

SUPERIOR COURT OF  
THE STATE OF WASHINGTON FOR CLARK COUNTY

DEPARTMENT NO. 6  
P.O. BOX 5000  
VANCOUVER, WA 98666-5000



BARBARA D. JOHNSON  
JUDGE

2013 MAY 28 AM 9:53

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May 27, 2013

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RE: Friends of the White Salmon River and Friends of the Columbia Gorge v. Klickitat County  
Clark County Cause No. 12-2-02455-7

Dear Counsel:

This letter is to advise of the court's decision as to the parties cross-motions for partial summary judgment argued before the court on February 28, 2013. For the reasons stated briefly below, the court finds in favor of Plaintiffs as to both Motions.

First, it is noted the court orally granted Plaintiffs' Motion to Correct the Certified Record. It appears from the Clerk's records no Order was entered after the hearing on the motions to finalize this ruling, and there was some argument as to the language of the proposed Order. In order to clarify the record for the court's rulings herein, the court enters Plaintiffs' proposed Order Granting Plaintiffs' Motion to Correct the Record on Review to finalize the oral ruling. A conformed copy is enclosed.

Defendant's Motion for Partial Summary Judgment on Constitutional Claims, Spot Rezone Claim, and Related CH. 36.70 RCW Claims is addressed to Plaintiffs' "Delegation Claims." This court finds Plaintiffs have standing and have the right to challenge factual findings of fact and conclusions of law in this proceeding. Defendants are not entitled to summary judgment of dismissal as to the claims.

Plaintiffs' Amended Motion for Partial Summary Judgment is a lengthy document, eighty-three pages in length. The memorandum does not begin with a brief statement of the claims addressed by Plaintiffs' Motion. However, there is a Statement of the Issues to be Decided at p. 53-54 which sets forth Plaintiffs' claims. The court concludes the County violated SEPA by failing to prepare an EIS for this extensive rezoning. The County failed to adequately consider a reasonable range of alternatives,

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failed to consider adverse impacts, and improperly relied upon the FFR Program, which is incomplete and has never been finalized as mitigation. The court also concludes the County unlawfully delegated the right to individual landowners to upzone their land, and the RR-2 overlay constitutes unlawful spot zoning.

It is requested counsel prepare an Order setting forth the court's ruling in granting and denying the parties' Motions for Partial Summary Judgment. Plaintiffs have indicated the court's ruling on these issues is dispositive of this case. If correct, this court has no objection to findings being entered to allow appeal pursuant to CR 54(b).

Sincerely,

A handwritten signature in black ink, appearing to read 'Barbara D. Johnson', with a long horizontal flourish extending to the right.

Barbara D. Johnson

Enclosure