

# Hydraulic Code Implementation Citizen Advisory Group Meeting

## Meeting Notes for Thursday, May 31, 2018

**Date: Thursday, May 31, 2018: 10:00 am - 3:00 pm**

**Location: Directors Conference Room 537, Natural Resources Building, 1111 Washington St SE, Olympia, WA 98501**

These meeting notes are intended to convey highlights from the meeting, including information and perspectives shared and discussed. Decisions made during the meeting are included.

This document is not a word-for-word transcription of the meeting. We have tried to capture the main topics and issues discussed and highlight some of the main questions, comments and action items raised by group members during the meeting.

**Members:** Please verify and correct any comments attributed to you so that we can accurately capture the issues or points made during the meeting.

**Attendees**

Name	Affiliation	
<b>HCICAG Members</b>		
Amy Carey	Sound Action	X
Stephan Dillon, P.E.	Hancock Forest Management, Inc.	X
Kim McDonald	Fish Not Gold	X
Shannon Moore	Moore Fish Company (Commercial Fishers)	X
Norman Peck	Kittitas Audubon Society	X
Shane Phillips	Civil Engineers/Shoreline Property Owners	X
Brandon Roozen	Western Washington Agriculture Association	
Jim Shellooe, P.E.	Association of General Contractors	
Kimbal Sundberg	Lead Entities – San Juan Island Lead Entity	X
Stephen Whitehouse	Building Industry Association of Washington	X
Lisa Willis	Port of Longview	X
Scott Brown	Washington Prospectors Mining Association	X
<b>WDFW Staff</b>		
Randi Thurston	Protection Division Manager, Habitat Program	X
Teresa Scott	Policy Coordinator, Habitat Program	X
Jeff Davis	Assistant Director, Habitat Program	X

## Introductions, Old Business and General Updates

Teresa and Randi welcomed everyone.

### Introductions and Agenda Review

Teresa Scott reviewed the agenda.

## WDFW and Habitat Program Updates and Discussion – Jeff Davis, Assistant Director, Habitat Program

### Agency and Program Budget Update

- Jeff Davis reviewed some of the budget and demographic information that had been prepared for the budget advisory committee. Discussion included some interest in ways for WDFW to raise new funds from non-traditional clients as well as charging for HPAs. Fish Program charges fishers for monitoring some fisheries (ride-along biologists at some flat rate per day), so there is agency precedent to charge users for monitoring costs. Others quickly pointed out that other HPA project types would not get charged those fees so it wouldn't be equitable.
- Talked about the window of opportunity brought about by the public's interest in a new agency director to put the spotlight on WDFW budget woes, especially if there were new solutions for which to advocate.
- Jeff pointed out the benefits of the HPA being a no-cost permit and WDFW's delivery of "technical assistance" as agency credibility builders.
- Jeff listened to folks express concerns about the degradation of the environment and fish habitat, especially with respect to the lack of proportional environmental protection to match human population growth (e.g., City of Seattle sewer capacity isn't growing along with population). Concern was expressed that infrastructure maintenance and improvement is not keeping pace with "infill" growth.
- Members suggested more grass-roots efforts in partnership with local organizations like granges, conservation districts, enhancement groups and etc. to get out conservation/protection messages.
- Jeff talked about [a recreation fee study being conducted by the Ruckelshaus Center](#), the [Matrix report](#), and the agency's [Long-term Funding Plan](#).

### Overview of potential WDFW Request Legislation for 2109 Legislative Session

- Members asked whether WDFW would be putting forward legislation for enhanced civil authority in 2019. Jeff said it's a possibility that someone would introduce such legislation, and he told the story about the disposition of the 2018 Fitzgibbons bill. Jeff indicated it's unlikely that WDFW would request legislation. Jeff mentioned that most HPA legislation carries a quid pro quo jurisdiction roll back, which is not supported by tribes and other stakeholders.
- On the jurisdiction question, there was a fair amount of blow back to Jeff about the decision to ask for the AG opinion, and a sense that the AG opinion was different than current/past practice. One member expressed the thought that better coordination between jurisdictions would obviate the need for WDFW jurisdiction above ordinary high; other members said why they did not see that as a workable solution (even if it was a good solution in theory), citing inadequate local SMA rules as an example where the partnership breaks down. In the end, Jeff asked members to provide specific

examples of HPAs that were issued differently after the AG Opinion than they would have been before the opinion.

- One member suggested it might take independent science advice (e.g., National Academy of Science) to convince the legislature that partnering to achieve positive environmental outcomes makes sense. “Don’t need new laws, need to clarify and enforce what we already have.” And need metrics for success. Observed that jurisdictions (e.g., counties and WDFW) measure success differently and are unlikely to come to agreement on one environmental success measure.

### **HPA Rulemaking Update**

- Randi reviewed the content and conclusion of the previous rule making and introduced the current rule making. Kim MacDonald took the opportunity to argue that WDFW wasn’t responding to all of the input from FWC members; Randi was able to relay Kim Thorburn’s response to that assertion.
- Members who are not involved in mineral prospecting issues indicated a willingness to engage on the suction dredge rule making but needed to be better informed. This surprised staff, and caused Randi to take a different direction with how to move forward at the September CAG meeting. Randi committed to bringing the topics as listed below under “next agenda” and asked Scott Brown to bring a dredging demonstration to the group using video.

### **Steve Whitehouse proposal to address After the fact HPAs**

- Stephen Whitehouse gave an introduction to his issue and walked us through the materials. Steve is pretty focused on the situation where a structure is permit-able but just didn’t get a permit before the work was done due to honest oversight.
- Talked about how to establish intent and whether a habitat biologist should be able to do this.
- The group used the full hour in good discussion of the pros and cons of Steve’s proposal - some are sympathetic with the “honest mistake” and others think the after-the-fact permit would be a slippery slope that evil doers would take advantage of.
- The group was engaged in this topic, and members want to do some additional research and email discussion, and then discuss at the next meeting before Stephen calls for the question. Steve agreed to this, hence it’s carry-over to the September agenda. The question would be Steve’s proposal as articulated on the 2-pager he wrote.
- In the meantime, staff and members should be thinking about ways to do this with or without legislation such that the integrity or sanctity of the HPA-before-work-starts is not compromised.

### **HCICAG Business and Discussion**

- Randi introduced the idea of a facilitator and both Randi and Teresa said more about why WDFW thinks a facilitator would be a good idea for the group.
- The group doesn’t think they need a facilitator, and feel like momentum is just getting rolling in terms of helpful discussions and advice. Some members are concerned that a facilitator would make them into a group of agency yes-people, or that having a facilitator indicates a higher level of within-group opposition than actually exists. They also did not want to spend the money, given the agency budget status. Staff mentioned how much we value their time and convinced them to give it a try and we would evaluate as we move forward.

- Randi talked about the compliance topic and why she would like to hear ideas from CAG about how to shape a workable WDFW HPA compliance program. We agreed to bring or distribute some statistics from the pilot compliance study ahead of the meeting. While there is not time in the September agenda for a full discussion of this topic, Randi will provide an introduction to the materials and topic then for further discussion in December.
- Randi also acknowledged that we might need to add a meeting between the September meeting and end of October to resolve CAG advice on the suction dredge rules.
- Norm wants to talk about protection of habitat and we promised to distribute Norm's paper on hyporheic flow. It's "on this list" of topics.
- Likewise, Kimbal wants to talk about how to move forward with measures to prevent toxic chemicals entering the environment given research into the effects of these chemicals.
- Meeting adjourned at 3pm

#### **Next meeting draft agenda**

1. Introduce facilitator and abbreviated round-robin of people and interests
2. Suction dredge rule making:
  - Education video/demonstration
  - Current (pamphlet) rules and HPA provisions
  - Possible science monitoring program outline
3. Further discussion and action on Stephen Whitehouse's proposal for after-the-fact HPA permits.
4. Introduction to HPA Compliance
  - Walk-through materials and questions
  - Walk-through current WDFW compliance flowchart
  - Information from first year of compliance pilot