

State of Washington
GROWTH PLANNING HEARINGS BOARD
FOR EASTERN WASHINGTON

RIDGE,)
)
 Petitioner)
)

KITTITAS AUDUBON SOCIETY,)
)
 Amicus)
)

ALPINE LAKE TRAIL RIDERS CHAPTER)
 OF BACK COUNTRY HORSEMEN,)
 ASSOCIATION,)
 Amicus)

CONSOLIDATED
CASE NO. 94-1-0017

FINAL DECISION AND ORDER

YAKAMA INDIAN NATION,)
)
 Amicus)
)

1000 FRIENDS OF WASHINGTON,)
)
 Amicus)
)

vs.)
)

KITTITAS COUNTY,)
)

Respondent)
)

PLUM CREEK TIMBER)
 COMPANY,)
)

Intervenor)

)

S. F. HILL LUMBER
COMPANY,)

)

Intervenor)

Procedural History of the Case

On January 31, 1994, RIDGE, by and through its representative, David A. Bricklin, filed a Petition for Review with the Growth Planning Hearings Board for Eastern Washington (the **Board**).

On February 8, 1994, pursuant to Motion for Intervention by Plum Creek Timber Company, the Board entered an Order granting Intervenor status to Plum Creek Timber Company.

On March 7, 1994, Kittitas Audubon Society and Alpine Lake Trail Riders Chapter Of Back Country Horsemen Association, by and through its representative David A. Bricklin, filed a Petition for Review with the Growth Planning Hearings Board for Eastern Washington.

On March 23, 1994, a prehearing conference was held at the Growth Planning Hearings Board office in Yakima, Washington. The parties entered into a stipulation to dismiss Petitioners Kittitas Audubon Society and Alpine Lake Trail Riders Chapter of Back Country Horsemen Association with prejudice and to grant them Amicus status in this petition. The Board concurred.

On April 20, 1994, S. F. Hill Lumber Company requested status as an Intervenor. On April 21, 1994 the Board granted Intervenor status.

On April 20, 1994, the Board held a hearing on dispositive motions. Intervenor, Plum Creek Timber Company, L.P. (**Plum Creek**) and Respondent, Kittitas County (the **County**) each filed Motions to Dismiss for Lack of Jurisdiction. Additionally, Plum Creek filed a Motion to Dismiss Certain Issues. Petitioner, Ridge (**Ridge**), filed a Motion for Summary Disposition of Legal Issue

No. 1. After due consideration, the Board denied each motion.

On April 29, 1994, the Board held a hearing on the Petitioner's, Respondent's and Intervenors' Motions to Supplement the Record. The Board issued an Order designating the index and both admitting and denying certain proposed exhibits.

On May 3, 1994, the Yakama Indian Nation and 1000 Friends of Washington requested status as Amicus Curiae. On May 4, 1994, the Board granted Amicus status.

On Wednesday, June 1, 1994 at 10:00 a.m., the formal hearing on the merits was held in Ellensburg, Washington at the Kittitas County Courthouse.

DISCUSSION OF THE ISSUES

Issue No. 1.

If forest land meets the criteria for interim designation under 36.70A.170, is Kittitas County required to designate all such land or does the County have discretion to make a smaller designation?

Discussion

This is a narrow issue. If forest land meets the criteria for interim designation under RCW 36.70A.170, must it be designated? All the parties agree that if all the criteria for designation are met, then the property must be designated. This Board concurs, with one limited qualification. The language in RCW 36.70A.170 provides that "each county and each city shall designate where appropriate." This "where appropriate" language provides flexibility, albeit limited, to deal with a situation that would otherwise produce anomalous results. The real question, however, is determining whether the criteria have been met. As discussed below, RCW 36.70A.030(8) and (10) and RCW 36.70A.170 provide criteria for determination.

Conclusion No. 1:

The Board finds that if land meets the criteria for forest land designation under RCW 36.70A.170, it must be designated with one limited exception. Local discretion is retained to avoid clearly anomalous results.

Issue No. 2.

Whether Kittitas County complied with the Growth Management Act when it did not designate the Cle Elum River Property and other lands identified in Exhibit “A” as forest lands pursuant to RCW 36.70A.170.

- A. Whether the Cle Elum River Property and other lands identified in Exhibit “A” meet the definition of forest lands” in RCW 36.70A.030.
- B. Whether the Cle Elum River Property and other lands identified in Exhibit “A” are characterized by urban growth pursuant to RCW 36.70A.030.
- C. Whether the Cle Elum River Property and other lands identified in Exhibit “A” have long-term commercial significance for the commercial production of timber pursuant to RCW 36.70A.030.

Discussion

This petition seeks review of Kittitas County’s decision to exclude from its designation of forest lands of long-term commercial significance two sets of land: (1) a contiguous block of land known as the “Cle Elum River Property” consisting of approximately 7,500 acres under single ownership, and (2) other lands consisting of approximately 8,866 acres in three blocks under multiple ownership collectively described as the Exhibit “A” lands. The “Cle Elum River Property” is located adjacent to and west of Roslyn. The largest piece of the Exhibit “A” lands, “Cle Elum Ridge Property”, consisting of approximately 7,000 acres, is located on the ridge north and east of Cle Elum. Together these lands cover 16,366 acres. All the subject property is encompassed within or adjoins these two blocks of land.

The Growth Management Act requires local governments to designate “forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber.” RCW 36.70A.170(b). This requirement to designate certain lands includes three components: (1) the lands must be “forest lands”, (2) the lands “are not already character-ized by urban growth”, and (3) the lands “have long-term significance for the commercial production of timber.” This issue focuses on whether the “Cle Elum River Property” and the Exhibit “A” lands fit within the definition of forest resource lands in RCW 36.70A.170 (b) and, thus, should be designated as forest resource lands. Each component is addressed as a sub-issue..

Most of the discussion regarding these lands concerned the “Cle Elum River Property”. The

Exhibit “A” lands were considered for the most part tangential, although they were discussed directly in regard to “buffering” development in the area. Because there are both physical differences and differences in the level of outside influence on these properties it is useful to view them separately.

A. The object of this section is to determine whether the land in question has the ability to productively grow trees—Whether these are forest lands”.

The County used the Washington State “Private Forest Land Grades for the Eastside” system to make this determination. [CPR at 85, Resolution No. 93-41.] This grading system considers the growing capacity, productivity and soil composition of land for growing timber. Utilizing this system, there is no dispute that the majority of the Cle Elum River Property contains mixtures of land grades 4, 5, and 6 and, therefore, is suitable for “classification” as forest land. [CPR at 62.] Ex. B4 at 1. Plum Creek’s Prehearing Memorandum at 11.] According to Soil Conservation Service soils maps, 60% of the Plum Creek land in question is in the top 17% in terms of growing capacity of the forest land in the Upper Yakima Resource Management Plan. [Supp. 33]

As stated above, the Exhibit “A” lands total 8,866 acres of which approximately 7,000 acres are owned by Plum Creek. Their representative has stated that a majority of this land qualifies as “forest land”. [Testimony of Mr. Stevens, Kittitas County Planning Commission Meetings 1/26/93 at 3 and 2/24/93 at 1.] Intervenor Hill does not contest the productivity of their lands.

While the record fails to address this question in depth, neither the admittedly limited record nor any of the parties has suggested that these lands do not qualify as forest lands.

The Board finds that the “Cle Elum River Property” and the other lands in Exhibit “A” meet the definition of “forest lands” in RCW 36.70A.030.

B. This section focuses on existing land uses, whether these lands are already characterized by urban growth pursuant to RCW 36.70A.030.

“Urban Growth” refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed

to spread over wide areas, urban growth typically requires urban governmental services. “Characterized by urban growth” refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth. [RCW 36.70A.030(14)].

None of the parties has suggested that either the “Cle Elum River Property” or the Exhibit “A” lands currently have “urban growth” located on the property. Referring to the “River Property”, Debbie Males of the Kittitas County Planning Department described the site as “primarily timber land; most of it currently under commercial forest management.... The majority of the site is undeveloped.” [P113 at 2 and 6.] Plum Creek’s Land Use Planning Director, Mr. Stevens, while suggesting that services might be provided to the site by private entities or opportunities for extension, said services are not currently provided. [P125 at 3.]

Both the “River Property” and the Exhibit “A” lands are outside the corporate boundaries of the communities of Roslyn and Cle Elum. There are cabins immediately north and south of the “River Property”, but there is no indication that these constitute “urban growth” or that they are incompatible with continued forestry in the area. [P104.]

Much of the “River Property” has been logged in the last decade. Further there have been recent Forest Practice Applications for both the “River Property” and the Exhibit “A” lands. [Supp. 2 (1991 and 1992 and 1991-1994 Forest Practices Application) and Supp. 33.] Logging of this magnitude along with the fact that most of these properties have been managed as commercial forest for about 100 years provides strong evidence that the land is not characterized by urban growth. [P113 at 2 and P103.]

The second part of the urban growth test in RCW36.70A.030(14), “or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth”, will be discussed in greater depth in the following section. There is no evidence that either Roslyn, Cle Elum, or the unincorporated community of Ronald require additional land, thus, making this property or a portion of it, appropriate for urban growth, with the exception of 87 acres that may be included in the proposed Roslyn Urban Growth Area.

The Board finds that neither the “Cle Elum River Property” nor the other lands identified in Exhibit “A” are characterized by urban growth pursuant to RCW 36.70A.030.

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C. Whether the “Cle Elum River Property” and other lands identified in Exhibit “A” have long-

term commercial significance for the commercial production of timber pursuant to RCW 36.70A.030?

The Growth Management Act defines “long-term commercial significance” as follows:

“Long-term commercial significance” includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land’s proximity to population areas, and the possibility of more intense uses of the land.”[RCW 36.70A.030(10)] Emphasis added.

This definition uses three factors for determination of “long-term commercial significance”: (1) the growing capacity and productivity of the land, (2) the land’s proximity to population areas, and (3) the possibility of more intense uses of the land. These criteria are not independent and must be evaluated in relation to each other. That these factors must be “considered with” each other necessarily requires the consideration of the relative significance of each factor.

RIDGE argues linking the criteria means that if the lands have relatively high timber productivity, the non-forestry factors must be relatively weighty to warrant exclusion from the designation. While this thesis may not hold in the extreme, truly superior forest land, for instance, may not produce a higher requirement than very good forest land, it provides a useful way to look at the question. Conversely, it makes no sense to say that minor effects resulting from the lands proximity to population areas or any showing, no matter how limited, of the possibility of more intense uses of the land would justify exclusion from designation.

Physical proximity, in and of itself, does not preclude designation. The Growth Management Act places a high priority on conserving resource lands and reducing sprawl. [RCW 36.70A.020. Planning Goals 2 and 8.] Designation of resource lands was the first required task. Indeed, forest lands of long-term commercial significance may be located within urban growth areas in certain circumstances. [RCW 36.70A.060(4).] There must be good faith consideration and showing that the effects of proximity to population areas are significant and unduly burdensome to avoid designation.^[1] Similarly, consideration of the possibilities of more intense use of the land must be based in real possibilities, sufficiently quantified to be considered in good faith.

The planning goals are not rank ordered. Each community is encouraged to determine their own priorities. A county or a community may rightly make, for instance, the goal of economic development its top priority. An effort must be made, however, to harmonize the goals. Economic development may be achieved within the context of resource land conservation. A thorough, good faith discussion applying these principles is necessary to reach a valid

conclusion.

The Land's Proximity To Population Areas.

Clearly, if qualifying forest land is not proximate to population areas it should be designated. The reverse is not necessarily true. As noted above, forest lands of long-term commercial significance may, under limited conditions, be inside urban growth areas. The extent to which a population area impacts forest land is the determining factor. Thus, an 80 acre parcel that elsewhere in the state might be properly designated forest land, might not so qualify if it abutted the City of Seattle. It is the level of impact placed on the property, rather than its location that is determinative. It is the burden of increased management and other costs that disqualifies the property.

Kittitas County has adopted this 80 acre parcel size for designating commercial forest lands. [Kittitas County Ordinance 94-1.] The record indicates these lands are commercially viable.

The small communities of Roslyn and Cle Elum have lived with commercial forests from their beginnings. Many of their citizens rely on timber for their livelihood. Two of the properties in question are over 7,000 acres; each of these is over 85 times the minimum unit size set by the County. The record fails to show that the level of impact that these small communities place on these lands in any way disqualifies them from designation.

Plum Creek and the County point to incursion from recreational users coming from the Puget Sound basin, increased fire hazards, and some unauthorized cutting of fire wood. These are serious problems and should not lightly be dismissed, but they are problems that many forests experience and are not related to the proximity of Roslyn and Cle Elum. The record indicates that Plum Creek spent \$100,000.00 to rectify a problem with off-road vehicles on the "River Property". This is a substantial sum, but it is less than fourteen dollars per acre. This Board does not presume to be versed in forest economics, but these impacts are not sufficiently quantified to show this property is not commercially viable. [\[2\]](#)

Intervenor Hill owns contiguous property that totals more than eighty acres, but which has been split into parcels of lesser size. The Board does not desire to enter a judgment on this specific question and finds this question should be decided by the County.

This Board finds that the impacts from adjacent population areas on these lands are insufficient to disqualify them from designation.

More Intense Uses of the Land.

“Moreover, the mere possibility that a parcel might be more intensively used does not preclude its consideration for designation as forestry. The Board acknowledges that this is a departure from the past, however, a departure that is specifically signaled by the GMA’s directive to conserve the forestry resource during the interim while comprehensive plans and development regulations are being developed.”
[CPSGPHB. No. 93-3-0003 at 210.]

In the Central Board’s case, the parties disputed whether the property in question was managed as commercial forest. This is not a question in this case. These lands are managed as a commercial forest.

The Central Board clearly stated the directive of the GMA to conserve resource land. More intensive uses certainly can disqualify otherwise appropriate land from forest land designation, but to do so, the project must be identifiable and sufficiently developed to afford valid consideration of the project compared to the forestry use. The discussion of alternative uses dealt exclusively with a proposed Master Planned Resort on the “River Property”. While the size of the proposal was indefinite, the record shows that a total of 4,700 acres on this site was unrestricted for development. The record fails to show why the other 11,666 acres in the subject properties should not have been designated. Nor does it show if all the 4,700 acres would be needed for the Master Planned Resort. Also, there is no showing that adequate water was available.

The report from the Citizen Guidance Panel is a good first step. This site may well be determined to be an excellent location for a Master Planned Resort. Further evaluation is needed, however, to answer this question. All the parties agree that it possesses uncommon natural beauty and has transportation and other benefits. The Board strenuously objects to one of the reports conclusions, “that designation as forest land of long-term commercial significance effectively forecloses other planning options.” [Exhibit 124. Cle Elum River Properties Report to the Board of County Commissioners and the Planning Commission at 13.] Planning options are retained by initial designation in this case. In order to fulfill the Growth Management Act’s mandate to conserve resource lands, the initial designation should err on the side of inclusion. As more information is developed, the County can easily make changes at the comprehensive plan stage-- this is the logical place for a weighting of the competing goals of the Act. Further, nothing in the Act limits the County’s authority to amend its ordinance as conditions warrant.

RCW 36.70A.360 provides for master planned resorts on forest resource land with a finding that the land is better suited and has more long-term importance for a master planned resort than for the harvesting of timber. This should not be a difficult determination. In this case, a timber company aware of the earning potential of its forest property desires to assume the risk and make a substantial investment in a master planned resort. The Citizen Guidance Panel Report makes a

case for the feasibility of the project.

The County suggests that portions of the Exhibit “A” lands should not be designated because they act to buffer Roslyn and Cle Elum from the forest land. The Board notes that RCW 36.70A.060 requires that resource lands be protected or “buffered” from the influence of adjacent property, the opposite of the County’s approach.

The Board finds that an insufficient showing has been made that the “possibilities of more intensive uses” should preclude these lands from forest designation.

Conclusion No. 2:

The Board remands this matter to Kittitas County for either inclusion of the “Cle Elum River Property” and the Exhibit “A” lands in the forest resource land designation or for inclusion of a lesser portion of this property upon a showing that the “excluded” property should not be so designated consistent with the Growth Management Act and the principles of this opinion.

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Issue No. 3.

Whether Kittitas County’s decision to exclude the Cle Elum River Property and other lands identified in Exhibit “A” as forest lands was guided by the planning goals in RCW 36.70A.020.

To answer this question, it is necessary to first determine whether Kittitas County was required to be guided by the planning goals in RCW 36.70A.020. Plum Creek argues that they do not apply. The Growth Management Act planning goals were “adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040.” [RCW 36.70A.020.] “Designation” of forest resource lands are made pursuant to RCW 36.70A.170, and adoption of development regulations required for their protection is made pursuant to RCW 36.70A.060. Since “designation” is a separate process and, as such, not a development regulation, the planning goals, they argue, do not apply.

The Board does not agree. While the statute provides for designation of forest lands and their regulation in separate sections, for planning counties, the act of designation and protection

become inseparable. The forest land designation map adopted pursuant to Resolution 94-4 is also an integral part of the regulatory Ordinance 94-1. The factual basis of this dispute involves both Ordinance 94-1 and Resolution 94-4. The protection of resource lands is, in reality, one act.

The Act places a high priority on the conservation and protection of resource lands. An under-inclusive “designation” would frustrate this priority. Taken to the extreme, a deminimous “designation” would provide no protection at all.^[3] This surely is not the result intended by the legislature. There is a good explanation why “designation” of resource lands and the adoption of “development regulations” that assure their conservation are covered by separate sections. All counties must “designate” their resource lands, but only counties planning under the Act are required to adopt development regulations that assure conservation of these lands. In order to assure “conservation”, the adequacy of both the “designation” and the development regulation adopted for their protection must be considered. To do otherwise, fails to assure conservation.

For counties planning under the Act, the Board finds that forest land “designations” made pursuant to RCW 36.70A.170 are inseparable from the development regulations required for their protection under RCW 36.70A.060 and must be guided by the planning goals of RCW 36.70A.020.

The requirement that the County decision be “guided by” the planning goals imposes a substantive obligation to assess whether the action is consistent with those goals. [See *Gutschmidt v. City of Mercer Island*, CPSGPHB 92-3-0006 at 88-90 (citing the “in compliance with” requirement of RCW 36.70A.290)].

There are both procedural and substantive components of compliance with the planning goals. In *Save our Butte Save our Basin Society v. Chelan County*, EWGPHB 94-1-0001, the Board determined that there was no requirement of a “tangible procedural demonstration”, rather the ultimate test of consideration of the goals was whether the County’s actions were substantively guided by the goals--whether their actions were consistent with the planning goals. *Id.* at 9. The advantage of this approach is that it deals with the heart of the question, the substantive element, instead of a possible pro forma procedural exercise.

The Board will not enter into an in-depth analysis of the planning goals. The preponderance of the evidence clearly shows that both the Cle Elum River Property and the Exhibit “A” lands are productive, high quality forest lands and as such should have been designated as forest resource land consistent with RCW 36.70A.020(1)(2)(8)(9) and (10).

The reason given for not designating this land was Plum Creek’s contemplated Master Planned Resort. Yet, this proposed development was hardly defined. Neither its size nor the acreage it would require were provided. While discussed in a limited way, the availability of water and

other necessary services are as yet uncertain. The economic benefits from the development were not addressed in any depth. No attempt was made to harmonize the various goals. For instance, if the contemplated development would require 1000 acres, no reason was given why the remaining 15,366 acres were not designated.

The overriding purpose of the designation of resource lands is their conservation and protection. While the County may give high priority to other goals, there must be a showing that competing goals are mutually exclusive and cannot both be accommodated. Such a showing has not been made.

Conclusion No. 3:

The Board finds that designation of forest lands of long-term commercial significance should be guided by planning goals in RCW 36.70A.020. Kittitas County's decision to exclude the Cle Elum River Property and other lands identified in Exhibit "A" as forest lands was not guided by these goals.

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Issue No. 4.

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Whether Kittitas County's actions were consistent with the deadlines in the Growth Management Act including RCW 36.70A.170 and RCW 36.70A.060(1) and (3) when it deferred making a decision on the designation of the Cle Elum River Property for two years.

RCW 36.70A.170 mandates the designation of resource lands and critical areas by September 1, 1991. RCW 36.70A.060 mandates adoption of development regulations by September 1, 1991 to assure the conservation of agricultural, forest and mineral resource lands designated. When the County did not designate the "Cle Elum River property" as part of the "forest lands of long-term commercial significance", they remain undesignated and unprotected lands under GMA. No "deferral process" is recognized or authorized under GMA.

Conclusion No. 4:

The Board finds that Kittitas County is not in compliance with RCW 36.70A.060 and RCW 36.70A.170 because these provisions do not authorize designation deferral.

Issue No. 5.

Whether Kittitas County's actions were consistent with the public participation requirements of the Growth Management Act including Planning Goal number 11.

The Growth Management Act requires those jurisdictions planning under the Act to encourage citizen participation and involvement in the process. Planning Goal 11 encourages citizen participation throughout the growth management planning process. RCW 36.70A.140 requires each planning jurisdiction to “establish procedures providing for the early and continuous public participation in the development and amendment of comprehensive land use plans and development regulations implementing such plans”. No similar standard is given for the designation of agricultural, forest, mineral resource lands, or critical areas as required in RCW 36.70A.170.

The process under review is a legislative process and as such is free of the constraints found when the same body serves in its quasi-judicial functions. The County Commissioners are free to communicate with constituents in ways normally associated with the legislative process, and be guided by the opinions formed as a result of these public or private contacts. This is the very essence of holding elected office.

This does not mean, however, that the County is free from constraints imposed by GMA. The legislative body is constrained in several ways by the Act. First, the Act removes the “no action alternative” and sets minimum standards for the ordinance. Second, the Act mandates that jurisdictions “encourage the involvement of citizens in the planning process”.... [RCW 36.70A.020(11).], provided the public process may not override the requirements of the Act, or be contrary to the planning goals at RCW 36.70A.020 in any degree greater than necessary to resolve conflicts between the goals. “Errors in exact compliance with the established procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the procedures is observed”. [RCW 36.70A.140.]

The Act provides no specific standard for the public participation element, and no doubt the process used could have been improved, given more resources and more attention. It is clear from the record, however, that there were numerous and continuous chances for members of the public, including petitioners, to offer advice and perspective at each stage of the process.

Conclusion No. 5:

The Board finds the public participation process employed by Kittitas County was sufficient to meet the public participation requirements of the Growth Management Act, including Planning Goal 11.

Issue No. 6.

Whether Kittitas County complied with the requirements, including notice requirements, of the State Environmental Policy Act, Chapter 43.21 RCW, when it issued a determination of non-significance.

The action of Kittitas County in designating forest lands of long-term commercial significance is subject to the terms of SEPA (RCW 43.21C).

The Board's review of the record indicates these designations strengthen the environmental protection of forest lands in Kittitas County by both increasing the minimum lot size for individual parcels, and designating 783,107 acres as forest lands of long-term commercial significance. [Exhibit P4 at 6]. The Board therefore finds that the act of designation and the SEPA review were adequate as filed. The fact that not all forest lands were designated maintains the status quo on these lands, and is not a change requiring further study.

The County apparently did not provide the petitioner with notice as requested in a timely fashion, but the board finds this to be harmless error. The parties were subsequently given an additional opportunity to express their concerns.

Conclusion No. 6:

The Board therefore finds that Kittitas County complied with the requirements of RCW 43.21C when it issued its determination of non-significance. The board also finds that while not timely, the county did provide notice to petitioner of the Determination of Non-Significance.

FINDINGS OF FACT

1. The GMA required local governments, including Kittitas County, to designate, by September 1, 1991, "forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber." [RCW 36.70A.170(b)]
2. Kittitas County designated forest lands of long-term commercial significance by enacting

Resolution #94-4 on January 4, 1994.

3. The County adopted protective measures for these forest lands so designated as required by the Growth Management Act by adopting Ordinance # 94-1 on January 4, 1994.
4. The lands which are the subject of this petition consist of:
 - A. The “Cle Elum River” property of approximately 7,500 acres and
 - B. The Exhibit “A” lands of approximately 8,866 acres.
5. The lands at question in this petition were not designated forest lands of long-term commercial significance by the County.
6. SEPA review was carried out by the County and a declaration of non-significance issued on March 15, 1993.
7. The County carried out a public participation program which offered numerous opportunities for the public to offer testimony and evidence for consideration by the county.

NOW, THEREFORE, having reviewed the file and exhibits in this case, considered the briefs submitted by the parties, and having entered the foregoing Findings of Fact, the Board makes the following :

FINAL DECISION AND ORDER

1. Designation and protection of forest resource lands by counties planning under the Act are to be guided by the planning goals of RCW 36.70A.020. Kittitas County’s decision to exclude these lands from designation as forest resource lands was not guided by these goals.
2. If land meets the criteria for forest land designation under RCW 36.70A.170, it must be designated with one limited exception. Local discretion is retained to avoid clearly anomalous results.
3. Kittitas County is not in compliance with RCW 36.70A.170 because this provision does not authorize the option of designation deferral.
4. The public participation process employed by Kittitas County meets the requirements of the Growth Management Act including Planning Goal 11.
5. Kittitas County complied with the requirements of the State Environmental Policy Act

Chapter 43.21C, RCW, when it issued its Determination of Non-Significance.

6. Petitioner has demonstrated by a preponderance of the evidence that both the Cle Elum River Property and the Exhibit "A" lands meet the criteria for designation under RCW 36.70A.170 and should be so designated.

7. This matter is remanded to Kittitas County for either inclusion of the Cle Elum River Property and Exhibit "A" lands in the forest land designation pursuant to RCW 36.70A.170 or inclusion of a lesser portion of these lands upon a showing that the excluded property should not be so designated consistent with the requirements of the Growth Management Act and the principles of this opinion.

8. Kittitas County shall bring Ordinance No. 94-1 and Resolution No. 94-4 into compliance with the Growth Management Act by November 1, 1994.

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SO ORDERED this 28th day of July, 1994.

WASHINGTON
HEARINGS BOARD

EASTERN
GROWTH PLANNING

Graham Tollefson, Presiding Officer

Judy Wall, Board Member

Tom A. Williams, Board Member

[1] Ridge argues that proximity effects must be both real and unavoidable. They distinguish between unavoidable and avoidable effects, those caused by the owners management practices. While a property owner may choose to reduce “incursions” onto his or her property, this Board will not impose such a requirement.

[2] This petition must deal with the Growth Management Act as it existed when the petition was filed. Subsequently, Senate Bill 6228, modifying and clarifying the definition of “forest land” has been enacted. This amendment appears to add an economic test to the definition by adding the phrase: “...on land that can be economically and practically managed for such production”. The County on remand may wish to give this question further attention.

[3] The Board makes no reference to Kittitas County’s “designation”.