

**FOREST PRACTICES BOARD
State of Washington**

August 18, 1999

Petitioners:

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**PETITION FOR
ADOPTION OF FOREST
PRACTICE RULES
REGARDING RECREATION
AND AESTHETICS**

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I. STANDING

This proceeding is authorized by RCW 34.05.330.

II. INTEREST OF THE PETITIONERS

1. Description of the petitioning organizations.

Petitioners are two conservation organizations whose members use, enjoy, and endeavor to protect Washington's forests, rivers, and mountains. Collectively, petitioners have invested hundreds of hours in numerous forums to develop, improve, and obtain forest practice rules that provide adequate protection for recreation and scenic beauty. Petitioners have also devoted extensive time to monitoring and challenging, where appropriate, individual forest practice

applications that threaten to harm recreational areas. Regrettably, petitioners have not been able to achieve adequate protection for recreation and scenic beauty through these efforts.

Petitioners have also spent a great deal of time educating the public about recreational opportunities, leading trips, providing skill-based training in recreational activities and working to ensure that the quality of recreational experiences will be preserved for future generations.

a. Alpine Lakes Protection Society (“ALPS”), c/o Robert E. Ordal, Attorney at Law, 1000 Second Avenue, Suite 1750, Seattle, WA 98104. Established in 1968, ALPS is a nonprofit corporation existing under and by virtue of the laws of the State of Washington, having its principal place of business in Seattle, Washington. ALPS has approximately 225 members and is dedicated to the protection of the outstanding natural qualities of the Alpine Lakes region in the Central Cascades of Washington.

b. The Mountaineers, 300 Third Ave. W., Seattle, WA 98109. The Mountaineers is a nonprofit corporation organized in 1906 and existing under and by virtue of the laws of the State of Washington, having its principal place of business in Seattle, Washington. The Mountaineers has over 15,000 members, with organized chapters in Seattle, Tacoma, Bellingham, Everett, Olympia, and Wenatchee. The organization’s purpose is to explore, study, enjoy, and preserve, through protective legislation and otherwise, the natural resources and beauty of the Pacific Northwest.

The above petitioners and their members use and enjoy the forests, waters, wetlands, and other natural resources of this state and derive recreational, aesthetic, life support, scientific and educational benefits from their existence. These organizations’ and their members’ interests are among those the Forest Practices Board (“FPB”) is required to consider when it engages in rule-making under the State Environmental Policy Act (“SEPA”) and the Forest Practices Act of

1974 (“FPA”). In addition, the continuing failure to adopt regulations that the law requires has prejudiced and is likely to continue to prejudice petitioners and their members by allowing the degradation of natural resources and the environment and the elimination of the benefits derived from those resources.

2. Summary of petitioners’ recent efforts to improve the forest practice rules pertaining to recreation and scenic beauty.

In the Fall of 1998, petitioners filed an action in Thurston County Superior Court to obtain a judicial declaration that, among other things, the FPB was legally required by the FPA to adopt rules protecting recreation and scenic beauty. In the Spring of 1999, the Court held that petitioners must file petitions for rule-making prior to commencing any such judicial action. (*Northwest Ecosystem Alliance, et al. v. FPB, et al.*, Thurston County Superior Court No. 98-2-02392-6, Order on Motions to Dismiss and Judgment of Dismissal, July 23, 1999, Attachment A.) Further, in a case relating to a forest practice application that could have had an adverse impact on the Alpine Lakes Wilderness, the King County Superior Court held that a proposed forest practice that could destroy an existing roadless area warranted SEPA threshold review for impacts to recreation and aesthetics. (*ALPS v. Plum Creek Timber Co. and Dept. of Natural Resources*, King County Superior Court No. 97-2-24568-1SEA, Findings, Conclusions and Order, June 22, 1998, Attachment B.)

III. PURPOSE OF PETITION

The purpose of this petition is to request that the FPB adopt forest practice regulations that protect recreation and scenic beauty as required by RCW 76.09.010(1), thereby ensuring that neither state nor private property owners conduct unmitigated forest practices in a manner that would adversely impact recreationally important and visually sensitive areas. Since the FPB will

be undertaking extensive changes to the rules as a result of the State Legislature’s recent passage of ESHB 2091, the time is right for the FPB to promulgate regulations protecting recreation and scenic beauty.

IV. SPECIFIC RULE REVISIONS REQUESTED

The requested rule revisions are:

1. Modifications to WAC 222-16-050, the “Class IV-Special Rule,” so the rule requires individualized SEPA review for forest practices proposed to take place in “visually sensitive areas.”
2. Adoption of a definition of “visually sensitive areas” in WAC 222-16 and throughout the forest practice rules that takes into account the fact that such places are critically important to Washington’s natural heritage, recreation, scenic beauty, and economy.
3. Adoption of substantive forest practice rules for road building and timber harvesting to ensure that forest practices on state and private land do not adversely affect surrounding recreationally significant or visually sensitive public or private property.

V. LEGAL BACKGROUND

1. The Washington Forest Practices Act of 1974 and the State Environmental Policy Act of 1972 require the FPB to promulgate forest practice rules that protect recreation and scenic beauty.

Over half of Washington State is forested. Approximately one-half of this land is owned by the federal government. The balance—eleven million acres—is owned privately or by the state. These state and private forest lands are governed by the Forest Practices Act and the State Environmental Policy Act. Both of these laws require the FPB to promulgate forest practice rules that protect recreation and scenic beauty.

- a. The Forest Practices Act of 1974

In 1974, the Washington State Legislature enacted the Washington Forest Practices Act, (“FPA”) which is codified at RCW Ch. 76.09. Among the principal purposes of the FPA, and consistent with economic viability, is the intent to protect “forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty.” RCW 76.09.010(1). (Emphasis added.)

The FPA, along with regulating forest practices on private and state-owned land, also created the FPB, composed of eleven gubernatorial appointees and chaired by the Commissioner of Public Lands. RCW 76.09.030. The FPB’s statutory responsibilities include the duty to promulgate forest practice regulations that accomplish all of the purposes and policies of the FPA and establish minimum standards for the conduct of forest practices (emphasis added). RCW 76.09.010(2), 76.09.040(1), 76.09.040(1)(d). The FPB’s duty to prepare and adopt forest practice rules that comply with the requirements of the FPA is a continuing duty. RCW 76.09.010(2) states that the FPB must “create and maintain . . . a comprehensive statewide system of . . . forest practice regulations” that will achieve the purposes of the FPA (emphasis added). See also RCW 76.09.040(1); WAC 222-08-035. Finally, the FPA requires the FPB to “utilize all reasonable methods of technology in conducting forest practices.” RCW 76.09.010(2)(b).

b. State Environmental Policy Act and the FPA

In 1971, the Legislature enacted the State Environmental Policy Act (“SEPA”), chapter 43.21C. SEPA requires a detailed environmental impact statement for any action that may have a significant adverse impact on the environment. RCW 43.21C.031. SEPA clearly provides that recreation and aesthetics are “elements of the environment,” as explained in RCW 43.21C.020(2)(b) (“aesthetically and culturally pleasing surroundings”) and in RCW

43.21C.020(2)(d) (“important historic, cultural, and natural aspects of our national heritage”). In addition, SEPA authorizes state agencies to impose substantive mitigation measures or disallow entirely a proposed project in order to reduce or avoid significant adverse effects. RCW 43.21C.060. Numerous cases have held that SEPA applies to impacts on recreation and aesthetics. *Swift v. Island County*, 87 Wn. 2d 348, 552 P. 2d 175 (1976); *Kiewit Construction Group v. Clark Cy.*, 83 Wn. App. 133, 920 P. 2d 1207 (1996); *Polygon Corp. v. Seattle*, 90 Wn. 2d 59, 69-70, 578 P.2d 1309 (1978); *Victoria Partnership v. Seattle*, 59 Wn. App. 592, 603 800 P.2d 380 (1990). Furthermore, a comprehensive law review article on the subject of forest practices made the argument that SEPA requires the FPB and the State Department of Natural Resources (“DNR”) to consider the environmental values of recreation and aesthetics when approving forest practice applications. See Comment, 53 Wash. L. Rev. 443, P.458-9 (1978).

SEPA procedures do not apply to all proposed forest practices on state and private lands, however. Under both SEPA and the FPA, such procedures apply only to proposed forest practices which “have a potential for a substantial impact on the environment.” RCW 43.21C.037(3); RCW 76.09.050(1). In order to distinguish among the impacts of proposed forest practices, the FPA creates four classes of practices. RCW 76.09.050(1). Only one of these, Class IV forest practices, are subject to SEPA procedures. However, the FPA does not itself specify which forest practices fit into which classes. Rather, it authorizes the FPB to make this determination through rule making. RCW 76.09.050(1).

The FPB rules classifying those forest practices which have a potential for a substantial impact on the environment and are therefore subject to SEPA procedures are set forth in WAC 222-16-050 and WAC 222-16-080. These rules, collectively referred to as the “Class IV-Special” rule, sets forth those specific kinds of forest practices which the FPB has determined

could trigger SEPA review under this standard. The Class IV-Special rule covers a limited and specific set of forest practices, including, for example, logging or road-building in critical wildlife habitat and forest practices on steep, slide-prone slopes above certain waterways and wetlands. WAC 222-16-080, 222-16-050(1)(a)-(i). At the present time, the closed Class IV-Special list does not include any provision that would trigger SEPA for forest practices that would adversely impact recreation and scenic beauty.

c. Summary of Legal Requirements

The FPA requires the FPB to promulgate rules that afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty. RCW 76.09.010(1). SEPA, moreover, clearly provides that recreation and aesthetics are “elements of the environment.” Accordingly, the FPB is required by law, and should as a matter of public policy, adopt rules protecting recreation and scenic beauty.

VI. CURRENT FAILURES OF THE FOREST PRACTICE RULES

1. The current forest practice rules do not require protection or mitigation for forest practices that could impact recreation and scenic beauty.

Although the FPA declares that “coincident with maintenance of a viable forest products industry, it is important to afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty” (emphasis added) (RCW 76.09.040(1)), the current forest practice rules make no attempt to strike a balance between a viable forest products industry and the protection of the public resources of recreation and scenic beauty.

The current forest practice rules fail to comply with the FPA and SEPA for two reasons. First, the rules do not contain any provisions that trigger individualized SEPA review for forest practices that have the potential to impact recreation and scenic beauty. SEPA requires state

agencies and local governments to consider environmental values (including recreation and scenic beauty) in planning and decision-making, and to consider environmental consequences before acting. RCW 43.21C.020(2), .030. While some proposed forest practices may negatively impact recreation and scenic beauty, others may not. Nevertheless, the rules must, at the very least, have some provision that triggers SEPA review for those individual forest practices that could have an adverse impact on recreation or aesthetics. Because the Class IV-Special list, WAC 222-16-050, makes no reference to recreation and scenic beauty, the current rules fail to comply with SEPA and must be improved.

Second, the rules fail to “[a]fford protection to public resources by utilizing all reasonable methods of technology in conducting forest practices” (RCW 76.09.010(2)(b)), as the FPA requires. As discussed below, there are numerous technically feasible ways to prevent, avoid, or mitigate the adverse impacts forest practices can have on recreation and scenic beauty. Substantive rules which include these scientific methods must be made law as soon as possible.

The only apparent forest practice rule that expressly protects “recreation” is the rule preventing contamination of drinking water at campsites. WAC 222-16-030(2)(b). Although several other forest practice rules offer some incidental protection for recreation and scenic beauty, for the following reasons, the rules as a whole are inadequate to protect our state’s natural and recreational resources.

a. Road Building Rules

It is well-established that roads, particularly industrial logging roads, can negatively affect the scenic beauty of natural places. In his 1996 publication, *Forest Aesthetics: Harvest Practices in Visually Sensitive Areas*, Professor Gordon Bradley of the University of Washington’s College of Forest Resources explains that roads should be located at the top or bottom of harvest units,

particularly in areas that are clearcut, because the lines of the road do not fit the surrounding environment.¹ Other experts have also cited road-building's negative impact on recreation and aesthetics. "The most pronounced effects of resource use activities on recreation opportunity settings are from construction of access roads," states British Columbia's Ministry of Forests.² In 1998, U.S. Forest Service Chief Michael Dombeck stated "[t]here are few more irreparable marks we can leave on the land than to build a road." Although even clearcuts regenerate over time, road construction is a more permanent change to the forest landscape due to the continued use and long life of roads. Even when forest roads are eventually "put to bed", the effects on the visual landscape last beyond the road's retirement until the roadbed is either deconstructed and re-planted or naturally regenerated. The compaction of roads from use makes the regeneration process lengthy.

WAC Ch. 222-24 sets forth the road construction rules. There are no provisions—or even a mention—in this section about direct, individualized protection for recreation and/or scenic beauty. The rules should take into account the placement of roads with regard to their visual impacts on viewers and the avoidance of mid-slope roads in visually sensitive areas.

b. Timber Harvest Rules

WAC 222-30 sets forth the timber harvesting rules. These rules completely fail to protect areas of unique recreational value or scenic beauty. Although several of the timber harvest rules provide incidental aesthetic protection, they fall far short of the individualized

¹ Bradley, Gordon A. Forest Aesthetics: Harvest Practices in Visually Sensitive Areas. Guidelines for the Design of Harvest Practices in Visually Sensitive Areas. Washington Forest Protection Association, Olympia, WA, page 16. 1996.

² British Columbia Ministry of Forests. Forest, Range and Recreation Resource Analysis. Ministry of Forests, Victoria, BC, page 308. 1995.

attention forest practices need. For example, WAC 222-30-025 limits the size of clearcuts to 240 acres and requires green-up between harvests, but deals solely with even-aged harvests.³ However, the intent of the green-up rules is to protect forest soils, not aesthetics. Moreover, limiting clearcut size does not adequately protect aesthetics because, as Professor Bradley points out in *Forest Aesthetics*, “the actual size of the unit, in many instances, is less important than how imposing the unit is on the landscape.” Simply put, there is nothing in the timber harvesting rules that requires landowners to consider the visual impacts of an even-aged harvest, nor are there any requirements for the shape of the harvest area.

c. Riparian Management Zone Rules

Although the riparian management zone rules endeavor to protect aquatic resources, WAC 222-30-020(3) and (4), they offer nothing more than incidental protection for recreation and aesthetics. Riparian management zones vary in size depending on the water “type” of the water body or waterway requiring the buffer. Water typing, in turn, depends on whether the water body or waterway is used by fish, the width of the water body or waterway, and whether the water body or waterway is perennial or intermittent. The rules do not take into account whether or not the water body is classified as a wild, scenic or recreational waterway. Accordingly, these types of rivers do not receive any additional environmental review despite the fact that they are nationally designated rivers.

Experts confirm that preservation of riparian areas does not necessarily protect aesthetics. House and Sangster (1991) explain that perceptions of the river environment are influenced more

³ For a definition of even-aged harvesting, see WAC 222-16-010.

by the surrounding riparian area than by the characteristics of the river itself.⁴ It is important that Washington take measures to protect the scenic beauty of its waterways for those who use waterways for recreation, as well as for sightseers and birders that use the areas surrounding the waterways and water bodies.

d. Special Island Rules

WAC 222-30-110 regulates harvesting on islands. These rules seek to address the concerns of island residents about the sensitivity of island ecosystems to forest practices, with the clear intent of protecting soils and topography. WAC 222-30-110(4). The island rules grew out of the work of the Sustainable Forestry Roundtable, where representatives from island communities worked with the FPB to create rules for islands. Because of their limited geographic scope, WAC 222-30-110 is helpful for islands but inadequate to protect the state as a whole.

As described above, the FPA and SEPA require the FPB to promulgate forest practice rules protecting recreation and scenic beauty. Currently, the rules that apply to forestry on state and private lands do not take into account the impacts of timber harvest on visually sensitive areas, nor do they rely on reasonable methods of technology to prevent impacts. This detrimentally affects public policy, since “public demand for quality outdoor recreation opportunities is overwhelming the ability of agencies at all levels, in both public and private sectors, to provide adequate service.”⁵ It is essential that the FPB take steps to preserve and

⁴ House, M.R. and E.K. Sangster, E.K. Public perception of river corridor management. *Journal of the Institute of Water and Environmental Management*, Volume 5, pages 312-317. 1991.

⁵ Washington Interagency Committee for Outdoor Recreation. *State of Washington Outdoor Recreation and Habitat: Assessment and Policy Plan, 1995-2001*. Olympia, WA. 1995.

create quality recreation experiences for our growing population that increasingly demands more recreational opportunities.

2. Washington's recreational opportunities and scenic beauty must be protected because they are important public resources and critical elements of our economy and quality of life.

Washington State is a recreational mecca. In the past, when our population was smaller and our undisturbed land base greater, logging and recreation were compatible. As our State and region has matured and grown, however, it has become increasingly clear that recreation and scenic beauty are, in many locations, incompatible with unmitigated logging practices. Petitioners have collected several examples of recreational trails that have been severely impacted by these trends. (Attachment C.) The following sections outline the problem and potential solutions in more detail.

In the past, well-managed forests did not necessarily impair scenic qualities. However, as the public's concern for natural areas and their inherent aesthetic values has grown, research reflects that good silviculture no longer produces adequate scenic results. Staffelbach (1984),⁶ Duffield (1970),⁷ and Ribe (1989)⁸ all argue that trade-offs in favor of aesthetic values may often be necessary when planning timber sales and harvests to improve the public's perception of forestry.

Recreation and scenic beauty are important elements of the quality of life of Washington State's growing population. Without mitigation, forest practices on state and private land can,

⁶ Staffelbach, E. A new foundation for forest aesthetics. *Allgemeine Forstzeitschrift*, Volume 47, pages 1179-1181. 1984.

⁷ Duffield, J.W. Silviculture need not be ugly. *Journal of Forestry*, Volume 68, pages 464-467. 1970.

⁸ Ribe, Robert G. The Aesthetics of Forestry: What Has Empirical Preference Research Taught Us? *Environmental Management*, Volume 13, No. 1, pages 55-74. 1989.

over the course of a human generation, have an irreparable impact on visually sensitive landscapes. This is due to the fact that the number of recreation areas not impacted by forest practices is decreasing, yet the demand for such places continues to grow.

The Pacific Northwest's unspoiled recreation areas are one of its greatest assets. Tourism and recreation contribute considerably to the Washington economy. The quality of the state's best scenic and recreational areas is important to the quality of life offered by the region and its ability to attract and keep skilled workers and new businesses, and can thereby affect the region's overall economic well being. The Washington State Interagency Committee for Outdoor Recreation ("IAC") found in a 1995 analysis that "Washington's citizens do not regard outdoor recreation and nature as frills—they are essential elements of social and personal identity, health, and economic well-being."⁹

The dearth of recreation areas which are not recreationally or visually impacted by forest practices is particularly serious in light of demographic facts. The population of Washington State has grown dramatically over the past sixty years, from 1,736,191 in 1940 to an estimated 5,685,300 in 1998. Concurrently, the demand for outdoor recreational opportunities has increased. According to a 1986-87 study conducted by the IAC, 76 percent of all state households walk or hike for recreation, and 26 percent use off-road vehicles for recreation. Participation in some form of trail-related recreation is expected to increase as much as 44 percent between 1987 and 2000.¹⁰

⁹ Washington Interagency Committee for Outdoor Recreation. State of Washington Outdoor Recreation and Habitat: Assessment and Policy Plan, 1995-2001. Olympia, WA. 1995.

¹⁰ Washington Interagency Committee for Outdoor Recreation. Washington State Trails Plan: Policy and Action Document. Tumwater, WA. 1991.

In addition to Washington's own residents, visitors from other states and countries are also increasingly coming to Washington to recreate. In 1998 alone, travel spending in Washington was about \$9.6 billion, which generated approximately \$2 billion in payroll, supporting 124,680 jobs. Since 1991, travel spending has grown 4.7 percent annually, with a 2.2 percent increase in recreation-generated employment from 1994 to 1998.¹¹ During the fall of 1995 and the spring, summer and winter of 1996, 56 percent of trips to Washington were for vacation and travel. Of the top ten trip activities that people chose in Washington, 54 percent of the trips were to relax and sightsee, 39 percent were to visit state parks, 39 percent were to visit national parks, and 19 percent were to hike.¹²

Out of all the people traveling in Washington state over the course of one year, either from another country, state or region of Washington, the following table shows the percentages of the recreational activities that people perform by season:¹³

| ACTIVITIES | ANNUAL TOTAL | FALL & WINTER | SPRING & SUMMER |
|----------------------------------|-----------------|------------------|--------------------|
| Relax, sightsee | 54% | 53% | 55% |
| Visit a state park | 39% | 34% | 42% |
| Visit a national park | 39% | 36% | 43% |
| Hiking | 18% | 16% | 20% |
| Wildlife viewing | 16% | 12% | 18% |
| Visit a national recreation area | 13% | 15% | 12% |
| Camping | 13% | 12% | 14% |
| Skiing/snow boarding | 5% | 10% | 2% |
| Cycling/ mountain biking | 4% | 4% | 4% |

¹¹ Dean Runyan Associates. Washington Travel Impacts and Visitor Volume, 1991-1998. Prepared for the Washington State Department of Community, Trade and Economic Development. December, 1998.

¹² Dean Runyan Associates. Washington State Visitor Profile. Prepared for the Washington State Department of Community, Trade and Economic Development. March, 1997.

¹³ Ibid.

| | | | |
|-----------------------------|----|----|----|
| Canoeing/ rafting/ kayaking | 4% | 3% | 4% |
| Riding horses | 2% | 2% | 3% |

(The percentages above sum to more than 100 percent due to multiple survey responses. The chart is read as follows: for example, 18 percent of all visitors during the course of one year go hiking; 16 percent of all visitors during the fall and winter seasons go hiking; and 20 percent of all visitors during the spring and summer seasons go hiking.)

In their 1995-2001 assessment, the IAC found that essential recreation opportunities are expected to be provided by the State and that the demand for non-motorized trails and water access by the public continues to be unmet.¹⁴ Since the passage of the 1964 Wilderness Act, recreational use of the wilderness has increased six-fold, and has continued to accelerate in the 1990s.¹⁵ These public lands are not only receiving increased use due to the demand for recreation facilities, but are being further impacted by the rapid conversion and loss of scenic areas due to logging on state and private lands.¹⁶ Population growth in Washington, and resulting urbanization, will cause wilderness areas to become increasingly isolated and more likely to be altered by actions taken on adjacent lands.¹⁷ In applying the FPA, DNR should establish a public database of evidence assessing this supply and demand.

¹⁴ Washington Interagency Committee for Outdoor Recreation. State of Washington Outdoor Recreation and Habitat: Assessment and Policy Plan, 1995-2001. Olympia, WA. 1995.

¹⁵ Cole, David N. Wilderness recreation in the United States: Trends in use, users, and impacts. International Journal of Wilderness, Volume 2, No. 3, pages 14-18. 1996.

¹⁶ Washington Interagency Committee for Outdoor Recreation. 1995 Recreation and Wildlife Habitat Needs Assessment. Olympia, WA. 1995.

¹⁷ Cole, David N. and Peter B. Landres. Threats to Wilderness Ecosystems: Impacts and Research Needs. Ecological Applications, Volume 6, No. 1, pages 168-184. 1996.

VII. PROPOSED REMEDIES TO THE RULES' CURRENT FAILURES

Visually sensitive landscapes impacted by unmitigated forest practices can take decades to recover. Fortunately, reasonable technological methods exist and should be adopted to protect visually sensitive areas from the adverse impacts of logging and road building.

Numerous studies reflect that clearcut harvests adversely affect the public's perception of scenic beauty (Ribe, 1989;¹⁸ Brunson, 1996;¹⁹ Hansis, 1995²⁰). Clearcuts directly impact scenic beauty, which is the most frequently cited attribute of recreational experience quality.²¹ Intensive forest harvests and access road construction can adversely affect the experiential value of natural-setting-dependent recreation settings such as hiking trails. Encounters with nearby clearcuts and/or poorly designed clearcuts in vista views can depreciate the scenic quality of such experiences, thus reducing the enjoyment of visitors and displacing them to other potentially less valued areas or activities.

There is considerable agreement among diverse populations within American culture regarding what makes a forest landscape beautiful.²² With the exception of hunters, all sectors agree that scenic satisfaction increases with scenic beauty.²³ A forest practice has a negative

¹⁸ Ribe, Robert G., 1989.

¹⁹ Brunson, Mark W. and Douglas K. Reiter. Effects of Ecological Information on Judgments about Scenic Impacts of Timber Harvest. *Journal of Environmental Management*, Volume 46, pages 31-41. 1996.

²⁰ Hansis, Richard. The Social Acceptability of Clearcutting in the Pacific Northwest. *Human Organization*, Volume 54, No. 1, pages 95-101. 1995.

²¹ Ribe, Robert G. Scenic Beauty Perceptions Along the Recreation Opportunity Spectrum (ROS). *Journal of Environmental Management*, Volume 42, pages 199-221. 1994.

²² Ribe, Robert G., 1989.

²³ Ribe, Robert G., 1994.

visual-aesthetic impact when it produces clear evidence of a strong, human disturbance to the forest cover of a place or a view.

Because of the size of Washington State and the relative inaccessibility of many of its forests, not all forest practices will adversely impact recreation and/or scenic beauty. However, forest practices occurring within the viewshed of important public recreational or transportation corridors can and do have an adverse impact. Fortunately, there are accepted and reasonable professional methods for identifying and mitigating the adverse impact of forest practices on various levels and types of recreation resources. An overview of these techniques is outlined below.

1. Definition of visually sensitive areas.

Visually sensitive areas are viewsheds or viewscapes within viewing distance of a scenic highway, wild or scenic river; trails that lead to, from, or through wilderness areas, national or state parks, federal forests, or regionally unique areas; and trails or waterways that are long-distance, cross-state, or have been designated national scenic areas.

2. Ways to identify visually sensitive landscapes.

Geographic information system (“GIS”) techniques can identify areas to be classified as visually sensitive by the definition offered above. Professor Bradley explains that computer technology makes the inventory of large areas a quick and accurate process that determines which sections are visually sensitive. DNR should immediately undertake a mapping project to identify recreationally sensitive areas that require mitigation if covered under forest practice applications. DNR should consult with landowners, affected tribes, and interest groups that focus on recreation and aesthetics in order to gather information to protect the state’s scenic

beauty. The public will find new forest practices acceptable only if the public's values and input are incorporated into forest practice planning.²⁴

Professor Bradley outlines six factors to take into account when determining whether an area is visually sensitive.²⁵

- 1) *Viewer's distance from the harvest area.* Bradley explains that the foreground, which is 0 to ½ mile from the viewer, reveals the details of the harvest unit. The middle ground, which is ½ to 5 miles from the viewer, reveals the general pattern of the unit and colors. The background, which is more than 5 miles from the viewer, reveals shade differences between the harvest unit and surrounding areas.
- 2) *Viewer's position in regard to the harvest area.* Bradley describes three possible positions of the viewer: below the site looking up, at eye level with the site, and looking down on the site. The last position is the most sensitive and would require steps above buffering, unlike the first two positions.
- 3) *Topography of the harvest area.* The steeper the site is, the greater the exposure to the viewer.
- 4) *Duration of viewing.* Bradley suggests that any landscape that can be seen should be considered sensitive, rather than relying on figures that estimate length of exposure to the site.
- 5) *Ephemeral characteristics.* Characteristics that are created by weather or climatic conditions which affect how a site is viewed, such as snow, low clouds, fog, sunlight, etc., must be taken into account.
- 6) *Tree stand structure.* The type of forest canopy and the areas surrounding the site influence how certain treatments will appear to the viewer.

3. Methods to mitigate the impacts of forest practices on recreation and scenic beauty.

DNR should immediately:

- a. Conduct viewshed planning for visually sensitive landscapes.
- b. Determine the need for buffers along scenic highways, wild and scenic

rivers, and trails.

²⁴ Hansis, Richard, 1995.

²⁵ Bradley, Gordon A., 1996.

c. Require mitigation measures for harvests in the foreground of visually sensitive landscapes, such as retaining trees with large diameters (Ribe, 1989) and substantial crowns (Bradley, 1996); clumping remaining trees (Ribe, 1989; Bradley, 1996); increasing the number of understory plants in cut areas (Bradley, 1996; Ribe, 1989); replanting with a variety of species (Ribe, 1989; Bradley, 1996) and multiple-aged trees to create visual diversity (Bradley, 1996; Hansis, 1995); limiting brush piles to 18 inches (Ribe, 1989; Bradley, 1996; Brunson, et. al., 1996); and prohibiting high stumps in cut areas (Bradley, 1996).

d. Require mitigation measures for harvests in the background of visually sensitive landscapes, such as patch cuts and smaller harvest units instead of strip clear-cuts and larger harvest units (Ribe, 1989; Bradley, 1996); leave-strips in large cuts (Ribe, 1989); distributing harvest areas across the visually sensitive landscape (Bradley, 1996); harvest units with curved and undulating edges that are feathered, with harvest lines that are diagonal to the ridge (Bradley, 1996); selective cutting (Bradley, 1996; Brunson, et. al., 1996); retaining large trees (Ribe, 1989); clumping remaining trees (Ribe, 1989; Bradley, 1996); and minimizing the number of yarding corridors and prohibiting midslope roads (Bradley, 1996).

VIII. CONCLUSION

“The states that do the most to protect their natural resources also wind up with the strongest economies and best jobs for their citizens.” (Gold & Green, 1994.) As explained above, recreational opportunities play a major role in Washington’s economic and social well-being. However, although the FPA and SEPA require the FPB to promulgate rules that protect recreation and scenic beauty, no forest practice rules exist to mitigate damage to recreationally important and visually sensitive areas from forest practices on state and private land.

RCW 34.05.330 requires the FPB to act on this rulemaking petition within sixty (60) days. Petitioners respectfully request that the FPB adhere to this time limit. The requested rulemaking will affect a large variety of stakeholders, including private landowners, state agencies, and the public. However, expeditious and successful rulemaking is sometimes best achieved where parties with divergent interests come together and work out their differences.

For these reasons, petitioners recommend that the FPB authorize the creation of a Recreation and Scenic Beauty Task Force to help develop forest practice rules that advance and achieve the purposes outlined in this petition. The Task Force should consist of a divergent group of stakeholders, including members of recreational groups, representatives of private timber interests, agency representatives from county, state, and federal governments, tribal representatives, academics knowledgeable about aesthetic forestry, and state tourism officials. If requested, the Washington Forest Law Center and its clients would be willing to participate in this Task Force.

Respectfully submitted this 18th day of August, 1999.

/s/

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WASHINGTON FOREST LAW CENTER

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