motion passed. Commissioner Clinton O'Keefe abstains. *(Rob Dewald, Adams CD, Cody Chapman, Columbia CD, Jeff Schibel, Lincoln County CD, Chris Heitstuman, Palouse CD, David Johnson, Palouse Rock-Lake CD, Randall Leestma, Pend Oreille CD, Michael Hastings, Pomeroy CD, Thomas McKern, Stevens County CD, and Edward Chvatal Jr., Walla Walla CD).*

BUDGET

DRAFT Grants and Contracts Procedure Manual: Debbie Becker, Finance Director, presented the updated Grants and Contracts Procedure Manual with edits made from the 45-day open comment period. The SCC received 91 comments during this time. Ms. Becker walked through the comments that were provided in the meeting packets and highlighted the most significant changes.

Motion by Commissioner Peters to adopt the Grants and Contracts Procedure Manual to be effective July 1, 2015. Seconded by Commissioner Longrie. Motion passed.

DRAFT Capital Funds Allocation Policy: Ms. Becker presented a proposed a Capital Funds Allocation Policy to be sent out to districts per the SCC's procedure on policies. This policy was developed based on staff recommendations and from the all district budget meeting in Ellensburg, Washington. Many of the items are similar to this biennium or results in bringing them more aligned with the Shellfish allocation methodology.

Full report with comments from districts will be provided in July for final approval to be implemented in time for the July 1 biennium.

Motion by Commissioner Longrie to send the Capital Funds Allocation Policy to the districts for the 45 day comment period per the SCC's procedure on policies. Seconded by Commissioner Welker. Motion passed.

Director Clark and Ron Shultz presented the current status of the WACD contract for biennium. Contract will need to be \$62K per year for work together. There are a series of proposed elements presented:

1. Annual Meeting would be 35K
 - SCC needs to be a part of the planning committee.
 - WSCC would have at least ½ day without competing session to get full audience participation.

2. District Leadership training- approx 10-15K
 - Build the bench activities
3. Tribal Task force work approx 5-10 K
4. Legislative

Motion by Commissioner Longrie to approve the Executive Director to work with the SCC Executive Committee to assist in developing the WACD Contract -not to exceed \$65,000 per year. Seconded by Commissioner Welker. Motion Passed.

WACD 2014 RESOLUTIONS

Seven WACD 2014 resolutions relating to the SCC remain to be discussed. Four were introduced for discussion. Resolution 2014-11 Control of Noxious Weeds on Public & Private Lands, 2014-13 Enabling Conservation on the Ground in a Timely, Efficient Manner Regarding Cultural Resources Review, 2014-14 Requesting Development of Rapid Permitting and Cultural Resources Reviews During Emergencies, 2014-15 District Overhead Operating Expenditures. The other remaining three are being discussed with the other affected agencies and should be ready for Board discussion in July.

Discussion occurred regarding Cultural Resources. The SCC has developed a new policy and has included edits after the 45-day open public comment period. The new Cultural Resources policy will be in effect July 1, 2015.

The following motions were made:

Motion by Commissioner Brown to add ‘as required by the County Weed Board’ to the WACD resolution #2014-11. Seconded by Commissioner Beale. Motion passed. (*WACD and the Washington State Conservation Commission support the control of all noxious weeds listed **as required** by the Washington State Noxious Weed Board on public and private lands*).

Motion by Commissioner Brown to communicate to WACD that the SCC has revised and instituted a new policy on Cultural Resources and will continue to work in the spirit of these two resolutions. 2014-13 & 2014-14. Seconded by Commissioner Peters. Motion passed.

Motion by Commissioner Brown to accept the spirit of WACD resolution 2014-15 for Commission staff to work with WACD to assist in resolving the issue. Seconded by Commissioner Stromberger. Motion passed.

COMMISSION OPERATIONS

Director Clark shared several events coming up in July. There will be the National Association of Conservation Districts (NACD) Summer Board meeting in Spokane, Washington, July 11-13, a multi-state conservation tour and meeting, sponsored by the Idaho Conservation Commission, July 20-24, and the July 15 & 16 Commission Tour and Meeting in Clark County. SCC staff, Brian Cochrane, will present the current status of CREP eligible stream miles.

Commissioner O’Keefe adjourned the meeting at 3:27 p.m.



Conservation Commission Special Meeting
Lacey, Washington
June 29, 2015

The Washington State Conservation Commission (Commission/SCC) met in special session on June 29, 2015, in Lacey, Washington. Commissioner Jim Peters called the meeting to order at 10:04 a.m.

COMMISSIONERS PRESENT

Lynn Brown, Vice Chair
Lynn Bahrych, Member
Dean Longrie, Member
Perry Beale, Dept. of Ag
Jim Kropf, WSU
Alan Stromberger, WACD

COMMISSION STAFF

Mark Clark, Executive Director
Debbie Becker, Finance Director
Ron Shultz, Policy Director
Ray Ledgerwood, District Operations Manager
Lori Gonzalez, Executive Assistant

ATTENDEES VIA WEBINAR:

Lloyd Odell, Elsa Bowen, Jill Zaceczny, Kathy Whalen, and Terry Bruegman.

Director Clark walked through the current budget situation. The Governor has not signed the budget as of yet and has until June 30th at 11:59 p.m.

Public Comment: None

Commissioner Longrie moved to approve staff recommendation, in the event a budget is signed by the Governor and agency authorization is provided by OFM; issue the following authorities to conservation districts:

This authorization provides conservation districts the authority to incur expenses as of date and is limited to the following eligible grants/programs:

**Implementation
Engineering
CREP Technical Assistance**

This authorization does not include an anticipated grant award or contract amount. It is simply an authorization to incur expenses are allowable under the contract. In the event of an immediate or emergent need outside of the previously stated authorization, a request may be made of the executive director and executive committee.

Any additional funding decisions related to program allotments and contract awards, programs not listed, or capital allocations, will be addressed by the Conservation Commission members at their regularly scheduled meeting on July 16, 2015 in Clark County. Seconded by Commissioner Stromberger. Motion passed.

Chair Peters adjourned at 10:20 a.m.

TAB 2

2015-17 Budget Overview

Washington State Conservation Commission
Regular Meeting – July 16, 2015
Vancouver, WA

2015-17 Budget Overview

- ▶ SCC budget development process -
- ▶ Started at budget meeting with districts in Ellensburg
- ▶ Developed operating and capital budget approaches based on Ellensburg meeting recommendations
- ▶ Operating: Included recommendations on how to allocate possible reductions
- ▶ Capital: Focused on building capital budget request based on district priorities and program needs (i.e. livestock TA, Firewise, stormwater, etc.)
- ▶ SCC state agency programmatic needs – i.e. fiscal and RM resources, CREP, policy engagement, RCPP, VSP, OFP, etc.

2015-17 Budget Overview

Budget a Whole With Parts

WSCC Budget = District Budgets + Agency Needs + New Adds

Funding Sources

State	Federal	Other
General Fund Water Quality Account Columbia River Account Flood Account	EQIP CREP TSP	EPA PSP NGO Grants Other?

2015-17 Budget Overview

Budget Evaluation

2015-17 SCC Budget REQUEST / Operating & Capital

2015-17 SCC Budget ACTUAL / Operating & Capital

2015-17
SCC Budget NEEDS /
Operating & Capital

How do we
address
these needs?

2015-17 Operating Budget Overview

	<u>SCC Request</u>	<u>Gov Proposed</u>	<u>Final as Passed</u>
Maintenance Level	13,462,000	13,559,000	13,462,000
Reductions to Grants and Admin	(2,000,000**)	(722,000)	0
Various Reductions and Additions		149,000	123,000
Resource Specific Improvements	2,000,000	670,000	0
State Toxics	1,000,000	1,000,000	1,000,000
Federal Approp Authorization	2,301,000	2,301,000	2,301,000
Total	16,736,000	16,957,000	16,886,000
	(FY14) 6,819,000		(FY16) 6,775,000
	(FY15) 6,708,000		(FY17) 6,810,000
VSP	7,660,000	7,600,000	7,600,000
Carlton Complex Fire Recovery	3,247,500	7,730,000	0
Carlton Complex Supplemental (FY 2015 only)			2,703,000*

2015-17 Capital Budget Overview

	<u>SCC Request</u>	<u>Gov Proposed</u>	<u>Final as Passed</u>
CREP Riparian Cost Share	2,600,000	2,600,000	2,600,000
CREP Riparian Cost Share – Reappropriation	800,000	800,000	800,000
CREP Riparian Contract	2,231,000	2,231,000	2,231,000
CREP Riparian Contract - Reappropriation	500,000	500,000	500,000
CREP PIP Loan	100,000	100,000	0
CREP PIP Loan – Reappropriation	150,000	150,000	150,000
Natural Resource Investments- shellfish	8,000,000	4,000,000	4,000,000
Natural Resource Investments- non-shellfish	8,000,000	4,000,000	4,000,000
NR Investments Reappropriation		2,250,000	2,250,000
Match for Federal RCPP	4,000,000	4,000,000	5,000,000
Forest, Rangeland Health and Fire Resiliency	3,080,000	1,000,000	0
Disaster Recovery, Response, and Training	2,575,000	0	0
Stormwater – Green Stormwater Infrastructure	1,082,000	0	0
Irrigation Efficiencies (via Ecology)	8,000,000	4,000,000	4,000,000
WWRP – Lust Family Farm Ranch Preservation	1,704,000	1,704,000	1,619,000*
SCC Ranchland Preservation Projects			7,573,000
R&D Grant – Deep Furrow Drill			350,000
Dairy Nutrient Demonstration Low Interest Loans			5,000,000

2015-17 Budget Needs Overview

Operating Budget

	<u>SCC Request</u>	<u>Gov Proposed</u>	<u>Final as Passed</u>
Resource Specific Improvements	2,000,000	670,000	0
Carlton Complex Fire Recovery	3,247,500	7,730,000	0
Carlton Complex Supplemental (FY 2015 only)			2,703,000*

* = does not carry over to new biennium

Capital Budget

NR Investments- Shellfish	8,000,000	4,000,000	4,000,000
NR Investments- Non-shellfish	8,000,000	4,000,000	4,000,000
Forest, Rangeland Health and Fire Resiliency	3,080,000	1,000,000	0
Disaster Recovery, Response, and Training	2,575,000	0	0
Stormwater – Green Stormwater Infrastructure	1,082,000	0	0
Irrigation Efficiencies (via Ecology)	8,000,000	4,000,000	4,000,000
SCC Ranchland Preservation Projects			7,573,000

Other Issues

- Livestock Technical Assistance
- Drought – short term / long term
- Fire Response Generally (beyond Carlton)

2015-17 Budget Overview

Questions?

Discussion



Washington State
Conservation Commission

July 16, 2015

TO: Conservation Commission Members
Mark Clark, Executive Director

FROM: Brian Cochrane, Habitat and Monitoring Coordinator

SUBJECT: FY 2016 CREP Technical Assistance Allocation to Districts

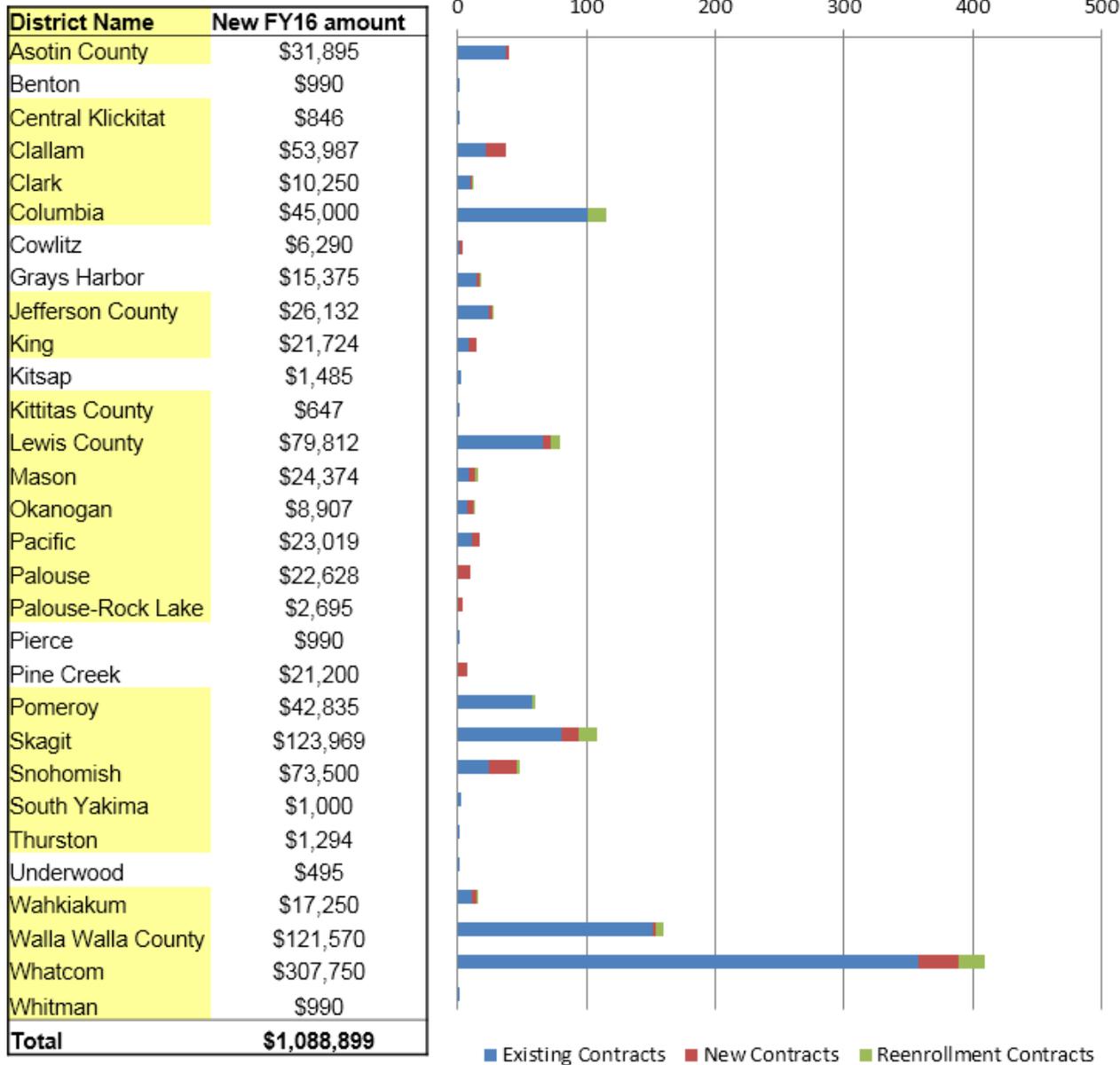
Summary: CREP technical assistance is provided to eligible CREP districts to pay for district staff time, travel, training, and equipment for activities that are directly related to implementing riparian restoration under CREP. The attached table shows the amounts to be distributed to each district to carry out their CREP functions, based on an equitable and transparent process related to program size. Staff recommends approval of the distribution method and amounts if re-appropriation funds remain at current levels.

Action Requested: Approval of staff-recommended distribution of CREP TA funds.

Staff Contact: Brian Cochrane, 360-407-7103, bcochrane@scc.wa.gov.

Description:

Staff recommends the following distribution of technical assistance funds based on relative program size:





PACIFIC CONSERVATION DISTRICT
904 WEST ROBERT BUSH DRIVE
P.O. Box 336
SOUTH BEND, WA 98586
PHONE (360) 875-6735

May 22, 2015

Dear Stu Trefry and the Washington State Conservation Commission (WSCC),
300 Desmond Drive SE
Lacey, WA 98503

The Pacific and Grays Harbor Conservation Districts have gone through a turbulent two and a half years, however both districts are looking to the future (specifically the next state biennium). In this letter I would like to explain where we were, where we are now, and where we would like to be.

Two and a half years ago, the two districts were just brought under one management staff. PCD had Mike Johnson as manager, and Janice Wetterhauer as administrator, while GHCD had a part time administrator. PCD was running 2-3 fish barrier projects per year, knotweed control in the Naselle and North River watersheds, and maybe 1-2 CPDS projects per year. PCD also coordinated the Lead Entity program for WRIA #24, and facilitated the Pacific County Marine Resource Committee. GHCD was performing farm plan updates and helping with a couple of CPDS projects per year. In addition GHCD was completing 1-2 fish passage projects per year through the local RFEG. When the two districts started co-management the districts only employed Mike and Janice. Mike Johnson was swamped doing everything. That is when Mike hired me back to help get projects completed, and co-manage the two districts together. So, for two districts there were still three employees, not enough staff to finish everything going on but still we worked many hours without pay to keep up.

Today, since the passing of Mike Johnson, I manage both districts, and Janice still administrates both districts. We have also added an Agricultural Technician, Megan Martin, a Forestry Technician, Dave Houk, a fisheries technician, Jeni Maakad, and a Natural Resources Technician, Courtney Hagain, to help with CPDS project management. Six full time employees for two districts. It is a step in the right direction, however our work load has exploded. Instead of primarily oriented around farm and fish, we have moved towards marine, estuarine, and forestry. We still cover farm and fish, but much more resource areas also.

Megan Martin has completed six CREP contracts (while monitoring many more that were completed years ago), has six more waiting of finalization from FSA, and 10 more in the hopper. She has also completed, with the help of mentors, six farm plans, and has five in line to be completed. In addition, the district, under Megan's supervision, has completed seven CPDS projects and has seven more in progress. Dave Houk has completed 25 plus forestry plans and has a monstrous list of producers waiting

for his services. Dave has also attended 6 educational forestry outreach events and is hosting his own on May 30, 2015. Finally, Dave is also helping with a research program dealing with bears browsing on trees. Jeni has either been the lead or has assisted in eight completed district fisheries projects, and five more in progress. Jeni also has been our coordinator for our PCMRC program (which also involves managing all 11 projects county wide each year), and assists with the WRIA #24 Lead Entity. Courtney is currently helping complete and process 27 cranberry producer projects and six shellfish farming producer projects. I am still the L.E. Coordinator, Vice-Chair for the PCMRC, Washington Coast Sustainable Salmon Partnership board member, and recently have been serving on the Shoreline Master Plan update. I also have been quite the "micro-manager" on most everything mentioned above. Janice is of course our nervous system and is connected to every project mentioned. The whole team is new and we have grown up fast in this industry.

Each entity we work with only sees a fraction of what we do, because they only focus on that one area we work with them on. The Salmon Recovery funding Board only reviews their projects, while the WSCC does not review SRFB projects. WDFW only reviews the PCMRC projects, while the county only reviews their projects, and Grays Harbor County and Pacific County do not see what is going on in their neighbor's county, ect. This is only the beginning because the demand for our time and efforts is growing rapidly and we have acknowledged areas we are needed but do not, as of yet, have the capacity to address.

In the future we would like to, (1.) have the staff to cover all resource concerns in our two counties, (2.) have enough staff so there is no threat of burn-out, something we are growing closer to each day (3.) have a base funding source to cover basic operations of the districts and funding to start programs or cover ad hoc projects. I added up the total of district employees in the state and divided that number by the total number of districts, the answer is roughly 6.5 employees per district. GHCD and PCD have six employees, less than half the state average. So why is this (I know, everyone asks this)?

Our districts are so diverse. We have everything from traditional farming and forest, to shellfish, finfish, and crabs. However, we are a minimally populated area and cannot muster the political clout to help the legislature understand our relevance in agriculture and resource production. Our local legislators are great but can only do so much. Also, a rates and charges system here is next to impossible to accomplish, we are not a "BPA" area, we are not in the Puget Sound, nor in the Columbia River system. My point is that when district managers and supervisors talk and communicate their needs as a body the playing field is not even. Puget Sound legislators examine their districts and see that they are doing fine with capacity and project funding, assuming the rest of the state is the same, which is far from reality. The truth is some districts rely on WSCC more than others, but when we meet as a body (such as in Ellensburg a year ago) we strive to keep things "fair". 12K a year difference makes or breaks a district like mine, but I still have to fight an assessment district for those same funds. I still haven't figured that one out yet. Some would say, "You should write more grants and write in your capacity needs into the grant". Not possible in most cases and most of the time you have to have the capacity to have the staff to write the grant in the first place. These are the real conversations we should be having at the state wide level. In addition to these frustrations, I don't understand why regulatory agencies are trying to provide and receive funding from the state legislature voluntary programs when the WSCC and RCO (the voluntary organizations) should be the organizations implementing voluntary programs. I digress.

Besides the reality that all staff in our districts are grossly under the state average in each of their positions, in the end, GHCD and PCD need: at least one more service forester (there should be one service forester in each district on the west side of the state. Yes the need is there), a water quality technician or PIC program coordinator to work in both harbors, an education and outreach specialist, two VSP coordinators (yes, I understand this comes from the county and I'm working on it), and finally but most definitely not the least need, I need an administrative assistant. A person that can be trained in the long run to replace Janice, who is overtaxed in her duties. An extra person could ease Janice's work load and can be trained not under duress.

We are trying to become a district that you all can be proud of, fill the needs of all producers who ask for help, and accomplish great projects. If you help us with capacity, either help us find/establish funding, for the next two years we will find a way to maintain the funding after the two years.

Thank you for your time and consideration,



Mike Nordin
Pacific & Grays Harbor Conservation District Manager
WRIA #24 Lead Entity Coordinator
Pacific County Marine Resources Committee Vice-Chair
Washington Coast Sustainable Salmon Partnership Board Member
360-208-4451
plutroll@willapabay.org



PACIFIC CONSERVATION DISTRICT
904 WEST ROBERT BUSH DRIVE
P.O. Box 336
SOUTH BEND, WA 98586
PHONE (360) 875-6735

Dear Commission Board Members and Commission Staff,

Thank you for the opportunity to add a fiscal note to our recent letter. I will attempt to present you with our financial requests, short justification for the request, and our goals or intent on how we will be able to stand on our own with these programs at the end of the next two years, if funded.

1. Administrative Assistant to learn from (and eventually replace???) Janice;
 - Salary \$16.00/hour \$33,000/year
 - Comp. Rate \$ 34.36 \$29,000/year
 - %25 overhead \$15,500/year
 - Total per year \$77,500 (biennium \$155,000)
 - After two years, Janice will retire and this person would take her place (not needing the funding anymore).

2. Water Quality Technician (and/or PIC coordinator) to work in both districts;
 - Salary \$18.00/hour \$38,000/year
 - Comp. Rate \$ 37.53 \$30,000/year
 - %25 overhead \$17,000/year
 - Total per year \$85,000 (biennium \$170,000)
 - Over the next two years, we will establish a PIC program with Grays Harbor County and Department of Ecology, and in Pacific County with shellfish growers to secure funding to keep this program going. We will perform a broad spectrum of grants to replace funding after the two years.

3. Information/Outreach specialist to work in both districts;
 - Salary \$16.00/hour \$33,000/year
 - Comp. Rate \$ 34.36 \$29,000/year
 - %25 overhead \$15,500/year
 - Total per year \$77,500 (biennium \$155,000)
 - If the program is successful after two years, each school district will contract with the CD's, on a small cost, to bring Project Learning Tree to elementary schools and Envirothon to high schools (each participating school divided by this positions salary). This person would also write grants and advertise district activities. Ultimately this position will be mostly covered by Rates and Charges and/or private foundation money.

4. Another Service Forester;
 - Salary \$16.00/hour \$33,000/year
 - Comp. Rate \$ 34.36 \$29,000/year
 - %25 overhead \$15,500/year
 - Total per year \$77,500 (biennium \$155,000)
 - Currently our service forester has a work load list that would keep him busy for more than two years. This list is growing very fast (keep in mind how many small forest land owners are in the districts, all of whom need to have a Forest Management Plan, or

have it updated). Half of this position would be paid for by NRCS T.A. and the other half hopefully would be paid for by the Rates and Charges.

*Our current service forester is only budgeted for 60K per year (which we do APPRECIATE), but for us to retain Dave Houk (three letters of excellence in his two years of district work) we would need to give him a raise. He currently earns \$18/hour, a DNR service forester at entry starts at 52K per year with full comp. rate. I need to be able to compete to keep Dave. It probably will cost 80K (salary, benefits, and & 25% overhead). Just something to consider.

**These requested positions cover two districts, not one. As I noted in my letter, currently both districts employ six employees (the state average is 6.5 full time FTE's per district). We are only asking for this help for two years. This would be \$635,000 for two years, covering two districts, or approximately 160k for each district per year. Giving Dave Houk a bump would be an extra 20K per year from what is allocated now.

Over the next two years, both districts are going to be working very hard at creating a "Rates and Charges" system in both counties. We have no idea if this is possible, in the past it has not, but we will not know unless we try. We will work with commission staff to accomplish creating these funding sources. Yes, we are seeking a hand out for the next two years, but we would like to show you that with some help we can create two great Conservation Districts improving resources and helping producers, that hopefully will be standing mostly on their own.

Thank you for your time and consideration,



Mike Nordin
Pacific & Grays Harbor Conservation District Manager
WRIA #24 Lead Entity Coordinator
Pacific County Marine Resources Committee Vice-Chair
Washington Coast Sustainable Salmon Partnership Board Member
360-208-4451
plutroll@willapabay.org

TAB 3

July 16, 2015

TO: Commission Members
Mark Clark, Executive Director

FROM: Bill Eller, Election Officer / Regional Manager

RE: Franklin Conservation District appointed positions term change

Summary: Franklin Conservation District's (FCD) two appointed supervisors' full terms are not staggered due to an oversight a number of years ago. Staggered appointments serve to promote conservation district board representation, health, and well-being. Renewing one supervisor's appointed term in 2015 and the other in 2016 will resolve this issue.

Action: Appoint Brad Bailie to the FCD board to serve the remainder of a full three-year term (2015-2018).

Background: Two appointed supervisors for FCD (the positions held by Brad Bailie and Scott Moore) both have their full terms ending this year (2015). Board position terms are supposed to be staggered (i.e. full-terms ending on different years) to promote equal representation and the overall health and wellbeing of the board, but a few years ago these two terms were appointed together and, as a result, their terms ran together.

[RCW 89.08.200](#) allows supervisors to serve until replaced. *"The term of office of each supervisor shall be three years and until his or her successor is appointed"*. RCW 89.08.200. To resolve this issue, staff proposes to renew one appointed supervisor this year (2015) to a full three year term, and hold the other over for renewal for a full three year term in 2016.

Staff has contacted the FCD Board, and Scott Moore has volunteered to hold off renewal of a full-term until 2016. Taking no action on Scott Moore appointment to the FCD Board until 2016 will ensure a proper spacing on the FCD Board. Brad Bailie should be re-appointed to the remainder a full three year term on the FCD Board.

Unfortunately, Mr. Bailie's application didn't arrive in time (by March 31, 2015) to consider him for appointment at the May Commission meeting for a full term, but Mr. Bailie continues to serve Franklin CD until replaced. Appointing him at this meeting (July 2015) will allow him to serve a partial-term, but will still meet the needs of staggering the two appointed FCD seats.

July 16, 2015

To: Commission Members
 Mark Clark, Executive Director

FROM: Bill Eller, Elections Officer
 Lori Gonzalez, Executive Assistant

SUBJECT: Conservation District Appointed Applications for July Meeting

Summary: The Conservation Commission received several Conservation District Appointed Supervisor Applications after the March 31, 2015 deadline. After the full term appointments were made in May, these are now considered ‘mid-term’ appointments, effective July 16, 2015 to May 17, 2018.

All applications were sent to Commissioner Dean Longrie, elected representative for the west region, Commissioner Lynn Brown, elected representative in the central region, and Commissioner Clinton O’Keefe, elected representative for the eastern region.

Applicant names were also submitted to the Department of Agriculture and Department of Ecology for further review. No concerns were reported.

A recommendation will be given by each regional member for your consideration at the regular business meeting on July 16, 2015 in Vancouver, Washington.

Below is a listing of the districts showing the incumbent and the names of the applicants. In some districts, you will see multiple applicants for the one position available.

Action requested: Appoint applicants as recommended and discussed to the appropriate conservation district board of supervisors. These will be mid-term appointments ending May 17, 2018.

West Applications for Appointed Supervisor: Commissioner Dean Longrie

Conservation District	Applicant Name	Incumbent
Lewis	David Fenn	David Fenn

Central Applications for Appointed Supervisor: Commissioner Lynn Brown

Conservation District	Applicant Name	Incumbent
South Douglas	Terry Besel	Terry Besel
Benton	Jack Clark	Jack Clark
Franklin (<i>see Bill Eller memo</i>)	Brad Bailie	Brad Bailie
South Yakima	Jon Nishi	Jon Nishi

Eastside Applications for Appointed Supervisor: Commissioner Clinton O'Keefe

Conservation District	Applicant Name	Incumbent
Whitman	Jill Pierson	Janet Turney
Whitman	Bryan Jones	Janet Turney

July 16, 2015

TO: Conservation Commission Members
Mark Clark, Executive Director

FROM: Bill Eller, Election Officer / Regional Manager

RE: Proposed Edits to the Conservation District Elections and Appointment Manual and Procedures

Summary: A number of issues that came to light during the last election cycle generated proposed edits, changes, and additional forms and procedures to the election and appointments process. Staff brings those to you for your review, input, revision, adoption and comment period before the September Commission meeting. Final adoption in September would allow the changes to be effective for the 2016 election cycle (the next cycle).

Staff recommendation: Attached to this memo is the draft Election and Appointment Manual with proposed edits. Staff recommends that the Commission propose to adopt the amended Manual for the 2016 election and appointment cycle.

Action: Staff recommends adoption (after review, input, and revision (if need be)) of the amended Election and Appointment Manual so that the adopted, proposed changes can be published to conservation districts per regular policy adoption procedures. Districts would then have time to make comments before final adoption in September. In September, the Commissioners would be presented with a final version of the changes for adoption in time for their use during the 2016 election cycle.

Background : The Commission is authorized in Chapter 89.08.190 Revised Code of Washington to establish conservation district election procedures: "The Commission shall establish procedures for elections, canvass the returns and announce the official results thereof."

The Commission has adopted election rules in WAC Chapter 135-110, effective November 19, 2010. District elections are to be conducted annually, and must comply with election rules and procedures.

The election procedures exist to assist conservation districts and conservation district supervisors in the election, appointment, and replacement of supervisors in the State of Washington, and to assure fair treatment of all parties involved in such proceedings, and to provide guidance for compliance with WAC Chapter 135-110. The changes to the Manual are accompanied by corresponding changes to election and appointment forms.

The Commission Elections Officer understands the burden on districts when new policies and procedures are instituted, therefore the need for the new policies and procedures must be clear. The number of issues that came to light during the last election cycle warrants bringing them to the Commission for consideration. After

review and possible revision, the changes would be presented to districts for comment. Final adoption in September would allow the changes to be effective for the 2016 election cycle (the next cycle).

Proposed Changes

Proposed changes include:

Election Process: Amendments to the Election and Appointment Manual on a number of subjects that came to light during the last election cycle. Specific changes include that all original election materials stay at the district. Election forms have been re-organized and moved on-line, if possible. On-line election forms will be filled out by the Election Supervisor. The intent is that by filling out these on-line forms, districts will provide all the information the Commission needs to certify and announce CD election results. Certain forms do not lend themselves to being transferred to on-line forms. Those forms will remain “paper” forms to be used by the Election Supervisor and polling officers to process the election. All “paper” forms will remain in the custody of the district, and no copies are needed at the Commission (unless requested by the Commission).

Election forms are now as follows:

On-line Forms only:

EF1 – CD Election Information (same as old election form #1)

EF2 – Candidate Verification

EF3 – Automatic Re-Election Checklist (same as before)

EF4 – Due Notice Compliance (same as old election form #5)

EF5 – Ballot Results Report (same as old election form #7)

Election Feedback Form: a new form for anyone (the public, district staff, supervisors) to use to comment on the CD election process. This form gives folks a pathway to express concerns, compliments, and other information directly with the Commission.

Paper Forms:

PF-A – Candidate Information for Elected Supervisor Position (same as old form #2)

PF-B – Nominating Petition for Elected Supervisor Position (same as old form #3)

PF-C – Poll List (same as old form #6)

PF-D – Ballot Template (same as old form)

Appointment Process: Amendments to the Election and Appointment Manual on a number of subjects that came to light during the last election cycle. Specific changes include that the appointment application is now on-line only. Therefore, districts will advertise for expiring appointee positions, direct applicants to an on-line application, and recruit applicants, but will no longer need to send applications to the Commission, nor will any original or copies of recruitment announcements need be sent to the Commission. Appointment applicants will fill out the appointment application on-line directly with the Commission. As a result of these changes, the entire Appointment process section in the Election and Appointment Manual was edited.

Appointment forms are now as follows:

On-line Forms:

AF1 – Conservation District Appointed Supervisor Application (same as old form)

AF2 – Mid-Term Elected Position Appointment Verification of Qualifications (same as old form, but re-titled)



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Election and Appointment Procedures

for

Conservation District Supervisors

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Washington State Conservation Commission
Send Mail To: PO Box 47721, Olympia, WA 98504-7721
Physical Address Only: 300 Desmond Drive SE, Lacey, WA 98503
Phone: (360) 407-6200
FAX: (360) 407-6215

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Conservation District Supervisors

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Election and Appointment Manual

Washington State Conservation Commission, POB 47721, Olympia, WA 98504-7721

Revised: 2015

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Election and Appointment Manual

Washington State Conservation Commission, POB 47721, Olympia, WA 98504-7721

Revised: 2015

**Election and Appointment Procedures
for Conservation District Supervisors**



Washington State
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Election and Appointment Manual

Washington State Conservation Commission, POB 47721, Olympia, WA 98504-7721

Revised: ~~2015~~

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Conservation District Supervisors

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SECTION 1: FUNDAMENTALS

A. Purpose – WAC 135-110-100

These procedures exist to assist conservation districts and conservation district supervisors in the election, appointment, and replacement of supervisors in the State of Washington, and to assure fair treatment of all parties involved in such proceedings, and to provide guidance for compliance with the Washington Administrative Code (WAC), Chapter 135-110.

B. Authority – WAC 135-110-100

1. The Washington State Conservation Commission is authorized in Chapter 89.08.190 Revised Code of Washington to establish conservation district election procedures: “The commission shall establish procedures for elections, canvass the returns and announce the official results thereof.” The Commission has adopted WAC 135-110, effective November 19, 2010.
2. The Conservation Commission is tasked in Chapter 89.08.160 Revised Code of Washington with appointing two supervisors who are qualified by training and experience to serve as conservation district supervisors.
3. Conservation district supervisors are required by Chapter 89.08.190 Revised Code of Washington to conduct conservation district elections annually. Such elections must comply with these procedures.
4. If any provision in these procedures or its application to any person or circumstance is held invalid, the remainder of these procedures or the application of the provision to other persons or circumstances is not affected.
5. In circumstances where these rules and/or procedures are silent or in conflict, the Commission will look to general election law (RCW Chapter 29A) rules and procedures for guidance.

C. Failure to comply with these procedures – WAC 135-110-120

1. In the event these procedures are not substantially followed, the Conservation Commission may make a determination of significant noncompliance. Significant noncompliance consists of failures to follow these procedures that, in the sole judgment of the Conservation Commission, may (1) affect the outcome of an election; (2) affect the appointment of a supervisor; or (3) deny voters their right of privacy in voting. If a determination of significant noncompliance is made, the Conservation Commission may choose not to certify the election or make the appointment.
2. If the Conservation Commission chooses not to certify an election, the conservation district must seek judicial review of the election in Superior Court.

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- 31 3. For appointment applications found to be significantly noncompliant, the conservation district or
32 applicant must correct all deficiencies on the application. The applicant and conservation district
33 must comply with these procedures before the Conservation Commission will act on an application
34 for appointment to the position of conservation district supervisor.

35 D. Disruptions prohibited – WAC 135-110-180

- 36 1. Behavior that disrupts or interferes with the election or appointment of conservation district
37 supervisors shall not be tolerated. A conservation district supervisor, a polling officer, or the election
38 supervisor may require disruptive persons to leave the premises. Such disruptive persons may be
39 asked to keep a distance of at least 300 feet away from the polling place. Law enforcement officers
40 may be called to assist in removing persons found to be disrupting or interfering with election or
41 appointment processes.

42 E. General requirements

- 43 1. Each year, either during the last quarter of the calendar year preceding an election or immediately in
44 January or February of the year in which the election will be held, each conservation district Board of
45 Supervisors must adopt a resolution setting an election date within the first quarter of the year in
46 which the election will be held. WAC 135-110-210. The date the Board of Supervisors chooses to
47 hold the election will determine when the resolution must be adopted. WAC 135-110-220. Each
48 conservation district Board of Supervisors must also appoint one election supervisor to organize,
49 coordinate, and perform functions required of the conservation district in the election and
50 appointment of conservation district supervisors. WAC 135-110-230. This information, plus a list of
51 conservation district supervisor positions expiring in the year of the election, must be posted
52 conspicuously in the conservation district office.
- 53 2. Due notice in print media, as defined in these procedures, must be provided for every full-term
54 conservation district election and every full-term conservation district appointment process. WAC
55 135-110-220 and WAC 135-110-110. Notices for both processes may be combined if the
56 conservation district so chooses. Conservation districts are strongly encouraged to exceed the
57 minimum due notice requirements to reach the maximum number of potential candidates and
58 voters.
- 59 3. For poll site elections, the conservation district Board of Supervisors must specify the location(s) for
60 polling and the hours in which polling will occur. WAC 135-110-210(2)b. Every poll site must be
61 open for at least four hours at a time convenient for voters. WAC 135-110-240(2). Every poll site
62 must have at least two polling officers present during the hours the polls are open. WAC 135-110-
63 240(2) and WAC 135-110-620. However, if the incumbent is automatically reelected, then no other

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- 64 election activities at physical poll sites or through remote election processes may be performed.
65 WAC 135-110-370. Polling places selected must have sufficient parking to accommodate the
66 expected number of voters. Polling places must be accessible to voters. WAC 135-110-250 and WAC
67 135-110-580. If the election will be held only by mail, the date set by the conservation district is the
68 end date for receiving ballots from voters, and the location will be where ballots are counted. It is a
69 good practice, however, to specify in the election notice to voters when the last day, time, and
70 location mailed ballots may be received.
- 71 4. Every candidate in a conservation district election must be a qualified district elector. WAC 135-110-
72 300. A qualified district elector is a registered voter residing within the boundary of the conservation
73 district where the candidate wishes to serve. In addition, some positions may be required to own
74 land or operate a farm to be eligible. WAC 135-110-310.
- 75 5. The filing deadline for candidates is four weeks before election day, unless, by formal action, the
76 conservation district supervisors choose a filing deadline greater than four weeks before election
77 day. WAC 135-110-330. A conservation district may not make the filing deadline less than four
78 weeks, but may make the deadline more than four weeks, by formal action of the conservation
79 district board of supervisors. WAC 135-110-330.
- 80 6. There are three types of candidates: (1) declared, (2) declared nominated, and (3) undeclared write-
81 in candidates. WAC 135-110-350. Both declared and declared nominated candidates require the
82 filing of candidate information with the conservation district by the filing deadline. WAC 135-110-
83 350. In addition, a candidate wishing to have his or her name placed on the official ballot must
84 submit to the conservation district a nominating petition signed by at least 25 nominators by the
85 filing deadline. WAC 135-110-340. A candidate who submits a nominating petition on time, but
86 without at least 25 nominators, will be considered a declared candidate. WAC 135-110-350(1).
- 87 7. An individual who does not file candidate information with the conservation district by the filing
88 deadline is not eligible to be elected. WAC 135-110-320 and WAC 135-110-355.
- 89 8. Every physical poll site must have at least two polling officers present during the hours polls are
90 open. WAC 135-110-240. The election supervisor may serve as a polling officer at one poll site.
91 WAC 135-110-470. The conservation district must provide at least two polling officers at each poll
92 site, except the election supervisor may substitute for one polling officer at one poll site. WAC 135-
93 110-620. A conservation district supervisor, employee or municipal officer may not serve as a polling
94 officer in the conservation district election, unless the person is the election supervisor appointed by
95 the conservation district supervisors. WAC 135-110-440. While there is no prohibition against a
96 relative or spouse serving as a polling officer, it is important to keep in mind WAC 135-110-150 which

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- 97 says that conservation districts, employees and supervisors must remain impartial during an
98 election. Further, with WAC 135-110-150 in mind, there is no prohibition against a conservation
99 district supervisor, employee or municipal officer from serving as a polling officer in another districts'
100 election.
- 101 9. Every individual requesting a ballot for any conservation district election must be verified as a
102 qualified district elector before a ballot is counted. WAC 135-110-610. This applies to poll-site
103 elections and to mail-in elections.
- 104 10. At a poll-site election, a contested ballot must be issued if the voter's eligibility to vote cannot be
105 determined during polling and the individual wishes to vote. WAC 135-110-610.
- 106 11. All ballots or computer voting records must be retained by the conservation district for twelve
107 months after the election has been certified, at which time they may be destroyed, unless the
108 election has not been certified by the Conservation Commission or the election has been challenged.
109 WAC 135-110-140.
- 110 12. All election forms and documents submitted to the Conservation Commission must be copies. WAC
111 135-110-130. Conservation Districts must retain the original version of all election forms until ballots
112 may be discarded. WAC 135-110-130. The Conservation Commission may inspect original
113 documents. WAC 135-110-130.
- 114 13. An employee or municipal officer of a conservation district holding an election may assist in election-
115 related activities, but may not serve as a polling officer in the conservation district where they are
116 employed, unless the employee or municipal officer is the election supervisor appointed by the
117 conservation district board of supervisors. WAC 135-110-440.
- 118 14. An applicant or candidate must be eligible to serve at the time of application or filing for the office of
119 conservation district supervisor. If, during the term of office, the individual no longer meets the
120 eligibility requirements to hold that office, the office is deemed to be vacant. WAC 135-110-910 and
121 WAC 135-110-930.
- 122 15. Elections are final when certified and the official results are announced by the Conservation
123 Commission in May of each year or later as deemed necessary by the Commission. WAC 135-110-
124 770. A supervisor-elect takes office and can begin official duties as a board supervisor when the
125 election is final, which is after the May Commission meeting. RCW 89.08.190 says that "The
126 commission shall establish procedures for elections, canvass the returns and announce the official
127 results thereof. Election results may be announced by polling officials at the close of the election
128 subject to official canvass of ballots by the commission. Supervisors elected shall take office at the

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130 first board meeting following the election.” WAC 135-110-770(1) says that “elections are final when
131 certified by the conservation commission and the official results are announced by the conservation
132 commission in May of each year or later as deemed necessary.” Read together, the RCW and WAC
133 are linked. The phrase “following the election” in the RCW is linked to the initial phrase “the
134 commission shall establish procedures for elections...” which is linked to the meaning of “final” for
135 election purposes in WAC 135-110-770(1). Elections are final when they are “certified by the
136 conservation commission and the official results are announced by the conservation commission in
137 May of each year or later as deemed necessary.” Therefore, a supervisor-elect takes office and can
138 begin official duties as board supervisor when the election is final, which is after the May
139 Commission meeting.

140 **F. Definitions – WAC 135-110-110**

141 "Absentee ballot" or "mail-in ballot" means a ballot issued to a voter before election day that can be
142 delivered to the conservation district or designated election supervisor on or before the day of the
143 election.

144 "Applicant" is an individual applying to the Conservation Commission for the office of appointed
145 supervisor of a conservation district.

146 "Appointed supervisor" is an individual appointed by the Conservation Commission to a conservation
147 district board of supervisors.

148 "Authorized conservation program" and "conservation program" mean the renewable resources
149 program defined in RCW 89.08.220(7) which includes a comprehensive long-range plan and an annual
150 plan of work.

151 "Ballot" or "official ballot" means the final, preprinted ballot containing the name of each declared,
152 nominated candidate found eligible, and at least one line where a voter may enter the name of a write-
153 in candidate.

154 "Ballot box" is a container secured against tampering into which ballots are placed.

155 "Candidate" means a person seeking the office of elected conservation district supervisor who has
156 provided the required candidate information to the conservation district by the filing deadline and
157 whose eligibility to run and to serve has been verified by the conservation district.

158 "Canvass" and "canvassing" mean to examine carefully or scrutinize the election returns for authenticity
159 and proper count.

160 "Certify" and "certification" mean the canvassing of returns and the verification of substantial
161 compliance with these procedures, as performed by the Conservation Commission.

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**Election and Appointment Procedures
for Conservation District Supervisors**



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162 "Commission" and "Conservation Commission" mean the Washington State Conservation Commission
163 governing board and all deputies and representatives authorized to act on its behalf.

164 "Commission board," "Commission governing board," "Conservation Commission board," and
165 "Conservation Commission governing board" mean the governing board of the Washington State
166 Conservation Commission.

167 "Conservation district" and "district" mean a governmental subdivision of the State of Washington
168 organized under the provisions of RCW 89.08 Conservation Districts Law.

169 "Conservation district board of supervisors," "conservation district supervisors," "district supervisors,"
170 and "supervisors" mean the governing board of a conservation district, composed of elected and
171 appointed supervisors.

172 "Conservation district supervisor," "district supervisor," and "supervisor" mean an elected or appointed
173 board member of a local conservation district governing board, in which the governing board is referred
174 to as the board of supervisors.

175 "Contested ballot" or "provisional ballot" means a paper ballot issued to a voter whose qualifications as
176 a qualified district elector cannot be determined at the time the paper ballot is issued. A provisional
177 ballot consists of two envelopes and a paper ballot.

178 "Declared nominated candidate" and "nominated candidate" means an individual found to be a qualified
179 district elector who is eligible and who has submitted the candidate information required, including a
180 qualified nominating petition, to the conservation district by the filing deadline, and the conservation
181 district has verified the eligibility of the candidate.

182 "Declared vacancy" and "declared vacant" mean a declaration by the Conservation Commission that a
183 conservation district supervisor position is vacant.

184 "Declared write-in candidate" means a person seeking the office of elected supervisor who has provided
185 the required candidate information to the conservation district by the filing deadline, and the
186 conservation district has found the person eligible.

187 "Double envelope balloting" means a paper balloting system consisting of an inner and an outer
188 envelope, where a ballot is placed in an inner envelope with no personally identifying marks on it, and
189 then the inner envelope with ballot is placed in the outer envelope upon which the voter has provided
190 sufficient information to allow polling officers to verify the eligibility of the voter.

191 "Due notice" or "notice" means a notice published at least twice, with at least six days between
192 publications, in a publication of general circulation within the affected area. If there is no such
193 publication, a notice may be posted at a reasonable number of public places within the area where it is
194 customary to post notices concerning county and municipal affairs. To illustrate, the first notice must be
195 at least one week before the event (election resolution adoption meeting or election) and the second at
196 least a day before the event (election resolution adoption meeting or election). There is no requirement
197 for publication of a legal advertisement. However, if one is used, a copy of the announcement as

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Election and Appointment Manual; Page 6

Washington State Conservation Commission, POB 47721, Olympia, WA 98504-7721

Revised: 2015

**Election and Appointment Procedures
for Conservation District Supervisors**



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198 published, showing the date of publication is sufficient proof of publication. An affidavit of publication
199 from the publisher is then not required.

200 "Elected supervisor" is a qualified district elector (1) who received more valid votes than any other
201 candidate and (2) whose election has been certified and announced by the Conservation Commission.

202 "Election supervisor" is an individual or entity appointed by a local conservation district governing board
203 to organize, coordinate, and facilitates all conservation district activities related to the election and
204 appointment of conservation district supervisors. Only the conservation district board of supervisors
205 may set election dates and appoint the election supervisor.

206 "Electioneering" is the act of soliciting or advocating votes for a specific candidate, or speaking for or
207 against a specific candidate, within 300 feet of a ballot box or voting place.

208 "Elector," "district elector," and "qualified district elector" mean an individual residing within the
209 boundary of the conservation district and registered to vote in a county where the conservation district
210 is located.

211 "Farm and agricultural land" is defined in RCW 89.08.020 as follows: "Farm and agricultural land" means
212 either (a) land in any contiguous ownership of twenty or more acres devoted primarily to agricultural
213 uses; (b) any parcel of land five acres or more but less than twenty acres devoted primarily to
214 agricultural uses, which has produced a gross income from agricultural uses equivalent to one hundred
215 dollars or more per acre per year for three of the five calendar years preceding the date of application
216 for classification under this chapter; or (c) any parcel of land of less than five acres devoted primarily to
217 agricultural uses which has produced a gross income of one thousand dollars or more per year for three
218 of the five calendar years preceding the date of application for classification under this chapter.
219 Agricultural lands shall also include farm woodlots of less than twenty and more than five acres and the
220 land on which appurtenances necessary to production, preparation or sale of the agricultural products
221 exist in conjunction with the lands producing such products. Agricultural lands shall also include any
222 parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral
223 part of farming operations being conducted on land qualifying under this section as "farm and
224 agricultural lands."

225 "Farm operator" or "operator of a farm" means a person who operates farm and agricultural land as
226 defined in these procedures, and who meets this definition when candidate information is filed with the
227 conservation district.

228 "Filing deadline" means four weeks before election day in the current election cycle, or more than four
229 weeks if a local filing deadline is adopted by formal action of the conservation district board of
230 supervisors.

231 "Full term," "regular term," and "full term of office" mean three years.

232 "Incumbent" is the person in present possession of the office of conservation district supervisor.

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233 "Landowner" means a person with legal title of record to real property in the conservation district at the
234 time of filing for election or applying for appointment.

235 "Mail-in ballot" is a double-envelope system consisting of two envelopes and a pre-printed ballot, in
236 which the ballot is inserted into an inner envelope and sealed, with no marks or other information that
237 would identify the person voting. The outer envelope shows or contains sufficient information to
238 identify the voter.

239 "Mail-in election" is an election in which mail-in ballots are provided before election day to qualified
240 voters. Voters return completed ballots to a receiving location or address authorized by the
241 conservation district board of supervisors.

242 "Malfeasance" means wrongful conduct that affects, interrupts, or interferes with the performance of a
243 supervisor's official duty. Such conduct includes, but is not limited to, the commission of some act
244 which is wrongful or unlawful, or the unjust performance of some act which the party had no right to do,
245 or the unjust performance of some act which the party had contracted not to do.

246 "Mid-term" and "mid-term vacancy" mean a vacancy in the office of conservation district supervisor,
247 when such vacancy occurs before the full term of office has been fulfilled.

248 "Municipal officer" means all elected and appointed officers of a conservation district, together with all
249 deputies and assistants of such an officer, and all persons exercising or undertaking to exercise any of
250 the powers or functions of a municipal officer.

251 "Neglect of duty" means failure by a supervisor or supervisors to perform mandatory duties. Such
252 duties include, but are not limited to, (a) compliance with local, state, and federal laws and rules, (b)
253 attendance at a reasonable number of board meetings, (c) maintaining a full and accurate record of
254 district business, (d) securing of surety bonds for board officers and employees, (e) carrying out an
255 annual financial audit, (f) providing for keeping current a comprehensive long-range program, (g)
256 providing for preparation of an annual work plan, (h) providing for informing the general public,
257 agencies, and occupiers of lands within the conservation district of conservation district plans and
258 programs, (i) providing for including affected community members in regard to current and proposed
259 plans and programs, and (j) providing for the submission of the conservation district's proposed long-
260 range program and annual work plan to the Conservation Commission.

261 "Nominated candidate" is an individual found to be a qualified district elector who is eligible and who
262 has submitted the candidate information required, including a qualified nominating petition, to the
263 conservation district by the filing deadline, and the conservation district has verified the eligibility of the
264 candidate.

265 "Nominating petition" is a list of signatures of nominators who desire a candidate's name be placed on
266 the official ballot for a conservation district election.

267 "Nominator" is a qualified district elector who signs a petition nominating an individual seeking the
268 office of elected supervisor.

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- 269 "Poll list" or "polling list" is a list of voters who voted in an election.
- 270 "Polling officer" means a person appointed by the election supervisor to verify voter eligibility, assure
271 compliance with this rule in and around the polling place, issue ballots, count ballots, and verify the
272 unofficial ballot count in writing to conservation district supervisors.
- 273 "Poll site" and "polling site" mean a location where votes are collected in a ballot box.
- 274 "Poll-site election" and "walk-in election" mean an election in which a voter signs in on a poll list,
275 receives a ballot from a polling officer, enters a vote for a candidate on the ballot, and places the ballot
276 in a ballot box at a polling place supervised or monitored by polling officers.
- 277 "Print media" means physical material on which information or instructions are printed. Print media
278 includes, but is not limited to, newspapers, magazines, newsletters, and handbills posted on bulletin
279 boards or otherwise made available to citizens. Print media may include one or more web pages on a
280 conservation district website, or on the Conservation Commission's website, if at least one notice is
281 published on physical media made widely available to potential voters. Print media does not include
282 web pages on other websites, electronic mail, social networking sites, and similar electronic information
283 sharing methods.
- 284 "Provisional ballot" or "contested ballot" means a paper ballot issued to a voter whose qualifications as
285 a qualified district elector cannot be determined at the time the paper ballot is issued. A provisional
286 ballot consists of two envelopes and a paper ballot.
- 287 "Qualified district elector" is a registered voter in the county where the district is located and who
288 resides within the conservation district boundary.
- 289 "Qualified nominating petition" is a nominating petition which contains at least 25 signatures of
290 nominators.
- 291 "Remote election" is an election in which ballots are returned by some means other than for a poll-site
292 election. A mail-in election is a type of remote election.
- 293 "Resignation" and "to resign" mean the act of providing a signed and dated written notice to the
294 Conservation Commission stating the individual's intent to terminate serving in an elective or appointive
295 office.
- 296 "Short term" or "short term of office" is a term of office less than three years in duration.
- 297 "Supervisor" means an elected or appointed board member of a local conservation district governing
298 board, in which the governing board is referred to as the board of supervisors.
- 299 "Supervisor-elect" means a supervisor who received more valid votes than any of the other candidates
300 running for the same position in a conservation district election, but the election has not yet been
301 certified by the Conservation Commission.

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**Election and Appointment Procedures
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- 302 "Tie" or "election tie" means an election where no candidate has received a simple majority of votes
- 303 cast by qualified district electors, and two or more candidates have received the same number of votes
- 304 cast by qualified district electors.
- 305 "Undeclared write-in candidate" is an individual who has not submitted required candidate information
- 306 to the conservation district and who has not submitted a qualified nominating petition by the filing
- 307 deadline.
- 308 "Voter" means a person who submits a ballot in a conservation district election.
- 309 "Voter list" is a list of registered voters obtained from the county auditor.
- 310 "Withdrawal of candidacy" and "to withdraw" means a written notice, signed and dated by the
- 311 candidate, and delivered to the conservation district, stating the person's desire to be removed from
- 312 consideration for the office of conservation district supervisor.

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Section 2: Elections

A. Information standards

1. Notice of the Intent to Adopt an Election Resolution. A notice of the intent to adopt an election resolution must be published twice, at least six days between each publishing, before the meeting to adopt the Election Resolution can be held. The purpose of this Notice is to inform the public that the District intends to have a meeting at which the date, time, place and manner of the election will be set. WAC 135-110-220. Districts may publish their adopted election resolution, and all subsequent election notices, on a Districts' web site. Districts who choose this option are required to publish the *Notice of the Intent to Adopt an Election Resolution* as usual (twice, at least a week apart, in a newspaper) accompanied by a clear statement in that notice that future election information will be posted ONLY on the districts' web site. Once that is accomplished, districts may then publish any further election notices or materials on their web site.

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2. Election resolution. The information in the election resolution must be provided to the Conservation Commission on or before the candidate filing deadline. This is accomplished by filing out form EF1 - CD Election Information, available on the Commission's elections web page at <http://scc.wa.gov/elections/>. WAC 135-110-210(3). The purpose of this Notice is to inform the public, voters and potential candidates of the date, time, place and manner of the election. This Notice must be published twice, at least six days between each publishing, before the candidate filing deadline. However, see the note above in Section 2(A)(1). Conservation districts must provide the following information:

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- a) The name of the conservation district. WAC 135-110-210(2)a.
- b) The date, physical location (address), and times polls will open and close for each polling place. WAC 135-110-210(2)b.
- c) The election method(s) selected for the election. WAC 135-110-210(2)c.
- d) The final date by which voters must request absentee ballots from the district. WAC 135-110-410.
- e) A list showing the name of each elected and appointed conservation district supervisor with a term expiring in the election and appointment cycle covered by the resolution. WAC 135-110-210(2)d.
- f) The filing deadline for candidates. WAC 135-110-210(2)e.

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**Election and Appointment Procedures
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- 346 g) Identification of an individual appointed by the conservation district to fulfill the duties of
347 election supervisor, including the mailing address, email address (if available), and phone
348 number of the election supervisor. WAC 135-110-210(2)f.
- 349 h) Dated signature of at least one conservation district supervisor attesting to this information.
350 WAC 135-110-210(2)g.
- 351 3. Candidate information. Specific information must be submitted by each candidate to the
352 conservation district. WAC 135-110-320. The form provided for this purpose by the Conservation
353 Commission is Form PF-A. Candidates must provide the following information:
 - 354 a) The name of the conservation district. WAC 135-110-320(3)a.
 - 355 b) The candidate's name, residential address, mailing address, and phone number. WAC 135-110-
356 320(3)b.
 - 357 c) Whether the candidate is a registered voter in the county where the conservation district is
358 located. WAC 135-110-320(3)c.
 - 359 d) Whether the candidate resides inside the conservation district boundary. WAC 135-110-320(3)d.
 - 360 e) Two choices, only one of which may be selected by the candidate:
 - 361 i) The candidate intends to run as a declared nominated candidate with his or her name on the
362 official ballot. This option will require a validated nominating petition from the candidate.
363 WAC 135-110-350(2).
 - 364 ii) The candidate intends to run as a declared candidate. The candidate's name will not appear
365 on the official ballot, and no nominating petition is required. WAC 135-110-350(1).
 - 366 f) Two choices, only one of which may be selected by the candidate (WAC 135-110-320(3)e):
 - 367 i) The candidate is a landowner or operator of a farm, as defined in these procedures.
 - 368 ii) The candidate is not a landowner or operator of a farm, as defined in these procedures.
 - 369 g) Dated signature of the candidate attesting to the information provided. WAC 135-110-320(3)f.
- 370 4. Nominating petition. A nominating petition is required for candidates who wish to have their names
371 pre-printed on the official ballot. WAC 135-110-340. The form provided for this purpose by the
372 Conservation Commission is Form PF-B. Candidates must provide the following information:
 - 373 a) The name of the conservation district. WAC 135-110-340(2)a.
 - 374 b) The name of the candidate. WAC 135-110-340(2)b.
 - 375 c) The name and address of each nominator. For verification purposes, this information should
376 match the information in the voter registration rolls held by the County Auditor. WAC 135-110-
377 340(2)c.

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Washington State Conservation Commission, POB 47721, Olympia, WA 98504-7721

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- 380 d) Each nominator needs to sign the petition, and by their signature, state his or her wish for the
381 candidate named in the petition to be placed on the official ballot. WAC 135-110-340(2)d.
- 382 e) A notation by the conservation district next to each nominator, identifying the nominator as a
383 qualified district elector eligible to sign the petition, or found by the conservation district to be
384 ineligible. WAC 135-110-355(3).
- 385 5. Eligibility determination. The form provided for this purpose by the Conservation Commission is
386 Form EF2, WAC 135-110-355. Conservation districts must provide the following information for
387 each candidate (declared, declared nominated, or write-in):
- 388 a) The name of the conservation district.
- 389 b) The name of the candidate or incumbent. WAC 135-110-355(2)a.
- 390 c) Whether the candidate did, or did not, submit required candidate information by the filing
391 deadline. WAC 135-110-355(2)b.
- 392 d) Whether the candidate did, or did not, submit a completed nominating petition by the filing
393 deadline. WAC 135-110-355(2)c.
- 394 e) Whether the person named on the form is, or is not, a qualified district elector on the day of
395 filing. WAC 135-110-355(2)d.
- 396 f) Whether at least two of the three elected conservation district supervisors on the conservation
397 district Board of Supervisors will be landowners or operators of farms if the candidate is elected.
398 RCW 89.08.160 requires two of the three elected supervisors to be either a landowner or
399 operator of a farm. If the election of a candidate would cause a conservation district board of
400 supervisors to contain fewer than two elected supervisors who are landowners or farm
401 operators, the candidate is not eligible to be elected. WAC 135-110-310. "Landowner" and
402 "farm operator" are two separate categories and are defined in WAC 135-110-110.
- 403 g) The dated name and signature of the conservation district representative making these
404 determinations. WAC 135-110-355(2)e.
- 405 h) The total number of nominators who signed the nominating petition, and the total number of
406 nominators found to be qualified district electors eligible to sign the petition. WAC 135-110-
407 355(3).
- 408 i) A declaration that (WAC 135-110-355):
- 409 i) the candidate did submit candidate information by the filing deadline;
- 410 ii) the candidate's nominating petition was received by the filing deadline;
- 411 iii) the candidate or named individual is a qualified district elector on the day of filing;
- 412 iv) at least 25 qualified district electors did sign the nominating petition; and

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- 414 v) such declaration to be signed and dated by a conservation district supervisor or the
415 appointed election supervisor.
- 416 6. Verification of compliance with due notice requirements. The form provided for this purpose by the
417 Conservation Commission is Form EF4, WAC 135-110-220 and WAC 135-110-110. Conservation
418 districts must provide the following information:
- 419 a) The name of the conservation district.
- 420 b) A complete list of each published notice, by date and name of publication, or in the case of
421 electronic publications, by first date of publication and the web address. Please note: There are
422 two types of election notices: (1) Notice of the Intent to Adopt an Election Resolution: the
423 purpose of this notice is to inform the public that the District intends to have a meeting at which
424 the date, time, place and manner of the election will be set. This Notice must be published
425 twice, at least six days between each publishing, before the meeting to adopt the Election
426 Resolution can be held; (2) Notice of the Adopted Election Resolution: the purpose of this Notice
427 is to inform the public, voters and potential candidates of the date, time, place and manner of
428 the election. This Notice must be published twice, at least six days between each publishing,
429 before the candidate filing deadline.
- 430 c) The dated name and signature of a conservation district supervisor or election supervisor
431 attesting to compliance with due notice requirements.
- 432 d) Copies of notices, advertisements, and publications are not required.
- 433 7. Poll list. The form provided for this purpose by the Conservation Commission is PF-C, WAC 135-110-
434 550. Conservation districts and voters must provide the following information:
- 435 a) The name of the conservation district. WAC 135-110-550(2)a.
- 436 b) The location of the poll site. WAC 135-110-550(2)b.
- 437 c) Identification of this poll list as applying to a poll-site or mail-in election. WAC 135-110-550(2)b.
- 438 d) The date the polls were open. WAC 135-110-550(2)b.
- 439 e) Each voter must provide:
- 440 i) Name. WAC 135-110-550(3)a.
- 441 ii) Address that matches the voter registration list, including city. WAC 135-110-550(3)b.
- 442 iii) Signature of the voter. WAC 135-110-550(3)c.
- 443 f) For each voter, a polling officer must determine whether the voter is eligible to vote. If eligibility
444 is contested, each such determination must be initialed by the polling officer. WAC 135-110-460;
445 WAC 135-110-610.

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- 451 8. Ballot results report. The form provided for this purpose by the Conservation Commission is Form
452 EFS, WAC 135-110-750. Conservation districts and polling officers must provide the following
453 information:
- 454 a) The name of the conservation district. WAC 135-110-750(3)a.
 - 455 b) The location of the poll site. WAC 135-110-750(3)b.
 - 456 c) Identification of this report as applying to a particular poll site or to a mail-in election. WAC 135-
457 110-750(3)b.
 - 458 d) The date of the election. WAC 135-110-750(3)b.
 - 459 e) For each candidate:
 - 460 i) Identify the candidate by name. WAC 135-110-750(4)a.
 - 461 ii) Provide the number of eligible votes counted, the number of disqualified votes counted, and
462 the total number of votes received for each candidate. The total should be the eligible votes
463 plus the disqualified votes. WAC 135-110-750(4)b and (5).
 - 464 iii) Identify the unofficial winner and whether the unofficial winner is a nominated candidate
465 listed on the official ballot or is a declared write-in candidate or is an undeclared write-in
466 candidate. WAC 135-110-750(6).
 - 467 iv) Each ballot results reporting form must be electronically signed and dated by the polling
468 officers who counted the ballots so reported. WAC 135-110-750(7).

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469 **B. Information, Forms and Reports Required and Deadlines**

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- 470 1. Conservation districts must provide the information described in the previous section to the
471 Conservation Commission. Conservation districts must use electronic or paper forms provided by
472 the Conservation Commission.
- 473 2. All documents provided to the public and to the Conservation Commission should be on white or
474 light-colored paper.
- 475 3. Due dates for information, forms, and reports,
- 476 a) Documents provided by a candidate to the conservation district.
 - 477 i) For nominated candidates, candidate information and the nominating petition is due to the
478 conservation district by the filing deadline.
 - 479 ii) For declared write-in candidates, candidate information is due to the conservation district by
480 the filing deadline.
 - 481 b) Documents provided by the conservation district to the Conservation Commission.

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- i) Conservation Districts must submit EF1 no later than the candidate filing deadline.
- ii) Information sufficient for the Commission to certify and announce a conservation district election is due to the Commission within four weeks following the conservation district's last published election date. The conservation district must retain all original documents.

Deleted: A copy of the election resolution is due to the Conservation Commission by the candidate filing deadline. The conservation district must retain the original.

Deleted: Copies of candidate information, nominating petitions, candidate eligibility, due notice compliance, poll lists, and ballot results are due to the Conservation Commission within four weeks following the conservation district's last published election date. The conservation district must retain all original documents.¶
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TABLE 1: Information, Forms and Deadlines

Name of Election Form	Due to CD from candidate	Reported Electronically to Commission from CD
<u>EF1 - CD Election Information</u>	N/A	<u>No later than the candidate filing deadline</u>
<u>PF-A - Candidate Information (one form per candidate)</u>	<u>No later than the candidate filing deadline</u>	<u>N/A (information included in EF2 below)</u>
<u>PF-B - Nominating Petition (one petition with 25 qualified nominating signatures on it for each candidate wishing his or her name to be on the official ballot)</u>	<u>No later than the candidate filing deadline</u>	<u>N/A (information included in EF2 below)</u>
<u>EF2 - Candidate Verification</u>	N/A	<u>No later than 28 days after election day</u>
<u>EF3 - Automatic Re-Election Checklist</u>	N/A	<u>No later than 28 days after the cancelled election day</u>
<u>EF4 - Due Notice Compliance</u>	N/A	<u>No later than 28 days after election day</u>
<u>PF-C - Poll list (all pages)</u>	N/A	<u>N/A (poll lists are to be kept by the CD and made available upon request of the Commission)</u>
<u>PF-D - Ballots: As many ballots as needed, to be printed by the CD</u>	N/A	<u>N/A (ballots to be kept by the CD and made available upon request of the Commission)</u>
<u>EF5 - Ballot results report</u>	N/A	<u>No later than 28 days after election day</u>
<u>Election Feedback Form</u>	N/A	N/A

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C. Conservation Commission duties

1. General

- a) The Conservation Commission may request copies of documents and inspect original documents and records.

2. Before elections

- a) The Conservation Commission must make these procedures available for stakeholder review and comment.
- b) The Conservation Commission must notify all conservation districts of supervisor terms of office due to expire. Notice must be provided to conservation districts by September 1 in the year preceding elections.
- c) These procedures become effective on the date they were last revised.
- d) The Conservation Commission may amend these procedures at any time to assure the fair, proper, and orderly election and appointment of conservation district supervisors.

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3. During a poll-site election

- a) Conservation Commission board members and/or employees may monitor conservation district elections without notice.

4. After the polls close

- a) The Conservation Commission will canvass the returns of conservation district elections to verify election results and to determine if the election was properly conducted according to the requirements in these procedures.
- b) The Conservation Commission board will certify all conservation district elections found to substantially comply with the requirements in these procedures.
- c) The Conservation Commission will announce the official election results, or decline to announce official results, for each conservation district election after the elections have been certified.
- d) The Conservation Commission will act on elections for full-term positions annually at its regular meeting on the third Thursday in May or as necessary thereafter.

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D. Conservation District duties

1. General

- a) A conservation district must hold an election each year.
- b) A copy of these procedures must be made available for public inspection at each poll site.

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- 553 2. Before an election
- 554 a) Each conservation district must publish a Notice of the Intent to Adopt an Election Resolution.
- 555 The purpose of this notice is to inform the public that the District intends to have a meeting at
- 556 which the date, time, place and manner of the election will be set. This Notice must be published
- 557 twice, at least six days between each publishing, before the meeting to adopt the Election
- 558 Resolution can be held. [Examples of this Notice can be found in Appendix B.](#)
- 559 b) Each conservation district must hold a meeting after the Notice of the Intent to Adopt an Election
- 560 Resolution has been properly published. The purpose of this meeting is to adopt an Election
- 561 Resolution.
- 562 c) Each conservation district must publish a Notice of the Adopted Election Resolution. The
- 563 purpose of this Notice is to inform the public, voters and potential candidates of the date, time,
- 564 place and manner of the election. This Notice must be published twice, at least six days between
- 565 each publishing, before the candidate filing deadline. The Notice must set election date(s),
- 566 location(s), and polling times by resolution and that information must be communicated to the
- 567 Conservation Commission by the candidate filing deadline. [Examples of this Notice can be found](#)
- 568 [in Appendix B.](#)
- 569 i) Each polling place must be open for at least four hours at a time convenient for voters in that
- 570 district. Two polling officers must be present.
- 571 ii) Polling places must have sufficient parking to accommodate the expected number of voters.
- 572 iii) Polling places must be accessible to those with disabilities.
- 573 iv) The election date must be in the first three calendar months of the election year.
- 574 v) If the election will be held by mail, the date set by the conservation district is the last date
- 575 ballots may be received from voters. The location will be where ballots are counted. If
- 576 necessary to accommodate voter(s) pursuant to WAC 135-110-250, a district conducting a
- 577 mail-in election may be required to provide at least one polling place where voters can
- 578 deliver their completed ballots or vote as in a poll-site election.
- 579 vi) The last date voters can request absentee ballots must be set in the Notice.
- 580 d) Each conservation district must appoint an election supervisor.
- 581 i) The election supervisor may be a conservation district supervisor, conservation district
- 582 employee, or any other person appointed by the conservation district board of supervisors.
- 583 ii) The election supervisor serves as the primary point of contact between the conservation
- 584 district and the Conservation Commission for all functions to be performed by the
- 585 conservation district in the election and appointment of conservation district supervisors.

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**Election and Appointment Procedures
for Conservation District Supervisors**



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- 588 iii) The election supervisor organizes, coordinates, and facilitates election-related activities of
589 the conservation district related to the election and appointment of conservation district
590 supervisors. The election supervisor assures that required documentation is properly
591 completed and transmitted on time to the Conservation Commission. The election supervisor
592 may also serve as a polling officer.
- 593 iv) Conservation district supervisors remain responsible for conducting the election and for
594 complying with these published requirements and procedures.
- 595 e) For each candidate, the election supervisor must verify that specific eligibility requirements have
596 been met and, for declared nominated candidates, direct whether or not to place the name of
597 the candidate on the ballot.
 - 598 i) For each declared nominated candidate, a conservation district must:
 - 599 (1) Verify that candidate information was received by the filing deadline.
 - 600 (2) Verify that the nominating petition was received by the filing deadline.
 - 601 (3) Verify that at least 25 qualified district electors signed the nominating petition.
 - 602 (4) Determine whether the candidate is a qualified district elector.
 - 603 (5) Determine whether the composition of the conservation district board will meet
604 statutory requirements if the candidate is elected.
 - 605 (6) If requirements one through five above are met, the conservation district must direct that
606 the name of the candidate be placed on the ballot.
 - 607 ii) For each declared candidate, a conservation district must:
 - 608 (1) Verify that candidate information was received by the filing deadline.
 - 609 (2) Determine whether the candidate is a qualified district elector.
 - 610 (3) Determine whether the composition of the conservation district board will meet
611 statutory requirements if the candidate is elected.
 - 612 iii) For each undeclared write-in candidate, a conservation district must:
 - 613 (1) Verify that candidate information is received within four weeks (twenty-eight calendar
614 days) following the first date of election.
 - 615 (2) Determine whether the candidate is a qualified district elector.
 - 616 (3) Determine whether the composition of the conservation district board will meet
617 statutory requirements if the candidate is elected.
 - 618 iv) Such determinations must be made separately for each candidate.

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- 621 v) A county auditor or the Conservation Commission may assist a conservation district in
622 determining the eligibility of a candidate, upon request of the conservation district.
- 623 f) The conservation district must verify the eligibility of individuals wishing to serve, or continue to
624 serve, as an elected conservation district supervisor.
- 625 g) The conservation district must provide due notice of the election to potential voters.
- 626 i) The conservation district must publish at least two notices as defined in “due notice” and
627 “print media.” Conservation districts are strongly encouraged to exceed the minimum
628 requirements for due notice. Due notice is defined in WAC 135-110-110 and explained in
629 WAC 135-110-220. Examples of this Notice can be found in Appendix B.
- 630 ii) There are two types of election notices:
- 631 (1) Notice of the Intent to Adopt an Election Resolution: the purpose of this notice is to
632 inform the public that the District intends to have a meeting at which the date, time,
633 place and manner of the election will be set. This Notice must be published twice, at least
634 six days between each publishing, before the meeting to adopt the Election Resolution
635 can be held.
- 636 (2) Notice of the Adopted Election Resolution: the purpose of this Notice is to inform the
637 public, voters and potential candidates of the date, time, place and manner of the
638 election.
- 639 iii) The Adopted Election Resolution Notice must contain, at minimum, the following
640 information:
- 641 (1) The name of the conservation district.
- 642 (2) The election method[s] selected for the election.
- 643 (3) The date(s), location(s), and times polls open and close.
- 644 (4) That candidates must be registered voters who reside in the conservation district.
- 645 (5) That candidates may be required to be landowners or operators of a farm, depending on
646 the current composition of the conservation district board of supervisors.
- 647 (6) The filing deadline for candidates.
- 648 (7) The last day on which voters can request absentee ballots from the district.
- 649 (8) That eligible voters are registered voters who reside in the conservation district.
- 650 (9) That a conservation district supervisor is a public official who serves without
651 compensation and who sets policy and direction for the conservation district.
- 652 (10) That published election procedures can be viewed at the conservation district office and
653 are available from the Washington State Conservation Commission.

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- 658 iv) If the election is also to be held by mail, the Election notice must describe how to obtain a
659 ballot and the deadline for returning ballots.
- 660 v) For appointed position notices, refer to Section 3.D.2 of these procedures. Notice examples
661 can be found in Appendix B.
- 662 vi) The Election notice and notice of appointed positions may be combined.
- 663 vii) Conservation districts are strongly encouraged to exceed the minimum due notice
664 requirements so that interested parties may be informed of the opportunity to serve as a
665 conservation district supervisor.
- 666 h) The conservation district must determine the number of polling officers.
- 667 i) The conservation district must provide at least two polling officers at each poll site, except
668 the election supervisor may substitute for one polling officer at one poll site.
- 669 ii) If due notice of the election resolution and the election have been duly published by the
670 conservation district, and the only person filing by the filing deadline is the incumbent, and
671 the conservation district verifies the continued eligibility of the incumbent to serve another
672 term of office, and the incumbent has not resigned on or before the last date of election,
673 then the incumbent is automatically reelected. When an incumbent is automatically
674 reelected, no other election activities at physical poll sites or through remote election
675 processes may be performed, provided that, before election day, the conservation district
676 has informed the voting public that the incumbent has been reelected by reason of being the
677 only person filing for the position, and that no poll site, mail, or absentee balloting will be
678 performed, and on election day, signs containing this information must have been posted at
679 poll sites. Within four weeks of the first date of election as scheduled in the election
680 resolution, the conservation district must inform the Conservation Commission of the
681 automatic reelection of the incumbent. Refer to Section 2.J “Non-standard Election
682 Outcomes” in these procedures for additional information.
- 683 i) If a candidate is found by the conservation district to be ineligible, the conservation district must
684 inform the candidate of the reasons. The conservation district may not print that candidate’s
685 name on the official ballot. If the reason is the lack of sufficient nominators on the nominating
686 petition, the candidate must be considered a declared write-in candidate and the candidate must
687 be so informed by the conservation district.
- 688 j) To assist voters in the selection of a candidate during voting, a conservation district may publish
689 information provided by nominated and declared candidates. Conservation districts should
690 adopt a policy to set the parameters for publishing such information.
- 691 i) If a conservation district chooses to publish information about candidates, it must provide
692 equal opportunity for publication and equivalent space to each nominated and declared
693 write-in candidate.

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- 694 ii) A conservation district must not take an official position on any candidate that promotes, or
695 is prejudicial to, a candidate, nor may supervisors or employees of the conservation district
696 do so in their official capacity.
- 697 iii) On election day, information provided by candidates may not be provided to voters within
698 300 feet of the poll site.
- 699 k) A conservation district must create a ballot and provide a ballot to each person who wishes to
700 vote in the conservation district election. [See form PF-D.](#)
- 701 i) The ballot must list the names of all candidates ordered to be placed on the ballot. Names on
702 the ballot must be listed in alphabetical order by last name, from top to bottom. Example:
703 Jane Adams would be listed above John Doe.
- 704 ii) The ballot must contain at least one blank line where a voter can enter the name of a
705 undeclared write-in candidate.
- 706 iii) One empty checkbox or blank space should be provided next to each candidate's name
707 printed on the ballot.
- 708 iv) During a poll-site election, the conservation district must provide a contested ballot to any
709 individual wishing to vote who cannot be verified as eligible to vote prior to the issuance of a
710 ballot. A double-envelope system consisting of two envelopes and a ballot must be used for
711 all contested ballots.
- 712 v) For electronic voting, the functional equivalent of a paper ballot must be utilized.
- 713 vi) A conservation district may send or provide ballots to all individuals who, in the three years
714 preceding the election, have voted in a conservation district election or have participated in
715 conservation district services or programs. WAC 135-110-515(4). However, if a conservation
716 district provides unrequested ballots to a population that is less than all the eligible voters
717 within the conservation district boundary, the conservation district must not use lists
718 obtained from an individual conservation district supervisor or employee, nor from any
719 candidate, nor from any trade, company, church, union, fraternal or other organization. WAC
720 135-110-420. So long as a list generated by a conservation district pursuant to WAC 135-110-
721 515(4) includes all such individuals, such a list is exempt from WAC 135-110-420.
- 722 vii) Absentee ballots must be provided to eligible voters upon request, and voters need not
723 provide proof of any special condition to obtain an absentee ballot. WAC 135-110-520. Also,
724 the conservation district must provide a ballot to any person who requests a ballot. WAC
725 135-110-515. An eligible voter should declare their eligibility to the district before a request
726 for an absentee ballot can be fulfilled by the district. The declaration by the voter can be
727 done in writing, electronically, or orally. A request for an absentee ballot can be made in
728 person, in writing, by telephone, or electronically, by the voter, a family member, or a
729 registered domestic partner. Only one absentee ballot request per voter can be made.

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- 730 Multiple absentee ballots can be sent to the same address, provided that each absentee
731 ballot can be matched to a request by a voter at that address. Sample absentee ballot
732 instructions and a request form are provided in Appendix A.
- 733 l) The conservation district must obtain a current list of registered voters from the County Auditor
734 or Secretary of State for all territory within the conservation district boundary.
- 735 m) The conservation district must be able to show or describe the legal boundary of the
736 conservation district to any voter or to any representative of the Conservation Commission, upon
737 demand.
- 738 3. Before a mail-in (or remote) election
- 739 a) A conservation district holding a mail-in election must appoint an election supervisor and have
740 declared at least one poll site.
- 741 b) Double-envelope voting (or the secure electronic equivalent) is required for mail-in/remote
742 elections.
- 743 i) A double-envelope system meeting the requirements for contested balloting must be used by
744 the conservation district in the mail-in election.
- 745 ii) Provision must be made for the outer envelope to show or contain sufficient information to
746 identify the voter. The voter should print his or her name and address as registered with the
747 County Auditor.
- 748 c) Due notice to voters must provide sufficient time for voters to obtain and return ballots to the
749 conservation district. Allowing at least one week after the second required notice has been
750 published is recommended.
- 751 d) Ballots must be offered to potential voters within the conservation district boundary. To receive
752 a ballot, the voter must request a ballot prior to the current election, unless a district is utilizing
753 WAC 135-110-515(4) (see Section 2(D)2(k)vi above). The election supervisor must verify the voter
754 is a qualified district elector before the ballot is counted.
- 755 4. During a poll-site election
- 756 a) Conservation district supervisors or staff may assist polling officers, but may not directly issue
757 ballots or count ballots, unless such person is also the election supervisor appointed by the
758 conservation district board of supervisors.
- 759 b) Each poll site must have a ballot box, signage, and be accessible to voters.
- 760 i) Each poll site must have at least one ballot box.
- 761 ii) Each poll site must be conspicuously identified to voters as the place to vote.
- 762 iii) Poll sites must not create undue hardship for disabled voters.

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- 763 iv) Polling places must be open for a minimum of four hours at a time convenient for voters in
764 that district.
- 765 c) The conservation district must provide polling officers at each poll site.
- 766 i) Polling officers must be independent third parties who are not supervisors, employees, or
767 municipal officers of the conservation district holding the election. Further, with WAC 135-
768 110-150 in mind, there is no prohibition against a conservation district supervisor, employee
769 or municipal officer from serving as a polling officer in another districts' election. A
770 conservation district supervisor, employee or municipal officer may not serve as a polling
771 officer in the conservation district election, unless the person is the election supervisor
772 appointed by the conservation district supervisors. WAC 135-110-440. While there is no
773 prohibition against a relative or spouse serving as a polling officer, it is important to keep in
774 mind WAC 135-110-150 which says that conservation districts, employees and supervisors
775 must remain impartial during an election. Therefore, it is recommended that polling officers
776 not be immediate family members or live in the same household of such supervisors,
777 employees, or municipal officers.
- 778 ii) The election supervisor appointed by the conservation district may serve as a polling officer
779 at one poll site, even if he or she is a supervisor, employee, or municipal officer of the
780 conservation district holding the election. An election supervisor who also serves as a polling
781 officer has all of the responsibilities and duties listed in Section 2.F.
- 782 iii) The conservation district must provide at least two polling officers at each poll site, except
783 the election supervisor may substitute for one polling officer at one poll site.
- 784 iv) Individuals hired temporarily to serve as polling officers are not considered employees for the
785 purposes of this section.
- 786 v) Before the polls open, the conservation district must review with polling officers the
787 procedures for verifying voters, issuing ballots, issuing contested ballots, and tallying and
788 reporting election results.
- 789 d) Conservation districts must assure privacy in voting.
- 790 i) The ballot choice made by a voter must not be seen by any other person during the act of
791 voting or the placing of the ballot in the ballot box.
- 792 ii) Paper ballots must be placed into ballot boxes. Electronic ballots must assure at least the
793 same level of security and privacy as provided by paper balloting.
- 794 e) The conservation district must not post the names of nominated and declared write-in
795 candidates at the polls. It is the responsibility of candidates to inform the voting public of their
796 candidacy for the office of conservation district supervisor.

Deleted: <#>If due notice of the election resolution and the election have been duly published by the conservation district, and the only person filing by the filing deadline is the incumbent, and the conservation district verifies the continued eligibility of the incumbent to serve another term of office, and the incumbent has not resigned on or before the last date of election, then the incumbent is automatically reelected. When an incumbent is automatically reelected, no other election activities at physical poll sites or through remote election processes may be performed, provided that, before election day, the conservation district has informed the voting public that the incumbent has been reelected by reason of being the only person filing for the position, and that no poll site, mail, or absentee balloting will be performed, and on election day, signs containing this information must have been posted at poll sites. Within four weeks of the first date of election as scheduled in the election resolution, the conservation district must inform the Conservation Commission of the automatic reelection of the incumbent. Refer to Section 2.J "Non-standard Election Outcomes" in these procedures for additional information.¶

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- 825 f) The name of a nominated candidate or declared write-in candidate who has submitted a
826 withdrawal of candidacy in writing to the conservation district may not be posted at the polling
827 place. It is the responsibility of candidates to inform the voting public of their status in seeking
828 the office of conservation district supervisor.
- 829 5. After the polls close
- 830 a) One or more conservation district supervisors, or the election supervisor, must receive from
831 polling officers the following:
- 832 i) All poll list pages;
- 833 ii) All ballots;
- 834 iii) A completed ballot results report for each polling site, absentee ballots and for each type of
835 election held (poll-site or mail-in); and
- 836 iv) All working papers and notes made by polling officers.
- 837 b) When polling officers have transferred all properly completed forms and documents, and all
838 ballots, to a conservation district supervisor or the election supervisor, the polling officers may
839 be excused from their official duty.
- 840 c) The conservation district must transmit to the Conservation Commission information sufficient
841 for the Commission to certify and announce the election result within four weeks of election day.
- 842 d) The conservation district must retain all original forms, documents, and ballots for 12 months
843 after the election has been certified, at which time they may be destroyed unless the election
844 has not been certified or the election is contested. Conservation districts must abide by Local
845 Government Common Records Retention Schedule (CORE).

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(candidate information, nominating petition,
verification of eligibility, verification of due notice
compliance, poll list, and ballot results reports)

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office in Lacey, Washington.

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E. Election Supervisor duties

- 847 1. Before an election
- 848 a) Confirm that the election resolution has been provided to the Conservation Commission by the
849 candidate filing deadline.
- 850 b) Confirm due notice requirements have been satisfied.
- 851 c) Confirm two polling officers will be present at each poll site. One polling officer and the election
852 supervisor may substitute for the two polling officer requirement at one poll site.
- 853 d) Prepare polling officers to perform the tasks required of them by reviewing these procedures,
854 the poll list form, the ballot results form, and contested balloting, and confirm all required
855 resources are available at each polling place.

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**Election and Appointment Procedures
for Conservation District Supervisors**



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- 864 e) Provide absentee ballots upon request; provide absentee ballot information (instructions,
865 deadlines, etc) to voters (see Appendix A); and abide by the double-envelope system for
866 absentee ballots.
- 867 2. During a poll-site election
- 868 a) A conservation district supervisor or the election supervisor appointed by the conservation
869 district board of supervisors may extend the time polls are open, if needed to accommodate
870 voters or if needed to obtain additional ballots.
- 871 b) The election supervisor may assist polling officers but may not issue ballots in a poll-site election,
872 unless the election supervisor is serving as a polling officer as described in Section D.2.b. Ballots
873 remain in the custody of polling officers at all times during a poll-site election.
- 874 c) An election supervisor who also serves as a polling officer has all of the responsibilities and duties
875 listed in Section 2.F.
- 876 3. After the polls close
- 877 a) The election supervisor may assist polling officers, but may not count ballots, unless the election
878 supervisor is serving as a polling officer as described in Section D.2.b.
- 879 b) One or more conservation district supervisors, conservation district employees, Conservation
880 Commission representatives, or members of the public may observe the handling of ballots and
881 the counting of votes, but may not interfere or disrupt the proceedings in any way.
- 882 4. During a mail-in election and / or for absentee ballots
- 883 a) The election supervisor receives and safeguards mail-in or absentee ballots returned by voters.
- 884 i) The election supervisor performs all the tasks as for a poll-site election, and determines if
885 mail-in ballots and / or for absentee ballots are cast by qualified district electors.
- 886 ii) The election supervisor does not count ballots. Polling officers count the ballots.
- 887 b) Double-envelope voting is required for mail-in and / or for absentee ballots elections.
- 888 i) A double-envelope system identical to contested balloting must be used by the conservation
889 district in a mail-in election and for absentee ballots.
- 890 ii) Ballots are to be inserted in an inner envelope and sealed, with no marks or other
891 information that would identify the person voting. The outer envelope should show or
892 contain sufficient information to identify the voter. The name and address of the voter, as
893 shown on the list of registered voters obtained from the County Auditor, is recommended.
- 894 iii) Mail-in and absentee ballots are to be delivered to the election supervisor.
- 895 c) The election supervisor determines if mail-in and absentee ballots votes are submitted by
896 qualified district electors.

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- 898 i) As ballots are received from voters, the election supervisor may verify each mail-in and
899 absentee ballot as eligible or disqualified based on the information provided on or in the
900 outer envelope of the mail-in or absentee ballot. Alternatively, the election supervisor may
901 wait until all ballots are received, at which time the eligibility of each voter must be verified
902 before outer envelopes are opened.
- 903 ii) When a voter cannot be verified as eligible to vote in this election from information provided
904 on the outer envelope, the outer envelope should be opened. If, after opening the outer
905 envelope, a voter still cannot be verified as eligible to vote in this election, the ballot must be
906 counted as a disqualified ballot.
- 907 iii) The election supervisor may enlist the help of polling officers in verifying mail-in and
908 absentee ballots as eligible or disqualified.
- 909 iv) The election supervisor must not open the inner envelope containing the actual ballot.
910 Polling officers must open and count each ballot that has been verified as having been cast by
911 a qualified district elector.
- 912 v) The inner envelope for each mail-in or absentee ballot found to be cast by a person who is
913 not a qualified district elector must not be opened. However, if it cannot otherwise be
914 determined from an examination of the outer envelope or its contents whether the voter is a
915 qualified district elector, the polling officers may open the inner envelope. If, after opening
916 the inner envelope, a voter still cannot be verified as eligible to vote in the election, the ballot
917 must be counted as a disqualified ballot.

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918 F. Polling Officer duties

- 919 1. Before an election
- 920 a) Review contested ballots: what they are, when they are issued, and how they are counted.
- 921 b) Review the poll list form and the ballot results reporting form, and how to complete them.
- 922 c) Confirm these resources are available at each poll site:
 - 923 i) Sufficient ballots for the expected number of voters;
 - 924 ii) A reasonable supply of contested ballots (double-envelope system);
 - 925 iii) A ballot box;
 - 926 iv) Voting booth or other means of assuring votes can be cast privately;
 - 927 v) A list of registered voters (voter list);
 - 928 vi) A map or description of the conservation district legal boundary;
 - 929 vii) A copy of these procedures; and

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- 933 viii) Poll list forms and ballot results reporting forms.
- 934 2. During a poll-site election
- 935 a) Polling officers must monitor the voting place for compliance with these procedures, and also
- 936 serve as guardians of all issued and unissued ballots.
- 937 b) Polling officers verify voters and issue ballots.
- 938 i) A polling officer must verify a voter is a qualified district elector before issuing a ballot to the
- 939 voter and record that determination on the poll list.
- 940 ii) At least one polling officer must be present and in control of the ballot box(es) at all times
- 941 while the polls are open.
- 942 iii) At a poll-site election, a contested ballot must be issued if the voter's eligibility to vote
- 943 cannot be determined during polling. A voter whose eligibility cannot be determined may
- 944 only vote on a contested ballot. Contested balloting should be explained to the voter.
- 945 Following is an example dialog:
- 946 *At this time, I cannot verify you are a qualified district elector eligible to vote in this*
- 947 *election. For your vote to be counted, you must be a registered voter living inside the*
- 948 *boundary of the conservation district.*
- 949 *Every vote is important, so if you wish to vote, I will issue you a contested ballot so that*
- 950 *you can vote. Election officials will determine your eligibility to vote after the polls are*
- 951 *closed and count all ballots.*
- 952 *The contested ballot is a package consisting of a ballot and two envelopes. After you mark*
- 953 *the ballot, place it inside one envelope and seal that envelope. Do not make any*
- 954 *identifying marks on that envelope. Place the sealed envelope inside the second envelope.*
- 955 *On the outside of the second envelope, print your name and address as used by the*
- 956 *County Auditor for your voter registration record, then place the completed contested*
- 957 *ballot package in the ballot box.*
- 958 iv) Polling officers use the poll list to track the identity and number of voters, to identify
- 959 determinations made by polling officers as to voter eligibility, and to identify voters issued
- 960 contested ballots.
- 961 v) For absentee ballots received during a poll-site election, polling officer should follow the
- 962 procedure, as directed by the Election Supervisor, set out in Section E(4) Election Supervisor
- 963 Duties above.
- 964 c) Polling officers are to close the polls at the published time, unless the polls are extended by a
- 965 conservation district supervisor or the election supervisor.

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- 966 i) Those who are waiting in line when the polls are scheduled to be closed must be allowed to
967 check in and vote.
- 968 ii) Poll times may not be less than advertised.
- 969 iii) A conservation district supervisor or the election supervisor appointed by the board may
970 extend the time polls are open, if needed to accommodate voters.
- 971 3. After the polls close
- 972 a) Polling officers open the ballot box or boxes and count the votes cast for each candidate.
- 973 i) If the election had more than one polling place, polling officers may transport uncounted
974 ballots in the ballot boxes to a central location for counting.
- 975 ii) Ballots must remain in the custody of polling officers until counted. Polling officers count all
976 votes cast. Absentee ballots should be tallied separately from poll-site ballots.
- 977 iii) All votes must be counted, including eligible votes and disqualified votes.
- 978 iv) A vote on a contested ballot where the voter is found to be ineligible to vote is to be counted
979 as a disqualified vote.
- 980 v) Written marks made on a ballot for a write-in candidate shall be governed by the same
981 standards as set out in WAC 434-261-086.
- 982 vi) When verifying a voter who cast a contested ballot, compare the name and address provided
983 by the voter with the voter list obtained from the County Auditor or Secretary of State.
- 984 vii) The ballot count results are reported on the ballot results report, which is to be provided by a
985 polling officer to the election supervisor.
- 986 b) Provide a completed ballot results report for each type and location of election held (poll-site
987 and mail-in), and for absentee ballots (if any were received) to a conservation district supervisor
988 or the election supervisor.
- 989 c) Surrender all poll list documents, all ballots, all working notes and papers, and all ballot results
990 reports to the election supervisor.
- 991 d) Polling officers may announce the unofficial results of the election, subject to certification by the
992 Conservation Commission.
- 993 4. During a mail-in election
- 994 a) Polling officers receive each ballot from the election supervisor.

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- 998 i) Each ballot should be sealed inside an envelope.
- 999 ii) Only one ballot may be in an envelope. If more than one ballot is found inside a single
1000 envelope, all such ballots must be disqualified.
- 1001 iii) A ballot in an in unsealed inner envelope may be disqualified.
- 1002 b) Polling officers count votes and verify the ballot count in writing.
- 1003 i) All votes must be counted: eligible, and disqualified. There are no contested ballots in a mail-
1004 in election.
- 1005 ii) Written marks made on a ballot for a write-in candidate shall be governed by the same
1006 standards as set out in WAC 434-261-086.
- 1007 iii) Ballot counts are reported on the ballot results report form (EFS), which is to be provided by
1008 a polling officer to a supervisor of the conservation district holding the election.
- 1009 c) If the conservation district holds a poll-site election and a mail-in election, polling officers must
1010 count and report ballots separately for each type of election and for absentee ballots (if any were
1011 received) and for each poll location. This means a separate ballot results report must be
1012 completed for each type of election, absentee ballots, and location of election.

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G. Candidate duties

1. Before an election

- 1015 a) Any person wishing to be a candidate must file candidate information (PF-A) with the
1016 conservation district by the candidate filing deadline.
- 1017 b) A candidate wishing to have his or her name pre-printed on the official ballot must provide a
1018 qualified nominating petition (PF-B) signed by at least 25 qualified district electors to the
1019 conservation district by the candidate filing deadline. The election supervisor will verify
1020 nominators on the nominating petition.
- 1021 c) If the incumbent on the conservation district board who currently holds the elected office subject
1022 to the current years' election provides candidate information (PF-A) by the candidate filing
1023 deadline, the incumbent will be eligible to be re-elected. However, under WAC 135-110-340,
1024 unless the incumbent obtains the 25 qualified nominating signatures (PF-B), the incumbent's
1025 name will not appear on the ballot. In order for the incumbent's name to appear on the election
1026 ballot, the incumbent must file both PF-A and PF-B by the candidate filing deadline, and PF-B
1027 must have at least 25 qualified nominating signatures. Only after an incumbent correctly files
1028 both forms with the District will the District place the incumbent's name on the official ballot.
1029 Furthermore, a District wherein an incumbent files only candidate information (PF-A) and not the
1030 25 qualified nominating signatures (PF-B) cannot use WAC 135-110-370 to automatically re-elect
1031 the incumbent.

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- 1046 d) Should a candidate wish to withdraw his or her candidacy, written notice to that effect must be
- 1047 provided to the conservation district before Election Day. Notice by any other means will be
- 1048 considered invalid. If the candidate is running as a nominated candidate and ballots have already
- 1049 been printed, the conservation district is not obligated to reprint ballots to remove the
- 1050 withdrawn candidate's name.
- 1051 e) It is the responsibility of a candidate to inform voters of the candidate's desire and qualifications
- 1052 to be elected to the office of conservation district supervisor. A conservation district may provide
- 1053 equal opportunity and equivalent space to candidates for this purpose but are not required to do
- 1054 so. Such information must not be provided within 300 feet of polls on Election Day.
- 1055 f) Every candidate must be eligible to be elected to, and hold the office of, conservation district
- 1056 supervisor on the day of the filing of candidate information with the conservation district.
- 1057 2. During a poll-site election
- 1058 a) Candidates may not seek to influence voters to vote for or against a specific candidate within 300
- 1059 feet of ballot box(es).
- 1060 b) Candidates may observe an election while the polls are open but may not interfere with voters or
- 1061 polling officers.
- 1062 c) Candidates may observe the counting of ballots but may not interfere with polling officers or the
- 1063 election supervisor.
- 1064 3. After the polls close
- 1065 a) Candidates may not disrupt or interfere with polling officers.
- 1066 b) Candidates may observe the counting of votes.
- 1067 c) The supervisor-elect becomes a municipal officer upon certification of the election by the
- 1068 Conservation Commission.

1069 H. Nominator duties

- 1070 1. Before an election
- 1071 a) Persons signing a nominating petition (PF-B) must be registered voters residing within the
- 1072 boundary of the conservation district holding the election.
- 1073 b) Information provided on the nominating petition must be legible or it cannot be counted.
- 1074 c) Nominators may sign a nominating petition for more than one candidate.
- 1075 d) Nominators may only sign a candidate's nominating petition once.
- 1076 e) A nominator's signature is not a vote for the candidate. Signing the nominating petition is a
- 1077 request that the candidate's name be pre-printed on the official ballot.

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I. Voter duties

1. During a poll-site election
 - a) No voter may seek to influence any other voters within 300 feet of the ballot box(es).
 - b) A voter may observe an election but may not interfere with voters or polling officers.
 - c) A voter must sign in on a poll list and provide sufficient information for a polling officer to determine the individual's eligibility to vote.
 - d) Before receiving a ballot, the identity of a voter must be verified by a polling officer. Acceptable forms of voter identification include:
 - i) Valid Washington State driver's license or Valid Washington State identification card; or
 - ii) Any other identification allowed for registering to vote by the Auditor of the County where the conservation district is located.
 - e) A voter who cannot be confirmed at the polling place as eligible to vote may vote, but only on a contested ballot issued by a polling officer.
2. After the polls close
 - a) Voters and other citizens may not disrupt or interfere with polling officers.

J. Non-standard election outcomes

1. Incumbent automatically reelected if no other person files. WAC 135-110-370.
 - a) The incumbent is automatically reelected to another three-year term if:
 - i) Due notice of the election resolution and the election have been duly published by the conservation district;
 - (1) The information in the election resolution been published, at least twice, a week apart, the first time being at least one week before the candidate filing deadline and the second at least one day before the candidate filing deadline;
 - (2) The date, time, place and manner of the election been published, at least twice, a week apart, the first time being at least one week before the candidate filing deadline and the second at least one day before the candidate filing deadline;
 - ii) The only person filing by the candidate filing deadline is the incumbent;
 - (1) At the time of filing, the incumbent was a qualified district elector (at the time of filing, the incumbent was a registered voter in the county where the district is located and a resident within the conservation district boundary);

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**Election and Appointment Procedures
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- 1117 (2) At the time of filing, and on or before the candidate filing deadline, the incumbent
1118 submitted to the conservation district [PF-A](#), information including:
- 1119 (a) The name of the conservation district;
 - 1120 (b) The incumbent's name, residential address, mailing address (if different), and phone
1121 number;
 - 1122 (c) Whether the person is a registered voter in the county where the conservation district
1123 is located;
 - 1124 (d) Whether the person resides inside the conservation district boundary;
 - 1125 (e) Whether the person is a landowner or an operator of a farm; and
 - 1126 (f) The dated signature of the incumbent attesting to the accuracy of the information so
1127 provided.
- 1128 (3) At least 25 qualified nominating signatures ([PF-B](#)) by the candidate filing deadline. If 25
1129 qualified nominating signatures are not submitted to the District by the incumbent by the
1130 candidate filing deadline, the District cannot use WAC 135-110-370 to automatically re-
1131 elect the incumbent.
- 1132 iii) The conservation district verifies the continued eligibility of the incumbent to serve another
1133 term of office ([EF2](#));
- 1134 (1) The election supervisor has determined that
 - 1135 (a) The name of the incumbent (who filed the candidate information) is the correct legal
1136 name of the individual;
 - 1137 (b) That the incumbent submitted candidate information by the filing deadline;
 - 1138 (c) That the incumbent submitted a valid nominating petition by the filing deadline;
 - 1139 (d) That the incumbent was a qualified district elector on the day of filing; and
 - 1140 (e) That at least two of the three elected conservation district supervisors on the
1141 conservation district board of supervisors will be landowners or operators of farms if
1142 the incumbent is elected;
 - 1143 iv) The incumbent has not resigned on or before the last date of election; and
 - 1144 v) Before election day, the conservation district must have informed the voting public that the
1145 incumbent has been reelected by reason of being the only person filing for the position, and
1146 that no poll site, mail, or absentee balloting will be performed, and on election day, signs
1147 containing this information were posted at poll sites. [See EF3 and EF4](#).

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Revised: ~~2015~~

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- 1153 b) Within four weeks of the first date of election as scheduled in the election resolution, the
1154 conservation district must inform the Conservation Commission of the automatic reelection of
1155 the incumbent.
- 1156 c) Election supervisors must use EF3 in order to ensure compliance with WAC 135-110-370.
- 1157 d) Upon completion of EF3 (when all provisions of WAC 135-110-370 are met), a district is required
1158 cancel the election. This can be done with or without formal board action.
- 1159 i) Without formal board action: Under WAC 135-110-230, a District Board of Supervisors must
1160 appoint an Election Supervisor. That Election Supervisor is empowered by the Board,
1161 through WAC 135-110-230, to conduct all operations of the election, including the
1162 determination and operation of automatically re-electing the incumbent (provided the terms
1163 of WAC 135-110-370 are met). Therefore, the appointed Election Supervisor can proceed to
1164 cancel an election provided all the conditions of WAC 135-110-370 are met and EF3
1165 completed. Ultimately, as WAC 135-110-230(3) notes, the Board is responsible for the
1166 actions of the Election Supervisor.
- 1167 ii) With formal board action: the board of supervisors may choose to proceed with cancelling
1168 an election (provided that all provisions of WAC 135-110-370 are met and EF3 complete), by
1169 passing a resolution so stating and in compliance with WAC 135-110-370.
- 1170 2. Undeclared write-in candidate may be elected if no person files. WAC 135-110-360.
- 1171 a) If no person has filed by the filing deadline, or if the election supervisor finds ineligible all persons
1172 who filed, then only undeclared write-in candidates may be elected.
- 1173 i) The undeclared write-in candidate, deemed the unofficial winner, must submit required
1174 candidate information to the conservation district, and
- 1175 ii) Within four weeks (twenty-eight calendar days) following the first date of election, the
1176 election supervisor must verify the eligibility of the unofficial winner to be elected and to
1177 serve.
- 1178 iii) If the conservation district is unable to verify eligibility of the unofficial winner within four
1179 weeks of the election, the unofficial winner is disqualified. The person receiving the next
1180 highest vote count must then submit required candidate information and the conservation
1181 district must verify his or her eligibility as described above.
- 1182 iv) If the undeclared write-in candidate who is the unofficial winner is found ineligible and no
1183 other persons received votes, the Conservation Commission will officially announce another
1184 full term of office for the incumbent on the third Thursday in May, but only upon verification
1185 by the conservation district of the eligibility of the incumbent to serve in the office of elected
1186 conservation district supervisor.

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- 1195 b) Written marks made on a ballot for a write-in candidate shall be governed by the same standards
1196 as set out in WAC 434-261-086.
- 1197 3. Election results in a tie. WAC 135-110-730.
- 1198 a) In the case of two or more eligible candidates receiving the most votes, and each receives an
1199 equal number of votes, the conservation district must recount the ballots.
- 1200 b) Conservation district supervisors may perform the recount at a regular or special meeting of the
1201 conservation district board of supervisors, or may charge polling officers with this duty.
- 1202 c) If a tie is verified by the recount, the winner of the election must be determined by drawing of
1203 names as provided under RCW 29A.60.221 to ensure the drawing is equitable to all affected
1204 candidates.
- 1205 i) If no more than two candidates are tied, a coin toss may be used in lieu of drawing names to
1206 determine the unofficial winner.
- 1207 ii) If more than two candidates are tied, only a drawing of names may be used to determine the
1208 unofficial winner.
- 1209 iii) A representative of the Conservation Commission must be present for any drawing of names
1210 or coin toss.
- 1211 d) The candidate whose name is drawn (or who wins the coin toss) becomes the supervisor-elect.
- 1212 4. No eligible candidate elected. WAC 135-110-740.
- 1213 a) When no eligible candidate is elected, the Conservation Commission will officially announce
1214 another full term of office for the incumbent on the third Thursday in May, but only upon
1215 verification by the conservation district of the eligibility of the incumbent to serve in the office of
1216 elected conservation district supervisor.
- 1217 b) If the conservation district determines the incumbent conservation district supervisor is no
1218 longer eligible to serve in the office of elected conservation district supervisor, or if the
1219 incumbent has resigned, the position is deemed vacant and the conservation district may
1220 appoint an eligible successor following the official announcement by the Conservation
1221 Commission.

1222 K. Emergencies

- 1223 1. Emergency relocation or rescheduling of election
- 1224 a) A conservation district may not change the date(s) or location(s) of poll sites unless an
1225 emergency exists.

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**Election and Appointment Procedures
for Conservation District Supervisors**



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- 1226 b) A conservation district supervisor or the election supervisor may declare an emergency when
1227 adverse conditions may negatively affect the health or safety of voters or the timely return of
1228 absentee ballots. Such conditions may include, but are not limited to:
 - 1229 i) Hazardous weather conditions;
 - 1230 i) Damage to roads, buildings, or other infrastructure;
 - 1231 ii) Chemical spills;
 - 1232 iii) Fire and smoke; or
 - 1233 iv) Volcanic eruption, earthquake, landslides, mudflows, and floods.
- 1234 c) When an emergency is so declared, the conservation district should attempt to inform all
1235 conservation district supervisors and candidates listed on the ballot.
- 1236 d) When a polling site is changed in response to an emergency, and the election date is not
1237 changed, signage sufficient to notify potential voters must be provided to redirect voters to the
1238 new polling site(s). Poll times should be extended to allow for additional travel time to the
1239 relocated polls.
- 1240 e) When the election date is changed in response to an emergency, the conservation district should
1241 first seek to provide due notice to inform the public of the change. If due notice is not possible,
1242 the conservation district should take reasonable measures to inform the public of the change.
1243 Reasonable measures may include, but are not limited to: announcements on local radio or
1244 television; posting on web pages; announcements in newspapers; and posting of handbills or
1245 flyers.
- 1246 f) When one or more polling sites are changed and the date is changed in response to an
1247 emergency, the conservation district should perform the actions described above in subparts (d)
1248 and (e).
- 1249 g) The Conservation Commission must be informed of all emergency changes to poll locations or
1250 dates before voting begins.

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SECTION 3: APPOINTMENTS

A. Information required

1. Only an application form, provided by the Conservation Commission on its web site may be used to apply for the position of appointed supervisor. The application for appointed supervisor can be found at <http://scc.wa.gov/elections/>.
2. The appointed supervisor application must be filled out in its entirety in order for the applicant to be considered for appointment.

B. Forms and reports required

1. Conservation districts must provide proof to the Conservation Commission that it has complied with the requirement to notify the community of the opportunity to apply for an appointed conservation district supervisor position. Proof must be documented on EF4. Copies of advertisements are no longer required to be sent to the Commission, but should be retained by the district.
Applicants for appointment must submit the appointment application using form AF1. The AF1 form can be obtained from the Commission's web site at <http://scc.wa.gov/elections/>. Letters of recommendation, resumes, and other items do not need to be included with the application. Late applications and associated documents cannot be considered. The Conservation Commission will not consider applications submitted by someone other than the applicant.

a) For appointment to a full term of office

- i) Applications and supporting materials must be received by the Commission no later than March 31.
- ii) If an incumbent holding the office of appointed conservation district supervisor wishes to be reappointed, the incumbent must reapply for appointment. This clearly identifies to the Conservation Commission the wishes of the incumbent, and allows the Conservation Commission to verify the eligibility of the incumbent to continue his or her service.

b) For appointment to a partial or mid-term term of office

- i) In consultation with the Conservation Commission, the conservation district will establish a deadline for applications and publicize that date.

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<#>The name of the conservation district.¶
<#>The name, residential address, mailing address, phone number, and email address (if available) for the applicant.¶

<#>Yes/No questions about the applicant being a registered voter, whether the applicant is a landowner or operator of a farm, whether the applicant resides inside the district, and whether the applicant owns land inside the district. An applicant must be a registered voter in the state of Washington.¶

<#>The applicant's current occupation.¶

<#>A description of the applicant's experience with boards and organizations.¶

<#>A description of special training, skills and experience that may help the applicant perform the duties expected of a conservation district supervisor.¶

<#>The name and phone number of at least one person the Conservation Commission may contact regarding the applicant's qualifications.¶

<#>Information about why the applicant is interested in serving as a conservation district supervisor.¶

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C. Conservation Commission duties

1. The Conservation Commission must notify affected parties.
 - a) The Conservation Commission must notify each conservation district of upcoming vacancies in the position of appointed conservation district supervisor by September 1 of the year prior to the terms expiration.
 - b) The Conservation Commission must notify each appointed supervisor whose term is expiring by January 15 of the year in which the term expires.
2. The Conservation Commission must make these procedures and the application form available on its web site.
3. The Conservation Commission must provide a list of prospective applicants to the conservation district prior to the Conservation Commission making an appointment.
4. The Conservation Commission may supplement at its cost any conservation district notice or advertising for applicants for appointed supervisor.
5. The Conservation Commission will vet each applicant with the Department of Ecology and Department of Agriculture. Applicants with prior or pending enforcement action against them may be ineligible to serve.
6. In the event no applications are submitted from qualified applicants for a conservation district, the Conservation Commission may seek qualified applicants from the community served by the conservation district. The Commission may contact each district which received no applications and offer an option to re-advertise the open appointed position for a four week period. If the district declines this option, the Commission will seek qualified applicants itself. Applications received as a result of the second round of advertising will be processed as soon as possible by the Commission.
7. Conservation Commission procedures for full-term appointments.
 - a) Full-term appointments will be made annually at the regular Conservation Commission meeting to be held the third Thursday in May of each year.
 - b) The term of office will be three years. The term of office for a full-term appointment will expire on the third Thursday of May three years following the appointment.
 - c) Prior to the May meeting of the Conservation Commission Board, the Conservation Commission will evaluate all applications received by March 31 in the year the position is open for appointment.
 - d) The Conservation Commission will evaluate the suitability and capability of all applicants for the position of appointed supervisor.

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Deleted: <#>In the event an incomplete application is received, the Conservation Commission will attempt to contact the applicant so the application can be corrected. However, the Conservation Commission is not bound to perform any additional investigation or due diligence if an applicant does not respond or if the application remains incomplete.¶

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- 1445 e) A Conservation Commission representative will contact a conservation district supervisor from
- 1446 the affected conservation district prior to the Conservation Commission making the
- 1447 appointment.
- 1448 f) The Conservation Commission will notify all applicants, including those not appointed, of the
- 1449 appointments made at its May meeting.
- 1450 g) The Conservation Commission must notify each conservation district of the appointments made
- 1451 following the May meeting.
- 1452 8. Conservation Commission procedures for mid-term appointments.
- 1453 a) The term of office will be until the end of the original full-term.
- 1454 b) To assure continuity of district operations and effectiveness in administering the authorized
- 1455 conservation program of the conservation district, the Conservation Commission may act on an
- 1456 application for mid-term appointment at any time, as determined solely by the Conservation
- 1457 Commission.
- 1458 c) The Conservation Commission will evaluate the suitability and capability of all applicants for the
- 1459 position of appointed supervisor.
- 1460 d) A Conservation Commission representative will contact a conservation district supervisor from
- 1461 the affected conservation district prior to the Conservation Commission making the
- 1462 appointment.
- 1463 e) The Conservation Commission will notify all applicants, including those not appointed, of the
- 1464 mid-term appointments made.
- 1465 f) The Conservation Commission will notify each conservation district of the mid-term
- 1466 appointments made.

D. Conservation District duties

- 1468 1. Conservation districts must provide due notice to citizens of the opportunity to apply for
- 1469 appointment to a full term of office as a conservation district supervisor.
- 1470 a) Notices should be published at least several weeks before the application deadline.
- 1471 b) Copies of published notices shall be retained at the district for at least one year, and may be
- 1472 inspected at any time during that year by the Commission.
- 1473 c) Notices for elections and appointments may be combined.
- 1474 2. Notices to the public must include at least the following information:
- 1475 a) There is an upcoming vacant or unexpired appointed supervisor position.
- 1476 b) An applicant must be a registered voter in the state of Washington.

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**Election and Appointment Procedures
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- 1479 c) Applicants may be required to be landowners or operators of a farm, depending on the current
- 1480 composition of the conservation district board of supervisors.
- 1481 d) A conservation district supervisor sets policy and direction for the conservation district.
- 1482 e) A conservation district supervisor is a public official who serves without compensation.
- 1483 f) Application forms may be obtained from the Conservation Commission website.
- 1484 3. Deadlines for applications vary
- 1485 a) For full-term appointments, the deadline for applications and associated materials to be received
- 1486 by the Conservation Commission in Lacey, Washington, is March 31.
- 1487 b) For partial or mid-term appointments, the conservation district must consult with the
- 1488 Conservation Commission to determine an appropriate due date, and then publish that date.
- 1489 4. Conservation district procedures for a full-term appointment.
- 1490 a) The application period is January 1 through March 31 in the year the appointment is to occur.
- 1491 b) The conservation district must notify the newly appointed supervisor of the date and time of the
- 1492 next meeting of its board of supervisors.
- 1493 5. Conservation district procedures for mid-term appointments
- 1494 a) The conservation district must consult with the Conservation Commission in determining an
- 1495 appropriate application period and deadline for applications.
- 1496 b) The application period must be at least four weeks (28 calendar days) in duration.
- 1497 c) The conservation district must select a reasonable deadline for applications to be received by the
- 1498 Conservation Commission, preferably at least four weeks before the regular Conservation
- 1499 Commission meeting at which the conservation district wishes the appointment to be made.
- 1500 d) A conservation district is not required to provide due notice, but should strive to do so unless an
- 1501 emergency exists that calls for immediate filling of the vacant office.
- 1502 e) A conservation district may extend the deadline for applications upon consultation with, and
- 1503 agreement by, the Conservation Commission. Due notice of the extended deadline must be
- 1504 provided by the conservation district.
- 1505 f) The conservation district must notify a newly appointed supervisor of the date and time of the
- 1506 next meeting of its board of supervisors.

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Deleted: <#>If a conservation district receives an original application or associated documents from an applicant, the conservation district must forward to the Conservation Commission all such materials.¶
<#>The Conservation Commission will not accept applications submitted by parties other than the applicant, but if a conservation district forwards originals, the Conservation Commission will confirm the application with the applicant.¶
<#>If an applicant does not confirm his or her intent to apply, the application will be rejected by the Conservation Commission.¶

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E. Applicant duties

1. Applicants for the position of appointed supervisor of a conservation district must be registered voters in Washington State.

2. Applicants may obtain the an application form (AF1) from the Washington State Conservation Commission's website at <http://www.scc.wa.gov/elections/>.

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3. Applicant procedures for full-term appointments.

a) Applications and supporting materials must be received by the Commission no later than March 31.

b) An applicant becomes a municipal officer of the conservation district upon formal appointment by the Conservation Commission.

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c) Newly appointed supervisors may begin performing the duties required of conservation district supervisors at the next regular or special meeting of the conservation district board of supervisors following appointment by the Conservation Commission.

4. Applicant procedures for mid-term appointments.

a) An applicant becomes a municipal officer of the conservation district upon appointment to office by the Conservation Commission.

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b) Newly appointed supervisors may begin performing the duties required of conservation district supervisors at the next regular or special meeting of the conservation district board of supervisors following appointment by the Conservation Commission.

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1553 **SECTION 4: VACANCY, REMOVAL, AND REPLACEMENT**

1554 **A. Only vacant offices may be filled – WAC 135-110-900**

- 1555 1. The office of conservation district supervisor may not be filled by election or appointment unless the
1556 term of office has expired, or the position has been immediately vacated as described in this section,
1557 or the Conservation Commission has declared the position vacant.

1558 **B. Supervisors must be eligible to serve – WAC 135-110-910**

- 1559 1. A conservation district supervisor must be eligible to serve in the office of conservation district
1560 supervisor throughout the term of office.
1561 2. If an incumbent no longer meets the minimum eligibility requirements to serve as a conservation
1562 district supervisor, the office is deemed vacant.

1563 **C. Resignation from office – WAC 135-110-920**

- 1564 1. A conservation district supervisor may resign from public office at any time, and for any reason.
1565 2. Resignations must be made in writing to the Conservation Commission or to the conservation
1566 district.
1567 3. Resignations are effective on the date received, unless the incumbent has specified a future date for
1568 the resignation to become effective.

1569 **D. Ceasing to be a registered voter – WAC 135-110-930**

- 1570 1. The office held by an elected conservation district supervisor is immediately vacant upon that
1571 supervisor no longer meeting the definition of a qualified district elector.
1572 2. The office held by an appointed conservation district supervisor is immediately vacant upon that
1573 supervisor no longer being a registered voter in the state of Washington.

1574 **E. Death of the supervisor – WAC 135-110-940**

- 1575 1. The office held by a conservation district supervisor is immediately vacant upon the death of the
1576 supervisor.

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F. Declaration voiding an election or appointment – WAC 135-110-950

1. The office held by a conservation district supervisor is vacant upon the decision of a competent tribunal declaring void his or her election or appointment.

G. Removal from office – WAC 135-110-960

1. As provided in RCW 89.08.200, a conservation district supervisor may be removed from office by the conservation commission governing board upon notice and hearing for neglect of duty or malfeasance.
2. The conservation commission must provide notice to the supervisor detailing the specific elements of the neglect of duty or malfeasance for which removal is sought. The supervisor shall be given the opportunity to respond in writing to the elements contained in the notice within thirty days of the notice to the supervisor from the conservation commission. Notice to the supervisor from the conservation commission shall be by certified mailing to the address of record for that supervisor.
3. The conservation commission must hold at least one public hearing no earlier than sixty days from the date of certified mailing to the supervisor in the area served by the conservation district supervisor before acting to remove the incumbent from office.
4. Following the public hearing, the conservation commission shall vote on the removal of the supervisor based on official findings of fact detailing the cause or causes of removal.

H. Replacement – WAC 135-110-970

1. A vacancy in the office of elected conservation district supervisor is filled by the conservation district board of supervisors for the remainder of the unexpired term, subject to the verification of supervisor qualifications by the conservation commission. While due notice to the affected community is strongly recommended, it is not required. Notice must be given of the appointment as soon as practicable by the District to the Commission. Please remember that any appointee to a vacant elected supervisor position must still be eligible to serve under WAC 135-110-910. Therefore, depending on the current make-up of the board of supervisors, an appointee to a vacant elected supervisor position may be required to be a landowner or farm operator at the time of appointment. Districts should make this determination before appointing someone to fill the vacant elected supervisor position by using form AF2. At least two of the three elected conservation district supervisors on the conservation district board must be landowners or operators of farms. The definition of landowner and farm operator is set out in WAC 135-110-110.

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- 1608 2. A vacancy in the office of appointed conservation district supervisor is filled by the Conservation
1609 Commission for the remainder of the unexpired term. The conservation district may publish due
1610 notice of the vacancy.
- 1611 a) Conservation Commission requirements are identified in Section 3.C.8 of these procedures.
- 1612 b) Conservation district requirements are identified in Section 3.D.6 of these procedures.
- 1613

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Appendix A

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[INSERT DISTRICT NAME] Conservation District
[INSERT ADDRESS, PHONE, EMAIL]

PLEASE READ THESE IMPORTANT VOTING INSTRUCTIONS

Dear registered voter:

Thank you for participating in our election by requesting an absentee ballot for the [INSERT DISTRICT NAME] Conservation District Board of Supervisor Election, which will be held on [INSERT DATE].

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TYPES OF CANDIDATES:

Per WAC 134-110-350, there are three types of candidates:

(1) A declared candidate is a qualified district elector who has submitted a candidate information form to the conservation district by the filing deadline, but has not submitted a qualified nomination petition signed by 25 registered voters. The name of this type of candidate will not appear on the ballot.

(2) A declared nominated candidate is a qualified district elector who has submitted a candidate information form and a qualified nominating petition signed by 25 registered voters to the conservation district by the filing deadline. The name of this type of candidate will appear on the ballot.

(3) An undeclared write-in candidate is a qualified district elector who has not submitted a candidate information form nor a qualified nomination petition signed by 25 registered voters to the conservation district by the filing deadline. Per WAC 135-110-360 an undeclared write-in candidate may only win if no candidates have filed by the candidate filing deadline or all the candidates who have filed have been found ineligible.

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CANDIDATES IN THIS ELECTION:

[INSERT DESCRIPTION OF CANDIDATES IN THIS ELECTION].

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BALLOT SYSTEM:

Our absentee ballot system is a two-envelope system to ensure the confidentiality of your vote. Complete the ballot and the attest statement and voter information form. Place only your completed ballot inside the smaller secrecy envelope being sure there are no identifying markings on the outside of the envelope then seal the envelope. If there is more than one ballot in the secrecy envelope or the secrecy envelope is not sealed, the ballot will be disqualified.

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Place the sealed secrecy envelope and the attest statement and voter information form into the larger envelope, which has our address preprinted in the addressee area of the envelope. The information on the attest statement and information form will be used to verify whether or not you are a registered Washington state voter living in [INSERT COUNTY NAME] County. If we cannot find your name on the voter rolls because you have used a nickname or you have moved and not updated your registration with the County, your ballot will be contested. Seal the outer envelope and write your name and return address in the upper left corner of the envelope.

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Your absentee ballot must be received by the Conservation District by mail or in person no later than [INSERT TIME] on [INSERT DATE] (WAC 135-110-110). Ballots post marked earlier, but received in the mail after [INSERT TIME] on [INSERT DATE] cannot be counted.

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Conservation district election procedures are set by the Washington State Conservation Commission and are governed under WAC Chapter 135-110. If you have any further questions about the election procedures, please call the conservation district.

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Sincerely,
[INSERT NAME]
Election Supervisor

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[INSERT DISTRICT NAME] Conservation District

1. Complete the ballot.
2. Place your completed ballot into the smaller secrecy envelope with no identifying marks.
3. Seal the secrecy envelope with only your ballot in it.
4. Complete the attest statement and voter information form.
5. Place the sealed secrecy envelope and the attest statement and voter information form into the larger white envelope with the [INSERT DISTRICT NAME] Conservation District address in the addressee area of the envelope.
6. Write your name and address in the upper left hand corner of the larger white envelope.
7. Bring or mail the larger white envelope to the [INSERT DISTRICT NAME] Conservation District office at [INSERT ADDRESS]. It must be received no later than [INSERT TIME] on [INSERT DATE].

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**Election and Appointment Procedures
for Conservation District Supervisors**



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[INSERT DISTRICT NAME] Conservation District

Attest Statement and Voter Eligibility Information

I swear under penalty of perjury under the laws of the State of Washington that I reasonably believe that I am a registered voter of Washington state and that I reside within the [INSERT DISTRICT NAME] Conservation District boundaries.

Signature

Voter Eligibility Information:

Print your name clearly as it appears on your County voter registration:

First Name Middle Initial Last Name

Print your address as it appears on your County voter registration:

Physical home address:

House number Street Unit #

City

Mailing address (if different from physical home address):

PO Box Number or House Number Street Unit #

City Phone Number

We will only call you if we are having difficulty verifying that you are a registered Washington state voter living in _____ County.

We may not be able to count your vote if

- You are not a registered Washington state voter living in [INSERT COUNTY NAME] County. (This will be verified by checking the [INSERT COUNTY NAME] County Auditor's voter rolls.)
- We cannot read your name and address on this form.
- Anything except the ballot is inside the secrecy envelope.
- The secrecy ballot is not sealed.
- The name or address on this form is different from the one on the [INSERT COUNTY NAME] County Auditor's voter rolls.

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Washington State Conservation Commission, POB 47721, Olympia, WA 98504-7721

Revised: 2015

**Election and Appointment Procedures
for Conservation District Supervisors**



Washington State
**Conservation
Commission**

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[INSERT DISTRICT NAME] Conservation District

[INSERT ADDRESS, PHONE, EMAIL]

Board of Supervisor Election Absentee Ballot Request

I, _____, a registered voter of [INSERT COUNTY
NAME]
(printed first name, middle initial, last name as it appears on your voter registration card)

County, WA living at _____
number street City

request in person, in writing, by telephone, or electronically, by the voter, a family member, or a
registered domestic partner, that an absentee ballot for the Conservation District Board of Supervisors election be
mailed to me at the following address:

Mailing address (If the same as above, please write same.):

Signature [check here if the request was by telephone or electronically]

Day Time Phone Number: _____

Email (optional) _____

Absentee ballot requests made in person, by phone or by email must be received by the [INSERT DISTRICT
NAME] Conservation District no later than [INSERT TIME] on [INSERT DATE] to be fulfilled.

Completed ballots may be mailed or dropped off, but must be received by [INSERT TIME], [INSERT DATE] at
[INSERT LOCATION OR ADDRESS].

If you have any questions, call our office at [INSERT TELEPHONE NUMBER].

~~Election and Appointment Manual; Page 48~~

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Revised: ~~2015~~

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for Conservation District Supervisors**



Washington State
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Appendix B

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Due Notice Compliance Notice Examples

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Please refer to Section 2.D.2.e and Section 3.D.2 for specific requirements about minimum content in notices published for elections and appointments.

We recommend providing notices to the pool of potential candidates long before the election, announcing vacancies and seeking candidates.

Sample announcement of a vacancy:

The Ledgerwood Conservation District is pleased to announce an opportunity to contribute to conservation and your community by serving on the Board of Supervisors. Supervisors are public officials who direct the activities of the conservation district. Although they serve without compensation, they are eligible to be reimbursed for appropriate expenses. For more information, please contact the Ledgerwood Conservation District or visit the Washington State Conservation Commission website at <http://www.scc.wa.gov/>

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Sample notice of intent to adopt an election resolution that meets the traditional minimum requirements:

The Ledgerwood Conservation District Board of Supervisors will hold a meeting at [time] on [month] [day], [year] at [address] location to adopt a resolution setting the date, time, and location of an election to fill a Conservation District Supervisor's expiring term.

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Sample notice of intent to adopt an election resolution that meets the NEW web site requirements:

*The Ledgerwood Conservation District Board of Supervisors will hold a meeting at [time] on [month] [day], [year] at [address] location to adopt a resolution setting the date, time, and location of an election to fill a Conservation District Supervisor's expiring term. **Please note: future election information will be posted ONLY on the Ledgerwood Conservation District web site (INSERT WEB SITE URL).***

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Sample adopted election resolution notice that meets minimum requirements:

A [insert type: mail, poll-site, electronic] election for a board seat on the Ledgerwood Conservation District will be held on [month] [day], [year] at [address] location. Polls will open at [time] and close at [time]. Registered voters who reside within the Conservation District boundary are eligible to vote. Candidates must be registered voters residing in the conservation district, and may be required to own land or operate a farm. The candidate filing deadline is [date] at [time]. Elections procedures are

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available at the district office. Absentee ballots are available upon request for eligible voters, but must be requested on or before [time] on [month] [day], [year]. Please contact the District office at [phone] or at the District office at [address] for absentee ballots or if you have any questions.

1804

Sample appointment announcement that meets minimum requirements for a full-term appointment:

1805

A board seat on the Ledgerwood Conservation District is available for appointment by the Washington State Conservation Commission. Conservation district board supervisors are public officials who serve without compensation and set policy and direction for the conservation district. An applicant must be a registered voter in Washington State, and may be required to own land or operate a farm. Applicants for appointed positions do not have to live within the district to apply. For more information, or to obtain an application form, please contact the Ledgerwood Conservation District or visit the Conservation Commission website at <http://www.scc.wa.gov/>. Applications and supporting materials must be received by the Commission no later than March 31, [year].

1806

Sample Board-Authorized Automatic Re-Election of the Incumbent notice. Note: use this notice only if your Board of Supervisors, at a regular or special meeting, passed a resolution cancelling the election due to the automatic re-election of the incumbent, in compliance with WAC 135-110-370:

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The Ledgerwood Conservation District Board of Supervisors resolved on [day], [year] to proceed with informing the voting public that the incumbent has been re-elected to the currently open seat by reason of being the only person filing for the position by the filing deadline. Therefore, no poll site, absentee balloting or mail balloting will be performed pursuant to WAC 135-110-370. For further information, please contact the District at [phone].

1810

Sample Automatic Re-Election of the Incumbent notice. Note: use this notice if your Election Supervisor has chosen to cancel the election due to the automatic re-election of the incumbent without a formal resolution from your Board of Supervisors, in compliance with WAC 135-110-370:

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The Ledgerwood Conservation District Board of Supervisors hereby informs the voting public that the incumbent has been re-elected to the currently open seat by reason of being the only person filing for the position by the filing deadline. Therefore, no poll site, absentee balloting or mail balloting will be performed pursuant to WAC 135-110-370. For further information, please contact the District at [phone].

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Washington State
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1818 Below are two different examples of signs to post on election day, in order for a district to comply with WAC 135-110-370:

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1820 Example #1 (use this sign if your Board of Supervisors, at a regular or special meeting, issued a resolution regarding the
1821 automatic re-election of the incumbent):

1822 "Pursuant to WAC 135-110-370, no poll site, absentee balloting or mail balloting will be performed. The XYZ Conservation
1823 District Board of Supervisors resolved on [day], [year] to proceed with informing the voting public that the incumbent has been
1824 re-elected to the currently open seat by reason of being the only person filing for the position by the filing deadline. For further
1825 information, please contact the District at [phone]."

1826

1827 Example #2 (use this sign if your Election Supervisor has chosen to proceed without a formal resolution from your Board of
1828 Supervisors regarding the automatic re-election of the incumbent):

1829 "Pursuant to WAC 135-110-370, no poll site, absentee balloting or mail balloting will be performed. The XYZ Conservation
1830 District Board of Supervisors hereby informs the voting public that the incumbent has been re-elected to the currently open seat
1831 by reason of being the only person filing for the position by the filing deadline. For further information, please contact the District
1832 at [phone]."

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Washington State Conservation Commission, POB 47721, Olympia, WA 98504-7721

Revised: 2015

July 16, 2015

TO: Commission Members
Mark Clark, Executive Director

FROM: Bill Eller, Election Officer / Regional Manager

RE: Whatcom Conservation District election investigation

Summary: Staff recommends the Conservation Commission board (Commission) certify and announce the official winner of the Whatcom Conservation District (WCD) election. Issues presented before, during, and after the WCD election do not rise to the level of significant noncompliance with election procedures necessary to invalidate the election.

Staff Recommendation: The Commission should certify and announce the official winner of the WCD election as none of the issues presented establish a finding of significant noncompliance with WAC Chapter 135-110 and the election procedures published for this election cycle.

Action: The Commission must decide whether or not to certify and announce the official winner of the WCD election.

Background: The Commission received numerous complaints and concerns from various sources even before WCD held its election on March 10, 2017. Issues involving receipt of absentee ballots by potential voters were directed to the WCD staff before Election Day. Those issues were resolved and the election was held.

After the election was held, and between March 17, 2015 and April 9, 2015, WCD submitted the required election forms to the Commission. In reviewing those forms, specifically the two Election Form 7s (the ballot reports for both the in-person poll-site election results and the absentee ballot election results), it was determined that WCD staff recorded approximately 228 votes as “contested” and not otherwise processed in the total vote count. Commission staff reviewed those contested ballots with WCD staff. Contested ballots must be examined to determine if the ballot is qualified to be counted or disqualified from being counted. There could be numerous reasons for a ballot to be disqualified. The reasons for each of the 228 contested ballots were examined, and WCD staff directed to tally those ballots as either qualified (a valid vote) or disqualified (an invalid vote). In a letter sent to WCD staff on May 1, 2015, WCD staff was directed to conduct that count of the 228 ballots and revise their Election Form 7’s to accurately reflect the outcome of the election. WCD staff responded to the May 1, 2015 letter from Commission staff with additional concerns about voter privacy versus vote validity and seeking guidance on how to proceed. At the May 21, 2015 Commission meeting,

the Commissioners gave WCD additional guidance to WCD on how to proceed and WCD finished the count of the remaining ballots on June 10, 2015. Mr. Larry Helm received 2,142 votes, and Ms. Joy Monjure received 2,096 votes. The margin was 46 votes.

While all this was pending, and after the election was held, more complaints, mainly involving access to voting were received by Commission staff. What follows are the staff's effort to investigate all the issues that might warrant a finding of significant noncompliance with election procedure that may affect the outcome of the election (as defined in the Washington Administrative Code (WAC) 135-110-120) and require the Commission to decline to certify the WCD election.

Allegation 1: Whatcom Conservation District staff not requiring voter identification.
Date Made: March 16, 2015
Status: Immaterial.
Effect: Identification is suggested, not required. Voters must provide sufficient information for a polling officer to determine that individual's eligibility to vote.
Source: Telephone conversation with Larry Helm to Bill Eller.
Summary: Mr. Helm said that Whatcom CD staff was not asking for ID in order to verify voters.

Discussion:

The Revised Code of Washington (RCW) Title 29A generally governs elections in Washington and includes the duties of county auditors and county elections departments. Specifically, RCW 29A.04.216 sets out the duties of county auditors and also sets out the exception to those duties. One of the exceptions applies to conservation district elections. That exception is listed here:

...This section does not apply to general or special elections for any city, town, or district that is not subject to RCW 29A.04.321 and 29A.04.330, but all such elections must be held and conducted at the time, in the manner, and by the officials (with such notice, requirements for filing for office, and certifications by local officers) as provided and required by the laws governing such elections.

RCW 29A.04.216. The duties of the county auditor apply to all elections except "general or special elections for any ... district that is not subject to... RCW 29A.04.330." RCW 29A.04.216.

A review of RCW 29A.04.330(1)(b) indicates that the general provisions of RCW 29A.04.330 do not apply to "... conservation districts, or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto...[.]" RCW 29A.04.330(1)(b).

So, therefore, while RCW Chapter 29A governs general elections in Washington State, it does not govern conservation district elections. Conservation District elections are governed by RCW

Chapter 89.08, WAC Chapter 135-110, and elections policy and procedures as determined by the Commission, the state agency charged with establishing procedures for elections. The Commission is authorized in RCW 89.08.190 to establish conservation district election procedures: "The Commission shall establish procedures for elections, canvass the returns and announce the official results thereof."

The Commission has adopted election rules in WAC Chapter 135-110, effective November 19, 2010. District elections are to be conducted annually, and must comply with election rules and procedures.

The election procedures exist to assist conservation districts and conservation district supervisors in the election, appointment, and replacement of supervisors in the State of Washington, and to assure fair treatment of all parties involved in such proceedings, and to provide guidance for compliance with WAC Chapter 135-110.

In the event the rules, procedures, or both are not substantially followed, the Commission may make a determination of significant noncompliance. Significant noncompliance consists of failures to follow these procedures that, in the sole judgment of the Commission, may (1) affect the outcome of an election; (2) affect the appointment of a supervisor; or (3) deny voters their right of privacy in voting. If a determination of significant noncompliance is made, the Conservation Commission may choose not to certify the election. WAC 135-110-120.

Under the rules governing district elections, in order to vote, "each voter must provide ...[h]is or her name, sufficient to allow identification in the voter registration list; ...[a]n address sufficient to allow identification in the voter registration list; and ... [t]he signature of the voter." WAC 135-110-550. Further,

- c) A voter must sign in on a poll list and provide sufficient information for a polling officer to determine the individual's eligibility to vote.
- d) Before receiving a ballot, the identity of a voter must be verified by a polling officer. Acceptable forms of voter identification include:
 - i) Valid Washington State driver's license or Valid Washington State identification card; or
 - ii) Any other identification allowed for registering to vote by the Auditor of the County where the conservation district is located.
- e) A voter who cannot be confirmed at the polling place as eligible to vote may vote, but only on a contested ballot issued by a polling officer.

Election and Appointment Procedures for Conservation District Supervisors (Manual), pg 33. While the Commission encourages voters to provide identification to polling officers, and suggests different types of identification that may satisfy the requirement in WAC 135-110-550, neither the WAC nor the Manual requires it.

Allegation 2: Some voters might not have been able to obtain absentee ballots prior to election day, and some couldn't vote in person.

Date Made: March 16, 2015
Status: Unsubstantiated.
Effect: No substantiated effect on election outcome.
Source: Telephone conversation with Larry Helm to Bill Eller.
Summary: Mr. Helm said that another issue he identified is that, apparently, some Whatcom CD staff were not able to provide absentee ballots to voters who had to come and vote in person. There may be some who couldn't vote in person.

Discussion:

Election definitions are set out in WAC 135-110-110 and in the Manual, Section 1, Subsection F, on pgs 5-10. The term "significant noncompliance" is defined in WAC 135-110-120(2) as "the failure to follow the requirements in this rule that may affect the outcome of an election or deny voters their right of privacy in voting." The Manual provides further guidance. It states that "significant noncompliance consists of failures to follow these procedures that, in the sole judgment of the Conservation Commission, may (1) affect the outcome of an election; (2) affect the appointment of a supervisor; or (3) deny voters their right of privacy in voting." Manual, Section 1, Subsection C(1), pg 1.

The Commission has not received any related complaints from persons other than the complainant, who only made vague assertions about third parties' inability to receive absentee ballots. Our investigation and inspection of WCD absentee ballot procedures, instructions, and materials they followed a standard procedure for processing and handling of absentee ballot requests. No evidence has come to light during the investigation that would substantiate this claim. However, for a further discussion of allegations related to absentee ballots, please see the remaining Allegations below.

Allegation 3: Worst-run election since moving to Bellingham; WCD elections not fair for everyone; multiple allegations of issues described in detail below.
Date Made: March 16, 2015 & March 18, 2015
Status: Various – ranging from opinion, conjecture, suggestions, immaterial, policy options, procedural choices, unsubstantiated and substantiated.
Effect: Most of the issues identified below stem from differences between general election procedure and conservation district procedure and / or policy choices by WCD allowed under district election procedure. None were identified as errors constituting "significant noncompliance" as defined in WAC 135-110-120(2) requiring non-certification of the election.
Source: March 16, 2015: Email from Richard Conoboy to Bill Eller;
March 18, 2015: Email from Michael Plummer to Bill Eller.
Summary: On March 16, 2015, Mr. Conoboy asserted that exchanges on a Facebook web site (Whatcom Hawk) substantiate what he describes as "probably one of the worst run elections I have witnessed since moving to Bellingham in 2002." The exchanges purport to document a number of complaints listed below. On March 18, 2015, Mr. Plummer asserted that "conservation district elections here in

Whatcom County are not fair for everyone” and asserts that a list of allegations written by “an individual who understands the process better than I” shows that. Mr. Plummer’s allegations are virtually identical to Mr. Conoboy’s. As a result, both sets of complaints were combined and set out below. *Italics* indicate issues raised.

Discussion:

3a. Election results were not posted within 4 days of election day. Immaterial to election outcome. Districts are not required under CD election law to post election results, but polling officers may announce unofficial results. See WAC 135-110-720. Districts have 28 days after the election day to report ballots results to the Commission. See WAC 135-110-750.

3b. WCD should have accepted funds to run the election from the County or Legislature. The failure to do so does not ensure a fair election. Immaterial to election outcome. Districts are free to accept donations from any source. See Revised Code of Washington (RCW) 89.08.220(10).

3c. The County Auditor should run WCD’s election. Immaterial to election outcome.

3d. Absentee ballots could be sent out earlier. WCD is free to choose the date for absentee ballots in their election resolution, however, they must do so. See WAC 135-110-410. The request deadline must be “reasonable.” See WAC 135-110-410. Districts have been urged to set earlier deadlines so as to avoid confusion and to provide for a clearer transition between the closing of the absentee ballot period and Election Day. However, there was no evidence that the date chosen by WCD in this instance affected the outcome of the election.

3e. There could be more in-person polling locations. WCD is free to set polling locations in their election resolution. See WAC 135-110-240. They are to provide for the needs of disabled voters. See WAC 135-110-250. However, there is no evidence that the number of available poll sites affected the outcome of the election, nor was any evidence uncovered that a disabled voter requested special accommodation.

3f. WCD could create its own list of voters and send out ballots to those voters. Districts may send or provide ballots to all individuals who, in the three years preceding the election, have voted in a conservation district election or have participated in conservation district services or program. See WAC 135-110-515(4) and WAC 135-110-420. WCD is free to create and use such a list. However, there is no evidence that the absence of use of such a list affected the outcome of the election.

3g. Absentee ballots were requested, but not sent in enough time to be received by voters. See the brief answer to #3d above, and further analysis below. These allegations involve mainly a few voters who were able to vote in person.

3h. Counting ballots takes too long. Immaterial to election outcome. See Allegation 3a above.

3i. *The percentage of voters participating is too small compared to registered voters in Whatcom County.* Voter participation is always a concern to the Commission and districts. The Commission requires due notice of the election to be published in various media. See WAC 135-110-220. The Commission also encourages additional publication of election notices beyond the minimum required by the WAC. “Conservation districts are strongly encouraged to exceed the minimum due notice requirements to reach the maximum number of potential candidates and voters.” Manual, pg 2. However, there is no evidence that low voter turn-out affected the outcome of the election.

3j. *Conservation District elections need to be on the general election ballot to be fair.* The Legislature has made the decision to allow different rules to govern district elections than govern general elections. If the complainant thinks there should be a different process, he should petition the Legislature.

3k. *Not all voters know about the WCD election. In regular elections, ballots are sent out automatically to registered voters.* District elections are not governed by general election law but by RCW Chapter 89.08 and WAC Section 135-110. Further, district election law requires publication to the public of the date, time, place, and manner of district elections. See WAC 135-110-210 and WAC 135-110-220. The Commission encourages additional notice to the public beyond the minimum required by law. See analysis in Allegation 3i above. After investigation, it has been determined that WCD complied with election law and procedure with respect to minimum standards for proper notice publication.

3l. *Voters have to request an absentee ballot in order to vote by mail. It is not only confusing to voters to then have to request ballots in order to vote in the WCD election when WA state is a vote-by-mail state, but is also unfair because of the lack of proper notice of the election to the public.* This is a comment on the process rather than an allegation of specific non-compliance with district election law. See Allegations 3d, 3g, and 3k above.

3m. *If voters want to vote in-person, their only option is at one location in Lynden where there is no bus service to that location.* See Allegation 3e above.

3n. *When requesting a ballot on-line, there was no confirmation provided with which to verify that request.* There is no requirement under district election rules to provide confirmation of a verification of a request. Polling officers or the election supervisor determine a voters’ eligibility to vote when that vote is counted. See WAC 135-110-610. However, WCD is looking into revising their on-line ballot request procedure to provide a confirmation email back to the requestor. There is no evidence of specific non-compliance with district election law in this allegation, nor is there any indication that a confirmation procedure would have affected the outcome of this election.

3o. *On the WCD ballot there was no way for individuals to verify their vote was received and counted as is the case in regular elections. The ballots in our regular elections have a tear-off piece to retain and allows voters to confirm their ballot was received and counted.* See Allegation 3n above. There is no requirement that district elections follow the same

procedures as general elections. Further, a voter concerned about whether his or her vote was received by the District should contact the district and there is no indication that any did.

3p. The instructions which accompanied the ballots were confusing and had contradictory statements in those instructions which could result in those ballots being invalidated. The due date on the actual absentee ballots differed from the due date for those absentee ballots that was specified online on the WCD website. See analysis below. Any confusion over due dates or instructions should prompt the voter to seek further information from the district or Commission. There is no evidence of specific non-compliance with district election law in this allegation.

3q. Not all voters have a vehicle to drive themselves to Lynden. There is no law requiring districts to provide for transportation to polling stations. Voters who are in need of special assistance with voting should contact the district for assistance in securing a ballot. See Allegation 3e above.

3r. Not all voters are physically able to get themselves to Lynden. District staff went to great lengths to accommodating voters with disabilities. For at least three voters who were sight-impaired, district staff on election day were able to provide impartial helpers to them to assist them in voting. In at least four instances on election day, district staff brought mobility-impaired voters their ballots in the poll site parking lot so those voters could vote in their car. No complaints were received by district staff from any of the assisted voters as district staff reports that all of the voters who received such special accommodation seemed appreciative of staff's efforts to assist them in voting. Also, see Allegations 3q and 3e above.

3s. There is no designated polling location in Bellingham even though a large percentage of the overall county population resides in that city. See Allegation 3e above.

3t. Many WWU students may not have vehicles while attending college, so getting themselves to Lynden to vote in-person is problematic. See Allegations 3r, 3q and 3e above.

3u. Because of the reasons listed above, the WCD election favors residents of Lynden, while potentially disenfranchising residents from Bellingham and other areas. See Allegation 3e.

3v. If a Bellingham voter or a voter who lives 25 minutes or so drive time from Lynden has a vehicle, but works a typical 9-5 job, trying to vote during their lunch hour will be problematic. It will take them about an hour drive time to drive to Lynden and back to Bham. That does not count any time at the WCD office waiting to vote. See Allegations 3t, 3r, 3q and 3e above.

Further Discussion of Allegations 3g and 3p:

Allegation 3g. Absentee ballots were requested, but not sent in enough time to be received by voters.

Discussion:

Procedures for processing absentee ballots are set out generally in the Election Manual in Section 2, Subsections D-F on pages 18-30, Appendix A on pages 48-51, and in a number of WAC sections. "Absentee ballots must be provided to eligible voters upon request..." WAC 135-110-520(1). No mechanism for obtaining the ballot (personal appearance, mail, telephone, or electronic request) is prescribed in the WAC. Similarly, there is no time-factor specified by WAC 135-110-520(1) on when the district must fulfill the request.

Absentee ballots in general elections are similarly processed. RCW Chapter 29A governs general elections, as does WAC Chapter 434. While conservation districts are exempt from general election provisions, an analysis of how general elections are conducted would be instructive. Because Washington conducts an all mail-in election, absentee ballots similar to those in conservation district elections not exist, per se. However, replacement ballots can be requested when a mail-in ballot doesn't reach a voter. Requests for replacement ballots can only "be made in person, in writing, by telephone, or electronically, by the voter, a family member, or a registered domestic partner." WAC 434-250-080. "Replacement ballots or the original ballot, whichever is received first," are tallied for the voter when they are received back at the County Auditor. WAC 434-250-080.

WCD did have a procedure for processing absentee ballot requests. The District referred to the Commission's Election and Appointment Procedures for Conservation District Supervisors (Manual), the Revised Code of Washington (RCW) Chapter 89.08, and WAC Chapter 135-110 for guidance, and sought additional guidance from Commission staff as needed. However, WCD has not adopted any other formal rules or procedure for processing absentee ballots.

All staff was empowered to process absentee ballot requests (i.e. identify the requestor thought name, address, and birth date, if possible). However, Ms. Dawn Bekenyi, the designated election supervisor for WCD, was primarily responsible for processing absentee ballot requests and distributing ballots. WCD employees cover for each other when the others are out of the office. Absentee ballots were available for request up until the request deadline of February 9, 2015 at 4:00 pm. Staff tried to accommodate requests made after the deadline by sending out absentee ballots after the deadline if there was still enough time for the ballots to be mailed to the requestor and returned by the requestor to WCD. However, the closer a request came to election day on March 10, the likelihood that staff were able to process such a request decreased until it ceased altogether and the only recourse for a requestor was to come to the poll site and vote in person on election day. Absentee ballot requestors who came to the WCD offices too close to election day of March 10, 2015 were properly denied absentee ballots since the published deadline has passed and the ballot couldn't be returned by election day.

Processing of absentee ballot requests occurred during normal business hours. Notices published in the newspaper (on December 4, 2014 and January 22, 2015) to the public indicated to contact the WCD office for ballot requests, or to go to the WCD web site for information. Absentee ballot information was included on the WCD web site.

The deadline to request an absentee ballot, as set out in WCD's election resolution RS-14-1, was February 9, 2015, at 4 pm. The deadline to return absentee ballots was no later than March 10 at 6 pm. Ballots were to be returned to WCD at their office at 6975 Hannegan Road,

Lynden, WA 98264. The details of the election (date, time, location, manner) and absentee balloting requirements were published on the WCD web site beginning on November 16, 2014, in the Bellingham Herald on December 4, 2014 and January 22, 2015, in the Whatcom Watch on February 1, 2015, in the Lynden Tribune on February 4 and February 11, 2015, and in the Cascadia Weekly on January 28, 2015.

WCD staff would retain all blank absentee ballots and gather them together for a planned bulk mailing of absentee ballots. That bulk mailing of absentee ballots occurred on February 13, 2015. Requests could be made through an on-line form on WCD's web page through a link, or by telephone or in-person. Released ballots were tracked in two separate databases – on kept track of on-line requests and the other in-person or by telephone requests. Both databases were cross-checked by WCD staff in order to avoid duplicate processing of requests. A ballot package was created by the election supervisor together with the written instructions and made available for staff.

Since there is no time-factor specified by WAC 135-110-520(1) on when the district must fulfill the request, a reasonable amount of time to fulfill the request would be inferred. Here, requests were formally taken up until the request deadline of February 9. The bulk mailing was done on February 13. The deadline to return absentee ballots was post marked on election day – March 10. Employees also made efforts to accommodate requests even after the February 9 request deadline, so long as there was a reasonable change the request could be processed and the ballot returned by the requestor by March 10. This timeframe is not unreasonable.

WCD staff cannot say for sure because they didn't keep a record, but they believe only 2-3 persons called the WCD office to inform WCD that they didn't receive their absentee ballot in the mail. After an investigation of one instance, staff determined that there was a transcription error in the recording of the address and sent another ballot by first class mail. Staff sent the other requestors who informed the WCD that they didn't get the ballot in the bulk mailing another ballot by first class mail.

WCD was advised that their procedure for tallying absentee ballots could be eliminated or streamlined since, after the adoption of WAC 135-110, the documentation of the identity of a requestor or the number of absentee ballots that go out to a requester is immaterial to the tallying of absentee ballots. What matters is that the first absentee ballot from a registered voter to arrive back at the district is the only vote tallied for that voter. WAC 135-110-170. "Every individual requesting a ballot for any conservation district election must be verified as a qualified district elector before his or her ballot is counted." WAC 135-110-610.

While it might be prudent for districts to document the identity of a requestor or the number of absentee ballots requested for later cross-reference purposes, a one-to-one ratio of absentee ballot to requester isn't required. The Manual was revised in September 2013 to emphasize that the proper focus of efforts to tally absentee ballot is not when they go out (when they are requested), but when they come back (when they are tallied for purposes of counting votes). The measure that matters is not the number of absentee ballots that go out, but the number that are returned. The first valid, returned absentee ballot will be counted and attributed to the voter. Any subsequent ballot (whether it be another absentee ballot or a poll-site ballot) will

not be counted for that same voter. Commission staff will review the September 2013 amendments to the Manual in light of the WCD election to determine if clarifying amendments need to be made.

Our investigation and inspection of WCD absentee ballot procedures, instructions, and materials shows that they followed a standard procedure for processing and handling of absentee ballot requests. The procedure that WCD had in place could be revised in the aforementioned ways to ensure greater public participation and access for voters and make it easier for WCD staff to process and handle absentee ballot requests.

Therefore, it appears that WCD properly complied with procedures for absentee ballots as it understood them, despite using a procedure best designed to comply with pre-WAC Chapter 135-110 requirements. 2,932 valid mail-in and absentee ballots were cast. 38 were disqualified for various reasons (nine voters couldn't be found on the voter registration rolls; four duplicate ballots were returned; thirteen were postmarked too late; and one had nothing in the return envelope; six had no attestation statement; four had an attestation statement but not ballot; and one voter voted for both candidates). After investigation it was determined that there was no substantial, definitive evidence uncovered that the difficulties presented by the WCD absentee ballot procedure for staff and requestors rose to the level requiring the Commission to not confirm and announce the WCD election.

Allegation 3p. The instructions which accompanied the ballots were confusing and had contradictory statements in those instructions which could result in those ballots being invalidated. The due date on the actual absentee ballots differed from the due date for those absentee ballots that was specified online on the WCD website.

Discussion:

Please refer to the discussion on Allegation 3g above. The valid mail-in and absentee ballot numbers returned (2,932) with the low number of disqualified ballots (38) shows that the vast majority of voters were able to properly comply with the ballot instructions. Approximately 1.3% of the voters had their ballots invalidated, and that includes ballots invalidated for reasons not related to following instructions (nine for not being on the voter rolls, four for being duplicate ballots).

Further, there was no evidence uncovered during this investigation that conflicting deadlines were provided to voters for absentee ballots. Voters might have been confused by the specified deadline to request an absentee ballot (February 9, 2015 at 4:00 pm) and the deadline to return the ballot to WCD offices (postmarked no later than March 10, 2015 by 6:00 pm). Regardless, the evidence shows that WCD was consistent in their instructions to the public, both in their public notices and on their absentee ballot instructions, in that it advised voters who have questions, concerns, or need further information to contact WCD.

Allegation 4: Absentee ballot instructions were confusing.

Status: Opinion.

Effect: While the absentee ballot instructions might be confusing to some voters, there was no substantiated evidence that the absentee ballot instructions affected the outcome of the election, and therefore there was no “significant noncompliance” as defined in WAC 135-110-120(2) requiring non-certification of the election.

Date Made: March 20, 2015 & March 23, 2015

Source: Email from Sandy Robson to Bill Eller.

Summary: On March 20, 2015, Ms. Robson alleged that the instructions for returning absentee ballots were confusing, misleading, and that the absentee ballots themselves included candidate statement. She also listed a host of allegations that are identical to those addressed above in Allegation 3. For a discussion of the allegations identical to those in Allegation 3, please see Allegation 3. The other allegations are dealt with below. On March 23, 2015, Ms. Robson again contacted Commission staff to provide a graphic depiction of WCD’s absentee ballot instructions. That depiction is provided below. Ms. Robson also took issue with the inclusion of candidate statement in the absentee ballot materials sent to voters. That issue will be addressed separately in Allegation 5 below.

Scanned copy of WCD absentee ballot instructions (which accompanied Ms. Robson’s March 23, 2015 email) below:

Instructions to Vote Your Ballot

Double-envelope voting is required for mail-in elections.

Ballots are to be inserted in an inner envelope and sealed, with no marks or other information that would identify the person voting. The outer envelope must show or contain sufficient information to identify the voter. The name and address of the voter, as shown on the list of registered voters obtained from the County Auditor, is recommended.

Step 1: Vote on Your Ballot. Use a pen to mark the box for the candidate of your choice. DO NOT use pencil.

Step 2: Keep It Secret. Place the marked ballot in the white secrecy envelope (small, blank envelope) and seal it.

- Envelopes containing more than one ballot will not be counted.
- DO NOT sign this envelope.

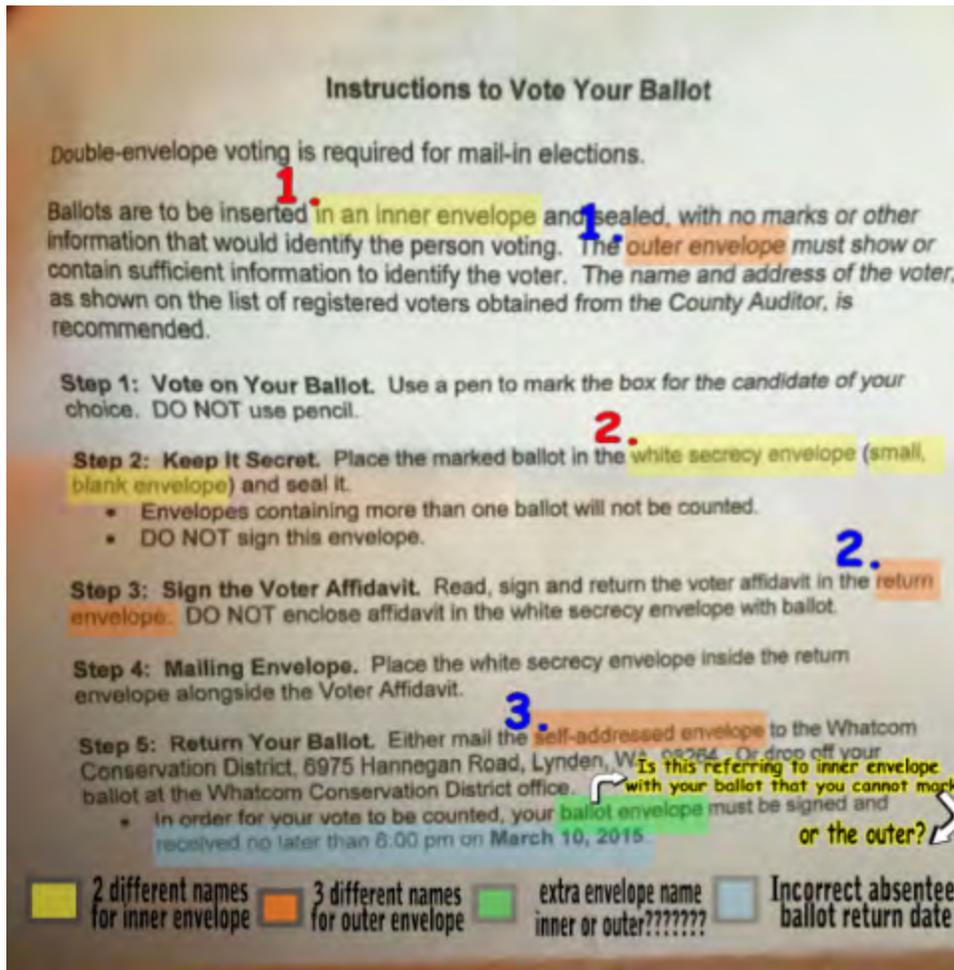
Step 3: Sign the Voter Affidavit. Read, sign and return the voter affidavit in the return envelope. DO NOT enclose affidavit in the white secrecy envelope with ballot.

Step 4: Mailing Envelope. Place the white secrecy envelope inside the return envelope alongside the Voter Affidavit.

Step 5: Return Your Ballot. Either mail the self-addressed envelope to the Whatcom Conservation District, 6975 Hannegan Road, Lynden, WA 98264. Or drop off your ballot at the Whatcom Conservation District office.

- In order for your vote to be counted, your ballot envelope must be signed and received no later than 6:00 pm on **March 10, 2015**.

Ms. Robson's screen shot image of the WCD absentee ballot instructions which accompanied her March 23, 2015 email (all graphics (numbers and highlights) are hers):



Discussion:

Please see the discussion in Allegations 3g and 3p above. Further, on May 21, 2015, the Commission took action to clarify conservation district election policy so affirm that the intent of the voter controlled, rather than strict adherence to ballot instructions. When a voter’s clear intent to vote can be established, and when there are no other disqualifying issues with a ballot, the failure to follow ballot instructions will not preclude the counting of a ballot. Examples of ballots received that were not invalidated for want of following instructions include when voters did not seal the security envelope, when voters returned ballots without security envelopes, and when voters signed their ballots. All three of the aforementioned actions were against the instructions for properly filling out and returning ballots, however, none invalidated a vote.

As Ms. Robson states in her email about this issue, “the absentee ballot instructions I received from the WCD... could be easily interpreted by voters in various ways, potentially causing ballot invalidations.” The potential to cause ballot invalidations does not rise to the level of actual ballot invalidation. No evidence was substantiated which indicated that a vote was invalidated for failure to follow instructions. In fact, the exact opposite occurred – voters who failed to

follow absentee ballot instructions, but whose intent could otherwise clearly be discerned by the polling officers had their votes count.

Allegation 5: Candidate statements were included in absentee ballot materials distributed to Voters who requested absentee ballots.

Status: Substantiated.

Effect: No error as the two voters requested the absentee ballots after the deadline to request absentee ballots had passed. The two voters were able to vote in person the next day at the poll site. No "significant noncompliance" as defined in WAC 135-110-120(2) requiring non-certification of the election.

Date Made: March 20, 2015 & March 23, 2015

Source: Email from Ms. Sandy Robson to Bill Eller.

Summary: On March 20, 2015, Ms. Robson, in addition to allegations addressed in Allegation 4 above, also that the absentee ballots themselves included candidate statements.

Specifically, she asserts that

Additionally, in the information accompanying the absentee ballot, there was candidate information provided. It seemed inappropriate that incumbent Larry Helm's candidate information stated: "Three years ago I was elected as a Supervisor to the Conservation District (CD) Board. I have learned a lot. We have a great staff! They support economic farm viability; but they are guided by domineering environmental regulations in this State/County. The farmer's profit is regularly negatively impacted by fees and environmental regulations. We need to focus on our goals!"

It seems inappropriate that in the WCD election absentee ballot and candidate information quoted above, that Mr. Helm is speaking for the staff there at WCD and it echoes his own messaging that he has been espousing to voters in his campaign which can give voters the impression that WCD staff agree with Larry Helm's thinking about environmental regulations, which then seems almost an endorsement by WCD staff.

Discussion:

Ms. Dawn Bekenyi (Ms. Bekenyi) was appointed by the WCD board as their election supervisor for the 2015 election cycle (as per WCD board Resolution #RS-14-1, dated December 11, 2014). In speaking with Ms. Bekenyi on June 10-11, 2015, she does confirm that a deadline was set of January 30, 2015 for candidates to send to WCD candidate statements. Ms. Joy Monjure turned in her bio and picture on January 28, 2015, and Mr. Larry Helm turned in his picture on Jan 27, 2015 and his bio on January 29, 2015.

Among the instructions that WCD provided to potential candidates was this:

Prior to Election Day, we encourage you to take the opportunity to tell voters about who

you are and how you are connected to Whatcom County. (Keep in mind, though, that such information must not be provided within 300 feet of polls on Election Day.)

There's another chance to tell voters about yourself when you turn in your candidate bio! If all candidates participate by the filing deadline, the WCD will produce a voter pamphlet with candidate information.

a. Things to think about when you write your candidate statement:

- describe your current occupation/employer (suggested)*
- describe your position interest (suggested)*
- describe your education (suggested)*
- information about your family (optional)*
- include a photo of yourself (suggested)*

Your statement should be no more than 200 words. Don't forget, these statements must be limited to information only about yourself. (The Whatcom Conservation District retains the right to eliminate information for space availability or content appropriateness.)...

During and after poll-site election, please remember:

- 1. Not to seek to influence voters to vote for or against you or another candidate within 300 feet of the polling station – the WCD office.*
- 2. Not to interfere with voters or polling officers. You may observe an election while the polls are open and the counting of votes afterward.*

Responses from both candidates were received by WCD staff by the January 31, 2015 deadline. Without editing them, both statements were provided in the mail-in and absentee ballot packets. There is no WCD policy, written or otherwise, that addresses the form or content of candidate statements, nor is WCD required to have such a policy under the conservation district election code (Washington Administrative Code (WAC) Chapter 135-110). The possible adoption of such a policy has been discussed subsequent to this event with Ms. Bekenyi.

Regardless, we believe the WAC and Commission Manual sections govern this situation, as explained below.

WAC 135-110-430 allows a district to publish candidate-provided information. To assist voters in the selection of a candidate during voting, a conservation district may publish information provide by a nominated or declared write-in candidate. Further, if the district chooses to publish information about candidates, it must provide equal opportunity for publication and equivalent space to each candidate. WAC 135-110-430. The full text of WAC 135-110-430 is below:

Conservation district may publish candidate-provided information.

(1) To assist voters in the selection of a candidate during voting, a conservation district may publish information provided by nominated and declared write-in candidates.

(2) If a conservation district chooses to publish information about candidates, it must provide equal opportunity for publication and equivalent space to each nominated and declared write-in candidate.

(3) Candidate information provided by candidates and published by the conservation district may be mailed or delivered to voters before election day, but may not be provided to voters at poll sites on election day.

WAC 135-110-430. Similarly, the Manual mirrors WAC 135-110-430 on pg 22, Section D(2)J(i) "Conservation District Duties - Before an Election," and on pg 32, Section G(1)e "Candidate Duties - Before an Election". Section G(1)e provides further that "[i]t is the responsibility of a candidate to inform voters of the candidate's desire and qualifications to be elected to the office of conservation district supervisor. A conservation district may provide equal opportunity and equivalent space to candidates for this purpose but are not required to do so."

If a district chooses to publish information provided by the candidate, it must provide equal opportunity for publication and equivalent space to each candidate. It would appear that this was done in this case. Both candidates were provided equal opportunity and equivalent space for their candidate statements. Mr. Helm's statement consists of one paragraph of text with a photo, numbering 141 words. Ms. Monjure's statement consists of four paragraphs of text with a photo, numbering 190 words. Images of the statements appear below:

March 10, 2015
Whatcom Conservation District Supervisor Election
Candidate Information

Candidate Information: This year there are two candidates on the ballot for the Whatcom Conservation District Supervisor Election. No candidates declared for "write-in" status by the filing deadline. Per WAC 134-110-350, supervisor election rules no write-in candidates are eligible for election if not declared prior to candidate filing deadline.

Eligible candidate information (below) can also be found on our website on the election page at www.whatcomcd.org/board_elections.



Larry Helm –

I was raised on a small dairy farm, but I chose to spend my professional career as a State Park Superintendent in California where I spent 30 years dealing with environmental issues. When I retired at 55, I moved to Bellingham, purchased a small 20 acre and started raising Scottish Highlanders, bees and fruit trees. Three years ago I was elected as a Supervisor to the Conservation District (CD) Board. I have learned a lot. We have a great CD staff! They support economic farm viability; but they are guided by the domineering environmental regulations in this State/County. The farmer's profit is regularly negatively impacted by fees and environmental regulations. We need to focus on our goals! If a farm is not polluting-producing clean water downstream-then government should minimize their impact to that farm operation. Without a healthy profit margin our farms will slowly disappear.



Joy Monjure –

Joy Monjure relocated from California to Bellingham in 1979. She worked for 23 years as education and communications coordinator for Bellingham Public Works where she provided the public with information about local water resources. This position lit a passion for environmental protection and public service that have continued through her life.

In 1989, when Joy moved to Everson, she became aware of, and involved in, sustainable farming issues. She helped create the first Whatcom County Farm Map and Guide and the community fall harvest dinner. When she retired from the

City of Bellingham Joy opened Field of Greens, a thriving farm market in Everson (fieldofgreens.biz).

Public service, civic engagement and family have filled Joy's life. She has served on the Farm Fund, Whatcom Watersheds Information Network and the boards of the Coalition for Healthy Communities, Domestic Violence Commission, Whatcom County Flood Hazard Management Committee and Whatcom Council of Governments. Joy also served on the Everson City Council from 1995 to 2005 and as president of the Everson/Nooksack Chamber of Commerce for 2 years. In 2014, she ran for Washington State Representative.

Joy has been married for forty years to Ron, has two sons, Christian and Ford and three grandchildren.

In conclusion, it appears from our investigation that WCD has followed current election procedures with regard to candidate statements. However, though RCW Chapter 29A does not govern conservation district elections, policies and procedures used in general elections can be relevant if applied to conservation district elections. In the instant case, we recommended to the WCD that it adopt a policy on the form and content of candidate statements. We also recommend providing clear guidance to districts with a revision to the Manual that addresses this issue. A template for candidate statements to districts should be included in the Manual to promote uniformity among conservation districts, and decrease the likelihood of future issues involving candidate statements.

The Commission actively promotes the sovereignty of local government by allowing for procedural variations, whenever possible, among conservation districts related to how they conduct elections. Illustrations of this can be found in all aspects of elections procedures (choosing an election date, picking the type of election, and advertising methods are examples). Regardless of which variation they choose, all conservation districts place great value in the integrity of the election process.

In the present case, for the aforementioned reasons, we find no significant noncompliance with the election rules and procedures. Ultimately, the WAC and Manual put the responsibility on the candidate to inform voters of the candidate's desire and qualifications to be elected to the office of conservation district supervisor. Candidates are free to run campaigns as they see fit and can provide voters with any information they choose, so long as the information provided is lawful and otherwise complies with the RCW, WAC, Manual, and Commission election procedures.

Allegation 6: Various improprieties with the election process.
Status: Unsubstantiated.
Effect: Error, but not “significant noncompliance” as defined in WAC 135-110-120(2) requiring non-certification of the election.
Date Made: March 23, 2015
Source: Email from Ms. Barbara Perry to Bill Eller.
Summary: Ms. Perry presented a number of different allegations (some already addressed), but others were new in her March 23, 105 email. They are set out below in detail:

1. At the very least the ballots not counted need to be opened to see how voters voted.
2. Voters, including a past Bellingham City Council member, our previous Bellingham Mayor, the layout editor of Whatcom Watch, and various others had not received requested ballots;
3. no bus went to the District Center where they could vote;
4. paying for gas to get to the center to vote was like a poll tax when voters should have been able to drop ballots off at either libraries or usual voting boxes;
5. voting instructions were confusing;
6. counting was not overseen by neutral voters as in a regular election;
7. the postal Statement stated 3,798 ballots were mailed but only 2,923 ballots, or only 23% were returned.
8. I am told that the more commonly used Form 6 of Washington's other Conservation Districts elections have the registered voters checked before their ballots are sent to them. If there is any question of eligibility, the “Polling Officer... must verify the eligibility of each voter before issuing a ballot...” Instead of the voter going through the burden of complaining, the Polling officer must verify voting concerns. Bill McCullum, layout editor for Whatcom Watch, said Dawn, voting administrator, told him that he did not receive a ballot because he could not be found on the registered voters’ list. Well, assuming this is accurate, why were the names verified before ballots were sent and in addition, the voter had to sign an attestation statement? Not to mention the fact that Bill McCullum loyally votes in every election, so why wasn’t his name on the list? And why weren’t the past City Council member and mayor on the list?
9. Because local media was active in making voters more aware of the Whatcom Conservation District, it appears this local district could not handle the many people requesting to vote.

Detailed Discussion:

(1) *At the very least the ballots not counted need to be opened to see how voters voted. All ballots need to be accounted for and were accounted for immediately after the election through the ballot tallying process and during the counting that occurred on June 10, 2015.*

(2) *Voters, including a past Bellingham City Council member, our previous Bellingham Mayor, the layout editor of Whatcom Watch, and various others had not received requested ballots. See discussion in Allegation 3, 3d, 3f, 3g, 3k, 3p, and 4 above.*

(3) *No bus went to the District Center where they could vote. See discussion in Allegation 3, 3e, 3q, 3r and 3u above.*

(4) *Paying for gas to get to the center to vote was like a poll tax when voters should have been able to drop ballots off at either libraries or usual voting boxes. See discussion in Allegation 3, 3e, 3q, 3r and 3u above. Further, for poll site elections, each district is required to have ballot boxes and signage. WAC 135-110-630.*

(5) *Voting instructions were confusing. See discussion in Allegation 3, 3d, 3f, 3g, 3k, 3p, and 4 above.*

(6) *Counting was not overseen by neutral voters as in a regular election. "Only polling officers and the election supervisor may open and count ballots." WAC 135-110-700(1). Further, no polling officer may be a district supervisor or employee, unless that person is serving in the capacity of election supervisor. WAC 135-110-440. Counting ballots on and immediately after election day was done by the four polling officers hired by WCD. On June 10, 2015, when the remaining untallied ballots were counted, two polling officers hired by the District conducted the count. Ms. Bekenyi was present during both procedures. There were also a number of independent observers present during both counts. There was no evidence uncovered during the investigation that either the election supervisor or any polling officer was biased in any way, nor that election procedures for counting ballots were not properly conducted. There is no evidence to support this allegation.*

(7) *The postal Statement stated 3,798 ballots were mailed but only 2,923 ballots, or only 23% were returned. See discussion in Allegation 3i and 3k above.*

(8) *I am told that the more commonly used Form 6 of Washington's other Conservation Districts elections have the registered voters checked before their ballots are sent to them. If there is any question of eligibility, the "Polling Officer... must verify the eligibility of each voter before issuing a ballot..." Instead of the voter going through the burden of complaining, the Polling officer must verify voting concerns. Bill McCullum, layout editor for Whatcom Watch, said Dawn, voting administrator, told him that he did not receive a ballot because he could not be found on the registered voters' list. Well, assuming this is accurate, why were the names verified before ballots were sent and in addition, the voter had to sign an attestation statement? Not to mention the fact that Bill McCullum loyally votes in every election, so why wasn't his name on the list? And why weren't the past City Council member and mayor on the list? The list at issue is not the "registered voters' list" as referenced above, but the list of voters who have requested absentee or mail-in ballots from WCD. For a complete discussion of*

the lists that WCD created to document mail-in or absentee ballot requests, please see Allegations 3f, 3g, 3n, and 3p above.

In a conversation with Ms. Bekenyi on June 10, 2015, she recalls Mr. McCullum contacting her shortly before election day, after the deadline for absentee ballot requests, to say he applied on-line to have an absentee ballot sent to him but had not received it. She says she checked to see if his name was in their on-line request database as having made a request. It was not. She indicated to him that he would have to come to the poll site and vote since there was not enough time for him to be sent and to return an absentee ballot.

“Every individual requesting a ballot for any conservation district election must be verified as a qualified district elector before his or her ballot is counted.” WAC 135-110-610(1). However, “[a]t a poll-site election, a provisional ballot must be issued if the voter’s eligibility to vote cannot be determined during polling and the individual wishes to vote.” WAC 135-110-610(2) and WAC 135-110-460. If the voter’s eligibility at a poll site election cannot be verified, a provisional ballot is issued and that voter is allowed to vote. If the polling officer cannot subsequently verify the eligibility of that voter’s provisional ballot through further examination, that ballot is disqualified. For mail-in or absentee ballots, there is no requirement that a voter’s eligibility be verified before the ballot is sent to the voter. Ballots are verified before the voter’s ballot is counted by the polling officer. WAC 135-110-610(1). During poll-site elections, polling officers verify the eligibility of voters before they are issued ballots. During mail-in and with absentee ballots, the requirement is that polling officers verify the eligibility of a voter when that vote is counted, not when it is issued.

(9) *Because local media was active in making voters more aware of the Whatcom Conservation District, it appears this local district could not handle the many people requesting to vote.* Complaints about WCD’s election included allegations that the voter turnout was too low, yet this allegation asserts that the turnout was too high for the district to handle. Turnout in conservation district elections varies greatly throughout the state and for a number of other reasons (timing of the election, candidates in the election, issues in the district, and a host of other reasons). Districts are required to publish election notices promoting the election to the public in a variety of media. WCD has done so for this election, and properly complied with Commission rules on election notice publication. Yet, WCD has been advised to take all of these into consideration when it plans and conducts its elections in the future, while properly managing the taxpayer funds allocated to it by the state.

Allegation 7: Votes were not counted in the presence of neutral bystanders.
Status: Substantiated.
Effect: No error and no “significant noncompliance” as defined in WAC 135-110-120(2) requiring non-certification of the election.
Date Made: April 2, 2015
Source: Email from Mr. Michael Savatgy to Bill Eller.
Summary: Mr. Savatgy was disturbed to learn that the votes in WCD’s election were not counted in the presence of neutral bystanders. He was also interested in finding out for sure that his ballot was fairly counted.

Discussion:

See the discussion in Allegation 6(6) above.

Allegation 8: People who requested ballots did not receive them and there were a large quantity of ballots not counted for various questionable reasons.
Status: Substantiated.
Effect: Error, but not “significant noncompliance” as defined in WAC 135-110-120(2) requiring non-certification of the election.
Date Made: April 3, 2015
Source: Email from Ms. Ann McAllen to Bill Eller.
Summary: Ms. McAllen had concerns about voters who requested ballots who did not receive them and that there were, apparently, a large quantity of ballots not counted for various questionable reasons.

Discussion:

See the discussion in Allegation 3, 3d, 3f, 3g, 3k, 3p, 4, and 6(1) above.

Conclusion: In conclusion, it appears from our investigation that WCD has followed election procedures with regard to absentee ballot requests. While it has a procedure in place to verify requests, that procedure is neither required nor prohibited. We recommend loosening the procedure to make obtaining absentee ballots easier for voters, in light of the changes that the adoption of WAC Chapter 135-110 brought to the conservation district election system. We further recommend those actions incorporated in the body of this document.

The Commission actively promotes the sovereignty of local government by allowing for procedural variations, whenever possible, among conservation districts related to how they conduct elections. Illustrations of this can be found in all aspects of elections procedures (choosing an election date, picking the type of election, and advertising methods are examples). Regardless of which variation they choose, all conservation districts place great value in the integrity of the election process.

RCW 89.08 and WAC Chapter 135-110 govern conservation district election procedure. RCW Chapter 29A can provide insight and guidance in instances where RCW 89.08 and WAC Chapter 135-110 are silent. In the case at hand, the Commission will review its election procedures in light of the complaints raised herein, and seek to enhance them where applicable.

In the present case, for the aforementioned reasons, we find no significant noncompliance with the election rules and procedures. Therefore, we recommend the certification and announcement of the official winner of the WCD election.

2402 Capitol Way South
Olympia, Washington 98501

June 29, 2015

Mark Clark
Executive Director,
Washington Conservation Commission
300 Desmond Drive SE
Lacey, WA 98503

Re: Election issues

Greetings,

Thanks for your letter of June 12 and response to my request for information. What I was asking for was the Commission's procedural rules for canvassing and certifying district elections and for its record of decision in certifying the recent Thurston Conservation District (TCD) election.

I was surprised by what I received, principally from the standpoint of what was not included. Therefore I am writing again to ask if what you sent was the complete record of decision. I am also using this opportunity to express some concerns and ask a few follow up questions.

You also attached several documents about district election reform, the largest of which is entitled "Report to the Legislature on Conservation District Elections / Election Proviso Workgroup Review Draft, Version 4, January 9, 2014". They discuss the need for reform and the Legislature's direction to the Commission to recommend changes. In developing its recommendations, the Legislature directs the Commission to obtain feedback from stakeholders.

Therefore I hope that the information below is useful to the Commission as stakeholder feedback and that it will include it in the final draft of its report to the Legislature.

The Commission's Role in the District Election Process. My understanding is that the State Conservation Commission is supposed to act as the quality control agent for conservation district elections and provide oversight of the election process in a manner similar to that provided by the Washington Secretary of State's office working with the county auditor's offices and the local canvassing boards in most other elections. According to State law, a conservation district's board of supervisors is the body that is responsible for conducting the district election (WAC 135-110-230) and after the balloting is complete, the Conservation Commission is responsible for canvassing and certifying the election. In doing this, the Commission is supposed to provide a neutral and unbiased assessment of whether the election was conducted in a manner that treated both the candidates and voters fairly and encouraged the members of the public to freely exercise their right to vote.

After reviewing what you sent, impressions of the Commission's review and certification process for the TCD election as are as follows:

- 1. Procedural rules.** The Commission's hearing on May 21 and its review of the TCD election was apparently conducted without formal rules of procedure to guide it or to assure fair and consistent consideration of the issues. State law requires the Commission to review district elections but the Commission has apparently not adopted a written procedure for how it is supposed to do this.

Chap 135.110 WAC was enacted by the Commission to provide a formal process to guide local conservation districts in conducting their elections but the rules says little about the Commission's subsequent review and certification of these elections.

The State's Administrative Procedure Act (Chap. 34.05 RCW) was mentioned in your letter however it is unclear how the Commission believes this law applies to its election review process. If the Commission

considers its review of district elections to be an “adjudication”, it does not appear to have followed the requirements prescribed for such (RCW 34.05.400 et. al.)

A document entitled “*Election Manual: Election and Appointment Procedures for Conservation District Supervisors*” was also mentioned in a memo written by Bill Eller and attached to your letter. The document was apparently compiled by Commission staff and is largely a reiteration of Chap. 135.110 WAC. It seems to be made up of several different revisions (Sept. 2013 and August 2014 respectively). This document outlines the process required for conducting district elections but does not discuss the Commission’s election review process.

In addition, there is no information showing that this manual was formally adopted by the Commission or that its provisions have any sort of legal standing (except for portions of Chap 135.110 WAC that are quoted therein).

The same is true at the local level. There is no showing in the record that the manual was adopted by the TCD Board of Supervisors or that it had legal application to the recent district election. By law, the board of supervisors is responsible for the district election and the Commission has jurisdiction to review the election only after the balloting is completed (WAC 135.110.230, et. al)

2. **Deliberation and due diligence.** The Commission’s hearing of the TCD election issues appears to have been cursory and lacking meaningful consideration of the evidence and deliberation of the issues. The Commission’s “hearing” was apparently little more than a summary acceptance of WCC staff’s recommendations. There is no showing in the record that Commission members questioned any part of Mr. Eller’s memo or even read the document.
3. **Knowledge of elections /Qualifications for election review.** The record does not contain information about the Commission members’ respective experience with elections. There is no information demonstrating that members had knowledge of election administration practices or training in election law.

As a result, the Commission apparently relied on staff to conduct its election review. It is unclear whether Commission members have the ability to critically assess the staff recommendations or challenge staff assumptions.

In addition, there is no evidence in the record that the WCC staffers who make recommendations to the Commission have training or expertise in elections.

4. **No procedure for collecting & submitting evidence.** The lack of hard information and clear evidence about the TCD election has been a major problem for the Commission’s review process. There seems to be few rules and no clear understanding about what information the District must collect, how it should collect it, when it must disclose it, and how the information should be presented to the Commission. The election procedures that exist under Title 29A RCW and the other general election laws of Washington State are largely absent in the Commission’s review process.

As noted in various places below, these things have created confusion for the Commission’s review of the TCD election and raised serious questions about its outcome.

5. **Record of decision.** Based on what you sent, the Commission’s “record of decision” is apparently limited to a single memo written by WCC staffer Bill Eller. In his memo, Mr. Eller seems to tell the Commission what issues it should consider, offers an analysis of each one, and then specifies the ruling that the Commission should make. Since this memo appears to represent the entire record of the hearing, it raises a number of issues.

A. Approach to election review. The first thing that is striking about Mr. Eller’s memo is its tone. As mentioned above, my understanding is that the Commission is supposed represent the public, not the conservation district, in its election review process. It is supposed to determine if the district conducted a good election and ascertain if it treated the candidates fairly and encouraged the public to vote and helped it do so.

Mr. Eller however takes a different direction. He seems to assume that district elections are lawful unless proven otherwise. His analysis treats TCD like a client who he is representing. In his memo, he advised the

Commission that it must have “substantial, definitive evidence” of “difficulties” and a showing that it is not only “true” but also that it “affect(s) the outcome of the election”. His analysis sounds much like a criminal defense attorney defending his/her client and arguing that the defendant is innocent until proven guilty and that guilt must be proven beyond a reasonable doubt.

Mr. Eller’s interpretation is out of step with the requirements of law and at odds with the Commission’s role in representing the public interest and protecting the election process.

It also creates a standard of proof which is unattainable when the Commission doesn’t require districts to collect data and create evidence and then to proactively disclose it.

And ironically, Mr. Eller’s memo ignores the fact that the Commission was indeed presented with “definitive” and “substantial” evidence showing that the election was flawed. The Commission was on notice that the TCD Board had made such a finding and had requested that the Commission not to certify the election. Under WAC 135-110-230, the District Board is fully responsible for running the election and evaluating the actions of district staff. (This is discussed further below in *Giving weight to the “don’t certify” recommendation by the TCD Board*).

Mr. Eller also seems to assume the role of a prosecutor and judge in selectively sorting through the evidence, raising the few issues that he believes are important and then disposing of them with a summary analysis. In doing so, Mr. Eller ignores the definition of “significant non-compliance” and the burden of proof specified in Chap 135.110 WAC (discussed in more detail below).

In his memo, Mr. Eller makes some very novel legal arguments. For example, in arguing that TCD is not guilty of significant non-compliance with the law, he seems to say that the public cannot complain about TCD’s potential election violations because District didn’t adopt any rules or procedures to violate. He hastens to add that the District was not legally required to do so either. Mr. Eller’s analysis therefore seems to be that without rules, there can be no violations. (Eller Memo, p. 5).

In offering this argument, Mr. Eller appears to be forgetting that the public’s right to vote and run for public office should be the focus of the Commission’s review. This right is protected by many rules, beginning with the State and Federal Constitutions and flowing downward through several centuries of statutory enactments and case law.

Further, Mr. Eller’s legalistic and argumentative approach to reviewing the TCD election is inappropriate outside of a formal contested hearing before a neutral magistrate where both sides of the question are fairly represented. (See Chap. 34.05 RCW).

Therefore Mr. Eller’s analysis of the TCD election seems to be out of step with both the spirit and the letter of law. Chap 89.08 RCW and Chap 135.110 WAC both provide that the Commission should look broadly at all of the circumstances surrounding the election and then determine if the public interest was well served. Again, this requires the Commission to ask if the district conducted a good election that treated the candidates fairly and encouraged the public to exercise its right to vote.

- B. Few issues considered.** Mr. Eller’s memo considered only a few of the many issues involved with the TCD election and the questions, complaints, and irregularities that it created. Unfortunately, the memo ignored many relevant issues that were identified as important by the public, the candidates, the district supervisors, and district staff during and after the TCD election.

One example of this is Mr. Eller’s dismissal of all of the problems that occurred early in the election by simply declaring that they “were resolved”. He therefore advised the Commission that it did not have to review them. (Eller’s memo, p.1). This statement is factually incorrect and a mischaracterization of the Commission’s legal duties.

The law requires the Commission to look at the entire election in order to certify it. There is no provision in Chap. 89.08 RCW or Chap 135.110 WAC that allows the Commission to review only part of a district election.

Further, the circumstances to which Mr. Eller refers are in fact not resolved. The TCD Board attempted to review and address election issues that came before it in February but its efforts were compromised and confused in part by Mr. Eller's own actions. These actions included Mr. Eller's publication of a legal opinion which attempted to decide issues before the TCD Board could consider them and his reoccurring involvement with district staff to provide direction in administering the election.

Rather than "being resolved", these issues have grown into larger problems that continue past the end of the election. Some were referred to the Commission for action and when the Commission did not respond, they were referred to the State Auditor's office. This is discussed in more detail under "Conflict of Interest" below.

- C. **Absence of evidence.** All of the evidence (emails, letters, complaints, etc.) that was forwarded to the Commission or otherwise available to it are absent from the record. There are no attachments to Mr. Eller's memo. In certifying the TCD election, there is no showing that Commission reviewed any of the evidence available.
- D. **Failure to investigate.** In addition to the evidence that was available to the Commission, there is the question of whether the Commission exercised due diligence by conducting its own investigation and affirmatively seeking out relevant information about the TCD election.

The Commission's willingness to proactively investigate election issues is especially important in light of TCD's sloppy record-keeping and apparent reluctance to disclose information on its own initiative.

The Commission's duty to review a district election necessarily includes the duty to seek out evidence to base its decision on. This duty to investigate may be characterized with a metaphoric reference to scripture:

"Ask and it will be given to you; seek, and you will find". (Mathew 7:7)

An aggressive investigation was especially necessary for the TCD election because of the district's apparent attitude about disclosing information. According to the TCD Election Supervisor/District Administrator, Ms. Whalen "(t)here is no requirement under the Elections Guidelines for districts to forward copies of all documents to the Commission, unless requested." (May 7 email from Kathleen Whalen with copies to Mark Clark, Bill Ehlers, and Shana Joy)

Of particular concern is the Commission's failure to act on the request made by Mr. Kreger in his April 13 letter to you. In his letter, Mr. Kreger asked that the Commission retrieve copies of TCD staff emails to help answer several questions about potential election irregularities that were before the Commission. Mr. Kreger is a TCD Board member and the Board Auditor. I understand that Mr. Kreger reiterated this request to Mr. Eller when they spoke in early May.

In addition, I understand that Eric Johnson, also a member of the TCD Board, asked Mr. Eller to obtain copies of these emails when they spoke in early May.

I also wrote to you on May 11 to second the requests by Messer Kreger and Johnson. I said that I "*believe that the Commission should act on requests that it has received to obtain and review copies of TCD staff emails sent and received over the last six months. This seems like necessary information that the Commission needs to make an objective determination in this matter.*"

These individual requests were in addition to a request that had been made in early March by the TCD board itself. The Board asked the Commission, through its staff liaison Shana Joy, to obtain copies of TCD staff emails at its emergency meeting in early March. The Board explained to Ms. Joy that one of its members (Mr. Johnson) overheard a conversation between TCD staff and the challenger just prior to the February Board meeting that struck the Board member as inappropriate. The Board expressed its believe to Ms. Joy that the emails were the best evidence available to resolve this and other election questions and that having them available for the Commission's review of the election was essential.

Despite these requests, WCC staff apparently did not obtain copies of these emails. They were not referenced by Mr. Eller in his memo and the information that they contained was not available to the Commission during its election review.

Ironically, I understand that the Commission and District will now have to retrieve this information in response to a public disclosure request.

- E. Mischaracterization of the facts.** Mr. Eller's portrayal of the TCD election is in some places inaccurate and in others contradictory. This serves to minimize or distort significant occurrences that affected the election.

One example of this is Mr. Eller's response to the complaint that "(d)istrict staff prevented the public from voting by absentee ballot". He declares that this is "unsubstantiated" (Eller memo, p. 2) even though he is aware of uncontroverted evidence showing that the District did in fact prevent members of the public from voting.

Mr. Eller's then contradicts himself on pp. 11-13 by admitting that district staff failed to provide absentee ballots as requested and therefore did in fact deny members of the public their right to vote. Mr. Eller did not acknowledge this contradiction but rather disposed of the matter by characterizing it as an "error" which was "unfortunate" but not significant.

Another example is found on page 2 of his memo in the statement that "all staff were empowered to process absentee ballot requests..." This is just the opposite of what the TCD District Manager/Election Supervisor Ms. Whalen told the TCD Board. Ms. Whalen said that only one staffer (Ms. McBee) was authorized to hand out absentee ballots and, as it turned out, this staffer was a part-time employee who was often away from the front desk on other duties. Since the TCD website and other publications told the public that they could pick up absentee ballots at the district office Monday through Friday between 8 am and 4:30 pm, this part-time coverage was poor planning on Ms. Whalen's part and the problems it caused were foreseeable.

To compound matters further (and contrary to Mr. Eller's assertions), TCD did not establish a process to collect absentee ballot data. The District did not have a system for taking voters' names and contact information when Ms. McBee was unavailable. If it had, TCD would have had a record of how many people it turned away and a means to contact them to make sure that they eventually received a ballot. Public complaints about being denied absentee ballots continued up to and including the day before the election ended.

Because TCD did not create such a process, TCD cannot say (and the Commission does not know) how many people it turned away and prevented from voting. Mr. Eller characterizes the District's non-collection of data that results in the non-existence of election information as proof that there is no evidence that proves a clear violation of the rules occurred.

Instead, Mr. Eller should have advised the Commission that TCD's failure to adopt rules and collect election information was in itself an election irregularity and out of step with the general election laws of Washington State. He should have acknowledge that once there was a *prima facie* showing that the District turned away voters seeking absentee ballots, it was then incumbent upon the District to produce evidence that all of these voters were eventually able to vote. This is a showing that the District cannot make and a burden of proof that it cannot meet.

Mr. Eller makes much of the fact that several of the voters who were denied ballots persevered and eventually managed to vote. However he fails to note the circumstances that show or strongly suggest others did not. The District cannot tell the Commission who and how many there were because it refused to track ballot requests and denials even after it had been requested to do so.

I believe that this alone should have caused the Commission to make a finding of "significant non-compliance" and require a new election. Unfortunately, Mr. Eller discounted the issue's importance and the Commission ignored it.

Then there is the issue of non-delivery of ballots requested by email. The Commission has received copies of emails showing that the District deprived the public of their right to vote by “forgetting” to send ballots, even after staff had confirmed receipt of the email request.

To make matters worse, communications by the District’s election staff raise serious questions about TCD’s commitment to voter participation and making every vote count. When a voter (Lynne DeLano) wrote to TCD to complain about its failure to provide the ballots that she had requested by email and to “question the integrity of the entire election process”, the District summarily dismissed her concerns. District staff (Ms. McBee) wrote back to her to say that the District’s failure to respond to the voter’s ballot request was a minor matter and that “small mistakes happen in every election but does not mean they are defunct.” (Ms. McBee to Ms. DeLano, March 14, 2015).

This attitude is astonishing from a public employee and an election staffer. It disrespects both the election process and the voter’s right to vote. It also summarily dismisses legitimate concerns raised by the voter about the District’s omission and how it affects the integrity of the election. Nevertheless, TCD apparently allowed this statement to stand until the voter pursued her complaint through other channels and the matter was made public.

And then there was the curious coincidence regarding the candidates’ lopsided experience with election problems. Public complaints about the districts staff’s actions which served to make voting difficult or impossible continued to arise throughout the election and seemed to increase towards the election’s end. However when asked, Ms. Whalen admitted that these problems accrued to only one candidate (me). According to Ms. Whalen, the other candidate had reported no absentee problems or difficulties of any kind.

This potpourri of election irregularities was not reported by the District but rather came to light through “back channel” communications. In most cases, members of the public contacted me after they had been rebuffed by district staff and I forwarded the complaints on to Ms. Whalen with copies to the TCD Board and the Commission. If these folks had not informed me of their complaints and I had not confronted the District, it seems unlikely that the Commission would have known about them. Indeed, as noted above, Ms. Whalen has said that “(t)here is no requirement under the Elections Guidelines for districts to forward copies of all documents to the Commission, unless requested.”

In summary, the District’s failure to provide full-time staff coverage for absentee ballot distribution and its unwillingness to create a process to track and follow up on absentee ballot requests even after it was notified that voters were unable to obtain ballots now means that 1) some members of the public were denied the right to vote, 2) the District cannot now tell the Commission how many voters it prevented from voting, and 3) the District’s poor election planning and questionable attitude about the public’s participation in the election served to “chill” the public right to vote. The District’s conduct now raises serious questions about the election results and, as Ms. DeLano stated in her email, “the integrity of the entire election process”

Given the foregoing, the Commission should have taken the time to investigate the TCD election further to make sure that it had a firm understanding of what occurred. It should have affirmatively sought out the facts of the case and then conducted a meaningful hearing where it could question staff, consider the issues, and review the evidence of the case.

- F. TCD: candor and pro-action in reporting election irregularities?** Mr. Eller’s memo ignores another glaring problem with TCD’s administration of its election—poor communications and reluctant disclosure of information.

Throughout the election, the District has not been especially candid about election irregularities and has not proactively disclosed them until forced to. Confusion caused by poor planning, inadequate supervision of staff and the lack of data collection systems have contributed to this appearance but information has recently come to light suggesting that there were instances when the District knew of problems but did not readily disclose them. In addition, staff communications with the TCD Board have also been problematic despite repeated requests from Board members for information and updates.

An example of this is the DeLano emails mentioned above. According to Ms. Whalen, she was aware that Ms. McBee had 'forgotten' to send ballots to Ms. DeLano and her husband. She apparently was also aware that when Ms. DeLano contacted the District to complain Ms. McBee dismissed her concerns as a "small thing" and effectively told her that her vote did not count. Ms. Whalen did not advise the Board of this situation or otherwise make it public until Ms. DeLano contacted me and I confronted Ms. Whalen. At that point, Ms. Whalen admitted to having prior knowledge of the incident. After these irregularities became public, Ms. Whalen apparently contacted Ms. DeLano to apologize but again did not inform the Board of this contact.

This sort of behavior raises questions about the District's candor and its willingness to proactively disclose information. This should have been acknowledged by Mr. Eller in his memo and questioned by the Commission. Mr. Eller should also have followed up and determined if there were other similar instances that also occurred. This makes affirmative and aggressive investigation by the Commission all the more necessary in its election review process.

- G. Every vote doesn't count.** Mr. Eller acknowledges in his memo that TCD did in fact prevent voters from casting their ballots but doesn't seem to think this is much of a problem. He also seems unconcerned about the District's dismissal of voter concerns (such as Ms. DeLano's) regarding how "forgetting" to send ballots and depriving voters of the right to vote affects the integrity of the election process and the public's confidence in district elections. The analysis that Mr. Eller offers in his memo seems to make a very clear statement that every vote in fact doesn't need to count, at least when elections are conducted by a conservation district.

And when the Commission certified the TCD election without challenging Mr. Eller's position on this very important issue, the Commission's actions told the public that it agreed. It effectively said that the denial of a person's right to vote is only a "small mistake"; that such denials commonly occur ("happen(s) in every election") and the votes that the District prevented from being cast are not particularly important and do not affect the election or its outcome ("but does not mean they are defunct").

I believe this is wrong under the law and wrong as a matter of public policy.

Mr. Eller mentions the DeLano incident in his memo (pp.11-13) but ignores its significance. Rather he declares that there was no significant error because TCD prevented only two people from voting. His logic was that with 186 votes counted and a majority of 110-69 for one candidate, two votes would not affect the outcome of the election.

What Mr. Eller failed to consider is that the District may have prevented more than two voters from casting their ballots. In fact, given TCD's sloppy election administration, the difficulties it created for voters to obtain absentee ballots, and its apparent disregard of the importance for making every vote count, it seems very likely that the District did prevent others from voting.

Add to this the District's unwillingness to track absentee ballot requests and its reluctance to disclose election irregularities and the situation that presented itself to the Commission should have raised serious doubts about the outcome of the election.

- H. Burden of Proof.** As discussed above, the TCD election involved evidence and issues that raised a host of questions about election irregularities. The election was fraught with problems and rich with issues which caused concerns about the election's process and its outcome.

The question then arises -- how should the Commission have dealt with this and what standards did it have to follow in deciding to certify or not certify the election?

The law is clear about this and sets a very low burden of proof for overturning a district election. This may be because district elections have traditionally been conducted informally by district staff with little or no experience with election administration and without many of the safeguards that apply to other elections in Washington State.

Commission staffers frequently explain that most district elections are not contested and when they are, districts resort to an informal election process in order to save money. Some districts merely keep a “shoe box” at the front desk to collect ballots which are eventually counted by district employees. This isn’t difficult because conservation districts have a tradition of “flying under the radar”. District are little known by the public, their elections are poorly advertised and their vote counts are low, often amounting to a few votes cast in a district that may have several hundred thousand voters.

Therefore, in making the Commission the quality-control agent for district elections, the law gives it great leeway and a low burden of proof which it can use to protect the public interest. If the Commission discovers irregularities in a district election, it can readily overturn the results and call for a new election.

Unfortunately, this is not the standard that Mr. Eller’s uses in analyzing the TCD election. Mr. Eller appears to have interpreted the law selectively and applied a burden of proof that is not in line with Chap. 135.110 WAC. In reviewing the short list of “allegations” in his memo, Mr. Eller can find nothing that constitutes ‘significant non-compliance’ as defined in WAC 135-110-120 (2)”. The reason for this seems to be because he is ignoring an important part of the law.

The part that he is missing is the threshold required for a “significant non-compliance” finding. This threshold is a “may affect” standard that creates a very low burden of proof for overturning an election. Contrary to Mr. Eller’s analysis, the regulations require only that there be a showing of possible effect on the election or its outcome. Once this is established, the Commission should refuse to certify the district election.

According to the law, the Commission must “*determine if the election was properly conducted according to the requirements in these procedures*” and in announcing the election results “*certify (the election) as being substantially in compliance with this rule.*” (WAC 135.110.760 (1) and (2)).

WAC 135.110.760. Conservation commission canvasses returns, determines compliance, announces winners.

(1) The conservation commission must canvass the returns of conservation district elections to verify election results and to determine if the election was properly conducted according to the requirements in these procedures.

(2) The conservation commission must announce the official election results for each conservation district election the conservation commission has certified as being substantially in compliance with this rule. The conservation commission may decline to announce the official results of elections found not to be substantially in compliance with this rule.

The Chapter defines “significant non-compliance” as “the failure to follow the requirements in this rule that may affect the outcome of an election or deny voters their right of privacy in voting.” (Emphasis added)

WAC 135-110-120. Compliance.

(1) The conservation commission may make a determination of significant noncompliance when parties act in variance of this section.

(2) Significant noncompliance is the failure to follow the requirements in this rule that may affect the outcome of an election or deny voters their right of privacy in voting.

(3) The conservation commission may decline to certify an election found in significant noncompliance.

(Emphasis added)

In effect, the Commission has adopted an “appearance of fairness” standard for election certification questions. Rather than requiring a showing of actual effect on the election outcome or the voters’ rights, the Commission needs only a showing that these things “may” have been affected for a determination of substantial noncompliance.

I raised these issues in my letter dated February 12, 2015, a copy of which was hand-delivered to the Commission’s Lacey office. The letter says in part”

In addition, the Conservation Commission may refuse to certify an election if it determines that the election was not properly conducted according to the requirements of its procedures. (WAC 135-110-760). "Significant noncompliance" is defined by the Commission as the failure to follow the requirements of the Commission Rules in a manner that may affect the outcome of an election or deny voters their right of privacy in voting. (WAC 134-110-120(2))

The "may affect" standard creates a very low threshold for nullifying an election. The law does not require a showing of actual damage but only a possibility that non-compliance may create some effect on the election.

The circumstance of this situation and the assignments of errors detailed above establish a strong case of non-compliance with both the spirit and letter of the Conservation Commission's election rules.

They also represent potential violations of the District's Policy & Procedures.

Finally, they raise questions of whether the District's conduct of the election runs counter to established election principles which are contained in the State's general election laws.

Therefore, it is reasonable to conclude that these things will have a substantial effect on the outcome of the election and the public's confidence in the integrity of the electoral system.

They may also serve to dissuade members of public for running for the office of District Supervisor in the future. The non-compensated office requires a substantial commitment of time and effort from the incumbents and history shows that the districts often have a difficult time finding people to serve.

Unfortunately, Mr. Eller's selective interpretation of the law did not give its requirements full effect. He disposes of all issues by merely declaring *ex cathedra* that they are not proven or if proven, not significant. When the Commission certified the TCD election based on Mr. Eller's memo, the incorrect burden of proof that it used resulted in a misinterpretation of the significant election irregularities that arose from the TCD election. Any one of these irregularities should have compelled the Commission to refuse certification.

- I. **Conflict of Interest.** The record suggests that the Commission was not advised of the potential conflicts of interest that it faced in reviewing and certifying the TCD election. This includes the concerns that had been raised by the public and a request that the Commission recuse itself.

I had raised conflict of interest concerns in my February 23 letter to Mr. Eller and again in my letter of May 28 to you. In the latter instance, I asked:

Prior to making its decision, did the Commission consider potential conflicts of interest that it may have had in certifying these elections? In making its decision, was the Commission made aware of staff activities which may have served to affect the conduct of district elections? Did the Commission receive copies of my February 23, 2015 letter to Bill Eller and consider the issues that it raised prior to making its decision to certify the election?

When you responded on June 12, you didn't answer the question but instead referred me to Mr. Eller's memo which is silent on this matter.

Therefore, despite being put on notice several times, it appears that staff did not advise the Commission of potential conflicts and the Commission did not consider whether it should recuse itself from reviewing and certifying the TCD election.

These potential conflicts raise questions about the Commission's ability to fairly review the TCD election and certify the results. They result in large part from the involvement by WCC's staff in guiding the administration of the TCD election, confusing the process, and perhaps indirectly affecting the election's outcome.

Mr. Eller himself has had an ongoing involvement with the TCD election. While the extent of this involvement is not yet known, several instances stand out.

- i. **Mr. Eller's legal opinion and its consequences.** In mid-February, Mr. Eller published a legal opinion that caused substantial confusion for the TCD Board and served to compromise a hearing of election concerns that I had brought to the Board's attention.

I had written to the Board on Feb. 12 asking it to expedite a review of issues that I had raised. The District Manager/Election Supervisor, Ms. Whalen, had left the state on vacation so I directed the letter to David Hall who was the TCD board chair. Rather than scheduling a special meeting as requested, Mr. Hall unilaterally and without permission or knowledge of the Board contacted Mr. Eller and obtained from him a legal opinion which summarily dismissed the issues that I was attempting to bring before the Board.

Mr. Hall then contacted the local law firm that the District uses, presented it with Mr. Eller's opinion and, again without knowledge or authorization of the TCD Board, obtained a second legal opinion.

Then several weeks later, Mr. Hall surprised the Board with these two opinions at its regularly scheduled February meeting. Before the Board could discuss my letter and the issues it raised, Mr. Hall announced that he had already disposed of the matter by consulting with Commission staff and private legal counsel. To prove his point, he produced the two legal opinions and distributed copies.

Mr. Hall further surprised the TCD Board by announcing that Mr. Eller was present by speaker phone and would be participating in the meeting to answer questions, respond to arguments, and dispose of objections. Mr. Hall then attempted to turn the meeting over to Mr. Eller but was stopped by protests from the other Board members.

Board members complained that Messer Hall's and Eller's actions served to confuse the hearing and interfere with the Board's deliberations. What resulted thereafter was a difficult and emotional discussion of the issues by the Board which was followed by confused vote resulting in a 2/2 vote to stop and restart the election. This was a non-resolution of the issues and a few days later the Board met in special session and wrote to the Commission asking it not to certify the election, citing its concerns over the District's questionable election practices.

At the same time, Board members criticized Mr. Hall's actions as secretive, unauthorized, and inappropriate. It advised him that he had no authority to unilaterally contact the Commission staff on behalf of the District, to commit the District to substantial legal costs, or to waive the Board's right to privileged communication with legal counsel. Members expressed concern that Mr. Hall's actions may have violated the Municipal Ethics laws (Chap 42.23 RCW) and referred the matter to the Commission for review. Commission staff was present at this special session of the TCD Board and attended subsequent Board meetings where these issues were discussed.

It seems reasonable to believe that Mr. Eller had a duty to ask Mr. Hall if he was acting with the Board's knowledge and consent before investing the Commission's staff time in writing a formal opinion. The Commission regularly reminds district supervisors that the law requires them to act as a corporate board rather than unilaterally in district matters.

The same is true for Mr. Eller's appearance at the February TCD Board meeting. Mr. Eller should have considered how his actions may have interfered with the Board's deliberations and served to preempt and prejudice my rights to obtain a fair hearing before the Board. Recall that the District Board, not the Commission or its staff, is responsible for running a District election (WAC 135.110.230)

Similarly, Mr. Eller should have considered how his actions may have also prejudiced the Commission's review of the TCD election and created conflicts for both Commission members and himself.

In effect then, Mr. Eller has worn too many hats and assumed conflicting roles in the TCD election. In wearing one hat, he has served as an election advisor to TCD staff, providing them with election advice and influencing how the election was run. He also offered legal advice to the TCD board and wrote a legal opinion that has had a cascading effect on events effecting the election and its outcome.

Wearing another hat, Mr. Eller has served as an advisor to the Commission in its review of the TCD election. In this role, he is assumedly supposed to be a neutral analyst who gives objective

recommendations to the Commission. In his memo, he selected the issues that would come before the Commission and recommended how they were to be disposed of.

The difficulty in this is that it now appears to create several rather large conflicts of interest. When Mr. Eller advised the Commission on the administration of the TCD election, he was effectively judging the advice and direction that he had given to the District and circumstances that he had helped shape. When the Commission based its decision to certify the election on Mr. Eller's memo, this apparent conflict of interest came full circle and now serves to taint the Commission's decision. The fact that Mr. Eller did not at least raise this issue in his memo and put the Commission on notice of the concerns that had been expressed adds to the questions arising from this situation.

In addition, I understand that Mr. Eller is an attorney and member of the Washington State Bar. As such, he is bound by the Rules of Professional Responsibility (RPC). In general, if an attorney offers an opinion on a matter of law, s/he must first clarify who his/her client is and determine if s/he is legally able to provide legal advice. My understanding is that Mr. Eller cannot legally represent or provide legal advice to either Mr. Hall or TCD.

Mr. Eller's actions have also contributed to a collateral issue involving in several complaints that have been raised by the TCD Board regarding Mr. Hall's conduct. These involve potential violations of Municipal Ethic laws and were referred to the Commission for action in late February. To my knowledge the Commission has taken no action on the referral.

To complicate matters further, at its May meeting, three members of the newly constituted TCD Board agreed to pay for legal fees that the prior Board had determined to be Mr. Hall's responsibility. I understand that the TCD Board Auditor has expressed a concern that this decision may constitute a "gift of public funds" and has referred the matter to the State Auditor's office.

- ii. **Mr. Eller's ruling on Candidate Statements.** In mid-February, I submitted a revised candidate statement to the TCD Election Supervisor (Ms. Whalen) and asked her to replace the one that I had hurriedly created to meet the District's deadline. The election became contested on the last day of the filing period and Ms. Whalen gave candidates only a few days thereafter to submit a candidate statement. TCD has adopted no rules setting a deadline for filing candidate statements and no prohibition against submitting a revised copy.

However, Ms. Whalen declined my request and sent me a legal analysis written by Mr. Eller saying that based on his opinion, she could not accept my revised statement.

Mr. Eller's opinion appeared to be another novel interpretation of the law. It included declarations of law with no citation of authority and in some cases, with conclusions that seemed to run counter to the law. I protested to the District and wrote Mr. Eller a lengthy letter (Feb. 23) raising concerns about his questionable legal analysis and the conflict of interest that his reoccurring involvement in the conduct of the election seem to create. Because of this, I asked that the Commission recuse itself from the canvassing and certification process and instead turn the job over to another agency, like the Secretary of State's office, which had had no involvement in the district election.

In addition to these two instances, it appears that Mr. Eller has had other contacts with TCD about how the district election was to be administered. Ms. Whalen has said the she and her staff were in regular contact with Mr. Eller throughout the election.

Given the foregoing, it seems reasonable to believe that Mr. Eller should have disclosed his involvement with the TCD election and advised the Commission of its potential consequences. This disclosure should have been on the record and in the record of decision to also put the public on notice of the potential conflict.

It appears that Mr. Eller's activities have created potential conflicts of interest for the Commission in executing its election certification duties and affected its decision to certify the TCD election.

Mr. Eller's actions also raise questions about whether he could fairly assess the TCD election process and make objective recommendations to the Commission.

A final point involves the ethical question that arises when an attorney publishes opinions and offers advice to persons and agencies that s/he does not represent.

- J. Giving weight to the “don't certify” recommendation by the TCD Board.** The TCD Board was sufficiently concerned about the confusion caused in part by Mr. Eller's legal opinion and Mr. Hall's actions to convene a special meeting of the Board on March 5. This was actually called by Mr. Hall who then decided not to attend.

At that meeting, the Board discussed the mounting problems with the district's election, the increasing involvement by Commission staff in district election administration matters, and the public complaints that were being received about election irregularities. The election had only a couple of more days to run and so the Board voted to contact the Commission and ask that it not certify the election.

By a letter dated March 10, Treacy Kreger who was serving as acting Board Chair, wrote to the Commission to say *“that it appears to the Board that the supervisor election, which is now before the WSCC for certification, was conducted improperly and in a manner that may reasonably affect the outcome of the election. The Board believes that the election was not conducted in substantial compliance with the law”*. Mr. Kreger concluded by saying that *“out of concern for the voters, tax payers and the candidates...the TCD Board recommends that the WSCC does not certify the election and that the TCD board be allowed to reschedule the election with a 6 month time frame.”*

It is without doubt an extraordinary situation when the governing board of a local agency determines that the agency improperly administered its own election and asks that it not be certified. One would think that a certifying body, in this case the Conservation Commission, would therefore pay attention to this and give the Board's determination great weight.

Indeed, an appellate court will give great weight to a trial court's findings of fact in a case on appeal and will accept them without challenge unless there is a showing of extraordinary error.

However in this case, the Commission ignored the TDC Board's findings and its request. Mr. Kreger's letter is not included in the record of decision and it is completely ignored by Mr. Eller in his memo.

As mentioned above, the board of supervisors is responsible for running district election (RCW 134.110.230). As the governing body of the district, the Board has plenary power to manage district affairs and make determinations about the nature and quality of the district activities. The TCD board determined that the election was fatally flawed and should not stand. It did so before the outcome of the election was known.

The Commission should have acknowledged this determination and, barring extraordinary circumstances, acted in accordance with the Board's findings. It appears that under the law, the Commission was compelled to do so.

- 6. Election Reform.** Also attached to your letter was information about conservation district election reform and ideas for how to go about it. The principle document was entitled “Report to the Legislature on Conservation District Elections / Election Proviso Workgroup Review Draft, Version 4, January 9, 2014”. According to the text, it is an evaluation of the district election system and contains recommendations for necessary improvements which include increased public participation. In developing this report, the Legislature directed the Commission to work with stakeholders and seek their input.

The laws governing district elections have had few updates since the 1930's and it is generally agreed that the district election process needs to be reformed. The question is how. My belief is that in answering this question the Commission must put the public interest first.

- A. Denying the public its right to vote—The cost of “shoe box elections” and “flying under the radar”.**

When the subject of election reform has come up in the past, the Washington State Association of Conservation Districts (WSACD) and the Conservation Commission typically lead with their concerns about

the cost of putting district elections on the general ballot. They will say that Districts cannot afford to follow the general election laws that apply to nearly all other elections and have their board members elected under the same rules that nearly all other agencies use. They will remind listeners that district elections are seldom contested so there is no point going to the expense of a real election. They will also point to some of the districts in eastern Washington that have little or no staff and limited funding and explain that these districts can afford only a “shoe box” election in the rare instance that a race is contested. This is where the election reform discussion usually ends.

One thing that this discussion brings into focus is that the standard used by the Commission to judge district elections is the lowest common denominator—a “shoe box” election. If the Commission were to set higher standards and start insisting that districts provide the public with protections similar to those required by the State’s general election laws, several consequences would likely ensue.

First, the Commission would become the subject of complaints raised by the State’s conservation districts, especially those that wanted to retain their informal election practices and continue “flying under the radar”. WACD would support its members and likely apply political pressure. The Commission/conservation district family seems to be a tight-knit community with interlocking interests and a low tolerance for conflict so meaningful reform would change the cultural norm and create some discomfort for all concerned.

Second, the Commission would have to start finding districts to be in “substantial noncompliance” of the district election laws when their election practice did not meet the higher standards. This would increase the friction between the Commission, the districts, and WACD. It would also violate what appears to be an unspoken rule in district elections; that the Commission will avoid making “substantial noncompliance” findings and overturning district elections whenever possible. Your letter mentions only two elections that the Commission has refused to certify, apparently since 1939.

This is perhaps why the Commission the Districts don’t consider the flip-side of the “cost” question. Instead of focusing on what the cost of election reform may be the conservation districts, they should instead ask what not reforming the district election system is presently costing the public; what is the public cost when candidates cannot run a meaningful campaign for office, when members of the public are prevented from voting, and when voters question the integrity of the election process?

The answer to this question can be found in the districts’ practice of “flying under the radar”.

Few people know what a conservation district is and fewer know what it does. Almost no one knows that landowners are supporting the district with their tax dollars. When a seat on the district’s board of supervisors is contested, the election is short (usually 30 days), poorly publicized (almost no one knows about it), difficult to vote in (you have to ask for a ballot and hope someone is available to provide one to you) and typically run by the district staff (who may be rooting for one of the candidates). The election is scheduled at an odd time (the first three months of the year) and doesn’t correspond to the regular election cycle for other locally elective offices. Candidates are not listed on the general ballot and the district does not send its ballots out to all voters like the county auditor does for most other elections. The polls may be open for only a few hours on the last day of the election and the “voting booth” may be nothing more than an unsecured “shoe box” in the district office.

Therefore, the districts’ practice of “flying below the radar” means that most voters in the district will never cast a ballot in a district election.

District elections traditionally have had extraordinarily low vote counts that would not be tolerated in a general election run by the Secretary of State and the county auditors. Miniscule voter turnout would alert state election officials that something was very wrong with an individual election and a chronic persistence of such a phenomenon would cause them to question the entire election system.

The Commission’s own information shows that conservation districts with tens of thousands of registered voters may “elect” a supervisor with a total of 5-10 votes cast and with no safeguards to protect the integrity of the election or its outcome. In fact, some districts are apparently so far “below the radar”

that their elections have failed completely, resulting in no votes being cast in a contested election. (Moses Lake, Pend Oreille, and Warden Districts in 2009 according to the Draft Report to the Legislature on Conservation District Elections, Jan. 9, 2014, p.90).

The Commission has tolerated “shoe box elections” and pathologically low voter participation for decades. In fact, by refusing to decertify such elections and require better treatment of the voting public, it has indicated its approval of them. When the Commission continually finds “no significant irregularity” with its election rules, it is effectively telling the public that the rules themselves are either chronically misinterpreted or inherently flawed. While Commission members will occasionally wring their hands and voice concerns when the issue comes up, they have been willing to ‘kick the can down the road’ and allow this situation to continue.

In addition to the Commission’s *laissez faire* attitude about election reform, the conservation districts have actively opposed it. Sometime this is direct opposition and other times it involves offering watered-down changes which do not address the central problems. The districts typically cite financial considerations and cost concerns for this opposition, but there is also a substantial sub-culture within the district community that prefers to “fly under the radar” and avoid the accountability that increased public scrutiny will bring. I repeatedly witnessed this sentiment as a district supervisor especially among the TCD staff. When I or other supervisors talked about making TCD more visible in and accountable to the community we serve, staff would immediately contradict us and say that conservation districts are supposed to “fly under the radar” and that’s the way it should be.

Therefore, the conservation districts’ practice of “flying under the radar” and operating elections based on a “shoe box election” standard is the principal reason why most voters in a district election are denied their right to vote. If they don’t know about the election, they can’t vote and if they don’t know about the conservation district, those who may learn about the election won’t bother voting

This denial is only made worse when an individual district turns away voters attempting to pick up absentee ballots or “forgets” to send ballots when voters request them.

The cost of district elections then is the damage caused to the electoral process and the loss of public confidence in its outcome. This in turn weakens our democratic form of government and results in a loss of political control of our local officials.

An additional cost arises when someone eventually challenges district election practices and/or commission review procedures in court. According to WACD Executive Director David Vogel, conservation district election systems such as Washington State’s have had a difficult time surviving judicial review and have been readily overturned by the courts.

So in making its report to the Legislature, the Commission should consider reformatting its draft and leading with its concern for the public’s right to run for election and vote. The Commission should remind the Legislature that the courts have found these rights to be “fundamental” in nature and will apply ‘strict scrutiny’ to state action which serves to compromise them. Arguing economic hardship or explaining that a public agency took shortcuts because it couldn’t afford to run “a real election” will not meet the strict scrutiny test.

B. Should the Commission review district elections? A related question that comes up during an election reform discussion is whether the Commission should be the agency designated to provide election oversight and certify district elections.

One way to approach this question is to ask if we would require the Secretary of State, who is the State’s chief election officer, to administer natural resource programs and oversee conservation projects. Would the Secretary’s election staff be qualified to work with rural landowners to develop local conservation plans and have the expertise to negotiate riparian buffers widths or total daily loads for watercourses allowed under the Clean Water Act?

Could we reasonably expect the Secretary of State to oversee the county auditors, who are the local election officers, if they decided to start administering the State's Growth Management Act and enforcing environmental protection provisions of their county's critical area ordinances.

In this scenario, the Secretary and the auditors would not do this year round or even every year, but only occasionally. Their duty to act may not arise for 5-10 years but when activated, they could have only 24 hours notice to set up and administer the program.

What sort of competency in conservation resource management might the public reasonably expect from state and local officers trained to run public elections. What would the public's confidence be in the results coming from this?

So if we wouldn't ask the Secretary of State and county auditors to administer environmental protection programs, why are we asking the local conservation districts and the State Conservation Commission respectively to run and review elections?

* * *

The foregoing has been an attempt to summarize some of the issues that I believe arise from the Commission's review and certification of the TCD election. They involve significant public policy questions and important legal issues.

Based on the minimal record of decision that I received with your letter of June 12, it appears that that the Commission made no meaningful review of the TCD election and did not protect the public right to run for election and to vote.

I am sorry to say this as I remain a supporter of the conservation district system and the work that it does. However, if the system is to remain viable, it has to grow up. In getting their house in order, both the Commission and the conservation districts have to put the public first. This means "flying above the radar", moving beyond "shoe box elections" and improving district elections so that public protections and participation are equivalent to that of other elections in Washington State.

This writing attempts to speak to the issues and is offered with respect for the persons mentioned and the processes described with no aspersions cast or intended. It is based on my understanding of the situation as information has become available, largely in fits and starts, over the past several months. Please contact me immediately if anything contained herein is incorrect.

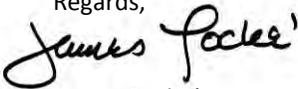
In closing, I would like to request a copy of the record of decision for the Whatcom Conservation District election which according to your letter the Commission refused to certify. I am wondering what the Commission's basis for this was and how the Whatcom CD case differs from the Thurston CD case.

I'd also like to receive a copy of the Commission's record for the Clallam CD's election in 2008 and its non-certification decision.

Thanks for your time in responding to this and I look forward to hearing back from you.

Please make sure that the Commission members receive a copy of this letter.

Regards,



James Goche'



Washington State Conservation Commission

July 6, 2015

TO: Conservation Commission Members
Mark Clark, Executive Director

FROM: Ray Ledgerwood

SUBJECT: Conservation District Good Governance Report

Summary: WSCC Staff have completed the FY15 analysis of Conservation District Good Governance status 45 districts in Tier 1 status as of July 2, 2015. The Good Governance activities have set a foundation for working with districts on opportunities for district operations improvement and assistance by WSCC staff. Staff are working with 18 districts on improvements. 27 districts met or exceeded all 25 Good Governance elements

Action Requested:

Receive status report and acknowledge WSCC staff recommendations for the following Conservation District Good Governance Tier Status

- Forty-five Conservation Districts recommended for Tier 1 Status with eighteen districts completing work on some Good Governance element with Commission staff.
- No Conservation Districts recommended for either Tier 2, Tier 3, or Tier 4 Status at this time.

Materials:

1. Good Governance Status Report 7.6.15

Staff Contact: Ray Ledgerwood

Good Governance

Report of Conservation District

Good Governance Status

July 2015

For more information contact:
Ray Ledgerwood
Regional Manager Coordinator
ray.ledgerwood@scc.wa.gov or
208.301.4728

Summary:

WSCC Staff have completed the FY15 analysis of Conservation District Good Governance status and have found 45 districts in Tier 1 status as of July 2, 2015. The Good Governance activities have set a foundation for working with districts on opportunities for district operations improvement and assistance by WSCC staff.

Status:

As of July 2, 2015;

- **Forty-five Conservation Districts** recommended for **Tier 1** Status with eighteen districts completing work on some Good Governance element with Commission staff. Twenty-seven Districts have met or exceeded the threshold on all elements of the Good Governance evaluation
- **No Conservation Districts** recommended for Tier 2, Tier 3, or Tier 4 Status

Background:

In early January 2015, the Good Governance analysis form and policy were emailed to each conservation district manager with a request for each district board and staff to do a "self-evaluation" of status. The intention of this district self-analysis was to identify any areas needing improvement with enough time to correct before the May status was determined.

WSCC staff March 24, 2015 met to do an "early" analysis of Conservation District Good Governance status. The intention of this step was to determine if any districts were in a Tier 4 status with time to correct before the analysis in May. Another analysis of Conservation District Good Governance status was conducted on in May 12, 2014 by WSCC staff and determined 44 districts in Tier 1 status and one in Tier 2 status. On June 17, Regional Managers and Financial Staff met to finalize the report of Good Governance status with the result being this report at the July 2015 Commission meeting.

As part of these activities it was determined that a review of the Good Governance Policy, Procedures and Checklist and recommendations will be brought to the Commission as an informational topic at a future meeting.

Districts Meeting or Exceeding Good Governance Elements:

Twenty-seven Conservation Districts met or exceeded good governance elements including:

Benton	Grant County	Palouse
Cascadia	Grays Harbor	Pierce
Central Klickitat	Jefferson County	Pine Creek
Clallam	Kitsap	San Juan
Clark	Kittitas	Snohomish
Columbia	Lewis	Stevens
Cowlitz	Lincoln	Underwood
Eastern Klickitat	Okanogan	Walla Walla
Franklin	Palouse Rock Lake	Whidbey Island

“Yes” or Good Performance	Green Count	Yellow Count	Red Count
Consider Improvement			
“No” or Substandard Performance			
Overall	27	18	
Category 1 Performance Components			
Conservation On the Ground Performance			
1) The funded conservation activities in the district’s previous year’s Annual Work Plan address the resource concerns identified by the board of supervisors; the district has been in regular consultation with the state and local agencies of record for those resource concerns, and those activities have been implemented.	44	1	
2) Implementation goals (intermediate outcomes) on WSCC funded work for the last state fiscal year were all met.	43	2	
3) Supervisors and staff are leveraging financial and other resources with other districts to achieve efficiencies	45		
Financial Performance			
4) Financial reporting and vouchering to the WSCC is on time, complete, accurate, and complies with WSCC financial policies and procedures.	42	3	
5) WSCC allocated funding is utilized in a timely manner - and/or - WSCC has been notified by March 31 st that funding allocations for that fiscal year cannot be utilized.	44	1	
Supervisor Election and Appointment			
6) The election and appointment of district supervisors complies with WSCC rules and procedures.	36	9	
Audit Resolution – If Any			
7) Has addressed or is in the process of addressing any identified, resolvable State Auditor issues.	42	3	
Category 2 Performance Components			
District Operations and Capacity			
8) Board of Supervisors actively governs the district by demonstrating leadership in conservation stewardship as well as instilling an ethic and culture of constant improvement.	44	1	
9) Each district board holds board meetings attended by a quorum of supervisors who:	45		
i) Has chosen a supervisor to be Chair	45		
ii) Has performed its due diligence to ensure all supervisor seats are filled; and	41	4	
iii) Has no more than one board meeting cancelled due to lack of a quorum	45		
10) Has a physical location that meets requirements for public offices with regular weekday office hours for public access, information, and services.	45		

11) Regular board meetings are held in accordance with state law (“regular” means monthly unless it can be shown that a different schedule better meets the needs of the public.)	44	1	
12) There is a board-approved delegation of district managerial responsibilities to a district manager, administrator, executive director, coordinator as a primary point of contact.	43	2	
13) Supervisors & staff participate in annual training (WACD, WADE, WSCC, Enduris, NRCS, etc.).	45		
14) District has the technical capacity to implement and maintain conservation on the ground with reliable and consistent quality	41	4	
Working Within the Constraints of the Law			
15) The conservation district has used the Schedule 22 Internal Assessment to perform an internal audit as required by RCW 89.08.210 for the most recently completed fiscal year.	45		
16) The conservation district has, if needed, begun the process to address any identified opportunities for improvement uncovered by the Schedule 22 Internal Assessment.	45		
17) The conservation district has, if needed, used Enduris, WSCC, MRSC, and/or an attorney for legal questions.	45		
Long Range and Annual Work Plan			
18) Annual Work Plan:	45		
i) Is submitted on time and in the current WSCC template	45		
ii) Addresses highest priority resource concerns identified by the board of supervisors with data provided by the district as well as the agencies of record for those resource concerns	45		
iii) Contains achievable and measurable activities, reasonable completion target dates, staffing/task assignments, and a supporting budget	45		
iv) Has priorities compatible with the district submission to WACD budget request	45		
19) Long Range Plan	44	1	
i) Is on the current WSCC template, annually reviewed and on file with WSCC	45		
ii) Addresses highest priority resource concerns identified by the board with data provided by the district as well as the agencies of record for those resource concerns	45		
iii) Has been updated within the past 5 years	45		
Public Outreach, Involvement, and Education			
20) Regular communication to the public (such as: newsletters, current and updated website, social or other media, and educational programs or workshops) within the current fiscal year has occurred.	44	1	
21) All regular and special board meetings as well as other public events are properly publicized, conducted, and contain an official opportunity on the agenda for public comment.	45		
22) Input is sought from stakeholders (which include at least one public meeting) before annual work plan and long range plan are approved by the board. (Note – the public meeting could be either an identified portion of a regular board meeting or a separate public hearing held for that purpose)	44	1	
23) The annual report of accomplishments was submitted on time, in the prescribed format to the WSCC, and utilized for public/stakeholder education	44	1	

24) Demonstrated ability to work with all local public, private, and nonprofit partners (as well as entities represented and partnering with the Commission) to identify and target areas for natural resource conservation and improvement.	44	1	
i) County government			
ii) Cities and towns			
iii) NRCS			
iv) Ecology			
v) WSDA			
vi) WDFW			
vii) DNR			
viii) RCO			
ix) Local Tribal governments			
x) Local watershed groups or other nonprofit partners			
xi) Enduris			
xii) WACD			
xiii) NACD (dues not paid)			
25) The conservation district develops its goals and measures its accomplishments based on data that is self-generated as well as cooperatively received from partner agencies.	44	1	

Opportunities for Improvement:

18 Districts are completing work with Commission staff on one or more of the Good Governance Elements

District	Good Governance Element & Notes
Adams (1 element)	#14 Technical Capacity – District has one technical staff and has been primarily relying on other districts for project work funding spent outside of their district
Asotin (2 elements)	#4 Financial staff and RM working with district on cost share procedures, CPDS #14 District Board working with staff on delegation of authorities, new organizational structure and hiring of a technical position
Ferry (1 element)	#6 Election procedure issue that did not effect the outcome of the election, to be addressed in upcoming election
Foster Creek (2 elements)	#9 Supervisor vacancy for more than one year #14 District employee did not complete requirements for conservation planning course...several months past due date
King (1 element)	#23 Submitted Annual Report late
Mason (1 element)	#7 In the process of addressing State Auditor issues (letter & findings)
North Yakima (1 element)	#7 In the process of addressing State Auditor issues (letter & findings)
Pacific (1 element)	#6 Election procedure issue that did not effect the outcome of the election, to be addressed in upcoming election
Pend Oreille (14 elements)	District had their only employee leave the district earlier in the year RM worked with board on hiring, policies, planning, reporting and operations Board has hired an employee, worked with neighbor district on bookkeeping assistance and is making progress on program delivery and district operations
Pomeroy (1 elements)	#4 Financial staff working with district staff on vouchering issues
Skagit (1 element)	#7 In the process of addressing State Auditor issues (letter & findings)
South Douglas (2 elements)	#9 Supervisor vacancy for more than one year #14 District employee did not complete requirements for conservation planning course...several months past due date
South Yakima (1 element)	#6 Appointment procedure issue that did not effect the outcome of the election, to be addressed in upcoming election
Spokane (1 elements)	#6 Election procedure issue that did not effect the outcome of the election, to be addressed in upcoming election
Thurston (2 elements)	#6 Election procedure issue that did not effect the outcome of the election, to be addressed in upcoming election #19 Long Range Plan still under development
Wahkiakum (1 element)	#9 Supervisor vacancy for more than one year
Whatcom (1 element)	#6 Election procedure issue that is still under consideration
Whitman (1 element)	#2 RM working with staff and board on implementation goals for WSCC funded work

July 2015 Commission Meeting

District Operations Staff Report (May 2015 to July 2015)

Conservation District Assistance

Activities included:

- Conservation equipment demonstration day (Palouse Rock Lake)
- New Manager Orientation (Pend Oreille, Jefferson County)
- New Supervisor Orientation (Lincoln County, Grays Harbor, Thurston, Eastern Klickitat, Columbia)
- District Capacity Building (Pend Oreille)
- District reorganization – staff (Asotin County)
- Communications Tools (Clark)
- Implementation monitoring & In-field visits (Foster Creek, Lincoln, Spokane, Cascadia, South Yakima, Kitsap, Ferry)
- Open Government Training (King)
- Long Range Planning (Ferry, Clark)
- CREP assistance (Snohomish, Skagit, Mason)
- See Listing on page 4 for summary of Regional Managers in-person assistance and follow-up with Conservation Districts

Looking Ahead

- District Operations Issues Resolution Assistance
- Orientation & Open Government Training of new Supervisors
- Good Governance District Assistance
- District Capacity Building Assistance
- CPDS & Project Development
- Sharing of Examples, Templates, Information

Supervisor Leadership Capacity:

Stu Trefry developed materials for, facilitated, and followed up on a 6.24.15 net meeting of the Supervisor Leadership Development Work Group that includes WACD's Dave Vogel, Alan Stromberger, and Wendy Pare; WCS's Larry Davis, Jerry Scheele, and Heather Wendt; and WADE's Craig Nelson. The group will reach out to supervisors with focus questions this summer; on why they had interest in being a supervisor, staying a supervisor and topics needed for skills development before proposing a process of skill building and learning opportunities. Stu also provided leadership in the program development, speakers, and facilitation for this year's Supervisor Track at WADE. He also completed the revision of the new edition of the Supervisor Handbook. A work group of supervisors and staff have been interviewing supervisors regarding supervisor needs to be met with a supervisor leadership capacity program. For more information contact [Stu Trefry](#)

New Supervisor Orientations:

Regional Managers continue to work this reporting period on new supervisor orientations for Grays Harbor, Lincoln, Spokane, Columbia and Eastern Klickitat. For more information contact [Mike Baden](#), [Bill Eller](#) or [Stu Trefry](#)

Districts & Disasters:

Bill Eller is coordinating a work group on Districts & Disasters and has drafted a white paper on disaster training for CD employees and supervisors. For more information contact [Mike Baden](#), [Bill Eller](#) or [Stu Trefry](#)

Coordinated Resource Management:

Ray Ledgerwood facilitated the 6.23.15 Net Meeting of the CRM Task Group that including the following topics; updates on current CRM activities in Black Wolf, Orient, Whatcom; potential training for facilitators, CRM Executive Committee meeting and tour this September; and a common database to track CRM activities. For more information contact [Ray Ledgerwood](#)

Conservation Practice Data System:

RM's have been coordinating with districts on the upcoming (July 1) CPDS project list pull date regarding priorities and data needed. For more information contact [Ray Ledgerwood](#)

Supervisor Appointments & Elections:

Bill Eller finished revising the Election and Appointment Manual and Election forms to reflect recent policy changes and anticipated changes to occur before the next election and appointment cycle. Bill also revised the memo for the July Commission meeting explaining the Franklin CD appointee issue and responded to a request for comment on the Whatcom CD election from Whatcom Watch. He finalized all Commission election and appointment forms to move them from paper forms to electronic, and created a new form for the public to use to comment on CD elections. For more information contact [Bill Eller](#)

Whatcom CD Election:

Bill Eller worked with Whatcom CD to count the remaining outstanding ballots of their March 10, 2015 election. Whatcom CD has finished its election paperwork and provided that paperwork to the Commission. The margin between the winner and loser of the election was 46 votes out of a total of 4,238 votes. Bill worked to finish the rest of the Whatcom CD election investigation and hopes that the certification and announcement of Whatcom CD's election can happen at the July Commission meeting. For more information contact [Bill Eller](#)

WA State Agency Core Capability Assessment:

Bill Eller completed the Washington State Agency Core Capability Assessment for the 2015 Washington State Preparedness Report (SPR). The Assessment assists EMD with preparing the 2015 Washington State Preparedness Report to FEMA. This year EMD focused on lessons learned or observed during the SR 530 Mudslide and Central Washington Firestorm historic disasters in 2014. For more information contact [Bill Eller](#)

NACD Fly-In:

Ray Ledgerwood moderated the NACD Conservation Forum & Soil Health Session held July 12th in Spokane as part of the NACD Summer Meeting session. Ray coordinated with Vicki Carter and NACD staff on development of a session design and speaker contacts for the presenters at the session. For more information contact [Ray Ledgerwood](#)

WADE Conference:

Regional Managers participated in the WADE Annual Conference including presenting and participating in the various tracks offered. For more information contact [Mike Baden](#), [Shana Joy](#), [Bill Eller](#), [Stu Trefry](#), or [Ray Ledgerwood](#)

Coordinated Forestry Workshop:

Staff attended the All Lands, All Hands: Coordinated Forestry Workshop sponsored by NRCS. The purpose of the meeting was to coordinate to better compete for funding opportunities with the Joint Chiefs' (NRCS, USDA Forest Service) Landscape Restoration Partnership and with other funding opportunities. For more information contact [Bill Eller](#).

NASCA Policy Committee:

Stu Trefry represented NASCA on the monthly teleconference of the NACD Urban and Community Resource Policy Group and represented the Pacific Region on the NASCA Policy Committee. For more information contact [Stu Trefry](#)

Good Governance:

Staff completed work on the Good Governance status report being developed for the July Commission Meeting. Regional Managers worked with districts on good governance issues throughout the reporting period. All districts have completed their financial schedules on-line with the State Auditor's Office and have filed FY16 Annual Plans of Work and current Long Range Plans. For more information contact [Ray Ledgerwood](#)

State Envirothon:

Butch Ogden and Stu Trefry provided assistance at this year's State Envirothon. Stu Trefry and Shana Joy attended a meeting of the State Envirothon Committee at the WADE conference. For more information contact [Stu Trefry](#)

NRCS Coordination:

Mike Baden met with Pete Bautista of NRCs to discuss the State Resource Assessment and Jenifer Coleson of NRCS to discuss Conservation Planning Course. For more information contact [Mike Baden](#)

Cultural Resources:

Larry Brewer presented the cultural resources policy, and materials including templates at a 7.9.15 informational webinar. Larry continues work on a proposed exemption listing for consideration by DHAP and procedures and templates for use to implement the most recently passed Commission policy on Cultural Resources work with landowners for Commission funded projects. For more information contact [Larry Brewer](#)

Ag-Water Quality Committee meeting:

Mike Baden attended the Ag-Water Quality Committee meeting in Spokane. For more information contact [Mike Baden](#)

District Long Range Planning:

Ferry CD finalized their 5-year plan this week! Stu Trefry has been working with them since late last year. Mike Baden and Ray Ledgerwood provided assistance on 5.13.15 to the Pend Oreille CD and 5.13.15 with Palouse CD for their annual plan development. Long Range Plans were completed by Ferry and Lincoln CDs with RM assistance. For more information contact [Stu Trefry or Mike Baden](#)

State Resource Assessment:

Mike Baden participated in the State Resource Assessment working group meeting to begin work on the new State Resource Assessment data collection and use. For more information contact [Mike Baden](#)

Regional Manager Work Session:

Regional Managers met in Zillah to work on Good Governance status and follow-up with districts; cultural resources policy, procedures, recommendations, and assistance for districts; Supervisor election and appointment follow-up and recommendations; Training and Capacity Building for Supervisors, Technical Employees, and Conservation Planning, including supervisors modules, website for capacity building, next year's conservation planning course and sponsorship, technical employees workgroup plan and budget for next biennium; Marketing Toolkit for districts; and workload issues. For more information contact [Ray Ledgerwood](#)

JARPA Permits:

Stu Trefry worked with WDFW staff on better communication with conservation districts related to JARPA permits. For more information contact [Stu Trefry](#)

Conservation District Development and Capacity:

Stu Trefry continued work on developing an online supervisor training program as well as updating the supervisor handbook. For more information contact [Stu Trefry](#)

Public Record Requests

Staff expended time and time and resources fulfilling a number of active public record requests. For more information contact [Ray Ledgerwood](#)

In-Person & Follow-up Work with Districts:

Regional Managers provided in-person assistance this reporting period with Palouse-Rock Lake, Lincoln County, Asotin County, Kitsap, Spokane, Mason, Stevens County, South Yakima, Kittitas, Pierce, Whatcom, Grays Harbor, Jefferson, Pend Oreille, Palouse, Pacific, Grant, Clark, Cowlitz, Wahkiakum, Thurston, Foster Creek, Ferry, Cascadia, Skagit and King Conservation Districts.

Follow-up assistance on district operations issues and needs with Grant County, Pend Oreille, Lincoln County, Spokane, South Douglas, Ferry, Kitsap, Cascadia, Okanogan, Kittitas County, North Yakima, South Yakima, Mason, Skagit, Thurston, Underwood, Wahkiakum, Asotin County, Clark, Pierce, Grays Harbor, Jefferson, Columbia, Pine Creek, Pend Oreille, Whatcom, Pomeroy, Stevens County, Clark, Cowlitz, Pacific, Thurston, Foster Creek, Whitman, Lewis, Eastern Klickitat and Lewis Conservation Districts. For more information contact [Ray Ledgerwood](#)

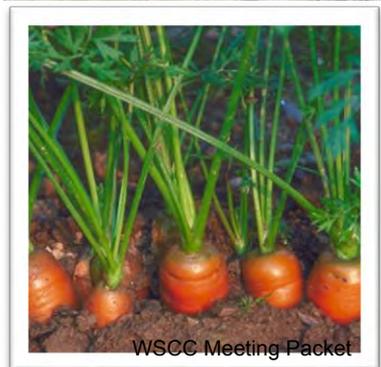
TAB 4



Washington State Conservation Commission
State Land Acquisition Coordinating Forum

July 9, 2015

The State Conservation Commission has identified agricultural conservation easements as a valuable tool to assist in farmland preservation and advancing conservation with willing landowners.



WSCC Meeting Packet



July 16, 2015



Page 135 of 161

2015 WSCC Funded Agricultural Conservation Easements

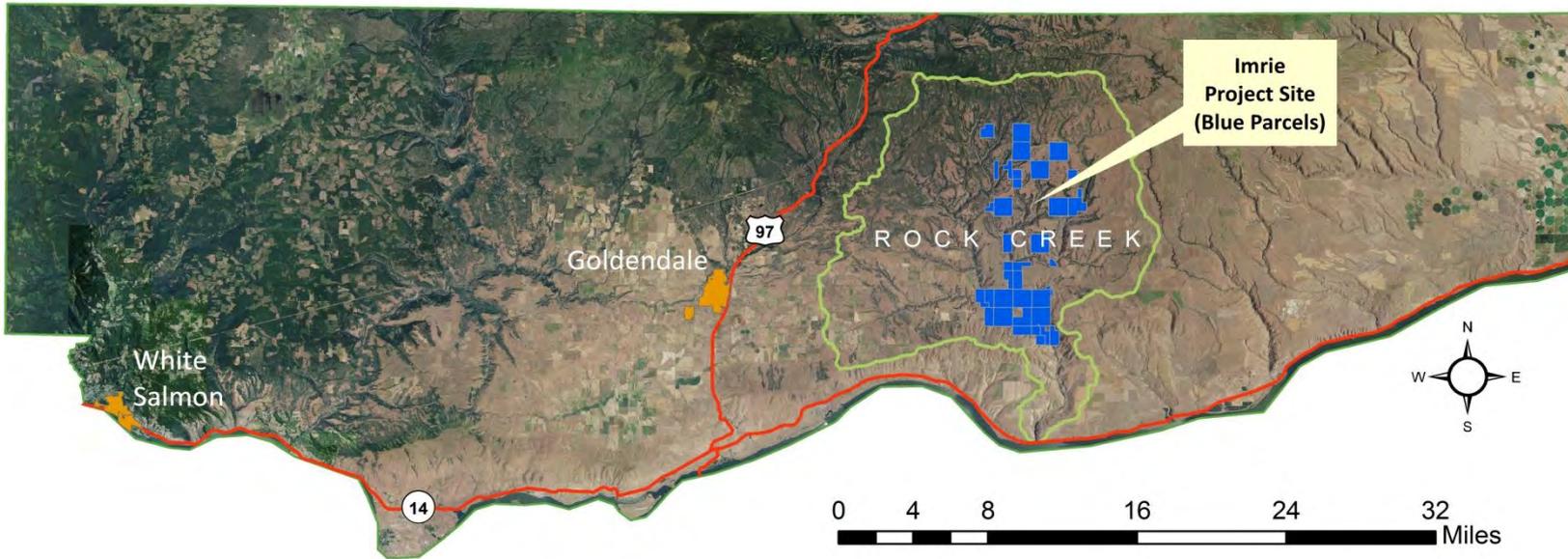
- **Imrie Ranches Agricultural Easement – Klickitat Co.**
 - \$4,913,000 – 11,920 acres

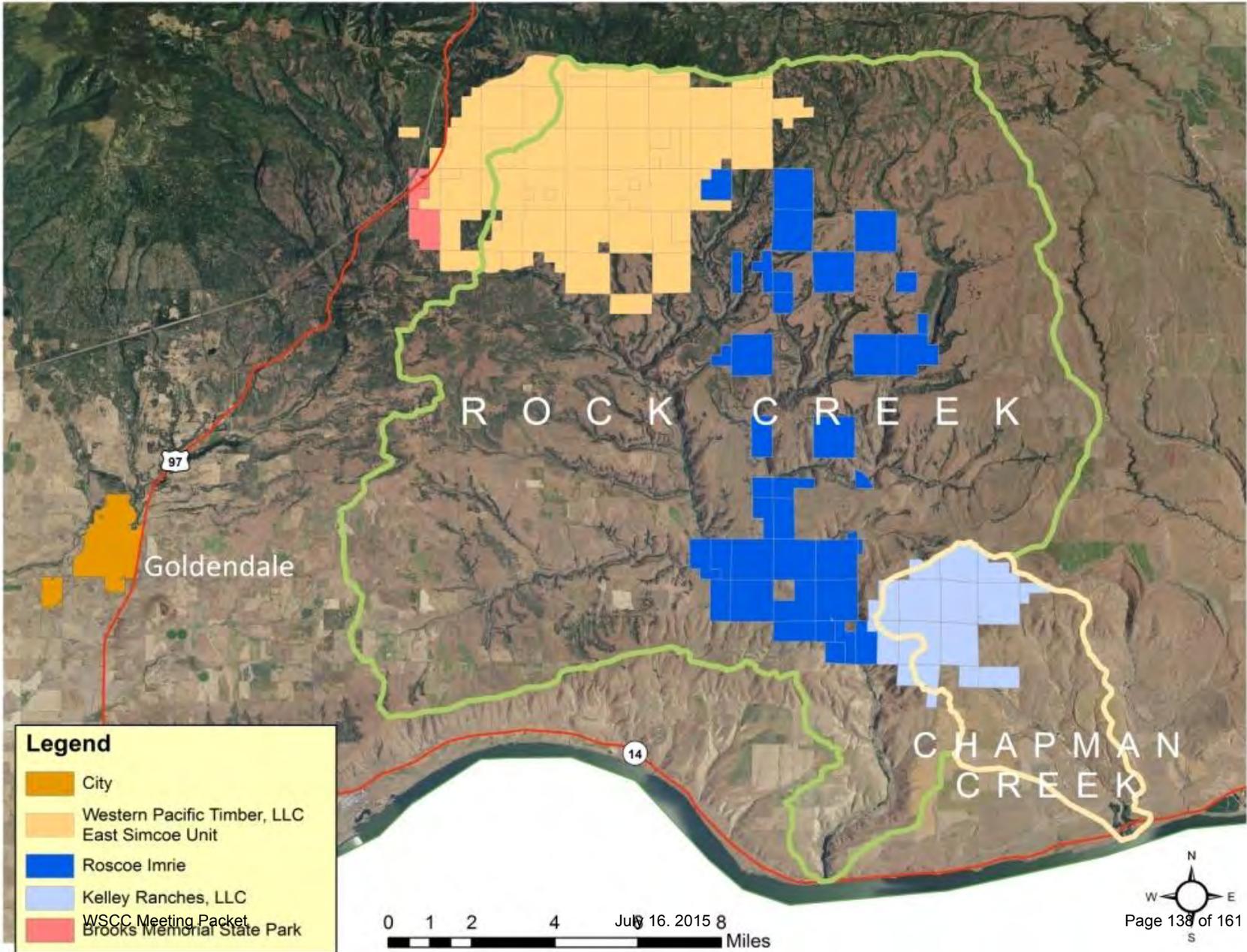
- **Kelley Ranches Agricultural Easement – Klickitat Co.**
 - \$2,316,000 – 6,124 acres

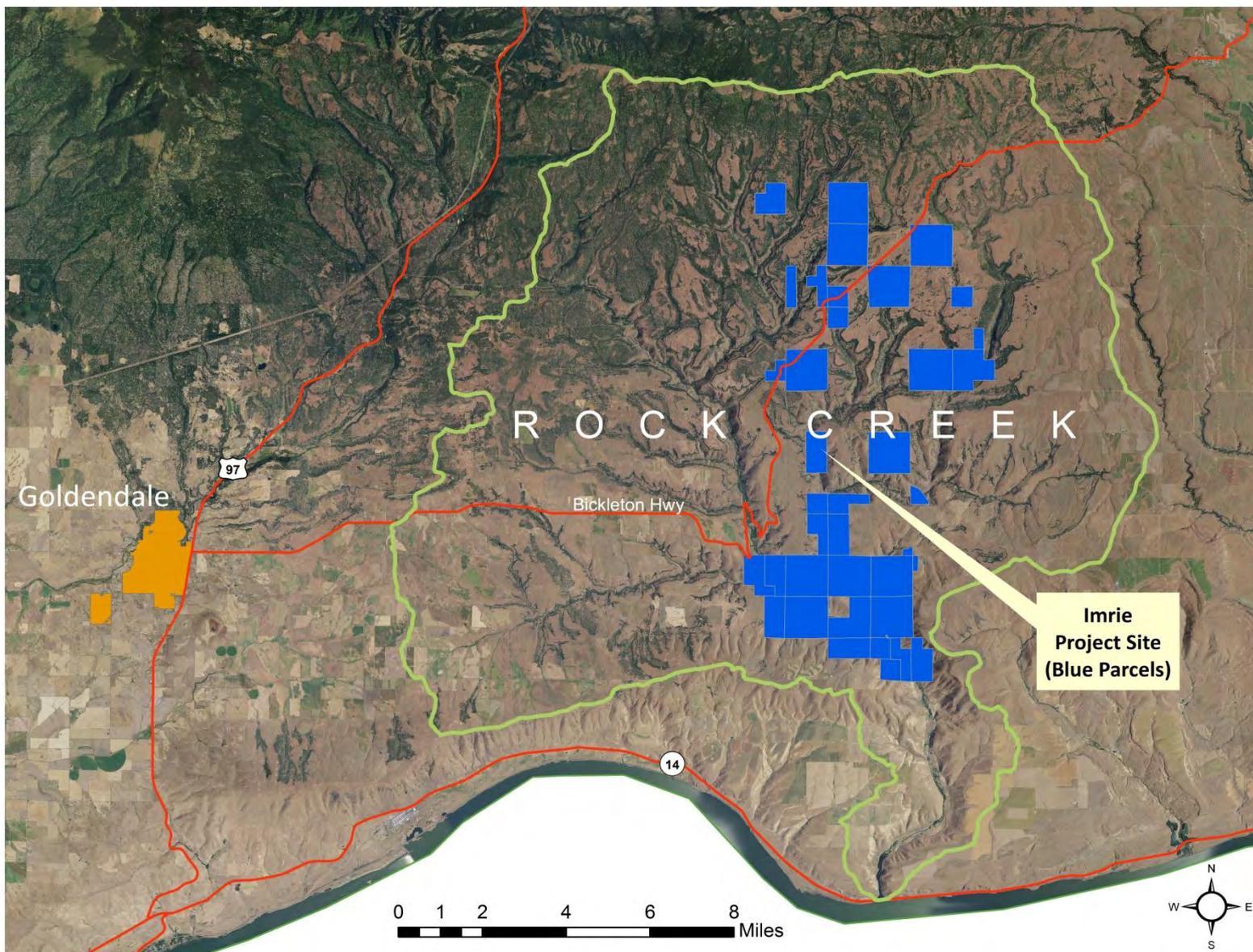
- **Lust Family Farm and Ranch Preservation – Yakima Co.**
 - \$1,773,046 – 358 acres

- **Dungeness Watershed Farmland Protection – Clallam Co.**
 - \$344,000 – 60 acres

Imrie Agricultural Conservation Easement



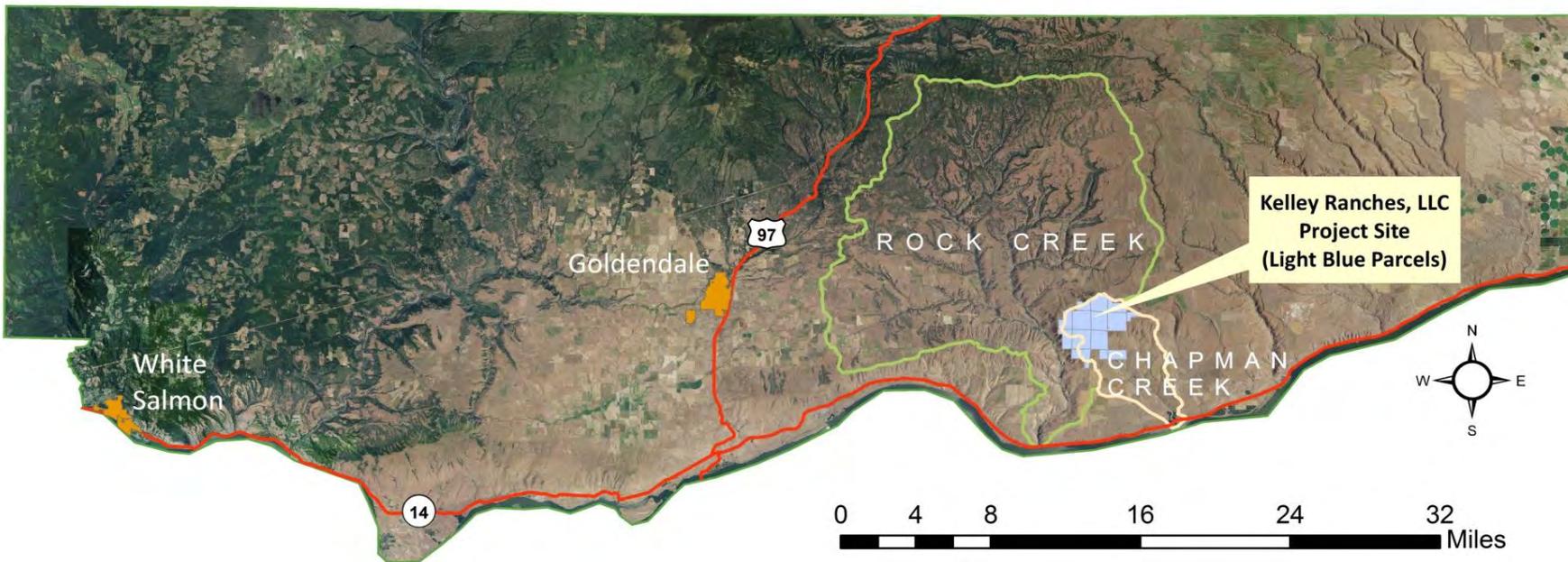


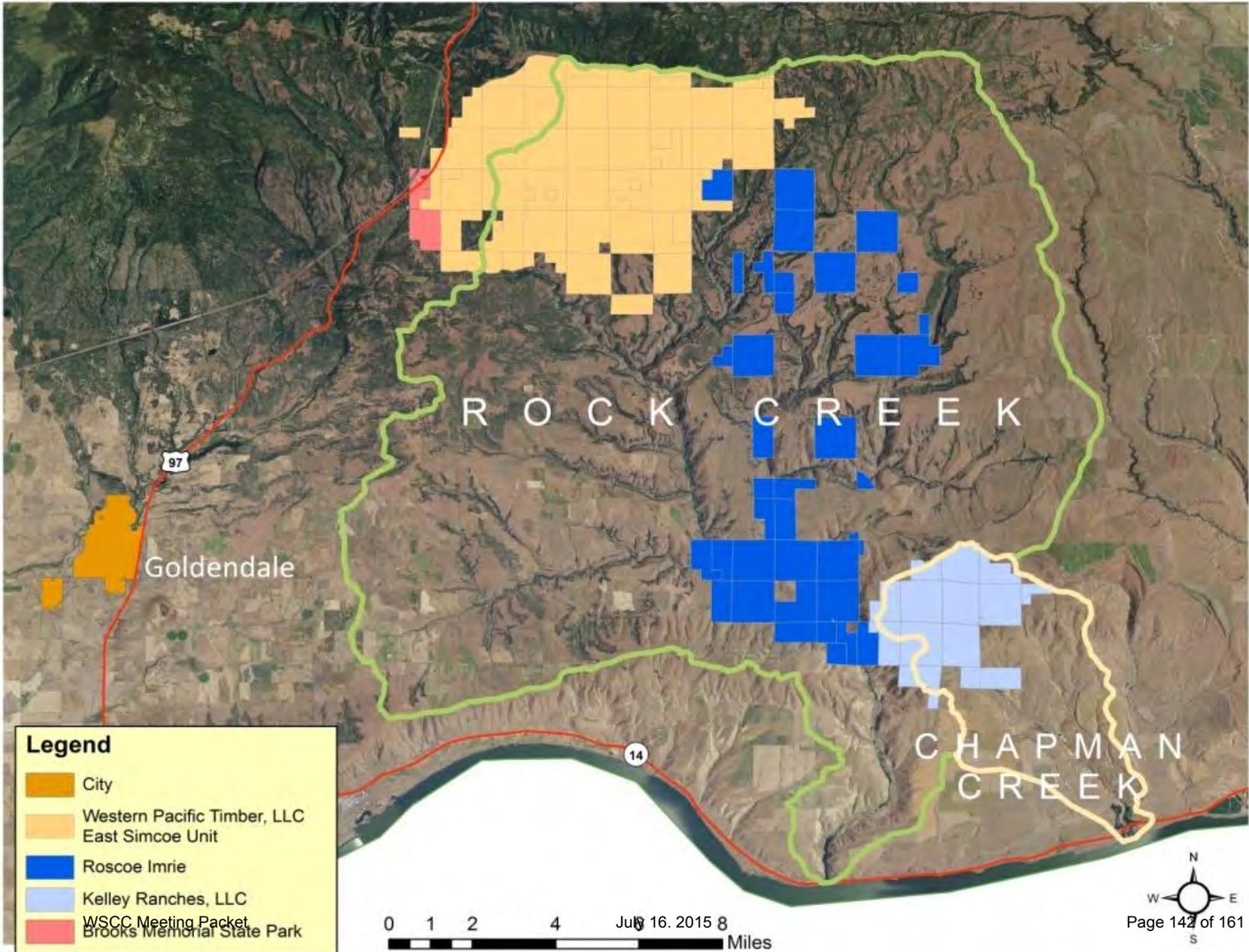


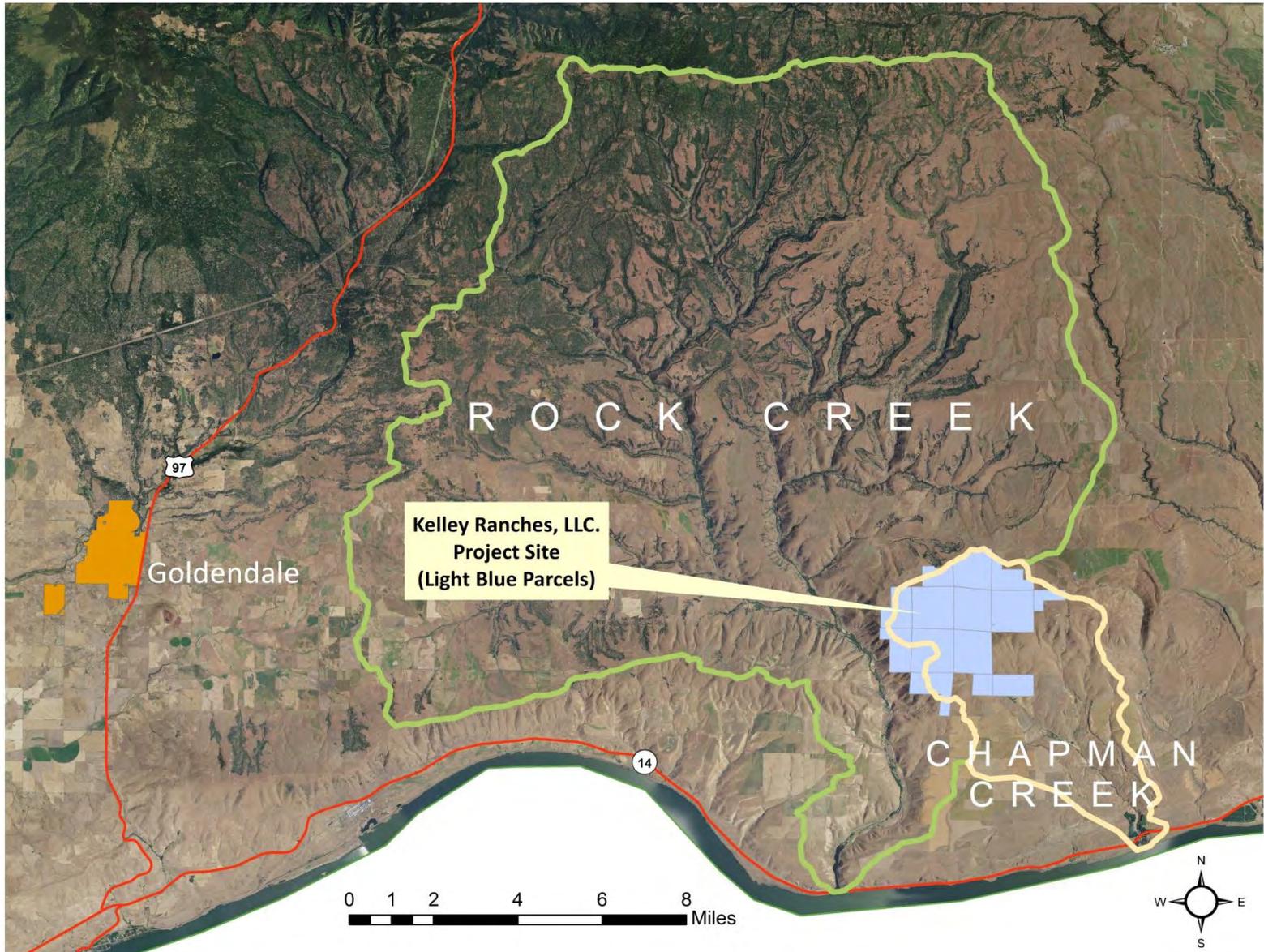
Significance	Protection of 11,920 acres of a viable large acreage rangeland grazing operation in Klickitat County. Protecting this property will have the dual benefit of protecting key habitat and species concerns in the Rock Creek Watershed.
Intended Uses	Grazing
Project Description	<p>An agricultural conservation easement will be purchased from a single private landowner. This property has had livestock management activity for nearly 100 years. This project area includes a significant portion of the Rock Creek watershed, 5.7 miles of Rock Creek, 4.4 miles of Squaw Creek and 0.5 miles of Luna Gulch, all of which are critical to salmonid spawning and rearing.</p> <p>The property is managed under a Grazing Management Plan. The Property contains several features that make it valuable farm and ranch land. These features include a diversity of grass species and forbs, open forested uplands suitable for grazing, offsite watering for livestock utilization, fencing to create pastures for necessary management, scale and scope of property size, and a diversity of topographic features.</p> <p>The managed upland and riparian areas benefit many habitat and wildlife values including ESA listed steelhead and Chinook, western gray squirrels, Lewis's and white-headed woodpeckers, mule and black tail deer, black-tailed jack rabbit, burrowing owl, flammulated owl, golden eagles, western toad, white oak, shrub-steppe, and white alder. The property also provides valuable upper watershed protection, vistas, and hunting/recreational opportunities all of which have economic benefits for the local community and Klickitat County. This property is contiguous with the 6,184 acre Kelley Easement funded in 2015, developed by the same sponsors/partners.</p>
Planning Link	Farmland Preservation is the number one priority in EKCD long range plan. Fits priorities of SCC and the state Office of Farmland Preservation. Project fits goals of Klickitat County and WDFW.
Partners	Eastern Klickitat Conservation District and Washington State Conservation Commission/Office of Farmland Preservation

Estimated Acres	11,920
Estimated cost	\$4,913,000
Type of Acquisition	Perpetual Agricultural Conservation Easement
Source of Funding	State Capital Budget
Legislative District	14







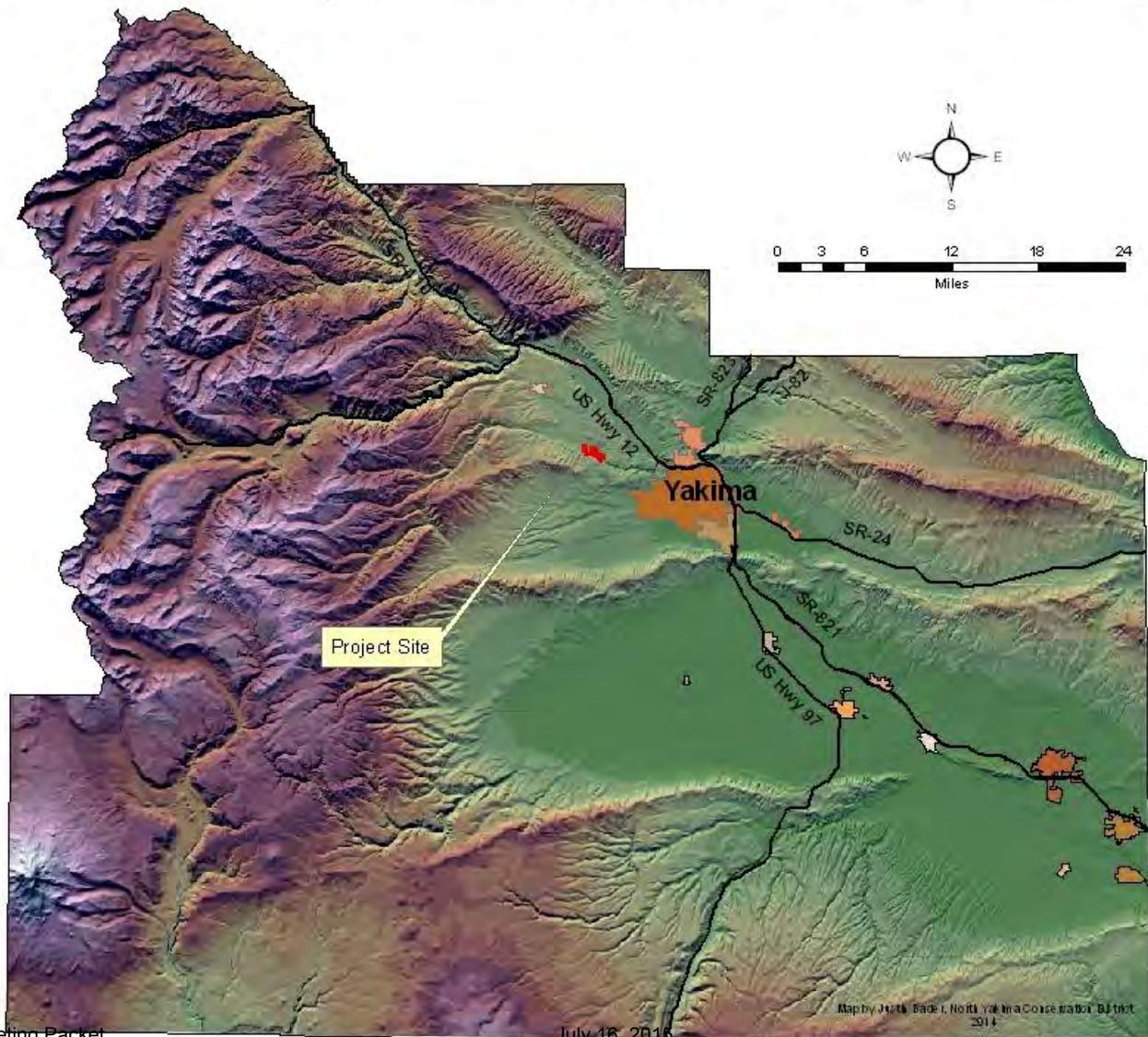


Significance	Protection of 6,124 acres of a viable large acreage rangeland grazing operation in Klickitat County. Protecting this property will have the dual benefit of protecting key habitat and species concerns in the Chapman Creek Watershed.
Intended Uses	Grazing
Project Description	<p>An agricultural conservation easement will be purchased from a single private landowner. This property includes 6.7 miles of Chapman Creek and nearly the entire upper Chapman Creek watershed and a portion of the Rock Creek Watershed providing water quality and habitat protections. The property is managed under a Grazing Management Plan. The Property contains several features that make it valuable farmland. These features include a diversity of grass species and forbs, open forested uplands suitable for grazing, offsite watering for livestock utilization, fencing to create pastures for necessary management, scale and scope of property size, and a diversity of topographic features.</p> <p>The upland and riparian areas have been managed to benefit habitat and wildlife values including ESA listed steelhead and Chinook in the Rock Creek Watershed portion of the property.</p> <p>In the Chapman Creek Watershed, upland and riparian areas have been managed to benefit western gray squirrels, Lewis's and white-headed woodpeckers, mule and black tail deer, black-tailed jack rabbit, burrowing owl, flumulated owl, golden eagles, western toad, white oak, shrub-steppe, and white alder. This property is contiguous with the 11,920 acre Imrie Easement also funded in 2015 and developed by the same sponsors/partners.</p>
Planning Link	Farmland Preservation is the number one priority in EKCD long range plan. Fits priorities of SCC and the state Office of Farmland Preservation. Project fits goals of Klickitat County and WDFW.
Partners	Eastern Klickitat Conservation District and Washington State Conservation Commission/Office of Farmland Preservation

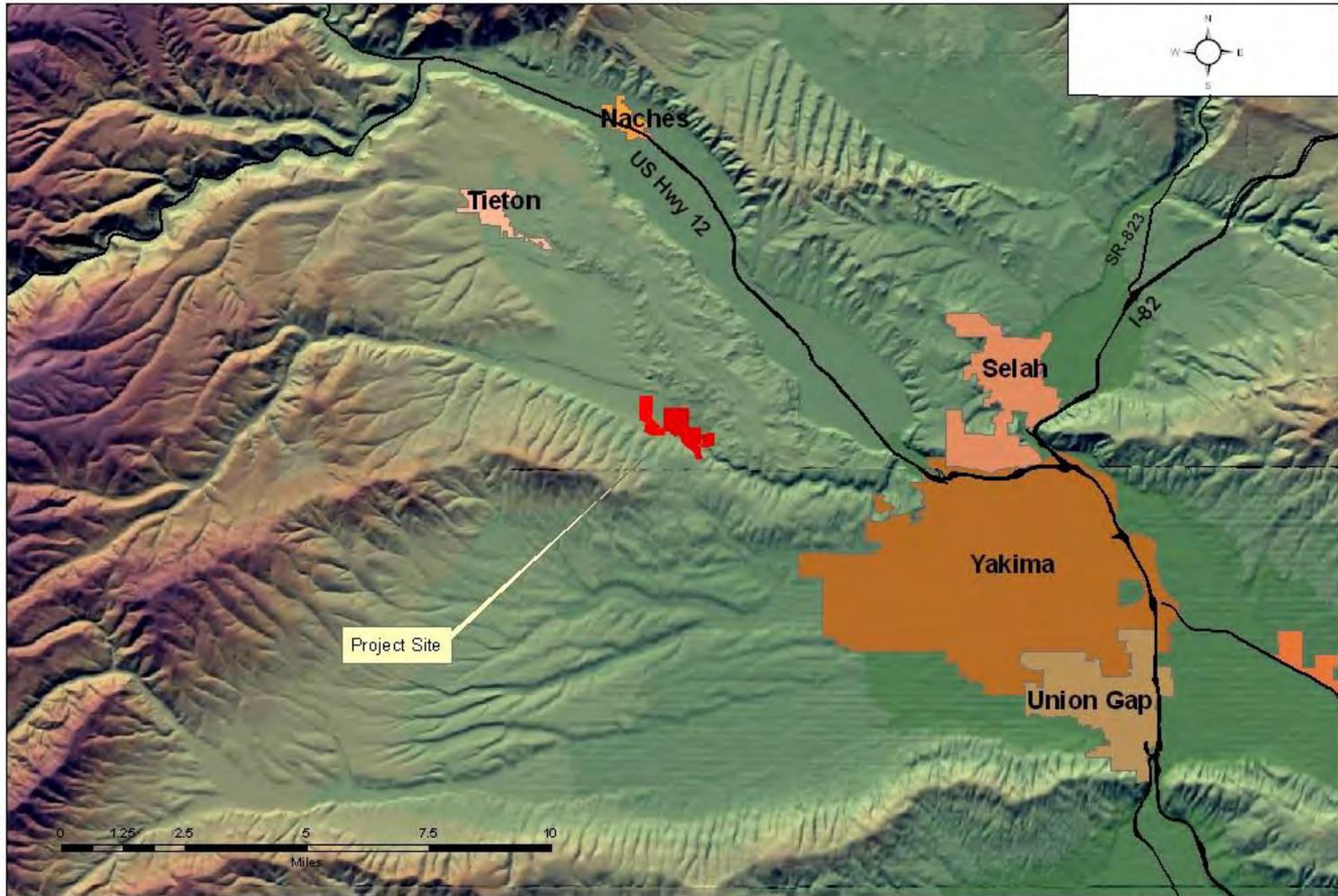
Estimated Acres	6,124
Estimated Cost	\$2,316,000
Type of Acquisition	Perpetual Agricultural Conservation Easement
Source of Funding	State Capital Budget
Legislative District	14



Lust Family Farm & Ranch Preservation Project

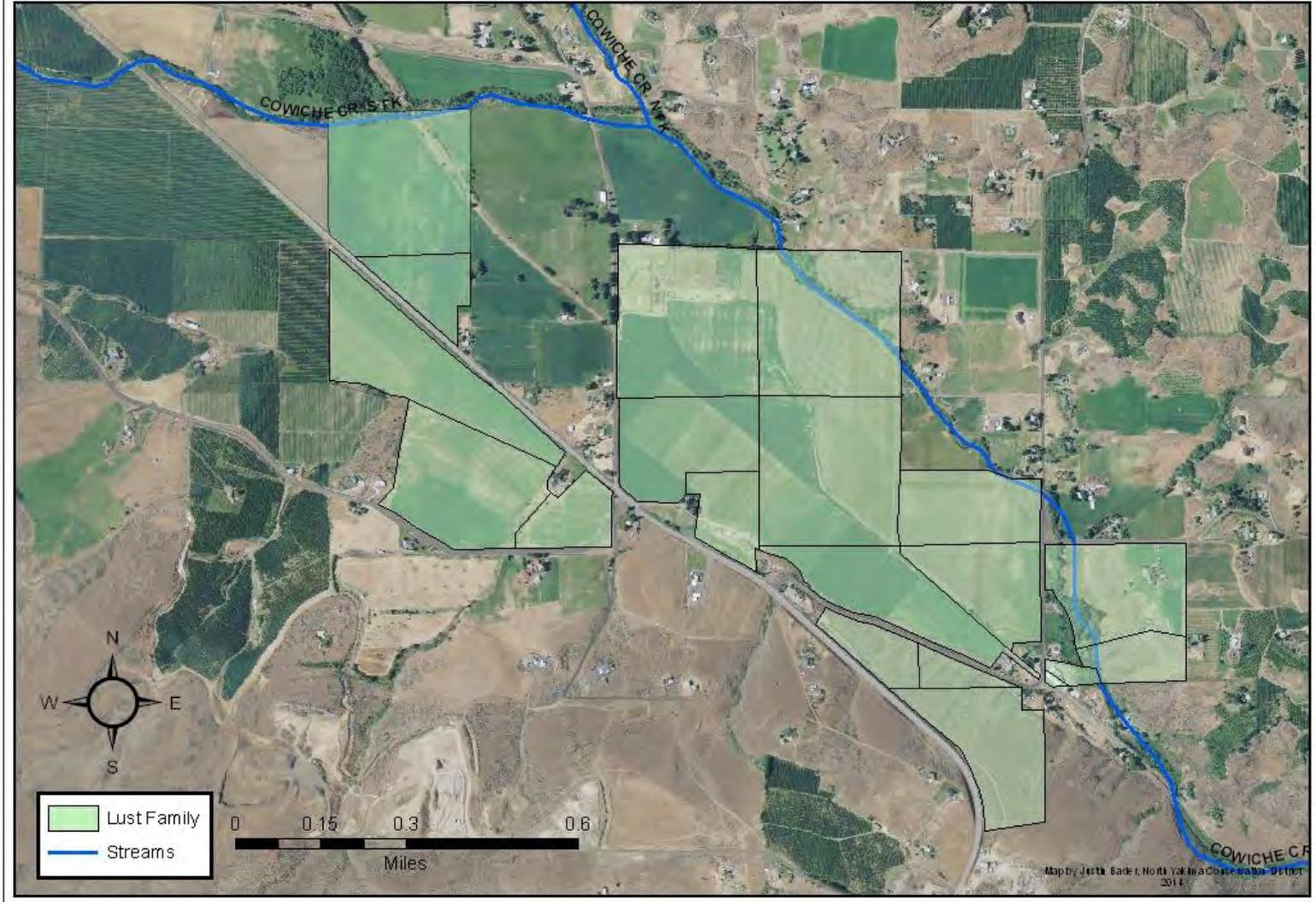


Lust Family Farm & Ranch Preservation Project



Map by Justin Bader, North Yakima Conservation District
2014

Lust Family Farm & Ranch Preservation Project

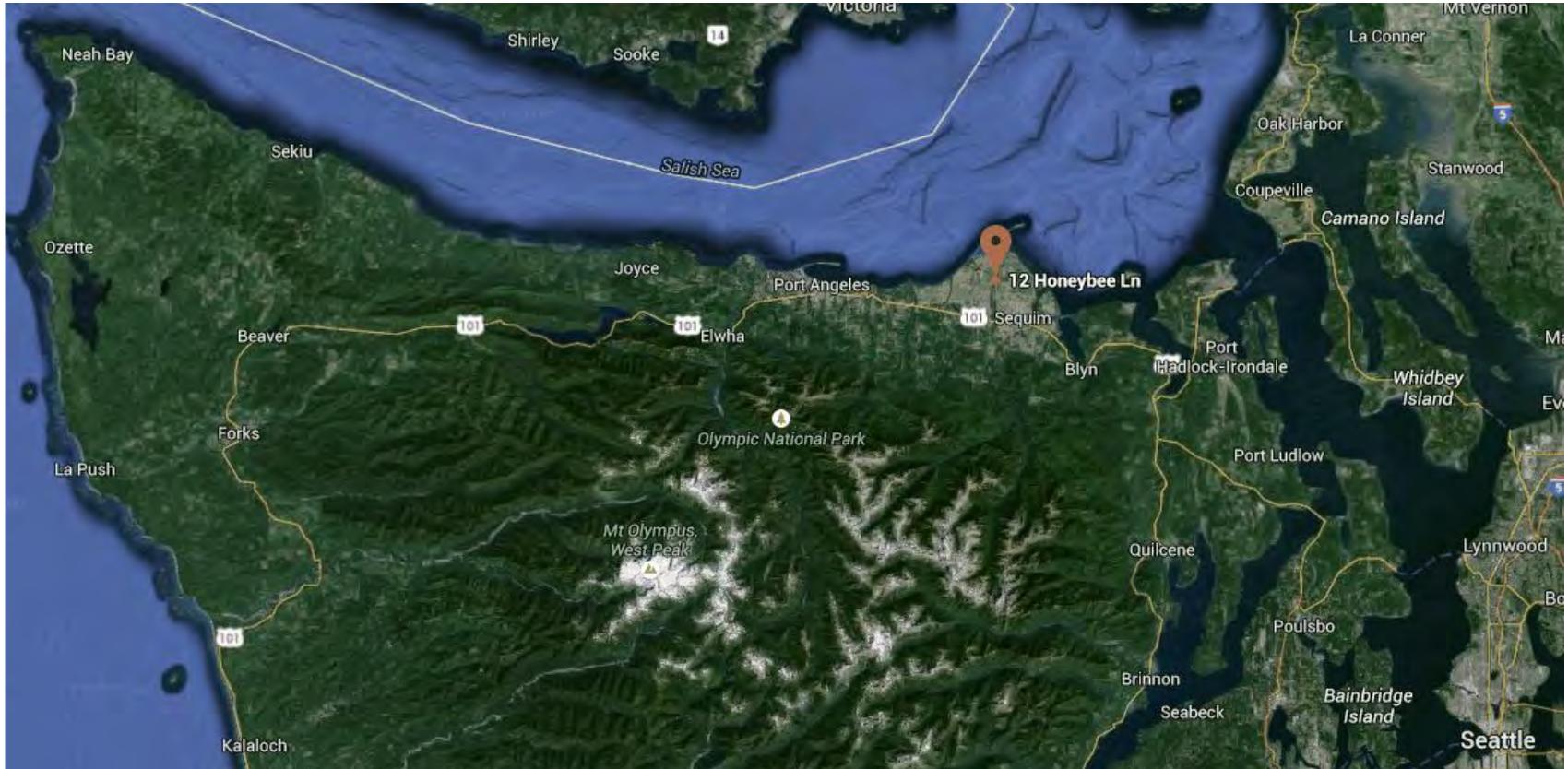


Significance	Protection of 358 acres of irrigated farmland in Yakima County through the use of an agricultural conservation easement.
Intended Uses	Irrigated Agriculture
Project Description	<p>The property is situated adjacent to a highly trafficked main arterial linking the City of Yakima with the agricultural communities of Cowiche and Tieton. The surrounding area includes a mix of intensive agriculture and new home construction. New homes are being constructed on surrounding view lots with smaller acreages being converted from irrigated agriculture to homes and hobby farms.</p> <p>The land is very well suited to the type of cropping operation common in this irrigated portion of Yakima County. It contains several features that make it valuable farmland. These features include a valid senior water right, an upgraded pressurized water conveyance system, irrigation delivery equipment, excellent transportation corridors, and proximity to other similarly irrigated pasture, orchards and berry operations.</p> <p>Protection of this property will ensure the agricultural characteristics are not diminished or lessened. Protection will also build an agricultural buffer between rural residential and intensive agriculture.</p> <p>The project area provides significant benefits to the environment. The farm envelope contains 3,250 feet of Cowiche Creek, a high priority tributary to salmon recovery within the Yakima River Basin. Key resource concerns in this watershed include water quality and habitat availability in Cowiche Creek.</p>
Planning Link	The area is listed as a part of the Yakima Basin Steelhead and bull trout recovery plan and the NYCD Annual and 5-Year Plans.
Partners	North Yakima Conservation District and Washington State Conservation Commission/Office of Farmland Preservation

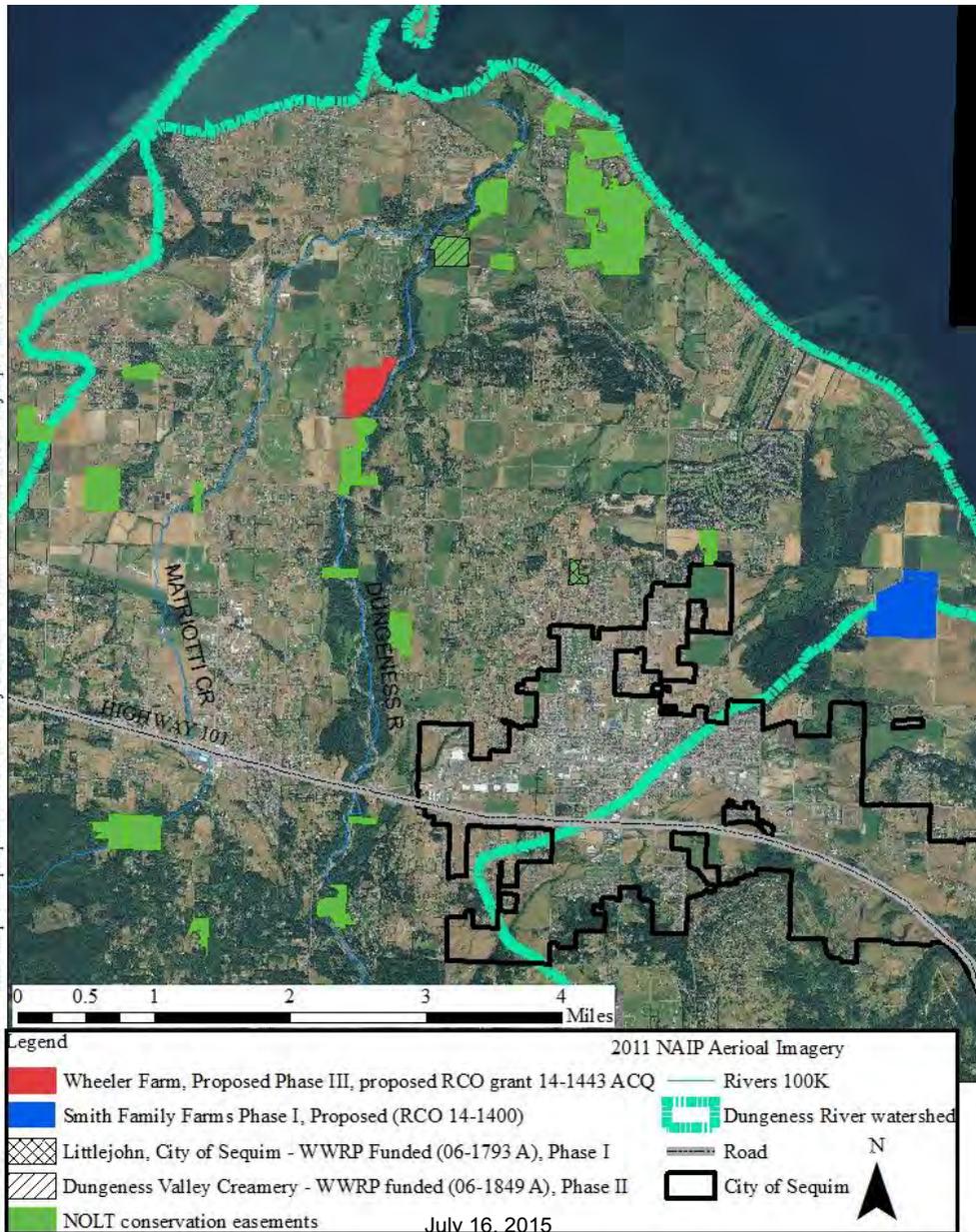
Estimated Acres	358
Estimated Cost	\$1,773,046
Type of Acquisition	Perpetual Agricultural Conservation Easement
Source of Funding	WWRP Farmland - \$154,046 State Capital Budget - \$1,619,000
Legislative District	14



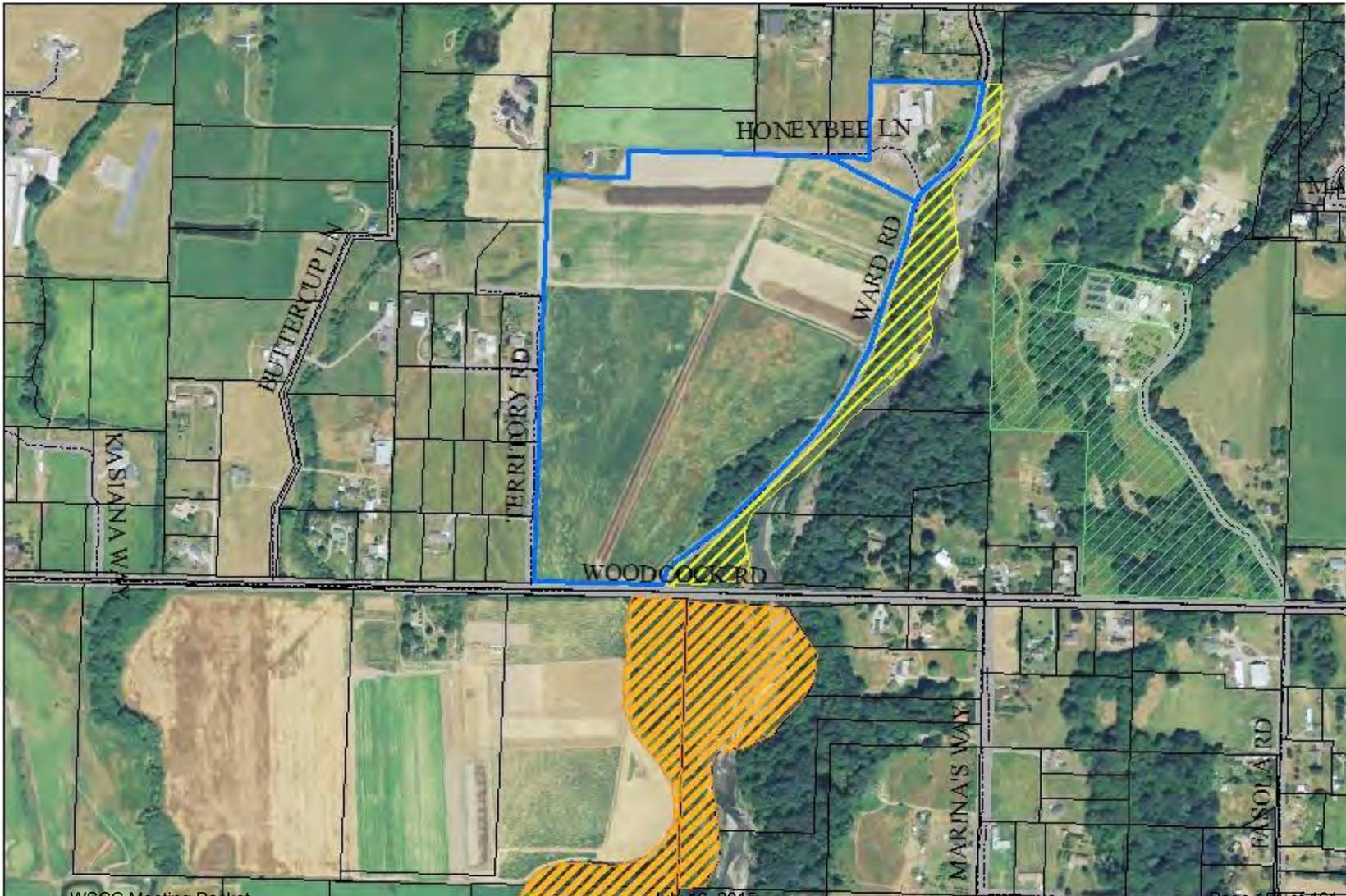
Dungeness Watershed – Wheeler Farm



This map was prepared 7-16-2014 by Michele Canale with the North Olympic Land Trust



Dungeness Watershed Farmland Protection



Significance Protection of 60 acres of farmland in Clallam County through the use of an agricultural conservation easement.

Intended Uses Agriculture

Project Description The Dungeness Watershed Farmland Protection Phase III will result in a perpetual agricultural conservation easement on 60 acres of prime, productive, working farmland in the Dungeness watershed, extinguishing 3 development rights, and ensuring this farm remains available for agricultural production.

This farm contains 100% prime farmland soils (Dungeness silt loam), is located in the Agricultural Retention Zone, and is farmed by Nash's Organic Produce, which employs many people in our County.

This project builds upon previous agricultural conservation easement acquisitions in the Dungeness River watershed, funded with the first WWRP Farmland grants.

It also builds upon riparian conservation easements funded through IAC project 97-1300 C, Dungeness River Watershed Restoration. The North Olympic Land Trust hopes to build upon past successes, and conserve more prime farmland in the Dungeness Watershed through agricultural conservation easements. There is potential for much more conserved land in the area.

Planning Link Farmland Preservation Strategies Report 2009

Partners North Olympic Land Trust and Washington State Conservation Commission/Office of Farmland Preservation

Estimated Acres 60

Estimated Cost \$344,000

Type of Acquisition Perpetual Agricultural Conservation Easement

Source of Funding State Capital Budget - \$344,000

Legislative District 24





Washington State Conservation Commission

TAB 5



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

Below are the resolutions that passed at the WACD Annual Conference in December 2014. The highlighted boxes in light teal blue are resolutions relating to the Conservation Commission. The status box indicates the resolutions that have been recognized by SCC and also shows the remaining resolutions that need action taken by SCC.

2014 WACD Resolutions		
Number	Resolution Title	Status
2014-01	Conservation District Long-Term Funding Opportunities	Motion by Stromberger. Longrie Seconded.
2014-02	Supporting Full Funding for the Forest, Rangeland Health and Fire Resiliency Program	Motion by Stromberger. Brown seconded to accept 02-09.
2014-03	Supporting Full Funding for the Voluntary Stewardship Program	Motion by Stromberger. Brown seconded to accept 02-09
2014-04	Support Funding for Natural Resource Programs to Assist the Implementation of our Work	Motion by Stromberger. Brown seconded to accept 02-09
2014-05	Supporting Conservation Commission Emergency Response Funding	Motion by Stromberger. Brown seconded to accept 02-09
2014-06	Washington Coast Marine Advisory Council to Include Representative from WACD and WSCC Staff, Adding Two New Seats	Motion by Stromberger. Brown seconded to accept 02-09
2014-07	Right to Farm for Shellfish Farmers	Motion by Stromberger. Brown seconded to accept 02-09
2014-09	Green Stormwater Program	Motion by Stromberger. Brown seconded to accept 02-09
2014-10	Management Systems	
2014-11	Control of Noxious Weeds on Public & Private Lands	Motion by Brown. Beale seconded.



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

2014-12	Changes to WA State Department of Natural Resources (DNR) State-Owned Aquatic Land (SOAL) Permitting/License Process	SCC to work with agencies affected prior to action—July Meeting
2014-13	Enabling Conservation on the Ground in a Timely, Efficient Manner Regarding Cultural Resources Review	Motion by Brown. Peters seconded.
2014-14	Requesting Development of Rapid Permitting & Cultural Resources Reviews During Emergencies	Motion by Brown. Peters seconded.
2014-15	District Overhead Operating Expenditures	Motion by Brown. Stromberger seconded.
2014-16	Ecology Centennial and 319 Grant Funding Agreements Timeliness of Payments	SCC to work with agencies affected prior to action—July Meeting
2014-17	Ecology Centennial and 319 Grant Funding Agreements Termination Due to Insufficient Funds	SCC to work with agencies affected prior to action—July Meeting
2014-18	Encouraging Sustained Conservation District Funding Strategy Through the Rates and Charges Option	
2014-19	Sales Tax Exemption Incentive	



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

Resolution No. 2014-12

Title: Changes to Washington State Department of Natural Resources (DNR) State Owned Aquatic Land (SOAL) permitting/license process.

Problem:

Washington State Department of Natural Resources (DNR) requires a Conservation License in lieu of the previous right of entry, easement or lease requirement for a salmon habitat restoration project occurring within waters of the State, below the Ordinary High Water Line. Although it is the obligation of DNR to evaluate and authorize activities under their jurisdiction, several aspects of the permit process and conditions placed on permittees are problematic and challenging for projects undertaken by and for public entities. Unexpected costs and requirements add not only budget concerns but also potential interference with narrow implementation windows and grant timelines. Specific examples include fee requirements, required maintenance, term length and required assurances.

Many projects sponsored by Conservation Districts provide natural resource benefits to the citizens of the State, in addition to any benefit to an individual landowner or entity. Improvements on or associated with public land generally become the property of the State or other public entity at the conclusion of the project. Therefore, the appropriate mechanism for authorization as well as the justification for fees should be reviewed. A recent permit issued to Cascadia Conservation District required a \$900 permit fee. Such fees are waived by other Washington State agencies for local government permit holders; for example, Washington Department of Fish & Wildlife's right of entry fee was waived for the same project.

An additional difficulty is presented when arbitrary terms are imposed for maintenance and monitoring activities. While it is important to ensure that projects are functioning as intended and that risks to the public are minimized, many funding contracts are limited in both duration and budget. Conservation Districts may have little funding, if any, to conduct these activities outside the implementation of the project. If the project is professionally engineered and constructed to specifications, the risk and liability to public property should already be minimized. Observation, monitoring, adaptive management planning and maintenance activities should be specific and limited in scope and duration to match the project goals, available funding and the requirements of other permits for the same project

Recommendation:

WACD and the Conservation Commission should work with DNR and other permitting agencies to develop appropriate modifications to the permit process for projects sponsored by and for public entities, particularly where there is public benefit, and support legislative action as needed to effect the changes. This group should pursue the reduction or elimination of the permit fee for public entities. Modifications to the maintenance component may include the creation of a work group made up of appropriate representatives, rather than limited to DNR staff, to review installed projects and agree upon any maintenance activities or adaptive management proposals that may be needed. Further, the defined period for monitoring and/or maintenance to habitat or other resource improvement structures and projects should be consistent and supported by available funding.



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

Resolution No. 2014-12 (continued)

Presented by: Cascadia Conservation District

Assigned To: District Operations & Education Committee

Recommend DO PASS by the District Operations & Education Committee

Resolution passed



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

Resolution No. 2014-16

Title: Ecology Centennial and 319 Grant Funding Agreements Timeliness of Payments

Problem:

The Centennial Clean Water and 319 Grant Funding Agreements (agreements) currently contain no language that reimbursable payments will be made to a RECIPIENT in a timely manner if the documentation is in order.

Washington State Department of Ecology will not negotiate boiler plate contract language with individual RECIPIENTS.

Many Conservation Districts receiving the grants need timely payment to be financially stable and to maintain the trust of local cooperators.

There are specific deadlines for RECIPIENTS to make reimbursements and submit payment requests.

Some, but not all, Conservation Districts have a long history of waiting 60 to 90 days or occasionally as much as 120 days for reimbursement or notification there is an inaccuracy in a payment request.

Recommendation:

WACD and/or Conservation Commission request Washington State Department of Ecology to allow them to participate in the development and review of boiler plate language for grant funding agreements specifying reasonable, uniform timelines for either payment or notification of problems with the documentation.

If this coordination effort is unsuccessful, WACD should document both lack of uniformity and excessive delays in payment so that a successful effort may be launched in the future.

Presented by: Stevens County Conservation District

Assigned To: District Operations & Education Committee

Recommend DO Pass by the District Operations & Education Committee

Resolution passed



WASHINGTON ASSOCIATION OF CONSERVATION DISTRICTS

Resolution No. 2014-17

Title: Ecology Centennial and 319 Grant Funding Agreements Termination Due to Insufficient Funds

Problem:

The Centennial Clean Water and 319 Grant Funding Agreements (agreements) currently contain no protection for the RECIPIENT for termination or modification due to insufficient funds.

New language added to 2014 agreements allows Ecology to terminate at any time with no notification and no assurance of reimbursement of any incurred expenses.

- A. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of this agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, or renegotiate the agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification restrictions.

Recommendation:

WACD and/or Conservation Commission request Washington State Department of Ecology (Ecology) to allow them to participate in the development and review of boiler plate language for grant funding agreements allowing some minimal protections for the RECIPIENT.

Such language should at a minimum require electronic notification of termination even if effective upon Ecology's send time and date.

WACD and/or Conservation Commission coordinate collective negotiation of grant agreements for the districts concerning boilerplate language and legal standards.

Presented by: Stevens County Conservation District

Assigned To: District Operations & Education Committee

Recommend DO PASS AS AMENDED by the District Operations & Education Committee

Resolution passed as amended



July 16, 2015

TO: Commission Members

FROM: Lori Gonzalez, Executive Assistant/Human Resource Liaison
Mark Clark, Executive Director

RE: Legislative Authorized COLA for Executive Director

Summary: The Legislature authorized a 3% COLA for state fiscal year 2016 and an additional 1.8% increase for fiscal year 2017 to all state employees. The recent salary increase does not automatically occur for Exempt positions. For the Executive Director, approval must come from the Commission that governs the agency.

Action requested: Approval to extend the increases to the Executive Director of the Conservation Commission for fiscal years 2016 & 2017.