GWMA Regulatory Meeting Summary – April 23, 2015

Regulatory Framework Working Group

Charge from Groundwater Management Area Advisory Committee

Study Session II

Working Group Members

Jean Mendoza – Chair (Friends of Toppenish Creek), Andres Cervantes (Department of Health), Charlie McKinney (Department of Ecology), Chelsea Durfey (Turner and Co.), Dan DeGroot (Yakima Dairy Federation), David Newhouse (interested party), Ginny Prest (AGR), Jason Sheehan (Yakima Dairy Federation), Jim Dyjak (Concerned Citizens of the Yakama Reservation), Larry Fendell (interested party), Laurie Crowe (South Yakima Conservation District) Nick Peak (Environmental Protection Agency), Pat Newhouse, (Community Rep Position #2), Steve George (Yakima County Farm Bureau), Sue Wedam (Community Rep Position #2), Stuart Crane (interested party), and Vern Redifer (Yakima County representative)

Meetings/Calls Dates

Meeting: District Court Probation Office, 104 N. First Street, Yakima WA

1:00 p.m. to 4:00 p.m. Thursday, April 23, 2015

Participants

Present: Bonda Habets, Tracy Hanger, Kevin Davis, Jean Mendoza, Jim Davenport, Jim Dyjak, Steve George, Charlie McKinney, Patricia Newhouse, Laurie Crowe, Vern Redifer, Ginny Prest, Larry Fendell, Lee Murdock, Dan DeGroot, Stuart Crane, Andres Cervantes, and Erica Naasz (Yakima County Support Staff)

Key Discussion Points

Welcome and Introductions – Jean Mendoza

The Regulatory Study Session began with Bonda Habets providing a broad overview of the USDA Natural Resources Conservation Service (NRCS). NRCS is an agency of the United States Department of Agriculture (USDA) that provides technical assistance to farmers and other private landowners and managers. NRCS has six mission goals: high quality, productive soils; clean and abundant water; healthy plant and animal communities; clean air; an adequate energy supply; and working farms and ranchlands. NRCS helps landowners develop conservation plans and provides advice on the design, layout, construction, management, operation, maintenance, and evaluation of the recommended, voluntary conservation practices. NRCS activities include farmland protection, upstream flood prevention, emergency watershed protection, urban conservation, and local community projects designed to improve social, economic, and environmental conditions. To aid in this they also conduct soil surveys, conservation needs assessments, and the National Resources Inventory to provide a basis for resource conservation planning activities.

The 2012 State Resource Assessment: Priority Resource Concerns for Washington State (SRA) was distributed. The SRA is based on parameters and guidance established by the NRCS National Office. Within these national parameters, NRCS Washington utilized the state resource inventory and assessment products that were developed through the Local Work Group (LWG) process in 2009, 2010 and 2011, and the 2012 Tribal Resource Assessment (TRA). It addresses locally identified resource concerns on five land uses: crop, forest, range, pasture and other associated agriculture lands. Once the LWGs and tribes identified their local priority resource concerns for each of these land uses, the assessment process is used to identify the targeted treatment areas and associated acreages.

NRCS offers voluntary programs to eligible landowners and agricultural producers to provide financial and technical assistance to help manage natural resources in a sustainable manner. Those who are under contract with NRCS must adhere to relevant standards for the projects that are being funded. Current Washington state Financial Assistance program include:

- The Agricultural Management Assistance (AMA) helps agricultural producers use conservation to manage risk and solve natural resource issues through natural resources conservation.
- The Conservation Stewardship Program (CSP) helps agricultural producers maintain and improve their existing conservation systems and adopt additional conservation activities to address priority resources concerns.
- The Environmental Quality Incentives Program (EQIP) provides financial and technical assistance to agricultural producers in order to address natural resource concerns and deliver environmental benefits such as improved water and air quality, conserved ground and surface water, reduced soil erosion and sedimentation or improved or created wildlife habitat.

The conservation practice standard contains information on why and where the practice is applied, and it sets forth the minimum quality criteria that must be met during the application of that practice in order for it to achieve its intended purpose(s). State conservation practice standards are available through the Field Office Technical Guide (FOTG).

Standards referenced in the Study session included:

- Standard 590 – Nutrient Management which focuses on managing the amount (rate), source, placement (method of application), and timing of plant nutrients and soil amendments. This practice applies to all lands where plant nutrients and soil amendments are applied. This standard does not apply to one-time nutrient applications to establish perennial crops. The purpose of this standard is:
    - To budget, supply, and conserve nutrients for plant production.
    - To minimize agricultural nonpoint source pollution of surface and groundwater resources.
    - To properly utilize manure or organic by-products as a plant nutrient source.
    - To protect air quality by reducing odors, nitrogen emissions (ammonia, oxides of nitrogen), and the formation of atmospheric particulates.

  - To maintain or improve the physical, chemical, and biological condition of soil.
- Standard 313 – Waste Storage Facility which is defined as a waste storage impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure. The purpose of the practice is to temporarily store wastes such as manure, wastewater, and contaminated runoff as a storage function component of an agricultural waste management system. This practice applies:
  - Where the storage facility is a component of a planned agricultural waste management system;
  - Where temporary storage is needed for organic wastes generated by agricultural production or processing;
  - Where the storage facility can be constructed, operated and maintained without polluting air or water resources;
  - Where site conditions are suitable for construction of the facility; To facilities utilizing embankments with an effective height of 35 feet or less where damage resulting from failure would be limited to damage of farm buildings, agricultural land, or township and country roads;
  - To fabricated structures including tanks, stacking facilities, and pond appurtenances.

  There was additional discussion around Standard 313 with clarification that there was a distinction between manure and Agricultural waste; while waste denotes unwanted material, manure is a nutrient material.

- Standard 449 – Irrigation Water Management which outlines the process of determining and controlling the volume, frequency, and application rate of irrigation water. This practice is applicable to all irrigated lands and its purpose includes:
  - Improve irrigation water use efficiency
  - Minimize irrigation induced soil erosion
  - Decrease degradation of surface and groundwater resources
  - Manage salts in the crop root zone
  - Manage air, soil, or plant micro-climate
  - Reduce energy use

Throughout the presentation Bonda reiterated that the Standards were not designed to be regulatory; they were only required for producers who were under contract with NRCS.

The presentation also included information regarding the National Environmental Policy Act (NEPA). All recipients of NRCS funds must have their project undergo an Environmental Review (ER) as a recipient of Federal Funds.

The attendees asked a variety of questions related to how NRCS managed their contracts with producers; presenters clarified that all contracts are "reimbursement only" at a range from 25-75% of the cost of the improvement. They also clarified that all contracts contain an itemized budget to separate costs. There were additional questions regarding how producers implement the NRCS standards and how NRCS investigated the impact of funded activities – specifically, could a farmer

be contracted for one process that does not pollute the area, yet still pollute another area. The presenters clarified that they only investigated activities funded. There was additional clarification that the standards are voluntary; however, any nutrient management plans which are filed as a contractual requirement must adhere with the associated standards.

It was asked if the NRCS performed assessments – the presenter clarified that they perform assessments on all past practices and standards to determine their efficacy. They also stated that the voluntary method had worked well in the past and cited projects in Granger and Sulfur Creek as successes achieved through the voluntary standards method.

Additional questions related to the standards focused on how to apply them based on when the element was designed. Many standards provide an estimated lifespan for an element if it is built using NRCS standards. Presenters clarified that the purpose of this was to not make a determination of the definitive lifespan – only the expected lifespan as it relates to the implementation of the standards. Jean suggested that the NRCS State Engineer, Larry Johnson, could possibly speak to the Livestock/CAFO Group to answer more questions.

The presenters were asked if they knew how many producers voluntarily adhered to Standard 590 – Nutrient Management – NRCS stated that they did not have those numbers specifically. This led to a discussion regarding standards for fertilization application to which NRCS responded that fertilizer application would fall under Standard 590 but clarified again that this would only happen if the producer was receiving federal funds and under contract.

Jean questioned which regulatory and non-regulatory actions could be used to protect groundwater. She asked NRCS how they could promote groundwater protection. NRCS responded by stating creating policies is hard due to every farm being different, that Nutrient Management is also different on each farm. Jean then asked NRCS for their opinions for best management practices. NRCS stated to get anywhere you would need to start with Standard 449 – Irrigation Water Management and Standard 590 – Nutrient Management.

Jean asked what the estimated federal pool amount spent on Yakima County related to Nutrient Management. Answer: No cost share recorded for Yakima County although they recorded the following Nutrient Management acres: 500 acres in 2013, 65 acres in 2014, and 9 acres so far in 2015.

Resources Requested

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Recommendations for GWAC

-

Deliverables/Products Status

-

Proposed Next Steps

- The Regulatory Framework Group is to discuss the Study Session II conversation and compile a list of questions for clarification for the NRCS at a later date.