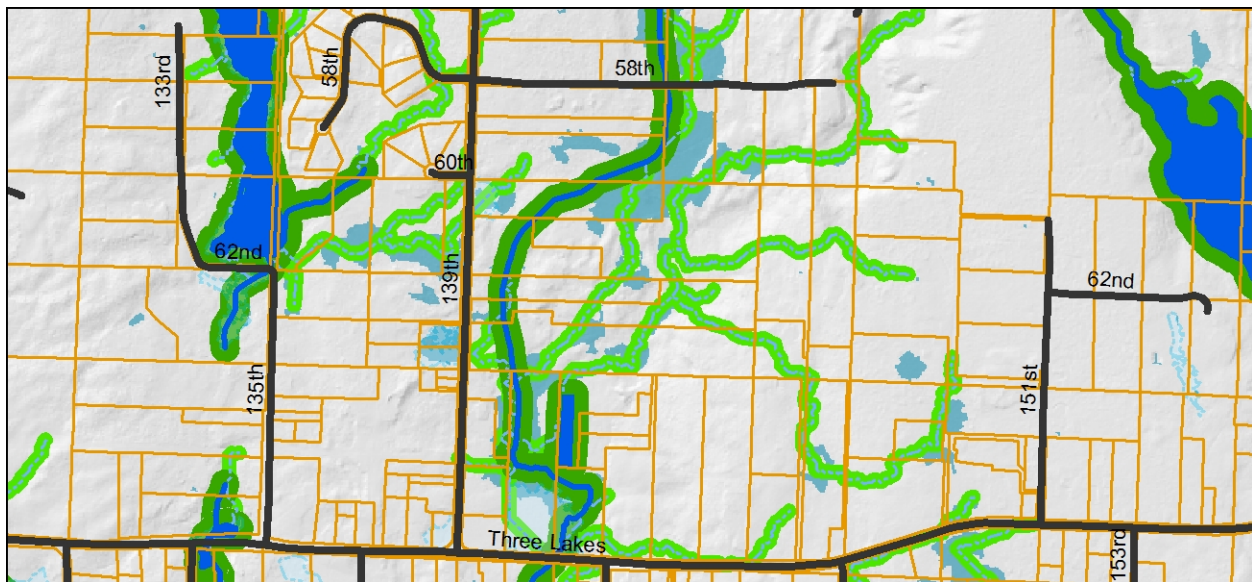


Evaluating Our Acquisition Systems

January 2018 Workshop Findings
Tukwila, Washington, USA

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Introduction

On January 12, 2018, a diverse workgroup of 50 public and private program staff and acquisition practitioners met in Tukwila, Washington to evaluate the performance of our acquisition system and its ability to support ecosystem recovery goals. The U.S. Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration (NOAA), the U.S. Fish and Wildlife Service (USFWS), and The Nature Conservancy (TNC) hosted the workshop on behalf of the Puget Sound Federal Task Force. The goal of the workshop was to explore potential directions for collaboration and unorthodox opportunities to improve acquisition system performance.

The Workshop

The workshop hosts prepared a summary of six potential issues based on discussions with acquisition practitioners (Attachment B). The hosts intended these issue statements to provoke but not constrain discussion:

- Stewardship – how do we protect and tend acquired lands over time?
- Paying more than fair market value – how do we make unsolicited offers that result in sale?
- Parcel by parcel approval – how do we avoid the time lag between market entry of a parcel and funding of acquisition?
- Eminent domain – how do we make fair use of eminent domain on project involving public safety?
- Buying more land than needed – how do we remain efficient when parcel boundaries don't reflect ecosystem needs?
- Agency easement language – how do we combine funding among programs on complex projects with different easement requirements?

Kaleen Cottingham, Director of the Washington State Recreation and Conservation Office (RCO) welcomed participants and provided some historical and political perspectives on state funded acquisition:

- Around \$1.4 billion in funding for land acquisition has flowed through RCO, leading to 1 million acres of acquisition.
- RCO's funding comes from bond funds, which cannot pay for maintenance and operations, though they can be used for some actions associated with stewardship, such as removing structures or noxious weed removal.
- While RCO awards can pay more than fair market value, approval from the Director is required and sponsors must make a strong argument to justify the valuation.
- While eminent domain may be an important issue to consider, it cannot be supported by state conservation funding and there is no legislative interest in allowing grant support for eminent domain.
- When buying more land than needed for a project, RCO is able to be flexible. RCO is also able to consider changes to easement language, but not for every individual project, and changes need to maintain protections for the state.

Kaleen and other RCO staff participated throughout the workshop and shared their considerable expertise with property acquisition.

Workshop participants each shared what they were hoping to get from the workshop. Answers varied widely and included: come away with concrete actions, develop innovative ideas, build a community that can come together to address common goals, develop more tools, make connections, and learn from on-the-ground stories. The group touched on topics that cut across or went beyond the issues listed above, including:

- The potential for conservation acquisition to affect affordable housing,
- The underappreciated role of private landowners in ecosystem management,
- The need for multiple-benefit projects,
- The general inadequacy of existing funding, and
- The value of grant program coordination.

The workshop participants agreed to combine two pairs of the pre-generated issues, to create four discussion groups. Written summaries from each discussion group are in Appendix A. After defining the problem and thinking about solutions, facilitators asked participants to suggest a “15% solution” – an action they could take with their existing resources and authorities that would build toward a solution.

Following group discussions, a group facilitator presented findings and received comments and questions from all participants. The full workshop discussed potential next steps, including:

- Regrouping for a conversation on ecosystem service payments,
- Working on state-level support for conservation and protection,
- Coordination between conservation and social justice advocates,
- Exploring stewardship efficiency agreements,
- Discussing appraisal strategies, and
- Organizing funders around how to work together better.

Susan Meyer (EPA) closed the workshop by thanking the workshop attendees on behalf of the Puget Sound Federal Task Force Regional Implementation Team and the Puget Sound National Estuary Program.

The hosts developed this summary analysis after the event to integrate and organize the diverse issues and ideas we discussed to inform future work. Workshop hosts provided a draft version of this report to participants, and six workshop participants provided additional comments and suggestions.

Problems and Potential Actions

This report is organized around four issues, based on the four discussion groups:

1. Improving Stewardship
2. Implementing Programs to Accelerate Conservation
3. Improving Easement Language and Flexibility
4. Making Compelling Offers for Large Projects

A topic discussion group typically identified a set of interrelated problems and several potentially complementary actions. To increase clarity and reduce redundancy, report authors took liberty in moving potential actions or combining related ideas, while trying to retain the diversity and detail of thinking.

Participants do not necessarily support all elements of a problem definition or all potential actions. We anticipate that in order to act on these findings, a self-appointed actor will need to work among involved parties to investigate each problem, in order to develop an intervention that improves our performance.

TOPIC 1 - Improving Stewardship

Different people perform various functions that result in stewardship. In the context of acquisition, the weak link in stewardship is in setting aside cash resources during the actual acquisition process when money changes hands and obligations are created. At that point in the acquisition process, we are not consistently creating a pool of assets that can support long-term stewardship. Part of the reason is that appropriators and their constituents don't have a strong understanding of the value of stewardship or the risk of loss in the absence of stewardship. In addition, the state and federal government funding mechanisms that drive acquisition and restoration don't strongly support operations and maintenance. Ultimately, stewardship may require a new and different model, and this will likely involve increased engagement of landowners and communities. The group discussed three key solutions:

1. Strategies for creating endowments
2. Articulating better stories about the value of stewardship
3. Increasing efficiency through collaborative trusteeship

15% solutions discussed by the group included reviewing internal processes within land trusts, using the potential advocacy of the Washington Association of Land Trusts, using grants to cover more of the costs that tend to be covered by private funding so the private funding can better endow stewardship, and looking for efficiency among local partners by sharing stewardship duties.

Comments from the full group included a discussion of:

- The value of private landowner stewardship and the need to compensate or account for that,
- The potential for private landowners to do stewardship on public property,
- The value of considering stewardship at the beginning of the design process, and
- The changes in stewardship needs, such as the increase in homeless encampments.

There was agreement that the actions and challenges of stewardship are changing (primarily increasing encampments of people without houses). The challenge of perpetual stewardship raises real questions about the relative role of public acquisition vs. private land stewardship in achieving ecosystem goals. Some suggest private stewardship is a necessary component of efficient ecosystem management at a large scale, while others point to the historical failure of private ownership to protect aquatic ecosystems.

❖ **Problem 1 – FUNDING FOR STEWARDSHIP**

The existing acquisition funding programs encourage acquisition but don't provide a clear mechanism for supporting stewardship in perpetuity. The moment of purchase is the point in time when there is the most attention on the project as well as an exchange of assets. How can we best ensure stewardship at the moment of acquisition? Ultimately, if effective, increased private stewardship decreases the need for public acquisition and perpetual management.

- A. **MAXIMIZE ALLOWABLE COSTS (Funders)** - Review acquisition policies among granting agencies to find inconsistencies where allowable cost policies increase stress on the local team's ability to ensure stewardship. By maximizing allowable costs at acquisition, we can apply limited but flexible private funds toward stewardship.
- B. **BUILD LOCAL RESOURCES (Local Teams)** - Develop better local funding and social coordination mechanisms (such as Real Estate Excise Tax, In-Lieu Fees, Conservation District rates, Service Clubs, etc.) to pay for the ongoing work of land trustees to build and maintain relationships in communities and ensure stewardship. The existing 1% Real Estate Excise Tax for conservation authority could raise tens or hundreds of millions of dollars annually for local conservation. In-lieu Fee (ILF) programs typically require "full cost accounting" including stewardship costs, but local governments are not widely developing ILF programs.
- C. **TAX CAPITAL PROGRAM APPROPRIATIONS (Funders)** - Encourage state and federal acquisition programs to allocate a portion of their appropriations to support long-term stewardship, perhaps using National Fish and Wildlife Federation as a nexus for federal programs.
- D. **BUILD COOPERATIVE PLACE-BASED ENDOWMENTS (Local Teams)** - Build place-based public-private endowments for stewardship that are supported by multiple local stewardship partners (see "stewardship system efficiency" below) and develop private funding for endowment of activities (for example, the [Commencement Bay stewardship model](#).)

❖ **Problem 2 – RECOGNIZING STEWARDSHIP VALUE**

Elected officials and agency executives may not feel compelled to support stewardship funding as a critical part of the cost of ecosystem management. Ultimately, achieving large-scale ecosystem goals will require a much larger cadre of private land stewards. This requires that we recognize both the role of private stewardship and the public role in developing and enhancing private stewardship of private lands.

- A. **DEVELOP GOOD STORIES (Funders and Local Teams)** - We can develop and share stories and evidence of the importance of stewardship and better articulate the legal obligation of stewardship and the potential for loss of public value.
- B. **PROMOTE STEWARDSHIP WITHIN FUNDING PROGRAMS (Funders)** - Funding programs can better represent the importance of local stewardship and support for stewardship when describing the value of their programs and program operations.
- C. **REPRESENT STEWARDSHIP IN ACTION AGENDA (Local Teams)** - Curate and maintain focus on stewardship as a critical need within the Action Agenda.
- D. **W.A.L.T. LEADERSHIP (Washington Association of Land Trusts)** - WALT could work as a coordinating body to develop a stewardship strategy with funders and local stewardship partners and to

implement a regional legislative strategy. There may be additional roles for WALT, such as In-Lieu Fee coordination, such as that provided by Montana Aquatic Resources Service¹.

❖ Problem 3 – STEWARDSHIP SYSTEM EFFICIENCY

Local communities and stewardship partners are each working to maintain the viability of their own institutions, and may not be seeking efficiency through collaborative stewardship of a shared portfolio of common lands. Long-term stewardship may be more efficient if we find ways to collaborate. The role of private landowners in stewardship is both essential and under-developed.

- A. **BUILD RESOURCE SHARING SYSTEMS (Local Teams)** - Examine the potential relationships among local partners for collaborative trusteeship. Develop spatial maps of local stewardship resources and common lands. Consider sharing conservation corps crews to increase their collective stewardship capacity.
- B. **DEVELOP PLACE-BASED PROGRAMS (Local Teams and Funders)** - Explore the potential for developing a local community-based conservation program at the beginning of an acquisition process. Since parcels within a vicinity face similar threats, we can make stewardship a community affair, and engaging local communities in the acquisition of lands that add value to the community (overlap with “Implementing Program” topic).
- C. **BUILD A VISION FOR A PRIVATE STEWARDSHIP SYSTEM (Funders and Local Teams)** – How do our existing scattered incentive, education, support, and outreach systems create an empowered community-based stewardship effort managed by private landowners on private lands. We need to acknowledge existing stewardship activity, and strengthen existing networks.
- D. **REVIEW LAND TRUST PROGRAMMING (Land Trusts)** - Use the accreditation renewal processes as an opportunity for boards and staff to review their stewardship systems and behaviors, compare notes with partners, and adapt.

TOPIC 2 - Implementing Programs to Accelerate Conservation

This discussion combined the topics “getting beyond parcel by parcel approval” and “buying more land than needed”, and focused on how grant processes could support incremental large-scale conservation. The group discussed the tools and flexibility that RCO has already developed that could be adopted by other granting agencies. There are almost no examples of integrated maps that identify the natural assets of a community and the actions that need to occur in those places. The group discussed the idea of creating incentives that increase landowner participation in conservation across a reach and the need to educate the public and elected officials on the value of acquisitions and easements.

Comments from the full group included:

- Concerns that there may not be enough sponsors and proponents buying land to achieve conservation objectives,
- The long period necessary to acquire property within a large geographic area, and
- The difficulty in creating small conservation parcels that conflict with low-density zoning codes.

¹ <http://montanaaquaticresources.org/ilf/>

The existing acquisition process is based on waiting for parcels of opportunity rather than managing natural assets. Acquisition may not provide an adequate tool for achieving ecological goals, so we may need to integrate private land stewardship strategies into our definitions of reach-scale work.

Problem 1 – FUNDING PRE-APPROVED LANDSCAPE OBJECTIVES

Agencies need clear targets and priorities to justify an ongoing allocation of resources to a particular location and purpose. Competitive grant processes are slow compared to real estate markets. How can we have an acquisition system that is nimble and responsive, but still maintains accountability for public cost-benefit and adherence to strategic priorities?

- A. SET SHARED GEOGRAPHIC PRIORITIES (Funders)** - Convene grant funders to discuss a “geographic envelope” strategy under which agencies would offer preapproval to acquire land within a defined geographic area for a clear purpose. This could involve overlaying multiple agency priorities into a single map describing overlapping interests in the landscape. This could be tested in a pilot location and must be designed to fully address public processes for land purchases.
- B. INTEGRATE LOCAL PLANNING (Local Teams and Funders)** - Develop a centralized map with layers from across local, state and federal agencies that includes land ownership, flood risk, critical habitat, agricultural production areas, recreation focus areas, and other GIS layers for identifying natural assets within a watershed. Could shared data identify shared strategies that support rapid allocation of funds to high priority opportunities? It will be critical to engage local communities in this work and be honest and transparent about the actual tradeoffs and benefits.
- C. QUANTIFY LANDSCAPE TARGETS (Local Teams)** - Work proactively with the science and modeling community to define the thresholds necessary to secure conservation outcomes and achieve community benefits.
- D. LEARN LESSONS FROM DNR (DNR and Local Teams)** - Research DNR’s process for setting Natural Area Preserves to determine whether they use strategies that could be applied to other projects that require multiple properties for success.

❖ Problem 2 – IMPROVING INCENTIVE PACKAGES

To impel participation by landowners we will likely need a combination of incentives that can compensate the landowner for the full value of their public conservation service (see the “Compelling Offers” issue). We will need to be responsive to the needs and opportunities of each potential purchase or agreement.

- A. COORDINATE INCENTIVES WITH POSITIVE FEEDBACK (Funders and Local Teams)** - Create more effective incentive systems for private landowner participation at landscape scale such as stacking incentives from multiple programs. This could include positive feedback for community effort, such as increasing payouts when a community reaches a large-scale conservation target or providing finders fees. We will need to learn how to deliver incentives efficiently as a package.
- B. SUPPORT MOTIVATED SELLERS (Local Teams)** - Look into the potential to negotiate short-sales with lenders on behalf of sellers who are underwater on their mortgage. We need to remain cognizant of how public funding can affect private land markets.

❖ **Problem 3 – INSUFFICIENT RESOURCES FOR LARGE SCALE ACQUISITION**

Ongoing and nimble acquisition efforts will be far more expensive even as they deliver a more effective mosaic of protected lands. The public and its officials will need to believe in the value of this work. We will need to maximize the synergy between private and public actors. Accelerating acquisition may require a shift from regional grant competitions toward more nimble citizen-endorsed and recurring revenue streams for county natural asset management that provides multiple benefits.

- A. BUILD SUPPORT FOR LANDSCAPE VISION (Local Teams)** - Educate legislators, commissioners, and important stakeholders on the role of state agencies, local government and private partners in the collaborative protection of landscapes. We need to demonstrate and communicate the value of large-scale strategies and the urgency of landscape protection under population growth and climate change.
- B. QUANTIFY ECONOMIC VALUE (Funders and Local Teams)** - Work with economists to translate acquisition goals into a broadly understood appreciation for ecosystem service value and risk reduction. We need to better understand and use ecosystem service and cultural service valuation methods that are credible.
- C. DEVELOP LOCAL FUNDING RESOURCES (Local Teams)** - Local resources could rapidly eclipse existing state and federal investments if they have adequate community support. These local resources could include Real Estate Excise Tax provisions and Transfer of Development rights systems (see also the [“Funding for Stewardship” problem](#) described above).
- D. EXPLORE WHETHER LOCAL ENTITIES ARE USING LEGISLATED AUTHORITIES (Local Teams and Funders)** – Landscape protection involves the combination of zoning, movement of development rights, and multiple potential funding sources (such as a Real Estate Excise Tax). These decisions all focus on the county, so we need to understand the current use of authority among counties and what has enabled their use. How do we act on this knowledge?
- E. IMPROVE COLLABORATION AMONG PUBLIC ENTITIES AND NON-PROFITS (Local Teams)** – The public sector can investigate land use issues and needs and then push information into the private nonprofit sector, which can use higher quality information to take a leadership role in conservation. Similarly, private understanding and support is necessary to engender confident public investment in conservation.
- F. COLLABORATE AROUND SOCIAL JUSTICE ISSUES (Local Teams)** - Gather conservation practitioners and those working on issues of homelessness and loss of low-income housing. Develop a common advocacy approach for public land management and regulation, focused on the interaction between Real Estate Excise Tax authorities authorized to support conservation and low income housing. Perhaps develop job-training programs associated with ecosystem stewardship.

TOPIC 3 - Improving Easement Language and Flexibility

The main issues discussed were:

- How to get compatible easement language across agencies,
- How to define agriculture,
- The problems with single-benefit easement language, and
- How to make easements flexible over time.

One proposal was development of an easement tool finder that would help practitioners and landowners find the right funding program for a given property. The group discussed starting a conversation with Ecology and Natural Resource Conservation Service about hosting a web-based easement tool finder, supported by WALT and TNC. They also discussed how a landscape strategy may provide better outcomes than a parcel-by-parcel approach and could better use and integrate the complexity of our acquisition funding systems. They identified the value of developing and improving Transfer of Development Rights (TDR) programs. The full group discussed the challenge of selling both development rights and conservation easements from the same parcels and how the sequence of conservation sales can affect the compensation offered to a land owner (for example having Conservation Reserve Enhancement Program (CREP) enroll first, followed by perpetual easement sale). Ultimately, there is a fundamental conflict between wanting perpetual certainty at acquisition and retaining the ability to adjust land use over time, as societal or environmental conditions shift. The large-scale application of parcel-by-parcel legal language to control future land use may create unintended future problems.

❖ Problem 1 – EASEMENT LANGUAGE CAN BE COMPLICATED, RIGID, AND NARROW

Current easement language can be difficult for property owners to understand. In addition, many easements only value a single benefit or land use. Easement language may be inflexible, even in the face of climate change or natural disaster. We would benefit from allowing for future adjustment of land use restrictions that can increase or maintain conservation values in response to changing future conditions.

- A. **DEVELOP EASEMENT LANGUAGE FLEXIBILITY (Funders and Local Partners)** – Develop strategies for allowing site-specific easement language prescriptions resulting from an analysis of multiple site benefits. Not all sites are the same, and this would allow for unique circumstances to be addressed in easement language. Consider mechanisms for being responsive to natural disasters such as floods, landslides, earthquakes, or sea level rise².
- B. **PILOT INTEGRATED PROJECTS (Local Partners)** – Develop local programmatic approaches which demonstrate the integration of agricultural preservation and salmon recovery into a flexible easement (for an example, see the proposed Stillaguamish Valley Protection Initiative; see [“Implementing Programs” topic](#) above.)

❖ Problem 2 – GRANT CONDITIONS LIMIT EFFECTIVENESS

Grant conditions and procedures, such as grant timing, buffer width requirements, or ranking criteria can slow down and complicate the land conservation process, sometimes resulting in the loss of a project or weakening local efforts to achieve meaningful conservation outcomes.

- A. **SUPPORT BUFFER FLEXIBILITY (Funders)** – We need grant conditions that are flexible enough to work with willing landowners even to achieve a less than ideal outcome, because such work establishes a relationship that can lead to future work. For example, if the grant condition says there must be a 100-foot buffer on a stream, but the landowner says they will only restore 50 feet, having the flexibility to get that 50 feet may be an important start to relationship building that leads to conservation work in the future.

² For an example, see the [Channel Migration Easement Program](#) by Montana Aquatic Resources Services, Inc.

- B. DEVELOP PORTFOLIO APPROACH (Local Teams)** – Develop integrated landscape level strategies for watersheds or sub-watersheds. These plans would identify areas for acquisition, restoration, farmland preservation or for possible development and should be quantitative as well as qualitative. This would allow for advance planning of how to best use grant programs. We could better describe outcomes and be better positioned for acquisition. (This has overlap with the [“Implementing Programs” topic](#) above)
- C. PHASED FUNDING (Funders)** – Grant programs could support the ability of a local team to buy land now, while offering flexible funding for ecological improvements in the future. This may involve finding ways to acknowledge the value of long-term efforts during proposal review, where acquisition does not lead immediately to restoration, but may be important for a larger scale effort in the future (a “buy and hold” strategy)

❖ Problem 3 – MATCHING PROJECT TO RIGHT FUNDING

With the number and specificity of acquisition funding sources, it is important to connect the right acquisition project with the right funding source. A poor match can result in a lost conservation opportunity and the waste of limited local project capacity.

- A. CREATE ONLINE GRANT MATCHING TOOL (Funders)** - Along the same lines as the [“Salmon and Water Fundfinder”](#), we could develop an online tool for matching the right funding source with the right landowner circumstances. This could include mechanisms for finding private funding for projects that do not meet existing program criteria. We could install this tool finder on agency websites to help project sponsors find the right funding partners.

❖ Problem 4 – SELLING MULTIPLE RIGHTS FROM THE SAME PARCEL

The different bundles of rights on a piece of land may or may not be separable, depending on program policies and requirements. Being unable to sell different rights could reduce landowner compensation and fail to impel sale. In addition, in some counties, if designated agricultural land is put into a non-agricultural easement, an equivalent area of agricultural land must be identified and preserved. There are very few mechanisms for closing complicated land-swaps.

- A. EXPAND TRANSFER OF DEVELOPMENT RIGHTS (TDR) PROGRAMS (Local Teams)** - We need to develop TDR programs and evaluate the effectiveness of existing programs so that we can become more effective and efficient in using the TDR tool. Extinguishing development rights, prior to the sale of an easement can increase compensation and impel sale for conservation.
- B. CLARIFY POLICY ON THE SEPARATION OF LAND RIGHTS (Funder and Local Teams)** - We could research the issue of state funded-easements preventing use of TDR and pursue a change in that policy that meets the needs of all participants. There are other issues around the stacking and bundling of conservation values that have not been standardized.
- C. SUPPORT AGRICULTURAL LAND REPLACEMENT AND LAND SWAPPING (NRCS and Conservation Commission)** – The Natural Resources Conservation Service, State Conservation Commission, and State Department of Agriculture could collaborate when there is a need to find equivalent agricultural land or protect agricultural production as part of a conservation strategy. In general, more developed land swap mechanisms that help local actors take risks may be valuable in reaching conservation outcomes in agricultural landscapes.

TOPIC 4 - Making Compelling Offers for Large Projects

This group combined the discussion of “eminent domain” and “paying more than fair market value”. There are very strong and divergent views on both issues. The group reframed the issue to focus on how project managers can acquire multiple properties when a larger area is necessary to achieve project benefits. How do we more effectively approach acquisition of those lands while maintaining fairness and equity among affected landowners? Solutions include looking at how to ensure we are using the appraisal process effectively and how to communicate with landowners earlier in the acquisition process. The group also discussed mechanisms for paying for the ecological or public service values of groups of properties—a topic that needs more discussion. Some group members felt there was a slippery slope where the public would be paying for services that we should protect through regulatory enforcement while others considered service payments an essential tool. RCO staff provided helpful information on the flexibilities that RCO has developed to assist with these issues. It is not clear whether other grant programs have the same flexibility as RCO.

Real estate assessment methods may not capture the full value of open space assets but we do not have alternative mechanisms, nor does the public have a shared understanding of open space value. We may benefit from comparing private stewardship to public acquisition as competing or complementary tools for large-scale project development.

❖ Problem 1 – PAYING MORE WITHOUT DRIVING UP PROPERTY VALUES

Conservation may require acquisition of specific irreplaceable parcels. Fair market value practices assume that real estate is an interchangeable commodity. If you pay more than fair market value on an acquisition, this can create the expectation that public acquisitions will pay more than the market in the future or could drive up property values. This negative feedback loop weakens future conservation efforts. When we approach a private landowner for an important conservation acquisition, they may not be intending to move, and so in addition to land value, we are asking them to relocate without compensation. RCO grants may pay for relocation assistance within a project area where a proponent acquires some properties through eminent domain.

- A. DEVELOP STRATEGY FOR ECOSYSTEM SERVICE PAYMENT (Funders and Local Teams)** - Convene discussions on the best opportunities for paying for ecosystem services (wetlands, stormwater, carbon sequestration, endangered species habitats, etc.) and the policy implications. Ecosystem service valuation can be a basis for rewarding conservation behaviors. It could also lead to governments paying for services that they should assure through regulation. Some ecosystem service payments could be achieved through existing conservation banking practices. This idea is related to the [“Selling Multiple Rights from the Same Parcel”](#) problem above.
- B. DEVELOP STRATEGY FOR PAYING MORE THAN MARKET VALUE (Funders and Local Teams)** - Convene discussions of how to pay more than fair market value without driving up the market value for future appraisals. This might include separating the sale price and recording adjustments, such as administrative settlements for business impacts or providing relocation support, separately.
- C. NEGOTIATE REDUCED COST OF COMPLIANCE BENEFITS (FEMA and Local Teams)** - Look into using “Reduced Cost of Compliance” benefits generated under the National Flood Insurance Program on behalf of the seller as an added bonus for willing sellers.
- D. RELOCATION STRATEGIES AND STANDARDS (Funders and Local Teams)** – We can determine which programs have funding available for relocation assistance and develop standards for who should be

given relocation assistance, at what level, and under what conditions. Relocation costs are anticipated to dramatically increase future acquisition budgets as flood impacts increase under climate change.

❖ Problem 2 – AVOID DISCREPANCY BETWEEN APPRAISAL AND ESTIMATE

Practitioners may apply for grants with an estimated fair market value, while a later appraisal produces a different value. It can be confusing to know which appraisers to use and to understand what methods they are using to appraise properties.

- A. REVIEW LOCAL AND STATE APPRAISAL INSTRUCTIONS (Local Teams)** - We can examine both local and state appraisal instructions, look for areas where the appraisal approach can strongly affect price in the context of conservation acquisition, and use this information to inform estimates as well as the information provided to appraisers.
- B. PROVIDE MORE INFORMATION TO APPRAISERS (Local Teams)** - Appraisers typically use Federal Yellow Book or USPAP methods. You cannot tell an appraiser which methods to use, but you can explain clearly to them the purpose of the project to help them select the most applicable and appropriate method. Potential agricultural profit may not be well described by values based on development. Some practitioners have had better success with acquisition when the “replacement cost” or “capitalization” approach is used. We need to develop strategies for clearly informing appraisers about their assignment and its purpose to avoid misunderstandings that lead to complications later.
- C. EARLY APPRAISAL AND LANDOWNER NEGOTIATION (Local Teams)** – It is important to approach a landowner with information about the sale price early to gauge expectations and concerns. In some cases, it may be useful to obtain an appraisal and come to agreement with the landowner ahead of the grant application. This may require developing funding sources that allow for early appraisal.

Next Steps

There was a strong consensus that continued improvement of our acquisition systems was needed and desired. Because of the diversity of federal, state, tribal, local agencies and non-profit stakeholders involved, there is no clear mechanism for organizing our collective work beyond the initiative of individuals, good communication, and the reciprocity of colleagues.

Limited feedback during document review suggests that the strongest enthusiasm for future work was distributed among two broad topics: improving stewardship and implementing programs to accelerate conservation.

Improving Stewardship

1. [Funding for Stewardship](#) – maximize allowable costs, build local resources, levy capital program funding, build cooperative place-based endowments.
2. [Recognizing Stewardship Value](#) – develop good stories, promote stewardship within funding programs, represent stewardship in the action agenda, WALT leadership.
3. [Stewardship System Efficiency](#) – build resource sharing systems, develop place-based programs, build a vision for a private stewardship system.

Implementing Programs to Accelerate Conservation

4. [Funding Pre-approved Landscape Objectives](#) – set geographic priorities, integrate local planning, quantify landscape targets, and learn lessons from DNR.
5. [Improving Incentive Packages](#) – coordinate incentives to create positive feedback, and support motivated sellers.
6. [Insufficient Resources for Large Scale Acquisitions](#) – build support for landscape vision, quantify economic value, develop local funding resources, explore whether local entities are using legislated authorities, improve collaboration among public entities and non-profits, and collaborate around social justice.

Different stakeholders may have different interests in different topics, and future work will depend on good quality investigation of an issue and strong communication among practitioners and program managers. In order to promote this effort we anticipate the following next steps:

- **Report Distribution** – The workshop hosts will provide this report to the project development community and staff involved in capital program development, grant program leadership, and regional policy forums.
- **Review of findings by the Salmon and Water Grant Coordination Group** – The Recreation and Conservation Office and State Department of Ecology have convened a workgroup for state funders to improve collaboration among grant programs. That work group will review these findings and identify actions that are well fitted to the capabilities and limited resources of that group.
- **Development of A3 Proposals under a Continuous Improvement effort** – The Puget Sound Ecosystem Coordination Board is exploring mechanisms for improving ecosystem recovery. This report will be integrated into a catalog of ecosystem recovery barriers and problems. Individual teams, funders, and policy advocates can reference this catalog to build on past work and community discussions and solicit support from agency partners.
- **Presentation to Federal Task Force Leadership** – The Federal Task Force work plan sanctioned this effort, and these findings will be provided to federal agency executives.
- **Presentation to the Washington Association of Land Trusts** – The NOAA Restoration Center will present this project to the Washington Association of Land Trusts and seek their leadership on future improvements to our acquisition system.

Appendix A – Small Group Discussion Summaries

(Group facilitators produced the following summary notes)

Group 1 - Stewardship

Participants:

- Paul Cereghino, NOAA, Facilitator
- Colin Hume, Department of Ecology
- Cynthia Wilkerson, WDFW
- Hilary Aten, PCC Farmland Trust
- Jay Krienitz, WDFW
- Nick Vira, USDA
- Pat Bromer, Department of Ecology
- Rich Bowers, Whatcom Land Trust
- Rich Carlson, USFWS
- Suzanna Stoike, Puget Sound Partnership

What is the Stewardship Problem?

There are few sources of funding for maintenance and enforcement of conservation acquisitions or easements, let alone for ongoing education, outreach and monitoring. We assume this is in part because those that appropriate funding don't appreciate the value and necessity of spending money on ongoing stewardship of public resources (including stewardship of private lands for public benefits). This suggests that we may need to communicate better with appropriators. Our communication would be stronger if it included concrete metrics and outcomes. We need to acknowledge that acquisitions and easements create a perpetual responsibility. You cannot responsibly acquire without an allowance for stewardship, and so stewardship may provide an ultimate limit to the acquisition of land rights in the public interest. By acquiring land, we desire finality, but it actually only results in a new beginning. Ultimately stewardship may require a new and different model for generating resources, that is not focused on public financing.

Government agency budgets cannot pay for endowments, because grants and contracts require a scheduled delivery of services within a limited period. Proposals for modest stewardship activities do not compete well for grant money. Stewardship, new acquisitions, and restoration all compete for the same limited funds. Building private endowments and stewardship coalitions for stewardship is a slow process. Stewardship timelines lag behind capital grant timelines, and so we often make a new acquisition without assurance of stewardship resources. The dispersed and opportunistic distribution of parcels and easements can increase the cost of stewardship activity, as staff spend more time driving than engaging communities or observing sites.

There is an irreplaceable value to a resident landowner's intimate knowledge of their land and neighborhood. Cultivation of a shared vision of land protection is a vital component of stewardship. Developing sufficient and efficient incentives that engage private land owners is another of our missing ingredients. Ultimately, stewardship is an expression of cultural values. A shortage of cultural capital may limit stewardship as much as financial capital. In addition, people who have no other shelter

increasingly seek refuge on conservation lands. In some cases, low-cost residences developed on frequently flooded sites of higher conservation value. Acquisition and restoration can reduce the availability of low-cost shelter. There is a natural tension between building a conservation land base, providing low-cost housing, and the needs of people without shelter.

What is the Stewardship System?

Stewardship occurs throughout the lifecycle of a public interest parcel, at acquisition, over time, and at each successive change in neighborhood ownership. Stewardship depends on reciprocal literacy and trust among the trustees, the landowners, and the surrounding community, in each other's intentions and capabilities. Five components are involved in stewardship implementation:

1. **Acquisition Processes** either enable or disable successive stewardship. The transaction that creates the public interest sets the stage for community and land owner involvement, and the financial and cultural resources that can be applied to future work.
2. **Trustee Observation and Relationship Building** in the ongoing process where a conservation agent makes informal observations and shares information with landowners to keep the protection of ecosystem services alive in the local culture, enables efficient maintenance, and minimizes the need for enforcement.
3. **Community Action** can include restoration, maintenance or information sharing that is initiated by the community living near the parcel or easement or interested civil society. It includes whether local communities support their local officials in funding the activities of trustees.
4. **Formal Monitoring and Reporting** is a best practice among land trusts to document the status of public investment.
5. **Enforcement** is required when all other systems fail, and may end in expensive legal action over damages to the public trust.

The goal of stewardship is to avoid enforcement (#5), while achieving the goal set in motion by acquisition (#1). Formal monitoring (#4) is the “backstop” that protects the public interest. This suggests that the practice of ongoing preventative stewardship hinges on either the financial resources secured by trustees (#2), or cultural resources that lead to community actions (#3). A deficit of community action increases the need for financial resources to employ trustees. The weak link in our current system is the shortage of resources that allow trustees to observe and build relationships. However, this is also a feedback loop, resulting from low community interest in paying for the work of trustees.

Our interest in public trust stewardship is increasing. We have developed government programs, systems and budgets for acquiring land and employing trustees. The expectations of what trustees provide to public funders has increased over time. While the conservation industry sees lack of stewardship as potential lost conservation value, this perception of need and urgency is not shared among local communities or in legislatures.

What are Strategies for Improvement?

Three strategies emerged from our discussion in response to our understanding weak links:

1. **Endowment** – Ultimately we need better mechanisms for paying for the soft work of trustees to build relationships in communities and observe public trust landscapes. State and federal appropriation systems could allocate a proportion of appropriations to support stewardship.

Acquisition programs can provide stronger support for acquisition costs, and structure this support to encourage the use of private funds for endowment, rather than to fill gaps in acquisition programming. Multiple trustees could support each other in building place-based public-private endowments that tell good stories about the value of commons to local communities. Finally, local taxes and fees weakly support stewardship, and create the most direct relationship between the affected communities and their trust lands, and reflect a commitment to stewardship that supports state and federal investment.

2. **Better Storytelling** – Insufficient stewardship creates a risk of public losses. Understanding the value of these lands, and the risk of insufficient stewardship must connect with audiences and are strengthened by economic analyses. There are existing resources and studies, that are not well used by conservation partners in telling compelling stories.
3. **Cooperative Trusteeship** – We are among the richest societies on earth. Trustees, their partners, and communities have substantial resources that are not necessarily well allocated. Local partners can increase effectiveness and efficiency by sharing trustee responsibilities based on their physical location, institutional capabilities, or social networks. For example, conservation corps provide a unique labor resource that can be shared, and NFWF can provide financial management for endowments created by federal actions. This requires some kind of ongoing collective “value-chain analysis” and waste reduction effort. This cooperation can create opportunities for education and skills development in the broader community.

15% Actions

These actions were organized after the workshop around the three strategies described above. Cooperative stewardship concepts were strongly featured, although there are short term actions within all three strategies:

Endowment

- **Grant making agencies** can review their allowable costs during acquisition, and consider how those policies strengthen or undermine stewardship. An ideal system would encourage private endowment by better covering the costs of acquisition.
- **Grant making agencies** can explore the potential for allocating a percentage of acquisition funds to a stewardship trust, perhaps managed by NFWF.
- We need to explore **public-private partnerships** for stewardship to tap into the flexibility of private money for endowment of stewardship activities.

Better Storytelling

- **Land Trusts** have ongoing briefings with elected officials, which can be used to share stories and evidence of the importance of stewardship systems in a way that advances our shared strategies.
- **Grant making agencies** can represent the importance of local stewardship and support for stewardship as they describe the value of their programs.
- **Washington Association of Land Trusts** can serve as a coordinating body to develop stewardship strategy and can work with the **Water and Salmon Grant Coordination Group** to implement a regional legislative strategy.
- We need to **better articulate the legal obligation of stewardship and the potential for loss of value** in a way that supports all partners in conservation.

Cooperative Stewardship

- **Local Trustees** can consider sharing conservation corps crews to increase their collective stewardship capacity, while sustaining CC programs.
- We can examine the potential **relationships among local partners** for collaborative trusteeship, for example with Conservation Districts, County and Municipal staff that are frequently in the field, and can provide informal observation and relationship building on behalf of trustees. This can include engagement of communities outside conservation, such as social work with at risk youth, and jobs and skills training.
- **Land Trust** accreditation renewal processes create an opportunity for boards and staff to review their stewardship systems and behaviors, compare notes with partners, and adapt.
- The **Stillaguamish Valley Protection Initiative** is exploring the potential for develop a community-based protection program at the beginning of the acquisition process, making stewardship a community affair.
- Develop a model that supports and encourages the stewardship of natural resources (consistent with planning goals) by private landowners.
- The **Water and Salmon Grant Coordination Group** can include stewardship support as part of their discussions and work plan development.
- We would benefit from having **spatial maps** of stewardship resources so we can see the spatial distribution of potential stewardship partners, to support the development of cooperative trusteeship systems.
- **Conservation partners** can develop systems for acknowledging and incentivizing landowner stewardship and community stewardship that already exists. Unrecognized private services provide a large portion of public value. We can develop stewardship standards, and reward those who rise to the challenge.
- **Continuous Improvement** efforts by state and federal partners such as Results Washington, Federal Task Force, Implementation Strategies, and Ecosystem Coordination Board can curate and maintain focus on stewardship of public and private lands as a critical need within the Action Agenda.

Group 2 – Agency Easement Language

Participants:

- Heather Cole, TNC, Facilitator
- Dave Kreft, USDA
- Josh Guintoli, Washington State Conservation Commission
- Jordan Rash, Fortera
- Jeff Nejedly, Ecology
- Erik Stockdale, Snohomish County
- Susan Meyer, EPA

The Issues:

- Need simpler language for easier interpretation by property owners.

- There are differing requirements by different grant programs.
- The current language addresses single benefit projects, which is the old way of doing business. Currently, funded projects are multiple benefit, and they don't fit into the current language. Additionally, easement language doesn't address climate change or natural disasters, such as floods, earthquakes, etc that may change the conditions of the easement.
- For NRCS, if Ag land is put into a non-Ag easement, an equivalent area of Ag land must be identified and preserved as such.

Desired Outcome – In a perfect world, what would we want?

- The ability to buy land now and have the flexibility to do restoration/ecological improvements over time with additional grants.
- Grant conditions that are flexible enough to work with willing landowners to potentially gain less than the ideal situation, which is better than no gain. For example, if the grant condition says there must be a 100-foot buffer on a stream, but the landowner says they can only afford to give up 50 feet, having the flexibility to get that 50 feet instead of nothing.
- Landowners' needs are met.
- Having permanent easements over temporary easements or leases. For example, CREP leases are only good for 15 years, and then the landowner can convert back to old practices if desired.
- Ideally, the easement should limit development/water rights and conversion to more active uses and there should be an "out" mechanism (in the cases of climate change or natural disaster impacts)

Solutions:

- Helping practitioners and landowners find the right tool to meet their needs. Many times, folks try to fit a funding source to their project, when a better approach is to evaluate the project, then find the right tool. Along the same lines as the "fund-finder", we could create a "tool and condition-finder" to match the right funding source with the right landowner conditions. This includes looking for private funding (e.g., land trusts) for projects/areas that don't meet any of the criteria. This would help to fill the tools gap.
- Develop "Portfolio Approaches" which are essentially landscape level conservation plans/strategies for watersheds or sub-watersheds. These plans would identify areas for acquisition, restoration, farmland preservation or for possible development and should be quantitative as well as qualitative. This would allow for advance planning of how best to use grant programs, etc. We would know what we have up front with fewer surprises and loss of acquisition opportunities.
- NRCS and the Conservation Commission should/can/will collaborate with each other when there is a need to find "equivalent Ag land" in other areas. The Conservation Commission often knows of areas that would meet the need generated by NRCS' grant conditions.
- Changing language to allow for site-specific prescriptions resulting from a benefits analysis. Not all sites are the same, and this would allow for unique circumstances to be considered.
- Having more TDR programs and expanded policies. Would like to link single family developments to the TDR programs. (State Treasury says we can't have a TDR for state programs – can purchase them, but can't resell them.)

15% Solutions

- *NRCS* could install the “Tool Finder” on the *NRCS* website. *WALT* could host and facilitate this on other websites. *Ecology* could tag the tool onto the “Fund-Finder” tool on their website. *Conservation Commission* can help develop it and post it.
*Caveat on the Tool-Finder – It will need to be maintained. *Need to* fund a data steward to develop and maintain the tool.
- *Ecology* can look at their loan and water quality programs and look for areas of flexibility that they can incorporate into their grant programs.
- Pilot a project which demonstrates the integration of an Ag preservation and Salmon recovery into a flexible easement (TNC and partners through the Stillaguamish Valley Protection Initiative)

Group 3 – Parcel by Parcel Approval and Buying More Land than Needed**Participants:**

- Jenny Baker, The Nature Conservancy, Facilitator
- Libby Gier, DNR
- John Cooper, Results WA
- Monte Marti, Snohomish Conservation District
- Theo Holt, The Nature Conservancy
- Jessie Israel, The Nature Conservancy
- Tara Galuska, RCO
- Lorin Reinelt, King County
- Julie Sandbert, WDFW
- Theresa Mitchell, WDFW
- Shaun Hamilton, Western Rivers

Parcel by Parcel Approval

Many grant programs require individual parcels to be identified for property acquisition. This creates several barriers to successful property acquisition. Long timelines to closing may not fit when a landowner wants to sell. An opportunity to purchase property can disappear in this timeframe. Getting authorization parcel by parcel doesn’t allow a project proponent any flexibility in acquisition. Often, project proponents are working on acquisition strategies across an entire reach or basin.

One potential solution is awarding grant funds for property acquisition across a reach or basin, following an approved strategy, allowing for more flexibility and efficient, effective property acquisition.

Buy More Land Than Needed

In many cases, a project proponent does not need to purchase an entire parcel from a landowner. For example, the project may only require a 200-foot strip, or a property may be 40 acres and only 20 acres are within the floodplain area. Grant programs will often only allow purchase of the portion of the parcel needed for a project. However, a landowner may want or need to sell their entire parcel in order

to make the acquisition possible. Project proponents may not have the flexibility to purchase beyond their exact need, or it may reduce the competitiveness of the proposal.

Solutions

Agencies Normalize Approving a Geographic Envelope for Acquisition | Get all grant funders in a room to talk about a “geographic envelope” strategy. Agencies offer pre-approval during grant/budget process to acquire land within a geographic envelope if the acquisition meets specific performance needs laid out in the grant request. (RCO already can do this, expand that approach and RCO tools to other granting agencies. This could be done via the Water and Salmon Grants Work Group.) Focus on VALUE and counteracting the “[tragedy of the anticommons](#),” offer projects the ability to bring together the fragments that matter to get the outcomes you want.

Puget Sound Mapping Project | Agencies develop a “need plan” to define why specific areas are a high priority for meeting their agency goals – then merge the plans in one location. This would help project proponents to make the case for funding from non-agency partners before getting agency approval. It would also help to get land owners on board with a basin-scale approach - so people can see how all these things fit together and help drive a reach scale plan. Where is the most strategic places to work at a landscape scale? Democratize the data – develop a centralized map that includes layers from across State and Federal agencies that includes land ownership, flood risk, critical habitat, agriculture production areas, recreation focus areas, and other GIS layers for prioritizing areas within a watershed so that land conservancies can know what’s out there (floodplains maps communities are using are 40 years old!) Many would need to be engaged in this effort. Could there be a central repository for a Puget Sound Mapping Project data layers? Puget Sound Institute? PSRC – [Open Space Assessment Tool](#)?

Grow Incentives for Private Participation | How do you get a critical mass of private land owners to engage in a reach scale strategy? Could you develop sliding scale incentives designed to maximize participation in a specific river reach or coastal area. (i.e. All participants get more \$\$ as more people participate -even retroactively. When we get to 75% participation, then the incentive goes up for everyone. Allows neighbors to use peer pressure.) This approach could work for easements and fee simple. A sliding scale that incentivizes building critical mass would reflect the fact that the value the general public gets from floodplain restoration or armoring removal doesn’t go up in a straight line. Public benefit/value is significantly more robust if you have a critical mass of land owner participation, rather than just one land owner in a specific geographic envelope.

Demonstrate and Communicate the Value of Geographic Scale Strategy, Need for Urgency | Create a new narrative – offer agencies and jurisdictions the case stories they need to make the economic case for managing acquisition process to embrace new, innovative, fast-track ways and the risk/costs of the status quo approach. Educate legislators on role of state agencies and public partners in working in a new, collaborative way with public and private partners. Focus communications on specifics of a cost avoidance strategy - why it’s important to act now rather than wait. (i.e. we could protect and restore under developed, flood prone land today VS. relocate/protect a new housing development built in a high-risk area post flood damage. How taking some land out of the tax base today could preserve a

larger tax base in the future.) Communicate the multiple benefits value that citizens and constituents are getting from integrated, basin scale approaches. Respond proactively and with a positive message to counterbalance the scrutiny that new, innovative acquisition approaches may illicit. Define outcomes at outset of project so it can hold up to scrutiny. Respond directly to the potential criticism that elected officials are, “tired of doing projects where they see no broad impact”. Work with science and modeling community to proactively define the threshold we need to hit to get the habitat/salmon/flood reduction value. Work with economists to translate acquisition goals to a broader community ecosystem services and risk-reduction value. What is the outcome we’re going for with this new-fangled acquisition approach?

Group 4 – Eminent Domain and Paying More than Fair Market Value

Participants:

- Jim Kramer, Kramer Consulting, Facilitator
- Kaleen Cottingham, RCO
- Joel Freudenthal, Yakima County
- Robert Knapp, Jamestown S’Klallam Tribe
- Thom Woodruff, Capitol Land Trust
- Kat Moore, RCO
- Helmut Schmidt, Pierce County
- Hans Hunger, City of Puyallup
- Wendy Connally, WDFW
- Lauren Tracy, Snohomish County
- Paula Harris, Whatcom County
- Spencer Easton, ESA

The Problem:

Conservation groups are often interested in acquiring property with ecological value and can decide case by case whether properties with willing sellers are good properties to acquire or not. Other types of projects, like flood and restoration projects, require acquisition of a specific block of multiple properties in order to meet objectives. Depending on the funding source being used for acquisition, sometimes eminent domain is an available tool. In some cases, being able to pay for relocation costs can be a problem. In some cases, remediation is needed (for example, the site of a former gas station). Finding a way to acquire the needed properties efficiently and fairly can be difficult.

Other issues discussed included:

- Land trusts run into issues where they think they know fair market value on a piece of property and apply for grants with that estimate in mind, only to later get an appraisal that is below what the property owner wants or higher than the grant funds allow.
- It can be confusing to know which appraisers to use and to understand what methods they are using to appraise properties.
- Paying above the appraised value can drive up the market, because future appraisers will see that sale when looking at comparable sales.

Solutions:

- Eminent domain is a pejorative term. Complying with Federal statutes for property acquisition is a better way to frame this issue. Eminent domain is the endpoint of a 7-step process.
- DNR sets areas called Natural Area Preserves, which involves a public process of setting a boundary. Once the boundary is approved, they work on landowner agreements one-on-one. We can look at Natural Area Preservers as a case example of something that has been successful.
- RCO grants provide relocation assistance for tenants. If the acquisition is within a project area where some properties will be acquired by eminent domain, RCO grants will pay for relocation assistance.
- For RCO grants, you can hire a relocation specialist who will determine who should be given relocation assistance.
- In some cases, it may make sense to get an appraisal and come to agreement with a landowner ahead of a grant application. You can sign a purchase and sale agreement contingent on funding. This will provide more certainty for the landowner and the grant applicant but requires paying for the appraisal upfront.
- Appraisers should be using Federal Yellow Book or USPAP methods. MAI is a professional association and not an appraisal method. Appraisers have three methods for appraising a property and select the method they believe is most applicable. The three methods are an income approach, replacement cost, and comparable sales. You can't tell an appraiser which method to use, but if you explain clearly to them what the purpose of the project is, that can help them select the most applicable method. Some practitioners have had the most success with acquisition when the replacement cost method has been used.
- Some practitioners use administrative settlements to pay above the market value when there is a market reason or business reason. The extra payment is from local funds, not grant funds.
- Snohomish County has had success with negotiating increased cost of compliance benefits under NFIP on behalf of the seller. When property owners have been underwater, the County has also had success in negotiating a short-sale agreement with their lender.
- Including ecosystem service valuation would be a major shift in mindset for property acquisition, but could lead to proper valuation. Some group members were concerned that was a slippery slope that could lead to the state and other government entities having to pay for everything they regulate.
- At the local level, not all legislative authorities that could pay for property acquisition are being taken advantage of. For example, the REET 3 program is dedicated to open space conservation.
- When paying above fair market value, practitioners should make sure that fair market value is recorded as the sale price and that adjustments are recorded separately.

15% Solutions:

- Pierce County will review its appraisal instructions.
- Capitol Land Trust will work on communicating clearly with appraisers about their assignment and its purpose. They will also work on communicating earlier with landowners.
- Forterra will look into private funding for early appraisals.

- The Jamestown S’Klallam Tribe will look into the potential to negotiate short-sales with lenders in order to help acquire property from a landowner who is underwater on their mortgage.
- Whatcom County will consult with a relocation consultant.
- Puyallup will work on being clearer about project alternatives and working to bring the community along in decision-making before a project gets to the point of property acquisition.
- Whatcom County will look into tapping into Increased Cost of Compliance benefits as an added bonus for willing sellers.
- Snohomish County will work to push information out from public sources to nonprofit partners who are taking on a leadership role in conservation.
- RCO will work to learn more about what difficulties practitioners have in using RCO funding. They will also work to better publicize the resources they have.

Appendix B – Initial Problem Statements

(This synthesis was distributed to participants prior to the workshop to frame the discussion)

Property acquisition is one of the key tools available for protection and restoration of floodplain, nearshore, and estuary areas. Large-scale projects to restore these areas to achieve multiple benefits (flood damage reduction, habitat restoration, agricultural improvements, recreation, etc.) rely on the ability of project proponents to acquire property. Also, acquiring property in these areas reduces the potential for vulnerable development and can protect important habitat. A number of obstacles and needs for successful and efficient acquisition of these properties have been identified, including:

We are unable to integrate **eminent domain** within grant-funded efforts

We lack sufficient alternatives for ongoing **stewardship** of acquired lands

The requirement to only pay **fair market value** hinders us from developing a package of compensation that makes people want to sell

Grant applications that require **parcel by parcel approval**, combined with slow application and review processes prevent nimble acquisition.

It is difficult to **buy more land than needed** for restoration even if the parcels are larger.

Agency easement language doesn't support multi-purpose projects.

Additional information on each barrier is included below.

Eminent Domain

Counties and cities have the authority to use eminent domain to acquire properties for public safety purposes, including flood control. Project managers have been unable to use their eminent domain authority when using certain grant funding sources. Requiring voluntary acquisition for a project where a number of properties will eventually need to be acquired can create unfair situations for property owners as property values fall and different sellers get different levels of compensation. Additional conversations are needed on when it is right to use eminent domain and whether it would be appropriate to use grant funding sources for eminent domain.

Stewardship

Many local project sponsors find it difficult to fund stewardship of acquired properties. This can make some agencies reluctant to increase the footprint of lands they own. Invasive species and homeless encampments can pose particular problems for long-term stewardship. The lack of funding to clean up environmental hazards after acquiring property is another stewardship burden which discourages acquisition.

Project proponents have brainstormed several potential solutions that could be used to improve stewardship of acquired sites, including creating a funding source distributed through watershed councils; providing funding to a Conservation District for them to use as match for grant funds they can use to maintain sites; and putting long-term stewardship costs in an endowment.

Paying More than Fair Market Value

The requirement for acquisition at a fair market value can make it difficult for project proponents to develop compensation packages that encourage landowners to sell. Not being able to offer higher payments makes it difficult to impel acquisition for projects that will require multiple contiguous acquisitions. Project proponents may be unable to compensate landowners for relocation costs.

Several potential solutions to this problem have been identified. Some agencies have developed workaround to allow them to offer above fair market value, including using local funding to offer more. SRFB and FbD grants allow some spending over fair market value.

Survey Response: Important issue. Some responders strongly discouraged going above fair market value. More responders thought it was critical to be able to go above and some have found workarounds.

Parcel by Parcel Approval

Many grant programs require individual parcels to be identified for property acquisition. This creates several barriers to successful property acquisition. Long timelines to closing may not fit when a landowner wants to sell. An opportunity to purchase property can disappear in this timeframe. Getting authorization parcel by parcel doesn't allow a project proponent any flexibility in acquisition. Often, project proponents are working on acquisition strategies across an entire reach or basin.

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In many cases, a project proponent does not need to purchase an entire parcel from a landowner. For example, the project may only require a 200-foot strip, or a property may be 40 acres and only 20 acres are within the floodplain area. Grant programs will often only allow purchase of the portion of the parcel needed for a project. However, a landowner may want or need to sell their entire parcel in order to make the acquisition possible. Project proponents may not have the flexibility to purchase beyond their exact need, or it may reduce the competitiveness of the proposal.

Agency Easement Language

Many grant funding sources have specifications for easements that may slow down and complicate projects, particularly where there are multiple funding sources. Different grant programs have different requirements and different timeframes, which make it difficult to coordinate with landowners and to complete a project. Another limitation is that development rights on land conserved with grant funding cannot be sold to urban areas through a TDR program.

One potential solution would be to allow for development rights be used in a TDR program, which would increase the benefit to conservation by allowing funds to be used for multiple conservation projects.

Appendix C – List of Workshop Participants

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