

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON

3
4 MERVIN ARNOLD,)
5)
6 Petitioner,)
7)
8 vs.)
9) LUBA No. 95-132
10 COLUMBIA COUNTY,)
11) FINAL OPINION
12 Respondent,) AND ORDER
13)
14 and)
15)
16 KEITH HELT and DIANA HELT,)
17)
18 Intervenors-Respondent.)

19
20
21 Appeal from Columbia County.

22
23 Mervin Arnold, Scappoose, represented himself.

24
25 John Knight, County Counsel, St. Helens, represented
26 respondent.

27
28 John F. Hunnicutt, St. Helens, represented intervenors-
29 respondent.

30
31 GUSTAFSON, Referee; LIVINGSTON, Chief Referee; HANNA,
32 Referee, participated in the decision.

33
34 DISMISSED 11/28/95

35
36 You are entitled to judicial review of this Order.
37 Judicial review is governed by the provisions of ORS
38 197.850.

1 Opinion by Gustafson.

2 **NATURE OF DECISION**

3 Petitioner appeals the county's December 30, 1994
4 approval of a conditional use permit.

5 **MOTION TO DISMISS**

6 Intervenors-Respondent (intervenors) move to dismiss
7 this appeal as untimely filed.

8 ORS 197.830(8) requires that:

9 "[a] notice of intent to appeal a land use
10 decision or limited land use decision shall be
11 filed not later than 21 days after the date the
12 decision sought to be reviewed becomes final."

13 Petitioner bears the burden to establish our
14 jurisdiction. Petitioner's notice of intent to appeal
15 states the challenged decision became final December 30,
16 1994. Petitioner filed his notice of intent to appeal the
17 decision June 30, 1994. In his response to intervenors'
18 motion to dismiss, petitioner states the challenged decision
19 was appealed within 21 days after the decision was final,
20 but does not explain the six month delay between the date of
21 the final decision and the date of the appeal. Nor does the
22 petition for review explain the delay.

23 The record confirms petitioner's statement in his
24 notice of intent to appeal that the challenged decision
25 became final December 30, 1994. The notice of intent to
26 appeal, filed June 30, 1994, was not timely filed.

27 This appeal is dismissed.