

DRs. We approve the County's proposed schedule for compliance by April 15, 2000. We decline to recommend sanctions.

ARGUMENT AND DISCUSSION

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Petitioners Panesko argued that Lewis County's claim to have adopted DRs should be disregarded because our July 14, 1999 order had required "adoption of permanent implementing DRs," while the County ordinance purpose section states that "the purpose of this ordinance is to adopt interim development regulations." The Paneskos maintained that adoption of interim regulations with a clear intent to supplement those regulations as outlined in the County work plan does not meet the requirements of section .040 of the Act. The Paneskos pointed out that the County status report states that "Ordinance 1159B only contains a portion of the rules and regulations" and "a more complete set of rules and regulations will be completed within six months." They further noted that Ordinance #1159B is titled "interim" and refers to "interim" many times.

The Paneskos also requested that we recommend sanctions to the Governor based on the County's delay in complying with the requirements of the GMA and our order. They argued that the County's attempt to avoid compliance by mischaracterizing interim relations as permanent was a sanctionable action.

Lewis County responded that the temporary status of Ordinance #1159A, which was in effect when the Board issued its July order, has been eliminated by Ordinance #1159B. The County maintained that the ordinance "fully incorporates" the County CP. The County argued that the petitioners have failed "to identify a single instance in which Ordinance #1159B fails to implement necessary CP policies and guidelines." The County countered the Paneskos' characterization of the ordinance as an emergency ordinance only in effect for 6 months. The County asserted that Ordinance #1159B would be in effect for 12 months (through July 2000) because a work plan had been developed, meeting the requirements for one year duration in section .390 of the Act. The County requested that we find compliance, or in the alternative, grant Lewis County through April 15, 2000, to complete its presently- scheduled effort. It further stated that the facts of this case demonstrate that "sanctions are clearly inappropriate."

In response to Board questions, the County noted the Board's expressed preference for permanent DRs in meeting section .040 requirements. Petitioners remarked that the County's criticism of Paneskos' "failure to identify" instances of non-implementation is inappropriate in a "failure to act" case in which we preclude consideration of substantive issues. Petitioners acknowledged that the ordinance could be in effect one year before lapsing, but noted that the possibility of lapse renders the DRs clearly interim in nature.

Petitioners also requested that the Board retain jurisdiction until the "full set" of DRs is adopted. The County then recognized our practice of retaining jurisdiction over interim DRs.

CONCLUSION

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The record demonstrates that the County adopted Ordinance #1159B as an interim DR and intends to have it serve "until such time as a full set of DRs can be adopted" (Ordinance #1159B, pg. 1). Absent a "full set" of DRs, it follows that those in place cannot "fully implement" the CP. As the record establishes that these DRs are interim and are not a full set of regulations, we find the County in continued noncompliance, and approve its requested completion date of April 15, 2000.

The County's efforts to provide interim DRs while developing permanent ones is laudable. We agree with the County that the record does not demonstrate that sanctions are appropriate at this time.

ORDER

The County is found in continued noncompliance regarding adoption of permanent implementing DRs. The County must adopt such regulations by April 15, 2000. The County must provide a status report by March 1, 2000.

So ORDERED this 16th day of November 1999.

Les Eldridge
Board Member

Nan A. Henriksen
Board Member