

October 17, 2016

MEMO

TO: Oregon Agricultural Heritage Program (OAHP) Interested Persons

FROM: Nellie McAdams, Oregon Association of Conservation Districts (OACD)

SUBJECT: October 17 Oregon Agricultural Heritage Program (OAHP) La Grande Listening Session

The second Oregon Agricultural Heritage Program (OAHP) Work Group listening session was held on Monday, October 17 from 5:00 – 7:00 pm at Eastern Oregon University in La Grande. Below please find a high level rough draft of the notes from the listening session. Note that this document does not represent a comprehensive summary of the dialogue.

Participants were provided an overview of the OAHP Work Group and their ideas for a new statewide program that focuses on funding:

- Working land conservation easements and covenants;
- Conservation Management Plans;
- Support for agricultural land succession planning; and
- A study of tax issues impacting agricultural land.

Participants were asked for clarifying questions on the above topics and for attendees to consider the list of questions provided as follows:

- What excites you about each of these topics as part of the OAHP proposal?
- What potential issues do you foresee with this part of the OAHP proposal?
- What questions, comments, suggestions, or feedback still need to be addressed in the development of this part of the OAHP?

Facilitated Question/Answer and Group Discussion

The following are highlights of the questions raised and comments made at the October 17 listening session by attendees on the new statewide program topics.

Covenants

- Will there be one length of easement?
- Are there any federal match programs for this?
- The public perception might be negative – that it is a temporary rental and not permanent
- There is a concern that it muddies the water for other easements
- There is no match and we do not know how to value it
- Colorado included termed easements as a tool in their easement package
- Would covenants be on the deed and transfer with the land?
- How do you value the covenant?
- Some early easements were done poorly because organization's values and landowners' values were different
- Is there a way to pull in properties to the program that would not be pulled in otherwise?

- This is a match program

Match

- There is no specific ratio
- In-kind can be the entire match – “you just made this program better than NRCS”

Easement Terms

- It is an increasing trend to include more requirements in the easement; however, situations change
- Other land trusts make the easement as simple as possible, but refer to management plans which are amendable if the terms are in the easement
- Would the OWEB process be simplified or still have the same requirements for enforcement, monitoring and stewardship?
- NRCS and OWEB requirements are different, will these be compatible or more stringent than ACEP-ALE?
- Make this compatible and less restrictive than ACEP-ALE
- Requirements turn off landowners
- Streamline the easement language, improve it, and make the documents shorter if possible
- Determine minimum deed terms and template

Definition of Working Lands

- “Not limited to farm or ranch” - was there a reason to leave out forestry?
 - Properties can have forestry on it, but forestry is not the focus of the program
- It is good that working lands is not defined with a minimum percentage of agricultural land because this creates difficult decisions in Washington
 - A long thin property with a stream through the center had to have the riparian area cut back to make the 20% threshold of non-agricultural land
- It is also good that there is not a limit on what match programs can be used
 - Washington does not allow salmon funds as a match, so you lose hybrid properties that have both agricultural and natural values

Is This Limited to “Family Farms”?

- The definition is broad enough to include family owners who are not farming
- How can you structure the definition to only include mom and pop entities?
 - This can be a part of the ranking criteria; land trusts can also choose
- This bill does not discriminate based on type of production
- Family corporations in Washington own half the county and they are good stewards and the land trust wants to lock in stewardship and have low transaction costs
- Are churches to be left out?
- It is not about who owns the land, but the impacts on the ground
- Conservation values can be found in easement and management plans, but the bill also helps support family farms with the succession planning and the tax study
- Succession is a motivation to use the tools and the outcome is the use of the program
- Keep property in one piece and protect conservation values on the property
- This comes in throughout the ranking process
- Keep the farm together, but also protect riparian habitat, migratory corridors, and view sheds

- Each landowner is the ultimate decider; they will weigh values they're selling against money they receive and land trusts must help them

Location

- Equity – it is hard in Washington to compete with the west side in terms of the “threat of development”
 - With ALE, the threat of development is not required, it is part of the ranking
- There are provisions that adapt over time, revisit threat of development, conservation values, etc.
- Landowner sees the incentive and good intent, but sees policy from Salem with good intentions that cause heartache
- There is a concern that farmers are not getting parity for what they produce
- Look at the inheritance tax and why it is hard for farmers/ranchers to pass the business on
- Has not seen how increased government has helped their business
- There is a new set of protocol that he will have to abide by
- There are a new set of requirements; if you chase the carrot you will have to give up your management activities
- Pull back regulatory encumbrances on the agricultural sector
- The tax study is key
 - Inheritance tax is double taxation, since their family is paying tax on what they have already paid tax on
- Find out why they cannot earn what you spend for your commodities
 - That is a global capitalism issue that this group might not be able to address
 - No interest in taking this off the table, just not interested in another government program that creates restrictions over time and creates no alternative and a not willing seller; it creates an entitlement philosophy
- This is a voluntary program
- Earlier easements were not landowner friendly, but if the easement is done correctly, it does not put the landowner in a position where they give up management rights
- NRT requires the landowner to have a real estate attorney, accountant, and estate planner who understand easements to help them understand it
- An easement should not inhibit a working landscape from being a working landscape, but prohibit the division of the property and also reach for best practices covered in a management plan that a landowner must agree to, but is deeply involved in authorship of the plan
- Should actually enhance ranch practices because of infusion of cash and management document
- If you have reservations, do not participate
- It is not for everybody, but if it works, it really works
- This program will allow Oregon to use millions of federal dollars that have been unutilized
- Worry about rules changing the intent
- “Voluntary” is great conceptually
- Opposed to Measure 37 and windmills - goal is to prevent development – but it needs to be carefully crafted so “voluntary” is not driven by a desperate need to stay in existence
 - But land use is compulsory and there is no remuneration, but easement is voluntary and you are repaid
- Conservation easements can be a way to convert development rights into liquid assets

- Sell rights you would not use that sit in your balance sheet but do not help your operation
- Finding state funds is next to impossible
- Wallowa Land Trusts work collaboratively with landowners and to have permanent values protected; would make them excited
- This is just the start, not the end of the discussion

Succession Planning and Tax Study

- State tax incentives – Colorado transferrable tax incentives should be considered in Oregon
- Is there a limit to the request?
- Nice if there is a threshold on value
- So many people will be applying that there should be some way to know in advance if they have a strong proposal – LOI
- It will help with vetting if there is a clear definition of a landowner or farmer
- When FRPP first came out, it was unbelievable how many people claimed to be farmers/ranchers
- Clearly define what you are trying to protect
- Who will do the study? Who will administer? Where will the funding come from?
- How will the commission take the reins from the work group?
- Do work group members want to be a part of the commission?
- Why isn't NRCS on work group or commission?

In Attendance at the October 17, 2016 La Grande Listening Session

Name	Organization
Curtis Martin	Oregon Cattlemen's Association
Frank O'Leary	Northwest Rangeland Trust
Jason Bulay	Blue Mountain Land Trust
Lance Colburn	Blue Mountains Conservancy
Julia Lake	Wallowa Land Trust
Kathleen Ackley	Wallowa Land Trust
Kristy Athens	NEOEDD
Fran Paine	OSU Extension
Karen Leidendecer	OWEB
Jackie Cupples	USFWS & Blue Mountains Conservancy
Kathleen Cathey	Senator Wyden's Office
Dylan Kruse	SND
Nellie McAdams	OACD
John O'Keeffe	Oregon Cattlemen's Association

Listening Session Locations	Date/Time
Salem	October 13, 5:00 – 7:0 pm
La Grande	October 17, 5:00 – 7:00 pm

Hillsboro	October 24, 6:00 – 8:00 pm
Central Point	October 26, 6:00 – 8:00 pm
John Day	November 1, 5:00 – 7:00 pm
Prineville	November 2, 5:00 – 7:00 pm
Portland	November 4, 10:00 am – 12:00 noon

Listening Session Documents	
<ul style="list-style-type: none"> • Proposed Agenda • Key Contacts for OAHP Work Group • Legislative Concept Summary • Comments Template • Listening Session Schedule <p><i>The above documents were provided to participants at the Fall 2016 Listening Sessions.</i></p>	

This memo respectfully submitted by Kearns & West.