

**Thurston County Voluntary Stewardship Program
Workgroup Meeting #38 Summary
September 28, 2017
Washington State Farm Bureau offices**

The meeting was called to order at 3:10 pm by Chair Jim Myers

In attendance:

Jim Goche, Local Farmer
Jon McAninch, WWA, Cedarville Farms, TCFB
Bruce Morgan, TCFB/UPPL
Jim Myers, Nisqually
Rick Nelson, TCFB/Grange
Patrick Dunn, Center for Natural Lands Management
Karen Parkhurst, TRPC
Evan Sheffels, WSFB
John Stuhlmiller, WSFB
Robin Buckingham, TCD
Brad Murphy, TC

Staff: Charissa Waters

Welcome and Introductions: Chair Jim Myers opened the meeting and reviewed the agenda.

Public Comment: No comment was offered by members of the public.

Discussion of response letters from the State Conservation Commission (SCC) and the Board of County Commissioners (BoCC). The workgroup decided to focus primarily on points 1, 2 & 4. Question of legal precedence and whether or not there is liability to appeal the group's recommendations or decisions¹.

The group recognizes that they will now need to make decisions for adaptive management and implementation and are concerned with what happens when a small group of volunteers start implementing the plan. The group discussed the status of the workgroup and that it may not matter if they have county or state distinction, because they are an independent workgroup, not an agency of either. One of the main concerns discussed by the group was liability. They wondered if they could potentially get errors and omissions insurance like other committees and boards have, however they discussed that it is important that the status of the Workgroup be clarified first because it would be difficult to purchase a meaningful E&O Policy if they are not sure what their status and duties are.

The group discussed inquiring to both the county and the state to see if they can purchase errors and omissions insurance for the group. They want to ask what their liability may be and how they can be covered. The workgroup requested staff try to set up a meeting with the commissioner most involved with VSP, Evan Sheffels as a rep of the workgroup, and Travis Burns the attorney for Resource Stewardship. John Stuhlmiller offered to contact the SCC.

A motion was put forward to have representatives approach TC and the SCC and articulate the concerns on status and liability to seek further clarity and report back to the workgroup. There was a vote of 5 for and 1 against. The Workgroup discussed the option of writing a formal letter to the legislature asking for

legislative clarification of the issues and concerns raised in Chairman Myers' July 13 letter. Other workgroup members expressed that this is a local problem because other counties don't seem to have this issue with their VSP workgroups and thus it needs to be solved locally, not at the state level. The Workgroup agreed to start with conversations with TC and the SCC, rather than a formal letter, in regards to the specific concern of liability, which is one of the issues that they believe needs resolution prior to implementation of the VSP work plan.

Discussion of regulatory backstop. Questions from the group: Mark Clark, in his Aug. 30 response to Chairman Myers letter, indicated WCC's position is that counties that opted in to VSP effectively preempted enforcement of their Critical Area Ordinances on agricultural lands. This is in contrast to the position taken by a number of Work Group members, especially those from environmental groups, that a county's opting in does not preempt regulation but rather only requires that it use a voluntary process as the county's primary means of meeting CAO/GMA goals. If voluntary approaches fail, the county can then resort to regulation and enforcement. This is a legal question that must be resolved. WCC has refused requests by Chairman Myers' and others that WCC obtain an AGO on this subject.

What of the County Code applies on agricultural lands? What does the workgroup need to do to adaptively manage the work plan? Mr. Stuhlmiller explained that the statute envisioned adaptive management as a part of the process, and he believes that they wouldn't need to get approval again for these decisions and changes to the work plan. Other members of the Work Group questioned this position. Mr. Stuhlmiller continued, saying that compliance is based on the benchmarks and reporting and that the group needs to work within the constructs of the Work Plan that was approved by the SCC, which includes adaptive management, as well as the requirement of approval from the technical panel to consider codes to include and ways to show effectiveness of protection measures watershed wide. Mr. Stuhlmiller recommended letting the SCC know of adaptive management decisions, but that it would be voluntary to submit those. They just need to be able to show that they are meeting the goals and benchmarks of the work plan.

Discussion of what regulatory backstop means and at what level. There are federal and state backstops, but also the County CAO. It's up to the workgroup what county codes to include to meet the protection and enhancement goals of the work plan. The group agreed that the County should bring ideas to the workgroup of what codes to include and the workgroup would review and decide.

Discussion of non-participants vs participants. Questions: Can county regulations be used for non-participants? Would that be something that the workgroup can incorporate into the work plan with adaptive management to ensure participation goals are met and VSP is successful? Can it be parcel by parcel or does it have to be watershed wide? Statute refers to watershed level.

Summary: The Workgroup continues to be concerned about the issues which the Chair raised in his July 13 letter and believes that it needs answers before it can proceed with implementation of the VSP program.

Another question which needs resolution is the difference between "adaptive management" and amendment to the Thurston VSP Work Plan. Work Group members agreed that the VSP program needed to be flexible in its management but asked if substantive changes to the Work Plan had to be submitted to WCC, as the agency which initially approved it.

The Workgroup discussed adaptive management and incorporating what's appropriate and necessary to meet the goals and benchmarks of the work plan. The county staff will bring ideas of codes to incorporate – tentatively two meetings from now and can start with the most pressing items first (technical panels request at approval). The workgroup agreed and wants to be well informed so they asked staff to present potential codes to incorporate.

Stephen Bramwell gave a brief talk on the Deschutes Watershed Ag characterization project. Similar to VSP with data collection and watershed level monitoring. They aggregated the data in order to report to partners. This could be an example of protocol to use for implementation and monitoring. The protocol could be expanded to any natural resource issue. The group would like to have Stephen back to a future meeting to discuss this further and how it can help inform implementation and monitoring of VSP.

Charissa will do a Doodle Poll for the next meeting date.

Next Agenda

Report from staff, John Stuhlmiller and others on conversations with TC and SCC
Stewardship Plan Confidentiality
Implementation Plan

Adjourned at 5:13pm

ⁱ All opinions expressed here are not legal opinions and no legal advice was given.