

in not designating the SRP site, as mineral resource lands, are clearly erroneous. What follows here is an issue-by-issue overview of the Board's decision.

Issue 1:

Petitioners contend the County has failed to designate a valuable, scarce natural resource, and protect it from residential encroachment. Petitioners note that mining has legally occurred on the SRP site for approximately sixty years, giving this site a vested right to continue, free from residential encroachment. They cite several provisions in the Spokane County Comprehensive Plan, as well as the GMA, which would support the designation of this site as mineral resource land. The Board finds the County has erred in failing to do this.

The Board's finding of non-compliance is based upon the arguments raised by the Petitioner in this issue. Spokane County contended the SRP site did not meet the criteria established by RCW 36.70A.050 and WAC 365-190-010. The Board disagrees with the County's assertion. It is clear that this criterion was not uniformly applied. The criteria was not applied equally with other mining sites nearby, including the County's own site, which was designated as a mining site. If the County's criteria were strictly applied to all sites, it is doubtful that any of the sites could have qualified for designation as mineral resource lands. The County is out of compliance due to the manner in which it applied the criteria for the designation of mineral resource lands.

Issue 2:

This issue is moot. The County has designated and protected mineral resource lands, as required by RCW 36.70A.020(B). The only pertinent question raised by Petitioners is whether the SRP site should have been designated along with other mineral resource lands. That question is addressed in Issue No. 1.

Issue Nos. 3, 4, and 5

These three issues address questions of consistency between the City and County Comprehensive Plans. The Board is not convinced that the County has erred on the issues of coordination and consistency with the City's plan. Petitioners argue that the City's map, showing the SRP site as a mineral resource land, even though it is not in the City's area of jurisdiction, should guide the County's decision. The Board disagrees. The Record holds sufficient evidence to conclude that coordination took place, and that the respective plans are consistent. The Petitioner has not overcome the presumption

of validity of County actions and has not carried its burden of proof on this issue.

Issue 6:

The Board concurs with Petitioner's arguments on Issue 6, specifically that the County's criterion was not properly applied in denying the designation of the SRP site as mineral resource land. The fact that the site had been zoned for mining for over 60 years strengthens its position in relation to encroaching residential uses. The County has not "shown its work" regarding application of criteria to the SRP site or to other nearby sites, which did received designation as mineral resource lands. The County is found out of compliance for their failure to show their work in this matter.

Issue 7:

Abandoned by Petitioners.

Issue 8:

Petitioners here contend the site must be further mined before it can be reclaimed for residential development. They contend this argument should be weighed by the County, resulting in a mineral resource designation. The Board disagrees. While a mineral resource designation may make reclamation of the site more practical, we find nothing in the GMA, which would require the County to take that into consideration in its action.

A proposed order is to be presented within two weeks from the date of this Memorandum.

SO ORDERED this 21th day of June 2002.

EASTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD

D.E. "Skip" Chilberg, Board Member

Dennis Dellwo, Board Member

Judy Wall, Board Member