

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

EVERETT SHORELINES	)	(Thurston County Superior Court Cause
COALITION, <i>et. al.</i> ,	)	No. 03-2-00415-1)
Petitioners,	)	
v.	)	Re: CPSGMHB Case No. 02-3-0009c,
	)	<i>Everett Shorelines Coalition, et al., v.</i>
CITY OF EVERETT and	)	<i>City of Everett and Washington State</i>
WASHINGTON STATE	)	<i>Department of Ecology</i>
DEPARTMENT OF ECOLOGY,	)	
	)	<b>Second Order Granting Certificate of</b>
Respondents.	)	<b>Appealability</b>
And	)	
	)	
PORT OF EVERETT,	)	
	)	
Intervenor.	)	
	)	
	)	
	)	

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**I. APPLICATIONS FOR CERTIFICATES OF APPEALABILITY**

On January 9, 2003, the Central Puget Sound Growth Management Hearings Board (the **Board**) issued its Final Decision and Order (the **FDO**) in *Everett Shorelines Coalition, et al., v. City of Everett and Washington State Department of Ecology [Port of Everett – Intervenor]*.

On February 10, 2003, the Board issued its “Order Granting Tribes’ Motion to Reconsider and Clarify, Order Denying Ecology’s Motion to Reconsider and Notice of Scrivener’s Error in Final Decision and Order” (the **Order on Reconsideration**).

On March 24, 2003, the Board received “Everett’s Application to the Central [Puget Sound] Growth Management Hearings Board for a Certificate of Appealability to the Washington State Court of Appeals” (the **City’s Application**).

On April 8, 2003, the Board received “Port of Everett’s Joinder in City of Everett’s Application

to the Central [Puget Sound] Growth Management Hearings Board for a Certificate of Appealability to the Washington State Court of Appeals” (the **Port’s Joinder**).

On April 3, 2003, the Board received “Ecology’s Application to the Central [Puget Sound] Growth Management Hearings Board for a Certificate of Appealability to the Washington State Court of Appeals” (**Ecology’s Application**).

On April 10, 2003, the Board issued its “Order Granting Certificate of Appealability” as to the requests from the City and Port of Everett (the **First Order Granting Certificate of Appealability**).

The Board’s jurisdiction is generally limited<sup>[1]</sup> to addressing whether local governments within the Puget Sound region have complied with the goals and requirements of the state’s Growth Management Act (**GMA** - Chapter 36.70A RCW) and whether local governments with that region, and the Department of Ecology, have complied with the provisions of the Shoreline Management Act (**SMA** – Chapter 90.58 RCW).

## **II. DISCUSSION AND FINDINGS**

The Board’s authority regarding Certificates of Appealability is set forth in RCW 34.05.518, which provides in relevant part:

(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.12B.005 and growth management hearings boards identified in RCW 36.70A.250.

(b) An environmental board may issue a certificate of Appealability if it finds that *delay* in obtaining a final and prompt determination of the issues *would be detrimental to any party or the public interest and either:*

- (i) *Fundamental and urgent state-wide or regional issues are raised; or*
- (ii) *The proceeding is likely to have significant precedential value.*

(Emphasis supplied.)

The Board is bound by the criteria established in RCW 34.05.518(3)(b)(i-ii) in determining whether to issue a Certificate of Appealability. In applying these criteria to the present case, and in evaluating the argument presented by Ecology’s Application, the Board finds and concludes as follows.

Ecology argues that a delay in the prompt and final determination of the issues in this case would

be detrimental to the public interest because local governments are likely to delay updates to their shorelines master programs pending resolution of this matter. Ecology's Application, at 4. As set forth in the First Order Granting Certificate of Appealability, the Board agreed with this same argument presented by the City and the Port. Delay in undertaking updates to Shoreline Master Programs would further delay local governments action essential to the protection and restoration of critical shoreline habitats. Ecology also argues that final adoption of the pending Shoreline Guidelines will be complicated by delay in reaching ultimate resolution of these issues. *Id.* Last, Ecology argues that the issues raised in this appeal are fundamental, urgent and of state-wide scope, and that the resolution of these issues will have significant precedential value. Ecology's Application, at 5. The Board agrees Ecology's arguments on these points, finds that the criteria set forth at RCW 34.05.518(3)(b) are met and concludes therefore that Ecology's Application should be granted.

### **III. CONCLUSION**

Pursuant to RCW 34.05.518, the Board **grants** Ecology's Application for a Certificate of Appealability.

So ORDERED this 21st day of April 2003.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Edward G. McGuire, AICP  
Board Member

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Lois H. North  
Board Member

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Joseph W. Tovar, AICP  
Board Member

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[\[1\]](#) See: RCW 36.70A.280