

CFAR PROVISIONAL PILOT POLICY – PUBLIC AND PRIVATE INTERESTS

Date: March 28, 2022
To: Chehalis Basin Board
From: Nat Kale, OCB Planner
cc: Andrea McNamara Doyle, Office of Chehalis Basin; Jerry Louthain, French & Associates; Jenn Tice and Lauren Dennis, Ross Strategic
Re: Addressing conflicts between private interests and local public policy in the CFAR program

Background

At the February 3, 2022 Chehalis Basin Board meeting, Chrissy Bailey requested guidance from the Board for establishing policies for the Community Flood Assistance and Resilience (CFAR) program. The specific policies discussed address situations where the interests of the landowner stand in opposition to the informal, non-adopted interests of the local government or its representatives.

The Board members agreed that a local government's informal discussions to adopt a plan or fund projects is not sufficient to not provide financial assistance to property owners. However, they also felt the CFAR program should give local government the opportunity and time to decide whether their plan will be formally adopted before providing financial assistance to property owners.

Draft Policy

OCB staff and consultants plan to use the following language to guide CFAR's policy regarding conflicts between private landowner interests and formal or informal local government interests during the project pilot:

- (1) CFAR will not fund a project to protect a property where the project would be contrary to a local government adopted ordinance, plan, or policy.
- (2) In situations where it is unclear whether a project would be contrary to a local government adopted ordinance, plan, or policy, CFAR staff will consult with local government staff to determine if there is a conflict, and if so, whether the project can be modified to avoid the conflict.
- (3) When a representative of a local government opposes a project, but there is no adopted ordinance, plan, or policy that would contravene the project, CFAR will provide the local government a reasonable amount of time to clarify the legal status by formally adopting an ordinance, plan, or policy. If the local government makes no formal change, then CFAR will

determine whether to proceed with the project using established internal guidance and criteria.

Explanation of Draft Policy

The CFAR program is committed to working cooperatively with local governments. Policies (1) and (2) above defer to local governments, acknowledging that they have authority over land use, zoning, and community development.

Policy (3) recognizes a general principle that citizens have a right to provide input on government decisions that affect them. Adopting ordinances, plans, or policies requires a public process, which gives citizens an opportunity to raise objections or concerns. Informal preferences or internally circulated papers have not gone through the same public process, and so citizens have not had the same opportunity to challenge them.

At the same time, Policy (3) affirms CFAR's commitment to working with local governments by providing an opportunity for them to formalize preferences or opinions that may have previously been informally assumed, or that may be working their way through an adoption process.