



WSDA Future of Farming Project

Status of Existing Programs for Protecting Agricultural Lands in Washington

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Washington State Department of Agriculture

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Introduction: The land input for agricultural businesses:

The success of any agricultural business turns upon its ability to assemble the inputs required for profitable operation – inputs like land, capital, labor, water, energy, etc. Clearly, entrepreneurial skills such as business management, innovation, and marketing are also constituents of a successful farm. However, land arises as a critical issue in that it is a core necessity of agriculture – and an especially costly one. Most producers will affirm that land is usually the heart of a farming operation. So, while the profitability *model* of agricultural inputs and operator skills is multi-faceted, land takes on special importance for most farmers.

To have value as a farm business input– the land must be useful for the particular agricultural operation in several ways:

- **Affordability**: It must be available at a price that can be appropriately capitalized by the farm business enterprise.
- **Productivity**: It must possess soil, climate, and other conditions that will make it sufficiently productive for the intended use.
- **Location**: It must be appropriately located for the particular farm business and, in some cases, located near or adjacent to particular public or private lands.
- **Size**: It must be of a size appropriate for and useful to the intended use.
- **Contiguity**: In some cases or geographic areas, the land must be contiguous with other agricultural lands so as to minimize potential conflicts with neighbors and simplify the movement of operations and management between land parcels.
- **Zoning**: It must be zoned appropriately and hopefully protected by right-to-farm laws.
- **Sustainability**: Its productivity must be sustainable with management at a reasonable cost and without undue restrictions on its use.
- **Timing**: It must be available at a time when qualified investors have the desire and the capacity to buy.

Current statistics, and even popular news, reveals a sharply increased pressure on farmland, especially since communities originally built adjacent to the best land and water resources have rapidly expanded. As the population spreads, citizens want access to amenities like shopping and entertainment that also necessitate use of land. In short, this phenomenon creates polarization between the urban edge population and the producers of their food and fiber. Due to consolidation of farming units over the last 50 years, less of the population has family or professional connections with food and fiber origins, so this disconnect creates substantial misunderstandings. For example, as the origin of water contamination has become a huge issue, it is easy for a condensed population to assign blame to food and fiber producers who are disconnected from the average urban family.

None will contest the importance of undeveloped land for the mitigation of environmental pollution, flood, and the unattractive sprawl. But a condensed populous that is disassociated from agriculture can easily come to believe that agriculture is a “user” of land as opposed to a steward, a problem rather than the best solution. Contrary to this belief, owner-producers using best-practices are the most efficient and cost-effective stewards of the land resource, providing value-added attributes sought by environmentalists and consumers alike. For example, the millennia old practice of cultivation for food and fiber protects the land from the infestations of noxious weeds and other losses of non-stewarded land. During recent FOF focus groups this was testified to by both large surface producers in dry land areas and the intensely farmed irrigated production areas.

Due to some of the pressures and misunderstandings of urban-edge locations, social and economic conditions are slowly taking control out of the individual producer’s hands. Land which satisfies the requirements for profitable agriculture may also satisfy the needs of other, non-agricultural land uses. These other uses increasingly out-compete the farm business and become subject to the “highest and best use.” (This is the real origin of this term.) When this happens, the most productive farmlands, almost no matter where they are located, are likely to fall to competing uses, to be fragmented up into agriculturally-useless parcel sizes, and to end up surrounded by inconsistent non-farm activities.

Producers are highly interested in the issue of land availability. It can be the key to overall profitability and success of an agricultural business. Of course land is but one factor amongst many in the model of productive agricultural production. Availability of land will not alone be sufficient to assure productive enterprises. Many non-farmland profitability factors are under discussion in the process of the Future of Farming process, so they will not be considered in detail here (see APPENDIX A. “A Successful Farm Business: Beyond the Land”). But agriculture is a comparatively land-extensive business in competition with more land-intensive ones. If we are to preserve agricultural lands for the future of food security and inevitable increases in the demand (need) for production capacity we must use all the tools available to increase the availability of lands likely to meet the above requirements.

Status of existing programs:

The items that follow explain each of several approaches currently being taken to support the availability of key farmland for agriculture around Washington. There is a discussion of each, where it is currently available, any limitations this approach may have in practice, and of some of the programs currently using this approach. Of course everything having to do with farms, in one way or another, affects farmland. The focus here is limited to those approaches and programs that are, more-or-less directly, focused on helping assure the long term availability of land for the agriculture industry here in Washington.

It is not the purpose of this list to simply catalogue the programs that are now available. The intent is to describe these approaches and the existing programs that support them in a way that allows the reader to also consider what might be missing from this list or what improvements might be needed rather than simply to understand what is already in place. It should also be noted that, pretty much without exception, all of the programs listed below are under-funded – so this comment is generally omitted from the lists of issues and concerns.

A. Regulatory zoning

Washington's regulatory zoning under the Growth Management Act preserves land for agriculture by prohibiting subdivision to parcel sizes smaller than would be useful for agriculture. This prevents the fragmentation of important agricultural lands. It also tends, to some degree, to dissuade non-agricultural buyers who do not wish to own, or cannot afford to buy, larger parcels of land. By adopting such rules for land in targeted agricultural zones, it is possible to help assure the availability of land for agriculture and to protect most of the key characteristics mentioned above.

Zoning is, of course, not unique to agriculture. Zoning laws are commonly used for a variety of purposes here in Washington and nationwide. There are several important public uses for zoning. These include:

- ✓ Protection of socially valuable land uses that might otherwise be lost to development;
- ✓ Separating inconsistent uses to prevent conflicts between neighboring owners; or,
- ✓ Preventing the fragmentation of larger land parcels into sizes unsuitable for a needed land use.

By way of illustration, a few common specific examples of zoning and land use regulation might include:

- ✓ Assuring scarce land on marine ports remains available for waterfront-dependant needs;
- ✓ Controlling the residential use of lands surrounding airports to prevent noise conflicts with air transportation;
- ✓ Protecting residential communities from encroachment by commercial and industrial activities – and vice-versa;
- ✓ Protecting water supplies, shorelines, and critical areas for the needed community environmental values they provide.

Issues and limitations:

- **Financial impact on existing landowners:** When zoning changes, existing landowners can be financially affected, sometimes gaining a financial windfall (e.g. with increased density), and sometimes suffering a financial loss (e.g. if allowed density is reduced). These gains or losses can be substantial. They can easily seem unfairly generous or punitive for landowners who own the property at the time of the change. Subsequent owners, of course, presumably purchase the land knowing of its current zoning.
- **Lack of certainty:** For zoning to successfully keep land prices in the designated zone at a level appropriate to the protected use, it must be seen by all as stable and certain over time. If buyers can anticipate that zoning density may increase, or if they can potentially influence future zoning, speculation will drive the price up and can erode the purpose for the zone. There is often political pressure from landowners and developers to increase zoning density.
- **Political resistance:** Because of real impacts on current landowners, zoning restrictions are politically difficult to impose and are often less aggressive than they need to be to accomplish the designated purpose. The average farm in Washington is 458 acres. But the largest parcel sizes zoned for agriculture in Washington are mostly in the range of 35-40 acres. There is a good deal of agricultural zoning at 20, 15, 10, and even 5 acre parcels. Even in the 35 or 40 acre zones, many of the parcels are grandfathered in at much smaller sizes. And much of the roughly 15.1 million acres currently in agriculture in this state is actually being conducted in rural or other non-agricultural zones.

- No requirement to farm: Because zoning can have such direct impact on landowners, Washington zoning has not required (like Oregon) that a parcel in an agricultural zone be farmed if a residence is to be built upon it. To do so would place even further financial burdens on the owner – something the political community has been reticent to do. As a result, large farm parcels can still be used as so-called “country estates.” Often, residential buyers can easily afford to out-bid a farmer for the land even if the parcel size is larger than they particularly need.

Current programs:

Washington has a statewide Growth Management Act (GMA), RCW Ch. 36.70A. Implementation of the GMA is the responsibility of participating local governments guided by regional Growth Management Hearings Boards which provide administrative court interpretation of the requirements of State law. The Washington Department of Community, Trade, and Economic Development [Local Government Division, Growth Management Services <http://www.cted.wa.gov/site/375/default.aspx>.] facilitates implementation of the Act and provides support for local communities in fulfilling its requirements.

Mission/purpose: The GMA includes 14 stated goals (RCW 36.70A.020) as follows: (1) Efficient concentration of urban growth, (2) Reduce sprawl, (3) Improved efficiency of transportation, (4) Assure affordable convenient housing, (5) Encourage economic development, (6) Respect property rights, (7) Efficient permitting, (8) Protect natural resource industries, (9) Provide open space and recreation, (10) Protect the environment, (11) Encourage citizen participation and coordination, (12) Provide public facilities and services, (13) Historic preservation, (14) Shoreline Protection (added in 1995 - RCW 36.70A.480).

Mission/purpose: CTED’s Growth Management Services mission is stated as follows: “We assist and guide local governments, state agencies, and others in planning and achieving effective solutions to manage growth and development, consistent with the Growth Management Act (GMA).” From Growth Management Services website

Contact: Leonard Bauer, Managing Director
 Growth Management Services
 (360) 725-3055
leonardb@cted.wa.gov

B. Purchase of development rights

A purchase of development rights (or PDR) is a voluntary transaction in which a farmer/seller is paid a negotiated market price in exchange for placing a restriction on his or her land that will prevent future subdivision and development. This restriction usually takes the form of an “agricultural conservation easement.” The easement can be written to apply to whatever portion of the land is mutually desired and can contain whatever restrictions are agreed upon. The market value of the easement-restriction is the difference between the full fair market value of the land and its value subject to the restriction. The seller remains the owner in fee simple. But following the transaction, the land can no longer be subdivided or developed in ways inconsistent with agriculture. So when it next sells, it will sell at a reduced price – usually a price that reflects its value for agriculture. The owner, of course, receives full payment for the reduced value which can

be invested as he or she sees fit – in additional land, in the business, in a retirement plan, etc. These payments can be made in cash, or can be deferred over time.

PDR programs are generally established by governments and funded through taxes (although see TDR, below). Interested farmers are invited to apply to the program. Usually there are criteria for participation that may give priority for certain soils, locations, circumstances, or characteristics of the land or farm. This is how program acquisitions can be designed to protect the best farmland, protect land in key farming areas, or protect the lands most likely to contribute to a healthy agricultural economy. Because the seller of an easement remains the fee simple owner, these programs keep land in private ownership. If the owner is already enrolled in Washington's current use tax program, the assessed value will generally stay the same with no change in property taxes.

Issues and limitations:

- **Property rights:** Participation in PDR programs is voluntary, and landowners receive payment for the impact on the value of their land. As such, they respect private property rights.
- **Cost:** PDR programs can be expensive. Taxpayers are not always willing to provide this funding. This is why most such programs are carefully targeted on the lands which seem most important to protect.
- **Funding:** Because funding for such a program may be limited, it can be difficult for the PDR program to assemble enough protected land from voluntary sellers in key locations that it can fully protect contiguous areas or address key policy needs.
- **Excess demand:** Also because of lack of funding, a PDR program may be unable to keep up with farmer demand to sell easements. There may be long waiting lists and missed opportunities to protect important land.
- **Long perspective:** These programs must take a long view – making a few acquisitions each year pursuant to a long-term vision for the protection of agriculture. There needs to be a matching long-term resolve on the part of the community to assure its willingness to continue with the acquisition program over time.
- **Ongoing investment in monitoring.** Monitoring and enforcing easements requires a continuing investment of time and resources.
- **Slow process:** These acquisitions can be time consuming and the process cumbersome making them a less-than-perfect solution if the landowner is in a hurry. For example, the WWRP program (below) is only open for applications every other year, and it can be as long as 16-18 months between application and a final decision.
- **Focus on agriculture:** PDR programs seem to work best when they are focused most on the needs of agriculture rather than when they are designed to address other public needs and when protecting agriculture is a secondary purpose. Without an agricultural focus, the program may tend to ignore key priorities of a successful farming industry, such as:
 - Vigorous availability of the program in the areas of a where agriculture is most prevalent
 - Respect and account for local differences in needs of the industry
 - Capacity to step in quickly when an important property is threatened
 - Ability to consistently pay the full difference between market and agriculture value
 - Priority for farmland contiguous with other farmland

- Recognition of the necessary relationship with nearby agricultural infrastructure businesses like processors, suppliers, and support services
- Determination to keep a program consistently available over time rather than being bonded out and only available for a short period

Current programs:

Currently, resources are limited in Washington – but they include the following:

- **Federal Farmland Protection Program (FPP) (formerly FRPP):**

The recent Federal Farm Bill renewed and increased funding authorization for the FPP which could double over the next 5 years. This program will pay up to 50% of the cost for purchases of agricultural easements by a local PDR government program or land trust. There can be as much as several million dollars available from this source annually here the State of Washington. FPP funds can be matched by private, county, or state funds. And up to 25% of the purchase price can be contributed by the landowner (if so desired) in the form of a bargain sale. FPP will not pay for program or administration costs. For more information, see:

<http://www.nrcs.usda.gov/programs/frpp>

Mission/Purpose: “The Farm and Ranch Land Protection Program (FRPP) provides matching funds to help purchase development rights to keep productive farm and rangeland in agricultural uses.” From USDA/NRCS Website

Contact: Jeff Harlow, Soil Conservationist

NRCS Olympia Office

(360) 704-7784

jeff.harlow@wa.usda.gov

- **Washington Wildlife and Recreation Program(WWRP) Farmland Protection Program:**

In 2005, a farmland protection program was added as a part of the WWRP. It will pay up to 50% of the cost of purchasing an agricultural conservation easement. (This funding can match the Federal FPP funding to cover the full acquisition price.) The WWRP program is funded biennially in Washington’s budget (odd) year. Funding is currently established as a set percentage of the total amount appropriated for the full WWRP program. In the 2007 Session, \$9 million was made available for this program. Applications for the program are submitted to the Washington Recreation and Conservation Office (RCO) in early May of even-numbered years. They are evaluated and placed on a priority list and will receive funding in priority order, based upon the amount of the appropriation provided by the subsequent Legislature. WWRP will not pay for program or administrative costs. Applications are required to be received from local counties on behalf of the landowner so the county must be willing to participate – at least to the extent of submitting the application. See the Farmland Preservation Program Manual for details:

http://www.rco.wa.gov/documents/Manuals&Forms/Manual_10f.pdf

Mission/Purpose: “In 2005, the state Legislature expanded WWRP to include preservation of significant farmland through the purchase of development rights. A secondary goal of the FPP is to fund restoration of ecological functions that will enhance the viability of the preserved farmland to provide agricultural production, while

conforming to legal requirements for habitat protection.” From WWRP Farmland Preservation Manual

Contact: Kammie Bunes
Washington Recreation and Conservation Office
(360) 902-3019
Kammie.Bunes@rco.wa.gov

- Washington Office of Farmland Preservation:
The 2007 Legislature created a new Office of Farmland Preservation within the Washington State Conservation Commission. The office was tasked with developing a plan for the preservation of farmland in Washington. (See SB 5108.) As this plan is being developed with the help of a statewide Task Force, the new office is also providing technical and other assistance to citizens and local communities in creating new local programs.

Mission/Purpose: “To support the retention of farmland and the viability of farming for future generations.” From SB 5108

Contact: Ron Shultz
Washington State Conservation Commission
(360) 407-6200
rshu461@ECY.WA.GOV

- County programs:
Several counties have either formally adopted local PDR programs or have made agricultural easement acquisitions and are investigating, at some level, becoming more active in protecting agriculture. For example (in no particular order):

- King County Farmland Preservation Program(FPP): In the late 1970s, King County voters approved a \$20 million bond issue to purchase development rights on local farmlands. This money has been matched by federal and other money and, in the intervening years, the County has protected over 13,000 acres under the program. The initial bond issue funding is now exhausted, but the county does still make some limited acquisitions from time to time. This was one of the first such programs anywhere in the country.

Mission/Purpose: The program “began in 1979 when the voters of King County approved an initiative authorizing the County to preserve rapidly diminishing farmland by purchasing the right to develop it.” From: FPP website

Contact: Judy Herring, FPP Program Manager
206-296-1470
judy.herring@kingcounty.gov

- Skagit County Farmland Legacy Program: In 1998, the Skagit County Commission adopted the Conservation Futures property tax and dedicated it entirely to the purchase of

agricultural easements. This produces somewhat under \$500,000 annually which the County uses as match for FPP and other funding. To date, the program has protected about 6,000 acres of land for agriculture.

Mission/Purpose: “[P]urchases agricultural easements on Skagit farmland, and works to support policies, programs, and plans that enhance the local agricultural industry.”
From Farmland Legacy Program website

Contact: Kendra Smith, Program Director
(360) 419-3303
kendras@co.skagit.wa.us

- ***San Juan County Land Bank:*** In San Juan County, the Real Estate Excise Tax is used to fund their Land Bank program, a part of which is the protection of agricultural properties – which are seen as an important part of the County’s history and legacy. The program was created by voter referendum and was reinstated about 2 years ago by an overwhelming positive vote. It makes straight outright acquisitions as well as easement purchases. As of 2006, the program had purchased a total of 4,800 acres of which about 1,900 were easements of all kinds.

Mission/Purpose: “To preserve in perpetuity areas in the county that have environmental, agricultural, aesthetic, cultural, scientific, historic, scenic, or low intensity recreational value and to protect existing and future sources of potable water.”
From Land Bank Mandate – Land Bank website

Contact: Lincoln Bormann, Director
(360) 378-4402
lincoln@rockisland.com

- ***Whatcom County Purchase of Development Rights Program:*** In 2002, the Whatcom County Council decided to allocate half of its existing Conservation Futures tax revenue to purchasing development rights for agriculture. As of last year, they had completed 6 grant rounds, acquired 66 development rights (essentially rights to build on farmland) on 368 acres of farmland and had spent \$2.6 million. The program targets specific geographical areas that have been designated as a priority for protection by the County.
http://www.co.whatcom.wa.us/pds/planning/pdf_round_six.jsp

Mission/Purpose: “The County’s farmland protection program purchases development rights from farm properties. Farmland owners retain all other rights to their property, including the right to continue farming or to sell their land. A permanent conservation easement is placed on the farm property thereby protecting the land from development in perpetuity.” From Whatcom County Planning website

Contact: Samya Lutz
(360) 676-6970

- Pierce County Conservation Futures Program: Pierce County's program is run out of their Parks and Recreation Department (<http://www.co.pierce.wa.us/pc/abtus/ourorg/parks/cfutures.htm>) and is funded by their Conservation Futures Tax. Applications can be downloaded from this site. Farm properties compete for points in their competitive process with other properties, land types, and criteria, but receive a medium priority for point allocation.

Mission/Purpose: Conservation Futures is a land preservation program for protection of threatened areas of open space, timber lands, wetland, habitat areas, agricultural and farm lands within the boundaries of Pierce County.

Contact: Pierce County Parks & Recreation Department
(253)798-4009

- Other counties: Snohomish, Thurston, Clallam, Spokane, and several other counties in Washington have either engaged in PDR purchases at one time or another or have considered (or are considering) PDR programs. And some County government may also become interested, occasionally, in addressing some other public purpose or goal (environmental, airport buffers, open space, etc.) and may, for this reason be willing to acquire an agricultural or similar easement. Usually the likely contact will be in the Planning Department.
- Other State or Federal agencies: Upon occasion, when the circumstances are appropriate, government agencies other than those specifically associated with agriculture may have funding to preserve agricultural lands – when doing so can serve some specific need related to their particular mission. For example, the Washington Department of Fish and Wildlife or the National Fish and Wildlife Service have, occasionally, purchased easements on agricultural lands when some specific habitat or other environmental goal was threatened by its conversion. The easements required by such purchases will, of course, be primarily focused on preserving the environmental or other value sought – with continued viable agriculture generally being a secondary consideration.
- Private PDR funding – land trusts: Upon occasion, some land trusts or other private charitable funders will be willing and able to purchase agricultural conservation easements. More often, however, land trusts will lack the funding needed to make such acquisitions. (See discussion of land trusts under D. Donated Easements, below.) And sources of private charitable money to do so are extremely rare. This is especially so because most land trusts are focused more on the preservation of natural habitat than on preserving working lands – although it is important to realize that most do also include protection of agricultural lands as one of their areas of interest and many are quite familiar with the needs of agriculture and have a good deal of experience dealing with farmers. At a minimum, it is possible that a local land trust may be willing to help a farmer assemble a purchase transaction that could be funded through some government agency or program.

C. Transfer of development rights

Transfer of development rights (TDR) programs draw upon the frequent wish of developers to build to densities higher than already allowed or to obtain other land use accommodations that will make a project more profitable. Often, local governments (and the communities they serve) are willing to accept additional densities in one place in the community or to adapt existing rules for a particular project if, in exchange, the developer will pay an extra premium to help reduce densities elsewhere – for example, to protect farm or forest lands. The term “development right” usually refers to the right to build one residence for a family but it can be used in other ways as well. A TDR program will generally designate “receiving areas” where increased density may be allowed in the form of additional “development rights” if the developer has acquired those rights by purchasing them from a landowner in a designated “sending area” where less density is in the public interest.

For example:

- A county might require that development of any properties newly included within an expanded urban growth boundary be supported by development rights purchased by the developer from landowners in a designated agricultural sending area. Because of the increase in allowed density resulting from the urban boundary expansion, the newly included landowner receives a windfall in new value. Through TDR, some of that value is used to support reduced density in the designated agricultural sending area. Pierce County recently adopted an ordinance that will work in this way. <http://www.co.pierce.wa.us/xml/Abtus/ourorg/council/2007-91s%20final%20ord.pdf>
- A small city whose economy, character, and identity, are closely tied to the existence and economic health of surrounding farms may require new development projects within the city to purchase development rights from farmers in the surrounding agricultural countryside to protect it from sprawl. For example, the City of Arlington is currently working with Snohomish County to create such a program. See Mayor Margaret Larson’s description at: <http://www.ci.arlington.wa.us/index.asp?NID=88> and the explanation on Snohomish County’s website at: http://www1.co.snohomish.wa.us/Departments/PDS/Divisions/LR_Planning/Projects_Program_s/Agriculture_Resources/Transfer_of_development_rights.htm
- A large urban city might wish to support the protection of farms or timberlands in the areas around the city that help to give it character and that generate environmental and scenic value for its residents. It might designate certain areas for increased downtown development density (perhaps increased height, additional parking, or other accommodations) allowed if the developer purchases development rights from those surrounding areas. The City of Seattle has required TDR transfers in the past within the City: <http://www.seattle.gov/news/detail.asp?ID=4264&Dept=28> and also works with King County, from time to time, to implement TDRs that come from outside the City limits as well. See: http://www.metrokc.gov/exec/news/2006/0118girlscouts_tdr.aspx

Issues and limitations:

- Lack of demand: A strong TDR program depends upon a strong growth management program. If growth is allowed wherever desired and with few restrictions, there is no need by developers to purchase development rights because they are available in most places for free.
- Resistance to density: Of course a major objective of growth management is to concentrate density in some areas and to protect others. But despite the potential conveniences and

advantages, residents of urban areas do not, necessarily always happily embrace more density. They may resist designation as a receiving area for a TDR program just as they might resist an increase in zoning density generally.

- Infrastructure costs: Increased density requires costly new public infrastructure – roads, schools, utilities, sidewalks, police, etc. Cities often lack funding for this infrastructure – and must look to developers to provide that funding. It can seem unreasonable to also ask the same developers to fund open space somewhere else in the region.
- State support for local infrastructure: One reason communities may embrace new density is if improved public infrastructure will make the community more desirable. One approach is to provide greater local access to State funding for public infrastructure conditioned upon local TDR transfers.
- Lack of motivation: For TDRs to make sense, the receiving community needs to want to protect the farm, forest, or other open lands that will be sending areas under the program. Many times this motivation is limited.
- Complexity: TDR transactions are complicated and time-consuming, which can make them slow and/or costly. There is a need for clear rules and public institutional support if TDR programs are to become cost efficient.
- Political expediency: The “idea” of creating a TDR marketplace can be an appealing alternative to having to use tax money to purchase development rights in a PDR program. But, as one can see from this list, the reality may not live up to the promise. It can be politically tempting to adopt a TDR program without also having the necessary resolve to address the more difficult particulars that will make it actually work in practice.
- Competing uses for density bonus funding: Protecting farmland or even open space is not the only potential use for TDR bonus funding from developers. Often, for example, cities may prefer to use this funding to support low income housing, parks, arts and culture, or other needs or amenities within the city itself. They are not always motivated to shift those resources or possibilities away from the city to outlying areas for farmland protection.

Current programs and contacts: Some communities around the State have adopted TDR programs of various types. Three examples are provided above with web addresses.

D. Donated agricultural conservation easements

Most land trusts will accept donated agricultural conservation easements from those landowners who are willing and able to make such a donation. A donated easement works like a purchased one – a restriction is placed on the title to the selected land generally for perpetuity. It can prevent those future uses that the landowner and the land trust agree should be restricted. While most land trusts will be somewhat more focused on other environmental values than on agriculture itself, most are also quite familiar with agricultural easements and may have considerable experience dealing with farmers and may care deeply about agriculture.

The charitable donation of an easement to a land trust may have tax advantages: For example, there may be a charitable income tax deduction for the amount of the landowners reduced land value and other contributions and expenses in the transaction. There may also be a reduction in the value of the landowner’s estate that could reduce inheritance/estate tax liabilities.

In addition to the value loss resulting from contributing the easement itself, the landowner is likely also to incur other associated expenses. The land will need to be surveyed. There will need to be an appraisal of the value before and after the transaction. There are likely to be professional costs for tax accountants, attorneys, title insurance, and escrow. The land trust may need a contribution to cover its own expenses in completing the transaction. There will usually be a necessary contribution to a “stewardship” endowment account that will cover long-term monitoring and enforcement of the easement. All of these costs may be tax deductible, but they certainly add expense.

Issues and limitations:

- **Charitable capacity:** The vast majority of landowners are either unable or unwilling to make charitable contributions of this magnitude. So, while donated easements can help, it is unlikely they can address the problem of land loss comprehensively.
- **Land trust priorities:** While most land trusts may be interested in agricultural easements, most also have priorities for other land values. They may lack the particular desire to protect agriculture as a value or experience about agricultural easements.
- **Strategic protection:** Donated easements are likely to be rare, and obviously not coordinated, making it difficult or impossible to protect large contiguous areas of agriculture or to focus on other strategic policy considerations in selecting which farms will be protected.
- **Landowner cost:** Even if the landowner wishes to donate an easement, he or she may still lack to cash resources for the associated contribution, stewardship endowment, and transaction costs.
- **Public cost:** There is no particular public cost associated with a donated easement – it can provide a public benefit with no current burden on taxpayers.
- **Coordination with land use planning:** Donated easements are not necessarily coordinated with long range land use planning as are public PDR or TDR programs.

Current programs: There are a good many local land trusts focused on different geographic areas around the State of Washington. Most of these are general land trusts for which agricultural easements may be of greater or lesser priority. There are also a few national land trusts working in Washington. There are also some land trusts that are primarily focused on agriculture. And there are some that work on a statewide basis – see below.

Mission/purpose: Every land trust will have its own specific mission statement. The general purpose of land trust programs is to secure and hold conservation easements as a tool to protect lands that provide environmental or natural resource values of importance to society.

Contacts:

- One good way to locate a land trust working in a particular area is to check with the national Land Trust Alliance's locator website at: <http://www.ltanet.org/landtrustdirectory>. LTA is a national organization that supports and certifies local land trusts.
- There are some nationwide land trusts that may be appropriate for a particular landowner's needs: These include: The Nature Conservancy: www.tnc.org, Trust for Public Lands, www.tpl.org, and American Farmland Trust, www.farmland.org.

- The Washington Association of Conservation Districts is currently forming a statewide land trust that will specifically focus on protecting working natural resource lands. Contact: John Larson, Executive Director, wacd-exec@wa.nacdnet.org, (360) 754-3588 x125.
- The Washington Cattlemen’s Association is also in the process of either forming a statewide land trust or joining in a regional effort with the Oregon Rangelands Trust. To learn the status of the Washington Cattlemen’s efforts, contact: Jack Field, Executive Director, Washington Cattlemen’s Association, (509) 925-9871, jfcattle@kvalley.com.

E. Local market demand

The market for agricultural products is global. But one of the ways to keep land in production here in Washington and in local Washington communities is to encourage market demand for farm products grown here as opposed to those grown elsewhere in the country or on the planet.

There is an emerging “community food connections” movement here in Washington and elsewhere in the country. People want to know the sources of their food. They want to know who produced it, under what conditions, and with what practices. This movement is grounded in several emerging consumer concerns and expectations:

- The tenuous nature of our food distribution system creates concerns about the security of food supplies in local urban areas in times of emergency.
- There are questions about the general healthfulness of processed foods leading to increased demand for local and fresh product.
- News reports of foods that have been intentionally adulterated or that carried pesticides, e-coli, or other contaminants have increased safety worries.
- There are concerns about terrorism associated with our food supply.
- Small communities increasingly balk at their vulnerability to the whims of a global economy.
- An increasingly wealthy and aware middle class is creating emerging demand for quality product with local “cachet” or with unique and special character or taste;
- There is an increasing public awareness of social issues throughout the economy and greater demand by consumers to assure that their spending is socially responsible.
- There are increased concerns about global climate change and awareness of the potential climate impact of our long-distance food distribution network.

There is, of course, no local food without local farms (and farmland) to supply it. So tying into the food connections movement is a viable approach to increasing the ability of farms here to afford land here – helping to address the land location issues identified at the start of this paper. This can also help cover increased costs of environmental performance through so-called “green” marketing. (E.g. through environmental certification programs, “Salmon-Safe,” marketing non-use of pesticides, etc. See “Assuring Environmental Sustainability – G, below.) Or the farmer may create supplemental income for the farm and increase market visibility by selling other environment related or consumer connection services (e.g. ag-tourism, on-farm sales of non-farm or off-farm products, wildlife viewing, hunting and fishing, etc.) In each case, the above consumer preferences can leverage programs that help farmers market their products locally and that address the emerging consumer demand for connections to the sources of their food.

Issues and limitations:

- Lack of clarity in consumer motivations: It is not yet entirely clear how willing consumers are to pay more for the assurance that their products were produced in ways that are socially responsible or friendly to the environment. Clearly they will pay for quality, freshness, healthfulness, etc. But studies have not yet decisively sorted out the market impact of environmental or social responsibility.
- Perceptions of “local”: There are differing perceptions about how “local” people want their food to be. This uncertainty can dilute the effectiveness of collective local marketing efforts.
- Direct marketing is expensive: Making direct connections with consumers is time-consuming and, hence, costly. Often the difference can be made up for through the price advantage of bypassing the wholesale distribution network – but not always.
- Farmer preferences: Many producers prefer growing over marketing.
- Land-cost leverage: Those farms that are the most “local” to urban markets, and the ones for which it is most convenient to form consumer connections, will probably also be on land that is the most expensive and vulnerable to competition from development.

Current programs:

- Organic certification: People buy organic for a variety of the reasons listed above – including the belief that the product is more environmentally friendly, more healthful or save without the use of pesticides, at times more local, etc.

Mission: WSDA’s Organic Food program has as its mission: “protects consumers and supports the organic food industry by ensuring the integrity of organic food products through establishing organic standards and certifying organic producers, processors, and handlers.”

Contacts:

WSDA organic program: See the WSDA website at:

<http://agr.wa.gov/FoodAnimal/Organic/default.htm#OrganicFoodProgram>.

The WSDA organic program manager is:

Miles McEvoy

360-902-1924

mmcevoy@agr.wa.gov

- ◆ Washington Tilth: The Washington Tilth Producers represents the State’s organic producers. They maintain a directory of its members on their website at: Their Administrative Director is:

Nancy Allen

206-442-7620

nancy@tilthproducers.org

- *From the Heart of Washington (HOW)*: HOW is a public-private effort, supported by WSDA, to market Washington products locally. See: <http://www.heartofwashington.com>.

Mission: “From the Heart of Washington is a public awareness campaign designed to increase consumer demand for Washington state food and agricultural products.” From the HOW website.

Contacts: From the Heart of Washington
Washington State Department of Agriculture
Attn: Communications Director
(360) 902-1800
HOW@agr.wa.gov

- **Food Alliance:** The Food Alliance certifies producers as environmentally and socially responsible and then helps them market their products under a widely recognized label. See the Food Alliance website at: www.foodalliance.org.

Mission: The mission of the Food Alliance is to certify producers so they can: “make credible claims for social and environmental responsibility, to differentiate and add value to products, and to protect and enhance brands.”

Contact: Scott Exo, Executive Director
503.493.1066, ext 30.
scott@foodalliance.org

- **Salmon-Safe:** Salmon-Safe certifies farms as friendly to salmon, provides a marketing label, and assists farmers in obtaining their certification by doing (and helping to fund) salmon restoration work on the farm. The Washington program is managed by Stewardship Partners in Seattle. The Stewardship Partners website is at: www.stewardshippartners.org.

Mission: Salmon-Safe provides a consumer certification and branding label that demonstrates that the product was grown in a way that is not harmful to salmon.

Contact: David Berger, Executive Director
(206) 292-9875
david@stewardshippartners.org

- **Farming and the Environment:** Farming and the Environment is a non-profit dedicated to bridging the gap between farmers and environmentalists. They also certify and then recognize approved farmers as environmentally responsible on it’s website thus allowing them use this recognition in their marketing efforts. They are on line at:
www.farmingandtheenvironment.org.

Mission: Farming and the Environment is “working to protect both the economic vitality of farming in Washington State and promote the environmental stewardship of the state's working agricultural landscape.”

Contact: Wendie Dyson
(206) 310-8040

market@dmfm.org

- *USDA federal grant assistance:* USDA agricultural grants are available through Sustainable Agriculture Research and Education (SARE) and other programs to help farmers with marketing, including environmental marketing. The SAFE website is at: <http://www.sare.org>.

Mission: The purposes of these federal programs differ, but USSA generally is one of the only significant sources of funding available for direct grants to actually help farmers market their own products.

Contact: For more information, contact the Western SARE office
(307) 837-2674.

- *WSDA Small Farms & Direct Marketing:* The Washington State Department of Agriculture operates a Small Farms and Direct Marketing division that helps with environmental marketing, among other things. Their web address is: <http://agr.wa.gov/Marketing/SmallFarm>.

Mission: “Increase the economic viability of small farms, build community vitality, (and) improve the environmental quality of the region.”

Contact: Patrice Barrentine, Program Coordinator
(360) 902-2057
smallfarms@agr.wa.gov

- *WSU Small Farms Program:* The Small Farms Program at Washington State University is a part of WSU’s Cooperative Extension program and of its Center for Sustaining Agriculture and Natural Resources (CSANR). The program is on line at: <http://smallfarms.wsu.edu>.

Mission: The program helps farmers with direct marketing, including environmental marketing.

Contact: Marcy Ostrom, Director
(253) 455-4514
mrostrom@wsu.edu

- *Washington State Farmers Market Association:* The Washington State Farmers Market Association represents the growing number of local farmers markets in Washington. Their website is at: <http://www.wafarmersmarkets.com>. They maintain a directory of markets around the State.

Mission: The purpose of farmers markets is to provide a convenient, reliable site for consumers to purchase a variety of fresh local products direct from the farm that produced them.

Contact: Jackie Aitchinson, Executive Director
Washington State Farmers Market Association
(206) 706-5198
info@wafarmersmarkets.com

- *Pacific Northwest Farm Direct Marketing Association:* This group represents direct farm marketers in our region.

Mission: The purpose of this group is to support farmers in direct-marketing their crops to consumers.

Contact: Peggy Black, President
(541) 863-3770

- *Food Policy Councils:* There has been increasing interest in forming food policy councils around the country. The King County Council and the Seattle City Council both recently took action on this front. See the information on WSU - King County Extension's website at: <http://king.wsu.edu/foodandfarms/foodpolicycouncil.htm>

Mission: "Seattle King County AFPC partners with community, business, agriculture and government to develop integrated policy and action for a food system that supports healthy people, communities, economies and the environment." From the above web address.

Contact: Sylvia Cantor
206-205-3131
sylvia.kantor@kingcounty.gov

- *Commodity Commissions:* Washington's commodity commissions have not yet been deeply active in direct marketing – although there is doubtless some work going on and it is probably best to inquire directly. The Washington State Department of Agriculture maintains a list with contacts for commodity commissions at: <http://agr.wa.gov/Marketing/CommodityCommissions/CommodityCommissionList.htm>.

F. Limiting taxes - current use taxation

Current use taxation recognizes that a viable farm business can only afford to pay property taxes on land at a level that is measured by its productivity for agriculture. If farmers and ranchers were required to pay property taxes based on the actual fair market value of their land, this would create substantial additional pressure for them to sell for development. Washington's current use taxation law (RCW Ch. 84.34) was adopted by voter initiative in 1968 and created a State Constitutional amendment that was supported by some 68% of the electorate. There are a little over 11 million acres enrolled in the program in every county in the State. Counties can appoint a 5-member Advisory Committee to help administer these programs – but only about half of the State's counties have actually done so.

Landowners who believe their lands qualify as agricultural and that the program will save them taxes apply with their local County Assessor. The Assessor performs a dual appraisal – determining both the full fair market value and the value for agricultural production. If the Assessor finds that the property qualifies as engaged in agriculture under the program, it can be taxed at its lower current agricultural use value rather than its higher fair market value – often for a very substantial saving for the farmer. (In some places this can amount to a tax savings of as much as 97%.) If the landowner subsequently decides to develop the property and remove it from Current Use designation, he/she must give two years notice, and pay back taxes for the seven years preceding the change in use measured by the difference between what would have been paid and what was paid in the current use program, plus interest and penalties depending on how far in advance notice of the change is provided.

An excellent recent paper entitled “Washington’s Open Space Taxation Act (Chapter 84.34 RCW): A Review from the Perspective of Farmland Protection,” by Bob Rose, was recently completed (July 25, 2008) for the Office of Farmland Preservation and the Washington State Conservation Commission. It contains an analysis of the Act, statistics on its application, and useful suggestions for changes that might aid in farmland protection.

Issues and limitations:

- Mostly preventative: Current use taxation does a good job of preventing skyrocketing property taxes (based on skyrocketing land values) from becoming a driving factor that pressures landowners out of agriculture. The program is probably not, however, a significant deterrent preventing land from being removed from agriculture. The magnitude of increased land value will usually greatly exceed any back taxes, interest, or penalties due at the time of conversion to development. (See the suggestions by Bob Rose contained in his paper on Current Use Taxation, cited above.)
- Cost effectiveness: Of course the program only makes financial sense if the landowner intends to keep the land in agriculture for 10 years or more. But there is no way to know how many of those landowners who participate after that initial 10 years really intend to develop at some point in the near future. For those who do, the program may sometimes be seen as a subsidy for speculative land investment in future development.
- Fiscal impact on county tax revenue: The program can have a significant impact on county tax revenue. In rural counties, property taxes on farm and ranch lands may represent a large percentage of total revenue. And in urban counties, the difference between market and agricultural value may be so great that the individual tax reductions are quite substantial.
- Inconsistencies in application: Assessors are free to interpret the Current Use program with a good deal of local discretion. Tighter requirements may generate more county revenue, so Assessors tend, understandably, to look closely. Where the program is applied differently from county to county, this may create a sense of unfairness in adjacent communities.
- Definitional problems with “agriculture”: Among the differences among Assessors is in their interpretation of what constitutes “commercial” agriculture, “intent to make a profit”, use in agriculture on an “ongoing basis,” and being “primarily devoted to agricultural uses.” A recent WAC interpretation of the statute held that to qualify as agriculture under the “feeding, breeding, managing, and selling livestock” provision, a farm must engage in all 4 of these activities – a standard few can comply with.

- No county advisory committee: Perhaps half the counties have not established the County Advisory Committee called for in the statute. Creating and using this committee is probably important if there is to be a well run program that understands agriculture.
- No application to farm improvements: The current use program applies only to the land, not to improvements on the farm – fences, barns, worker housing, etc. A good case can be made that improvements needed for a profitable farm operation ought to be exempted as well.
- Cost of community services: Even under current use taxation, farms still pay considerably more in taxes than they require in community services. There is strong justification for arguing that farm taxes should be even lower, or that government should be providing farmers with greater support.

Current programs: Current Use taxation programs are operated independently by each County Assessor in compliance with the Statute (RCW Ch. 84.34). The Washington State Department of Revenue provides support to local assessors and collects statistical data on the program which is of interest to the State since a portion of local property taxes also supports the State budget. A description of the Washington Open Space Taxation program, generally, may be found at the Department of Revenue’s website at: http://dor.wa.gov/docs/Pubs/Prop_Tax/OpenSpace.pdf. And current use tax statistics may be found at: http://dor.wa.gov/Content/AboutUs/StatisticsAndReports/2007/Property_Tax_Statistics_2007/default.aspx

Mission/purpose: “The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens..” From RCW 84.34.010

Contact: Local County Assessor’s Offices will usually have an Open Space Taxation person. At the State Department of Revenue, the number for Current Use/Open Space taxation questions is: (360) 570-5865. Also see the above Department of Revenue website.

G. Assuring environmental sustainability

Among the pressures driving land out of agriculture are rising public expectations for environmental performance. As the population of our region continues to grow, it seems almost certain that the need to mitigate for its inevitable environmental impacts will also grow. It also seems inevitable that urban, non-farm majorities will increase. And it seems likely that these pressures will continue to produce greater environmental demands on agricultural lands – which represent roughly half of the private lands in our State – and one of the few places where gains can be made at reasonable cost. Indeed, wetland and habitat replacement/restoration have already become a significant direct concern.

If our farmland is to remain in agriculture, therefore, it must be financially possible and practical to manage it for environmental sustainability while also keeping it in economically viable traditional food and fiber production. This conflict plays itself out in three other general approaches to assuring environmental sustainability in agriculture:

1) Regulation – Critical Areas Ordinances

One approach to assuring environmentally sustainable management of agricultural lands is through environmental regulation. Much (but not all) of the land-use-related environmental regulation currently experienced by agriculture is driven by long-standing, ever-tightening requirements of federal law (e.g. Clean Water Act, Endangered Species Act, National Environmental Policy Act, Tribal Treaties and related court decisions, etc.). These requirements work their way down through state and local agencies until local governments find themselves required to enforce them on the ground. This local enforcement may be friendly to agriculture, or it may not. And it may or may not include additional local standards as well. Thus critical areas ordinances under Washington’s Growth Management Act and local requirements imposed under the Shorelines Management Act represent the key place where environmental regulation seems to end up affecting most farmers.

2) Conservation incentives and assistance:

A second current approach to this problem has been to provide technical assistance and so-called “cost-share” funding to farmers willing to implement conservation best management practices. Implementing these practices generally provides a mix of benefits – some private to the landowner, some public. In theory, if such cost-share can cover the expense of such practices to the extent of the public benefits they provide, the private benefit to landowners’ individual properties will motivate them to cover the balance of the cost. To the extent that current or future “conservation cost-share” programs can provide sufficient revenue, they may also come to be seen as a source of financial support for agriculture.

3) Conservation markets:

Finally, to the extent that farmers can, now or in the future, receive payment specifically in exchange for providing environmental services needed by the rest of society, this has been, and could increasingly become a way for them to pay for improved environmental performance that will make their operations more profitable. Examples include: credits for sequestration of carbon, payment by regulated point source polluters to farmers for implementing water quality practices that reduce pollution in the same water body, or payments for a broad range of conservation practices by developers who need to purchase environmental mitigation for damage necessarily caused by their construction projects. The Puget Sound Partnership, for example, is currently considering such markets, and the 2008 Washington Legislature funded a study and pilot projects under SB 6805, to show their workability in Washington.

A fourth approach – “green” marketing – is discussed under “local market demand” in E, above.

Issues and limitations:

Regulation:

- Regulation vs. incentives: Understanding the role of regulations requires consideration the choice between regulations and incentives:
 - ◆ Cost: Regulations may be less costly for *government* since the expense of their implementation largely lies with the regulated community. Conversely, incentives have the advantage that we know how much they cost *society* (with regulation, for example, social costs may often be hidden). Because they are administered on a case-by-case basis, incentives result in costs being incurred at only those sites where improvements are actually needed and have been deemed beneficial (rather than throughout a community, activity,

area, or regulated industry). Disruption of private economic activity is minimized with incentives because they are only used when the landowner is a willing and active participant. Actions resulting from incentives are usually well-adapted to the site-specific needs of the particular property involved, avoiding unexpected economic side-effects. And because the landowner is an active participant, often they will share the cost of such projects thus reducing the expense for the public.

- ◆ *Individual and community synergy and support*: Incentives can enlist willing, even enthusiastic landowner participation in achieving social objectives rather than tending to incite potential opposition and unanticipated enforcement battles.
- ◆ *Opportunities for affirmative restoration*: Achieving affirmative physical improvements in conditions on the land is difficult with prohibitory regulations. When the landowner is an active, willing participant, such improvements are quite possible in ways that address both the needs of the landowner and of the public.
- ◆ *Encouraging socially-beneficial landscapes*: Incentive programs can have the added positive effect of helping farmers stay in business and helping them keep their land in agriculture and out of landscape-fragmenting development.
- ◆ *Fairness*: It is important that financial incentives pay fairly for that which should be society's collective responsibility and leave for the landowner that expense which should, in fairness, be the landowners duty to society.
- Clarity: Because they must be easily enforceable, regulations are generally pretty clear about the duties they impose and what is prohibited conduct.
- Future regulatory uncertainties: Much of the concern over regulation is the uncertainty about increased requirements in the future. Keeping expenses low is, of course good. But like other businesses, farmers also need to correctly anticipate new costs and to have stability in those costs.
- Lack of differentiation between shared responsibilities: Science is increasingly identifying tolerable overall limits on our collective environmental impacts. But the performance expectations in avoiding these impacts for any particular group or activity (like agriculture) are not yet clear. So it is not yet clear how much should be seen as a social responsibility and be required through regulation, and how much should, in fairness, be seen as a duty of citizenship and be purchased through incentives. This debate undermines the argument for adequately funding incentives. And it pervades any discussion of the use of regulations.
- Counter-productive outcomes: Since regulation imposes cost, it will generally decrease a farm's profitability and can be a factor driving the land out of agriculture. Since the more intensive uses that will replace the farm should it fail are much more harmful to the environment, the net outcome may be environmentally negative.

Conservation Cost Share:

- Insufficient funds: Total funding for the conservation cost-share system is woefully inadequate. The result is that only a few farmers are actually able to participate and only a very small portion of the need is addressed. This lack of funding is at the root of many of the further problems listed below.
- Lack of strategic focus: Cost-share programs are voluntary. But because funding is limited, there are typically only a few applicants – mostly volunteers for whom the money may not be a major consideration. So the projects and environmental improvements go where the applicants are, not necessarily where the need is the greatest. Keeping public expenditures low by

enlisting motivated volunteers is probably a good thing. But lack of strategic focus may undermine some of the gains.

- Lack of enforcement: Because the under-funded system depends so highly on volunteers, the agencies providing cost-share assistance tend to de-emphasize enforcement that would discourage future participation. If the amounts offered were more substantial, participation would be more robust and the potential for enforcement much less discouraging.
- Lack of access to and awareness of programs: While total conservation funding is low, the total number of programs offering it is large. Each program has a different goal and focus and different requirements for participation. The result is a system that is very difficult for farmers to navigate in finding assistance, even assuming that it is available. And once help is found, the application process is often complex and time-consuming to a degree that many will simply opt out of participating.
- Programs not coordinated or offered as a package: Because each conservation funding program is offered independently, often by a separate agency, they are not easily assembled into a package that makes sense for any individual farmer. The farm may qualify for one, but not for the other, etc. For good reason, the farmer may not wish to participate unless multiple issues can be handled simultaneously.

Conservation Markets:

- Lack of conservation marketplace: Other than in a very happenstance way, there is no real, organized marketplace for environmental services currently in existence.
- Uncertainty about what will be involved: The potential issues of concern for agriculture that might be involved in conservation markets are still open for debate. Addressing these uncertainties will be needed if the agriculture industry is to ultimately support them.

Current programs, missions, and contacts:

- Regulations: There are regulatory programs at all levels of government – including at the Federal, State, and county level, e.g. through critical areas and shorelines management authority. A few useful contacts:

- ◆ *Department of Ecology*: The Washington Department of Ecology is primarily responsible for air and water quality protection. Its website on non-point pollution may be particularly useful for farmers: <http://www.ecy.wa.gov/programs/wq/nonpoint/index.html>.

Mission: “Protect, preserve, and enhance Washington’s environment and promote the wise management of our air, land, and water.”

Contact: Ecology’s staff directory and office locations is on line at: <http://www.ecy.wa.gov/org.html>.

- ◆ *Department of Fish and Wildlife*: WDF&W’s role is the protection of fish and wildlife habitat. Its authority in connection with water hydraulic permitting and other habitat related regulation is discussed at: <http://wdfw.wa.gov/habitat>.

Mission: “Preserving, protecting, perpetuating and managing the state’s fish and wildlife resources.”

Contact:

WDF&W Habitat Program
360-902-2534
habitatprogram@dfw.wa.gov

- ◆ *Office of Regulatory Assistance:* The Governor’s Office of Regulatory Assistance is on line at: <http://www.ora.wa.gov>.

Mission: “The Governor’s Office of Regulatory Assistance is the place where people come to understand how government requirements apply to environmental permitting and business licensing. Our mission is to assist citizens and improve Washington’s regulatory system.”

Contact:

800-917-0043, 360-407-7037
help@ora.wa.gov

- ◆ *WSDA Small Farms & Direct Marketing – direct marketing “green book”:* WSDA’s Small Farms and Direct Marketing division publishes a “Green Book” that provides regulatory assistance to farmers engaged in direct market work. Their web address is: <http://agr.wa.gov/Marketing/SmallFarm>.

Mission: “Increase the economic viability of small farms, build community vitality, and improve the environmental quality of the region.”

Contact: Patrice Barrentine, Program Coordinator
(360) 902-2057
smallfarms@agr.wa.gov

- ◆ *County ombudsmen:* Some counties have also adopted programs with the specific purpose of helping farmers navigate complex government requirements. One example is the Pierce County Farmbudsman program – contact below.

Mission: Help helping farmers deal with regulatory issues.

Contact: (For the Pierce County program)
Carrie Sikorski
(253) 798-FARM
csikors@co.pierce.wa.us

- ◆ *Ruckelshaus process:* Also in 2007, the Legislature passed SB 5248 creating a multi-year negotiation/study process to include leading farm and environmental groups and interests in a negotiation and study to deal with increasing environmental pressures on farms. The process is is facilitated and supported by the William D Ruckelshaus Center. There is more

information on the web, including who is participating in this process at:
<http://ruckelshauscenter.wsu.edu/projects/caop.html>.

Mission: Examine Washington’s critical areas ordinances, determine their impacts on agriculture, and develop recommendations that would deal with the issues.

Contact: Lane Rawlins, Ph.D., Director, Ruckelshaus Center
(509) 335-2937
rawlins@wsu.edu

- Conservation incentives:

There are a great many conservation incentives programs available for farmers from all levels of government. But the following are definitely the most significant:

- ◆ *Natural Resources Conservation Service (NRCS):* NRCS is the USDA agency that administers the conservation programs in the Federal Farm Bill, so it is the agency to contact concerning cost share, technical assistance, or other help under those programs. There are local NRCS offices throughout Washington (see their local field office locator at: <http://www.wa.nrcs.usda.gov/contact/fieldoffices.html>).

Mission: “NRCS provides products and services that enable people to be good stewards of the Nation’s soil, water, and related natural resources on non-Federal lands.” (Contained in their strategic plan.)

Contacts: The NRCS employee contact directory is on line at:
<http://www.wa.nrcs.usda.gov/contact/index.html>.
Gus Hughbanks, Washington State Conservationist
(509) 323-2900.

- ◆ *Local conservation districts:* There are 47 local conservation districts throughout the State of Washington. These are independent local governments whose purpose is to “work with landowners on a voluntary basis, providing incentive-based conservation help on private lands.” Their local staffs provide farmers with technical assistance and help identify sources of cost-share funding to support implementing those practices. They are supported at the State level by the Washington State Conservation Commission.

Mission: For the Conservation Commission: “We work with conservation districts to help citizens protect renewable resources through the use of proven, incentive-based practices.”

Contacts: Local districts can be found through the Commission’s website at:
<http://www.scc.wa.gov/index.php/contact/Conservation-Districts>.
Mark Clark, Executive Director, Washington State Conservation Commission
(360) 407-6200

- ◆ *Conservation Incentives Clearinghouse:* Among the tasks assigned to the new Office of Farmland Preservation by SB 5108 in 2007 was creation of a conservation incentives clearinghouse, that would help people identify useful incentives programs. This work, as of the present date, is only partly completed, but in the months to come, the new clearinghouse should become a new tool for the public and conservation professionals to help identify what sources of funding and help are available to assist landowners interested in voluntary conservation assistance

Mission: “Serve as a clearinghouse for incentive programs that would consolidate and disseminate information relating to conservation programs that are accessible to landowners and assist owners of agricultural lands to secure financial assistance to implement conservation easements and other projects.” From SB 5108.

Contacts: The general contact for the Office of Farmland Preservation is
Ron Shultz
(360) 407-6200.
rshu461@ECY.WA.GOV

- Conservation markets:
There is currently no formal “conservation marketplace” in existence in Washington. The 2008 Legislature did, however, commission a study of the workability of such markets which is now just getting started and which will be due for submission at the end of 2008.

Mission/purpose, For the purpose of SB 6805 see Sec. 1 of the bill.

Contacts: The lead on the study, and potential pilot projects, under SB 6805, is the Washington State Conservation Commission.
Ron Shultz
(360) 407-6200.
rshu461@ECY.WA.GOV

H. Assisting farm Transition;

Transitioning ownership and operation of a farm to a new owner – whether that is an outright buyer or a family member, is complex and can be challenging. Farm businesses are complicated. And transitioning their ownership involves issues of business contract and real estate law, estate planning, retirement planning, business planning, training, mentoring, personal counseling, and a host of other matters that many farm families tend to ignore, even as retirement draws near.

Farm Transition programs are designed to help with these issues and, in some cases, even to make early connections between retiring farmers and those who wish to take over the operation.

Issues and limitations:

- Difficulty getting to those who need the service: These programs can provide education, professional information, and assistance to farmers, but they still depend upon the farmer

coming to the program. Many farmers do not know the services exist and it is expensive to get the word out to all those who might need or make time for them

- Estate planning is challenging: Most people tend to ignore estate planning – including farmers. And the issues associated with farm transition tend to cut to the heart of farm family personal issues. There is a tendency to ignore them until it is too late.
- Land cost differentials: A FarmLink program can put a retiring farmer together with a new, entering farmer, but the land cost differential still exists and can stall a successful transition.

Current programs:

- Washington FarmLink. This program attempts to help farmers transition their farms to new owners. It is sponsored by King and Snohomish Counties, but it is a statewide program, in which they partner with Cascade Harvest Coalition to make available to anyone. FarmLink is described at: <http://dnr.metrokc.gov/wlr/wafarmlink/What%20is%20farmlink.htm> and at: <http://www.cascadeharvest.org>.

Mission: “FarmLink is a means to help ensure that working farms remain in agricultural production and to help facilitate the transition of farms to the next generation. FarmLink provides an opportunity to pass on the hard work of generations of farmers to a new generation. FarmLink connects people wanting to get started in agriculture with farmers and landowners who are committed to establishing the next generation of producers. FarmLink connects people with the resources and technical expertise necessary to achieve these goals”

Contacts:

Steve Evans, King County Natural Resources Division
(206) 296- 7824
steve.evans@kingcounty.gov

Mary Embleton, Executive Director, Cascade Harvest Coalition
(206) 632-0606.
mary@oz.net

- Office of Farmland Preservation: In its starting legislation, the Office of Farmland Preservation was charged, among other things, with the mission to: “Begin the development of a farm transition program to assist in the transition of farmland and related businesses from one generation to the next, aligning the farm transition program closely with the farmland preservation effort to assure complementary functions.” They recently held a workshop in Mt. Vernon put on in partnership with WSU Extension, Skagit Conservation District, the Skagit County Farmland Legacy Program and the Washington Agricultural Institute. The OFP website is: <http://ofp.scc.wa.gov>.

Mission/purpose: The purpose of the Office of Farmland Preservation is to help retain Washington farmland in agriculture. Farm Transition services are a part of that mission.

Contact: Ron Shultz
(360) 407-6200.
rshu461@ECY.WA.GOV

I. Credit to buy farmland

Agriculture is a tough, competitive business. Farmers do not just compete with their similarly-situated neighbors. They also compete with every other farmer on the planet, with every level of sophistication and from the most capital intensive first world operation to third world farmers driving donkey carts. When farmers seek a business loan, they are asking the lender to join in the same risks the farmer faces – risks involving the weather, commodity markets, labor, regulation, input prices, water, etc. Only a very savvy lender will undertake such risks. Land investments are among the largest most farmers will make and they are, therefore, the ones where their need for credit may be the greatest. Yet there are particular limitations on the availability of credit for farmland acquisitions.

Agricultural lenders make what they consider to be “business loans.” These are loans that are expected to be paid back from revenue generated by the business enterprise. When lenders “pencil out” the viability of a loan for a farmland acquisition, they are generally looking at whether the farm business that is buying that land will be able to pay back the loan – not just at whether the market value of the land is sufficient to provide security. It is not considered sound lending practice to make what are termed “security loans” where the lender looks primarily to its position in a foreclosure rather than at the real prospect of normal repayment.

This places farms in a particularly difficult borrowing position – especially for land acquisitions. Both the lender and the farmer must carefully consider whether the additional productive earning capacity of the land being bought will be enough to cover the anticipated loan payments. With land values throughout Washington being driven out of reach by competition from non-farm uses, securing sufficient credit to buy land for agriculture can be a serious problem.

The current approach to making credit available to farmers for land is the same as for all farm credit needs. The Federal government, through the Federal Farm Credit Banks Funding Corporation, (see: <http://www.farmcredit-ffcb.com/farmcredit/fcsystem/overview.jsp?uniq=1218659191427>) makes wholesale credit available to a system of independently owned local funders known to farmers as Farm Credit Services (FCS). FCS specializes in agricultural lending. There are also special, reduced loan rates, available to beginning farmers in Washington through FCS supported by federal loan guarantees through the Washington State Housing Finance Commission. The Washington use of this federal lending guarantee was authorized by statute in SB 5092 passed by the 2005 Legislature.

Issues and limitations:

- Same limitations apply: A Farm Credit Services lender, supported by the availability of federal credit through the Federal Farm Credit Banks Funding Corporation may, possibly, be able to offer a slightly better deal to a farmer, but FCS lenders are still constrained by the same sound lending practices faced by all business lenders.
- Leverage from reduced interest: There is leverage to be gained through reduced interest, since loan payback capability of a business will depend heavily on the amount of the monthly or annual payments and the total that must be repaid is heavily affected by the interest over time. So it is worth considering whether there may be other ways to provide low interest lending to farmers – perhaps especially for land acquisitions.

- Limited lending pool: The pool of knowledgeable farm lenders is limited with few options available for most farmers.

Current programs: Northwest Farm Credit Services provides competitive loans to farmers as a part of the Federal Farm Credit System. Their main office is in Spokane, but they have lending offices throughout the Pacific Northwest (see their office locator at: <http://www.farm-credit.com/Default.aspx?pageid=85>).

Mission/purpose: “Northwest Farm Credit Services provides flexible financing solutions for farmers and ranchers through our many loan and lease options.” From: Northwest FCS website: <http://www.farm-credit.com>

Contact: Northwest Farm Credit Services – Spokane Office
(800) 743-2125
farm-credit@accountlist.com

Current programs: The Beginning Farmer/Rancher loan program made possible by passage of SB 5092 by the 2005 Legislature is administered by the Washington State Housing Finance Commission and is available through Northwest Farm Credit Services, above. It provides low interest loans to beginning farmers up to \$450,000. Additional information about the program can be found at: <http://www.wshfc.org/farmranch>.

Mission/purpose: The purpose of this program is to improve access to business credit for beginning farmers who lack a history in agriculture.

Contact:
Tia Psycheff, Washington State Housing Finance Commission
206-287-4416
Tia.psycheff@wshfc.org

With FCS, contact:
Wendy.knopp@farm-credit.com
(509) 340-5476

J. Reducing the impacts of government action

The private marketplace is by no means the only way by which farmland can fall to non-farm uses. Actions of government can also have a role. This may happen through condemnation, environmental restoration, government purchases, or shifting government policy that affects the continued use of land for agriculture.

For example:

- ✓ Suppose a new school is needed somewhere on the urban fringe. Where will this school be built – on expensive land within the urban growth boundary, or out on open, flat, uncluttered, inexpensive farmland? The temptation to save money may be just too great for local government officials.

- ✓ Suppose a growing urban area needs water and decides to condemn water rights now belonging to a nearby farmer? Will the impact on that farm be a significant consideration?
- ✓ Suppose a state institution, like Washington State University, for example, decides to sell off farmland that it owns. Will it consider the possibility of restricting its future development to protect agriculture? Or will it just sell to the highest bidder?
- ✓ Suppose a new wetland mitigation banking site is needed to help make up for the impacts of transportation, housing, commercial, or other development. Will that site be placed on prime farmland without any particular consideration of the effects on agriculture?

In any of the above cases, will there be a chance for public input, will there be a formal process for the decision, will there be standards and criteria that must first be met, will there be some required exploration of possible alternatives?

These questions are the kind that can be addressed through a farmland protection policy act (FPPA). The federal government has adopted such an Act. The federal law creates certain procedural requirements and standards of conduct when actions by federal agencies will have a negative impact on farmland. The FPPA is included in Public Law 97-98, Subtitle I of Title XV, Section 1539-1549. This law could be much stronger than it is. But it does provide some minimal assurance that impacts on farmland will at least be considered when federal actions are taken.

There is currently no such law at the State level. In recent years, there has been talk of establishing a no-net-loss of farmland policy – but so far, no action has been taken. Because of increasing public concern, governments, at times, do increasingly consider the impacts of their actions on agriculture. (See, e.g., the recent report in the Capital Press concerning the decision by lower Columbia River ports to forgo eminent domain on an agricultural property there: “Family wins eminent domain battle,” by Cookson Beecher, Capital Press, Wed. August 13, 2008.)

<http://www.capitalpress.com/main.asp?Search=1&ArticleID=43546&SectionID=67&SubSectionID=618&S=1>. And there is a neglected, but still-legally effective Executive Order that was signed

by Governor Dixy Lee Ray in 1980 that directs State agencies to “consider” the impacts of their land use actions on farmland protection. (Ex. Order 80-01, Farmland Preservation).

Issues and limitations:

- Lack of State and local policy legislation: The existing (but largely forgotten) Governor’s Executive order requiring that State agencies “consider” farmland impacts provides little real protection from State action. And there is nothing in place that affects government actions at the county and municipal levels.
- Federal law weak: Even though there is a Federal Farmland Protection Policy Act, it is thought to be largely toothless and ineffective.
- No clear policy statement: There are arguments both ways about whether the State should adopt an effective “no net loss of farmland” policy. But without something of this kind, pressures for development, from the existing national “no net loss of wetlands” policy, from the need for environmental restoration, condemnation, and other uses simply overwhelm any pushback farmland protection advocates can provide.

Current programs: The USDA Natural Resources Conservation Service (NRCS) is apparently the watchdog agency for tracking the existing Farmland Protection Policy Act. There is a description

of the act and of their responsibilities on the NRCS website at:
<http://www.nrcs.usda.gov/programs/fppa>.

Mission/purpose: “The FPPA is intended to minimize the impact Federal programs have on the unnecessary and irreversible conversion of farmland to nonagricultural uses.” From NRCS FPPA website, above.

Contact: Gus Hubanks, NRCS Washington State Conservationist
(509) 323-2900
Gus.Hughbanks@wa.usda.gov

K. Access to public lands

Public lands represent a huge percentage of the U.S. land mass – especially in the West. America’s cattle industry, in particular, badly needs access to these lands for grazing livestock. This use of public lands is not without contrary opinions (e.g. see the National Public Lands Grazing Campaign website at: <http://www.publiclandsranching.org>). An explanation of the grazing lease program operated by the U.S. Bureau of Land Management (BLM) can be found at: <http://www.blm.gov/wo/st/en/prog/grazing.1.html>.

Even where these lands are available to be leased, the steady sale of properties that increasingly ring existing public lands is creating a practical barricade against the movement of cattle from private ranchlands to and from lands leased from public agencies like BLM. These adjacent private properties are, of course, in high demand by recreational users who can pay a much higher price than can the ranchers. This was one of the reasons for the original formation of the Colorado Cattlemen’s Agricultural Land Trust (the first of its kind in the country: <http://www.ccalt.org/>) and is at least partly behind the Washington Cattlemen’s consideration of similar action here.

In more urban counties, another source of concern is the use of funds from the Federal Emergency Management Agency (FEMA) and other federal sources, to buy lands from private owners that are subject to frequent flooding. (E.g., an explanation of a program in use in Pierce County can be found at: <http://www.co.pierce.wa.us/pc/services/home/enviro/water/cip/FEMA-DOE.htm>.) Once these lands are in public ownership, there is no clear route for them to pass back into private hands – partly because the intent is to permanently retire them for residential use. But their presence in a flood plain creates no reason these lands could not be used for agriculture – assuming sound environmental management and assuming that structures would be kept on higher ground. No broadly-adopted process has yet emerged, however, to accomplish this.

Issues and limitations:

- **Lack of programs:** The various cattlemen’s associations have been forced to fight the ongoing political challenges to cattle grazing leases on public lands – so far, pretty effectively. But that struggle is undermined when there is little or nothing in place to maintain the cattle industry’s physical access across private property and to slow the conversion of adjacent private lands to small acreage recreational use.
- **Lack of interest in returning FEMA lands to private use:** There has, so far, been little interest by FEMA, the counties, the public, or even from farmers, in creating programs to return publicly-purchased flood prone lands to private ownership or agricultural use. This was discussed in the

Pierce County Farm-City Forum as early as 2002. There are possible motivations to do so since the expense of maintaining and of potential liability can make their continued public ownership a burden.

Current programs: There are no current programs using this approach in Washington.

Contacts:

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Pierce County Flood Damaged Property Acquisition program
253-798-4651
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Jack Field, Executive Director
Washington Cattlemen's Association
(509) 925-9871
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L. Agricultural districts

Agricultural protection districts are an effort to create voluntary motivation for contiguous farm landowners with substantial collective or individual acreages to create “districts” within which there will be special protections, accommodations, and programs offered to encourage and support agriculture. The enticements offered can potentially include such things as:

- Eligibility for agricultural economic development grants and technical assistance
- Priority for conservation cost-share assistance
- Access to purchase of development rights programs
- Additional insulation from nuisance litigation under right to farm laws
- Special accommodation for some regulatory requirements
- Recognition in marketing direct
- Special agricultural property tax relief
- Etc.

In exchange for these enticements, there may also be expectations of the landowner. But, since the programs are voluntary, the incentives need to be at least as beneficial as the requirements are burdensome.

A fact sheet with a more complete description of Agricultural District programs may be found at: http://www.farmlandinfo.org/documents/37067/ag_districts_05-2008.pdf. And additional literature, generally, can be searched at: http://www.farmlandinfo.org/farmland_preservation_literature/?RequestTimeout=999.

Washington counties have not yet formed agricultural districts, and there is no State legislation encouraging them, so there are no real programs of this type here. There have, however, been hybrid ideas in some locations. In King County, for example, farmers receive additional benefits and priorities from County agriculture programs if their farms are located within the GMA farm-zones. King County's purchase of development rights program was limited to farms within these zones. But, of course, the landowners did not have a choice about their original zoning. In Whatcom County, their original purchase of development rights program established a number of

small, contiguous areas eligible for PDR acquisitions. But, again, farmers did not make a choice about whether they would be in these areas.

At present, in Klickitat County, a local farmland advocate has proposed a new “Farmland Preservation Zone” that involves a mix of voluntary incentives and cluster zoning. Being in such a “zone” would be entirely voluntary. But if the farmer elected to do so, and if the County agreed, the farm would be subject to different subdivision rules than currently exist in farming areas in the County – much of which calls for 20-acre parcels. Instead, the farmer would be allowed to subdivide off and sell, over time, as much as 20% of the farm in small, 1-2 acre parcels. But in exchange, the farmer would be required to retain the balance (80%) of the farm, as a single, contiguous agricultural parcel preserved for farming.

Issues and limitations:

- Lack of programs: Other than a few hybrid ideas and structures like the ones mentioned, there are no true Agricultural Districts in Washington.
- Relationship to GMA zoning: It isn’t clear how, in our Washington GMA setting, agricultural districts might work. Once we have zoned certain areas for agriculture, the inclination is likely to be to provide whatever assistance and support that might be available to all of the farmers within that zone.
- Utility of the idea: The big advantage of Agricultural Districts is their potential for aggregating several motivated landowners together into a contiguous, but still voluntary area that can be targeted for long-term farm protection. This idea, in some form, can be a useful starting point in a search for solutions.

Current programs: Other than as described above, there are no current programs using this approach in Washington.

Contacts:

For information about King County’s agriculture programs generally:
Steve Evans,
Agriculture Programs – King County Water and Land Resources Division
206-296-7824
steve.evans@kingcounty.gov

For information about Whatcom County’s PDR program:
Samya Lutz
(360) 676-6970

For information about the proposed Klickitat County Agricultural Preservation zone:
Jake Anderson
Supervisor, Underwood Conservation District
Member, Washington Farmland Preservation Task Force
(509) 637-4437

Summary and conclusion:

The above list of approaches to preserving agriculture is not necessarily exhaustive – that list would be limited only by the creative imagination. But it does cover the most commonly used and relied upon ways currently in use for this purpose. The programs listed are the ones known, at least to this author, as of the date of this writing.

Nor, as mentioned at the outset, does the above list deal with the multitude of farm business inputs that do not directly affect the acquisition and ownership of land or the many existing and possible government and community programs to support those inputs. Such a list would have, among others, to include such items as: ✓Water, ✓Marketing, ✓Investment capital, ✓Energy ✓Business planning, ✓Community economic development planning, ✓Regulatory accommodation, ✓Regulatory assistance, ✓Right to Farm protection, ✓Access to labor, ✓A supportive public, ✓Research, education, technical support and assistance, ✓Freight transportation & access to markets.

These agriculture business inputs are the subject of discussion in other areas of the Future of Farming process, so they were not dealt with in detail here. (For general reference purposes, however, a discussion outline is provided in APPENDIX A and the relationships are charted in APPENDIX B, to this report.) All of these elements must be considered equally important since the absence of any one of them can be fatal to farming, and without farms, there is, of course, no farmland.

Respectfully submitted,

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