

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

DOROTHY AUSTIN MUDD)	
)	No. 01-2-0024
Petitioners,)	
)	ORDER ON
v.)	DISPOSITIVE
)	MOTIONS
)	
SAN JUAN COUNTY)	
)	
Respondent,)	
)	

On November 26, 2001 and again on December 3, 2001, San Juan County filed motions to dismiss for lack of jurisdiction and also for lack of standing. The motions involved San Juan County's adoption of Ordinance 10-2001 dealing with rules and regulations regarding wells and water systems.

On December 16, 2001, Petitioner filed a responding brief and a telephonic hearing was held December 19, 2001, with all Board members present.

We address the standing challenge first. One issue in this case involves the requirement for compliance with the State Environmental Policy Act (SEPA) as it relates to the adoption of a GMA ordinance. The record in this case reveals that a representative of petitioner did contact the County's SEPA official prior to adoption of the ordinance. The nature of that contact involved whether the County intended to make any SEPA review prior to adoption of the ordinance. The record reveals that the County later determined that it would not undertake such review.

The ordinance was adopted on August 22, 2001, by the Board of County Commissioners sitting as the Board of Health. Petitioner acknowledged that she did not participate in any of the non-SEPA related issues concerning Ordinance 10-2001.

RCW 36.70A.289(2)(b) requires that standing may be achieved by participation regarding the matter on which review is being requested. *Wells v. Whatcom County*, 100 Wn. App. 657 (2000). This record contains no evidence that petitioner participated, or in any other way qualified with the standing requirements of the Act as to the substantive issues involved in this case. The record is clear that petitioner participated in the SEPA process (or lack thereof) to the extent made possible by the County. Therefore, as to that issue, petitioner has standing.

The record at this point (and to some degree the disagreement among the parties themselves) makes it difficult to determine exactly what was changed, if anything, in the adoption of Ordinance 10-2001. We are unwilling to decide this important jurisdictional issue without further reviewing the record. We reserve the jurisdictional challenge for the Hearing on the Merits. That hearing will be held telephonically on the date and time previously set.

So ORDERED this 10th day of January, 2002.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

William H. Nielsen
Board Member

Les Eldridge
Board Member

Nan A. Henriksen
Board Member