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**State of Washington  
GROWTH MANAGEMENT HEARINGS BOARD  
FOR EASTERN WASHINGTON**

**Case No. 03-1-0006c**

ORDER ON MOTION TO DISMISS

LOON LAKE PROPERTY OWNERS  
ASSOCIATION, LOON LAKE DEFENSE  
FUND, WILLIAM SHAWL, and JANICE  
SHAWL, LARSON BEACH NEIGHBORS, and  
JEANIE WAGENMAN

Petitioner,

DEPARTMENT OF ECOLOGY,

Intervenor,

v.

STEVENS COUNTY,

Respondent.

**I. BACKGROUND**

On February 2, 2004, the Board issued an Order consolidating EWGMHB Case Nos. 00-1-0016, 03-1-0003 and 03-1-0006 under new Case No. 03-1-0006c.

On February 6, 2004, the Board issued its Order on Motions from Case Nos. 00-1-0016, 03-1-0003 and 03-1-0006.

On February 10, 2004, the Board issued its Final Decision and Order in Case No. 03-1-0003.

On February 13, 2004, Respondent, Stevens County filed a Motion for Reconsideration of the Boards Order on Motions filed February 6, 2004, granting intervention status to Loon Lake Property Owners Association (LLPOA).

On February 20, 2004, Petitioners Larson Beach Neighbors and Jeanie Wagenman filed a Motion for Clarification/Reconsideration on FDO 2/10/04. Loon Lake Property Owners

1 Association, Loon Lake Defense Fund, and William and Janice Shawl, (LLPOA et al.) filed  
2 LLPOA Answer to County's Motion for Reconsideration of Intervention Order.

3 On March 1, 2004, the Board held a telephonic status conference. Present were D.E.  
4 "Skip" Chilberg, Presiding Officer, and Board Members Dennis Dellwo and Judy Wall.  
5 Present for Petitioners were Jeanie Wagenman and Bruce Erickson. Present for Respondent  
6 was Peter Scott. Present for Intervenor was Tom Young, Assistant Attorneys General.

7 On March 3, 2004, the Board issued an Order on Motion for Reconsideration directing  
8 the parties to file objections no later than March 11, 2004.

9 On March 17, 2004, the Board refused to reconsider its order or issue an Amended  
10 Final Decision and Order.

11 On May 7, 2004, the Respondent filed its Motion to Dismiss Petitions for Review Nos.  
12 00-1-0016 and 03-1-0006.

13 On May 10, 2004, the scheduled status conference was held and arguments were  
14 heard on the Motion to Dismiss.

## 15 **II. MOTION ORDER**

16 The Respondent County moves this Board for an order dismissing Petitions for  
17 Review Nos. 00-1-0016 and 03-1-0006. The County contends that these two Petitions are  
18 challenging the adoption and amendment of Stevens County's Interim Critical Areas  
19 Ordinance (ICAO), for validity and compliance with the Growth Management Act (GMA).  
20 Because this ICAO has been repealed on April 27, 2004, the EWGMHB is deprived of its  
21 jurisdiction over the matters raised therein.

22 The Petitioners, LLOPA, do not object to the elimination of the issues rising from the  
23 County's adoption of its ICAO, but believed a finding of compliance would be the correct  
24 method.

## 25 **III. DISCUSSION**

26 The Board found the County out of compliance in both Petitions for Review Nos. 00-  
1-0016 and 03-1-0006 and found that they failed to comply with the GMA and in doing so  
failed to protect Critical Areas. The County has now repealed the ICAO, removing the

1 objected to action of the County but still not adequately protecting Critical Areas. We are  
2 uncomfortable finding the County in compliance where their actions are still not in  
3 compliance with the GMA. The Board feels, however, issues dealing with the ICAO and its  
4 amendments are no longer properly before it. These issues are dismissed leaving only  
5 those issues, which involve Title 13 and the County's failure to comply with the GMA.

6 **IV. ORDER**

7 1. After hearing the arguments of the parties and review of the brief on  
8 Motion for Dismiss, the Board has determined it will dismiss the issues which were raised in  
9 Petitions for Review Nos. 00-1-0016 and 03-1-0006 to the extent they involve the County's  
10 Interim Critical Area Ordinance, now repealed.

11 2. The Issues found in Case No. 03-1-0003 and which involve Title 13 and  
12 the County's failure to comply with the GMA shall remain before the Board and will be heard  
13 under the above consolidate case number.

14 **SO ORDERED** this 20<sup>th</sup> day of May 2004.

15 EASTERN WASHINGTON GROWTH MANAGEMENT  
16 HEARINGS BOARD

17 \_\_\_\_\_  
18 D.E. "Skip" Chilberg, Board Member

19 \_\_\_\_\_  
20 Dennis Dellwo, Board Member

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22 Judy Wall, Board Member