



**Informational Paper
on
Critical Area Protection
through the
Voluntary Stewardship Program
provided by ESHB 1886**

Prepared by:
Department of Community Development
621 Sheridan St., Port Townsend, WA

August 24, 2011

INTRODUCTION

Interested in local farms and how farming practices may impact critical areas, such as wetlands, aquifers, flood areas, and fish and wildlife habitat? Have you ever wondered if there are alternatives to regulations for protecting and enhancing habitats in Jefferson County while encouraging local agriculture activities? Recent state legislation provides counties with the opportunity to be involved in a new approach for protecting agriculture and critical areas. Jefferson County must determine whether or not to participate in the state's new Voluntary Stewardship Program.

The question before the public is whether Jefferson County should participate in this program or update our critical areas ordinance in regards to farming activities by the traditional method (i.e., through prescriptive standards meeting requirements of the Growth Management Act). The County Commissioners must make this decision no later than January 22, 2012. Generally, this decision is referred to as either choosing to "opt in" or "opt out" of the Voluntary Stewardship Program.

HISTORY

Starting in 2007, the Ruckelshaus Center initiated a process to examine the conflicts between agricultural activities and critical area ordinances implemented by local governments. This process included fact-finding and stakeholder outreach. The Ruckelshaus Center worked with agricultural, tribal, and environmental interests to identify a new approach to address the conflicts that can occur between conducting agricultural activities and providing protection to critical areas. Emphasis was placed on maintaining and improving the long-term viability of agriculture, including reducing the conversion of farmland to other uses, while enhancing critical areas. The Ruckelshaus process concluded in late 2010 with formal recommendations to amend the Growth Management Act.

Subsequently, in 2011 the legislature amended the Growth Management Act by passing ESHB 1886 to formalize the recommendations developed in the Ruckelshaus process. Specifically, a Voluntary Stewardship Program was implemented through state law. These revisions to the Growth Management Act became effective on July 22, 2011. The new legislation provides counties a choice between methods to protect critical areas where agricultural activities are conducted. The Voluntary Stewardship Program seeks to focus and maximize voluntary incentives for good riparian and ecosystem stewardship. The Voluntary Stewardship Program intends to be an alternative to prescriptive regulatory schemes developed through traditional Growth Management Act approaches for updating development rules and standards.

Opt out –

The traditional approach to update our Critical Areas Ordinance would be used if the County decides to opt out. The traditional approach starts with Community Development planning staff reviewing and, if necessary, proposing draft revisions to the existing code consistent with the Growth Management Act. Once a staff draft code amendment package is prepared, it is brought before the Planning Commission for a public hearing and subsequent Planning Commission recommendation to the Board of County Commissioners. The County Commissioners would hold a public hearing and would make a legislative decision after consideration of the oral and written testimony in view of the legal requirements from the Growth Management Act. Any party in opposition to this decision could appeal the adopting ordinance provisions to the Western Washington Growth Management Hearings Board.

Opt in –

If the County Commissioners choose to participate in (or opt in to) the Voluntary Stewardship Program, they must consider a number of issues. First, which watersheds have farming activities? What is the economic value of crops and livestock in these watersheds? Are these watersheds at risk for conversion to other uses? How important are the salmon resources in the watersheds where farming is taking place? The Commissioners must weigh the public interest in such a program as well as the presence of leadership within the watershed that is representative and inclusive of interests of the watershed.

Second, as funding becomes available the Commissioners would need to designate a watershed group to develop a Voluntary Stewardship Program work plan. Previous work prepared through watershed planning efforts or established farm plans generated through our local conservation district can be used by the watershed group in formation of the work plan. The work plan must protect critical areas while maintaining the viability of farming in the watershed. The work plan would include goals and benchmarks for the protection and enhancement of critical areas. Measurable benchmarks would be evaluated within five years to determine if critical areas are adequately protected using this voluntary, incentive based approach.

When a County is selected to participate in the Voluntary Stewardship Program and has received funding, a watershed group is formed and an entity to administer the funds is identified. A county may designate itself, a tribe, or another entity to coordinate the local watershed group. The principal responsibility of the watershed group is to prepare a work plan that will protect critical areas while maintaining the viability of agriculture in the watershed. The watershed group would examine applicable water quality, watershed management, farmland protection, and species recovery data and plans. The watershed group would seek input from stakeholders, including farmers, tribes,

local environmental groups, and agencies. The watershed group would develop goals for participation of agricultural operators as well as provide technical assistance to farmers. Overall, the watershed group would prepare the work plan with measurable benchmarks, which would be submitted to the State Conservation Commission for review and approval in lieu of a formal development regulation provided in the Jefferson County Code.

Work plan –

Under the Voluntary Stewardship Program, landowners may be required to prepare a farm plan under the work plan submitted to the State Conservation Commission. Farmers implementing individual stewardship plans on their property, which are consistent with an approved work plan under the State Conservation Commission, would be presumed to be in compliance the Growth Management Act for protecting critical areas. If the watershed group determines that additional or different practices are needed to achieve the work plan's goals and benchmarks, the farmer may not be required to implement those practices, but may choose to implement the revised practices on a voluntary basis. The farmer could be eligible for funding to revise the activities. A landowner may also withdraw from the program, but could be subject to enforcement actions for failure to protect critical areas. The program is not intended to supplant the ability of the farmer to work cooperatively with our local conservation district. Nor can a farmer be required to discontinue agricultural practices legally existing prior to the County entering the program.

The State Conservation Commission administers the Voluntary Stewardship Program. The Commission established a technical panel to review the work plans to be submitted by watershed groups working on behalf of each County. The technical panel is comprised of the Director's or their designees from the State Departments of Fish and Wildlife, Agriculture, Ecology and the Conservation Commission. The technical panel will review the work plans and determine if the work plans adequately protect critical areas. Additionally, a statewide advisory committee is being formed to advise the State Conservation Commission and other agencies involved in development and operation of the Voluntary Stewardship Program.

Funding -

Participation in the Voluntary Stewardship Program is contingent upon funding to be provided through the State Conservation Commission. If a County that opts in to the Voluntary Stewardship Program is selected to participate in the program, the Conservation Commission will administer the available funding for counties to implement the program. Funding is to be provided which can be used to develop strategies and incentive programs as well as to establish local guidelines for watershed stewardship programs. Current funding estimates for program development and administration per county are \$150,000 for year 1 of the

program, \$100,000 for years 2 and 3 of the program and \$120,000 in years 4 through 6 of the program for selected counties.

Public involvement –

Comments from the public will assist the County Commissioners in determining if Jefferson County should opt in or opt out. As part of the opt in/opt out decision, the County Commissioners will have considered the following by January 22, 2011:

- Does Jefferson County want to form a watershed group tasked with preparing a work plan for submittal to the State Conservation Commission?
- Should all watersheds in Jefferson County be included if the County Commissioners opt in, or should some agricultural activities be reviewed under the traditional GMA approach? If so, which watersheds?
- If the decision is to opt in, which watershed or subbasin should be considered a primary watershed for the work plan?
- Can the County complete the tasks within the anticipated grant amounts for the first six years?

The County Commissioners will conduct a public hearing on participation in the Voluntary Stewardship Program, Monday, September 19, 2011 at the Jefferson County Superior Court Room starting at 6:30 p.m. Both oral and written testimony will be taken at this time.

Written comments in regards to the Voluntary Stewardship Program option to protect critical areas while conducting agricultural activities are to be submitted to the County Commissioners by September 23, 2011:

- BoCC - VSP Comments, PO Box 1220, Port Townsend, WA 98368; or by
- JeffBoCC@co.jefferson.wa.us

Additional information is available online:

RCW 36.70A Viability of Agricultural Lands:

Deferral Requirements

<http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A.560>

Ruckelshaus Center Examination & Report

<http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A.5601>

Growth Management Hearings Board – Matters Subject to Review
<http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A.280>

Comprehensive plans — Review procedures and schedules — Amendments
<http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70a.130>

ESHB 1886, effective date – July 22, 2011
<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=1886>

The State Conservation Commission – Voluntary Stewardship Program
<http://www.scc.wa.gov/>

Jefferson County Code, Critical Areas Ordinance (JCC18.22.010) and
Performance and Use-Specific Standards for Agricultural activities and accessory
uses (JCC 18.20.030)
<http://www.codepublishing.com/WA/JeffersonCounty/>