

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

CLEAN WATER ALLIANCE, et. al.,	)	
	)	No. 02-2-0002
Petitioners,	)	
	)	ORDER DENYING
v.	)	THE MOTION TO
	)	DISMISS CLAIMS
	)	DUE TO LACK OF
WHATCOM COUNTY,	)	STANDING
	)	REGARDING
	)	ISSUES #3.19 AND
Respondent,	)	#3.20 (SEPA MDNS
	)	ISSUES)
and	)	
	)	
SUDDEN VALLEY COMMUNITY ASSOCIATION	)	
	)	
Intervenors,	)	
	)	

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On May 6, 2002, Whatcom County moved to dismiss 2<sup>nd</sup> Amended Petition for Review (PFR) issues #3.19 and #3.20 owing to lack of standing on the part of the petitioners. The County pointed out that the public comment period on the State Environmental Policy Act (SEPA) Mitigated Declaration of Nonsignificance (MDNS) was closed June 25, 2001, and the determination became final July 5, 2001 when no administrative appeal to the Whatcom County Hearing Examiner was filed. On December 11, 2001, the County Council adopted the Ordinance. According to the County, no public participation or comment was received from anyone other than the Washington State Department of Community, Trade, and Economic Development (CTED) in regard to the MDNS. There was no appeal of the MDNS filed by any entity or person. The County pointed out that an interlocal agreement restricting future density increases in the Sudden Valley area is required by the SEPA MDNS prior to incorporation.

Petitioners, in their May 14, 2002 response, countered that the County avoided “effective SEPA review” and accused the County of precluding agencies with expertise from comment, because publication of notice occurred the week prior to the fourth of July. Further, they cited an email from Mr. Paxton to the County Council on June 17, 2001, and June 28, 2001 testimony of Ms. Wells before

the Planning Commission as establishing standing under our previous findings.

We find issues #3.19 and #3.20 are timely raised. Our previous rulings regarding SEPA standing (*Island County Citizens' Growth Management Coalition, et al., v. Island County*, #98-2-0023, Motions Order, March 1, 1999, and *Butler, et al., v. Lewis County*, #99-2-0027c, Final Decision and Order, June 30, 2000) stated that the Act contains no provision for standing requirements under SEPA more rigorous than those for general GMA standing. We find that the email from Mr. Paxton and the testimony from Ms. Wells establish a timely nexus on SEPA issues. The County's motion is denied. Issues #3.19 and #3.20 of the 2<sup>nd</sup> amended PFR are added to the issues list of the amended prehearing order of May 6, 2002, as Issue #19 and #20.

So ORDERED this 5<sup>th</sup> day of June, 2002.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

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Les Eldridge  
Board Member

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Nan A. Henriksen  
Board Member