

**Schroader, Kathy**



**From:** Orjiako, Oliver  
**Sent:** Wednesday, April 27, 2016 8:20 AM  
**To:** Albrecht, Gary, Alvarez, Jose, Anderson, Colete, Euler, Gordon, Hermen, Matt, Kamp, Jacqueline, Lebowsky, Laurie, Lumbantobing, Sharon, Orjiako, Oliver, Schroader, Kathy, Wiser, Sonja  
**Cc:** steve.dijulio@foster.com  
**Subject:** FW: Extension of July 1 Deadline for Completion of CMP Update Process

FYI and for the record Thanks

**From:** McCauley, Mark  
**Sent:** Wednesday, April 27, 2016 8:16 AM  
**To:** Orjiako, Oliver; Euler, Gordon  
**Subject:** Fwd: Extension of July 1 Deadline for Completion of CMP Update Process

FYI

Sent from my iPhone

Begin forwarded message

**From:** DONALD MCISAAC <donaldmcisaac@msn.com>  
**Date:** April 27, 2016 at 8:09:09 AM PDT  
**To:** "tom.mielke@clark.wa.gov" <tom.mielke@clark.wa.gov>, "marc.boldt@clark.wa.gov" <marc.boldt@clark.wa.gov>, "jeannie.stewart@clark.wa.gov" <jeannie.stewart@clark.wa.gov>, "david.madore@clark.wa.gov" <david.madore@clark.wa.gov>, "mark.mccauley@clark.wa.gov" <mark.mccauley@clark.wa.gov>, "julie.olson2@clark.wa.gov" <julie.olson2@clark.wa.gov>  
**Cc:** Susan Rasmussen <sprazz@outlook.com>, Carol Levanen <cnldental@yahoo.com>  
**Subject:** Extension of July 1 Deadline for Completion of CMP Update Process

**Councilors-**

We testified that the Governor should be asked for an extension of 9-12 months to complete the process. The basis for such an extension can include the steady considerations made during the past two years, the unique situation with the change of the governance situation in Clark County, particular problems and challenges with the process to date and projected based on the recent news release about future process, and other factors. During the discussion yesterday about pursuing an extension from the Governor there was some sort of assertion that advice had been given that an extension was something akin to impossible.

In reviewing the possibilities for an extension, you may wish to ask about or task staff to look into several areas, including beyond Chapter 36 70 RCW which includes specific language about deadlines, extensions provided for certain situations, and noncompliance. An incomplete list includes the following. It is also noteworthy that the noncompliance language includes the word **MAY** when talking about noncompliance in 36 70A 330 and 36 70A 345, and describes what could be a lengthy process taking up much or all of a 9-12 month extension (see red font below).

The other areas of extension research can include

- the history of Governor level administrative delay or waive-off of bureaucratic deadlines,
- the ability of a Governor to make administrative decisions on implementation scheduling, for the good of the people of the State,
- the history of the how the word "may" has been implemented in this and similar legislation,
- the situation with other Counties having trouble or not meeting their deadline on this matter,
- the synchrony of grant processes that might be involved in an extension or delay

### **RCW 36.70A.330**

#### **Noncompliance.**

(1) After the time set for complying with the requirements of this chapter under RCW 36 70A 300(3)(b) has expired, or at an earlier time upon the motion of a county or city subject to a determination of invalidity under RCW 36 70A 300, the board shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter and with any compliance schedule established by the board in its final order. A person with standing to challenge the legislation enacted in response to the board's final order may participate in the hearing along with the petitioner and the state agency, county, or city. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board. The board shall issue any order necessary to make adjustments to the compliance schedule and set additional hearings as provided in subsection (5) of this section.

(3) If the board after a compliance hearing finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor. The board **may** recommend to the governor that the sanctions authorized by this chapter be imposed. **The board shall take into consideration the county's or city's efforts to meet its compliance schedule** in making the decision to recommend sanctions to the governor.

(4) In a compliance hearing upon petition of a party, the board shall also reconsider its final order and decide, if no determination of invalidity has been made, whether one now should be made under RCW 36 70A 302.

(5) The board shall schedule additional hearings as appropriate pursuant to subsections (1) and (2) of this section.

### **RCW 36.70A.345**

#### **Sanctions.**

The governor **may** impose a sanction or sanctions specified under RCW 36.70A 340 on (1) A county or city that fails to designate critical areas, agricultural lands, forest lands, or mineral resource lands under RCW 36 70A 170 by the date such action was required to have been taken, (2) a county or city that fails to adopt development regulations under RCW 36 70A 060 protecting critical areas or conserving agricultural lands, forest lands, or mineral resource lands by the date such action was required to have been taken, (3) a county that fails to designate urban

growth areas under RCW 36 70A 110 by the date such action was required to have been taken, and (4) a county or city that fails to adopt its comprehensive plan or development regulations when such actions are required to be taken

Imposition of a sanction or sanctions under this section **shall be preceded by written findings by the governor, that either the county or city is not proceeding in good faith to meet the requirements of the act**, or that the county or city has unreasonably delayed taking the required action. The governor shall consult with and communicate his or her findings to the growth management hearings board prior to imposing the sanction or sanctions. For those counties or cities that are not required to plan or have not opted in, the governor in imposing sanctions shall consider the size of the jurisdiction relative to the requirements of this chapter and the degree of technical and financial assistance provided.

Sincerely,

Donald McIsaac