

# **Columbia River Gorge Commission**

## **Meeting Minutes**

**August 9, 2005**

***A complete record of this meeting is available on audiotape***

Location: Hood River Best Western Inn, 1108 East Marina Way  
Hood River, Oregon

Time: 9:00 a.m.

### ***MEMBERS IN ATTENDANCE***

Harold Abbe  
Kenn Adcock  
Jeffrey Condit  
Doug Crow  
Judy Davis  
Dan Harkenrider  
Walt Loehrke  
Jim Middaugh  
Joyce Reinig  
Honna Sheffield

### ***MEMBERS ABSENT***

Jane Jacobsen-excused  
Joe Palena-excused

### ***STAFF PRESENT***

Martha Bennett, Executive Director  
Mark Garner, GIS Coordinator  
Brian Litt, Senior Planner  
Jeff Litwak, Counsel  
Kathy Obayashi-Bartsch, Administrative Assistant

### ***AUDIENCE PRESENT***

Baker, Nathan. Friends of the Columbia Gorge (FOCG)  
Boyd, Charly. Skamania County Planning Department  
Cornelison, Peter. FOCG  
Durbin, Kathy. *The Columbian*  
Elliott, Bob. Southwest Regional Air Quality (SWCAA)  
Garnett, Ley, Oregon Public Broadcasting  
Ginsberg, Andy. Oregon Department of Environmental Quality (DEQ)  
Grimmett, Michael. Multnomah County Department of Community Services  
Hess, Jurgen. Columbia Gorge Institute  
Imperati, Sam. ICM Inc.  
Karabut, Diana. Multnomah County resident  
Koprowski, Paul. Environmental Protection Agency (EPA)  
Krogert, William. Oregon DEQ  
Leipper, Bob. Multnomah County resident  
Leo, Greg. Confederated Tribes of the Warm Springs

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Loeb, Lex. Multnomah County resident  
Milstein, Michael, *The Oregonian*  
Nicolai, Thomas. Multnomah County resident  
Norville, Kent. Air Sciences Incorporated  
Pearce, Paul. Skamania County Commission  
Peoples, Kim. Multnomah County Department of Community Services  
Sheffield, Naomi. Skamania County resident  
Simione, Angelo. Gorge Landowners United (GLU)  
Stocum, Jeff. Oregon DEQ  
Swyers, Rita. GLU  
Thompson, Geoff. GLU  
Wooster, Wayne. Klickitat County

Others were present during the day.

### **Call to Order**

Chair Davis called the meeting to order at 9:10 a.m. and introduced the new Multnomah County Commission appointee, Jim Middaugh, replacing Anne Squier. She welcomed Commissioner Middaugh to the Commission.

### **Approval of Minutes**

Chair Davis asked the Commission to review and comment on the draft minutes for July 12, 2005. Commissioner Loehrke made a motion to adopt the minutes as drafted and Commissioner Condit seconded the motion. A voice vote was taken and passed unanimously with the exception of Commissioner Middaugh who abstained.

Commissioner Crow asked for clarification of a few points as he was not present at the July meeting.

### **Public Comment**

Chair Davis said because there are new commissioners, she thought it would be helpful to review the public comment policy adopted by the Commission. She said Commissioners may ask for additional information or clarifying questions but should not debate, discuss or promise any action. The individual providing testimony should not feel he or she may be challenged by Commissioners.

Bob Leipper of Troutdale, Oregon read from prepared testimony (see attachment A) regarding lack of enforcement in Multnomah County. Commissioner Adcock asked what action is being taken in regard to the issues raised by Mr. Leipper. Martha Bennett, Executive Director, said the reports are tracked and the appropriate county is contacted about the items. She said because the Commission is the agency that decisions are appealed to, detailed information about the counties action is not appropriate for the Commission itself. She suggested the Commission discuss their role in enforcement actions in the individual counties during the work plan discussion.

Angelo Simione of Corbett, Oregon said a temporary restraining letter was issued to Cynthia Winter. He said public support continues to grow (see attachment B) and he only raises this issue due to the slanderous testimony and letter writing of Ms. Winter

that may influence the Viewpoint Inn application. Jeffrey Litwak, Counsel said the matter raised by the testimony relates to a pending application and advised the Commission not to respond at this time.

Geoff Thompson of Corbett, Oregon said there are some misdirected people who oppose the Viewpoint Inn and are not representative of the number of people who support the Viewpoint Inn. He said it's important for the Commission to have a sufficient budget to do its work and said he is also on a budget. He explained that he and Mr. Simeone have spent nearly 1,500 dollars in copying and other application materials. He added they have also spent nearly a quarter of a million dollars for legal fees and maintaining the Inn.

### **Opportunity for Tribal Nations to address Commission**

Rebecca Hawk-Elwood of the Yakama Nation discussed: kiteboarding and the launch sites; issues relating to preservation of cultural sites and a definition of a cultural site versus a historical site. Elwood also encouraged everyone to visit the Ceilio Village long house. She said in reference to the I-84 corridor project, there has been no contact with the Tribal Nations and asked the Commission to facilitate the Tribes involvement in the process. Bennett said Oregon Department of Transportation was contacted about creating an opportunity for the Tribes to comment and to be involved earlier in the process.

Commissioner Crow said he's seen many cars parked illegally along I-84 which he presumes are kiteboarders. Bennett said staff will report back to the Commission on the item.

Bennett introduced Mark Garner, GIS Coordinator in partnership with USDA Forest Service.

### **Annual Report on Columbia River Gorge Air Quality Work Plan**

Brian Litt, Senior Planner reported (see attachment C-1) on progress made in responding to the Commission's August 2004 direction. Litt introduced, Andy Ginsberg, Air Quality Administrator for Oregon Department of Environmental Quality (DEQ) and Bob Elliott of Southwest Washington Clean Air Agency (SWCAA) who provided an overview of the project with a presentation and report (see attachment C-2) on implementation of the Air Quality work plan approved by the Commission in August 2003.

Commissioner Loehrke asked if the diagnostic tool incorporates a large area or just the Gorge. Mr. Elliott said the tool used covers a very large area that is sufficiently far enough from the Gorge to get a wider view of how the air quality is affected.

Commissioner Abbe asked if the study of the Snake River Canyon air quality might be used. Mr. Elliott said there was some good information provided in that study and there are some similarities in topography but direct comparisons of the two areas can't be made at present.

Commissioner Middaugh asked who will be involved in the peer review and how the Tribes would be involved. Mr. Elliott said the peer review process would use other nationally known scientists to perform a technical review of the authors report to determine if there are inaccuracies or insufficient explanations. He said the public comment component would include opportunity for the Tribes and general public to review the report and provide feedback. Mr. Elliott said the information will be available to everyone. It will not be an edited version, but a wide open process.

Commissioner Crow asked if peer review will consider that the monitoring study is based on only one year of data. Mr. Elliott said the event dates are not subjective and he does not think there will be bias built into the study. He said if the raw data is requested through peer review, the raw data will be available.

Mr. Ginsberg recognized Paul Mairose and David Collier for their tremendous contributions to the project. He said the funding level of the DEQ was reduced and the Gorge Air Quality project and several other items were reduced. He said as a result of funding, their participation will be reduced. However they will participate in both the technical and public portions. The DEQ and SWCAA can't convene the 32 member bi-state advisory committee as originally envisioned. The goal setting and strategy development process will not be done until the technical research is complete. He said the agencies are committed to involvement with the Tribes.

Commissioner Reinig commented on the health issue, noting there is a high incidence of asthma in Gorge residents and there may be the ability to extract health information from existing data.

### **Public Comment**

Bob Leipper of Troutdale, Oregon said he supports full funding of this project and appreciated the reports that were provided. He supports the west end monitoring and raised the issue of burning on non-burn days and illegal burning. He said he's contacted DEQ with photos of illegal burning but DEQ has not expressed any interest in these photos or his reports.

Rita Swyers of Hood River, Oregon. Commissioner Reining said Ms. Swyers had to leave the meeting and requested Bobbie Miller's written testimony (see attachment D) be provided to the Commission.

Diana Karbut expressed concern about the project budget and requested an itemized budget. She said she'd like to lobby for more public funds from legislators but needs to understand where the funds were spent.

Commissioner Reining said a comprehensive budget was presented about two years ago and there were legislative changes that affected the funding. Mr. Ginsberg said the budget document is available on the DEQ website.

Nathan Baker of FOCG said they are concerned about the lack of progress and the lack of interim measures to protect the Gorge. He read from prepared testimony (see attachment E) and recommended the Commission find the air quality agencies are not

in compliance with the Scenic Area, require agencies to develop short term measures to reduce emissions and to take stronger action to restore Washington's involvement.

Commissioner Adcock asked for clarification of the increases in haze that Mr. Baker discussed pertaining to the Wishram site data. Mr. Baker responded that there are increases at the Wishram site as well as others. Commissioner Adcock said there is a mining operation, which emits a significant amount of dust, and the monitor is only about a mile away from the station. The operation is occurring on tribal treaty land and he suggested the Tribes may want to look into this operation.

Commissioner Abbe asked for clarification of the second suggested action, requiring agencies to develop measures to reduce emissions and asked how the Commission would accomplish that. Mr. Baker said the Commission should require agencies to perform certain actions to protect air quality as an interim measure.

Brent Foster of the Columbia River Keeper said his group is concerned about air quality because it directly affects the water quality. He said in spite of budget cuts, agencies need to take action because of the negative effects of acid rain and the other issues raised by the fog water study. The Commission should be responding to the threat posed by this condition.

Rebecca Hawk-Elwood of the Yakama Nation said the Tribes asked for interim steps to protect the area. She said five years ago, it was not known what a huge problem air quality is in the Gorge and that something has to be done to improve air quality now. She said there was supposed to be a public meeting last spring which was cancelled because they said there was not enough information. She said there is growing concern that trees are not healthy in the Gorge and that has significant meaning to the Tribes. After hearing the report, she's concerned about the length of time it will take, to have a peer review and the lack of funding that will hamper the public outreach component. She urged the Commission and other agencies to act and stop new air pollution emitters into the area.

Wayne Wooster representing Klickitat County said the County is supportive of the project and the progress made to date. The Gorge has extremely complicated topography and he commends the agencies and staff. He said creating new standards must be supported from solid data and this is a very complex issue.

Kent Norville of Air Sciences, Inc. who has performed work for Klickitat County said in order for agencies to take regulatory action, technical studies must be done. He said people have expressed the need to perform regulatory functions but it should be noted that a proper rule making process is needed and that will take some time itself.

Chair Davis thanked everyone for their testimony and said staff would now provide further review of the staff report.

Litt reviewed the staff report, specifically the discussion section on page 3 of the report. Bennett reviewed the recommendation section on page 4, noting a typographical error on item #5, which should read August 2006 not August 2007.

Commissioner Condit raised the question of exactly what authority the Commission has to order DEQ to adopt regulatory action.

Commissioner Crow said if data is available in December 2005, there should be an interim report on the monitoring data in March 2006 and Commission staff should review the recommendations outlined in light of the data from the monitoring report. Mr. Elliott said that it would be a good idea for the agencies to come back with a report in the spring of 2006. Commissioner Middaugh said perhaps it should be sooner than spring since the data should be released in December.

Mr. Elliott said he's speaking on behalf of SWCAA and if the objective is to get below the levels which affect flora and fauna, there would have to be extremely significant efforts and strategies to achieve this. This level of effort would incur significant costs and have widespread effect and would be up to the policy makers to decide whether to pursue this level of action.

Commissioner Sheffield said it would be a foolish to spend the resources to collect the data and not have a strategy to implement. Bennett said she agrees that someone should follow through on the strategy but it may or may not be the Gorge Commission's role or responsibility to adopt that role.

Commissioner Adcock commended the agencies for their work and said the state agencies and the Forest Service are partners in this effort. He said Klickitat County with only 20 thousand residents has committed over \$50,000 to this issue by hiring an air quality expert to work with the air quality study group ensuring good science is used.

Commissioner Harkenrider said the Forest Service continues to work with the state agencies and the study needs to be completed. He said some of the urgency expressed is real and is supported from the studies done to date. He said all parties need to be very deliberate in creating any new standards and the replacement of the advisory committee is going to be very significant to the success of the strategy.

Chair Davis said the Commission should now develop a recommendation.

Bennett said in addition to the items in the staff recommendation there is a suggestion from Commissioner Condit to add an item #5 (d): include in the staff report an analysis of the authority and tools the Gorge Commission and all the various agencies involved have over one another and item #6 was requested by Commissioner Crow to include an additional update from the air quality agencies sometime after their report is released in December 2005 and before the August 2006 Commission meeting.

Commissioner Condit made a motion to adopt the staff recommendation with the two additions as discussed. Commissioner Crow seconded the motion and a voice vote was taken. The motion passed unanimously. Chair Davis thanked Mr. Elliott, Mr. Ginsberg, agency staff and all who provided testimony.

Chair Davis recessed for a lunch break at 12:20 p.m. and called the meeting back to order at 1:25 p.m.

### **Adoption of the workplan for the 2005-2007 Biennium**

Bennett provided a review of the draft work plan (see attachment F). Bennett referenced the budget table, noting the 2005-2007 biennial budget is approximately 35% more than the 2003-2005 biennium. The state of Washington funded the Commission with approximately 56,000 dollars more than Oregon. These funds will not be available through the joint program but may be available for special projects, if approved by Washington state.

Bennett said there is funding for an additional one and a half full time equivalents (FTE), and cost of living adjustments (cola) for staff with a 3.2 % cola in year one and a 1.6% cola in year two. There are significant increases to the agency for health insurance and retirement costs. She said there is approximately 50,000 dollars over the biennium to spend on contracts for special projects.

### **Public Comment**

Nathan Baker and Peter Cornelison of Friends of the Columbia Gorge. Mr. Baker read from prepared testimony (see attachment G) requesting the Commission work on water quality protections and riparian buffers. Mr. Cornelison said a year ago there was a discussion of the scenic monitoring function and he believes this is a very important item to be addressed. Commissioner Middaugh asked if this would be part of the indicators project, Bennett said it should be.

Rita Swyers of Hood River, Oregon (see attachment H) provided written testimony requesting the Commission to address complaints raised by those who believe they have lost their property or the use of their property due to Commission's action.

Bobbie Miller of The Dalles, Oregon (see attachment I) provided written testimony requesting the Commission address past issues such as a citizen's advisory group rather than creating new programs.

The Gorge Commission deliberated on the list of projects and services that it plans to include in its overall work plan for 2005-2007. The Commission set priorities for programs and projects.

Commissioner Reinig said the monitoring function is needed to determine how much growth the area can sustain. She said the Commission hasn't had the hard data needed to make certain decisions about protecting the area. She also suggested the Commission take a hard look at a way to handle enforcement throughout the Scenic Area.

Commissioner Crow concurred with Commissioner Reinig and said the scenic monitoring and the indicators project should be the highest priorities for the Commission. He said some items should decrease in priority such as the recreation plan, environmental learning centers and agricultural lands protection. Crow said perhaps water quality should increase in priority and he asked about the purchasing and

contracting item. Bennett said the Commission is required to have purchasing regulations and what is in place right now, relates only to capital projects, so the Commission has to address the issue at some time.

Commissioner Sheffield said because the difference in funding between Oregon and Washington, perhaps the Washington funding could be put into the Washington environmental agency to develop air quality strategies in the Gorge.

Commissioner Abbe said the Commission needs to be more aggressive with both governors to get some "buy in" before anything can happen with the legislators for supporting these projects.

Chair Davis said the Commission may be undervaluing the recreation plan, as it may be the one thing that the Commission can do that most directly promotes economic development in the area. Commissioner Sheffield said Mid-Columbia Economic Development (MCCED) is also working on the recreation aspect as an economic development strategy for the area and perhaps the Commission should send a representative to these meetings, rather than work independently on a plan. Commissioner Crow said he supports the recreation plan efforts but some of these other issues seem to be more pressing, such as the indicators project.

Commissioner Loehrke thanked Bennett for the draft plan and said that whatever the Commission decides, Bennett will have to follow through on these items and this list is obviously something that she feels comfortable with. He expressed support for the monitoring project as the Commission needs hard data to make decisions.

Commissioner Adcock said there is a lot of data from past monitoring reports and asked why this information could not be used. Bennett said the monitoring term is often used for too many things. Most of the monitoring reports before plan review provide a very good assessment of how well the Commission and counties are administering the Plan. These reports did not provide a good qualitative assessment of Gorge resources.

Commissioner Reinig said in Hood River County there is a huge wind fan that was approved but has a metallic finish that doesn't blend in at all. If the Commission had better information, there might have been conditions of approval that would still allow the fan but would have mitigated the visual impact.

Commissioner Middaugh said he supports the work on the plan amendment rules as it is important not to let individual concerns overshadow the big picture. He said the enforcement efforts and being creative to seek solutions for this issue is very important. He said the indicators project is also very important and is in agreement with the staff recommendation.

Commissioner Condit said he supports everything that's been expressed. He said enforcement efforts, the indicators project and the air quality project are all very important. He asked about the need for an indicators project to proceed on buffers and water quality. Bennett said we have no information about how well the Commission's

standards on buffers are protecting resources. She said the work on buffers and water quality will require significant public involvement.

Commissioner Loehrke said the work on buffer is quite complicated and having gone through a similar project in Skamania, he supports Bennett's opinion that indicators project is needed before working the buffer issue.

Commissioner Sheffield said the indicators project is needed but would like the buffer issue to be higher in priority than is on the draft work plan.

Commissioner Harkenrider said some of the work items may be done by other agencies and groups rather than putting it entirely on the Commission staff resources. He said in reference to the recreation plan, perhaps the recreation industry should develop a plan that suits their needs within the constraints of the Management Plan.

Commissioner Sheffield asked for clarification of SR-14 rock fall project in Washington State. Bennett provided this information and said the Commission works with the Washington State Department of Transportation (WSDOT).

Chair Davis said it seems that everyone is in agreement of the draft work plan with perhaps more of an emphasis on air quality. Bennett said Commissioner Crow also suggested dropping environmental learning center issue. She said the environmental learning center is on the list because it is an allowed use in the Management Plan but there is no definition.

Commissioner Abbe made a motion to adopt the proposed work plan as drafted by staff and Commissioner Reinig seconded the motion.

Commissioner Sheffield moved to amend the motion to alter the draft work plan by changing the air quality project from the "stay the same" category to "increase" the level of work on the project. Commissioner Condit seconded the amendment.

Commissioner Reinig said she agrees that air quality is very important but the air quality issue is of such magnitude that it would replace all the other items on the work plan. She said there are significant impacts to Seattle, Portland, Yakima and believes that the scientific work must be done before creating standards that may require multi-million dollar businesses to change or cease their operations.

Commissioner Condit said he seconded the motion not to leap into heavy duty regulation but to ensure that the project that is underway gets completed in a timely way. He said given the level of interest and concern, the Commission is likely going to be addressing it and may have to expend some time to keep the project on track.

Commissioner Abbe said he doesn't feel that it's the Commission responsibility to spend funds on the air quality project but the Commission should take the time to encourage the states and Governors' offices to support this project. He said it's the Commission's responsibility to keep the project on track and believes that staff understands this without changing the work plan.

A vote was taken on the motion to amend the main motion and failed 6 to 3.

Harold Abbe-no  
Kenn Adcock-no  
Jeffrey Condit-aye  
Doug Crow-no  
Judy Davis-no  
Walt Loehrke-no  
Jim Middaugh-aye  
Joyce Reinig-no  
Honna Sheffield-aye

A vote on the main motion was taken and passed unanimously.

Harold Abbe-aye  
Kenn Adcock-aye  
Jeffrey Condit-aye  
Doug Crow-aye  
Judy Davis-aye  
Walt Loehrke-aye  
Jim Middaugh-aye  
Joyce Reinig-aye  
Honna Sheffield-aye

### **Briefing on Major Issues in Revisions to the Management Plan**

Bennett provided a review of the topic and said beginning at the September 13, 2005 regular meeting, the Commission will begin to review ordinances adopted by Gorge Counties to implement the Revisions to the Management Plan. It is very important that the Commissioners notify staff if they will not be attending the meeting. Litwak provided an overview of the major issues that were included in the Revisions to the Commission in preparation for review of county ordinances (see attachment J).

Chair Davis recessed for a break at 3:00 p.m. and called the meeting back to order at 3:10 p.m.

### **Briefing on Multnomah County Enforcement Process**

Bennett introduced the topic and said based on previous Commission discussion about enforcement in Multnomah County, she contacted Kim Peoples, Multnomah County Director of Environmental Compliance. Bennett said Mr. Kim Peoples and Mr. Michael Grimmatt, Code Enforcement Officer offered to attend today's meeting and review the current enforcement program. Bennett said this is not a review of individual cases but a review of the current enforcement process.

Mr. Peoples and Mr. Grimmatt provided a review of the Multnomah County enforcement process (see attachment K). Bennett asked if there is an existing violation, can an applicant get a new permit. Mr. Grimmatt said if an existing violation was on record, the applicant could not get a new permit until the violation was cleared.

Commissioner Adcock asked what is the percentage of Multnomah County residents living in the Scenic Area versus the rest of the county. Mr. Grimmatt said he would have to research that as he did not know.

Commissioner Adcock asked how the agency learns about violations in the Scenic Area. Mr. Grimmatt said the agency takes anonymous complaints from the public.

Bennett asked what happens after a complaint is received by the agency. Mr. People's said the complaint is assigned a case file number and entered in the database. It is reviewed for the context of the violation and prioritized. Staff would determine if it is an immediate concern, such as health and safety issue, and may issue a stop work order. If the case doesn't require immediate action, it would be placed on the list to be worked on with the land use planning staff. A planner would be assigned to the case and would work with Mr. Grimmatt. Mr. Grimmatt would contact the property owner to resolve the issue through cooperative compliance measures.

Commissioner Crow asked how the agency handles someone who is a habitual violator. Mr. Peoples said the agency will review all the options available, including the criteria for an injunction. He said since the system has been in place for just over a year, the agency is just now recognizing the repeat offenders and will use a civil process as a last option.

Commissioner Condit asked if the Commission can do anything to assist their efforts. Mr. People's said the dialog with Bennett has been timely and having this open exchange has been advantageous to the agency.

Commissioner Adcock said if a fine is assessed what happens to those fees. Mr. Peoples said it goes into the county's general fund.

Chair Davis thanked Mr. Peoples and Mr. Grimmatt for their presentation and their work.

### **Director's Report**

Martha Bennett, Executive Director provided an update on the following:

Land Use Ordinance 350-81- Bennett said the ordinance is in the Commission packet but don't discard ordinance 350-80 until all decisions made under that rule are past the appeal period.

Broughton Mill Project- Bennett said SDS, Friends of the Columbia Gorge, and Skamania County have agreed to engage in a design process, primarily to agree on the issue of how much density will be allowed on the 80 acre property. If the density issue can be resolved, SDS will submit a plan amendment to the Commission. The Commission will work on the plan amendment within the six month timeline according to Commission rules. Commissioner Reinig commended Bennett for her efforts and for being proactive with the issue.

Vacation- Bennett said she will be on vacation from August 18th-30th and Brian Litt, Senior Planner will be Acting Director.

Judgement on Ballot Measure 37 Case- Litwak said the judgment referred to the oral ruling of Hood River County Judge Kelly which supports the Commission stand that Measure 37 does not apply to the Scenic Area. The Commission should know whether the judgment will be appealed in early September. If it is appealed, it will likely take two years to get a decision by the Court of Appeals.

Commissioner Adcock asked if there have been any cases where an individual believes that their land has been taken. Litwak said there have been a few cases and the Commission has a special review process where the Commission may issue a permit for a use that would not otherwise be allowed to avoid a taking claim.

### **NSA Manager's Report**

Commissioner Harkenrider said the federal budget has been passed and as part of the appropriations, the Forest Service will have 1.5 million dollars for property acquisition through the section 8(o) program. It is planned to use those funds to purchase the last remaining priority lands in the Scenic Area.

Commissioner Harkenrider said the reintroduction of mountain goats program has been postponed in the area for at least a year.

Commissioner Harkenrider said there have been several small fires in the area. The area is extremely dry and the fire danger is high.

### **Other Business**

Chair Davis said the Rules Committee will include Commissioner Reinig as chair, Walt Loehrke and Jeff Condit. She said other assignments for the new commissioners will be forthcoming and as there was no additional business adjourned the meeting at 4:00 p.m.

The next regular meeting is scheduled for 9/13/05 at the Cascade Locks Best Western Inn, Cascade Locks, OR at 9:00 a.m.

Minutes taken by Kathy Obayashi-Bartsch

Minutes approved on September 13, 2005