

### ***Commercial Forest Land Use***

Commercial forestland, approximately 732,000 acres, claims approximately half of the Kittitas county land area. A checkerboard pattern of private, State, and Federal land ownerships characterizes the County forests.. Federal and State ownership accounts for approximately eighty two percent of the lands designated commercial forestlands in Kittitas County. Private ownership only accounts for approximately eighteen percent of commercial forestlands.

Traditionally forestlands in the County contributed regional economic value by providing employment and income from resource management, which includes: harvesting, fishing, hunting, mining, grazing and recreation. Even though revenue has diminished from forest products, it is also recognized that forestlands provide other public benefits and values such as; watersheds, wildlife and fish habitat. It is recognized that the designation “Commercial Forest Lands” has been used to encompass all forested lands that do provide a variety of public benefits including non productive and high elevation lands within ownerships.

The original Commercial Forest zone was created in 1993 during an era of strong local and regional markets for traditional solid wood products from forest lands in Kittitas County. There was a large, viable industrial forest land base and an active National Forest timber sale program. Further, many of the Non-Industrial Private Forest ownerships were intact and contributing to the supply side of the log markets.

This created a large annual supply of logs for the wood basket of local and regional manufacturing within a 100 mile radius. The Commercial Forest zone created in 1993 was driven by ownership objectives at that time and historic land use. There have been significant changes in land ownership and manufacturing infrastructure since the Commercial Forest zone was created.

The forest industry in Kittitas County has experienced a substantial economic down turn for the past 15+ years. This occurred primarily due to the Endangered Species Act and its effect on state forest practices, imposing regulations to protect listed species and their habitats on Federal, State and Private forest lands. Backed by the increasing use of citizen suits under the ESA and other federal environmental statutes, these regulations resulted in the removal of most of the federal timber from the market place and placed constraints on state and private forest management for wood products. This in turn increased the demand for logs off of private forest land. Increases in private harvests over the past decade helped to offset some of the decline in federal harvests, but the capacity to maintain higher harvest levels on private forest lands on a sustainable basis peaked, causing local mills to seek logs at greater distances. With the lack of local supply, increased transportation, and manufacturing costs, the mills had no choice but to shut down. The loss of seven mills since 1990 in Kittitas, Klickitat, Chelan, and Yakima counties has resulted in reduced market competition and increased haul distances for logs.

Unlike the West side of the State, forests in Kittitas County have a significant species mix and size of timber that are generally undesirable to West side mills. In addition, export restrictions on state and federal forest have limited the marketability of timber. The confluence of these factors has devastated the timber industry in Kittitas County. Without the local milling

infrastructure, and a short-term and long-term inventory consisting only of low value logs, participants in the commercial timber industry in Kittitas County can no longer compete in the log market when most of the milling capacity is in the Western part of the State, with its own abundant supply of relatively cheap timber and close proximity to a forested land base. Historically, the industry has been able to survive the cyclical down turns in log markets when there is a consistent local infra-structure to keep transportation costs down, but with the loss of the milling and manufacturing infrastructure within the region, this is no longer the case.

This significant change in circumstances within Kittitas County, the collapse of the commercial timber industry, and lack of infra-structure, other incentives and alternatives to keep working forests viable should be considered. There may be emerging markets such as carbon sequestration, Transfer of Development Rights (TDRs), bio-fuel and bio-energy production that offset the loss of the traditional log product markets, but these markets are commercially speculative, predicated upon viable working forests, and are unavailable to landowners in the immediate future. Even when such markets are developed, it is unlikely that they will generate revenue sufficient for managing and sustaining healthy, commercially viable forestlands. Moreover, landowners should not be expected to continue to manage forest lands for public benefits without compensation to offset the costs associated with managing forest lands.

It is clear that the Legislature intended that counties planning under the Growth Management Act (GMA) should consider land characteristics and economic factors when designating commercial forest lands. Under the GMA and its guidelines, lands may not be economically and practically managed for commercial timber production if long-term conditions, such as mill closures, unforeseen regulatory encumbrances, and international competition rendered such production economically unfeasible. As stated by the Washington Supreme Court, “the GMA is not intended to trap anyone in economic failure”. *Lewis County v. Western Washington Growth Management Hearings Board*, 157 Wash.2d 488, 505 (2006).

~~De-designation of lands out of the Commercial Forest Land Use Designation shall occur having a one year review process from June to June, with decision made by December during the annual comp plan review. All applications must be reviewed by the Forest Lands Advisory Committee prior to review by the Planning Commission and Board of County Commissioners.~~

~~The following procedures should be followed for Designation and De-designation:~~

- ~~1. Application submitted to Community Development Services (CDS).~~
- ~~2. Application referred to Forest Lands Advisory Committee for review and recommendations.~~
- ~~3. Planning Commission conducts public hearings with Forest Lands Advisory Committee recommendations.~~
- ~~4. Planning Commission makes recommendations to BOCC.~~
- ~~5. BOCC makes final decision as part of the annual Comp Plan Amendment Process.~~

~~In classifying forest land resources, Kittitas County 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. The Forest Lands Advisory Committee shall determine which of the land grades from WAC 458-40-530 constitute forest lands of long term commercial significance. Kittitas County should also consider the combined effects of proximity to population areas and the possibility of more intense uses of the lands as indicated by:~~

- ~~a. The availability of public services and facilities conducive to the conversion of forest land;~~
- ~~b. Tax status;~~
- ~~c. The availability of public services;~~
- ~~d. Relationship or proximity to urban growth area(s), which shall include areas of where historic growth has occurred~~
- ~~e. The location of public roads, utilities and other public services;~~
- ~~f. Predominant parcel size: forest lands should consist of predominantly large parcels of land;~~
- ~~g. Land settlement patterns and their compatibility with forest practices of long-term commercial significance;~~
- ~~h. Intensity of nearby land uses;~~
- ~~i. History of land development permits issued nearby;~~
- ~~j. Land values under alternative uses;~~
- ~~k. Proximity of markets;~~
- ~~l. Availability and adequate water supplies; or~~
- ~~m. Long term economic conditions which affect the ability to manage and/or maintain commercially viable forest lands of long term significance, which should include consideration of the following market factors:
  - ~~i. The location of manufacturing or processing facilities;~~
  - ~~ii. Equipment and transport costs;~~
  - ~~iii. Site productivity and production costs;~~~~

~~Taxes and administrative costs~~

~~De-Designation criteria for Commercial Forest Lands:~~

~~Kittitas County, hereby adopts the following provision with respect to dedesignation of forest resource land, agriculture land of long term significance, or mineral resource land:~~

- ~~1) Change in circumstances pertaining to the comprehensive plan or public policy;~~
- ~~2) A change in circumstances beyond the control of the landowner pertaining to the subject property;~~
- ~~3) An error in designation; or~~
- ~~4) New information on natural resources land or critical area status.~~

~~In considering any one of these elements, the criteria for designation should additionally be considered.~~

~~The purpose of these Criteria is a tool to be used by the proponent and Kittitas County to evaluate parcels within the commercial forest zone proposed for de-designation.~~

~~De designation should not only recognize changes in circumstances since the original Commercial Forest zone created in 1993, but also continuing changes. GMA anticipates that the needs of landowners and local communities will change, and will require amendments to land designations. Land use planning is a dynamic process. Procedures for designation should provide a rational and predictable basis for accommodating change.” WAC 365-190-040(h)–~~

~~The proponent and Kittitas County should address each criteria item on a case by case basis in as much detail as possible while considering the cumulative influences of all criteria.–~~

### **LONG TERM ECONOMIC CONDITIONS**

~~The original Commercial Forest zone was created during an era of strong local and regional markets for traditional solid wood products from forest lands in Kittitas County. There was a large, viable industrial forest land base and an active National Forest timber sale program. Further, many of the Non-Industrial Private Forest ownerships were intact and contributing to the supply side of the log markets. This created a large annual supply of logs for the wood basket of local and regional manufacturing.–~~

~~The Commercial Forest zone created in 1993 was driven by ownership objectives at that time and historic land use. There have been significant changes in land ownership and manufacturing infrastructure since the CF 80 zone was created. The de designation discussion shall evaluate the following inter-related factors:~~

- ~~Long Term Economic Conditions which may include:~~
  - ~~Milling Facilities~~
  - ~~Transportation~~
  - ~~Log Values~~
  - ~~Species Mix and log size~~
  - ~~Land holding and administrative costs~~
  - ~~The needs of the local forest products industry, and the availability of long-term sources of timber~~

~~For example, the reduced supply of timber reflects the current State regulatory environment for state and private lands, changes in State policies on the management and harvest of State timberlands, changes in Federal management objectives on Federal lands in response to the Endangered Species Act, Clean Water Act and National Environmental Policy Act, and changes in goals and objectives with new ownership of private lands.–~~

### **INTENSITY OF NEARBY LAND USES**

~~Rural land values including rural forested land values have increased dramatically since the Commercial Forest zone was created in 1993. These value increases have been driven by a high market demand for smaller parcels for use as rural residential, 2<sup>nd</sup> home site, or simply as an investment. In economic terms, the ‘highest and best use’ of these lands in the current market far exceeds traditional resource land values.–~~

~~The de designation discussion shall evaluate the following:~~

- ~~Compatibility and intensity of adjacent and nearby land use. Land Use Plan consistent with requested de-designation, including operational impacts on adjacent commercial forest land.~~

~~Applications for de-designation from Commercial Forest should demonstrate compatible use with adjoining rural and commercial forest land use parcels. Innovative land use planning that allows for development while preserving open space should be considered favorably.~~

### **AVAILABILITY OF PUBLIC SERVICES**

~~The applicant shall demonstrate the availability or potential availability of public services at a level appropriate for a proposed de-designation.~~

- ~~Examples are:~~
  - ~~Current and future status of infrastructure.~~
  - ~~Public roads or potentially public roads.~~
  - ~~Fire District.~~
  - ~~Location in relation to Wildland Urban Interface boundary.~~
  - ~~Within or potentially included in a Community Wildfire Protection Plan.~~
  - ~~Public schools.~~
  - ~~Water available or potentially available~~
  - ~~Waste water treatment~~

### **SITE PRODUCTIVITY**

~~The applicant for de-designation shall demonstrate that the majority (or significant portion) of the property does not meet site class 1-4 pursuant to Department of Revenue rating system. This means the land can not produce a marketable stand of timber in at least a 100 year growth period.~~

### **CHANGE IN CIRCUMSTANCES**

~~Applications for de-designation should demonstrate change in circumstance leading to the requested de-designation of commercial forestland. While it is understood that economic changes within the local timber industry, or for a landowner, may constitute a "change of circumstances" warranting a de-designation of commercial forestlands, those issues are identified as Criterion No. 1 above.~~

~~The de-designation discussion should consider:—~~

- ~~Change in circumstance~~
  - ~~Example changes includes:~~
    - ~~Kittitas County land use patterns and land use planning;~~
    - ~~Legislative land use direction (TDR's for example);~~
    - ~~Changes in GMA: RCW and WAC, and KCC~~
    - ~~Recognize the evolving regulatory changes affecting the management of State and private forest land:  
— State Forest & Fish Law, 1999~~

- ~~— State Hydraulics Code~~
- ~~— Clean Water Act: State & Federal~~
- ~~— Endangered Species Act: Federal and State~~
- ~~— Shoreline Management Act: State~~

The following policies will guide the county in land use decisions affecting lands designated as Commercial Forest Lands:

~~GPO 2.130A To conserve forest lands for productive economic use by identifying and designating forestlands where the principal and preferred land use is resource management and meets the economic needs of the industry and County. The boundaries and lot size remain as designated in 1993, with modifications occurring on a case by case basis as applications for de-designation are submitted.~~

~~GPO 2.130B Create a growth management commercial forest committee comprised of persons with forest land management backgrounds in order to:~~

- ~~a. assess and review applications for designation and de-designation of forestlands in Kittitas County~~
- ~~b. make recommendations to the Planning Commission and Board of County Commissioners on all applications for designation and de-designation.~~

~~GPO 2.131 Forest resource lands should be classified and designated based on the criteria and procedures established in WAC 365 190 040, and 060 with special consideration given to the determination of whether forest resource lands considered for designation are viable as long term commercial significant forest resource lands.~~

~~Designation Considerations:~~

- ~~1. Define the current status of the industry~~
- ~~1. Define the needs of the industry within Kittitas County~~
- ~~2. Define the Region and the Regional needs as it relates to the industry within Kittitas County~~
- ~~3. Define viability within local and regional circles (i.e. 100 miles, 200 miles, 300 miles)~~
- ~~4. How much Commercial Forest Lands are needed to support local and regional needs of the industry.~~

GPO 2.130 Classification and designation of Forest Lands of Long-Term Commercial Significance shall be made to maintain and enhance natural resource-based industries, including productive timber industries.

GPO 2.131 For purposes of designating Forest Lands of Long-Term Commercial Significance, and in considering any request for de-designation of such lands, Kittitas County has identified the following criteria:

## **Designation and de-designation of Forest Lands of Long-Term Commercial Significance**

The purpose of this section is to identify the goals and policies in Kittitas County necessary to implement Goal 8 of the Growth Management Act concerning Forest Lands of Long-Term Commercial Significance.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

All decisions dealing with the designation or de-designation of forest resource lands shall be in support of that goal.

### **1. Definitions.**

The County adopts and shall utilize the following definitions and considerations:

A. “Forest land” means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under \*RCW 84.33.100 through 84.33.140, and that has long-term commercial significance.<sup>1</sup>

B. “Long-term commercial significance” includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land’s proximity to population areas, and the possibility of more intense uses of the land.

C. In determining whether forest land is “primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production,” the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.

### **2. Designation Criteria.**

In order to be designated Forest Lands of Long-Term Commercial Significance in Kittitas County, the land must: (1) not be characterized by urban growth; (2) be primarily devoted to the growing of trees for long-term commercial timber production on land that can be economically and practically managed for such production, and (3) have long-term significance for the commercial production of timber.

Land shall be designated Forest Lands of Long-Term Commercial Significance (referred to as Commercial Forest Lands in the Kittitas County Code) in accordance with the designation criteria and considerations set forth herein.

A. Land Grade Consideration. In Kittitas County, the most common tree species are ponderosa pine and dry mixed conifer, including Douglas fir. Most of the forest lands in Kittitas County are composed of land grades 4 and 5 as mapped by the Department of

<sup>1</sup> RCW 84.33.100 through 84.33.118 were repealed or decodified by 2001 c 249 §§ 15 and 16. RCW 84.33.120 was repealed by 2001 c 249 § 16 and by 2003 c 170 § 7.

Natural Resources. Forest Lands of Long-Term Commercial Significance shall include lands that have a predominance of land grades 3-6 (i.e., more than 60% of the site has requisite land grade) as defined in WAC 458-40-530.

B. Other Mandatory Factors. In the designation of Forest Lands of Long-Term Commercial Significance, the County shall also consider and address in writing the effects of proximity to population areas and the possibility of more intense uses of the subject land as indicated by:

(1) The availability of public services and facilities conducive to the conversion of forest land.

(2) The proximity of forest land to urban and suburban areas and rural settlements: Forest lands of long-term commercial significance are located outside the urban and suburban areas and rural settlements.

(3) The size of the parcels: Forest lands consist of predominantly large parcels.

(4) The compatibility and intensity of adjacent and nearby land use and settlement patterns with forest lands of long-term commercial significance.

(5) Property tax classification: Property is assessed as open space or forest land pursuant to chapter 84.33 or 84.34 RCW.

(6) Local economic conditions which affect the ability to manage timberlands for long-term commercial production.

(7) History of land development permits issued nearby.

WAC 365-190-060.

C. Other considerations. In determining whether land should be designated as Forest Land of Long-Term Commercial Significance, the County may also consider the needs and nature of the timber industry.

D. Designation. Upon a determination that a tract qualifies as Forest Lands of Long-Term Commercial Significance (denominated Commercial Forest Lands in the Kittitas County Code) under the definitions and considerations noted above, such lands shall be so mapped in the Comprehensive Land Use Plan map of Kittitas County and shall be zoned Commercial Forest lands under Kittitas County zoning code, section KCC 17.57. The County's Commercial Forest zoning code, KCC 17.57, shall control uses, maintenance and enhancement of the forest products industry and conserve productive forest lands consistent with the needs and best practices of the industry. Lands presently mapped as “commercial forest” shall retain that designation unless a specific de-designation request is filed by the owner for a review under the guidelines of this Ordinance.

### **3. De-designation Criteria.**

A. Definitions. De-designation is a change of land classification from Forest Lands of Long-Term Commercial Significance to Rural lands under the GMA classification.

B. De-designation Criteria. The considerations and criteria for de-designation are the same as the considerations and criteria for designation identified in sections 1 and 2 above. De-designation requests may be initiated by the County or by individuals based on a request to consider (1) a mistake in the original designation or (2) that factors leading to the original designation have changed, rendering the site inappropriate for long-term commercially significant forest land designation.

C. A de-designation request shall provide a legal description of the property subject to the request and map showing the forest land grades listed above for the property. The request shall specifically address each of the factors above deemed pertinent to the consideration of designation and de-designation.

#### **4. Applications and Processing.**

A. Applications for the designation and de-designation of Forest Lands of Long-Term Commercial Significance shall be docketed with the planning department for annual consideration by the Kittitas County planning commissioners and board of county commissioners as a change to the County comprehensive plan and map in accordance with Chapter 15.B of the Kittitas County Code.

B. In determining a request to designate or de-designate Forest Land of Long-Term Commercial Significance, the County may consider the needs and nature of the timber industry (*Lewis County v. Western Washington Growth Management Hearings Bd.*, 157 Wn.2d 488, 139 P.3d 1096 (2006)).

C. In considering a request for de-designation, the County shall make the same considerations as in designating lands under the provisions of Section 2 above (*City of Redmond v. Central Puget Sound Growth Management Hearings Board*, 116 Wn. App. 48, 65 P.3d 337 (2003) (*Benaroya II*)).

D. In addition to such considerations as may be undertaken by the County under these provisions, ~~making a decision on designation or de-designation of Forest Lands of Long-Term Commercial Significance~~, the County shall address in writing: (1) all of the factors that warrant the designation or de-designation, and (2) how the action meets the objectives of Goal 8 of GMA (RCW 36.70A.020(8)) to maintain and enhance a productive timber industry, to encourage the conservation of productive forest lands and to discourage incompatible uses when making a decision on designation or de-designation of Forest Lands of Long-Term Commercial Significance.

GPO 2.132 The primary land use activities in commercial forest areas are commercial forest management, forest recreation, agriculture, mineral extraction, sand and gravel operations and those uses that maintain and/or enhance the long-term management of designated commercial forest lands.

GPO 2.133 Any proposal for de-designation of commercial forestlands shall be subject to a cumulative impacts analysis, including the size and ownership of the commercial forestlands remaining in the county, the needs of the local forest products industry and impacts to those needs by the proposed de-designation, and the potential benefits that may result from the proposed de-designation including higher property taxes and economic stimulus. De-designated lands without a development proposal shall be designated into a Rural Land Use and shall be

designated into a 20 acre zone. The de-designation is intended to be a one step process, but may be accomplished as a de-designation with the option for the applicant to later submit a development proposal.

GPO 2.134 To encourage incentives and alternatives to keep working forests viable by considering when feasible emerging markets such as carbon sequestration, Transfer of Development Rights, Bio-fuel and bio-energy production that offset the loss of the traditional log and special forest product markets.

GPO 2.135 Resource activities performed in accordance with county, state and federal laws should not be subject to legal actions as public nuisances.

GPO 2.136 To support and encourage the maintenance of commercial forest lands in timber and current use property tax classifications consistent with RCW 84.28, 84.33 and 84.34.

GPO 2.137 Kittitas County recognizes Engrossed Substitute House Bill (ESHB) 2091 also known as the Forest and Fish Law. Kittitas County will support local forest landowner's seeking regulatory relief in order to help them remain economically viable.

GPO 2.138 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 forestlands.

GPO 2.139 Kittitas County will encourage rural developments in the Wildland Urban Interface (WUI) and the owners of adjacent commercial forest lands to develop Community Wildfire Protection Plans (CWPPs)

GPO 2.140 Encourage clustered residential developments on adjacent non-commercial forestlands. The open space in clustered development should buffer adjacent forestland from development.

GPO 2.141 Kittitas County will advocate active management of Federal and State forest lands to create and maintain healthy, fire-safe forests.

GPO 2.142A It is the policy of the county to encourage the continuation of commercial forest management by:

- a. supporting land trades that result in consolidated forest ownerships; and
- b. working with forest managers to identify and develop other incentives for continued forestry (Ord. 93-42); and
- c. To encourage and support a local and regional infrastructure of manufacturing facilities that use wood products within an economically viable 100 mile circle.

GPO 2.142B Require that all plats, short plats, development permits, and building permits issued for development activities on, or within five hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, shall contain a notice that states that: "The subject property is within or near designated agricultural lands, forest lands, or mineral

resource lands on which a variety of commercial activities and mineral operations may occur that are not compatible with residential development for certain periods of limited duration. Commercial natural resource activities and/or mineral operations performed in accordance with county, state and federal laws are not subject or legal action as public nuisances. (RCW 7.48.305)”

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