

I. PROCEDURAL HISTORY

On January 31, 1994, Ridge filed a Petition for Review with the Growth Planning Hearing Board for Eastern Washington (the Board).

On July 28, 1994, the Board issued a Final Decision and Order on Ridge v. Kittitas County, EWGMHB No. 94-1-0017. This decision ordered the County to designate the subject lands as Forest Resource lands if they met the criteria for forest land designation under RCW 36.70A.170, unless there would be an clearly anomalous result.

On August 18, 1994, the Board entered an order denying the Motion for Reconsideration.

On November 2, 1994 Kittitas County adopted Resolution No. 94-134 regarding the Kittitas County Comprehensive Plan and Zoning Code (KCCP)-Forest Lands of Long-Term Commercial Significance.

On February 27, 1995, the Board held a compliance hearing. The Board found the County had not complied with the Growth Management Act (Act). The County had failed to designate Forest Lands of Long-Term Commercial Significance or failed to show why they were not appropriate for such designation.

On April 3, 1995, the Board entered an Order of Noncompliance at the conclusion of the initial remand.

On March 28, 1997, the Board issued its Final Decision and Order in the above-entitled matter. In that Order, the Board found that Kittitas County had failed to designate, as Forest Lands of Long-term Commercial Significance, the lands identified in Exhibit 1. The Board also found the County failed to include the correct definition of "Forest Lands" in Volume 1, page 190 of the Comprehensive Plan and that the County had not adopted specific policies to guide the development of Master Planned Resorts as required by the Act. The Board found the portion of the Kittitas County Comprehensive Plan designating the lands described in Exhibit 1 and any site specific development regulations affecting such lands, invalid.

On December 30, 1997, the Board issued its Order Setting Briefing Schedule for Hearing on Compliance/Invalidity in the above matter.

On January 20, 1998, the briefing scheduled was amended and a compliance/invalidity hearing was set.

On March 12, 1998, the Board held a compliance hearing in Ellensburg, Washington. All parties were present relative to the master planned resort, definitional changes and the compliance/invalidity of designation of forest resource lands issues.

II. FINDINGS OF FACT

1. December 27, 1990 Kittitas County opted into the Growth Management Act, RCW 36.70A, voluntarily by the adoption of Resolution 90-138.
2. On January 4, 1994, the County passed Ordinance 94-01 and Resolution 94-40 designating 671,045 acres as Forest Lands of Long-Term Commercial Significance with a comprehensive plan land use designation of Commercial Forest.
3. November 2, 1994 Kittitas County adopted Resolution No. 94-134 regarding the KC Comprehensive Plan and Zoning Code - Forest Lands of Long-Term Commercial Significance.
4. Sept. 15, 1995 the County adopted an Ordinance 95-13 designating agricultural resource lands.
5. On July 2, 1996, the County adopted the County Comprehensive Plan, including Forest Lands of Long-Term Commercial Significance.
6. July 25, 1996 Kittitas County adopted countywide planning policies.
7. July 26, 1996 Kittitas County adopted Ordinance 96-10, the Kittitas County Comprehensive Plan pursuant to RCW 36.70A and amending the existing KCCP.
8. Sept. 10, 1996 Kittitas County adopted Ordinance 96-15 amending Kittitas County Code; Kittitas County Zoning Map and creating Kittitas County Code 17.31 Commercial Agricultural Zone. Zoning map changes include the July 2, 1996 adoption of interim classification and designation system, designation and policies for Forest Lands of Long-Term Commercial significance for inclusion in the final Comprehensive Plan including additional 1200 acres of forestlands included as FLLTCS. [Exhibit 49]
9. Dec. 3, 1996 Kittitas County adopted Resolution 96-193 regarding Comprehensive Plan Legislative Intent for Master Planned Resorts.
10. Dec. 11, 1996 Kittitas County adopted Ordinance 96-20 - Comprehensive Plan Amendment.
11. After this Board's March 28, 1997 order again finding the County out of compliance, the county held nine (9) public hearings concerning the designation of the subject lands as Forest Resource Lands.
12. The County, after reviewing the public hearing testimony and the evidence contained in the record, chose not to designate additional forest resource lands and adopted the MPR Policies and the new definition of "Forest Lands".

III. DISCUSSION OF LEGAL ISSUES AND CONCLUSIONS

ISSUE 1: Has the County adopted the correct definition of "Forest Lands"?

The County has adopted verbatim the current statutory definition of "forest lands" which is contained in RCW 36.70A. The Board notes there is no briefing by the Petitioners on this subject.

DISCUSSION: The County had previously adopted the language of a prior GMA definition of Forest Lands. This is believed to have been a scrivener's error and was corrected with the current GMA definition of "forest lands".

CONCLUSION: The County has adopted the correct definition of "Forest Lands" and is compliance with the Act on this issue.

ISSUE 2: Has the County complied with the Act in its designation of Forest Resource Lands and its failure to designate the Exhibit 1 lands?

RESPONDENT'S AND INTERVENORS' POSITION: The County submitted a large volume of the documents and testimony upon which the County relied in making its decision to not include further acres in the Forest Resource Lands designation. The County and the Intervenors contend the Remand Record supports the County's decision not to designate the Exhibit 1 lands as Forest Resource Lands. They believe the Remand Record developed by the County fully remedies whatever shortcomings the Board previously felt existed. The County has shown its work in support of its decision to designate these lands as "Forest and Range 20." A major portion of the record is claimed to be completely and undeniably new, and differs in significant ways from those previously before the Board. They contend this work includes a clear and thoughtful policy rational for this designation or failure to designate. Among other things, the months of hearings, the testimony of dozens of elected officials, community leaders and members of the public, and the hundreds of pages of new documents, charts, maps and photographs entered into the record on remand are claimed to overwhelmingly demonstrate the Exhibit 1 lands do not meet the GMA's definition of "forest land."

The County and Intervenors argue specific findings, which support the decision to not designate this property as Forest Resource Lands. They contend the land is no longer "primarily devoted" to growing trees for commercial timber production. The new owners of the largest portion of this land are developers and not a timber company. They believed this to be important. The definition adopted in 1994 by the State Legislature, uses "lands primarily devoted" to the production of timber, as part of the measure of lands to be designated as forest lands. Here, current owners submitted testimony that the River Property cannot be "economically and practically managed" for commercial timber production and such use is not expected. The property has been divided into 20-acre parcels. Testimony was provided regarding the proximity of the lands to existing population areas, and the clear incompatibility of timber production in those areas is found in this record. The Remand Record also is claimed to reflect a clearly articulated need for "transition zones" or buffers between incompatible uses. The Remand Record further demonstrates the possibility of more intense uses of the Exhibit 1 lands, particularly in connection with the River Property and its "Bull Frog Flats" area.

The County and Intervenors point out the possible use of the River Property as a Master Planned Resort is now "identifiable and sufficiently developed" to afford a valid consideration of the project as an alternative to forestland use.

The Intervenors have listed the five areas of new evidence in the Remand Record demonstrating why the River Property does not fall within the GMA's definition of forestland:

1. The current and prior owners of the River Property - Trendwest and Plum Creek-submitted testimony that the River Property cannot be "economically and practically managed" for commercial timber production;
2. There was substantial testimony submitted related to local economic conditions that argue against the use of the River Property for commercial timber production;
3. There was substantial testimony regarding the proximity of the Exhibit 1 lands to existing population areas, and the clear incompatibility of commercial timber production with the existing uses in those areas;
4. The Remand Record also reflects a clearly articulated need for "transition zones" or buffers between these incompatible uses; and
5. Finally, the Remand Record overwhelmingly demonstrates the possibility of more intense uses of the Exhibit 1 lands, particularly in connection with the River Property and its "Bull Frog Flats" area.

The County, through use of maps and photos, showed the Board large portions of the subject land with lots having less than 80 acres. They believe lots of 80 acres and larger are needed for commercial production of timber.

The County and the Intervenors conclude by contending the overwhelming evidence in the Remand Record demonstrates designation of the Exhibit 1 lands as Commercial Forest lands would legally preclude many urgent community needs. These needs include an expansion of both the school and cemetery and the development of a world-class equestrian facility, for which planning money has been provided by the State Legislature.

The County is asking the Board to recognize the new and more deferential "clearly erroneous" standard for reviewing the GMA decisions of counties and cities.

PETITIONERS' RESPONSE: The Petitioners contend the evidence has changed little. The designation of forestlands has not changed. The Board's decision should not change either. They contend the Board's last decision required the County to include the Exhibit 1 lands in the forest resource lands designations.

The Petitioners respond to the Intervenors' argument regarding the 1994 amendment to the forest land definition and asked the Board to reject it. In their oral argument, the Petitioners contended the Intervenors' interpretation of the new language would allow any landowner to avoid the designation of his lands by changing its use.

The Petitioners further argue the GMA mandate to conserve forestlands of long-term commercial significance is absolute, absent anomalous conditions. Little discretion is claimed to exist in this requirement. The question isn't whether the county has discretion, but rather, whether it exercised its discretion within the boundaries of the Act. The obligation to conserve forestlands is stated in no uncertain terms. "It is an unequivocal requirement." Pet. Brief p.9.

The Petitioners addressed the several arguments made by the County and the Intervenors. The common thread in these arguments is the claim the Board has heard the issue before in previous decisions and has rejected them. The Petitioners reject the claim the non-designation of these lands can be justified by their use as "Buffers" between urban areas and other forest lands. They contend the buffer must be non-forestry land so forestlands will not be taken out of production.

The Petitioners also contend the evidence of other more intense uses of the land is not significant. Evidence of the possibility for an expansion of the school, the cemetery, and the development of an equestrian center stands for the proposition that certain entities have a desire to utilize the forested lands - not that the forest land is particularly suitable for these purposes. Also the evidence provided does not pertain to most of the 14,000 disputed acres.

They further contend the ownership of these lands by a development company does not change the nature of the forestlands. This argument made by Trendwest is claimed to have no merit. This interpretation would allow a loophole that could cause the loss of all forestlands. The division of the subject lands partially into 20-acre lots also is claimed to have no merit. The bulk of these lands is owned by one company and still can be managed for timber. It is the size land in single ownership that is important.

The Petitioner referred the board to the records and several briefs provided for the hearings we have had on this issue in the past. We have reviewed those records and do not need to list the arguments again.

DISCUSSION: This issue has been before this Board for 5 years or more. Our last Order, March 28, 1997, remanded the County's Forest lands designation "for inclusion of the property described in Exhibit 1 as Commercial Forest Lands. If a lesser portion is designated, a showing must be made that the 'excluded' property is not forest lands or otherwise should not be so designated, consistent with the GMA and the holdings by the Board in this case." In the previous hearings, the County failed to give this Board adequate reasons why these acres should not be included in the Forest land designation. The Board left the door open, but, until now, little evidence was brought in.

RCW 36.70A.170(1)(b) requires cities and counties to designate forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber. The County is not required to designate lands that may be forested today but do not meet the requirements for lands of long-term commercial significance.

The Growth Management Act originally defined "forest lands" as: ...land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially. RCW 36.70A.30(8). (Emphasis added) The 1994 State Legislature amended the definition of the term "forest lands" as follows: (9) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses. (emphasis added)

The Petitioners contend the new language does not change the requirement to designate all forest lands and the change does not impact this case. The County and Intervenors ask the changes in the "forest land" definition be taken literally. They contend, if the land is not primarily devoted to growing trees for long-term commercial timber production, they need not be designated. We must look beyond the words "primarily devoted" to determine what the legislature intended.

A previous Board decision has compared the old definitions of agricultural lands, "lands primarily devoted to the commercial production of horticultural... products" and forest lands as "land primarily useful for growing trees." *Twin Falls, inc., Weyerhaeuser Real Estate Co. et al v. Snohomish County*, No. 93-3-0003 at 202, sharply contrasts the language. The requirement for agricultural land designation was found to include the landowner's intent: if the land is not currently being utilized for the commercial production of agricultural products, it cannot be designated agricultural land. Under the old definition of "forest lands" *Twin Falls* found that "primarily useful" is not limited to the landowner's intent to currently manage property for commercial timber production. Instead, it addresses the possibility of using the property for forestry purposes. "Useful is a much broader term." (P.202).

The legislative changes in the "forest land" definition replaced "primarily useful for growing trees" with language mirroring that of "agricultural lands" by including "primarily devoted to". However the legislature went further. Four factors were added to the definition to use in determining whether the land was indeed "primarily devoted to" growing trees commercially. None of these four factors involves the landowner's intent. Further, additional factors were not added to the definition of "agricultural lands".

The Board in *Pilchuk-Newberg Organization et al. v. Snohomish County*, No. 94-3-0018 ably interpreted the new definition and this Board accepts their interpretation:

Thus, as the Board indicated, landowner intent is part of the formula, at least by implication. With the

1994 amendment of the definition of "forest land," the Board's test, that "primarily devoted to" is determined by ascertaining actual use of the property including an examination of landowners intent, has been replaced with a review of the four factors listed in RCW36.70A.030(9) -none of which involves a landowner's intent. See p. 864.

However, landowner intent is still examined. While such intent is not controlling, the amended definition clearly directs our review of present uses of the subject property in the determination of whether this property is forestlands of commercial value. It is, as the Board stated in its April 3,1995 Order of Non-Compliance, "...whether the influence of these factors or possible others preclude the land from being economically and practically managed for timber production." (Footnote 7 "the factors are not purported to be an exclusive list.") At p.769.

The County did designate approximately 680,000 acres of forest resource lands. They did not designate approximately 15,000 acres believed by the Petitioners to meet the definition of "forest land". To justify the exclusion of such lands, the County and the Intervenors have provided a great amount of testimony, exhibits and argument to the Board. We have reviewed this record. Part of that material reflects the sale of a major portion of the property to a developer for the real possibility of developing a Master Planned Resort (MPR). The landowner of the majority of the property does not intend to harvest timber on the land. The land has been divided into 20-acre lots and the testimony indicates that this area will either be a MPR or otherwise used for non-forestry purposes.

The Board in the past has found the County did not provide the evidence necessary for us to determine whether the 15,000 subject acres were properly excluded. Now there are hundreds of pages of new documentation including dozens of new exhibits demonstrating the site-specific nature of the property in question, including aerial photos, topography maps, lot sizes, and land uses. There is also substantial new testimony from numerous individuals. The Board has read uncontested testimony in the Remand Record contending it is more costly to engage in forestry practices in close proximity to urban areas. Also, the record now clearly reflects the existence of other possible uses in the area. These uses include a proposal of the Washington State Parks and Recreation Commission plan to develop an equestrian center.

The County demonstrates the prevalence of lots that are less than 80 acres in this area. They also point to where the property abuts urban growth areas, where property is to be used for expansion of the school, the cemetery and for the development of the equestrian center. Buffers around urban areas used much of this land.

The Board's Final Decision on March 28,1997 did not require the County to designate the Exhibit 1 lands as Commercial Forest Lands. Instead the County was directed to designate the lands or show why the lands should not be so designated. They have done so. The County has given the Board a clear rationale for non-designation. They have shown their work. They have shown the Board why this land is not suited for commercial forestry or is better suited for something else. That fact, plus the proximity to urban areas and the size of many of the lots under single ownership, gives sufficient basis for their

decision.

While there is a great amount of disagreement whether this land should be designated as Forest Lands, the County has made their case. The County has used the discretion allowed them under the Act and this Board finds them in compliance.

CONCLUSION: We find the County in compliance with the Growth Management Act on this issue.

ISSUE 3: Does the County's failure to designate the Exhibit 1 lands as Forest Resource Lands substantially interfere with the GMA's Goals?

The GMA places on the County the initial burden of proof to show its Forest Resource Lands designation decision no longer substantially interferes with the GMA' Planning Goals. Refer to Issue 2 for the facts and arguments considered. Evidence needed to resolve that issue, provides the answer of whether the County's failure to designate such lands "will no longer interfere with the fulfillment of the goals of this chapter under the standard in RCW 36.70A.302(1)."

The Board believes the County has borne its burden of showing that the designation or non-designation of forestlands does not substantially interfere with the Goals of the Act. This was done with the evidence produced showing them in compliance with the Act in its designation of Forest Resource lands.

CONCLUSION: The Board finds the County's ordinance failing to designate the Exhibit 1 lands, no longer substantially interferes with the Goals of the Act. The finding of invalidity of the portions of the Kittitas County Comprehensive Plan designating the lands described in Exhibit 1 of our March 28, 1997 Order and any site specific development regulations affecting such lands is removed.

ISSUE 4: Are the Master Planned Resort Policies (MPRP) of the County consistent with and in compliance with RCW 36.70A.360 and the GMA's planning goals?

PETITIONER'S POSITION: Ridge contends the amendments, which established the MPR Policies, do not comply with the requirements of the Act under RCW 36.70A.360. They believe the master planned resorts will not be self-contained; will be a catalyst for urban growth and urban sprawl; and, will not be used primarily for short-term recreational accommodations. The MPR Policies are claimed to be internally inconsistent. They are said to include ambiguous provisions, which make it impossible for a landowner, County administrators, or this Board to determine what types of resorts and effects will result from adoption of these policies.

Ridge believes the County has failed to prohibit MPRs in close proximity to UGAs or in areas where they can serve as bedroom communities for the Seattle area. They contend the County failed to preclude suburban growth in the vicinity of an MPR, failed to discourage use of resort facilities by non-resort residents, and failed to assure adequate commercial and retail services are available on-site to make an MPR "self-contained".

The Petitioners point out the MPR Policy's inconsistencies with the Countywide Planning Policies (CPPs). The CPPs specify urban commercial growth and urban residential growth shall occur inside designated UGAs. While they acknowledge MPRs are allowed by the Act, the Petitioners point out the County CPPs do not include this authorization. Also, Planned Unit Developments (PUDs), which include commercial and/or industrial uses in addition to residential uses, shall be located in UGAs or Urban Growth Nodes. CPPs at 11. This inconsistency is contended to violate the Act and substantially interfere with the Act's efforts to assure interjurisdictional coordination.

Ridge then details the inconsistencies with the Act's goals and requirements. The Board will not discuss them here. The issue dealing with the provision of power, sewer and water from existing services has been resolved by a legislative amendment in the 1998 session. This new legislation provides the services can be provided if the MPR covers all costs of the extension. However, the argument by Ridge about the inconsistencies between the MPR policies and the CPPs continues. These policies prohibit the provision of city services outside UGAs. CPPs at 4 and 8.

RESPONDENT AND INTERVENORS RESPONSE: The County believes Ridge wants the Board to treat the Comprehensive Plan as development regulations rather than a generalized coordinated land use policy statement.

The County contends it is a generalized policy for MPRs that is found in the Comprehensive Plan. Ridge's concerns will be addressed at the development regulation level or site specific MPR application level. They are not appropriate issues in the context of a review of a component of a Comprehensive Plan. The County contends the issue before the Board is what the County is required to do and whether any particular policy is clearly erroneous. They believe Ridge has failed to meet this burden.

The County and Intervenors believe the CPPs are consistent with the MPR policies. MPRs are not expressly prohibited and it was unlikely the issue of MPRs was even considered by the Kittitas County Council of Governments in adopting the CPPs.

The County discusses in detail the issues raised by Ridge. These will not be reviewed here. The County contends it has done what is required by the Act.

DISCUSSION: The State Legislature provided a specific exception which allows new urban growth in the form of a Master Planned Resort (MPR) to exist outside Urban Growth Areas, if certain requirements are met. RCW 36.70A.360. The MPRs were to be self-contained and not be the catalyst for further urban sprawl. Pertinent parts of the statute are as follows:

...A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreation facilities. A master planned resort may include other residential uses within its boundaries,

but only if the residential uses are integrated into and support the on-site recreation nature of the resort.

In its March 28, 1997 final order, the Board found the Master Planned Resort Policies contained in the County's Comprehensive Plan was not consistent with the requirements of RCW 36.70A.360 and the GMA's planning goals. The County was directed to do what is necessary to comply with the Act if the County wished to provide for MPRs.

The County has made significant changes to their MPR policies and will be given the deference the State Legislature has directed. The changes are presumed to be valid. The standard of review used will be the "clearly erroneous" standard. The Petitioners are required to show the changes are "clearly erroneous".

The GMA use of the phrase "self contained", does not require a MPR to contain everything it or the visitors need. This would be virtually impossible and would be too strict an interpretation of the language. The better interpretation would require the MPR to have sufficient services and needed places to shop for common needs to be met and avoid an adverse impact upon the neighboring urban areas. The visitors and residences at the MPR should be able to meet their daily needs without being forced to go elsewhere. The County's MPR policies require this. The fact others might shop there or visit does not put the County in violation of the "self contained" section of the Act.

The Act does not require the MPR to be any specific distance from UGAs, not 5 miles or 100 feet. The law seems to anticipate the possibility of its proximity to an UGA by the language found in RCW 36.70A.360(2):

The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the master planned resort, except in areas otherwise designated for urban growth under RCW 36.70A.110. (Emphasis added)

It is clear the legislature recognized MPRs might be near urban growth areas and asked only that new urban or suburban land uses in the vicinity be precluded.

The complaint the MPR Policies do not have sufficient detail in precluding urban or suburban land uses in the vicinity should be addressed when the development regulations are prepared. It is good to remember the Plan is a guide or general policy and the regulations that will soon be developed will put the "meat on the bones". The language used by the County in the Plan is sufficient under the Act. The Intervenor's stated, and we agree, if there is a conflict between regulations and a statute, the statute is controlling. RCW 36.70A.360(2) is the law and it will apply to any application whether or not specifically cited in the County's policy.

The contention by the Petitioners that the CPPs are inconsistent with the MPR Policies is more serious. When the Growth Management Act was passed, the County was required to adopt a Countywide Planning Policy (CPP). RCW 36.70A.040(3)(a). The comprehensive plans of each county or city was also required to "be coordinated with, and consistent with, the comprehensive plans adopted ... by other

counties or cities with which the county or city has, in part, common borders or related regional issues." RCW 36.70A.100.

The Washington State Court of Appeals, in *King County vs. Central Puget Sound Growth Management Hearings Board, et al*, filed March 2, 1998 found the "mechanism to implement this consistency directive was the requirement for CPPs. A CPP is

a written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100." (RCW 36.70A.210(1). P.11.

The Court of Appeals adopted the three-part test articulated in *City of Snoqualmie v. King County, CPSGPHB*, Case No. 92-3-004 at 62-63 (March 1, 1993). That test declared a CPP may provide substantive direction to city and county comprehensive plans if it: (1) meets a legitimate regional objective, (2) is limited to providing substantive direction to the provisions of the comprehensive plan without directly affecting the provisions of an implementing regulation or other exercise of land use power and (3) is consistent with other relevant provisions of the GMA.

The Kittitas County Countywide Planning Policies include the following:

CCP 4 provides:

Policy A: City services should be provided only within and not beyond UGAs. Such services include central sewage collection and treatment, public water systems, urban street infrastructure, and storm water collection facilities.

CCP 8 provides:

Policy A: Commercial developments including retail, wholesale or service related activities having a gross floor area of 4,000 square feet or more, with associated parking facilities shall be located only within UGAs or Urban Growth Nodes.

Policy B: New industrial development which is not resource-based shall be located only within UGAs, Urban Growth Nodes (UGNs) or industrial zoned land, if urban services and zoning permits are required.

Policy C: Industrial developments which are solely resource based may be permitted beyond UGAs.

These clearly conflict with the MPR Policies adopted by the County. The Growth Management Act does not allow such a conflict. The County must either bring the MPRPs in conformity with the CPP or bring the cities and the county together to modify the Countywide Planning Policies to allow the MPRs to

exist outside of UGAs.

CONCLUSION: The Board finds the County MPR Policies to be in compliance with the Growth Management Act with the exception of RCW 36.70A.100. This section requires the County's Plan to be consistent with and coordinated with the Plans adopted by other cities or counties with common borders. This Board joins with the Central Board and the Court of Appeals by finding that this requires the County Plan to be consistent with and not contrary to the Countywide Planning Policies for Kittitas County. We find the MPR Policies to be out of compliance. The inconsistency between the MPR Policies and the CPPs must be rectified. Beyond that, the Petitioners have not shown the MPR policies are clearly erroneous.

ISSUE 5: Whether Ridge's request for sanctions should be granted.

The Petitioners are seeking sanctions against the County for its failure to comply with the Board's simple, straightforward directive and their failure is causing substantial harm. We find sanctions are not appropriate.

CONCLUSION: The request for sanctions is denied.

IV. ORDER

1. The "forest land" definition is in compliance with the GMA.
2. The County is found to be in compliance in their designation of Forest Resource Lands and the finding of invalidity is removed.
3. The MPR Policies are not in compliance with RCW 36.70A.100. The conflict between the Countywide Planning Policies and the Master Planned Resort Policies must be corrected.
4. The Petitioners request for sanctions is denied.
5. The County is directed to make the necessary changes to be in compliance with the Act within 120 days from the date of this Order.

This is a Final Order for purposes of appeal. Pursuant to WAC 242-02-830(2), a motion for reconsideration may be filed within ten days of service of a final decision.

SO ORDERED this 16th day of April, 1998.

EASTERN WASHINGTON GROWTH PLANNING HEARINGS BOARD

Dennis A. Dellwo, Presiding Officer

Judy Wall, Board Member

D. E. "Skip" Chilberg, Board Member

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