

5. Small Forest Landowner Office

5.1 Introduction

The Small Forest Landowner Office (SFLO) serves as a resource and focal point for small forest landowner concerns and policies. The mission is to promote the economic and ecological viability of small forest landowners while protecting public natural resources. The office was created in the 1999 Salmon Recovery Act, when the Forests and Fish Rules were passed. The new rules resulted in increased size of riparian buffers and created further measures to protect water quality and restore salmon habitat. The Washington State Legislature recognized that the Forests and Fish Rules would have a disproportionate economic effect on small, family-owned forests. To help small landowners retain their forestland and not convert the land to other land uses, the legislature authorized the creation of a Small Forest Landowner Office within DNR. This office was directed to assist small landowners and begin assessing ways in which policies could be crafted to support them.

This chapter describes accomplishments, opportunities and challenges with a primary focus on two small forest landowner incentive programs, the Forestry Riparian Easement Program (FREP) and the Family Forest Fish Passage Program (FFFPP). These two programs were developed to be managed by the Small Forest Landowner Office and its partners to assist small forest landowners. A third program now administered by the office, which assists both small and large forest landowners, is the Rivers and Habitat Open Space Program (R&HOSP). The description of the program can be found in chapter 7 of this report. The Rivers and Habitat Open Space Program, formerly known as the Riparian Open Space Program, was initially administered by the DNR Asset Management Division because at the time the program allowed the state to purchase forest land. Due to legislative changes in the program, and because of the similarity to the Forestry Riparian Easement Program, the Rivers and Habitat Open Space Program is now administered by staff in the Small Forest Landowner Office.

5.2 Forestry Riparian Easement Program

Provisions included in the [1999 Salmon Recovery Act](#) established the Forest Riparian Easement Program (FREP). The easement program acknowledges the importance of small forest landowners and the contributions they make to protect wildlife habitat and water quality.

The Forestry Riparian Easement Program compensates eligible small forest landowners in exchange for a 50-year easement on those lands with “qualifying timber.” Qualifying timber are those trees that the landowner is required to leave unharvested as a result of Forest Practices Rules protecting Washington’s aquatic resources. Landowners cannot cut or remove any qualifying timber during the life of the easement period. The landowner still owns the property and retains full access, but has “leased” the trees and their associated riparian function to the state.

Funding for the program has been allocated by the Washington State Legislature since 2002. Funding was not available in fiscal year 2010, and then became available again in fiscal year 2011. Prior to June 2009, Forestry Riparian Easement Program applications were processed and purchased in the order received, commensurate with available funding. For the 2011 fiscal year

funding period the legislature funded the program in the amount of \$1 million through the legislature's supplemental capital budget appropriation. The budget appropriation required DNR to prioritize its funding of forest riparian easements for fiscal year 2011 differently than before (i.e. no longer just in order received). As shown in the table below, twelve easements were purchased in fiscal year 2011 - using the prioritization established by the legislature.

Forestry Riparian Easement Program Budget and Acres Purchased

Fiscal Year	Budget Allocated	Amount Spent	Applications	Easements Purchased	Acres Purchased
01-03	\$3,750,000	\$3,750,000	72	29	702
03-05	\$4,000,000	\$3,347,350	71	58	779
05-07	\$8,000,000	\$7,700,000	128	74	1,459
07-09	\$10,300,000	\$9,579,000	74	117	1,853
09-11	\$1,000,000	\$975,000	25	12	148
Totals	\$27,050,000	\$25,351,350	370	290	4,941

Changes to Forest Riparian Easement Program

As the result of recommendations made to the Office of Financial Management and to the legislature in September 2010 (Appendices #2a and #2b), the 2011 Legislature passed Engrossed Substitute House Bill (ESHB) 1509 that made some amendments to the program as follows. The legislation:

- Defines and establishes eligibility for qualifying small forest landowners for the Forestry Riparian Easement Program. At the time compensation is offered for a forestry riparian easement, the landowner must be a small landowner.
- Removes non-profit organizations from program eligibility.
- Expands the definition for qualifying timber to include forest trees associated with an approved Forest Practices Application that cannot be harvested according to Forest Practices Rules on areas of potentially unstable slopes or landforms with the potential to deliver debris to a public resource or threaten public safety.
- Limits compensation for timber on potentially unstable slopes or landforms to \$50,000 for each landowner during a biennial funding period.
- Requires the DNR Small Forest Landowner Office to utilize no more than 50 percent of the funds to determine the value of the easement based on timber values on the date the complete Forestry Riparian Easement Program application is received.
- Changes the date the 50-year easement term will begin from the date the Forest Practice Application pertaining to the easement area is received to the date the completed easement application is received.

- Expands the authority for the DNR to reimburse qualifying landowners for the preparation costs to prepare a Forestry Riparian Easement (e.g. geotechnical reports, stewardship plans).
- Requires a method to collect reimbursement from the selling landowner to the DNR for the full Forestry Riparian Easement compensation if the easement land is sold to a non-qualifying landowner within the first 10 years of compensation.
- Directs the chair of the Forest Practices Board to form a group of stakeholders to investigate and recommend potential new long-term funding sources for Forestry Riparian Easement Program and report to the legislature by October 31, 2011. This group will disband after July 31, 2012.

With the passage of ESHB 1509 the state Department of Natural Resources will request the Forest Practice Board adopt a rule to amend the current Forestry Riparian Easement Program rule (WAC 222-21). This rule adoption process could take as long as 12 months through the Administrative Procedures Act before the Small Forest Landowner Office will have the procedures in place to acquire easements under the revised program. Meanwhile the office will continue to accept new applications as well as accomplish the task of determining easement values for as many applications as staffing levels allow.

5.3 Family Forest Fish Passage Program

The Washington State Legislature established the Family Forest Fish Passage Program (FFFPP) (RCW 76.13.150) in 2003. Eliminating fish passage barriers can be costly. The program was developed to provide regulatory and monetary relief for small forest landowners to comply with the Forests and Fish Rule requirement for fish passage barriers upgrades. The program is voluntary and allows small landowners to sign up to correct fish passage barriers on their road crossings with assistance from the program. The state provides 75- to- 100 percent of funding for the barrier correction. The program continues to be a success and has been recognized as a model for interagency cooperation and for assisting landowners. More information can be found at the [FFFPP website](#).

In general, the 2003 bill required that:

- Washington State create a cost-share program that would provide 75-100 percent of the cost of removing fish barriers on small forest landowner lands.
- Barriers be prioritized and repaired on a “worst-first” basis.
- Once a year, projects submitted to the program be prioritized, and fish barrier corrections providing the greatest benefit to public resources are funded. Lower priority projects remain in the program to be funded once they become higher priority and money is available.
- By signing up for the program, a landowner is relieved of any forest practices obligation to fix a fish passage barrier until funding is made available to complete the project.

Three state agencies and a stakeholder group cooperate to manage and fund the program:

- Washington State Department of Natural Resources (DNR) Small Forest Landowner Office is the main point of contact for program information, assisting landowners, providing outreach and coordinating additional funding sources.
- Washington State Department of Fish and Wildlife (WDFW) is responsible for evaluating the barrier, habitat quality of the stream, and ranking barriers for correction.
- The Washington State Recreation and Conservation Office (RCO) administers program funding and provides information on program contracts, billing and reimbursement.
- Washington Farm Forestry Association (WFFA) represents the small forest landowner community on the steering committee; providing program oversight and assisting with project approval.

WDFW Ranking of Fish Passage Barriers for the Family Forest Fish Passage Program

The program legislation (RCW 77.12.755) directs repair of worst barriers first starting with barriers lowest in the watersheds. To identify and prioritize the worst barriers, WDFW rates the barriers enrolled in the Family Forest Fish Passage Program (FFFPP) on the following criteria:

- Number of fish species benefiting
- Amount and quality of habitat opened
- Degree of fish barrier
- Number and location of other barriers and the degree of those barriers
- Concurrence from Lead Entity Watershed groups (groups that take the lead on salmon habitat recovery plans in the watershed)
- Cost effectiveness

Projects are scored to provide an initial list that is evaluated by the three state agencies; DNR, Recreation and Conservation Office, and WDFW. This information along with project cost estimates are provided to the Family Forest Fish Passage Program Steering Committee for final funding decisions.

Information on the fish passage barriers obtained from site visits is placed in the WDFW Fish Passage Barrier Inventory. The inventory includes those stream crossings that have been identified through Washington State Department of Transportation inventories, local government inventories, barriers identified in FFFPP stream surveys, and local inventories funded by the Salmon Recovery Funding Board.

Program Challenges and Opportunities

In addition to providing adequate funding, the two greatest challenges for the Family Forest Fish Passage Program are filling data gaps in the inventory information and getting the word out to constituents. DNR and cooperating partners continue to pursue funding for inventory related work. The office continues to be successful at obtaining grants to help offset state capital fund allocation for the program, receiving \$648,000 since 2010 for projects and barrier inventory work.

Data gaps occur when small forest landowners (particularly those who haven't harvested) don't recognize a fish passage barrier, and are not aware that there is a cost share program available to assist in repairing or replacing the barrier. These barriers may not be recognized until the landowner submits a Forest Practices Application. At that time, any fish passage barriers within the application area would be addressed.

The Small Forest Landowner Office has been operating without an outreach specialist for the majority of FY 2011, as a result of budget constraints. Consequently, outreach reporting seen in past annual reports is not available during this reporting period. However, the Fish Passage Team will continue outreach and collaboration efforts with regional fish enhancement groups, Farm Forestry groups, Tribes, the Natural Resource Conservation Service, conservation districts, and county extension offices. Program information often is included in collaborator groups' web pages, newsletters, press releases, and at public forums. In conjunction with the Washington State University extension program, presentations also have been provided at three family forest field days throughout the state. The Small Forest Landowner Office intends to fill the outreach position as soon as the budget will allow.

Coordination with Watershed Groups

Coordination with watershed lead entity groups is part of the Family Forest Fish Passage Program. These groups are contacted once a year and given information on the projects that have been determined as "Potential High Priority". For most watershed lead entity groups, the program is a complement to their projects. The Family Forest Fish Passage Program projects are not in the same footprint as lead entity group projects, which generally are located low in each watershed on lands not owned by small forest landowners.

Family Forest Fish Passage Program Accomplishments and Future Plans

The program has successfully completed many fish passage projects since its inception in 2003. Below is a table showing current fiscal year information and cumulative information for all projects since 2003. This table has been revised from previous reports primarily for the purposes of clarification.

Family Forest Fish Passage Program Accomplishments

Data Item	FY 2011	Cumulative Since 2003
# Eligible Applications	50	
# Eligible Sites	64	
# Projects Completed	27	193
# Miles Opened Up	82	500
Cost of Completed Projects	2,400,000	14,000,000

For the 2011 construction season, 39 barriers are planned for correction. This will open up 62 miles of habitat at a cost of approximately \$3.2 million. Due to decreased funding levels (\$2 million for the 2011-2013 biennium) only 9 projects have approved funding for the 2012 construction season.

5.4 Small Forest Landowner Office Reports

The 2010 Family Forest Fish Passage Program Implementation Report was produced during the summer of 2010. The report serves as a legislative accomplishments report and as a marketing tool to attract new landowners to apply for the program. The report is produced in concert with Recreation and Conservation Office and WDFW and is located at the [FFFPP website](#). A copy is also included in Appendix #3.