

WASHINGTON FARM FORESTRY ASSOCIATION

Landowner News NOV / DEC 2009

THE VOICE OF THE SMALL FOREST LANDOWNERS IN WASHINGTON STATE

Washington's Forest Policy Failure By Martin Flynn

The WFFA has been fighting for funding for the Forest Riparian Easement Program (FREP) since its inception in 1999. Year after year, this promise made by the Legislature to compensate small forest landowners for the disproportionate impact of the Forests and Fish Law has been under funded. In the first nine years, FREP has paid \$20 million to 200 landowners under contract, far short of the total needed.

In 2007, the Legislature appropriated almost enough money to cover the outstanding FREP contracts. But the backlog continues to grow with more than 70 applicants waiting in line. The price tag currently exceeds \$10 million.

The 2009 Legislature provided no funding for the FREP program.

Governor Gregoire's proposed supplemental budget for 2010 adds no money for the FREP program. But it does add language that requires the Department of Natural Resources to adopt a prioritization process for FREP that must, "incorporate the environmental benefits of projects."

Under the governor's proposal, FREP goes from being a program to compensate small landowners for the disproportionate impact of Forests and Fish to a "grant" program tied to undefined "environmental benefits."

WFFA intends to fight this change and work with the legislature to find ways to address the disproportionate impacts of Forests and Fish without a restrictive easement or "grant" program.

Landowner News is the official newsletter of the Washington Farm Forestry Association.

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WFFA Grassroots Legislative Outreach

The WFFA Executive Committee is requesting that all members of our association join us in a grassroots legislative outreach. Please call and write your legislative district Senator and Representatives during the week of January 18–22, 2010 to ask for support of HB-2505. (See article: How To Find Your Legislators)

HB-2505 will make our Forest & Fish law work for tree farmers in the following ways:

- Reducing the expensive purchase of our trees in the riparian zones (FREP)
- Increasing harvests, and therefore jobs and forest excise tax revenues to the counties and the state
- Keeping more land in forestry for the long term
- Maintaining our clean water and endangered fish

Sincerely, WFFA Executive Committee

Voice Your Opinion in New Outreach

The WFFA has a new membership outreach program for members to call with questions and comments.

In 2010, these conference calls will take place from 10:30 AM to Noon, Jan. 8, April 9, July 9, and Oct. 8.

Call 1-800-882-3610, then use this guest code when prompted, 9498903#.

This is open to any member of the WFFA. In fairness to all callers, a limit of two minutes will be given to ask your question or give your comment. Then time will be allowed for a dialogue between officers, staff and the caller.

It is our hope that this will allow members to voice their opinion, in support or otherwise, to the leadership of the WFFA in a new forum.

Consider this an audio blog and give it a try!

From the President

Forest & Fish legislation has failed small forest landowners. As several articles in this newsletter point out, we are sick and tired of being sick and tired!

When this landmark legislation was implemented in 1999, the legislature recognized that this would create a disproportionate negative impact on SFLOs by tying up a higher percentage of our land in streamside buffers. The Forest Riparian Easement Program (FREP) was created to help mitigate this loss by paying for 50% of the timber value of trees that had to be left in buffers. But it also required a 50 year conservation easement with the state on those lands. Some landowners have chosen to participate in this program, most have not. There is presently a 10 million dollar backlog of FREP payments due landowners, which the state has chosen not to pay.

Forest & Fish legislation also promised SFLOs other mitigative prescriptions that would recognize our generally smaller harvest unit size and lower impact on aquatic resources. These promises too have essentially gone unfulfilled.

WFFA has represented all SFLOs in the state at the policy table for years. Despite our best efforts, that have taken thousands of hours by very good people, the system has failed us. We're tired and we can no longer afford to sit in ineffective meetings. Therefore, the WFFA Board has taken a decisive step: we left policy negotiations. We are developing legislation for this session that will significantly reduce the required streamside buffers on small harvest units of 20 acres or less.

We are asking you to contact your legislative representatives to support this legislation. Passing legislation is extremely difficult. We think this is a win for the state, in that it reduces their FREP payment liability, it is a win for the environment in that it limits harvest unit size, thus reducing possible negative impacts, and it is a win for small forest landowners who deserve to manage and harvest more of our timberlands while still providing significant aquatic protection.

We will do our best to keep you intimately informed of the actual bill as it gets written and as it moves through the legislative process. We need your help and support now, more than ever. I am optimistic that something really good for SFLOs will come out of this.

Bob Brink

President

Washington Farm Forestry Association

Commissioner Goldmark's Request To Governor Gregoire

In a letter dated November 10, 2009, Commissioner of Public Lands Dr. Peter Goldmark requested supplemental capitol budget support to fund the Adaptive Management Program (AMP) and the Forest Riparian Easement Program (FREP).

In the letter, the commissioner claimed the legislative enactment of FREP would “help offset the disproportionate economic impacts to Small Forest Landowners caused by the forest practices rules reduction in harvestable timber.”

The commissioner further noted, “The legislature, in RCW 76.13.120, found that the state should fund FREP for all eligible small forest landowners willing to sell conservation easements to the state. FREP helps landowners retain their lands in forest and helps safeguard the State against claims of regulatory taking.”

In the 2010 supplemental budget, \$2.5 million was found for AMP, yet FREP was not funded. Adding insult to injury, language in this budget states that FREP must be prioritized to “incorporate environmental benefits” for performance assessment of the grant program.”

FREP, as mentioned above by Commissioner Goldmark, is NOT a grant program, but compensation for part of the value of the trees we leave for the good of the state. And it is already prioritized. The priorities are:

1. Be a small forest landowner (by state definition), with a legal forest practices permit.
2. Have eligible timber in a riparian zone.
3. Be willing to leave the timber and accept approximately 50% of the timber value in a 50-year contract with the state.

Unfortunately, there are those in the state that recognize their inability to pay for all this valuable timber and are now trying to take it from you.

Commissioner Goldmark Hosts Dec 7 Tree Farm Coordination Meeting

On December 7, 2009, Commissioner of Public Lands, Peter Goldmark, hosted a meeting to hear from Small Forest Landowners (SFL's). Attending were facilitators from Bill Ross and Associates, the Commissioner and his staff, representatives from Tribes, Fish and Wildlife, Ecology, Environmentalists, tax specialists, and 11 tree farm owners invited by the Commissioner.

This meeting was a follow-up to the offers made by Commissioner Goldmark at the 2009 Annual Meeting of the Washington Farm Forestry Association. At that meeting the Commissioner offered the following:

- 1) Make Forest Riparian Easement Program (FREP) his top legislative priority for us.
- 2) Make the creation of a Single Tier Buffer (STB) rule his top Forest Practices Board priority for us.
- 3) Host a Small Forest Landowner Summit (this meeting) to discuss how the state could offset the disproportionate economic impact created by Forest & Fish, as verified by legislation and agency studies.

In a meeting with the legislature's Capital Budget Chairs, it became clear that funding for FREP would once again be hard to come by as a result of the state's fiscal difficulties. It was also discovered that a reasonable STB was unlikely to be completed.

The WFFA Executive Committee, along with the invited tree farm owners, agreed to take forward a "bold new concept" to the meeting. Our legislative concept would allow the state to reduce the amount of their FREP liability, increase the forest excise tax revenues for the counties, and still protect the clean water and endangered fish in our riparian zones. This concept utilized the existing WAC 222-30-023 -"20 acre rule" that was previously only available for SFLs "with total parcel ownership of less than 80 forested acres." Our concept is to allow this definition to apply to any SFL, regardless of total acres, when harvesting 20 acres or less of forestland. This would in effect create maximum streamside buffers based on stream widths. With some limitation, they would be 29' for streams less than 5' width, 58' buffers for 5'-10' water, 86' buffers for 10'-75' water and 115' for over 75' water.

Commissioner Goldmark has expressed his appreciation for our willingness to seek real solutions to this 10 year-old issue.

Make Plans To Attend Annual Meeting

The theme of this years meeting is The Original Green. Our program starts on Sunday afternoon, April 25th at the Hama Hama Tree Farm near Eldon, WA. Hama Hama Tree Farm is proud to be the 2008 Washington Outstanding Tree Farm. Come see this beautiful location and enjoy a casual dinner at Hama Hama. That evening we will enjoy a social at Alderbrook Resort & Spa near Union, WA.

Monday's program will continue at Alderbrook, where experts will share what's new in forestry, an environmental panel will take your questions and we will celebrate the Tree Farm winners at a special luncheon. The day wraps up around 5PM—plenty of time to drive home and make it out to check the trees the next morning.

If you wish to stay at Alderbrook, the information for reservations is included at right. Meeting registration information also includes other hotel options, local campgrounds and RV parks.

Reserve Your Rooms Now For The 2010 WFFA Annual Meeting

The Alderbrook Resort and Spa is offering attendees of the WFFA Annual Meeting special room rates. Call the resort directly for reservations: 360-898-2145.

Reservations must be made by March 1, 2010 to get the following discounted prices:

- \$70 / night for hotel rooms (double occupancy)
- \$110 / night for cabins which sleep up to four adults and two children

Rates are good for April 25 – April 29, 2010. Room prices are subject to availability so call early. Our group code is: 4055FV.

Note: If you want reservations for April 27, 28, or 29, our special rate codes are not in the computer, please ask the reservations department to check the notes on the group information to accept reservations on these shoulder dates.

If you have any problems or if rooms / cabins are unavailable, please call or email Howard Wilson at 253-579-2489 or wilsonhs@aol.com.

Learn more about this beautiful location at: <http://www.alderbrookresort.com/>

Note: This is a resort there is a “no-show and cancellation penalty.” If a guest “no shows” or cancels within seven (7) days prior to the scheduled event, the first night’s room and tax will be charged to the individual account. Early departures are subject to a \$50 charge if checkout date is not noted 24 hours prior to actual departure. Tax (currently 10.4 % for lodging) and gratuities are not included in this special rate. All guest rooms, suites and cottages are non-smoking.

The Tax That Won't Die (Excerpts From WSJ Opinion 12/11/09)

In less than three weeks, the hated death tax is scheduled to expire—with the rate falling from 45% to zero for 2010. Then the tax will be resurrected in 2011 at a rate of 55%. This bizarre policy dates back to 2001, when Democrats wouldn't let Pres. Bush permanently kill the death tax, so the Republicans bet that if the tax were eliminated for one year, it would never come back.

The moment of truth has arrived, and House Democrats recently voted 234 / 199 to cancel the 2010 repeal and hold the rate permanently at 45% with a \$3.5 million exemption. Senate Majority leader Harry Reid now wants to do the same. But to suspend the senate's healthcare debate and turn to the estate tax, he needs 60 votes. All Republicans and some Democrats are saying no and will accept no more than a 35% permanent rate with a \$5 million exemption.

We've long argued that the economically optimal and fairest death tax rate is zero. The tax is applied to income that was already taxed when earned, so it is a double tax on savings and capital. The correct way to tax a gain in the value of assets bequeathed to an heir is with a capital gains tax of 15% when assets are sold, rather than at the time of the funeral of the original owner.

A powerful motivation for entrepreneurs to grow their businesses is to pass that legacy to their children. Most Americans think that it is immoral for the government to confiscate the fruits of a life's effort merely because of the fact of death.

A Call To Arms II

The following are facts, according to my interpretation of the world:

- 1) The Non-Industrial Private Forestland owner (NIPF), family tree farmer, or small forestland owner, was "collateral damage" in the Fish & Forests Rules (FFR) developed at the turn of the decade.

2) In the last ten years, WFFA, ostensibly representing the NIPF's of the state, has spent hundreds of thousands of dollars of paid and volunteer-time equivalent (do the math) trying to protect our interests through incessant meetings, field trips, and lobbying.

3) To mitigate the disproportionate impact, a law was passed to establish: a Small Forest Landowner Office (SFLO) and field personnel to assist folks, a forest riparian easement program (FREP) to partially compensate for the riparian buffers, and "templates" for easier and less restrictive rule implementation.

4) As Rick Dunning pointed out in the recent Landowner News, the SFLO office is functionally gone, the FREP is gone (leaving over 60 landowners watching their buffers die and blow down so when/if they are ever cruised for compensation they will get pennies on the dollar) and we have a grand total of one template in place out of the half dozen originally proposed (for thinning, which took two plus years to "negotiate," and in my opinion is quite flawed).

5) Oregon forest practice rules are similar to the 1992 rules we had prior to FFR, and the threatened shutdown of logging to "save the salmon" so far hasn't happened there, to my knowledge.

Any landowner is free to voluntarily donate whatever portion of their property to the fish and people of this state that they so wish. However, for my tree farm, and for most of my clients, if there is not timely and at least partial compensation for the FFR-required buffers, then it is mandatory to immediately return to the 1992 rules and buffers. After a decade of blood, sweat, tears, and being minimalized, now is not the time to go back to Olympia for more "meetings." If you don't care about the economic impact, there still is a moral imperative involved. It is time for deliberate, thoughtful ACTION.

That action could take the form of getting good legal advice on what the strength of a threatened lawsuit against the State/DNR would be and what might be a possible result of the threat, or an actual suit. I believe it would be relatively easy to get commitments totaling at least \$50,000 as a "war chest" from landowners who have received, or will be likely to receive, FREP payments, at an assessment amount of 1 percent of the value. Contributors should get proportionally back any funds eventually not used. As I understand it, the DNR settled their last "threatened" lawsuit relatively quickly. Why should Peter Goldman be the only one that can rattle cages?

Steve Pedersen

Chehalis, September, 2009

How To Contact Your Senator / State Representatives

- 1) First, determine your Legislative District. Visit <http://www.leg.wa.gov/pages/home.aspx>
Click on “Find Your District” and enter your address. Via Phone - call the Legislative Hotline at 1-800-562-6000)

 - 2) Next, email or write a letter to your Senator and Representatives (Sample letter on page 6.)

 - 3) Then call your Senator and your State Representatives. Leave a short verbal statement read from your email or letter.

 - 4) Email or send your letter to your Senator and Representatives.

 - 5) Email, send or fax a copy to the WFFA Office.
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Sample Letter to Washington State Senators & Representatives

Honorable (Name of Legislator)

Street Address

Olympia, WA 98501

Date

Dear Senator/Representative (Name):

I am a Small Forest Landowner and a member of the Washington Farm Forestry Association (WFFA).

I am writing to express my anger that the State of Washington is regulating small forest landowners – and the economic and environmental benefits they provide – off the landscape.

Regulations adopted over the past few decades have made it much more difficult for family forest landowners to remain working on the land. We often feel under siege, inundated with regulations and bureaucracy that seem designed to hinder, rather than help us maintain our working forests.

Regardless of management intensity, forestland inherently provides more habitat/resource protections than any other land use. State and local agencies owe it to the people of Washington to maintain working family forests.

State government says it supports a vibrant timber products industry while at the same time it maintains the most stringent forestry regulations in the entire nation.

The Forests and Fish Law of 1999 is the culmination of three decades of stronger and stronger regulations. The 1999 Legislature recognized the disproportionate impact of those regulations on small forest landowners when it said, “increasing regulatory requirements continue to diminish the economic viability of small forest landowners.” To offset the disproportionate impact the Forests and Fish Law has on small forest landowners, the state promised three remedies:

1. The Forest Riparian Easement Program (FREP)
2. Small Forest Landowner Office (SFLO) Programs
3. Alternate Plans with less costly prescriptions that recognize our smaller harvest units

Today, the FREP program is not funded, the small landowner office and programs have been virtually eliminated, and no real plan has been developed for less costly prescriptions.

If Washington State government cannot afford the programs and promises of FFR and yet wants to keep small landowners in the tree-growing business, small landowners should be allowed to have alternate policies to give us a fighting chance. One way to do that is through legislation to allow all small landowners harvesting 20 acres or less to follow less restrictive rules. WFFA is supporting legislation for 2010 that would do just that. Please join us by supporting HB-2505.

The greatest risk to Washington forestland is the frustration of current woodland owners and a lack of willingness to transfer their land to the next generation. Without your help, there will be no next generation of family tree farmers. Please help the State of Washington keep its commitments.

Sincerely,

(Your Name and Legislative District)

WFFA Testimony Given At House Natural Resource Committee Hearing– Nov. 1, 2009

My name is Rick Dunning. I am a Small Forest Landowner (SFL) and the Executive Director of the Washington Farm Forestry Association, representing our state's family forest landowners.

I have provided you with written comments and back-up material so my comments will be brief.

For more than 30 years, Washington State government has tried to have it both ways. State government says it supports a vibrant timber products industry while at the same time maintaining the most stringent forestry regulations in the entire nation.

The Forests and Fish Law of 1999 was the culmination of three decades of stronger and stronger regulations. The 1999 Legislature recognized the disproportionate impact of those regulations on small forest landowners when it said “increasing regulatory requirements continue to diminish the economic viability of small forest landowners.”

To offset the disproportionate impact the Forests and Fish Law has on SFLs, the state promised three remedies:

- 1) Forest Riparian Easement Program (FREP)
- 2) Small Forest Landowner Office (SFLO) Programs and FTE's, like Stewardship Foresters
- 3) Templates (Alternate Plans with less costly prescriptions) that recognize our smaller harvest units.

Today, the FREP program is not funded, the small landowner office and programs have been virtually eliminated and no real plan has been developed for less costly prescriptions.

I have attached documents that show the lack of progress over the last ten years. At the recent Forest Ecosystem Collaborative, hosted by the Governor, the Tribes, and the Commissioner of Public Lands, a consensus was reached that “conversion of forest lands” is the number one concern for the future of forestry in our state.

I disagree. Conversion is NOT the issue, but rather a symptom of the issue. The issue is unequal and excessive regulation and taxation on tree farming. If we are serious about slowing conversion, we will find a way to support the more than 89,000 SFLs who collectively own more than five million acres of at-risk forest land.

If Washington State government cannot afford the programs and promises of FFR and yet wants to keep small landowners in the tree-growing business, small landowners should be allowed to return to the rules that pre-date Forests and Fish.

The greatest risk to Washington forestland is the frustration of current woodland owners and a lack of willingness to transfer their land to the next generation.

From the Executive Director's Desk

As you have read throughout this newsletter, Washington State government has taken back its promise to pay small forest landowners for half the timber left in your oversized buffers. I am shocked, and even more, saddened with our state's forestry policy process in making this decision.

Yet, I still believe in America's way. I am proud that this is a country where we have a system that both protects us and allows us to keep the fruits of our own labor. But, like those who have protected this nation abroad, we must now fight to protect it here at home.

During my Ag/Forestry Leadership training, a legislative assistant to a prominent congressman explained to me, that along with America's solid roots, there is good reason this great nation has both a legislative and a legal branch. He convinced me that, even with all their warts, each branch has a valid purpose.

So, we have now begun our legislative efforts to bring necessary change.

HB-2505 will be presented during this upcoming short legislative session. We hope for hearings on it in both the Senate and House and we ask you to join us in Olympia to support it. We hope to achieve what the forest policy leaders of this state could not. We will show a way that allows you to harvest your trees, provides needed jobs and important taxes, and still protects the natural resource benefits (clean water and salmon habitat) that OUR trees provide the public.

I personally request that you join us the week of January 18 – 22, 2010. Please prepare now to call and fax your Senator and Representatives and ask for support of HB-2505. Without legislation to correct the problem, it will only leave the legal system as a last resort. That is where we all lose. As long as I am your WFFA Executive Director, I

uphold the premise that we should respect our brothers and sisters, even when they fail to respect us. I fall back on the understanding that our real purpose here on earth, is to be stewards of what has been given to us. I will also remember a mentor's words, "If you own the land, you have it all."

We will continue to fight for the real environmental heroes of Washington State, our tree farmers. We continue fighting to be "Stewards of the Land for Generations to Come."

Treefully,

Rick Dunning, Executive Director

Contact Us!

Phone: (360) 736-5750

Fax: (360) 736-2704

E-mail: info@wafarmforestry.com

Welcome To Our New WFFA Members!

BLUE MOUNTAIN

Tom & Cindy Beechinor

Duncan & Nancy Breithaupt

Judy & Randy Turner

CLARK

Ryan Ferrill

Bob & Jackie Stewart

Dan & Susan Walker

COWLITZ

R.K. & Donna Davis

GRAYS HARBOR

Orville & Jamie Mowry

KITTITAS

Charles Adams

Larry T. Fudacz
Joe & Lisa Skvarla
LEWIS
Marion & Carmelita Barr

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