

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

In the matter of the Petition of)
 WARREN E. POSTEN, SR.)
 for a Declaratory Ruling.)
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**Case No. PDR 98-3-0001
 NOTICE OF DECISION NOT TO
 ISSUE DECLARATORY RULING**

DISCUSSION

On September 21, 1998, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Declaratory Ruling (the **PDR**) from Warren E. Posten, Sr. (**Posten**) requesting a declaratory ruling “about the applicability of the specific requirements of . . . RCW 36.70A.480(1) and (2) to the specific requirements of RCW 36.70A.280 [and] RCW 36.70A.300.”PDR, at 1.The relief requested by Posten is (1) to allow Posten to challenge the County’s Shoreline Master Program (**SMP**), after it is approved by Ecology, in the *Alpine v. Kitsap County* case, CPSGMHB Case No. 98-3-0032c, or (2) to restart the appeal period for the County’s Plan and development regulations when the County publishes notice of the Department of Ecology’s (**Ecology**) approval or denial of the shoreline master program.PDR, at 3.

Any person may petition the Board for a declaratory ruling about the applicability to specific circumstances of a rule, order, or statute within the Board’s jurisdiction.WAC 242-02-910(1). However, Posten’s PDR requests more than a declaratory ruling:it seeks a Board determination of Posten’s ability to challenge a shoreline master program that has been adopted by Kitsap County, but not yet approved or disapproved by Ecology.In the alternative, Posten’s PDR requests that the Board indefinitely extend the deadline for appealing the County’s adoption of Plan and development regulations amendments, notice of which was published on May 30, 1998.

Posten requests relief that the Board is without authority to provide.Because Ecology has not yet taken action, the County’s SMP amendments are not ripe for review by the Board.RCW 36.70A.290(2)(c).The Board has no authority to delay resolution of the *Alpine* case by waiting for Ecology’s decision and the County’s publication of that decision.*See* RCW 36.70A.300(2).Nor does the Board have the authority to “restart” the appeals period of the County’s adoption of its

Plan and development regulations. *See* RCW 36.70A.290(2). Consequently, the Board **declines** to issue the Declaratory Ruling sought by Posten.

So NOTed this 7th day of October, 1998.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Joseph W. Tovar, AICP

Board Member

Edward G. McGuire, AICP

Board Member

Chris Smith Towne

Board Member