

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DIANE BROWN,)
)
 Petitioner,)
)
 vs.) Case No. 11-0584GM
)
 BAY COUNTY,)
)
 Respondent,)
)
 and)
)
 CEDAR CREEK RANCH, INC.,)
)
 Intervenor.)
 _____)

RECOMMENDED ORDER

The final hearing in this case was held on April 27 and 28, 2011, in Panama City, Florida, and April 29, 2011, in Tallahassee, Florida, before Bram D. E. Canter, Administrative Law Judge of the Division of Administrative Hearings ("DOAH").

APPEARANCES

For Petitioner: Diane C. Brown, pro se
241 Twin Lakes Drive
Laguna Beach, Florida 32413

For the Department of Community Affairs:

Lynette Norr, Esquire
Assistant General Counsel
Department of Community Affairs
2555 Shumard Oaks Boulevard
Tallahassee, Florida 32399-2100

For Bay County: Terrell K. Arline, Esquire
Bay County Attorney's Office
840 West 11th Street
Panama City, Florida 32401

For Intervenor: Gary K. Hunter, Esquire
Vinette D. Godelia, Esquire
Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301

STATEMENT OF THE ISSUE

The issue to be determined in this case is whether Amendment 10-01A to the Bay County Comprehensive Plan ("the Plan Amendment"), adopted by Ordinance 10-22, is "in compliance," as that term is defined in section 163.3184(1)(b), Florida Statutes.¹

PRELIMINARY STATEMENT

On November 16, 2010, Bay County adopted Ordinance 10-22, amending the Bay County Comprehensive Plan to make text and map changes to its Future Land Use Element related to the Sand Hills Rural Community Special Treatment Zone ("Sand Hills STZ"). Bay County transmitted the Plan Amendment to the Department of Community Affairs ("Department") for compliance review. On January 13, 2011, the Department issued its Notice of Intent to find the Plan Amendment in compliance.

Petitioner initiated this administrative proceeding by filing a Petition for Formal Administrative Hearing with the

Department. The Department referred the petition to DOAH to conduct an evidentiary hearing and prepare a recommended order.

Cedar Creek Ranch, Inc. ("Cedar Creek") filed a petition to intervene in support of the Plan Amendment and the intervention was granted.

At the final hearing, Joint Exhibits 2, 4, 5, and 7 were admitted into evidence. Petitioner presented the expert testimony of Todd Kincaid (hydrogeology), Mike McDaniel (comprehensive planning), Anastasia Richmond (comprehensive planning), Ian Crelling (comprehensive planning), and Martin Jacobson (comprehensive planning). Petitioner Exhibits 19, 41, and 43 were admitted into evidence. Petitioner Exhibit 40 was placed in the record as a proffer. Bay County presented the expert testimony of Martin Jacobson (comprehensive planning), Ian Crelling (comprehensive planning), Paul Lackemacher (water and wastewater systems and facilities), Jennifer Bowes (transportation planning) and Steven Peene (water quality and hydrology). Bay County Exhibits 1-14, 17, 21A-E, and 27-30 were admitted into evidence. The Department did not call a witness or offer an exhibit. Cedar Creek presented the expert testimony of Raymond Greer (comprehensive planning). Cedar Creek Exhibit 14 was admitted into evidence.

On June 26, 2011, the Department moved for dismissal of itself as a party, based on the changes to chapter 163, Florida

Statutes, made by chapter 2011-139, Laws of Florida ("the new law"). The motion was granted. Effective October 1, 2011, the functions of the Department of Community Affairs were transferred to the Department of Economic Opportunity.

The three-volume Transcript of the final hearing was prepared and filed with DOAH. At the request of Petitioner, the time for filing proposed recommended orders ("PROs") was twice extended. The parties timely filed their PROs.

On August 1, 2011, the Administrative Law Judge issued an Order Regarding the Governing Law, ruling that the new law would govern the case. The Order allowed the parties to file amended PROs to conform their arguments to the new law. Petitioner filed a motion for consideration of the Order, which was denied. Petitioner then filed a motion to abate the proceeding to await a decision of the circuit court for Leon County in a case challenging the constitutionality of the new law. That motion was also denied. Bay County and Intervenor filed an amended PRO, but Petitioner did not.

FINDINGS OF FACT

The Parties

1. The Department is the state land planning agency and, at the time of the adoption of the Plan Amendment, was charged with the duty to review comprehensive plan amendments and to

determine whether they are "in compliance," as that term is defined in section 163.3184(1)(b).

2. Bay County is a political subdivision of the State of Florida and has adopted a comprehensive plan that it amends from time to time.

3. Petitioner Diane Brown resides and owns property in Bay County, but not in the Sand Hills STZ. Petitioner submitted comments to Bay County during the time between the transmittal and adoption hearings for the Plan Amendment.

4. Intervenor Cedar Creek is a Florida corporation that owns approximately 1,007 acres of land within the Sand Hills STZ. Intervenor submitted comments to Bay County during the time between the transmittal and adoption hearings for the Plan Amendment.

The Sand Hills STZ

5. The Sand Hills STZ is one of three Rural Community STZs in Bay County.

6. The Sand Hills STZ has a number of platted and unplatted subdivisions that were created before the adoption of the Bay County Comprehensive Plan. Within the Sand Hills STZ is a police station, a fire station, and a public school for Pre-Kindergarten through 12th grade. Residences and businesses in the Sand Hills STZ are on private wells and septic tanks. The public school is on central sewer and water.

7. Existing land uses within the Sand Hills STZ include Agriculture, Public/Institutional, Conservation/Preservation, General Commercial, and Rural Residential.

8. Lands designated Agriculture can be developed at one dwelling unit on ten acres ("1 du/10 ac"). Lands designated Rural Residential can be developed at 1 du/3 ac on unpaved roads and 1 du/ac on paved roads. This leads to some semantic confusion. Densities of 1 du/10 ac and 1 du/3 ac are rural densities, but a density of 1 du/ac is a suburban density. That means the Rural Residential land use designation allows for densities that are suburban in character and the rural community STZs are not altogether rural.

9. Abutting the Sand Hills STZ on the north is Washington County. To the south are areas designated Agriculture/Timberland. The community of Southport is located about five miles to the south.

10. West of the Sand Hills STZ is the Northwest Florida Beaches International Airport and other lands subject to the West Bay Area Sector Plan. East of the Sand Hills STZ is Deer Point Lake/Reservoir, the County's primary source of drinking water. Also to the east are 8,500 acres of land owned by the Northwest Florida Water Management District that are designated Conservation/Recreation.

11. The Sand Hills region is hydrogeologically sensitive because of significant recharge which occurs throughout the region via ground and surface waters to Deer Point Lake/Reservoir.

The Plan Amendment

12. The Plan Amendment creates a new Policy 3.4.10 to guide development in the Sand Hills STZ. The Policy begins:

The Sand Hills Area is an established and continually evolving community with unique character and environmental assets that warrant a special planning approach to ensure the preservation and protection of its distinctive qualities. Due to its beautiful natural landscapes, picturesque areas, and its strategic location east of the West Bay Area Sector Plan (Centered around the Northwest Florida Beaches International Airport) and nearby transportation corridors--State Road 77, County Road 388, and State Road 20, development and growth will continue to occur in the Sand Hills Community.

The Sand Hills Rural Community Special Treatment Zone is an overlay area that has been established to maintain the area's character while protecting its significant natural resources and advancing Bay County's *Wide Open Spaces* strategy (Map 3.7). The Sand Hills Rural Community Special Treatment Zone encourages efficient development and infill within an area that has the capacity to service future growth.

13. Guiding principles for the Sand Hills STZ are set forth in new Policy 3.4.10:

- Protect important recharge areas from the effects of irresponsible development.
- Create a sense of place by implementing design and landscape standards.
- Promoting civic and community uses, and providing interconnection between uses, community parks, and open space that protect and enhance the character of the Sand Hills Community.
- Provide for sustainable development and environmentally responsible design.
- Maintain the character of the Sand Hills Rural Community while providing for neighborhood commercial, retail, office, and civic uses located within designated commercial area and corridors, appropriately scaled to meet the needs of the Sand Hills Community.
- Promote an integrated network of local streets, pedestrian paths, and bicycle and equestrian trails.
- Access management policies that promote development patterns which reduce automobile trip length.
- Provide for a range of housing types for all ages, incomes, and lifestyles.
- Provide centralized utilities for all new developments in a planned, coordinated and efficient manner.

14. Policy 3.4.10.1 would allow properties designated Rural Residential to increase from 1 du/ac to 4 du/ac if central water and sewer are available and other conditions are met as set forth in Policy 3.4.10.4.

15. Policy 3.4.10.2 has special conditions applicable to commercial development, such as a maximum floor area ratio of 30

percent. General Commercial land uses are only permitted in three designated "Commercial Nodes."

16. Policy 3.4.10.3 creates special conditions applicable to agricultural uses in the Sand Hills STZ.

17. Policy 3.4.10.4 establishes criteria for new development in the Sand Hills STZ, including the requirement for a site analysis by a licensed engineer or geologist. This requirement is imposed to protect karst features and aquifer recharge areas. This Policy also requires enhanced stormwater treatment and buffers around karst features, low impact design and landscaping standards, and open space requirements.

18. Policy 3.4.10.5 requires the County to complete a plan by January 2012 for the expansion of water and sewer facilities into the Sand Hills STZ and to "retrofit" existing septic tanks by connecting properties to central sewer lines. New developments, regardless of density, are required to connect to central sewer lines if they are within 1,000 feet.

19. Policy 3.4.10.6 addresses roadway access management to reduce reliance on State Road 77 and preserve levels of service.

Internal Inconsistency

20. Petitioner contends that the Plan Amendment is inconsistent with existing Policy 3.4.4 which states, in part, that rural community STZs are intended:

to promote infill development into existing rural developed areas that will allow residents to work, shop, live, and recreate within one relatively compact area while preserving the rural and low density land uses in the designated and surrounding areas.

21. Petitioner has a misunderstanding about Policy 3.4.4 that is the basis for several of her objections to the Plan Amendment. Petitioner focuses on the words "preserving the rural and low density land uses" and fails to see that the primary purpose of the policy is to enhance communities out in the rural areas of Bay County by encouraging the creation of a "nucleus" of mixed land uses in a compact development, while preserving the rural character of the surrounding area.

22. Petitioner also asserts that the Plan Amendment is inconsistent with Policy 3.4.4 because the policy refers to "existing" developed areas, but the Plan Amendment allows residential density increases on some lands that are currently undeveloped. Petitioner's interpretation of the wording in the policy is not the only interpretation that can be given to the words and it is not the interpretation that Bay County gives to the words. Bay County interprets existing developed areas as a general reference to the areas that are currently recognizable as the core of village-like features, rather than a finite group of parcels.

23. Policy 3.4.4 refers to the designation of rural community STZs "consistent with the Wide Open Spaces Strategy." A 7-page document entitled "Wide Open Spaces Strategy" was admitted into evidence as Petitioner's Exhibit 41.

24. It is stated in the strategy that:

This policy is an attempt by the Board of County Commissioners to focus its infrastructure planning and construction efforts. In no way should this policy be construed to discourage anyone choosing to live in the rural area. Rather, the Board is establishing the parameters and expectations that should be associated with that choice.

25. The significance of the strategy to a compliance determination is not clear. It does not appear in the Comprehensive Plan and it may not have been properly adopted by reference. See § 163.3711(1)(b), Fla. Stat. Policy 3.4.4 states that a rural community STZ is to be "designated" consistent with the strategy, but this Plan Amendment does not designate the Sand Hills STZ.

26. There are general statements in the strategy that fail to account for more specific policies of the comprehensive plan. For example, the strategy states that the County will limit residential development in rural communities to 1 du/3 ac, even though the Comprehensive Plan clearly allows 1 du/ac on Rural Residential lands if the lands are on paved roads. Statements in the policy regarding rural services do not reflect the

existing public services and utility planning in the Sand Hills STZ.

27. These disharmonies between the Wide Open Spaces Policy and the Comprehensive Plan suggest that the strategy is a collection of general statements that are not intended to have the same force and effect as the policies of the Comprehensive Plan. The record evidence is insufficient to show the intended role of the strategy in Bay County's comprehensive planning. The record evidence is insufficient to show that the Plan Amendment is inconsistent with the strategy.

28. Petitioner contends that the Plan Amendment is inconsistent with Policy 6.10.5 of the Conservation Element, which states: "The County will maintain rural densities and intensities of development in identified high aquifer recharge areas." The existing rural densities in the Sand Hills STZ (1 du/10 ac and 1 du/3 ac) are not changed by the Plan Amendment. The existing suburban densities of 1 du/ac cannot be increased unless the parcels are connected to central water and sewer systems. Therefore, the purpose of Policy 6.10.5--to protect aquifer recharge areas--is achieved by the Plan Amendment.

29. The stated "performance measure" for Policy 6.10.5 is the maintenance of rural designations on the FLUM. The Plan Amendment maintains rural designations on the FLUM.

30. Petitioner contends that the Plan Amendment is inconsistent with Policy 3.2.3 because it conflicts with the intent of the policy to limit the Sand Hills STZ to rural levels of service. However, Policy 3.2.3 does not prohibit the County from providing central services in the Rural STZs. The service area map for the Sand Hills STZ shows that central water and sewer services are already planned. The County already provides central sewer and water to the public school located in the Sand Hills STZ.

31. Petitioner claims that the Plan Amendment, for the first time, allows general commercial uses within the Sand Hills STZ, but General Commercial uses were already allowed in the Sand Hills STZ.

32. In summary, Petitioner failed to prove facts showing that the Plan Amendment causes the Comprehensive Plan to be internally inconsistent with any goal, objective, or policy of the Comprehensive Plan.

Data and Analysis

33. Petitioner asserts that there is insufficient data and analysis to support the need for increased residential density to meet population projections for the area. A local government can accommodate more than the projected population. See § 163.3177(6)(a)4., Fla. Stat.

34. The Plan Amendment responds to growth pressures in the Sand Hills STZ, modifies antiquated subdivisions, and furthers numerous other general and specific goals, objectives, and policies of the Comprehensive Plan to promote well-designed, environmentally-protective, infrastructure-efficient, high-quality communities.

35. Petitioner contends that the Plan Amendment is not supported by appropriate data and analysis regarding the protection of aquifer recharge areas. However, the evidence offered by Petitioner only established that she wants the Plan Amendment to be more protective. Petitioner's expert hydrogeologist, Dr. Kincaid, admitted that the County had taken "strong" and "aggressive" measures in the Plan Amendment to protect water quality, but said he wished the County had done more to address water withdrawals. There was no evidence presented indicating that there is insufficient water available to serve the Sand Hills STZ. The Northwest Florida Water Management District has exclusive authority to regulate water withdrawals in Bay County. See § 373.217(2), Fla. Stat.

36. The Deer Point Lake Hydrologic Analysis is the principal data and analysis that the Plan Amendment is based upon. In addition, the Plan Amendment is supported by the analysis presented at the final hearing by Dr. Kincaid and Steve Peene. Petitioner did not present data and analysis

showing that the Plan Amendment would be harmful to water resources.

37. Petitioner contends that the Plan Amendment is not supported by data and analysis regarding impacts on species and habitats. Petitioner did not explain what additional data and analysis would be required regarding species and habitat when the lands affected by the Plan Amendment are already designated for residential and commercial development. Petitioner refers to comments made by the Fish and Wildlife Conservation Commission, but those comments are also unexplained, and are hearsay.

38. The Conservation Element of the Comprehensive Plan addresses the protection of natural resources, species, and habitat. The Plan Amendment does not remove any goal, objective, or policy of the Conservation Element. Petitioner did not show the Plan Amendment would be harmful to species and their habitat.

39. A large area where septic tanks are used can be expected to be a source of groundwater contamination because a significant number of septic tanks will fail. The Plan Amendment includes a new map which depicts priority areas for retrofitting existing parcels that use private wells and septic tanks and connecting the parcels to central water and sewer lines. Petitioner contends that the mapping is not supported by

data and analysis. The priority areas were selected based on development density and proximity to Deer Point Lake. Those data are sufficient to support the mapping of priority areas. Petitioner produced no contrary data and analysis.

40. In summary, Petitioner failed to prove facts showing that the Plan Amendment is not supported by relevant and appropriate data and analysis.

Urban Sprawl

41. Petitioner contends that the Plan Amendment encourages urban sprawl, but her evidence was not persuasive. According to Petitioner's theory of sprawl, every rural town and village would be an example of sprawl because they all "leap frog" from urban areas over agricultural and rural lands. Leap frogging as an indicator of sprawl usually involves a leap from an urban area to an area of undeveloped rural lands which will be transformed into urban or suburban land uses. That is not the situation here. The Plan Amendment's application of modern planning principles to enhance the quality and functionality of an existing rural community does not indicate urban sprawl.

42. Petitioner contends that the Plan Amendment triggers most of the 13 indicators of urban sprawl that are set forth in section 163.3177(6)(a)9., but she failed to prove the existence of any indicator. The Plan Amendment does not promote the development of a single use or multiple uses that are not

functionally related. It does not promote the inefficient extension of public facilities and services. It does not fail to provide a clear separation between urban and rural uses.

43. In summary, Petitioner failed to prove facts showing that the Plan Amendment constitutes a failure of Bay County to discourage the proliferation of urban sprawl.

Other Compliance Issues

44. Petitioner contends that the Plan Amendment's provisions regarding infrastructure were not shown to be financially feasible, but the record evidence shows otherwise. Bay County has water and sewer facilities with sufficient capacity to serve the Sand Hills STZ. Furthermore, the new law eliminated the financial feasibility provisions of section 163.3177.

45. Petitioner contends that the Plan Amendment improperly changes the FLUM, but the Plan Amendment does not change the FLUM. The rural community STZs are overlays that do not change FLUM designations.

46. Petitioner contends that the Plan Amendment does not address hurricane evacuation times, but did not show that there is any legal requirement for Bay County to address hurricane evacuation times for amendments affecting lands outside of areas of hurricane vulnerability.

47. Petitioner alleges that the Plan Amendment is inconsistent with the requirements of section 163.3177 related to energy conservation and efficiency, but the law cited by Petitioner was eliminated by the new law. Petitioner stated at the final hearing that her real objection is that the Plan Amendment promotes subdivisions far away from employment centers. Growth in the Sand Hills STZ is likely to be affected by and run parallel to growth in the adjacent West Bay Sector Plan because it is a developing employment center. Furthermore, the Plan Amendment is designed to make the Sand Hills STZ more self-sustaining, which would reduce vehicle miles.

48. Petitioner contends that the Plan Amendment does not include sufficient standards and measures for the implementation of its new policies. The Plan Amendment is primarily self-implementing, in that it sets forth specific conditions for development. In addition, the Plan Amendment includes guiding principles that can be used in the application of existing land development regulations (LDRs) or the adoption of new LDRs. There also are references in the Plan Amendment to other regulatory programs that will be used to implement the policies.

49. Petitioner claims the Plan Amendment was not coordinated with Washington County, but she did not prove the claim.

50. In summary, Petitioner failed to prove facts showing that the Plan Amendment is not in compliance.

CONCLUSIONS OF LAW

51. In order to have standing to challenge a plan amendment, a challenger must be an "affected person," which is defined in section 163.3184(1) (a) as a person who resides, owns property, or owns or operates a business within the local government whose comprehensive plan amendment is challenged, and who submitted comments, recommendations, or objections to the local government during the period of time beginning with the transmittal hearing and ending with the amendment's adoption. Petitioner Brown and Intervenor Cedar Creek have standing as affected persons.

52. "In compliance" is defined in section 163.3184(1) (b):

"In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

53. The definition of the term "in compliance" was amended by the new law to remove the requirement that a plan amendment must be consistent with the State Comprehensive Plan and Florida Administrative Code Chapter 9J-5.

54. A compliance determination is not a determination of whether a comprehensive amendment is the best approach available to a local government for achieving its purposes.

55. When an amendment is challenged by an affected person, the amendment "shall be determined to be in compliance if the local government's determination of compliance is fairly debatable." § 163.3184(5)(c), Fla. Stat.

56. The term "fairly debatable" is not defined in chapter 163. The Florida Supreme Court in Martin County v. Yusem, 690 So. 2d. 1288 (Fla. 1997), held that ["t]he fairly debatable standard is a highly deferential standard requiring approval of a planning action if reasonable persons could differ as to its propriety." Id. at 1295.

57. The fairly debatable standard's deference to the local government's determination of compliance means that the local government's interpretation of a challenged amendment or comprehensive plan provision will be used to evaluate the amendment, as long as it is a reasonable interpretation.

58. The standard of proof to establish a finding of fact is preponderance of the evidence. See § 120.57(1)(j), Fla. Stat.

59. Section 163.3177(2) requires the elements of a comprehensive plan to be internally consistent. A plan

amendment creates an internal inconsistency when it conflicts with an existing provision of the comprehensive plan.

60. Petitioner failed to prove beyond fair debate that the Plan Amendment is inconsistent with any goal, objective, or policy of the Bay County Comprehensive Plan.

61. The consideration of need under the new law has substantially changed. Section 163.3177(6)(a)4. now states that local governments shall provide "at least the minimum amount of land required to accommodate population projections." A local government can accommodate more than the projected population.

62. Section 163.3177(1)(f) requires all amendments to be based on relevant and appropriate data and analysis. Petitioner failed to prove beyond fair debate that the Plan Amendment is not based on relevant and appropriate data and analysis.

63. With regard to the issue of whether the Plan Amendment includes sufficient standards and measures for the implementation of its new policies, section 163.3177(1) was amended by the new law to state:

It is not the intent of this part to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and land development regulations will be carried out.

64. Petitioner failed to prove beyond fair debate that the Plan Amendment does not include sufficient standards and measures for implementation.

65. Section 163.3177(6)(a)9. states that an amendment "shall discourage the proliferation of urban sprawl" and sets forth 13 primary indicators of urban sprawl to be considered. The term "urban sprawl" is defined at section 163.3164(51):

"Urban sprawl" means a development pattern characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an efficient manner, and failing to provide a clear separation between urban and rural uses.

66. Petitioner failed to prove beyond fair debate that the Plan Amendment constitutes a failure of Bay County to discourage the proliferation of urban sprawl.

67. In summary, Petitioner failed to prove beyond fair debate that the Plan Amendment is not in compliance.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department of Economic Opportunity enter a final order determining that the Plan Amendment is in compliance.

DONE AND ENTERED this 18th day of October, 2011, in
Tallahassee, Leon County, Florida.



BRAM D. E. CANTER
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 18th day of October, 2011.

ENDNOTE

1/ All citations are to the Florida Statutes as amended by the
Community Planning Act, chapter 2011-139, Laws of Florida.

COPIES FURNISHED:

Terrell K. Arline, Esquire
Bay County Attorney's Office
840 West 11th Street
Panama City, Florida 32401-2336

Diane C. Brown
241 Twin Lakes Drive
Laguna Beach, Florida 32413-1413

Vinette D. Godelia, Esquire
Hopping Green & Sams
119 South Monroe Street, Suite 300
Post Office Box 6526
Tallahassee, Florida 32301

Gary K. Hunter, Jr., Esquire
Hopping, Green & Sams
Post Office Box 6526
Tallahassee, Florida 32314-6526

David L. Jordan, Esquire
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, Florida 32399-4128

Douglas Darling, Executive Director
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, Florida 32399-4128

Deborah Kearney, General Counsel
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, Florida 32399-4128

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.