

May 12, 2009

MEMORANDUM

TO: Oregon Watershed Enhancement Board

FROM: Miriam Hulst, Acquisitions Specialist
Ken Bierly, Deputy Director

**SUBJECT: Agenda Item J: Deferred Acquisitions
June 2-3, 2009 OWEB Board Meeting**

I. Introduction

Land acquisition grant applications often require more time to fully evaluate and prepare funding recommendations than is available in the regular 21-week grant cycle. This staff report provides information about three acquisition applications previously deferred by the Board for due diligence review, and which are now ready for funding consideration.

II. Deferred Acquisitions

A. Evergreen Creek Acquisition (208-114)

Greenbelt Land Trust (GLT) requests \$305,000 to purchase 221 acres located in the Muddy Creek watershed, south of Philomath, in Benton County.

GLT first proposed to purchase a conservation easement for this property, and requested \$500,000 from OWEB. GLT subsequently determined that the property's restoration opportunities make it a more appropriate fee title investment than conservation easement purchase. The sellers were amenable to changing the project to a fee title transaction. GLT's receipt of North American Wetlands Conservation Act (NAWCA) funds enabled it to reduce the OWEB funding request from \$500,000 to \$305,000.

1. Ecological Benefits

The application states that the property proposed for acquisition contains 48 acres of palustrine emergent and forested/shrub wetlands, 0.75 miles of Evergreen Creek, and 16 acres of riparian habitat associated with Evergreen Creek. The remainder of the property consists of areas currently used for hay production and areas farmed in the recent past.

The application states that the majority of the property's soils are hydric, and thus the site provides an important opportunity to restore Western Oregon wet prairie, an OWEB priority habitat. The property's non-hydric soils are appropriate for the restoration of Western Oregon upland prairie and oak savanna. GLT has developed a restoration strategy and timeline for a phased approach to enhancing the native habitats currently present on the property and restoring the remainder of the property to native, historic

habitats. GLT intends to reintroduce to the site, where appropriate, threatened and endangered plant species present in the watershed, such as Kincaid's lupine and Willamette daisy. The application states that restoring the site will result in important wetland and riparian habitat connectivity in the Muddy Creek watershed, where there are previous acquisition and restoration investments, including Finley National Wildlife Refuge.

The Evergreen Creek application states that acquisition of the property is consistent with three of the conservation principles contained in OWEB's Basin Ecological Priorities: restoring function to an area that requires a change in ownership and active restoration to achieve its conservation purpose, improving connectivity of habitat, and complementing an existing network of conserved lands.

The Regional Review Team (RRT) felt that the property constitutes an important ecological connection among the protected sites in the region. The RRT confirmed that there are OWEB priority habitats present on the property, and noted that they will serve as useful reference sites for GLT's development of restoration plans for the remainder of the property.

2. Capacity to Sustain the Ecological Benefits

GLT holds conservation easements on 13 properties and owns two properties in Benton County, including three acquisitions funded in part by OWEB. GLT has demonstrated the capacity to build diverse and productive partnerships to develop and implement management plans and restoration projects, including listed species reintroductions. GLT's staff currently includes a stewardship program manager who will oversee management and restoration of the site. The application states that GLT's recently completed business plan calls for hiring a stewardship assistant within five years.

The Evergreen Creek application states that management and restoration plans will be developed in coordination with conservation partners with which GLT has a track record of effective collaboration. GLT has started the partnership by working with the U.S. Fish and Wildlife Service (USFWS) to develop a restoration strategy and timeline for the property, which will be refined in further planning efforts. GLT has also begun developing plans to pursue restoration funding, and intends to, upon purchase, take actions to qualify for grant funds from the Natural Resources Conservation Service. GLT has agreed that once the property is restored, its enhanced state will become the reference conditions by which easement compliance is determined, thus protecting the restoration efforts in perpetuity.

3. Education Benefits

The application states that GLT will encourage the public to visit the site for structured educational tours and activities such as plant reintroduction work parties, but that unlimited public access is not intended while the property is being restored. Once restoration is complete, GLT will consider increasing public access.

Philomath High School students partner with GLT to propagate threatened and endangered plant species for reintroduction at GLT's Lupine Meadows property. Teachers at the high school have expressed interest in adding the Evergreen Creek

property to the suite of sites at which the students help to achieve habitat restoration. Oregon State University (OSU) has also expressed interest in being involved in restoration at the Evergreen Creek property.

The RRT felt that the property can be restored to diverse habitats that exemplify fish and wildlife benefits and provide educational opportunities for students.

4. Partners, Project Support, and Community Effects

The application states that Marys River Watershed Council, Benton Soil and Water Conservation District, and USFWS will assist with developing and implementing management and restoration plans for the property. OSU and Philomath High School will also assist with restoration.

The application states that although the property's active agricultural areas, totaling 136 acres, will gradually be removed from production to allow for restoration, the project will not have a significant effect on the overall agricultural economy of Benton County. At this time, GLT intends to pay property taxes for the site. The application states that GLT might later apply for a tax exemption, pay in-lieu fees, or apply for wildlife assessment status.

5. Legal and Financial Terms

GLT will match OWEB funds with \$410,000 from the NAWCA grant program, administered by USFWS. The sellers will donate \$37,374 dollars to a stewardship fund for the property and an additional \$10,000 for miscellaneous project costs.

Agriculture will be phased out on the property, rather than being discontinued all at once, because the site's large size makes it infeasible to restore the entirety of it contemporaneously. Maintaining agricultural operations until restoration begins will keep invasive species in check and provide GLT with a source of funds for property stewardship.

Benton County recently completed a partition that separated the acreage that GLT will purchase from approximately 30 acres that the seller will retain. The acreage that GLT intends to purchase does not front a public road. GLT will enter the property via a permanent access easement that will be granted by the seller to GLT as a condition of the sale.

The legal review of the option did not raise any concerns for OWEB. The legal review of the title report identified several minor title exceptions, such as a historic road right-of-way, that could conflict with OWEB's conservation interest in the property. GLT is nearly finished addressing the title issues; staff expects the process to conclude smoothly.

An appraisal of the property was conducted by Robert E. Hugie. OWEB's independent review appraiser determined that the appraisal report is in conformance with Uniform Standards of Professional Appraisal Practice (USPAP) and Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), the value conclusions are adequately supported, and the proper appraisal methodology was used.

A Phase 1 Environmental Site Assessment (ESA) was conducted for the property by Omnicon Environmental Management. A review of the ESA by the Oregon Department of Environmental Quality determined that the report conforms to the American Society for Testing and Materials (ASTM) standard required by OWEB and no further investigation is needed.

6. Conclusion

In November 2007, the Acquisitions Subcommittee decided to proceed with due diligence because the property presents a significant opportunity to restore a variety of native habitats in a location that augments a network of protected sites and affords enhanced ecological connectivity. The RRT concluded that the project has high ecological and educational benefits. Resolution of due diligence issues is nearly complete. A public hearing will be scheduled within several weeks. Staff and the Acquisitions Subcommittee recommend funding for the project, contingent on resolution of remaining title issues to staff's satisfaction.

B. Big Creek Acquisition (209-105)

The Nature Conservancy (TNC) requests \$2 million to purchase 193 acres located on the Oregon Coast in Lane County, adjacent to Siuslaw National Forest and Washburne Memorial State Park. TNC intends to purchase the property in May 2009. OWEB funds would reimburse TNC for approximately half of the purchase price. TNC understands that its prior purchase of the property and the financial consequences of the purchase will not be a factor in the Board's funding decision.

1. Ecological Benefits

The application states that 97 percent of the property proposed for acquisition contains OWEB priority ecosystems, plant communities, and species. Specifically, the application claims that the property contains 19.7 acres of chaparral and north coast shrublands; 16.5 acres of floodplain/outwash lowland riparian, linear, wetlands; 6.8 acres of lowland riparian woodland and shrubland; 140.8 acres of Sitka spruce forest; and 4.5 acres of Western Oregon upland prairie. The application also states that the property contains Pacific reedgrass-blue wildrye, an OWEB priority plant community.

The following OWEB priority species have been documented on the property: coho salmon, steelhead, bald eagle, red-legged frog, Oregon silverspot butterfly, band-tailed pigeon, olive-sided flycatcher, Pacific-slope flycatcher, ruffed grouse, and rufous hummingbird. The property contains 132 acres of federally designated critical habitat for Oregon silverspot butterfly, a threatened species. The property also contains 0.65 miles of federally designated critical habitat for coho salmon, a threatened species.

The Big Creek application states that acquisition of the property is consistent with five of the conservation principles contained in OWEB's Basin Ecological Priorities: securing a transition area, restoring function to an area that requires a change in ownership and active restoration to achieve its conservation purpose, protecting a site with exceptional biodiversity, improving connectivity of habitat, and completing an existing network of conservation sites.

The RRT felt that this site is a critically important conservation opportunity. The RRT identified Big Creek as a key watershed and the proposed property as a chance to conserve both aquatic and terrestrial species of significance.

2. Capacity to Sustain the Ecological Benefits

TNC will purchase the property in May 2009, and then transfer the title to the Oregon Parks and Recreation Department (OPRD) in autumn 2009. The property will be cooperatively managed by a private-state-federal partnership consisting of TNC, OPRD, the U.S. Forest Service (USFS), and USFWS. The partners have drafted a Memorandum of Understanding (MOU) which states that the property will be managed for the protection and restoration priority habitats and species. The partners will develop a property management plan, pursue funds for restoration or support pursuit of funds for restoration, and allow and support management activities that further the conservation of priority habitats and species. The partners agree that the property will be used only for low-impact recreation. TNC has indicated to OWEB staff that infrastructure will not exceed one trail on the property.

TNC has been highly involved in Oregon silverspot butterfly conservation work on the coast for many years, and will continue butterfly work at the Big Creek property after its transfer to OPRD. USFWS funds habitat restoration and population monitoring and augmentation on USFS property adjacent to the Big Creek property; the funding can be applied to the Big Creek property as well. OPRD is well-positioned to own the property because of the property's proximity to Washburne Memorial State Park. OPRD has permanent staffing at the park and good knowledge of the area's ecological systems and their management needs.

3. Education Benefits

The application states that the property will be open to the public for "light, day-use recreation" and publicized on the OPRD web site. The RRT did not feel that the project constitutes a significant opportunity for public education.

4. Partners, Project Support, and Community Effects

The application states that staff from TNC, USFS, and OPRD have been interested for several decades in purchasing the Big Creek property, and have worked cooperatively to secure purchase funds from the National Oceanic and Atmospheric Administration (NOAA). Federal funds from USFWS might also be used in the transaction. The project is supported by the Central Coast Land Conservancy and the MidCoast Watersheds Council.

The application states that the land has not been actively managed for agriculture and has never been aggressively managed for forestry production. Therefore, conserving the property won't impact regional agriculture or forestry production. The application further states that although acquisition of the property will preclude opportunities for jobs associated with development, the opportunity to conserve biological diversity will result in economic and social benefits.

5. Legal and Financial Terms

The Big Creek property's zoning currently allows for development of a 150-unit destination resort and up to 11 additional units. The current owners have drafted building plans and obtained development permits. TNC recently entered into an agreement with the owners to purchase the property for the appraised value of \$4.07 million.

TNC anticipates purchasing the property in May 2009. TNC will then transfer the property to OPRD in autumn 2009, at which time OPRD will contribute at least \$1 million in NOAA funds. Some of TNC's purchase costs might also be reimbursed by USFWS. TNC understands that OWEB rules require the Board to consider the title transfer at a regularly scheduled public business meeting before TNC undertakes the transaction.

The legal review of the option and title did not raise any concerns for OWEB. An appraisal of the property was conducted by Duncan and Brown, Inc. OWEB's independent review appraiser determined the appraisal report is in conformance with Uniform Standards of Professional Appraisal Practice (USPAP) and Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), the value conclusions are adequately supported, and the proper appraisal methodology was used. An environmental review of the property did not raise any concerns for OWEB.

6. Conclusion

Both the Acquisitions Subcommittee and the RRT felt that this project constitutes a very important conservation opportunity. The due diligence review is complete. Staff and the Acquisitions Subcommittee recommend funding for the project, contingent on TNC's continued involvement of OWEB in the development of the MOU that will guide cooperative management of the property.

C. North Nehalem Bay Wetlands Conservation Project (209-106)

The Lower Nehalem Community Trust (LNCT) requests \$240,000 to purchase two properties totaling approximately five acres at the northern edge of Nehalem Bay in Tillamook County. LNCT proposes to use the funds to match Coastal Wetlands Conservation Grant Program (Coastal Wetlands) funds recently awarded to OWEB by USFWS for acquisition of the parcels.

The parcels are two of seven that LNCT intends to purchase in the first phase of its effort to permanently protect wetlands that link land owned by LNCT to Nehalem Bay State Park. LNCT anticipates that at least four of the remaining parcels will be ready for a funding decision by the Board at the September meeting.

1. Ecological Benefits

The application states that the property proposed for acquisition contains OWEB priority ecological systems, including freshwater marsh and aquatic beds, intertidal salt marsh, and lowland non-linear forested wetlands. Protection of the parcels will conserve OWEB priority species, including coho salmon, steelhead, chum salmon, red-legged frog, band-tailed pigeon, bald eagle, great-blue heron, pacific-slope flycatcher, rufous hummingbird, marbled murrelet, and peregrine falcon. The application states that proposed acquisition is consistent with five of OWEB's conservation principles: protecting a large, intact area;

securing a transition area; protecting a site with exceptional biodiversity; improving the connectivity of habitat; and complementing an existing network of conservation sites.

The RRT felt that although the parcels are small and not highly ecologically valuable in and of themselves, the property forms a very important habitat link between Nehalem Bay State Park and other protected areas. The RRT was of the opinion that these parcels should be conserved to save the last remaining bayside wetlands and maintain habitat linkages.

2. Capacity to Sustain the Ecological Benefits

LNCT was founded in 2002 and currently owns three properties totaling 65 acres. LNCT recently hired a full-time staff person. LNCT has demonstrated success in obtaining OWEB and USFWS grants and raising private funds for the purchase and maintenance of conservation lands. LNCT also successfully engages North Coast residents in the care and understanding of coastal ecosystems.

3. Education Benefits

LNCT currently conducts frequent educational activities at its Alder Creek Farm conservation site, near the parcels proposed for purchase. LNCT leads a wide variety of workshops, provides free education programs to more than 400 children per year, and trains and maintains a team of natural resources research and monitoring volunteers. If this project is funded, LNCT will expand its educational offerings to include on-site learning at the newly acquired properties.

The RRT felt that LNCT's current educational programs are outstanding and expressed confidence that the Trust would implement that same high-quality community education programs at the proposed properties as it does at Alder Creek Farm.

4. Partners, Project Support, and Community Effects

OWEB was awarded \$583,077 in Coastal Wetlands funds to assist LNCT with acquisition of the parcels. LNCT has received commitments from the following entities for in-kind assistance with the development of stewardships plans for the acquired parcels: Oregon Department of Fish and Wildlife, North Coast Land Conservancy, TNC, a private consultant, Urban Greenspaces Institute, Audubon Society, and OPRD. LNCT gathered more than 450 signatures from local residents who support the project.

Annual property taxes total approximately \$850 for the two parcels for which LNCT is currently seeking funding. If the parcels are acquired for conservation, these taxes would no longer be paid. Despite this, the project has received unanimous support from the Tillamook County Board of Commissioners and is also supported by the Mayor of Nehalem. LNCT and many members of the community feel that the loss of property taxes will be offset by the project's educational and ecological benefits.

5. Legal and Financial Terms

LNCT currently requests \$240,000 from OWEB to match \$533,000 in Coastal Wetlands funds for the purchase of two of seven parcels it intends to acquire in the first phase of a two-phase project that will protect wetland linkages adjacent to Nehalem Bay. The parcels for which LNCT is currently requesting funding have a fair market value totaling

\$759,000 because the parcels are zoned for residential development and contain highly desirable view home sites at the edge of Nehalem Bay. The owners of these parcels are not willing to sell their land for less than fair market value. LNCT anticipates that it will pay far less than fair market value for the rest of the parcels it acquires in the first phase of the project.

The legal review of the options did not raise any concerns for OWEB. The legal review of the title reports identified several minor title exceptions, which LNCT is nearly done addressing. Staff expects the process to conclude smoothly.

An appraisal of the properties was conducted by Zell and Associates. OWEB's independent review appraiser determined that the appraisal report was initially insufficient for OWEB's purposes. With guidance from OWEB's review appraiser, Zell and Associates amended the report. OWEB's review appraiser subsequently determined that the report is in conformance with Uniform Standards of Professional Appraisal Practice (USPAP) and Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), the value conclusions are adequately supported, and the proper appraisal methodology was used.

A Phase 1 Environmental Site Assessment (ESA) was conducted for the property by Hahn and Associates, Inc. A review of the ESA by the Oregon Department of Environmental Quality determined that the report conforms to the American Society for Testing and Materials (ASTM) standard required by OWEB and no further investigation is needed.

6. Conclusion

In November 2008, the Acquisitions Subcommittee decided to proceed with due diligence because the members felt that the acquisition of the properties, despite the expense, is advisable because the properties are the last remaining wetlands link between ecologically significant, protected areas. The Subcommittee also felt that the project has strong educational merit and outstanding community support. The RRT felt that the project has medium ecological merit and high educational merit. Staff and the Acquisitions Subcommittee recommend funding for the North Nehalem Wetlands project, contingent on resolution of the title issues to staff's satisfaction.

III. Recommendation

Staff recommend the Board award:

- A. \$305,000 for the Evergreen Creek Acquisition (208-114), contingent on resolution of remaining title issues to staff's satisfaction;
- B. \$2 million for the Big Creek Acquisition (209-105), contingent on TNC's continued involvement of OWEB in the development of the MOU that will guide cooperative management of the property; and
- C. \$240,000 for the North Nehalem Wetland Conservation Project (209-106), contingent on resolution of the remaining title issues to staff's satisfaction.