State of Washington
GROWTH MANAGEMENT HEARINGS BOARD
FOR EASTERN WASHINGTON

KITTITAS COUNTY CONSERVATION et al., Petitioners, v. KITTITAS COUNTY, Respondent, BUILDING INDUSTRY ASSOCIATION OF WASHINGTON (BIAW), CENTRAL WASHINGTON HOME BUILDERS ASSOCIATION (CWHBA), MITCHELL WILLIAMS, d/b/a MF WILLIAMS CONSTRUCTION CO., TEANAWAY RIDGE, LLC, KITTITAS COUNTY FARM BUREAU Intervenors, ART SINCLAIR and BASIL SINCLAIR, Amicus Parties.	Case No. 07-1-0004c **PARTIAL SECOND ORDER FINDING CONTINUING NON-COMPLIANCE AS TO LEGAL ISSUES 2, 5, and 12 AND ISSUING A DETERMININATION OF INVALIDITY AS TO LEGAL ISSUES 2, 5, and 12**

With the Eastern Washington Growth Management Hearings Board's (Board) August 2008 First Order RE: Compliance (1st Compliance Order), the Board concluded that Kittitas County (County) failed to bring itself into compliance with the Growth Management Act (GMA) as set forth in the August 2007 Final Decision and Order (FDO) for several issues and

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found the County in continuing non-compliance.[1] The County's Second Statement of Actions Taken to Comply (2nd SATC), the responsive briefing, and the January 6, 2009, Compliance Hearing related to all of these non-compliant issues. However, the Board believes the gravity of the issues presented in relationship to the County's action in designating those areas formerly identified as Urban Growth Nodes (UGNs)[2] as Urban Growth Areas (UGAs) necessitate the prompt issuance of a Partial Second Order RE: Compliance (2nd Compliance Order) as to Legal Issues 2, 5, and 12.

For this reason, the Board issues this Partial 2nd Compliance Order in regards to Legal Issues 2, 5, and 12. Whether or not the County achieved compliance in regards to the other issues presented during the compliance proceedings will be addressed in a forthcoming Compliance Order.

I. PROCEDURAL HISTORY

On August 20, 2007, the Board issued its FDO in the above-captioned matter. The case represented a challenge to Kittitas County's enactment of Ordinance 2006-63 amending its Comprehensive Plan (CP) pursuant to RCW 36.70A.130. In the FDO, the Board found Kittitas County had complied with the GMA in some regard, but several of its actions were also non-compliant and, for some, warranted the imposition of a Determination of Invalidity.

On August 7, 2008, the Board issued its 1st Compliance Order. Relevant to this Partial Second Order RE: Compliance, in the 1st Compliance Order the Board determined Kittitas County had taken no action to achieve compliance as required by the August 2007 FDO as to Legal Issues 2, 5, and 12 and therefore found the County in continuing non-compliance.[3] A deadline of November 6, 2008 was established for the County to take legislative action to bring itself into compliance with the GMA.

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[1] August 7, 2008 1st Compliance Order, at 36-39. With this Compliance Order the Court found continuing non-compliance, in whole or in part, as for Legal Issues 2, 3, 4, 5, 6, 7, 12, 13, and 14. Continuing Invalidity was determined warranted for Legal Issues 4, 6, 13, and 14.

[2] Easton, Ronald, Thorp, Vantage, and the Snoqualmie sub-area, including Gold Creek.

[3] August 7, 2008 1st Compliance Order, at 9-12.

Eastern Washington
Growth Management Hearings Board
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On October 22, 2008, Kittitas County filed a Motion for Continuance, requesting an extension of the compliance deadline to December 5, 2008. Objections to this Motion were filed by Futurewise on October 28, 2008. The Board denied the motion with the issuance of its October 31, 2008, Order Denying Motion for Continuance.

On November 17, 2008, the Board received American Forest Lands Company's (AFLC) Notice of Intent to Participate. On the same day, the Board issued its Order on Notice of Intent to Continued Participation American Forest Land Company, LLC, acknowledging AFLC's participation in the compliance proceedings.

On November 19, 2008, the County filed its Second Statement of Actions Taken to Comply (2nd SATC). The County enacted Ordinance 2008-20 in response to the Board's FDO and 1st Compliance Order.

On December 4, 2008, Petitioners Kittitas County Conservation, Ridge, & Futurewise (collectively, Futurewise) filed their Objections In Part to a Finding of Compliance and Lifting of Invalidity (Futurewise Objections). Also on December 4, Petitioner Washington State Department of Community, Trade, and Economic Development (CTED) filed its Response to the County's 2nd SATC (CTED Objections).

On December 18, 2008, Kittitas County filed its Response to Petitioners' Comments on County's 2nd SATC (County Response).

On December 24, 2008, the Board received AFLC's Response to Petitioner's Response to Kittitas County's 2nd SATC (AFLC Response).[4]

On December 31, 2008, the Board received CTED's Reply Regarding Kittitas County's 2nd SATC (CTED Reply).

On January 6, 2009, the Board held a telephonic Compliance Hearing in this matter. Present were Joyce Mulliken, Presiding Officer, Board Members John Roskelley and Raymond Paolella, and Board Staff Attorney Julie Taylor. Parties were represented as follows: Rob Beattey for Petitioners' KCC/RIDGE/Futurewise, Alan Copsey for CTED, Neil

[4] AFLC's participation in this matter is limited to Legal Issue 3 which relates to the County's Commercial Forest Lands.

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Caulkins for Kittitas County, Tim Harris for Intervenors BIAW/CWHBA/Mitchell, and Eric Merrifield and Patrick Ryan for Participant AFLC.

III. DISCUSSION

A. Re-Designation of Urban Growth Nodes as Urban Growth Areas

Parties' Arguments

Futurewise[5] contends the County failed to take legislative action to resolve Legal Issues 2, 5, and 12 in a GMA-compliant manner, specifically in regards to the re-designation of the County's UGNs as UGAs.[6] Futurewise asserts the County's statement that it is charging its Land Use Advisory Committee (LUAC) with the task of providing the necessary land capacity and capital facilities analysis is *prima facie* evidence of non-compliance with the GMA's mandatory element requirements, such as the provisions for transportation and capital facilities planning.[7] In addition, Futurewise argues the County failed to conduct a land capacity analysis and demonstrate these areas are needed to accommodate 20-year growth projections as denoted by the Office of Financial Management (OFM).[8]

CTED states in declaring its UGNs to be UGAs, Kittitas County fails to comply with the sizing and locational requirements for designating UGAs set forth in RCW 36.70A.110.[9] According to CTED, the County sets a 2009 deadline, one year after designation, to complete the necessary analysis as to whether the additional UGAs are necessary, whether the boundaries have been properly located, and whether the areas can be supported by urban services and facilities.[10] CTED asserts that without conducting the required analysis the County continues to be in violation of RCW 36.70A.110 and .130(3).

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[5] Kittitas County Conservation, Ridge and Futurewise is collectively called Futurewise in this document.
[6] Futurewise Objections, at 6-9, 22-23, and 25.
[7] Futurewise Objections, at 6-8 (citing to RCW 36.70A.070(3) and .070(6), and at 22.
[8] Futurewise Objections, at 8-9, 22.
[9] CTED Objections, at 8-9.
[10] CTED Objections, at 9.

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In response to Petitioners' objections, Kittitas County contends its UGNs have historically been treated as UGAs with populations assigned, area-wide planning conducted, and public facilities and services available within the areas.[11]

Board Discussion and Analysis

RCW 36.70A.320(1) provides that comprehensive plans and development regulations, and amendments thereto, are presumed valid upon adoption. RCW 36.70A.320(2) provides that the burden is on the petitioner to demonstrate that any action taken by a county is not in compliance with the GMA. The Board reviewed Kittitas County Ordinance Number 2008-20 in accordance with the required standards of RCW 36.70A.320.

Legal Issue 2 contemplated whether the County was allowing urban growth within the Snoqualmie Pass and Gold Creek areas, which had not been properly designated for such growth. In addressing this issue, the Board stated:

> This "Area" cannot exist outside of the UGA and allow urban growth or the potential of development inconsistent with areas outside of UGAs unless it is selected for one of the designations allowed under the GMA, such as Master Planned Resorts, LAMIRDs or UGAs.[12]

Legal Issues 5 and 12 inquired whether Urban Growth Nodes (UGNs) were authorized by the GMA. In addressing the foundation of these issues, the Board stated:[13]

> The requirement that urban growth should be directed to appropriately-sized and delineated UGAs is one of the main organizing principles of the GMA's approach to planning for growth. To determine the appropriate size and location of an UGA requires an appropriate analysis, variously called a "land capacity analysis" or a "land quantity analysis." That analysis includes two interrelated components: (1) counties first must determine how much land should be included within UGAs to accommodate expected urban development, based on the OFM population projections; (2) counties must determine which lands in particular should be included within UGAs, based on the "locational criteria" provided in RCW 36.70A110(1) and (3). The UGNs designated by Kittitas County are addressed in the Land Use Plan under

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[11] County Response, at 4.
[12] August 2007 FDO, at 19.
[13] August 2007 FDO, at 65-66 (internal citations omitted)

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> "Urban Land Use" and have many characteristics of UGAs. However, the UGNs have not been designated in compliance with the requirements in RCW 36.70A.110, since the GMA does not recognize an Urban Growth Node in the form developed and used by Kittitas County. Although the County has allocated 10% of the projected 2025 population to UGNs, no land quantity analysis has been performed. Therefore, there is no way to determine whether the UGNs are appropriately sized as UGAs.
>
> In addition, the Capital Facilities Plan (CFP) states the six-year plan for capital improvements is fully funded, but no evidence of full funding is provided in the CFP or elsewhere in the record for facilities necessary to support urban development in the UGNs. The County's CFP seems to focus on maintenance and upgrades to existing public facilities and does not appear to address any facilities needed in any of the five designated UGNs.

In further addressing the urban-like nature of the County's UGNs, the Board reviewed provisions of the GMA for LAMIRDs and stated:[14]

> Kittitas County's Comprehensive Plan appears to treat the UGNs as a variant form of UGAs, rather than as LAMIRDs, and as this Board explained, LAMIRDs are not 'mini-UGAs' or a rural substitute for UGAs; instead they are subject to the limitations of RCW 36.70A.070(5)(d)(iv). Consequently, even if one or more of the five UGN designations should more properly be designated as a LAMIRD, none of the UGNs, as currently retained, comply with the requirements of RCW 36.70A.070(5)(d).
>
> It's been ten years since the Legislature provided LAMIRDs as an option for addressing the "established residential, commercial, and industrial settlements," and yet the County has not acted to comply with the options provided in the GMA, but instead has chosen a self-imposed deadline of 2009 to determine whether they should re-designate these UGNs as UGAs or LAMIRDs or some other designation permitted under the GMA. The County must comply with the requirements of RCW 36.70A.130, .070, and .110.

Thus, for all three legal issues the claim underlying the Board's August 2007 FDO holding, as to the County's failure to comply with the GMA's UGA and/or LAMIRD designation

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[14] *Id.*

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criteria, continues to apply. This designation guidance was clearly set forth in the FDO with citations to RCW 36.70A.070(5)(d) for LAMIRDs and RCW 36.70A.110 for UGAs.

In response to the Board's FDO and 1st Compliance Order, Kittitas County simply re-titled its UGNs as UGAs with the adoption of Ordinance 2008-20. At the Compliance Hearing, the County stated that in designating these areas as UGAs it merely adopted the previous UGN boundaries and plans to engage in the process of conducting the necessary analysis to determine if a UGA designation is appropriate, or whether these areas would better meet the GMA's criteria for designation as a LAMIRD.[15] This lack of pre-designation analysis is supported by the County's own documentation, including Ordinance 2008-20, which adopted the UGN re-designation. In this Ordinance, the County specifically noted:[16]

> … [the Board of County Commissioners] charges the Land Use Advisory Committee with conducting the requisite land capacity analysis and capital facilities analysis for each [UGN area] …

Within its updated Comprehensive Plan, the County further states:[17]

> …[As to the areas formerly identified as UGNs] Kittitas County's Land Use Advisory Committee, with participation from these communities, shall develop a final urban growth area boundary, future land use plans for these urban growth areas, and facility or service needs to accommodate their 20-year population growth. These plans are to be submitted to Kittitas County for consideration and ultimately adoption as a portion of the Kittitas County Comprehensive Plan.

And, General Planning Policy 2.99 reiterates this post-designation analysis by providing:[18]

> Analysis of each of the areas of Easton, Ronald, Snoqualmie Pass, Thorp, and Vantage need to occur through the subarea planning process. Each area should be prioritized regarding the need and timing of the planning process. This subarea planning process shall provide land capacity analysis, capital

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[15] RCW 36.70A.070(5)(d) provides for LAMIRD designation criteria.
[16] Ordinance 2008-20, at Ordainment at 8.
[17] Kittitas County Comprehensive Plan (Nov 6, 2008) at 27.
[18] *Id,* at 29.

Eastern Washington
Growth Management Hearings Board
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facility plan, and shall include representatives from the affected areas. The planning process should be completed by the end of 2009.

Therefore, it is plain from the County's own documentation *prior to designating* the areas the County had formerly labeled as UGNs to UGAs *no analysis has been conducted* as to whether or not these areas satisfied the GMA's criteria for designation as UGA's set forth in RCW 36.70A.110. This analysis has been prospectively charged to the County's LUAC and is anticipated to be completed by the end of 2009. Without the proper analysis, the County explicitly fails to comply with RCW 36.70A.110.

The Board reminds Kittitas County that counties and cities have been engaged in GMA planning since the 1990s, with UGAs satisfying the criteria of RCW 36.70A.110 established throughout the state. Resources are available to the County in meeting its GMA planning responsibilities, such as the ability to work cooperatively with CTED's Growth Management Services, which is available to provide both technical and financial assistance to local governments in the development of GMA-compliant comprehensive plans and development regulations.

Conclusion

The Board finds and concludes that Petitioners have carried their burden of proof under RCW 36.70A.320 and have demonstrated that Ordinance 2008-20 is not in compliance with the GMA. Kittitas County failed to comply with the GMA when it adopted Ordinance 2008-20, which designates formerly identified UGNs, including Easton, Ronald, Thorp, Vantage, and Snoqualmie Pass/Gold Creek, as UGAs without conducting the necessary analysis required by RCW 36.70A.110 as to size, location, and public facilities and services. Therefore, the Board finds that Ordinance 2008-20 does not comply with the GMA and the County is in continuing non-compliance as to Legal Issues 2, 5, and 12. Thus, the Board remands Ordinance 2008-20 to the County to take legislative action to achieve compliance with the GMA.

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B. Determination of Invalidity

Parties' Arguments

In addition to a finding of continuing non-compliance, both Futurewise and CTED request the imposition of invalidity in order to prevent the vesting of development applications under non-compliant regulations.[19] Futurewise cites to RCW 36.70A.020(1), .020(2), and .020(10) to support this request.[20] CTED contends the County's action substantially interferes with RCW 36.70A.020(1) and .020(2).[21]

The County asserts it is not prevented from planning in a manner compliant with the GMA during the completion of the land capacity analysis and capital facility analysis for its newly-designated UGAs and, therefore, a determination of invalidity is not warranted.[22]

Board Discussion and Analysis

The GMA's Invalidity Provision, RCW 36.70A.302, provides:

> (1) A board may determine that part or all of a comprehensive plan or development regulation are invalid if the board:
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> > (a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;
> >
> > (b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and
> >
> > (c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.
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> (2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested

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[19] Futurewise Objections, at 27-29.
[20] Futurewise Objections, at 27-29.
[21] CTED Objections, at 11-12. *See also,* CTED's Reply which focuses solely on the request for invalidity.
[22] County Response, at 4.

Eastern Washington
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> under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

In addition , pursuant to RCW 36.70A.330(4), in a compliance hearing upon petition of a party, the Board shall decide, if no determination of invalidity was made in the FDO, whether a determination of invalidity should now be made at the compliance hearing stage.

Although invalidity was not imposed by the Board in the August 2007 FDO or the August 2008 1st Compliance Order, both Futurewise and CTED request the imposition of invalidity upon Kittitas County's action because of the potential for urban development to vest in areas that have not been properly designated for such growth. The Petitioners' cite to the GMA's Goals - RCW 36.70A.020(1), .020(2), and .020(10). Goal 1 encourages urban growth within those areas where adequate public facilities and services exist or can be efficiently provided. Goal 2 seeks to reduce sprawling, low-density development. Goal 10 desires protection for the environment and enhancement of the State's high quality of life.

The Board finds without the required analysis as to the designation criteria for a UGA, as provided in RCW 36.70A.110, Kittitas County substantially interferes with Goal 1 and 2 of the GMA because urban growth is being permitted in areas which may not be suitable for such development with such growth amounting to urban sprawl. As was noted by the Court in *Thurston County v. Western Washington Growth Management Hearings Board,* preventing urban sprawl is one of the GMA's most fundamental policies.[23]

The County gave no indication it has considered establishing a moratorium, as provided in RCW 36.70A.390, which would preclude vesting during the pendency of its analysis process. Therefore, regardless of the current economic environment, the potential for vesting of urban development currently exists in areas of the County which have not been properly analyzed for designation for urban growth.

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[23] *Thurston County v. WWGMHB,* 164 Wn.2d 329, 351 (2008).

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Conclusion

In the Board's discussion *supra,* the Board concluded Kittitas County's designation of its UGNs as UGAs failed to comply with RCW 36.70A.110 and is remanding Ordinance 2008-20 with direction to the County to take legislative action to comply with the goals and requirements of the GMA as set forth in this Order and the Board's 2007 FDO. The Board may enter an order of invalidity upon a determination that the continued validity of a non-compliant enactment substantially interferes with fulfillment of the goals of the GMA. Here, the Board concludes the County's enactment substantially interferes with the fulfillment of RCW 36.70A.020(1) and .020(2).

As noted in this 2nd Order RE: Compliance, the Board finds the following areas non-compliant and invalidates Ordinance 2008-20 as it pertains to these areas:

- The re-designation of the Easton UGN to the Easton UGA,
- The re-designation of the Ronald UGN to the Ronald UGA,
- The re-designation of the Thorp UGN to the Thorp UGA,
- The re-designation of the Vantage UGN to the Vantage UGA, and
- The re-designation of the Snoqualmie Pass UGN, including the Gold Creek area, to the Snoqualmie Pass UGA.

The re-designation of the UGNs was denoted at Section III Final Decision and Signatures of Ordinance 2008-28, within the County's Land Use Element of the Comprehensive Plan, at Page 27, and with General Planning Policy 2.99 at Page 29. As such, the Board invalidates the Ordinance and the Comprehensive Plan as it relates to all aspects of this re-designation action.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Board issued its FDO in this matter on August 20, 2007. In the FDO, the Board found the County non-compliant in regards to Legal Issues 2, 5, and 12, and ordered the County to take legislative action to

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achieve compliance with the goals and requirements of the GMA as noted by the Board.

2. On August 7, 2008, the Board issued is 1st Order RE: Compliance which found Kittitas County failed to take any action in regards to Legal Issues 2, 5, and 12 to bring itself into compliance with the GMA as required by the Board's FDO. With the 1st Compliance Order, the Board found the County is in continuing non-compliance as to these issues.

4. On November 6, 2008, Kittitas County adopted Ordinance 2008-20 in response to the August 2007 FDO and August 2008 1st Compliance Order. With this enactment, and in relationship to this 2nd Compliance Order, the County re-designated its UGNs – Easton, Ronald, Vantage, Thorp, and Snoqualmie Pass, including Gold Creek – as UGAs.

5. The County re-designated its UGNs to UGAs without conducting a land capacity analysis or capital facilities analysis in violation of RCW 36.70A.110.

6. Petitioners have carried their burden of proof under RCW 36.70A.320 and have demonstrated that Kittitas County Ordinance No. 2008-20 is not in compliance with the GMA to the extent that it designates those areas formerly denominated as UGNs to be UGAs.

7. The County's actions fail to achieve compliance with the GMA as set forth in the Board's August 2007 FDO and August 2008 1st Compliance Order and, therefore, the County continues to be non-compliant in regards to the goals and requirements of the GMA.

8. Under RCW 36.70A.302 and 36.70A.330(4), the continued validity of parts of the Kittitas County Comprehensive Plan relating to re-designation of former UGNs to UGAs - including Comprehensive Plan Pages 27, 29, and General Planning Policy 2.99 - substantially interfere

Eastern Washington
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with fulfillment of GMA goals in RCW 36.70A.020(1) and .020(2) by allowing for urban development within areas that have not been designated for urban development as provided for in the GMA. Because of this, the Board determines invalidity is warranted.

V. ORDER

Based upon a review of the County's Second Statement of Actions Taken to Comply, the briefs and exhibits submitted by all parties, the requirements set forth in the Board's August 20, 2007, FDO and August 7, 2008, 1st Order RE: Compliance, the GMA, prior Board orders, case law, and having considered the argument of the parties and deliberated on the matter, the Board ORDERS:

1. Kittitas County has failed to take appropriate legislative action to bring itself into compliance with the GMA as set forth in the Board's August 20, 2007, FDO and August 7, 2008 Compliance Order in regards to Legal Issues 2, 5, and 12 and for which **the Board issues an Order of Continuing Non-Compliance**. In re-designating its UGNs - Easton, Ronald, Vantage, Thorpe, and Snoqualmie Pass, including Gold Creek – as UGAs, the County fails to comply with the designation criteria set forth in RCW 36.70A.110.
2. The Board finds and concludes pursuant to RCW 36.70A.302 and 36.70A.330(4) that these UGA designations did not comply with the GMA and that the continued validity of parts of the Kittitas County Comprehensive Plan relating to re-designation of former UGNs to UGAs -including Comprehensive Plan Pages 27, 29, and General Planning Policy 2.99 - would substantially interfere with GMA goals RCW 36.70A.020(1) and .020(2) because of the potential for vesting urban development in areas which have not be properly evaluated for such development. Therefore, **the Board issues a Determination of Invalidity as to Ordinance 2008-20 and the County's**

Eastern Washington
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Comprehensive Plan as these documents relate to these designations.

3. The Board directs Kittitas County to take legislative action to achieve compliance with the Growth Management Act pursuant to both the Board's August 20, 2007, FDO and this 2nd Order on Compliance for Legal Issues 2, 5, and 12 for which non-compliance and invalidity has been found. Such action shall be taken by not later than **July 13, 2009, 180 days** from the date issued. The following schedule for compliance, briefing, and hearing shall apply:

- Respondent's Statement of Action Taken to Comply is due **July 20, 2009**.
- Petitioners' compliance brief is due **August 3, 2009**.
- Respondent's and Intervenors' brief is due **August 17, 2009**.
- Petitioners' option compliance reply brief is due **August 24, 2009**.
- The Board will hold a telephonic compliance hearing on **August 31, 2009, at 10:00 a.m. to 1:00 p.m.** The parties will call **360-407-3780 followed by 116113 and the # sign**. Ports are reserved for all parties to this matter. **The compliance hearing shall be limited to consideration of the Legal Issues found noncompliant and remanded in this Order. The parties shall file their briefing electronically to: aandreas@ew.gmhb.wa.gov. The parties shall file the original and four copies. Board originals, Board Member copies and exhibits must be single sided, two hole, top center punched, clearly tabbed, and accompanied by a table of attached exhibits naming and describing each document. NO EXCEPTIONS.**

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.

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

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

<u>Judicial Review</u>. Any party aggrieved by a final decision of the Board may appeal the decision to superior court as provided by RCW 36.70A.300(5). Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542. Service on the Board may be accomplished in person or by mail. Service of the Board means <u>actual receipt of the document at the Board office</u> 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.

<u>Service</u>. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

SO ORDERED this 12th day of January, 2009.

EASTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

_____
Joyce Mulliken, Board Member

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John Roskelley, Board Member

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Raymond Paolella, Board Member

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