

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

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3 MICHAEL T. VINATIERI, EDWARD G. SMETHERS,
4 and KAREN KNUTSEN, et al,

Petitioners,

Case No. 03-2-0020c

5
6 v.

7 LEWIS COUNTY,

Respondent.

**THIRD 2005 ORDER
EXTENDING PERIOD FOR
COMPLIANCE**

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10 THIS Matter comes before the Board upon the third motion of the County for additional time
11 to achieve compliance in this case. Third Motion of Lewis County to Extend Compliance
12 Report Date (July 15, 2005). No opposition to the County's motion was received by the
13 Board within the 10-day period specified for response to motion in the Board's Rules of
14 Practice and Procedure, WAC 242-02-534.

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17 **PROCEDURAL BACKGROUND**

18 In its Final Decision and Order issued May 6, 2004, the Board found noncompliance with
19 the Growth Management Act (GMA) based on the County's "failure to include a public
20 participation process in adopting a master planned location for an industrial land bank in
21 County Ordinance 1179B, Section 2 and LCC 17.20.015." The Board found further
22 noncompliance based on the adoption of Ordinance 1179G and Resolutions 04-251 and 04-
23 252 in its Compliance Order of January 7, 2005. In that order, the Board set a compliance
24 deadline of April 4, 2005. On April 4, 2005, the County requested an extension of time to
25 achieve compliance and that motion was granted on April 22, 2005. 2005 Order Extending
26 Period for Compliance. The extended compliance due date was June 7, 2005.

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29 The second motion for extension was brought on June 1, 2005, and requested additional
30 time for the County to complete its compliance efforts in this case. Second Motion of Lewis
31 County to Extend Compliance Report Date. The County requested until July 16, 2005, to
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1 achieve compliance. No opposition was filed and the Board extended the time for
2 compliance to July 16, 2005. Second 2005 Order Extending Period for Compliance.

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4 In this its third motion for an extension, the County notes that it has undertaken significant
5 compliance efforts on this and other pending cases before the Board. After reconstituting its
6 Planning Commission, this matter and the agricultural resource lands compliance issues
7 were brought before the new Planning Commission on July 12, 2005. The Planning
8 Commission adopted recommendations and proposed amendments to achieve compliance
9 in this case and has forwarded those to the Board of County Commissioners. Third Motion
10 to Extend Compliance Report Date, *Roth v. Lewis County and Cardinal FG Company*,
11 WWGMHB Case No. 04-2-0014c (incorporated by reference in the Third Motion to Extend
12 Compliance Report Date in this case at 2). The County expects the Board of County
13 Commissioners to take action on either August 1 or August 8. *Ibid.*

17 DISCUSSION

18 Upon a finding of noncompliance, the statute provides that the board shall specify a
19 reasonable time to achieve compliance not in excess of 180 days “or such longer period as
20 determined by the board in cases of unusual scope or complexity.” RCW 36.70A.300(3)(b).
21 In this case, the specific task of addressing the noncompliant provisions of Ordinance
22 1179G and Resolution 04-251 may not be of unusual scope and complexity, but it is clear
23 that the County’s approach to achieving compliance is occurring in a broad and complex
24 context. The County has chosen to revise its planning commission and procedures relating
25 to the adoption of comprehensive plan amendments and development regulations to
26 address all of the outstanding compliance issues in a variety of cases before this Board. In
27 the course of doing this, it has needed more time than originally anticipated. However, we
28 find that the County has been making reasonable efforts to respond to the Board’s order in
29 this case. With the Planning Commission’s recommendations now adopted, it is reasonable
30 to allow the County additional time for the County Commissioners to take action.
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1 **ORDER**

2 We find that the unusual scope and complexity of the County's compliance efforts warrant
3 additional time to achieve compliance. We also find that the best interests of all parties
4 would be served by holding the compliance hearing on this case together with the
5 compliance hearing in *Roth et al. v. Lewis County*, WWGHB Case No. 04-2-0014c; and the
6 day prior to the compliance hearing in *Butler v. Lewis County*, WWGMHB Case No. 99-2-
7 0027c and *Panesko v. Lewis County*, WWGHMB Case No. 00-2-0031c. The period for
8 compliance is therefore EXTENDED to August 12, 2005. The County did not propose a
9 revised schedule for briefing and the compliance hearing. Therefore, the Board sets the
10 following schedule:
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12	Compliance due	August 12, 2005
13	County's Report of Actions Taken Due (copies to all parties)	August 22, 2005
14	Written Objections (if any) to a Finding of Compliance Due	September 12, 2005
15	County's Response to any Objections to Compliance Due	October 3, 2005
16	Compliance Hearing (location to be determined)	October 19, 2005

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18 If any party objects to this schedule, that party must file a proposed revised schedule with
19 the Board no later than 10 days from the date of this order.
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22 Entered this 27th day of July 2005.
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27 Margery Hite, Board Member

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29 Holly Gadbaw, Board Member

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31 Gayle Rothrock, Board Member
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