

**State of Washington**  
**GROWTH MANAGEMENT HEARINGS BOARD**  
**FOR EASTERN WASHINGTON**

CONFEDERATED TRIBES AND BANDS	)	<b>Case No. 94-1-0022</b>
OF THE YAKAMA INDIAN NATION,	)	
	)	
Petitioners	)	<b>FINAL COMPLIANCE HEARING</b>
	)	<b>DECISION AND ORDER</b>
v.	)	
	)	
	)	
KITTITAS COUNTY,	)	
	)	
Respondent	)	
_____	)	

Procedural History

On March 27, 1995, the Eastern Washington Growth Management Hearings Board, “the Board”, issued its Final Decision and Order in this case. The order remanded Kittitas County Ordinance No. 94-22 to the County for amendment in accordance with the requirements of the Growth Management Act.

On October 10, 1995, kitties County adopted Ordinance No. 95-15 amending Ordinance No. 94-22. Kittitas County has codified these Critical Areas Ordinances under KCC 17A.

On November 27, 1995, the Board held a compliance hearing at its office in Yakima, Washington.

The Growth Management Act requires the designation and protection of critical areas. Kittitas County Ordinance No. 94-22 as amended by Ordinance No. 95-15 was found to no be in compliance with the Growth Management Act for the following reasons: 1) category 4 wetlands are not protected, 2) the vegetative buffers applying to type 4 waters are arbitrarily limited to a distance between 40 to 500 feet from these waters confluence with type 1, 2 and 3 waters regardless of the length of the type 4 water in question and 3) there is no building or structural setback requirement for type 5 waters.

The Board’s remand order extended only to amendment of the Ordinance for the following enumerated items:

1) The protection of category 4 wetlands is required;

2) The Ordinance currently provides that vegetative buffers for type 4 waters only extend to a maximum of 500 feet from these waters confluence with a type 1, 2 or 3 waters, without regard to the length of the type 4 water. This limit needs to be removed. Type 4 waters must be protected for their full length. It should be noted that the width of the buffers are not in dispute and that in agricultural areas, the agricultural exemption applies;

3) The establishment of a structural setback for type 5 waters is required. Specifically, this is not a question of buffering, rather, that buildings not be sited on type 5 waters; and

4) That the clarifications of legislative intent embodied in Kittitas County Resolution 95-151 must be incorporated into the Critical Areas Ordinance.

### **Findings**

The Board finds that Kittitas County's Critical Areas Ordinance 96-14, adopted September 4, 1996 to be in compliance with the Board's remand order. The Petitioner did not object to the provisions adopted by Kittitas County.

### **Order**

The Board finds Kittitas County to be in procedural compliance with the Growth Management Act consistent with the critical areas requirements.

SO ORDERED this 12<sup>th</sup> day of September, 1996.

EASTERN WASHINGTON  
GROWTH MANAGEMENT HEARINGS

BOARD

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D. E. "Skip" Chilberg, Presiding Officer

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Judy Wall, Board Member

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Dennis A. Dellwo, Board Member

SUBSTANTIVE ISSUES ARE SUBJECT TO A PETITION FOR REVIEW BY THIS BOARD IF FILED WITHIN 60 DAYS OF PUBLICATION AFTER ENACTMENT PURSUANT TO RCW 36.70A.290(2).