CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

CORINNE R. HENSLEY and 1000 FRIENDS OF WASHINGTON [FUTUREWISE], Petitioners, v. SNOHOMISH COUNTY, Respondent, and MacANGUS RANCHES, INC., Intervener.	**CPSGMHB Case No. 03-03-0009c** **ORDER ON REMAND – [MacAngus portion of CPSGMHB Case No. 03-3-0009c]**

I. PROCEDURAL BACKGROUND

On September 22, 2003, the Central Puget Sound Growth Management Hearings Board (CPSGMHB) issued its "Final Decision and Order (FDO)" in CPSGMHB Case No. 03-3-0009c (*Hensley VI*). The Board, in its FDO, found Snohomish County's action reclassifying 216 acres of Upland Commercial Farmland (zoned Agriculture-10) to Rural Residential-10 Resource Transition non-compliant with the requirements of RCW 36.70A.170. The Board entered a Determination of Invalidity for Ordinance Nos. 03-001 and 03-002, as they relate to the de-designation and rezone of the 216-acre MacAngus Ranches property and remanded the ordinances for

The Board remanded Ordinance Nos. 03-001 and 03-002 to Snohomish County to take appropriate legislative action to achieve compliance with the goals and requirements of the GMA.

On October 13, 2003, in response to a motion from the County and Interveners, the Board issued an "Order Finding Validity of the Prior Plan and Regulations During the Remand Period and Rescinding Invalidity"(Order Finding Validity). The ordinances that adopted the MacAngus Ranches re-designation and related rezone contained savings clauses that upon the Board's determination of invalidity revived the prior land use designations and zoning of this property. Pursuant to RCW 36.70A.302(4), the Board considered the savings clauses and reviewed the prior land use designation and zoning, and determined that: "These savings clauses … had the effect of reinstating the prior GMA compliant plan and zoning designations." Order Finding Validity, at 3.

Subsequently, the parties sought judicial review of the Board's FDO in Snohomish County Superior Court.

On April 1, 2004, the Board issued an "Order Finding Compliance." The Board found:

> By adopting Ordinance No. 04-012, and pursuant to the Board's Order Rescinding Invalidity, Snohomish County has complied with the goals and requirements of the GMA as set forth in the aforementioned Board Orders and the GMA. The Board therefore enters a Finding of Compliance for Snohomish County in this matter.

Order Finding Compliance, at 4-5.

On November 30, 2004, the Snohomish Superior Court, Honorable Ellen J. Fair, overturned the "Final Decision and Order" of the Board and remanded to the Board for entry of an order reinstating the MacAngus Ranches re-designation and declaring Snohomish County Ordinance No. 03-002 compliant with the GMA.

Petitioner 1000 Friends of Washington (Futurewise) sought appellate review of the Superior Court decision with respect to the MacAngus Ranches proposal.

On February 12, 2007, Division I of the Court of Appeals issued its decision affirming the Board's decision in part, vacating in part, and remanding for further proceedings regarding the MacAngus Ranches proposal. Specifically, the Court vacated "the portion of the Board's decision dealing with RCW 36.70A.030(10) and the CTED guidelines associated with it" and remanded for further consideration to "permit the Board to consider the impact of *Lewis County* on this case."[1]

On May 18, 2007, the Court of Appeals issued its mandate and remanded this matter to the Snohomish County Superior Court, pending a request by the parties for a further remand to the CPSGMHB.

On August 2, 2007, at the request of the parties, the Snohomish County Superior Court, Honorable Ellen J. Fair, entered a Stipulation and Order of Dismissal of Case on Remand.

On August 16, 2007, the Board held a Pre-Remand Hearing Conference, at which time it reviewed the status of the case and considered whether there were any remaining issues. The Board determined that in light of the Court of Appeals decision, subsequent Stipulated Order of Dismissal of Case on Remand, and the fact that the status of the designations for the land in question remains in agricultural classifications, no issues remained for it to determine, and thus no further action by the Board was required. The County's action, through the savings clauses, yields compliance.

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[1] The *Lewis County* reference by the Court of Appeals in this citation is: *Lewis County v. Western Washington Growth Mgmt. Hearings Bd.*, 157 Wn.2d 488, 139 P.3d 1096 (2006).

II. ORDER

Based upon the Board's review of the prior Board and Court decisions in this matter, and the stipulations, presentations and arguments of the parties, the Board ORDERS:

- Snohomish County's actions, through the savings clauses, related to the MacAngus property, continues to render the designations **compliant** with the GMA.
- The matter of *Hensley VI v. Snohomish County* (CPSGMHB Case No. 03-3-0009c, is **closed**.

So ORDERED this 4th day of September, 2007.

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