COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT[1]

(as amended through November 2003)

16 U.S.C. § 544 **Sec. 2. Columbia River Gorge National Scenic Area; definitions**

As used in sections 544 to 544p of this title, the term –

(a) "adversely affect" or "adversely affecting" means, except as used in section 544m of this title, a reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination – of which is based on -

(1) the context of a proposed action;

(2) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;

(3) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and

(4) proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant affects to an insignificant level;

(b) "agricultural lands" means lands designated as agricultural lands pursuant to section 544d of this title;

(c) "Commission" means the Columbia River Gorge Commission established pursuant to section 544c of this title;

(d) "counties" means Hood River, Multnomah, and Wasco Counties, Oregon; and Clark, Klickitat, and Skamania Counties, Washington;

(e) "Dodson/Warrendale Special Purchase Unit" means the Dodson/Warrendale Special Purchase Unit established pursuant to section 544b of this title;

(f) "forest lands" means lands designated as forest lands pursuant to section 544d of this title;

(g) "Indian tribes" means the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation;

(h) "interim guidelines" means any interim guidelines developed by the Secretary pursuant to section 544h of this title, and any amendment, revision, or variance;

(i) "land use ordinance" or "ordinance" means any ordinance adopted by a county or by the Commission pursuant to sections 544 to 544p of this title, and includes any amendment to, revision of, or variance from such ordinance;

(j) "major development actions" means any of the following:

(1) subdivisions, partitions and short plat proposals;

(2) any permit for siting or construction outside urban areas of multifamily residential, industrial or commercial facilities, except such facilities as are included in the recreation assessment;

(3) the exploration, development and production of mineral resources unless such exploration, development or production can be conducted without disturbing the surface of any land within the boundaries of a special management area or is

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[1] Note: This compilation was downloaded from *http://uscode.house.gov/*. This compilation does not include any of the codification notes except for footnotes and legislative source notes. While the Columbia River Gorge Commission believes this is an accurate compilation as of the date stated above, persons relying on this compilation do so at their own risk. All persons are advised to seek the assistance of an attorney.

for sand, gravel and crushed rock used for the construction, maintenance or reconstruction of roads within the special management areas used for the production of forest products; and

(4) permits for siting or construction within a special management area of any residence or other related major structure on any parcel of land less than forty acres in size;

(k) "management plan" means the scenic area management plan adopted pursuant to section 544d of this title;

(l) "open spaces" means unimproved lands not designated as agricultural lands or forest lands pursuant to section 544d of this title and designated as open space pursuant to section 544d of this title. Open spaces include –

(1) scenic, cultural, and historic areas;

(2) fish and wildlife habitat;

(3) lands which support plant species that are endemic to the scenic area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;

(4) ecologically and scientifically significant natural areas;

(5) outstanding scenic views and sites;

(6) water areas and wetlands;

(7) archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;

(8) potential and existing recreation resources; and

(9) Federal and State wild, scenic, and recreation waterways;

(m) "recreation assessment" means the recreation assessment adopted pursuant to section 544d of this title;

(n) "residential development" means the permitting for siting or construction of any residence or other related major structure;

(o) "scenic area" means the Columbia River Gorge National Scenic Area established pursuant to section 544b of this title;

(p) "Secretary" means the Secretary of Agriculture;

(q) "special management areas" means areas within the scenic area established pursuant to section 544b of this title;

(r) "States" means the States of Oregon and Washington; and

(s) "urban areas" means those areas within the scenic area identified as urban areas on the map referred to in section 544b(e) of this title or within the boundaries of an urban area as revised pursuant to section 544b(f) of this title.

(Pub. L. 99-663, Sec. 2, Nov. 17, 1986, 100 Stat. 4274; Pub. L. 103-435, Sec. 17(b), Nov. 2, 1994, 108 Stat. 4573.)

§ 544a Sec. 3. Purposes

The purposes of sections 544 to 544p of this title are –

(1) to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

(2) to protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1)

(Pub. L. 99-663, Sec. 3, Nov. 17, 1986, 100 Stat. 4276.)

§ 544b Sec. 4. Establishment of scenic area

(a) National scenic area

(1) There is hereby established the Columbia River Gorge National Scenic Area.

(2) Boundaries. –

(A) In general. – Except as provided in subparagraph (B), the boundaries of the scenic area shall be generally depicted on the map entitled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 sheets 1 and 2, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(B) Exclusions. – The scenic area shall not include the approximately 29 acres of land owned by the Port of Camas-Washougal in the South 1/2 of Section 16, Township 1 North, Range 4 East, and the North 1/2 of Section 21, Township 1 North, Range 4 East, Willamete[2] Meridian, Clark County, Washington, that consists of -

(i) the approximately 19 acres of Port land acquired from the Corps of Engineers under the Second Supplemental Appropriations Act, 1984 (Public Law 98-396); and

(ii) the approximately 10 acres of adjacent Port land to the west of the land described in clause (i)

(b) Special management areas

(1) The following areas within the boundaries of the scenic area are hereby designated "Special Management Areas": Gates of the Columbia River Gorge; Wind Mountain; Burdoin Mountain; and Rowena.

(2) The boundaries of the special management areas designated by paragraph (1) –

(A) shall be generally depicted on the map entitled "Special Management Areas, Columbia River Gorge National Scenic Area", numbered SMA-002 sheets 1 through 17, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service; and

(B) shall include all islands within the boundaries of the scenic area.

(3) Modification of boundaries. - The boundaries of the special management areas are modified as depicted on a map dated September 20, 2000, which shall be on file and available for public inspection in the office of the Chief of the Forest Service in Washington, District of Columbia, and copies shall be available in the office of the Commission, and the headquarters of the scenic area.

(c) Revision of special management area boundaries. The Secretary, in consultation with the Commission, may make minor revisions in the boundaries of special management areas after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and Natural Resources of the United States House of Representatives. Such notice shall be published and submitted at least sixty days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

(d) Dodson/Warrendale Special Purchase Unit

(1) There is hereby established the Dodson/Warrendale Special Purchase Unit.

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[2] So in original. Probably should be "Willamette".

(2) The boundaries of the Dodson/Warrendale Special Purchase Unit shall be generally depicted on the map entitled "Dodson/Warrendale Special Purchase Unit, Columbia River Gorge National Scenic Area", numbered SPU-003 sheet 1, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(e) Urban areas

(1) The following cities and towns are hereby designated as "Urban Areas": Cascade Locks, Hood River, Mosier, and The Dalles, Oregon; and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon, and Wishram, Washington.

(2) The boundaries of urban areas shall be generally depicted on the map entitled, "Urban Areas, Columbia River Gorge National Scenic Area", numbered UA-004 sheets 1 through 11, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service. The boundaries of urban areas designated in this subsection may be revised pursuant to the provisions of this section.

(f) Revision of urban area boundaries

(1) Upon application of a county and in consultation with the Secretary, the Commission may make minor revisions to the boundaries of any urban area identified in subsection (e) of this section. A majority vote of two-thirds of the members of the Commission, including a majority of the members appointed from each State, shall be required to approve any revision of urban area boundaries.

(2) The Commission may revise the boundaries of an urban area only if it finds that -

(A) a demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the management plan;

(B) revision of urban area boundaries would be consistent with the standards established in section 544d of this title and the purposes of sections 544 to 544p of this title;

(C) revision of urban area boundaries would result in maximum efficiency of land uses within and on the fringe of existing urban areas; and

(D) revision of urban area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

(Pub. L. 99-663, Sec. 4, Nov. 17, 1986, 100 Stat. 4276; Pub. L. 103-437, Sec. 6(d)(34), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 105-277, div. A, Sec. 101(e) (title III, Sec. 354(a)), Oct. 21,1998, 112 Stat. 2681-231, 2681-303; Pub. L. 106-31, title V, Sec.5004(3), May 21, 1999, 113 Stat. 110; Pub. L. 106-291, title III, Sec. 346(d), Oct. 11, 2000, 114 Stat. 1000.)

§ 544c Sec. 5. Columbia River Gorge Commission

(a) Establishment and membership of Commission

(1) To achieve the purposes of sections 544 to 544p of this title and to facilitate cooperation among the States of Oregon and Washington, and with the United States of America, the consent of Congress is given for an agreement described in sections 544 to 544p of this title pursuant to which, within one year after November 17, 1986 -

(A) the States of Oregon and Washington shall establish by way of an interstate agreement a regional agency known as the Columbia River Gorge Commission, and shall incorporate sections 544 to 544p of this title

by specific reference in such agreement. The Commission shall carry out its functions and responsibilities in accordance with the provisions of the interstate agreement and of sections 544 to 544p of this title and shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law;

(B) the States of Oregon and Washington shall provide to the Commission, State agencies, and the counties under State law the authority to carry out their respective functions and responsibilities in accordance with the provisions of paragraph (1)(A) of this subsection; and

(C) the States of Oregon and Washington shall appoint members of the Commission as provided in clauses (i) through (iii), subject to applicable State law: Provided, That the Governor of either State may extend the time for appointment of Commission members ninety days to provide more time for the States and counties to make such appointments. Membership of the Commission shall be as follows:

(i) six members, comprised of one resident from each of the following counties: Hood River, Multnomah, and Wasco Counties, Oregon, and Clark, Klickitat, and Skamania Counties, Washington, to be appointed by the governing body of each of the respective counties: Provided, That in the event the governing body of a county fails to make such appointment, the Governor of the State in which the county is located shall appoint such member;

(ii) three members who reside in the State of Oregon, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Oregon;

(iii) three members who reside in the State of Washington, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Washington; and

(iv) one ex officio, nonvoting member who shall be an employee of the Forest Service, to be appointed by the Secretary.

(2) The agreement shall take effect and the Commission may exercise its authorities pursuant to the agreement upon the appointment of four initial members from each State, subject to applicable State law, and the date of such an agreement shall be the date of establishment of the Commission. Such agreement is hereby consented to by the Congress.

(3) Either State or any county may fill any vacancy occurring prior to the expiration of the term of any member originally appointed by that State or county. Each member appointed to the Commission shall serve a term of four years, except that, with respect to members initially appointed pursuant to paragraph (1)(C)(i), each Governor shall designate one member to serve for a term of five years and one to serve for a term of six years, and one member from each State initially appointed pursuant to paragraph (1)(C)(ii) and (iii) shall be designated by the Governor to serve a term of five years, and one to serve a term of six years. Neither the Governors nor the governing bodies of any of the counties may appoint Federal, State, or local elected or appointed officials to the Commission.

(4) A majority of the members of the Commission shall constitute a quorum. The members of the Commission shall select from among themselves a Chairman by majority vote of the members appointed from each State.

(5) Except for the ex-officio member appointed pursuant to paragraph (1)(C)(iv), the members and officers and employees of the Commission shall not be officers or employees of the United States for any purpose. The Commission shall appoint, fix compensation for, and assign and delegate duties to such officers and employees as the Commission deems necessary to fulfill its functions under sections 544 to 544p of this title. The compensation of Commission members shall be fixed by State law. The compensation of Commission members, officers, and employees and the expenses of the Commission shall be paid from funds provided to the Commission by the States.

(b) Applicable law. For the purposes of providing a uniform system of laws, which, in addition to sections 544 to 544p of this title, are applicable to the Commission, the Commission shall adopt regulations relating to administrative procedure, the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Commission, advisory committees, and disclosure of information consistent with the more restrictive statutory provisions of either State. Regulations applicable to financial disclosure under this subsection shall be applied to members of the Commission without regard to the duration of their service on the Commission or the amount of compensation received for such service. No contract, obligation, or other action of the Commission shall be an obligation of the United States or an obligation secured by the full faith and credit of the United States.

(c) Assistance to Commission. Upon the request of the Commission, the Secretary and other Federal agencies are authorized to provide information, personnel, property, and services on a reimbursable basis, and the Secretary is authorized to provide technical assistance on a nonreimbursable basis, to the Commission to assist it in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.

(d) Advisory committees. The Commission shall establish voluntary technical and citizen advisory committees to assist the Commission in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.

(Pub. L. 99-663, Sec. 5, Nov. 17, 1986, 100 Stat. 4277.)

§ 544d Sec. 6. Scenic area management plan

(a) Studies. Within one year after the date the Commission is established, it shall, in cooperation with the Secretary, complete the following studies for use in preparing the management plan:

(1) Resource inventory. The Commission shall complete a resource inventory. The resource inventory shall –

(A) document all existing land uses, natural features and limitations, scenic, natural, cultural, archaeological and recreation and economic resources and activities: Provided, That the location of any Indian burial grounds, village sites, and other areas of archaeological or religious significance shall not be made public information and such information shall be used for administrative purposes only; and

(B) incorporate without change the resource inventory developed by the Secretary pursuant to section 544f of this title for the special management areas.

(2) Economic opportunity study. The Commission shall complete a study to identify opportunities to enhance the economies of communities in the scenic area in a manner consistent with the purposes of sections 544 to 544p of this title.

(3) Recreation assessment. The Commission shall complete an assessment of recreation resources and opportunities for enhancement of these resources. The recreation assessment shall –

(A) designate the location and specify the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(B) identify areas within the scenic area that are suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities and river access areas; and

(C) subject to the treaty and other rights of Indian tribes, designate areas to provide increased access for recreation purposes to the Columbia River and its tributaries; and

(D) incorporate without change the recreation assessment developed by the Secretary pursuant to section 544f of this title for the special management areas;

(b) Land use designations. Within two years after the Commission is established, it shall develop land use designations for the use of non-Federal lands within the scenic area. The land use designations shall –

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section, and consistent with the standards established in subsection (d) of this section;

(2) agricultural products or the sustenance of livestock as agricultural lands;

(3) designate lands used or suitable for the production of forest products as forest lands;

(4) designate lands suitable for the protection and enhancement of open spaces;

(5) designate areas in the scenic area outside special management areas used or suitable for commercial development: Provided, That such designation shall encourage, but not require, commercial development to take place in urban areas and shall take into account the physical characteristics of the areas in question and their geographic proximity to transportation, commercial, and industrial facilities and other amenities;

(6) designate areas used or suitable for residential development, taking into account the physical characteristics of the areas in question and their geographic proximity to transportation and commercial facilities and other amenities; and

(7) incorporate without change the designation of urban areas established in section 544b(e) of this title.

(c) Adoption of management plan. Within three years after the date the Commission is established, it shall adopt a management plan for the scenic area. The Commission

shall adopt the management plan by a majority vote of the members appointed, including at least three members from each State. The management plan shall -

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section;
(2) include land use designations developed pursuant to subsection (b) of this section;
(3) be consistent with the standards established in subsection (d) of this section;
(4) incorporate without change the management direction for the use of Federal lands within and the land use designations for the special management areas adopted by the Secretary pursuant to section 544f of this title; and
(5) include guidelines for the adoption of land use ordinances for lands within the scenic area. The guidelines –
    (A) shall incorporate without change the guidelines for the development of special management area land use ordinances developed by the Secretary pursuant to section 544f of this title; and
    (B) shall not apply to urban areas designated in section 544b(e) of this title.

(d) Standards for management plan. The management plan and all land use ordinances and interim guidelines adopted pursuant to sections 544 to 544p of this title shall include provisions to -

(1) protect and enhance agricultural lands for agricultural uses and to allow, but not require, conversion of agricultural lands to open space, recreation development or forest lands;
(2) protect and enhance forest lands for forest uses and to allow, but not require, conversion of forest lands to agricultural lands, recreation development or open spaces;
(3) protect and enhance open spaces;
(4) protect and enhance public and private recreation resources and educational and interpretive facilities and opportunities, in accordance with the recreation assessment adopted pursuant to subsection (a) of this section;
(5) prohibit major development actions in special management areas, except for partitions or short plats which the Secretary determines are desirable to facilitate land acquisitions pursuant to sections 544 to 544p of this title;
(6) prohibit industrial development in the scenic area outside urban areas;
(7) require that commercial development outside urban areas take place without adversely affecting the scenic, cultural, recreation, or natural resources of the scenic area;
(8) require that residential development outside urban areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area; and
(9) require that the exploration, development and production of mineral resources, and the reclamation of lands thereafter, take place without adversely affecting the scenic, cultural, recreation and natural resources of the scenic area.

(e) Agency consultation and public involvement. The Secretary and the Commission shall exercise their responsibilities pursuant to sections 544 to 544p of this title in consultation with Federal, State, and local governments having jurisdiction within the scenic area or expertise pertaining to its administration and with Indian tribes. The Secretary and the Commission shall conduct public hearings and solicit public comment prior to final adoption of the management plan and the Commission shall

conduct public hearings and solicit public comment prior to final adoption of land use ordinances. The Commission and the appropriate county shall promptly notify the Secretary, the States, local governments and Indian tribes of all proposed major development actions and residential development in the scenic area.

(f) Concurrence of management plan

(1) Review by Secretary. Upon adoption of the management plan, the Commission shall promptly submit the plan to the Secretary for review. If the Secretary agrees with the Commission that the management plan is consistent with the standards established in this section and the purposes of sections 544 to 544p of this title, the Secretary shall concur to that effect. Should the Secretary fail to act on the proposed plan within ninety days, the Secretary shall be deemed to have concurred on the management plan.

(2) Denial of concurrence. If concurrence is denied, the Secretary shall state the reasons for finding the plan is inconsistent with the standards established in this section or the purposes of sections 544 to 544p of this title, and shall submit to the Commission suggested modifications to the management plan to make it consistent with such standards and the purposes of sections 544 to 544p of this title.

(3) Commission reconsideration. Within one hundred and twenty days after receipt of notification of non-concurrence, the Commission shall -

(A) revise and resubmit the plan to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a management plan consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.

(g) Revision of plan. No sooner than five years after adoption of the management plan, but at least every ten years, the Commission shall review the management plan to determine whether it should be revised. The Commission shall submit any revised management plan to the Secretary for review and concurrence, in accordance with the provisions of this section for adoption of the management plan.

(h) Amendment of plan. If the Commission determines at any time that conditions within the scenic area have significantly changed, it may amend the management plan. The Commission shall submit amendments to the management plan to the Secretary for review, in accordance with the provisions of this section for adoption of the management plan.

(Pub. L. 99-663, Sec. 6, Nov. 17, 1986, 100 Stat. 4279.)

§ 544e Sec. 7. Administration of scenic area

(a) Management of scenic area. The non-Federal lands within the scenic area shall be administered by the Commission in accordance with the management plan and sections 544 to 544p of this title.

(b) Adoption of scenic area land use ordinances

(1) Within sixty days of initial receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit such letter or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (c) of this section.

(2) Within two hundred and seventy days of receipt of the management plan, each county shall adopt a land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a land use ordinance shall promptly submit the ordinance to the Commission.

(3) Approval by commission.

(A) Within ninety days after receipt of a land use ordinance, the Commission, by majority vote including at least three members from each State, shall approve the ordinance unless it determines the ordinance is inconsistent with the management plan. Should the Commission fail to act within ninety days, the ordinance shall be deemed to be approved.

(B) If approval is denied, the Commission shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the county suggested modifications to the ordinance to make it consistent with the management plan.

(C) Each county shall have ninety days after it receives recommendations from the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for approval. The Commission shall have sixty days to approve or disapprove the resubmitted ordinance. Any resubmitted ordinance shall become effective upon approval. Should the Commission disapprove the resubmitted ordinance, it shall promptly resubmit the ordinance for reconsideration. Should the Commission fail to act within sixty days, the ordinance shall be deemed to be approved.

(c) Commission land use ordinances

(1) Within ninety days after making a determination that a county has failed to comply with the provisions of this section, the Commission shall make and publish a land use ordinance setting standard for the use of non-Federal lands in such county within the boundaries of the national scenic area, excluding urban areas identified in section 544b(e) of this title. The ordinance shall have the object of assuring that the use of such non-Federal lands is consistent with the management plan. The ordinance may differ amongst the several parcels of land within the boundaries of the scenic area. The ordinance may from time to time be amended by the Commission.

(2) Subsequent Compliance. – In the event the Commission has promulgated regulations pursuant to this section, a county may thereafter upon written notice to the Commission elect to adopt a land use ordinance, in which event it shall comply with the provisions of this section for adoption of a land use ordinance. Upon approval of a land use ordinance by the Commission it shall supersede any regulations for the county developed by the Commission, subject to valid existing rights.

(d) Construction of facilities. The Secretary is hereby authorized to design, construct, operate and maintain such facilities as are included in the recreation assessment.

(Pub. L. 99-663, Sec. 7, Nov. 17, 1986, 100 Stat. 4282.)

§ 544f Sec. 8. Administration of special management areas

(a) Administration of Federal lands

(1)[3] The Secretary shall administer Federal lands within the special management areas in accordance with sections 544 to 544p of this title and other laws, rules and regulations applicable to the national forest system. In addition, the construction of roads and the management, utilization and harvest of timber on Federal lands within the special management areas also shall be subject to Forest Service visual resource management guidelines. The Secretary shall utilize lands acquired through exchange in calculating the allowable sales quantity on the Gifford Pinchot and Mount Hood National Forests.

(b) Withdrawal of Federal lands. Subject to valid existing rights, all Federal lands located in the special management areas are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral and geothermal leasing: Provided, That the Secretary may allow the exploration, development, or production of sand, gravel, and crushed rock as necessary to construct, maintain, or reconstruct roads in the special management areas.

(c) Resource inventory. The Secretary shall complete a resource inventory for the special management areas consistent with the process and substance of the inventory prescribed by section 544d(a)(1) of this title.

(d) Recreation assessment. Within two years after November 17, 1986, the Secretary shall complete an assessment of recreation resources in the special management areas and opportunities for enhancement of these resources. The recreation assessment shall –

(1) identify areas within the special management areas suitable for designation by the Commission pursuant to section 544d of this title for the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(2) identify areas within the special management areas suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities, and river access areas; and

(3) subject to the treaty or other rights of Indian tribes, identify areas with the special management areas suitable for use to increase access for recreation purposes to the Columbia River and its tributaries.

(e) Land use designations. Within three years after November 17, 1986, the Secretary shall develop land use designations for the special management areas. The land use designations shall be -(1) based on the resource inventory prepared by the Secretary pursuant to this section; and (2) consistent with the standards established in section 544d of this title.

(f) Guidelines for land use ordinances

(1)[4] Within three years after November 17, 1986, the Secretary shall, in consultation with the Commission, develop guidelines to assure that non-Federal lands within the special management areas are managed consistent with the standards

[3] So in original. No par. (2) has been enacted.

[4] So in original. No par. (2) has been enacted.

in section 544d of this title and the purposes of sections 544 to 544p of this title. The Secretary shall promptly transmit the guidelines to the Commission for inclusion in the management plan. The guidelines shall require that management, utilization, and disposal of timber, and exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest forest products on non-Federal lands within the special management areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area.

(h)[5] Adoption of special management area land use ordinances

(1) Within sixty days of receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit a letter as provided in this subsection, or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (l) of this section.

(2) Within two hundred seventy days of receipt of the management plan, each county shall adopt a special management area land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a special management area land use ordinance shall promptly submit the adopted ordinance to the Commission.

(i) Review by Commission

(1) The Commission shall review the special management area land use ordinance received from each county, and within ninety days after receipt shall make a tentative determination as to whether the ordinance is consistent with the management plan. If the Commission makes a tentative determination that the land use ordinance is consistent with the management plan, the Commission shall send the ordinance to the Secretary for concurrence.

(2) If the Commission makes a tentative determination that the land use ordinance is inconsistent with the management plan, the Commission shall state the reasons for the determination and shall return the ordinance to the appropriate county with suggested modifications required for consistency with the management plan.

(3) Each county shall have ninety days after it is notified by the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for tentative determination of consistency. The Commission shall have sixty days to make a tentative consistency determination on the resubmitted ordinance. If found consistent, the land use ordinance shall be transmitted by the Commission to the Secretary for concurrence that the ordinance is consistent with the management plan. If the Commission finds the resubmitted ordinance inconsistent, the Commission shall adopt an ordinance pursuant to subsection (l) of this section.

(j) Concurrence by Secretary

(1) Upon receipt of a special management area land use ordinance from the Commission, the Secretary shall notify the public of such receipt and shall,

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[5] So in original. No subsec. (g) has been enacted.

within ninety days thereafter, concur with the Commission's tentative determination of consistency with the management plan unless the Secretary determines the ordinance is inconsistent. Any ordinance submitted to the Secretary shall become effective upon notification of concurrence. Should the Secretary fail to act within ninety days, the Secretary shall be deemed to have concurred with the Commission's tentative consistency determination.

(2) Denial of Concurrence. - If concurrence is denied, the Secretary shall state the reasons therefor and shall submit to the Commission suggested modifications to the land use ordinances to make them consistent with the management plan and the purposes of sections 544 to 544p of this title.

(k) Commission reconsideration. Upon receipt of notification of nonconcurrence by the Secretary, the Commission shall resubmit the land use ordinance to the appropriate county. Such county shall within ninety days, reconsider and revise the ordinance and resubmit the ordinance to the Commission for reconsideration in accordance with the provisions of this section. Should the Secretary again deny concurrence, the Commission shall either prepare a land use ordinance for such county pursuant to subsection (l) of this section or, by a two-thirds vote of the membership of the Commission including a majority of the members appointed from each State, determine that the ordinance is consistent with the management plan.

(l) Commission ordinances

(1) Within ninety days after making a determination that a county has failed to comply with the provisions of subsection (h) of this section, the Commission shall make and publish an ordinance setting standards for the use of non-Federal lands of such county within the boundaries of the special management areas. The ordinances shall have the object of assuring that the use of such lands is consistent with the management plan. The ordinances may differ amongst the several parcels of land within the boundaries of the special management areas. The ordinances may from time to time be amended by the Commission.

(2) The Commission shall promptly submit the ordinance to the Secretary. The Secretary shall, within ninety days after receipt of the ordinance from the Commission, concur with the tentative determination that the land use ordinance is consistent with the management plan unless a determination of inconsistency is made Any ordinance submitted to the Secretary shall become effective upon concurrence. Should the Secretary fail to concur within ninety days, the land use ordinance shall be effective.

(3) If concurrence is denied, the Secretary shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the Commission suggested modifications to the ordinance to make it consistent with the plan.

(4) The Commission shall have ninety days after it receives recommendations from the Secretary to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Secretary for concurrence. The Secretary shall have sixty days to concur with the resubmitted ordinance. Any resubmitted ordinance shall become effective upon concurrence by the Secretary. Should the Secretary deny concurrence for the resubmitted ordinance, the Secretary shall state the reasons therefor and shall promptly

resubmit the ordinance for reconsideration. Should the Secretary fail to concur within sixty days, the ordinance shall be deemed effective.

(5) Within one hundred twenty days after receipt of notification of non-concurrence, the Commission shall –

(A) revise and resubmit the land use ordinance to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a land use ordinance consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.

(m) Subsequent compliance. In the event the Commission has adopted an ordinance pursuant to this section, the affected county may thereafter, upon written notice to the Commission and to the Secretary, elect to adopt a special management area land use ordinance, in which event it shall comply with the provisions of this section for adoption of special management area land use ordinances. Upon concurrence of such land use ordinances by the Secretary they shall supersede any special management area land use ordinances for the county development by the Commission, subject to valid existing rights.

(n) Effect of Secretary's non-concurrence. If the Secretary does not concur in any land use ordinance approved or adopted by the Commission pursuant to this section, the availability of certain funds to the relevant county shall be governed by section 544n(c) of this title.

(o) Special rules

(1) In general – Any ordinance adopted pursuant to this section shall not apply to any parcel or parcels of land within a special management area if, after the date such ordinance has been adopted, three years have elapsed after a landowner has made a bona fide offer to sell at fair market value or otherwise convey such parcel or parcels to the Secretary, unless the affected landowner agrees to an extension of the three year period: Provided, That an offer shall not be considered bona fide if the landowner refuses consideration equal to the fair market value as appraised in accordance with section 544g(e) of this title. Lands for which an ordinance is suspended pursuant to this subsection shall be subject to the relevant scenic area land use ordinance adopted pursuant to section 544e of this title.

(2) Applicability – This subsection shall not apply to any land offered to the Secretary for acquisition after March 31, 2001.

(Pub. L. 99-663, Sec. 8, Nov. 17, 1986, 100 Stat. 4283; Pub. L. 06-291, title III, Sec. 346(b), Oct. 11, 2000, 114 Stat. 999.)

§ 544g Sec. 9. Land acquisition

(a) Acquisition authorized

(1) The Secretary is authorized to acquire any lands or interests therein within the special management areas and the Dodson/Warrendale Special Purchase Unit which the Secretary determines are needed to achieve the purposes of sections 544 to 544p of this title: Provided, That any lands, waters, or interests therein owned by either State or any political subdivision thereof may be acquired only by donation or exchange.

(2) Lands within the State of Oregon acquired by the Secretary pursuant to sections 544 to 544p of this title shall become part of the Mount Hood National Forest. Lands within the State of Washington acquired by the Secretary pursuant to this section shall become part of the Gifford Pinchot National Forest. All lands acquired by the Secretary pursuant to sections 544 to 544p of this title shall be subject to the laws and regulations pertaining to the National Forest System and sections 544 to 544p of this title.

(b) Limitations on eminent domain

(1) Where authorized in subsection (a) of this section to acquire land or interests therein without the consent of the owner, the Secretary shall –

(A) acquire only such land or interests therein as is reasonably necessary to accomplish the purposes of sections 544 to 544p of this title; and

(B) do so only in cases where all reasonable efforts to acquire with the consent of the owner such lands, or interests therein, have failed.

(2) Notwithstanding the provisions of subsection (a) of this section, the Secretary may not acquire without the consent of the owner lands or interests therein which –

(A) on November 17, 1986, were used primarily for educational, religious, or charitable purposes, single-family residential purposes, farming, or grazing so long as the existing character of that use is not substantially changed or permitted for change;

(B) are located in counties with land use ordinances in which the Secretary has concurred pursuant to section 544f of this title, unless such lands are being used, or are in imminent danger of being used, in a manner incompatible with such ordinances;

(C) are within the boundaries of the Dodson/Warrendale Special Purchase Unit; or

(D) are owned by an Indian tribe, held in trust by the United States for an Indian tribe or member of an Indian tribe, or otherwise administered by the United States for the benefit of an Indian tribe or member of an Indian tribe.

(c) Hardship cases. In exercising authority to acquire lands pursuant to this section the Secretary shall give prompt and careful consideration to any offer made by any person or entity owning any land, or interest in land, within the boundaries of a special management area. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(d) Land exchanges

(1) The Secretary is authorized and directed, in conformance with the provisions of this subsection, to acquire by exchange any parcel of unimproved forest land at least forty acres in size within the boundaries of the special management areas which is owned by any private forest land owner if, after November 17, 1986, but within one hundred and eighty days after final adoption of the management plan, such private forest land owner offers to the United States such parcel of forest land.

(2) In exercising this authority to acquire forest lands pursuant to this subsection, the Secretary may accept title to such lands and convey to the owner federally owned lands deemed appropriate by the Secretary within the States of Oregon

and Washington, regardless of the State in which the transferred lands are located. Forest lands exchanged pursuant to this subsection shall be of approximately equal value: Provided, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged: Provided further, That the Secretary may reserve in any conveyance pursuant to this subsection such easements, subsurface rights, and any other interests in land deemed necessary or desirable: Provided further, That the valuation of lands exchanged shall be determined in terms of forest uses for timber.

(3) It is the intention of Congress that land exchanges pursuant to this subsection shall be completed no later than five years after November 17, 1986.

(4) In the event that exchanges authorized by this section leave any private forest land owner with ownership of an uneconomic remnant of forest land contiguous to a special management area, the Secretary is authorized to acquire such forest lands as if they were within the boundaries of a special management area.

(5) The following-described Federal lands and interests therein are hereby identified as candidate lands for exchanges conducted pursuant to this section: Provided, That the determination of which candidate lands will be exchanged, and in what sequence, shall be at the discretion of the Secretary. Subject to valid existing rights, such lands are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry, and patent under the United States mining law, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto until the Secretary determines such lands are no longer needed to complete exchanges authorized by this section: Provided, That such period shall not extend beyond five years:

GIFFORD PINCHOT NATIONAL FOREST

Wind River-Panther Creek Area

Section	Township	Range
35	4N	7E
36	4N	7E

Approx. 430 acres.

South Swift Area

Section	Township	Range
13	6N	5E
23	6N	5E
17	6N	6E
18	6N	6E

Approx. 1,920 acres.

Buck Creek-Willard Area

Section	Township	Range
16	3N	9E

1	4N	9E
2	4N	9E
3	4N	9E
10	4N	9E
11	4N	9E
12	4N	9E
15	4N	9E
21	4N	9E
22	4N	9E
26	4N	9E
27	4N	9E
28	4N	9E
29	4N	9E
30	4N	9E
31	4N	9E
32	4N	9E
33	4N	9E
34	4N	9E
35	4N	9E
6	4N	10E
7	4N	10E
5	5N	10E
6	5N	10E
7	5N	10E
8	5N	10E
9	5N	10E
30	5N	10E
31	5N	10E
32	5N	10E

Approx. 14,460 acres.

National Area

Section	Township	Range
6	14N	7E
7	14N	7E
18	14N	7E
30	14N	7E

Approx. 2,560 acres.

SIUSLAW NATIONAL FOREST

East Beaver Area

Section	Township	Range
33	2S	9W
34	2S	9W
2	3S	9W
3	3S	9W
4	3S	9W
8	3S	9W
9	3S	9W
17	3S	9W

Approx. 3,053 acres.

WILLAMETTE NATIONAL FOREST

Ida-McCoy Area

Section	Township	Range
21	10S	6E
28	10S	6E

Approx. 680 acres.

MOUNT HOOD NATIONAL FOREST

Estacada Area

Section	Township	Range
15	10S	5E

Approx. 560 acres.

Zig-Zag Area

Section	Township	Range
22	2S	7E
29	2S	7E

Approx. 280 acres.

Hood River Area

Section	Township	Range
4	1N	9E
36	1N	10E
31	1N	11E
2	1S	9E
3	1S	9E
4	1S	9E
5	1S	9E
6	1S	9E

Approx. 5,800 acres.

(e) Appraisals

(1) Definition of landowner – In this subsection, the term "landowner" means the owner of legal or equitable title as of September 1, 2000.

(2) Appraisal standards – Except as provided in paragraph (3), land acquired or conveyed by purchase or exchange under this section shall be appraised in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions.

(3) Special management areas

(A) Before April 1, 2001 – Land within a special management area for which the landowner, before April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised –

(i) without regard to the effect of any zoning or land use restriction made in response to sections 544 to 544p of this title; but

(ii) subject to any other current zoning or land use restriction imposed by the State or locality in which the land is located on the date of the offer.

(B) On or after April 1, 2001 – Land within a special management area for which the landowner, on or after April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised subject to –

(i) any zoning or land use restriction made in response to sections 544 to 544p of this title; and

(ii) any other current zoning or land use restriction that applies to the land on the date of the offer.

(f) Authorization for certain land exchanges

(1) In general. To facilitate priority land exchanges through which land within the boundaries of the White Salmon Wild and Scenic River or within the scenic area is conveyed to the United States, the Secretary may accept title to such land as the Secretary determines to be appropriate within the States, regardless of the State in which the land conveyed by the Secretary in exchange is located, in accordance with land exchange authorities available to the Secretary under applicable law.

(2) Special rule for land certain exchanges. Notwithstanding any other provision of law –

(A) any exchange described in paragraph (1) for which an agreement to initiate has been executed as of September 30, 2000, shall continue; and

(B) any timber stumpage proceeds collected under the exchange shall be retained by the Forest Service to complete the exchange.

(g) Boundaries. For the purposes of section 460l-9 of this title, the boundaries of the scenic area, including special management areas and the Dodson/Warrendale Special Purchase Unit shall be treated as if they were within the boundaries of the Mount Hood or Gifford Pinchot National Forests as of January 1, 1965.

(Pub. L. 99-663, Sec. 9, Nov. 17, 1986, 100 Stat. 4287; Pub. L. 104-66, title I, Sec. 1011(n), Dec. 21, 1995, 109 Stat. 710; Pub. L. 106-291, title III, Sec. 346(a), Oct. 11, 2000, 114 Stat. 999.)

§ 544h Sec. 10. Interim management

(a) Interim guidelines

(1)[6] Within one hundred eighty days after November 17, 1986, the Secretary shall develop interim guidelines for the scenic area outside urban areas to identify land use activities which are inconsistent with sections 544 to 544p of this title and to govern the authority to acquire land without the consent of the owner provided by subsection (b) of this section. The Secretary shall promptly notify the public of adoption of the interim guidelines and transmit the guidelines to each county. Guidelines adopted by the Secretary pursuant to this subsection shall remain in effect for each county until the Secretary has developed guidelines for the special management areas pursuant to section 544f of this title and the land use ordinances prescribed by section 544e of this title are in effect.

[6] So in original. No par. (2) has been enacted.

(b) Interim acquisition authority and injunctive relief. Prior to the concurrence by the Secretary of land use ordinances prescribed by section 544f of this title and the approval by the Commission of land use ordinances prescribed by section 544e of this title, the following authorities are granted:

(1) The Secretary may acquire by condemnation any land or interest which is being used or threatened to be used in a manner inconsistent with the purposes for which the scenic area was established and which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area: Provided, That no lands or interests therein can be acquired by condemnation pursuant to this section if used in the same manner and for the same purposes as used on November 17, 1986, unless such land is used for or interest is in the development of sand, gravel, or crushed rock, or the disposal of refuse: Provided further, That within thirty days of the filing by the Secretary of a complaint for condemnation of any land or interest in the scenic area, outside of the special management areas and urban areas, the Commission, by a vote of two-thirds of its membership including a majority of the members appointed from each State, or if the Commission is not in existence the Governor of the State in which the land or interest is located, may disapprove such proposed complaint.

(2) Upon or after the commencement of any action for condemnation pursuant to this subsection, the Secretary, acting through the Attorney General of the United States, may apply to the appropriate United States District Court for a temporary restraining order or injunction to prohibit the use of any property within the scenic area, but outside of urban areas, which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation and natural resources of the scenic area or is otherwise inconsistent with the purposes for which the scenic area was established. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that, following termination of the order or injunction, the inconsistent use is abated or the adverse effect is mitigated.

(c) Review of development action. Prior to the effective date of a land use ordinance for each county pursuant to section 544e of this title, and concurrence of the Secretary on a land use ordinance for each county pursuant to section 544f of this title, the Commission shall review all proposals for major development actions and new residential development in such county in the scenic area, except urban areas. The Commission shall allow major development actions and new residential development only if it determines that such development is consistent with the standards contained in section 544d of this title and the purposes of sections 544 to 544p of this title.

(Pub. L. 99-663, Sec. 10, Nov. 17, 1986, 100 Stat. 4291.)

§ 544i Sec. 11. Economic development

(a) Economic development plan. Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with sections 544 to 544p of this title.

(b) Funds provided to States for grants. Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall

provide $5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of sections 544 to 544p of this title.

(c) Conditions of grants. Each State making grants under this section shall require as a condition of a grant that –

(1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of sections 544 to 544p of this title, the management plan, and land use ordinances adopted pursuant to sections 544 to 544p of this title;

(2) grants and loans are not used to relocate a business from one community to another;

(3) grants and loans are not used for program administration; and

(4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.

(d) Report. Each State shall –

(1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;

(2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

(Pub. L. 99-663, Sec. 11, Nov. 17, 1986, 100 Stat. 4292.)

§ 544j Sec. 12. Old Columbia River Highway

The Oregon Department of Transportation shall, in consultation with the Secretary and the Commission, the State of Oregon and the counties and cities in which the Old Columbia River Highway is located, prepare a program and undertake efforts to preserve and restore the continuity and historic integrity of the remaining segments of the Old Columbia River Highway for public use as a Historic Road, including recreation trails to connect intact and usable segments.

(Pub. L. 99-663, Sec. 12, Nov. 17, 1986, 100 Stat. 4293.)

§ 544k Sec. 13. Tributary rivers and streams

(a) Water resources projects. The following rivers and streams shall be subject to the same restrictions on the licensing, permitting, and exempting from licensing and the construction of water resource projects as provided for components of the National Wild and Scenic Rivers System pursuant to section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)):

(1) any tributary river or stream to the Columbia River not designated in subsections[7] (c) or (d) of this section or otherwise specified in this subsection which flows in whole or in part through a special management area, unless the construction of a water resources project would not have a direct and adverse effect on the scenic, cultural, recreation, and natural resources of the scenic area;

[7] So in original. Probably should be "subsection".

(2) any river or river segment which flows in whole or in part through the scenic area and which is established pursuant to State law as a wild, scenic, or recreation river or which is under study pursuant to State law for the potential inclusion in any such State protected river system, unless such project or projects meet terms and conditions set by State agencies exercising administration over such river or river segment;

(3) the Wind River, Washington, for a period not less than three years following the later of –

(A) final approval of the Gifford Pinchot National Forest Plan, adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended) (16 U.S.C. 1600 et seq.); or

(B) submittal by the Secretary of a report to the President on the suitability or nonsuitability for addition to the national wild and scenic rivers system and a report by the President to the Congress of recommendations and proposals with respect to the designation of such river under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(4) the Hood River, Oregon, for a period not to exceed twenty years from November 17, 1986, if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986; and

(5) the segment of the Little White Salmon, Washington, from the Willard National Fish Hatchery to its confluence with the Columbia River if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986.

(b) Exceptions. The provisions of subsection (a) of this section shall not apply to those portions of tributary rivers or streams to the Columbia River which flow through or border on Indian reservations. Nothing in this section shall apply to or affect any segment of any river designated as a wild and scenic river under section 3 of the Wild and Scenic Rivers Act (16 U.S.C. 1274) or any river designated for study under section 5 of such Act (16 U.S.C. 1276).

(Pub. L. 99-663, Sec. 13(a), (b), Nov. 17, 1986, 100 Stat. 4293, 4294.)

§ 544l Sec. 14. Implementation measures

(a) Assistance to counties. The Secretary shall provide technical assistance on a nonreimbursable basis to counties for the development of land use ordinances prescribed by sections 544e and 544f of this title: Provided, That in the event a county fails to obtain approval by the Commission for a land use ordinance within three years after the date technical assistance is first provided under this subsection for the development of a land use ordinance, the Secretary shall terminate all technical assistance for any participation in the development of such ordinance.

(b) Payment of timber receipts

(1) Notwithstanding the provisions of section 500 of this title, that portion of which is paid under such provisions to the State of Oregon with respect to the special management areas within the Mount Hood National Forest, the Gates of the Columbia Gorge Special Management Area, Mount Hood National Forest, and to the State of Washington with respect to the special management areas within the Gifford Pinchot National Forest –

(A) not less than 50 per centum shall be expended for the benefit of the public schools of the county which has adopted implementation measures pursuant to sections 544 to 544p of this title; and

(B) the remainder shall be expended for the benefit of public roads or any public purposes of any county which has adopted implementation measures pursuant to sections 544 to 544p of this title.

(2) Paragraph (1) of this subsection shall not apply –

(A) to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (b)(1) of this section at the end of any fiscal year ending before November 17, 1986; or

(B) for a particular county, if the county does not have in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.

(c) Payments to local governments

(1) Subject to section 544n(b) of this title, in the case of any land or interest therein acquired by the Secretary pursuant to section 544g of this title, which was subject to local real property taxes within the five years preceding such acquisition and which is located in a county which has in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title, the Secretary is authorized and directed to make annual payments to the county in which such lands are located in an amount equal to 1 per centum of the fair market value of such land or interest therein on the date of acquisition by the Secretary.

(2) Notwithstanding paragraph (1) of this subsection, any payment made for any fiscal year to a county pursuant to this subsection shall not exceed the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest therein was acquired by the Secretary.

(3) Limitation.

(A) In general. - Except as provided in subparagraph (B), no payment shall be made under this subsection with respect to any land or interest therein after the eighth full fiscal year beginning after the first fiscal year in which such a payment was made with respect to such land or interest therein.

(B) Continuation of certain payments. - For any land or interest in land for which the Secretary is making a payment in fiscal year 2000, such payment shall be continued for a total of eight fiscal years.

(d) Federal consistency. Except as otherwise provided in subsection (e) of this section or in section 544o of this title, Federal agencies having responsibilities within the scenic area shall exercise such responsibilities consistent with the provisions of sections 544 to 544p of this title as determined by the Secretary.

(e) Limitations on Federal expenditures affecting the scenic area

(1) Except as provided in paragraph (3), if the Commission has not been established pursuant to section 544c of this title within fifteen months after November 17, 1986, or is otherwise disestablished for any reason, no new expenditures or new financial assistance may be made available, and no new license or new permit, or exemption from a license or permit requirement, shall be issued, under authority of any Federal law for any activity within the scenic

area, excluding urban areas, which the Secretary,[8] determines is inconsistent with any implementation measure pursuant to, the standards established in section 544d(b) of this title, or the purposes of sections 544 to 544p of this title.

(2) (A) (i) An expenditure or financial assistance made available under authority of Federal law shall be treated, for purposes of this subsection, as a new expenditure or new financial assistance if–

(I) in any case with respect to which specific appropriations are required, no money for construction or purchase was appropriated before October 1, 1986; or

(II) no legally binding commitment for the expenditure or financial assistance was made before October 1, 1986.

(ii) Payments made to the State pursuant to the following Acts shall not be treated as an expenditure or financial assistance for purposes of this subsection: section 500 of this title; the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181 et seq.); chapter 69 of title 31 (relating to payments in lieu of taxes for entitlement land); the Act of June 9, 1916 (39 Stat. 218), and the Act of Feb. 26, 1919 (40 Stat. 1179).

(B) A license or permit, or exemption from a license or permit requirement, shall be treated, for purposes of this subsection, as a new license or new permit, or exemption from a license or permit requirement, if such license or permit, or exemption from a license or permit requirement, was issued on or after October 1, 1986. A renewal under similar terms and conditions of a license or permit, or exemption from a license or permit requirement, issued before October 1, 1986, shall not be treated as a new license or new permit, or exemption from a license or permit requirement.

(3) Notwithstanding paragraph (1), the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the area for any of the following:

(A) The maintenance of existing channel improvements and related structures, and including the disposal of dredge materials related to such improvements.

(B) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.

(C) Military activities essential to national security.

(D) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the standards in section 544d(b) of this title and the purposes of sections 544 to 544p of this title:

(i) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(ii) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

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[8] So in original. The comma probably should not appear.

(iii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

(v) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities. This clause shall not apply to roads, structures, or facilities referred to in paragraph (3)(B).

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(4) The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this subsection during each fiscal year beginning after September 30, 1987. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

(5) Nothing contained in this subsection shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person or any obligation imposed by any law of any State, or political subdivision of a State. No provision of this subsection shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This subsection shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

(f) Transfer of public lands. Subject to valid existing rights, all public lands within the scenic area administered by the Secretary of the Interior through the Bureau of Land Management are hereby transferred without consideration to the jurisdiction of the Secretary to be managed as National Forest lands in accordance with the provisions of sections 544 to 544p of this title.

(Pub. L. 99-663, Sec. 14, Nov. 17, 1986, 100 Stat. 4294; Pub. L. 106-291, title III, Sec. 346(e), Oct. 11, 2000, 114 Stat. 1000.)

§ 544m Sec. 15. Enforcement

(a) Administrative remedies

(1) Commission orders. The Commission shall monitor activities of counties pursuant to sections 544 to 544p of this title and shall take such actions as it determines are necessary to ensure compliance.

(2) Appeal to the Commission. Any person or entity adversely affected by any final action or order of a county relating to the implementation of sections 544 to 544p of this title may appeal such action or order to the Commission by filing with the Commission within thirty days of such action or order, a written petition requesting that such action or order be modified, terminated, or set aside.

(3) Civil penalties. Any person or entity who willfully violates the management plan or any land use ordinance or any implementation measure or any order issued by the Commission pursuant to sections 544 to 544p of this title may be assessed a civil penalty by the Commission not to exceed $10,000 for each violation. No penalty may be assessed under this subsection unless such person or entity is given notice and opportunity for a public hearing with respect to such violation. The Commission may compromise, modify, or remit,with or without conditions, any penalty imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the violator to remedy the violation in a timely manner.

(b) Judicial remedies

(1) Civil actions to enforce sections 544 to 544p of this title

(A) Except as otherwise limited by sections 544 to 544p of this title, the Attorney General of the United States may, at the request of the Secretary, institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the special management areas in violation of the provisions of sections 544 to 544p of this title, interim guideline adopted or other action taken by the Secretary pursuant to sections 544 to 544p of this title.

(B) The Commission, or, at the request of the Commission, or the attorney general of Oregon or Washington, may institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the scenic area outside urban areas in violation of the provisions of sections 544 to 544p of this title, the management plan, or any land use ordinance or interim guideline adopted or other action taken by the Commission or any county pursuant to sections 544 to 544p of this title.

(2) Citizens suits. Any person or entity adversely affected may commence a civil action to compel compliance with sections 544 to 544p of this title -

(A) against the Secretary, the Commission or any county where there is alleged a violation of the provisions of sections 544 to 544p of this title, the management plan or any land use ordinance or interim guideline adopted or other action taken by the Secretary, the Commission, or any county pursuant to or Commission[9] under sections 544 to 544p of this title; or

[9] So in original. The word "Commission" probably should not appear.

(B) against the Secretary, the Commission, or any county where there is alleged a failure of the Secretary, the Commission or any county to perform any act or duty under sections 544 to 544p of this title which is not discretionary with the Secretary, the Commission or any county.

(3) Limitation on bringing of citizens suits. No action may be commenced -

(A) under paragraph (2)(A) of this subsection –

(i) prior to sixty days after the plaintiff has given notice in writing of the alleged violation to the Secretary, to the Commission, and to the county in which the violation is alleged to have occurred; or

(ii) if the Attorney General of the United States, or the attorney general of Oregon or Washington, has commenced and is diligently prosecuting a civil action on the same matter pursuant to paragraph (1) of this subsection to require compliance with the management plan or any regulations, guidelines, or standards issued or other actions taken by the Secretary, the Commission, or any county pursuant to sections 544 to 544p of this title: Provided, That in any such action any person or entity otherwise entitled to bring an action pursuant to paragraph (2) of this subsection may intervene as a matter of right; or

(iii) which challenges the consistency of the draft management plan with the purposes and standards of sections 544 to 544p of this title or with other applicable law prior to the certification or adoption of the Management Plan pursuant to section 544d of this title; or

(B) under paragraph (2)(B) of this subsection prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, the Commission, and to the county in which the failure to perform any act or duty pursuant to sections 544 to 544p of this title is alleged: Provided, That such action may be brought immediately after such notification where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(4) Judicial review. Any person or entity adversely affected by –

(A) any final action or order of a county, the Commission, or the Secretary relating to the implementation of sections 544 to 544p of this title;

(B) any land use ordinance or interim guideline adopted pursuant to sections 544 to 544p of this title;

(C) any appeal to the Commission pursuant to this section;

(D) any civil penalty assessed by the Commission pursuant to paragraph (a)(3) of this subsection may appeal such action or order by filing in any of the courts specified in paragraph (5) of this subsection, within sixty days after the date of service of such order or within sixty days after such action is taken, a written petition requesting such action, order, land use ordinance, interim guideline, or appeal taken to the Commission be modified, terminated, or set aside.

(5) Federal court jurisdiction. The United States district courts located in the States of Oregon and Washington shall have jurisdiction over –

(A) any criminal penalty imposed pursuant to section 551 of this title, or any other applicable law for violation of any order, regulation or other action taken by the Secretary pursuant to sections 544 to 544p of this title;
(B) any civil action brought against the Secretary pursuant to this section; or
(C) any appeal of any order, regulation, or other action of the Secretary taken pursuant to paragraph (4) of this subsection.

(6) State court jurisdiction. The State courts of the States of Oregon and Washington shall have jurisdiction –
(A) to review any appeals taken to the Commission pursuant to subsection (a)(2) of this section;
(B) over any civil action brought by the Commission pursuant to subsection (b)(1) of this section or against the Commission, a State, or a county pursuant to subsection (b)(2) of this section;
(C) over any appeal of any order, regulation, or other action of the Commission or a county taken pursuant to paragraph 4 of this subsection; or
(D) any civil penalties assessed by the Commission pursuant to subsection (a)(3) of this section.

(Pub. L. 99-663, Sec. 15, Nov. 17, 1986, 100 Stat. 4297.)

§ 544n Sec. 16. Authorization of appropriations

(a) General authorizations. There are authorized to be appropriated for fiscal years after the fiscal year 1986 such sums as are described below;[10]
(1) For the purpose of acquisition of lands, water and interests therein pursuant to sections 544 to 544p of this title: $40,000,000: Provided, That of this amount no more than $10,000,000 shall be available to acquire lands, water, and interests therein pursuant to section 544h of this title. Such amounts are authorized to be appropriated from amounts covered into the Land and Water Conservation Fund notwithstanding any allocation, apportionment, or limitation contained in the Land and Water Conservation Fund (16 U.S.C. 460l-4 and following).
(2) For the purpose of providing payments to local governments pursuant to section 544l(c) of this title: $2,000,000.

(b) Specific authorizations. There are authorized to be appropriated for fiscal years after the fiscal year 1986, effective upon concurrence on the management plan pursuant to section 544d of this title:
(1) For the purpose of construction of an interpretive center to be located in the State of Oregon, and a conference center to be located in the State of Washington: $10,000,000.
(2) For the purpose of construction of recreation facilities pursuant to section 544e(d) of this title: $10,000,000.
(3) For the purpose of preparing a program and restoring and reconstructing the Old Columbia River Scenic Highway, Oregon pursuant to section 544j of this title: $2,800,000.
(4) For the purpose of providing economic development grants pursuant to section 544i of this title: $5,000,000 for each State: Provided, That funds authorized to be appropriated pursuant to this paragraph shall be available for the acquisition

[10] So in original. The semicolon probably should be a colon.

of lands and interests therein pursuant to section 544h of this title if, at the expiration of three years, the States have failed to carry out their respective function pursuant to section 544c of this title.

(c) Availability of funds. Funds appropriated under subsections (a)(2) and (b) of this section shall not be made available for any county which does not have in effect a land use ordinance which has been found to be consistent by the Commission, and concurred on by the Secretary as consistent with the management plan pursuant to section 544f of this title.

(Pub. L. 99-663, Sec. 16, Nov. 17, 1986, 100 Stat. 4300.)

§ 544o Sec. 17. Savings provisions

(a) Nothing in sections 544 to 544p of this title shall –

(1) affect or modify any treaty or other rights of any Indian tribe;

(2) except as provided in section 13(c), authorize the appropriation or use of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual;

(3) except as provided in section 13(c), affect the rights or jurisdictions of the United States, the States, Indian tribes or other entities over waters of any river or stream or over any ground water resource or affect or interfere with transportation activities on any such river or stream;

(4) except as provided in section 13(c), alter, establish, or affect the respective rights of the United States, the States, Indian tribes, or any person with respect to any water or water-related right;

(5) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States before November 17, 1986;

(6) affect or modify the ability of the Bonneville Power Administration to operate, maintain, and modify existing transmission facilities;

(7) affect lands held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes;

(8) affect the laws, rules and regulations pertaining to hunting and fishing under existing State and Federal laws and Indian treaties;

(9) require any revision or amendment of any forest plan adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended (16 U.S.C. 1600 et seq.)); or

(10) establish protective perimeters or buffer zones around the scenic area or each special management area. The fact that activities or uses inconsistent with the management directives for the scenic area or special management areas can be seen or heard from these areas shall not, of itself, preclude such activities or uses up to the boundaries of the scenic area or special management areas.

(b) Improvement of navigation facilities at Bonneville Dam. Except for the offsite disposal of excavation material, nothing in sections 544 to 544p of this title shall be construed to affect or modify the responsibility of the United States Army Corps of Engineers to improve navigation facilities at Bonneville Dam pursuant to Federal law.

(c) Rights and responsibilities of non-Federal timber land owners. Except for the management, utilization, or disposal of timber resources of non-Federal lands within the special management areas, nothing in sections 544 to 544p of this title shall affect the rights and responsibilities of non-Federal timber land owners under the Oregon and Washington Forest Practices Acts or any county regulations which under applicable State law supersede such Acts.

(d) Interstate compacts. Mandatory language in sections 544 to 544p of this title respecting the powers and responsibilities of the Commission shall be interpreted as conditions precedent to congressional consent to the interstate compact described in section 544c of this title.

(e) Failure to establish Columbia River Gorge Commission; responsibility of Secretary. In the event that the States of Washington and Oregon fail to comply with the provisions of section 544c of this title, the Secretary shall not be obligated to take actions which are predicated upon the establishment of the Commission.

(f) Actions of Secretary as major Federal actions affecting the environment

(1) Actions by the Secretary pursuant to subsections (f), (g), and (h) of section 544d of this title; subsections (f), (j), (k), and (l) of section 544f of this title; section 544g of this title; and subsections (a) and (b)(2) of section 544h of this title shall neither be considered major Federal actions significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act (42 U.S.C. 4321 et seq.).

(2) Except as provided in paragraph (1) of this subsection, nothing in sections 544 to 544p of this title shall expand, restrict, or otherwise alter the duties of the Secretary under the National Environmental Policy Act.

(Pub. L. 99-663, Sec. 17, Nov. 17, 1986, 100 Stat. 4300.)

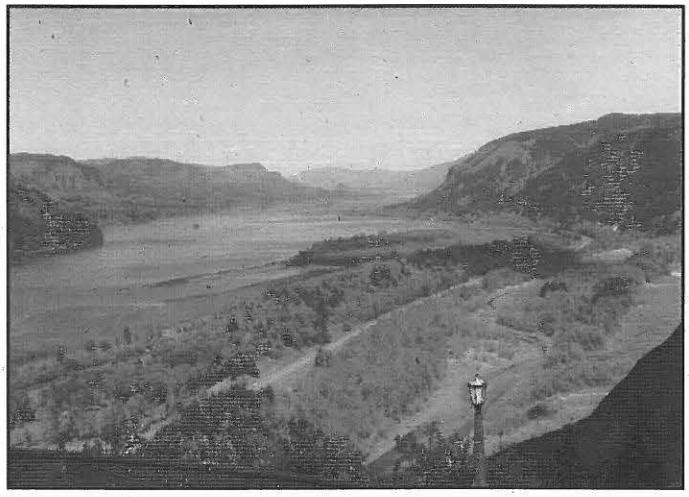
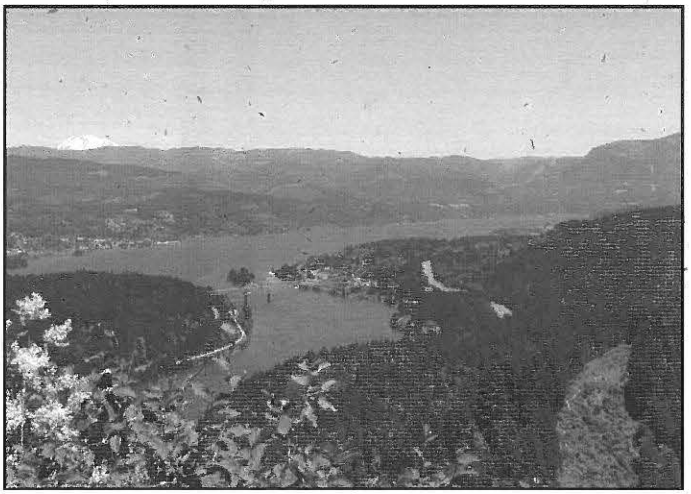
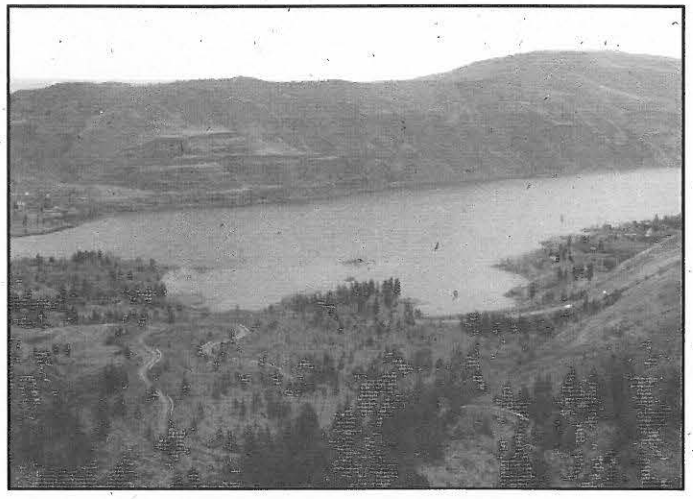
§ 544p **Sec. 18. Severability**

(a)[11] If any provision of sections 544 to 544p of this title or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of sections 544 to 544p of this title, nor the application of any provisions herein to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

(Pub. L. 99-663, Sec. 18, Nov. 17, 1986, 100 Stat. 4302.)

[11] So in original. No subsec. (b) has been enacted.

MANAGEMENT PLAN
for the
Columbia River Gorge National Scenic Area

FIRST REVISION – APRIL 2004
UPDATED THROUGH SEPT. 2011

Contents

INTRODUCTION

Page

Overview of the Scenic Area Act 2
A Vision of the Columbia Gorge 3
Historical Background 6
Development of the Management Plan 8
Organization of the Management Plan 10
How to Use the Management Plan

PART I: RESOURCE PROTECTION AND ENHANCEMENT

Chapter 1: Scenic Resources Part-Chapter-Page
Introduction I-1-1
GMA Provisions I-1-2
Overall Scenic Provisions I-1-2
Key Viewing Areas I-1-5
Landscape Settings I-1-14
Scenic Travel Corridors I-1-29
Signs I-1-34
SMA Provisions I-1-36

Chapter 2: Cultural Resources
Introduction I-2-1
GMA Provisions I-2-3
SMA Provisions I-2-22

Chapter 3: Natural Resources
Introduction I-3-1
GMA Provisions I-3-3
Wetlands I-3-3
Streams, Ponds, Lakes, and Riparian Areas I-3-11
Wildlife Habitat I-3-18
Rare Plants I-3-25

SMA Provisions I-3-30
Water Resources I-3-30
Wildlife and Plants I-3-31

Chapter 4: Recreation Resources
Introduction I-4-1
GMA Provisions: Overall Goals, Objectives, and Policies I-4-4
Protection of Resources I-4-4
Scenic Appreciation and Scenic Travel Corridors I-4-5
Resource-Based Recreation I-4-6
River Access and Protection of Treaty Rights I-4-7
Interpretation/Education I-4-9
Trails and Pathways I-4-10
Transportation I-4-12
Coordination I-4-13
GMA Provisions: Recreation Intensity Classes I-4-14
SMA Provisions: Overall Goal, Policies, and Guidelines I-4-24
SMA Provisions: Recreation Intensity Classes I-4-26

PART II: LAND USE DESIGNATIONS

Chapter 1: Agricultural Land
Introduction II-1-1
GMA Provisions II-1-2
Large-Scale and Small-Scale Agriculture II-1-2
Agriculture-Special II-1-15
SMA Provisions II-1-21

Chapter 2: Forest Land
Introduction II-2-1
GMA Provisions II-2-2
SMA Provisions II-2-16

Chapter 3: Open Space
Introduction II-3-1
GMA Provisions II-3-3
SMA Provisions II-3-10

Chapter 4: Residential Land
Introduction II-4-1
GMA Provisions II-4-3
SMA Provisions II-4-10

Chapter 5: Commercial Land
Introduction II-5-1
GMA Provisions II-5-3

Chapter 6: Recreation Designations
Introduction II-6-1
GMA Provisions II-6-1
Public Recreation II-6-1
Commercial Recreation II-6-5
SMA Provisions II-6-10
Public Recreation II-6-10

Chapter 7: General Policies and Guidelines
Savings Policies II-7-2
Standards for Applications, Expiration of Approvals, Vested Rights II-7-3
Existing Uses and Discontinued Uses II-7-4
Consolidation of Lots II-7-9
Uniform Application of Management Plan II-7-10
Applying New Less-Stringent Regulations to Development Approved Under Prior Scenic Area Regulations II-7-10
Uses Allowed Outright II-7-11
- All Land Use Designations Except Open Space & Agriculture Special ... II-7-11
- GMA and SMA Open Space II-7-16

Expedited Development Review Process II-7-20
Emergency/Disaster Response Actions II-7-26
Land Divisions and Cluster Development II-7-41
Lot Line Adjustments II-7-43
Agricultural Buildings II-7-46
Temporary Use--Hardship Dwelling II-7-46
Sewer and Water Services II-7-47
Docks and Boathouses II-7-47
Home Occupations and Cottage Industries II-7-48
Bed and Breakfast Inns II-7-49
Small-Scale Fishing Support and Fish Processing Operations II-7-50
Resource Enhancement Projects II-7-52
Disposal Sites for Spoil Materials from Public Road Maintenance Activities II-7-53
Commercial Events II-7-54
Industrial Development II-7-56
Variances from Setbacks and Buffers II-7-56
Vegetation Control Methods II-7-57
Review Uses II-7-58
SMA Sign Provisions II-7-61
Columbia River Bridge Replacement II-7-64
Special Uses in Historic Buildings II-7-65

PART III: ACTION PROGRAM

Chapter 1: Recreation Development Plan
Introduction III-1-1
GMA and Urban Area Provisions III-1-1
SMA Provisions III-1-5

Chapter 2: Economic Development
Introduction III-2-1
GMA Provisions III-2-1

Chapter 3: Enhancement Strategies
Introduction III-3-1
Overall GMA and SMA Enhancement Strategies III-3-1
Scenic Resources Enhancement Strategies III-3-2
Cultural Resources Enhancement Strategies III-3-4
Natural Resources Enhancement Strategies III-3-6
Recreation Resources Enhancement Strategies III-3-7
Forest Land Enhancement Strategies III-3-8
Agricultural Land Enhancement Strategies III-3-9
Emergency Services Strategies III-3-10

Chapter 4: Interpretation and Education
Introduction III-4-1
GMA/SMA Provisions III-4-1

PART IV: ADMINISTRATION

Chapter 1: Gorge Commission Role
Introduction IV-1-1
Amendment of the Management Plan IV-1-1
Revision of the Management Plan IV-1-2
Monitoring Implementation of the Management Plan IV-1-2
Civil Penalties IV-1-4
Appeals to the Gorge Commission IV-1-4
Revision of Urban Area Boundaries IV-1-5
Revision of Scenic Area Boundaries IV-1-6
County Ordinances IV-1-6
Public Involvement IV-1-7

Chapter 2: Forest Service Role
Introduction IV-2-1
Land Adjustment IV-2-2
Land Acquisition Direction IV-2-3

Purchase IV-2-4
Land Exchange IV-2-5
Rights-of-Way Needed for Public Access IV-2-5
Effect on Local Government Finances IV-2-5
Revision of SMA Boundaries IV-2-6
Monitoring and Enforcement IV-2-6
Scenic Resources IV-2-7
Cultural Resources and Treaty Rights IV-2-8
Natural Resources IV-2-8
Open Space IV-2-9
Forest and Agricultural Lands IV-2-9
Recreation IV-2-10
Land Acquisition IV-2-10
Economic Development IV-2-10
National Forest System Lands Direction IV-2-11

Chapter 3: Indian Treaty Rights and Consultation
Treaty Rights and Consultation in the GMA IV-3-1
Treaty Rights and Consultation in the SMA IV-3-5

APPENDIX

Columbia River Gorge National Scenic Area Act

GLOSSARY

INDEX

LIST OF TABLES AND MAPS

Table Number	Title	
1	Resource Inventories	16
N/A	Required SMA Scenic Standards	I-1-38
N/A	Priority Habitats	I-3-39
2	Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge	I-3-46
3	Columbia Gorge and Vicinity Endemic Plant Species	I-3-47
4	Natural Areas	I-3-48
N/A	SMA Desired Forest Structure and Pattern	II-2-27

Vicinity Map 15

Introduction

God shaped these great mountains round about us, and lifted up these mighty domes… He fashioned the Gorge of the Columbia, fixed the course of the broad river, and caused the crystal streams both small and great, to leap down from the crags and sing their never ending songs of joy.

Samuel Lancaster, 1915

The Columbia River Gorge is a national treasure. It contains an unparalleled combination of scenery, geology, plants, wildlife, and multicultural history. In November 1986, Congress recognized the world-class significance of the Gorge when it passed the Columbia River Gorge National Scenic Area Act. The proceedings and debates of the 99th Congress capture this significance:

"The Columbia River Gorge is a spectacular canyon where the Columbia River cuts through the Cascade Mountains and divides the States of Oregon and Washington. It includes abundant natural resources, including dramatic waterfalls and geologic formations." (*Congressional Record*, Senator Gorton)

"The Gorge, in itself, is an extremely important geological feature. . . . The Columbia River cut its way through the Cascade Range by eroding a 60 to 70 mile long, almost straight gorge with sharply raising escarpments of up to 3,000 feet above a river that ranges from 1/4 to 1-1/2 miles in width. . . . The Cascade Range affects climate, flora, and fauna in the region. The climate varies considerably from one end of the Gorge to the other. The western end of the Gorge has a mild, moist climate, while the eastern end has wide temperature ranges and approaches a semiarid condition." (*Congressional Record*, Representative Vento)

"Many threatened and endangered species of fish and wildlife live there. Tributary streams of the Columbia River within the Columbia Gorge contain important anadromous fish resources. . . The fantastic beauty of Columbia Gorge has beckoned mankind for over 11,000 years. In ancient times Chinookan and Sahaptain Indians hunted its mountains and fished along the river's edge. For centuries the Columbia River has been a major center of commerce and trade." (*Congressional Record*, Senator Evans)

"The complex geology and climatic conditions within the Gorge has produced an equally complex plant community . . . . Eight hundred plant species are found in the Gorge of which 58 are considered rare or endangered." (*Congressional Record*, Representative Vento)

"The Columbia River holds a unique place in the development of this country, and of the early history of the Pacific Northwest. It was the gateway for early traders, explorers and pioneers. The Gorge and the Columbia River continue

to have an important position in the economy of the entire Pacific Northwest." (*Congressional Record*, Senator Gorton)

"It is the location of some of the most wondrous scenic vistas in North America as well as the home of over 44,000 people. The hundreds of millions of dollars worth of commercial activity which occurs there has contributed to the area's attractive livability." (*Congressional Record*, Senator Hatfield)

"This grand old river's importance to the economy of the Northwest can hardly be overemphasized . . . . The towering waterfalls, spectacular vistas and unsurpassed recreation opportunities of the Gorge bring millions of visitors to the area every year." (*Congressional Record*, Representative Weaver)

OVERVIEW OF THE SCENIC AREA ACT

The Scenic Area Act identifies two purposes:

1. To establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

2. To protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph 1.

The Scenic Area lies to the east of Portland, Oregon and Vancouver, Washington. It stretches about 83 miles from the Sandy River on the west to the Deschutes River on the east in Oregon and from Gibbons Creek in Clark County to a line 4 miles east of Wishram in Washington. The Scenic Area covers portions of six counties: Clark, Skamania, and Klickitat counties in Washington, and Multnomah, Hood River, and Wasco counties in Oregon. The map at the end of this chapter shows the location and boundaries of the Scenic Area.

To achieve the purposes of the Scenic Area Act, Congress called for preparation of a Management Plan that would treat the two-state, six-county area as a region. Congress established a two-tiered management approach for preparing the Management Plan. It divided responsibility between the U.S. Forest Service and the Columbia River Gorge Commission, a regional commission representing local, state, and national interests. The six Gorge counties were authorized to implement the Management Plan through their land use ordinances.

The Scenic Area is divided into three categories of land: Urban Areas, the Special Management Area (SMA), and the General Management Area (GMA).

Congress designated 13 cities and towns as Urban Areas: North Bonneville, Stevenson, Carson, Home Valley, White Salmon, Bingen, Lyle, Dallesport, and Wishram on the Washington side of the river and Cascade Locks, Hood River, Mosier, and The Dalles on the Oregon side. The Urban Areas are exempt from the Management Plan, but are eligible to receive federal funds authorized to

implement it. The Urban Areas will be the primary focus for future growth and economic development.

The SMA includes approximately 40 percent of the region's most sensitive lands, concentrated primarily in the western half of the Scenic Area. The U.S. Forest Service prepares land use designations and guidelines for the SMA. It has the authority to purchase lands, or interests in lands, in the SMA, and the opportunity to exchange federal lands elsewhere for privately held forest lands within SMA boundaries.

In some instances, the Act directs that the SMA lands be managed more stringently than those in the GMA. For instance, land divisions are prohibited, new homes are not allowed on parcels less than 40 acres in size, and forest practices are regulated for scenic, cultural, natural, and recreation concerns.

About half of the Scenic Area makes up the GMA, including the Columbia River. The Gorge Commission is authorized to plan for the GMA. These lands blanket most of the eastern Gorge and are scattered in the central and west end of the Gorge. They are predominantly devoted to agricultural and forestry uses, but also contain scattered areas of existing residential development.

A VISION OF THE COLUMBIA GORGE

Taking its cue from the Scenic Area Act and Congress's emphasis of the qualities of the Scenic Area, the Gorge Commission developed a vision statement. This statement, which follows, provided a framework for developing the Management Plan and continues to guide the Gorge Commission's actions.

The Columbia River Gorge is an area of worldwide importance,

Where scenic qualities and diverse landscapes, together with their natural and cultural components, are paramount,

Where development and recreation are carefully placed in a manner that protects resources,

Where the human presence is lightly demonstrated, and where lessons from the past are a constant guide and inspiration for the future.

To achieve this vision the Columbia River Gorge Commission will provide:

Stewardship of this legacy and trust,

Leadership for implementation of the National Scenic Area Act and the Management Plan,

Partnership with communities, tribal governments, and agencies, and

A vision of the Gorge as a region and the river as a bond.

Columbia River Gorge Commission
1988

The Management Plan for the Scenic Area is based upon a vision created by Congress, the Gorge Commission, the U.S. Forest Service, county and city governments, state and federal agencies, Indian tribal governments,

concerned citizens, and interest groups. The vision provides a sense about the future of the Gorge 20, 50, or 100 years from now. It supplies the adhesive that binds the plan.

The first lines of the vision were drawn by Congress in the purposes and standards of the Scenic Area Act. These bold strokes call for a delicate balance of protection and development. The Scenic Area Act recognizes the human presence amidst a spectacular landscape with remarkable natural resources and presents a model for reconciliation between them.

The reconciliation lies in Congress's different treatment of Urban Areas from the rest of the Scenic Area. The vision calls for prosperous cities and towns in the Gorge. Significant commercial, residential, and industrial development is encouraged in Urban Areas.

Urban Areas are eligible for federal funds under the Scenic Area Act. They may expand over time, even at some cost to scenic, cultural, natural, or recreation resources. However, they must grow efficiently to minimize costs of growth and to function as providers of services. In short, the vision tips the balance toward development in the Urban Areas.

The Management Plan reinforces this vision for the Urban Areas. It encourages urban development to occur in the Urban Areas and limits such uses outside Urban Areas. The Act authorizes partial funding for two centers, one on each side of the Columbia River. The Gorge Commission chose an Urban Area for a conference center (Skamania Lodge Center in Stevenson, Washington) and a location near an Urban Area for an interpretive center (The Gorge Discovery Center in The Dalles, Oregon). The Gorge Commission and the Forest Service may direct some federally appropriated recreation funds to the Urban Areas. Outside Urban Areas, new commercial development is limited to those areas where commercial development is already occurring and other areas uniquely suited to commercial use in conjunction with resource-based recreation.

Outside Urban Areas, the vision calls for protection of the grandeur of one of America's great landscapes. Standards in the Scenic Area Act require protection and enhancement of scenic, cultural, natural, and recreation resources. Development is welcome, but it must not adversely affect these resources or interfere with the prosperity of the Urban Areas. In short, outside the Urban Areas, the vision tips the balance toward protection and enhancement of Gorge resources. This vision paints a picture far from devoid of human enterprise outside of Urban Areas. It embraces agriculture and forestry and accords a special role to recreation. The forests, pastures, and rolling cropland of the western Gorge; the woodlands, orchards, and vineyards of the middle Gorge; and the expansive grazing and wheat lands of the eastern Gorge are protected from residential and commercial sprawl. Agricultural and managed forest lands are not only part of the cultural landscape of the Gorge; they also make a significant contribution to the Gorge economy.

Recreation received much attention from Congress in the Scenic Area Act. Congress envisioned new points of access to the Columbia River and its

tributaries, visitor accommodations, trails, viewpoints, and interpretive facilities. Authorization of funds for new recreation facilities gives added emphasis to the vision.

Reconciliation between protection and development of resources lies also in Congress's different treatment of the SMA from the GMA. Congress strictly limited new development in the SMA: no land divisions, no commercial development unless recreational in nature, and no new houses on tracts of land smaller than 40 acres. Congress did not apply any of these limitations in the GMA. Congress also authorized $40 million for acquisition of interests in lands in the SMA. Acquisitions can be made in the GMA before counties implement land use ordinances, but only through condemnation. In short, Congress saw the SMA as indeed special, where little new development would occur.

The Management Plan will protect the Gorge's scenic travel corridors from strip commercial development. In the Gorge today, a clear distinction exists between town and country. The plan will secure that distinction.

The Gorge landscape will remain largely as it is--always changing, always the same. Wild areas of the SMA will remain wild. Forests and farms will come and go, and come again. They will not be replaced by residential subdivisions. New developments will tread lightly upon the landscape and will blend into the landscape as seen from key viewing areas. Rural settlements will retain their existing character and rural way of life, including a strong tradition of home-based occupations. Enhancement programs based upon incentives for property owners and managers will, over time, sustain essential values and remove unnecessary discordant features from the landscape.

Much will be learned and preserved about the rich cultural history of the Gorge. An ambitious survey process will disclose now unknown archaeological resources from more than 10,000 years of continuous Native American culture. The Management Plan envisions a process of learning about and avoiding disturbance of cultural resources, and of interpretation without adverse effect, all in close consultation with the four Indian tribal governments that have treaty rights within the Scenic Area (Nez Perce, Umatilla, Warm Springs, and Yakima). The survey process also will provide information about the settler culture and ways of life.

The Management Plan envisions healthy populations of sensitive plant and wildlife species throughout the Gorge, accomplished by protecting and enhancing their habitat. It will stem the loss of habitat. Buffers will keep conflicting development a safe distance from sensitive plants, wetlands, and riparian areas. Regulation of density will limit the cumulative effect of development to acceptable levels. A "no loss" policy in the SMA (except in limited circumstances) and a "no net loss" goal in the GMA will curb the loss of wetlands.

A chain of new wildlife refuges will emerge on the islands in the Columbia River and on river bottomlands in the western Gorge. The refuges, together with more careful regulation of grazing on public land, will improve wetlands

and riparian areas over time. Incentive and education programs will lend support to traditional good stewardship in the Gorge. These programs will help improve and restore wetlands and riparian areas on private lands.

New vistas, small-scale travelers' accommodations, campgrounds, river access points, trails and other forms of resource-based recreation, both publicly owned and privately owned, will be created in rural areas throughout the Scenic Area. Like other development, however, these new recreation facilities will blend into the landscape. New facilities will not locate on the Gorge's most valuable agricultural land. Recreation growth will respond to demand within resource constraints and will be carefully planned so it does not overwhelm the Gorge and the ability of Gorge communities to support it.

Public and private partnerships will develop--as they already have with the conference and interpretive centers--to multiply the effect of federal funding for recreation facilities. As the number of tourists and recreationists grows and generates adequate demand, alternative modes of transportation-- boat, rail and bus--will become a form of recreation. A network of connected and coordinated trails will develop, including riverfront trails and trails linked to Urban Areas. New recreation facilities, such as The Gorge Discovery Center, will entice visitors to the east end of the Gorge. This will help spread the economic benefits of tourism and relieve some of the pressure on recreation sites in the west end of the Gorge.

Stretches of the Historic Columbia River Highway now closed to the public will be restored for recreation access. They will become among the premier hiking, biking, and wheelchair facilities in the Northwest, featuring the outstanding scenery and rich history associated with this national landmark.

Recreation planning will reach new levels of coordination among landowners, recreation purveyors, and providers of emergency, public safety, and other kinds of services. Agencies will develop a system of recreation user fees to support services.

Such are some of the outcomes of the Management Plan based on a collective vision for the Gorge's future. In short, the vision and the plan seek to keep the unique resource qualities of the Gorge intact in the years ahead and to encourage growth and development consistent with these qualities, steering it primarily into Urban Areas.

HISTORICAL BACKGROUND

The Columbia River Gorge was forged from geological events dating back millions of years. It was shaped further at the end of the Ice Age by the great Missoula floods that followed and by the vulcanism that created the Cascade Mountains. In a report to the Gorge Commission, author and Portland State University professor John Eliot Allen wrote the following:

"The geologic evolution of the Columbia River Gorge is a result of 40 million years of predominantly volcanic activity. But it also involves faulting, folding, uplift and subsidence, erosion and sedimentation, repeated northward movement of the [Columbia River] valley, a period of cataclysmic flooding,

and finally extensive landsliding. The Gorge thus exhibits a remarkable diversity of geologic events matched by few other places in North America."

The human presence in the Gorge, dating back at least 10,000 years, undoubtedly is related in part to the physical geography of the Northwest. The near sea-level passage of the Columbia River through the Cascade Mountains provided a natural corridor, a relatively easy means of movement for early inhabitants. But the river's remarkable fishing opportunities, easily accessible at Celilo Falls, also drew these early inhabitants to the Gorge. Over time, subsistence needs led to exchange and eventually to the barter among Native Americans that Lewis and Clark observed in 1805.

In more recent time, in addition to the Lewis and Clark expedition, the Gorge served as a transportation corridor for fur traders. It became a passage route for settlers and missionaries following the Oregon Trail. It was an area of tensions between fur traders and Native Americans and altercations involving Native Americans, missionaries, and settlers, culminating in the signing of treaties in 1855. The beginning of non-Native American settlements followed, and an influx of newcomers has continued to this day.

In the last half of the 1800's, river and then railroad transportation came of age. The 1850's witnessed the beginning of the colorful era of sternwheelers plying the river and eventually the development of locks to bypass the Cascade rapids. This was followed by the financial ups and downs of the great railroad-building competition that eventually brought what is known today as the Union Pacific along the south bank of the Columbia River (completed in 1889) and what is known today as the Burlington Northern along the north bank (completed in the first decade of the 1900's). A bake-oven or two still mark the campsites of the Chinese railroad gangs that cut the rail route through the Gorge on the south bank.

The Gorge was to experience still more change in the era of highway building. What is known today as the Historic Columbia River Highway, started in 1913 near Troutdale, was pushed through to Hood River in 1915 and finally completed to The Dalles by 1922. A sensitive balance between engineering necessity and the beauty of its surroundings, this highway opened the Gorge to recreation and stimulated growth and development in communities on both sides of the river. As automotive transportation became more universal, the present Washington State Highway 14 was pushed through in segments, and bridge crossings of the Columbia River replaced ferries at Hood River (1918) and Cascade Locks (1925) and eventually The Dalles. These changes were capped finally by Interstate 84, developed through the Gorge on the south bank of the Columbia River in the 1950's.

Arguably, the greatest change in the Gorge was the damming of the river: Bonneville Dam dedicated in 1937 and The Dalles Dam completed in 1960. These and other dams converted the swift flow of the Columbia River into a series of lakes. They resulted in the revival of river transportation and the introduction of power transmission lines visible today in many parts of the Scenic Area.

By the 1930's, development impacts on the Gorge were becoming a source of concern. In 1937, the Pacific Northwest Regional Planning Commission pointed out that the qualities of the Gorge had national significance. It proposed that the area be established as an interstate park. World War II interrupted the growing interest in protecting Gorge resources, but by the 1950's both Oregon and Washington created gorge commissions. Their effectiveness, however, became limited by inadequate funding, lack of authority, and opposition from various factions.

In the 1970's, successor commissions, by now meeting together, helped four county planning agencies prepare special Gorge zoning provisions regulating development along the river. In 1979, the U.S. National Park Service made a comprehensive study of the area. The findings, published in 1980, indicated trends toward land development that threatened the resources of the Gorge.

From 1980 through 1984, several Columbia River Gorge bills appeared before Congress, but there was no consensus in the Northwest delegation. At a retreat in the summer of 1985, philosophical differences were finally resolved, and late in the 1986 session, Congress passed the Columbia River Gorge National Scenic Area Act (Public Law 99-663).

DEVELOPMENT OF THE MANAGEMENT PLAN

The Scenic Area Act specified a schedule and a three-step process for developing the Management Plan. It directed the Gorge Commission and the Forest Service to complete inventories during the first year. It called for land use designations in the second year. In the third year, the Scenic Area Act required development of guidelines and adoption of the Management Plan.

The Act required the U.S. Secretary of Agriculture to review the plan during the fourth year. The six counties or the Commission must then implement the plan by ordinance.

Inventories

Congress called for three major inventories: a recreation assessment, a resource inventory, and an economic opportunity study. The Gorge Commission and Forest Service completed most of these inventories in 1988. The inventories form the information base of the Management Plan.

The recreation assessment includes an overview of existing recreation facilities and a study of recreation demand in the region. It was used to identify areas suitable for public recreation facilities, including additional river access.

The resource inventory is a compilation of information about existing resources in the Scenic Area, ranging from wetlands to scenic values. The principal components of the resource inventory are shown in Table 1.

The economic opportunity study provides an overview of the Gorge economy, an analysis of its principal economic sectors, an assessment of economic strengths and weaknesses, and identification of the best opportunities to improve the economy. The main responsibility for economic

development is reserved for the two states and is largely set forth in other documents.

In addition to these inventories, the Gorge Commission and the Forest Service identified and mapped recreation intensity classes and landscape settings. The Scenic Area is divided into four recreation intensity classes, indicating suitability for present and future recreation use. (See Part I, Chapter 4: Recreation Resources.) The Scenic Area was also mapped for 13 landscape settings, each reflecting a distinct combination of landforms, vegetation, and land use patterns. Design guidelines will help maintain the character of each landscape setting, while accommodating new development. (See Part I, Chapter 1: Scenic Resources.)

Land Use Designations

The Scenic Area Act next called for the development of land use designations that would be used to map areas suitable for various kinds of future land and resource use. The designations include agriculture, forestry, residential and commercial development, and recreation facilities. The Act also said that special and sensitive lands should be protected as open space. Preliminary land use designation maps were prepared and presented to the public at workshops in fall 1989. Formal land use designations were then incorporated into the Management Plan. Table 2 shows the acres of land contained in each land use designation.

Guidelines

The Gorge Commission's and Forest Service's next task was to combine the resource inventories with land use and recreation designations to develop goals, objectives, policies, and guidelines for the Management Plan. The Scenic Area Act specified that these guidelines must:

- Protect and enhance agricultural lands for agricultural uses, yet allow their conversion to open space, recreation development, or forest lands.
- Protect and enhance forest lands for forest uses, yet allow their conversion to agricultural lands, recreation development, or open space.
- Protect and enhance open spaces.
- Protect and enhance public and private recreation resources and education and interpretative facilities and opportunities.
- Prohibit industrial development outside Urban Areas.
- Require commercial and residential development to occur without adversely affecting scenic, cultural, recreation, and natural resources.
- Require that exploration, development, and production of mineral resources take place without adversely affecting scenic, cultural, recreation, and natural resources.

Consultation and Public Involvement

Integrated into this planning process was a series of consultations with county, state, and federal officials and the four Indian tribal governments with

treaty rights in the Scenic Area. A major public involvement program was also conducted.

Issues and goals were identified in two rounds of meetings in each county with what came to be called "key community contacts" made up of volunteer citizens and community leaders. The first round focused on issues and goals, and the second round on policy alternatives and on standards for carrying out policies. Each round of meetings was followed by wide circulation of newssheet mailers and by open houses to reach residents at large.

In addition, a series of workshops to gather public input on recreation issues was held. Finally, two different drafts of the Management Plan were broadly circulated, culminating in three public hearings for each draft. As drafts of the Management Plan were discussed, special attention was given to informing residents how their property was affected by land use designations and guidelines.

Final Management Plan

The Gorge Commission adopted the final version of the Management Plan in October 1991. The plan includes guidelines and land use designations for the GMA and the SMA prepared by the Gorge Commission and Forest Service, respectively. The Management Plan was sent to the U.S. Secretary of Agriculture for concurrence in November 1991, as required by the Scenic Area Act. The U.S. Secretary of Agriculture concurred with the Management Plan in February 1992.

Revision and Amendment

Congress directed the Gorge Commission to review the Management Plan no sooner than 5 years, but at least every 10 years, to determine whether it should be revised. If the Gorge Commission finds at any time that conditions have changed significantly, it may amend the plan. Any such revision or amendment must follow the procedures established in the Scenic Area Act for the original adoption of the plan.

From 1997 to 2000, the Gorge Commission, Forest Service and local and state agencies monitored the implementation of the Management Plan. A series of reports evaluated the findings in development review decisions for scenic, cultural, natural and recreation resources, and for agriculture and forest lands.

From 2000 to 2004, the Gorge Commission and Forest Service reviewed and revised the Management Plan, and the *Revisions to the Management Plan* was adopted by the Gorge Commission in May 2004. The Secretary of Agriculture concurred with the Revisions in August 2004.

ORGANIZATION OF THE MANAGEMENT PLAN

The Management Plan is organized into four parts, following this Introduction.

Part I identifies goals, objectives, policies, and guidelines for resource protection and enhancement. Individual chapters cover scenic resources, cultural resources, natural resources, and recreation resources.

Part II addresses land use designations. Individual chapters identify the goals, objectives, policies, and guidelines for each land use category: agricultural land, forest land, open space, residential land, commercial land, and recreation designations. These six chapters are followed by a chapter on general policies and guidelines that affect all uses in the Scenic Area, regardless of land use designation.

Part III outlines an action program, with chapters devoted to the recreation development plan, economic development, enhancement strategies, and interpretation and education.

Part IV focuses on the role of the Gorge Commission, the Forest Service, and Indian tribal treaty rights and consultation.

The **appendix** contains a copy of the Scenic Area Act. A **glossary** and **index** are provided to facilitate use of the document.

All chapters in Parts I and II, and Chapter 1 in Part III, are organized so the first part of the chapter focuses on the GMA (or combined GMA and SMA) and the second part focuses on the SMA.

Management Plan Maps

The Management Plan contains three principal maps:

- Landscape settings (used in conjunction with Part I, Chapter 1: Scenic Resources)
- Recreation intensity classes (used in conjunction with Part I, Chapter 4: Recreation Resources)
- Land use designations (used in conjunction with the land use designations addressed in Part II)

These are the official maps for determining the landscape setting, recreation intensity class, and land use designation for a specific parcel of land.

The official boundary lines for the GMA, SMA, Urban Areas, and National Scenic Area exterior boundaries are contained on the maps referenced in Section 4 of the Scenic Area Act. Copies of these maps are available for review at the offices of the Gorge Commission and the Forest Service, National Scenic Area.

HOW TO USE THE MANAGEMENT PLAN

A primary purpose of the Management Plan is to ensure that land in the Scenic Area is used consistently with the purposes and standards of the Scenic Area Act. The plan usually allows a parcel of land to be used for several purposes. For example, a residence, a small farm, or a moderate-size campground is allowed on some parcels in the GMA designated Small-Scale Agriculture.

Reviewing the appropriate maps, policies, and guidelines in the Management Plan will indicate how a given parcel of land may be used. A step-by-step process for using the Management Plan is outlined below. This process provides a framework that allows landowners and land managers to explore land use options.

Step 1: Determine GMA/SMA and Land Use Designations

The first step in determining how a parcel of land may be used is to consult the land use designations map. This map provides two important pieces of information: 1) it indicates whether a parcel is in the GMA or the SMA, and 2) it shows which land use designation is applied to the parcel.

Six basic land use designations are used in the Scenic Area: agricultural land, forest land, open space, residential land, commercial land, and recreation. Most of these designations consist of several sub-designations. For example, recreation includes two sub-designations: Public Recreation and Commercial Recreation.

The land use designations provide initial information about how a parcel may be developed; they reflect the primary use for which a parcel is suited. For instance, agricultural lands are suitable for growing crops and raising livestock. Commercial lands are suitable for certain types of new businesses.

The second step in the process is to determine the exact uses allowed on a parcel of land. Landowners and land managers interested in non-recreation uses, or in recreation uses on lands designated Public Recreation or Commercial Recreation, should proceed to Step 2, below.

Some level of recreation development is potentially allowed on all parcels in the Scenic Area, regardless of the land use designation. The Management Plan contains special guidelines that prescribe the types and intensities of recreation development allowed throughout the Scenic Area. Individuals wishing to explore these options, but whose property is not designated Public Recreation or Commercial Recreation, should proceed to Steps 5-A though 5-C.

Step 2: Identify Uses Allowed in Land Use Designations

The policies and guidelines in Part II of the Management Plan specify the uses allowed within each land use designation. These chapters contain separate policies and guidelines for the GMA and the SMA. Landowners and land managers should consult the applicable policies and guidelines.

The policies specify criteria that were used to determine which land use designation was applied to a parcel of land. The policies also provide minimum sizes for new parcels in the GMA. This information determines whether a parcel of land may be divided into smaller parcels. (Parcel sizes appear also on the large-scale (1:24,000) land use designations map available at county planning departments and Gorge Commission and Forest Service offices.)

The guidelines list new uses that are allowed within a land use designation. Three categories of uses are generally listed. The first category consists of uses not requiring review by a county planning department. These uses are listed under guidelines titled "Uses Allowed Outright." The second category consists of uses that may be allowed after an expedited review and approval process by a county planning department. These uses are listed under guidelines titled “Uses Allowed

through the Expedited Development Review Process." Uses that may be allowed after a full review and approval by a county planning department form the third category. They are listed under the heading "Review Uses."
The Commission will review all proposed uses if a county government fails to adopt ordinances consistent with the Management Plan.

Step 3: Identify Approval Criteria for Review Uses

Most land use designation chapters contain guidelines that must be satisfied before uses listed under "Review Uses" can be approved. For example, residences and other non-recreation uses may be allowed on lands designated Public Recreation if they fulfill the criteria in the guideline titled "Approval Criteria for Non-Recreation Uses in Public Recreation." Similarly, new structures within a forest lands designation must satisfy guidelines regarding fire protection.

Similar guidelines for key uses that are allowed in more than one land use designation are consolidated in Part II, Chapter 7: General Policies and Guidelines. These uses include all uses allowed through expedited review, land divisions, temporary use for hardship dwellings, sewer and water services, home occupations and cottage industries, bed and breakfast inns, and others.

Step 4: Protect Scenic, Cultural, Natural, and Recreation Resources

The Scenic Area Act prohibits uses that adversely affect scenic, cultural, natural, or recreation resources. Part I of the Management Plan includes a chapter addressing each of these resources. All the chapters in Part I should be reviewed to determine which provisions apply to a parcel of land. Inventory maps identify some resources that must be protected. The maps for wetlands, streams, ponds, lakes, sensitive wildlife habitat, rare plants, and natural areas show if natural resources occur on a parcel. The landscape settings map should be consulted to determine which landscape settings guidelines apply. The cultural resources map shows the location of previously identified archaeological and historic resources. Inventory maps may be reviewed at the offices of the Gorge Commission, Forest Service, and county planning departments.

The policies and guidelines in Part I consist primarily of measures that minimize possible adverse effects of development. They may affect the size, design, and siting of new uses. For example, the guidelines for scenic resources may influence the siting of structures so they are screened by topography or existing trees. Similarly, structures may be allowed near lakes and rivers if they are set back a specified distance from the shoreline.

Some of the resource protection provisions apply to all new uses; others are specific and apply only to particular types of uses. For instance, the scenic resources chapter includes guidelines that only regulate uses that will be seen from key viewing areas and scenic travel corridors. In contrast, the landscape setting guidelines in that chapter apply to new uses throughout the Scenic Area. The policies in the cultural resources chapter require a cultural resources survey before some uses are allowed. If no cultural

resources are discovered, the remaining guidelines are not applied. The provisions in the natural resources chapter are applied only if a natural resource would be affected by new development.

The following steps further apply to recreation developments:

Step 5-A: Determine Recreation Intensity Class

Persons who wish to develop resource-based recreation uses on lands not designated Public Recreation or Commercial Recreation should consult the recreation intensity classes map. (Resource-based recreation means recreation uses that depend upon the natural, scenic, or cultural resources of the Scenic Area.) Four recreation intensity classes are identified. Different types and intensities of recreation are allowed in each class.

Step 5-B: Identify Uses Allowed in Recreation Intensity Classes

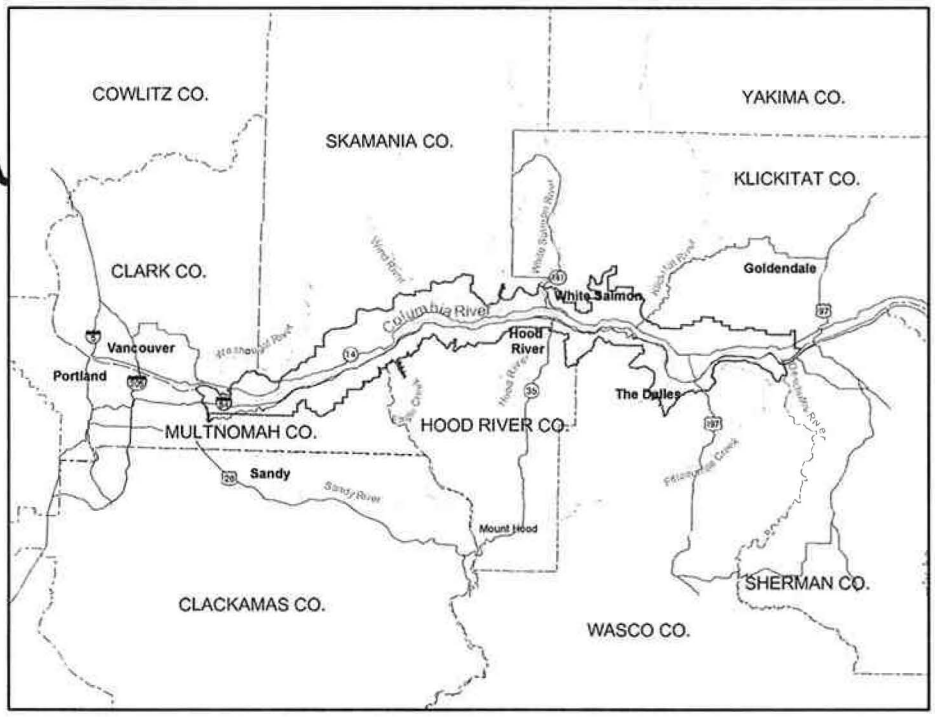
The guidelines in the "Recreation Intensity Classes" section of Part I, Chapter 4: Recreation Resources, list the recreation uses allowed in each intensity class. Recreation uses range from very low-intensity uses (Class 1), such as trails and simple interpretative displays, to high-intensity uses (Class 4), such as recreational vehicle parks and boat ramps.

Step 5-C: Identify Approval Criteria for New Recreation Uses

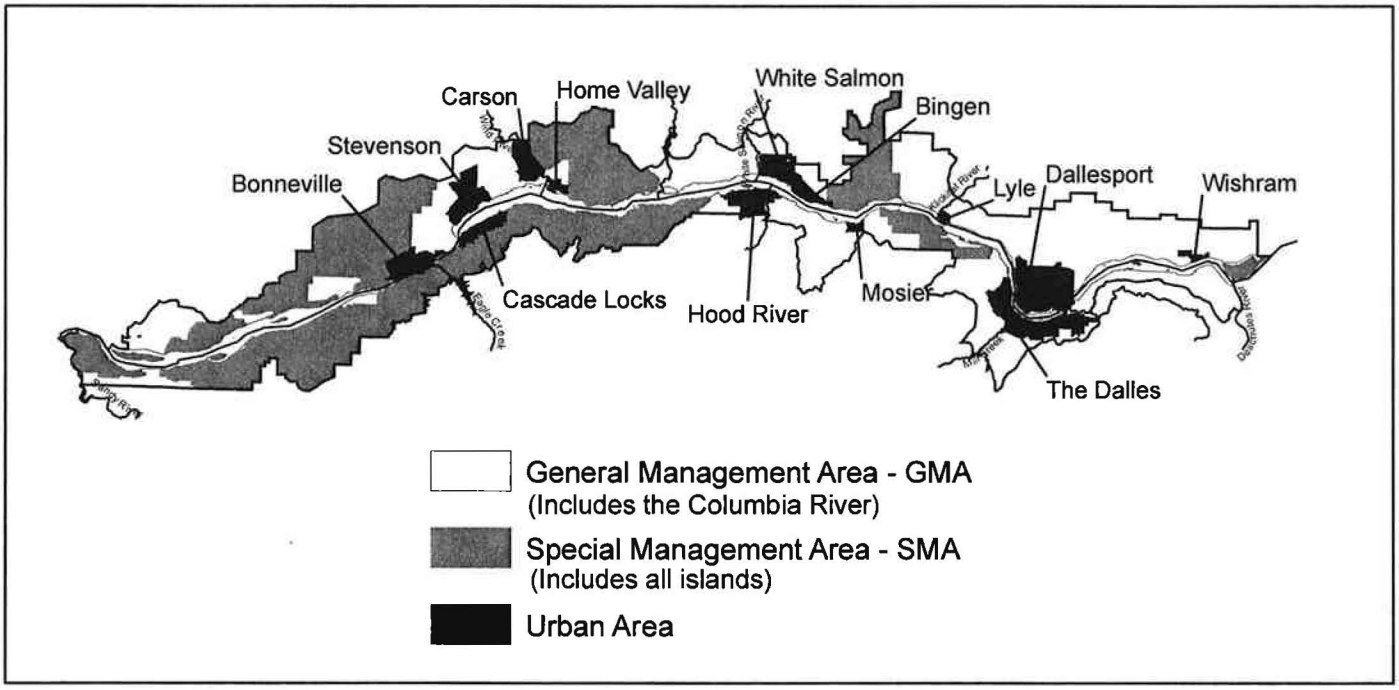
In each recreation intensity class, new recreation uses must be reviewed by a county planning department. County planners ensure that recreation uses comply with applicable guidelines in the "Recreation Intensity Classes" section. These guidelines address issues such as transportation, Indian treaty rights, fire prevention, and adjacent forest and agricultural uses. Special guidelines address the design of recreation facilities. (Recreation facilities mean a cluster or grouping of recreation developments or improvements.) These guidelines govern five basic design elements: parking, landscaping, signage, and siting and appearance of structures.

The final step in this process is to ensure that new recreation uses do not adversely affect scenic, cultural, and natural resources. The policies and guidelines that protect these resources are discussed in Step 4, above.

LOCATION MAP



MANAGEMENT AREAS



VICINITY MAP

COLUMBIA RIVER GORGE NATIONAL SCENIC AREA

Table 1

Resource Inventories

(Prepared prior to initial Management Plan adoption, 1988-1991)

Resource	Source of Information	Purpose of Inventory
Geological features	Geologist, field visits	Protection of features, avoidance of hazards
Wetlands	U.S. Fish & Wildlife Service	Protection of resource
Soils	U.S. Soil Conservation Service, U.S. Forest Service forestry	Determine suitability for agriculture,
Fish habitat	Federal, state agencies	Protection of resource
Hazards	Local, state, federal agencies	Avoidance of hazards
Vegetation cover	Field visits, aerial photography	Identification of cover types for land use designations
Habitat of rare, threatened, endangered, endemic plant species	State Heritage Programs, field visits, organizations	Protection of resource
Wildlife habitat	State agencies	Protection of resource
Existing land use	Counties, field visits, aerial photography	Land use designations
Topography	U.S. Geological Survey	Land use designations, avoidance of hazards
Scenic resources	Field visits, photography	Protection of resource
Historic and prehistoric sites, structures, objects	Tribal governments, federal, state, local agencies	Protection of resource
Land ownership, parcels	County assessors	Land use designations
Taxation, political boundaries	Counties, special districts suitability	Development
Natural areas	State Heritage Programs, field visits, aerial photos	Protection of resource
Existing plan, zone designations	Counties	Land use designations

CHAPTER

1

Scenic Resources

The Columbia Gorge is world renowned for its outstanding scenic beauty. The sea level chasm the Columbia River has cut through the Cascade Mountains, and the dramatic diverse landscapes it contains, create unparalleled grandeur. Within an hour's drive, one can witness towering cliffs and forests, orchards and farms, and sweeping grasslands. It is widely acknowledged that the need to protect the special scenic resources of the Gorge provided the major impetus for establishing the Scenic Area. Much of the Gorge, with it steep landforms, forested slopes, waterfalls, pastoral areas, and rural townscapes, has outstanding visual diversity.

SCENIC AREA ACT PROVISIONS

The Scenic Area Act's first purpose, as stated in Section 3(1), includes a mandate to protect and enhance scenic resources of the Columbia River Gorge. The Act directs the Gorge Commission to inventory the scenic resources of the Gorge and protect them by establishing guidelines and designating areas as open space. Open spaces, which the Gorge Commission is charged to protect and enhance [Section 6(d)], include: "scenic. . . areas;. . . outstanding scenic views and sites;. . . and Federal and State wild, scenic, and recreation waterways" [Section 2(l)].

KEY ISSUES

Several major issues had to be addressed in developing scenic resource protection provisions. One of the greatest challenges has been the need to establish guidelines to accommodate new development in a manner that protects Gorge scenic quality in the face of significant growth pressures for residences and related development. These pressures result from a number of factors, including substantial growth of the Portland/Vancouver metropolitan area and the rapid development of the Gorge as the leading windsurfing area in North America, if not the world. The fact that the Gorge consists of many steep areas where development can be highly visible, combined with the desire for new residences with panoramic views, poses major challenges. The need to develop provisions that address long-term, cumulative effects of new development on the character of existing landscapes is as crucial as measures addressing the impacts of individual developments.

Another issue involves meeting the Scenic Area Act's mandate to increase recreation river access while protecting scenic resources. Much of the shoreline area is both significant and sensitive from a scenic standpoint. This challenge required specific policies and

guidelines that accommodate additional river-oriented recreation in a careful and sensitive manner.

OVERVIEW OF SCENIC RESOURCES PROVISIONS

The Gorge Commission and Forest Service have developed specific programs to address protection of scenic quality on lands seen from key viewing areas, maintenance of existing landscape settings, establishment of scenic travel corridors, and provisions for signage. The goals, objectives, policies and guidelines of this chapter provide a framework to guide actions of federal, state, and local agencies and private entities that may affect scenic resources of the Scenic Area. This chapter is divided into the following sections:

GMA Provisions:

- Overall Scenic Provisions
- Key Viewing Areas
- Landscape Settings
- Scenic Travel Corridors
- Signs

SMA Provisions:

- SMA Scenic Goals and Policies
- SMA Design Guidelines Based on Landscape Settings
- SMA Guidelines for Development and Uses Visible from KVAs
- SMA Guidelines for KVA Foregrounds and Scenic Routes
- SMA Guidelines for Areas not seen from KVA

GMA PROVISIONS

OVERALL SCENIC PROVISIONS

GMA Goal

Protect and enhance the scenic resources of the Scenic Area.

GMA Objectives

1. Encourage the establishment of programs offering incentives and other means of implementing scenic resource enhancement objectives and policies for existing uses, targeting private landowners, railroad and utility companies, and transportation and other public agencies.

2. Encourage the establishment of a Scenic Area public land conservancy and/or nonprofit land trust to acquire fee interest, conservation easements, and other interests in properties whose preservation is important for protection of Gorge landscape settings and scenic values.

GMA Policies

1. Except for production and/or development of mineral resources and disposal sites for spoil materials from public road maintenance activities, nothing in the key viewing areas or landscape settings guidelines in this chapter shall be used as grounds to deny proposed uses otherwise authorized by the land use designation. However, the guidelines may affect the siting, location, size, and other design features of proposed developments, and compliance with them is mandatory.

2. The goals, objectives, policies, and guidelines in this chapter shall not affect agriculture or forest practices, nor equipment or structures (other than buildings) associated with such practices, such as irrigation equipment or orchard fans.

3. New development shall be compatible with its designated landscape setting (as described in the "Landscape Settings" section of this chapter). Expansion of existing development shall be compatible with its landscape setting to the maximum extent practicable.

4. New production and/or development of mineral resources and expansion of existing quarries shall include a reclamation plan to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.

5. New development shall retain existing landforms and strive to fit into the existing topography to the maximum extent feasible.

6. The Gorge Discovery Center shall be designed and constructed to be visually subordinate as seen from key viewing areas and compatible with its landscape setting to the maximum extent practicable, consistent with its mission.

GMA Guidelines

1. New buildings and roads shall be sited and designed to retain the existing topography and to minimize grading activities to the maximum extent practicable.

2. New buildings shall be compatible with the general scale (height, dimensions and overall mass) of existing nearby development. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

3. Project applicants shall be responsible for the proper maintenance and survival of any planted vegetation required by the guidelines in this chapter.

4. A site plan and land use application shall be submitted for all new buildings, except for buildings smaller than 60 square feet in area and less than or equal to 10 feet in height, as measured at the roof peak. The site plan and application shall include all information required in the site plan guidelines in "Review Uses" (Part II,

Chapter 7: General Policies and Guidelines). Supplemental requirements for developments proposed on lands visible from key viewing areas are included in the key viewing areas guidelines in this chapter.

5. For all proposed development, the determination of compatibility with the landscape setting shall be based on information submitted in the site plan.

6. For all new production and/or development of mineral resources and expansion of existing quarries, a reclamation plan is required to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.

   At a minimum, such reclamation plans shall include:

   A. A map of the site, at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with 10-foot contour intervals or less, showing pre-mining existing grades and post-mining final grades; locations of topsoil stockpiles for eventual reclamation use; location of catch basins or similar drainage and erosion control features employed for the duration of the use; and the location of storage, processing, and equipment areas employed for the duration of the use.

   B. Cross-sectional drawings of the site showing pre-mining and post-mining grades.

   C. Descriptions of the proposed use, in terms of estimated quantity and type of material removed, estimated duration of the use, processing activities, etc.

   D. Description of drainage/erosion control features to be employed for the duration of the use.

   E. A landscaping plan providing for revegetation consistent with the vegetation patterns of the subject landscape setting, indicating the species, number, size, and location of plantings for the final reclaimed grade, as well as a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

7. All reclamation plans for new quarries or expansion of existing quarries shall be sent to the appropriate state reclamation permitting agency for review and comment. The state agency shall have 30 calendar days from the date a reclamation plan is mailed to submit written comments on the proposal. State agency comments shall address the following:

   A. Whether the proposed mining is subject to state reclamation permit requirements;

B. If subject to state jurisdiction, whether an application has been received for a state reclamation permit and, if so, the current status of the application; and

C. For uses subject to state jurisdiction, any issues or concerns regarding consistency with state reclamation requirements, or any suggested modifications to comply with state reclamation requirements.

Scenic Area implementing agencies may request technical assistance from state agencies on reclamation plans for proposed mining not within the state agency's jurisdiction.

KEY VIEWING AREAS

GMA Goal

Emphasize protection and enhancement of Gorge landscapes seen from key viewing areas.

GMA Objectives

1. Establish scenic enhancement programs prioritizing enhancement of lands seen from key viewing areas.

2. Establish a program to phase-out existing quarries and associated activities and develop reclamation plans for such quarries at sites where the Gorge Commission determines that such uses adversely affect scenic resources on land visible from key viewing areas. The Gorge Commission shall initiate this objective by inventorying existing quarries visible from key viewing areas. Phase-out plans may require some additional quarrying for a limited time to best achieve contours that blend with surrounding landforms. Phase-out and reclamation plans for particular quarries shall include a specified time period for completion, not to exceed 5 years from the commencement of such plans.

3. Encourage mining reclamation methods and features that enhance wildlife habitat and wetlands, ameliorate visual impacts of existing quarries, and accelerate achievement of desired visual quality objectives.

4. Encourage use of planned unit developments, clustering, lot reconfiguration and consolidation, and other techniques to reduce visual impacts of new development on lands that are visible from key viewing areas and that possess high or critical visual sensitivity.

5. Encourage plantings of native species or species characteristic of the landscape setting to screen existing development that is not visually subordinate on lands that are visible from key viewing areas and that possess high or critical visual sensitivity.

GMA Policies

1. Important public roads, parks, and other vantage points providing public scenic viewing opportunities shall be designated as key viewing areas, as identified in the glossary of the Management Plan.

2. Except for new production and/or development of mineral resources, new development on lands seen from key viewing areas shall be visually subordinate to its landscape setting. This policy shall not apply to specified developed settings that are not visually sensitive (as identified in the "Landscape Settings" section), rehabilitation or modifications to significant historic structures, shorelines on the main stem of the Columbia River that adjoin Urban Areas, or other developments expressly exempted from this requirement in this chapter.

3. In developing conditions of approval, agencies shall emphasize those elements that, in combination, provide effective, long-term scenic resource protection.

4. New utility transmission lines, transportation and communication facilities, docks and piers, and repairs and maintenance of existing lines, roads and facilities shall be visually subordinate as seen from key viewing areas to the maximum extent practicable.

5. New buildings shall be prohibited on steeply sloping lands visible from key viewing areas.

6. Proposed projects involving substantial grading on lands visible from key viewing areas shall include a grading plan addressing visual impacts of grading activities. All graded areas shall be revegetated to the maximum extent practicable.

7. Development along the shoreline of the Columbia River and on immediately adjacent lands shall be limited to water-dependent development and water-related recreation development.

8. New production and/or development of mineral resources on sites visible in the foreground or middle ground from key viewing areas shall be permitted if fully screened from view from those key viewing areas. New production and/or development of mineral resources on sites visible in the background from key viewing areas shall be permitted if visually subordinate to its setting as seen from those key viewing areas.

9. Expansion of existing quarries on sites visible from key viewing areas shall be permitted if visually subordinate to its setting as seen from key viewing areas. Existing quarries are those determined not to be discontinued, pursuant to Guideline 4.D in "Existing Uses and Discontinued Uses" (Part II, Chapter 7: General Policies and Guidelines). Expansion refers to lateral expansion (expansion of mining activities into land surfaces previously unaffected by mining).

10. In addition to the guidelines contained in this section, applicable design guidelines specified for a particular landscape setting shall be used to ensure that new development on lands seen from key viewing areas is visually subordinate to its setting in a manner responsive to the unique character of that setting.

11. The Commission and Forest Service shall maintain a *Scenic Resources Implementation Handbook*. The Handbook shall provide specific guidance for applicants and planners in implementing color, reflectivity, landscaping and other guidelines for development on sites visible from key viewing areas. It may be updated as needed, as determined by the Executive Director and Scenic Area Manager. In updating the *Handbook*, the Commission and Forest Service will collaborate with the implementing counties, and solicit other agency and public input.

    The *Handbook* is intended to provide non-exclusive, recommended lists of exterior building materials (for reflectivity) and vegetation species.

GMA Guidelines

1. The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

2. Each development shall be visually subordinate to its setting as seen from key viewing areas.

3. Determination of potential visual effects and compliance with visual subordinance policies shall include consideration of the cumulative effects of proposed developments.

4. The extent and type of conditions applied to a proposed development to achieve visual subordinance shall be proportionate to its potential visual impacts as seen from key viewing areas.

    A. Decisions shall include written findings addressing the factors influencing potential visual impact, including but not limited to:

        (1) The amount of area of the building site exposed to key viewing areas.

        (2) The degree of existing vegetation providing screening.

        (3) The distance from the building site to the key viewing areas from which it is visible.

        (4) The number of key viewing areas from which it is visible.

(5) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

B. Conditions may be applied to various elements of proposed developments to ensure they are visually subordinate to their setting as seen from key viewing areas, including but not limited to:

(1) Siting (location of development on the subject property, building orientation, and other elements).

(2) Retention of existing vegetation.

(3) Design (color, reflectivity, size, shape, height, architectural and design details and other elements).

(4) New landscaping.

5. New development shall be sited to achieve visual subordinance from key viewing areas, unless the siting would place such development in a buffer specified for protection of wetlands, riparian corridors, sensitive plants, or sensitive wildlife sites or would conflict with guidelines to protect cultural resources. In such situations, development shall comply with this guideline to the maximum extent practicable.

6. New development shall be sited using existing topography and/or existing vegetation as needed to achieve visual subordinance from key viewing areas.

7. Existing tree cover screening proposed development from key viewing areas shall be retained as specified in the Landscape Settings Design Guidelines section of this chapter.

8. The silhouette of new buildings shall remain below the skyline of a bluff, cliff, or ridge as seen from key viewing areas. Variances to this guideline may be granted if application of the guideline would leave the owner without a reasonable economic use. The variance shall be the minimum necessary to allow the use and may be applied only after all reasonable efforts to modify the design, building height, and site to comply with the guideline have been made.

9. An alteration to a building built before November 17, 1986, that already protrudes above the skyline of a bluff, cliff, or ridge as seen from a key viewing area, may itself protrude above the skyline if:

A. The altered building, through use of color, landscaping and/or other mitigation measures, contrasts less with its setting than before the alteration, and

B. There is no practicable alternative means of altering the building without increasing the protrusion.

10. The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

    A. New landscaping (including new earth berms) shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development visually subordinate from key viewing areas. Alternate sites shall be considered prior to using new landscaping to achieve visual subordinance. Development shall be sited to avoid the need for new landscaping wherever possible.

    B. If new landscaping is required to make a proposed development visually subordinate from key viewing areas, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to make the development visually subordinate within five years or less from the commencement of construction.

    C. Unless as specified otherwise by provisions in this chapter, landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

    D. The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

11. Conditions regarding new landscaping or retention of existing vegetation for new developments on lands designated GMA Forest shall meet both scenic guidelines and fuel break requirements in Criterion 1.A of “Approval Criteria for Fire Protection”.

12. Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.

13. The exterior of buildings on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity, unless the structure would be fully screened from all key viewing areas by existing topographic features. The *Scenic Resources Implementation Handbook* will include a list of

recommended exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets recommended thresholds in the “Visibility and Reflectivity Matrices” in the *Implementation Handbook* (once they are created). Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure visual subordinance. Recommended square footage limitations for such surfaces will be provided for guidance in the *Implementation Handbook.*

14. In addition to the site plan requirements in "Review Uses" (Part II, Chapter 7: General Policies and Guidelines), applications for all buildings visible from key viewing areas shall include a description of the proposed building(s)' height, shape, color, exterior building materials, exterior lighting, and landscaping details (type of plants used; number, size, locations of plantings; and any irrigation provisions or other measures to ensure the survival of landscaping planted for screening purposes).

15. For proposed mining and associated activities on lands visible from key viewing areas, in addition to submittal of plans and information pursuant to Guideline 6 in the “Overall Scenic Provisions” section of this chapter, project applicants shall submit perspective drawings of the proposed mining areas as seen from applicable key viewing areas.

16. Exterior lighting shall be directed downward and sited, hooded, and shielded such that it is not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

17. Additions to existing buildings smaller in total square area than the existing building may be the same color as the existing building. Additions larger than the existing building shall be of dark earth-tone colors found at the specific site or in the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* will include a recommended palette of colors.

18. Rehabilitation of or modifications to existing significant historic structures shall be exempted from visual subordinance requirements for lands seen from key viewing areas. To be eligible for such exemption, the structure must be included in, or eligible for inclusion in, the National Register of Historic Places or be in the process of applying for a determination of significance pursuant to such regulations. Rehabilitation of or modifications to structures meeting this guideline shall be consistent with National Park Service regulations for such structures.

19. New main lines on lands visible from key viewing areas for the transmission of electricity, gas, oil, other fuels, or communications, except for connections to individual users or small clusters of individual users, shall be built in existing transmission corridors unless it can be demonstrated that use of existing corridors

is not practicable. Such new lines shall be underground as a first preference unless it can be demonstrated to be impracticable.

20. New communication facilities (antennae, dishes, etc.) on lands visible from key viewing areas that require an open and unobstructed site shall be built upon existing facilities unless it can be demonstrated that use of existing facilities is not practicable.

21. New communications facilities may protrude above a skyline visible from a key viewing area only upon demonstration that:

    A. The facility is necessary for public service,

    B. The break in the skyline is seen only in the background, and

    C. The break in the skyline is the minimum necessary to provide the service.

22. Overpasses, safety and directional signs, and other road and highway facilities may protrude above a skyline visible from a key viewing area only upon a demonstration that:

    A. The facility is necessary for public service, and

    B. The break in the skyline is the minimum necessary to provide the service.

23. Except for water-dependent development and for water-related recreation development, development shall be set back 100 feet from the ordinary high water mark of the Columbia River below Bonneville Dam, and 100 feet from the normal pool elevation of the Columbia River above Bonneville Dam, unless the setback would render a property unbuildable. In such cases, variances to this guideline may be authorized.

24. New buildings shall not be permitted on lands visible from key viewing areas with slopes in excess of 30 percent. Variances to this guideline may be authorized if the guideline's application would render a property unbuildable. In determining the slope, the average percent slope of the proposed building site shall be used.

25. Driveways and buildings shall be designed and sited to minimize visibility of cut banks and fill slopes from key viewing areas.

26. All proposed structural development involving more than 200 cubic yards of grading on sites visible from key viewing areas shall include submittal of a grading plan. This plan shall be reviewed by the local government for compliance with key viewing area policies. The grading plan shall include the following:

A. A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:

(1) Existing and proposed final grades.

(2) Location of all areas to be graded, with cut banks and fill slopes delineated.

(3) Estimated dimensions of graded areas.

B. A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

(1) Its purpose.

(2) An estimate of the total volume of material to be moved.

(3) The height of all cut banks and fill slopes.

(4) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)

(5) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(6) A description of any other interim or permanent erosion control measures to be used.

27. Expansion of existing quarries and new production and/or development of mineral resources proposed on sites more than 3 miles from the nearest key viewing areas from which it is visible may be allowed upon a demonstration that:

A. The site plan requirements for such proposals pursuant to this chapter have been met.

B. The area to be mined and the area to be used for primary processing, equipment storage, stockpiling, etc. associated with the use would be visually subordinate as seen from any key viewing areas.

C. A reclamation plan to restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has

been approved. At minimum, the reclamation plan shall comply with Guidelines 6 and 7 in the "Overall Scenic Provisions" section of this chapter.

D. A written report on a determination of visual subordinance has been completed, with findings addressing the extent of visibility of proposed mining activities from key viewing areas, including:

(1) A list of key viewing areas from which exposed mining surfaces (and associated facilities/activities) would be visible.

(2) An estimate of the surface area of exposed mining surfaces that would be visible from those key viewing areas.

(3) The distance from those key viewing areas and the linear distance along those key viewing areas from which proposed mining surfaces are visible.

(4) The slope and aspect of mining surfaces relative to those portions of key viewing areas from which they are visible.

(5) The degree to which potentially visible mining surfaces are screened from key viewing areas by existing vegetation, including winter screening considerations.

(6) The degree to which potentially visible mining surfaces would be screened by new plantings, berms, etc. and appropriate time frames to achieve such results, including winter screening considerations.

28. Unless addressed by Guideline 27 of this section, new production and/or development of mineral resources may be allowed upon a demonstration that:

A. The site plan requirements for such proposals pursuant to this chapter have been met.

B. The area to be mined and the area used for primary processing, equipment storage, stockpiling, etc., associated with the use would be fully screened from any key viewing area.

C. A reclamation plan to restore the area to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable has been approved. At minimum, the reclamation plan shall comply with Guidelines 6 and 7 of the "Overall Scenic Provisions" section of this chapter.

29. An interim time period to achieve compliance with visual subordinance requirements for expansion of existing quarries and development of new quarries located more than 3 miles from the nearest visible key viewing area shall be

established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the date of approval.

30. An interim time period to achieve compliance with full screening requirements for new quarries located less than 3 miles from the nearest visible key viewing area shall be established before approval. The interim time period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the date of approval. Quarrying activity occurring before achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

LANDSCAPE SETTINGS

GMA Goals

1. Maintain the diversity of Gorge landscapes to protect and enhance the Gorge's scenic beauty.

2. Retain the existing character of the Gorge's rural landscapes and two Rural Centers (Corbett and Skamania).

3. Protect existing riverfront landscape settings when providing additional recreational river access and ensure that riverfront recreation is provided in a manner compatible with those settings.

GMA Policies

1. New developments shall be compatible with their landscape setting and maintain the integrity of that setting. Expansion of existing developments shall be compatible with their landscape setting and maintain the integrity of that setting to the maximum extent practicable.

2. These goals, policies, and guidelines apply only to developments and uses subject to review, pursuant to the Management Plan. While agricultural and forest practices influence landscape settings, they are not subject to the goals, policies, and guidelines for landscape settings.

3. Because of the dynamic nature of landscape settings, these settings shall be reevaluated in the periodic plan review process. Substantial changes, particularly with respect to changes of large areas between wooded and agricultural settings, shall be reflected in periodic revisions to the Management Plan.

4. Maintenance of landscape settings shall be a key consideration in determining minimum parcel sizes for GMA land use designations. Recommended minimum parcel sizes for new land divisions to maintain landscape setting character are

included where applicable in the landscape settings descriptions. The Gorge Commission shall use these recommendations when considering minimum parcel sizes for either plan amendments or plan updates.

5. The "Compatible Recreation Use Guidelines" for each landscape setting shall provide the basis for evaluating cumulative effects of recreation proposals on landscape settings, including types and intensities of recreation uses.

GMA Descriptions and Guidelines

Pastoral

Overview and Land Use

Pastoral settings are essentially agrarian in character, typified by areas of pastures and intensive agriculture. This setting includes areas where orchards, vineyards, row crops, and irrigated pasture predominate the landscape. This setting often includes woodlots and scattered rural residential development. Visual features distinguishing this setting include large expanses of cultivated fields and pastures, punctuated by clusters of farm accessory buildings and hedgerows or poplar rows defining distinct fields. Some small parcels with residences occur, but many parcels range between forty and several hundred acres in size.

Landforms

These settings usually occur on level ground or gently rolling terrain. Some of these landscapes are found on relatively flat terraces and benches at the top of steep slopes that form the walls of the Gorge. Other pastoral areas occur in the fertile valleys of the major tributaries flowing into the Columbia River.

Vegetation

Non-native vegetation patterns are predominant. They include alfalfa fields and irrigated pasture, vineyards and fruit orchards, row crops, hedgerows, and poplar rows. Scattered woodlots interspersed throughout this setting reflect the natural vegetation of the portion of the Gorge in which they are located (e.g. Oregon oak and ponderosa pine in the eastern Gorge; Douglas-fir, big leaf maple, and western red cedar in the west).

Compatible Recreation Use Guideline

Resource-based recreation uses of a very low-intensity or low-intensity nature (as defined in the "Recreation Intensity Classes" section of Part I, Chapter 4: Recreation Resources), occurring infrequently in the landscape, are compatible with this setting.

Recommended Parcel Size for New Land Divisions

40 acres.

Design Guidelines

1. Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

2. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:

   A. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

   B. Vegetative landscaping shall, where feasible, retain the open character of existing pastures and fields.

   C. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include fruit trees, Douglas-fir, Lombardy poplar (usually in rows), Oregon white oak, big leaf maple, and black locust (primarily in the eastern Gorge).

   D. At least one-quarter of any trees planted for screening shall be coniferous for winter screening.

<u>Coniferous Woodland</u>

Overview and Land Use

These are primarily thickly forested areas characterized by forest uses and scattered residential development. Forest uses are often small to moderate in scale, particularly in the more settled portions of this setting. Parcels typically range between 20 and 160 acres in size. Large-scale silvicultural operations also occur in the less developed portions of this setting where land holdings tend to be relatively large (several hundred acres and larger) and residences fairly uncommon.

Landforms

These settings are found in hilly and mountainous portions of the Gorge, particularly on the Washington side of the western Gorge (in the GMA). The more gently rolling and accessible portions of this setting contain small-scale agricultural use and relatively more residences.

Vegetation

This setting is generally dominated by large conifer tree species associated with the ecosystems of the wet western slopes of the Cascades. Such species include Douglas-fir, western hemlock, western red cedar, and grand fir. Deciduous trees frequent the riparian corridors and also cover many slopes in the westernmost portions of the Gorge. Common deciduous species include big leaf maple, red alder, black cottonwood, and various species of willow trees. In the eastern portions of this setting and on dry, south-facing slopes, ponderosa pine and Oregon white oak are also common.

Compatible Recreation Use Guideline

Resource-based recreation uses of varying intensities may be compatible with this setting. Typically, outdoor recreation uses in Coniferous Woodlands are low intensity, and include trails, small picnic areas, and scenic viewpoints. Although infrequent, some more intensive recreation uses, such as campgrounds, occur. They tend to be scattered rather than concentrated, interspersed with large areas of undeveloped land and low-intensity uses.

Recommended Parcel Size for New Land Divisions

20 acres.

Design Guidelines

1. Structure height shall remain below the forest canopy level.

2. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:

    A. Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.

    B. At least half of any trees planted for screening purposes shall be species native to the setting. Such species include: Douglas-fir, grand fir, western red cedar, western hemlock, big leaf maple, red alder, ponderosa pine and Oregon white oak, and various native willows (for riparian areas).

    C. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

Oak-Pine Woodland

Overview and Land Use

This visually complex setting represents the climatic transition area between the lush forests of the western Gorge and the semi-arid grasslands of the eastern Gorge. Dry oak-pine woods, savannah areas (predominantly grassy openings with scattered trees), and grassy prairies are interspersed with scattered rural development. Such development includes residences, roads, fences, etc. In some portions of this setting, orchards and cultivated areas lend a pastoral flavor to this generally natural-appearing landscape. Most parcels are over 20 acres in size, and are frequently between 40 and 160 acres.

Landforms

Most of this setting is found on gently rolling to hilly terrain. Pastures and small farm uses are interspersed in the gentler portions of this setting. Some very steep slopes and deeply incised side canyons are contained in the least developed portions of this setting.

Vegetation

This setting contains perhaps the most varied vegetative communities in the Gorge, adding to its visual richness. Mixed stands of Oregon white oak and ponderosa pine typify this setting. In the western portions, highest elevations, and north slopes, this community transitions into woodland vegetation patterns, with increasing numbers of Douglas-fir occurring. Drier portions of this setting and areas with poor, thin soils are often treeless prairies. "Biscuit scablands," or patterned ground areas with little vegetation and hummocky rock outcrops, also occur. This special landscape, created by scouring of great floods, is also found in some portions of the Grassland setting.

Compatible Recreation Use Guideline

Resource-based recreation uses of varying intensities may be compatible with this setting, although most are of a low-intensity nature (such as trails or small scenic outlooks). More intensive recreation uses may be compatible where allowed under the "Recreation Intensity Classes" in Part I, Chapter 4, although they are generally rare in this setting. As with Woodland settings, intensive recreation uses in Oak-Pine Woodlands may be compatible if widely scattered and not in large concentrations.

Recommended Parcel Size for New Land Divisions

40 acres.

Design Guidelines

1. Structure height shall remain below the tree canopy level in wooded portions of this setting.

2. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:

   A. At least half of any tree species planted for screening purposes shall be species native to the setting. Such species include Oregon white oak, ponderosa pine, and Douglas-fir.

   B. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

   For substantially wooded portions:

   C. Except as is necessary for construction of access roads, building pads, leach fields, etc., the existing tree cover screening the development from key viewing areas shall be retained.

   For treeless portions or portions with scattered tree cover:

   D. Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.

   E. Patterns of plantings for screening vegetation shall be in character with the surroundings. Residences in grassy, open areas or savannahs shall be partly screened with trees in small groupings and openings between groupings.

   F. Accessory structures, outbuildings, and access ways shall be clustered together as much as possible, particularly towards the edges of existing meadows, pastures, and farm fields.

Grassland

Overview and Land Use

This setting comprises large expanses of generally treeless grass and shrub-covered hills and terraces. It covers most of the eastern fourth of the Scenic Area, stretching from just west of The Dalles to the eastern boundary of the Scenic Area. The dominant land use is cattle ranching, with widely scattered residences, accessory buildings, and related structures associated with ranching. Land holdings are relatively large, commonly ranging from several hundred to several thousand acres in size. The long, unbroken vistas and relatively sparse settlement patterns of this setting give it a dramatic, panoramic character distinct from the rest of the Gorge.

Landforms

The Grassland setting is found on gentle to steeply sloping hillsides and relatively level terraces in the eastern Gorge. The distinctive hummocky terrain of some areas of "biscuit scablands" near Dallesport is also included in this setting. In the extreme eastern portions of the Scenic Area, rugged rocky cliffs along the Columbia River also occur.

Vegetation

Grasses, shrubs, and forbs are predominant in this mostly treeless setting. Introduced grass species cover most of the rangelands, with bitterbrush and sagebrush shrubland occurring in some areas. Some areas of native bunchgrasses and forbs still occur, and some rare plant species are found in a few areas of scablands and vernal ponds. Oregon white oak stands grow in some of the intermittent stream drainages. A few tree species have been widely planted as windbreaks and are naturalized to the area, particularly black locust and poplar. A few vineyards and orchards have been planted in the lower terraces of this setting.

Compatible Recreation Use Guideline

Resource-based recreation uses of a very low-intensity or low-intensity nature that occur infrequently are compatible with this setting, and include hiking, hunting, and wildlife viewing.

Recommended Parcel Size for New Land Divisions

160 acres.

Design Guidelines

1. Accessory structures, outbuildings, and access ways shall be clustered together as much as possible. Exceptions to this guideline are permitted where necessary for farming operations.

2. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:

    A. Structures shall be sited on portions of the property that provide maximum screening from key viewing areas, using existing topographic features.

    B. Lower structures that emphasize horizontal lines and blend with this sweeping landscape should be encouraged rather than very tall structures.

C. Planting of trees for screening shall not be extensive, in character with the openness of this setting. Where used, screening vegetation shall either tie in with nearby riparian vegetation in seasonal drainages or emulate windrows. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area. Such species include Oregon white oak, Lombardy poplar, black locust, black cottonwood (wet locations), Russian olive and ponderosa pine.

Rural Residential

Overview and Land Use

Rural Residential settings occur throughout the Scenic Area, consisting of areas primarily committed to single-family residential development. These areas include numerous relatively small parcels, usually ranging between 1 and 5 acres. Because of these densities and the usually small size of these residential enclaves, Rural Residential settings often retain some rural character in contrast to larger, denser residential neighborhoods in the Urban Areas.

Landforms

Rural Residential settings occur in portions of the Gorge landscape that are relatively accessible and lacking in physical development constraints. Most of these areas are gently rolling or level terraces and valley floors. Rural Residential areas are rarely found in steep terrain.

Vegetation

Most Rural Residential settings include numerous plantings of ornamental and other non-native species in residential yards. In some of the less dense Rural Residential areas, remnants of the area's native vegetation have been preserved. In these areas, retention of the native vegetative communities has substantially contributed to the blending of the residential uses with their surroundings.

Compatible Recreation Use Guideline

Compatible recreation uses are usually limited to small community park facilities, but may occasionally include low-intensity resource-based recreation uses (such as small scenic overlooks).

Recommended Parcel Size for New Development

Two acres or 5 acres, depending upon the existing character of the area as reflected in average parcel size and development patterns.

Design Guidelines

1. Existing tree cover shall be retained as much as possible, except as is necessary for site development, safety purposes, or as part of forest management practices.

2. In portions of this setting visible from key viewing areas, and not exempt from visual subordinance guidelines (see "Developed Settings and Visual Subordinance Policies" in this section), the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:

   A. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

   B. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

   C. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

Rural Residential/Pastoral, Rural Residential/Coniferous Woodland, and Rural Residential/Oak-Pine Woodland

Overview and Land Use

This setting reflects areas that are partly rural residential in nature, yet still substantially retain characteristics of a more rural setting (either Pastoral, Coniferous Woodland or Oak-Pine Woodland).

Such areas are typically composed of a combination of rural residential and small-scale agricultural and forest uses. Parcels in these areas generally range between 5 and 20 acres in size, although some smaller residential lots and a few larger vacant parcels occur.

Landforms

These combination settings generally occur in gentle terrain with relatively good access.

Vegetation

As with Rural Residential settings, natural vegetation patterns have been altered by ornamental and other non-native plantings on residential lots, although to a substantially lesser degree. The Rural Residential/Pastoral settings frequently contain pastures, small orchards, and other characteristic pastoral vegetation elements. Rural Residential/Coniferous Woodland and Rural Residential/Oak-Pine Woodland settings still retain much of the natural vegetative communities. In these settings, residential

development blends with the rural landscape to a greater degree than in Rural Residential settings.

Compatible Recreation Use Guideline

Very low-intensity and low-intensity resource-based recreation uses, scattered infrequently in the landscape, may be compatible with this setting.

Recommended Parcel Size for New Land Divisions

Ten acres or 20 acres, depending upon the existing character of the area, as reflected in average parcel size and development patterns. However, a 10-acre minimum parcel size is recommended for all Rural Residential/Coniferous Woodland settings.

Design Guidelines

1. New development in this setting shall meet the design guidelines described for both the Rural Residential setting and the more rural setting with which it is combined (either Pastoral, Coniferous Woodland or Oak-Pine Woodland), unless it can be demonstrated that compliance with the guidelines for the more rural setting is impracticable. Expansion of existing development shall comply with this guideline to the maximum extent practicable.

2. In the event of a possible conflict between the two sets of guidelines, the guidelines for the more rural setting (Coniferous Woodland, Oak-Pine Woodland or Pastoral) shall apply, unless it can be demonstrated that application of such guidelines would not be practicable.

Residential

Overview and Land Use

A very limited number of areas in the General Management Area already contain dense residential development on parcels of less than 1 acre on the average. These areas, because of their density, size, and proximity to Urban Area development (in all but one case), are essentially suburban in nature and have not retained any rural characteristics. The subdivision north of Chenoweth Creek, known as "Murray's Addition," is the largest of the few Residential settings in the GMA.

Landforms

The Residential settings in the GMA are located on flat or gentle terrain in areas that are readily accessible.

Vegetation

With a few exceptions, natural vegetation patterns in these dense residential areas have been replaced by ornamental and non-native plantings.

Compatible Recreation Use Guideline

Compatible recreation uses are essentially limited to community park facilities.

Design Guidelines

1. In portions of this setting visible from key viewing areas and not exempt from visual subordinance guidelines (see "Developed Settings and Visual Subordinance Policies" in this section), the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:

    A. Except as is necessary for site development or safety purposes, the existing tree cover screening the development from key viewing areas shall be retained.

    B. The exteriors of structures shall be non-reflective unless fully screened from key viewing areas with existing vegetation and/or topography.

    C. At least half of any trees planted for screening purposes shall be species native to the setting or commonly found in the area.

    D. At least half of any trees planted for screening purposes shall be coniferous to provide winter screening.

<u>Village</u>

Overview and Land Use

The Village setting applies to the two designated Rural Centers in the GMA (Corbett and Skamania--see Part II, Chapter 5), as well as the Broughton Mill area (approved for a resort by the Gorge Commission in 1989). This setting reflects the nature of the Rural Centers as service centers and gathering places for nearby rural residences. The Village setting contains many small residential parcels and a central core, serving both commercial and social functions. Village settings are distinguished from Rural Residential settings by their mix of residential, institutional (churches, schools, etc.), and commercial uses, creating a small town atmosphere.

Landforms

Village settings have evolved in level or gently rolling areas lacking any substantial physical development constraints or access problems.

Vegetation

Although the Village settings are densely settled relative to the surrounding rural landscape, some areas have retained the natural vegetation of the region in which they are located. Much of the vegetation in this setting, particularly in the Corbett area, consists of non-native species planted by homeowners.

Compatible Recreation Use Guideline

Compatible recreation uses may include community parks serving the recreation needs of local residents, and varying intensities of other recreation uses.

Special Policies for Village Setting

1. The Gorge Commission shall consult with community groups and the appropriate county to refine and revise these design guidelines as appropriate to reflect community desires and interests.

2. The Gorge Commission shall consult with the Oregon Department of Transportation, the Historic Columbia River Highway Advisory Committee, and Multnomah County to define desirable and appropriate provisions for curbs, parking treatments, and access on the Historic Highway.

Design Guidelines

1. New commercial buildings shall be limited in size to a total floor area of 5,000 square feet or less, and shall be limited in height to 2 1/2 stories or less.

2. For new commercial, institutional (churches, schools, government buildings), or multifamily residential uses on parcels fronting a scenic travel corridor (Washington State Route 14 or the Historic Columbia River Highway) and expansion of existing development for such uses, parking shall be limited to rear or side yards of buildings to the maximum extent practicable.

3. New vehicular access points to the scenic travel corridors shall be limited to the maximum extent practicable, and access consolidation shall be required where feasible.

4. New development proposals and expansion of existing development shall be encouraged to follow planned unit development approaches, featuring consolidated access, commonly shared landscaped open areas, etc.

5. New commercial, institutional or multifamily residential uses fronting a scenic travel corridor shall comply with the following landscape requirements:

A. Parking or loading areas for 10 or more spaces shall include a landscaped strip at least 5 feet wide between the new use and the scenic travel corridor roadway.

B. The landscape strip required in Guideline 5.A above, shall include shrubs, vegetative ground cover, and, at minimum, one tree. Trees shall be spaced as appropriate to the species and not to exceed 25 feet apart on the average.

6. The use of building materials that reinforce the Village setting's character, such as wood, logs, or stone, and that reflect community desires, should be encouraged.

7. Architectural styles that are characteristic of the area (such as 1 1/2-story dormer roof styles in Corbett) and that reflect community desires should be encouraged. Entry signs should be consistent with such architectural styles.

8. Design features that create a "pedestrian-friendly" atmosphere, such as large shop windows on the ground floor of commercial buildings, porches along ground floors with street frontage, etc., should be encouraged.

9. Pedestrian walkways and bicycle paths should be encouraged and integrated into new developments wherever feasible.

10. Where feasible, existing tree cover of species native to the region or commonly found in the area shall be retained when designing new development or expanding existing development.

River Bottomlands

Overview and Land Use

This setting includes lush floodplains and riparian forests found along the shores of the Columbia River, particularly below Bonneville Dam. Much of this setting has been lost to dam, freeway and railroad construction. In many places in the GMA, only thin strips of this setting remain, directly adjacent to the river. These remnants are still visually distinct settings that markedly contrast with adjacent rocky slopes or upland conifer forests.

Some of these areas include small pastures and scattered rural residential development, as well as major transportation facilities. This setting also includes major existing park and recreation facilities along the river (e.g. Celilo Park) and the most potentially suitable areas for concentrated public recreational river access, as identified in the planning process.

Landforms

River Bottomlands are, by their nature, confined to flat or gently sloping lands representing remnants of the original Columbia River floodplain.

Vegetation

Where unaltered, this setting consists primarily of a largely deciduous forest, with black cottonwood, red alder, bigleaf maple, and willows dominating. Unforested marshes also occur in this setting, although the largest of these ecologically critical vegetative communities are in the Special Management Area. Major parks in River Bottomlands contain some vegetation patterns uncharacteristic of pristine riparian communities, such as mowed lawn areas and some ornamental plantings. However, to a large degree, the riverfront parks that best blend with the natural surroundings emphasize native species plantings and retention of existing riparian vegetation communities. Thus, the deciduous-dominated riparian species found in River Bottomlands are emphasized as the major vegetation element in the design guidelines applicable to new recreation uses in this setting.

Compatible Recreation Use Guideline

Compatible recreation uses in this setting depend on the degree of natural resource sensitivity of a particular site. In the most critically sensitive River Bottomlands, very low-intensity uses that do not impair wetlands or special habitat requirements may be compatible.

In other River Bottomland areas, nodes of moderate-intensity and/or high-intensity recreation uses may be compatible, provided that: (1) their designs emphasize retention and/or enhancement of native riparian communities, (2) structures and parking areas are visually subordinate, and (3) they are separated from other areas of concentrated recreation usage by stretches of natural-appearing shoreline and adjacent uplands.

Design Guidelines

1. In portions of this setting visible from key viewing areas, the following guidelines shall be employed to achieve visual subordinance for new development and expansion of existing development:

    A. Except as is necessary for site development or safety purposes, existing tree cover screening the development from key viewing areas shall be retained.

    B. At least half of any trees planted for screening purposes shall be species native to the River Bottomland setting. Public recreation developments are encouraged to maximize the percentage of planted screening vegetation native to this setting. Such species include black cottonwood, big leaf maple, red alder, Oregon white ash, Douglas-fir, western red cedar and western hemlock (west Gorge), and various native willow species.

    C. At least one-quarter of any trees planted for screening purposes shall be coniferous for winter screening.

Gorge Walls, Canyons, and Wildlands

Overview and Land Use

This setting represents the bluffs, cliffs and steep slopes that form the walls of the Gorge and the deeply incised canyons of the Columbia River's major tributaries. Because of extreme steepness, and in some cases inaccessibility and instability, these areas are largely undeveloped. They represent some of the most natural settings in GMA lands, despite the proximity of some of these areas to major thoroughfares. Prevailing land use in these areas is undeveloped vacant land, although low-intensity recreation use and some silviculture occur in a few limited areas.

Landform

The landform component of this setting is a much greater determinant of its character than is true for any other setting. Steep wooded slopes, canyon walls, and sheer rock faces characterize this setting. In the side canyons, small ribbons of riparian floodplain areas also occur.

Vegetation

The steepest portions of this setting are rocky cliffs devoid of much vegetation or loose talus slopes with limited vegetation (although such slopes often include large, old fir, pine, and maple trees). Other portions of this setting include stands of large fir and pine trees, some of which appear to be the original forest cover. At the bottom of the Hood, White Salmon, and Little White Salmon River canyons, narrow bands of lush, riparian vegetation are found.

Compatible Recreation Use Guideline

Because of the fragility, steepness, and undeveloped nature of these lands, compatible recreation uses are usually limited to very low-intensity or low-intensity, resource-based activities that focus on enjoyment and appreciation of sensitive resources. Such uses (such as trails) are generally associated with minimal facility development, if any.

Design Guidelines

1. New development and expansion of existing development shall be screened so it is not seen from key viewing areas, to the maximum extent practicable.

2. All trees planted to screen permitted development and uses from key viewing areas shall be native to the area.

3. Existing tree cover shall be retained to the maximum extent practicable, except for the minimum removal necessary to accommodate facilities otherwise permitted in the underlying land use designation or for safety purposes.

4. All buildings shall be limited in height to a maximum of 1 1/2 stories.

5. The exteriors of structures shall be non-reflective.

6. Signage shall be limited to natural materials such as wood or stone, with natural or earth-tone colors, unless public safety concerns or federal or state highway standards require otherwise.

Developed Settings and Visual Subordinance Policies

GMA policies to protect key viewing area viewsheds require that all new development on lands seen from key viewing areas be visually subordinate to its landscape setting, except for "specified developed settings that are not visually sensitive."

Three landscape settings are considered developed settings within this context: Rural Residential, Residential, and Village. Of all GMA lands in these three settings, six particular areas that are not visually sensitive have been identified. New development in these settings shall be compatible with the setting, but not necessarily visually subordinate. New developments in these settings are exempt from the color and siting guidelines in the Key Viewing Areas section of this chapter. These areas are:

1. Corbett Rural Center (Village)

2. Skamania Rural Center (Village)

3. West of Hood River Urban Area, east of Country Club Road (Rural Residential)

4. Murray's Addition subdivision, The Dalles (Residential)

5. Two small areas south of The Dalles in Sections 9 and 10, Township 1N, Range 13E (Residential)

6. Portion of Underwood Heights along Cooper Avenue, south of Cook-Underwood Road (Rural Residential)

SCENIC TRAVEL CORRIDORS

GMA Goal

Designate those portions of the following roads in the Scenic Area as scenic travel corridors and protect and enhance scenic resources within the corridors: Washington State Routes 14, 141, and 142, Interstate 84, the Historic Columbia River Highway (all segments), and Oregon Highway 35.

GMA Objectives

1. Establish coordinated, cooperative implementation programs with the state highway departments, railroads, the Bonneville Power Administration, and utility companies that include protection measures to mitigate visual effects of new corridor development and enhancement measures to reduce visual effects of existing development.

2. Establish a program to provide incentives for landowners or land managers to screen or remove discordant features in the foreground of scenic travel corridors.

3. Encourage communities along scenic travel corridors to enhance the entries to their communities.

4. Encourage the railroads and utility companies to place signal wires and powerlines underground where such features are visually dominant and detract from the visual quality of scenic travel corridors.

5. Encourage the railroads and utility companies to use colors that are visually subordinate on existing equipment along scenic travel corridors.

6. Encourage the Washington and Oregon Departments of Transportation to take the following measures to improve the visual quality of scenic travel corridors:

    A. Place reflectors on guardrails rather than on free-standing posts where feasible and not detrimental to public safety.

    B. Remove unnecessary highway signs and consolidate signs, wherever possible.

    C. Replace sections of white guardrail where white contrasts noticeably with gray or galvanized sections, except along the Historic Columbia River Highway, where two-rail white guardrails are encouraged to emulate historic styles.

    D. Construct berms to emulate natural contours to the maximum extent practicable and eliminate any construction berms that no longer perform any function.

    E. Close unused access roads that no longer provide any service or perform any function and that intersect scenic travel corridors.

    F. Use native plants to the maximum extent practicable when planting any new vegetation in scenic travel corridor rights-of-way.

7. Establish a program to reclaim abandoned quarries in the foreground of scenic travel corridors.

8. Encourage the Bonneville Power Administration to use colors that are visually subordinate on its existing facilities seen from scenic travel corridors.

9. Encourage the Bonneville Power Administration to improve the visual quality of powerline rights-of-way by restoring vegetation to its natural appearance wherever possible.

10. Establish new viewpoints of the Columbia River and lands within the Gorge at places offering outstanding views along scenic travel corridors. (Same as objective 4 under "Scenic Appreciation and Scenic Travel Corridors" in Part I, Chapter 4.)

11. Create or restore openings in vegetation along Washington State Route 14, Interstate 84, and the Historic Columbia River Highway to provide or improve views of the Columbia River and the walls of the Gorge in a manner that does not adversely affect the scenic, cultural, natural, or recreation resources of the Scenic Area. (Same as objective 5 under "Scenic Appreciation and Scenic Travel Corridors" in Part I, Chapter 4.)

12. Encourage the railroads and state departments of transportation to use integrated vegetation management practices in managing vegetation in scenic travel corridor foregrounds.

GMA Policies

1. The *SR 14 Corridor Strategy* (1996) and *I-84 Corridor Strategy* (2005) and associated documents for each shall continue to be implemented (and updated as needed).

2. The goals of scenic corridor strategies shall include: 1) providing a framework for future highway improvements and management that meet Management Plan scenic guidelines and public transportation needs; and 2) creating design continuity for the highway corridor within the Scenic Area. Corridor strategies shall, at minimum, include: a) design guidelines (e.g. materials, conceptual designs, etc.) for typical projects that are consistent with Management Plan scenic resources provisions and b) an interdisciplinary, interagency project planning and development process.

3. Programs and specific provisions developed for scenic travel corridors shall emphasize protection and enhancement of the corridors' foreground.

4. To achieve scenic travel corridor objective 1, above, the Gorge Commission shall consider establishing an interagency Scenic Travel Corridor Implementation Task

Force, to be composed of representatives of all entities referenced in objective 1, as well as local and Indian tribal government representatives.

5. New structural development, other than access roads, pathways, or necessary signage, shall be limited in the immediate foreground of scenic travel corridors. Expansion of existing development shall comply with this policy to the maximum extent practicable.

6. New production and/or development of mineral resources may be permitted in the foregrounds of scenic travel corridors upon a demonstration that such uses would be fully screened from view of the corridor roadway itself. Expansion of existing quarries in the foregrounds of scenic travel corridors may be permitted if determined to be visually subordinate.

7. A reclamation plan shall be required for expansion of existing quarries and all new mining activity within scenic travel corridors, including quarries for which no reclamation program is required by the laws of Washington or Oregon.

8. New signal wires and powerlines along scenic travel corridors shall be placed underground to the maximum extent practicable in areas where above-ground facilities would be visually dominant and detract from corridor visual quality.

9. New mailboxes and newspaper boxes along scenic travel corridors shall be clustered to the maximum extent practicable.

10. New residential and commercial driveway access to scenic travel corridors shall be consolidated to the maximum extent practicable.

11. New road cuts shall be contoured to approximate a natural-appearing grade and vegetated with species native or naturalized to the area in order to blend with the landscape setting.

GMA Guidelines

1. For the purposes of implementing this section, the foreground of a scenic travel corridor shall include those lands within 1/4 mile of the edge of pavement of the scenic travel corridor roadway.

2. All new buildings and alterations to existing buildings shall be set back at least 100 feet from the edge of pavement of the scenic travel corridor roadway. This policy shall not apply in Rural Center designations (Village landscape setting). A variance to this setback requirement may be granted pursuant to Guideline 2 in "Variances from Setbacks and Buffers" (Part II, Chapter 7: General Policies and Guidelines). All new parking lots and expansions of existing parking lots shall be set back at least 100 feet from the edge of pavement of the scenic travel corridor roadway, to the maximum extent practicable.

3. Additions to existing buildings or expansion of existing parking lots located within 100 feet of the edge of pavement of a scenic travel corridor roadway shall comply with Guideline 2 of this section to the maximum extent practicable. This guideline shall not apply in Rural Center designations (Village landscape setting).

4. All proposed vegetation management projects in public rights-of-way to provide or improve views shall include the following:

   A. An evaluation of potential visual impacts of the proposed project as seen from any key viewing area.

   B. An inventory of any rare plants, sensitive wildlife habitat, wetlands, or riparian areas on the project site. If such resources are determined to be present, the project shall comply with applicable Management Plan guidelines to protect the resources.

5. When evaluating possible locations for undergrounding of signal wires or powerlines, railroads and utility companies shall prioritize those areas specifically recommended as extreme or high priorities for undergrounding in the *Columbia River Gorge National Scenic Area Corridor Visual Inventory* (April 1990).

6. New production and/or development of mineral resources proposed within 1/4 mile of the edge of pavement of a scenic travel corridor may be allowed upon a demonstration that full visual screening of the site from the scenic travel corridor can be achieved by use of existing topographic features or existing vegetation designed to be retained through the planned duration of the proposed project. An exception to this may be granted if planting of new vegetation in the vicinity of the access road to the mining area would achieve full screening. If existing vegetation is partly or fully employed to achieve visual screening, over 75 percent of the tree canopy area shall be coniferous species providing adequate winter screening. Mining and associated primary processing of mineral resources is prohibited within 100 feet of a scenic travel corridor, as measured from the edge of pavement, except for access roads. Compliance with full screening requirements shall be achieved within timeframes specified in Guideline 30 of the "Key Viewing Areas" section of this chapter.

7. Expansion of existing quarries may be allowed pursuant to Guideline 27 in the "Key Viewing Areas" section of this chapter. Compliance with visual subordinance requirements shall be achieved within timeframes specified in Guideline 29 of the "Key Viewing Areas" section of this chapter.

SIGNS

GMA Goal

Protect and enhance scenic resources by minimizing visual impacts of signage, while authorizing signage necessary for commerce, recreation, safety, and public information.

GMA Objective

Encourage the use of the Columbia River Gorge National Scenic Area Graphic Signing System for public signs in and adjacent to public rights-of-way.

GMA Policies

1. New signs within state and federal highway rights-of-way shall comply with the standards of the Columbia River Gorge National Scenic Area Graphic Signing System. Exceptions may be granted if necessary for public safety, traffic control, or highway construction signs when the Graphic Signing System conflicts with the requirements of the *Manual for Uniform Traffic Control Devices*.

2. New signs shall be designed and sited in a manner that achieves their intended function and is compatible with their settings, to the maximum extent practicable.

3. Guidelines for alteration and amortization of nonconforming signs shall be employed to bring such signage into conformance with the provisions of this section.

GMA Guidelines

1. Except for signs allowed without review pursuant to “Uses Allowed Outright” (Part II, Chapter 7: General Policies and Guidelines), all new signs must meet the following guidelines unless these guidelines conflict with the *Manual for Uniform Traffic Control Devices* for public safety, traffic control or highway construction signs. In such cases, the standards in the *Manual for Uniform Traffic Control Devices* shall supersede these guidelines.

    A. The support structure shall be unobtrusive and have low visual impact.

    B. Lettering colors with sufficient contrast to provide clear message communication shall be allowed. Signs shall be colored to blend with their setting to the maximum extent practicable.

    C. Backs of all signs shall be unobtrusive, non-reflective, and blend in with the setting.

D. Spotlighting of signs may be allowed where needed for night visibility. Backlighting is not permitted for signs.

E. Except for signs along public highways necessary for public safety, traffic control, or road construction and consistent with the *Manual for Uniform Traffic Control Devices*, the following signs are prohibited:

(1) Luminous signs or those with intermittent or flashing lights. These include neon signs, fluorescent signs, light displays, and other signs that are internally illuminated, exclusive of seasonal holiday light displays.

(2) New billboards.

(3) Signs with moving elements.

(4) Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle.

2. Any sign that does not conform with a provision of these guidelines and has existed before their adoption is subject to the following provisions:

A. Alteration of existing nonconforming signs shall comply with these guidelines.

B. Any nonconforming sign used by a business must be brought into conformance concurrent with any expansion or change in use that requires a development permit.

SMA PROVISIONS

SMA Goal

Protect and enhance scenic resources.

SMA Policies

1. The appearance and character of the Landscape Settings within the SMA shall be protected. (Character is defined as the land use, landform and vegetation as described in the GMA Scenic Resources section of this chapter).

2. In developing conditions of approval, agencies shall emphasize those elements that, in combination, provide effective, long-term scenic resource protection.

3. The Forest Service Visual Quality Objective system shall be the basis for setting scenic standards to evaluate all new developments and land uses topographically visible from key viewing areas. Each landscape setting will be assigned specific scenic standards.

4. Size, scale, shape, color, texture, siting, height, building materials, lighting, or other visual aspects shall be regulated to protect the scenic resources.

5. New developments and land uses occurring in the foreground of key viewing areas shall protect scenic values.

6. Rehabilitation or modification of historic structures on or eligible for the National Register of Historic Places may be exempt from the above policies if such modification is in compliance with the National Register of Historic Places guidelines.

7. The Historic Columbia River Highway, Washington State Route 14, Interstate 84, the Larch Mountain Road, the Wyeth Bench Road, and Klickitat County Road 1230 shall be managed as scenic routes.

8. The Commission and Forest Service shall maintain a *Scenic Resources Implementation Handbook,* to be approved by the Executive Director and Scenic Area Manager. The Handbook shall provide specific guidance for applicants and planners in implementing color, reflectivity, landscaping and other guidelines for development on sites visible from key viewing areas. In maintaining the *Handbook*, the Commission and Forest Service will collaborate with the implementing counties, and solicit other agency and public input.

   The *Handbook* is intended to provide non-exclusive, recommended lists of exterior building materials (for reflectivity) and vegetation species.

SMA Design Guidelines Based on Landscape Settings

1. The following guidelines apply to all lands within SMA landscape settings regardless of visibility from KVAs (includes areas seen from KVAs as well as areas not seen from KVAs):

   A. Pastoral: Pastoral areas shall retain the overall appearance of an agricultural landscape.

      (1) The use of plant species common to the landscape setting shall be encouraged. The use of plant species in rows, as commonly found in the landscape setting, is encouraged.

   B. Coniferous Woodland and Oak-Pine Woodland: Woodland areas shall retain the overall appearance of a woodland landscape. New developments and land uses shall retain the overall visual character of the natural appearance of the Coniferous Woodland and Oak-Pine Woodland landscape.

      (1) Buildings shall be encouraged to have a vertical overall appearance in the Coniferous Woodland landscape setting and a horizontal overall appearance in the Oak-Pine Woodland landscape setting.

      (2) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

   C. Residential: The Residential setting is characterized by concentrations of dwellings.

      (1) At Rowena Dell, new buildings shall have a rustic appearance using natural materials. At Latourell Falls, new buildings shall have an appearance consistent with the predominant historical architectural style.

      (2) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

   D. River Bottomlands: River Bottomlands shall retain the overall visual character of a floodplain and associated islands.

      (1) Buildings shall have an overall horizontal appearance in areas with little tree cover.

      (2) Use of plant species native to the landscape setting shall be encouraged. Where non-native plants are used, they shall have native-appearing characteristics.

E. Gorge Walls, Canyonlands, and Wildlands: New developments and land uses shall retain the overall visual character of the natural-appearing landscape.

(1) Structures, including signs, shall have a rustic appearance, use non-reflective materials, have low contrast with the surrounding landscape, and be of a Cascadian architectural style.

(2) Temporary roads shall be promptly closed and revegetated.

(3) New utilities shall be below ground surface, where feasible.

(4) Use of plant species non-native to the Columbia River Gorge shall not be allowed.

SMA Guidelines for Development and Uses Visible from KVAs

1. The guidelines in this section shall apply to proposed developments on sites topographically visible from key viewing areas.

2. New developments and land uses shall be evaluated to ensure that the required scenic standard is met and that scenic resources are not adversely affected, including cumulative effects, based on the degree of visibility from key viewing areas.

3. The required SMA scenic standards for all development and uses are summarized in the following table:

REQUIRED SMA SCENIC STANDARDS		
LANDSCAPE SETTING	**LAND USE DESIGNATION**	**SCENIC STANDARD**
Coniferous Woodland, Oak-Pine Woodland	Forest (National Forest Lands), Open Space	Not Visually Evident
River Bottomlands	Open Space	Not Visually Evident
Gorge Walls, Canyonlands, Wildlands	Forest, Agriculture, Public Recreation, Open Space	Not Visually Evident
Coniferous Woodland, Oak-Pine Woodland	Forest, Agriculture, Residential, Public Recreation	Visually Subordinate
Residential	Residential	Visually Subordinate
Pastoral	Forest, Agriculture, Public Recreation, Open Space	Visually Subordinate
River Bottomlands	Forest, Agriculture, Public Recreation	Visually Subordinate

4. In all landscape settings, scenic standards shall be met by blending new development with the adjacent natural landscape elements rather than with existing development.

5. Proposed developments or land uses shall be sited to achieve the applicable scenic standard. Development shall be designed to fit the natural topography, to take advantage of landform and vegetation screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics. When screening of development is needed to meet the scenic standard from key viewing areas, use of existing topography and vegetation shall be given priority over other means of achieving the scenic standard such as planting new vegetation or using artificial berms.

6. The extent and type of conditions applied to a proposed development or use to achieve the scenic standard shall be proportionate to its degree of visibility from key viewing areas.

   A. Decisions shall include written findings addressing the factors influencing the degree of visibility, including but not limited to:

      (1) The amount of area of the building site exposed to key viewing areas,

      (2) The degree of existing vegetation providing screening,

      (3) The distance from the building site to the key viewing areas from which it is visible,

      (4) The number of key viewing areas from which it is visible, and

      (5) The linear distance along the key viewing areas from which the building site is visible (for linear key viewing areas, such as roads).

   B. Conditions may be applied to various elements of proposed developments to ensure they meet the scenic standard for their setting as seen from key viewing areas, including but not limited to:

      (1) Siting (location of development on the subject property, building orientation, and other elements),

      (2) Retention of existing vegetation,

      (3) Design (color, reflectivity, size, shape, height, architectural and design details and other elements), and

      (4) New landscaping.

7. Sites approved for new development to achieve scenic standards shall be consistent with guidelines to protect wetlands, riparian corridors, sensitive plant or wildlife sites and the buffer zones of each of these natural resources, and guidelines to protect cultural resources.

8. Proposed developments shall not protrude above the line of a bluff, cliff, or skyline as seen from key viewing areas.

9. Structure height shall remain below the average tree canopy height of the natural vegetation adjacent to the structure, except if it has been demonstrated that meeting this guideline is not feasible considering the function of the structure.

10. The following guidelines shall apply to new landscaping used to screen development from key viewing areas:

    A. New landscaping (including new earth berms) to achieve the required scenic standard from key viewing areas shall be required only when application of all other available guidelines in this chapter is not sufficient to make the development meet the scenic standard from key viewing areas. Development shall be sited to avoid the need for new landscaping wherever possible.

    B. If new landscaping is necessary to meet the required standard, existing on-site vegetative screening and other visibility factors shall be analyzed to determine the extent of new landscaping, and the size of new trees needed to achieve the standard. Any vegetation planted pursuant to this guideline shall be sized to provide sufficient screening to meet the scenic standard within five years or less from the commencement of construction.

    C. Landscaping shall be installed as soon as practicable, and prior to project completion. Applicants and successors in interest for the subject parcel are responsible for the proper maintenance and survival of planted vegetation, and replacement of such vegetation that does not survive.

    D. The *Scenic Resources Implementation Handbook* shall include recommended species for each landscape setting consistent with the Landscape Settings Design Guidelines in this chapter, and minimum recommended sizes of new trees planted (based on average growth rates expected for recommended species).

11. Unless expressly exempted by other provisions in this chapter, colors of structures on sites visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. The *Scenic Resources Implementation Handbook* shall include a recommended palette of colors as dark or darker than the colors in the shadows of the natural features surrounding each landscape setting.

12. The exterior of structures on lands seen from key viewing areas shall be composed of non-reflective materials or materials with low reflectivity. The *Scenic Resources Implementation Handbook* shall include a recommended list of exterior materials. These recommended materials and other materials may be deemed consistent with this guideline, including those where the specific application meets approval thresholds in the "Visibility and Reflectivity Matrices" in the Implementation Handbook. Continuous surfaces of glass unscreened from key viewing areas shall be limited to ensure meeting the scenic standard. Recommended square footage limitations for such surfaces will be provided for guidance in the Implementation Handbook.

13. Any exterior lighting shall be sited, limited in intensity, shielded, or hooded in a manner that prevents lights from being highly visible from key viewing areas and from noticeably contrasting with the surrounding landscape setting, except for road lighting necessary for safety purposes.

14. Seasonal lighting displays shall be permitted on a temporary basis, not to exceed 3 months.

SMA Guidelines for KVA Foregrounds and Scenic Routes

1. All new developments and land uses immediately adjacent to scenic routes shall be in conformance with state or county scenic route guidelines.

2. Scenic highway corridor strategies shall be developed and implemented for Interstate 84 (I-84), Washington State Route 14 (SR 14) and the Historic Columbia River Highway (HCRH). For I-84, SR 14 and the HCRH, this involves ongoing implementation (and possible updating) of the associated existing documents.

3. The goals of scenic corridor strategies shall include: 1) providing a framework for future highway improvements and management that meet Management Plan scenic guidelines and public transportation needs; and 2) creating design continuity for the highway corridor within the Scenic Area. Corridor strategies shall, at minimum, include design guidelines (e.g. materials, conceptual designs, etc.) for typical projects that are consistent with Management Plan scenic resources provisions and an interdisciplinary, interagency project planning and development process.

4. The following guidelines shall apply only to development within the immediate foregrounds of key viewing areas. Immediate foregrounds are defined as within the developed prism of a road or trail KVA or within the boundary of the developed area of KVAs such as Crown Pt. and Multnomah Falls. They shall apply in addition to applicable guidelines in the previous section (**SMA Guidelines for Development Visible from KVAs**).

A. The proposed development shall be designed and sited to meet the applicable scenic standard from the foreground of the subject KVA. If the development cannot meet the standard, findings must be made documenting why the project cannot meet the requirements in the previous section and why it cannot be redesigned or wholly or partly relocated to meet the scenic standard.

B. Findings must evaluate the following:

(1) The limiting factors to meeting the required scenic standard and/or applicable guidelines from the previous section;

(2) Reduction in project size;

(3) Options for alternative sites for all or part of the project, considering parcel configuration and on-site topographic or vegetative screening;

(4) Options for design changes including changing the design shape, configuration, color, height, or texture in order to meet the scenic standard.

C. Form, line, color, texture, and design of a proposed development shall be evaluated to ensure that the development blends with its setting as seen from the foreground of key viewing areas:

(1) **Form and Line**-Design of the development shall minimize changes to the form of the natural landscape. Development shall borrow form and line from the landscape setting and blend with the form and line of the landscape setting. Design of the development shall avoid contrasting form and line that unnecessarily call attention to the development.

(2) **Color**-Color shall be found in the project's surrounding landscape setting. Colors shall be chosen and repeated as needed to provide unity to the whole design.

(3) **Texture**-Textures borrowed from the landscape setting shall be emphasized in the design of structures. Landscape textures are generally rough, irregular, and complex rather than smooth, regular, and uniform.

(4) **Design**-Design solutions shall be compatible with the natural scenic quality of the Gorge. Building materials shall be natural or natural appearing. Building materials such as concrete, steel, aluminum, or plastic shall use form, line color and texture to harmonize with the natural environment. Design shall balance all design elements into a harmonious whole, using repetition of elements and blending of elements as necessary.

5. Right-of-way vegetation shall be managed to minimize visual impacts of clearing and other vegetation removal as seen from key viewing areas. Roadside vegetation management (vista clearing, planting, etc.) should enhance views from the highway.

6. Screening from key viewing areas shall be encouraged for existing and required for new road maintenance, warehouse, and stockpile areas.

SMA Guidelines for Areas Not Seen from KVAs

1. Unless expressly exempted by other provisions in this chapter, colors of structures on sites not visible from key viewing areas shall be earth-tones found at the specific site. The specific colors or list of acceptable colors shall be approved as a condition of approval, drawing from the recommended palette of colors included in the *Scenic Resources Implementation Handbook*.

CHAPTER

2

Cultural Resources

Cultural resources are the evidence of past human activity that are important in the history, archaeology, architecture, or culture of a community or region. (A complete definition appears in the glossary.) They can be divided into three groups:

Archaeological resources: Physical remains or ruins of past generations, such as the remains of a rock shelter, an Indian village, or a pioneer settlement. Other examples include rock art, graves, and artifacts such as arrowheads and utensils.

Historic buildings and structures: Standing buildings and structures that are at least 50 years old, including log cabins, barns, highways, and wagon trails.

Traditional cultural properties: Objects and places associated with beliefs and practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community. Traditional cultural properties may include a location used by past and present generations of Native Americans for ceremonial purposes or an area where a community has traditionally conducted culturally important economic or artistic activities.

A rich and diverse array of cultural resources exists in the Scenic Area. The cultural resources range from 10,000-year-old stone tools to log cabins built by pioneers to vision quest sites still used today by Native Americans.

SCENIC AREA ACT PROVISIONS

One purpose of the Scenic Area Act is to "protect and provide for the enhancement of the. . . cultural. . . resources of the Columbia River Gorge" [Section 3(1)].

The Scenic Area Act authorizes the Gorge Commission and the Forest Service to protect cultural resources by using guidelines and the Open Space designation (see Part II, Chapter 4). The guidelines must require new commercial and residential uses, mineral operations, and other types of development to occur without adversely affecting cultural resources [Section 6(d)]. The Scenic Area Act defines "adversely affect" to mean a "reasonable likelihood of more than moderate adverse consequences for. . . cultural. . . resources" [Section 2(a)].

The Scenic Area Act directs the Gorge Commission and Forest Service to

"protect and enhance open spaces" [Section 6(d)(3)].

Open spaces include cultural and historic areas, archaeological sites, Indian burial grounds, village sites, historic trails and roads, and other areas that are culturally and historically significant [Section 2(l)].

KEY ISSUES

Cultural resources are important. They allow people to learn firsthand about prehistory and history, and contribute useful insight about our physical and cultural evolution. Some cultural resources are associated with traditional beliefs of social and cultural groups. They are vital to protecting the religious freedom and cultural identity of these groups.

Cultural resources can be destroyed by human activities, particularly new development that disturbs the ground. State laws in Oregon and Washington offer limited protection to cultural resources. The laws do not become effective until the presence of a cultural resource site is known. Yet, they do not require cultural resource surveys to be conducted before development begins.

Archaeologists and historians estimate that less than 10 percent of the Scenic Area has been inventoried for cultural resources. The existing inventories include only a few of the cultural resource sites thought to exist in the Scenic Area. As a result, archaeological resources and traditional cultural properties are often discovered after a project has been approved and construction has begun. This results in costly delays to developers and irreparable damage to cultural resources.

OVERVIEW OF CULTURAL RESOURCES PROVISIONS

The GMA provisions in this chapter apply to all development on public and private lands in the GMA, as well as to non-federal development in the SMA. The SMA provisions apply to developments on federal lands, federally assisted projects, and forest practices that occur in the SMA.

The GMA provisions employ a four-step process to protect cultural resources. This process entails:

- Requiring cultural resource surveys before some new developments are approved. Survey requirements are waived for developments that would have little or no effect on cultural resources, such as activities that do not disturb the ground or alter structures that are less than 50 years old.

- Evaluating the significance of any resources discovered during the surveys.

- Assessing and documenting the effects of the proposed development on cultural resources.

- Preparing mitigation plans to avoid impacts to resources.

These steps require consultation with Indian tribal governments, social and cultural groups, and interested persons.

The SMA provisions will have little effect on federal or federally assisted

developments. These developments must continue to comply with Section 106 of the Historic Preservation Act of 1966. The provisions for the SMA do contain specific guidelines for literature reviews, tribal consultation, and cultural resource surveys. Both the GMA and SMA parts of this chapter contain guidelines to halt a project if cultural resources are discovered during construction. In such case, survey, evaluation, assessment, and mitigation plans would be required before construction could continue. To respect Native American culture, the guidelines also detail how human remains discovered during construction will be treated.

GMA PROVISIONS

GMA Goals

1. Protect and enhance cultural resources.

2. Ensure that proposed uses do not have an adverse effect on significant cultural resources.

GMA Objectives

1. Survey all lands in the GMA for cultural resources as soon as funds are available. The Gorge Commission shall facilitate a multiparty effort to seek funds for such a survey. The parties should include Indian tribal and local governments and state and federal agencies. The first phase of the inventory should consist of a Native American oral history program.

2. Update the cultural resources inventory as new cultural resources are discovered. The update shall be conducted by the Gorge Commission.

3. Establish a Cultural Advisory Committee (CAC) to monitor the cultural resource protection process and provide technical assistance to local governments and landowners.

4. Promote educational programs and incentives that encourage landowners and agency officials to voluntarily protect and enhance cultural resources.

GMA Policies

1. Generally, well-defined geographic areas that possess large concentrations of cultural resources shall be designated Open Space.

2. Information regarding the nature and location of archaeological resources and cultural resources associated with Native Americans shall be kept confidential to avoid unlawful, malicious, or negligent disturbance.

3. A four-step process shall be used to protect cultural resources: performing cultural resource reconnaissance or historic surveys before proposed uses are authorized; evaluating the significance of cultural resources discovered during surveys; assessing the effects of proposed uses on significant cultural resources; and preparing mitigation plans to avoid or minimize impacts to significant cultural resources.

4. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published 36 Code of Federal Regulations (CFR) Part 61 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date).

5. Cultural resource surveys, evaluations, assessments, and mitigation plans shall generally be conducted in consultation with Indian tribal governments and any person who submits written comments on a proposed use (interested person). Indian tribal governments shall be consulted if the affected cultural resources are prehistoric or otherwise associated with Native Americans.

6. The reconnaissance survey guidelines below shall apply until a cultural resource survey of the GMA is complete.

   A. A reconnaissance survey shall be required for all proposed uses, except:

      (1) The modification, expansion, replacement, or reconstruction of existing buildings and structures.

      (2) Proposed uses that would not disturb the ground, including land divisions and lot-line adjustments; storage sheds that do not require a foundation; low-intensity recreation uses, such as fishing, hunting, and hiking; installation of surface chemical toilets; hand treatment of brush within established rights-of-way; and new uses of existing structures.

      (3) Proposed uses that involve minor ground disturbance, as defined by depth and extent, including repair and maintenance of lawfully constructed and serviceable structures; home gardens; livestock grazing; cultivation that employs minimum tillage techniques, such as replanting pastures using a grassland drill; construction of fences; new utility poles that are installed using an auger, post-hole digger, or similar implement; and placement of mobile homes where septic systems and underground utilities are not involved.

The Gorge Commission shall review all land use applications and determine if proposed uses would have a minor ground disturbance.

(4) Proposed uses that occur on sites that have been disturbed by human activities, provided the proposed uses do not exceed the depth and extent of existing ground disturbance. To qualify for this exception, a project applicant must demonstrate that land-disturbing activities occurred in the project area. Land-disturbing activities include grading and cultivation.

(5) Proposed uses that would occur on sites that have been adequately surveyed in the past.

The project applicant must demonstrate that the project area has been adequately surveyed to qualify for this exception. Past surveys must have been conducted by a qualified professional and must include a surface survey and subsurface testing. The nature and extent of any cultural resources in the project area must be adequately documented.

(6) Proposed uses occurring in areas that have a low probability of containing cultural resources, except:

(a) Residential development that involves two or more new dwellings for the same project applicant.

(b) Recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, and visitor information and environmental education facilities.

(c) Public transportation facilities that are outside improved rights-of-way.

(d) Electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater.

(e) Communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

Areas that have a low probability of containing cultural resources shall be identified using the results of reconnaissance surveys conducted by the Gorge Commission, the Forest Service, public agencies, and private archaeologists.

The Gorge Commission, after consulting Indian tribal governments and state historic preservation officers, shall prepare and adopt a map

showing areas that have a low probability of containing cultural resources. This map shall be adopted within 200 days after the Secretary of Agriculture concurs with the Management Plan. It shall be refined and revised as additional reconnaissance surveys are conducted. Areas shall be added or deleted as warranted. All revisions of this map shall be reviewed and approved by the Gorge Commission.

B. A reconnaissance survey shall be required for all proposed uses within 500 feet of a known cultural resource, including those uses listed above in 6.A(1) through (6). The locations of known cultural resources are shown in the cultural resource inventory prepared by Heritage Research Associates and maintained by the USDA Forest Service for the Columbia River Gorge Commission.

7. A historic survey shall be required for all proposed uses that would alter the exterior architectural appearance of buildings and structures that are 50 years old or older, or would compromise features of the surrounding area that are important in defining the historic or architectural character of buildings or structures that are 50 years old or older.

8. The Gorge Commission shall conduct and pay for all reconnaissance and historic surveys for small-scale uses in the GMA. When archaeological resources or traditional cultural properties are discovered, the Gorge Commission also shall identify the approximate boundaries of the resource or property and delineate a reasonable buffer zone. Reconnaissance surveys and buffer zone delineations for large-scale uses shall be the responsibility of the project applicant.

   The Gorge Commission shall conduct and pay for evaluations of significance and mitigation plans for cultural resources that are discovered during construction of small-scale and large-scale uses in the GMA.

   For the Management Plan, large-scale uses include residential development involving two or more new dwellings; all recreation facilities; commercial and industrial development; public transportation facilities; electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances.

9. The responsibility and cost of preparing an evaluation of significance, assessment of effect, or mitigation plan shall be borne by the project applicant, except for resources discovered during construction.

10. If cultural resources may be affected by a proposed use, an evaluation shall be performed to determine if they are significant. Cultural resources are significant if one of the following criteria is satisfied:

A. The cultural resources are included in, or eligible for inclusion in, the National Register of Historic Places.

The criteria for evaluating the eligibility of cultural resources for the National Register of Historic Places appear in the "National Register Criteria for Evaluation" (36 CFR 60.4). Cultural resources are eligible for the National Register of Historic Places if they possess integrity of location, design, setting, materials, workmanship, feeling, and association. In addition, they must meet one or more of the following criteria:

(1) Have an association with events that have made a significant contribution to the broad patterns of the history of this region.

(2) Have an association with the lives of persons significant in the past.

(3) Embody the distinctive characteristics of a type, period, or method of construction, or represent the work of a master, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction.

(4) Yield, or may be likely to yield, information important in prehistory or history.

B. The cultural resources are determined to be culturally significant by an Indian tribal government, based on criteria developed by that Indian tribal government and filed with the Gorge Commission.

11. If a project applicant's and Indian tribal government's evaluations of significance contradict, the Cultural Advisory Committee (CAC) shall review the applicant's evaluation and Indian tribal government's substantiated concerns. The CAC will submit a recommendation to the local government as to whether affected cultural resources are significant.

12. If cultural resources are determined to be significant, there shall be a professional assessment of the effects of the proposed use. The assessment shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.5).

13. A mitigation plan shall be prepared if a proposed use would have an adverse effect on significant cultural resources. The criteria published in “Resolution of Adverse Effects” (36 CFR 800.6) shall be used to determine if a proposed use would have an adverse effect.

14. Mitigation measures shall ensure that a proposed use would have no adverse effect on significant cultural resources. Uses that would adversely affect significant cultural resources shall be prohibited.

15. Avoidance is the preferred method of cultural resource protection. Other mitigation measures to reduce the effect of a proposed use on cultural resources shall be used only if avoidance is not practicable.

16. The state historic preservation officer (SHPO) shall have an opportunity to review all cultural resource surveys, evaluations, assessments, and mitigation plans. Based on comments submitted by the SHPO and interested persons, the local government shall make a final decision on whether the proposed use would be consistent with the cultural resource goals, policies, and guidelines.

17. The SHPO may delegate all or a portion of his/her responsibilities under these goals, objectives, policies, and guidelines to a local government that establishes a Certified Local Government, as provided in the National Historic Preservation Act of 1966.

18. If cultural resources are discovered during construction activities, all construction shall cease until the resources are inventoried and evaluated. If the resources are determined to be significant, a mitigation plan shall be prepared.

19. If human remains are discovered during a cultural resource survey or during construction activities, all activities shall cease and the proper officials and governments shall be notified. Human remains shall be treated in accordance with state laws. A mitigation plan shall be prepared if the remains are reinterred or preserved in their original position.

20. Provide incentives to protect and enhance historically significant buildings by allowing uses of such buildings that are compatible with their historic character and that provide public appreciation and enjoyment of them as cultural resources.

GMA Guidelines

Determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed developments that are subject to any of the following: 1) a reconnaissance or historic survey; 2) a determination of significance; 3) an assessment of effect; or 4) a mitigation plan. *(Added: CRGC adoption 7/13/10; U.S. Sec. Ag. concurrence 11/1/10)*

Cultural Resource Reconnaissance and Historic Surveys

Gorge Commission/Tribal Government Notice

1. In addition to other public notice requirements that may exist, local governments shall notify the Indian tribal governments when (1) a reconnaissance survey is required or (2) cultural resources that are prehistoric or otherwise associated with Native Americans exist in the project area. Notices sent to Indian tribal governments shall include a site plan.

2. Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit written comments to the local government. Written comments should describe the nature and extent of any cultural resources that exist in the project area and identify individuals with specific knowledge about them. The local government shall send a copy of all comments to the Gorge Commission.

Consultation and Ethnographic Research

1. When written comments are submitted to a local government in a timely manner, the project applicant shall offer to meet with the interested persons within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the interested persons.

   Consultation meetings should provide an opportunity for interested persons to explain how the proposed use may affect cultural resources. Recommendations to avoid potential conflicts should be discussed.

   All written comments and consultation meeting minutes shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report; inapplicable elements may be omitted.

2. A project applicant who is proposing a large-scale use shall conduct interviews and other forms of ethnographic research if interested persons submit a written request for such research. All requests must include a description of the cultural resources that may be affected by the proposed use and the identity of knowledgeable informants. Ethnographic research shall be conducted by qualified specialists. Tape recordings, maps, photographs, and minutes shall be used when appropriate.

   All written comments, consultation meeting minutes, and ethnographic research shall be incorporated into the reconnaissance or historic survey report. In instances where a survey is not required, all such information shall be recorded and addressed in a report that typifies a survey report.

Surveys and Survey Reports

Reconnaissance Surveys--Small-Scale Uses

1. Reconnaissance surveys for small-scale uses shall generally include a surface survey and subsurface testing. They shall meet the following guidelines:

   A. A surface survey of the project area shall be conducted, except for inundated areas and impenetrable thickets.

B. Subsurface testing shall be conducted if the surface survey reveals that cultural resources may be present. Subsurface probes shall be placed at intervals sufficient to determine the absence or presence of cultural resources.

Reconnaissance Survey Reports--Small-Scale Uses

1. The results of a reconnaissance survey for small-scale uses shall be documented in a confidential report that includes:

   A. A description of the fieldwork methodology used to identity cultural resources, including a description of the type and extent of the reconnaissance survey.

   B. A description of any cultural resources that were discovered in the project area, including a written description and photographs.

   C. A map that shows the project area, the areas surveyed, the location of subsurface probes, and, if applicable, the approximate boundaries of the affected cultural resources and a reasonable buffer zone.

Reconnaissance Surveys--Large-Scale Uses

1. Reconnaissance surveys for large-scale uses shall be designed by a qualified professional. A written description of the survey shall be submitted to and approved by the Gorge Commission's designated archaeologist.

2. Reconnaissance surveys shall reflect the physical characteristics of the project area and the design and potential effects of the proposed use. They shall meet the following guidelines:

   A. Archival research shall be performed before any field work. It should entail a thorough examination of tax records; historic maps, photographs, and drawings; previous archaeological, historic, and ethnographic research; cultural resource inventories and records maintained by federal, state, and local agencies; and primary historic accounts, such as diaries, journals, letters, and newspapers.

   B. Surface surveys shall include the entire project area, except for inundated areas and impenetrable thickets.

   C. Subsurface probes shall be placed at intervals sufficient to document the presence or absence of cultural resources.

   D. Archaeological site inventory forms shall be submitted to the SHPO whenever cultural resources are discovered.

Reconnaissance Survey Reports--Large-Scale Uses

1. The results of a reconnaissance survey for large-scale uses shall be documented in a confidential report that includes:

    A. A description of the proposed use, including drawings and maps.

    B. A description of the project area, including soils, vegetation, topography, drainage, past alterations, and existing land use.

    C. A list of the documents and records examined during the archival research and a description of any prehistoric or historic events associated with the project area.

    D. A description of the fieldwork methodology used to identify cultural resources, including a map that shows the project area, the areas surveyed, and the location of subsurface probes. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

    E. An inventory of the cultural resources that exist in the project area, including a written description, photographs, drawings, and a map. The map shall be prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

    F. A summary of all written comments submitted by Indian tribal governments and other interested persons.

    G. A preliminary assessment of whether the proposed use would or would not have an effect on cultural resources. The assessment shall incorporate concerns and recommendations voiced during consultation meetings and information obtained through archival and ethnographic research and field surveys.

Historic Surveys and Reports

1. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. They shall include original photographs and maps. Archival research, blueprints, and drawings should be used as necessary.

2. Historic surveys shall describe any uses that will alter or destroy the exterior architectural appearance of the historic buildings or structures, or compromise features of the site that are important in defining the overall historic character of the historic buildings or structures.

3. The project applicant shall provide detailed architectural drawings and building plans that clearly illustrate all proposed alterations.

Notice of Survey Results

1. The local government shall submit a copy of all cultural resource survey reports to the SHPO and the Indian tribal governments. Survey reports may include measures to avoid affected cultural resources, such as a map that shows a reasonable buffer zone.

2. The SHPO and the tribes shall have 30 calendar days from the date a survey report is mailed to submit written comments to the local government. The local government shall record and address all written comments in its development review order.

Conclusion of the Cultural Resource Protection Process

1. The local government shall make a final decision on whether the proposed use would be consistent with the cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, the local government shall justify how it reached an opposing conclusion.

2. The cultural resource protection process may conclude when one of the following conditions exists:

   A. The proposed use does not require a reconnaissance or historic survey, no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

   B. A reconnaissance survey demonstrates that cultural resources do not exist in the project area and no substantiated concerns were voiced by interested persons within 20 calendar days of the date that a notice was mailed.

   C. The proposed use would avoid archaeological resources and traditional cultural resources that exist in the project area. To meet this guideline, a reasonable buffer zone must be established around the affected resources or properties; all ground-disturbing activities shall be prohibited within the buffer zone.

      Buffer zones must preserve the integrity and context of cultural resources. They will vary in width depending on the eventual use of the project area, the type of cultural resources that are present, and the characteristics for which the cultural resources may be significant. A deed covenant, easement, or other appropriate mechanism shall be developed to ensure that the buffer zone and the cultural resources are protected.

      An evaluation of significance shall be conducted if a project applicant decides not to avoid the affected cultural resource. In these instances, the

reconnaissance survey and survey report shall be incorporated into the evaluation of significance.

D. A historic survey demonstrates that the proposed use would not have an effect on historic buildings or structures because:

(1) The SHPO concludes that the historic buildings or structures are clearly not significant, as determined by using the criteria in the "National Register Criteria for Evaluation" (36 CFR 60.4), or

(2) The proposed use would not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

The historic survey conducted by the Gorge Commission may provide sufficient information to satisfy these guidelines. If it does not, architectural and building plans, photographs, and archival research may be required. The project applicant shall be responsible for providing information beyond that included in the survey conducted by the Gorge Commission.

The historic survey and report must demonstrate that these guidelines have been clearly and absolutely satisfied. If the SHPO or the local government question whether these guidelines have been satisfied, the project applicant shall conduct an evaluation of significance.

Evaluation of Significance

Evaluation Criteria and Information Needs

1. If cultural resources would be affected by a new use, an evaluation of their significance shall be conducted. Evaluations of significance shall meet the following guidelines:

A. Evaluations of significance shall follow the procedures in *How to Apply the National Register Criteria for Evaluation* (U.S. Department of the Interior, no date) and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (Parker and King, no date). They shall be presented within local and regional contexts and shall be guided by previous research and current research designs that are relevant to specific research questions for the Columbia River Gorge.

B. To evaluate the significance of cultural resources, the information gathered during the reconnaissance or historic survey may have to be supplemented. Detailed field mapping, subsurface testing, photographic documentation, laboratory analyses, and archival research may be required.

C. The project applicant shall contact Indian tribal governments and interested persons, as appropriate. Ethnographic research shall be undertaken as necessary to fully evaluate the significance of the cultural resources.

D. The evaluation of significance shall follow the principles, guidelines, and report format recommended by the Oregon State Historic Preservation Office (Oregon SHPO 1990) or Washington Office of Archaeology and Historic Preservation (Washington SHPO, no date). It shall incorporate the results of the reconnaissance or historic survey and shall illustrate why each cultural resource is or is not significant. Findings shall be presented within the context of relevant local and regional research.

E. All documentation used to support the evaluation of significance shall be cited. Evidence of consultation with Indian tribal governments and other interested persons shall be presented. All comments, recommendations, and correspondence from Indian tribal governments and interested persons shall be appended to the evaluation of significance.

Notice of Evaluation Results

1. If the evaluation of significance demonstrates that the cultural resources are not significant, the local government shall submit a copy of the evaluation of significance to the SHPO and the Indian tribal governments.

2. The SHPO, Indian tribal governments, and interested persons shall have 30 calendar days from the date the evaluation of significance is mailed to submit written comments to the local government. The local government shall record and address all written comments in its development review order.

Cultural Resources are Culturally Significant

1. If an Indian tribal government believes that the affected cultural resources are culturally significant, contrary to the evaluation submitted by the project applicant, the Cultural Advisory Committee (CAC) shall make an independent review of the applicant's evaluation and the Indian tribal government's substantiated concerns. The CAC shall formulate a recommendation regarding the significance of the cultural resources.

2. The Indian tribal government shall substantiate its concerns in a written report. The report shall be submitted to the local government, CAC, and the project applicant within 15 calendar days from the date the evaluation of significance is

mailed. The CAC must submit its recommendation to the local government within 30 calendar days from the date the evaluation of significance is mailed.

Conclusion of the Cultural Resource Protection Process

1. The local government shall make a final decision on whether the affected resources are significant. If the final decision contradicts the comments or recommendations submitted by the SHPO or CAC, the local government shall justify how it reached an opposing conclusion.

2. The cultural resource protection process may conclude if the affected cultural resources are not significant.

3. If the project applicant or the local government determines that the cultural resources are significant, the effects of the proposed use shall be assessed.

Assessment of Effect

Assessment Criteria and Information Needs

1. If a use could potentially affect significant cultural resources, an assessment shall be made to determine if it would have no effect, no adverse effect, or an adverse effect. The assessment shall meet the following guidelines:

   A. The assessment of effect shall be based on the criteria published in "Protection of Historic Properties" (36 CFR 800.5) and shall incorporate the results of the reconnaissance or historic survey and the evaluation of significance. All documentation shall follow the requirements listed in 36 CFR 800.11.

      (1) Proposed uses are considered to have an effect on cultural resources when they alter or destroy characteristics of the resources that make them significant [36 CFR 800.5].

      (2) Proposed uses are considered to have an adverse effect when they may diminish the integrity of the cultural resource's location, design, setting, materials, workmanship, feeling, or association [36 CFR 800.5]. Adverse effects on cultural resources include, but are not limited to:

         (a) Physical destruction, damage, or alteration of all or part of the cultural resource.

         (b) Isolation of the cultural resource from its setting or alteration of the character of the resource's setting when that character contributes to the resource's qualification as being significant.

(c) Introduction of visual, audible, or atmospheric elements that are out of character with the cultural resource or its setting.

(d) Neglect of a significant cultural resource resulting in its deterioration or destruction, except as described in 36 CFR 800.5.

B. The assessment of effect shall be prepared in consultation with Indian tribal governments and interested persons, as appropriate. The concerns and recommendations voiced by Indian tribal governments and interested persons shall be recorded and addressed in the assessment.

C. The effects of a proposed use that would otherwise be determined to be adverse may be considered to be not adverse if any of the following instances apply:

(1) The cultural resources are of value only for their potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research before development begins, and such research is conducted in accordance with applicable professional standards and guidelines.

(2) The undertaking is limited to the rehabilitation of buildings and structures, and is conducted in a manner that preserves the historical and architectural character of affected cultural resources through conformance with *The Secretary of the Interior's Standards for Rehabilitation* (U.S. Department of the Interior 1990) and *The Secretary of the Interior's Standards for Historic Preservation Projects* (U.S. Department of the Interior 1983).

(3) The proposed use is limited to the transfer, lease, or sale of cultural resources, and adequate restrictions or conditions are included to ensure preservation of the significant features of the resources.

Notice of Assessment Results

1. If the assessment of effect concludes that the proposed use would have no effect or no adverse effect on significant cultural resources, the local government shall submit a copy of the assessment to the SHPO and the Indian tribal governments.

2. The SHPO, Indian tribal governments, and interested persons shall have 30 calendar days from the date the assessment of effect is mailed to submit written comments to the local government. The local government shall record and address all written comments in its development review order.

Conclusion of the Cultural Resource Protection Process

1. The local government shall make a final decision on whether the proposed use would have no effect, no adverse effect, or an adverse effect. If the final decision contradicts the comments submitted by the SHPO, the local government shall justify how it reached an opposing conclusion.

2. The cultural resource protection process may conclude if the proposed use would have no effect or no adverse effect on significant cultural resources.

3. A mitigation plan shall be prepared if a project applicant or the local government determines that the proposed use would have an adverse effect on significant cultural resources.

Mitigation Plans

Mitigation Plan Criteria and Information Needs

1. Mitigation plans shall be prepared when proposed uses would have an adverse effect on significant cultural resources. The plans shall reduce an adverse effect to no effect or no adverse effect. Mitigation plans shall meet the following guidelines:

   A. Mitigation plans shall be prepared in consultation with persons who have concerns about or knowledge of the affected cultural resources, including Indian tribal governments, Native Americans, local governments whose jurisdiction encompasses the project area, and the SHPO.

   B. Avoidance of cultural resources through project design and modification is preferred. Avoidance may be affected by reducing the size, scope, configuration, and density of the proposed use.

      Alternative mitigation measures shall be used only if avoidance is not practicable. Alternative measures include, but are not limited to, burial under fill, stabilization, removal of the cultural resource to a safer place, and partial to full excavation and recordation. If the mitigation plan includes buffer zones to protect cultural resources, a deed covenant, easement, or other appropriate mechanism shall be developed and recorded in county deeds and records.

   C. Mitigation plans shall incorporate the results of the reconnaissance or historic survey, the evaluation of significance, and the assessment of effect, and shall provide the documentation required in 36 CFR 800.11, including, but not limited to:

      (1) A description and evaluation of any alternatives or mitigation measures that the project applicant proposes for reducing the effects of the proposed use.

(2) A description of any alternatives or mitigation measures that were considered but not chosen and the reasons for their rejection.

(3) Documentation of consultation with the SHPO regarding any alternatives or mitigation measures.

(4) A description of the project applicant's efforts to obtain and consider the views of Indian tribal governments, interested persons, and local governments.

(5) Copies of any written recommendations submitted to the local government or project applicant regarding the effects of the proposed use on cultural resources and alternatives to avoid or reduce those effects.

Notice of Mitigation Plan Results

1. If a mitigation plan reduces the effect of a use from an adverse effect to no effect or no adverse effect, the local government shall submit a copy of the mitigation plan to the SHPO and the Indian tribal governments.

2. The SHPO, Indian tribal governments, and interested persons shall have 30 calendar days from the date the mitigation plan is mailed to submit written comments to the local government. The local government shall record and address all written comments in its development review order.

Conclusion of the Cultural Resource Protection Process

1. The local government shall make a final decision on whether the mitigation plan would reduce an adverse effect to no effect or no adverse effect. If the final decision contradicts the comments submitted by the SHPO, the local government shall justify how it reached an opposing conclusion.

2. The cultural resource protection process may conclude if a mitigation plan would reduce an adverse effect to no effect or no adverse effect.

3. The proposed use shall be prohibited when acceptable mitigation measures fail to reduce an adverse effect to no effect or no adverse effect.

<u>Cultural Resources Discovered After Construction Begins</u>

1. The following procedures shall be affected when cultural resources are discovered during construction activities. All survey and evaluation reports and mitigation plans shall be submitted to the local government and the SHPO. Indian tribal governments also shall receive a copy of all reports and plans if the cultural resources are prehistoric or otherwise associated with Native Americans.

A. Halt of Construction. All construction activities within 100 feet of the discovered cultural resource shall cease. The cultural resources shall remain as found; further disturbance is prohibited.

B. Notification. The project applicant shall notify the local government and the Gorge Commission within 24 hours of the discovery. If the cultural resources are prehistoric or otherwise associated with Native Americans, the project applicant shall also notify the Indian tribal governments within 24 hours.

C. Survey and Evaluation. The Gorge Commission shall survey the cultural resources after obtaining written permission from the landowner and appropriate permits from the SHPO. (See Oregon Revised Statute ORS 358.905 to 358.955, and Revised Code of Washington [RCW] 27.53). It shall gather enough information to evaluate the significance of the cultural resources. The survey and evaluation shall be documented in a report that generally follows the guidelines in the "Reconnaissance Survey Reports--Large-Scale Uses" and "Evaluation of Significance: Evaluation Criteria and Information Needs" sections of this chapter.

   Based on the survey and evaluation report and any written comments, the local government shall make a final decision on whether the resources are significant. Construction activities may recommence if the cultural resources are not significant.

   A mitigation plan shall be prepared if the affected cultural resources are significant.

D. Mitigation Plan. Mitigation plans shall be prepared according to the information, consultation, and report guidelines contained in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section of this chapter. Construction activities may recommence when the conditions in the mitigation plan have been executed.

Discovery of Human Remains

1. The following procedures shall be affected when human remains are discovered during a cultural resource survey or during construction. Human remains means articulated or disarticulated human skeletal remains, bones, or teeth, with or without attendant burial artifacts.

   A. Halt of Activities. All survey, excavation, and construction activities shall cease. The human remains shall not be disturbed any further.

   B. Notification. Local law enforcement officials, the local government, the Gorge Commission, and the Indian tribal governments shall be contacted immediately.

C. Inspection. The county coroner, or appropriate official, shall inspect the remains at the project site and determine if they are prehistoric/historic or modern. Representatives from the Indian tribal governments shall have an opportunity to monitor the inspection.

D. Jurisdiction. If the remains are modern, the appropriate law enforcement officials shall assume jurisdiction and the cultural resource protection process may conclude.

E. Treatment. In Oregon, prehistoric/historic remains of Native Americans shall generally be treated in accordance with the procedures set forth in ORS 97.740 to 97.760. In Washington, the procedures set forth in RCW 27.44 and 68.05 shall generally be implemented if the remains are prehistoric/historic.

If the human remains will be reinterred or preserved in their original position, a mitigation plan shall be prepared in accordance with the consultation and report requirements specified in the "Mitigation Plans: Mitigation Plan Criteria and Information Needs" section of this chapter.

The mitigation plan shall accommodate the cultural and religious concerns of Native Americans. The cultural resource protection process may conclude when the conditions set forth in the "Mitigation Plans: Conclusion of the Cultural Resource Protection Process" section of this chapter are met and the mitigation plan is executed.

Cultural Advisory Committee

1. The Gorge Commission shall establish a Cultural Advisory Committee (CAC) within 200 days after the Secretary of Agriculture concurs with the Management Plan. The CAC shall comprise cultural resource professionals, interested individuals, and at least one representative from each of the four Indian tribes.

The CAC will perform six principal functions:

A. Monitor cultural resource surveys, evaluations, impact assessments, and mitigation plans.

B. Periodically formulate and submit recommendations to SHPOs, local governments, and the Gorge Commission regarding cultural resource surveys, evaluations, impact assessments, and mitigation plans.

C. Monitor cultural resource decisions made by SHPOs and local governments.

D. Recommend procedural and administrative changes to the Gorge Commission that would improve the cultural resource protection process.

E. Advise the Gorge Commission on the design and implementation of future cultural resource inventories, including oral history programs and survey strategies.

F. Review evaluations of significance when a disagreement arises between a project applicant and an Indian tribal government. In these instances, the CAC shall submit written recommendations to the local government. Recommendations shall be based on the evaluation prepared by the project applicant, reports submitted by Indian tribal governments, and comments submitted by interested persons, including the SHPO.

SMA PROVISIONS

SMA Goal

Protect and enhance cultural resources.

SMA Policies

1. New developments or land uses shall not adversely affect significant cultural resources.

2. Federal agencies shall follow steps 1 through 5 under Guideline 4 below, for new developments or land uses on all federal lands, federally assisted projects, and forest practices.

3. Reviewing agencies shall use the procedures defined by the Gorge Commission for the GMA for proposed developments or land uses not listed in Policy 2, above.

4. Well-defined concentrations of significant cultural resources shall be designated as Open Space.

5. All cultural resource information shall remain confidential, according to Section 6(a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC (United States Code) 470 aa and 36 CFR 296.18.

6. Principal investigators shall meet the professional standards published in 36 CFR 61.

7. The Forest Service shall be responsible for performing steps 1 through 5 under Guideline 4 for forest practices and National Forest system lands.

8. The Forest Service shall consult with the Indian tribal governments and other consulting parties in performing steps 1 through 5 under Guideline 4.

9. The Forest Service shall consult with Indian tribal governments and other consulting parties for opportunities to enhance cultural resources.

SMA Guidelines

1. All cultural resource surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.

2. For federal or federally assisted undertakings, the reviewing agency shall complete its consultation responsibilities under Section 106 of the Historic Preservation Act of 1966 [36 CFR 800.2].

3. Discovery during construction: All authorizations for new developments or land uses shall require the immediate notification of the reviewing agency if cultural resources are discovered during construction or development. If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resource.

   If the discovered material is suspected to be human bone or a burial, the following procedures shall be used:

   A. The applicant shall stop all work in the vicinity of the discovery.

   B. The applicant shall immediately notify the Forest Service, the applicant's cultural resource professional, the county coroner, and appropriate law enforcement agencies.

   C. The Forest Service shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

4. Reviewing agencies shall use the following steps under 36 CFR 800.4 for assessing potential effects to cultural resources and 36 CFR 800.5 for assessing adverse effects to cultural resources.

   Step 1: Literature Review and Consultation

   A. An assessment shall be undertaken to determine whether any cultural resources listed on the National Register of Historic Places at the national, state, or local level are present on or within the area of potential direct and indirect impacts.

   B. A search shall be made of state and county government, National Scenic Area/Forest Service, and any other pertinent inventories, such as archives and photographs, to identify cultural resources. The search shall include consultation with the State Historic Preservation Office (SHPO) and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

   C. Cultural resource professionals knowledgeable about the area shall be consulted.

Step 2: Field Inventory

A. As determined by step 1, the presence of a recorded or known cultural resource, including those reported by tribal governments to be on or within the immediate vicinity of a new development or land use, shall require a field inventory by a cultural resource professional.

B. Tribal representatives shall be invited to participate in the field inventory.

C. The field inventory shall conform to one of the following standards, as determined by the cultural resource professional:

(1) Complete survey: The systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly spaced transects. A complete survey may also require techniques such as clearing of vegetation or augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(2) Sample survey: The sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for parcels that are large or difficult to survey, and is generally accomplished by a stratified random or non-stratified random sampling strategy. A parcel is stratified either by variables such as vegetation, topography or elevation, or by non-environmental factors such as a survey grid.

Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers, and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

D. A field inventory report shall be required and shall include the following:

(1) A narrative integrating the literature review (step 1) with the field inventory (step 2).

(2) A description of the field inventory methodology used. The description shall include the type and extent of field inventory and shall be supplemented by maps that graphically illustrate the areas surveyed and not surveyed and provide the rationale for each.

(3) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(4) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources. Recommendations and standards for monitoring, if appropriate, shall be included.

E. The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

F. The field inventory report shall be presented to the Forest Service for review.

Step 3: Evaluations of Significance

A. When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with the criteria of the National Register of Historic Places (36 CFR 60.4).

B. Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

C. Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, "Guidelines for the Evaluation and Documentation of Traditional Cultural Properties," within local and regional contexts.

D. Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service shall review evaluations for adequacy.

E. Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

Step 4: Assessment of Effect

A. For each significant (i.e., eligible for the National Register) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.5 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for B through D below. The Forest Service shall review each determination for adequacy.

B. If the proposed development or change in use will have "No Adverse Effect" (36 CFR 800.4) to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards" of 36 CFR 800.11. If the proposed development or change in use will have an effect then the criteria of adverse effect must be applied (36 CFR 800.5).

C. If the proposed development or change in use will have an "Adverse Effect" [36 CFR 800.5] to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented (36 CFR 800.6 “Resolution of Adverse Effects”). This documentation shall follow the process outlined under 36 CFR 800.11 (“Failure to Resolve Adverse Effects”).

D. If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), recommendations shall be documented concerning the beneficial effects upon the qualities of the cultural resource that make it eligible for the National Register. This documentation shall follow the process outlined under 36 CFR 800.11 ("Documentation Standards").

Step 5: Mitigation

A. If there will be an effect on cultural resources, mitigation measures shall be provided (36 CFR 800.6 “Resolution of Adverse Effects”). Mitigation measures that shall be considered include avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, and other appropriate measures.

B. Evidence of consultation with tribal governments and individuals with knowledge of the affected resources, and documentation of their concerns, shall be included for all mitigation proposals.

C. The Forest Service shall review all mitigation proposals for adequacy.

5. Determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed developments that are subject to any of the following: 1) a reconnaissance or historic survey; 2) a determination of significance; 3) an assessment of effect; or 4) a mitigation plan. *(Added: U.S. Sec. Ag. concurrence 7/1/11)*

CHAPTER

3

Natural Resources

Climate, geology, soils, and other environmental factors combine to make the Gorge rich in natural resources. For this chapter, natural resources mean wetlands, streams, ponds and lakes, riparian areas, wildlife and wildlife habitat, rare plants, and natural areas.

The diverse climate of the Gorge fosters nearly 1,000 native species of wildflowers, including many species that are listed as endangered, threatened, or sensitive. Sixteen species do not occur outside the Gorge region (endemic).

In addition to rare plants, many significant plant communities, or natural areas, occur in the Gorge. Forty-five natural areas were identified: 24 in Oregon and 21 in Washington. Table 4 describes the size and characteristics of each natural area. They range from old growth forests in Multnomah Basin in Multnomah County to bunchgrass prairies in the Columbia Hills of Klickitat County.

SCENIC AREA ACT PROVISIONS

The Scenic Area Act directs the Gorge Commission and the Forest Service to inventory, protect, and enhance natural resources. New residential and commercial development, mineral operations, and other development may not adversely affect natural resources [Section 6(d)(3)].

The Scenic Area Act also requires the Management Plan to protect and enhance open spaces [Section 6(d)(3)]. Open spaces include "fish and wildlife habitat; lands which support plant species that are endemic to the scenic area or which are listed as rare, threatened, or endangered species pursuant to State or Federal Endangered Species Acts; ecologically and scientifically significant natural areas; . . . water areas and wetlands . . ." [Section 2(l)].

KEY ISSUES

Many natural resources can be destroyed by development or overuse. Grading a building site may fill a wetland, add sediment to nearby streams or lakes, or uproot rare plants. Siting new structures too close to wildlife sites can cause sensitive species to abandon nests and feeding areas. Improperly designed fences hinder deer and elk movement.

Existing federal, state, and local laws provide uneven protection to natural resources. Rare plants, natural areas, and many sensitive wildlife species on private land are simply not protected. At least eight federal and state laws affect activities in wetlands. However, most of

these laws do not focus on the protection of wetlands as their primary purpose. Consequently, many activities that destroy wetlands are not currently regulated. Little or no protection is afforded to associated riparian areas.

Many natural resources are inadvertently harmed. Landowners and developers may be unaware that sensitive natural resources exist within a project area. Rare plants, wildlife sites, and other natural resources are often difficult for the layperson to identify.

Careful planning can often protect natural resources, while allowing reasonable development. However, many local planning departments lack adequate inventories and protection standards to identify potential conflicts between development and natural resources. Expertise is also an issue.

Mitigating the effects of development on natural resources may require assistance from qualified professionals, such as wildlife biologists and botanists.

OVERVIEW OF NATURAL RESOURCES PROVISIONS

The natural resource objectives, policies, and guidelines for the GMA are divided into five sections: wetlands; streams, ponds, lakes, and riparian areas; wildlife habitat; rare plants; and natural areas. They regulate most uses, except low-intensity activities and forest practices.

The SMA provisions regulate most activities, including forest practices. Goals and policies for water resources are followed by those for wildlife and plants. Guidelines for water resources and for wildlife and plants complete the SMA natural resources provisions.

A variety of tools is used to protect natural resources in the GMA and SMA. The guidelines require leaving a natural buffer zone around wetlands, streams, ponds, lakes, and riparian areas. In the GMA, exceptions are made for several uses, including low-intensity activities and water-related and water-dependent uses, if adequate protection of the resource is provided.

Site-specific management plans are required for development proposed near sensitive wildlife sites. If habitat would be altered by new development, resource rehabilitation and enhancement are required.

The guidelines protect sensitive plant species by ensuring that new development and uses avoid plant sites and their adjacent habitat. A buffer would generally be created around plant sites. Within this buffer, low-intensity uses are generally allowed outright. Other development is prohibited in the buffer area. Exceptions may be made in the GMA if the buffer would deny all reasonable use of a parcel.

Most natural areas are designated Open Space; guidelines for this designation are found in Part II, Chapter 3: Open Space. In the GMA, several natural areas are designated Agriculture-Special. In this designation, existing livestock grazing is allowed, new grazing must be reviewed, and cultivation is prohibited to protect plant communities. Guidelines for the Agriculture-Special designation are found in Part II, Chapter 1: Agricultural Land.

GMA PROVISIONS

Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: 1) wetlands and their buffer zones; 2) streams, ponds, lakes, riparian areas and their buffer zones; 3) sites within 1,000 feet of sensitive wildlife areas and sites; and 4) sites within 1,000 feet of rare plants. *(Added: CRGC adoption 7/13/10; U.S. Sec. Ag. concurrence 11/1/10)*

WETLANDS

GMA Goals

1. Achieve no overall net loss of wetlands acreage and functions.

2. Increase the quantity and quality of wetlands.

GMA Objective

Promote public programs that offer incentives to landowners who protect and enhance wetlands. The Gorge Commission shall notify landowners whose property has been designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land or Large or Small Woodland and contains wetlands. It shall inform landowners about the values of wetlands and the rationale for regulating new uses in wetlands and wetlands buffer zones, including cultivation.

GMA Policies

1. The wetlands goals, policies, and guidelines in the Management Plan shall not apply to the main stem of the Columbia River. The Gorge Commission will rely on the applicable federal and state laws to protect wetlands in the Columbia River, including the U.S. Clean Water Act, Washington State Environmental Policy Act, Washington Hydraulic Code, and Oregon Removal-Fill Act.

   The main stem of the Columbia River is depicted on the map titled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001, and dated September 1986. (This map is available at county planning departments and Commission and Forest Service offices.) The boundaries of the main stem appear as a heavy black line that generally follows the shoreline. For the Management Plan, backwaters and isolated water bodies created by roads and railroads are not part of the main stem of the Columbia River.

2. All wetlands, regardless of their size or functions, warrant protection from new uses that may alter or destroy wetlands functions.

3. The National Wetlands Inventory (U.S. Department of the Interior 1987) and the list of hydric soils shall be used as a general guide to the location of wetlands; additional wetlands are assumed to exist and shall be protected.

4. The exact location of wetlands boundaries shall be delineated using the procedures specified in *Corps of Engineers Wetlands Delineation Manual* (Wetlands Research Program Technical Report Y-87-1, on-line edition, updated through March 21, 1997).

5. An undisturbed buffer should be preserved around wetlands to protect and enhance wetlands functions and associated uplands.

6. Low-intensity uses may be allowed in wetlands and wetlands buffer zones without review. Uses that may impact wetlands acreage and functions may be allowed in wetlands or wetlands buffer zones, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and the approval criteria in this section.

7. New uses that are not water-dependent or water-related shall be allowed in wetlands when less environmentally damaging practicable alternatives do not exist.

8. Impacts to wetlands shall be allowed only when all practicable measures have been applied to minimize those impacts that are unavoidable and in the public interest.

9. A project applicant shall be required to offset unavoidable impacts to wetlands that result from his/her actions by restoring, creating, or enhancing wetlands and by providing appropriate wetlands buffer zones as specified in the Management Plan.

10. Project proposals affecting wetlands shall be coordinated with federal and state agencies that regulate new uses in wetlands.

11. Within 6 months of the date that the State of Oregon or Washington adopts a comprehensive wetlands ordinance, the Gorge Commission shall complete an evaluation that compares the state ordinance to the wetlands policies and guidelines in the Management Plan.

    If the Gorge Commission determines that the state ordinance provides equal or greater protection to wetlands than the policies and guidelines in the Management Plan, local governments may adopt the state ordinance in lieu of the wetlands policies and guidelines in the Management Plan.

12. Enhancement of wetlands not associated with any other project proposal may be allowed, if such efforts comply with the wetlands provisions in the Management Plan. Enhancement efforts shall be conducted pursuant to a wetlands compensation plan, as described in this section.

All enhancement plans must be approved by the local government, after consultation with federal and state agencies with jurisdiction over wetlands.

GMA Guidelines

Review Uses

1. The following uses may be allowed in wetlands and wetland buffer zones, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Wetlands" in this section.

   A. The modification, expansion, replacement, or reconstruction of serviceable structures, if such actions would not (1) increase the size of an existing structure by more than 100 percent, (2) result in a loss of wetlands acreage or functions, and (3) intrude further into a wetland or wetlands buffer zone.

      New structures shall be considered intruding further into a wetland or wetlands buffer zone if any portion of the structure is located closer to the wetland or wetlands buffer zone than the existing structure.

   B. The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

   C. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

2. Except uses allowed outright and review uses in Guidelines 1A through 1C, above, proposed uses may be allowed in wetlands and wetlands buffer zones subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Other Review Uses in Wetlands" in this section.

Site Plans for Review Uses in Wetlands

1. In addition to the information required in all site plans, site plans for proposed uses in wetlands or wetlands buffer zones shall include: a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail; the

exact boundary of the wetland and the wetlands buffer zone; and a description of actions that would alter or destroy the wetland.

Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Wetlands

1. The uses identified in Guideline 1 under "Review Uses," above, may be allowed only if they meet all of the following criteria:

   A. Practicable alternatives for locating the structure outside of the wetland or wetland buffer zone and/or minimizing the impacts of the structure do not exist.

   B. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

   C. The structure will be constructed using best management practices.

   D. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable.

   E. The structure complies with all applicable federal, state, and local laws.

Approval Criteria for Other Review Uses in Wetlands

1. The uses identified in Guideline 2 under "Review Uses," above, may be allowed only if they meet all of the following criteria:

   A. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative as determined by the practicable alternative test in this section.

   B. The proposed use is in the public interest as determined by the public interest test in this section.

   C. Measures will be applied to ensure that the proposed use results in the minimum feasible alteration or destruction of the wetland's functions, existing contour, vegetation, fish and wildlife resources, and hydrology.

   D. Groundwater and surface-water quality will not be degraded by the proposed use.

   E. Those portions of a proposed use that are not water-dependent or that have a practicable alternative will not be located in wetlands or wetlands buffer zones.

   F. The proposed use complies with all applicable federal, state, and local laws.

G. Areas that are disturbed during construction of the proposed use will be rehabilitated to the maximum extent practicable.

H. Unavoidable impacts to wetlands will be offset through the deliberate restoration, creation, or enhancement of wetlands. Wetlands restoration, creation, and enhancement are not alternatives to the guidelines listed above; they shall be used only as a last resort to offset unavoidable wetlands impacts.

The following wetlands restoration, creation, and enhancement guidelines shall apply:

(1) Impacts to wetlands shall be offset by restoring or creating new wetlands or by enhancing degraded wetlands. Wetlands restoration shall be the preferred alternative.

(2) Wetlands restoration, creation, and enhancement projects shall be conducted in accordance with a wetlands compensation plan.

(3) Wetlands restoration, creation, and enhancement projects shall use native vegetation.

(4) The size of replacement wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.

Restoration: 2:1

Creation: 3:1

Enhancement: 4:1

(5) Replacement wetlands shall replicate the functions of the wetlands that will be altered or destroyed such that no net loss of wetlands functions occurs.

(6) Replacement wetlands should replicate the type of wetland that will be altered or destroyed. If this standard is not feasible or practical because of technical constraints, a wetland type of equal or greater benefit may be substituted, provided that no net loss of wetlands functions occurs.

(7) Wetlands restoration, creation, or enhancement should occur within 1,000 feet of the affected wetland. If this guideline is not practicable because of physical or technical constraints, replacement shall occur within the same watershed and as close to the altered or destroyed wetland as practicable.

(8) Wetlands restoration, creation, and enhancement efforts should be completed before a wetland is altered or destroyed. If it is not practicable to complete all restoration, creation, and enhancement efforts before the wetland is altered or destroyed, these efforts shall be completed before the new use is occupied or used.

(9) Five years after a wetland is restored, created, or enhanced, at least 75 percent of the replacement vegetation must survive. The project applicant shall monitor the hydrology and vegetation of the replacement wetland and shall take corrective measures to ensure that it conforms with the approved wetlands compensation plan and this guideline.

Wetlands Buffer Zones

1. The width of wetlands buffer zones shall be based on the dominant vegetation community that exists in a buffer zone.

2. The dominant vegetation community in a buffer zone is the vegetation community that covers the most surface area of that portion of the buffer zone that lies between the proposed activity and the affected wetland. Vegetation communities are classified as forest, shrub, or herbaceous.

   A. A forest vegetation community is characterized by trees with an average height equal to or greater than 20 feet, accompanied by a shrub layer; trees must form a canopy cover of at least 40 percent and shrubs must form a canopy cover of at least 40 percent. A forest community without a shrub component that forms a canopy cover of at least 40 percent shall be considered a shrub vegetation community for purposes of the Management Plan.

   B. A shrub vegetation community is characterized by shrubs and trees that are greater than 3 feet tall and form a canopy cover of at least 40 percent.

   C. A herbaceous vegetation community is characterized by the presence of herbs, including grass and grasslike plants, forbs, ferns, and non-woody vines.

3. Buffer zones shall be measured outward from a wetlands boundary on a horizontal scale that is perpendicular to the wetlands boundary. The following buffer zone widths shall be required:

Forest communities:	75 feet
Shrub communities:	100 feet
Herbaceous communities:	150 feet

4. Except as otherwise allowed, wetlands buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

Rules for Delineating Wetlands Boundaries

1. The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

   Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

2. The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the *Corps of Engineers Wetlands Delineation Manual* (Wetlands Research Program Technical Report Y-87-1, on-line edition, updated through March 21, 1997.)

   All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

3. The local government may verify the accuracy of, and render adjustments to, a wetlands boundary delineation. If the adjusted boundary delineation is contested by the project applicant, the local government shall obtain professional services to render a final delineation, at the applicant's expense.

Practicable Alternative Test

1. An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

   A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

   A. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands.

   B. The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing

the design of the use in a way that would avoid or result in less adverse effects on wetlands.

C. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

Public Interest Test

1. The following factors shall be considered when determining if a proposed use is in the public interest:

   A. The extent of public need for the proposed use.

   B. The extent and permanence of beneficial or detrimental effects that the proposed use may have on the public and private uses for which the property is suited.

   C. The functions and size of the wetland that may be affected.

   D. The economic value of the proposed use to the general area.

   E. The ecological value of the wetland and probable effect on public health and safety, fish, plants, and wildlife.

Wetlands Compensation Plans

1. Wetlands compensation plans shall be prepared when a project applicant is required to restore, create, or enhance wetlands. They shall satisfy the following guidelines:

   A. Wetlands compensation plans shall be prepared by a qualified professional hired by the project applicant. They shall provide for land acquisition, construction, maintenance, and monitoring of replacement wetlands.

   B. Wetlands compensation plans shall include an ecological assessment of the wetland that will be altered or destroyed and the wetland that will be restored, created, or enhanced. The assessment shall include information on flora, fauna, hydrology, and wetlands functions.

   C. Compensation plans shall also assess the suitability of the proposed site for establishing a replacement wetland, including a description of the water source and drainage patterns, topography, wildlife habitat opportunities, and value of the existing area to be converted.

D. Compensation plans shall provide plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals no greater than 1 foot, slope percentages, and final grade elevations; and other technical information in sufficient detail to explain and illustrate:

(1) Soil and substrata conditions, grading, and erosion and sediment control needed for wetland construction and long-term survival.

(2) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(3) Water quality parameters, water source, water depths, water control structures, and water level maintenance practices needed to achieve the necessary hydrologic conditions.

E. A 5-year monitoring, maintenance, and replacement program shall be included in all plans. At a minimum, a project applicant shall provide an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor the replacement wetland.

F. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a wetlands compensation plan.

STREAMS, PONDS, LAKES, AND RIPARIAN AREAS

GMA Goals

1. Protect water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas.

2. Enhance aquatic and riparian areas.

GMA Objective

Through the Gorge Commission and local governments, encourage the use of existing public programs and incentives to rehabilitate and enhance streams, ponds, lakes, and riparian areas that have been disturbed.

GMA Policies

1. The stream, pond, lake, and riparian area goals, policies, and guidelines in the Management Plan shall not apply to those portions of the main stem of the Columbia River that adjoin the Urban Areas. The Gorge Commission will rely on the applicable federal and state laws to protect those portions of the Columbia River that adjoin the Urban Areas.

2. Proposed uses adjacent to streams, ponds, and lakes should preserve an undisturbed buffer zone that is wide enough to protect aquatic and riparian areas.

3. Low-intensity uses may be allowed outright in streams, ponds, lakes, and their buffer zones. Uses that may affect water quality, natural drainage, or wildlife habitat may be allowed in streams, ponds, lakes, and their buffer zones, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and the approval criteria in this section.

4. New uses that are not water-dependent or water-related shall be allowed in streams, ponds, lakes, and riparian areas if they are in the public interest and less environmentally damaging practicable alternatives do not exist.

5. Practicable measures shall be applied to minimize unavoidable impacts to aquatic and riparian areas.

6. A project applicant shall offset unavoidable impacts to aquatic areas and their buffer zones that result from his/her actions by rehabilitating or enhancing aquatic and riparian areas.

7. When uses are authorized in degraded aquatic and riparian areas, rehabilitation shall return the project area to its natural condition to the maximum extent practicable.

8. Enhancement of streams, ponds, lakes, and riparian areas not associated with any other development proposal may be allowed, if such efforts comply with the streams, ponds, lakes, and riparian area provisions in this Management Plan. Enhancement efforts shall be conducted pursuant to a rehabilitation and enhancement plan, as described in this section.

   All enhancement plans shall be approved by the local government, after consultation with federal and state agencies with jurisdiction over streams, ponds, lakes, and riparian areas.

GMA Guidelines

Review Uses

1. The following uses may be allowed in streams, ponds, lakes, and riparian areas, subject to compliance with guidelines for the protection of scenic, natural, cultural and recreation resources and "Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Aquatic and Riparian Areas" in this section.

    A. The modification, expansion, replacement, or reconstruction of serviceable structures, provided that such actions would not (1) increase the size of an existing structure by more than 100 percent, (2) result in a loss of water quality, natural drainage, and fish and wildlife habitat, or (3) intrude further into a stream, pond, lake, or buffer zone. New structures shall be considered intruding further into a stream, pond, lake, or buffer zone if any portion of the structure is located closer to the stream, pond, lake, or buffer zone than the existing structure.

    B. The construction of minor water-related recreation structures that are available for public use. Structures in this category shall be limited to boardwalks; trails and paths, provided their surface is not constructed of impervious materials; observation decks; and interpretative aids, such as kiosks and signs.

    C. The construction of minor water-dependent structures that are placed on pilings, if the pilings allow unobstructed flow of water and are not placed so close together that they effectively convert an aquatic area to dry land. Structures in this category shall be limited to public and private docks and boat houses, and fish and wildlife management structures that are constructed by federal, state, or tribal resource agencies.

2. Except uses allowed outright and review uses in Guidelines 1.A through 1.C, above, proposed uses may be allowed in streams, ponds, lakes, and riparian areas, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Other Review Uses in Aquatic and Riparian Areas" in this section.

Site Plans for Review Uses in Aquatic and Riparian Areas

1. In addition to the information required in all site plans, site plans for proposed uses in streams, ponds, lakes, and their buffer zones shall include: a site plan map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail; the exact boundary of the ordinary high watermark or normal pool elevation and the prescribed buffer zone; and a description of actions that would alter or destroy the stream, pond, lake, or riparian area.

Approval Criteria for Modifications to Serviceable Structures and Minor Water-Dependent and Water-Related Structures in Aquatic and Riparian Areas

1. The uses identified in Guideline 1 under "Review Uses," above, may be allowed only if they meet all of the following criteria:

   A. Practicable alternatives for locating the structure outside of the stream, pond, lake, or buffer zone and/or minimizing the impacts of the structure do not exist.

   B. All reasonable measures have been applied to ensure that the structure will result in the minimum feasible alteration or destruction of water quality, natural drainage, and fish and wildlife habitat of streams, ponds, lakes, and riparian areas.

   C. The structure will be constructed using best management practices.

   D. Areas disturbed during construction of the structure will be rehabilitated to the maximum extent practicable.

   E. The structure complies with all applicable federal, state, and local laws.

Approval Criteria for Other Review Uses in Aquatic and Riparian Areas

1. The uses identified in Guideline 2 under "Review Uses," above, may be allowed only if they meet all of the following criteria:

   A. The proposed use is water-dependent, or is not water-dependent but has no practicable alternative. A local government may conclude that a practicable alternative to the proposed use does not exist if the "Practicable Alternative Test" in the "Wetlands" section of this chapter is satisfied, substituting the term "stream, pond, lake, or riparian area" as appropriate.

   B. The proposed use is in the public interest. In determining if a proposed use is in the public interest, the guidelines under "Public Interest Test" in the "Wetlands" section of this chapter shall be considered, substituting the term "stream, pond, lake, or riparian area" as appropriate.

   C. Measures have been applied to ensure that the proposed use results in minimum feasible impacts to water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. As a starting point, the following mitigation measures shall be considered when new uses are proposed in streams, ponds, lakes, and buffer zones:

      (1) Construction shall occur during periods when fish and wildlife are least sensitive to disturbance. In Oregon, work in streams, ponds, and lakes shall be conducted during the periods specified in *Oregon Guidelines for*

Timing of In-Water Work to Protect Fish and Wildlife Resources (Oregon Department of Fish and Wildlife 2000), unless otherwise coordinated with and approved by the Oregon Department of Fish and Wildlife. In Washington, the Washington Department of Fish and Wildlife shall evaluate specific proposals and specify periods for in-water work.

(2) All natural vegetation shall be retained to the greatest extent practicable, including aquatic and riparian vegetation.

(3) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(4) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(5) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to streams, ponds, lakes, and their banks. When culverts are necessary, oversized culverts with open bottoms that maintain the channel's width and grade should be used.

(6) Temporary and permanent control measures shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

D. Groundwater and surface water quality will not be degraded by the proposed use.

E. Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

F. The proposed use complies with all applicable federal, state, and local laws.

G. Unavoidable impacts to aquatic and riparian areas will be offset through rehabilitation and enhancement.

Rehabilitation and enhancement shall achieve no net loss of water quality, natural drainage, and fish and wildlife habitat of the affected stream, pond, lake, and/or buffer zone. When a project area has been disturbed in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable.

When a project area cannot be completely rehabilitated, such as when a boat launch permanently displaces aquatic and riparian areas, enhancement shall also be required.

The following rehabilitation and enhancement guidelines shall apply:

(1) Rehabilitation and enhancement projects shall be conducted in accordance with a rehabilitation and enhancement plan.

(2) Natural hydrologic conditions shall be replicated, including current patterns, circulation, velocity, volume, and normal water fluctuation.

(3) Natural stream channel and shoreline dimensions shall be replicated, including depth, width, length, cross-sectional profile, and gradient.

(4) The bed of the affected aquatic area shall be rehabilitated with identical or similar materials.

(5) Riparian areas shall be rehabilitated to their original configuration, including slope and contour.

(6) Fish and wildlife habitat features shall be replicated, including pool-riffle ratios, substrata, and structures. Structures include large woody debris and boulders.

(7) Stream channels and banks, shorelines, and riparian areas shall be replanted with native plant species that replicate the original vegetation community.

(8) Rehabilitation and enhancement efforts shall be completed no later than 90 days after the aquatic area or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(9) Three years after an aquatic area or buffer zone is rehabilitated or enhanced, at least 75 percent of the replacement vegetation must survive. The project applicant shall monitor the replacement vegetation and take corrective measures to meet this guideline.

Stream, Pond, and Lake Buffer Zones

1. Buffer zones shall generally be measured landward from the ordinary high watermark on a horizontal scale that is perpendicular to the ordinary high watermark. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

   A. Streams used by anadromous or resident fish (tributary fish habitat), special streams, intermittent streams that include year-round pools, and perennial streams: 100 feet.

B. Intermittent streams, provided they are not used by anadromous or resident fish: 50 feet.

C. Ponds and lakes: Buffer zone widths shall be based on the dominant vegetative community and shall use the same guidelines as in the "Wetlands Buffer Zones" section of this chapter, substituting the term "pond or lake" as appropriate.

2. Except as otherwise allowed, buffer zones shall be retained in their natural condition. When a buffer zone is disturbed by a new use, it shall be replanted with native plant species.

3. The project applicant shall be responsible for determining the exact location of the ordinary high watermark or normal pool elevation. The local government may verify the accuracy of, and render adjustments to, an ordinary high watermark or normal pool delineation. If the adjusted boundary delineation is contested by the project applicant, the local government shall obtain professional services to render a final delineation, at the project applicant's expense.

Rehabilitation and Enhancement Plans

1. Rehabilitation and enhancement plans shall be prepared when a project applicant is required to rehabilitate or enhance a stream, pond, lake, and/or buffer zone. They shall satisfy the following guidelines:

A. Rehabilitation and enhancement plans are the responsibility of the project applicant; they shall be prepared by qualified professionals, such as fish or wildlife biologists.

B. All plans shall include an assessment of the physical characteristics and natural functions of the affected stream, pond, lake, and/or buffer zone. The assessment shall include hydrology, flora, and fauna.

C. Plans shall include plan view and cross-sectional, scaled drawings; topographic survey data, including elevations at contour intervals of at least 2 feet, slope percentages, and final grade elevations; and other technical information in sufficient detail to explain and illustrate:

(1) Soil and substrata conditions, grading and excavation, and erosion and sediment control needed to successfully rehabilitate and enhance the stream, pond, lake, and buffer zone.

(2) Planting plans that specify native plant species, quantities, size, spacing, or density; source of plant materials or seeds; timing, season, water, and nutrient requirements for planting; and where appropriate, measures to protect plants from predation.

(3) Water-quality parameters, construction techniques, management measures, and design specifications needed to maintain hydrologic conditions and water quality.

D. A 3-year monitoring, maintenance, and replacement program shall be included in all rehabilitation and enhancement plans. At a minimum, a project applicant shall prepare an annual report that documents milestones, successes, problems, and contingency actions. Photographic monitoring shall be used to monitor all rehabilitation and enhancement efforts.

E. A project applicant shall demonstrate sufficient fiscal, administrative, and technical competence to successfully execute and monitor a rehabilitation and enhancement plan.

WILDLIFE HABITAT

GMA Goals

1. Ensure that new uses do not adversely affect sensitive wildlife areas and sites. "Sensitive wildlife areas" means the 17 land and water areas that are included in the wildlife inventory. (See Table 2.)

   "Sensitive wildlife sites" is used here in a generic sense to refer to sites that are used by species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission, (3) listed as sensitive by the Oregon Fish and Wildlife Commission, or (4) considered to be of special interest to the public (limited to great blue heron, osprey, golden eagle, and prairie falcon). Updated lists of species included in (1), (2), and (3) above can be found on the websites for the Washington Department of Fish and Wildlife (Species of Concern list) and the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service – Scenic Area Office and available at the Gorge Commission office and on its website.

2. Enhance wildlife habitat that has been altered or destroyed by past uses.

GMA Objectives

1. Update the wildlife inventory as new areas and sites are discovered and federal or state wildlife lists are revised. This update will be conducted by the Gorge Commission.

2. Promote public programs that offer incentives to landowners who protect and enhance sensitive wildlife habitat. The Gorge Commission shall notify landowners whose property has been designated Large-Scale or Small-Scale Agriculture,

Commercial Forest Land, or Large or Small Woodland and contains a sensitive wildlife area or site. It shall inform landowners about the rationale for regulating new uses near sensitive wildlife habitat, including cultivation.

GMA Policies

1. Newly discovered sensitive wildlife areas and sites and wildlife species that are added to federal or state wildlife lists shall be protected.

2. To help ensure that wildlife species are not disturbed, the wildlife inventory shall be kept confidential.

3. Habitat areas of animal species that are classified as endangered or threatened by federal or state endangered species acts or the Washington Wildlife Commission may be designated Open Space. The guidelines in this chapter shall be used to protect other sensitive wildlife areas and sites.

4. New dwellings, fences, and land divisions shall be limited in deer and elk winter range and turkey habitat.

5. New and replacement fences in deer and elk winter range should be constructed so they do not present a major hazard to deer and elk.

6. On lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that include deer and elk winter range or turkey habitat, new parcels shall be 40 acres or larger in the west end of the Scenic Area and 80 acres or larger in the east end of the Scenic Area. In Oregon, the division between the west and east end of the Scenic Area is the Hood River. In Washington, the White Salmon River is the line of division.

7. Proposed uses that would adversely affect sensitive wildlife areas or sites shall be prohibited. Uses adversely affect wildlife sites and areas when they compromise the integrity of an area or site, or occur during a time of the year when affected wildlife species are sensitive to disturbance.

8. Adequate buffer zones shall be maintained to protect sensitive wildlife areas or sites from new uses. The width of wildlife buffer zones shall be determined on a case-by-case basis and shall reflect the biology of the affected species and the characteristics of the project site and the proposed use.

9. The size, scope, configuration, density, and timing of new uses within wildlife buffer zones shall be regulated to protect sensitive wildlife species.

10. Site-specific management plans shall be required before most new uses will be allowed within wildlife buffer zones.

11. Rehabilitation and/or enhancement shall be required to offset unavoidable impacts to wildlife habitat that result from new uses.

GMA Guidelines

Review Uses

1. Except uses allowed outright, proposed uses may be allowed within 1,000 feet of a sensitive wildlife area or site, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Review Uses Near Sensitive Wildlife Areas and Sites" in this section. Updated lists of species included in sensitive wildlife sites can be found on the websites for the Washington Department of Fish and Wildlife (Species of Concern list) and the Wildlife Division of Oregon Department of Fish and Wildlife. A list also is maintained by the USDA Forest Service – Scenic Area Office and available at the Gorge Commission office and on its website.

Site Plans and Field Surveys for Review Uses Near Sensitive Wildlife Areas and Sites

1. In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive wildlife area or site shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

2. A field survey to identify sensitive wildlife areas or sites shall be required for (1) land divisions that create four or more parcels, (2) recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, or visitor information and environmental education facilities, (3) public transportation facilities that are outside improved rights-of-way, (4) electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater, and (5) communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

   Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a professional wildlife biologist hired by the project applicant. All sensitive wildlife areas and sites discovered in a project area shall be described and shown on the site plan map.

Approval Criteria for Review Uses Near Sensitive Wildlife Areas and Sites

1. Uses that are proposed within 1,000 feet of a sensitive wildlife area or site shall be reviewed by the Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife. The approximate locations of sensitive wildlife

areas and sites are shown in the wildlife inventory. State wildlife biologists will help determine if a new use would adversely affect a sensitive wildlife area or site.

2. The local government shall submit site plans to the Oregon Department of Fish and Wildlife or Washington Department of Fish and Wildlife. State wildlife biologists shall review the site plan and their field survey records. They shall (1) identify/verify the precise location of the wildlife area or site, (2) ascertain whether the wildlife area or site is active or abandoned, and (3) determine if the proposed use may compromise the integrity of the wildlife area or site or occur during the time of year when wildlife species are sensitive to disturbance, such as nesting or rearing seasons. In some instances, state wildlife biologists may conduct field surveys to verify the wildlife inventory and assess the potential effects of a proposed use.

3. The following factors may be considered when site plans are reviewed:

   A. Biology of the affected wildlife species.

   B. Published guidelines regarding the protection and management of the affected wildlife species. The Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron. The Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander (Rodrick and Milner 1991).

   C. Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

   D. Historic, current, and proposed uses in the vicinity of the sensitive wildlife area or site.

   E. Existing condition of the wildlife area or site and the surrounding habitat and the useful life of the area or site.

4. The wildlife protection process may terminate if the local government, in consultation with the state wildlife agency, determines (1) the sensitive wildlife area or site is not active, or (2) the proposed use would not compromise the integrity of the wildlife area or site or occur during the time of year when wildlife species are sensitive to disturbance.

5. If the local government, in consultation with the state wildlife agency, determines that the proposed use would have only minor effects on the wildlife area or site that could be eliminated through mitigation measures recommended by the state wildlife biologist, or by simply modifying the site plan or regulating the timing of new uses, a letter shall be sent to the project applicant that describes the effects and

measures needed to eliminate them. If the project applicant accepts these recommendations, the local government shall incorporate them into its development review order and the wildlife protection process may conclude.

6. The project applicant shall prepare a wildlife management plan if the local government, in consultation with the state wildlife agency, determines that the proposed use would adversely affect a sensitive wildlife area or site and the effects of the proposed use cannot be eliminated through site plan modifications or project timing.

7. The local government shall submit a copy of all field surveys and wildlife management plans to the Oregon Department of Fish and Wildlife or Washington Department of Fish and Wildlife. The state wildlife agency will have 20 days from the date that a field survey or management plan is mailed to submit written comments to the local government.

   The local government shall record and address any written comments submitted by the state wildlife agency in its development review order.

   Based on the comments from the state wildlife agency, the local government shall make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the local government shall justify how it reached an opposing conclusion.

8. The local government shall require the project applicant to revise the wildlife management plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

Wildlife Management Plans

1. Wildlife management plans shall be prepared when a proposed use is likely to adversely affect a sensitive wildlife area or site. Their primary purpose is to document the special characteristics of a project site and the habitat requirements of affected wildlife species. This information provides a basis for the project applicant to redesign the proposed use in a manner that protects sensitive wildlife areas and sites, maximizes his/her development options, and mitigates temporary impacts to the wildlife area or site and/or buffer zone.

2. Wildlife management plans shall comply with the following guidelines:

   A. Wildlife management plans shall be prepared by a professional wildlife biologist hired by the project applicant.

   B. All relevant background information shall be documented and considered, including biology of the affected species, published protection and management

guidelines, physical characteristics of the subject parcel, past and present use of the subject parcel, and useful life of the wildlife area or site.

C. The core habitat of the sensitive wildlife species shall be delineated. It shall encompass the sensitive wildlife area or site and the attributes, or key components that are essential to maintain the long-term use and integrity of the wildlife area or site.

D. A wildlife buffer zone shall be employed. It shall be wide enough to ensure that the core habitat is not adversely affected by new uses, or natural forces, such as fire and wind. Buffer zones shall be delineated on the site plan map and shall reflect the physical characteristics of the project site and the biology of the affected species.

E. The size, scope, configuration, or density of new uses within the core habitat and the wildlife buffer zone shall be regulated to protect sensitive wildlife species. The timing and duration of all uses shall also be regulated to ensure that they do not occur during the time of year when wildlife species are sensitive to disturbance. The following guidelines shall apply:

(1) New uses shall generally be prohibited within the core habitat. Exceptions may include uses that have temporary and negligible effects, such as the installation of minor underground utilities or the maintenance of existing structures. Low-intensity, nondestructive uses may be conditionally authorized in the core habitat.

(2) Intensive uses shall be generally prohibited in wildlife buffer zones. Such uses may be conditionally authorized when a wildlife area or site is inhabited seasonally, provided they will have only temporary effects on the wildlife buffer zone and rehabilitation and/or enhancement will be completed before a particular species returns.

F. Rehabilitation and/or enhancement shall be required when new uses are authorized within wildlife buffer zones. When a buffer zone has been altered or degraded in the past, it shall be rehabilitated to its natural condition to the maximum extent practicable. When complete rehabilitation is not possible, such as when new structures permanently displace wildlife habitat, enhancement shall also be required. Enhancement shall achieve no net loss of the integrity of the wildlife area or site.

Rehabilitation and enhancement actions shall be documented in the wildlife management plan and shall include a map and text.

G. The project applicant shall prepare and implement a 3-year monitoring plan when the affected wildlife area or site is occupied by a species that is listed as endangered or threatened pursuant to federal or state wildlife lists. At a

minimum, the project applicant shall prepare an annual report and shall track the status of the wildlife area or site and the success of rehabilitation and/or enhancement actions.

At the end of 3 years, rehabilitation and enhancement efforts may conclude if they are successful. In instances where rehabilitation and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the rehabilitation and enhancement guidelines.

Approval Criteria for Fences in Deer and Elk Winter Range

New fences in deer and elk winter range shall comply with the following guidelines:

1. New fences in deer and elk winter range shall be allowed only when necessary to control livestock or exclude wildlife from specified areas, such as gardens or sensitive wildlife sites. The areas fenced shall be the minimum necessary to meet the immediate needs of the project applicant.

2. New and replacement fences that are allowed in winter range shall comply with the guidelines in *Specifications for Structural Range Improvements* (Sanderson et al. 1990), as summarized below, unless the project applicant demonstrates the need for an alternative design:

   A. To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

   B. The distance between the top two wires is critical for adult deer because their hind legs often become entangled between these wires. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

   C. The bottom wire shall be at least 16 inches above the ground to allow fawns to crawl under the fence. It shall consist of smooth wire because barbs often injure animals as they crawl under fences.

   D. Stays, or braces placed between strands of wire, shall be positioned between fence posts where deer are most likely to cross. Stays create a more rigid fence, which allows deer a better chance to wiggle free if their hind legs become caught between the top two wires.

3. Woven wire fences may be authorized only when a project applicant clearly demonstrates that such a fence is required to meet his/her specific and immediate needs, such as controlling hogs and sheep.

RARE PLANTS

GMA Goals

1. Ensure that new uses do not adversely affect plant species that are (1) endemic to the Columbia River Gorge and vicinity (see Table 3), (2) listed as endangered or threatened pursuant to federal or state endangered species acts, or (3) listed as endangered, threatened, or sensitive by the Oregon or Washington Natural Heritage Program. For brevity, these species will be referred to as "sensitive" plant species. Updated lists of sensitive plant species included in (2) and (3) above can be found on the websites for the Oregon or Washington Natural Heritage Program. A list also is maintained by the USDA Forest Service – Scenic Area Office and available at the Gorge Commission office and on its website.

2. Encourage the protection of plant species that are classified as "List 3 (Review)" or "List 4 (Watch)" by the Oregon Natural Heritage Program or "Monitor" by the Washington Natural Heritage Program.

3. Enhance the natural habitat of rare plant species.

GMA Objectives

1. Update the rare plant species inventory as new plant sites are discovered and federal or state rare plant lists are revised. The update will be conducted by the Gorge Commission.

2. Promote public programs that offer incentives to landowners who protect and enhance sensitive plants. The Gorge Commission shall notify landowners whose property has been designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland and contains sensitive plant species. It shall inform landowners about the values of sensitive plants and the rationale for regulating new uses near sensitive plant sites, including cultivation.

GMA Policies

1. Newly discovered rare plant sites and plant species that are added to federal or state rare plant lists shall be protected. Species that are deleted from federal or state rare plant lists will not require further protection.

2. The rare plant species inventory shall be used to identify possible conflicts between proposed uses and rare plant sites. Project applicants should consult the local government early in the planning process to help determine if rare plants exist in the project area.

3. When new uses are proposed near a sensitive plant site that appears in the rare plant species inventory, the field survey records shall be used to determine the precise location of the plant population in relation to the proposed use. If the field survey records are inadequate, a field survey shall be conducted to delineate the boundaries of the sensitive plant population.

4. Buffer zones shall be used to ensure that new uses do not adversely affect sensitive plant species.

5. Except for uses allowed outright, new uses shall be prohibited within sensitive plant species buffer zones.

6. Landowners and agency officials shall be encouraged to avoid siting new uses on lands containing plant species listed as "Review," "Watch," or "Monitor" by the Oregon or Washington Natural Heritage Program.

GMA Guidelines

Review Uses

1. Except uses allowed outright, proposed uses may be allowed within 1,000 feet of a sensitive plant, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Review Uses Near Sensitive Plants" in this section. Updated lists of sensitive plant species can be found on the websites for the Oregon or Washington Natural Heritage Program. A list also is maintained by the USDA Forest Service – Scenic Area Office and available at the Gorge Commission office and on its website.

Site Plans and Field Surveys for Review Uses Near Sensitive Plants

1. In addition to the information required in all site plans, site plans for uses within 1,000 feet of a sensitive plant shall include a map prepared at a scale of 1 inch equals 100 feet (1:1,200), or a scale providing greater detail.

2. A field survey to identify sensitive plants shall be required for (1) land divisions that create four or more parcels; (2) recreation facilities that contain parking areas for more than 10 cars, overnight camping facilities, boat ramps, or visitor information and environmental education facilities; (3) public transportation facilities that are outside improved rights-of-way; (4) electric facilities, lines, equipment, and appurtenances that are 33 kilovolts or greater; and (5) communications, water and sewer, and natural gas transmission (as opposed to distribution) lines, pipes, equipment, and appurtenances and other project related activities, except when all of their impacts will occur inside previously disturbed road, railroad or utility corridors, or existing developed utility sites, that are maintained annually.

Field surveys shall cover all areas affected by the proposed use or recreation facility. They shall be conducted by a person with recognized expertise in botany or plant ecology hired by the project applicant. Field surveys shall identify the precise location of the sensitive plants and delineate a 200-foot buffer zone. The results of a field survey shall be shown on the site plan map.

Approval Criteria for Review Uses Near Sensitive Plants

1. Uses that are proposed within 1,000 feet of a sensitive plant shall be reviewed by the Oregon or Washington Natural Heritage Program. The approximate locations of sensitive plants are shown in the rare plant species inventory. State heritage staffs will help determine if a new use would invade the buffer zone of sensitive plants.

2. The local government shall submit site plans to the state heritage program. The state heritage staffs will review the site plan and their field survey records. They will identify the precise location of the affected plants and delineate a 200-foot buffer zone on the project applicant's site plan.

   If the field survey records of the state heritage program are inadequate, the project applicant shall hire a person with recognized expertise in botany or plant ecology to ascertain the precise location of the affected plants.

3. The rare plant protection process may conclude if the local government, in consultation with the state heritage program, determines that the proposed use would be located outside of a sensitive plant buffer zone.

4. New uses shall be prohibited within sensitive plant species buffer zones, except for those uses that are allowed outright.

5. If a proposed use must be allowed within a sensitive plant buffer zone in accordance with the provisions in "Variances for Setbacks and Buffers" in Part II, Chapter 7: General Policies and Guidelines, the project applicant shall prepare a protection and rehabilitation plan that complies with the guidelines in "Protection and Rehabilitation Plans" in this section.

6. The local government shall submit a copy of all field surveys and protection and rehabilitation plans to the Oregon or Washington Natural Heritage Program. The state heritage program will have 20 days from the date that a field survey is mailed to submit written comments to the local government.

   The local government shall record and address any written comments submitted by the state heritage program in its development review order.

   Based on the comments from the state heritage program, the local government will make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments

submitted by the state heritage program, the local government shall justify how it reached an opposing conclusion.

Sensitive Plant Buffer Zones

1. A 200-foot buffer zone shall be maintained around sensitive plants. Buffer zones shall remain in an undisturbed, natural condition.

2. Buffer zones may be reduced if a project applicant demonstrates that intervening topography, vegetation, manmade features, or natural plant habitat boundaries negate the need for a 200-foot radius. Under no circumstances shall the buffer zone be less than 25 feet.

3. Requests to reduce buffer zones shall be considered if a professional botanist or plant ecologist hired by the project applicant (1) identifies the precise location of the sensitive plants, (2) describes the biology of the sensitive plants, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected plants and the surrounding habitat that is vital to their long-term survival.

   All requests shall be prepared as a written report. Published literature regarding the biology of the affected plants and recommendations regarding their protection and management shall be cited. The report shall include detailed maps and photographs.

4. The local government shall submit all requests to reduce sensitive plant species buffer zones to the Oregon or Washington Natural Heritage Program. The state heritage program will have 20 days from the date that such a request is mailed to submit written comments to the local government.

   The local government shall record and address any written comments submitted by the state heritage program in its development review order.

   Based on the comments from the state heritage program, the local government will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments submitted by the state heritage program, the local government shall justify how it reached an opposing conclusion.

Protection and Rehabilitation Plans

1. Protection and rehabilitation plans shall minimize and offset unavoidable impacts that result from a new use that occurs within a sensitive plant buffer zone as the result of a variance. All plans shall meet the following guidelines:

   A. Protection and rehabilitation plans shall be prepared by a professional botanist or plant ecologist hired by the project applicant.

B. Construction, protection, and rehabilitation activities shall occur during the time of year when ground disturbance will be minimized and protection, rehabilitation, and replacement efforts will be maximized.

C. Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

   Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

D. Sensitive plants and their surrounding habitat that will not be altered or destroyed shall be protected and maintained. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control.

E. Habitat of a sensitive plant that will be affected by temporary uses shall be rehabilitated to a natural condition.

F. Protection efforts shall be implemented before construction activities begin. Rehabilitation efforts shall be implemented immediately after the plants and their surrounding habitat are disturbed.

2. Protection and rehabilitation plans shall include maps, photographs, and text. The text shall:

   A. Describe the biology of sensitive plant species that will be affected by a proposed use.

   B. Explain the techniques that will be used to protect sensitive plants and their surrounding habitat that will not be altered or destroyed.

   C. Describe the rehabilitation and enhancement actions that will minimize and offset the impacts that will result from a proposed use.

   D. Include a 3-year monitoring, maintenance, and replacement program. The project applicant shall prepare and submit to the local government an annual report that documents milestones, successes, problems, and contingency actions.

SMA PROVISIONS

WATER RESOURCES (WETLANDS, STREAMS, PONDS, LAKES, AND RIPARIAN AREAS)

SMA Goal

1. Protect and enhance the quantity and quality of water resources and their functions.

SMA Policies

1. All wetlands, regardless of their size or functions, warrant protection from new uses that may alter or destroy wetlands functions.

2. The National Wetlands Inventory (U.S. Department of the Interior 1987) and the list of hydric soils shall be used as a general guide to the location of wetlands; additional wetlands are assumed to exist and shall be protected.

3. The exact location of wetlands boundaries shall be delineated using the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1987 Corps of Engineers Wetland Delineation Manual, on-line edition.

4. An undisturbed buffer should be preserved around wetlands, streams, ponds, and lakes to protect and enhance their functions and associated uplands.

5. Uses that may impact wetland, streams, ponds, lakes, and riparian areas acreage and functions, water quality, natural drainage, or wildlife habitat may be allowed in their buffer zones, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and the approval criteria in this section.

6. A project applicant shall minimize and offset unavoidable impacts to aquatic areas and their buffer zones that result from his/her actions by rehabilitating or enhancing aquatic and riparian areas or by restoring, creating, and enhancing wetlands.

7. When uses are authorized in degraded aquatic and riparian areas, rehabilitation shall return the project area to its natural condition to the maximum extent practicable.

8. Project proposals affecting wetlands shall be coordinated with federal and state agencies that regulate new uses in wetlands.

9. Enhancement of wetlands, streams, ponds, lakes, and riparian areas not associated with any other project proposal may be allowed, if such efforts comply with the wetlands, streams, ponds, lakes, and riparian areas provisions in the

Management Plan. Enhancement efforts shall be conducted pursuant to a mitigation plan, as described in this section.

10. All mitigation plans must be approved by the local government, after consultation with federal and state agencies with jurisdiction over wetlands.

11. Partnerships with public agencies, conservation groups, and individuals are encouraged to increase public awareness, understanding, and stewardship of natural resources.

12. The Special Management Area water resource buffer widths shall be applied to National Forest System lands in the General Management Area.

WILDLIFE AND PLANTS

SMA Goals

1. Protect (ensure that new uses do not adversely affect, including cumulative effects) and enhance the wildlife and plant diversity of the Gorge.

2. Encourage the protection of plant species that are classified as "List 3 (Review)" or "List 4 (Watch)" by the Oregon Natural Heritage Program or "Monitor" by the Washington Natural Heritage Program.

3. Ensure that new uses do not adversely affect natural areas that are potentially eligible for the Oregon Register of Natural Heritage Resources or the Washington Register of Natural Areas Program.

SMA Policies

1. Natural resources existing on a site proposed for a new development or land use, and/or natural resources in danger of degradation or destruction from individual or cumulative off-site impacts, shall be protected from adverse effects.

2. Significant ecosystems such as natural areas, wetlands, ponds, lakes, riparian areas, old growth forests, islands, and areas of special importance such as botanical areas, sensitive wildlife and fishery habitats, or oak woodlands shall be protected from adverse effects.

3. Existing habitat quality, viable populations, and long-term productivity of natural resources and ecosystem diversity shall be maintained.

4. County, state, and federal regulations for air and water quality and for pesticide use shall be followed.

5. Newly discovered sensitive wildlife and plant species, areas and sites that are added to federal or state wildlife and plant lists shall be protected. Species that are deleted from federal or state wildlife and plant lists will not require further protection. Updated lists of sensitive wildlife and plant species can be found on websites for the Washington Department of Fish and Wildlife, the Wildlife Division of Oregon Department of Fish and Wildlife, and the Oregon or Washington Natural Heritage Programs. A list also is maintained by the USDA Forest Service – Scenic Area Office and available at the Gorge Commission office and on its website.

6. To help ensure that sensitive wildlife and plant species are not disturbed, the sensitive wildlife and plant inventory shall be kept confidential.

7. Habitat areas of animal species that are classified as endangered or threatened by federal or state endangered species acts or the Washington Wildlife Commission may be designated Open Space; the guidelines in this chapter shall be used to protect other sensitive wildlife areas and sites.

8. Proposed uses that would adversely affect sensitive wildlife or plant areas or sites shall be prohibited. Uses adversely affect wildlife or plant sites and areas when they compromise the integrity of an area or site, or occur during a time of the year when affected wildlife or plant species are sensitive to disturbance.

9. Adequate buffer zones shall be maintained to protect sensitive wildlife and plant areas or sites from new uses. The width of wildlife buffer zones shall be determined on a case-by-case basis and shall reflect the biology of the affected species and the characteristics of the project site and the proposed use. The width of the plant buffer zone shall be 200 ft.

10. The size, scope, configuration, density, and timing of new uses within wildlife and plant buffer zones shall be regulated to protect sensitive wildlife species.

11. Site-specific plans shall be required before most new uses will be allowed within wildlife and plant buffer zones.

12. Rehabilitation and/or enhancement shall be required to offset unavoidable impacts to wildlife and plant habitat that result from new uses.

13. Natural areas that are potentially eligible for the Oregon Register of Natural Heritage Resources or the Washington Register of Natural Areas Program shall be designated as Open Space in the SMA.

14. Partnerships with public agencies, conservation groups, and individuals are encouraged to increase public awareness, understanding, and stewardship of natural resources.

15. Air quality shall be protected and enhanced, consistent with the purposes of the Scenic Area Act. The States of Oregon and Washington and the U.S. Forest Service shall:

(1) Continue to monitor air pollution and visibility levels in the Gorge;

(2) Conduct an analysis of monitoring and emissions data to identify all sources, both inside and outside the Scenic Area, that significantly contribute to air pollution. Based on this analysis, the States shall develop and implement a regional air quality strategy to carry out the purposes of the Scenic Area Act, with the U.S. Forest Service, the Southwest Air Pollution Control Authority and in consultation with affected stakeholders.

The States and the Forest Service shall together provide annual reports to the Commission on progress made regarding implementation of this policy. The first report shall include a workplan and timeline for gathering/analyzing data and developing and implementing the strategy. The workplan and strategy shall be submitted to the Commission for approval.

SMA Guidelines

1. All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered. (Site plans are described under "Review Uses" in Part II, Chapter 7: General Policies and Guidelines.)

2. Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)

   A. All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in 2.A.(2)(a) and 2(b) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.

      (1) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.

      (2) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

         (a) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.

(b) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.

(c) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:

(i) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.

(ii) The wetland is not critical habitat.

(iii) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(3) The buffer width shall be increased for the following:

(a) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

(b) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.

(c) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

(4) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zone is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(5) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist) hired by the project applicant (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant

and their surrounding habitat that is vital to their long-term survival or water resource and its long-term function.

(6) The local government shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and federal agencies, the local government will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the local government shall justify how it reached an opposing conclusion.

B. When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

C. The applicant shall be responsible for identifying all water resources and their appropriate buffers (see above).

D. Wetlands Boundaries shall be delineated using the following:

(1) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U.S. Department of the Interior, 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(2) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(3) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line edition)'.

(4) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

E. Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

F. The local government may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested

by the project applicant, the local government shall obtain professional services, at the project applicant's expense, or the local government will ask for technical assistance from the Forest Service to render a final delineation.

G. Buffer zones shall be undisturbed unless the following criteria have been satisfied:

(1) The proposed use must have no practicable alternative as determined by the practicable alternative test.

Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.

(2) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(a) A documented public safety hazard exists or a restoration/ enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question, and

(b) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project, and

(c) The proposed project minimizes the impacts to the wetland.

(3) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.

H. Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: wetlands, streams, ponds, lakes, riparian areas and their buffer zones. *(Added: U.S. Sec. Ag. concurrence 7/1/11)*

3. Wildlife and Plants

A. Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area.

Sensitive Wildlife Areas are those areas depicted in the wildlife inventory and listed in Table 2, including all Priority Habitats listed in this Chapter. The

approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory.

B. The local government shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife or the Washington Department of Wildlife for wildlife issues and by the Oregon or Washington Natural Heritage Program for plant issues).

C. The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:

(1) Identify/verify the precise location of the wildlife and/or plant area or site,

(2) Determine if a field survey will be required,

(3) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse effects (including cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting and rearing seasons, or flowering season, and

(4) Delineate the undisturbed 200 ft buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.

(a) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(b) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant, (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected

wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long-term function.

(c) The local government shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the local government will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the local government shall justify how it reached an opposing conclusion.

D. The local government, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:

(1) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander.

(2) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(3) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.

(4) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.

(5) In areas of winter range, habitat components, such as forage and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

(6) The site plan is consistent with the "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000) and the Washington guidelines when they become finalized.

(7) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among others, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.

(8) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

(9) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed on the following Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

PRIORITY HABITATS TABLE	
Priority Habitats	**Criteria**
Aspen stands	High fish and wildlife species diversity, limited availability, high vulnerability to habitat alteration.
Caves	Significant wildlife breeding habitat, limited availability, dependent species.
Old-growth forest	High fish and wildlife density, species diversity, breeding habitat, seasonal ranges, and limited and declining availability, high vulnerability.
Oregon white oak woodlands	Comparatively high fish and wildlife density, species diversity, declining availability, high vulnerability.
Prairies and steppe	Comparatively high fish and wildlife density, species diversity, important breeding habitat, declining and limited availability, high vulnerability.
Riparian	High fish and wildlife density, species diversity, breeding habitat, movement corridor, high vulnerability, dependent species.
Wetlands	High species density, high species diversity, important breeding habitat and seasonal ranges, limited availability, high vulnerability.
Snags and logs	High fish and wildlife density, species diversity, limited availability, high vulnerability, dependent species.
Talus	Limited availability, unique and dependent species, high vulnerability.
Cliffs	Significant breeding habitat, limited availability, dependent species.
Dunes	Unique species habitat, limited availability, high vulnerability, dependent species.

E. The wildlife/plant protection process may terminate if the local government, in consultation with the Forest Service and state wildlife agency or Heritage program, determines (1) the sensitive wildlife area or site is not active, or (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the local government shall incorporate them into its development review order and the wildlife/plant protection process may conclude.

F. If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

G. The local government shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The local government shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in its development review order.

Based on the comments from the state and federal wildlife agency/heritage program, the local government shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the local government shall justify how it reached an opposing conclusion.

H. The local government shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

I. Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: 1) sites within 1,000 feet of sensitive wildlife areas and sites; and 2) sites within 1,000 feet of rare plants. *(Added: U.S. Sec. Ag. concurrence 7/1/11)*

4. Soil Productivity

A. Soil productivity shall be protected using the following guidelines:

(1) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(2) New developments and land uses shall control all soil movement within the area shown on the site plan.

(3) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.

(4) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

Practicable Alternative Test

1. An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes.

   A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following:

   A. The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites.

   B. The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites.

   C. Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

Mitigation Plan

1. Mitigation Plans shall be prepared when:

   A. The proposed development or use is within a buffer zone (wetlands, ponds, lakes, riparian areas, wildlife or plant areas and/or sites).

   B. There is no practicable alternative (see the “practicable alternative” test).

2. In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

3. The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects sensitive water resources and wildlife/plant areas and sites, that maximizes his/her development options, and that mitigates, through restoration, enhancement, and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.

4. The applicant shall submit the mitigation plan to the local government. The local government shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the local government shall justify how it reached an opposing conclusion.

5. A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

6. Mitigation plans shall include maps, photographs, and text. The text shall:

   A. Describe the biology and/or function of the sensitive resources (e.g. wildlife/plant species or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will result after restoration will be required. Reference published protection and management guidelines.

   B. Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

   C. Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for example, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).

   D. Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats.

   E. Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not

possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

7. At a minimum, a project applicant shall provide to the local government a progress report every 3 years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

8. A final monitoring report shall be submitted to the local government for review upon completion of the restoration, enhancement, or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any sensitive wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions. The local government shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the local government in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

9. Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:

   A. Restoration and enhancement efforts shall be completed no later than one year after the sensitive resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

   B. All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation must survive. All plantings must be with native plant species that replicate the original vegetation community.

   C. Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

   D. If this standard is not feasible or practical because of technical constraints, a sensitive resource of equal or greater benefit may be substituted, provided that no net loss of sensitive resource functions occurs and provided the local

government, in consultation with the appropriate State and Federal agency, determine that such substitution is justified.

E. Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods.

Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted

F. Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(1) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(2) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the ‘Practicable Alternative Test’.

(3) Fish passage shall be protected from obstruction.

(4) Restoration of fish passage should occur wherever possible.

(5) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(6) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(7) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(8) Streambank and shoreline stability shall be maintained or restored with natural vegetation.

(9) The size of restored, enhanced, and replacement (creation) wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.

Restoration: 2: l
Creation: 3: l
Enhancement: 4: l

G. Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.

H. Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in Guideline 9.F.(9). These transactions shall be explained in detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

Table 2

Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge

Areas	Sites
Bald eagle habitat	Golden eagle
Deer and elk winter range	Great blue heron
Elk habitat	Larch Mountain salamander
Mountain goat habitat	Northern spotted owl
Peregrine falcon habitat	Osprey
Pika colony area	Peregrine falcon
Pileated woodpecker habitat	Purple martin
Pine marten habitat	Western pond turtle
Shallow water fish habitat (Columbia River)	
Special streams	
Special habitat area	
Spotted owl habitat	
Sturgeon spawning area	
Tributary fish habitat	
Turkey habitat	
Waterfowl area	
Western pond turtle habitat	

Table 3

Columbia Gorge and Vicinity
Endemic Plant Species

Common Name	Scientific Name
Howell's bentgrass	*Agrostis howellii*
Northern wormwood	*Artemisia campestris* var. *wormskioldii*
Hood River milk-vetch	*Astragalus hoodianus*
Howell's reedgrass	*Calamagrostis howellii*
Smooth-leaf douglasia	*Douglasia laevigata* var. *laevigata*
Howell's daisy	*Erigeron howellii*
Columbia Gorge daisy	*Erigeron oreganus*
Long-beard hawkweed	*Hieracium longiberbe*
Smooth desert parsley	*Lomatium laevigatum*
Suksdorf's desert parsley	*Lomatium suksdorfii*
Columbia Gorge broad-leaf lupine	*Lupinus latifolius* var. *thompsonianus*
Barrett's penstemon	*Penstemon barrettiae*
Pacific bluegrass	*Poa gracillima* var. *multnomae*
Obscure buttercup	*Ranunculus reconditus*
Oregon sullivantia	*Sullivantia oregana*
Columbia kittentails	*Synthyris stellata*

Table 4

Natural Areas

Area	Acres	Vegetation/Terrain
Oregon:		
Angels Rest**	350	Excellent example of basalt cliffs in west end of Gorge; rare plants
Bridal Veil Creek**	320	High-quality, low-elevation riparian forest community
Celilo Ridge*	35	Basalt cliffs and tables with east-end vegetation; rare plants
Chenoweth Table*	300	Mound/swale topography, grassland with bitterbrush, vernal ponds
Columbia Oaks*	420	Oak savanna, native grasses, old-growth fir/pine; rare plants
Crates Point+	340	Grassland, pine-oak savanna, coniferous forest
Elowah Falls**	160	Habitats ranging from Douglas-fir forests to waterfall spray zones; rare plants
Forest Service Waterfalls**	320	Wetlands and waterfall spray zones with Douglas-fir forest and rare plants
Former Mouth of Sandy River**	500	Islands, shorelines and sand/silt bars containing largest population of *Rorippa columbiae*, a rare plant
Hood River Mountain*	240	Meadow with showy wildflowers; pine/oak woodland
Horsetail Creek Wetlands**	790	Wetlands and lowland deciduous forest communities
Kaser Ridge Dunes*	310	Largest sand dune in Gorge; rare plants
Memaloose State Park+	200	Riparian habitat; plateau and cliffs with rare plants
McCord Creek Meadows**	800	Full spectrum of wet meadow plant communities
Mosier Ponds**	40	Several seasonal ponds, wetlands
Multnomah Basin**	5,600	Wetlands, extensive old-growth communities, meadows, rock garden communities
Rooster Rock**	570	Wetlands and shorelines with rare marsh plant community and riparian forest
Rowena Plateau+	1,700	Grassland, vernal ponds, oak woodland
Ruckel Creek**	650	High gradient watershed with mix of west-end and east-end forest communities
Squally Point+	50	Remnant sand dune with diverse plants, native grasses
Starvation Creek State Park**	12	Some of largest waterfalls in eastern half of Gorge; rare plants
Tanner Creek**	1,000	Old-growth forest; rare plants
Warren Creek**	115	Waterfall spray zones, riparian areas, Douglas-fir / Oregon oak woodland, grassy meadow
Waterfalls State Parks**	80	Waterfall spray zones with associated plant communities; rare plants

Table 4 (cont'd)

Natural Areas

Area	Acres	Vegetation/Terrain
Washington:		
Beacon Rock State Park**	35	Douglas-fir/red alder forest with open areas; rare plants
Burdoin Mountain**	60	Old-growth Douglas-fir with scattered ponderosa pine
Cape Horn**	55	Topographic bench, basalt cliffs and slopes; rare plants
Columbia Falls**	765	Basalt cliffs, valleys and ridges with 120-175 foot waterfalls; old-growth Douglas-fir, grand fir, and red cedar; rare plants
Columbia Hills*	2,600	Ridge with moist draws, bunch grass prairies, scablands; rare plants
Columbia Tunnels*	15	High-quality oak woodland with native grasses
Dog Mountain**	2,700	East-west transition; fir and hemlock, oak, and ponderosa pine forests, with talus slopes and grasslands
East Fork of Major Creek**	640	Intact, original forest in eastern Gorge; Douglas-fir, ponderosa pine, grand fir, scattered old-growth trees
Hamilton Creek**	1,280	Old-growth patches of Douglas-fir and riparian communities
Horsethief Ponds*	280	Mound/swale topography with ponds; rare plants
Little Wind River**	1,150	Drainage basin, including riparian areas and steep slopes; Douglas-fir and western hemlock forest with old-growth stands and rare plants
Lower Klickitat River Canyon*	145	Oak woodland with native grasses; rare plants
Lower Major & Catherine Creeks**	3,000	Oregon white oak/ponderosa pine forests, with grassland and riparian areas; rare plants
Miller Island**	130	Sand dunes and basalt cliffs; rare plants
Mosley Lakes*	110	Wetlands
Pierce Island**	200	One of the least-disturbed Columbia River islands; cottonwood-Oregon ash and shoreline plant communities; rare plants
Prindle Mountain**	130	Douglas-fir forests, meadows; rare plants
Table Mountain/Greenleaf Basin**	2,300	Bluffs, meadows, wetlands, old-growth forest; rare plants
Underwood Mountain*	120	Douglas-fir forest with rare plants
West Fork of Sasquatch Creek**	430	Remnant old-growth stand of Douglas-fir; rare plants
Wind Mountain**	290	Intact, original Douglas-fir and Oregon white oak forests

* Natural areas in General Management Area (GMA)
** Natural areas in Special Management Area (SMA)
\+ Natural areas that include land in GMA and SMA

Source: Washington Natural Heritage Program and Oregon Natural Heritage Database. *Identification of Representative Plant Communities and Botanically Significant Sites in the Columbia River Gorge National Scenic Area.* Washington Department of Natural Resources, Washington Natural Heritage Program; Oregon State Land Board, Oregon Natural Heritage Data Base, The Nature Conservancy, 1989.

CHAPTER

4

Recreation Resources

The Columbia River Gorge has provided a multitude of outdoor recreation opportunities for residents of the Northwest for many decades. Its magnificent panoramas, waterfalls, and rock formations have awed sightseers in large numbers since the construction of the Historic Columbia River Highway during and after World War I. Excellent opportunities for fishing, hiking and other outdoor activities abound. The recreation identity of the Gorge has expanded to include windsurfing, kite sailing, rafting and mountain biking.

SCENIC AREA ACT PROVISIONS

The importance of recreation to the Gorge is reflected in a number of mandates and provisions of the Scenic Area Act. Included in the first purpose of the Act is a directive to protect and enhance the recreation resources of the Columbia River Gorge [Section 3(1)]. The Gorge Commission is further directed to assess recreation resources and opportunities for enhancement of these resources, as part of the inventory process. Section 6(a)(3) of the Act calls for completion of a "recreation assessment," which specifically directs the Gorge Commission to identify areas suitable for public use facilities and, subject to the treaty and other rights of Indian tribes, designate areas to provide increased access to the Columbia River and its tributaries for recreation purposes. In addition to the recreation assessment, the Commission is directed to "protect and enhance open spaces" [Section 6(d)(3)], which include "potential and existing recreation resources" and "Federal and State wild, scenic and recreation waterways" [Section 2(l)].

Several other important provisions of the Scenic Area Act highlight the unique role of recreation in the Scenic Area. Section 6(d)(3) specifies that the Gorge Commission and Forest Service may allow the conversion of forest or agricultural land to recreation development. Recreation is the only type of new development for which such conversions are allowed. The Act further encourages new recreation development by authorizing the expenditure of $10 million for construction of recreation facilities. An additional $2.8 million is authorized for restoring and reconstructing the Historic Columbia River Highway for public recreational use.

KEY ISSUES

Perhaps more than any other part of the Scenic Area Act, the recreation mandates pose a number of unique and

formidable challenges. Many of these challenges relate to the directive that the Gorge Commission and Forest Service increase recreational access to the Columbia River and its tributaries. Because of construction of federal highway and dam projects and the presence of railroads on both shores of the river, a very limited number of potentially usable areas for recreational river access exist. Many of these remnants of the once-extensive Columbia River floodplain include sensitive natural resources. Providing facilities in these few locations is made more difficult and costly by physical barriers to the river, such as the freeway or railroad tracks. In addition, many of the remaining, potentially usable lowlands contain or are expected to contain cultural resources, which are also to be protected under the Act. Given the long history of human settlement in the Gorge, particularly focused along the river, the presence of remains of past cultures is to be expected.

A related issue involves potential conflicts between Native American fishing activities and river-oriented recreation, particularly windsurfing. The explosive growth of windsurfing, particularly in the central Gorge, has resulted in intensive usage of particular stretches of the river and substantial pressures for new access points and expansion of existing sites. The Act requires that tribal treaty rights not be affected by the provisions of the Act or Management Plan. In this situation, treaty rights protect Native American fishing activities above the Bonneville Dam (in the areas of highest windsurfing usage). Various Native Americans have objected to windsurfing activity close to fishing nets.

The rise of windsurfing presents several other challenges and issues. A number of sites receiving intensive use have not been planned or designed with adequate facilities, resulting in concerns about public safety, sanitation, and other conditions. Also, some sites may be experiencing damage to sensitive resources because of overuse.

This problem is not unique to windsurfing; there are a number of sites in the western Gorge (such as Multnomah Falls) that receive too much use related to sightseeing, hiking, and related activities. Similar problems occur at key fishing access points during peak fishing periods. Because of recent substantial increases in recreational day-use activities, certain portions of the Gorge are experiencing a severe shortage of overnight camping sites and a resulting proliferation of overnight camping in unauthorized areas. Solutions to these problems include dispersing use by providing similar opportunities in less-used portions of the Gorge, providing better information about other existing facilities that are not overused, improving site management, and providing needed camping areas near popular day-use sites.

In addressing these challenges and meeting mandates to increase river-related recreation, the Gorge Commission and Forest Service must also protect the rural character of Gorge landscapes. It is crucial that the provision of new facilities for resource-based recreation does not degrade the very resources and scenic settings that attract recreationists to the

Scenic Area. Another important concern is maintaining the quality of life for the many residents of the Scenic Area, while meeting the Act's recreation mandates.

OVERVIEW OF RECREATION RESOURCES PROVISIONS

The Management Plan provides the following:

- Overall recreation goals, objectives, and policies (this chapter).
- Recreation intensity classes, with specific guidelines and criteria addressing new public and commercial recreation development (this chapter).
- Public and Commercial Recreation land use designations (Part II, Chapter 6).
- A recreation development plan that provides the policy framework for implementing high-priority proposed public recreation facilities (Part III, Chapter 1).
- The Recreation Development Proposals list, adopted separately from the Management Plan, highlights selected sites and proposed projects at those sites that, when implemented, will best achieve the recreation goals and objectives of the Scenic Area Act.

These various elements reflect the recreation assessment mandates specified in Section 6 of the Act.

The goals, objectives, policies, and guidelines of this chapter provide a framework for guiding the actions of the various public and private recreation providers in the Scenic Area, as well as those agencies whose programs either affect or are affected by recreation uses. Such entities include local, state, and federal planning and park agencies, as well as private and nonprofit groups.

This chapter is divided into the following sections:

<u>GMA Provisions: Overall Goals, Objectives and Policies</u>

- Protection of Resources
- Scenic Appreciation and Scenic Travel Corridors
- Resource-Based Recreation
- River Access and Protection of Treaty Rights
- Interpretation/Education
- Trails and Pathways
- Transportation
- Coordination

<u>GMA Provisions: Recreation Intensity Classes</u>

<u>SMA Provisions: Overall Goal, Policies and Guidelines</u>

<u>SMA Provisions: Recreation Intensity Classes</u>

GMA PROVISIONS: OVERALL GOALS, OBJECTIVES, AND POLICIES

PROTECTION OF RESOURCES

GMA Goals

1. Protect and enhance recreation resources consistent with Indian treaty rights.

2. Protect scenic, natural, cultural, and recreation resources when providing new recreation opportunities.

GMA Objectives

1. Encourage recreation facility designs that blend the facilities with their natural settings, especially designs that restore and/or enhance natural, cultural, or scenic resource values of a site.

2. Encourage innovative approaches to siting, design, and construction of recreation facilities that minimize their environmental impacts.

GMA Policies

1. Recreation resources shall be protected from adverse effects from new development on adjacent lands by establishing buffers between recreation uses and new buildings on adjacent lands. Guidelines implementing this policy are contained in “Review Uses” (Part II, Chapter 7: General Policies and Guidelines).

2. The goals, objectives, policies, guidelines and all other provisions of this plan shall not affect legally existing uses at recreation sites that existed as of the date the Gorge Commission adopted this plan (October 15, 1991).

3. All proposed recreation uses shall comply with guidelines for protection of scenic, natural, cultural, and recreation resources.

4. Private concessions and other commercial uses at public recreation sites shall be allowed pursuant to adopted policies of the public park agency owning the site. If a different agency manages the site, that agency's policies shall apply, unless superseded by provisions of the owning agency's policies.

5. For commercial recreation sites and public recreation sites not owned or managed by a public park agency with adopted concession policies, the following policies shall apply:

A. Retail sales at campgrounds shall be limited to camping supplies for overnight guests in dedicated space within the registration or central office building.

B. Private concessions in permanent structures shall be limited to one structure per park site. Sales shall be limited to those items necessary for enjoyment and use of recreation opportunities at the site, including food and beverages and recreation equipment rental.

C. Mobile vendors may be permitted, subject to local government approvals. Local government review shall address solid waste disposal, visual impacts of signage, traffic circulation, and safety. Such uses shall be limited to the term of the recreation season, and sales shall be limited to food and beverages and recreation equipment rental.

SCENIC APPRECIATION AND SCENIC TRAVEL CORRIDORS

GMA Goals

1. Increase scenic appreciation opportunities throughout the Scenic Area.

2. Designate those portions of the following roads in the Scenic Area as scenic travel corridors and promote uses that improve their functions as recreational and scenic travel routes: Historic Columbia River Highway (all segments); Washington State Routes 14, 141, and 142; Oregon Highway 35; and Interstate 84.

GMA Objectives

1. Provide new viewpoints that highlight the outstanding scenic vistas of the Gorge, the river itself, and special scenic features.

2. Encourage recreation facilities that improve the visual quality of previously disturbed sites.

3. Emphasize recreation facility designs that provide and maintain views of the Columbia River and Gorge walls.

4. Establish new viewpoints of the Columbia River and Gorge landscapes at places offering outstanding views along designated scenic travel corridors.

5. Create or restore openings in vegetation along the Historic Columbia River Highway, Washington State Route 14, and Interstate 84 to provide or improve views of the Columbia River and Gorge walls in a manner consistent with guidelines to protect natural, cultural, scenic, and recreation resources. Specific guidelines for such proposals are contained in Guideline 4 of the "Scenic Travel Corridors" section in Part I, Chapter 1: Scenic Resources.

6. Establish walking and bicycling paths along segments of the Historic Columbia River Highway either abandoned or currently closed to regular vehicular traffic. Give high priority to restoring and reconnecting these segments to create a continuous bicycle/pedestrian pathway through the Scenic Area.

7. Provide safe pedestrian and bicycle passage across the three Columbia River bridges in the Scenic Area to connect scenic travel corridors for these user groups.

8. Establish low-elevation bicycle paths or lanes along or near Interstate 84 and Washington State Route 14 through the Scenic Area. Abandoned segments of the Historic Columbia River Highway may fulfill this objective in certain locations. Explore establishing bicycle paths or lanes or otherwise improving bicycle safety for drivable portions of the Historic Columbia River Highway.

GMA Policies

1. Planning and management efforts for recreational uses within scenic travel corridors, such as viewpoints, pedestrian and bicycle paths, shall involve potentially affected landowners, relevant recreation agencies and organizations, fire, law enforcement and emergency service providers, Indian tribal governments, and affected local agencies as an integral component of such efforts.

2. Potential funding sources shall be evaluated as an integral component of all recreation facility planning efforts within scenic travel corridors. Fiscal impacts to local public service providers shall be considered as part of this process.

3. Provision of pedestrian and bicycle paths within scenic travel corridors shall include barrier-free opportunities.

RESOURCE-BASED RECREATION

GMA Goal

Provide a diversity of resource-based recreation opportunities that are accessible to all segments of the public and that emphasize the quality of the recreation experience.

GMA Objectives

1. Increase resource-based recreation opportunities for the physically challenged, less affluent, and other underrepresented segments of the public.

2. Provide additional overnight camping opportunities in natural settings, especially near popular day-use areas.

3. Protect existing popular recreation sites from overuse by providing opportunities and facilities at new locations with similar recreation attributes.

4. Emphasize provision of resource-based recreation opportunities in portions of the Scenic Area relatively lacking in such opportunities, particularly the eastern end and the Washington side.

GMA Policies

1. The Scenic Area recreation program shall emphasize provision of resource-based, outdoor recreation opportunities. Resource-based recreation includes those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend. Such uses include, but are not limited to, trail use, fishing, boating, swimming, windsurfing, wildlife viewing, sightseeing, picnicking, camping, and visiting interpretive facilities. Recreation uses that are not resource-based (such as playgrounds and community parks) and not part of a resource-based recreation use are addressed in Part II, Chapter 6: Recreation Designations.

2. Recreation intensity classes (described in more detail later in this chapter) shall be applied to all lands under the Gorge Commission's jurisdiction. These classes identify areas potentially suitable for varying intensities of new resource-based recreation uses.

3. Non-resource-based recreation facilities included in proposed resource-based recreation sites shall be allowed if the site is predominantly dedicated to resource-based recreation.

4. The Recreation Development Proposals List identifies proposed public recreation facilities that are the highest priority for implementation. These proposed facilities focus on providing resource-based recreation opportunities. Public funding for facilities proposed in that list shall be limited to resource-based uses and necessary support facilities.

5. Recreation demand shall be an important consideration in providing new facilities and opportunities, but shall not supersede consideration of the quality of recreation experience provided or protection of other resources.

RIVER ACCESS AND PROTECTION OF TREATY RIGHTS

GMA Goal

Increase recreational access to the Columbia River and its tributaries, subject to the treaty and other rights of Indian tribes. Increase access in a manner that maximizes preservation of the shoreline area and minimizes impacts to sensitive resources.

GMA Objectives

1. Increase opportunities for river-oriented, day-use recreation (such as boating, fishing, windsurfing, and swimming) along the shoreline of the Columbia River and its tributaries.

2. Encourage recreation facilities that provide for compatible multiple uses at riverfront recreation sites.

3. Encourage recreation facility designs that consolidate access to river-oriented recreation opportunities, and that place non-water-dependent facilities away from the immediate shoreline area as much as possible.

GMA Policies

1. Emphasis shall be given to river-oriented, day-use recreation along the shoreline of the Columbia River and its tributaries (such as boat launches or swim beaches). Recreation uses that are not water-dependent or water-related (such as overnight camping) shall be sited to preserve opportunities for water-dependent and water-related uses near the shore.

2. In providing additional river access, the establishment of new facilities shall be balanced with stretches of river shore emphasizing low-intensity recreation and minimal facilities. The result should be a generally natural-appearing shoreline punctuated by nodes of concentrated recreation activities and facilities.

3. Potentially affected tribal and local governments shall be consulted at the onset of all planning efforts for public-use recreation facilities in the GMA.

4. For proposed new riverfront recreation facilities above Bonneville Dam, the applicant shall assess the potential effects of the recreation proposal on treaty fishing activities, and shall prepare a management plan that addresses any potential effects that are determined to exist. The requirements of such plans are specified in the recreation intensity class guidelines. Project approval shall be contingent upon demonstration that any effects to treaty fishing activities have been removed through redesign and/or application of mitigation measures. Tribal consultation on such plans shall be required.

5. Temporary closures of river-oriented recreation sites during critical treaty fishing periods shall be considered where existing adverse effects on treaty fishing have been demonstrated.

6. Where proposed or designated in-lieu Indian fishing sites are near potential river recreation sites, cooperative planning and cost-sharing agreements to fund access development shall be explored.

7. The Gorge Commission shall work with local and state law enforcement, public safety, and emergency services agencies to develop coordinated and comprehensive strategies addressing public safety and law enforcement needs associated with existing and increased recreational river access. Such strategies shall consider the personnel and fiscal impacts of increased service demands and shall identify needed funding for such impacts and demands.

8. Recreation providers shall consult with applicable local and state law enforcement, public safety, and emergency service providers when developing proposals for new recreational river access. Law enforcement and safety concerns associated with existing recreation river access shall be considered when developing strategies in response to new river access proposals.

INTERPRETATION/EDUCATION

GMA Goal

Increase public understanding and appreciation of the human and natural resources of the Scenic Area, both past and present, through interpretive/educational programs and facilities.

GMA Objectives

1. Increase awareness and appreciation of the great diversity of natural, cultural, scenic, and recreation resources of the Scenic Area.

2. Increase awareness and appreciation of the interrelationships between human activities and the Gorge environment.

3. Provide a full spectrum of barrier-free (physical, linguistic, cultural, sensory) interpretive opportunities.

4. Encourage the establishment of "gateway" facilities located at major entryways to the Scenic Area. Such facilities should:

    A. Welcome and orient the visitor and provide tourist information.

    B. Offer exhibits on the features and resources in the vicinity of the facility.

    C. Encourage visitors to visit the Gorge Discovery Center near The Dalles and provide programs complementary to that facility.

    D. Encourage visitors to visit the Skamania Lodge Conference Center in Stevenson.

GMA Policies

1. When planning new interpretive programs and/or facilities, relevant recommendations of the *Interpretive Strategy for the Columbia River Gorge National Scenic Area* shall be considered. (This document is available at the Gorge Commission office in White Salmon, Washington, and the Forest Service office in Hood River, Oregon.)

2. Programs and measures to protect sensitive cultural and/or natural resources shall be required as a part of any effort to interpret such resources. Tribal consultation shall be required, and tribal comments shall be considered, for any efforts involving interpretation of Native American prehistory, history, or culture.

3. Information about Scenic Area recreation opportunities shall be disseminated at important recreation/visitor information facilities, including the Gorge Discovery Center, Skamania Lodge Conference Center, information kiosks, and gateway facilities.

TRAILS AND PATHWAYS

GMA Goal

Provide a diversity of new trail opportunities in a variety of settings that highlight the special resources of the Gorge, while adequately maintaining and, where appropriate, upgrading existing trails.

GMA Objectives

1. The following three objectives are the highest priorities for future designated public-use trails in the GMA:

   A. Provide trails linking Urban Areas and the Portland/Vancouver metropolitan area to recreation opportunities in the Scenic Area.

   B. Establish a trail system (or series of trails) along the Columbia River.

   C. Increase trail opportunities on the Washington side of the Scenic Area and in the eastern portions of the Scenic Area.

2. Other trail objectives are:

   A. Promote the Columbia River as a scenic waterway trail and support dispersed boat moorages and other low-intensity boating facilities to implement this objective.

   B. Establish a loop trail around the Scenic Area.

   C. Establish trails along the major tributaries of the Columbia River.

D. Provide trail linkages between Scenic Area trail opportunities and trails in the National Forests and other public lands north and south of the Scenic Area.

E. Provide safe bikeways for recreational use on appropriate county roads when consistent with county plans and programs.

GMA Policies

1. Trail planning and management efforts shall include affected landowners, relevant agencies, Indian tribal governments, and trail organizations from the beginning of such efforts.

2. The Gorge Commission shall not acquire property or easements for trails without property owner consent. The Gorge Commission shall encourage other public bodies to acquire property or easements for trails through purchase or donation.

3. As an integral component of trail planning, development, and management efforts, strategies shall be developed to address trespass, noxious weeds, and public safety issues (such as fire hazard, emergency rescue, and classification systems for degree of trail difficulty). Such efforts shall include consultation with fire, law enforcement, and emergency service providers.

4. Temporary trail closures during critical fire hazard periods should be considered.

5. Shared use of trails by compatible multiple-user groups should be encouraged as much as possible where appropriate conditions exist, to maximize efficient use of trails and reduce needs for new trail construction.

6. User conflicts on trails shall be minimized through proper siting, design, and maintenance and an aggressive user education program. Multiple-use trails shall be built to standards sufficient to accommodate such different groups. Standards shall address safety concerns and considerations such as signage, trail width, visibility, and percent grade.

7. Use of motorized vehicles on designated public use trails shall be prohibited, except for use by response agencies and their agents in an emergency.

8. Priority shall be given to the completion and improvement of existing trails, incomplete trail loops, and trail segments, considering relationships with trails in Urban Areas, the SMA, and outside the Scenic Area.

9. Use levels on existing trails and projected demand for different trail uses shall be considered when planning additional trails.

10. Trail systems and new trails shall, where feasible, incorporate existing segments of older/historic trails and abandoned road and railroad rights-of-way.

11. The use of utility corridor rights-of-way for trail use shall be explored where such use would not interfere with the corridors' primary functions.

12. Barrier-free access shall be provided for new trails and improvements to existing trails to the maximum extent practicable.

13. Public needs for convenience, access, and security shall be considered when designing and siting trailheads.

14. Where appropriate and practicable, facilities shall be provided at trailheads to promote alternatives to the private automobile for accessing trail opportunities.

15. Potential funding sources shall be evaluated as an integral component of all trail planning efforts. Fiscal impacts to local public service providers shall be considered as part of this process, including adequacy of funding to provide for proper maintenance, emergency response, and law enforcement functions.

16. Trails proposed along the Columbia River and its tributaries shall be designed in a manner that minimizes effects to the shoreline and associated habitat values. Seasonal closures during critical wildlife periods shall be considered, as well as other appropriate mitigative measures.

TRANSPORTATION

GMA Goals

1. Provide transportation facilities that meet the needs of the traveling public and implement this plan's recreation goals and objectives while protecting scenic, natural, cultural, and recreation resources.

2. Promote alternative modes of transportation to improve safety and enjoyment of the traveling public and to help alleviate future traffic demand.

GMA Objectives

1. Encourage the provision of alternate modes of transportation to recreation destinations to reduce resource impacts and facilitate visitation by all segments of the public. Such alternate modes include, but are not limited to, shuttles, railroad, bicycles, and boat access.

2. Encourage tour boat and tour train access to important recreation facilities (such as the Gorge Discovery Center) as mass transportation alternatives that offer both access to such sites and recreational experiences in themselves.

3. Improve linkages between different modes of transportation at major recreation sites in the Scenic Area.

4. Improve access to recreation opportunities in the Scenic Area for the physically-challenged, less affluent and other underrepresented user groups.

GMA Policies

1. Accommodation of facilities for mass transportation (bus turnarounds, etc.) shall be required for all new high-intensity (Recreation Intensity Class 4) day-use recreation sites, except for sites predominantly devoted to boat access. These facilities are also encouraged for all new moderate-intensity (Recreation Intensity Class 3) day-use recreation sites where practicable.

2. All transportation facilities or improvements associated with public recreation shall be designed to minimize impacts to scenic, natural, cultural, and recreation resources to the maximum extent practicable.

COORDINATION

GMA Goal

Develop an outdoor recreation program that coordinates plans and actions of all relevant recreation providers and planning agencies to meet the recreation needs of Scenic Area residents and visitors. Such coordination shall seek to avoid land use conflicts and duplication of services.

GMA Objectives

1. Encourage new recreation facilities that complement other existing or planned recreation facilities in an area and/or provide linkages between such facilities.

2. Encourage coordinated, comprehensive recreation planning on a non-jurisdictional basis for distinct subareas of the Gorge possessing similar characteristics.

3. Encourage comprehensive recreation planning that fosters a unified, regional approach and deemphasizes divisions by state, county, or other jurisdictional boundaries, while recognizing the particular needs of such jurisdictions.

GMA Policies

1. Coordinated, regional approaches to solving ongoing operational and management problems (such as emergency response, law enforcement, and coordinated fee/permit systems) shall be pursued in planning new recreation uses and for comprehensive plan updates and revisions, to the maximum extent practicable. Such efforts shall include exploring additional revenue sources to defray the costs of law enforcement and public safety services provided by local government service providers.

2. Existing or proposed recreation facilities or areas outside the Scenic Area and inside Urban Areas that may affect recreation use and/or demand in the Scenic Area shall be considered when evaluating recreation proposals.

3. Proposed recreation developments shall be evaluated for consistency with existing county, city, port, or other relevant plans.

GMA PROVISIONS: RECREATION INTENSITY CLASSES

Recreation intensity classes have been applied to all GMA lands on which the Gorge Commission has planning jurisdiction. They are an overlay to the underlying land use designations (see Part II) and reflect potential suitability of GMA lands for varying degrees of resource-based recreation facilities open for public use. Recreation intensity classes do not supersede any provisions of underlying land use designations, nor do they affect recreation uses existing as of the date the Gorge Commission adopted the Management Plan (October 15, 1991).

The recreation intensity class map divides the Scenic Area into four classes, indicating suitable levels of recreation use and facility development, ranging from very low-intensity to high-intensity.

GMA Goal

Identify suitable levels of resource-based, public-use facilities to meet the Management Plan recreation goals and objectives while protecting scenic, natural, and cultural resources.

GMA Policies

1. Proposed resource-based recreation facilities or uses shall be consistent with applicable recreation intensity class guidelines and the "Approval Criteria for Recreation Uses" contained in this chapter. Resource-based recreation includes those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend. Such uses include but are not limited to trail use, fishing, boating, swimming, windsurfing, wildlife viewing, sightseeing, picnicking, camping, and visiting interpretive facilities.

2. Recreation uses that are not resource-based in nature are not subject to the guidelines and criteria of the recreation intensity classes. Such recreation uses may be permitted pursuant to provisions of the land use designations, and include community parks and playgrounds, tennis courts, swimming pools, and playing fields for organized team sports. New golf courses shall not be permitted. Existing golf courses may be expanded, subject to conditions.

3. In addition to the guidelines and criteria contained in this section, proposed resource-based recreation uses shall comply with all applicable guidelines to protect natural, cultural, and scenic resources.

4. Land slope, road access, the presence of geologic or other hazards, and the presence of significant or sensitive resources shall be primary considerations in determining the suitability of lands for recreation. Other considerations shall include the presence of site amenities providing recreation opportunities and proximity to complementary recreation facilities.

5. High-intensity recreation uses shall be limited to the most suitable lands for recreational access to the Columbia River and its major tributaries and suitable lands for recreation use near designated Urban Areas or Rural Centers.

6. Recreation shall be limited to very low-intensity uses in inventoried wetlands, special habitat areas, significant natural areas, steeply sloping lands, and geologic hazard areas.

7. Recreation shall be limited to very low-intensity uses in areas of existing orchards, vineyards, row crops or other high-value agricultural uses on lands designated Large-Scale or Small-Scale Agriculture.

8. Recreation shall be limited to low-intensity recreation uses in areas with the most suitable soils for cultivation on lands designated Large-Scale or Small-Scale Agriculture.

9. Notwithstanding Policies 7 and 8 of this section, moderate- or high-intensity recreation uses may be allowed on lands adjacent to the Columbia River or its major tributaries offering significant opportunities for recreational river access.

10. Low- and moderate-intensity recreation uses shall be emphasized on lands designated Commercial Forest Land or Large or Small Woodland most suitable for such uses.

11. Recreation shall be limited to low-intensity uses on lands designated Residential.

12. Proposed changes to the recreation intensity class of an area shall require a plan amendment subject to Gorge Commission approval.

13. Proposed developments in an area classified Recreation Intensity Class 4 (high intensity) that exceed the guidelines for that class shall require county approval, upon satisfaction of Guideline 2 in "Variances and Plan Amendments" in the recreation intensity class guidelines.

14. The recreation intensity class guidelines shall be applied to individual recreation facilities. (Individual recreation facilities are defined in "Facility Design Guidelines for All Recreation Projects," below.)

15. The Gorge Commission shall evaluate the results of the recreation intensity classes in 5 years, as part of the Management Plan update and review process. This evaluation shall include an assessment of the cumulative effects of new recreation development on scenic, cultural, natural, and recreation resources of the Scenic Area and in the vicinity of the development. The Commission may at any time reevaluate the recreation intensity classes in the vicinity of a new Recreation Intensity Class 3 or 4 development for possible cumulative effects.

GMA Guidelines

Allowable Uses

The following uses are allowable, subject to compliance with the "Approval Criteria for Recreation Uses" and "Facility Design Guidelines For All Recreation Projects" in this section.

1. Recreation Intensity Class 1 (Very Low Intensity)

    A. Parking areas for a maximum of 10 cars for any allowed uses in Recreation Intensity Class 1.

    B. Trails for hiking, equestrian, and mountain biking use.

    C. Pathways for pedestrian and bicycling use.

    D. Trailheads (with provisions for hitching rails and equestrian trailers at trailheads accommodating equestrian use).

    E. Scenic viewpoints and overlooks.

    F. Wildlife/botanical viewing and nature study areas.

    G. River access areas.

    H. Simple interpretive signs and/or displays, not to exceed a total of 50 square feet.

    I. Entry name signs, not to exceed 10 square feet per sign.

    J. Boat docks, piers, or wharfs.

    K. Picnic areas.

L. Restrooms/comfort facilities.

2. Recreation Intensity Class 2 (Low Intensity)

A. All uses permitted in Recreation Intensity Class 1.

B. Parking areas for a maximum of 25 cars, to serve any allowed uses in Recreation Intensity Class 2. Parking spaces for campground units are to be included in this number.

C. Simple interpretive signs and displays, not to exceed a total of 100 square feet.

D. Entry name signs, not to exceed 20 square feet per sign.

E. Boat ramps, not to exceed two lanes.

F. Campgrounds for 20 units or less, tent sites only.

3. Recreation Intensity Class 3 (Moderate Intensity)

A. All uses permitted in Recreation Intensity Classes 1 and 2.

B. Parking areas for a maximum of 75 cars, to serve any allowed uses in Recreation Intensity Class 3. Parking spaces for campground units are to be included in this number.

C. Interpretive signs, displays and/or facilities.

D. Visitor information and environmental education signs, displays, or facilities.

E. Entry name signs, not to exceed 32 square feet per sign.

F. Boat ramps, not to exceed three lanes.

G. Concessions stands, pursuant to applicable policies in this chapter.

H. Campgrounds for 50 individual units or less, for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 3 campgrounds may also include one group campsite area, in addition to the allowed individual campground units or parking area maximums.

4. Recreation Intensity Class 4 (High Intensity)

A. All uses permitted in Recreation Intensity Classes 1, 2, and 3.

B. Parking areas for a maximum of 250 cars, to serve any allowed uses in Recreation Intensity Class 4. Parking spaces for campground units are to be included in this number.

C. Horseback riding stables and associated facilities.

D. Entry name signs, not to exceed 40 square feet per sign.

E. Boat ramps.

F. Campgrounds for 175 individual units or less, for tents and/or recreational vehicles, with a total density of no more than 10 units per acre (density to be measured based on total size of recreation facility and may include required buffer and setback areas). Class 4 campgrounds may also include up to three group campsite areas, in addition to allowed individual campsite units or parking area maximums.

Approval Criteria for Recreation Uses

1. For all proposed recreation projects outside of Public or Commercial Recreation designations, project applicants shall demonstrate compliance with the following criteria (if applicable) as a condition of project approval:

   A. Compliance with all applicable guidelines in this Management Plan for the protection of scenic, cultural, recreation, and natural resources. Cumulative effects of proposed recreation projects on landscape settings shall be based on the "Compatible Recreation Use Guideline" for the landscape setting in which the proposed project is located (see Part I, Chapter 1: Scenic Resources).

   B. For proposed recreation projects in or adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, compliance with the following:

      (1) The use would not seriously interfere with accepted forest or agricultural practices on surrounding lands devoted to forest or farm uses. Provision of onsite buffers may be used to partially or fully comply with this criterion, depending upon project design and/or site conditions.

      (2) A declaration has been signed by the project applicant or owner and recorded with county deeds and records specifying that the applicant or owner is aware that operators are entitled to carry on accepted forest or farm practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland.

   C. For proposed projects including facilities for outdoor fires for cooking or other purposes, or for proposed campgrounds, compliance with the following:

(1) The project applicant shall demonstrate that a sufficient quantity of water necessary for fire suppression (as determined pursuant to applicable fire codes or the county fire marshall) is readily available to the proposed facility, either through connection to a community water system or onsite wells, storage tanks, sumps, ponds or similar storage devices. If connection to a community water system is proposed, the project applicant shall demonstrate that the water system has adequate capacity to meet the facility's emergency fire suppression needs without adversely affecting the remainder of the water system with respect to fire suppression capabilities.

(2) To provide access for firefighting equipment, access drives shall be constructed to a minimum of 12 feet in width and a maximum grade of 12 percent. Access drives shall be maintained to a level that is passable to firefighting equipment.

D. For proposed trail or trailhead projects, compliance with applicable trails policies in the Management Plan.

E. For proposed projects providing boating or windsurfing access to the Columbia River or its tributaries, compliance with applicable "River Access and Protection of Treaty Rights" objectives in this chapter.

F. For proposed projects on public lands or proposed projects providing access to the Columbia River or its tributaries, compliance with guidelines for protection of tribal treaty rights in Part IV, Chapter 3: Indian Treaty Rights and Consultation.

G. For proposed projects that include interpretation of natural or cultural resources, demonstration that the interpretive facilities will not adversely affect natural or cultural resources and that appropriate and necessary resource protection measures shall be employed.

H. For proposed Recreation Intensity Class 4 projects (except for projects predominantly devoted to boat access), demonstration that the project accommodates provision of mass transportation access to the site. The number and size of the mass transportation facilities shall reflect the physical capacity of the site. This requirement may be waived upon a demonstration that providing such facilities would result in overuse of the site, either degrading the quality of the recreation experience or adversely affecting other resources at the site.

Facility Design Guidelines for All Recreation Projects

1. Recreation facilities that are not resource-based in nature may be included at sites providing resource-based recreation uses consistent with the guidelines and criteria in this chapter, as long as such facilities comprise no more than one-third of the

total land area dedicated to recreation uses and/or facilities. Required landscaped buffers may be included in calculations of total land area dedicated to recreation uses and/or facilities.

2. The facility design guidelines are intended to apply to individual recreation facilities. For the purposes of these guidelines, a cluster or grouping of recreational developments or improvements located relatively close to one another is considered an individual recreation facility.

   Developments or improvements within the same recreation intensity class are considered as separate facilities if they are separated by at least 1/4 mile of undeveloped land (excluding trails, pathways, or access roads).

3. Parking areas, access roads, and campsites shall be sited and designed to fit into the existing natural contours as much as possible, both to minimize ground-disturbing grading activities and to use topography to screen parking areas and associated structures. Parking areas, access roads, and campsites shall be sited and set back sufficiently from bluffs so they are visually subordinate as seen from key viewing areas.

4. Existing vegetation, particularly mature trees, shall be maintained to the maximum extent practicable, and used to screen parking areas and campsites from key viewing areas and satisfy requirements for perimeter and interior landscaped buffers.

5. Parking areas providing over 50 spaces shall be divided into discrete "islands" separated by unpaved, landscaped buffer areas.

6. Lineal frontage of parking areas and campsite loops on scenic travel corridors shall be minimized.

7. Ingress/egress points shall be consolidated to the maximum extent practicable, providing for adequate emergency access pursuant to applicable fire and safety codes.

8. Signage shall be limited to that necessary to provide relevant recreation or facility information, interpretive information, vehicular and pedestrian direction, and for safety purposes.

9. Exterior lighting shall be shielded, designed, and sited in a manner that prevents such lighting from projecting offsite or being highly visible from key viewing areas.

10. Innovative designs and materials that reduce visual impacts (such as "turf blocks" instead of conventional asphalt paving) shall be encouraged through incentives such as additional allowable parking spaces and reduced required minimum interior or perimeter landscaped buffers. If the county determines that potential visual

impacts have been substantially reduced by use of such designs and materials, it may allow either a) reductions of up to 50 percent of required minimum interior or perimeter landscape buffers, or b) up to 10 percent additional parking spaces.

11. A majority of trees, shrubs, and other plants in landscaped areas shall be species native or naturalized to the landscape setting in which they occur. The landscape setting design guidelines in Part I, Chapter 1 specify appropriate species.

12. All structures shall be designed so that height, exterior colors, reflectivity, mass, and siting enable them to blend with and not noticeably contrast with their setting.

13. Landscape buffers around the perimeter of parking areas accommodating more than 10 vehicles shall be provided. Minimum required widths are 5 feet for 20 vehicles or fewer, 20 feet for 50 vehicles or fewer, 30 feet for 100 vehicles or fewer, and 40 feet for 250 vehicles or fewer.

14. Interior landscaped buffers breaking up continuous areas of parking shall be provided for any parking areas with over 50 spaces. The minimum width of interior landscaped buffers separating each subarea of 50 spaces or less shall be 20 feet.

15. Within required perimeter and interior landscaped buffer areas, a minimum of one tree of at least 6 feet in height shall be planted for every 10 lineal feet as averaged for the entire perimeter width. A minimum of 25 percent of planted species in perimeter buffers shall be coniferous to provide screening during the winter. Project applicants are encouraged to place such trees in random groupings approximating natural conditions. In addition to the required trees, landscaping shall include appropriate shrubs, groundcover, and other plant materials.

16. Minimum required perimeter landscaped buffer widths for parking areas or campgrounds may be reduced by as much as 50 percent, at the discretion of the county, if existing vegetation stands and/or existing topography are used such that the development is not visible from any key viewing area.

17. Grading or soil compaction within the "drip line" of existing mature trees shall be avoided to the maximum extent practicable, to reduce risk of root damage and associated tree mortality.

18. All parking areas and campsites shall be set back from scenic travel corridors and the Columbia River and its major tributaries by at least 100 feet. Required perimeter landscaped buffers may be included when calculating such setbacks. Setbacks from rivers shall be measured from the ordinary high water mark. Setbacks from scenic travel corridors shall be measured from the edge of road pavements.

19. Project applicants shall use measures and equipment necessary for the proper maintenance and survival of all vegetation used to meet landscape standards, and shall be responsible for such maintenance and survival.

20. All parking areas shall be set back from property boundaries by at least 50 feet. All campsites and associated facilities shall be set back from property boundaries by at least 100 feet.

21. All proposed projects that are larger than those allowed in Recreation Intensity Classes 1-3, and are on lands classified Recreation Intensity Class 4 (except for proposals predominantly devoted to boat access) shall comply with Guideline H in "Approval Criteria for Recreation Uses" in this chapter regarding provision of mass transportation access.

Variances and Plan Amendments

1. A local government may grant a variance to the setback and buffer requirements contained in this chapter upon a finding that all of the following conditions exist:

    A. The proposed project is a public-use, resource-based recreation facility providing or supporting either recreational access to the Columbia River and its tributaries, or recreational opportunities associated with a scenic travel corridor.

    B. All reasonable measures to redesign the proposed project to comply with required setbacks and buffers have been explored, and application of those setbacks and buffers would prohibit a viable recreation use of the site as proposed.

    C. Resource impacts have been mitigated to less than adverse levels through design provisions and mitigation measures.

    D. The variance is the minimum necessary to accommodate the use.

2. A local government may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that all of the following conditions exist:

    A. Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from Scenic Area recreation demand studies shall be relied upon to meet this criterion in the absence of current applicable studies.

    B. The proposed use is dependent on resources present at the site.

    C. Reasonable alternative sites offering similar opportunities, including those in nearby Urban Areas, have been evaluated, and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

    D. The proposed use is consistent with the goals, objectives, and policies in this chapter.

E. Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural, or cultural resources and adjacent land uses.

F. Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

3. Proposals to change the recreation intensity class of an area shall require a Management Plan amendment, pursuant to policies 1 through 4 in "Amendment of the Management Plan" (Part IV, Chapter 1: Gorge Commission Role).

SMA PROVISIONS: OVERALL GOALS, POLICIES, AND GUIDELINES

SMA Goal

Protect and enhance recreation resources.

SMA Policies

1. Recreation Opportunity Spectrum settings (see glossary) shall be protected and enhanced.

2. All new developments and land uses shall protect recreation resources.

3. Recreation resources shall be protected by limiting development and uses, as designated in the recreation intensity class guidelines.

4. Recreation opportunities shall encourage and facilitate use by all sectors of the public, including ethnic groups, persons with disabilities, the elderly, and the young.

5. Only natural resource-based recreation shall be allowed.

6. Comprehensive recreation resource planning shall be encouraged to foster a unified, regional approach and de-emphasize jurisdictional divisions.

7. Proposed changes to the recreation intensity class of an area shall require a Management Plan amendment, subject to Gorge Commission approval and concurrence by the Forest Service.

8. Proposals in an area of Recreation Intensity Class 4 that exceed the guidelines for that class shall require county approval upon satisfaction of the exceptions criteria specified in the recreation intensity class guidelines.

9. When planning new interpretive or education programs and/or facilities, recommendations of the *Interpretive Strategy for the Columbia River Gorge National Scenic Area* shall be followed. (This document is available at the Gorge Commission office in White Salmon and the Forest Service office in Hood River.)

10. Alternate modes of transportation to destination recreation facilities are encouraged, including use of shuttles, waterway facilities, and rail travel, to facilitate visitation and reduce impacts to scenic, cultural, natural, and recreation resources.

SMA Guidelines

1. New developments and land uses shall not displace existing recreational use.

2. Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both onsite and offsite cumulative effects shall be required.

3. New pedestrian or equestrian trails shall not have motorized uses, except for emergency services.

4. Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

5. The facility guidelines are intended to apply to individual recreation facilities. For the purposes of these guidelines, a cluster or grouping of recreational developments or improvements located relatively close to one another is considered an individual recreation facility. Developments or improvements within the same recreation intensity class are considered as separate facilities if they are separated by at least 1/4 mile of undeveloped land (excluding trails, pathways, or access roads).

6. New development and reconstruction of scenic routes (see Part III, Chapter 1: Recreation Development Plan) shall include provisions for bicycle lanes.

7. A local government may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that all of the following conditions exist:

    A. Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National Scenic Area recreation demand studies shall be relied upon to meet the criterion in the absence of current applicable studies.

    B. The proposed use is dependent on resources present at the site.

    C. Reasonable alternative sites offering similar opportunities, including those in Urban Areas, have been evaluated, and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

    D. The proposed use is consistent with the goals, objectives, and policies in this chapter.

E. Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural, or cultural resources and adjacent land uses.

F. Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

G. Mass transportation shall be considered and implemented, if feasible, for all proposed variances to Recreation Intensity Class 4.

8. Proposals to change the recreation intensity class of an area shall require a Management Plan amendment pursuant to policies 1 through 4 in "Amendment of the Management Plan" (Part IV, Chapter 1: Gorge Commission Role).

9. The recreation intensity classes are designed to protect recreation resources by limiting land development and land uses.

SMA PROVISIONS: RECREATION INTENSITY CLASSES

SMA Guidelines

1. Recreation Intensity Class 1 (Very Low Intensity)

The emphasis is to provide opportunities for semi-primitive recreation.

A. Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.

B. The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.

C. The following uses may be permitted:

(1) Trails and trailheads.

(2) Parking areas.

(3) Dispersed campsites accessible only by a trail.

(4) Viewpoints and overlooks.

(5) Picnic areas.

(6) Signs.

(7) Interpretive exhibits and displays.

(8) Restrooms.

2. Recreation Intensity Class 2 (Low Intensity)

The emphasis is to provide opportunities for semi-primitive recreation.

A. Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.

B. The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity for parking areas shall be 25 vehicles.

C. All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

(1) Campgrounds for twenty (20) units or less, tent sites only. *(Revised: U.S. Sec.Ag. concurrence 7/1/11)*

(2) Boat anchorages designed for no more than 10 boats at one time.

(3) Swimming areas.

3. Recreation Intensity Class 3 (Moderate Intensity)

The emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.

A. Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

B. The maximum site design capacity shall not exceed 250 people at one time on the site. The maximum design capacity for parking areas shall be 50 vehicles. The GMA vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10 percent of the site.

C. Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 3 day-use recreation sites, except for sites predominantly devoted to boat access.

D. All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

(1) Campgrounds with improvements that may include vehicle access, water, power, sewer, and sewage dump stations. *(Revised: U.S. Sec. Ag. concurrence 7/1/11)*

(2) Boat anchorages designed for not more than 15 boats.

(3) Public visitor, interpretive, historic, and environmental education facilities.

(4) Full-service restrooms that may include showers.

(5) Boat ramps.

(6) Riding stables.

4. <u>Recreation Intensity Class 4 (High Intensity)</u>

The emphasis is on providing roaded natural, rural, and suburban recreation opportunities with a high level of social interaction.

A. Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

B. The maximum design capacity shall not exceed 1,000 people at one time on the site. The maximum design capacity for parking areas shall be 200 vehicles. The GMA vehicle capacity level of 250 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20 percent of the site.

C. Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 4 day-use recreation sites, except for sites predominantly devoted to boat access.

D. All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4.

CHAPTER

1

Agricultural Land

Agriculture in the Columbia River Gorge is varied and is distributed throughout the Scenic Area. It ranges from row crops, hay, and specialty crops in the western Gorge to orchards and vineyards in the central Gorge to wheat and rangeland in the east. It includes intensive practices involving irrigation and extensive operations involving the grazing of grasslands. Agriculture and its associated support industries (packing and processing, farm equipment, etc.) have historically been a vital part of the local economy, particularly in the central and eastern Gorge, and remain so today.

SCENIC AREA ACT PROVISIONS

The Scenic Area Act directs the Gorge Commission and the Forest Service to "protect and enhance agricultural lands for agricultural uses and to allow, but not require, conversion of agricultural lands to open space, recreation development or forest lands" [Section 6(d)(1)].

The Act defines agricultural lands to be those lands "used or suitable for the production of crops, fruits or other agricultural products, or the sustenance of livestock . . ." [Section 6(b)(2)].

KEY ISSUES

Agricultural lands are often the most easily developed lands for non-resource uses, such as residential and commercial. In the United States in recent decades, farmland has been converted to non-farm uses at a rate of 3 million acres per year.

In the Scenic Area, pressure to convert resource land is especially evident in the western and central parts of the Gorge. In the western Gorge, urban and suburban growth in the Portland/ Vancouver metropolitan area is putting pressure on eastern Multnomah County in the Corbett area and on eastern Clark County and western Skamania County. In the central Gorge, growth associated with sailboarding and recreation homesites is impacting agricultural lands in the Underwood, Hood River, Lyle, and Mosier areas.

Agricultural lands need to be protected for agricultural practices. Farm practices such as spraying herbicides and pesticides, noise from farm machinery, and odors can be unpleasant to nearby residents and others. Conversely, non-farm residences and other uses can introduce plants that are hosts to pests and virus into agricultural areas, and can introduce dogs and other pets that may harass farm animals.

The division of agricultural lands into parcels too small to be used in commercial operations promotes the fragmentation of otherwise viable farms. In turn, these parcels provide opportunities for non-farm dwellings and other uses to locate among agricultural lands. Besides the conflicts these uses may present to nearby farms, the parcels are often no longer used or made available for commercial farm use.

OVERVIEW OF AGRICULTURAL LAND PROVISIONS

This chapter is divided into three sections. A section addressing policies and guidelines for lands designated Agriculture in the GMA is followed by a section for lands designated Agriculture-Special in the GMA. The third section includes policies and guidelines for one Agriculture designation in the SMA.

The GMA Agriculture policies provide for two designations: Large-Scale and Small-Scale. These policies assure the protection of commercial agricultural lands, while recognizing existing areas where small-scale, part-time farms exist. Small-scale lands are those blocks of land that are suitable for part-time agriculture or an agricultural use too small to support workers or provide significant products for market or processors. These lands are not able to be consolidated with large-scale agricultural operations.

The GMA Agriculture policies also establish minimum parcel sizes that protect agricultural land from conversion to non-resource uses and are large enough to ensure efficient agricultural management. Land divisions in the SMA are not permitted by the Scenic Area Act.

Both the GMA and SMA provisions establish use policies and guidelines that protect agricultural land from conflicting uses and conversion. These provisions establish uses that may be allowed and the guidelines to be used to determine consistency with plan policies. GMA guidelines also establish buffers to be used to protect lands designated Agriculture from conflicting uses on adjacent lands.

Agriculture-Special lands are natural areas where there may be existing livestock grazing. The GMA policies for these lands prohibit cultivation to protect sensitive plant communities. And Agriculture-Special policies and guidelines encourage landowners to consider voluntary natural protection programs to protect native rangeland.

GMA PROVISIONS

LARGE-SCALE AND SMALL-SCALE AGRICULTURE

GMA Goal

Protect and enhance agricultural land for agricultural uses. Agricultural lands are those lands that are used for or suitable for agricultural use.

GMA Objectives

1. Enhance agriculture in areas designated Large-Scale Agriculture by encouraging the consolidation of small, inefficient parcels into larger, more efficient ownerships.

2. Support programs that provide tax incentives for continued agricultural use and enhance the competitive capabilities of farms and ranches, thereby encouraging the long-term enhancement, preservation, and expansion of agricultural lands. Support programs that encourage agricultural practices that preserve other natural resources.

GMA Policies

Designation Policies

1. Those lands that are currently being used to produce crops, fruits, or other agricultural products or for the sustenance of livestock shall be designated as Large-Scale or Small-Scale Agriculture.

2. Those lands that are classified as predominantly Class I through Class IV soils or are designated unique farmland by the U.S. Department of Agriculture Soil Conservation Service or local conservation district shall be designated as Large-Scale or Small-Scale Agriculture.

3. Those lands that are suitable for producing forage for livestock, including seasonal rangeland and areas used for calving, shall be designated as Large-Scale or Small-Scale Agriculture.

4. Those lands that are interspersed among lands suitable or used for agriculture shall be designated as Large-Scale or Small-Scale Agriculture in order to protect agricultural lands from conflicting uses.

5. Those lands that are suitable for both agriculture and forestry shall be designated as Large-Scale or Small-Scale Agriculture if the surrounding area is generally devoted to agriculture.

6. Blocks of land that have been committed by development to other uses shall not be deemed used for or suitable for agriculture.

7. The diversity of agricultural operations in the Scenic Area shall be recognized by distinguishing between Large-Scale and Small-Scale Agriculture.

    A. Blocks of agricultural land shall be designated as Large-Scale Agriculture if they:

(1) Are currently devoted to agriculture of a scale that is land intensive, employs workers, or provides significant products for markets or processors, or

(2) Have a combination of soil capability, size, and freedom from conflicting use that renders them suitable for large-scale agriculture or farm forestry.

B. Blocks of agricultural land shall be designated as Small-Scale Agriculture if they:

(1) Have little potential for consolidation with large-scale agricultural lands and are currently devoted to agriculture of a scale too small to support workers or provide a significant volume of products for markets or processors, and

(2) Have a combination of soil capability and size that provides an opportunity for direct marketing or part-time/second-income agriculture.

C. Small blocks of land that may by themselves be deemed Small-Scale Agriculture shall be designated as Large-Scale Agriculture if residential development of them would conflict with the resource use of adjacent lands designated Large-Scale Agriculture or Commercial Forest Land. Small blocks that are adjacent to Urban Areas, Residential, or Small Woodland land use designations or that are physically buffered by natural or manmade barriers from adjacent Large-Scale Agriculture and Commercial Forest Land designations may be considered for a Small-Scale Agriculture designation.

Land Use Policies

1. Conversion of agricultural land to forest land or open space shall be allowed.

2. Conversion of land from agriculture use to recreation shall be allowed when consistent with the guidelines established for the recreation intensity classes (Part I, Chapter 4: Recreation Resources) and the Recreation Development Plan (Part III, Chapter 1).

3. Agricultural land shall be protected from conflicts by limiting the number, size, proximity, and scale of conflicting uses on nearby lands.

4. Agricultural land shall be protected from conversion to residential land by establishing minimum lot sizes for the creation of new parcels that are adequate to maintain existing agricultural operations, and by specifying the uses that may occur and the conditions of approval.

5. Minimum lot sizes shall be established that are adequate to maintain agricultural operations and that:

   A. Recognize the diversity of type and scale of farms and ranches in the Scenic Area.

   B. Are large enough to ensure efficient agricultural management and to discourage speculative real estate investment.

   C. Take into account the common field size for crops or livestock, adjacent uses, parcel sizes in the area, common size or economic unit for farms and ranches in the area, the existing landscape setting, wildlife habitat, scenic sensitivity, and other factors.

6. The following minimum parcel sizes shall be established for the creation of new parcels:

   A. Large-Scale Agriculture

      (1) A 40-acre minimum shall be applied to those areas designated Large-Scale Agriculture that are predominantly used for intensive farm operations, including the production of row crops, berries, vineyards, irrigated orchard land, and nursery stock. Farm/forestry operations are common in these areas.

      (2) A 60-acre minimum shall be applied to those areas designated Large-Scale Agriculture that are predominantly used for non-irrigated orchard land. Dryland orchards require greater acreage to obtain production similar to irrigated orchards.

      (3) An 80-acre minimum shall be applied to those areas designated Large-Scale Agriculture that are predominantly used for haying and pasturing. Production of crops may also occur in the area. Farm/forestry operations are common in these areas.

      (4) A 160-acre minimum shall be applied to those areas designated Large-Scale Agriculture that are predominantly used for extensive operations, primarily livestock grazing. Livestock and wheat ranches are common in these areas.

      (5) Where a larger minimum parcel size is required by the Management Plan to protect a resource other than agricultural land, the larger minimum size shall apply.

B. Small-Scale Agriculture

(1) A minimum parcel size for lands designated Small-Scale Agriculture shall be established using the criteria prescribed in land use Policy 5, above. Except as provided for in Policy 7, below, the minimum parcel size shall not be less than 20 acres.

7. Local governments may allow creation of parcels smaller than the designated minimum parcel size in the Small-Scale Agriculture designation, and award a density bonus, in order to cluster new residences to protect scenic, cultural, natural, or recreation resources.

8. Agricultural use shall be allowed in areas designated Large-Scale or Small-Scale Agriculture.

9. Agricultural buildings shall be allowed in areas designated Large-Scale or Small-Scale Agriculture if they are shown to be accessory to agricultural use.

10. Single-family dwellings shall be allowed in areas designated Large-Scale Agriculture when:

A. A farm dwelling is shown to be in conjunction with and substantially contributes to the effective and efficient current agricultural use of a farm or ranch, or

B. A non-farm dwelling is shown not to convert land from agricultural use and not to interfere or conflict with agriculture on nearby lands.

11. All legally created, undeveloped parcels in a Small-Scale Agriculture designation are entitled to a single-family dwelling. Qualified agricultural labor housing may also be allowed.

12. Specified non-agricultural uses, such as buildings accessory to an existing residence, may be allowed, subject to review to minimize the loss of agricultural land and to prevent interference with agricultural uses. Non-agricultural uses that would interfere with agricultural operations shall not be allowed.

13. Agriculture shall be enhanced by allowing processing and packing of agricultural products and uses that offer direct marketing opportunities, subject to review to minimize the loss of agricultural land and to limit the size and scale of use.

GMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Large-Scale Agriculture or Small-Scale Agriculture.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Large-Scale Agriculture or Small-Scale Agriculture.

Review Uses

1. The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

    A. New cultivation, subject to compliance with guidelines for the protection of cultural resources (Part I, Chapter 2: Cultural Resources) and natural resources (Part I, Chapter 4: Natural Resources).

    B. Agricultural structures, except buildings, in conjunction with agricultural use.

    C. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Part II, Chapter 7: General Policies and Guidelines).

    D. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 1.E or Guideline 1.F below.

    E. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

        (1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

F. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(3) The height of any individual accessory building shall not exceed 24 feet.

G. The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Part II, Chapter 7: General Policies and Guidelines).

H. On lands designated Large-Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(1) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

(2) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, as defined under "Designation Policies," where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy Guideline (3)(d), below.

(3) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(a) Size of the entire farm or ranch, including all land in the same ownership.

(b) Type(s) of agricultural uses (crops, livestock) and acreage.

(c) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(d) Income capability. The farm or ranch, and all its constituent parcels, must be capable of producing at least $40,000 in gross annual income. This determination can be made using the following formula:

$$(A)(B)(C) = I$$

where:

A = Average yield of the commodity per acre or unit of production
B = Average price of the commodity
C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch
I = Income capability

I. On lands designated Large-Scale Agriculture, a second single-family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling that is included in, or eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria listed in GMA Policy 10.A in Part I, Chapter 2: Cultural Resources.

J. On lands designated Small-Scale Agriculture, a single-family dwelling on any legally existing parcel.

K. On lands designated Large-Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(1) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister.

(2) The dwelling would be located on the same parcel as the dwelling of the principal operator.

(3) The operation is a commercial enterprise, as determined by an evaluation of the factors described in Guideline 1.H(3) under "Review Uses" in this section.

L. Construction, reconstruction, or modifications of roads not in conjunction with agriculture.

M. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in

"Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

N. Structures associated with hunting and fishing operations.

O. Towers and fire stations for forest fire protection.

P. Agricultural labor housing, under the following conditions:

(1) The proposed housing is necessary and accessory to a current agricultural use.

(2) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months.

(3) The housing shall be located to minimize the conversion of lands capable of production of farm crops or livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

Q. On lands designated Large-Scale Agriculture, on a parcel that was legally created and existed prior to November 17, 1986, a single-family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(1) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands.

(2) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location, and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be used in conjunction with other agricultural operations in the area.

(3) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required in "Agricultural Buffer Zones," below, or designated Commercial Forest Land or Large or Small Woodland, as required in "Siting of Dwellings on Forest Land" (Part II, Chapter 2: Forest Land).

(4) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, Large or Small Woodland.

(5) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

R. On parcels in Small-Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (Part II, Chapter 7: General Policies and Guidelines). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

S. Life estates, subject to the guidelines for life estates in "Approval Criteria for Life Estates," below.

T. Land divisions, subject to the guidelines for minimum parcel sizes in land use Policy 6, above.

U. Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).

V. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

W. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

X. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

Y. Commercial events, subject to the guidelines in "Commercial Events" (Part II, Chapter 7: General Policies and Guidelines).

Z. Special uses in historic buildings, subject to the guidelines in “Special Uses in Historic Buildings” (Part II, Chapter 7: General Policies and Guidelines).

2. The following uses may be allowed on lands designated Large-Scale or Small-Scale Agriculture, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources and the "Approval Criteria for Specified Review Uses," below.

   A. Utility facilities and railroads necessary for public service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural or forest lands, and (2) the size is the minimum necessary to provide the service.

   B. Home occupations or cottage industries in existing residential or accessory structures, subject to the guidelines in "Home Occupations and Cottage Industries" (Part II, Chapter 7: General Policies and Guidelines).

   C. Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

   D. Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.

   E. Wine sales/tasting rooms, in conjunction with an on-site winery.

   F. Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

   G. Exploration, development, and production of mineral and geothermal resources, subject to the guidelines in Part I, Chapter 1: Scenic Resources.

   H. Personal-use airstrips, including associated accessory structures such as a hangar. A personal-use airstrip is an airstrip restricted (except for aircraft emergencies) to use by the owner; invited guests on an infrequent and occasional basis; and commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airstrip other than those owned or controlled by the owner of the airstrip.

   I. Aquaculture.

   J. Recreation development, subject to the recreation intensity class provisions (Part I, Chapter 4: Recreation Resources) and Recreation Development Plan (Part III, Chapter 1).

K. Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

L. Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

M. Bed and breakfast inns in single-family dwellings, subject to the guidelines in "Bed and Breakfast Inns" (Part II, Chapter 7: General Policies and Guidelines) and provided that the residence:

(1) Is included in the National Register of Historic Places, or

(2) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(3) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

N. Nonprofit, environmental learning or research facilities.

O. Expansion of existing school or place of worship.

P. On parcels designated Small-Scale Agriculture, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (Part II, Chapter 7: General Policies and Guidelines).

Q. Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Part II, Chapter 7: General Policies and Guidelines).

Agricultural Buffer Zones

1. All new buildings shall comply with the following guidelines when proposed to be located on a parcel adjacent to lands that are designated Large-Scale or Small-Scale Agriculture and are currently used for or are suitable for agricultural use:

SETBACK GUIDELINES

Type of Buffer (Size in Feet)

Type of Agriculture	*Open or Fenced*	*Natural or Created Vegetation Barrier*	*8-foot Berm or Terrain Barrier*
Orchards	250	100	75
Row crops/ Vegetables	300	100	75
Livestock grazing Pasture, haying	100	15	20
Grains	200	75	50
Berries, vineyards	150	50	30
Other	100	50	30

2. Earth berms may be used to satisfy, in part, the setback guidelines. The berm shall be a minimum of 8 feet in height, and contoured at 3:1 slopes to look natural. Shrubs, trees, and/or grasses shall be employed on the berm to control erosion and achieve a finished height of 15 feet.

3. The planting of a continuous vegetative screen may be used to satisfy, in part, the setback guidelines. Trees shall be at least 6 feet high when planted and reach an ultimate height of at least 15 feet. The vegetation screen shall be planted along the appropriate parcel line(s), and shall be continuous.

4. The necessary berming and/or planting shall be completed during the first phase of development and maintained in good condition.

5. If several crops or crop rotation is involved in the adjacent operation, the greater setback shall apply.

6. A local government may grant a variance to the buffer guidelines upon a demonstration that the variance guidelines in "Variances from Setbacks and Buffers" (Part II, Chapter 7: General Policies and Guidelines) have been satisfied.

Approval Criteria for Life Estates

1. A landowner who sells or otherwise transfers real property on lands designated Large-Scale or Small-Scale Agriculture may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in the Management Plan. A second dwelling in conjunction with agricultural use may be allowed, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

    A. The proposed dwelling is in conjunction with agricultural use, using Guideline 1.H of "Review Uses" in this chapter.

    B. Upon termination of the life estate, the original or second dwelling shall be removed.

Approval Criteria for Specified Review Uses

1. The uses identified under Guideline 2 under "Review Uses," above, may be allowed only if they meet both of the following criteria:

    A. The use is compatible with agricultural uses and would not force a change in or significantly increase the cost of accepted agricultural practices on nearby lands devoted to agricultural use.

    B. The use will be sited to minimize the loss of land suitable for the production of crops or livestock.

AGRICULTURE-SPECIAL

GMA Goals

1. Ensure that new uses do not adversely affect natural areas that are potentially eligible for the Oregon Register of Natural Heritage Resources or the Washington Register of Natural Areas Program.

2. Encourage landowners to enhance those portions of natural areas that are in fair or poor condition.

GMA Objectives

1. Inform landowners and agency officials about voluntary natural area protection programs that are conducted by state agencies and nonprofit organizations, such as the Oregon Natural Heritage Program, the Washington Natural Heritage Program, and The Nature Conservancy.

2. Assist owners of natural areas who wish to realize benefits from programs that promote long-term protection of open space values by informing them of opportunities such as property tax relief through special assessment programs, income tax benefits through charitable donations, or acquisition by government agencies or nonprofit organizations.

GMA Policies

1. Natural areas that are potentially eligible for the Oregon Register of Natural Heritage Resources or the Washington Register of Natural Areas Program shall be designated as Open Space or Agriculture-Special.

2. Potentially eligible natural areas that are primarily rangeland and substantially contribute to existing livestock operations shall be designated Agriculture--Special if continued livestock grazing would not adversely affect native plant communities or rare plants.

   The Oregon and Washington Natural Heritage Programs have concluded that continued livestock grazing is compatible with the following natural areas: Celilo Ridge and Crates Point, Oregon, and Columbia Hills and Horsethief Ponds, Washington. These natural areas are designated Agriculture-Special.

3. Potentially eligible natural areas that would be adversely affected by intensive uses shall be designated as Open Space. The following natural areas are designated Open Space: Chenoweth Table, Columbia Oaks, Rowena Plateau, and Squally Point, Oregon; and Columbia Tunnels, Lower Klickitat River Canyon, and Mosley Lakes, Washington.

4. The Gorge Commission, in consultation with the Oregon and Washington Natural Heritage Programs, have prepared guidelines that specify what uses may be allowed in each natural area. Uses that would adversely affect native plant communities and rare plants shall be prohibited in natural areas. Guidelines for natural areas designated Agriculture-Special are presented in this section, below. Guidelines for natural areas designated Open Space are found in Part II, Chapter 4: Open Space.

5. Landowners and agency officials shall be encouraged to rehabilitate those portions of natural areas that have been degraded and invaded by non-native plant species and weeds. Rehabilitation may be accomplished through a variety of means, including soil and water conservation planning, weed control, and livestock management.

GMA Guidelines

Uses Allowed Outright for Lands Designated Agriculture-Special

1. The following uses may be allowed on lands designated Agriculture-Special without review:

    A. Existing livestock grazing. A livestock operation ceases to be existing when the land on which it is conducted has lain idle for more than 5 years.

    B. Repair, maintenance, and operation of existing and serviceable structures, trails, roads, railroads, and utility facilities.

    C. Low-intensity recreation uses that occur with the knowledge and permission of the landowner, including hunting, fishing, trapping, native plant study, birdwatching, photography, horseback riding, and hiking.

    D. Temporary livestock facilities, such as portable livestock pens and corrals.

    E. New fences that exclude livestock from lands that are not part of an existing livestock operation.

Uses Allowed through the Expedited Review Process

1. The uses listed in “Expedited Development Review Process” (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Agriculture-Special.

Review Uses for Lands Designated Agriculture-Special

1. The following uses may be allowed on lands designated Agriculture-Special, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and "Approval Criteria for Review Uses on Lands Designated Agriculture-Special" in this section.

    A. New livestock grazing. Any operation that would introduce livestock to land that has not been grazed, or has laid idle, for more than 5 years shall be considered new livestock grazing.

    B. New fences, livestock watering facilities, and corrals.

    C. Soil, water, and vegetation conservation uses.

    D. Replacement or minor expansion of existing and serviceable structures within a dedicated site. Expansion shall be limited to the dedicated site.

E. Fish and wildlife management uses, educational activities, and scientific research.

F. Land divisions that facilitate livestock grazing or protect and enhance natural areas. No resulting parcel may be smaller than 160 acres, unless it would facilitate the protection of scenic, cultural, natural, or recreation resources.

G. Single-family dwellings that are not in conjunction with agricultural use, if a landowner demonstrates that (1) the dwelling cannot be constructed on a portion of the parcel that is located outside of the natural area, and (2) the dwelling is sited and designed in a manner that minimizes adverse effects to the natural area. All dwellings shall meet the criteria in Guideline 1.Q of "Review Uses" (Part II, Chapter 1: Agricultural Land). The buffer guidelines for non-agricultural dwellings may be waived if they would prevent the optimum siting of a dwelling.

H. Recreation uses, subject to the provisions for recreation intensity classes (in Part I, Chapter 4: Recreation Resources).

I. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

J. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

K. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

L. Lot line adjustments, subject to the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).

Approval Criteria for Review Uses on Lands Designated Agriculture-Special

1. A range conservation plan shall be prepared before new livestock grazing commences; new fences, livestock watering facilities, and corrals are constructed; or soil, water, and vegetation conservation activities are undertaken (review uses 1.A, 1.B, and 1.C). Range conservation plans are described under "Range Conservation Plans" below.

2. The local government shall submit all land use applications and range conservation plans to the Oregon or Washington Natural Heritage Program. The

state heritage program will have 20 days from the date that an application and/or plan is mailed to submit written comments to the local government.

The local government shall record and address any written comments submitted by the state heritage program in its development review order.

3. Based on the comments from the state heritage program, the local government shall make a final decision on whether the proposed use is consistent with the Agriculture-Special policies and guidelines. If the final decision contradicts the comments submitted by the state heritage program, the local government shall justify how it reached an opposing conclusion.

Uses Prohibited on Lands Designated Agriculture-Special

1. Except for uses allowed outright and review uses, new uses shall be prohibited on lands designated Agriculture-Special. Prohibited uses include, but are not limited to:

   A. Cultivation, including plowing, harrowing, leveling, tilling, or any activity that prepares land for raising crops by turning, breaking up, or loosening the soil.

   B. Removal or clearing of native grasses, shrubs, and trees.

   C. Single-family dwellings and accessory structures, other than non-agricultural dwellings allowed as a review use.

   D. Barns, silos, and other agricultural buildings.

   E. Irrigation systems.

   F. Exploration, development, and production of mineral resources.

   G. Utility facilities, public use facilities, and roads.

Range Conservation Plans

1. If a range conservation plan is required before a use is allowed, it shall be prepared by landowners in cooperation with range scientists from local conservation districts. Specialists from the Oregon or Washington Natural Heritage Program should be consulted while the plan is being prepared.

2. Range conservation plans shall ensure that new uses do not adversely affect natural areas. They shall accomplish the following goals:

   A. Maintain native rangeland that is in excellent or good condition; enhance rangeland that is in fair or poor condition.

B. Preserve native trees and shrubs.

C. Reestablish native grasses in degraded areas that have been invaded by non-native plants and weeds.

3. Range conservation plans shall include the following elements:

A. Range inventory. This shall include existing composition, carrying capacity, and condition of rangeland; the location of rare plants and non-native weeds; and existing fences, watering ponds, and other range improvements.

B. Rehabilitation plan. This shall include actions that will be taken to rehabilitate native rangeland that is in fair or poor condition, such as weed and soil erosion control, seeding, and prescribed burning.

C. Livestock management plan. This shall include the grazing system that will be used, including number and size of pastures, expected livestock numbers, and grazing/deferral periods and sequence. Management plans shall project livestock movements for at least 3 years.

D. Monitoring program. This shall track the annual progress of the conservation plan and condition of the range. Monitoring techniques shall be described, such as line transects or photographic plots.

SMA PROVISIONS

SMA Goal

Protect and enhance lands that are used or suitable for agricultural uses.

SMA Policies

1. Only lands determined to be used or suitable for agricultural purposes may be designated Agriculture.

2. Lands that are classified as predominantly Class I through Class IV soils, or are designated unique farmlands by the U.S. Department of Agriculture Soil Conservation Service or local conservation district, or are suitable for producing forage for livestock, are considered suitable for designation as Agriculture.

3. Other lands that are interspersed among lands used or suitable for agricultural purposes may be designated Agriculture in order to protect agricultural lands from conflicting uses.

4. Use of agricultural land for forest, open space, or public recreation is allowed and shall comply with the appropriate land use designation policies and guidelines. Use of agricultural land for commercial recreation is allowed and shall comply with the provisions of Part I, Chapter 4: Recreation Resources.

5. Conversion of lands designated Agriculture to Forest Land or to Open Space is allowed.

6. Agricultural lands shall be protected by minimizing adjacent land use conflicts.

7. Existing and new programs that promote farm practices that conserve and enhance natural resources shall be encouraged and facilitated.

8. The use of agricultural lands for public recreation or commercial recreation shall be allowed when consistent with the provisions of Part I, Chapter 4: Recreation Resources.

9. New dwellings shall not be permitted on parcels of land of less than 40 contiguous acres.

10. Structures, new dwellings, and agricultural buildings shall maintain the visual character of the landscape setting.

11. New dwellings and agricultural buildings shall only be allowed in areas designated Agriculture if they are shown to be necessary for and accessory to agricultural use.

12. Scenic, cultural, natural, and recreation resource guidelines shall be applied to new land uses and developments.

13. All National Forest System lands shall be subject to the laws and regulations pertaining to National Forest lands, including the National Environmental Policy Act (NEPA), and the Mt. Hood National Forest Land and Resource Management Plan, and the Gifford Pinchot National Forest Land and Resource Management Plan, as amended by the Northwest Forest Plan. The most protective standards of the National Scenic Area Management Plan or the respective Forest Land and Resource Management Plans (as amended by the Northwest Forest Plan) shall apply to National Forest System lands.

SMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Agriculture.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Agriculture.

Review Uses

1. The following uses may be allowed on lands designated Agriculture subject to review for compliance with the scenic, cultural, natural, and recreation resource guidelines. The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock.

    A. New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 1.W of Part II, Chapter 2: Forest Land.

    B. Forest uses and practices, as allowed for in Part II, Chapter 2: Forest Land.

    C. A single-family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

        (1) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(2) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day-to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy Guideline (3)(d), below.

(3) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(a) Size of the entire farm or ranch, including all land in the same ownership.

(b) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(c) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(d) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least $40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

$$(A)(B)(C) = I$$

where:

A = Average yield of the commodity per acre or unit of production
B = Average price of the commodity
C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch
I = Income capability

(4) Minimum parcel size of 40 contiguous acres.

D. Farm labor housing on a parcel with an existing dwelling under the following conditions:

(1) The proposed housing is necessary and accessory to a current agricultural use, and the operation is a commercial agricultural enterprise as determined by an evaluation of the criteria listed in Guideline 1.C(3) under "Review Uses," above.

(2) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed 9 months.

(3) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(4) Minimum parcel size of 40 contiguous acres. *(Added: U.S. Sec. Ag. concurrence 7/1/11)*

E. Agricultural structures, except buildings, in conjunction with agricultural use.

F. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Part II, Chapter 7: General Policies and Guidelines).

G. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 1.H or Guideline 1.I below.

H. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

I. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(3) The height of any individual accessory building shall not exceed 24 feet.

J. Home occupations and cottage industries, subject to the guidelines in "Home Occupations and Cottage Industries" (Part II, Chapter 7: General Policies

and Guidelines). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

K. Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (Part II, Chapter 7: General Policies and Guidelines). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

L. Fruit stands and produce stands, upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

M. Aquaculture.

N. Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the SMA.

O. Utility facilities necessary for public service, upon a showing that:

(1) There is no alternative location with less adverse effect on Agriculture lands.

(2) The size is the minimum necessary to provide the service.

P. Temporary asphalt/batch plant operations related to public road projects, not to exceed 6 months.

Q. Community facilities and nonprofit facilities related to agricultural resource management.

R. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

S. Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

T. Public recreation, commercial recreation, interpretive, and educational developments and uses, consistent with the guidelines in Part I, Chapter 4: Recreation Resources.

U. Road and railroad construction and reconstruction.

V. Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

W. On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Part II, Chapter 7: General Policies and Guidelines).

X. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

Y. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

Z. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

AA. Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Part II, Chapter 7: General Policies and Guidelines).

CHAPTER

2

Forest Land

The forest products industry historically was a mainstay of the Gorge economy. Its role has diminished in recent decades. The industry depends on lands inside and outside the Scenic Area for logs. Forest lands within the Scenic Area include parts of the Mt. Hood National Forest in Oregon and the Gifford Pinchot National Forest in Washington. The State of Washington owns substantial areas of land managed by the Department of Natural Resources. There are also large holdings of industrial forest land and substantial non-industrial, small woodlands within the Scenic Area.

SCENIC AREA ACT PROVISIONS

The Scenic Area Act directs the Gorge Commission and the Forest Service to "protect and enhance forest lands for forest uses and to allow, but not require, conversion of forest to agricultural lands, recreation development or open spaces" [Section 6(d)(2)].

The Act defines forest lands to be those lands "used or suitable for the production of forest products" [Section 6(b)(3)].

Section 17(c) of the Act precludes the regulation of forest practices within the GMA. SMA forest practices, specifically "the management, utilization or disposal of timber resources," are not exempted from regulation stemming from the Act.

KEY ISSUES

The amount of land used for timber production in Washington and Oregon is on the decline. Public and private forest lands available for harvest are shrinking as a result of a number of factors, including conversion to non-forest uses and allocation of forest land by public agencies to other uses that preclude forest practices. Because public agencies, primarily those dealing with federal lands, are decreasing the acreage of land available for harvest, it is increasingly important that private industrial and non-industrial forest lands are managed and protected for the production of forest products.

Forest lands need to be protected from direct conversion to non-resource use and from conflicts with adjacent land uses that impede accepted forest practices and provide disincentives to forest management. Land divisions in forest lands need to discourage speculation in forest and recreation homesites and provide the opportunity for continuous growing and harvesting in an economically efficient manner. As

with agricultural lands, there are increasing conversion pressures placed upon forest lands from Portland/Vancouver metropolitan area growth and the expansion of tourism and recreation in the central Gorge.

OVERVIEW OF FOREST LAND PROVISIONS

The GMA provisions provide for three forest designations: Commercial Forest Land, Large Woodland, and Small Woodland. These designations ensure protection of all forest land that can contribute to the production of forest products, and recognize the different levels of management occurring in the Scenic Area. SMA policies designate Non-Federal and Federal forest land.

GMA policies only allow land divisions in the Commercial Forest and Large Woodland designations when necessary to facilitate forest management. Minimum parcel sizes in the Small Woodland designation protect forest land from conversion and ensure efficient forest management. The Scenic Area Act precludes land divisions in the SMA.

Both the GMA and SMA provisions establish use policies and guidelines that protect forest land from conflicting uses and conversion. Guidelines establish uses that may be allowed and criteria to be used to determine consistency with plan policies. GMA guidelines also establish fire protection criteria and siting criteria for dwellings that both protect forest land and maximize the efficient use of a parcel. Dwellings are not permitted on parcels less than 40 acres in size within the SMA.

SMA provisions also establish policies and guidelines for the review of forest practices in order to protect and enhance scenic, cultural, natural, and recreation resources.

GMA PROVISIONS

GMA Goal

Protect and enhance forest land for forest uses. Forest lands are those lands that are used for or suitable for the production of forest products.

GMA Objectives

1. Enhance forestry on lands designated Commercial Forest Land or Large or Small Woodland by encouraging consolidation of small, inefficient parcels into more efficient ownerships.

2. Enhance forestry by encouraging Washington and Oregon to consider grants and loans to secondary processors of forest products under Section 11 of the Scenic Area Act and other economic development programs.

GMA Policies

Designation Policies

1. Those lands that are used for the production of forest products shall be designated as Commercial Forest Land or Large or Small Woodland.

2. Those lands that are capable of growing 50 cubic feet per acre per year or more of merchantable tree species shall be designated as Commercial Forest Land or Large or Small Woodland.

3. In order to protect forest lands from conflicting uses, those lands that are interspersed among and part of other lands that are used or suitable for forestry shall be designated as Commercial Forest Land or Large or Small Woodland.

4. Lands that have been committed by development to other uses shall not be deemed suitable for or used for forestry.

5. Those lands suitable for both forestry and agriculture shall be designated as Commercial Forest Land or Large or Small Woodland if the surrounding area is generally devoted to lands used for the production of forest products.

6. The diversity of forest operations within the Scenic Area shall be recognized by establishing different minimum parcel sizes and different dwelling standards that reflect differences in type of forestry operations, considering the following factors:

   A. Ownership class (industrial, non-industrial, public, etc.).

   B. Productivity of forest land.

   C. Size of ownership.

   D. Surrounding land use.

   E. Proximity to other types of forest land.

   F. Availability of structural fire protection services.

7. Forest designations shall include the following:

   A. Blocks of forest land shall be designated as Commercial Forest Land if they:

      (1) Contain lands in the industrial and public ownership classes that occur in large tracts (predominantly 160 acres or larger), have few residences, and are generally bounded by other lands in the same ownership

classes or by lands designated Large Woodland (predominantly 80 acres or larger).

(2) Contain lands in the non-industrial ownership class that occur in large tracts (predominantly 80 acres or larger), have few residences, have no organized structural fire protection services, are capable of growing 85 cubic feet per acre per year or more of merchantable tree species, and are generally bounded by lands in the large non-industrial, public, or industrial ownership classes.

B. Blocks of forest land shall be designated as Large Woodland if they:

(1) Contain lands in the non-industrial ownership class that occur in large tracts (predominantly 80 acres or larger), have few residences, have no organized structural fire protection services, are capable of growing 50 cubic feet per acre per year or more of merchantable tree species, and are generally bounded by other lands in the same ownership class or by lands in the industrial class.

C. Blocks of forest land shall be designated as Small Woodland if they:

(1) Contain lands in the non-industrial ownership class that occur in smaller tracts (predominantly 20 acres or larger), have organized structural fire protection services, are capable of growing 50 cubic feet per acre per year or more of merchantable tree species, and are generally bounded by other lands in the same ownership class or lands devoted to non-forest uses.

D. Small blocks of land that may themselves be deemed Large or Small Woodland shall be designated as Commercial Forest Land if residential development of them would conflict with the use of adjacent Commercial Forest Land or Large-Scale Agriculture land. Small blocks that are adjacent to Urban Areas, Residential, or Small-Scale Agriculture designations or that are physically buffered by natural or manmade barriers from adjacent Commercial Forest Land or Large-Scale Agriculture designations may be considered for Large or Small Woodland designations.

E. Lands shall be designated as Commercial Forest Land if they are within forest areas that are currently used for or suitable for Large-Scale Agriculture, but would otherwise qualify for designation as Commercial Forest Land or Large Woodland.

Land Use Policies

1. Conversion of forest land to agriculture or open space shall be allowed.

2. Conversion of forest land to recreation shall be allowed when consistent with the guidelines established for the recreation intensity classes (Part I, Chapter 4: Recreation Resources) and the Recreation Development Plan (Part III, Chapter 1).

3. Forest land shall be protected from uses on nearby lands that conflict with the production of forest products by limiting the number, size, proximity, and scale of conflicting uses on nearby lands.

4. Forest land shall be protected from conversion to residential use by establishing minimum sizes for the creation of new parcels and by specifying the uses that may occur and the conditions of approval on lands designated Commercial Forest Land or Large or Small Woodland.

5. Land divisions of lands designated Commercial Forest Land or Large Woodland shall be allowed to facilitate forest management. No resulting parcel may be less than 80 acres in size.

6. Lands designated Commercial Forest Land or Large Woodland may be divided to facilitate protection of scenic, cultural, natural, or recreation resources. Resulting parcel(s) may be used only for the purpose intended at the time of creation of the parcel(s) or for agriculture or forest use.

7. A minimum size shall be established for the creation of new parcels on lands designated Small Woodland, considering the common size of forest units in the area, the impact on management efficiency, the existing landscape setting, wildlife habitat, and other resource factors.

8. Lands designated Small Woodland may be divided into parcels as large or larger than the specified minimum parcel size, subject to the guidelines for land divisions in "Land Divisions and Cluster Development" (Part II, Chapter 7: General Policies and Guidelines). No resulting parcel may be less than 20 acres in size.

9. Local governments may allow creation of parcels smaller than the designated minimum parcel size on lands designated Small Woodland, and award a density bonus, in order to protect scenic, cultural, natural, or recreation resources.

10. Dwellings shall be allowed in conjunction with agriculture on lands designated Commercial Forest Land.

11. New residences shall be allowed on lands designated Large Woodland if they are shown to contribute substantially to effective and efficient growing, propagation, and harvesting of forest tree species.

12. Single-family dwellings shall be allowed in areas designated Small Woodland when:

    A. A dwelling is shown to be in conjunction with the growing, propagation, and harvesting of forest tree species, or

B. A dwelling is on a parcel shown not to be eligible for enrollment in the subject state's forest assessment program.

13. Forest lands shall be protected and enhanced by establishing fire protection standards for new structures located on lands designated Commercial Forest Land or Large or Small Woodland.

GMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Commercial Forest Land, Large Woodland, or Small Woodland.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Commercial Forest Land, Large Woodland, or Small Woodland.

Review Uses

1. The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. On lands designated Large Woodland, a single-family dwelling upon a demonstration that all of the following conditions exist:

      (1) The dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The principal purpose for locating a dwelling on lands designated Large Woodland is to enable the resident to conduct efficient and effective forest management. This requirement indicates a relationship between ongoing forest management and the location of a dwelling on the subject parcel. A dwelling may not always be required for forest management.

      (2) The subject parcel has been enrolled in the appropriate state's forest assessment program.

      (3) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the appropriate local government. The plan must

indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor and expenses; and how the dwelling will contribute toward the successful completion of the operations.

(4) The parcel has no other dwellings that are vacant or currently occupied by persons not engaged in forestry and that could be used as the principal forest dwelling.

(5) The dwelling complies with the "Approval Criteria for the Siting of Dwellings on Forest Land" and "Approval Criteria for Fire Protection" in this chapter.

(6) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

B. On lands designated Small Woodland, one single-family dwelling on a legally created parcel upon the parcel's enrollment in the appropriate state's forest assessment program. Upon a showing that a parcel cannot qualify, a parcel is entitled to one single-family dwelling. In either case, the location of a dwelling shall comply with the "Approval Criteria for the Siting of Dwellings on Forest Land" and "Approval Criteria for Fire Protection" in this chapter. A declaration shall be signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted farm or forest practices on lands designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture.

C. One single-family dwelling if shown to be in conjunction with and substantially contributing to the current agricultural use of a farm. Guideline 1H of "Review Uses" (Part II, Chapter 1: Agricultural Land) shall be used to determine whether a dwelling is a farm dwelling. The siting of the dwelling shall comply with the "Approval Criteria for Fire Protection" in this chapter.

D. Temporary onsite structures that are auxiliary to and used during the term of a particular forest operation. "Auxiliary" means a use or alteration of a structure or land that provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located onsite, is temporary in nature, and is not designed to remain for the forest's entire

growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

E. Temporary portable facility for the primary processing of forest products grown on a parcel of land or contiguous land in the same ownership where the facility is to be located. The facility shall be removed upon completion of the harvest operation.

F. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

G. Structures associated with hunting and fishing operations.

H. Towers and fire stations for forest fire protection.

I. Agricultural structures, except buildings, in conjunction with agricultural use, subject to the "Approval Criteria for Fire Protection" in this chapter.

J. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the "Approval Criteria for Fire Protection" in this chapter and the standards in "Agricultural Buildings" (Part II, Chapter 7: General Policies and Guidelines).

K. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 1.L or Guideline 1.M below.

L. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" and "Approval Criteria for Fire Protection" in this chapter and the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

M. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" and "Approval Criteria for Fire Protection" in this chapter and the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(3) The height of any individual accessory building shall not exceed 24 feet.

N. The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Part II, Chapter 7: General Policies and Guidelines) and the "Approval Criteria for the Siting of Dwellings on Forest Land" and "Approval Criteria for Fire Protection" in this chapter.

O. A second single-family dwelling for a farm operator's relative, subject to Guideline 1.K of "Review Uses" (Part II, Chapter 1: Agricultural Land) and the "Approval Criteria for Siting of Dwellings on Forest Land" and "Approval Criteria for Fire Protection" in this chapter.

P. Private roads serving a residence, subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" and "Approval Criteria for Fire Protection" in this chapter.

Q. Recreation development, subject to the guidelines established for the recreation intensity classes (Part I, Chapter 4: Recreation Resources) and the Recreation Development Plan (Part III, Chapter 1).

R. Construction or reconstruction of roads or modifications not in conjunction with forest use or practices.

S. Agricultural labor housing, under the following conditions:

(1) The proposed housing is necessary and accessory to a current agricultural use.

(2) The housing shall be seasonal, unless it is shown that an additional full-time dwelling is necessary to the current agricultural use of the subject agricultural unit. Seasonal use shall not exceed 9 months.

(3) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

T. On lands designated Commercial Forest Land, a temporary mobile home in conjunction with a timber operation, upon a finding that security personnel are required to protect equipment associated with a harvest operation or to protect the subject forest land from fire. The mobile home must be removed upon completion of the subject harvest operation or the end of the fire season. The placement of the mobile home is subject to the "Approval Criteria for the Siting of Dwellings on Forest Land" and "Approval Criteria for Fire Protection" in this chapter.

U. On parcels in Small Woodland, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (Part II, Chapter 7: General Policies and Guidelines). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40 or 80 acres, this provision will apply to parcels 80 acres or larger or 160 acres or larger, respectively.

V. New cultivation, subject to compliance with guidelines for the protection of cultural resources (Part I, Chapter 2: Cultural Resources) and natural resources (Part I, Chapter 4: Natural Resources).

W. Life estates, subject to the guidelines in "Approval Criteria for Life Estates" in this chapter.

X. Land divisions, subject to the guidelines for minimum parcel sizes in land use Policies 4 through 9, "Land Use Policies," above.

Y. Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).

Z. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

AA. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

BB. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

CC. Commercial events on lands designated Large Woodland or Small Woodland, subject to the guidelines in "Commercial Events" (Part II, Chapter 7: General Policies and Guidelines).

DD. Special uses in historic buildings, subject to the guidelines in “Special Uses in Historic Buildings” (Part II, Chapter 7: General Policies and Guidelines).

2. The following uses may be allowed on lands designated Commercial Forest Land or Large or Small Woodland, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources and the "Approval Criteria for Specified Review Uses" in this chapter.

A. Utility facilities and railroads necessary for public service upon a showing that (1) there is no practicable alternative location with less adverse effect on agricultural and forest lands and on scenic, cultural, natural and recreation resources and (2) the size is the minimum necessary to provide the service.

B. Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in "Home Occupations and Cottage Industries" (Part II, Chapter 7: General Policies and Guidelines).

C. Fruit and produce stands, upon a showing that sales will be limited to agricultural products raised on the subject farm and other farms in the local region.

D. Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.

E. Wine sales/tasting rooms, in conjunction with an on-site winery.

F. Agricultural product processing and packaging, upon a showing that the processing will be limited to products grown primarily on the subject farm and sized to the subject operation.

G. Exploration, development, and production of mineral and geothermal resources, subject to the guidelines in Part I, Chapter 1: Scenic Resources.

H. Aquaculture.

I. Boarding of horses. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

J. Temporary portable asphalt/batch plants related to public road projects, not to exceed 6 months.

K. Expansion of existing nonprofit group camps, retreats, or conference centers.

L. Bed and breakfast inns in single-family dwellings, subject to the guidelines in "Bed and Breakfast Inns" (Part II, Chapter 7: General Policies and Guidelines) and provided that the residence:

(1) Is included in the National Register of Historic Places, or

(2) In Washington, is listed on the Washington State Register of Historic Places maintained by the Washington Office of Archaeology and Historic Preservation, or

(3) In Oregon, is identified and protected under local landmark status as approved pursuant to Oregon state land use regulations protecting historic structures.

M. Nonprofit, environmental learning or research facilities.

N. On parcels designated Small Woodland, small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (Part II, Chapter 7: General Policies and Guidelines).

O. Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Part II, Chapter 7: General Policies and Guidelines).

Approval Criteria for Fire Protection

1. All uses, as specified, shall comply with the following fire safety guidelines:

A. All buildings shall be surrounded by a maintained fuel break of 50 feet. Hazardous fuels shall be removed within the fuel break area. Irrigated or fire resistant vegetation may be planted within the fuel break. This could include green lawns and low shrubs (less than 24 inches in height). Trees should be spaced greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet) branches. Accumulated leaves, needles, and other dead vegetation shall be removed from beneath trees.

B. Buildings with plumbed water systems shall install at least one standpipe a minimum of 50 feet from the structure(s).

C. A pond, stream, tank or sump with storage of not less than 1,000 gallons, or a well or water system capable of delivering 20 gallons per minute shall be

provided. If a well pump is located on-site, the electrical service shall be separate from the dwelling.

D. Access drives shall be constructed to a minimum of 12 feet in width and not exceed a grade of 12 percent. Turnouts shall be provided at a minimum of every 500 feet. Access drives shall be maintained to a level that is passable to fire equipment. Variances to road guidelines may be made only after consultation with the local rural fire district and the Washington Department of Natural Resources in Washington or the Oregon Department of Forestry in Oregon.

E. Within 1 year of the occupancy of a dwelling, the local government shall conduct a review of the development to assure compliance with these guidelines.

F. Telephone and power supply systems shall be underground whenever possible.

G. Roofs of structures should be constructed of fire-resistant materials such as metal, fiberglass shingle or tile. Roof materials such as cedar shake and shingle should not be used.

H. Any chimney or stovepipe on any structure for use with a woodstove or fireplace should be screened with no coarser than 1/4 inch mesh metal screen that is noncombustible and corrosion resistant and should be equipped with a spark arrestor.

I. All structural projections such as balconies, decks and roof gables should be built with fire resistant materials equivalent to that specified in the Uniform Building Code.

J. Attic openings, soffit vents, foundation louvers or other ventilation openings on dwellings and accessory structures should be screened with no coarser than 1/4-inch mesh metal screen that is noncombustible and corrosion resistant.

Approval Criteria for Siting of Dwellings on Forest Land

1. The approval of new dwellings and accessory structures on forest lands shall comply with the following guidelines:

   A. The dwelling and structures shall be sited on the parcel so that they will have the least impact on nearby or adjoining forest operations. Dwellings shall be set back at least 200 feet from adjacent properties. Clustering or locating proposed development closer to existing development on adjacent lands may minimize impacts on nearby or adjacent forest operations.

   B. The amount of forest land used to site dwellings, structures, access roads, and service corridors shall be minimized. This can include locating new

dwellings and structures as close to existing public roads as possible, thereby minimizing the length of access roads and utility corridors; or locating the dwelling, access road, and service corridors on portions of the parcel that are least or poorly suited for forestry. Areas may not be suitable for forestry because of existing non-forest uses, adjacent dwellings, or land productivity.

C. Dwellings shall be located to minimize the risks associated with wildfire. Dwellings should be located on gentle slopes and in any case not on slopes that exceed 40 percent. Narrow canyons and draws should be avoided. Dwellings should be located to minimize the difficulty of gaining access to the structure in the case of fire. Dwellings should be located to make the access roads as short and flat as possible.

D. A local government may grant a variance to the siting guidelines contained within this section upon a demonstration that the guidelines in "Variances from Setbacks and Buffers" (Part II, Chapter 7: General Policies and Guidelines) have been satisfied.

Approval Criteria for Life Estates

1. A landowner who sells or otherwise transfers real property on lands designated Commercial Forest Land or Large or Small Woodland may retain a life estate in a dwelling and a tract of land surrounding the dwelling. The life estate tract shall not be considered a parcel as defined in the Management Plan. A second dwelling unit on lands designated Commercial Forest Land or Large or Small Woodland may be allowed, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources and upon findings that:

   A. The proposed dwelling is in conjunction with agricultural use, using Guideline 1.H of "Review Uses" (Part II, Chapter 1: Agricultural Land); or

   B. On lands designated Large Woodland, the dwelling will contribute substantially to the growing, propagation, and harvesting of forest tree species. The proposed dwelling shall comply with Guideline 1.A of "Review Uses" in this chapter; or

   C. On lands designated Small Woodland, the proposed dwelling complies with Guideline 1.B of "Review Uses" in this chapter; and

   D. Upon termination of the life estate, the original or second dwelling shall be removed.

Approval Criteria for Specified Review Uses

1. The uses identified under Guideline 2 under "Review Uses," above, may be allowed only if they meet all of the following criteria:

A. The owners of land that is designated Commercial Forest Land, Large or Small Woodland, or Large-Scale or Small-Scale Agriculture and that lies within 500 feet of the perimeter of the subject parcel have been notified of the land use application and have been given at least 10 days to comment prior to a final decision.

B. The use will not seriously interfere with accepted forest or agricultural practices on nearby lands devoted to resource use.

C. The use will be sited in a way that minimizes the loss of forest or agricultural land and minimizes the chance of interference with accepted forest or agricultural practices on nearby lands.

D. The use will not significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel and will comply with the "Approval Criteria for Fire Protection" in this chapter.

SMA PROVISIONS

SMA Goal

Protect and enhance forest lands for forest uses.

SMA Policies

1. Only lands determined used for or suitable for the production of commercial forest products shall be designated Forest land.

2. Lands that have greater than 10 percent of their area covered by commercial species of timber and that meet the definition of suitability (see glossary) are considered suitable for Forest land designation.

3. All new developments and land uses shall protect natural, scenic, cultural, and recreation resources.

4. A site plan shall be prepared by the applicant prior to any forest practice.

5. The Forest Service shall, in collaboration with county and/or state regulatory agencies, review site plans for forest practices for compliance with SMA forest practice guidelines. The Forest Service review of the site plans shall include the following analysis:

    A. Protection of the scenic resources: analysis of potential impacts, including cumulative effects, to scenic values as viewed from the key viewing areas.

    B. Protection of the cultural resources: analysis of potential impacts to the cultural resources, including cumulative effects.

    C. Protection of natural resources: analysis of potential impacts, including cumulative effects, to the natural resources.

    D. Protection of the recreational resources: analysis of potential impacts to the recreational resources, including cumulative effects.

6. Forest Service review decisions on forest practices are subject to review by the Regional Forester.

7. New dwellings shall not be permitted on parcels of land less than 40 contiguous acres in size.

8. New dwellings shall only be allowed if shown to be necessary for and accessory to forest use, with an approved forest management plan, or necessary for and accessory to agricultural use, as specified in Part II, Chapter 1: Agricultural Land.

9. Research and development programs that protect and develop markets for secondary manufacturing and increased utilization of wood products and use of other miscellaneous forest products from the National Scenic Area are encouraged and will be supported by the Forest Service National Scenic Area office.

10. Use of Forest Land for agriculture, open space, and public recreation shall be allowed and shall comply with the appropriate land use designation policies and guidelines. Use of Non-Federal Land for commercial recreation is allowed and shall comply with the provisions in Part I, Chapter 4: Recreation Resources.

11. Conversion of lands designated Forest Land to Agriculture or Open Space is allowed.

12. Chemical use in conjunction with all forest practices shall conform with existing local, state, and federal laws and regulations relating to the use of chemicals.

13. Fire protection siting guidelines and standards for dwellings shall be developed by the county to protect forest resources from wildfires.

14. Forest landowners shall be encouraged to develop plans for long-term management of their property to protect and enhance the forest resource.

15. The Forest Service shall work with local landowners to provide technical assistance for planning mitigation measures necessary for forest practices and to explain potential federal land acquisition options.

16. All National Forest System lands shall be subject to the laws and regulations pertaining to the National Forest system, including the National Environmental Policy Act (NEPA), the Mt. Hood National Forest Land and Resource Management Plan, and the Gifford Pinchot National Forest Land and Resource Management Plan as amended by the Northwest Forest Plan. The most protective standards of the National Scenic Area Management Plan or the respective Forest Land and Resource Management Plans (as amended by the Northwest Forest Plan) shall apply to National Forest System lands.

17. Forest management of National Forest System lands shall be for the purpose of ecosystem management and forest health.

18. Forest practices on National Forest System lands in the General Management Area shall comply with the Special Management Area forest practice guidelines.

SMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Forest.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Forest.

Review Uses

1. The following uses may be allowed on lands designated Forest subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines. The use or development shall be sited to minimize the loss of land suitable for the production of forest products:

   A. All review uses allowed for in Part II, Chapter 1: SMA Agricultural Land.

   B. New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 1.W of this chapter.

   C. Railroad and road construction or reconstruction.

   D. Exploration, development, and production of sand, gravel, or crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products in the SMA.

   E. Silvicultural nurseries.

   F. Utility facilities for public service, upon a showing that:

      (1) There is no alternative location with less adverse effect on Forest Land.

      (2) The size is the minimum necessary to provide the service.

   G. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

   H. Fish hatcheries and aquaculture facilities.

   I. Public recreation, commercial recreation, interpretive and educational developments, and uses consistent with the provisions of Part I, Chapter 4: Recreation Resources.

J. One single family dwelling on a parcel of 40 contiguous acres or larger if an approved forest management plan demonstrates that such a dwelling is necessary for and accessory to forest uses. The forest management plan shall demonstrate the following:

(1) The dwelling will contribute substantially to the growing, propagation, and harvesting of trees. The principal purpose for allowing a dwelling on forest lands is to enable the resident to conduct efficient and effective management. This requirement indicates a relationship between ongoing forest management and the need for a dwelling on the subject property.

(2) The subject parcel has been enrolled in the appropriate state's forest assessment program.

(3) A plan for management of the parcel has been approved by the Oregon Department of Forestry or the Washington Department of Natural Resources and the appropriate county. The plan must indicate the condition and productivity of lands to be managed; the operations the owner will carry out (thinning, harvest, planting, etc.); a chronological description of when the operations will occur; estimates of yield, labor, and expenses; and how the dwelling will contribute toward the successful management of the property.

(4) The parcel has are no other dwellings that are vacant or currently occupied by persons not engaged in forest management of the subject parcel.

(5) The dwelling complies with county dwelling, siting, and state/county fire protection guidelines.

(6) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operations are entitled to carry on accepted agricultural or forest practices.

K. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 1.L or Guideline 1.M below.

L. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit

refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

M. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(3) The height of any individual accessory building shall not exceed 24 feet.

N. Home occupations and cottage industries, subject to the "Home Occupations and Cottage Industries" guidelines in Part II, Chapter 7: General Policies and Guidelines.

O. Temporary portable facilities for the processing of forest products.

P. Towers and fire stations for forest fire protection.

Q. Community facilities and nonprofit facilities related to forest resource management; or expansion of existing nonprofit group camps, retreats, or conference or education centers, necessary for the successful operation of the facility on the dedicated site. Expansion beyond the dedicated site shall be prohibited.

R. On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Part II, Chapter 7: General Policies and Guidelines).

S. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

T. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

U. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

V. Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (Part II, Chapter 7: General Policies and Guidelines).

W. Clearing trees for new agricultural use with the following steps and subject to the following additional guidelines:

(1) A Stewardship Plan shall be submitted and deemed complete by the local government and submitted to the Forest Service for review. (See Stewardship Plan Requirements).

(2) Clearing trees for new agricultural use shall be limited to 15 acres.

(3) If the Stewardship Plan proves that the above guideline is detrimental to the proposed agricultural use, the final size of the clearing shall be determined by the application of Guidelines 1.W(4)(a-d) below and subject to Guideline 1.W(9).

(4) After a 30-day public comment period, the Forest Service shall review the Stewardship Plan using the following criteria:

(a) Scenic Resource guidelines in Review Uses 1.X(4)(a) and (g) in this chapter.

(b) Applicable Chapter I Cultural, Natural and Recreational Resource guidelines.

(c) The Natural Resource Conservation Service (NRCS) soil unit description shall indicate that soils are suitable for the proposed agricultural use. The woodland management tables shall be used as part of the analysis of suitability for both agricultural and forest uses.

(d) The size, shape and pattern on the landscape of the clearing for the new agricultural use shall blend with the surrounding landscape pattern either because the existing pattern includes agricultural openings or because the new agricultural opening is designed to appear natural.

(5) The Forest Service shall send the review statement to the appropriate local government planning office. The Forest Service shall state

whether or not the new agricultural use should proceed including any conditions that are recommended to be required by the county.

(6) The local government will accept an application for new agricultural use on forested lands after receipt of a positive review statement from the Forest Service.

(7) The forest practice portion of the new agricultural use shall not be approved by the state forestry department or local government until a decision on the new agricultural use is issued from the local government.

(8) The new agricultural use shall be operational within two years of the time frame described in the approved Stewardship Plan.

(9) New agricultural uses with an approved Stewardship Plan requiring more than 15 acres shall attain the final approved size sequentially. After the first 15 cleared acres is operational, each subsequent clearing shall not occur until the previous clearing is operational.

X. Forest practices in accordance with an approved forest practices application (see application requirements) and subject to the additional guidelines in this chapter**.**

(1) The following information, in addition to general site plan requirements (see Part II, Chapter 7: General Policies and Guidelines) shall be required:

(a) Delineate the following on a recent aerial photo or detailed map:

(i) The size, shape, and exact location of the proposed treatment area including any clumps of leave trees to remain. If more than one silvicultural prescription is to be used, code each on the photo.

(ii) Other important natural features of the subject parcel such as steep areas, streams, wetlands, rock outcrops, etc.

(iii) Road and structure construction and/or reconstruction location.

(iv) Location of proposed rock or aggregate sources.

(v) Major skid trails, landings, and yarding corridors.

(vi) Commercial firewood cutting areas.

(vii) Protection measures for scenic, cultural, natural, and recreation resources, such as road closures.

(b) Describe the existing forest in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(c) Describe how the forest practice will fit into the existing landscape pattern and how it will meet scenic and natural resource standards in Review Uses 1.X(4)(a-g) and 1.X=(5)(a-d).

(d) Written silvicultural prescriptions with projected post-treatment forest condition specified in terms of species, ages, sizes, landscape pattern (including how it fits into the surrounding landscape pattern) and canopy closure for all canopy layers.

(e) Road and structure construction and/or reconstruction design.

(f) Existing and proposed rock pit development plans.

(g) A discussion of slash disposal methods.

(h) A reforestation plan as reviewed by the appropriate state forest practices agency.

(2) As part of the application, flag, stake or mark buffers, any trees or downed wood to be retained or removed (whichever makes the most sense), and areas for placing fill or removing material in preparation for a field visit by the reviewer.

(3) Stewardship Plan Requirements: The following information, in addition to the applicable portions of the forest practice application requirements above and general site plan requirements (see Part II, Chapter 7: General Policies and Guidelines) shall be provided:

(a) Outline the long term goals, proposed operations, and future sustainability of the subject parcel.

(b) Describe the time frame and steps planned to reach the long term goals.

(c) For Forest Practices, describe how the proposed activities fit into the long term goals and sustainability of the parcel and/or forest health. The following shall be addressed:

(i) Describe the range of natural conditions expected in the forest in terms of tree species, structure, and landscape pattern.

(ii) Describe what the resulting tree species, structure, and landscape pattern will be after the proposed activities.

(iii) Give a clear explanation how a deviation from the applicable guidelines may better achieve forest health objectives.

(iv) Give a clear explanation how and why the proposed activities will lead the forest towards its range of natural variability and result in reaching sustainability, resiliency to disturbances.

(d) For clearing trees for new agricultural use, the following shall be addressed in addition to X(3)(a) and (b) above:

(i) Submit NRCS soil unit description and map for each soil unit affected by the proposed clearing or treatment.

(ii) Based on the needs of the operation, give a clear explanation as to the exact size of the clearing needed and how it will meet the natural and scenic requirements set forth in W(4)(a-d) in this chapter.

(iii) Describe in sufficient detail for evaluation the proposed agricultural use, the improvements needed on the parcel, time line for its establishment, and its marketability.

(iv) Show evidence that an agricultural specialist, such as the county extension agent, has examined and found the proposed agricultural use reasonable and viable.

(4) For forest practices, the following scenic resource guidelines shall apply:

(a) Forest practices shall meet the design guidelines and scenic standards for the applicable landscape setting and zone (See Required SMA Scenic Standards table, SMA Guidelines for Development Visible from KVAs, SMA Scenic Resource Provisions, Part I, Chapter I).

(b) In the western portion (to White Salmon River) of the SMA Coniferous Woodland Landscape Setting, no more than 8% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service.

(c) In the western portion (to the White Salmon River) of the SMA Gorge Walls, Canyonlands and Wildlands Landscape Setting, no more than 4% of the composite KVA viewshed from which the forest practice is topographically visible shall be in created forest openings at one time. The viewshed boundaries shall be delineated by the Forest Service.

(d) For all other landscape settings, created forest openings visible at one time shall be within the desired range for the vegetation type as set forth in Natural Resources guidelines in Review Uses 1.X(5)(a)-(c) in this chapter.

(e) Size, shape, and dispersal of created forest openings shall maintain the desired natural patterns in the landscape as set forth in Natural Resources guidelines in Review Uses 1.X(5)(a)-(c) in this chapter.

(f) The maximum size of any created forest opening is set forth by the "Desired" vegetation type in the Forest Structure and Pattern Table.

(i) If the treatment is proposed to go beyond the above guideline based on forest health or ecosystem function requirements, a Stewardship Plan shall be required.

(ii) If the Stewardship Plan proves that the above guideline is detrimental to either forest health or ecosystem function, the size of the created forest opening shall be within the natural range for the vegetation type as listed in the Desired Forest Structure and Pattern Table for each vegetation type, shall not mimic catastrophic fires, and shall maintain scenic standards.

(g) Created forest openings shall not create a break or opening in the vegetation in the skyline as viewed from a key viewing area.

(5) Forest practices shall maintain the following in addition to applicable natural resources guidelines in Part I, Chapter 4, SMA Natural Resources:

(a) Silvicultural prescriptions shall maintain the desired natural forest stand structures (tree species, spacing, layering, and mixture of sizes) based on forest health and ecosystem function requirements. Forest tree stand structure shall meet the requirements listed in the Desired Forest Structure and Pattern Table for each vegetation type. Forest tree stand structure is defined as the general structure of the forest in each vegetation type within which is found forest openings.

(b) Created forest openings shall be designed as mosaics not to exceed the limits defined as Desired in the Desired Forest Structure and Pattern Table unless proposed as a deviation as allowed under the scenic resource guideline in Review Uses 1.X(4)(f).

(c) Snag and down wood requirements shall be maintained or created as listed in the Desired Forest Structure and Pattern Table for each vegetation type.

(d) If the treatment is proposed to deviate from the snag and down wood requirements based on forest health or ecosystem function requirements, a Stewardship Plan shall be required and shall show and prove why a deviation from the snag and down wood requirements is required.

DESIRED FOREST STRUCTURE AND PATTERN

1	2	3		4		5	6	7
Vegetation Type#	**Forest Structure** (Average % total canopy closure (cc))*	**Typical Forest Opening s Size** Disturbance caused		**Percent Openings at One Time**		**Leave Trees** Includes all available remnant old forest	**Average Down Wood** Pieces 30 ft long per acre (scattered)	**Average Snags** (Conifers) No. per acre Snags are 20-40 ft in height
		Historic (Natural)	**Desired**	**Historic (Natural)**	**Desired**			
West Conifer	60-80% canopy closure Understory layer variable (0-60% of total cc)	Variable sizes with mosaic pattern, irregular shapes Mosaic fire 1-100 acres Catastrophic fire over 100 acres	Retain forested character Allow openings up to 15 acres (up to 5 acres in the foreground of KVAs) All openings 1 acre or less on National Forest land and all Open Space LUD Openings retain 15 - 40 % canopy closure	10% (mosaic fire) up to 55% (catastrophic fire) Intense fire return interval is 300 yrs	Not to exceed 8% for West Coniferous Woodland Landscape Setting and not to exceed 4% for Gorge Walls, Canyonlands and Wildlands Landscape Setting Widely dispersed, variable sized mosaic of irregular shapes blending with existing openings	Leave 15% of existing trees per acre throughout opening and in clumps Include 3 trees per acre of the largest size trees available	18 - 25 pieces greater than 20" dbh	10 snags at 10" -20" dbh, and 7 snags greater than 20" dbh
East Conifer (Ponderosa Pine/Douglas fir)	40-80% canopy closure Understory layer less than 25% of total cc	Few Openings due to low intensity fires \\¼ to 2 acres	Openings less than 1 acre Openings have 0 - 40% canopy closure Openings widely dispersed	1 -10%	1 - 10% (% by vegetation type)	No leave trees required	3 - 6 pieces greater than 20" dbh	5 snags at 10"-20" dbh and 3 snags greater than 20" dbh
Ponderosa Pine/ Oregon Oak	25-60% canopy closure Understory layer greater than 25% of total cc.	Most natural openings due to poor soil Disturbance openings few	Openings less than 1 acre Openings have 0 - 25% canopy closure Openings widely dispersed	1 -10%	1 - 10% (% by vegetation type)	No leave trees required	1 - 3 pieces greater than 20" dbh	5 snags at 10" - 20" dbh and 3 snags greater than 20" dbh Oak snags can be counted if already dead or partially dead

Map available at the Forest Service National Scenic Area Office
* Does not apply to openings.
Dbh: Diameter at Breast Height

CHAPTER

3

Open Space

The Columbia Gorge's diverse open space resources have in large part accounted for its reputation for superlative scenery, unique and varied ecosystems and habitats, rich heritage, and quality recreation opportunities. Unlike remote wilderness areas, the Gorge has long been a major transportation and commercial corridor, containing within its bounds major highways, federal dams, railroads, and numerous settlements. Despite this, many of its inspiring vistas, historic sites, and natural areas remain intact. These open spaces typify the features of the Gorge that make it such a special place. They offer a glimpse into a region blessed with outstanding resources, yet readily accessible for public enjoyment and enrichment.

SCENIC AREA ACT PROVISIONS

The Scenic Area Act calls upon the Gorge Commission to "protect and enhance open spaces." The Act also charges the Gorge Commission to designate land suitable for the protection and enhancement of open spaces. The Act [Section 2(l)] defines open spaces to include:

1. Scenic, cultural, and historic areas;
2. Fish and wildlife habitat;
3. Lands which support plant species that are endemic to the scenic area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;
4. Ecologically and scientifically significant natural areas;
5. Outstanding scenic views and sites;
6. Water areas and wetlands;
7. Archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;
8. Potential and existing recreation resources; and
9. Federal and State wild, scenic, and recreation waterways.

KEY ISSUES

Open spaces represent some of the most significant and sensitive resources in the Scenic Area. A variety of techniques are employed in the Management Plan to protect these resources. They include regulating uses in and around the resources through application of guidelines to protect scenic, cultural, natural, and recreation

resources, and incentive programs to encourage landowners to protect such resources.

In some cases, the resources are so sensitive and significant that their protection requires designating them as Open Space. This land use designation is designed to protect such resources from uses that could adversely affect them. Some of the traditional land uses in the Gorge, such as farming, forestry, mining and residential development, could threaten the integrity of these important and potentially vulnerable resource areas mandated for protection in the Act. The protection and enhancement needs of these resources pose a significant challenge in the Management Plan.

A key issue related to this challenge involves the land use restrictions necessary to implement the Act's open space mandates. In some cases, this has necessitated limiting some existing or potential uses that may have economic value to landowners. Specifically, the need to retain reasonable economic uses on private lands while protecting open space resources presents a particularly difficult issue. In response, the Gorge Commission and Forest Service have applied the Open Space designation with great care, where it is the only effective way of meeting the Act's mandates.

OVERVIEW OF OPEN SPACE PROVISIONS

The policies for the GMA list the criteria used to determine which lands in the GMA qualify as Open Space. The policies also direct the Gorge Commission to help landowners prepare stewardship programs that protect and enhance open space resources. Stewardship programs may foster acquisition of open space lands where acquisition fulfills the objectives of a landowner.

The GMA guidelines include a list of uses that may occur on all lands designated Open Space. Guidelines for specific Open Space areas, such as Gorge Walls and Canyonlands or Chenoweth Natural Area, list additional uses that may be allowed. Most uses in Open Space may occur without review by a county planning department or the Gorge Commission. However, the Open Space guidelines do require some uses to be reviewed. For example, recreation uses can occur in Open Space only if they are found to comply with the guidelines for recreation intensity classes (Part I, Chapter 4: Recreation Resources). Some uses must satisfy conditions listed in the Open Space guidelines themselves. For example, the Oregon Natural Heritage Program must be consulted before scientific research may occur in the Chenoweth Natural Area.

The SMA policies establish four subcategories of Open Space: scenic, natural, wildlife, and cultural. They also require a management plan to be prepared for each Open Space area. The plans help ensure that sensitive open space resources are protected and enhanced. The elements to be addressed in each plan are listed in the SMA guidelines.

The SMA guidelines include a list of uses that may occur in Open Space without being reviewed by a county

planning department or the Forest Service. The SMA guidelines also specify uses that may be allowed in Open Space after a review determines they comply with the guidelines in the Management Plan that protect scenic, cultural, natural, and recreation resources.

GMA PROVISIONS

GMA Goal

Protect those most significant and sensitive scenic, cultural, natural, and recreation resources on unimproved lands from conflicting uses and enhance them where appropriate.

GMA Objectives

1. Encourage the Secretary of Agriculture to revise the boundaries of the SMA to include private lands in the GMA that are designated Open Space and that lie adjacent to or nearby an existing SMA boundary.

2. Encourage Congress to establish an SMA to protect the remarkable scenic, cultural, natural, and recreation resources of the GMA Gorge Walls and Canyonlands Open Space area along the Historic Columbia River Highway between Hood River and Mosier.

GMA Policies

1. Only the most significant and sensitive scenic, cultural, natural, and recreation resources shall be designated as Open Space.

2. Land shall be designated as Open Space only if the use limitations are consistent with landowner objectives, or if all of the following circumstances exist:

    A. Uses authorized by alternative designations threaten a documented resource.

    B. Protection of the resource is demonstrably in the public interest over the long term.

    C. All reasonable alternative means that might protect the resource and achieve landowner objectives have been considered and found not to provide adequate protection for the resource.

    D. No lands with improvements exist within the boundaries of the Open Space.

E. Landowners have reasonable economic uses of the balance of their properties.

3. The Gorge Commission shall work with owners of lands designated Open Space to develop a program of stewardship that protects Open Space resources and achieves landowner objectives.

   Where consistent with landowner objectives, the stewardship program should encourage appropriate public and private agencies to acquire interests in Open Space lands and should inform landowners of tax and other incentive programs.

   The Gorge Commission shall establish priorities for acquisition or exchange of lands whose owners object to the Open Space designation, and shall facilitate acquisition or exchange prior to its first review of the Management Plan.

   During its first review of the Management Plan, the Gorge Commission shall review the stewardship programs and the Open Space designations of areas containing lands whose owners object to the designation. Such reviews shall take into account acquisitions and exchanges completed since plan adoption.

4. Improved lands shall not be designated Open Space. For purposes of this chapter, improved lands are those upon which a structure or use subject to county ad valorem property taxation has been constructed or is being undertaken.

5. Open Space designation shall be applied to those most outstanding scenic areas that are highly visible in the foreground or middle ground from the Columbia River or scenic travel corridors and that are sensitive to uses that the Gorge Commission may not manage by regulation (such as forest practices).

6. Generally, well defined geographic areas that possess large concentrations of cultural resources shall be designated Open Space.

7. Undeveloped portions of state park lands suitable for low-intensity recreation and unsuitable for major recreation facilities shall be designated Open Space.

8. Those wetlands with remarkable values, such as sensitive wildlife habitat or rare plant species, that are susceptible to disturbance from use and development shall be designated Open Space.

9. Open Space designations shall be applied to those most significant and sensitive natural areas that are susceptible to disturbance from use and development.

10. Uses shall be allowed in areas designated Open Space that can be undertaken without adverse effect to the resources to be protected.

11. Habitat areas of animal species that are classified as endangered or threatened by federal or state endangered species acts or the Washington Wildlife Commission may be designated Open Space.

12. Uses authorized on private land designated Open Space shall be allowed with landowner permission only.

GMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, GMA and SMA Open Space" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Open Space.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) may be allowed with review through the expedited development review process on lands designated Open Space.

Review Uses--All Lands Designated Open Space

1. The following uses may be allowed on all lands designated Open Space subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

    A. Low-intensity recreation, subject to the guidelines for recreation intensity classes (Part I, Chapter 4: Recreation Resources).

    B. Land divisions to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources.

    C. Repair, maintenance, operation, and improvement of existing structures, trails, roads, railroads, utility facilities, and hydroelectric facilities.

    D. Removal of timber, rocks or other materials for purposes of public safety and placement of structures for public safety.

    E. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

F. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

G. Lot line adjustments, subject to compliance with the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).

Review Uses—Specific Lands Designated Open Space

Gorge Walls and Canyonlands

1. The following uses may be allowed on lands designated Open Space for Gorge Walls and Canyonlands subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. Livestock grazing.

   B. Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

   C. Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a county conservation district.

   D. Harvesting of wild crops.

   E. Educational or scientific research.

   F. Continued operation of existing quarries, if they are determined to be consistent with guidelines to protect scenic, cultural, natural, and recreation resources.

   G. All those uses allowed in "All Lands Designated Open Space," above.

Mosley Lakes Natural Area

1. The following uses may be allowed on lands designated Open Space for the Mosley Lakes Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. Fish and wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

   B. Educational or scientific research, after consultation with the Washington Natural Heritage Program.

   C. Commercial trapping.

   D. All those uses allowed in "All Lands Designated Open Space," above.

Chenoweth Table Natural Area

1. The following uses may be allowed on lands designated Open Space for the Chenoweth Table Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. Low-intensity recreation, subject to the guidelines for recreation intensity classes (Part I, Chapter 4: Recreation Resources), after consultation with the Oregon Natural Heritage Program.

   B. Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Oregon Natural Heritage Program.

   C. Educational or scientific research, after consultation with the Oregon Natural Heritage Program.

   D. All those uses allowed in "All Lands Designated Open Space," above.

Squally Point Natural Area

1. The following uses may be allowed on lands designated Open Space for the Squally Point Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. Except in the upland dunes south of the railroad tracks, low-intensity recreation, subject to the guidelines for recreation intensity classes (Part I, Chapter 4: Recreation Resources), after consultation with the Oregon Natural Heritage Program.

   B. Repair and maintenance of railroads, except measures to stabilize dunes, after consultation with the Oregon Natural Heritage Program.

   C. Except as limited by Guideline 1.A above, all those uses allowed in "All Lands Designated Open Space," above.

Klickitat River Wildlife and Natural Area

1. The following uses may be allowed on lands designated Open Space for the Klickitat River Wildlife and Natural Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. Low-intensity recreation, subject to the guidelines for recreation intensity classes (Part I, Chapter 4: Recreation Resources), after consultation with the Washington Natural Heritage Program and Washington Department of Wildlife.

B. Wildlife management uses conducted by federal, state, or tribal resource agencies, after consultation with the Washington Natural Heritage Program.

C. Educational or scientific research, after consultation with the Washington Natural Heritage Program.

D. All those uses allowed in "All Lands Designated Open Space," above.

Balch Lake Wetlands Area

1. The following uses may be allowed on lands designated Open Space for the Balch Lake Wetlands Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. Livestock grazing, subject to a range conservation plan, after consultation with the Washington Department of Wildlife.

   B. Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

   C. Educational and scientific research, after consultation with the Washington Department of Wildlife.

   D. Low-intensity recreation, subject to the guidelines for recreation intensity classes (Part I, Chapter 4: Recreation Resources), after consultation with the Washington Department of Wildlife.

   E. All those uses allowed in "All Lands Designated Open Space," above.

Mouth of Wind River Wildlife Area

1. The following uses may be allowed on lands designated Open Space for the Mouth of Wind River Wildlife Area subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

   B. Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

   C. Harvesting of wild crops.

   D. Educational or scientific research, after consultation with the Washington Department of Wildlife or Fisheries.

E. Commercial fishing and trapping.

F. Low-intensity recreation, subject to the guidelines for recreation intensity classes (Part I, Chapter 4: Recreation Resources), after consultation with the Washington Department of Wildlife.

G. All those uses allowed in "All Lands Designated Open Space," above.

State Park Recreation Areas

1. The following uses may be allowed on lands designated Open Space on those portions of state park ownerships not suitable for major recreation facilities subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. Fish and wildlife management uses conducted by federal, state, or tribal resource agencies.

   B. Soil, water, or vegetation uses performed in accordance with a conservation plan approved by a local conservation district.

   C. Harvesting of wild crops.

   D. Educational or scientific research.

   E. All those uses allowed in "All Lands Designated Open Space," above.

SMA PROVISIONS

SMA Goal

Protect and enhance open space values.

SMA Policies

1. Open Space shall be designated to provide special protection for sensitive scenic, cultural, recreational, and natural resources, and for sensitive and/or representative ecosystems.

2. Only unimproved lands shall be designated Open Space.

3. Open Space designation shall include the following subcategories:

   A. **Open Space/Scenic** protects the natural appearance of lands with high scenic values. These include areas of outstanding natural beauty, such as cliff faces, steep bluffs, canyons, water features, and tributary river corridors.

   B. **Open Space/Natural** protects wetlands, areas supporting ecologically and scientifically significant plant communities, and significant natural areas. Most of these areas contain concentrations of threatened, endangered, sensitive, and endemic plants, and sensitive plant associations that are rare or unusual.

   C. **Open Space/Wildlife** protects sensitive and unique habitat values and threatened, endangered, sensitive, and endemic species. These lands include habitat for significant wildlife species such as spotted owl, pine marten, pileated woodpecker, and anadromous fisheries.

   D. **Open Space/Cultural** protects concentrations of cultural resources. These lands contain known and potential significant concentrations of cultural resources.

4. An Open Space plan shall be developed for each Open Space area for protection and enhancement of resources in that area.

5. The Forest Service National Scenic Area office will facilitate the formation of partnerships with appropriate local, state, and federal agencies and private organizations, which will be encouraged to design and implement management programs to enhance Open Space values.

6. Educational and interpretive programs shall be encouraged to promote understanding and enhancement of resources, where these programs do not diminish the Open Space values.

7. New developments and land uses not included in the Open Space guidelines, including commercial forest practices, most structural development, and intensive recreation development, shall be prohibited in Open Space areas.

8. Federal and state agencies shall review Open Space areas to determine their potential for classification as research natural areas or state natural areas.

9. All National Forest System lands shall be subject to the laws and regulations pertaining to the National Forest system, including the National Environmental Policy Act (NEPA), the Mt. Hood National Forest Land and Resource Management Plan, and the Gifford Pinchot National Forest Land and Resource Management Plan, as amended by the Northwest Forest Plan. The most protective standards of the National Scenic Area Management Plan or the respective Forest Land and Resource Management Plans (as amended by the Northwest Forest Plan) shall apply to National Forest System lands.

10. If requested, the Forest Service shall help locate mapped boundaries of Open Space areas in cases of new land uses or development.

SMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, GMA and SMA Open Space" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Open Space.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Open Space.

Review Uses

1. An Open Space plan shall be completed by the primary managing agency or landowner prior to any new land uses or development, and shall be reviewed by the Forest Service. The Open Space plan shall include the following:

    A. Direction for resource protection, enhancement, and management.

    B. Review of existing uses to determine compatibility with Open Space values.

    C. Consultation with members of the public and with agency and resource specialists.

2. The following new uses may be allowed on lands designated Open Space subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines:

   A. Changes in existing uses, including reconstruction, replacement, and expansion of existing structures and transportation facilities, except for commercial forest practices.

   B. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include vegetation management and forest practices (subject to the forest practice guidelines of Part II, Chapter 2: Forest Land) for the restoration of forest health, new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

   C. Low-intensity recreation uses and developments, including educational and interpretive facilities, consistent with Part I, Chapter 4: Recreation Resources.

   D. Utility facilities for public service, upon a showing that:

      (1) There is no alternative location with less adverse effect on Open Space land.

      (2) The size is the minimum necessary to provide the service.

   E. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

   F. Treatment of noxious weeds shall be permitted without completion of an SMA Open Space plan when the following criteria have been met:

      (1) Noxious weed infestation is new and eradication is still viable.

      (2) Delayed or deferred treatment could have widespread or major adverse impacts to one or more of the following resources:

         (a) Displacement of native and traditionally gathered plants;

         (b) Degradation of wildlife habitat and forage;

         (c) Degradation or loss of agricultural uses of land, such as cropland or livestock forage;

         (d) Limitation of recreational uses.

      (3) For federal lands, treatment effects have been thoroughly evaluated in an environmental assessment.

CHAPTER

4

Residential Land

The Gorge is currently home to nearly 55,000 people, the majority living in cities, towns and communities along the Columbia River.

Rural residential development has taken a marked upturn as people seek rural lifestyles and recreation homesites. Modern highways and technology are permitting many more people to pursue a rural lifestyle within reach of the amenities provided by local and regional service centers.

SCENIC AREA ACT PROVISIONS

The Scenic Area Act encourages future residential development to occur in the Urban Areas, but also allows for rural residential development. The Act directs the Gorge Commission and Forest Service to "require that residential development outside urban areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the Scenic Area" [Section 6(d)(8)].

Sections 6(d)(1) and (2) of the Act do not allow agriculture and forest lands to be converted to residential use. When located outside Urban Areas, residential development shall be designated for areas "used or suitable for residential development, taking into account the physical characteristics of the areas in question and their geographic proximity to transportation and commercial facilities and other amenities" [Section 6(b)(6)].

KEY ISSUES

The Scenic Area Act encourages development, including residential, to locate within the 13 Urban Areas designated in the Scenic Area Act. This helps strengthen existing cities and towns, while reserving lands outside the Urban Areas for agriculture, forest, and recreation use and resource protection. The Scenic Area Act requires that agricultural and forest lands be protected. It does not include similar provisions for residential lands.

These mandates in the Act generate perhaps the most significant residential planning issue in the Scenic Area. Much of the land in the Scenic Area not already committed to residential use and not too steep for development is either used or suitable for agriculture or forest use. These lands are often highly capable of supporting residential development. As a result, demands for rural residential development in such areas can conflict with Scenic Area mandates for protection of resource lands.

Enclaves of rural residential development do now exist outside the Urban Area boundaries, including Corbett, Bridal Veil, Skamania, Underwood, and Rowena.

The designation of lands for residential use must take into account the circumstances in which land otherwise suitable for agricultural or forest use is nonetheless committed by past development decisions to residential use. Residential development must also be focused in areas that are suitable. Factors include proximity to amenities, public services, and transportation; avoidance of hazards; and the resources protected by the Scenic Area Act.

Another issue is the density at which residential development may occur. Too much residential development can change the landscape setting of an area and impact scenic resources. Lower densities help maintain the rural character of an area and keep the demand for services at levels that can be better met by rural service providers. Residential development can greatly impact adjacent agriculture and forest practices. Natural resources within and adjacent to residential areas, such as plant and wildlife habitat and wetlands, need to be protected. The Act specifically protects recreation. Residential use can conflict with existing and planned recreation use on adjacent lands. Finally, the density of residential development needs to take into account the carrying capacity of an area. Development should avoid hazards and be located where sewage disposal, water, and fire services are available.

OVERVIEW OF RESIDENTIAL LAND PROVISIONS

In the GMA, lands currently devoted to residential use and other lands that are nearby and committed to residential use are designated Residential. Plan policies outline the factors used to determine whether an area is committed to residential use. In the SMA, two areas of concentrated residential development, Rowena Dell and Latourell, are designated Residential.

The GMA policies establish minimum parcel sizes for new land divisions that protect scenic, cultural, natural, and recreation resources, adjacent agriculture and forest lands, and the landscape setting of an area, and that take into account the adequacy of services and the existence of any hazards. Minimum parcel sizes of 1, 2, 5 and 10 acres are listed. GMA provisions allow for smaller parcels in the 5-acre and 10-acre designations when clustering is used, and award a density bonus in such cases.

Both the GMA and SMA provisions establish land use policies and guidelines that allow uses that are consistent with the Scenic Area Act and compatible with residential use. GMA policies and guidelines also ensure protection of adjacent agricultural, forest, and recreation uses. In the GMA, one single-family dwelling may be permitted on each legally created parcel. *(Revised: U.S. Sec. Ag. concurrence 7/1/11)*

GMA PROVISIONS

GMA Goals

1. Protect and enhance the character of existing residential areas.

2. Ensure that residential development outside Urban Areas does not adversely affect scenic, cultural, natural, or recreation resources.

3. When designating lands for residential use, consider their physical characteristics and their geographic proximity to transportation, commercial facilities, and other amenities.

GMA Policies

Designation Policies

1. Those lands currently devoted to residential use and other lands that are nearby and committed to residential use shall be designated as Residential.

2. Residential development shall not adversely affect adjacent lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland.

3. In determining whether an area is committed to residential use, the following factors shall be considered:

    A. The relationship between a parcel and adjacent lands.

    B. Existing public facilities and services, including, but not limited to, sewer, water, police protection, fire protection, school bus routes, and roads.

    C. Parcel size(s) and ownership patterns. An examination must include a review of contiguous and non-aggregated ownerships that may, as constituent parcels, be used together for agriculture or forest use.

    D. Natural or manmade features or impediments separating an area from resource lands.

    E. The physical development of an area. An area may be physically developed to the extent that it is no longer available for resource use. This factor by itself does not commit an area to residential use.

    F. Evaluation of the long-term, cumulative impacts of residential development on resources. The factors to be considered include, but are not limited to, conversion of adjacent agricultural and forest lands; compatibility with

adjacent uses; impacts on water quality and quantity; effects on services; and impacts on scenic, cultural, natural, or recreation resources.

G. Other factors that would make agriculture or forest use impracticable.

Land Use Policies

1. Minimum parcel sizes for land divisions shall be established, based upon the following factors:

   A. Avoidance of hazards, including, but not limited to, steep slopes, fire danger, and groundwater pollution.

   B. Adequacy of services, including, but not limited to, transportation, fire protection, police protection, schools, sewage disposal and water.

   C. Protection of the following:

      (1) Existing landscape setting.

      (2) Wildlife habitat.

      (3) Plant habitat.

      (4) Scenic sensitivity.

      (5) Cultural resources.

      (6) Wetlands.

      (7) Scenic travel corridors.

   D. Potential for conflict with nearby agricultural and forest uses.

   E. Proximity to existing and planned recreation uses.

2. The following minimum parcel sizes shall be established:

   A. A 1-acre minimum for those lands designated Residential where single-family, residential development generally occurs at a density of one dwelling unit per acre or greater. Because these residential areas are generally linked to an adjacent Rural Center or Urban Area, the relatively high densities have a minimal impact on the factors listed in Policy 1, above.

   B. A 2-acre minimum for those lands designated Residential where parcelization and existing residential development occur at a density greater than 5 acres

and in a landscape setting where a rural character is somewhat retained. These lands occur in large-enough blocks to minimize the impacts on adjacent agriculture and forest lands. A 2-acre minimum shall not be established in such areas if the potential number of new parcels that could be created would have an adverse cumulative impact upon the factors listed in Policy 1, above.

C. A 5- or 10-acre minimum for those lands designated Residential that are situated in areas where a higher density would conflict with the factors listed in Policy 1, above. A 10-acre minimum shall be established where a 5-acre minimum would result in an adverse cumulative impact on one or more of the factors listed in Policy 1, above.

3. Local governments may allow creation of parcels smaller than the designated minimum parcel size on lands designated 5-acre Residential and 10-acre Residential, and may award a density bonus, in order to cluster new residences to protect scenic, cultural, natural, or recreation resources.

4. Adjacent agricultural and forest lands shall be protected from residential development.

5. New residential development within Residential designations located adjacent to forest land designations shall comply with the guidelines in "Approval Criteria for Fire Protection" (Part II, Chapter 2: Forest Land).

6. Except as specifically identified, all legally created, undeveloped parcels are entitled to one single-family dwelling, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources. The location of a second dwelling unit on a parcel is not permitted, except in the case of a qualified temporary hardship dwelling.

7. Adjacent recreation uses shall be protected from residential development. Buffer areas shall be established between residential development and adjacent recreation uses.

GMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Residential.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Residential.

Review Uses

1. The following uses may be allowed on lands designated Residential, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources:

   A. One single-family dwelling per legally created parcel. If the subject parcel is located adjacent to lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, the use shall comply with the buffer and notification requirements for agricultural land (Part II, Chapter 1) or forest land (Part II, Chapter 2). If the subject parcel is located within a Residential designation that is adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines in "Approval Criteria for Fire Protection" (Part II, Chapter 2: Forest Land).

   B. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 1.C below.

   C. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

      (1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

      (2) The height of any individual accessory building shall not exceed 24 feet.

   D. The temporary use of a mobile home in the case of a family hardship, subject to guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Part II, Chapter 7: General Policies and Guidelines).

   E. Construction or reconstruction of roads.

   F. On parcels 10 acres or larger in the 5-acre Residential designation, or 20 acres or larger in the 10-acre Residential designation, a land division creating new parcels smaller than the designated minimum parcel size, subject to the

guidelines for cluster development in "Land Divisions and Cluster Development" (Part II, Chapter 7: General Policies and Guidelines).

G. New cultivation, subject to compliance with guidelines for the protection of cultural resources (Part I, Chapter 2: Cultural Resources) and natural resources (Part I, Chapter 4: Natural Resources).

H. Land divisions, subject to the guidelines for minimum parcel sizes.

I. Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).

J. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

K. Agricultural structures, except buildings, in conjunction with agricultural use.

L. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Part II, Chapter 7: General Policies and Guidelines).

M. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

N. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

O. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

P. Commercial events, subject to the guidelines in "Commercial Events" (Part II, Chapter 7: General Policies and Guidelines).

Q. Special uses in historic buildings, subject to the guidelines in “Special Uses in Historic Buildings” (Part II, Chapter 7: General Policies and Guidelines).

2. The following uses may be allowed on lands designated Residential, subject to compliance with the guidelines for protection of scenic, cultural, natural, and recreation resources and "Approval Criteria for Specified Review Uses," below.

A. Accredited childcare centers within lands designated 1-acre Residential or 2-acre Residential. A childcare center may be allowed in other Residential designations within an existing church or community building.

B. Schools within an existing church or community building.

C. Expansion of existing primary or middle schools on land purchased prior to June 8, 1999. For purposes of this section, existing schools means public schools that existed prior to adoption of the original Management Plan on October 15, 1991.

D. Utility facilities and railroads.

E. Home occupations or cottage industries in an existing residence or accessory structure, subject to the guidelines in "Home Occupations and Cottage Industries" (Part II, Chapter 7: General Policies and Guidelines).

F. Fire stations.

G. Recreation development, subject to the guidelines established for recreation intensity classes (Part I, Chapter 4: Recreation Resources).

H. Community parks and playgrounds, consistent with the standards of the National Park and Recreation Society regarding the need for such facilities.

I. Bed and breakfast inns in single family dwellings located on lands designated 5-acre Residential or 10-acre Residential, subject to the guidelines in "Bed and Breakfast Inns" (Part II, Chapter 7: General Policies and Guidelines).

J. Wineries, in conjunction with onsite viticulture, upon a showing that processing of wine is from grapes grown on the subject farm or in the local region.

K. Wine sales/tasting rooms in conjunction with an on-site winery, under the following conditions:

(1) The use shall comply with the guidelines in "Home Occupations and Cottage Industries" (Part II, Chapter 7: General Policies and Guidelines), with the following exceptions:

(a) The use may employ an unlimited number of outside employees.

(b) The wine sales/tasting room may include interior and/or exterior space, provided the combined interior and exterior spaces shall not exceed 1,000 square feet.

(c) The interior space may be located in an existing building or in a new building or addition to an existing building constructed for the primary purpose of housing the wine sales/tasting room.

(d) The exterior space may be a veranda, patio, or other similar type of structure.

L. Small-scale fishing support and fish processing operations on parcels that are contiguous with and have direct access to the Columbia River, subject to the guidelines in "Small-Scale Fishing Support and Fish Processing Operations" (Part II, Chapter 7: General Policies and Guidelines).

M. Boarding of horses on lands designated 10-acre Residential. The reviewing agency shall make findings on property characteristics, parcel size and impacts to neighbors, and shall specify the maximum number of horses based on those findings.

Approval Criteria for Specified Review Uses

1. The uses identified in Guideline 2 under "Review Uses," above, may be allowed only if they meet all of the following criteria:

   A. The proposed use will be compatible with the surrounding area. Review of compatibility shall include impacts associated with the visual character of the area; traffic generation; and noise, dust, and odors.

   B. The proposed use will not require public services other than those existing or approved for the area.

   C. If the subject parcel is located within 500 feet of lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, new buildings associated with the proposed use comply with the buffer guidelines in "Agricultural Buffer Guidelines" (Part II, Chapter 1: Agricultural Land).

   D. If the subject parcel is located within 500 feet of lands designated Commercial Forest Land or Large or Small Woodland, new buildings associated with the proposed use comply with the fire protection guidelines in "Approval Criteria for Fire Protection" (Part II, Chapter 2: Forest Land).

SMA PROVISIONS

SMA Goal

Allow concentrated residential development only at Rowena Dell and Latourell.

SMA Policies

1. New land divisions shall be prohibited.

2. New multifamily dwellings shall be prohibited.

3. Any new dwelling within the SMA Residential land use designation shall be on a parcel at least 40 acres in size. *(Added: U.S. Sec. Ag. concurrence 7/1/11)*

4. Existing uses of dwelling units in Rowena Dell will continue as allowed in Chapter 7 – General Policies and Guidelines, Existing Uses and Discontinued Uses. *(Revised: U.S. Sec. Ag. concurrence 7/1/11)*

5. At Latourell, contiguous lots under the same ownership as of November 17, 1986, are considered consolidated into a single parcel. Splitting of these consolidated parcels, including lot line adjustment, shall be prohibited.

6. New structures shall not adversely affect scenic, cultural, recreation, or natural resources.

7. All National Forest System lands shall be subject to the laws and regulations pertaining to the National Forest system, including the National Environmental Policy Act (NEPA), the Mt. Hood National Forest Land and Resource Management Plan, and the Gifford Pinchot National Forest Land and Resource Management Plan, as amended by the Northwest Forest Plan. The most protective standards of the National Scenic Area Management Plan or the respective Forest Land and Resource Management Plans (as amended by the Northwest Forest Plan) shall apply to National Forest System lands.

SMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Residential.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Residential.

Review Uses

1. The following uses may be allowed on lands designated Residential subject to review for compliance with scenic, cultural, natural, and recreation resources guidelines.

   A. One single-family dwelling per legally created lot or consolidated parcel not less than 40 contiguous acres. The placement of a dwelling shall comply with fire protection standards developed by the county, in accordance with SMA Policy 13 in Part II, Chapter 2: Forest Land. *(Revised: U.S. Sec. Ag. concurrence 7/1/11)*

   B. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 1.C below.

   C. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

      (1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

      (2) The height of any individual accessory building shall not exceed 24 feet.

   D. New utility facilities.

   E. Fire stations.

   F. Home occupations and cottage industries subject to the guidelines in "Home Occupations and Cottage Industries" (Part II, Chapter 7: General Policies and Guidelines).

   G. Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (Part II, Chapter 7: General Policies and Guidelines).

   H. Community parks and playgrounds.

   I. Road and railroad construction and reconstruction.

J. Forest practices, as specified in Part II, Chapter 2: Forest Land.

K. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

L. On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Part II, Chapter 7: General Policies and Guidelines).

M. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

N. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

O. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

P. New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 1.W of Part II, Chapter 2: Forest Land.

CHAPTER

5

Commercial Land

There have been centers of trade and commerce in the Gorge for almost as long as humans have inhabited it. Gorge Indians were renowned traders.

With the exception of a few small community commercial nodes, the commercial centers are located within the 13 designated Urban Areas. These include Hood River, Stevenson, and White Salmon-Bingen, commercial centers that serve both local and regional needs. Smaller, rural community service centers include Carson, Lyle, Mosier, and Cascade Locks, as well as the communities of Corbett and Skamania, designated as Rural Centers in the Management Plan.

SCENIC AREA ACT PROVISIONS

The Scenic Area Act gives clear direction for commercial development in the Gorge: it is to be encouraged to locate within the 13 Urban Areas identified by Congress. The Act directs the Gorge Commission to "protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with" protecting and enhancing scenic, cultural, recreational, and natural resources [Section 3(2)].

The Act directs the Commission to "require that commercial development outside urban areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the Scenic Area" [Section 6(d)(7)].

New commercial development is not permitted in the SMA, except for commercial recreation. When located outside the Urban Areas, commercial development shall be designated for areas outside the SMA "used or suitable for commercial development: *Provided,* That such designations shall encourage, but not require, commercial development to take place in urban areas and shall take into account the physical characteristics of the areas in question and their geographic proximity to transportation, commercial, and industrial facilities and other amenities" [Section 6(b)(5)].

KEY ISSUES

Commercial development in the Scenic Area should reinforce the Act's orientation of promoting and protecting the vitality of Urban Areas, the long-standing centers of commercial trade in the Gorge. Planning provisions need to encourage major commercial development to locate in the 13 Urban Areas designated by Congress.

Commercial development does occur outside the Urban Areas. There are several commercial nodes and, quite noticeably, two rural communities that act as rural service centers and gathering places. These existing commercial areas provide important services to local communities and visitors and need to be protected.

Portland/Vancouver metropolitan area growth and the growing importance of tourism in the Gorge create demands for new commercial uses. Uncontrolled strip commercial development outside the Urban Areas could discourage new commercial growth in these Urban Areas and impact the rural character and scenic qualities of the main travel corridors. New commercial uses must be planned to protect the resources identified in the Scenic Area Act. Maintaining commercial uses to a rural scale helps to serve the rural communities without competing with Urban Areas. Home occupations, cottage industries, and bed and breakfast inns associated with residential use are other uses that can help the rural economy without placing many demands on rural services.

OVERVIEW OF COMMERCIAL LAND PROVISIONS

The remainder of this chapter is devoted to the GMA. The Scenic Area Act precludes new commercial development in the SMA, except for commercial recreation.

Commercial designations in the GMA recognize areas outside Urban Areas where commercial use took place in the immediate past or is currently taking place. The GMA policies outline factors for establishing two commercial designations: Rural Center and Commercial. The communities of Corbett, Oregon, and Skamania, Washington, are designated as Rural Centers. These communities include a unique mix of commercial, public, and residential uses. Corbett and Skamania serve the surrounding rural community as well as tourists.

GMA land use policies and guidelines allow commercial uses in the Rural Centers of a type and scale appropriate to serve the needs of the rural community and limited tourist needs. Uses that cater to the traveling or visiting public may be allowed in a Commercial designation. Building size is limited to 5,000 square feet of floor area per building or use. Both designations allow one single-family dwelling per legally created parcel.

Home occupations and cottage industries may be allowed in other designations if they are determined to be compatible with the surrounding area. Policies are also provided that allow bed and breakfast inns outside the Rural Center and Commercial designations in 5-acre Residential and 10-acre Residential designations and in historic dwellings in other areas. GMA guidelines also establish approval criteria to ensure that uses are rural in scale and compatible with surrounding areas.

Land divisions are allowed in the GMA. Parcel size for commercial development is determined by local governments, based upon site requirements such as sewerage, parking, and building size. Residential lot size is addressed in Part II, Chapter 4: Residential Land.

GMA PROVISIONS

GMA Goals

1. Protect and support the economy of the Columbia River Gorge by encouraging commercial uses to occur in existing Urban Areas.

2. Protect and support the economy of the Columbia River Gorge by allowing new commercial uses outside of Urban Areas where they will not adversely affect scenic, cultural, natural, or recreation resources.

GMA Policies

Designation Policies

1. Designation for commercial uses shall be given to those areas outside Urban Areas that are suited for such uses by physical characteristics, such as slope, and geographic proximity to transportation, commercial and industrial facilities, and other amenities.

2. Areas outside Urban Areas shall be designated as Commercial where commercial use took place in the immediate past or is now taking place and would not adversely affect scenic, cultural, natural, or recreation resources. A commercial use shall be considered to have taken place in the immediate past if it has been active and has not been discontinued for more than 1 year.

3. Areas shall be designated as Rural Center that act as service centers and gathering places for concentrations of rural residences and that have all of the following characteristics:

    A. Node of existing commercial uses, or an existing commercial core.

    B. Substantial concentration of rural residences.

    C. Public, noncommercial gathering place such as a grange hall.

    D. School.

    E. Fire station.

    F. Location along a major travel corridor.

    G. Definable area within which these characteristics occur.

Land Use Policies

1. Commercial uses shall be allowed outside Urban Areas on lands designated Rural Center, Commercial, or Commercial Recreation (Part II, Chapter 6: Recreation Designations) or as allowed in the recreation intensity classes (Part I, Chapter 4: Recreation Resources).

2. In Rural Centers, commercial uses shall be allowed of a type and scale appropriate to serve the needs of the rural community and limited tourist needs. Such commercial uses shall be limited to small-scale tourist commercial and community commercial to ensure that they do not change the rural character of the community or compete with nearby Urban Areas for the tourist trade.

3. Residential designations and densities in the vicinity of Rural Centers shall be established to limit the need for additional community commercial uses and community services to those lands that are currently available within the boundaries of existing Rural Centers.

4. On lands designated Commercial, single-family dwellings and uses that cater to the traveling or visiting public shall be allowed.

5. Home occupations and cottage industries may be allowed if they are compatible with the surrounding area.

6. The minimum size for new parcels created for commercial uses within a Rural Center shall be based upon the site requirements (sewerage, parking, building size, etc.) for the proposed use. Parcel size shall be determined by the local government on a case-by-case basis.

7. The minimum size for new parcels created for residential uses within a Rural Center shall be 1 acre.

   To encourage the efficient use of land, provide public amenities and standards for quality developments, and reduce the cost of providing services within Rural Centers, local governments may allow a minimum parcel size of less than 1 acre within Rural Centers if a planned unit development approach is used for the subject parcel, incorporating features such as consolidated access and commonly shared open areas.

8. Commercial uses located outside Urban Areas and Rural Centers shall be limited to a scale that serves local community and tourist needs.

9. Travelers' accommodations, including bed and breakfast inns, may be allowed in Rural Centers and Commercial designations. Bed and breakfast inns may be located in 5-acre Residential and 10-acre Residential designations. Historic dwellings located outside the Rural Centers, Commercial, 5-acre Residential, and

10-acre Residential designations may be considered for use as bed and breakfast inns.

10. Proposed projects should be encouraged to follow planned unit development approaches, featuring consolidated access, commonly shared landscaped open areas, etc.

GMA Guidelines

Uses Allowed Outright: Rural Centers and Commercial Designations

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Rural Center and Commercial.

Uses Allowed through the Expedited Development Review Process: Rural Centers and Commercial Designations

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Rural Center and Commercial.

Review Uses: Rural Centers

1. The following uses may be allowed within Rural Centers, subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources:

    A. One single-family dwelling per legally created parcel.

    B. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 1.C below.

    C. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

        (1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

        (2) The height of any individual accessory building shall not exceed 24 feet.

D. The temporary use of a mobile home in the case of a family hardship, subject to guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Part II, Chapter 7: General Policies and Guidelines).

E. Duplexes.

F. Fire stations.

G. Libraries.

H. Government buildings.

I. Community centers and meeting halls.

J. Schools.

K. Accredited childcare centers.

L. Rural service commercial and tourist commercial uses limited to 5,000 square feet of floor area per building or use.

(1) Grocery stores.

(2) Variety and hardware stores.

(3) Shops, offices, and repair shops.

(4) Personal services such as barber and beauty shops.

(5) Travelers' accommodations, bed and breakfast inns.

(6) Restaurants.

(7) Taverns and bars.

(8) Gas stations.

(9) Gift shops.

M. Home occupations or cottage industries in an existing residence or accessory structure, subject to guidelines in "Home Occupations and Cottage Industries" (Part II, Chapter 7: General Policies and Guidelines).

N. Utility facilities and railroads.

O. Recreation development, subject to the guidelines established for recreation intensity classes (Part I, Chapter 4: Recreation Resources).

P. Places of worship.

Q. New cultivation, subject to compliance with guidelines for the protection of cultural resources (Part I, Chapter 2: Cultural Resources) and natural resources (Part I, Chapter 4: Natural Resources).

R. Land divisions, subject to the land use policies in this chapter for minimum parcel sizes.

S. Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).

T. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

U. Agricultural structures, except buildings, in conjunction with agricultural use.

V. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Part II, Chapter 7: General Policies and Guidelines).

W. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

X. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

Y. Commercial events, subject to the guidelines in "Commercial Events" (Part II, Chapter 7: General Policies and Guidelines).

Z. Special uses in historic buildings, subject to the guidelines in “Special Uses in Historic Buildings” (Part II, Chapter 7: General Policies and Guidelines).

Review Uses: Commercial Designations

1. The following uses may be allowed on lands designated Commercial, subject to compliance with the guidelines for protection of scenic, cultural, natural, and recreation resources and "Approval Criteria for Specified Review Uses," below.

A. Travelers' accommodations, bed and breakfast inns.

B. Restaurants.

C. Gift shops.

D. Home occupations or cottage industries in an existing residence or accessory structure, subject to guidelines in "Home Occupations and Cottage Industries" (Part II, Chapter 7: General Policies and Guidelines).

E. One single-family dwelling per legally created parcel.

F. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed as accessory buildings larger than 200 square feet in area or 10 feet in height.

G. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel, subject to the following standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

H. Utility facilities and railroads.

I. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

J. Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).

K. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

L. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

M. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

N. Commercial events, subject to the guidelines in "Commercial Events" (Part II, Chapter 7: General Policies and Guidelines).

O. Special uses in historic buildings, subject to the guidelines in “Special Uses in Historic Buildings” (Part II, Chapter 7: General Policies and Guidelines).

Approval Criteria for Specified Review Uses

1. The uses identified under "Review Uses: Commercial Designations" may be allowed only if they meet the following two criteria:

   A. The proposal is limited to 5,000 square feet of floor area per building or use.

   B. The proposed use would be compatible with the surrounding area. Review for compatibility shall include impacts associated with the visual character of the area; traffic generation; and noise, dust and odors.

CHAPTER

6

Recreation Designations

This chapter contains land use policies and guidelines for lands designated Public Recreation and Commercial Recreation. Recreation uses may also be authorized in other land use designations. The guidelines in Part I, Chapter 4: Recreation Resources apply to all resource-based recreation uses; the guidelines in this chapter apply to uses located in the Public and Commercial Recreation designations.

This chapter is divided into three sections. A section addressing land uses and development actions on lands designated Public Recreation in the GMA is followed by a similar section for lands designated Commercial Recreation in the GMA. These two sections are followed by a section on lands designated Public Recreation in the SMA.

GMA PROVISIONS

PUBLIC RECREATION

GMA Goal

Protect and enhance opportunities for publicly-owned, moderate- and high-intensity resource-based recreation uses on lands most suitable for such uses.

GMA Policies

1. The following lands shall be designated as Public Recreation:

    A. Existing public park and recreation sites providing moderate- and/or high-intensity recreation uses.

    B. Those public lands suitable for moderate- and/or high-intensity recreation uses, where provision of such uses is consistent with adopted policies, plans, and programs of the owning or managing agency.

C. Those privately owned lands most potentially suitable for provision of moderate- and/or high-intensity public recreation uses.

2. Lands shall be considered highly suitable for Public Recreation designation if they possess significant potential for providing two or more of the following opportunities, are readily accessible, and lack hazards or highly sensitive resources:

   A. River access.

   B. Possibility of multiple recreation uses.

   C. Scenic appreciation.

   D. Facilities satisfying a demonstrated public recreation need.

   E. Trailhead.

   F. Enhancement of scenic, natural, and/or cultural resources.

3. Uses other than those providing public recreation opportunities shall be allowed if they do not interfere with existing or approved recreation uses on the subject site or adjacent lands, and do not permanently commit the site to non-recreation uses.

4. Commercial uses shall be allowed if they are part of an existing or approved public recreation use and are consistent with the policies and guidelines contained in this chapter for private concessions and commercial uses at recreation sites.

GMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Public Recreation.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Public Recreation.

Review Uses

1. The following uses may be allowed on lands designated Public Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural, and recreation resources and compliance with numbers 1.A, 1.C, 1.D, 1.E, 1.F, and 1.G

(where applicable) of the "Approval Criteria for Recreation Uses" contained in the recreation intensity class guidelines (Part I, Chapter 4: Recreation Resources):

A. Publicly-owned, resource-based recreation uses, consistent with recreation intensity class policies and guidelines (Part I, Chapter 4: Recreation Resources).

B. Commercial uses and non-resource based recreation uses that are part of an existing or approved resource-based public recreation use, consistent with the policies, guidelines, and conditional use criteria for such uses contained in this section.

C. New cultivation, subject to compliance with guidelines for the protection of cultural resources (Part I, Chapter 2: Cultural Resources) and natural resources (Part I, Chapter 4: Natural Resources).

D. Special uses in historic buildings, subject to the guidelines in “Special Uses in Historic Buildings” (Part II, Chapter 7: General Policies and Guidelines).

2. The following uses may be allowed on lands designated Public Recreation, subject to compliance with the "Approval Criteria for Non-Recreation Uses in Public Recreation designations," below, and the guidelines for the protection of scenic, natural, cultural, and recreation resources:

A. One single-family dwelling for each parcel legally created prior to adoption of the Management Plan. Exceptions may be considered only upon demonstration that more than one residence is necessary for management of a public park.

B. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 2.C below.

C. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

D. Agricultural structures, except buildings, in conjunction with agricultural use.

E. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Part II, Chapter 7: General Policies and Guidelines).

F. Utility transmission, transportation, communication, and public works facilities.

G. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

H. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

I. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

J. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

K. Commercial events, subject to the guidelines in "Commercial Events" (Part II, Chapter 7: General Policies and Guidelines).

3. Land divisions may be allowed, subject to compliance with criterion 1.C under "Approval Criteria for Non-Recreation Uses in Public Recreation," below.

4. Lot line adjustments may be allowed, subject to compliance with the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).

Approval Criteria for Non-Recreation Uses in Public Recreation

1. The uses identified under Guidelines 2 and 3 under "Review Uses," above, may be allowed if they meet the following criteria:

   A. The proposed use will not interfere with existing or approved public recreation uses on the subject property or adjacent lands. Mitigative measures used to comply with this criterion may include provision of onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

   B. The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structures and other improvements may be used to comply with this criterion.

C. Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance, or otherwise improve recreational uses on the site.

COMMERCIAL RECREATION

GMA Goal

Protect and enhance opportunities for commercially owned, resource-based recreation and supporting commercial uses on lands containing such existing uses or lands on which such proposed uses have been deemed consistent with the Scenic Area Act.

GMA Policies

1. Those lands devoted to resource-based, commercial recreation uses and those lands highly suitable for such uses shall be designated as Commercial Recreation.

2. Lands may be considered highly suitable for Commercial Recreation uses if they have the following characteristics:

   A. The site offers an outstanding opportunity for active, resource-based, river-oriented recreation or a unique opportunity for some other type of active, resource-based recreation. Examples of such opportunities and uses include: access (e.g. swimming, windsurfing, boating, and picnicking) to the Columbia River or its major tributaries; access to an outstanding sport fishery on the main stem of the Columbia River or a major tributary; access to the only natural hot springs in the Scenic Area (uniqueness criterion); etc.

   B. The site is classified in the Management Plan for moderate- or high-intensity recreation (Recreation Intensity Class 3 or 4 as defined in Part I, Chapter 4: Recreation Resources).

   C. Potential development on the site would not adversely affect sensitive wildlife habitat or plants, wetlands, or aquatic or riparian areas. This may be achieved by either designing the development to avoid areas containing such resources or by applying mitigation measures that reduce effects on such resources to less than adverse levels.

   D. Potential development on the site would not adversely affect significant cultural resources. This may be achieved by either designing the development to avoid areas containing such resources or by applying mitigation measures that reduce effects to such resources to less than adverse levels.

   E. Potential development on the site would not have cumulative adverse effects upon scenic, cultural, natural or recreation resources, considering other

development (existing or authorized in the Management Plan) in the Scenic Area or in the vicinity of the development.

3. Overnight accommodations (in addition to campgrounds) shall be allowed if they are rural in scale, such as cabins or cottages, and are closely associated with resource-based recreation opportunities located onsite or on adjacent lands that are accessed through the site. This policy shall not apply to a recreation resort. *(Revised: CRGC adopted 7/7/08; U.S. Sec. Ag. concurrence 10/8/08)*

4. Uses other than those providing commercially owned, resource-based recreation opportunities shall be allowed if they do not interfere with existing or approved recreation uses on the subject site or adjacent lands and do not permanently commit the site to non-recreational uses.

5. Commercial uses (such as restaurants) shall be allowed if they are part of an existing or approved commercial recreation use and are consistent with the policies and guidelines for private concessions and commercial uses at recreation sites contained in this chapter.

6. Redevelopment of an existing industrial complex as a recreation resort may be allowed if the result is protection of and enhancement to scenic, cultural, natural and recreation resources, and protection of tribal treaty rights. All uses must be part of an approved master plan and consistent with the policies and guidelines for recreation resorts contained in this chapter. *(Added: CRGC adopted 7/7/08; U.S. Sec. Ag concurrence 10/8/08)*

   A. The overall scale of a resort shall be limited to ensure the resort protects and supports the economies of urban areas and protects scenic area resources. The total number of resort users shall be roughly equivalent to what is otherwise allowed in the designation.

   B. All existing industrial uses shall be extinguished. All structures associated with the existing industrial complex that are not reused or restored for adaptation to resort use shall be removed. Existing residential uses may remain.

   C. Recreation uses (including campgrounds) consistent with the recreation intensity class guidelines associated with the recreation resort may extend to contiguous and adjacent lands under other land use designations if consistent with the adjacent land use designation and the recreation intensity class policies and guidelines. All recreation development shall be included in the resort master plan.

   D. All accommodation units shall be designed for, and uses limited to, short-term occupancy to ensure the resort protects and supports the economies of urban areas.

   E. Commercial uses shall be limited to ensure the resort protects and supports the

economies of urban areas. Commercial uses shall be oriented toward serving resort guests and recreation site users rather than the traveling public.

F. The general scale (height, dimensions and overall mass) of buildings in the resort core may be compatible with the scale of the buildings located within the existing industrial complex prior to redevelopment as a recreation resort.

H. The recreation resort shall be compatible with the surrounding areas.

GMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Commercial Recreation.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Commercial Recreation.

Review Uses

1. The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with guidelines for the protection of scenic, natural, cultural and recreation resources and compliance with numbers 1.A, 1.C, 1.D, 1.E, 1.F, and 1.G (where applicable) of the "Approval Criteria for Recreation Uses" contained in the recreation intensity class guidelines (Part I, Chapter 4: Recreation Resources):

   A. Commercially owned, resource-based recreation uses, consistent with recreation intensity class policies and guidelines (Part I, Chapter 4: Recreation Resources).

   B. Overnight accommodations that are part of a commercially owned, resource-based recreation use, where such resource-based recreation use occurs on the subject site or on adjacent lands that are accessed through the site, and that meet the following standards:

      (1) Buildings containing individual units shall be no larger than 1,500 square feet in total floor area and no higher than 2-1/2 stories.

(2) Buildings containing more than one unit shall be no larger than 5,000 square feet in total floor area and no higher than 2-1/2 stories.

(3) The total number of individual units shall not exceed 25, unless the proposed development complies with standards for clustered accommodations in subsection (4) of this guideline.

(4) Clustered overnight travelers accommodations meeting the following standards may include up to 35 individual units:

(a) Average total floor area of all units is 1,000 square feet or less per unit.

(b) A minimum of 50 percent of the project site is dedicated to undeveloped, open areas (not including roads or parking areas).

(c) The facility is in an area classified for high-intensity recreation (Recreation Intensity Class 4).

C. Commercial uses, including restaurants sized to accommodate overnight visitors and their guests, and non-resource based recreation uses that are part of an existing or approved resource-based commercial recreation use, consistent with the policies, guidelines, and conditional use criteria for such uses contained in this section.

D. New cultivation, subject to compliance with guidelines for the protection of cultural resources (Part I, Chapter 2: Cultural Resources) and natural resources (Part I, Chapter 4: Natural Resources).

E. Special uses in historic buildings, subject to the guidelines in “Special Uses in Historic Buildings” (Part II, Chapter 7: General Policies and Guidelines).

2. The following uses may be allowed on lands designated Commercial Recreation, subject to compliance with the "Approval Criteria for Non-Recreational Uses in Commercial Recreation," below, and the guidelines for the protection of scenic, natural, cultural, and recreation resources:

A. One single-family dwelling for each lot or parcel legally created prior to adoption of the Management Plan.

B. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 2.C below.

C. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(2) The height of any individual accessory building shall not exceed 24 feet.

D. Agricultural structures, except buildings, in conjunction with agricultural use.

E. Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (Part II, Chapter 7: General Policies and Guidelines).

F. Utility transmission, transportation, and communication facilities.

G. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

H. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

I. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

J. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

K. Commercial events, subject to the guidelines in "Commercial Events" (Part II, Chapter 7: General Policies and Guidelines).

3. Land divisions may be allowed, subject to compliance with criterion 1.C under "Approval Criteria for Non-Recreational Uses in Commercial Recreation," below.

4. Lot line adjustments may be allowed, subject to compliance with the guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines).

5. Recreation resorts may be allowed on lands designated Commercial Recreation that include an existing industrial complex, subject to compliance with the following

approval criteria, and the guidelines for the protection of scenic, natural, cultural, and recreation resources. All uses on lands with an approved recreation resort shall be subject to the following limitations: *(Added: CRGC adopted 7/7/08; U.S. Sec. Ag. concurrence 10/8/08)*

A. Uses Allowed: All commercial development (except for privately owned, public use resource-based recreation uses) and accommodations within a recreation resort shall be located within the resort core. Recreation facilities associated with the recreation resort shall be included on the resort master plan and may extend to contiguous and adjacent lands under other land use designations only if consistent with the land use designation and the recreation intensity class policies and guidelines (Part I, Chapter 4: Recreation Resources).

(1) Accommodations that are part of a recreation resort shall meet the following standards:

(a) The total number of accommodation units and campground sites shall not exceed that approved by the resort master plan.

(b) The average size of accommodation units shall not exceed 1,300 square feet. Individual accommodation units shall be no larger than 1,600 square feet in total floor area.

(c) No unit shall contain more than one kitchen.

(d) Parking shall be predominantly in common lots or structures and accessed through shared driveways. Individual accommodation units shall not have separate or attached garages.

(e) All accommodation units shall have design and use restrictions that effectively limit their use to short-term occupancy and that require occupancy to be limited to no more than 45 days in any 90 day period.

(2) Commercial uses that are part of a recreation resort shall meet the following standards:

(a) Commercial uses shall be located predominantly within and oriented internally toward the center of the resort core or to serve adjacent recreation areas, rather than at or toward the resort perimeter.

(b) Commercial uses are limited to restaurants and pubs, a mini-mart, recreation equipment rental, and other small-scale retail and guest services. Conference and meeting facilities may be permitted.

(c) Gas stations, banks, grocery stores, or other services commonly found in urban areas or catering to the traveling public shall not be permitted.

(d) Commercial uses shall be sized and oriented to primarily serve resort guests and recreation-site users rather than the traveling public.

(3) Notwithstanding GMA Guideline 2 of the GMA Overall Scenic Provisions, new recreation resort buildings located within the resort core may be compatible with the general scale (height, dimensions and overall mass) of industrial buildings that existed within the existing industrial complex.

(a) The cumulative footprint of all recreation resort buildings located within the resort core shall not exceed that of buildings located within the existing industrial complex at the time of application.

(b) Buildings shall not exceed 2-1/2 stories in height.

(4) Land divisions for the purpose of selling individual accommodation units shall not be permitted within the resort core.

B. Application for a recreation resort shall include the following materials in addition to those required large-scale review uses by Part I: Resource Protection and Enhancement:

(1) A master plan including the contents listed in subsection C(1), below. The master plan shall include all areas where recreational, commercial, and resort uses are proposed and where mitigation and enhancement measures are planned or necessary.

(2) A traffic impact study meeting the applicable local or state department of transportation standards that projects future conditions for each phase and after the project is completed.

(3) A description of economic impacts of resort development prepared by a qualified economist that includes:

(a) Assessment of effects on public services and emergency response needs.

(b) Assessment of net economic effect on surrounding communities and counties that takes into account public services costs, job creation, effect on tax base, and commercial activity in nearby urban areas.

(4) An engineering assessment of impact on community water facilities and surface water quality due to projected water use and treatment methods at resort build-out.

(5) Assessment of effects on existing recreation resources at and adjacent to the resort that evaluates:

(a) Types of recreation resources and levels of current use.

(b) Existing site conditions and recreation site capacity, including parking, safety, river access, and on-river conditions.

(c) Projected additional use and effect on existing recreation areas due to recreation resort development, by phase and at full build-out.

(d) Potential effect on the quality of the recreation experience at adjacent recreation sites; including effects due to potential changes in parking, traffic, public health and safety due to recreation resort development.

(e) Identification of potential mitigation and enhancement actions that would improve the quality of the experience for current and projected levels of use.

(6) Assessment of effect on surrounding areas. Review of impacts at a minimum shall include the visual character of the area, traffic generation, emergency response, fire risk and lighting.

(7) A delineation of the boundary of the existing industrial complex, and an inventory of existing development within the complex, including the dimensions and locations of all buildings.

C. All development within the recreation resort shall be based on a master plan. Master plans shall be sufficiently detailed to enable the reviewing agency to confirm the guidelines of this section will be met through the development.

(1) The resort master plan shall include:

(a) Land use plan: This shall designate uses for all areas within the development. This shall also include a delineation of the resort core.

(b) Building design plan: This shall describe the location, materials, colors, and dimensions of all structures proposed.

(c) Landscape plan: This shall identify all areas where existing vegetation is to be removed and retained, and describe proposed landscape plantings, species and size of plants used, as well as irrigation and landscape maintenance plans.

(d) Traffic circulation plan: This shall describe all road way and parking locations, widths, and surfacing materials.

(e) Roadway improvement plan: This shall describe all on-site and off-site improvements necessary to mitigate traffic impacts and enhance driver and pedestrian safety in the vicinity of the resort.

(f) Grading and drainage plan: This shall indicate existing and proposed contours throughout the redevelopment area. Stormwater drainage routes and facilities shall also be indicated on this plan.

(g) Infrastructure development plan: This shall describe the location, size, basic design, funding mechanisms, and operational plans for water, sewer, power, and emergency services.

(h) Construction phasing plan: This shall indicate intended phasing of development of the project, if any, including anticipated initiation and completion dates for each component of the development. This shall also discuss how the project will function at interim stages prior to completion of all phases, and how the resort may operate successfully and meet its resource protection and enhancement commitments should development cease before all phases are completed.

(i) Resource protection and enhancement plan: This shall describe and indicate proposed measures that will be implemented to protect and enhance scenic, natural, cultural and recreation resources, including measures necessary to mitigate impacts identified through assessments required by this section.

(2) Reviewing agencies shall develop procedures for master plan and phase approval, time extension, and revision consistent with the following:

(a) Construction of all phases of the master plan shall be completed within 12 years from the date of approval. A reviewing agency may grant one extension of time, not to exceed three years, to the validity of the master plan if it determines that events beyond the control of the applicant prevented completion of all phases of the master plan.

(b) The initial phase of the master plan shall be commenced within 3 years of master plan approval by the reviewing agency. The reviewing agency may approve one extension of time, not to exceed two years, to initiate the initial phase if it determines that events beyond the control of the applicant prevented commencement of the phase.

(c) The reviewing agency shall review each phase of the master plan for consistency with the master plan prior to any construction on that phase. The review for consistency shall be an administrative decision. Each phase of the master plan shall be completed within

three years from the date the reviewing agency determines that phase is consistent with the master plan. The reviewing agency may grant one extension of time, not to exceed two years, if it determines that events beyond the control of the applicant prevented completion of that phase.

(d) The reviewing agency may approve minor changes to the findings, conclusions, and conditions of approval for master plans and phases if the change is deemed to be consistent with the guidelines of this section and does not generate new significant potential impacts not previously addressed in the original review. Approval or denial of a request for a minor change or extension shall be an administrative decision.

D. Development Standards: The applicant shall demonstrate and the reviewing agency shall make findings that determine the following standards are met through development under the approved master plan for the recreation resort:

(1) Master Plan:

(a) Removal: The first phase of recreation resort development shall result in the elimination of industrial uses and removal of all portions of the industrial complex that are not planned for use as part of the resort. Existing residential uses may remain.

(b) Infrastructure: The recreation resort shall provide its own sewer, water and internal circulation system, including roads. The development shall accommodate mass transportation to access the site and adjacent recreation areas.

(c) On-site and off-site infrastructure impacts shall be fully considered and mitigated. Mitigation may include assessment of impact fees, provision of community facilities within or adjacent to the resort. The reviewing agency may require that some or all reasonable and negotiated costs, expenses or charges associated with the alteration, construction or improvement of public services and facilities shall be the responsibility of the applicant.

(d) Phasing: Each phase shall be self-sufficient, in conjunction with existing elements of the resort. Transportation, parking, utilities, landscaping, as well as recreation mitigation and enhancements for each phase shall be satisfied within each phase and shall not be dependent upon a future phase.

(i) Each phase of the development shall be designed to be completed within two years of the commencement of construction

for that phase.

(ii) Off-site recreation mitigation and enhancement shall be included in the first phase and completed prior to occupancy of resort buildings and initiation of a second phase.

(iii) On-site recreation mitigation and enhancement shall be developed in proportion to the type and amount of development in each phase.

(e) Landscaping necessary to screen development from key viewing areas shall be sized to provide sufficient screening to make development of each phase visually subordinate within 5 years or less from the commencement of construction of that phase, except for landscaping necessary to screen development from the section of SR 14 passing through the resort core. Such landscaping may be sized to provide sufficient screening to make development visually subordinate within 10 years from the commencement of construction of each phase. Landscaping for each phase shall be installed as soon as possible and prior to phase completion.

(f) Bonding sufficient to ensure remediation and clean up of the site and completion of resource enhancements identified in the master plan is required.

(2) Potentially adverse impacts of a recreation resort on surrounding areas shall be mitigated.

(a) Traffic, safety, and circulation impacts shall be mitigated in conformity with reviewing agency requirements. For each phase of the proposed development, the developer shall make road and intersection improvements to maintain traffic levels of service existing prior to each phase. The developer shall ensure that in no event may it cause the public road system to operate below a level-of-service (LOS) C for intersection delay during the peak traffic hour. LOS C standards shall be determined based on the most recently adopted version of the Highway Capacity Manual (Transportation Research Board).

(b) Reviewing agencies may apply additional restrictions on noise, odor, lighting and water treatment in order to mitigate identified impacts.

(3) Recreation resources on the subject property shall be protected and enhanced by the development of the recreation resort. Recreation resources on adjacent lands and nearby areas shall be protected.

(a) Potentially adverse impacts to adjacent recreation sites due to the development shall be mitigated.

(b) Recreation enhancements shall include, but are not limited to, measures that address existing site conditions and provide new or expanded facilities that are open to the public.

(c) Resource protection and enhancement plans shall address at a minimum:

(i) Improvements to recreation user areas.

(ii) New or improved access to recreation sites.

(iii) Parking improvements and other potential methods to reduce parking demand at adjacent recreation sites by resort guests, such as shuttles or parking restrictions.

(iv) Cooperative agreements with the management of adjacent recreation sites to jointly address potential adverse impacts.

(v) Establishment of mitigation funds to be applied to improvements at public recreation sites.

(vi) Development of secondary activities, such as spectator seating, development of recreational trials, interpretation sites and trails.

(4) Scenic resources shall be protected and enhanced by the development of the recreation resort. All new development, including additions or re-use of existing structures for resort use shall be visually subordinate as seen from key viewing areas. Enhancements may include, but are not limited to: removal of visually discordant structures and building materials not associated with the existing industrial complex, grading and vegetative restoration of previously disturbed areas and permanent protection of undeveloped lands in the master plan area or adjoining lands in the same ownership.

(5) Cultural resources shall be protected and enhanced by development of the recreation resort. Cultural resource reconnaissance survey procedures and standards for large-scale uses are applicable to recreation resort development. Enhancements may include, but are not limited to, interpretive displays, restoration or adaptive re-use of historical structures.

(6) Natural resources shall be protected and enhanced by the development of the recreation resort. Enhancements may include, but are not limited to, habitat improvements, permanent protection of undeveloped lands, water-quality improvements.

(7) Tribal treaty rights shall be protected by development of the recreation resort. Protection requires determination that the policies for River Access and Protection of Treaty Rights in Part I, Chapter 4 have been met by the application and development plan.

Approval Criteria for Non-Recreational Uses in Commercial Recreation

1. The uses identified under Guidelines 2 and 3 under "Review Uses," above, may be allowed if they meet the following criteria:

   A. The proposed use will not interfere with existing or approved commercial recreation uses on the subject property or adjacent lands. Mitigative measures used to comply with this criterion may include provision of onsite buffers, seasonal or temporary closures during peak recreation use periods, etc.

   B. The proposed use will not permanently commit the majority of the site to a non-recreational use. Careful siting and design of structure and other improvements may be used to comply with this criterion.

   C. Land divisions may be allowed upon a demonstration that the proposed land division is necessary to facilitate, enhance, or otherwise improve recreational uses on the site.

SMA PROVISIONS

PUBLIC RECREATION

SMA Goal

Protect and enhance lands that are suitable for public recreation.

SMA Policies

1. Public recreation shall be natural resource based.
2. All existing developed public recreation sites providing moderate- and/or high-intensity uses shall be designated as Public Recreation.
3. Recreation development shall meet the guidelines set forth in Part I, Chapter 4: Recreation Resources.
4. All new land uses and developments shall protect the scenic, natural, cultural, and recreation resources.
5. Opportunities for moderate and intensive natural resource-based recreation development shall be protected by applying a Public Recreation designation.
6. No new dwellings shall be permitted on parcels of less than 40 contiguous acres.
7. Dwellings shall only be allowed when they meet the conditions described for Agricultural Land (Part II, Chapter 1) or Forest Land (Part II, Chapter 2), or when they are shown to be necessary for public recreation site management purposes.
8. New commercial recreation facilities shall not be permitted.
9. All National Forest System lands shall be subject to the laws and regulations pertaining to the National Forest system, including the National Environmental Policy Act (NEPA), the Mt. Hood National Forest Land and Resource Management Plan, and the Gifford Pinchot National Forest Land and Resource Management Plan, as amended by the Northwest Forest Plan. The most protective standards of the National Scenic Area Management Plan or the respective Forest Land and Resource Management Plans (as amended by the Northwest Forest Plan) shall apply to National Forest System lands.

SMA Guidelines

Uses Allowed Outright

1. The uses listed in "Uses Allowed Outright, All Land Use Designations, Except Open Space and Agriculture-Special" (Part II, Chapter 7: General Policies and Guidelines) are allowed without review on lands designated Public Recreation.

Uses Allowed through the Expedited Development Review Process

1. The uses listed in "Expedited Development Review Process" (Part II, Chapter 7: General Policies and Guidelines) are allowed with review through the expedited development review process on lands designated Public Recreation.

Review Uses

1. The following uses may be allowed on lands designated Public Recreation subject to review for compliance with scenic, cultural, natural, and recreational resources guidelines:

   A. Forest uses and practices, as allowed for in Part II, Chapter 2: Forest Land, except Forest Land Review Uses 1. I, 1.L, 1.M, and 1.V.

   B. Public trails, consistent with the provisions in Part I, Chapter 4: Recreation Resources.

   C. Public recreational facilities, consistent with the provisions in Part I, Chapter 4: Recreation Resources.

   D. Public nonprofit group camps, retreats, conference or educational centers, and interpretive facilities.

   E. One single-family dwelling on a parcel of 40 contiguous acres or larger when it meets the conditions described for Agricultural Land (Part II, Chapter 1) or Forest Land (Part II, Chapter 2), or when shown to be necessary for public recreation site management purposes.

   F. Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in Guideline 1.G below.

   G. Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

      (1) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

      (2) The height of any individual accessory building shall not exceed 24 feet.

   H. Home occupation and cottage industries, as specified in Part II, Chapter 7: General Policies and Guidelines.

I. Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (Part II, Chapter 7: General Policies and Guidelines). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

J. Road and railroad construction and reconstruction.

K. Utility facilities for public service upon a showing that:

(1) There is no alternative location with less adverse effect on Public Recreation land.

(2) The size is the minimum necessary to provide the service.

L. Agricultural review uses, as allowed for in Part II, Chapter 1: Agricultural Land, except Agricultural Land Review Uses 1.H, 1.I, 1.T, and 1.AA.

M. On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use - Hardship Dwelling" (Part II, Chapter 7: General Policies and Guidelines).

N. Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

O. Removal/demolition of structures that are 50 or more years old**,** including wells, septic tanks and fuel tanks.

P. Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (Part II, Chapter 7: General Policies and Guidelines).

CHAPTER

7

General Policies and Guidelines

The policies and guidelines in this chapter provide more detailed guidance for uses authorized in many (or all) designations, as well as for uses which either are exempt from regulation under the Scenic Area Act, or allowed without a Scenic Area review.

Chapter 7: General Policies and Guidelines **Page**

Savings Policies…… II-7-2
Standards for Applications, Expiration of Approvals, Vested Rights…….. II-7-3
Existing Uses and Discontinued Uses…….. II-7-4
Consolidation of Lots…….. II-7-9
Uniform Application of Management Plan……..... II-7-10
Applying New Less-Stringent Regulations to Development Approved…….....II-7-10
Under Prior Scenic Area Regulations
Uses Allowed Outright…… II-7-11
- All Land Use Designations Except Open Space and Agriculture-Special II-7-11
- GMA and SMA Open Space……... II-7-16

Expedited Development Review Process…… II-7-20
Emergency/Disaster Response Actions…… II-7-26
Land Divisions and Cluster Development…… II-7-41
Lot Line Adjustments…….. II-7-42
Agricultural Buildings…… II-7-45
Temporary Use--Hardship Dwelling…… II-7-46
Sewer and Water Services…… II-7-47
Docks and Boathouses…… II-7-47
Home Occupations and Cottage Industries……..II-7-48
Bed and Breakfast Inns……II-7-49
Small-Scale Fishing Support and Fish Processing Operations……II-7-49
Resource Enhancement Projects…….. II-7-51
Disposal Sites for Spoil Materials from Public Road Maintenance Activities….. II-7-52
Commercial Events…….. II-7-54
Industrial Development……... II-7-56
Variances from Setbacks and Buffers…….. II-7-56
Vegetation Control Methods……... II-7-57
Review Uses……..II-7-57
SMA Sign Provisions…… II-7-60
Columbia River Bridge Replacement……II-7-63
Special Uses in Historic Buildings……..II-7-64

SAVINGS POLICIES

These policies repeat and respond to direction in the Scenic Area Act that the Management Plan not affect certain uses that take place in the Scenic Area.

1. The Gorge Commission and Forest Service shall, in the Management Plan and in the implementation actions, protect treaty and other rights of Indian tribes. Nothing in the plan may interfere with the exercise of those rights.

2. Lands held in trust by the Secretary of the Interior for Indian tribes or for individual members of Indian tribes, and lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes or of individual members of Indian tribes, shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act. This exemption shall extend to lands selected by the U.S. Army Corps of Engineers as "in lieu" fishing sites pursuant to Public Law 100-581 before or after the effective date of the Management Plan. For those "in lieu" sites chosen after the effective date of the Management Plan, the exemption shall commence upon selection by the U.S. Army Corps of Engineers.

3. Rights to surface or ground water shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act.

4. Water transportation activities on the Columbia River or its tributaries shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act. The term "activities" includes those facilities necessary for navigation.

5. The operation, maintenance, and modification of existing transmission facilities of the Bonneville Power Administration shall be exempt from regulation under the Management Plan or land use ordinances adopted by the counties or the Gorge Commission pursuant to the Scenic Area Act.

6. Neither the Management Plan nor land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act may affect laws, rules, or regulations pertaining to hunting or fishing.

7. Neither the Forest Service nor the Gorge Commission may establish any buffer zones or protective perimeters outside the boundaries of the Scenic Area.

8. The operation, maintenance, and improvement of navigation facilities at Bonneville Dam pursuant to federal law, except for the offsite disposal of excavation material, shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission under the Scenic Area Act.

9. In the GMA, the rights and responsibilities of non-federal timber landowners under the Forest Practices Acts of Washington and Oregon, or under county regulations that supersede those acts, shall be exempt from regulation under the Management Plan or land use ordinances adopted by counties or the Gorge Commission pursuant to the Scenic Area Act.

STANDARDS FOR APPLICATIONS, EXPIRATION OF APPROVALS, VESTED RIGHTS

GMA/SMA Guidelines

Standards for Applications

1. Complete Application Required: Any proposed use, development or structure shall be reviewed according to the standards in effect on the date an applicant submitted a complete land use application to the reviewing agency. A complete application is one that the reviewing agency determines meets the Management Plan's requirements for: (1) a complete application form, (2) a complete site plan, and (3) all applicable information specified in the parts of the Management Plan titled Resource Protection and Enhancement, Land Use Designations, and Indian Tribal Treaty Rights and Consultation. Incomplete applications shall not be reviewed.

Expiration of Approvals

1. Notice Not Required: Expiration of any land use approval issued pursuant to this Management Plan shall be automatic. Failure to give notice of expiration shall not affect the expiration of a land use approval.

2. Land Use Approvals without Structures: Any land use approval issued pursuant to this Management Plan for a use or development that does not include a structure shall expire two years after the date the land use approval was granted, unless the use or development was established according to all specifications and conditions of approval in the land use approval. For land divisions, "established" means the final deed or plat has been recorded with the county recorder or auditor.

3. Land Use Approvals with Structures**:** Any land use approval issued pursuant to this Management Plan for a use or development that includes a structure shall expire as follows:

    A. When construction has not commenced within two years of the date the land use approval was granted, or

    B. When the structure has not been completed within two years of the date of commencement of construction.

4. Commencement of Construction: As used in 3.A above, commencement of construction shall mean actual construction of the foundation or frame of the approved structure. For utilities and developments without a frame or foundation, commencement of construction shall mean actual construction of support structures for an approved above ground utility or development or actual excavation of trenches for an approved underground utility or development. For roads, commencement of construction shall mean actual grading of the roadway.

5. Completion of Structure: As used in 3.B above, completion of the structure shall mean (1) completion of the exterior surface(s) of the structure and (2) compliance with all conditions of approval in the land use approval.

6. Extension of Validity of Land Use Approvals: A request for extension of the time frames in Guidelines 2, 3.A or 3.B, above, shall be submitted in writing before the applicable expiration date.

   A. A reviewing agency may grant one 12-month extension to the validity of a land use approval if it determines that events beyond the control of the applicant prevented commencement of the use or development (applicable to 2 above) or commencement of construction (applicable to 3.A above) within the original two-year time frame.

   B. An agency may also grant one 12-month extension if it determines that events beyond the control of the applicant prevented completion of the structure (applicable to 3.B above) within the original two-year time frame.

   C. A request for extension shall state the reason why events beyond the control of the applicant warrant an extension.

   D. Approval or denial of a request for extension shall be considered an administrative decision.

7. Vested Rights: The laws of the states of Oregon and Washington concerning vested rights shall not apply in the National Scenic Area. A person has a vested right for as long as the land use approval does not expire.

EXISTING USES AND DISCONTINUED USES

GMA/SMA Guidelines

1. Right to Continue Existing Uses and Structures: Except as otherwise provided, any existing use or structure may continue as long as it is used in the same manner and for the same purpose.

2. Replacement of Existing Structures Not Damaged or Destroyed by Disaster: Except as provided in Guideline 3 below, an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

   A. The replacement structure shall be used in the same manner and for the same purpose as the original structure.

   B. The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.

   C. The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones, approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.

   D. The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

3. Replacement of Existing Structures Damaged or Destroyed by Disaster: An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

   A. The replacement structure shall be used in the same manner and for the same purpose as the original structure. An existing mobile home may be replaced with a framed residence.

   B. The replacement structure shall be in the same location as the original structure. An exception may be granted and the replacement structure may be sited in a different location if the following conditions exist:

      (1) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.

      (2) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative

building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.

(3) The new building site complies with the cultural resources, natural resources, and treaty rights protection guidelines.

C. The replacement structure shall be the same size and height as the original structure, provided:

(1) The footprint of the replacement structure may be up to 10 percent larger than the footprint of the original structure.

(2) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.

D. The replacement structure shall only be subject to the following scenic resources standards:

(1) The replacement structure shall comply with the scenic resources guidelines regarding color and reflectivity. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.

(2) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.

(3) In the General Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable, provided:

(a) Except as provided in Guideline 3.D(3)(b) below, the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.

(b) In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that

required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.

(c) To help determine how much vegetation may be required under Guidelines 3.D(3)(a) and (b) above, land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:

(i) The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.

(ii) The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.

(iii) Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.

(d) The height of any new trees shall not be required to exceed 5 feet.

(e) The time frame for achieving visual subordinance shall be 10 years or less from the commencement of construction.

(4) In the Special Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable, provided:

(a) The *Scenic Resources Implementation Handbook* shall be utilized to determine approvable species and minimum approvable sizes of new trees planted (based on average growth rates expected for approvable species).

(b) The height of any new trees shall not be required to exceed 5 feet.

(c) The time frame for achieving the applicable scenic standard (visually subordinate or not visually evident) shall be 10 years.

E. The replacement structure shall be subject to Guidelines 2.A, 2.B, and 2.C above if it would not comply with Guidelines 3.B and 3.C above.

F. The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two year time frame.

4. Changes to Existing Uses and Structures**:** Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to this Management Plan. *(Revised: CRGC adoption 7/13/10; U.S. Sec. Ag. concurrence 11/1/10 & 7/1/11)*

A. Conversion of Existing Industrial Uses in the GMA: In the GMA, existing industrial uses may convert to less intensive uses. For this section, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.

B. Existing Development or Production of Mineral Resources in the GMA: In the GMA, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural, or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to land use ordinances under the Management Plan if any of the following conditions exist:

(1) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain that was merely leveled or cleared of vegetation.

(2) The site has not maintained a required state permit.

(3) The site has not operated legally within 5 years before the date of adoption of the Management Plan.

C. Existing Development or Production of Mineral Resources in the SMA: Uses involving the exploration, development, or production of sand, gravel, or crushed rock in the SMA may continue if both of the following conditions exist:

(1) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the SMA.

(2) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural, or recreation resources.

D. Solid Waste Disposal Sites and Sanitary Landfills in the SMA: Solid waste disposal sites or sanitary landfills are not allowed in the SMA.

5. Discontinuance of Existing Uses and Structures: Except as provided in Guidelines 3 and 3.F above, any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.

   A. Multiple Uses: An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.

   B. Change in Use: An existing use or structure shall become discontinued if the use or use of the structure changes.

6. Discontinued Uses and Structures: Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.

CONSOLIDATION OF LOTS

GMA/SMA Guidelines

1. A unit of land shall be consolidated with adjacent lands in the same ownership if:

   A. In Oregon, the subdivision within which the unit of land is located is undeveloped pursuant to ORS chapter 92; or

   B. In Washington, if the unit of land is smaller than the current minimum parcel size and is located within a final plat that is older than five years from the date of filing.

2. No portion of a consolidated plat shall be considered a separate parcel solely because an existing parcel overlays, and possibly fragments, that consolidated subdivision.

3. Section 1 shall not be applied to consolidate two or more units of land where each unit of land is developed with a dwelling that qualifies as an existing use. One or more undeveloped units of land shall be consolidated with one or more developed units of land.

4. To carry out this section, counties shall develop their own procedures for consolidating units of land pursuant to this provision, including amending plats, vacating plats, replatting, or other similar legal action.

UNIFORM APPLICATION OF MANAGEMENT PLAN

GMA/SMA Policies

1. The Management Plan shall be applied consistent with and in the spirit of the National Scenic Area Act.

2. The Gorge Commission, Forest Service, and counties should strive to apply Management Plan provisions uniformly throughout the National Scenic Area, except when a county has adopted a more restrictive provision.

3. In applying provisions of the Management Plan, the Gorge Commission and Forest Service may consider, but shall not be constrained by, county interpretations, state interpretation and application of state law and administrative regulations, or judicial decisions that do not directly involve the Management Plan.

APPLYING NEW LESS-STRINGENT REGULATIONS TO DEVELOPMENT APPROVED UNDER PRIOR SCENIC AREA REGULATIONS

GMA/SMA Guidelines

1. A landowner may submit a land use application to alter conditions of approval for an existing use or structure approved under prior Scenic Area regulations (e.g., *Columbia River Gorge National Scenic Area Final Interim Guidelines*, original *Management Plan*), subject to the following standards:

    A. The applicant shall apply for the same development that was reviewed in the original decision.

    B. The development shall remain in its current location.

    C. The agency that currently has jurisdiction over the applicant's property shall review the application and send notice of the application to agencies and other parties entitled to receive notice under the current rules.

    D. The agency shall review the entire development to ensure that it would fully comply with all the current guidelines (i.e., land use, treaty rights, scenic resources, cultural resources, recreation resources and natural resources).

    E. The agency shall issue a new decision that supersedes the original decision.

F. The new decision may remove or revise original conditions of approval or add new conditions of approval to ensure full compliance with all the current guidelines.

USES ALLOWED OUTRIGHT

ALL LAND USE DESIGNATIONS, EXCEPT OPEN SPACE AND AGRICULTURE-SPECIAL

GMA/SMA Guidelines

1. The following uses may be allowed without review in all GMA and SMA land use designations, except GMA and SMA Open Space and GMA Agriculture-Special:

   A. In the General Management Area, agricultural uses except new cultivation. Any operation that would cultivate land that has not been cultivated, or has lain idle, for more than 5 years shall be considered new cultivation. For this guideline, cultivation and vegetation removal may be allowed in conjunction with a home garden.

   B. In the Special Management Area, agricultural uses within previously disturbed and regularly worked fields or areas.

   C. Forest practices in the General Management Area that do not violate conditions of approval for other approved uses and developments.

   D. Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.

   E. Accessory structures 60 square feet or less in area and 10 feet or less in height, unless within the buffer zone of a wetland, stream, pond, lake or riparian area. This category does not include signs, fences, outdoor lights, retaining walls, flagpoles, transportation facilities, or utility facilities.

   F. Wire-strand or woven-wire fences used for gardens, yards, livestock, and similar uses less than or equal to 500 feet in length and less than or equal to 10 feet in height that are accessory to an existing dwelling, provided woven-wire fences (posts and wire) are brown or black if visible from key viewing areas. Height is measured from the ground to the top wire.

   G. Wire-strand fences less than or equal to 48 inches in height that are outside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate

federal or state agency. Height is measured from the ground to the top wire. This category does not include fences associated with transportation facilities or utility facilities.

H. The following transportation facilities:

(1) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors” (Part I, Chapter 1).

(2) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors” (Part I, Chapter 1).

(3) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

(4) Permanent public regulatory, guide, and warning signs, except those excluded below, provided (1) the signs comply with the *Manual for Uniform Traffic Control Devices* and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(5) Extensions of existing guardrails less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or

materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" (Part I, Chapter 1).

(6) New guardrails and guardrail ends, provided the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" (Part I, Chapter 1). This category does not include jersey barriers.

(7) In the General Management Area, replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(8) In the Special Management Area, replace and/or expand existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.

(9) Resurface or overlay existing paved roads, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.

(10) Apply dust abatement products to non-paved road surfaces.

(11) Grade and gravel existing road shoulders, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.

(12) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000 square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments).

I. The following underground utility facilities:

(1) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.

(2) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no excavation would extend more than 12 inches beyond the depth and extent of the original excavation, (2) no ditch for linear facilities would be more than 24 inches wide, (3) no excavation for non-linear facilities would exceed 10 cubic yards, and (4) no recorded archaeological site is located within 500 feet of the development.

To comply with (4), the entity or person undertaking the development shall contact the Washington Office of Archaeology and Historic Preservation or the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

J. The following aboveground and overhead utility facilities:

(1) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants, provided the replacement facilities would have (1) the same location and size as the existing facilities and (2) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors” (Part I, Chapter 1).

(2) Replace existing utility poles, provided the replacement poles are (1) located within 5 feet of the original poles, (2) no more than 5 feet taller and 6 inches wider than the original poles, and (3) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

(3) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.

K. Flagpoles that are accessory to the principal building on a parcel, provided the height of the flagpole is less than or equal to the height of the highest ridgeline or parapet of the principal building.

L. The following signs:

(1) Election signs. Removal must be accomplished within 30 days of election day.

(2) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.

(3) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the *Manual for Uniform Traffic Control Devices*. Removal must be accomplished within 30 days of project completion.

(4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the General Management Area and 2 square feet in the Special Management Area.

(5) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal must be accomplished within 30 days of the close of the event.

(6) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

(7) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

M. In the General Management Area, wind machines for frost control in conjunction with agricultural use.

GMA AND SMA OPEN SPACE

GMA/SMA Guidelines

1. The following uses may be allowed without review in GMA and SMA Open Space:

   A. Repair, maintenance and operation of existing structures, including, but not limited to, dwellings, agricultural structures, trails, roads, railroads, and utility facilities.

   B. The following transportation facilities:

      (1) Replace existing safety or protective structures, including guardrails, access control fences and gates, barriers, energy attenuators, safety cables, and traffic signals and controllers, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors” (Part I, Chapter 1).

      (2) Replace existing traffic detection devices, vehicle weighing devices, and signal boxes, provided the replacement structures are (1) the same location and size as the existing structures and (2) the same building materials as the existing structures, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors” Part I, Chapter 1).

      (3) New raised pavement markers, guide posts, object markers, inlay markers, and pavement markings and striping.

      (4) Permanent public regulatory, guide, and warning signs, except those excluded below, provided (1) the signs comply with the *Manual for Uniform Traffic Control Devices* and (2) the support structures and backs of all signs are dark brown with a flat, non-reflective finish. This category does not include specific service signs; destination and distance signs; variable message signs; or signs that bridge or are cantilevered over the road surface.

(5) Extensions of existing guardrails less than or equal to 50 feet in length and new guardrail ends for existing guardrails, provided the guardrails and guardrail ends are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of materials that match the existing structure, natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" (Part I, Chapter 1).

(6) New guardrails and guardrail ends, provided the structures are (1) located inside rights-of-way that have been disturbed in the past and (2) constructed of natural wood, weathering steel (e.g., Corten), or materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled "Scenic Travel Corridors" (Part I, Chapter 1). This category does not include jersey barriers.

(7) In the General Management Area, replace and/or expand existing culverts, provided the entity or person owning or operating the culvert shall obtain all necessary federal and state permits that protect water quality and fish and wildlife habitat before construction.

(8) In the Special Management Area, replace and/or expand existing culverts for ephemeral streams or ditches, provided the visible ends of culverts shall be dark and non-reflective.

(9) Resurface or overlay existing paved roads, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.

(10) Apply dust abatement products to non-paved road surfaces.

(11) Grade and gravel existing road shoulders, provided the activity does not (1) increase the width of a road, (2) disturb the toe of adjacent embankments, slopes or cut banks, or (3) change existing structures or add new structures.

(12) Replace the superstructure of bridges (e.g., decks, beams) for bridges less than or equal to 30 feet in length and less than or equal to 1,000

square feet in area. This category does not include guardrails or the substructure of bridges (e.g., foundations, abutments).

C. The following underground utility facilities:

(1) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided no excavation would extend beyond the depth and extent of the original excavation.

(2) Replace or modify existing underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past or co-locate new underground utility facilities with existing underground facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no excavation would extend more than 12 inches beyond the depth and extent of the original excavation, (2) no ditch for linear facilities would be more than 24 inches wide, (3) no excavation for non-linear facilities would exceed 10 cubic yards, and (4) no recorded archaeological site is located within 500 feet of the development.
To comply with (4), the entity or person undertaking the development shall contact the Washington Office of Archaeology and Historic Preservation or the Oregon State Historic Preservation Office and obtain a letter or other document stating no recorded archaeological site is located within 500 feet of the development.

D. The following aboveground and overhead utility facilities:

(1) Replace existing aboveground and overhead utility facilities including towers, pole/tower-mounted equipment, cables and wires, anchors, pad-mounted equipment, service boxes, pumps, valves, pipes, water meters, and fire hydrants, provided the replacement facilities would have (1) the same location and size as the existing facilities and (2) the same building materials as the existing facilities, or building materials that are dark brown with a flat, non-reflective finish, or building materials consistent with the *Historic Columbia River Highway Master Plan* for the Historic Columbia River Highway or a scenic highway corridor strategy for Interstate 84 or Washington State Route 14 prepared according to the GMA policies in the section of the Scenic Resources chapter of the Management Plan titled “Scenic Travel Corridors” (Part I, Chapter 1).

(2) Replace existing utility poles, provided the replacement poles are (1) located within 5 feet of the original poles, (2) no more than 5 feet

taller and 6 inches wider than the original poles, and (3) constructed of natural wood, weathering steel (e.g., Corten), materials that match the original poles, or materials that are dark brown with a flat, non-reflective finish.

(3) New whip antennas for public service less than or equal to 8-feet in height and less than or equal to 2 inches in diameter, cables, wires, transformers, and other similar equipment, provided all such structures are on existing utility poles or towers.

E. The following signs:

(1) Election signs. Removal must be accomplished within 30 days of election day.

(2) "For sale" signs not greater than 12 square feet. Removal must be accomplished within 30 days of close of sale.

(3) Temporary construction site identification, public service company, safety, or information signs not greater than 32 square feet. Exceptions may be granted for public highway signs necessary for public safety and consistent with the *Manual for Uniform Traffic Control Devices*. Removal must be accomplished within 30 days of project completion.

(4) Signs posted on private property warning the public against trespassing, danger from animals, the private nature of a road, driveway or premise, or signs prohibiting or otherwise controlling fishing or hunting, provided such signs are not greater than 6 square feet in the GMA and 2 square feet in the SMA.

(5) Temporary signs advertising civil, social, or political gatherings and activities, provided such signs do not exceed 12 square feet. Removal must be accomplished within 30 days of the close of the event.

(6) Signs posted by governmental jurisdictions giving notice to the public. Such signs shall be no larger than that required to convey the intended message.

(7) In the General Management Area, signs associated with the use of a building or buildings, if placed flat on the outside walls of buildings (not on roofs or marquees).

EXPEDITED DEVELOPMENT REVIEW PROCESS

GMA/SMA Guidelines

Development Eligible for Expedited Review

1. The following developments may be reviewed using the expedited development review process, provided they comply with the resource protection and procedural guidelines listed below.

   A. Except in Open Space and Agriculture-Special, accessory structures between 60 and 200 square feet in area and 10 feet or less in height. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s). Additional accessory buildings shall be subject to full review. This category does not include signs, decks, fences, outdoor lights, retaining walls, transportation facilities, or utility facilities.

   B. Additions and covered decks for existing buildings, provided the existing building is at least 500 square feet in area and the addition or covered deck is no larger than 200 square feet in area and no taller than the height of the existing building. Only one addition and one covered deck per parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition or covered deck.

   C. Rail, solid or semi-solid fences accessory to existing dwellings less than or equal to 6 feet in height and less than or equal to 100 feet in length.

   D. Wire-strand fences other than those allowed outright, provided the fence complies with the "Approval Criteria for Fences in Deer and Elk Winter Range" (Part I, Chapter 3: Natural Resources, GMA Wildlife Habitat) if it is inside deer and elk winter range as delineated in the Gorge Commission/USDA Forest Service natural resource inventories or determined by an appropriate federal or state agency.

   E. In the General Management Area, woven-wire fences for agricultural use that would enclose 80 acres or less.

   F. Decks that are (1) uncovered, (2) attached and accessory to existing dwellings, and (3) 500 square feet or less in area and 30 inches or less in height above existing grade.

   G. Road closure gates.

   H. Signs, other than those allowed outright.

I. Outdoor lights.

J. Air, weather, water and other similar research and monitoring facilities, provided the facilities are attached to existing structures or are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.

K. Lot line adjustments in the General Management Area that would not result in the potential to create additional parcels through subsequent land divisions, subject to the GMA guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines), except all lot line adjustments for parcels designated Open Space, Agriculture-Special, Public Recreation, or Commercial Recreation shall be reviewed through the full development review process.

L. Lot line adjustments in the Special Management Area, subject to the SMA guidelines in "Lot Line Adjustments" (Part II, Chapter 7: General Policies and Guidelines) and SMA Residential Land Policy 4.

M. Removal/demolition of structures that are less than 50 years old**,** including wells, septic tanks and fuel tanks.

N. Decommission non-paved roads, including ripping the road surface, barriers, and revegetation.

O. Trail reconstruction involving up to 1,000 feet of trail re-route.

P. The following transportation facilities, provided they are not a part of larger construction or reconstruction projects (which shall be reviewed as a whole):

(1) New guardrails and guardrail ends, other than those allowed outright, and new wire-strand and woven-wire access control fences. This category does not include jersey barriers.

(2) New traffic detection devices, vehicle weighing devices, and signal boxes less than or equal to 120 square feet in size and less than or equal to 12 feet in height. This category does not include signs.

(3) Pave existing dirt and gravel roads, provided the activity does not increase the width of the road or disturb the toe of adjacent embankments, slopes or cut banks.

(4) New weather, air, traffic or other monitoring equipment attached to existing structures or that are less than or equal to 120 square feet in size and less than or equal to 12 feet in height.

Q. Except in Agriculture-Special, the following underground utility facilities:

(1) New underground utility facilities located inside road, utility or railroad rights-of-way or easements that have been disturbed in the past, provided (1) no ditch for linear facilities would be more than 36 inches wide and (2) no excavation for non-linear facilities would exceed 20 cubic yards.

R. The following aboveground and overhead utility facilities:

(1) Modify existing aboveground and overhead utility facilities or, except in Agriculture-Special, develop new aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the development would be less than or equal to 120 square feet in area and less than or equal to 12 feet in height.

(2) Replace existing aboveground and overhead utility facilities including building and equipment foundations, poles, transformers, conduit, fencing, pumps, valves, pipes, and water meters, provided the replacement facilities would be in the same location as and no more than 15 percent larger than the physical size of the existing facilities.

(3) New antennas and associated support structures necessary for public service on existing wireless communication poles and towers other than those allowed outright, provided the size is the minimum necessary to provide the service.

S. Replace an existing mobile home in a mobile home space within a mobile home park, provided (1) the mobile home to be replaced, the mobile home space and the mobile home park shall be existing, lawful uses according to the definition of *existing use or structure* and Guidelines 1 through 4 in the section titled “Existing Uses” of this chapter; (2) the replacement mobile home shall be in the same location as the mobile home to be replaced; (3) the height of the replacement mobile home shall be no more than 20 percent greater than the mobile home to be replaced, and (4) the mass and footprint of the replacement mobile home shall be no more than 100 percent greater than a single-wide mobile home to be replaced or no more than 25 percent greater than a double-wide mobile home to be replaced.

T. Retaining walls accessory to existing dwellings less than or equal to 2 feet in height and less than or equal to 100 feet in length.

U. In the Special Management Area, wind machines for frost control in conjunction with agricultural use.

Resource and Treaty Rights Protection Guidelines

1. Proposed developments reviewed using the expedited review process shall comply with the following resource protection guidelines:

   A. Scenic

      (1) In the General Management Area, the scenic resource protection guidelines shall not apply to woven-wire fences for agricultural use that would enclose 80 acres or less.

      (2) Except signs, the colors of structures topographically visible from key viewing areas shall be dark earth-tones found at the specific site or the surrounding landscape. The specific colors or list of acceptable colors shall be included as a condition of approval. This guideline shall not apply to additions, which may match the color of existing buildings.

      (3) Except signs, structures topographically visible from key viewing areas shall use low or non-reflective building materials, including roofing, gutters, vents, and chimneys.

      (4) Outdoor lights shall be directed downward and sited, hooded, and shielded such that they are not highly visible from key viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.

      (5) Signs shall comply with the applicable sign guidelines in the Management Plan (Part I, Chapter 1: Scenic Resources GMA Sign guidelines and Part II Chapter 7, SMA Sign guidelines).

      (6) Structures within ½-mile of a key viewing area and topographically visible from the key viewing area shall be sited, screened and/or designed to achieve the applicable scenic standard (e.g., visual subordinance, not visually evident).

   B. Cultural

      (1) The expedited development review process shall only be used to review proposed development that does not require a reconnaissance survey or historic survey. The GMA Cultural Resources Policies 6 and 7 (Part I, Chapter 2) shall be used to determine if a reconnaissance and/or historic survey is required for a proposed development.

      (2) The GMA “Cultural Resources Discovered After Construction Begins” Guideline 1 and “Discovery if Human Remains” Guideline 1 (Part I,

Chapter 2) shall be applied as conditions of approval for all development approved under the expedited development review process.

C. Recreation

(1) The development shall not detract from the use and enjoyment of established recreation sites on adjacent parcels.

D. Natural

(1) Wetlands, Streams, Rivers, Ponds, and Lakes

(a) The development is outside buffer zones for wetlands, streams, rivers, ponds, and lakes. This guideline shall not apply to lot line adjustments or development located inside road, utility or railroad rights-of-way or easements that have been previously disturbed and regularly maintained.

(2) Sensitive Wildlife and Sensitive Plants

(a) The development meets one of the following:

(i) The development is at least 1,000 feet from known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range, and turkey habitat) and known sensitive plants; or

(ii) The development does not disturb the ground or is inside road, utility or railroad rights-of-way or easements or other areas that have been previously disturbed and regularly maintained; or

(iii) For sensitive wildlife, the development is within 1,000 feet of known sensitive wildlife areas or sites (excluding sensitive aquatic species, deer winter range and turkey habitat), but an appropriate federal or state wildlife agency determines (1) the sensitive wildlife area or site is not active or (2) the proposed development would not compromise the integrity of the wildlife area or site or occur during the time of the year when wildlife species are sensitive to disturbance.

For sensitive plants, the development is within 1,000 feet of known sensitive plants, but the Oregon or Washington Natural Heritage Program or a person with recognized expertise in botany or plant ecology hired by the applicant has determined

that the development would be at least 200 feet from the sensitive plants.

(b) Development eligible for expedited review shall be exempt from the field surveys for sensitive wildlife or sensitive plants [see GMA “Site Plans and Field Surveys for Review Uses Near Sensitive Wildlife Areas and Sites” Guidelines 1 and 2, and “Site Plans and Field Surveys for Review Uses Near Sensitive Plants” Guidelines 1 and 2 (Part I, Chapter 3)].

2. Proposed developments reviewed using the expedited review process shall comply with the following treaty rights protection guidelines:

   A. Proposed developments shall not affect or modify any treaty or other rights of any Indian tribe.

   B. The expedited development review process shall cease and the proposed development shall be reviewed using the full development review process if an Indian tribe submits substantive written comments during the comment period that identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the proposed development.

   C. Except as provided in 2.B above, the GMA and SMA treaty rights and consultation goals, policies and guidelines in Chapter 3, Section IV of the Management Plan shall not apply to proposed developments reviewed under the expedited review process.

Procedural Guidelines

1. Applications

   A. Applications for uses eligible for expedited review shall include the information required for review uses listed in Guideline 3, "Review Uses" (Part II, Chapter 7: General Policies and Guidelines). They shall also include elevation drawings if the proposed development would be visible from a key viewing area. The drawing shall show natural grade and finished grade.

2. Comment Period

   A. Reviewing agencies shall send a copy of all applications for developments to be reviewed under the expedited review process to the four Indian tribal governments, the Gorge Commission, and the Forest Service.

   B. Reviewing agencies shall allow the Indian tribal governments, the Gorge Commission, and the Forest Service at least 10 days from the date a notice is sent to submit written comments on the proposed development.

3. Written Decision

   A. Reviewing agencies shall prepare written decisions for all development reviewed under the expedited review process. The decisions shall include findings of fact, conclusions of law and, if necessary, conditions of approval.

4. Notice of Decision and Opportunity to Appeal

   A. Reviewing agencies shall send a copy of all decisions issued under the expedited review process to the Indian tribal governments, the Gorge Commission, the Forest Service, and landowners within 200 feet of the perimeter of the subject parcel.

   B. Any person shall be allowed to appeal a decision issued under the expedited review process.

EMERGENCY/DISASTER RESPONSE ACTIONS

GMA/SMA Policies

1. Notification of emergency/disaster response actions is required in order to:

   A. Provide responding parties early access to inventory information on sensitive resources that may be affected by emergency response actions;

   B. Prevent or minimize resource impacts from such actions, reducing the need for post-emergency mitigation/restoration;

   C. Achieve the above purposes while allowing actions necessary to protect life, property, public services, and the environment during an emergency or disaster.

2. Post-emergency/disaster response development review is required in order to evaluate whether such response actions have impacted scenic, natural, cultural or recreation resources. Adverse impacts of the response actions shall be mitigated to the greatest extent practicable. The review process shall be expedited to facilitate timely mitigation/restoration efforts, where needed. The party(ies) submitting the post-emergency/disaster response application shall be responsible for implementing any required mitigation/restoration, unless: (1) other responding parties agree to assume such responsibility, upon mutual agreement of the parties; or (2) the landowner denies access for mitigation/restoration activities, in which cast the landowner assumes responsibility.

3. Nothing in these provisions shall be interpreted to excuse compliance with other applicable state or federal law.

GMA/SMA Guidelines

1. General Guidelines

   A. Actions taken in response to an emergency/disaster event, as defined in the Glossary, are allowed in all GMA/SMA land use designations, subject to the notification requirements in the following section (see "Notification Requirements").

   B. Following emergency/disaster response actions, best management practices (BMPs) to prevent sedimentation and provide erosion control shall be utilized whenever disaster response actions necessitate vegetation removal, excavation, and/or grading. BMPs may include but are not limited to: use of straw bales, slash windrows, filter fabric fences, sandbags, straw cover, jute netting, etc.

   C. Structures or development installed or erected for a temporary use (e.g. sandbags, check dams, plastic sheeting, chain link fences, debris walls, etc.) shall be removed within one year following an emergency event. If it can be demonstrated that the continued use of these devices is necessary to protect life property, public services or the environment, an extension of no more than two years may be granted by the agency administering the Scenic Area ordinance or the Forest Service for federal agency actions.

   D. The new exploration, development (extraction or excavation), and production of mineral resources, used for commercial, private or public works projects, shall not be conducted as an emergency/disaster response activity.

   E. No spoils resulting from grading or excavation activities shall be deliberately deposited into a wetland, stream, pond, lake or riparian area within the National Scenic Area (NSA) as a part of an emergency/disaster response action. The only exception to this is for construction of a fire line during a wildfire, where avoiding the aquatic area or its buffer zone has been considered and determine to not be possible without further jeopardizing life or property.

2. Notification Requirements

   A. Actions taken in response to an emergency/disaster event, as defined in the Glossary, are allowed in all GMA and SMA land use designations, subject to the following notification requirements.

      (1) Notification of an emergency/disaster response activity shall be submitted either within 48 hours of the commencement of a response action, or by the next business day following the start of such an action, whichever is sooner. Notification shall be submitted by the party conducting an emergency/disaster response activity or their representatives. In the case of multiple responding parties, the first party to respond shall provide the

required notification, unless, upon mutual agreement of responding parties, another responder elects to assume this responsibility.

(2) Notification shall be submitted by mail, fax, telephone, e-mail or in person. If notification occurs by telephone, a hard copy of the notification shall be submitted by mail or in person within 7 days.

(3) Notification shall be furnished to the agency administering the Scenic Area ordinance, or the Forest Service for federal agency actions.

(4) At a minimum, the following information shall be required at the time of notification:

(a) Nature of emergency/disaster event.

(b) Description of emergency/disaster response activities and magnitude of response actions to be taken, if applicable (such as extent of earth movement, erection of structures, etc.).

(c) Location of emergency/disaster response activities.

(d) Estimated start and duration of emergency/disaster response activities.

(e) Contact person and phone number for the parties conducting emergency/disaster response actions.

(5) Repair and maintenance of an existing serviceable structure to its previously authorized and undamaged condition are not subject to the above referenced notification requirements.

B. Upon notification of an emergency/disaster response action, the Gorge Commission, applicable planning department, or Forest Service shall, as soon as possible:

(1) Review its natural resource inventory data and notify the contact person for the emergency/disaster response actions of all inventoried natural resource sites and their buffers, that are within or adjacent to the response area or that may be adversely affected by response activities;

(2) Notify the Oregon or Washington Department of Fish and Wildlife of all noticed emergency/disaster response actions, to provide that agency an opportunity to consult with responding agencies during the event, and;

(3) Notify the Forest Service, the Oregon Historic Preservation Office or the Office of Washington Office of Archeology and Historic Preservation, and

the tribal governments of all emergency/disaster response activities. The Forest Service will review their cultural resource inventory data and notify the contact person for the emergency/disaster response action as soon as possible of all inventoried cultural resource sites, or their buffers, that are within, or adjacent to, emergency/disaster response areas.

C. Upon notification of a response action, the Forest Service shall, as soon as possible, offer the services of a resource advisor to the agency(ies) conducting the response action. The resource advisor will provide on-site advice to minimize impacts to resources from emergency/disaster response actions.

3. Post-Emergency/Disaster Response Development Review Application Requirements

A. Within 30 days following notification, a post-emergency/disaster response application shall be submitted by the party conducting the response action to the Gorge Commission, applicable planning department, or Forest Service for federal agency actions. In the case of an event with multiple responding parties, the agency providing initial notification as required herein shall submit the application. An exception to this may occur if another responding party, by mutual agreement with the other respondents, elects to submit the application. Requests to extend this submittal deadline may be made in writing and shall include the reason why an extension is necessary. Extensions shall not exceed 30 days in duration and not more than two (2) extensions shall be granted.

B. Post-emergency/disaster response applications shall only address development activities conducted during an emergency/disaster response. Applications shall specify if development placed during an emergency/disaster event is permanent or temporary. The terms "development activities" and "development" include the disposal of any spoil materials associated with an emergency/disaster response action. Applicants shall be responsible for operations under their control and that of other responders, upon mutual agreement. Responders not agreeing to have another responder address their actions shall be responsible to submit an application for those actions.

C. Emergency/disaster response actions not involving structural development or ground disturbance with mechanized equipment are exempt from these requirements, except for those actions within 500 feet of a known cultural resource (as determined in the notification process).

D. Applications shall include the following information:

(1) Applicants name and address.

(2) Location of emergency/disaster response.

(3) A written description of the emergency/disaster response, including any structures erected, excavation or other grading activities, or vegetation removal.

(4) A map of the project area drawn to scale, at a scale of 1 inch = 200 feet or a scale providing greater detail. The map shall include:

(a) North arrow and scale.

(b) Boundaries, dimensions and size of subject parcel(s).

(c) Bodies of water, watercourses, and significant landforms.

(d) Existing roads and structures.

(e) New structures placed and any vegetation removal, excavation or grading resulting from the response actions.

(5) An exception to the scale requirements in Guideline 3.D(4) above may be granted for an event encompassing an area greater than one square mile. In such cases, a clear sketch map of the entire response action area shall be provided. In addition, a map of 1 inch = 200 feet or a scale providing greater detail shall be provided that shows a section of the response area exemplifying the specific actions taken.

E. Emergency/disaster response review uses may be allowed pursuant to a process that provides at minimum the following:

(1) Notice of the application to landowners within 200 feet of the perimeter of the subject parcel, the Forest Service, Gorge Commission, four tribal governments and interested parties.

(2) A written decision with findings of fact and conclusions of law.

(3) An opportunity to request a hearing.

4. Post-Emergency/Disaster Response Development Review

Actions taken in all land use designations within the GMA/SMA that are in response to an emergency/disaster event, as defined in the Glossary, shall be reviewed for compliance with the following guidelines.

A. Scenic Resources

(1) Impacts of emergency/disaster response actions shall be evaluated to ensure that scenic resources are not adversely affected. In the GMA, such actions shall be rendered visually subordinate in their landscape

setting as seen from key viewing areas to the greatest extent practicable, except for actions located in areas exempted from visual subordinance requirements in "Developed Settings and Visual Subordinance Policies" (Part I, Chapter 1: Scenic Resources). In the SMA, such actions shall meet the scenic standard to the greatest extent practicable.

(2) Vegetation shall be used to screen or cover road cuts, structural development, landform alteration, and areas denuded of vegetation, as a result of emergency/disaster response actions.

(3) Areas denuded of vegetation as a result of emergency/disaster response actions shall be revegetated with native plant species, or species commonly found within the applicable landscape setting, to restore the affected areas to its pre-response condition to the greatest extent practicable. Revegetation shall occur as soon as practicable, but no later than one year after the emergency/disaster event. An exception to the one-year requirement may be granted upon demonstration of just cause, with an extension up to one year.

(4) The painting, staining or use of other materials on new structural development shall be used to ensure that the structures are non-reflective, or of low reflectivity, and visually subordinate in their landscape setting as seen from key viewing areas, unless the structure is fully screened from key viewing areas by existing topographic features.

(5) Additions to existing structures, resulting from an emergency/disaster response action, which are smaller in total height, bulk or area than the existing structures may be the same color as the existing development. Additions larger than the existing development shall be visually subordinate in their landscape setting as seen from key viewing areas to the greatest extent practicable.

(6) In the General Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

(a) The spoil materials shall either be:

(i) Removed from the NSA,

(ii) Deposited at a site within the NSA permitted by the agency administering a Scenic Area land use ordinance, or

(iii) (Re)contoured, to the greatest extent practicable, to retain the natural topography, or a topography which emulates that of the surrounding landscape.

(b) The agency administering a Scenic Area ordinance shall decide whether an applicant removes the spoil materials [4.A(6)(a)(i)], deposits the spoil materials [4.A(6)(a)(ii)], or (re)contours the spoils materials [4.A(6)(a)(iii)]. The applicant does not make this decision.

(c) The agency administering an ordinance shall select the action in Guideline 4.A(6)(a) that, to the greatest extent practicable, best complies with the policies and guidelines in the Management Plan that protect scenic, cultural, recreation, and natural resources.

(d) Disposal sites created according to 4.A(6)(a)(ii) shall only be used for spoil materials associated with an emergency/disaster response action. Spoil materials from routine road maintenance activities shall not be deposited at these sites.

(7) In the Special Management Area, spoil materials associated with grading, excavation and slide debris removal activities in relation to an emergency/disaster response action shall comply with the following standards:

(a) The spoil materials shall either be:

(i) Removed from the NSA, or

(ii) Deposited at a site within the NSA permitted by the agency administering a Scenic Area land use ordinance within two years of the emergency.

(b) After the spoils materials are removed, the emergency disposal site shall be rehabilitated to meet the scenic standard.

(c) All grading (i.e., recontouring) shall be completed within 30 days after the spoils materials are removed.

(d) Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.

(e) All revegetation shall take place within one (1) year of the date an applicant completes the grading.

(f) This provision shall take effect two years after the date of Management Plan concurrence by the U.S. Secretary of Agriculture, or approval of a disposal site, which ever comes first.

B. Cultural Resources and Treaty Rights

(1) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect cultural resources. Emergency/disaster response actions shall not affect tribal treaty rights.

(2) The USDA Forest Service shall determine if a reconnaissance survey or historic survey is necessary within three days after receiving notice that a post-emergency land use application has been received by the agency administering the Scenic Area ordinance.

(a) Reconnaissance surveys shall be conducted by the USDA Forest Service and comply with the standards in GMA Guideline 1, Reconnaissance Surveys—Small-Scale Uses (Part I, Chapter 2: Cultural Resources, Surveys and Survey Reports). Reconnaissance survey reports shall comply with the standards in GMA Guideline 1, Reconnaissance Surveys—Large-Scale Uses (Part I, Chapter 2: Cultural Resources, Surveys and Survey Reports).

(b) Historic surveys shall be conducted by the USDA Forest Service and shall describe any adverse effects to historic resources resulting from an emergency/disaster response action. Historic surveys shall document the location, form, style, integrity, and physical condition of historic buildings and structures. Such surveys shall also include original photographs, if available, and maps, and should use archival research, blueprints, and drawings as necessary.

(3) Following the submittal of a post-emergency land use application, in addition to other public notice requirements that may exist, the tribal governments shall be notified by the development review offer when (1) a reconnaissance survey is required or (2) cultural resources exist in the project area. Notices shall include a site plan. Tribal governments shall have 15 calendar days from the date a notice is sent to submit written comments. Written comments should describe the nature and extent of any cultural resources that exist in the project area or treaty rights that exist in the project area and how they have been affected, and identify individuals with specific knowledge about them. The agency administering the Scenic Area ordinance shall send a copy of all comments to the Gorge Commission.

(4) When written comments are submitted in compliance with Guideline 4.B(3) above, the project applicant shall offer to meet within five calendar days with the interested persons. The five day consultation period may be extended upon agreement between the project applicant and the interested persons. A report shall be prepared by the agency administering the Scenic Area ordinance following the consultation meeting. Consultation meetings and reports shall comply with the standards in GMA Guideline 1, Consultation and Ethnographic Research (Part I, Chapter 2: Cultural Resources, Cultural Resource Reconnaissance and Historic Surveys) and Guidelines 1 and 2, Tribal Government Consultation (Part IV, Chapter 3: Indian Tribal Treaty Rights and Consultation).

(5) If cultural resources are discovered within the area disturbed by emergency response actions, the project applicant shall have a qualified professional conduct a survey to gather enough information to evaluate the significance of the cultural resources and what effects the action had on such resources. The survey and evaluation shall be documented in a report that generally follows the standards in GMA Guideline 1, Reconnaissance Survey Reports—Large-Scale Uses (Part I, Chapter 2: Cultural Resources, Surveys and Survey Reports) and GMA Guideline 1, Evaluation Criteria and Information Needs (Part I, Chapter 2: Cultural Resources, Evaluation of Significance).

(6) A mitigation plan shall be prepared by the project applicant if the affected cultural resources are significant. The mitigation plan shall be prepared according to the information, consultation, and report guidelines in GMA Mitigation Plan Criteria and Information Needs (Part I, Chapter 2: Cultural Resources, Mitigation Plans).

(7) The agency conducting the post-emergency development review shall submit a copy of all reconnaissance and historic survey reports and treaty rights protection plans to the SHPO and the tribal governments. Survey reports shall include measures to mitigate adverse effects to cultural resources resulting from emergency/disaster response actions. The SHPO and tribal governments shall have 15 calendar days from the date a survey report is mailed to submit written comments to the agency conducting the post-emergency development review. The agency shall record and address all written comments in the development review order.

(8) The agency conducting the post-emergency development review shall make a final decision on whether the emergency/disaster response actions are consistent with the applicable cultural resource goals, policies, and guidelines. If the final decision contradicts the comments submitted by the SHPO, or those submitted by a tribal government

regarding treaty rights, the agency shall justify how it reached an opposing conclusion.

(9) The cultural resource protection process may conclude when it has been determined that tribal treaty rights have not been not affected and one of the following conditions exists:

(a) The emergency/disaster response action does not require a reconnaissance or historic survey, or a reconnaissance survey demonstrates that no cultural resources are known to exist in the project area, and no substantiated concerns were voiced by interested persons within 15 calendar days of the date that a notice was mailed.

(b) The emergency/disaster response action avoided cultural resources that exist in the project area.

(c) Adequate mitigation measures to affected cultural resources have been developed and will be implemented.

(d) A historic survey demonstrates that emergency/disaster response actions, and associated development, had no effect on historic buildings or structures because:

(i) The SHPO concluded that the historic buildings or structures are clearly not eligible, as determined by using the criteria in the “National Register Criteria for Evaluation” (36 CFR 60.4), or

(ii) The emergency/disaster response actions did not compromise the historic or architectural character of the affected buildings or structures, or compromise features of the site that are important in defining the overall historic character of the affected buildings or structures, as determined by the guidelines and standards in *The Secretary of the Interior’s Standards for Rehabilitation* [U.S. Department of the Interior 1990] and *The Secretary of the Interior’s Standards for Historic Preservation Projects* [U.S. Department of the Interior 1983].

C. Natural Resources

(1) To the greatest extent practicable, emergency/disaster response actions shall not adversely affect natural resources.

(2) Buffer zones for wetlands, streams, ponds, riparian areas, sensitive wildlife sites or areas, and sites containing rare plants, shall be the same as those established in the Natural Resources Chapter (Part I, Chapter 4).

(3) Wetlands, Streams, Ponds, Lakes, Riparian Areas

(a) Emergency/disaster response actions occurring within a buffer zone of wetlands, streams, pond, lakes or riparian areas shall be reviewed by the Oregon or Washington Department of Fish and Wildlife. These areas are also referred to in this section as aquatic areas. State biologists will help determine if emergency/disaster response actions have affected or have a potential to affect these aquatic areas or their bigger zones. State biologists shall respond within 15 days of the date the application is mailed.

(b) When emergency/disaster response activities occur within wetlands, streams, ponds, lakes, riparian areas, or the buffer zones of these areas, the applicant shall demonstrate the following:

(i) All reasonable measures have been applied to ensure that the response actions have resulted in the minimum feasible alteration or destruction of the functions, existing contours, vegetation, fish and wildlife resources, and hydrology of wetlands, streams, ponds, lakes or riparian areas.

(ii) Areas disturbed by response activities and associated development will be rehabilitated to the maximum extent practicable.

(c) Impacts to wetlands, streams, ponds, lakes and riparian areas, and their buffers will be offset through mitigation and restoration to the greatest extent practicable. Mitigation and restoration efforts shall use native vegetation, and restore natural functions, contours, vegetation patterns, hydrology and fish and wildlife resources to the maximum extent practicable.

(d) If the agency conducting the post-emergency development review, in consultation with the state wildlife agency, determines that the emergency/disaster response actions had minor effects on the aquatic area or its buffer zone that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state biologist, or a Forest Service natural resource advisor (as available) in consultation with the state biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the agency

administering the Scenic Area ordinance shall incorporate them into its development review order and the aquatic area protection process may conclude.

(e) Unless addressed through Guideline 4.C(3)(d) above, mitigation and restoration efforts shall be delineated in a Rehabilitation Plan. Rehabilitation Plans shall satisfy the standards in GMA Guidelines 1.A through 1.B, Rehabilitation and Enhancement Plans (Part I, Chapter 3: Natural Resources). Rehabilitation plans shall also satisfy the following:

(i) Plans shall include a plan view and cross-sectional drawing at a scale that adequately depicts site rehabilitation efforts. Plans will illustrate final site topographic contours that emulate the surrounding natural landscape.

(ii) Planting plans shall be included that specify native plant species to be used, specimen quantities and plant locations.

(iii) The project applicant shall be responsible for the successful rehabilitation of all areas disturbed by emergency/disaster response activities.

(4) Wildlife Habitat

(a) Emergency/disaster response actions occurring within 1,000 feet of a sensitive wildlife area or site, shall be reviewed by the Oregon or Washington Department of Fish and Wildlife. State wildlife biologists will help determine if emergency/disaster response actions have affected or have a potential to affect a sensitive wildlife area or site.

(b) Site plans for emergency/disaster response sites shall be submitted by the agency conducting agency conducting the post-emergency development review to the Oregon or Washington Department of Fish and Wildlife for review as prescribed in GMA Guidelines 2 and 3, Approval Criteria for Review Uses Near Sensitive Wildlife Areas and Sites (Part I, Chapter 3: Natural Resources). The wildlife agency shall respond within 15 days of the date the application is mailed.

(c) The wildlife protection process may terminate if the agency conducting the post-emergency development review, in consultation with the state wildlife agency, determines (1) the sensitive wildlife area or site was not active, or (2) the emergency/disaster response did not compromise the integrity of the wildlife area or site or

occurred at a time when wildlife species are not sensitive to disturbance.

(d) If the agency conducting the post-emergency development review, in consultation with the state wildlife agency, determines that the emergency/disaster response activities had minor effects on the wildlife area or site that could be eliminated with simple modifications, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state wildlife biologist, or a Forest Service natural resource advisor (as available) in consultation with the state wildlife biologist, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the agency administering the Scenic Area ordinance shall incorporate them into its development review order and the wildlife protection process may conclude.

(e) If the agency conducting the post-emergency development review, in consultation with the state wildlife agency, determines that the emergency/disaster response activities had adverse effect on a sensitive wildlife area or site, the project applicant shall prepare a Wildlife Management Plan. Wildlife Management Plans shall comply with standards in GMA Guideline 2, Wildlife Management Plans (Part I, Chapter 3: Natural Resources). Upon completion of the Wildlife Management Plan, the agency shall:

(i) Submit a copy of the Wildlife Management Plan to the state wildlife agency for review. The state wildlife agency will have 15 days from the date that a plan is mailed to submit written comments to the agency conducting the post-emergency development review;

(ii) Record any written comments submitted by the state wildlife agency in its development review order. Based on these comments, the agency conducting the post-emergency development review shall make a final decision on whether the proposed use would be consistent with the wildlife policies and guidelines. If the final decision contradicts the comments submitted by the state wildlife agency, the agency shall justify how it reached an opposing conclusion.

(iii) Require the project applicant to revise the Wildlife Management Plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife area or site.

(5) Deer and Elk Winter Range

(a) Any fencing permanently erected within deer and elk winter range, as a result of an emergency/disaster response, shall comply with the standards in GMA Approval Criteria for Fences in Deer and Elk Winter Range (Part I, Chapter 3: Natural Resources, Wildlife Habitat).

(6) Rare Plants

(a) Emergency/disaster response actions occurring within 1,000 feet of a sensitive plant, shall be reviewed by the Oregon or Washington Natural Heritage Program. State heritage staff will help determine if emergency/disaster response actions have occurred within the buffer zone of a rare plant.

(b) Site plans for emergency/disaster response sites shall be submitted to the Oregon or Washington Natural Heritage Program by the agency conducting the post-emergency development review. State natural heritage staff will, within 15 days from the date the application is mailed, identify the location of the affected plants and delineate a 200 foot buffer zone on the applicant's site plan.

(c) The rare plant protection process may conclude if the agency conducting the post-emergency development review, in consultation with the state natural heritage program, determines that emergency/disaster response activities occurred outside of a rare plan buffer zone.

(d) If the agency conducting the post-emergency development review, in consultation with the state natural heritage program, determines that the emergency/disaster response activities had minor effects on rare plants or the rare plant buffer zone, a letter shall be sent to the project applicant that describes the effects and measures that need to be taken to eliminate them. The state natural heritage staff, or a Forest Service natural resources advisor (as available) in consultation with the state natural heritage staff, shall visit the site in order to make this determination. If the project applicant accepts these recommendations, the agency administering the Scenic Area ordinance shall incorporate them into its development review order and the rare plant protection process may conclude.

(e) If emergency/disaster response activities occurred within a rare plant buffer zone that had adverse affects on rare plants or their buffer zone, the project applicant shall prepare a protection and rehabilitation plan, that meets the standards in GMA Guidelines 1

and 2, Protection and Rehabilitation Plans (Part I, Chapter 3: Natural Resources, Rare Plants).

(f) The agency conducting the post-emergency development review shall submit a copy of all protection and rehabilitation plans to the state heritage program for review. The state natural heritage program will have 15 days from the date the protection and rehabilitation plan is mailed to submit written comments to the agency conducting the post-emergency development review.

The agency conducting the post-emergency development review shall record any written comments submitted by the state natural heritage program in its development review order. Based on these comments, the agency shall make a final decision on whether the proposed use would be consistent with the rare plant policies and guidelines. If the final decision contradicts the comments submitted by the state natural heritage program, the agency conducting the post-emergency development review shall justify how it reached an opposing conclusion.

(g) The agency conducting the post-emergency development review shall require the project applicant to revise the protection and rehabilitation plan as necessary to ensure that the proposed use would not adversely affect a rate plant site.

D. Recreational Resources

(1) To the greatest extent practicable, emergency/disaster response actions shall not aversely affect recreational resources.

(2) Mitigation measures shall be implemented to mitigate any adverse effects on existing recreation resources caused by emergency/disaster response activities to the maximum extent practicable.

5. Post-Emergency Construction

A. The following review uses are allowed in all land use designations subject to compliance with the standards in Review Uses (Part II, Chapter 7: General Policies and Guidelines) and the standards for protection of scenic, cultural, natural and recreation resources (Part I, Chapters 1 through 4: Resource Protection and Enhancement):

(1) Placement of structures necessary for continued public safety and the protection of private property and essential public services damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent

structures performing an identical or related function. Land use applications shall be submitted within 12 months following an emergency/disaster event.

LAND DIVISIONS AND CLUSTER DEVELOPMENT

GMA/SMA Policies

1. In general, creation of a parcel, regardless of parcel size, shall be subject to the policies and guidelines in the Management Plan.

2. New land divisions in the SMA are not allowed, unless the creation of a new parcel will facilitate land acquisition by the federal government to achieve the policies and guidelines in the Management Plan.

GMA/SMA Guidelines

1. Unless otherwise specified, creation of a parcel, regardless of size, or any division of land shall be subject to the policies and guidelines in the Management Plan.

2. At the time of creation of one or more new parcels, consolidation of access shall be considered in order to reduce adverse effects on scenic, cultural, natural and recreation resources.

3. Where authorized in Part II of the Management Plan, a land division in the GMA may create parcels smaller than the designated minimum size and may include a bonus, as specified under Guideline 5 below, in order to cluster new dwellings. Approval of cluster development shall be contingent upon submission of plans specifying dwelling sites and areas of permanent, undeveloped open land. To approve a cluster development, the local government must find that clustering new dwellings will provide a siting opportunity not available through conventional parcel-by-parcel development. These opportunities include siting the new dwellings to:

    A. Be located in areas with screening vegetation or other features that reduce visibility of development as seen from key viewing areas.

    B. Avoid significant landscape features.

    C. Protect the existing character of the landscape setting.

    D. Reduce interference with movement of deer or elk in winter range.

    E. Avoid areas of known cultural resources.

F. Consolidate road access, septic drainfields, or other development features to reduce impacts associated with grading or ground disturbance.

G. Reduce adverse effects to riparian areas, wetlands, natural areas, rare plants, sensitive wildlife sites, or other natural resources.

H. Increase the likelihood of agricultural or forest management on the undeveloped land left by the cluster development.

4. In the GMA, following cluster development, there may be no further division of any resulting parcel for residential purposes until the subject parcel is included within the boundary of an Urban Area. The local government shall ensure permanent protection for open areas created by cluster development. No parcel in a cluster development may be smaller than 1 acre in a 5-acre Residential or 10-acre Residential designation or 2 acres in a Small-Scale Agriculture or Small Woodland designation.

5. In the GMA, cluster development may create up to 25 percent more parcels than otherwise allowed by the minimum parcel size on lands designated 5-acre Residential or 10-acre Residential and up to 50 percent more on lands designated Small-Scale Agriculture or Small Woodland. Any division in a cluster development under this guideline may create at least one additional parcel.

6. In the GMA, at least 75 percent of land subject to a cluster development shall be permanently protected as undeveloped land.

7. In the GMA, contiguous parcels in the same ownership or in separate ownership may be consolidated and redivided to take advantage of cluster development bonuses.

LOT LINE ADJUSTMENTS

GMA Policies

1. Lot line adjustments are intended to effect minor changes to existing parcel lines.

2. Lot line adjustments shall not increase the potential number of parcels in any subsequent land division over the number of parcels that could occur on the entirety of the affected parcels before a lot line adjustment.

3. Lot line adjustments shall not exempt an agency or landowner from the specified minimum parcel sizes for land divisions in the Management Plan.

4. Lot line adjustments shall not adversely affect scenic, cultural, recreation or natural resources.

5. Except in Agriculture-Special, Open Space, Public Recreation, or Commercial Recreation, lot line adjustments that would not result in the potential to create additional parcels through subsequent land divisions may be reviewed through the expedited development review process.

6. All other lot line adjustments shall be reviewed through the full development review process, including lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions.

GMA Guidelines

1. Lot line adjustments for parcels in all land use designations except Agriculture-Special, Open Space, Commercial, Public Recreation, or Commercial Recreation shall comply with the following standards:

   A. The lot line adjustment shall not result in the creation of any new parcel(s).

   B. The lot line adjustment shall not result in the potential to create a new parcel(s) or residential development in excess of the minimum density allowed by the land use designation(s) for the affected parcels.

   C. The lot line adjustment shall not allow a parcel that is equal to or larger than the minimum parcel size before the lot line adjustment to become less than the minimum parcel size after the lot line adjustment**,** except to allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

   D. The lot line adjustment shall not allow a parcel that is smaller than the minimum parcel size to be reduced in size, except to accomplish one of the following purposes:

      (1) Resolve boundary disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided (1) the parcel to be enlarged would not become eligible for a subsequent land division and (2) the amount of land transferred would be the minimum necessary to resolve the issue.

      (2) Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes future land divisions and development.

E. The lot line adjustment shall not allow the boundary of a parcel designated Large-Scale Agriculture, Agriculture-Special, Commercial Forest Land, Large Woodland or Open Space to be extended into another land use designation for the purpose of establishing a dwelling under less stringent guidelines (e.g., extending a parcel designated GMA Large-Scale Agriculture into a parcel designated Rural Center or Residential).

F. The lot line adjustment shall not allow previously approved parcels or developments to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

G. The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.

2. Lot line adjustments for parcels designated Agriculture-Special or Open Space shall comply with the following standards:

   A. The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate efforts to protect and enhance scenic, cultural, natural, or recreation resources. (Note: There is no specified minimum parcel size for parcels designated Open Space.)

   B. The lot line adjustment shall comply with Guidelines 1.A, 1.E, 1.F, and 1.G above.

3. Lot line adjustments for parcels designated Commercial shall comply with Guidelines 1.A, 1.E, 1.F, and 1.G above.

4. Lot line adjustments for parcels designated Public Recreation or Commercial Recreation shall comply with the following standards:

   A. The lot line adjustment may be allowed upon demonstration that it is necessary to facilitate, enhance, or otherwise improve recreation uses on the parcel. (Note: There are no specified minimum parcel sizes for parcels designated Public Recreation or Commercial Recreation.)

   B. The lot line adjustment shall comply with Guidelines 1.A, 1.E, 1.F, and 1.G above.

SMA Policies

1. Lot line adjustments are intended to effect minor changes to existing parcel lines.

2. Lot line adjustments shall comply with National Scenic Area Act provisions requiring residences to be sited or constructed on parcels 40 acres or greater. Lot line

adjustments shall not increase the potential number of new residences in the Special Management Area, in that lot line adjustments shall not result in a parcel less than 40 acres becoming 40 acres or greater. Lot line adjustments shall not result in a parcel greater than or equal to 40 acres with a dwelling becoming less than 40 acres.

SMA Guidelines

1. The proposed lot line adjustment shall not result in the creation of any new parcel(s).

2. A lot line adjustment shall not result in a parcel greater than or equal to 40 acres becoming less than 40 acres.

3. A lot line adjustment shall not result in a parcel less than 40 acres becoming 40 acres or greater.

4. A parcel that is smaller than 40 acres shall not be reduced in size, except to accomplish one of the following purposes:

   A. Resolve boundary line disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided (1) the parcel to be enlarged would not become 40 acres or greater and (2) the amount of land transferred would be the minimum necessary to resolve the issue.

   B. Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes residential development.

5. The lot line adjustment shall not cause previously approved parcels or development to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.

6. The lot line adjustment shall not result in a parcel that cannot comply with existing land use and resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.

AGRICULTURAL BUILDINGS

GMA/SMA Guidelines

1. The size of proposed agricultural buildings shall not exceed the size needed to serve the current agricultural use and, if applicable, the proposed agricultural use.

2. To satisfy Guideline 1, applicants shall submit the following information with their land use application:

   A. A description of the size and characteristics of current agricultural use.

   B. An agricultural plan for any proposed agricultural use that specifies agricultural use (e.g., crops, livestock, products), agricultural areas and acreages (e.g., fields, pastures, enclosures), agricultural structures (e.g., irrigation systems, wind machines, storage bins) and schedules (e.g., plowing, planting, grazing).

   C. A floor plan showing intended uses of the agricultural building (e.g., space for equipment, supplies, agricultural products, livestock).

TEMPORARY USE--HARDSHIP DWELLING

GMA/SMA Guidelines

1. A permit for the temporary placement of a mobile home may be granted under the following circumstances:

   A. A family hardship exists where conditions relate to the necessary care for a member of the family occupying the principal dwelling and where medical conditions relate to the infirm or aged.

   B. The hardship dwelling will use the same subsurface sewage disposal system used by the existing dwelling, if the system is adequate to accommodate the additional dwelling, unless the additional dwelling can use an existing public sanitary sewer system.

   C. The hardship dwelling is found to be consistent with the guidelines for protection of scenic, cultural, natural, and recreation resources.

2. A permit may be issued for a 2-year period, subject to annual review for compliance with the provisions of this section and any other conditions of approval.

3. Upon expiration of the permit or cessation of the hardship, whichever comes first, the mobile home shall be removed within 30 days.

4. A new permit may be granted upon a finding that a family hardship continues to exist.

SEWER AND WATER SERVICES

GMA/SMA Policies

1. Sewer lines may be extended from an Urban Area into a rural area to serve:

   A. Areas with a documented health hazard.

   B. Recreation uses open to the public, only upon a demonstration by the local government that there is no practicable alternative to providing service to the area. In such cases, the lines shall be engineered and sized solely to serve the defined area or use. Such lines shall not be relied upon as the sole justification for revision to an Urban Area boundary.

2. New uses authorized in the Management Plan may hook up to existing sewer and water lines in rural areas.

DOCKS AND BOATHOUSES

GMA/SMA Policies

1. Multiple uses of docks on the Columbia River and its tributaries shall be encouraged. Private, single-purpose docks shall be discouraged.

2. New docks shall be consistent with applicable guidelines for protection of scenic, cultural, natural, and recreation resources.

GMA/SMA Guidelines

1. New, private docks and boathouses serving only one family and one property shall be allowed, up to 120 square feet in size.

2. New, private docks and boathouses serving more than one family and property shall be allowed, up to 200 square feet in size.

3. Public docks open and available for public use shall be allowed.

4. Boathouses may be allowed under Guidelines 1 and 2 above only when accessory to a dwelling and associated with a navigable river or lake.

HOME OCCUPATIONS AND COTTAGE INDUSTRIES

GMA/SMA Policy

1. Small-scale cottage industries or commercial use associated with residential use shall be allowed, subject to guidelines to minimize adverse effects on scenic, cultural, natural, and recreation resources.

GMA/SMA Guidelines

1. Home occupations and cottage industries may be established as authorized in specified land use designations consistent with the following conditions:

    A. A home occupation may employ only residents of the home.

    B. A cottage industry may employ up to three outside employees.

    C. No more than 25 percent of the total actual living space of the dwelling may be used for the home occupation or cottage industry.

    D. No more than 500 square feet of an accessory structure may be used for a home occupation or cottage industry.

    E. There shall be no outside, visible evidence of the home occupation or cottage industry, including outside storage.

    F. Exterior structural alterations to the residence for the home occupation or cottage industry shall not be permitted. New structures shall not be constructed for the primary purpose of housing a home occupation or cottage industry.

    G. No retail sales may occur on the premises, except incidental sales at lodging establishments authorized in this chapter.

    H. One non-animated, non-illuminated sign, not exceeding 2 square feet in area, may be permitted on the subject structure or within the yard containing the home occupation or cottage industry.

    I. Parking not associated with residential use shall be screened so it is not visible from key viewing areas.

    J. A bed and breakfast lodging establishment that is two bedrooms or less is considered a home occupation and shall meet the guidelines for "Bed and Breakfast Inns," below, except for Policy 3.

BED AND BREAKFAST INNS

GMA/SMA Policies

1. Bed and breakfast inns associated with residential use shall be allowed, subject to guidelines to minimize adverse effects on scenic, cultural, natural, and recreation resources.

2. Bed and breakfast inns shall remain rural in character and scale and distinct from motels or restaurants, which can locate in Urban Areas.

3. In the SMA, bed and breakfast inns associated with residential use shall be allowed only in structures that are included in, or eligible for inclusion in, the National Register of Historic Places.

GMA/SMA Guidelines

1. Bed and breakfast inns may be established as authorized in specified land use designations, consistent with the following conditions:

    A. Guests may not occupy a facility for more than 14 consecutive days.

    B. One non-animated, non-illuminated sign, not exceeding 4 square feet in area, may be permitted on the structure or within the yard containing the structure.

    C. Parking areas shall be screened so they are not visible from key viewing areas.

SMALL-SCALE FISHING SUPPORT AND FISH PROCESSING OPERATIONS

GMA Policies

1. Fishing is a historic natural resource based industry in the National Scenic Area. For the purpose of supporting family-based commercial fishing businesses associated with residential use, small-scale fishing support and fish processing operations may be allowed, subject to compliance with the applicable land use, treaty rights and resource protection guidelines.

2. Small-scale fishing support and fish processing operations may be allowed in the following land use designations on parcels that are contiguous with and have direct access to the Columbia River: GMA Residential, GMA Small Woodland, and GMA Small-Scale Agriculture.

GMA Guidelines

1. Small-scale fishing support and fish processing operations in conjunction with a family-based commercial fishing business may be allowed on parcels designated GMA Residential, GMA Small Woodland, or GMA Small-Scale Agriculture, subject to the following conditions:

   A. In addition to the guidelines specified in Part II, Land Use Designations, the operation shall comply with the guidelines for "Treaty Rights and Consultation in the GMA" (Part IV, Chapter 3, Indian Tribal Treaty Rights and Consultation), "Approval Criteria for Fire Protection" (Part II, Chapter 2, Forest Land), and "Approval Criteria for Siting of Dwellings on Forest Land" (Part II, Chapter 2, Forest Land).

   B. The following fishing support activities may be allowed: maintenance, repair, and storage of boats, nets, fish totes and other commercial fishing equipment that is used in the family-based commercial fishing business; and garaging of fish hauling trucks, trailers and all other related equipment that is used in the family-based commercial fishing business.

   C. The following fish processing activities may be allowed: cleaning, gutting, heading, and icing or freezing of fish that is caught by the family-based commercial fishing business. Other fish processing activities shall not be allowed, including, but not limited to, canning, smoking, salting or brining for wholesale or retail sale.

   D. The operation shall be located on a lawful parcel that is contiguous with and has direct access to the Columbia River.

   E. The subject parcel shall include a lawful dwelling, and the permanent resident of the dwelling shall participate in the fishing support and fish processing operation.

   F. The operation may only employ residents of the dwelling and up to three outside employees.

   G. No more than 25 percent of the total actual living space of the dwelling may be used for the fishing support and fish processing operation.

   H. The operation may take place in an existing or new lawful accessory building or an existing agricultural building on the subject parcel. A new building constructed for the purpose of housing a fishing support and fish processing operation shall be considered an accessory building. An existing agricultural building shall not be expanded and a new agricultural building shall not be constructed for the purpose of housing a fishing support and fish processing operation.

I. An accessory building used in the fishing support and fish processing operation may be allowed up to 2,500 square feet.

J. Docks may be allowed as follows:

(1) One dock serving a parcel with an approved fishing support and fish processing operation may be allowed up to 500 square feet in size.

(2) For multiple contiguous parcels each with approved fishing support and fish processing operation, the area of the docks authorized in J(1) above may be combined into one dock, provided the total size of the dock shall not exceed 2,000 square feet.

K. There shall be no outside visible evidence of the fishing support and fish processing operation, including storage, other than boats and docks.

L. No retail sales may occur on the parcel.

M. The operation shall only support and process fish caught by residents of the dwelling and up to three outside employees.

N. Before beginning the operation, applicants shall demonstrate that they have obtained and complied with federal, state and/or local water quality and wastewater permits.

RESOURCE ENHANCEMENT PROJECTS

GMA/SMA Guidelines

1. Applications for resource enhancement projects must describe the goals and benefits of the proposed enhancement project. They must also thoroughly document the condition of the resource before and after the proposed enhancement project.

2. In addition to other guidelines that protect scenic, cultural, recreation, and natural resources, quarry enhancement projects shall comply with the following guidelines:

A. Application Requirements. In addition to other applicable requirements, land use applications for quarry enhancement projects shall include perspective drawings of the site as seen from key viewing areas as specified in GMA Key Viewing Area Guideline 15 and a reclamation plan that provides all the applicable information specified in GMA Overall Scenic Provisions Guidelines 6.A through 6.E (Part I, Chapter 1), except (1) the words "pre-reclamation" and "post-reclamation" should replace the words "pre-mining" and "post-

mining," respectively, and (2) the appropriate state agency or local government does not have to approve the reclamation plan.

B. Scenic Resource Standard. Quarry enhancement projects shall restore the site to a natural appearance that blends with and emulates surrounding landforms to the maximum extent practicable.

C. Natural Resource Standard. Sites shall be replanted using native plants found in the landscape setting or ecoregion to the maximum extent practicable.

D. Time Frames. The following time frames shall apply to quarry enhancement projects:

(1) All grading (e.g., excavating, filling and re-contouring) shall be completed within one (1) year of the date an applicant begins on-the-ground work.

(2) All landscaping shall be planted within one (1) year of the date an applicant completes the grading.

(3) An applicant may request one one-year extension to the one year grading time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after grading has commenced and before the one year grading time frame has expired.

(4) An applicant may also request one six-month extension to the one (1) year landscaping time frame if a project is unexpectedly delayed by adverse weather or emergency/disaster. Such requests shall be considered an administrative action. An applicant shall submit such a request to the reviewing agency after landscaping has commenced and before the one-year landscaping time frame has expired.

DISPOSAL SITES FOR SPOIL MATERIALS FROM PUBLIC ROAD MAINTENANCE ACTIVITIES

GMA/SMA Guidelines

1. Application Requirements. In addition to other applicable requirements, land use applications for disposal sites shall include the same information that applicants are required to submit for expansion of existing quarries and production and/or development of mineral resources in the GMA, including, but not limited to:

A. A reclamation plan that provides all the applicable information specified in GMA Overall Scenic Provisions Guidelines 6.A through 6.E (Part I, Chapter 1:

Scenic Resources), except (1) the words “pre-reclamation” and “post-reclamation” should replace the words “pre-disposal” and “post-disposal” and (2) the appropriate state agency or local government does not have to approve the reclamation plan.

B. Perspective drawings of the site as seen from key viewing areas as specified in GMA Key Viewing Area Guideline 15 (Part I, Chapter 1: Scenic Resources).

C. Cultural resource reconnaissance and historic surveys, as required by GMA Cultural Resources Policies 6 and 7 (Part I, Chapter 2: Cultural Resources). Disposal sites shall be considered a “large-scale use” according to GMA Cultural Resources Policy 8.

D. Field surveys to identify sensitive wildlife areas or sites and sensitive plants [see GMA “Site Plans and Field Surveys for Review Uses Near Sensitive Wildlife Areas and Sites” Guidelines 1 and 2, and “Site Plans and Field Surveys for Review Uses Near Sensitive Plants” Guidelines 1 and 2 (Part I, Chapter 4: Natural Resources)].

2. Siting Standard. The proposed disposal site shall only be approved if the applicant demonstrates it is not practicable to locate the disposal site outside the Scenic Area or inside an Urban Area. At a minimum, the applicant shall submit a feasibility and suitability analysis that compares the proposed disposal site to existing or potential disposal sites located both outside the Scenic Area and inside an Urban Area.

3. Scenic Resource Standards. Disposal sites shall comply with the same scenic resources protection standards as expansion of existing quarries and production and/or development of mineral resources in the GMA, including, but not limited to:

A. Sites more than 3 miles from the nearest key viewing area shall be visually subordinate as seen from any key viewing area, according to GMA Key Viewing Area Guideline 27 (Part I, Chapter 1: Scenic Resources).

(1) An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific topographic and visual conditions, but shall not exceed 3 years beyond the start of on-the-ground activities.

B. Sites less than 3 miles from the nearest key viewing area shall be fully screened from any key viewing area, according to GMA Key Viewing Area Guideline 28 (Part I, Chapter 1: Scenic Resources).

(1) An interim period to achieve compliance with this requirement shall be established before approval. The period shall be based on site-specific topographic and visual conditions, but shall not exceed 1 year beyond the start of on-the-ground activities. Disposal activity occurring before

achieving compliance with full screening requirements shall be limited to activities necessary to provide such screening (creation of berms, etc.).

C. Reclamation plans shall restore the site to a natural appearance that blends with and emulates surrounding landforms and vegetation patterns to the maximum extent practicable.

COMMERCIAL EVENTS

GMA Guidelines

1. Commercial events include weddings, receptions, parties and other small-scale gatherings that are incidental and subordinate to the primary use on a parcel.

2. Commercial events may be allowed in the GMA except on lands designated Open Space, Commercial Forest, or Agriculture-Special, subject to compliance with the following conditions and the scenic, cultural, natural and recreation resources guidelines:

   A. The use must be in conjunction with a lawful winery, wine sales / tasting room, bed and breakfast inn, or commercial use. If the use is proposed on a property with a building on or eligible for the National Register of Historic Places, it shall be subject to the guidelines in “Special Uses in Historic Buildings” (Part II, Chapter 7: General Policies and Guidelines), and not the guidelines of this section.

   B. The owner of the subject parcel shall live on the parcel and shall operate and manage the use.

   C. A single commercial event shall host no more than 100 guests.

   D. The use shall comply with the following parking requirements:

      (1) A single commercial event shall include no more than 50 vehicles for guests.

      (2) All parking shall occur on the subject parcel.

      (3) At least 200 square feet of parking space shall be required for each vehicle.

      (4) Parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other imperious materials shall be prohibited.

      (5) All parking areas shall be fully screened from key viewing areas.

E. The owner of the subject parcel may conduct 18 single events up to one day in length per year.

F. The owner of the subject parcel shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject parcel of each planned event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

G. Tents, canopies, portable restrooms and other similar temporary structures necessary for a commercial event may be allowed, provided all such structures are erected or placed on the subject parcel no more than two days before the event and removed no more than two days after the event. Alternatively, temporary structures may remain in place for up to 90 days if they are fully screened from key viewing areas.

H. The use may be allowed upon demonstration that the following conditions exist to protect any nearby agricultural and forest operations:

(1) The use would not force a change in or increase the cost of accepted agricultural practices on surrounding lands [GMA Guideline 1.Q(1), Review Uses, Part II, Chapter 1: Agricultural Land].

(2) The use would be set back from any abutting parcel designated Large-Scale or Small-Scale Agriculture, as required "Agricultural Buffer Zones," or designated Commercial Forest Land or Large or Small Woodland, as required in the "Siting of Dwellings on Forest Land." [Guideline 1.Q(3), Review Uses, Part II, Chapter 1: Agricultural Land].

(3) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject parcel are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland [GMA Guideline 1.Q(4), Review Uses, Part II, Chapter 1: Agricultural Land].

(4) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision. [GMA Guideline 1.Q(5), Review Uses, Part II, Chapter 1: Agricultural Land].

I. Counties may impose additional requirements to address potential impacts to surrounding neighbors. For example, they may limit noise, lighting and operating hours.

J. Land use approvals for commercial events shall not be valid for more than two years. Landowners must reapply for the use after a land use approval expires.

INDUSTRIAL DEVELOPMENT

GMA/SMA Policy

1. New industrial development shall not be allowed in the Scenic Area outside Urban Areas.

VARIANCES FROM SETBACKS AND BUFFERS

GMA Policies

1. When setbacks or buffers specified in the guidelines for protection of scenic, cultural, natural, recreation, agricultural, or forestry resources overlap or conflict, they should be varied in a manner to achieve, to the greatest extent possible, the overall protection of the affected resources.

2. Setbacks and buffers specified in the guidelines for protection of scenic, cultural, natural, recreation, agricultural, or forestry resources shall not be applied in the GMA in a manner that deprives the owner of a parcel of land the opportunity to establish a residence on the land if that opportunity is otherwise authorized by the land use designation.

GMA Guidelines

1. When setbacks or buffers specified in the guidelines for the protection of scenic, cultural, natural, recreation, agricultural, or forestry resources overlap or conflict, the setbacks or buffers may be varied upon a demonstration that both of the following conditions exist:

   A. A setback or buffer specified in the Management Plan to protect one resource would cause the proposed use to fall within a setback or buffer specified in the plan to protect another resource.

   B. Variation from the specified setbacks or buffer would, on balance, best achieve the protection of the affected resources.

2. A setback or buffer specified in the guidelines for protection of scenic, cultural, natural, recreation, agricultural, or forestry resources may be varied in the GMA to allow a residence to be built on a parcel of land upon a demonstration that all of the following conditions exist:

A. The land use designation otherwise authorizes a residence on the tract.

B. No site exists on the tract (all contiguous parcels under the same ownership) on which a residence could practicably be placed in full compliance with the setback or buffer.

C. The variance from the specified setback or buffer is the minimum necessary to allow the residence.

VEGETATION CONTROL METHODS

GMA/SMA Policy

1. State and county highway right-of-way managers should use vegetation control methods that have the least adverse effect on soils, native plant populations, riparian areas, wetlands, and wildlife habitat.

REVIEW USES

GMA/SMA Policies

1. Review uses are those uses subject to applicable guidelines for protection of scenic, cultural, natural, recreation, agricultural, and forestry resources and such other guidelines as are specified in the Management Plan. Conditions are often applied to new review uses.

2. Local governments shall notify the four Indian tribal governments, the appropriate state, the Gorge Commission, and the Forest Service of all land use applications that involve land divisions; residential, commercial or industrial development; or the exploration, development, or production of mineral resources.

3. Uses by state or federal agencies shall comply with the policies and guidelines in the Management Plan.

4. The Forest Service shall review and issue a determination of consistency with the Management Plan for projects on federal lands. The Forest Service shall review land use and development actions of federal agencies for consistency with the Management Plan. Federal resource specialists will provide resource review for projects on federal lands.

5. Land use applications for review uses shall include a site plan and elevation drawings that provide complete, detailed information about a proposed use.

6. Land use applications for review uses involving more than 100 cubic yards of grading with slopes greater than 10 percent, except trails in the SMA, shall include a grading plan.

7. Recreation sites shall be protected from adjacent uses that would detract from their use and enjoyment.

GMA/SMA Guidelines

1. Conditions attached to approval of uses shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest.

2. The Gorge Commission and the Forest Service shall add new resource information to their inventories as soon as it becomes available and shall provide the information to local governments for use in review of proposed projects.

3. All site plans shall include the information listed below. As specified in the guidelines of the Management Plan, supplemental information shall be required for (1) forest practices in the SMA, (2) production and development of mineral resources in the GMA, (3) proposed uses visible from key viewing areas, and (4) proposed uses located near cultural resources, wetlands, streams, ponds, lakes, riparian areas, sensitive wildlife habitat, and sensitive plant sites.

   A. Project applicant's name and address.

   B. Location of the proposed use, including township, range, section, county, and tax lot number.

   C. A written description of the proposed use, including details on the height, exterior color(s), and construction materials of proposed structures.

   D. A list of key viewing areas from which the proposed use would be visible.

   E. A map of the project area. The map shall be drawn to scale. The scale of the map shall be large enough to allow the reviewing agency to determine the location and extent of the proposed use and evaluate its effects on scenic, cultural, natural, and recreation resources. The map shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. If a parcel is very large, the map does not have to show the entire parcel. Rather, it can show only those portions of the parcel affected by the proposed use. The map shall include the following elements:

      (1) North arrow.

      (2) Map scale.

(3) Boundaries, dimensions, and size of the subject parcel.

(4) Significant terrain features or landforms.

(5) Groupings and species of trees and other vegetation on the parcel.

(6) Location and species of vegetation that would be removed or planted.

(7) Bodies of water and watercourses.

(8) Location and width of existing and proposed roads, driveways, and trails.

(9) Location and size of existing and proposed structures.

(10) Location of existing and proposed services, including wells or other water supplies, sewage disposal systems, power and telephone poles and lines, and outdoor lighting.

(11) Location and depth of all proposed grading and ditching.

4. Elevation drawings shall show the appearance of proposed structures and shall include natural grade, finished grade, and the geometrical exterior of at least the length and width of structures as seen from a horizontal view. Elevation drawings shall be drawn to scale.

5. In the General Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent shall include a grading plan. In the Special Management Area, all applications for structural development involving more than 100 cubic yards of grading with slopes greater than 10 percent (except trails) shall include a grading plan. Grading plans shall include the following:

A. A map of the site, prepared at a scale of 1 inch equals 200 feet (1:2,400) or a scale providing greater detail, with contour intervals of at least 5 feet, including:

(1) Natural and finished grades.

(2) Location of all areas to be graded, with cut banks and fill slopes delineated.

(3) Estimated dimensions of graded areas.

B. A narrative description (may be submitted on the grading plan site map and accompanying drawings) of the proposed grading activity, including:

(1) Its purpose.

(2) An estimate of the total volume of material to be moved.

(3) The height of all cut banks and fill slopes.

(4) Provisions to be used for compactions, drainage, and stabilization of graded areas. (Preparation of this information by a licensed engineer or engineering geologist is recommended.)

(5) A description of all plant materials used to revegetate exposed slopes and banks, including the species, number, size, and location of plants, and a description of irrigation provisions or other measures necessary to ensure the survival of plantings.

(6) A description of any other interim or permanent erosion control measures to be used.

6. A review use may be allowed only pursuant to a process that provides at least the following:

   A. Notice of the land use application or notice of the initial decision to landowners within 200 feet of the perimeter of the subject parcel unless a greater distance is specified in the Management Plan.

   B. Notice of the land use application to the Forest Service and the Gorge Commission.

   C. An opportunity to request a hearing.

   D. A written decision with findings of fact and conclusions of law.

7. Where local governments have no regulatory authority over state and federal actions, the Forest Service and Gorge Commission shall develop agreements with applicable state, bi-state, or federal agencies for review of the agencies' project proposals.

8. If new buildings or structures may detract from the use and enjoyment of established recreation sites on adjacent parcels, an appropriate buffer shall be established between the building/structure and the parcel.

SMA SIGN PROVISIONS

SMA Goal

Allow signs in the SMA that meet the functional needs for which they are designed while minimizing scenic impacts.

SMA Policies

1. All public signs subject to review located in the SMA must be designed and located in compliance with the standards described in the Columbia River Gorge National Scenic Area Graphic Signing System and must conform to the standards contained in the Manual for Uniform Traffic Control Devices.

2. New signs shall meet the minimum provisions of these guidelines in all cases where these provisions do not conflict with other regulations intended for public safety and information.

SMA Guidelines

1. New signs shall be allowed as specified in the applicable land use designation.

2. No sign shall be erected or placed in such a manner that it may interfere with, be confused with, or obstruct the view of any traffic sign, signal, or device.

3. Preexisting signs are allowed to continue, provided no changes occur in size, structure, color, or message.

4. Except for signs allowed without review pursuant to Part II, Chapter 7: General Policies and Guidelines, all new signs shall meet the following guidelines and be consistent with the Manual for Uniform Traffic Control Devices:

    A. Signs shall be maintained in a neat, clean, and attractive condition.

    B. The character and composition of sign materials shall be harmonious with the landscape and/or related to and compatible with the main structure upon which the sign is attached.

    C. Signs shall be placed flat on the outside walls of buildings, not on roofs or marquees.

    D. Signs shall be unobtrusive and have low contrast with the setting.

    E. The visual impact of the support structure shall be minimized.

    F. Outdoor sign lighting shall be used for purposes of illumination only, and shall not be designed for, or used as, an advertising display, except for road safety signs.

    G. The backs of all signs shall be visually unobtrusive, non-reflective, and blend in with the setting.

H. Internal illumination or backlighting of signs shall not be permitted except for highway construction, warning, or safety.

5. Public signs shall meet the following standards in addition to Guidelines 1 through 4 of this section:

   A. The Graphic Signing System provides design standards for public signs in and adjacent to public road rights-of-way. All new and replacement public signs, except those transportation regulatory, guide, and warning signs allowed outright shall conform to the guidelines in this system. Types of signs addressed include recreation site entry, interpretive, specific service signs, destination and distance signs, variable message signs, or signs that bridge or are cantilevered over the road surface.

   B. Signs located outside public road rights-of-way are encouraged to be designed in a way that is consistent with similar-purpose signs described in the Graphic Signing System.

   C. Signs posted by governmental jurisdictions giving notice to the public shall be no larger than that required to convey the intended message.

6. Signs for public and commercial recreation facilities, home occupations, cottage industries, and commercial uses shall meet the following guidelines in addition to Guidelines 1 through 4 and 7 of this section:

   A. Any sign advertising or relating to a business that is discontinued for a period of 30 consecutive days shall be presumed to be abandoned and shall be removed within 30 days thereafter, unless permitted otherwise by the jurisdictional authority.

   B. Any signs relating to or advertising for a business shall be brought into conformance with these sign guidelines before any expansion or change in use that is subject to review by the counties.

   C. Offsite and onsite directional signs on approach roads to recreational facilities may be permitted. Name and interpretive signs may be permitted onsite, but should be kept to the minimum required to achieve the purpose(s) of the facilities.

   D. Commercial recreation businesses approved in conjunction with a recreational facility may have a name sign not exceeding 16 square feet.

   E. Recreation developments may have one on-premise name sign at each principal entrance. Such signs are encouraged to be of a low profile, monument type, and shall conform to the Graphic Signing System.

7. The following signs are prohibited:

   A. Advertising billboards.

   B. Signs that move or give the appearance of moving, except signs used for highway construction, warning, or safety.

   C. Portable or wheeled signs, or signs on parked vehicles where the sign is the primary use of the vehicle, except for signs used for highway construction, warning, or safety.

8. Sign clutter and other negative visual effects from excessive signs along all roads and highways, and at parking lots and recreation facilities, shall be reduced.

COLUMBIA RIVER BRIDGE REPLACEMENT

GMA Goal

1. Ensure that a replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas provides for regional transportation and public safety needs while being consistent with both purposes of the Scenic Area Act.

GMA Guidelines

Visual Quality

1. A replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas shall be visually unobtrusive and harmonious with the surrounding Gorge landscape and the Columbia River. A replacement bridge shall:

   A. Utilize recessive dark natural or earth-tone colors for steel components of the bridge, a thin and open structural design that allows views through it to the extent practicable, and consistent design character and ornamental elements;

   B. Employ lighting that provides a safe and pleasant atmosphere for bicycles and pedestrians while not casting glare directly into the sky or onto the river.

Historic Design Elements

1. A replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas shall incorporate elements that reflect historic design features of Scenic Area roadways and bridges. The historic themes should be an integral component of the design of the bridge structure, incorporated from “shore to shore.”

2. A replacement bridge should include:

A. Arches and/or other traditional structural forms in the bridge;

B. Historic style benches, lighting, other pedestrian furnishings, and signage/graphic materials consistent with the USFS Graphic Signing System for the Scenic Area;

C. Ornamental concrete or steel railings.

Recreation and Pedestrian/Bicycle Access

1. A replacement Columbia River Bridge between the Hood River and Bingen/White Salmon Urban Areas shall encourage and promote pedestrian and bicycle use, for recreational enjoyment and to enhance multi-modal transportation connections between the Urban Areas it connects.

2. The bridge shall include facilities for pedestrians and bicyclists that:

   A. Are permanent;

   B. Are wide enough to safely accommodate and encourage walking, bicycling, and other uses;

   C. Meet safety standards to prevent conflicts among automobiles, trucks, pedestrians, bicyclists, and other users;

   D. Provide multiple sitting and viewing areas with significant upstream and downstream views;

   E. Are safe to approach from both the north and south ends of the bridge and provide strong multi-modal connections, both east-west and to the nearby Urban Areas.

SPECIAL USES IN HISTORIC BUILDINGS

GMA Guidelines

Additional Review Uses for Historic Buildings

1. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to be open for public viewing, interpretive displays, and an associated gift shop that is no larger than 100 square feet and incidental and subordinate to the primary use of the property, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the “Additional Resource Protection Guidelines for Uses in Historic Buildings”: Cultural Resources Guidelines (2)(a) and (b), (3), (4) and (5); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines. Voluntary

donations and/or fees to support maintenance, preservation and enhancement of the cultural resource may be accepted by the landowner.

2. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places, and which were former restaurants and/or inns shall be permitted to re-establish these former uses, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Uses in Historic Buildings": Cultural Resources Guidelines (2)(a) and (b), (3), (4) and (5); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines. The capacity of restaurant use and overnight accommodations shall be limited to that existing in the former use, and the former use shall be contained within the limits of the building as of January 1, 2006. Banquets, private parties and other special events that take place entirely within an approved restaurant facility shall be considered a restaurant use allowed under this section.

3. Properties in all GMA land use designations except Open Space and Agriculture-Special with buildings included on the National Register of Historic Places shall be permitted to hold commercial events, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and the following sections of the "Additional Resource Protection Guidelines for Uses in Historic Buildings": Cultural Resources Guidelines (2) through (5); and all Scenic, Recreation, Agriculture and Forest Lands Guidelines.

4. The following additional review uses may be allowed in all GMA land use designations except Open Space and Agriculture-Special on a property with a building either on or eligible for the National Register for Historic Places and that was 50 years old or older as of January 1, 2006, subject to compliance with the applicable guidelines to protect scenic, cultural, natural and recreation resources and "Additional Resource Protection Guidelines for Uses in Historic Buildings":

   A. Establishments selling food and/or beverages, limited to historic buildings that originally had kitchen facilities. The seating capacity of such establishments shall be limited to the building, as the building existed as of January 1, 2006, including any decks, terraces or patios also existing as of that date. Banquets, private parties and other special events that take place entirely within approved establishments selling food and/or beverages shall be considered a part of the approved use.

   B. Overnight accommodations. The room capacity of such accommodations shall be limited to the total number of existing rooms in the historic building as of January 1, 2006.

   C. Commercial events in the building or on the subject property, incidental and subordinate to the primary use of the property.

D. Wineries upon a showing that processing of wine is from grapes grown on the subject parcel or the local region, within a historic building, as the building existed as of January 1, 2006.

E. Sales/tasting rooms in conjunction with an on-site winery, within a historic building, as the building existed as of January 1, 2006.

F. Conference and/or retreat facilities within a historic building, as the building existed as of January 1, 2006.

G. Artist studios and galleries within a historic building, as the building existed as of January 1, 2006.

H. Gift shops within a historic building, as the building existed as of January 1, 2006 that are:

(1) incidental and subordinate to another approved use included in Guideline 4 of “Additional Review Uses for Historic Buildings”; and

(2) no larger than 100 square feet in area.

I. Interpretive displays, picnic areas or other recreational day use activities on the subject property.

J. Parking areas on the subject property to support any of the above uses.

5. For the purposes of the guidelines in this section, the term “historic buildings” refers to buildings either on or eligible for the National Register of Historic Places. Eligibility for the National Register shall be determined pursuant to Cultural Resources Guideline 1 of “Additional Resource Protection Guidelines for Uses in Historic Buildings.”

6. Uses 3 and 4.C are not subject to the “Commercial Events” provisions in Part II, Chapter 7: General Policies and Guidelines of the Management Plan. Commercial events at historic properties will be regulated by the guidelines contained in this section. Applications for commercial events shall include all information in the “Operational Plan for Commercial Events” as specified in Guideline 1.A(2)(d) of “Additional Resource Protection Guidelines for Historic Buildings”. The following apply to commercial events at historic properties:

A. Commercial events include weddings, receptions, parties and other gatherings that are incidental and subordinate to the primary use on a parcel.

B. The owner of the subject property shall notify the reviewing agency and all owners of land within 500 feet of the perimeter of the subject property of each

event. The notice shall be in writing and shall be mailed at least seven calendar days before an event.

7. Uses 1 and 4.I. are not subject to the parking limits and associated “Facility Design Guidelines” in the Recreation Intensity Classes.

8. Counties may impose additional requirements to address health, safety, and potential impacts to surrounding properties. For example, they may limit noise, parking, traffic, lighting and operating hours.

9. Land use approvals for special uses in historic buildings shall be subject to review by the local government every five years from the date the original approval was issued. As part of this review, the applicant shall submit documentation to the local government on the progress made in implementing the “Protection and Enhancement Plan” required in Cultural Resources Guideline (2) of “Additional Resource Protection Guidelines for Uses in Historic Buildings”. The local government shall submit a copy of the applicant’s documentation to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local government. If the local government’s determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion. The local government shall revoke the land use approval if the owner has failed to implement the actions described in the “Protection and Enhancement Plan” according to the schedule for completing such actions in this plan. The local government may, however, allow such a use to continue for up to one additional year from the date a local government determines the applicant has failed to implement the actions if the applicant submits a written statement describing unforeseen circumstances that prevented the applicants from completing the specified actions according to the approved schedule, what progress the applicants have made towards completing such actions, and a proposed revised schedule for completing such actions.

10. In the event a court enters a judgment that one or more of the use authorizations provided for in paragraphs one through four of this section are invalid, the authorizations for other uses in this section are severed and will remain in effect.

Additional Resource Protection Guidelines for Uses in Historic Buildings

1. The following guidelines apply to proposed uses listed under “Special Uses for Historic Buildings” in addition to all other relevant guidelines for protection of scenic, cultural, natural and recreation resources:

A*. Cultural Resources*

(1) All applications for uses listed in Guideline 4 of “Additional Review Uses for Historic Buildings” shall include a historic survey and evaluation of eligibility

for the National Register of Historic Places, to be prepared by a qualified professional hired by the applicant. The evaluation of eligibility shall not be required for buildings previously determined to be eligible. For such properties, documentation of a prior eligibility determination shall be included in the application. The historic survey shall meet the requirements specified in "Historic Surveys and Reports" [Management Plan, page I-58]. The evaluation of eligibility shall follow the process and include all information specified in the National Register Bulletin "How to Apply the National Register Criteria for Evaluation" [National Park Service, National Register Bulletin #15].

Eligibility determinations shall be made by the local government, based on input from the state historic preservation Agency (SHPA). The local government shall submit a copy of any historic survey and evaluation of eligibility to the SHPA. The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments on the eligibility of the property to the local government. If the local government's determination contradicts comments from the SHPA, the local government shall justify how it reached an opposing conclusion.

(2) Applications for Special Uses for Historic Buildings shall include a "Protection and Enhancement Plan" which shall include the following:

(a) A description of how the proposed use will significantly contribute to the protection and enhancement of the historic resource, including specific actions that will be taken towards restoration, protection and enhancement, and adequate maintenance of the historic resource, and a proposed schedule for completion of such actions.

(b) A statement addressing consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*.

(c) Detailed architectural drawings and building plans that clearly illustrate all proposed exterior alterations to the building associated with the proposed use. Any exterior additions to the building or outdoor components of the proposed use (e.g. parking areas, site for temporary structures, interpretive displays) shall be shown on the site plan.

(d) Any proposal for commercial events at a historic property shall include an Operation Plan for Commercial Events, to be incorporated into the "Protection and Enhancement Plan". The Operational Plan shall include sufficient information to demonstrate how the commercial events will remain incidental and subordinate to the primary use of the property, and shall, at minimum, address:

(i) Number of events to be held annually.

(ii) Maximum size of events, including number of guests and vehicles at proposed parking area.

(iii) Provision for temporary structures, including location and type of structures anticipated.

(iv) How the proposed commercial events will contribute to protection and enhancement of the historic resource.

(3) The local government shall submit a copy of the "Protection and Enhancement Plan" to the State Historic Preservation Agency (SHPA). The SHPA shall have 30 calendar days from the date this information is mailed to submit written comments to the local governments. The SHPA comments shall address consistency of the proposed use with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*, and the effect of the proposed use on the historic resource.

(4) Any alterations to the building or surrounding area associated with the proposed use have been determined by the local government to be consistent with the *Secretary of the Interior's Standards for Rehabilitation of Historic Properties* and the *Secretary of the Interior's Standards for Preservation of Historic Properties*. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

(5) The proposed use has been determined by the local government to have no effect or no adverse effect on the historic character of the property, including features of the property contributing to its historic significance. If the local government's final decision contradicts the comments submitted by the State Historic Preservation Agency, the local government shall justify how it reached an opposing conclusion.

B*. Scenic Resources*

(1) New parking areas associated with the proposed use shall be located on the subject property as it existed as of January 1, 2006. Such parking areas may be developed using paving blocks, gravel, or other pervious surfaces; asphalt, concrete and other impervious materials shall be prohibited.

(2) New parking areas associated with the proposed use shall be visually subordinate from Key Viewing Areas, and shall to the maximum extent practicable, use existing topography and existing vegetation to achieve visual subordinance. New screening vegetation may be used if existing topography

and vegetation are insufficient to help make the parking area visually subordinate from Key Viewing Areas, if such vegetation would not adversely affect the historic character of the building's setting.

(3) Temporary structures associated with a commercial event (e.g. tents, canopies, portable restrooms) shall be placed on the subject property no sooner than two days before the event and removed within two days after the event. Alternatively, temporary structures may remain in place for up to 90 days after the event if the local government determines that they will be visually subordinate from Key Viewing Areas.

C. *Recreation Resources*

(1) The proposed use shall not detract from the use and enjoyment of existing recreation resources on nearby lands.

D. Agricultural and Forest Lands

(1) The proposed use is compatible with and will not interfere with accepted forest or agricultural practices on nearby lands devoted to such uses.

(2) The proposed use will be sited to minimize the loss of land suitable for production of crops, livestock or forest products.

(3) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland.

(4) All owners of land in areas designated Large-Scale or Small-Scale Agriculture, Agriculture-Special, Commercial Forest Land, or Large or Small Woodland that are within 500 feet of the perimeter of the subject property on which the use is proposed to be located have been notified and given at least 10 days to comment prior to a decision on an application for a Special Use for a Historic Building.

CHAPTER

1

Recreation Development Plan

The Recreation Development Plan provides the policy framework for implementing high-priority proposed public recreation facilities. The GMA and Urban Areas section outlines the process for identifying priority recreation projects and the criteria by which projects applicants seeking Scenic Area grants should be evaluated.

In the SMA section, the Recreation Development Plan provides goals and policies for evaluating whether proposals achieve the recreation goals and objectives of the Scenic Area Act.

The proposed recreation facilities are described in the Recreation Development Proposals list, adopted separately from the Management Plan.

The proposals list highlights selected sites and proposed projects at those sites that, when implemented, will best achieve the recreation goals and objectives of the Scenic Area Act.

Section 16 of the Scenic Area Act authorized $10 million for the construction of recreation facilities plus $2.8 million specifically to restore and reconstruct abandoned segments of the Historic Columbia River Highway. It is strongly recommended that the sites described in the Recreation Development Proposals list be given priority consideration for receipt of the public funds authorized by the Act, as well as consideration from other public sources in federal, state, or local programs.

GMA AND URBAN AREA PROVISIONS

GMA and Urban Area Goal

Identify those highest priority recreation projects that best meet the recreation goals and objectives of the Management Plan and facilitate their implementation through the Recreation Development Plan.

GMA and Urban Area Policies

1. Projects identified in the Recreation Development Proposals list are high priorities for public funding and shall receive preferential consideration for receipt of public

monies as authorized in Section 16(b) of the Scenic Area Act and other funds, such as federal, state and local agency grants; foundation grants; and other sources.

2. Disbursement of monies authorized in Section 16(b) of the Scenic Area Act for the GMA shall be limited to projects included in the Recreation Development Proposals list for the GMA and Urban Areas.

3. The Gorge Commission shall maintain and update the "Inventory of Potential Recreation Sites" and the "Inventory of Potential Trails and Travelways" as the need to do so arises. Updating may include adding new proposals to the inventories. These inventories are referred to in the remaining policies of this chapter as "the potential recreation inventories."

4. The Gorge Commission and USDA Forest Service shall prepare and maintain a Recreation Development Plan and Recreation Development Proposals List. The Gorge Commission shall review and update the Recreation Development Plan and Recreation Development Proposals List periodically. Recreation Development proposals should be evaluated against applicable Management Plan policies for the protection of natural, cultural, and scenic resources and avoidance of effects on Indian treaty rights.

5. The Gorge Commission shall evaluate proposed recreation facilities at sites in Urban Areas, in consultation with port districts, city and county park agencies, Indian tribal governments, and other appropriate groups, and add appropriate sites to the potential recreation inventories. Such sites may be included in future additions to the Recreation Development Proposals list.

6. Urban Area projects included in the Recreation Development Proposals list shall comply with GMA Management Plan policies regarding the following:

   A. Indian treaty rights.

   B. Wetlands, aquatic and riparian areas.

   C. Sensitive wildlife habitat.

   D. Sensitive plants.

   E. Cultural resources.

7. Urban Area projects included in the Recreation Development Proposals list shall be designed in a manner that is compatible with, and where practicable, enhances the visual quality of their setting. These projects should include design features such as generous plantings of native and naturalized riparian vegetation, screening of parking areas, minimizing large areas of parking lots, minimizing

grading, providing public green spaces, etc. Projects that rehabilitate and improve the aesthetic quality of previously disturbed areas will be given preferential consideration for receipt of funds.

8. The Gorge Commission shall submit to Congress and the Secretary of Agriculture a list of projects recommended for receipt of recreation grant monies as authorized under Section 16(b) of the Scenic Area Act.

9. Those projects prioritized for further study, as specified in the Recreation Development Proposals list, may be considered eligible for facility construction funds pending the completion and results of such studies.

10. Funds allocated per Section 16(b) of the Scenic Area Act for a site included in the Recreation Development Proposals list shall be made available only to those proposed projects consistent with the recommendations for that site in the Recreation Development Proposals list.

11. Preferential consideration for funding allocated per Section 16(b) of the Scenic Area Act shall be given to projects demonstrating the following characteristics:

    A. Provision of substantial barrier-free opportunities.

    B. Provision of accommodation for alternative or mass transportation.

    C. Favorable investment/user ratio.

    D. Agency partnerships.

    E. Strong public support.

    F. Enhancement of scenic, natural, and/or cultural resources.

12. The Gorge Commission shall periodically monitor implementation of projects wholly or partially funded pursuant to Section 16(b) of the Scenic Area Act to evaluate their compliance with Policy 11, above.

GMA and Urban Area Recreation Development Plan Grant Guidelines

1. To be eligible for receipt of Scenic Area recreation grants, project applicants shall submit an application packet to the Gorge Commission. Information submitted shall include the following:

    A. A formal request by a public agency that either owns the site upon which a proposal is located or manages that site. In the latter case, documentation of landowner consent for the proposal shall be included.

B. A preliminary facility plan, showing the type, location and design features of all proposed development. (The plan may be conceptual.) This plan should indicate the location of any buildings, roads, parking areas, landscaping, irrigation, water storage, and/or other fire suppression features; grading work; and other site improvements associated with the proposal.

C. A narrative report (may include supporting maps or other graphics) addressing the presence of the following resources on the site and the proposed project's potential effects (and appropriate mitigation measures, if applicable) on those resources:

(1) Archaeological, historic or other cultural resources.

(2) Wetlands, aquatic, and riparian areas; sensitive wildlife habitat; sensitive plants.

D. A discussion of tribal treaty fishing activities (or other tribal activities protected by treaties) in the project vicinity and the proposed project's potential effects on those activities (and, if applicable, mitigation measures to avoid effects to such activities).

E. An itemized request for a specified amount of money for construction of those facilities described in the preliminary facility site plan. (Costs of mitigation measures that are required as part of facility development may be included in funding requests.)

F. A discussion of how the project complies with the six criteria listed in Policy 11, above.

SMA PROVISIONS

SMA Goal 1

Provide opportunities for public and private recreation use and access to the Columbia River.

SMA Policies

1. Increased access to the Columbia River should be provided.

2. Water-oriented day-use recreation access is emphasized along the Columbia River. Additional campgrounds should be located in proximity to these popular day-use attractions.

3. Opportunities for private recreation resource enhancement should be provided through partnership with public agencies and through application of the recreation intensity class guidelines (Part I, Chapter 4).

SMA Goal 2

Provide a diversity of trail opportunities in the National Scenic Area.

SMA Policies

1. Trails should be provided to link Urban Areas and recreation opportunities in the Scenic Area.

2. A loop trail through the Scenic Area should be supported.

3. Equestrian and mountain bike use should be limited to areas where natural resource sensitivities are low.

4. Trail systems and new trails should incorporate existing segments of older, abandoned, or historic trails.

5. New trails should be provided along the Columbia River shoreline.

6. Trail linkages should be provided between Scenic Area trails and trails on other public lands outside the Scenic Area.

7. Safe bikeways should be provided for recreation use on appropriate public roads.

SMA Goal 3

Increase public awareness, understanding, and appreciation of the scenic, natural, cultural, economic, and recreational resources of the Scenic Area.

SMA Policies

1. Policies for interpretation and education are found in Part III, Chapter 4: Interpretation and Education.

2. New scenic viewpoints should be provided to showcase the grand panoramas of the Scenic Area.

SMA Goal 4

Provide for the restoration and connection of the remaining segments of the Historic Columbia River Highway in keeping with its National Register status.

SMA Policies

1. The corridor of the Historic Columbia River Highway should be managed in cooperation with the State of Oregon as an historic visitor attraction.

2. Intact and usable highway segments should be connected with recreation trails to create a continuous route through the Columbia River Gorge that links local, state, and federal recreation and historic sites.

3. The recommendations identified in *A Study of the Historic Columbia River Highway* (1987) should be followed for restoration and connection projects.

SMA Goal 5

Maximize customer service and cost-effectiveness of recreation opportunities by using partnerships of user groups and recreation providers to design and construct recreation facilities.

SMA Policies

1. Partnerships between private entities, agencies, and/or organizations are the preferred approach for developing recreation facilities.

2. Recreation development shall be coordinated with present and proposed recreation activities of local and state land use plans or outdoor recreation plans, particularly the state Comprehensive Outdoor Recreation Plan.

3. Cooperative planning with appropriate agencies and tribal governments should be encouraged where proposed in-lieu Indian fishing sites may provide multiple benefits.

CHAPTER

2

Economic Development

The Columbia River Gorge is home to nearly 55,000 people. Congress intended the Scenic Area Act to support the economy of their communities in the Scenic Area. The second of the Act's two stated purposes is to protect and support the economy of the Gorge by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with protection of scenic, cultural, recreation, and natural resources [Section 3(2)].

The goals and policies in this chapter support the Gorge's principal economic sectors, such as agriculture, forestry, and tourism, while allowing new commercial uses on lands designated Rural Center, Commercial, and Commercial Recreation.

GMA PROVISIONS

GMA Goals

1. Protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing Urban Areas.

2. Protect and support the economy of the Columbia River Gorge area by allowing future economic development in a manner that is consistent with the protection and enhancement of the scenic, cultural, recreation, and natural resources of the Columbia River Gorge.

GMA Policies

1. The Gorge Commission shall consult with the States of Washington and Oregon in the development and implementation of their economic development plans.

2. The Gorge Commission shall support the economic development efforts of the States of Oregon and Washington pursuant to their economic development plans established under the Scenic Area Act.

3. The Gorge Commission shall encourage the States of Washington and Oregon to coordinate their economic development planning in order to maximize the benefits of federal dollars to all Gorge communities.

4. Agriculture and forest industries in the Columbia River Gorge shall be protected and supported by preventing fragmentation of the land base and by minimizing interference with agricultural and forest practices from conflicting uses.

5. The economic vitality of the Gorge economy shall be enhanced by encouraging growth to occur in Urban Areas.

6. New commercial uses shall be allowed outside Urban Areas on lands designated:

   A. Rural Center.

   B. Commercial.

   C. Commercial Recreation.

7. The following commercial uses may be allowed outside Urban Areas:

   A. Home occupations and cottage industries in all designations except Open Space.

   B. Commercial recreation in appropriate recreation intensity classes throughout the Scenic Area.

   C. Commercial uses in conjunction with public recreation on lands designated Public Recreation.

   D. Conversion of existing industrial sites to commercial use.

   E. Wineries and farm produce stands on lands designated Large-Scale or Small-Scale Agriculture, Commercial Forest Land, or Large or Small Woodland.

   F. Commercial events in all GMA designations except Open Space and Agriculture Special, in conjunction with a lawful winery, wine sales/tasting room, bed and breakfast inn, commercial use or dwelling listed in the National Register of Historic Places.

   G. Commercial uses in all GMA designations except Open Space and Agriculture Special on a property with a building either on or eligible for the National Register of Historic Places, and that was 50 years or older as of January 1, 2006.

8. The Gorge Commission shall support the economy of Gorge communities by encouraging recreation development at appropriate rural locations.

9. The Gorge Commission shall recognize the special role of the five ports in the Scenic Area as providers of river transportation and recreation facilities in Urban Areas, and support their efforts to stimulate urban waterfront economic development by:

   - Assigning priority for revisions to Urban Area boundaries to those requests involving port properties or projects.

   - Relying upon existing state and federal wetlands regulations on the Columbia River and exempting urban waterfronts from wetland and riparian area guidelines in the Management Plan.

10. Prior to the approval of any grant under the states' plans for economic development projects pursuant to Section 11 of the Scenic Area Act, the Gorge Commission shall certify that all activities undertaken under the grant are consistent with the purposes of the Scenic Area Act, the Management Plan, and land use ordinances adopted pursuant to the Scenic Area Act.

    If such activities would take place wholly within an Urban Area, the Gorge Commission shall, after consultation with the appropriate city or county, certify that the activities are consistent with the Scenic Area Act, the Management Plan, and land use ordinances.

11. In consultation with the States of Washington and Oregon and Gorge counties, and after public hearings, the Gorge Commission established a process for certifying that activities to be undertaken under a grant pursuant to Section 11 of the Scenic Area Act are consistent with the purposes of the Scenic Area Act, the Management Plan, and land use ordinances adopted pursuant to the Scenic Area Act. The Gorge Commission shall maintain this certification process so that it is simple, efficient, and speedy to not delay consistent activities. The details of economic development projects shall be confidential consistent with Gorge Commission rules on disclosure of public records.

CHAPTER

3

Enhancement Strategies

The first purpose of the Scenic Area Act is "to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge" [Section 3(1)]. *Webster's New Collegiate Dictionary* (C. and G. Merriam Co. 1977) defines "enhance" in the following ways: 1) to raise, and 2) to make greater (as in value, desirability, or attractiveness.)

This chapter includes the Management Plan's specific objectives for enhancement of the resources of the Columbia River Gorge. The subjects covered include scenic, cultural, recreational, and natural resources, as well as forest and agricultural lands and emergency services. Some of these objectives are also referenced in the specific chapters on a particular resource or land use designation. For the most part, the enhancement strategies represent non-regulatory approaches to achieve enhancement objectives. These strategies include landowner incentives, technical assistance, educational programs, and voluntary intergovernmental agreements.

OVERALL GMA AND SMA ENHANCEMENT STRATEGIES

GMA/SMA Objectives

1. Encourage the establishment of a public or private conservancy to acquire or otherwise protect those lands within the GMA for which the Management Plan cannot offer adequate protection without denying a reasonable economic use. Seek funds to enhance the conservancy capability in the Scenic Area. Seek acquisition priority for tracts of private land designated Open Space; for other lands with sensitive scenic, cultural, or natural resources; and for lands whose owners are confronted with unusual hardship resulting from application of policies or guidelines in the Management Plan.

2. In consultation with state and federal agencies, the counties, and the Indian tribes, develop handbooks for landowners to inform them of opportunities to protect and enhance natural and scenic resources on their lands, including assistance programs offered by state and federal agencies.

3. Establish a Vegetation Advisory Committee to advise the Gorge Commission, the Forest Service, the Washington and Oregon Departments of Transportation, and county road departments on improvement of vegetation management techniques to protect scenic, cultural, and natural resources.

SCENIC RESOURCES ENHANCEMENT STRATEGIES

GMA/SMA Objectives

1. Screen or improve the appearance of discordant features in the landscape.

   A. In conjunction with local governments, develop an inventory of discordant features in the Gorge landscape.

   B. Establish a program of incentives to bring existing structures into compliance with guidelines for scenic resources, prioritizing discordant features in the foreground of scenic travel corridors.

      (1) Rehabilitate roadcuts and other disturbed areas in the landscape.

      (2) Encourage removal of abandoned structures.

      (3) Encourage removal or replacement of signs that do not conform to the sign guidelines for the GMA (Part I, Chapter 1: Scenic Resources) and the SMA (Part II, Chapter 7: General Policies and Guidelines).

      (4) Work with local governments to offer technical assistance and design suggestions to private developers.

      (5) Provide incentives to convert existing industrial complexes to uses more consistent with the purposes of the Scenic Area Act and land use designation. *(Added: CRGC adopted 7/7/08; U.S. Sec. Ag. concurrence 10/8/08)*

   C. Establish coordinated, cooperative programs with the Oregon and Washington Departments of Transportation, the Bonneville Power Administration, utilities, and the railroads to reduce the visual effect of existing facilities. The programs should:

(1) Encourage the railroads and utilities to place signal wires and powerlines underground where they are visually dominant and detract from the visual quality of the landscape.

(2) Encourage the use of visually subordinate colors on existing equipment.

(3) Encourage improvement of existing rights-of-way by restoring vegetation to its natural appearance.

(4) Encourage the use of integrated practices in managing vegetation in the foreground of scenic travel corridors.

D. Undertake the following activities in the SMA:

(1) Revegetate clearcuts and disturbed areas with native vegetation wherever appropriate.

(2) In the Gorge Walls, Canyons, and Wildlands setting, obliterate and revegetate unused and closed roads and remove non-historic structures or other developed features.

(3) Acquire scenic easements, where necessary, to reduce development pressures and maintain uses that exemplify the landscape setting.

2. Improve the visual and recreational quality of the scenic travel corridors by implementing the recommendations in the Corridors Visual Inventory (April 1990) and the highway corridor strategies for Washington State Route 14, Interstate 84, the Historic Columbia River Highway.

A. Develop a memorandum of understanding with the Oregon and Washington Departments of Transportation to carry out the recommendations in the Corridors Visual Inventory.

B. Encourage the Oregon and Washington Departments of Transportation to take the following measures to improve the visual quality of scenic travel corridors:

(1) Place reflectors on guardrails rather than on free-standing posts.

(2) Remove unnecessary highway signs; consolidate necessary signs where possible.

(3) Replace sections of white guardrail where white contrasts noticeably with gray or galvanized sections.

(4) Eliminate unnecessary construction berms.

(5) Close unused road accesses from scenic travel corridors.

(6) Eliminate maintenance stockpile sites that are visible from scenic travel corridors.

(7) Create or restore openings in vegetation along Washington State Route 14, Interstate 84, and the Historic Columbia River Highway to provide or improve views of the Columbia River and the walls of the Gorge in a manner that does not adversely affect scenic, cultural, natural, or recreation resources of the Scenic Area.

C. Encourage communities along scenic travel corridors to enhance the entries to their communities.

D. Provide Forest Service cost-share funding, including recreation funds, in order to encourage the placement of Scenic Area entry signs consistent with the Columbia River Gorge National Scenic Area Graphic Signing System.

3. Encourage federal and state agencies to monitor air quality and visibility in the Scenic Area, and utilize the results of such monitoring in developing and updating the regional air quality protection and enhancement strategy described in SMA Natural Resources Wildlife and Plants Policy 15 (Part I, Chapter 3: Natural Resources).

4. Encourage timber operators in the GMA to protect scenic values in scenic travel corridors, using the following measures:

A. Ask project applicants to seek technical assistance to protect scenic values.

B. Encourage the Forest Service or other appropriate resources to provide technical assistance to project applicants and/or local government.

C. Encourage project applicants to design appropriate clearcut size, location, and pattern.

D. Encourage use of conservation easements to mitigate project impacts and recognize property values.

CULTURAL RESOURCES ENHANCEMENT STRATEGIES

GMA/SMA Objectives

1. Increase understanding of and appreciation for cultural resources.

A. Promote educational and interpretive programs that increase public awareness of cultural resources.

B. Develop cooperative programs with Native Americans to enhance public understanding of their cultural history.

C. Increase public awareness of historic structures and sites and of the National Register of Historic Places.

D. Encourage increased efforts to research and document the cultural history of the area through ongoing oral history projects, including interviews of "oldtimers" and Native Americans.

2. Promote the protection, restoration, and enhancement of cultural sites.

A. Seek funds for a complete cultural resource inventory of the Scenic Area, in coordination with Indian tribal and local governments and state and federal agencies.

B. Determine an appropriate strategy for protection of sensitive cultural resource sites such as Miller Island.

C. Identify and map traditional plant-gathering areas and restore the plant habitat wherever possible.

D. Identify and interpret Oregon trail locations throughout the Scenic Area.

E. Develop a comprehensive strategy for the entire Scenic Area to integrate all law enforcement efforts for purposes of cultural resources protection.

F. Expand education programs to gain public support for vandalism prevention.

3. Encourage enhancement of historic and landmark structures and cultural landscapes.

A. Promote public awareness of tax and other incentives available for the protection of historic buildings.

B. Promote retention or rehabilitation of historic rock guardrails and other historical components of the highway rights-of-way wherever practicable.

C. Ensure that restoration projects are in keeping with National Register status of structures, facilities, or landscapes.

D. Encourage local governments to expand existing incentives for the protection of historic buildings, including adopting resolutions or ordinances that facilitate landowner access to federal and state programs providing such incentives.

NATURAL RESOURCES ENHANCEMENT STRATEGIES

GMA/SMA Objectives

1. Enhance soil, water, and air resources to ensure sustainability of natural resources over time.

   A. Facilitate implementation of Natural Resources Conservation Service and land-grant university cooperative extension programs to increase soil productivity.

   B. Develop a program to enhance soil water retention and reduce runoff. Give preference to use of native species.

   C. Encourage federal and state agencies to undertake a comprehensive water quality monitoring program on the Columbia River and its major tributaries.

2. Establish cooperative programs to enhance significant natural resources in the Scenic Area. Programs should emphasize public lands, but encourage participation by private landowners.

   A. Develop a comprehensive program to inventory existing oak woodlands and propose methods for their protection, including incentives for property owner cooperation and support, acquisition of sensitive stands, and easements to preserve the oaks on large parcels.

   B. Work cooperatively with private owners, native plant societies, concerned individuals, and other organizations to enhance floral habitats. Expand the inventories of wildflower areas throughout the Scenic Area; develop protection guidelines and strategies, such as easements, acquisition, and mitigations; and encourage nurseries to carry native species for landscaping or mitigation proposals.

   C. Support the Northwest Power Planning Council's efforts to restore anadromous fish runs in the Columbia River. Participate in these efforts by implementing the Forest Service three-region fish policy for coordinated management of anadromous fish resources.

   D. Work cooperatively with the state wildlife agencies and landowners to enhance conservation of winter range and to identify and develop strategies

(including tax incentives) for non-game wildlife habitat conservation and enhancement.

E. Continue and expand programs to enhance waterfowl habitat and shallow-water fish habitat.

F. Provide Forest Service evaluation of identified natural areas for possible designation as a Research Natural Area (RNA). Where appropriate, prepare reports and recommendations for designation as RNA.

G. In cooperation with state and federal agencies, design and implement a restoration and enhancement program for wetlands and riparian areas, to include revegetation and stream channel improvements for wildlife and fish habitats.

H. Encourage the use of fire to restore and perpetuate natural ecosystems.

3. Develop educational and technical assistance programs to expand public awareness and understanding of ecological principles and ecosystem management.

A. Develop public education opportunities that will foster better appreciation and understanding of the natural resources and land stewardship. These opportunities should be closely linked to the Columbia River Gorge National Scenic Area Interpretive Strategy.

B. Develop an interagency education program to foster protection of wetlands and riparian areas from cattle grazing.

C. In cooperation with the appropriate state and federal agencies (e.g., State Extension Service), develop supporting documentation and provide technical assistance for landowners exploring alternatives to chemical use for vegetation management.

RECREATION RESOURCES ENHANCEMENT STRATEGIES

GMA/SMA Objectives

1. Enhance the recreational experience in the Scenic Area.

A. Encourage the creation or restoration of openings in vegetation along Washington State Route 14, Interstate 84, and the Historic Columbia River Highway to provide or improve views of the Columbia River and the walls of the Gorge.

B. Promote programs that increase awareness and appreciation of the great diversity of natural, cultural, scenic, and recreation resources of the Scenic Area.

C. Encourage provision of alternative modes of transportation (including bus, shuttles, rail, and boat) to recreation destinations in order to reduce resource impacts and to facilitate visitation by all segments of the public.

D. Encourage provision of transportation modes that are recreational in nature.

E. Improve linkages between different modes of transportation at major recreation sites in the Scenic Area.

F. Encourage comprehensive recreation planning that fosters a unified, regional approach.

G. Provide additional opportunities and facilities for recreational access to the Columbia River and its tributaries, scenic appreciation, and other resource-based recreation uses.

FOREST LAND ENHANCEMENT STRATEGIES

SMA/GMA Objectives

1. Enhance the ability of forest land to ensure continued productivity and economic benefits over time.

   A. Enhance forestry on lands designated Commercial Forest Land or Large or Small Woodland by encouraging consolidation of small, inefficient tracts into more efficient ownerships.

   B. Enhance forestry by encouraging Washington and Oregon to consider grants and loans to secondary processors of forest products under Section 11 of the Scenic Area Act and other economic development programs.

   C. Undertake the following actions by the Forest Service:

      (1) Develop cooperative programs with state agencies, educational groups, and concerned individuals to encourage the protection and integration of soils, forest ecosystems, long-term productivity, and natural resources.

      (2) Initiate forest management projects to demonstrate good stewardship and long-term sustainable forest management

(3) Provide technical assistance to forest managers for design of forest management activities to ensure sustained productivity.

(4) Increase public awareness of existing programs designed to ensure sustained productivity, such as the forestry incentive program and the use of easements.

(5) Develop incentive programs to encourage long-term stewardship for small woodlot management.

(6) Assist with marketing and research efforts to enhance the economic viability of secondary manufacturing for wood products, increased utilization of wood products and other miscellaneous forest products.

AGRICULTURAL LAND ENHANCEMENT STRATEGIES

GMA/SMA Objectives

1. Enhance the sustainability of agricultural land to ensure continued economic benefits.

   A. Encourage consolidation of small, inefficient parcels of agricultural land into larger, more efficient tracts.

   B. Support and promote the Oregon and Washington farm value assessment programs that provide tax incentives for continued agricultural use and enhance the competitive capabilities of farms and ranches, thereby encouraging the long-term enhancement, preservation, and expansion of agricultural lands. Support programs that encourage agricultural practices that preserve other natural resources.

   C. Develop new strategies to provide incentives for soil and water conservation and for sustained agricultural productivity.

   D. Promote public education programs that foster greater understanding of agricultural practices, agricultural ecosystems, and good stewardship of the land.

   E. Encourage cooperative programs with state and federal agencies and the Soil Conservation Service to explore the integration of wildlife needs with agricultural practices. Such practices could include retention of hedge rows, construction of windrows, management of small commercial woodlands, restoration of native grasses, restoration of wetlands, and integrated pest management.

F. Encourage the protection of non-commercial woodlands, such as oak stands, for groundwater replenishment, soil retention, and wildlife habitat needs.

G. Enhance agriculture by allowing processing and packing of agricultural products and other uses that offer direct marketing opportunities, subject to review to minimize the loss of agricultural land and to limit the size and scale of use.

EMERGENCY SERVICES STRATEGIES

GMA/SMA Objectives

1. With facilitation by the Forest Service, develop a coordinated, interagency emergency response plan for the Scenic Area. The plan should address law enforcement; search and rescue services; and fire, hazardous materials, and catastrophic event response services. The plan should include the following elements:

   A. A coordinated incident command system developed by the agencies and communities in the Gorge, including federal, state, county, city, and protection district agencies.

   B. A Forest Service interagency fire management strategy, including an assessment of fire potential.

   C. Consultation with a Forest Service resource advisor during emergency situations, including fire suppression, law enforcement, search and rescue, hazardous materials, and other catastrophic incidents, in order to avoid adversely affecting scenic, cultural, recreation, and natural resources.

   D. Increased law enforcement services on National Forest lands by the Forest Service and by interagency agreements.

CHAPTER

4

Interpretation and Education

Interpretive and educational programs and facilities are an important part of Congress's vision for the Scenic Area, as well as the vision of the Gorge Commission and Forest Service, expressed through the provisions of the Management Plan. Sections 6 and 8 of the Scenic Area Act specifically direct both agencies to "identify areas suitable for. . . public use facilities. . . including. . . educational and interpretive facilities."

This chapter provides a basic policy framework guiding the interpretative and educational programs for the Scenic Area. Specific goals, objectives, and guidelines for interpretation are included in Part I, Chapter 4: Recreation Resources. The *Interpretive Strategy for the Columbia Gorge National Scenic Area*, incorporated by reference into the Management Plan, is a separate document that provides detailed recommendations for interpretive themes, facilities, and programs at particular sites in the Scenic Area. It is recommended that readers interested in specific interpretive and educational opportunities and facilities refer to that document.

GMA/SMA PROVISIONS

GMA/SMA Goal

Protect and enhance the human and natural resources of the Scenic Area by increasing public awareness, understanding, and appreciation of them.

GMA/SMA Policies

1. Interpretive and educational facilities and activities should be provided that increase awareness, understanding, and appreciation of the diversity of Scenic Area resources and their interrelationships.

2. Interpretive and educational facilities and activities should be provided that increase awareness and understanding of how Gorge resources have affected

human activity, and how human activity has affected and continues to affect all the resources of the Gorge.

3. Interpretive and educational opportunities should be provided that attract visitors to the Gorge, meet their needs, enhance their experience, and increase their knowledge.

4. A full spectrum of barrier-free (physical, linguistic, cultural, sensory) interpretive and educational opportunities should be provided.

5. Implementation of interpretive and education facilities and activities in the Scenic Area should follow the recommendations of the Columbia River Gorge National Scenic Area Interpretive Strategy.

6. The Gorge Discovery Center at Crate's Point should be the focus and nucleus of interpretive planning and activities in the Scenic Area. Interpretive staff should coordinate with other agencies and partners.

7. The interpretive program at the Skamania Lodge Conference Center should function as an extension of The Gorge Discovery Center, providing both orientation information and interpretive services.

8. An environmental education program based on the resources of the Gorge should be established for elementary through secondary students and adult groups.

9. Four gateway centers, a series of information stations, and Scenic Area entry signs should be established to provide Gorge-wide visitor orientation information and interpretation based on the immediate environment.

10. All interpretive and educational facilities, activities, and media shall be designed to comply with all the guidelines and policies of the Management Plan.

11. Measures to protect sensitive cultural and natural resources shall be required as part of any interpretive or educational effort. Tribal consultation shall be required for any efforts involving interpretation of Native American prehistory, history, or culture.

12. Interpretive and educational facilities shall be funded through recreation appropriations and partnerships.

CHAPTER

1

Gorge Commission Role

Congress assigned to the Gorge Commission a number of duties to implement the Scenic Area Act. These include ensuring compliance with the Management Plan, revising the Management Plan when needed, changing Urban Area boundaries, and hearing appeals of county decisions. The policies in this chapter define the manner in which these duties will be discharged.

AMENDMENT OF THE MANAGEMENT PLAN

Congress gave the Gorge Commission the authority to amend the Management Plan, after adoption, if it determines that conditions within the Scenic Area have changed significantly.

Policies

1. The Gorge Commission may amend the Management Plan, upon application by any person or upon its own motion, if it determines that conditions within the Scenic Area have changed significantly since adoption of the Management Plan. Plan amendments must be consistent with the Scenic Area Act and other provisions of the plan.

2. The Gorge Commission shall consider a proposal to amend the Management Plan at a hearing held for that purpose only after consultation with the Forest Service, the Indian tribes, and the appropriate county or counties.

3. The Gorge Commission shall consider a plan amendment upon a final judicial determination that a taking of private property has occurred as a result of application of the Management Plan. The judicial determination shall be deemed a significant change in conditions under Section 6(h) of the Scenic Area Act.

4. The Gorge Commission shall submit amendments of the Management Plan to the Secretary of Agriculture in accordance with Section 6(h) of the Scenic Area Act.

REVISION OF THE MANAGEMENT PLAN

Congress directed the Gorge Commission to review the Management Plan at least every 10 years to determine whether it should be revised.

Policies

1. The Gorge Commission shall review the Management Plan in accordance with the Scenic Area Act.

2. As part of its review, the Gorge Commission shall consult the Indian tribes, the states of Oregon and Washington, and the counties during the review to solicit their views on whether the Management Plan should be revised and how it should be revised.

3. As part of its review, the Gorge Commission shall hold one or more public hearings to solicit the views of the public as to whether and how the Management Plan should be revised.

4. The Gorge Commission shall collaborate with the USDA Forest Service to determine whether revisions should be made to the Management Plan.

5. If the Gorge Commission revises the Management Plan during its review, it shall submit the revised Management Plan to the Secretary of Agriculture in accordance with Section 6(g) of the Scenic Area Act.

MONITORING IMPLEMENTATION OF THE MANAGEMENT PLAN

Once the Gorge Commission has adopted the Management Plan and the counties have put ordinances in place to give it effect, Congress and the people of the Gorge and the nation are entitled to know whether the Management Plan is working. The Gorge Commission shares responsibility with the Forest Service to monitor and evaluate the implementation of the Management Plan.

Congress expressly directed the Gorge Commission to monitor implementation of the Management Plan by the counties:

> The Commission shall monitor activities of counties pursuant to this Act and shall take such actions as it determines are necessary to ensure compliance [Section 15(a)(1)].

It is not just the counties, however, that have implementation duties under the Scenic Area Act and the Management Plan. The Forest Service, other federal agencies, state

agencies, local governments, and the Gorge Commission itself all have responsibilities after the Management Plan is adopted. Activities by counties and these agencies will, to a large extent, determine the success or failure of the Scenic Area Act.

The Gorge Commission, in cooperation with the Forest Service, the counties, the Indian tribes, local governments, and state and federal agencies, must establish and carry out a program of monitoring and evaluating the implementation of the Management Plan.

Policies

1. The Gorge Commission shall work with the Forest Service, the counties, the Indian tribes, local governments, and state and federal agencies to establish a program for monitoring and evaluating the implementation of the Management Plan and the Scenic Area Act.

2. The Gorge Commission shall design its monitoring and evaluation program to accomplish the following purposes:

   A. Determine whether the Management Plan is protecting the scenic, cultural, natural, and recreation resources of the Scenic Area.

   B. Determine whether the Management Plan supports and protects the economy of the Columbia River Gorge area.

   C. Determine whether the counties are properly implementing the Management Plan.

   D. Evaluate the Management Plan for possible revisions at the time of periodic review of the Management Plan as required by the Scenic Area Act.

   E. Determine whether the enhancement measures and programs called for in the Management Plan have in fact enhanced the scenic, cultural, natural, and recreation resources of the Scenic Area.

   F. Ensure compliance with orders issued by the Gorge Commission in development reviews and enforcement proceedings.

3. As part of its monitoring and evaluation program, the Gorge Commission shall evaluate county development review decisions. In consultation with the counties, the Gorge Commission shall develop a method to record and evaluate the decisions. The Gorge Commission shall first discuss the results of its evaluation with each county.

4. The Gorge Commission shall monitor land use appeals taken to county elected officials in which the appellant asserts a taking claim based upon a requirement in

the Management Plan. Upon request by a county, the Gorge Commission shall extend appropriate assistance to the county.

5. The Executive Director of the Gorge Commission or her designee may appeal a county land use decision or participate in an appeal of a county land use decision filed by another party. In such an appeal, the Executive Director does not represent the position or stated direction of the Columbia River Gorge Commission. The appeal shall be pursuant to the county's appeal process and the county's final decision may be appealed to the Gorge Commission at the conclusion of the county's appeal process.

6. In cooperation with the Forest Service, the Gorge Commission shall keep current and work to improve the database in the inventories that form the basis of the Management Plan.

7. The Gorge Commission shall work with Gorge counties and the States of Washington and Oregon to identify and reconcile differences in direction to county governments from the Scenic Area Act, the Bi-State Compact, the Management Plan, and other state statutes.

CIVIL PENALTIES

Congress authorized the Gorge Commission to assess a civil penalty in order to prevent violations of the Management Plan, a county ordinance, or any Gorge Commission order or implementation measure.

Policies

1. The Gorge Commission shall adopt rules to implement the requirements of the Scenic Area Act related to enforcement after consultation with the Secretary, the counties, and the Indian tribes and only after public hearings.

APPEALS TO THE GORGE COMMISSION

Congress authorized persons and entities to appeal decisions relating to the implementation of the Scenic Area Act.

Policies

1. The Gorge Commission shall adopt rules to implement the appeals provisions in the Scenic Area Act after consultation with the Secretary, the counties, and the Indian tribes and only after public hearings.

2. The Gorge Commission shall hear appeals of final enforcement actions relating to implementation of the Management Plan.

REVISION OF URBAN AREA BOUNDARIES

Congress designated 13 cities and towns as "Urban Areas": Cascade Locks, Hood River, Mosier, and The Dalles, Oregon; and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon, and Wishram, Washington. Urban Areas are exempt from regulation under the Management Plan. Congress established the boundaries of the Urban Areas when it enacted the Scenic Area Act. However, it authorized the Gorge Commission to make minor revisions to the Urban Area boundaries. Congress also set forth in the Scenic Area Act a process and criteria for use by the Gorge Commission in carrying out the revision process. The following policies govern the revision of Urban Area boundaries.

Policies

1. The Commission shall adopt rules that implement the requirements of the Scenic Area Act related to the revisions of Urban Area boundaries.

2. The Gorge Commission may make minor revisions to the boundaries of Urban Areas upon a majority vote of two-thirds of the members of the Gorge Commission, including a majority of the members from each state.

3. A county may apply to the Gorge Commission to make a minor revision in the boundary of an Urban Area within the county's jurisdiction.

4. Before revising an Urban Area boundary, the Gorge Commission shall consult with the Secretary of Agriculture prior to any hearing on the revision.

5. The Gorge Commission shall consider an application for a minor revision to an Urban Area boundary at a hearing held for that purpose. The Gorge Commission shall adopt procedures for urban boundary revision hearings.

6. The Gorge Commission shall review and consider proposed revisions to Urban Area boundaries that do not qualify for revision under Section 4(f) of the Scenic Area Act. After review, and after a public hearing on the matter, the Gorge Commission shall consider appropriate recommendations to Congress on the boundaries. The Gorge Commission shall attempt to complete these reviews within 5 months after adoption of the Management Plan.

Guidelines

1. The Commission may revise the boundaries of an Urban Area only if it finds that all of the following conditions exist and that the proposal is consistent with Commission rules related to revisions of Urban Area boundaries:

    A. A demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the Management Plan.

    B. Revision of Urban Area boundaries would be consistent with the purposes of the Scenic Area Act and the standards established in Section 6 of the Act.

    C. Revision of Urban Area boundaries would result in maximum efficiency of land uses within and on the fringe of existing Urban Areas.

    D. Revision of Urban Area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

REVISION OF SCENIC AREA BOUNDARIES

The Scenic Area Act does not contain administrative procedures or substantive criteria for revising the exterior boundaries of the Scenic Area. Congressional action will be required before lands can be added to or removed from the Scenic Area.

The Gorge Commission recognizes that circumstances may exist or arise that necessitate a change in the boundaries of the Scenic Area. The Gorge Commission will consider proposed boundary revisions on a case-by-case basis. Recommendations for revising the boundaries of the Scenic Area will be forwarded to Congress.

Policy

1. The Gorge Commission shall review and consider proposed revisions to the boundary of the Scenic Area for appropriate recommendations to Congress. The Gorge Commission shall consider first any proposed revision involving land within an urban service boundary established prior to enactment of the Scenic Area Act.

COUNTY ORDINANCES

Policies

1. Counties may adopt ordinances with provisions that vary from the policies and guidelines in the Management Plan as long as the ordinances provide greater

protection for the scenic, cultural, natural, and recreation resources of the Scenic Area. Notwithstanding the designation policies in Part II of the Management Plan, the Gorge Commission shall, upon request from a local government, apply a more restrictive designation.

2. A county and a city may enter into an agreement to allow the other to implement a land use ordinance that applies to the city and that has been approved or adopted by the Gorge Commission under Section 8 of the Scenic Area Act.

3. Counties may grant variances to provisions in their land use ordinances that are not required by a policy or guideline in the Management Plan.

4. The Gorge Commission shall encourage the States of Washington and Oregon to make funds available to the counties to assist in the implementation of the Scenic Area Act and the Management Plan.

5. The Gorge Commission shall seek funds and an interagency agreement with the Forest Service to provide the services of resource professionals, such as biologists and archaeologists, to assist local governments and landowners to carry out the policies and guidelines in the Management Plan.

PUBLIC INVOLVEMENT

The Gorge Commission believes that timely and appropriate public involvement is key to the long-range success of the Scenic Area Act.

The purpose of the goals and policies in this chapter is to ensure a formal ongoing public involvement program.

GMA Goals

1. Provide for and consider a variety of viewpoints in decision making.

2. Encourage an informed public.

3. Consult and coordinate with other governmental jurisdictions, including the Forest Service, Indian tribal governments, county boards, city councils, and other state and federal agencies.

GMA Policies

1. A time for public comment shall be provided at all regular Gorge Commission business meetings. Meetings shall be rotated among suitable meeting spaces to make it convenient for residents of different areas to attend.

2. Notice of Gorge Commission meetings shall be distributed to all interested people and the media, without charge. Notices shall describe, in plain language, the topics the Gorge Commission will discuss and which topics are open for public comment. Notices shall also be provided to county planning offices and public libraries for posting for public review.

3. Informational materials describing Gorge Commission activities and planning decisions shall be developed.

4. A community outreach program shall be conducted. Activities may include maintaining a speakers' bureau, meeting with county advisory committees, and participating in school programs.

5. Advice shall be provided to interested counties in designing and implementing their public involvement activities.

6. Formal public involvement and consultation activities shall be provided at major planning milestones.

    A. Formal public hearings shall be held before the Gorge Commission takes action on county land use ordinances, amends the Management Plan, or reviews and periodically revises the Management Plan. Any interested person shall be able to testify before the Gorge Commission.

    B. Written public comment shall be encouraged, and a comment period shall precede all major planning decisions. Commission rules should define the required comment period.

    C. Public comment shall be encouraged before the Gorge Commission takes action on county land use ordinances. The Gorge Commission shall approve land use ordinances at public hearings.

    D. Public workshops shall be held to encourage review of and comment on other Gorge Commission decisions. Workshops shall be conveniently scheduled to encourage participation by Gorge residents and other interested people.

    E. Revisions to Urban Area boundaries shall be considered after a formal public hearing by the Gorge Commission. Formal hearings shall be preceded by an informal hearing for general public comment. All interested people shall be able to make their comments known.

7. Periodic meetings of Gorge county planners and planning directors shall be scheduled to encourage ongoing discussion of issues and concerns.

8. Periodic consultation meetings shall be scheduled with Indian tribal governments to encourage ongoing discussion of issues and concerns.

9. Periodic consultation meetings shall be scheduled with county governing boards to encourage ongoing discussion of issues and concerns.

10. The two states shall be consulted about application of economic development grants and loans, restoration of the Historic Columbia River Highway, and activities of other state agencies.

11. The Commission should collaborate with the USDA Forest Service on all projects of mutual interest.

12. In designing implementation programs, public comment and assistance shall be solicited.

CHAPTER

2

Forest Service Role

Implementation of the Management Plan charters a federal presence with an expanded focus beyond traditional Forest Service roles. In addition to administration of the National Forest System (NFS) lands in the Scenic Area, the Forest Service will be actively involved as a partner and provider of technical support for state and local governments on non-federal lands.

The Forest Service has acquired, through purchase, exchange, or donation, approximately 34,000 acres of new federal land in the Scenic Area added to the existing national forests. In addition, approximately 40,000 acres of the Gifford Pinchot National Forest and the Mt. Hood National Forest are inside the boundary of the Scenic Area. Additional federal lands will be added as the land acquisition program continues. Management and protection of these federal lands will be carried out by the National Scenic Area Forest Service administrative unit.

Management responsibilities on NFS lands will include administration of recreation facilities; design of resource protection, management, and enhancement strategies on federal lands; and provision of public information and services to visitors, users, and other interested parties.

The Forest Service intends to implement strategies designed to protect and integrate resource management. Additional opportunities, such as providing leadership in cultural resources, anadromous fisheries, oak woodland and wetlands management, will be incorporated into ongoing administration of the NFS lands in the Scenic Area.

The National Scenic Area Forest Service administrative unit will continue to administer the White Salmon and Klickitat Wild and Scenic Rivers, as designated in the Scenic Area Act and guided by the management plans prepared for these areas.

Monitoring and technical assistance responsibilities will continue after adoption of the Management Plan, and the Forest Service will maintain an active and visible role with the Gorge Commission, the six counties, and others involved in those activities. Forest Service plans call for staffing to provide assistance in specialized areas, including biology, forestry, botany, and landscape architecture.

Revisions and amendments to the Management Plan will require review and involvement of the Forest Service. The need for revisions should be tied closely to monitoring conclusions.

The Geographic Information System (GIS) has been used by the Forest Service to maintain inventory information, analyze data, and generate maps as necessary for the creation of the Management Plan. The GIS will be maintained and updated for use by the counties, Gorge Commission, and Forest Service.

Section 16 of the Scenic Area Act authorizes funds for continuing land acquisitions, and provides $32.8 million for economic and recreation development programs. The Forest Service will administer the distribution of those funds, ensuring that the public interest is served and the purposes of the Scenic Area Act are fulfilled. Section 7(d) of the Scenic Area Act authorizes the Secretary of Agriculture to design, construct, operate, and maintain recreation facilities that are included in the recreation assessment for the Scenic Area. The Forest Service will participate in the development process, either directly by designing and building the facilities and administering the sites, or by facilitating partnerships with other providers and user groups.

The National Scenic Area Forest Service administrative unit is supervised by the National Scenic Area Manager, who reports to the Regional Forester and is responsible for local Scenic Area administration. The administrative office for this unit will be headquartered in Hood River, Oregon, to continue providing local contact and accessibility to public and agency partners in administering the Scenic Area.

LAND ADJUSTMENT

Landownership patterns within the Scenic Area are a complex pattern comprised of multiple ownerships and governmental jurisdictions. Intermingled ownerships greatly increase the probability of public trespass onto private land, private landowners encroaching on National Forest System land, and confusion by the public over where one ownership ends and a different one begins. There is also a high degree of urban interface within the Scenic Area that adds to management complexity and reduces management efficiency. Where mixed ownerships are found, access issues are usually more complicated and troublesome.

The Scenic Area contains approximately 292,615 acres, of which approximately 115,100 acres fall within the Special Management Area (SMA). Of the 115,100 acres, some 71,000 are comprised of National Forest System land. The remaining acreage is comprised of a multitude of ownerships including County, State, other Federal, Tribal and private.

The first purpose of the Scenic Area Act is "to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge" [Section 31]. Section 9 of the Scenic Area Act states that "The Secretary is authorized to acquire any lands or interests therein within the special management areas and the

Dodson/Warrendale Special Purchase Unit which the Secretary determines are needed to achieve the purposes of this Act."

The primary purpose of acquisition, then, is to protect or enhance the resources of the Scenic Area.

The acquisition philosophy of the Forest Service has been, and will generally continue to be, based on the "willing seller, willing buyer" concept, recognizing the Scenic Area Act's provisions and limitations on the use of eminent domain [Section 9].

Acquisitions of land and interests can occur through purchase, donation, or exchange. Acquisitions from states or political subdivisions may be made only through donations or exchange. Use of scenic or conservation easements is another method that can be used to protect or enhance a particular resource.

LAND ADJUSTMENT DIRECTION

Since passage of the Scenic Area Act, land acquisitions have occurred through 1) the timberland exchanges specifically directed in Section 9(d), 2) direct purchases of tracts fitting the "hardship" provision of Section 9(c), and 3) purchase of a number of key properties containing important scenic, cultural, or natural resources. There have also been some parcels acquired through donations. Most of the acquisitions have been from individuals who came to the Forest Service with an offer to sell.

The Scenic Area Act authorizes acquisition of any lands or interests therein within the special management areas and the Dodson/Warrendale Special Purchase Unit. In addition to the Scenic Area Act, there are other land adjustment authorities applicable to the Forest Service that allow acquisition of lands and interests outside of the two areas specified in the Scenic Area Act.

As of October 2003, the following funds have been expended and lands acquired:

Purchase:
16,803 acres acquired in fee
1,894 acres of partial interest acquisitions utilizing conservation easements
$54,991,849 funds expended

Land Exchange:
16,600 acres acquired through exchange

The Management Plan identifies resource opportunities and needs that are important to fulfill the purposes of the Scenic Area Act. Those opportunities will be the focus of the land acquisition program. The Forest Service will take a proactive role in negotiating with landowners to ascertain the availability for sale of lands that enhance resources identified in the plan.

The following criteria will be used for determining federal land acquisition:

- High-priority public recreation sites.
- Sensitive lands such as wetlands, riparian areas, and floodplains.
- Lands supporting threatened or endangered species of fish, wildlife, or plants.
- Lands designated Open Space where significant resources have been identified, and where uses or development may endanger the resources.
- Highly scenic lands that are visible from key viewing areas.
- Lands with known concentrations of cultural resource sites or a high probability of cultural resource sites.
- Consolidation for increased efficiency in land management.
- Rights-of-way needed for public access.

In many cases, more than one of the above conditions may appear on a site. If that is the case, the priority of the site for acquisition could be higher. Priorities will be determined by the degree to which offered properties meet one or more of the criteria and resource or project needs, the timing of acquisition to meet such need, and the availability of properties for sale by willing sellers.

The value of landownership consolidation cannot be overstated. Where ownerships occur in large blocks, there is reduced trespass, encroachment, access issues, and public confusion over differing regulatory requirements that occur with different management agencies. Management costs and boundary maintenance costs are also reduced, and there is less of a need to authorize third party uses on National Forest System land.

PURCHASE

Real property purchases in the Scenic Area can be accomplished by one of two methods. The first method is known as “fee” acquisition, and consists of acquisition of the entire group of rights associated with a property. Most lands purchased will be acquired in fee to provide the greatest degree of resource protection, management flexibility, and public benefit. The second method of purchase is known as partial interest acquisition in which only a specified group of rights is acquired and legal title remains vested with the private landowner. These acquisitions are commonly known as conservation easements or scenic easements. Very limited use will be made of this second method due to the perpetual costs of administration of the easements and the lesser public benefits derived from only owning a limited set of rights to a property.

LAND EXCHANGE

Although the land exchange authority set forth in the Scenic Area Act was limited in both scope and duration, the Scenic Area retains the ability to conduct land exchanges through broad authority given to the Forest Service by laws such as the Weeks Law Act of March 1, 1911 and the General Exchange Act of March 20, 1922. The use of land exchanges to consolidate landownership is considered a potentially important tool in accomplishing the goals and objectives of the Scenic Area. This is particularly true where there are intermingled ownerships involving National Forest System land and land owned by a State or political subdivision thereof. In particular, serious consideration should be given to exchange proposals between the Forest Service and State Park agencies that would consolidate ownership around public recreation sites. Land exchanges within the Scenic Area will be considered only if the scenic, cultural, recreational, or natural resources of the Scenic Area are not compromised. Exchanges are discretionary and must be found to be in the public interest. Land exchanges are typically costly, complex, and require a substantial amount of time and resource commitment to be successfully completed. It is expected that use of land exchange as a tool to accomplish the purposes of the Act will remain limited.

RIGHTS-OF-WAY NEEDED FOR PUBLIC ACCESS

Rights-of-way acquisition objectives include acquiring road and trail rights-of-way that are adequate for the protection, administration, and utilization of the National Forest System, and also acquiring all interests needed for use of roads and trails to meet the long-term management and multiple use objectives of National Forest System lands as set out in the Scenic Area management plan and Forest land and resource management plans.

Mixed ownerships and a multitude of private roads combine to make providing full public access to lands within the Scenic Area a challenge. The Recreation Development Proposals list identifies trails, campgrounds, and other visitor and administrative "facilities" that will need planned access, either by trail or road. Public access to some lands acquired chiefly for scenic, natural or cultural reasons may continue to be limited. Specific access needs will be identified in the Scenic Area's annual program of work. Negotiating for purchase, exchange, or donation of easements will be an important acquisition tool. Access needs offer opportunities for partnerships with a wide range of cooperators, including landowners and user groups.

EFFECT ON LOCAL GOVERNMENT FINANCES

The Scenic Area Act included several provisions for offsetting the potential reduction of local taxes as a result of federal land acquisition. Section 14(b) provides that acquired lands will be included in determining a county's share of timber receipts from National Forest System lands. Also, Section 14(c) provides for payments in lieu of taxes to a county for a certain period of time.

REVISION OF SMA BOUNDARIES

The Scenic Area Act [Section 4(c)] describes the following procedures for adjustments to SMA boundaries:

> The Secretary, in consultation with the Commission, may make minor revisions in the boundaries of special management areas after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and Interior and Insular Affairs of the United States House of Representatives.

The Scenic Area Act also requires publishing the proposed boundary revision in the Federal Register.

To date, one minor revision has been made to the SMA boundary at Rowena. As the Scenic Area Act requires, the procedure followed in that case will be used in any other boundary revision that might be appropriate. Changes in the SMA boundary will be considered where such changes would help enhance and protect scenic, cultural, recreation, and natural resources. In addition, Congress changed about 310 acres at Chenoweth Table in Wasco County, and about 27 acres at “Pioneer Point” in Skamania County from GMA to SMA.

MONITORING AND ENFORCEMENT

A comprehensive program to monitor implementation of the Management Plan is essential to ensure that the purposes of the Scenic Area Act are achieved. Monitoring should emphasize two components:

1. Are the guidelines being met through appropriate implementation of the county ordinances and other requirements?

2. Are the scenic, cultural, recreation, and natural resources being protected and enhanced through application of the management guidelines and implementation of enhancement and action program strategies?

Monitoring of county implementation actions is primarily the responsibility of the Gorge Commission, as required in Section 15 (a)(l)of the Scenic Area Act. However, in the SMA, where lands are being used or are in imminent danger of being used in a manner incompatible with the county ordinances, Section 9 gives the Forest Service the authority to acquire such lands without consent of the owner. Therefore, the Forest Service will also monitor actions in the SMA.

Counties will not have authority to implement all guidelines through county ordinances. In some cases, such as review of forest practices, the Forest Service will retain jurisdiction

to review uses or development and certify consistency with the Management Plan. Where this is the case, the Forest Service will monitor the results of these actions to ensure that required mitigation measures are implemented and the resources are protected.

Specific subjects and data elements for monitoring the resources are proposed below. A detailed monitoring program will be designed to include methodologies and show progress, problems, and proposed adjustments. Periodic reports are proposed to summarize the monitoring results and make recommendations to the Gorge Commission for any management changes that may be indicated by the findings.

SCENIC RESOURCES

The Management Plan goals for scenic resources call for protecting the scenic values on both the broad landscape setting level and the individual development level.

Much of the value of the Scenic Area is expressed in the opportunity to appreciate important vistas. The level of visibility affects the ability to appreciate the beauty of the landscape, especially the color and contrasting forms of distant features. Air pollution can impair the quality of the viewing experience, and should be monitored to ensure the protection of the clear views that everyone enjoys.

Aerial and oblique photographs will provide the monitoring record to assess changes to the scenery. A system of visual monitoring points was established in 1988. Twenty-seven sites in the Scenic Area were designated as monitoring points from which oblique panoramic photographs will be taken on a regular basis. This photography will be repeated every 5 to 10 years to measure changes in the landscape and identify problem areas.

In 1987 and 1988, complete sets of black and white and color vertical aerial photographs were taken for the entire Scenic Area. All or part of the Scenic Area can be re-photographed on a regular basis or as needed for a specific area. Analysis of the changes from a vertical perspective will supplement the panoramic photographic monitoring.

Monitoring of the scenic resources will address the following topics:

1. Effects of changes to the scenery that may have occurred from development, including cumulative effects.

2. Results of air quality visibility monitoring to assess changes to viewing ability.

3. Evaluation of county actions to assess the effectiveness of the county ordinances to protect scenic resources.

4. Effects on the scenic resource of enhancement activities performed during the preceding year.

CULTURAL RESOURCES AND TREATY RIGHTS

The Management Plan goal is to protect cultural resources from potential adverse effects. Site-specific inventory and analysis, consultation with Indian tribes, and design of mitigation measures are required to implement this goal. Expanded and strengthened law enforcement efforts will also be developed to reduce or minimize theft and vandalism of cultural resources.

Scenic Area inventories include identification of known cultural resources and will be expanded to include data on resources located during site inventories and analysis for new developments.

The monitoring program will address the following topics:

1. Effectiveness of the guidelines for protecting cultural resources, including county implementation.

2. Summary of cultural resources located during the previous year. Site-specific data will not be included in any report released to the public.

3. Effectiveness of law enforcement efforts for preventing vandalism of cultural resource sites.

4. Evaluation of Indian treaty right protection measures.

NATURAL RESOURCES

Natural resources in the Columbia River Gorge are varied and extensive. The Management Plan goal to protect and enhance those resources therefore involves a broad program with participation by numerous agencies focused on the many different elements in the environment.

Baseline information in the Scenic Area inventories is not, for the most part, site specific. More detailed information will be gathered over time, particularly for those natural resources most at risk. The monitoring program will be designed in conjunction with the many agencies with responsibility for managing and protecting the resources.

In addition, organizations such as the Nature Conservancy, Audubon Society, and the Native Plant Society maintain data bases and expertise relative to various natural resources. Their assistance could help ensure a strong and effective monitoring program.

The monitoring program will address the following topics:

1. Effects on fish, wildlife and plant habitat and populations resulting from development actions, including cumulative effects.

2. Results of county actions to assess the effectiveness of the county ordinances in protecting natural resources.

3. Effects and results of natural resource enhancement activities.

4. Establishment of a wetlands and riparian area database for the entire Scenic Area.

5. Water quality.

OPEN SPACE

Open Space lands are important to protect the scenic, cultural, recreation, and natural resources of the Scenic Area. Monitoring will address the following topics:

1. Progress towards completion of Open Space management plans for designated areas.

2. Protection and enhancement projects or activities undertaken in Open Space areas.

3. Effectiveness of guidelines to protect Open Space resources.

FOREST AND AGRICULTURAL LANDS

Forest and agricultural lands are important elements of the economic base of the Scenic Area and provide a variety of other benefits, including scenic and natural resources.

Monitoring will address the following topics:

1. Compliance with the forest practices guidelines established for the Scenic Area, including mitigation for adverse effects on scenic, cultural, recreational, and natural resources.

2. The effectiveness of the forest and agricultural land use guidelines to ensure sustained productivity of forest and agricultural products.

3. The condition of forest lands in terms of health, disease, and protection from conversion.

4. Effectiveness of cooperative fire protection and management strategies.

5. Protection of wetlands and riparian areas from agricultural practices.

6. Effectiveness of county implementation of guidelines protecting agricultural and forest lands from conversion.

RECREATION

Recreation is a fast-changing component of the Scenic Area. Changes in visitation could affect both the quality of the recreation experience and the other resources. Since recreation development funds are limited, it is important to analyze the effectiveness of the development program and adjust it as necessary.

Monitoring will include the following topics:

1. Effectiveness of the guidelines to protect the recreation resource, including compliance with recreation intensity class guidelines.

2. Tabulation of annual recreation visitation to the Scenic Area.

3. Status report of annual recreation development and enhancement projects and funds expended in the Scenic Area.

4. Assessment of whether new recreation developments, such as the Scenic Area Conference Center and the Interpretive Center, have met recreation objectives, policies, and guidelines.

5. Monitoring use at the most popular sites, such as Multnomah Falls, to determine if strategies are required to avoid overuse and damage to resources.

LAND ACQUISITION

The monitoring report will track land adjustment activities. Monitoring will include the following topics:

1. The amount of land purchased or acquired through exchange or easements.

2. Funds expended annually and cumulatively for land acquisition in the Scenic Area.

3. Compliance with scenic and conservation easement conditions.

ECONOMIC DEVELOPMENT

The Scenic Area Act provides a number of measures to enhance the economy of the Scenic Area. These measures include protection of agricultural and forest lands; provision of economic development funds; and funding for recreation, interpretation, and conference facilities. Monitoring will include the following topics:

1. Compilation of available data regarding employment by principal sectors of the Scenic Area economy.

2. Changes in recreation and tourism visitation.

3. Effectiveness of recreation and tourism marketing efforts.

4. Review of economic activities undertaken with federal Scenic Area funding, as reported in each state's annual report in accordance with Section 11(d) of the Scenic Area Act.

NATIONAL FOREST SYSTEM LANDS DIRECTION

Section 8(a) of the Scenic Area Act provides the following direction for National Forest System lands in the SMA:

> The Secretary shall administer Federal lands within the special management areas in accordance with this Act and other laws, rules and regulations applicable to the National Forest System.

Direction for management of National Forest System lands is provided in this Management Plan and in the *Land and Resource Management Plan* for Mt. Hood National Forest (1990) and *Land and Resource Management Plan* for Gifford Pinchot National Forest (1990), as amended by the Northwest Forest Plan. These National Forest management plans were completed according to the National Forest Management Act (NFMA) and the National Environmental Policy Act (NEPA) and include alternative analysis and direction for resource management.

Special Management Area water resource buffer widths shall be applied to National Forest System lands in the General Management Area, and forest practices on National Forest System lands in the General Management Area shall comply with the Special Management Area forest practice guidelines. Projects undertaken on National Forest System lands must comply with direction in the Management Plan and the two National Forest management plans, as amended by the Northwest Forest Plan. The most protective standards of the National Scenic Area Management Plan or the respective Forest Land and Resource Management Plans (as amended by the Northwest Forest Plan) shall apply to National Forest System lands.

Section 8(a) also provides that:

> The construction of roads and the management, utilization and harvest of timber on Federal lands within the special management areas also shall be subject to Forest Service visual resource management guidelines.

The Mt. Hood and the Gifford Pinchot National Forest management plans and this Management Plan provide direction as to visual quality objectives for National Forest System lands.

According to the Mt. Hood and Gifford Pinchot National Forest management plans, as amended, regulated commercial timber harvesting would not occur on the National Forest System lands within the Scenic Area. Any timber harvesting on National Forest System lands that would occur shall meet the assigned visual quality objective.

Section 8(a) further directs that:

> The Secretary shall utilize lands acquired through exchange in calculating the allowable sales quantity on the Gifford Pinchot and Mt. Hood National Forests.

This requirement will be addressed in subsequent revisions of the Mt. Hood and Gifford Pinchot National Forest management plans. Section 9(a) of the Scenic Area Act also requires that acquired lands be subject to the Scenic Area regulations in accordance with this Management Plan.

As provided for in Section 17(f)(l) of the Scenic Area Act, Forest Service actions taken for the development of this Management Plan, land acquisition, and interim management are exempt from the National Environmental Policy Act (NEPA). However, Forest Service implementing actions taken subsequent to the adoption of this plan must comply with all laws and regulations applicable to National Forest System lands, including NEPA.

CHAPTER

3

Indian Tribal Treaty Rights and Consultation

TREATY RIGHTS AND CONSULTATION IN THE GMA

The Nez Perce, Umatilla, Warm Springs, and Yakama Indian tribes signed treaties with Congress in 1855. These treaties ceded to the United States legal title to millions of acres of land. They also reserved and guaranteed certain aboriginal rights exercised by Indian people since time immemorial. These legally protected rights belong to each Indian tribe and are regulated and enforced by the respective Indian tribal governments. The Indian tribal governments exercise inherent sovereign powers, as limited by treaty or act of Congress.

The language and legislative history of the Scenic Area Act make it clear that Congress intended to protect the rights and sovereign powers of the Indian tribes. Section 17(a)(1) of the Scenic Area Act states that nothing shall "affect or modify any treaty or other rights of any Indian tribe." Indian tribal governments were also ensured a role in the management processes established under the Scenic Area Act. Section 6(e) states that the U.S. Secretary of Agriculture and the Gorge Commission must "exercise their responsibilities . . . in consultation with . . . Indian tribes." Additional language regarding tribal rights and roles appears in Sections 6(a)(3)(C), 8(d)(3), 9(b)(2)(D), 13(b), 17(a)(2), 17(a)(3), 17(a)(4), 17(a)(7), and 17(a)(8).

Indian treaty rights must be observed by the Gorge Commission as well as local and state governments, federal agencies, and private citizens. Indian treaties provide that:

> The exclusive right of taking fish in the streams running through and bordering said reservation is hereby secured to said Indians, and at all other usual and accustomed stations in common with citizens of the United States, and of erecting suitable buildings for curing the same; the privilege of hunting, gathering roots and berries and pasturing their stock on unclaimed lands in common with citizens is also secured to them. [Treaty with the Cayuse, Walla Walla, and Umatilla Tribes, 1855.]

This excerpt is similar to the language in the treaties signed by the Nez Perce, Warm Springs, and Yakama tribes.

"Usual and accustomed stations" include the Columbia River and its tributaries that support anadromous and resident fish. The courts have generally interpreted "unclaimed lands" to mean all public lands.

GMA Goal

Ensure that the Scenic Area Act and its application do not affect or modify any treaty or other rights of any Indian tribe.

GMA Policies

1. Local governments shall notify the four Indian tribal governments when new uses are proposed on lands where tribal members exercise treaty or other rights.

2. Indian tribal governments shall have an opportunity to review and comment on new uses that are proposed on lands, or in waters, where tribal members exercise treaty or other rights.

3. Project applicants shall consult Indian tribal governments that submit substantive comments about proposed uses that may affect or modify treaty or other rights.

4. Proposed uses that would affect or modify treaty or other rights of any Indian tribe shall be prohibited.

GMA Guidelines

Tribal Government Notice and Comment Period

1. Local governments shall send a notice to the four tribal governments when new uses are (1) proposed on public lands, or (2) proposed in or adjacent to the Columbia River or its tributaries that support anadromous or resident fish.

   Public lands include lands owned by cities, counties, states, and the United States. Lands adjacent to the Columbia River or its fishbearing tributaries are those lands that are situated directly between the Columbia River or its fishbearing tributaries and the closest public access point. Public access points include state highways and parks. The wildlife inventory in the "Streams, Ponds, Lakes, and Riparian Areas" section (Part I, Chapter 4: Natural Resources) identifies all tributaries in the Scenic Area that support anadromous and resident fish.

2. Notices sent to the Indian tribal governments shall include a site plan. As specified in guidelines 3 and 4 below, the notices also may require supplemental information and treaty rights protection plans.

3. New uses located in, or providing recreation river access to, the Columbia River or its fishbearing tributaries shall include the following supplemental information:

   A. The site plan map shall show adjacent river areas at least 1/2 mile upstream and downstream from the project site, the locations at which river access is

planned, and the locations of all tribal fishing sites known to the project applicant.

B. The site plan text shall include an assessment of the potential effects that new uses may have on Indian treaty rights. The assessment shall:

(1) Describe the type of river access and uses proposed, estimated period when the development would be used, and anticipated levels of use (people, boats, and other uses) during peak-use periods.

(2) List tribal commercial fishing seasons in the project vicinity, as established by the four treaty tribes.

(3) List tribal ceremonial fishing seasons in the project vicinity.

(4) Based on the above factors, assess the potential effects that the proposed uses may have on Indian treaty rights.

4. Notices shall include a treaty rights protection plan if new uses may affect Indian treaty rights. The protection plan shall specify measures that will be used to avoid effects to Indian treaty rights. These measures may include reducing the size and modifying the location or design of the proposed uses, seasonal closures, stringent onsite monitoring, information signs, and highly visible buoys or other markers delineating fishing net locations.

5. Indian tribal governments shall have 20 calendar days from the date a notice is mailed to submit substantive written comments to the local government. Indian tribal governments must identify the treaty rights that exist in the project vicinity and explain how they would be affected or modified by the new uses.

Tribal Government Consultation

1. When substantive written comments are submitted to a local government in a timely manner, the project applicant shall offer to meet with the local government and the Indian tribal government that submitted comments within 10 calendar days. The 10-day consultation period may be extended upon agreement between the project applicant and the Indian tribal government.

   Consultation meetings should provide an opportunity for the project applicant and tribal representatives to identify potential conflicts and explore options to eliminate them. The project applicant must demonstrate that his/her proposed use would not affect or modify treaty or other rights of any Indian tribe.

2. Any substantive comments, recommendations, or concerns expressed by Indian tribal governments during the consultation meeting shall be recorded and addressed by the project applicant in a treaty rights protection plan. The protection plan shall include measures to avoid effects to treaty and other rights of any Indian tribe.

3. The local government shall submit all protection plans to the Indian tribal governments. Indian tribal governments shall have 30 calendar days from the date a protection plan is mailed to submit written comments to the local government.

Conclusion of the Treaty Rights Protection Process

1. The local government shall decide whether the proposed uses would affect or modify any treaty or other rights of any Indian tribe.

   The final decision shall integrate findings of fact that address any substantive comments, recommendations, or concerns expressed by Indian tribal governments. If the final decision contradicts the comments, recommendations, or concerns of Indian tribal governments, the local government must justify how it reached an opposing conclusion.

2. The treaty rights protection process may conclude if the local government determines that the proposed uses would not affect or modify treaty or other rights of any Indian tribe. Uses that would affect or modify such rights shall be prohibited.

3. A finding by the local government that the proposed uses would not affect or modify treaty or other rights, or a failure of an Indian tribe to comment or consult on the proposed uses as provided in these guidelines, in no way shall be interpreted as a waiver by the Indian tribe of a claim that such uses adversely affect or modify treaty or other tribal rights.

TREATY RIGHTS AND CONSULTATION IN THE SMA

The Forest Service is responsible for consulting with Indian tribal governments at the government-to-government level. The purpose of this process is to ensure that management activities will not affect treaty rights, and to provide meaningful participation in the identification, evaluation, and protection of cultural resources.

Section 17 (Savings Provisions) of the Scenic Area Act contains several provisions regarding the need to avoid potential effects on treaty rights. Treaty rights are defined by the treaties of 1855 between Congress and Indian tribal governments. These rights are not subject to negotiation. Potential effects to treaty rights must be avoided. The Forest Service has no authority to interpret or negotiate in the area of treaty rights.

Cultural resources are protected by the Scenic Area Act and the Historic Preservation Act of 1966. Indian tribal governments are identified as parties to be consulted during the inventory, evaluation, and protection of cultural resources.

SMA Goals

1. Protect treaty and other rights of the Indian tribal governments.

2. Provide for a consultation process with Indian tribal governments.

SMA Policies

1. The Forest Service shall consult with the Indian tribal governments to determine the effect of all federal actions reviewed by the Forest Service on treaty rights. Reviewing agencies shall use the procedures defined by the Gorge Commission for the GMA for all non-federal actions.

2. The Forest Service shall establish a government-to-government consultation process between each Indian tribal government and the Forest Service, in accordance with the following:

   A. The Scenic Area Manager shall be the agency official for the Forest Service, National Scenic Area, who is responsible for making decisions regarding treaty rights issues and potential effects on cultural resources.

   B. The Indian tribal governments shall be the recognized entities for the purpose of authorizing decisions regarding treaty rights issues or potential effects to cultural resources.

C. The Scenic Area Manager shall designate the Forest Service representative for the purpose of maintaining a continuing working relationship with the Indian tribal governments.

D. The Indian tribal government should designate representatives for the purpose of maintaining a continuing working relationship with the Forest Service, National Scenic Area.

3. A continuing working relationship between the Forest Service and the Indian tribal governments shall be established.

A. The Forest Service shall enter into Memoranda of Understanding with each of the Indian tribal governments for the purpose of outlining consultation agreements, as provided for in Part I, Chapter 2: Cultural Resources.

B. The Memoranda of Understanding should identify key staff at each Indian tribal government to work with the Forest Service, National Scenic Area, designee.

C. The Memoranda of Understanding should establish procedures by which the Forest Service will consult with Indian tribal governments for proposed developments or changes in use.

D. The Memoranda of Understanding should establish the process by which the Forest Service will consult with Indian tribal governments for all proposed developments or changes in use that may have the potential to affect treaty rights or other uses.

E. The Memoranda of Understanding should establish the government-to-government process by which Indian tribal governments and the Forest Service, National Scenic Area, meet individually to identify potential treaty rights issues for potential developments or changes in use.

F. The Memoranda of Understanding should establish a mutually agreeable process by which meetings and decisions between the Indian tribal governments and the Forest Service, National Scenic Area, are documented.

4 Lands held in trust by the Secretary of Interior for Indian tribes or individual members of Indian tribes shall not be affected by any provisions of the Management Plan.

5. Lands acquired by the U.S. Army Corps of Engineers and administered by the Secretary of Interior for the benefit of Indian tribes and individual members of Indian tribes under Public Laws 14 and 100-581 (in-lieu sites), including those yet to be selected by the U.S. Army Corps of Engineers within the Bonneville Pool under the provisions of Public Law 100-581, Section 401(b)(1), shall not be affected by the SMA Management Plan for the Scenic Area.

6. New uses and development shall not affect or modify any treaty or other rights of the Indian tribal governments.

7. Any revisions or amendments to the Management Plan shall require consultation with the Indian tribal governments.

8. New developments or land use shall protect access to usual and accustomed tribal or Indian fishing sites or stations protected under treaty rights, and as established by court interpretations of those treaties.

9. Indian tribal governments shall be invited to participate in the planning of public recreation developments that could affect treaty rights.

10. Federal land management agencies shall not deny Indian tribal governments, or individual members of Indian tribes, access to any area on federal or state land that is traditionally used in connection with tribal treaty or ceremonial rights or for traditional uses.

COLUMBIA RIVER GORGE NATIONAL SCENIC AREA ACT[1]

(as amended through November 2003)

16 U.S.C. § 544 **Sec. 2. Columbia River Gorge National Scenic Area; definitions**

As used in sections 544 to 544p of this title, the term –

(a) "adversely affect" or "adversely affecting" means, except as used in section 544m of this title, a reasonable likelihood of more than moderate adverse consequences for the scenic, cultural, recreation or natural resources of the scenic area, the determination –of which is based on -
  (1) the context of a proposed action;
  (2) the intensity of a proposed action, including the magnitude and duration of an impact and the likelihood of its occurrence;
  (3) the relationship between a proposed action and other similar actions which are individually insignificant but which may have cumulatively significant impacts; and
  (4) proven mitigation measures which the proponent of an action will implement as part of the proposal to reduce otherwise significant affects to an insignificant level;

(b) "agricultural lands" means lands designated as agricultural lands pursuant to section 544d of this title;

(c) "Commission" means the Columbia River Gorge Commission established pursuant to section 544c of this title;

(d) "counties" means Hood River, Multnomah, and Wasco Counties, Oregon; and Clark, Klickitat, and Skamania Counties, Washington;

(e) "Dodson/Warrendale Special Purchase Unit" means the Dodson/Warrendale Special Purchase Unit established pursuant to section 544b of this title;

(f) "forest lands" means lands designated as forest lands pursuant to section 544d of this title;

(g) "Indian tribes" means the Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation;

(h) "interim guidelines" means any interim guidelines developed by the Secretary pursuant to section 544h of this title, and any amendment, revision, or variance;

(i) "land use ordinance" or "ordinance" means any ordinance adopted by a county or by the Commission pursuant to sections 544 to 544p of this title, and includes any amendment to, revision of, or variance from such ordinance;

(j) "major development actions" means any of the following:
  (1) subdivisions, partitions and short plat proposals;
  (2) any permit for siting or construction outside urban areas of multifamily residential, industrial or commercial facilities, except such facilities as are included in the recreation assessment;
  (3) the exploration, development and production of mineral resources unless such exploration, development or production can be conducted without disturbing the surface of any land within the boundaries of a special management area or is for sand, gravel and crushed rock used for the construction, maintenance or reconstruction of roads within the special management areas used for the production of forest products; and

[1] Note: This compilation was downloaded from *http://uscode.house.gov/*. This compilation does not include any of the codification notes except for footnotes and legislative source notes. While the Columbia River Gorge Commission believes this is an accurate compilation as of the date stated above, persons relying on this compilation do so at their own risk. All persons are advised to seek the assistance of an attorney.

(4) permits for siting or construction within a special management area of any residence or other related major structure on any parcel of land less than forty acres in size;

(k) "management plan" means the scenic area management plan adopted pursuant to section 544d of this title;

(l) "open spaces" means unimproved lands not designated as agricultural lands or forest lands pursuant to section 544d of this title and designated as open space pursuant to section 544d of this title. Open spaces include –
- (1) scenic, cultural, and historic areas;
- (2) fish and wildlife habitat;
- (3) lands which support plant species that are endemic to the scenic area or which are listed as rare, threatened or endangered species pursuant to State or Federal Endangered Species Acts;
- (4) ecologically and scientifically significant natural areas;
- (5) outstanding scenic views and sites;
- (6) water areas and wetlands;
- (7) archaeological sites, Indian burial grounds and village sites, historic trails and roads and other areas which are culturally or historically significant;
- (8) potential and existing recreation resources; and
- (9) Federal and State wild, scenic, and recreation waterways;

(m) "recreation assessment" means the recreation assessment adopted pursuant to section 544d of this title;

(n) "residential development" means the permitting for siting or construction of any residence or other related major structure;

(o) "scenic area" means the Columbia River Gorge National Scenic Area established pursuant to section 544b of this title;

(p) "Secretary" means the Secretary of Agriculture;

(q) "special management areas" means areas within the scenic area established pursuant to section 544b of this title;

(r) "States" means the States of Oregon and Washington; and

(s) "urban areas" means those areas within the scenic area identified as urban areas on the map referred to in section 544b(e) of this title or within the boundaries of an urban area as revised pursuant to section 544b(f) of this title.

(Pub. L. 99-663, Sec. 2, Nov. 17, 1986, 100 Stat. 4274; Pub. L. 103-435, Sec. 17(b), Nov. 2, 1994, 108 Stat. 4573.)

§ 544a Sec. 3. Purposes

The purposes of sections 544 to 544p of this title are –
- (1) to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and
- (2) to protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1)

(Pub. L. 99-663, Sec. 3, Nov. 17, 1986, 100 Stat. 4276.)

§ 544b Sec. 4. Establishment of scenic area

(a) National scenic area
- (1) There is hereby established the Columbia River Gorge National Scenic Area.
- (2) Boundaries. –
  - (A) In general. – Except as provided in subparagraph (B), the boundaries of the scenic area shall be generally depicted on the map entitled "Boundary Map, Columbia River Gorge National Scenic Area," numbered NSA-001 sheets 1 and 2, and dated September 1986, which shall be on

file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(B) Exclusions. – The scenic area shall not include the approximately 29 acres of land owned by the Port of Camas-Washougal in the South 1/2 of Section 16, Township 1 North, Range 4 East, and the North 1/2 of Section 21, Township 1 North, Range 4 East, Willamete[2] Meridian, Clark County, Washington, that consists of -

(i) the approximately 19 acres of Port land acquired from the Corps of Engineers under the Second Supplemental Appropriations Act, 1984 (Public Law 98-396); and

(ii) the approximately 10 acres of adjacent Port land to the west of the land described in clause (i)

(b) Special management areas

(1) The following areas within the boundaries of the scenic area are hereby designated "Special Management Areas": Gates of the Columbia River Gorge; Wind Mountain; Burdoin Mountain; and Rowena.

(2) The boundaries of the special management areas designated by paragraph (1) –

(A) shall be generally depicted on the map entitled "Special Management Areas, Columbia River Gorge National Scenic Area", numbered SMA-002 sheets 1 through 17, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service; and

(B) shall include all islands within the boundaries of the scenic area.

(3) Modification of boundaries. - The boundaries of the special management areas are modified as depicted on a map dated September 20, 2000, which shall be on file and available for public inspection in the office of the Chief of the Forest Service in Washington, District of Columbia, and copies shall be available in the office of the Commission, and the headquarters of the scenic area.

(c) Revision of special management area boundaries. The Secretary, in consultation with the Commission, may make minor revisions in the boundaries of special management areas after publication of notice to that effect in the Federal Register and submission of notice thereof to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and Natural Resources of the United States House of Representatives. Such notice shall be published and submitted at least sixty days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

(d) Dodson/Warrendale Special Purchase Unit

(1) There is hereby established the Dodson/Warrendale Special Purchase Unit.

(2) The boundaries of the Dodson/Warrendale Special Purchase Unit shall be generally depicted on the map entitled "Dodson/Warrendale Special Purchase Unit, Columbia River Gorge National Scenic Area", numbered SPU-003 sheet 1, and dated September 1986, which shall be on file and available for public inspection in the offices of the Commission and of the Chief, Forest Service.

(e) Urban areas

(1) The following cities and towns are hereby designated as "Urban Areas": Cascade Locks, Hood River, Mosier, and The Dalles, Oregon; and Bingen, Carson, Dallesport, Home Valley, Lyle, North Bonneville, Stevenson, White Salmon, and Wishram, Washington.

(2) The boundaries of urban areas shall be generally depicted on the map entitled, "Urban Areas, Columbia River Gorge National Scenic Area", numbered UA-004 sheets 1 through 11, and dated September 1986, which shall be on file

[2] So in original. Probably should be "Willamette".

and available for public inspection in the offices of the Commission and of the Chief, Forest Service. The boundaries of urban areas designated in this subsection may be revised pursuant to the provisions of this section.

(f) Revision of urban area boundaries

(1) Upon application of a county and in consultation with the Secretary, the Commission may make minor revisions to the boundaries of any urban area identified in subsection (e) of this section. A majority vote of two-thirds of the members of the Commission, including a majority of the members appointed from each State, shall be required to approve any revision of urban area boundaries.

(2) The Commission may revise the boundaries of an urban area only if it finds that -

(A) a demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the management plan;

(B) revision of urban area boundaries would be consistent with the standards established in section 544d of this title and the purposes of sections 544 to 544p of this title;

(C) revision of urban area boundaries would result in maximum efficiency of land uses within and on the fringe of existing urban areas; and

(D) revision of urban area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

(Pub. L. 99-663, Sec. 4, Nov. 17, 1986, 100 Stat. 4276; Pub. L. 103-437, Sec. 6(d)(34), Nov. 2, 1994, 108 Stat. 4585; Pub. L. 105-277, div. A, Sec. 101(e) (title III, Sec. 354(a)), Oct. 21,1998, 112 Stat. 2681-231, 2681-303; Pub. L. 106-31, title V, Sec.5004(3), May 21, 1999, 113 Stat. 110; Pub. L. 106-291, title III, Sec. 346(d), Oct. 11, 2000, 114 Stat. 1000.)

§ 544c Sec. 5. Columbia River Gorge Commission

(a) Establishment and membership of Commission

(1) To achieve the purposes of sections 544 to 544p of this title and to facilitate cooperation among the States of Oregon and Washington, and with the United States of America, the consent of Congress is given for an agreement described in sections 544 to 544p of this title pursuant to which, within one year after November 17, 1986 -

(A) the States of Oregon and Washington shall establish by way of an interstate agreement a regional agency known as the Columbia River Gorge Commission, and shall incorporate sections 544 to 544p of this title by specific reference in such agreement. The Commission shall carry out its functions and responsibilities in accordance with the provisions of the interstate agreement and of sections 544 to 544p of this title and shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law;

(B) the States of Oregon and Washington shall provide to the Commission, State agencies, and the counties under State law the authority to carry out their respective functions and responsibilities in accordance with the provisions of paragraph (1)(A) of this subsection; and

(C) the States of Oregon and Washington shall appoint members of the Commission as provided in clauses (i) through (iii), subject to applicable State law: Provided, That the Governor of either State may extend the time for appointment of Commission members ninety days to provide more time for the States and counties to make such appointments. Membership of the Commission shall be as follows:

(i) six members, comprised of one resident from each of the following counties: Hood River, Multnomah, and Wasco Counties, Oregon, and Clark, Klickitat, and Skamania Counties, Washington, to be

appointed by the governing body of each of the respective counties: Provided, That in the event the governing body of a county fails to make such appointment, the Governor of the State in which the county is located shall appoint such member;

(ii) three members who reside in the State of Oregon, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Oregon;

(iii) three members who reside in the State of Washington, at least one of whom shall be a resident of the scenic area, to be appointed by the Governor of Washington; and

(iv) one ex officio, nonvoting member who shall be an employee of the Forest Service, to be appointed by the Secretary.

(2) The agreement shall take effect and the Commission may exercise its authorities pursuant to the agreement upon the appointment of four initial members from each State, subject to applicable State law, and the date of such an agreement shall be the date of establishment of the Commission. Such agreement is hereby consented to by the Congress.

(3) Either State or any county may fill any vacancy occurring prior to the expiration of the term of any member originally appointed by that State or county. Each member appointed to the Commission shall serve a term of four years, except that, with respect to members initially appointed pursuant to paragraph (1)(C)(i), each Governor shall designate one member to serve for a term of five years and one to serve for a term of six years, and one member from each State initially appointed pursuant to paragraph (1)(C)(ii) and (iii) shall be designated by the Governor to serve a term of five years, and one to serve a term of six years. Neither the Governors nor the governing bodies of any of the counties may appoint Federal, State, or local elected or appointed officials to the Commission.

(4) A majority of the members of the Commission shall constitute a quorum. The members of the Commission shall select from among themselves a Chairman by majority vote of the members appointed from each State.

(5) Except for the ex-officio member appointed pursuant to paragraph (1)(C)(iv), the members and officers and employees of the Commission shall not be officers or employees of the United States for any purpose. The Commission shall appoint, fix compensation for, and assign and delegate duties to such officers and employees as the Commission deems necessary to fulfill its functions under sections 544 to 544p of this title. The compensation of Commission members shall be fixed by State law. The compensation of Commission members, officers, and employees and the expenses of the Commission shall be paid from funds provided to the Commission by the States.

(b) Applicable law. For the purposes of providing a uniform system of laws, which, in addition to sections 544 to 544p of this title, are applicable to the Commission, the Commission shall adopt regulations relating to administrative procedure, the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Commission, advisory committees, and disclosure of information consistent with the more restrictive statutory provisions of either State. Regulations applicable to financial disclosure under this subsection shall be applied to members of the Commission without regard to the duration of their service on the Commission or the amount of compensation received for such service. No contract, obligation, or other action of the Commission shall be an obligation of the United States or an obligation secured by the full faith and credit of the United States.

(c) Assistance to Commission. Upon the request of the Commission, the Secretary and other Federal agencies are authorized to provide information, personnel, property, and services on a reimbursable basis, and the Secretary is authorized to provide technical assistance on a nonreimbursable basis, to the Commission to assist it in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.

(d) Advisory committees. The Commission shall establish voluntary technical and citizen advisory committees to assist the Commission in carrying out its functions and responsibilities pursuant to sections 544 to 544p of this title.

(Pub. L. 99-663, Sec. 5, Nov. 17, 1986, 100 Stat. 4277.)

§ 544d Sec. 6. Scenic area management plan

(a) Studies. Within one year after the date the Commission is established, it shall, in cooperation with the Secretary, complete the following studies for use in preparing the management plan:

(1) Resource inventory. The Commission shall complete a resource inventory. The resource inventory shall –

(A) document all existing land uses, natural features and limitations, scenic, natural, cultural, archaeological and recreation and economic resources and activities: Provided, That the location of any Indian burial grounds, village sites, and other areas of archaeological or religious significance shall not be made public information and such information shall be used for administrative purposes only; and

(B) incorporate without change the resource inventory developed by the Secretary pursuant to section 544f of this title for the special management areas.

(2) Economic opportunity study. The Commission shall complete a study to identify opportunities to enhance the economies of communities in the scenic area in a manner consistent with the purposes of sections 544 to 544p of this title.

(3) Recreation assessment. The Commission shall complete an assessment of recreation resources and opportunities for enhancement of these resources. The recreation assessment shall –

(A) designate the location and specify the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(B) identify areas within the scenic area that are suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities and river access areas; and

(C) subject to the treaty and other rights of Indian tribes, designate areas to provide increased access for recreation purposes to the Columbia River and its tributaries; and

(D) incorporate without change the recreation assessment developed by the Secretary pursuant to section 544f of this title for the special management areas;

(b) Land use designations. Within two years after the Commission is established, it shall develop land use designations for the use of non-Federal lands within the scenic area. The land use designations shall –

(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section, and consistent with the standards established in subsection (d) of this section;

(2) designate those lands used or suitable for the production of crops, fruits or other agricultural products or the sustenance of livestock as agricultural lands;
(3) designate lands used or suitable for the production of forest products as forest lands;
(4) designate lands suitable for the protection and enhancement of open spaces;
(5) designate areas in the scenic area outside special management areas used or suitable for commercial development: Provided, That such designation shall encourage, but not require, commercial development to take place in urban areas and shall take into account the physical characteristics of the areas in question and their geographic proximity to transportation, commercial, and industrial facilities and other amenities;
(6) designate areas used or suitable for residential development, taking into account the physical characteristics of the areas in question and their geographic proximity to transportation and commercial facilities and other amenities; and
(7) incorporate without change the designation of urban areas established in section 544b(e) of this title.

(c) Adoption of management plan. Within three years after the date the Commission is established, it shall adopt a management plan for the scenic area. The Commission shall adopt the management plan by a majority vote of the members appointed, including at least three members from each State. The management plan shall -
(1) be based on the results of the resource inventory developed pursuant to subsection (a)(1) of this section;
(2) include land use designations developed pursuant to subsection (b) of this section;
(3) be consistent with the standards established in subsection (d) of this section;
(4) incorporate without change the management direction for the use of Federal lands within and the land use designations for the special management areas adopted by the Secretary pursuant to section 544f of this title; and
(5) include guidelines for the adoption of land use ordinances for lands within the scenic area. The guidelines –
(A) shall incorporate without change the guidelines for the development of special management area land use ordinances developed by the Secretary pursuant to section 544f of this title; and
(B) shall not apply to urban areas designated in section 544b(e) of this title.

(d) Standards for management plan. The management plan and all land use ordinances and interim guidelines adopted pursuant to sections 544 to 544p of this title shall include provisions to -
(1) protect and enhance agricultural lands for agricultural uses and to allow, but not require, conversion of agricultural lands to open space, recreation development or forest lands;
(2) protect and enhance forest lands for forest uses and to allow, but not require, conversion of forest lands to agricultural lands, recreation development or open spaces;
(3) protect and enhance open spaces;
(4) protect and enhance public and private recreation resources and educational and interpretive facilities and opportunities, in accordance with the recreation assessment adopted pursuant to subsection (a) of this section;
(5) prohibit major development actions in special management areas, except for partitions or short plats which the Secretary determines are desirable to facilitate land acquisitions pursuant to sections 544 to 544p of this title;
(6) prohibit industrial development in the scenic area outside urban areas;

(7) require that commercial development outside urban areas take place without adversely affecting the scenic, cultural, recreation, or natural resources of the scenic area;

(8) require that residential development outside urban areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area; and

(9) require that the exploration, development and production of mineral resources, and the reclamation of lands thereafter, take place without adversely affecting the scenic, cultural, recreation and natural resources of the scenic area.

(e) Agency consultation and public involvement. The Secretary and the Commission shall exercise their responsibilities pursuant to sections 544 to 544p of this title in consultation with Federal, State, and local governments having jurisdiction within the scenic area or expertise pertaining to its administration and with Indian tribes. The Secretary and the Commission shall conduct public hearings and solicit public comment prior to final adoption of the management plan and the Commission shall conduct public hearings and solicit public comment prior to final adoption of land use ordinances. The Commission and the appropriate county shall promptly notify the Secretary, the States, local governments and Indian tribes of all proposed major development actions and residential development in the scenic area.

(f) Concurrence of management plan

(1) Review by Secretary. Upon adoption of the management plan, the Commission shall promptly submit the plan to the Secretary for review. If the Secretary agrees with the Commission that the management plan is consistent with the standards established in this section and the purposes of sections 544 to 544p of this title, the Secretary shall concur to that effect. Should the Secretary fail to act on the proposed plan within ninety days, the Secretary shall be deemed to have concurred on the management plan.

(2) Denial of concurrence. If concurrence is denied, the Secretary shall state the reasons for finding the plan is inconsistent with the standards established in this section or the purposes of sections 544 to 544p of this title, and shall submit to the Commission suggested modifications to the management plan to make it consistent with such standards and the purposes of sections 544 to 544p of this title.

(3) Commission reconsideration. Within one hundred and twenty days after receipt of notification of non-concurrence, the Commission shall -

(A) revise and resubmit the plan to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a management plan consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.

(g) Revision of plan. No sooner than five years after adoption of the management plan, but at least every ten years, the Commission shall review the management plan to determine whether it should be revised. The Commission shall submit any revised management plan to the Secretary for review and concurrence, in accordance with the provisions of this section for adoption of the management plan.

(h) Amendment of plan. If the Commission determines at any time that conditions within the scenic area have significantly changed, it may amend the management plan. The Commission shall submit amendments to the management plan to the Secretary for review, in accordance with the provisions of this section for adoption of the management plan.

(Pub. L. 99-663, Sec. 6, Nov. 17, 1986, 100 Stat. 4279.)

§ 544e Sec. 7. Administration of scenic area

(a) Management of scenic area. The non-Federal lands within the scenic area shall be administered by the Commission in accordance with the management plan and sections 544 to 544p of this title.

(b) Adoption of scenic area land use ordinances

(1) Within sixty days of initial receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit such letter or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (c) of this section.

(2) Within two hundred and seventy days of receipt of the management plan, each county shall adopt a land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a land use ordinance shall promptly submit the ordinance to the Commission.

(3) Approval by commission.

(A) Within ninety days after receipt of a land use ordinance, the Commission, by majority vote including at least three members from each State, shall approve the ordinance unless it determines the ordinance is inconsistent with the management plan. Should the Commission fail to act within ninety days, the ordinance shall be deemed to be approved.

(B) If approval is denied, the Commission shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the county suggested modifications to the ordinance to make it consistent with the management plan.

(C) Each county shall have ninety days after it receives recommendations from the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for approval. The Commission shall have sixty days to approve or disapprove the resubmitted ordinance. Any resubmitted ordinance shall become effective upon approval. Should the Commission disapprove the resubmitted ordinance, it shall promptly resubmit the ordinance for reconsideration. Should the Commission fail to act within sixty days, the ordinance shall be deemed to be approved.

(c) Commission land use ordinances

(1) Within ninety days after making a determination that a county has failed to comply with the provisions of this section, the Commission shall make and publish a land use ordinance setting standard for the use of non-Federal lands in such county within the boundaries of the national scenic area, excluding urban areas identified in section 544b(e) of this title. The ordinance shall have the object of assuring that the use of such non-Federal lands is consistent with the management plan. The ordinance may differ amongst the several parcels of land within the boundaries of the scenic area. The ordinance may from time to time be amended by the Commission.

(2) Subsequent Compliance. – In the event the Commission has promulgated regulations pursuant to this section, a county may thereafter upon written notice to the Commission elect to adopt a land use ordinance, in which event it shall comply with the provisions of this section for adoption of a land use ordinance. Upon approval of a land use ordinance by the Commission it shall supersede any regulations for the county developed by the Commission, subject to valid existing rights.

(d) Construction of facilities. The Secretary is hereby authorized to design, construct, operate and maintain such facilities as are included in the recreation assessment.

(Pub. L. 99-663, Sec. 7, Nov. 17, 1986, 100 Stat. 4282.)

§ 544f Sec. 8. Administration of special management areas

(a) Administration of Federal lands

(1)[3] The Secretary shall administer Federal lands within the special management areas in accordance with sections 544 to 544p of this title and other laws, rules and regulations applicable to the national forest system. In addition, the construction of roads and the management, utilization and harvest of timber on Federal lands within the special management areas also shall be subject to Forest Service visual resource management guidelines. The Secretary shall utilize lands acquired through exchange in calculating the allowable sales quantity on the Gifford Pinchot and Mount Hood National Forests.

(b) Withdrawal of Federal lands. Subject to valid existing rights, all Federal lands located in the special management areas are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral and geothermal leasing: Provided, That the Secretary may allow the exploration, development, or production of sand, gravel, and crushed rock as necessary to construct, maintain, or reconstruct roads in the special management areas.

(c) Resource inventory. The Secretary shall complete a resource inventory for the special management areas consistent with the process and substance of the inventory prescribed by section 544d(a)(1) of this title.

(d) Recreation assessment. Within two years after November 17, 1986, the Secretary shall complete an assessment of recreation resources in the special management areas and opportunities for enhancement of these resources. The recreation assessment shall –

(1) identify areas within the special management areas suitable for designation by the Commission pursuant to section 544d of this title for the construction of an interpretive center or other appropriate facility, to be located in the State of Oregon, and of a conference center or other appropriate facility, to be located in the State of Washington;

(2) identify areas within the special management areas suitable for other public use facilities, including but not limited to educational and interpretive facilities, campsites, picnic areas, boat launch facilities, and river access areas; and

(3) subject to the treaty or other rights of Indian tribes, identify areas with the special management areas suitable for use to increase access for recreation purposes to the Columbia River and its tributaries.

(e) Land use designations. Within three years after November 17, 1986, the Secretary shall develop land use designations for the special management areas. The land use designations shall be -(1) based on the resource inventory prepared by the Secretary pursuant to this section; and (2) consistent with the standards established in section 544d of this title.

(f) Guidelines for land use ordinances

(1)[4] Within three years after November 17, 1986, the Secretary shall, in consultation with the Commission, develop guidelines to assure that non-Federal lands within the special management areas are managed consistent with the standards in section 544d of this title and the purposes of sections 544

[3] So in original. No par. (2) has been enacted.
[4] So in original. No par. (2) has been enacted.

to 544p of this title. The Secretary shall promptly transmit the guidelines to the Commission for inclusion in the management plan. The guidelines shall require that management, utilization, and disposal of timber, and exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest forest products on non-Federal lands within the special management areas take place without adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area.

(h)[5] Adoption of special management area land use ordinances

(1) Within sixty days of receipt of the management plan, each county shall submit to the Commission a letter stating that it proposes to adopt a land use ordinance consistent with the management plan. If any county fails to submit a letter as provided in this subsection, or fails to adopt a land use ordinance as provided in this section, the Commission shall carry out the requirements of subsection (l) of this section.

(2) Within two hundred seventy days of receipt of the management plan, each county shall adopt a special management area land use ordinance consistent with the management plan, and thereafter may adopt an amendment, revision or variance to a land use ordinance at any time. Each county upon adoption of a special management area land use ordinance shall promptly submit the adopted ordinance to the Commission.

(i) Review by Commission

(1) The Commission shall review the special management area land use ordinance received from each county, and within ninety days after receipt shall make a tentative determination as to whether the ordinance is consistent with the management plan. If the Commission makes a tentative determination that the land use ordinance is consistent with the management plan, the Commission shall send the ordinance to the Secretary for concurrence.

(2) If the Commission makes a tentative determination that the land use ordinance is inconsistent with the management plan, the Commission shall state the reasons for the determination and shall return the ordinance to the appropriate county with suggested modifications required for consistency with the management plan.

(3) Each county shall have ninety days after it is notified by the Commission to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Commission for tentative determination of consistency. The Commission shall have sixty days to make a tentative consistency determination on the resubmitted ordinance. If found consistent, the land use ordinance shall be transmitted by the Commission to the Secretary for concurrence that the ordinance is consistent with the management plan. If the Commission finds the resubmitted ordinance inconsistent, the Commission shall adopt an ordinance pursuant to subsection (l) of this section.

(j) Concurrence by Secretary

(1) Upon receipt of a special management area land use ordinance from the Commission, the Secretary shall notify the public of such receipt and shall, within ninety days thereafter, concur with the Commission's tentative determination of consistency with the management plan unless the Secretary determines the ordinance is inconsistent. Any ordinance submitted to the Secretary shall become effective upon notification of concurrence. Should the Secretary fail to act within ninety days, the Secretary shall be deemed to have concurred with the Commission's tentative consistency determination.

[5] So in original. No subsec. (g) has been enacted.

(2) Denial of Concurrence. - If concurrence is denied, the Secretary shall state the reasons therefor and shall submit to the Commission suggested modifications to the land use ordinances to make them consistent with the management plan and the purposes of sections 544 to 544p of this title.

(k) Commission reconsideration. Upon receipt of notification of nonconcurrence by the Secretary, the Commission shall resubmit the land use ordinance to the appropriate county. Such county shall within ninety days, reconsider and revise the ordinance and resubmit the ordinance to the Commission for reconsideration in accordance with the provisions of this section. Should the Secretary again deny concurrence, the Commission shall either prepare a land use ordinance for such county pursuant to subsection (l) of this section or, by a two-thirds vote of the membership of the Commission including a majority of the members appointed from each State, determine that the ordinance is consistent with the management plan.

(l) Commission ordinances

(1) Within ninety days after making a determination that a county has failed to comply with the provisions of subsection (h) of this section, the Commission shall make and publish an ordinance setting standards for the use of non-Federal lands of such county within the boundaries of the special management areas. The ordinances shall have the object of assuring that the use of such lands is consistent with the management plan. The ordinances may differ amongst the several parcels of land within the boundaries of the special management areas. The ordinances may from time to time be amended by the Commission.

(2) The Commission shall promptly submit the ordinance to the Secretary. The Secretary shall, within ninety days after receipt of the ordinance from the Commission, concur with the tentative determination that the land use ordinance is consistent with the management plan unless a determination of inconsistency is made Any ordinance submitted to the Secretary shall become effective upon concurrence. Should the Secretary fail to concur within ninety days, the land use ordinance shall be effective.

(3) If concurrence is denied, the Secretary shall state the reasons for finding the ordinance is inconsistent with the management plan, and shall submit to the Commission suggested modifications to the ordinance to make it consistent with the plan.

(4) The Commission shall have ninety days after it receives recommendations from the Secretary to make modifications designed to eliminate the inconsistencies and to resubmit the ordinance to the Secretary for concurrence. The Secretary shall have sixty days to concur with the resubmitted ordinance. Any resubmitted ordinance shall become effective upon concurrence by the Secretary. Should the Secretary deny concurrence for the resubmitted ordinance, the Secretary shall state the reasons therefor and shall promptly resubmit the ordinance for reconsideration. Should the Secretary fail to concur within sixty days, the ordinance shall be deemed effective.

(5) Within one hundred twenty days after receipt of notification of non-concurrence, the Commission shall –

(A) revise and resubmit the land use ordinance to the Secretary; or

(B) by a vote of two-thirds of its membership, including a majority of the members appointed from each State, reject the suggested modifications of the Secretary and adopt a land use ordinance consistent with the provisions of this section and the purposes of sections 544 to 544p of this title.

(m) Subsequent compliance. In the event the Commission has adopted an ordinance pursuant to this section, the affected county may thereafter, upon written notice to the Commission and to the Secretary, elect to adopt a special management area land use ordinance, in which event it shall comply with the provisions of this section for adoption of special management area land use ordinances. Upon concurrence of such land use ordinances by the Secretary they shall supersede any special management area land use ordinances for the county development by the Commission, subject to valid existing rights.

(n) Effect of Secretary's non-concurrence. If the Secretary does not concur in any land use ordinance approved or adopted by the Commission pursuant to this section, the availability of certain funds to the relevant county shall be governed by section 544n(c) of this title.

(o) Special rules

(1) In general – Any ordinance adopted pursuant to this section shall not apply to any parcel or parcels of land within a special management area if, after the date such ordinance has been adopted, three years have elapsed after a landowner has made a bona fide offer to sell at fair market value or otherwise convey such parcel or parcels to the Secretary, unless the affected landowner agrees to an extension of the three year period: Provided, That an offer shall not be considered bona fide if the landowner refuses consideration equal to the fair market value as appraised in accordance with section 544g(e) of this title. Lands for which an ordinance is suspended pursuant to this subsection shall be subject to the relevant scenic area land use ordinance adopted pursuant to section 544e of this title.

(2) Applicability – This subsection shall not apply to any land offered to the Secretary for acquisition after March 31, 2001.

(Pub. L. 99-663, Sec. 8, Nov. 17, 1986, 100 Stat. 4283; Pub. L. 06-291, title III, Sec. 346(b), Oct. 11, 2000, 114 Stat. 999.)

§ 544g Sec. 9. Land acquisition

(a) Acquisition authorized

(1) The Secretary is authorized to acquire any lands or interests therein within the special management areas and the Dodson/Warrendale Special Purchase Unit which the Secretary determines are needed to achieve the purposes of sections 544 to 544p of this title: Provided, That any lands, waters, or interests therein owned by either State or any political subdivision thereof may be acquired only by donation or exchange.

(2) Lands within the State of Oregon acquired by the Secretary pursuant to sections 544 to 544p of this title shall become part of the Mount Hood National Forest. Lands within the State of Washington acquired by the Secretary pursuant to this section shall become part of the Gifford Pinchot National Forest. All lands acquired by the Secretary pursuant to sections 544 to 544p of this title shall be subject to the laws and regulations pertaining to the National Forest System and sections 544 to 544p of this title.

(b) Limitations on eminent domain

(1) Where authorized in subsection (a) of this section to acquire land or interests therein without the consent of the owner, the Secretary shall –

(A) acquire only such land or interests therein as is reasonably necessary to accomplish the purposes of sections 544 to 544p of this title; and

(B) do so only in cases where all reasonable efforts to acquire with the consent of the owner such lands, or interests therein, have failed.

(2) Notwithstanding the provisions of subsection (a) of this section, the Secretary may not acquire without the consent of the owner lands or interests therein which –

(A) on November 17, 1986, were used primarily for educational, religious, or charitable purposes, single-family residential purposes, farming, or grazing so long as the existing character of that use is not substantially changed or permitted for change;

(B) are located in counties with land use ordinances in which the Secretary has concurred pursuant to section 544f of this title, unless such lands are being used, or are in imminent danger of being used, in a manner incompatible with such ordinances;

(C) are within the boundaries of the Dodson/Warrendale Special Purchase Unit; or

(D) are owned by an Indian tribe, held in trust by the United States for an Indian tribe or member of an Indian tribe, or otherwise administered by the United States for the benefit of an Indian tribe or member of an Indian tribe.

(c) Hardship cases. In exercising authority to acquire lands pursuant to this section the Secretary shall give prompt and careful consideration to any offer made by any person or entity owning any land, or interest in land, within the boundaries of a special management area. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(d) Land exchanges

(1) The Secretary is authorized and directed, in conformance with the provisions of this subsection, to acquire by exchange any parcel of unimproved forest land at least forty acres in size within the boundaries of the special management areas which is owned by any private forest land owner if, after November 17, 1986, but within one hundred and eighty days after final adoption of the management plan, such private forest land owner offers to the United States such parcel of forest land.

(2) In exercising this authority to acquire forest lands pursuant to this subsection, the Secretary may accept title to such lands and convey to the owner federally owned lands deemed appropriate by the Secretary within the States of Oregon and Washington, regardless of the State in which the transferred lands are located. Forest lands exchanged pursuant to this subsection shall be of approximately equal value: Provided, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged: Provided further, That the Secretary may reserve in any conveyance pursuant to this subsection such easements, subsurface rights, and any other interests in land deemed necessary or desirable: Provided further, That the valuation of lands exchanged shall be determined in terms of forest uses for timber.

(3) It is the intention of Congress that land exchanges pursuant to this subsection shall be completed no later than five years after November 17, 1986.

(4) In the event that exchanges authorized by this section leave any private forest land owner with ownership of an uneconomic remnant of forest land contiguous to a special management area, the Secretary is authorized to acquire such forest lands as if they were within the boundaries of a special management area.

(5) The following-described Federal lands and interests therein are hereby identified as candidate lands for exchanges conducted pursuant to this section: Provided, That the determination of which candidate lands will be exchanged, and in what sequence, shall be at the discretion of the Secretary. Subject to valid existing rights, such lands are hereby withdrawn from all forms of entry or

appropriation or disposal under the public land laws, and from location, entry, and patent under the United States mining law, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto until the Secretary determines such lands are no longer needed to complete exchanges authorized by this section: Provided, That such period shall not extend beyond five years:

GIFFORD PINCHOT NATIONAL FOREST

Wind River-Panther Creek Area

Section	Township	Range
35	4N	7E
36	4N	7E

Approx. 430 acres.

South Swift Area

Section	Township	Range
13	6N	5E
23	6N	5E
17	6N	6E
18	6N	6E

Approx. 1,920 acres.

Buck Creek-Willard Area

Section	Township	Range
16	3N	9E
1	4N	9E
2	4N	9E
3	4N	9E
10	4N	9E
11	4N	9E
12	4N	9E
15	4N	9E
21	4N	9E
22	4N	9E
26	4N	9E
27	4N	9E
28	4N	9E
29	4N	9E
30	4N	9E
31	4N	9E
32	4N	9E
33	4N	9E

34	4N	9E
35	4N	9E
6	4N	10E
7	4N	10E
5	5N	10E
6	5N	10E
7	5N	10E
8	5N	10E
9	5N	10E
30	5N	10E
31	5N	10E
32	5N	10E

Approx. 14,460 acres.

National Area

Section	Township	Range
6	14N	7E
7	14N	7E
18	14N	7E
30	14N	7E

Approx. 2,560 acres.

SIUSLAW NATIONAL FOREST

East Beaver Area

Section	Township	Range
33	2S	9W
34	2S	9W
2	3S	9W
3	3S	9W
4	3S	9W
8	3S	9W
9	3S	9W
17	3S	9W

Approx. 3,053 acres.

WILLAMETTE NATIONAL FOREST

Ida-McCoy Area

Section	Township	Range
21	10S	6E
28	10S	6E

Approx. 680 acres.

MOUNT HOOD NATIONAL FOREST

Estacada Area

Section	Township	Range
15	10S	5E

Approx. 560 acres.

Zig-Zag Area

Section	Township	Range
22	2S	7E
29	2S	7E

Approx. 280 acres.

Hood River Area

Section	Township	Range
4	1N	9E
36	1N	10E
31	1N	11E
2	1S	9E
3	1S	9E
4	1S	9E
5	1S	9E
6	1S	9E

Approx. 5,800 acres.

(e) Appraisals

(1) Definition of landowner – In this subsection, the term "landowner" means the owner of legal or equitable title as of September 1, 2000.

(2) Appraisal standards – Except as provided in paragraph (3), land acquired or conveyed by purchase or exchange under this section shall be appraised in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions.

(3) Special management areas

(A) Before April 1, 2001 – Land within a special management area for which the landowner, before April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised –
(i) without regard to the effect of any zoning or land use restriction made in response to sections 544 to 544p of this title; but
(ii) subject to any other current zoning or land use restriction imposed by the State or locality in which the land is located on the date of the offer.

(B) On or after April 1, 2001 – Land within a special management area for which the landowner, on or after April 1, 2001, makes a written bona fide offer to convey to the Secretary for fair market value shall be appraised subject to –
(i) any zoning or land use restriction made in response to sections 544 to 544p of this title; and
(ii) any other current zoning or land use restriction that applies to the land on the date of the offer.

(f) Authorization for certain land exchanges

(1) In general. To facilitate priority land exchanges through which land within the boundaries of the White Salmon Wild and Scenic River or within the scenic area is conveyed to the United States, the Secretary may accept title to such land as the Secretary determines to be appropriate within the States, regardless of the State in which the land conveyed by the Secretary in exchange is located, in accordance with land exchange authorities available to the Secretary under applicable law.

(2) Special rule for land certain exchanges. Notwithstanding any other provision of law –
(A) any exchange described in paragraph (1) for which an agreement to initiate has been executed as of September 30, 2000, shall continue; and
(B) any timber stumpage proceeds collected under the exchange shall be retained by the Forest Service to complete the exchange.

(g) Boundaries. For the purposes of section 460l-9 of this title, the boundaries of the scenic area, including special management areas and the Dodson/Warrendale Special Purchase Unit shall be treated as if they were within the boundaries of the Mount Hood or Gifford Pinchot National Forests as of January 1, 1965.

(Pub. L. 99-663, Sec. 9, Nov. 17, 1986, 100 Stat. 4287; Pub. L. 104-66, title I, Sec. 1011(n), Dec. 21, 1995, 109 Stat. 710; Pub. L. 106-291, title III, Sec. 346(a), Oct. 11, 2000, 114 Stat. 999.)

§ 544h Sec. 10. Interim management

(a) Interim guidelines

(1)[6] Within one hundred eighty days after November 17, 1986, the Secretary shall develop interim guidelines for the scenic area outside urban areas to identify land use activities which are inconsistent with sections 544 to 544p of this title and to govern the authority to acquire land without the consent of the owner provided by subsection (b) of this section. The Secretary shall promptly notify the public of adoption of the interim guidelines and transmit the guidelines to each county. Guidelines adopted by the Secretary pursuant to this subsection shall remain in effect for each county until the Secretary has developed guidelines for the special management areas pursuant to section 544f of this title and the land use ordinances prescribed by section 544e of this title are in effect.

[6] So in original. No par. (2) has been enacted.

(b) Interim acquisition authority and injunctive relief. Prior to the concurrence by the Secretary of land use ordinances prescribed by section 544f of this title and the approval by the Commission of land use ordinances prescribed by section 544e of this title, the following authorities are granted:

(1) The Secretary may acquire by condemnation any land or interest which is being used or threatened to be used in a manner inconsistent with the purposes for which the scenic area was established and which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation, and natural resources of the scenic area: Provided, That no lands or interests therein can be acquired by condemnation pursuant to this section if used in the same manner and for the same purposes as used on November 17, 1986, unless such land is used for or interest is in the development of sand, gravel, or crushed rock, or the disposal of refuse: Provided further, That within thirty days of the filing by the Secretary of a complaint for condemnation of any land or interest in the scenic area, outside of the special management areas and urban areas, the Commission, by a vote of two-thirds of its membership including a majority of the members appointed from each State, or if the Commission is not in existence the Governor of the State in which the land or interest is located, may disapprove such proposed complaint.

(2) Upon or after the commencement of any action for condemnation pursuant to this subsection, the Secretary, acting through the Attorney General of the United States, may apply to the appropriate United States District Court for a temporary restraining order or injunction to prohibit the use of any property within the scenic area, but outside of urban areas, which will cause or is likely to cause impacts adversely affecting the scenic, cultural, recreation and natural resources of the scenic area or is otherwise inconsistent with the purposes for which the scenic area was established. During the period of such order or injunction, the Secretary shall diligently and in good faith negotiate with the owner of the property to assure that, following termination of the order or injunction, the inconsistent use is abated or the adverse effect is mitigated.

(c) Review of development action. Prior to the effective date of a land use ordinance for each county pursuant to section 544e of this title, and concurrence of the Secretary on a land use ordinance for each county pursuant to section 544f of this title, the Commission shall review all proposals for major development actions and new residential development in such county in the scenic area, except urban areas. The Commission shall allow major development actions and new residential development only if it determines that such development is consistent with the standards contained in section 544d of this title and the purposes of sections 544 to 544p of this title.

(Pub. L. 99-663, Sec. 10, Nov. 17, 1986, 100 Stat. 4291.)

§ 544i Sec. 11. Economic development

(a) Economic development plan. Based on the Economic Opportunity Study and other appropriate information, each State, in consultation with the counties and the Commission, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with sections 544 to 544p of this title.

(b) Funds provided to States for grants. Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide $5,000,000 to each State which each State shall use to make grants and loans for economic development projects that further the purposes of sections 544 to 544p of this title.

(c) Conditions of grants. Each State making grants under this section shall require as a condition of a grant that –
  (1) all activities undertaken under the grant are certified by the Commission as being consistent with the purposes of sections 544 to 544p of this title, the management plan, and land use ordinances adopted pursuant to sections 544 to 544p of this title;
  (2) grants and loans are not used to relocate a business from one community to another;
  (3) grants and loans are not used for program administration; and
  (4) grants and loans are used only in counties which have in effect land use ordinances found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.

(d) Report. Each State shall –
  (1) prepare and provide the Secretary with an annual report to the Secretary on the use of the funds made available under this section;
  (2) make available to the Secretary and to the Commission, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and
  (3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

(Pub. L. 99-663, Sec. 11, Nov. 17, 1986, 100 Stat. 4292.)

§ 544j Sec. 12. Old Columbia River Highway

The Oregon Department of Transportation shall, in consultation with the Secretary and the Commission, the State of Oregon and the counties and cities in which the Old Columbia River Highway is located, prepare a program and undertake efforts to preserve and restore the continuity and historic integrity of the remaining segments of the Old Columbia River Highway for public use as a Historic Road, including recreation trails to connect intact and usable segments.

(Pub. L. 99-663, Sec. 12, Nov. 17, 1986, 100 Stat. 4293.)

§ 544k Sec. 13. Tributary rivers and streams

(a) Water resources projects. The following rivers and streams shall be subject to the same restrictions on the licensing, permitting, and exempting from licensing and the construction of water resource projects as provided for components of the National Wild and Scenic Rivers System pursuant to section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)):
  (1) any tributary river or stream to the Columbia River not designated in subsections[7] (c) or (d) of this section or otherwise specified in this subsection which flows in whole or in part through a special management area, unless the construction of a water resources project would not have a direct and adverse effect on the scenic, cultural, recreation, and natural resources of the scenic area;
  (2) any river or river segment which flows in whole or in part through the scenic area and which is established pursuant to State law as a wild, scenic, or recreation river or which is under study pursuant to State law for the potential inclusion in any such State protected river system, unless such project or projects meet terms and conditions set by State agencies exercising administration over such river or river segment;
  (3) the Wind River, Washington, for a period not less than three years following the later of –

[7] So in original. Probably should be "subsection".

(A) final approval of the Gifford Pinchot National Forest Plan, adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended) (16 U.S.C. 1600 et seq.); or

(B) submittal by the Secretary of a report to the President on the suitability or nonsuitability for addition to the national wild and scenic rivers system and a report by the President to the Congress of recommendations and proposals with respect to the designation of such river under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.);

(4) the Hood River, Oregon, for a period not to exceed twenty years from November 17, 1986, if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986; and

(5) the segment of the Little White Salmon, Washington, from the Willard National Fish Hatchery to its confluence with the Columbia River if such facility impounds or diverts water other than by means of a dam or diversion existing as of November 17, 1986.

(b) Exceptions. The provisions of subsection (a) of this section shall not apply to those portions of tributary rivers or streams to the Columbia River which flow through or border on Indian reservations. Nothing in this section shall apply to or affect any segment of any river designated as a wild and scenic river under section 3 of the Wild and Scenic Rivers Act (16 U.S.C. 1274) or any river designated for study under section 5 of such Act (16 U.S.C. 1276).

(Pub. L. 99-663, Sec. 13(a), (b), Nov. 17, 1986, 100 Stat. 4293, 4294.)

§ 544l Sec. 14. Implementation measures

(a) Assistance to counties. The Secretary shall provide technical assistance on a nonreimbursable basis to counties for the development of land use ordinances prescribed by sections 544e and 544f of this title: Provided, That in the event a county fails to obtain approval by the Commission for a land use ordinance within three years after the date technical assistance is first provided under this subsection for the development of a land use ordinance, the Secretary shall terminate all technical assistance for any participation in the development of such ordinance.

(b) Payment of timber receipts

(1) Notwithstanding the provisions of section 500 of this title, that portion of which is paid under such provisions to the State of Oregon with respect to the special management areas within the Mount Hood National Forest, the Gates of the Columbia Gorge Special Management Area, Mount Hood National Forest, and to the State of Washington with respect to the special management areas within the Gifford Pinchot National Forest –

(A) not less than 50 per centum shall be expended for the benefit of the public schools of the county which has adopted implementation measures pursuant to sections 544 to 544p of this title; and

(B) the remainder shall be expended for the benefit of public roads or any public purposes of any county which has adopted implementation measures pursuant to sections 544 to 544p of this title.

(2) Paragraph (1) of this subsection shall not apply –

(A) to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (b)(1) of this section at the end of any fiscal year ending before November 17, 1986; or

(B) for a particular county, if the county does not have in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title.

(c) Payments to local governments

(1) Subject to section 544n(b) of this title, in the case of any land or interest therein acquired by the Secretary pursuant to section 544g of this title, which was subject to local real property taxes within the five years preceding such acquisition and which is located in a county which has in effect a land use ordinance which has been found consistent by the Commission and concurred on by the Secretary pursuant to section 544f of this title, the Secretary is authorized and directed to make annual payments to the county in which such lands are located in an amount equal to 1 per centum of the fair market value of such land or interest therein on the date of acquisition by the Secretary.

(2) Notwithstanding paragraph (1) of this subsection, any payment made for any fiscal year to a county pursuant to this subsection shall not exceed the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest therein was acquired by the Secretary.

(3) Limitation.

(A) In general. - Except as provided in subparagraph (B), no payment shall be made under this subsection with respect to any land or interest therein after the eighth full fiscal year beginning after the first fiscal year in which such a payment was made with respect to such land or interest therein.

(B) Continuation of certain payments. - For any land or interest in land for which the Secretary is making a payment in fiscal year 2000, such payment shall be continued for a total of eight fiscal years.

(d) Federal consistency. Except as otherwise provided in subsection (e) of this section or in section 544o of this title, Federal agencies having responsibilities within the scenic area shall exercise such responsibilities consistent with the provisions of sections 544 to 544p of this title as determined by the Secretary.

(e) Limitations on Federal expenditures affecting the scenic area

(1) Except as provided in paragraph (3), if the Commission has not been established pursuant to section 544c of this title within fifteen months after November 17, 1986, or is otherwise disestablished for any reason, no new expenditures or new financial assistance may be made available, and no new license or new permit, or exemption from a license or permit requirement, shall be issued, under authority of any Federal law for any activity within the scenic area, excluding urban areas, which the Secretary,[8] determines is inconsistent with any implementation measure pursuant to, the standards established in section 544d(b) of this title, or the purposes of sections 544 to 544p of this title.

(2) (A) (i) An expenditure or financial assistance made available under authority of Federal law shall be treated, for purposes of this subsection, as a new expenditure or new financial assistance if –

(I) in any case with respect to which specific appropriations are required, no money for construction or purchase was appropriated before October 1, 1986; or

(II) no legally binding commitment for the expenditure or financial assistance was made before October 1, 1986.

(ii) Payments made to the State pursuant to the following Acts shall not be treated as an expenditure or financial assistance for purposes of this subsection: section 500 of this title; the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181 et seq.); chapter 69 of title 31 (relating to payments in lieu of taxes for entitlement land); the Act of June 9, 1916 (39 Stat. 218), and the Act of Feb. 26, 1919 (40 Stat. 1179).

[8] So in original. The comma probably should not appear.

(B) A license or permit, or exemption from a license or permit requirement, shall be treated, for purposes of this subsection, as a new license or new permit, or exemption from a license or permit requirement, if such license or permit, or exemption from a license or permit requirement, was issued on or after October 1, 1986. A renewal under similar terms and conditions of a license or permit, or exemption from a license or permit requirement, issued before October 1, 1986, shall not be treated as a new license or new permit, or exemption from a license or permit requirement.

(3) Notwithstanding paragraph (1), the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the area for any of the following:

(A) The maintenance of existing channel improvements and related structures, and including the disposal of dredge materials related to such improvements.

(B) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.

(C) Military activities essential to national security.

(D) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the standards in section 544d(b) of this title and the purposes of sections 544 to 544p of this title:

(i) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(ii) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(iii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

(v) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities. This clause shall not apply to roads, structures, or facilities referred to in paragraph (3)(B).

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(4) The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this subsection during each fiscal year beginning after September 30, 1987. Such certification shall be submitted on

an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

(5) Nothing contained in this subsection shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person or any obligation imposed by any law of any State, or political subdivision of a State. No provision of this subsection shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This subsection shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

(f) Transfer of public lands. Subject to valid existing rights, all public lands within the scenic area administered by the Secretary of the Interior through the Bureau of Land Management are hereby transferred without consideration to the jurisdiction of the Secretary to be managed as National Forest lands in accordance with the provisions of sections 544 to 544p of this title.

(Pub. L. 99-663, Sec. 14, Nov. 17, 1986, 100 Stat. 4294; Pub. L. 106-291, title III, Sec. 346(e), Oct. 11, 2000, 114 Stat. 1000.)

§ 544m Sec. 15. Enforcement

(a) Administrative remedies

(1) Commission orders. The Commission shall monitor activities of counties pursuant to sections 544 to 544p of this title and shall take such actions as it determines are necessary to ensure compliance.

(2) Appeal to the Commission. Any person or entity adversely affected by any final action or order of a county relating to the implementation of sections 544 to 544p of this title may appeal such action or order to the Commission by filing with the Commission within thirty days of such action or order, a written petition requesting that such action or order be modified, terminated, or set aside.

(3) Civil penalties. Any person or entity who willfully violates the management plan or any land use ordinance or any implementation measure or any order issued by the Commission pursuant to sections 544 to 544p of this title may be assessed a civil penalty by the Commission not to exceed $10,000 for each violation. No penalty may be assessed under this subsection unless such person or entity is given notice and opportunity for a public hearing with respect to such violation. The Commission may compromise, modify, or remit,with or without conditions, any penalty imposed under this subsection, taking into consideration the nature and seriousness of the violation and the efforts of the violator to remedy the violation in a timely manner.

(b) Judicial remedies

(1) Civil actions to enforce sections 544 to 544p of this title

(A) Except as otherwise limited by sections 544 to 544p of this title, the Attorney General of the United States may, at the request of the Secretary, institute a civil action for an injunction or other appropriate order to prevent any person or entity from utilizing lands within the special management areas in violation of the provisions of sections 544 to 544p of this title, interim guideline adopted or other action taken by the Secretary pursuant to sections 544 to 544p of this title.

(B) The Commission, or, at the request of the Commission, or the attorney general of Oregon or Washington, may institute a civil action for an

injunction or other appropriate order to prevent any person or entity from utilizing lands within the scenic area outside urban areas in violation of the provisions of sections 544 to 544p of this title, the management plan, or any land use ordinance or interim guideline adopted or other action taken by the Commission or any county pursuant to sections 544 to 544p of this title.

(2) Citizens suits. Any person or entity adversely affected may commence a civil action to compel compliance with sections 544 to 544p of this title -

(A) against the Secretary, the Commission or any county where there is alleged a violation of the provisions of sections 544 to 544p of this title, the management plan or any land use ordinance or interim guideline adopted or other action taken by the Secretary, the Commission, or any county pursuant to or Commission[9] under sections 544 to 544p of this title; or

(B) against the Secretary, the Commission, or any county where there is alleged a failure of the Secretary, the Commission or any county to perform any act or duty under sections 544 to 544p of this title which is not discretionary with the Secretary, the Commission or any county.

(3) Limitation on bringing of citizens suits. No action may be commenced -

(A) under paragraph (2)(A) of this subsection –

(i) prior to sixty days after the plaintiff has given notice in writing of the alleged violation to the Secretary, to the Commission, and to the county in which the violation is alleged to have occurred; or

(ii) if the Attorney General of the United States, or the attorney general of Oregon or Washington, has commenced and is diligently prosecuting a civil action on the same matter pursuant to paragraph (1) of this subsection to require compliance with the management plan or any regulations, guidelines, or standards issued or other actions taken by the Secretary, the Commission, or any county pursuant to sections 544 to 544p of this title: Provided, That in any such action any person or entity otherwise entitled to bring an action pursuant to paragraph (2) of this subsection may intervene as a matter of right; or

(iii) which challenges the consistency of the draft management plan with the purposes and standards of sections 544 to 544p of this title or with other applicable law prior to the certification or adoption of the Management Plan pursuant to section 544d of this title; or

(B) under paragraph (2)(B) of this subsection prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary, the Commission, and to the county in which the failure to perform any act or duty pursuant to sections 544 to 544p of this title is alleged: Provided, That such action may be brought immediately after such notification where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(4) Judicial review. Any person or entity adversely affected by –

(A) any final action or order of a county, the Commission, or the Secretary relating to the implementation of sections 544 to 544p of this title;

(B) any land use ordinance or interim guideline adopted pursuant to sections 544 to 544p of this title;

[9] So in original. The word "Commission" probably should not appear.

(C) any appeal to the Commission pursuant to this section;
(D) any civil penalty assessed by the Commission pursuant to paragraph (a)(3) of this subsection may appeal such action or order by filing in any of the courts specified in paragraph (5) of this subsection, within sixty days after the date of service of such order or within sixty days after such action is taken, a written petition requesting such action, order, land use ordinance, interim guideline, or appeal taken to the Commission be modified, terminated, or set aside.

(5) Federal court jurisdiction. The United States district courts located in the States of Oregon and Washington shall have jurisdiction over –
(A) any criminal penalty imposed pursuant to section 551 of this title, or any other applicable law for violation of any order, regulation or other action taken by the Secretary pursuant to sections 544 to 544p of this title;
(B) any civil action brought against the Secretary pursuant to this section; or
(C) any appeal of any order, regulation, or other action of the Secretary taken pursuant to paragraph (4) of this subsection.

(6) State court jurisdiction. The State courts of the States of Oregon and Washington shall have jurisdiction –
(A) to review any appeals taken to the Commission pursuant to subsection (a)(2) of this section;
(B) over any civil action brought by the Commission pursuant to subsection (b)(1) of this section or against the Commission, a State, or a county pursuant to subsection (b)(2) of this section;
(C) over any appeal of any order, regulation, or other action of the Commission or a county taken pursuant to paragraph 4 of this subsection; or
(D) any civil penalties assessed by the Commission pursuant to subsection (a)(3) of this section.

(Pub. L. 99-663, Sec. 15, Nov. 17, 1986, 100 Stat. 4297.)

§ 544n Sec. 16. Authorization of appropriations

(a) General authorizations. There are authorized to be appropriated for fiscal years after the fiscal year 1986 such sums as are described below;[10]
(1) For the purpose of acquisition of lands, water and interests therein pursuant to sections 544 to 544p of this title: $40,000,000: Provided, That of this amount no more than $10,000,000 shall be available to acquire lands, water, and interests therein pursuant to section 544h of this title. Such amounts are authorized to be appropriated from amounts covered into the Land and Water Conservation Fund notwithstanding any allocation, apportionment, or limitation contained in the Land and Water Conservation Fund (16 U.S.C. 460l-4 and following).
(2) For the purpose of providing payments to local governments pursuant to section 544l(c) of this title: $2,000,000.

(b) Specific authorizations. There are authorized to be appropriated for fiscal years after the fiscal year 1986, effective upon concurrence on the management plan pursuant to section 544d of this title:
(1) For the purpose of construction of an interpretive center to be located in the State of Oregon, and a conference center to be located in the State of Washington: $10,000,000.
(2) For the purpose of construction of recreation facilities pursuant to section 544e(d) of this title: $10,000,000.

[10] So in original. The semicolon probably should be a colon.

(3) For the purpose of preparing a program and restoring and reconstructing the Old Columbia River Scenic Highway, Oregon pursuant to section 544j of this title: $2,800,000.

(4) For the purpose of providing economic development grants pursuant to section 544i of this title: $5,000,000 for each State: Provided, That funds authorized to be appropriated pursuant to this paragraph shall be available for the acquisition of lands and interests therein pursuant to section 544h of this title if, at the expiration of three years, the States have failed to carry out their respective function pursuant to section 544c of this title.

(c) Availability of funds. Funds appropriated under subsections (a)(2) and (b) of this section shall not be made available for any county which does not have in effect a land use ordinance which has been found to be consistent by the Commission, and concurred on by the Secretary as consistent with the management plan pursuant to section 544f of this title.

(Pub. L. 99-663, Sec. 16, Nov. 17, 1986, 100 Stat. 4300.)

§ 544o Sec. 17. Savings provisions

(a) Nothing in sections 544 to 544p of this title shall –

(1) affect or modify any treaty or other rights of any Indian tribe;

(2) except as provided in section 13(c), authorize the appropriation or use of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual;

(3) except as provided in section 13(c), affect the rights or jurisdictions of the United States, the States, Indian tribes or other entities over waters of any river or stream or over any ground water resource or affect or interfere with transportation activities on any such river or stream;

(4) except as provided in section 13(c), alter, establish, or affect the respective rights of the United States, the States, Indian tribes, or any person with respect to any water or water-related right;

(5) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States before November 17, 1986;

(6) affect or modify the ability of the Bonneville Power Administration to operate, maintain, and modify existing transmission facilities;

(7) affect lands held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes;

(8) affect the laws, rules and regulations pertaining to hunting and fishing under existing State and Federal laws and Indian treaties;

(9) require any revision or amendment of any forest plan adopted pursuant to the National Forest Management Act of 1976 (Act of October 22, 1976, Public Law 94-588, as amended (16 U.S.C. 1600 et seq.)); or

(10) establish protective perimeters or buffer zones around the scenic area or each special management area. The fact that activities or uses inconsistent with the management directives for the scenic area or special management areas can be seen or heard from these areas shall not, of itself, preclude such activities or uses up to the boundaries of the scenic area or special management areas.

(b) Improvement of navigation facilities at Bonneville Dam. Except for the offsite disposal of excavation material, nothing in sections 544 to 544p of this title shall be construed to affect or modify the responsibility of the United States Army Corps of Engineers to improve navigation facilities at Bonneville Dam pursuant to Federal law.

(c) Rights and responsibilities of non-Federal timber land owners. Except for the management, utilization, or disposal of timber resources of non-Federal lands within the special management areas, nothing in sections 544 to 544p of this title shall affect the rights and responsibilities of non-Federal timber land owners under the Oregon and Washington Forest Practices Acts or any county regulations which under applicable State law supersede such Acts.

(d) Interstate compacts. Mandatory language in sections 544 to 544p of this title respecting the powers and responsibilities of the Commission shall be interpreted as conditions precedent to congressional consent to the interstate compact described in section 544c of this title.

(e) Failure to establish Columbia River Gorge Commission; responsibility of Secretary. In the event that the States of Washington and Oregon fail to comply with the provisions of section 544c of this title, the Secretary shall not be obligated to take actions which are predicated upon the establishment of the Commission.

(f) Actions of Secretary as major Federal actions affecting the environment

(1) Actions by the Secretary pursuant to subsections (f), (g), and (h) of section 544d of this title; subsections (f), (j), (k), and (l) of section 544f of this title; section 544g of this title; and subsections (a) and (b)(2) of section 544h of this title shall neither be considered major Federal actions significantly affecting the quality of the environment under section 102 of the National Environmental Policy Act (42 U.S.C. 4332) nor require the preparation of an environmental assessment in accordance with that Act (42 U.S.C. 4321 et seq.).

(2) Except as provided in paragraph (1) of this subsection, nothing in sections 544 to 544p of this title shall expand, restrict, or otherwise alter the duties of the Secretary under the National Environmental Policy Act.

(Pub. L. 99-663, Sec. 17, Nov. 17, 1986, 100 Stat. 4300.)

§ 544p Sec. 18. Severability

(a)[11] If any provision of sections 544 to 544p of this title or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of sections 544 to 544p of this title, nor the application of any provisions herein to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

(Pub. L. 99-663, Sec. 18, Nov. 17, 1986, 100 Stat. 4302.)

[11] So in original. No subsec. (b) has been enacted.

Glossary

The definitions listed below apply to both General Management Area and Special Management Area, unless otherwise noted.

Accepted agricultural practice: A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

Accessory structure/building: A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term “detached” means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.

Active wildlife site: A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

Addition: An extension or increase in the area or height of an existing building.

Agency official: The federal, state, or local agency head or designee who has authority over a proposed project.

Agricultural specialist (SMA): A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.

Agricultural structure/building: A structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding,

breeding, management, and sale of, or production of, livestock, poultry, fur-bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

1. The operation or use of farmland subject to any agriculture-related government program.

2. Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

3. Land planted in orchards or other perennials prior to maturity.

4. Land under buildings supporting accepted agricultural practices.

Agricultural use does not include livestock feedlots.

Anadromous fish: Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

Anaerobic: A condition in which molecular oxygen is absent (or effectively so) from the environment.

Aquaculture: The cultivation, maintenance, and harvesting of aquatic species.

Aquatic area: The water area of a stream, pond, or lake measured at the ordinary high water mark.

Archaeological resources: See cultural resource.

Archival research: Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

Bed and breakfast inn: An establishment located in a structure designed as a single-family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single-family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

Best management practices: Conservation techniques and management measures that (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (2) minimize adverse affects to groundwater and surface-water flow and circulation patterns; and (3) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

Biodiversity (SMA): A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

Boat landing: Cleared area or developed structure used to facilitate launching or retrieving watercraft.

Buffer zone: An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

Building: Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.

Camping or recreational vehicle: A vacation trailer, camper, self-propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

Campsite: Single camping unit that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

Capability: The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

Canopy closure (SMA): For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.

Cascadian architecture (SMA): Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

Catastrophic situations (SMA): Forces such as fire, insect and disease infestations, and earth movements.

Childcare center: A facility providing daycare to three or more children, but not including:

1. The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.

2. The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.

3. The provision of short-term care related to or associated with group athletic or social activities.

4. The provision of daycare in the provider's home in the family living quarters for less than 13 children.

Columbia River Gorge National Scenic Area Graphic Signing System: Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

Commercial development/use: Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

Commercial forest products: These include timber for lumber, pulp, and firewood for commercial purposes.

Commercial recreation: Any private (non-governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

Community facility: Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

Consulting parties (cultural resources): Organizations or individuals who submit substantive written comments to a local government in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

Contiguous land: Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

Counties: The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon; and Clark, Skamania, and Klickitat in Washington.

Created opening (SMA): A created forest opening with less than 40 percent average canopy closure of overstory trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height

for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.

Creation (wetlands): A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

Cultivation: Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

Cultural resource: Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

- Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old.

  Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.

- Historic buildings and structures. Standing or above-ground buildings and structures that are at least 50 years old.

  Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

- Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community.

  Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

Cut: An area where soil or earth is excavated or removed in conjunction with development activities.

Dedicated site: An area actively devoted to the current use and as delineated on the site plan.

Deer and elk winter range: Areas normally used, or capable of being used, by deer and elk from December through April.

Destruction of wetlands: Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

Developed recreation: Recreational opportunities characterized by high-density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

Developed road prism (SMA): The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.

Development: Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

Diameter at breast height (dbh): The diameter of a tree as measured at breast height.

Duplex: A building containing two dwelling units and designed for occupancy by two families.

Dwelling, single-family: A detached building containing one dwelling unit and designed for occupancy by one family only.

Dwelling unit: A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

Earth materials: Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to,

construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

Effect on treaty rights: To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

Emergency/disaster: A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

Emergency/disaster response: Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

Endemic: Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

Enhancement (natural resources): A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

Ephemeral streams (SMA): streams that contain flowing water only during, and for a short duration after, precipitation events.

Ethnography: The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

Existing industrial complex: Areas including some existing industrial use and where readily visible remnants of past industrial activities exist. The complex includes buildings, including those abandoned or partially abandoned, paved areas, stockpiles, equipment storage areas, quarry areas, etc, and may include isolated patches of vegetation or rock outcroppings surrounded by areas described above. The complex does not extend to include areas where evidence of past activity is no longer readily evident in the landscape. *(Added: CRGC adopted 7/7/08; U.S. Sec. Ag. concurrence 10/8/08)*

Existing use or structure: Any use or structure that was legally established. "Legally established" means: (1) the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure; (2) the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and (3) any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.

Exploration, development (extraction and excavation), and production of mineral resources: Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

Fill: The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

Finished grade: The final elevation of the ground level of a property after construction is completed.

Fire break: A break in ground cover fuels, adjacent to and surrounding buildings.

Footprint: The area that falls directly beneath and shares the same perimeter as a structure.

Forbs: Broad-leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

Foreground (SMA): One-half mile on either side of a traveled road or trail.

Forest health (SMA): A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.

Forest practice (SMA): Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing,

thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.

Forest practice (GMA): Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

Forest products: Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

Forest stand structure (SMA): The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.

Forest use: The growing, propagation, and harvesting of forest tree species and other forest products.

Fully screened: A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

Grade (ground level): The average elevation of the finished ground elevation as defined by the Uniform Building Code.

Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

Hazard tree (SMA): A tree with a structural defect that will predictably result in whole or partial failure within 1.5 tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.

Height of building: The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

Herbaceous: A plant with no persistent woody stem above the ground, with characteristics of an herb.

Herbs: Non-woody (herbaceous) plants, including grasses and grasslike plants, forbs,

ferns, fern allies, and non-woody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

Historic buildings and structures: See cultural resource.

Historic survey: Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

Horses, boarding of (GMA): The stabling, feeding, and grooming, or the use of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a nonprofit organization.

Hydric soil: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

In-lieu sites: Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100-581, Section 401. Additional in-lieu sites will be provided for.

Indian tribal government: The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).

Indian tribes: The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

Industrial uses: Any use of land or water primarily involved in:

1. Assembly or manufacture of goods or products,

2. Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,

3. Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service, or

4. Production of electric power for commercial purposes.

Interpretive displays: Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

Key components: The attributes that are essential to maintain the long-term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

Key viewing areas: Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

Historic Columbia River Highway
Crown Point
Highway I-84, including rest stops
Multnomah Falls
Washington State Route 14
Beacon Rock
Panorama Point Park
Cape Horn
Dog Mountain Trail
Cook-Underwood Road
Rowena Plateau and Nature Conservancy Viewpoint
Portland Women's Forum State Park
Bridal Veil State Park
Larch Mountain
Rooster Rock State Park
Bonneville Dam Visitor Centers
Columbia River
Washington State Route 141
Washington State Route 142
Oregon Highway 35
Sandy River
Pacific Crest Trail

<u>SMA only:</u>

Old Washington State Route 14 (County Road 1230)
Wyeth Bench Road
Larch Mountain Road
Sherrard Point on Larch Mountain

Land division: The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

Landscape setting: The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

Livestock feedlot: Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay-feeding grounds.

Lot line adjustment: Relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels.

Maintenance: Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure.

Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.

Mitigation: The use of any or all of the following actions:

1. Avoiding the impact altogether by not taking a certain action or parts of an action.

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

Mosaic (SMA): The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

Multifamily dwelling: A dwelling constructed or modified into two or more single-family units.

Native species: Species that naturally inhabit an area.

Natural grade: The undisturbed elevation of the ground level of a property before any excavation or construction operations.

Natural resources (GMA & SMA): Wetlands, streams, ponds and lakes, riparian areas, wildlife and wildlife habitat, rare plants, and natural areas. *(Revised: CRGC adopted 7/13/10; U.S. Sec Ag. concurrence 11/1/10 & 7/1/11)*

Natural resource specialist: A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

Natural resource-based recreation (SMA): Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource-based; golf courses, tennis courts, and rental cabins are not.

Nonprofit organization: An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

Not visually evident (SMA): A visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.

Old growth (SMA): A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.

Operational (SMA): For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.

Ordinary high water mark: The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

Other related major structure (SMA): A structure related to a dwelling on a parcel in the SMA that is less than 40 acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of "accessory building" is not an "other related major structure" or a "major development action."

Overstory (SMA): For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.

Parcel:

1. Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

2. Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

3. A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Guidelines.

4. A unit of land shall not be considered a separate parcel simply because the subject tract of land:

   A. Is a unit of land solely created to establish a separate tax account;

   B. Lies in different counties;

   C. Lies in different sections or government lots;

   D. Lies in different land use or zoning designations; or

   E. Is dissected by a public or private road.

Practicable: Able to be done, considering technology and cost.

Preexisting: Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

Previously disturbed: An area of land where the natural surface has been graded, excavated, paved and/or graveled.

Project area: The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

Public use facility: Recreation development(s) that meet the definition of "recreation

facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

Rare plant species: Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

Recreation facility: A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

Recreation resort: A master-planned development focused on accessing a range of resource-based recreational opportunities, consisting of predominately short-term visitor accommodations and supporting commercial uses. *(Added: CRGC adopted 7/7/08; U.S. Sec. Ag. concurrence 10/8/08)*

Reconnaissance survey: Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.

Recreation opportunity spectrum (ROS): A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

- Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

- Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

  Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.

- Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

- Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

- Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.

Recreation resources: Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.

Regularly maintained: An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-of-way), and/or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

Rehabilitation (natural resources): A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.

Remnant old forest (SMA): Large trees in the overstory that are well into the mature growth state (older than 180 years).

Repair: Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure.

Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

Resort core: The portion of a recreation resort formerly occupied by the existing industrial complex. *(Added: CRGC adopted 7/7/08; U.S. Sec. Ag. concurrence 10/8/08)*

Resource-based recreation: Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

Restoration (wetlands): A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

Review uses: Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

Riparian area: The area immediately adjacent to streams, ponds, lakes, and wetlands

that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

Road: The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

1. Ways described as streets, highways, throughways, or alleys.

2. Road-related structures that are in the right-of-way, such as tunnels, culverts, or similar structures.

3. Structures that provide for continuity of the right-of-way, such as bridges.

Scenic Area: The Columbia River Gorge National Scenic Area.

Scenic travel corridor: Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

Secretary: The Secretary of Agriculture.

Sensitive plant species: Plant species that are (1) endemic to the Columbia River Gorge and vicinity, (2) listed as endangered or threatened pursuant to federal or state endangered species acts, or (3) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program.

In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

Sensitive wildlife species: Animal species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission, (3) listed as sensitive by the Oregon Fish and Wildlife Commission, or (4) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon.

In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

Service station: A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

Serviceable: Presently useable.

Shall: Action is mandatory.

Should: Action is encouraged.

Shrub: A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

Sign: Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out-of-doors position, and any frame or support structure erected specifically to bear or uphold a sign.

Significant cultural resource (SMA): A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)

Skyline: The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

Soil capability class: A classification system developed by the U.S. Department of Agriculture Soil Conservation Service to group soils as to their capability for agricultural use.

Special habitat area: Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

Special streams: Streams that are primary water supplies for fish hatcheries and rearing ponds.

Stand: A group of trees possessing uniformity in regard to type, age, vigor, or size.

Story: A single floor level of a structure, as defined by the Uniform Building Code.

Streams: Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.

For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

Submit: To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.

Subsurface testing: Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

Suitability: The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

Thinning (SMA): A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than

60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.

Total canopy closure (SMA): For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.

Travelers accommodations: Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

Treatment (SMA): For forest practices, a site-specific operation that carries out the forest management objectives for an area.

Treaty rights or other rights: Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

Tributary fish habitat: Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

Understory (SMA): For forest practices, the shorter or immature trees below the tall or mature overstory trees.

Undertaking: Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.16(y)].

Unimproved lands: Lands that generally do not have developments such as buildings or structures.

Upland: Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

Uses allowed outright: New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

Utility facility: Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

Vested right: The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.

Viewshed: A landscape unit seen from a key viewing area.

Visual quality objective (VQO): A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention and partial retention, and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

Visually subordinate: A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

Water-dependent: Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water-dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water-dependent.

Water-related: Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water-related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

Wetlands: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

Wetlands functions: The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and non-game birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational,

historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

Winery: An agricultural facility used for processing grapes into wine, including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.

Wine sales/tasting room: A facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved under the "Commercial Events" provisions in Part II, Chapter 7: General Policies and Guidelines of this Management Plan. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.

Woody plant: A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

Index

Agricultural buildings: II-7-46

Agricultural land: Part II, Chapter 1
enhancement strategies: III-3-9 to 10
monitoring program: IV-2-9
setback guidelines: II-1-13 to 14

Agriculture-Special (land use designation): I-1-15 to 20

Appeals: IV-1-4, IV-1-4 to 5

Archaeological resources: I-2-1 (definition). *See* Cultural resources.

Balch Lake Wetlands Area (open space designation): II-3-8

Bed and breakfast inns: II-1-13, II-1-25, II-2-12, II-4-8, II-4-11, II-5-2, II-5-6, II-5-8, II-7-49

Boathouses: *See* Docks and boathouses.

Boundaries
Main stem of Columbia River: I-3-3
Maps: 11 (description), 15
Revision of Scenic Area boundaries: IV-1-6
Revision of SMA boundaries: II-3-3, IV-2-6
Revision of Urban Area boundaries: III-2-3, IV-1-5 to 6
Wetlands: I-3-9

Broughton Mill area: I-1-24 to 26

Buffers: 5, I-1-8, I-1-32, I-1-40, IV-2-11
Cultural resource: I-2-6, I-2-10, I-2-12, I-2-17
Natural resource: I-3-2, I-3-4, I-3-8 to 9 (wetlands); I-3-16 to 17 (streams, ponds, lakes); I-3-19 to 20, I-3-23 (wildlife); I-3-26 to 28 (sensitive plants); I-3-30 to 40 (SMA)
Recreation resource: I-4-4, II-7-61

Chenoweth Table Natural Area (open space designation): II-3-7

Childcare centers: II-4-8, II-5-6

Civil penalties: IV-1-4 to 5

Cluster development: *see* Land divisions and cluster development

Columbia River bridge replacement: II-7-64 to 65

Columbia River Gorge Commission
role and procedures: Part IV, Chapter I; 2, III-2-3
vision statement: 3

Columbia River Gorge National Scenic Area: 1-3 (overview), 15 (map)

Columbia River Gorge National Scenic Area Act: 2-3, 8, appendix

Columbia River Gorge National Scenic Area graphic signing system: I-1-34, II-7-61, II-7-62, II-7-63, III-3-4

Commercial events: II-1-11, II-2-11, II-4-7, II-5-7, II-5-9, II-6-4, II-6-8, II-7-54 to 56, III-2-2

Commercial land: Part II, Chapter 5; 5 to 6; III-2-2

Commercial recreation: *see* Recreation designations

Conference center: *see* Skamania Lodge Center

Coniferous woodland (landscape setting): I-1-16 to 17, I-1-37

Consolidation of lots: II-7-9 to 10

Corbett: *see* Rural center

Cottage industries: *see* Home occupations and cottage industries

Counties
effects of land acquisition on finances: IV-2-5
identification of: 2
implementation of Management Plan: 8, 13, IV-1-2 to 4, IV-1-6 to 7, IV-1-8, IV-2-6 to 7, IV-2-9

Cultural resources: Part I, Chapter 2; 5 to 6, 13 to 14, I-1-10, I-1-36, II-7-24, II-7-33 to 36
enhancement strategies: III-3-4 to 5
monitoring program: IV-2-8

Deer and elk winter range: I-3-19, I-3-24 to 25, I-3-38, II-7-24, II-7-39

Developed settings: I-1-29

Discontinued uses: II-7-4, II-7-9

Disposal sites for spoil materials from public road maintenance activities: I-1-13, II-1-26, II-2-12, II-2-21, II-7-53 to 54

Docks and Boathouses: II-7-47 to 48

Economic development: Part III, Chapter 2; II-2-17, II-5-1, II-5-3, III-3-8 to 9, IV-1-9
economic opportunity study: 8 to 9
grants and loans: II-2-2, III-2-3, III-3-8, IV-2-2

Education: *see* Interpretation/education

Emergency/Disaster response actions: II-7-26 to 41

Emergency services: III-3-10

Endangered, threatened, and sensitive wildlife species: I-3-1, I-3-18 to 25, I-3-31, I-3-32, I-3-36 to 40, II-3-4

Enhancement strategies: Part III, Chapter 3; 5, IV-2-7, IV-2-9

Existing uses: II-7-4 to 9

Expedited development review process: II-1-7, II-1-17, II-1-22, II-2-6, II-2-18, II-3-5, II-3-11, II-4-6, II-4-10, II-5-5, II-6-2, II-6-6, II-6-11, II-7-20 to 26

Expiration of approvals: II-7-3 to 4

Fire protection: II-2-6, II-2-7, II-2-8, II-2-9, II-2-10, II-2-12 to 13, II-2-14, II-2-15, II-2-17, II-4-5, II-4-6, II-4-9, II-4-11, IV-2-9

Fish processing operations: *See* Small-scale fishing support and fish processing operations.

Forest land: Part II, Chapter 2; 4 to 5
enhancement strategies: III-3-8 to 9
monitoring program: IV-2-9

Forest practices: II-2-16, II-2-17, II-2-22 to 27
cultural resources policy: I-2-22

Forest Service, USDA
role and procedures: Part IV, Chapter 2; 2 to 3

General Management Area (overview): 2, 4 to 5

General policies and guidelines: Part II, Chapter 7

Geographic information system (GIS): IV-2-2

Gorge Discovery Center: 4, 6, I-1-3, I-4-9, I-4-12, III-4-2, IV-2-10

Gorge walls and canyonlands (open space designation): II-3-6

Gorge walls, canyons, and wildlands (landscape setting): I-1-28 to 29, I-1-38, III-3-3

Grading plan: I-1-6, I-1-11 to 12, II-7-58, II-7-60

Graphic signing system: *see* Columbia River Gorge National Scenic Area graphic signing system

Grassland (landscape setting): I-1-19 to 21

Hardship dwelling: *see* Temporary use--hardship dwelling

Historic buildings and structures: I-2-1 (definition). *See* Cultural resources; Special uses in historic buildings.

Historic Columbia River Highway: 6, I-1-29 to 33, I-1-36, I-4-5, II-7-12, II-7-13, II-7-14 to 15, II-7-16, II-7-17, II-7-19, III-1-1, III-1-6, III-3-3, III-3-7, IV-1-9

Home occupations and cottage industries: 5, II-1-12, II-1-24, II-2-11, II-2-20, II-4-8, II-4-11, II-5-4, II-5-6, II-5-8, II-6-11, II-7-48 to 49, II-7-63, III-2-2

I-84 Corridor Strategy: I-1-31, II-7-12, II-7-13, II-7-15, II-7-16, II-7-17, II-7-19, III-3-3

Indian tribes: Part IV, Chapter 3; 5, I-4-7 to 9, II-7-2, III-3-4 to 5, III-4-2, IV-1-8, IV-2-8
and cultural resources: Part I, Chapter 2

Industrial development: II-7-8, II-7-56

Interpretation/education: Part III, Chapter 4; I-4-9 to 10, I-4-24, II-3-10, III-1-6, III-3-4, III-3-7, III-3-8, III-3-9. *See also* Gorge Discovery Center

Interpretive center: *see* Gorge Discovery Center

Inventories and studies: 8 to 9, 13, 16 (Table 1), II-7-58, IV-1-4, IV-2-8
Columbia River Gorge National Scenic Area Corridor Visual Inventory: I-1-33, III-3-3

Key viewing areas: 5, 13, I-1-5 to 14, II-7-12, II-7-23, II-7-31

Klickitat River Wildlife and Natural Area (open space designation): II-3-7 to 8

Land acquisition/adjustment: 3, 5, II-3-4, III-3-1, IV-2-2 to 5, IV-2-10

Land divisions and cluster development: 12, II-1-7, II-1-11, II-1-18, II-2-5, II-2-10, II-3-5, II-4-5, II-4-6 to 7, II-5-4, II-5-7, II-6-4, II-6-9, II-7-41 to 42

Land use designations: 9, 12. *See* Part II, Chapters 1 through 6 for specific designations.

Landscape settings: 9, 13, I-1-2, I-1-3, I-1-5, I-1-6, I-1-8, I-1-9, I-1-14 to 29, I-1-37 to 40

Latourell residential area: II-4-10 to 12

Life estates: II-1-11, II-1-15, II-2-10, II-2-14

Lot line adjustments: II-1-11, II-1-18, II-2-10, II-3-6, II-4-7, II-5-7, II-5-8, II-6-4, II-6-9, II-7-21, II-7-43 to 46

Management Plan for the Columbia River Gorge National Scenic Area
amendment: 10, IV-1-1, IV-1-8, IV-2-1
development: 8 to 10
monitoring implementation: IV-1-2 to 4, IV-2-6 to 11
organization: 10 to 11
overview: 2
revision: 11, IV-1-8, IV-2-1
use: 11 to 14

Maps
description of: 11
use of: 12 to 13
vicinity: 15

Mineral resources: I-1-3, I-1-4, I-1-5, I-1-6, I-1-10, I-1-12 to 14, I-1-31, I-1-32, I-1-33, II-1-12, II-1-19, II-1-25, II-2-11, II-2-18, II-7-8 to 9

Mosely Lakes Natural Area (open space designation): II-3-6

Mouth of Wind River Wildlife Area (open space designation): II-3-8 to 9

National Forest System lands: I-2-22, IV-2-11 to 12

Natural areas: 13, 16, I-3-2, I-3-48 to 49 (Table 4), II-1-2, II-1-15 to 19, II-3-4. *See* Agriculture-Special.
research natural areas: III-3-7

Natural resources: Part I, Chapter 3; 4, 5, 13 to 14, II-7-24 to 25, II-7-36 to 37
enhancement strategies: III-3-6 to 7, IV-2-9
monitoring program: IV-2-8 to 9

Oak-pine woodland (landscape setting): I-1-18 to 19, I-1-37, I-1-38, I-3-39, III-3-6

Open space: Part II, Chapter 3; I-3-1 to 2, II-1-16, IV-2-9

Oregon Natural Heritage Program: I-3-25, I-3-26, I-3-27, I-3-28, I-3-31, I-3-32, I-3-37, II-1-15 to 16, II-1-18, II-1-19, II-3-2, II-3-7

Oregon Trail: III-3-5

Pastoral (landscape setting): I-1-15 to 16, I-1-37, I-1-38

Plants, rare and sensitive: 5, 13, I-3-1 to 2, I-3-25 to 29, I-3-31 to 32, I-3-36 to 44, I-3-47 (Table 3), I-3-48 to 49 (Table 4)

Ports: III-2-3

Public involvement: 9 to 10, IV-1-2, IV-1-7 to 9

Range conservation plans: II-1-18, II-1-19 to 20

Rare plants: *See* Plants, rare and sensitive.

Recreation designations: Part II, Chapter 6
commercial recreation: II-6-5 to 9, II-7-63, III-2-2
public recreation: II-6-1 to 5, II-6-10 to 12, II-7-63

Recreation development plan: Part III, Chapter 1; I-4-3
funding for facilities: III-1-1, III-1-3 to 4, IV-2-2, IV-2-10
inventories: III-1-2

Recreation Development Proposals list: I-4-3, I-4-7, III-1-1 to 3, IV-2-5

Recreation intensity classes: 9, 14, I-4-7, I-4-13, I-4-14 to 23, I-4-24, I-4-25, I-4-26 to 28

Recreation opportunity spectrum: I-4-24

Recreation resources: Part I, Chapter 4; 4 to 6, 12 to 14, II-7-24, II-7-40
coordination: I-4-13 to 14, I-4-24, III-1-6, III-3-8
enhancement strategies: III-3-7 to 8
inventories: 8 to 9
monitoring program: IV-2-10

Research natural areas: III-3-7

Residential (landscape setting): I-1-23 to 24, I-1-37, I-1-38

Residential land: Part II, Chapter 4; 5

Resource-based recreation: 6, I-4-6 to 7

Resource enhancement projects: II-1-9 to 10, II-1-18, II-1-25, II-2-8, II-2-18, II-3-5, II-3-12, II-4-7, II-4-11 to 12, II-5-7, II-5-8, II-6-4, II-6-8, II-6-12, II-7-52 to 53

Review uses: 12 to 13, II-7-58 to 61. *See* Part II, Chapters 1 through 6 for specific review uses.

Riparian areas: *see* Streams, ponds, lakes, and riparian areas

River access: 4 to 5, I-1-2, I-1-14, I-4-2, I-4-7 to 9, II-6-2, II-6-5, III-3-8

River bottomlands (landscape setting): I-1-26 to 27, I-1-37, I-1-38

Rowena Dell residential area: II-4-10 to 12

Rural centers (Corbett and Skamania): I-1-14, I-1-24 to 26, II-5-1, II-5-2, II-5-3 to 7, III-2-2

Rural residential (landscape setting): I-1-21 to 22

Rural residential/coniferous woodland (landscape setting): I-1-22 to 23

Rural residential/oak-pine woodland (landscape setting): I-1-22 to 23

Rural residential/pastoral (landscape setting): I-1-22 to 23

Savings policies: II-7-2 to 3, IV-3-5

Scenic appreciation: I-4-5 to 6, II-6-2

Scenic Area: *see* Columbia River Gorge National Scenic Area

Scenic Area Act: *see* Columbia River Gorge National Scenic Area Act

Scenic resources: Part I, Chapter 1; 4, 13 to 14, II-7-23, II-7-31 to 33
enhancement strategies: III-3-2 to 4, IV-2-7
inventories: 16 (Table 1)
monitoring program: IV-2-7

Scenic Resources Implementation Handbook: I-1-7, I-1-9, I-1-10, I-1-36, I-1-40, I-1-41, I-1-43, II-7-7

Scenic travel corridors: 5, 13, I-1-2, I-1-29 to 33, I-4-5 to 6, II-3-4, III-3-3 to 4

Scenic Travel Corridor Implementation Task Force: I-1-31 to 32

Setbacks: I-1-11, I-1-32, II-1-14. *See* Buffers.

Sewer and water services: II-7-47

Signs: I-1-34 to 35, I-4-16, I-4-17, I-4-18, I-4-20, I-4-27, II-7-15 to 16, II-7-19 to 20, II-7-21, II-7-23, II-7-61 to 63, III-3-2, III-3-4, III-4-2

Site plan guidelines: I-1-3 to 4, I-1-10, I-1-11 to 12, I-1-13, I-3-5, I-3-13, I-3-21, I-3-26 to 27, I-3-32, I-3-37 to 39, II-2-16, II-2-22 to 23, II-7-58 to 60, III-1-4, IV-3-2 to 3

Skamania: *see* Rural center

Skamania Lodge Center: 4, 6, I-4-9, III-4-2, IV-2-10

Small-scale fishing support and fish processing operations: II-1-13, II-2-12, II-4-9, II-7-50 to 51

Soil productivity: I-3-40 to 41, III-3-6

Special Management Area (overview): 2, 5

Special uses in historic buildings: I-2-8, II-1-11, II-2-11, II-4-7, II-5-7, II-5-9, II-6-3, II-6-7, II-7-54 to 55, II-7-65 to 71

Squally Point Natural Area (open space designation): II-3-7

SR 14 Corridor Strategy: I-1-31, I-1-41, II-7-12, II-7-13, II-7-15, II-7-16, II-7-17, II-7-19, III-3-3

Standards for applications: II-7-3, II-7-58 to 61

State Park Recreation Areas (open space designation): II-3-9

Streams, ponds, lakes, and riparian areas: 5, 13, I-3-11 to 18, I-3-30 to 31, I-3-33 to 36, III-3-7, IV-2-9

Temporary use--hardship dwelling: II-1-8, II-1-26, II-2-9, II-2-20, II-4-6, II-4-12, II-5-6, II-6-12, II-7-46 to 47

Traditional cultural properties: I-2-1 (definition). *See* Cultural resources.

Trails and pathways: I-4-10 to 12

Transportation: 6, I-4-12 to 13, II-7-12, III-3-8

Urban areas: 2 to 3, 4, I-4-1, II-5-1, III-1-1 to 3, IV-1-5 to 6

Uniform application of Management Plan: II-7-10

Uses allowed outright: 12, II-1-7, II-1-17, II-1-22, II-2-6, II-2-17, II-3-5, II-3-11, II-4-5, II-4-10, II-5-5, II-6-2, II-6-6, II-6 10, II-7-11 to 20

Variances from setbacks and buffers: I-4-22 to 23, I-4-25 to 26, II-1-14, II-2-14, II-7-56 to 57

Vegetation Advisory Committee: III-3-2

Vegetation control: II-7-57, III-3-2, III-3-3, III-3-7

Vested rights: II-7-3 to 4

Village (landscape setting): I-1-24 to 26

Visual quality objective (VQO) system: I-1-36, IV-2-11 to 12

Washington Natural Heritage Program: I-3-25, I-3-26, I-3-27, I-3-28, I-3-31, I-3-32, I-3-37, II-1-15, II-1-16, II-1-18, II-1-19, III-3-6, III-3-7, III-3-8

Wetlands: 6, 13, I-3-1 to 2, I-3-3 to 11, I-3-30 to 31, I-3-33 to 36, II-3-1, II-3-4, II-3-10, III-3-7, IV-2-9

Wildlife habitat and species: 5 to 6, 13, I-3-1 to 2, I-3-18 to 25, I-3-31 to 32, I-3-36 to 45, I-3-46 (Table 2), II-3-1, II-3-4 to 5, II-3-10, III-3-6

Comments on the Air Quality (Chapter 4) and Coal Dust (Chapter 6) Sections of the Draft EIS for the Proposed Tongue River Railroad Company, Inc. Rail Construction and Operation in Custer, Powder River and Rosebud Counties, Docket No. FD 30186, Surface Transportation Board (STB), Office of Environmental Analysis (OEA)

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Introduction

The Draft EIS attempts to analyze the potential environmental impacts of the Tongue River Railroad Company's (TRRC) October 2012 revised application to the STB requesting authority to construct and operate a rail line in southeast Montana. In TRRC's December 2012 supplemental application, TRRC identified its preferred route for the proposed Tongue River Railroad as the 42-mile Colstrip Alternative, which would travel between Colstrip, Montana, and the Ashland/Otter Creek areas of Montana. The Draft EIS purportedly analyzes the environmental impacts of the proposed rail line and alternatives, including the No-Action Alternative.

These comments specifically focus only on the Air Quality and Coal Dust impacts of the proposed action and on how these impacts affect the interests of the Northern Cheyenne Tribe (hereafter "Tribe"). As the Draft EIS notes, "[T]he Northern Cheyenne Indian Reservation borders the west side of the Tongue River in the project area near Ashland."[2] In addition, the mines that would be the source of coal for the proposed action would also be located very close to the Tribe's western boundaries.[3]

[1] Resume provided in Attachment A.

[2] See file _Introductory_Material.pdf, p. 28.

[3] See file _Introductory_Material.pdf, p. 36 (S-10, Figure 2).

As detailed below, there are numerous flaws and unsupported assumptions in the STB's analysis of the potential adverse air quality impacts in the project area. As a result, it appears that the STB has seriously understated the potential impacts to air quality on the Northern Cheyenne Reservation, which is a Class 1 airshed.

General Comments

[A] The Draft EIS Improperly Characterizes the Impacts from Air Quality and Coal Dust Due to the Project

In the Abstract, describing the proposed action, the STB states that:

> "TRRC proposes to construct and operate a 42-mile rail line (the Colstrip Alternative) between Colstrip, Montana and the Ashland and Otter Creek areas of Montana. The Board's Office of Environmental Analysis (OEA) and the cooperating agencies have prepared this Draft Environmental Impact Statement (EIS), which analyzes the environmental impacts that could occur if TRRC were to construct and operate the proposed rail line. This Draft EIS analyzes the environmental impacts of ten build alternatives and the No-Action Alternative. Any of the build alternatives could have minor to highly adverse impacts on the following resources: transportation, greenhouse gases and climate change, noise, biological resources, water resources, visual resources, cultural and historical resources, land resources, geology and soils, socioeconomics, and environmental justice. All other resources would experience negligible impacts. OEA has included draft recommended mitigation measures in this Draft EIS. These mitigation measures will be considered by the Board as potential conditions if the Board decides to grant TRRC authority to construct and operate the rail line."[4]

We note that the Abstract quoted above, by not including "Air Quality" or "Coal Dust" among the resources that could have "minor to highly adverse" impacts, indicates that these would have "negligible" impacts. As detailed below, this characterization of both the Air Quality and the Coal Dust impacts due to the project as "negligible" is based on numerous unsupported and optimistic assumptions in the analysis by the STB/OEA.[5] Specifically, the STB has not properly

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[4] *Ibid.*

[5] I recognize that, all of its flaws notwithstanding, the Draft EIS does admit that air quality impacts from its cumulative assessment (i.e., including the project and the identified 18 or so other projects whose impacts would likely coincide in time/space) are not negligible:

> "OEA determined that the cumulative impacts of the proposed rail line and the other projects that OEA identified <u>could affect</u> grade-crossing safety, grade-crossing delay, <u>air quality</u>, greenhouse gases and climate change, biological resources, water resources, visual resources, cultural resources, geology and soils, paleontological resources, land use and recreation, energy resources, and socioeconomics." (emphasis added) See file _Introductory_Material.pdf, p. 24-25 (Q&A-14/15).

assessed air quality impacts to lands and resources (including agriculture, water quality, recreation, etc.) belonging to and affecting the Tribe.[6]

[B] The Entire Air Quality Analysis in the Draft EIS is Inappropriately Censored by Reliance on the Board's "Thresholds"

In the Draft EIS, the STB discusses the impacts from trains that will be transporting coal as a result of this proposed action and states that:

> "OEA used a computer model to predict where the trains from the proposed rail line would travel and to identify rail lines that would experience an increase in rail traffic. The model identified segments of rail where the volume of traffic could increase beyond the Board's thresholds for environmental analysis (an increase of eight trains per day or more for areas in compliance with national air quality standards and an increase of three trains per day or more for areas not in compliance with national air quality standards). OEA analyzed the potential environmental impacts that could occur on these rail segments due to increased rail traffic."[7]

I note that the Draft EIS does not include any discussion or support (that I could find) which justifies the Board's threshold (i.e., an increase of eight trains per day or more for areas in compliance with national ambient air quality standards (NAAQS) and an increase of three trains per day or more for areas not in compliance with NAAQS). It is not clear how these thresholds were established. Specifically, it is not clear which of the several NAAQS were controlling in establishing these thresholds – i.e., the PM2.5 NAAQS, the PM10 NAAQS, the CO NAAQS, the NOx NAAQS, or some other NAAQS. Clearly, assumptions on the emissions of pollutants (from the locomotives) as well as from coal dust, brake wear dust and re-entrained track-side dust would be fundamental to and foundational to establishing these thresholds.

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[6] In fact, the analysis misleads in its likely impacts on the Tribe. For example, in Chapter 4, page 4-8, the Draft EIS states that "[N]one of the build alternatives would pass through Lame Deer or the Northern Cheyenne Reservation." While that may be true as a factual matter, in context, it appears to imply that therefore there should not be air quality impacts on the Tribe. This is highly misleading. Several of the route alignments are located immediately adjacent to the Tribe's boundaries; as such, there are likely to be significant adverse air quality impacts on the Reservation, both during construction and operation of the project.

[7] See file _Introductory_Material.pdf, p. 14 (Q&A-4)

The entire analysis in the Draft EIS is flawed because of reliance on these unsupported "thresholds." As the Draft EIS states:

> "OEA assessed the potential environmental impacts that could occur because of increased rail traffic on rail lines that would experience an increase beyond the Board's thresholds for environmental analysis. This Draft EIS does not consider impacts on rail lines that would not experience a net increase in rail traffic because of construction and operation of the proposed rail line or that <u>would experience an increase less than the Board's thresholds for environmental analysis</u>."[8] (emphasis added).

Thus, since the Draft EIS clearly relies on these "thresholds," and only considers those rail alternative routes/volumes that exceeded these "thresholds," the manner in which these "thresholds" were established, along with all supporting details, including all calculations and assumptions should be provided for public review. As it stands, by not providing this basic detail, the Draft EIS lacks adequate transparency.

[C] The Analysis is Not Transparent Due To Its Reliance on the Integrated Planning Model

Further, on this point, the Draft EIS relies on the Integrated Planning Model (IPM)[9] to determine the various rail route alternatives and volumes[10] (before censoring them as discussed above).

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[8] See file _Introductory_Material.pdf, p. 22 (Q&A-12)

[9] See, for example, file _Introductory_Material.pdf, p. 21 (Q&A-11), as follows:

> "[B]ecause there were so many variables that needed to be considered to determine where the trains would move, OEA used a computer model called the Integrated Planning Model (IPM). The model determines the least overall cost for meeting U.S. electric demand. In determining the least cost solution, IPM identifies where each coal plant obtains the coal that it consumes and how much it will consume. The model determines the amount of coal and thus the number of trains needed to transport the coal. <u>Inputs to the model included coal production and transportation costs, national and international coal distribution patterns, and economic and regulatory uncertainties such as low natural gas prices and carbon dioxide emission regulations that could affect coal markets in the future</u>." (emphasis added)

[10] For example, the Draft EIS notes that:

> "[T]he estimated coal dust emission rates were based on the maximum estimated train traffic for any scenario to provide a conservative estimate (high production scenario, southern alternatives, 26.7 trains per day…" (internal citations omitted). See Appendix G, p. G-11.

Yet, there is no discussion in the Draft EIS regarding this model and whether the myriad assumptions made in its implementation are appropriate or reliable. For example, there is little discussion on any calibration or back-testing that may indicate or shed light on the reliability of the IPM results.

Therefore, all of the general and specific issues discussed below relating to Air Quality and Coal Dust impacts to the Tribe are underpinned by these two basic and unsupported assumptions – namely on the use of the IPM model with no discussion as to its reliability in the current context; and the further censoring of the IPM output routes/volumes using the unsupported Board's "thresholds." The validity of Draft EIS is significantly compromised due to the lack of discussion and transparency on these two issues. The STB should consider reissuing the Draft EIS, correcting these major deficiencies.

The above notwithstanding, we provide the following additional general comments.

[D] The Overall Assessment of Air Quality Impacts is Simplistic

Summarizing the results of its Air Quality analysis (excluding climate change impacts), the Draft EIS states that:

> "OEA modeled the potential effects of the proposed rail line on air quality in the project area. OEA found that construction and operation of the proposed rail line would not cause the concentrations of nitrogen dioxide, carbon monoxide, lead, particulate matter, or sulfur dioxide in the air to exceed the national standards for air quality. The addition of the project-related trains to existing rail traffic could adversely affect air quality along some existing rail lines outside of the project area, but would not cause concentrations of pollutants in the air to exceed national standards."[11]

I note that the air quality impacts on the resources of the Tribe were not specifically addressed in the DEIS – which seems to focus entirely on NAAQS compliance in the "project area" as the only end point of the air quality analysis.

This estimate of 26.7 trains per day, which is noted to be "conservative" and is widely used as such as a basic input in estimating "maximum" impacts is itself simply an output of the IPM, including all of its assumptions and uncertainties.

[11] See file _Introductory_Material.pdf, p. 15-16 (Q&A-5-6)

For reasons that are discussed below, this is a major (and likely fatal) shortcoming of the entire analytical framework of the DEIS – affecting all of the impacts analyses and not just that for Air Quality. By assessing the Air Quality impacts "in the project area" but not specifically on the resources of the Tribe, in effect, the analysis assumes that impacts throughout the "project area" are of equal importance.

This (implicit) assumption is false. Impacts are not the same everywhere in the "project area." That is, the same level of predicted air quality (i.e., concentrations of specific pollutants derived from modeling) even assuming the stated modeling was done correctly from a technical standpoint (which we specifically do not believe or concede) can have different impacts at different locations. We note that the Tribe's lands are designated as a Class I area, deserving of special protection for numerous air quality related values, including visibility, haze, and deposition.

As an example, let's say that the predicted (i.e., modeled) maximum concentration of PM10 adjacent to a certain build alternative is X ug/m3. Let us further assume that X is smaller than the NAAQS for PM10 in this instance. One possible conclusion from this analysis is that the impact is therefore "negligible" (from a NAAQS compliance standpoint). Yet, the predicted concentration of PM10 (and its constituents, say toxic metals) could be deposited into the Tongue River, which is adjacent to certain of the build alternatives. And, as a result, this deposition could adversely affect the ability to fish, swim, or recreate in the river. From this latter standpoint, the predicted PM10 concentration is no longer a "negligible" impact. Thus, context matters. NAAQS is not the only attribute that is appropriate for the air quality assessment. And, specific locations within the "project area" matter. The air quality analysis presented in the Draft EIS does not distinguish or consider such distinctions. As a result, it draws simplistic and incorrect conclusions.

[E] The Coal Dust Impacts Analysis is Not Reliable Since the Input Source Term Quantifying Coal Dust Emissions Is Not Reliable

With regards to coal dust and its effect on human health, the Draft EIS states that:

> "OEA analyzed the risks of airborne coal dust and determined that exposure would be within applicable standards and guidelines. The aggregate concentration of all types of particulate matter, including airborne coal dust, would be below air quality standards for particulate matter. OEA also analyzed how coal dust could affect human health if it were to be ingested by humans or to make its way into soil or water. OEA found that the concentrations of all of the chemical components of coal dust would be below the screening levels for human exposure in soil, dust, water, and fish. OEA concluded that coal dust from rail cars on the proposed rail line would not affect human health."[12]

I disagree with this analysis and conclusion. The entire coal dust analysis is dependent on a correct assessment of the source(s) of the coal dust due to the project – i.e., the coal dust that is not only directly emitted from the rail cars themselves (and which can become airborne and then disperse and deposit not just adjacent to but throughout the project area) but also that which is re-entrained as a result of the passage of trains affecting trackside dust which will accumulate over time. I have significant concerns with how each of these "source" terms has been handled in the analysis. For example, as discussed below, re-entrainment of coal dust is not analyzed at all.[13] Based on my concerns, I do not believe that the analysis is appropriate. Thus, I do not believe that the conclusions of the analysis can or should be relied upon.

The Draft EIS also states as follows, with regards to coal dust and its impacts on surface waters:

> "OEA analyzed the potential effect of coal dust from rail cars on the proposed rail line that could make its way into surface waters. OEA found that coal dust constituents in surface water would be below screening levels for ecological exposure, except for barium. The conservative analysis assumptions overestimate the amount of barium that would actually be found in surface waters such that actual barium concentrations would be lower and below screening levels."[14]

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[12] See file _Introductory_Material.pdf, p. 16 (Q&A-6)

[13] See Chapter 4, p. 4-14.

[14] See file _Introductory_Material.pdf, p. 17 (Q&A-7)

Again, as with the impacts on human health from coal dust, as discussed above – the key driver of the surface water impact analysis is the proper assessment of the "sources" of coal dust. In this regard, I show that the analysis falls short – thereby making any conclusions unreliable.

[F] The Draft EIS Improperly Attempts to Dismiss Predicted Significant Impacts

As a general flaw, at times when the predicted impacts are above corresponding thresholds and thus inconvenient, the Draft EIS minimizes such results of significance by claiming, without support or discussion, that the underlying analysis "overestimates" these impacts and that actual impacts would be lower. I provide two such examples.

First, in discussion the level of barium (present in coal dust) impacts to surface waters, the Draft EIS states:

> "OEA also found that estimated concentrations of coal dust in soil, sediment, and surface water would be below screening levels for ecological exposure, with the exception of barium in surface water. OEA's analysis, however, overestimated the amount of barium that would actually be found in surface waters so that actual barium concentrations resulting from the proposed rail line would be lower and below screening levels."[15]

Second, in relation to the impacts of NO2, which even the STB's analysis in the Draft EIS shows will result in an exceedance of the NAAQS, the Draft EIS states:

> "The modeling results indicate that the 1-hour NO2 standard also would be exceeded for the medium production scenario in 2023 (for the northern and southern alternatives) and the high production scenario in 2037 (for the southern alternatives only). The AERMOD model has been documented in a number of studies to over-predict the highest 1-hour NO2 concentration from 1.7 to 2 times the observed concentration (RTP Environmental Associates 2013, American Petroleum Institute 2012, Golder 2011). Therefore, anticipated maximum 1-hour NO2 concentrations would be expected to be less than the modeled levels. The maximum modeled 1-hour NO2 concentrations would not exceed the NAAQS in any analysis year with a downward adjustment for this model bias."[16] (internal citations omitted)

[15] See file _Introductory_Material.pdf, p. 39 (S-13).

[16] See Chapter 4, p. 4-17 through 4-18.

These are misleading characterizations and should be struck from the Draft EIS. If the STB/OEA believes that its analysis overestimates a predicted impact, it should provide specifics of how and why this overestimate occurred rather than vague and unquantified references to overestimation and bias.

The STB should then correct or not include such overestimate. Or, the STB should provide its analysis of what it believes the "actual" (as opposed to the overpredicted) impact will be. But, in reality, no one – not even the STB – can provide an analysis of the "actual" future impact. That is why analyses rely on predictions. And, predictions can include, with good reason, conservative assumptions. That is not because the goal is to inflate a future impact – it is simply a prudent practice in order to accommodate the many unknowns inherent in a predictive analysis that can result in underestimating impacts.

For example, as the STB notes and as I discuss above, much is unknown and unknowable about how the various rail alternatives were developed in the first place. Models used at every stage of the analysis rely on myriad assumptions – not all of which are "conservative" leading to only high levels of impacts.

In the first example above the analysis in the Draft EIS does not include the quantitative impacts of train derailments and the resultant spillage or vast quantities of coal directly into the Tongue River or into its feeder streams or near its banks and thence to the waters of the river. Should that occur, it is certain that not only barium but most other dust/metal impacts to water (and sediments) would be large, persiatent and therefore significant – directly affecting the Tribe in a most adverse manner. Nor can the STB assure that such derailments will never occur in the future. No one can. For example, well publicized derailments in the Powder River Basin have occurred in the recent pass and there cannot be guaranteed assurances by anyone, much less the STB, that they will not occur in the past.

In the second example above, the Draft EIS notes overestimation by AERMOD but does not discuss underestimation of the emission rates used. For example, actual emissions rates from locomotive and other equipment are affected by deterioration of the underlying equipment. It is not unheard of that equipment sometimes do not meet respective standards. This is especially

true of mobile equipment. Therefore, by using emission rates corresponding to the standard, the analysis assumes 100% compliance with standards, which is not a conservative assumption.[17] Use of higher non-compliant emission rates, such as may occur in practice, will result in higher, not lower impacts.

And, in addition, the analysis for NO2 compares the estimated concentrations to the NAAQS today. NAAQS are subject to change (and have generally been subject to downward revisions). If in the future, the NAAQS becomes lower then the predicted impacts would be even greater on a relative basis.

For all of these reasons, the STB should, at the very least, not mischaracterize the results of its own analysis. The public is entitled to a straightforward, transparent, assessment and interpretation of impacts – not a qualitative, backdoor, misleading, revisionist interpretation of the analysis – when the results are inconvenient.

[G] Conclusion

As detailed above, there are significant basic flaws with the overall analytical framework for the air quality analysis in the Draft EIS. Unless corrected or properly supported, any additional "analyses" which rest on these basic framework assumptions cannot lead to reliable conclusions. Nonetheless, I point out some of the additional issues and technical shortcomings in the Air Quality and Coal Dust analyses as presented in the Draft EIS.

[17] The analysis does not contain any information regarding the level of compliance of the many current locomotive in the BNSF fleet with applicable standards. It is therefore an implicit and unsupported non-conservative assumption that all of the locomotives in the fleet are and will comply with their respective standards at all times.

Specific Comments on Air Quality

In addition to the General Comments above, I provide the following specific comments on the Air Quality analysis presented in the Draft EIS in this section.

[A] Construction Impacts Are Not Temporary And Are Not Demonstrated To Be Negligible

The Draft EIS's own estimates of construction fugitive dust (i.e., PM10, as an example), as shown in Tables 4-11 or 4-12 show that emissions of PM10 will be thousands of tons per year, depending on the alternative considered. For the Decker alternative, using 12 month construction schedule, for example, emissions are 2,583 tons per year.

Yet, the Draft EIS concludes that:

> "In summary, air pollutant emissions during construction would be temporary and at any given time would occur only where construction is occurring or along roads traveled by construction vehicles. Pollutant concentrations during construction are expected to remain within applicable air quality standards…. OEA concludes that construction and operation impacts would be negligible."[18]

I believe that characterizing construction emissions as "temporary" is misleading when, in fact, depending on the build alternative/production scenario, construction could last for 3 to 6 years, the former on a year round basis.[19] While this may be "temporary" only in the sense that it will not last for decades, anything that lasts for multiple years is hardly "temporary." I suggest the Draft EIS remove references to "temporary" in this context due to its erroneous implication.

I also disagree with the STB's statement that "concentrations during construction are expected to remain within applicable air quality standards." Here again, the truth of that statement depends on when and where the NAAQS or MAAQS assessments are conducted. It is clear that ambient air will be affected adversely by construction activities. Even though the most significant impacts will occur within and adjacent to the railroad right-of-way and along roads supporting

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[18] See Chapter 4, p. 4-1. See also Section 4.5.1.1, p. 4-13.

[19] See Appendix E, Table E.1-104.

construction, many of the NAAQS and MAAQS have very short averaging times,[20] such as the hourly MAAQS for NO2, ozone, sulfur dioxide, and hydrogen sulfide; hourly NAAQS for ozone; 3-hour average NAAQS for sulfur dioxide; 8-hour average NAAQS for carbon monoxide and ozone; 8-hour average MAAQS for carbon monoxide; 24-hour average NAAQS for sulfur dioxide, PM10, and PM2.5; and 24-hour average MAAQS for sulfur dioxide and PM10.

The emission calculations presented in the Draft EIS simply do not provide enough details for each of the pollutant emissions on very short-term basis so that the short term NAAQS and MAAQS can be properly assessed. Construction emissions are discussed in Section E.1.5 in Appendix E of the Draft EIS.[21] However, none of the emissions summary Tables E.1-109 through E.1-128 show the maximum hourly construction emissions for any of the alternatives. While Tables E.1-120, E.1-121, and E.1-123 show the estimated daily emissions, that is not sufficient to analyze impacts on a still-smaller time scale.

Thus, based on a lack of emission estimates, coupled with similar lack of modeling for short term impacts, there is no basis to conclude that all construction impacts will be "negligible" even when the assessment is purely limited to that of NAAQS and MAAQS compliance.

In addition, I disagree with the STB's suggestion that the only meaningful impact of construction impacts is comparison with NAAQS and MAAQS. I am particularly concerned with the impacts on the Tribe's lands and the Tongue River (which is a critical resource for the Tribe) due to deposition of emissions from the construction phase on many of the potential alternatives such as portions of the Decker, Tongue River, and even Colstrip alignments. I did not see any specific assessment of such impacts on the Tribe in the Air Quality section.[22]

Finally I note that construction impacts will be occurring along with many other projects as discussed in the cumulative analysis. These will be additive and further exacerbate impacts on

[20] See Chapter 4, Table 4-2, p. 4-7.

[21] I note that many of the Tables in this section reference "Table E.1-177" which does not exist . See, for example, FN1 to Tables E.1-89. E.1-90, E.1-91, E.1-92, E.1-93, and E.1-94.

[22] In fact, a search of the words 'Tribe" or "Cheyenne" for the entire Air Quality section Appendix E, where the details of the analysis are presented, did not result in a single instance of these words. Thus, the Air Quality analysis is deficient since it did not conduct any specific and particular analysis of impacts on the Tribe's resources.

the Tribe's resources. These cumulative impacts during construction have not been properly quantified or assessed.

[B] Construction Impacts Rely on Information Provided By TRRC That Are Unverifiable

Construction air quality impacts for all alternatives other than Colstrip rely on ratios such as those listed in Appendix E, Table E.1-105 (which, in turn appear to be based on earthwork volumes listed in Table E.1-106), which were provided by TRRC. However, no details as to how these earthwork volumes were estimated or calculated and the underlying assumptions that were made in arriving at these ratios are not provided anywhere in the Draft EIS.

Even assuming that the details provided by TRRC relating to the Colstrip alternative are correct[23] – and this too is unveriable as presented in the Draft EIS – the assessment of construction impacts for all of the other alternatives rests on the ratios of these unverifiable earthwork volumes from TRRC.

Thus, using these unverifiable earthwork volumes constitutes an act of faith. The Draft EIS should provide the underlying cut/fill drawings along each alignment and similar documention which presumably provide the basis of the earthwork estimates received from TRRC.

[C] The Air Quality Analysis Improperly Limits the Study Area

Addressing the study area, the Draft EIS states that:

> "Potential impacts on *criteria pollutant* concentrations relative to the National Ambient Air Quality Standards (NAAQS) and Montana Ambient Air Quality Standards (Montana AAQS) would be negligible beyond the immediate vicinity (less than 1 kilometer) of the rail line right-of-way, so detailed air quality modeling for the NAAQS assessment is limited to this smaller portion of the study area."[24]

[23] See, for example, details provided in Appendix E, Tables E.1-89, E.1-103, E.1-92, E.1-108, etc. showing the list of equipment that will be required,equipment sizes, equipment fuel consumption rates, and the expected annual hours of operation of the each type of equipment.

[24] See Chapter 4, p 4-2.

I know of no empirical reasons or any laws of nature that would justify constraining the study area for the entire air quality analysis to just the immediate vicinity – i.e., less than 1 km of the rail line right of way. I note again that the impact of air quality is not just felt in its effect on the NAAQS and MAAQS; additional impacts will occur due to deposition and transport of pollutants away from this immediate area during construction and during actual operation. For example, emissions of PM2.5 will likely travel far from just the vicinity of the rail line. So will emissions from gaseous pollutants such as NOx. Of course, any deposition onto adjacent roads and/or the Tongue River can be further dispersed and transported away from the immediate vicinity via secondary processes. Thus, there is no justification to handicap the entire analysis by severly constraining the study area as noted above. This conceptually unsupported assumption is a fatal flaw.

[D] Fugitive Dust Control Levels Are Unsupported

Appendix E, Table E.1-107 shows uncontrolled and controlled emission factors for fugitive dust for PM10 and PM2.5. In each case, the control efficiency based on 'watering" is assumed to be 50%. However, no basis is provided for this assumption.

Dust control via watering is subject to many variables, not limited to: the quantity of water used; the manner in which the water is applied to the activity causing the dust, including proximity of the watering equipment; the type of atomization used; the size distribution of the water droplets; and the training of the operators.

Thus, a control efficiency of 50% is not automatically guaranteed without much more detail. The Draft EIS does not provide any support for assuming the 50% control efficiency used in its emission estimates. Thus, the estimated emissions, just from this standpoint alone, are unsupported and too high.

[E] The Use of Wind Speeds From The Birney Station May Not Be Conservative

The Draft EIS states that:

> "[T]he average wind speed at Birney (2.3 meters per second, about 5.1 mph) is lower than at Miles City (4.4 meters per second, about 9.9 mph). Use of the lower

> wind speed at Birney results in a more conservative analysis (higher pollutant concentrations) than the higher wind speed at Miles City. Accordingly, OEA used the data from the Birney station for the air quality analysis."[25]

While the use of the lower wind speed may result in a more conservative analysis from a dispersion modeling standpoint, these lower wind speeds, if used for the emissions calculations from various sources of fugitive dust will not result in conservative emissions estimates. Since emissions estimates are critical inputs to the dispersion modeling analysis, in addition to the meteorological data such as wind speeds, the overall impact of using lower wind speeds – both for emission estimates and for dispersion modeling – cannot be discerned. The Draft EIS should fully clarify this issue.

[F] The Analysis Does Not Use Appropriate Coal Particle Size Distributions

The particle size distribution of the coal that will be emitted as dust, and also from spillage and reentrainment of previously deposited dust is an obviously critical parameter in the air quality impacts analysis. Since large particles are expected to deposit closer to the source or activity while smaller particles will travel much farther, it is important to establish the proper size distributions for the coal particles.

Additionally, PRB coal is known to be highly friable,[26] subject to breakage under many factors. Thus, the particle size distribution of PRB coal in the rail cars, which is subject to vibration, settling, abrasion, etc., is an important aspect of the inputs to the analysis.

However, the entire Draft EIS analysis relies on unsupported particle size distribution data not from the PRB but from Australia – with no discussion whatsoever as to why the characteristics of Australian coals are relevant to the current analysis. In Table E.1-42, the PM10 and PM2.5 fractions of coal are assumed to be 45% and 8.6% of TSP, respectively, referencing work from Australia. Although there is additional discussion of this in Appendix E, Section E.2.3.2, that discussion provides even less assurance for this assumption. In fact, the additional discussion in

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[25] See Chapter 4, p. 4-6.

[26] See, for example, http://krtcommodities.com/files/PRB%20COAL%20DEGRADATION.pdf.

Section E.2.3.2 provides no comfort that the assumed size fractions have any resemblance to that from PRB coals:

> "Ideally, the characterization of the particle size distribution for the proposed rail line could be improved by matching the coal characteristics of the coal that TRRC would haul with one of the 11 coals assessed in the Katestone Scientific (2000) study (Table E.2-1). <u>However, the coal characterization information on these 11 coal types is not available</u>."[27] (emphasis added)

As to the larger sized particles, whose dispersion was not modeled, the Draft EIS states:

> "The majority of the coal dust particles are large (greater than 250 microns) and deposit quickly after being lifted from the moving train, and therefore, would be deposited within 5 meters (16 feet) of the rail line and would not contribute to nuisance impacts beyond the right-of-way. OEA estimated that these large coal dust particles would account for about 62 percent of the total mass of coal dust emitted from rail line operation."[28]

The analysis provides no citations or support for any of the assumptions excerpted above – such as the fact that "majority of the coal dust particles are large (greater than 250 microns)," that these particles would be "deposited within 16 feet of the rail line,"[29] or that these particles "account for about 62 percent of the total mass of coal dust." Without supporting documentation for these assumptions, there is no basis to assess the accuracy of the coal dust dispersion analysis in the Draft EIS.

In summary, the particle size distributions assumed in the analysis – both for the larger fractions and for the smaller fractions – are simply unsupported.

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[27] See Appendix E, p. E-133.

[28] See Chapter 4, p. 4-18.

[29] If, as the Draft EIS contends that no particles greater than 250 microns have been ever found more than 16 feet of a rail line in the PRB, it should provide documentary proof of this patently absurd assumption.

Specific Comments on Coal Dust

[A] Coal Dust Emissions Are Significantly Underestimated

OEA has concluded that coal dust from trains on the proposed rail line would not harm human health or the environment.[30] This is not supported by the analysis presented. As presented, the total TSP, PM10, and PM2.5 emissions due to coal dust, even for the high production scenario range from several hundred tons per year (depending on route alternative) for TSP to several tens of tons per year for PM2.5.[31] For the Decker alternative in this high production scenario, which I will use as an example, this table shows TSP emissions of 168.3 tons/year due to wind driven emissions from the tops of the loaded rail cars.

I note that these emission estimates appear to be quite low. For example, in a presentation to members of the STB Board in 2009, BNSF indicated that coal dust emissions from the tops of rail cars are 600 pounds per car over a 400 mile route.[32] Thus, for the Decker alternative (distance 51.1 miles[33]), the per car emissions from the top should be around 76 pounds. Using the Draft EIS assumption of 125 cars per train,[34] the coal dust emissions from the top would be 4.79 tons per train. Per the Draft EIS, in the high production scenario this southern alternative would have 26.7 trains per day.[35] Thus, the daily emissions of coal dust from the loaded car tops should be 26.7 times 4.79 or 127.9 tons per day. Annually, therefore, emissions for Decker/High Production should be 46,687 tons per year. Compare this to the 168.3 tons/year used in the analysis.[36] The value used in the analysis is 277 times smaller.

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[30] See Chapter 6, p. 6-1.

[31] See Chapter 4, Table 4-19.

[32] http://www.scribd.com/doc/129350651/Surface-TransMinutes-9-10-09-1

[33] See _Introductory_Material.pdf, Table 1, p. S-6.

[34] See Appendix E, Table E.1-1.

[35] See Appendix E, Table E.1-5.

[36] Even if I make the assumption that BNSF's statement to the STB Board in 2009 referred to uncontrolled emissions (i.e., before the use of any load shaping and application of topper agents) and using the BNSF-claimed 85% reduction as a result of these mitigations, I arrive at an annual emissions estimate for the Decker/High Production alternative of 46,687*(1-0.85) or 7003 tons/year – which is over 41 times the value used in the analysis.

This analysis indicates that that the calculated estimates for the coal dust projected to be emitted in the Draft EIS are grossly inaccurate. If the estimated emissions are hundreds of times smaller than what BNSF itself has reported, then the rest of the impact analysis is, plainly, wrong.

Moreover, I note that the Draft EIS estimates for coal dust are riddled with several critical assumptions – none of which are supported or even properly discussed in the Draft EIS. For example:

- On page E-43, the emission factor equation for coal dust used in the analysis is shown. It includes, as an important input variable, the train speed in km/hr. While the Draft EIS "anticipates that average operating speeds would range from 29.7 to 39.5 miles per hour, depending on the build alternative and whether the train is loaded or empty…,"[37] the specific assumed speed(s) used in the calculations for each build alternative/line are not stated further in this section or anywhere else the Draft EIS to the best of our knowledge.

- Again, with regards to the the emission factor equation for coal dust noted above, it is attributed to Connell Hatch 2008, Witt et al. 1999, and Ferreira et al. 2003. As far as I could determine, none of these studies involved PRB coal. In fact, as the Draft EIS explicitly states, "[M]uch of the basis for the coal dust emissions is based on research conducted in Australia by government agencies, academics, and the Australian Rail Track Corporation over the past 10 years."[38] It is therefore unclear why this equation, based on Australian coals, without any further adjustments, is relevant or representative of coal dust emissions from trains and rail cars carrying PRB coal. This is a critical assumption, used without any discussion at all in the analysis.

I understand that BNSF has claimed to be studying coal dust emissions (albeit for ballast related issues and not environmental impacts, per se) for the last decade.[39] Therefore, it is not clear why

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[37] Draft EIS, Chapter 2, Section 2.3.

[38] See Appendix E, p. E-130. See also, discussion in Section E.2.3.1, beginning on p. E-132.

[39] On its website, BNSF states that

> "[S]ince 2005, BNSF has been at the forefront of extensive research regarding the impacts of coal dust escaping from loaded coal cars on rail lines in the Powder River Basin (PRB), which is located in Wyoming and Montana. From these studies, BNSF has determined that coal dust poses a serious threat to the stability of the track structure and the operational integrity of our lines in,

actual data on PRB coals (including properties, dust emissions, etc.) from these BNSF studies themselves were not used in the analysis to estimate the source term in the coal dust analysis. The analysis does not critique the prior BNSF work in order to justify its rejection and use of the Australian-coal based data.

While ignoring any PRB-related data developed by BNSF as a starting point, the analysis freely uses the BNSF-based control efficiency of 85% (a combination of 50% due to coal shaping in the rail car and an additional 70% due to the use of BNSF-approved topper agents) to reduce its estimate of predicted emissions. See Table E.1-42. However, the public record does not contain any details or underlying data as basis for any of these control efficiency assumptions. Other than a brief public summary by BNSF simply reporting the results but none of the underlying data, these critical control efficiency assumptions are not documented anywhere in the Draft EIS.

[B] Coal Dust Emissions Calculations Do Not Include Reentrainment Emissions

In addition to the significant underestimation noted above, the emissions calculations (and later modeling) for coal dust do not seem to account for re-entrainment of coal dust previously deposited trackside or in adjacent right-of-ways.[40] Smaller sized particles including PM10 and fine particulate matter including PM2.5 are readily resuspended when a train passes; thus these emissions should have been included in the emissions calculations. As a result of their omission, the estimated emissions (which are also then used in the modeling analysis) are underestimated. This should be corrected.

[C] Impacts Analyses Contain No Uncertainty Analyses

In Appendix G, neither the human impacts analysis nor the ecological impacts analysis contains a discussion of the uncertainties inherent in these analyses. It is customary to include a discussion of such uncertainties in any health or ecological risk assessment. Given the numerous

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> and close to, the mines in the PRB. The STB, our regulating agency, has confirmed that coal dust is a harmful contaminant of rail ballast. Tests have shown that dusting events from untreated cars occur with the most frequency close to the mine loading points in the PRB and materially decrease as the railcars move further from the PRB."

See http://www.bnsf.com/customers/what-can-i-ship/coal/coal-dust.html.

[40] See Appendix E, Section E.2.1, p. E-131.

assumptions and unknowns associated with human and ecological risk assessments in general, results of such assessments are accompanies by a discussion of uncertainties in order to provide appropriate context to the reader. Without the discussion on uncertainties, readers can often misinterpret the results (i.e., the predicted risks) of such assessments. The Draft EIS should therefore include such uncertainty analyses.

[D] Estimation of Trace Element Concentrations in Coal Dust Are Improper

In Appendix G, Section G.2.1, the Draft EIS states that:

> "OEA included in the exposure assessment each of the trace elements that had measured values in the composite data. To obtain a single concentration value for each trace element, OEA averaged the concentrations of each chemical in each workbook. Then, if the element was reported in both workbooks, OEA averaged the two averages into an overall average concentration (Table G-1)."

The Draft EIS should disclose why the STB used averaging (or even double averaging, as discussed above) instead of the more customary use of maximum values, particularly given the "screening" nature of the overall assessment and the fact that the underlying coal properties database is not discussed other than the results were from 2004.[41] The Appendix does not discuss where the samples originated from (i.e., from just the Otter Creek Mine area, the other mines that could also be developed as a result of this project, or elsewhere); how the samples were obtained; or how representative the samples were in relation to the coal seams at the likely mines.

In view of these many questions, it is improper to simply use averages as the starting point of the analysis. Gven the fundamental flaw in this basic input, none of the subsequent "results" of the analysis, both for human as well as ecological impacts, are reliable.

[E] Composition of Most of the Topper Agents is Unknown

It is clear from the discussion of the topper agents in Appendix G that much is unknown as far as the composition of almost all of the "approved" agents. For example, the Draft EIS states:

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[41] See Appendix G, p. G-2.

> "The MSDS include wide ranges for the concentrations of some the constituents (e.g., 5 to 50 percent). In other cases, the MSDS identify some constituents as "proprietary" and provide no further information."[42]
>
> "Given that the actual chain length is not specified, the environmental fate of this topper agent is uncertain."[43]
>
> "The purpose of Soil-Sement® is to bind to soils, making it likely that the copolymer of acrylic and polyvinyl acetate will preferentially bind to soils, although given the limited information available on the composition of the product and mobility characteristics of the constituents, this is uncertain."[44]
>
> "The MSDS for AKJ CTS-100 does not provide information on ecotoxicity or chronic impacts…..The MSDS does not describe the environmental mobility of the product in air, water, and soil/sediment, but the MSDS notes that accidentally released product should not be flushed into sewers."[45]
>
> "The MSDS does not describe the environmental mobility of AKJ CTS-100C in air, water, and soil/sediment, nor does it provide information on ecotoxicity."[46]
>
> "No additional information is provided in the MSDS on the chemical components in Min Topper S+0150."[47]

Given this level of lack of knowledge of these topper agents, it is not clear why the present "analysis" is, in fact, useful at all. Unless the STB can obtain meaningful data on the constituents in these agents, it has no basis to present is findings as some sort of impact analysis. Coupled with the lack of any uncertainty analyses as noted earlier, the entire analysis is misleading and unreliable.

[F] Additional Assumptions Relating to Topper Agent Emissions are Unsupported

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[42] See Appendix G, p. G-4.

[43] See Appendix G, p. G-6. Pertaining to Nalco Dustbind Plus.

[44] See Appendix G, p. G-7. Pertaining to Midwest Soil-Sement.

[45] See Appendix G, p. G-7. Pertaining to AKJ CTS-100. In addition, this topper agent contains an unknown proprietary addition (See Table G-2).

[46] See Appendix G, p. G-8. Pertaining to AKJ CTS-100C. In addition, this topper agent contains an unknown proprietary addition (See Table G-2).

[47] See Appendix G, p. G-9. Pertaining to Mintech Min Topper S+0150. In fact, nothing useful is known about this topper agent (See Table G-2).

Continuing further, the Draft EIS states that:

> "Assuming a railcar is 480 square feet in surface area or 4,603 cubic feet in volume (BNSF Railway Company 2013) and assuming that the topper agent penetrates the top 4 inches of the coal in the railcar, the topper agent would penetrate 160 cubic feet of coal, corresponding to approximately 3.5 percent of the coal in the railcar."[48]

This statement raises numerous questions that are not addressed in the Draft EIS, including the following:

> What is the basis of the surface area of each railcar as noted above?
>
> Are all railcars assumed to have the same surface area?
>
> What is the basis of the volume of each railcar as noted above?
>
> Are all railcars assumed to have the same volume?
>
> What is the basis for assuming that any of the topper agents "penetrates the top 4 inches of the coal" as assumed above?
>
> What is the basis for assuming that any of the topper agents fully covers the <u>entire</u> exposed surface area of <u>each</u> railcar in an unit train?

Without addressing these questions with further detailed discussion of how these agents are actually applied in practice, the various assumptions above are unsupported.

[G] Coal Deposition Modeling is Fatally Compromised

With regards to coal dust deposition modeling, the Draft EIS states that:

> "OEA modeled wet, dry, and total coal dust deposition rates based on estimated rail car coal dust emissions, adjusted for the use of load profiling and topper agents for coal dust emission reduction. OEA estimated deposition rates at 10-meter intervals from the center of the rail line to a distance of 300 meters on each

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[48] See Appendix G, p. G-9.

> side of the rail line, or 60 locations (receptors). OEA evaluated particle size categories of less than 60 microns in diameter, 60 to 250 microns in diameter, and the sum of the two (i.e., all particles up to 250 microns in diameter)."[49]

It is not at all clear why the Draft EIS included as its smallest size fraction, particle size of "less than 60 microns in diameter." It is obvious that the particle sizes of concern include much smaller sizes such as PM10 and PM2.5 (for which there are NAAQS) and which are capable for being inhaled, resulting in adverse health outcomes. It is also clear that these much smaller size particles could travel much father than the assumed 300 meters distance on each side of the rail line. Unless the STB can demonstrate that none of the (very friable PRB coal dust) particles are or can be less than 10 microns or 2.5 microns, simply assuming that even the smallest particles will not travel beyond 300 meters is an unsupported assumption. Thus, I believe that the results of these deposition modeling are unreliable and should be set aside.

[49] See Appendix G, p. G-11.

Conclusions

As discussed in detail in these comments, the Draft EIS contains significant deficiencies in both the air quality and the coal dust emissions analyses.

A major and unexplained flaw that affects both sections is the apparent significant underestimation of coal dust emissions from railcars. The coal dust emissions estimates provided in the Draft EIS – relying on Australian work with no discussion as to relevance to the PRB coals that will be transported – do not approach the levels of emissions publicly stated by BNSF, the operator of the proposed project in statements to the STB. Also, the coal dust emissions estimates omit assessment of re-entrainment emissions of dust previously deposited. Since the coal dust emissions estimates are foundational inputs that feed into the air quality analyses, the results of all the air quality analyses that rely on these vastly underestimated coal dust emissions are also therefore underestimated and cannot be relied upon.

As discussed above, the air quality analysis is significantly compromised in other aspects as well, including the following: it suffers from a lack of transparency with no support for numerous assumptions including the use of the IPM Model; it improperly relies on improper and unsupported Board thresholds to censor the analysis at the outset; it does not distinguish between the Tribe's Class I area and its need for special protections versus other impacted areas; and it improperly relies on the NAAQS and MAAQS as the only appropriate comparison standards.

Based on this review, I conclude that the coal dust and air quality emissions assessments in the Tongue River Railroad Draft EIS are deeply flawed and fail to provide a reliable evaluation of the potential environmental and human health impacts from emissions of coal dust and other air pollutants.

ATTACHMENT A - RESUME

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CONSULTANT, ENVIRONMENTAL AND ENERGY ISSUES

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EXPERIENCE SUMMARY

Dr. Sahu has over twenty three years of experience in the fields of environmental, mechanical, and chemical engineering including: program and project management services; design and specification of pollution control equipment for a wide range of emissions sources; soils and groundwater remediation including landfills as remedy; combustion engineering evaluations; energy studies; multimedia environmental regulatory compliance (involving statutes and regulations such as the Federal CAA and its Amendments, Clean Water Act, TSCA, RCRA, CERCLA, SARA, OSHA, NEPA as well as various related state statutes); transportation air quality impact analysis; multimedia compliance audits; multimedia permitting (including air quality NSR/PSD permitting, Title V permitting, NPDES permitting for industrial and storm water discharges, RCRA permitting, etc.), multimedia/multi-pathway human health risk assessments for toxics; air dispersion modeling; and regulatory strategy development and support including negotiation of consent agreements and orders.

He has over twenty one years of project management experience and has successfully managed and executed numerous projects in this time period. This includes basic and applied research projects, design projects, regulatory compliance projects, permitting projects, energy studies, risk assessment projects, and projects involving the communication of environmental data and information to the public.

He has provided consulting services to numerous private sector, public sector and public interest group clients. His major clients over the past twenty three years include various steel mills, petroleum refineries, cement companies, aerospace companies, power generation facilities, lawn and garden equipment manufacturers, spa manufacturers, chemical distribution facilities, and various entities in the public sector including EPA, the US Dept. of Justice, California DTSC, various municipalities, etc.). Dr. Sahu has performed projects in over 44 states, numerous local jurisdictions and internationally.

In addition to consulting, Dr. Sahu has taught numerous courses in several Southern California universities including UCLA (air pollution), UC Riverside (air pollution, process hazard analysis), and Loyola Marymount University (air pollution, risk assessment, hazardous waste management) for the past seventeen years. In this time period he has also taught at Caltech, his alma mater (various engineering courses), at the University of Southern California (air pollution controls) and at California State University, Fullerton (transportation and air quality).

Dr. Sahu has and continues to provide expert witness services in a number of environmental areas discussed above in both state and Federal courts as well as before administrative bodies (please see Annex A).

EXPERIENCE RECORD

2000-present **Independent Consultant.** Providing a variety of private sector (industrial companies, land development companies, law firms, etc.) public sector (such as the US Department of Justice) and

public interest group clients with project management, air quality consulting, waste remediation and management consulting, as well as regulatory and engineering support consulting services.

1995-2000 Parsons ES, **Associate, Senior Project Manager and Department Manager for** Air Quality/Geosciences/Hazardous Waste Groups, Pasadena. Responsible for the management of a group of approximately 24 air quality and environmental professionals, 15 geoscience, and 10 hazardous waste professionals providing full-service consulting, project management, regulatory compliance and A/E design assistance in all areas.

Parsons ES, **Manager for Air Source Testing Services**. Responsible for the management of 8 individuals in the area of air source testing and air regulatory permitting projects located in Bakersfield, California.

1992-1995 Engineering-Science, Inc. **Principal Engineer and Senior Project Manager** in the air quality department. Responsibilities included multimedia regulatory compliance and permitting (including hazardous and nuclear materials), air pollution engineering (emissions from stationary and mobile sources, control of criteria and air toxics, dispersion modeling, risk assessment, visibility analysis, odor analysis), supervisory functions and project management.

1990-1992 Engineering-Science, Inc. **Principal Engineer and Project Manager** in the air quality department. Responsibilities included permitting, tracking regulatory issues, technical analysis, and supervisory functions on numerous air, water, and hazardous waste projects. Responsibilities also include client and agency interfacing, project cost and schedule control, and reporting to internal and external upper management regarding project status.

1989-1990 Kinetics Technology International, Corp. **Development Engineer.** Involved in thermal engineering R&D and project work related to low-NOx ceramic radiant burners, fired heater NOx reduction, SCR design, and fired heater retrofitting.

1988-1989 Heat Transfer Research, Inc. **Research Engineer**. Involved in the design of fired heaters, heat exchangers, air coolers, and other non-fired equipment. Also did research in the area of heat exchanger tube vibrations.

EDUCATION

1984-1988 Ph.D., Mechanical Engineering, California Institute of Technology (Caltech), Pasadena, CA.

1984 M. S., Mechanical Engineering, Caltech, Pasadena, CA.

1978-1983 B. Tech (Honors), Mechanical Engineering, Indian Institute of Technology (IIT) Kharagpur, India

TEACHING EXPERIENCE

Caltech

"Thermodynamics," Teaching Assistant, California Institute of Technology, 1983, 1987.

"Air Pollution Control," Teaching Assistant, California Institute of Technology, 1985.

"Caltech Secondary and High School Saturday Program," - taught various mathematics (algebra through calculus) and science (physics and chemistry) courses to high school students, 1983-1989.

"Heat Transfer," - taught this course in the Fall and Winter terms of 1994-1995 in the Division of Engineering and Applied Science.

“Thermodynamics and Heat Transfer,” Fall and Winter Terms of 1996-1997.

U.C. Riverside, Extension

"Toxic and Hazardous Air Contaminants," University of California Extension Program, Riverside, California. Various years since 1992.

"Prevention and Management of Accidental Air Emissions," University of California Extension Program, Riverside, California. Various years since 1992.

"Air Pollution Control Systems and Strategies," University of California Extension Program, Riverside, California, Summer 1992-93, Summer 1993-1994.

"Air Pollution Calculations," University of California Extension Program, Riverside, California, Fall 1993-94, Winter 1993-94, Fall 1994-95.

"Process Safety Management," University of California Extension Program, Riverside, California. Various years since 1992-2010.

"Process Safety Management," University of California Extension Program, Riverside, California, at SCAQMD, Spring 1993-94.

"Advanced Hazard Analysis - A Special Course for LEPCs," University of California Extension Program, Riverside, California, taught at San Diego, California, Spring 1993-1994.

"Advanced Hazardous Waste Management" University of California Extension Program, Riverside, California. 2005.

Loyola Marymount University

"Fundamentals of Air Pollution - Regulations, Controls and Engineering," Loyola Marymount University, Dept. of Civil Engineering. Various years since 1993.

"Air Pollution Control," Loyola Marymount University, Dept. of Civil Engineering, Fall 1994.

"Environmental Risk Assessment," Loyola Marymount University, Dept. of Civil Engineering. Various years since 1998.

"Hazardous Waste Remediation" Loyola Marymount University, Dept. of Civil Engineering. Various years since 2006.

University of Southern California

"Air Pollution Controls," University of Southern California, Dept. of Civil Engineering, Fall 1993, Fall 1994.

"Air Pollution Fundamentals," University of Southern California, Dept. of Civil Engineering, Winter 1994.

University of California, Los Angeles

"Air Pollution Fundamentals," University of California, Los Angeles, Dept. of Civil and Environmental Engineering, Spring 1994, Spring 1999, Spring 2000, Spring 2003, Spring 2006, Spring 2007, Spring 2008, Spring 2009.

International Programs

"Environmental Planning and Management," 5 week program for visiting Chinese delegation, 1994.

"Environmental Planning and Management," 1 day program for visiting Russian delegation, 1995.

"Air Pollution Planning and Management," IEP, UCR, Spring 1996.

"Environmental Issues and Air Pollution," IEP, UCR, October 1996.

PROFESSIONAL AFFILIATIONS AND HONORS

President of India Gold Medal, IIT Kharagpur, India, 1983.

Member of the Alternatives Assessment Committee of the Grand Canyon Visibility Transport Commission, established by the Clean Air Act Amendments of 1990, 1992-present.

American Society of Mechanical Engineers: Los Angeles Section Executive Committee, Heat Transfer Division, and Fuels and Combustion Technology Division, 1987-present.

Air and Waste Management Association, West Coast Section, 1989-present.

PROFESSIONAL CERTIFICATIONS

EIT, California (# XE088305), 1993.

REA I, California (#07438), 2000.

Certified Permitting Professional, South Coast AQMD (#C8320), since 1993.

QEP, Institute of Professional Environmental Practice, since 2000.

CEM, State of Nevada (#EM-1699). Expiration 10/07/2011.

PUBLICATIONS (PARTIAL LIST)

"Physical Properties and Oxidation Rates of Chars from Bituminous Coals," with Y.A. Levendis, R.C. Flagan and G.R. Gavalas, *Fuel*, **67**, 275-283 (1988).

"Char Combustion: Measurement and Analysis of Particle Temperature Histories," with R.C. Flagan, G.R. Gavalas and P.S. Northrop, *Comb. Sci. Tech.* **60**, 215-230 (1988).

"On the Combustion of Bituminous Coal Chars," PhD Thesis, California Institute of Technology (1988).

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"A Model for Single Particle Combustion of Bituminous Coal Char." Proc. ASME National Heat Transfer Conference, Philadelphia, **HTD-Vol. 106**, 505-513 (1989).

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"Cross Linking in Pore Structures and Its Effect on Reactivity," with G.R. Gavalas in preparation.

"Natural Frequencies and Mode Shapes of Straight Tubes," Proprietary Report for Heat Transfer Research Institute, Alhambra, CA (1990).

"Optimal Tube Layouts for Kamui SL-Series Exchangers," with K. Ishihara, Proprietary Report for Kamui Company Limited, Tokyo, Japan (1990).

"HTRI Process Heater Conceptual Design," Proprietary Report for Heat Transfer Research Institute, Alhambra, CA (1990).

"Asymptotic Theory of Transonic Wind Tunnel Wall Interference," with N.D. Malmuth and others, Arnold Engineering Development Center, Air Force Systems Command, USAF (1990).

"Gas Radiation in a Fired Heater Convection Section," Proprietary Report for Heat Transfer Research Institute, College Station, TX (1990).

"Heat Transfer and Pressure Drop in NTIW Heat Exchangers," Proprietary Report for Heat Transfer Research Institute, College Station, TX (1991).

"NOx Control and Thermal Design," Thermal Engineering Tech Briefs, (1994).

“From Puchase of Landmark Environmental Insurance to Remediation: Case Study in Henderson, Nevada,” with Robin E. Bain and Jill Quillin, presented at the AQMA Annual Meeting, Florida, 2001.

"The Jones Act Contribution to Global Warming, Acid Rain and Toxic Air Contaminants," with Charles W. Botsford, presented at the AQMA Annual Meeting, Florida, 2001.

PRESENTATIONS (PARTIAL LIST)

"Pore Structure and Combustion Kinetics - Interpretation of Single Particle Temperature-Time Histories," with P.S. Northrop, R.C. Flagan and G.R. Gavalas, presented at the AIChE Annual Meeting, New York (1987).

"Measurement of Temperature-Time Histories of Burning Single Coal Char Particles," with R.C. Flagan, presented at the American Flame Research Committee Fall International Symposium, Pittsburgh, (1988).

"Physical Characterization of a Cenospheric Coal Char Burned at High Temperatures," with R.C. Flagan and G.R. Gavalas, presented at the Fall Meeting of the Western States Section of the Combustion Institute, Laguna Beach, California (1988).

"Control of Nitrogen Oxide Emissions in Gas Fired Heaters - The Retrofit Experience," with G. P. Croce and R. Patel, presented at the International Conference on Environmental Control of Combustion Processes (Jointly sponsored by the American Flame Research Committee and the Japan Flame Research Committee), Honolulu, Hawaii (1991).

"Air Toxics - Past, Present and the Future," presented at the Joint AIChE/AAEE Breakfast Meeting at the AIChE 1991 Annual Meeting, Los Angeles, California, November 17-22 (1991).

"Air Toxics Emissions and Risk Impacts from Automobiles Using Reformulated Gasolines," presented at the Third Annual Current Issues in Air Toxics Conference, Sacramento, California, November 9-10 (1992).

"Air Toxics from Mobile Sources," presented at the Environmental Health Sciences (ESE) Seminar Series, UCLA, Los Angeles, California, November 12, (1992).

"Kilns, Ovens, and Dryers - Present and Future," presented at the Gas Company Air Quality Permit Assistance Seminar, Industry Hills Sheraton, California, November 20, (1992).

"The Design and Implementation of Vehicle Scrapping Programs," presented at the 86th Annual Meeting of the Air and Waste Management Association, Denver, Colorado, June 12, 1993.

"Air Quality Planning and Control in Beijing, China," presented at the 87th Annual Meeting of the Air and Waste Management Association, Cincinnati, Ohio, June 19-24, 1994.

Annex A

Expert Litigation Support

1. Occasions where Dr. Sahu has provided Written or Oral testimony before Congress:

(a) In July 2012, provided expert written and oral testimony to the House Subcommittee on Energy and the Environment, Committee on Science, Space, and Technology at a Hearing entitled "Hitting the Ethanol Blend Wall – Examining the Science on E15."

2. Matters for which Dr. Sahu has have provided affidavits and expert reports include:

(b) Affidavit for Rocky Mountain Steel Mills, Inc. located in Pueblo Colorado – dealing with the technical uncertainties associated with night-time opacity measurements in general and at this steel mini-mill.

(c) Expert reports and depositions (2/28/2002 and 3/1/2002; 12/2/2003 and 12/3/2003; 5/24/2004) on behalf of the United States in connection with the Ohio Edison NSR Cases. *United States, et al. v. Ohio Edison Co., et al.*, C2-99-1181 (Southern District of Ohio).

(d) Expert reports and depositions (5/23/2002 and 5/24/2002) on behalf of the United States in connection with the Illinois Power NSR Case. *United States v. Illinois Power Co., et al.*, 99-833-MJR (Southern District of Illinois).

(e) Expert reports and depositions (11/25/2002 and 11/26/2002) on behalf of the United States in connection with the Duke Power NSR Case. *United States, et al. v. Duke Energy Corp.*, 1:00-CV-1262 (Middle District of North Carolina).

(f) Expert reports and depositions (10/6/2004 and 10/7/2004; 7/10/2006) on behalf of the United States in connection with the American Electric Power NSR Cases. *United States, et al. v. American Electric Power Service Corp., et al.*, C2-99-1182, C2-99-1250 (Southern District of Ohio).

(g) Affidavit (March 2005) on behalf of the Minnesota Center for Environmental Advocacy and others in the matter of the Application of Heron Lake BioEnergy LLC to construct and operate an ethanol production facility – submitted to the Minnesota Pollution Control Agency.

(h) Expert Report and Deposition (10/31/2005 and 11/1/2005) on behalf of the United States in connection with the East Kentucky Power Cooperative NSR Case. *United States v. East Kentucky Power Cooperative, Inc*., 5:04-cv-00034-KSF (Eastern District of Kentucky).

(i) Affidavits and deposition on behalf of Basic Management Inc. (BMI) Companies in connection with the BMI vs. USA remediation cost recovery Case.

(j) Expert Report on behalf of Penn Future and others in the Cambria Coke plant permit challenge in Pennsylvania.

(k) Expert Report on behalf of the Appalachian Center for the Economy and the Environment and others in the Western Greenbrier permit challenge in West Virginia.

(l) Expert Report, deposition (via telephone on January 26, 2007) on behalf of various Montana petitioners (Citizens Awareness Network (CAN), Women's Voices for the Earth (WVE) and the Clark Fork Coalition (CFC)) in the Thompson River Cogeneration LLC Permit No. 3175-04 challenge.

(m) Expert Report and deposition (2/2/07) on behalf of the Texas Clean Air Cities Coalition at the Texas State Office of Administrative Hearings (SOAH) in the matter of the permit challenges to TXU Project Apollo's eight new proposed PRB-fired PC boilers located at seven TX sites.

(n) Expert Testimony (July 2007) on behalf of the Izaak Walton League of America and others in connection with the acquisition of power by Xcel Energy from the proposed Gascoyne Power Plant – at the State of Minnesota, Office of Administrative Hearings for the Minnesota PUC (MPUC No. E002/CN-06-1518; OAH No. 12-2500-17857-2).

(o) Affidavit (July 2007) Comments on the Big Cajun I Draft Permit on behalf of the Sierra Club – submitted to the Louisiana DEQ.

(p) Expert Report and Deposition (12/13/2007) on behalf of Commonwealth of Pennsylvania – Dept. of Environmental Protection, State of Connecticut, State of New York, and State of New Jersey (Plaintiffs) in connection with the Allegheny Energy NSR Case. *Plaintiffs v. Allegheny Energy Inc., et al.*, 2:05cv0885 (Western District of Pennsylvania).

(q) Expert Reports and Pre-filed Testimony before the Utah Air Quality Board on behalf of Sierra Club in the Sevier Power Plant permit challenge.

(r) Expert Report and Deposition (October 2007) on behalf of MTD Products Inc., in connection with General Power Products, LLC v MTD Products Inc., 1:06 CVA 0143 (Southern District of Ohio, Western Division)

(s) Experts Report and Deposition (June 2008) on behalf of Sierra Club and others in the matter of permit challenges (Title V: 28.0801-29 and PSD: 28.0803-PSD) for the Big Stone II unit, proposed to be located near Milbank, South Dakota.

(t) Expert Reports, Affidavit, and Deposition (August 15, 2008) on behalf of Earthjustice in the matter of air permit challenge (CT-4631) for the Basin Electric Dry Fork station, under construction near Gillette, Wyoming before the Environmental Quality Council of the State of Wyoming.

(u) Affidavits (May 2010/June 2010 in the Office of Administrative Hearings))/Declaration and Expert Report (November 2009 in the Office of Administrative Hearings) on behalf of NRDC and the Southern Environmental Law Center in the matter of the air permit challenge for Duke Cliffside Unit 6. Office of Administrative Hearing Matters 08 EHR 0771, 0835 and 0836 and 09 HER 3102, 3174, and 3176 (consolidated).

(v) Declaration (August 2008), Expert Report (January 2009), and Declaration (May 2009) on behalf of Southern Alliance for Clean Energy et al., v Duke Energy Carolinas, LLC. in the matter of the air permit challenge for Duke Cliffside Unit 6. *Southern Alliance for Clean Energy et al., v. Duke Energy Carolinas, LLC*, Case No. 1:08-cv-00318-LHT-DLH (Western District of North Carolina, Asheville Division).

(w) Declaration (August 2008) on behalf of the Sierra Club in the matter of Dominion Wise County plant MACT.

(x) Expert Report (June 2008) on behalf of Sierra Club for the Green Energy Resource Recovery Project, MACT Analysis.

(y) Expert Report (February 2009) on behalf of Sierra Club and the Environmental Integrity Project in the matter of the air permit challenge for NRG Limestone's proposed Unit 3 in Texas.

(z) Expert Report (June 2009) on behalf of MTD Products, Inc., in the matter of *Alice Holmes and Vernon Holmes v. Home Depot USA, Inc., et al.*

(aa) Expert Report (August 2009) on behalf of Sierra Club and the Southern Environmental Law Center in the matter of the air permit challenge for Santee Cooper's proposed Pee Dee plant in South Carolina).

(bb) Statements (May 2008 and September 2009) on behalf of the Minnesota Center for Environmental Advocacy to the Minnesota Pollution Control Agency in the matter of the Minnesota Haze State Implementation Plans.

(cc) Expert Report (August 2009) on behalf of Environmental Defense, in the matter of permit challenges to the proposed Las Brisas coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(dd) Expert Report and Rebuttal Report (September 2009) on behalf of the Sierra Club, in the matter of challenges to the proposed Medicine Bow Fuel and Power IGL plant in Cheyenne, Wyoming.

(ee) Expert Report (December 2009) and Rebuttal reports (May 2010 and June 2010) on behalf of the United States in connection with the Alabama Power Company NSR Case. *United States v. Alabama Power Company*, CV-01-HS-152-S (Northern District of Alabama, Southern Division).

(ff) Pre-filed Testimony (October 2009) on behalf of Environmental Defense and others, in the matter of challenges to the proposed White Stallion Energy Center coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(gg) Pre-filed Testimony (July 2010) and Written Rebuttal Testimony (August 2010) on behalf of the State of New Mexico Environment Department in the matter of Proposed Regulation 20.2.350 NMAC – *Greenhouse Gas Cap and Trade Provisions,* No. EIB 10-04 (R), to the State of New Mexico, Environmental Improvement Board.

(hh) Expert Report (August 2010) and Rebuttal Expert Report (October 2010) on behalf of the United States in connection with the Louisiana Generating NSR Case. *United States v. Louisiana Generating, LLC*, 09-CV100-RET-CN (Middle District of Louisiana) – Liability Phase.

(ii) Declaration (August 2010), Reply Declaration (November 2010), Expert Report (April 2011), Supplemental and Rebuttal Expert Report (July 2011) on behalf of the United States in the matter of DTE Energy Company and Detroit Edison Company (Monroe Unit 2). *United States of America v. DTE Energy Company and Detroit Edison Company*, Civil Action No. 2:10-cv-13101-BAF-RSW (US District Court for the Eastern District of Michigan).

(jj) Expert Report and Deposition (August 2010) as well as Affidavit (September 2010) on behalf of Kentucky Waterways Alliance, Sierra Club, and Valley Watch in the matter of challenges to the NPDES permit issued for the Trimble County power plant by the Kentucky Energy and Environment Cabinet to Louisville Gas and Electric, File No. DOW-41106-047.

(kk) Expert Report (August 2010), Rebuttal Expert Report (September 2010), Supplemental Expert Report (September 2011), and Declaration (November 2011) on behalf of Wild Earth Guardians in the matter of opacity exceedances and monitor downtime at the Public Service Company of Colorado (Xcel)'s Cherokee power plant. No. 09-cv-1862 (D. Colo.).

(ll) Written Direct Expert Testimony (August 2010) and Affidavit (February 2012) on behalf of Fall-Line Alliance for a Clean Environment and others in the matter of the PSD Air Permit for Plant Washington issued by Georgia DNR at the Office of State Administrative Hearing, State of Georgia (OSAH-BNR-AQ-1031707-98-WALKER).

(mm) Deposition (August 2010) on behalf of Environmental Defense, in the matter of the remanded permit challenge to the proposed Las Brisas coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(nn) Expert Report, Supplemental/Rebuttal Expert Report, and Declarations (October 2010, November 2010, September 2012) on behalf of New Mexico Environment Department (Plaintiff-Intervenor), Grand Canyon Trust and Sierra Club (Plaintiffs) in the matter of Plaintiffs v. Public Service Company of New Mexico (PNM), Civil No. 1:02-CV-0552 BB/ATC (ACE). (US District Court for the District of New Mexico).

(oo) Expert Report (October 2010) and Rebuttal Expert Report (November 2010) (BART Determinations for PSCo Hayden and CSU Martin Drake units) to the Colorado Air Quality Commission on behalf of Coalition of Environmental Organizations.

(pp) Expert Report (November 2010) (BART Determinations for TriState Craig Units, CSU Nixon Unit, and PRPA Rawhide Unit) to the Colorado Air Quality Commission on behalf of Coalition of Environmental Organizations.

(qq) Declaration (November 2010) on behalf of the Sierra Club in connection with the Martin Lake Station Units 1, 2, and 3. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC*, Case No. 5:10-cv-00156-DF-CMC (US District Court for the Eastern District of Texas, Texarkana Division).

(rr) Pre-Filed Testimony (January 2011) and Declaration (February 2011) to the Georgia Office of State Administrative Hearings (OSAH) in the matter of Minor Source HAPs status for the proposed Longleaf Energy Associates power plant (OSAH-BNR-AQ-1115157-60-HOWELLS) on behalf of the Friends of the Chattahoochee and the Sierra Club).

(ss) Declaration (February 2011) in the matter of the Draft Title V Permit for RRI Energy MidAtlantic Power Holdings LLC Shawville Generating Station (Pennsylvania), ID No. 17-00001 on behalf of the Sierra Club.

(tt) Expert Report (March 2011), Rebuttal Expert Report (Jue 2011) on behalf of the United States in *United States of America v. Cemex, Inc.*, Civil Action No. 09-cv-00019-MSK-MEH (US District Court for the District of Colorado).

(uu) Declaration (April 2011) and Expert Report (July 16, 2012) in the matter of the Lower Colorado River Authority (LCRA)'s Fayette (Sam Seymour) Power Plant on behalf of the Texas Campaign for the Environment. *Texas Campaign for the Environment v. Lower Colorado River Authority*, Civil Action No. 4:11-cv-00791 (US District Court for the Southern District of Texas, Houston Division).

(vv) Declaration (June 2011) on behalf of the Plaintiffs MYTAPN in the matter of Microsoft-Yes, Toxic Air Pollution-No (MYTAPN) v. State of Washington, Department of Ecology and Microsoft Corporation Columbia Data Center to the Pollution Control Hearings Board, State of Washington, Matter No. PCHB No. 10-162.

(ww) Expert Report (June 2011) on behalf of the New Hampshire Sierra Club at the State of New Hampshire Public Utilities Commission, Docket No. 10-261 – the 2010 Least Cost Integrated Resource Plan (LCIRP) submitted by the Public Service Company of New Hampshire (re. Merrimack Station Units 1 and 2).

(xx) Declaration (August 2011) in the matter of the Sandy Creek Energy Associates L.P. Sandy Creek Power Plant on behalf of Sierra Club and Public Citizen. *Sierra Club, Inc. and Public Citizen, Inc. v. Sandy Creek Energy Associates, L.P.*, Civil Action No. A-08-CA-648-LY (US District Court for the Western District of Texas, Austin Division).

(yy) Expert Report (October 2011) on behalf of the Defendants in the matter of *John Quiles and Jeanette Quiles et al. v. Bradford-White Corporation, MTD Products, Inc., Kohler Co., et al.*, Case No. 3:10-cv-747 (TJM/DEP) (US District Court for the Northern District of New York).

(zz) Declaration (February 2012) and Second Declaration (February 2012) in the matter of *Washington Environmental Council and Sierra Club Washington State Chapter v. Washington State Department of Ecology and Western States Petroleum Association,* Case No. 11-417-MJP (US District Court for the Western District of Washington).

(aaa) Expert Report (March 2012) and Supplemental Expert Report (November 2013) in the matter of *Environment Texas Citizen Lobby, Inc and Sierra Club v. ExxonMobil Corporation et al.,* Civil Action No. 4:10-cv-4969 (US District Court for the Southern District of Texas, Houston Division).

(bbb) Declaration (March 2012) in the matter of *Center for Biological Diversity, et al. v. United States Environmental Protection Agency,* Case No. 11-1101 (consolidated with 11-1285, 11-1328 and 11-1336) (US Court of Appeals for the District of Columbia Circuit).

(ccc) Declaration (March 2012) in the matter of *Sierra Club v. The Kansas Department of Health and Environment*, Case No. 11-105,493-AS (Holcomb power plant) (Supreme Court of the State of Kansas).

(ddd) Declaration (March 2012) in the matter of the Las Brisas Energy Center *Environmental Defense Fund et al., v. Texas Commission on Environmental Quality,* Cause No. D-1-GN-11-001364 (District Court of Travis County, Texas, 261st Judicial District).

(eee) Expert Report (April 2012), Supplemental and Rebuttal Expert Report (July 2012), and Supplemental Rebuttal Expert Report (August 2012) on behalf of the states of New Jersey and Connecticut in the matter of the Portland Power plant *State of New Jersey and State of Connecticut (Intervenor-Plaintiff) v. RRI Energy Mid-Atlantic Power Holdings et al.,* Civil Action No. 07-CV-5298 (JKG) (US District Court for the Eastern District of Pennsylvania).

(fff) Declaration (April 2012) in the matter of the EPA's EGU MATS Rule, on behalf of the Environmental Integrity Project

(ggg) Expert Report (August 2012) on behalf of the United States in connection with the Louisiana Generating NSR Case. *United States v. Louisiana Generating, LLC*, 09-CV100-RET-CN (Middle District of Louisiana) – Harm Phase.

(hhh) Declaration (September 2012) in the Matter of the Application of *Energy Answers Incinerator, Inc.* for a Certificate of Public Convenience and Necessity to Construct a 120 MW Generating Facility in Baltimore City, Maryland, before the Public Service Commission of Maryland, Case No. 9199.

(iii) Expert Report (October 2012) on behalf of the Appellants (Robert Concilus and Leah Humes) in the matter of Robert Concilus and Leah Humes v. Commonwealth of Pennsylvania Department of Environmental Protection and Crawford Renewable Energy, before the Commonwealth of Pennsylvania Environmental Hearing Board, Docket No. 2011-167-R.

(jjj) Expert Report (October 2012), Supplemental Expert Report (January 2013), and Affidavit (June 2013) in the matter of various Environmental Petitioners v. North Carolina DENR/DAQ and Carolinas Cement Company, before the Office of Administrative Hearings, State of North Carolina.

(kkk) Pre-filed Testimony (October 2012) on behalf of No-Sag in the matter of the North Springfield Sustainable Energy Project before the State of Vermont, Public Service Board.

(lll) Pre-filed Testimony (November 2012) on behalf of Clean Wisconsin in the matter of Application of Wisconsin Public Service Corporation for Authority to Construct and Place in Operation a New Multi-Pollutant Control Technology System (ReACT) for Unit 3 of the Weston Generating Station, before the Public Service Commission of Wisconsin, Docket No. 6690-CE-197.

(mmm) Expert Report (February 2013) on behalf of Petitioners in the matter of Credence Crematory, Cause No. 12-A-J-4538 before the Indiana Office of Environmental Adjudication.

(nnn) Expert Report (April 2013), Rebuttal report (July 2013), and Declarations (October 2013, November 2013) on behalf of the Sierra Club in connection with the Luminant Big Brown Case. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC*, Civil Action No. 6:12-cv-00108-WSS (Western District of Texas, Waco Division).

(ooo) Expert Report (May 2013) and Rebuttal Expert Report (July 2013) on behalf of the Sierra Club in connection with the Luminant Martin Lake Case. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC*, Civil Action No. 5:10-cv-0156-MHS-CMC (Eastern District of Texas, Texarkana Division).

(ppp) Declaration (August 2013) on behalf of A. J. Acosta Company, Inc., in the matter of A. J. Acosta Company, Inc., v. County of San Bernardino, Case No. CIVSS803651.

(qqq) Comments (October 2013) on behalf of the Washington Environmental Council and the Sierra Club in the matter of the Washington State Oil Refinery RACT (for Greenhouse Gases), submitted to the Washington State Department of Ecology, the Northwest Clean Air Agency, and the Puget Sound Clean Air Agency.

(rrr) Statement (November 2013) on behalf of various Environmental Organizations in the matter of the Boswell Energy Center (BEC) Unit 4 Environmental Retrofit Project, to the Minnesota Public Utilities Commission, Docket No. E-015/M-12-920.

(sss) Expert Report (December 2013) on behalf of the United States in *United States of America v. Ameren Missouri*, Civil Action No. 4:11-cv-00077-RWS (Eastern District of Missouri, Eastern Division).

(ttt) Expert Testimony (December 2013) on behalf of the Sierra Club in the matter of Public Service Company of New Hampshire Merrimack Station Scrubber Project and Cost Recovery, Docket No. DE 11-250, to the State of New Hampshire Public Utilities Commission.

(uuu) Expert Report (January 2014) on behalf of Baja, Inc., in Baja, Inc., v. Automotive Testing and Development Services, Inc. et. al, Civil Action No. 8:13-CV-02057-GRA (District of South Carolina, Anderson/Greenwood Division).

(vvv) Declaration (March 2014) on behalf of the Center for International Environmental Law, Chesapeake Climate Action Network, Friends of the Earth, Pacific Environment, and the Sierra Club (Plaintiffs) in the matter of Plaintiffs v. the Export-Import Bank (Ex-Im Bank) of the United States, Civil Action No. 13-1820 RC (United States District Court for the District of Columbia).

(www) Direct Prefiled Testimony (June 2014) on behalf of the Michigan Environmental Council and the Sierra Club in the matter of the Application of DTE Electric Company for Authority to Implement a Power Supply Cost Recovery (PSCR) Plan in its Rate Schedules for 2014 Metered Jurisdictional Sales of Electricity, Case No. U-17319 (Michigan Public Service Commission).

(xxx) Expert Report (June 2014) on behalf of ECM Biofilms in the matter of the US Federal Trade Commission (FTC) v. ECM Biofilms (FTC Docket #9358).

(yyy) Declaration (July 2014) on behalf of Public Health Intervenors in the matter of EME Homer City Generation v. US EPA (Case No. 11-1302 and consolidated cases) relating to the lifting of the stay entered by the Court on December 30, 2011 (US Court of Appeals for the District of Columbia).

3. Occasions where Dr. Sahu has provided oral testimony <u>in depositions, at trial or in similar proceedings</u> include the following:

(zzz) Deposition on behalf of Rocky Mountain Steel Mills, Inc. located in Pueblo, Colorado – dealing with the manufacture of steel in mini-mills including methods of air pollution control and BACT in steel mini-mills and opacity issues at this steel mini-mill.

(aaaa) Trial Testimony (February 2002) on behalf of Rocky Mountain Steel Mills, Inc. in Denver District Court.

(bbbb) Trial Testimony (February 2003) on behalf of the United States in the Ohio Edison NSR Cases, *United States, et al. v. Ohio Edison Co., et al.*, C2-99-1181 (Southern District of Ohio).

(cccc) Trial Testimony (June 2003) on behalf of the United States in the Illinois Power NSR Case, *United States v. Illinois Power Co., et al.*, 99-833-MJR (Southern District of Illinois).

(dddd) Deposition (10/20/2005) on behalf of the United States in connection with the Cinergy NSR Case. *United States, et* al. *v. Cinergy Corp., et al.*, IP 99-1693-C-M/S (Southern District of Indiana).

(eeee) Oral Testimony (August 2006) on behalf of the Appalachian Center for the Economy and the Environment re. the Western Greenbrier plant, WV before the West Virginia DEP.

(ffff) Oral Testimony (May 2007) on behalf of various Montana petitioners (Citizens Awareness Network (CAN), Women's Voices for the Earth (WVE) and the Clark Fork Coalition (CFC)) re. the Thompson River Cogeneration plant before the Montana Board of Environmental Review.

(gggg) Oral Testimony (October 2007) on behalf of the Sierra Club re. the Sevier Power Plant before the Utah Air Quality Board.

(hhhh) Oral Testimony (August 2008) on behalf of the Sierra Club and Clean Water re. Big Stone Unit II before the South Dakota Board of Minerals and the Environment.

(iiii) Oral Testimony (February 2009) on behalf of the Sierra Club and the Southern Environmental Law Center re. Santee Cooper Pee Dee units before the South Carolina Board of Health and Environmental Control.

(jjjj) Oral Testimony (February 2009) on behalf of the Sierra Club and the Environmental Integrity Project re. NRG Limestone Unit 3 before the Texas State Office of Administrative Hearings (SOAH) Administrative Law Judges.

(kkkk) Deposition (July 2009) on behalf of MTD Products, Inc., in the matter of *Alice Holmes and Vernon Holmes v. Home Depot USA, Inc., et al*.

(llll) Deposition (October 2009) on behalf of Environmental Defense and others, in the matter of challenges to the proposed Coleto Creek coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(mmmm) Deposition (October 2009) on behalf of Environmental Defense, in the matter of permit challenges to the proposed Las Brisas coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(nnnn) Deposition (October 2009) on behalf of the Sierra Club, in the matter of challenges to the proposed Medicine Bow Fuel and Power IGL plant in Cheyenne, Wyoming.

(oooo) Deposition (October 2009) on behalf of Environmental Defense and others, in the matter of challenges to the proposed Tenaska coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH). (April 2010).

(pppp) Oral Testimony (November 2009) on behalf of the Environmental Defense Fund re. the Las Brisas Energy Center before the Texas State Office of Administrative Hearings (SOAH) Administrative Law Judges.

(qqqq) Deposition (December 2009) on behalf of Environmental Defense and others, in the matter of challenges to the proposed White Stallion Energy Center coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(rrrr) Oral Testimony (February 2010) on behalf of the Environmental Defense Fund re. the White Stallion Energy Center before the Texas State Office of Administrative Hearings (SOAH) Administrative Law Judges.

(ssss) Deposition (June 2010) on behalf of the United States in connection with the Alabama Power Company NSR Case. *United States v. Alabama Power Company*, CV-01-HS-152-S (Northern District of Alabama, Southern Division).

(tttt) Trial Testimony (September 2010) on behalf of Commonwealth of Pennsylvania – Dept. of Environmental Protection, State of Connecticut, State of New York, State of Maryland, and State of New Jersey (Plaintiffs) in connection with the Allegheny Energy NSR Case in US District Court in the Western District of Pennsylvania. *Plaintiffs v. Allegheny Energy Inc., et al.,* 2:05cv0885 (Western District of Pennsylvania).

(uuuu) Oral Direct and Rebuttal Testimony (September 2010) on behalf of Fall-Line Alliance for a Clean Environment and others in the matter of the PSD Air Permit for Plant Washington issued by Georgia DNR at the Office of State Administrative Hearing, State of Georgia (OSAH-BNR-AQ-1031707-98-WALKER).

(vvvv) Oral Testimony (September 2010) on behalf of the State of New Mexico Environment Department in the matter of Proposed Regulation 20.2.350 NMAC – *Greenhouse Gas Cap and Trade Provisions,* No. EIB 10-04 (R), to the State of New Mexico, Environmental Improvement Board.

(wwww) Oral Testimony (October 2010) on behalf of the Environmental Defense Fund re. the Las Brisas Energy Center before the Texas State Office of Administrative Hearings (SOAH) Administrative Law Judges.

(xxxx) Oral Testimony (November 2010) regarding BART for PSCo Hayden, CSU Martin Drake units before the Colorado Air Quality Commission on behalf of the Coalition of Environmental Organizations.

(yyyy) Oral Testimony (December 2010) regarding BART for TriState Craig Units, CSU Nixon Unit, and PRPA Rawhide Unit) before the Colorado Air Quality Commission on behalf of the Coalition of Environmental Organizations.

(zzzz) Deposition (December 2010) on behalf of the United States in connection with the Louisiana Generating NSR Case. *United States v. Louisiana Generating, LLC*, 09-CV100-RET-CN (Middle District of Louisiana).

(aaaaa) Deposition (February 2011 and January 2012) on behalf of Wild Earth Guardians in the matter of opacity exceedances and monitor downtime at the Public Service Company of Colorado (Xcel)'s Cherokee power plant. No. 09-cv-1862 (D. Colo.).

(bbbbb) Oral Testimony (February 2011) to the Georgia Office of State Administrative Hearings (OSAH) in the matter of Minor Source HAPs status for the proposed Longleaf Energy Associates power plant (OSAH-BNR-AQ-1115157-60-HOWELLS) on behalf of the Friends of the Chattahoochee and the Sierra Club).

(ccccc) Deposition (August 2011) on behalf of the United States in *United States of America v. Cemex, Inc.*, Civil Action No. 09-cv-00019-MSK-MEH (US District Court for the District of Colorado).

(ddddd) Deposition (July 2011) and Oral Testimony at Hearing (February 2012) on behalf of the Plaintiffs MYTAPN in the matter of Microsoft-Yes, Toxic Air Pollution-No (MYTAPN) v. State of

Washington, Department of Ecology and Microsoft Corporation Columbia Data Center to the Pollution Control Hearings Board, State of Washington, Matter No. PCHB No. 10-162.

(eeeee) Oral Testimony at Hearing (March 2012) on behalf of the United States in connection with the Louisiana Generating NSR Case. *United States v. Louisiana Generating, LLC*, 09-CV100-RET-CN (Middle District of Louisiana).

(fffff) Oral Testimony at Hearing (April 2012) on behalf of the New Hampshire Sierra Club at the State of New Hampshire Public Utilities Commission, Docket No. 10-261 – the 2010 Least Cost Integrated Resource Plan (LCIRP) submitted by the Public Service Company of New Hampshire (re. Merrimack Station Units 1 and 2).

(ggggg) Oral Testimony at Hearing (November 2012) on behalf of Clean Wisconsin in the matter of Application of Wisconsin Public Service Corporation for Authority to Construct and Place in Operation a New Multi-Pollutant Control Technology System (ReACT) for Unit 3 of the Weston Generating Station, before the Public Service Commission of Wisconsin, Docket No. 6690-CE-197.

(hhhhh) Deposition (March 2013) in the matter of various Environmental Petitioners v. North Carolina DENR/DAQ and Carolinas Cement Company, before the Office of Administrative Hearings, State of North Carolina.

(iiiii) Deposition (August 2013) on behalf of the Sierra Club in connection with the Luminant Big Brown Case. Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC, Civil Action No. 6:12-cv-00108-WSS (Western District of Texas, Waco Division).

(jjjjj) Deposition (August 2013) on behalf of the Sierra Club in connection with the Luminant Martin Lake Case. Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC, Civil Action No. 5:10-cv-0156-MHS-CMC (Eastern District of Texas, Texarkana Division).

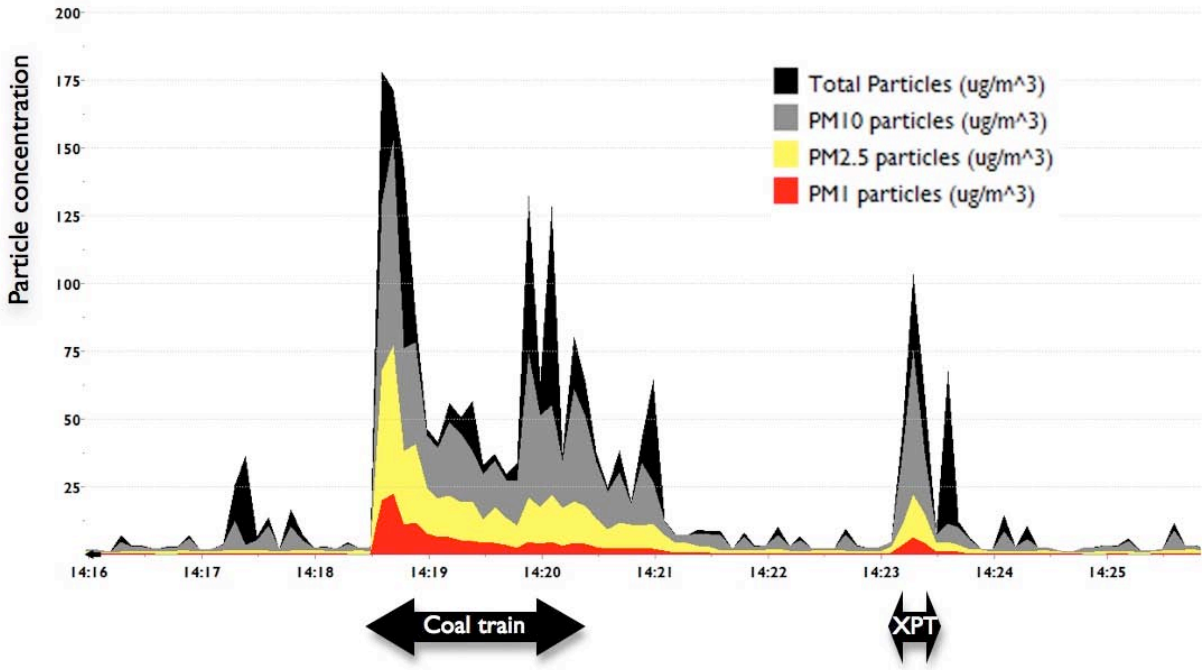
(kkkkk) Deposition (February 2014) on behalf of the United States in *United States of America v. Ameren Missouri*, Civil Action No. 4:11-cv-00077-RWS (Eastern District of Missouri, Eastern Division).

(lllll) Trial Testimony (February 2014) in the matter of *Environment Texas Citizen Lobby, Inc and Sierra Club v. ExxonMobil Corporation et al.*, Civil Action No. 4:10-cv-4969 (US District Court for the Southern District of Texas, Houston Division).

(mmmmm) Trial Testimony (February 2014) on behalf of the Sierra Club in connection with the Luminant Big Brown Case. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC*, Civil Action No. 6:12-cv-00108-WSS (Western District of Texas, Waco Division).

(nnnnn) Deposition (June 2014) and Trial (August 2014) on behalf of ECM Biofilms in the matter of the US Federal Trade Commission (FTC) v. ECM Biofilms (FTC Docket #9358).

Coal Train Pollution Signature Study



A briefing paper prepared by Associate Professor Nick Higginbotham,
Dr Ben Ewald, Ms Fee Mozeley and Dr James Whelan,

for the Coal Terminal Action Group Dust and Health Committee.

August 2013

About the Coal Terminal Action Group

An alliance of Newcastle and Hunter Valley community groups including: *The Australian Coal Alliance, Australian Youth Climate Coalition, the Barrington Gloucester Stroud Preservation Alliance, Climate Action Newcastle, Correct Planning and Consultation for Mayfield Group, Gloucester Residents in Partnership, the Green Corridor Coalition, Hunter Bird Observers Club, Hunter Community Environment Centre, Hunter Communities Network, Hunter Environment Lobby, Islington Village Community Group, the National Parks Association (Hunter Branch), the Nature Conservation Council of NSW, Parks and Playgrounds Movement, Rising Tide Newcastle, Singleton Shire Healthy Environment Group, Stockton Community Action Group, Tighes Hill Community Group, and the Wilderness Society Newcastle Branch.*

Acknowledgements

The Coal Terminal Action Group would like to acknowledge the support and involvement of:

- Associate Professor Howard Bridgman for his independent review.
- Mike Fry of Turnkey Instruments who provided excellent technical support and data management.
- ABC's Catalyst team, especially Mark Horstman, Dominique Pile, Jeff Malouf and Tim Parratt.
- The members of CTAG's alliance of twenty residents, community and environment groups
- CTAG's Dust and Health Committee.
- The twenty volunteers who assisted with the monitoring.
- More than 100 community members who donated to make this study possible.

Contents

About the Coal Terminal Action Group 1
Acknowledgements 1
Contents 2
Glossary 3
Acronyms 3
Executive summary 4
1. Background 6
2. Health Impacts of Air Pollution 7
3. Objectives 7
4. Method 7
4.1 Research Questions 7
4.2 Site selection 8
Criteria for selecting monitoring sites 8
Selected monitoring sites 8
Further monitoring requirements 8
4.3 Monitoring duration and techniques 8
Estimating train speed 8
Research team tasks 9
4.4 Equipment 9
4.5 Review Process 9
5. Data analysis and findings 10
5.1 Osiris versus TEOM 10
5.2 Location specifications 10
5.3 Data Analysis and Findings 11
Pollution Signatures 11
Summary of signatures 20
Statistical analysis 21
6. Conclusions 24
References 25

Glossary

$\mu g/m^3$	micrograms per cubic metre
µm	microns (one millionth of a metre)
Entrainment	time taken for particle pollution levels to return to pre-train background levels
km	kilometre
km/hr	kilometre per hour
m	metre
m/s	metres per second
Mtpa	million tonnes per annum
NE	northeast
NW	northwest
PM_{10}	Particulate matter with a diameter of 10 micrometres or less
$PM_{2.5}$	Particulate matter with a diameter of 2.5 micrometres or less
PM_1	Particulate matter with a diameter 1 micrometre or less
SE	southeast
SW	southwest
TSP	Total suspended particulates (with a diameter 50 micrometres or less)

Acronyms

ARTC	Australian Rail Track Corporation Ltd
BoM	Bureau of Meteorology
EPA	NSW Environmental Protection Authority
PRP	Pollution Reduction Program
OEH	NSW Office of Environment and Heritage

Executive summary

Community groups in Newcastle and the Hunter consider coal dust a significant health problem. With more than 100 coal trains passing through residential areas each day, residents have become increasingly informed about the impacts of pollution from uncovered coal wagons, and supportive of measures to reduce this pollution.

Between Monday 15 July and Wednesday 17 July, members of several community groups monitored particle pollution levels in residential areas of Beresfield, Sandgate and Mayfield. With expert advice and assistance, we monitored particle pollution concentrations while 73 loaded and unloaded coal trains passed. The Osiris equipment utilised for the study allowed for concurrent monitoring of various particle sizes: PM_1 and $PM_{2.5}$ that are associated with combustion (e.g. train locomotives) and the larger PM_{10} particles, which are indicative of coal.

The study was an initiative of the Dust and Health Committee of the Coal Terminal Action Group, an alliance of twenty community and environment groups representing residents throughout Newcastle and the Hunter Valley. The study aimed to answer two research questions:

1. What is the particulate profile (signature) of loaded and unloaded coal trains?
2. What is the increase in particulate matter associated with the passage of loaded and unloaded coal trains, measured by comparing to pre-train particle concentrations)? Is the proportion of increase the same across all particulate fractions (PM_{10}, $PM_{2.5}$ and PM_1)?

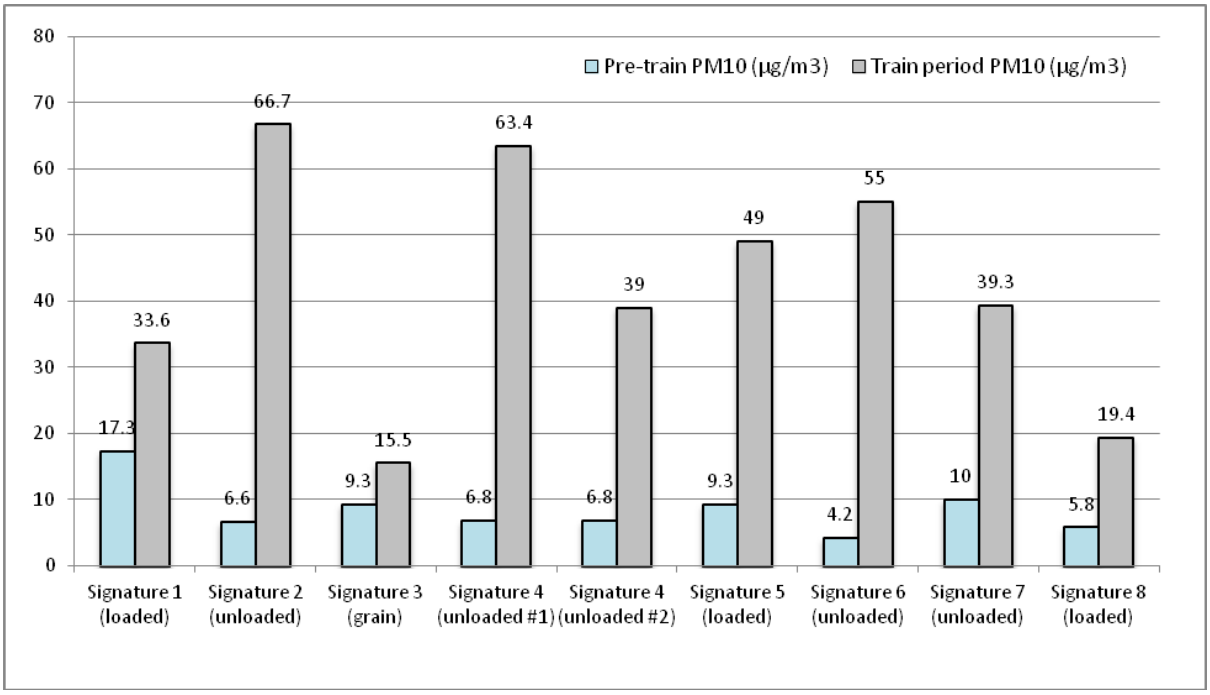
The study was the first of its kind in Australia. Crowd-funded by more than 100 donors, the study was entirely designed and conducted by members of community groups. They were advised and assisted by experts and academics and utilised industry-standard equipment. The results of the study were analysed by public health researchers.

In June 2013, before this study commenced, community members were shocked to learn that an industry study of the particle pollution caused by coal trains had been dramatically modified at the last moment to reverse many of its conclusions and understate the amount of pollution caused by coal trains. Unlike that study, our investigation was not designed to differentiate between train types. It deliberately focused on loaded and unloaded coal trains.

A total of 73 coal trains were observed during the three days of monitoring. The corresponding pollution data was analysed to generate 'signatures' which depict particle concentrations before, and during the trains' pass by. The method compares a two-minute average pollution level before each train to a two-minute average while the trains were passing by the monitoring equipment. Eight signatures are examined in this study. These signatures were selected to demonstrate an indicative range of signatures under various conditions (wind direction, wind speed, train speed, train type etc).

The following chart shows an analysis of particulate concentrations (PM_{10}) associated with each of the 8 signatures. It compares 2 minutes of pre-train air quality with 2 minutes of particulate matter concentrations produced during the train passage (i.e., the signature). All graphs show coal trains, apart from Signature 3, which is a grain freight train.

Chart 1: Particulate concentrations (PM_{10}) associated with train signatures



All coal train signatures were associated with a significant increase in PM_{10} particle pollution levels. In the case of Signatures 1 and 5, this represents increases of 94% and 427% respectively for loaded coal trains. Signature 6 increased PM_{10} concentrations significantly, up to 1210%. In sum, coal trains increase PM_{10} levels by between 94% and 1210%. While coal trains pass, particle pollution concentrations increase up to 13 times pre-coal train levels.

While the study was not intended to compare different types of trains, a number of freight and passenger trains were captured in our signature measurements. We noted city link trains did not produce a definable signature, while freight trains and the XPT did show signatures in some cases, but they were much smaller in comparison to those observed for coal trains, and of shorter duration.

The results of this study warrant decisive action by the New South Wales Government. The Coal Terminal Action Group commends this study to Premier Barry O'Farrell and call on the NSW Government to:

1. Direct the state's coal industry to cover and wash all loaded and unloaded coal wagons
2. Suspend assessment of the proposed fourth coal terminal (T4)
3. Commission an independent assessment of the health impacts of particle pollution in the Hunter to assess the social and economic impacts of current particle concentrations and model the impacts of the proposed fourth coal terminal (T4).

1. Background

This study was initiated and managed by the Coal Terminal Action Group's Dust and Health Committee. The committee was established in August 2012 to respond to widespread concern that Newcastle and other 'coal corridor' communities are exposed to elevated levels of fine particle pollution. Exposure is known to cause a range of serious short-term and long-term health impacts and can occur when peak exposures of short duration (ranging from less than an hour up to a few hours) lead to immediate physiological changes.[1]

The coal export capacity for the Port of Newcastle has grown exponentially in recent years, from 77 million tonnes per annum (Mtpa) in 1997 to 210Mtpa in 2012. The Fourth Newcastle Coal Loader (T4) proposal by Port Waratah Coal Services (PWCS) would see this increase to 330Mtpa, resulting in approximately 107 more train movements each day.[2]

NSW Health has cautioned against the development of T4 due to the impacts of existing pollution levels and the modelled increases in coal dust during its construction and operation.[3] However, the coal industry and NSW Environment Protection Authority (EPA) refute these health concerns, alleging that coal trains are not a significant source of fine particle pollution (nor different from other types of trains in terms of pollution) and that particle pollution diminishes rapidly with distance from the coal corridor. These assertions are not supported by scientific evidence.

This is CTAG's second pollution monitoring study. In late 2012, CTAG conducted air quality monitoring at twelve suburban locations to provide a snapshot of current levels of particle pollution. The alliance hired industry-standard 'Osiris' equipment to monitor particles of up to ten microns in diameter (PM_{10}) and fine particles of up to 2.5 microns and 1 micron in diameter ($PM_{2.5}$ and PM_1) in residential areas between 5 December 2012 and 5 January 2013. The study program was assisted and results analysed by air quality scientists Associate Professor Howard Bridgman and Dr Jill Sweeney of the University of Newcastle.

The results of our first study were alarming. The national standard for PM_{10} is 50 micrograms per cubic metre ($\mu g/m^3$) averaged over a 24-hour period (measured using a TEOM monitoring device). This standard was exceeded at seven locations. At some locations, we recorded levels more than 50% higher than the national standard, and the standard was exceeded as often as every day. These findings suggest that residents living within 500 metres of coal trains and stockpiles are experiencing particle pollution at harmful levels. More than 30,000 people reside and 25,000 children attend school within 500 metres of the coal corridor between Rutherford and the Newcastle Port.

Building on our initial snapshot study, we embarked on a second round of air pollution monitoring to provide the community with data on PM_{10}, $PM_{2.5}$ and PM_1 'signatures' of coal trains. Such signatures show the profile of particulate pollution when repeated measurements are taken during the period when the coal train passes by. This profile reveals the upward development to the peak particulate concentrations, as well as the entrainment of suspended particulates after the train has passed, until they diminish to pre-train levels.

This second snapshot study has been designed to serve as a pilot for a larger investigation into particulate emissions from coal trains.

2. Health Impacts of Air Pollution

According to the Australian Medical Association, air pollution kills more people each year in Australia than car crashes. Fine particles of ten microns or less in diameter (PM_{10}) and 2.5 microns or less in diameter ($PM_{2.5}$) are readily inhaled, causing asthma attacks, hospitalisation, reduced activity days and premature death.[4] The Australian Medical Association's President Dr Steve Hambleton recently observed that the Newcastle community already experiences high levels of pollution: "It's an especially at-risk population where we know there's already increased rates of respiratory illness."[5]

According to the NSWEPA, mining and transportation of coal contribute 87.6% of the Hunter Valley's PM_{10} and 66% of the Hunter's $PM_{2.5}$.[6] During 2012, the network of 17 Hunter Valley monitoring stations recorded levels of PM_{10} levels over the national standard on 115 occasions. A Senate Committee examining the health impacts of air pollution conducted a hearing Newcastle on 16 April 2013. Many of the 150 submissions received by the Committee came from residents and community groups in the Hunter. Senators were urged to reduce air pollution by groups including the Clean Air Society of Australia and New Zealand, the CSIRO and the Australian Medical Association.[7]

There is a high level of concern about the health impacts of coal rail dust along Hunter Valley coal rail lines. For decades, residents along the coal corridor have complained about coal dust and its health impacts. On 16 March this year, 1,500 residents rallied to express these concerns and oppose a proposed fourth coal terminal.

3. Objectives

The Dust and Health Committee aims to provide the community with independent information and advice upon which to consider the T4 proposal and other port development projects. The objective of this study was to provide the community with information about the pollutions 'signatures' of coal trains. Pollution signatures show the level of PM_{10}, $PM_{2.5}$ and PM_1 when multiple measurements are taken during the period when a coal train passes by a monitoring point. This profile reveals the upward development to the peak particulate concentrations, as well as the 'entrainment' of suspended particulates after the train has passed, until they diminish to pre-train levels.

4. Method

4.1 Research Questions

1. What is the particulate profile (signature) of a coal train pass-by (loaded and unloaded) as measured by concentrations of PM_{10}, $PM_{2.5}$ and PM_1?

2. What is the increase in particulate matter associated with the passage of loaded and unloaded coal trains, measured by comparing two minutes averages, starting three minutes before the train arrives, two minutes averages starting 30 seconds after the train arrives? Is the proportion of increase the same across all particulate fractions (i.e., PM_{10} vs $PM_{2.5}$ vs PM_1)?

4.2 Site selection

Criteria for selecting monitoring sites

- Proximity to frequent coal train movements
- Proximity to residential areas
- Sites close to and on downwind side of tracks for optimum capture of PM fraction
- Ability to respond to wind and weather conditions
- Clear of environmental interferences such as trees, houses, localised sources of PM and
- Access to power sources and security.

Selected monitoring sites

- Beresfield train station
- Hexham – near the Shamrock Street crossing
- Waratah train station
- Upfold Street Mayfield

A map showing these four locations is available online here > https://www.google.com/maps/ms?msid=210722871585608627393.0004de7533379370e3362&msa=0

Further monitoring requirements

- Calibration at EPA's TOEM monitoring site at Francis Greenway High School, Beresfield
- Log keeping capturing variables - particularly train movements and also non-target events to help explain changes in PM levels.

4.3 Monitoring duration and techniques

The monitoring equipment was positioned according to the manufacturers' specifications. Mike Fry, the Managing Director of Turnkey Instruments Pty Ltd that hires this equipment to industry and government throughout Australia, oversaw all aspects related to the setting up the monitors and data management. Monitors were set up downwind of the coal tracks to capture emissions from rail trains.

To address the research questions, the monitoring was conducted as close to coal track lines as possible and the monitor was kept in place as long as practicable to capture background air levels and concentrations of particulate pollution specifically from loaded and unloaded coal train movements.

Volunteers received training and supervision in recording log information about the train pass-bys.

Estimating train speed

Train speed was calculated with a stopwatch. The time taken for the passing of 10 cars was recorded and then used to analyse the approximate train speed. Time keepers were reminded that the starting point is gap zero, not car one. Time keepers were instructed to look across the train to the landscape behind (flashes visible in the space between cars) and to choose a flash to start the watch, and count "zero", 1, 2 etc and stop the watch at 10.

Research team tasks

The monitoring required three researchers. Two researchers logged the train detail on a recording sheet. The third researcher assisted Mike Fry to ensure that the monitor was functioning during the pass-by recording, and noted any anomalous readings. These were noted and any immediate sources identified, if present. This researcher also noted the imminent arrival of a second train passing by when that occurred, so the person logging recorded its passage accurately.

Log sheets recorded start time, stop time, type of train (loaded coal, unloaded coal, freight, passenger), number of locomotives, number of wagons or carriages, train code and company, time for 10 carriages to pass, and multiple or single pass-by.

4.4 Equipment

Osiris air quality monitors were hired from Turnkey Instruments. These instruments are capable of simultaneously measuring Total Suspended Particles (TSP), PM_{10}, $PM_{2.5}$ and PM_1 particulates. The equipment can be set to monitor every one second or every ten seconds with the results saved to memory or immediately transmitted in selected timing averages. Once down-loaded, the stored data was then interpreted using the AirQ32 software which generates trending graphs, tables, and wind inputs. These can also be represented as a pollution rose to indicate the wind direction that the particulates travelled from towards the sampling location at the time of measurement.

4.5 Review Process

Our analysis and conclusions were independently reviewed by Associate Professor Howard Bridgman, one of Australia's leading air quality experts and editor of the Clean Air Society of Australia and New Zealand journal. Independent review was considered of utmost importance following the controversial Australian Rail Track Corporation report published in June 2013. Two weeks after the ARTC report was published, and after the NSW EPA announced their policy response to the report, an independent review by Dr Luke Knibbs of the University of Queensland highlighted fundamental flaws in the study and its analysis.

5. Data analysis and findings

5.1 Osiris versus TEOM

Before undertaking trackside monitoring the Osiris air monitors were positioned next to the permanent EPA monitor at Beresfield on Monday 15 July and set to record 1 minute averages of PM_{10} and $PM_{2.5}$, as these are the parameters recorded by the EPA TEOM device that is regarded as industry standard. This was done for 29 minutes to calibrate the Osiris instrument to the EPA's monitoring of background particle concentrations.

µg/m^3	TEOM PM_{10}	Osiris PM_{10}	TEOM $PM_{2.5}$	Osiris $PM_{2.5}$
Average	19.910	11.417	13.356	5.307
Standard deviation	3.322	1.742	1.462	0.401

The correlation between Osiris readings and TEOM for PM_{10} was r=0.676, and for $PM_{2.5}$ was r=0.838, showing that the readings are fairly highly correlated, and that Osiris readings were lower for PM_{10} by about 40% and for $PM_{2.5}$ by about 60%. Regression of Osiris against TEOM showed that for PM_{10} TEOM = 5.2 + Osiris x 1.28 and for $PM_{2.5}$ TEOM = -2.87 + Osiris x 3.06.

5.2 Location specifications

For the remainder of the day on Monday 15 July, the Osiris monitor was then mounted 0.8m from the fenced perimeter of the railway corridor at Beresfield. Weather conditions were partly cloudy, mostly dry, with light intermittent wind from the north-west, average wind speed 0.2m/s. The Osiris was run from a small portable generator on a 15m extension lead, which was positioned to the south west, downwind from the monitor. The distances to the rail tracks were 8.6m, 12.3m, 17.3m and 23.0m from the mid-line of the tracks for the coal outbound, coal inbound, passenger outbound and passenger inbound lines respectively. Empty coal trains travelled on the nearest track, and full coal trains on the second nearest track.

On Tuesday 16 July, the Osiris monitor was mounted 0.5m from the fenced perimeter of the railway corridor at Hexham near the Shamrock Street crossing. Weather conditions were partly cloudy in the morning becoming sunny as the day progressed. Conditions were dry. The average wind speed was 1.3m/s with the 75th percentile of wind speed registering 2m/s with a maximum wind speed of 5m/s. The Osiris was run from a small portable generator on a 15m extension lead, which was positioned to the east-northeast, downwind from the monitor. The monitor was located 12m from the inbound coal track and 9m from the inbound passenger train track. The distances to the rail tracks were 27.6m, 23.3m, 19.3m and 15.0m from the mid-line of the tracks for the unloaded coal outbound, loaded coal inbound, passenger outbound and passenger inbound lines respectively.

On Wednesday 17 July, the Osiris monitor was again mounted 0.8m from the fenced perimeter of the railway corridor at Beresfield. Weather conditions were sunny and dry, with light intermittent wind from the NW, with an average wind speed 1.02m/s. Location details including distances from the track were the same as Monday 15 July (see above).

5.3 Data Analysis and Findings

Pollution Signatures

Two technical observers independently assessed graphics of each train pass-by to assess whether it produced a distinguishable signature. Signatures were confirmed for trains that measured a clear rise in particulate concentrations (TSP, PM_{10}, $PM_{2.5}$ and PM_1) compared to the background air prior to and after the train pass-by. Both assessors agreed that more than 80% of coal trains (loaded and unloaded) showed distinguishable increases. A small number of coal trains produced a less pronounced signature, and it was increases in $PM_{2.5}$ that became a defining indicator.

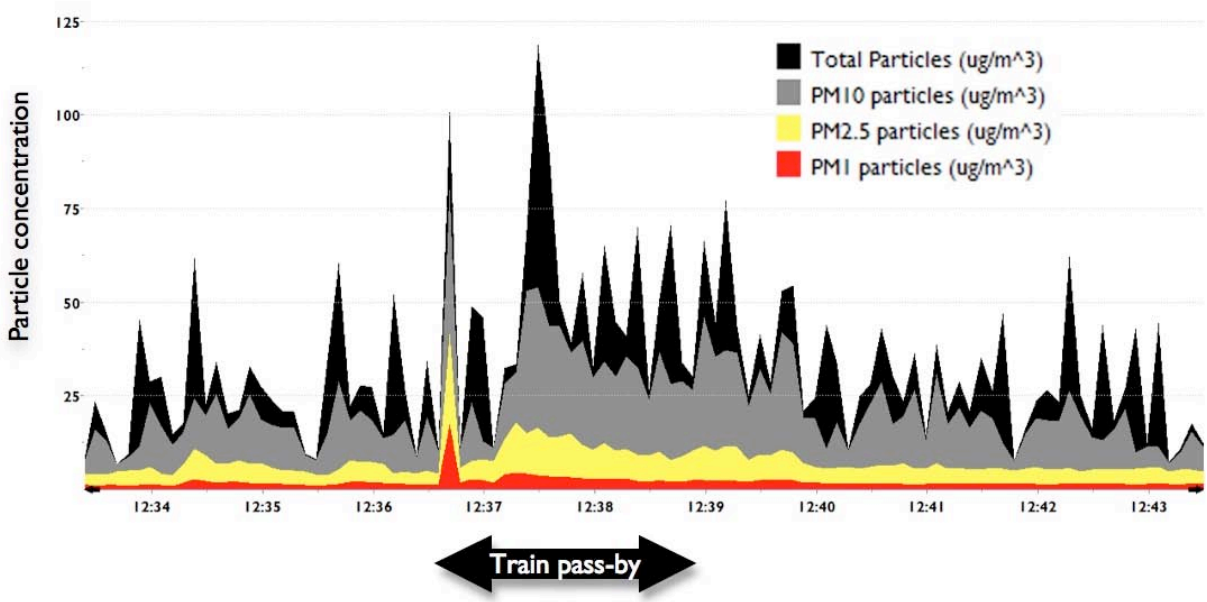
Table 1. Comparison of coal trains producing distinguishable and indistinguishable pollution signatures.

Discernible Signature	Loaded	Unloaded	Total
Yes	26 (72%)	31 (94%)	57 (81%)
No	10 (28%)	3 (6%)	13 (19%)
Totals	36	33	70 (100%)

Note: Further analysis will be undertaken to understand the significance of non-signature producing trains.

The following eight graphs provide an indication of the nature and possible determinants of train pollution signatures.

Figure 1. Signature 1 - Loaded Coal Train Monday 12:36pm



Signature 1 shows a characteristic loaded coal train (3 locomotives and 100 wagons) signature during monitoring. The train pass-by coincided with a brief wind blast of 3.6km/hr that was preceded and followed by relative stillness. The train slowed upon arrival to pass at an average of 42km/hr.

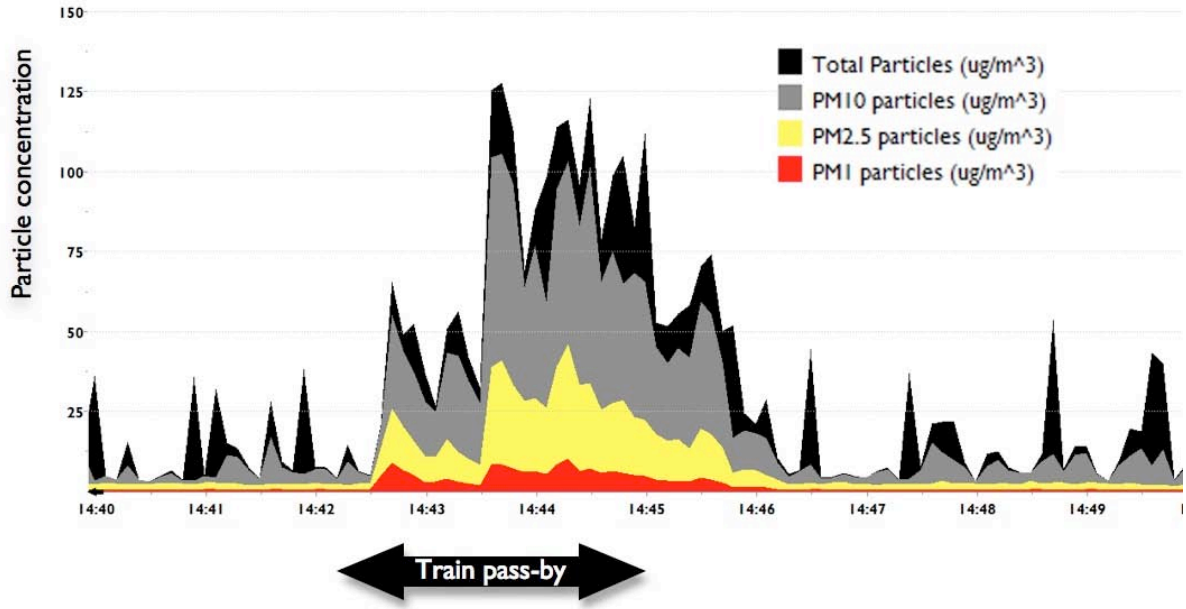
The loaded coal train produced a sharp rise in concentrations of all particulate sizes and produced an entrainment that lasted more than four minutes. This signature stands out against background track air that had residual pollution from an earlier train that had passed by less than two minutes prior.

The short burst of PM_1, $PM_{2.5}$ and PM_{10} at the onset of the pass by is remarkable. The high ratio of PM_1 to TSP indicates diesel emissions and is positively correlated with the logged observations that noted that this train was producing 'heavy smoke' from the locomotives.

This signature shows continuing high proportions of PM_{10} to TSP, with a gradual decline in $PM_{2.5}$, and a slow return to pre-train background levels. PM_{10} was 33.6µg/m^3 averaged over two minutes and pre-train background PM_{10} levels were 17.3µg/m^3.

Pollution Signature	Pre-train period (PM_{10})	Train period (PM_{10})	Difference (PM_{10})
Signature 1.	17.3µg/m^3	33.6µg/m^3	16.3µg/m^3

Figure 2. Signature 2 - Unloaded Coal Train Monday 14:42pm

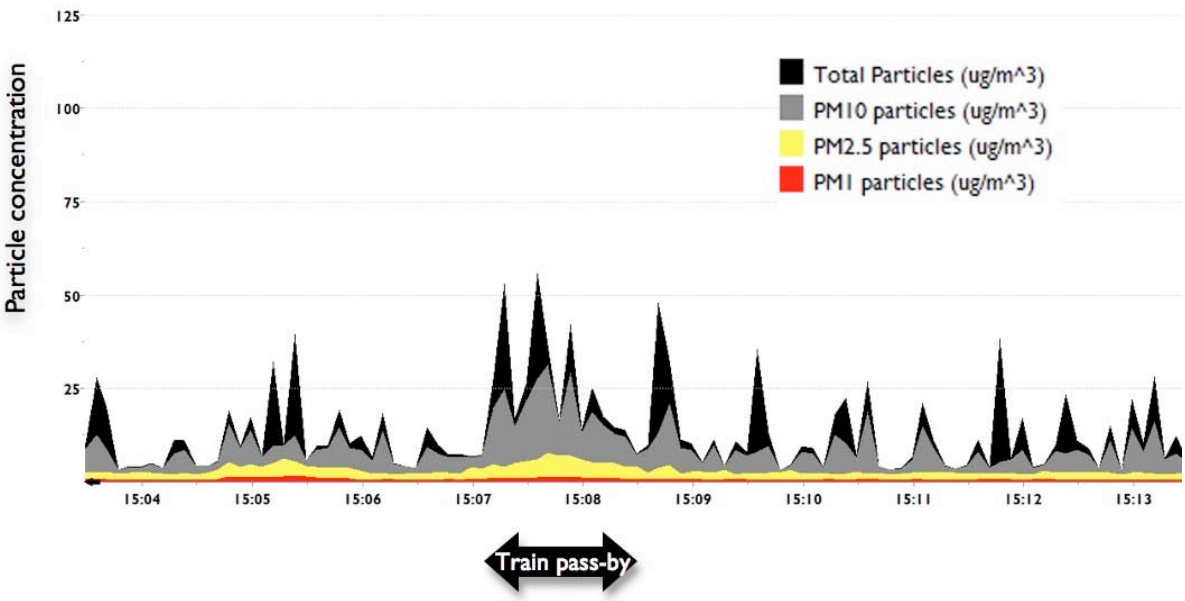


Signature 2 is indicative of an unloaded coal train pass-by. The track for this unloaded coal train was the closest to the Osiris monitor. Unloaded coal trains generally approached the monitor at higher speeds than loaded coal trains. This unloaded coal train (with 3 locomotives and 98 wagons) slowed to an average speed of 35km/hr. The wind was moving at 0.13km/hr and turned from N to the direction of the train, which was SE/SSE during the pass-by.

This signature shows two initial spikes in particulate matter with a one minute delay and then a third, larger and more sustained pollution plume. Signature shows a strong indication of diesel emissions (PM_1) and strong $PM_{2.5}$ levels accompanying the high levels of PM_{10}. The two-minute average of PM_{10} was 66.7µg/m^3 compared to the two minute average pre-train level of 6.6µg/m^3. An entrainment of more than four minutes is noted.

Pollution Signature	Pre-train period (PM_{10})	Train period (PM_{10})	Difference (PM_{10})
Signature 2.	6.6µg/m^3	66.7µg/m^3	60.1µg/m^3

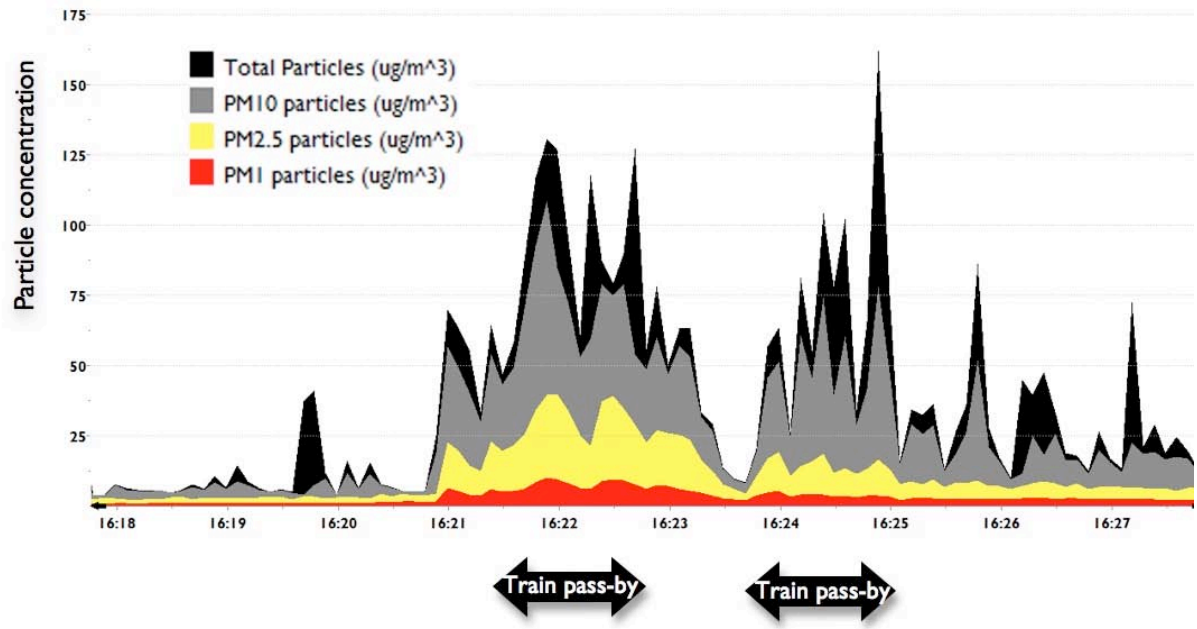
Figure 3. Signature 3 – Grain Train Monday 15:07pm



Signature 3 represents the affects of a freight train carrying grain. This AWB grain train (with 4 locomotives and 36 enclosed wagons) was travelling on the track closest to monitor. The train was moving at an average speed of 31km/hr. The air was still and the blast of air that accompanied the train changed the wind direction from NNE to SE during the pass-by. It gives a modest signature against the background, with two-minute average PM_{10} levels of 15.5µg/m^3 and average pre-train background levels of 9.3µg/m^3.

Pollution Signature	Pre-train period (PM_{10})	Train period (PM_{10})	Difference (PM_{10})
Signature 3.	9.3µg/m^3	15.5µg/m^3	6.2 µg/m^3

Figure 4. Signature 4 – Multiple Unloaded Coal Trains Monday 16:21pm

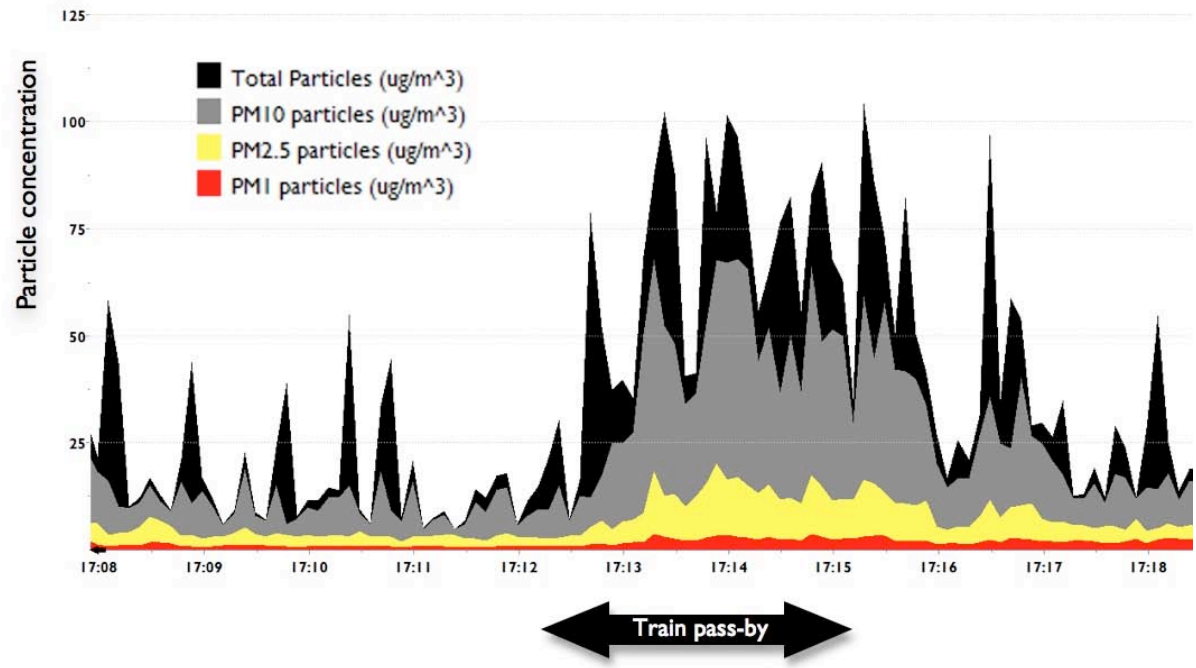


Signature 4 captures two back-to-back unloaded coal trains. The first unloaded coal train (3 locomotives and 104 wagons) approached at 69km/hr and then slowed to an average speed of 40km/hr. The second unloaded coal train (2 locomotives and 72 wagons) passed by at a constant speed of 67-68km/hr. The combination of the two trains generated their own wind, increasing from 1.9 to 4.3km/hr (ESE).

The signature shows high levels of TSP containing PM_{10} and high initial levels of $PM_{2.5}$ that is slow to diminish. The first train PM_{10} level was 63.4µg/m^3 while the pre-train level was 6.8µg/m^3. The second train measured an average PM_{10} level of 39µg/m^3.

Pollution Signature	Pre-train period (PM_{10})	Train period (PM_{10})	Difference (PM_{10})
Signature 4. Train 1	6.8µg/m^3	63.4µg/m^3	56.6µg/m^3
Signature 4. Train 2	6.8µg/m^3	39µg/m^3	32.2µg/m^3

Figure 5. Signature 5 – Loaded Coal Train Monday 5:12pm

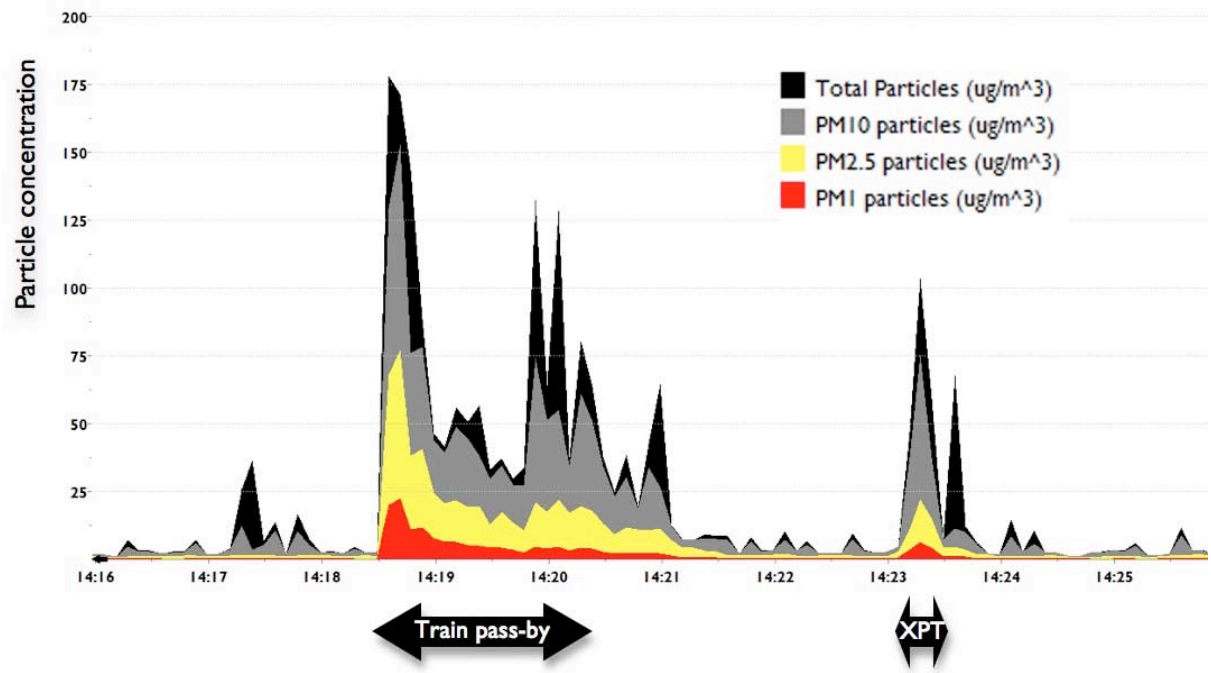


Signature 5 shows a loaded train (3 locomotives and 92 wagons) travelling at an average speed of 29km/hr. The wind speed was 0.7km/hr from the NNW, following the train. This signature was capture at the end of the first day of monitoring. Wind conditions were very still. The loaded coal signature is evident against increased background pollution levels from previous trains.

This signature shows a delay in plume arrival carrying a large proportion of PM_{10} with a long entrainment. A 30 second gap was added to adjust for plume delay, two minute average of train pass-by measured PM_{10} at 49µg/m^3 and two minute average for pre-train background levels at 9.3µg/m^3.

Pollution Signature	Pre-train period (PM_{10})	Train period (PM_{10})	Difference (PM_{10})
Signature 5.	9.3µg/m^3	49µg/m^3	39.7µg/m^3

Figure 6. Signature 6 – Unloaded Coal Train Tuesday 2:18pm



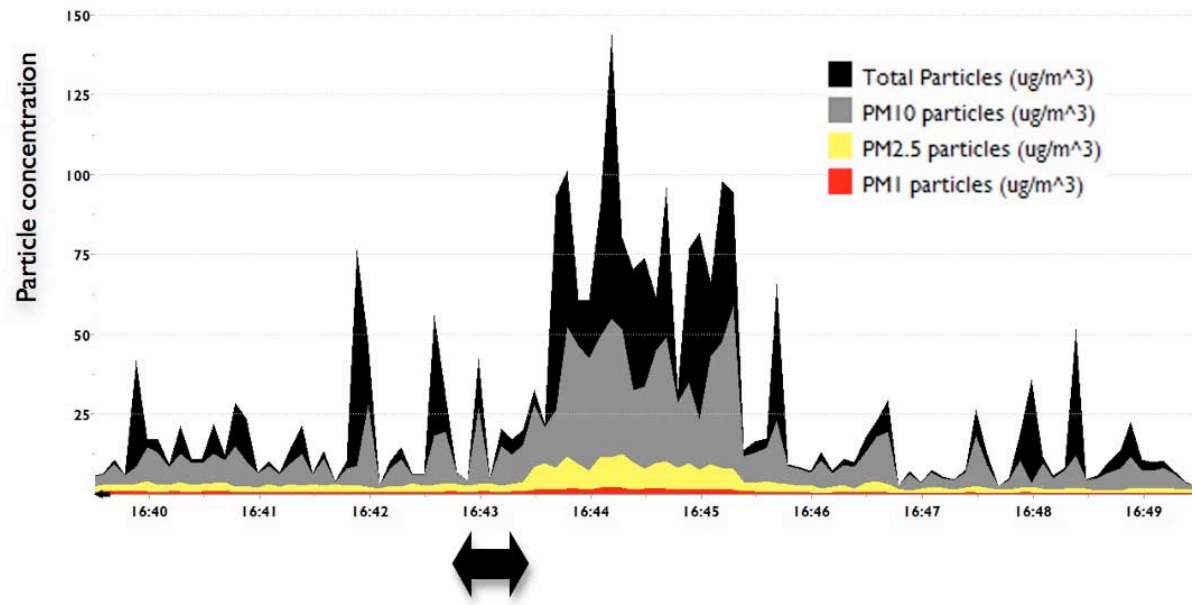
Signature 6 was termed the 'Midnight Oil' signature by an atmospheric scientist in honor of the band's 1987 hit album 'Diesel and Dust'. The unloaded coal train (3 locomotives and 82 wagons) approached the monitoring site travelling at 59km/hr and was heading into a NW 7.9km/hr wind. Logged observations noted that billowing smoke could be seen from the locomotives as the train approached and that the smell of diesel was distinguishable at the onset of the train pass-by.

The signature shows that the initial plume contained high concentration of PM_1 indicating diesel combustion. The wind speed was significantly stronger and this may account for the absence of a delay in the arrival of the initial pollution plume and also for the rapid dispersion of particulates back to baseline in less than three minutes. Average PM_{10} for the train pass-by was measured as 55µg/m^3 and pre-train average was 4.2µg/m^3.

Pollution Signature	Pre-train period (PM_{10})	Train period (PM_{10})	Difference (PM_{10})
Signature 6.	4.2µg/m^3	55µg/m^3	50.8µg/m^3

In the wake of the 'Midnight Oil' train described above, a fast moving XPT CountryLink train was captured. This train produced a clear signature of very short duration, evident toward the right side of figure 6 above. This signature shows a diesel combustion spike and high proportion of PM_{10}, followed by a second short dust burst.

Figure 7. Signature 7 – Unloaded Coal Train Tuesday 16:42pm

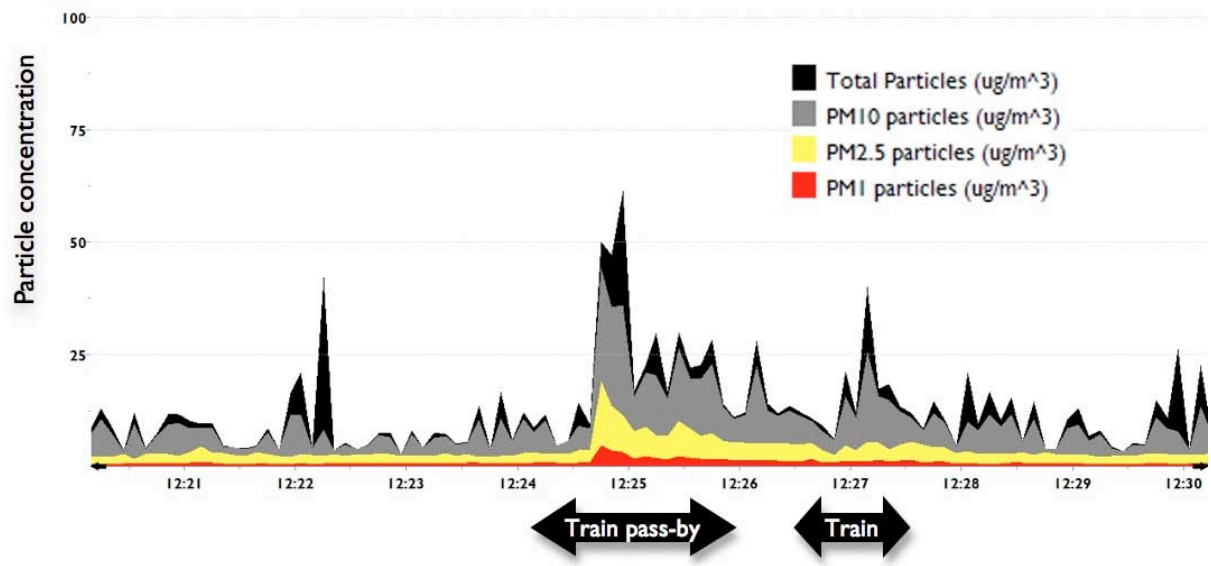


Signature 7 corresponds to a fast unloaded coal train (2 locomotives and 39 wagons) captured at Hexham on Tuesday. Initial train speed was calculated as 71km/hr with an average pass-by speed of 57km/hr. There was no wind during the pass-by.

The signature shows that the train had almost completely passed by before the pollution plume registered. The signature depicts high levels of PM_{10} and TSP and shows a relatively fast return to baseline levels. Two-minute averages of PM_{10} during train pass-by were measured as 39.3µg/m^3 and two minute pre-train background PM_{10} levels were 10µg/m^3.

Pollution Signature	Pre-train period (PM_{10})	Train period (PM_{10})	Difference (PM_{10})
Signature 7.	10µg/m^3	39.3µg/m^3	29.3µg/m^3

Figure 8. Signature 8 – Loaded Coal and Freight Trains Wednesday 12:24pm



Signature 8 is a loaded coal train (3 locomotives and 96 wagons) captured at Beresfield on Wednesday. This train moved at a steady pace averaging 46km/hr. Wind speed was 4.4km/hr and followed the train from a NNW direction.

This signature is modest. TSP peaks at 63µg/m^3. High concentrations of PM_{10} are observed and there is a clear rise in PM_1 and $PM_{2.5}$. A 30 second gap was added to adjust for plume delay, two minute average of train pass-by measured PM_{10} at 19.4µg/m^3 and two minute average for pre-train background levels at 5.8µg/m^3.

Pollution Signature	Pre-train period (PM_{10})	Train period (PM_{10})	Difference (PM_{10})
Signature 8.	5.8µg/m^3	19.4µg/m^3	13.6µg/m^3

Summary of signatures

All coal train signatures were associated with a significant increase in PM_{10} particle pollution levels. In the case of Signatures 1 and 5, this represents increases of 94% and 427% respectively for loaded coal trains. Signature 6 increased PM_{10} concentrations significantly, up to 1210%. In sum, coal trains increase PM_{10} levels by between 94% and 1210%. While coal trains pass, particle pollution concentrations increase up to 13 times pre-coal train levels.

While the study was not intended to compare different types of trains, a number of freight and passenger trains were captured in our signature measurements. We noted city link trains did not produce a definable signature, while freight trains and the XPT did show signatures in some cases, but they were much smaller in comparison to those observed for coal trains, and of shorter duration.

The following chart and table provides a summary of PM_{10} particulate concentrations of the eight pollution signatures.

Chart 2: Particulate concentrations (PM_{10}) associated with train signatures

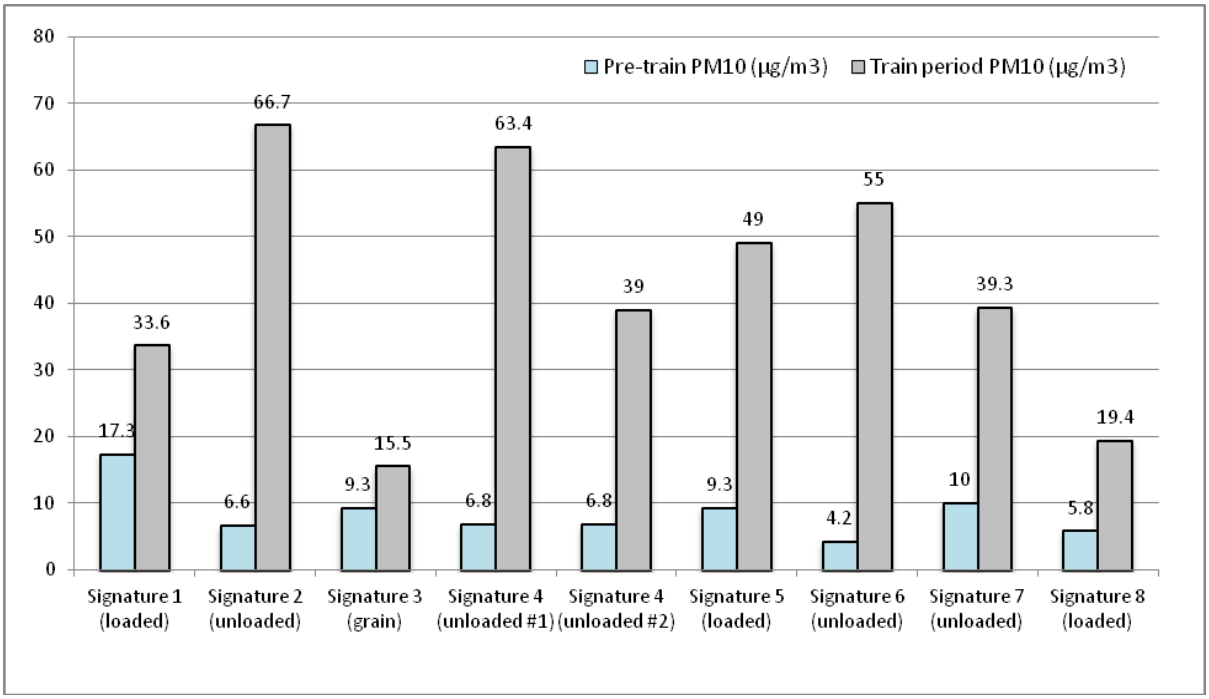


Table 6. Percentage differences of particulate concentrations (PM_{10}) associated with train signatures

Signatures	Pre-train PM_{10} (µg/m^3)	Train period PM_{10} (µg/m^3)	Difference	Difference (%)
1 – loaded	17.3	33.6	16.3	94%
2 – unloaded	6.6	66.7	60.1	911%
3 – grain	9.3	15.5	6.2	67%
4 – unloaded #1	6.8	63.4	56.6	832%
4 – unloaded #2	6.8	39	32.2	474%
5 – loaded	9.3	49	39.7	427%
6 – unloaded	4.2	55	50.8	1210%
7 – unloaded	10	39.3	29.3	293%
8 – loaded	5.8	19.4	13.6	234%

Note: The PM_{10} levels depicted above are two minutes averages of pre-train and train pass-by and are not peak levels recorded.

Statistical analysis

The full day's data for Monday and Tuesday was examined to compare the air quality in the time before each train arrived with the air during the train's passing. The data for Wednesday is still undergoing analyses and further results will be released at a later date. Data were analysed by calculating **pre-train periods** defined as the two minutes starting three minutes before the train arrived, and **train pass-by periods** defined as the two minutes starting 30 seconds after the locomotive passed. **Trains were excluded from analysis if another train was present during the prior period** (40% did not meet criterion). The analysis was repeated with criteria for maximum allowable average wind speed during the pre-train period, however this was not consequential as there was very light or no wind throughout the monitoring periods. All analysis was performed in Microsoft Excel except statistical testing which was performed in Stata 11.

Table 1: Full coal trains, pre-train period and train pass-by period PM_{10} in µg/m^3 for those 10 trains on 15th July where there was no other train present during the prior period.

Train time	Pre-train period (µg/m^3)	Train pass-by (µg/m^3)	Difference (µg/m^3)
12:27:11 PM	12.5	12.8	0.2
12:53:17 PM	12.9	14.9	2.0
1:40:47 PM	9.8	11.3	1.5
3:28:23 PM	6.6	34.8	28.3
3:37:05 PM	7.1	15.6	8.4
3:50:05 PM	11.5	26.1	14.6
4:03:17 PM	10.8	14.3	3.5
4:56:17 PM	12.5	21.3	8.8
5:12:17 PM	9.7	48.7	39.0
Averages	**10.38**	**22.2**	**11.81**

The average PM_{10} during the prior period was 10.38 and during the train period was 22.2 with a difference of 11.81 ($p= 0.031$, paired t test, 2 sided).

Table 2: Empty trains, pre-train period and train pass-by period PM_{10} for those 11 empty coal trains on 15th July where there was no other train present during the prior period.

Train time	Pre-train PM_{10} ($\mu g/m^3$)	Train pass-by PM_{10} ($\mu g/m^3$)	Difference ($\mu g/m^3$)
12:02:35 PM	15.2	16.9	1.7
12:12:11 PM	14.0	14.3	0.3
12:33:17 PM	10.7	17.8	7.1
1:04:17 PM	12.2	30.7	18.5
1:21:35 PM	13.3	45.9	32.6
1:54:53 PM	6.6	15.7	9.1
2:42:17 PM	6.6	66.7	60.1
2:58:17 PM	6.8	18.0	11.1
3:55:17 PM	10.7	48.2	37.5
4:21:17 PM	6.9	51.9	45.0
4:36:17 PM	6.7	30.1	23.4
Averages	**9.97**	**32.38**	**22.4**

The average PM_{10} during the prior period was 9.97$\mu g/m^3$, and during the train period was 32.38$\mu g/m^3$, with a difference of 22.41 (p=0.0032, paired t test, 2 sided).

Comparing the extra particulates associated with loaded and unloaded trains showed the mean increase was 11.78$\mu g/m^3$ (95% ci -3.51, 27.07) greater for unloaded trains although this result is not statistically significant.

Table 3: Loaded trains, prior period and train period PM_{10} and $PM_{2.5}$ for those 11 empty coal trains on 16th July where there was no other train present during the prior period.

Time	Pre-train PM_{10} $\mu g/m^3$	Train PM_{10} $\mu g/m^3$	Difference $\mu g/m^3$	Pre-train $PM_{2.5}$ $\mu g/m^3$	Train $PM_{2.5}$ $\mu g/m^3$	Difference $\mu g/m^3$
9:24:01 AM	22.6	24.5	1.9	7.6	9.3	1.7
10:09:01 AM	18.2	18.7	0.5	6.3	7.1	0.8
10:26:49 AM	16.0	22.4	6.4	5.4	7.6	2.2
11:18:47 AM	15.6	16.8	1.2	5.4	5.8	0.4
11:39:17 AM	18.9	20.7	1.7	5.2	5.6	0.5
11:55:47 AM	11.7	15.0	3.3	4.2	5.3	1.1
12:12:29 PM	8.8	14.1	5.3	3.1	5.4	2.3
1:00:11 PM	9.9	21.8	11.9	3.1	7.1	4.1
1:20:35 PM	6.4	8.6	2.1	2.6	3.4	0.8
3:16:41 PM	3.1	10.6	7.5	1.2	3.3	2.1
3:31:11 PM	5.2	32.2	27.0	1.8	13.3	11.5
3:56:23 PM	6.4	22.8	16.4	2.1	10.3	8.2
4:11:59 PM	11.3	20.3	9.0	3.7	6.3	2.6
Averages	**11.9**	**19.1**	**7.2**	**4.0**	**6.9**	**2.9**

The average PM_{10} during the pre-train period was 11.9µg/m^3, and during the train period was 19.1µg/m^3, with a difference of 7.2µg/m^3. The average $PM_{2.5}$ during the pre-train period was 4.0µg/m^3, and during the train period was 6.9µg/m^3, with a difference of 2.9µg/m^3.

Table 4: Unloaded trains, prior period and train period PM_{10} and $PM_{2.5}$ for those 11 empty coal trains on 16th July where there was no other train present during the prior period.

Time	**Pre-train PM_{10} (µg/m^3)**	**Train PM_{10} (µg/m^3)**	**Difference (µg/m^3)**	**Pre-train $PM_{2.5}$ (µg/m^3)**	**Train $PM_{2.5}$ (µg/m^3)**	**Difference (µg/m^3)**
10:40:43 AM	11.1	25.6	14.5	4.8	11.4	6.6
11:00:59 AM	18.0	26.0	8.1	6.0	9.9	3.9
12:59:59 PM	9.4	22.0	12.6	3.0	7.2	4.2
1:28:23 PM	8.0	15.0	7.0	2.8	7.3	4.5
2:04:17 PM	2.8	18.9	16.1	1.1	5.4	4.3
2:18:29 PM	4.2	39.2	35.0	1.3	15.9	14.6
2:29:11 PM	3.0	22.4	19.4	1.3	8.0	6.7
3:22:41 PM	4.0	7.0	3.0	1.3	2.9	1.6
3:51:59 PM	4.1	35.3	31.1	1.4	17.6	16.1
4:02:53 PM	5.1	37.4	32.3	1.6	10.7	9.0
4:42:47 PM	10.0	39.3	29.2	2.9	9.2	6.3
Average	**7.3**	**26.2**	**18.9**	**2.5**	**9.6**	**7.1**

The average PM_{10} during the pre-train period was 7.3µg/m^3, and during the train period was 26.2µg/m^3, with a difference of 18.9µg/m^3. The average $PM_{2.5}$ during the pre-train period was 2.5µg/m^3, and during the train period was 9.6µg/m^3, with a difference of 7.1µg/m^3.

6. Conclusions

This study found that 80% of coal trains produced a recognisable pollution signature. The signatures compromise a sharp rise in TSP, PM_{10}, $PM_{2.5}$ and PM_1 particulates, lasting 3.5 to 5 minutes. They show initial bursts of ultrafine PM_1 and fine $PM_{2.5}$ particulates indicating diesel combustion and chemical reaction processes. The ultrafine and fine particulates are contained within larger spikes of dust, mostly PM_{10}, the size associated with coal dust. Signature magnitude was seen to be influenced by factors such as wind speed and direction, train speed and distance from the monitor. The analysis of two minute segments of these signatures showed that PM_{10} levels were at least double pre-train particulate levels, and ranged up to 13 times larger.

Statistical analysis was performed on 60% of coal trains that met the inclusion criteria (i.e., no other train movement three minutes prior to arrival of the coal train). Analysis involved comparison of two minute pre-train background air quality with two minutes of train pass-by particulates. The results demonstrate a clearly measurable and statistically significant increase in particulate pollution during the time that coal trains passes through residential areas.

The results from the Osiris device used showed acceptable correlation to the reference TEOM but did not record identical particle concentrations. Applying a conversion equation to the Monday measurements would indicate an average increase of 18.8µg/m^3 for full trains and 33.9µg/m^3 for empty trains.

Incremental additions of air pollution of this magnitude into the airshed can add up to a large health problem, as everyone in the population is exposed. Health effects of air pollution are well documented, even below current standards. There is probably no lower threshold for adverse effects of pollution on human health. Even short-term exposures can be harmful, especially to vulnerable people with existing disease, children and the elderly.

Further analysis of the full dataset is ongoing and those results will be forthcoming.

7. Recommendations

1. That the NSW Government directs the state's coal industry to cover and wash all coal wagons (loaded and unloaded).

2. That the NSW Government suspend assessment of the proposed fourth coal terminal (T4). Particle pollution in Newcastle and elsewhere in the Hunter already regularly exceeds the national standard and measures are urgently required to improve urban air quality.

3. An independent assessment of the health impacts of particle pollution in the Hunter must be commissioned to assess the social and economic impacts of current particle concentrations and to model the impacts of the proposed T4.

References

[1] European World Health Organization, Air Quality review, 2013, p.7

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[3] NSW Dept of Health submission to the Dept of Planning regarding the Environmental Assessment for T4 dated 27th April, 2012.

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Comments on Longview DEIS- Chapter 5.7: Coal Dust
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Comments based primarily on our two published studies

1. Diesel particulate matter emission factors and air quality implications from in-service rail in Washington State, USA, by D.A. Jaffe, G. Hof, S. Malashanka, J. Putz, J. Thayer, J.L. Fry, B. Ayres and J.R. Pierce, in *Atmospheric Pollution Research* 5, 344–351, doi: 10.5094/APR.2014.040.
2. Diesel particulate matter and coal dust from trains in the Columbia River Gorge, Washington State, USA, by D.A. Jaffe, J. Putz, G. Hof, G. Hof, J. Hee, D.A. Lommers-Johnson, F. Gabela, J.L. Fry, B. Ayres, M. Kelp and M. Minsk, in *Atmospheric Pollution Research,* doi: 10.1016/j.apr.2015.04.004.

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1. The DEIS seems to imply that coal dust does not contribute to inhalable particulate matter that contributes to human health problems (eg PM2.5). This is clearly not the case. To quote from the DEIS Coal Dust fact sheet "The study found that coal dust particles from rail cars are typically large and fall close to the rail tracks." Our data, and the Cowlitz County data, clearly indicate that coal dust constitutes a range of particle sizes including particles smaller than 2.5 micrometers in diameter. The EIS needs to clearly indicate that coal dust includes inhalable PM2.5.
2. Our peer-reviewed and published scientific analysis (Jaffe et al 2015) clearly indicates that the surfactant coating does not always work. At present there is no information on the cause of these failures. As such, it is impossible to know if additional coating facility (e.g. requiring a facility in Pasco) will significantly reduce coal dust emissions. The EIS needs to address what are the causes for failure in the surfactant coating.
3. The DEIS describes an "acceptable level of dust deposition" in terms of g/m2/month. However, nowhere does the document describe an **acceptable level of human health impacts.** Our data demonstrates short-term PM2.5 concentrations of up to 232 ug/m3 due to coal trains. These exposures were documented on private property adjacent to rail lines in the Columbia River Gorge (Jaffe et al 2015). This was due to a large, clearly visible cloud of coal dust. While the health effects of such <u>short-term</u> exposure have not been extensively studied, some peer-reviewed published scientific papers have documented significant health effects from short-term exposure to PM2.5 (Salvi et al 1999; Pope et al 2015; Li et al 2016). These short-term exposures are not currently regulated by the federal clean air act. Nonetheless, the DEIS should set an acceptable "nuisance" level for public health. In order words, what are the limits for coal dust and PM2.5 exposure on private property, and what are the consequences for exceeding these limits? I propose that the EIS define an acceptable level of short term coal dust/PM2.5 exposure of no more than 50 ug/m3 in a 3-minute average one time per year and that a

monitoring program be put in place to ensure this limit is achieved. Our data in the Columbia River Gorge show that approximately 97% of all coal trains would meet this standard. This limit should apply to all private property that is adjacent to rail lines that transport coal.

4. The coal dust modeling (e.g. table 5.7.2) fails to incorporate any failure rate into the calculations. Our data show that the failure rate for moving trains is at least 5%. The contribution from these coal trains where the surfactant has been misapplied (or not applied at all) likely dwarf the emissions from all other trains.
5. The DEIS reports on one study down in Cowlitz County (pg 5.7-5 main document and 2.2-4 in technical supplement). There are a number of problems associated with this study. First, this study was likely influenced by an inherent bias due to the fact that the shipper knew the date, time and location of the tests. They can then utilize their best operating conditions to minimize diesel, coal dust and other PM impacts. This is not the same as a "blind" test, whereby the shipper is not notified of the date and location of the testing. In particular, a "blind" test will identify the true failure rate for the surfactant and true coal dust emissions, whereas the biased test will not identify the true failure rate. This study apparently never saw a coal train with a PM2.5 concentration greater than 22 ug/m3 (Figure 4), whereas we identified coal trains with large dust plumes and much higher PM2.5 concentrations of up to 232 ug/m3. This is likely due to the fact that the shipper was aware of the testing that was taking place.
6. <u>Despite point 5 above,</u> the data from the Cowlitz study clearly show that the dust suppression methods are much less than 100% effective. This is because the observed <u>concentrations are 4 times higher than the modeled concentrations, as shown in Figure 4 of the SEPA Coal Technical Report.</u> Models are useful to estimate many environmental situations, but they must be constrained and confirmed by observations. In this case, the model is clearly not reproducing the observed concentrations. This can only be explained if the modeled coal dust emissions are <u>much larger</u> than what is being put into this model. The Cowlitz County data, shown in Figure 4, indicate that the model is under-estimating the coal dust emissions by about a factor of four. This would imply that the actual coal dust emissions are four times greater than the modeled emissions. The DEIS cites a dust suppression effectiveness of 61%, whereas the data <u>indicate an effectiveness of only 25%.</u> Section 2 in the technical document ends with Figure 4 and does not discuss the implications of this large discrepancy between the model and observations. It is absolutely essential that the modeling be redone with the significantly higher, and correct, coal dust emissions. <u>Based on both the UW and Cowlitz County</u> studies, the data show much higher dust emissions than are accounted for by the modeling.
7. Based on these results, the modeling should be redone using two different approaches: First, the model should assume that 5% of the coal trains had no surfactant (equivalent to saying that the surfactant was incorrectly applied or otherwise ineffective). The model results should then be re-evaluated based on this assumed failure rate. Second, the

modeling should be redone with a coal dust emission factor that is four times larger. This would be consistent with the Cowlitz County data presented in Figure 4 of the SEPA Coal Technical Report. This is particularly important given that the trigger level for impacts (2 g/m2/day) are already exceeded for some receptor location (Table 5.7-7) or very close to the currently model estimates (1.88 g/m2/day, Table 5.7-3) and that human health impacts from short term exposure to high concentrations have been documented.

References for health effect from short term PM2.5 exposure:

Salvi et al. Acute inflammatory responses in the airways and peripheral blood after short-term exposure to diesel exhaust in healthy human volunteers. Amer. J Resp.Crit Care Medicine. 159(3), 702-709, 1999.

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