

FILED
SUPREME COURT
STATE OF WASHINGTON
5/1/2023 8:00 AM
BY ERIN L. LENNON
CLERK

Supreme Court Case No. 101618-2

SUPREME COURT OF THE STATE OF WASHINGTON

FRIENDS OF GRAYS HARBOR and FUTUREWISE,

Petitioners,

v.

STATE OF WASHINGTON, DEPARTMENT OF
ECOLOGY; GRAYS HARBOR COUNTY; and the STATE
OF WASHINGTON, SHORELINES HEARINGS BOARD,

Respondents.

**THE FRIENDS OF GRAYS HARBOR'S AND
FUTUREWISE'S RESPONSE TO ECOLOGY'S
STATEMENT OF ADDITIONAL AUTHORITIES**

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The Friends of Grays Harbor and Futurewise (FOGH) respond to Ecology’s Statement of Additional Authorities. While Engrossed Second Substitute House Bill (ESSHB) 1181 will extensively amend the Growth Management Act,¹ the only amendment to the SMA was to require Ecology to “update its shoreline master program guidelines to require shoreline master programs to address the impact of sea level rise”² The guidelines shall be “consistent with RCW 90.58.020, containing the elements specified in RCW 90.58.100”³ If RCW 90.58.020 and RCW 90.58.100 do not require addressing sea level rise, the Legislature would have needed to amend those sections before Ecology could update the guidelines. Since RCW 90.58.020 and RCW 90.58.100 require shoreline master programs (SMPs) to address sea level rise, the Legislature did not need to amend them.

¹ ESSHB 1181 §§ 1-4, 6-9, & 14-16 (2023).

² ESSHB 1181 § 11 (2023).

³ RCW 90.58.060(1).

This Court can provide FOGH with effective relief, so this case is not moot.⁴ FOGH is requesting that this Court hold that RCW 90.58.020, RCW 90.58.100, WAC 173-26-176(3), and WAC 173-26-201(2)(a) require SMPs to address sea level rise and to remand or determine whether the County SMP met these requirements.⁵ ESSHB 1181 did not amend any of these provisions. This case is not like *SEIU Healthcare* where the petitioner requested the Court to order the Governor to submit a revised budget, but the legislature had already adopted the new budget.⁶ Here the legislature has not amended any of the authorities FOGH argued.

The regulations required by ESSHB 1181 will not grant FOGH effective relief. The County is finishing an SMP update

⁴ *State v. Turner*, 98 Wn. 2d 731, 733, 658 P.2d 658, 659 (1983).

⁵ The Friends of Grays Harbor's and Futurewise's Petition For Review at 34-35.

⁶ *SEIU Healthcare 775NW v. Gregoire*, 168 Wn.2d 593, 602–03, 229 P.3d 774, 779 (2010).

and the next one is not due until June 30, 2032.⁷ There will be nine years of sea level rise before the next update. Requiring the SMP to address sea level rise now will provide effective relief.

This document contains 349 words, excluding the parts of the document exempted from the word count by RAP 18.17.

Dated: April 30, 2023, and respectfully submitted.

s/ Tim Trohimovich

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⁷ Ch. 80, Laws of 2023 § 1(4)(b)(iv).

CERTIFICATE OF SERVICE

The undersigned certifies that on this 30th day of April 2023, he, she, or they caused the following document to be served on the persons listed below in the manner shown: the Friends Of Grays Harbor’s and Futurewise’s Response to Ecology’s Statement of Additional Authorities in State Supreme Court Case No. 101618-2.

The Supreme Court
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Signed and certified on this 30th day of April 2023,

s/ Tim Trohimovich

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FUTUREWISE

April 30, 2023 - 4:55 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 101,618-2
Appellate Court Case Title: Friends of Grays Harbor, et al. v. State of WA, Dept. of Ecology, et al.
Superior Court Case Number: 21-2-02102-0

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Comments:

A declaration of service is attached to the response.

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