

State of Washington

**GROWTH PLANNING HEARINGS BOARD
FOR EASTERN WASHINGTON**

YAKAMA INDIAN NATION,)

Petitioner) **Case No. 94-1-0002**

)

)

v.) **PREHEARING ORDER AND**

) **FINAL DECISION AND ORDER**

)

KITTITAS COUNTY,)

Respondent)

)

On January 27, 1994, the Yakama Indian Nation, by and through Carroll Palmer, Deputy Director, Natural Resources Division; Scott Nicolai, Assistant Environmental Manager, Fisheries Department and Tim Weaver, their legal counsel, filed a petition for review with the Eastern Washington Growth Planning Hearings Board.

The petition alleges that Kittitas County, under RCW 36.70A.060(2) and RCW 36.70A.170(1)(d) was required to designate critical areas and adopt development regulations that protect critical areas by March 1, 1992.

A prehearing conference was held on February 23, 1994 at the Growth Planning Hearings Board office in Yakima, Washington. Those present were Presiding Officer Judy Wall, Board members Graham Tollefson and Tom Williams and Confidential Secretary Barbara Hill. Representing the Petitioner was Tim Weaver, Counsel for the Yakama Indian Nation and Scott Nicolai, Assistant Environmental Manager for the Nation's Department of Fisheries. Representing the Board of Kittitas County Commissioners was David Pitts, Kittitas County Prosecutor and Mark Carey, Kittitas County Planner. Also present were Curtis Bull, Chairman of the Kittitas County Planning Commission and Dick Fryhling with the Washington State Department of Community Development.

The parties agreed the legal issues were as follows:

I. LEGAL ISSUES

- 1) Whether Kittitas County complied with RCW 36.70A.170(1)(d) in designating critical areas; and,
- 2) Whether Kittitas County complied with RCW 36.70A.060(2) by adopting development regulations that protect critical areas by March 1, 1992.

II. STIPULATION OF NON-COMPLIANCE

In a telephonic conference on February 22, 1994, the County stipulated that it was not in compliance with RCW 36.70A.060(2) and RCW 36.70A.170(1)(d) because it had failed to adopt an ordinance to designate and protect critical areas. The County confirmed this stipulation in the prehearing conference.

III. AGREEMENT ON TIMELINE FOR ADOPTION OF THE REQUIRED ORDINANCE

The parties agreed to the following procedural timeline:

- 1) Kittitas County will adopt an ordinance designating critical areas and adopting development regulations that protect critical areas as required by RCW36.70A.060 (2) and RCW 36.70A.170 (1)(d) on or before June 8, 1994,
- 2) Kittitas County will publish notice of this ordinance on or before June 10, 1994 in the County's newspaper of record, and
- 3) The Board will hold a compliance hearing on whether or not the County met the procedural requirement of this timeline not later than June 21, 1994.

III. FINDINGS

The Board FINDS that:

- 1) Kittitas County has failed to designate critical areas; and,

2) Kittitas County has failed to adopt regulations for the protection of critical areas.

IV. FINAL DECISION AND ORDER:

Kittitas County has failed to designate critical areas and to adopt regulations for the protection of critical areas and therefore is not in compliance with the Growth Management Act.

The Board makes the following **ORDER:**

1) Kittitas County shall adopt an ordinance designating critical areas and adopting development regulations that protect critical areas as required by RCW36.70A.060 (2) and RCW 36.70A.170 (1)(d) on or before June 8, 1994; and,

2) Kittitas County shall publish notice of this ordinance on or before June 10, 1994 in the County's newspaper of record.

The Growth Planning Hearings Board will hold a compliance hearing on whether or not the County met the procedural requirement of this timeline not later than June 21, 1994.

SO ORDERED this ____ day of February, 1994.

EASTERN WASHINGTON

GROWTH PLANNING HEARINGS BOARD

Judy Wall, Presiding Officer

Graham Tollefson, Board Member

Tom A. Williams, Board Member

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