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FILED
DEC 16 2008
SUPERIOR COURT
JUDITH J. GOULD
THURSTON COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THURSTON COUNTY

OLYMPIC STEWARDSHIP FOUNDATION,

Petitioner,

v.

WESTERN WASHINGTON GROWTH
MANAGEMENT HEARINGS BOARD,

Agency Respondent.

No. **08-2-02852-3**

PETITION FOR REVIEW

Olympic Stewardship Foundation, by and through its undersigned counsel of record, petitions this Court for review of the administrative decision issued by the Western Washington Growth Management Hearings Board in the above-captioned matter pursuant to Chapters 36.70A and RCW 34.05.

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I

PETITIONER

1. The Petitioner in this action is Olympic Stewardship Foundation. The registered agent for Petitioner Olympic Stewardship Foundation is James Storey, 40 Glen Ave, Chimacum, Washington 98325.

2. Petitioner is represented by Brian T. Hodges of Pacific Legal Foundation, 10940 NE 33rd Place, Suite 210, Bellevue, Washington 98004. His telephone number is (425) 576-0484 and facsimile number is (425) 576-9565.

II

NAME AND MAILING ADDRESS OF AGENCY

3. This petition seeks review of a decision and order of the Western Washington Growth Management Hearings Board (Growth Board) whose address is:

319 7th Avenue SE, Suite 103
Olympia, WA 98501
(360) 586-0260 (phone)
(360) 664-8975 (fax)

III

AGENCY ACTION AT ISSUE

4. The agency decision and order that is being appealed is the Final Decision and Order in case WWGMHB 08-2-0029c, issued by the Growth Board on November 19, 2008, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

IV

IDENTIFICATION OF PERSONS WHO WERE PARTIES IN ANY ADJUDICATIVE PROCEEDINGS WHICH LED TO THE AGENCY ACTION

5. The parties to the adjudicative proceedings before the Board that led to the issuance of the Final Decision and Order in case WWGMHB 08-2-0029c were:

1 Olympic Stewardship Foundation, Jim Hagen, William Wheeler, Diane Johnson, Roger
2 Short, John Richmond, Bud Schindler, and Terren MacLeod - Petitioners in consolidated
case No. 08-2-0029;

3 Citizens Protecting Critical Areas - Petitioner in consolidated case No. 08-2-0024;

4 Fred Hill Materials, Inc. - Petitioner in consolidated case No. 08-2-0027;

5 Jefferson County - Respondent in all underlying cases; and

6 Port Gamble S'Kallam Tribe, Jamestown S'Kallam Tribes, Washington Environmental
7 Council, and Futurewise - Amicus Curiae in support of Jefferson County in consolidated
case No. 08-2-0029.

8 **V**

9 **JURISDICTION AND VENUE**

10 6. This Court has jurisdiction to review the decision of the Western Washington
11 Growth Management Hearings Board pursuant to RCW 34.05.514 and RCW 36.70A.300(5).

12 7. Venue is appropriate in this Court pursuant to RCW 34.05.514(1)(a).

13 **VI**

14 **FACTS DEMONSTRATING**
15 **PETITIONERS ARE ENTITLED TO JUDICIAL REVIEW**

16 8. The Growth Board's Final Decision and Order is a final agency decision terminating
17 further agency review of the matter. RCW 36.70A.300. Petitioner has exhausted its administrative
18 remedies in accordance with RCW 34.05.534.

19 9. Petitioner participated in the proceedings below, is afforded appellate status by RCW
20 36.70A.280(2)(b), 2(d), (3), and (4), and was directly and adversely affected by the denial of the
21 matters raised in their Petition for Review. RCW 36.70A.300(5).

22 **VII**

23 **REASONS WHY RELIEF SHOULD BE GRANTED**

24 10. Petitioners incorporate Paragraphs 1 through 9 as if fully set forth herein.

25 ///

1 11. In conclusion of law K, the Growth Board erroneously interpreted and applied RCW
2 36.70A.030 and RCW 36.70A.172 to conclude that Jefferson County was authorized to designate
3 areas that may become critical areas at some point in the future if left unaltered and undeveloped.
4 RCW 34.05.570(3)(a), (d).

5 12. In conclusion of law M, the Growth Board erroneously interpreted and applied RCW
6 36.70A.030 and RCW 36.70A.172 to conclude that Jefferson County properly adopted critical area
7 restrictions prohibiting all use and development of property located within areas that may become
8 critical areas at some point in the future if left unaltered and undeveloped. RCW 34.05.570(3)(a),
9 (d), and (e).

10 **VIII**

11 **RELIEF REQUESTED**

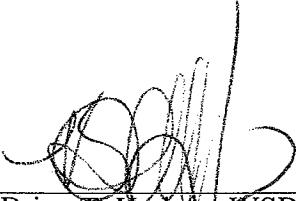
12 1. Reverse the decisions and orders described above as set forth in the Growth Board's
13 Final Decision and Order dated November 19, 2008;

14 2. Remand the case to the Western Washington Growth Management Hearings Board
15 for proceedings consistent with the Court's orders on appeal; and

16 3. Award such other future relief as the Court deems reasonable.

17 DATED: December 16, 2008.

18 Respectfully submitted,

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21 
22 Brian T. Hodges, WSBA No. 31976
23 Pacific Legal Foundation
24 10940 NE 33rd Place, Suite 210
25 Bellevue, Washington 98004
Telephone: (425) 576-0484
Facsimile: (425) 576-9565

Attorney for Petitioner

1 **DECLARATION OF SERVICE**

2 BRIAN T. HODGES declares as follows:

3 I am a resident of the State of Washington, employed at 10940 NE 33rd Place, Suite 210,
4 Bellevue, Washington 98004. I am over the age of 18 years and am not a party to this action.

5 On the below date, true copies of the *Petition for Review* were served to the following as
6 indicated:

7 Western Washington Growth Management Hearing Board (Via Hand Delivery)
8 319 7th Avenue SE, Suite 103
9 Olympia, WA 98501

10 Mark R. Johnsen (Via U.S. Mail)
11 Karr Tuttle Campbell
12 1201 Third Avenue, Suite 2900
Seattle, WA 98101-3028
Attorney for Jefferson County

13 David Alvarez (Via U.S. Mail)
14 Jefferson County Prosecuting Attorney
15 P.O. Box 1220
Port Townsend, WA 98368
Attorney for Jefferson County

16 Gerald Steel, PE (Via U.S. Mail)
17 Attorney-at-Law
18 7303 Young Road NW
Olympia, WA 98502
Attorney for Citizens Protecting Critical Areas

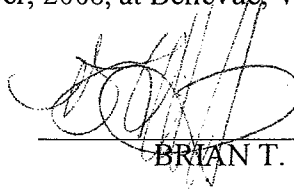
19 James C. Tracy (Via U.S. Mail)
20 Liberty Center Building
18520 Hwy #305, Suite 500
21 Poulsbo, WA 98370
Attorney for Fred Hill Materials, Inc.

22 Robert Beattey (Via U.S. Mail)
23 Tim Trohimovich
24 Futurewise
814 Second Avenue, Suite 500
Seattle, WA 98104
Attorney for Amici Futurewise and Washington
25 Environmental Council

1 Lauren Rasmussen
2 Law Offices of Lauren Rasmussen
3 1904 3rd Avenue, Suite 1030
4 Seattle, WA 98101
5 Attorney for Amici Port Gamble S'Klallam Tribe and
6 Jamestown S'Klallam Tribes

(Via U.S. Mail)

7 I declare under penalty of perjury that the foregoing is true and correct and that this
8 declaration was executed this 16th day of December, 2008, at Bellevue, Washington.



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BRIAN T. HODGES