

GORGE 2020



FOCUS ON OUR FUTURE

**URBAN AREA POLICY
FOCUS TOPIC**

STAFF WORKSHOP

AUG. 21, 2018

Today's Discussion

Welcome Back

CRGC Authority/States & Urban Areas (Jeff Litwak)

Oregon Goal 14 Briefing (Kevin Young)

Washington GMA UGA Briefing (Scott Kuhta)

Discussion Item: What's Different in the NSA?

Schedule Future Workshops

Roundtable

CRGC Authority/States

16 U.S.C. § 544c(a)(1) (Congress's consent to the Gorge Compact).

§ 544c(a)(1)(A) – states shall create the Gorge Commission

§ 544c(a)(1)(B) – states shall give the Commission, state agencies, and local governments authority to carry out their respective functions and responsibilities specified in the Act and Compact.

CRGC Authority/States

Columbia River Gorge Compact

- ORS 196.150 & RCW 43.97.015

Grants of Authority

- ORS 196.155 & RCW 43.97.025

CRGC Authority/States

A compact with consent and that is a proper subject for federal legislation is itself federal law.

- *Cuyler v. Adams*, 449 U.S. 433, 440 (1981).

16 U.S.C. § 544c(a)(1).

Columbia River Gorge United v. Yeutter, 960 F.2d 110 (9th Cir. 1992) (Gorge Compact would be appropriate for federal legislation under Property and Commerce clauses).

CRGC Authority/States

“A state can impose state law on a compact organization only if the compact specifically reserves its right to do so.”

- *Seattle Master Builders Ass’n v. Pac. Nw. Elec. Power and Cons. Planning Council*, 786 F.2d 1359, 1371 (9th Cir. 1986).
- *Klickitat County v. Columbia River Gorge Comm’n*, 770 F. Supp. 1419 (E.D. Wash. 1991).

CRGC Authority/States

Oregon counties exempt from “periodic review.”

- ORS 196.107

Washington: exercise of any power pursuant to planning commissioner, county commissioner, Growth Management Act and Shoreline Management Act statutes must be in conformance with NSA authorities.

- 36.53.150; 36.32.550; 36.70.980; 90.58.600

CRGC Authority/Urban Areas

Management Plan does not apply to urban areas.

- 16 U.S.C. § 544d(c)(5)(B)

CRGC Authority/Urban Areas

(A) a demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the management plan;

(B) revision of urban area boundaries would be consistent with the standards established in section 544d of this title and the purposes of sections 544 to 544p of this title;

(C) revision of urban area boundaries would result in maximum efficiency of land uses within and on the fringe of existing urban areas; and

(D) revision of urban area boundaries would not result in the significant reduction of agricultural lands, forest lands, or open spaces.

16 U.S.C. § 544b(f)

What is Different In the NSA?

Section 4(f):

- the term “minor”

- use of plural “urban areas”

- protection of SNCRS/prioritization

Values:

- tribal housing

Next Workshops

Sept. 17 – Briefings on planning in urban areas—recent BLIs, what planning is dependent NSA urban area policy

Oct. 15 – Briefing on local government planning for climate change

Nov. 19 – Briefing on possible forms of NSA urban area policy (guidance, rule, Mgt. Plan, etc.)

Dec. 17

Roundtable

Your thoughts?

- Comments on Today's Discussion
- Comments on Anything Else
- Concerns?