

Land Legacy Committee (LLC) Meeting Agenda East Multnomah Soil & Water Conservation District

(September 18, 2023)

Monday, September 25, 2023, 4:00 – 6:00 PM

To be held at the EMSWCD Office (5211 N Williams Ave. Portland, OR 97217)

Or join virtually: https://meet.goto.com/EastMultSWCD/landlegacycommitteemeeting

Access Code: 993-088-381 United States (Toll Free): 1 877 309 2073 United States: +1 (646) 749-3129

AGENDA

Item #	Time	Agenda Item	Purpose	Presenter	Packet					
1	4:00 10 mins	 Welcome and Call to Order Review/Revise agenda Previous Action Items Approval of July 31, 2023 meeting minutes 	Information/ Decision	Guebert	a) 7/31/2023 LLC Meeting Minutes					
2	4:10 5 mins	Time Reserved for Public Comment	Information	Public	N/A					
3	4:15 5 mins	Farm Succession	Information	Shipkey / LLC	N/A					
Overview: Shipkey will provide a reminder on the October 26, 2023 Farm Succession Planning event and share out outreach materials for LLC members to circulate to their networks.										
4	4:20 40 mins	Land Legacy Program Adjustments	Information / Discussion / Possible Decision	Shipkey / LLC	a) Potential LLP Programmatic Adjustments Memo					
remova	l, as well	ey will review options for adjustments to the LLP's as our approach to Agricultural Management Plans ne or all these options for the Board to adopt at a fu	s. We'll be asking							
5	5:00 55 mins	Executive Session under ORS 192.660(2)(e)	Discussion/ Decision	Shipkey / LLC	Executive session materials to be sent separately.					
Overview: Shipkey will review options for the disposition of District property and provide updates on the status of various land protection projects under development.										
6	5:55 5 mins	Announcements and RemindersAction ItemsAdjourn	Information	Guebert	N/A					



Land Legacy Committee (LLC) Meeting Agenda East Multnomah Soil & Water Conservation District

(September 18, 2023)

Monday, September 25, 2023, 4:00 – 6:00 PM

To be held at the EMSWCD Office (5211 N Williams Ave. Portland, OR 97217)

Or join virtually: https://meet.goto.com/EastMultSWCD/landlegacycommitteemeeting

Access Code: 993-088-381 United States (Toll Free): 1 877 309 2073 United States: +1 (646) 749-3129

EMSWCD Board Members, Officers and Meeting Dates:

EN	MSWCD Board	LLC	Year	FY23-24 Schedule	Board	LLC	
Members	Positions	Officers			July	5	31
Joe Rossi	Zone 1 Director		Х	2023	August	16	
Laura Masterson	Zone 2 Director	Secretary	Х		September	6	25
Mike Guebert	Zone 3 Director	Vice-Chair	Chair		October	2	
Jim Carlson	At-Large 1 Director	Treasurer	Х		November	6	27
Jasmine Zimmer-Stucky	At-Large 2 Director	Chair	Х		December	4	
					January	3	22
					February	5	
				42	March	4	25
				2024	April	1	
					May	6	29
					lune	3	



East Multnomah Soil and Water Conservation District Land Legacy Committee Meeting FINAL Minutes

Monday, July 31, 2023

4:03pm - Call to Order

Guebert called to order the regular meeting of the EMSWCD Land Legacy Committee at 4:03pm on Monday, July 31, 2023, at EMSWCD's Office.

Introductions, Review/revise agenda, Review previous action items.

Guebert conducted introductions for the record. The following persons were present:

<u>Land Legacy Committee</u>: Mike Guebert (Zone 3 Director, LLC Chair), Jasmine Zimmer-Stucky (At-Large Director 2), Laura Masterson (Zone 2 Director) (virtual), Joe Rossi (Zone 1 Director)

Land Legacy Committee Absent: Jim Carlson (At-Large Director 1)

<u>Staff:</u> Julie DiLeone (Rural Lands Program Manager), Dan Mitten (Chief of Finance & Operations), Heather Nelson Kent (Community Outreach & Engagement Program Supervisor), Matt Shipkey (Land Legacy Program Manager), Asianna Fernandez (Executive Assistant), Jeremy Baker (Senior Rural Conservationist)

<u>Staff Absent</u>: Nancy Hamilton (Executive Director)

Guests: N/A

<u>Changes to Agenda:</u> Adding an item regarding Oregon Agricultural Heritage Program between Items 2 and 3. Adding an item regarding Portland Water Bureau Water Treatment Plant project between item 5 and 6.

Previous Action items:

- DiLeone to report ball and burlap affecting soil numbers to the Board at a future Work Session meeting. – In Progress
- **Fernandez** to add an Executive Session under ORS 192.660(2)(e) for real estate negotiations to the June 2023 Board Meeting Agenda. Done

4:06pm - Approval of May 22, 2023, Meeting Minutes

MOTION: Zimmer-Stucky moved to approve the May 22, 2023, LLC Meeting minutes. Rossi 2nd. Motion passed unanimously (4-0, Carlson absent).

4:06pm - Time Reserved for Public Comment: N/A

4:07pm - OAHP Discussion

Shipkey Nelly McAdams of Oregon Agricultural Trust (OAT) has asked us to coordinate a tour for Oregon legislators at the District's formerly owned Mainstem Farm. It would be used to educate legislators who are going to be asked in the short session to fund the Oregon Agricultural Heritage Program (OAHP) at \$5 million. OAHP is a cost-share program for working farmland easements across the state. It was not funded in the last legislative session, so they're pushing for funding in the short session. Folks leading the advocacy are excited about the story of Mainstem and how it created access for beginning farmers and think the story will resonate with legislators. There isn't a proposed date yet, but we're looking at October 2023. Staff wanted to ensure that the Board approved of them working with legislative officials on this kind of topic and project. **Zimmer-Stucky** believes this is a great idea and that it is consistent with the Board's position to support OAHP. She is disappointed it didn't pass this year.



The Land Legacy Committee members expressed their support for the staff's work on this project and tour.

4:10pm - Farmer/Landowner Survey

Guebert We received the results from the Landowner Survey. There were some surprises, and some not so surprising parts. No decision is needed on this during this meeting, but the LLC can ask staff for recommendations.

Shipkey presented some overall survey findings and posed questions to the LLC for discussion:

- Farmers are expecting richer incentives in order to agree to an easement with the District.
- Survey participant desired easement values that in many instances are more than the values returned by our appraisals.
- We heard a lot of concern around our prohibitions on ball and burlap operations, and agricultural practice requirements, especially amongst nursery farmers.
- Many of our program participants support our program objectives, but we need to find a better way
 of telling that story because there are still some misconceptions and misunderstandings. There are
 also concerns associated with the District being a government entity.
- Not surprisingly, folks want to hear from their peers who have already participated in the working farmland protection program.
- Survey participants want more face-to-face conversations like the Eat and Greet event we held at the Corbett Grange this Summer.
- Something we were surprised to hear a majority of folks were interested in selling their property to the District, provided market value offers were made.

Zimmer-Stucky was glad that the benefits of easements and protecting land for farming came out as a top priority for the survey takers. That creates an opportunity for messaging around the program about creating forever farms and it combats the idea that our program is competing with farmers. Was surprised to not see references to making land more affordable in order to create land for future farmers. Was this not asked or did we not frame this as a benefit?

Guebert There seemed to be a lot of misunderstanding around what an easement is. Wondered if the discrepancies between the interest in easement participation and what people want for their land could be rooted in that misunderstanding. Getting farmer program participants to share their experiences could be a different way to present what an easement is to people, because the survey showed that some people got the idea that easements mean the District would be taking over their farm or dictating how they'd be able to farm their land. How is what we're doing now landing for people, if at all? And how do we shift that messaging to get in front of more eyes or in front of eyes in a different way?

Rossi thought the comments were not a misunderstanding of easements, but that the farmers understood what they were and still didn't want to lose their future freedom / flexibility. In terms of access to land, farmers see that as one of many issues, while the District views it as the sole thing that matters. Farmers that lease property have a different point of view vs. those who own their land as both sets of people have different economic circumstances and incentives. Noted that folks that owned farms in the Columbia River corridor that are now industrial warehouses transitioned to farmland in Salem or Canby with the money made from those sales. Sympathizes with people whose retirement is their land and don't want to risk the value of it by placing an easement on it.

Guebert How do we approach easement valuation in order to make participation worthwhile? What is that value? Maybe we should value our easements higher to make them attractive to those who could use the money now or invest it, etc.



Masterson Right now, it's still possible to sell your land and go to Salem or Canby, but I feel like what we're doing with the Land Legacy Program (LLP) is trying to keep that option available in East Multnomah because eventually development will move to those areas as well. If we don't protect farmland now, how do we protect it later or at all in Oregon?

Masterson It was heartening to see that the issue of not knowing about easements is fixable, but those who are opposed to it entirely were slim. Seems like a large percentage of the respondents were interested, and though not willing to sell or sign now, were still open to have the conversation. Hoping we're equally open to meet people where they are to reach the goal of keeping land available and affordable.

Zimmer-Stucky thought the hurdle we could overcome was around the Agricultural Management Plan (AMP), which we could make more transparent. Referring to the AMP template document that DiLeone sent to the Board, it seems pretty basic, and most farmers would find that they're already doing things mentioned in the agreement and could have a forever farm if they continue doing those things. Would like to see the whole process as transparent as possible. Believes we do have to allow ball and burlap (B&B) on our properties, given the fact that half the participants were from the nursery industry and own the most desirable/valuable land in the district, so we need to include them. If we aren't going to exclude them, why did we ask their opinion in the survey in the first place?

Guebert What are our goals in the LLP? To keep land in production and productive? If so, agrees that we should expand on what should be included in the program. We've already discussed the nuances of soil health, but if we're trying to keep land from being put into development, then a suite of options might be something we want to consider, but they might come at different prices. Maybe for each thing we take away from an easement, then we take away from valuation. Not sure how that would land for B&B producers though.

Masterson Reminder that a fundamental goal of the LLP is to keep land in production. If we get to the point where we have a competitive process in valuation, then that helps us narrow down our choices for projects to work with, based on each farms' conservation efforts. We could also get more conservation outputs from other program areas with the ongoing relationships with those farmers.

Zimmer-Stucky with "Optional Agricultural practice changes" was that in terms of B&B? Mainstem and HIP are both on old B&B land.

Shipkey Yes, and in terms of the AMP too.

Rossi B&B farmers are farmers. We should be assisting them instead of vilifying them. They do also have farmer friends. Our interface with farmers needs to be better and needs to rely on back-and-forth communication since there seems to be a disconnect between the District and farmers.

Guebert If we did broaden our scope of what's allowed in an easement, there would be a lot of opportunities to work with them (B&B farmers) on soil and water health.

Rossi Have we thought about easements not being in perpetuity?

Guebert There are programs like that out there, we can consider term easements that have lower offer amounts, but how do we find the number that still makes that a valuable path for folks to pursue? **Shipkey** We are valuing that out now.

Rossi For a farmer who fears perpetuity, maybe reassessing after a five-year easement, like a trial easement, might be more enticing, especially with an easy entry point.



Masterson cautions against that idea. What's the capacity of the LLP? How many new easements per year?

Shipkey three to five new easements per year perhaps.

Masterson How do we get enough people through the door while also ensuring they're valued enough? Doesn't think a short-term easement could fix that. Would rather focus on managing relationships and trust, and maybe getting more people into the CLIP program.

Rossi pushes back on that. How much does it really cost to visit a farm, have a conversation, and do a small project to create a relationship, without even working with a contract, to get farmers used to the District and further develop those relationships?

Guebert Maybe some of our other programs could solve that and get the relationship kicked off.

Zimmer-Stucky thinks there could be a middle ground there. Likes the idea of giving people an idea of what an AMP would look like on their property, build that idea and relationship for a few years, so that when it comes time to sell and move on, they know to come to us for an attractive deal.

Guebert suggested having an example/template of a general AMP handy for farmers to look over when in conversation with staff.

Masterson These are economic decisions for people, always imagined that this program would in some way pay more as the farmer is more willing to lean into an AMP. So, it's not mandatory, but it helps.

Rossi From the mind of a farmer, thinks the AMP is intrusive. Many farmers see them as giving up their future freedom.

Zimmer-Stucky asked Rossi if he does not like the idea of a permanent easement on a property? **Rossi** In terms of putting restrictions on the land, for example, what if a farmer needs to turn to B&B because that's where the money lays?

Guebert hopes that the easements bridge those gaps and put funds into the bank of those who need them and decide to work with us. Understands that easements are not for everyone though.

Guebert Do we have an example of an AMP on the website? That would be a good idea to show people what they can expect to see.

Zimmer-Stucky Is our current easement value \$2,000-3,000 per acre? When farmers responded to the survey with a number of \$12,000, where did they find that number?

Shipkey \$12,000 was the average value of easements we've done to date. That average only includes easements with residential development opportunities, as properties without those houses would be valued much lower. There may be some disconnect between what people think an easement is worth and how much they really are valued at. Since 2/3rds of our priority farm properties are likely not even coming close to \$12,000 per acre, we need to figure out how to bridge that gap.

Zimmer-Stucky Wants to ensure our easements are valued fairly and is trying to figure out if farmers just threw numbers out without research. If someone went into the open market, would they be able to get \$12,000 or \$2,000 for their land? Realized buy, protect, sell and easements are different, and wonders what the survey respondents thought the question meant between those two markets?

Shipkey Hoped the lead up and introduction to the survey would have cleared up the confusion but he can't confirm that for each farmer.

Rossi Farmers are thinking about it as how their heirs will lose the value of the easement if they go to sell it. **Guebert** We are trying to figure out what the value is that would entice farmers to take a piece of their land out of production to get the cash in hand, in exchange for a future slightly lower resale value.

Rossi But is that enough? Farmers are viewing it as not enough.



Guebert There's value in keeping the land as farmland forever. And there is evidence in the survey results that shows that some people might be interested in learning more about the opportunity.

Shipkey A lot of farmers are thinking about the development potential, which they're focusing their numbers off of. We are hoping to bridge the gap. To Rossi's point about future property value increases foregone, farmers could take the funds received from the easement and invest it, and potentially come out better off.

Rossi How do we relay that kind of idea to those farmers who don't already think like that or know that's an option?

Guebert To discuss at future meetings: potential change in easement terms, what's allowed in an easement, easement valuation, length of easement.

Zimmer-Stucky Would like to ensure that the LLP is striving for transparency at every step of the way.

Masterson arrived at 5:04pm.

Masterson reminded that 1 staff person can only handle three to five new easements per year at the most.

Guebert Asked what Staff saw as next steps.

Shipkey The alternative easement valuation methodology is already in progress. Hopefully in December and January, we can dig into assessing this new valuation approach. Internally, we will discuss survey and LLC feedback on easements and AMPs. For terms easements, there's a project underway which we're developing that the owner has expressed an interest in a term easement and we can use that opportunity to discuss easement duration.

DiLeone Suggested we call the AMPs something else if the term AMP isn't working for farmers. Our goal is to get farmers to be compliant with the law, not asking for them to be some grand new kind of farmer. Asked the Board for ideas for new names instead of AMPs.

Shipkey We can revisit the restrictions conversation at a future LLC Meeting.

Rossi asked to read one of the past AMPs we've issued before. Reminded the Board that there's a difference between AMPs on farm vs. on buffer areas. DiLeone sent the Board the recently edited AMP template again.

Masterson Is there a way to be more outcome oriented instead of process oriented in the AMPs? **DiLeone** At the moment, we are prescribing things to do around the farm for better soil and water health, but not any specifics of when, what kind, or how to implement projects.

5:12pm – Executive Session under ORS 192.660(2)(e)
Entered Executive Session at 5:12pm
Ended Executive Session at 5:34pm

Motion: Zimmer-Stucky moved to recommend to the full Board to continue discussion on the information presented in Executive Session. Masterson 2nd. Motion passed unanimously (4,0).

Rossi would like to know more about the end usage of the property with the easement, so that the property can be allowed for all farmers to be potential buyers.

Action Item: Fernandez to add an LLP Executive Session to the August Board Meeting agenda.



5:37pm - Land Trust Alliance Rally Tour

Shipkey informed the Board about the Land Trust Alliance Conference, held in September, in which Matt will be leading a fieldtrip on farm access on September 6th (involving Black Futures Farm, Headwaters Farm, Mainstem, Zenger) and have roundtable discussion about farm access strategies, to include field trip participants and the Oregon Land Trust and Black Oregon Land Trust. 42 people have signed up, and it's now sold out.

Portland Water Bureau (PWB) Water Treatment Plant

Masterson The deadline to submit testimony is at Noon on August 7th. Asked the Board if anyone feels like there is urgency to make comment even though they decided not to have a stance on the issue before. There's good representation by ODA, so concerns are being raised. Believes that the District is being indirectly impacted.

Zimmer-Stucky How much of HWF is being impacted by the project?

Masterson ODA wrote about general impacts to farming, but it does indirectly impact HWF's viability and function. As It relates to the pipeline, there's a very narrow study done already, but ODA and farmers are asking for a wider study to be done. HWF is not in the line of the boundaries written by PWB, but it is impacted by traffic.

Zimmer-Stucky This land was not intended for this use and questions the morality of an ask for an exception.

Masterson Some farmers worry about their ability to continue with normal farm viability practices adjacent to the treatment plan. This is our last chance to weigh in with standing if it goes to Court of Appeals. **Rossi** Sees how this project is building infrastructure for citizens but also understands how it looks bad to our farmers who we are sympathetic to.

Zimmer-Stucky There's a difference between the kind of land used for Park-Grove that's able to use for urban services and farm-use reserved land. The Board could submit a brief if we really need to.

DiLeone The alternative is that they'll build the plant in a different location, meaning it would increase the water price to citizens who use it. The elevation relative to the Bull Run facility is probably why the PWB bought the land 30 years ago.

Masterson Urban services are always cheaper to build on agricultural land.

DiLeone could understand the Board weighing in simply to say not to make a habit of doing this.

Action Item: Fernandez to add PWB Treatment Plant discussion to the August Board Meeting agenda.

5:53pm – Motus Recruitment update

Zimmer-Stucky The contract with Motus was signed last night, and we have been in conversation with them to schedule listening sessions for the Board, Leadership Team, Staff, and Community Members. These sessions are a chance for Motus to learn what skill sets, focus areas, etc. they should prioritize in candidates. We will be holding the NAYA tour and meeting at a future date. The August 16th Board Meeting will take place at the office at 6pm.

5:55pm - Closing items: announcements, reminders, and action items.

Action Items:

- Fernandez to add PWB Treatment Plant discussion to the August Board Meeting Agenda.
- Fernandez to add an LLP Executive Session to the August Board Meeting agenda.

6:01pm - Adjournment

Guebert adjourned the meeting at 6:01pm.

Executive Summary

This memo follows up on the recent discussions of the survey of high priority farmland owners and some possible programmatic adjustments informed by that engagement. At the September 25, 2023 LLC meeting, Staff will ask the LLC to consider some potential programmatic adjustments around cropping limitations and farm practices requirements. We'll be asking the LLC for a decision on whether to recommend some or all these options for the Board to adopt at a future meeting.

Key Findings

As a reminder, these were the key survey findings:

- Program participation has and will continue to be limited until we strike a better balance between Land Legacy Program (LLP) incentives and LLP restrictions.
- Potential program participants support many of the LLP objectives but have misconceptions about the program and many do not trust the government as a partner.
- Our current method of valuing easements does not result in an amount attractive to most potential participants.
- LLP restrictions on farming practices (Ball and Burlap prohibitions, Agricultural Management Plan requirements) are identified as a significant barrier to LLP participation, especially among nursery operators (the District's most significant agricultural sector).
- Potential participants most want to hear from other program participants. Outreach is best conducted face-to-face and raising awareness about the program and relationship/trust building will take time.
- When folks are ready to sell their farm, most would prefer to sell to EMSWCD (provided the purchase offer is competitive).

Potential Adjustments to Farm Practices Requirements

We can continue to seek changes to agricultural practices that benefit soil and water health, and we believe that work is central to the core mission of EMSWCD. However, we can also vary the approach we take to realizing those changes. It is possible that a more pragmatic approach that is case specific and/or is realized via incentives and relationship building may realize more success in the long run than rigid mandates for program participants.

- <u>Crops that Result in Soil Removal</u> – At the July 2018 Land Legacy Committee meeting, minimum Working Farmland Easement Terms were approved. The following term is incorporated in that document: "Agricultural uses which result in substantial soil removal are prohibited (e.g. sod farms and ball & burlap operations). The harvesting of existing stock which was planted with the expectation of ball and burlap removal is permitted (to be

- specifically identified prior to closing), but no new stock may be planted and harvested via that method."
- The attached Exhibit A outlines the conservation and long-term productivity implications of cropping practices that result in significant soil removal. Because of the identified impacts, EMSWCD staff believes that the District can advance important conservation outcomes by continuing to secure long-term protection of our finite soil resources via restrictions on certain extractive cropping practices. At the same time, we believe we can tailor our approach to be more responsive to community feedback and to increase participation in our working farmland protection program. Specifically, the Board could consider the following options:
 - Purchasing easements on farmland in private ownership.
 - Remove the restrictions on cropping practices that result in significant soil removal:
 - On all nursery properties OR
 - On nursery properties where the operator is currently engaged in B&B and the like on the property OR
 - In any instance where the landowner is unwilling to incorporate the restriction (regardless of farm type and current cropping)
 - Even if we loosen the restrictions, we would continue the practice of encouraging the voluntary incorporation of this restriction via incentives (an additional payment at the time of easement purchase), education and being responsive to program participants' request / willingness for inclusion.
 - In those instances where the restriction has not been initially incorporated, seek opportunities to do so in the future with successive landowners that are open to this sort of restriction.
 - o Easements on EMSWCD properties.
 - Retain the prohibition on cropping practices that result in significant soil removal for those easements we place on EMSWCD properties. This approach may be warranted given the significant investment associated with the EMSWCD purchase of farmland and the substantial benefits realized by such a restriction.
 - Remove the prohibition if requested by a specific buyer.
 - Remove the prohibition in all instances.

- <u>Agricultural Management Plans (and practices)</u> – To be responsive to the survey feedback, we could reframe this as a tool for long-term dialogue, learning and relationship building. As such, practices will not be a mandated baseline expectation for participants in the working farmland easement program. Rather, practice changes will be: a) a good faith agreement realized via long-term dialogue, learning and relationship building; or b) financially incentivized and required in the instance of EMSWCD making a payment tied to specific practices. Consider new ways to frame up the language of the document (including the title) and any additional opportunities to enhance user-friendliness.

Something to consider is that in general most agricultural management plan requirements to date have been focused on ensuring farms meet the already established agricultural water quality rules.

Exhibit A

Soil Productivity and Soil Health - Impacts of Ball and Burlap/grow bag production

Headwaters Farm

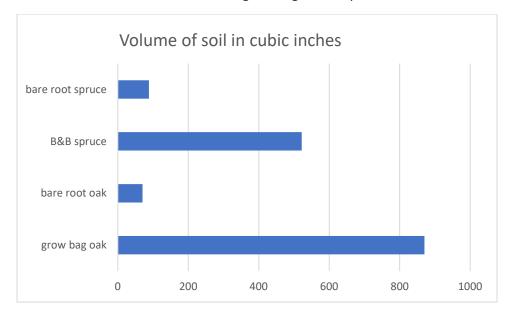
Measurements taken by a USDA NRCS soil scientist prior to our purchase of the property now known as Headwaters Farm, which was previously a nursery that grew conifers that were harvested as ball and burlap. The findings were:

- Much of the Powell Silt Loam had been lost to both erosion and harvest of B&B trees.
- The **original depth of the topsoil for this soil type ranges from 4-6 feet**. In some areas on the property, **the remaining topsoil was less than 6 inches deep**.
- Soil quality was very poor throughout the site.

Oxbow Farm

In November 2019, when the property known as Oxbow Farm was sold to a nursery that wanted to grow conifers and utilize "grow bags"¹, measurements were taken by EMSWCD staff comparing the amount of soil on the roots of trees grown in grow bags to the amount on trees harvested as bare root.

- A local nursery donated trees: a 3-year-old oak in a grow bag, a 3-year-old oak harvested as bare root, a 2 year old blue spruce harvested B&B and a 2 year old blue spruce dug bare root for comparison.
- The volume of the soil on the roots of each plant showed that **6-12 times more soil was removed** when trees were harvested B&B or in grow bags as compared with trees harvested as bare root.



¹ Grow bags are large bags that nursery stock is planted in. The growing medium can be anything, but most frequently is soil from the site the grow bags are utilized at. The concern here is with when native soil is used.

9/18/2023

Additional information:

- USDA NRCS will not provide Agricultural Land Easement (ALE) grants for ball and burlap operations.
- Three of the largest B&B producers in our area have confirmed that they bring soil in from other sites to replace what is lost to B&B harvest.
- Subsoil is not as productive as topsoil.
- From the Soil Science Society of America's website: "Soils are limited natural resources. They are considered renewable because they are constantly forming. Though this is true, their formation occurs at extremely slow rates. In fact, one inch of topsoil can take several hundred years to develop."
- We do still provide both technical and financial assistance to nurseries that utilize B&B and grow bags, just like we do for other types of farms in EMSWCD.