

THE WILLIAM D. RUCKELSHAUS CENTER

UNIVERSITY OF WASHINGTON

February 17, 2009

SSB 5248 Update

Introduction

William D. Ruckelshaus Center was assigned oversight of the fact-finding and problem-solving process to produce policy recommendations for the Governor and Legislature addressing critical areas protections on agricultural lands. The Center's goal is to work with willing stakeholders to develop solutions that will result in effective policies and practices that ensure protection of environmentally sensitive areas and support preservation of farm lands and a strong farm economy. The stakeholders in the SSB 5248 process are the agricultural and environmental communities, tribes, and county governments (See list below).

2008 Accomplishments

The SSB 5248 Committee's major accomplishments of 2008 included:

- Conducting required and supplementary fact-finding.
- Communicating the caucuses' interests and desired outcomes, and the opportunities for and barriers to achieving them.
- Beginning to develop a framework for solutions.
- Producing an interim report to the elected officials that was submitted, as required, on December 1, 2008.
- Preparing for the final report (due September 1, 2009) containing the Committee's recommendations.

The Committee met approximately once a month throughout 2008. Four coordinators, one representing each of the agricultural, environmental, tribal government, and local government caucuses, were designated by the members for more frequent informal interaction in preparatory work sessions and to assist with coordination and communication. The Committee also participated in a two-day retreat in May.

As the legislation requires, there has been substantial discussion of how to achieve "outcome based approaches that incorporate, to the maximum extent practicable, voluntary programs or approaches," and about "ways to ensure that regulatory constraints on agricultural activities are used as a last resort if desired outcomes are not achieved through voluntary programs or approaches." The Committee is also discussing ways to ensure that improvements to critical areas will be implemented and results can be appropriately monitored. These are challenging, but the discussions are focused and constructive and demonstrate a commitment to finding a workable solution.

Fact-Finding

Much of the activity during 2008 was aimed at fact-finding to help the Committee work from a basis of common information. We have completed most of the fact-finding mandated in the legislation, and are working on some additional research that stakeholders determined would be valuable to finding solutions. Fact-finding research is being conducted by faculty and graduate students at Washington State University and the University of Washington, supplemented by case examples and other expertise available throughout the State of Washington. The review of this information will be completed in the coming months. Fact-finding has contributed to very useful discussions in the Committee that will help lay the groundwork for more effective communication and common understanding during the development of final recommendations.

To date, five draft papers have been presented to the Committee, and additional review and follow-up fact-finding activities are occurring. The Ruckelshaus Center staff is also researching buffer science and practices and the impacts of agriculture on Puget Sound recovery, and creating an inventory of incentive programs for agricultural landowners.

The draft fact-finding papers cover the following subjects:

- Content of county critical areas ordinances related to agriculture, including requirements concerning buffer widths.
- Conservation Reserve Enhancement Program and other conservation programs.
- Conservation easements.
- Compliance with water quality program requirements.
- Requirements of federally-approved salmon recovery plans.

Case examples

The 5248 Committee has heard several case examples where local communities have attempted to develop and implement agriculture and critical areas programs that address the dual goals of preserving agriculture while protecting critical areas. During 2008, the Committee received presentations from these organizations that have programs related to the objectives of the SSB 5248 process in protecting critical areas and supporting agricultural viability: Whatcom Conservation District; Clark County; and the Nisqually River Council. The Committee also received a briefing on a voluntary program operated by the Washington Farm Bureau concerning worker safety.

Progress Report No. 2 related to Substitute Senate Bill 5248 Submitted

In December, 2008, the Ruckelshaus Center submitted the second progress report about the Committee's activities that is required by SSB 5248.

We are happy to report that there is progress and that we are on track. The Ruckelshaus Center is very impressed with the way these stakeholders have worked together, been candid, helped each other understand why they feel so passionately about these issues, and opened the door towards possible resolutions. These frank discussions suggest promising areas of commonality, such as the desire for certainty, flexibility, and stability in the policies that will be in place.

This was designed to be a 27-month process, and we are approaching the home stretch. We believe that we have laid a good foundation for the difficult work to come. In 2009 we will work to translate these discussions into a set of recommendations for the final report, due in September.

Working Towards a Framework for Solutions

The Ruckelshaus Center has been working with Committee members to define elements that may provide a framework for solutions. Fact-finding information and case examples have been used in exploring some of the elements in more depth, including the use of voluntary and incentive programs as alternatives to traditional regulation for ensuring both environmental results and a strong agriculture economy, and monitoring and assessment. The list of elements for a framework for solutions is very preliminary at this time; caucuses have not yet agreed to individual elements or developed details or proposals.

However, we have developed a set of tentative principles on which a resolution could be based. We are proud of the effort the stakeholders made to get to this point. The principles include common interests in: balancing the needs for certainty and flexibility; preserving the agricultural economy and way of life; preserving the fishing economy and way

SSB 5248

Committee

The SSB 5248 committee members are stakeholder representatives from agricultural and environmental organizations and tribal and local governments.

Agriculture:

Scott Dahlman, WA State Grange
Jack Field, WA Cattlemen's Association
Jay Gordon, WA State Dairy Federation
Mike Shelby, Western WA Agricultural Association
John Stuhlmiller, WA State Farm Bureau*
Dan Wood, WA State Farm Bureau
Jeanne McNeil, WA State Nursery & Landscape Assoc.
Mike Schwisow, WA State Water Resources Assoc. (alternate)
Terry Willis, Olympic View Dairy (alternate)

Environmental:

Len Barson, The Nature Conservancy*
David Bricklin, Futurewise
Mo McBroom, WA Environmental Council
Bill Robinson, The Nature Conservancy (alternate)

Local Government:

Eric Johnson, WA State Association of Counties*
Betty Sue Morris, Former Clark County Commissioner
Harry Reinert, King County Dept. of Development & Environmental Services
Ron Walter, Chelan County Commissioner
Rick Miller, Franklin County Commissioner (alternate)

Tribal Government:

Bob Kelly, Nooksack Tribe
David Troutt, Nisqually Indian Tribe
Larry Wasserman, Swinomish Tribe
Jim Weber, Northwest Indian Fisheries Commission*

* Caucus Coordinators

of life; and preserving the natural and economic treasures of the state. The members of the SSB 5248 Committee are continuing a good faith effort to find a mutually agreeable and workable solution for critical areas and agricultural lands, even if there is not yet 100% agreement on all of the features.

Next Step

Finalize remaining scheduled fact-finding tasks:

- Final reviews of the draft fact finding papers.
- Complete a draft of and review the fact-finding paper on science related to buffers as a tool for riparian protection, and revise as needed.
- Obtain a briefing on the Puget Sound Action Agenda and discuss areas of possible overlap and opportunities for constructive input; complete fact-finding on Puget Sound Salmon Recovery.
- Commission any further work needed for fact-finding or research.

Work toward tentative agreement on the framework for solutions:

- Incorporate additional positions or solutions into the framework, highlighting areas of tentative agreement and narrowing the focus as discussions proceed.
- Caucuses work internally to refine areas of tentative agreement and issues for further exploration and discussion.

Transition the framework for solutions into draft recommendations:

- During 2009, the 5248 Committee members and the Ruckelshaus Center will work on developing and refining the elements in the framework into a set of specific draft recommendations for caucus review.

While much progress has been made, the greatest challenges remain. We appreciate the opportunity to serve the State of Washington in finding solutions for this important and often contentious subject. We will continue to keep representatives from the Governor's Office and Legislative staff informed about our progress, and welcome questions and input from the Governor, the Legislature, and our Board at any time.

The William D. Ruckelshaus Center

The William D. Ruckelshaus Center is a neutral resource for collaborative problem solving. The Center provides expertise to improve the quality and availability of voluntary collaborative approaches for policy development and multi-party dispute resolution. The Center is a joint effort of Washington's two research universities and was developed in response to requests from community leaders. Building on the unique strengths of the two institutions, the Center is dedicated to assisting public, tribal, private, non-profit and other community leaders in their efforts to build consensus and resolve conflicts around difficult public policy issues. The Center also advances the teaching, curriculum, and research missions of the two universities by bringing real-world policy issues to the campuses.

The Center is housed jointly at the Daniel J. Evans School of Public Affairs at the University of Washington and with Washington State University Extension. It is guided by an advisory board of prominent local and state leaders representing a broad range of constituencies and geographic locations. The board is chaired by William Ruckelshaus.

For more information on the
William D. Ruckelshaus Center,
Please visit our web site at:
<http://RuckelshausCenter.wsu.edu>