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3 **State of Washington**
4 **GROWTH MANAGEMENT HEARINGS BOARD**
5 **FOR EASTERN WASHINGTON**

6 LOON LAKE PROPERTY OWNERS
7 ASSOCIATION, LOON LAKE DEFENSE
8 FUND, WILLIAM SHAWL, and JANICE
9 SHAWL, LARSON BEACH NEIGHBORS, and
10 JEANIE WAGENMAN

11 Petitioner,

12 DEPARTMENT OF ECOLOGY,

13 Intervenor,

14 v.

15 STEVENS COUNTY,

16 Respondent.

Case No. 03-1-0006c

MEMORANDUM OPINION

17
18 **I. PROCEDURAL BACKGROUND**

19 On February 2, 2004, the Board issued an Order consolidating EWGMHB Case Nos.
20 00-1-0016, 03-1-0003 and 03-1-0006 under new Case No. 03-1-0006c.

21 On February 6, 2004, the Board issued its Order on Motions from Case Nos. 00-1-
22 0016, 03-1-0003 and 03-1-0006.

23 On February 10, 2004, the Board issued its Final Decision and Order in Case No. 03-
24 1-0003.

1 On February 13, 2004, Respondent, Stevens County filed a Motion for
2 Reconsideration of the Boards Order on Motions filed February 6, 2004, granting
3 intervention status to Loon Lake Property Owners Association (LLPOA).

4 On February 20, 2004, Petitioners Larson Beach Neighbors and Jeanie Wagenman
5 filed a Motion for Clarification/Reconsideration on FDO 2/10/04. Loon Lake Property Owners
6 Association, Loon Lake Defense Fund, and William and Janice Shawl, (LLPOA et al.) filed
7 LLPOA Answer to County's Motion for Reconsideration of Intervention Order.

8 On March 1, 2004, the Board held a telephonic status conference. Present were D.E.
9 "Skip" Chilberg, Presiding Officer, and Board Members Dennis Dellwo and Judy Wall.
10 Present for Petitioners were Jeanie Wagenman and Bruce Erickson. Present for Respondent
11 was Peter Scott. Present for Intervenor was Tom Young, Assistant Attorneys General.

12 On March 3, 2004, the Board issued an Order on Motion for Reconsideration directing
13 the parties to file objections no later than March 11, 2004.

14 On March 17, 2004, the Board refused to reconsider its order or issue an Amended
15 Final Decision and Order.

16 On May 7, 2004, the Respondent filed its Motion to Dismiss Petitions for Review Nos.
17 00-1-0016 and 03-1-0006.

18 On May 10, 2004, the scheduled status conference was held and arguments were
19 heard on the Motion to Dismiss. The Board issued its Order on Motion to Dismiss on May
20 20, 2004.

21 On May 17, 2004, the Board received Respondent, Stevens County's Motion to
22 Extend Time requesting an additional 30 days to bring themselves into compliance with the
23 Board's Final Decision and Order dated February 10, 2004. Stevens County was to be in
24 compliance by June 9, 2004.

25 On August 2, 2004, the Board held a telephonic compliance hearing. Present were
26 D.E. "Skip" Chilberg, Presiding Officer, and Board Members Dennis Dellwo and Judy Wall.
Present for Petitioners were Jeanie Wagenman and Bruce Erickson. Present for Respondent
was Peter Scott, Lloyd Nickel, Tony Delgado, Malcolm Friedman, Jim Whitbread, Dan

1 Woods, Faith Lumsden, Jenni Anderson, and Wes McCart. Intervenor representative was
2 not present during this telephonic compliance hearing.

3 On August 4, 2004, the Board issued its Order on Continuance of Compliance
4 Hearing to allow additional briefing by the parties regarding the issue of Protection of
5 Habitat and Species.

6 On August 9, the Board received First Compliance Hearing: Respondent's
7 Supplemental Brief.

8 On August 20, 2004, the Board received First Compliance Hearing Petitioner's
9 Supplemental Reply to Respondent and Washington State Department of Fish and Wildlife's
10 Amicus Brief.

11 On August 25, 2004, the Board received from Petitioner, Motion to Allow Response to
12 Amicus Brief of WDFW, Petitioners' Response to WDFW Amicus Brief of 8/20/04, and Motion
13 to Admit Additional Evidence.

14 On September 1, 2004, the Board received Respondent's, Response to Motions to
15 Allow Response to Amicus Brief and to Admit Additional Evidence, and the Proposed Order
16 on Compliance.

17 **II. ORDER**

18 After reviewing the supplemental briefings submitted by the parties as well as the
19 amicus brief by the State Department of Fish and Wildlife, the Board finds the Petitioner has
20 failed to carry the burden of proof required for a finding of non-compliance on the
21 remaining issue of protection of fish and wildlife habitat.

22 As indicated at the close of the oral arguments on August 2, 2004, the Board has
23 concluded the same for the other outstanding issues in this case.

24 The Board requests counsel for the Respondent to draft a proposed Order of
25 Compliance with a complete Procedural History, Standard of Review, Findings of Fact, and
26 Arguments of the parties for the Board reflecting the comments made by the Board, and
finding that the County has brought itself into compliance in the areas identified in the
Board's Final Decision and Order (Case No. 03-1-0003) issued on February 10, 2004. The

1 proposed Order should be circulated to all parties in this matter for their comments
2 regarding their respective arguments, and submitted to the Board for Consideration by
3 **September 15, 2004.**

4 **SO ORDERED** this 3rd day of September 2004.

5 EASTERN WASHINGTON GROWTH MANAGEMENT
6 HEARINGS BOARD

7 _____
8 D.E. "Skip" Chilberg, Board Member

9 _____
10 Dennis Dellwo, Board Member

11 _____
12 Judy Wall, Board Member