



1 The Board ordered Stevens County to "respond by November 22, 2004, to the  
2 nominations of species and habitat of local importance in the Loon Lake watershed, which  
3 were submitted under Title 13 prior to its amendment and addition of Appendix B."

4 The Petitioners created a presentation based on Best Available Science (BAS) to  
5 support the nominations for habitat (wetlands on Loon Lake) and species of local  
6 importance (Red-necked Grebe and Common Loon). The Petitioners material, data and  
7 presentation were given to the Board of County Commissioners (BOCC) at a public hearing  
8 held at Loon Lake on January 24, 2005. Additional testimony was given by the Petitioners  
9 and other citizens at another hearing in Colville, Washington on January 31, 2005. On  
10 March 7, 2005, the BOCC held a "closed" (BOCC meeting minutes, 3-15-05) final hearing to  
11 summarize the Staff report, give BOCC comments and to vote to deny the nomination  
12 requests. On March 22, 2005, the Board of County Commissioners adopted Findings of Fact  
13 (Resolution #41-2005) denying the requests received to designate certain habitat at Loon  
14 Lake and two species, the Common Loon and Red-necked Grebe, as Habitat and Species of  
15 Local Importance.

16 The Board has determined that the Petitioners have carried their burden of proof and  
17 have shown that Stevens County has not identified and protected habitat and species of  
18 local importance as required by the GMA. The record does not show that the County  
19 included best available science [as required by RCW 36.70A.172(1)] and other local factors,  
20 in making their final decision. The Board finds Stevens County out of compliance for failure  
21 to protect Fish and Wildlife Habitat Critical Areas (FWHCA) as required by the GMA RCW  
22 36.70A.060(2) and to respond adequately to the nomination of certain species, specifically  
23 the Common Loon and Red-necked Grebe, and habitat at Loon Lake.

## 24 **II. PROCEDURAL BACKGROUND**

25 On February 2, 2004, the Board issued an Order consolidating EWGMHB Case Nos.  
26 00-1-0016, 03-1-0003 and 03-1-0006 under new Case No. 03-1-0006c.

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

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

3 On May 17, 2004, the Board received Respondent, Stevens County's Motion to  
4 Extend Time requesting an additional 30 days to bring themselves into compliance with the  
5 Board's Final Decision and Order dated February 10, 2004. Stevens County was to be in  
6 compliance by June 9, 2004.

7 On October 15, 2004, the Board issued its Order on Compliance.

8 On November 17, 2004, the Board received a Motion to Extend Time and Affidavit of  
9 Peter G. Scott in Support of Motion to Extend Time requesting an additional 45 days to  
10 bring themselves into compliance.

11 On November 22, 2004, the Board asked that any objections to such continuance be  
12 filed with the Board by December 3, 2004. The Petitioners LLPOA and Larson Beach  
13 Neighbors and Jeanie Wagenman notified the Board that they do not object to the  
14 additional 45 days.

15 On December 14, 2004, the Board issued its Order on Motion to Extend Time.

16 On February 11, 2005, the Board received a request for Compliance Hearing from  
17 Petitioners' in the above matter.

18 On February 15, 2005, the Board issued its Order Setting Compliance Hearing and  
19 Briefing Schedule.

20 On March 14, 2005, the Board received a request from Petitioner Jeanie Wagenman  
21 asking for additional time to file Petitioner's Compliance Brief because materials pertinent to  
22 briefing were unavailable.

23 On March 15, 2005, the Board received a letter from Respondent's attorney Peter  
24 Scott, advising the Resolution of the Decision would be available to Petitioner on March 22,  
25 2005.

26 On April 14, 2005, the Board held a telephonic compliance hearing. Present were  
Presiding Officer, John Roskelley, and Board Members Judy Wall and Dennis Dellwo. Present

1 for Petitioners were Jeanie Wagenman, Mr. and Mrs. Shawl, and Bruce Erickson. Present for  
2 Respondent were Peter Scott and Lloyd Nickel.

### 3 **III. STANDARD OF REVIEW**

4 Comprehensive plans and development regulations (and amendments thereto)  
5 adopted pursuant to the Growth Management Act ("GMA" or "Act") are presumed valid  
6 upon adoption by the local government. RCW 36.70A.320. The burden is on the Petitioners  
7 to demonstrate that any action taken by the respondent jurisdiction is not in compliance  
8 with the Act.

9 The Washington Supreme Court has summarized the standards for Board review of  
10 local government actions under Growth Management Act. It was stated:

11 The Board is charged with adjudicating GMA compliance, and, when  
12 necessary, with invalidating noncompliant comprehensive plans and  
13 development regulations. RCW 36.70A.280.302. The Board "shall find  
14 compliance unless it determines that the action by the state agency, county or  
15 city is clearly erroneous in view of the entire record before the county, or city  
16 is clearly erroneous in view of the entire record before the Board and in light  
17 of the goals and requirements of [the GMA]." RCW 36.70A.320(3). To find an  
18 action "clearly erroneous" the Board must be "left with the firm and definite  
19 conviction that a mistake has been committed." *Dep't of Ecology v. Pub. Util.*  
20 *Dist. No. 1*, 121 Wn.2d 179, 201, 849 P.2d 646 (1993).

21 *King County v. Central Puget Sound Growth Management Hearings Board*, 142 Wn.2d 543,  
22 552, 14 P.3d 133, 138 (2000).

23 The Board will grant deference to counties and cities in how they plan under Growth  
24 Management Act (GMA). RCW 36.70A.3201. But, as the Court has stated, "local discretion is  
25 bounded, however, by the goals and requirements of the GMA." *King County v. Central*  
26 *Puget Sound Growth Management Hearings Board*, 142 Wn.2d 543, 561, 14 P.2d 133  
(2000). It has been further recognized that "[c]onsistent with *King County*, and  
notwithstanding the 'deference' language of RCW 36.70A.3201, the Board acts properly  
when it foregoes deference to a . . . plan that is not 'consistent with the requirements and

1 goals of the GMA." *Thurston County v. Cooper Point Association*, 108 Wn.App. 429, 444, 31  
2 P.3d 28 (2001).

3 The Board has jurisdiction over the subject matter of the Petition for Review. RCW  
4 36.70A.280(1)(a).

#### 5 **IV. ISSUES PRESENTED**

6 Did Stevens County "adequately respond" to nominations of species and habitat of  
7 local importance as ordered by the Eastern Washington Growth Management Hearings  
8 Board as previously stated in the Board's Final Decision and Order? FDO at 25.

#### 9 **V. ARGUMENT, DISCUSSION AND ANALYSIS**

##### 10 **The Parties Positions:**

11 Petitioners, Larson Beach Neighbors and Jeanie Wagenman, contend that the  
12 Respondent, Stevens County, has failed to adequately protect nominated species and  
13 habitat of local importance, specifically the Common Loon and Red-necked Grebe as species  
14 and the three Loon Lake wetlands as habitat.

15 Petitioners provided expert testimony and BAS documents to prove to the County  
16 that the Common Loon and Red-necked Grebe should be listed as species of local  
17 importance and the wetlands associated with Loon Lake should be designated habitat of  
18 local importance. On behalf of the designation, the Petitioners provided expert written and  
19 oral testimony, scientific studies and numerous papers to prove the nominations of the  
20 Common Loon and Red-necked Grebe, two species of local concern due to their population  
21 status and their sensitivity to habitat manipulation, were necessary to enhance protection  
22 for them as species of local importance. Compliance Briefing Attachments A, B, C, D, E, F,  
23 G, H, I, R, S, T, U, Z, AA.

24 In addition, the Petitioners provided written testimony and Best Available Science on  
25 behalf of the nomination of the wetlands at Loon Lake as habitat of local importance. They  
26 proved the wetlands associated with Loon Lake include the Common Loon and Red-necked  
Grebe, two species with a "... seasonal range or habitat element with which a given species  
has a primary association, and which, if altered, may reduce the likelihood that the species

1 will maintain and reproduce over the long-term. ...These might also include habitats that  
2 are of limited availability or high vulnerability to alteration, such as cliff, talus and  
3 wetlands." Compliance Briefing Attachments A, B, C, D, E, F, G, H, I, R, S, T, U, Z, AA. WAC  
4 365-190-030(9).

5 The Petitioners also contend that the Board has already addressed the issue of  
6 designation of habitats and species of local importance in their Final Decision and Order  
7 (FDO) of February 10, 2004 (03-1-0003) page 25 and in their Order of Compliance, October  
8 15, 2004. They quote the Boards findings in both Orders. Petitioners' Compliance Briefing p.  
9 6. They contend the County has not followed the Board's Orders.

10 The Petitioners detailed the reasons for the nominations and what was proposed.  
11 Relying on experts and BAS information, the Petitioners asked the County to protect the  
12 Red-necked Grebe by requiring moving watercraft to remain at least a distance of 150 feet  
13 from nesting grebes and that a minimum 300-foot buffer no-wake speed zone is placed  
14 around the nesting sites. Other suggestions supportive of wildlife were also presented.

15 The Petitioners contend that the County's denial of the nominations of habitat and  
16 species of local importance failed to have the needed reasoned analysis, findings and facts.  
17 They contend the BOCC denied the nominations without using a reasoned process, analysis  
18 and BAS, which is required by the GMA, to support their decision. The Petitioners quote the  
19 Board in 03-1-0003:

20 "Stevens County must, as affirmed in WEAN, make a reasoned analysis on the  
21 record." EWGMHB 03-1-0003, FDO 2/10/03, p. 25.

22 They also cite another EWGMHB Order in *Save our Butte Save our Basin*:

23 "Because Board decisions must be based on the record, [RCW 36.70A.290 (4)]  
24 it is helpful to both the Board and the citizens if local governments show their  
25 work and indicate the parts of the record upon which they have relied...It  
26 involves a reasoned discussion of the issue in question, the selection of a  
choice that meets the minimum requirements established by the Growth  
Management Act and is supported by the record." *Save our Butte Save our  
Basin, et al v Chelan County*, EWGMHB 94-1-0015 CHO 1/30/95.

1 The Petitioners also use a Western Washington Growth Management Board decision:  
2 "In order to achieve compliance, the County must make a reasoned analysis,  
3 on the record, including best available science and other local factors, and  
4 take official substantive action on WEAN's nominations by 1/31/01." *Island  
County Citizens' Growth Management Coalition v Island County*; WWGMHB 98-  
2-0023c, CO 10/12/00.

5 The Petitioners respond in their Compliance Reply Brief to the BOCC Findings of  
6 Fact, Resolution 41-2005, citing specific testimony, written letters or BAS to dispute each  
7 finding or statement. They also answer specific statements made by each County  
8 Commissioner and any discrepancies in the staff report. Petitioners Compliance Briefing, p.  
9 10-24.

10 The Petitioners request the Board find the County out of compliance by failing to  
11 properly respond to the nominations of habitats and species of local importance, that the  
12 nominations of wetlands around Loon Lake be designated habitat of local importance, that  
13 the Common Loon and Red-necked Grebe be designated as species of local importance and  
14 that the Board set a time limit to achieve compliance.

15 **Second Petitioners Position:**

16 Petitioners, Loon Lake Property Owners Association, Loon Lake Defense Fund and  
17 William and Janice Shawl, also request the Board find Stevens County out of compliance  
18 with the requirements of the GMA for failure to list the nominated Common Loon and the  
19 Red-necked Grebe and three (3) wetlands at Loon Lake as species and habitat of local  
importance and to take adequate measures to protect them.

20 They rely on RCW 36.70A.060(2) which provides that every county "shall adopt  
21 development regulations that protect critical areas...". Critical areas are defined by RCW  
22 36.70A.030(5)(c) as areas that include "fish and wildlife habitat conservation areas  
23 (FWHCA)." WAC 365-190-080(5)(a)(ii) provides that FWCHA include "habitats and species  
24 of local importance." Stevens County is under a GMA affirmative duty and requirement to  
25 protect habitats and species of local importance.

1 The Petitioners contend that "habitats", "species" and "local importance" are defined  
2 terms (LLPOA Compliance Brief, pg. 2-3) and "habitats of local importance" is also defined  
3 under WAC 365-190-030(9). According to the Petitioners, the record, which includes BAS  
4 and testimony from experts, shows that Stevens County's decision not to list the Common  
5 Loon and Red-necked Grebe and three Loon Lake wetlands was clearly erroneous in light  
6 of the entire record. The Record fails to contain evidence to rebut the fact of a primary  
7 association of the two species with Loon Lake. There is little or no evidence to show that  
8 the Loon Lake wetlands are not breeding habitat, winter range and movement corridors for  
9 the nominated species. There is nothing in the Record to rebut the fact that these  
10 nominated wetlands exist and the fact that a very large amount of alteration to them has  
11 occurred and continues to occur under Stevens County stewardship.

12 The Petitioners contend most, if not all, Stevens County's Findings of Fact are  
13 irrelevant to the denial of the habitat and species of local importance nomination (HSLI).  
14 (BOCC Resolution No. 41-2005, LLPOA Petitioners Compliance Brief, Attachment 1).

15 The Petitioners contend, by denying the HSLI nominations of the Common Loon and  
16 Red-necked Grebe and the three wetlands at Loon Lake, Stevens County failed to provide  
17 for Fish and Wildlife Habitat Critical Areas (FWHCA) as required by GMA.

18 **Respondent's Position:**

19 The Respondent, Stevens County, contends the Petitioners are not challenging the  
20 County's response, but the merit of the County's decision, which they believe is not before  
21 the Board. They believe the Board should find Stevens County in compliance for following  
22 the process, regardless of the outcome.

23 The Respondent contends that the sole issue for consideration is "whether the  
24 County has responded to the citizens' requests to designate species and habitat of local  
25 importance". They also note that the Petitioners do not assert the County failed to provide  
26 an adequate opportunity for public comment.

The Respondent contends that they have complied with the Board's Order to  
respond and has done so in a manner that is consistent with the process set forth in the

1 Hearings Board's letter of January 3, 2005. They conclude that the County has responded  
2 to citizen requests to designate certain species and habitat of local importance and that the  
3 merits of the County's decision are not before the Hearings Board.

4 Thus, the Respondent contends that the Board should rule that the County has  
5 complied with the Order on Compliance and deny the requested relief set forth in  
6 Petitioner's briefs.

6 **Board Discussion:**

7 The Growth Management Act provides that: On or before September 1, 1991, each  
8 county, and each city, shall designate where appropriate: (d) critical areas. RCW  
9 36.70A.170(d). In designating and protecting critical areas under this chapter  
10 [36.70A.172(1)], counties and cities shall include the best available science in developing  
11 policies and development regulations to protect the functions and values of critical areas.

12 RCW 36.70A.060(2) provides that every county shall adopt development regulations  
13 that protect critical areas. The definition of "critical areas" includes "fish and wildlife habitat  
14 conservation areas" (FWHCA) RCW 36.70A.030(5)(c). WAC 365-190-080(5)(a)(ii) provides  
15 that FWCHA include "habitats and species of local importance."

16 WAC 365-190-030(19) defines "species of local importance" as:

17 "Species of local importance are those species that are of local concern due to  
18 their population status or their sensitivity to habitat manipulation or that are  
19 game species."

20 WAC 365-190-030(9) defines habitats of local importance as:

21 "Habitats of local importance include a seasonal range or habitat element with  
22 which a given species has a primary association, and which, if altered, may  
23 reduce the likelihood that the species will maintain and reproduce over the  
24 long-term. These might include areas of high relative density or species  
25 richness, breeding habitat, winter range, and movement corridors. These  
26 might also include habitats that are of limited availability or high vulnerability  
to alteration, such as cliff, talus and wetlands."

1 The County's obligation to its citizen's nominations of habitat and species of local  
2 importance does not end by simply going through the motions and responding with denial  
3 or acceptance. The County must make a "reasoned analysis on the record, including best  
4 available science and other local factors" in determining whether or not a habitat or species  
5 should be designated as habitat or species of local importance. *Island County Citizens*  
6 *Growth Management Coalition v. Island County (supra)*. The Growth Management Act  
7 requires counties to include best available science in developing policies and development  
8 regulations to protect the functions and values of critical areas, which habitats and species  
9 of local importance are an important part. RCW 36.70A.172(1). There is no merit to the  
10 County's argument that because the Board declined to rule on the issue of the Hearings  
11 Examiner brought forth by the County during the compliance hearing that the Board does  
12 not retain jurisdiction over the methodology used by the County to reach its decision. The  
13 Board's decision must be made with all the information available, which in this case was  
14 after the County made its final decision on the nominations.

15 The Board previously addressed the "response" issue in its Final Decision and Order  
16 in Case No. 03-1-0003 issued on February 10, 2004.

17 "the County must make a reasoned analysis on the record, including best  
18 available science and other local factors, and take official substantive action  
19 on (WEAN's) nomination." ...Stevens County must as affirmed in WEAN make  
20 a reasoned analysis, on the record, including best available science and take  
21 official substantive action on the nominations. To fail to respond is clearly  
22 erroneous and a failure to designate and protect habitat and species of local  
23 importance." Final Decision and Order (FDO) of February 10, 2004 (03-1-  
24 0003).

25 In other words, a response needs to include an analysis as to the reasoning behind  
26 the decision. The Petitioners provided substantive science and scientific testimony as to  
why the Common Loon and Red-necked Grebe should be designated as species of local  
importance and why the wetlands at Loon Lake need additional protection as habitat of  
local importance. The County responded with Findings of Fact with no reference to best

1 available science or that scientifically support their decision. The Petitioners followed the  
2 process outlined by the County to nominate habitats and species of local importance and  
3 supported their claim with overwhelming scientific evidence. The County failed to include  
4 best available science as required by RCW 36.70A.172(1).

5 The role of the BAS standard has been interpreted by the courts to require more  
6 than mere "consideration" of science. BAS must substantively control the standard  
7 established and must be reflected in the record:

8 Whether scientific evidence is respectable and authoritative, challenged or  
9 unchallenged, controlling or of no consequence when balanced against other  
10 factors, goals and evidence to be considered, it's first in the province of the  
11 city or county to decide. Then, if challenged, it is for the Growth Management  
12 Hearings Board to review. The Legislature has given great deference to the  
13 substantive outcome of that balancing process. We hold that evidence of the  
14 best available science must be included in the record and must be considered  
15 substantively in the development of critical areas policies and regulations.

16 *HEAL v. Central Puget Sound Growth Management Hearings Board*; 96  
17 Wn.App. 522, 979 P.2d 864 at 870, (Wash.App. Div 1, 1999).

18 In addition, a local jurisdiction is not constrained to adopt only the science  
19 recognized by state or federal agencies, but a variation from formally identified BAS must  
20 be supported in the record by evidence that also meets the BAS standard:

21 The science the legislative body relies on must in fact be the best available  
22 science to support its policy decisions. Under the cases and statutes cited  
23 above, it cannot ignore the best available science in favor of the science it  
24 prefers simply because the latter supports the decision it wants to make. *Id.*,  
25 96 Wn.App. at 534, 979 P.2d at 871.

26 Petitioners included in the record substantial evidence that the Common Loon and  
the Red-necked Grebe have a primary association with the Loon Lake wetlands. According  
to expert scientific evidence, the alteration of the nominated habitat will reduce the  
likelihood that the two species will be able to maintain themselves and reproduce. Detailed  
evidence was presented that these species inhabit the nominated wetlands. Detailed  
evidence by the Department of Ecology, which CTED shall consult with regarding guidelines

1 for critical areas (RCW 36.70A.050(1)(d), confirms that these areas are wetlands. There  
2 was little or no evidence in the record to show that the Loon Lake wetlands are not  
3 breeding habitat, winter range and movement corridors (WAC 365-190-030(9) for the  
4 nominated species. With only 4% of the lake left as wetlands, the County's decision fails to  
5 protect the habitat according to the scientific information provided by the Petitioners.

6 The Staff Report fails to provide reasoned analysis and best available science to  
7 document their recommendation. There is no evidence in the Record to rebut the facts that  
8 Loon Lake's wetlands are critical to its water quality and habitat for wildlife. The County  
9 denies the facts presented into the record, contrary to expert opinion and science:

10 "...no scientific information was presented...that wake from recreational  
11 boating is the cause of the problem...boat wakes are controlled through the  
12 boating ordinance. Loon Lake's wetlands are protected by Stevens County's  
13 CAO ordinance and SLMP. ...other factors beside wave action, habitat and egg  
14 loss... Loon Lake is a recreational lake and further restrictions would limit the  
15 amount of recreational uses the lake would support... ...and that other values  
16 exist that warrant habitat or species designation."

17 Stevens County Code (SCC 13.10.031) states that:

18 "...Habitats of local importance may include a seasonal range or habitat  
19 element with which a given species has a primary association, and which, if  
20 altered, may reduce the likelihood that the species will maintain and  
21 reproduce over the long term..."

22 The County cites the Stevens County Critical Areas Ordinance (Title 13) and the  
23 Stevens County Shoreline Master program as two regulations that will prevent alteration of  
24 the habitat or habitat elements, but fail to include scientific evidence to this effect. Both  
25 regulations fall short of sufficient protection, as evidence in the record requires, for the  
26 nominated species and habitat of local importance.

The GMA requires jurisdictions to use reasoned analysis in their decisions and  
inclusions of best available science when determining critical areas policies and regulations.  
Stevens County is required to protect habitats and species of local importance. Stevens  
County must show its work as to how it reached its conclusion, regardless of whether the

1 response is a denial or acceptance. From the record before it, the Hearings Board is unable  
2 to determine whether the County correctly rejected the nominations. Absent that record, the  
3 Board must find Stevens County out of compliance.

4 **Conclusion:**

5 The Petitioners have carried their burden of proof and by clear cogent and  
6 convincing evidence have shown that Stevens County's denial of the nominations for  
7 habitats and species of local importance, without the required inclusion of best available  
8 science, is out of compliance.

9 **VI. FINDINGS OF FACT**

- 10 1. On July 6, 2004, Stevens County adopted Resolution #80-2004. The  
11 resolution amends Title 13, the County's Critical Areas Ordinance, to  
12 comply with the Final Decision and Order issued on February 10, 2004,  
13 by the Eastern Washington Growth Management Hearings Board.
- 14 2. The County received nominations to designate species and/or habitat of  
15 local importance by the Petitioners.
- 16 3. The County adopted Appendix B of Title 13 as amended, as a process  
17 for accepting nominations for species and habitat of local importance.
- 18 4. The County held two public hearings on January 24 and 31, 2005, to  
19 accept written and verbal testimony concerning the nominations of  
20 species of local importance, the Common Loon and Red-necked Grebe,  
21 and habitat of local importance, the wetlands at Loon Lake.
- 22 5. The County held a "closed" final hearing on March 7, 2005, for the  
23 BOCC to hear the final Staff Report, make comments, and vote to deny  
24 the nominations.
- 25 6. The County adopted Findings of Facts and Resolution 41-2005 on  
26 March 22, 2005.



1 this action, the County violated the GMA and did not properly follow the  
2 requirements set forth in the GMA.

3 2. The Board finds Stevens County out of compliance and remands  
4 Resolution 41-2005 back to the Stevens County Board of County  
5 Commissioners to reconsider the subject nominations. The County shall  
6 include best available science as required by the GMA and show their  
7 work as to how they arrived at their decision using such science.

- 8
- 9 • Stevens County must take the appropriate legislative action to bring  
10 themselves into compliance with the goals and requirements of the Act  
11 as so ordered by the Board by **July 11, 2005, 60 days** from the date  
12 issued.
  - 13 • The County shall file with the Board by **July 25, 2005, an original  
14 and four copies** of a Statement of Actions Taken to Comply (SATC)  
15 with the GMA, as interpreted and set forth in this Order. The SATC shall  
16 attaché copies of legislation enacted in order to comply. The County  
17 shall simultaneously serve a copy of the SATC, with attachments, on  
18 the parties. By this same date, the County shall file a "Remanded  
19 Index," listing the procedures and materials considered in taking the  
20 remand action.
  - 21 • By no later than **August 8, 2005**, Petitioners shall file with the Board  
22 an **original and four copies** of Comments and legal arguments on  
23 the County's SATC. Petitioners shall simultaneously serve a copy of  
24 their Comments and legal arguments on the parties.
  - 25 • By no later than **August 22, 2005**, the County shall file with the Board  
26 an **original and four copies** of the County's Response to Comments  
and legal arguments. The County shall simultaneously serve a copy of  
such on the parties.
  - By no later than **August 29, 2005**, Petitioners shall file with the Board  
an **original and four copies** of their Reply to Comments and legal  
arguments. Petitioners shall serve a copy of their brief on the parties.

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- Pursuant to RCW 36.70A.330(1) the Board hereby schedules a telephonic Compliance Hearing for **September 6, 2005, at 10:00 a.m.** The parties will call **360-709-4803 followed by 521835 and the # sign.** Ports are reserved for Ms. Wagenman, Mr. and Mrs. Shawl, Mr. Rudisill, President Loon Lake Property Owners Association, Lon Lake Defense Fund, and Mr. Scott. If additional ports are needed please contact the Board to make arrangements.

If the County takes legislative compliance actions prior to the date set forth in this Order, it may file a motion with the Board requesting an adjustment to this compliance schedule.

**Pursuant to RCW 36.70A.300(5) and RCW 34.05.542(2), this is a Final Order for purposes of appeal. Any appeal of this Order shall be served in person on the Board by the 30<sup>th</sup> day. Pursuant to WAC 242-02-832, a motion for reconsideration may be filed within ten days of service of this Order.**

**SO ORDERED** this 10<sup>th</sup> day of May 2005.

EASTERN WASHINGTON GROWTH MANAGEMENT  
HEARINGS BOARD

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John Roskelley, Board Member

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Judy Wall, Board Member

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Dennis Dellwo, Board Member