

May 23, 1996

The Growth Management Act

The Growth Management Act (GMA) required that on or before September 1, 1991, Skagit County designate where appropriate "(a) agricultural lands that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products; (b) forest lands that are not already characterized by urban growth and that have long-term significance for the commercial production of timber; and (c) mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals" (RCW 36.70A.170).

On or before September 1, 1991, Skagit County was required to adopt development regulations "to assure the conservation of agricultural, forest and mineral resource lands designated under RCW 36.70A.170" (RCW 36.70A.060). The 1991 State Legislature allowed counties and cities to request up to an additional 180 days to designate natural resource lands (ESHB 1025). On February 11, 1992, the County submitted a letter to the Department of Community Development, Growth Management Division indicating that the County was complying with the March 1, 1992 deadline and was relying upon its existing comprehensive plans, zoning codes and other development regulations to meet these requirements.

On March 6, 1995, Friends of Skagit County filed a petition for review with the Western Washington Growth Management Hearings Board (WWGMHB) which alleged that Skagit County failed to classify and designate natural resource lands and adopt development regulations for their protection. On April 27, 1995, Friends of Skagit County filed an Amended Dispositive Motion and the County's response was filed on May 8, 1995. The WWGMHB held a hearing on this matter on May 16, 1995. On May 26, 1995, the WWGMHB issued an order granting Friends' Dispositive Motion Regarding the County's failure to protect and designate natural resource lands pursuant to the GMA. In the order, the WWGMHB determined that "Skagit County's use of pre-existing ordinances to comply with the GMA in designation and protection of natural resource lands and critical areas, absent public hearing and legislative adoption, was not in compliance with RCW 36.70A.030 nor with the public participation requirements of the GMA." *Friends of Skagit County v. Skagit County*, WWGMHB No. 95-2-0065 at 926. The WWGMHB ordered that the County "protect and designate Natural Resource Lands by July 24, 1995." In response to the WWGMHB order the County held a public hearing in which it received public testimony and written correspondence and on July 25, 1995 adopted Natural Resource Lands (NRL) Ordinance #15841.

On July 28, 1995, the WWGMHB received a petition for review alleging that Ordinance #15841 "failed to comply with the goals and requirements of the (GMA) because of deficiencies in public participation, definitions of agricultural and forest lands, timely and adequate protection of NRL, and consistency and adequate environmental documentation." *Friends of Skagit County v. Skagit County*, WWGMHB No. 95-2-0075 at 1511. It was also alleged that no protection for mineral resource areas was provided. The WWGMHB held a hearing on this matter on November, 16, 1995. On January 22, 1996, the WWGMHB issued its final decision and order and found that Skagit County's actions in providing for public participation in the adoption of

ordinance 15841 "falls short of meeting the goals and requirements of the Act" and further determined that substantively "the County has failed to designate forest and agricultural lands which meet the criteria of the Act and has failed to adequately conserve mineral lands." Friends of *Skagit County v. Skagit County*, WWGMHB No. 95-2-0075 at 1512 and 1514.