

1 BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD

2
3 HARADER, et al.,

Case No. 06-2-0007

4
5 Petitioners,

**ORDER DISMISSING COMPLIANCE
REQUIREMENTS OF LEWIS COUNTY**

6 v.

7 CITY OF WINLOCK,

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9 Respondent,

10 And

11 LEWIS COUNTY and SOVRAN LLC, et al

12
13 Intervenors.
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16 **This Matter** comes before the Board upon the compliance report and motion to dismiss of
17 Intervenor Lewis County.¹ Petitioners filed their response on February 23, 2007.²

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19 **DISCUSSION**

20 The County brings its compliance report and motion to dismiss in this case despite the fact
21 that the County is not the Respondent in this case. The County notes that the August 30,
22 2006 Final Decision and Order requires the County to achieve compliance even though the
23 subject of the Board's order was the failure of the City to update the comprehensive plan by
24 the City of Winlock.³ The Petitioners point out that the word "County" in the order portion
25 of the final decision and order was clearly a scrivener's error and seeks to correct it.⁴
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30 ¹ Intervenor Lewis County's Compliance Report and Motion to Dismiss, February 14, 2007.

31 ² Petitioners' Motion to Correct Error and Response to Lewis County's Compliance Report and Motion to
Dismiss, February 23, 2007.

32 ³ Intervenor Lewis County's Compliance Report and Motion to Dismiss, at 2.

⁴ Petitioners' Motion to Correct Error and Response to Lewis County's Compliance Report and Motion to
Dismiss at 1-2.

1 Petitioners are correct that the order erroneously directed the "County" rather than the "City"
2 to achieve compliance. The findings and conclusions on this issue, as well as the reasoning
3 in the discussion, pertain only to the City of Winlock's actions. Further, Lewis County's
4 status is only as an Intervenor in this case; the County is not the Respondent against whom
5 noncompliance was asserted. Even when an Intervenor seeks to address an issue in a
6 case, it is only allowed to do so when it has an interest in the outcome. WAC 242-02-270.
7 In this case, Intervenor Sovran asked but was not allowed to represent the City's interests
8 on Issue 4 (the update requirements) because it had no interest in that issue.⁵ The County
9 did not seek to intervene on the issue of the City's update obligations, which was
10 appropriate since the County had no interest or ability to affect those obligations. The
11 reference to the "County" in the order portion of the Final Decision and Order was a clerical
12 error.
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16 Evidently no party noticed this error because no motion to correct the order was brought
17 until this time. Nevertheless, the County has no compliance requirements as a result of the
18 final decision and order in this case. The compliance requirements are those of the City of
19 Winlock.
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22 The County has also raised information concerning the deadline by which the City of
23 Winlock must update its comprehensive plan. The letter from City Attorney Mark
24 Schebmeir dated February 6, 2007 notes that "RCW 36.70A.130(5)(c) grants the City of
25 Winlock a three year extension" in which to accomplish its comprehensive plan update.⁶
26 However, the City plans to begin work on its update in early 2007 with the assistance of
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31 ⁵ Final Decision and Order, August 30, 2006.

32 ⁶ February 6, 2007 Letter from Mark Scheibmeir to Douglas Jensen, Exhibit A to Declaration of Douglas Jensen in Support of Report and Motion, February 14, 2007.

1 grant funding from the Department of Community, Trade and Economic Development
2 (CTED).⁷

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4 The Board finds that Lewis County is not the proper party to demonstrate compliance on the
5 part of the City of Winlock (or to argue that compliance is not due). Despite the error in the
6 language of the order section, the compliance requirement imposed in the August 30, 2006
7 Final Decision and Order was imposed upon the City and not the County. Therefore, any
8 motion to find compliance or to find that compliance is not due should be brought by the City
9 of Winlock.
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12 **ORDER**

13 Based on the foregoing, Lewis County has no compliance obligations in this case and any
14 compliance requirements erroneously imposed upon Lewis County are hereby DISMISSED.
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17 Entered this 27th day of February 2007.
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Margery Hite, Board Member

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Holly Gadbow, Board Member

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James McNamara, Board Member
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28 **Pursuant to RCW 36.70A.300 this is a final order of the Board.**

29 **Reconsideration. Pursuant to WAC 242-02-832, you have ten (10) days from the date**

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32 ⁷ *Ibid.*

1 of mailing of this Order to file a petition for reconsideration. The original and three
2 copies of a motion for reconsideration, together with any argument in support
3 thereof, should be filed with the Board by mailing, faxing, or otherwise delivering the
4 original and three copies of the motion for reconsideration directly to the Board, with
5 a copy to all other parties of record. Filing means actual receipt of the document at
6 the Board office. RCW 34.05.010(6), WAC 242-02-240, and WAC 242-02-330. The filing
7 of a motion for reconsideration is not a prerequisite for filing a petition for judicial
8 review.

8 **Judicial Review.** Any party aggrieved by a final decision of the Board may appeal the
9 decision to superior court as provided by RCW 36.70A.300(5). Proceedings for
10 judicial review may be instituted by filing a petition in superior court according to the
11 procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil
12 Enforcement. The petition for judicial review of this Order shall be filed with the
13 appropriate court and served on the Board, the Office of the Attorney General, and all
14 parties within thirty days after service of the final order, as provided in RCW
15 34.05.542. Service on the Board may be accomplished in person or by mail, but
16 service on the Board means actual receipt of the document at the Board office within
17 thirty days after service of the final order. A petition for judicial review may not be
18 served on the Board by fax or by electronic mail.

17 **Service.** This Order was served on you the day it was deposited in the United States
18 mail. RCW 34.05.010(19)

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