

**U.S. Fish and Wildlife Service, Region 1  
Wildlife and Sport Fish Restoration Program**

**FINAL  
PROGRAMMATIC ENVIRONMENTAL ASSESSMENT** for a  
Streamlined Method for Approving Small Land Disposals of State Lands  
Acquired with Wildlife and Sport Fish Restoration Program Funds

July 2012

Prepared by:  
Wildlife and Sport Fish Restoration Program  
U.S. Fish and Wildlife Service, Region 1

Introduction:

This Programmatic Environmental Assessment (EA) is for use as guidance applicable generally to small land disposals. It will streamline decisions on proposed disposals of lands purchased (entirely or partially) with Wildlife and Sport Fish Restoration (WSFR) funds.

<b>Table of Contents</b>	<b>Page</b>
Table of Contents .....	i
Acronyms and Definitions of Key Terms Used in this EA .....	iii
<b>Chapter 1 Purpose and Need for Proposed Action .....</b>	<b>1</b>
1.1 Purpose .....	1
1.2 Need .....	1
1.3 Decisions that must be made .....	2
1.4 Background EA .....	2
1.5 Applicability EA .....	3
<b>Chapter 2 Alternatives, Including the Proposed Action .....</b>	<b>4</b>
2.1 Alternatives Considered But Not Carried Forward for Detailed Analysis .....	4
2.2 Alternatives Carried Forward for Detailed Analysis EA .....	4
2.2.1 Alternative A, No Action Alternative (Site-specific EA Always Required) .....	4
2.2.2 Alternative B, Proposed Action Alternative (Abbreviated Assessment Process). .....	6
2.2.3 Alternative C (Denial of All Proposed Disposals) .....	13
<b>Chapter 3 Affected Environment .....</b>	<b>15</b>
3.1 Physical Environment .....	15
3.2 Biological Environment .....	15
3.3 Historic and Cultural Resources and Tribal Treaty Rights .....	16
3.4 Socio-economic Resources .....	16
<b>Chapter 4 Environmental Consequences .....</b>	<b>19</b>
<b><i>4.1 Alternative A, No Action Alternative (Site-specific EA is Needed) .....</i></b>	<b><i>19</i></b>
4.1.1 Physical Impacts .....	19
4.1.2 Biological Impacts .....	19
4.1.3 Historic and Cultural Resources and Tribal Treaty Rights .....	20
4.1.4 Socio-Economic Impacts .....	20
4.1.5 Climate Change .....	21
4.1.6 Procedural (Administrative impacts) .....	21
4.1.7 Cumulative Impacts .....	21
<b><i>4.2 Alternative B, Proposed Action (Use of Abbreviated Assessment Process) .....</i></b>	<b><i>23</i></b>
4.2.1 Physical Impacts .....	23
4.2.2 Biological Impacts .....	23
4.2.3 Historic and Cultural Resources and Tribal Treaty Rights .....	24
4.2.4 Socio-Economic Impacts .....	24
4.2.5 Climate Change .....	26
4.2.6 Procedural Impacts .....	26
4.2.7 Cumulative Impacts .....	26

<b>4.3 Alternative C (Denial of Proposed Land Transaction) EA</b> .....	28
4.3.1 Physical Impacts .....	28
4.3.2 Biological Impacts .....	28
4.3.3 Historic and Cultural Resources and Tribal Treaty Rights .....	30
4.3.4 Socio-Economic Impacts .....	31
4.3.5 Climate Change .....	31
4.3.6 Procedural Impacts .....	32
4.3.7 Cumulative Impacts .....	32
<b>Chapter 5 List of Preparers</b> .....	35
<b>Chapter 6 Consultation and Coordination with the Public and Others</b> .....	35
<b>Chapter 7 Public Comment on Draft EA and Response</b> .....	35
7.1 Comment Directory .....	36
7.2 Comments Raised and WSFR Responses .....	36
<b>Tables</b>	
Table 1. Acres of WSFR-interest land acquired by State by Program .....	2
Table 2. Maximum Size of Land Transaction under Proposed Action/ Alternative B .....	7
Table 3. Summary of Comparison of Alternatives .....	14
Table 4. Summary of Environmental Consequences by Alternative .....	33
<b>Figures</b>	
Figure 1. Typical Steps in WSFR’s EA Process (Alternative A, No Action) .....	5
Figure 2. Flow Chart of Preferred Alternative .....	12
Figure 3. WSFR Cultural Resources Consultation Process .....	17
<b>Appendices</b> .....	
Appendix 1a. Abbreviated Assessment Template .....	41
Appendix 1b. Example of a Completed Abbreviated Assessment .....	45
Appendix 2. State Authorities Governing Land Acquisition and Disposal .....	51
Appendix 3. Excerpts from Relevant Portions of 40 CFR 12 and 50 CFR 80 .....	52
Appendix 4. Where Returned/Compensatory Funds Go For Each Grant Program .....	54
Appendix 5. Comment Letters Received .....	55
Appendix 6. References .....	63
Appendix 7. List of Federal Threatened and Endangered Species and Critical Habitat .....	65
Appendix 8. Finding of No Significant Impacts .....	67

**Acronyms and Definitions of Key Terms Used in This EA**

Acronym or Word(s)	Definitions
Cat Ex – Categorical Exclusions*	A category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect on procedures adopted by a federal agency in implementation of these regulations and for which, therefore, neither an EA nor an EIS is required. An agency may decide, based on its procedures and at its discretion, to prepare EAs even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect (40 CFR 1508.4). See below for additional information regarding categorical exclusions.
CFR	Code of Federal Regulations
CR	Cultural and historic resources
DM	Department of the Interior’s Departmental Manual
EA	Environmental Assessment – required if no Cat Ex exists to cover the action, but the impacts are not expected to rise to the level of significance (given context & intensity).
EIS	Environmental Impact Statement – required when significant impacts are expected to result from a proposed action (given context & intensity). The final finding document is a ROD.
ESA	Endangered Species Act of 1973
Evolutionarily Significant Unit (ESU)	A Pacific salmon population or group of populations that is substantially reproductively isolated from other conspecific populations and that represents an important component of the evolutionary legacy of the species. The ESU policy [pdf] (56 FR 58612) for Pacific salmon defines the criteria for identifying a Pacific salmon population as a distinct population segment (DPS), which can be listed under the ESA.
Extraordinary Circumstances	Extraordinary circumstances exist when a normally categorically excluded action may have a significant environmental effect and require additional analysis and action. Any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances in 43 CFR 46.215; if it does, further analysis and environmental documents must be prepared for the action. 43 CFR 205(c)(1)
FONSI	Finding of No Significant Impact – a final decision document for an EA, if an EIS/ROD is not required (due to significance of impacts).
Impacts, Cumulative	The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7)

Impacts, Direct	Impacts caused by the action and occur at the same time and place (40 CFR 1508.8a) – impacts immediately.
Impacts, Indirect	Impacts caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. May include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems (40 CFR 1508.8b) – impacts occur in the future.
Negligible	Small, unimportant, or of so little consequence as to warrant little or no additional attention (given context & intensity) than has already been discussed in this EA.
NEPA	National Environmental Policy Act of 1969, as amended
Programmatic	A document that encompasses the actions of an entire program, such as the Wildlife and Sport Fish Restoration Program (WSFR).
Region 1	Hawaii, Idaho, Oregon, Washington, American Samoa, Guam, Northern Mariana Islands – This EA applies only to Idaho, Oregon, and Washington. Hawaii, American Samoa, Guam and the Northern Mariana Islands have separate and distinct processes and are not encompassed in this document.
ROD	Record of Decision – Decision document for the EIS process.
Section 7	The Section within the ESA that specifies the process the USFWS uses to determine impacts to listed and proposed species and proposed and designated critical habitat.
Significant**	See definition below.
State Partner Agencies	These are the agencies within each state with whom we work to spend grant funds.
SHPO	State Historic Preservation Officer
THPO	Tribal Historic Preservation Officer
Tribal Trust Resources	Natural resources, on or off Indian lands, retained by, or reserved by or for Indian tribes through treaties, statutes, judicial decisions, and executive orders, which are protected by a fiduciary obligation on the part of the United States.
TTR	Tribal Treaty Rights: off-reservation usual and customary rights to hunt, fish, and gather within ceded territory. "Ceded territory" means the area of Idaho, Oregon, and Washington ceded by the tribes to the United States.
USFWS	United States Fish and Wildlife Service
WSFR	Wildlife and Sport Fish Restoration Program
WSFR-interest Land	Those State lands purchased, in whole or in part, with funding from grant programs managed by WSFR

\* *Categorical Exclusions – Actions categorically excluded from further NEPA review* (43 CFR 46.205).

Categorical Exclusion means a category or kind of action that has no significant individual or cumulative effect on the quality of the human environment. See 40 CFR 1508.4. The list of

Departmental categorical exclusions can be found at 43 CFR 46.210. The list of USFWS categorical exclusions can be found at 516 DM 2, Appendix 1.

Before using a categorical exclusion to cover an action, an evaluation of the subject project must be done in order to determine if any “extraordinary circumstances” could result, “...under which actions otherwise covered by a categorical exclusion require analyses under NEPA” must be made. 43 CFR 26.205. A categorical exclusion can be used unless extraordinary circumstances apply. If any extraordinary circumstances apply, then a categorical exclusion cannot be used and an EA must be written. The list of extraordinary circumstances can be found at 43 CFR 46.215.

The categorical exclusions commonly used by WSFR for land transactions, include (but are not limited to) the following:

43 CFR 46.210(c): Routine financial transactions including such things as salaries and expenses, procurement contracts (*e.g.*, in accordance with applicable procedures and Executive Orders for sustainable or green procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.

43 CFR 46.210(f): Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (*e.g.*, limited size and magnitude or short-term effects).

516 DM 8.5(A)(1): Changes or amendments to an approved action when such changes have no or minor potential environmental impact.

516 DM 8.5(A)(4): The acquisition of real property obtained either through discretionary acts or when acquired by law, whether by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States. Such acquisition of real property shall be in accordance with 602 DM 2 and the Service's procedures, when the acquisition is from a willing seller, continuance of or minor modification to the existing land use is planned, and the acquisition planning process has been performed in coordination with the affected public.

516 DM 8.5(B)(2): The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.

516 DM8.5(B)(7): Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.

516 DM 8.5(B)(9): Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of compatible public use activities and land management practices.

516 DM 8.5(B)(10): The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned. Examples could include an amended public use plan or fire management plan.

516 DM 8.5(C)(6): The denial of special use permit applications, either initially or when permits are reviewed for renewal, when the proposed action is determined not compatible with the purposes of the refuge system unit.

516 DM 8.5(E)(1): State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.

516 DM 8.5(E)(2): Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in Appendix 1 of 516 DM 2 (now 43 CFR 46.210).

**Categorical exclusions are used to determine circumstances, actions, or projects that fall outside the requirement for NEPA compliance, or generally do not need more than an environmental action statement or checklist to complete the requirements.**

**\*\* Significantly. 40 CFR 1508.27.**

“Significantly” as used in NEPA requires considerations of both context and intensity: (a) *Context*. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short and long-term effects require consideration. (b) *Intensity*. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity.

- (1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial.
- (2) The degree to which the proposed action affects public health or safety.
- (3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
- (4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.
- (5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
- (6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
- (7) Whether the action is related to other actions with individually insignificant, but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect and endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.

## USFWS, Region 1, Wildlife and Sport Fish Restoration Program Final Programmatic Environmental Assessment for a Streamlined Method for Approving Small Land Disposals of State Lands Acquired with Wildlife and Sport Fish Restoration Program Funds

### Chapter 1 – Purpose and Need for Proposed Action

#### 1.1 Purpose

The purpose of the Proposed Action Alternative is to streamline the U.S. Fish and Wildlife Service's (USFWS) process to approve divestitures (including disposal)<sup>1</sup> of lands purchased, partially or entirely with Wildlife and Sport Fish Restoration Program (WSFR) funds<sup>2</sup> (WSFR-interest lands) when the conditions in this document are fully met. The actions (land transactions) to be considered are proposals that require an easement, lease, license, or sale to be issued by the States and disposals (i.e., exchange, trade, or sale (disposal)) when these actions may not qualify for approval under existing categorical exclusions<sup>3</sup>, as provided by the National Environmental Policy Act of 1969 (40 CFR 1500-1508; NEPA).

Typically, these proposed land transactions are sought by the State partner agencies<sup>4</sup> because the lands involved are no longer needed for or meeting the original purpose(s) for which they were acquired. Exchanges, trades, or sales of WSFR-interest lands may also be used to: correct land boundary problems (i.e., access) with adjacent public and private landowners, allow for utility rights-of-way, consolidate ownership, and/or allow for increased management effectiveness, repositioning of WSFR resources, and/or improved habitat function, etc.

#### 1.2 Need

There is a continuing need for a streamlined and cost effective process for considering disposals apart from the existing DOI and Service guidance. State WSFR partner agencies are actively seeking to maintain suitable wildlife habitat in the face of changing management objectives and needs, including responding to the threats of climate change. Each year, the Region 1 WSFR Program Office receives a number of requests for land disposals for such things as roads, utilities, or because the land is no longer meeting or no longer needed for the original purpose for which it was purchased. Land disposal requests cannot be approved under the existing categorical exclusions that address land transactions (516 DM 8.5. See page 6, *Categorical Exclusions*).

---

<sup>1</sup> Disposals included here include easements, leases, exchanges, trades, sales (disposal), etc.

<sup>2</sup> Wildlife and Sport Fish Restoration Program (WSFR) interest lands are those that have been acquired by State partner agencies with funds from any grant program administered by the USFWS, Wildlife and Sport Fish Restoration Program (also known as Federal Aid, Federal Assistance, and WSFR). This includes Wildlife Restoration, Sport Fish Restoration, National Coastal Wetlands Conservation Grants, Section 6 Cooperative Endangered Species Conservation Fund, Landowner Incentive Program, and State Wildlife Grants.

<sup>3</sup> A categorical exclusion, as defined by the National Environmental Policy Act (NEPA), is a category or kind of action that has no significant individual or cumulative effects (impacts) on the quality of the human environment, which is all inclusive. See 40 CFR 1508.4.

<sup>4</sup> For WSFR grant programs, State agencies are the only eligible applicants. The State agency could be a fish and wildlife agency, an environmental protection agency, land-holding agency, etc. So "State partner agencies" refers to all of the agencies with whom we cooperate in approving grants.

The current approach assumes all disposals would have impacts that warrant preparation of an EA. In order to discern whether impacts are significant or not a FONSI or EIS/ROD must be prepared. For smaller or satellite WSFR-interest lands, or proposals where the impacts are expected to be minor/negligible, this EA requirement typically results in “compliance overkill.” The intent in developing this Programmatic EA is to allow the USFWS to approve small scale land disposals in the future in a more efficient manner when they meet the conditions outlined in Section 2.2.2 of this EA.

Under the authorities governing management of lands in the WSFR Program<sup>5</sup>, it has been the practice to consider reasonable requests to dispose of WSFR-interest land because they are no longer needed for or meeting the purpose(s) for which they were originally purchased. This practice is expected to continue to ensure land transactions are consistent with current management objectives.

### 1.3 Decisions that Need to be Made

The Regional Director for Region 1 of the USFWS will determine, through the Assistant Regional Director for Migratory Birds and State programs and WSFR Chief of the Wildlife and Sport Fish Restoration Program, whether this Programmatic EA is adequate to support a Finding of No Significant Impact (FONSI) if the Proposed Action/Preferred Alternative (Alternative B) is selected for implementation. This determination will be based on whether the criteria provided in Section 2.2.2 apply and are sufficient to determine NEPA compliance. For actions that may or will have a significant impact on the human environment, either individually or cumulatively, USFWS will require preparation of a site-specific EA for each proposed disposal of WSFR-interest land. If impacts are expected to be significant, or during the EA process they are learned to be significant, an Environmental Impact Statement (EIS) will be prepared, followed by a Record of Decision (ROD).

### 1.4 Background

Based on a July 5, 2012, query of the Federal Aid Information Management System, we currently have 520,406 acres of land (Table 1) acquired, partially or in whole, with Wildlife and Sport Fish Restoration Program grant funds by the State partner agencies in Idaho, Oregon, and Washington. The majority of these lands are being managed to provide habitat for fish and wildlife and some are also managed to support various forms of wildlife-dependent recreation for the public. This includes smaller sites that State agencies within the Region have acquired to provide public access to lakes and streams for anglers and boaters.

Table 1.

State	WR	Coastal	S6	SF	LIP	SWG	Totals
<b>ID</b>	30,078	0	853	112	650	104	31,797
<b>OR</b>	9,247	3,477	7,316	1,430	1,101	83	22,654
<b>WA</b>	381,379	25,350	58,677	33	516	0	465,955
<b>Totals</b>	420,704	28,827	66,846	1,575	2,267	187	520,406

<sup>5</sup> 43 CFR 12, 50 CFR 80.

The intent in developing this programmatic environmental assessment is to allow the USFWS to streamline the review and decision process for the few land disposal requests received annually that meet the conditions outlined in Section 2.2.2. The disposal requests include requests for road realignments, utility corridors, and sale or exchange of parcels no longer meeting the purpose (objectives) for which they were originally purchased.

### **1.5 Applicability**

This Programmatic EA will be used to streamline the process of analysis and decision making with respect to requests from State partner agencies for disposals of WSFR-interest land. If the Proposed Action/Preferred Alternative (Alternative B) is ultimately selected for implementation, the application of this EA would be limited to only those proposed land transactions that meet all of the conditions stated in Section 2.2.2.

Where disposals of WSFR-interest land have joint state agency and Service Regional Director approval, WSFR will invite the appropriate federally-recognized Native American Tribe(s) to engage in government-to-government consultation in accordance with Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments” (November 6, 2000). Simultaneously, WSFR will work with potentially impacted Tribes to ensure there will be no more than negligible effects to Tribal Treaty Resources or Rights. These interactions will help ensure proper incorporation of any Tribal concerns regarding lands losing federal protection, survey and methodology recommendations, and any potential for conflict with existing Tribal Treaty Rights, in the decision-making process.

## Chapter 2 – Alternatives

### 2.1 Alternatives Considered But Not Carried Forward for Detailed Analysis

**2.1.1 Consideration of non-WSFR-interest lands.** This alternative was not considered in detail because it is outside the Purpose identified for this action. The Purpose is to provide WSFR with a streamlined process to analyze proposed disposals meeting specific criteria, as defined previously and again under the Proposed Action. Lands considered are only those purchased using WSFR grant funds.

**2.1.2 Complete Denial.** All proposals for disposal of lands purchased with WSFR grant funds must be approved jointly in advance by the State Fish and Wildlife Agency Director and the Regional Director, Region One. Because a proposal for disposal would not move forward without joint approval, the complete denial option is not a viable or realistic one for this Programmatic Agreement. The types of land disposals suitable to be considered under Alternative B are typically not ones that would generate disagreement between the state and Service Directors.

### 2.2 Alternatives Carried Forward for Detailed Analysis

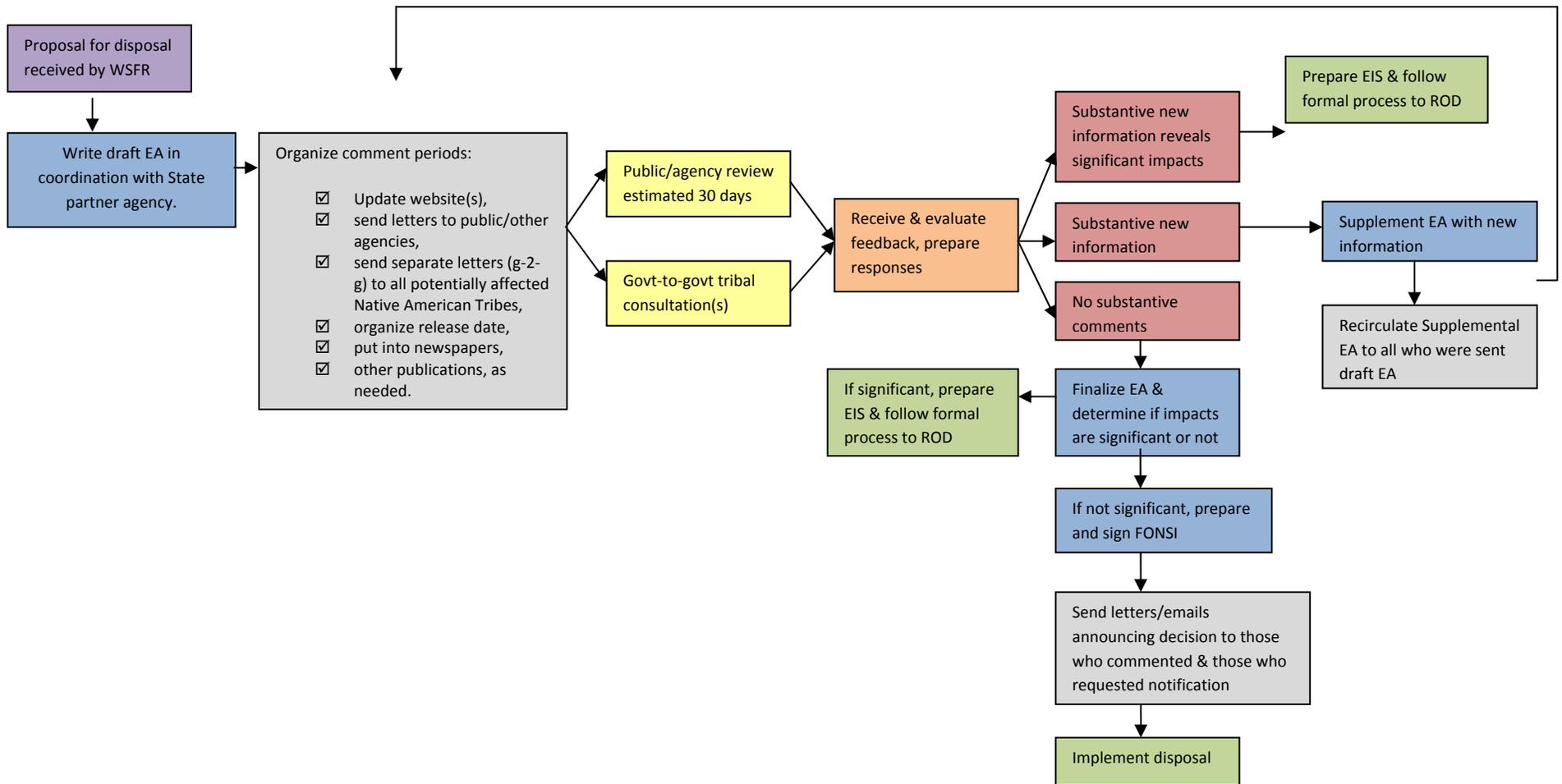
#### 2.2.1 Alternative A, No Action Alternative – Site-specific EA Always Required

Currently, the Department of the Interior and the U.S. Fish and Wildlife Service does not have an applicable categorical exclusion that appropriately covers disposals of land with a federal interest. These federal interest lands are those purchased by our State partner agencies with federal dollars granted under one of the WSFR grant programs (WSFR-interest lands). Without a categorical exclusion, even minor disposals currently require the preparation of at least an EA, regardless of the anticipated context and intensity of impacts. If the status quo alternative is selected for implementation, WSFR would continue the process for requiring an EA for all proposed disposals (see Figure 1).

Each proposed land transaction would be reviewed for a site-specific EA or Environmental Impact Statement (EIS), depending on the potential context and intensity (i.e., significance) of the associated impacts. At a minimum, an EA would be prepared for every proposed disposal of WSFR-interest property, followed by the signing of a Finding of No Significant Impact (FONSI) or an Environmental Impact Statement (EIS) and Record of Decision (ROD) if impacts are determined to be significant. This alternative does not satisfy the described “Need” for the proposed action (Section 1.3)

Figure 1. Typical steps in WSFR’s EA process

- Done for **all** proposed disposals (Alternative A, No Action).
- In rare cases, proposed denials would work through this same process (Alternative C).
- Under these alternatives and WSFR’s current process, every proposed disposal would be run through the process below.
- *Similar steps are colored alike (see key below).*



Color Key

Receipt

Document writing

Organizing comment periods

Comment periods and Consultation

Evaluating feedback received

Types of feedback

End of EA process

### 2.2.2 Proposed Action/Preferred Alternative B – Abbreviated Assessment Process

This alternative would be implemented by the USFWS if the Regional Director, through the Assistant Regional Director of Migratory Birds and State Programs and the WSFR Chief and in consultation with the appropriate State partner agency, approves the proposed land transaction under the criteria below. Under this alternative, an Abbreviated Assessment was created that would address the criteria defined below and would be submitted with the proposal package for the disposal (e.g., SF-424, narrative, etc.). This approach would allow our program and our State partner agencies to work through the NEPA process more efficiently, while not compromising the “hard look” at alternatives and impacts that NEPA requires.

This Assessment (see Appendix 1), or similar information provided in a different format, would be completed for every proposed disposal. Therefore, under this alternative (B, Proposed/Preferred), every proposed disposal will first be run through the screen of the 10 criteria below. If WSFR and the State agency partners cannot reach the “negligible” standard set out in the criteria below, a site-specific EA would be required.

Under this alternative, the Region 1 WSFR Program Office would be responsible for reviewing each individual proposed land transaction to ensure that all of the following conditions have been met:

1. *Categorical Exclusion.* The proposed land transaction does not qualify for approval under an existing categorical exclusion and the State agencies expect impacts that are consistent with those assessed in this Programmatic EA. The Abbreviated Assessment (or other similar document), and supporting documentation, must demonstrate that no alternatives or impacts exist outside the scope of the EA.

If alternatives or impacts outside the scope of the EA are expected, or substantial new information is provided, the State partner agency would have to describe these issues separately from the Abbreviated Assessment information and WSFR/USFWS would walk those items through a supplemental/tiered NEPA EA process. This additional process would only occur if and when impacts and alternatives outside the scope of this EA are anticipated, or if substantial new information is provided.

2. *Purpose of Property.* The land transaction is proposed for property that is no longer needed, useful, or does not meet the purpose(s) for which it was originally purchased, as determined by the State partner agency. The Abbreviated Assessment must document this process.

3. *Disposition Instructions.* As required by 43 CFR 12.71 (see Appendix 3), the State agencies would: a) retain the property title after compensating WSFR, based on the percentage of federal funds originally utilized as applied to the current market value; b) sell the property and compensate WSFR; or c) transfer the property title to WSFR or a third party who WSFR would designate/approve.

If the State partner agencies would provide replacement lands of at least equal or greater monetary (current market) and fish and wildlife value under the same grant program, the net

proceeds from the disposal may be used to offset the cost of the replacement property. If the State partner agency is not proposing to purchase replacement property, the funds would return to the original grant program. The State would be responsible for crediting these reimbursement funds to the appropriate WSFR grant program for later use in purchasing lands (see Appendix 4 for returned dollar destinations and requirements). If a third party (e.g., a utility company) is involved, States are encouraged to require or implement additional mitigation and compensation measures to insure the State partner agency could continue to meet the purpose(s) for which these lands were originally acquired on the land remaining after the disposal, if any.

4a. *Acreage.* The WSFR-interest land involved is part of a larger management area and the total acreage of the WSFR-interest lands that are proposed to be exchanged, traded, or sold, or that requires an easement, lease, or license, would not exceed the values in the following table<sup>6</sup>:

**Table 2.**

<i>Total Size of State Area</i>	<i>Maximum Size of Land Transaction/Acreage Limits</i>
Less than 300 acres	3 acres
300 to 1000 acres	1 percent of the area
1000 acres to 10,000 acres	1 percent of the area not to exceed 25 acres
More than 10,000 acres	1 percent of the area not to exceed 100 acres

4b. *Acreage.* The WSFR-interest land involved is not part of a larger management area, such as remote or satellite properties, and the State partner agency must determine and document that the acreage involved and the resulting impacts from the loss of the federal interest on those lands would not be significant (i.e., 4b is impact limit, 4a is acreage limit).

5. *Alternatives to Disposal.* There is no feasible and prudent alternative that would avoid the disposal of WSFR-interest lands and the project proposal demonstrates that the State partner agency has assessed and exhausted all other feasible and prudent measures to avoid, minimize, or mitigate the disposal of and impacts to these lands. When the State partner agency has determined that WSFR-interest land is no longer needed or useful, and/or not meeting the purpose for which it was originally purchased, there could be no alternatives to disposal.

In certain situations, a third party, such as a utility, will request the use or ownership of (and thereby disposal) WSFR-interest lands. In these cases, the third party requesting the disposal of WSFR-interest land would coordinate with the State partner agency during the development of supporting documentation to demonstrate that alternatives to avoid, minimize, and mitigate impacts have been adequately considered. The documentation need not be voluminous but should adequately discuss the factors (such as possible increased project costs; social, economic, and environmental impacts; or community disruption) considered for each alternative in reaching the determination that they are not feasible or prudent alternatives to the proposed action that could minimize, mitigate, or avoid altogether disposal of the WSFR-interest lands. The Abbreviated Assessment (see Appendix 1a) was created to assist with this process, if the State and/or third party choose to use it (this specific format is not required, but the information is).

<sup>6</sup> The sliding-scale system used in this table is based in part on a table in criterion #3 from the Programmatic Section 4(f) Evaluation, dated August 10, 2005, prepared by the Federal Highway Administration for Federally-aided highway projects that have minor involvements with public parks, recreation lands, & wildlife & waterfowl refuges.

6. *Impacts, Generalized.* The direct, indirect, and cumulative impacts of the proposed action on WSFR-interest lands would be negligible.

In addition to describing the unavoidable direct impacts of the proposed action on WSFR-interest lands, the State partner agency's supporting documents should also describe any possible indirect or proximity impacts (such as increased noise, increased traffic, visual intrusion, air and water pollution, introduction of invasive species, other wildlife and habitat effects, and/or other impacts deemed relevant) that could affect use of the WSFR-interest lands or any other lands in the vicinity of a proposed land transaction. Impacts associated with the operation and use of a proposed facility, as well as temporary and long-term construction impacts, should be described and discussed. The USFWS/WSFR would consider the nature and duration of the proposed project's direct, indirect, and cumulative impacts in determining whether approval of the project under this Programmatic EA is appropriate.

It is important to note that State partner agencies compliance documentation must be consistent with this Programmatic EA. For example, for those states with State Environmental Policy Acts (SEPA), or other similar laws, a determination of significance by the State for a proposal would eliminate the State partner agency's ability to use this Programmatic EA.

7. *Impacts, Specific.* Coverage under this Programmatic EA as limited to proposals with at most negligible impacts. The Abbreviated Assessment (or other format) must demonstrate why the proposed land transaction would NOT:

- a. Adversely affect Federally listed, proposed, or candidate species, and/or designated or proposed critical habitat (property involved could not be proposed or designated critical habitat), as well as State listed species and habitats;
- b. Have meaningful adverse impacts to wetlands;
- c. Have meaningful adverse impacts to floodplains;
- d. Result in a major decrease of public access or recreation;
- e. Adversely impact another Federal or State entity with a financial interest in the WSFR-interest property;
- f. Result in disproportionate impacts to low income or minority communities; and
- g. Result in a decrease in the amount of land designated as wilderness by either the State or Federal government.

8. *Infrastructure.* The proposed land transaction would not impact any major development with a WSFR interest (such as buildings, shooting ranges, boat launches, fishing or viewing platforms, etc.).

9. *Government-to-Government Consultation and the Tribal Treaty Rights Process.* The land transaction would not adversely affect historic or cultural resources or Tribal Treaty Rights.

This evaluation would require two parallel processes:

a) the State partner agency to work through WSFR/USFWS, who will communicate with the State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer (THPO); engage potentially impacted Tribes in government-to-government consultation regarding cultural resources; select the survey protocols and archaeological personnel for the property; survey the property pursuant to coordination with SHPO/THPO/Tribes; determine in writing that no cultural or historic resources exist on the site and/or commit to the avoidance, minimization, and mitigation measures agreed to as being necessary to prevent the adverse impact by the SHPO, THPO, Tribe(s), and Advisory Council on Historic Preservation (ACHP), as applicable.

If such historic and/or cultural resources do exist on the site proposed for disposal, and no avoidance, minimization, or mitigation measures will reduce the level of impact to the satisfaction of the SHPO, THPO, Tribes, and the ACHP, if involved, the disposal of that property is defined by 36 CFR 800 and Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments) as an adverse impact to cultural resources (due to the loss of Federal protections). As such, a proposed disposal would not be eligible to use this Programmatic EA and would require a separate, site-specific EA.

b) Through a separate, but simultaneous process, USFWS/WSFR would communicate with potentially affected Tribes regarding the exercise of Tribal Treaty Rights. If a proposal is expected to adversely impact Tribal Treaty Rights, WSFR/USFWS will work with the potentially affected Tribe(s) and the State partner agency to determine what access, avoidance, minimization, and mitigation measures should be implemented to ensure that the exercise of Tribal Treaty Rights would not be jeopardized by approving disposal of WSFR-interest land.

For both a) and b), State partner agencies would attach all documentation from these processes to the Abbreviated Assessment when submitted; including, but not limited to: maps; previous or current surveys of the area involved, if applicable; concurrence/denial letters; assessment of impacts to historic, cultural, or Tribal Treaty Rights or resources. USFWS/WSFR would provide: a) appropriate documentation of government-to-government consultation with potentially affected Tribes and the appropriate SHPO; and b) the separate documentation of communications regarding Tribal Treaty Rights.

10. *Controversy*. The State partner agency would assess the level of public opposition/controversy regarding the proposed land transaction and would demonstrate that it would not be substantial. *Controversial* refers to circumstances where a substantial dispute exists as to the environmental consequences (impacts) of the proposed action and does not refer to the existence of opposition to a proposed action, the effect of which is relatively undisputed (43 CFR 46.30). The mere unpopularity of a proposal would not be considered controversial.<sup>7</sup>

Copies of any comments received will be provided to USFWS/WSFR if there is any question of whether such comments constitute “substantial” opposition or controversy. If issues cannot be

<sup>7</sup> 43 CFR 46.

resolved, and opposition or controversy over the anticipated impacts is substantial, the proposal would be delayed until a site-specific EA is completed.

In summary, if state agencies use the Abbreviated Assessment and determine that the implications are negligible and that the areas are covered in this EA, the project is covered under NEPA and the FONSI issued by USFWS/WSFR. Once the project is determined to be compliant, it can move forward, pending results of the other compliance documents, such as Section 7 consultation.

### **2.2.2.1 Involvement with Other Agencies, the Public, and Tribes**

Under Preferred Alternative B, WSFR and a State partner agency would only consult with other agencies and the potentially affected public if alternatives, options, and impacts NOT described in this EA are anticipated to result from a proposed disposal and if substantial new information is presented. If all potential impacts are consistent with those described herein, and the 10 criteria have been met, NO additional public or agency consultation would be needed.

As the need presents itself (expected alternatives, options, impacts, and/or substantial new information not in this EA), State partner agencies will engage the appropriate public and other agencies to give an opportunity to provide comments on the supplemental information. This communication would acknowledge that the proposal includes WSFR-interest land and protections, specify exactly which topics would be up for review (i.e., are not in this EA), request comments, and detail how comments are to be received and any associated deadlines (which is for the State to determine). Depending on the nature and scope of the proposal and its anticipated impacts, various public information techniques may be used. These could include, but would not be limited to: newspaper notices; environmental newsletters; postings at public buildings, web sites, and email list serves; contacting other units of government; contacting affected and adjacent landowners; sending individual mailings to potentially affected parties; and public meetings.

Government-to-government consultation and other communication with potentially affected Native American Tribes will be implemented for ALL proposed disposals by USFWS/WSFR, to ensure minimal, if any, impacts to resources covered by the NHPA or Tribal Treaty Rights (two separate, but simultaneous processes).

### **2.2.2.2 Documentation for Compliance with Criteria 1 through 10**

Consistent with NEPA regulations (40 CFR 1500.4(i), 1502.20, and 1508.28), a written, abbreviated site-specific analysis would be provided by the State partner agency to WSFR for the proposed land transaction (see Appendix 1). The written review must address each of the issues listed in criteria 1 through 10 above and specify the status of each issue. It should also discuss whether the site-specific situation would “trigger” the need for additional review or consultation with Native American Tribes and other potentially affected parties (e.g., site contamination, legal/illegal use of area, etc). This information will help WSFR determine: a) whether a full site-specific EA is necessary; b) whether this Programmatic EA needs supplemental info and review; or c) if the information supplied through the use of the Abbreviated Assessment and associated

documentation submitted by the state partner agency are adequate to determine that use of this EA/FONSI,<sup>8</sup> and specifically Alternative B, are appropriate. Also, it is important to note that when a State agency signs an Application for Federal Assistance (SF-424, AFA), which is required for all federal grants managed by WSFR, they have committed to complying with all appropriate state and federal rules, regulations, and policies.

The State's Abbreviated Assessment documentation may be provided in tabular form, as indicated in the examples in Appendices 1a and 1b, with supporting documentation attached. This information can be presented in any format the State partner agency chooses (no requirement to use Appendix 1a). The documentation submitted would include a SF-424 AFA; proposal narrative; project maps; third party's proposal (if involved); all comments received (if this step was needed) and draft responses, which WSFR would finalize; cultural resources survey report; proposed disposal option per criterion 3 above, etc. The USFWS/WSFR reserves the right to request any additional information from the State partner agency that may be needed to determine if a proposed land transaction meets all of the 10 criteria above and whether it can be covered by this Programmatic EA and its subsequent FONSI (see Appendix 8).

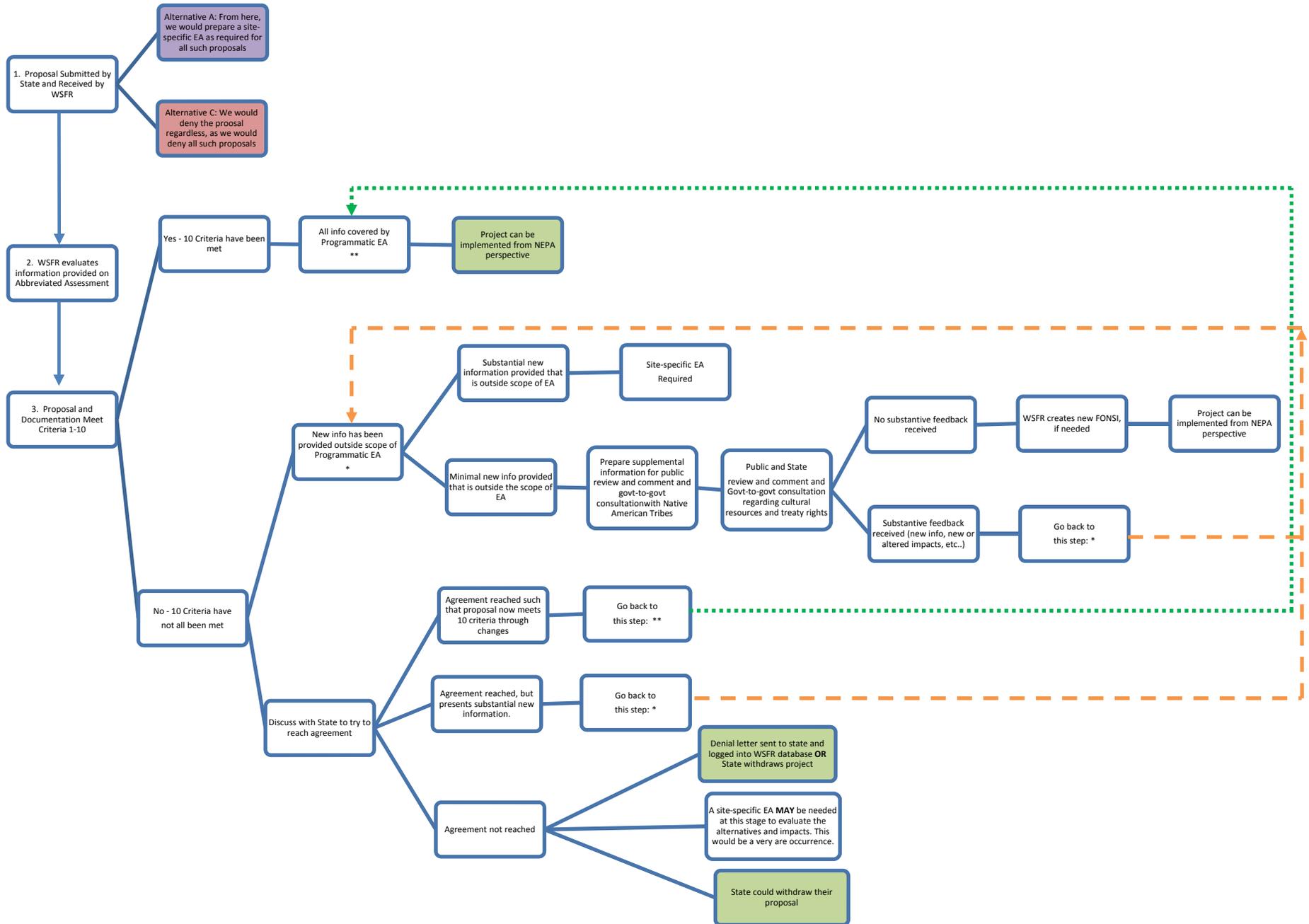
Under Preferred Alternative B, if a proposed disposal does not meet the 10 criteria and was expected to have impacts or alternatives not anticipated in this EA, WSFR/USFWS would first assess which impacts are anticipated and determine whether or not they are covered herein. If not covered, those specific sections would go through the NEPA EA process (including public involvement) as supplemental to this EA (i.e., feedback only requested for items not included in this EA). If there is so much new substantive information needing public/agency/Tribal review, a site-specific EA would be prepared (as described in Alternative A), possibly tiered off this EA if its information and analysis remain valid.

If the project is unexpected to be able to keep the impacts below "significant", WSFR could deny a disposal if there are not enough funds available for an EIS.

---

<sup>8</sup> Statements regarding the preparation or use of a FONSI were inserted as this EA was being finalized. As such, they are not pre-decisional and it remains up to the Regional Director, acting through the Assistant Regional Director for Migratory Birds and State Programs, to determine if the FONSI is the appropriate level of compliance and which alternative will be implemented. If/when signed, the FONSI will be Appendix 8.

Figure 2. Preferred Alternative (Proposed Action, Alternative B) Decision Tree for potential disposals of WSFR-interest land in ID, OR, and WA. Endpoints are highlighted green. It is noted where Alternatives A (purple box) and C (red box) would fit in this framework.



### 2.2.3 Alternative C – Denial of All Proposed Disposals

It is commonly recognized that as state agency management objectives change, or as circumstances may dictate, real property acquired with WSFR grant funds may no longer be considered useful or needed. Current regulations (50 CFR 80.137) govern the requirements that must be met when this occurs. First, common agreement must be reached between the state Fish and Wildlife Agency Director and the Service's Regional Director that the property is no longer useful or needed for its original purpose under the grant. The most likely scenario for not reaching consensus might be if the USFWS/WSFR determines a denial is in the best interest of fish, wildlife, historic, cultural, and Tribal Treaty resources. Denials are also a possibility if the Regional Director does not agree with the State agency director that the land parcel is no longer needed, useful, or meeting the purpose for which it was acquired originally. This scenario is not highly likely, because the State agency is in a better position to assess utility and need than the Service. A denial, for any reason, must be followed by notification to the State partner agency in writing within 30 days.

The more likely scenario is agreement disposal is allowable. After this decision is reached, the State agency must follow disposal alternatives found in 43 CFR 12.71. These alternatives are:

- (1) Retention of title and compensation to the awarding agency
- (2) Sale of the property and compensation to the awarding agency
- (3) Transfer of title to a third party with compensation paid the State agency by the third party

The preferred alternative B would be used, as applicable to disposals governed by these regulations.

**Table 3. Summary Comparison of Alternatives**

	<b>Alternative A – No Action</b>	<b>Alternative B – Proposed Action</b>	<b>Alternative C – Denials</b>
<b>Potential for the approval</b> of proposals to divest (disposals) of WSFR-interest lands	Allowed, provided WSFR approves it with either a signed FONSI or Record of Decision (ROD). Significance of impacts directs preparation of an EA v. EIS.	Allowed, under certain conditions (10 criteria, section 2.2.2); effects must be demonstrated to be “negligible.” If proposal surpasses this threshold, a site-specific EA would be prepared if impacts not expected to be significant, EIS if they are significant. Then, a FONSI or ROD must be signed.	Not allowed. All proposals denied.
<b>WSFR approval process</b> for divestitures (disposals) of WSFR-interest lands	EA always required, at a minimum. No flexibility. Only threshold is whether impacts are significant. If they are expected to be, an EIS/ROD are necessary.	Documentation demonstrating consistency with 10 criteria defined in section 2.2.2 (Abbreviated Assessment with supporting documentation); negligible impacts threshold.	Only process needed is to write a denial letter to State partner agency. In rare cases, a site-specific EA may be necessary prior to an official denial (as in Alternative A).
<b>Speed of WSFR approval</b>	<b>Moderate</b> –This alternative would not move quickly due to limited staff time, but it also would not be the slowest. Requires the full EA process to be completed, at a minimum (6-9 months, concluded with an EA/FONSI or move to the EIS/ROD process (greater than 1 year).	<b>Fastest</b> , if you do not take Alternative C into account, and if proposal demonstrates having only negligible impacts and no new information suggest alternatives or impacts are outside scope of this Programmatic EA (2-3 months). <b>Moderate</b> if a supplemental EA has to be routed through the process because of new information outside the scope of this Programmatic EA (3-6 months).	<b>Fastest</b> because only documentation needed is denial letter for State partner agency.

## Chapter 3 – Affected Environment

### 3.1 Physical Environment

The types of lands that would be affected by these projects are WSFR-interest lands in Region 1 that have been acquired using WSFR grant funds. There are currently 520,406 acres of land that have been purchased by State partner agencies in Idaho, Oregon, and Washington with WSFR grant funds.

The majority of these lands are being managed by the various State partner agencies to provide habitat for fish and wildlife, as well as various forms of wildlife-dependent recreation for the public. States have also acquired a number of smaller sites within the Region to provide public water access to lakes and streams for anglers and boaters.

Additionally, these WSFR-interest lands include a full array of infrastructure, some of which may have been purchased/built using WSFR grant funds. The assets include fish hatcheries, maintenance buildings, office buildings, as well as educational and recreational facilities, such as classrooms, hunting blinds, fishing platforms, boat ramps, marinas, etc.

### 3.2 Biological Environment

#### 3.2.1 Habitat

WSFR-interest lands in this Region consist of a full range of habitats, from shrub-steppe to rainforest. Many of the lands purchased with WSFR funds, depending on the grant program, were purchased because they provide a priority habitat type.<sup>9</sup>

#### 3.2.2 Listed and Priority Species and Critical Habitat

The majority of the WSFR-interest lands that could be affected by these proposed land transactions are being managed to provide habitat for fish and wildlife as the primary purpose. In some cases, these fish and wildlife species are Federally and/or State listed as threatened or endangered, or otherwise designated as priority species, such as Species of Greatest Conservation Need in a State's Wildlife Action Plan. Currently, there are 422 listed, 43 proposed, and 68 candidate species in all of Region 1. The number of species drops to only 48 listed species when only counting the species in Idaho, Oregon, and Washington (see Appendix 7).

The impacts to designated or proposed critical habitat for these species must also be evaluated. Designated critical habitat is protected on land with a federal interest. At this time, the Region 1 mainland states have designated critical habitat for 28 species, more if you break out the salmonid Evolutionarily Significant Units (ESUs), under the jurisdiction of the U.S. Fish and

---

<sup>9</sup> For example, lands purchased with Wildlife Restoration Grant funds are to provide habitat specifically for wild birds and mammals. Lands purchased with Coastal Wetlands Conservation Grants are to protect, enhance, and/or restore coastal wetland habitat features. Given this diversity, it is difficult at this time to fully detail or evaluate all of the potential habitats that could be involved.

Wildlife Service and the National Marine Fisheries Service. Moving forward using the preferred alternative, WSFR will continually be aware of new critical habitat designations. See Appendix 7 for list of listed species and critical habitats.

For every grant proposal we are required to have Section 7 Consultation under the ESA; a grant will not be approved without it. This consultation evaluates the potential impacts to listed/proposed species and/or designated/proposed critical habitat. This Programmatic EA is primarily procedural in nature. Thus, when each individual disposal proposal is submitted, a site-specific Section 7 review will occur.

### **3.3 Historic and Cultural Resources and Tribal Treaty Rights**

#### **3.3.1 Historic and Cultural Resources**

The processes discussed in this portion of the document are common to all alternatives mentioned and will be implemented identically regardless of the alternative chosen (See figure 3 for a generalized flow diagram of the consultation process).

A very small percentage of State lands have been sufficiently inventoried to identify the presence of unrecorded cultural resources or culturally important sites. Furthermore, most cultural resources, such as buildings, structures, and sacred sites have not been evaluated as historic properties (i.e., to determine if they meet the criteria for the National Register of Historic Places). Most project areas have the potential to contain reported and unreported cultural resources.

#### **3.3.2 Tribal Treaty Rights**

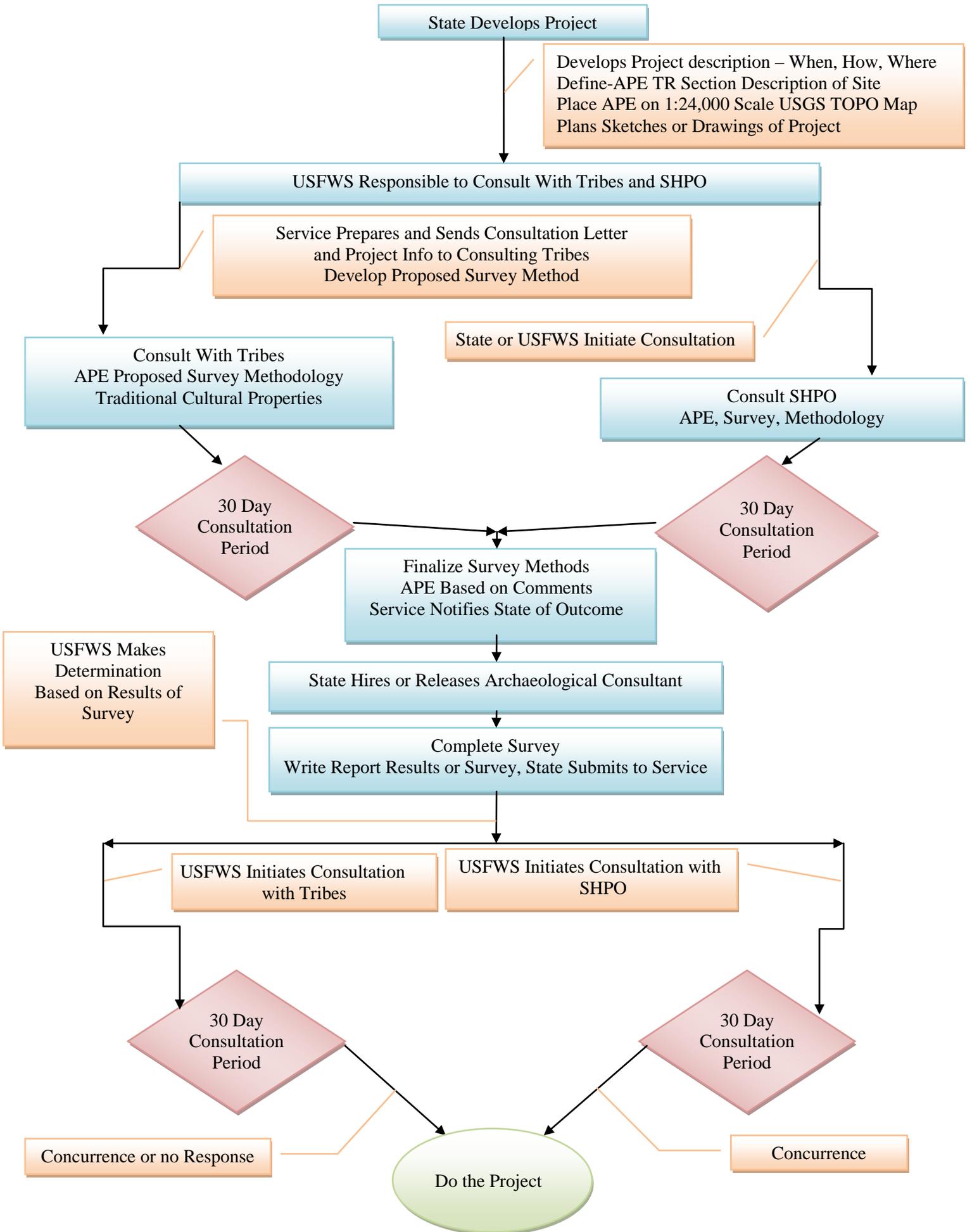
In Region 1 there are just under 50 federally recognized tribes. Many of these tribes have long-standing Tribal Treaties with the U.S. government that entitle them to certain rights. Those rights vary from tribe to tribe and treaty to treaty, but many involved tribal access to areas to hunt, fish, gather, etc. and to utilize the associated resources. To WSFR's knowledge, no single map exists that shows Tribal Treaty Rights areas for all tribes. So this information is typically gleaned through reading the specific treaty(ies) and talking to the appropriate tribe(s) or the Service's Native American Liaison about these rights. The U.S. government has guaranteed these rights and, as part of the federal system, WSFR must ensure those rights are not infringed upon through our actions.

### **3.4 Socio-economic Resources**

#### **3.4.1 Environmental Justice**

Only a small number of properties may be located within or adjacent to low income or minority populations who may be disproportionately impacted by their disposal. Most land parcels have been acquired to meet objectives such as habitat protection and management, and boating and fishing access. Many properties are in rural and remote locations.

Figure 3. WSFR Cultural Resources Consultation Process



Disposal of lands no longer suited for these purposes is not likely to result in Environmental Justice issues<sup>10</sup>

### 3.4.2 Recreation and Access

#### 3.4.2.1 Recreation

Many of the WSFR-interest lands are open to a variety of public uses, including hunting, fishing, environmental education and interpretation, bird watching, nature photography, etc. But there are also some WSFR-interest lands that are closed to the public or open/closed seasonally. Additionally, there may, or may not, be infrastructure on a given property related to recreational uses. Each parcel of WSFR-interest land is different and many can accommodate certain public uses. Monetary issues may also exist for areas that contain recreation and tourism elements. Guide services, hotels, restaurants and other consumer fixtures could be impacted and must be considered for each proposed disposal reviewed.

#### 3.4.2.2 Access

Some of the WSFR-interest lands are already encumbered when purchased, such as utility rights-of-way or allowing a neighbor right-to-access to an otherwise inaccessible property. Some are closed to public access, others open during specific seasons, and still others open to all manner of uses. The lack of access in itself could be a reason a State partner agency proposes disposal. In some cases, the lack of access would be a drawback for management and recreation, but in others the lack of access may provide the protection a given site needs. Each parcel of WSFR-interest land is different and has different encumbrance or access issues.

43 CFR 12.932 specifies that a State partner agency cannot encumber WSFR-interest land before prior permission from WSFR. Typically, an encumbrance is only allowed if it can be shown to further, or does not interfere with meeting, the purpose for original purchase, and in consideration of the other impacts to the human environment (including species, habitat, socio-economic impacts, etc).

### 3.4.3 Other Financial Interests

Often, WSFR-interest lands were also purchased with funds from another source, such as the Land and Water Conservation Fund (managed by the National Park Service) and/or or Salmon Recovery Funding Board (managed by Washington State Recreation and Conservation Office). For any proposed disposal of WSFR-interest lands, a State partner agency would have to ensure they were also meeting the requirements of any other financial interests involved for a given

---

<sup>10</sup> For example, a State partner agency proposes to sell a WSFR-interest parcel to a private development company because it is no longer needed for the purposes for original purchase. This parcel is adjacent to a low income or minority community and it is the only extant open space available to the community (nearest other option is 50 miles away). Eliminating the community's only open space could be viewed as a disproportionate impact to this community.

property. When a State partner agency applies for Federal assistance from WSFR, they are required to sign a SF-424 (application for federal assistance), which commits them to doing so.

## **Chapter 4 Environmental Consequences**

### **4.1 Alternative A, No Action – Site-specific EA Always Required**

#### **4.1.1 Physical Impacts**

The physical impacts associated with a disposal under this alternative would likely be of a greater scope and magnitude than those of the Proposed Action, Alternative B. This is likely to result from the larger acreage involved, and the increased likelihood that threatened and endangered species or their critical habitat might be impacted. The required environmental assessment will determine the requirement to impose measures to avoid, minimize, and/or mitigate losses to the human and physical environment. Under this alternative, a site-specific EA would be required for each disposal where an WSFR interest exists.

#### **4.1.2 Biological Impacts**

The requirement to complete an environmental Assessment under Alternative A ensures that the impacts to fish and wildlife resulting from loss of habitat or other factors will be factored into the decision-making. However, a defining difference to biological resources between alternatives A and B (Proposed Action) is the potential under Alternative A for higher quality habitat being lost, or species effects that could require the preparation of an environmental impact statement. Reviewing proposals against the 10 criteria is intended to ensure only those that fit the 10 criteria achieve compliance under the Programmatic's Preferred Alternative B and others are considered under Alternative A.

##### **4.1.2.1 Habitat Impacts**

Not all disposals impact fish and wildlife habitat. Those suitable for consideration under this option would receive consideration in the required environmental assessment, in a similar fashion to that described in the previous Section. Similarly, because the habitat impacts would be anticipated to be more significant than proposals suitable for Alternative B, requiring a more rigorous and time consuming analysis.

##### **4.1.2.2 Listed and Priority Species and Critical Habitats**

A proposed disposal reviewed using Alternative A would not be approved unless Section 7 of the Endangered Species requirements are met. Noncompliance and disapproval would result if the biological assessment determines it is likely the action will a) adversely affect, directly, indirectly, or cumulatively, any federally listed, candidate, or proposed threatened or endangered species; b) result in adverse modification of any designated or proposed critical habitat for such species; or c) adversely impact state-listed species and habitats. The difference between alternatives A and B with regard to listed and priority species, is that under Alternative A, a site-specific EA would be required before such a determination is made.

#### 4.1.3 Historic and Cultural Resources and Tribal Treaty Rights

Under both alternatives A and B, and, in very rare cases Alternative C, WSFR/USFWS would initiate consultation with the SHPO, THPO, and government-to-government consultation with appropriate Native American Tribes as soon as the area(s) of potential effect for the proposed undertaking (land transaction) is determined. A cultural resources survey would be required if the State partner agency desires to dispose of WSFR-interest land, to ensure there would not be an adverse effect from the removal of the land from Federal cultural resource protections. Government-to-government consultation would be required to address the cultural resource survey methodology and personnel, and those rights protected under Tribal Treaties. If the undertaking has the potential to affect a historic property (a cultural resource meeting the eligibility criteria for the National Register of Historic Places), as determined through the Section 106 (National Historic Preservation Act) process defined in 36 CFR 800, the State partner agency would notify the WSFR-designated counterpart to complete the Section 106 process. This process would be followed under both alternatives A and B, and in some rare cases Alternative C. If Tribal Treaty Rights would be impacted, WSFR/USFWS will continue government-to-government consultation with the appropriate Tribe(s) until a resolution is reached.

#### 4.1.4 Socio-Economic Conditions

A determination of the socio-economic conditions associated with a disposal of land acquired with WSFR grant funds will be made if either Alternative A or B is used. Many metrics commonly used in an environmental assessment e.g. zoning, housing characteristics, industrial characteristics, population are not commonly associated with lands acquired with WSFR grant funds. Thus, disposal is unlikely to generate significant effects to the socio-economic conditions of the surrounding land area.

##### 4.1.4.1 Environmental Justice

WSFR would evaluate any State requests to dispose of property relative to environmental justice concerns under Alternatives A and B to ensure that no population would be disproportionately adversely impacted. If under Alternative A, an EA would always be needed and would, therefore, always have a public review and comment step to capture any potential impact. Under Alternative B, the State must demonstrate through the abbreviated assessment that levels of controversy were negligible.

##### 4.1.4.2 Recreation and Access

The environmental assessment required under Alternative A would address the significance of any impacts to recreation or facilities. Because actions considered under this alternative and likely to involve disposal of larger parcels, the impacts to recreational opportunities (both impacts to recreation in general and to specific types of recreation) or facilities is likely to be more significant than under the Proposed Action, Alternative B.

#### 4.1.4.3 Other Financial Interests

Under all of the alternatives, WSFR and the State partner agencies will ensure that all financial interests and requirements stemming from those interests will be evaluated and not impacted, unless permission has been granted to do so and documented by the financial partner involved.

#### 4.1.5 Climate Change/Sea Level Rise

Under any alternative, proposed disposals would not affect the currently rising sea levels and trajectory of their potential and widespread effects. Depending on the pace of change resulting from sea level rise, having to prepare a site-specific EA for each proposed disposal, and the time and expense of doing so, may result in lost opportunities to respond to this change. For example, a State partner agency is proposing to dispose of a habitat type that is expected to increase with sea level rise for a habitat type that is expected to decrease over time, to ensure that what little remains is protected. If the process is too lengthy given the timing of the expected changes, opportunities to acquire/protect/enhance those habitats before they are lost could occur. Additionally, as previously discussed, the staff and expense of completing our site-specific EA process for each proposed disposal could result in the retention of non-performing lands, while habitats needing protection from sea level rise remain unprotected. For these reasons, the impacts felt from sea level rise could be exacerbated, albeit slightly, from those felt under Alternative B, which is ideally a quicker and easier process. Alternative A ultimately could have impacts similar in this regard to Alternative C (denial) due to the potential loss of opportunities in a changing natural world.

#### 4.1.6 Procedural Impacts

Under this alternative, the Service would continue to process each proposed land disposal using at least an EA. Land transactions, other than disposal, could be covered under existing categorical exclusions, if appropriate. As pointed out previously, there is a perceived need to have a process in place to expedite decisions on proposed transactions. The site-specific EA required under this alternative demands staff time and costs for WSFR and the associated State partner agency involved, as well as extending the time horizon for the disposal itself (which may have associated costs/impacts also). Such procedural delays could result in missed opportunities for land transactions that would better benefit the purpose(s) for which the land in question was originally purchased.

#### 4.1.7 Cumulative Impacts

While Alternatives A and C pose potentially higher costs through additional processing time, which may lead to missed opportunities over time, it is not anticipated that those costs or missed opportunities would cumulatively be significant. Disposal requests are not particularly common and are spread out in time and space, thereby minimizing any potential for cumulative impacts to species, habitat, expenditures, or opportunities. Input from the State partner agencies involved has been requested and the agencies have not voiced anticipated impacts, costs, or opportunities lost that would rise to a level of significant cumulative impacts. Due to the safeguards provided in 36 CFR 800, no cumulative impacts to cultural resources would be expected. However, if

process impacts for disposals do stack up over time, they may ultimately have significant cumulative impacts, particularly for our State agency partners. By avoiding having to do an EA for each proposal they submit, this could result in retention of WSFR-interest lands that are not meeting or needed for the original purpose for which the property was purchased. Such “compliance avoidance” could ultimately result in all proposals being denied. This is not currently foreseen as a result of Alternative A, as disposal proposals in general are relatively infrequent. But if they become more frequent, such as with climate change, this compliance avoidance could actually be realized, as would the adverse species and habitat effects, in particular. Because we do not currently fully understand the trajectory of sea level rise impacts, the impacts cannot be foreseen and therefore assessed at this time. Under alternatives A and C, they would be assessed through the EA (not significant) and EIS (significant) processes. Under Alternative C, denials result in a lack of flexibility to respond; with sea level rise, these impacts could ultimately be significant. But the existing science does not allow us to foresee those impacts at this time and are, therefore, not able to be reasonably analyzed in this document.

## 4.2 Alternative B, Proposed Action – Abbreviated Assessment Process

### 4.2.1 Physical Impacts

Using the Abbreviated Assessment (Appendix 1a), the State partner agency would consider measures to avoid, minimize, and/or mitigate losses of physical infrastructure. If outright disposal of the land and associated infrastructure is desired by the State agency, the value of the physical infrastructure would be included in the appraised value of the site and included in any consideration for either purchase of replacement lands and associated infrastructure (compensatory mitigation) or reimbursing the federal government. Under this alternative, WSFR would require impacts to physical infrastructure to be negligible to use the Abbreviated Assessment process. Such impacts are not likely to require mitigation.

### 4.2.2 Biological Impacts

The biological impacts associated with approval of a land transaction resulting from Alternative B may ultimately be less than those under Alternative A, as the standard for use of the Abbreviated Assessment process is negligible direct, indirect, and cumulative impacts, which is a higher standard than would be required under Alternative A.

#### 4.2.2.1 Habitat Impacts

The habitat impacts resulting from approval of a land transaction using Alternative B may ultimately be less than those under Alternative A, as the standard for use of the Abbreviated Assessment process is negligible direct, indirect, and cumulative impacts, which is a higher standard than would be required under Alternative A.

All proposed disposals approved under this alternative could have at least some minor and temporary impacts on fish and wildlife habitats on the WSFR-interest lands. However, the conditions for use of this alternative to approve the transaction ensure that the project is in full compliance with Federal environmental laws and regulations, including Executive Orders 11990 (Protection of Wetlands) and 11988 (Floodplain Management), which both require no adverse effects to wetlands (EO 11990) and the other floodplains (EO 11988). In addition, for the land transaction to be approved, the project must be designed to minimize impacts to the extent possible.

Consultation under the ESA Section 7 would be done for each proposal to evaluate site-specific habitat effects for listed and proposed species, and designated or proposed critical habitat; this is also true for Alternative B, and possibly for C if denial is expected to impact listed species or habitats.

#### 4.2.2.2 Listed and Priority Species and Critical Habitats

Approval of any proposed land transaction would be done in full compliance with Section 7 of the Endangered Species Act of 1973. Consultation under the ESA Section 7 would be done for each proposal to evaluate site-specific habitat effects for listed and proposed species, and

designated or proposed critical habitat; this is also true for Alternative B, and possibly for C if denial is expected to impacts listed species or habitats. A proposed project would not be approved under this alternative if the land transaction is likely to adversely affect, directly, indirectly, or cumulatively, any federally listed, candidate, or proposed threatened or endangered species or result in adverse modification of any designated or proposed critical habitat for such species, as these would be significant impacts, requiring an EIS and may result in a determination that the proposal jeopardizes the future existence of a species and/or habitat (and, therefore, would not be allowed under any alternative pursuant to the ESA).

For each proposal provided to WSFR for approval under this alternative, the State partner agency would submit a Section 7 evaluation (“Phase 1”), as part of the supporting documentation and in addition to the Abbreviated Assessment (see Appendix 1). From there, WSFR would complete the internal consultation by completing either a Phase 2 Form or a Biological Assessment for more detailed effects. This process would help ensure that no proposals would “likely adversely affect” listed, proposed, or priority species or habitats. If a State partner agency has similar requirements for their listed species and habitats, those would be adhered to also in this regard. The standard maximum level of impacts for Alternative B is “negligible” and for Alternative A it is “significant.” Therefore, Alternative B may result in fewer or lesser impacts to federally and state listed and proposed species and critical habitats.

#### 4.2.3 Historic and Cultural Resources and Tribal Treaty Rights

Under both alternatives A and B, and in very rare cases Alternative C, WSFR/USFWS would initiate consultation with the SHPO, THPO, and government-to-government consultation with appropriate Native American Tribes as soon as the area(s) of potential effect for the proposed undertaking (land transaction) is determined. A cultural resources survey would be required if the State partner agency desires to dispose of WSFR-interest land. This would ensure there would not be an adverse effect from the removal of the land’s Federal cultural resource protection and government-to-government consultation with Tribes would be required to address the cultural resource survey methodology and personnel, and those rights protected under Tribal Treaties. If the undertaking has the potential to affect a historic property (a cultural resource meeting the eligibility criteria for the National Register of Historic Places), as determined through the National Historic Preservation Act Section 106 process defined in 36 CFR 800, the State partner agency would notify the USFWS Regional Historic Preservation Officer or other WSFR-designated counterpart to complete the Section 106 process. This process would be followed under both alternatives A and B, and in some very rare cases Alternative C, as this process is not discretionary. If Tribal Treaty Rights would be impacted, WSFR/USFWS would continue government-to-government consultation with the appropriate Tribe(s) until a resolution is reached.

#### 4.2.4 Socio-Economic Conditions

A determination of the socio-economic conditions associated with a disposal of land acquired with WSFR grant funds will be made if either Alternative A or B is used. Many metrics commonly used in an environmental assessment e.g. zoning, housing characteristics, industrial characteristics, population are not commonly associated with lands acquired with WSFR grant

funds. Thus, disposal is unlikely to generate significant effects to the socio-economic conditions of the surrounding land area with use of either Alternative A, B, and certainly C.

#### 4.2.4.1 Environmental Justice

Environmental Justice impacts would be similar for all alternatives. If any low-income and/or minority populations and communities are located immediately adjacent to an area of WSFR-interest lands on which a project is proposed, the State partner agency is required under this alternative to analyze any potential proximity impacts to ensure that the construction, use, or other disposal of the proposed lands would not result in any disproportionate, substantial, adverse impact to these populations or communities (i.e., having only negligible impacts). The analysis is a component of the Abbreviated Assessment (see Appendix 1), or other format providing the same information, which would be submitted with the proposal for the land transaction.

Under Alternative B, the process is streamlined, while under Alternative A, the process could take longer. If the value of habitat is viewed by the local/regional/national/international community as being of greater value than what the State's proposal provides, alternative arrangements could be needed.

In the Assessment, the State must demonstrate that levels of controversy are negligible. Under Alternative A, the threshold would be "significance" of impacts; if an impact would be significant (including benefits per NEPA), WSFR would have to progress to the EIS/ROD process. Under this process, much more time would be lost to paperwork and, in the end, WSFR could approve a proposal with significant impacts, provided we had taken a hard look at them and documented the expectation in an EIS. It is doubtful that under any alternative this step would be reached, because WSFR and our State agency partners do not have adequate resources to dedicate to such a formal process and the general desire to keep potential adverse impacts below significance (not artificially, but through negotiation), ensuring federal dollars are spent in furtherance of the intent of each grant program. So an EIS/ROD would be a difficult process, but not one we would likely reach WSFR does not anticipate that any proposed disposals will create disproportionately adverse impacts on any population or community. Under this alternative State agency partners would have to address this type of impact in two places in the Assessment: Controversy and Environmental Justice, both of which must have negligible impacts and must be documented through the Assessment (or other format that includes the same information). Alternative B could result in fewer environmentally unjust problems than under Alternative A because of the different thresholds: negligible versus significant, respectively.

#### 4.2.4.2 Recreation and Access

State partner agencies are required to demonstrate, in writing, that negligible impacts to the recreation resources using the Abbreviated Assessment exist (see Appendix 1). Under a site-specific EA process WSFR would not necessarily require that impacts to the recreation resource be negligible, but rather non-significant. Under Alternative B, the State partner agency must demonstrate that replacement properties will provide comparable recreational opportunities or that these opportunities will not be impacted beyond the negligible standard which is more

restrictive that the structure of Alternative A. This analysis of comparable recreation opportunities will occur on a case-by-case basis. Depending on the situation, replacement lands may provide equal amounts of recreation in general, but not necessarily the same types of recreation. The State will evaluate the impacts of the change in amounts of a specific type of recreation based on what they are required or otherwise desire to allow in a given location. Regardless, changes to the recreation resource in general are required to be negligible at most, or a site-specific EA is required to be prepared for Alternative A.

Access – While existing legal access of third parties cannot and would not be denied under any of the alternatives, additional recreational and other access will not be impacted more than negligibly, or a site-specific EA would be required to be prepared. This would be documented by the State partner agency using the Abbreviated Assessment, or other format with comparable information.

#### 4.2.4.3 Other Financial Interests

Under all of the alternatives, WSFR and, in particular, the State partner agencies will ensure that all financial interests and requirements stemming from those interests will be evaluated and not impacted, unless permission has been granted to do so and documented by the financial partner involved.

#### 4.2.5 Climate Change/Sea Level Rise

Under any alternative, proposed disposals would not affect the currently rising sea levels and trajectory of their widespread effects. Depending on the pace of change resulting from sea level rise, having to prepare a site-specific EA for each proposed disposal, and the time and expense of doing so, may result in lost opportunities to quickly respond to this change.<sup>11</sup> If the process is too lengthy given the timing of the expected changes, opportunities to acquire/protect/enhance those habitats could be missed. The impacts felt from sea level rise could be exacerbated.

#### 4.2.6 Procedural Impacts

This alternative presents a streamlined way to handle land transactions, particularly disposals, proposed by our State partner agencies. By using the Abbreviated Assessment (see Appendix 1a), time and effort would be saved by not having to prepare a full, site-specific EA and engage in the federal public review and comment process for each land transaction proposed. By saving this time and effort, opportunities may be capitalized upon that would otherwise be lost if the timeline would not allow for the full, site-specific EA process.

#### 4.2.7 Cumulative Impacts

Because of the conditions for use included in this alternative (see section 2.2.2), particularly that the third party or State partner agency must provide sufficient compensatory mitigation to fully

---

<sup>11</sup> For example, a State partner agency proposing to dispose of a habitat type that is expected to increase with sea level rise for a habitat type that is expected to decrease over time, to ensure that what little remains is protected.

offset all direct, indirect, and cumulative proposed impacts, no more than negligible impacts would be expected to occur due to the approval of any individual proposal. Accordingly, WSFR does not anticipate that the approval of proposals across WSFR-interest lands in the states within Region 1 would result in any major cumulative impacts. Past approvals of similar land transactions within WSFR-interest lands under site-specific EAs have not resulted in any major cumulative impacts in both the short- and long-term, particularly when conditions similar to the 10 conditions listed in Section 2.2.2 of this alternative have been met. Due to the ability to capitalize on current opportunities, there could be a net gain in wildlife habitat since some proposals would result in a small net gain in acreage. Due to the small acreage size of most of the proposed land transactions WSFR receives, it is not expected that this net gain would be significant in either the short- or long-term. There could also be cumulative benefits to State partner agencies and third-parties, such as transportation agencies and some utility companies, that may have a number of proposals over time that involve WSFR-interest lands. Being able to approve qualifying proposals utilizing this Programmatic EA, and Alternative B in particular, would allow WSFR to process such proposals more quickly, resulting in a cumulative savings of time for State partner agencies and any associated third parties, as well as WSFR staff. Although there will be a cumulative cost savings, and due to the relative infrequency of proposed disposals, it is not expected to be significant based on our current expenditures for implementation of the status quo process, Alternative A (No Action).

## 4.3 Alternative C – Denial of All Proposed Disposals

### 4.3.1 Physical Impacts

If a proposed land transaction were denied, there would not be any impacts to existing physical infrastructure on lands purchased, partially or in whole, with WSFR funds. If a structure, such as a road, building, or utility line, were installed adjacent to WSFR-interest land due to the denial of the proposed land transaction under this alternative, WSFR would not be in a position to require compensatory mitigation to reduce the impacts to the WSFR-interest lands. If the proposal is for an outright disposal of land, the denial of that proposal would eliminate any impacts to the existing physical infrastructure. This alternative could reduce our State partner agencies' ability to make necessary, reasonable, beneficial changes to their WSFR-interest land base. The status quo (Alternative A) and this alternative would ensure no significant impacts to WSFR-interest lands, but this includes limiting options for future positive changes. Alternative C locks State partner agencies into land transactions that may have occurred as long ago as the 1940's. The streamlined process of Alternative B sets a threshold for negligible impacts, which includes those impacts to existing infrastructure. But the streamlined nature of that process would allow it to run its course more quickly than under Alternative A, allowing for capitalization of current opportunities (i.e., purchasing other existing structures for replacement, purchasing other lands to move a structure to and/or build a new one better suited for a given task, utilizing agreeable third parties who demonstrate negligibility of proposed impacts). So Alternative A would take the longest to respond to a proposal, a process streamlined under Alternative B, with Alternative C locking State agency partners into earlier decisions.

### 4.3.2 Biological Impacts

If a proposed land transaction is denied, in addition to possible impacts to fish and wildlife on the offsite lands on which the project is ultimately constructed, some fish and wildlife impacts may also occur on WSFR-interest lands. If a proposed structure/facility (road, building, utility line, etc.) is constructed in close proximity to the boundary of the WSFR-interest land impacts may occur. The USFWS would not be in a position to require that the project be designed and constructed in a manner that would mitigate, to the maximum extent possible, the potential fish and wildlife impacts on the offsite project lands or on the adjacent, impacted WSFR-interest lands (i.e., erosion, habitat fragmentation, traffic where none existed previously, a higher level of trespass, poaching, etc.). Along these lines, Alternative A would allow process flexibility in that it would not automatically result in a denial, as it would under this alternative, Alternative B would allow the process flexibility and speed, but would also set impact thresholds (standards, see section 2.2.2), unlike alternatives A (significance) or C. Additionally, implementation of this alternative could lead to the retention of poor quality habitat or land considered "surplus" that could otherwise be exchanged for a site with higher habitat quality under alternatives A or B. alternative C could also prevent damage to the existing biological resources by disallowing State partner agencies from disposing quality habitat that is still meeting and needed for the its original purpose for purchase.

#### 4.3.2.1 Habitat

If WSFR denies a proposed land transaction, under all alternatives and dependent on the urgency of the proposal, the proposed structure or facility would likely be constructed on private property in the vicinity of the WSFR-interest land boundary. If a longer route/road or larger structure or facility is required to avoid the WSFR-interest lands, and the habitat directly adjacent to the WSFR-interest land is contiguous with the habitat on the WSFR-interest land, the adverse habitat impacts may be greater under this alternative than those addressed in Alternative A (No Action) or B (Proposed Action).

In addition, if the land transaction is on private land or State-owned, non-WSFR-interest land, it is less likely under this alternative that a third party would be required by the State or our State partner agency to provide compensatory mitigation to offset habitat impacts.

If most of the habitat on the WSFR-lands consists of crops, the impacts would likely be less under this alternative than with Alternative B. If the WSFR-interest land is being provided for agriculturally-dependent species, this alternative might be superior to alternatives A and B, as the onsite agriculture may allow species a dietary option that would minimize crop damage to adjacent private landowners.

Essentially, denial of a proposal for disposal would eliminate most direct impacts to the existing habitats on the WSFR-interest lands, but may have greater direct and indirect impacts to a larger area and greater indirect effects specifically to the WSFR-interest land; such a denial could foreclose opportunities to provide superior habitat. In this case, Alternative B would be the most efficient and flexible process due to its streamlined process for assessing impacts, with Alternative A second in line due to its slower pace, and Alternative C (denial) being the least effective and flexible for improving habitat.

#### 4.3.2.2 Listed and Priority Species and Critical Habitats

It is possible that some federally listed or proposed threatened or endangered species could be adversely affected by this alternative and/or critical habitat could be adversely modified under this alternative. If no WSFR-interest lands are involved and the proposed property, structure, or facility is not Federally funded or does not need a Federal permit (i.e., no federal nexus), the USFWS/WSFR may not be in a position to require that impacts to listed species or critical habitat<sup>12</sup> be avoided and that the project be managed and/or constructed in compliance with Section 7 of the Endangered Species Act. However, all entities and individuals are still subject to provisions of the Endangered Species Act (ESA) and to penalties under Section 9 of the ESA. That said, critical habitat does not apply to private landowners, only to the Federal government, and therefore the loss of Federal protection if sold to a private landowner could be an adverse effect to critical habitat. That would be a ready reason for denial under all alternatives. The protections resulting from the approval of a land transaction proposed with the Abbreviated Assessment under Alternative B would provide thresholds for impacts that must be met, unlike this Alternative (C). Listed species would still have legal protection on land outside of WSFR's

---

<sup>12</sup> Critical habitat is only protected on federal land. On private land, critical habitat does not need to be considered, as it is not protected.

purview, but the chances of a thorough review (as with alternatives A and B) or full protection and compensatory mitigation (Alternative B) are reduced, or these lands are purchased by another Federal agency.

If the proposal was for an outright disposal or exchange of WSFR-interest lands, the denial of that proposal and maintenance of the status quo would eliminate any additional adverse impacts to the existing federally listed, candidate, proposed, or priority species, and their State equivalents, or designated or proposed critical habitats that would have resulted from the approval of the disposal/land transaction. It would also eliminate potential improvements to those resources, such as through purchase of better-quality habitat, unlike alternatives A and B.

For Alternative A (No Action), if completing the EA process, we would consult under Section 7. Alternative B establishes a “negligible” threshold for impacts (they cannot be more than negligible to use the Programmatic EA to streamline their process), whereas Alternative A has a “significance” threshold for impacts. If impacts from a proposed land transaction would be expected to be significant, the EIS/ROD process would have to be utilized to comply with NEPA. This is true for both Alternatives A and B. Alternative A would take longer to make these conclusions than through Alternative B’s Abbreviated Assessment.

#### 4.3.3 Historic and Cultural Resources and Tribal Treaty Rights

Under this alternative, a proposed disposal would be denied by WSFR/USFWS. Given this, the proposal is subsequently moved off WSFR-interest land onto State or private land where we do not have any jurisdiction or it would be withdrawn. There could be adverse effects to cultural resources and Tribal Treaty Rights. WSFR/USFWS would not be in a position to consult with the Tribe(s) or require that impacts to cultural resources or Tribal Treaty Rights be avoided, minimized, or mitigated. A State project, would still require the consultation with the State Historic Preservation Officer (SHPO), who would have some control over the safeguarding of cultural resources.

As WSFR/USFWS would not have jurisdiction (no funding, authorizing, or permitting), there may be adverse impacts to Tribal Treaty Rights that are not protected on State or private land. Under alternatives A and B, such proposals involving WSFR-interest land would have to be carefully vetted within WSFR (and elsewhere, as needed) prior to a denial to ensure that the denial would not result in greater adverse off-site impacts, which could be a lengthy process. Under Alternative C, however, denial would be immediate and would not include an evaluation of off-site impacts where we have no jurisdiction.

Under Alternatives A and B, denials of proposals to dispose of WSFR-interest land would take longer than under Alternative C, where there is only denial. To Native American Tribes, SHPOs, and THPOs, denial (as in Alternative C) may be preferable in some situations under all 3 alternatives. Alternative C would continue protecting what is already protected through WSFR by allowing zero flexibility.

Additionally, alternatives A and B have a specific process that would be utilized for the protection of cultural resources and Tribal Treaty Rights for WSFR-interest land proposed for

disposal. The only difference being their thresholds, with Alternative A requiring impacts to be below significance and Alternative B requiring that standard to be negligible impacts, a more strict standard. Given this, Tribes, SHPOs, and THPOs would likely prefer Alternative B for its more strict standard for protecting cultural resources and Tribal Treaty Rights.

#### 4.3.4 Social-Economic Conditions

A determination of the socio-economic conditions associated with a disposal of land acquired with WSFR grant funds will be made if either Alternative A or B is used. Many metrics commonly used in an environmental assessment e.g. zoning, housing characteristics, industrial characteristics, population are not commonly associated with lands acquired with WSFR grant funds. Thus, disposal is unlikely to generate significant effects to the socio-economic conditions of the surrounding land area. Use of Alternative C would not affect local or regional socio-economic conditions.

##### 4.3.4.1 Environmental Justice

In Alternative A, WSFR would evaluate any State requests to use land relative to environmental justice concerns in the site-specific EA and would ensure that no population would be disproportionately adversely impacted by the transaction. Also, public review and comment might reveal any environmental justice concerns. Use of Alternative B is almost the same, but there is no public review process.

##### 4.3.4.2 Recreation and Access

If a proposed land transaction is denied by WSFR, the existing levels of recreation and access would likely remain the same. That said, depending on the situation, it may be too expensive for a State to manage recreation at a given site, so denial of a proposal to exchange WSFR-interest land for land that is easier to manage could ultimately result in the closure of that WSFR-interest site to recreation, especially during economic downturns. Thresholds set for Alternative B would prevent major impacts to recreation and access, as any recreational opportunities lost would have to be replaced in some fashion to stay within the standard of negligible impacts.

##### 4.3.4.3 Other Financial Interests

WSFR and, in particular, the State partner agencies will ensure that all financial interests and requirements stemming from those interests will be evaluated and not impacted, unless permission has been granted to do so and documented by the financial partner involved.

#### 4.3.5 Climate Change/Sea Level Rise

Disposal proposals would not affect the currently rising sea levels and trajectory of their widespread effects. Depending on the pace of change resulting from sea level rise, having to prepare a site-specific EA for every disposal using alternative A would generate time and expense concerns. It also may result in lost opportunities to respond to this change.

While Alternatives A and C pose potentially higher costs through additional processing time, which may lead to missed opportunities over time, it is not anticipated that those costs or missed opportunities would cumulatively be significant; disposal requests are not particularly common and are spread out in time, thereby minimizing any potential for cumulative impacts to species, habitat, expenditures, or opportunities. Through this Programmatic EA process, we have requested input from the State partner agencies involved and they have not voiced that they anticipate impacts, costs, or opportunities lost that would rise to a level of significant cumulative impacts. Additionally, due to the safeguards provided in 36 CFR 800, no cumulative impacts to cultural resources would be expected. All this said, if process impacts for disposals do stack up over time, they may ultimately have significant cumulative impacts, particularly for our State agency partners. By avoiding having to do an EA for each proposal they submit, this could result in retention of WSFR-interest lands that are not meeting or needed for the original purpose for which the property was purchased. Such “compliance avoidance” could ultimately have the same result as under Alternative C, where all proposals would be denied. This is not currently foreseen as a result of Alternative A, as proposed disposals in general are relatively infrequent. But if they become more frequent, such as with climate change, this compliance avoidance could actually be realized, as would the adverse species and habitat effects, in particular. As we do not currently fully understand the trajectory of sea level rise impacts, they cannot be foreseen and therefore assessed at this time. Under alternatives A and C, they would be assessed through the EA (not significant) and EIS (significant) processes. Under Alternative C, denials result in a lack of flexibility to respond; with sea level rise, these impacts could ultimately be significant. But the existing science does not allow us to foresee those impacts at this time and are, therefore, not able to be reasonably analyzed in this document. It would be pure speculation.

#### 4.3.6 Procedural Impacts

Similar to Alternative A, this alternative (C) would require the full review of the proposal/proposed denial in an EA or EIS, rather than the Abbreviated Assessment allowed by Alternative B. As such, both alternatives A and C would be more time consuming to implement than Alternative B’s more streamlined process.

#### 4.3.7 Cumulative Impacts

There is an unlikely chance there will be cumulative impacts associated with disposals of WSFR grant acquired lands. All disposals will comply with Federal laws and regulations for environmental and historical protection (e.g., NEPA, ESA, Executive Orders 11988 and 11990, NHPA, and Tribal Treaties with the Federal government) or equivalent State or local laws and regulations (see Appendix 2).

While Alternatives A and C pose potentially higher costs through additional processing time, which may lead to missed opportunities over time, it is not anticipated that those costs or missed opportunities would cumulatively be significant; disposal requests are not particularly common and are spread out in time, thereby minimizing any potential for cumulative impacts to species, habitat, expenditures, or opportunities. Through this Programmatic EA process, we have requested input from the State partner agencies involved and they have not voiced that they anticipate impacts, costs, or opportunities lost that would rise to a level of significant cumulative

impacts. Additionally, due to the safeguards provided in 36 CFR 800, no cumulative impacts to cultural resources would be expected.

**Table 4. Summary of Environmental Consequences by Alternative**

	<b>No Action, Alternative A – Site-specific EA Needed</b>	<b>Proposed Action, Alternative B – Use of Abbreviated Assessment Process</b>	<b>Alternative C – Denial of Proposed Land Transaction</b>
<b>Physical Impacts</b>	These impacts would be similar to those under Alternative B, but would not be required to meet the same “negligible impact” standard.	If transaction includes construction, some minor and temporary construction impacts to habitat on WSFR-interest lands. For use of this alternative, impacts would have to be negligible at most.	Since the proposed action would be denied, no adverse habitat impacts would occur on WSFR-interest lands. However, some adverse impacts could be expected on nearby lands.
<b>Biological Impacts -Habitat -Listed &amp; Priority Species</b>	These impacts would be similar to those under Alternative B, but would not be required to meet the same “negligible impact” standard.	For use of this alternative, impacts would have to be negligible at most. State agencies would have to demonstrate those impacts in writing using the Abbreviated Assessment Form.	Some minor and temporary adverse affects on some species of fish and wildlife if project denied on WSFR-interest lands occurs elsewhere; potentially more impacts than with Alternative B.
<b>Cultural Resources</b>	Historic properties could be affected, but impacts would be evaluated through the Section 106 process and mitigated when impacts could occur.	No historic properties would be affected. Cultural resource surveys would be required to demonstrate this.	No negative impact to cultural resources on WSFR-interest lands, because the proposed action would be denied. This could cause some adverse impacts to such resources on nearby lands depending upon reasons for divestiture, particularly where proposed power lines or roads are the reason for divestiture.

	<b>No Action, Alternative A – Site-specific EA Needed</b>	<b>Proposed Action, Alternative B – Use of Abbreviated Assessment Process</b>	<b>Alternative C – Denial of Proposed Land Transaction</b>
<b>Socio-economic Conditions -Environmental Justice -Recreation &amp; Access -Other Financial Interests</b>	<p>The costs to the public and the State and/or applicant in most instances would be higher than alternative B.</p> <p>-Land transactions would not be required to meet the same “negligible impact” standard, so may ultimately have greater impacts to environmental justice communities, recreation, and access.</p> <p>-Other financial interests would not be impacted unless express permission to do so had been granted.</p>	<p>The costs to the public and the applicant in most instances would be reduced compared to Alternative A.</p> <p>- We anticipate that these types of public facilities should be beneficial to minorities and low income populations and communities and not have any adverse affects.</p> <p>- For use of this alternative, impacts would have to be negligible at most and demonstrated in writing using the Abbreviated Assessment Form.</p>	<p>A negative impact of denying access through WSFR-interest land is that power lines or roads would need to be longer to route around WSFR-interest lands and increase the costs for both the public and the applicant.</p> <p>- Because these facilities would be routed and constructed on private or non-WSFR-interest lands, some of these projects potentially could have an adverse (although not significant) effect on some minority or low-income populations and communities.</p>
<b>Cumulative Impacts</b>	<p>The cumulative impacts of this alternative over time could be somewhat greater than for Alternative B, primarily due to the lack of the “negligible impact” standard required for Alternative B.</p>	<p>Because of the minor or temporary nature of construction-related projects (e.g., roads) and the required compensatory mitigation and “negligible impact” standard of this alternative, we anticipate that the cumulative impacts would be minimal.</p>	<p>Could be some, especially to cost and impacts to non-WSFR-interest lands, if these projects are not designed and constructed in an environmentally sound manner, as they would not have the Federal regulatory protections.</p>

## Chapter 5 – List of Preparers

<b>Name</b>	<b>Title</b>	<b>Agency</b>	<b>Contact Info.</b>
Nell Fuller	Biologist/Grants Manager	USFWS	911 NE 11 <sup>th</sup> Ave. Portland, OR 97232
Dan Edwards	Wildlife Branch Chief	USFWS	911 NE 11 <sup>th</sup> Ave. Portland, OR 97232
Chuck James	Cultural Resources Contractor	U.S. Bureau of Indian Affairs	911 NE 11 <sup>th</sup> Ave. Portland, OR 97232

## Chapter 6 – Consultation and Coordination with the Public and Others

This EA has been prepared in consultation with the Federal Bureau of Indian Affairs, State partner agencies in Idaho, Oregon, and Washington, the public, and Native American Tribes (see Chapter 7 for the process). All Federally recognized Tribes in these three States (and one in Montana) were requested to participate via government-to-government consultation.

## Chapter 7 – Public/Agency Comment on Draft EA and Response

WSFR worked with our State partners to prepare this EA to ensure it was an accurate representation of their land transactions and their impacts. When the draft EA was ready, a notice of its availability was distributed to all State agency mailing lists and e-mail listserves for a 30 day public review period (May 2, 2011 to June 3, 2011), along with distribution to other interested regional and national groups. Tribal feedback was requested separately with individual letters to each Federally recognized Tribe in ID, OR, WA, and one tribe based in Montana. We also placed the draft EA on our website (<http://www.fws.gov/pacific/fedaid/projects.html>), with an email address to which to provide comments ([r1fa\\_grants@fws.gov](mailto:r1fa_grants@fws.gov)), so all comments would come directly to us, and requested that State partner agencies put a link to our website on their own agency websites. Additionally, Tribes requested an extension of the comment period, so it was extended for an additional two weeks (and announced on our website).

WSFR will notify those who provided comments of our final decision via direct mailing.

The section below provides a summary of comments received and WSFR's responses. Section 7.1 below is a directory of who provided comments, the date they were received, and the manner in which they were received. Section 7.2 presents specific comments from the agencies and Tribes along with WSFR's responses (no comments received from public). The comment letters are provided in Appendix 4.

## 7.1 – Comment Directory

---

<i>Commenter</i>	<i>Date</i>	<i>Form</i>
State of Washington Department of Ecology	May 31, 2011	Letter
Quileute Indian Tribe	May 26, 2011	Letter
U.S. Environmental Protection Agency	June 3, 2011	Letter

---

## 7.2 – Comments Raised and WSFR’s Responses

*Commenter:* Quileute Indian Tribe

*Comment 1 (paraphrased):* Disposal of state lands may impact the “...off-reservation reserved (not granted by Congress) treaty rights...” of “Stevens Treaty tribes.” These rights are reserved for the tribes to hunt, gather plants, and fish for subsistence and ceremonial purposes.

*WSFR Response:* Under Alternative B (Proposed/Preferred Action), we (WSFR) will engage potentially affected tribes via government-to-government consultation for **all** proposed disposals to ensure there are no adverse effects anticipated to treaty rights or that they are appropriately mitigated, if need be. We have modified the EA to incorporate this concern. Implementation of Preferred Alternative B is not expected to contravene rights reserved to federally recognized tribes (see pages 3 (section 1.5), 9-10 (#9), 10 (section 2.2.2.1 *Involvement with...*), 16 (section 3.3) and 23 (section 4.2.3), and # in the Abbreviated Assessment (Appendices 1a)).

*Commenter:* State of Washington Department of Ecology

*Comment 1 (paraphrased):* The disposal of property must be consistent with the Shoreline Management Act (SMA), the local Shoreline Master Program (SMP), and other applicable Washington Administrative Codes (WACs).

*WSFR Response:* The responsibility for compliance with these Washington State laws rests with the state and this compliance is a requirement for all grants managed by WSFR via the States’ signing of the Application for Federal Assistance. Therefore, the state will ensure that their actions are consistent with the SMA, SMP, and other WACs for all WSFR-related disposals they propose. As such, we anticipate that the implementation of the three alternatives presented herein would not result in impacts counter to these requirements. We have attempted to clarify this on pages 10-11 (end of section 2.2.2, *Documentation Required...*) and 40-43 (Appendix 1a).

*Commenter:* U.S. Environmental Protection Agency, Office of Ecosystems, Tribal, and Public Affairs, Region 10 (USEPA)

*Comment 1 (paraphrased):* We (USEPA) support the Proposed Action, Alternative B, and have increased confidence that the outcome of the land transactions would be positive or beneficial for most, if not all, affected interests.

*WSFR Response:* Comment noted.

*Commenter:* USEPA

*Comment 2:* Because public participation is an essential component of the NEPA process, it is important that the description of Alternative B be explicit about the various opportunities for public involvement.

*WSFR Response:* We have clarified the opportunities for public involvement anticipated to result from implementation of Preferred Alternative B by adding a section titled, *Involvement with Other Agencies, Tribes, and the Potentially Affected Public*, in section 2.2.2 (pages 10-11). We have also added a flow chart (see Decision Tree, Appendix 6, page 52) that shows when the public and others will be engaged in this process. In summary, under Preferred Alternative B, WSFR/State will consult with other agencies and the potentially affected public if impacts not described in this EA are anticipated. If all potential impacts are consistent with those described herein, no additional public or agency consultation would be needed. Government-to-government consultation with potentially affected Native American Tribes will be implemented for all proposed disposals, ensuring minimal, if any, impacts to National Historic Preservation Act (NHPA) resources or Tribal Treaty Rights.

*Commenter:* USEPA

*Comment 3 (paraphrased):* We (USEPA) suggest that examples be provided to indicate when the abbreviated process (Preferred Alternative B) would and would not be used.

*WSFR Response:* We believe that the description of Preferred Alternative B (section 2.2.2) makes clear when the Abbreviated Assessment process would be used: the process would be used to evaluate each proposed disposal of WSFR-interest land. If the proposal does not meet one or more of the 10 criteria described in section 2.2.2, WSFR/USFWS would first assess what impacts are anticipated and determine whether or not they are covered by this EA/FONSI. If not covered, those specific sections would go through the NEPA EA process (including public involvement) as tiered to this EA (i.e., feedback only requested for new items not included in this EA/FONSI). If the new information is voluminous (affects many different sections of the document and potentially the decision), either a site-specific EA would be prepared (as in Alternative A) or the proposal denied (as in Alternative C). All that said, we have added a flow chart to clarify and demonstrate how we anticipate this process would go (see Figure 2, page 12).

*Commenter:* USEPA

*Comment 4:* Clearly identify the recipient and required use of funds obtained as a result of encroachments on, impacts to, or disposals of WSFR lands.

*WSFR Response:* We have added Appendix 4 (page 54) to clarify where the compensatory funds will go (it depends on the grant program) and if there are required uses of that funding.

*Commenter:* USEPA

*Comment 5 (paraphrased):* Be more specific about the circumstances under which each alternative would be used.

*WSFR Response:* Under Preferred Alternative B, if a proposed disposal did not meet the 10 criteria and/or was expected to have impacts not anticipated in this EA, WSFR/USFWS will first

assess which impacts are anticipated and determine whether or not they are covered herein. If not covered, those specific sections will go through the NEPA EA process (including public involvement) as tiered to this EA (i.e., feedback only requested for items not included in this EA). If there is so much new information needing public/agency review, either a site-specific EA will be prepared (as described in Alternative A) or the proposal denied (as described in Alternative C). For clarification, under Alternative A, a site-specific EA would be completed for **all** proposed disposals (no streamlined process). Under Alternative C, we would deny **all** proposals to dispose of WSFR-lands. We have attempted to clarify this in sections 2.2.1 (page 4), 2.2.2 of this EA (page 6), and Figure 2 page 12.

*Commenter:* USEPA

*Comment 6:* What are the differences in preparation time between the completion of the 10 criteria template (Preferred Alternative B) and Alternatives A and C.

*WSFR Response:* Every project is unique. However, Preferred Alternative B has been proposed with the qualitative professional assumption that process time can be measured in weeks, as opposed to months under Alternative A, with site-specific EAs for all proposals; and Alternative C, denial of all proposals, which would entail preparing a sound rationale for and a re-education of our grantees (states) for Alternative C to be implemented, as we are currently operating under Alternative A). For each denial under Alternative C, we potentially could have to prepare a site-specific EA if the impacts of that specific denial are anticipated to be greater than the “negligible impact” standard (given their context and intensity). Additionally, Alternative C would require the state to formally propose a disposal and WSFR/USFWS would have to formally deny it. This denial letter can be quite time-consuming. We have attempted to clarify in Table 5 (page 14) of this EA. In theory and as shown, a proposal for disposal could be run through all three alternatives, but it is unlikely that state partners would want to use their limited administration dollars to belabor a project anticipated to be denied.

*Commenter:* USEPA

*Comment 7 (paraphrased):* Selected terminology used to describe Preferred Alternative B should be defined and examples of each provided (e.g., “negligible” and “meaningful”).

*WSFR Response:* As previously stated, every project is unique. As such, examples can be misleading and confusing, and so have been omitted intentionally; what a negligible or meaningful impact would be for one proposal may be significant for a different proposal. These terms are defined by each proposal’s context and intensity of impacts (i.e., significance per 40 CFR 1508.27).

*Commenter:* USEPA

*Comment 8:* Explain the circumstances under which a new road would be considered a minor or temporary impact.

*WSFR Response:* Table 6, the *Summary of Environmental Consequences by Alternative*, on pages 32-33 (section 4.4), has been edited per this comment, but we are providing a response to the question as written. A “roadway encroachment” does not necessarily mean a new road. We agree that a completely new road would have impacts that go beyond minor or temporary (and so

outside of the required criteria for Preferred Alternative B). For a completely new road, we would work with the state/federal Department(s) of Transportation proposing the new road to minimize and/or possibly mitigate the impacts to the WSFR-interest land. Each project is different and the level of impacts depends on the context and intensity of each project's impacts (i.e., significance per 40 CFR 1508.27). Thus, while it is not our preference to provide examples, we have provided one for consideration. An example of a roadway encroachment that could be minor and temporary is as a staging area for equipment needed for a road project adjacent to a parcel of WSFR-land that is proposed for ground that has already been disturbed (although we may have to consult with tribes and/or survey the area for cultural resources prior to our approval). As the site is already disturbed and no cultural resources or tribal treaty rights are impacted, the impacts of the staging would be minor, and it would be temporary because it would no longer be needed once the road project is complete.

*Commenter:* USEPA

*Comment 9 (paraphrased):* We (USEPA) support the inclusion of state-listed and priority species and habitats under criterion 9 of Preferred Alternative B.

*WSFR Response:* We have modified the EA based on this comment to affirm the inclusion of state-listed and priority species and habitats (see page 15, section 3.2.2 and Appendices 1a, #7, page 42).

**Thank you** to all who were interested in and provided comments on this EA.

## **APPENDICES**

**Appendix 1a. Abbreviated Assessment<sup>13</sup>** (see Section 2.2.2 of Programmatic EA)

**State:**

**State Area (WSFR-interest Lands) Affected:**

**Federal Grant Number:**

**Name of Proposed Project/Facility (if applicable):**

**Transaction Type (check or circle one):**

Easement  Lease  License  Exchange  Trade  Sale (Disposal)

**Compliance of the Proposed Land Transaction with the Programmatic EA Conditions**  
*(provide a brief summary of the site-specific status of the proposal and answer yes or no for each of the conditions outlined in the table below):*

Criteria	Programmatic EA - Conditions for Use of Abbreviated Review Process <sup>14</sup>	Site-Specific Status/Explanation of Anticipated Impacts	Proposal Complies with Criterion Limits (Yes or No)	New alternatives, impacts, or other info.? If yes, specify.
1. <i>Cat Ex.</i>	The proposed land transaction does not qualify for approval under an existing categorical exclusion, or the State partner agency prefers to use the Programmatic EA.			
2. <i>Purpose of Property</i>	The land transaction is proposed for property that is no longer needed for or meeting the purpose(s) for which it was originally purchased, as determined by the State agency (WSFR has the discretion to disagree).			
3. <i>Disposition Instructions</i>	The land transaction proposal includes a commitment by the State agency to a) provide replacement lands of at least equal or greater monetary (current market) <b>and</b> fish and wildlife value or b) repay a sum sufficient to purchase replacement lands of at least equal or greater monetary (current market) value <b>and</b>			

<sup>13</sup> This is a suggested format only. State partner agencies can utilize whatever format they choose, as long as all of the information is included.

<sup>14</sup> This column can be deleted when the Assessment is submitted for a specific proposal.

Criteria	Programmatic EA - Conditions for Use of Abbreviated Review Process <sup>14</sup>	Site-Specific Status/Explanation of Anticipated Impacts	Proposal Complies with Criterion Limits (Yes or No)	New alternatives, impacts, or other info.? If yes, specify.
	adequate to ensure that the fish and wildlife values of the lands directly, indirectly, and cumulatively impacted by the project are fully replaced.			
4. <i>Acreage</i>	<p>4a. The amount of FA land to be exchanged, traded, or sold, or that requires a permanent easement, lease, or license does not exceed three acres for State areas under 300 acres or 1 percent of area for State areas over of 300-1000 acres, 1 percent of State area for 1000-10000 acres (maximum of 25 acres), and 1 percent for State areas of more than 10,000 acres (maximum 100 acres).</p> <p>OR</p> <p>4b. If the WSFR land involved is not part of a larger management area, such as remote or satellite properties, the State agency must determine that the acreage involved and the resulting impacts from the loss of the federal interest on those lands would not be significant (i.e., impact limit, not acreage limit).</p>			
5. <i>Alternatives to Disposal</i>	There is no feasible and prudent alternative that would avoid the disposal of WSFR lands and the project plan includes all feasible and prudent measures to minimize the disposal of and impacts to these WSFR-interest lands.			
6. <i>Impacts, Generalized</i>	The direct, indirect, and cumulative adverse impacts of the proposed action on Wildlife and Sport Fish Restoration Program lands would be minor or temporary.			

Criteria	Programmatic EA - Conditions for Use of Abbreviated Review Process <sup>14</sup>	Site-Specific Status/Explanation of Anticipated Impacts	Proposal Complies with Criterion Limits (Yes or No)	New alternatives, impacts, or other info.? If yes, specify.
7. <i>Impacts, Specific</i>	<p>The proposed land transaction would:</p> <ul style="list-style-type: none"> <li>a. Not adversely affect Federally listed, proposed, or candidate species; and/or designated or proposed critical habitat (property involved could not be proposed or designated critical habitat); and/or state listed or priority species or habitats;</li> <li>b. Not have meaningful adverse impacts to wetlands;</li> <li>c. Not have meaningful adverse impacts to floodplains;</li> <li>d. Not result in a meaningful decrease of public access or recreation;</li> <li>e. Not result in a significant impact to another Federal or State entity with a financial interest in the property involved;</li> <li>f. Not result in disproportionate impacts to low income or minority populations; and</li> <li>g. Not result in a decrease in the amount of land designated as wilderness by either the State or Federal government.</li> </ul>			
8. <i>Infrastructure</i>	<p>The land transaction would not adversely affect historic or other cultural infrastructure resources (attach documentation), or other WSFR-interest facilities beyond the impact standard of negligibility. Facility value included in determining “market value” at time of disposal.</p>			
9(a). <i>Govt-to-Govt Consultation</i> 9(b). <i>Tribal Communication Regarding Treaty Rights</i>	<p>The land transaction would not adversely affect:</p> <ul style="list-style-type: none"> <li>9(a). Historic/cultural resources, or</li> <li>9(b). The access to and/or utilization of resources covered by Tribal Treaty Rights.</li> </ul>			

Criteria	Programmatic EA - Conditions for Use of Abbreviated Review Process <sup>14</sup>	Site-Specific Status/Explanation of Anticipated Impacts	Proposal Complies with Criterion Limits (Yes or No)	New alternatives, impacts, or other info.? If yes, specify.
10. <i>Controversy</i>	Substantial controversy regarding the proposed land transaction does not exist.			

**Note:** If any response in the “Complies” column is “No,” the USFWS should be consulted to determine if compliance could be achieved through further project modification or whether development of a site-specific EA is required.

**List of Attachments supporting analyses in Abbreviated Assessment:**

- SHPO response to first request for information
- SHPO response to Survey reports
- Archaeologist report
- THPO response to first request for information
- THPO response to Survey reports
- All other letters and responses from Tribes, the SHPO, or THPO should be inserted here
- Archaeologist Curriculum Vitae – Registered Professional Archaeologist
- Section 7 Phase 1 Form (add here other documentation used to complete Phase 1, if any)
- Section 7 Phase 2 Form, provided by WSFR
- Appraisal and Review (add here additional documentation, such as Timber Cruise Report) per Yellow Book
- State Signed SF-425 (AFA) and **complete** proposal narrative (add here relevant additional documentation)
- Map showing existing WSFR-interest land and another map showing the proposed replacement land, if applicable – if no replacement proposed, just a map of the disposal
- Other maps and documentation, as needed

**Assessment Concurrences/Approvals**

It is important to note that when a State agency signs an Application for Federal Assistance (SF-425, AFA), which is required for all grants, they have committed to complying with all appropriate state rules, regulations, and policies. As there are only a few individuals in each State agency with the authority to sign an AFA, and they typically are not the project leads (with the site-specific knowledge), WSFR will accept that the Assessment be signed by the grant project leader, as defined in the grant narrative itself. The Assessment can be submitted via email (to [RIFA\\_Grants@fws.gov](mailto:RIFA_Grants@fws.gov) and the WSFR Grant Coordinator) and can be signed digitally.

Project Leader: \_\_\_\_\_ Date: \_\_\_\_\_

WSFR Grant Coordinator: \_\_\_\_\_ Date: \_\_\_\_\_

**Appendix 1b. Abbreviated Assessment<sup>15</sup>** (see Section 2.2.2 of Programmatic EA)  
**Example of Completed Form**

**State:** “Anywhere R1 State”

**State Area (Wildlife and Sport Fish Restoration Program Lands) Affected:** “Anywhere”  
 State Wildlife Area

**Federal Grant Number:** “Anywhere R1 State” FW-4-D

**Name of Proposed Project/Facility (if applicable):** “Anywhere R1 State” Route 17  
 Realignment Project

**Transaction Type (check one):**  Easement  Lease  License  Exchange  Trade  Sale

**Compliance of the Proposed Land Transaction with the Programmatic EA Conditions**  
*(provide a brief summary of the site-specific status of the proposal and answer yes or no for each of the criteria outlined in the table below):*

Criteria	Programmatic EA - Conditions for Use of Abbreviated Review Process <sup>16</sup>	Site-Specific Status/Explanation of Anticipated Impacts	Proposal Complies with Criterion Limits (Yes or No)	New alternatives, impacts, or other info.? If yes, specify.
1. <i>Cat Ex.</i>	The proposed land transaction does not qualify for approval under an existing categorical exclusion, or the State partner agency prefers to use the Programmatic EA.	Per discussion with USFWS WSFR staff, the proposed land transaction would not qualify for approval under an existing categorical exclusion.	Yes	
2. <i>Purpose of Property</i>	The land transaction is proposed for property that is no longer needed for or meeting the purpose(s) for which it was originally purchased, as determined by the State agency (WSFR has the discretion to disagree).	The original purpose for the purchase of this property was to provide winter habitat for mule deer. As the State owns more of this habitat type than of summer range, it has been determined that adding more summer range is more of a priority at this stage than retaining the same amount of winter range.	Yes	

<sup>15</sup> This is a suggested format only. State partner agencies can utilize whatever format they choose, as long as all of the information is included.

<sup>16</sup> This column can be deleted when the Assessment is submitted for a specific proposal

Criteria	Programmatic EA - Conditions for Use of Abbreviated Review Process <sup>16</sup>	Site-Specific Status/Explanation of Anticipated Impacts	Proposal Complies with Criterion Limits (Yes or No)	New alternatives, impacts, or other info.? If yes, specify.
3. <i>Disposition Instructions</i>	The land transaction proposal includes a commitment by the State agency to a) provide replacement lands of at least equal or greater monetary (current market) <b>and</b> fish and wildlife value or b) repay a sum sufficient to purchase replacement lands of at least equal or greater monetary (current market) value <b>and</b> adequate to ensure that the fish and wildlife values of the lands directly, indirectly, and cumulatively impacted by the project are fully replaced.	The State lands involved are primarily old field habitat. The proposal includes a commitment from the State DOT to pay the State DFW the market rate for the area to be acquired from DFW.	Yes	
4. <i>Acreage</i>	4a. The amount of FA land to be exchanged, traded, or sold, or that requires a permanent easement, lease, or license does not exceed three acres for State areas under 300 acres or 1 percent of area for State areas over of 300-1000 acres, 1 percent of State area for 1000-10000 acres (maximum of 25 acres), and 1 percent for State areas of more than 10,000 acres (maximum 100 acres). OR 4b. If the WSFR land involved is not part of a larger management area, such as remote or satellite properties, the State	The proposal is for a 2.5-acre disposal by sale from a 355-acre State Wildlife Area.	Yes	

Criteria	Programmatic EA - Conditions for Use of Abbreviated Review Process <sup>16</sup>	Site-Specific Status/Explanation of Anticipated Impacts	Proposal Complies with Criterion Limits (Yes or No)	New alternatives, impacts, or other info.? If yes, specify.
	agency must determine that the acreage involved and the resulting impacts from the loss of the federal interest on those lands would not be significant (i.e., impact limit, not acreage limit).			
5. <i>Alternatives to Disposal</i>	There is no feasible and prudent alternative that would avoid the disposal of WSFR lands and the project plan includes all feasible and prudent measures to minimize the disposal of and impacts to these WSFR-interest lands.	Supporting documents are attached showing that no feasible and prudent alternative is available to avoid the WSFR lands and that all reasonable measures to minimize impacts have been adopted.	Yes	
6. <i>Impacts, Generalized</i>	The direct, indirect, and cumulative adverse impacts of the proposed action on Wildlife and Sport Fish Restoration Program lands would be minor or temporary.	The proposed land transaction involves only 2.5 acres to be permanently divested and 1.5 acres of temporary construction easement.	Yes	
7. <i>Impacts, Specific</i>	The proposed land transaction would: a. Not adversely affect Federally listed, proposed, or candidate species; and/or designated or proposed critical habitat (property involved could not be proposed or designated critical habitat); and/or state listed or priority species or habitats; b. Not have meaningful adverse impacts to wetlands; c. Not have meaningful adverse impacts to	a. No listed species or critical habitat present (see attached Phase 1 Section 7 Evaluation form dated 4/20/02). b. No wetlands are located on the site. c. Site is not located within the floodplain. d. Site is open to public access and recreation, but no facilities have been developed and, due to poor quality of existing habitats, little use is received. As such, no measurable effect to recreational access is expected. e. No other financial partners		

Criteria	Programmatic EA - Conditions for Use of Abbreviated Review Process <sup>16</sup>	Site-Specific Status/Explanation of Anticipated Impacts	Proposal Complies with Criterion Limits (Yes or No)	New alternatives, impacts, or other info.? If yes, specify.
	floodplains; d. Not result in a meaningful decrease of public access or recreation; e. Not result in a significant impact to another Federal or State entity with a financial interest in the property involved; f. Not result in disproportionate impacts to low income or minority populations; and g. Not result in a decrease in the amount of land designated as wilderness by either the State or Federal government.	have funds in the property involved. f. Disposal of site will not have disproportionate impacts on any population. g. Wilderness is not impacted (site is not proposed or designated as wilderness by the Federal or State government).		
8. <i>Infrastructure</i>	The land transaction would not adversely affect historic or other cultural infrastructure resources (attach documentation), or other WSFR-interest facilities beyond the impact standard of negligibility. Facility value included in determining “market value” at time of disposal.	Per attached report, this site does not have any WSFR-interest, historic, or cultural infrastructure.  Project surveyed, no cultural resources located, and cleared by SHPO in letter dated 4/20/02 (attached <sup>17</sup> ) and 30 days have passed with no response back from the Tribes (see attached letters soliciting comments). Also see below for Tribal communication.	Yes	
9(a). <i>Govt-to-Govt Consultation</i>  9(b). <i>Tribal Communication</i>	The land transaction would not adversely affect: 9(a). Historic/cultural resources, or 9(b). The access to and/or utilization of resources	9(a). USFWS has advised that Tribes were contacted separately from other agencies/public by USFWS. Tribes consulted: Queets and Quinalt. With their assistance, APE and survey	Yes	

<sup>17</sup> The attachments referred to here are those provided by the State as information supporting their analyses in this Form.

Criteria	Programmatic EA - Conditions for Use of Abbreviated Review Process <sup>16</sup>	Site-Specific Status/Explanation of Anticipated Impacts	Proposal Complies with Criterion Limits (Yes or No)	New alternatives, impacts, or other info.? If yes, specify.
<i>tion Regarding Treaty Rights</i>	covered by Tribal Treaty Rights.	methodologies were set. Project surveyed, no cultural resources located (report attached), and cleared by SHPO in letter dated 4/20/02 (attached <sup>18</sup> ) and 30 days have passed with no further response back from the Tribes (letters soliciting comments attached).  9(b). USFWS has advised that these two tribes do not express concern over TTRs on the parcels involved (telephone notes attached).		
10. <i>Controversy</i>	Substantial public opposition and/or controversy regarding the proposed land transaction does not exist.	The public and other agencies were contacted and asked for comments via State webpage (insert here) and directed mailings. We (the state) specified that they had 30 days to provide comments, which ended on 04/01/2002. Tribes were contacted separately by WSFR-USFWS. No comments were received. Therefore, public, agency, and Tribal opposition and controversy are expected to remain below the negligibility standard.	Yes	

**Note:** If any response in the “Complies” column is “No,” the USFWS should be consulted to determine if compliance could be achieved through further project modification or whether development of a site-specific EA is required.

**List of Attachments supporting analyses:**

<sup>18</sup> The attachments referred to here are those provided by the State as information supporting their analyses in this Form.

- Public notice announcements for comment and review: it was put into the Oregonian on April 2, 2011, and announced via emails to listserves and posting on our website [www.getnormal.gov](http://www.getnormal.gov) on this same date. Copies of each are attached.
- SHPO response letter to first request for information, April 17, 2011
- THPO/Tribal response to first request for information, May 1, 2011
- Cultural Resources Survey Report, May 30, 2011
- SHPO response to Survey reports, June 15, 2011
- THPO/Tribal response to Survey reports, June 30, 2011
- All other letters and responses from Tribes, the SHPO, or THPO should be inserted here
- Section 7 Phase 1 Form, signed and dated by appropriate State agency staff.
- Section 7 Phase 2 Form, signed and dated by WSFR Grant Administrator.
- Appraisal and Review Appraisal (add here additional documentation, such as Timber Cruise Report) per Yellow Book
- State Signed SF-425 (AFA) and **complete** proposal narrative (add here relevant additional documentation)

**Assessment Concurrences/Approvals**

It is important to note that when a State agency signs an Application for Federal Assistance (SF-424, AFA), which is required for all grants, they have committed to complying with all appropriate state rules, regulations, and policies. As there are only a few individuals in each State agency with the authority to sign an AFA, and they typically are not the project leads (with the site-specific knowledge), WSFR will accept that the Assessment be signed by the grant project leader, as defined in the grant narrative itself. The Assessment can be submitted via email (to [RIFA\\_Grants@fws.gov](mailto:RIFA_Grants@fws.gov) and the WSFR Grant Coordinator) and can be signed digitally.

Project Leader:  /s/ State WMA Manager Date:  June 18, 2011

WSFR Grant Coordinator:  /s/ WSFR Grants Specialist Date:  July 5, 2011

## **Appendix 2 - State Authorities Governing Land Acquisition and Disposal**

### ***Idaho***

TITLE 58, PUBLIC LANDS, CHAPTER 3: APPRAISEMENT, LEASE, AND SALE OF LANDS

### ***Oregon***

Our State partner agencies in Oregon did not provide us with this information.

### ***Washington***

POL 6010: Acquiring and Disposing of Real Property

## Appendix 3 – Excerpts From Relevant Portions of 43 CFR 12 and 50 CFR 80

### *Excerpt from 43 CFR 12.71(c), Real Property Disposition*

(c) *Disposition.* When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition institutions from the awarding agency. The instructions will provide for one of the following alternatives:

(1) *Retention of title.* Retain title after compensating the awarding agency. The amount paid will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) *Sale of property.* Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed that provide for competition the extent practicable and result in the highest possible return.

(3) *Transfer of title.* Transfer title to the awarding agency or to a third-party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of purchase of the real property to the current fair market value of the property.

### *Excerpt from 50 CFR 80.14, Application of WSFR Funds*

(a) States must apply Wildlife and Sport Fish Restoration Program funds only to activities or purposes approved by the Regional Director. If otherwise applied, such funds must be replaced or the State becomes ineligible to participate.

(b) Real property acquired or constructed with Wildlife and Sport Fish Restoration Program funds must continue to serve the purpose for which acquired or constructed.

(1) When such property passes from management control of the State fish and wildlife agency, the control must be fully restored to the State fish and wildlife agency or the real property must be replaced using non-Federal funds not derived from license revenues. Replacement property must be of equal value at current market prices and with equal benefits as the original property. The State may have up to 3 years from the date of notification by the Regional Director to acquire replacement property before becoming ineligible.

(2) When such property is used for purposes that interfere with the accomplishment of approved purposes, the violating activities must cease and any adverse effects resulting must be remedied.

(3) When such property is no longer needed or useful for its original purpose, and with prior approval of the Regional Director, the property must be used or disposed of as provided by 43 CFR 12.71 or 43 CFR 12.932.(c) Wildlife and Sport Fish Restoration Program funds cannot be used for the purpose of producing income. However, income-producing activities incidental to accomplishment of approved purposes are allowable. Income derived from such activities must be accounted for in the project records and disposed of as directed by the Director.

**Appendix 4 – Where Returned/Compensatory Funds Go For Each Grant Program**

The table below shows where compensatory funds for each grant program will go and if there are any restrictions on how those funds are spent.

<b>Land Acquiring Grant Program</b>	<b>Where compensatory funds go upon return to federal coffers</b>	<b>Restrictions on future use of those returned/compensatory funds</b>
Wildlife and Sport Fish Restoration Programs and State Wildlife Grants	Remain with the State agency for future projects under this program.	Requirements that govern the Wildlife and Sport Fish Restoration Programs: Wildlife Restoration Act (Pittman-Robertson PR) of 1937; Sport Fish Restoration Act (Dingell-Johnson (DJ) Act of 1950); and The SWG Program (517 FW 10)
Landowner Incentive Plans	US Treasury, as this program no longer exists.	NA
Coastal Wetlands Conservation Grants	Back to the National pool specific to this funding source.	50 CFR 84 – Will be awarded in the following year’s nationally competitive awards.
Boating Access Program	Remain with the s=State agency for future projects under this program.	
Boating Infrastructure Grants	After 3 fiscal years fund revert to the Secretary of Transportation for use in State recreational boating safety programs	16 U.S.C. 777c(b)(3)(B), 16 U.S.C. 777c(b)(4))
Clean Vessel Act	Remain with the State agency for future projects under this program.	Will be awarded in the following year’s competitive awards.
Section 6 – Cooperative Endangered Species Conservation Fund	Back to the National pool specific to this funding source.	Will be awarded in the following year’s nationally competitive awards.

## Appendix 5: Comment Letters Received

Comment letters below are from:

1. Quileute Indian Tribe
2. Washington Department of Ecology
3. U.S. Environmental Protection Agency

Thank you to all who were interested in and provided comments on this EA.



### Quileute Natural Resources QUILEUTE INDIAN TRIBE

234 Front Street • Post Office Box 187  
LaPush, Washington 98350  
Phone: (360) 374-5695 • Fax: (360) 374-9250



May 26, 2011

Mr. Dan Edwards  
USFWS/WSFR  
911 NE 11<sup>th</sup> Avenue  
Portland, OR 97232

Re: Draft Programmatic Disposal EA

Dear Sir:

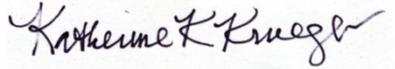
Because of some time lost in transfer of Dr. Caslick's May 2<sup>nd</sup> letter to me and the brevity of time afforded in general, I am making these initial comments for the Quileute Tribe, but a formal letter in from our elected officials will follow later next week. The time will be close to June 3<sup>rd</sup>, which is why I want to file this letter now--to assure we preserve comments of some nature before the deadline.

Briefly, Quileute is a "Stevens Treaty" Tribe in WA State with off-reservation *reserved (not granted by Congress)* treaty rights to hunt, gather plants, and fish. The first two rights in particular are affected when public lands are divested into private ownership or made into "no hunt/gather" parklands. Throughout WA, ID, and OR are other similarly situated "Stevens Treaty" tribes.

This "Draft Programmatic Environmental Assessment for small land disposal" does not describe where the affected lands are, but any time divestitures lie within the off-reservation treaty areas of such tribes, the reserved treaty game/plant/fish rights are impacted. This is different from preservation of a listed or threatened species. It is a harvest right for subsistence and ceremonial purposes, not covered by the NHPA or state correlatives.

In any such divestiture situations, the affected tribe needs the guarantee of government-to-government consultation and may require mitigation for harm (loss to subsistence/ceremonial game/gathering). *No alternative* describes this protection of treaty right and all of them must have it added. A formal letter from our elected officials will follow.

Sincerely,

A handwritten signature in black ink that reads "Katherine Krueger". The signature is written in a cursive style with a large initial 'K'.

Katherine Krueger, Staff Attorney,  
Quileute Natural Resources  
(360) 374-2265, [katie.krueger@quileutenation.org](mailto:katie.krueger@quileutenation.org)



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

May 31, 2011

Dan Edwards  
USFWS/WSFR  
911 NE 11<sup>th</sup> Avenue  
Portland, OR 97232

RE: Wildlife and Sport Fish Restoration Program

Dear Mr. Edwards:

Thank you for the opportunity to comment on the Draft Programmatic Environmental Assessment for a Streamlined Method for Approving Encroachments into and Divestitures of State Lands Acquired with Wildlife and Sport Fish Restoration Program Funds. We have reviewed the documents and have the following comments.

**SHORELANDS & ENVIRONMENTAL ASSISTANCE:**

**Alex Callender (360) 407-6167**

The disposal of property must be consistent with the Shoreline Management Act (SMA) and the local Shoreline Master Program (SMP). Long term planning that avoids piecemeal development should be considered.

**WASTE 2 RESOURCES: Mike Drumright (360) 407-6397**

If greater than 250 cubic yards of inert, demolition, and/or wood waste is used as fill material, a solid waste handling permit is required from the local jurisdictional health department. Standards apply as defined by Washington Administrative Code (WAC) 173-350-990-Criteria for Inert Waste.



Mr. Edwards  
May 31, 2011  
Page 2

Ecology's comments are based upon information provided by the Washinton State Department of Fish and Wildlife. As such, they may not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action.

If you have any questions or would like to respond to these comments, please contact the appropriate reviewing staff listed above.

Sincerely,



Gwen Clear  
Environmental Review Coordinator  
Central Regional Office  
(509) 575-2012

536



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 10**  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
ECOSYSTEMS, TRIBAL AND  
PUBLIC AFFAIRS

June 3, 2011

Mr. Dan Edwards  
USFWS/WSFR  
911 NE 11<sup>th</sup> Avenue  
Portland, Oregon 97232

Re: U.S. Fish and Wildlife Service Wildlife and Sport Fish Restoration Program (WSFR) in Region 1 (Washington, Oregon, and Idaho only) – Draft Programmatic Environmental Assessment for a Streamlined Method for Approving Encroachments into and Divestitures of State Lands Acquired with Wildlife and Sport Fish Restoration Program Funds (Region 10 Project Number 11-019-FWS).

Dear Mr. Edwards:

The U.S. Environmental Protection Agency has reviewed the Draft Programmatic Environmental Assessment for a Streamlined Method for Approving Encroachments into and Divestitures of State Lands Acquired with Wildlife and Sport Fish Restoration Program Funds (Programmatic EA). We are submitting comments in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. We appreciate this opportunity to participate.

The U.S. Fish and Wildlife Service propose to streamline the NEPA process for dealing with minor encroachments or disposals of land purchased with WSFR funds. Rather than continue to prepare a site-specific Environmental Assessment (EA) for each minor land disposal or encroachment decision that cannot be Categorical Excluded under USFWS NEPA implementing regulations (**Alternative A**, No Action), USFWS would instead apply an abbreviated assessment process only to those proposed land transactions that meet all of the 10 conditions stated in the Proposed Action, **Alternative B** (section 2.2.2 of the Programmatic EA). **Alternative C** would deny the proposed land transactions if the Regional Director, acting through the WSFR Chief and in consultation with the appropriate State partner agency, determines that the applicant would not be allowed to use WSFR-interest lands.

We support the Proposed Action, Alternative B. By meeting all 10 conditions of the Programmatic EA as described in Alternative B, we would have increased confidence that the outcome of the land transactions would be positive or beneficial for most, if not all, affected interests, including those for which the WSFR land acquisition program was established. This confidence is based upon the rationale provided in the Programmatic EA (such as, pages 16, 17, 20, 21) wherein USFWS indicates that the standard conditions required by the Programmatic EA are not guaranteed outcomes via a site specific EA or even via denial of a proposed land transaction.

We do, however, offer the following comments, which are intended to clarify and possibly strengthen aspects of the Programmatic EA to ensure that the intent, purpose, and directives of NEPA are met.

**Be clear that the requirements of the Council on Environmental Quality (CEQ) NEPA implementing regulations are addressed by the proposed streamlined procedure.** The example provided in Appendix 1b indicates in Condition 10 that the public, other agencies and Tribes were given 30 days for comments on the proposed land transaction. This is the only reference in the Programmatic EA to the 30-day EA comment period. Condition 10 of Alternative B (p. 10) discusses public process, but does not indicate the number, timing, or duration of opportunities for gathering public comment within the proposed streamlined procedure. Because public participation is an essential component of the NEPA process, it is important that the description of Alternative B be explicit about the various opportunities for public involvement.

The streamlined process must also be in accord with other CEQ directives for implementing NEPA, such as, at 40 CFR Section 1500.1:

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.

**Provide examples.** The Programmatic EA states (p. 7) that the abbreviated process would apply to proposed land transactions that do not qualify for approval under an existing categorical exclusion, or the State agency prefers to have the proposed land transaction processed under the Programmatic EA. It would be helpful to provide both examples of land transactions that would qualify as categorical exclusions and those that would be appropriate for consideration under the streamlined process. Such examples could be listed within the text, or as a footnote to Section 2.2.2, Condition 1.

The Programmatic EA (p. 14) also states that under Alternatives A and B, “all practical measures” would be undertaken to minimize potential project impacts on the fish and wildlife within WSFR-interest lands. We recommend providing a list of examples of these practical measures, so that the public and decision maker can discern the relative level of effort that would be expended to minimize impacts under the streamlined procedure. For example, if road right-of-way is requested from WSFR lands, we would anticipate that siting, design, and mitigation features such as wildlife crossings and fencing would be among the practical measures taken to avoid, minimize, and otherwise mitigate impacts.

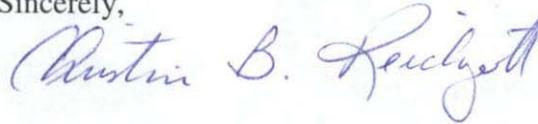
**Clearly identify the recipient and required use of funds obtained as a result of encroachments on, impacts to, or disposals of WSFR lands.** The Programmatic EA (p. 15, 4.1.2.1 Habitat Impacts) states that purchase of lands with comparable habitats to those being lost, or reimbursing the Federal government (elsewhere in the Programmatic EA referred to as the U.S. Treasury) are acceptable means to offset unavoidable adverse impacts. While it may be an acceptable outcome to purchase replacement lands, it would not likely meet the intent of the WSFR program if funds received as compensation for impacts were deposited as general funds into the U.S. Treasury with no required disbursement to the WSFR program. The Programmatic EA needs to be consistent and clear throughout the document when discussing payments to offset impacts to WSFR lands to identify where funds would be channeled and how they would be used.

**Where needed, refine the description of the alternatives and explanation of their outcomes. Specifically:**

- It is unclear whether Alternative C would be applied in all cases concerning proposed WSFR land encroachments/disposals that do not qualify for Categorical Exclusions, or whether an EA would in each case be prepared (Alternative A), and that denial is only one potential outcome (i.e., Alternative A and C would both be applied, with Alternative C likely occurring only as a small subset of Alternative A actions). The Programmatic EA should clearly state to what extent (likelihood and relative frequency) and under what circumstances Alternative C would be applied if selected as the Preferred Alternative.
- The Programmatic EA frequently points to the time required to prepare an EA as a reason for choosing Alternative B. However, there is no indication of the difference in time anticipated for preparing an EA vs. the time needed to provide a complete and adequate response to the 10 conditions of Alternative B (such that it meets the above CEQ directives for implementing NEPA). We recommend including time estimates to compare implementation of Alternatives A, B, and C.
- The 10 conditions of Alternative B are often referred to as thresholds that must be met (p. 20, 21) or else a site-specific EA is required to be prepared. Where the conditions/thresholds use terminology such as “negligible” effects and “meaningful” impacts (p. 28), these terms should be defined and examples provided.
- Roadway encroachments are used as an example of a proposed project that could be addressed under the streamlined process in Alternative B. However, there is no explanation of the circumstances under which a new road would be considered a minor or temporary impact. We recommend this be clarified.
- Condition 9 of Alternative B (p. 28) states that a proposed land transaction would not adversely affect Federally listed, proposed, or candidate species, and/or designated or proposed critical habitat. However, elsewhere in the document (p. 12, 3.2.2, p. 18, 4.2.2.2) “priority species” are included in this condition, along with State listed Threatened or Endangered species and Species of Greatest Conservation Need in a State’s Wildlife Action Plan. We support the inclusion of the State listed and priority species, and recommend that the Programmatic EA be clear as to whether or not state listed and priority habitats and species are included under Condition 9.

Thank you for the opportunity to offer comment on this Programmatic EA. We're hopeful that it will provide anticipated benefits to species and habitats of concern throughout Washington, Oregon, and Idaho. If you have questions or would like to discuss these comments, please contact me at (206) 553-1601 or at [reichgott.christine@epa.gov](mailto:reichgott.christine@epa.gov) , or contact Elaine Somers of my staff at (206)553-2966 or at [somers.elaine@epa.gov](mailto:somers.elaine@epa.gov).

Sincerely,

A handwritten signature in blue ink that reads "Christine B. Reichgott". The signature is written in a cursive style with a large, prominent initial 'C'.

Christine B. Reichgott, Manager  
Environmental Review and Sediment Management Unit

## Appendix 6 – References

U.S. Federal Highway Administration. 23 Part 774. Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f)), The Safe, Accountable, Flexible, Efficient Transportation Equity Act, Pub. L. 109-59, August 10, 2005, 119 Stat 1144.

USFWS Region 3 Federal Aid Office. Generic Environmental Assessment: A Streamlined Method for Approving Minor Encroachments into and Divestitures of Minor Amounts of State Lands Acquired with Federal Aid Funds, February 2004.

USFWS Region 3 Federal Aid Office. Finding of No Significant Impact for the Generic Environmental Assessment, February 2004.

National Oceanic and Atmospheric Administration, Fisheries Service, Office of Protected Resources. <http://www.nmfs.noaa.gov/pr/species/criticalhabitat.htm> Accessed Jan. 4 and 6, 2012.

National Oceanic and Atmospheric Administration, Fisheries Service, Office of Protected Resources. <http://www.nmfs.noaa.gov/pr/glossary.htm#esu> Accessed Jan. 06, 2012.

State of Washington Department of Ecology, Comment Letter, May 31, 2011.

Quileute Indian Tribe, Comment Letter, May 26, 2011.

U.S. Environmental Protection Agency, Comment Letter, June 3, 2011.

36 CFR 800. Protection of Cultural Resources.

The White House. Executive Order 11988. Floodplain Management. May 24, 1977, as amended.

The White House. Executive Order 11990. Protection of Wetlands. May 24, 1977, as amended.

U.S. Department of the Interior. 50 DM 8. Managing the NEPA Process—U.S. Fish and Wildlife Service.

U.S. Department of the Interior. 43 CFR 46. Implementation of the National Environmental Policy Act (NEPA) of 1969; Final Rule. October 15, 2008.

43 CFR 12. Administrative and Audit Requirements and Cost Principles for Assistance Programs.

50 CFR 80. Administrative Requirements, Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts.

40 CFR 1500-1508. The National Environmental Policy Act of 1969, as amended.

The White House. Presidential Memorandum for the Heads of Executive Departments and Agencies. Tribal Consultation. November 5, 2009.

The White House. Executive Order 13175. Consultation and Coordination with Indian Tribal Governments. November 6, 2000. 65 FR 67249.

The White House. Executive Order 13007. Indian Sacred Sites. 61 FR 26771.

The White House. Executive Order 12898. Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations. February 11, 1994.

USFWS. The Native American Policy of the United States Fish and Wildlife Service. June 28, 1994.

The White House. Executive Office of the President. Guidance for Implementing E.O. 13175. Consultation and Coordination with Indian Tribal Governments.” July 30, 2010.

The White House. Presidential Memorandum for the Heads of Executive Departments and Agencies. Government-to-Government Relationship with Tribal Governments. September 23, 2004.

Secretarial Order 3206. American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act.

**Appendix 7. List of Federal Threatened and Endangered Species and Critical Habitat**

<b>Common Name</b>	<b>Scientific Name</b>	<b>Status</b>	<b>Critical Habitat in 50CFR</b>
Butterfly, Fender's blue	<i>Icaricia icarioides fenderi</i>	E	17.95(i)
Butterfly, Oregon silverspot	<i>Speyeria zerene hippolyta</i>	T	17.95(i)
Caribou, woodland	<i>Rangifer tarandus caribou</i>	E	
Catchfly, Spalding's	<i>Silene spaldingii</i>	T	
Checker-mallow, Nelson's	<i>Sidalcea nelsoniana</i>	T	17.96(a)
Checkermallow, Wenatchee Mountains	<i>Sidalcea oregana</i> var. <i>calva</i>	E	
Chub, Borax Lake	<i>Gila boraxobius</i>	E	17.95(e)
Chub, Hutton tui	<i>Gila bicolor</i> ssp.	T	
Chub, Oregon	<i>Oregonichthys crameri</i>	T	17.95(e)
Dace, Foskett speckled	<i>Rhinichthys osculus</i> ssp.	T	
Daisy, Willamette	<i>Erigeron decumbens</i> var. <i>decumbens</i>	E	17.96(a)
Deer, Columbian white-tailed	<i>Odocoileus virginianus leucurus</i>	E	
Desert-parsley, Bradshaw's	<i>Lomatium bradshawii</i>	E	
Fairy shrimp, vernal pool	<i>Brachinecta lynchi</i>	T	17.95(h)
Four-o'clock, MacFarlane's	<i>Mirabilis macfarlanei</i>	T	
Fritillary, Gentner's	<i>Fritillaria gentneri</i>	E	
Lomatium, Cook's	<i>Lomatium cookii</i>	E	17.96(a)
Lupine, Kincaid's	<i>Lupinus sulphureus</i> (=oreganus) ssp. <i>kincaidii</i> (=var. <i>kincaidii</i> )	T	17.96(a)
Lynx, Canada	<i>Lynx canadensis</i>	C, T	19.95(a)
Meadowfoam, large-flowered woolly	<i>Limnanthes floccosa</i> ssp. <i>grandiflora</i>	E	17.96(a)
Murrelet, marbled	<i>Brachyramphus marmoratus</i>	T	17.95(b)
Owl, northern spotted	<i>Strix occidentalis caurina</i>	T	17.95(a), 17.95(b)
Paintbrush, golden	<i>Castilleja levisecta</i>	T	
Peppergrass, Slickspot	<i>Lepidium papilliferum</i>	T	
Plover, western snowy	<i>Charadrius alexandrinus nivosus</i>	T	17.95(b)
popcornflower, rough	<i>Plagiobothrys hirtus</i>	E	
Rabbit, pygmy	<i>Brachylagus idahoensis</i>	E	
Salmon, Chinook	<i>Oncorhynchus</i> (=Salmo) <i>tshawytscha</i>	E, T	17.95(e), 226.204, 226.205, 226.212
Salmon, chum	<i>Oncorhynchus</i> (=Salmo) <i>keta</i>	T	17.95(e), 226.2112

<b>Common Name</b>	<b>Scientific Name</b>	<b>Status</b>	<b>Critical Habitat in 50CFR</b>
Salmon, coho	Oncorhynchus (=Salmo) kisutch	E, T	17.95(e), 226.210, 226.212
Salmon, sockeye	Oncorhynchus (=Salmo) nerka	E, T	19.95(e), 226,205, 226.212
Sea turtle, green	Chelonia mydas	T	226.208
Sea turtle, leatherback	Dermochelys coriacea	E	17.95(c), 226.207
Sea-lion, Steller	Eumetopias jubatus	E, T	226.202
Snail, Bliss Rapids	Taylorconcha serpenticola	T	
Snail, Snake River physa	Physa natricina	E	
Springsnail, Bruneau Hot	Pyrgulopsis bruneauensis	E	
Squirrel, northern Idaho ground	Spermophilus brunneus brunneus	T	
Steelhead	Oncorhynchus (=Salmo) mykiss	E, T	17.95(e), 226.212
Stickseed, showy	Hackelia venusta	E	
Sturgeon, white	Acipenser transmontanus	E	
Sucker, Modoc	Catostomus microps	E	17.95(e)
Sucker, Warner	Catostomus warnerensis	T	17.95(e)
Thelypody, Howell's spectacular	Thelypodium howellii spectabilis	T	
Trout, bull	Salvelinus confluentus	T	17.95(e)
Whale, killer	Orcinus orca	E	17.95(a)
Wire-lettuce, Malheur	Stephanomeria malheurensis	E	17.96(a)
Wolf, Gray	Canis lupus	DM, E, XN	17.95(a)

## **Appendix 8 – Finding of No Significant Impact**

# **FINDING OF NO SIGNIFICANT IMPACT**

Pursuant to 40 CFR 1508.13 and 550 FW 1-3

## **Streamlining WSFR's Disposal Process**

U.S. Fish and Wildlife Service, Region 1 Wildlife and Sport Fish Restoration Program  
**Programmatic Environmental Assessment** for a Streamlined Method for Approving Small Disposals of State Lands Acquired with Wildlife and Sport Fish Restoration Program Funds

### **I. Summary**

The U.S. Fish and Wildlife Service's (USFWS) Region 1 Wildlife and Sport Fish Restoration (WSFR) Program proposes to streamline the process of approving a real property disposal requested by a state partner agency in Idaho, Oregon, or Washington by using the information analyzed and criteria established in this Programmatic Environmental Assessment. WSFR's current process mandates the preparation of an expensive and time consuming environmental assessment (EA) for all requested disposals from State partner agencies. While these requests are relatively atypical, WSFR needs this new streamlines process to prevent inefficiencies and delays in grant processing and approvals in order to complete an EA for even the smallest disposal.

This Programmatic EA, which is herein incorporated by reference, creates a streamlined process for real property disposal analysis that provides a hard and critical look at the impacts of each disposal. The criteria identified require impacts to be less than negligible, given their context and intensity, versus the current NEPA<sup>1</sup> standard that requires impacts fall below the level of "significance" to utilize an EA. WSFR cannot afford the staff or funds for the average EA, let alone for projects anticipated to have significant impacts, and thus requiring the more formal EIS process.

### **II. Alternatives Considered**

First, USFWS/WSFR considered those process components that would occur under all of the alternatives, specifically the government-to-government cultural resources process and the process for evaluating impacts to Tribal Treaty Rights.

Next, USFWS/WSFR analyzed three alternatives in detail, including the following:

- Alternative A: No Action Alternative – This is WSFR's current process for handling disposals of WSFR-interest land that are proposed by our State partner agencies; we are required to prepare an EA at a minimum for every disposal, regardless of the context and intensity of impacts. Although WSFR typically receives only a few requests each year, all staff have full time grant management workload, so the added responsibility of

---

<sup>1</sup> NEPA is the National Environmental Policy Act of 1969, as amended. 40 CFR 1500-1508.

preparing separate EAs and decision documents for each disposal request results in delays and inefficiencies that effect our grantee agencies.

- **Alternative B: Proposed Action and Preferred Alternative** – This alternative presents a streamlined process for considering, assessing, and deciding on a proposed disposal. It includes a set of criteria that must be met for the proposal to be covered under the Programmatic EA, rather than writing a separate EA for each of them. The criteria establish an impact threshold specifying that effects of implementation of any proposal cannot be greater than negligible, given the context and intensity of impacts (direct, indirect, and cumulative). It also includes a template that State partner agencies could work through prior to submitting their request to WSFR; this will save the State’s time by knowing exactly what information is needed to demonstrate meeting the “negligibility” threshold, and will save WSFR time in reviewing and approving (or not) a proposed disposal.
- **Alternative C: Denial** – Under this alternative, WSFR would challenge the State partner agencies’ definitions of “useful, needed for, or meeting the purpose...” This refers to the regulatory requirement that, to dispose of WSFR-interest land, the land must no longer be useful, needed for, or meeting the purpose for its original purchase. These challenges would likely result in more denials (and adversarial relationships) than are anticipated under either Alternative A or B. While it appears on its face to be the quickest way to navigate through WSFR’s process, the opposite is true. Such a denial would involve much back and forth communication between WSFR and the State partner agency involved (and possibly their Commission and/or Legislators) before actually denying a proposal. Additionally, preparation of an EA (or EIS) might still be needed to fully assess the impacts of denying a proposed disposal of a property versus allowing its disposal. So this would likely be the lengthiest process among the three alternatives. This would also degrade WSFR’s relationship with its State partner agencies, as it shows a procedural and potentially adversarial lack of trust in their determinations.

For more detail, please refer to Chapter 2 (Alternatives) in the Programmatic EA.

### **III. Alternative Selected for Implementation**

Alternative B, the Proposed Action and Preferred Alternative, was selected over the other alternatives because:

- It best meets the Purpose and Need, by appropriately streamlining the WSFR disposal process.
- State partner agencies reviewed and supported this alternative (WA and ID provided feedback, OR<sup>2</sup> did not). WSFR specifically requested that they test the template provided

---

<sup>2</sup> While Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands are part of Region 1, they were excluded from this EA/FONSI because there are many island-specific details and parties to consider that do not exist in the mainland portion of the region. We are considering a companion programmatic EA for HI and the territories, but no decision has been made yet to begin that process.

on an actual disposal (past or future), and WA and ID staff concurred that it was useful to meet the requirements and supported the potential time and funding saved by its use.

- The use of this alternative will have fewer adverse effects than Alternative A, as it holds WSFR and their State partner agencies to a standard specifying that impacts of a given proposal cannot be greater than “negligible” for all impacts (positive and/or negative), versus the “non-significance” impact threshold of an EA (per NEPA).
- It is more flexible than Alternative C, in that WSFR would not attempt to actively challenge a State’s assertions regarding whether a piece of property is useful, needed for, or continues to meet the original purpose for which the property was acquired. It will be evaluated but WSFR will make every attempt to defer to State partner agencies when considering how useful or needed a piece of property is or whether it is/is not still meeting the original purpose for purchase.
- The pace of the streamlined process would, ideally, result in quicker decisions, than under alternatives A or C, provided that all criteria are met and other compliance completed.
- The template provided for State partner agencies to utilize for proposed disposals allows them to know exactly what information WSFR needs to make their decision on a proposed disposal. A proposal will either fit within the criteria or not. There is a decision tree in the Programmatic EA that walks through this proposed process (Figure 2).
- Compared against alternatives A and C, this alternative is superior for maintaining and continuing to improve WSFR’s relationship with State partner agencies by making the disposal process less cumbersome and less adversarial.

#### **IV. Potential Effects/Impacts to the Human Environment**

The alternative chosen for implementation, Alternative B, was designed to avoid any impacts that would be greater than “negligible.” State partner agencies can demonstrate this using the Abbreviated Assessment provided in Appendix 1 of the Programmatic EA (or other format, providing the same information). If proposals cannot meet this standard, State partner agencies can attempt to either modify or mitigate their proposal to bring the impacts below negligibility (and be covered by the Programmatic EA for NEPA compliance), or they can work with WSFR to develop a separate site-specific EA or EIS.

That said, there will be impacts, albeit negligible impacts, resulting from WSFR’s decision to implement Alternative B. Thus, the decision would be expected to result in the following environmental, social, and economic effects:

- Physical Impacts – Impacts to physical structures from a proposed disposal, either purchased with the land (with WSFR funds) or added after purchase, have to be included in any valuation process. Because of this alternative’s requirement for adverse impacts not to be greater than negligible, this alternative was felt to have fewer adverse effects than under Alternative A. The standard there is “significance,” which is typically a more accommodating impact threshold than “negligible.”

- Biological Impacts – All unavoidable direct, indirect, and cumulative adverse impacts to fish and wildlife and habitats would be considered in determining the amounts and types of compensatory mitigation that would be required of the State partner agency. Similarly, if outright disposal is desired by the State agency, WSFR would ensure, through the Abbreviated Assessment process, that either the impacts to biological resources would be negligible or lands with comparable biological attributes purchased to replace the disposed lands, particularly for those attributes that are included in the original purpose for purchase.
  - Habitat (including Floodplains and Wetlands per Executive Orders 11990 and 11988) – Typically WSFR grant funds are utilized to purchase land with specific biological attributes. For example, Wildlife Restoration (Pittman-Robertson) funds can only be spent for lands with habitat for wild birds and/or mammals. Therefore, the species and habitats on parcels proposed for disposal will be carefully evaluated and any requests for reimbursement or replacement will include these biological attributes, the impacts to which are limited to “negligible” under this alternative.
  - Listed and Priority Species, and Critical Habitats – There are 48 species that are currently federally listed as threatened or endangered in ID, OR, and WA combined (FWS and National Marine Fisheries Service [NMFS]). This number grows by quite a bit if the salmonids are broken out by their Evolutionarily Significant Units (NMFS) or Distinct Population Segments (FWS). There is designated and proposed critical habitat for 28 species (both FWS and NMFS jurisdiction) in these three states combined. Additionally, there are protected and priority species and habitats designated by these states. For the federally listed/proposed species, WSFR will not allow any take, nor will it allow the disposal of any designated or proposed critical habitat.
  
- Cultural Resources – Across all alternatives, the process for government-to-government consultation with potentially affected tribes to consider a given proposal’s impacts to cultural resources is the same. This process also includes involvement from the State Historic Preservation Officer. As there are no differences between alternatives, the impacts from implementation of Alternative B are synonymous with those of Alternatives A and C. As such, and noting that nothing in this process is being altered away from the current process, there will not be a difference (and therefore impact) resulting from the decision to implement Alternative B.
  
- Tribal Treaty Rights – Across all alternatives, the process for working with potentially affected tribes to assess potential impacts to Tribal Treaty Rights is the same. As there are no differences between alternatives, the impacts from implementation of Alternative B are synonymous with those of Alternatives A and C. As such, and noting that nothing in this process is being altered relative to the current process, there will not be a difference (and therefore impact) resulting from the decision to implement Alternative B.
  
- Socio-economic Resources – Use of the Abbreviated Assessment will allow the approval process for proposed disposals to proceed more quickly than under alternatives A or C. As such, it is expected that the process will cost less, benefitting all. This would allow

State partner agencies to respond to opportunities in a more timely fashion, allowing them to avoid forgoing opportunities due to delays related to preparing a site-specific EA (A) or arguing against disposal (C).

- Environmental Justice – This is specifically and intentionally included in the Abbreviated Assessment to ensure WSFR and its State partner agencies do not engage in proposals that will disproportionately impact any one community.
  - Recreation and Access – Will not be altered more than negligibly, as specified in the Abbreviated Assessment. It details that amounts and types of recreation can only be negligibly impacted, as well as access, so WSFR expects that the scope of recreation and access will not be impacted more than negligibly.
  - Other Financial Interests – State partner agencies will ensure that all financial interests and requirements stemming therefrom will be evaluated and not impacted, unless permission has been granted to do so and documented by the financial partner(s) involved.
- Climate Change (impacts to and from sea level rise) – The pace of the process following the implementation of Alternative B is expected to be faster than under alternatives A or C. This will allow State partner agencies to quickly act on sea level rise impacts (e.g., exchanging a widespread habitat type for one that will be rarer with sea level rise), which will be imperative to responding appropriately to sea level rise and not losing opportunities in a changing world.
  - Cumulative Impacts – While there is expected to be a cumulative cost savings over time from implementation of Alternative B, due to the infrequency and size of proposed disposals, it is not expected for this cost savings to be significant based on WSFR's current expenditures for implementation of the status quo process (Alternative A).

The need for measures to avoid, minimize, mitigate, or modify a proposal would be present through the use of the Abbreviated Assessment. WSFR has determined it to be acceptable to allow mitigation, etc. to be included in a proposal to bring the anticipated adverse impacts below negligible. This would be determined on a case-by-case basis.

This project and its compliance are neither precedent-setting nor would have normally required an EIS.

For more detail, please refer to Chapters 3 and 4 (Affected Environment and Environmental Consequences) in the Programmatic EA.

## **V. Minimization/Mitigation of Adverse Effects/Impacts**

At this time, WSFR does not propose any specific measures to mitigate and/or minimize adverse effects from a programmatic perspective. That said, there is nothing that prevents WSFR from requiring avoidance, mitigation, or minimization measures to ensure a given proposed disposal fits within the established criteria and negligible impact threshold. These measures will be evaluated on a case-by-case basis as part of the Abbreviated Assessment process (or other, similar format).

Even if, on balance, the effects of a given disposal are expected to be beneficial, WSFR must explore the adverse impacts, and has proposed to do so with the Abbreviated Assessment process. Thus, if beneficial impacts are expected to rise to a level of significance, given the context or intensity, or if a proposal is anticipated to have greater than negligible adverse effects at any time during implementation, WSFR will not approve the requested disposal before preparing separate site-specific NEPA compliance documentation.

## **VI. Significance of Anticipated Impacts**

The proposal is not expected to have any significant effects on the human environment because this programmatic environmental assessment concludes there will not be significant effects on the human environment from the preferred alternative.

Pursuant to this analysis, and given the frequency and acreage of most proposed disposals, WSFR's relationship with their State partner agencies, the standard requiring impacts be less than negligible, and the Abbreviated Assessment process (essentially, the parameters established under Alternative B) none of the impacts anticipated to result from implementation of the Proposed Action alternative (B) are significant, positively or negatively.

If a given proposal cannot meet the defined impact threshold of "negligible" adverse impacts (or significant benefits), the proposal will either need to be modified or mitigated to reduce the adverse impacts below "negligible" or benefits below "significance." If a proposed disposal is modified or mitigated for, the required actions to be taken by State partner agencies will become "conditions" upon which the proposal's approval will be based. If these conditions are not met or upheld, the State partner agency is conducting actions not covered by their existing compliance documentation; WSFR may deny the use of funds on those activities or require a refund for the WSFR funds utilized on uncovered activities, if funds have already been allocated/spent.

If a proposal cannot be modified or mitigated to meet these standards, it will require preparation of a separate site-specific EA for that proposal before WSFR can make an approval decision. It is this caveat that allows WSFR to say that implementation of the agency's Proposed Action will have negligible adverse effects on the human environment.

The primary benefits of the decision to implement Alternative B are:

- The speed with which WSFR can process a proposed disposal,
- State's up-front knowledge of the requirements and documentation needed to meet the criteria (using the Abbreviated Assessment, as an example),
- Continued maintenance of WSFR's positive relationship with the State partner agencies in the FWS Region 1,
- Improved consolidation and management of State ownerships and management, and
- Additional funds available to purchase habitats that are needed, useful for, or meeting the purpose for which the original land was purchased.

While these are important benefits, they are not anticipated to be significant due to the limited number of requests each year and their typical acreage, as demonstrated using the Abbreviated Assessment (or other similar format). If the benefits from a given proposed disposal are anticipated to be significant, the procedural assumption is that there are also some relevant adverse impacts (greater than negligible) that need further exploration, so a separate NEPA document would be prepared.

For more detail, see Chapter 4 (Environmental Consequences) of the Programmatic EA.

## **VII. Coordination and Feedback**

The proposal has been thoroughly coordinated with all interested and/or affected parties. WSFR worked with the ID, OR, and WA State partner agencies to prepare the Programmatic EA to ensure it was an accurate representation of their land transactions and their impacts.

When the draft EA was ready, a notice of its availability was distributed to all State agency mailing lists and e-mail listserves for a 30 day public review period (May 2, 2011, to June 3, 2011), along with distribution to other interested regional and national groups. Tribal feedback was requested separately with individual letters (government-to-government) to each federally recognized Tribe in ID, OR, WA, and one tribe based in Montana. The draft EA was also placed on Region 1 WSFR's website (<http://www.fws.gov/pacific/fedaid/projects.html>), with an email address to which to provide comments ([r1fa\\_grants@fws.gov](mailto:r1fa_grants@fws.gov)), so all comments would come directly to WSFR, who also requested that State partner agencies put a link to WSFR's website on their own agency websites. Additionally, Tribes requested an extension of the comment period, so it was extended for an additional two weeks (and announced on the Region 1 WSFR website).

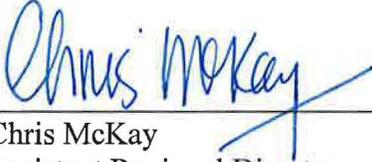
Other parties contacted to provide feedback on the draft Programmatic EA include:

- All BIA Supervisors for the federally recognized tribes in ID, OR, and WA, and the one in MT
- U.S. EPA Region 10
- All State partner agencies that have purchased land with WSFR funds in ID, OR, WA, such as the Washington Department of Ecology; the fish and wildlife agencies in ID, OR, and WA, who were also contacted for feedback prior to the draft document's release; the Oregon Department of State Lands, Oregon Watershed Enhancement Board, etc.

The determination made with this FONSI will be sent in hard copy to each of the commentors (U.S. EPA, WA Dept of Ecology, and Quileute Indian Tribe), and will be posted on WSFR's Region 1 website. No other parties provided feedback or requested continued involvement; thus, this is the extent of our announcement of the availability of the EA, FONSI, and decision. Parties who visit WSFR's website will have access to all documents.

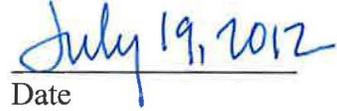
For more detail regarding coordination and communication, refer to Chapters 6 and 7 of the Programmatic EA.

**Therefore, it is my determination that the proposal does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). As such, an environmental impact statement is not required. An environmental assessment has been prepared in support of this finding and is available upon request to the FWS facility identified above.**



---

Chris McKay  
Assistant Regional Director  
Migratory Birds and State Programs



---

Date

**References:**

U.S. Fish and Wildlife Service, Region 1, Wildlife and Sport Fish Restoration Program  
Programmatic EA for a Streamlined Method for Approving Encroachments into and Divestitures  
of State Lands Acquired with WSFR Program Funds