

**BEFORE THE WESTERN WASHINGTON GROWTH  
MANAGEMENT HEARINGS BOARD**

FRIENDS OF SKAGIT COUNTY,	)	
BARBARA RUDGE, and ANDREA XAVER,	)	No. 95-2-0065
	)	
Petitioners,	)	
vs.	)	
	)	COMPLIANCE
SKAGIT COUNTY,	)	HEARING ORDER
	)	REGARDING
Respondent,	)	DESIGNATION
	)	AND PROTECTION
and	)	OF CRITICAL
	)	AREAS
CITY OF ANACORTES and CITY OF MOUNT	)	
VERNON, municipal corporations,	)	
	)	
Intervenors.	)	
_____	)	

On November 22, 1995, the Western Washington Growth Management Hearings Board received a motion from Friends of Skagit County (Friends) requesting a compliance hearing on the stipulation and order modifying the order granting Friends' Amended Dispositive Motion Regarding Natural Resource Lands and Critical Areas (modified order) August 16, 1995. Friends charged that the County had failed to meet the requirement of the modified order to designate and protect critical areas by November 22, 1995. Friends requested that the Board recommend, in the event the County was not in compliance with the order, that the Governor impose sanctions. Briefs were submitted and a hearing was held telephonically on December 19, 1995. All three Board members were present, as well as Chief Civil Deputy John Moffat and Mr. Oscar Graham for the County and Mr. Gerald Steel for Friends.

The County acknowledged that it had failed to meet the November 22, 1995 deadline. It noted that a deadline of February 1, 1996 had been preliminarily agreed to by Friends and the County, but that deadline proved unworkable because the Growth Management Act (GMA or the Act)

requires a 180-day deadline for compliance with the original order (May 1995), thus mandating the November 22nd deadline. The County claimed substantial progress toward adoption of a critical areas ordinance (CAO) and submitted documentation in support of the argument.

Friends expressed concern over the recommendation by staff in August of 1995 that the CAO adoption process end in June, 1996, rather than November. They also noted with some dismay the disbanding of the Citizen Advisory Committee (CAC) after only 11 of the 15 scheduled meetings and expressed the hope that the County would involve the CAC in some kind of review of the final draft of the CAO when it is forthcoming.

The County asserted that sanctions were uncalled for in this case as the County has been proceeding in good faith. Friends noted that it is more than four years past the deadline for the adoption of a critical areas ordinance and none has been passed. The County countered that its original assumption, that pre-existing laws would suffice for protection of critical areas, was shown to be in error only after a series of Growth Management Hearings Board decisions in 1994 and early 1995. As the County realized its error, it began the current process which is now really only one year old. When asked by the Board whether the County believed it could complete the process by February 1, 1996, Mr. Moffat responded "We hope so."

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Conclusion

The hearing was held pursuant to the requirements of RCW 36.70A.330. Pursuant to subsection (2) of section 330, we find that the County continues in noncompliance with the goals and requirements of the Act. The County must comply by February 1, 1996. An additional compliance hearing regarding this matter is scheduled for February 15, 1996. We will then determine compliance or noncompliance, the advisability of sanction recommendations to the Governor, and whether other action is necessary. Any additional materials from Petitioners are due February 1, 1996. The County's response is due February 12, 1996.

SO ORDERED this 21st day of December, 1995.

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Les Eldridge  
Presiding Officer

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Nan A. Henriksen  
Board Member

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William H. Nielsen  
Board Member