



June 30, 2020

Timothy L. McMahan  
760 SW Ninth Avenue, Suite 3000  
Portland, OR 97205  
D. 503.294.9517  
tim.mcmahan@stoel.com

**VIA EMAIL**  
**GORGE2020@GORGECOMMISSION.ORG**

Columbia River Gorge Commission  
#1 Town & Country Square  
57 NE Wauna Avenue  
White Salmon, WA 98672

**Re: Draft Amendments to the Management Plan for the Columbia River Gorge  
National Scenic Area**

Dear Commissioners:

On behalf of SDS Lumber Company and Broughton Lumber Company, Stoel Rives submits the following comments to the Columbia River Gorge Commission (“Commission”) on the “Gorge 2020” draft of amendments to the Management Plan for the Columbia River Gorge National Scenic Area (“Amendments”). The Amendments raise significant concerns among private landowners in the General Management Area (“GMA”) related to the management and development of commercial forests.

The purpose of the Columbia River Gorge National Scenic Area Act (“Act”) is to balance resource protection and enhancement with economic development. 16 U.S.C. §544a. To that end, the savings provision related to non-federal timberlands, which is a fundamental federal law key to the congressional adoption of the Act, states:

Except for the management, utilization, or disposal of timber resources of non-Federal lands within the special management areas, nothing in [the Act] 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.

16 U.S.C. § 544o(c).

Multiple provisions of the proposed Amendments negatively impact the rights and responsibilities of non-federal timber landowners, in direct contravention of the savings provision. In addition, the Amendments effectively limit private landowner autonomy and stifle economic development in the GMA, which conflicts with legislative intent. We are particularly concerned with the provisions affecting forest management and forest land conversion including, but not limited to:

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- Amendments to the Natural Resources Chapter indicating intent to minimize forest practices by expanding regulation of water resources and buffer zones, expanding the scope of habitat areas and habitat protection, and restricting low intensity uses.
- Amendments to the Forest Land Chapter removing the objective to encourage state grants and loans to support forest products, removing forest land protection policies dealing with conflicting uses and conversion, and changing fire protection approval criteria.
- Amendments to the Action Program to add a policy for expanded buffers, add standards to preserve forest resources for carbon storage, add climate change to the cumulative impacts analysis, limit enhancement of land for forest uses, and alter economic development policies for the GMA.

Many of these changes, both individually and especially when considered in the aggregate, violate the provision of the Act that requires protection and enhancement of forest lands for forest uses. 16 U.S.C. § 544d(d)(2). The Amendments also violate of the savings provisions by interfering with state forest regulations and non-federal timber landowner rights, purporting to substitute unlawful Gorge Commission review and authority for the explicit statutory jurisdiction and authority of the Washington and Oregon natural resource agencies that regulate forest practices. By creating prohibitive regulatory and cost barriers to the productive use of forest lands in the GMA, the Amendments indicate intent to minimize forest practices and ignore the second purpose of the Act to balance resource protection with economic development, which violates clear legislative intent.

The Amendments also abrogate provisions of the Act protecting mineral and transportation interests and urban area economic development. On those issues, we support comments submitted by Jordan Ramis PC and Davis, Wright, Tremaine LLP, addressing essential economic activities within the Scenic Area.

The Commission's process and reasoning for adopting these Amendments lacks transparency. The Amendments propose revisions that conflict with or were not recommended by commission staff who apply expertise to implement and administer the Act and the Management Plan and are the closest to on-the-ground issues. The Commission has apparently given little to no deference to staff's role as the overseers of this program.

Similarly, the Commission has failed to give the public, including stakeholders and state agencies, adequate and meaningful opportunity for review and comment. The Commission's process for public involvement and comment raises concerns about compliance with state public meeting laws, Oregon Revised Statutes Chapter 192 and Revised Code of Washington Chapter 42.30. This lack of a meaningful and transparent public process, and a rush to institute entirely new amendments only in recent weeks, is particularly egregious during a time of a pandemic. Due to the spread of COVID-19, robust public engagement is limited.

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Many provisions of the proposed Amendments are beyond the legal authority of the Commission, conflict with legislative intent, and violate the Act, particularly the savings provisions. We request that the Commission (1) repeal or modify the provisions of the Amendments that violate state and federal law; (2) provide adequate advanced notice of further proceedings and revisions; and (3) extend the period for public comment. Thank you for considering these comments.

Very truly yours,



Timothy L. McMahan

cc: Jason Spadaro  
Meghan Tuttle  
Max Yoklic