

**FINAL DRAFT  
REPORT AND RECOMMENDATIONS  
OF THE  
AGRICULTURAL REVIEW COMMITTEE**

The Agricultural Review Committee met on four occasions in the late Summer and Fall of 2005 to review and discuss agriculture and agricultural practices in Island County. Agendas for these meetings are attached as Exhibit A (Record # 8303, 8304, 8268). The Committee was comprised of 18 Island County residents and a staff person from the Snohomish Conservation District. Committee members reflected a broad range of life experiences. Many are lifetime residents of either Whidbey or Camano Island. Three members are owners and operators of some of the County's last remaining commercial farms. Three are active in the environmental community. Others run small noncommercial farms in the Rural zone. Senator Mary Margaret Haugen participated as a member of the Committee. She too is a life long resident of the County. All are intimately familiar with farming in the County and share a deep and abiding commitment to supporting any and all actions that will allow all forms of farming to continue in Island County. **The Committee believes that farming is an essential component of the County's rural character.**

Members of the Committee were selected by the Island County Board of Commissioners not only for their knowledge and interest in agriculture but also because they had, in a variety of ways, expressed over the years an interest in resource conservation and recognize the importance and value of the County's critical areas including wetlands and streams. A list of the members of the Committee, along with a brief biography for each member, is attached as Exhibit B. The Committee was chaired by Mike Shelton, chair of the Board County of Commissioners.

## **FARMING IN ISLAND COUNTY**

Island County classifies farming activity into two categories -- commercial and non-commercial. Like most Western Washington counties, only lands that are included in the State Agricultural Tax Program are considered commercial. To qualify for this program, a farm land owner must demonstrate that they produce and sell products that meet specific statutory income requirements. For example, for a farm that is 5 to 20 acres in size the income requirement is \$200 per acre, while for a farm less than 5 acres in size, the income requirement is \$1500 per year. These standards are applied uniformly across Washington State and the program is administered by the County Assessor.

In 1998, the County established two commercial agriculture zoning classifications to replace its 1984 zoning. Together they encompass approximately 10,000 acres and 270 farms. In contrast, the 1984 zoning code had one agricultural zoning classification which included 4,601 acres of farm land. When established in 1998, all of the farms in the Agricultural Tax Program, ten acres or larger in size, were included in these two zoning classifications. Existing farming in these zoning classifications is required to use agricultural best management practices (“BMPs”) to protect critical areas.

While lands zoned as commercial farmland have increased over the last 25 years, lands considered by the US Census of Agriculture as commercial have declined. The 2002 census is included with this Report as Exhibit C (Record # 8305). The US Census includes any farm that produces \$1,000 per year or more in agricultural products. In 1982, the Census of Agriculture reported that the County had 21,000 acres of land in farms and 310 farms. By 2002, the acreage had declined to slightly over 15,000 and the number of farms had increased to slightly under 350.

Much of the County’s farming activity is not in the Ag Tax Program and is located in the Rural zone. The County currently estimates that about 14,000 acres in the Rural, Rural Residential and Rural Forest zones are farmed on parcels that average about 7 acres. Of those farms in livestock use, the vast majority have less than one animal unit per acre. The summary table from the County 2005 Inventory and Report on Non-Commercial Farming is attached as Exhibit D (Record # 8269). The full report is available from the Planning Department.

## **THE COMMITTEE'S WORK PLAN**

At the Agricultural Review Committee's first meeting, members agreed on a work plan. It is attached as Exhibit E. The Committee's review and recommendations focused on two questions both related to how existing agriculture is treated under the County GMA Critical Area Regulations (referred to hereafter as the "CAO"). The Committee first looked at how existing commercial farming is currently regulated through the use of BMPs. Specifically, the Committee examined whether the County should continue to use its own adopted BMPs or use those created and recommended by the Natural Resource Conservation Service ("NRCS").

The Committee also focused on a second question which related to non-commercial, small-scale agricultural activities. With regard to critical area protection, should these small-scale activities be treated the same as commercial activities? Most of the fourth meeting of the Committee was devoted to addressing this question.

## **ISLAND COUNTY'S VISION AND POLICY FOR AGRICULTURE**

The Committee reviewed the County's vision and policy for agriculture and developed recommended revisions. The changes approved by the Committee are included as Exhibit F (Record # 8296). **The Vision Statement reflects a consensus view of Committee members that both commercial and non-commercial farming activities play an important role in preserving the rural character of Island County.**

## **CRITICAL AREA PROTECTION AND EXISTING AGRICULTURE**

**Every Committee member agreed that regulations to protect the environment must be fair, flexible, scientifically based and comply with the GMA.** For all agricultural activities, whether they are existing or new, regulation should be tailored to the level and intensity of use. In other words, "one size does not fit all." The Committee recommends a broadly stated policy in this regard. *See* Exhibit F, page 3 (Record # 8296).

Several Committee members argued that existing agriculture should be treated the same as other existing uses. They believe that the environmental impacts of existing agricultural practices are no more consequential, and in many cases less significant, than those that are caused by other existing uses. The view of one Committee member was expressed in writing and is included as Exhibit G (Record # 8276). While equal treatment was not a consensus viewpoint, all Committee members agreed that County regulations and actions should, on balance, encourage farming, not penalize it. Hence, **the Committee recommends that environmental protection standards, consistent with the GMA, be adapted on a case-by-case basis so that they are applied fairly to each existing farm.** Again, *see* Exhibit F, page 3 (Record # 8296).

### **AGRICULTURAL BEST MANAGEMENT PRACTICES**

The Committee discussed BMPs at its first and second meeting. It reviewed how other counties regulate existing agriculture (Record # 8261, 8221, 8223); reviewed the best available science rule and NRCS BMPs (Record # 8290 attached as Exhibit H); and reviewed a comparison of NRCS and County BMPs prepared by NRCS. (Record # 8219) The County also discussed with both Whidbey and Snohomish Conservation Districts how farm management plans are prepared and reviewed a document that serves as the record of decision for a typical farm plan (attached to this Report as Exhibit I) (Record # 8262). The Committee also received correspondence from interested citizens and citizen groups relating to BMPs and farm plans (Record # 8218, 8270). After considering these documents and presentations, the Committee concluded that the County should require existing agricultural operations that are intruding into critical areas and/or buffers to apply NRCS management practices. While prepared at a national level, the NRCS management practices have been modified for use in Washington State. NRCS has advised the Planning Commission that the only question that has been raised regarding these practices that has not yet been resolved relates to riparian forested buffers. **Unless the County learns of reasons why they do not reflect best available science, the Committee recommends that compliance with NRCS BMPs be required in lieu of the County's current adopted BMPs.**

The Committee also considered what type or intensity of agricultural activity should be required to comply with BMPs; who should prepare farm management plans and the role the County should play in reviewing and approving farm plans.

**A. What type of farming activity should be required to prepare a Farm Management Plan?**

The County's current BMP regulations require that all farming activity either conform to the County's adopted BMPs or be conducted based on a Farm Management Plan. This is the case no matter what the level or intensity of farm use or where the farm activity is located. **Consistent with the recommended changes in Comprehensive Plan policy, the Committee unanimously believes that the current County regulations regarding Farm Management Plans should be changed.**

After reviewing the approach that has been adopted by Whatcom County, the Committee believes that a similar approach should be used by Island County, using the low, medium and high intensity categories that Whatcom County utilizes. **The Committee recommends the following:**

**Low Intensity**

- **Livestock operations with an animal unit density of less than 1 per acre**
- **Seasonal hay operations on wet pastures**

**Medium Intensity**

- **Livestock operations with an animal unit density of 1 or greater per acre**
- **All other horticultural operations**

**High Intensity**

- **All dairy operations**
- **Livestock operations involving feed lots**

Whatcom County requires that all existing agricultural uses implement NRCS BMPs. Whatcom County requires that medium and high intensity uses prepare Farm Management Plans

which formally document the implementation of NRCS BMPs. Low intensity farm operations use a BMP checklist and are not required to develop a Farm Management Plan. The Committee believes the Whatcom approach will work well in Island County. **Therefore, the Committee recommends that as a general rule low intensity farm operations should use a Checklist to implement BMPs rather than prepare Farm Management Plans.**

The Committee believes that the Whatcom County approach will work well for Island County. However, because of the importance of high value wetlands and maintenance of the potential for salmon spawning areas, the Committee believes that some low intensity farm operations should be required to develop Farm Management Plans. **Therefore, the Committee recommends that low intensity farm uses be required to prepare Farm Management Plans when these uses intrude into or are adjacent to high value wetlands, salmon streams or streams that are tributary to salmon streams.**

Not all Committee members supported this proposal. Some felt it would impose a burden on small scale farmers that existing County regulations do not require. Others questioned the definition of “high value wetlands.” This term is used in the New DOE Wetlands Rating System for Western Washington. While this Rating System is being field-tested by the County’s wetlands consultant, Paul Adamus, it is not used by existing regulations. Perhaps it may be better to refer to Habitats of Local Importance, rather than high value wetlands. These areas have been established and mapped and specifically identified in the County’s Critical Area Regulations. There are nine established areas. They are: Bos Lake, Crockett Lake, Deer Lagoon, Newman-Road Lakes, Cultus Bay Flats, Whidbey Island Game Farm, Penn Cove, Hastie Lake and Useless Bay.

#### **B. Who should prepare a Farm Management Plan?**

Current County regulations allow farmers to prepare a farm management plan, in lieu of complying with the County’s BMPs. The County suggests that a farmer consult with NRCS and local conservation districts, but places the burden for preparing the plan exclusively on the farmer. Current County regulations specify the subjects that must be covered in a plan and

provide, as one option, that a farm management plan approved by a Conservation District can qualify as a County-required Plan.

After review of the County's current requirements and approaches of other Counties, particularly Whatcom County, the Committee believes that the Whatcom County approach should be considered by Island County. Specifically, **the Committee recommends that farm management plans should be prepared by Conservation Districts, private consultants who have been certified by NRCS and farm owners.** Several members of the Committee expressed concern that farm owners need some training to be able to prepare a farm plan that meets NRCS standards. The Committee learned that NRCS does offer a certification program but very few farms have received certification. **The Committee believes a training program is needed before individual property owners prepare a farm management plan and plans prepared by property owners should meet the same standards as those prepared by a Conservation District.**

### **C. What role should the County play in the preparation and approval of Farm Management Plans?**

Current County regulations require that the County Planning Director approve all Farm Management Plans. The action of the Planning Director is an administrative decision. A denial may be appealed by the farmer to the Island County Board of Commissioners. One plan has been approved by the County, though many have been prepared and approved by the Conservation Districts. The Committee was advised by the Districts that farmers are reluctant to provide the Plans to the County because they contain information that the Districts and owners consider proprietary.

The Conservation Districts explained that they work hard to nurture a "trust" relationship with farm owners, for the work to prepare a Farm Plan requires collaboration. The Districts made it clear that maintenance of a collaborative and trusting relationship is vital. To be successful, the Districts must be viewed as a partner of the farmer and not a part of the regulatory

process. Therefore, they have been unwilling to provide the County approved Farm Management Plans.

A subpart of a Farm Management Plan is the Record of Decision. This document records the commitments of the farm operator. For this reason, both Conservation Districts recommend that this be the record document that the County receives and approves. **The Committee concurs and recommends that County approval should be of the Record of Decision and not the full Farm Management Plan.** An example of a Record of Decision is included at Exhibit I. Note, a couple of members of the Committee abstained from supporting this recommendation.

The Committee believes that the Record of Decision should be approved by the County administratively. The Committee understands that the approval authority cannot be delegated to another governmental entity. **However, the Committee recommends that the County role regarding Farm Management Plans continue to be administrative. Further, deference should be given to Plans prepared by the Conservation Districts.** Plan preparation by the Conservation Districts should be supported financially by the County.

## **WHAT TO DO ABOUT SMALL SCALE AGRICULTURE**

The Committee received a summary table on small scale non-commercial agriculture at its September 14th meeting (Exhibit D). The Committee discussed four options:

1. Require all existing farming activity in R, RR and RF Zones to comply with critical area regulations; or
2. Same as Option No. 1, but require only farming activity adjacent to high quality wetlands, salmon streams or streams tributary to salmon streams to comply with critical area regulations; or
3. Create an RA-5 zone and require (or allow) existing rural farm land to be rezoned and then require BMPs for these properties; or
4. Treat all existing farming in R, RR and RF Zones the same as farming in CA and RA zones.

The Committee agreed, without dissent, that the first option was unacceptable. One member observed that this option would “. . . undermine the health of small scale farming . . .” Another was more emphatic stating that it would “. . . destroy small-scale farming. . .” Since a prior recommendation of the Committee addresses Option No 2, the Committee focused on Options Nos. 3 and 4.

Staff advised against the zoning option (Option No. 3) explaining that the characteristics of agriculture in the Rural Zones do not readily support a zoning classification. Many farm operations are temporary, not permanent in nature. They reflect a family commitment that can change over time. For those that are more permanent in nature, the County already allows farms as small as five acres to opt into the County’s CA zone. Similarly, parcels 10 acres or larger can opt into the RA zone. So, non-commercial agriculture can already be included in the County’s commercial zoning classifications. Therefore, though it was not a consensus view, **the Committee recommends that the County treat all existing farming the same regardless of the zoning classification in which it occurs.**

### **MONITORING AND ENFORCEMENT**

The Committee was briefed on existing monitoring activities. To date, the monitoring program specified in the County’s adopted BMPs has not been implemented. This is because of the legal uncertainty regarding the implementation of BMPs for rural zoned properties and because for RA and CA zoned properties compliance was not required until 2003. However, the Committee received information on existing water quality monitoring by the Public Works and Health Departments -- which addresses, in part, water quality impacts from agriculture. Staff also advised the Committee that a comprehensive water quality program is being developed with the assistance of the County’s wetland consultant, Paul Adamus. **While the Committee acknowledges that a committed monitoring program is important, the Committee makes no specific recommendations other than the County commit to implement monitoring.**

Several Committee members stated that a better way to treat existing agriculture was to require BMPs only when a specific problem or impact has been identified. Others agreed this was desirable but not practical for the County will never have the financial resources to implement an expansive and comprehensive monitoring program. Still others wished to make it clear that the program provided for in the adopted BMP regulations is now two years overdue and should begin immediately. All Committee members agreed that monitoring should be considered integral to the County BMPs.

The Committee received a comparison of the enforcement standards of Island, Whatcom and Thurston County (Record #8267). The Committee also learned that since 2000, there have been four enforcement actions that related to critical areas and agricultural activities. One of the four remains an open enforcement action. Compliance and mitigation has been achieved for the other three. **The Committee did not identify any changes to the County's enforcement standards that it believed were needed.** The County's enforcement program is complaint-based. The County normally relies on written complaints to initiate enforcement actions for all code violations. However, for complaints regarding potential critical area violations the County will invariably inspect the day the complaint is received. The Committee believes that enforcement must be supported by a stronger County commitment to education.

## **EDUCATION**

All Committee members acknowledged that having strong enforcement authority is important. However, after an extensive discussion of the success of various volunteer programs that agencies within Island County have initiated, the Committee concluded unanimously that the best way to achieve compliance was through education. Several members stated in very strong terms that Island County citizens will “. . . do the right thing if they understand what actions they need to take and why . . .” The Committee feels strongly that education must be given a higher priority. **The Committee urges the County to commit to and finance a significant program to teach farm owners the benefits that can be achieved from the use of best management practices.** While education cannot be a substitute for enforcement, it can lead to public understanding and commitment that reduces the need for enforcement actions.

Existing educational programs sponsored by WSU Cooperative Extension and the Conservation Districts are varied and significant. Committee members are aware of and participate in many of these outreach efforts. Some are listed in Exhibit J.

## **CONCLUSIONS AND FINAL OBSERVATIONS**

The Committee's meetings were public and recorded. Not all members could attend every meeting. While the Committee's recommendations were often reached by consensus, this report has also described where opinion has diverged. A complete index of the record of documents received by Committee members is included as Exhibit K.

The Committee believes unanimously that farming is an essential component of Island County's rural character, including agricultural lands that are zoned rural, rural residential and rural forest. Committee members agree that regulations to protect the environment must be fair, flexible, scientifically based and comply with the GMA. They recommend that environmental protection standards, consistent with the GMA, be adapted on a case-by-case basis so that they are applied fairly to each existing farm.

After review of the Best Management Practices of Island County and the National Resource Conservation Service, the Committee recommends that compliance with NRCS BMPs be required in lieu of the County's current adopted BMPs. The Committee also recommends that all existing farming in the County should comply with the same regulations, regardless of the zoning classification in which the farming occurs.

The Committee recommends that agricultural activities be categorized according to low intensity (livestock operations with an animal unit density of less than 1 acre and seasonal hay operations on wet pastures), medium intensity (livestock operations with an animal density of 1 or greater per acre and all other horticultural operations) and high intensity (all dairy operations and livestock operations involving feed lots).

To implement BMPs, the Committee recommends that low intensity farm operations use a BMP compliance Checklist, unless they intrude into or are adjacent to salmon streams or streams that are tributary to salmon streams. Farm Management Plans should also be required for farm operations that intrude into or are adjacent to high value wetlands and/or adopted Habitats of Local Importance. The scope and extent of this requirement needs further consideration and refinement. Low intensity farm operations that intrude into or are adjacent to habitats of local importance, salmon streams and tributaries of salmon streams should prepare a Farm Management Plan. Medium and high intensity operations should also prepare Farm Management Plans. Farm Management Plans should be prepared by Conservation Districts, private consultants who have been certified by NRCS or farm owners trained in preparation of a farm plan. The Farm Management Plan Record of Decision, which records the commitments of the farm operator, should be filed with the County for administrative approval.

The Committee recommends that Island County commit to implement monitoring regarding implementation of BMPs. The Committee also urges the County to commit to and finance a significant educational program to teach farm owners the benefits that can be achieved from the use of best management practices.

Through its recommendations, the Committee believes that critical areas can be protected, consistent with the GMA from any environmental impacts that may be attributed to existing agriculture. The Committee recognizes that some of its recommendations will change adopted County regulations and will require new or expanded initiatives by the County. Taken together, the Committee believes these recommendations will help safeguard the County's rural character.

## **EXHIBITS**

- A. Agricultural Review Committee Agendas (Record # 8303, 8304, 8268)
- B. Committee Member Bios (Record #8329)
- C. 2002 Census of Agriculture (Record # 8305)
- D. Summary Table -- Noncommercial Agriculture (Record # 8269)
- E. Agriculture Review Committee Work Plan (Record # 8292)
- F. Recommended Comp Plan Amendments (Record # 8296)
- G. Letter from Roger Nelson (Record # 8276)
- H. NRCS BMPs -- BAS Review (Record # 8290)
- I. Farm Plan Record of Decision (Record # 8262)
- J. Educational Programs Related to Agriculture (Record # 8338, 8339, 8340, 8341)
- K. Index to the Record of the Committee (Record #8330)