

Proposed WCB Appraisal Policy Change
February 16, 2023

STAFF RECOMMENDATION

This proposal is to consider an amendment to the Wildlife Conservation Board Appraisal Review and Disclosure Policy as adopted in 2012 and amended in 2013.

BACKGROUND

On January 1, 2005, Public Resources Code section 5096.500, *et seq.* (the Laird Bill) became operative which governed appraisals for acquisitions of land, or interests in land, funded the Wildlife Conservation Board and other state agencies and conservancies. Initially, the Laird Bill set a threshold for additional appraisal requirements for a “major acquisition” which was defined as “an acquisition where an agency proposes to spend more than twenty-five million dollars (\$25,000,000) of state funds” (former Public Resources Code section 5096.501(c)). For major acquisitions, the acquisition agency was required to contract for an independent appraisal of the fair market value of the land, or interest in land, to be acquired and also contract for an independent appraisal review.

At the February 24, 2011, and September 13, 2011, meetings of the Wildlife Conservation Board (WCB), discussions were held regarding acquisition project appraisals. Members of the public offered comments and Board members asked questions concerning the appraisal review process and public disclosure of appraisal information. In response to the discussions at both meetings, on September 13, 2011, the Board directed staff to continue working on recommendations regarding appraisal reviews and public disclosure of appraisal information for acquisition projects involving large acreages of land and high dollar value acquisitions.

At the May 31, 2012, Board meeting, staff presented the Wildlife Conservation Board Appraisal Disclosure Policy (the Appraisal Policy) for adoption by the Board. The Appraisal Policy introduced an independent appraisal requirement for a “substantial acquisition” which was defined as “the grant or use of State bond funds to acquire an interest in real property comprising 5,000 acres or more or for which the WCB proposes to allocate five million dollars (\$5,000,000.00) or more of State funds.” This requirement did not apply to grants under the California Rangeland, Grazing Land and Grassland Protection Program which has its own independent appraisal requirement (Public Resources Code section 10338 (b)). In addition to the independent appraisal requirement, for either a major acquisition or a substantial acquisition, WCB was required to contract for an independent appraisal review of the appraisal and post the independent appraisal review on the WCB website not less than 30 days in advance of WCB holding a public hearing to consider the acquisition project. All appraisals are still required to undergo review and approval by the Department of General Services.

Effective January 1, 2013, Public Resources Code section 5096.501(c) was amended to define major acquisition as “an acquisition for which one or more

agencies propose to spend more than fifteen million dollars (\$15,000,000) of state funds” (SB 1266 (2012)). The Public Resources Code was also amended to delete the requirement that a state agency is required to contract for an independent appraisal for a major acquisition (former Public Resources Code section 5096.511). Instead, the law allowed for either the state agency or the project partner to contract for the independent appraisal when there was over \$150,000 in state funds proposed for expenditure or grant. In addition, SB 1266 added Public Resources Code section 5096.512(d)(2)(E) which states that “An acquisition agency shall not utilize property acreage as a categorical threshold to impose an independent review of an appraisal pursuant to this section.” In response to SB 1266, at its March 11, 2013, meeting, the Board amended the Appraisal Policy to delete the 5,000-acre threshold in the definition of a “substantial acquisition.” Other amendments were made to the Appraisal Policy to conform to requirements in SB 1266, including requirements related to appraiser qualifications. However, the Board retained requirements relating to WCB being required to contract for an independent appraisal for any projects where over \$5,000,000 in state funds was proposed for expenditure. The Appraisal Policy remains unchanged since it was last amended in 2013.

INFORMATION REGARDING APPLICATION OF THE APPRAISAL POLICY

Since 2020, WCB had five projects defined as a “*Substantial Acquisition*” that required WCB staff to obtain a State contracted appraisal and independent appraisal review. On average, these extra layers of appraisal and independent review added between 5-8 months onto the projects’ timelines, for a total 30 months onto these projects collectively. An extra 30 months to these projects may seem insignificant, however, when WCB has limited staffing available (at present, six Right of Way Agents state-wide), the additional work involved in contracting for an appraisal and an independent appraisal review, takes time away from other conservation projects the Right of Way Agents could be working on. This policy, while well intentioned, has significantly slowed down WCB’s ability to deliver land protection in an era of increasingly more expensive land deals.

PROPOSED AMENDMENT TO THE APPRAISAL POLICY

*WILDLIFE CONSERVATION BOARD
APPRAISAL REVIEW AND DISCLOSURE POLICY
(AMENDED MARCH 2013)
(AMENDED FEBRUARY 2022)*

The Wildlife Conservation Board (WCB) is authorized by statute to acquire, and make grants for the acquisition of, interests in real property to preserve and protect fish and wildlife and provide suitable recreation throughout the State. The purchase price for the real property must not exceed fair market value as established by an approved appraisal.

To ensure public confidence in amounts paid and procedures used for the acquisition of real property, while also ensuring that transactions can proceed

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efficiently and expeditiously, before approving an acquisition project where an agency proposes to spend more than \$215 million of State funds, WCB must also have the appraisal reviewed by a qualified independent appraiser and make the independent review report available to the public.

~~Chapter 394, Statutes of 2012 (SB 1266) extends the independent appraisal review requirement to any acquisition for which one or more agencies propose to spend more than \$15 million of State funds and makes other changes to existing law, all of which became effective on January 1, 2013.~~

To continue to ensure public trust and confidence in the WCB acquisition process, provide additional transparency in the purchase of real property, and conform to the requirements of the Public Resources Code ~~SB 1266~~, independent review and disclosure of appraisal information as provided for in the following policy is deemed appropriate.

Therefore, it is the policy of the Wildlife Conservation Board that:

For proposed projects involving a ~~“Substantial Acquisition” (as defined below)~~ or a “major acquisition” of “conservation lands” (as defined in Public Resources Code section 5096.501¹),

- ~~1. WCB staff shall contract for an independent appraisal of the fair market value of the property or interest to be acquired (unless the project is a proposed grant under the California Rangeland, Grazing Land and Grassland Protection Program²).~~

¹ As of January 1, 2013, a “*Major acquisition*” is defined in Public Resources Code section 5096.501 (c) as an acquisition for which one or more agencies propose to spend more than fifteen million dollars (\$15,000,000.00) of state funds. “*Conservation lands*” is defined in Public Resources Code section 5096.501 (b) as any land or interest therein to be acquired by an acquisition agency, or that is owned by the state. (“*Acquisition agency*” is defined in Public Resources Code section 5096.501 (a) as the Wildlife Conservation Board, the Department of Parks and Recreation, or a state conservancy.)

~~²Under Public Resources Code section 10338 (b) each application for a grant under the California Rangeland, Grazing Land and Grassland Protection Program must include “an independent and impartial appraisal prepared by a real estate appraiser who is licensed pursuant to the Real Estate Appraisers’~~

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~~The independent appraisal must:~~

~~(a) — be prepared by a licensed appraiser³ in good standing pursuant to the Real Estate Appraisers' Licensing and Certification Law⁴ who does not have a financial interest in the property being appraised and is qualified to appraise the specific property⁵; and~~

~~Conform to the Uniform Standards of Professional Appraisal Practice (USPAP); the Department of General Services ("DGS") regulations in California Code of Regulations, Title 2, Section 1880; and any other applicable State laws and policies including, without limitation, any applicable requirements of Chapter 1.695 (beginning with Section 5096.500) of Division 5 of the Public Resources Code (together, "Applicable Requirements").~~

~~For purposes of this policy, "Substantial Acquisition" means the grant or use of State bond funds to acquire an interest in real property for which the WCB proposes to allocate five million dollars (\$5,000,000.00) or more of State funds.~~

1. WCB staff shall contract for an independent technical review ("*independent review*") of the appraisal for each ~~Substantial Acquisition~~ and major acquisition of conservation lands unless, in the opinion of staff, the appraisal fails to meet Applicable Requirements. The independent review must be performed by a qualified independent appraiser who is licensed pursuant to the Real Estate Appraisers' Licensing and Certification Law,² did not conduct the appraisal under review and has no financial interest in the proposed project.³

The independent review must include a field review⁴ and meet the requirements of Standard 3 of USPAP and written instructions issued by staff. The written instructions shall call for an independent review consistent with this policy that includes the reviewer's opinions about the quality of the entire appraisal report under review (without the reviewer's own opinion of value), the reasonableness of the fair market value conclusion and whether or not the appraisal conforms to Applicable Requirements, all of which must be provided in a written narrative report. The narrative review report shall contain at least the information and opinions in *Appendix A* to this policy, including a summary of the appraisal, a statement of the basis on which the value of the land was established, the conclusion of highest and best use, a description of the

~~Licensing and Certification Law (Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code)."~~

~~³Fish and Game Code section 1348.2~~

~~⁴Public Resources Code section 5096.517(b)~~

~~⁵Public Resources Code Section 5096.510 (b)(3) and (c)~~

² Public Resources Code section 5096.512 (a)(2)

³ Public Resources Code section 5096.512 (a)(1)

⁴ A "*field review*" must include a field inspection of the subject property (and, if improved, an inspection of the exterior and interior of the improvements) as well as independent verification and analysis of the appropriateness and completeness of market and other data. Such verification and analysis may also require field inspection of properties used as comparable sales.

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standards used to prepare the appraisal, and a determination of whether or not the appraisal meets the relevant standards established under USPAP.⁵

2. WCB staff shall provide the independent review report to the DGS during its review and evaluation of the appraisal for any ~~Substantial Acquisition or~~ major acquisition of conservation lands that staff anticipates recommending to the WCB for approval. If DGS approves the appraisal and staff will be recommending the proposed project to the WCB for approval, then not less than 30 days in advance of the WCB holding a public hearing to consider such recommendation, staff shall post the independent review report on the WCB website (www.wcb.ca.gov). The independent review report may omit any proprietary information provided by or on behalf of the seller or that is otherwise exempt from public disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

~~Public Resources Code section 5096.511—5096.513.~~

~~3. This policy is intended to provide additional appraisal review and public disclosure of appraisal information for 6—10 percent of the total number of acquisition projects approved by WCB, representing 40—50 percent of the acquisition funding allocated by WCB. If implementation of this policy does not meet these goals, subject to approval of the Board, the Executive Director may recommend changes to assist in achieving these policy goals.~~

~~WCB staff shall report to the WCB on the effectiveness of the appraisal review process after this policy has been in effect for at least 12 months, but no longer than 18 months. At a minimum, the report shall include data such as the number of projects impacted by the policy represented as a percentage of WCB acquisition projects approved during the 12—18 month time period and the WCB dollar allocations impacted by the policy represented as a percentage of the total dollars allocated by the Board during the 12—18 month time period.~~

~~The report shall also include a cost benefit analysis of the policy and include at a minimum, such information as the cost associated with implementing the policy, any impact the policy has had on staff workload necessary to complete a project, any impact the policy has had on the appraisal industry and availability of WCB to commission appraisers and independent reviewers and any indicators of public satisfaction or dissatisfaction with the nature of the appraisal reviews.~~

⁵ Public Resources Code section 5096.512 (b)

Appendix A

Appraisal Review Report Contents

The independent review report shall be a written narrative report that meets the requirements of Standard 3 of USPAP, including certification, and contains at least the information and opinions set forth in this *Appendix A*. The independent review report shall also include an explanation or supporting rationale for any opinions rendered by the reviewer.

1. **IDENTIFICATION OF APPRAISAL PROBLEM:** Identification of the appraisal report under review, the appraiser who performed the appraisal under review, the property and ownership interests appraised, the date of the report under review and the effective date of the value estimate reported.
2. **REVIEW APPRAISER QUALIFICATIONS:** Statement of the knowledge and experience that qualifies the review appraiser to perform the scope of work performed in the review. These qualifications may include, depending on the review assignment's scope of work and without limitation, familiarity with the specific type of property or asset, regional real estate market, geographic area, analytic method, appraisal process and laws, regulations and guidelines.
3. **REVIEWER'S SCOPE OF WORK:** Description of the scope of work performed in the independent review and a reasoning for why the scope of work is sufficient to produce credible assignment results in accordance with USPAP Standards Rule 3-1 (c).
4. **APPRAISAL SUMMARY:** Summary of the appraisal report.⁶ The summary shall be a synopsis that addresses significant data, facts and conclusions, including the conclusion of the highest and best use and the opinion of fair market value in the appraisal under review. If the appraisal under review includes proprietary information provided by or on behalf of the seller (e.g., trade secrets or confidential income, lease or other financial data) or information that is otherwise exempt from public disclosure pursuant to the California Public Records Act, the review report may omit such information.
5. **COMPLIANCE WITH STANDARDS:** Description of the standards used to prepare the appraisal under review⁷ and the reviewer's opinion as to whether or not the appraisal under review meets the relevant standards established under USPAP⁸; the Department of General Services regulations in California Code of Regulations, Title 2, Section 1880; and any other applicable State standards.

⁶ Public Resources Code § 5096.512 (b)(1)

⁷ Public Resources Code § 5096.512 (b)(3)

⁸ Public Resources Code § 5096.512 (b)(4)

6. **APPRAISER'S ANALYSIS:** The reviewer's opinion as to whether or not the appraiser properly identified and inspected the subject property, researched sufficient relevant data, and analyzed and applied the data to arrive at credible and reasonable opinions or conclusions.
7. **APPRAISAL METHODS:** The reviewer's opinion as to the appropriateness of the appraisal methods and techniques used, including an explanation of the reason(s) for any disagreement(s).
8. **ADEQUACY AND QUALITY OF APPRAISAL:** Within the scope of work applicable to the appraisal review assignment, the reviewer's opinion as to the adequacy and quality of the entire appraisal report under review, including the completeness of the appraisal report under review, given the laws, regulations, and client instructions and specifications applicable to the report under review. The independent review report shall include a copy of the client instructions and specifications for the appraisal under review.
9. **SPECIALTY INTERESTS:** An appraisal report that attributes more than a nominal value to specialty interests, such as but not limited to timber, water or minerals, may require a separate review prepared and signed by a certified or registered professional qualified in the field of the specialty interest.
10. **DATA QUALITY:** The reviewer's opinion as to the comprehensiveness and accuracy of the comparable sales, lease and other data on which the appraiser's estimate of fair market value was based, including the accuracy of mathematics.
11. **BASIS OF VALUE:** Statement of the basis on which the value of the land or interest was established, including the conclusion of highest and best use and the actual comparable sales data (including ranges for sales price and acreage and other comparable sales information the review appraiser deems appropriate and necessary) but excluding any matrices or tables showing adjustments to comparable sales.
12. **APPRAISAL CREDIBILITY:** The reviewer's opinion as to the appropriateness, reasonableness and credibility of the analysis, opinions and conclusions in the appraisal report including the reason(s) for any disagreement(s).
13. **AREAS OF DISAGREEMENT:** Discussion of any area(s) of disagreement including the reason(s) for any disagreement(s).
14. **CONTACT WITH APPRAISER:** Discussion of any contact with the appraiser to answer any questions the independent reviewer may have.
15. **CHANGED CIRCUMSTANCES:** If during the appraisal review process the independent reviewer became aware of circumstances arising after the date of value of the appraisal under review that might have changed the actual current

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value of the subject property, the review report should note the outcome of any communications between the review appraiser and the appraiser (either directly or through the client) regarding such circumstances and possible impacts to the opinion of value as well as any additional analysis on the part of the appraiser that was performed or might be needed to revise or update the appraisal as a result of any such changed circumstances.

As shown below, Table 1 compares the type of information currently required for appraisals and from an appraisal review report (Public Resources Code Section 5096.512 (b)), the current appraisal policy, and what would be required under the WCB appraisal policy as amended by this proposal.

Table 1
Comparison of
Independent Appraisal Review Requirements

Threshold Requirements	Public Res. Code Sec. 5096.512	WCB Policy	Proposed WCB Policy Changes
WCB must maintain independent review appraiser	✓	✓	✓
\$15 million or more in State funds	✓	✓	✓
\$5 million or more WCB allocation		✓	
Review Appraiser Requirements			
Did not prepare original appraisal	✓	✓	✓
Licensed pursuant to Business & Professions Code	✓	✓	✓
No interest in proposed project	✓	✓	✓
Desk review allowed	✓		
Field review of subject property (& comps in appropriate) required		✓	✓
Confirm data contained in appraisal report is accurate & complete		✓	✓

Appraisal Review Report Requirements	Public Res. Code Sec. 5096.512	WCB Policy	Proposed WCB Policy Changes
Narrative format required	✓	✓	✓
Summarize appraisal	✓	✓	✓
Describe standards used to prepare appraisal	✓	✓	✓
State basis on which land value was established	✓	✓	✓
State appraiser's conclusion of highest & best use		✓	✓
Comply with USPAP Standard 3		✓	✓

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Appraisal Review Report Requirements	Public Res. Code Sec. 5096.512	WCB Policy	Proposed WCB Policy Changes
If applicable, review of specialty interest valuation such as timber, water or mineral rights		✓	✓

Opinions Required of Appraisal Reviewer	Public Res. Code Sec. 5096.512	WCB Policy	Proposed WCB Policy Changes
Appraisal compliance with USPAP	✓	✓	✓
Appraisal compliance with DGS & State standards		✓	✓
Adequacy & quality of appraisal		✓	✓
Reasonableness or analysis & conclusions		✓	✓
Comprehensiveness & accuracy of researched data		✓	✓
Appropriateness, reasonableness and credibility of appraisal		✓	✓

JUSTIFICATION FOR RECOMMENDATION TO AMEND THE APPRAISAL POLICY

WCB would like to amend its appraisal policy to better facilitate landscape scale conservation. The recent California State budgets and corresponding legislation have entrusted WCB with nearly 1 billion dollars in conservation funding. While WCB does both restoration and acquisition, much of that state funding will be spent on landscape scale acquisitions. This is an exciting time to be a land protection practitioner in California. WCB staff, working with the support of Executive Director Donnelly, are requesting the Board amend the Appraisal Policy for the following reasons:

Cutting the Green Tape. To “cut the green tape” and make the acquisition process less time consuming for CDFW and grantees like land trusts, other state agencies, universities, special districts, federal agencies, tribes, and local governments, WCB staff is asking for this minor change to the appraisal policy. This minor change would allow WCB to rely on 3rd party appraisals for projects over \$150,000.00, consistent with Public Resources Code section 5096.510. In addition, this change would also apply to independent appraisal reviews and only require them when a project reaches the 15-million-dollar threshold identified in Public Resources Code section 5096.512. This will speed up the acquisition process in some cases by 8 months. This time savings is based on the typical time it takes WCB to create requests for appraisal bids, score all the potential proposals, interview prospective appraisers, write state contracts, and ultimately award the appraisal contract. Relying on 3rd party appraisals will remove this timing constraint and allow WCB to deliver acquisitions in a manner that is timelier. Furthermore, it will allow WCB to deliver more projects each year. In

addition, private sellers often have timing constraints in purchase and sale agreements within which they will sell their property to conservation buyers, and delays in the appraisal process can endanger these conservation transactions to the detriment of habitat conservation. Due to the time necessary for state contracting, WCB has lost significant conservation opportunities that would have added substantial acres to the conservation goals outlined in WCB's strategic plan and the State 30 x 30 goals.

No Substantial Benefits. Since instituting the appraisal policy there has not been a significant benefit from the extra independent appraisal review nor has WCB contracting for its own appraisal made any difference in a project's success or valuation. The added reviews and delays have contributed to projects' failure rate which has been seen with multiple projects recently, both of which needed to move much faster to be successful. Ultimately, projects are still approved and time and money are spent on redundancy of unnecessary reviews. The Department of General Services (DGS) continues to provide WCB, and other state agencies, appraisal reviews and it has the experience to give objective reviews based on the expertise of its staff. For example, WCB staff and grantees often communicate and compare appraisals. More often than not, the valuation differences are minor or the values are the same. Furthermore, there are so few appraisers experienced with DGS review, often the same appraiser will appraise the same particular parcel for both the State and the Grantee. Currently, according to DGS, WCB appraisals have a less than 15% rejection rate. Most often these rejections by DGS are overcome within the text of the appraisal, because DGS needed more information about access to the subject property, the appraisal did not contain an updated title report, or some small technicality. It is rare that a rejection is made and a valuation subsequently changed.

Minimal Staff and Maximum Benefits. Since 1947, WCB has delivered important habitat conservation to the people and wildlife of California and done it in a manner that has garnered trust from the Legislature, CDFW, and WCB's project partners. From 2012 to 2021 WCB has delivered 456 acquisition projects often with minimal staffing. WCB's small, dedicated staff have built a foundation of trust with all our conservation partners. With this change to the appraisal policy, it will allow WCB to continue the tradition of delivering landscape scale conservation in a state with more than 40 million people while alleviating additional work for staff and allowing important conservation projects to proceed expeditiously.

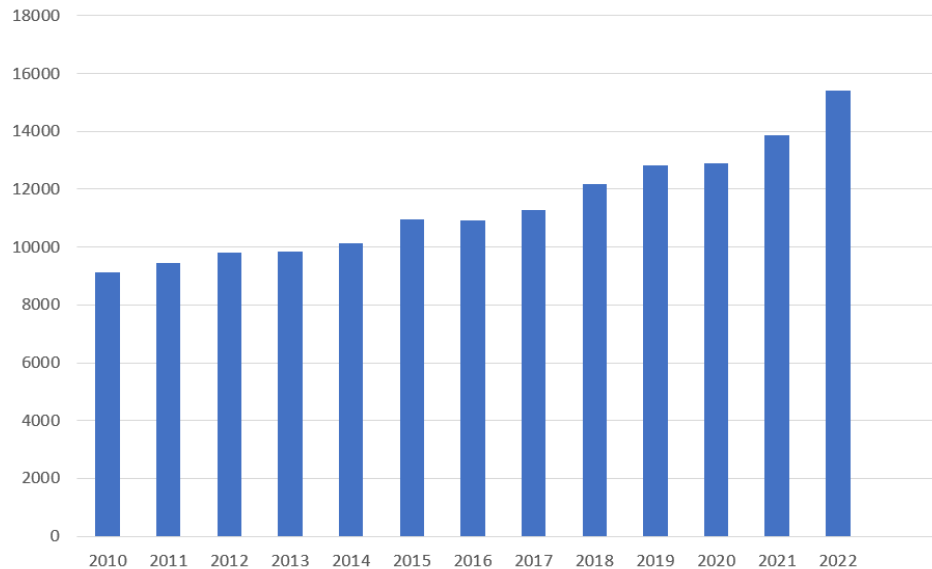
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Inflationary Environment. The Appraisal Policy was last amended in March 2013, nearly 10 years ago. At that time, the 5-million-dollar threshold for WCB independent appraisal and appraisal review seemed appropriate. In the succeeding 10 years, the average price of an acre of land has risen substantially. For example, in 2016 WCB purchased the Cherokee Farms for CDFW for \$2,440,000, or about \$9,000 an acre. Cherokee Farms is now part of the Upper Butte Basin Wildlife Area. Today, just 6 years later, a property similar to Cherokee Farms, the Anatra Duck Club, recently sold for nearly \$13,000 an acre. These properties are very similar, high quality wetland duck clubs located in Butte County. This upward trend in the real estate is nothing new and marks a 30% increase over a 6-year period. While market fluctuations are nothing new in real estate, it is anticipated that property values will continue to trend upward in the long-term, despite some temporary short-term drops that may occur. Over the same time period, the cost of rice ground and row crops with surface water has often doubled in value. Corresponding increased valuations in conservation easement appraisals have also been realized.

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Average Acre Cost of California Croplands Source:
USDA Land Value Summaries August 2010-August 2022



State Agency Continuity in Appraisal Policy. To work better with our other state agency partners, including State Parks, the State Coastal Conservancy, the California Department of Conservation, CAL FIRE, the Department of Water Resources, DGS, and Caltrans, it would help if WCB's appraisal policy was closer to the standard DGS policy that governs all state acquisitions and defines a "major acquisition" as anything over \$15,000,000. Having a separate appraisal policy that is more restrictive causes unnecessary delays for WCB especially when other state agencies that are often spending from similar sources of funds do not have the same restrictions. Having a policy that is in line with other state agencies makes for a unified process for grantees across all state agencies funding an acquisition process. Staff reached out to all the above state agencies, has found none of them have any internal appraisal policies above and beyond current state law.

Future Projects. Since WCB moved to the new application process, and due to the high levels of state general funds available for the next 5 years, WCB has experienced a flood of important conservation project applications. Many of these projects are landscape size and are considered "*Substantial Acquisitions*" under the current appraisal policy. During budgeting exercises and communications with potential grantees, mostly in the form of pre-applications and full applications, WCB identified 12-15 projects that are requesting more than \$5 million in state funds. These 12-15 projects make up \$210,645,000 of WCB allocated funding. Under the current appraisal policy, it is estimated each of these projects will be burdened by an additional 5-8 months of appraisal contracting and independent review.

STAFF RECOMMENDATION

Staff recommends that the Board approve the policy as amended.