

Voluntary Stewardship Program Technical Panel Meeting

Friday, March 30, 2018
8:00 am – 3:00 pm

Facilitator – Bill Eller, VSP Coordinator, WSCC

Attendees in Lacey: Brian Cochrane, Lauren Driscoll, Kelly McLain, Terra Rentz, Alicia McClendon; Ron Shultz; John Stuhmiller, Evan Sheffels, Ben Floyd, Elsa Bowen, Mark Stedman, John Small, Anna Lael; Aaron Rosenblum, Scott Kuhta, Brad Murphy,

Webinar: Brent Dixon, Barbara Adkins, Renee Hadley, Ron Wesen, Paul Jewell, Jennifer Nelson, Brandon Roozen

8:00 am: Opening Comments, Introductions, Session Objective & Agenda

8:05 am: VSP Program update (if any) – Bill Eller, Ron Shultz, WSCC

Bill Eller gave a brief update. Next meetings – April 13 – Benton – 2nd review & vote; Columbia informal; April 27 – Asotin – 1st review; Kittitas, Lincoln, Douglas – 2nd review & vote. Asotin County submitted their work plan today.

8:15 am: SAC VSP update and issues

- Discussion: In a county that has opted-in to VSP, how is old and new agriculture treated, under VSP or the CAO?

Ron Shultz begins the discussion of how is new agriculture dealt with in VSP and the CAO.

Scott Kuhta from the Department of Commerce says the GMO WAC's were updated to integrate with the CA guidance. VSP counties participating in VSP – reference and describe VSP in their CAO and ensure their development regs are in line with their VSP work plan. COM close to issuing a guidance handbook on CAO's related to this. We are getting questions about how the existing CAO is dealt with when VSP plans are approved. Some counties are even unsure of how the Shorelines Management Act applies.

Ron Shultz says we are using the Definition of AG activities in SMA – 90.58.065. The Commission's take on the definition is that there isn't a temporal aspect to it. SMA has other aspects of time in in, but not how SMA treats agriculture. If a landowner does not do a VSP individual stewardship plans, that can't be held against the landowner. However, the VSP work group must account for landowners participating or not participating as it relates to meeting the goals for protection and enhancement. Can agriculture landowners engaged in VSP who does not do an individual stewardship plans and also impacts a critical area? How to regulate them? Can they be regulated under VSP? No. The goals are related to the watershed and the overall areas related to the critical areas.

Agricultural activities – old or maintain – under VSP.
Agriculture activities – new – under the CAO.

Replacing a facility in the same footprint would be under VSP. If not in the same footprint, then under the county development regs.

Lauren Driscoll says clearing and grubbing in preparation for agriculture isn't an agricultural practice under the definition.

Kelly McLain discusses an example in Benton County – clearing. If the ground is completely unutilized for agriculture prior to being put into production.

John Stuhlmiller says the VSP Statewide Advisory Committee needs to put out a policy advisory on this. When the legislation was created, new agriculture not specifically included or excluded. What is the shield of VSP? If putting a drainage ditch on a farm, what regs apply? Clean Water Act. VSP shouldn't work harder or not hard enough. Example of Benton – working on that issue with grading and filling. VSP clearly allows any agricultural activity under it. All the other statutes are still in play. The Thurston question – what to do with current CAO and with a non-ag CAO. Thurston has two CAO's – base code and agricultural code. The base code existed in 2011 and has been updated. The Agricultural code stays at 2011. The Agricultural code isn't contemporary to the base code. Can you rely on new things in your CAO or only the old?

Ron Shultz says clearing and grading is incident to agriculture activity and should be covered by VSP. The broader concept of VSP is that it applies to the totality of the CA's in the jurisdiction. If that one area is cleared and graded, does it matter that it impacts that one CA? The work plan is supposed to take that into account. If you are meeting your goals, don't fail out of VSP.

Lauren Driscoll wonders why a clearing and grading ordinance wouldn't apply.

Ron Shultz says a VSP doesn't supersede the ordinance.

[Discussion about new agriculture and old agriculture and how the VSP and CAO's interplay. A number of examples and scenarios are discussed. Existing structures, existing practices. Development regulations doesn't supersede agricultural activities under VSP. Existing facility or agriculture versus new facilities or agriculture].

Ron Wesen – vineyard taken out, housing put in. The work plan would need to adaptively manage for that.

Ron Shultz provides a scenario – if want to clear that land and put in a vineyard, would development regs apply or not apply. No previous agriculture use to that land. Converting land to agriculture activities – covered under VSP or development regs?

Kelly McLain says development regs until developed into agriculture, then VSP would apply. Land that has never been in agriculture would need to have the development regs apply first, then can come into VSP. Unless the local jurisdiction deals with that in particular.

Terra Rentz says it would create a weird loophole.

Ron Shultz says some developers might try to put in an agriculture activity first to get around the development regs and then put a housing development in.

Kelly McLain asks if the goal of the discussion to write additional guidance to include in the Department of Commerce guidance document?

Scott Kuhta says guidance document will go out in mid-April, wrapped up in June. We will have draft language for counties to look at. It is guidance, so they don't have to follow it. CAO's can be very complex (Thurston) to other counties whose regs are not so complex.

[General discussion - if you are going to expand or go into areas where there isn't any agriculture, you would be subject to existing county regs until agriculture is established and then VSP would apply. If agriculture isn't allowed by the development regs (has buffers), then can't put agriculture in that location].

Ron Shultz says another issue would be establishing agriculture in on area, then expanding into another area later (maybe that is a critical area). Existing agriculture was the concern when VSP was

created. The context of VSP was existing agriculture doing voluntary mechanisms with agriculture to protect CA's.

John Stuhlmiller says that on balance, is the protection standard being met? If the whole county is covered in VSP, the VSP work plan will cover it – including land conversions from sage brush to agriculture is covered under VSP. That will be covered or they fail out. If 100 acres of sage brush is converted, and it drops below the 2011 baseline, they fail out of VSP. The guidance document should say the decision is at the county level, the statute doesn't specify. Here is what is in the statute, here is what isn't. County decision. If the county can protect the ca to the 2011 standard, then the county should be allowed to do so.

Kelly McLain says each county can decide for itself and choose many different paths on how to address it.

Brandon Roozen – duty of county to maintain the viability of agriculture. County development regs and/or VSP must factor this in.

[More general discussion about agriculture. Some CAO's prohibit the conversion of CA's to agriculture, others don't.]

Kelly McLain - Will the guidance go out for public comment?

Scott Kuhta - Yes, state agency folks, then county contacts. Heather Ballash is also a contact.

John Stuhlmiller - Is there a mention of deferring to the Commission and the TP and SAC in the guidance?

Scott Kuhta says that we will take a look at that.

John Stuhlmiller - VSP – Thurston example – it has its own separate agriculture CAO. What ability does a county have apart from the VSP county work group to change or modify existing CAO's as they apply to agriculture? Because, modifying CAO's are prohibited until the work plan is adopted. What can the county do a part of the work group? Once the work plan is adopted, does the shield drop away?

[General discussion - counties would say we are a VSP county, and agriculture activity are covered (list definition). If you don't fit in one of those AG activity definitions, you are not in VSP. The CAO would cover those activities that are not AG activities covered in VSP. If in, follow VSP. If out, follow the updating CAO. County can rely on "existing" CAO's – not old, or new. Existing date is based on when they were frozen when the VSP statute was adopted – June 22, 2011.

John Stuhlmiller says the Statewide Advisory Committee Policy Advisory should say – if a landowner chooses to not participate in VSP and not do an individual stewardship plans doesn't mean they are regulated under the CAO, they are still covered under VSP and other development regs would still apply.

Ron Wesen asks about loss of agriculture lands in the county.

John Stuhlmiller says that would be something that would be discussed in the agriculture viability analysis in the work plan.

Ron Wesen says that current agriculture lands protected from critical areas is important.

1. Policy advisory – 2 issues – existing and new agriculture and the Thurston issue.

2. COM Guidance -

9:00 am: First formal review of the Lincoln County work plan.

Bill Eller introduced this topic. Review where we are. Submitted 3-1-18. Have until 5-30-18 to finish the Technical Panel review. This is the first review meeting we've been able to have. No public comments received. Next review set 4-27-18.

Elsa Bowen – introduces the work plan and group.

Mark Stedman – tribes asks to participate.

Ben Floyd begins the presentation. Says Lincoln County has an old CAO. County PowerPoint presentation tracks through RCW 36.70A.720 (1) (a)-(l). 600 producers in the county. Received some late comments on the work plan that will be incorporated into the final version of the work plan. Held public meetings in fall 2017.

Lauren Driscoll asks about outreach – will it be tailored to each unit.

Elsa Bowen says no.

Ben Floyd says some will.

Brian Cochrane asks about producer outreach and the 10% number. The number should be based on what is necessary for plan effectiveness, not just a number to meet.

John Small covers goals and benchmarks in Section 5.

Lauren Driscoll asks about monitoring of critical areas. Lincoln uses an indirect measure by bundling it into functions. See sentence on page 62 at the bottom. Monitoring indicators provide important information, but not determinative of VSP success. Monitoring may make a change to your benchmarks.

Ben Floyd says the data isn't focused solely on critical areas protection. We look at practices as well and use that for adaptive management.

John Small says it is important to understand what the monitoring is showing us.

Kelly McLain says that sentence may need to be rewritten – “not exclusively indicators” – all the data will be used to determine what to do.

John Small continues with goals and benchmarks.

Lauren Driscoll says not to rely on NWI.

Ben Floyd says we will not rely on NWI.

John Small says there are issues with aerial imagery depending on when during the year the pictures were taken.

Lauren Driscoll says the ground verification will be good to help with that.

John Small continues with adaptive management. Talks about the statement related to assisting state agencies with monitoring – will add it if it is not there in Section 5.3.

Lauren Driscoll ask about the statement of evaluation of the work plan – 10 years versus on-going.

Ben Floyd says “and will continue beyond that period” will be added.

John Small says on Table 6.4 in the schedule – “and beyond” will be added there and before the table.

Kelly McLain asks to add in section 6.3, page 75, something related to reporting – “any other reporting would be met if required in the future.”

Lauren Driscoll and Kelly McLain like the addition of the budget in the work plan.

Lauren Driscoll – page 67 – indirect monitoring – paragraph 2a – “indicators” – last sentence – should that read “objectives” rather than indicators.

Ben Floyd says no, we were talking about indicators there.

Terra Rentz – WDFW comments (Jason) were clearly incorporated into the work plan.

Lauren Driscoll asks about Page 11, Table 2.1. The numbers don’t add up.

Ben Floyd will make that change.

[The Technical Panel will try to get written comments in by April 6, and the Commission will process those during the early week April 9-13 and provide them to the work group, then the work group will set a work group meeting during the week of April 16-20 and get any changes or comments back to us asap and the next meeting is set April 27th.]

10:00 am: Break

10:15 am: First formal review of the Kittitas County work plan.

Bill Eller introduced this topic. Review where we are. Submitted 3-1-18. Have until 5-30-18 to finish the Technical Panel review. This is the first review meeting we’ve been able to have. No public comments received. Next review set 4-27-18.

Anna Lael – Kittitas County CD. Introduces the work plan and work group process, provides some background and history related to procedure and meetings.

Kelly McLain says each work group meeting she attended was great – lots of good discussion.

Anna Lael says April 1 and 15th are the times when irrigation is turned in in the county.

Anna Lael begins the PowerPoint presentation. Talks about the overview of the county and agriculture viability. Yakima Integrated Plan applies to a large portion of the county. 72% public lands in the county – forest lands, Yakima Training Center, Teanaway Community Forest. 15% is agricultural lands – split between irrigated and range land. Will use community planning areas.

[General discussion on unique agriculture in the county]

John Small takes over the presentation of the RCW 36.70A.720 (1) (a)-(l) elements of the work plan. Had good tribal input in the work group.

Anna Lael says we had difficulty with getting environmental folks to be able to attend – they are interested, but don’t have the resources to attend meetings.

John Small continues the presentation.

Kelly McLain asks about Table 5.10 – indicators. 303(d) list – category 2's – tracking those. Category 2 is a level of concern and that would be good to watch. Add it to the monitoring method. A change in the category 4 listing might not tell you a lot. Category 2 is a better area of concern for monitoring purposes. Will put it in my comments.

John Small agrees. Continues with presentation. Baseline monitoring – Section 5.

Lauren Driscoll asks about Table 6.1, page 82 – ongoing monitoring statement to be added to the footnote there.

Lauren Driscoll – page 64 – anticipated disenrollment rate. Actual data. Might increase. Line 944.

John Small – we expect that to decrease, but it could increase.

Brian Cochrane asks about wind erosion and how that is addressed.

Anna Lael says we are looking at erosion more for steep slopes. NRCS has a program and we are working with them on that.

John Small – goals for CARA's and geo hazard areas. Geo hazard areas exclude agriculture. The plan still includes goals and stewardship practices. We looked at the existing CAO and the proposed CAO and where the model ordinance may go in the future. We didn't leave it out.

Anna Lael asks where air quality would be addressed.

Kelly McLain says Table 5.4 might be the best place.

[The Technical Panel will try to get written comments in by April 6, and the Commission will process those during the early week April 9-13 and provide them to the work group, then the work group will set a work group meeting during the week of April 16-20 and get any changes or comments back to us asap and the next meeting is set April 27th.]

11:30 am: Lunch

12:00 pm: First formal review of the Douglas County work plan.

Bill Eller introduced this topic. Review where we are. Submitted 3-1-18. Have until 5-30-18 to finish the Technical Panel review. This is the first review meeting we've been able to have. No public comments received. Next review set 4-27-18. Previously saw this work plan during an informal review on 1.12.18.

Aaron Rosenblum begins the presentation for Douglas County. Changes highlighted from the January 2018 informal review presentation. Work plan for the whole county. Fish and wildlife habitat is the most debated critical area in the county, pages 55-56. Tribes invited (see Appendix C), and were kept informed, but not any participation by them. See page 6.

Lauren Driscoll impressed by the environmental participation in the work group.

Aaron Rosenblum continues with key conservation activities. CPPE scores. Appendix G has average scores. Section 8.3 page 118 – average amount of activities discontinued each year to establish a re-enrollment rate to meet participation goal benchmark. Page 119 continues that discussion.

Brian Cochrane says that once the average is established, a standard deviation is established. So, that deviation should be included into adaptive management triggers. If the baseline is variable, so you average it, then you can use that standard deviation.

Aaron Rosenblum – benchmarks are tied to a specific function that agriculture has an influence on. Benchmark 15 – no data for that yet. We outlined what the data collection method will be. Indicators – direct measures of critical area functions and values. Verification steps included.

Kelly McLain asks about participation goals by agriculture operators. RCW 36.70A.720 (1) (a) – (l) – goal is 30% of landowners in 5 years. Can you explain more about that?

Aaron Rosenblum says the outreach plan, page 140 has the details of that. Initially, we will attempt to contact every grower in the county.

Kelly McLain asks if that 30% will be used to track active and passive engagement.

Aaron Rosenblum says yes. Goes on with presentation. Indicator 4 – CRP lands. Are not part of the protection benchmark, but enhancement since the CRP is beyond local agriculture's control. More funding programs are tied to the indicators.

Kelly McLain asks about the wheat yield data and says the NASS has the data.

Aaron Rosenblum says he didn't see it by county.

Kelly McLain says it may not be broken out that way. Will double check that data source.

Aaron Rosenblum continues to explain about aerial imagery and how that will be used. Adaptive management and benchmark monitoring. 3 sources of data – NRCS, Foster Creek and South Douglas Conservation District, and the producer survey. All adaptive management actions about the same – increase outreach, increase cost-share funding for projects.

[Action threshold is discussed and whether standard deviation can be used.]

Terra Rentz asks about the color scheme on the table and its purpose.

Aaron Rosenblum says they are cosmetic only. Continues with presenting the RCW 36.70A.720 (1) (j) section and continues with programmatic adaptive management items. VSP implementation process and how participants participate in VSP. 30% participation over each 5 year reporting period.

Lauren Driscoll liked the work plan and the producer handbook. Up-to-date data on watersheds in the county. Integrated the other plans and how those plans interact with VSP was good. Department of Health data.

Brian Cochrane – outreach and technical assistance – connect the number of farms and ranches to the level of outreach. How to know you are getting what you want. What is happening now and the goal – that should be connected.

Kelly McLain says the total number of farmers in the county and producers should be tied to goals – getting to the right number of people and the connection to them.

Brian Cochrane says what is the number of producers, what is the amount you are going to reach each year, and how will reaching that many of them meet your goals?

The Technical Panel liked the regulatory context sentence, and the other state agencies and monitoring efforts statements, and the statement about future changes to the statute.

Kelly McLain says all the planning that has been going on in Douglas County has helped inform this VSP plan.

Brian Cochrane asks to connect the 30% of landowner contacts out of 600 landowners (200 will be contacted), how / why is that important.

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12:45 pm: Adjourn