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# **COLUMBIA RIVER GORGE COMMISSION MEETING**

July 10, 2001

The Discovery Center, The Dalles, Oregon

## **COMMISSIONERS IN ATTENDANCE**

Ken Adcock	Doug Crow
Don Dunn	Dan Harkenrider
Walt Loehrke	Jim Luce
Joe Palena	Louie Pitt
Joyce Reinig	Dave Robertson
Kathy Sheehan	Wayne Wooster
Anne Squier	

## **COMMISSIONERS EXCUSED**

All Commissioners were in attendance.

## **STAFF PRESENT**

Martha Bennett, Executive Director  
Jeffrey Litwak, Agency Counsel  
Brian Litt, Senior Planner  
Bob McIntyre, Administrative Assistant

## **AUDIENCE IN ATTENDANCE**

Baker, Nathan. Friends of the Gorge. Portland, Oregon  
Collier, David. Oregon Department of Environmental Quality  
Curtis, Lee. MCEDD  
Danley, Michelle. Governor Locke's Representative.  
Elliott, Bob. Southwest Clean Air Agency  
Grichel, Steve. Skamania County Planning Department. Stevenson, Washington  
Lang, Michael. Friends of the Gorge. Portland, Oregon  
Liebe, Annette. Oregon Department of Environmental Quality  
Miller, Bobbie. Columbia Gorge United. The Dalles, Oregon  
Newton, Tiffany. Friends of the Gorge. Hood River, Oregon  
Sauter, David. Klickitat County  
Sims, Pat. Portland, Oregon  
Van Haren, Frank. WDOE  
Wilkins, Maxine. Portland, Oregon

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## **MEETING AGENDA**

1. Roll Call
2. Introduction of Martha Bennett, Executive Director
3. Approval of Minutes
4. Commission Elections
5. Public Comment
6. Economic Grant Certifications
7. Scenic Area Air Quality Draft Workplan, Status Report and Briefing
8. Director's Report
9. NSA Manager's Report
10. Update by Legal Counsel
11. Other Business
12. Adjourn

### **1. Roll Call**

The meeting began at approximately 9:10 a.m. Roll was called, and all Commissioners were present for the meeting.

### **2. Introduction of Martha Bennett, Executive Director**

Chair Squier introduced the new Executive Director of the Columbia River Gorge Commission, Martha Bennett. Ms. Bennett thanked the Commission and expressed her appreciation to finally be on board.

### **3. Approval of Minutes**

The Commission reviewed the minutes of the February 8, April 10 and April 25 meetings. Some minor editorial changes were suggested. These minutes were approved with the noted changes. The minutes of the May 8, 2001 will be reviewed at the next Commission meeting.

### **4. Commission Elections**

The Commission held its annual election of officers. Commissioner Reinig invited discussion about the rules and process the Commission follows in the election of officers. She raised questions about established procedures, including officer term limits, rotating Commissioners, or considering Commissioners who reside in the Gorge. She believes the office of Chair has become a full time job out of necessity, due to budget cuts and the need for the Chair to get involved in the decision making of the agency. She expressed her belief that Commissioners holding office should be Gorge residents. Commissioner Reinig then nominated Commissioner Wooster for office of the Chair. Commissioner Adcock seconded the nomination. Commissioner Dunn then nominated Chair Squier for the office of the Chair, which was seconded by Commissioner Palena. Commissioner Dunn underscored many of the demands of the office of the Chair including time commitments, dedication and legal savvy, and expressed appreciation for the fine job done by Chair Squier.

The Commissioners went on to discuss the election process itself. Commissioner Adcock stated that he believes no person should serve more than two terms as Chair. The question of whether or not to change the rules regarding the process was

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discussed. Some Commissioners wondered if it would be better to postpone the election while the rules were changed, but the majority agreed that they would prefer to elect officers. It was decided to leave the current rules in place, but have the Rules Committee take up a discussion of amending the by-laws before the next election of officers in Summer of 2002. The election proceeded.

A vote was called for the nomination of Commissioner Wooster as Chair. The Commission voted as follows, in order called:

Dunn	No
Loehrke	Yes
Luce	No
Palena	No
Pitt	No
Reinig	Yes
Robertson	No
Sheehan	No
Wooster	Yes
Adcock	Yes
Crow	No
Squier	Abstained

The nomination of Commissioner Wooster for Chair failed.

The vote was called for the nomination of Chair Squier as Chair. The Commission voted as follows, called in the following order:

Dunn	Yes
Loehrke	No
Luce	Yes
Palena	Yes
Pitt	Yes
Reinig	Yes
Robertson	Yes
Sheehan	Yes
Wooster	Abstained
Adcock	No
Crow	Yes
Squier	Abstained

The nomination of Chair Squier for Chair passed.

The Commission then took up the position of Vice-Chair. Don Dunn nominated Commissioner Sheehan for Vice-Chair. Commissioner Palena seconded this. Commissioner Robertson nominated Commissioner Wooster for Vice-Chair. Commissioner Crow seconded this.

Commissioner Robertson spoke in favor of Commissioner Wooster. Commissioner Palena stated that Commissioner Squier and Commissioner Sheehan have been an

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excellent team, and he stated he would hate to see them broken up. Commissioner Dunn stated that recent attacks on staff by Commissioner Wooster worry him.

A vote was called on the nomination of Commissioner Sheehan for Vice-Chair. The Commissioners voted as follows, called in the following order:

Dunn	Yes
Loehrke	No
Luce	Yes
Palena	Yes
Pitt	Yes
Reinig	No
Robertson	No
Sheehan	Abstain
Wooster	Abstain
Adcock	No
Crow	No
Squier	Yes

The motion failed as a result of a tie. The Commission opted to take the vote on Mr. Wooster to see if a different outcome would arise.

The vote was called on the nomination of Commissioner Wooster for Vice-Chair. The Commissioners voted as follows, called in the following order:

Dunn	No
Loehrke	Yes
Luce	No
Palena	No
Pitt	No
Reinig	Yes
Robertson	Yes
Sheehan	Abstained
Wooster	Yes
Adcock	Yes
Crow	Yes
Squier	No

The nomination of Commissioner Wooster for Vice-Chair passed.

## 5. Public Comment

**Bobbie Miller**, Columbia Gorge United, stated that she was disappointed that the public comment was taken after the election of the officers. She went on to tell the Commissioners her point of view regarding the Washington State Supreme Court decision on the Bea house, and the Commissions handling of the situation. Jeffrey Litwak emphasized to the Commissioners the importance of not discussing the facts of this case, as it may continue to be a legal issue before the Commission.

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**David Sauter**, Klickitat County, introduced himself. He stated that he has been employed by Klickitat County to monitor activities of the Gorge Commission, and report back decisions and important information to the County Commissioners. He emphasized that he is not in a decision-making role, and he does not represent the County Commissioners, he only gathers information. He hopes his work will help facilitate better communication between the Commission and Klickitat County.

**Michael Lang**, Friends of the Gorge, spoke about the Washington Supreme Court decision on the Bea house. He provided some background to the case, and credited former director Jonathan Doherty for taking action on the home. He emphasized that the Beas committed violations, however, the Supreme court found that the Commission chose the wrong method of solving the problem. He stated the Washington Supreme Court did note the Commission has other tools at its disposal. He stated that monitoring is a critical role. Mr. Lang noted that the Supreme Court's emphasis on monitoring should provide good basis for funding that mandate in the next budget development process. He went on to say there are still problems with the home, and this is a good opportunity for all parties to come together to make sure the development complies with the National Scenic Area guidelines.

## **6. Economic Grant Certifications**

Martha Bennett provided background on three Economic Grant Certification requests. Please see attachments A, B and C.

H01-0066, Brookside/Eliot Traffic Signal project, a \$5,000 grant.

H01-0067, Hood River Downtown Business Association Opportunity Coordinator Project. This is a \$10,000 grant.

H01-0069, City of Cascade Locks Community Network Project, a \$20,000 grant.

Ms. Bennett explained that these requests have been reviewed by staff of the Columbia River Gorge Commission and were found to be consistent with the Act and Management Plan. Commissioner Reinig expressed strong support for the traffic signal project in Hood River, noting recent fatalities, and Oregon Department of Transportation's lack of full funding to improve the intersection. Reinig added that private groups are also raising funds to support this project.

**Tiffany Newton**, Friends of the Gorge, spoke in support of the Cascade Locks Project.

With the exception of Commissioner Crow, who abstained, the Commission voted unanimously to approve all three grant requests.

## **7. Scenic Area Air Quality Draft Workplan, Status Report and Briefing**

Brian Litt, Senior Planner introduced Annette Liebe, of the Oregon Department of Environmental Quality, and Frank Van Haren and Myron Saikewicz, both from Washington Department of Ecology, who presented a briefing and status report on the Gorge Air Quality and Scenic Area Air Quality Draft Workplan for the Commissioners. Litt stated that on May 9<sup>th</sup>, 2000 the Commission adopted an amendment that sets an overall goal of protecting and enhancing air quality in the Gorge and directs the states

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to work with the Forest Service, Southwest Clean Air Agency and the stakeholders to develop a plan to carry out the Act. Annual reports are due, including a workplan for development and implementation of the strategy. He went on to say that public input is still being gathered on the workplan, and there was recently a public meeting on this topic to gather input. The workplan is on schedule and will be presented to the Commission at its August meeting for a public hearing and possible adoption.

Frank Van Haren, Chair of the project's technical team spoke first. He talked about the status of visibility and air quality in the Gorge. He defined visibility impairment, which include fine particles and gases. There are 5 main pollutants: organics, sulfates, nitrates, soil and elemental carbon. Moisture causes these particles to grow. He showed the results of monitoring pollutants over two years on the days that represent 20 percent of those with the worst visibility. Generally, sulfates are more predominant; in the winter, nitrates become more prominent in the east end. He reviewed the various particles and how they affect visibility. He discussed some trends in visibility. 10 years of data is needed to make a trend, and there is currently only 6 years of data. He explained the process of determining visibility, and the various sources of pollutants by category statewide. Specific pollution sources affecting air quality in the Gorge have not been determined yet. Statewide in Washington, transportation sources provide the largest amount of pollution, followed by point sources. He said DOE does project visibility impairment, and showed photos of the various degrees of visibility impairment.

Mr. Saikewicz, who represents Washington Department of Ecology on the Interagency Coordination Team, spoke about air quality characterization methodologies. He stated there are three ways to determine air quality: emission inventories, monitoring and modeling. The premise is that a reduction or increase in pollutants leads to increase or decrease in air quality.

Monitoring involves gathering of air quality data by means of a monitor and transmission and storage of the data to determine long and short-term air quality trends. Monitoring is done because it provides a sense of reality. It is a functional analysis, and data can be used to see what is in the air for health reasons. Additionally, it is mandated under federal and state law that monitoring will be done.

The limitations on monitoring are: it is expensive, resource intensive, and the data is only representative of current conditions. It doesn't make a prediction.

He discussed models, which are mathematical descriptions of natural processes or conditions. Models are not reality, but mimic reality. There are three different types of models and they are typically gridded, meaning an area under observation is divided into squares, and all initial conditions are input into a computer, which will model air quality pollutants. This is an expensive process, however.

He reviewed the different types of model components, noting that models have limitations. Models provide a better understanding of reality, they are a great predictive tool, and are relatively cost effective, compared to monitoring. He explained the methods used to validate a model, such as selecting a time period when the facts of a condition are known and ask the computer to model it. If the results are close—within 20 percent, it is considered a valid model.

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He stated that to adequately model the Gorge, the sensitivity grids would need to be much smaller than in other places.

Frank Van Haren then spoke regarding the objectives of doing air quality studies, including air quality trends, what gaps in knowledge exist, identifying sources of pollution, which technical tools will be needed for evaluation, and evaluating different strategies for improving air quality.

He spoke about the phased approach to technical studies, which is needed because the existing knowledge base is not yet adequate to guide development of studies needed to make adequate decisions.

Annette Liebe, Chair of the Interagency Coordination Team, recognized David Collier of the Oregon Department of Environmental Quality, who authored the air quality workplan. She said the draft is still out for review, and all comments will be considered. She stated pollution sources both inside and outside the Gorge would be looked at. Much interest in air quality was observed the public input meeting held on November 15, 2000.

The workplan proposes a collaborative approach, including local input. The steps include establishing an advisory committee to make recommendations to the state agencies. The Columbia River Gorge Commission would be asked to concur on those recommendations. State and local agencies would then implement measures. The 26-member advisory committee would represent balanced interests. If consensus cannot be reached, the issue would be forwarded to the three air quality agencies (Oregon Department of Environmental Quality, Washington Department of Ecology and Southwest Washington Clean Air Agency) for review. The Committee will be initiated in 2002, and will review scientific studies and other study results.

She said the advisory committee would not only be looking at improvement in air quality, but also economic impacts of various approaches to the local economy. Draft recommendations will be drawn up, and more public involvement will take place. Some upcoming strategies that may benefit the Gorge outside of the work plan include an ozone maintenance plan update in 2004 for the Portland/Vancouver area. Commissioner Adcock asked if other actions were complete in the Portland area. Liebe said only ozone monitoring was complete. She added that new vehicle emissions standards will help.

She went over other strategies that may be of benefit to the Gorge. The technical study will be expensive, with the first phase costing about \$1.5 million. Currently \$0.5 million is available.

Commissioner Pitt said the tribes are trying to figure ways to be involved. He supports the process chosen and asked that the door be kept open to the tribes. He stated the tribes do not see themselves as part of the public input process, but rather as separate sovereign nations.

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Commissioner Reinig asked about emissions from the Umatilla Army Depot. Ms. Liebe stated that projected emissions from incineration of chemical weapons at Umatilla would be taken into account. Commissioner Crow asked where the money for this study would be coming from. Mr. Saikewicz stated funding sources would need to be developed and identified, working with Governor's offices and state agencies of both states. Commissioner Crow said the implications of this could involve the EPA, and they see themselves as playing a critical role.

Commissioner Sheehan complimented the agencies involved, and stated she has heard some of the public comments, and sees that many of them have been incorporated. Chair Squier said at the workshop there was a mention of *tiering*, or recognition that there are some steps that can be taken before full funding is available. Ms. Liebe said a modular approach may be taken, and there is potentially a role for the Commission to play in securing funding.

### **8. Director's Report**

Ms. Bennett provided the Director's report to the Commission. She thanked the Commissioners for being tolerant of her vacation plans prior to starting the job. She said she is very excited to be a part of the Columbia River Gorge Commission. She noted that she expressed a desire to make appointments with each Commissioner to find out their concerns, with an eye toward smooth operations.

### **9. NSA Manager's Report**

Dan Harkenrider provided the NSA Manager's Report. He stated that there had been a recent re-dedication of the Multnomah Falls lodge. He said it was a wonderful success, with a huge turnout.

Mr. Harkenrider stated that funding for the 8(O) process (whereby the Forest Service acquires property from citizens willing to sell it) is secure for the fiscal year 2002, and he expects the same for 2003.

Mr. Harkenrider warned that due to warm and dry weather, the area is in extreme fire danger currently.

### **10. Other Business**

Other business was undertaken prior to the update by legal counsel, as it was expected that it would be necessary to move into an Executive Session. This would allow the public to leave, rather than wait for open session to reconvene.

Commissioner Crow stated that he had reviewed the recently completed draft of the Natural Resources Report. He believes there needs to be more input from the Gorge residents, particularly about the current activities and recommendations. Commissioner Sheehan reminded county appointees that they should approach the county Commissioners and let them know that the draft report is ready for review and comment.

Commissioner Sheehan also warned Commissioners to avoid doing business by e-mail. E-mail is an appropriate tool for setting up meetings, but issues should not be discussed. Commissioner Luce echoed Sheehan's sentiments, stating that e-mails are

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public documents, and if you write an e-mail, you should assume it is going to end up on a billboard somewhere. Commissioner Adcock said the Commission should get guidance from agency Counsel. Jeff Litwak will provide information at the next commission meeting.

Chair Squier handed out a letter and enclosure from an individual who during one of the plan review workshops asked her to read an excerpt out of a book to the Commissioners. She had responded that she would not read the excerpt, but that if he wished to send it, she would distribute a copy to each Commissioner.

Chair Squier stated that the Commission had received an award from the American Society of Public Administration.

### **11. Update by Legal Counsel**

Agency Counsel, Jeffrey Litwak provided to the Commission a brief summary of the status of pending litigation. This was all a matter of public record; therefore, Executive Session was not necessary.

Regarding the Woodall case, the State of Oregon and Multnomah County have submitted a joint Amicus Brief in support of the Gorge Commission. All the briefing has been done and the next step will be for the Court to decide whether to accept review of the case. Should they accept, there will be an opportunity for supplemental briefing. There is no timeframe available as to when the court will make a decision to hear the case under Oregon rules.

Regarding a contested case called Haigh v. Wasco County; the petitioner has filed an appeal with the Oregon Court of Appeals. Claire Puchy, decided that the Commission should not intervene at this time; however, the Commission may still intervene after the first brief has been filed.

Skamania County has appealed the Gorge Commission's decision finding Ordinance 2000-11 inconsistent to the Skamania County Superior Court.

The Commission has filed a lawsuit against Klickitat County, regarding the Klickitat County Critical Areas Ordinance. This lawsuit has not been served yet, however. Jeffrey Litwak anticipates serving the lawsuit very soon. This action is separate from other action that has been taken against Klickitat County by the State of Washington.

Commissioner Adcock asked Jeff Litwak to comment on whether or not the Commissioners should read letters that they receive from the public, not knowing if their issues will come before the Commission. Jeffrey Litwak advised, if commissioners receive a letter and read it, that is not a problem, so long as it is disclosed as ex-parte contact. Commissioners should not be seeking ex-parte contacts. Mr. Litwak noted the staff cannot control what letters members of the public may write.

In regard to the Washington State Supreme Court Decision on the Bea house, Mr. Litwak stated that the Gorge Commission's decision in this case was overturned unanimously. The Court's action was based on the action that the Commission chose take. The Commission chose to file a notice of alleged violation against Skamania

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County. The court interpreted that as being a collateral attack to invalidate a final decision. That is what the court had a problem with. The court did affirm the Commission's mandate to enforce the Act, and suggested some different ways the Commission could and should be enforcing the act. The Court decided this case "without prejudice" to any other actions that the Commission may wish to take to ensure compliance with the Act.

The Commission went into Executive Session to further discuss the case, pursuant to Commission Rule 350-11-006(1)(g).

The Commission returned to open session at 1:30 p.m.

## **12. Adjournment**

Being no other business, the Commission promptly adjourned.

Notes taken by Bob McIntyre

Date Approved by Commission: August 14, 2001