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

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WILMA et al.,

Petitioners,

v.

STEVENS COUNTY,

Respondent.

Case No. 06-1-0009c

ORDER ON STEVENS COUNTY PUD's
MOTION TO FILE AMICUS CURIAE
BRIEF

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

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

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

5 On October 31, 2006, the Board received Petitioners' Motion to Supplement the
6 Record.

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

8 On November 8, the Board received Respondent's Motion to Dismiss Issue Nos. 11,
9 12, and 13, filed by Petitioner James Davies.

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

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

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

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

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

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

26 On December 20, 2006, the Board issued its Order on Motion to File Amicus Brief.

1 On December 29, 2006, the Board received Petitioners' Wilma et al. Response to
2 Stevens County P.U.D. Request to File Late Motion and Response to PUD Motion to File
3 Amicus Curiae Brief.

4 II. DISCUSSION

5 On December 15, 2006, the Stevens County Public Utility District No. 1 (PUD) filed a
6 Permission To File A Motion After The Date Set Forth In The Pre-hearing Order and a
7 Motion to File Amicus Curiae Brief in Case No. 06-1-0009c, *Wilma et al., v Stevens County*.
8 The Board granted the Stevens County PUD permission to file a motion on December 20,
9 2006, pursuant to WAC 242-02-532(2), "[If] a pre-hearing order or other order has been
10 entered establishing a deadline for filing motions, no written motion may be filed after the
11 date specified in the order without written permission of the board or presiding officer."
12 Furthermore, the Board considered the motion already filed to be a motion seeking
13 permission to file an Amicus Curiae Brief.

14 Pursuant to WAC 242-02-280, "[A]ny person whose interest may be substantially
15 affected by a proceeding before a board may by motion request status as an amicus in the
16 case." WAC 242-02-280(2) states that a motion to file an amicus curiae brief must include
17 a statement of the applicant's interest and the person or group applicant represents; the
18 applicant's familiarity with the issues involved; the specific issues to which the amicus curiae
19 brief will be directed; and the applicant's reason for believing that additional argument is
20 necessary on these specific issues. The PUD is a non-profit, community-owned and
21 governed utility provider and has participated in the Stevens County Comprehensive Plan
22 process. The PUD has addressed the necessary criteria to have status as an amicus in the
23 case (Motion to File Amicus Curiae Brief, pg. 3).

24 On December 29, 2006, Petitioners Wilma and Berger filed a response to the Stevens
25 County PUD motions. The Petitioners argued that the motions were untimely, that the PUD
26 did not demonstrate what interests it has in the case, and that the PUD is a citizen-owned
utility and non-profit provider of sewer and water service, is unnecessary to the argument
and its participation would expand the record.

1 After due consideration of the Petitioners arguments, the Board grants the PUD's
2 motion to file an amicus curiae brief in this matter. Pursuant to WAC 242-02-280(3), the
3 PUD will be allowed to brief the issues, but using only the exhibits submitted by Stevens
4 County into the record and those supplemental documents submitted by Ms. Wagenman in
5 her letter of December 15, 2006. PUD public hearings records from 2000, as mentioned on
6 page 2 of the Declaration of Richard Price, unless submitted during the Stevens County
7 Comprehensive Plan process, are not allowed. The PUD will participate as amicus curiae
8 only and will not seek to intervene in this matter.

9 III. ORDER

10 The Board will allow Stevens County PUD No. 1 to seek Amicus status. The Board
11 has rescheduled the Hearing on the Merits date to **February 7, 2007, at 10:00 a.m.,**
12 **215 S. Oak Street, Colville, Washington.** Respondent's hearing on the merits brief and
13 exhibits are due **January 17, 2007.** Petitioners' optional hearing on the merits reply brief
14 is due **January 31, 2007.** The Final Decision and Order will be issued on **March 12,**
15 **2007.**

16 **SO ORDERED** this 4th day of January 2007.

17 EASTERN WASHINGTON GROWTH MANAGEMENT
18 HEARINGS BOARD

19 _____
20 John Roskelley, Board Member

21 _____
22 Dennis Dellwo, Board Member

23 _____
24 Joyce Mulliken, Board Member