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

WILMA et al.,

Petitioners,

v.

STEVENS COUNTY,

Respondent.

Case No. 06-1-0009c

ORDER ON PETITIONER'S MOTION  
TO INTERVENE AND RESPONDENT'S  
REQUEST FOR PERMISSION TO FILE  
A MOTION AFTER THE DATE SET  
FORTH IN THE PREHEARING ORDER

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**I. PROCEDURAL HISTORY**

On September 8, 2006, SAUNDRA WILMA and ROBERT BERGER, filed a Petition for Review.

On September 11, 2006, JAMES DAVIES and LARSON BEACH NEIGHBORS and JEANIE WAGENMAN, filed Petitions for Review.

On October 10, 2006, the Board held a telephonic Prehearing conference for Case Nos. 06-1-0007, 06-1-0008, and 06-1-0009 collectively. Present were, John Roskelley, Acting Presiding Officer, Board Members Judy Wall and Dennis Dellwo were unavailable. Present for Petitioners were Sandra Wilma, Robert Berger, James Davies, and Jeanie Wagenman. Present for Respondent was Peter Scott.

The Board at the Prehearing conference consolidated Case Nos. 06-1-0007-06-1-0009. The new Case Name and Number is as follows and shall be captioned accordingly: WILMA et al. v. STEVENS COUNTY, 06-1-0009c. The acting Presiding Officer instructed the Petitioners to consolidate the issues and provide the Board and Respondent with copies of consolidated issues by October 16, 2006. The Petitioners advised they were unable to meet

1 the October 16, 2006, deadline for submitting the proposed consolidated issues and would  
2 provide the Board and Respondent the issues as soon as possible.

3 On October 24, 2006, the Board received the proposed consolidated issues.

4 On October 25, 2006, the Board asked the Respondent to advise the Board if it  
5 objected to the rewritten issues. Mr. Scott on October 31, 2006, filed with the Board  
6 Respondent's Objection and Motion for Extension.

7 On October 31, 2006, the Board received Petitioners' Motion to Supplement the  
8 Record.

9 On November 1, 2006, the Board issued its Prehearing Order.

10 On November 8, the Board received Respondent's Motion to Dismiss Issue Nos. 11,  
11 12, and 13, filed by Petitioner James Davies.

12 On November 15, 2006 the Board received from Petitioner James Davies, Response  
13 to Motion to Dismiss, Respondent Stevens County's Response to Motion to Supplement the  
14 Record, and Request for Extension.

15 On November 20, 2006, the Board received Respondent's Reply in Support of Motion  
16 to Dismiss and Response to Petitioners' Request for Extension.

17 On November 27, 2006, the Board received Larson Beach Neighbors & Jeanie  
18 Wagenman's Response to Stevens County's Response to Motion to Supplement Record.

19 On November 27, 2006, the Board held the telephonic motion hearing. Present were,  
20 John Roskelley, Presiding Officer, and Board Members Dennis Dellwo and Joyce Mulliken.  
21 Present for Petitioners were, Sandra Wilma, James Davies, Larson Beach Neighbors, &  
22 Jeanie Wagenman. Present for Respondent was Peter Scott, Clay White, and the Stevens  
23 County Board of County Commissioners.

24 On December 4, 2006, the Board received from Jeanie Wagenman, a Motion to  
25 Intervene.

26 On December 4, 2006, the Board issued its Order on Motions.

1 On December 18, 2006, the Board received from Stevens County's PUD No. 1 a  
2 Request for Permission to File a Motion After the Date Set Forth in the Prehearing Order;  
3 and Motion to File Amicus Curiae Brief.

4 On December 18, 2006, the Board received from Stevens County a Request for  
5 Permission to File a Motion After the Date Set Forth in the Prehearing Order.

## 6 II. DISCUSSION

7 There are two issues before the Board in this Order: a Motion to Intervene by the  
8 Petitioner, Ms. Wagenman; and a request for permission to file a Motion After the Date Set  
9 Forth in the Pre-hearing Order by the Respondent. The Board will address the Petitioner's  
10 Motion to intervene first.

11 The Petitioner, Ms. Jeanie Wagenman, submitted a Motion to Intervene in Case No.  
12 06-1-0009c on December 2, 2006. Ms. Wagenman requested intervention to pursue an  
13 interest in former Case No. 06-1-0007, originally filed by Ms. Sandra Wilma, claiming Ms.  
14 Wilma's issues are of interest and of similar content and concern to Larson Beach Neighbors  
15 and herself. Intervention is addressed under WAC 242-02-270.

16 Due to consolidation of Case Nos. 06-1-0007, 06-1-0008 and 06-1-0009 into Case  
17 No. 06-1-0009c, Ms. Wagenman's request to intervene is unnecessary and therefore denied.  
18 The Western Washington Growth Management Hearings Board determined in *Port*  
19 *Townsend v. Jefferson County* 94-2-0006 WWGMHB (Final Decision and Order, August 10,  
20 1994), that once consolidation has occurred, the individual petitions for review are merged  
21 and lose their independent existence. Therefore, all issues presented by any of the petitions  
22 are available to be argued by any party to the proceeding.

23 We hold that the consolidation envisioned under the Act is one where the  
24 original petitions lose their independent and separate existence and thus  
25 become merged for purposes of dealing with and resolving all issues raised by  
26 all of the petitioners or any one thereof. *Jeffery v. Weintraub* 32 Wn. App.  
536, 546 (1982).

1 This Board agrees with the Western Board's rationale and the cited Court of Appeal's  
2 case. Ms. Wagenman has the right to argue any of the issues submitted by the Petitioners  
3 under consolidated Case No. 06-1-0009c without the need to intervene.

4 The Respondent filed a request for permission to file a motion after the date set  
5 forth in the pre-hearing order to rehear Petitioner Wagenman's Motion to Supplement the  
6 Record. As set forth in the Order On Motion To Supplement, Motion To Dismiss, And  
7 Request For Extension To Pursue Settlement, issued on December 4, 2006, the Board  
8 allowed Ms. Wagenman to supplement the record based on the documents requested by  
9 Jan Shawl to be included as part of the record during Steven County's Comprehensive Plan  
10 process (Exhibit #341). The Board asked Ms. Wagenman to provide the Board and Parties  
11 with a specific list of the supplemental documents she would require and to limit those  
12 documents where appropriate. Ms. Wagenman, on behalf of herself and Larson Beach  
Neighbors, provided a list of supplemental exhibits as requested on December 15, 2006.

13 The Respondent argues that the material at issue is not part of the record and a  
14 rehearing is needed to protect the County from considerable and unwarranted expense of  
15 indexing said documents. The Respondent also argues that the record reflects that Stevens  
16 County considered and denied the written public comment from Jan Shawl requesting  
17 voluminous sub-area planning materials be included within the record.

18 The Board stands by its original decision to allow the Petitioner, Ms. Wagenman, to  
19 supplement the record with certain Loon Lake watershed planning documents asked to be  
20 included into the record by Ms. Shawl during the Comprehensive Plan process. Ms.  
21 Wagenman's request as submitted is reasonable and concise and should not pose a  
22 problem of considerable and unwarranted expense of indexing. The Board, pursuant to  
23 RCW 36.70A.290(4), is permitted to supplement the record with additional evidence if it  
24 determines that "such additional evidence would be necessary or of substantial assistance  
25 to the board in reaching its decision." The Board finds that the documents listed will be of  
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1 substantial assistance to the board in reaching its decision and will allow the supplemental  
2 documents and give these documents the weight they deserve.

3 In addition, the Board finds the Respondent's argument that the County "considered  
4 and denied the written public comment from Jan Shawl" is overstated. In the County's  
5 response to Issue 25 in the Stevens County Final Draft Comprehensive Plan, the County  
6 staff does not deny any request, let alone Ms. Shawl's, but simply states that "[T]he County  
7 is focusing its planning resources on the Comprehensive Plan at this time, and does not  
8 have sufficient resources to also accommodate a sub-area planning process at the same  
9 time." Adding the documents requested by Ms. Shawl to the Comprehensive Plan record  
10 would have been reasonable and prudent by the County in light of the importance the GMA  
11 gives to public participation.

12 The Board denies the Respondent's request for permission to file a motion after the  
13 date set forth in the pre-hearing order and stands by its original Order to allow Ms.  
14 Wagenman to supplement the record. But, the Board will limit this supplementation to those  
15 documents listed in the December 14, 2006 Wagenman letter.

### 16 III. ORDER

17 The Board denies the Petitioner's Motion to Intervene and denies the Respondent's  
18 request for permission to file a motion after the date set forth in the pre-hearing order.

19 **SO ORDERED** this 20<sup>th</sup> day of December 2006.

20 EASTERN WASHINGTON GROWTH MANAGEMENT  
21 HEARINGS BOARD

22 \_\_\_\_\_  
23 John Roskelley, Board Member

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25 Dennis Dellwo, Board Member

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Joyce Mulliken, Board Member