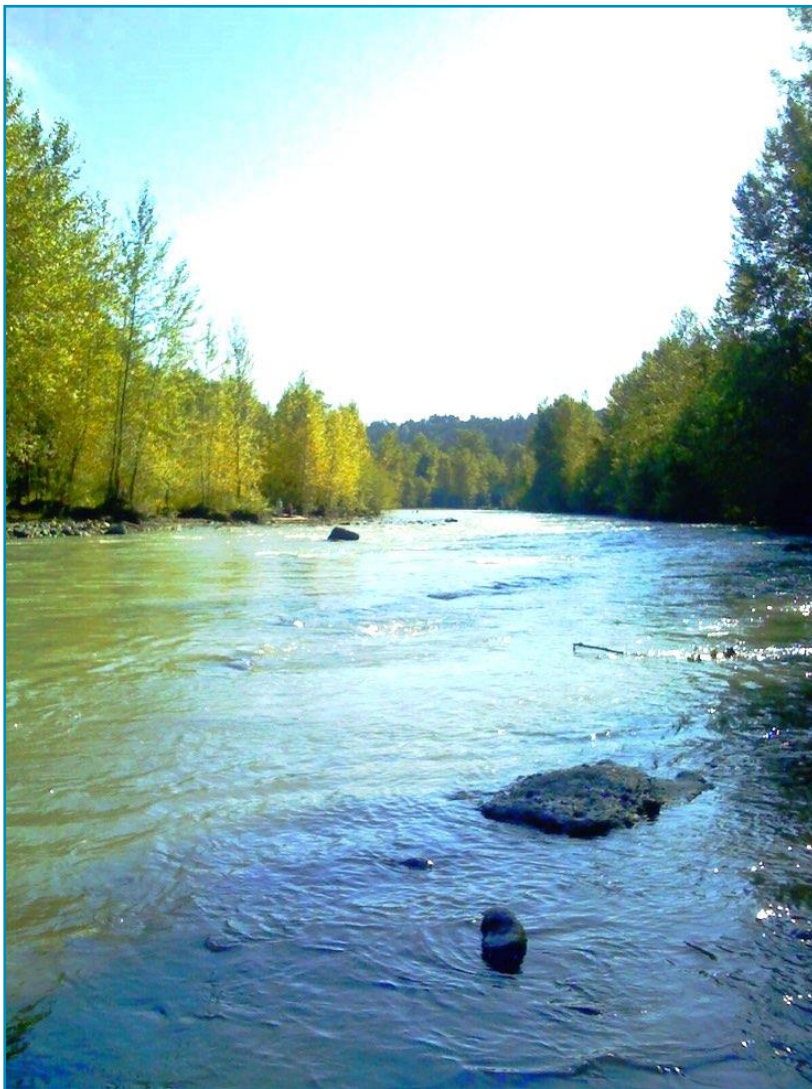

Final Report from the Advisory Group Process for the NEP Riparian Conservation Program



Dennis Canty
Evergreen Funding Consultants

August 2015

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This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement PC-00J84901 to Washington Department of Ecology. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

Introduction

In February 2015, the US Environmental Protection Agency, Washington Department of Ecology, and Washington State Conservation Commission convened a stakeholders group to provide advice on the design of a new conservation easement program focused on protection and restoration of riparian zones on streams in agricultural communities in the Puget Sound region. Riparian zones tend to be missing or highly disturbed in agricultural areas of the region and the lack of streamside vegetation is thought to be a major contributor to poor habitat and water quality in rivers and streams in these landscapes.

Evergreen Funding Consultants was retained to facilitate and staff the National Estuary Program Riparian Conservation Advisory Group, as the stakeholders group was known, and the project was managed by Dennis Canty. The group met five times between April and August 2015. This report documents their advice on important elements of the new program.

There were several assumptions made at the outset of the project with regard to the new program:

- While the program has been funded through EPA, it will be administered by the DOE under an existing agreement between the agencies;
- Funding will be allocated to other organizations and agencies through a grant process that is intended to begin later in 2015;
- Funding is intended to be used principally for protection and restoration of riparian zones on agricultural and other land in farm communities in the Puget Sound basin; and
- The principal means for protecting riparian zones will be conservation easements.

While the advisory group was able to agree on many elements of the program, there were some matters on which members differed. The report identifies the level of agreement on the principal elements and the dissenting arguments where differences surfaced in the discussion. The findings in this report are intended to represent the tendencies of the entire group and not the opinions of any individual members.

In the course of the five advisory group meetings, the group discussed the following topics:

Actions to Be Funded

- Funding of conservation easements
- Terms of funded easements
- Other actions supported for funding
- Mixing actions in funded projects/programs

Entities to Be Funded

- Role of watershed leaders

-
- Process for selecting entities to be funded
 - Essential capabilities of funded entities
 - Building interest among farmers

Location of Funded Projects and Programs

- Establishment of regional geographic priorities
- Watershed-level priorities

Leveraging of Other Funding Sources

- Most relevant sources
- Processes for leveraging
- Relationship with regional Coordinated Investment initiatives

The major findings on these topics follow the membership list.

Members of the NEP Riparian Conservation Advisory Group

Carin Anderson
Kitsap Conservation District

Helen Bresler
WA Dept. of Ecology

Richard Brocksmith
Skagit Watershed Council

Brendan Brokes
WA Dept of Fish and Wildlife

David Burger and Chris LaPointe
Stewardship Partners

Elizabeth Butler
Recreation and Conservation Office

Melissa Campbell
PCC Farmland Trust

Paul Cereghino and John Floberg
NOAA Fisheries

Sherre Copeland and Bonda Habets
USDA Natural Resources Conservation
Service

Tom Davis
Washington State Farm Bureau

Jeanette Dorner
Puget Sound Partnership

Jay Gordon
Washington Dairy Federation

Dave Herrera
Skokomish Tribe

Tim Hyatt
Skagit River System Cooperative

Janne Kaje and Beth LeDoux
Snoqualmie Watershed Forum

Steve Landino
NOAA Fisheries

Monte Marti and Cindy Dittbrenner
Snohomish Conservation District

Jordan Rash and Liz Johnston
Forterra

Amanda Reed and Laurence Reeves
Capitol Land Trust

Brandon Roozen
Western Washington Agricultural
Association

Heather Trim
Futurewise

Jim Weber
Northwest Indian Fisheries Commission

Daryl Williams
Tulalip Tribes Natural Resources
Department

Summary of Findings

1. The advisory group recognized and widely supported the need to improve riparian corridors in farm landscapes in the Puget Sound region, and the new grant program was broadly supported as an important and necessary element to achieve better riparian corridors in the region.
2. There is strong confidence in the ability of watershed leaders to pick the right places to work based on prior salmon recovery and water quality planning. The members felt that watershed leaders should take the lead in selecting priority reaches, developing proposals, and forming teams to implement the proposed work.
3. Presentations and discussions by watershed practitioners indicate that there are probably strong proposals that are ready for funding this fall.
4. The initial emphasis on conservation easements was thought to be appropriate but too confining as the sole focus of the program. Strong cases were made for funding of a broader suite of actions, particularly to support buffer restoration and community outreach.
5. There were substantial misgivings among those working in agricultural communities about the receptivity of farmers to requirements for wide permanent easements per the NOAA buffer table. These characteristics were thought to be of sufficient importance to the integrity of the program to remain as requirements, with the recognition that this may need to be reconsidered based on demand in the first grant round.
6. There is interest in using the new program as a vehicle for coordinating public investments in salmon and water quality work and simplifying the experience of applicants but details will need further work.

Discussion of Findings

Actions to be Funded

Funding of conservation easements: As noted previously, the use of conservation easements as the principal tool to protect riparian zones was a given in the process. Nevertheless, there was considerable discussion throughout the process about the appropriateness of easements as the dominant tool for the new program.

Group members representing agricultural organizations and those doing business in agricultural communities questioned whether conservation easements were the best tool based on their sense that farmers would be reluctant to agree to permanent restrictions that could inhibit future use of their property. Members also questioned whether payments for easements would be sufficient to overcome this resistance given the low development values in streamside areas in agricultural landscapes. A representative of a prominent statewide organization, the Washington Farm Bureau, indicated that his organization may not be willing to support a program focused on permanent conservation easements on farmland.

Other members, particularly from the environmental and tribal communities, expressed strong support for conservation easements. They referenced the successful use of easements by land trusts and some tribes as a land conservation and salmon recovery tool.

Many members expressed support for funding of actions besides easements. This is discussed further in a later section of this report.

Terms of funded easements: The size and shape of the easement area was also debated throughout the process. EPA and DOE indicated at the outset of the process that the size of the easements would be influenced by the NOAA buffer table, but it took considerable discussion over several meetings to clarify that conservation easements funded through the new program would need to be at least as wide as the prescribed buffer under the NOAA buffer table regardless of the current state of the buffer. It was recognized that buffer widths are likely to be fixed unless a strong scientific case can be made for departing from fixed standards.

Easement widths were debated throughout the process. Members working in agricultural communities again expressed strong reservations, suggesting that easements specified in the NOAA buffer table would further erode farmer interest in the new program. Other members expressed confidence that enough farmers can be found in the region who support these terms to full subscribe the new program. It was widely acknowledged that the acceptability of these provisions won't be fully known until the new program solicits proposals.

The group also discussed allowable and prohibited uses within the area under easement. The group supported a strong emphasis on environmental conservation in the easement area and a prohibition on uses incompatible with this emphasis. A presentation on "working buffers" by

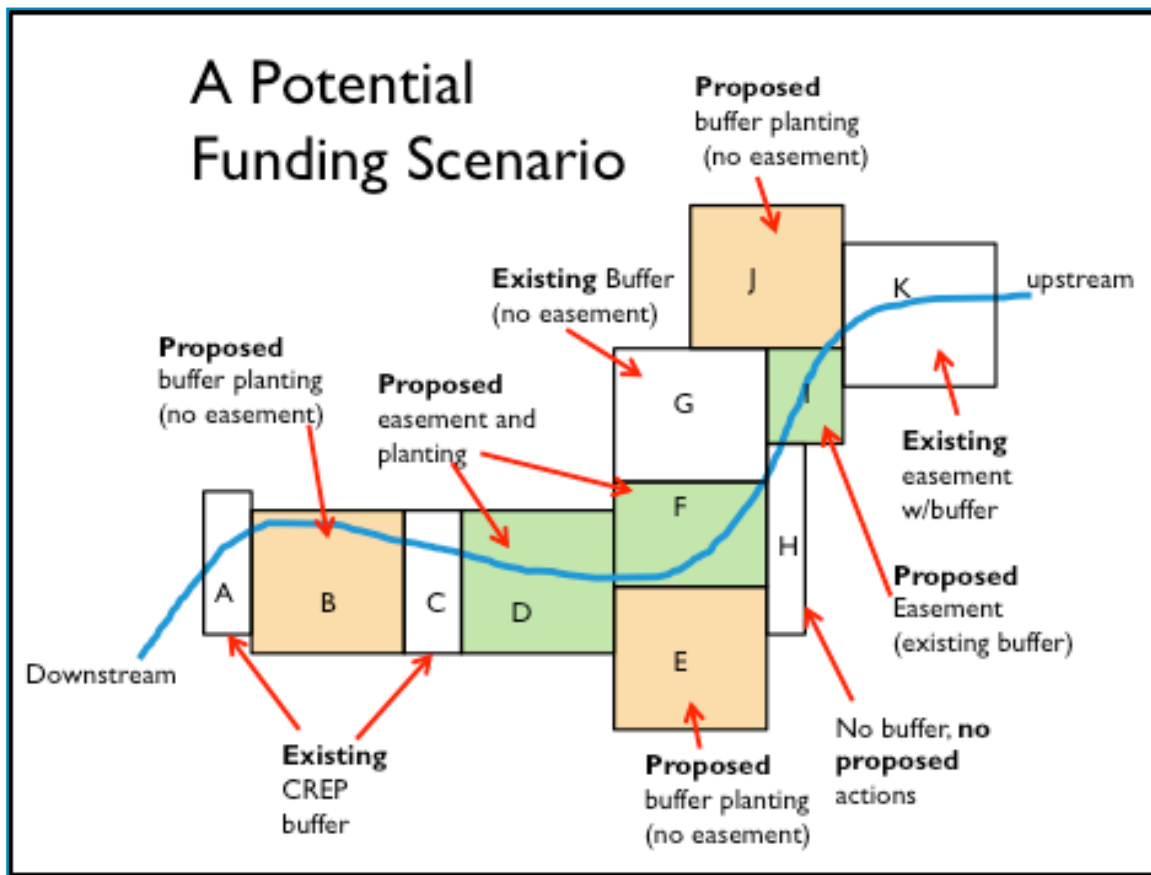
Cindy Dittbrenner (Snohomish CD) and Paul Cereghino (NOAA) initiated a conversation on forestry and agricultural uses within the riparian buffer and some members expressed strong support for the concept, emphasizing that economic return from the buffer could make farmers more amenable to riparian conservation easements. Others expressed reservations and the discussion was concluded before agreement could be reached. Several members suggested that it might make sense to fund pilot projects that allowed “working buffer” practices.

Other actions supported for funding: Many members expressed support for funding of actions in addition to easements in the interviews conducted by the facilitator prior to the initial group meeting and the concept was discussed at length in several of the group meetings. While several members suggested that the program not be diluted by funding actions other than easements, the majority appeared to support some additional activities and a few members supported a very wide range of actions suitable for funding.

The strongest support was expressed for funding of restoration of the riparian zone. It is widely assumed that some of the easements are likely to be on farmland with little to no existing riparian vegetation and that restoration will be required to restore ecological functions. There is significant support for restoration funding in these circumstances.

Funding for community outreach and planning was also discussed repeatedly. The on-the-ground practitioners on the group emphasized the challenges of recruiting landowners to participate in conservation programs and the few funding sources that support this work. While there was no attempt to test the level of agreement for this need, it appears that a majority of the group would support outreach and planning as a funded activity.

The group also expressed strong interest in combining forces with the Conservation Reserve Enhancement Program (CREP), which also funds riparian protection and restoration on farm landscapes. One option discussed was supplemental funding for buffer restoration and maintenance, but no decisions were made on this matter. Individual members also suggested that monitoring, maintenance, and fee-simple acquisition should be eligible for funding, but there appeared to be less support for these options.



Mixing actions in funded projects and programs: While recognizing that there was some support for an easements-only program, the majority of the advisory group expressed support for the concept of mixing easement and other project types in a single funded project or program. The concept was illustrated in the above diagram prepared by Colin Hume, which was discussed repeatedly in the meetings.

The presumptions illustrated in this drawing are that NEP funding could be applied to a reach-scale proposal, that some easements would be proposed for acquisition in the reach, and that some other actions, such as buffer planting, could be funded on parcels in the reach that would not have easements acquired. A majority of the group members appeared to understand these presumptions and support them.

With regard to details such as the length of the reaches, the ratio of easements and other actions, and the implementing parties for the actions, the group strongly supported flexibility in program requirements to allow watershed organizations to formulate the proposal packages as they see fit. Presentations by Cindy Dittbrenner on Woods Creek and Laurence Reeves on the Black River watersheds underscored the need for flexibility in developing the watershed packages.

Entities to be Funded

Role of watershed leaders: There was strong agreement among group members that the packages of actions in key reaches around Puget Sound should be developed by salmon recovery and water quality leaders in each of the region's watersheds. While some members advocated for specific groups such as the Local Integrating Organizations (LIO's), the majority seemed agreeable to any organization or agency that has the scientific credibility to justify the selection of the target reach and necessary actions and can legitimately claim to represent a wide range of watershed interests. The lead entities, tribes, land trusts, and other watershed organizations were presented as options.

Process for selecting entities to be funded: The process for selecting grantees was discussed in several of the group meetings but not fully resolved. The two options discussed most were a typical Request for Proposals process, in which individual projects and sites are proposed for funding, and a Request for Qualifications process in which applicants present their qualifications to manage reach-scale programs, are selected as program partners, and then develop site-specific proposals for funding. There was support for both of these options and for a hybrid of the two. Details for the more complex RFQ process were presented in the last meeting but not discussed at length and no agreement was reached on the preferred process.

One of the assumptions of the RFQ process, presented but not fully discussed, was that the watershed packages of site-specific projects could have actions implemented by multiple organizations and agencies that could be funded through the proposal.

Essential capabilities of funded entities: In a presentation to the group on easement terms, it was reiterated that easements must be actively managed and only certain entities are certified under federal tax code and state law as capable of fulfilling management and fiduciary duties. In Washington, these entities ("qualified conservation easement recipients") consist of the 26 incorporated land trusts (24 of which are members of the Washington Association of Land Trusts), state or local government agencies (including conservation districts), and federally recognized Indian tribes. The advisory group recognized that watershed proposals that include conservation easements and standalone easement proposals would need to include one of these entities to manage acquired easements. There was also some discussion of the costs and potential funding sources for management of easements but no resolution to the issue.

Building interest among farmers: The members agreed that program funding should ultimately flow through to agreements and contracts with landowners, the majority of whom are likely to be farmers. Ag organizations and groups that work directly with farmers expressed concern throughout the advisory group process about getting farmers to agree to conservation easements on their land. There were counter arguments expressed by some members that there are likely to be enough farmers interested in selling easements to absorb the initial \$6 million in program funding and that further measures could be taken, including reconsideration of actions to be funded and easement terms, if the initial grant round is unsuccessful at stimulating enough interest among farmers.

Location of Funded Projects and Programs

Establishment of regional geographic priorities: After much early discussion in the advisory group process and a presentation on the mapping capabilities of the Department of Ecology, the majority of members agreed that the program managers at Ecology should not identify priority watersheds, subareas, or reaches of the Puget Sound region for the allocation of program funding. The group was widely in support of a member's proposal that every watershed should be eligible to receive funding. At the same time, the group supported the use of review and ranking criteria at the regional level to ensure that funding is applied to areas with the right mix of salmon and water quality needs, willing landowners, and other important factors. The discussion did not progress to the point of identification of specific criteria.

Watershed-level priorities: Members repeatedly recommended that watershed proposals for the NEP Riparian Conservation program be fully consistent with salmon recovery and water quality planning at the watershed level. Several members suggested that the salmon plans are sufficiently advanced to identify many of the priority areas for the program. There was some discussion but no clear consensus on the use of water quality information or the reconciliation between salmon and water quality priorities in the selection of watershed priority areas.

The importance of consistency with watershed plans was cited as a primary reason for having watershed organizations in prominent roles in the development of proposals for the new program.

Leveraging of Other Funding Sources

Most relevant sources: Information on other relevant funding sources was presented to the advisory group in the first and second meetings. While specific programs were not discussed except for CREP, the group did discuss the most relevant programs in terms of their characteristics. In particular, they suggested that programs that are providing capital and noncapital support for work in rural areas and those available to the watershed leaders who will be taking a prominent role in the new program should be priorities for consideration. Research presented to the group suggests that the most likely sources are the Puget Sound Acquisition and Restoration, salmon recovery, and WWRP riparian protection programs. More information on these and other sources can be found in the appendices of this report.

As indicated previously, CREP is a special case in this regard. The advisory group took an unusually strong interest in connections between CREP and the new NEP Riparian Conservation program, even asking for a special briefing on the program at the final meeting. Several options for coordination of these programs were discussed, including transitioning CREP contracts to permanent easements at the expiration of the initial contract period, but no specific plans were developed.

Processes for leveraging: There was strong recognition among group members of the important role that watershed lead entities play in leveraging multiple funding sources for salmon recovery projects, as described in detail in a presentation by Richard Brocksmith on his experience in the Skagit watershed. Strong interest was also expressed in the efforts of the Recreation and Conservation Office to synchronize multiple state funding sources (as described by Elizabeth Butler), but there was no specific discussion or agreement on how to use this experience in the NEP Riparian Conservation program. Group members clearly support mechanisms to simplify the experience of applicants for this and other sources. The options discussed included the use of joint application processes and materials, joint project review criteria and processes, complementary matching requirements, and coordinated planning and priority setting by granting entities.

Relationship with regional Coordinated Investment initiatives: The group was briefed on Coordinated Investment initiatives underway in the Puget Sound region and the desire for looking at the new program as a means to achieve these concepts. The Woods Creek and Black River case examples were cited as models for the integration of multiple funding sources. This topic was discussed at the end of the advisory group process and while there was strong interest in simplifying the coordination of multiple funding sources, there was no clear direction on how this might be pursued for the new program. It appears that this will get further consideration by the Department of Ecology and collaborating agencies in the ultimate design of the program.

Acknowledgments

Thanks to all the members of the NEP Riparian Conservation Advisory Group for their commitment to the group, candor, and respect for one another. The project would have been impossible without their enthusiastic participation. Cindy Dittbrenner, Laurence Reeves, Elizabeth Butler, and Richard Brocksmith are particularly recognized for their excellent presentations to their fellow group members.

Lauren Driscoll and Colin Hume of the Washington Department of Ecology, Gina Bonifacino and Michael Rylko of the U.S. Environmental Protection Agency, and Ron Shultz of the Washington State Conservation Commission served as a management team for the project and provided top-notch advice and direction to the project staff. Evergreen was hired under a subcontract with The Nature Conservancy and Kris Knight, Kat Morgan, and Patricia Hampton were very helpful with contract negotiations and administration.

Thanks also to Megan Johnston of Triangle Associates, who did an excellent job with meeting notes.

Dennis Canty
August 2015

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• Conservation Funding Sources Paper	
• Conservation Easement Q&A	
• Possible Terms of the Easements	
• The Importance of Continuity in Riparian Buffers	

Appendix A: Agendas of Advisory Group Meetings

Meeting One (April 17, 2015 in Edmonds)

Introductions	:10
Purpose and Goals of the Advisory Group	:40
Interests of the three convening agencies Michael Rylko, EPA; Lauren Driscoll, Dept of Ecology; Ron Shultz, WA Conservation Commission	
Sideboards and ground rules Lauren Driscoll	
Group discussion	
Summary of Initial Advisory Group Feedback	:15
Presentation on initial interviews (Dennis Canty, facilitator)	
Group Member's Goals and Interests	:35
Group discussion	
Break	:10
Other Easement and Incentive Programs in the Puget Sound Region	:45
Presentation on compatible programs Dennis Canty	
Group discussion	
Topics for Future Meetings	:10
Presentation Dennis Canty	
Group discussion	
Next Steps and Closing	:10
Conveners and staff	

Meeting Two (May 20, 2015 in Tukwila)

Review of the meeting notes Dennis Canty, Facilitator	:10
Areas of agreement and needs for further discussion Gina Bonifacino, EPA	:10
Options for program design • Watershed-Led • Easement Grants • CREP Plus	:20
Application to two case examples Woods Creek, Snohomish County Cindy Dittbrenner, Snohomish CD Black River, Thurston County Laurence Reeves, Capitol Land Trust • Goals, process, outcomes for each program • Discussion of the options for program design • Round robin/ general discussion/areas of agreement/needs for further discussion	:65
Break	:10
Introduction to priority-setting options Colin Hume, Department of Ecology	:50
Closing and next steps	:10

Meeting Three (June 4, 2015 in Tukwila)

Introductions	:05
Review of the meeting notes Dennis Canty, Facilitator	:10
Areas of agreement and needs for further discussion Gina Bonifacino, EPA	:20
Guiding Criteria: What, Who, and Where? Dennis Canty • Initial thoughts of the conveners • Unresolved questions • Discussion by the advisory group	:60
Break	:10
Introduction to Conservation Easements Dennis Canty • Common easement terms • Terms for this program • Easement management • Easement costs and value to the landowner	:60
Closing and next steps	:10

Meeting Four (July 2, 2015 in Tukwila)

Introductions	:05
Review of the Meeting Notes Dennis Canty, Facilitator	:10
Areas of Agreement Colin Hume, WA Department of Ecology	:20
The NEP Conservation Easement Possible NEP Easement Terms Dennis Canty	:60
Agriculture and Forestry in the Easement Cindy Dittbrenner, Snohomish CD and Paul Cereghino, NOAA	
Group Discussion	
Break	:10
Coordinated Investment Context and Goals Gina Bonifacino, EPA	:60
Options for the NEP Program Dennis Canty	
Coordination at RCO Elizabeth Butler, RCO	
Coordination at the Watershed Level Richard Brocksmith, Skagit Watershed Council	
Group Discussion	
Closing and Next Steps	:10

Meeting Five (August 6, 2015 in Tukwila)

Introductions	:05
Review of the Meeting Notes Dennis Canty, Facilitator	:10
CREP and the NEP Riparian Conservation Program Presentation Brian Cochran and Ron Shultz, WSCC	:20
Group Discussion	
Reach-Level Conservation Group Discussion	:35
Alternatives for the Funding Process Presentation Colin Hume, Department of Ecology	:30
Group Discussion	
Break	:10
Advice from the Advisory Group Presentation Dennis Canty	:45
Group Discussion	
Response from the Convening Agencies Ecology, EPA, and WSCC	:15
Thanks and Closing	:10

Appendix B: Meeting Notes

(Prepared by Megan Johnston or Triangle Associates, Inc.)

Meeting One

NEP Riparian Conservation Advisory Group Meeting

Meeting Summary

April 17, 2015

1:00-4:00 pm

Edmonds City Hall

Meeting Participants

Carin Anderson, Gina Bonifacino, Helen Bresler, Richard Brocksmit, Brendan Brokes, Elizabeth Butler, Melissa Campbell, Heather Cole, Sherre Copeland, Cindy Dittbrenner, Jeannette Dorner, Lauren Driscoll, Bonda Habets, Colin Hume, Tim Hyatt, Liz Johnston, Janne Kaje, Steve Landino, Monte Marti, Amanda Reed, Brendan Roozen, Michael Rylko, Ron Shultz, Heather Trim, Jim Weber, Daryl Williams, Dennis Canty (facilitator), Megan Johnston (note taker)

Introductions

Gina Bonifacino with the U.S. Environmental Protection Agency (EPA) opened the meeting, welcomed the Advisory Group members to the meeting, and introduced Dennis Canty as the facilitator. Next, each Advisory Group member introduced themselves.

Purpose and Goals of the Advisory Group

Interests of the Three Convening Agencies

Representatives from the three convening agencies—EPA, Washington State Department of Ecology (Ecology), and the Washington State Conservation Commission (Conservation Commission)—shared their agencies' interests in the new NEP riparian conservation program, and responded to questions from the Group. EPA distributed \$6 million to Ecology for this program, and funding could potentially continue through FY 2016 and beyond. The program is currently in the pilot stage, and the intention is to distribute the designated funds to third parties through a competitive process (likely through an RFQ). It is expected that this program will be offered in the fall 2015. The primary focus of this program is riparian conservation easements in rural areas (leaning towards reach-scale conservation as opposed to parcel by parcel actions, but reaches have not yet been prioritized). EPA would like to pursue permanent easements; however, this funding may be used for a mix of easements and other conservation actions (NEP funds are flexible). Protecting salmon and improving water quality are the primary motivations for this program, but the agencies are looking to advance multiple interests with this funding. The new program is intended to be complementary of similar, existing programs (such as CREP), and serve as another “tool in the toolbox” to be used for riparian conservation. It's likely this funding source will be combined with others.

The convening agencies are looking for advice from the Advisory Group on how to implement the program, how best to engage landowners (a key element), criteria for setting priority reaches, and generally how to make the program effective. The agencies will take the committee's advice and work on designing a program. Ecology is the recipient of EPA funds and therefore will be the final decision maker for the program.

Sideboards and Ground Rules

The Group discussed a number of sideboards and ground rules for the Advisory Group process (see presentation slides for details). An Ecology representative noted that they do not want Advisory Group members who are interested in applying for this funding in the future to be disqualified or given preference. Therefore, the convening agencies will not make any commitments on program design or evaluation criteria during this process. The agencies will make the final decisions on program design, and are not asking the Committee to come to agreement or make final decisions. The Advisory Group will meet monthly from April-August, 2015.

Goals and Interests

The facilitator invited each Advisory Group member to share what they would like to see come about as a result of the Group's work. Below are some of the themes that emerged during this discussion.

- Develop a program that is complimentary to existing programs and funding sources (including both environmental and farmland conservation programs), is flexible in terms of implementation and funding, is simple to implement, and offers streamlined contracting for program participants (i.e. less time on contract administration and more time implementing projects).
- Identify thoughtful and effective ways to engage landowners, and how best to incentivize landowners to voluntarily participate in the program.
- Develop a program that's creative; use experimental pilots to test the program and develop interest.
- Develop technical guidelines for the program and lean on existing salmon recovery and water quality science to address issues related to prioritization.
- Collaborate, pursue common goals, and create unified and consistent messages about the purpose and goals of the new program both for the target audience (landowners) and the public.

The Group engaged in some discussion related to buffers and how best to incentivize landowners to participate in the voluntary conservation easement program. It was noted that the focus of the Group is on technical program implementation issues as opposed to higher-level policy issues; however, it was recognized that issues regarding buffers may arise. A member noted that it would be helpful to consider different ways to meet the NMFS buffer

standards in order to encourage landowners to voluntarily participate in the program. Another member encouraged the Group to be thoughtful in how this program is communicated to landowners. Several members noted that the program needs to be flexible (particularly in terms of landowner compensation) in order to incentivize landowners to participate. Some members urged caution in moving away from buffer standards in order to gain more flexibility and landowner participation.

Summary of Initial Advisory Group Feedback

The facilitator provided a summary presentation on the feedback he received during a series of interviews he conducted with 22 committee members prior to the first Advisory Group meeting. In general, members conveyed that riparian conservation on farmland is necessary and timely, and that additional work in this area is worth doing. Some members focused on the environmental benefits of this effort, whereas others emphasized the need to benefit farms and the farm industry as well (see presentation slides and interview summary for more detailed information). Below are some of the key takeaways from these initial discussions.

- ❖ This is the right issue and right place to discuss it.
- ❖ There is a need for additional funding.
- ❖ Build this new program off of existing programs and focus on filling gaps.
- ❖ Simplify the experience for applicants.
- ❖ Aim for reach-level benefits.
- ❖ Rely on existing local priorities.
- ❖ Determining which programs to build this new program around and how to fill the gaps.
- ❖ Determining what actions should be funded beyond conservation easements.
- ❖ Identifying how to make this more compelling to farms and rural landowners.

Some questions were raised about reach-level benefits. A member questioned if a highly qualified parcel could be disqualified from the program because it is not in the right reach, and whether or not there is scientific research that leads to the conclusion that putting everything into one reach will lead to better conditions than if the same acreage is interspersed. An EPA representative noted that this conversation is open to discussion amongst the Group but that some studies suggest that improvements in stream temperature require actions in at least 80% of a stream corridor. An Ecology representative suggested the need to define a “reach” and what meets the criteria for a “reach” approach. The Group also discussed that they may need to be flexible and opportunistic to secure landowner participation.

Other Easement and Incentive Programs in the Puget Sound Area

The Advisory Group reviewed and discussed a number of current easement and incentive programs available in the Puget Sound area (see presentation slides for details). The purpose of this discussion was to review what programs are currently being offered, identify what's working well and can be built upon, consider how NEP funds can leverage and be leveraged by other sources, and identify how to make the new program user-friendly. A table was developed outlining different programs/funding sources operating in a similar space as the NEP funds. Advisory Group members were encouraged to send any comments or updates regarding the program and funding sources table to Dennis Canty. It was noted that some current programs may be more relevant to the new program than others. The Group also briefly discussed the concentration of agricultural lands in the Puget Sound area. Dennis Canty will share a map of Puget Sound agricultural lands with the Advisory Group.

The facilitator shared that current easement and incentive programs in the Puget Sound area can generally be organized into four large categories (i.e. ways in which the public sector funds conservation on private lands):

1. Buy development rights (via conservation easements) to prevent conversion;
2. Buy conservation easements to preserve and restore natural values;
3. Cost-share conservation projects with landowners; and
4. Buy land and devote it to habitat or open space projects.

The Group agreed that the new program likely fell between #2 and #3 above. As a result, it may be helpful to focus on the current programs that fall under those two categories (Salmon Recovery Funding Board, Puget Sound Acquisition and Restoration, CREP, EQIP, property tax relief). A member suggested the Group also take into consideration people who engage in easements for federal tax purposes (a key focus of larger land trusts).

The Group discussed that EPA would like to use the new program to fund permanent conservation through easements, but it may be possible to use other strategies in addition to this. For example, different tools and approaches may be used on parcel and reach levels (on a reach level easements AND other strategies may be used, and on a parcel level easements OR other strategies may be used). The Group also reviewed potential uses for the NEP funds, recognizing that the use of the funding may impact how the program is developed. Examples of how to use the funds included: building a new free-standing program, fulfilling match requirements of existing programs, supporting pre-and post-project needs, filling gaps between projects in key reaches, augmenting CREP payments, and combining with NRCS Wetland Reserve Program funds. Several Group members expressed interest in matching new funds to existing programs and merging funds with multiple sources. The Group questioned if there are restrictions to combining NEP funds with funds from other federal and state agencies. How NEP funds may be used to match other funds needs to be confirmed. Other constraints for the funds also need to be clarified (such as whether or not market rates can be exceeded).

Additionally, the Group discussed aligning the new program with other agricultural conservation programs (programs already working with landowners on farmland conservation). Several members raised questions of how to ensure the new program “plays well” with other agricultural programs. A member noted that matching existing salmon funding with existing farmland funding can be a challenge. The Group also discussed issues related to filling gaps in key reaches, and reviewed an example of projects implemented along a reach of the Nooksack River. The Group discussed how projects were identified and implemented in this reach and if there has been improvement in the system as a result of the projects. During the next Advisory Group meeting members would like to work through an example using a priority reach (potentially Woods Creek in Snohomish County).

Topics for Future Meetings and Next Steps

Below is the proposed timeline and list of topics to address through August 2015.

- Fit with existing programs and overall emphasis: April-May
- Conservation easements and other tools: June
- Targeting and reach-level results: July
- Overall recommendations: July and August

Several members suggested first reviewing conservation easements and other tools prior to determining the emphasis of the program. Another member suggested that it would be helpful to have a better sense of priority areas. The next Committee meeting will take place in May.

Next Steps/Action Items

- The next Advisory Group meeting will take place in May (exact date TBD).
- Advisory Group members will send any comments/updates regarding the program and funding sources table to Dennis Canty
- Dennis Canty will share a map of Puget Sound agricultural lands with the Advisory Group
- The Advisory Group will work through an example using a priority reach during the next Advisory Group meeting (potentially Woods Creek in Snohomish County).

Meeting Two

NEP Riparian Conservation Advisory Group Meeting Meeting Summary

May 20, 2015

9:00 am-12:00 pm

Tukwila Community Center, Tukwila

Meeting Participants

Gina Bonifacino, Helen Bresler, Richard Brocksmith, Brendan Brokes, Elizabeth Butler, Melissa Campbell, Brian Cochrane, Tom Davis, Cindy Dittbrenner, Jeannette Dorner, John Floberg, Bonda Habets, Colin Hume, Tim Hyatt, Beth LeDoux, Steve Landino, Jordan Rash, Laurence Reeves, Jim Weber, Daryl Williams, Dennis Canty (facilitator), Megan Johnston (note taker)

Introductions and Review of Meeting Notes

Dennis Canty, facilitator, welcomed the Advisory Group members and reviewed the meeting agenda. Next, representatives from each of the convening agencies—the U.S. Environmental Protection Agency (EPA), Washington State Department of Ecology (Ecology), and Washington State Conservation Commission (Conservation Commission)—introduced themselves and spoke briefly about the purpose of the Advisory Group process. This was followed by introductions from Advisory Group members. Advisory Group members were then invited to provide comments on the draft April 17, 2015 meeting summary. No comments or edits were offered.

Advisory Group Process

The Group reviewed the Advisory Group meeting timeline and the role of the Advisory Group. The primary role of the Group is to provide advice to the convening agencies on the development of the new NEP riparian conservation program. The convening agencies will use the input from the Advisory Group to design the new program.

Areas of Agreement and Needs for Further Discussion

The Group reviewed and discussed the main areas of agreement amongst the group and areas that need further discussion related to the new program (see presentation slides for details). This information was based on feedback from interviews with Advisory Group members prior to the first April 17 meeting, as well as feedback from the April 17 Advisory Group meeting.

The Group clarified that one area of agreement, “simplify the experience for applicants,” speaks to the challenge of navigating various funding sources for riparian conservation that each have different criteria, formats, deadlines, and match requirements. Often it is necessary to blend multiple funding sources to fund a project, and getting those funding sources to align can be a challenge. Members suggested keeping this in mind during program development. Some suggestions for “simplifying the experience for applicants” include: identify application periods well in advance, synchronize criteria and deadlines, and consider the implications of fixed vs. open windows for funding applications.

The Group discussed several issues related to engaging landowners with the new program, and identifying an appropriate “messenger” for the program. A member suggested that NGOs or agencies that regularly interact with landowners (such as NRCS and the Conservation Commission) may be the best entities to provide outreach to landowners regarding the program. Another member suggested that it would be helpful to learn from the experiences Conservation Districts and NRCS have had working with landowners in order to identify the best approaches for landowner outreach for the new program.

Some members raised questions about the desired goals and outcomes for the new program. A representative from Ecology shared that the primary goal of the program is to invest funds into permanent protection of riparian zones to benefit salmonids and water quality. Recognizing that this charge is fairly broad, Ecology is looking for input from the Advisory Group on more specific program outcomes.

A member also noted that it’s important to make sure program funds are invested in buffers and easements that are fully effective and help move towards desired outcomes, and that criteria should be based on good habitat function. Related to this, the Group discussed that it will be necessary to strike a balance between being opportunistic and strategic with the implementation of this program.

Options for Program Design

The Advisory Group reviewed and discussed three different theoretical program design options. It was noted that that the three program designs presented are not mutually exclusive and can be combined. The three program design options include (see meeting handouts for additional details):

Watershed-Led: Get funds to watershed leaders to implement local riparian conservation strategies. For this option, the watershed leads could be any number of entities (this will be determined at a later date). Members shared that since Local Integrating Organizations (LIOs) help to prioritize restoration efforts in watersheds, they could be a helpful for prioritizing where this funding should be directed within watersheds.

Easement Grants: Funds allocated to individual applicants to fund conservation easement projects. The Group noted that it’s important to define who will hold the easement (to be discussed at a future meeting), and to have entities involved who can manage easements.

CREP Plus: Get funds to individual farmers via Conservation Districts to purchase easements, convert leases to easements, and improve restoration. It was clarified that this option would not be tied to the rules and interpretation of CREP (the new program would define its own rules).

The facilitator also presented several “givens” of the program (see presentation slides for details). The Group discussed a number of questions arose related to the following givens.

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- The program will support permanent conservation of riparian areas through easements and restoration; and
 - Easement widths per NOAA buffer table.

Some members expressed that it was not made clear these would be givens, and that these givens may make it challenging for the agricultural community to support this program. It was clarified that the NOAA buffer table is one of the EPA grant conditions. However, there is some flexibility within the table if there is science along a reach scale to support a different buffer size. Members discussed that there may be a price-point when the NOAA buffer tables could be more reasonable to landowners, and suggested considering how to bring together landowner and program needs. A member also suggested considering non-monetary incentives to encourage program participation (such as regulatory certainty). It was also clarified that due to grant conditions, proposed grant activities need to be on protected riparian zones.

The Group also discussed that the convening agencies would prefer that the new program utilize permanent conservation easements as the first and primary tool around which to add other tools or approaches. There is a sense that there is demand for permanent conservation, and if that does not prove to be the case, the program will be adjusted as needed. Some members expressed concerns about this approach, noting that it could be limiting.

Application to Two Case Examples

Two case examples were presented to demonstrate two different options for riparian conservation programs. Cindy Dittbrenner with the Snohomish Conservation District provided an overview of a project in Woods Creek, Snohomish County and Laurence Reeves with Capitol Land Trust provided an overview of an effort to conserve the Black River Ranch in Thurston County. Both shared information about the different tools, techniques, organizations, and funding sources used to implement these projects. They also shared feedback on the three different program design options as they related to the case examples, and responded to Advisory Group questions.

Following are some of the major points of the presentations:

Woods Creek

- Heavy investment in landowner outreach has been needed to get “corridors” of riparian area planted.
- Have needed to seize opportunities to plant quickly when they arise.
- Easements are not necessarily the preferred tool in establishing riparian corridors as they require a lot of investment in time/resources and landowners don’t necessarily want to lock up their land into perpetuity, but may be amenable to plantings/restoration.
- Lots of mixing and matching of funding sources has been needed to address landowner needs.

Black River

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- The value of the riparian easement is pretty low given lack of development opportunity so easements on the entire parcel (including the agricultural zone) have increased landowner interest.
 - Linking up multiple funding sources through an easement can be incredibly complicated due to required easement terms/language from the funders. Requires a lot of back and forth negotiation on the part of the organization trying to get the easement in place to the point that it may not be worth the time of the organization. Simplified easement terms/language can make this easier to bring multiple funding sources together into a single easement.

Advisory Group Feedback on Program Design

Each Advisory Group member provided feedback on the three program design options. The main themes from this discussion are summarized below.

- Most members expressed interest in and support for the watershed-led option, and some expressed interest in the easement grant option. Fewer members expressed support for the CREP Plus option.
- Many Advisory Group members shared that they would prefer a hybrid of the different program options rather than any of the options on their own (i.e. combine different elements of the program options). In particular, multiple members mentioned that a combination of the watershed-led and easement grant options would be desirable.

Other suggestions from Advisory Group members related to program design included:

- Consider the goals of the program and ways to work with different groups that are already being convened to identify priority areas to address resource concerns.
- Make sure the program is flexible and able to adapt.
- Coordinate with those who are accountable for salmon recovery plans and identify the nexus between salmon recovery and riparian and agricultural land conservation.
- Partner with NRCS to restore easements once purchased.
- Be clear about what the program is trying to buy and provide clear sideboards.
- Use more than one approach and put all tools on the table (such as easements, restoration, maintenance, monitoring, etc.).
- Make sure the farm community is well engaged, consider the needs of landowners.
- Maintain a local partner, NGO, or agency (such as the Conservation Commission or NRCS) to serve as the on the ground face of the program.

Introduction to Priority-Setting Options

A representative from Ecology provided a brief overview of priority setting related to the new program. The Group discussed that some level of funding prioritization is likely necessary. It was noted that concentrating the limited program funds may help to produce measurable results and demonstrate effectiveness. It was suggested that Ecology could identify potential priority geographic areas for the program using technical tools and data (at the reach or watershed scale). The Group discussed several questions related to prioritization approaches. A member shared that it would be helpful for the State to provide some guidance on prioritization. Some members mentioned that there are groups already working on prioritization within watersheds, and that it would be helpful to consult those groups when considering prioritization for this new program. Also, it was noted that prioritization could be established within each WRIA in order to “leave no watershed behind.”

The prioritization discussion will continue at the next Advisory Group meeting. Members were encouraged to provide any further comments on priority setting to the facilitator.

Next Steps:

- The next Advisory Group meeting is on June 4, 9:00 am-12:00 pm
- The Group will have a full discussion on priorities at this meeting.
- The Group will also review the maps that were initially introduced at the May 20 meeting.

Meeting Three

NEP Riparian Conservation Advisory Group Meeting

Meeting Summary

June 4, 2015

9:00 am-12:00 pm

Tukwila Community Center, Tukwila

Meeting Participants

Gina Bonifacino, Helen Bresler, Brendan Brokes, Elizabeth Butler, David Burger, Brian Cochrane, Cindy Dittbrenner, Lauren Driscoll, Colin Hume, Tim Hyatt, Beth LeDoux, Steve Landino, Laurence Reeves, Brandon Roozen, Michael Rylko, Heather Trim, Jim Weber, Daryl Williams, Dennis Canty (facilitator), Megan Johnston (note taker)

Introductions and Review of Meeting Notes

Dennis Canty, facilitator, welcomed the Advisory Group members and reviewed the meeting agenda. Next, he invited Advisory Group members to introduce themselves and reviewed the sequence of Advisory Group meetings. Advisory Group members were then invited to provide comments on the draft May 20, 2015 meeting summary. No comments or edits were offered.

Areas of Agreement and Needs for Further Discussion

An EPA representative shared an overview of feedback heard from the Advisory Group thus far, and questions that remain to be discussed. Below is a summary of themes heard from the Advisory Group:

- General support and need for investing in riparian reach-scale restoration and protection.
- Build from existing programs, don't start from scratch.
- Work with local groups that are already doing this type work.
- Aim for reach-level benefits.
- Simplify the experience for program applicants.
- Use a "watershed-led" model, with watershed leaders proposing reach-level suites of projects.
- Include some support for free-standing easements (high-priority, free-standing easements outside of reaches).
- Permanent easements are vital but other actions will help broaden appeal and improve environmental outcomes.

Guiding Criteria

The Advisory Group discussed the guiding criteria for the new program, in particular issues related to what the new program will fund, who is best suited to do the work, and where the work should be located.

What will the new program fund?

The Group began by reviewing the baseline assumptions for what the program will fund, and discussed questions related to the assumption regarding the use of NOAA buffer standards. The Advisory Group then discussed potential directions for the program and reviewed a possible funding scenario.

Some members expressed that not enough funds exist for easements, acquisitions, and easement stewardship. Others expressed that there are a lack of funds for restoration and maintenance activities. A member suggested not making eligibility criteria too broad for this program, as it may make it more difficult to test the program's hypothesis. It was noted that when the Department of Ecology (Ecology) puts out a Request for Proposals (RFP) for the new program, they will need to provide guidance on what will be funded.

The Advisory Group reviewed a sample graphic with scenarios outlining what may be funded by the program beyond permanent easements. The Group discussed a number of questions regarding the graphic. It was suggested that for the new program there could be two RFPs, one for easements (to be released first) and one for broader restoration activities (released second if funds are available). An Ecology representative noted the \$6 million allocated to the new program needs to be spent by 2019, and they need to demonstrate success with this program in order to secure future funds. It may be possible to do two rounds of RFPs for the \$6 million.

The Group discussed that there are some components of CREP that the new program may want to replicate. A member shared that a helpful component of CREP is that it provides payments to landowners and maintenance for five years all in package. It was suggested that a similar approach could be implemented for an easement program: pay outright for the easement (lump sum), provide an allocation for restoration if needed (such as a certain amount of money/acre), and provide maintenance funding for five years. Another member suggested that in addition to the funds for easements available through the new program, CREP payments could be used for plantings. The Group will discuss coordinated investment strategies for the program during the July 2 meeting. Several Advisory Group members also noted some challenges with the CREP program that should be considered.

The Group also discussed how many parcels could potentially be acquired for \$6 million. It was noted that the costs of easements vary significantly, and it's difficult to identify an average cost.

Who is best suited to do the work?

The Advisory Group reviewed and discussed assumptions and potential options for who will do the work of the program. The program would like to utilize watershed-led expertise and

alliances developed through salmon recovery and water quality planning, while also working with entities that have experience managing easements.

The Group discussed who would likely hold easements funded through the program, and different challenges and opportunities around various easement-holding scenarios. It's possible for tribal governments, state or local governments, and land trusts to hold easements. It may be possible for state agencies to partner with a land trusts to hold easements as well. A member noted that if a third party holds an easement, then local watershed groups could serve as brokers to help identify the best local projects eligible for the program. Existing entities (such as LIOs and WRIAs/Lead Entities) could help to provide local justification and strategies for identifying priority reaches and approaches to easements in different areas. The appropriate entity to provide this type of guidance may vary by watershed.

The Group discussed potentially allowing the proponents of a project to choose who they would like to hold/manage the easement. The property selected for the project may dictate who is most appropriate to hold the easement. A member noted that if a land trust holds an easement, that land trust would need some support funding. Another member shared that staff is needed to steward easements, and that this has been a challenge in the past for state agencies. It was suggested that applications for program funds should be evaluated for feasibility and value of the project, as well as cost effectiveness.

Where should the work be located?

The Advisory Group reviewed and discussed the assumptions and potential directions for identifying appropriate parcels for this program. The Group discussed that a mapping exercise that brings together base criteria could be helpful to use as a sounding board as proposals for funding are submitted (this would not include ranking criteria—locally developed strategies will provide that information). The Group reviewed an example mapping exercise looking at all agricultural parcels in Whatcom County (assessment unit) intersected with the criteria of fish bearing streams with any salmonids (presumed, documented presence) and fish bearing streams with chinook salmon only.

Advisory Group members provided feedback about the mapping exercise. A member suggested adding layers for the Farmland Preservation Program and Transfer of Development Rights program in King County, and that there should be some level of an opportunistic filter. Several members suggested adding water quality (such as fecal coliform and temperature) and/or habitat layers to the maps. It was noted that the maps are good place to start, but additional information needs to be added about current activities taking place in local watersheds.

Some members suggested drawing distinctions between program “eligibility” and “priority.” A member suggested allowing eligibility to be more permissive, and then ranking projects based on the goals of the program. Another member suggested prioritizing areas with ESA listed fish. It was also suggested that the program should clearly define what “agriculture” means, and to keep that definition open (similar to CREP) and to include horses.

Conservation Easements Overview

The Facilitator presented an overview of conservation easements, including: what they are, common easement terms, issues related to easement management, and easement costs and value to landowners (see presentation slides for additional details). In general, a conservation easement is a “voluntary, binding agreement between a landowner and a third party that restricts use and development to protect conservation values.” For the purpose of this program conservation easements refer to easements for environmental protection and restoration.

The Advisory Group discussed a number of issues related to conservation easements, in particular the terms typically addressed in easements, how easements are managed, and costs and funding for easement management. Group members noted several tools and resources related to conservation easement requirements and stewardship cost guidelines, such as: the Land Trust Alliance (<http://www.landtrustalliance.org/>), and the Washington State Recreation and Conservation Office (RCO) “Manual 3: Acquisition Projects”, Appendix D (http://www.rco.wa.gov/documents/manuals&forms/Manual_3_acq.pdf).

In terms of easement costs, the Group discussed that in Western Washington development rights tend to be significantly more expensive than other rights on a parcel, and in many cases, easements are driven by development rights (zoning and land use restrictions also play an important role in this). A member suggested that they would like to see more program funds going towards conservation than development rights and transaction costs. Another member suggested that more on-the-ground conservation could be done if the program is designed to minimize legal costs (for example: conduct appraisals in aggregate, divide up target parcels into several different scenarios, use simplistic easement language).

In terms of easement management, a member noted that within an easement there could be designated zones: riparian zone, agricultural zone, etc. Those zones would require different management regimes. Another member shared the concept of using working buffers as a way to conserve lands and also generate revenues to help maintain the property. Recently, a pilot study was initiated to study using working buffers with different zones. This can enable wider buffers while also keeping some land in agricultural use. Cindy Ditttbrenner will share information with the Group about this pilot study. The Group discussed possibly using a percentage of the program funds towards a demonstration project using working buffers.

The Group discussed whether or not easements will be placed on a full parcel, or only on riparian areas. It was noted that it may be difficult to justify full parcel easements given the objective of the funding, and there would need to be an environmental basis for placing an easement on a full parcel. It was clarified that placing an easement on a full parcel does not mean that the entire parcel will be restricted.

Meeting Four

NEP Riparian Conservation Advisory Group Meeting Meeting Summary

July 2, 2015

9:00 am-12:00 pm

Tukwila Community Center, Tukwila, WA

Meeting Participants

Carin Anderson, Gina Bonifacino, Helen Bresler, Richard Brocksmitth, David Burger, Elizabeth Butler, Melissa Campbell, Paul Cereghino, Brian Cochrane, Cindy Dittbrenner, Jeanette Dorner, Lauren Driscoll, John Floberg, Dave Herrera, Monica Hoover, Colin Hume, Beth LeDoux, Steve Landino, Jordan Rash, Laurence Reeves, Brandon Roozen, Jim Weber, Dennis Canty (facilitator), Megan Johnston (note taker)

Introductions

Dennis Canty, Facilitator, welcomed the Advisory Group members and reviewed the meeting agenda. Next, he invited Advisory Group members to introduce themselves and reviewed the sequence of Advisory Group meetings.

Areas of Agreement

An EPA representative provided an overview of feedback heard from the Advisory Group thus far. Below is a summary of themes heard from the Advisory Group.

- Support for focusing on permanent conservation along reaches, and a general need for more resources to do this work.
- Build from existing programs, don't start from scratch.
- Work with local groups that are already doing this type of work and know the area.
- Aim for reach-level benefits
- Simplify the experience for applicants.

A Department of Ecology (Ecology) representative shared some details about the likely direction of the new program. This information is summarized below.

- All watersheds will be eligible for the program. Applicants will need to specify the target reaches for their projects. They will also need to indicate why a certain reach within a certain watershed is a high priority for the grant funds based on the benefits to salmon recovery and/or water quality.
- Ecology will look for proposals from watershed leaders. Applicants could be: Tribes, Local Integrating Organizations (LIOs), NGOs, Conservation Districts, or others.

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- The grant funds are primarily for conservation easements. In addition to conservation easements, a mix of other conservation actions may be used. Ecology is working to identify what other conservation actions could be funded through the program. Ecology would like to see conservation easements used as the primary tool, with other strategies built around easements.
 - Ecology will likely use a Request for Qualifications (RFQ) to distribute program funds.
 - NOAA buffers are required for NEP funding and a given for this program.

The Advisory Group discussed a number of questions related to the likely direction of the program. It was clarified that the new program will not fund CREP; however, there have been some discussions about using this program to build off of CREP, when appropriate. The Group reviewed the nuances between RFQ and Request for Proposal (RFP) processes. A RFP process typically requires a more specific project proposal than a RFQ. A member suggested using a RFP process in order to get greater specificity about potential projects. Other members noted that in some cases, it will not be possible to have all project details prepared in advance, and some additional time and/or capacity funding may be needed to finalize project details. Another member suggested that a RFQ could be distributed first, followed by a request for more detailed proposals from a smaller group of applicants (potentially with seed funding provided). Using a phased contract approach was also suggested.

The Group discussed that the timeline for finalizing the details of a conservation easement project varies based on the landowner. Each case is unique and finalizing easements could take one to five years.

The NEP Conservation Easement

The Advisory Group reviewed and discussed possible NEP easement terms, as well as potential agriculture and forestry uses within the easement.

Possible NEP Easement Terms

The Facilitator shared sample conservation easement terms based on a Recreation and Conservation Office (RCO) easement. He noted that based on discussions thus far, the sample easement terms seem probable for easements in the new program. The Group discussed the following easement terms:

- Duration: Easements will be permanent.
- Easement holders: Tribes, government agencies, or land trusts. Regulated under state law and IRS code.
- Area included in the easement: At least the riparian area based on the NOAA buffer table (substitutions to the NOAA buffer table may be allowed based on demonstrated science).
- Allowable development and use: Land use will be minimal, with the focus of the easements on protection and restoration of riparian zones.

The Facilitator noted that the following issues related to easement terms still need to be resolved:

- If easements may extend beyond the riparian zone in order to boost land value and encourage landowner participation.
- If some agriculture and forestry uses may be allowed within the easement.

Agriculture and Forestry in the Easement

Cindy Dittbrenner, Snohomish Conservation District, and Paul Cereghino, NOAA, provided a presentation on a recent working buffers feasibility study. A working buffer refers to applying agro-forestry principles to a riparian buffer. This can allow for wider riparian buffers, while keeping some land in agricultural use (and thereby providing economic benefits to landowners). The study proposed a “no touch” riparian zone, and outside of that area a working buffer. Four types of working buffers were proposed: forest farming, alley cropping, pasture (silvopasture), and biomass. Cindy and Paul provided examples of different working buffers used in the study, information about determining appropriate buffer widths, and information about the benefits of utilizing working buffers (both economic and ecological). It was noted that two fundamental elements of a conservation easement are the terms of use (what’s allowable/compatible), and the extent of land in the easement (area of shared ownership). They shared that there are some other studies regarding working buffers, but they are site specific. It was noted the new program may want to leave an opportunity open for interested landowners to propose using working buffers in easements.

The Advisory Group asked a number of clarifying questions, and also commented on potentially allowing for working buffers with the new program. Below is a summary of themes heard during this discussion.

- Several members shared that working buffers may provide greater options and flexibility for landowners, and incentivize landowners to participate in the program. Some members noted that working buffers may not be appropriate for every area (or even for this program), but suggested continuing to explore the applicability of these tools.
- A member noted that there is already an agreed upon scientific process for establishing buffer widths in Washington State, and the program should use those established tools.
- Several members shared concerns about making the program too complicated by introducing different uses in easements. It was noted that there may be challenges with stewarding and enforcing easements that allow for varied uses.
- A member shared that it may be helpful to explore a “multi-benefit” approach with landowners, such as working with a landowner to put a portion of their property into a permanent easement, while helping them identify ways to increase the viability of their remaining land.
- A member shared that the NRCS Wetland Reserve Easement program allows for compatible uses and temporary economic uses in easements.

Based on this discussion, several potential options were identified for the new program:

- Prohibit agriculture and forestry use in the easement.
- Permit agriculture and forestry uses in the easement.
- Allow some agriculture and forestry uses in the easement under certain circumstances (negotiated in the contracting process).

There was no further discussion on which to pursue in the new program.

Coordinated Investment

Context and Goals

An EPA representative shared an overview of current activities in the Puget Sound region related to “coordinated investment.” The idea behind coordinated investment is to bring various government agencies together to coordinate and leverage resources to achieve greater benefits for Puget Sound. The Puget Sound Partnership (PSP) has been convening discussions with various government agencies around the concept of coordinated investment. PSP and NOAA are currently looking into a test case for coordinated investment in the Snohomish Basin. There is significant interest among agencies in the region, as well as Washington DC, in using a coordinated investment approach for riparian conservation. One concept of coordinated investment is to simplify and streamline funding processes for project sponsors.

Coordination at RCO

Elizabeth Butler, RCO, provided a presentation on coordinated investment from a grantor’s perspective. RCO currently manages 25 different grant programs. Over time, RCO has worked to streamline the administration of its grant programs in order to reduce redundancies and increase efficiencies for both project sponsors and agency staff. Whenever possible, RCO works to combine multiple grant sources for projects. Elizabeth shared an example of combining multiple funding sources for a project under a single grant contract in order to make project reporting and administration more efficient. This was accomplished through close coordination with the various funders and the grantee. She shared that it would be helpful to have one application for multiple funding sources. It was also noted that there could be further opportunities for Ecology and RCO to coordinate on grant management.

Coordination at the Watershed Level

Richard Brocksmit, Skagit Watershed Council, provided a presentation on coordinated investment from a grantee’s perspective. He noted that in order to have a successful conservation project at the watershed level, it’s important to have strong relationships and trust amongst project partners, a locally supported plan based on sound science, and knowledge of funding sources to match together. Richard shared an example of a reach-scale project that involved coordinating with different partners and combining multiple funding sources to complete the project over the course of 15 years. He noted that having a “one-size fits all” grant program is not the most effective, and that it would be better to clearly identify

grant program goals and allow for those working at the local level to determine the exact project details. He noted that more coordination and streamlining at the funder level will allow for more time to implement projects at the local level. Additionally, he noted that it's helpful when grant funds can be flexible and leveraged with other funds at critical times.

The Advisory Group discussed different issues related to reviewing projects at the local level and administering the new program. The Group discussed that at the local level, there is a process for technical review of salmon recovery projects through Lead Entities, whereas there is not a similar local process to review projects specifically focused on water quality. A member expressed support for the Salmon Recovery Funding Board (SRFB) project review process. Another member suggested running the new grant program through RCO in order to streamline contracting. Some members suggested connecting the program with NRCS, CREP/WA Conservation Commission, or Conservation Districts in order to better connect with the agricultural community.

Meeting Five

NEP Riparian Conservation Advisory Group Meeting

Meeting Summary

August 6, 2015

9:00 am-12:00 pm

Tukwila Community Center, Tukwila, WA

Meeting Participants

Gina Bonifacino, Brendan Brokes, Elizabeth Butler, Melissa Campbell, Brian Cochrane, Tom Davis, Cindy Dittbrenner, Lauren Driscoll, John Floberg, Dave Herrera, Colin Hume, Tim Hyatt, Janne Kaje, Steve Landino, Chris LaPointe, Jordan Rash, Laurence Reeves, Brandon Roozen, Michael Rylko, Ron Shultz, Heather Trim, Jim Weber, Daryl Williams, Dennis Canty (facilitator), Megan Johnston (note taker)

Introductions and Review of Meeting Notes

Dennis Canty opened the last meeting of the Advisory Group and reviewed the agenda and Advisory Group process. He invited Advisory Group members to introduce themselves and to provide comments on the draft July 2, 2015 Advisory Group meeting summary. A member noted that Woods Creek was misidentified as French Creek in the pre-meeting materials.

CREP and NEP Riparian Conservation Program

Brian Cochrane, WA Conservation Commission, provided a presentation on the CREP program, which included information about what CREP is, land eligibility requirements, participation requirements, CREP program constraints, and how CREP might fit with the new NEP riparian conservation easement program. CREP is a federal, voluntary incentive program through the Farm Services Agency (FSA) and is funded through the Farm Bill. Twenty-five states in the U.S. have CREP programs. The program's intention in Washington State is to relieve some agricultural-related habitat loss for ESA listed salmon and steelhead and impacts to water quality via various projects. The program pays farmers an annual rental

rate to grow a “riparian crop” and to remove environmentally sensitive lands from production. Currently, there are approximately 1,000 projects enrolled in CREP in Washington State. It was noted that the minimum buffer requirement for the program is 35 feet; however, 75% of CREP projects have average buffer widths of over 100 feet. Brian noted that the confidentiality provision in the Farm Bill prohibits revealing publicly the exact location of CREP projects unless individual producers opt out of this provision with a request to the FSA. Brian shared that CREP might fit with the new NEP riparian conservation program in the following ways:

2. CREP-like: The new program could support properties that don’t qualify for CREP.
3. CREP +: Provide greater incentives for: high priority areas and targeting; enrollment of wider buffers; cumulative impact bonus; and high value commodities/economic areas.
4. Convert land in CREP to long-term easements: Offer long-term easements on lands enrolled in CREP after CREP expires. This could help leverage NEP funds, since CREP buffers will already be established.

The Advisory Group asked a number of clarifying questions throughout the presentation. Some questions arose about the compatibility of CREP and the new NEP program, particularly due to the CREP’s confidentiality provision. A member shared concerns about the ability to adaptively manage CREP projects in light of the confidentiality provision. It was noted that it is possible to monitor CREP projects on a reach-level scale.

Reach-Level Conservation and Group Discussion

The Advisory Group discussed the hypothesis behind pursuing reach-level conservation with the new program: concentrating actions in key reaches will amplify environmental benefits. The new program is intended to fund “packages” of projects in high priority reaches, with the expectation that watershed leaders will bring propose project packages for funding.

The Group discussed whether or not it made sense to concentrate program dollars in key reaches. Generally, Group members expressed support for funding a mix of both reach-level project packages, as well as individual/opportunistic projects. Several members noted that some systems may benefit more from increased areas of refuge along a reach, and that in some areas, interspersed parcels may serve a greater function than a continuous reach. Several group members shared that they would like to see the best projects funded regardless of reach.

Several members noted that watersheds should identify the priorities in their areas (either reaches or individual parcels), and should be allowed to make a case for which blend of projects would be most beneficial for priority areas. Some members expressed that it’s important for the new funding program to be flexible, agile, responsive to local needs, and able build on areas that already have momentum and landowner engagement.

Colin Hume, WA Department of Ecology (Ecology), provided an overview of potential program design scenarios based on feedback from the Advisory Group. He first reviewed the following key points heard from the Advisory Group regarding program design:

- Bringing the right people together to focus on high priority reaches is important.

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- There is some need for developing implementation capacity in certain reaches.
 - It's good to strive for reach-scale benefits but isolated refuge areas are important too.
 - Don't miss good opportunities that are ready to go.

The Advisory Group reviewed and discussed three potential program design scenarios:

Scenario 1- Request for Proposal (RFP) approach: Provide a RFP solicitation and fund individual project packages (could be multiple solicitations or open solicitation).

Scenario 2- Request for Qualifications (RFQ) approach: Multi-phase approach with initial investment to facilitate outreach and planning to develop reach-level plans and project packages, followed by implementation funding for reach-level project packages.

Scenario 3- RFP/RFQ hybrid approach: Stagger the RFQ and RFP processes. With the RFQ, initially invest in key reaches to help them develop strategies and conduct outreach, while also opening an RFP process for projects that are ready to be implemented in priority areas. Funds not used through the RFQ process could go towards the RFP process.

In order to further develop and implement the program, an ongoing Advisory Committee will likely be convened to provide ongoing guidance. It's expected that the group will be comprised of agency and funder representatives with expertise in completing conservation easement and restoration projects, or that currently manage funding sources that may be combined or leveraged with the new program. The group is intended to be made up of representatives that will not compete for this source of funding. The primary role of this "Core Team" will be to: advise on specifics of the grant solicitation; advise on easement terms; advise on and/or score proposals; advise on project packages for implementation; and identify opportunities for coordinated investment in specific reaches. This group could be combined with the Watershed Lead Organization Core Team. Some members raised questions about the potential composition of the Core Team, and suggested including representatives from entities beyond funders and state agencies. A member also suggested adding a Department of Agriculture representative to the group.

The Advisory Group provided feedback on the scenarios and proposed approach to convene a "Core Team." Some members expressed interest in the hybrid approach. A member expressed some concern about using a RFQ approach, noting that funding used for planning may reduce funding available for projects that are ready to be implemented. The Group also discussed different watershed-based groups, such as Local Integrating Organizations (LIOs), which may help to identify and/or propose project packages. It was noted that the RFQ is a partnership based approach, and will likely look different in each watershed. An Ecology representative shared that there are no match requirements for the grant funds, and that Ecology is looking for feedback on the amount of money that should go towards each project (\$5.8 million is available for this program). A member expressed some concerns about limited landowner

options with this program given the focus on permanent easements and requirements for 100 foot buffers.

Advice from the Advisory Group

The facilitator presented a summary of topics discussed and feedback provided by the Advisory Group to date. This information was also outlined in a summary paper shared with the Advisory Group prior to the meeting (see summary paper for details). The Advisory Group provided comments and feedback throughout the presentation. A member expressed that there has not been broad agreement about whether permanent easements are the right approach. With regards to “essential capabilities” a member suggested adding “someone with landowner relationships” to the list. In terms of the program design scenarios, a member shared that they would like more time to consider and provide feedback about the scenarios. The Group also discussed several issues related to appraisals, particularly the time and costs associated with them. It was suggested that some of the funding during “phase 1” could go towards administrative costs to complete an upfront appraisal for a willing landowner. Another member suggested looking into different ways to efficiently complete the appraisal process to reduce time and financial costs, while still being fair to the landowner.

In response to several questions from Advisory Group members, an Ecology representative clarified the following:

- Agricultural lands will likely be defined broadly and will vary by region. Local groups could help to define this.
- Ecology is determining if easements may be purchased for above-market rates.
- Ecology would prefer easements to be in the riparian zone, but they have not developed a clear rule regarding this. They would like to leave this open to allow for what makes the most sense on a project by project basis.
- Ecology does not intend to set a coverage threshold for projects. They would like to see meaningful project packages that look at a reach and existing and desired conditions, but would likely not ask participants to meet a particular “coverage threshold.”

Advisory Group members were encouraged to send any further comments to Dennis Canty.

Response from the Convening Agencies

Representatives from each of the Convening Agencies shared remarks about what they’ve heard from the Advisory Group process, including topics of agreement, topics where questions remain, and thoughts on next steps with this process. All representatives thanked the Advisory Group for their active participation and thoughtful feedback and advice on developing the new program. They each noted that the process has been very informative and helpful. The convening agencies will take the feedback they’ve received and work together to implement the new program.

If Advisory Group members have any further questions about NOAA Buffers, they should contact Gina Bonifacino. If members have any further feedback about striking a balance between maintaining standards in what the program funds while also being flexible, and facilitating planning and outreach while also getting funding on the ground where needed, they should contact Colin Hume.

Appendix C: Background Papers and Reports

Analysis of Advisory Group Member Interviews (July 2015)

Prepared by Dennis Canty, Evergreen Funding Consultants

As part of the preparations for the first meeting of the NEP Riparian Conservation Advisory Group, group facilitator Dennis Canty interviewed 21 of the members of the group to understand their initial thoughts on the focus of the new funding initiative. Following are major findings of these interviews, arranged by the seven questions asked in each interview.

Question One: The three agencies that are bringing this group together – EPA, DOE, and the Conservation Commission – are focused on protecting and restoring riparian areas on agricultural lands around Puget Sound. Is this a good direction for new funding?

The members were unanimous in their support of this direction, with many people commenting on the very substantial need for and timeliness of this work.

In further comments, the group members varied in what they emphasized as the need for this initiative. Some focused particularly on the need for riparian restoration to meet salmon and water quality goals, while others emphasized needs to protect farmland and support the productivity of local farms. The range in opinion suggests that the goals and emphasis for the initiative may need further discussion.

Question Two: There are some other programs out there with similar or compatible missions, like CREP, the WWRP farmland protection program, and some land trust activities. On a scale of 1 (least) to 10 (most), how much do you know about existing programs focused on environmental protection and restoration on farmland? Which do you know best? Least?

The members have a good general understanding of the suite of conservation tools – giving themselves ratings of 3 to 8 – and tend to have significant expertise in one or more of the existing programs. The group as a whole seems most knowledgeable about the Conservation Reserve Enhancement (CREP) program. Otherwise, programs that were known best by some members were least understood by others.

Unsurprisingly, members who come from salmon recovery and water quality backgrounds tend to know the Salmon Recovery Funding Board (SRFB), Puget Sound Acquisition and Restoration program (PSAR), and the Washington Wildlife and Recreation (WWRP) habitat programs well while those who have worked on farm issues are particularly knowledgeable about WWRP farmland protection and the Farm Bill incentive programs.

Several members emphasized the importance of understanding other programs as a context for the new initiative. This suggests that some education on other programs is important at an early stage of the advisory group process.

Question Three: Based on your knowledge, which of these programs are working well? What are they doing that works best?

The program most often cited as successful was CREP due to the combination of effective outreach to farm communities, flexibility in buffer widths, and payments for lost productivity, restoration, and maintenance costs. Some concerns were expressed about the uncertainty of CREP protections as the initial round of landowner contracts expire, although the temporary nature of the commitment was also cited as an advantage by some members.

In addition, several members recommended the Salmon Recovery Funding Board (SRFB) for the combination of local prioritization and regional and state-level quality control. The suite of conservation programs offered through the Recreation and Conservation Office (RCO) were also cited as a success due to their very professional administration and the diversity of funding pools.

One theme raised repeatedly was that the programs that work best have a very high level of community outreach and engagement in farm communities. The USDA programs were cited as particularly successful at establishing long-term relationships with landowners.

Questions Four: Do you have a sense about where the big gaps are in programs to protect and restore riparian areas on farmland? How could new funding help fill these gaps?

The issue most frequently mentioned in responses was the width of stream buffers on farmland. Some members recommended the NOAA buffer table widths as the most scientifically defensible for salmon recovery, while others cited buffers of this extent as a significant impediment in recruiting farmers to undertake riparian restoration.

Several members discussed the difficulty in matching multiple funding sources for projects and suggested that new funding should be flexible enough to fill gaps in individual project budgets and that criteria, procedures, and deadlines should be synchronized. Several members mentioned the complex application and review processes for some of the common funding sources, including the USDA Agricultural Land Easement program, CREP, and the Environmental Quality Incentives Program (EQIP).

Several members mentioned the importance of funding for the development of local staffing capacity to support outreach to farm landowners and management of the local priority-setting process.

With regard to the application of new funding, there was no clear consensus of opinion. Several members suggested a narrow and strong focus on purchase of easements. Others suggested boosting CREP rental rates, increasing landowner incentives generally, paying for lost agricultural productivity, funding agricultural management of buffers, and providing additional money for monitoring and enforcement.

Question Five: The convening agencies are indicating that they hope the new funding will help to achieve environmental improvements over entire river reaches rather than scattered individual parcels. How can this be achieved?

There was strong support expressed for this goal among the group members. Many suggested that this required a very substantial commitment to community outreach and engagement, with an active effort to understand landowner needs and encourage neighbor-to-neighbor communication. Some noted that the effort needed to be sustained over time and that patience is essential.

Some members stated that additional resources would be needed to build programs, facilitate the engagement process, and build local capacity, and that the effort would be more successful if it is allied with a local organization that has a good reputation in the community.

The importance of a robust scientific process to select priority reaches was mentioned by several members. This was addressed further in the following question.

Members also suggested that the allocation of funding could be used to boost reach-level benefits, both through efficiencies in a coordinated investment approach of blending sources and potentially by boosting funding for projects from multiple neighboring landowners.

Question Six: Should a program like this prioritize areas for new investment? If so, what criteria, tools and information sources should be used to identify priorities?

Members tended to be very supportive of prioritizing the allocation of funding, and many cited the watershed plans for salmon recovery and water quality improvement as an appropriate basis for priorities.

Several members recommended processes such as the Sustainable Lands Strategy in the Snohomish basin to identify sub-par agricultural land that may be more suitable for riparian restoration. It was also suggested that the Voluntary Stewardship Plans that are in production will be a good source for agricultural priorities in the future.

There were some differences of opinion on how to select priority areas. Several members expressed the importance of using existing priority-setting processes and particularly for respecting the locally based approach used in salmon recovery. Others seemed more inclined towards regional priority-setting using criteria such as

salmon abundance or the concentration of agricultural land. Several members recommended some emphasis on community willingness and readiness as well.

Question Seven: The convening agencies are clearly interested in purchasing conservation easements. What other types of conservation actions should be prioritized for funding?

Most advisory group members expressed support for the emphasis on conservation easements, citing their cost-effectiveness and long-term dependability. Some expressed reservations about whether easements will be palatable to farmers and other rural landowners, who are apt to be concerned about committing to a specific land use in perpetuity. Several members wondered who would hold and manage easements.

Most group members expressed support for providing funding for restoration of riparian vegetation as well. Strong support was also expressed for funding for monitoring, maintenance, and community outreach and engagement.

Members also emphasized that the NEP funding needs to be integrated and synchronized with other funding sources to increase its impact and that it needs to be allocated through processes that identify and target specific landowner needs and priorities.

Individual group members also expressed interest in funding fee-simple land purchases, improvements in ag productivity, mitigation for ag losses, payments for fish barriers and screening, and on-farm best management practices like manure management.

Conservation Funding Sources in Agricultural Communities and other Rural Areas Around Puget Sound (March 2015)

Prepared by Dennis Canty, Evergreen Funding Consultants

Introduction

The purpose of this paper is to provide a brief overview of conservation project funding sources in common use in agricultural communities and other rural landscapes of the Puget Sound basin. It was prepared for the National Estuary Program Riparian Conservation initiative, an effort to provide additional funding for riparian protection and restoration on farms and in rural areas in the basin.

The Washington Department of Ecology, in cooperation with EPA and WSCC, intends to dedicate nearly \$6 million in NEP funds for this purpose in 2015. This is a sizable amount but insufficient by itself to address all of the conservation needs on the 600,000 acres of farmland in the region. It is vital that this funding source supplement and complement other funding sources in use in this landscape through coordinated investments.

The cooperating agencies leading this initiative recognize that funding agencies need to work with landowners in a way that supports a viable agricultural sector while achieving riparian conservation goals, therefore, this paper explores programs to conserve/restore critical riparian areas as well as protect farmland. This paper will serve as an introduction to the types of funding sources and project types in current use for this purpose and place. While we do not want to preempt advisory committee discussions and advice, we expect that an optimal solution will meet a mix of riparian conservation and agricultural viability objectives, and that investment of these NEP funds will be focused on riparian conservation.

About the Table

Table 1 shows 18 funding sources that are actively used for conservation projects and activities in agricultural landscapes and other rural areas of the Puget Sound region. The focus is on programs that provide funding for parcel-specific conservation projects in agricultural and other rural areas.

The sources in Table 1 include some that are expressly intended for use in farm communities, such as the Conservation Reserve Enhancement Program or CREP, and others, like the Salmon Recovery Funding Board program, that distribute funding far and wide as part of larger regional strategies for salmon recovery, Puget Sound cleanup, and other purposes. All have a footprint in rural areas, represent potential partners for the NEP funding, and are important to consider in determining how new funding should be used.

Information on program type, objectives, and allocation process was collected from web-based sources provided by the program administrators. Ratings of program focus and

emphasis on a high/medium/low scale where made subjectively by the author. Funding levels were derived either from average appropriations levels for the life of the programs or from the latest fiscal year when funding history was unavailable.

Conservation Project Types

The funding sources in Table 1 support a variety of different project types. Following is a description of the most common.

Conservation easements: Conservation easements are a common tool used in various ways. Conservation easements are typically purchased and applied to all or part of a privately owned parcel for the purposes of limiting uses and/or authorizing practices such as environmental restoration. Easements were historically used to prohibit clearing of native vegetation and protect sensitive natural features. Since the 1980's, easements have also been used to protect agricultural land and remove development rights from farm parcels. Agricultural easements typically allow continued agricultural use, which may or may not be allowed under a natural resource easement, and may limit or even prohibit environmental restoration. There are many written to accomplish a mix of agricultural and environmental goals.

A wide variety of funding sources support conservation easements in the Puget Sound region. The major sources for agricultural easements are the federal Agricultural Land Easements program (formerly the Farm and Ranchland Protection Program), the WWRP Farmland Protection program, and local farmland protection programs. Sources for resource-oriented conservation easements include the Salmon Recovery Funding Board program, the Puget Sound Acquisition and Restoration program, and the Washington Wildlife and Recreation Program Riparian Protection, Natural Areas, and Critical Habitat programs. Easements are in heaviest uses in areas with county funding sources and/or active land trusts.

Conservation leases: Land leases for conservation purposes are most commonly used through the Conservation Reserve Enhancement Program (CREP), which pays farmers an annual rental payment as well as restoration grants and maintenance funding to restore native vegetation in riparian areas. The term of these agreements is typically 15 years. Many of the first generation of CREP projects in the region are coming to the end of their initial agreements. CREP leases are in heavy use in Whatcom County and as widely used elsewhere in the region.

Conservation incentives: Conservation incentives are programs used to encourage voluntary conservation actions by farmers and rural landowners, generally without the conveyance of a property interest to the funder. The 2015 Farm Bill simplified these programs and the largest remaining one is the Environmental Quality Incentive Program (EQIP). This program is well funded, delivered through a region-wide network of Conservation Districts, and is broadly distributed across the Puget Sound region.

	Program Name	Program Type	Primary Objective	Focus on Ag Landscapes	Emphasis on Environmental Restoration	Emphasis on Continued Ag Use	Allocation	Annual Funding Level (\$M)	Administrator
Federal Sources	Conservation Stewardship Program	Conservation incentives	Conservation practices on farmland	H	L	M	Landowner enrollment	\$17.6 Statewide	NRCS
	Environmental Quality Incentives Program (EQIP)	Conservation incentives	Environmental practices on farmland	H	M	H	Landowner enrollment	\$15.8 Statewide	NRCS
	Conservation Reserve Enhancement Program	Conservation leases with restoration grants	Riparian protection and restoration on farmland	H	H	M	Landowner enrollment	\$2.5 Statewide	FSA
	Agricultural Land Easement Program (formerly Farm and Ranchland Protection Program)	Conservation easements	Farmland protection	H	L	H	Statewide competition	\$1.0 Statewide	NRCS
	NAWCA Standard Grants	Primarily environmental grants, some conservation easements	Waterfowl restoration	M	H	M	National competition	\$1.0 Statewide	USFWS
	Wetland Reserve Easement Program	Conservation easements with environmental grants	Wetland protection and restoration on farmland	H	M	M	Landowner enrollment	\$0.9 Statewide	NRCS

Table One, Section One

State Sources	Program Name	Program Type	Primary Objective	Focus on Ag Landscapes	Emphasis on Environmental Restoration	Emphasis on Continued Ag Use	Allocation	Annual Funding Level (\$M)	Administrator
	Salmon Recovery Funding Board Grants	Primarily environmental grants, some conservation easements	Largely habitat restoration with protection	L	H	L	Watershed and statewide competition	\$25.3 Statewide	RCO, SREB
	Floodplains by Design	Primarily environmental grants, some conservation easements	Floodplain restoration and ag viability	M	M	M	Regional and Statewide competition	\$22.0 Statewide	DOE
	Puget Sound Acquisition and Restoration Program	Primarily environmental grants, some conservation easements	Primarily habitat restoration, some protection	L	H	L	Regional competition	\$20.6 Puget Sound	RCO, PSP
	Puget Sound Estuary and Salmon Restoration Program	Primarily environmental grants, some conservation easements	Primarily habitat restoration, some protection	L	H	L	Regional competition	\$8.5 Puget Sound	WDFW
	WWRP Critical Habitat	Primarily environmental grants, some conservation easements	Habitat protection and restoration	L	H	L	Statewide competition	\$6.3 Statewide	RCO
	WWRP Riparian Protection	Primarily environmental grants, some conservation easements	Habitat protection	L	H	L	Statewide competition	\$5.9 Statewide	RCO

Table One, Section Two

Program Name	Program Type	Primary Objective	Focus on Ag Landscapes	Emphasis on Environmental Restoration	Emphasis on Continued Ag Use	Allocation	Annual Funding Level (\$M)	Administrator
State Sources	Section 319 and Centennial Clean Water Fund Nonpoint Grants	Conservation easements and environmental grants	Water quality improvement	M	H	M	Statewide competition	DOE
	WWRP Natural Areas	Primarily environmental grants, some conservation easements	Natural area protection	L	H	L	Statewide competition	RCO
	WWRP Farmland Preservation	Agricultural conservation easements	Farmland protection	L	L	H	Statewide competition	RCO
Local and Private Sources	Conservation Futures Tax	Primarily environmental grants, some conservation easements	Farmland protection and natural resource conservation	Varies	Varies	Varies	Local competition	Counties
	Private Philanthropic	Mixed	Farmland protection and natural resource conservation	Varies	Varies	Varies	Local competition	Counties
	Other Public Sector	Mixed	Farmland protection and natural resource conservation	Varies	Varies	Varies	Local competition	Counties and cities

Table One, Section Three

Many other entities around the region offer further incentives for restoration on farmland, including the donation of plant materials, low-cost labor, improvements to agricultural drainage, and other contributions. The Regional Conservation Partnership Program is a new USDA program that has selected Puget Sound as a recipient for additional EQIP funding. Environmental and ecosystem service markets, another form of incentive, are not in wide use currently in the Puget Sound region.

Environmental Grants: A wide array of environmental grant programs are offered by federal, state, and local agencies to restore water quality, protect and restore natural areas, and restore floodplain functions. A major influx of grant program funding since 2000 has led to a large number of environmental grant awards spread widely across the region, including within farm communities. The top grant sources within the Puget Sound region include the Salmon Recovery Funding Board, Puget Sound Acquisition and Restoration program, and the Puget Sound Estuary and Salmon Restoration Program. Policies on the establishment or continuation of agricultural use on funded projects vary greatly.

Observations on the Conservation Funding Sources

1. The listed sources occupy a continuum from those focused solely on the retention of agricultural use to those focused solely on environmental protection and restoration.
2. Very few programs focus on conservation easements in agricultural communities – the intended focus of this new initiative, as their principal activity.
3. There are a very wide array of funding sources that fund other aspects of conservation on agricultural land, including leases, incentives, and direct environmental grants, that could be enhanced through NEP funding.
4. Programs focused on conservation work with farmers tend to have modest funding, with EQIP the only program in Puget Sound with substantial support. Funding for farmland conservation easements is particularly low.
5. Many of the programs focused on conservation outcomes on working farms are delivered through the Conservation Districts and are widely available on demand to farmers.
6. While easements are an eligible activity under many of the largest environmental grant programs, such as the Salmon Recovery Funding Board program, they tend to focus more on fee simple acquisition and restoration projects.
7. Local government funding can provide an important supplement to federal and state programs, as demonstrated in robust farmland protection programs in several Puget Sound counties.

Conservation Easements Q & A (June 2015)

Prepared by Dennis Canty and adapted from Whidbey/Camano Land Trust
(<http://www.wclt.org/what-we-do/protect-your-land/conservation-easements-q-a/>)

What is a conservation easement?

A conservation easement is a voluntary agreement that allows a landowner to limit the type or amount of development on his or her property while retaining private ownership of the land. The easement is a legally binding document signed by the landowner and a government agency or conservation organization. The agency or organization accepts and becomes the holder of the easement with the understanding that it must enforce the terms of the easement for the term of the agreement, often perpetuity. After the easement is signed, it is recorded with the county auditor and applies to all future owners of the land. The conservation easement “runs” with the land, not the owner.

Another way to visualize a conservation easement is to think of land ownership as holding a hand of cards. Each card represents the landowner’s right to do something with the property, such as the right to subdivide, build a house, harvest timber, farm, lease the property, pass it on to heirs, or allow hunting or public access. The landowner may choose to relinquish some of those rights—in effect, discarding some of the cards in the hand—through a conservation easement. Those development rights are then extinguished.

Who can hold the conservation easement?

A conservation easement must be held by a federal, state, or local government agency or a qualifying conservation or historic preservation organization. Under IRS code and Washington State law, land trusts generally qualify as recognized public charity and nature conservancy organizations and may hold easements.

Who owns and manages land protected by a conservation easement?

The landowner retains full rights to control and manage his or her property within the limits of the conservation easement. The landowner continues to bear all costs and liabilities related to ownership and maintenance of the property. The easement holder monitors the property to ensure compliance with the easement’s terms, but generally has no other management responsibilities.

What rights does the easement holder have to the property with an easement?

The holder of the easement is obligated in perpetuity to oversee and enforce the easement’s terms and conditions. For example, such an agency or organization has the right to enter and inspect the property to ensure that the terms of the agreement are being upheld. Unless specifically addressed in the easement, the organization does not have the right to use your property.

Why do people grant conservation easements?

People donate or sell conservation easements to protect their property from unwanted development while retaining ownership of their land. By granting a conservation easement, a landowner can ensure his or her property will be protected forever, regardless of who owns the land in the future. An additional benefit is that the donation of an easement may provide significant financial advantages to the donor.

What are the potential financial and tax benefits of donating a conservation easement?

Federal Income Tax Benefits—Under the Internal Revenue Service (IRS) code, the donation of a qualified conservation easement may be treated as a charitable contribution. The IRS allows a deduction if the conservation easement is perpetual and donated “exclusively for conservation purposes.”

Estate Tax Benefits—Donation of conservation easements, whether during a landowner’s life or by bequest, can reduce the value of the land on which estate taxes are calculated. This can greatly benefit the landowner wishing to transfer land to relatives. The estate tax benefits of a conservation easement often can mean the difference between heirs having to sell property to pay estate taxes or being able to keep the property in the family. The 1997 Taxpayer Relief Act (IRC Section 2031(c)), provides an additional exclusion of up to \$500,000 from estate tax for land subject to a qualifying conservation easement. It also allows heirs to donate an easement after the death of the decedent, but before the estate tax return is filed.

Property Tax Benefits—Conveyance of a conservation easement may reduce a landowner’s property taxes. Under Washington law, county assessors must take a conservation easement into consideration in establishing the market value of the land subject to the easement. However, this depends on current zoning and land use, current assessed value, and whether the owner participates in a current-use assessment program, like designated forest land or agricultural open space. The exact terms of each individual easement also have a bearing on property taxes.

Is land protected by a conservation easement exempt from property tax?

Properties protected by conservation easements are still subject to local property taxes and assessments. Because the land is still in private ownership, landowners retain the “right” and responsibility to pay property taxes. Conveyance of a conservation easement may reduce a landowner’s property taxes. Under Washington State law, county assessors must take a conservation easement into consideration in establishing the market value of the land subject to the easement. However, this depends on current zoning and land use, current assessed value, and whether the owner participates in a current-use assessment program, like designated forest land or agricultural open space. The exact terms of each individual easement also have a bearing on property taxes.

What activities are allowed on land protected by a conservation easement?

The activities allowed by a conservation easement depend on the landowner's wishes, the goals of the easement holder, and the characteristics of the property. In some instances, no further development is allowed on the land. In other circumstances, some additional development is allowed but the amount and type of development may be restricted. Conservation easements can be designed to cover all or only a portion of a property. Every easement is unique, tailored to a particular landowner's goals and the features of the land.

Can the landowner still sell or give the property away?

The landowner continues to own the property after executing a conservation easement. Therefore, the owner can sell, give or lease the property, as before. However, all future owners assume ownership of the property subject to the conditions of the easement.

Do conservation easements require public access?

The public does not have access to property protected by a conservation easement unless the landowner who grants the easement specifically allows it.

Does the conservation easement have to cover all of the landowner's property?

No, some conservation easements cover only a portion of the landowner's property. Again, it depends on the landowner's wishes and the importance of the property. For example, if someone owns 100 acres, of which 80 acres are wetlands, forest or wildlife habitat, the owner may decide to restrict development only on these 80 acres. The remaining 20 acres would not be covered or affected by the conservation easement.

What kind of land can be protected by conservation easements?

IRS regulations require that the property have "significant" conservation values. This includes forests, wetlands, endangered species habitat, beaches, scenic areas and more. Most land trusts and other easement holders have their own criteria for accepting easements.

How long does a conservation easement last and who upholds it in the future?

Conservation easements are often "perpetual," that is, they last forever and run with the land, not the owner. The easement holder typically monitors the property to assure that the easement terms are not being violated. If the easement has been breached, the holder will take whatever steps are necessary to uphold the terms of the conservation easement, including taking legal action. Because of this obligation, land trusts often ask easement donors to make a financial contribution to a land stewardship fund. This fund ensures funding for long-term monitoring and, as a last resort, enforcement of the easement.

Possible Terms of the NEP Riparian Conservation Easement (June 2015)

Prepared by Dennis Canty

The NEP Riparian Conservation program will be implemented largely through the purchase of conservation easements in farm communities. This paper describes possible terms for these easements. It presumes that the conservation easement used in the NEP Riparian Conservation program is modeled after those used in other similar conservation programs. For this paper, we used the Washington Recreation and Conservation Office (RCO) as a model though we would like to consider other models, including those used for conservation in farm landscapes by the Washington State Conservation Commission.

The references in italics are to relevant sections of the 2012 conservation easement agreement between the Schenck Family Holding Trust and the North Olympic Land Trust for a parcel along Jimmycomelately Creek in Clallam County. This easement is used for illustrative purposes only and terms of actual easements funded through the NEP program may differ.

We are considering the following terms of the NEP easement, which are similar to those of the RCO easements:

- Purpose: The easement is likely to include a clearly defined purpose of preserving, protecting, and, if appropriate, restoring the conservation values of the property for current and future generations as identified by a baseline assessment at the inception of the easement. The purpose of the Schenck/NOLT easement is found in Section 3: Purpose beginning on page 6.
- Grantee/Holders: In all likelihood, easements under the NEP program will be required to be granted to and held by state or local public agencies or private land trusts that are qualified under sections 501(c)(3) and 170(h) of the Internal Revenue Code and as “nonprofit nature conservancy organizations” under Washington state law. NOLT’s qualifications are described in Section 1.4 on page 4.
- Permitted uses: Permitted uses will probably include those consistent with the conservation purposes of the easement, which in the RCO model includes outdoor recreation, habitat restoration, and scientific study. For the Schenck/NOLT easement, uses are described in Section 5: Permitted Uses beginning on page 9.
- Prohibited uses: Prohibited uses are likely to include all uses that are inconsistent with the conservation purposes of the easement, generally interpreted to include clearing of vegetation, grading, mining, and most construction of buildings, structures, dikes, or other improvements. Prohibited uses are found in Section 6 beginning on page 12.
- Monitoring and enforcement: As with most easement programs, the grantee of an NEP easement is likely to have the right to inspect and monitor compliance with

easement terms and take specified actions to enforce terms if needed. Rights to monitor and enforce the Schenck/NOLT easement are found in Section 4: Rights Conveyed to Grantee beginning on page 7. Dispute resolution is dealt with in Section 8 on page 17.

- Valuation: The value of the NEP easement is likely to be established by an appraisal of the fair market value of the property with and without the easement. The Schenck/NOLT easement indicates that “valuable consideration” has been provided for the easement in section 2.1 on page 5 and references the RCO as funder in Section 1.3 on page 4. The valuation procedures are per RCO policies.
- Assignment: As with the RCO model and other easement programs, the grantee’s interest under the NEP easement terms is likely to be transferable to another qualifying organization. Transfer is addressed in Section 11 on page 23 of the Schenck/NOLT easement. Assignment is addressed in Section 13 on page 24.

As with the RCO easements, all easements acquired using NEP funding are likely to have the following negotiable terms, to be determined with each easement:

- Coverage: It is likely that the NEP easement will allow the easement to apply to all or part of an individual parcel, although most are expected to apply to the riparian zone only. When applied to all of a parcel, the area subject to easement provisions will be clearly described and mapped. The Schenck/NOLT easement applies conditions to part of the property designated as conservation zone beginning in Section 1.1 on page 2.
- Public access: As with the RCO easements, it is assumed that public access to NEP easements will be negotiated and specified in each easement, but that access by the grantee to inspect the property and undertake management responsibilities will be allowed. Public access in the Schenck/NOLT easement is addressed in section 3.4 on page 7.
- Subdivision and development: It seems likely that the NEP easement terms will prohibit subdivision and development except in unusual circumstances that will be negotiated in specific easements. The Schenck/NOLT easement deals with subdivision in Section 6.2 on page 12 and construction in Section 6.6 on page 13.

It’s possible that NEP easements might differ from the RCO standard in the following ways:

- Duration: The duration of the NEP easement is likely to be perpetual, unlike the term easements funded through some RCO programs. This means that the easement will run with the property and apply to all subsequent landowners. The Schenck/NOLT easement specifies a perpetual term beginning in Section 2: Conveyance and Consideration on page 5.

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- Continued agricultural use: It is possible that NEP easements might allow the continuation of agricultural uses in areas under the easement that were cleared of native vegetation and in active agricultural production at the inception of the easement, although these areas are expected to be a lower priority for the program. Agricultural use is addressed in Section 6.15 on page 14 of the Schenck/NOLT easement.
 - New agricultural and forestry uses: Unlike the RCO standard, it also seems possible that NEP easements might allow agricultural and forestry uses that are consistent with the conservation purposes of the easement in riparian buffers and other forested areas. Removal of trees and vegetation is addressed in Section 6.11 on page 13.
 - Easement and buffer width: The NEP easement will specify that the easement will be at least as wide as specified in the NOAA buffer standards unless there is a scientifically justifiable alternative. This issue is not referenced in the Schenck/NOLT easement.

The Importance of Continuity in Riparian Buffers (July 2015)

Prepared by Dennis Canty

At the first meeting of the NEP Riparian Conservation Advisory Group, a member of the group questioned whether restoration throughout a continuous stream reach is necessarily better than restoration at scattered high-priority sites. In order to evaluate this question, a literature search was conducted on buffer prescriptions.

While there has been extensive commentary on the width of riparian buffers, very little has been published on the importance of continuity in buffers along river and stream systems. Where the issue is addressed in the literature, continuity is generally discussed as a given in a sound buffer strategy. Following is an excerpt on this topic:

“The inherent hydrological continuity of river networks is their most fundamental characteristic on which depends their ecological integrity (Pringle, 2001; Décamps, 2011). The strong reciprocal linkages between aquatic and terrestrial ecosystems imply that continuity of the riparian area is necessary to maintain the health of the water course. Thus, continuity of riparian buffers, throughout agricultural and urban lands as well as forests, is crucial if the watercourse is to be protected from detrimental land uses (Crow, Baker, & Barnes, 2000; England & Rosemond, 2004; McComb, 2008). A relatively small gap in the buffer can be an important source of contaminants or sediment (Rabeni & Smale, 1995; Weller, Jordan, & Correll, 1998; Wenger, 1999; Jones et al., 1999), and the corresponding interruption of riparian functions can hamper watercourse continuity. For example, removal of shade due to riparian forest harvesting can create thermal barriers to fish migration if the stream water temperature exceeds the level fish can tolerate (Pusey & Arthington, 2003; Stanford, Frissell, & Coutant, 2006). Moreover, buffers must be continuous to be effective terrestrial connectivity corridors (NRC, 2002; Anthony et al., 2003; Gillies & St. Clair, 2008).“

Stoffyn-Eglie and Duinker, 2013. An Ecological Approach to Riparian-Buffer Definition, and Implications for Timber Harvests in Nova Scotia, Canada. *Journal of Sustainable Development*, Vol. 6, No. 1

The literature suggests that the importance of continuity may depend a great deal on the intended function of the buffer. Continuous buffers appear less important in circumstances where the buffer is intended to protect an isolated feature such as the occurrence of a particular native plant or a key spawning area for migratory fish. These ecological hotspots are likely to benefit from large intact riparian buffers even if they are discontinuous. This excerpt suggests that discontinuous buffers may be appropriate in some water quality circumstances as well:

“It is estimated that riparian buffers at each of the four farms could potentially remove 99%, 67%, 59%, and 41% of sediment from field runoff if the runoff is uniformly distributed over the entire gross buffer area. However, because of non-

uniform distribution, it is estimated that only 43%, 15%, 23%, and 34%, respectively, would actually be removed. The results indicate that concentrated flow through riparian buffers can be substantial and may greatly limit filtering effectiveness in this (SE Nebraska) region.”

Dosskey et al. 2002. Assessment of Concentrated Flow through Riparian Buffers. *Journal of Soil and Water Conservation*.

The literature suggests that continuity is more important in cases where the buffer is intended to treat nonpoint water quality sources through an entire reach or subbasin or where the buffer is needed to promote wildlife migration up and down a river or stream. In these cases, even a small break in the buffer can impede migration or serve as the entry point for nonpoint pollutants. Following is an excerpt on this topic:

“Riparian corridor connectivity is also an ecologically critical and often under-emphasized component of riparian integrity. Natural riparian corridors in the PNW are nearly continuous throughout the stream-riparian ecosystem (Naiman and Bilby, 1998). In addition to buffer width and quality, management of the riparian corridor should focus on minimizing fragmentation of the riparian corridor. Road crossings, utility right-of-ways, and other breaks in the riparian corridor effectively reduce the buffer width to zero and provide a conduit for runoff and pollutants to enter the stream (Schueler, 1995; May et al., 1997; Weller et al., 1998). Breaks in the riparian corridor should be kept to a minimum and all breaks should be designed for minimal stormwater and other impacts (Horner and May, 1999).”

May and Horner, 1999. The Cumulative Impacts of Watershed Urbanization on Stream-Riparian Ecosystems.

This would lead the reader to conclude that continuous buffers are prudent wherever feasible to protect the host of ecological benefits associated with intact riparian zones. In cases where continuous buffers are impractical, as may be the case where buffers have been cleared and intensive restoration is necessary, it appears to be important to evaluate the purposes of the buffer. In cases where protection is needed for dispersed ecological hotspots, maximizing the size and integrity of the buffer is likely to be of paramount importance, even if implemented at the expense of continuity. In the more common circumstances in which buffers are a reach- or watershed-level prescription, continuous buffers in high-priority reaches appear to be the most effective and cost-effective option.