

**CENTRAL PUGET SOUND  
GROWTH MANAGEMENT HEARINGS BOARD  
STATE OF WASHINGTON**

HOOD CANAL ENVIRONMENTAL	)	<b>Case No. 06-3-0012c</b>
COUNCIL, <i>et al</i> ,	)	
	)	
Petitioners,	)	<b>ORDER DENYING</b>
	)	<b>RECONSIDERATION</b>
and	)	
	)	
SUQUAMISH TRIBE,	)	
	)	
Intervenor,	)	
	)	
v.	)	
	)	
KITSAP COUNTY,	)	
	)	
	)	
Respondent.	)	
	)	

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**I. BACKGROUND**

On April 12, 2006, the Board received Respondent Kitsap County’s Motion to Dismiss Legal Issue No. 7 (**County Motion to Dismiss**). The County moved to dismiss claims raised by Petitioners Kitsap Alliance of Property Owners (KAPO), asserting that KAPO lacked standing to assert a claim under the State Environmental Policy Act, RCW 43.21 (SEPA). On April 21, 2006, the Board received Petitioner KAPO’s Response to County’s Motion to Dismiss the SEPA Claims (**KAPO Response to Dismiss**). On April 28, 2006, the Board received Kitsap County’s Rebuttal to Motion to Dismiss the SEPA Claims (**County Rebuttal – Dismiss**).

On May 8, 2006, the Board issued its decision on the County’s Motion to Dismiss (**Order on Motions**). The Board found that because KAPO alleged only conjectural and hypothetical injuries to non-economic interests as a result of the County’s action, and that economic interests are not within the zone of interests protected by SEPA, KAPO failed to satisfy the Board’s test for SEPA standing. The Board granted the County’s Motion to Dismiss Legal Issue No. 7. Order on Motions at 11.

On May 26, 2006, the Board received Petitioner KAPO’s Prehearing Brief and Request for Reconsideration of the Board’s Order Dismissing KAPO’s SEPA Claims (**PHB/Request for Reconsideration**). KAPO asserts that it has SEPA standing because the County failed to issue a new SEPA determination after it materially changed its Critical Areas Ordinance (CAO) and that the retroactive nature of the CAO causes

immediate and demonstrable harm to KAPO members. PHB/Request for Reconsideration at 66-70.

## II. DISCUSSION

WAC 242-02-832(1) - **Reconsideration** - provides:

(1) After issuance of a final decision any party may file a motion for reconsideration with a board in accordance with subsection (2) of this section. *Such motion must be filed within ten days of service of the final decision.* The original and three copies of the motion for reconsideration shall be filed with the board. At the same time, copies shall be served on all parties of record. Within five days of filing the motion for reconsideration, a party may file an answer to the motion for reconsideration without direction or request from the board. A board may require other parties to supply an answer. All answers to motions for reconsideration shall be served on all parties of record. (Emphasis added)

WAC 242-02-832(1) clearly states that a motion for reconsideration *must be filed within ten days of service of the final decision.* The Board issued its decision on the County's Motion to Dismiss on May 8, 2006. Any request for reconsideration of the decision was due by May 18, 2006. KAPO submitted its Request for Reconsideration, as part of its Prehearing Brief, on May 26, 2006.

The filing of Petitioner KAPO's Request for Reconsideration of the Board's Order Dismissing KAPO's SEPA Claims is untimely. The Request for Reconsideration is **denied.**

## III. ORDER

Based on the GMA, Board rules, Petitioner's Request for Reconsideration, and prior decisions of this Board, and having deliberated on the matter, the Board enters the following Order:

- Petitioner KAPO's Request for Reconsideration of the Board's Order on Motions Dismissing Legal Issue No. 7 (SEPA Claims) is **denied.**

So ORDERED this 19th day of June, 2006.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Bruce C. Laing, FAICP  
Board Member

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Edward G. McGuire, AICP  
Board Member

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Margaret A. Pageler  
Board Member

Note: This order constitutes a final order, as specified by RCW 36.70A.300<sup>1</sup>.

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<sup>1</sup> Pursuant to RCW 36.70A.300 this is a final order of the Board.

Reconsideration. Pursuant to WAC 242-02-832(3), a board's order on a motion for reconsideration is not subject to a motion for reconsideration.

Judicial Review. Any party aggrieved by a final decision of the Board may appeal the decision to superior court as provided by RCW 36.70A.300(5).