



STATE OF WASHINGTON

RECREATION AND CONSERVATION OFFICE

March 2008

Item #10: **Farmland Preservation Program:
Model Agricultural Conservation Easement**
(Washington Wildlife and Recreation Program)

Prepared By: Kammie Bunes, Senior Outdoor Grants Manager

Presented By: Kammie Bunes, Senior Outdoor Grants Manager

**Approved by the
Director:**

Proposed Action: Briefing

Summary

The Recreation and Conservation Funding Board (Board) adopted amended resolution #2007-11 on June 7, 2007, approving updates to Manual 10f, Farmland Preservation Program: Policies and Project Selection. The resolution also included approval of a model agricultural conservation easement "as a recommended but not required template for use by grant recipients." Board members asked staff to bring both the policy manual and easement back to the Board for review and modification before the 2009 Farmland Preservation Program grant round. The Board approved revisions to Manual 10f on January 15, 2008. Staff offers the following update concerning the model easement.

Staff Recommendation

Staff is not recommending changes to the model agricultural conservation easement at this time.

Background

On June 7, 2007, RCFB approved grants for 10 farmland preservation projects. Implementation of those projects is currently underway. To date, the Recreation and Conservation Office (RCO) Director has approved two agricultural conservation easements: one for 40 acres within the City of Sequim and one for approximately 110 acres in the Methow Valley. The City of Sequim proposed an easement very similar to



the RCFB model. Okanogan County, working in partnership with the Methow Conservancy, proposed an easement with language that varied substantially from the model. Both required review by RCO's Assistant Attorney General (AAG) and one required negotiations between the agency director and the land trust to address differences between their form and our template. Both easements were eventually approved. A summary of the topics of interest raised during the process is below.

City of Sequim

Sequim's attorney raised an issue related to the Growth Management Act (GMA). Designating farmland within city limits is not consistent with the GMA, but it is allowed on the subject property as a grandfathered use. Sequim's concern was that if farm operations ceased, the grandfathered status would be lost and farming could not resume in the future. The Farmland Preservation Program requires that the property be maintained in a farmable condition, so Sequim would be out of compliance with their agreement if the right to farm in the future were lost. Sequim proposed adding easement language to allow the City to lease the property for farming purposes if the landowner ceases farming operations for a period of one year. This approach allows the City to ensure ongoing agricultural use of property within city limits, consistent with GMA.

Sequim also proposed including a clause allowing use of the property for community garden purposes. Staff debated whether this type of use is consistent with the purpose of the Farmland Preservation Program. Staff did not believe there were grounds to prohibit this use, and subsequently allowed a community garden as a permitted use. If the Board is concerned that a community garden does not meet the intent of the program, the Board could choose to add community gardens to the list of ineligible projects (such as aquaculture and commercial feedlots).

Okanogan County

Okanogan County worked with the Methow Conservancy to place an easement on about 110 acres of farmland. A family that has several hundred acres proposed for future easements to preserve farmland or habitat owns the property. The Conservancy provided a Federal Farm and Ranchland Protection grant as donated match, and was named as co-grantee in the agricultural easement. The draft easement they submitted resembled the Board's habitat conservation easement more than the Board's agricultural conservation easement. As a result, it required a greater amount of review and discussion with RCO's AAG and the attorney representing the County. The Director was instrumental in facilitating a final document.

Analysis

Attorney and Staff Time: Staff spent about 16 hours working with these two easements, with most time allocated to the city easement. RCO's AAG spent a total of 19 hours on these easements, with most of the time allocated to the county easement. Staff is working to streamline the review and approval process.

Some partners have said our template is too complex or detailed. Additionally, the new farmland preservation office at the Conservation Commission is drafting a primer on agricultural conservation easements and developing a model template written in simple, non-legal language. It would be beneficial for the RCO to join forces with the Conservation Commission to develop a template that works for all.

Next Steps

RCO staff expects to receive five more draft easements soon. Early indications are that three will be very close to the model and two will likely propose substantial differences in language. Following the Board's direction from June 2007, as long as grant recipients can demonstrate how their proposed easement meets the intent of the RCFB model, staff will work with them toward a final document that meets their needs and protects the Washington Wildlife and Recreation Program investment.

If an alternative template is proposed by others or in conjunction with others, we will bring it back to the Board for discussion.

Attachments

None