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

PROTECT THE PENINSULA'S FUTURE and WASHINGTON ENVIRONMENTAL COUNCIL)	
)	No. 00-2-0008
)	
Petitioners,)	ORDER ON
)	MOTION FOR
v.)	RECONSIDERATION
)	
)	
CLALLAM COUNTY,)	
)	
Respondent,)	
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PROTECT THE PENINSULA'S FUTURE, et al.,)	
)	No. 01-2-0020
)	
Petitioners,)	ORDER ON
)	MOTION FOR
v.)	RECONSIDERATION
)	
)	
CLALLAM COUNTY)	
)	
Respondent,)	
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We issued a final order in these cases on October 26, 2001. On November 5, 2001, Protect the Peninsula's Future and Washington Environmental Council (petitioners) moved for reconsideration of two matters. We received a response from Clallam County on November 14, 2001. Because of a need to further clarify one issue in the motion, we asked for a supplemental response from each party. Those responses were received on December 7, 2001. As part of petitioners' supplemental response, they requested admission of proposed Exhibits 1027 and 1028. We admit those exhibits as qualifying under WAC 242-2-540.

Although petitioners' submitted two grounds for reconsideration, only one presents a "new argument" from the ones ruled on in the October 26, 2001 order. That issue involves the County's action in removing "perennial streams less than two feet wide that are not physically connected to downstream waters" from its previous Type 5 designation and failing to include those streams in any new classification. Petitioners asserted such non-action constituted a failure to designate a critical area as required by the GMA. We can characterize the petitioners' argument as "new" because it is much more precise and thorough than the one presented in the their opening brief for the hearing on the merits.

The County's November 14, 2001 response was twofold. First, the County believed we had addressed this precise issue in the October 26, 2001 order. Secondly, the County stated that it "has conducted extensive field reconnaissance of its critical area inventory and is unaware of any stream that meets the definition asserted by Petitioners: a perennial stream that never obtains a two-foot channel-width and that does not connect to a downstream water body."

The County however did not cite to the record in its assertion of being "unaware" of any of these kinds of streams in the "regulated areas of the County."

In the County's December 7, 2001 response and in petitioners' response of the same date, reference was made to the maps denominated as Exs. 901, 902, 903, and 904. Additionally, the two exhibits submitted by petitioners, Ex. 1027 and 1028, are to the effect that some streams less than 2 feet wide that are not down-stream connected, do exist in Clallam County.

After once again reviewing the arguments and the record, we conclude that petitioners have not sustained their burden of showing the County has erred, under the clear erroneous standard, in failing to designate these type of streams. It is impossible to determine whether the County simply overlooked these streams or decided not to include them. We simply do not have enough evidence from petitioners to satisfy us that a mistake has been made.

The motion for reconsideration is denied.

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

So ORDERED this 13th day of December, 2001.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

William H. Nielsen
Board Member

Les Eldridge
Board Member