

A Policy Analysis of the Role of Working Land Conservation Easements Using Dedicated Lottery Funds*

Executive Summary

To assess the role of working land conservation easements in achieving the Oregon Watershed Enhancement Board's constitutional mission of watershed protection and restoration using lottery funds, grant programs in three other states, experiences of seven of Oregon's land trusts, information from four federal grant programs, and input from interested parties were reviewed, compiled and evaluated. The resulting report proposes policies to help guide the use of OWEB lottery funds on working land and make these funds more effective in achieving the goals set forth in the Constitution.

Working Land Conservation Easement Funding Programs in Other States

The state easement funding programs reviewed (Colorado, Maryland and Washington) all provide grants for acquiring conservation easements on working land. Colorado's Open Space Program (funded by the lottery) is targeted primarily at preserving open space and important ecological values but recognizes the importance of working land in achieving these goals. The Maryland Agricultural Land Preservation Foundation (funded by a real estate transfer tax) is focused primarily on preservation of farm and forest land but has ancillary environmental goals. Washington's Farmland Preservation Program (funded by tax exempt general obligation bonds) is intended primarily to preserve farmland but can include funds for protection and restoration of ecological resources. Washington's Salmon Recovery program (also funded by bonds) targets restoration and protection of salmon habitat, sometimes on working land. Acquisitions are



The 492 acre Coffey Ranch, east of Prineville. Photo by Brian Ouimette.

mostly *in fee*, often generating public opposition when this results in taking agricultural land out of production. Maryland was the only state with an overarching state-wide agricultural plan.

The four funding programs utilize two fundamentally different approaches: (a) a state-wide evaluation of competing grant applications with the distribution of grant funds across the state determined by the location of the highest ranked projects (Washington's Farmland Preservation Program, Colorado's Open Space Program), and (b) a local or regional evaluation of competing grant applications with the distribution of grant funds across the state predetermined by formula (Washington's Salmon Recovery program, Maryland's Agricultural Land Preservation Foundation).

Coordination with other state and federal funding programs varied and depended on compatibility of program policies and procedures, other institutional barriers, and personalities. Of the three states evaluated, the Colorado Open Space Program appeared to be

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the most effective at minimizing institutional barriers and providing good communication with federal programs and grant recipients (including land trusts), due in part to a less rigorous and more flexible approach to allocating funds.

Staffing levels of the state programs varied considerably, depending primarily on the frequency of grant cycles (ranging from biennial to twice annually) and the role of staff in board support, policy setting, rulemaking, project evaluation, grant administration, monitoring, and addressing legal disputes (including litigation). Maryland's Agricultural Land Preservation Program—the oldest program evaluated—had the largest staff (seven plus assistance from other agencies) and Washington's Farmland Preservation Program—the newest program—the smallest (0.5 FTE).



Balancing farm use and riparian health at Aspen View Ranch, Mill Creek. Photo by Brad Nye.

Oregon Land Trusts

The Oregon land trusts reviewed for this report (Columbia Land Trust, Deschutes Land Trust, Greenbelt Land Trust, McKenzie River Trust, Oregon Rangeland Trust, Southern Oregon Land Conservancy, and The Wetlands Conservancy) all have acquired conservation easements on working lands. Reasons depend on each land trust's mission and include: preserving farming, ranching and forestry as an important economic activity and valued way of life; preserving vistas of working land; fostering sustainable

agricultural and forestry practices; and preserving important ecological values, including migration corridors, priority habitat, water quantity and quality, and sensitive, threatened and endangered species.



Stein's Pillar, fields, and Mill Creek. Photo by Brian Quimette.

The land trusts acquire easements from landowner donations or through purchase with the assistance of a variety of local, state and federal funding, including: private contributions, foundations, and grants from the Oregon Watershed Enhancement Board, North American Wetlands Conservation Act, Bonneville Power Administration, U.S. Fish and Wildlife, and National Fish and Wildlife Foundation. Land trusts' approaches to prioritizing acquisitions varied from opportunistic (depending on landowners coming forward with a proposed donation or sale), to highly strategic, utilizing a variety of decision support tools based on scientific studies, models, and geographic information systems, to target specific areas and parcels .

The land trusts generally prefer a conservation easement that clearly lays out conservation goals and objectives but leaves details of management, including monitoring and adaptive management strategies, to a management plan agreed to by the landowner, land trust (as grantee), and funding entities. This offers advantages for the landowner and provides a way to modify management practices to compensate for long-term social, economic and

ecological changes, such as those resulting from climate change.

Land trust staffing levels range from one (Oregon Rangeland Trust) to 15 (Columbia Land Trust). Higher levels of staffing are required as trusts become more strategic in targeting acquisitions and engage in large acquisitions involving multiple landowners, funders, and regulatory agencies.

Federal Working Land Conservation Easement Funding Programs

Four federal funding programs were reviewed: the Farm and Ranchland Protection Program, Grassland Reserve Program, Forest Legacy Program, and Bonneville Power Administration's fish and wildlife mitigation grant program.

The Farm and Ranchland Protection Program is a Farm Bill program administered by the Natural Resources Conservation Services (NRCS), providing grants to local entities to acquire conservation easements. The Oregon NRCS office provides a full-time liaison to state and local conservation programs, which has led to better communication and more flexibility than programs in the other states evaluated. Grants have been used to match OWEB grants for working land conservation easement acquisitions. Oregon ranks 13th in the country for total acres (16,000) enrolled in the program.



Buffer between agricultural field and Mill Creek, Aspen View Ranch. Photo by Brad Nye.

Oregon also receives funding from the Grassland Reserve Program, a Farm Bill program administered by NRCS and the Farm Service Agency. However, by policy of the state office, funds are used only for rental contracts, not easement acquisition. In addition to preserving grassland, specific conservation values, such as sage-steppe protection, are targeted in each funding round.



Rotational grazing is used to help maintain oak savanna and upland prairie habitats on a property near Wren that contains a conservation easement. Photo by Greenbelt Land Trust.

Oregon has only participated in the Forest Legacy Program since 2007. One acquisition has been completed (South Eugene Hills, Phase I) and three more are in progress, including the highly publicized Skyline Forest acquisition. Land trusts have been instrumental in facilitating transactions.

Bonneville Power Administration has provided grants for numerous habitat protection and restoration projects in Oregon, including conservation easements on working land. The Nature Conservancy and the Trust for Public Land have been facilitators or grantees in many BPA transactions.

Findings

Everyone interviewed for this report agreed that preservation of ecological values on working land is essential to watershed conservation in Oregon. In addition, they agreed that, if done

properly, conservation easements with accompanying management, monitoring and adaptive management plans are one important way to achieve this.

Respondents noted that acquiring and managing conservation easements on working land offers significant challenges due to complex negotiations between landowners, grantees and funders; the need to ensure protection of ecological values while allowing farming, ranching or forestry; the difficulty in providing for long-term social, economic and ecological changes; hurdles in combining multiple funding sources; and the obligation to provide accountability for public funding.

The cited benefits of working land conservation easements included: the ability to target important ecological values at a landscape and ecosystem scale; allowing conservation land to remain in private ownership; the potential for landowner stewardship; and the ability to provide for continued economic activities and achieve other social goals that result in public support of conservation land acquisition

programs. In addition, in many cases conservation easements offer a more cost-effective approach than fee-simple acquisitions.

The report offers a number of findings and suggestions regarding OWEB working land conservation easement policies, coordination and communication with other funding entities, and the need to explore alternative approaches to conservation on working land, including purchase of ecosystem services.

In order to meet OWEB's constitutional mandate in the future, especially in light of long-term climate change, it is recommended that OWEB establish priorities based on an ecosystem and landscape approach to watershed health, focusing on biodiversity, watershed processes and functions, and ecosystem resilience and adaptability. With this focus, and with much of Oregon's privately owned land in farming, ranching and forestry, it will be increasingly important for OWEB to provide grants for protection and restoration projects on these lands. Conservation easements will be an important tool to help accomplish this.



Willamette River floodplain near Albany: farming on a property that contains a conservation easement.
Photo by Ed Rust.