

**WAC 173-700-421 Permanent protection.** (1) Bank sites must be permanently protected and preserved as specified in the instrument. The department requires that the sponsor use a legal mechanism to ensure the permanent protection and preservation of the site. Generally, the department shall require a conservation easement.

(2) The department may approve other legal and administrative mechanisms, in lieu of a conservation easement, if it determines they are adequate to protect the site.

(3) The legal mechanisms must:

(a) Be approved by the department and secured prior to any release of credits;

(b) Limit site activities that are incompatible or interfere with the goals, purposes, and ecological functioning of the site;

(c) Transfer with the property;

(d) Contain a provision requiring a sixty-day advance notification to the department before any action is taken to void or modify the mechanism, including transfer of title, or establishment of any other legal claims over the bank site;

(e) Require the easement holder of the bank to notify and receive approval from the department for any proposal to use the bank in a manner that is inconsistent with the conservation easement or other approved legal mechanism; and

(f) Grant the department and its designated representatives the right to enter the bank at reasonable times for the purpose of evaluating compliance with the terms of the instrument and the conservation easement or other approved legal mechanism.

[Statutory Authority: Chapter 90.84 RCW. WSR 09-19-013 (Order 04-13), § 173-700-421, filed 9/3/09, effective 10/4/09.]