



STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

June 2008

Item #2d: Scope Change and Time Extension: Telegraph Slough RCO #03-1182A (ALEA Project)

Prepared By: Leslie Ryan-Connelly, Grants Manager

Presented By: Consent Calendar

Approved by the Director:

Proposed Action: Decision

Summary

The Washington Department of Fish and Wildlife (WDFW) is requesting three changes to the agreement for the Telegraph Slough project, RCO #03-1182A. The changes are: (1) a scope change to acquire an upland parcel, (2) an increase in administration costs to allow for stakeholder involvement related to restoration scoping for the entire project area, and (3) a one-year time extension to the agreement period.

Staff Recommendation

Staff recommends approval of the scope change to acquire the additional land and the time extension. Staff does not recommend approval of costs associated with stakeholder involvement in future restoration options because doing so would be inconsistent with Board policies for acquisition projects and the ALEA program.

Background

In 2003, the Department of Natural Resources awarded Skagit County an Aquatic Lands Enhancement Account (ALEA) grant for \$1 million to acquire property along Telegraph Slough in Padilla Bay near Mt. Vernon. The project was to acquire property for future restoration of the estuary. Due to a lack of willing sellers, the county did not want to continue with the project. WDFW asked that the project be transferred to them



for implementation and the project area changed to nearby Indian Slough and Padilla Bay (Attachment A, map 1). Future projects on this property will restore estuarine mudflats and eelgrass.

WDFW has acquired four of the seven target properties, totaling about 256 acres in the Padilla Bay area. The properties surround the Padilla Bay National Estuarine Research Reserve. Attachment A, map 2 shows the properties acquired to date (McMoran, Hulbert, Kiesel/Metske, and Erickson). The three remaining properties are no longer viable properties for this project.¹

Request Item #1

The scope change amendment would allow WDFW to acquire one upland property that is surrounded by other properties acquired with this grant. The property is about ten acres and below sea level. The transfer of title is currently pending in probate court, and the future landowner has expressed willingness to sell to WDFW. Attachment A, maps 2 and 3 show the location of the in-holding (Griffin/Hulbert property). Acquisition of the property will allow for full restoration of the estuary west of the road.

Request Item #2

In addition to the additional property acquisition, WDFW is asking for a one percent (\$10,000) increase of administration funds. They intend to use the additional money for stakeholder participation related to future restoration scoping in the entire project area. WDFW and the Department of Ecology (DOE) are actively working with farmland advocacy groups to address concerns about dwindling farmland opportunities in the area. They have formed a committee to start discussions about the agricultural interests in the project area. Other stakeholder work will address storm water runoff from the Bay View Ridge area and options for the Padilla Bay trail. WDFW will contract with DOE for the stakeholder involvement work.

Request Item #3

WDFW is requesting a time extension to June 30, 2009 so that they can complete the acquisition of the ten-acre upland property and the stakeholder involvement. This is the second time extension request for this project. WDFW requested and received its first time extension from the Board at the September 14, 2007, meeting. WDFW successfully completed acquisition of four of the seven original target properties within this time extension period of June 30, 2008.

Matching funds for this project are from the US Fish and Wildlife Service Coastal Wetlands program. The funds are secure through June 30, 2009.

¹ One property was purchased with other grant funds. Another property was not viable due to terms of the proposed conservation easement. The owner of the third property recently passed away so negotiation is inappropriate at this time.

Analysis

Request Item #1

The ALEA program requires projects to be associated with a navigable waterbody. The ten-acre property is not adjacent to Padilla Bay, but the property is an in-holding that would be affected by future restoration activities. RCO staff has not researched the historical record to determine if this property was a navigable water body or adjacent to such waters at the time of statehood.

ALEA policy allows projects to acquire adjacent upland properties if the property "...will contribute to the enhancement, improvement, or protection of aquatic lands..." (Manual #21, *ALEA Program*) Staff believes acquisition of the ten-acre property will benefit future restoration efforts. Failure to acquire the property may negatively affect the ability to restore the area west of the road. If this property is not acquired, it will need protection from any dike breaching or removal to restore the estuary.

Request Item #2

The current administrative budget for this project is five percent. Board policy allows the Director to approve an increase of administrative costs of up to ten percent. Administrative costs are "actual direct costs and similarly related charges associated with the purchase of land, property rights, leases, or easements." (Manual #3: *Acquiring Land*)

WDFW's request is to increase the administrative costs for the project by one percent for stakeholder involvement related to the feasibility of future restoration activities of the project area. This type of expense is not eligible because it is a planning expense and it is not a necessary activity for WDFW to acquire the property. Such costs are not an eligible acquisition expense in any grant program.

Staff does not recommend approving the requested planning expense. While the efforts of WDFW and DOE to involve stakeholders early in the restoration scoping for the project area are important, approving such costs could set a precedent of allowing sponsors to use acquisition money for non-capital purposes.

Request Item #3

Staff recommends approval of the time extension to June 30, 2009 in order to accomplish the acquisition of the ten-acre in-holding.

However, because unspent funds at the end of this agreement would be subject to reappropriation, and because the court action related to probate could take an indefinite amount of time, staff recommends a special provision that requires the current probate action to be reconciled by April 1, 2009. If the RCO Director does not think sufficient progress has been made by this milestone, she will have the option of terminating the

agreement to allow reallocation of funds toward a project that can spend the funds by June 30, 2009.

Next Steps

If approved by the Board, staff will execute the appropriate amendments and monitor progress through successful completion of the project.

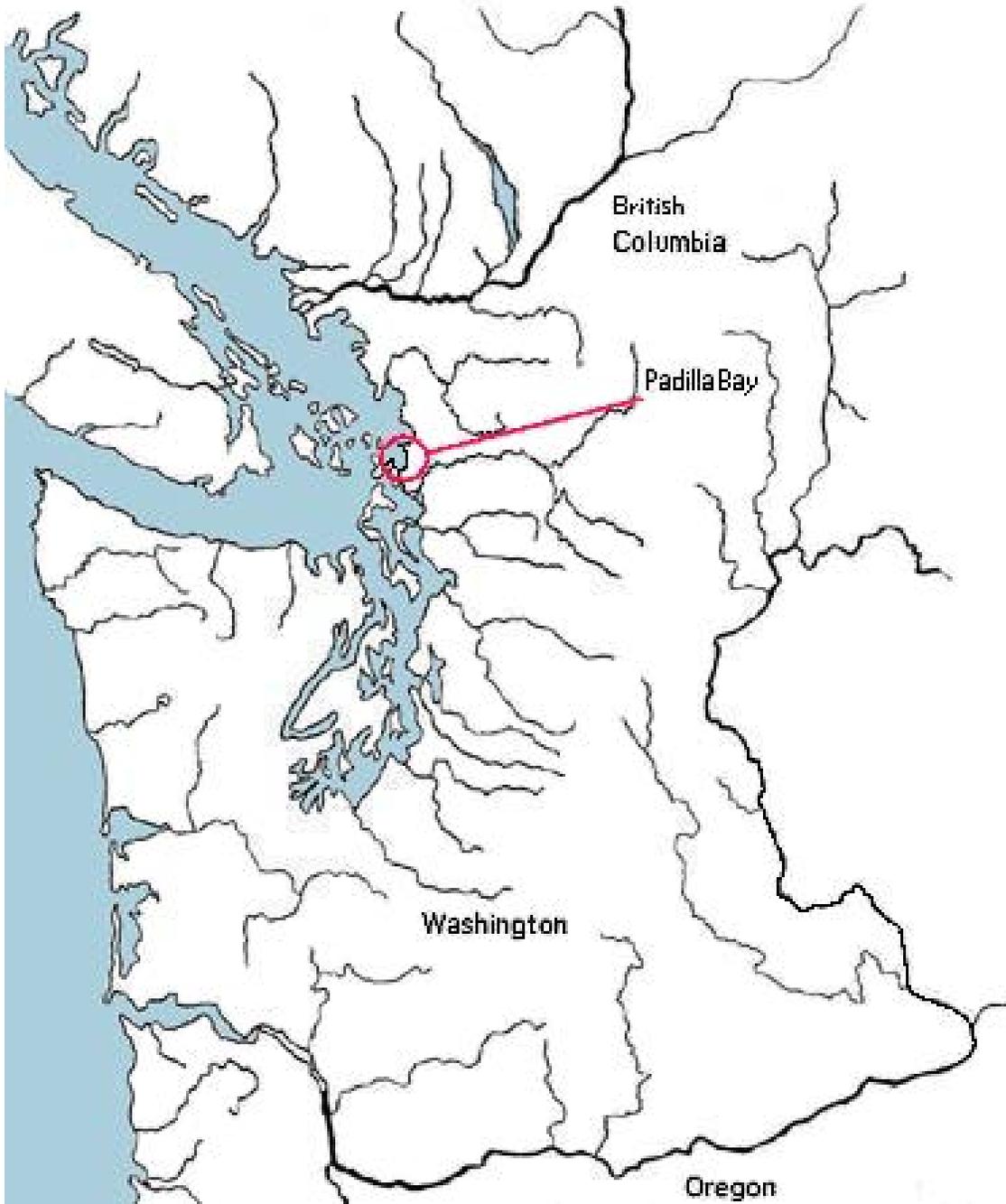
Attachments

Resolution #2008-023 (Consent Calendar)

A. Maps

Attachment A: Map 1

Location Map for Padilla Bay, Skagit County, Washington

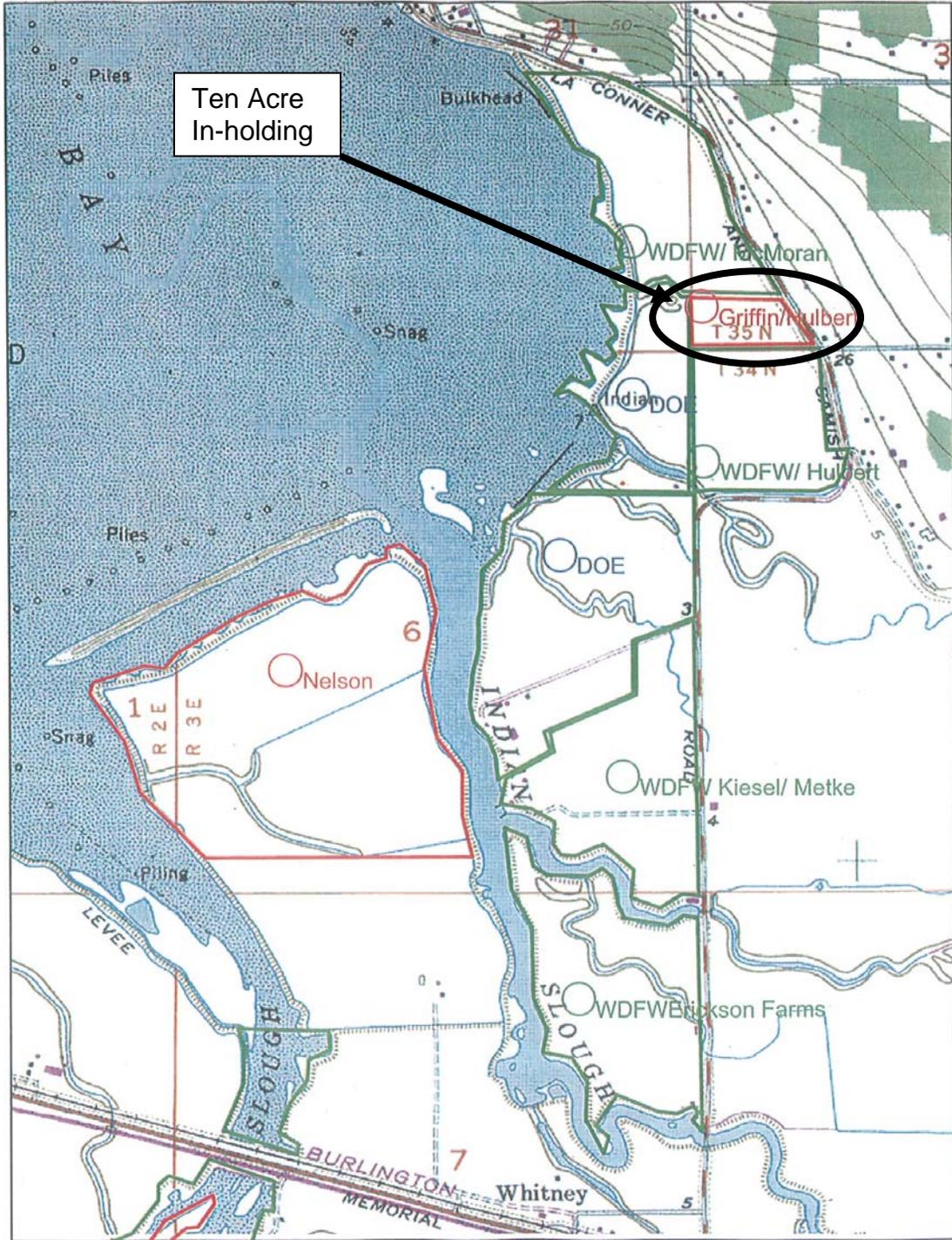


Source: Padilla Bay National Estuarine Research Reserve Website



Map 2

Project area and ten acre property in-holding



Map 3

Aerial Photo of Project Area and In-holding



Griffin/Hulbert
parcel