

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

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MICHAEL DURLAND, et al.,)	
)	No. 00-2-0062c
Petitioners,)	
)	ORDER DENYING
v.)	RECONSIDERATION
)	
)	
SAN JUAN COUNTY,)	
)	
Respondent,)	
)	
and)	
)	
OPAL COMMUNITY LAND TRUST, et al.,)	
)	
Intervenors)	

On November 14, 2001, the Presiding Officer issued an order granting an extension of time for compliance. On November 16, 2001, we received a motion for reconsideration from Petitioner Mudd.

Our rules of practice and procedure, WAC 242-02-832(1), provide that a motion for reconsideration may be issued “after issuance of a final decision.” An order granting extension of time does not qualify as a “final decision.” There are no provisions in WAC 242-02 for the motion submitted by Petitioner Mudd.

Petitioner Mudd complained that the order was issued nine days after receipt of service of the motion. WAC 242-02-330(1) provides that filing shall be deemed complete upon actual receipt at the Board’s office. While service is required, there are no provisions in the WAC as to when service must be achieved. It is therefore the responsibility of a responding party to ascertain the date of filing and either request an extension beyond the ten-day period or file a response within

that time.

We acknowledge that on November 9, 2001, Participants Ellis and Smith jointly filed a response that was not reviewed prior to granting the motion. That failure to review is directly related to negligent performance at the Board's office. Nonetheless, the document was later reviewed, especially in light of the motion for reconsideration. The response document did not object to the extension, but did make a request for certain directions from us. The proper time for directions from a GMHB is at a compliance hearing, not during a motion for extension of time.

The parties are directed to the case of *Rural Residents v. Kitsap County* 141 Wn.2d 185 (2000) to recognize the quandary potentially presented by a failure to grant the extension of time for compliance.

The motion is denied.

So ORDERED this 29th day of November, 2001.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

William H. Nielsen
Presiding Officer