

Cumulative Effects Fund

Program Outline

Draft #5

Introduction:

The purpose of this document is to assist implementation of a Cumulative Effects Fund. A Cumulative Effects Fund will improve the effectiveness of mitigation, especially off-site mitigation, required by the county's Habitat Conservation Ordinance (HCO) 40.440 and the Wetland Protection Ordinance (WPO) 40.450. This paper proposes a structure for a Cumulative Effects Fund.

Many land use regulations in Clark County manage changing land use activities. A suite of critical areas ordinances required by Washington State's Growth Management Act (GMA) designate and protect sensitive environmental characteristics and habitats. Regulations are applied diligently but small amounts of habitat or functionality are lost. Even in the best of circumstances, the mitigation required by the ordinances does not fully protect or replace the amount or the quality of the habitat impacted by development or clearing activities. The result is a loss of small amounts of habitat and ecosystem function. The proposed Cumulative Effects Fund is a solution to this problem.

Code Background:

The HCO and the WPO were revised in 2006. As defined in section 40.440.010 of the HCO,

The purpose of this chapter is to further the goal of no net loss of habitat functions and values within designated habitat areas by protecting environmentally distinct, fragile and valuable fish and wildlife habitat areas, as defined in Section [40.440.010\(C\)](#), for present and future generations, while also allowing for reasonable use of private property.

As defined in 40.450.010 of the WPO,

It is the purpose of this chapter to provide balanced wetland protection measures pursuant to the Washington State Growth Management Act (GMA, RCW [36.70A.172](#)) that:

- 1. Include best available science to protect the functions and values of wetlands with special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;*
- 2. Further the goal of no net loss of wetland functions;*
- 3. Encourage restoration and enhancement of degraded and low quality wetlands;*
- 4. Provide a high level of protection for higher-quality wetlands;*
- 5. Complement state and federal wetland protective measures; and*
- 6. Allow reasonable use of property.*

Additions to each of the ordinances include section 40.440.020.3.d.(18).(F).ii of the HCO and section 40.450.040.D.7.b. of the WPO. These sections authorize the use of a “Cumulative Effects Fund” as an off-site mitigation measure.

A Cumulative Effects Fund uses a ‘Fee in-lieu’ method to provide off-site compensatory mitigation. Fee in lieu methods can achieve good environmental outcomes because they consolidate compensatory mitigation projects and resources to target higher value ecologically significant functions. They provide better financial planning, scientific expertise, and can reduce the loss of habitat functions over time while increasing the certainty of project effectiveness (USAC, 2008).

The chances for a successful cumulative effects program increases if it is developed consistently with other existing local resource management plans. There are many plans available in Clark County. These plans are scientifically based and provide a great deal of information about environmental conditions in the county. They also identify where habitat and ecological functions are properly working and where they could be enhanced.

What is a fee in lieu method:

“Fee in-lieu” methods involve the restoration, establishment, enhancement, and/or preservation of natural resources through funds paid to a government, not for profit or other authorized third party to satisfy compensatory mitigation requirements. The permittee’s obligations are transferred to the fee in-lieu program sponsor. The program sponsor invests the fees in restoration, establishment, enhancement or preservation of priority sites. Priority sites may have essential locations, sizes or other characteristics important to the watershed.

Objectives of the Cumulative Effects Fund:

Using a fee in lieu methodology:

- A) Compensate for the cumulative loss of environmental functions resulting from small, un- mitigated impacts.
- B) Minimize the loss of habitat functions and values by encouraging well designed and focused compensatory mitigation. Compensate for the proposed impacts by restoring, establishing, enhancing or preserving important habitat functions and values commensurate with the proposed development impacts.
- C) Identify projects that meet current and expected demands for compensatory mitigation requirements.
- D) Provide compensatory mitigation consistent with watershed scope programs and regulatory requirements such as the LCFRB Salmon Recovery and Watershed Resource Inventory Areas (WRIA) plans.

- E) Minimize the time lapse between approval of compensatory mitigation and implementation of the mitigation project.
- F) Use program fees for restoration and enhancement as first priorities, and preservation as a third priority.
- G) Preserve and manage mitigation sites funded by the program in perpetuity.
- H) Monitor the success of mitigation sites funded by the program.

Program Design Parameters

Based on code requirements, the goals of cumulative effects, application of a fee in lieu methodology, and local experience using fee in lieu, Clark County staff identified the basic components of a successful cumulative effects fund.

They designed a program that provides good environmental mitigation for impacts that would otherwise go unmitigated, while being easy to use and accountable. The scope of a cumulative effects fund is different from traditional fee in lieu of mitigation funds operated by state and federal agencies.

In a few cases, the needs of a habitat CEF are different than the needs of the wetland CEF.

Characteristics of a CEF

Habitat	Wetlands
Habitat impacts under .5 acre	County only impacts: nothing with a Corps or DOE impact, or use when the county requirement is above and beyond a DOE or Corps impact.
Applicable to non-professional developers, both Type 1 and Type 2 land use cases	Fund recipients allowed to do mitigation not resource specific “do good work”
Otherwise unmitigable impacts	Otherwise unmitigable impacts
SEPA impacts with cooperation of state agencies	SEPA impacts with cooperation of state agencies
Links to Legacy Lands	Links to Legacy Lands
Process works well with plans examiners and permit services	Process works well with plans examiners and permit services
Limited number of recipients, based on their qualifications	Limited number of recipients, based on their qualifications
Limited reporting requirements for CEF recipients	Limited reporting requirements for CEF recipients
Ability to set ratios aside for reasonable	Ability to set ratios aside for reasonable

Habitat	Wetlands
use\proportionality considerations	use\proportionality considerations
Ability to combine habitat and wetland funds	Ability to combine habitat and wetland funds
Fund recipients must be able to show that their land is eligible for conservation projects	Fund recipients must be able to show that their land is eligible for conservation projects
Consider small impacts that are hard to mitigate individually, need to define the thresholds, and exclude projects that do not meet this characteristic.	Consider small impacts that are hard to mitigate individually, need to define the thresholds, and exclude projects that do not meet this characteristic.
Single fund recipient, based on RFQ, periodic examination of need to change recipients	Single fund recipient, based on RFQ, periodic examination of need to change recipients
Priority sites for receipt of funds identified (may require balancing with “do good work approach)	Priority sites for receipt of funds identified (may require balancing with do good work approach)
Can covenants be allowed as the “fee” paid to that program? Instead of cash?	Can covenants be allowed as the “fee” paid to the program? Instead of cash?
Internal reporting must associate permit requirements with fund expenditures	Complement wetland banking programs
OUTSIDE OF STAFF CONCEPT OF SCOPE OF CEF FUND	
Link to NMFS required mitigation	Impacts on sites that have Corps and\or DOE jurisdiction
Items that are can be mitigated in other ways	Multiple fund recipients or recipients chosen competitively
Commercial, subdivision and site plan use	County program qualifies as a Corps FIL program
Habitat impacts over .5 acres	Reporting satisfies Corps requirements
Multiple fund recipients or recipients chosen competitively	
Complement habitat banking programs	

The staff ideas for a program were presented to a small group of local interested parties. The parties confirmed many of the issues debated by staff. The interested party feedback was integrated into the program design.

Overview of Cumulative Effects Fund Operation

Process for Applicants and Permit Review Staff: (Steps 1 and 2)

ROLE	STEP
Applicant	Submits for permit review under HCO or WCO
Staff biologist	Reviews application and determines that all avoidance and minimization options are exhausted, and off site mitigation is an option. Refers applicant to Mitigation Market Place, if necessary, or proceeds directly to CEF calculation step.
Applicant	Contacts Marketplace. Asks for site review and options for off site mitigation. Reviews off site options and concludes that fee in lieu of mitigation is preferred.
Applicants	Presents Marketplace Report. Requests fee in lieu option from biologist. Prepares legal documents.
Staff biologist	Calculates cumulative effects fund fee amount, reviews legal instruments, and includes documents and conditions in staff report to hearing examiner of planning manager.
Hearing examiner or planning manager or chief building official	Approve use of Cumulative Effects Fund in the planning decision. OR approve use in the building plan review.
Applicant	Pays fees at Community Development Permit Center.
DCD finance assistant	Provides quarterly summary of fee status to ESA staff

Process for Disbursement from Fund (Step 3)

ROLE	STEP
ESA Staff	Biannually, conducts RFQ process to select CEF recipient (s).
ESA staff	Reviews financial report.
ESA Staff	Disburse funds to CEF Recipient. Provide tracking data regarding source of project funds, WRIA, etc.
CEF Advisory Board	Meets annually to review projects on the priority list and to review the funding decisions made in the previous year.

Mitigation Activities (Step 4)

ROLE	STEP
Fund Recipient	Constructs mitigation
Fund Recipient	Reports to ESA staff
DCD\ESA	Monitors sites, reviews program performance, reviews performance for all permits required on site.

Program Description

Note: Explanation of program design choices for major design issues of concern to staff and interested parties follow the program description.

1. Geographic Scope:
 - a. Applicants for land use permit review within unincorporated Clark County may ask to use the Cumulative Effects Fund (CEF) to satisfy mitigation requirements.
 - b. Applicants shall donate funds into the CEF for the WRIA in which they are located. Recipients shall expend funds within the same WRIA.
 - c. If a watershed defined in Clark County code is split by a WRIA designation, the funds shall be used in the WRIA that contains the majority of the land in the watershed.
 - d. Recipients of CEF dollars shall implement mitigation projects within Clark County or within cities and towns of the county.
2. Eligible Applicants
 - a. Applicants must be subject to a habitat or wetland review by the county. The CEF may be used for SEPA mitigation upon the request of the applicant, with the concurrence of county legal counsel and county biologists.
 - b. Land use permit applicants may request use of the Cumulative Effects Fund as compensatory mitigation during the preliminary land division stage of the development project. Applicants in the final land use process must request a post decision review in order to use the Cumulative Effects Fund.
 - c. Parties with an identified code violation may request use of the Cumulative Effects Fund as a remedy for a wetland or habitat review violation.
 - d. Building permit applicants may request use of the Cumulative Effects Fund at the time of building plan review.
3. Determination of Fees
 - a. Wetland
 - i. The applicant's voluntary contribution is calculated based on the average price of a wetland credit in Clark County. To determine the average credit price, the county will periodically survey all wetland banks with a service area in the county and calculate the average cost of a credit available from these banks. The applicant shall contribute on a per acre of impact basis, based on the impact after mitigation ratios are applied.
 - ii. Contributions may be adjusted by the Planning Manager or Hearing Examiner based on concerns about reasonable use and\or proportionality. The applicant must request the adjustment and must document the reasonable use or proportionality concerns.
 - b. Wetland buffer

- i. The applicant's voluntary contribution is calculated based on the credit ratio between wetland creation and buffer enhancement for wetland credits in Clark County. For example, if the ratio of wetland creation to buffer enhancement is 1:5, the buffer fee will be 20 percent of a wetland banking credit. The county will periodically survey all wetland banks with a service area in the county and calculate the average credit ratio between wetland creation and buffer enhancement from these banks. The applicant shall contribute on a per acre of impact basis, based on the impact after mitigation ratios for buffers are applied
 - ii. Contributions may be adjusted by the Planning Manager or Hearing Examiner based on concerns about reasonable use and\or proportionality. The applicant must request the adjustment and must document the reasonable use or proportionality concerns.
 - c. Habitat
 - i. The voluntary contribution for habitat is calculated using the methodology developed to calculate fees for wetland buffers. The applicant shall contribute on a per acre of impact basis.
 - ii. Contributions may be adjusted by the Planning Manager or Hearing Examiner based on concerns about reasonable use and\or proportionality. The applicant must request the adjustment and must document the reasonable use or proportionality concerns.
 - d. Administrative
 - i. Review of offsite mitigation is conducted with permit review. Community Development will monitor the time and expense of the reviews and adjust fees to recover additional costs resulting from the CEF option. The fee shall be comparable to any new fee imposed to recover the costs of referring applicants to wetland banks or to off site mitigation found under their own processes.
 - ii. Fees shall be paid no later than the time of building permit issuance.
 - iii. Because CEF is a voluntary contribution, no refunds are available if a project is cancelled.
4. County\Applicant Documentation
- a. The documentation will be included in the preliminary land division decision, the post decision review, building plan review or code enforcement documentation.
 - i. Staff conclusion that off site mitigation via CEF is appropriate.
 - ii. Mitigation Marketplace report on options, if applicable.
 - iii. Documentation of land area, site characteristics, values and functions in area subject to CEF.
 - iv. Fees required.
5. Eligible Cumulative Effect Fund Recipient
- a. The Cumulative Effects Fund recipient is responsible for mitigation activities, compliance with mitigation plans, long-term maintenance of mitigation sites, financial accountability, and remediation in the event of

- b. The county will select one CEF recipient. Status must be granted by Clark County before the organization can receive funds. The county and the organization will execute a master agreement allowing receipt of funds. The recipient may be a county department.
- c. At a minimum, the county shall use the following criteria to select the CEF recipient:
 - i. Experience in performing mitigation work or in subcontracting to have the work performed;
 - ii. Willingness to participate in projects that may not be part of the organization's core mission, but are part of the CEF program's mission;
 - iii. Success rates of previous mitigation projects;
 - iv. Success in writing and administering state or federal grants, or other sources of funding that require reporting to granting agencies;
 - v. Financial stability and acceptable financial audit results;
 - vi. Availability of professional staff, either on staff or via contract;
 - vii. Ability to assume long term maintenance responsibilities and to respond to remediation needs.
- d. The county may withdraw a recipient's eligibility status for poor performance.

6. Eligible Mitigation Activities by CEF Recipient

- a. Recipient may use CEF awards for restoration, enhancement, re-establishment or preservation of mitigation properties.
- b. Preservation may include purchase of land, conservation easements, deed restrictions, or development rights.
- c. Funds may be used for implementation of best management practices for streams.
- d. Funds may be used for initial restoration or enhancement activities on a site, performed in compliance with a mitigation plan, completed less than 18 months before the CEF award of funds.
- e. Funds may not be used for creation of wetlands, preparation of wetland or stream mitigation plans, fees, acquisition related costs such as appraisals or surveys, or purchase of credits from mitigation banks.
- f. Funds may not be used to duplicate or replicate previously completed activities that provided mitigation required by a permit issued by any regulatory agency.

7. CEF Sites

- a. The designated CEF recipient shall maintain a list of sites in each WRIA where they might expend CEF funds. The CEF recipient shall make every attempt to identify a variety of wetland and habitat sites with a cross section of wetland and habitat characteristics.
- b. The sites on the list shall have the following minimum characteristics:

- i. Reflect watershed priorities as defined by an adopted watershed plan.
- ii. Have a mitigation plan. The plan shall specify, at a minimum:
 - 1. Mitigation work description and timeline;
 - 2. Maintenance plan;
 - 3. Financial plan for project completion;
 - 4. Long term management plan; and
 - 5. Adaptive management plan
- iii. Have a monitoring plan
- iv. Be targeted for restoration, enhancement re-establishment or preservation activities.
- v. Have a likelihood of success based on local experience with application of similar techniques to similar sites in the area.
- vi. Create minimal conflict with adjacent land uses.
- vii. Have a reasonable expectation of long term preservation of the portion of the mitigation site with activities funded by CEF.

8. Mitigation Requirements for CEF Recipient

- a. CEF recipients are chosen for their program strength and breadth and may apply CEF funds to any project appearing on their list of CEF sites, subject to the constraint of using the funds within the appropriate WRIA.
- b. Mitigation ratios are applied to the applicant and fees paid to the fund reflect mitigation ratio requirements. Use of CEF does not impose mitigation ratio requirements above those required through standard permitting processes for the mitigation project.
- c. The CEF recipient is expected to use the funds to achieve desirable environmental results and to leverage the funds.
- d. Annual review by the Advisory Committee will examine the use of funds.

9. Leverage and Match Requirements

- a. CEF funds may pay for any proportion of a project, and be leveraged and matched in any way suitable for the project.
- b. The county may enter into agreements with the eligible CEF recipient to provide multi-year funding for specific projects, subject to availability of funds.

10. Timeliness of Use of CEF

- a. The CEF recipient will be informed of the characteristics of the donor property and the availability of new funds quarterly.
- b. The recipient will agree to obligate the funds to an identified project within 90 days, and make all reasonable efforts to use the funds within one calendar year.
- c. Funds may be used for restoration or enhancement activities performed in compliance with a mitigation plan, performed no more than 18 months before the notification of availability of funds.

11. County \ CEF Recipient Instrument

- a. A master agreement contains principles that may extend across several project sites. Site by site agreements are not required.
 - i. Party responsible for providing mitigation and long term maintenance.
 - ii. Agreement to provide site ownership or purchase agreements and property survey.
 - iii. Overview of standard maintenance processes.
 - iv. Overview of performance standards for success.
 - v. Overview of monitoring requirements and processes
 - vi. Overview of long-term management plans.
 - vii. Overview of adaptive management plan.
 - viii. Current financial audit.
 - ix. Commitment to project completion and continued maintenance in the event of organizational change.
 - x. Provisions for transfer of long-term responsibilities to other organizations.
 - xi. Identification of funding for long-term maintenance.
 - xii. Overview of process for selecting onsite field staff and contractors.
 - xiii. Frequency and content of technical reports for projects.
 - xiv. Timing and process for requests for reimbursement.
 - xv. Content and frequency of financial reports.
 - xvi. Agreement to allow county access to sites funded or partially funded by the program, for performance monitoring. Monitoring will occur at the county's expense and will be arranged collaboratively with the recipient.
- b. Site specific information
 - i. The recipient shall retain the following information for projects that use CEF:
 - ii. Mitigation parcel
 - 1. Legal description and survey.
 - 2. Description of baseline resource type, amounts of resource to be mitigated, methods of compensation, how mitigation methods address needs of the watershed.
 - 3. Project start and end dates.
 - 4. Documentation of site ownership, purchase agreement, covenant, etc.
 - 5. Mitigation and construction plan.
 - 6. Activities funded via CEF and projected costs.
- c. Approval of agreements
 - i. The Master Agreement shall be approved by the Board of Clark County Commissioners.
 - ii. The Master Agreement shall be approved by an authorized executive of the recipient.

12. Separation of Duties

- a. Community Development staff are responsible for performing land use planning reviews, determining eligibility of applicants for off-site

compensatory mitigation, developing mitigation ratios and other conditions of approval for off-site mitigation, developing the agreement between the applicant and the county, and collecting the fees. DCD staff also performs site monitoring. Within Community Development, there is separation between the staff that develops the staff reports and determines eligibility of compensatory mitigation and the staff that collect fees. There is also separation between staff and the hearing examiner or planning manager that makes the planning decision to allow off-site mitigation.

- b. Mitigation Marketplace Administrator is responsible for analyzing sites, developing options for off site mitigation based on watershed plans, preparing report on options.
- c. ESA staff are responsible for monitoring the funding by WRIA, communicating with the CEF recipient, understanding the relationship between the donor properties and priority sites, developing the list of eligible recipients, making distributions to from the fund to eligible recipients, collecting technical and financial reports, and communicating with the technical and advisors and Advisory Committee in support of the program.
- d. The Advisory Committee reviews the annual distribution of funds and advises staff on the priority sites list. They also make suggestions for program revisions.
- e. The CEF recipient is responsible for performing mitigation activities, long term maintenance of sites, remediation if necessary and financial accountability.

13. Requirements for County CEF Reports by WRIA

- a. Financial
 - i. DCD Tidemark case and fee deposited, by WRIA, by date range.
 - ii. Disbursements to recipients, by WRIA, by date range.
 - iii. Unexpended program funds, with date of deposit, by WRIA, by date range.
- b. Technical
 - i. List of permits for which in lieu fees were accepted, amount and type of impacts on donor site, location of off site project as reported by CEF recipient, by WRIA by date range.
 - ii. Amount paid to CEF program, amount disbursed, project start and end dates, CEF recipient, by WRIA by date range.
 - iii. Monitoring results of projects, year 1-10.
 - iv. Projects subjected to remediation by type, reasons, project start and end date, by WRIA, by date range.

14. Technical Input

- a. Technical staff responsible for program administration shall meet as necessary to coordinate program activities.
 - i. Community Development Department
 - ii. ESA

- iii. County Auditor's Office
- iv. Mitigation Marketplace

15. Advisory Board

- a. Provide independent review, guidance, advice and recommendations on the development and implementation of the Cumulative Effects Fund.
- b. Review and analyze the annual evaluation, monitoring and adaptive management report for the program to ensure that it continues to meet its stated goals and puts in place new actions that allow it to adapt to changing conditions over time.
- c. Review expenditures or disbursements made from the Cumulative Effects fund. The Advisory Board will review projects to ensure that they are within the defined service area, that they meet the obligations of compensatory mitigation that the collected funds were meant to address, and that both habitat and wetland mitigation is performed.
- d. The CEF Advisory Board shall hold meetings at least once per year, with membership consisting of:
 - i. Development interest
 - ii. Agency representative - DOE, WDFW.
 - iii. Conservation\Environmental -
 - iv. Agricultural - local farm interest.
 - v. Public Utility - PUC interest.
- e. The staff of the ESA program will staff the board.
- f. The department head of ESA or the chair of the board may convene a meeting of the board.

Program Issues

The staff work group draft was presented to a small group of interested local individuals. Their feedback confirmed the program design issues debated by staff. The primary issues, and the reasons for selecting the options in this draft are presented below.

Geographic Scope

Why use WRIA's instead of watersheds?

Draft 5 proposes that the CEF funds be accumulated, tracked and disbursed by WRIA. This proposal is made instead of a watershed-by-watershed approach because:

- Current approaches to mitigating by state and federal agencies recognize and approve of regional approaches to mitigation;

- The Department of Ecology's work on watershed characterization for Clark County documents that addressing environmental concerns in areas broader than a single watershed can provide on benefits;
- Habitat mitigation is less related to watersheds than wetland mitigation;
- Recipients of the funds, the providers of mitigation projects, look for priority projects and do not necessarily work in every watershed at all times;
- Administration of a program on a watershed basis consumes more administrative resources than a WRIA approach for both the recipients and the county, taking away resources from the actual mitigation project.
- Oversight by an Advisory Board can assure that CEF is applied to a mix of habitat and wetland projects, in a variety of locations within the WRIA .

Alternatives to a WRIA approach include but are not limited to:

- Administer on a watershed-by-watershed basis.
- Divide the WRIA's into subgroups of watersheds.
- Require that funds be spent in the watershed, and if no priority project exists, in the next closest watershed that still falls within the WRIA.

All these approaches increase complexity of administration but do not guarantee a better environmental result.

Why allow use of funds for mitigation projects inside cities?

Over time, as cities annex more land, there is a greater likelihood that important mitigation projects will fall inside cities. Because the focus is on good projects, the feeling was that the jurisdiction of the project should not matter. Cities have permitting processes that must be followed. The county can get access to sites for monitoring through agreements at the time the projects are proposed and permitted.

Eligible applicants

Can an applicant use CEF for any kind of site plan or land division issue?

No, the program specifically limits use to wetland and habitat reviews. General SEPA or site plan issues cannot be addressed via the CEF. The only time CEF can be used to address SEPA is if state agencies agree to the use, and the issue is still wetland or habitat related.

Determination of Fees

Why use wetland banks as a way to establish fees?

Staff looked at several ways to set fees, with the goal of finding a method that is:

- Replicable across the county;
- Captures a full range of costs expected in mitigation projects;
- Predictable;
- Easy to update over time;
- Fair to applicants;
- Fair to wetland bankers, the private sector compliments to a CEF.

Staff looked at fee in lieu programs across the nation and found several that use wetland banks as a way to index their program. The wetland banks costs capture a full range of mitigation costs, from land acquisition to continuing monitoring. Banks operate for extended periods, so it will be easy to monitoring their credit costs and adjust the CEF fees. As more banks are created in the county, the fee can become an average of the fee imposed through several banks. It was seen as “fair” because the applicant has the option of purchasing a portion of a wetland banking credit for their project, instead of using the CEF. Pricing the CEF equivalent to a wetland bank credits avoids unfair competition with the private sector and gives the applicant a clearer estimate of the value of the mitigation.

The wetland bank credit method allows allows a way to determine fees for habitat that are consistent and proportional to wetland fees.

Other methods are available, but the other methods are more complicated, do not create consistency between wetlands and habitat, and are may be more dependent upon professional judgment of the value of certain habitat and wetland types.

What if the fee is not reasonable in a particular case?

The program design allows the hearing examiner or planning manager to adjust the fee if it is not considered reasonable. We expect, over time, as we gain more experience with the fund, we will document the adjustments and create a consistent approach to anticipating when an adjustment is needed and the amount of the adjustment.

If the applicant pays the fee and cancels the project what happens?

The applicant is making a voluntary contribution. The fee is not refunded. Although this sounds harsh, this requirement was imposed because the goal is timely use of the funds. Funds will be obligated by a recipient within 90 days, and the recipient will have made commitments based on the funds. Fees are collected at the time building permits are issued, or preliminary plan review is complete. The collection of fees it timed to minimize the risk that projects will be cancelled. Experience shows cancelled projects are the exception rather than the rule.

Why select one recipient?

These seemed to be agreement on the qualifications of an eligible recipient and on expectations of the recipient. There was more discussion of the number of recipients.

The proposal calls for one recipient and a county department may be chosen as the recipient. This approach gives the lowest administrative cost to the county and the clearest accountability between the county and the recipient. It also provides the most funding to the recipient, thereby increasing the chances that CEF is used for high priority projects, and increasing the recipient's inclination to become involved in a government program.

There seemed to be agreement the county did not want a large number of recipients, which results in splitting the money into so many divisions that important projects are not assisted in a meaningful way. A large number of recipients also increases administrative costs. A traditional grant program where applicants are required to submit project applications was discussed and was not favored because it creates a burden on applicants, uncertainty of funding, and increases administrative costs to the county.

The possibility of two or three recipients was discussed as a middle ground between multiple recipients and one recipient. Given the small size of the fund, people involved believed that starting with one recipient could be appropriate.

CEF sites

Why allow money collected from one kind of resource impact, for example impact to a wetland, to be used for a different kind of mitigation, for example on riparian area?

County legal counsel believes that, in the case of CEF, this is an acceptable use of funds. CEF mitigates for small impacts that otherwise would not be mitigated. It is also a voluntary contribution. It is acceptable to collect the money from many different kinds of resource impacts, place them into one account, and then use the funds to accomplish high priority mitigation projects. Counsel advises that the county should monitor the program to make sure that the funds are used for a variety of projects, so it is clear we are using the funds to implement both the habitat and wetlands ordinance. The county is not required, however, to show a one to one correspondence between the sources of the funds, for example from a wetland impact, to application in a wetland mitigation project

The county will track the projects that contribute funds and their character, and the character of the projects assisted by the CEF.

Why use money collected in one watershed in a different watershed?

The CEF is designed to capture small impacts that would otherwise be unmitigated and leverage them to assist larger projects with greater significance.

On a practical level, an applicant's project may be in a location where no other CEF funds are collected. Requiring the funds to be spent in the same watershed is very limiting because it might take years to accumulate enough funds to help an important project, or depending on the watershed's condition, there may not be a significant project underway in the watershed.

Allowing the CEF to be spent within the same WRIA, instead of the same watershed, allows more effective use of funds, while still respecting the environmental.

An alternative to using the money by WRIA might be to use it by basin, which is still a larger area than a watershed.

Timeliness of use of funds

Why make the recipient obligate the funds within 90 days?

One of the concerns raised in programs across the nation is the timely use of the funds by the recipient. In the best of all worlds, the mitigation would occur as soon as an impact takes place.

In the CEF, the funds are collected, then disbursed to a recipient for project. This creates more delay than might occur if the applicant had been able to mitigate on their site. For this reason, it is important that the CEF funds be used as quickly as possible. Requiring the recipient to identify the project upon which the funds will be spent (obligate) within 90 days is necessary to make sure that the funds will be used for an active project and not bankrolled. The funds must be used within a year. A year is provided because there are cases when the mitigation project cannot proceed until other funding sources are secured or permits are issued.

Implementation Documents To be developed

Applicants\county agreement for inclusion in planning\building decision
Fee table code amendment

Selection of CEF recipient
Master Agreements between CEF and potential recipient

Management reports
Accounting set up