

**CENTRAL PUGET SOUND  
GROWTH MANAGEMENT HEARINGS BOARD  
STATE OF WASHINGTON**

DOREEN JOHNSON; CHRISTY )  
ELLINGSON; DANIEL PALMER; )  
GIL and MARLENE BORTLESON; )  
and FRIENDS OF THE GREEN, a )  
Washington non-profit corporation, )

Petitioners, )

v. )

KING COUNTY, )

Respondent, )

and )

**Case No. 97-3-0002**

**(Johnson II)**

**ORDER DISMISSING PETITION  
FOR RECONSIDERATION and  
MODIFYING FINAL DECISION  
AND ORDER**

PLUM CREEK TIMBER COMPANY,  
L.P., PALMER COKING COAL  
COMPANY and CITY OF BLACK  
DIAMOND,

Intervenors.

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**I. PROCEDURAL BACKGROUND**

The Central Puget Sound Growth Management Hearings Board (the **Board**) issued a Final Decision and Order (**FDO**) in the above referenced case on July 23, 1997.

On July 31, 1997, the Board received “Intervenor Palmer’s Statement of Objection”, asking the Board to strike footnote 9 from the FDO.

On August 4, 1997, the Board received “Petitioner’s Motion for Reconsideration”, asking the Board to reconsider its rulings and holdings in the FDO with regard to Legal Issue 1.

**II. DISCUSSION**

### Intervenor Palmer's Objection:

Footnote 9, found on page 8 of the Board's FDO, reads as follows:

“Although the County does not reference the record or otherwise explain this assertion, the Board notes that much of the vacant land within the City may not be developable due to coal mines underlying the City. The record suggests up to two-thirds of the existing city limits is underlain by coal mines. *See*: Ex. 5, at 1; Ex. 7, at 11; and Ex. 24, at 1.2-1.5.”

Palmer specifically objects to that portion of the footnote that states “. . . much of the vacant land within the City may not be developable due to coal mines underlying the City.” Citing to the record, Palmer explains that much of the area is underlain by deep workings where the risks to development are minimal or non-existent. Additionally, Palmer points to Black Diamond's Sensitive Area Ordinance as a regulatory protection from mine hazards. The Board acknowledges Palmer's objection, and modifies footnote 9 of the FDO by striking the first sentence.

### Petitioner's Request for Reconsideration:

The Petition for Reconsideration was filed with the Board on Monday, August 4, 1997. The Final Decision and Order was issued on July 23, 1997. The Board's rules governing Reconsideration provide:

“(1) After issuance of a final decision under this section, any party may file a petition for reconsideration with a board in accordance with subsection (2) of this section. *Such petition must be filed within ten days of service of the final decision.*” . . . [Emphasis supplied, WAC 242-02-832]

Computation of time is governed by the Board's rules at WAC 242-02-060, which provides:

“The time within which any act shall be done, as provided by these rules, shall be computed by excluding the first day and including the last, unless the last day is a Sunday or legal holiday, and then it is excluded and the next succeeding day which is neither a Sunday nor a legal holiday is included.” . . .

Excluding the date the FDO was issued (July 23, 1997), the ten day period for filing the petition for reconsideration lapsed on *Saturday*, August 2, 1997. Therefore, the petition for reconsideration is untimely.

### **III. ORDER**

Footnote 9 on page 8 of the July 23, 1997 FDO is **modified** to read as follows:

“The record suggests up to two-thirds of the existing city limits is underlain by coal mines.  
*See*: Ex. 5, at 1; Ex. 7, at 11; and Ex. 24, at 1.2-1.5.”

Petitioner’s Request for Reconsideration is **dismissed with prejudice**.

So ORDERED this 20th day of August, 1997.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Edward G. McGuire, AICP  
Board Member

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Joseph W. Tovar, AICP  
Board Member

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Chris Smith Towne  
Board Member

Note: This Order constitutes a final order as specified by RCW 36.70A.300.