



Oregon Agricultural Heritage Commission Meeting Agenda March 6, 2019

Broadway Commons
Grant Room #206
1300 Broadway St NE
Salem, OR 97301
Directions:

<https://www.google.com/maps/dir//1300+Broadway+St+NE,+Salem,+OR/@44.9523514,-123.1005069,12z/data=!4m8!4m7!1m0!1m5!1m1!1s0x54bfff0766823c99:0x5d832608f24140e9!2m2!1d-123.0304671!2d44.9523728>

The time listed for each agenda item is approximate. The commission may also elect to take an item out of order in certain circumstances. During the public comment period at 1:10 p.m., anyone wishing to speak to the commission about the Oregon Agricultural Heritage Program (OAHP) is asked to fill out a comment request sheet (available at the information table). This helps the commission know how many individuals would like to speak and to schedule accordingly. Persons are requested to limit their comments to 3 to 5 minutes. Written comments will also be accepted at any time before the commission meeting. Written comments from persons not attending the meeting should be sent to Eric Williams, eric.williams@oregon.gov.

1. Welcome, Housekeeping, Introductions, Working Lunch, and Commissioner Updates (12:00 p.m.)
Chair Doug Krahmer will welcome the commission and public. *Information item.*
2. Review and Approval of Minutes (approximately 1:05 p.m.)
The minutes of the November 1 and December 22, 2018 meetings will be presented for approval. *Action item.*
3. Public Comment (approximately 1:10 p.m.)
Members of the public who have signed up to give public comment will speak to the commission about OAHP.
4. Legislative Update (approximately 1:40 p.m.)
The commission will discuss the status of [HB 2086](#), the OAHP statutory clean-up bill and related legislation. *Action item.*
5. Subcommittee Reports (approximately 2:00 p.m.)
 - a. Covenants and Easements Subcommittee
 - b. Conservation Management Plan SubcommitteeThe commission will be presented with reports and recommendations from each committee regarding valuing conservation covenants and valuing CMP implementation plans respectively. *Action item.*

6. Potential OAHP Grant Solicitation Timeline (approximately 3:00 p.m.)

The commission will be presented with a staff report outlining a potential grant solicitation timeline should funds be budgeted for the program in the 2019-2021 biennium. *Action item.*



Subcommittee Report: Covenants and Easements March 6, 2019 Commission Meeting

Subcommittee members: Chad Allen, Derek Johnson, Mary Wahl, Woody Wolfe

Introduction

The Covenants and Easements Subcommittee was tasked by the commission at its November 1, 2018 meeting to explore methodologies to value termed covenants.

Background

The Covenants and Easements Subcommittee met on February 5 and was presented with a staff report on valuing termed covenants, see Attachment A. Jim Fox, OAHP staff, summarized the findings of the report. There are three potential methods for valuing termed covenants: net present value method, ground lease method, and flat percentage rate method. There is currently no commonly accepted or standard method for valuing termed covenants, and several states have abandoned programs that attempted to fund them.

The question addressed by the subcommittee is whether to leave covenant valuation up to the applicant, recommend a method, or simply set a flat or sliding scale.

Discussion

While recognizing that termed covenants may be attractive to landowners who are not ready to commit to permanent easements, the subcommittee agreed that termed covenant valuation should not result in values that are commensurate with permanent easement values since public funds should be invested for the greatest public value.

Given that no standard method for valuation exists, the subcommittee expressed a preference for a simple method that hit the sweet spot of encouraging those interested in temporary easements without overpaying for them.

Based on the NRCS method described in Attachment A, the Subcommittee recommends that the Commission offer grants for termed covenants valued at a percentage of the full easement value (as determined by an appraisal) corresponding to the number of years in the covenant term, ranging from 20 to 50. A 20-year termed covenant would be valued at 20% of the permanent easement value; a 50-year termed covenant would be valued at 50% of the permanent easement value.

As noted in Attachment A, termed covenants do not receive the tax benefits that permanent easements do, and are taxed as regular income. The subcommittee discussed whether to compensate for these costs, and decided that there is too much variability in the tax rates of individual landowners making it too complex to determine a tax offset.

To be presented at the Commission meeting by:

Woody Wolfe

Staff Contact

If you have questions or need additional information, contact Eric Williams, Grant Program Manager, at eric.williams@oregon.gov or 503-986-0047.

Attachments

- A. Valuing Working Land Conservation Easements and Covenants

Valuing Working Land Conservation Easements and Covenants

OAH rules, approved by the Commission and officially adopted by the OWEB Board at its January 15-16, 2019, meeting, address appraisal of working land easements and covenants:

OAR 698-015-0070 (1)(a). “The purchase price for easements shall be based on an appraisal and review appraisal completed in accordance with applicable appraisal standards, including the Uniform Standards of Professional Appraisal Practice, and if required by other funding sources or the Internal Revenue Service, the Uniform Appraisal Standards for Federal Land Acquisitions.”

OAR 698-015-0070 (1)(b). “The purchase price for covenants shall be based on an assessment of fair market value using methodologies similar to those described in OAR 698-015-0070 (1)(a).”

Resulting from decades of experience in acquiring conservation easements by nonprofit land trusts and local, state and federal agencies, there are accepted standards and practices for appraising perpetual easements. These standards and practices can be found in manuals such as the Uniform Standards for Professional Appraisal Practice (USPAP) and the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA), usually referred to as the “Yellow Book.” The Yellow Book standards are more rigorous than USPAP and are generally required by federal agencies such as the Natural Resource Conservation Service when federal dollars are used for the acquisition of property rights. The methodology used to value perpetual easements has been approved by the Internal Revenue Service for claiming charitable deductions for donating perpetual easements to land trusts. Unfortunately, there are no widely agreed upon standards in place for valuing temporary (or term) conservation easements, called covenants in OAH statutes and rules.

The value of the property rights conveyed in an easement or covenant is highly dependent on a number of factors, especially the highest and best use of the property. For example, if the highest and best use of a hypothetical 40-acre farm is for agriculture and the zoning requires a parcel size to be 40 acres or greater, the value of the easement could be fairly small.¹ However, if the highest and best use is residential development in quarter-acre lots, the value of an easement that proposes to purchase those development rights could be significant.

¹ Although Oregon’s land use program limits the non-farm or forest uses on land outside of Urban Growth Boundaries, it is still possible to place structures and non-farm uses on these working lands. This includes vested Measure 37/49 Home Site Authorizations, accessory or “farm help” dwellings, dwellings on properties where owners meet certain farm income requirements, mining of aggregate, community centers, schools, and more. These property rights, or the legal ability to apply to the county planning department to exercise these property rights, have varying degrees of appraisable value, depending on the possibility and financial feasibility of the use and whether it contributes to the highest value of the property.

Appraisal of Perpetual Conservation Easements

Perpetual conservation easements are typically appraised using the “before and after” method. First, the fair market value of the property is determined based on its highest and best use. Then the value of the property without the rights conveyed in the easement is determined. The difference between the two appraisals is the value of the property rights conveyed in the easement. There are a number of appraisers in Oregon that are experienced in perpetual conservation easement appraisals.

Appraisal of Covenants

Oregon HB3249 authorizes the Oregon Watershed Enhancement Board to provide grants for acquiring working land conservation covenants for a term to be established in rules.² OAHF rules require a term of no less than 20 and no more than 50 years.³ As is the case for perpetual conservation easements, acquisition of conservation covenants requires a method to establish their monetary value.

Temporary conservation easements are rare for several reasons. First, the Internal Revenue Service does not grant an income tax deduction for charitable donation of conservation easements that are not perpetual and income from sale of a temporary easement is taxed as ordinary income rather than capital gains. Second, acquiring conservation easements that are not permanent is inconsistent with the goals and objectives of most working land preservation programs. Third, the states that have statutory authority to provide grants for temporary conservation easements (for example, Texas and Washington) have reported little interest and other states have terminated temporary conservation easements due to lack of demand (Montana, Pennsylvania).

Due to this infrequent use of temporary conservation easements, there is no widely agreed upon appraisal methodology and information regarding any acquisition of temporary easements has proven difficult to find. Some states enter into short-term contracts that resemble temporary easements, intended to keep agricultural land from being converted (for example, eight-year agreements in New Jersey and ten-year agreements in California and Delaware). However, these contracts do not involve payment to the private landowner but instead depend upon a variety of tax incentives to stimulate enrollment in their programs. Thus, no appraisal is necessary.

An important consideration in appraising working land conservation covenants is that upon expiration of the covenant, the landowner’s property will increase in value. This future benefit to the landowner makes the current value of the covenant less than if it were a perpetual easement. Three approaches to take this into consideration are: 1) using an economic model that is commonly used to discount the future increase in property value to “net present value,” 2) using the ground lease method often used in the acquisition of temporary construction easements and 3) applying a flat discount from the value of a perpetual easement, used by the Natural Resources Conservation Service (NRCS) in the Wetlands Reserve Program.

² HB 3249 Section 5(1)

³ OAR 698-015-0080 (2)

Net Present Value Method

The promise of receiving an amount of money in the future is worth less than receiving the same amount of money today. This is due to a number of factors including inflation and to investment and other opportunities that make the money more valuable today. To express the value of future money in today's dollars, economists apply a "discount rate." If the today's value of the future money is reduced only due to inflation, the discount rate would be based on forecasts of the inflation rate. However, the discount rate can also be based on other economic factors. For example, will the land in question appreciate at a greater rate than general inflation? Are there additional factors that make future dollars more valuable today, such as the ability to invest in capital improvements on the farm? How does uncertainty and risk enter into the calculations?

An appraisal using this methodology was done for a 5-year and 35-year temporary conservation easement on a farm near Gresham, Oregon, for the East Multnomah Soil and Water Conservation District.⁴ First, the value of a perpetual conservation easement was computed using standard methodology. The value of the temporary easements was then calculated for the 5-year easement using a 5% discount rate (based on trends in property values) and for a 35-year easement using an 8% discount rate (higher due to market uncertainty). The appraisal concluded that the 5-year easement was worth about 22% of the value of a perpetual easement and the 35-year easement was worth about 93% of the perpetual easement. Using the same methodology, the value of a 10-year easement would be 40% - 50% of a perpetual easement (depending on the discount rate chosen), a 20-year easement would be about 80% of a perpetual easement, a 30-year easement would be about 90% of a perpetual easement, and a 50-year easement would be about 98% of a perpetual easement.

The federal government establishes a generic discount rate called a "social discount rate" based on social as well as economic factors, in general reflecting "societies preference for consumption today." The current rate is 2.7% for 30-year programs.⁵ Applying that rate to a 30-year easement results in a value of about 55% of the value of a perpetual easement. For real estate, this probably represents the low end of the range of discount rates that should be applied.

Ground Lease Method

The Uniform Appraisal Standards for Federal Land Acquisition (UASFLA) addresses appraisal of temporary easements—often associated with construction easements. For example, an entity may acquire a permanent easement for a project like a pipeline or highway and a temporary easement adjacent to the permanent easement for use during construction. These temporary easements are typically short-term and of nominal value, with the value arrived at through negotiation. For long-term temporary easements, UASFLA recommends valuing the temporary easement based on the property's highest and best use fair market *rental rate* rather than its fee simple value. UASFLA does not specifically address temporary *conservation* easements.

⁴ Appraisal Report, Duncan and Brown Real Estate Analysts, 2017.

⁵ OMB Circular A-94

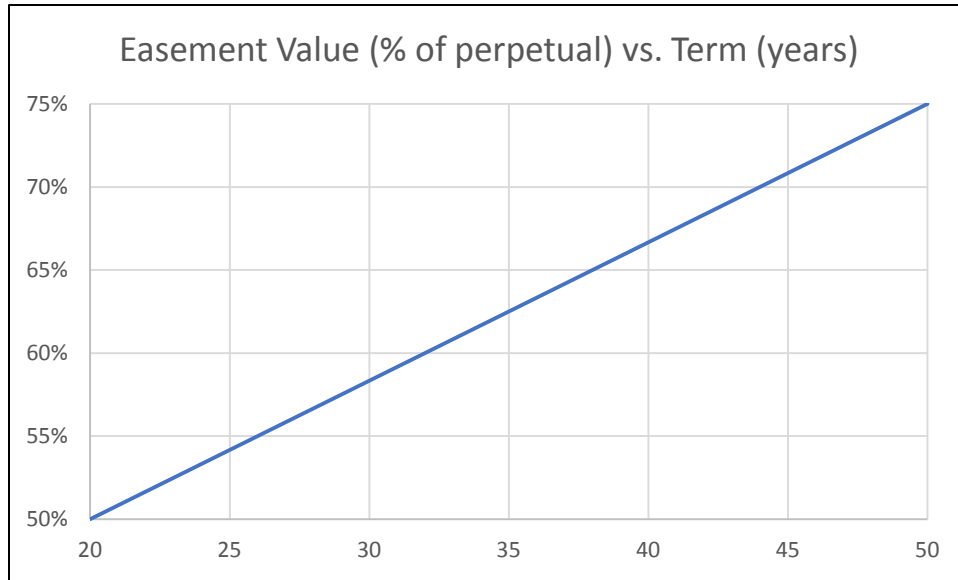
Applying the ground lease approach to farmland, the value of the temporary easement would be the ground rental rate of the unencumbered property based on its highest and best use for the duration of the easement minus the ground rental rate for allowed agricultural uses (typically called “cash rent” or “soil rental rate”). To determine the up-front payment for the covenant at the time of acquisition, the annual payments, had they been made over the term of the covenant, are discounted to net present value. It is possible to estimate fair market cash rent for a given parcel, which would be based on soil type, markets and other factors. Fair market ground lease rates of the unencumbered property would depend on its highest and best use, but there would likely not be a comparable local market to help estimate the rates.

A simplistic example of computing the value of a covenant using the ground lease method would be to assume a desired rate of return on the investment of the farmland at the highest and best lease rate and on the farmland encumbered by the covenant. If the expected annual rate of return on either investment is 5% of the underlying land value, an annual payment of 5% of the covenant value would be made for 20 to 50 years, resulting in total payments of 100% to 250% of the covenant land value over the term of the covenant. Discounting these payments to net present value gives the necessary up-front lump sum payment. For a 30-year term, the total payments would be 150% over the term of the covenant. Discounted to NPV would result in a lump sum of about 130% of the value of a perpetual easement. An actual appraisal would require an estimate of the long-term ground lease market, annual cash rent, expected rates of return, discount rates and other factors. However, even with these simple assumptions, it seems clear that the ground lease appraisal method—useful for short-term construction projects—is ill suited to long-term covenants on farmland.

Flat Percentage Rate Method

The Wetlands Reserve Program administered by NRCS provides grants for acquisition of 30-year conservation easements. The program requires appraisal of the easement as if it was perpetual, using standard methodology, and provides grants for a flat 75% of that value⁶. Applying a flat rate, perhaps on a sliding scale based on the term of the covenant, would vastly simplify conservation covenant acquisition. However, a legal analysis would have to be undertaken to determine if there is a legal requirement to offer fair market value when OWEB provides grant funding to acquire property rights or for the easement holder when acquiring those rights. A possible linear flat rate sliding scale, within the 50% to 75% range specified for the Wetland Reserve Program, is presented below.

⁶ “Compensation for a 30-year contract or 30-year wetland reserve easement shall be not less than 50 percent, but not more than 75 percent, of the compensation that would be paid for a permanent wetland reserve easement.”
16 USC 3865c (b)(6)(A)(ii)



Question to Consider

Should OAHP leave covenant valuation up to the applicant, recommend a method, or simply set a flat or sliding rate?



Subcommittee Report: Conservation Management Plan March 6, 2019 Commission Meeting

Subcommittee members: Nathan Jackson, Lois Loop, Bruce Taylor

Introduction

The CMP Subcommittee was tasked by the commission at its November 1, 2018 meeting to explore methodologies to value implementation of Conservation Management Plans.

Background

The CMP Subcommittee met on February 6 and was presented with a staff report on valuing implementation of CMPs, see Attachment A. Jim Fox, OAHP staff, summarized the findings of the report.

The subcommittee discussed options available for valuing CMP implementation.

Discussion

It is anticipated that plan development can be funded through relatively straight-forward technical assistance grants, reimbursing applicants for costs incurred. Cost efficiencies may be obtained by applicants bundling plans for multiple landowners in a specified geography into one grant application. The subcommittee recommended that plan development be included in a grant solicitation if funding is approved for the 2019-2021 biennium. Since there are currently long-term monitoring needs for evaluating the effectiveness of CMPs, CMP monitoring should also be included in the initial solicitation.

There are two broad categories of costs for implementing CMPs: 1) initial implementation costs; and 2) recurring annual operation, stewardship, and maintenance costs. The subcommittee agreed that there are other funding sources, including FSA, NRCS, and OWEB, available for initial implementation costs, such as fencing and agricultural infrastructure, and that OAHP should focus on funding the gaps in CMP implementation, which are annual operation, stewardship, and maintenance costs. OAHP should, however, leave room to address extenuating circumstances that warrant investment in initial implementation.

The subcommittee discussed two methods of paying for annual implementation of CMPs: 1) a rate based on land lease rates and foregone income; and 2) payment for ecosystem services. A common theme of prior commission discussions on this topic is that public funds should be used for public benefits received from the operation of working lands. This argues for a payment for ecosystem services approach. Given the difficulty of establishing payment rates, the subcommittee recommends: 1) first developing a proxy approach that incorporates land lease rental rates, foregone income, and other factors, which through time and experience will eventually lead to a payment for ecosystem services model; 2) delaying solicitation of grants for CMP implementation until a payment system is better described; and 3) using available budgeted funds for contracting help to evaluate factors to include in a payment system.

To be presented at the Commission meeting by:

Lois Loop

Staff Contact

If you have questions or need additional information, contact Eric Williams, Grant Program Manager, at eric.williams@oregon.gov, or 503-986-0047.

Attachments

A. Conservation Management Plans: Next Steps

Conservation Management Plans: Next Steps

OAHP rules, approved by the Commission and officially adopted by the OWEB Board at its January 15-16, 2019, meeting, define the purpose of a Conservation Management Plan (CMP):

698-010-0010. The purpose of a conservation management plan as defined in OAR 698-005-0020(4) is to develop and implement conservation measures or other protections for maintaining or enhancing fish or wildlife habitat, water quality or other natural resource values in a manner consistent with the social and economic interests and abilities of the agricultural landowner or operator. The plan may include provisions for addressing particular priorities related to natural resource values, including but not limited to soil, water, plants, animals, energy and human need considerations.

The Conservation Management Plan Grant Program funds the development, implementation, and monitoring of conservation management plans (plans) entered into by agricultural landowners or operators and conservation management plan holders to manage working land in a manner that contributes to the purpose of OAHP in OAR 698-005-0010.

The rules clearly lay out the required components of a CMP and how applications will be evaluated. However, before implementation of the CMP grant program, a number of issues need to be addressed, primarily involving how payments for developing, implementing and monitoring a CMP will be determined.

Plan development

The cost of plan development will depend on the size and type of agricultural operation, availability of necessary data such as detailed soil maps, scope of proposed conservation actions, and the existence of previous plans, such as a Farm Conservation Plan done through the Natural Resources Conservation Service (NRCS). Note that if matching or complementary funds are being sought for plan development or later implementation, care should be taken to make sure that these funding sources are not so prescriptive as to inhibit desired conservation actions or limit agricultural uses.

Initial plan implementation

Costs of initial implementation of the CMP will be different than costs of long-term maintenance and monitoring. Initial implementation costs might include: capital investments such as irrigation infrastructure, direct seed equipment, fencing, off-stream livestock watering facilities; and changes in the land, such as filter strip planting, crop change, or sediment pond creation.

On-going maintenance and monitoring

These costs include activities necessary to protect or enhance the investment in conservation practices, such as maintaining fencing, wild bird crops, and irrigation systems, and monitoring and reporting. How will the costs of these activities be determined?

In addition to the costs listed above, implementation of CMPs may result in indirect economic benefits and costs to the landowner. Conservation activities that reduce landowner costs or increase productivity will benefit the landowner. However, conservation activities may take land out of production such as planting filter strips, or include activities that reduce productivity such as reducing the number of animals on pastureland, adjusting a harvest schedule to reflect animal breeding or nesting or migration seasons, or producing non-economic crops such as pollen and nectar habitat. These activities will result in foregone income by the landowner. Should annual payments for CMP implementation should also recognize these indirect costs and benefits?

Two general approaches to valuing conservation activities and establishing annual payments are to 1) pay for annual implementation costs and reimburse forgone income or 2) pay for the environmental benefits received. In either case, there needs to be a fair way to determine the annual payment, which will likely vary from year to year. Landowners will want some certainty around what payments they will be entitled to, as will OWEB for budgeting purposes. Therefore, should there be a fixed annual amount? Based on what? Or if annual payments are adjusted each year based on need, how will they be determined? Should there be a guaranteed minimum \$1,500 annual payment as is done in the NRCS Conservation Stewardship Program (CSP)? Should there be a cap that annual payments cannot exceed? Are there possible tax incentives that could offset some expenses by the landowner? Should the OAHF move forward this year on soliciting grant applications for CMPs if annual payment methods have not yet been established?

Paying for annual implementation costs and foregone income

In NRCS programs that compensate landowners for annual conservation activities, payments are set by a payment schedule that establishes set rates for given activities, including the costs of labor, materials, equipment and foregone income. The current payment schedule for the Conservation Stewardship Program contains 1,614 cost categories. The cost categories and rates are established by NRCS nationally, with price adjustments for each state. One page of the of the 19-page 2018 Oregon CSP payment schedule is reproduced at the end of the memo. Although complicated to apply, this approach provides predictable payments that are uniform across the entire state for conservation activities. Is this the best approach? Can the methods used by NRCS in the [Conservation Reserve Enhancement Program \(CREP\)](#), [Environmental Quality Incentives Program \(EQIP\)](#) and CSP programs be used or adapted? Are there other approaches to determining annual payments, such as bidding or negotiation or simply establishing a flat, take-it-or-leave-it amount?

Paying for environmental benefits

This approach would quantify the actual benefits Oregon taxpayers receive for their investment in CMPs and compensate the landowner accordingly, typically called “payment for ecosystem services” (PES). This is an approach that is beginning to be used around the U.S. and world-wide, but is generally only well developed around specific ecosystem services: water quality, developed by Clean Water Services in Oregon; nitrate and phosphate runoff reduction in Maryland through “nutrient credits;” and carbon credits in “cap and trade” programs, to name a few.

An approach developed by NRCS for the Conservation Stewardship Program and used prior to 2017 utilized a Conservation Measurement Tool, which established payments for conservation performance using a point-based system to measure relative environmental benefit of conservation activities. The tool allows for ranking performance of different CSPs for funding purposes but does not produce a specific economic value for each practice or plan. Can an approach like this be used to yield annual payments for environmental services produced by implementing the CMP? Is this an opportunity for the Commission and OWEB to move forward on applying PES to the benefits of CMPs?

Conclusion

There are many questions to be addressed as policies are developed around the CMP grant program. A possible source of assistance in developing policies around annual payments for CMP implementation is the NRCS staff involved in CSP, EQIP and CREP; OSU extension; SWCDs; and several nonprofit organizations such as Clean Water Services and Freshwater Trust. In addition, there are several Pacific Northwest economic consulting firms with expertise in PES that could be enlisted if funding was available for a consulting contract.

From the 2018 Oregon CSP Payment Schedule

Code	Practice	Component	Units	Unit Cost
587	Structure for Water Control	Flow Meter with Mechanical Index	In	\$19.02
587	Structure for Water Control	Slide gate	ft	\$82.90
587	Structure for Water Control	Forest road cross drain, HDPE <= 30 inches diameter	DialnFt	\$0.18
587	Structure for Water Control	V-Notch Gate Valve	Ea	\$375.15
587	Structure for Water Control	Reinforced Concrete Structure	CuYd	\$61.86
587	Structure for Water Control	Commercial Inline Flashboard Riser	DialnFt	\$1.11
587	Structure for Water Control	Concrete Turnout Structure, Small	Ea	\$158.12
587	Structure for Water Control	Flashboard Riser, Metal	DialnFt	\$0.78
587	Structure for Water Control	Culvert, >= 30 inches, HDPE	DialnFt	\$0.83
587	Structure for Water Control	Culvert, <30 inches, HDPE	DialnFt	\$0.93
587	Structure for Water Control	Culvert, >= 30 inches, CMP	DialnFt	\$0.72
587	Structure for Water Control	Cast-iron Screw Gate	ft	\$433.81
587	Structure for Water Control	Flap Gate	ft	\$354.91
587	Structure for Water Control	Flap Gate w/ Concrete Wall	CuYd	\$196.12
587	Structure for Water Control	Self Regulating Tidegate	ft	\$1,856.71
587	Structure for Water Control	CMP Turnout	Ea	\$80.60
587	Structure for Water Control	Concrete Turnout Structure, Large	Ea	\$360.51
587	Structure for Water Control	Culvert, <30 inches, CMP	DialnFt	\$0.95
590	Nutrient Management	Basic NM with Manure Injection or Incorporation	ac	\$3.52
590	Nutrient Management	Basic NM with Manure and/or Compost (Non-Organic/Organic)	ac	\$1.89
590	Nutrient Management	Basic NM (Non-Organic/Organic)	ac	\$0.88
595	Integrated Pest Management	Field Crop Greater than 40 Mitigation Index Score	ac	\$3.69
595	Integrated Pest Management	High Value Crop Less than or Equal to 20 Mitigation Index Score	ac	\$10.10
595	Integrated Pest Management	High Value Crop 21 to 40 Mitigation Index Score	ac	\$13.01
595	Integrated Pest Management	High Value Crop Greater than 40 Mitigation Index Score	ac	\$16.69
595	Integrated Pest Management	Field Crop 21 to 40 Mitigation Index Score	ac	\$2.96
595	Integrated Pest Management	Field Crop Less than or Equal to 20 Mitigation Index Score	ac	\$2.33
612	Tree/Shrub Establishment	Reforestation, 1 acre or more, Hand planting, Browse protection	ac	\$87.15
612	Tree/Shrub Establishment	Medium Density, Mechanical Planting	ac	\$24.14
612	Tree/Shrub Establishment	Reforestation, <1 ac., Hand planting, Browse protection, Per Tree	Ea	\$0.39
612	Tree/Shrub Establishment	Reforestation, <1 ac, Hand planting, Per Tree	Ea	\$0.22



Oregon Agricultural Heritage Commission Meeting Minutes

Oregon Agricultural Heritage Commission (OAHC) Meeting
Friday, December 22, 2018
OWEB office
775 Summer St NE
Salem, OR 97302
Commissioner by telephone

MINUTES

OAHC Members Present

Angima, Sam
Bailey, Ken
Jackson, Nathan
Loop, Lois
Neuhauser, Will
Taylor, Bruce
Wahl, Mary

OWEB Staff Present

Fox, Jim
Loftsgaarden, Meta
Williams, Eric

Others Present

Gordon Levitt

The meeting was called to order by Vice Chair Bruce Taylor at 1:05 PM. Vice Chair Taylor opened the floor for public comment. No public comments were made.

Review and Approval of Final Rules for Submittal to OWEB Board

Grant Program Manager Eric Williams summarized the rulemaking process, noting that the second public comment period ended December 10. Two public comments were received, one of which included a suggested technical edit to the administrative rules. The other public comment, from the Department of Land Conservation and Development, recommended that easement projects funded within urban growth boundaries be contingent upon completing a land use process to add a commensurate amount of land to the UGB.

The proposed technical change addresses an inconsistency in the draft rules at OAR 698-015-0100. Paragraph (1) states that technical committees shall provide funding recommendations to the commission, while paragraph (5) states that technical committees provide recommendations to staff, who provide recommendations to the commission.

Williams noted that paragraph (5) is consistent with other OWEB programs and offered the following as a new paragraph (1):

- (1) The Commission shall appoint one or more technical committees to evaluate and rank applications for grants for working land conservation covenants and easements. Those rankings will be provided to OWEB staff. OWEB staff will review technical committee recommendations and provide funding recommendations to the commission.

Paragraph (5) would then be deleted.

The commission discussed the definition of “stewardship” and the applicability of the definition of “management plan.”

Ken Bailey noted that the revisions made through the public comment process appear extensive, but actually continue the intent of the commission expressed at the beginning of the process.

Williams summarized the next steps for rule adoption, including the OWEB board acting on them at its January meeting. Lois Loop and Nathan Jackson noted that they planned to attend to board meeting to speak for the OAHP rules.

Ken Bailey moved to approve the administrative rules for the OAHP as posted with the change noted in OAR 698-015-0100 and correcting a typo in “recommendation.” Lois Loop seconded the motion. The motion was approved unanimously.

Other Business

The commission discussed upcoming meetings. Director Loftsgaarden stated that subcommittees will work on valuing CMPs and covenants, and that we are working on scheduling the next commission meeting in March.

Vice Chair Taylor adjourned the meeting at 1:30pm.



Oregon Agricultural Heritage Commission Meeting Minutes

Oregon Agricultural Heritage Commission (OAHC) Meeting
October 31, 2018
Best Western Premier Boulder Falls Inn
505 Mullins Drive
Lebanon, Oregon 97355

MINUTES

OAHC Members Present

Ken Bailey
Doug Krahmer
Lois Loop
Bruce Taylor
Mary Wahl
Woody Wolfe
Will Neuhauser

OWEB Staff Present

Fox, Jim
Loftsgaarden, Meta
Redon, Liz
Williams, Eric

Others Present

Peter Kenagy
Anna Freitas
Nellie McAdams
Laura Masterson

The meeting was called to order at 3:10 PM.

Welcome, Housekeeping, and Introductions

Chair Doug Krahmer welcomed the commission members. Executive Director Meta Loftsgaarden and staff member Liz Redon explained that the purpose of today's meeting was to review the letters of interest received from prospective applicants that may be seeking funding for acquiring working lands easements and covenants. No official action will be taken. In tomorrow's meeting, the commission will review, amend and approve proposed changes to the draft Oregon Agricultural Heritage Program (OAHP) administrative rules and review, amend and approve the proposed responses to public comments.

Review of Letters of Interest

The Commission reviewed the 28 letters of interest received from 11 eligible applicants that will potentially be seeking funding for working lands easement and covenant projects. The Commissioners noted that the proposed projects appeared to fit the requirements of the program, demonstrated a diversity of size and types of agricultural operations and geographic locations, and did an adequate job of addressing both agricultural and conservation values.

See attached notes from meeting discussion flip charts.

Public Comment

Peter Kenagy provided comment on OAHP generally. He also advocated for having working land owner representation on the boards of applicant organizations.

The meeting was adjourned at 5:00 PM.

Oregon Agricultural Heritage Commission Meeting
November 1, 2018
Best Western Premier Boulder Falls Inn
505 Mullins Drive
Lebanon, Oregon 97355

OAHC Members Present

Ken Bailey
Doug Krahmer
Lois Loop
Bruce Taylor
Mary Wahl
Woody Wolfe
Will Neuhauser
Mark Bennett
Nathan Jackson

OWEB Staff Present

Jim Fox
Meta Loftsgaarden
Liz Redon
Eric Williams

Others Present

Anna Freitas
Nellie McAdams
Laura Masterson

The meeting was called to order at 8:10 a.m.

Welcome, Housekeeping, and Introductions

Chair Doug Krahmer welcomed the commission members and members of the public. Executive Director Meta Loftsgaarden and staff member Liz Redon explained that the purpose of the meeting was to review public comments on the Oregon Agricultural Heritage Program draft administrative rules, discuss, amend and approve the Commission's responses to those comments, and discuss, amend and approve changes to the draft rules.

Minutes

Commission members reviewed the minutes from the June 25th meeting. Mark Bennett moved to adopt the minutes, with a second from Woody Wolfe. The minutes were approved unanimously.

Public Comments

Anna Freitas provided comment on the benefits and challenges of OAHP. Benefits referenced include monitoring, diversity of grant opportunities, regional expertise incorporated into the grant review process, not-for-profits as eligible applicants, and the integrative approach to agriculture and conservation values. It was recommended to incorporate prioritizing and ranking criteria to review applications to improve predictability and consistency of application review.

Review of Public Comments on Draft Rules and Commission Responses

The Commission reviewed specific public comments on the draft rules and the response proposed by staff where one or more Commission members wanted to have further discussion. The Commission also discussed a recent letter received from the Oregon Board of Agriculture. The table of draft responses to public comments was amended accordingly and changes in the draft rules made if warranted. Mark Bennett moved to adopt the draft rules as amended and

responses to public comments as amended. Mary Wahl seconded the motion. The amended draft rules and amended responses to public comments were adopted unanimously.

Review and Approval of Proposed Changes to the OAHP Statutes

Executive Director Meta Loftsgaarden presented the changes to the OAHP statutes, ORS 541.977-541,989, as proposed by staff and discussed whether any additional changes were needed based on the actions just taken by the Commission. Ken Bailey moved approval of the proposed changes, with the motion seconded by Mark Bennett. The proposed changes were approved unanimously.

Future Process and Schedule of OAHC Meetings

Executive Director Meta Loftsgaarden indicated that future work by the OWEB staff and by the Commission will depend on actions taken by the Legislature, including adoption of an OAHP budget.

The meeting was adjourned at 4:00 p.m.

Attachment: Notes recorded on Flip Chart from discussion of Letters of Interest

Questions discussed:

1. How would you characterize the letters to the legislature in terms of demonstrated need for the program?
2. How well do you feel the proposed projects integrate agricultural and conservation values?
3. Are there any projects that you feel miss the mark with respect to the program's purpose?

Key Points from Discussion:

- The wide variety of projects submitted demonstrates a significant demand exists over a diversity of geographies, crops, and parcel/operations sizes.
- Letters of Interest provide the information that was requested to demonstrate the value and need for the program; therefore meeting the purpose for requesting Letters of Interest. Some letters were stronger in describing how the projects integrate agricultural and conservation values. Almost every letter described a project of value, it will take a full application on the individual projects to understand and evaluate the projects to determine which projects are the best investments to meet the purpose of OAHP.
- There is no need to drop any projects or dive too deeply into the information; it should just be presented to the legislature as "this is what we received to demonstrate need." Letters provide a ball park figure for the need, and it is expected the match opportunity will be clearer with full applications.
- The diversity of Letters of Interests reinforces decision to structure the rules without a scoring protocol. Applicants will need to make their case for how their project meets the evaluation criteria, and the review process will allow flexibility for determining the extent to which the evaluation criteria are met across the diversity of geographies, crops, and parcel/operations sizes.
- The use of "conservation easement" language gives the impression the program leans towards conservation instead of integrating agriculture and conservation. "Conservation easement" is used because it is a legal term, but OAHP could use language around it to demonstrate the integration with agricultural, such as "working lands conservation easements."
- Understanding the question of "threat" is challenging since there is evidence at a county/region level, but it is unclear what is known at the specific property to determine the degree of threat to that property.
- Since there was a letter of interest for a covenant, there will likely be future demand for this product. It will be necessary to develop a valuation protocol. The commission could consider an administrative solution in which the process focuses on evaluating and recommending projects for funding and then staff addresses implementation of the covenant.

- The Commission may want to consider offering a workshop to potential applicants during the first offering to help applicants develop quality applications that provide necessary information for effective evaluation of the applications. For example, applicants could be trained on how to best describe issues such as the level of imminent threat.

What would be compelling to present to legislature?

- Strengths to highlight include the **process and rulemaking**. The process developed to weed out weak projects is based on a proven process that OWEB already uses for evaluating and awarding grants. Commission members feel confident in the rulemaking process itself, and the product will successfully result in the “best projects.” Tell the story about the rulemaking process and the in depth work completed, including inviting technical advisors to work with a commission membership of diverse backgrounds and skills.
- Speak directly about the chosen process to not use a scoring approach because the diversity of projects expected, and demonstrated by the Letters of Interest, would make it difficult to create a fair scoring approach that meets the purpose of the statute/program.
- Highlight quotes from the Letter of Interests, especially quotes by landowners and those that describe threats to speak to the importance of needing this program.
- Incorporate statistics from the Letters of Interest that demonstrate the diversity in the potential projects.
- Utilize visual aids, such as a statewide map, that shows site from the Letters of Interest and contextual landscape details that help tell the story of potential project opportunities.
- A key message to communicate is that the Letters of Interest provide evidence of \$53 million in existing statewide demand for the easement/covenant program that was collected without solicitation. If funded, based on this evidence, further solicitation is likely to bring in more project proposals across more Oregon geographies/districts.



Staff Report: Potential OAHP Grant Solicitation Timeline March 6, 2019 Commission Meeting

Introduction

Should funds be appropriated for OAHP grants in the 2019-2021 biennium, the commission should be prepared to solicit and evaluate, and make grant award recommendations for authorized programs. The timing of potential legislative action, likely in June, means that these preparations should be made prior to knowing the outcome of the legislative process. This staff report recommends a timeline for prospective grant offerings for the 2019-2021 biennium.

Background

The Oregon Agricultural Heritage Program (OAHP) statute authorizes the following grant programs: Succession Planning, Conservation Management Plans, Conservation Covenants and Easements, and Technical Assistance. At its January 15-16 meeting, OWEB board adopted the commission's recommended rules governing these grant offerings. The rules include provisions for evaluating and awarding grants for each offering. During its deliberations leading to the final set of rules, the Commission acknowledged that further work is required on valuing implementation of conservation management plans and valuing termed conservation covenants.

If funds are appropriated for the program, grant making can begin after July 1, 2019. Given the magnitude of program offerings, the need for new policy development, and the need to incorporate the new programs into online application systems, it may be advantageous to stagger offerings over the two years of the biennium. Staff recommend soliciting for Conservation Easement, Succession Planning, CMP development and monitoring, and Technical Assistance grants during the first year of the biennium, and for these offerings plus CMP implementation in the second year.

Proposed Timeline

Ideally, grant applications will be solicited through OWEB's online grant system. The following timeline is designed to take advantage of that system, meeting programming scheduling requirements.

January - May 2019

Application Development. Based on similar OWEB applications, staff will develop application templates for use in the online application system.

May 2019

Programming. The month of May is reserved for programming updates in the online system. With application templates prepared in advance, any necessary programming will be completed in May.

July 2019

Solicitation. If funds are appropriated, the commission will have the authority to release a solicitation in July.

October 2019

Applications Due.

November 2019 – February 2020

Evaluation. Technical review teams will be convened and culminate with staff-prepared evaluations of each application.

March 2020

OAHC meeting. As provided in statute, the Commission will recommend grants to the OWEB board.

April 2020

OWEB meeting. Formal awards made.

Second-year grants would follow a similar timeline.

Staff Contact

If you have questions or need additional information, contact Eric Williams, Grant Program Manager, at eric.williams@oregon.gov, or 503-986-0047.