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

MITCHELL, et al., and SWINOMISH INDIAN TRIBAL COMMUNITY)	
)	No. 01-2-0004c
Petitioners,)	
)	ORDER RE:
v.)	MOTIONS
)	
)	
SKAGIT COUNTY,)	
)	
Respondent,)	
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)	

We note that the tentative schedule published for this case established March 20, 2001 as the date for all motions due. We further note that there is no provision in WAC 242-02 for replies to responses to motions.

On June 11, 2001, the Swinomish Tribe moved to delete certain issues from its amended petition for review. The Tribe conditioned its withdrawal of eight issues on the willingness of Petitioners Norman Mitchell, et al., to delete their Issue 3f (3g in the prehearing order). We received responses from Skagit County and Norman Mitchell, et al., and a reply from the Tribe to their responses. Petitioners Mitchell declined to delete Issue 3g. The motion is denied.

On June 12, 2001, the Tribe moved the Board for an order taking official notice or supplementing the record, advancing proposed exhibits #52, #53, and #54. The County and Petitioners Mitchell, et al., responded and the Tribe replied to the County's response. The County and Petitioners Mitchell, et al., voiced no objection to proposed exhibits #52 and #53. We grant the Tribe's motion regarding exhibits #52 and #53. They are added to the record. The County objected to the declaration of James Weber, proposed exhibit #54, on the grounds that it was never considered by the County in its action and is new information. The Tribe's motion regarding proposed exhibit #54 is denied.

On June 21, 2001, Petitioners Mitchell, et al., submitted a request to file a motion to supplement the

record and concurrently presented a motion to supplement the record with the following proposed exhibits:

- #2111 – Skagit County Science Advisory Panel Procedural Protocols.
- #2112 – Notice of Public Hearing on June 5, 2001.
- #2113 – Notice of Public Hearing on April 3, 2001.
- #2114 – Record of proceedings regarding agricultural buffer programs, April 3, 2001.

We received responses from the Tribe and the County opposing all four proposed exhibits on the grounds that they do not constitute information necessary or of substantial assistance to the Board and were not considered by the County. The motion is denied.

On June 29, 2001, we received a motion from Skagit County to add to the record proposed exhibits:

- #55 – A Skagit County appeal of a previous Western Washington Growth Management Hearings Board decision to Thurston County Superior Court.
- #56 – Resolution #18161 adopted January 29, 2001, amending Resolution #18082 regarding the Science Advisory Panel.
- #57 – The Snohomish County Code, Section 32.10.530-560.
- #58 – Washington State Register 01-12-042 amending WAC 222-16-030.

On July 9, 2001, we were notified by the Tribe that it had never been served with the County's motion. We also received communications from the County and the Tribe describing difficulties in providing copies of the motion to the Tribe at this late date. We will defer ruling on the County's motion until July 12, 2001, just prior to opening the Hearing on the Merits in this case. Parties may present argument regarding the motion at that time.

So ORDERED this 10th day of July, 2001.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

Les Eldridge
Presiding Officer