

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

DOROTHY AUSTIN MUDD)	
)	No. 01-2-0024
Petitioners,)	
)	ORDER OF
v.)	DISMISSAL
)	
)	
SAN JUAN COUNTY)	
)	
Respondent,)	
)	

On August 22, 2001, San Juan County adopted Ordinance 10-2001. On October 18, 2001 we received a timely petition for review (PFR) from Dorothy Austin Mudd.

The PFR alleged that the ordinance failed to comply with the Growth Management Act (GMA, Act) because the changes made allowed a greater number of water connection hookups in a proposed subdivision than the prior ordinance allowed. The County contended that Ordinance 10-2001 made merely “procedural changes” to the water code and did not involve any GMA actions.

After the County’s motion to dismiss, a responding brief by petitioner, and a telephonic hearing, we entered an order on January 10, 2002. That order found that petitioner did not have standing except to challenge the alleged failure of San Juan County to comply with the State Environmental Policy Act (SEPA) because the County did not make a threshold determination prior to adoption of the ordinance. We reserved the jurisdictional challenge until the hearing on the merits (HOM).

The HOM occurred telephonically on February 21, 2002. Prior to the hearing, but after submission of petitioner’s opening brief, petitioner’s attorney withdrew from the case. We sent

two letters to petitioner explaining the process to be followed and reemphasizing the telephonic hearing scheduled for 9:00 a.m. on February 21, 2002. The morning of the HOM, we received a handwritten twenty-page fax from petitioner. The document discussed many issues concerning the Eastsound planning process that is ongoing in San Juan County, but did not address the issues regarding the change for water uses in San Juan County. In addition to being untimely, the record does not show that a copy was served on respondent, San Juan County. We did not take the document into account in reaching our decision in this case. Petitioner choose not to participate in the HOM.

The fundamental jurisdictional issue in this case relates to whether Ordinance 10-2001 changes, in any way, the number of allowable hookups in a proposed subdivision. After the clarifying arguments submitted by the parties, additional exhibits not available at the dispositive motion hearing, and a complete review of the record, we conclude, as contended by the County, that the number of hookups allowable in a proposed subdivision was not changed by Ordinance 10-2001. The change in terminology from “peak use” to “peak demand” affects only the design standards of the water system and has no relationship to the number of allowable hookups.

In *Rosewood v. Friday Harbor*, 96-2-0020 (Order 12-6-96), we established that jurisdiction exists as long as there was “sufficient nexus between the action [taken] and the GMA.” While arguably a change allowing a greater number of hookups might involve a nexus between the ordinance and the GMA, a change involving terminology and procedures involved in the design of a water system does not.

We conclude that no jurisdiction exists for us to rule on the challenge. Accordingly, we do not reach the SEPA issue.

The case is dismissed.

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

Pursuant to WAC 242-02-832(1), a motion for reconsideration may be filed within ten days of issuance of this final decision.

So ORDERED this 1st day of March, 2002.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

William H. Nielsen
Board Member

Les Eldridge
Board Member

Nan A. Henriksen
Board Member