STATE OF WASHINGTON

GROWTHMANAGEMENT HEARINGS BOARD

FOR EASTERN WASHINGTON

CONCERNED FRIENDS OF FERRY COUNTY Petitioner, v. FERRY COUNTY, Respondent	Case No.00-1-0001 ORDER ON COMPLIANCE

On January 18, 2000, David L. Robinson, pro se for Concerned Friends of Ferry County filed a Petition for Reviewconcerning Ferry County's Short Subdivision #72-1 with changes and Long Subdivision Ordinance #73-1 with changes adopted on November 15, 1999 and published on November 18, 1999.

On January 28, 2000,David L. Robinson filed Amended Petition for Review of Ferry County Revised Subdivision Ordinances #72-1 and #73-1.This amendment added David Robinson as a party and one new issue.

On January 31, 2000,the Board held a telephonic prehearing conference.Present were Skip Chilberg as Presiding Officer, and Board Member Dennis Dellwo.Petitioner David Robinson was present for Concerned Friends of Ferry County and Respondent was represented by StephenGraham, Prosecuting Attorney for Ferry County.

On July 6, 2000, the Board issued its Final Decision and Order finding the County out of compliance only on Issue 5:

> The Board finds Ferry County is not in compliance with the GMA and theShort and Long Subdivision Ordinances must be modified to be consistent with the Plan regarding lots size within RSAs.

On January 4, 2001, a compliance hearing was held telephonically.All parties were present and represented.

Findings of Fact

1.Ferry County, amending Short Subdivision Ordinance No. 72-1, adopted Ordinance No. 2000-06 on October 9, 2000.

2.Ferry County, amending Ordinance Long Subdivision No. 73-1, adopted Ordinance No. 2000-07 on October 9, 2000.

3.Amendments in Ordinance No. 2000-06 and Ordinance 2000-07 subjected the Rural Service Areas and Urban Growth Areas minimum lot sizes to Section 7.8.2 of the Comprehensive Plan and the Policy L 2.1 and L 2.2 of the Curlew Lake Sub-Area Plan. (CLSAP)

Petitioner's position:

The Petitioners contend the County has created a problem with their revised draft subdivision

Ordinance No. 72-1 and Long Subdivision Ordinance No. 73-1 as written because they are not easy to understand.They believe the Ordinances are difficult to understand for someone "off the street", wishing to build in Ferry County.

It is not clear to the Petitioners whether lots within every RSA in Ferry County – or just those lots within the Curlew Lake RSA – are subject to the policy provisions of the CLSAP.

Respondent's position:

Ferry County states Ordinance No. 72-1 and Ordinance No. 73-1 were modified to be consistent with the plan as directed by the Board in it's Final Decision and Order on July 6, 2000.Ferry County amended No. 72-1 by adding the following language to section 04.23:

> Designated areas are the rural service areas as designated in Section 7.12.3 of the Comprehensive Plan.The minimum lot size within these areas and the Urban Growth Area are subject to Section 7.8.2 of the Comprehensive Plan and Policy L2.1 and L2.2 of the Curlew Lake Sub Area Plan.

The new language is found on page 8 of what is now Ordinance No. 2000-06.

Ferry County also amended No. 72-1 by adding the following language to Section 15.00:

> Minimum lot size within the rural service areas as designated in Section 7.12.3 of the Comprehensive Plan and the Urban Growth Areas are subject to 7.8.2 of the Comprehensive Plan and Policy L2.1 and L2.2 of the Curlew Lake sub area plan.

The new language is found on page 15 of what is now Ordinance No. 2000-06.

Ferry County amended Ordinance No. 73-1 by adding the following language to Section 03.26:

> Designated areas are the rural service areas as designated in Section 7.12.3 of the Comprehensive Plan.The minimum lot size within these areas and the urban growth area are subject to Section 7.8.2 of the Comprehensive Plan and Policy L2.1 and L2.2 of the Curlew Lake Sub Area Plan.

The new language is found on page 7 and 8 of what is now Ordinance No. 2000-07.

Ferry County amended Ordinance No. 73-1 by adding the following language to Section 23.00:

> Minimum lot size within the rural service areas are subject to Section 7.8.2 of the Comprehensive Plan and the Urban Growth Areas are subject to Section 7.8.2 of the Comprehensive Plan and Policy L2.1 and L2.2 of the Curlew Lake Sub Area Plan.

The new language is found on page 15 of what is now Ordinance No. 2000-07.

Discussion:

The Board found Ferry County was not in compliance with the GMA on July 6, 2000.The Short and Long Subdivision Ordinances set minimum lot size at 2.5 acres throughout the County, However, the Comprehensive Plan allows smaller lots within Urban Growth Areas and RSAs creating a conflict.The County was directed to modify the Long and Short Plat Subdivision Ordinances to allow smaller lot sizes within the UGA and RSAs as provided in the Comprehensive Plan.The Board finds the County has complied with the Board's direction.

The Petitioners contend it is confusing as to whether Policies L2.1 and L2.2 apply to all RSAs or to just the Curlew Lake Sub Area Plan.Ferry County has amended their Ordinances to be consistent with the Plan. The minimum lot size within RSAs and the Urban Growth Areas are subject to Section 7.8.2 of the Comprehensive Plan and Curlew Lake Sub Area is subject to Policy L 2.1 and L 2.2 of the Sub Area Plan.This should be clear to anyone reading these sections of the Plan.

At the hearing on the merits, the County raised the issue of David L. Robinson having been added as a party in the amended Petition.

Ferry County, at the January 31, 2000 Prehearing Conference voiced their concern for Mr. Robinson's addition as an individual party.Mr. Chilberg, acting Presiding Officer, statedthis could be addressed at the time of the motion hearing.No motion was proposed nor did this matter come before the Board again until the compliance hearing on January 4, 2001.At that time, the County objected to the inclusion ofRobinson as aparty contending there was no discussion or motion concerning that addition.

While the amended petition filed January 28, 2000 appears to add Mr. Robinson as a party, objection to this addition was not made by motion as directed and the Board will not consider the objection at this time.However, with or without the amendment, Mr. Robinson would be allowed to participate in the hearing under RCW 36.70A.330(2),which states in part:

> A person with standing to challenge the legislation enacted in response to the Board's Final Order may participate in the hearing along with the Petitioner and the State Agency, County, and City.

The Board recognizes David L. Robinson, as an individual petitioner in this case.

Conclusions:

The Board finds Ferry County in compliance with the GMA on Issue No. 5.The Short and Long Subdivision Ordinances are consistent with the Plan regarding lot size within Rural Service Areas.

This is a final order for purposes of appeal.Pursuant to WAC 242-02-832, a motion for reconsideration may be filed within ten days of service of a final decision.

SO ORDERED this 17th day of January, 2001.

EASTERN WASHINGTON
GROWTH MANAGEMENT HEARINGS BOARD

Judy Wall, Board Member

D. E. "Skip" Chilberg, Board Member

Dennis A. Dellwo, Board Member