

County reopens discussion on critical areas and farms Planning Commission considers enrollment in voluntary program

By **WHITNEY PIPKIN** Staff Writer

Planners reopened the books Tuesday night on an issue that's been closed since the state called a timeout four years ago on new regulations for critical areas on farms.

The Skagit County Planning Commission hosted a workshop to get community feedback on a proposal from county staff to enroll in a Voluntary Stewardship Program for critical areas approved by the Legislature this year.

The program would maintain current regulations protecting critical areas while providing incentives to do more to protect them. For example, grant money could be given to farmers who agree to do habitat-building projects.

The voluntary program requires no new measures such as buffers on agricultural lands — the subject of an ongoing lawsuit between the Swinomish Indian Tribal Community and the county. The tribe argued the county's code didn't do enough to protect salmon.

The state Supreme Court ruled in the county's favor in 2007, stating that farmers only had to maintain critical habitat, not improve it. The court also ruled that the county needs to step up its monitoring effort to make sure habitats are not being harmed.

At Tuesday's meeting, Ryan Walters, a civil deputy prosecuting attorney for the county, gave a presentation on the ordinance's long history, and the pros and cons of enrolling in the new program. He said there is "essentially no downside" to enrolling because the program would bring the county into compliance with the Growth Management Act and shield it from appeals and costly litigation.

But Jason Easton, chairman of the Planning Commission, wondered if the decision about enrolling had already been made.

"I'm not gonna host a public meeting or direct a public hearing on an assumption that we're going to enroll at the beginning," he said.

Easton's sentiments were shared by many of those who commented publicly at the meeting. Speakers said they wanted to hear more about the voluntary program before a decision is made. About 35 people attended the workshop.

Commissioner Annie Lohman, a seed farmer in Bow, asked Walters what the process to become compliant would look like without enrolling in the program. Walters said it would look much like it has in the past, with parties being able to appeal the county's regulations at each step in the process. He said the county has spent \$5 million in litigation on this issue in the past, money that "didn't go to fish or to farmland."

The voluntary program would require that the county's actions are reviewed by the Washington State Conservation Commission.

"That's a venue we prefer," Walters said.

A long history

Skagit County adopted its current ag-critical areas ordinance in 2003 in an attempt to reconcile the sometimes conflicting goals of protecting fish and protecting farmland. The current code does not require buffers, or strips of non-farmed land bordering critical areas, on land that hosts “ongoing agriculture” activities.

Recognizing that the agbuffer debate was heating up in Skagit and other counties, the state in 2007 called for a timeout on changes to critical-areas ordinances relating to farmland until this year.

Over the past four years, a neutral policy think tank called The Ruckleshaus Center was appointed by the Legislature to host conversations among stakeholders on the issue in an effort to reach a consensus. The Voluntary Stewardship Program came out of that process. Counties have until the end of January to decide whether they will opt into the program, which would enable residents to participate in it. Skagit County, however, has to make its decision by Dec. 28, the deadline imposed by the Growth Management Hearings Board.

Ag still undecided

The county has asked its Agricultural Advisory Board to make a recommendation about whether to enroll in the program. As of Tuesday night, a few representatives from that group said they have a lot of research to do before they can make a decision.

“I wish the Ag Advisory Board had a recommendation. We’re not there yet,” board member Mike Hulbert said at the meeting.

A study early in the agcritical areas process found that requiring 75-foot buffers on farmland along streams would take 3,000 acres out of production in the Skagit Valley and cost the industry up to \$10 million, Walters said.

The Agricultural Advisory Board plans to meet with state experts on the subject next month to try to come to a decision soon.

Chairman Easton said at the end of the workshop that he had hoped to hear more from the salmon supporters and tribes that have opposed much of Skagit’s existing critical areas rulings.

“The lack of representation here from someone supporting salmon and the lack of presence of any of the tribes is alarming,” Easton said, speaking to the camera during the televised meeting. “I can’t ask them if this program will stay their appetite for lawsuits.”

“I’m afraid that compliance is a financially safe move to make in a financially tough climate, but I’m worried that we may have to defend this plan in the future anyway,” he said.

What’s next?

The Skagit County Planning Commission will continue to discuss opting into a Voluntary Stewardship Program that would be added to the county’s current ag-critical areas ordinance.

A draft ordinance will be released for public comment in October, with a public hearing in November.

The county must decide whether to enroll by Dec. 28.

Learn more at www.skagitcounty.net/agcao.