

**Forest Resource Trust Advisory Committee
Meeting Minutes
June 28, 2006**

As facilitator, Keith Baldwin called to order the meeting of the Forest Resource Trust Advisory Committee at 10:00 a.m. on June 28, 2006 in the Oregon Department of Forestry's Santiam Room located in Building D, 2600 State Street, Salem, Oregon.

Members Present:

Mike Atkinson	Keith Baldwin
John Breese	Mike Haaskin
Jack Carter	Bob Johnson
Matt Delaney	Steve Vaught
Ken Everett	Bob Young
Douglass Fitting	
Rick Fletcher	
Patrik Norris	
Jim Reeb	
Tom Stoops	

Members absent:

Ilene Waldorf
Sara Vickerman

Others present:

Mike Barsotti	Linda Ellis
Paul Bell	Diana Peden
Bernie Bochsler	Lanny Quackenbush

Agenda Items:

1. Introductions - experiences with the Trust and future expectations
2. Trust program review – Successes of the Trust and other incentive programs
3. Marketing ideas for the Trust (working lunch)
4. Review Trust statutes
5. Review draft statutory language for legislative concept
6. Statutory and administrative rule recommendations and timeline.

Additional Items:

1. Comparisons of Three Forest Stand Establishment Incentive Programs (Attachment A)
2. Texas Forest Service - Ecosystem Services Marketing Summary of 2006 Activities (Attachment B)
3. Review of Forest Trust Statutes (Attachment C)
4. Draft legislative concepts (Attachment D)
5. Timber lien requirement; e-mail from Patrik Norris (Attachment E)

Board of Forestry:

The Board of Forestry (Board) continues its support for the Trust and has directed the committee to review the program, improve its vitality, simplify the process and make it more attractive to landowners. The Board has also given permission to add more committee members. Since the last committee meeting (2001), the Chairperson and additional members have retired. Chairperson volunteers are asked to contact Lanny Quackenbush (503-945-7478) or Keith Baldwin (503-945-7240).

Program Development

Since 1995 there have been several changes to the existing statutes and administrative rules, which is not uncommon for new or existing state programs. The committee has an opportunity to make additional changes to the statutes and rules to improve the Trust.

- 1991 -- Trust concept by Phil Keisling
- 1993 -- Unanimously established by legislature
- 1994 -- BOF adopts administrative rules
- 1995 -- Lien of future timber
- 1999 -- Mandated covenant
- 2001 -- State Forester can market carbon offsets for nonfederal forest landowners
- 2006 -- Proposed legislative changes

Members' Experiences & Expectations for the Trust:

Everyone was given an opportunity to briefly share their experiences with the Trust and other incentive programs and their expectations for the Trust. Many of the comments and expectations expressed were similar in context and are summarized below:

Experiences (negative and positive)

- Delivery system is too complex for landowners and administrators.
- Landowners have issues with the timber lien.
- Landowners do not want long-term government obligations.
- After 25 years, landowners are locked into the program until they harvest.
- Bureaucracy delays projects and payments to contractors.
- Trust administrative workload is very high compared to other incentive programs.
- Trust not performing to the level required in the fund agreement with Klamath Co-Generation project. Power producers are providing millions of dollars to out-of-state projects that are more successful.
- Many landowners with underproductive lands have never heard of the program.
- ACP/FIP cost share programs are simpler and have been very successful.
- Need the Trust to be successful in western Oregon before eastern Oregon.
- Issues in eastern Oregon with property taxes, lack of mills, changes in ownership, and fuel management.
- Significant amount of underproductive acres could be cleaned up and planted, benefiting the landowner and the ecosystem. The Trust helps when the landowner lacks funds.
- Look down the road for landowner assistance needs.
- The Forest Trust was a bold experiment. Initially the Trust was a mechanism for Oregonians to invest in forests for future generations and to convert large numbers of underproductive acres.
- Emphasis of the program has changed since its inception and should recognize alternate species and ecosystems such as oak woodland.
- Is the Trust still a valid concept? Given cost-share, OWEB projects and other items, is this program needed? Does the public still support the Trust's concept of addressing the problem of underproducing forestland? What is the Trust niche?

Expectations

- Improve the delivery system that resonates with landowners and consultants, and is more efficient to administer.
- Improve performance objectives to attract more carbon dollars to Oregon.
- Create a more flexible long-term program.
- Explore statutory authority to add a cost share program.
- Add another incentive program to encourage landowners to grow timber longer and capture more ecosystem services.

- Consider statewide projects other than tree planting (streams, wildlife, etc.).
- Increase landowner awareness of the program.
- Parts of OWEB's grant model for landowner assistance could improve the Trust.
- Meet deadlines for changes to statutes and administrative rules.

Rulemaking Process

Lanny Quackenbush summarized the process for modifying the Trust: 1) proposed legislative concept to change the existing statutory language, which will be reviewed in early 2007 by legislative committee; 2) administrative rulemaking within the existing statutory authority which could be approved by the Board in September, 2006; and 3) rulemaking based on finalized statutes which could be approved by the BOF in June, 2007.

Trust Program Review

Keith gave a power point presentation reviewing the Forest Resource Trust summarizing the Trust development, status of projects, funding status and the strengths and weaknesses of the Trust, cost share and reforestation tax credit. The purposes of the Trust are to provide funds for financial and technical assistance for stand establishment and improved management of forest stands. A wide range of environmental, social and economic values are produced from Trust projects. The stand improvement program has been developed, but the statutes also give authority to develop other programs to meet the purposes of the Trust. The concept of ecosystem services (environmental services) was introduced as a new voluntary incentive approach to accomplish regulatory objectives rather than increasing rule standards.

The Trust is a comprehensive financial and technical approach for establishing free to grow stands. But its limited success is due to program complexity, timber lien encumbrance, long-term government obligations of the landowner and has very high administration costs.

Federal cost share programs have been successfully utilized by landowners for 60 years, are easy to understand and have low administrative costs. But they require upfront money by the landowner, reimbursement takes time, focus is for one year stand establishment and the contract requires ten year maintenance by the landowner.

The Reforestation Tax Credit has been very successful because landowners can leverage it with the cost share program. There is no long term contractual agreement and administrative costs are very low. However, landowners do not receive technical assistance for the one year stand establishment. They must provide money initially for projects, be an Oregon resident, and pay a \$300 application fee.

Forest Incentive Program Comparisons

Steve Vaught shared some charts (Attachment A) illustrating comparisons between existing forest stand establishment incentive programs for first year establishment costs; including acres planted, administration time, paperwork required, and programs landowners are most likely to use.

Cost share acres planted through the mid 90's were considerably higher (6,500 acres) due to more cost share programs/dollars available at the time (ACP, FIP, SIP). Additionally, Stewardship plans were not required to qualify for cost share. ACP, for example, had very little paperwork and was extremely easy, efficient and effective. Today stewardship plans are required before receiving cost share, which increasing costs, administration time and reduces stand establishment accomplishments. Cost share acres planted fell off shortly thereafter with the loss of ACP, FIP, and SIP. Landowners currently tend to use tax credit dollars in conjunction with cost share to further help and pay for upfront costs. In 1995 the Trust kicked in with 500 acres but immediately lost funding and staff.

Under cost share, landowners are committed to a 10-year contract to maintain the stand until it's free to grow. Monitoring efforts were built on compliance and not on the effectiveness or success in meeting the original objective. Mike Barsotti has visited with Farm Service Agency to do a systematic review of old practices to determine how many projects made it to forest and are still in trees without any additional obligation to the landowner.

Steve commented that stand establishment costs for the Trust are much higher than other incentive programs, mostly driven by very difficult sites, requiring tremendous amount of site preparation and weed control.

Administratively, the Forest Trust is very time intensive and cumbersome. Paperwork required (first year stand establishment) for the Trust can be 50-70+ pages, compared to 5-8 pages Tax Credit or 8-12 pages cost share. Most of the problems can be attributed to the complexity of the contract. The whole approach was a business venture or partnership with the landowner through the first rotation (25, 35, 45 years) with the expectation to share in the revenue to help recoup the cost of the program to the State. We would invest public money and get that money back plus interest or from future harvest. Steve passed around project folders for first year stand establishment: Trust folder was 1 ½ inches thick and the cost share folder and reforestation tax credit folders were less than 1/8 inch thick.

Douglass Fitting shared OWEB's success in managing their compliance and implementation basis in contrast to the Trust's effectiveness monitoring. OWEB wants to make sure the project was implemented as planned, and that the project is being maintained for a period of years until it's successful. The grantee or landowner is responsible for the contract reporting requirements (not a forester) and can charge for that or use as in kind service. They require 25% match (cash or in kind) at the end of the process, not up front.

Potential Ecosystem Services Program

Keith further **explained concept** to add a program to the trust statutes to deal with ecosystem services. Each ecosystem or forestland has an array of different services that it provides to the public; biodiversity, water quality, carbon sequestration. Ecosystem services are defined as: *"The quantifiable services that an ecosystem provides to humans, including consumables and non-consumables. Resource economists assign monetary values to these services to estimate the economic value of a healthy ecosystem."* The Department would like to participate and compliment the developing environmental services market.

Situation:

The Department is looking for ways to use incentives to achieve regulatory objectives.

- Increasing regulations may encourage landowners to pursue a land use change; decreasing our forest land base, and we lose an array of benefits to the public.
- Some consider it a disincentive to grow owl habitat, because they are going to lose use of their land due to restrictions under the Forest Practices Act (FPA).
- When challenged, litigation costs can actually exceed the habitat value of a forest stand.
- Best Management Practices under the FPA are minimum standards.

Potentials:

- Develop incentive approaches with landowners verses increasing regulations.
- Focus on habitat recovery that exceeds FPA.
- Target the "most suitable" habitat not just adequate habitat.
- Encourage landowners to extend their harvest rotations and not punish them if they develop habitat for a threatened species that might move-in on their land.
- Encourage watershed basin cooperatives using a landscape approach rather than individual landowner focus.
- Eligibility for non-industrial private forestland owners.

Funding Sources:

- Long history of federal government programs providing rental payments to farmers for soil conservation and riparian establishment on farm lands.
- Landowners managing their property to enhance watershed values are not being compensated.
- Use of Economic Development lottery funds to help landowners.
- Forestland mitigation funds--private sector.
- Not a self funded program under the Trust, but a flow of financial incentives.

The Texas Department of Forestry's approach (Attachment B) is to develop a model other states could use acknowledging these ecosystem services and their market value. State agencies would then build a platform, and eventually the private sector would take over and provide a better service. The same approach could be followed with carbon sequestration and storage with our help in facilitating a marketing platform for landowners.

Paul Bell commented on the use of lottery funds and expressed the need to show some success with these types of projects in order to become more attractive for other funding types, and to not be dependent upon state or federal revenue sources. Federal dollars have been and will continue to rapidly decline. We're not looking at what we have in place as a long term funding mechanism being out of lottery or state dollars. It's moving to these other funding sources out there that will become the self-sustaining portion of this.

Tom Stoops agreed that you need some incentive to get there. You want to buy the better washing machine so you can get a tax credit for it. Cost sharing is a little bigger project and people want to do the right thing but hesitate because of the cost. Cost share helps them to do the right thing and you have a longer payback. With the Trust, the kind of projects he looks at involves 30 years of carbon generation, and they're looking to tie that carbon up. Forest projects are one way to do that. Tom expressed that his biggest incentive to be here is to see this be something that is going to be healthy for an Oregon project. If they build another combined cycle turban down in Klamath and have a carbon offset payment, how is that going to be used? It needs to be something enduring and with some assurance that when those dollars are spent that the carbon is sequestered. Forestry is one way to do it, but it takes a while.

Matt Delaney suggested that it also depends on the type of forestry project. We're talking about afforestation, but if you do conservation of existing forests, for example, you can avoid deforestation. Investors for carbon like stability from a state agency. They're looking for someone to overlook the afforestation projects that take a long time to mature. They also want to know, from a monitoring point of view, that those trees are growing. Don't leave it up to the landowners to tell you how much carbon is sequestered; verify that from an independent source. From an investor's point of view, they want some outside verification or audit, as opposed to placing that responsibility on the landowner. The Chicago Climate Exchange, or anyone who's buying and selling carbon with the Climate Action Registry, requires that some kind of verification work be done. It's usually someone who doesn't have any vested interest in the outcome.

Tom mentioned the wind facilities they're doing in eastern Oregon on grassland areas or shrub type habitat as an example. There's already a model in the power industry to have a 3rd party scientist engineer type come in and do an evaluation and submit it as part of an annual report. They try to make that annual report as simple and straight forward as possible.

Mike Atkinson added that once you pass years 6-8, verification through aerial photography is simple. You don't have to have someone go out there.

It was suggested to take more time after lunch to review the concept of the Trust; is it still valid or should it be trashed?

Keith stated that we're not just growing timber but we're creating wildlife habitat, improving water quality, biodiversity of species, jobs, scenic quality, soil conservation, carbon sequestration and storage, and recreation from planting and establishing trees. The current stand establishment program is loaded with problems but has some accomplishments. One option is simplifying the program to make it more attractive. Another approach would be to leave it alone and emphasize a new cost share program. Ecosystem services may be a place to use funds as an incentive for landowners to exceed the FPA. With federal monies drying up, walking away and trashing the Trust would be a disservice to landowners. The Trust is a mechanism to provide funds and technical assistance that could come as a cost share program or modified loan program.

In addition to the Trust, Douglas County has a simple loan program; 4% simple interest rate. Bob Young's experience is that the Douglas County loan program typically gets 2-3 applications per year that move forward. There doesn't appear to be a very big pool of landowners interested in a government loan program. The few landowners who are interested choose the Douglas County loan program over the Trust; because it's simpler and you can always get out of it.

During lunch time, the committee reviewed several slides for marketing the Trust: sign on Trust project "Planted 2005 by Forest Resource Trust;" Oregon Field Guide presentation on landowners converting underproducing forestland using the Trust; and Climate Trust receives donations from school children fund drive for carbon credits.

Trust Advisory Committee Membership

This committee is required to consist of members representing various types of interest groups. Currently, our committee is missing representation from the forest products industry. In addition, we're looking for a volunteer to participate as committee chair. Members with suggestions of individuals/companies for forest products representation, and anyone with an interest in serving as chair, should contact Keith or Lanny.

Trust Concept Discussions

Keith opened up with how the existing program focuses on stand establishment and suggested there are other options that could be created under the statutes. The statutes give us authority to do stand improvement activities; such as treating existing plantations that have invasive weeds or brush problems, non-commercial thinning, or the whole tool box currently available in our cost share programs.

Bob Young expressed his concern that overall the Trust program has not worked. To maintain the current program is not an option; it needs modification. Mike Haaskin agreed there needs to be some change and suggested that not all of the problems are the fault of the program. The Legislature took away the money, and the manager position was left vacant for quite some time. Even if we make this a great program, we're still going to need some funding to support project work and staff positions.

Ken Everett stated there's definitely a need for the program, but you will never have one program that fits everybody's needs. Ken works with landowners who have a tract of land with no value on it, there's no salvage, and no way to generate any income to clean it up and reforest. This is one avenue for them to accomplish that without having to pay upfront. Many landowners plant their lands and a couple years later it's mostly brush. Cost share monies would help them to spray and keep it maintained. Landowners are not willing to pay to get those stands up and free to grow, because they don't see any future value. Landowners are against

the lien, because it ties up their property and worry about potential impacts down the road if they try to sell.

Rick Fletcher mentioned that the original concept was to have a business partnership between the State of Oregon and a landowner. Creating more wood for the economy for the state and creating an economic asset for the landowner to manage over time. Is the concept of having a business partnership to create more wood still a valid concept in Oregon's society today like we thought it was 15 years ago when we created it? Perhaps it's the mechanisms and ways of funding the Trust that don't make a lot of sense.

Some concern was expressed that the environmental services program could become a public welfare program. Extending harvest rotations on private non-industrial forestlands may not make sense since public lands already have late successional stands. Marketing environmental services is new. We don't know everything, but there is a chance to have a placeholder to participate. Incentives could be a way to exceed the FPA without adding more layers of regulations.

With the Trust, landowners could essentially create a conservation zone and let it grow. They didn't have to pay back anything until they decided it was economically in their best interest to harvest. High interest rates were a deterrent and the long-term obligation (25+ years) was scaring people off. In some cases the obligation extended out to 50-70 years for certain site classes. It was to the point that they couldn't earn a short return other than by selling the land. People objected to the obligation of growing timber and then having to pay if they ever tried to recover economically. The obligation of these liens is limiting factor. The lien passes on with the land and the future owners inherit that obligation.

From a landowner's perspective, Jack Carter stated that he never would have entered into the Trust if he thought there was ever a remote possibility of not being able to buy out. He intended to leave the Trust because of increasing cost and long term obligation.

Keith suggested the committee could spend some time trying to simplify the program or try to create a cost share program that we know works. Another option would be to make the buy out available any time and not have a grow out option.

Is there a reason to have an encumbrance beyond 25 years? The lien on the timber doesn't have any strength for the first 10-12 years. It's the mature forest that you're trying to leverage or protect yourself with. The statutes are clear that the contract doesn't require a lien. If we want to modify the program, then we can clarify through new statutes that it's optional. From a finance perspective, the lien is a hammer. If they mow down the 25 year old stand, you still get to recover a certain percentage of the revenue that's received from that harvesting activity. But without the lien all you are is another unsecured creditor. The lien on the timber protects the state and puts them in the first position to recover something, as in a bankruptcy situation or whatever.

Review of the Trust Statutes and Administrative Rules

Keith reviewed the statutes with highlighted portions regarding the lien, modifications to the stand establishment program, development of new programs and funding, and the need to clarify the stand establishment sub-program from the other Trust programs (Attachment C). The statutes were reordered to group general terms and terms specific to the stand establishment or loan program (Attachment D).

Lien discussions:

State's best interest is to have a timber lien. **Without the lien, the state is in the basket with other unsecured creditors.** It does not make sense to have a timber lien and make recording it with the county an option. Either keep the lien or remove it from the statutes. A lien could provide an option for high risk projects. We know the lien is a major problem for **landowners** participating in the Trust.

Keith clarified that there seemed to be agreement for changes to the statutes to:

1. Drop the lien in favor of getting more accomplishments under the Trust.
2. Add the cost share and environmental services programs.
3. Rearrange the statutes to group common themes.
4. Add new definitions.

The Trust timeline was review for the next twelve months.

Some discussion began on recommendations for administrative rule changes, but because it was late in the day, the topic will be revisited at another meeting.

Keith will put together and mail to members some draft legislative language along with a date for the next meeting.

Meeting was adjourned.