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<tr>
<th>Permit Number</th>
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<th>Amount</th>
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<tr>
<td>CP-08-00012</td>
<td>COMP PLAN MAP AMENDMENT FEE</td>
<td>2,150.00</td>
</tr>
<tr>
<td></td>
<td>Total:</td>
<td>2,150.00</td>
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Introduction

The purpose of this report is to provide analysis and supporting documentation for the Keechelus Ridge HOA application to amend the designation of their property on the Kittitas County Comprehensive Land Use Plan Map from Commercial Forestry to Rural. This analysis covers four topics: Background, Answers to Section V. - Comprehensive Plan Amendment Docketing Form, Findings and Facts and Conclusion.

Background

Over the last 25 years, land uses and the predominance of resource-based industries have changed considerably, as acknowledged in the Kittitas County Comprehensive Plan Vision: “Kittitas County has a rich cultured mix that is a result of agriculture, education and resource-based industries such as timber and mining. Many families in the lower Kittitas Valley carry on long family traditions in farming and cattle production, while the Upper County is changing from the once powerful mining and timber industries to recreational-based and service enterprises.” [Emphasis added].

Recognizing this changing character, the owners of the eight separate properties comprising Keechelus Ridge Home Owners Association (HOA) are requesting an amendment to the Kittitas County Comprehensive Plan to change the land use designation of their properties from Commercial Forest to Rural.

Timber companies owned the property for many years. In 2005, Merrill Ring purchased the property with the intention of subdividing into 80± acre parcels, as the land was no longer economically viable for commercial forestry operations. The present owners acquired all eight of their individual parcels over the past 15 months.

The property is located in western Kittitas County adjacent to Interstate 90 and between Lake’s Keechelus and Kachess. (See Attachment 1 for location of property in relation to I-90. Property is highlighted in yellow.) Access is from I-90 at the Stampede exit, then north to Forest Service Road #4832, which parallels I-90 towards the northeast.

The HOA property is adjacent to National Forest land to the north, east and south, and to small, privately owned plats to the southwest between the subject property and Lake Keechelus. Non-adjacent Sections 7 and 13 to the southeast are zoned Rural-3. Non-adjacent section 11 is platted into 80-acre lots similar to the subject property. (See Attachment 2 for a larger scale map of the property and surrounding lots.) Currently there are no cabins or homes
on any of the Keechelus Ridge lots; however that may change in the next year or two. There are no commercial forestry operations on any adjacent lands.

According to the Forest Management Plans prepared for each property owner (see Attachment 3, sample Plan), potential forest management activities might be economically viable only if undertaken concurrently by several of the property owners to pool their timber to achieve the necessary volume to schedule a mechanized harvesting. However, given that there are no longer mills in the immediate area, the economic viability would still be in question. Individual resource use could involve small, specialized activities such as firewood harvest, mushroom picking, tree bough products and other seasonal operations, not considered of long-term commercial significance. Other uses are likely to include cabin sites.

The Commercial Forest section of the Kittitas County Comprehensive Plan is based on Growth Management Act provisions, outlined in WAC 365-190-060, Forest land resources, which states, in part:

In classifying forest land, counties and cities should use the private forest land grades of the department of revenue (WAC 458-40-530). This system incorporates consideration of growing capacity, productivity and soil composition of the land. Forest land of long-term commercial significance will generally have a predominance of the higher private forest land grades. However, the presence of lower private forest land grades within the areas of predominantly higher grades need not preclude designation as forest land.

Each county and city shall determine which land grade constitutes forest land of long-term commercial significance, based on local and regional physical, biological, economic, and land use considerations.

Counties and cities shall also consider the effects of proximity to population areas and the possibility of more intense uses of the land...

The Washington State Department of Natural Resources (DNR), Forest Practices Division, has mapped the state for, among other data, forest land site classes, with Class I representing the highest quality commercial forest land and Class V the lowest. The maps also show lands defined as “non-commercial or marginally commercial.”

According to the map on the DNR Forest Practices website mapping application (see Attachment 4) most of the site is in Site Class V, the lowest

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1 Remaining WAC criteria are similar to those in County policy 2.3(C) addressed below.
class, with a large section in the northwest-north-central part of the site shown as “non-commercial or marginally commercial.” A section in the eastern-central portion of the site is shown as Site Class III and, finally, a small section in the south-central part of the site is shown as Site Class II. Even the “best” sites in Class II would be difficult to log profitably due to the number of small creeks and possible required buffers that criss-cross the property.

The property has marginal value for large-scale or long-term timber production. However, even if the land were viable for commercial timber production, the slope of the land and proximity to view corridors from I-90 and Lake Keechelus make clear-cutting on the property an inappropriate activity for an area where the economy is moving toward recreational-based businesses.

The property owners appreciate the significance of commercial forestry activities in Kittitas County (which is why they each commissioned the professional forester’s report on how to best maintain the land’s forestry capacity), but they recognize that their particular parcels have marginal value for large-scale timber production.

Due to not only the specific conditions of the land, but its location, changing the designation to Rural would not set a precedent for future requests to amend Commercial Forest designations in the County. This property is adjacent to National Forest, so no land use changes would occur there. The property is close to the developed and developing Snoqualmie/Easton corridor and can serve as a buffer between those uses along I-90 and commercial forest farther to the east. Section 11 nearby has also been divided into 80-acre parcels, further recognition that commercial forestry in this corridor is no longer economically viable. Property owners’ intentions are to eventually request a rezone to Forest and Range - 20 to provide smaller parcels for family members and to sell to others to help with the economics of owning the land.

Finally, the request to designate the land as Rural is generally consistent with the Comprehensive Plan and policies, as discussed in the sections below.

Responses to the Forest Lands Advisory Committee De-Designation criteria:

Criterion Number 1: Long-Term Economic Conditions

Commercial Forestry in Kittitas County has declined sharply over the last 15 years. Evidence of this downturn and its many effects on Kittitas County are everywhere, so this application will cite a few that seem most relevant:
The Forest Lands Advisory Committee recognizes these conditions with their own research, citing the precipitous drop in both logging volume (see attachment 6) and dollar value of harvested timber (see attachment 7) over the past 15+ years.

In 2003, ECONorthwest produced a study of an impending mill closure in Republic, WA, and how that mill closure fits into the overall state of the logging industry (see attachment 8). This report cited numerous factors for this and other mills shutting down beyond timber availability (in fact too much available timber was part of the problem). Cheap timber from abroad, low value wood (in Republic's case), and general industry oversupply all contributed to mill closures. This situation has only worsened, 5 years after the report's publication, and shows no sign of improvement.

**Criterion #2: Compatible Land Use Alternatives**

There is currently no commercial forestry activity in any lot or section adjoining the applicant land, so any changes in land use will have no effect on any commercial forestry activity.

**Criterion #3: Ownership goals and objectives**

The members of the Keechelus Ridge HOA do not have the ability or desire to run any large-scale commercial forestry on our property. The owners want to use their property for second homes and recreation. They would like the option of 20 acre lots in order to give parcels to family members and recoup some of the initial investment through individual lot sales. Some owners are interested in small-scale hobby farming, but the applicant land is not suitable for commercial-scale forestry even in 80 acre lots (see attachment 3 Sample Forest Management Plan).

The Washington State Department of Employment Security projects an overall employment increase of 17% over the ten-year period from 2004-2014 for non-farm jobs in Kittitas County. The top three growth sectors are Construction, Government, and Leisure and Hospitality (see attachment 9). Clearly, the county will need additional recreation land in both public and private hands over this projected period. The applicant land, if rezoned to allow cabins on 20 acre lots, would contribute to the growing leisure and hospitality segment of Kittitas County's economy through increased recreational activity.

**Criterion #4: Availability of Public Services**

The applicant property is within school district #28, and within hospital district #2. The applicant property is accessed by US Forest Service Road 4832. The Keechelus Ridge HOA had a binding legal
easement to use FS 4832 from the USFS. Please see the easement’s legal analysis in attachment 11 for more information.

**Criterion #5: Site Productivity**

The Washington State Department of Natural Resources has numerous site classes for commercial forestry, with 1 being the highest (most productive). The Forest Lands Advisory committee requests that a majority or significant portion of a property applying for de-designation be of a lower (less productive) site class than 1-4. The latest Washington State Department of Natural Resources map (see attachment 4) shows approximately 75% of the applicant land is either Site Class V or non-commercial/marginally commercial.

**Criterion #6: Changes in Circumstance**

Last year, the City of Cle Elum applied for a Comprehensive Plan Amendment extending their Urban Growth Boundary (approved under ordinance no. 2007-38). When answering Section D of the Comprehensive Plan Amendment Docketing Form “How have conditions changed that warrant a comprehensive plan amendment?” They specifically cited massive changes in the commercial forestry industry and county economy as a whole in the excerpt below:

“Change in Land Ownership and Economy. One of the primary conditions that has changed is the widespread relinquishment of commercial forestland by private timber companies. This has resulted in at least ten thousand acres in upper Kittitas County becoming available for purchase by individual landowners and other entities that have subdivided and sold residential lots. This has also resulted in a shift in the local economy. Today, the local economy of Cle Elum and most of the upper county has shifted from being resource based to now being based on tourism and recreation. The availability of these lands for private development and the changing economy has had a tremendous “trickle-down” effect in Cle Elum and the county.

**Suncadia Resort.** The most impressive of these private transactions created the Suncadia Resort, and the proposed development of over 3,000 housing units and upscale amenities. This increase in available lots, new home construction, and the high-end marketing of Suncadia Resort is bringing more people (full time and seasonal residents, tourists, recreationists, temporary workers, etc.) to the Cle Elum/Roslyn area. The increased popularity of the area has also brought increased housing prices and an increased need for services, commodities and local jobs…”

The area in and around the applicant’s property was once actively forested. Currently, there is absolutely no commercial forestry activity around the applicant property. All surrounding lands are either smaller 5 acre
residential lots, commercial forest lots owned by other individual, non-
forestry entities, or National Forestlands. Recreation, conservation, and
vacation homes are now the primary land uses in and around the applicant
property.

Answers to Section V—Comprehensive Plan
Amendment Docketing Form

A. Why is the Amendment needed and being proposed?
The Comprehensive Plan seeks to protect Kittitas County’s most
commercially significant land as a natural resource, while maintaining a
healthy balance of land uses and protecting the rights of property owners. The
Commercial Forest land use designation is no longer the most appropriate for
the subject properties due to, among other factors, limited commercial timber
value, surrounding land plats and uses, visibility from I-90 and nearby
recreation areas, and current onsite land use.

B. How is the proposed Amendment consistent with the County
Wide Planning Policies for Kittitas County?
The Kittitas County County-Wide Planning Policies were adopted “to ensure
consistency and coordination among the comprehensive plans of the County
and the Cities.” The policies cover Urban Growth Areas, Economic
Development and Employment, Environment, Affordable Housing, Siting of
Essential Public Facilities, Transportation, Contiguous and Orderly
Development and Analysis of Fiscal Impacts. This amendment proposal
would not have an effect on the policy areas outlined above and is, therefore,
consistent with the County-Wide Planning Policies.

C. How is the proposed Amendment consistent with the Kittitas
County Comprehensive Plan?
The Land Use Element in the Kittitas County Comprehensive Plan contains,
among other things, a section on Commercial Forest land. The proposed
HOA amendment to Rural is compatible with the policies and does not
conflict with them – they simply do not apply to the properties because they
should not be considered lands of long-term commercial significance for
forestry activities. Tables 1 and 2 below contain sections of the Commercial
Forest Land Use text and policies relevant to the amendment proposal. The
response compares the proposal with the plan text and policies in the right-
hand column, and shows the properties do not meet the Commercial Forest
classification and can be developed for Rural uses sensitively to protect true commercial lands of long-term significance such as the National Forest.

Table 1. Commercial Forest Land Use Designation Description Analysis

<table>
<thead>
<tr>
<th>Text</th>
<th>Analysis in Relation to HOA Request</th>
</tr>
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<tbody>
<tr>
<td>This designation is applied to those lands, which have long-term significance for the commercial production of timber. Commercial forest lands should be identified by:</td>
<td>See responses below</td>
</tr>
<tr>
<td>parcel size;</td>
<td>Each individually owned parcel in the section is only 80 acres, much smaller than the size traditionally favored for commercial operations.</td>
</tr>
<tr>
<td>current land use;</td>
<td>Current land owners are using the land for recreation and, possibly, small, resource-based activities such as gathering berries.</td>
</tr>
<tr>
<td>tax status as classified forest land, designated forest lands, or forest open space;</td>
<td>Owners enjoy tax status as classified forest land and intend to continue with a current use tax classification program relevant to the new designation.</td>
</tr>
<tr>
<td>the availability of public services and facilities;</td>
<td>Public services and facilities are not available at this time. However, the property owners intend to manage the non-commercial timber in a manner that avoids fire potential. In addition, any future development would be subject to County requirements for adequate water and septic systems.</td>
</tr>
<tr>
<td>land uses and long-term commercial significance;</td>
<td>The parcels were logged in the past, but the land was divided into smaller parcels because there was not adequate long-term commercial potential.</td>
</tr>
<tr>
<td>history of land use permits issued nearby;</td>
<td>Some of the lots, which range from 5-12 acres to the southwest near Lake Keechelus, are developed as are properties nearby that are zoned Rural-3. Section 11 southeast of the subject property was also recently divided into 80-acre lots.</td>
</tr>
<tr>
<td>feasibility of alternative uses;</td>
<td>Recreation and small, resource-based industries are feasible uses for the properties. Individual resource use could involve small, specialized activities such as firewood harvest, mushroom picking, tree bough products and other seasonal operations, not considered of long-term commercial significance. Other uses are likely to include cabin sites.</td>
</tr>
<tr>
<td>long-term economic and technological conditions which affect the ability to manage forest lands for long-term commercial production; and</td>
<td>With land divided into 80-acre parcels, the land is no longer economically viable for long-term commercial production. A &quot;mechanized&quot; operation (a preferred method of harvesting) would probably require several landowners to pool their timber to provide sufficient acres and volume to make it economically worthwhile to harvest. It is likely that the market for the types and sizes of logs this property would yield would involve a long haul from site to market, which would affect the profitability.</td>
</tr>
<tr>
<td>soil productivity, geology, topography and other physical characteristics conducive to growing merchantable crops of timber</td>
<td>DNR has given much of the site the lowest timber rating and/or a non-commercially viable designation. Land is steep in many places with feeder creeks throughout the property and subject to a short growing season.</td>
</tr>
<tr>
<td>GPO 2.130A To conserve forest lands for productive economic use by identifying and</td>
<td>As indicated above, the property is no longer commercially viable for long-term resource extraction, so it should no longer</td>
</tr>
</tbody>
</table>
Text: Designating forest lands where the principal and preferred land use is commercial resource management.

Analysis in Relation to HOA Request: Be designated "commercial forest."

Table 2. Additional Resource Lands Policies Analysis

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<th>Text</th>
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<tr>
<td><strong>GPO 2.131</strong> Commercial forest land should be identified and designated based on operational factors; growing capacity; site productivity and soil composition; surrounding land use; parcel size; and the absence of urban public services.</td>
</tr>
<tr>
<td>The property is no longer commercially viable due to various factors including terrain and size of parcel. The DNR classification map shows low Site Classes based on type and size of trees and soil composition for much of the property. The property meets requirement of &quot;absence of urban public services,&quot; but that is not sufficient to continue a commercial forest designation. The property owners intend to manage the non-commercial timber in a manner that avoids fire potential. In addition, any future development would be subject to County requirements for adequate water and septic systems.</td>
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| **GPO 2.138A** Land use activities within or adjacent to commercial forest land should be sited and designed to minimize conflicts with forest management and other activities on commercial forest lands. |
| The forest management plans developed for each parcel indicate that, even though the land is no longer commercially viable, some small scale forestry activities could still occur, which would not result in a conflict with any adjacent forest lands. |

| **GPO 2.141** Special development standards for access, lot size and configuration, fire protection, forest protection, water supply, and dwelling unit location should be adopted for development within or adjacent to commercial forest lands. |
| If the land were designated as Rural, property owners would be happy to assist with development of standards that provide adequate services to the Rural development and that protect adjacent commercial forest lands. |

Text and policies from the Rural Lands Element are addressed in Table 3, and show that a Rural designation for the property would be consistent with the Comprehensive Plan.

Table 3. Rural Lands Element Policies

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<tr>
<td><strong>8.5(A) GENERAL GOALS, POLICIES AND OBJECTIVES</strong></td>
</tr>
<tr>
<td>GPO 8.8 Voluntary, cooperation-seeking, incentive-based strategies will be sought in directing specific uses or prohibitions of uses on Rural Lands.</td>
</tr>
<tr>
<td>Property owners wish to protect the beauty and natural resources of their property and would cooperate with the County in protecting those resources. The intended rural living and small-scale &quot;hobby&quot; forestry are compatible with rural land and activities.</td>
</tr>
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</table>

| **8.5(B) RURAL USES ADJACENT TO DESIGNATED RESOURCE LANDS** |
| GPO 8.16 Growth in the Rural Lands should be managed in a manner that minimizes impacts on adjacent natural resource lands. |
| The types of uses desired by property owners would not impact any adjacent lands that were still designated as natural resource lands. Rural living and "hobby" forestry of a small scale are intended, and would not be in conflict with adjacent designated National Forest lands. |

| **8.5(C) NON-DESIGNATED RESOURCE USES - FORESTRY, FARMING, MINING** |
| Natural Resource activities contribute to the County's overall economic base, as such, commercial agriculture, forestry and mining in Rural Lands |
| Property owners are committed to implementing forest management plans even though commercial forestry is no longer viable. |
D. How have conditions changed that warrant a comprehensive plan amendment?

As outlined in the Background section and in the attachments, large-scale timber production is no longer economically viable, nor is commercial forestry activity appropriate for this area that is changing to a more recreational-based economy. A designation of Rural would allow property owners more flexibility to use the land as appropriate in today’s economy, while still keeping the natural landscape intact. Please see Criterion 1 and Criterion 6 in Responses to the Forest Lands Advisory Committee De-Designation criteria for additional information.

Facts and Findings

1. Pursuant to Kittitas County Code (KCC) 15B.03.030, applicant Keechelus Ridge Home Owners Association (HOA) submitted a timely application for a land use map amendment to the Kittitas County Comprehensive Plan.

2. Application is consistent with the provisions of the Washington State Growth Management Act (GMA) – RCW 36.70A and with the Kittitas County Wide Planning Policies. The HOA application has demonstrated that the properties no longer meet the criteria in WAC 365-190-060, and are not forest lands of long-term commercial significance. The lands are suitable for Rural uses, and are compatible with nearby existing rural uses and will act as a buffer to resource lands.

3. Application is consistent with the provisions of the Kittitas County Comprehensive Plan Goals and Policies and the Land Use and Rural Elements. Properties are suitable for Rural uses and will managed compatibly with nearby resource lands.

Conclusion

Applicant has shown that the requested amendment to the Kittitas County Comprehensive Plan Land Use Map to change the designation of their property from Commercial Forest to Rural is consistent with the Comprehensive Plan Goals and Policies and the Land Use and Rural Elements. Therefore, Applicant requests a favorable recommendation from
the Planning Commission and, ultimately, approval of the Board of County Commissioners to designate the property Rural.
Section 3 Keechelus Ridge- Adjacent Lot ownership:
(See attached map for detail)

1. #135835
   Douglas Pittis
   PO Box 272
   S. Cle Elum, WA 98943

2. #844236
   Jess J. Poland
   PO Box 358
   Graham, WA 98338

3. #298436
   James and Martin Glass
   7630 141st Ave NE
   Redmond, WA 98052

4. #255835
   George Duncan
   8123 236th St S.W. #112
   Edmonds, WA 98026

5. #025835
   Chris Fox
   1026 SW 119th St
   Seattle, WA 98146

6. #895835
   Craig Johnson
   208 195th Pl S.W.
   Lynnwood, WA 98036

7. #245835
   James Ruckle
   22706 96th Pl S.
   Kent, WA 98031

8. #885835
   Michael, Richard, Douglas Pittis
   PO Box 272
   S. Cle Elum, WA 98943

9. #295835
   Novig, Inc.
   c/o Star Mosher
   4200 E. Madison
   Seattle, WA 98112

10. #246535
    Wenatchee National Forest
    215 Melody Lane
    Wenatchee, WA 98801

11. #598735
    Same as #10

12. #148735
    Same as #10

13. #318735
    Same as #10

14. #216535
    Same as #10

15. #951698
    Hirsch and Neilson
    17235 NE 4th St
    Bellevue, WA 98008

16. #185835
    Melvin Tate
    PO Box 453
    Easton, WA 98925

17. #175835
    Perseal King
    4608 Cooper Street
    Seattle, WA 98118

18. #225835
    Laurence Gadbois
    5422 Fern Loop
    West Richland, WA 99353

19. #235835
    Todd Erickson
    Box 147
    Easton, WA 98925

20. #834236
    Chih-Tsung Kang
    2001 Harris Ave
    Richland, WA 99352
FOREST MANAGEMENT PLAN

DEVELOPED FOR

Keith & Sandra Navidi
42924 SE 114th Street
North Bend, WA 98045

Lot No. 4
21-12-03-000-0004
Acres = 80.3±

Site Location:
Sec. 3, T21N, R12E, WM
Kittitas County, WA

January, 2007

Prepared by:

Dan Bruner
BRUNER FORESTRY
1458 Dieringer Ave.
Buckley, WA 98321
253-569-8245
brunerforestry@comcast.net
GENERAL PROPERTY DESCRIPTION:

This parcel is located in the Cascade Mountains in western Kittitas County adjacent to Interstate 90 and between Lake’s Keechelus and Kachees. This is lot #4 of eight separate lots/parcels located in this Section and occupies the northern half of the northwest quarter. Forest management plans are also being written for the other 7 parcels. Together, these 8 lots form a block of forestland that is large enough (666± acres) to provide good habitat for many species of plants and wildlife while also providing numerous potential forest management opportunities. Some of those forest management activities can be economically viable if undertaken concurrently by several parcels, while those same activities might not be viable if only one or two lots are involved. Access is off of I-90 at the Stampede Exit, then north to Forest Service Road #4832 which parallels I-90 towards the northeast. Currently there are no cabins or homes on any of these lots, however that will likely change in the next year or two.

This parcel generally slopes southwest to northeast with elevations ranging from about 3560’ in the southwest corner to 3920’ in the northeast corner. Over two thirds of the acres in this parcel are fairly gentle and travel across most of those acres for forest management activities, recreation or cabin access will be easy. There are also some very steep slopes on the lot, including cliffs above the creek in the center part of the property near the south property line. These steep areas occupy only a small portion of the parcel and can be “worked around” when doing forest management activities. Two creeks, plus a couple of tributaries, enter the parcel from the north and the east. These flow southwest and then form the aforementioned creek that flows off of the lot (under the cliffs) along the southern property line. The topography along these upper creeks is not nearly as steep so access across them will be possible.

Access to this parcel is from the south on a road that dead ends on this lot. About 1000’ south of the property line (on lot #3) this road connects to the main access road for this part of Section 3. This lot and lot #8 are the only two in this section that are not traversed at some point by the main access road. This results in more road/driveway for the owners to maintain but also allows for more privacy since other vehicles will not have to enter these two lots in order to access another lot. Once on this parcel, there are also several old grades/roads that have grown over but could easily be opened up again for further access. These old grades coupled with the gentle topography on much of this parcel will give the owner numerous choices for cabin sites. These same features will also facilitate timber harvest operations and other forest management activities.
This parcel is almost completely timbered with a young forest containing several species of conifers. The densest portions of the forest are in the northwest and the eastern end of the property. The main conifer species are Douglas fir, silver fir and western hemlock, while there are lesser quantities of noble fir and mountain hemlock. At these higher elevations the growing conditions start to favor the true firs (silver and noble) so they become more dominant. At the upper end of lot #5, just east of this parcel, the elevation is over 4200’ and the heavy “true fir” component in this area is very evident.

The trees are generally very healthy and are growing well, recognizing that at the higher elevations these trees will not put on the same amount of growth as those further down the slopes. These trees are about 30± years old and “seeded in” following logging in the early 1970s. Around 15± years ago most of these acres were pre-commercially thinned to open up the stand and allow more room for the remaining trees to grow. Many of the “cut” trees are still lying on the ground and the success of the thinning operation is evident by comparing those trees to the much larger “leave” trees still growing around them. Those trees are now approaching a size where a commercial thinning operation will be feasible. Most of the trees have a DBH (diameter at breast height) of between 8” – 12”, with a few in the 12” – 16” DBH range.

The soils on this forest tend to be very shallow and moderately well drained. At this elevation these soils combined with the shorter growing season result in the lower site index rating that occurs on most acres in this forest. Erosion hazard is low to moderate, also affected by the shallow soils. Since a lot of snow typically builds up on this site the biggest erosion potential comes from the manner and speed that the snow pack leaves. Heavy “rain on snow” events are the dominant erosion concern in this area. The best management practices to counteract those events include good road maintenance with water diversion techniques that prevent rain and/or melting snow from running down the roads and picking up excess soil, which typically ends up in a nearby creek.

MANAGEMENT CONSIDERATIONS AND OBJECTIVES:

Owners recognize that this lot was part of a larger ownership that had been managed for production forestry for many years. Now that the ownership pattern on these properties has changed some of the established forest practices will change also. At the same time, the bulk of this lot (and the adjoining lots) is still going to be used for timber production so many of the same principals will apply. One of the best realities about growing trees is that it takes a long time for them to mature and during those years landowners can be very active managers or they can be passive and just “watch the trees grow”.

Passive management on this lot would still involve keeping an eye on the forest. Forest health can become a big issue and the landowner will need to watch the trees for signs of stress. Stress can be in the form of something dramatic, such as a bark beetle attack, or it
can be very subtle, such as too much competition from neighboring trees. That second form of stress will develop in any/all forests when the trees become overcrowded and there is not enough nutrients, sunlight or water to go around. If no measures are taken to reduce the overcrowding the result will be that all of the effected trees will suffer reduced growth and vigor and eventually the weaker ones will die. In an unmanaged forest this happens all of the time, however on this and adjacent lots dying trees left standing in the woods can lead to other problems, including increased fire danger, that will not be acceptable with cabins/houses located in close proximity. Because of these types of issues all landowners will need to adopt at least an “active/passive” management style with these lots. This includes planning for such issues as fire danger and then acting as needed to reduce any risks.

With an 80± acre forest landowners that desire can find a lot of management activities to perform. Several of the activities have already been noted, including monitoring growth and tree health. There are several “specialized forest products” that might also be available on the property. Firewood can be harvested, and this can be cut from existing downed trees, from standing dead trees or from selected live trees that need to be removed in order to reduce overcrowding. The firewood could be used on site, given to friends/relatives, donated to charities or even sold to produce a small revenue stream from the forest. There may be a small isolated patch of trees, or trees on too steep of a hillside, that a contractor would not remove in a thinning operation and these areas could be an additional firewood source.

Other specialized forest products that might be found on the lot include edible mushrooms, tree boughs and certain brush/tree species. Mushrooms on this site would likely be in very small quantities, probably only sufficient for owners or friends use only. Tree boughs would probably come from the noble fir or silver fir. These are used for wreaths during the holiday season. Brush/tree species would include such plants as bear grass, vine maple and others, plus tree species such as mountain hemlock. Sometimes small specimens of these plants can be dug up and sold to nurseries, including small trees that are not too large to handle. The bear grass can be picked and sold to florists for arrangements. Large enough quantities of any of the specialized forest products could make it feasible for landowners to harvest these crops to sell or make them available to contractors. A contractor would pay the owners a “stumpage” price per pound, per cord, per plant, etc. and then take care of the harvesting, marketing and selling of all products. There is never a guarantee that sufficient quantities of any product will be available on any of the lots, however the landowner who spends the most time in the forest looking will be the one who increases their chances of utilizing some of these products.

The first timber harvest that is likely to be conducted on this site is a commercial thinning and there are several variables to be considered when determining if such a thinning operation can be economically viable. These include log markets, type of harvest equipment required, volume of wood to be removed, availability of contractors and timing of operations. A good log market for the types and sizes (saw logs and pulp logs) of logs that this property would yield will be necessary. This is more critical because of the long hauling distance from this site to those markets. Equipment requirements are dictated by the topography, and for an initial commercial thinning entry “ground based” equipment is
probably the only economically feasible alternative. This means that thinning could only be accomplished on those acres where machines could access the trees directly and move the logs to the landings/roads for shipment. Fortunately, most of the acres on this lot are accessible by those machines. Thinning on steeper ground where overhead cable harvesting equipment would be necessary will likely not be economically viable until the trees have grown large enough to provide sufficient volume to pay for that more expensive harvesting method.

The preferred method of harvesting would be using a “mechanized” operation where the trees are cut, limbed, bucked, and then the logs moved to the landing area all by machines with no personnel “on the ground.” These types of operations are now fairly common in young forests around the northwest, however they are in great demand and getting one to move up to this site would require good timing. Part of that “timing” may include providing sufficient acres/volume for the contractor in order to entice them to move. This may require several of the landowners in this or adjacent sections to “pool” their timber to achieve the necessary volume. Added to this scheduling must be the shortened harvest season available at this location due to the heavy winter snows common in this area. This obstacle can be worked around but not eliminated and therefore the operating season in these sections will be shorter.

Commercial thinning possibilities on these parcels have already been outlined. If the landowner has the desire and the ability then they could actually do some of that work. Thinning small logs could be accomplished using a chainsaw and a large “quad runner”. An owner harvesting some of their trees themselves would never be as efficient as a professional contractor, however they would have some advantages over that contractor. The owner could take more time when selecting take trees and thus leave exactly the species mix and spacing that they felt was best for each spot on their forest. While working on a portion of the property the owner might also be able to take advantage of a specialized forest product, such as boughs cut from take trees, more easily than a logging contractor. Landowners might also be willing to take the time necessary to thin steeper slopes where the contractor could not afford to operate. For the “do it yourself” landowner this type of operation could be very satisfying while still producing a good deal of revenue.

On steeper acres where “ground based” thinning is probably not an option the landowner will still have to monitor the trees for health/vigor as outlined earlier in this plan. In order to ensure continue forest health some trees may have to be cut and left on the ground in these areas. Any project involving chainsaws and/or machines in the woods can be dangerous and owners will need to access the risks before electing to try any such activity themselves.

Tree pruning is another activity that could be considered on this lot, and pruning all limbs from the lower portions of the trees would have several benefits. Lack of limbs near the ground makes it more difficult for a fire to jump from the ground into the tree crowns. This would not affect a large fire that was established when it reached the property, but it could make all of the difference for a small fire that had just started on or near the lot and was starving for fuel. Pruning limbs up to the height of the first sawlog in the tree could yield better quality wood and thus higher prices over time. This operation can usually be done using hand pruners and a ladder, and again safety would be a big issue. Another benefit of
pruning is increased visibility. With the lower limbs removed the owners will be able to see further out into the forest and see more wildlife moving about on the property.

As the trees on the property continue to grow landowners will consider other harvest operations. Additional commercial thinning/s would be possible. Each additional stand entry would remove fewer (and larger) trees per acre. The economics of these operations generally work out because the larger trees are easier to harvest and the corresponding timber volume adds up quicker. Commercial thinning on the steeper acres will also be looked at. The larger trees would give this type of operation a better chance of being economical, even though it would probably still require one or more of the neighboring lots to also thin at the same time.

At some point in the future a final harvest will be considered. The last final harvest on this lot was in the form of a clear-cut and this option will remain viable for this stand rotation. A selective harvest in the form of a shelterwood cut is also an option. This harvest would leave 20± trees per acre, with the mix of species to be varied on most acres. The landowner would then be responsible for reforestation. This could be accomplished by planting seedlings or by waiting for the leaf trees to “seed in” the next generation, or even by a combination of both methods. Once the new forest is established then removing the leaf trees can be considered.

The removal of those large trees may be too disruptive to the new ones and the owners may elect to leave some or all of them for another generation.

The final timber harvest and the establishment of the new plantation result in additional management activities for the owners. Competition from brush will need to be controlled at some level in order to give the new trees a better chance to get established. On many of the acres this will likely not be necessary and the seedlings will do fine. Treatment for those areas where the brush is a problem can be done mechanically or with herbicides, and these activities can also be done by the owner or using a contractor.

When the forest is between 15 – 25 years old the owner will look at doing a pre-commercial thinning. The number of trees to remove will vary across the property but a target will be established and then the excess trees will be cut down by hand. There are many possible variations for accomplishing this goal, including who does the cutting, the timing of the activity and what happens to the “cut” trees. The owners may elect to do their own cutting over several years, and could thus control the slash (cut trees) build-up in any one area, resulting in better control of the increased fire danger. Where practicable the cut trees may also be removed and utilized as firewood. However accomplished, when this phase of the lifecycle of the forest is completed the trees will have a chance to grow more rapidly and shortly thereafter the owners will be more or less in the same situation that currently exists on the property.

All potential harvest operations, plus several other forest management activities, fall under the jurisdiction of the WA State Department of Natural Resources (DNR). This means that the owners will need to get permits from the DNR and will need to know the rules as they apply to the activity being permitted. The owner’s management practices and/or style will
likely change as they spend more time in the forest and have a better feel for how they want their forest to look.

**MANAGEMENT TIMETABLE:**

- **2007 – 2017:** look for opportunity to commercially thin “ground operable” portions of the property, based on tree size, log markets, contractor availability, quantity of timber available, etc. Tree size is currently small for this type of operation but log markets could greatly affect size necessary so monitoring will still be an option.
- **2007 – 2017:** following or during thinning operations look for opportunity to harvest firewood or similar products
- **2007 – forward:** monitor overall tree/timber stand health for all species, including additional monitoring following thinning operations
- **2007 – forward:** take advantage of available specialized forest product harvesting opportunities for all acres.
- **2018 – 2038:** look for additional commercial thinning opportunities, including “steep slope” areas. Decisions to be based on tree growth/vigor, timber markets, timber volume availability, contractor availability, final harvest plans, etc.
- **2018 – 2038:** following or during thinning operations look for opportunity to harvest firewood or similar products
- **2048 – 2068:** watch for final harvest opportunity. Factors to include number and timing of previous thinnings, clear-cut or shelter-wood harvest, log markets, changing owner objectives, etc.
- **2049 - 2069:** reforest property following final harvest. Tree species to be a mixture of conifers that will be either planted or allowed to “seed-in” from leave trees
- **(2049 – 2069)** - forward: monitor survival, health and vigor of newly established plantation and fill in holes as needed. First 5-10 years emphasis to be on control of competing brush species.
- **2064 – 2079:** look for pre-commercial thinning opportunity to bring effected acres to desired stocking levels. Conduct thinning operation so as to minimize fire danger from slash as much as possible.
- **(2079 – 2094)** – forward: continue to monitor stand health/vigor and look for opportunity to repeat steps outline above
FOREST PRACTICE SITE CLASS MAP

TOWNSHIP 21 NORTH HALF 0, RANGE 12 EAST (W.M.) HALF 0, SECTION 3

Application #: __________________________

http://www3.wadnr.gov.cnapp5/servlet/com.esri.esrima...ecName=fpars&Clie
FPARS MAPS LEGEND

**BOUNDARIES**
- County Boundary
- Townships
- Section Survey Lines

**WATER BODIES**
- Open Water
- Flats/Gravel Bars
- Ice
- Man Made Feature
- Wet Area
- Unknown/Unclassified

**ELEVATION**
- Contours, 40' interval

**STREAMS**
- Stream Water Type S, F, N
- U, unknown
- X, non-typed per WAC 222-16
- Water Type Change

**TRANSPORTATION**
- Paved Road
- Unpaved Road / Surface Unknown
- Abandoned Road (not on Activity map)
- Orphaned Road (not on Activity map)
- Trail
- Railroad

**SITE CLASS** — **On Site Class Map only**
- Site Class I
- Site Class II
- Site Class III
- Site Class IV
- Site Class V

**SITE INDEX** — **On Site Class Map only**
- Non-Commercial or Marginally Commercial
- No Data
- Red Alder

**SOILS** — **On Resource Map only**
- Hydric Soils
- Highly Unstable
- Highly Erodible
- Highly Unstable & Highly Erodible
- No Data or Gravel Pits

**SLOPE** — **On Resource Map only**
- Medium Slope Instability
- High Slope Instability

**RAIN ON SNOW** — **On Resource Map only**
- Rain on Snow
- Snow Dominant

**OTHER**
- WAU (Activity, Base & Water Type maps)
- WRIA (Activity, Base & Water Type maps)
- Fire Shutdown Zones (Activity & Base maps only)
- Map Registration Tics (All map types)

**Notes to Applicant or other user:**
See the FPA/N instructions for Activity Map standards.

Site indices are based on the WA-DNR State Soil Survey. If the site index does not exist or indicates red alder, noncommercial, or marginally commercial species, the following apply:

a) If red alder is indicated and the whole RMZ width is within that site index, then use site class V. If red alder is indicated for only a portion of the RMZ width, or there is on-site evidence that the site has historically supported conifer, then use the site class for conifer in the most physiographically similar adjacent soil polygon.

b) In Western Washington, if there is no site index information, use the site class for conifer in the most physiographically similar adjacent soil polygon.

c) In Eastern Washington, if there is no site index information, assume site class III, unless site specific information indicates otherwise.

d) If the soil polygon indicates noncommercial or marginally commercial, then use site class V.

See Forest Practices Rules WAC 222-16-010 for a more complete definition of site class.

**Disclaimer:** Features shown on Forest Practices Application Review System (FPARS) maps represent data stored in the Washington State Department of Natural Resources (DNR) Geographic Information Systems database. As some of the data sets rely on outside sources of information, the DNR cannot accept responsibility for errors or omissions, and therefore there are no warranties that accompany this material.
COMPREHENSIVE PLAN AMENDMENT DOCKETING FORM

I. CHECK THE APPROPRIATE BOXES

COMP PLAN MAP ☑️  COMP PLAN TEXT ☐

NOTICE: If the amendment you are applying for is within an URBAN GROWTH AREA or you are proposing a UGA expansion of the Ellensburg, Cle Elum, or Roslyn UGA you are required to docket your item with that City as well. You must contact the appropriate City for filing deadlines, fees, application, and costs.

II. GENERAL INFORMATION

A. APPLICANT’S NAME: See Attached
   MAILING ADDRESS:

   E-MAIL ADDRESS: ________________________
   BUSINESS PHONE: ________________________ HOME PHONE: ________________________

B. AGENT’S NAME: ________________________
   MAILING ADDRESS:

   E-MAIL ADDRESS: ________________________
   BUSINESS PHONE: ________________________

C. SITE PLAN/PROPERTY MAP with the following features (as applicable): buildings, points of access, abutting roads, septic tank, drain field, etc. PLEASE ATTACH

D. LIST OF 500 FOOT ADJOINERS – PLEASE ATTACH. If adjoining parcels are owned by the applicant, the 500 feet extends from the farther parcel. If the parcels is within a subdivision with a Homeowners or Road Association, please include the address of the association. (Required on all applications for notification purposes)

III. FOR MAP AMENDMENTS

A. TAX PARCEL NUMBER(S): See attached
   TOTAL ACREAGE: ________________________
   SITE ADDRESS: ________________________
   OWNER(S): ________________________
   MAILING ADDRESS: ________________________

   HOME PHONE: ________________________

(Additional sheets may be attached if more then one parcel is involved)
B. EXISTING COMPREHENSIVE PLAN DESIGNATION:
   Commercial Forest

C. EXISTING ZONING:
   Commercial Forest - G0

D. PROPOSED COMPREHENSIVE PLAN DESIGNATION:
   Rural

E. PROPOSED ZONING DESIGNATION *:
   Forest and Range - 20

F. THE PRESENT USE OF THE PROPERTY IS:
   Recreation

G. SURROUNDING LAND USE:
   Commercial Forest / National Forest

H. SERVICES
   Please provide the following information regarding the availability of services.

   The site is currently served by sewer _____; septic ✓ (check one)
   Sewer purveyor (if on public sewer system): ____________________________

   The site is currently served by a public water system ____; well ✓
   Water purveyor (if on public water system): ____________________________

   The site is located on a public road _____ private road ✓ (check one)
   Name of road: N/A

   Fire District #: outside of fire district boundary

IV. FOR TEXT AMENDMENTS

   Identify the sections of the Comprehensive Plan and Zoning Ordinance that you are proposing to change and provide the proposed wording (attach additional pages if necessary)
V. FOR ALL AMENDMENTS

A. Why is the amendment needed and being proposed?

See Attached

B. How does the proposed amendment consistent with the County-Wide Planning Policies for Kittitas County?

See Attached

C. How is the proposed amendment consistent with the Kittitas County Comprehensive Plan?

See Attached

D. How have conditions changed that warrant a comprehensive plan amendment?

See Attached

VI. Application is hereby made for A COMPREHENSIVE PLAN AMENDMENT to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to enter the above-described location to inspect the proposed and or completed work.

Signature of Authorized Agent

Date

Pinion Health on behalf of Keechelus Ridge A104 et al

Signature of Land Owner of Record (required for application submittal)

Date

06/25/08

* Rezone requests require separate Request to Rezone application and fee.
Comp Plan Amendment Docketing Form VI B. (signature)

Application is hereby made for A Comprehensive Plan Amendment to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to enter the below described location to inspect the proposed and or completed work.

Signed KEECHELUS RIDGE HOA:

Brian and Kelli Geller  
2607 Western Ave Apt 358  
Seattle WA 98121  
Email: Mr.geller@gmail.com  
Tax Parcel # 951690  
Acreage: 80  
Site Address: # 951690  
Owner: Brian and Kelli Geller  
Mailing Address: Same as above  
Home phone: 206-877-2400

Signed

Keith and Sandra Navidi  
42924 SE 114th St  
North Bend, WA 98045  
Email: keith.navidi@globalcrossing.com  
Tax Parcel # 951689  
Acreage: 80.3  
Site Address: # 951689  
Owner: Keith and Sandra Navidi  
Mailing Address: Same as above  
Home phone: 425-831-0070

Signed

Matthew G Llewellyn (50%)  
Susan M Llewellyn  
18302 45th St E  
Lake Tapps Wa., 98391  
Evan Daniel Llewellyn (50%)  
1436 Mst. N.E.  
Auburn, Wa 98002-5335  
253-939-1193  
Email: mgllewellyn@comcast.net  
Tax Parcel # 951687  
Acreage: 84.7
Site Address: # 951687
Owner: Matthew G Llewellyn, Evan Daniel Llewellyn
Mailing Address: Same as above
Home phone: 253-891-1010
Cell phone: 206-290-2204

Daniel J. DeVaux
18301 45th. St. E.
Lake Tapps, Wa. 98391
Email: DANDEVAUX@aol.com
Tax Parcel # 236535
Acreage: 89.6
Site Address: # 236535
Owner: Daniel J. DeVaux
Mailing Address: Same as above
Home phone: 253-862-2471
Cell phone: 253-279-7531

Mike Gunning
43520 SE 151
North Bend, WA 98045
Email: mike@packageit.com
Tax Parcel # 951693
Acreage: 83.5
Site Address: # 951693
Owner: Mike Gunning
Mailing Address: Same as above
Home phone: 206-786-9668

Merrill & Ring Forest Products L.P.
1511 Third Avenue, Suite 609
Seattle, Washington 98101
Attn: John Breithaupt
Email: johnb@merrillring.com
Tax Parcel # 951692
Acreage: 84.5
Site Address: # 951692
Owner: Merrill & Ring
Mailing Address: see above
Business phone: 206-948-2273

Shaun and Wendy King
15920 Waller Road East
Tacoma, WA 98446
Email: kingtruckings@comcast.net
Tax Parcel # 951691
Acreage: 80.4
Site Address: # 951691
Owner: Shaun and Wendy King
Mailing Address: same as above
Home phone: 253-531-8648

Norm Weaver
18006 28th street east
Lake Tapps, WA 98391
Email: normweaver@aol.com
Tax Parcel # 951688
Acreage: 83
Site Address: # 951688
Owner: Norm Weaver
Mailing Address: Same as above
Home phone: 714-881-6005
Harvest History Public and Private
Kittitas County

Spotted Owl Listing

New Spotted Owl Rules
Special Emphasis Area

Source:
Dept of Revenue

Legend:
□ Public Forest Harvest
□ Private Forest Harvest

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National Forests and Mill Closures:

An Assessment of the Pending Mill Closure in Republic, WA

ECONorthwest
99 W. Tenth, Suite 400
Eugene, OR 97401
(541) 687-0051

January 2003

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Chapter 1

SUMMARY

The Vaagen Brothers Lumber Co. recently announced its decision to close its mill in Republic, Washington, in early 2003, eliminating about 87 jobs. As with any similar announcement, this one is generating economic and social trauma for affected workers and communities. The difficulties are more troublesome as Republic is a small, relatively isolated community, population about 1,000, where alternative job opportunities for laid-off workers are scarce, and jobs at the mill have long been a part of the community’s social fabric.

THE CHOICE IS NOT JOBS-VS-THE ENVIRONMENT

In the wake of the announcement, mill workers, members of the community, and political leaders are seeking to understand the reasons underlying the pending closure and searching for ways to keep the mill open. Much of this effort, however, has become entangled in a larger, national controversy over the Bush Administration’s efforts to unravel environmental protections, including some applied to the nation’s national forests by the Clinton Administration in the wake of litigation that restricted logging and related activities harmful to spotted owls, salmon, and numerous other species. Hence, many critics of environmental protections—including company president Duane Vaagen, and the area’s U.S. Representative, George Nethercutt—cast the mill closure in simple terms, as a contest between jobs and the environment. By this reasoning, the steps needed to reverse the mill closure are straightforward: relax federal environmental laws and regulations governing the adjacent Colville National Forest, restrict the ability of environmental groups to participate in forest-management decision-making, and the crisis will pass.

This jobs-vs.-the-environment argument is an old one, one that has been proven false elsewhere, and an overwhelming body of evidence indicates that it also is false here. Overturning environmental laws and regulations almost certainly will not save jobs at the mill because, in fact, they are not the real causes of the mill’s closure. Moreover, rescinding environmental protections for the Colville National Forest probably will have serious, adverse impacts on the local economy’s long-run future, reducing both the number of jobs and the levels of income.

The facts don’t support the argument of those who blame the pending mill closure on laws, regulations, and processes aimed at protecting the environmental attributes of national forests:

- Mills are closing not just in Republic but across North America. Why? Not because mills don’t have enough logs, but because mills worldwide have too many! As a result, the supply of wood products in the U.S. and around
the world so exceeds the demand that prices have fallen to lows not seen for a decade.

- Will increasing the supply of timber from federal lands by repealing environmental protections for national forests prevent mill closures and allow closed mills to reopen? No. Increasing the supply of logs even further will not solve a problem created by an already existing worldwide over-supply of wood products.

- The prices mills pay for logs from national forests generally do not cover the agency's timber-sale costs. In other words, U.S. taxpayers have been footing part of the bill to keep some mills open. By one estimate, the total for the Colville National Forest for 1995-97 was roughly $19 million.

- Taxpayers further subsidize the mills insofar as the timber industry does not pay the full costs of its unemployment insurance or of repairing its environmental damage (muddy streams, degraded habitat for salmon and trout, etc.). In sum, some mills may have closed long ago if forced to stand on their own and cover their full costs.

- Even with the taxpayer subsidies the industry closes mills. Why? Not because of environmental-protection decisions by the Forest Service, but because even with the subsidies some mills, especially smaller, older ones in isolated areas, such as the mill in Republic, are not competitive with larger mills in regional economic centers.

**Closure of the Republic Mill Stems Largely from Its Inability to Operate Profitably in Response to the Bush Administration's Foreign Trade Policy and Overproduction by the Global Timber Industry**

The most fundamental reason for closing the Vaagen Brothers Lumber Co.'s mill in Republic, Washington, is the mill's inability to generate a profit, given current market conditions and the mill's high operating costs, relative to those of its competitors.

The market conditions facing the mill are severe. Despite high levels of demand for wood products in the U.S., supplies of these products are even higher. As a result, prices are low, with little prospect of rising substantially in the near future.

Why are supplies of wood products so high and prices so low? A major—probably THE largest—contributing factor is the Bush Administration's foreign trade policy. Last May, the U.S. slapped wood-products producers in Canada with hefty tariffs averaging about 27 percent of the value of Canadian lumber imported to the U.S. Intended to curtail Canadian imports, the tariffs have had the opposite effect. Although some Canadian manufacturers shut down, others boosted production and cut production costs. As a result, supplies of wood products have jumped and
prices have fallen. High growth in worldwide productive capacity virtually ensures that these current conditions will persist.

Faced with the onslaught, U.S. manufacturers have faced a tough choice: either lower production costs further than the competitors or withdraw from the competition. Although the details of its operations remain private, the information available to the public indicates that the mill in Republic, with old equipment and high debt costs, finds itself in the latter group: unable to lower its costs fast enough to remain profitable, it must close. Its closure is not occurring in isolation. Mills across the U.S. have found themselves in similar situations and closed the doors.

Given these market conditions, it is unlikely that any increase in the supply of logs from the Colville National Forest could make the Republic mill operate at a profit. Even if it could, the increase in logs from the national forest could come only at a substantial cost to the overall national economy and to other mills and millworkers. The Colville National Forest (and many others) has consistently incurred net losses in its timber-sale program. Thus, the forest has supplied logs to the Republic mill, and others, only because it received subsidies from American taxpayers. Increasing the supply of logs would increase the subsidy costs to taxpayers. Any subsidized increase in the mill's competitiveness necessarily would place other mills at a disadvantage, perhaps resulting in job losses in other communities.

ENVIRONMENTAL DEGRADATION WOULD WEAKEN THE ECONOMY

Extensive evidence shows that the value of the recreational opportunities, roadless areas, and other environmental amenities produced by the Colville National Forest far exceed the value of its timber production. The timber industry's role in the economy has diminished, as it contracted while other industries grew. Further growth in non-timber industries in communities, such as Republic, often is linked to the quality of the environmental and other amenities derived from public lands. Degrading the forest's environmental attributes to compensate for the adverse effects of the timber-industry's overproduction in response to the Bush Administration's foreign-trade policies could have lasting, negative impacts on the economy.

READER'S GUIDE TO THIS REPORT

In support of these conclusions, this report proceeds in three steps:

- In Chapter 2, we identify the full set of economic forces contributing to the mill's closure and demonstrate that the laws and regulations protecting the environmental attributes of the Colville National Forest make, at most, a minor contribution.
• In Chapter 3, we describe the timber industry's role in the overall economy, and demonstrate that, because the significance of this role is declining steeply, the long-run ramifications of the mill's closure will not be as severe as many might fear.

• In Chapter 4, we discuss the ways in which the local economy will benefit from actions that protect and enhance the environmental quality of the Colville National Forest. These benefits are likely to outweigh the costs arising from restrictions on the supply of logs to the timber industry so that, in the long run, the economy will be stronger with the restrictions than without them.

We note that this report represents an initial, preliminary analysis. A subsequent analysis of this mill closure could provide a more complete picture of the local and regional economies, their relationship to the timber industry, timber-industry trends, and the growing importance of national forests and other natural amenities in attracting skilled workers to an area.

WHO PREPARED THIS REPORT?

Ernie Niemi and Kristin Lee, economists with ECONorthwest, prepared this report for The Wilderness Society, with assistance and analytical contributions from Thomas Michael Power, Chair of the Economic Department at the University of Montana. Tim Coleman and others provided valuable insights and assistance, but ECONorthwest remains solely responsible for the report's contents.

We have prepared this report based on our general knowledge of the natural resource industries and the economy of the Northwest, as well as information derived from government agencies, private statistical services, the reports of others, interviews of individuals, or other sources believed to be reliable. We have not verified the accuracy of such information, however, and make no representation regarding its accuracy or completeness. Any statements nonfactual in nature constitute our current opinions, which may change as more information becomes available. As time passes, the results of this report should not be used without accounting for more recent data and relevant assumptions.

HOW CAN YOU GET ADDITIONAL INFORMATION?

For more information regarding the contents of this report, please contact:

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Mill closures do not occur in an economic vacuum. Instead, they occur within the context of market conditions, and reflect the inability of a mill—its managers, facilities, and workers—to generate profits within this context. The pending closure of the Vaagen Brothers Lumber Co.'s mill at Republic, Washington, can be understood only when one views it in the context of today's market conditions and considers its apparent inability to generate profits under these conditions.

In this chapter we describe some of the major characteristics of current market conditions affecting the mill in Republic. Our findings demonstrate that the pending closure of the mill is not an isolated event stemming solely from local conditions, such as the supply of logs from the Colville National Forest. In fact, local timber supply has little to do with the many mill closures that have occurred in recent months and years throughout the Pacific Northwest.

Here, as elsewhere, the fundamental problem is not an under supply of logs, but the reverse: the overall market for wood products is awash with so much product that prices have plummeted. Furthermore, production capacity in the industry far exceeds demand, choking off the prospects for higher prices in the foreseeable future, and restricting the ability of any but the most efficient mills to generate profits.

Within this context, it is clear that the Vaagen Brothers Lumber Co.'s mill at Republic is closing for the most fundamental of economic reasons: its ability to generate profits has been undermined by its competitors. Unless conditions throughout the U.S., Canada, and the entire global market for wood products become far more favorable for producers, it is unlikely that the firm's profitability will increase enough for the owners to reverse their decision to close the mill. Indeed, this is nothing new to the Vaagen Bros. Lumber company. In 1995 the workers at the Vaagen Bros. Mill in Colville were certified as eligible to apply for NAFTA Transitional Adjustment Assistance because of increased competition from imported goods (Federal Register, 1995), and the same factors are at play now.

Against this backdrop, it is clear that market conditions—and not environmental protections on the Colville National Forest—are the true causes of the mill closure. Given the widespread, nationwide mill closures occurring because of these market conditions, it is unlikely, absent mill-specific evidence to the contrary, that any increase in the supply of logs from the Colville National Forest could overcome these market conditions enough to make the mill profitable.

Furthermore, because the timber-sale programs of the Colville and other national forests consistently operate at a net loss, it seems likely that any
increase in the flow of logs from the Colville National Forest to the Vaagen Brothers Lumber Co. mill would occur only through an indirect subsidy from taxpayers to the company. Setting aside environmental protections could exacerbate the situation. Thus, to bail out the mill in Republic other industries would have to curtail some of their operations, workers in other communities would have to give up some of their incomes, and all Americans would have to accept environmental degradation of the national forest. More specifically, other mills in Washington, the Pacific Northwest, and the nation who do not get subsidies will pay a large part of the costs, since, in a limited market, subsidized output from the Vaagen mill will come at the expense of firms who do not receive such subsidies. All firms and households would be harmed to the extent that additional subsidies to the Vaagen Bros. Mill will come through higher taxes, lower service, or both.

**BASIC MARKET CONDITIONS: SUPPLY IS OUTSTRIPPING DEMAND**

Firms competing in the market for lumber, pulp, paper, and other wood products are facing unfavorable, even drastic conditions. The supply of lumber is high, relative to demand, and, hence, prices for lumber are low. This is good news for consumers, but it's very bad news for firms, especially small, isolated, high-cost firms competing in a global market.

There is nothing remarkable about these conditions. The U.S. timber industry has increasingly merged with the global industry, and riding the roller coaster of international commodity prices is an unavoidable feature of a natural resource economy. American farmers and ranchers, mines and smelters, and, of course, its forest products mills have been riding it up and down for a century or more. During the boom times as prices rise higher and higher, the ride is a blast, but it soon becomes stomach-wrenching when prices plummet and keep on falling. The consequences are not pleasant. As we describe below, the current dip in the price of lumber products stems from recent U.S. trade policy and an overall increase in efficiency and capacity in U.S. and Canadian timber mills. It is not tied to the supply of timber on federal lands.

**U.S. Trade Policy Has Created an Oversupply of Lumber on the U.S. Market**

Recent U.S. trade policy has distorted the market signals for softwood lumber, resulting in an oversupply of lumber. In a classic example from Economics 101, the excess supply has driven prices down and heated up competition.
Tariffs placed on softwood imports from Canada, which were intended to help U.S. producers, have backfired. Canadian producers have increased production and modernized their mills to reduce per-unit costs, which has led to a flood of lumber products on the market. These steps have allowed Canadian producers to offset a good part of the effect of the U.S. tariff, and they have become even more effective competitors in American and other markets. This is the primary reason lumber prices are so low right now.

Firms in Washington also have attempted to cut costs and remain competitive. But it simply is not possible for every mill to pursue this strategy successfully. Eventually, the high-cost producers must drop out of the market to bring demand and supply back into a long-run balance.

We in the Pacific Northwest are used to industrial firms responding to over-supply and low prices by reducing costs, temporarily cutting back, or shutting down completely. Regional aluminum plants do that, paper mills do that, mining and smelting operations do that, farmers and cattle producers do that, and, of course, lumber mills have always done it too. Mill closure is a normal, though painful, part of the adjustment process to bring supply and demand back into balance. Prices ultimately begin to recover and at least some of the mills, usually those that operate most efficiently, can return to full production. The forest products industry of northeastern Washington has been through these market-driven closures for as long as it has sold its lumber products in national markets.

Highly Efficient Mills Have Reduced Their Costs, Making Smaller, Older Mills Less Competitive

Big mills have responded to the tighter market conditions by investing in cost-reducing capital. They operate more efficiently, turning out lumber with ever-lower costs. They can compete better in the marketplace, taking market share away from mills with higher costs, typically mills that are smaller and more isolated, with higher transportation costs and less operational flexibility. This process inevitably lowers the economic viability of high-cost mills.
Perhaps the single most important theme surrounding the concept of viability is the difference between the large, industrial timber company and smaller companies or private individuals. The largest companies have a diversified portfolio of timberlands, much of which is outside the Pacific Northwest. They also tend to be integrated, combining logging activities with saw mills, pulp mills, and specialty wood products.

The diversity encompassed within the largest firms adversely affects smaller mills in several ways. In particular, local mills that once received all the logs generated from nearby lands now face competition from hundreds of miles away. Moreover, pressures from large, diversified mills often have forced small mills to respond by simplifying their product lines. This adjustment has an impact similar to that which occurs with the simplification of an ecosystem: the mill becomes less resilient to shock.

"Spelter concludes that North American manufacturing capacity totals about 72 bbf, while consumption is at 88 bbf, which puts the industry in a condition of chronic over capacity."

Source: Stevens, 2002

INCREASING THE SUPPLY OF LOGS FROM NATIONAL FORESTS WOULD HAVE LITTLE IMPACT

Despite efforts to link the difficulties that lumber mills are currently facing to reduced federal timber harvests, such partisan political bickering makes two fundamental economic errors. First, it assumes the problem lumber mills face is lack of access to raw material rather than a surplus of raw material that is driving prices down. Second, it assumes that gaining access to the most costly sources of supply at the very time that the prices mills can get for their products are at record lows would somehow help the mills.

Logging the timber in roadless areas is costly because it is located in isolated, steep, remote timber stands that require new road systems and special harvesting techniques; to compound the problems with these areas, in general, they are dominated by relatively low valued trees. This is the opposite of the type of supply that would currently be useful to mills, at least if they were asked to carry those costs rather than shifting them onto U.S. taxpayers.

If increasing the timber supply from the Colville National Forest prevented any job losses at all, it would not necessarily occur in the immediate vicinity.
The Colville National Forest and nearby mills, including the one at Republic, are part of a vast regional timber market. Mills as far away as Coeur d'Alene, Idaho, and John Day, Oregon, have recently bid on timber sales on the Loomis State Forest, at the northern border of Washington's Cascade Mountains. Similar competition exists for logs from other lands in northeastern Washington. As a consequence, one cannot be certain that increasing the supply of logs from the Colville National Forest necessarily will yield increased job security for workers at the mill in Republic. Instead, this mill would have to compete for the additional logs with other mills, with the winner being the most efficient mill(s) in the overall timber industry of the Pacific Northwest and Northern Rockies. One could be confident that the boost in timber jobs would occur locally only if the mill in Republic is the most efficient in the region.

The publicly-available evidence indicates that the mill in Republic has higher costs relative to its competitors and, hence, there is no certainty that increasing the supply of logs from the Colville National Forest would prevent the mill's closure.
THE TIMBER INDUSTRY’S ROLE IN  
THE LOCAL ECONOMY: NOT AS  
IMPORTANT AS IT ONCE WAS

Much of the fear about how mill closures will affect northeastern Washington’s economy stems from the belief that the timber industry plays a special role in the economy, forming the base supporting all other public and private-sector activities. The theory associated with this belief is called the economic-base theory, and the theory generally is applied through the use of IMPLAN, a computer model that sees the economy as inflexible and frozen forever in time. According to the economic-base theory, the basic industries, which include mining and other resource-extraction industries—as well as logging—warrant special protection because any reduction in them would cause the base to crumble, bringing down all the superstructure sitting atop it.

For decades, timber-industry advocates in Washington and other states in the West have used the economic-base argument to strike fear into the hearts of public officials, communities, and the public whenever anyone proposed to rein-in the supply of logs from public lands. For example, one prominent logging advocate and former overseer of the Forest Service concluded that, because of the timber-industry’s special role as a component of the economic base, adding a second shift with 67 workers at a plywood mill would be more important to the economy than building a new high-tech plant with 1,000 workers (Beuter, 1996).

The fundamental flaws in the economic-base theory have been pointed out for decades by professional economists not aligned with the timber and other resource industries (Barkley and Allison Jr., 1988; Courant et al., 1997; Cunningham, 1995; Krikelas, 1992; O’Sullivan, 1993). Proof bearing more directly on the issues associated with commercial logging on the Colville National Forest comes from studies of changes in logging on federal lands throughout the region. Figure 1, for example, shows how the economies of Oregon and Washington have responded to reductions of more than 90 percent in logging on federal lands. Before the reductions, countless industry-affiliated economists, political leaders, and others predicted that even a minor drop in logging would, through the economic-base effect, have catastrophic impacts on jobs throughout the economy. Instead, total employment and earnings have grown rapidly.

There is no reason to anticipate that Washington’s response to the small reductions in mill output that might result from the mill closure in Republic will be any different. The view that the timber industry plays a special role in the economy represents an obsolete sense of how today’s economy works. Whatever the timber industry’s economic role in distant decades, it now plays an increasingly minor role, one that cannot generate the new jobs and higher incomes Washingtonians need if they are to enjoy increases in prosperity.
along with other Americans. As a mature industry, where mills in Washington produce commodity products that compete against essentially identical products from producers in a global market, there is no hope that the industry will meaningfully generate new jobs and higher incomes. Instead, competitive pressures will continue to force firms to hold costs, primarily labor costs, in check. Consequently, even if timber harvests and production remain stable, wood-products employment will continue to fall as it has dramatically for over half a century. Thus, if Washingtonians want the national forests to play a larger role in generating jobs and incomes, they will have to look to industries other than the timber industry, and to forest uses other than logging.

Figure 1. The Economy of Oregon and Washington Grew Rapidly in the 1990s, Even Though Logging on Federal Lands Plummeted

LOGGING IN NATIONAL FORESTS IS NOT ESSENTIAL TO WASHINGTON'S ECONOMIC VITALITY

As a first broad brush overview of how Washington and its communities have coped with dramatic declines in National Forest timber harvests, we consider the state as a whole and three broad economic regions in the state: southwest, central, and eastern Washington. Following this overview, we will focus on northeast Washington.

The declines in National Forest timber harvests in eastern Washington have been dramatic, as shown in Table 1. If we average over two five year periods to avoid measuring between untypical years, the declines between the 1986-1990 average and the 1994-1998 average were 87 percent for the state as a whole, 89 percent for the southwest corner of the state, 81 percent for the central counties, and 68 percent for the 11 eastern-most counties, as shown in Table 2. The bulk of the National Forest harvests that was available in the second half of the 1980s was no longer available in the second half of the 1990s.

### Table 1. National Forest Timber Harvest Changes in the 1990s

<table>
<thead>
<tr>
<th>National Forest</th>
<th>1986-1990 Average Harvest (mmbf)</th>
<th>1994-1998 Average Harvest (mmbf)</th>
<th>1990s Reduction In NF Harvest (mmbf)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gifford Pinchot</td>
<td>391.7</td>
<td>44.3</td>
<td>-347.4</td>
</tr>
<tr>
<td>Okanogan</td>
<td>89.7</td>
<td>16.3</td>
<td>-73.4</td>
</tr>
<tr>
<td>Wenatchee</td>
<td>134.8</td>
<td>36.8</td>
<td>-98</td>
</tr>
<tr>
<td>Colville</td>
<td>106.3</td>
<td>32.5</td>
<td>-73.8</td>
</tr>
<tr>
<td>Umatilla</td>
<td>20.9</td>
<td>8.1</td>
<td>-12.8</td>
</tr>
</tbody>
</table>

Source: Tom Power with data from Washington Department of Natural Resources. Timber Harvest by County Aggregated by National Forest.

Given the familiar twin assumptions that forest products are a key element in the economic base of many counties outside of the Puget Sound area and that National Forests are an indispensable source of raw material, one might expect this dramatic fall in federal timber supply to have had a crippling effect on the economic vitality of the state and the sub-state regions that significantly depend on the forest products industry. The data in Table 2 show that at the statewide and broad regional basis, no such effects are evident. As federal timber harvests plummeted during the 1990s,

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1 This section draws heavily on Power (2000).
employment expanded by almost 18 percent statewide. The southwest and eastern counties saw employment grow even faster, by a fifth to a quarter. Total real income received by residents grew even faster, allowing average real income to rise steadily. Population also expanded, with counties outside the Puget Sound area often leading the state. In the southwest counties, where the declines in federal harvests were the greatest, employment, population and income growth were the highest.

Table 2. Washington’s Economy Remained Strong Despite the Decline in National Forest Timber Harvests

<table>
<thead>
<tr>
<th>Region</th>
<th>Change in NF Timber Harvest 86-90 to 94-98</th>
<th>Change in Total Jobs 1990-97</th>
<th>Change in Total Real Income 1990-97</th>
<th>Change in Average Real Income 1990-97</th>
<th>Change in Population 1990-97</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washington State</td>
<td>-86.8%</td>
<td>17.6%</td>
<td>25.5%</td>
<td>9.7%</td>
<td>14.5%</td>
</tr>
<tr>
<td>Southwest (7 county)</td>
<td>-88.6%</td>
<td>25.6%</td>
<td>32.5%</td>
<td>7.6%</td>
<td>23.1%</td>
</tr>
<tr>
<td>Central (9 county)</td>
<td>-80.9%</td>
<td>17.3%</td>
<td>21.2%</td>
<td>3.3%</td>
<td>17.3%</td>
</tr>
<tr>
<td>Eastern (11 county)</td>
<td>-68.0%</td>
<td>19.3%</td>
<td>20.1%</td>
<td>7.1%</td>
<td>12.1%</td>
</tr>
</tbody>
</table>

Source: Tom Power with data from US BEA REIS and Washington Department of Natural Resources
Notes: SW = Skamania, Clark, Cowlitz, Wahkiakum, Pacific, Lewis, Thurston; Central = Okanogan, Chelan, Kittitas, Yakima, Douglas, Klickitat, Benton, Franklin, Grant. East = Pend Oreille, Stevens, Ferry, Lincoln, Spokane, Asotin, Columbia, Garfield, Walla Walla, Adams, Whitman

This regional economic vitality despite dramatic declines in national forest timber harvests is all the more impressive because it took place despite the decline in employment opportunities in the forest-products industry. In central Washington almost 500 forest-products jobs were lost, but over 24,000 jobs were added in other industries. In the northeast, due to the opening of new facilities, forest-products employment actually expanded by several hundred. As shown in the data on employees covered by unemployment insurance in Table 3, even in counties with a high dependence on forest products for employment, employment gains were strongest outside the forest-products sector. Most counties experienced net job creation. Clearly the decline in federal timber harvests did not cripple either the state economy or its various regional economies. It is possible, however, that the decline in federal timber harvests had localized impacts that were negative and severe. We therefore take a closer look at counties with a high dependence on forest products for employment and income.
Table 3. Changes in Forest-Products Jobs and All Other Jobs: Central and Eastern Washington

<table>
<thead>
<tr>
<th>Region/County</th>
<th>Forest Products Jobs</th>
<th>Jobs Outside Forest Products</th>
<th>Net Job Creation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central (4 counties)</td>
<td>1.7%</td>
<td>3,486</td>
<td>-484</td>
</tr>
<tr>
<td>Chelan</td>
<td>0.7%</td>
<td>244</td>
<td>8</td>
</tr>
<tr>
<td>Kittitas</td>
<td>0.9%</td>
<td>106</td>
<td>-64</td>
</tr>
<tr>
<td>Yakima</td>
<td>2.5%</td>
<td>2,353</td>
<td>1</td>
</tr>
<tr>
<td>Okanogan</td>
<td>4.2%</td>
<td>783</td>
<td>-429</td>
</tr>
<tr>
<td>Northeast (4 counties)</td>
<td>1.6%</td>
<td>3,131</td>
<td>303</td>
</tr>
<tr>
<td>Ferry</td>
<td>9.3%</td>
<td>165</td>
<td>-35</td>
</tr>
<tr>
<td>Stevens</td>
<td>11.1%</td>
<td>1,103</td>
<td>-25</td>
</tr>
<tr>
<td>Pend Oreille</td>
<td>15.1%</td>
<td>375</td>
<td>90</td>
</tr>
<tr>
<td>Lincoln</td>
<td>0.7%</td>
<td>20</td>
<td>-4</td>
</tr>
<tr>
<td>Spokane</td>
<td>0.8%</td>
<td>1,468</td>
<td>277</td>
</tr>
</tbody>
</table>

Note: These data represent employment covered by unemployment insurance. They do not include the self-employed, those working for very small firms, and some industries. A larger percentage of jobs in forest products than jobs outside forest products are "covered."

Impacts of Declining National Forest Harvests in Northeast Washington

The three counties in the northeast corner of the state—Ferry, Stevens, and Pend Oreille—were among the most timber-dependent counties in the state in 1988. At that time about one out of every six jobs were in forest products. Between the late 1980s and the late 1990s national forest timber harvests fell

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1 In the discussion of employment changes in northeastern Washington, two different sources of data have been used. The US Dept. of Commerce Regional Economic Information System has been used for total jobs, total personal income, and population. The forest-products employment, however, is taken from the "covered" employment released by the Washington Employment Security Department. "Covered" refers to "covered by employment insurance." Since the self-employed, those working in very small firms, and some industries are not "covered," they are not included in this job data. The percentage of jobs in forest products is based on covered employment: the ratio of forest products to total covered employment. Because a larger percentage of forest products' jobs are "covered" than is true for total employment, estimates of the relative importance of forest products as a source of jobs are biased upward by using covered employment data. Statewide there are 51,000 forest-products workers in covered employment while there are a total of 68,000 total jobs in forest products. But when expressed as a percentage of total employment, forest products is the source of 2.0 percent of all covered employment but only 1.7 percent of total employment.
60 to 80 percent in these counties. During the same time period Stevens County lost about 260 and Ferry County about 100 forest-products jobs. Pend Oreille, although it lost about 50 wood-products jobs, gained, on net, 210 forest-product jobs as a result of the construction of a new paper mill. Spokane County also added about 150 new forest-products jobs. When this group of counties is looked at together, there was almost no change in forest products employment despite the loss of 70 percent of the federal timber harvest.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ferry</td>
<td>17.8%</td>
<td>-79.4%</td>
<td>596</td>
<td>33.4%</td>
<td>21.1%</td>
<td>8.4%</td>
</tr>
<tr>
<td>Stevens</td>
<td>18.2%</td>
<td>-61.5%</td>
<td>3,775</td>
<td>33.7%</td>
<td>29.8%</td>
<td>2.5%</td>
</tr>
<tr>
<td>Pend Oreille</td>
<td>10.0%</td>
<td>-65.0%</td>
<td>1,137</td>
<td>40.3%</td>
<td>29.6%</td>
<td>7.8%</td>
</tr>
<tr>
<td>Lincoln</td>
<td>1.0%</td>
<td>--</td>
<td>1,665</td>
<td>8.7%</td>
<td>8.1%</td>
<td>1.9%</td>
</tr>
<tr>
<td>Spokane</td>
<td>1.0%</td>
<td>--</td>
<td>51,953</td>
<td>32.9%</td>
<td>14.5%</td>
<td>15.5%</td>
</tr>
<tr>
<td>3 NE Counties</td>
<td>16.8%</td>
<td>-69.4%</td>
<td>5,508</td>
<td>34.9%</td>
<td>28.6%</td>
<td>4.2%</td>
</tr>
<tr>
<td>5 NE Counties</td>
<td>2.1%</td>
<td>-69.4%</td>
<td>58,526</td>
<td>32.3%</td>
<td>15.9%</td>
<td>13.6%</td>
</tr>
</tbody>
</table>

Sources: Tom: Power with data from Washington Employment Security Department; US BEA REIS; Washington Department of Natural Resources

Because of the geography of these counties, with relatively isolated towns such as Colville and Republic that are not actually within commuting distance of the Spokane urban area, the losses in the northern towns cannot be seen as being offset by job gains in the southern portions of these counties and region. Nonetheless, the employment gains in these counties were impressive. Table 4 presents employment and income data from the Bureau of Economic Analysis, over a longer time period than the data in Table 3. These data show that Stevens County added almost 4,000 new jobs while Pend Oreille added over 1,100. Even Ferry County added 600 net new jobs despite the loss of 100 forest-products jobs. All three of the northern tier counties saw significant population growth: Stevens and Pend Oreille had growth of about 30 percent. Ferry, the most isolated of the counties, saw its population rise 21 percent. The large population increase in Stevens County nearly matched its growth in real income, resulting in relatively slow growing average real income. The three northeastern tier counties saw population increases greater than that of the state as a whole.

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The Bureau of Economic Analysis employment data is more comprehensive than the Washington covered-employment data. See footnote 2 and the notes to Table 3 for a description of the jobs not included in covered-employment data.
For the five-county region as a whole, almost 60,000 new jobs were created, total real income grew by a third, population expanded 16 percent, and average real incomes rose 14 percent. Clearly this “timber-dependent region” was also not stagnating due to the loss of 70 percent of the national forest timber harvest.

COMMERCIAL LOGGING IN WASHINGTON’S NATIONAL FORESTS COSTS TAXPAYER DOLLARS

Commercial logging on the national forests in Washington is a money-losing activity for the Forest Service and American taxpayers. Table 5 reports data, derived from an analysis by the U.S. General Accounting Office, on the losses for the period, 1995-97. For none of the national forests did the revenues from the sale of timber cover the costs of selling the timber. The total loss for all forests was $153 million.

These losses occurred during a period when prices the Forest Service received for timber (called stumpage prices) were unusually high. Prices then rose, largely in response to reductions in logging in Oregon and Washington. Since then prices have fallen much farther.

Demand for lumber declined throughout 2000, and the domestic market became oversupplied. Domestic producers are exporting less lumber, and must compete with Canadian imports. The average price for framing lumber for 2000 dropped to $323 per 1,000 board feet, the lowest annual average since 1992 (in nominal dollars) (Harwood, 2001).

Since commercial logging of eastern Washington’s national forests was a money-losing proposition for American taxpayers when log prices were unusually high, the losses would be even greater with lower prices. Although market prices probably will recover somewhat from their current lows, there is a lower likelihood that prices for timber on federal lands will recover to the same extent. Indeed, they may not recover at all.

These losses have some strong implications for evaluating the pending closure of the Vaagen Bros. Mill in Republic. To the extent that this mill has processed logs from the national forests, its operations have been dependent on the taxpayer subsidies that produced these logs. Increasing the flow of logs

<table>
<thead>
<tr>
<th>National Forest</th>
<th>Timber Sale Program Losses (Million Dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colville</td>
<td>18.98</td>
</tr>
<tr>
<td>Gifford Pinchot</td>
<td>49.9</td>
</tr>
<tr>
<td>Mt. Baker-Snoqualmie</td>
<td>22.0</td>
</tr>
<tr>
<td>Okanogan</td>
<td>20.6</td>
</tr>
<tr>
<td>Olympic</td>
<td>15.4</td>
</tr>
<tr>
<td>Wenatchee</td>
<td>26.3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>153.1</strong></td>
</tr>
</tbody>
</table>

Numbers may not sum to total due to rounding.
to prop-up the mill into the future could be accomplished only with larger subsidies.
Chapter 4

NON-TIMBER ECONOMIC BENEFITS FROM NATIONAL FORESTS ARE SUBSTANTIAL

Washington’s national forests produce many different goods and services, besides timber, that are valuable to local, regional, and national economies. Recreation that takes place in undeveloped regions has grown in popularity over the last few decades, and is expected to continue growing. From the early 1980s to the mid-1990s, the number of Americans that backpacked grew by 6 million, a 73 percent increase. The number of cross-country skiers grew by 1 million, a 23 percent increase (Cordell et al., 1999). Wildlife-related recreation is, on average, more popular in Washington than throughout the rest of the country. In Washington, 56 percent of the population participates in wildlife-related recreation, compared to 39 percent of the total U.S. population (U.S. Fish & Wildlife Service, 2002).

Table 6 presents the data for those goods and services that have been quantified, for two sub-regions covering the northeastern and central areas of Washington, derived from a U.S. Forest Service study completed as part of the Interior Columbia Basin Ecosystem Management Project (ICBEMP) (Haynes and Horne, 1997). In the Northern Glaciated Mountains sub-region, the study found that, in 1995, timber accounted for 14.5 percent of the total value of the goods and services listed.

<table>
<thead>
<tr>
<th>Natural Forest Values: A Partial List</th>
</tr>
</thead>
<tbody>
<tr>
<td>Watersheds</td>
</tr>
<tr>
<td>Water Quantity</td>
</tr>
<tr>
<td>Water Quality</td>
</tr>
<tr>
<td>Timing of Water Flows</td>
</tr>
<tr>
<td>Flood Control</td>
</tr>
<tr>
<td>Headwater Fisheries</td>
</tr>
<tr>
<td>Recreation</td>
</tr>
<tr>
<td>Wildlife Viewing</td>
</tr>
<tr>
<td>Hunting</td>
</tr>
<tr>
<td>Angling</td>
</tr>
<tr>
<td>Forest Travel and Experience</td>
</tr>
<tr>
<td>Adventure Recreation</td>
</tr>
<tr>
<td>Other Dispersed Recreation</td>
</tr>
<tr>
<td>Scenic Integrity</td>
</tr>
<tr>
<td>Scenic Beauty</td>
</tr>
<tr>
<td>Open Space</td>
</tr>
<tr>
<td>Natural Vistas</td>
</tr>
<tr>
<td>Spiritual/Cultural Values</td>
</tr>
<tr>
<td>Opportunities for Solitude in a Natural Setting</td>
</tr>
<tr>
<td>Interaction with and Experience of Natural Systems</td>
</tr>
<tr>
<td>Passive Use Values</td>
</tr>
<tr>
<td>Existence of Natural Wildlands</td>
</tr>
<tr>
<td>Existence of Endangered Species Including Salmon</td>
</tr>
<tr>
<td>Climate Stabilization</td>
</tr>
<tr>
<td>Carbon Storage</td>
</tr>
<tr>
<td>Micro Climates</td>
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<tr>
<td>Air Quality</td>
</tr>
<tr>
<td>Other Natural System Values</td>
</tr>
<tr>
<td>Ecosystem Health</td>
</tr>
<tr>
<td>Soil Productivity</td>
</tr>
<tr>
<td>Resistance to Catastrophic Fire</td>
</tr>
<tr>
<td>Scientific Understanding</td>
</tr>
<tr>
<td>Stability and Resilience</td>
</tr>
<tr>
<td>Commercial Goods</td>
</tr>
<tr>
<td>Lumber</td>
</tr>
<tr>
<td>Livestock Forage</td>
</tr>
<tr>
<td>Minerals</td>
</tr>
<tr>
<td>Special Forest Products (mushrooms, pine cones, other)</td>
</tr>
<tr>
<td>Commercial Recreation (outfitting, ski areas, other)</td>
</tr>
</tbody>
</table>

in Table 6. Timber's contribution is projected to drop to 9.36 percent by 2045. In the Northern Cascade sub-region, timber accounted for less than eight percent of quantified goods and services in 1995, dropping to 2 percent by 2045.

The aggregate value of the indicated types of recreation far exceeded the value of timber in each of the sub-regions. The high intrinsic values of these areas can translate into local economic activity and growth if local communities are successful in using these resources to attract the people—as visitors or as residents—who value these most highly.

Table 6: Percentage Contribution of Timber and Other Activities to the Total Value of Goods and Services Derived from Federal Lands, 1995 (Actual) and 2045 (Projected)

<table>
<thead>
<tr>
<th></th>
<th>Northern Glaciated Mtns</th>
<th>Northern Glaciated Mtns</th>
<th>Northern Cascades</th>
<th>Northern Cascades</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1995</td>
<td>2045</td>
<td>1995</td>
<td>2045</td>
</tr>
<tr>
<td>Logging</td>
<td>14.5</td>
<td>9.4</td>
<td>7.8</td>
<td>2.0</td>
</tr>
<tr>
<td>Grazing</td>
<td>1.1</td>
<td>0.8</td>
<td>0.09</td>
<td>0.04</td>
</tr>
<tr>
<td>Recreation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Camping</td>
<td>3.3</td>
<td>4.2</td>
<td>5.9</td>
<td>3.8</td>
</tr>
<tr>
<td>Day Use</td>
<td>5.1</td>
<td>8.0</td>
<td>4.2</td>
<td>3.8</td>
</tr>
<tr>
<td>Fishing</td>
<td>7.3</td>
<td>4.6</td>
<td>1.2</td>
<td>0.6</td>
</tr>
<tr>
<td>Hunting</td>
<td>9.6</td>
<td>6.3</td>
<td>3.2</td>
<td>1.5</td>
</tr>
<tr>
<td>Motor Boating</td>
<td>0.3</td>
<td>0.2</td>
<td>0.04</td>
<td>0.02</td>
</tr>
<tr>
<td>Motor Viewing</td>
<td>2.2</td>
<td>9.3</td>
<td>1.9</td>
<td>21.2</td>
</tr>
<tr>
<td>Non-Motor Boating</td>
<td>0.5</td>
<td>0.4</td>
<td>0.05</td>
<td>0.03</td>
</tr>
<tr>
<td>ORV</td>
<td>0.2</td>
<td>0.1</td>
<td>0.3</td>
<td>0.2</td>
</tr>
<tr>
<td>Snowmobiling</td>
<td>0.1</td>
<td>0.1</td>
<td>0.2</td>
<td>0.1</td>
</tr>
<tr>
<td>Trail Use</td>
<td>2.7</td>
<td>6.4</td>
<td>9.3</td>
<td>9.3</td>
</tr>
<tr>
<td>Viewing Wildlife</td>
<td>1.0</td>
<td>1.2</td>
<td>0.6</td>
<td>19.0</td>
</tr>
<tr>
<td>Winter Sports</td>
<td>2.9</td>
<td>3.4</td>
<td>5.4</td>
<td>3.9</td>
</tr>
<tr>
<td>Total Recreation</td>
<td>35.1</td>
<td>44.2</td>
<td>32.3</td>
<td>63.5</td>
</tr>
<tr>
<td>Unroaded Existence</td>
<td>49.3</td>
<td>45.7</td>
<td>59.8</td>
<td>34.6</td>
</tr>
</tbody>
</table>

Includes primarily lands administered by the Forest Service and Bureau of Land Management. Does not include values for production of water, modulation of flooding, and sequestration of carbon. Numbers may not sum to 100 percent due to rounding.
The finding for Washington, that timber represents a minor portion of the total value of goods and services derived from the national forests, is not unique, or even unusual. In 1995 the Forest Service conducted an analysis of the contribution of the national forests, considered as a whole, to the overall economy (U.S. Department of Agriculture, 1995). Looking at the value of different goods and services as a percent of the national forests' contribution to the Gross Domestic Product, the study found that, by the year 2000, the national forests would contribute $145.1 billion of goods and services to the national economy. The left side of Figure 2 shows the breakdown. Recreation accounts for three-quarters of this amount, or $108.4 billion, while fish and wildlife account for another $14.4 billion, or ten percent. Timber, in contrast, accounts for less than three percent, and all the major commodities—timber, minerals, and forage—account for less than 12 percent.

The right side of Figure 2 shows a similar breakdown, looking at the national forests' contribution to jobs. Here again, recreation accounts for three-quarters of the total, while timber accounts for fewer than 3 percent of the jobs derived from the national forests.

**Figure 2. Timber Accounts for a Small Portion of the Total Value and Total Jobs Produced by the National Forests in the U.S.**

**Contribution to Gross Domestic Product**
- Total Value: $145 billion (1999 dollars).
- Excludes carbon sequestration, clean water and other services provided by national forests.

**Contribution to Jobs**
- 3.3 million jobs derived from the national forests.
- Excludes carbon sequestration, clean water and other services provided by national forests.

The data in Figure 2 are currently being reassessed, following the discovery of ambiguities in recreation data. The general message of Figure 2—that the services produced by the national forests outweigh the goods—seems robust, however, because the underlying data omit at least two additional services.
the national forests in Washington and elsewhere provide: the provision of clean, cool water and the sequestration of carbon to reduce the effects of carbon dioxide on the global climate. (Figure 2 also omits consideration of the existence values associated with unroaded areas.) Unroaded forests provide water that is cleaner and cooler than water degraded by pollution from roads and commercial logging. They also sequester more carbon than the forests that are logged. Preliminary estimates indicate that the summed value of these services is potentially comparable to recreation values (Niemi and Fifield, 2000). If these preliminary estimates prove valid, then adding them to the analysis would reveal that commercial logging is a very small share of the total value of goods and services derived from national forests. Moreover, as it is typically carried-out, commercial logging results in a diminution of the other, larger values. It also generates logging jobs at the expense of jobs associated with the recreational and other forest uses.

Communities in northeastern Washington, and elsewhere, can grow their economies without increasing the amount of timber harvested from national forests nearby. Rather, their futures lie in their ability to capitalize on the economic benefits of high-quality natural amenities such as forests and clean water. Amenity-supported economic development is creeping towards Republic. It is found to the north, south, and east. Likewise, communities in the Flathead and Bitterroot Valleys of western Montana, which used to be heavily reliant on timber-industry employment, have experienced enormous declines in the amount of timber harvested from national forests and, in addition, the closure of almost all of their mills. These are now among the most economically-vital (and fastest-growing) counties in the US.

Ferry County and Republic, despite their isolation—and partly because of their isolation—have a lot of untapped economic potential unrelated to timber and mining. As other communities shifting away from resource-extraction-based economies have found, the proximity to high-quality natural resources could become an asset in transitioning into a new economic future.

**CONCLUSION**

Based on the wide body of evidence presented in this report, it is clear that the pending mill closure in Republic, Washington is the result of the Bush Administration’s foreign-trade policies and market forces originating far from the boundaries of the Colville National Forest.

Actions that protect and enhance the environmental quality of the Colville National Forest will generate benefits that will likely outweigh the costs arising from restrictions on the supply of logs to the timber industry. In the long run, the economy will likely be stronger with the restrictions than without them.
REFERENCES


<table>
<thead>
<tr>
<th>SECTOR/Industry</th>
<th>Employment 2004</th>
<th>Employment 2014</th>
<th>Amount increase (decrease)</th>
<th>Percent</th>
<th>Avg. Annual Growth Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>920</td>
<td>1540</td>
<td>620</td>
<td>67%</td>
<td>6.6%</td>
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<tr>
<td>Manufacturing</td>
<td>650</td>
<td>730</td>
<td>80</td>
<td>12%</td>
<td>1.2%</td>
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<td>Durable Goods</td>
<td>350</td>
<td>390</td>
<td>40</td>
<td>11%</td>
<td>1.1%</td>
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<td>Non Durable Goods</td>
<td>300</td>
<td>340</td>
<td>40</td>
<td>13%</td>
<td>1.3%</td>
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<tr>
<td>Food Manufacturing</td>
<td>280</td>
<td>320</td>
<td>40</td>
<td>14%</td>
<td>1.4%</td>
</tr>
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<td>Wholesale Trade</td>
<td>460</td>
<td>550</td>
<td>90</td>
<td>20%</td>
<td>2.0%</td>
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<tr>
<td>Retail Trade</td>
<td>1,670</td>
<td>1,850</td>
<td>180</td>
<td>11%</td>
<td>1.1%</td>
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<tr>
<td>Transportation, Warehousing, Utilities</td>
<td>370</td>
<td>300</td>
<td>(70)</td>
<td>(19%)</td>
<td>(1.9%)</td>
</tr>
<tr>
<td>Information</td>
<td>200</td>
<td>260</td>
<td>60</td>
<td>30%</td>
<td>3.0%</td>
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<tr>
<td>Financial Activities</td>
<td>330</td>
<td>430</td>
<td>100</td>
<td>30%</td>
<td>3.0%</td>
</tr>
<tr>
<td>Professional &amp; Business Services</td>
<td>440</td>
<td>540</td>
<td>100</td>
<td>23%</td>
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<td>Education and Health Services</td>
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<td>1,200</td>
<td>170</td>
<td>17%</td>
<td>1.7%</td>
</tr>
<tr>
<td>Leisure &amp; Hospitality</td>
<td>1,830</td>
<td>2,280</td>
<td>450</td>
<td>25%</td>
<td>2.5%</td>
</tr>
<tr>
<td>Other Services</td>
<td>430</td>
<td>450</td>
<td>20</td>
<td>5%</td>
<td>0.5%</td>
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<tr>
<td>Government</td>
<td>5,300</td>
<td>5,760</td>
<td>460</td>
<td>9%</td>
<td>0.9%</td>
</tr>
<tr>
<td>Federal Government</td>
<td>170</td>
<td>160</td>
<td>(10)</td>
<td>(6%)</td>
<td>(0.6%)</td>
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<tr>
<td>State &amp; Local Government other</td>
<td>1,450</td>
<td>1,710</td>
<td>260</td>
<td>18%</td>
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<td>Education Services government</td>
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<td>3,890</td>
<td>210</td>
<td>6%</td>
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<tr>
<td>TOTAL NON FARM EMPLOYMENT</td>
<td>13,630</td>
<td>15,890</td>
<td>2260</td>
<td>17%</td>
<td>1.7%</td>
</tr>
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### Industrial

<table>
<thead>
<tr>
<th>Land Use Type</th>
<th>Employment</th>
<th>Employment</th>
<th>Amount increase (decrease)</th>
<th>Percent</th>
<th>Avg. Annual Growth Rate</th>
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</thead>
<tbody>
<tr>
<td>Industrial</td>
<td>2,400</td>
<td>3,120</td>
<td>720</td>
<td>30%</td>
<td>3.0%</td>
</tr>
<tr>
<td>Retail Commercial</td>
<td>1,670</td>
<td>1,850</td>
<td>180</td>
<td>11%</td>
<td>1.1%</td>
</tr>
<tr>
<td>Office Commercial</td>
<td>5,880</td>
<td>7,030</td>
<td>1,150</td>
<td>20%</td>
<td>2.0%</td>
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<tr>
<td>Public Education</td>
<td>3,680</td>
<td>3,890</td>
<td>210</td>
<td>6%</td>
<td>0.6%</td>
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<tr>
<td>TOTAL NON FARM EMPLOYMENT</td>
<td>13,630</td>
<td>15,890</td>
<td>2,260</td>
<td>17%</td>
<td>1.7%</td>
</tr>
</tbody>
</table>

Source: http://www.workforceexplorer.com/cgi/dataanalysis/?pageit=94&subid=149; growth projections by City of Cle Elum.
September 7, 2006

John W. Breithaupt
Land Acquisition Manager
Merrill & Ring Forest Products L.P.
1511 Third Avenue, Suite 609
Seattle, Washington 98101

Re: Easements On Forest Service Roads – Keechelus Ridge Properties

Dear John:

As you requested, we have examined the Forest Service’s (“USFS’s”) authority under the easements and ability to require permits pursuant to the Forest Transportation System regulations, 36 CFR Parts 212 and 261. We conclude that USFS may not impose conditions on Merrill & Ring (“M&R”) that violate the express rights identified in the easements and exceed the regulatory provisions for traffic control or road maintenance. This specifically means that USFS may not require M&R to obtain a permit for snowplowing or similar activities that ensure access across the USFS roads. The USFS may, however, impose reasonable conditions on M&R’s use and maintenance activities, conditions designed to protect public safety and/or prevent road damage.

Easements and Rights to Use and Maintain the Roads

As a general proposition, the scope of an easement created by an express grant, such as the case with the M&R easements, is construed to ensure the beneficial use by the grantee of what is granted, in the manner and for the purposes indicated by the easement grant. See 28A C.J.S. Easements §160. An express easement will not be interpreted as encompassing a right that the grantor does not expressly reserve or otherwise possess. Id. On the other hand, an easement can accommodate modern developments so long as the scope and use remains consistent with the purpose for which the right was originally granted. Id.

Two easements benefit the M&R properties. The easements were executed by the USFS on behalf of the Federal government as the “Grantor” and by Boise Cascade as the “Grantee.” M&R is the successor-in-interest to Boise Cascade. Both of these easements contain virtually the same language with respect to terms and conditions imposed on the scope of the easement:

A. Except as hereinafter limited, Grantee shall have the right to use the road on the premises without cost for all purposes deemed necessary or desirable by Grantee in connection with the protection, administration, management, and utilization of Grantee’s lands or resources, subject to such traffic-control regulations and rules as Grantor may reasonably impose upon or require of other
users of the road without reducing the rights herein granted. Grantee shall have the right to construct, reconstruct, and maintain roads within the premises.

B. Grantee shall comply with all applicable State and Federal laws, Executive Orders, and Federal rules and regulations, except that no present or future administrative rules or regulations shall reduce the rights herein expressly granted.

(emphasis added).

In only one provision of the easements, the USFS explicitly requires the grantee to obtain approval for maintenance activities: “The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Regional Forester.” In this regard, the USFS requires the grantee to submit an application for approval, providing specific details pertaining to the chemical treatment. Otherwise, the easements are silent on permits or other administrative approvals necessary for road maintenance or use.

The easements are subject to two applicable reservations maintained by the USFS. The first reservation allows the USFS “to use the road for all purposes deemed necessary or desirable” by the government to access and manage its lands, and the second reservation extends the rights to other federal, state or local government bodies and “to other users including members of the public.” Both reservations, however, contain a proviso that the use by others “shall be controlled by [USFS] so as not unreasonably to interfere with use of the road by Grantee or to cause Grantee to bear a share of the cost of maintenance greater than Grantee’s use bears to all use of the road.” (emphasis added). The first reservation further allows the USFS to “reasonably impose” traffic-control regulations as it requires of other users “without reducing the rights herein granted to Grantee.”

It is important to note that the easements do not limit M&R’s use of the roads to strictly timber harvesting. On the contrary, the easements identify varied uses of the road to include any uses “desirable” by M&R to access, manage and utilize its lands. Maintenance activities by M&R, such as plowing the roads during winter, fall within the implied rights under the easements to ensure access for its uses. USFS’s suggestion that the easements were intended for the timber harvesting is contradicted by the express scope of the easement, as well as the statutory commitment for multiple uses of the forestlands. *Cf* 16 U.S.C. §532 (“The Congress hereby finds and declares that the construction and maintenance of an adequate system of roads and trails within and near the national forests . . . is essential if increasing demands for timber, recreation and other uses of such lands are to be met.”).

The National Forest Transportation System and USFS Traffic Rules

The regulations pertaining to the Forest Transportation System – i.e., forest service roads – are identified in 36 CFR Parts 212 and 261. 36 CFR §212.5(a) provides that the traffic rules established by the USFS regulations “apply to all National Forest System roads under the
jurisdiction of the Forest Service except when in conflict with written agreement.” Accordingly, the USFS may not impose restrictions on M&R’s use of the road that are contrary to the express rights granted by the easements.

The USFS traffic rules list general operational constraints to preserve the structural integrity and surface conditions of the roads, as well as maintain public safety. 36 CFR §212.1 (defining Maintenance as “the upkeep of the entire forest transportation facility in including surface and shoulders, parking and side areas, structures, and such traffic-control devices as are necessary for its safe and efficient utilization.”). Such constraints include restrictions because of vehicle weight and size limitations or other public safety concerns. See e.g., 36 CFR §212.5(a)(1) and (2). In addition, the traffic rules prohibit a user from damaging the roads or “blocking, restricting, or otherwise interfering with the use of a road.” 36 CFR §261.12.

The traffic rules also identify maintenance obligations: “The [USFS] Chief may require, but not in conflict with an existing permit, easement, contract, or other agreement, the user or users of a road . . . to maintain the roads in a satisfactory condition commensurate with the particular use requirements of each.” 36 CFR §212.5(d)(1). A parallel provision exists for the reconstruction of an existing road. 36 CFR §212.5(d)(2).

The traffic rules allow the USFS to issue orders imposing additional conditions on the use of the roads. Although such conditions can be significantly restrictive, to include prohibiting any type of traffic across an identified road, such restrictions may not be used when in conflict with the express terms of the easements. See 36 CFR § 212.5(a). To do so would effectively diminish the purpose of the easements, particularly considering the reciprocal benefits related to the original easements to cross lands controlled by USFS or owned by Boise Cascade. See e.g., 36 CFR §212.8 (outlining the bases for exchange of easements over federal and non-federal land and conditions for granting reciprocal easements); 36 CFR §212.9 (identifying corresponding benefits related to reciprocal rights and road sharing agreements).

The USFS may, however, impose reasonable restrictions on the use and maintenance of the roads that it deems “necessary for the protection or administration of the Nation Forest System, or for the promotion of public health, safety, or welfare.” 36 CFR §261.1a. 1 Presumably, such restrictions could limit the use of the roads under certain conditions when there exists a threat of damage. 2 Under the terms of the easements, however, such restriction must be consistent with those the USFS imposes on other users “without reducing the rights [ ] granted” to M&R.”

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1 Pursuant to 36 CFR §251.50(e)(3), a special use authorization is not required for “routine operation or maintenance activity within the express scope of a documented right-of-way” and when the land is not situated in a Congressionally designated wilderness area.

2 Similar obligations would also be imposed on M&R as the easement grantee under common law application. Owners of an easement have the responsibility for maintenance and repair of the easement to keep it in proper condition and avoid unnecessary damage to the land on which the easement resides. 28A C.J.S. Easements §169.
Conclusion

Read together, the easements and traffic rules emphasize the use and upkeep of the roads to ensure access to the lands served by the easements. These provisions allow M&R to utilize the roads for its benefit, while promoting open and safe access across the USFS roads. Moreover, both the easements and traffic rules stress that the USFS may not impose restrictions that conflict with the terms of the easements or interfere with the rights expressly granted.

In general terms, a permit is a grant of authority to perform a requested act. USFS’s statement that a permit would be required for M&R’s maintenance activities suggests that it seeks to grant authority on a right that M&R already possesses under the express terms of the easements. Although the easements allow the USFS to impose traffic-control regulations, such regulations must be reasonable and may not reduce the rights accorded to M&R by the easements. Moreover, USFS regulations do not explicitly require a permit for maintaining the roads that are subject to an existing easement. See 36 CFR §251.50(e).

Thus, while the USFS may impose reasonable maintenance specifications and traffic control regulations for the preservation of the road and safety of other users, it may not unilaterally demand that M&R obtain a permit for maintenance activities. To do so runs contrary to the express terms of the easement and exceeds the application of the traffic rules.

Sincerely,

GRAHAM & DUNN PC

/s/
J.J. Leary, jr.

Enclosures
cc: E. Spencer (w/o Encl)
    L. Costich (w/o Encl)
M33994-764347

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3 See generally LaVallee Northside Civic Ass’n v. Virgin Islands Coastal Zone Management Com’n, 866 F.2d 616 (3rd Cir. 1989).
MEMORANDUM

To: John Breithaupt, Merrill & Ring Forest Products L.P
From: Elaine Spencer, Larry Costich
Cc: J.J. Leary
Client: Merrill & Ring
Date: September 14, 2006
Re: Legal Analysis of Road Easements – Keechelus Ridge Properties

FACTS

On May 11, 2006, M&R acquired properties in the Keechelus Ridge area, which are largely surrounded by the Wenatchee National Forest. Access to the M&R properties is obtained through two easements benefiting the properties. The easements were executed by the USFS on behalf of the Federal government as the “Grantor” and by Boise Cascade as the “Grantee.” Consideration for the easement was a reciprocal easement granted by Boise Cascade over its lands for the benefit of the USFS. M&R is the successor-in-interest to Boise Cascade. The easements grant to the grantee, “its successors and assigns” and the “successors in interest to any lands owned now or hereafter acquired by grantee” a perpetual easement across identified segments on the following roads: West Kechess Road #2146, Amabilis Mountain #2182, and Keechelus Frontage Road #2202.

The statutory authority for granting the easements was the National Forest Roads and Trails Act of 1964 (“FRTA”), 16 U.S.C. §§ 532-538. Both of the easements contain virtually the same language with respect to rights and limitations granted by the easements:

A. Except as hereinafter limited, Grantee shall have the right to use the road on the premises without cost for all purposes deemed necessary or desirable by Grantee in connection with the protection, administration, management, and utilization of Grantee’s lands or resources, subject to such traffic-control regulations and rules as Grantor may reasonably impose upon or require of other users of the road without reducing the rights herein granted. Grantee shall have the right to construct, reconstruct, and maintain roads within the premises.

B. Grantee shall comply with all applicable State and Federal laws, Executive
Orders, and Federal rules and regulations, except that no present or future administrative rules or regulations shall reduce the rights herein expressly granted.

(emphasis added).

Grantee is required to obtain approval from grantor for only one form of maintenance activity: “The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Regional Forester.” Otherwise, the easements require no permits or other administrative approvals necessary for road maintenance or use.

The easements contain two reservations by the USFS. The first reservation allows the USFS “to use the road for all purposes deemed necessary or desirable” by the government to access and manage its lands. The second reservation allows the USFS to extend the right to use the road to other federal, state or local government bodies and “to other users including members of the public.” Both reservations, however, contain a proviso that the use by others “shall be controlled by [USFS] so as not unreasonably to interfere with use of the road by Grantee or to cause Grantee to bear a share of the cost of maintenance greater than Grantee’s use bears to all use of the road.” (emphasis added). The first reservation further allows the USFS to “reasonably impose” traffic-control regulations as it requires of other users “without reducing the rights herein granted to Grantee.”

Only one of the instruments references any other agreement as applicable to the easement. For that easement, the Amabilis Mountain Road Right-of-Way Construction and Use Agreement, dated September 30, 1965, is identified as governing “all aspects of use of the premises, including, but not limited to construction, reconstruction and maintenance of the road and the allocation and payment of costs thereof.” We understand that M&R does not possess a copy of this agreement, the USFS does not possess a copy of the agreement, and USFS staff has said they do not consider it to be in effect. This agreement was never recorded.

M&R is currently in the process of selling 80-acre tracts and access to these properties exists only across the roads covered by the easements. We understand that in recent years the roads have not been plowed during the winters and that use during the winter is predominately for recreation, such as snowmobiles. We also understand that USFS officials have intimated to you that the agency may require a permit for plowing the roads, suggesting that the permit may not be granted unless certain conditions are met. M&R is concerned that USFS’s requirements for a permitting process could also extend to other maintenance activities and/or use of the roads.

ISSUES

1. May the express grant of easements pursuant to the FRTA be strictly enforced?

2. Does the Forest Service’s (“USFS’s”) have authority to require Merrill & Ring (“M&R”) or its successors to obtain permits for snowplowing of the roads under easements benefiting M&R’s properties?
SHORT ANSWERS

1. Yes. The FRTA has not been repealed by subsequent legislation. In fact, the FRTA continues to be used by the USFS, which grants easements to parties that agree to cooperate with the agency to provide access to federal lands and construct and/or maintain roads. Even were it repealed, however, the conveyance of the easements would remain enforceable. The rights granted to M&R pursuant to the easements impose binding obligations on the USFS, obligations that it can neither ignore nor unilaterally alter.

2. No. The USFS may not impose conditions on M&R that violate the express rights identified in the easements and exceed the regulatory provisions for traffic control. This specifically means that USFS may not require M&R to obtain a permit for snowplowing or similar activities that ensure access across the USFS roads. The USFS may, however, impose reasonable conditions on M&R’s use, conditions designed to protect public safety and/or prevent road damage.

ANALYSIS & DISCUSSION

The National Forest Roads and Trails Act ("FRTA") has not been Repealed by Subsequent Statutes.

The FRTA and its provisions concerning the grant of easements have not been repealed and remain enforceable. See 16 U.S.C. §532-538; cf City and County of Denver v. Bergland, 695 F.2d 465, 475 (10th Cir., 1982) (holding that “repeals of statutes are to be strictly construed and repeals by implication are disfavored”). Legislation enacted subsequent to FRTA include the Forest Land Management Act, 16 U.S.C. 1600, Federal Land Policy and Management Act of 1976 16 USC §524 and the Alaska National Interest Land Conservation Act (“ANILCA”), 16 U.S.C. § 3210, which all contain provisions regarding access across federal lands and the construction and maintenance of the National Forest Transportation System. Yet none of these statutes repeal or limit the enforceability of FRTA easements.¹

The Federal Government Cannot Ignore its Duties and Obligations under the Easement

As a general proposition, the federal government is bound by an agreement independent of the form of, or the parties to, that agreement. In Winstar v. United States, 64 F.3d 1531 (Fed.Cir.1995), the court of appeals stated that the terms of a government contract, like any other contract, do not change with the enactment of subsequent legislation, absent a specific contractual provisions providing for such a change. In upholding the court of appeals, the U.S.

¹ Indeed, FRTA easements are granted by the USFS where a cooperator has already constructed or agreed to construct cooperator’s proportionate share of the road. See Forest Service Handbook, FSH2709.12, chap. 31.1 ("Qualifications for Grant").
Supreme Court reasoned that allowing the federal government to avoid a contractual obligation through subsequent legislation would conflict with the government's "own long-run interest as a reliable contracting partner in the myriad of workaday transactions of its agencies." United States v. Winstar, 518 U.S. 839, 883, 116 S.Ct. 2432 (1996). The Supreme Court rejected the government's claim that enforcement of the contract undermines its legislative sovereignty: "[A]llowing the Government to avoid contractual liability merely by passing any 'regulatory statute' would flout the general principle that, "when the United States enters into contract relations, its rights and duties therein are governed generally by the law applicable to contracts between private individuals." Id. at 895 (citations omitted). Given the Supreme Court's pronouncement in Winstar, if subsequent legislation by Congress cannot be used to avoid the government's contract obligations, surely the USFS may not do so through its regulations or independent interpretation.

The scopes of the M&R's easements dictate the rights and obligations of the parties as expressed in the conveyance instrument. The easements benefiting M&R are express easements, meaning that the scope of the easements is set out in express terms: "the extent of an easement created by a conveyance is fixed by the conveyance." Preseault v. United States, 100 F.3d 1525, 1542 (Fed. Cir. 1996) quoting Restatement of Property §482 (ALI, 1944). Interpretation of express easements follow ordinary contract rules of construction. Id. 2 Where the easement specifies a board scope of use, subject only to "traffic-control regulations as [the USFS] may reasonably impose," then these conditions control, serving to limit the USFS's ability to impose additional conditions that interfere with the express rights. Given the Supreme Court's decision in Winstar, the USFS is bound by its contractual obligations. There exist no extenuating circumstances that allow the USFS to deviate from the expressed terms of the deed.


The easements benefiting M&R's properties were a product a reciprocal easements between Boise Cascade and the USFS as authorized by the FRTA to encourage development of a forest service road system. The FRTA was enacted in 1964 to ensure landowners that were surrounded by federal lands could be granted permanent easement rights. 1964 U.S.C.C.A.N. 3994. The FRTA contained reciprocal provisions whereby the owners of non-federal land could gain access across federal land; in exchange, those property owners would then grant easements to the USFS, allowing the public to cross non-federal land. Id. at 3998. The FRTA was designed to promote

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2 In Preseault, the owners of property that was subject to a railroad right of way brought a takings claim against the United States, which converted the right of way to a public recreational trail. The Court held that the scope of an easement granted "for the purpose and with the right of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property," which did not encompass use of the easement for public recreational trails. Id. 1541. Accordingly, the easement was abandoned when its use as a railroad ceased; i.e., when the use of the easement differed from original express grant of the easement. Id. at 1543-44, citing with approval Lawson v. State, 107 Wn.2d 444 (1986) (stating in a rails-to-trails case that the scope of the easement is expressed in the conveying instrument, for which the easement is abandoned when the use under the scope ceases).
the development of “an adequate system of roads and trails within and near the national forests and other lands administered by the Forest service,” which Congress deemed to be “essential if increasing demands for timber, recreation, and other uses of such lands are to be met.” 16 U.S.C. § 532. By entering into the reciprocal easements, Boise Cascade received rights in exchange for its obligations to help develop the Forest Transportation System envisioned by the FRTA. These easements and the expressed rights they create therefore inure to M&R’s benefit.

Congress also authorized the USFS to require users of the roads to “maintain the roads in satisfactory condition commensurate with the particular use requirements of each.” Id. at 4000. The Department of Agriculture viewed the FRTA as “essential to provide for intensive use, protection, and management of [national forests and other lands administered by the Forest Service] under the principles of multiple use and sustained yield of products and services. Id. at 4002.

An adequate system of forest development roads and trails connecting with forest highways and other highways is essential to property management and beneficial use of the lands comprising the national forest system and their resources. The presence or absence of transportation facilities has a direct and controlling influence on all phases of forest land management and utilization. . . . It is also a major factor in the level of use made of the recreation, wildlife, and forage resources of these lands. We strongly feel it is essential that an adequate system of forest roads and trails be developed and maintained to serve these lands if they are to provide their property share to the well-being of the Nation. Id. at 4003

The easements state, “No present or future administrative rules shall reduce the rights herein expressly granted.” Accordingly, the USFS is bound not to diminish the rights accorded M&R under the express terms.

Execution of easements authorized by the FRTA – and the rights created under such easements – stand in stark contrast to statutory “rights of access.” Statutory rights of access were created under the Alaska National Interest Land Conservation Act (“ANILCA”), 16 U.S.C. § 3210.3 ANILCA’s provision specifically provided “access to non-federally owned land within the boundaries of the National Forest System to secure the owner the reasonable use and enjoyment.” Id. An owner of land surrounded by national forest would therefore obtain an easement pursuant to ANILCA by virtue of the land’s situs. See e.g., United States v. Adams, 3 F.3d 1254 (9th Cir. 1993) (holding that the common law easements by implication or by necessity may be preempted by statute affirmatively addressing access, such as ANILCA”); cf 1964 U.S.C.C.A.N. 3998 (outlining the Congressional declaration of policy for the reciprocal exchange of easements embodied in FRTA).

3 Despite its name, the provisions of ANILCA apply outside Alaska. Montana Wilderness Ass’n v. United States, 655 F.2d 951, 957 (9th Cir. 1981) cert denied 455 U.S. 989, 102 S.Ct. 1612 (1982).
The right of access granted under ANILCA was subject to “rules and regulations applicable to ingress and egress to and from the National Forest System,” which apply equally to all members of the public. See 16 U.S.C. § 3210. Because “the United States owns the servient estate for the benefit of the public,” the right of access under ANILCA provides no greater rights to the inholders than to other members of the public. See Adams at 1259 (holding that the requirement to obtain a permit for snow plowing was a reasonable restriction on the land owner’s use because such a restriction applied equally to all member of the public.); see also United States v. Jenks, 129 F.3d 1348 (10th Cir. 1998) (rejecting landowner’s claim to access rights and finding conditions in proposed permits reasonable under ANILCA right of access).

Washington Law Applies To Interpretation Of The Scope Of Rights Granted By The M&R Easements

Federal courts, as a general rule, follow state law rather than federal law in resolving real property disputes, except under the limited instances for cases “in which relevant state law is hostile to a congressionally declared program of national scope.” Cortese v. United States, 782 F.2d 845, 849 (9th Cir. 1986) (applying state law in determining scope of restrictive covenants); see Mason v. United States, 260 U.S. 545, 43 S.Ct. 200 (1923) (holding questions of title to land situated within a state are governed by that state’s law, regardless of whether such questions are being litigated in state or federal courts); see also Plum Creek v. Lyng, 874 F.2d 816, 1989 WL 46737 (9th Cir. 1989) (in an unpublished opinion, holding that “Washington law by which patents and reservations are construed is not inconsistent with federal law or hostile to federal interests”). Of United States v. Little Lake Misere Land Co., 412 U.S. 580, 592-594, 93 S.Ct. 2389 (1973) (state law would have abrogated the explicit terms of a prior land acquisition of the United States under the Migratory Bird Conservation Act, 16 U.S.C. § 715 et seq., and was therefore not applied). Washington state law is not hostile to the Congressionally declared program of the FRTA and would therefore be applicable.

The Easements Grant Explicit Rights to M&R to Use and Maintain the Roads Subject Only To Reasonable Traffic Regulations

Under Washington law, the scope of an easement created by an express grant, such as the case with the M&R easements, is construed to ensure the beneficial use by the grantee of what is granted, in the manner and for the purposes indicated by the easement grant. Decker v. State, 188 Wash. 222 (1936); see Preseault v. United States, 100 F. 3d 1525, 1542 (Fed. Cir. 1996) (holding that the scope of an express easement is set out in the express terms, either in the granting instrument or as a matter of incorporation and legal construction of the terms of the relevant documents). Courts will generally construe the grant of easement “most strongly

4 The M&R easements satisfy the formalities required to create a binding servitude on the lands. Such formalities require that an express conveyance of an easement must be in writing, signed by the parties to be bound, and acknowledged before an authorized person. RCW 64.04.020; see Restatement (Third) of the Law, Property, Servitude §2.7. Both easements were recorded in Kittitas County, where the lands they serve are located. This provision was specifically required under the FRTA to ensure that the instruments created permanent interests and rights in the land. 16 U.S.C. §536.
against the grantor.” *City of Seattle v. Nazarenus*, 60 Wn.2d 657, 665 (1962) quoting 28 C.J.S. Easements §26; but cf. *Caldwell v. United States*, 250 U.S. 14, 20-21, 39 S.Ct. 397 (1919)(holding that the general rule of construction that any ambiguity in a grant is to be resolved favorably to a sovereign grantor – “nothing passes but what is conveyed in clear and explicit language.”) An express easement will not be interpreted as providing the grantor with a right that it does not expressly reserve or otherwise possess. *See Sunnyside Valley Irr. Dist. v. Dickie*, 111 Wn.App. 209, 215 (2002). On the other hand, an easement can accommodate modern developments so long as the scope and use remains consistent with the purpose for which the right was originally granted. *See id.* at 216.

Unless an easement is ambiguous or silent on some point, courts will not consider extraneous information or circumstances at the time the instrument was executed. *City of Seattle*, 60 Wn.2d 657, 665. In *City of Seattle*, the court found that a perpetual easement for “the construction, operation and maintenance of an electric transmission system” was unambiguous, giving the owner of the dominant estate “the right to use the right of way for the purpose above mentioned, and that . . . the owners of the servient estate have divested themselves at all use thereof which is inconsistent [with those rights].” *Id.* at 666. Similarly, the terms in the M&R easements is unambiguous regarding its right to use the easement “for all purposes deemed necessary or desirable by the grantee” and “the right to construct, reconstruct, and maintain” the easement. Extraneous information, such as the construction and use agreements, may not be used to divine meaning to the easements’ otherwise clear and unambiguous terms.

It is important to note that the easements do not limit M&R’s use of the roads to strictly timber harvesting. On the contrary, the easements grant use of the roads “for all purposes deemed necessary or desirable by grantee in connection with the protection, administration, management and utilization of Grantee’s lands or resources.” USFS’s suggestion that the easements were intended solely for timber harvesting is contradicted by the express scope of the easement, as well as the statutory provisions that authorize the easements. *See 16 U.S.C. §532* (“The Congress hereby finds and declares that the construction and maintenance of an adequate system of roads and trails within and near the national forests . . . is essential if increasing demands for timber, recreation and other uses of such lands are to be met.”).

M&R’s use of the roads is subject to traffic-control regulations and rules imposed by the USFS as identified within the easements’ grant of rights to the grantee and reservation of rights for the grantor. However, such regulations or rules may only be “reasonably impose[d]” on M&R and may not reduce the rights granted by the easements. Moreover, the rules or regulations must be the same of other users of the roads. In other words, the USFS cannot deny M&R use of the easements for the benefit of other users.

The easements explicitly grant M&R the right to “maintain” the roads. Plowing roads during the winter represents normal, basic maintenance. Requiring a permit, on the other hand, both exceeds the express reservations retained by the USFS and reduces the rights granted to M&R; presumably, the USFS could deny the permit or impose a review process as to render certain maintenance activities impractical. The USFS retains approval authority for only one maintenance activity, that is, the use of chemicals to clear the right-of-way. The easements do
not explicitly accord the USFS with a right to require permits from the grantee for any other maintenance activity. It may not now do so in the absence of an express right reserved in the easements.

**Forest Service Handbooks and Manuals Direct Service Staff To Honor Easement Rights**

The USFS provides guidance to its staff concerning the implementation of easements granted by the federal government pursuant to the FRTA, as well as other statutory authority. This guidance clearly indicates that the rights granted to private parties on easements across federal lands are to be honored. For example, the Forest Service Manual for Land Ownership, Right-of-Way Acquisition, FSM 5460, specifies that although the USFS regulates traffic and use on the cooperatively built roads, such regulations may not “decrease the cooperator’s reserved or granted rights.” USFS Manual for Land Ownership, Right-of-Way Acquisition, FSM 5467.4 (July 25, 2003).

**The National Forest Transportation System and Traffic Rules Adopted Under It Do Not Require A Permit For Maintenance Of Roads Subject To An Easement**

The regulations pertaining to the administration of the forest service roads are identified in 36 CFR Part 212. 36 CFR §212.5(a) provides that the traffic rules established by the USFS regulations “apply to all National Forest System roads under the jurisdiction of the Forest Service except when in conflict with written agreement.” Accordingly, the USFS may not impose restrictions on M&R’s use of the road that are contrary to the express rights granted by the easements. Notably, these regulations do not explicitly require a permit for the use or maintenance of roads that are subject to an existing easement.

The USFS traffic rules list general operational constraints to preserve the structural integrity and surface conditions of the roads, as well as maintain public safety. Such constraints include restrictions because of vehicle weight and size limitations or other public safety concerns. See e.g., 36 CFR §212.5(a)(1) and (2). In addition, the traffic rules prohibit a user from damaging the roads or “blocking, restricting, or otherwise interfering with the use of a road.” 36 CFR §261.12.

The traffic rules allow the USFS to issue orders imposing additional conditions on the use of the roads. Although such conditions can be significantly restrictive, to include prohibiting any type of traffic across an identified road, such restrictions may not be used when in conflict with the express terms of the easements. See 36 CFR § 212.5(a). To do so would effectively diminish the purpose of the easements, particularly considering the reciprocal benefits related to the original easements to cross lands controlled by USFS or owned by Boise Cascade. See e.g., 36 CFR §212.8 (outlining the bases for exchange of easements over federal and non-federal land and conditions for granting reciprocal easements); 36 CFR §212.9 (identifying corresponding benefits related to reciprocal rights and road sharing agreements). Accordingly, the USFS’s traffic rules may merely limit the weight or dimensions of the vehicles using the roads if such limitations are calculated to preserve the road’s integrity or protect the public safety. Requiring
permits for snowplowing or similar administrative approvals for routine maintenance would appear to overstep the authority of the USFS under both the easement and traffic regulations.

CONCLUSION

The express easements benefiting M&R’s properties provide unambiguous rights for the use and maintenance of the roads, which the USFS may not restrict. These provisions allow M&R to utilize the roads for its benefit, while promoting open and safe access across the USFS roads. Moreover, both the easements and traffic rules stress that the USFS may not impose restrictions that conflict with the terms of the easements or interfere with the rights expressly granted.

In general terms, a permit is a grant of authority to perform a requested act.\(^5\) USFS’s statement that a permit would be required for M&R’s maintenance activities suggests that it seeks to grant authority on a right that M&R already possesses under the express terms of the easements. Although the easements allow the USFS to impose traffic-control regulations, such regulations must be reasonable and may not reduce the rights accorded to M&R by the easements. Moreover, USFS regulations do not explicitly require a permit for maintaining the roads that are subject to an existing easement. See 36 CFR §251.50(e).

Thus, while the USFS may impose reasonable and traffic control regulations for the preservation of the road and safety of other users, it may not unilaterally demand that M&R obtain a permit for maintenance activities. To do so runs contrary to the express terms of the easement and exceeds the application of the traffic rules.

\(^{5}\) See generally LaVallee Northside Civic Ass’n v. Virgin Islands Coastal Zone Management Com’n, 866 F.2d 616 (3rd Cir. 1989).
COOPERATIVE ROAD MAINTENANCE AGREEMENT


RECITALS

1. The Noble Creek HOA members are owner of real property in Section 11 and the Keechelus Ridge HOA members are owner of real property in Section 3, both located in Township 21 North, Range 12 East, W.M., Kittitas County, State of Washington.

2. The Government and the associations and associations member’s predecessor in title recognized the benefits of jointly creating a single road system serving their intermingled real property. The road system was created through reciprocal easements, right-of-way construction and use agreements, cost -share agreements, and similar agreements (collectively “Easements”), which provided for the construction, operation, and maintenance of the roads and road segments which became part of the National Forest Road System. The Government entered into the agreements and easements pursuant to the authority of the National Forest Roads and Trails Act of 1964 (“FRTA”)(78 Stat. 1089; 16 U.S.C. 532-538). The Easements establish the mutual rights and obligations to the construction, use, maintenance, and cost sharing of the roads specifically identified in Exhibit A and as shown on attached map.

3. The Easements envision the Parties’ performance of maintenance and required preservation of the roads for future use, and;

4. It is mutually deemed necessary for the Parties to make provisions for maintaining and apportioning the costs of maintenance of such roads and;

5. The Parties recognized that this Agreement does not terminate or change any rights granted under Easements.

6. The associations acknowledge that in the event that an association terminates or otherwise ceases to fulfill its obligations under the Easements, then: (1) the respective members of that association shall be jointly and severally liable for the obligations of that association, and (2) the termination or cessation of the Association shall be deemed to begin a period of non-use for purposes of the abandonment provisions of the Easements.
AGREEMENT

NOW THEREFORE, in accordance with these premises and in consideration of the mutual benefits to be derived, and as express in detail throughout this agreement, the Parties agree:

a. That this Agreement shall apply to all identified roads listed in Exhibit A upon which the Government and a predecessor in title to the associations and/or each of its members have exchanged easements.

b. That all such roads shall be maintained to agreed upon maintenance levels in a timely manner and to the finished design standards and condition of existing road construction or most recent jointly agreed to reconstruction unless otherwise agreed to and fully described and documented in writing. All work performed to the roads will be in accordance with Exhibit B, C and D.

c. That all such maintenance shall be performed and the costs apportioned between the Parties in accordance with this Agreement, provided that nothing contained herein shall invalidate any current Easement language.

Section I - Explanation of Terms

As Constructed/Reconstructed Standard/Condition – The completed design or as built standard and condition of the road according to the agreed to plans and specifications. The as constructed/reconstructed standard represents a snapshot of the completed road or road segment following construction and prior to use.

Road Maintenance - The performance of work activities needed to preserve or protect a roadway including surface, shoulders, roadside, structures, and such traffic-control devices as are necessary for its safe and efficient use to the finished design standard and condition provided through construction, the most recent reconstruction, or other condition as agreed to and fully described and documented in writing.

Road Maintenance Level - The five road maintenance levels are as follows:

Level 1 - Assigned to intermittent service roads during the time they are closed to vehicular traffic. Basic custodial maintenance is performed to keep damage to adjacent resources to an acceptable level and to perpetuate the road to facilitate future management activities.

Level 2 - Assigned to roads open for use by high clearance vehicles. Passenger car traffic is not a consideration.

Level 3 - Assigned to roads open and maintained for travel by a prudent driver in a standard passenger car. User comfort and convenience are not considered priorities.

Level 4 - Assigned to roads that provide a moderate degree of user comfort and convenience at moderate travel speeds.
Level 5 - Assigned to roads that provide a high degree of user comfort and convenience.

Recurrent Maintenance - Work that is needed on a continuing basis with accomplishment annually or more frequently.

Deferred Maintenance - Work that is deferred 1 or more years until such time as the work is needed or can be economically or efficiently performed. Some maintenance activities that result from natural weathering processes are not feasible to perform until complete exhaustion and replacement need has accrued such as with structures such as in-kind bridges and culverts.

Traffic Generated Maintenance - Work, except repair of Major Damage, made necessary as a direct result of, or to minimize the effect of, use and wear by traffic.

Non-Traffic Generated Maintenance - Work made necessary as a direct result of normal weathering processes or uncontrollable influences that cannot be attributed to traffic use.

Major Damage - Damage resulting from:

a. Natural causes that is not repairable by normal maintenance practices; considered in excess of that normally occurring for the area; and not anticipated or provided for in the Annual Maintenance Plan, or

b. Road use that intentionally or unintentionally affects serviceability of the road or results in wear or damage in excess of that occurring in the area under normal operating conditions and procedures.

Restoration - Work necessary, as a result of major damage, to restore a road to the standard and serviceability that existed prior to the damage.

Road Improvement - Any activity that results in an increase of the existing road standard or changes the original design standard.

Equivalent Unit (EU) - An average light vehicle having four or more wheels such as a passenger car, pick-up truck, or recreational vehicle moving over a given point in either direction.

National Forest Traffic - The traffic generated by use of National Forest System lands and other lands to include members of the general public, exclusive of Association traffic.

Association Traffic - The traffic generated by use of lands owned or controlled by each association individually or its respective members including but not limited to commercial traffic, residential or residential support and service traffic, emergency service traffic vehicle and public traffic accessing lands of the associations or its members.

Designated Representative - Person(s) or position(s) will be designated with the authority to obligate the cooperating parties by signing documents related to this Agreement. Each Party may revise its respective designated representative by notifying the other Party in writing.
Section II - Annual Maintenance Planning

A written Annual Maintenance Plan, consistent with the requirements, definitions, and information in this Agreement, will be prepared and executed by the respective designated representatives from the Noble Creek HOA, Keechelus HOA and the Government. This plan shall be agreed upon by May 1 of each year (or such other appropriate date as may be mutually agreed upon) and shall cover all maintenance work performed or planned to be performed during the calendar year.

If, for any reason, the plan is not agreed to on a timely basis, and those issues cannot be resolved the Government or either association may exercise rights acquired or reserved under the Easements to ensure essential work is accomplished. Each association and the Government shall bear their proportionate cost for the work performed.

The Annual Maintenance Plan may contain or reference other requirements, definitions, maintenance specifications, materials and equipment rates, and information consistent with this Agreement that the Parties mutually deem necessary to effectively maintain the road system to the last agreed upon standard.

In the event a Party finds it cannot perform its assignment outlined in the Annual Maintenance Plan, it shall notify the other Parties in writing so that alternate arrangements can be made.

In the event that one Party is not performing its assigned work, the other Parties shall notify the responsible Party in writing. The responsible Party shall then make arrangements to correct the deficiencies. If this is not accomplished, the other Parties may complete the work. Cost records shall be adjusted to reflect credit for completed work.

Annual Maintenance Plan. The Annual Maintenance Plan will include the anticipated recurrent and deferred road maintenance work needed during the calendar year. It shall include a 5-year projection of deferred maintenance work envisioned on roads covered by this Agreement. The Parties will consider the needs of all roads covered by this Agreement whether or not they are being or will be actively used during the plan period.

The Parties may agree to include in the Annual Maintenance Plan other roads shared or used under other authorities including the Forest Land Policy and Management Act (FLMPA) or Forest Road and Trail Act (FRTA)

The Annual Maintenance Plan will include, as a minimum, estimates of the following information:

Road number and segments or groups of roads;

Length in miles;

Planned maintenance, by traffic generated and non-traffic generated categories;

Shares of non-traffic generated work attributable to each Party;

Shares of traffic generated work based on EU's attributable to each Party;
Performance responsibility and credits for each Party;

A summation of the total traffic and non-traffic generated maintenance obligation for each Party for the year; and

For each road or group of roads, an accounting of the cumulative traffic by each Party since original construction/reconstruction or the most recent surface rock replacement or since all traffic generated deferred maintenance obligations were last reconciled and satisfied.

The above information will be estimated and documented at the annual cost share maintenance planning meeting and reconciled for actual work performed and road use at the yearend closeout for each calendar year.

**Annual Maintenance Accounting.** The yearend closeout of the Annual Maintenance Plan will be reconciled and documented in writing by the designated representatives. Excess balances for maintenance work performed during the plan period will be paid in cash, unless agreed otherwise by the designated representatives. The annual maintenance accounting shall also include a current listing of any and all maintenance activities being deferred by agreement of the Parties to be accomplished at a later time.

**Section III - Basis for Sharing the Cost of Various Elements of Maintenance**

The basis for sharing the maintenance of each individual road or group of roads shall be shown in the Annual Maintenance Plan. The following lists certain maintenance activities as traffic generated or non-traffic generated maintenance. Specific planning for maintenance may reveal that some of these activities can be interchanged between categories. Additional items may be included.

<table>
<thead>
<tr>
<th>Traffic Generated</th>
<th>Non-Traffic Generated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surface Blading</td>
<td>Minor Culvert replacement (in kind)</td>
</tr>
<tr>
<td>Bridge Maintenance</td>
<td>Bridge replacement (in kind)</td>
</tr>
<tr>
<td>Dust Abatement</td>
<td>Minor Structure replacement</td>
</tr>
<tr>
<td>Cattleguard clean out</td>
<td>Brushing</td>
</tr>
<tr>
<td>Gate repair</td>
<td>Ditch cleaning</td>
</tr>
<tr>
<td>Surface rock replacement</td>
<td>Signing</td>
</tr>
<tr>
<td>Asphalt maintenance</td>
<td>Slide Removal</td>
</tr>
<tr>
<td>Striping</td>
<td>Cattleguard replacement</td>
</tr>
<tr>
<td></td>
<td>Culvert cleaning</td>
</tr>
<tr>
<td></td>
<td>Revegetation</td>
</tr>
</tbody>
</table>

**A. Traffic Generated Maintenance**

All traffic generated maintenance shall be shared on the basis of proportionate use, calculated on the basis of the number of EU's assignable to each Party determined in accordance with the following procedures:
1. Native and Grave Surfaced Roads:

(a) Residential traffic count shall be based on actual traffic count data or as agreed to and hereby show on Exhibit A. These numbers may be changed as agreed to and documented in writing in the annual maintenance plan.

(b) For commercial traffic a factor of 5 EU's per MBF shall be used. A factor of 4,800 pounds shall be used to convert the gross weight of other commercial haul to EU's.

2. Paved and bituminous surface treated roads. On all paved and bituminous surface treated roads, each 1,000 board feet (gross measure) of logs hauled shall be equal to 20 equivalent units. This includes one round trip by a log truck and a support vehicle. A factor of 1,200 pounds shall be used to convert the total weight of other commercial use to equivalent units.

B. Non-Traffic Generated Maintenance

All non-traffic generated maintenance obligations will be assigned on the basis of each Party's proportionate share of the road or road segment determined on the basis of each Party's responsible proportionate tributary land acreage as it relates to the total tributary land acreage. Government's responsible proportionate share shall include all third party land ownership tributary to the road or road segment.

Current shares are shown on Exhibit A and will be adjusted when land ownership or use changes occur.

C. Major Damage

The cost of repairing major damage from natural causes will be shared on the basis of each Party's proportionate share of the road or road segment determined on the basis of each Party's responsible proportionate tributary land acreage as it relates to the total tributary land acreage. Government's responsible proportionate tributary share shall include all third party land ownership tributary to the road or road segment.

The cost of repairing major damage associated with road use or damage caused as a result of a Party's failure to make timely repairs will be borne entirely by the Party causing the damage.

There shall be no major damage caused by either of the associations or the Government to a road that materially impacts the road's serviceability for use without agreement from all users of the road.

D. Road Improvements Without Agreement

Whenever one Party chooses to upgrade the standard of a road without the other Parties' participation, the non-participating Parties' maintenance share will be based on costs attributable to road maintenance costs for the previously existing road standard. Any upgrade or improvement to the road, may not reduce the structural integrity of the existing road for any Party and must be suitable for the non-participating Parties' uses.
The Party upgrading the road will be financially responsible to maintain that improved standard or to return it to the original agreed standard.

**Section IV - Methods of Fulfilling Maintenance Obligations**

It is the intent of this Agreement to permit flexibility by the parties to this Agreement in selecting optional methods, mutually agreed to by the parties, of performing and financing maintenance work. Any of the following general options may be selected subject to the limitations of the Anti-Deficiency Act (31 U.S.C. §1341), the Adequacy of Appropriations Act (41 U.S.C. §11) and other applicable federal statute or regulation:

A. **Recurrent Maintenance**

   **Option 1 - Maintenance by One Party.** By agreement in the Annual Maintenance Plan, one Party may assume the responsibility for performing all recurrent maintenance. The other Party or Parties will provide their proportionate share in cash. If the Government is the performing Party, each association will deposit with the Government, in advance of the work to be performed, sufficient moneys in one or more payments to cover each association’s share of the cost of the work.

   If either association is the performing Party, the non-performing association, and the Government will reimburse, or require other road users to reimburse, the performing association for each non-performing Parties’ share of the cost within 30 days of receipt of a written invoice.

   The final accounting will be based on the Annual Maintenance Plan adjusted as necessary for changes in the actual work performed at agreed to rates or changes in actual use of the road as compared to projected use, or actual costs if adequate records are available. Any surpluses or deficiencies will be reconciled in the annual accounting.

   **Option 2 - Maintenance by Both Parties.** By agreement in the Annual Maintenance Plan, the Parties may perform some portion of the required work listed in the plan. Substantial imbalances in a Party’s share of the work to be performed will be adjusted by either offsetting credits, cash settlement, or a revision of the Annual Maintenance Plan; provided that changes in planned work performance shall first be agreed to by the Parties.

   The final accounting will be based on the Annual Maintenance Plan adjusted as necessary for changes in the actual work performed at agreed to rates or changes in actual use of the roads as compared to projected use or by actual costs if adequate records are available. Any surpluses or deficiencies will be reconciled in the annual accounting.

B. **Deferred Maintenance**

   **Option 1 - Payment by the associations to the Government for their respective share of the estimated cost of the mutually agreed to maintenance work as use occurs.** Payment will be based on computed rates listed in the Annual Maintenance Plan. Such payments shall fully satisfy all accrued obligations of each association for the agreed to deferred maintenance work.
Option 2 - Payment by any Party for its share of the cost of the work at the time the work is to be performed. Costs to be shared will be determined by the lowest acceptable bid or the joint engineer's estimate. Any agreed to contract modification affecting costs will be shared by all Parties on the same basis.

When the Government is the performing Party, each association will deposit with the Government its respective share of the cost of the lowest acceptable bid or the joint engineer's estimate in advance of contract award or performance. When an association is the performing Party, the non-performing association and the Government will reimburse the performing association within 30 days of receipt of a written invoice for their respective shares as permitted or authorized by applicable regulations once work is accomplished by the performing association and accepted by the Government. Progressive, partial payments may be made by the Government as work is completed and accepted by the Parties.

Option 3 - Performance of deferred maintenance by any Party without interim payment or transfer of funds between Parties. When planned work, costs, and shares of each Party are agreed to in advance of work performance, a Party performing work in excess of its share will be credited by the other Parties and balances paid in cash following the annual accounting unless otherwise agreed.

Credits for deferred maintenance performed can be used to offset any other agreed maintenance costs. These credits will be in writing and included in the annual accounting.

Section V – Special Situations

A. Change In Road Standards.

1. Reduction of Road Standard. Occasionally there is a need to change the road standard(s) to something less than documented in the plans and specifications of the last constructed or reconstructed standard. The changes might include a reduction in road width, a reduction in surfacing depth, and so forth. When such a change in road standards is mutually agreeable, the Parties shall:

a. Determine the new road standard(s) and document the change in the form of revised typical sections, line diagrams, or specifications as appropriate. Include documentation adequate to identify the new standard; as a minimum, use a typical section and description by road number(s) and mileposts.

b. Reconcile all accounting and records for the affected road. The accounting shall maintain the required separation between maintenance work items identified as recurrent or deferred maintenance in the maintenance accounting record and expenditures to change the current road standard shall be documented.

c. Update both recurrent and deferred road maintenance accounting records as necessary to reflect the agreement reached.
d. Proceed with the joint use, management, and administration of the roads under the new road standard(s).

2. Improvement of Road Standard. Occasionally one Party may want to increase the road standard. That Party shall notify the other of the proposed change. The Parties may agree in writing to share in the costs of the improved road standard and the share of the costs of improvement will be based on each Parties tributary area to the project. The Parties shall follow steps 1 a-d outlined above.

   If a non-proposing Party does not need that improved standard for its uses, it will notify the Party proposing the improvement in writing of its decision. The Party proposing the project, may proceed with the project if:

   a) The proposed improvement does not reduce the existing structural integrity of the road and is suitable for the uses of the non-proposing Party.

   b) The Party proposing the project will bear all addition maintenance expense of the improved standard. The non participating Party will bear maintenance expense of the previous standard of the road.

   c) The proposed project is approved by the Government and meets the requirements under the Manual of Uniform Traffic Control Devices (MUTCD) or other applicable laws and Secretary of Agriculture regulations and rules.

B. Snowplowing of 4832 Road.

The government has completed its mixed use analysis and therefore agrees to usage of the FSR 4832 for mixed use traffic which means;

   a) Concurrent winter use of the road by association members vehicle traffic and public usage of the road as a groomed snowmobile route;
   b) Winter plowing by associations and vehicle access along the road to access private property;
   c) This analysis was based on 8 lots in section 3 and 8 lots in section 11 of Township 21 N., Range 12 E.,
   d) If usage is increased, this will be need to be reanalysed
   e) Specific requirements is shown in Exhibit B.

Section VI - Special Clauses

A. No member of, or delegate to, Congress or resident Commissioner shall be admitted to any part or share of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

B. In performance of work, the associations agree to comply with the provision "EQUAL OPPORTUNITY (FAR 52.222-26) (APR 1984)," incorporated here by reference. In this form, contractor means the associations; and contracting officer or contracting agency means Government.
B. Nothing herein shall be construed as obligating the Government to expend and/or involve the Government in any contract or other obligation for future payment of money in excess of appropriations authorized by law and administratively allocated for this work.

C. Reimbursements made or credits earned in favor of the Government under terms of this Agreement may include charges for necessary overhead expenses that are identified in advance by the Government in the Annual Maintenance Plan. Reimbursements made or credits earned in favor of either association under terms of this Agreement may include charges for necessary overhead expenses that are identified in advance by each association in the Annual Maintenance Plan.

D. Each association shall individually indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the Association’s members, the employees, contractors, or subcontractors, clients, agents, invitees and guests thereof in connection with use of the roads and/or any work on the roads. This indemnification provision includes, but is not limited to, past, present, or future acts and omissions of the association or the association’s members, and the successors, assigns, agents, employees, or contractors thereof, in connection with use of the roads authorized by this Agreement which result in (1) violations of any laws and regulations which are now or which may in the future become applicable; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous substance, pollutant, contaminant, oil in any form, or petroleum product into the environment.

E. Individually, each association, and the respective commercial licensees, contractors and subcontractors of each association, and its respective members and the Government’s commercial licensees, contractors and subcontractors when commercial hauling of natural resource products or performing work on the road shall be required to carry public liability and property damage insurance for the operation of vehicles in the amounts established by applicable state laws, cooperative agreements, or Easements issued on the subject road or roads. In any event, each association, and the commercial licensees, contractors and subcontractors of each association, its respective members, and the Government’s commercial licensees, contractors and subcontractors must carry liability insurance and property damage insurance of not less than $250,000 for injury or death to one person, $500,000 for injury or death to two or more persons, and $250,000 for damage to property. Each association shall be responsible for furnishing to the District Ranger proof of satisfactory insurance for itself, its members and the licensees, contractors and subcontractors of either. Upon request, the Government shall be responsible for furnishing to the requesting association proof of satisfactory insurance for Government’s commercial licensees, contractors and subcontractors prior to authorizing the entity access across any of the roads covered by this Agreement. Proof of satisfactory insurance may be required 14 days prior to any reconstruction or maintenance of the road.

F. The United States, acting by and through the USDA Forest Service, Region 6, hereby agrees to bear any and all costs and liabilities of any kind related to the exercise of its rights under this agreement to the extent it may legally do so under the Federal Tort Claims Act (the FTCA) 28 U.S.C. Section 2671 et seq. or any other act wherein Congress has specifically waived the sovereign immunity of the United States.
G. The Government shall restrict noncommercial vehicle use on or across Exhibit A roads on Association’s property unless provisions are made by the Government or by the noncommercial users to bear proportionate maintenance costs as prescribed under this Agreement.

H. The Association shall restrict vehicle use across agreement roads unless provisions are made by the Association to bear proportionate maintenance costs as prescribed under this Agreement.

I. Each association, its members and all Association Traffic will abide by the requirements of applicable federal and state laws and regulations (e.g. 36 CFR 212 & 261), including the Forest Road Rules as Shown in exhibit E unless as modified herein.

J. Nothing in this Agreement abridges or expands the rights and obligations of the Noble Creek HOA, the Keechelus Ridge HOA, their respective members, and the Government as expressed by the Easements.

K. Construction. This agreement has been fully negotiated at arms length between the signatories hereto, and after advice by counsel and other representatives chosen by such Parties and such Parties are fully informed with respect thereto; no such Party shall be deemed the scrivener of the Agreement; and, based on the foregoing, the provisions of this Agreement and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any Party.

Section VII - Terminations, Amendments, Modifications, Change of Ownership

A. This Agreement may be terminated by any Party upon at least ninety (90) days prior written notice, except that such termination shall in no way affect obligations incurred under this agreement until an agreed to settlement is made.

B. The terms and conditions of this Agreement may be modified or amended by signatory parties to the extent needed to meet the requirements of the parties. Such modifications and amendments will not be effective until agreed upon in writing.

C. In the event that a Party conveys tributary lands and applicable easements for roads to a new owner, it is understood and agreed that any outstanding road maintenance obligations as of the date of conveyance attributable to such lands are to be satisfied between the Parties hereto.
IN WITNESS WHEREOF, the parties hereto have executed this Cooperative Road Maintenance Agreement in duplicate originals on the date first hereinabove written.

NOBLE CREEK HOMEOWNER ASSOCIATION,
a Washington State homeowners association.

By: [Signature]

Its: President

Name: John W. Breithaupt

Noble Creek Homeowner Association

KEECHELUS RIDGE HOMEOWNER ASSOCIATION
a Washington State homeowners association

By: [Signature]

Its: 

Name: [Signature]

Keechelus Ridge Homeowner Association

UNITED STATES OF AMERICA

By: JAMES L. BOYNTON
Forest Supervisor
Okanogan and Wenatchee N.F.'s
Pacific Northwest Region
Forest Service
U.S. Department of Agriculture
Current Summary of Agreed Shared Roads

Exhibit A

1. Current design standards for the Roads that are included in this Agreement:

<table>
<thead>
<tr>
<th>Road #</th>
<th>Name</th>
<th>Beginning MP</th>
<th>Ending MP</th>
<th>Lanes</th>
<th>WIDTH*</th>
<th>Traffic Service Level</th>
<th>Surfacing</th>
<th>DEPTH*</th>
<th>ML</th>
</tr>
</thead>
<tbody>
<tr>
<td>4832</td>
<td>Keechelus Frontage</td>
<td>8.0</td>
<td>9.5</td>
<td>1</td>
<td>12'</td>
<td>C</td>
<td>Aggregate</td>
<td>6&quot;</td>
<td>3</td>
</tr>
<tr>
<td>4832120</td>
<td>Noble Creek</td>
<td>0.0</td>
<td>1.5</td>
<td>1</td>
<td>12'</td>
<td>D</td>
<td>Native</td>
<td>N/A</td>
<td>1</td>
</tr>
<tr>
<td>4832124</td>
<td>Price Creek</td>
<td>0.0</td>
<td>1.0</td>
<td>1</td>
<td>12'</td>
<td>D</td>
<td>Native</td>
<td>N/A</td>
<td>2</td>
</tr>
<tr>
<td>4934</td>
<td>Keechelus Ridge</td>
<td>0.0</td>
<td>3.6</td>
<td>1</td>
<td>12'</td>
<td>C</td>
<td>Aggregate</td>
<td>6&quot;</td>
<td>3</td>
</tr>
<tr>
<td>4934118</td>
<td>Keechelus Pt.</td>
<td>0.0</td>
<td>0.6</td>
<td>1</td>
<td>12'</td>
<td>D</td>
<td>Native</td>
<td>N/A</td>
<td>1</td>
</tr>
<tr>
<td>4934122</td>
<td>Swamp Kit</td>
<td>1.0</td>
<td>0.5</td>
<td>1</td>
<td>12'</td>
<td>D</td>
<td>Native</td>
<td>N/A</td>
<td>1</td>
</tr>
</tbody>
</table>

Width and Depth design is based on commercial log truck traffic. Width must include turnouts (intervisible on ML 3 and above) and curve widenings as needed to accommodate log trucks.

Traffic Service Levels are described in FS Preconstruction Handbook 7709.56

2. Roads included in the Cooperative Road Maintenance Agreement.

<table>
<thead>
<tr>
<th>FS Road No.</th>
<th>Current FS Public/Rec. Traffic</th>
<th>NTG Shares Assoc.</th>
<th>NTG Shares Govt.</th>
<th>Reference Easements</th>
</tr>
</thead>
<tbody>
<tr>
<td>4832</td>
<td>881</td>
<td>25%</td>
<td>75%</td>
<td>USA to BCC, dated 2/28/72, AN 373875, rec. 3/9/78 BCC to USA, dated 5/17/71, AN 368098, rec. 6/14/71</td>
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<td>0%</td>
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<tr>
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<td>4934</td>
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<td>85%</td>
<td>M.C.Miller to USA, dated 7/2/57, Vol. 101, P.59, Rec. 9/18/57. USA to BCC, dated 1/31/75</td>
</tr>
<tr>
<td>4934118</td>
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<td>50%</td>
<td>50%</td>
<td>M.C.Miller to USA, dated 4/17/61, AN 288934, Rec. 3/15/1961</td>
</tr>
<tr>
<td>4934122</td>
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<td>20%</td>
<td>80%</td>
<td>BCC to USA, dated 10/19/66, An 33372, rec. 10/27/67 BCC to USA, dated 2/24/89, Vol.286, Bk 959, rec. 3/7/89</td>
</tr>
</tbody>
</table>

It is hereby estimated that for each association and each association member lands, the estimated traffic will be:
Lot without resident: 25 EU’s annually
Lot with recreational resident: 50 EU’s annually
Lot with resident: 1000 EU’s annually

Timber haul traffic shares will be based on actual MBF hauled by any Party.

Reference Easements: BCC is Boise Cascade Corporation, AN is Auditor Number, Rec. is Recording date.
Exhibit B
Snowplowing of Roads:

These roads have been used historically for snowmobile groomed routes in the winter. Cooperator has requested year around motorized access to section 11 of T. 21 N., R. 12 E.

A traffic safety analysis has been done. The analysis was based on 8 property owners of section 11 and 8 property owners in section 3., who would use the 4832 road for approximately 1 mile from the county road.

Snow Removal shall be done in a manner to preserve and protect the roads, to the extent necessary to insure safe and efficient transportation of materials, and to prevent erosion damage to roads, streams, and adjacent lands.

REQUIREMENTS:
Snow Removal work shall include:
1) Removal of snow from entire road surface width including turnouts
2) Removal of snow slides, earth slides, fallen timber, and boulders that obstruct normal road surface width.
3) Removal of snow, ice, and debris from culverts so that the drainage system will function efficiently at all times.
4) All items of snow removal shall be done currently as necessary to insure safe, efficient transportation. Work shall be done in accordance with the following minimum standards of performance.
5) Removal of material. All debris, except snow and ice, that is removed from the road surface and ditches shall be deposited away from stream channels at agreed locations.
6) During snow removal operations, banks shall not be undercut nor shall gravel or other selected surfacing material be bladed off the roadway surface.
7) Ditches and culverts shall be kept functional during and following roadway use.
8) Snow berms shall not be left on the road surface. Berms left on the shoulder of road shall be removed and/or drainage holes shall be opened and maintained. Drainage holes shall be spaced as required to obtain satisfactory surface drainage without discharge on erodible fills.
9) Dozers shall not be used to plow snow on roads without approval of government.
10) Snow must not be removed to the road surface. A minimum four-inch depth must be left to protect the roadway.
11) Association's damage from, or as a result of, snow removal shall be restored in a timely manner.
12) Any damage from vehicles operating on the roadway during spring thaw shall be the responsibility of the Association to repair. It is anticipated that Association would be required to do a blading in the spring, to repair any damage from the snowplowing operation during the winter.
13) Association will install and maintain Government approved signs and gates to restrict public access to these snowplowed roads. The required signage and/or gates will be established at the annual meetings, when snowplowing is being planned.
14) Association will coordinate snowplowing with the Forest Service designee for coordination between snowplowing and snow grooming of the same roads.
15) At the end of the snowplowed route, the association plowing operation will need to provide a smooth transition from the groomed snowmobile route to the plowed surface.
1. **CLEANING OF EQUIPMENT** To prevent the introduction of seeds of noxious weeds onto National Forest land, Cooperator shall ensure all equipment moved onto or through National Forest land is free of soil, seeds, vegetative matter, or other debris that could contain or hold seeds. Contractor shall employ whatever cleaning methods necessary to ensure compliance with the terms of this requirement. Cooperator shall certify in writing, compliance with the terms of this requirement prior to beginning work. For the purposes of this requirement, "equipment" includes all construction or logging equipment except pickup trucks, cars, or other vehicles used to daily transport personnel.

2. Hauling is restricted to daylight hours and is not permitted on weekends or holidays.

3. **ROAD USE RULES** Permittee shall comply with the provisions of the attached National Forest Road Use Rules.
EXHIBIT D

WENATCHEE NATIONAL FOREST ROAD RULES

This document has been prepared to alert Forest road users of the numerous Federal and State requirements governing the use of National Forest roads. The following Road Use Rules summarize the most important regulations and restrictions governing use of Forest Service roads:

1. All Forest roads are subject to short-term traffic restrictions or closures due to weather and subgrade condition, user safety, or when necessary to permit reconstruction and maintenance, or to provide long-term closures to comply with adjacent land management objectives. The commercial use of any Forest Service road will be permitted by permit only.

2. Damaging and leaving in a damaged condition, any road, road segment or traffic control device is prohibited. Reference 36 CFR 261.12(d). Damage is exclusive of ordinary wear requiring road maintenance as described in contracts, permits, or road maintenance agreements.

   Following are examples of road damage:

   a. Destruction of road prism including ditches, surfacing subgrade, base course, backslopes or fill slopes.

   b. Deforming or breaking bridge rails, guardrails, culverts, signs or signposts, markers or other structures.

   c. Lug or cleat marks on a bridge or road surface that is constructed from asphalt, concrete, wood, or metal.

3. The provisions of the Revised Code of Washington, Chapter 46.61(RCW), relating to the operations of motor vehicles, are applicable to all Forest Service roads on the Wenatchee National Forest and are enforceable by State or County law officers.

4. The load, weight, height, length, and width limitations of vehicles on National Forest roads shall be in accordance with Section 46.44 (RCW) of the motor vehicle laws of the State of Washington and will be enforced under Federal Regulations. Exceptions to this rule will occur only when signs giving notice thereof have been posted on the road or when a specific written authorization, permit, or order provides otherwise.

   Some bridges are not structurally adequate to handle normal highway loadings cited in Section 46.44(RCW). These bridges are posted with signs which give the legal notice of the reduced limits. Refer to 36 CFR 261.12(a).

   Application for overload or variance permits on roads or bridges must be made through the District Ranger with an adequate time allowance for processing. Permit Applications are advised that a 10 to 15 day period is usually required to process an application.

5. Commercial use will be permitted on any Forest Service road only when authorized by permit, contract, easement, deed, or other written agreement. All commercial-use requests will be initiated through the District Ranger. This rule will be enforced under 36 CFR 261.54(c).
6. Commercial use of a National Forest Road by any permittee or contractor must be suspended when such use will cause damage to the roads or National Forest Resources, or when such use will result in unsafe conditions to others. Such suspension shall be effective when the commercial user is notified in writing or by road closures posted on the road per Regulation 36 CFR 261.54(b).

7. Snowplowing will only be permitted by specific provision in each permit, contract provision, or other written agreement. Other snowplow permits and authorization may be used by the District Ranger.

Some roads on the Wenatchee are not available for winter commercial use because of recreation or other conflicting problems. Prospective users should contact the District Ranger as to whether snow plowing will be authorized during the period of the permit or contract.

8. Written permission to block a road may be issued only by District Ranger, or Contracting Officer's Representative. Unless otherwise provided in a contract, permit, or agreement, no road shall be blocked by the placing of any vehicle or other object upon it in a manner that is an impediment or safety hazard, or conflicts with other users. Reference CFR 261.12(e). Following are examples of an impediment:

a. Slow moving logging, construction, or road maintenance equipment operated without posting proper warning signs.

b. Logging slash or other debris deposited or left in a roadway or turnouts.

c. Logs yarded or decked on the road travelway or turnouts.

d. Abandonment of vehicles or other personal property on any Forest Service road.

9. Posting of notices, messages or the installation of other signing, including citizen band radio check point signs must be approved by the District Ranger.

DONALD H. SMITH    9/25/81
Forest Supervisor    Date