CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

CITY OF SHORELINE, Petitioner, v. TOWN OF WOODWAY, Respondent, and SNOHOMISH COUNTY AND CHEVRON USA Intervenors.	)	**CPSGMHB Case No. 01-3-0013** **ORDER ON REMAND – FINDING COMPLIANCE**

I. BACKGROUND

On November 28, 2001, the Board issued its "Final Decision and Order" (**FDO**) in CPSGMHB Case No. 01-3-0013 (***Shoreline II***). The FDO found Town of Woodway's Plan and the City of Shoreline's Plan inconsistent regarding designation of the Point Wells area in the respective Plans. The Board remanded to the Town of Woodway directing the Town to remove its inconsistent Plan designation[1] and comply with the GMA.

The parties sought judicial review of the Board's FDO. Woodway and Snohomish County appealed the Board's FDO to Snohomish Superior Court. The Snohomish County Superior Court reversed the Board and remanded to the Board for further proceedings. Intervenor Chevron USA appealed the Board's FDO, specifically the Board's decision not to address the notice and public participation issue, to King County Superior Court. The King County Superior Court dismissed the appeal. Both Superior Court decisions were then appealed to Division I of the Court of Appeals, which consolidated the two matters.

In brief, the Court of Appeals upheld both the decisions of the Superior Courts and remanded the matter to the Board for further proceedings. However, Chevron appealed to the State Supreme Court. The Supreme Court issued its Order in December of 2005 affirmed the Court of Appeals.

On March 15, 2006, the Supreme Court issued its mandate back to the courts. On April 20, 2006, King County issued a Stipulation and Order of Dismissal which ultimately remanded the matter

[1] Having reached this conclusion, the Board declined to address a legal issue pertaining to notice and public participation, an issue of particular import to Intervenor Chevron USA.

back to the Board. The Board's Assistant Attorney General received a copy of the Order on May 17, 2006, and the Order was forwarded to the Board on September 14, 2006.

On October 20, 2006, the Board issued a "Notice of Pre-remand Hearing Conference" (**PRHC**) establishing November 9, 2006 as the PRHC. The conference was to be held telephonically.

On November 9, 2006 the Board conducted the PRHC telephonically. Board members Ed McGuire, Presiding Officer, Margaret Pageler and Dave Earling were present for the Board. Scott Missal represented the Town of Woodway in person at the Board's office and participating telephonically were Ian Sievers, representing City of Shoreline, John Moffat, representing Snohomish County and Douglas Luetjen, representing Paramount of Washington Inc and Point Wells LLC. Julie Taylor, Board law clerk, also attended.

The parties presented the Board with a "Stipulation and Order of Dismissal" (**Stipulation**) that acknowledged that the two court decisions constituted final resolution of their dispute, and that all claims had been fully adjudicated. The parties were directed to provide the relevant signatures to the Stipulation.

II. ORDER

Based upon review of: the Board's Final Decision and Order of November 28, 2001; the Court of Appeals decision in *Chevron U.S.A. Inc v. Hearings Board*, 123 Wn. App. 161, 93 P3d 880 (Div. I 2004); and the Supreme Court's decision in Chevron U.S.A. v. Hearings Board, 156 Wn.2d 131, 124 P.3d 640 (2005), and the Stipulation of the parties, the Board ORDERS:

- The City of Shoreline's challenge to the Town of Woodway's 2001 Plan amendments, specifically challenging Land Use Policy 19's (LU-19) consistency with RCW 36.70A.100, and any other substantive challenges to Woodway's 2001 Plan amendments, are finally resolved in Division I of the Court of Appeals decision in *Chevron U.S.A., Inc. v. Hearings Board*, 123 Wn.App. 161, 93 P.3d 880 (Div. I 2004).
- Chevron U.S.A. Inc.'s challenge to the Town of Woodway's notice procedures for its 2001 Plan amendments, and any other procedural challenges to Woodway's 2001 Plan amendments, are finally resolved in the Supreme Court's decision in Chevron U.S.A. v. Hearings Board, 156 Wn.2d 131, 124 P.3d 640 (2005).
- In light of these decisions, and review of the dissenting opinion in the Board's November 28, 2001 FDO, the Board finds and concludes that the Town of Woodway's adoption of 2001 Plan amendment Land Use Policy 19 (LU-19) was **not clearly erroneous**. LU-19 is not inconsistent with the provisions of RCW 36.70A.100 and the Board enters a **Finding of Compliance** for the Town of Woodway. The Board's November 28, 2001 FDO in *Shoreline II v. Town of Woodway*, CPSGMHB Case No. 01-3-0013 is rescinded.

SO ORDERED this 16th day of November, 2006.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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David O. Earling
Board Member

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Edward G. McGuire, AICP
Board Member

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Margaret A. Pageler
Board Member