

Exhibit G

**Public Correspondence Received as
of July 30, 2025**

Chair Wahl, and members of the Commission,

Thank you for the opportunity to comment on the proposed revisions to the rules for the Private Forest Accord Mitigation Grant Program. My comments are on the rules for project eligibility, at OAR 635-097-0070. I urge the Commission to retain the current project eligibility rules, which are more consistent with the Private Forest Accord's intent of having a strong land acquisition component of this grant program.

The Private Forest Accord Report's chapter on mitigation, first paragraph, lists major mitigation tools under HCP requirements and starts out with restoration and land preservation.¹ Mitigation linked to land preservation includes *"riparian conservation easements outside of the covered lands that may be used to mitigate impacts associated with timber practices. Easements on covered lands may be useful to help small forestland owners comply with new standards."*

The Report mitigation chapter is based on the HCP Handbook, which defines land preservation this way: *"land preservation (e.g. buy and protect, place conservation easements on land) of areas threatened by development."* (HCP Handbook at 9-15, referred to by the Report.)

The proposed changes to the project eligibility rules are inconsistent with this focus, diminishing the potential of land acquisition for uplift of Habitat Conservation Plan species.

The current rule language about project eligibility was developed by the initial members of the Mitigation Advisory Committee, which included more authors of the Accord Report familiar with the Report's requirements. The input from Report authors was mandated by statute; *"the voting members first appointed ... to the Private Forest Accord Mitigation*

¹ Sections 11.1-11.3 of Report.

Report p. 140 says:

"11.3 Private Forest Accord Commitments

For purposes of the PFA, mitigation efforts will focus on items 1, 2, 3, and 5 of the major categories of mitigation measures identified in the HCP Handbook:

- Category 1: Restoration of degraded habitat to natural condition/function, or to a condition likely to be resilient to projected changes.
- Category 2: Land preservation.
- Category 3: Enhancement of habitat.
- Category 5: Threat reduction or elimination."

PFA Mitigation Grant Program: proposed rule revisions

Comments of Wendy Gerlach

February 9, 2025

Advisory Committee must be representatives of six authors of the Private Forest Accord Report...” (SB 1501 Section 31.) I question the revision of rules adopted by the Committee at that time and replacing them with rules less consistent with the Report.

If there is an actual question about the Accord intent and Report language, that should be resolved by consultation with the authors of the Accord Report, which is, under SB 1501 Section 12(4)(b), to be consulted if questions arise concerning the intent of the Private Forest Accord Report.

The proposed changes also seem inconsistent with the Accord’s intent to include and support small forestland owners. There are long sections of the Report, statute, and related rules intended to ensure the success of these landowners, including the Small Forestland Owner Office, SFISH Program, and more. The Report specifically highlights the importance of conservation easements, on forestlands, for small forestland owners. The Mitigation Grant Program should not back down on this commitment.

In addition to those rather technical comments, I’d like to point out that development of an acquisition grant program is a key part of the Committee’s mandate. Yet the Committee has set agenda items such as, in April 2024, “discussion regarding the inclusion of acquisition in the PFA Grants Program.” The question of whether acquisition has a place in the grant program should not be in question. The Committee and ODFW staff have done impressive work in establishing this program, including its operating procedures, website, and more. On the current website, consistent with current rules, the community is told that the Committee and ODFW will prioritize funding in restoration and land, water, and habitat preservation, including “*Conservation easements, fee title acquisitions, leases or transfers that prevent the impacts of development threats to covered species and their habitats on a particular property.*” I appreciate the work of the Committee and Department in developing the program, and urge it to support conservation easements and fee acquisitions as a priority.

I’ll close with my main point that the current rule language, with its emphasis on “*supporting acquisition of land, and interests in land including conservation easements,*” is true to the purpose of the Accord, the HCP, and the Mitigation Grant program. I urge the Commission to keep the current rules about project eligibility and to encourage the Mitigation Advisory Committee and ODFW staff to develop a strong land acquisition program.

Thank you for consideration of these comments,
Wendy Gerlach



TO: ODFW Commission Members
RE: Proposed PFA Rule Revisions (OAR 635-097-0050: Authorized Use of Grant Funds)
DATE: February 10, 2025

Dear members of the Commission,

On behalf of the Board, staff, and members of McKenzie River Trust, I encourage you to retain the current language governing land and easement acquisition projects under the Private Forest Accords Mitigation Grant Fund. I suppose that the thought with the proposed revisions is to give clarity for application review and decision. Such attempts at clarity, however, can lead to unforeseen limitations on the benefits for which such a program was proposed in the first place.

It seems that the drafters of the original legislation may have been less familiar with the need for flexibility in establishing boundaries on conservation transactions. Even when the focus is on riparian zones and floodplain habitat, the need for recognized legal lots and other land use considerations will often necessitate the inclusion of some upland forest. The language of the bill referencing conservation transactions "*... on land other than forestland to protect riparian areas.*" is unfortunate, at best. Unnecessarily strict interpretation of that statement will lead to a very limited application of land and conservation easement transactions, maybe even limited only to downstream agricultural lands. This latter somewhat surreal outcome would imply that downstream lands must somehow buffer the negative consequences of what is happening upstream on private forestlands. That is a perception that I doubt we want to reinforce in any way. I'd suggest instead that we show the synergistic benefits of collaborative habitat conservation projects within the forested landscape.

In my service on the Oregon Water Resources Commission (which is independent of and does not endorse this comment letter) I have frequently been in situations similar to what you may face, considering strong grant applications that were disqualified for narrow interpretations of grant program rule-making. At the end of the day, you want to see uplift in habitat conditions with the PFA Mitigation Grant Fund. The current rule language provides better discretion for ODFW staff, fellow grant reviewers, and you as Commissioners, to ensure that uplift. Despite the imperfect alignment between language of the original legislation and current rules, the intentions are clear: a strong land and conservation easement acquisition element is one of several tools that will be helpful for landowners, agencies, and partners working to achieve that uplift. Keep the toolbox open and filled with a mix of tools, and use them creatively to craft those outcomes.

Thank you for your service on the commission, and for your consideration of these comments.

Best wishes,

Joe Moll, Executive Director

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COALITION OF OREGON LAND TRUSTS

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February 10th, 2025

To: Oregon Department of Fish and Wildlife Commission

From: The Coalition of Oregon Land Trusts

RE: Proposed PFA Rule Revisions (OAR 635-097-0050: Authorized Use of Grant Funds)

Chair Wahl and Members of the Commission:

On behalf of the Coalition of Oregon Land Trusts (COLT), thank you for the opportunity to provide comments on the proposed rule revisions to the Private Forest Accords Mitigation Grant Fund.

COLT is a membership organization representing 31 land trusts, soil and water conservation districts, and conservation organizations working across Oregon to protect our habitat and natural spaces – for all people, forever. Land trusts work with private landowners, filling a gap in conservation by empowering everyday people to voluntarily protect land for conservation. Collectively, our members have conserved more than 318,000 acres of land across our state – helping to keep working lands working and sensitive habitats protected

We have reviewed the proposed changes (Exhibit C) to the rules relating to the grant program and appreciate this opportunity to share our thoughts. Specifically, we would like to comment on the rule revisions in 635-097-0050 (f)(g) regarding the authorized use of grant funds. **We urge the Commission to retain the current rule language supporting acquisitions of land and interests in land, and, as the program develops, to include strong land acquisition grant cycles.**

Land acquisitions, including conservation easements on both forestland and non-forestland, are an important tool for mitigation. The Private Forest Accord Report



24 MEMBER ORGANIZATIONS: Blue Mountain Land Trust • Center for Natural Lands Management • Columbia Land Trust
Deschutes Land Trust • Ducks Unlimited • Forest Park Conservancy • Friends of the Columbia Gorge Land Trust
Greenbelt Land Trust • Klamath Lake Land Trust • Lower Nehalem Community Trust • McKenzie River Trust
North Coast Land Conservancy • Northwest Rangeland Trust • Oregon Agricultural Trust • Oregon Desert Land Trust
Pacific Forest Trust • Southern Oregon Land Conservancy • The Conservation Fund • The Nature Conservancy in Oregon

The Trust for Public Land • The Wetlands Conservancy • Wallowa Land Trust • Western Rivers Conservancy • Wild Rivers Land Trust
8 ASSOCIATE MEMBER ORGANIZATIONS: Black Oregon Land Trust • Cerro Gordo Land Conservancy • Clackamas Soil & Water
Conservation District • East Multnomah Soil & Water Conservation District • Helvetia Community Association
Tualatin Soil & Water Conservation District • View the Future • Yamhill Soil & Water Conservation District

identifies four mitigation categories to focus on, including restoration of habitat, land preservation, habitat enhancement, and threat reduction or elimination (PFA Report, 11.3). The Report describes land preservation as a *"mechanism for preventing the impacts of development threats to covered species and their habitats on a particular property,"* and in the HCP Handbook, land preservation is *"e.g. buy and protect, place conservation easements on land."* (PFA Report, 11.3.1.2; HCP Handbook, p. 9-15.)

The Report also describes the benefits of acquisitions, saying *"Riparian conservation easements outside of the covered lands may be used to mitigate impacts associated with timber practices. Easements on covered lands may be useful to help small forestland owners comply with new standards."* (PFA Report, 11.3.1.2).

S.B. 1501 lists activities available for grants, including *"conservation easements on land other than forestland,"* and *"other measures that effectively conserve or restore habitat."* **It has been suggested that this means that only conservation easements on non-forestland may be funded. However, given the language of the Report and the inclusive language of the statute, we believe it's more accurate to interpret S.B. 1501 as just clarifying that easements do not have to be only on forestland.** S.B. 1501 says that rules are to be *"consistent with the requirements of the Private Forest Accord Report,"* and the Report specifically refers to easements on covered lands, i.e. private forestlands.

The Private Forest Accord Mitigation Advisory Committee, in developing the current rules, seemed to take the above into account. The current rules identify eligible projects in paragraph (f) as *"supporting acquisitions of land, and interests in land including conservation easements to protect, enhance, or restore riparian areas or other critical habitat functions for HCP-covered species."* (OAR 635-097-0050 (5)). These rules were officially adopted by the ODFW Commission at the August 4th, 2023, meeting.

The proposed rule changes are concerning because they will reduce the amount of mitigation that the state can achieve. The proposed replacement language reads, *"(f) Supporting establishment of conservation easements on land other than forestland to protect riparian areas."* and *"(g) Supporting acquisitions of an existing water right for conversion to an in-stream water right, as described in ORS 537.347, to improve in-stream flow conditions."*

The proposed language is problematic because it appears to significantly narrow the scope of eligible project types and funding priorities as well as introduce new ambiguities. For example, it is important to allow for discretion in delimiting a conservation easement such that the landowner and easement holder can follow recognized legal lots or accommodate local land use considerations. A strict interpretation of the proposed language would disallow this, forcing the interested parties to take on significant real expenses and difficulties to achieve the desired outcome of a protected riparian area. The current language allows for the kind of flexibility and discretion that landowners and easement holders need to meet their management goals. Unfortunately, the proposed language unnecessarily creates



the kind of confusion and complications that can discourage private landowners from taking any conservation action.

Not only is the new language in direct contradiction to The Report and SB 1501's acknowledgement of its requirements, it is **also inconsistent with the Mitigation Advisory Committee's previous discussions and decisions**. At the July 2024 meeting, the Committee adopted the following motion "move that ODFW staff work towards the development of a comprehensive and transparent process for incorporating land easements and fee acquisition that is restricted to non-forested lands as well as water acquisitions into the PFA Grants Program as soon as practicable," with the understanding that "there is another aspect of fee acquisition we made reference to and can talk about at another time" i.e., fee acquisition on forested lands. The proposed rule revisions before you seem to close the door on that future discussion.

By inhibiting the use of critical conservation tools such as conservation easements and other land acquisitions, the proposed language will effectively undermine the grant program's effectiveness and, thus, the state's ability to meet its mitigation goals under a Habitat Conservation Plan (HCP), assuming it is able to secure federal approval of the HCP.

COLT and our members understand that there is a critical role for strategic acquisitions in this mitigation program and we urge the Commission to keep the current project eligibility rules relating to interests in land, as being most consistent with the statute, the Report, and the program's goal of awarding grants to most effectively benefit the covered species.

COLT and its member land trusts are experienced partners to landowners in land acquisitions, easements, and restoration activities that create and sustain ecological uplift like those outlined in approved HCPs. We appreciate the opportunity to submit these comments and look forward to engaging with the Commission and the Mitigation Advisory Committee to support their work and ensure the success of the Private Forest Accord and associated grant program.

Sincerely,



Joe Buttafuoco
Executive Director
Coalition of Oregon Land Trusts

