1	BEFORE THE LAND USE BOARD OF APPEALS		
2	OF THE STATE OF OREGON		
3	MARY WARRICK and SHARON MORRIS,)	
5 6 7	Petitioners,)	
8 9	VS.)) LUBA No. 99-119	
10	JOSEPHINE COUNTY,)	
11 12	Respondent,	ORDER)	
12 13 14 15	and		
15 16 17	GARY WALLACE and LINDA WALLACE,)	
18 19	Intervenors-Respondent.)	
20	Before the Board are intervenors-respondent's motion to intervene and motion to		
21	dismiss.		
22	MOTION TO INTERVENE		
23	Gary Wallace and Linda Wallace (intervenors), move to intervene on the side of		
24	respondent. There is no opposition to their motions and they are allowed.		
25	MOTION TO DISMISS		
26	Intervenors move to dismiss this appear	eal on the grounds that petitioner's Notice of	
27	Intent to Appeal (notice) was not timely filed. The challenged decision in this appeal is a		
28	decision of the County Board of Commissioners that was adopted and signed on June 30,		
29	1999. On July 9, 1999, the county mailed a Notice of Decision to petitioners. Petitioners'		
30	filed their notice with LUBA on July 28, 1999.		
31	OAR 661-010-0015(1) and ORS 197.830(8) require that a notice of intent to appeal		
32	be filed with the Board "on or before the 21st day after the date the decision sought to be		
33	reviewed becomes final." Intervenors argue that the county's decision became final on June		
34	30, 1999 and that the notice filed July 28, 1999 was thus untimely.		

1	Petitioners respond that under OAR 661-010-010(3)(b) ¹ and the county's Rural Land	
2	Development Code (RLDC) 31.130(C) ² a decision is not final until it is mailed to the parties	
3	entitled to notice. We agree with petitioners that the county's decision was not final until it	
4	was mailed to petitioner on July 9, 1999, as defined by local code and our administrative	
5	rule. Consequently, petitioners' notice of intent to appeal, dated July 28, 1999, was filed "on	
6	or before the 21st day" after the challenged decision became final.	
7	Intervenors' OAR 661-010-010(3)(b) ³ motion to dismiss is denied.	
8 9 10 11 12 13 14 15	Dated this 1st day of September, 1999. Tod A. Bassham Roard Mombor	
16	Board Member	

¹OAR 661-101-0010(3)(b) defines "Final decision" as:

"Unless a local rule or ordinance specifies that the decision becomes final at a later time than defined in this section, a decision becomes final

- "(a) when it is reduced to writing, bears the necessary signatures of the decision maker(s), and
- "(b) if written notice of the decision is required by law, when written notice of the decision is mailed to persons entitled to notice."

²RLDC 31.130(C) provides that:

"A quasi-judicial decision of the Hearing Body shall not become final until written findings of fact are prepared and approved by a majority vote of the participating member, signed by the Presiding Officer or a designate, and mailed as required by Article 33."

³ OAR 661-101-0010(3)(b) defines "Final decision" as:

"Unless a local rule or ordinance specifies that the decision becomes final at a later time than defined in this section, a decision becomes final

- "(a) when it is reduced to writing, bears the necessary signatures of the decision maker(s), and
- "(b) if written notice of the decision is required by law, when written notice of the decision is mailed to persons entitled to notice."