Recommendations for Permanent Funding
Forestry Riparian Easement Program
May 31, 2012

Background

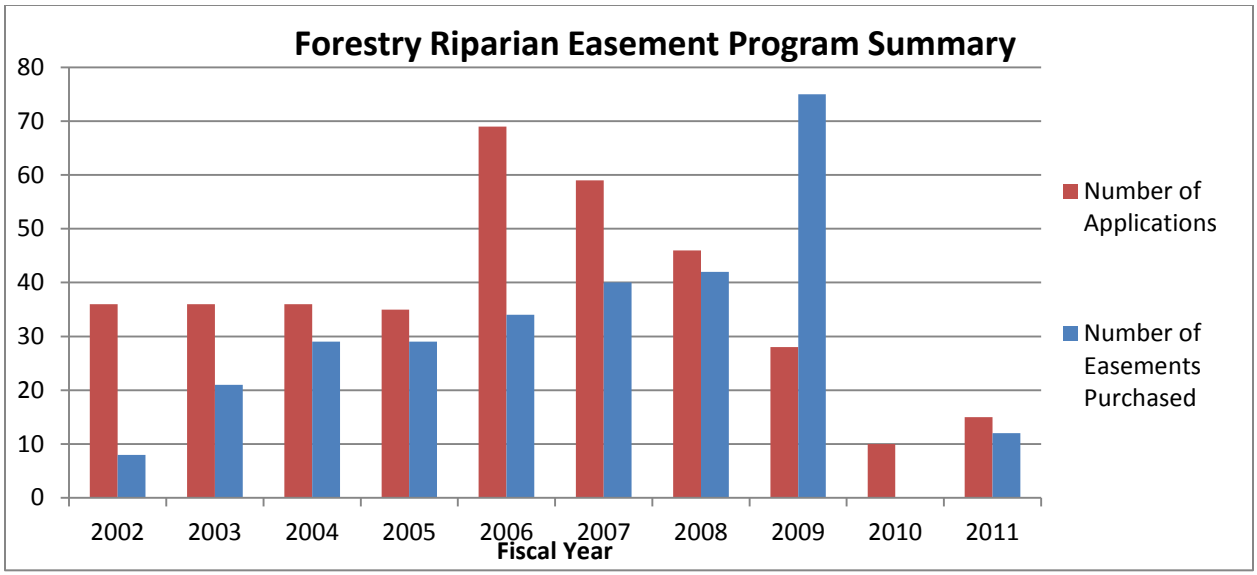
The 1999 Salmon Recovery Act (Act) was passed to assist in providing substantial and sufficient recovery of salmon while maintaining a viable forest products industry. The Act included a key component requiring the establishment of a Small Forest Landowner Office (SFLO) within the Forest Practices Division of the Department of Natural Resources (DNR). The legislature did this in recognition that increased regulatory requirements were diminishing the economic viability of small forest landowners. The SFLO provides assistance to small forest landowners in the alternate planning process and in completing forest practices applications; the office also administers small forest landowner programs including the Forestry Riparian Easement Program (FREP), Family Forest Fish Passage Program and the Riparian Open Space Program.

The Legislature created the FREP in 2001 to purchase from small forest landowners 50-year conservation easements along riparian areas. The FREP compensation to small forest landowners ranges from 50-89 percent of the value of those trees they are prohibited by the Forest Practices Rules from harvesting in riparian areas. The FREP fulfills a core commitment of the Forests & Fish Report and the Forest Practices Habitat Conservation Plan. The purchase of forestry riparian easements provides economic relief from increased regulations to small forest landowners and eases the pressure on many to convert their forest lands to land uses less compatible with salmon recovery.

FREP Implementation

There are an estimated 215,000 small forest landowners in the State of Washington who own and manage 3.2 million acres of forestland. To date, the FREP has purchased conservation easements on more than 4,900 acres of streamside riparian forests encompassing approximately 170 miles of streams. These streamside riparian forests are important for providing cool, clean water and important habitat for aquatic species. Approximately $25 million has been spent to purchase 290 easements at an average cost of $87,200 per easement.

1. The Legislature has funded the FREP through the State Building Construction Account. The current funding for FY 2012-2013 is $1 million. With this funding, the SFLO is determining the easement value for approximately 50 of the 95 FREP applications in the queue, and the purchase of approximately 10 to 15 easements. DNR is requesting $10 million in State Capital funding for the FY 2013 - 2015 biennium. This funding would purchase approximately 95 conservation easements and cruise and establish the value of an additional 45 FREP applications submitted during FY 2013 - 2015.



Fiscal Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Totals
Number of Applications	36	36	36	35	69	59	46	28	10	15	370
Number of Easements Purchased	8	21	29	29	34	40	42	75	0	12	290
Waiting List	28	43	50	56	91	110	114	67	77	80	
Amount Spent	$680,000	$3,070,000	$1,850,000	$1,497,350	$2,892,000	$4,808,000	$4,079,000	$5,500,000	$0	$975,000	$25,351,350

Stakeholder Process

The FREP Reform legislation passed during the 2011 Legislative session directed the chair of the Forest Practices Board (FPB) to work with interested stakeholders to investigate and recommend potential long-term funding sources for the FREP (ESHB 1509 § (6)). These recommendations are to be reported to the appropriate committees of the legislature by May 31, 2012.

The FPB chair, through the Department of Natural Resources (DNR), invited interested stakeholders to a public meeting on February 8th, 2012 in Olympia to collect funding ideas. DNR also collected ideas from stakeholders that could not participate at the meeting through the SFLO email address at sflo@dnr.wa.gov. This email address is posted on DNR's FREP and SFLO websites. The Public Meeting notes and emailed ideas are posted on DNR's FREP and SFLO websites at: http://www.dnr.wa.gov/BusinessPermits/Topics/OtherInteragencyInformation/Pages/fp_sflo_frep_publicmeetings.aspx and included in attachment A.

On March 26, 2012 the FPB chair held a meeting with a subset of those attending the February 8 meeting, along with staff from the Office of Financial Management, to consider the ideas and develop a refined list of funding proposals for legislative consideration. These are included in the following section.

Recommendations

A fundamental element of the Forests & Fish Report is full funding of the FREP. This program was created to purchase 50-year conservation easements as compensation to small forest landowners for the diminished economic viability of their forest lands from the increased regulatory requirements of the Forests & Fish rules. The chair of the FPB recommends legislative consideration of three potential categories of permanent long-term funding sources for the FREP: continued appropriation of capital budget funding; redirecting existing funds through any one or more potential options, and the creation of new revenue sources.

I. Ongoing Legislative Funding

DNR and stakeholders should continue to request, and the Legislature should continue to appropriate capital budget funding to the FREP. Continuation of this commitment by the Legislature will fulfill the State's contributions to the Forests & Fish Report and the FREP as outlined in RCW 76.13.120.

II. Redirect Existing Funds

Each identified potential funding mechanism offers a new funding source; however, none of the funding mechanisms could fully fund the FREP.

1. Redirect Mitigation Funding – During the 2012 session, the Legislature passed Engrossed Second Substitute House Bill 2238. This legislation allows funding to meet environmental mitigation obligations of WSDOT and local governmental entity roads construction projects can, with approval of the departments of Ecology and Fish and Wildlife, be applied toward funding for the FREP, along with the Family Forest Fish Passage Program and the Riparian Open Space Program.

2. Forest and Fish Support Account – Some portion of this account could be used for the FREP. Currently this account is funded through a timber sector business and occupation tax surcharge and other sources, and is primarily used to fund Forests & Fish participation grants for tribes, agencies and NGOs, and the Forest Practices Adaptive Management Program.

3. Endangered Species Act Section 6 Funding – Federal funding through this program could be sought for the FREP. Currently these funds are provided to states, including Washington, for a variety of management, research, monitoring and outreach activities providing direct conservation of species listed under the federal Endangered Species Act. However, it is difficult to obtain these funds for the implementation of an approved Habitat Conservation Plan such as the Forest Practices Habitat Conservation Plan.

4. Local Conservation Futures – Under the 1971 state authorizing legislation, Washington counties have authority to charge a property tax to produce revenue for acquisition of property and interests in property (easements) to provide recreation, habitat and open space benefits for local citizens. Some portion of these revenues could be earmarked by counties for FREP funding.

5. Aquatic Land Enhancement Account (Capital) – This Fund receives revenues from

management of state-owned aquatic lands, including the sale of geoduck clams, for the purpose of protecting and enhancing the state's aquatic lands, which include the beds of navigable waters. The grant funding is administered by the Recreation and Conservation Office.

6. Farm Bill Programs – The federal "Farm Bill", passed periodically by Congress, contains numerous land and water conservation programs, many administered by the Natural Resources Conservation Service. Further research is needed to determine if existing farm bill programs may be appropriate funding options for the FREP.

III. Create New Revenue Sources

Each potential new source of funding offers a permanent source of funds; however, none of these revenue sources could fully fund the FREP.

1. Enact a New Permit Fee for land development creating impervious surfaces – Similar to current storm water requirements, and complementary to the mitigation funding mentioned previously. An impervious surface fee would have a direct connection to the water resources that are the target of the FREP.

2. Real Estate Excise Tax Surcharges on Transfer of Development Right Transactions – Counties and cities are increasingly turning to transfer of development rights (TDR) programs to conserve rural and resource lands by shifting development to incorporated areas. A new Real Estate Excise Tax surcharge on these transactions would be consistent with the purposes of TDRs and of the FREP; to help forest landowners keep their lands in forest uses while maintaining conservation outcomes on these lands.

3. Class IV General Forest Practices Application Fee – Class IV General Forest Practice applications involve land use conversion. In 2012 the legislature raised the fee on these applications. Future legislative consideration of this idea could be linked with the objective of obtaining stable long-term funding for the FREP, which helps moderate conversion of forest lands.

4. New Lottery Game - An effort could be made to gain approval for a new lottery game, the proceeds of which would help fund the FREP. The concept could be to take advantage of the priority many people place on protection of clean water by careful management of forest lands.

5. Vehicle or Driver's License "Opt Out" Fee – Similar to today's "opt out" check box for state parks, a small additional voluntary fee could be added to vehicle and/or drivers licenses.

Non-Public Revenue Compensation

The overwhelming stakeholder recommendation is for financial compensation for diminished economic viability of their forest land from the Forests & Fish rules. However, non-monetary compensation may be a viable option for some. These include:

Tax Exemptions for Landowners

1. Federal Income Tax Exemptions – Working through Washington's Congressional delegation, an effort could be made to gain a federal income tax exemption for the value of un-reimbursed FREP timber contributions by small forest landowners.

2. State Forest Excise Tax Exemption – Harvesting of timber that triggers the riparian protection reimbursed by the FREP incurs a forest excise tax (FET) obligation by the landowner. In light of the riparian timber value lost to small forest landowners, the remaining harvested timber could be exempt from the FET for those harvests.

Voluntary Donations

Voluntary donations from a variety of public, foundation, and corporate donors could be sought through a campaign, focusing on the environmental and social value of FREP commitments made by small forest landowners.