

1 of the UGA is needed and prior to the County formally consulting with the airport owners,
2 managers, operators, pilots and Aviation Division of DOT as required by RCW 36.70A.547.

3 On May 30, 2006, the Board held a telephonic compliance hearing. Present were,
4 Dennis Dellwo, Presiding Officer, and Board Member John Roskelley. Board Member Judy
5 Wall was unavailable. Present for Petitioners were Rick Eichstaedt, Julia McHugh, Robbi
6 Castleberry, and Bonnie Mager. Present for Respondent was Dave Hubert. Present for
7 Intervenors was Stacy Bjordahl.

8 On June 14, 2006, the Board issued its Order Finding Continued Non-Compliance.

9 On September 29, 2006, the Board held a telephonic compliance hearing. Present
10 were, Dennis Dellwo, Presiding Officer, and Board Members John Roskelley and Judy Wall.
11 Present for Petitioners were Rick Eichstaedt, Julia McHugh, Robbi Castleberry, and Lindell
12 Haggin. Present for Respondent was Dave Hubert. Present for Intervenors was Stacy
13 Bjordahl.

14 II. DISCUSSION

15 The County admitted at the September 29, 2006 hearing that it has not brought itself
16 into compliance with the Final Decision and Order (FDO) on all of the above issues. The
17 County stated that it is proceeding diligently on its five-year review of the County's
18 Comprehensive Plan, including the capital facilities plan (CFP), and is performing a
19 population and land quantity analysis. These activities are not expected to be completed
20 until December 1, 2006. However, the County contends that it has complied with the
21 requirements to meet with airport and Washington State Department of Transportation
22 (DOT) personnel, and stated that the County is further intending to adopt a building
23 moratorium around the Spokane International Airport. A review of subsequent reporting
24 reflects that the County has adopted a temporary halt to residential construction in the
25 West Plains in a stated effort to stop encroachment to the Spokane International Airport
26 and Fairchild Air Force Base. This six-month moratorium stops the acceptance of new
applications for homes and apartments in a light industrial zone, which is more than ten
square miles between Fairchild and Spokane.

1 The County remains out of compliance on all issues listed in the FDO in this matter.
2 The action taken by the County reflects its movement toward compliance. More needs to
3 be done before compliance can be found. The Petitioners sought the imposition of sanctions
4 claiming that the County is refusing to comply and will continue to expand the UGA without
5 the appropriate information unless the Governor is asked to impose sanctions on the
6 County. The Board is also aware that the County is delaying consideration of several
7 applications to expand the UGA in the 2006 application process. That will allow the
8 applications to be considered after the completion of the land and population analysis and
9 update of the CFP for that area. (See Second Declaration of James Manson).

10 The Board remains concerned about the County's use of its "emergency" provision to
11 allow further expansion of the UGA. Emergency land use changes are for emergency
12 purposes, such as the necessary and immediate extension of water service, not as a tool to
13 add a park or church property for developer purposes. The Board will reconsider sanctions if
14 the County continues to use this method to add additional land to the UGA.

15 Because of the recent positive actions of the County, and the belief that further
16 expansion of the UGAs will not occur at this time, the majority of the Board will not
17 recommend the imposition of sanctions in this Order on Compliance.

18 The Board finds and concludes:

- 19 1. Spokane County continues to be out of compliance on the issues in this
20 matter.
- 21 2. Therefore, based upon RCW 36.70A.130(1) and the Board's 12/16/05
22 Order, the Board will enter a **Second Finding of Continued
23 Noncompliance.**

24 **III. ORDER**

25 Based upon the Board's review of the GMA, prior decisions of the Boards, the
26 December 16, 2005 Final Decision and Order, the presentations of the Parties at the
Compliance Hearing, and having discussed and deliberated on the matter, the Board enters
a Finding of Continued Noncompliance –Therefore, Spokane County is directed to take the

1 necessary steps to bring itself into compliance with this Order by **December 6, 2006**.
2 Respondent's Statement of Action Taken to Comply is due **December 20, 2006**.
3 Petitioners' compliance brief is due **January 3, 2007**. Respondent's and Intervenor's
4 compliance brief is due **January 17, 2007**. Petitioners' optional compliance reply brief is
5 due **January 24, 2007**. The Board will hold a telephonic Compliance Hearing on **January**
6 **30, 2007, at 10:00 a.m.** The parties will call **360-709-4803 followed by 527840 and**
7 **the # sign**. Ports are reserved for Mr. Eichstaedt, Ms. McHugh, Ms. Castleberry, Ms.
8 Haggin, Mr. Hubert, and Ms. Bjordahl. If additional ports are needed, please contact the
9 Board office to make arrangements.

9 Pursuant to RCW 36.70A.300 this is a final order of the Board.

10 **Reconsideration**. Pursuant to WAC 242-02-832, you have ten (10) days from the
11 mailing of this Order to file a petition for reconsideration. The original and four
12 copies of a motion for reconsideration, together with any argument in support
13 thereof, should be filed with the Board by mailing, faxing, or otherwise
14 delivering the original and four copies of the motion for reconsideration directly
15 to the Board, with a copy served on all other parties of record. **Filing means**
16 **actual receipt of the document at the Board office**. RCW 34.05.010(6), WAC 242-
17 02-240, WAC 242-02-330. The filing of a motion for reconsideration is not a
18 prerequisite for filing a petition for judicial review.

19 **Judicial Review**. Any party aggrieved by a final decision of the Board may appeal
20 the decision to superior court as provided by RCW 36.70A.300(5). Proceedings
21 for judicial review may be instituted by filing a petition in superior court
22 according to the procedures specified in chapter 34.05 RCW, Part V, Judicial
23 Review and Civil. The petition for judicial review of this Order shall be filed with
24 the appropriate court and served on the Board, the Office of the Attorney
25 General, and all parties within thirty days after service of the final order, as
26 provided in RCW 34.05.542. Service on the Board may be accomplished in person
or by mail. Service of the Board means **actual receipt of the document at the**
Board office within thirty (30) days after service of the final order. A petition for
judicial review may not be served on the Board by fax or electronic mail.

1 **Service.** This Order was served on you the day it was deposited in the United
2 States mail. RCW 34.05.010(19).

3 **SO ORDERED** this 25th day of October 2006.

4 EASTERN WASHINGTON GROWTH MANAGEMENT
5 HEARINGS BOARD

6 _____
7 Dennis Dellwo, Board Member

8 _____
9 John Roskelley, Board Member

10 _____
11 Judy Wall, Board Member