

**Skagit County Agricultural Advisory Board
Minutes –March 5, 2003**

Members in attendance:

Randy Good
Bob Finkbohner
Oscar Lagerlund
Murray Benjamin
Dave Boon
Lyle Wesen
Bob Hughes
Rose Merritt
Beth Vander Veen
Roger Knutzen

Members not in attendance:

Larry Jensen
Mike Hulbert

Others in attendance

Richard Doenges
Gary Christensen
Tom Karsh
Ric Boge

1. Call to order and introductions:

Dave Boon, Chair, called the meeting to order and welcomed the committee to the work session on the draft CAO. The committee introduced themselves and welcomed Rose Merritt and Beth Vander Veen to the AAB

2. Report from staff

Rich Doenges reviewed the meeting times and locations. The AAB agreed to meet on the third Wednesday of the month from 6:00 pm to 8:00pm. The meeting on March 19th will be at the new offices of the County's Human Resources and Mediation departments on the SW corner of Myrtle and Second streets (formerly the offices of Land Title Company), across from the County Administration Building. Meetings for the rest of the year will be in Hearing Room B. Rich handed out copies of the invitation letter for the "Western Washington Ag Summit" from Snohomish County scheduled for March 27th in Everett. He encouraged all members of the AAB to plan on attending and will arrange transportation, if members are interested. Rich also distributed a fact sheet from King County on their draft CAO.

3. Public Comment

There was no public comment.

4. Information and discussion of Draft Critical Areas Ordinance for Agricultural Lands

Tom Karsh reviewed the CAO public notice and comment process. Written comments must be received by the Planning Dept. by March 31st and he encouraged the AAB to do so. Should the County "substantially" change the draft CAO, then an additional public comment period would be required. The Growth Management Hearings Board has given a deadline to the County of June 26, 2003 for adoption of the CAO.

Ric Boge emphasized that the County has no intention of developing an Ag Practices Act and does not view the CAO as such. He also pointed out that this CAO is the fifth version since 1996.

Tom Karsh reviewed the four alternatives evaluated in the DEIS. The DEIS did not identify any preferred alternative although alternative three is the closest to the draft CAO. He said a prior

Hearings Board ruling invalidated an earlier version of the CAO that relied on farm plans alone. Tom noted that the draft CAO relies on existing state and local regulations and creates only a few new ones (Section 4). It defines harm as degrading fish and wildlife habitat and/or water quality. The ordinance assumes landowners are innocent until proven otherwise. He noted that all complaints are investigated to determine their validity and the affected landowner is notified of the complaint; based on current conditions, Tom did not anticipate many frivolous complaints. The CAO details three types of complaints: 1) defined water quality complaint will result in the County forwarding it to DOE (Dept. of Ecology) for follow-up; 2) if action causing harm is confirmed then the landowner will be requested to obtain a farm plan (results of any water quality sampling conducted by the County as a result of an apparently valid complaint will be forwarded to DOE for their follow-up as necessary); 3) engaging in a practice not approved in section 4 of the CAO.

On response to a question from Beth Vander Veen, Tom Karsh said there are 300-500 complaints per year with about one-third being CAO related. Tom pointed out that landowners are not responsible for improving impaired water entering onto their property. Ric Boge emphasized this it is DOE's responsibility to enforce water quality standards and the CAO is not intended to target one sector or individual for enforcement for water quality violations. The goal of the County is to improve overall watershed health and that monitoring water quality will be an important tool in this effort.

Dave Boon recommended using fecal coliform testing as long as the source of the fecals can be identified. Lyle Wesen commented that in the AFW negotiations agencies said the background water quality level is not the responsibility of the landowner; the downstream neighbor is not responsible for the upstream source. Tom doubted that there would be County enforcement solely due to fecal coliform except for obvious, egregious cases. He also said "drive-by" complaints, like any other complaint, would be carefully screened before any on-site investigation would be conducted and noted that County staff could not gain entry to private property without permission of the landowner (or person having control of the property) or court order.

In response to question from Bob Hughes, Tom stated that non-commercial operations, like hobby farms, are subject to the standard regulations with a default buffer of 50-200 feet. He also noted that the Growth Management Act applies to drainage districts and that the districts' arguments of legal precedence have not prevented them from applying for permits from the state fisheries department.

Roger Knutzen expressed concern that the Conservation District and NRCS risked losing their trust with landowners by involving themselves in the draft CAO. Tom responded by clarifying that the CAO does not require farm plans and the Conservation District and NRCS will only provide a service to landowners who pursue their service. Dave Boon said some DOE dairy inspectors have not done a good job because they demanded impractical changes from operators. Rose Merritt described an underlying fear in the farming community that if they agree to regulation now, burdensome regulations will be easily added later.

Bob Finkbohner advised the County to document the baseline conditions in watercourses since he presumes the conditions next to most farmland are good. Randy Good recommended revising the monitoring plan to meet court challenge. Tom Karsh again clarified that landowners will be informed if there is complaint about their operations. Tom concluded the discussion on water

quality by reviewing the draft changes by DOE to the state water quality standards, saying that they were being loosened in some parameters but tightened in others. This will make it more difficult to evaluate the effects of the draft CAO. Tom stated that the County will file a comment letter to DOE to maintain standing in the revision process.

In response to questions from Rose and Beth about the definition of ongoing agriculture, Tom pointed out the definitions are listed in the draft ordinance and in section 14.04.020 of Skagit County Code. One of the impacts of the definitions is that “new” agricultural lands or land in fallow prior to 1996 would be subject to the standard buffer default widths of 50-200 feet. Members of the AAB expressed concern over this impact since it would hamper farmers’ ability to expand their areas of production. Bob Finkbohner requested more information be included in the CAO on the definition of commercial agriculture. He also expressed reservations on tying down farm plan standards to state environmental regulations.

With the scheduled time nearly over, Dave Boon asked the Board to provide their final comments. Bob Finkbohner requested the entire definition of agriculture be provided and more clearly stated in the applicable section of the ordinance. Rose Merritt asked who the drafters of the ordinance were. Tom Karsh replied that it was a team effort involving staff from the Planning and Public Works Departments, attorneys John Moffat and Jay Derr, Rich Doenges and himself. Rich Doenges said that there were frank and earnest discussions during the writing of the CAO and all perspectives were represented. Murray Benjamin praised the draft CAO as a significant improvement over the last one and expressed hope that the usual litigants would give it a chance to work. Bob Hughes said that as a drainage district commissioner he had some real problems with the section on drainage districts. He said the subsection on spoils was unnecessary and that the window for ditch maintenance was closed too early; better to extend it to November 15 or December 1 to allow for late harvesting crops like potatoes.

Roger Knutzen said the CAO is a great improvement over earlier efforts but would benefit from a few changes. His biggest concern is whether it will work well in the future and still support agriculture. He recommended the County send a notice to all the diking and drainage districts about the Planning Commission meeting on March 13th. Oscar Lagerlund commented on how long and contentious the entire process to develop a CAO has been. He said this ordinance won’t matter to the next generation of farmers if the economics of agriculture remain depressed.

Lyle Wesen said the process for preparing and approving the CAO is important and asked staff for more information on the members of the Planning Commission and the ordinance approval process. Tom said the comments on the DEIS are reviewed and answered by the Planning Department and their consultants, URS. These responses are consolidated into a Final EIS which is then forwarded to the Planning Commission. The PC also deliberates on the draft CAO and then produces a recorded motion to the Board of County Commissioners (BCC) that may recommend changes to the CAO, or leave it as drafted. Tom expects the recorded motion from the PC in early June, assuming there are not substantive changes to the CAO. If there are substantive changes, then there will be another public comment period. The FEIS must respond to all substantive comments on the DEIS and will be sent to anyone requesting a copy as well as to anyone that had been sent a copy of the DEIS. The PC and/or BCC can take action one week after issuance of the FEIS. Tom expects that there will be enough reason to substantially change the CAO and that a new public comment period

will be necessary. Gary Christensen said there are nine members on the PC; six of the members have been commission for two years or more and three are in their first year.

Randy Good suggested the AAB focus their comments on the DEIS for their next meeting. He said he has already testified on the draft DOE water quality standards and noted that DOE is recommending lowering the temperature standard, which will make it more difficult for agriculture to meet.

Dave Boon thanked Tom and Ric for their comments and explanations on the CAO and thanked the AAB for their participation.

Adjourn work session.