



FRANKLIN COUNTY

PLANNING AND BUILDING DEPARTMENT

JERROD B. MACPHERSON – DIRECTOR

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OCT 31 2011

WASHINGTON
FARM BUREAU

FRANKLIN COUNTY PUBLIC COMMENT PERIOD

The State of Washington recently passed ESHB 1886 (known as Critical Area Protection-Voluntary Stewardship Program) as recommended by the William D. Ruckelshaus Center. The Program offers counties and landowners the option of using a Voluntary Stewardship Program (VSP) to protect critical areas on agricultural lands. Franklin County must decide whether to participate in this Program by January 22, 2012.

The Franklin County Commissioners are seeking public input in favor or opposition to County participation in the State of Washington's Voluntary Stewardship Program, including whether to opt in or opt out of the Program.

The County Commissioners will be accepting public input during a comment period beginning on Tuesday November 1, 2011 and ending at 5:00 pm on Wednesday, November 30, 2011.

Comments should be submitted to:

Franklin County Planning and Building Department
1016 North 4th Avenue
Pasco, WA 99301
509-545-3521

DATED AT PASCO, WASHINGTON ON THIS 14th DAY OF OCTOBER 2011.

PUBLISH:
October 27, 2011
November 3, 2011

A handwritten signature in cursive script that reads "Jerrod MacPherson".

Jerrod MacPherson, Planning and Building Director

ESHB 1886

**Critical Area Protection-
Voluntary Stewardship Program (VSP)**

**Franklin County, WA
October 27, 2011**

INRODUCTION AND HISTORY

Recent state legislation provides counties with the opportunity to be involved in a new approach for protecting agriculture and critical areas. Franklin County must determine whether or not to participate in the state's new Voluntary Stewardship Program (VSP).

The question before the public is whether Franklin County should participate in this program or continue to balance the county's agricultural and natural resource interests through the traditional method (County Critical Area Ordinance meeting the requirements of the Growth Management Act).

The County Commissioners must make this decision no later than January 22, 2012. This decision is generally referred to as opt-in or opt-out of the Voluntary Stewardship Program.

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 (County Critical Area Ordinance or Voluntary Stewardship Program) to protect critical areas where agricultural activities are conducted.

OPT-IN or OPT-OUT

Opt-Out (of the VSP):

If the County Commissioners choose to not participate in the Voluntary Stewardship Program, the County will continue to balance the county's agricultural and natural resource interests through the local traditional method (Franklin County Critical Area Ordinance meeting the requirements of the Growth Management Act).

Opt in (to the VSP):

1. If the County Commissioners choose to participate in the Voluntary Stewardship Program, they must consider a number of issues, including:

- A. The role of farming in the watersheds? Would this Program be best utilized for the entire unincorporated area of Franklin County?
- B. What is the economic value of crops and livestock in these watersheds or the designated area? What is the risk of conversion of farmland to other uses in the watersheds or designated area?
- C. Is there a presence of leadership in the watershed or designated area? Are there any watershed planning projects active in the County?
- D. What is the potential that the Voluntary Stewardship Program would be a success in Franklin County?

2. Watershed Group Formation:

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 the 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. Who would lead this Program in Franklin County? This may be the County, a tribe, or another entity such as the local Conservation District. 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 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.

3. Work Plans:

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.

4. State Conservation Commission:

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.

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.

PUBLIC INVOLVEMENT:

Comments received from the public will assist the County Commissioners in determining if Franklin County should opt in or opt out. The County Commissioners will be accepting public input during a comment period beginning on Tuesday November 1, 2011 and ending at 5:00 pm on Wednesday, November 30, 2011.

Written comments should be submitted to:

Franklin County Planning and Building Department
1016 North 4th Avenue
Pasco, WA 99301
509-545-3521

VOLUNTARY STEWARDSHIP PROGRAM-VSP (FREQUENTLY ASKED QUESTIONS)

What is the Voluntary Stewardship Program (VSP)?

The VSP is an alternative method to protecting critical areas in areas used for agricultural activities.

What is the history of the VSP?

In 2007, the Ruckelshaus Center initiated a process to examine the conflicts between agricultural activities and critical area ordinances implemented by local governments. The Ruckelshaus process concluded in late 2010 with formal recommendations to amend the Growth Management Act (GMA).

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 (VSP)* 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 (County Critical Area Ordinance or Voluntary Stewardship Program) to protect critical areas where agricultural activities are conducted.**

What is the history of the Franklin County Critical Area Ordinance?

The County adopted its first Critical Area Ordinance in 1994 as a requirement of the Growth Management Act (GMA). The Ordinance was updated in 2009.

A critical area ordinance focuses on conserving and protecting critical areas while being consistent with other applicable County Ordinances and state laws. The components of the County Critical Area Ordinance are Wetlands, Aquifer Recharge Areas, Frequently Flooded Areas, Geologically Hazardous Areas, and Fish and Wildlife Conservation Areas. Existing and on-going agriculture is an allowable use (if no further harm to the Critical Area is occurring) in the County Critical Area Ordinance.

When must a final decision be made as to whether to OPT-IN or OPT-OUT of the VSP?

January 22, 2012

What procedural steps must the County complete if the decision is made to OPT-IN to the VSP?

1. If the County chooses to opt-in to the VSP, the County must confer with agricultural, environmental, and tribal interests. This is currently being completed through a 30 day comment period to be followed with a public meeting or public hearing on the subject. Notifications were mailed to interested groups/individuals on October 27, 2011 and notification placed in the local newspapers. The comment period expires on November 30, 2011.
2. The County must adopt an ordinance or resolution that elects to have the County participate in the VSP. Included in this, the County must identify the watersheds that will participate (there are 3 Water Resource Inventory Areas in the County: Palouse, Lower Snake, and Esquatzel Coulee).

Additionally, the County must consider the following when identifying watersheds to participate in the VSP:

- a. Role of farming in the watershed(s), including the number/acreage of farms, economic value of crops and livestock, and risk of conversion of farmland;
 - b. Likelihood of completing a successful program;
 - c. Existing watershed programs in the County.
3. Funding and implementation.

What procedural steps must the County complete if the decision is made to NOT OPT-IN to the VSP?

If the County chooses to not participate in the VSP, the legislation requires the County to ensure its Critical Area Ordinance (as it relates to agricultural activities) is in compliance with the Growth Management Act.

What is the status of the County Critical Area Ordinance? The State of Washington's Department of Commerce has reviewed and determined that the County Critical Area Ordinance is in compliance with the Growth Management Act as it relates to agricultural activities. The County is required to re-adopt the Critical Area Ordinance as part of this review process.

Can the County leave the VSP after agreeing to OPT-IN ?

Yes, at the end of Year 3, 5, or 8 (after receipt of funding).

If the County chooses to OPT-IN and funding is not available, what happens?

The County is not required to implement the program in the designated watersheds until adequate funding for the program is provided to the County.

If the County chooses to OPT-IN and funding becomes available, what would happen next and who would administer the VSP in Franklin County?

1. The County, within 60 days of funds becoming available, must designate a watershed group and entity to administer the funds. County must confer with stakeholders before designating or establishing a watershed group.
2. The County may designate itself, a tribe, or another entity such as the local Franklin Conservation District to coordinate the local watershed group.
3. The watershed group must develop a work plan to protect critical areas while maintaining the viability of agriculture in the watershed. The work plan must include goals and benchmarks for the protection and enhancement of critical areas.

Appeal Potential- Violations/Enforcement if the County chooses to OPT-OUT of the VSP.

1. The County **would be** required to ensure the Franklin County Critical Area Ordinance is in compliance with the requirements of GMA as it relates to agricultural activities. With this, the County would be required to take formal action to re-adopt the County Critical Area Ordinance and such action is subject to appeal to the GMA Hearings Board.

(Note: It has been determined that the current Franklin County Critical Area Ordinance complies with the requirements of GMA for agricultural activities)

2. Individual violations of the County Critical Area Ordinance are processed in accordance with Chapter 2 of the County Zoning Ordinance. A typical process involves:
 - a. Traditional Planning and Building Department code enforcement practice has been to respond to violations if a written complaint is received. This may vary depending if a health or safety issue or repeat situation.
 - b. If a complaint is received, a site evaluation will occur. The County will verify if a designated critical area exists and evaluate the activity occurring on the land.

- c. If deemed a violation, an evaluation as to whether a waiver may or may not be granted would occur. If no further degradation to the Critical Area is likely, a waiver may potentially be issued after consulting with a local resource agency.
- d. If the activity is degrading the functions or values of a critical area, then a Critical Area Report (complying with best management practices and the necessary management standards) is required to be completed for the activity.

Appeal Potential- Violations/Enforcement if the County chooses to OPT-IN to the VSP.

- 1. The County **would not be** required to ensure the Franklin County Critical Area Ordinance is in compliance with the requirements of GMA as it relates to agricultural activities.
- 2. The County's decision to opt-in to the VSP is not subject to appeal.
- 3. Individual violations of the County Critical Area Ordinance are processed in accordance with Chapter 2 of the County Zoning Ordinance. A typical process involves:
 - a. Traditional Planning and Building Department code enforcement practice has been to respond to violations if a written complaint is received. This may vary depending if a health or safety issue or repeat situation.
 - b. If a complaint is received, a site evaluation will occur. The County will verify if a designated critical area exists and evaluate the activity occurring on the land.
 - c. If deemed a violation, an evaluation as to whether a waiver may or may not be granted would occur. If no further degradation to the Critical Area is likely, a waiver may potentially be issued after consulting with a local resource agency.
 - d. If the activity is degrading the functions or values of a critical area, then a Critical Area Report (complying with best management practices and the necessary management standards) is required to be completed for the activity.

**FRANKLIN COUNTY, WA
VOLUNTARY STEWARDSHIP PROGRAM (VSP)**

Topic	Opt-In	Opt-Out	Comment
DECISION DATE	County Commissioners must decide whether to opt-in by January 22, 2012	County Commissioners must decide whether to opt-out by January 22, 2012	Public Comment period is from November 1 to November 30, 2011. Public Hearing date is to be determined.
PROCEDURAL STEPS	County must adopt ordinance /resolution. Submit information to State and wait for funding/implementation.	County must ensure its Critical Area Ord. is in compliance with the Growth Management Act (GMA) as it relates to agricultural activities.	WA ST Dept. of Commerce has determined that the County Critical Area Ord. is in compliance with the GMA.
CAN A COUNTY LEAVE THE PROGRAM AFTER CHOOSING TO OPT-IN AND RECEIVES FUNDING?	Yes, at the end of Year 3, 5, or 8	N/A	If the County leaves the VSP, must ensure its Critical Area Ord. complies with GMA.
IF A COUNTY CHOOSES TO OPT-IN AND FUNDING DOES NOT BECOME AVAILABLE, WHAT HAPPENS?	The County is not required to implement the VSP until adequate funding is made available.	N/A	N/A
POTENTIAL FOR APPEALS (County and Landowners)	County: The County's decision to opt-in to the VSP is not subject to appeal; Landowner: Individual landowner critical area violations are processed in accordance with Chapter 2 of the County Zoning Ordinance and the Critical Area Ordinance.	County: The County must ensure its Critical Area Ord. is in compliance with the GMA as it relates to agricultural activities within 24 months (public hearing action is required). This action is appealable to GMA Hearings Boards. Landowner: Individual landowner critical area violations are processed in accordance with Chapter 2 of the County Zoning Ordinance and the Critical Area Ordinance.	WA ST Dept. of Commerce has determined that the County Critical Area Ord. is in compliance with GMA.