

**PROCEEDINGS OF THE  
WASHINGTON STATE BOUNDARY REVIEW BOARD  
FOR SKAGIT COUNTY**

<b>IN RE: Chuckanut Metropolitan Park District</b>	)	<b>FILE NO. 07-03</b>
<b>Proposed Formation</b>	)	
	)	<b>HEARING DECISION</b>
<b>Skagit County, Washington</b>	)	

---

The Notice of Intention filed on May 9, 2007 by the Chuckanut Mountains Park District Advisory Committee (Advisory Committee), as Boundary Review Board File No. 07-03, proposed the formation of the Chuckanut Mountains Metropolitan Park District, pursuant to RCW 35.61. The proposed park district included land in Skagit and Whatcom counties. On June 20, 2007, Skagit County invoked the jurisdiction of the Skagit County Boundary Review Board and asked that a public hearing be held to review the proposal. Skagit County Fire Protection District no. 5 also filed a request for review and a group of citizens meeting the requirements of RCW 36.93.100(3)(a) filed a timely petition for review of the proposal.

After notice duly given, a hearing was scheduled for September 18, 2007. That hearing was continued upon the Boundary Review Board's acceptance of a request from the Advisory Committee for an extension of the time for taking action on the proposal. The extension was submitted because no agency had prepared a SEPA threshold determination for the proposal. After notice duly given, a hearing was held on March 6, 2007 before a quorum of the Boundary Review Board at the Skagit County Commissioners' Hearing Room, 1800 Continental Place, Mount Vernon, Washington.

Just prior to the public hearing scheduled for March 6, 2006, the Advisory Committee submitted a second request for an extension of the time for action on the proposal. Again, the request was submitted because the Whatcom County Boundary Review Board, which had been designated the lead agency under SEPA for the proposal, had not completed a SEPA threshold determination. The Boundary Review Board decided to hear evidence on the merits of the proposal and, if necessary, to consider the second extension request following the public hearing. The public was invited to comment on procedural issues concerning the notice of intention, the validity of the petitions, the present lack of a SEPA threshold determination, the Board's jurisdiction, and the factors and objectives to be considered by the board which are set forth under RCW 36.93.170 and RCW 36.93.180.

On the basis of testimony, evidence and exhibits presented at said hearing, and the materials in said File No. 07-03, it is the decision of the Board that the action proposed in said Notice of Intention be, and the same is, hereby denied. This denial is limited to that portion of the proposal in Skagit County only.

**FACTORS AFFECTING THIS PROPOSAL**

In reaching this decision, the Board has considered the many factors prescribed in RCW 36.93.170.

The following have been selected for particular attention:

**Land Area, Population and Population Density**

The Chuckanut Metropolitan Park District (CMPD) proposal includes property in both Whatcom and Skagit Counties, and extends from the southern portion of the City of Bellingham in Whatcom County to Bow Hill Road in Skagit County. It comprises a land area of about 65.5 square miles. The Skagit County portion of the subject area, which this hearing decision is specifically limited to, includes 26.5 square miles, or 40%, of the total proposed district. The number of registered voters in the Skagit County portion is 1,129. In comparison, the number of registered voters in the Whatcom County portion is 14,169.

The subject area in Skagit County is sparsely populated. The most densely populated area is on the southwestern boundary of the proposed park district in the Edison area.

**Land Uses**

Land uses in the Skagit portion of the proposed area include rural residential, logging, farming, commercial fishing and tourism.

**Comprehensive Plans and Zoning**

Skagit County Comprehensive Plan designations within the subject area include Industrial Forest-Natural Resource Lands, Secondary Forest-Natural Resource Lands, Agricultural-Natural Resource Lands, Rural Resource-Natural Resource Lands, Rural Village Residential, Commercial/Industrial and Rural Reserve. Zoning includes Rural Low Density, Agriculture, Forestry, and State Park. Tribal lands are also included within the proposed park district. Almost half of the land (6,700 acres) is State Trust land managed by the Washington State Department of Natural Resources (DNR).

**Topography, Natural Boundaries and Drainage Basins**

The proposal spans several miles from the Samish Bay shoreline to the Chuckanut Mountains. Drainage basins within the area include (but aren't limited to) Oyster Creek, Colony Creek, Harrison Creek and Friday Creek. Included in this large parcel are mountains and steep hillsides, valleys, wetlands and streams, lakes and tidelands, forestlands, meadows and rural residential areas.

The northern boundary of the Skagit portion of the proposed park district is the Skagit/Whatcom county line. Interstate 5 creates the eastern boundary. The western boundary generally follows the Samish Bay waterline. Part of the southern boundary generally follows Bow Hill Road, and it also follows section lines and possibly splits property lots.

**Existence of Prime Agricultural Soils and Agricultural Uses**

A significant portion of the subject area is designated Agricultural-Natural Resource Lands (Ag-NRL) and is mapped as "prime farmland soils." The Skagit County Comprehensive Plan designates these lands as "agricultural lands of long-term commercial significance."

**Probable Effect of Proposal on Cost and Adequacy of Services**

**Fire Protection:** Testimony from a commissioner and the fire chief of Skagit County Fire Protection District No. 5 indicates a grave concern for the unknown potential loss in tax revenue caused by the formation of the park district, along with questions regarding impacts of service abilities that decreased

Chuckanut Metropolitan Park District Formation  
(Denied)

revenues and increased tourism will have. Concern was voiced about the lack of information given regarding potential for overlapping jurisdictions affecting the firefighting authority currently held by the fire district within its boundaries.

**Schools:** About 40% of the Burlington-Edison School District is within the subject area. Some amount of the annual revenue from timber harvests on currently managed DRN lands is received by the school district. It is unknown what impact the proposed park district may have on this revenue, but any loss of revenue is seen by the school district as a negative impact.

Agencies on the record opposing or expressing reservations regarding the proposed Chuckanut Park District formation with its broad undefined potential powers and expressing concerns regarding impact on current tax revenues, potential confusion regarding roles of existing districts, the potential for reduced ability to provide services at current levels and the unknown potential for increased service levels as a result of the proposal include the following: Skagit County, Washington State Department of Natural Resources (DNR), Western Washington Agricultural Association, Skagit County Farm Bureau, Skagit County Agriculture Advisory Board, Skagit Conservation District, Forest Advisory Board, Sheriff Rick Grimstead, Burlington-Edison School District, Skagit County Fire District No. 5, Skagit County Dike District No. 4 and Drainage District No.18, the Upper Skagit Tribe.

### **OBJECTIVES**

The decision of the Washington State Boundary Review Board for Skagit County tends to accomplish pertinent objectives specified in RCW 36.93.180. The particularly significant objectives in this proposal are as follows:

#### **Preservation of Natural Neighborhoods and Communities**

This proposed CMPD would incorporate over 65 square miles of territory in two counties. These properties range from heavily populated metropolitan areas within the City of Bellingham and a portion of the city's urban growth area in Whatcom County, several miles south to the sparsely populated rural and resource lands of Skagit County. The Skagit County Chuckanut community views itself as a separate neighborhood having very little in common with the urban Whatcom County area and recognizes its lack of voting power when thrown into one voting district with this urban area. Although Skagit County would comprise 40% of the land area of the proposed park district, it makes up only 7.6% of the eligible voters. As a consequence the record shows almost unanimous concern by the Skagit community that it will lose its current ability to control and participate in decisions that will directly impact its direction of growth. The Skagit Chuckanut community enjoys its own self identity and is able to successfully work directly with the various established agencies and bureaucracies in coordinated effort in developing policies and programs that are currently in place to protect its own resources and direct its future. This ability is potentially harmed or destroyed if the community finds itself forced into a district where it could possibly have very little representation or control over its own policies and revenues. Denial of this proposal furthers the preservation of this natural community and the surrounding natural neighborhood in its current state.

This decision tends to accomplish the objective specified in RCW 36.93.180(1).

**Creation and Preservation of Logical Service Areas**

Several special purpose districts and agencies currently exist within the Skagit portion of the proposed CMPD area. Several jurisdictions already function to manage, preserve and protect the resource areas and to provide the necessary law enforcement, fire and flood protection and resource conservation. Highly productive resource lands are being managed through programs overseen by DNR, the Skagit County Planning Policies and community groups among others. Plans such as the Skagit County Park and Recreation Comprehensive Plan and the Blanchard Forest Strategies Group Management Plan (covering 4,800 acres) have undergone rigorous comprehensive planning and implementation programs by local jurisdictions and citizens. These carefully managed plans provide the ability to maintain working forests and resource lands consistent with the goals and needs of the community.

The CMPD has not participated in these plans and has not successfully communicated or coordinated its potential goals with the various agencies which now have the authority and the support of the community and are successfully providing the same services the CMPD proposes to offer. An additional level of government that will divert some percentage of tax revenues for its own functions with no formal plan and no way to determine the various impacts is not necessary to provide the services and protections that the community already supports and enjoys.

Not only is the creation of a new level of government not needed, it threatens the authority and the potential ability of the agencies currently providing the same services to function. No information is available to estimate the costs associated with the management of the CMPD. There is no way to determine the large potential economic impacts on Skagit County as the beneficiary of the state trust lands within the CMPD proposal area or to estimate the impacts on the tax base of the county or the other junior taxing districts currently operating within the proposed area.

Because there is no support nor any need for the services proposed, there is no logic to the formation of this district in Skagit County. Furthermore, the proposal potentially threatens the preservation of current existing service areas within.

This decision tends to accomplish the objective specified in RCW 36.93.180(3)

**Protection of Agricultural and Rural Lands**

Whereas the CMPD proposal is specifically intended to create and manage a park district, and appears to intend to convert working forests into parks, the proposed area incorporates not only rural resource lands but also agricultural and tribal lands – areas with uses which are not inconsistent with the goals of a park district. The potential for increase in tourism as a result of as yet unidentified programs potentially implemented by the CMPD could have a large adverse impact on these lands. Notice of Intention and related documents lack any plan or program that recognizes and specifically protects either the Samish River farmlands or the Upper Skagit Tribal lands from the impacts of increased tourism and other possible programs. The Skagit County Planning Policies in coordination with the DNR and conservation and management programs currently in place provide planning and protection of the resource and agricultural lands within the subject area. Although there is no evidence that these lands would not be protected the vague allusions to protect are not substantive. Concerns by citizens, the county and other jurisdictions that these areas would be adversely impacted are evidenced in the record and must be addressed.

This decision tends to accomplish the objective specified in RCW 36.93.180(9).

**Consistency with Growth Management Act**

The information provided by the CMPD Advisory Committee includes no plan and very little substantive information that can be used to determine consistency with the Growth Management Act (GMA) (RCW 36.70A). GMA requires that regulations be in place to protect and conserve agricultural and forest lands, and "...that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continual use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food agricultural products, or timber..." (RCW 36.70A.060). Such resource areas should not be included within a metropolitan park district because of the potential promotion of tourism and related activities that could potentially impact vulnerable resource lands.

With no plan in place the CMPD proposal cannot assure Skagit County that these valuable resource lands will receive the protection mandated by the Growth Management Act or by the Skagit County Planning Policies.

This decision tends to accomplish the objective specified in RCW 36.93.157.

**Compliance with the State Environmental Policy Act (SEPA).**

The state's boundary review boards are charged with complying with SEPA; however, they rarely, if ever, act as the lead agency on a project and have neither the staff nor expertise to conduct independent environmental reviews and threshold determinations. In this matter, the Department of Ecology, following a request from the Skagit County Boundary Review Board, determined that the Whatcom County Boundary Review Board would be the lead agency for this proposal. At the time of the public hearing, the Whatcom County Boundary Review Board was preparing to consider a contract for the necessary consulting services.

WAC 197-11-070 does not allow an agency to take an action on a proposal when that action would (1) have an adverse environmental impact or (2) limit the choice of reasonable alternative. Until the SEPA threshold determination is completed, the proposal cannot be approved because it is uncertain whether approval would have an adverse environmental impact. Similarly, the Boundary Review Board cannot act to modify the proposal because that action would be an alternative. However, denial of the proposal based on factors other than those that would be addressed under SEPA remains an option because denial would not have an adverse environmental impact and would not limit the choice of reasonable alternatives, none of which were proposed to the Boundary Review Board.

**The Skagit County Boundary Review Board** recognizes that although the effort of the citizen group proposing to create the CMPD is based on good intentions, the total lack of any support from Skagit County officials or any affected jurisdictions, agencies or Skagit County citizens points to the lack of a substantive proposal, understanding of the programs currently in place, or understanding of the coordinated effort and support that would be required to succeed. The Boundary Review Board concludes that the reach of this proposal is too large. Most of these well-meaning citizens reside in Whatcom County, and limiting the park district to the area proposed for Whatcom County where there is evidence that county and citizen support exists would provide the proposed park district the most viable chance to form and create a board of commissioners, a specific and workable comprehensive plan, and community and agency support. Should the park district be formed, the district's board of commissioners will be able to conduct the comprehensive planning necessary to address the issues and concerns that were presented at the public hearings and, should it do so, have the authority to conduct its

Chuckanut Metropolitan Park District Formation  
(Denied)

own SEPA review and consider presenting a proposal to annex a more limited and logical area. This Board recommends that the CMPD proponents proceed with their proposal in Whatcom County with the possible intention of returning in the future to Skagit County jurisdictions and citizens to communicate and seek support for future annexation into an existing park district.

**Having considered** each of the provisions contained in RCW 36.93.170 and 36.93.180, it is the opinion of the Boundary Review Board that this annexation proposal is denied.

**NOW, THEREFORE, BE IT RESOLVED BY THE WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SKAGIT COUNTY THAT,** for the above reasons, the action proposed in the Notice of Intention contained in said File No. 07-03 be, and the same is, hereby denied.

**ADOPTED BY SAID WASHINGTON STATE BOUNDARY REVIEW BOARD FOR SKAGIT COUNTY** by a vote of 4 in favor and 0 against this 10th day of March, 2008, and signed by me in authentication of its said adoption on said date.

**WASHINGTON STATE BOUNDARY REVIEW BOARD  
FOR SKAGIT COUNTY**

---

**Alec R. McDougall, Chair**

**FILED BY ME** this 10th day of  
March, 2008

---

Carole Korelin, Planner for the Board