

1
2
3
4
5
6
7
8
9
10
11
12
13

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

LARSON BEACH NEIGHBORS and JEANIE
WAGENMAN,

Petitioner(s),

v.

STEVENS COUNTY,

Respondent(s).

Case No. 07-1-0013

ORDER ON RESPONDENT'S MOTION
TO DISMISS

14
15
16
17
18
19
20
21
22
23
24
25
26

I. PROCEDURAL HISTORY

On September 10, 2007, LARSON BEACH NEIGHBORS and JEANIE WAGENMAN (Petitioners), by and through their representative, Jeanie Wagenman, filed a Petition for Review (PFR). The PFR challenges Stevens County's (County or Respondent) adoption of Resolution 2007-01 which adopted Title 3, the County's development regulations, citing various violations of the Growth Management Act (GMA), RCW 36.70A.

On October 10, 2007, the Board held a telephonic Prehearing conference to review legal issues, the case schedule, and other procedural matters. Present were, Joyce Mulliken, Presiding Officer, and Board Members Dennis Dellwo and John Roskelley. Present for Petitioners was Jeanie Wagenman. Present for Respondent were Peter Scott and Clay White. At the Prehearing conference, Stevens County objected to the Petitioners' issues, contending they were too broad and open-ended. The Board noted the objection and

1 permitted the Petitioners to clarify the issues and submit an amended Statement of the
2 Issues.

3 On October 15, 2007, the Board issued its Prehearing Order which set the case
4 schedule and identified the legal issues to be resolved in this matter.

5 On October 22, 2007, the Board received Petitioners' Petition for Review Revised for
6 Clarification.

7 On October 26, 2007, the Board received Respondent's Objection to Petitioners'
8 Revised Statement of Issues.

9 On October 29, 2007, the Board received Petitioners' Comments to County's
10 Objection to Revised Statement of Issues.

11 On October 30, 2007, the Board held a telephonic status conference to discuss
12 Petitioners' Revised Statement of Issues and Respondent's Objections.

13 The Board received Stipulated Motions for Continuance signed by the parties
14 requesting continuances for the purpose of settlement negotiations. These motions were
15 received on November 13, 2007, (60 day continuance), January 10, 2008, (90 day
16 continuance), and March 20, 2008, (60 day continuance). The Board granted the motions
17 on November 15, 2007, January 11, 2008, and March 26, 2008.

18 On May 27, 2008, the Board received Respondent's Motion to Dismiss (Motion to
19 Dismiss).

20 On June 10, 2008, the Board received Petitioners' Response to Motion to Dismiss
21 (Petitioners' Response).

22 On June 18, 2008, the Board received Respondent's Reply in Support of Motion to
23 Dismiss (County's Reply).

24 On June 24, 2008, the Board held a telephonic motion hearing. Present were, Joyce
25 Mulliken, Presiding Officer, and Board Members Dennis Dellwo, John Roskelley, and Board
26 staff attorney, Julie Taylor. Present for Petitioners was Jeanie Wagenman. Present for
Stevens County were Peter Scott and Clay White.

1 **II. DISCUSSION**

2 With its Motion to Dismiss, Stevens County (County) asserts, despite the opportunity
3 afforded, Petitioners have failed to properly file a petition for review (PFR). According to the
4 County, the PFR does not contain a "detailed statement of issues presented for resolution
5 by the Board", and also does not include a copy of the entire document, or applicable
6 provisions, of the document being appealed as required by RCW 36.70A.290(1) and WAC
7 242-02-210.¹ Therefore, the County contends the PFR fails to comply with threshold filing
8 requirements. The County argues that although the Board may dismiss pursuant to WAC
9 242-02-270, the noted deficiencies "are jurisdictional" and "dismissal is therefore required."²

10 In addition to the RCW and WAC provisions cited, the County relies primarily on the
11 Central Puget Sound Growth Management Hearings Board's (Central Board) holding in
12 *Nicholson v. City of Renton*,³ to support its Motion. The County argues this Board should
13 find, as the Central Board did, Petitioners' issue statements fail to "provide adequate
14 specificity regarding the issues to be reviewed" and dismiss the PFR with prejudice.⁴

15 In response to the County's Motion to Dismiss, Petitioners contend they did just as
16 the Board requested of them at the October 2007, Prehearing Conference and revised the
17 PFR to provide clarification as to the issues. Petitioners argue the issues "are specific
18 enough and meet the requirements of the [GMA]," and filed these revisions with the Board
19 on October 22, 2007.⁵ Petitioners further note additional revisions to the PFR resulting from
20 the settlement negotiations that occurred from November 2007 until April 2008 and, at the
21 June 24, 2008, Motions Hearing, moved for leave to amend the PFR with these revisions.⁶

22 _____
23 ¹ Motion to Dismiss, at 2.

24 ² *Id.* at 2-4.

25 ³ *Nicholson v. City of Renton*,³ CSPGMHB Case No. 04-3-0004, Order of Dismissal (April 19, 2004)

26 ⁴ *Id.* at 3-4.

⁵ Petitioners' Response, at 3-4.

⁶ *Id.* at 1-3

1 Petitioners also assert they have made a good faith effort in complying with the GMA
2 in pursuing settlement negotiations and in responding to the Board's and County's requests
3 for clarification as to the issues on appeal. Petitioners note it is difficult to provide specific
4 citations to code provisions when, in some situations, their claims are based on the County's
5 failure to provide for a regulation at all.⁷ In support of this assertion, Petitioners' attach to
6 their Response Brief revised PFRs, e-mail correspondence pertaining to settlement
7 negotiations, and an issue statement from a related case, *Futurewise v. Stevens County*.⁸
8 Petitioners further note the "dismissal of a [PFR] is unusual, [and] a practice that likely
9 most Growth Boards do not frequently engage in."⁹

10 In reply, the County argues the products of mediation and settlement negotiations
11 are confidential and moves the Board to strike the entire Reply Brief or, at the minimum,
12 the attachments and all related discussions.¹⁰ Stevens County asserts the issues being
13 challenged are those presented with the October 22, 2007, Revised PFR and any
14 subsequent revisions are not properly before the Board.¹¹ The County reiterates its request
15 for dismissal of this matter based on Petitioners' failure to "identify a single relevant
16 provision of Title 3 in the [PFR]" contending such failure is "fatal."¹²

Motion to Strike

17 The County seeks to strike either the Petitioners' Response Brief in its entirety or, in
18 the alternative, the attachments to the Response Brief, contending these are the result of
19 confidential settlement negotiations and, as such, may not be used by the parties. The
20 Board agrees in part.

21
22
23 ⁷ *Id.* at 4.

24 ⁸ *Futurewise v. Stevens County*, EWGMHB Case No. 07-1-0014c.

25 ⁹ *Id.* at 3.

26 ¹⁰ County's Reply, at 2.

¹¹ *Id.* at 2-3.

¹² *Id.* at 3.

1 With their Response Brief, Petitioners provide a total of seven attachments.
2 Attachment 1 is the original PFR filed on September 10, 2007, and Attachment 2 is the
3 Revised PFR filed on October 22, 2007. Both of these documents are part of the record of
4 this proceeding and are properly before the Board for its review. However, the next five
5 attachments – Attachments 3 through 7 – are not properly before the Board. First,
6 Petitioners failed to file a motion to supplement the record with these documents, as
7 required by WAC 242-02-540. The Board will not read a motion into the Petitioners' brief. It
8 is the responsibility of a party to make such a motion and the Petitioners have failed to do
9 so. Therefore, supplementation of the record with these attachments is not permitted. Even
10 if supplementation had been sought, as the County correctly noted, with the exception of
11 Attachment 7 these documents reflect settlement negotiations occurring between the
12 parties and may not be utilized by the Petitioners to support their argument.

13 THEREFORE, the Board finds Attachments 1 and 2 are already part of the record for
14 this proceeding and are properly before the Board. The Board GRANTS the County's Motion
15 to Strike Attachments 3, 4, and 5 and all arguments within the briefing that pertain to these
16 attachments. Admission of Attachment 7 is DENIED for failure of the Petitioners to properly
17 file a motion to supplement the record with this attachment. The admission of Attachment 6
18 is addressed below.

19 **Motion for Leave to Amend PFR**

20 At the Motions Hearing, Petitioners orally moved the Board for Leave to Amend the
21 PFR, so as to reflect the issue statements provided in Attachment 6 to their Response Brief.
22 Attachment 6, as noted *supra*, reflects modifications to the issue statements resulting from
23 the settlement negotiations occurring between the parties, but according to the County,
24 these issue statements were not reviewed by or agreed upon by the County.¹³

25 ¹³ The County is reminded that the issue statement is the province of the Petitioner. There is no requirement
26 in the GMA or the WAC which mandates that the County be afforded the opportunity to review issues or to
agree to issues.

1 With such a request, Petitioners are effectively requesting they be permitted to
2 amend the issues presented by the PFR approximately nine months after the original was
3 filed.¹⁴ The Board recognizes that during this time the parties have been engaged in
4 settlement negotiations, but finds that such a request is not supported by the facts and
5 circumstances of this case. The purpose of settlement negotiations is to allow the parties to
6 resolve some, or all, of their conflicts by facilitating discussions to clarify the concerns of
7 Petitioners in relationship to the County's adoption of Resolution 2007-01. Although such
8 negotiations would undoubtedly result in the abandonment or withdrawal of some issues by
9 the Petitioners, it is still the issues that were presented in the original PFR, as permitted to
10 be amended by the Board with the October 22, Revised PFR, that are to be resolved, not
11 those crafted during settlement discussions. To allow for issue statements to be revised
12 based on settlement negotiations occurring long after the filing of a PFR, is contrary to the
13 GMA's mandate that a PFR be filed within 60 days of publication of the legislative
14 enactment.¹⁵

15 THEREFORE, the Petitioners' Motion for Leave to Amend the PFR is DENIED. The
16 issues in this matter are those set forth in the October 22, 2007, Revised PFR. Admission of
17 Attachment 6 to the Record of this proceeding is DENIED and all argument set forth in
18 Petitioners' Response Brief in reliance on this exhibit are stricken.

19 **Motion to Dismiss**

20 With its motion to dismiss, the County specifically challenges the Statement of Issues
21 presented by the Petitioners arguing the issues are not *detailed* as required by both the
22 GMA and the Board's Rules.¹⁶ The County further argues the Petitioners failed to include a
23 copy of the applicable provisions being appealed when filing the PFR, as required by the

24 ¹⁴ Pursuant to WAC 242-02-260, a PFR may be amended as a matter of right until 30 days after its date of
25 filing. After that time, any amendments required shall be made in writing by motion and will be made only
26 after approval by the Board or Presiding Officer.

¹⁵ See RCW 36.70A.290(2).

¹⁶ As noted *supra*, the Statement of Issues being considered for review are those contained in the October 22,
2007, Revised PFR.

1 Board's Rules.¹⁷ According to the County, the combination of the deficient statement of
2 issues and the failure to include a copy of the applicable provisions results in the PFR failing
3 to comply with the threshold filing requirements and must be dismissed. Although the
4 County notes the Board may dismiss pursuant to WAC 242-02-720 for failure to follow
5 governing rules, it specifically notes the deficiencies are jurisdictional and dismissal is
6 required. The Board disagrees.

7 The requirements for a PFR are contained in RCW 36.70A.290(1), which provides:
8 All requests for review to a growth management hearings board shall be
9 initiated by *filing a petition* that *includes a detailed statement of issues*
10 *presented for the resolution by the board.* (Emphasis added).

11 In addition, WAC 242-02-210 sets forth the contents of a PFR and includes, in
12 pertinent part:

13 A petition for review shall *substantially contain:*

14 ...
15 (2)(c) A *detailed statement of the issues* presented for resolution by the board
16 that specifies the provision of the act or other statute allegedly being violated
17 and, if applicable, the provision of the document that is being appealed.

18 ...
19 (3) *One copy of the applicable provisions of the document being appealed, if*
20 *any, shall be attached to the petition for review.* Petitioner shall provide the
21 board with a copy of the *entire document being appealed within thirty days* of
22 filing a petition for review, unless otherwise directed by the board. (Emphasis
23 added).

24 The County contends, relying on the Central Board's holding in *Nicholson v. City of*
25 *Renton*,¹⁸ a detailed issue statement must contain "essential components" which, according
26 to the County, are the identification of the specific provisions of Title 3 for review provided
in a concise, to the point manner, and stated in the form of a question that the Board can
answer in a yes or no manner.¹⁹ In essence, the County asserts this Board should adopt the

¹⁷ WAC 242-02-210

¹⁸ *Nicholson v. City of Renton*, CPSGMHB Case No. 04-3-0004, Order of Dismissal (April 19, 2004).

¹⁹ Motion to Dismiss, at 3 (citing to *Nicholson*, at 5, 11).

1 same definitional standard as the Central Board. The County's reliance on the Central
2 Board's holding in *Nicholson* is misplaced.

3 In the *Nicholson* PFR, the petitioner challenged 10 different ordinances and a
4 resolution adopted by the City of Renton, and set forth in his revised statement of the
5 issues, 21 legal issues. The Central Board, in determining to dismiss the matter pursuant to
6 WAC 242-02-702(4), stated:

7 Try as it might, the Board could not decipher, from the [PFR], revised Legal
8 Issues, or the briefing on the motions, what issues, within the Board's
9 jurisdiction, the Board was being called up to resolve... there was no indication
10 which action the City of Renton took that ran afoul of a GMA goal or
11 requirement.²⁰

12 The same situation is not present in this matter. A single resolution has been
13 presented for the Board's review and, although this resolution adopted a series of
14 development regulations, the Board can reasonably decipher from the issues presented with
15 the October 22nd Revised PFR the basis for Petitioners' claims. Each issue specifically sets
16 forth GMA provisions for which the Petitioners' assert the County, with the adoption of Title
17 3, has violated.

18 The County also points to the Central Board's Guidelines for Framing Issues provided
19 in the *Nicholson* matter to support dismissal, but apparently fails to note that examples
20 provided for in these guidelines are similar to those of the Petitioners. For instance,
21 Example 4 provides:

22 Does the City/County Comprehensive Plan fail to comply with RCW
23 36.70A.070 (preamble) because the Land Use Element is inconsistent with the
24 Housing Element?²¹

25 This example merely asserts that the "Land Use Element" is inconsistent, but does
26 not cite, which specific provisions of the element are allegedly inconsistent with the

²⁰ *Nicholson*, CPSGMHBC 04-3-0004 at 6.

²¹ *Nicholson*, at 11 (Appendix B).

1 provisions of the Housing Element. Compare this statement to Petitioners' Legal Issue 7,
2 which provides:

3 Does Title 3, as per RCW 36.70A.110 fail to include greenbelt and open
4 spaces, and fail under RCW 36.70A.160 to identify and address open space
5 corridors within and between urban growth areas within Title 3? Does this
substantially interfere with the goals of the Act?

6 Petitioners' issue is parallel. They assert Title 3 violates both RCW 36.70A.110 and
7 36.70A.160 and, in doing so, substantially interferes with the goals of the GMA. Although
8 citation to specific provisions within Title 3, for those alleged violations which have
9 correlating provisions, would be beneficial to all parties involved, the applicable provisions
10 of Title 3 will come to bear in the briefing on this matter and will be limited to those
11 supported by the GMA citations within the issue statement. The Board recognizes that
12 settlement negotiations have occurred between the parties and, as a result, some issues
13 presented in the October 22nd, Revised PFR will not be presented for review at the HOM.
14 Petitioners are reminded that any issue not briefed for the Board in a party's hearing on the
merits brief will be deemed abandoned.

15 In addition, with the exception of the phrase *detailed statement of the issue*, it is the
16 Board's Administrative Rules, not the GMA, which set forth the content and form
17 requirements for a PFR and require a PFR to *substantially contain* the listed components. In
18 reviewing Petitioners' PFR, the Board finds a: proper caption; Petitioners' name, address,
19 and telephone number; title and date, including publication date, of the challenged action;
20 statement of the issues; statement of standing; estimated length of hearing, relief sought;
21 statement of service of appeal; and a single copy of Resolution 2007-01.²² Therefore,
22
23

24 ²² WAC 242-02-210(3) provides that one copy of the document being appealed is to be attached to the PFR. Here,
25 Petitioners challenge Stevens County's adoption of Resolution 2007-01 which was attached. Resolution 2007-01
26 adopted Title 3 of the Stevens County Code; because of multiple appeals stemming from this enactment (*See EWGMHB*
Cases No. 07-1-0012 and 07-1-0014, consolidated as Case No. 07-1-0014c) the Board already had copies of Title 3.

1 Petitioners in this matter before the Board have strictly complied with eight of the nine
2 components²³ set forth in WAC 242-02-210.

3 A similar issue was recently before the Court of Appeals, Division III, with the case of
4 *Keep Watson Cutoff Rural, et al. v. Kittitas County et al.*,²⁴ This case was based on an
5 appeal brought under the Land Use Petition Act, RCW 36.70C (LUPA), and alleged the
6 failure of a party to attach a copy of the decision being appealed as required by the
7 statutory content and form requirements under RCW 36.70A.070(4) divested the court of
8 jurisdiction. The Court of Appeals, concluding that a procedural requirement did not equate
9 to a jurisdictional threshold requirement, stated:

10 ...[W]e conclude that the elements of a LUPA petition, even though statutorily
11 required, are not jurisdictional requirements that divest a superior court of
12 jurisdiction if not met ... [W]e also conclude that KWCR substantially complied
13 with the statutory content requirements by clearly identifying and
14 summarizing the two land use decisions being appealed in the body of the
15 petition. And it strictly complied with the other eight requirements under RCW
16 36.70C.070. KWCR's failure to attached copies of the land use decisions to
17 its petition does not divest the superior court of jurisdiction to hear the
18 petition.²⁵

19 As with the petitioner in *Keep Watson Cutoff Rural*, the Petitioners have substantially
20 complied with the GMA's and the Board's Rules for contents of a PFR and, the Board
21 concurs with the Court of Appeals that a deficiency in the content or form requirements for
22 a PFR does not divest the Board of jurisdiction over this matter.

23 Conclusion

24 The Board finds and concludes Petitioners Larson Beach Neighbors and Jeanie
25 Wagenman have substantially complied with the form and content requirements set forth in
26 RCW 36.70A.290(1) and WAC 242-02-210. The Board further finds the form and content

²³ The Board notes that WAC 242-02-210(2)(g) requires an affirmative statement followed by the petitioner's signature; however, Petitioner Wagenman's signature is found in the PFR following the "Statement of Service of Appeal."

²⁴ *Keep Watson Cutoff Rural, et al. v. Kittitas County et al.*, Docket 26202-2-III (June 5, 2008).

²⁵ *KWCR v. Kittitas County*, at 9.

1 requirements set forth in these statutory and administrative provisions are procedural in
2 nature and do not divest the Board of jurisdiction over the PFR. Therefore, dismissal of this
3 PFR on jurisdictional grounds is DENIED.

4 The Board further finds the Petitioners have substantially complied by the Board's
5 Rules of Practice and Procedures and therefore dismissal of the PFR based on WAC 242-02-
6 720 is not warranted.

7 III. ORDER

- 8 1. **Stevens County's Motion to Strike the Petitioners' Response**
9 **Brief is GRANTED in part, DENIED in PART.** Attachments 3, 4, 5,
10 and 7 are not included within the Record of this proceeding and all
11 argument sets forth in Petitioners' Response Brief in reliance on these
12 attachments is stricken.
- 13 2. **Petitioners' Motion for Leave to Amend the PFR, as denoted by**
14 **the legal issues set forth in Attachment 6, is DENIED.** The Legal
15 Issues presented for review are those set forth in the October 22,
16 2007, Revised Petition for Review and are incorporated as Appendix A
17 to this Order. All arguments set forth in Petitioners' Response Brief in
18 reliance on Attachment 6 are stricken.
- 19 3. **Stevens County's Motion to Dismiss this matter, EWGMHB Case**
20 **No. 07-1-0013 *Larson Beach Neighbors/Wagenman v. Stevens***
21 **County, is DENIED.**
- 22 4. The Case Schedule for subsequent proceedings in this matter is as
23 follows:

<u>Due date</u>	<u>Event</u>
Jun. 27, 2008	Motion Order issued
Jul. 22, 2008	Deadline for Petitioners' Hearing on the Merits Brief with exhibits <u>BRIEFS MUST BE LABELED: HEARING ON THE MERITS BRIEF</u>
Aug. 12, 2008	Deadline for Respondent's Hearing on the Merits Brief with exhibits <u>BRIEFS MUST BE LABELED: HEARING ON THE MERITS BRIEF</u>

1 Aug. 19, 2008 Deadline for Petitioners' Hearing on the Merits Optional Reply Brief
2 **BRIEFS MUST BE LABELED: HEARING ON THE MERITS BRIEF**
3 **Aug. 27, 2008 HEARING ON MERITS: 10:00 A.M. at Stevens County**
4 **Courthouse, Commissioners' Room, 215 S. Oak St., Colville, WA**

5 **The FINAL DECISION AND ORDER will be issued by the 180-day deadline of**
6 **October 6, 2008.**

7 **SO ORDERED** this 30th day of June 2008.

8 EASTERN WASHINGTON GROWTH MANAGEMENT
9 HEARINGS BOARD

10 _____
11 Joyce Mulliken, Board Member

12 _____
13 Dennis Dellwo, Board Member

14 _____
15 John Roskelley, Board Member

1 **APPENDIX A**

2 **STATEMENT OF LEGAL ISSUES**

3 **As set forth in October 22, 2007, Revised Petition for Review (PFR) as presented**
4 **by the Petitioners to the Eastern Washington GMHB. The Board has made no**
5 **typographical or grammatical changes the Revised PFR.**

6 1. Has Stevens County failed to follow their own Public Participation Policy,
7 County Wide Planning Policy, (Policies Relating to Public Education and Citizen Participation)
8 as well as the requirements for Public Participation set forth in the Growth Management Act
9 in RCW 36.70A.020(11), RCW 36.70A.035 and RCW 36.70A.140, when it adopted Stevens
10 County's Development Regulation, Title 3? Does Title 3 comply with the GMA requirements
11 for public participation? Has the County in Title 3 failed to provide as per RCW 36.70A.130
12 the obligation to review and revise its policies and regulations under GMA? Does this
13 substantially interfere with the Goals of the Act?

14 2. Has Stevens County failed to comply with their CWPP (County Wide Planning
15 Policies) #7, (Fiscal Impact,) #3 (Siting Public Capital Facilities) #2 (Promoting Orderly
16 Development) the Growth Management Act, and RCW 36.70A.070(3) requiring that Capital
17 Facilities and Services exist, (financial plan) are adequate and available at the time the
18 development is available ("when impacts of development occur") for occupancy and uses
19 without decreasing minimum standards as per .070(3), RCW 36.70A.110(3), RCW
20 36.70A.020(12) and WAC 365-195-070(3) Has the County failed to adequately show their
21 work? Does this substantially interfere with the Goals of the Act? (#1, #12)

22 3. Has Stevens County failed to comply with the Growth Management Act by
23 allowing and failing to restrict urban services such as, but not limited to, public sanitary
24 sewer services in the Rural areas? Does Title 3, fail then to prohibit extension of public
25 sewer into the Rural areas? Does this substantially interfere with the Goals of the Act (#1,
26 #2, #12) and fail to comply with RCW 36.70A.110(4), RCW 36.70A.030?

4. Has Stevens County failed to comply with the Growth Management Act by
failing to require that developments meet the goal (RCW 36.70A.020(12) of concurrency?

1 Does Title 3 require adequate and available public facilities when the impacts occur? Has
2 the County failed to show their work? Does this substantially interfere with the Goals of the
3 Act and therefore violate RCW 36.70A.020(12) & RCW 36.70A.070?

4 5. Does Title 3 fail to comply with the Growth Management Act, RCW
5 36.70A.070(1), (5), RCW 36.70A.040, .030, .060, .172, RCW 36.70A.020 8-10 by providing
6 for protection of quality and quantity of ground water with review of drainage, flooding and
7 storm water run-off? Did the County fail to provide guidance for corrective actions to
8 mitigate or cleanse those discharges that pollute the waters of the state? Does this
substantially interfere with the Goals of the Act?

9 6. Does Title 3 fail to encourage development where adequate services and
10 facilities exist (prohibit urban growth outside of UGA's) or can be provided prohibiting
11 sprawl? Does this substantially interfere with the goals of the Act and violate RCW
12 36.70A.110 and RCW 36.70A.030, RCW 36.70A.040

13 7. Does Title 3, as per RCW 36.70A.110 fail to include greenbelt and open
14 spaces, and failed under RCW 36.70A.160 to identify and address open space corridors
15 within and between urban growth areas within Title 3? Does this substantially interfere with
16 the goals of the Act?

17 8. Does Title 3 fail under RCW 36.70A.070 (5) (1) RCW 36.70A.110, and RCW
18 36.70A.040, RCW 36.70A.060, RCW 36.70A.172 to provide and protect the Rural character,
19 which limits development/uses/lot sizes at levels that are consistent with the rural
20 character, protect critical areas, conserve fish and wildlife habitat, protect surface water and
21 ground water resources, water quality and quantity, discharge areas, requiring land use –
22 developments that are compatible with wildlife fish and wildlife habitat(.030) Has Stevens
23 County in Title 3, as a development regulation, failed to use best available science in
24 protecting critical areas? Does this substantially interfere with the Goals of the Act? (#10,
#9,)

25 9. Does Title 3 failed to conserve Natural Resource Lands? Does the densities,
26 clustering, lot size and uses in NRL comply with GMA? Did the County consider factors for

1 designation/conservation of NRL as in WAC 365-190? Does this violate GMA and RCW
2 36.70A.060, 070, 170, RCW 36.70A.177, RCW 36.70A.050. Does this substantially interfere
3 with the Goals of the Act? (#8)

4 10. Has Stevens County failed to comply with the requirements of RCW 43.21C?
5 in adopting Title 3, Development Regulations? Did Stevens County fail to consider and
6 address the environmental impacts upon critical areas, watersheds and wildlife when Title 3
7 assigned uses, lot sizes and densities in the Rural areas of the County?

8 11. Do the uses, lot sizes, densities allowed in Title 3 (including Lamirds) allow
9 urban development outside urban growth areas in violation of RCW 36.70A.110 fail to
10 protect the rural character, the environment, critical areas, water quality and quantity and
11 natural resource lands in violation of RCW 36.70A.020 (1-2) RCW 36.70A.020 (8-10) RCW
12 36.70A.020 (12), RCW 36.70A.040, RCW 36.70A.060, RCW 36.70A.070, RCW 36.70A.110
13 and RCW 36.70A 172 and 177? These uses, lot sizes and densities are found in chapters
14 3.02, 3.03, 3.04, 3.05, 3.06, 3.07, 3.11, 3.16, 3.20 but are not limited to those chapters.
15 Does this substantially interfere with the Goals of the Act?

16 12. Does Title 3 fail to protect Critical Areas and the Rural character in Section
17 3.30.020, and Section 3.06.060 (Non-conforming uses and structures) but not limited to
18 these sections, allowing the less restrictive provisions of Title 3 to supercede all other
19 regulations. Is this based upon Best Available Science? Does this then provide protection of
20 water quality and quantity, drainage, storm water run-off, critical areas and conservation of
21 fish and wildlife habitat? Does this substantially interfere with the Goals of the Acts? (#9,
22 #10)
23
24
25
26