

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

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SWINOMISH INDIAN TRIBAL COMMUNITY,)	
)	No. 02-2-0009
Petitioner,)	
)	ORDER ON
v.)	DISPOSITIVE
)	MOTIONS
)	
SKAGIT COUNTY,)	
)	
Respondent)	
)	

On September 9, 2002, the Swinomish Indian Tribal Community (Tribe) filed a dispositive motion on Issue 3. Issue 3 states:

Whether Skagit County has failed to comply with RCW 36.70A.020(8), (9), (10), -.170(2), and -.172(1) by delaying selection of implementation of riparian buffers on qualifying agricultural lands under Sections 14.24.120(3) and (g) (Table X) and (4)(c).

We see no reason to recite the Tribe’s reasoning in support of this motion because the County responded that it had no objection to our granting the Tribe’s motion as long as:

1. The compliance schedule we set as a result of that finding of noncompliance matches the schedule we set in the Order in Response to Court Remand dated September 6, 2002, in Cases 00-2-0033c and 96-2-0025; and

2. We recognize that the County may be adopting two more sign-up extension interim regulations (approximately November 2002 and May 2003) prior to the adoption of the new regulation scheduled for adoption in June 2003.

At the September 26, 2002 telephonic Motions Hearing and/or in subsequent letters the parties agreed to the following:

1. Upon our order granting this motion, the Tribe would withdraw the remaining issues in this case with the exception of Issue 7 (“Whether the Interim Ordinance R20020168 should be declared invalid for substantial interference with RCW 36.70A.020(5), (8), (9), and (10) and sanctions recommended”).
2. The parties will abide by our upcoming decision on the Tribe’s request for us to require the County to take interim protective action in Cases 00-2-0033c and 96-2-0025.
3. Consolidation of Cases 00-2-0033c and 96-2-0025 with this case.

We will deal with consolidation of these cases in a separate order.

Skagit County filed a dispositive motion on Issue 6. Since the Tribe has withdrawn that issue, there is no reason to discuss it further in this order.

ORDER

After careful consideration of the parties’ briefs, letters, and oral argument, we enter the following order:

1. The Tribes Dispositive Motion on Issue 3 is granted. The compliance

schedule will match the schedule we set out in the September 6, 2002 Response to Court Remand Order in Cases 00-2-0033c and 96-2-0025.

2. The parties will abide by our upcoming decision on requiring the County to take interim protective action in Cases 00-2-0033c and 96-2-0025.

3. All other issues in this case are withdrawn except for Issue 7 (“Whether the Interim Ordinance R20020168 should be declared invalid for substantial interference with RCW 36.70A.020(5), (8), (9), and (10) and sanctions recommended”). Briefing on Issue 7 will proceed according to the schedule in the August 28, 2002 Prehearing Order. Issue 7 will be argued at the November 20, 2002 Hearing.

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 17th day of October, 2002.

WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

Nan A. Henriksen

Board Member

Les Eldridge
Board Member

Margery Hite
Board Member