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

SAUNDRA WILMA and ALAN C. WILMA, and  
JAMES L. SULLIVAN,

Petitioners,

LOON LAKE PROPERTY OWNERS  
ASSOCIATION and LOON LAKE  
DEFENSE FUND

Intervenors

v.

STEVENS COUNTY,

Respondent

Case No. 99-1-0001c

**ORDER ON DISMISSAL OF  
INVALIDITY AND FINDING  
COMPLIANCE**

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**I. PROCEDURAL HISTORY**

On December 1, 1998, Sandra Wilma and Alan D. Wilma filed a Petition for Review with the Eastern Washington Growth Management Hearings Board (Board).

On December 30, 1998, Petitioners submitted an Amended Petition including James L. Sullivan as a petitioner with the same issues.

On January 7, 1999, Dawud Ahmad filed a petition for review involving the same issues. The matters were consolidated. In March, 1999, Petitioner Ahmad withdrew.

On April 23, 1999, the Board held a Hearing on the Merits in Colville, Washington.

On May 1, 1999, a Final Decision and Order was entered by the Board finding Stevens County out of compliance with the Growth Management Act. The Board did not make a finding of Invalidity pursuant to RCW 36.70A.302.

The Board's Final Decision and Order was appealed to Stevens County Superior Court on a Joint Petition for Review filed by Alan D. Wilma, Sandra Wilma and James S. Sullivan.

1 The Court entered a Decision on Appeal April 7, 2000 and the matter was remanded to the  
2 Board.

3 On April 24, 2000, the Eastern Washington Growth Management Hearings Board  
4 issued an Order on Remand finding Stevens County Resolutions 16-1997 and 149-1997  
5 invalid pursuant to Stevens County Superior Court Case 99-1-00269 3. The Board also  
6 directed Stevens County to designate its IUGAs by means of development regulations as  
7 defined in RCW 36.70A.030(7), pursuant to RCW 36.70A.110(5). Stevens County was  
8 directed to take action consistent with the Court's Decision on Appeal and come into  
9 compliance on or before July 10, 2000.

10 On September 6, 2000, Motion to Intervene was filed by Bruce Erickson, counsel, on  
11 behalf of Loon Lake Property Owners Association and Loon Lake Defense Fund. On  
12 September 27, 2000, after considering the motion and arguments of the Intervenors and  
13 the other parties having no objections, the Board permitted the intervention with their  
14 participation restricted to issues raised by the original petitions.

15 In response to the Thurston County Superior Court Order in 99-1-00269 3 and this  
16 Board's Order on Remand, Stevens County adopted a Growth Management Public  
17 Participation Program, Resolution 91-1999, and adopted Resolutions No. 114-2000 and No.  
18 115-200 consisting of Title 4, Platting of Short Subdivisions and Title 5, Platting of Long  
19 Subdivisions, and Resolution 116-2000, adopting the Interim Urban Growth Areas for  
20 Stevens County.

21 On November 21, 2000, the Board held a Compliance Hearing at the Stevens County  
22 Courthouse in Colville, Washington. That Hearing was continued to allow additional time for  
23 the County to respond to the Petitioners' and Intervenors' concerns and prepare for the  
24 issues covered. The Board said it would resolve the following issues at the Compliance  
25 Hearing:

- 26 1) Whether the County's IUGAs were properly designated by means of  
adoption of a development regulation as defined in RCW 36.70A.030(7),

1 pursuant to RCW 36.70A.110(5), as ordered by the Stevens County Superior  
2 Court (April 7, 2000).

3 2) Whether the County has developed and disseminated a public  
4 participation program and adequately included the public in the planning  
5 process as required under the Growth Management Act ( GMA);

6 3) Whether the County has amended its land use regulations and  
7 permitting procedures to prohibit urban growth beyond the IUGA boundaries  
8 as required under the Growth Management Act;

9 4) Whether the County has set densities throughout the County;

10 5) Whether the County has included greenbelts and open spaces within  
11 the IUGA boundaries; and

12 6) Whether the County justified the size of the City of Marcus IUGA and  
13 demonstrated that it does not encourage sprawl.

14 On February 27, 2001, the Board held a compliance hearing in Colville, Washington.  
15 All parties were present or represented.

16 On March 14, 2001, the Board issued its Order finding Stevens County in continued  
17 non-compliance.

18 The County was ordered to bring the matters into compliance within 90 days of  
19 March 14, 2001.

20 On October 16, 2001, the Board held a third Compliance Hearing in the above  
21 matter. All parties were present or represented.

22 On October 19, 2001, the Board issued the Third Order on Compliance.

23 Pursuant to the letter received on March 17, 2003, from the Wilmas and Mr. Sullivan  
24 stating that they believe the County has adopted compliant Public Participation Policies, and  
25 a letter from Bruce Erickson representing Loon Lake Property Owners Association dated  
26 February 20, 2003, indicating that those Petitioners will not object to the finding of  
compliance of such Policies.

On March 26, 2003, the Board issued its Order Finding Partial Compliance.

1 On July 18, 2007, the Board held a telephonic status conference. Present were Joyce  
2 Mulliken, Presiding Officer, and Board Members Dennis Dellwo and John Roskelley. Present  
3 for Petitioners were Sandra and Alan Wilma. Present for Intervenors was James Davies.  
4 Present for Respondent were Peter Scott and Clay White. During the status conference, Ms.  
5 Wilma brought up the issue that Stevens County was under an invalidity order from Stevens  
6 County Superior Court, Case Number 99-1-00269 3. Mr. Scott indicated he would research  
7 the matter and file motions addressing the issue.

8 On July 27, 2007, the Board received Respondent's Motion for Compliance Hearing.

9 On August 2, 2007, the Board issued its Order Setting Compliance Hearing and  
10 Briefing Schedule.

11 On August 15, 2007, the Board received Petitioners' Answer to Respondent's Motion  
12 for Compliance Hearing.

13 On September 6, 2007, the Board received County's Response to Petitioners Brief  
14 RE: Compliance.

15 On October 8, 2007, the Board received Petitioners Brief for 4<sup>th</sup> Compliance Hearing.

16 On October 15, 2007, the Board received County's Response to Petitioners 4<sup>th</sup>  
17 Compliance Hearing.

18 On October 22, 2007, the Board received Petitioners' Compliance Reply Brief.

19 On October 29, 2007, the Board held a telephonic compliance hearing. Present were  
20 John Roskelley, Presiding Officer, and Board Members Dennis Dellwo and Joyce Mulliken.  
21 Present for Petitioners were Sandra and Alan Wilma. Present for Respondent were Peter  
22 Scott and Clay White.

## 23 II. DISCUSSION

### 24 Motion to Rescind Invalidity:

25 The Eastern Washington Growth Management Hearings Board (Board), after hearing  
26 arguments from both the Petitioner, Ms. Sandra Wilma, and the Respondent, Stevens  
County (County), represented by Mr. Peter Scott, finds the County's actions in this matter  
no longer substantially interfere with the fulfillment of the goals of the Growth Management

1 Act and, therefore, the Board rescinds the determination of invalidity imposed on Stevens  
2 County by the Board's Order on Remand issued April 24, 2000.

3 **Motion Seeking Compliance:**

4 One compliance issue has remained in Case No. 99-1-001c: Whether the County's  
5 IUGA's were properly designated by means of adoption of a development regulation as  
6 defined in RCW 36.70A.030(7), pursuant to RCW 36.70A.110(5), as ordered by the Stevens  
7 County Superior Court (April 7, 2000).

8 After discussion with both parties, and with agreement by the Petitioner, the Board  
9 finds the County in compliance with the Board's FDO. With this finding of compliance and  
10 with the Board's removal of the finding of invalidity, Case No. 99-1-001c is dismissed.

11 **III. ORDER**

- 12 1. The Board rescinds their finding of invalidity in this matter.
- 13 2. The Board finds Stevens County in compliance with the Board's Final Decision  
14 and Order with all issues in Case No. 99-1-001c.
- 15 3. Case No. 99-1-0001c is dismissed.

16 **Pursuant to RCW 36.70A.300 this is a final order of the Board.**

17 **Reconsideration:**

18 Pursuant to WAC 242-02-832, you have ten (10) days from the mailing of this  
19 Order to file a petition for reconsideration. Petitions for reconsideration shall  
20 follow the format set out in WAC 242-02-832. The original and four (4) copies of  
21 the petition for reconsideration, together with any argument in support thereof,  
22 should be filed by mailing, faxing or delivering the document directly to the  
23 Board, with a copy to all other parties of record and their representatives. **Filing**  
24 **means actual receipt of the document at the Board office.** RCW 34.05.010(6),  
25 WAC 242-02-330. The filing of a petition for reconsideration is not a prerequisite  
26 for filing a petition for judicial review.

27 **Judicial Review:**

28 Any party aggrieved by a final decision of the Board may appeal the decision to  
29 superior court as provided by RCW 36.70A.300(5). Proceedings for judicial  
30 review may be instituted by filing a petition in superior court according to the  
31 procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil.

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**Enforcement:**

The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542. Service on the Board may be accomplished in person or by mail. Service on the Board means actual receipt of the document at the Board office within thirty days after service of the final order.

**Service:**

This Order was served on you the day it was deposited in the United States mail.

**RCW 34.05.010(19)**

SO ORDERED this 30<sup>th</sup> day of October 2007.

EASTERN WASHINGTON GROWTH MANAGEMENT  
HEARINGS BOARD

\_\_\_\_\_  
John Roskelley, Board Member

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Dennis Dellwo, Board Member

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Joyce Mulliken, Board Member