

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

JOHN E. DIEHL, KERRY HOLM, GORDON	)	
JACOBSON, and VERN RUTTER, individually,	)	
and as members of the MASON COUNTY	)	No. 95-2-0073
COMMUNITY DEVELOPMENT COUNCIL,	)	
a non-profit association,	)	FINDINGS OF
	)	COMPLIANCE
Petitioners,	)	AND CONTINUED
	)	NONCOMPLIANCE
vs.	)	
	)	
MASON COUNTY,	)	
	)	
Respondent,	)	
	)	
and	)	
	)	
PETER OVERTON, DONALD B. PAYNE,	)	
McDONALD LAND COMPANY, ET.AL., SKOOKUM	)	
LUMBER COMPANY, MANKE LUMBER	)	
COMPANY and MASON COUNTY PRIVATE	)	
PROPERTY ALLIANCE (MCPPA),	)	
	)	
Intervenors. _____	)	

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**Procedural History**

A compliance hearing was held telephonically, May 21, 1996, in the above referenced case. All three Board Members were present. Appearing for the County was Mr. EricValley. Appearing for Intervenor Manke Lumber Company was Mr. William T. Lynn. Appearing for Intervenors Skookum Lumber Company, Donald B. Payne and Mason County Private Property Alliance (MCPPA) was Sarah Smyth. Peter Overton appeared for Peter Overton and Associates.

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**Discussion**

The County requested an extension of their compliance deadline and acknowledged that they

were "technically not in compliance". They observed that a Department of Ecology grant would be available to them if they were in compliance before July 15, 1996, and stated that they intended to pass development regulations and a resource ordinance complying with the Board's order by June 11, 1996. Representatives of the Intervenors all mentioned that the County was making a good faith effort to comply, albeit with limited resources. For the Petitioners, Mr. Diehl pointed out that the order requiring compliance had been entered in October of 1995. He further observed that the resource ordinance not yet in compliance is improperly sequenced with the comprehensive plan which has already been adopted. He asserted that the delay in adopting a compliant resource ordinance is causing irreparable damage to the natural resources of the County. During questioning from the Board, the County acknowledged that the deadline for adoption of development regulations and the comprehensive plan was in 1994.

The County asserted that its failure to adopt a compliant resource ordinance was not causing substantial interference with the goals of the Act. The County declared that it had made all the points it wished to make in regard to its request of the Board to deny Petitioners' request for a finding of invalidity. The Petitioners responded that their original request for invalidity, prior to the hearing on the merits, contained specific instances of substantial interference with the goals of the Act. They pointed out that the details of their original request for invalidity were included by reference in their most recent request.

### **Conclusion**

The County and Intervenors acknowledged that no development regulations nor revised resource ordinance in response to our 1995 remand has been adopted. The County asserted, without objection from Petitioners, that a comprehensive plan has been adopted and should be officially noted as part of the record of this case.

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### **Order**

We find the County in continued non-compliance regarding the adoption of a resource ordinance and development regulations implementing the comprehensive plan. We find that the County has complied with the requirement of adoption of a comprehensive plan. This finding does not address any substantive challenges to the comprehensive plan. An additional hearing to consider

the County's compliance with our order requiring development regulations and a resource ordinance will be held June 28, 1996, at 9:00 a.m. in a Mason County location to be determined. If the County and Intervenors wish to submit materials for that hearing they must do so by June 17, 1996 at 5:00 p.m. Petitioners, if they wish to respond, must do so by June 24, 1996 at 5:00 p.m. We will consider whether a finding of invalidity should be entered regarding the resource ordinance of Mason County at that compliance hearing. We take official notice of the adopted Mason County Comprehensive Plan.

SO ORDERED this 5<sup>th</sup> day of June, 1996.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

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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