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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

CONCERNED FRIENDS OF FERRY COUNTY and FUTREWISE,

Petitioners,

vs.

FERRY COUNTY and the GROWTH MANAGEMENT HEARINGS BOARD,

Respondents.

NO.: 46305-9-II

FERRY COUNTY'S RESPONSE TO REQUEST FOR SUPPLEMENTAL BRIEFING

COMES NOW the Respondent Ferry County, pursuant to the Court's Request for Supplemental Briefing, and provides the following response to the Court's inquiries:

1. Yes. Table B of Ordinance 2013-05 shows the application of the criteria as they have changed over the years. Each time the County went before the Growth Management Hearings Board, the County was directed to modify the designation criteria. Each column in Table B shows the result of applying a set of criteria. Each successive column shows the application of new criteria as a result of rulings of the Growth Management Hearings Board.

- 1 2. The phrase “Does not meet threshold” refers to whether the land under
2 consideration for ARL designation meets all the criteria for designation.
3
4 3. No. At the direction and with the assistance of the Department of Commerce, the
5 County developed a block group criterion to prevent the creation of small,
6 isolated parcels of ARL. The 2816.85 acres referred to after Table B do not meet
7 all the designation criteria because they are small, isolated parcels that are
8 scattered throughout Ferry County and therefore do not satisfy the block group
9 criterion.
10
11 4. The County did not intentionally designate – or choose not to designate – land on
12 the basis of public/private ownership. Private or public ownership was not a
13 criterion used by the County, and the County asserts that the public/private
14 nature of ownership is not a lawful criterion for determining eligibility for ARL
15 designation. The County’s methodology is as set forth in Ordinance 2013-05.
16
17 5. The County designated as ARL all land that met all the criteria in Ordinance
18 2013-05. The County did not consider whether the land was in private or public
19 ownership. The petitioners urge the Court to require that the County designate
20 private land *because* it is private, arguing for example that there should be
21 enough private land to provide hay to winter cattle that are raised on the Forest
22 Service leases. This argument ignores the fact that the record is silent as to how
23 many cattle are wintered in the County and the fact that the nature of
24 private/public ownership does not affect whether the land can sustain a hay crop.
25
26 6. No, the County did not exclude rented lands. The County considered *all* lands
27 within the County. Unlike federal grazing leases or long term conservation
28

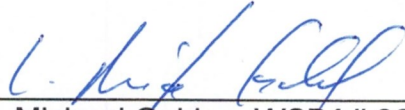
1 easements, the County has no way of determining whether a particular parcel is
2 being utilized by its owner or being rented to another party. Thus, all acreage
3 was considered for ARL designation, but it was considered on the basis of what
4 was available in the public record. For example, if Mr. X owns parcel A consisting
5 of 60 acres. If Parcel A is adjacent to Parcel B, which consists of 40 acres owned
6 by Mr. Y, the County has no way of knowing whether Parcel A or Parcel B is
7 subject to a rental or lease agreement. As a result, the County identifies parcel A
8 as being 60 acres and parcel B as being 40 acres. Both parcels are considered
9 for designation as ARL; neither is excluded.
10
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- 12 7. The two columns labeled 4/4/13 in Table represent the County attempting to
13 illustrate the results of making the latest series of modifications to the ARL
14 designation criteria at the direction of the Growth Management Hearings Board.
15 In the first 4/4/13 column, the -1 for proximity to UGA is removed, as is the -1 for
16 proximity to LAMIRDs, but the 1000 acre block size is used. The second 4/4/13
17 column again uses the 1000 acre block size but is the result of three separate
18 calculations by the County to determine what difference changing the criteria
19 make in the ultimate ARL designations. Thus, the County considered one
20 calculation a -1 for UGA proximity, but a 0 for LAMIRD proximity. Another
21 calculation had the reverse of that, with a 0 for UGA proximity and a -1 for
22 LAMIRD proximity. The final determinations used to determine the actual ARL
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1 designations are not reflected in Table B, which is essentially a work sheet where
2 the County shows its work and shows that it considered various options.

3 RESPECTFULLY SUBMITTED this 6th day of July 2015.

4
5 GOLDEN LAW OFFICE P.L.L.C.

6 

7 L. Michael Golden, WSBA# 26128
8 Attorney for Petitioner

CERTIFICATE OF SERVICE

The undersigned declares on penalty of perjury under the laws of the State of Washington that on this 6th day of July, 2015, the undersigned caused the electronic original and true and correct copies of the following documents to be served on the persons listed below in the manner shown: **Ferry County's Response to Request for Supplemental Briefing.**

State of Washington Court of Appeals Division II
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Electronic Original

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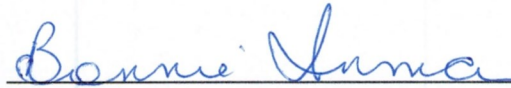
- By United States Mail, postage prepaid and properly addressed
- By Legal Messenger or Hand Delivery
- By Facsimile
- By Federal Express or Overnight Mail prepaid
- Efiled

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13 By Facsimile
14 By Federal Express or
15 Overnight Mail prepaid
16 By Email:
17 dianeM@atg.wa.gov

15 Signed and certified on this 6th day of July, 2015.

17 

18

Bonnie Inman
19 Legal Assistant

GOLDEN LAW OFFICE PLLC

July 06, 2015 - 9:48 AM

Transmittal Letter

Document Uploaded: 3-463059-Supplemental Respondent's Brief.pdf

Case Name: Concerned Friends of Ferry County and Futurewise v. Ferry County and the Growth Management Hearings Board

Court of Appeals Case Number: 46305-9

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

- Designation of Clerk's Papers Supplemental Designation of Clerk's Papers
- Statement of Arrangements
- Motion: ____
- Answer/Reply to Motion: ____
- Brief: Supplemental Respondent's
- Statement of Additional Authorities
- Cost Bill
- Objection to Cost Bill
- Affidavit
- Letter
- Copy of Verbatim Report of Proceedings - No. of Volumes: ____
Hearing Date(s): _____
- Personal Restraint Petition (PRP)
- Response to Personal Restraint Petition
- Reply to Response to Personal Restraint Petition
- Petition for Review (PRV)
- Other: _____

Comments:

Enclosed please find the Ferry County's Response to Request for Supplemental Briefing

Sender Name: Bonnie Inman - Email: mike@goldenlaw.us

A copy of this document has been emailed to the following addresses:

tim@futurewise.org
dianeM@atg.wa.gov