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Columbia River Gorge National Scenic Area

Final Interim Guidelines

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**COLUMBIA RIVER GORGE
NATIONAL SCENIC AREA**

FINAL INTERIM GUIDELINES

June 30, 1987

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CHAPTER I: INTRODUCTION

Public Law 99-663 was signed by President Reagan on November 17, 1986, establishing the Columbia River Gorge National Scenic Area. This law provides direction for a partnership of federal, state, and local agencies to develop a plan for protection and management of the resources in the Gorge. These Interim Guidelines establish the standards by which proposed developments and changes in land uses or enhancement proposals will be evaluated for consistency with the purposes of that legislation.

Section 10 of the Act requires that Interim Guidelines be adopted by the Secretary of Agriculture for the Scenic Area outside Urban Areas. According to the Act, the Interim Guidelines will provide standards to: 1) "identify new land use activities and developments which are inconsistent with the Act," and 2) "to govern the authority to acquire land without the consent of the owner" (Section 10(a)).

These Interim Guidelines will "remain in effect for each county until the Secretary has developed guidelines for the Special Management Areas pursuant to Section 8 of the Act and the land use ordinances prescribed by Section 7 are in effect" (Section 10(a)). These are expected to be completed by the end of 1990.

A. BACKGROUND

The Columbia River Gorge National Scenic Area Act was established for two purposes: "1) 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 consistent with the first purpose" (Section 3).

The Scenic Area Act gives special designation to two categories of land: Urban Areas and Special Management Areas. Thirteen communities in Oregon and Washington within the Scenic Area are designated as Urban Areas, and are exempt from most provisions of the legislation. Special Management Areas are generally the most environmentally sensitive lands, where activities are more restricted than in other parts of the Scenic Area. These include islands in the Columbia River. All areas not specifically designated as Special Management Areas or Urban Areas are identified as General Management Areas in these Guidelines. Copies of maps with these designations are available from the Scenic Area offices.

Section 6(d) of the Act lists standards for the Management Plan which also are used as the basis for Interim

Guidelines. The Management Plan will identify ways to provide the enhancement called for in Section 6(d), but the objective here is to provide needed protection in the meantime, and enhancement opportunities as they might occur. "The Management Plan, all land use ordinances, and Interim Guidelines 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 required by the Act;
- (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 this Act;
- (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." (Section 6 (d))

For any proposed land or water use activity or development outside Urban Areas, a determination will be made as to its consistency with the Act, using these Guidelines as standards for determinations of consistency. This includes lands managed by or activities proposed by federal, state or local public agencies, as well as private land uses and developments. There are some limitations on application of the Guidelines for certain agencies as described in Section 17 of the Scenic Area Act.

Lands which are "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 likely cause impacts adversely affecting the scenic, cultural, recreation, and natural resources of the area," may become subject to acquisition by the United States (Section 10(b)(1)).

CHAPTER II: INTERIM MANAGEMENT

A. ADMINISTRATION

The Scenic Area Act creates a partnership among the six counties within the Columbia River Gorge (Clark, Skamania, and Klickitat in Washington and Multnomah, Hood River, and Wasco in Oregon), a Bi-state Commission, and the USDA Forest Service. As explained in this Chapter, each partner has important, but different, responsibilities in the Scenic Area. Together these agencies provide the overall coordination and management to achieve the purposes of the Act.

These Guidelines were developed in consultation and cooperation with the local Scenic Area counties and other agencies in an attempt to avoid conflicts or inconsistencies in procedural requirements. They are not intended to supersede or eliminate the usual state or local development permit processes. Development applications will still be reviewed by these agencies, and must meet all applicable state and local laws and regulations. The National Scenic Area consistency determination is supplemental to those processes of state and local governments.

Prior to completion of the Management Plan and the adoption of county ordinances, the Bi-state Commission will evaluate proposals for major development actions and new residential development. "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 6(d) of the Act" (Section 10(c)). Urban Areas are exempt from this review.

The Forest Service will review proposals other than major development actions and residential development which are reviewed by the Commission. The Forest Service Scenic Area Manager is the official responsible for determining whether those proposals are consistent with the Act.

Where "land is being used or is 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," the Secretary of Agriculture has the authority to acquire the land without consent of the owner (Section 10(b)(1)).

B. REVIEW OF PROPOSED LAND USE ACTIVITIES AND DEVELOPMENTS

APPLICATION REQUIREMENTS

Any change in existing land or water use or development will require a determination of consistency with the Scenic Area Act. To obtain this determination, a Land Use Application Form must be submitted to either the Forest Service or the Bi-State Commission Scenic Area offices. The Form provides the detailed information needed for the evaluation.

The Application Form should be submitted either prior to or at the same time as the application for the appropriate county permits. This Form is required for all types of proposals, regardless of whether or not a county permit is required. Application forms are available at the Scenic Area offices and local County Planning offices.

Necessary information for the Application Form includes at least: 1) a legal description, a map of the location, and a plot plan for the project proposal; 2) a complete description of the proposal; 3) identification of the scenic, cultural, recreation and natural resources known to exist on the site; and 4) a discussion on how the project complies with these guidelines. To the extent possible, the Application Form will use the same information as that required for county permits. Where inventories already exist, such information will be provided to the applicant by the Forest Service. The applicant may also be requested to provide additional site analysis information.

EVALUATION PROCESS

Once a completed Application Form is received at the Scenic Area Office, it will be evaluated for consistency with the Act as soon as possible. In most cases the evaluation will take place within ten working days. Where a proposal appears to have potential for adverse effects on the scenic, cultural, recreation, or natural resources of the Scenic Area, it may require additional time. In cases requiring more than ten days, direct contact with the applicant will be made and an explanation of the status offered. The following section describes in detail the steps in the evaluation process.

Step 1

An applicant for a consistency determination will submit an Application Form to either the Bi-state Commission or Forest Service Scenic Area office. Applications must be complete, including the information discussed in Application Requirements, Section B-1 above, and relevant site analysis information as discussed in Chapter III.

Within one working day after receipt of a completed Application Form, a determination will be made as to which office will review the proposal. If it is a major development action or residential development, the Bi-State Commission will review it; the Forest Service will review all

others. It will be forwarded to the appropriate office and a staff person will be assigned to coordinate the evaluation and prepare a report.

Step 2

For proposals reviewed by the Forest Service, Step 2 of the process will normally take ten working days to complete. During this time, staff will determine if the proposed action is consistent with the standards in Section 6(d) of the Act, or if it will adversely affect the scenic, cultural, recreation or natural resources of the Scenic Area, based on the guidelines in Chapter III of this document. This evaluation will consider all of the information provided in the application, and may also depend on discussions with other affected agencies and/or on-site field visits.

In some cases a land use or development proposal may have the potential to adversely affect the resources intended to be protected and enhanced by the Scenic Area Act. If evaluation of a proposal indicates this potential, the applicant will be contacted. Frequently, adverse effects can be eliminated through design changes or adjustments in the magnitude or duration of the proposal. Through discussions between the Forest Service Staff and the applicant, mitigation measures may be designed and incorporated into the proposal in an attempt to reduce impacts to an acceptable level.

The amount of time required and the magnitude of the changes depend on the nature of the initial proposal. The Scenic Area staff will make every effort to expedite this redesign process. However, the applicant is primarily responsible for providing the data and information necessary to support a determination of consistency with the Scenic Area Act and these Interim Guidelines.

The project evaluation process which the Bi-State Commission staff will follow has yet to be determined. Upon completion of the evaluation, findings and recommendations will be forwarded to the Scenic Area Manager or the Commission for the final consistency determination.

Step 3

In Step 3 the Scenic Area Manager or the Bi-State Commission will make a determination of consistency for the proposed action. The report of findings and the determination of consistency will be forwarded to the applicant. Applicants receiving approved or consistent findings may continue the required permit process for their development with the appropriate county or other agencies. If other permits are not required, the project may be implemented immediately. Where there is a finding of inconsistency, the applicant will lose protection from condemnation if the project is implemented.

For applications reviewed by the Forest Service, if mitigation and redesign features are not agreed upon, the applicant may seek administrative review of the inconsistency determination. Any affected person who objects to a

determination made by the Scenic Area Manager may appeal the decision to the Regional Forester using standard procedures for administrative review contained in 36 CFR 211.18.

CHAPTER III: GUIDELINES FOR LAND AND WATER USE AND DEVELOPMENT

This chapter describes the standards by which changes in land or water uses or proposed developments will be evaluated for consistency with the Scenic Area Act. Section A contains general guidelines that apply to all proposals in the Scenic Area outside of Urban Areas.

Section B describes the guidelines by which any potential for adverse effects on scenic, cultural, recreation, or natural resources will be evaluated. Possible measures to mitigate adverse effects are discussed. The guidelines apply to land and water uses and development proposals of all types, except forest practices in the General Management Area and uses which are excluded in Section 17 of the Act.

Section C contains guidelines for each of the specific land uses addressed in the Scenic Area Act.

A. GUIDELINES FOR ALL DEVELOPMENT

The following guidelines apply to all proposals for land and water uses or developments outside Urban Areas:

- 1) Any use or development proposed by a federal, state, or local agency, or by any private party, shall be subject to a consistency determination unless specifically exempted herein or by the Savings provisions of Section 17 of the Act.
- 2) Any use or development that existed on the date of the Scenic Area Act, if used in the same manner and for the same purposes, is not affected by these guidelines, except: a) the development of sand, gravel, or crushed rock; b) the disposal of refuse; or c) uses discontinued for a period of more than one year. These listed uses are subject to a consistency determination. The policy defining vested rights for existing uses, adopted by the Scenic Area Manager on March 19, 1987, on file at the Scenic Area Offices, will be used for identifying uses that existed on the date of the Act.
- 3) Uses or developments shall not adversely affect the scenic, cultural, recreation, or natural resources of the Scenic Area.
- 4) Uses or developments which are found to be consistent with the Scenic Area Act remain subject to all applicable federal, state, and local laws, regulations, and requirements.

5) When a structure is destroyed or partially destroyed, it will be considered an existing use when replaced in kind and in the same location within one year. The exterior color and reflectivity of replacement structures must be consistent with the scenic guidelines in Chapter III.

Replacement of a structure or use that differs in size or location from the original shall be subject to a consistency determination.

6) When a use or development is discontinued for more than one year, its replacement shall be subject to a consistency determination.

7) Any modification to a use or development that alters a structure or use in size or location shall be subject to a consistency determination.

B. PROTECTION OF SCENIC, CULTURAL, RECREATION AND NATURAL RESOURCES

This section provides guidelines for land and water uses or developments, and for modifications to existing uses or developments, to insure that the scenic, cultural, recreation and natural resources are protected. Through application of these guidelines, protection of the resources can be achieved, setting the stage for long term enhancement in the Management Plan to be prepared during the next three to five years.

The guidelines in this section apply to most land and water uses and developments within the General Management Areas and Special Management areas, regardless of their use category. They do not apply to forest practices in the General Management Area or to other activities that are specifically exempted in the savings provisions in Section 17 of the Act.

Analysis of potential impacts will include consideration of cumulative effects and take into account any mitigation that is designed into the project. Where a use or development may impact Scenic Area resources, consistency with these guidelines can often be achieved through mitigation measures, or through redesign of the project to reduce or eliminate adverse consequences which might otherwise occur. The Scenic Area staff will discuss mitigation and redesign opportunities with the applicant in an attempt to allow a proposed use to proceed while still protecting Scenic Area resources. If mitigation and redesign features are not agreed upon, the applicant may seek administrative review of an inconsistency determination as discussed in Chapter II, Section B.

Consistency determinations shall be based on the following guidelines:

1. SCENIC RESOURCES

OBJECTIVE: To protect and enhance scenic resources in Special Management Areas and General Management Areas pending completion of the Management Plan.

Protection will be accomplished by:

- a. minimizing impacts on scenery that is viewed by the greatest number of people, i.e., key viewing areas;
- b. insuring that development harmonizes with and complements its surroundings, rather than contrasts; and
- c. avoiding dramatic changes in the landscape character where land or water uses or developments are proposed.

GUIDELINES

- 1) Proposed uses or developments shall protect or enhance the scenic resources by avoiding changes in the particular landscape setting, and/or by minimizing the impact from site-specific development.
- 2) Proposed uses or developments shall not change the landscape setting of a site or its immediate surroundings from an undeveloped to a rural or developed setting, or from a rural to a developed setting.
- 3) Proposed uses or developments shall not detract from or impair views from key viewing areas.
- 4) Size, shape, color, texture, siting, height, building materials, lighting or other features of a proposed development shall not noticeably contrast with the landscape setting.
- 5) Proposed structures shall not protrude above the line of a bluff, cliff, or skyline as seen from key viewing areas.
- 6) Proposed uses or developments shall be screened from view of key viewing areas. Wherever possible, screening will make use of topographic or other natural features and/or native vegetation.
- 7) Except as necessary for preparation of an actual building site, proposed uses or developments shall not appear to modify the vegetation as seen from key viewing areas.
- 8) Proposed improvements seen from key viewing areas shall be aligned, designed and sited to fit the natural topography and to minimize visible grading or other modifications of land forms, vegetation cover, and natural characteristics. Improvements would include, but are not limited to: roads, parking areas, logging landings, rights-of-way, storage areas, fences, and site preparation for structures.
- 9) Proposed uses or developments in undeveloped and rural settings shall meet the visual quality objective of Partial Retention, as defined in the Forest Service Visual Management System.
- 10) Proposals for enhancement of scenic resources are encouraged as long as they will protect the cultural, recreation or natural resources.

2. CULTURAL RESOURCES

OBJECTIVE: To protect and enhance cultural resources in the Special Management Areas and General Manage-

ment Areas pending completion of the Management Plan and implementing ordinances.

Protection will be accomplished by:

- a. requiring identification of any cultural resources on sites proposed for new developments or changes in use;
- b. requiring mitigation where possible to avoid adversely effecting cultural resources where they are identified; and
- c. finding proposals inconsistent where mitigation will not result in adequate protection of the cultural resources.

GUIDELINES

- 1) Proposed uses or developments shall not damage or destroy cultural resources existing on the site or in the vicinity.
- 2) Proposed developments or changes in use on a parcel containing or likely to contain cultural resources shall require a cultural resource inventory to be conducted by a qualified professional.
- 3) Proposed uses or developments for sites where cultural resources are found shall include design of adequate mitigation measures. Mitigation must be designed in consultation with the State Historic Preservation Officer and/or the Advisory Council on Historic Preservation, as appropriate. Mitigation can include avoiding the site where the resources are found, properly protecting the resources from damage during development, or recovering the resource from the site. Where mitigation will not result in adequate protection, the proposal shall be found inconsistent with the Act.
- 4) Proposals for enhancement of cultural resources are encouraged as long as they will protect the scenic, recreation or natural resources.

3. RECREATION RESOURCES

OBJECTIVE: To protect and enhance recreation resources in the Special Management Areas and General Management Areas pending completion of the Management Plan.

Protection will be accomplished by:

- a. requiring identification of existing recreation resources in the vicinity that could be impacted by the proposed use or development;
2. requiring mitigation or redesign where possible to avoid adversely effecting the recreation resources; and
3. finding proposals inconsistent where mitigation will not result in adequate protection of the recreation resources.

GUIDELINES

- 1) Proposed uses or developments shall not displace or detract from an existing recreation use or change an existing recreation setting.