

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2 VINCE PANESKO, et al.,

3
4 Petitioners,

5 v.

6
7 LEWIS COUNTY,

8
9 Respondent,

10 and

11
12 LEWIS COUNTY ECONOMIC DEVELOPMENT
13 COUNCIL & INDUSTRIAL LANDS ADVISORY
14 TASK FORCE,

15
16 Intervenors.

No. 00-2-0031c

**ORDER FINDING
NONCOMPLIANCE,
IMPOSING A
DETERMINATION OF
INVALIDITY AND SETTING
NEW SCHEDULE FOR
COMPLIANCE**

17 EUGENE BUTLER, et al.,

18
19 Petitioners,

20 v.

21
22 LEWIS COUNTY,

23
24 Respondent,

25 and

26
27 CITY OF CENTRALIA, et al.,

28
29 Intervenors.

No. 99-2-0027c

**ORDER FINDING
NONCOMPLIANCE,
IMPOSING A
DETERMINATION OF
INVALIDITY AND SETTING
NEW SCHEDULE FOR
COMPLIANCE**

1 **I. SYNOPSIS**

2 THIS Matter came before the Board upon a compliance hearing in which the parties agreed
3 to the entry of noncompliance findings and a determination of invalidity. After remand from
4 the Washington Supreme Court, Lewis County repealed those criteria for designation of
5 agricultural lands of long-term commercial significance (also called “agricultural resource
6 lands”) which were subject to invalidity determinations by the Board¹– LCC 17.10.126(a),
7 17.10.126(b) and LCC 17.30.590(1)(c). However, the County agrees that its designation
8 criteria still do not comply with RCW 36.70A.020(8), 36.70A.060(2) and 36.70A.170 for two
9 reasons: (1) the provisions for mapping lands have been deleted so there is no way to
10 apply the designation criteria; and (2) the criteria for excluding lands from designation were
11 deleted and the remaining designation criteria are too broad.²
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14 The County is actively pursuing a new approach to designating agricultural lands of long-
15 term commercial significance (also called “agricultural resource lands”) under the GMA.
16 The County has enacted a moratorium while it develops its criteria and regulations for
17 designation and conservation of agricultural resource lands and it agrees that the present
18 lack of designation implementation provisions and the absence of exclusionary criteria
19 warrant a finding of invalidity as to the designations shown on the moratorium map.
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22 In its longstanding dispute with Petitioners regarding its designation of agricultural lands of
23 long-term commercial significance (also called “agricultural resource lands”), Lewis County
24 has taken several approaches to meeting its obligations under the Growth Management Act
25 (GMA). At this hearing, the County informed the Board that it has retained outside
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29 ¹ This Board’s February 13, 2004 Order Finding Noncompliance and Imposing Invalidity and May 21, 2004
30 Order Granting Reconsideration of Extent of Invalidity

31 ² The deleted exclusionary criteria were tax status, availability of public facilities and services, relationship or
32 proximity to urban growth areas, land use settlement patterns and their compatibility with agricultural practices,
intensity of nearby land uses, history of land development permits issued nearby, floodplain limitations under
alternative uses, proximity of markets and agricultural diversity. LCC 17.30.580(3) – (11)

1 assistance and is determined to present the Board with a GMA-compliant plan and
2 development regulations for the conservation and enhancement of agricultural resource
3 lands in accordance with a proposed schedule.
4

5 **II. PROCEDURAL HISTORY**

6
7 For many years, the Board has coordinated hearings and decisions on two cases dealing
8 with agricultural resource lands in Lewis County: *Butler et al. v. Lewis County et al.*,
9 WWGMHB Case No. 99-2-0027c (“*Butler*”), and *Panesko et al. v. Lewis County et*
10 *al.*(“*Panesko*”), WWGMHB Case No. 00-2-0031c. The Butler case was initially filed in 1999
11 and the Panesko case was initially filed in 2000. Since that time, as other related cases
12 have been filed, where the issues in the cases overlap, the cases have been consolidated.
13 See *Vinatieri et al. v. Lewis County*, WWGMHB 03-2-0020 (Final Decision and Order, May
14 6, 2004).
15

16
17 In 2004, the Board determined that the County had still not adopted compliant designation
18 criteria or mapped lands meeting those criteria as agricultural resource lands; and imposed
19 invalidity on the designation of certain lands designated as “rural” that should be made
20 available for consideration as agricultural resource lands when compliant criteria were finally
21 adopted.³ The Board’s decision was appealed to the Lewis County Superior Court which
22 upheld the Board’s determination. The Washington State Supreme Court accepted direct
23 review and on August 10, 2006, reversed and remanded the Board’s decision based on the
24 Supreme Court’s determination that the Board had not used the proper definition of
25 agricultural lands of long-term commercial significance in finding noncompliance.⁴
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30 _____
31 ³ Order Finding Noncompliance and Imposing Invalidity February 13, 2004; and Order Granting
32 Reconsideration of Extent of Invalidity May 21, 2004.

⁴ *Lewis County v. Western Washington Growth Management Hearings Board, et al.*, Washington State
Supreme Court Docket No. 76553-7, August 10, 2006.

1 On remand, the County sought to have the finding of invalidity that had been imposed on
2 the designation and mapping of certain rural lands rescinded. However, this motion was
3 denied based on the unchallenged finding that the County's designation criteria for
4 agricultural resource lands (even if compliant) were not properly mapped.⁵
5

6
7 Thereafter, the County determined to rescind the provisions of the Lewis County Code
8 found to be noncompliant in the February 13, 2004 order rather than to argue that they
9 comply with the requirements of the GMA.⁶ The Board requested further briefing on the
10 impact of the County's repeal.⁷
11

12 In accordance with that schedule, the following briefs were submitted: Lewis County
13 submitted its Brief on Repeal on April 19, 2007. Petitioner Panesko filed his Response to
14 Lewis County's Brief on Repeal on April 25, 2007. Lewis County filed a further pleading,
15 Response Brief on Repeal on April 30, 2007. Butler Petitioners submitted their brief on May
16 1, 2007.⁸
17

18
19 A compliance hearing was held on May 10, 2007 at the Winlock City Council Chambers,
20 Winlock, Washington. Petitioners Butler, Vinatieri, Zieske, Smethers and Smith were
21 present for the hearing, Mr. Butler speaking. Petitioner Panesko appeared and spoke on
22 his own behalf. The County was represented by Chief Civil Deputy Prosecuting Attorney
23 Douglas Jensen and Special Deputy Prosecuting Attorney Andrew Lane. Also present for
24 the County were Robert Johnson, Director of Community Development, Mike McCormick,
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28 ⁵ Order Denying Motion to Rescind, December 1, 2006.

29 ⁶ Sixth Progress Report, March 16, 2007. "As noted in the County's briefing on the Remand Hearing, those
30 repeals are not intended to remove the compliance and invalidity rulings of the Hearings Board, but to allow
31 the County to have a 'clean slate' from which to address the compliance and invalidity rulings of the Hearings
32 Board." At pp. 3-4

⁷ Order Striking April 4, 2007Hearing Date and Setting Schedule Based on New County Enactments, April 2,
2007.

⁸ Petitioners' Reply to County Re: New Enactments After Remand, May 1, 2007.

1 planning consultant, Philip Rupp and Barbara Kincaid, County Planning staff. All three
2 board members attended, Margery Hite presiding. After the hearing, the County submitted
3 supplemental information on the moratorium adopted on May 14, 2007 (Ordinance 1193A).⁹
4

5 **III. ISSUES PRESENTED**

6 Issue No. 1: Did the adoption of Resolution 07-104, Ordinance 1179R and a moratorium
7 under Ordinance 1193A achieve compliance with the GMA goals and requirements for
8 conservation of agricultural lands of long-term commercial significance?
9

10 Issue No. 2: Did the County bear its burden under RCW 36.70A.302(7) and 36.70A.320(4)
11 to show that the adoption of Resolution 07-104, Ordinance 1179R and a moratorium under
12 Ordinance 1193A cause the County's designation of agricultural lands of long-term
13 commercial significance to no longer substantially interfere with the goals of the GMA?
14

15 **IV. BURDEN OF PROOF**

16 For purposes of board review of the comprehensive plans and development regulations
17 adopted by local government, the GMA establishes three major precepts: a presumption of
18 validity; a "clearly erroneous" standard of review; and a requirement of deference to the
19 decisions of local government.
20

21 Pursuant to RCW 36.70A.320(1), comprehensive plans, development regulations and
22 amendments to them are presumed valid upon adoption:
23

24 Except as provided in subsection (5) of this section, comprehensive plans and
25 development regulations, and amendments thereto, adopted under this chapter are
26 presumed valid upon adoption.

27 RCW 36.70A.320(1).

28 This same presumption of validity applies when a local jurisdiction takes legislative action in
29 response to a noncompliance finding; that legislative action is presumed valid.
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32 ⁹ Supplemental to Sixth Progress Report Regarding Moratorium, May 16, 2007.

1 The statute further provides that the standard of review shall be whether the challenged
2 enactments are clearly erroneous:

3 The board shall find compliance unless it determines that the action by the state
4 agency, county, or city is clearly erroneous in view of the entire record before the
5 board and in light of the goals and requirements of this chapter.

6 RCW 36.70A.320(3)

7 In order to find the County's action clearly erroneous, the Board must be "left with the firm
8 and definite conviction that a mistake has been made." *Department of Ecology v. PUD1*,
9 121 Wn.2d 179, 201, 849 P.2d 646 (1993).

10
11 Within the framework of state goals and requirements, the boards must grant deference to
12 local governments in how they plan for growth:

13 In recognition of the broad range of discretion that may be exercised by counties and
14 cities in how they plan for growth, consistent with the requirements and goals of this
15 chapter, the legislature intends for the boards to grant deference to the counties and
16 cities in how they plan for growth, consistent with the requirements and goals of this
17 chapter. Local comprehensive plans and development regulations require counties and
18 cities to balance priorities and options for action in full consideration of local
19 circumstances. The legislature finds that while this chapter requires local planning to
20 take place within a framework of state goals and requirements, the ultimate burden and
21 responsibility for planning, harmonizing the planning goals of this chapter, and
22 implementing a county's or city's future rests with that community.

23 RCW 36.70A.3201 (in part).

24 In challenging compliance, the burden is on Petitioners to overcome the presumption of
25 validity and demonstrate that any action taken by the County is clearly erroneous in light of
26 the goals and requirements of Ch. 36.70A RCW (the Growth Management Act). RCW
27 36.70A.320(2). Where not clearly erroneous, and thus within the framework of state goals
28 and requirements, the planning choices of local government must be granted deference.

1 Where a determination of invalidity has been imposed, the GMA places the burden of
2 proving that the new enactment will no longer substantially interfere with the fulfillment of the
3 goals of the Act on the local jurisdiction:

4 A county or city subject to a determination of invalidity made under RCW 36.70A.300
5 or 36.70A.302 has the burden of demonstrating that the ordinance or resolution it has
6 enacted in response to the determination of invalidity will no longer substantially
7 interfere with the fulfillment of the goals of this chapter under the standard in RCW
8 36.70A.302(1)
9 RCW 36.70A.320(4).

10 V. DISCUSSION

11 Positions of the Parties

12 At the compliance hearing, the County and the Petitioners made it clear that they are in
13 agreement that the County has not yet achieved compliance on the requirements to
14 designate and conserve agricultural lands of long-term commercial significance. The
15 County is deep into its process for designing a GMA-compliant set of policies and
16 regulations to conserve agricultural resource lands and has repealed LCC 17.10.126(a),
17 17.10.126(b) and LCC 17.30.590(1)(c) so that it may begin with a “clean slate”.¹⁰
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20 The parties agree that there are two major areas in which the County’s policies and
21 regulations continue to be noncompliant regarding conservation of agricultural resource
22 lands: First, there are no provisions in the development regulations whereby the existing
23 designation criteria are implemented. The prior implementing regulation was LCC
24 17.200.020 and the applicable provisions of that regulation have been repealed. Second,
25 the criteria for excluding certain otherwise eligible lands from designation as recommended
26 in WAC 365-190-050 were also repealed. LCC 17.30.580(3) – (11) contained those criteria
27 and those provisions were deleted with the adoption of Ordinance No. 1179R.¹¹ Therefore,
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31 ¹⁰ Sixth Progress Report at 4.

32 ¹¹ *Ibid*, Exhibit 3.

1 the existing provisions for conservation of agricultural resource lands lack implementation
2 and sweep too broadly.

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4 The parties also agree that the County has not demonstrated (or attempted to demonstrate)
5 that the adoption of Resolution 07-104, Ordinance 1179R and a moratorium under
6 Ordinance 1193A has removed substantial interference with Goal 8 of the GMA, RCW
7 36.70A.020(8). The County agrees that the determination of invalidity should not yet be
8 lifted but rather should be extended to encompass lands that were previously designated as
9 Class A and Class B agricultural lands before the implementation provisions were repealed,
10 the same territory over which the County has imposed its moratorium.
11

12
13 Petitioner Panesko also asks the Board to find that the remand from the Washington State
14 Supreme Court has been resolved.

15
16 **Board Discussion**

17 This case was remanded to the Board by the State Supreme Court to “determine whether
18 the county’s designations of agricultural land comply with the GMA, using the correct
19 definition of agricultural land”.¹² The County has now repealed the provisions of the County
20 Code that the Board found invalid for failing to properly designate agricultural resource
21 lands: LCC 17.10.126(a), 17.10.126(b), LCC 17.30.590(1)(c).¹³ It also repealed those
22 portions of Resolution 03-368 which mapped agricultural resource lands and Sections B (4)
23 and Section D of the Resolution, as they were also subject to noncompliance and invalidity
24 determinations.¹⁴
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30 ¹² *Lewis County v. Western Washington Growth Management Hearings Board, et al.*, Washington State
31 Supreme Court Docket No. 76553-7, August 10, 2006, at 2.

32 ¹³ Ordinance No. 1179R

¹⁴ Resolution No. 07-104.

1 By its actions, the County has effectively mooted the Supreme Court's remand order
2 because the compliance of the "county's designations of agricultural land" have been
3 altered by these enactments. The Board must, therefore, review the current designation
4 criteria and mapping to determine if they are compliant, rather than revisiting the
5 designation criteria which were the subject of the remand.
6

7 In Resolution 07-104 and Ordinance 1179R, the County did not merely repeal those
8 provisions of its code and comprehensive plan that were found non-compliant previously; it
9 also repealed portions of LCC 17.200.020 and LCC 17.30.580(3)-(11).¹⁵ LCC 17.200.020
10 contained the implementation provisions for designation of agricultural resource lands.
11 Without those provisions, there is no mechanism for actually applying the designation
12 criteria to agricultural resource lands and thus no way to designate and conserve them.
13 This fails to comply with RCW 36.70A.060(1), 36.70A.170(1)(a) and 36.70A.040.
14

15
16 LCC 17.30.580(3) – (11) were "identification" factors for long-term commercially significant
17 agricultural resource lands: tax status (LCC 17.30.580(3)); availability of public facilities and
18 services (LCC 17.30.580(4)); relationship or proximity to urban growth areas (LCC
19 17.30.580(5)); land use settlement patterns and their compatibility with agricultural practice
20 (LCC 17.30.580(6)); intensity of nearby land uses (LCC 17.30.580(7)); history of land
21 development permits issued nearby (LCC 17.30.580(8)); floodplain limitations under
22 alternative uses (LCC 17.30.580(9)); proximity of markets (LCC 17.30.580(10)); and
23 agricultural diversity (LCC 17.30.580(11)). While these "identification" factors were not part
24 of the designation criteria themselves (LCC 17.30.590), the absence of similar factors in
25 determining whether to designate agricultural resource lands fails to comply with the
26 definition of agricultural lands of long-term commercial significance (RCW 36.70A.030(10)):
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32 ¹⁵ Ordinance No. 1179R

1 “Long-term commercial significance” includes the growing capacity, productivity, and
2 soil composition of the land for long-term commercial production, in consideration
3 with the land’s proximity to population areas, and the possibility of more intense uses
4 of the land.

5 RCW 36.70A.030(10).

6 The eliminated “identification” factors closely track the “combined effects of proximity to
7 population areas and the possibility of more intense uses of the land” indicators enumerated
8 in the Minimum Guidelines to classify agricultural lands, WAC 365-190-050. Without them,
9 there is no provision in the County Code requiring the County to consider these factors.

10 Consideration of these factors was approved in the Washington Supreme Court review of
11 this case.¹⁶ All parties agree that without consideration of these or similar factors, the
12 County has not met the requirements for designation of agricultural lands of long-term
13 commercial significance. This, too, fails to comply with RCW 36.70A.060(1),
14 36.70A.170(1)(a) and 36.70A.040.

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17 The failure to designate and conserve *any* agricultural lands of long-term commercial
18 significance substantially interferes with fulfillment of Goal 8 of the Growth Management Act:

19 Natural resource industries. Maintain and enhance natural resource-based
20 industries, including productive timber, agricultural, and fisheries industries.

21 Encourage the conservation of productive forest lands and productive agricultural
22 lands, and discourage incompatible uses.

23 RCW 36.70A.020(8).

24 Ordinance 1179R eliminated the code provisions that would implement designation criteria
25 for agricultural resource lands. Resolution 07-104 removed the mapping of any lands as
26 agricultural lands of long-term commercial significance. With no lands designated as
27 agricultural resource lands, there are no lands subject to the legislative mandate for the
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32 ¹⁶ *Lewis County v. Western Washington Growth Management Hearings Board, et al.*, No. 76553-7, August 10,
2006 at 12.

1 conservation of agricultural land.¹⁷ Therefore, this failure substantially interferes with the
2 fulfillment of Goal 8.

3
4 As we make this determination of invalidity, however, we are mindful that this is done at
5 least partly at the request of the County. Lewis County is aware of its obligations to
6 designate and conserve agricultural resource lands and concedes that the present posture
7 of its development regulations and comprehensive plan policies does not achieve GMA
8 goals and requirements. The County has imposed a moratorium on development on lands
9 that should be available for consideration for designation as agricultural resource lands
10 while it completes its public process. The County has not asked for the Board to rescind its
11 earlier invalidity determination but acknowledges that such a determination is appropriate to
12 ensure that inconsistent development does not occur during the remand period. Further,
13 since the mapping of Class A and Class B agricultural lands has been repealed by
14 Resolution 07-104, the County asks the Board to extend its invalidity determination to
15 include the designation and mapping of those lands as well. The Board's determination of
16 invalidity here in no way under-rates the good faith efforts of the County to maintain the
17 availability of lands for designation and its cooperative spirit in readying its designation
18 criteria and mapping of those lands. Instead, the Board's determination of invalidity of the
19 designation criteria and mapping coincides with the County's own determinations and shall
20 apply to the same maps that are subject to moratorium in Ordinance 1193A.
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24 In addition, the Board accepts the County's proposed schedule for compliance.
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26 VI. FINDINGS OF FACT

- 27 1. Lewis County is a county located west of the crest of the Cascade Mountains that is
28 required to plan pursuant to RCW 36.70A.040.
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32 ¹⁷ *King County v. Central Puget Sound Growth Management Hearings Board, et al.*, 142 Wn.2d 543 at 562, 14 P.3d 133, 2000 Wash. LEXIS 834 (2000).

- 1 2. Petitioners are individuals who have participated in the County's process to adopt
2 compliant development regulations and comprehensive plan provisions designating
3 and conserving agricultural lands of long-term commercial significance since 1999.
- 4 3. In 2004, this Board entered its Order Finding Noncompliance and Imposing Invalidity
5 February 13, 2004; and Order Granting Reconsideration of Extent of Invalidity May
6 21, 2004, finding that the County's development regulations and comprehensive plan
7 policies and maps failed to comply with GMA requirements and goals for the
8 conservation of agricultural resource lands; and imposing invalidity as to certain code
9 and plan provisions, and as to the maps of certain rural lands.
- 10 4. The Board's decision was appealed to the Lewis County Superior Court which upheld
11 the Board's determinations.
- 12 5. The Washington State Supreme Court accepted direct review and on August 10,
13 2006, reversed and remanded the Board's decision based on the Supreme Court's
14 determination that the Board had not used the proper definition of agricultural lands
15 of long-term commercial significance in finding noncompliance.
- 16 6. Since the Supreme Court's decision in this case, the County adopted Ordinance
17 1179R which deleted the provisions of the County Code that the Board found invalid
18 for failing to properly designate agricultural resource lands: LCC 17.10.126(a),
19 17.10.126(b), LCC 17.30.590(1)(c).
- 20 7. In Resolution 07-104, removed Class A and Class B agricultural lands from the
21 mapping of lands as agricultural lands of long-term commercial significance.
- 22 8. In Ordinance 1193A, the County imposed a moratorium on development in those
23 designated rural lands that were subject to the Board's 2004 invalidity determination
24 as well as on the lands that had previously been designated Class A or Class B
25 agricultural lands.
- 26 9. Ordinance 1179R also repealed portions of LCC 17.200.020; and LCC 17.30.580(3)-
27 (11).
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- 1 10. The County has effectively mooted the Supreme Court’s remand order because the
2 compliance of the “county’s designations of agricultural land” have been altered by
3 subsequent enactments which changed the designation criteria and mapping.
4 11. LCC 17.200.020 contained the implementation provisions for designation of
5 agricultural resource lands. Without those provisions, there is no mechanism for
6 actually applying the designation criteria to agricultural resource lands and thus no
7 way to designate and conserve them.
8 12. LCC 17.30.580(3) – (11) were “identification” factors for commercially significant
9 agricultural resource lands. Without consideration of these or similar factors, the
10 County has no provisions requiring consideration of “the land’s proximity to
11 population areas, and the possibility of more intense uses of the land” for consistency
12 with the definition of “long-term commercial significance” as defined in RCW
13 36.70A.030(10).
14 13. The eliminated “identification” factors closely track the “combined effects of proximity
15 to population areas and the possibility of more intense uses of the land” indicators
16 enumerated in the Minimum Guidelines to classify agricultural lands, WAC 365-190-
17 050.

21 Findings of Fact Related to Invalidity

- 22 14. Ordinance 1179R eliminated the code provisions that would implement designation
23 criteria for agricultural resource lands.
24 15. Resolution 07-104 removed the mapping of any lands as agricultural lands of long-
25 term commercial significance.
26 16. With no lands designated as agricultural resource lands, there are no lands subject to
27 the legislative mandate for the conservation of agricultural land.
28 17. The County has not asked for the Board to rescind its earlier invalidity determination
29 but acknowledges that such a determination is appropriate to ensure that
30 inconsistent development does not occur during the remand period.
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- 1 18. The County has imposed a moratorium on development on lands that should be
2 available for consideration for designation as agricultural resource lands while it
3 completes its public process.
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5 19. Since the mapping of Class A and Class B agricultural lands has been repealed by
6 Resolution 07-104, the County asks the Board to extend its invalidity determination to
7 include the designation and mapping of those lands as well.
8
9 20. The rural lands described in the County's moratorium, Ordinance 1193A, should be
10 available for consideration for designation as agricultural lands of long-term
11 commercial significance when the County adopts its new strategy for conservation of
12 such lands because they meet at least two of the primary considerations for
13 designation: they are or recently have been devoted to agricultural use; and they
14 contain prime soils.
15
16 21. The lands that were formerly designated as Class A and Class B agricultural lands no
17 longer have a designation that protects them from inconsistent development.
18
19 22. In the absence of an invalidity determination, these lands are at risk for inconsistent
20 development.
21
22 23. Any finding of fact that is determined to be a conclusion of law is hereby adopted as
23 such.

24 **VII. CONCLUSIONS OF LAW**

- 25 A. This Board has jurisdiction over these proceedings.
26 B. Petitioners have standing to contest a finding of compliance and to participate in the
27 Board's determination of invalidity.
28 C. With the adoption of Ordinance 1179R and Resolution 07-104, the County has
29 modified its designation criteria and mapping of agricultural lands of long-term
30 commercial significance from that which was subject to the remand from the
31 Washington Supreme Court.
32

- 1 D. The County's criteria and mapping of agricultural lands of long-term commercial
 2 significance as modified by Ordinance 1179R and Resolution 07-104 fail to comply
 3 with RCW 36.70A.060(1), 36.70A.170(1)(a) and 36.70A.040.
 4
 5 E. The adoption of Ordinance 1179R, Resolution 07-104 and Ordinance 1193A does
 6 not remove the substantial interference with Goal 8 of the Growth Management Act
 7 (RCW 36.70A.020(8)) found by this Board in prior orders.
 8
 9 F. The continued validity of the County's designation criteria and mapping of lands
 10 shown on the maps to which the moratorium in Ordinance 1193A applies
 11 substantially interferes with the fulfillment of Goal 8 of the GMA.
 12
 13 G. Any conclusion of law that is determined to be a finding of fact is hereby adopted as
 14 such.

15 **VIII. ORDER**

16 The County is ordered to achieve compliance in accordance with this decision no later than
 17 **October 30, 2007**. The following schedule shall apply unless altered by written order of the
 18 Board:

19 County Report on Compliance and Index to Record Due	November 9, 2007
20 Petitioners' Objections (if any) to a Finding of Compliance Due	November 30, 2007
21 County's Response Due	December 21, 2007
22 Petitioners' Reply Due (optional)	December 31, 2007
23 Compliance Hearing Date	January 8, 2008

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 27 DATED this 8th day of June 2007.

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 Margery Hite, Board Member

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Holly Gadbow, Board Member

James McNamara, Board Member

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

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

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

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, by fax or by mail, but 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)