



File: 10285-30 / VQO- Kootenay Lake TSA

March 7, 2014

Re: Determination Rationale for the Order to Amend Scenic Areas and Visual Quality Objectives (VQOs) in the Kootenay Lake Timber Supply Area (TSA)

Scope

This determination entails establishing revised scenic areas and VQOs for the Kootenay Lake TSA as shown on accompanying map dated February 12, 2014.

Authority

The authority to establish or amend scenic areas and visual quality objectives is provided under Section 150.3 of the *Forest and Range Practices Act* (FRPA) and Section 7(1) and (2) of the *Government Actions Regulation* (GAR) to the Minister responsible for the *Forest Act* and *Land Act*. This authority has been delegated by the Minister of Forests, Lands and Natural Resource Operations (FLNRO) to the District Manager as per the approved delegation matrix, dated October 4, 2012, under *FRPA* and associated regulations.

Approval Tests

The Government Actions Regulation (GAR) outlines several factors that need to be considered in establishing or amending visual quality objectives. These are noted as follows:

Section 2(1) of GAR regarding *Limitation of Actions*:

The minister must be satisfied that:

- (a) the order is consistent with established objectives,
- (b) the order would not unduly reduce the supply of timber from British Columbia's forests, and
- (c) the benefits to the public derived from the order would outweigh any
 - (i) material adverse impact of the order on the delivered wood costs of a holder of any agreement under the *Forest Act* that would be affected by the order, and
 - (ii) undue constraint on the ability of a holder of an agreement under the *Forest Act* or the *Range Act* that would be affected by the order to exercise the holder's rights under the agreement.

Page 1 of 18

Section 3(1) and (2) of GAR regarding *Consultations and Reviews*:

Before a minister makes an order under any of Sections 5 to 15, the minister must provide an opportunity for review and comment,

(b) in the case of any other order, to the holders of agreements under the *Forest Act* or the *Range Act* that will be affected by the order.

A minister before making an order under any of Sections 5 to 12, 14 or 15 must consult holders referred to in Sections 2(1)(c) on whom the order may have material adverse effect.

Section 4(1) and (2) of GAR regarding *Notice of an Order*:

- (1) Notice must be given in accordance with this section of an order made under any Sections 5 to 15.
- (2) The notice required under subsection (1) is sufficiently given if the notice includes a copy of the order or contains particulars or a summary of the order and is
 - (a) posted on the web site of the ministry of the minister who takes the action,
 - (b) published in the Gazette, and
 - (c) made publicly available at the regional office of the forest region to which the order relates.

Section 7(1) and (2) of GAR regarding authority to establish scenic areas and VQOs:

7(1) The ministry responsible for the *Land Act* by order may establish an area as a scenic area if satisfied that the area

- (a) is visually important based on its physical characteristics and public use, and
- (b) requires special management that has not been provided for by this regulation or another enactment

7 (2) The ministry responsible for the *Forest Act* by order may establish for a scenic area visual quality objectives that are consistent with subsection 1.1 of the *Forest Planning and Practices Regulation*.

Context

VQOs on the Crown forested land base were first established in the Kootenay Lake TSA in the mid 1980's for the West Arm of Kootenay Lake. The VQOs for the remaining Kootenay Lake TSA was inventoried in 1992 by a contractor with some refinement by local Ministry of Forests staff in subsequent years. These 'scenic areas' and 'visual quality objectives' were highlighted in the Kootenay Boundary Land Use Plan Implementation Strategy (KBLUP-IS) in 1997. In 1999, the District Manager formally established 'scenic areas' and 'visual quality classes' and became legal with the passing of the Kootenay Boundary Higher Level Plan Order (KBHLPO) on October 26, 2002. In 2004, the scenic areas and VQOs were grand parented into legal scenic areas and visual quality objectives under the *Forest and Range Practices Act*.

The primary purpose of this exercise was to refine the delineation of the scenic areas and improve VQOs' consistency within visually sensitive areas and corridors for the Kootenay Lake TSA. The first step was to complete a Visual Landscape re-Inventory (VLI) by identifying,

classifying and recording visual values on maps and forms which was then used to rate the landscape for its visual sensitivity to forest alterations and recommended visual quality classes (rVQCs). The VLI was completed during field observations and evaluation in 2010 by Jeremy Webb of RRL Recreation Resources Ltd. of Mill Bay, B.C. using the current 1997 Resource Inventory Committee (RIC) standard. Following office and field reviews and minor corrections, the VLI was accepted by the FLNRO staff in February, 2012. In 2013, additional mathematical errors were found associated with the VLI which culminated with a 100% review of the mathematical calculation for each of the 415 VQO polygons. The term 'corrected re-inventory adjustment' utilized in Table 1 acknowledges these corrections.

In my deliberations pertaining to the amendment of VQOs, I considered the fully corrected VLI information, input provided by local stakeholders, individuals, organized groups, First Nations, forest licensees, as well as district, region and branch Forest, Lands and Natural Resource Operations (FLNRO) staff. In particular, helpful technical guidance and advice was provided by the Ministry's regional visual resource management specialist located in Kamloops.

This rationale deals with the amended scenic areas and amended VQO portions of the Kootenay Lake TSA under the authority of GAR Section 7(1) and (2). The review looked at a total of 415 VQO polygons of which 128 polygons were considered for alteration from the previous legal VQOs (see table 1 for summary of changes).

Announcement

Initial notice of the Kootenay Lake Forest District's intent to amend VQOs for the Kootenay Lake TSA was conducted in the spring of 2013. FLNRO staff met with most of the major forest license agreement holders in the TSA during the months of May and June. Formal public announcement was conducted in June by advertising in four local newspapers (Nelson Star, Creston Valley Advance, Pennywise & Valley Voice) inviting public input for a 60 day review and comment period ending August 15, 2013. This period was extended to August 30, 2013, at the request of a few local individuals.

Detailed Field Evaluation of Visual Landscape Inventory (VLI) and proposed VQOs

Several field trips were conducted to evaluate and discuss specific changes to VQOs by district FLNRO Stewardship staff and the Visual Resource Management Specialist for the Southern Interior Region. These included a selected review of a portion of the Visual Landscape re-Inventory and field checking/verification on October 2-4, 2012. Key areas reviewed included Salmo-Creston corridor, Sanca-Boswell, Pilot Point, Ymir Mountain, Creston Valley Community Forest, West Arm, east of Kaslo, Johnson's Landing, Trout Lake and Kaslo-New Denver corridor. At least three forest licensees participated in joint field reviews with FLNRO district staff.

First Nations Consultations

Ministry staff referred the proposed scenic area and VQO changes to all First Nations groups that have traditionally held interests within the Kootenay Lake TSA. It is expected that changes to the visual quality objectives will have a minimal impact to the Allowable Annual Cut (AAC) for the Kootenay Lake TSA. This message was relayed to the First Nations groups consulted. Ktunaxa First Nation, Lower Similkameen Indian Band, Okanagan Indian Band, Okanagan Nation Alliance, Penticton Indian Band and the Shuswap Indian Band were contacted in writing and offered 30 days, ending in late June, 2013, to raise any issues or concerns with the proposed

Visual GAR Order for Kootenay Lake TSA. No concerns were received from any of the First Nations consulted. The First Nations Consultation Summary contains further details on the full consultation process.

Public Consultation and Forest Industry Issues

Numerous comments and concerns were received via mail, e-mail and in person or over the telephone during the advertized public review and comment period that took place from mid June to late August, 2013. I have accepted and considered additional input up to and including the date of this determination. Overall, more than 90 responses were received, mostly prior to the end of the 60 day public review and comment period. All comments and concerns were considered in the final assessment of VQO designations.

My staff met with some of the directors of the Regional District of Central Kootenay on December 11, 2013 and they were provided time to offer their comments after the official public comment and review period had concluded. My staff also met with representatives of the Village of Kaslo on February 12, 2014, and they too were provided time to offer their comments to the process. Additional input was received and considered in my decision making following these two meetings.

More than half of the input received expressed various concerns regarding the visual sensitivity in the vicinity of the West Arm of Kootenay Lake and above the community of Argenta. While the input varied somewhat, in general, the comments received for these two respective areas indicated that they were opposed to any potential changes to existing VQOs.

Examples of input received in this regard are as follows:

An e-mail dated July 24, 2013 from a resident of Argenta stated, 'I am a resident of Argenta B.C. and am concerned about changes to the protection of the Argenta face, please add this to the Purcell Wilderness or keep it protected'.

An e-mail dated August 29, 2013 from a resident of the West Arm stated, 'I am a resident of the North Shore area, just north of Nelson, B.C. and I am concerned with the logging practices in Duhamel creek. It has come to my attention that there are proposed changes in the Visual Quality Objectives around Kootenay Lake. I am concerned with the downgrading the ratings on areas, these changes would allow a greater density of clear cutting along the lake. I am very concerned about increased cutting in our watersheds and increased cutting closer to our shorelines. These areas are incredibly beautiful areas that attract people all around the world to visit. People of this area are becoming more and more concerned about the changing weather in this area and the ability of these logged slopes to resist sliding. Please help keep logging to a minimum and protect the beauty of our hillsides and minimize the risk of landslides in this densely populated area.'

I am cognisant that it would be onerous to detail all of the specific comments included in all the letters related to changes proposed to VQO polygons above Argenta and along the West Arm. However, I can summarize them by stating that considerable input received was expressed against any proposed changes to VQO ratings and most of the comments were advocating for the status quo. Consequently, as a result of the overwhelming input received pertaining to the Argenta and West Arm areas, I have decided to maintain the VQO designation of Polygons 383, 384 and 385 (near Argenta) as Retention. In addition, I have decided to maintain the VQO designation of Polygons 96, 102, 103 and 107 (West Arm) as Retention, and Polygons 94, 104,

105 and 106 (West Arm) as Partial Retention. My decision related to these two specific areas reflects the high level of viewing by local residents and also reflects the wishes of those local residents to maintain status quo for these respective VQO polygons. I am convinced that through a combination of excellent visual design and the rare use of legally available exemption tools which may require increased public engagement in order to implement harvesting and harvesting will be able to be carried out in these areas.

Many of the remaining public comments stated their objection to changing the existing VQO designations. In one such letter to the District Manager dated July 29, 2013, a small community adjacent to Kootenay Lake, 'expressed its wish that existing visual quality objectives in the local forest district remain unchanged'. In another e-mail dated August 28, 2013, a resident states, 'Please accept this letter as my, and my family's strong objection to the MOF's proposed Visual Quality Objective changes. I am confident the interests of the local public are not the priority in this case.' Several other letters state the same opinion without identifying a specific locale within the Kootenay Lake TSA. I am satisfied that the visual landscape re-inventory has been completed for the Kootenay Lake TSA to consistent and provincially recognized standards. I note that an additional 8,673 hectares have been added to scenic areas, over and above the original visual landscape inventory, having for effect to increase the amount of crown land now under visual management. In my deliberation, I have carefully considered the corrected visual landscape re-inventory product along with all First Nation, stakeholders, public and forest licensees' comments. As a result, I have reached my final decision and I have briefly outlined my rationale to all my VQO changes in table 1, which ultimately constitute the essential parts of my final determination and meet the legal requirement under the *Forest & Range Practices Act*. I do recognize that the final VQO decisions may not satisfy everyone's comments, however, I have endeavour to find the appropriate compromise and balance amongst all interest groups and conflicting interests in accordance with the GAR process described above.

There was one e-mail dated August 8, 2013, from a Lardeau Valley resident who was in favour of the proposed changes to VQO designation on the forested slopes above Argenta.

A few letters/emails to the District Manager found fault with the process. One such letter was received August 15, 2013, from a prominent local environmental organization. Their concerns were centered primarily around lack of due process, an apparent contradiction between the 'Backgrounder' released in conjunction with the public review and advertizing period and what was stated within the Kootenay Lake TSA Rationale for Annual Allowable Cut Determination (Timber Supply Review says impact of caribou habitat protection is not significant when the Backgrounder stated the opposite), and a perceived conflict of interest with B.C. Timber Sales division of FLNRO.

In response to allegation of lack of due process, I am satisfied that the visual landscape re-inventory was completed following stringent provincial standards. Legal advertizing requirements were met and a rigorous process to derive to the final VQOs was followed, one that has been used elsewhere in the Province successfully. The Government Actions Regulation has for the most part replaced various land use planning efforts from the past and is not intended to re-create or imitate these processes. With respect to the apparent contradiction mentioned above, I would say that the Timber Supply Review (TSR) process is a strategic, high level and long term outlook at the timber supply which consider various constraints and pressures. The latest TSR for the Kootenay Lake TSA suggested incremental effects of Caribou GAR Orders to be not very significant. However, in terms of immediate short term impact and from an operational point of view, caribou habitat protection efforts along with other recent constraints on the land base are

seriously impacting timber harvesting levels. In relation to the perceived conflict of interest with B.C Timber Sales, the contract to carry out the visual landscape re-inventory was funded by the Land Based Investment (LBI) program and initiated by B.C. Timber Sales as the proponent to the funding source. However, the contract administration, monitoring and the authorisation of payment were completed by the district stewardship program and the regional visual landscape program which were at arm's length from B.C. Timber Sales. I am satisfied that BCTS had absolutely no influence or control over the final outcome of the visual landscape re-inventory product.

Another e-mail from a concerned citizen dated August 27, 2013 cited concerns with inadequate advertizing of the public comment and review period, lack of studies to back up changes to VQO designations, and questions regarding the GAR approval tests for such a process. As mentioned above, I am satisfied that legal advertizing requirements for the Visual GAR Order were adequately met. The process developed a re-inventory of the visual resource, one that has become standardized across the Province and used satisfactory over the years. The GAR approval tests are required to be met by law, and I am obligated to address those legal aspects before I make my final decisions. Again, I have accepted and considered all comments received to date and have accepted some of these submissions with respect to that decision making

In a letter received August 22, 2013, from a long time resident of the east shores of Kootenay Lake, the individual recommends some minor changes to two visual polygon units at Fraser Lake near Crawford Bay. A subsequent field review on September 4, 2013, confirmed that the suggestions did in fact make sense and the resident's recommendation has since been incorporated into the final product.

Several stakeholders were advised in writing of the intent to pursue a Visual GAR Order within the Kootenay Lake TSA. The Regional District of Central Kootenay (RDCK), the City of Nelson, Village of Kaslo, Town of Creston, Kootenay Mountaineering Club, Wilderness Tourism Association and the Kootenay Rockies Tourism were among those contacted. RDCK had the most concerns expressed of any of the stakeholders. While most of the comments received were directly related to the VQO process, others were beyond the scope of this process, for example, the issue of lack of trust with the process, a concern regarding the lack of an integrated impacts and cumulative effects to forest management by just examining the visual resource and not considering hydrologic cycle, climate change, questioning the professional reliance model under *FRPA*. While all these concerns and comments have their own merit, they fall outside the scope of this visual GAR order.

Many of the forest licensees submitted comments following meetings with them in the spring of 2013. Several of them expressed concerns regarding the establishment of the VQO of Retention on steep slopes. Their concern centered primarily around their assertion that steep slopes generally means some form of cable logging and the development of cable harvesting and associated roads under a Retention VQO would be unpracticable. Other concerns associated with this include road location limitations and the cost of construction and maintenance of road infrastructure over time into areas where less timber could be extracted. In addition, it was felt by at least one licensee that reduced harvesting in highly visually sensitive areas would intensify harvesting pressures on other areas.

Some of the forest licensees acknowledged the improvement in the delineation of scenic areas as a result of the visual landscape re-inventory. However, many were concerned regarding the

limited forest management flexibility in certain visual sensitive areas when dealing with significant forest health issues as well as landscape level fuel modification activities.

I am aware of at least five examples within or in the vicinity of the Kootenay Lake TSA where exemptions were requested from existing VQOs, resulting in a more intensive consultation with the public, stakeholders and government. In addition, a very thoughtful and effective visual design was incorporated which ultimately successfully addressed the visual facilitated road access and timber harvesting activity within a very visually sensitive corridor. While the economics of such activities will always be a serious challenge to the forest industry, it can be done, and I am confident that, to some extent, it can continue to happen successfully. There are exemption tools available to deal with forest health and landscape level fuel modification activities. My expectation is that forest licensees may have to pursue a higher level of public/stakeholder engagement in these circumstances in order to utilize the exemption tools, while at the same time incorporating innovative visual design techniques to deal with the challenges of developments within visually sensitive areas.

While I have cited some excellent examples of visual management within the TSA, there are other very poor examples as well. I am aware of FREP Extension Note #32 dated October 2013, which highlights, among other things, the fact that visual quality objectives in samples taken within the Selkirk Natural Resource District (Kootenay Lake TSA falls within this district) were 'met' or 'well met' less than 60% of the time. While I am aware that only a small number of samples from the Kootenay Lake TSA contributed to this report, I also recognize the need for improvement to be made in this area. The FREP Extension Note #32 states that, 'one of the most effective tools available for managing visual quality is the application of visual design principles.' While I believe that Professional Reliance is the key component to adhering to good design principles, I will request that the Kootenay Lake TSA host a 'Visual Design Workshop' within a year of this determination, to further enhance the current licensee knowledge and expertise in the area of visual design principles. It is hoped that current forest management practitioners and new staff from the forest industry and government will attend and continue developing and improving their visual design management skills and practices. I wish to reiterate to the forest licensees that the good design is paramount to good visual landscape management. Furthermore, percent alteration is not the only tool available to measure the efficacy of visual management. I am strongly encouraging all forest licensees to rely more carefully in sound visual design principle to measure the efficacy of visual management.

Summary of changes made to the Kootenay Lake TSA VQOs

Table 1 below itemizes final changes made to the Kootenay Lake TSA VQOs as a result of this process:

Table 1: Changes to the Kootenay Lake TSA VQOs

Mapped VSU# Former/ New	Original VQO	Draft VQO Advertised for review & comment	Established VQO after review & comment	Rationale for revision
Trout Lake				
13 / 2	M	PR	PR	Re-inventory adjustment
18 / 3	M	PR	PR	Management adjustment for consistency of visual management around Trout Lake
16, 21 / 4	M	PR	PR	Re-inventory adjustment
20 / 5	M	PR	PR	Re-inventory adjustment
25 / 6	M	PR	PR	Re-inventory adjustment
23 / 7	M	PR	PR	Re-inventory adjustment
11 / 406	M	PR	PR	Re-inventory adjustment
8 / 407	M	PR	PR	Re-inventory adjustment
9 / 408	M	PR	PR	Re-inventory adjustment
8 / 409	M	PR	PR	Re-inventory adjustment
7 / 410	M	PR	PR	Re-inventory adjustment
5 / 411	M	PR	PR	Re-inventory adjustment
5 / 412	M	PR	PR	Re-inventory adjustment
4 / 413	M	PR	PR	Re-inventory adjustment
Lardeau River				
56 / 22	PR	M	M	Management adjustment due to low population density, low public viewing and subordinate viewscape
47 / 24	PR	M	M	Management adjustment due to lower population density and reduced public viewing and gentler viewscape

43 / 27	PR	M	M	Management adjustment due to low population density, low public viewing and subordinate viewscape
55 / 20, 21	PR	M	M	Management adjustment due to low population density, low public viewing and subordinate viewscape
52 / 390	M	PR	PR	Re-inventory adjustment
24 / 400	PR	M	PR	Management adjustment due to consistency with visual sensitivity along the Lardeau River corridor
19 / 404	M	PR	PR	Management adjustment for consistency of visual management around Trout Lake
North End of Kootenay Lake				
66 / 29	M	R	PR	Corrected re-inventory adjustment
69 / 30	M	PR	PR	Re-inventory adjustment
73 / 32	PR	M	M	Re-inventory adjustment
93 / 39	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
64 / 383	R	PR	R	Management adjustment due to high level of public concerns
64 / 384	R	PR	R	Management adjustment due to high level of public concerns
64 / 385	R	PR	R	Management adjustment due to high level of public concerns
Kaslo				
126 / 43	PR	R	R	Re-inventory adjustment
128 / 44	M	PR	PR	Re-inventory adjustment
133 / 45	R	PR	R	Corrected re-inventory adjustment

104 / 376	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
103 / 415	PR	R	R	Re-inventory adjustment
111 / 374	R	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
120 / 414	PR	R	R	Re-inventory adjustment
125 / 370	R	PR	PR	Re-inventory adjustment
132 / 369	M	PR	PR	Re-inventory adjustment
137 / 368	R	PR	PR	Management adjustment for consistency with large polygons adjacent to Kootenay Lake.
141 / 365	R	PR	PR	Re-inventory adjustment
144 / 364	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
144 / 363	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
Kaslo River				
96 / 54	R	PR	PR	Re-inventory adjustment
90 / 55	PR	R	R	Re-inventory adjustment
85 / 56	PR	R	R	Re-inventory adjustment
83 / 57	M	R	R	Re-inventory adjustment
69 / 58	M	R	R	Re-inventory adjustment
108 / 61	PR	M	M	Re-inventory adjustment
106 / 62	PR	M	PR	Corrected re-inventory adjustment
109 / 64	R	PR	PR	Re-inventory adjustment
129 / 67	PR	M	M	Re-inventory adjustment
124 / 68	PR	M	M	Re-inventory adjustment

131 / 71	M	PR	PR	Re-inventory adjustment
Kaslo to Coffee Creek				
151 / 79	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
164 / 85	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
West Arm				
184 / 94	PR	M	PR	Corrected re-inventory adjustment
173 / 89	M	PR	PR	Management adjustment for consistency with large polygons adjacent to Kootenay Lake.
201 / 96	R	PR	R	Management adjustment due to high level of public concerns
188 / 98	R	PR	PR	Re-inventory adjustment
174 / 99	R	PR	PR	Re-inventory adjustment
202 / 102	R	PR	R	Management adjustment due to high level of public concerns
218 / 103	R	PR	R	Management adjustment due to high level of public concerns
198 / 104	PR	M	PR	Management adjustment due to high level of public concerns
209 / 105	PR	M	PR	Management adjustment due to high level of public concerns
212 / 106	PR	M	PR	Management adjustment due to high level of public concerns
232 / 107	R	PR	R	Management adjustment due to high level of public concerns
229 / 108	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
238 / 109	PR	M	M	Management adjustment for consistency with subordinate background polygons around

				Kootenay Lake
244 / 114	PR	M	M	Re-inventory adjustment
244, 251 / 115	PR	M	M	Re-inventory adjustment
245 / 116	PR	M	M	Re-inventory adjustment
261 / 120	PR	M	M	Re-inventory adjustment
292 / 123	PR	M	M	Re-inventory adjustment
302 / 125	M	PR	PR	Re-inventory adjustment
311 / 126	PR	M	M	Management adjustment to balance visual constraint
304, 306 / 129	M/PR	M	M	Management adjustment to balance visual constraint
301 / 134	M/PR	M	M	Management adjustment to balance visual constraint
274 / 137	R	PR	PR	Re-inventory adjustment
284 / 138	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
328 / 146	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
331 / 149	M	PR	PR	Re-inventory adjustment
297 / 157	M	PR	PR	Re-inventory adjustment
224 / 166	M	PR	PR	Re-inventory adjustment
216 / 173	PR	R	R	Re-inventory adjustment
203 / 174	R	PR	PR	Management adjustment for consistency with polygons adjacent to Kootenay Lake with low population density and low public viewing
South End of Kootenay Lake				
233 / 181	R	PR	PR	Management adjustment for consistency with polygons adjacent to Kootenay Lake with low

				population density and low public viewing
235, 239 / 182	R	PR	PR	Management adjustment for consistency with polygons adjacent to Kootenay Lake with low population density and low public viewing
259 / 185	R	PR	PR	Management adjustment for consistency with polygons adjacent to Kootenay Lake with low population density and low public viewing
280 / 186	R	PR	PR	Management adjustment for consistency with polygons adjacent to Kootenay Lake with low population density and low public viewing
273, 287 / 187	PR, M	PR	PR	Management adjustment for consistency with polygons adjacent to Kootenay Lake with low population density and low public viewing
303 / 188	R	PR	PR	Management adjustment for consistency with polygons adjacent to Kootenay Lake with low population density and low public viewing
318 / 190	M	PR	PR	Re-inventory adjustment
317,332 / 192,193	PR	R	R	Re-inventory adjustment
334 / 194	PR	R	R	Re-inventory adjustment
346 / 198	PR	PR	R	Re-inventory adjustment
343 / 199	PR	R	R	Re-inventory adjustment
261 / 329	M	PR	PR	Re-inventory adjustment
275 / 332	M	PR	PR	Re-inventory adjustment
257 / 333	M	PR	PR	Re-inventory adjustment
Summit Corridor				
474 / 215	PR	R	R	Re-inventory adjustment
Creston Valley				
460 / 236	PR	M	M	Management adjustment for consistency with subordinate polygons
383 / 318	PR	M	M	Corrected re-inventory adjustment

Goat River				
419 / 244	PR	M	M	Re-inventory adjustment
417 / 245	PR	M	M	Re-inventory adjustment
407 / 250	PR	M	M	Management adjustment for consistency with subordinate background polygons
411 / 252	PR	M	M	Management adjustment for consistency with subordinate background polygons
389 / 295	PR	M	M	Management adjustment for consistency with subordinate background polygons
363 / 299	PR	M	M	Management adjustment for consistency with subordinate background polygons
363 / 300	PR	M	M	Management adjustment for consistency with subordinate background polygons
366 / 304	PR	M	M	Management adjustment for consistency with subordinate background polygons
376 / 307	PR	M	M	Management adjustment for consistency with subordinate background polygons
400 / 247	PR	M	M	Management adjustment for consistency with subordinate background polygons
Yahk				
465 / 259	PR	M	M	Management adjustment for consistency with subordinate background polygons
456 / 260	PR	M	M	Management adjustment for consistency with subordinate background polygons
479 / 263	R	PR	PR	Re-inventory adjustment
466 / 265	M	PR	PR	Re-inventory adjustment
352 / 277	PR	M	M	Management adjustment for consistency with subordinate background polygons
382 / 285	PR	M	M	Management adjustment for consistency with subordinate background polygons

Pilot Peninsula				
194 / 340	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
187 / 344	PR	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
171 / 346	PR	R	R	Re-inventory adjustment
176 / 348	PR	R	PR	Management adjustment due to unacceptable impacts to two Woodlot Licenses
188 / 349	PR	R	PR	Management adjustment due to unacceptable impacts to two Woodlot Licenses
175 / 350	PR	R	PR	Management adjustment due to unacceptable impacts to two Woodlot Licenses
162 / 353	M	PR	PR	Re-inventory adjustment
155 / 357	R	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake
155 / 358	R	M	M	Management adjustment for consistency with subordinate background polygons around Kootenay Lake

Legislative (GAR) Tests

As the delegated decision maker in this matter, I gave the legislative GAR tests the following consideration:

GAR 2 regarding the *Limitations of Actions*:

(1) In addition to the criteria and procedures to be followed by a minister in making an order under any of Sections 5 to 15 in relation to an area specified in the order, the minister must be satisfied that

(a) The order is consistent with established objectives,

Comment on GAR 2(1)(a) test – I am not aware of inconsistencies with any other established objectives. Consultation with licensed resource users and First Nations groups have not revealed any inconsistencies, therefore I determine that the order is consistent with all other established resource objectives.

(b) The order would not unduly reduce the supply of timber from British Columbia's forests,

Comment on GAR 2(1)(b) test – Overall, the VQO changes have a marginal net positive effect on timber supply, and better reflect the intended outcomes of visual management with refined polygon shapes and additional area under visual management. Also, increased restrictions have been maintained in key areas such as the forested slopes above Argenta as well as portions of the West Arm. Table 2 below summarizes the magnitude of the changes to scenic areas within the Kootenay Lake TSA as well as changes to the timber harvesting land base (THLB). Accordingly, I believe the VQO order will not unduly reduce the supply of timber in the Kootenay Lake TSA.

Table 2: Summary of Total Area of VQO Change (intersect analysis)

	<u>TSA</u>	<u>THLB</u>
VQO more restrictive	24,019 ha. (11%)	8,817 ha. (11%)
VQO less restrictive	20,515 ha. (9%)	9,152 ha. (12%)
VQO remains the same	173,602 ha. (80%)	59,252 ha. (77%)

(c) The benefits to the public derived from the order would outweigh any

(i) Material adverse impact of the order on the delivered wood costs of a holder of any agreement under the *Forest Act* that would be affected by the order,

Comment on GAR 2(1)(c)(i) test - This order amends VQOs that were both more restrictive and less restrictive than previous VQOs, which balance the social and economic objectives of the Crown. Adjustments were made in response to the public, licensed resource users and key stakeholders. While there are areas that will now require additional forest planning and assessment work, potentially increasing localized delivered wood costs, these areas are justified as being more of a benefit to the public in terms of aesthetic landscape management. It is general no net benefit. Overall, there is almost no net benefit to the forest industry by designating some VQOs as more restrictive while others are designated as less restrictive.

(ii) Undue constraint on the ability of a holder of an agreement under the *Forest Act* that would be affected by the order to exercise the holder's rights under the agreement.

Comment on GAR 2(1)(c)(ii) test – There is no undue constraint on the ability of licensees to exercise their rights in the Kootenay Lake TSA as a result of this order as described above.

GAR 3 regarding *Consultation and Reviews*:

- (1) Before a minister makes an order under any Sections 5 to 15, the minister must provide an opportunity for review and comment,**
(a) in case of an order under Section 13 establishing a species category, to organizations that the minister considers representative of holders of an agreement under the *Forest Act* or *Range Act* that may be affected by the order or,
(b) in the case of any other order, the holders of agreements under the *Forest Act* or the *Range Act* that will be affected by the order.

Comment on GAR 3(1)(a) or (b) test – 3(1)(a) is not applicable. For GAR test 3(1)(b), BC Timber Sales requested the VQO review and funding was made available by the province towards a visual landscape re-inventory. Licensees in the Kootenay Lake TSA were provided several opportunities for review and comment throughout the process of establishing revised VQOs. I believe that they are generally supportive of changes made.

GAR 4 regarding *Notice of an Order*:

- (1) Notice must be given in accordance with this section of an order made under any of Sections 5 to 15.**
(2) The notice required under subsection (1) is sufficiently given if the notice includes
(a) posted on the website of the ministry of the minister who takes the action,
(b) published in the *Gazette*, and
(c) made publicly available at the regional office of the forest region to which the order relates.

Comment on GAR 4 test – All of the above obligations will be completed subsequent to the signing of the VQO GAR Order. The map entitled ‘Established Visual Quality Objectives – Kootenay Lake Timber Supply Area’ and dated February 12, 2014, shows the final outcome of revised scenic areas and VQOs for the Kootenay Lake TSA.

GAR 7 regarding *Scenic Areas and Visual Quality Objectives*:

- (1) The minister responsible for the *Land Act* by order may establish an area as a scenic area if satisfied that the area**
(a) is visually important based on its physical characteristics and public use, and
(b) requires special management that has not otherwise been provided for by this regulation or another enactment.
(c) The minister responsible for the *Forest Act* by order may establish for a scenic area visual quality objectives that are consistent with subsection (1) and are within the categories of altered forest landscape prescribed under Section 1.1 of the *Forest Planning and Practices Regulation*.

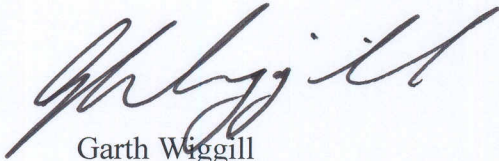
Comment on GAR 7 authority – The power and duty for GAR Section 7(1) and (2) to establish both scenic areas and VQOs has been delegated to the District Manager by the Minister of Forests, Lands and Natural Resource Operations. I have initiated this process and the order is consistent with my obligations, in consideration of advice from staff and specialists from Selkirk Natural Resource District and Thompson-Okanagan Region. The Visual GAR Order provides direction for licensees in their Forest Stewardship Plan and Cutting Permit development. The updated Visual Land Inventory and associated VQOs will also be factored into future Timber Supply Reviews and are consistent with the categories prescribed in Section 1.1 of the *Forest Planning and Practices Regulation*.

Delegated Decision Maker's Action

I have reviewed all comments, recommendations and individually considered them in conjunction with expert advice and support from my staff. To this end, Ministry staff have made themselves available for discussion, documented the process followed, provided clarification where it was required and considered all issues raised.

Determination

Having satisfied myself that I have considered all pertinent details related to the recommended changes to scenic areas, some visual polygon boundaries and VQO changes, and recognizing the important social and economic objectives of all stakeholders, I conclude that the visual quality objectives should be formalized at this time through a GAR Order. I have considered all comments received and have determined that the updated visual landscape inventory and VQOs have adequately addressed the concerns raised by the public, First Nations, forest licensees, and other stakeholders. I believe the VQOs adequately balance public concerns for visual quality management with the forest licensee's interest in operational flexibility and a sustainable timber supply. Therefore, I approve the VQO Order establishing the revised scenic areas and VQO's for the Kootenay Lake TSA as shown on the accompanying map, dated February 12, 2014.



Garth Wiggill
District Manager
Kootenay Lake Forest District

Attachments: 'Established Visual Quality Objectives - Kootenay Lake Timber Supply Area' map, dated February 12, 2014.
First Nations Consultation Summary.