BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

LAKE CAVANAUGH IMPROVEMENT ASSOCIATION and CITIZENS TO SAVE PILCHUCK CREEK, Petitioners, v. SKAGIT COUNTY, Respondent.	Case No. 04-02-0011 **COMPLIANCE ORDER**

I. SUMMARY OF THE DECISION

This case is again before the Board on the basis of an amendment to the Skagit County Park Plan, incorporated by reference into the County's comprehensive plan. The initial petition for review challenged Ordinance No. 020040007. That ordinance amended the Park Plan to include a description of an extensive new park facility to be located in forest resource lands – the Frailey Mountain Shooting Range. The Board found that the portion of the Park Plan element of the comprehensive plan that allows a large shooting range, with enclosed structures, to be constructed on a 400-acre parcel in forest resource lands failed to comply with the Growth Management Act (GMA) mandate to conserve resource lands and was not consistent with the County comprehensive plan and development regulations. Order on Dispositive Motions, September 21, 2004.

The County responded by amending the Park Plan language in the comprehensive plan that was inconsistent with the Skagit County's own plan and development regulations and at odds with the GMA. The Park Plan amendment still describes the shooting range but removes references to a campground, caretaker's residence, and all indoor facilities. The amendment also expressly states, "Development of this range shall be consistent with the

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Skagit County Comprehensive Plan, Plan Policies, and development regulations, as set forth in law or as established by a court of competent jurisdiction."

Petitioners contend that this amendment is still not compliant with the GMA, since it removes 400 acres from the County's designated industrial forest lands by its very nature and does not define the shooting range in sufficient detail to meet the GMA's requirements for capital facilities planning. For the Petitioners, the most egregious violation of the GMA and the County's comprehensive plan and development regulations is the parallel submittal of a development permit application that describes a shooting range with extensive covered structures and much land alteration.

Skagit County responds that the amendment removes inconsistencies with the GMA and its comprehensive plan and development regulations. The County notes that its capital facilities plan includes a description of the shooting range, an analysis of its anticipated costs and associated revenues, and specific impacts on the County's budget. The County states that development permits for the shooting range facility must comply with the County's comprehensive plan and development regulations, but the decision to issue a development permit is not within the jurisdiction of the Board.

In this decision the Board finds that the Parks Plan element amendment cures the inconsistency with the comprehensive plan policies and development regulations because the Parks Plan element amendment is consistent with the comprehensive plan policies and the development regulations, with one exception. Because the capital facilities element describes the shooting range as an indoor/outdoor facility, there is an inconsistency between the amended Park Plan element and the capital facilities plan. RCW 36.70A.070. Beyond that, the Board would have to look to the project permit to find the specific project characteristics of the proposed shooting range that would conflict with a forestry use. However, the Board's jurisdiction over local legislative enactments is limited by the statute to

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comprehensive plans and development regulations and amendments to either. There is no GMA violation created by the Park Plan amendment as written (except as noted in the Capital Facilities Plan). Whether the project permit application complies with the adopted plan policies and development regulations is a matter for another tribunal.

II. PROCEDURAL HISTORY

Petitioners Lake Cavanaugh Improvement Association and Citizens to Save Pilchuck Creek filed a Petition for Review on June 4, 2004. An amended petition, citing further references to the State's Growth Management Act (GMA), was filed on July 1, 2004. Petitioners filed a Dispositive Motion on July 16, 2004. Respondent filed a Response to Petitioners' Dispositive Motion on July 29, 2004. The full Board held a hearing on the Dispositive Motion on August 5, 2004.

On September 9, 2004, the Board issued its Order on Dispositive Motion. The Board found Skagit County's Park Plan noncompliant with prior rulings of the Board and the courts. The Board found that the Parks Plan allowed for unwarranted conversion of designated industrial forest lands; introduced incompatible use adjacent to industrial forest lands; lacked internal consistency with the County's adopted Comprehensive Plan and policies, land use designations map, and development regulations; and was noncompliant with RCW 36.70A.020(8), .030(8), and .070(preamble).

On April 4, 2005, Skagit County adopted Ordinance No. 20050006, an amendment to the County's Plan for the purposes of complying with the Growth Management Act (GMA). On April 7, 2005, the County submitted Statement of Actions Taken. Petitioners submitted a Response to County's Statement of Action and Renewed Motion for Invalidity on April 28, 2005. On May 20, 2005, the County filed Skagit County's Response to Petitioners' Objections to a Finding of Compliance. On May 27, 2005, Petitioners submitted Petitioners' Reply Regarding Compliance and Invalidity.

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The Board held a Compliance Hearing in Mt. Vernon on June 7, 2005. Mr. Jeffrey Eustis represented Petitioners. Mr. Don Anderson represented Skagit County. All three Board members attended.

Supplements to the Record

At the hearing, the Presiding Officer allowed the parties to add the following exhibits to the record:

- Exhibit 199 – Skagit County's Capital Facility Plan (pages 3-9 through 3-16)
- Exhibit 200 – Findings of Fact, Conclusions of Law and Decision in PI-97-0205 et al. (Frailey Mountain Shooting Range)
- Exhibit 201 – Grant Applications to IAC for Frailey Mountain Shooting Range

No party objected to any of the above exhibits being added to the record.

III. STANDARD OF REVIEW, PRESUMPTION OF VALIDITY, BURDEN OF PROOF

For purposes of board review of the comprehensive plans and development regulations adopted by local government, the GMA establishes three major precepts: a presumption of validity; a "clearly erroneous" standard of review; and a requirement of deference to the decisions of local government.

Pursuant to RCW 36.70A.320(1), comprehensive plans, development regulations and amendments to them are presumed valid upon adoption:

> Except as provided in subsection (5) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

RCW 36.70A.320(1).

The statute further provides that the standard of review shall be whether the challenged enactments are clearly erroneous:

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> The board shall find compliance unless it determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter.

RCW 36.70A.320(3)

In order to find the County's action clearly erroneous, the Board must be "left with the firm and definite conviction that a mistake has been made." *Department of Ecology v. PUD1*, 121 Wn.2d 179, 201, 849 P.2d 646 (1993).

Within the framework of state goals and requirements, the boards must grant deference to local government in how they plan for growth:

> In recognition of the broad range of discretion that may be exercised by counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter, the legislature intends for the boards to grant deference to the counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter. Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances. The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community.

RCW 36.70A.3201 (in part).

In sum, the burden is on the Petitioner to overcome the presumption of validity and demonstrate that any action taken by the County is clearly erroneous in light of the goals and requirements of Ch. 36.70A RCW (the Growth Management Act). RCW 36.70A.320(2). Where not clearly erroneous and thus within the framework of state goals and requirements, the planning choices of local government must be granted deference.

IV. ISSUE TO BE DISCUSSED

> *Is the County's Park Plan Element of its Comprehensive Plan in compliance with its Comprehensive Plan policies, development regulations, and the Growth Management Act (GMA)? Order on Dispositive Motion (September 21, 2004).*

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V. DISCUSSION OF THE ISSUE

Positions of the Parties

Petitioners' Position

Petitioners Lake Cavanaugh Improvement Association and Citizens to Save Pilchuck Creek argue that the County's amendment to the Parks Plan proposes recreational uses that result in the conversion of designated Forest Lands which is not consistent with the GMA or the County's comprehensive plan and development regulations. Petitioners contend that the County's amendment of the County's Parks Plan which deletes references to shooting range facilities and adds a provision that the shooting range will be consistent with the County's comprehensive plan, plan policies, and development regulations fails to achieve this consistency because the general nature of the facilities remove 400 acres of designated forest land from commercial timber production. Petitioners' Response to County's Statement of Actions Take and Renewed Motion for Invalidity (Petitioners' Response) (April 28, 2005) at 4.

Citing the County's Environmental Impact Statement (Exhibit 108), a letter from the County's Parks Director (Exhibit 161), and the project proposal and site plan (Proposed Exhibit 200), Petitioners argue that the Parks Plan amendment is not an abstract concept, involves many extensive structures, including a possible law enforcement training facility, and does not change the fact that 400 acres of commercial forest land are being removed from commercial timber production. Petitioners assert that while the County's Parks Plan amendment may achieve paper compliance, enough evidence in the record shows that the County has a proposal for a shooting range facility that contains specific drawings that depict much land alteration and many structures. The scope of this proposal, they maintain, conflicts with the GMA, the comprehensive plan, and the development regulations. Petitioners Response at 9 -16.

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Specifically, Petitioners contend that the proposed park plan amendment is inconsistent with Comprehensive Plan Policies 5B - 5.1, 5B - 5.2, and 5B - 5.3. These policies state that Industrial Forest Lands should be used for commercial forestry and ancillary mining purposes, recreational opportunities in these lands should not conflict with commercial natural resource management, that practice of forestry is the preferred use, and that ancillary uses such as primitive character recreational facilities are considered compatible uses. Petitioners also charge that the Parks Plan amendment is inconsistent with Section 14.15.410(5) of the County's development regulations that require that shooting range facilities cannot result in the conversion of forest lands. Petitioners' Response at 12.

Petitioners also argue that proposed capital facilities projects included in a Parks Plan must be identified in sufficient detail to establish their projected capacity and costs. Petitioners cite *Achen v. Clark County*, Case No. 95-2-0067c (Final Decision and Order, September 20, 1995) to support their argument. Petitioners also allege that even if funds for the facility are going to come from non-county sources, these funds must be addressed in the capital facilities element. Petitioners cite the December 17, 1997, Compliance Order in *Achen to* support this allegation. Petitioners contend that a simple circular argument that whatever is consistent with the Growth Management Act does not satisfy the requirements of RCW 36.70A.070(3). Petitioners' Response at 16 through 18.

Petitioners also request that Board find the Parks Plan Element invalid because it substantially interferes with the forestry conservation goal of the Act. Petitioners contend that the County is proceeding with a proposed shooting range that substantially interferes with RCW 36.70A.080 (8) in the following ways: (1) converts 400 acres of long-term commercial timber production to recreation uses, (2) interferes with adjacent Industrial Forest Lands, (3) diverts public service funds from resource to non-resource uses, and (4) creates incentives for additions and expansions. Petitioners argue that validity of the amendment will help the shooting range come to fruition because it will allow the

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Washington Department of Natural Resources to transfer the property selected for the shooting range to the County and will enable the Washington Interagency on Outdoor Recreation to provide grants to the County for the facility. Further, Petitioners argue that as long as the amendment is part of the Parks Plan Element the County can continue to expend funds on the shooting range. Petitioners' Response 19 -21.

County's Position

The County states that it adopted Ordinance 020050006 to comply with the Board's September 21, 2004, Order on Dispositive Motions. Ordinance 020050006 adopts an amendment to the Parks Plan Element that eliminates references to a campground, caretaker's residence, and all indoor facilities. The amendment also expressly states, "Development of this range shall be consistent with the Skagit County Comprehensive Plan, Plan Policies, and development regulations, as set forth in law or as established by a court of competent jurisdiction." Skagit County's Response to Petitioner's Objections to a Finding of Compliance (County's Response) (May 20, 2005) at 1 and 2.

The County maintains that the Board has already determined that shooting ranges are permissible in Skagit County's designated Industrial Forest Lands and cites *Evergreen Islands v. Skagit County*, Case No. 00-2-0046c (Final Decision and Order, February 6, 2001). The County points out Ordinance 17938 (Exhibit No. 304) permitting as a "Hearings Examiner Special Uses…: (m) Shooting clubs (outdoor), no associated enclosed structures allowed" was challenged. Although the Board found that many of the challenged uses are allowed by administrative or hearings examiner special use permits in resource and rural lands, it did not cite this provision as being noncompliant. Later, when the County amended this provision to respond to this Board directive to remove uses from Natural Resource

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Lands that did not comply with the Supreme Court's opinion in the Soccer Fields case[1], the provision was left virtually unchanged:

> (5) Hearings Examiner Special Uses….(m) Shooting Clubs (outdoor) with no associated enclosed structures except as needed for emergency communications equipment or conversion of resource land allowed.

The County asserts that the Board has already determined the previous provision compliant, and cites Evergreen Islands v. Skagit County (Compliance Order, May 14, 2002). County's Response at 4 and 5.

The County points out that the Park Plan Element amendment requires a development permit to be consistent with the County's comprehensive plan, plan policies, and development regulations and, therefore, is compliant with the GMA. The County states that if and when development permits are sought, those permits must comply with the amendment. However, the County contends this will be a project-level permit, and is a land use determination outside the Board's purview. Skagit County argues that RCW 36.70A. 280(1) limits the Board's jurisdiction to comprehensive plans and development regulations, and the growth management hearings boards and the courts have consistently recognized the boards have no jurisdiction over project permits and cite several court cases.[2] Ibid at 6.

The County also contends that RCW 36.70A.070(8) directs the County to adopt a Parks Plan Element, but does not require the Park Plan Element to include an analysis of capital facilities. The County says that it has adopted its Park Plan as part of its capital facilities element and that it is a functional element of the County's comprehensive plan. The County

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[1] *King County v .Central Puget Sound Growth Management Hearings Board*, 142 WN.2d 543.14 P.3d 1333(2000)

[2] *Grieve v. Snohomish County,* CPSGMHB 02-3-0016 (Order of Dismissal, December 2, 2002); *OBCT v. Lewis County*, WWGMHB 04-2-0041c (Decision and Order on Motions, February 8, 2005), and *Citizens for Mount Vernon v. Mount Vernon,* 133 Wn. 2d 861,868, 947, P.2d 1208(1997).

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maintains that the 2003 Capital Facilities Plan fully addresses park and recreation facilities and the requirements of RCW 36.70A.070(3) by including a description of the shooting range, an analysis of its anticipated costs and associated revenues, and specifics on the impact on the County's budget. Proposed Exhibit 199. Ibid at 7 – 9.

Board Analysis

The County has amended its comprehensive plan to remove those provisions in the Park Plan Element that described a specific shooting range facility to be constructed in forest resource lands. Skagit County's Statement of Actions Taken at 2. The amendment deletes references to enclosed structures in the Frailey Mountain Shooting Range and provides that development shall comply with all applicable regulations and achieve consistency with the County's development regulations and comprehensive plan. Ordinance 020050006, April 4, 2005.

Petitioners respond that the amendment does not change the fact that 400 acres of forest land would be taken out of commercial timber production and converted to recreational use. Petitioners' Response at 6. However, Petitioners focus on the project proposal for the Frailey Mountain Shooting Range, because the comprehensive plan (Park Plan Element) and the development regulations do not reflect this proposed use. They claim that the construction on a 400 acre site for a shooting range will "necessarily" involve clearing and grading, and certain safety measures that are inconsistent with conservation of forest resource lands. Ibid at 11.

Yet, Petitioners point to nothing in the comprehensive plan amendment, plan policies or the development regulations that demonstrates to us how the shooting range will be an inconsistent use. In fact, at argument, Petitioners conceded that the Board would have to look to the project permit to find the specific project elements that would conflict with a

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forestry use. However, the Board's jurisdiction over local legislative enactments is limited by the statute to comprehensive plans, development regulations, and amendments to either. RCW 36.70A.290(2); *Wenatchee Sportsmen's Ass'n v. Chelan County,* 141 Wn.2d 169, 178, 4 P.3d 123, 2000 Wash. LEXIS 472 (2000) ("From the language of these GMA provisions [RCW 36.70A.280 and 36.70A.290], we conclude that unless a petition alleges that a comprehensive plan or a development regulation or amendments to either are not in compliance with the requirements of the GMA, a GMHB [growth management hearings board] does not have jurisdiction to hear the petition").

The GMA expressly provides that the Board does not have jurisdiction to review project permits by excluding project permit applications from the definition of "development regulations":

> A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

RCW 36.70A.030(7) (in pertinent part).

Project permit applications are therefore outside the Board's jurisdiction.

In addition, the language of the comprehensive plan requires that the shooting range conform to the requirements of the County's comprehensive plan and development regulations:

> Development of this range shall be consistent with the Skagit County Comprehensive Plan, Plan Policies and development regulations as set forth in law or as established by a court of competent jurisdiction.

Exhibit 1, Skagit County Ordinance No. 020050006.

By its terms, the Park Plan requires consistency between the development of the shooting range and the County plan policies and development regulations. These regulations allow a shooting range in designated Industrial Forest – Natural Resource Lands as a hearing examiner determined special use. SCC 14.16.410. Through a variety of policies, the comprehensive plan requires that any activities on forest resource lands be subordinate to

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and compatible with resource management. Policy 5B-3.2, 5B-4.5, 5B-4.12 and 5B-5.2. By providing for a shooting range which must be consistent with the comprehensive plan policies and development regulations, the Park Plan Element necessarily creates a consistent use.

The compliance of the County's development regulations relating to shooting ranges in industrial forest lands with the GMA is not at issue here, and therefore uses that fit within the code definitions are deemed GMA compliant. S.C.C. 14.16.410 allows a shooting range in industrial forest lands as a Hearing Examiner special use under limited conditions:

> (5) Hearing Examiner Special Uses.
>
> …
>
> (k) Shooting clubs (outdoor) with no associated enclosed structures except as needed for emergency communications equipment or conversion of resource land allowed.

SCC 14.16.410(5)(k)

Since the Park Plan no longer describes a shooting range with enclosed structures, it is no longer inconsistent with this restriction on enclosed structures in the County Code.

Petitioners also argue that the 400-acre site involves a conversion of resource lands, in violation of this code provision. However, the County Code also defines "conversion" for purposes of this development regulation:

> Conversion: a use other than commercial timber operations that is a bona fide conversion to an active use which is incompatible with timber growing, or where the landowner has declared a conversion as part of the forest practice application approved by the Washington State Department of Natural Resources (DNR).

SCC 14.04.020

Again, there is nothing in the Park Plan amendment that describes an active use incompatible with timber growing. The Board would have to look to the project permit application to find such an incompatible use. Project permit applications, as we have already found, are outside the Board's jurisdiction.

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Petitioner urges the Board that the County is playing a "word game" and that the Board should look behind the words to the projects that the County has in mind. Petitioners' Response at 5. The County responds that the enactments before the Board are GMA-compliant and those are the only subjects upon which the Board has jurisdiction to pass. Skagit County's Response at 6.

We agree with the County. While we found that the specifics of the project incorporated into the Park Plan Element in the original case did not comply with the GMA, the plan provisions as currently written require consistency with the County's compliant plan policies and development regulations. Neither the comprehensive plan (including the Park Plan Element) nor the development regulations allow a shooting range that fails to comply with the GMA. That is the determination the Board can make. Whether a project permit application is successful may depend on factors other than the issue of GMA compliance. Those determinations will be made by another tribunal.

In order to argue that the amendments fail to comply with the GMA, Petitioners urge that the specifics of the shooting range proposal must be included in the comprehensive plan to meet the capital facilities element requirements of the GMA. Petitioners' Response to County's Statement of Actions Taken and Renewed Motion for Invalidity at 17. RCW 36.70A.070(3) imposes requirements for the capital facilities element in the comprehensive plan:

> A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probably funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, are

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> coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

RCW 36.70A.070(3).

Petitioners concede that they did not appeal the 2003 Capital Facilities plan but argue that the Park Plan must contain a description of its proposed facilities sufficient to meet the requirements of RCW 36.70A.070(3). Petitioners' Response at 6.

The County responds that the County's Capital Facilities Plan (CFP) includes the Frailey Mountain Shooting/Training Range. Skagit County's Response at 8. The County refers to the CFP at page 3-9; Table PR-2B, CFP at pages 3-14 through 3-15; and Table PR-3, CFP at Page 3-16.

We do not find that the CFP fails to meet the requirements of RCW 36.70A.070(3) for failing to specify capacity or funding. The County asserts that the shooting range facility is in the design phase (Skagit County's Response at 9) and the CFP properly reflects that.

However, there is one respect in which the Park Plan amendment is inconsistent with the CFP. Petitioners correctly note that the CFP references the Frailey Mountain Shooting Range as an "indoor/outdoor" facility. See Table PR-3. The shooting range, since it must be developed in conformity with the development regulations, cannot have enclosed structures:

> (6) Hearing Examiner Special Uses.
>
> …
>
> (k) Shooting clubs (outdoor) with no associated enclosed structures except as needed for emergency communications equipment or conversion of resource land allowed.

SCC 14.16.410(5)(k)

An indoor/outdoor shooting range has, by definition, enclosed structures. Therefore, the Park Plan Element and the CFP are inconsistent in this respect. While this inconsistency

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may readily be cured, it is a requirement of the GMA that all parts of the comprehensive plan be internally consistent. RCW 36.70A.070.

***Conclusion**:* We find the County's Park Plan Element as amended to be in compliance with the GMA, with the exception that the CFP is inconsistent with the County's development regulations (SCC 14.16.510(5)(k)) by providing that the shooting range will be an indoor/outdoor facility.

VI. FINDINGS OF FACT

1. Skagit County is a county, located west of the crest of the Cascade Mountains, that is required to plan pursuant to RCW 36.70A.040.

2. The Board found that the County's Park Plan, adopted by Ordinance No. 020040007, fails to comply with the goals and requirements of the GMA in its Order on Dispositive Motion issued September 21, 2004, because the extensive shooting range facilities described in the Park Plan converts resource land to a non-resource use, introduces an incompatible use adjacent to resource lands, and is inconsistent with County comprehensive plan policies and development regulations.

3. Petitioners are non-profit organizations that participated in the adoption of the ordinance that the Board found failed to comply with the GMA in this case, Ordinance No. 020040007.

4. Skagit County adopted Ordinance No. 20050006, an amendment to County's Park Plan Element, for purposes of complying with the Board's Order on Dispositive Motion, on April 4, 2005.

5. The amendment of the Park Plan continues to describe a shooting range at Frailey Mountain but removes references to a campground, caretaker's residence, and all indoor facilities.

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6. The amendment expressly states, “Development of this range shall be consistent with the Skagit County Comprehensive Plan, Plan Policies, and development regulations, as set forth in law or as established by a court of competent jurisdiction.”

7. Skagit County has submitted a development permit proposal for the Frailey Mountain Shooting Range that includes many enclosed structures and a plan for significant land alteration.

8. The Park Plan amendment does not itself describe a shooting range that includes enclosed structures or requires a conversion of forest resource lands.

9. At argument, Petitioners conceded that the Board would have to look to the project permit to find the specific project elements that would conflict with a forestry use.

10. The County’s capital facilities plan defines the Frailey Mountain shooting range as an “indoor/outdoor” facility.

11. An indoor/outdoor shooting range facility by definition includes enclosed structures.

12. SCC 14.16.410(5)(k) allows a shooting range in an industrial forest designation as a Hearing Examiner Special Use, with the requirement that there be “no associated enclosed structures except as needed for emergency communications equipment…”

13. To be consistent with the County’s development regulations, the Frailey Mountain shooting range cannot include enclosed structures except those needed for emergency communications equipment.

VII. CONCLUSIONS OF LAW

A. The Board has jurisdiction over this matter and the parties in this case.

B. The Petitioners have standing in this case.

C. Ordinance No. 20050006, an amendment to County’s Park Plan Element, is consistent with the County’s comprehensive plan policies with the exception of its capital facilities plan.

D. The County Parks Plan Element, which expressly provides that the shooting range development shall be consistent with the County’s development regulations, is not

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consistent with the capital facilities plan description of an indoor/outdoor shooting range, as required by RCW 36.70A.070 (preamble).

E. The Board does not have jurisdiction over the development permit proposal for the Frailey Mountain shooting range according to RCW 36.70A.030(7), .280(1), or .290.

VIII. ORDER

The County is ordered to achieve compliance with the GMA in accordance with this decision within 90 days of the date of this order. This Order pertains to the inconsistency between the parks plan element and the capital facilities plan.

Compliance Schedule	
Compliance Deadline	October 31, 2005
Skagit County's Statement of Actions Taken	November 10, 2005
Petitioners' Objections to a Finding of Compliance, if any	December 1, 2005
Skagit County's Response, if necessary	December 19, 2005
Petitioners' Reply, if necessary (Optional)	December 29, 2005
Compliance Hearing (telephonic)	January 5, 2006, 10:00 a.m.

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. Petitions for reconsideration shall follow the format set out in WAC 242-02-832. The original and three copies of the petition for reconsideration, together with any argument in support thereof, should be filed by mailing, faxing or delivering the document directly to the Board, with a copy to all other parties of record and their representatives. <u>Filing means actual receipt of the document at the Board office.</u> RCW 34.05.010(6), WAC 242-02-330. The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review.

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<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

<u>Enforcement.</u> 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, by fax or by mail, but service on the Board means <u>actual receipt of the document at the Board office</u> within thirty days after service of the final order.

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

Entered this 29th day of July 2005.

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Holly Gadbaw, Board Member

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Margery Hite, Board Member

_____
Gayle Rothrock, Board Member

Western Washington
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