

Voluntary Stewardship Program Joint Statewide Advisory Committee & Technical Panel Meeting

Tuesday, September 27, 2016
8am – 12:00pm

Facilitator – Bill Eller, VSP Coordinator, WSCC

JOINT STATEWIDE ADVISORY COMMITTEE AND TECHNICAL PANEL MEETING

Attendees:

Lacey: Scott Kuhta, COM; John Stuhlmiller (SAC); Evan Sheffels, WFB; Lauren Driscoll, ECY (TP); Brian Cochrane, WSCC (TP); Amy Windrope, WDFW (TP); Kelly McLain, WSDA (TP); Alicia McClendon, WSCC; Linda Lyshall, SJICD; Matt Muller, WDFW

Colville: Bill Eller, WSCC; Commissioner Wes McCart, Stevens County (SAC)

Webinar only: Brandon Roozen (SAC); John Small, Anchor QEA; Nora Schlenker, Carmen Andonaegui, Don Brigham, Michelle Cooke, Charissa Waters, Renee Hadley, Adam Cares, Dana Quam, Angie Hubbard, Vivian Erickson, Greg Abramson, Kara Symonds, Kim Lyonnais, Michael See, Graham Simon, Damien Hooper, Andy Dunau, Jennifer Thomas, Kelly Rupp, Bradley Johnson, Ryan Walters, Genevieve Dial, Anna Lael, Neil Aaland, Elsa Bowen, Robert Hansen, Marie Lotz

- 8:15 am: VSP Program Status
- Budget – update from Commission’s regular meeting
 - SAC membership update
 - VSP media packet
 - Other issues

Bill Eller gives an update on each item. VSP Media packet is available on the web site.

- 8:30 am: Work Plan Issues Discussion
Must a work plan “address” all critical areas? What does it mean to “address” a critical area? Review Technical Panel statutory requirements for work plan evaluation. What’s in, what’s out?

Bill Eller introduces this topic. Says this was a continuation of the discussion from the last meeting.

Lauren Driscoll asks about what is in the statute.

Amy Windrope reads from the intent portion of the VSP statute (RCW 36.70A.700). Flexibility, but seems like a step too far.

Brian Cochrane says that the job of the work plan (WP) is for critical areas to be protected. The TP must be convinced that this can be done through voluntary or non-voluntary means. The work groups (WG) must provide some documentation to show this.

Amy Windrope says the WP must show the work.

Lauren Driscoll asks what is implementation in the critical areas? What does monitoring look like.

Commissioner McCart says that if a county relies on regulations, is agricultural viability (AV) still addressed?

A general discussion ensues about AV in the watershed and that the WP must convince the TP that both RCW 36.70A.720(1)(a-l) are being addressed as well as AV.

John Stuhlmiller says that the WG's must show their work / demonstrate that they have at least looked at it. It is Ok to use a mixed regulatory / non-regulatory approach. WG can decide how it wants to present the information. The County is not the decision maker. Skagit is a case in point. The County has a strong idea about what has to happen. WG will forward the WP to the Conservation Commission (SCC).

Amy Windrope asks how the county forms the WG?

Josh Stuhlmiller says the county gets to decide.

Commissioner McCart says the question for the TP is if a county like Skagit wants to rely on regulations in place. What level is relied on?

Amy Windrope says that the assumption of adequacy in the Growth Management Act (GMA) is the same as here. The assumption is that the regulation is adequate for critical area (CA) protection. Other part of VSP – AV. How will that get shown?

Commissioner McCart says that is valid. We don't want the TP to second guess the county regulation. If the county says the regulation protects CA, that should be OK with the TP.

Brian Cochrane says equating the regulation to protection is not something he is sure he can agree with. There are lots of regulations on the books, but they don't all show improvement. Monitoring needs to happen. He is not convinced.

John Stuhlmiller says that as of July 2011, if the ordinance is in place before then, then it is defacto valid.

Brian Cochrane says that biology differs from laws.

John Stuhlmiller says protect and enhance are two different sides. Protect means a valid regulation (CAO) in place – that is good enough to protect. What must show in monitoring.

Commissioner McCart says if the WG uses a county regulation, we don't want to second guess the board.

Amy Windrope says if the regulation adequately protects CA, how does it address AV?

John Stuhlmiller says that this is different than the GMA. AV is part of the VSP analysis. How does it enhance AV?

Commissioner McCart says GMA requires maintain and enhance in GMA it doesn't deal with AV.

John Stuhlmiller says Stevens County is an example. A regulation addresses the CA. WG must still address AV in the WP.

Lauren Driscoll says that looking at Skagit, there is one paragraph on regulatory certainty.

John Stuhlmiller says a little bit further than what is in Skagit.

[TP & SAC take a break to review an email that Skagit County sent the included a follow-up letter/memo from their Aug 31st presentation. The letter/memo was displayed on the webinar for attendees to view].

Amy Windrope says no elements of protection is voluntary.

John Stuhlmiller says this is a response to the Ag buffers conservation.

Amy Windrope says there are not voluntary elements in the protection side. Can we use regulations to protect in VSP? If no, then what can be protected? How to go from some things but not all.

John Stuhlmiller says it fails to do what is in the intent section of the VSP statute (RCW 36.70A.700).

Brian Cochrane says that RCW 36.70A.700(g) is the standard. Not relying on that. Relying on regulation. Can be part of, but not primary or sole method.

Amy Windrope says that is fair, but not the TP's mandate. The TP must look to RCW 36.70A.720(1)(a-l) and meet those criteria.

Commissioner McCart discusses RCW 36.70A.720(1)(e) – benchmarks.

Brian Cochrane says just because a regulation protects doesn't mean the benchmark is being met.

Commissioner McCart says that not testing the regulation for validity – must pick a benchmark for measuring.

John Stuhlmiller says that the riparian buffer – look at new memo – not require buffer, but can't move it.

Commissioner McCart says that at 5 or 10 year mark, the WG must show that in monitoring, the buffer you have is protecting CA's.

John Stuhlmiller agrees. Says an imaging system will be used in Skagit. But how does that maintain AV? Regulatory certainty?

Brian Cochrane says how to show regulatory certainty shows AV....

Commissioner McCart uses a jail example. Regulatory certainty – have they explained how AV will be met?

John Stuhlmiller asks what is the different way to get some result, beyond regulation that already exists?

Commissioner McCart says GMA isn't certainty. Must be updated and reviewed – how is that certainty?

John Stuhlmiller agrees. It lacks information. It lacks certainty.

Amy Windrope asks if we want to provide any feedback to Skagit.

John Stuhlmiller says part of the problem is the SAC v. TP aspect. Need more membership on the SAC. Skagit has asked for feedback.

[Kelly McLain not present yet, AV document discussion put on hold]

10:15 am: VSP TP Timeline and Decision-making Framework documents

VSP Timeline Document discussed

Bill Eller introduces the discussion on the VSP timeline document. There is some discussion about how counties are confused about the fiscal year deadline and WP deadline timelines. The consensus of the group is that the Commission should write a letter to all the counties explaining the differences.

Commissioner McCart says if there is no funding, the WG should be put on hold.

John Stuhlmiller says could be a pause, a timeout. Planned completion of WP beyond the end date.

Commissioner McCart says the timeline document is a good document.

John Stuhlmiller says that a letter from the Commission would take pressure off the counties and WG's. They would understand they have more time to complete the WP. An added piece is that likely additional resources to those who don't complete by the end of the current FY. There should be no liability to counties if the WP isn't finished by the end of the current FY. They will want to take advantage of that period and timeline.

Bill Eller says that he will do a contract review as this problem has come up recently. He would work on some kind of timeline on when things need to get done by.

John Stuhlmiller says there is no legal authority to get the WP done before the statutory timeline.

[Kelly McLain joins us]

Bill Eller summarizes the VSP Framework document and how the discussion has proceeded so far on that draft document. He goes through the new edits to the document briefly, line by line.

Kelly McLain felt that the summary accurately reflected where we are now.

Kelly McLain says that Skagit is expecting something in writing. There is big holes in the Skagit plan.

John Stuhlmiller says she missed that discussion. The TP can't get into deciding during an informal review. The SAC can have that conversation. It would be better if the SAC wrote that letter. The role for the SAC is the provide that direction. Don't want the TP to do that. Don't want the TP responding.

Commissioner McCart says the SAC could do an informal review process.

Amy Windrope says the TP came up with its own guidance.

John Stuhlmiller says we should figure out during an informal review what is OK to discuss and what isn't OK to discuss.

Amy Windrope says we should be able to talk about anything.

Debate ensues about what the TP can talk about and when and if the SAC should so it or the TP.

Commissioner McCart says the TP could review or the SAC could review. Could the SAC give more detailed guidance than the TP?

John Stuhlmiller says neither should say "you will have a successful plan if..." Must have a discussion in general sense. Skagit was different because of where we are. Procedural or process piece from SAC.

RCW 36.70A.745(2) is the mandate for the SAC.

Brian Cochrane says if the WP doesn't meet the spirit of the VSP, can the SAC get involved to do that. Slippery slope issues.

How to help Skagit?

Commissioner McCart says for Skagit, look at intent of law. What meets the counties needs? If not meeting content of law, we should be able to give county direction.

MINUTES CONTINUE ON NEXT PAGE

John Stuhlmiller says the Skagit example. TP and SAC provide response in writing, through the SCC. Thanks for memo. We would like to draw your attention to 1, 2, 3 of RCW 36.70A.700. So, make sure all elements of the statute, including the intent section, are addressed.

Amy Windrope says Skagit will say that RCW 36.70A.720 and we should be done. Can't make intent part of criteria.

John Stuhlmiller says the TP, SAC and SCC look at all the elements of the statute. Intent section in part of the statute. If only VSP to not be sued.

Amy Windrope says look at RCW 36.70A.725.

Must have both CA's and AV.

John Stuhlmiller says the TP has a test.

Amy Windrope says don't want to over direct the county. Sending letter to county will direct them. VSP constrains the state from dictating at the local level.

RCW 36.70A.725(2) CA and AV.

John Stuhlmiller wonders how to communicate to all counties to read the whole statute. What does that mean? County consultants.

Commissioner McCart says the SCC could write a letter to all WG's. Read the entire statute. Comes from SCC. Intent elements are there. Not just listing RCW 36.70A.720(1)(a-l). No plus or minus – comments on that.

Read the bill – not just the statute.

Brian Cochrane says the SAC could recommend to the SCC.

Brandon Rosen says any input would be good. Focus has been on RCW 36.70A.720(1)(a-l).

Amy Windrope says we should break then do monitoring.

[Bill Eller checks dashboard and finds Ryan Walters from Skagit County has input some questions / explanations on it]

Bill Eller presents to the group a summary of Ryan Walter's statements:

- the statute's intent isn't controlling.
- buffer – farming already occurring is OK. No cutting trees. Leave vegetation if no farming.
- CAO can't be modified with response to the CA's.
- WP has statutory references that support their plan.

Further discussion revolves around what the SCC should put in their web page once WP's start coming in. Public notice.

11:00 am: VSP monitoring

Amy Windrope provides a summary of the state agency work done so far on monitoring. Presents the document emailed earlier that morning.

Amy Windrope says the intent was to help WG's think about monitoring – pitfalls and lessons learned. Themes to consider.

Kelly McLain says it could be helpful. Counties still in early stages.

John Stuhlmiller says tenor of document is good. Be careful – not only path forward. Happy with format. WG meetings – they are still not really there. How to measure is still a year away for most. Obvious stuff may be inappropriate. Conversation about what is available.

Commissioner McCart says just seeing the document for the first time now. Protecting functions and values. Should be stated upfront. Water temperature is easy to monitor, but not helpful. Must look at functions and values.

Monitoring is in the statute.

General discussion about monitoring ensues.

Kelly McLain asks what of the state's monitoring programs will work for us?

John Stuhlmiller asks do you know what you are looking for? Are you ready to talk about monitoring when you start the discussion.

Brian Cochrane says when and how to think about monitoring. You know you should start talking about monitoring when.....

Evan Sheffels says Ag lands and Ag activities – monitoring should be focused on that and on only the \$125k a year. Not site monitoring of individual farms. That is not the intent. CA's intersect with ag activities – monitoring should focus on that.

Scott Kuhta says Clallam County (non-VSP) – VSP like – they will monitor. Risk assessment on CA's. High/low risk assessment. Monitoring will be how many change from high, medium, and low over time.

Kelly McLain says not dissimilar to what we've talked about. Can measure participation and workshops as it relates to decreasing risk.

Amy Windrope says participation is not monitored in the document.

Brian Cochrane says cost is a factor.

Amy Windrope says likely benchmarks from the WP's. should agencies try to match the benchmarks with existing monitoring efforts? How to bring this up with the WG's?

John Stuhlmiller says Chelan and Thurston – look to those WP's. What relates to Ag; helpful from the agencies to have a list of what is available in the county. Create a "help line" of what monitoring is available in the county.

Kelly McLain agrees that would be helpful.

Amy Windrope says she supports state government in their monitoring. Put in monitoring – don't want to be passive.

Brian Cochrane says still want individuality.

Kelly McLain says lots of participation by monitoring agencies. Need to wait until benchmarks are set by the counties. Don't want to be totally passive, but must work with counties.

Evan Sheffels says there are two separate questions – benchmarks versus current measures (problems).

Amy Windrope says don't need to monitor non-benchmarks.

Evan Sheffels says need to monitor but not indicators. Water temp isn't the best goal or benchmark. Need to know where to do things.

Linda Lyshall says adaptive management plan will help. Like that approach.

Kelly McLain says that Ag intersect in VSP might drop some statewide monitoring programs. Watershed by watershed.

Brian Cochrane says state versus local monitoring - goals may be different.

Kelly McLain agrees.

Timothy has a number of questions

(1) is VSP success programmatic? Is it defined in statute beyond meeting the benchmarks in the county? If yes, then what does that mean in terms of suggestion benchmarks? Is there more specific language available to meet programmatic goals?

(2) Process v. biophysical benchmarks? If behaviors change, but not the on the ground improvement, is that enough?

(3) functions v. values – what do values mean? Functions and values are not defined. The county sets benchmarks. Assuming consistent with statute, agency programmatic values? Do goals and benchmarks need to be approved at the statewide level? Are their sideboards?

11:35 am: VSP Ag Viability document
Kelly McLain, WSDA

Kelly McLain summarizes the AV document. She goes through the document.

Bill Eller suggest that we all take time to digest and make comments between now and the next meeting, with the intent that we could release the final document at the next meeting.

Amy Windrope says what is the nexus to the CA's?

Kelly McLain says look at #3. The intersect is there. Also SWOT analysis. What is AV? How can the VSP help with that? Benchmarks to address – could also and maintain CA.

Evan Sheffels says not top down of what AV is – have them tell us – bottom up. Can do different ag sectors.

Kelly McLain says NRCS practices and AV look different in different counties (irrigated v. non-irrigated).

Evan Sheffels says VSP checklist for different ag sectors – technical assistance provider to use. AV and CA – things good for.

Amy Windrope says help WG's understand how to walk through AV analysis and CA's.

Evan Sheffels says different sectors have different needs and different CA's.

Kelly McLain says it's a starting point.

John Stuhlmiller says need something. Chelan and Thurston came up with definitions.

Bill Eller says we should hold this over to the next meeting and send out the draft.

Commissioner McCart says need to think about this document as an industry specific setting.

11:45 pm: Future meeting topics, & future actions; next meeting

Next meeting decided to be on November 9, 2016, from 9am-3pm in same locations and with webinar.

Bill Eller to provide all docs that were presented today on web page.

12:00 pm: Adjourn