



the date of this reconsideration order.

As to the merits, Petitioners requested clarification of our FDO regarding CCC 27.12.035(9) in relationship to the exemption provided in (10). As the FDO specifically notes the (10) exemption did not comply with the Act. Petitioners will recall that the County, as part of its presentation at the HOM, acknowledged that a remand of the exemption found in (9) was necessary because of its inconsistency with other provisions of Clallam County's DRs. That being the case it would be inappropriate (RCW 36.70A.290(1)) for us to decide at this stage whether exemption (9) fulfills the requirement for protection of critical areas.

Petitioners also requested that we "clarify" the FDO by finding noncompliance and invalidity with regard to CCC 27.12.315(10). As Clallam County pointed in its response this issue was neither briefed nor argued by Petitioners in the HOM. In any event, Petitioners' request is based on a mischaracterization of that subsection as an exemption, which it is not.

Finally, Petitioners' request reconsideration of our determination that the habitat protection buffer area need not be measured from the edge of the channel migration zone. While we have no doubt as to the sincerity of Petitioners' beliefs on the need to have this requirement be part of Clallam County's DRs in order to comply with the best available science requirements of the Act, the arguments presented here were those which were presented previously at the HOM. We were not persuaded then, nor are we now, that the County's decision was clearly erroneous.

This is a Final Order under RCW 36.70A.300(5) for purposes of appeal.

So ORDERED this 24<sup>th</sup> day of January, 2001.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

---

William H. Nielsen  
Board Member

---

Les Eldridge  
Board Member