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STATE OF WASHINGTON
SNOHOMISH COUNTY SUPERIOR COURT

FRIENDS OF GUEMES ISLAND, a
Washington non-profit corporation,

Plaintiffs,

vs.

SKAGIT COUNTY BOARD OF
COUNTY COMMISSIONERS and
SKAGIT COUNTY,

Defendants.

NO. 06-2-09088-6

**ORDER GRANTING PLAINTIFFS'
MOTION FOR SUMMARY
JUDGMENT, IN PART, AND
DENYING SAID MOTION, IN PART**

THIS matter came before the Court for hearing on Friends of Guemes Island's (Friends) motion for summary judgment claiming that:

1. Skagit County allegedly violated the State Environmental Policy Act (SEPA) when it adopted Skagit County Resolution number R20060184 extending the operating hours for the Guemes Island ferry on Monday through Thursday evenings before the County prepared an environmental threshold determination.

2. The schedule changes allegedly are major actions having a probable significant adverse environmental impact, thereby requiring preparation of a full environmental impact statement.

1 3. Skagit County Resolution number R20060184 and the ferry schedule changes
2 allegedly should be voided for non-compliance with SEPA.

3 The Court considered the following pleadings and documentary evidence:

4 a. Plaintiffs' Verified Complaint, and all exhibits attached thereto.

5 b. Defendant's Response.

6 c. Declaration of Brandon Black, and all attachments thereto.

7 d. Plaintiffs' Reply.

8 e. Second Declaration of Gerald Steel, and all attachments thereto.

9 f. Declaration of Barbara Rudge.

10 g. Plaintiffs' Supplemental Verified Complaint.

11 h. Title 14 of the Skagit County Code.

12 Based upon consideration of the foregoing, and argument of counsel, this Court hereby enters
13 the following conclusions and orders:

14 1. Skagit County Resolution number R20060184 is a non-project action under
15 SEPA; further, it is not categorically exempt. Therefore, partial summary judgment is hereby
16 GRANTED declaring that said Resolution violated WAC 197-11-070(1) because it was not
17 preceded by either a final determination of non-significance (a DNS), or a final environmental
18 impact statement (an EIS).

19 2. After Resolution number R20060184 was passed and implemented, the
20 County's Responsible Official issued a belated DNS for the action. There are genuine issues
21 of material fact as to whether said DNS is appropriate and adequate. Plaintiffs may have a
22 right to an administrative appeal of these issues before the Skagit County Hearing Examiner.
23 See Skagit County Code section 14.12.210(1). This determination is preliminarily deferred to
24 the Hearing Examiner. If there is, in fact, a right to an administrative appeal, that remedy
25 must be exhausted before returning to Court. In the meantime, Plaintiffs' motion for
26 summary judgment on these issues is DENIED without prejudice.

